



**AGENDA  
BELOIT CITY COUNCIL  
100 State Street, Beloit WI 53511  
City Hall Forum – 7:00 p.m.  
Monday, May 18, 2015**

1. CALL TO ORDER AND ROLL CALL
2. PLEDGE OF ALLEGIANCE
3. SPECIAL ORDERS OF THE DAY/ANNOUNCEMENTS
  - a. **Wisconsin Law Enforcement Accreditation Group (WILEAG)** Presentation (Jacobs/ Robert Rosch, Hartland Police (Jacobs)
  - b. Introduction to **Beloit Services-Citizen Service Request Program** (Boysen)
4. PUBLIC HEARINGS
5. CITIZEN 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 regular meeting of May 4, 2015 (Elson)
- b. Resolution approving a **Class “B” Beer and “Class B” Liquor License** for Danny R. Hatch Jr., d/b/a The Alumni House, 863 Fifth Street (Elson)  
ABLCC recommendation for approval 5-1
- c. Resolution approving a **Class “B” Beer and Reserve “Class B” Liquor License** for Blazin Wings, Inc., d/b/a Buffalo Wild Wings, 2747 Milwaukee Road, David Babcock, Agent (Elson)  
ABLCC recommendation for approval 6-0
- d. Resolution awarding **Public Works Contract C15-07**, Street Resurfacing (Boysen)
7. ORDINANCES
  - a. Proposed Ordinance to add **No-Parking** between 3 A.M. – 6 A.M. Regulations in the Heritage View Parking Lot (Boysen)  
Traffic Review Committee recommendation for approval 5-0  
First reading, suspend rules for second reading
8. APPOINTMENTS
9. COUNCILOR ACTIVITIES AND UPCOMING EVENTS

## 10. CITY MANAGER'S PRESENTATION

- a. **Code Enforcement** Presentation (Downing)

## 11. REPORTS FROM BOARDS AND CITY OFFICERS

- a. Resolution authorizing the **422 Bluff Street/310 Euclid Project** (Christensen)
- b. Resolution approving a **Development Agreement** between City of Beloit, 200 West Grand Avenue, LLC, and East Grand Avenue Development, LLC, for sale of 80 East Grand and 100 East Grand Avenue (Janke)
- c. Resolution approving a **Memorandum of Understanding** between Beloit College and City of Beloit regarding Powerhouse Riverwalk Project (Arft)
- d. Resolution approving a **Landfill Disposal** Agreement between the City of Janesville and the City of Beloit (Walsh)

## 12. 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: May 13, 2015  
Jelene J. Ahrens, WCMC  
Deputy City Clerk  
City of Beloit  
[www.beloitwi.gov](http://www.beloitwi.gov)

You can watch this meeting live on Charter PEG 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.



**PROCEEDINGS OF THE BELOIT CITY COUNCIL**  
**100 State Street, Beloit WI 53511**  
**City Hall Forum – 7:00 p.m.**  
**Monday, May 4, 2015**

Presiding: Charles Haynes  
Present: Sheila De Forest, Regina Hendrix, Ana Kelly, Chuck Kincaid, David F. Luebke,  
Marilyn Sloniker  
Absent: None

1. The meeting was called to order at 7:10 p.m. in the Forum at Beloit City Hall by President Haynes.
2. PLEDGE OF ALLEGIANCE
3. SPECIAL ORDERS OF THE DAY/ANNOUNCEMENTS
  - a. Councilor De Forest presented a proclamation declaring May 10-16, 2015 as **National Police Week** to Police Chief Norm Jacobs. Chief Jacobs thanked the Council on behalf of the entire Police Department's command and support staff and patrol officers. File 7148
  - b. Councilor De Forest presented a proclamation declaring May 17-23, 2015 as **Emergency Medical Services Week** to Fire Chief Brad Liggett, Deputy Joe Murray, Matthew Ahrens and Parker McKenzie. Deputy Murray explained the Emergency Medical Services and a future program of Community Health Paramedic. File 7148
  - c. Councilor De Forest presented a proclamation declaring May 17-23, 2015 as **National Public Works Week** to Public Works Director Greg Boysen. Mr. Boysen invited the public to the Farmers Market where his staff will explain the services and programs of the Department of Public Works and showcase the equipment used in providing those services. File 7148
4. PUBLIC HEARINGS
  - a. Community Development Director Julie Christensen presented a resolution authorizing a Conditional Use Permit to allow a residential care apartment complex in a C-1 Office District, for property at **2020 Cranston Road**. It was noted that the Plan Commission recommended approval 6-0. Councilor Haynes opened and closed the public hearing without participation. Ms. Christensen stated the applicant assured staff the financing is in place and the project is ready to proceed starting May 31<sup>st</sup> and completion in March 2016. Councilor Luebke made a motion to adopt the resolution, second by Councilor Sloniker. Motion carried 7-0. File 8684
5. CITIZEN PARTICIPATION
  - Edwin Armstrong, 2945 S. Paddock Road, Men's Club representative to the Municipal Golf Committee, stated he was opposed to the fee structure at the golf course as it is too late in the season to change. Mr. Armstrong suggested running specials, coupons. He said that having golf boards along with golf carts will bring in teens and young golfers.
  - Norbert Larson, 2120 Riverside Drive, #30, stated he is against the increase in the fee schedule for Krueger Haskell Golf Course.
  - Gerald Hoey, 14865 Liston Avenue, South Beloit, IL, stated he was previously a two term member of the Parks & Recreation Commission, ten year member of the Golf Committee; Treasurer of the Men's Club and has played Krueger Haskell Golf Course for sixty years. Mr. Hoey stated that golf is not a rich man's game, but played by seniors and people on fixed incomes and an increase in fees will hurt them.
  - Art Case, 1044 ½ Moore Street, suggested holding early outings at 8:00 a.m. and 1:00 p.m. to maximize the use of the golf course, especially on high volume weekends.
  - Dede Bucholtz, 3430 S. Prairie Avenue, owner of Bucky's Bunker with husband Dan. Ms. Bucholtz expressed concerns about the golf fees going up and said her customers said that

this would cause them to go to other golf courses. She said if this happens it will hurt their revenue, and they would have to give up their business as concessionaire.

- James Van De Bogart, 2091 Collingswood Drive, represented the Executive Committee of Friends of Welty Environmental Center, asked the Council to vote in support of the Operating Agreement for office space at Big Hill Center.
- Roger Blohm, 1817 Merrill Street, expressed his concern with the number of dogs loose in the City, especially pit bulls and stated his wife and two neighbors were attacked by pit bull dogs. Mr. Blohm also said he was concerned with the amount of rental property in the City and felt the City needed to find a way to increase home ownership.
- Vincent Borgogni, 2144 Collingswood Drive, suggested raising the golf fees in increments of 5% per year for the next four years. Mr. Borgogni also suggested eliminating the season golf passes.

## 6. CONSENT AGENDA

Councilor De Forest requested that item 6. d. be removed from the Consent Agenda. Councilor Kincaid requested item 6.c. be removed from the Consent Agreement. Councilor Luebke made a motion to adopt the Consent Agenda which consists of items 6.a. and 6.b., second by Councilor Kelly. Motion carried that the Consent Agenda be accepted, approved, adopted or referred and acted upon as required by state and local code by a vote of 7-0.

- a. The Minutes of the special and regular meetings of April 17, special and regular meetings of April 20, and the organizational meeting of April 21, 2015 were approved.
- b. Applications for **Renewal of Alcohol Beverage Licenses** for License Period July 1, 2015 – June 30, 2016 were referred to ABLCC. File 8688
- c. Public Works Director, Greg Boysen, presented a resolution awarding Public Works Contract **C15-11 for Colley Road Interceptor Lining** to Michaels Corporation. Mr. Boysen stated that funds are available in the 2014 and 2015 CIP, and the City should have a very reliable pipe for many decades to come. Councilor Luebke moved to adopt, second by Councilor Sloniker. Motion carried 7-0. File 8678
- d. Community Development Director Julie Christensen presented a resolution approving **Residential Offers to Purchase** the properties located at 940 Second Street, 42 Merrill Street, 9578 Third Street and 959 Third Street. Ms. Christensen stated the tenants would continue to rent the units which are already owner occupied and the Beloit Housing Authority will manage these units. Councilor Kincaid moved to adopt, second by Councilor De Forest. Motion carried 7-0. File 8689

## 7. ORDINANCES – none

## 8. APPOINTMENTS

President Haynes presented the following City Council **Committee/Board/Commission Appointments:**

- Alcohol Beverage License Control Committee –Councilor Kelly
- Appointment Review Committee – President Haynes and Vice President De Forest
- Business Improvement District (Downtown Beloit Association) – Councilor Luebke
- Community Action, Inc. of Rock and Walworth Counties – Councilor Hendrix
- Community Development Authority – Councilors Kelly and Kincaid
- Convention and Visitors Bureau Board of Directors – Councilor Hendrix
- Equal Opportunities Commission – Councilor Sloniker
- Landmarks Commission – Councilor Kelly
- Metropolitan Planning Organization – Councilor Sloniker
- Park, Recreation & Conservation Advisory Commission – Councilor De Forest
- Plan Commission – Councilor Kincaid
- Traffic Review Committee - Councilor Luebke

## 9. COUNCILOR ACTIVITIES AND UPCOMING EVENTS

- Councilor Hendrix stated she attended an activity at Beloit College sponsored by Black Lives Matter Committee. She is also planning with Visit Beloit for the Summer Gospel Jam on June 20<sup>th</sup> featuring Mississippi Mass Choir, and encouraged the public to attend this free event. She also announced the following upcoming events: Financial Literacy Conference hosted through Community Action on May 9<sup>th</sup> at Aldrich School, First Generation film at Beloit College on Saturday, May 9<sup>th</sup>.
- Councilor Sloniker said she attended the Arbor Day event. She said that the Equal Opportunities Commission held two ownership seminars which was a goal for Fair Housing Month.
- Councilor Kelly stated she attended the Arbor Day event, the UW Rock County Dean's Luncheon, and announced that the Jazz Band will play their last concert on May 18<sup>th</sup> at La Casa.
- Councilor Luebke stated he attended the Dean's Community Council, Farmers Market and Arbor Day event.
- Councilor De Forest announced a Community Action event on May 8<sup>th</sup> for free summer training for welding.
- Councilor Kincaid attended the League of Women Voters breakfast, Farmers Market, and went to the Krueger Haskell Golf Course and enjoyed watching the High School golf tournament. He also attended the Land of Oz program at Beloit Library.

## 10. CITY MANAGER'S PRESENTATION

- a. Manager Larry Arft introduced the presentation on Krueger Haskell Golf Course operations and explained that the financial reports for 2014 showed a \$50,000 operating loss at the golf course as well as a \$50,000 property tax subsidy that was approved by Council. He noted that the Manager Arft further explained the accumulated fund balance from the Golf Course General Fund is \$970,000 and is threatening the General Fund. Brian Ramsey, Director of Parks & Leisure Services, reviewed the history of the Krueger Haskell Golf Course and that the course has failed to exceed revenue over expenditures for at least the past twelve years. Mr. Ramsey explained a comparable study of rates and fees of competitive golf courses and said that the proposed new fee schedule is comparable and competitive. File 7382

## 11. REPORTS FROM BOARDS AND CITY OFFICERS

- a. Mr. Boysen presented a resolution authorizing a revision to the 2015 Schedule of Fees, Charges and Rates for Krueger Haskell Golf Course. Councilor De Forest stated if the rates are not raised the City will lose the golf course and she moved to adopt the resolution, second by Councilor Kelly. Councilor De Forest made a motion to amend the resolution to remove the Season Golf Passes and Discount Card Fees from the resolution, second by Councilor Luebke. Motion carried 5-1-1 with Councilor Sloniker voting no, and Councilor Kincaid abstaining. Motion to adopt the amended resolution carried 5-1-1 with Councilor Sloniker voting no and Councilor Kincaid abstaining File 8649/7382
- b. Ms. Christensen presented a resolution approving amendments to the City of Beloit's Housing Rehabilitation Revolving Loan Program. Ms. Christensen stated there has been an increase in vacant, abandoned and foreclosed properties and the staff is proposing incentives in the Loan Program to encourage investors and potential owner-occupants to purchase and rehab properties. Councilor De Forest moved to adopt, second by Councilor Kincaid. Motion carried 7-0. File 7977
- c. Mr. Boysen presented a resolution approving a First Amendment to the Cooperative Agreement between the City of Beloit and the Ho-Chunk Nation for Colley Road and Willowbrook Road TIGER Grant Project. He explained the amendment provides funding for the TIGER Grant to be increased to \$2,400,000 and extends the completion date to October 31, 2022. Councilor Luebke moved to adopt, second by Councilor Sloniker. Motion carried 7-0. File 8525
- d. Mr. Boysen presented a resolution to the City of Beloit's "Gateway to Opportunity" TIGER 2015 Grant Application. He emphasized the resolution would create the City's commitment of \$1.5 million if the TIGER Grant is awarded. Councilor Luebke moved to adopt, second by Councilor Sloniker. Motion carried 7-0. File 8525
- e. Fire Chief Brad Liggett presented a resolution approving a Memorandum of Understanding between the City of Beloit and Mercy Health System Corporation regarding its designation as a

Medical Control Hospital for the City's basic and advanced life support services program. Chief Liggett stated this is an excellent program which would be provided to Beloit at no charge. He explained that Beloit Health Systems would like a chance to compete for this program and staff recommended giving them a chance. Manager Arft emphasized this is for the administration for emergency medical care services and the City is not steering business away from Beloit Memorial. Councilor De Forest moved to lay this matter over to an indeterminate date, second by Councilor Luebke. Motion carried 7-0. File 8690

- f. Manager Arft presented a resolution authorizing an Operating Agreement between the City of Beloit and Friends of Welty Environmental Center, Inc. for office space at Big Hill Center, 201 Big Hill Court. Manager Arft advised that this is a great opportunity for enhanced joint programming and educational opportunities for the community. Councilor Luebke moved adopt, second by Councilor Kincaid. Motion carried 7-0. File 6811
- g. City Attorney Elizabeth Krueger presented a resolution designating Larry N. Arft as City Manager Emeritus and explained that this would clarify that Lori Curtis Luther will take over all the powers and duties of the position of City Manager on June 1, 2015 and Larry Arft will become City Manager Emeritus on June 1, 2015 and ending July 3, 2015. File 8052

12. At 10:00 p.m., Councilor Hendrix made a motion to adjourn the meeting, second by Councilor Sloniker. Motion carried.

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Judith A. Elson, Deputy City Clerk

[www.beloitwi.gov](http://www.beloitwi.gov)

Date approved by Council:

**RESOLUTION APPROVING A CLASS "B" BEER  
AND "CLASS B" LIQUOR LICENSE FOR  
DANNY R. HATCH JR, D/B/A THE ALUMNI HOUSE**

**WHEREAS**, an application has been received for a Class "B" Beer and "Class B" Liquor License from Danny R. Hatch Jr., d/b/a The Alumni House, located at 863 Fifth Street; and

**WHEREAS**, the Alcohol Beverage License Control Committee recommended approval of this Class "B" Beer and "Class B" Liquor License for the 2014-2015 license year.

**NOW, THEREFORE, BE IT RESOLVED** that the Class "B" Beer and "Class B" Liquor License for Danny R. Hatch Jr., d/b/a The Alumni House, located at 863 Fifth Street is hereby approved.

Dated this 18th day of May 2015.

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Charles M. Haynes, City Council President

ATTEST:

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Judith A. Elson, Deputy City Clerk



# CITY OF BELOIT

## REPORTS AND PRESENTATIONS TO CITY COUNCIL

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**Topic:** Resolution approving Class “B” Beer and “Class B” Liquor License for Danny R. Hatch Jr, d/b/a The Alumni House

**Date:** May 18, 2015

**Presenter(s):** Judith A. Elson

**Department:** Deputy City Clerk

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### Overview/Background Information:

Danny R. Hatch, Jr., has submitted an application for a Class “B” Beer and “Class B” Liquor License for the property located at 863 Fifth Street in the City of Beloit. The applicant intends to operate a tavern, which is the same use at the previous tenant, and will be doing business as The Alumni House.

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### Key Issues (maximum of 5):

1. Michael Weaver is the property owner. However, the applicant will provide proof of control over the premises through a deed, lease, or rental agreement prior to issuance of the license.
2. Danny R. Hatch, Jr. is a sole proprietor and is a resident of Wisconsin, as required by state law.
3. Overby, LLC, Wayne Overby, Agent, previously held a liquor license at this location. Mr. Overby will relinquish the license to Mr. Hatch if approved by the City Council.
4. The ABLCC reviewed this item on May 12, 2015 and voted unanimously (5-1) to recommend approval of the License.

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### Conformance to Strategic Plan:

This project conforms to the City’s Strategic Plan Goals #2 and #5 – encouraging business development and private sector investment, and promoting high quality development in the City.

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### Sustainability:

- **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

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### Action required/Recommendation:

City Council consideration and action on the license application.

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### Fiscal Note/Budget Impact:

This is a Class “B” Beer and “Class B” Liquor License and the applicant will pay a pro-rated monthly license fee for the beer and wine license through the end of the license year (June 30, 2015).

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### Attachments:

Resolution, Application, Auxiliary Questionnaire



# ORIGINAL ALCOHOL BEVERAGE RETAIL LICENSE APPLICATION

Submit to municipal clerk.

For the license period beginning 9-19 20 15 ending 6-30 20 15

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

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

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

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

2. Name (individual/partners give last name, first, middle; corporations/limited liability companies give registered name): DANNY R. HATCH JR. 1226 McInley Ave, Beloit WI 53511

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

Title	Name	Home Address	Post Office & Zip Code
President/Member			
Vice President/Member			
Secretary/Member			
Treasurer/Member			
Agent			
Directors/Managers			

3. Trade Name ALUMNI HOUSE Business Phone Number 608-931-4543

4. Address of Premises 862 5th St / 156 Portland Ave Post Office & Zip Code 53511

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

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

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

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

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

(b) If yes, under what name was license issued? OVERBY LLC - WAYNE OVERBY, AGENT

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

13. Does the applicant understand a Wisconsin Seller's Permit must be applied for and issued in the same name as that shown in Section 2, above? [phone (608) 266-2776].  Yes  No

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

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

SUBSCRIBED AND SWORN TO BEFORE ME  
 this 9th day of April, 20 15  
John J. Ahrens  
 (Clerk/Notary Public)  
 My commission expires 10-11-15

Danny Hatch Jr  
 (Officer of Corporation/Member/Manager of Limited Liability Company/Partner/Individual)  
 (Officer of Corporation/Member/Manager of Limited Liability Company/Partner)  
 (Additional Partner(s)/Member/Manager of Limited Liability Company if Any)

Applicant's Wisconsin Seller's Permit Number: <u>456-102261576-03</u>	
Federal Employer Identification Number (FEIN): <u>42-1621308</u>	
LICENSE REQUESTED	
TYPE	FEE
<input type="checkbox"/> Class A beer	\$
<input checked="" type="checkbox"/> Class B beer	\$ <u>100</u>
<input type="checkbox"/> Class C wine	\$
<input type="checkbox"/> Class A liquor	\$
<input checked="" type="checkbox"/> Class B liquor	\$ <u>500</u>
<input type="checkbox"/> Reserve Class B liquor	\$
Publication fee	\$ <u>50.00</u>
TOTAL FEE	\$ <u>650.00</u>

PAID 4-8-15

TO BE COMPLETED BY CLERK			
Date received and filed with municipal clerk <u>4-8-15</u>	Date reported to council/board	Date provisional license issued	Signature of Clerk / Deputy Clerk
Date license granted	Date license issued	License number issued	

**AUXILIARY QUESTIONNAIRE  
ALCOHOL BEVERAGE LICENSE APPLICATION**

Submit to municipal clerk.

Individual's Full Name (please print) (last name)		(first name)		(middle name)	
Hatch Jr		Danny		R	
Home Address (street/route)		Post Office	City	State	Zip Code
1226 McKinley Av			Beloit	WI	53511
Home Phone Number		Age	Date of Birth	Place of Birth	
				Beloit	

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

- Applying for an alcohol beverage license as an individual.
- A member of a partnership which is making application for an alcohol beverage license.
- \_\_\_\_\_ of \_\_\_\_\_  
(Officer/Director/Member/Manager/Agent) (Name of Corporation, Limited Liability Company or Nonprofit Organization)

which is making application for an alcohol beverage license.

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

- How long have you continuously resided in Wisconsin prior to this date? 20 YEARS
- Have you ever been convicted of any offenses (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of any other states or ordinances of any county or municipality? No i.s.e. Violation 1997  Yes  No  
If yes, give law or ordinance violated, trial court, trial date and penalty imposed, and/or date, description and status of charges pending. (If more room is needed, continue on reverse side of this form.)
- Are charges for any offenses presently pending against you (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of other states or ordinances of any county or municipality?  Yes  No  
If yes, describe status of charges pending.
- Do you hold, are you making application for or are you an officer, director or agent of a corporation/nonprofit organization or member/manager/agent of a limited liability company holding or applying for any other alcohol beverage license or permit?  Yes  No  
If yes, identify. \_\_\_\_\_  
(Name, Location and Type of License/Permit)
- Do you hold and/or are you an officer, director, stockholder, agent or employe of any person or corporation or member/manager/agent of a limited liability company holding or applying for a wholesale beer permit, brewery/winery permit or wholesale liquor, manufacturer or rectifier permit in the State of Wisconsin?  Yes  No  
If yes, identify. \_\_\_\_\_  
(Name of Wholesale Licensee or Permittee) (Address By City and County)

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

Employer's Name	Employer's Address	Employed From	To
Aerotech Staffing	Burr Rd Rfd IL	2013	2014
Cintas Corp	Harrison Av, Rfd IL	2004	2007

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

Subscribed and sworn to before me

this 8th day of April, 2015

John J. Ahrens  
(Clerk/Notary Public)

My commission expires 10-11-15

Danny Hatch Jr  
(Signature of Named Individual)



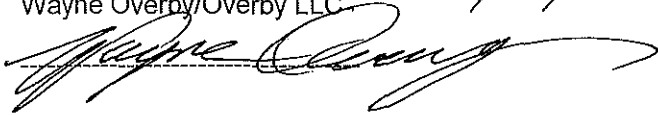
Printed on Recycled Paper

Wisconsin Department of Revenue

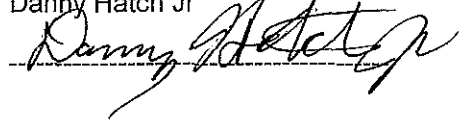
I Wayne Overby-Overby LLC hereby relinquish liquor license exclusively to Danny Hatch Jr on 4-5-2015 for the Alumni Tavern at 863 5th St and 156 Portland Av , Beloit , WI 53511. I also relinquish control of these said premises, keys and property inside which may have not already been vacated by voluntary means upon completion of this form and granting of the same by the Beloit City Council.

Wayne Overby/Overby LLC

04/05/2015



Danny Hatch Jr



4-5-15

**RESOLUTION APPROVING A CLASS "B" BEER  
AND RESERVE "CLASS B" LIQUOR LICENSE FOR  
BLAZIN WINGS, INC.**

**WHEREAS**, an application has been received for a Class "B" Beer and Reserve "Class B" Liquor License from Blazin Wings, Inc., d/b/a Buffalo Wild Wings, David Babcock, Agent for the property located at 2747 Milwaukee Road, Beloit Wisconsin; and

**WHEREAS**, the Alcohol Beverage License Control Committee recommended approval of this Class "B" Beer and Reserve "Class B" Liquor License for the remainder of the 2014-2015 license year.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Beloit does hereby approve a Class "B" Beer and Reserve "Class B" Liquor License for Blazin Wings, Inc., d/b/a Buffalo Wild Wings, David Babcock, Agent for the property located at 2747 Milwaukee Road, Beloit Wisconsin.

Dated this 18<sup>th</sup> day of May 2015.

\_\_\_\_\_  
Charles M. Haynes, City Council President

ATTEST:

\_\_\_\_\_  
Judith A. Elson, Deputy City Clerk



# CITY OF BELOIT

## REPORTS AND PRESENTATIONS TO CITY COUNCIL

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**Topic:** Resolution approving Class “B” Beer and Reserve “Class B” Liquor License for Blazin Wings, Inc.

**Date:** May 18, 2015

**Presenter(s):** Judith A. Elson

**Department:** Deputy City Clerk

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### Overview/Background Information:

Blazin Wings, Inc. has submitted an application for a Class “B” Beer and Reserve “Class B” Liquor License for the property located at 2747 Milwaukee Road in the City of Beloit. The applicant intends to open a Buffalo Wild Wings restaurant and sports bar.

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### Key Issues (maximum of 5):

1. Morgan Square 2 LLC, owns the property. However, the applicant will provide proof of control over the premises through a deed, lease, or rental agreement prior to issuance of the license.
2. Blazin Wings, Inc. has appointed David Babcock as the Agent. Mr. Babcock is a resident of Wisconsin, as required by state law.
3. Atlanta Bread previously held a Class “B” Beer and “Class C” Wine License at this location.
4. The ABLCC reviewed this item on May 12, 2015 and voted unanimously (6-0) to recommend approval of the License.

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### Conformance to Strategic Plan:

This project conforms to the City’s Strategic Plan Goals #2 and #5 – encouraging business development and private sector investment, and promoting high quality development in the City.

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### Sustainability:

- **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** – The applicant intends to open a restaurant in an existing vacant building in the Milwaukee Street Corridor. This may bring additional people to the area and may spur additional economic development.

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### Action required/Recommendation:

City Council consideration and action on the license application.

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### Fiscal Note/Budget Impact:

This is a Reserve Liquor License, which means that the applicant will pay a one-time \$10,000 reserve fee plus the prorated monthly license fee for the beer and liquor license through the end of the license year (June 30, 2015). The \$10,000 was not budgeted revenue in the Clerk’s office and will be deposited into the City’s General Fund.

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### Attachments:

Resolution, Application, Auxiliary Questionnaires

# ORIGINAL ALCOHOL BEVERAGE RETAIL LICENSE APPLICATION

Submit to municipal clerk.

For the license period beginning July 1 20 14 ;  
ending June 30 20 15

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

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

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

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

- 2. Name (individual/partners give last name, first, middle; corporations/limited liability companies give registered name): **Blazin Wings, Inc.**  
5500 Wayzata Blvd, Suite 1600, Minneapolis, MN 55416

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

Title	Name	Home Address	Post Office & Zip Code
President/Member	Sally J. Wold	7001 Dublin Road Edina, MN 55439	
Vice President/Member	James M. Schmidt	17325 25th Avenue N, Plymouth, MN 55447	
Secretary/Member	Mary Twinn	15015 44th Avenue N, Plymouth, MN 55446	
Treasurer/Member	Emily Decker	3155 Lafayette Ridge Road, Wayzata, MN 55391	
Agent	David Babcock	1920 S. Oakhill Ave., Janesville, WI 53546	

- 3. Trade Name **Buffelo Wild Wings** Business Phone Number TBD
- 4. Address of Premises **2747 Milwaukee Road** Post Office & Zip Code **Beloit WI 53511**

- 5. Is individual, partners or agent of corporation/limited liability company subject to completion of the responsible beverage server training course for this license period?  Yes  No
- 6. Is the applicant an employe or agent of, or acting on behalf of anyone except the named applicant?  Yes  No
- 7. Does any other alcohol beverage retail licensee or wholesale permittee have any interest in or control of this business?  Yes  No
- 8. (a) Corporate/limited liability company applicants only: Insert state **MN** and date **12/9/1999** of registration.  
(b) Is applicant corporation/limited liability company a subsidiary of any other corporation or limited liability company?  Yes  No  
(c) Does the corporation, or any officer, director, stockholder or agent or limited liability company, or any member/manager or agent hold any interest in any other alcohol beverage license or permit in Wisconsin?  Yes  No  
(NOTE: All applicants explain fully on reverse side of this form every YES answer in sections 5, 6, 7 and 8 above.)
- 9. Premises description: Describe building or buildings where alcohol beverages are to be sold and stored. The applicant must include all rooms including living quarters, if used, for the sales, service, consumption, and/or storage of alcohol beverages and records. (Alcohol beverages may be sold and stored only on the premises described.) **Single story building with attached patio. Alcohol will be stored in locked areas throughout the restaurant.**
- 10. Legal description (omit if street address is given above): **N/A**
- 11. (a) Was this premises licensed for the sale of liquor or beer during the past license year?  Yes  No  
(b) If yes, under what name was license issued? **N/A**
- 12. Does the applicant understand they must file a Special Occupational Tax return (TTB form 5630.5) before beginning business? [phone 1-800-937-8864]  Yes  No
- 13. Does the applicant understand a Wisconsin Seller's Permit must be applied for and issued in the same name as that shown in Section 2, above? [phone (608) 266-2776].  Yes  No
- 14. Does the applicant understand that they must purchase alcohol beverages only from Wisconsin wholesalers, breweries and brewpubs?  Yes  No

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

### SUBSCRIBED AND SWORN TO BEFORE ME

this 9 day of March, 20 15

Kristin Westlund  
(Clerk/Notary Public)

[Signature]  
(Officer of Corporation/Member/Manager of Limited Liability Company/Partner/Individual)

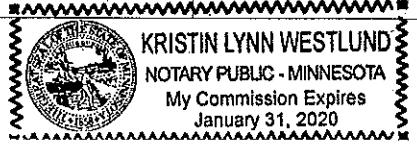
[Signature]  
(Officer of Corporation/Member/Manager of Limited Liability Company/Partner)

My commission expires 1/31/20

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

### TO BE COMPLETED BY CLERK

Date received and filed with municipal clerk <b>3-10-15</b>	Date reported to council/board <b>4-6-15</b>	Date provisional license issued	Signature of Clerk / Deputy Clerk
Date license granted	Date license issued	License number issued	



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

Submit to municipal clerk.

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

To the governing body of:  Town  Village of Beloit County of Rock  
 City

The undersigned duly authorized officer(s)/members/managers of Blazin Wings, Inc.  
(registered name of corporation/organization or limited liability company)

a corporation/organization or limited liability company making application for an alcohol beverage license for a premises known as Buffalo Wild Wings  
(trade name)

located at 2747 Milwaukee Rd, Beloit, WI 53511

appoints David William Babcock  
(name of appointed agent)

1920 S. Oakhill Ave, Janesville, WI 53546  
(home address of appointed agent)

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

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

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

How long immediately prior to making this application has the applicant agent resided continuously in Wisconsin? 44 Years

Place of residence last year 1920 S. Oakhill Ave Janesville, WI 53546

For: Blazin Wings, Inc.  
(name of corporation/organization/limited liability company)

By: [Signature]  
(signature of Officer/Member/Manager)

And: \_\_\_\_\_  
(signature of Officer/Member/Manager)

#### ACCEPTANCE BY AGENT

I, David William Babcock, hereby accept this appointment as agent for the  
(print/type agent's name)

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

[Signature] 3/3/2015 Agent's age \_\_\_\_\_  
(signature of agent) (date)

1920 S. Oakhill Ave, Janesville, WI 53546 Date of birth \_\_\_\_\_  
(home address of agent)

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

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

Approved on 04/08/15 by [Signature] Title Captain BPD  
(date) (signature of proper local official) (town chair, village president, police chief)

# AUXILIARY QUESTIONNAIRE ALCOHOL BEVERAGE LICENSE APPLICATION

Submit to municipal clerk.

Individual's Full Name (please print) (last name)		(first name)	(middle name)	
BABCOCK		DAVID	WILLIAM	
Home Address (street/route)	Post Office	City	State	Zip Code
1920 S. OAKHILL AVE		JANESVILLE	WI	53546
Home Phone Number	Age	Date of Birth	Place of Birth	
			Beloit, WI	

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

- Applying for an alcohol beverage license as an **individual**.
- A member of a **partnership** which is making application for an alcohol beverage license.
- Agent** of **Blazin Wings, Inc.**  
(Officer/Director/Member/Manager/Agent) (Name of Corporation, Limited Liability Company or Nonprofit Organization)

which is making application for an alcohol beverage license.

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

- How long have you continuously resided in Wisconsin prior to this date? 44 years
- Have you ever been convicted of any offenses (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of any other states or ordinances of any county or municipality?  Yes  No  
 If yes, give law or ordinance violated, trial court, trial date and penalty imposed, and/or date, description and status of charges pending. (If more room is needed, continue on reverse side of this form.)
- Are charges for any offenses presently pending against you (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of other states or ordinances of any county or municipality?  Yes  No  
 If yes, describe status of charges pending.
- Do you hold, are you making application for or are you an officer, director or agent of a corporation/nonprofit organization or member/manager/agent of a limited liability company holding or applying for any other alcohol beverage license or permit?  Yes  No  
 If yes, identify. (Name, Location and Type of License/Permit)
- Do you hold and/or are you an officer, director, stockholder, agent or employe of any person or corporation or member/manager/agent of a limited liability company holding or applying for a wholesale beer permit, brewery/winery permit or wholesale liquor, manufacturer or rectifier permit in the State of Wisconsin?  Yes  No  
 If yes, identify. (Name of Wholesale Licensee or Permittee) (Address By City and County)

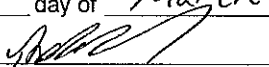
6. Named individual must list in chronological order last two employers.

Employer's Name	Employer's Address	Employed From	To
Rock County Clerk's Office	51 S. Main St. Janesville, WI 53545	09/16/2013	01/29/2015
Buffalo Wild Wings	2929 Milton Ave Janesville, WI 53545	01/11/2010	08/25/2013

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

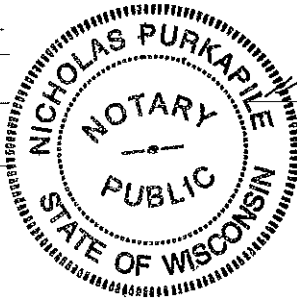
Subscribed and sworn to before me

this 3<sup>rd</sup> day of March, 20 15

  
(Clerk/Notary Public)

  
(Signature of Named Individual)

My commission expires 8/29/17



Printed on Recycled Paper



# AUXILIARY QUESTIONNAIRE ALCOHOL BEVERAGE LICENSE APPLICATION

Submit to municipal clerk.

Individual's Full Name (please print) (last name)		(first name)		(middle name)	
Wold		Sally		Jeanne	
Home Address (street/route)	Post Office	City	State	Zip Code	
7001 Dublin Road		Edina	MN	55439	
Home Phone Number	Age	Date of Birth	Place of Birth		
			Sioux Falls, SD		

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

- Applying for an alcohol beverage license as an **individual**.
- A member of a **partnership** which is making application for an alcohol beverage license.
- \_\_\_\_\_ **President/CEO** of \_\_\_\_\_ **Blazin Wings, Inc.**  
(Officer/Director/Member/Manager/Agent) (Name of Corporation, Limited Liability Company or Nonprofit Organization)

which is making application for an alcohol beverage license.

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

- How long have you continuously resided in Wisconsin prior to this date? \_\_\_\_\_ N/A
- Have you ever been convicted of any offenses (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of any other states or ordinances of any county or municipality? .....  Yes  No  
 If yes, give law or ordinance violated, trial court, trial date and penalty imposed, and/or date, description and status of charges pending. (If more room is needed, continue on reverse side of this form.)  
N/A
- Are charges for any offenses presently pending against you (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of other states or ordinances of any county or municipality? .....  Yes  No  
 If yes, describe status of charges pending. N/A
- Do you hold, are you making application for or are you an officer, director or agent of a corporation/nonprofit organization or member/manager/agent of a limited liability company holding or applying for any other alcohol beverage license or permit? .....  Yes  No  
 If yes, identify. Officer of Blazin Wings, Inc. which holds retail liquor licenses throughout the US  
(Name, Location and Type of License/Permit)
- Do you hold and/or are you an officer, director, stockholder, agent or employe of any person or corporation or member/manager/agent of a limited liability company holding or applying for a wholesale beer license, brewery/winery permit or wholesale liquor manufacturer or rectifier permit in the State of Wisconsin? .....  Yes  No  
 If yes, identify. \_\_\_\_\_  
(Name of Wholesale Licensee or Permittee) (Address By City and County)
- Named individual must list in chronological order last two employers.

Employer's Name	Employer's Address	Employed From	To
Buffalo Wild Wings, Inc.	5500 Wayzata Blvd., Suite 1600, Minneapolis, MN 55416	11/94	Present
Dahlberg, Inc.	4101 Dahlberg Drive, Golden Valley, MN	10/83	11/94

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

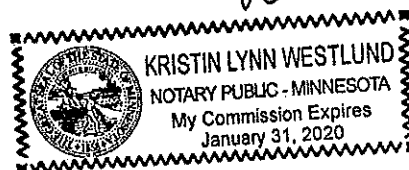
Subscribed and sworn to before me

this 9 day of March, 2015

Kristin Westlund  
(Clerk/Notary Public)

Sally J. Wold  
(Signature of Named Individual)

My commission expires 1/31/20



Printed on Recycled Paper

Wisconsin Department of Revenue

# AUXILIARY QUESTIONNAIRE ALCOHOL BEVERAGE LICENSE APPLICATION

Submit to municipal clerk.

Individual's Full Name (please print) (last name)		(first name)		(middle name)	
Schmidt		James		Michael	
Home Address (street/route)		Post Office	City	State	Zip Code
17325 25th, Ave., N.			Plymouth	MN	55447
Home Phone Number		Age	Date of Birth	Place of Birth	
				Cincinnati, OH	

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

- Applying for an alcohol beverage license as an **individual**.
- A member of a **partnership** which is making application for an alcohol beverage license.
- Vice President of Blazin Wings, Inc.  
(Officer/Director/Member/Manager/Agent) (Name of Corporation, Limited Liability Company or Nonprofit Organization)

which is making application for an alcohol beverage license.

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

- How long have you continuously resided in Wisconsin prior to this date? N/A
- Have you ever been convicted of any offenses (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of any other states or ordinances of any county or municipality?  Yes  No  
If yes, give law or ordinance violated, trial court, trial date and penalty imposed, and/or date, description and status of charges pending. (If more room is needed, continue on reverse side of this form.)  
N/A
- Are charges for any offenses presently pending against you (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of other states or ordinances of any county or municipality?  Yes  No  
If yes, describe status of charges pending. N/A
- Do you hold, are you making application for or are you an officer, director or agent of a corporation/nonprofit organization or member/manager/agent of a limited liability company holding or applying for any other alcohol beverage license or permit?  Yes  No  
If yes, identify. Officer of Blazin Wings, Inc. which holds retail liquor licenses throughout the US  
(Name, Location and Type of License/Permit)
- Do you hold and/or are you an officer, director, stockholder, agent or employe of any person or corporation or member/manager/agent of a limited liability company holding or applying for a wholesale beer license, brewery/winery permit or wholesale liquor manufacturer or rectifier permit in the State of Wisconsin?  Yes  No  
If yes, identify.  
(Name of Wholesale Licensee or Permittee) (Address By City and County)

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

Employer's Name	Employer's Address	Employed From	To
Buffalo Wild Wings, Inc.	5500 Wayzata Blvd., #1600, Minneapolis, MN 55416	4/2002	Present
Robbins, Kelly, Peterson & Tucker	7 West 7th St., Cincinnati, OH	4/1997	4/2002

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

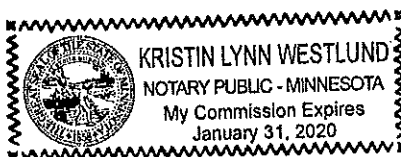
Subscribed and sworn to before me

this 9 day of March, 2015

Kristin Westlund  
(Clerk/Notary Public)

My commission expires 1/31/20

James M. Schmidt  
(Signature of Named Individual)



# AUXILIARY QUESTIONNAIRE ALCOHOL BEVERAGE LICENSE APPLICATION

Submit to municipal clerk.

Individual's Full Name (please print) (last name)		(first name)		(middle name)	
Twinem		Mary		Jane	
Home Address (street/route)		Post Office	City	State	Zip Code
15015 44th Ave., N			Plymouth	MN	55446
Home Phone Number		Age	Date of Birth	Place of Birth	
				Elkhorn, WI	

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

- Applying for an alcohol beverage license as an **individual**.
- A member of a **partnership** which is making application for an alcohol beverage license.
- Secretary/Treasurer of Blazin Wings, Inc.  
(Officer/Director/Member/Manager/Agent) (Name of Corporation, Limited Liability Company or Nonprofit Organization)

which is making application for an alcohol beverage license.

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

- How long have you continuously resided in Wisconsin prior to this date? N/A
- Have you ever been convicted of any offenses (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of any other states or ordinances of any county or municipality?  Yes  No  
If yes, give law or ordinance violated, trial court, trial date and penalty imposed, and/or date, description and status of charges pending. (If more room is needed, continue on reverse side of this form.)  
N/A
- Are charges for any offenses presently pending against you (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of other states or ordinances of any county or municipality?  Yes  No  
If yes, describe status of charges pending. N/A
- Do you hold, are you making application for or are you an officer, director or agent of a corporation/nonprofit organization or member/manager/agent of a limited liability company holding or applying for any other alcohol beverage license or permit?  Yes  No  
If yes, identify. Officer of Blazin Wings, Inc. which holds retail liquor licenses throughout the US  
(Name, Location and Type of License/Permit)
- Do you hold and/or are you an officer, director, stockholder, agent or employe of any person or corporation or member/manager/agent of a limited liability company holding or applying for a wholesale beer license, brewery/winery permit or wholesale liquor manufacturer or rectifier permit in the State of Wisconsin?  Yes  No  
If yes, identify. \_\_\_\_\_  
(Name of Wholesale Licensee or Permittee) (Address By City and County)
- Named individual must list in chronological order last two employers.

Employer's Name	Employer's Address	Employed From	To
Buffalo Wild Wings, Inc.	5500 Wayzata Blvd., #1600, Minneapolis, MN 55416	01/1995	Present
Employer's Name	Employer's Address	Employed From	To
Dahlberg, Inc.	4101 Dahlberg Drive, Golden Valley, MN	1990	12/1994

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

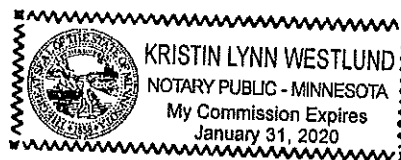
Subscribed and sworn to before me

this 9 day of March, 2015

Kristin Westlund  
(Clerk/Notary Public)

[Signature]  
(Signature of Named Individual)

My commission expires 1/31/20



# AUXILIARY QUESTIONNAIRE ALCOHOL BEVERAGE LICENSE APPLICATION

Submit to municipal clerk.

Individual's Full Name (please print) (last name)		(first name)		(middle name)	
Decker		Emily		Clark	
Home Address (street/route)		Post Office	City	State	Zip Code
3155 Lafayette Ridge Rd.			Wayzata	MN	55391
Home Phone Number		Age	Date of Birth	Place of Birth	
				Southfield, MI	

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

- Applying for an alcohol beverage license as an individual.
- A member of a partnership which is making application for an alcohol beverage license.
- Vice President of Blazin Wings, Inc.  
(Officer/Director/Member/Manager/Agent) (Name of Corporation, Limited Liability Company or Nonprofit Organization)

which is making application for an alcohol beverage license.

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

- How long have you continuously resided in Wisconsin prior to this date? N/A
- Have you ever been convicted of any offenses (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of any other states or ordinances of any county or municipality?  Yes  No  
 If yes, give law or ordinance violated, trial court, trial date and penalty imposed, and/or date, description and status of charges pending. (If more room is needed, continue on reverse side of this form.)  
N/A
- Are charges for any offenses presently pending against you (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of other states or ordinances of any county or municipality?  Yes  No  
 If yes, describe status of charges pending. N/A
- Do you hold, are you making application for or are you an officer, director or agent of a corporation/nonprofit organization or member/manager/agent of a limited liability company holding or applying for any other alcohol beverage license or permit?  Yes  No  
 If yes, identify. Officer of Blazin Wings, Inc. which holds retail liquor licenses throughout the US  
(Name, Location and Type of License/Permit)
- Do you hold and/or are you an officer, director, stockholder, agent or employe of any person or corporation or member/manager/agent of a limited liability company holding or applying for a wholesale beer license, brewery/winery permit or wholesale liquor manufacturer or rectifier permit in the State of Wisconsin?  Yes  No  
 If yes, identify.  
(Name of Wholesale Licensee or Permittee) (Address By City and County)

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

Employer's Name	Employer's Address	Employed From	To
Buffalo Wild Wings, Inc.	5500 Wayzata Blvd., #1600, Minneapolis, MN 55416	7/2007	Present
Briggs and Morgan, PA	2200 IDS Center, 80th South 8th St.	9/2004	7/2007

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

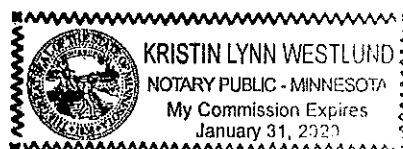
Subscribed and sworn to before me

this 9 day of March, 2015

Kristin Westlund  
(Clerk/Notary Public)

[Signature]  
(Signature of Named Individual)

My commission expires 1/31/20



**RESOLUTION  
AWARDING PUBLIC WORKS CONTRACT C15-07  
Street Resurfacing**

**WHEREAS**, on May 7, 2015, one competitive bid was received, the low bid being from Rock Road Companies, Inc.; and

**WHEREAS**, Rock Road Companies, Inc. is a qualified bidder.

**THEREFORE, BE IT RESOLVED** that Public Works Contract C15-07, Street Resurfacing, is hereby awarded to Rock Road Companies, Inc., Janesville, WI, in the following amounts:

Rock Road Companies, Inc.  
PO Box 1818  
Janesville, WI 53547-1818

Base Bid	\$ 655,271.60
<u>Allowance for Change Orders and/or Extra Work</u>	<u>\$ 97,728.40</u>
<b>TOTAL PROJECT COST</b>	<b>\$ 753,000.00</b>

**BE IT FURTHER RESOLVED** that the amount of \$753,000.00 is hereby funded as follows:

<b>P2902187-5514-2015</b> Street Maintenance	\$ 743,000.00
<u>P2210631-5511-2015</u> Cemetery Maintenance	<u>\$ 10,000.00</u>
<b>TOTAL</b>	<b>\$ 753,000.00</b>

Dated at Beloit, Wisconsin this 18th day of May, 2015.

**City Council of the City of Beloit**

---

**Charles M. Haynes, President**

ATTEST:

---

Judith A. Elson, Deputy City Clerk

# CITY OF BELOIT

## REPORTS AND PRESENTATIONS TO CITY COUNCIL

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**Topic:** Award of Contract C15-07, Street Resurfacing

**Date:** May 18, 2015

**Presenter(s):** Greg Boysen P.E., Public Works Director

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

---

**Overview/Background Information:**

This project will overlay rough pavements on 34 blocks of city streets.

---

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

1. One bid was received for this project. The low bid of \$655,271.60 was from Rock Road Companies, Inc. and is 2.4% more than the engineer's estimate of \$639,906.39.
  2. Rock Road Companies, Inc. is considered a responsible bidder for this project.
  3. The costs for this project are as follows: \$655,271.60 for construction, \$ 97,728.40 for Change Orders or extra work, for a total of \$753,000.00.
- 

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

1. **Develop a high quality community through the responsible stewardship and enhancement of City resources to further Beloit's resurgence as a gem of the Rock River Valley.**

This project will enhance the quality of life in Beloit by improving the appearance and quality of ride on City Streets while lowering street maintenance costs.

---

**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**  
The improved pavement meets the present and future human needs by extending the life of the pavement, and reducing pavement maintenance.
- 

**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 awarding this Public Works Contract to Rock Road Companies, Inc. in the amount of \$655,271.60.

---

**Fiscal Note/Budget Impact:**

Funding is available in the 2015 Capital Improvement Plan.

# CITY OF BELOIT

## DEPARTMENTAL CORRESPONDENCE

---

**TO:** Mike Flesch  
**FROM:** Andy Hill, Project Engineer   
**DATE:** May 07, 2015  
**SUBJECT:** Bid Results for Contract C15-07  
Street Resurfacing

Pursuant to advertisements placed April 22 and April 29, bids were received until 3:00 PM on May 7 for the Street Resurfacing. A tabulation of bids is attached.

One bid was received for this project as follows:

1. <b>Rock Road Companies, Inc.</b>	<b>Janesville</b>	<b>\$ 655,271.60 *Low</b>
Engineer's Estimate		\$ 639,906.39

Upon review of the Contractor's Proof of Responsibility Statement, Rock Road Companies, Inc. is determined to be a responsible bidder.

I recommend that the contract be awarded to Rock Road Companies, Inc. of Janesville. The following is a breakdown of the proposed project cost:

### COSTS

Rock Road Companies, Inc.	\$ 655,271.60
Allowance for Change Orders and/or Extra Work	<u>\$ 97,728.40</u>
<b>TOTAL PROJECT COST</b>	<b>\$ 753,000.00</b>

### PROJECT INFORMATION

This project will overlay rough pavements on 34 blocks of city streets.

**Tabulation of Bids  
Contract C15-07  
Street Resurfacing  
Bids Opened May 7, 3:00 PM**

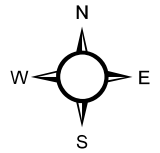
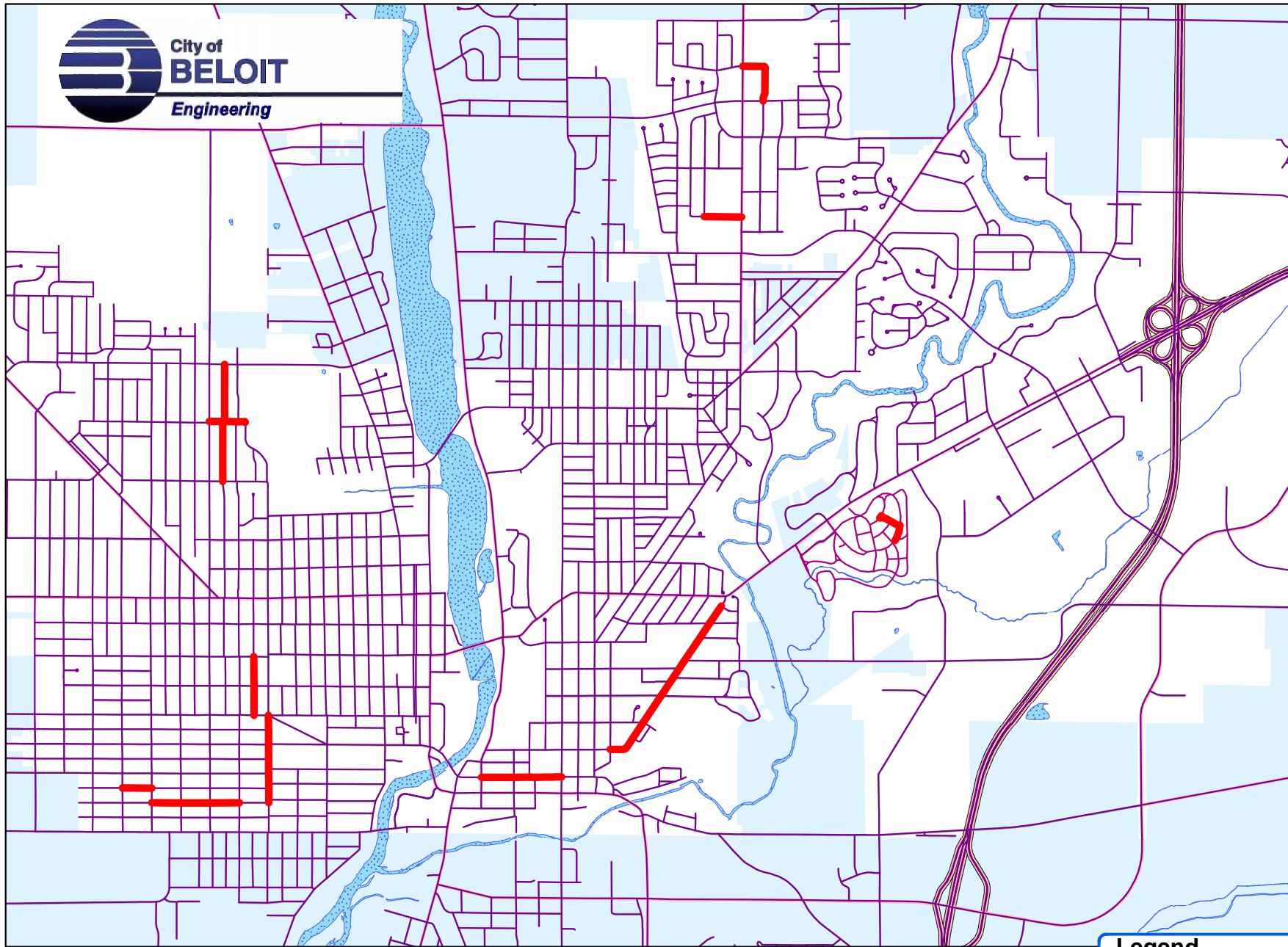
				Engineer's Estimate		Rock Road Companies, Inc.		Janesville	
Item No.	Bid Item Description	Quantity	Unit	Price	Extended	Price	Extended		
1	Traffic Control	34	Block	\$300.00	\$10,200.00	\$350.00	\$11,900.00		
2	Erosion Control Type C Inlet Protection	54	Each	\$125.00	\$6,750.00	\$125.00	\$6,750.00		
3	Full Depth Sawcut	541	LF	\$3.00	\$1,623.00	\$3.00	\$1,623.00		
4	AC Milling	55,862	SY	\$2.70	\$150,827.40	\$2.60	\$145,241.20		
5	Asphalt Pulverize in place	1,747	SY	\$3.10	\$5,415.70	\$1.00	\$1,747.00		
6	PCC Milling	1,791	SY	\$3.50	\$6,268.50	\$3.70	\$6,626.70		
7	PCC Crack and Seat	1,791	SY	\$2.69	\$4,817.79	\$3.33	\$5,964.03		
8	Subgrade stabilization flyash material	105	Ton	\$55.62	\$5,840.10	\$60.00	\$6,300.00		
9	Flyash distribution and mixing	1,747	SY	\$6.22	\$10,866.34	\$7.40	\$12,927.80		
10	Crushed Limestone, 3/4" grad.	76	Ton	\$18.98	\$1,442.48	\$24.00	\$1,824.00		
11	Supply and Install Neenah R-1710 MH Casting with locking,non-rocking Type "B" lid, with up to 12" of new adjusting rings	17	Each	\$840.00	\$14,280.00	\$1,200.00	\$20,400.00		
12	HMA Pavement, Binder Course	251	Ton	\$57.50	\$14,432.50	\$59.00	\$14,809.00		
13	HMA Pavement, Surface Course	6,104	Ton	\$58.50	\$357,084.00	\$59.00	\$360,136.00		
14	Curb & Gutter R&R	226	LF	\$45.00	\$10,170.00	\$57.25	\$12,938.50		
15	6" Thick PCC Driveway	86	SF	\$7.15	\$614.90	\$8.00	\$688.00		
16	4" Thick PCC Sidewalk	798	SF	\$6.90	\$5,506.20	\$6.26	\$4,995.48		
17	Detectable Warning Field	10	Each	\$320.00	\$3,200.00	\$326.00	\$3,260.00		
18	Pavement Marking, Words-ONLY, Epoxy	2	Each	\$260.00	\$520.00	\$275.00	\$550.00		
19	Pavement Marking, Words-SLOW, Epoxy	4	Each	\$250.00	\$1,000.00	\$275.00	\$1,100.00		
20	Pavement Marking, Words-SCHOOL, Epoxy	4	Each	\$400.00	\$1,600.00	\$300.00	\$1,200.00		
21	Pavement Marking, Stop Bar, White, 24-Inch, White	16	LF	\$7.00	\$112.00	\$11.00	\$176.00		
22	Pavement Marking, Lane Line, White, 8-Inch, Epoxy	183	LF	\$2.10	\$384.30	\$1.00	\$183.00		



**Tabulation of Bids  
Contract C15-07  
Street Resurfacing  
Bids Opened May 7, 3:00 PM**

				Engineer's Estimate		Rock Road Companies, Inc.	Janesville
Item No.	Bid Item Description	Quantity	Unit	Price	Extended	Price	Extended
23	Pavement Marking, Crosswalk, 6-Inch, Epoxy	559	LF	\$5.35	\$2,990.65	\$7.50	\$4,192.50
24	Pavement Marking, Parking, White, 4-Inch, Epoxy	3,369	LF	\$2.60	\$8,759.40	\$3.48	\$11,724.12
25	Pavement Marking, Centerline Yellow, 4-Inch, Epoxy	3,776	LF	\$1.80	\$6,796.80	\$1.10	\$4,153.60
26	Pavement Marking, Arrow, Type 2, Epoxy	4	Each	\$250.00	\$1,000.00	\$250.00	\$1,000.00
27	Pavement Marking, Arrow, Type 3, Epoxy	2	Each	\$300.00	\$600.00	\$300.00	\$600.00
28	Shouldering	1,597	LF	\$2.00	\$3,194.00	\$2.11	\$3,369.67
29	Sod Lawn Restoration	117	SY	\$30.83	\$3,607.11	\$76.00	\$8,892.00
<b>Total Proposal</b>				<b>\$639,903.17</b>		<b>\$655,271.60</b>	

# 2015 Street Resurfacing Plan



**Legend**  
**2015 overlay**  
— <all other values>

PLAN YEAR

2015

**STREET MAINTENANCE**

STREET NAME	FROM	TOWARD	LENGTH (FEET)
-------------	------	--------	---------------

*Mill & Overlay*

Bushnell St	Central Ave	to Milwaukee	338
E Grand Ave	Pleasant	to Park	1820
Garfield Ave	Whipple	to Burton	2653
Hackett St	Vernon	to St Lawrence	1985
Highland Ave	Townline	to Ritscher	659
House St	Hackett	to Mckinley	815
Lincoln Ave	Roosevelt	to Portland	661
Milwaukee Rd	Bushnell	to Edan	3901
Post Rd	Prairie	to Sunshine	499
Sunshine Ln	Elmwood	to Post	781
Vernon Ave	Mckinley	to Townline	1323
Vernon Ave	Moore	to Mckinley	664
Lincoln Ave	St Lawrence	to Roosevelt	666
Northgate Dr	Butlin	to Prairie	843

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

**AN ORDINANCE TO ADD NO-PARKING BETWEEN 3A.M.-6 A.M.  
REGULATIONS IN THE HERITAGE VIEW PARKING LOT**

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

**Section 1:** Section 13.02 of the Code of General Ordinances of the City of Beloit, Rock County, Wisconsin, is hereby amended by Adding to Section III (H), Index of Special Locations, Parking Time Limited on Certain Streets, Miscellaneous Limitations on Parking, the following:

Heritage View Parking Lot –All stalls located directly in front of the Heritage View Building located at 604 Pleasant Street – No Parking between 3 A.M. and 6 A.M.

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

Adopted this 18th day of May 2015.

**BELOIT CITY COUNCIL:**

**By:** \_\_\_\_\_  
**Charles M. Haynes, Council President**

**ATTEST:**

\_\_\_\_\_  
Judith A. Elson, Deputy City Clerk

Published this \_\_\_\_\_ day of \_\_\_\_\_, 2015

Effective this \_\_\_\_\_ day of \_\_\_\_\_, 2015

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

# CITY OF BELOIT

## REPORTS AND PRESENTATIONS TO CITY COUNCIL

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**Topic:** An Ordinance to restrict parking from 3 A.M. – 6 A.M. in the Heritage View Parking Lot.

**Date:** May 18, 2015

**Presenter(s)** Greg Boysen, Public Works Director

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

---

### Overview/Background Information:

The City of Beloit received a request from Ginger Meinders on behalf of Hendricks Commercial Property to restrict overnight parking in front of the Heritage View Building.

---

### Key Issues (maximum of 5):

1. The Traffic Review Committee reviewed the issue during the April 27, 2015 meeting and the Committee voted (5-0) in favor of restricting parking between 3 A.M. and 6 A.M. for the stalls located immediately in front of the first floor storefronts.
2. The Heritage View building currently houses offices/business of the first floor (law firm, spa, financial services, etc.) and condominiums on the upper floors.
3. The City of Beloit owns and maintains the Heritage View Parking Lot.
4. Currently, the parking stalls located immediately in front of the first floor storefronts do not have a parking time limit. The building is located outside of the Downtown limits, so overnight parking is not currently regulated.
5. After discussions with the City Attorney, Ms. Meinders, and City staff; it was decided that the restriction of parking between the hours of 3 A.M. and 6 A.M. would allow for the parking needs of the current tenants while also restricting the overnight parking.

---

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

1. **Develop a high quality community through the responsible stewardship and enhancement of City resources to further Beloit's resurgence as a gem of the Rock River Valley.**

---

### 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:

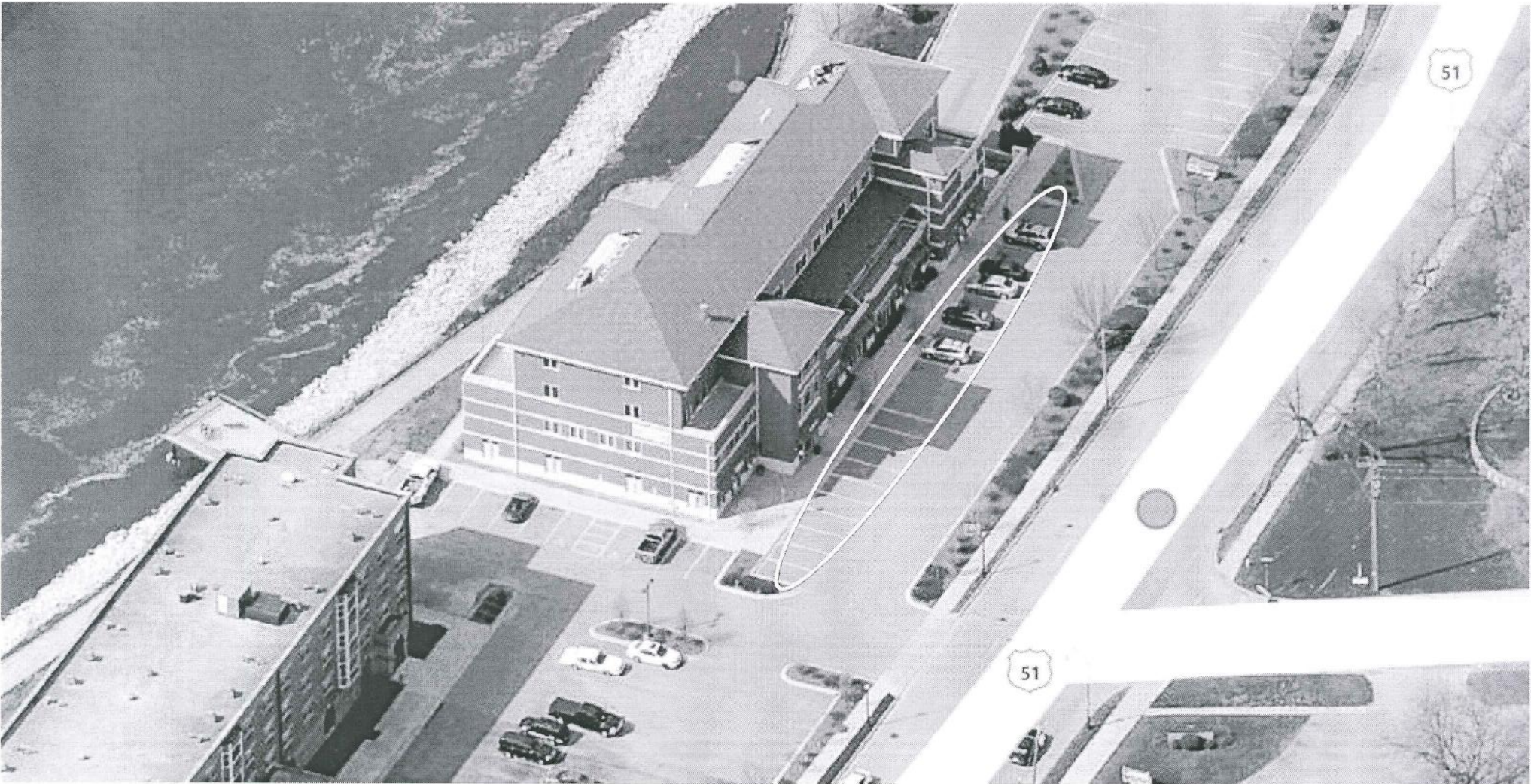
The Engineering Division recommends the restriction of parking between 3 A.M. and 6 A.M. for the stalls located immediately in front of the Heritage View Building. The signage will be similar to what is currently posted in the Downtown area.

---

### Fiscal Note/Budget Impact:

City staff will be responsible for the purchase and installation of the new signage.

Heritage View – 604 Pleasant Street, Beloit, WI



May 18, 2015

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

The undersigned Charles Haynes, 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 May 11, 2015:

---

Charles Haynes, President  
Beloit City Council

**Appointments**

**Board of Appeals**

Incumbent **Gregory D. Gaul** for a regular term ending May 31, 2018

**PLEASE ANNOUNCE THE FOLLOWING VACANCIES**

Alcohol Beverage License Control Committee (1 vacancy for resident)  
Appointment Review Committee (1 vacancy for resident)  
Board of Appeals (2 vacancies for [Alternate] residents)  
Board of Ethics (1 vacancy for former City Councilor, 3 vacancies for residents)  
Board of Review (1 vacancy for resident; 2 vacancies [Alternate] for residents)  
Community Development Authority (1 vacancy for resident)  
Equal Opportunities Commission (2 vacancies for residents)  
Municipal Golf Committee (1 vacancy for resident)  
Park, Recreation & Conservation Advisory Commission (1 vacancy for Youth Representative)  
Traffic Review Committee (2 vacancies for residents)

**RESOLUTION**  
**AUTHORIZING THE 422 BLUFF STREET/310 EUCLID PROJECT**

**WHEREAS**, the City Council of the City of Beloit amended the HOME budget to allow \$150,000 of HOME funds to be used for the demolition and rehabilitation project at 422 Bluff Street/310 Euclid Avenue, and

**WHEREAS**, the City Council of the City of Beloit amended the CDBG budget to allow \$11,312.95 of CDBG funds to be used for the demolition of 422 Bluff Street, and

**WHEREAS**, the HOME subsidy limit for any project in Rock County is established at \$247,709, and

**WHEREAS**, the low bids for the project total \$279,331, which would require an increase to the HOME-portion of this budget and the use of additional CDBG and/or CIP funds, and

**WHEREAS**, the project is an eligible CDBG and HOME activity and is consistent with the City's Consolidated Plan.

**NOW THEREFORE BE IT RESOLVED**, that the City Council of the City of Beloit, Rock County, Wisconsin amends the HOME Budget to allow \$245,000 of HOME funds to be used for the rehabilitation project at 422 Bluff Street/310 Euclid Avenue and allows the City to use additional CDBG and/or CIP funds to fill the gap in funding for this project.

Adopted this 18<sup>th</sup> day of May, 2015.

**BELOIT CITY COUNCIL**

\_\_\_\_\_  
Charles M. Haynes, Council President

ATTEST:

\_\_\_\_\_  
Judith A. Elson, Deputy City Clerk



## **CITY OF BELOIT REPORTS AND PRESENTATIONS TO CITY COUNCIL**

---

**Topic:** Rehabilitation/Demolition of 422 Bluff Street/310 Euclid Avenue with HOME dollars

**Date:** May 18, 2015

**Presenter(s):** Julie Christensen

**Department:** Community Development

---

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

- 422 Bluff Street and 310 Euclid Avenue are located on the same parcel and are located in the Bluff Street Historic District (see location map). 422 Bluff Street is the red house located on the front of the lot facing Bluff Street, and 310 Euclid Avenue is the white house located on Euclid Avenue (see attached photos). The Intensive Survey forms for the two houses are attached to this report. The forms indicate that the houses are both contributing members to the district but that they don't have any Architectural or Historical Significance. This property was purchased from Rock County in 2013 as part of the Tax Foreclosure process.
- On January 21, 2014, the City Council approved a CDBG budget amendment which allocated \$11,312.95 to demolish 422 Bluff Street (see attached resolution).
- On January 21, 2014, this project was brought to the Landmarks Commission as a discussion item. The Community Development Director explained the severely deteriorated condition of 422 Bluff Street and suggested that both houses should be demolished, and a new house be constructed in its place. The Commission suggested looking into demolishing 422 Bluff Street and moving 310 Euclid to the front of the lot.
- On April 15, 2014, the Community Development Director discussed this project with the Commission and asked if the Commission would support additional architectural elements being added to the house at 310 Euclid such as a wrap-around porch. They preliminarily expressed support for the concept.
- On September 15, 2014, the City Council approved a HOME Investment Partnerships (HOME) Program budget amendment which allocated \$150,000 in HOME funds to the rehabilitation project at 422 Bluff Street/310 Euclid Avenue (see attached resolution). This project involved demolishing 422 Bluff Street and then moving 310 Euclid to the front of the lot and rehabbing it.
- On September 23, 2014, the Landmarks Commission approved a Certificate of Appropriateness for the 422 Bluff Street/310 Euclid Avenue project, which included the wrap-around porch.

---

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

1. City staff opted to bid this project as two separate projects. Phase 1 involved demolishing 422 Bluff Street, removing the foundation, excavating for the new basement, constructing the new foundation, moving the house onto the new foundation, reconnecting the utilities, and completing final site grading. Phase 2 involved adding a new porch to 310 Euclid after it was moved and rehabbing the house.

2. The first time Phase 1 was bid we did not receive any bids. We believe this was due to the short timeframe required for the project to be completed, so we bid the project a second time with a longer timeframe for the move. We received three bids the second time we bid it. The lowest bid at \$53,318 was rejected due to a conflict of interest. Therefore, the lowest acceptable bid was \$87,000, with \$69,500 of the costs being budgeted from HOME funding, \$13,000 from demolition funding (a combination of CDBG and CIP funds), and \$7,500 from Public Works funding for right-of-way improvements (see attached bid summary – 310 Euclid Moving).
3. Phase 2 was bid, and two bids were received (see attached bid summary – Rehab of 310 Euclid at 422 Bluff site). The lowest bid we received was for \$192,331, with \$189,581 being budgeted for HOME funds. This gives us an overall project cost of \$279,331, with \$259,081 being budgeted for HOME funds. This is above the HOME subsidy limit of \$247,709 and well above the \$150,000 City Council authorized to be used for this project.
4. At this point, City staff applied for a Certificate of Appropriateness (COA) to demolish both 422 Bluff Street and 310 Euclid Avenue. At its April 21, 2015 meeting, the Landmarks Commission approved the (COA) to demolish 422 Bluff Street but denied the COA to demolish 310 Euclid Avenue (see attached letter). They offered a number of alternatives to demolition including rehabbing it in its current location, seeking out investors who may be interested in buying the property from the City and rehabbing it, or moving it to another location.
5. We contacted a number of investors who have successfully completed similar rehabs in the past and gave them a tour of 310 Euclid Avenue. There was no interest in doing the project even if the City gave them the property for \$1.00. Since the private sector is not interested in this project, we are bringing it to the City Council for authorization to proceed with the project. We would have to use either CDBG or City funds in addition to the HOME funds due to the subsidy limits.
6. The estimated sale price of the house once completed is \$75,000 - \$80,000.
7. A final option which could be considered would be to demolish 422 Bluff Street and rehab 310 Euclid in its current location and construct a detached garage. The estimated demolition cost would be \$13,000, which would be funded out of CDBG funds and CIP funds. The estimated rehabilitation cost is \$170,000 for a total project cost of \$183,000.
8. See attached Powerpoint.

---

**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 #5 - Apply sound, sustainable practices to promote a high quality community through historic preservation, community revitalization and new development.

---

**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** – Not applicable

- **Reduce dependence on chemicals and other manufacturing substances that accumulate in nature** – Not Applicable
- **Reduce dependence on activities that harm life sustaining eco-systems** – Not Applicable
- **Meet the hierarchy of present and future human needs fairly and efficiently** – This proposal would allow us to retain one of the two historic structures located on a lot in the City of Beloit, which would bring the parcel into compliance with the City’s Zoning Ordinance.

---

**Action required/Recommendation:**

Consideration of the attached resolution.

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**Fiscal Note/Budget Impact:**

This project, if approved, would require the use of some of the City’s Acquisition Account or additional CDBG dollars as well as \$245,000 of HOME funds.

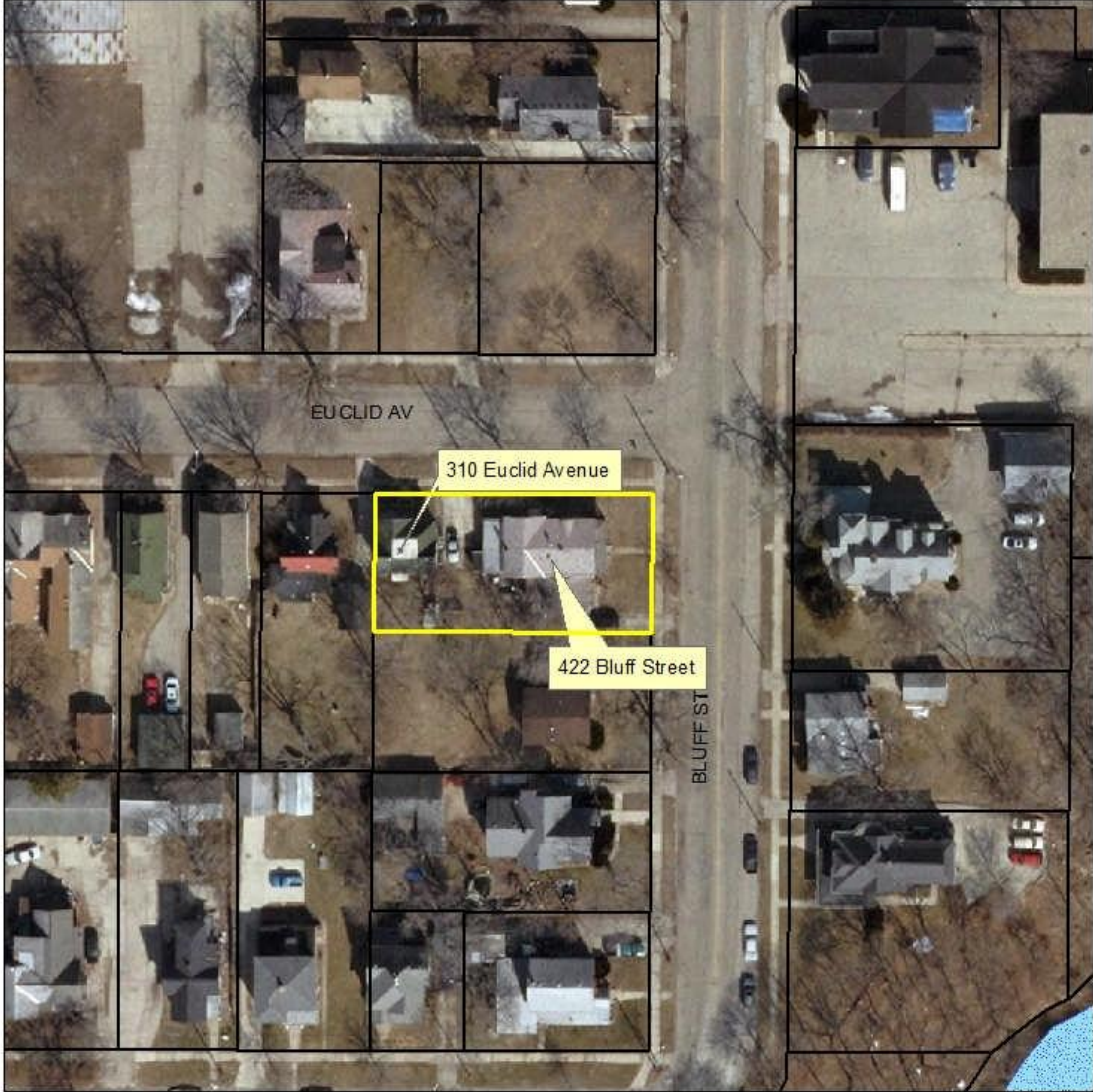
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**Attachments:**

Resolutions, Location Map, Photos, Intensive Survey Forms and Bid Summaries

# Location Map

422 Bluff Street / 310 Euclid Avenue



**Legend**

 COB Parcels

Map prepared by: Julie Christensen  
Date: July 2014  
For: Community Development Dept.  
Date of Aerial Photography: March 2011

COMMUNITY DEVELOPMENT DEPARTMENT

**Photos of 422 Bluff Street and 310 Euclid Avenue**



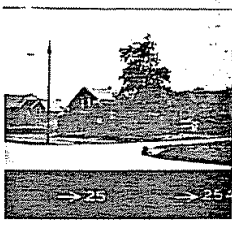
**422 Bluff Street - East Side**



**422 Bluff Street - North Side**




**310 Euclid Avenue**

<b>1</b> City, Village or Town: Beloit	County: Rock	Surveyor: Richard P. Hartung	Date: July, 1981	Street Bluff		
Street Address: 422 Bluff Street		Legal Description:	Acreage:			
Current Name & Use: Residence		Current Owner:				
Film Roll No. RO-91		Current Owner's Address:				
Negative No. 25		Special Features Not Visible In Photographs:				
Facade Orient. E		Interior visited? <input type="radio"/> Yes <input checked="" type="radio"/> No				
<b>2</b> Original Name & Use:	Source	Previous Owners	Dates	Uses	Source	Town Range
Dates of Construction /Alteration 1857-1858	Source A					
Architect and/or Builder:	Source					
<b>3</b> <u>Architectural Significance</u> <input type="radio"/> Represents work of a master <input type="radio"/> Possesses high artistic values <input type="radio"/> Represents a type, period, or method of construction <input type="radio"/> Is a visual landmark in the area <input checked="" type="radio"/> Other: <u>None</u>	<b>4</b> <u>Historical Significance</u> <input type="radio"/> Assoc. with lives of significant persons <input type="radio"/> Assoc. with significant historical events <input type="radio"/> Assoc. with development of a locality <input type="radio"/> Other: <input checked="" type="radio"/> None					Section Map Name Bluff Street Historic District
Architectural Statement:  One and one half story brick residence of Greek Revival style with returned cornice and dormers interrupting roof line. Stone lintels over main structure's windows. Late 19th century wing added to rear. Filigree porch in front of the south (side) wing.	Historical Statement:					
<b>5</b> Sources of Information (Reference to Above) <b>A</b> Beloit Tax Records. RCHS Archives	<b>6</b> Representation in Previous Surveys <input type="radio"/> HABS <input type="radio"/> NAER <input checked="" type="radio"/> WIHP <input type="radio"/> NRHP <input type="radio"/> landmark <input type="radio"/> other:					Map Code BS 91/25
<b>B</b>	<b>7</b> Condition <input type="radio"/> excellent <input type="radio"/> good <input checked="" type="radio"/> fair <input type="radio"/> poor <input type="radio"/> ruins					
<b>C</b>	<b>8</b> District: Bluff Street Historic District <input type="radio"/> pivotal <input checked="" type="radio"/> contributing <input type="radio"/> non-contributing initials: <u>R</u> date: <u>8/1/81</u>					
<b>D</b>	<b>9</b> Opinion of National Register Eligibility <input checked="" type="radio"/> eligible <input type="radio"/> not eligible <input type="radio"/> unknown <input type="radio"/> national <input type="radio"/> state <input type="radio"/> local initials: <u>R</u>					
<b>E</b>						
<b>F</b>						

HP-02-17

INTENSIVE SURVEY FORM Historic Preservation Division State Historical Society of Wisconsin

City, Village or Town: <b>BELOIT</b>		County: <b>ROCK</b>	Surveyor: <b>Richard P. Hartung</b>	Date: <b>July, 1981</b>	Euclid
Street Address: <b>310 Euclid</b>		Legal Description:		Acreage:	
Current Name & Use: <b>residence</b>			Current Owner:		310
Film Roll No. <b>RO-113</b>		Current Owner's Address:		Special Features Not Visible In Photographs:  Interior visited? <input type="radio"/> Yes <input checked="" type="radio"/> No	
Negative No. <b>27</b>		Contact Prints			
Facade Orient. <b>N</b>					
<b>2</b> Original Name & Use:	Source	Previous Owners	Dates	Uses	Source
Dates of Construction/Alteration <b>c. 1895</b>	Source <b>A</b>				
Architect and/or Builder:	Source				
<b>3</b> Architectural Significance <input type="radio"/> Represents work of a master <input type="radio"/> Possesses high artistic values <input type="radio"/> Represents a type, period, or method of construction <input type="radio"/> Is a visual landmark in the area <input checked="" type="radio"/> Other: <b>None</b>	<b>4</b> Historical Significance <input type="radio"/> Assoc. with lives of significant persons <input type="radio"/> Assoc. with significant historical events <input type="radio"/> Assoc. with development of a locality <input type="radio"/> Other: <input checked="" type="radio"/> None		Section		
Architectural Statement:  A simple Victorian vernacular, this two-and-a-half story clapboard house has a hipped roof with cross gables. The porch features Tuscan columns and a plain entablature.	Historical Statement:		Map Name <b>Bluff Street Historic District</b>		
<b>5</b> Sources of Information (Reference to Above) <b>A</b> Visual estimate of surveyor	<b>6</b> Representation in Previous Surveys <input type="radio"/> HABS <input type="radio"/> NAER <input checked="" type="radio"/> WIHP <input type="radio"/> NRHP <input type="radio"/> landmark <input type="radio"/> other:		Range		
<b>B</b>	<b>7</b> Condition <input type="radio"/> excellent <input type="radio"/> good <input checked="" type="radio"/> fair <input type="radio"/> poor <input type="radio"/> ruins		OWN		
<b>C</b>	<b>8</b> District: <b>Bluff Street Historic District</b> <input type="radio"/> pivotal <input checked="" type="radio"/> contributing <input type="radio"/> non-contributing initials: <b>R</b> date: <b>el/81</b>		Map Code <b>BS 113/27</b>		
<b>D</b>	<b>9</b> Opinion of National Register Eligibility <input checked="" type="radio"/> eligible <input type="radio"/> not eligible <input type="radio"/> unknown <input type="radio"/> national <input type="radio"/> state <input type="radio"/> local initials: <b>R</b>				
<b>E</b>					
<b>F</b>					

HP-02-17



FILE# 8484  
JAN 21 2014  
CITY OF БЕЛОIT  
CITY CLERK

**RESOLUTION  
REALLOCATING 2010 COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS  
TO ELIGIBLE PROJECTS**

**WHEREAS**, the City of Beloit is required to spend its dollars in a timely manner, and

**WHEREAS**, the Economic Development Loan Program has \$40,312.95 in grant funds which cannot be used until the income earned by the program is spent, and

**WHEREAS**, the Economic Development Loan Program has more than \$200,000 in program income and is therefore unable to spend this grant dollars in a timely manner, and

**WHEREAS**, the City has identified two eligible projects, DBA's rental assistance program and the demolition and/or rehabilitation of houses on the 422 Bluff Street site, which could use these funds in a timely manner, and

**WHEREAS**, these projects would be consistent with the City's Consolidated Plan.

**NOW THEREFORE BE IT RESOLVED**, that the City Council of the City of Beloit, Rock County, Wisconsin, allocates \$29,000 to the DBA's rental assistance program and \$11,312.95 to demolish and/or rehabilitate the houses at 422 Bluff Street.

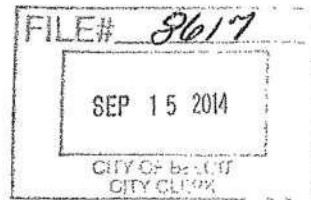
Adopted this 21st day of January 2014.

**BELOIT CITY COUNCIL**

  
\_\_\_\_\_  
Charles M. Haynes, Council President

**ATTEST:**

  
\_\_\_\_\_  
Rebecca Houseman LeMire, City Clerk



**RESOLUTION  
AMENDING THE HOME INVESTMENT PARTNERSHIP (HOME) BUDGET**

**WHEREAS**, the City of Beloit has \$286,000 in 2010-2013 HOME Investment Partnership Program (HOME) dollars; and

**WHEREAS**, the HOME funds are required to be expended in a timely manner and the funds allocated to the City's housing rehabilitation loan program are not being spent in a timely manner; and

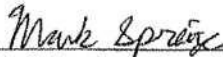
**WHEREAS**, the moving and rehabilitation of 310 Euclid is an eligible HOME activity; and

**WHEREAS**, the project is consistent with the City's Consolidated Plan.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Beloit, Rock County, Wisconsin, hereby amends the HOME Budget to allow \$150,000 of HOME funds to be used for the demolition and rehabilitation project at 422 Bluff Street/310 Euclid Avenue.

Adopted this 15<sup>th</sup> day of September, 2014.

**BELOIT CITY COUNCIL**

  
\_\_\_\_\_  
Mark Spreitzer, Council President

ATTEST:

  
\_\_\_\_\_  
Rebecca Houseman LeMire, City Clerk

**310 EUCLID MOVING FEBRUARY 18, 2015**

ITEM NO.	BID ITEMS DESCRIPTION	Fourteen Construction			MZ Construction			Gilbank Construction		
		HOME FUNDING	DEMO FUNDING	ROW IMPROVEMENTS	HOME FUNDING	DEMO FUNDING	ROW IMPROVEMENTS	HOME FUNDING	DEMO FUNDING	ROW IMPROVEMENTS
1	Demolition of 422 Bluff		\$9,100.00			\$10,000.00			\$9,600.00	
2	Over Excavation for Basement Forms	\$1,650.00			\$4,000.00			\$1,650.00		
3	Demolition of 310 Euclid Basement		\$900.00			\$3,000.00			\$1,500.00	
4	Fill & Final Grading of the Site	\$800.00			\$3,000.00			\$2,000.00		
5	All Aspects of Moving 310 Euclid to 422 Bluff	\$18,000.00			\$25,000.00			\$17,110.00		
6	Foundation for 422 Bluff	\$7,168.00			\$25,000.00			\$31,165.00		
7	Sidewalk & C&G impacted by Water & Sewer Laterals			\$2,500.00			\$3,000.00			\$1,500.00
8	New Sewer Lateral, Inclusive			\$5,000.00			\$1,500.00			\$4,100.00
9	New Water Lateral, Inclusive	\$5,000.00			\$1,500.00			\$3,750.00		
10	Drain Tile, Inclusive	\$700.00			\$2,000.00			\$1,000.00		
11	Sub-Floor Plumbing, Inclusive	\$1,000.00			\$5,000.00			\$2,500.00		
12	Mobilization & Bonds	\$1,500.00			\$4,000.00			\$17,000.00		
<b>SUB TOTALS</b>		\$35,818.00	\$10,000.00	\$7,500.00	\$69,500.00	\$13,000.00	\$4,500.00	\$76,175.00	\$11,100.00	\$5,600.00
<b>TOTAL TOTAL</b>			<b>Rejected</b>		<b>\$87,000.00</b>			<b>\$92,875.00</b>		

Rehab of 310 Euclid at 422 Bluff site

Line	Line Description	DBR Builders	Ballou General Contracting
1	General Disclaimer	0	0
2	Remove chimney	695	1800
3	Flat roof	4,200	3200
4	Asphalt roof	7,920	12500
5	Al wrap fasica soffit	6,582	2600
6	Gutters	1,100	850
7	Gable Vents	300	625
8	Repair Wood siding	16,950	21500
9	Alt 1A New Wood Siding	23,950	28100
10	Alt 1B Cement Board Siding	27,983	15500
11	Alt 1C Vinyl Siding	15,920	12000
12	Alt 1D Fish Scale Siding	650	2000
13	Wood Interior Windows	22,572	14750
14	Window Mods	1,600	1600
15	Basement Windows	2,100	1000
16	Al wrap doors windows	3,000	2200
17	Front porch	18,735	25000
18	Half bath addition	6,500	4500
19	Front Door	650	450
20	New Steel Doors	600	500
21	Storm Doors	555	600
22	Back Porch	2,500	1200
23	Exterior Painting	1,000	1500
24	Tree cutting	430	700
25	Garage	9,872	14000
26	Concrete Work, ROW	2,750	1500
27	Concrete Work, non ROW	5,800	2250
28	Attic Insulation	300	2200
29	Rim Joist insulation	250	500
30	Blow in insulation	2,200	2275
31	Attic Hatch	270	225
32	Interior Demo	1,700	12600
33	Basement Stairs	1,350	600
34	Drywall	4,000	8000
35	Plaster Patch	2,390	300
36	Vinyl Floor	1,100	500
37	Wall & Ceiling Texture	3,300	700
38	Interior Painting	4,000	3500
39	Wood floors	3,900	2300
40	Wood doors	470	400
41	Plane doors	150	225
42	Carpet	1,170	1600
43	Wood Trim	2,500	4000
44	Varnish	2,300	3200
45	Handrails	700	800
46	Bath Cabinets	700	1300
47	Kitchen cabinets	5,770	7800
48	Closet shelf & pole	450	180
49	Misc	700	800
50	Electrical	11,000	7400
51	Smoke Detector	250	0
52	CO Detector	350	0
53	Color Cont	150	0
54	HVAC	7,800	8000
55	Plumbing	10,000	12000
56	Alt #2 Central A/C	2,000	2285
57	Alt #3 Muntins	2,562	800
58	Alt #4 Rosette	1,700	1400
59	Alt #5 Basement 3/4 bath	7,200	3200
60	Alt #6 Dentil molding	700	1200
61	Alt #7 Garage Cupola	450	400
62	Alt #8 Shutters	815	2000
63	Permits	300	250
64	Debris	700	1200
65	Lead Warning	350	0
66	Contingency	0	0
67	Insurance	0	0
68	P&P Bonds	5,350	9500
69	Section 3	0	0
Total Base bid cost		\$192,331.00	\$207,180.00
Funding with HOME		\$189,581.00	\$205,680.00
Funding with OTHER		\$2,750.00	\$1,500.00
Cost with least expensive siding option		\$191,301.00	\$197,680.00
Siding type		Vinyl	Vinyl
Funding with HOME		\$188,551.00	\$196,180.00
Funding with OTHER		\$2,750.00	\$1,500.00



**CERTIFICATE OF APPROPRIATENESS**  
**COA-2015-09**

Via Email & Hand Delivery

April 22, 2015

Julie Christensen  
Community Development Director  
100 State Street  
Beloit, WI 53511

Dear Julie:

On April 21, 2015, the Beloit Landmarks Commission reviewed your request for a Certificate of Appropriateness (COA) to demolish both residential structures located at 422 Bluff Street & 310 Euclid Avenue, based on the standards and criteria contained in the Historic Preservation Ordinance. The Landmarks Commission approved your request to demolish 422 Bluff Street, but denied your request to demolish the house addressed as 310 Euclid Avenue.

The Landmarks Commission expressed a strong preference to save & rehab 310 Euclid Avenue in its current location, on a new foundation closer to Bluff Street, or on a new off-premises property in or near the Bluff Street Historic District.

If you have any questions or concerns, please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "Drew Pennington".

Drew Pennington, AICP  
Director of Planning & Building Services

c: File, COA-2015-09  
File, Property

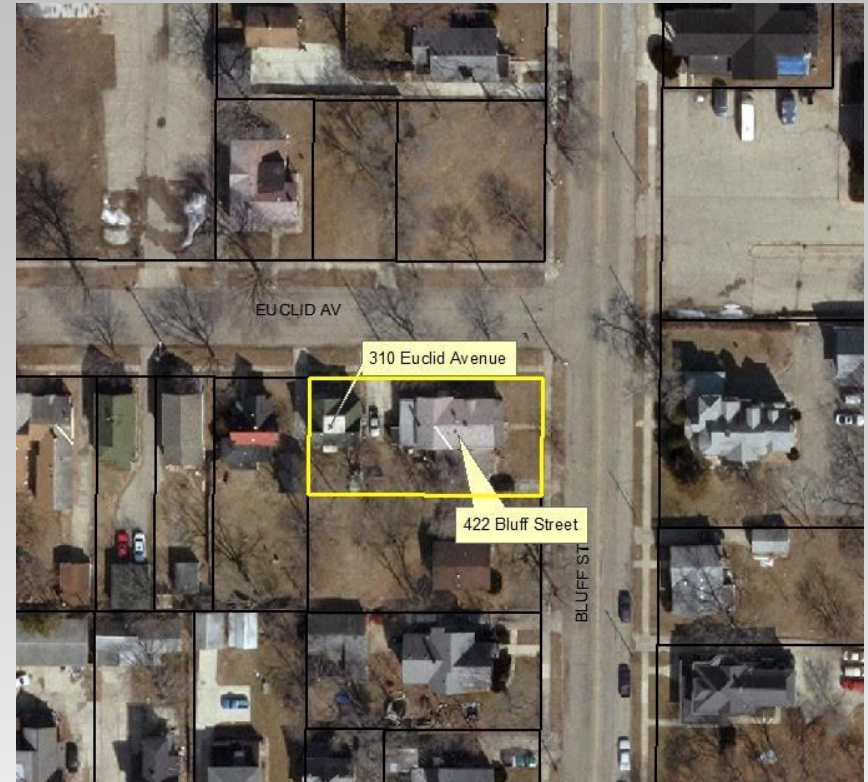
**422 Bluff Street –  
310 Euclid Avenue**

Julie Christensen

Community Development Director

# 422 Bluff Street-310 Euclid Avenue Location

- Property includes two houses – 422 Bluff Street and 310 Euclid Avenue
- 422 Bluff Street is a larger house which was divided into three dwellings
- 310 Euclid Avenue is a single family house



# 422 Bluff Street – Existing Conditions





# 310 Euclid – Existing Conditions



# 422 Bluff Street – 310 Euclid

## Timeline

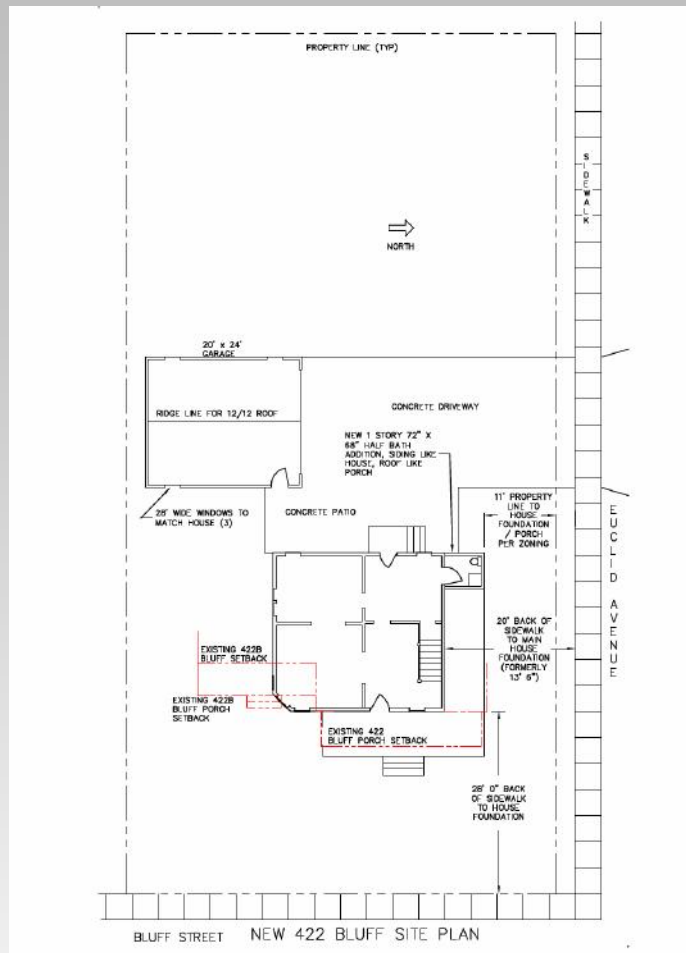
- Purchased in 2013 after it was foreclosed by Rock County
- January, 2014
  - Preliminary inspection by City staff resulted in concerns about the cost to rehab 422 Bluff Street and the viability of the structure
  - James Heidt, Structural Engineer, evaluated the house and determined that settlement was occurring in the northeast corner of the house. He also noted that the entire north wall was bowed due to the foundation settlement.
  - City staff approached Landmarks Commission about demolishing both structures in order to allow new construction on site which was discouraged by the Commission. They encouraged keeping one building and asked staff to evaluate moving 310 Euclid Avenue.
  - City Council approved a CDBG Budget Amendment which allocated \$11,312.95 to demolish 422 Bluff Street.

# 422 Bluff Street – 310 Euclid

## Timeline

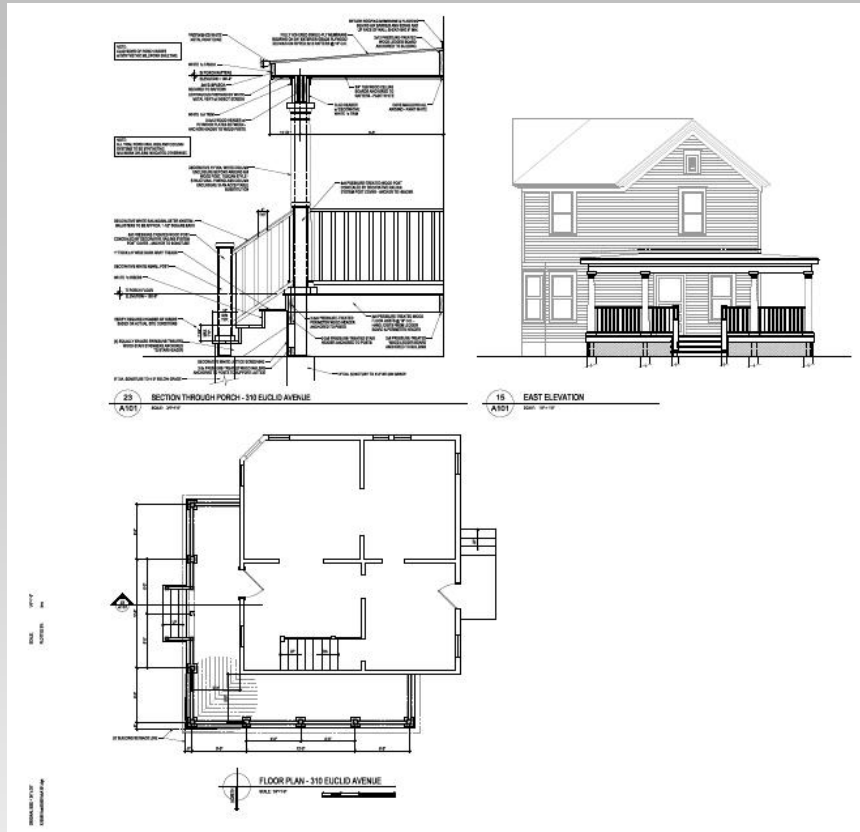
- April 15, 2014 – City staff met with Landmarks Commission to gauge support for adding architectural elements to 310 Euclid Avenue to make it more compatible with other houses on Bluff Street if the structure was moved to the front of the lot.
- September 15, 2014 – City Council approved a HOME Investment Partnerships Program (HOME) Budget Amendment to allocate \$150,000 in HOME funds to the project
- September 23, 2014 – Landmarks Commission approved a Certificate of Appropriateness (COA) for the 422 Bluff Street/310 Euclid Avenue project as proposed.

# 422 Bluff Street-310 Euclid Avenue As Approved by Landmarks Commission



- Demolish 422 Bluff Street and remove basement
- Excavate and build new basement for 310 Euclid Avenue
- Move 310 Euclid Avenue onto new basement on the front of lot
- Construct garage west of the house

# 422 Bluff Street-310 Euclid Avenue As Approved by Landmarks Commission



- New wrap-around porch with rounded fiberglass columns
- Window replacements
- Roof replacement
- New rear entry
- New kitchen lay-out
- Small addition to allow for a first-floor bathroom

# 422 Bluff Street – 310 Euclid

## Timeline

- Project was bid in two phases
  - Phase 1 – Demolish 422 Bluff Street and move 310 Euclid Avenue to the front of the lot – low bid was \$87,000
  - Phase 2 – Rehab 310 Euclid, add architectural details and construct new garage – low bid was \$192,331
- March & April, 2015 – Bids were received for the two phases of the project. Bids totaled \$279,331
- April 21, 2015 – Since the total bids (\$279,331) exceed the City Council budget amendment, City staff applied for a COA to demolish both structures.
  - Landmarks approved a COA to demolish 422 Bluff Street but denied the COA to demolish 310 Euclid Avenue

# 422 Bluff Street – 310 Euclid

## Next Steps

- City Council action is needed before the City can enter into contracts to complete this project.
  - If approved, the City will need to either allocate additional CDBG dollars or CIP dollars to this project to complete it
  - If denied, City staff will continue to work with Landmarks Commission to resolve this issue.

# **422 Bluff Street – 310 Euclid Avenue**

## **Options Proposed by Landmarks Commission**

- Rehab 310 Euclid Avenue in its current location
- Move 310 Euclid to a new foundation closer to Bluff Street or on a new off-premises property in or near the Bluff Street Historic District
- Selling the house to an investor for \$1.00 who would complete the rehab, either at its current location or another location.



Questions?

**RESOLUTION APPROVING A DEVELOPMENT AGREEMENT BETWEEN  
CITY OF БЕLOIT, 200 WEST GRAND AVENUE, LLC, AND  
EAST GRAND AVENUE DEVELOPMENT, LLC,  
FOR THE SALE OF 80 EAST GRAND AVENUE AND  
100 EAST GRAND AVENUE, БЕLOIT, WISCONSIN**

**WHEREAS**, the City is the owner of City center property located at 80 East Grand Avenue and 100 East Grand Avenue, which were formally owned by Kerry Ingredients, Inc.; and

**WHEREAS**, the property at 80 East Grand Avenue and 100 East Grand Avenue is the subject of a Stipulation and Settlement Agreement between the State of Wisconsin and Kerry Ingredients which requires the then current owner to remove certain improvements located on the site by December 31, 2042; and

**WHEREAS**, the City is willing to convey 80 East Grand Avenue and 100 East Grand Avenue to East Grand Avenue Development, LLC; and

**WHEREAS**, East Grand Avenue Development, LLC is willing to accept the conveyance of 80 East Grand Avenue and 100 East Grand Avenue, fully understanding and acknowledging that the property is subject to the duties and obligations of the Stipulation and Settlement Agreement; and

**WHEREAS**, East Grand Avenue Development, LLC will undertake exterior façade renovations to further enhance and beautify the City Center.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the attached Development Agreement between the City, 200 West Grand Avenue, LLC and the East Grand Avenue Development, LLC is hereby approved and the City Manager of the City of Beloit be, and is hereby, authorized to execute the same, to further execute any other documents to implement the terms and conditions thereof, and to do all other things necessary in order to carry out the purposes of this resolution.

Adopted this 18<sup>th</sup> day of May, 2015.

City Council of the City of Beloit

\_\_\_\_\_  
Charles M. Haynes, President

Attest:

\_\_\_\_\_  
Judith A. Elson, Deputy City Clerk

tdh\resolution\East Grand Avenue Development = res = 20150511

# CITY OF БЕЛОIT

## REPORTS AND PRESENTATIONS TO CITY COUNCIL



**Topic:** Resolution approving a Development Agreement between the City of Beloit, 200 West Grand Avenue, LLC and East Grand Avenue Development, LLC.

**Date:** May 18, 2015

**Presenter(s):** Andrew Janke/Elizabeth Krueger

**Department(s):** Economic Development/City Attorney

**Overview/Background Information:** The City of Beloit acquired the property located at 80 and 100 East Grand Avenue ("Site B") in May of 2009 as part of a negotiated strategy to retain and expand Kerry Ingredients Corporate Research and Development presence in Beloit. One of conditions of that agreement was that the City would take possession of 100 East Grand Avenue. The City accepted title to the building knowing it was accepting the liability associated with the terms and conditions established in the joint Stipulation and Settlement Agreement between State of Wisconsin Department of Natural Resources (DNR) and Kerry Ingredients entered into in May of 1999. That agreement, in part stipulated that the owner of the property, and its assignees, (Currently the City) would be required to demolish the portion of building located over the river on or before December 31, 2042. Furthermore, the City at its sole expense would be required to bear the cost of the demolition.

After the City purchased the property it remained vacant until March 2011 at which time the City leased the majority of the space available in the building to FatWallet. The City and FatWallet have enjoyed a mutually agreeable lessee/tenant relationship to the extent that FatWallet would like to remain in its present location and the City recently extended its lease. This lease extension request was driven, in part, by the City's proposed sale of the subject property to Hendricks Commercial Properties (HCP). By extending the terms of the Lease, FatWallet, Inc. can be assured that it can remain in its present location under reasonable terms while providing HCP with a creditworthy tenant that will provide cash flow to the new owners.

The proposed sale of the property to HCP was originally proposed to the City by HCP in August 2014, as part of a multi-property redevelopment project. HCP is proposing to renovate the former Kerry manufacturing facility they own at 200 West Grand Avenue and 525 Cross Street (Site A) and are proposing to purchase and renovate 80 and 100 East Grand Avenue ("Site B").

Council held a closed session in August of last year to consider HCP's proposal and directed staff to proceed with negotiations. After several months of negotiations and due diligence the City and HCP have negotiated the attached Development Agreement.

HCP has formed a Limited Liability Company, 200 West Grand Avenue, LLC ("Grand Avenue Development") that will be the owner and will redevelop Site A. HCP has also formed a Limited Liability Company, East Grand Avenue Development, LLC ("Site B Owner") which will take title to the property at Site B and undertake a comprehensive façade renovation.

Grand Avenue Development proposes to undertake a substantial redevelopment of "Site A" into a mixed use development that may include commercial and residential uses. Proposed renovation activity could include partial demolitions, substantial reconstruction of approximately 172,000 square feet of space, and of Site B exterior façade renovations.

Site B Owner proposes to undertake a substantial façade renovation of "Site B" that will be compatible with the surrounding architecture of the downtown.

Between the two projects total private investment is estimated to be over \$8 Million and has the potential to create 3 new businesses that could create up to 30 new jobs.

The agreement stipulates that the project is contingent upon Site B Owner's ability to gain DNR's approval to conduct the proposed façade renovations for "Site B" with the City providing a letter of support (see attached) of the proposed renovations. The City shall convey the site to Site B Owner 45 days of DNR approval but not prior to the expiration of the Due Diligence period. Once the City and DNR issues Site B Owner with the appropriate permits for Site B construction of the façade renovations will promptly commence and the developer will diligently pursue completion.

Grand Avenue Development and Site B Owner's obligation under the agreement is subject to its successful Due Diligence investigation that it must completed within 90 days. If, within the time permitted, Site B Owner finds fault in its investigation it may, at its sole discretion, terminate the Agreement provided it provides adequate written notice.

Grand Avenue Development and Site B Owner acknowledge that once the City conveys Site B all of the duties, obligations, and responsibilities of the City, as prior owner, as described and set out in the DNR Agreement, reference above, shall become the sole responsibility of Site B Owner so long as it is the owner of the property. This includes but is not limited to the obligation and cost associated with removal of the "River Buildings." Furthermore, Site B Owner agrees to hold the City indemnity and hold harmless for any future claims and liabilities relating to the DNR agreement during its term of ownership.

Other Key elements of the Development Agreement include:

---

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

1. The City will convey 80 and 100 East Grand Avenue (Site B) to East Grand Avenue Development, LLC for \$1.00(One Dollar).
2. The cost of all Due Diligence Investigation shall be borne solely by Grand Avenue Development.
3. Conveyance of Site B is subject to the terms of the Lease and Lease extension entered into between the City and FatWallet.
4. The Development Agreement is subject to the standard "boiler plate" terms and conditions.

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**Conformance to Strategic Plan (List key goals this action would support and briefly discuss its impact on the City's mission.):** This economic development project clearly supports Goal #2 since it will result in the retention of jobs and could lead to the creation of new jobs. The project also supports Goal #4 since it will support community revitalization efforts.

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**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**  
Continued reuse of 80 and 100 East Grand Avenue is an excellent example of compact inner city adaptive reuse.
- **Reduce dependence on chemicals and other manufacturing substances that accumulate in nature**  
N/A
- **Reduce dependence on activities that harm life sustaining eco-systems**  
The proposed development will not impact wetlands or sensitive wildlife.
- **Meet the hierarchy of present and future human needs fairly and efficiently**  
As a downtown development project it will not contribute to urban sprawl.

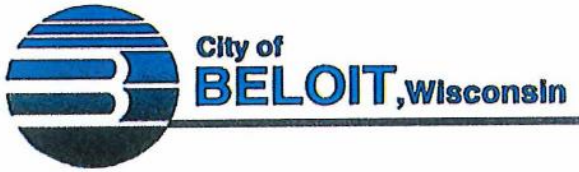
**If any of the four criteria are not applicable to your specific policy or program, an N/A should be entered in that space.**

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**Action required/Recommendation:** Staff recommends approval of the resolution.

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**Fiscal Note/Budget Impact:** The sale of the property will cause a reduction of lease revenue into TID #5 but this impact will be minimal as the closing will be deferred until all the conditions are met. The transfer of the property to HCP eliminates the future liability of needing to pay for the cost of demolishing the building as is currently being required by the DNR. This unfunded mandate is estimated to cost over \$2,000,000 at present value.



City of Beloit | 100 State St. | Beloit, WI 53511  
608.364.6614 | [www.beloitwi.gov](http://www.beloitwi.gov)



525 Third St., Ste 300 | Beloit, WI 53511  
608.362.8981 | [www.hendrickscommercial.net](http://www.hendrickscommercial.net)

Via Email ([susan.josheff@wisconsin.gov](mailto:susan.josheff@wisconsin.gov)) and U.S. Mail

May 7, 2015

RECEIVED

Susan Josheff  
Wisconsin Department of Natural Resources  
3911 Fish Hatchery Road  
Fitchburg, WI 53711

MAY - 8 2015

CITY ATTORNEY

**RE: Stipulation and Settlement Agreement Modification Request – 2<sup>nd</sup> Correspondence**

Dear Ms. Josheff:

We are again writing you regarding the property located at 80 and 100 E. Grand Avenue in downtown Beloit. As you know, the Wisconsin Department of Natural Resources entered into the attached Stipulation and Settlement Agreement with Kerry Ingredients, the prior property owner, in 1999. As detailed in the agreement, the “office Structure” on the above-referenced properties is comprised of an “Upland Building” that lies outside the floodway and two “River Buildings,” which are supported by pilings in the Rock River.

The original request that we submitted to you dated September 2, 2014 was related to the sale of this structure to Hendricks Commercial Properties (HCP), who would take ownership for the primary purpose of completing an exterior facade renovation of the building. After internal review and discussion with appropriate Departmental staff, you communicated that such a request would be reviewed upon receipt of a specific set of plans showing the proposed modifications. The design architect has completed a set of proposed building elevations showing the planned exterior facade renovation (see attached plans). I want to also reiterate that the footprint, size and scale of the building would not be altered in any way, and no additional space would be provided.

Per our prior communications, we would again very much appreciate your expeditious review of this request. As you know, an extensive amount of work, including repurposing of many old, industrial and commercial buildings has been underway in downtown Beloit. Much of that work has involved facade renovations on existing structures and new buildings constructed to historic design standards. Department approval of this request would allow for that process to continue on the building located at 80 and 100 East Grand Ave.

As always, if you have questions or need any further information, do not hesitate to contact our office.

Thank you in advance for your consideration of this request.

Sincerely,



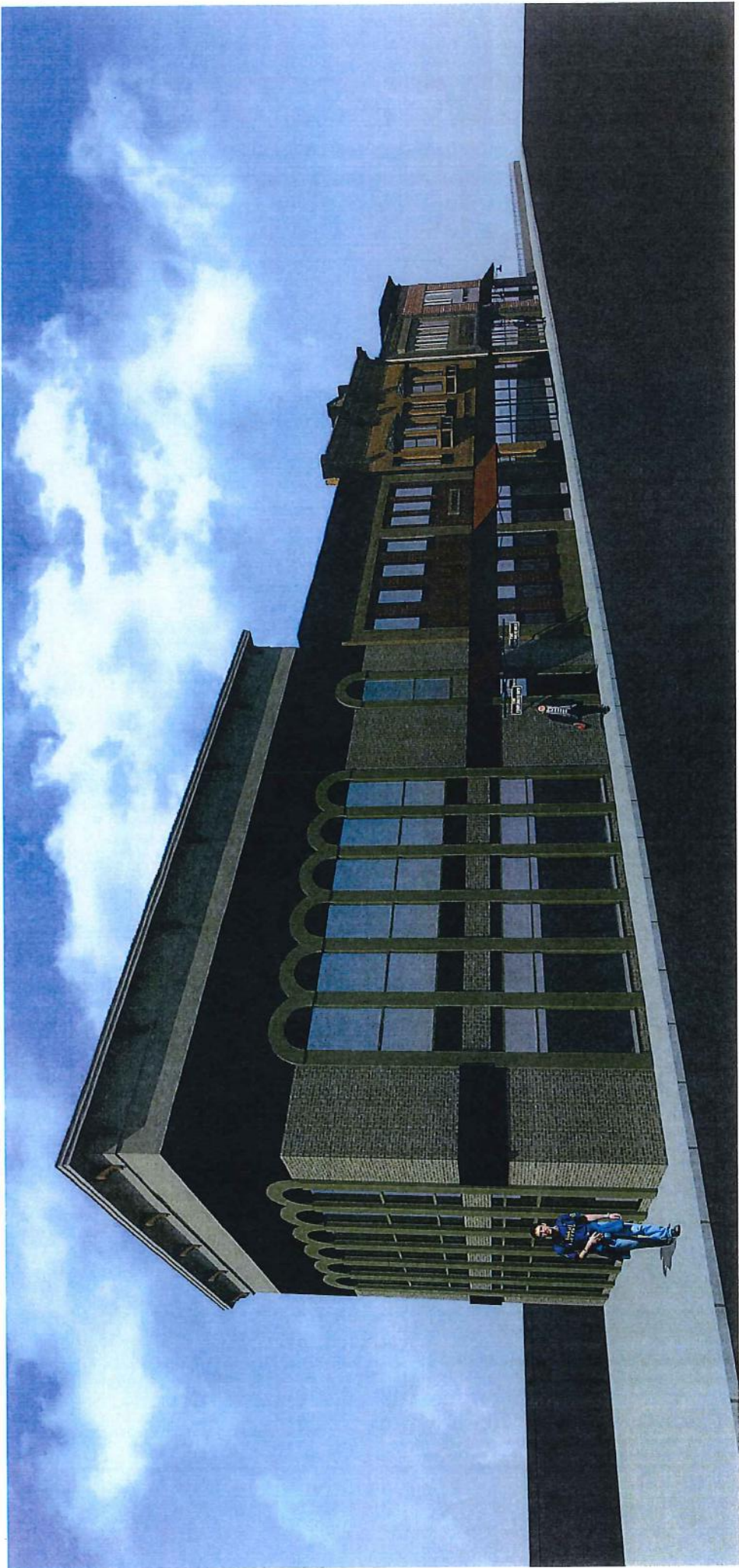
Larry N. Arft  
City Manager



Rob Gerbitz  
President of HCP

- C: Julie Christensen, Community Development Director  
Drew Pennington, AICP, Director of Planning and Building Services  
Andrew Janke, Economic Development Director  
✓ Elizabeth Krueger, City Attorney  
Diane Hendricks, ABC Supply













## DEVELOPMENT AGREEMENT

**THIS AGREEMENT** is made this \_\_\_\_ day of \_\_\_\_\_, 2015, by and between the City of Beloit, a Wisconsin municipal corporation, with its principal place of business located at 100 State Street, Beloit, Wisconsin 53511 (hereinafter "City") and 200 West Grand Avenue, LLC (hereinafter "Grand Avenue Development"), and East Grand Avenue Development, LLC ("Site B Owner"), each a Wisconsin limited liability company, and each with its principal place of business located at 525 Third Street, Suite 300, Beloit, Wisconsin 53511. Any reference to Grand Avenue Development hereafter in this Agreement shall mean 200 West Grand Avenue, LLC, unless expressly provided to the contrary.

### RECITALS

**WHEREAS**, Grand Avenue Development has purchased a redevelopment site in downtown Beloit; said redevelopment site is located at 200 West Grand Avenue and 525 Cross Street and is depicted on Exhibit A attached hereto (hereinafter "Site A"); and

**WHEREAS**, "Site A" is located in one of the key downtown blocks of the City critical to redevelopment of the City center; and

**WHEREAS**, "Site A" has been investigated by other potential developers without any successful results or redevelopment proposals forthcoming; and

**WHEREAS**, redevelopment of "Site A" would be a major catalyst for the central business district of the City; and

**WHEREAS**, the redevelopment of "Site A" has been and remains a goal of the City; and

**WHEREAS**, Grand Avenue Development and Site B Owner have prepared and submitted a request to the City to enter into a development agreement that would result in the substantial remodeling of “Site A” and also result in the acquisition and façade renovation of additional City-owned property; and

**WHEREAS**, the City is the owner of other City center property located at 80 East Grand Avenue and 100 East Grand Avenue, which were formally owned by Kerry Ingredients, Inc.; and

**WHEREAS**, the City is willing to convey 80 East Grand Avenue and 100 East Grand Avenue (“Site B”) to East Grand Avenue Development, LLC, an affiliate development entity of Grand Avenue Development (hereinafter collectively “Site B Owner”); and

**WHEREAS**, the City and Grand Avenue Development are desirous of having “Site A” redeveloped into mixed-use developments and “Site B” receive an exterior façade renovation; and

**WHEREAS**, the City is willing to convey “Site B” to the Site B Owner in order to provide a financial incentive to Grand Avenue Development and Site B Owner to redevelop and renovate “Site A” and “Site B” respectively as described herein; and

**WHEREAS**, Grand Avenue Development and Site B Owner acknowledges receipt of the Stipulation and Settlement Agreement between the State of Wisconsin, Department of Natural Resources (DNR) and Kerry Ingredients, Inc. (“DNR Agreement”), which DNR Agreement requires the then current owner of “Site B” to remove certain improvements located upon “Site B” by December 31, 2042. A copy of said DNR Agreement is attached hereto and incorporated herein as Exhibit B.

**NOW, THEREFORE,** for and in consideration of the foregoing promises, the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City, Grand Avenue Development, and Site B Owner (collectively as the “Parties” do hereby covenant and agree as follows:

1. **PROJECT DESCRIPTION.** In anticipation of this Agreement, Grand Avenue Development has acquired “Site A,” commonly known as the former Kerry manufacturing plant located at 200 West Grand Avenue and 525 Cross Street. Grand Avenue Development intends to redevelop “Site A,” including partial demolitions and substantial reconstruction. In consideration of the City conveyance of “Site B” to Site B Owner, Grand Avenue Development agrees to finalize its redevelopment plans and proceed with substantial renovation to repurpose the building as a mixed-use development, and Site B Owner agrees to undertake an agreed exterior façade renovation of “Site B”, where the final renovations will be compatible with surrounding architecture.

2. **REDEVELOPMENT OF “SITE A” and “SITE B”.** Grand Avenue Development and Site B Owner agrees to undertake substantial redevelopment of “Site A” and “Site B” respectively according to the building plans and project description to be finalized within a reasonable time period mindful of the need to secure site specific users as well as general economic conditions affecting redevelopment efforts. Preliminary plans are attached hereto as Exhibit C and Exhibit D, respectively. The redevelopment of “Site A” and “Site B” will consist of approximately 172,000 square feet of residential and commercial space at “Site A” and the

exterior façade renovations at “Site B”. The potential for total private investment in both projects is estimated at \$8,000,000.00 and the redevelopment of “Site A” and “Site B” has the potential to attract up to three (3) new businesses and create up to thirty (30) new jobs (collectively, the “Redevelopment Goal”). Such Redevelopment Goal if not met shall not be the basis for either party to terminate its obligations under this Agreement nor seek any form of relief against each other. Grand Avenue Development and Site B Owner agree to submit final site and building plans for “Site A” and “Site B” to the City for final review as to compliance with the City’s building, zoning and architectural review ordinances (“Site Plan Review”). Grand Avenue Development and Site B Owner agree to pursue all permits and approvals, including any necessary demolition permits, with due diligence and so as to be able to meet the timelines in paragraph 4 herein, and the City agrees to conduct prompt Site Plan Review and to issue building permits as may be required.

3. **CONVEYANCE OF “SITE B”.** The City agrees to convey to Site B Owner “Site B” for \$1.00 (One and 00/100 Dollars). Said conveyance will occur within forty-five (45) days after and will be conditioned upon the Wisconsin DNR’s approval of the exterior façade renovation plans for “Site B.” In no event shall said conveyance occur prior to the expiration of the time period outlined for the Due Diligence Investigation in paragraph 5 of this Agreement. The City will offer a letter of support of such plans to the DNR upon the City’s approval of said plans. Said conveyance will be subject to the terms of the Lease dated March 24, 2011 and the Lease Extension Agreements dated August 7, 2012 and April 20, 2015, thereto attached (collectively “Site B Lease”). Grand Avenue Development and Site B Owner acknowledges a portion of “Site

B” is currently leased by the City, as Landlord, to FatWallet, Inc., through April 11, 2019. A copy of the Site B Lease is attached hereto as Exhibit E.

4. **CONSTRUCTION TIMETABLE.** Subject to obtaining municipal permit approvals and DNR approvals to the extent required under the DNR Agreement, Site B Owner shall promptly commence exterior façade renovations for “Site B” and diligently pursue completion.

5. **CONDITIONS PRECEDENT.** Grand Avenue Development’s and Site B Owner’s obligation under this Agreement is subject to the fulfillment of its Due Diligence Investigation to be completed within ninety (90) days following execution. Due Diligence Investigation for purposes of this provision means any investigation whether by physical inspection, environmental audit, survey, title review and internal economic feasibility of Site B (“Due Diligence Investigation”). Access to Site B shall be provided by the City, subject to the terms and conditions of the Site B Lease. If within such period of time Grand Avenue Development is dissatisfied, in its sole discretion, with any of the results from such investigations, it may thereafter give notice to the City that it has elected to terminate this Agreement and upon such notice all future rights and obligations under this Agreement shall cease and this Agreement shall be of no further force and effect. Following either failure to give such notice or the expiration of the ninety (90) days, Grand Avenue Development’s obligations under this Agreement shall be further conditioned upon the City’s conveyance by Warranty Deed of Site B to Site B Owner subject to the exceptions noted on Exhibit G. Such conveyance shall occur after the Due Diligence Investigation period has expired and in no event later than forty-five (45) days after the City receives notice that the Wisconsin DNR has approved the exterior façade



renovation plans for Site B, unless otherwise agreed to in writing by the parties. At the time of the conveyance by the City to Site B Owner, the City shall also provide to Grand Avenue Development and Site B Owner a tenant Estoppel Certificate in a form substantially similar to the form attached hereto as Exhibit F certifying that there are no outstanding defaults or other uncured defaults by Landlord or Tenant under the terms of such Site B Lease.

The cost of all Due Diligence Investigation shall be borne solely by Grand Avenue Development. Grand Avenue Development reserves the right to undertake to complete site and building plans for Site B and to request City Site Plan Review notwithstanding its continuing right to terminate under this Due Diligence Investigation contingency.

6. **CONDITION OF TITLE.** Subject to the completion of its Due Diligence Investigations, Grand Avenue Development and Site B Owner hereby acknowledges that it is familiar with and is satisfied with the condition of the title to "Site B," including any leases, covenants, easements or other restrictions of record, and specifically including the provisions of the DNR Agreement as set out in Exhibit B.

7. **ACKNOWLEDGMENT AND INDEMNITY.** Site B Owner acknowledges that upon the City conveyance of "Site B," all of the duties, obligations and responsibilities of the City, as prior owner of the "River Buildings ... together with the pilings and foundation," as described and set out in the DNR Agreement, shall become the responsibility of Site B Owner so long as Site B Owner is the owner, and Site B Owner hereafter agrees to indemnify and forever hold the City harmless from any and all claims or liability arising out of said DNR Agreement during the period of Site B Owner's ownership.

8. **RECORDABLE DOCUMENT.** This Agreement may be recorded with the Register of Deeds for Rock County, Wisconsin.

9. **REPRESENTATIONS AND WARRANTIES OF GRAND AVENUE DEVELOPMENT AND SITE B OWNER.**

(a) Grand Avenue Development and Site B Owner represent and warrant to the City that each is a limited liability company duly organized and existing under the laws of the State of Wisconsin and that each is in good standing with that state.

(b) Grand Avenue Development and Site B Owner represent and warrant to the City that the execution and delivery of this Agreement, the consummation of the transactions contemplated in this Agreement, and the execution and delivery of the documents required to be executed, delivered, or acknowledged by Grand Avenue Development and Site B Owner at the closing will not violate any provision of applicable local, state, or federal law.

10. **REPRESENTATIONS AND WARRANTIES OF CITY.**

(a) The City represents and warrants to Grand Avenue Development and Site B Owner that it is a municipal corporation duly organized and existing under the laws of the State of Wisconsin.

(b) The City represents and warrants to Grand Avenue Development and Site B Owner that the execution and delivery of this Agreement and the

consummation of the transactions contemplated in this Agreement has been duly approved by the City and is binding upon it in accord with its terms.

11. **AFFIRMATIVE ACTION.** Grand Avenue Development and Site B Owner prior to the waiver of Due Diligence Investigation, will have adopted an affirmative action plan to increase in its partners, associates, and employees members of under-represented groups in all of its departments, job classifications, and salary categories. Grand Avenue Development and Site B Owner agrees to require its general contractor and first tier subcontractors to adopt an affirmative action plan. This provision is inserted herein in compliance with Section 1.09 of the Code of General Ordinances of the City of Beloit, and shall be interpreted so as to carry out the intent of that ordinance.

12. **NONDISCRIMINATION.** In connection with its obligations hereunder, Grand Avenue Development and Site B Owner agrees that it will not discriminate against any qualified employee or qualified applicant for employment because of race, color, national origin, ancestry, religion, age, marital status, disability, sex, or sexual orientation. Grand Avenue Development and Site B Owner shall require its building contractor and subcontractors to agree not to discriminate against any employee or applicant for employment because of race, color, national origin, ancestry, religion, age, marital status, disability, sex, or sexual orientation. This provision is inserted herein in compliance with Section 1.09 of the Code of General Ordinances of the City of Beloit, and shall be interpreted consistent therewith.

13. **APPLICABLE LAW AND VENUE.** This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin and the Parties agree that the Circuit Court of Rock County shall have personal jurisdiction for any dispute hereunder.

14. **SEVERABILITY.** If any provision of this Agreement is found to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

15. **ENTIRE AGREEMENT.** This Agreement contains the entire agreement of the Parties regarding this transaction. All prior negotiations and discussions have been merged into this Agreement.

16. **AMENDMENTS.** No amendment to this Agreement shall be binding upon any party hereto until such amendment is reduced to writing and executed by the Parties.

17. **AUTHORITY.** Each person signing this Agreement represents that he or she is authorized by his or her organization to execute this Agreement on behalf of that organization.

18. **FORCE MAJEURE.** No party shall be responsible to the other parties for any losses if a party's fulfillment of any of the terms of this Agreement is delayed or prevented by civil disorders, wars, strikes, floods, fires, acts of God, or by any other cause not within the control of the party whose performance was interfered with or which, by the exercise of reasonable diligence, such party is unable to prevent such delay, including whether or not the reason is included in the class of causes enumerated above (collectively "Force Majeure Event"). The time for performance by a party in all instances shall be extended for the period of delay occasioned by any Force Majeure Event.

19. **ASSIGNMENT.** Grand Avenue Development nor Site B Owner may not assign its interest in this Agreement to a third party without the prior written consent of the City. Notwithstanding the above, following completion of the Redevelopment detailed in Section 2, Grand Avenue Development or Site B Owner shall be free to sell or convey the properties or property and any obligation under the DNR Agreement shall thereafter pass with such conveyance.

20. **INDEMNIFICATION.** Grand Avenue Development and Site B Owner, their successors, and assigns shall indemnify, defend and hold the City, its officers, agents, and employees harmless from any liability for any claims, including attorney's fees, arising out of the acts or omissions of Grand Avenue Development and Site B Owner, their officers, agents, or employees in their respective performance under this Agreement. The City shall indemnify and hold Grand Avenue Development or Site B Owner harmless from any liability for any claims, including attorney's fees, arising out of the acts or omissions of the City, its officers, agents, and employees in its performance under this Agreement.

21. **NO PARTNERSHIP CREATED.** This Agreement does not create any partnership or joint venture between the Parties hereto, or render any party liable for any of the debts or obligations of the other party. No third party beneficiary is created hereby. The City shall have no obligation or liability to any lending institution, architect, contractor, subcontractor, or other party retained by Grand Avenue Development or Site B Owner to assist Grand Avenue Development or Site B Owner in the performance of its obligation under the terms and conditions of this Agreement. Grand Avenue Development and Site B Owner specifically agrees

that no representation shall be made to any third party that Grand Avenue Development nor Site B Owner and the City are partners or joint venturers.

22. **HEADINGS.** The headings set forth in this Agreement are for convenience and reference only and do not define or limit the scope or content of this Agreement or affect any of its provisions.

23. **DEFAULT AND NOTICE OF DEFAULT.** Any party seeking to enforce its rights hereunder may do so only after giving advance written notice to the other party reasonably identifying the alleged breach and giving the breaching party 30 days in which to cure the alleged breach. If the alleged breach cannot be remedied within 30 days, then the party required to remedy shall undertake to commence within such 30-day period and shall diligently pursue the cure until completion. In the event that any party institutes an action to enforce its rights hereunder, the prevailing party in such action shall be entitled to recover all costs, including reasonable attorney's and professional fees which may have been incurred in bringing such action. Each of the Parties to this Agreement expressly waive and disclaim any right to recover indirect or other consequential damages arising out of the breach by another party to this Agreement. In the event of a material breach by either party, the nonbreaching party retains as an available remedy, the remedy of rescission of this Agreement. The exercise of the remedy of rescission shall not cause the return of any monies previously paid by the City to Grand Development hereunder.

24. **NOTICES.** Notices to the Parties to this Agreement shall be as follows:

To the City: City of Beloit  
Attention: City Manager  
100 State Street  
Beloit, WI 53511

To Grand Avenue  
Development: 200 West Grand Avenue, LLC  
c/o Hendricks Commercial Properties, LLC  
Attn: Rob Gerbitz  
525 Third Street, Suite 300  
Beloit, WI 53511

To Site B Owner: East Grand Avenue Development, LLC  
c/o Hendricks Commercial Properties, LLC  
Attn: Rob Gerbitz  
525 Third Street, Suite 300  
Beloit, WI 53511

25. **COUNTERPART.** This Development Agreement may be executed in several counterparts, each of which shall be deemed an original, but all such counterparts shall together constitute one and the same Development Agreement. Any counterparts of this Development Agreement may be executed and delivered by any party by facsimile or by e-mail transmission in portable document format (“PDF”) and any document so executed and delivered shall be considered an original for all purposes.

***Signature Page to Follow***

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed all the day and year written above.

**CITY OF БЕЛОIT**

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

ATTEST:

By: \_\_\_\_\_  
Jelene J. Ahrens, WCMC Deputy City Clerk

Approved as to form:

By: \_\_\_\_\_  
Elizabeth A. Krueger, City Attorney

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

By: \_\_\_\_\_  
Eric R. Miller, City Comptroller

tdh/file/14-1165/Dev Agr=150508

STATE OF WISCONSIN        )  
  )SS  
COUNTY OF ROCK         )

**EAST GRAND AVENUE DEVELOPMENT, LLC**

By Hendricks Commercial Properties, LLC, its sole member

By: \_\_\_\_\_  
Diane Hendricks, Manager & CEO

**200 WEST GRAND AVENUE, LLC**

By: Hendricks Commercial Properties, LLC, its sole member

By: \_\_\_\_\_  
Diane Hendricks, Manager & CEO

\_\_\_\_\_  
Elizabeth A. Krueger  
Notary Public, Rock County, Wisconsin  
My commission is permanent.



STATE OF WISCONSIN )  
 )SS  
COUNTY OF \_\_\_\_\_ )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015, the above-named Diane Hendricks, to me known to be such Manager & CEO of Hendricks Commercial Properties, LLC the sole member of East Grand Avenue Development, LLC and to me known to be the person who executed the foregoing instrument and acknowledged the same.

\_\_\_\_\_  
Notary Public, \_\_\_\_\_ County, \_\_\_\_\_  
My Commission is permanent. If not, state  
expiration date: \_\_\_\_\_

STATE OF WISCONSIN )  
 )SS  
COUNTY OF \_\_\_\_\_ )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015, the above-named Diane Hendricks, to me known to be such Manager & CEO of Hendricks Commercial Properties, LLC the sole member of 200 West Grand Avenue Development, LLC and to me known to be the person who executed the foregoing instrument and acknowledged the same.

\_\_\_\_\_  
Notary Public, \_\_\_\_\_ County, \_\_\_\_\_  
My Commission is permanent. If not, state  
expiration date: \_\_\_\_\_

**DEVELOPMENT AGREEMENT  
EXHIBIT LIST**

<b>Exhibit</b>	<b>Description</b>
A	Depiction of 220 West Grand Avenue & 525 Cross Street
B	Stipulation & Settlement Agreement between WDNR & Kerry
C	Preliminary plans of Site A (200 West Grand Avenue & 525 Cross Street)
D	Preliminary plans of Site B (80 East Grand Avenue & 100 East Grand Avenue)
E	Lease dated 3/24/11 and amendments between the City and FatWallet, Inc. (Site B) (80 East Grand Avenue & 100 East Grand Avenue)
F	Tenant Estoppel Certificate
G	Site B Exceptions to Warranty Deed

# EXHIBIT A

to  
Development Agreement

between  
City of Beloit  
&  
East Grand Avenue Development, LLC

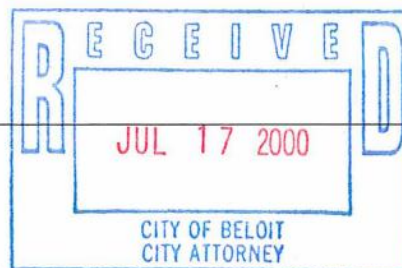


# EXHIBIT B

to  
Development Agreement

between  
City of Beloit  
&  
East Grand Avenue Development, LLC

BEFORE THE  
WISCONSIN DEPARTMENT OF  
NATURAL RESOURCES



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In re: The Proposed Maintenance and )  
Renovation of an Existing Building )  
Adjacent to the Rock River in the City )  
of Beloit, Rock County, Wisconsin )

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### STIPULATION AND SETTLEMENT AGREEMENT

This Stipulation and Settlement Agreement (the "Agreement") is made as of the last date of signing of this Agreement, by and between the State of Wisconsin, Department of Natural Resources ("Department") and Kerry Ingredients, Inc., a Delaware corporation ("Kerry").

### RECITALS

The parties agree that the following recitals represent the positions of the parties in this matter. These recitals provide background for the Agreement contained below as part of this document.

### BACKGROUND

1. This stipulation and settlement agreement concerns a business office structure which lies in part over the Rock River in the City of Beloit ("City"). A legal description of the real estate affected is attached as Exhibit A. The structure consists of portions of three separate buildings which are joined together as one. The Easterly building, referred to as the "Upland Building", is located entirely on upland and was owned and occupied by Kerry as office space before its subsequent purchase of the two buildings to the West. The Building immediately to the west is located in large part on the bed of the Rock River and is supported by pilings. A building has

occupied this site in the Rock River since 1892. The third building lies immediately west of the middle building and was constructed in the Rock River in 1921. The westerly two buildings are referred to as the "River Buildings." The Upland Building and River Buildings are immediately adjacent to a bridge crossing the Rock River which was replaced in 1993. The term "Office Structure" refers to both the Upland Building and the River Buildings.

2. The Rock River, located, in part, in the southern area of the State of Wisconsin, is a navigable stream as defined by section 30.10 (2) Stats.

3. The Rock River from the point that it flows into the City of Janesville to the Illinois border has been declared by the State of Wisconsin as a Scenic Urban Waterway under s. 30.275 Stats. As a Scenic Urban Waterway the Department has heightened management responsibilities "for the preservation, protection and enhancement" of the Rock River to afford the people of the State the opportunity to enjoy recreational activities on the Rock River.

4. Because of the water depth, natural obstructions, bridges and dams in the area, the use of the river has been restricted to small pleasure boats and other recreational uses that are incident to navigation.

5. The River Buildings described above in paragraph 1 have been used for many years for retail space and as shelter for the homeless, while the Upland Building has been historically used as office space.

6. Kerry is a commercial food processor and now uses the Office Structure as its Corporate Headquarters in connection with its private commercial activities.

7. Kerry contends that, at the urging of the Governor of the State of Wisconsin and City of Beloit officials, it agreed to purchase the River Buildings in 1995.

8. The City of Beloit acquired the River Buildings on October 18, 1995 for a purchase price of \$550,000 from the Overflowing Cup Foundation, a non-profit organization which previously used the River Buildings as a shelter for the homeless. The City sold its interest in the River Buildings on that date to Kerry.

9. Kerry executed an Agreement ("Agreement") with City on October 18, 1995, the terms of which required Kerry to invest not less than \$2,000,000.00 in renovation of the River Buildings and other buildings owned by Kerry in the downtown area of the City of Beloit, Wisconsin. Paragraph 9 of the Agreement executed between City and Kerry states:

"9. RENOVATIONS

(a) Renovations by Kerry. Kerry agrees to invest not less than \$2,000,000.00 to renovate both the building at 334 East Grand Avenue for office purposes and laboratory facilities on Cross Street in Beloit, Wisconsin."

10. As of the date of this Agreement, Kerry has invested over \$3,000,000.00 to renovate the Office Structure and reinforce the pilings.

11. In August, 1996, Kerry was advised by an engineering consultant that pilings supporting the River Buildings needed reinforcing and undertook piling repairs and reinforcements. If the pilings had not been reinforced promptly, the River Buildings together with improvements made to the River Buildings could have collapsed.

12. On or about September 20, 1996, Kerry and City entered into a Development and Lease Agreement ("Lease Agreement"), a copy of which is attached as Exhibit B, which is incorporated by reference, and which states, in part:



7. City agrees to Lease that portion of the Parking Deck described in Exhibits A and B to Kerry for an initial five (5) years. With respect to that portion of the Deck described on Exhibit A, City shall provide 10 parking spaces as marked, and additionally shall provide 12 parking spaces with 6 spaces provided per aisle, as shown on Exhibit E, for a total of 22 parking spaces.

The Lease Agreement further provided that, if City demolished the parking deck located over the Rock River contiguous to the Office Structure, Kerry is entitled to acquire, by quit claim deed from City, that portion of the parking deck described in Exhibit E of that Agreement, which is attached as Exhibit C and incorporated by reference.

#### **FLOOD PLAIN ZONING ORDINANCE**

13. The City's original floodplain zoning ordinance was adopted in March, 1971 and was subsequently amended several times.

14. The River Buildings do not conform with the development standards for floodway areas in s. 14-5 of City's floodplain zoning ordinance.

15. At the time that City and Kerry Ingredients acquired the River Buildings they were owned by a nonprofit organization and were not subject to property tax. Therefore, the River Buildings had an assessed value of \$0 at that time.

16. To make the improvements to the River Buildings which were required under the Agreement with City, Kerry obtained a building permit from City on April 10, 1996.

17. Department contends that: a) the River Buildings are nonconforming buildings; b) for the purpose of the City's floodplain ordinance, the equalized assessed value of the River Buildings is \$550,000, the purchase price for the property; c) the repairs to the pilings of the River

Buildings constitute an alteration and a structural repair to a nonconforming structure; and d) the cost of the renovations and alterations made to the River Buildings and repairs to the pilings exceed 50% of the present equalized assessed value of the structure, contrary to the nonconforming use restrictions of the City's floodplain zoning ordinance and ch. NR 116, Wis. Adm. Code.

18. Kerry contends that:

(a) Section 14-5.2 (c) of the floodplain ordinance prohibits:

“...structural repairs, modifications or additions to a [nonconforming] structure which exceed over the life of the structure 50% of its present equalized assessed value...”

(b) On April 10, 1996, City issued a building permit to Kerry for improvements. A copy of the building permit is attached as Exhibit D. The City also issued electrical, plumbing and heating permits which are attached as Exhibit E.

(c) Kerry's building, heating, ventilation and air conditioning plans were conditionally approved by the Wisconsin Department of Industry, Labor and Human Relations (DILHR) by letter dated April 3, 1996 which is attached as Exhibit F.

(d) The total improvements made pursuant to City's and DILHR's approvals were approximately \$3,000,000.00.

(e) Only a small fraction of the \$3 million in improvements constituted structural repairs, modifications or additions to the structures. In no event did the cost of those structural repairs, modifications or additions to the structure exceed 50% of the equalized assessed value of the property.

(f) The cost of those repairs did not exceed 50% of the equalized assessed value of the building.

(g) No equalized assessed value for the River Buildings was made by City for its tax rolls as of January 1, 1996; the equalized assessed value to be used for purposes of ch. NR 116, Wis. Adm. Code, and the City's floodplain zoning ordinance should be made at the time that the repairs are contemplated.

(h) Kerry was entitled to make repairs to the pilings pursuant to Section 14-5.2 (c) of City's floodplain ordinance.

(i) City issued a permit to Kerry to repair the pilings.

(j) The original floodplain ordinance and all subsequent amendments were approved by Department.

(k) City was acting as the agent of the Department when it approved the improvements and the repair of the pilings.

(l) Kerry made the improvements to the building in reliance upon City's building, electrical, heating and plumbing permits and DILHR approval.

(m) Department is estopped from contesting the validity of the permits and Kerry's right to make the improvements, including the structural repairs to the pilings.

(n) Pursuant to Section 14-6.18 (b) of City's floodplain ordinance, Kerry is entitled to a "Certificate of Compliance" because the River Buildings existed at the time the City's original floodplain ordinance was enacted.

19. Department contends that:

(a) The River Buildings constituted nonconforming structures at the time that City

adopted its floodplain zoning ordinance in 1971 and remain nonconforming structures.

(b) City's floodplain zoning ordinance has always specifically limited structural repairs, modifications and additions to nonconforming structures, over the life of the structure to 50% of the present equalized assessed value of the structure. The ordinance specifically defines any "alteration, addition, modification, rebuilding or replacement" as a modification or addition.

(c) The equalized assessed value of the River Buildings at the time Kerry acquired the River Buildings from the City in October, 1995 was \$500,000 or less.

(d) Kerry's investments of over \$3 million in the River Buildings, including the repairs to the pilings, constituted alterations, additions or modifications, as well as structural repairs to the River Buildings in excess of 50% of the present equalized assessed value of the River Buildings.

(e) The City's issuance of a building permit to Kerry for the improvements to the River Buildings was contrary to the nonconforming use restrictions of the City's floodplain zoning ordinance.

(f) The provisions of City's floodplain zoning ordinance relating to the issuance of Certificates of Compliance for existing structures do not authorize the zoning administrator to issue a certificate to a nonconforming structure and thereby convert a nonconforming structure to a conforming structure. The terms of City's ordinance relating to Certificates of Compliance, as adopted by City and as approved by Department, authorize the zoning administrator to issue a Certificate of Compliance to the owner of a nonconforming structure certifying "the extent and type of use made of the building or premises and whether or not such use conforms to the provision of this Ordinance." This provision was intended to provide a record of the use and

conforming/nonconforming status of existing structures when the ordinance or ordinance amendments were adopted, not to allow the zoning administrator, through the issuance of the certificate to convert a nonconforming structure to a conforming structure. The Department has not approved any amendment to the Certificate of Compliance provision of City's floodplain zoning ordinance which would purport to authorize such a conversion.

(g) City is required by s. 87.30 (1), Stats., and s. NR 116.05, Wis. Adm. Code, to adopt, administer, enforce, and upgrade a floodplain ordinance to regulate development in floodplain areas consistent with statewide standards in ch. NR 116, Wis. Adm. Code. This requirement is imposed directly on City. Although the Department has oversight of local floodplain zoning programs, City, in administering its floodplain zoning ordinance, is not acting as an agent of the Department. City was not acting as an agent of Department when it issued any approvals or permits to Kerry for improvements to the River Buildings.

(h) City's issuance of permits or approvals to Kerry and any conditional approval issued by DILHR for the heating, ventilation, air conditioning or building plans do not cure the violation of the nonconforming use provisions of City's floodplain zoning ordinance which occurred as a result of Kerry's \$3 million improvements to the River Buildings.

(i) Department is not estopped from enforcing the violation of City's floodplain zoning ordinance, which occurred when the City issued permits authorizing Kerry to make the improvements to the River Buildings and Kerry proceeded with \$3 million in improvements to those nonconforming structures.

(j) Any reliance by Kerry on the permits issued by City in light of the terms of the nonconforming use provisions of City's ordinance and the limitations reflected in the title

insurance obtained for this property was misplaced and does not prevent Department from proceeding with enforcement action.

### **PUBLIC TRUST DOCTRINE**

20. In August, 1996, Kerry sought permission from Department to adjust the level of the Rock River so that the pilings could be inspected.

21. On October 18, 1996, Department notified Kerry that the State of Wisconsin has no record of any permit granted to any individual or entity to maintain those portions of the River Buildings in the Rock River, and further notified Kerry that improvements to the River Buildings may violate the City's floodplain zoning ordinance. The Department's letter to Kerry concerning this notification is attached as Exhibit G.

22. The Department asserts that the maintenance of private buildings in public trust waters of the State is inconsistent with the Public Trust Doctrine and Article IX, Section 1 of the Constitution of the State of Wisconsin.

23. Department has done a thorough record search which included review of its files and its predecessor agencies' files. After this review, the Department determined that the Wisconsin Rail Road Commission (WRRC) and the Public Service Commission (PSC), the Department's predecessor agencies, were aware of the reconstruction attempts in the 1930s and actively advised the River Buildings' former owners and the Army Corps of Engineers that the building was a violation of State law. Department determined that there is no record of formal or tacit approval of the River Buildings in WRRC, PSC or Department files. Further, Department contends that its predecessor agencies did not have specific legislative authority to grant structure permits until 1949. Lastly, Department has found no record of either legislative or judicial approval of the

River Buildings.

24. Kerry contends that its investigation of the history of the existing River Buildings and its predecessors shows that it is likely that the State of Wisconsin, through Department and its predecessor agencies, had provided approval of the existence of the River Buildings, although no copies of such permits have been located either by the City, Kerry or Department. Kerry believes that a permit was either obtained or not required under s. 30.12 (1)(a), Stats. Kerry further asserts that it has not violated City's floodplain zoning ordinance or s. NR 116.15, Wis. Adm. Code, and has complied with the Public Trust Laws of the State of Wisconsin.

25. On or about October 3, 1996, Department advised Kerry to: a) seek a permit required under s. 30.12 (1)(a), Stats.; b) seek legislative authorization; or c) enter into a stipulated agreement with the Department. After discussing these options, Department and Kerry agreed to negotiate, in good faith, a settlement agreement so that the piling repairs could proceed expeditiously.

26. Kerry believes that Department's refusal to allow Kerry to use the River Buildings as an owner in fee simple absolute with all of such ownership's attendant benefits constitutes a taking of Kerry's property without due process of law and without equal protection of the laws, contrary to and in contravention of Article I, sec. 13 of the Wisconsin Constitution; Kerry further believes that such actions constitute a taking of Kerry's property without due process of law and without equal protection of the laws, contrary to and in contravention of Section 1, Article XIV of the Constitution of the United States; and, Kerry further believes that Department is now estopped from taking enforcement action with regard to the renovations.

27. Department contends that it is not estopped from taking regulatory actions regarding

the River Buildings either to protect the Public Interest or to ensure compliance with City's floodplain zoning ordinance under s. 87.30 (2), Stats. Department contends that the violations associated with the River Buildings constitute public nuisances of a continuing nature and Department is not estopped from enforcing against such public nuisances. Department contends that limiting Kerry's intrusion into public waterways is not a taking and no compensation is due. Department further contends that the public interest in the Rock River under the Public Trust doctrine cannot be allocated to private non-navigational uses such as Kerry's and that any past delegation of public trust land to solely private use by Department, its predecessor or legislation would be an abdication of the public trust and unconstitutional.

28. The parties agree that S.S. Kresge Co. v. Railroad Commission, 204 Wis. 479 (1931): a) confirmed that the Rock River is a navigable river under the laws of the State of Wisconsin, b) confirmed that the State has legitimate interest in opposing the U.S. Army Corps of Engineers permit under the Rivers and Harbor Act; and c) removed the injunction placed upon the State to intervene in the Federal application process.

29. Kerry contends that S.S. Kresge Co. v. Railroad Commission, supra, provides further evidence that a permit for the River Buildings was either obtained or waived by the Department and its predecessors.

30. Department contends that the decision by the Wisconsin Supreme Court in S.S. Kresge Co. v. Railroad Commission, supra, did not and could not grant either Federal or State authorization for construction or maintenance of the River Buildings.

#### **SETTLEMENT PROVISIONS**

31. In negotiating this Stipulation and Settlement Agreement, the parties have agreed to



consider the environmental impact of improvements to the River Buildings, the physical life of the River Buildings, the return on investment which Kerry reasonably expects from its investment in the River Buildings, the rights of the public to use the Rock River, and the economic benefits accruing to the general public in the Rock River as a result of Kerry's improvements.

32. The parties agree that the existence of the River Buildings obstructs navigation and its incidents in the Rock River at this site. However the River Buildings do not cause significant impediments or obstructions to navigation of the Rock River in the vicinity of the River Buildings beyond those previously existing.

33. The parties further agree that the improvements do not increase the risk of flooding and consequent damage.

34. Kerry has been advised by its construction contractor that the repaired pilings have an expected life of 70 years and that the River Buildings have a physical life of not less than 50 years. Further, Kerry believes that, in order to obtain a reasonable return on its investment in the River Buildings, it needs to occupy the facility for a period of at least 45 years.

35. Department believes that the anticipated life span of 70 years for the repaired pilings, which are subject to the environmental conditions in the river, is optimistic and that a life span of 20 to 30 years is a more realistic estimate.

36. Department contends that the maintenance of these structures is inconsistent with the provisions of ss. 30.10, 30.12, 30.15, 30.275 and 30.294, Stats.

37. Kerry asserts that renovation of the River Buildings eliminates a blighted area of the downtown City of Beloit riverfront, makes the downtown riverfront more attractive, motivates property owners in the vicinity to make further improvements consistent with an attractive

riverfront, adds new jobs to the community and increases the community's overall economic well-being.

38. After negotiations, Department and Kerry have agreed to the following stipulation and settlement pursuant to ss. 30.03 and 87.30 (2), Stats.

### **STIPULATION AND SETTLEMENT**

IT IS HEREBY STIPULATED as follows:

1. Kerry is allowed to exercise all incidents of ownership as owner in fee simple absolute of the River Buildings during the term and pursuant to the conditions of this Agreement.

However, Kerry shall not physically expand the River Buildings.

2. Kerry shall be entitled to exercise its option to acquire that portion of City's parking deck described in Exhibit C under its Lease Agreement with City to the extent that it will permit Kerry to preserve its option to maintain space for 22 parking places as well as ingress and egress, and to maintain the parking deck for use in connection with the Office Structure; provided that, Kerry agrees to remove the parking deck on or before December 31, 2042. A diagram of that portion of the city's parking deck to which Kerry's option shall continue to apply is attached as Exhibit C. If Kerry exercises its option for that portion of the parking deck in Exhibit C, Kerry shall maintain a 10-foot pedestrian corridor around that portion of the parking deck. The general public will be allowed access through the corridor during all daylight hours to exercise incidents of navigation and the enjoyment of the riverfront.

3. If, subsequent to the execution of this agreement, Kerry shall obtain proof, reasonably satisfactory to the Department, that Kerry's predecessors in interest had appropriate permits to construct the River Buildings as required by sec. 30.12(1)(a), Stats., or its corresponding

predecessor statutes, then Kerry shall not be required to dismantle the River Buildings and remove their support pilings from the riverbed as required by this agreement, pursuant to Chapter 30, Stats.

4. In view of the history of the River Buildings, the Department agrees to exercise its enforcement discretion and has determined that it will not: (1) pursue enforcement action; or (2) seek equitable relief, including removal of the River Buildings or the Parking Deck described in Exhibit C under its authority related to the Public Trust laws or s. 87.30, Wis. Stats., during the term of this Agreement, provided that Kerry complies with the conditions of this Agreement.

5. Kerry shall have the right during the term of this Agreement to undertake ordinary maintenance and repairs to the River Buildings and Parking Deck; and, in the event of significant damage or destruction due to a catastrophic event or other casualty, undertake their restoration.

6. On or before December 31, 2042 Kerry agrees to remove the River Buildings, parking deck, and the pedestrian corridor together with the pilings and foundation from the bed of the Rock River. Kerry shall submit plans for this removal to the Department at least 6 months in advance of demolition.

7. As compensation to the citizens of the State of Wisconsin for the continued use of this public trust land, Kerry agrees to develop a parcel of land immediately adjacent to the Upland Buildings, which is owned by Kerry, for use as a public park for a minimum period of 5 years, unless the City of Beloit approves earlier development of the property for Kerry's private purposes. Kerry has paid approximately \$144,00.00 to have these advertising signs removed, and they have been so removed. The five (5) year period mentioned above shall commence on the date of payment by City to Kerry. Kerry shall provide DNR with evidence of payment.

8. City intends to develop a parcel of land formerly used as a railroad for use as a public hiking and bike trail. A portion of this land is contiguous to property owned by Kerry, described in Exhibit H, which is attached and is incorporated by reference. As further compensation to the citizens of the State of Wisconsin for the continued use of this public trust land, Kerry agrees to provide any easement reasonably considered necessary for City to develop such property for use as a hiking and bike trail. Any such easement shall provide that City will be solely responsible for repair and maintenance of the easement, and will indemnify and hold Kerry harmless from and against any and all claims made, loss, liability or damage arising out of or related to use of the property which is the subject matter of the easement.

9. This Agreement shall be recorded by Kerry with the Register of Deeds for Rock County, with a copy or affidavit, with recording information provided to the Department so that any successors to the interest of Kerry are made aware of the provisions of this Agreement.

10. The terms and conditions of this Agreement apply to the parties and their respective heirs, assigns and successors. The parties may agree to modify this agreement. All modifications shall be in writing.

11. With respect to the matters for which there is agreement between the parties as more fully expressed herein (hereinafter the "Agreed Matters"), this Agreement is intended to be, and shall be construed as, a compromise of the disputed claims of each of the parties. The parties agree to waive any appeal or review rights for Agreed Matters.

12. Any violation of this Agreement may be treated as a violation of ch. 30 and s. 87.30 (2), Stats., and enforced in accordance with those provisions. The parties reserve the right to challenge and defend against any enforcement actions which may be initiated.

13. Notwithstanding any provision in this Agreement to the contrary, Kerry shall have the right to seek special legislation pursuant to s. 30.12 (1), Stats., or its successor provisions. Further it is understood that the Department may actively oppose such legislation as unconstitutional.

14. This Agreement shall terminate with respect to any portion of the property covered by this Agreement upon completion of all the elements described in this Agreement or by agreement of all parties.

15. This Agreement shall be effective and binding upon the parties upon signing by all parties. The parties agree that this Agreement may be signed in counterparts.

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By: George E. Meyer  
George E. Meyer, Secretary

Date: May 13, 1999

KERRY INGREDIENTS, INC.

By: H. Jack Warner  
H. Jack Warner, Chairman

Date: Jan 25, 1999

## **LIST OF EXHIBITS**

**EXHIBIT A** - Legal description of real estate affected.

**EXHIBIT B** - Kerry/City of Beloit Development and Lease Agreement, executed September 20, 1996.

**EXHIBIT C** - Diagram of proposed parking deck adjacent to River Buildings

**EXHIBIT D** - City of Beloit building permit issued to Kerry, Inc.

**EXHIBIT E** - City of Beloit electrical, plumbing and heating permits issued to Kerry, Inc.

**EXHIBIT F** - HVAC permit issued by DILHR to Kerry, Inc.

**EXHIBIT G** - DILHR letter issued to Kerry on October 18, 1996.

**EXHIBIT H** - Land adjacent to Kerry to be developed by City of Beloit as a public hiking and bike trail.

**Part of the S.E. 1/4 of Section 35, T.1N., R.12E. of the 4th P.M., City of Beloit, Rock County, Wisconsin, described as follows:**

A parcel of land lying Southwesterly of East Grand Avenue, Southeasterly from Rock River and North of Block 59, Hopkins' Survey of the Village (now City) of Beloit, Rock County, Wisconsin, described as follows: Commencing at a point on the Southwesterly line of East Grand Avenue (Bridge Street), North  $65^{\circ} 25'$  West, 143.23 feet from the Southeast corner of the Water Table of Kings Block, said point of Commencement being 91.22 feet Northwesterly from the point of intersection of the North line of Block 59 with the Southwesterly line of East Grand Avenue (Bridge Street); thence North  $30^{\circ} 49'$  West, along said Southwesterly line, 41.72 feet to the Northwest corner of the Salmon Block and the place of beginning for the land to be herein described; thence South  $58^{\circ} 48' 23''$  West, 114.31 feet; thence North  $31^{\circ} 59' 01''$  West, 103.32 feet; thence North  $58^{\circ} 42' 18''$  East, 113.60 feet; thence South  $32^{\circ} 22' 20''$  East, 103.53 feet to the place of beginning.

EXHIBIT A

## DEVELOPMENT AND LEASE AGREEMENT

THIS AGREEMENT is made this 20 day of September, 1996, by and between the CITY OF BELOIT, a Wisconsin municipal corporation, with its principal place of business located at 100 State Street, Beloit, Wisconsin 53511 ("City"), and KERRY INGREDIENTS, INC., a Delaware corporation, with its principal place of business located at 352 East Grand Avenue, Beloit, Wisconsin 53511 ("Kerry").

1. **PURPOSE OF AGREEMENT.** City and Kerry have previously entered into an Agreement, dated October 18, 1995, whereby City agreed to acquire and convey the real property located at 334 East Grand Avenue, Beloit, Wisconsin, to Kerry, and Kerry agreed to invest not less than \$2,000,000.00 to renovate this real property and laboratory facilities owned by Kerry located on Cross Street, Beloit, Rock County, Wisconsin.

To further economic development and promote the goals of the City's downtown redevelopment plan, City and Kerry have executed this Development and Lease Agreement ("Agreement") to set forth their rights, duties, obligations and commitments with respect to the repair, renovation and maintenance of the public parking deck and the lease by Kerry of a portion of such deck as described and highlighted on Exhibits A and B, which are incorporated by reference.

2. **DEFINITIONS.**

(a) **Private Improvements:** The repair and renovation of that portion of the Parking Deck described on Exhibit A by Kerry, such repair and renovation



to include new sidewalks, curb and gutter, rumble strips, channelization, traffic medians, a pedestrian plaza with flag poles and an advertising sign on the northerly portion of the leased premises.

(b) **Project:** The public improvements to be provided by City and the private improvements to be provided by Kerry.

(c) **Parking Deck:** The property described in Exhibit C attached to this Agreement and incorporated by reference.

(d) **Public Improvements:** Structural improvements of any nature on the Parking Deck to be made by City as recommended under Alternative No. 2 of the Structural Evaluation for the River Deck Parking Lot Report, dated June, 1996, attached to this Agreement as Exhibit D and incorporated by reference.

(e) **Unavoidable delays:** Any delay with respect to either party's obligation regarding construction of improvements caused by damage or destruction by fire or other casualty, whether similar or dissimilar, acts of the federal, county, or state governments, strikes, embargoes, shortages of material, unusually adverse weather conditions, or other like or unlike events or conditions beyond the control of the party and without its fault or negligence.

(d) **Default:** The occurrence of any action specified in Section 22.

3. **USE OF PRIVATE FUNDS.** Kerry agrees to expend not less than \$100,000 for repair and renovation of the Parking Deck described in Exhibit A as specified in Section 2.(a) of this Agreement.

4. **SITE PLAN REVIEW AND BUILDING PERMITS.** Kerry agrees to submit site plans to City for review in accord with Article XVI, Part B, of City's zoning ordinance. City agrees to conduct a site plan review and to issue such permit(s) as may be necessary for Kerry to complete the improvements required by this Agreement provided such plans comply with all local, state and federal laws. These activities shall be completed in accord with the project timetable set forth below at Section 10 of this Agreement. The project timetable may be amended, from time to time, by mutual agreement of the parties.

5. **ZONING AMENDMENTS, LAND DIVISIONS, ETC.** City agrees to process zoning amendments, land divisions, and easements, which may be necessary for successful completion of the Project provided such amendments, divisions and easements comply with all applicable local, state and federal laws.

6. **ENVIRONMENTAL ISSUES.**

(a) Kerry agrees to defend, indemnify and hold harmless City, its employees, agents, managers, successors and assigns ("City Indemnitees") from and against, and shall reimburse each such City Indemnitee for any and all loss, claim, liability, damage, judgment, penalty, injunctive relief, cost, expense, action or cause of action imposed by any applicable Federal or State environmental law with respect to Kerry's use of that portion of the Parking Deck described on Exhibits A and B. The foregoing indemnification includes, without limitation, costs in law or in equity or removal,

response, investigation, or remediation of any kind, injury to person, property or natural resources.

(b) City agrees to defend, indemnify and hold harmless Kerry, its employees, agents, managers, successors and assigns ("Kerry Indemnitees") from and against, and shall reimburse each such Kerry Indemnitee for any and all loss, claim, liability, damage, judgment, penalty, injunctive relief, cost, expense, action or cause of action (i) imposed by any applicable Federal or State environmental law in connection with the Parking Deck existing before completion of the public improvements pursuant to Section 10 of this Agreement whether or not arising out of or caused by the activity or inactivity of City, or (ii) arising out of any act or failure to act by City during the term of this Agreement. The foregoing indemnification includes, without limitation, costs in law or in equity or removal, response, investigation or remediation of any kind, injury to person, property or natural resources. City represents and warrants to Kerry that it has no notice or knowledge of any contamination above, about or beneath the Parking Deck as described on Exhibits A and B and has no knowledge or notice of any threat of contamination from outside sources.

7. **LEASE OF PARKING FACILITIES AND CONVEYANCE OF LAND.**

City agrees to lease that portion of the Parking Deck described in Exhibits A and B to Kerry for an initial term of five (5) years. With respect to that portion of the Deck described on Exhibit A, City shall provide 10 parking spaces as marked, and additionally shall provide 12 parking spaces with 6 spaces provided per aisle, as shown on Exhibit

B, for a total of 22 parking spaces. In consideration for this Agreement, Kerry shall convey to City the property described on Exhibit E, and shall make such expenditures as required by Sections 2(a) and 3 of this Agreement. The commencement of the lease term and transfer of the property from Kerry to City shall occur as provided in Section 10 of this Agreement. Except as otherwise provided in this Agreement, the improvements made by Kerry pursuant to Section 3 of this Agreement shall become the sole property of City in fee simple and free and clear of all encumbrances on termination of the lease. Kerry represents and warrants to City that, as of the date of this Agreement, it has no notice or knowledge of any hazardous substances or hazardous waste on or about the Property described in Exhibit E, incorporated into this Agreement, which would constitute a violation of any federal or Wisconsin environmental laws in effect at the date of this Agreement.

Subject to other provisions contained in this Agreement, upon the expiration of the initial lease term, Kerry's lease shall be automatically renewed for up to 25 consecutive one-year terms provided that:

(a) Kerry is not in default on any of its obligations under this Agreement as defined in Section 22(a) of this Agreement.

(b) City has not provided notice to Kerry at least ninety (90) days before the end of the then current lease term of its election to terminate the lease pursuant to Section 12 of this Agreement.

8. **USE OF LEASED PREMISES.** Kerry shall have exclusive use of that portion of the Parking Deck described on Exhibits A and B five (5) days per week (Monday through Friday) between the hours of 6:00 A.M. and 6:00 P.M., but the same shall be open for use by the public during all other days and hours.

9. **PRIVATE FINANCING.** Kerry represents that it has arranged sufficient private financing to make the repairs and renovations required by Sections 2(a) and 3 of this Agreement.

10. **COMMENCEMENT AND COMPLETION OF IMPROVEMENTS.** City and Kerry, subject to unavoidable delays, agree to promptly commence and diligently pursue to full completion the improvements required of each under the terms of this Agreement and further to substantially complete such improvements on or before November 1, 1996. In the event of unavoidable delays, the date for commencement and/or date for substantial completion shall be correspondingly set back by the same number of days involved in the period of unavoidable delays.

For purposes of this section, substantial completion means that all of the improvements have been so completed that they are finished and/or ready for the use and occupancy, and consequently, substantial completion need not include any immaterial incomplete items provided all of them do not affect the use and occupancy of the improvements and any uncompleted items shall be fully completed within a reasonable time after the original completion date.

11. **REPAIRS AND MAINTENANCE.** Kerry agrees to maintain in good repair any improvements which it may install on the property described in Exhibit A and will remove any trash and litter on the property described in Exhibits A and B during the times that it has exclusive use of such area pursuant to Section 8 of this Agreement.

City shall, at its sole expense, maintain in good, clean and orderly condition and repair, the Parking Deck, which may include, but is not limited to striping of the parking areas, snowplowing, all necessary repairs, renewals and replacements, structural and non-structural, whether made necessary or caused by casualty, other cause or by ordinary wear and tear. Kerry acknowledges that City will perform such work according to its normal business practices and that Kerry will not be entitled to any special priority. All repairs, maintenance and replacements shall be of good quality sufficient for the proper maintenance and operation of the Parking Deck and shall be constructed and installed in compliance with all legal requirements of all governmental authorities having jurisdiction. The City shall not permit the accumulation of waste or refuse matter, nor permit anything to be done upon the Parking Deck which would invalidate or prevent the procurement of all insurance policies which may at any time be required pursuant to the provisions of Section 13 of this Agreement. The City shall not obstruct or permit the obstruction of the streets or sidewalks adjoining the Parking Deck and shall keep the Parking Deck clean and free of dirt, rubbish, snow and ice. All proceeds of insurance on account of any loss or damage, to the extent available or

required, as the case may be, shall be applied to the cost of any repairs, or replacement of the Parking Deck.

City further agrees, at its sole expense, to promptly do all things necessary to remove any dangerous condition from time to time existing on or about the Parking Deck including, without limitation, measures necessary to prevent, repair or replace any erosion, collapse or other unstable or dangerous condition on or about the Parking Deck.

If City defaults in its performance of any obligations required by this Section 11, Kerry shall have the right, but shall not be required to act to preserve rights granted under this Agreement. Nothing in this Agreement shall imply any duty upon the part of Kerry to do any work which, under any provision of this Agreement, City is required to perform, and the performance of it by Kerry shall not constitute a waiver of City's default in failing to perform it. Kerry may, subject to compliance with any applicable federal and state laws affecting work performed by or on behalf of municipalities, enter into agreements with contractors, agents and servants and keep and store upon the Parking Deck all necessary materials, tools and equipment.

12. **TERMINATION OF AGREEMENT BY CITY.** If City, in its discretion and after expiration of the initial term of the lease, determines that the Parking Deck is uneconomical and/or unsafe to operate and maintain, or elects to construct, renovate or acquire a different parking structure or site to replace the Parking Deck, then City may

either close the Parking Deck or demolish it subject to the provisions of subparagraphs (a) and (b) below.

(a) If City elects to close the Parking Deck to the public, Kerry may, at its option, continue to use that portion of the Parking Deck described in Exhibit F; provided, however, that Kerry shall, at its expense, repair and maintain such facility.

(b) If, after expiration of the initial lease term, City elects to demolish the Parking Deck in whole or in part, City, at Kerry's option, shall either: (1) convey that portion of the Parking Deck described in Exhibit F by quit claim deed, or (2) provide Kerry with 22 parking spaces equivalent to those described on Exhibits A and B to be located in the remaining municipal parking lot located on the East side of Rock River or other site acceptable to Kerry. If Kerry exercises its option in this Section 12(b) to take a quit claim deed to the property described in Exhibit F, Kerry shall pay for maintenance and repair of that portion of the Parking Deck conveyed. City covenants to cooperate with Kerry in preserving and protecting the structural integrity of the Parking Deck in the event of demolition. If Kerry elects to use alternate parking spaces to be provided by City under this Section 12(b), City and Kerry shall mutually agree upon the exact location of the parking spaces at the time Kerry exercises such option. Kerry shall use and occupy the alternate parking spaces under the terms described in Paragraph 8 of this Agreement, such use to continue until City ceases to use the remaining municipal parking lot or alternate site as a municipal parking lot.



13. **INDEMNIFICATION AND INSURANCE.** During Kerry's use and occupation of that portion of the Parking Deck as described on Exhibits A and B of this Agreement, Kerry covenants to indemnify, defend and hold harmless City, its agents and employees from and against all claims and demands whatsoever for loss or damage, including property damage, personal injury and wrongful death arising out of entry or construction and development of such property, or in the performance of this Agreement by Kerry, its agents, employees, contractors, subcontractors, or invitees. Kerry agrees to provide insurance coverage with respect to the Parking Deck described on Exhibits A and B consisting of general commercial liability insurance with policy limits of at least \$1,000,000.00. During the term of this Agreement, Kerry shall furnish City, at City's request, evidence that such insurance is in force and that the premiums have been paid.

In respect to City's use and occupation of the Parking Deck including the period of construction and thereafter, City covenants to indemnify, defend and hold harmless Kerry and its agents and employees from and against all claims and demands whatsoever for loss or damage, including property damage, personal injury and wrongful death arising out of entry or construction and development of the Parking Deck or in the performance of this Agreement by City, its agents, employees, contractors, subcontractors or invitees as a result of any incident, fire or other casualty in respect to the Parking Deck, or any failure by City to keep the Parking Deck, or any improvements on it, in a safe condition.

14. **PARTIES AND INTEREST.** Except as otherwise expressly provided, this Agreement is made solely for the benefit of the parties and no other person, partnership, association or corporation shall acquire or have any rights under or by virtue of this Agreement.

15. **ASSIGNMENT AND SUBLETTING PROHIBITED.** Kerry shall have the right at any time during the term of this Agreement, without City's consent, to assign all of its's rights thereunder (1) to any parent corporation or related entity the stockholders of which are substantially the same as of Kerry; or (2) to any purchaser of substantially all of Kerry's assets. A change of stock ownership in Kerry by way of transfer shall not be deemed to constitute an assignment. No assignment under this section shall be deemed to release Kerry from its primary obligation under this lease.

No other assignment will be permitted without City's prior written consent, which consent shall not be unreasonably withheld and assuming that the business of the proposed assignee or sublessee remains compatible with that of City and Kerry.

16. **AMENDMENT.** None of the covenants, terms or conditions of this Agreement to be kept and performed by either party shall in any manner be waived, modified, changed or abandoned except by a written instrument duly signed, acknowledged and delivered by both City and Kerry.

17. **AUTHORITY.** City and Kerry represent to each other as follows:

(a) That each has, and has exercised, the required power and authority and has complied with all applicable legal requirements necessary to adopt, execute and deliver this Agreement and perform its obligations; and

(b) That this Agreement has been duly executed and delivered by each and constitutes a valid and binding obligation of each enforceable in accordance with its terms, conditions and provisions.

18. **COVENANTS TO RUN WITH PARKING DECK.** All covenants, agreements, conditions and undertakings in this Agreement shall extend and inure to the benefit of and be binding upon the successors and assigns of each of the parties, the same as if they were in every case named and expressed, and they shall be construed as covenants running with the subject property and improvements. Wherever in this Agreement reference is made to any of the parties, it shall be held to include and apply to, wherever applicable, also the officers, directors, successors and assigns of each party, the same as if in each and every case so express.

19. **EQUAL EMPLOYMENT OPPORTUNITY.** Kerry agrees not to discriminate against any qualified employee or qualified applicant for employment because of age, race, religion, creed, color, handicap, sex, national origin or ancestry. Kerry further agrees to require its subcontractors, if any, to include such provisions in their subcontracts which are let in connection with the Project. This provision is inserted

in compliance with § 1.25 of the Code of General Ordinances of the City of Beloit and shall be interpreted so as to carry out the intent of that ordinance.

20. **AFFIRMATIVE ACTION.** Kerry has adopted an affirmative action plan to increase in its employees the representation and number of under-represented groups which historically have been victims of employment discrimination in all departments, job classifications and salary categories.

21. **INVALIDITY OF PARTICULAR PROVISIONS.** If any provision of this Agreement or the application of it to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected, and each provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

22. **DEFAULT.**

(a) **Default by Kerry:** If Kerry fails to comply with any of the terms, covenants or conditions of this Agreement for a period of 40 days after receipt of a written demand by City to Kerry demanding compliance (unless Kerry commences to cure within said 40 days and is diligently pursuing to cure), or (b) Kerry shall be adjudicated a bankrupt or become insolvent according to law, or (c) shall file a petition for reorganization within the meaning of Chapter 11 of the Bankruptcy Act, or (d) shall make an assignment for the benefit of creditors, then, and in any of such cases (each of which shall be and hereby is made a breach of this Agreement and a default hereunder),

City may serve a written notice on Kerry (a "termination notice") that City elects to terminate this Agreement upon a specified date not less than 40 days after the date of the serving of such termination\notice. This lease shall then expire on the date so specified as if that date had been originally fixed as the expiration of the term herein granted and without any right of renewal thereafter. No default shall be deemed waived unless in writing and signed by City.

(b) **Default by City:** If City defaults in the performance of the conditions or covenants of this Agreement, Kerry, in addition to all other remedies now or hereafter afforded or provided by law, may after 40 days notice to City, perform such covenant or agreement for or on behalf of City, or make good any such defaults, subject to compliance with any applicable federal and state laws affecting work performed by or on behalf of municipalities, and any amount or amounts which Kerry shall advance pursuant thereto shall be repaid by City to Kerry on demand, and if City shall not repay any such amount or amounts upon demand, City shall, upon demand by Kerry, convey the property previously deeded to City by Kerry pursuant to Section 7 of this Agreement.

23. **MANNER OF GIVING NOTICES.** In every case where under any of the provisions of this Agreement or otherwise, it shall or may become necessary or desirable to make or give any declaration or notice of any kind to City or Kerry, it shall be sufficient if a copy of any declaration or notice is sent by United States certified or registered mail, postage prepaid, return receipt requested, addressed:

IF TO CITY: City Manager  
City of Beloit  
100 State Street  
Beloit, WI 53511

WITH A COPY TO: City Clerk at address listed above;

IF TO KERRY: Kerry Ingredients, Inc.  
352 East Grand Avenue  
Beloit, WI 53511  
Attn: President

Each party from time to time may change its addresses for purposes of receiving declarations or notices by giving notice of the change of address to become effective three days following the giving of notice.

24. **APPLICABLE LAW.** This Agreement shall be construed and enforced in accordance with the laws of the State of Wisconsin.

25. **REMEDIES CUMULATIVE.** No remedy conferred upon or reserved to either party shall be considered exclusive of any other remedy, but shall be cumulative and shall be in addition to every other remedy given under this lease agreement or existing at law, in equity or by statute. Every power and remedy given by this lease agreement to a party may be exercised from time to time and as often as occasion may arise or as may be deemed expedient. No delay or omission of a party to exercise any right or power arising from any default shall impair any right or power, nor shall be it construed to be a waiver of any default or any acquiescence in it. No waiver of any breach of any of the covenants or conditions of this lease agreement shall be construed

to be a waiver of any other breach or to be a waiver of, acquiescence in, or consent to any further or succeeding breach of it or similar covenant or condition.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date first written above.

CITY OF BELOIT

By: Daniel T. Kelley  
Daniel T. Kelley, City Manager

By: Diane E. Henry  
Diane E. Henry, City Clerk

I hereby certify that funds have been provided to pay the liability that may be incurred hereunder.

By: Kathy J. Reynolds  
Kathy J. Reynolds, Comptroller.

APPROVED AS TO FORM: Richard V. Holm  
Richard V. Holm

KERRY INGREDIENTS

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

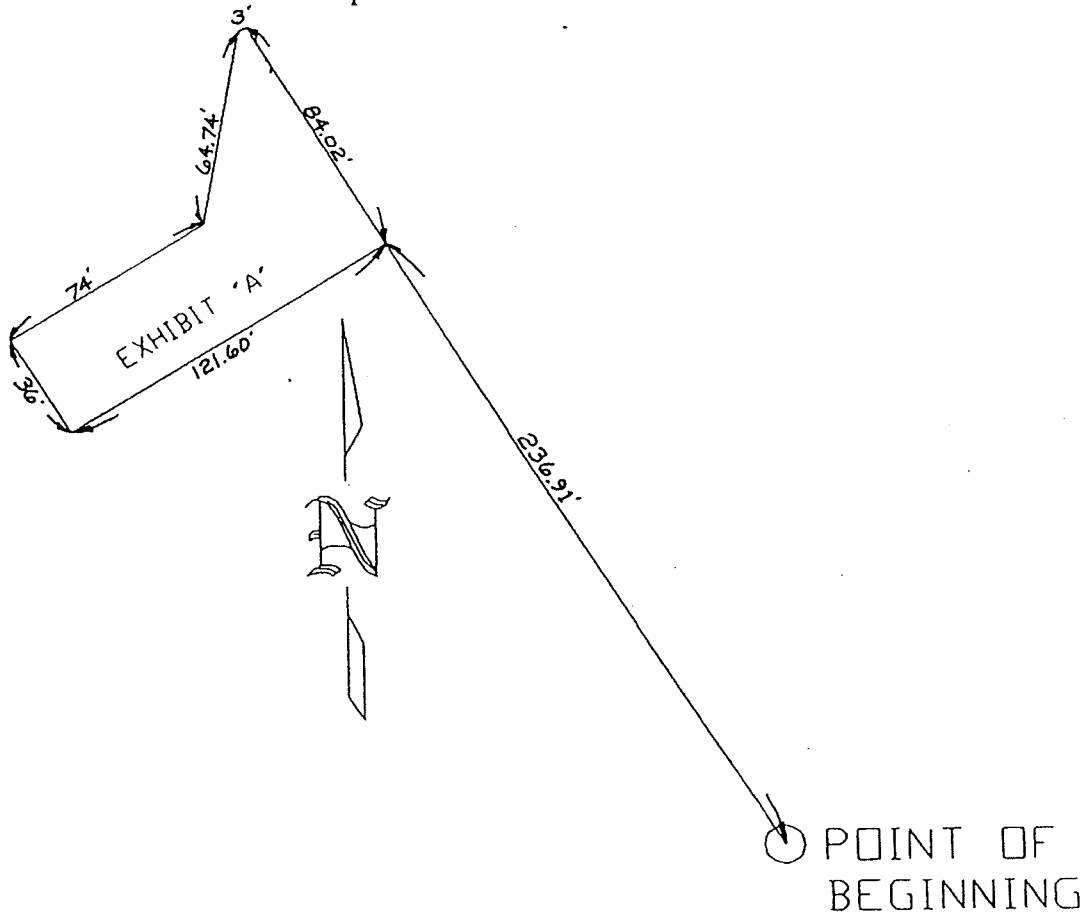
By: \_\_\_\_\_  
Secretary

**Exhibit "A" Situated Northwest of  
Parcel No. 1354-0305  
(containing 8 standard and 2 handicap parking stalls)**

Located on and across the City of Beloit Parking Deck over the Rock River in the North 1/2 of the Southeast 1/4 of Section 35, Township 1 North, Range 12 East of the 4th P.M., Rock County, Wisconsin. Further described as:

Commencing at the intersection of the north line of Lot 6, Block 59 of Hopkins Original Plat of the City of Beloit and the southwesterly right-of-way line of East Grand Avenue; thence North 32° 27' 15" West, 236.91 feet more or less along said right-of-way line to the most northerly corner of the property referred to as 340 East Grand Avenue, having a Tax Parcel Number of 1354-0305, also being the point of beginning; thence South 58° 37' 33" West, 121.60 feet along the northwesterly line and said lines extension of 334 East Grand Avenue to a point; thence North 32° 03' 46" West, 36.00 feet to a point; thence North 58° 37' 33" East, 74.00 feet along a line 36.00 feet northwesterly of and parallel to the northwesterly line of 340 East Grand Avenue to a point; thence North 10° 46' 37" East, 64.74 feet to a point; thence North 58° 37' 33" East, 3.00 feet to the southwesterly right-of-way line of East Grand Avenue; thence South 32° 27' 15" East, 84.02 feet along said southwesterly line to the point of beginning.

Said parcel contains 5581.72 square feet or 0.128 acres.







**Exhibit "B" Situated Southwest of  
Parcel No. 1354-0305  
(containing 12 parking stalls)**

Located on and across the City of Beloit Parking Deck over the Rock River in the North ½ of the Southeast ¼ of Section 35, Township 1 North, Range 12 East of the 4th P.M., Rock County, Wisconsin. Further described as:

Commencing at the intersection of the north line of Lot 6, Block 59 of Hopkins Original Plat of the City of Beloit and the southwesterly right-of-way line of East Grand Avenue; thence North 32° 27' 15" West, 236.91 feet more or less along said right-of-way line to the most northerly corner of the property referred to as 340 East Grand Avenue, having a Tax Parcel Number of 1354-0305; thence South 58° 37' 33" West, 113.60 feet to the most westerly corner of said property; thence South 32° 03' 46" East, 30.70 feet to a point on the southwesterly line on said property; thence South 53° 09' 39" West, 24.00 feet to the centerline of a parking island which is also the point of beginning; thence South 36° 48' 11" East, 21.00 feet a right angles to said island centerline; thence South 53° 09' 39" West, 56.22 feet parallel with said centerline; thence North 15° 14' 31" West, 22.59 feet to said centerline; thence North 58° 26' 11" West, 22.59 feet; thence North 53° 09' 39" East, 56.22 feet parallel with said centerline; thence South 36° 52' 31" East, 21.00 feet to the point of beginning.

Said parcel contains 2187.03 square feet or 0.05 acres.

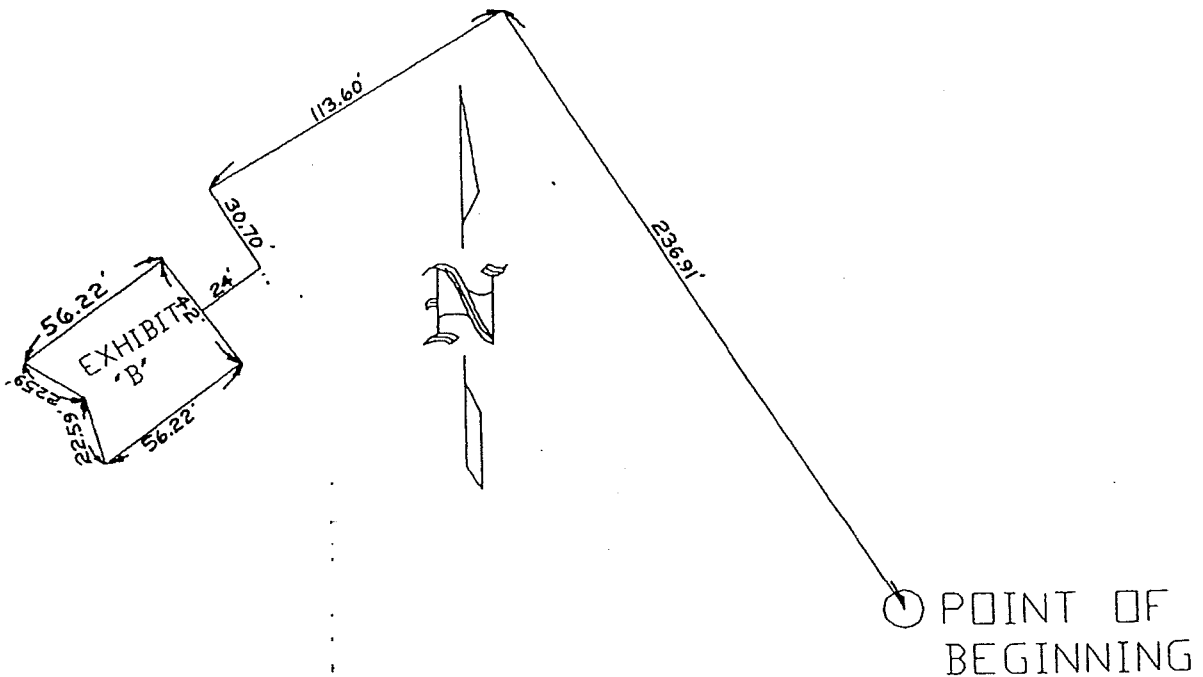


EXHIBIT B-19

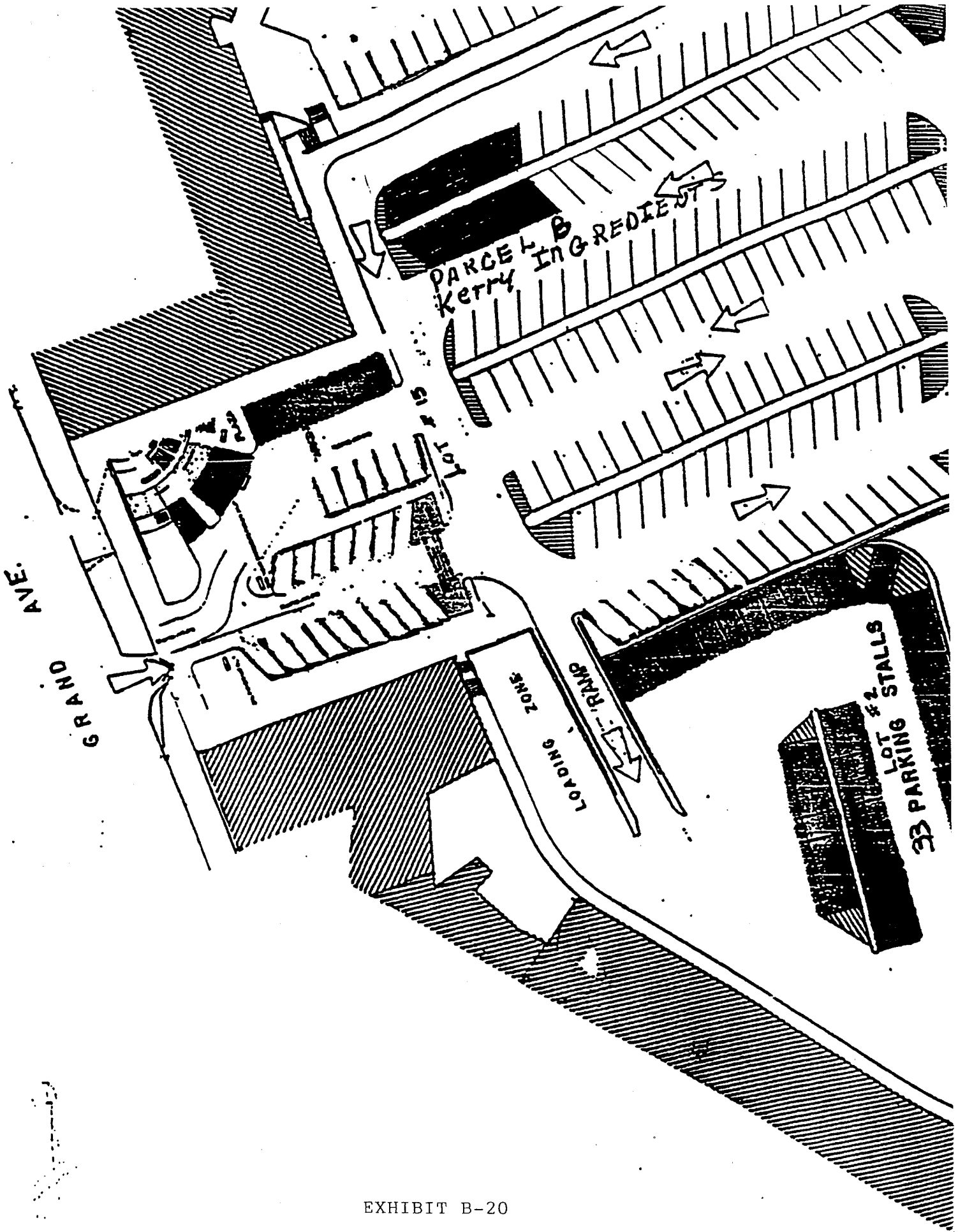


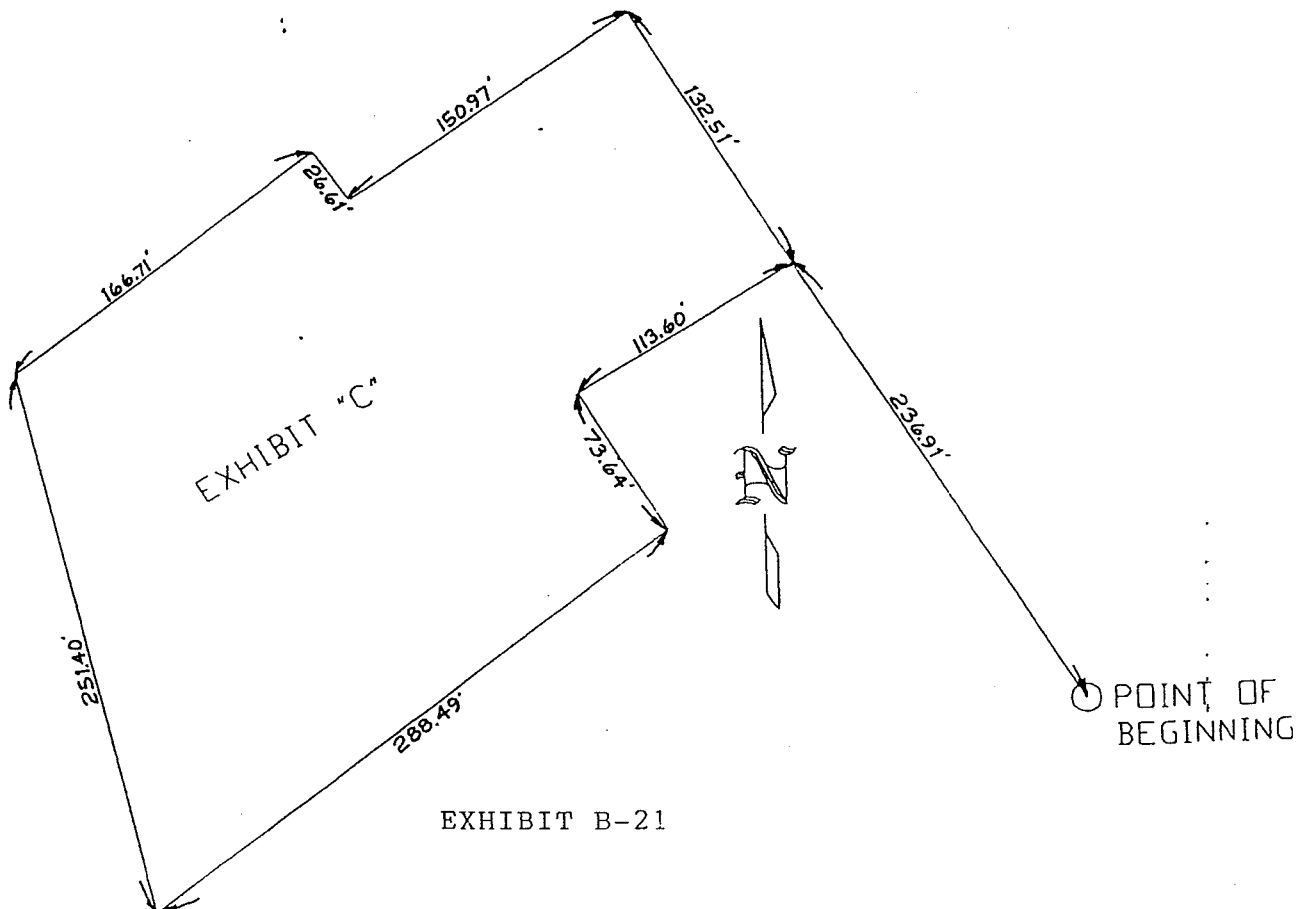
EXHIBIT B-20

**Exhibit "C"**  
**City of Beloit Parking Deck**

Located over the Rock River in the North ½ of the Southeast 1/4 of Section 35, Township 1 North, Range 12 East of the 4th P.M., Rock County, Wisconsin. Further described as:

Commencing at the intersection of the north line of Lot 6, Block 59 of Hopkins Original Plat of the City of Beloit and the southwesterly right-of-way line of East Grand Avenue; thence North 32° 27' 15" West, 236.91 feet more or less along said right-of-way line to the most northerly corner of the property referred to as 340 East Grand Avenue, having a Tax Parcel Number of 1354-0305, also being the place of beginning; thence South 58° 37' 33" West, 113.60 feet to the most westerly corner of said property; thence South 31° 54' 56" East, 73.64 feet to a point on the southwesterly line on said property; thence South 53° 19' 39" West, 288.49 feet to the north right-of-way line of Broad Street; thence North 13° 18' 38" West, 251.40 feet to a point on said right-of-way line; thence North 53° 19' 39" East, 166.71 feet; thence South 37° 27' 11" East, 26.61 feet; thence North 56° 47' 31" East, 150.97 feet along the southeasterly property line of 108 East Grand Avenue having a Tax Parcel Number of 1353-0125, to the aforementioned southwesterly line of East Grand Avenue; thence South 32° 27' 15" East, 132.51 feet more or less along said line to the place of beginning.

Said parcel contains 70949.725 square feet or 1.629 acres.



# **Structural Evaluation for the River Deck Parking Lot**

submitted to

**City of Beloit  
100 State Street  
Beloit, Wisconsin 53511**

**June, 1996**

by  
**Graef, Anhalt, Schloemer &  
Associates, Inc.  
345 North 95th Street  
Milwaukee, Wisconsin 53226**

EXHIBIT B-22



**GRAEF  
ANHALT  
SCHLOEMER**  
*and Associates Inc.*

EXHIBIT D

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## INTRODUCTION

A parking structure located in Wisconsin is exposed to a very severe environment. Salt is applied directly to the concrete surface for de-icing purposes and is also brought onto the structure on cars. A parking structure, when exposed to salt, water and extreme temperature cycles, is subject to several forms of deterioration.

Uncontaminated concrete is highly alkaline. Steel items embedded in this alkaline environment will form a thin passivating film which prevents corrosion. However, when the concrete becomes contaminated with salt, its alkalinity is reduced. The passivating film then breaks down; and in the presence of oxygen and moisture, the corrosion process can begin. When the steel corrodes, the corrosion byproducts (rust) expand to several times the original volume of the steel. This creates very high pressures in the concrete, causing it to crack. The cracks then allow additional salt and water direct access to the steel, further accelerating the corrosion process. When the cracking travels laterally between embedded reinforcing bars, a delamination of the concrete is formed. When pieces of concrete break away from the structure, it is called a spall. The process of patching a spall involves removing the deteriorated concrete, sandblasting the rebar and concrete surface clean, and placing new concrete. However, this patching process can cause new corrosion cells to form on adjacent areas of the bar that are still in salt contaminated concrete, thus continuing the corrosion and spalling.

Concrete is actually a porous material. When freshly cast concrete hardens and cures, some of the water is not used up in the chemical reaction. As this water evaporates from the concrete, it leaves behind tiny pores and capillaries in the hardened concrete. During freezing and thawing cycles, freezing water trapped in these pores will cause microscopic cracking in the cement paste. As the number of freeze-thaw cycles increases, the damage from this microscopic cracking becomes more severe. The concrete surface begins to flake and the fine aggregate (sand) becomes exposed. The concrete surface begins to take on a rough, sandblasted appearance. As the number of cycles increases, the deterioration goes deeper into the concrete surface, exposing some of the larger aggregate and giving the concrete a gravelly surface. This form of deterioration is called freeze-thaw scaling.

As water passes through concrete by way of these pores and capillaries, it dissolves calcium and other minerals from the concrete matrix. When this water reaches the concrete surface, it

called leaching, is very similar to how stalactites are formed in limestone caves. Areas of leaching are often marked by a darkening of the concrete due to its high water content. The concrete surface also often exhibits freeze-thaw scaling deterioration. As the leaching process continues over years, the removal of the minerals from the concrete matrix begins to weaken the concrete, reducing its structural capacity.

Open parking structures are exposed to the full range of climate variations. The expansion and contraction that occurs because of these temperature variations causes stresses in the concrete structure. These stresses can cause cracking and other forms of deterioration in the structure.

## **STRUCTURE DESCRIPTION**

The purpose of this structural evaluation is to make recommendations for cost effective rehabilitation of the parking structure. The evaluation is based upon the following:

- Inspection of the structure during the month of April, 1996
- Contract drawings prepared by DeLeuw, Cather and Company dated April 20, 1965
- Shop drawings prepared by Prestressed Concrete Products Corporation dated July 9, 1965
- Rough draft of an inspection/recommendation report by another engineering firm dated August 6, 1986

The River Deck Parking Lot, built in 1965, is a single level parking structure that spans the Rock River in Beloit, Wisconsin. It is bordered by the Grand Avenue and Broad Street Bridges to the east and west, respectively. The Gateway Associated Services building and a surface parking lot are located to the north of the structure, and the Kerry Ingredients building and another surface parking lot are located to the south (see Sheet No. 1).



Gateway Associated Services building. The original design drawings indicate there is a 2" space between the edges of the parking structure and the face of these buildings. An expansion joint on the east side of the parking structure separates the structure from the Grand Avenue bridge. There are two one-way drive lanes for entry and exit from Grand Avenue. Parking is provided on both sides of each drive lane for a total of 53 cars. The two drive lanes intersect a main north-south drive lane that separates the east and west parking areas of the structure.

The west side of the structure is situated between the north and south surface lots. It has four east-west drive lanes with parking spaces for 143 cars. There is another main north-south drive lane that intersects these four drive lanes, adjacent to the Broad Street Bridge. The total number of parking spaces for the entire structure is 196.

In addition to the drive lanes off of Grand Avenue, there are three ramps and a pedestrian stairway that provide access to the parking structure. Ramp No. 1 is an exit ramp leading down to the north surface lot from the main north-south drive lane that separates the east and west side parking areas. Ramp No. 2 is an entrance ramp going up from the north surface lot to the northwest corner of the parking structure. It is located adjacent to Broad Street. Ramp No. 3 is a two-way traffic ramp located at the southwest corner of the parking structure. It provides access to the south surface lot. The pedestrian stairway is located adjacent to the Kerry Ingredients building and provides access to the south surface lot.

The parking structure is supported by five rows of reinforced concrete beams (pile caps) which are in turn supported by 12-inch diameter piles. The piles are hollow steel pipe, filled with concrete and rebar. The piles are driven into the riverbed at least 20' deep. The pile spacing ranges from 7'-8" to 9'-2".

The parking surface consists of three different design systems. The first and primary design system consists of prestressed, precast single T-beams with a 3" bonded concrete topping slab. The second system consists of steel beams supporting a cast-in-place reinforced concrete structural slab. The third system is a post-tensioned slab system (see Sheet No. 1).

Approximately 94% of the parking area is constructed of the prestressed, precast single T-beam system. The precast T-beams are made at a fabrication plant off the job site. They

concrete (see Sheet No. 2). The beams are made as a single unit in long forms, generally several hundred feet in length. Before the concrete is placed in the forms, the high-strength steel tendons are prestressed (i.e. pretensioned) with hydraulic jacks. After the concrete has been placed, hardened, and is bonded to the tendons, the hydraulic jacking forces are released. Then the long T-beam is cut into shorter, individual T-beams and transported to the job site for installation.

The east side of the parking structure consists of two spans of T-beams supported by three rows of piles and pile caps. The west side of the parking structure consists of four spans of T-beams supported by five rows of piles and pile caps. The T-beams span in the north-south direction.

The stem of the T-beams range in depth from 28 inches to 36 inches; the width of the flanges range from 3'-9" to 7'-11-1/2" wide and taper to 1-1/2" thick at the ends. To prevent the T-beams from rolling over, steel plates are embedded at the tops of the flange edges at 8'-0" on center. A cover plate that spans across the embedded plates is then welded to the embedded plates of the two adjacent T-beams (see Sheet No. 3). After the cover plates are welded, a 3" bonded concrete topping is installed which functions as a wearing surface and provides structural rigidity to the T-beam system. The topping slab consists of lightweight concrete and wire mesh reinforcing. The curbs above the topping slab consist of lightweight concrete, rebar, and wire mesh reinforcing.

The steel beam and concrete slab system supports the westernmost main drive lane adjacent to the Broad Street Bridge. The steel I-beams range in depth from 33 inches to 27 inches. The webs (i.e., vertical portion of the beam) of the 33-inch and 27-inch beams are 9/16" and 7/16" thick, respectively. The flanges (i.e., horizontal portion of the beam) of the 33-inch beam are 11-1/2" wide x 7/8" thick. The flanges of the 27-inch beam are 10" wide x 5/8" thick. All the beams are coated with spray-on fireproofing. These beams support a cast-in-place, 7-inch thick reinforced concrete slab.

The post-tensioned slab system is located at the old snow dump area on the south side of the parking structure. The snow dump area is no longer in use. With a post-tensioned slab system, the concrete slab is reinforced with high-strength steel tendons in addition to steel rebar. The steel tendons are greased and wrapped with a plastic sheath, which prevents a

end to anchor them in the concrete. Once the concrete has properly cured, the tendons are pulled through the plastic sheaths and "post"-tensioned by jacking against the anchors.

The top of Ramp No. 1 consists of conventionally reinforced precast slabs with a 3-inch bonded concrete topping slab. The top of Ramp No. 2 consists of prestressed, precast hollow core plank with a 3-inch bonded concrete topping slab. The top of Ramp No. 3 consists of conventionally reinforced concrete beams supporting a 7-inch thick structural slab with a 3-inch bonded topping slab. The base of all three ramps consists of an 8-inch thick slab on grade. The pedestrian stairway consists of conventionally reinforced concrete slabs and beams.

There are reinforced concrete parapet walls at the north and south sides of the west side of the parking structure and at the three access ramps. There is also an aluminum handrail attached to the top of each parapet wall.

Drains are provided at 25 locations, throughout the structure. They are installed with anchor lugs that are attached to the topping slab. Holes were field cut through the T-beams to allow for drainage. There is no piping connected to the drains. Water flows through the drain and falls to the river below.

In 1986, an inspection of the structure was performed. Some repairs were made based on recommendations from the inspection report. The more noticeable repairs include the following:

- Steel cover plate over the full length of a bad joint between T-beams at the southwest corner of the parking structure (see Photo No. 1).
- Steel diaphragms added at the mid-span of each T-beam, on only one side of each T-beam (see Photo No. 2).
- T-beam joint repairs.
- Caulking of T-beam joints.

## CONDITION EVALUATION

The condition survey of the underside of the structure was performed with the use of a small motorboat. By traversing the river, the following items were visually inspected:

- Piles and pile caps.
- Individual T-beams and their embedded plates.
- Steel beams and cast-in-place structural slab.
- Post-tensioned slab.
- Steel diaphragms.

Sounding of concrete surfaces directly above the river (i.e. hammer tapping) was not performed due to inaccessibility.

In general, the piles and pile caps were in good condition. There were a few isolated locations of heavy rusting on piles at the southwest corner of the structure. There was also a small quantity of cracking and leaching in the pile cap at the southwest corner and some minor spalling at the northwest corner of the structure. It should be noted that potential spalling of the pile cap would begin on its top surface and that visual inspection of this surface was not possible.

The T-beams are severely deteriorated. Approximately 75% of embedded plates used to tie the T-beams together have corroded. The degree of corrosion ranges from spalling of concrete below the plate to complete failure where the plate has spalled off with the concrete and fallen in the river (see Photos No. 3 through 6). Over 35% of the T-beams will require repairs of every plate in the T-beam. In addition, the flange area between the plates is questionable, showing extensive signs of rust staining, cracking, and spalling of the concrete surface. There are numerous full depth holes and cracks large enough to see daylight above. The embedded plate locations in need of repair would require removal of at least a 4-foot by 4-foot area per plate.

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for the entire length of each joint. The topping has been patched at numerous locations with concrete and asphalt. At some locations, the quality of patchwork was very poor (see Photo No. 7). As previously stated with the T-beams, there are numerous small full-depth holes in the topping located at the T-beam joint cracks (see Photo No. 8). The concrete curbs are in very poor condition. Most of the curbs have transverse cracks in line with the T-beam joints. Several of the curbs, situated directly over a pile cap, also have a longitudinal crack running the full length of the curb (see Photo No. 9). The curbs are deteriorated from freeze-thaw scaling and corrosion-induced spalling (see Photo No. 10). At a few locations, the curbs are partially missing, probably from impact from snow plows (see Photo No. 11).

The steel beams at the west end of the structure are also severely deteriorated. At the southwest corner of the structure, the bottom flange and web of the 33-inch deep beam are currently buckling due to corrosion that has created holes in the web of this member (see Photo No. 12). Buckling of the bottom flange (see Photo No. 13) has resulted in a downward shift of the supported structural slab above (see Photo No. 14). This particular beam is near complete failure; the area supported by this beam has been closed to vehicular traffic until further notice. The adjacent 27-inch deep beam also has holes in the web due to corrosion (see Photo No. 15). The web of the 33-inch deep beam at the northwest corner of the structure is buckling. Corrosion does not appear to be the cause of this problem. Web stiffeners were not provided at this location in the original design, as they were for the steel beams directly above the intermediate pile cap supports. The buckling web indicated in Photo No. 16 was either under-designed or has been overloaded at some point in time. The two interior spans of steel beams were inspected from the river. A significant portion of the spray-on fireproofing has fallen off, and there is visible rust on the beams (see Photo No. 17).

The cast-in-place structural slab supported by the steel beams on the west end of the structure is severely deteriorated. The west sidewalk is extensively spalled (see Photo No. 10). The drive aisle has previously had spall repairs performed on it. A significant quantity of topside spalls combined with visible underside cracking, leaching, and spalling indicates a strong potential for full-depth slab removal and replacement in specific areas.

The post-tensioned slab on the south side of the parking structure has four major, full-depth cracks averaging 25 feet in length. A post-tension tendon is broken and frayed at one crack location (see Photo No. 18).

concrete topping. The underside of the precast slabs has a substantial quantity of underside spalling. The poor topping condition combined with the underside spalling indicates a significant quantity of topside spalling of the precast slab. The curbs and walls at this ramp are heavily cracked and spalled. The slab-on-grade at the base of the ramp has longitudinal and transverse cracks as well.

Ramp No. 2 (northwest ramp) has a topping over the hollow core slabs that is severely cracked, deteriorated and debonded. The precast hollow core plank are deteriorated on the underside with spalls and one broken steel tendon (see Photo No. 19). The curbs and sidewalks are cracked and spalled. The slab-on-grade at the base of the ramp is cracked and deteriorated.

Numerous repairs have been performed on Ramp No. 3 (southwest ramp). The topping above the structural slab is debonded and spalling. Extensive cracking with a significant quantity of cracks showing salt penetration and stalactites are visible on the underside of the slab (see Photo No. 20). This combination would indicate that the topside of the structural slab is spalling heavily as well. The curbs and sidewalks at this ramp are cracked and spalled. The slab-on-grade is extremely deteriorated with significant cracks and spalls.

The pedestrian stairway adjacent to the Kerry Ingredients building is in relatively good condition. There are some vertical spalls on the stair risers in need of repair. The perimeter parapet walls are in good condition, except at the ramps. There are several locations at the ramps with significant vertical spalls, particularly at Ramp Nos. 1 and 3 (see Photo No. 21). The aluminum handrails are also in good condition.

A few of the drains in the parking structure are surrounded by deteriorated concrete. At a couple of these locations, there are full-depth holes adjacent to the drains (see Photo No. 22). At one location, the drain is no longer bonded to the surrounding concrete. The drain is currently wedged in between the existing concrete surfaces, but it is on the verge of falling through the structure.

The steel cover plate and steel diaphragms, installed in 1986, have some surface rust, but are otherwise in good condition. The caulking of T-beam joints have failed at most locations.

condition.

## **RECOMMENDATIONS**

We understand it is the City's intent to maintain available parking for the Downtown business district. The overall condition of the current structure is very poor. All three design system areas of the parking deck and the three access ramps are in a state of serious deterioration. However, the substructure (i.e. piles, pile caps, and walls) is in relatively good condition. With this in mind, we reviewed a long list of rehabilitation alternatives for the structure. The list consisted of a variety of repairs based on safety only, short term life (i.e. less than 10 years) and long term life (i.e. greater than 20 years). In addition, the list consisted of the option of building a new parking structure either immediately or at some time in the future.

The long term rehabilitation of this structure would consist of a minimum of the following items:

- T-beam plate connections and topside and bottomside spall repairs.
- Removal of failing structural steel on the west side of the structure; topside and bottomside spall repairs and complete slab removal and replacement at the replaced steel beams.
- Repair of the broken tendon in the post tensioned slab system.
- Topside and bottomside spall repairs at Ramp Nos. 1, 2 and 3.
- Repair of the broken tendon in Ramp No. 2 precast hollow core plank.
- Replacement of all curbs.
- Replacement of topping slabs at all three ramp structurally-supported slabs.

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indicates some major disadvantages. First, each of the T-beam plate connections would require removal of an area of the T-beam approximately 4' x 4'. Vibrations from the demolition process of the plate connection area combined with the deteriorated state of the remaining flange areas would require that the entire T-beam joint be removed approximately 4' in width. Since 75% of the plate connections are deteriorated, this would translate into removing approximately 40% of the deck area. Removal of this much dead load from the T-beam could cause the prestressing forces in the steel tendons to seriously damage the remaining portion of the T-beam. In addition, we have reservations concerning the long term structural adequacy of a full depth repair of this magnitude. Continued corrosion combined with maintenance difficulties could present significant safety hazards. Also, the cost of this repair alone is near the cost of constructing a new parking structure.

Second, the post-tensioned slab system currently has one broken tendon. In addition, current cracking in the slab area indicates deterioration that will probably produce three more broken tendons in the near future. Although the drawings do not indicate the quantity of tendons in the slab, from our experience with post-tensioned slabs, we feel there are at least 80 tendons in this slab system. The repair of a broken tendon is very expensive. It would be more expensive to repair a relatively small percentage of these tendons than to completely remove the post-tensioned slab system and replace it with a precast T-beam system.

Third, the structural slab systems at the tops of each ramp are in a state of serious decay. The topping slab at these locations is heavily cracked and debonded. This would indicate a significant quantity of spalling at the interface between the topping slab and the structural slab below it. The current spalling at the bottomside of Ramp No. 1 and the visible salt penetration at the bottomside of Ramp No. 3 combined with the deterioration of the top of each of these ramps indicate a potential for a considerable amount of full depth repair. The cost of repairing the broken tendon at the bottomside of Ramp No. 2 would be very expensive, as previously mentioned with the post-tensioned slab system. In summary, it would be more cost effective, both short term and long term, to remove and replace the structural slab system and topping of each of the ramps.

Since the parking deck and ramps are already salt contaminated, it must be understood that corrosion activity will continue in the structure at areas that are not altered by the repair process. Therefore, a cost effective rehabilitation program must be followed by regular routine



the cost of a long-term routine maintenance program for these repairs would be high as well, we eliminated this repair alternative from consideration. Therefore, we narrowed our list of rehabilitation programs to the three alternatives listed below. These alternatives and cost estimates are based on our experience with similar projects and budget estimates from contractors experienced in this type of work. All cost estimates are in 1996 dollars.

#### **Alternative No. 1**

Alternative No. 1 would consist of the removal and replacement of the entire upper structure. This would include removal of the T-beam system, the steel beam and structural slab system, the post-tensioned slab system, and all the slabs associated with the three ramps. The piles, pile caps, perimeter walls and ramp support beams would remain and be repaired as required. The single T-beams would be replaced with precast double T-beams. The double T-beams would provide the stability currently provided by the steel diaphragms. The post-tensioned slab system would be replaced with precast double T-beams as well. This would eliminate the snow dump area and require the installation of two piles and a pile cap to support the new double T-beams. The steel beam and structural slab system on the west side of the structure and the three ramps would be replaced with the same design systems. Ramp No. 3 must be temporarily shored until the steel beam and structural slab system on the west side of the structure is replaced. The estimated initial cost of this alternative is \$1,700,000.

This alternative has some significant disadvantages. First, the entire structure would be closed during the construction phase, thus eliminating available parking during construction. Second, although the substructure would remain and be reused for this alternative, it has been in existence for over 30 years and is probably chloride contaminated, even though it has not shown any extensive signs of deterioration. The chloride contamination could result in deterioration in the pile caps in a relatively short period of time. Since this is a major structural component, its repair would be implemented on an as needed basis and routine inspection and repair costs would be extremely expensive. Third, this alternative would rebuild the parking structure over the river which is a more corrosive environment than that of most parking structures. Placing the structure over the river makes routine inspection difficult and maintenance costs extremely expensive. Although this alternative has the lowest initial cost, the significantly higher maintenance costs make it have the highest life cycle costs.

Alternative No. 2 would repair only the safety-related problems, make improvements to the east end of the parking structure adjacent to the Kerry Ingredients building and build a new structure nearby. The repairs would include replacement of the existing failing steel beams and their supported slabs on the west end of the parking structure, as well as isolated spall repairs. Use of the parking structure would continue until deterioration mandates closing the structure. The estimated initial cost of the safety repairs is \$200,000. We understand that complete funding for these repairs is not currently available. Therefore, we recommend these repairs be performed over the next two years in the following order:

- 1) Temporary shoring of the deteriorated structural steel at Ramp No. 3
- 2) Isolated spall repairs
- 3) Physical improvements for the east side of the parking structure adjacent to the Kerry Ingredients building.
- 4) Complete replacement of the steel beam and structural slab system on the west end of the structure.

We anticipate that these repairs could gain another 5 to 10 years of service life for the structure. Regular inspections would have to be performed during this period. The estimated annual cost of repairs during this period is \$5,000. Toward the end of the service life of the existing parking structure, a new parking structure would be built at a nearby site. After it is completed, the old structure would be completely removed. The estimated initial cost of the new structure and demolition of the old structure is \$2,300,000.

The disadvantages of Alternative No. 2 are mainly financial. The repair of the steel beam and the slab system on the west end of the structure is an additional cost compared to Alternative No. 3. In addition, postponing the construction of a new parking structure will cause an increase in the design and construction of a new structure due to inflation. There are several advantages with Alternative No. 2. First, it gives the City additional time to produce funding for the construction of a new parking structure. Second, it maintains available parking on the existing structure until construction of the new parking structure is completed. Third, long term

maintenance costs of a parking structure over the river.

### **Alternative No. 3**

Alternative No. 3 would consist of performing only the minimum safety-related repairs until a new parking structure could be built nearby. Ramp No. 3 would be permanently closed. In addition, the deteriorated structural steel at Ramp No. 3 must be temporarily shored. After the new structure is completed, the old structure would be completely removed. The estimated initial cost of the safety repairs is \$10,000. The estimated initial cost of the new structure and demolition of the old structure is \$2,300,000.

The disadvantage of Alternative No. 3 is that the funds for demolition and new construction would have to be raised sooner. There are several advantages with Alternative No. 3. First, of the two alternatives which include the construction of a new parking structure, it is the least expensive. It eliminates the cost of replacing the failed steel beams and their supported slabs. Also, because the new parking structure would not be delayed until some future time, there will be no additional costs due to time-related inflation. Second, it maintains available parking on the existing structure until construction of the new parking structure is completed. Third, long term maintenance costs on a new structure away from the river will be significantly lower than the maintenance costs of a parking structure over the river.

We understand that Kerry Ingredients has budgeted some funds for physical improvements at the east end of the parking structure. We recommend the scope of improvements be reviewed in light of our recommended alternatives. The potential exists for a less expensive improvement program considering the estimated 10 year service life of the parking structure.

The technology of parking structure design and construction has improved considerably in the last 30 years. Understanding the performance of the structural components of a parking structure in this environment and the knowledge to properly protect the structure against the elements can significantly reduce the long term maintenance costs. From our experience with owners of parking structures, the more difficult and costly it is to perform inspections and routine repairs, the more likely it is that the maintenance program will be delayed. Since the delay of repairs allows corrosion to continue, the cost of repairing the structure escalates.

Alternatives No. 2 and 3 is a better solution than Alternative No. 1. Of Alternative Nos. 2 and 3, Alternative No. 3 is the most cost effective in the long term. Therefore, we recommend implementation of Alternative No. 3.

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EXHIBIT B-37

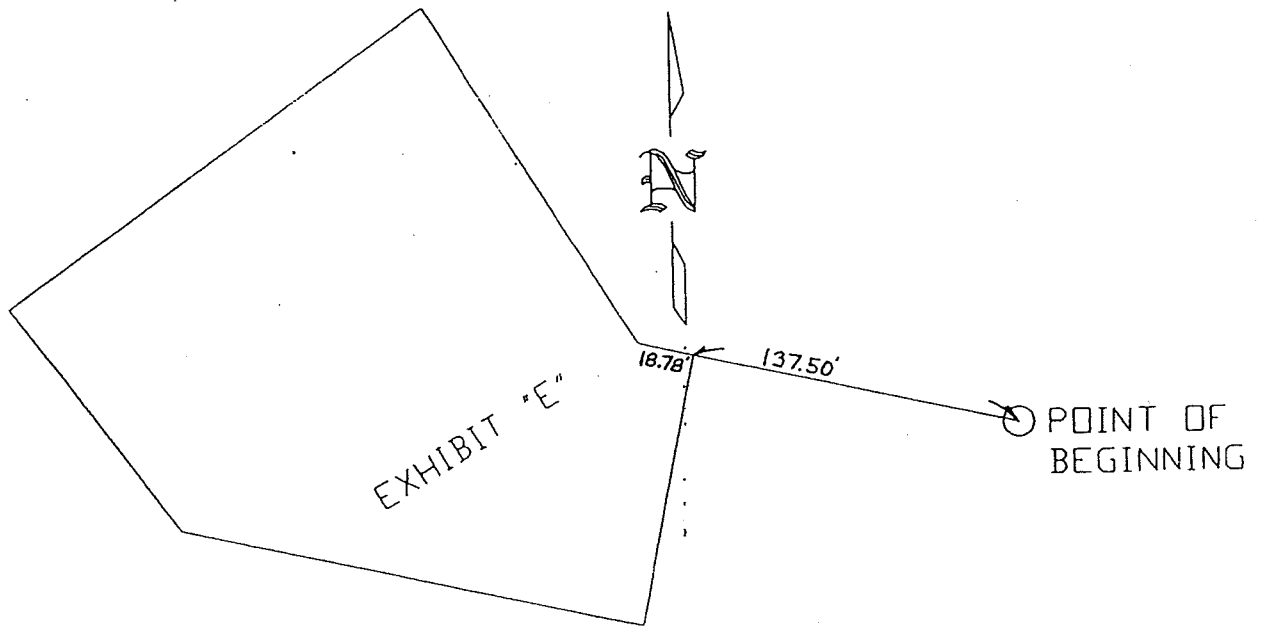
**Exhibit "E"**

**Legal Description of Land Conveyed by Kerry Foods to the City of Beloit**

Located in the North ½ of the Southeast 1/4 of Section 35, Township 1 North, Range 12 East of the 4th P.M., Rock County, Wisconsin. Further described as:

Commencing at the intersection of the north line of Lot 6, Block 59 of Hopkins Original Plat of the City of Beloit and the southwesterly right-of-way line of East Grand Avenue; thence North 78° 00' 00" West, 137.50 feet more or less along said north line of Lot 6 to the point of beginning; thence North 78° 00' 00" West, 18.78 feet to a point; thence northwesterly at an angle of 133° 30' with the extended northerly line of said block 59, 4.98 feet to an iron rod driven into the ground by the City Engineer, G. E. Heebink, and being the southeast corner of land of C. B. Salmon, thence continuing northwesterly at said angle of 133° 30' to the north line of said Block 59 to the line of the middle of Rock River as shown in E. Ruger's Survey for said Salmon and stated in the two party quit claim deeds made by Maria K. Brown and William E. Brown and wife, recorded in the office of the Register of Deeds, for Rock County, in volume 200, page 311 and Volume 200, page 312; thence southerly down the center line of Rock River to a point where said centerline is intersected by line drawn at right angles to said centerline from a point on the east bank of said Rock River 44 feet north of the south line of said Lot 5, Block 59, thence southeasterly to the east bank of said Rock River to a point 44 feet north of the south line of said Lot 5, thence easterly on a line parallel to and 44 feet north of the south line of said Lot 5 to a point 183.65 feet west of the west right-of-way line of State Street; thence North 11° 33' 20" East to the point of beginning.

Said parcel contains approximately 45,600 square feet or 1.047 acres.



**Exhibit "F" Situated Between  
Parcel No. 1354-0305 and Parcel No. 1354-0125**

Located on and across the City of Beloit Parking Deck over the Rock River in the North ½ of the Southeast ¼ of Section 35, Township 1 North, Range 12 East of the 4th P.M., Rock County, Wisconsin. Further described as:

Commencing at the intersection of the north line of Lot 6, Block 59 of Hopkins Original Plat of the City of Beloit and the southwesterly right-of-way line of East Grand Avenue; thence North 32° 27' 15" West, 236.91 feet more or less along said right-of-way line to the most northerly corner of the property referred to as 340 East Grand Avenue, having a Tax Parcel Number of 1354-0305, also being the point of beginning; thence South 58° 37' 33" West, 121.60 feet along the northwesterly line and said lines extension of 334 East Grand Avenue to a point; thence North 32° 03' 46" West, 36.00 feet to a point; thence North 32° 27' 15" West, 92.63 feet to the southeasterly line extended southwesterly of 108 East Grand Avenue, having a Tax Parcel Number of 1354-0125; thence North 56° 47' 31" East, 121.34 feet along said southeasterly line to the southwesterly right-of-way line of East Grand Avenue; thence South 32° 27' 15" East, 132.51 feet along said southwesterly line to the point of beginning.

Said parcel contains 15847.07 square feet or 0.364 acres.

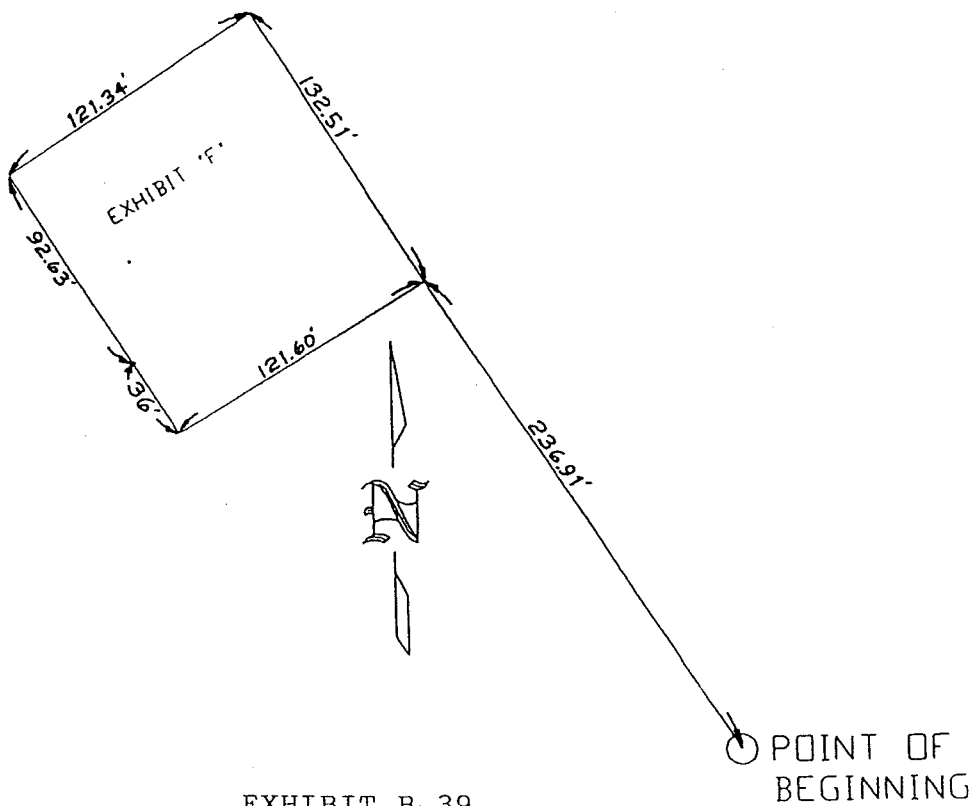


EXHIBIT B-39

River →

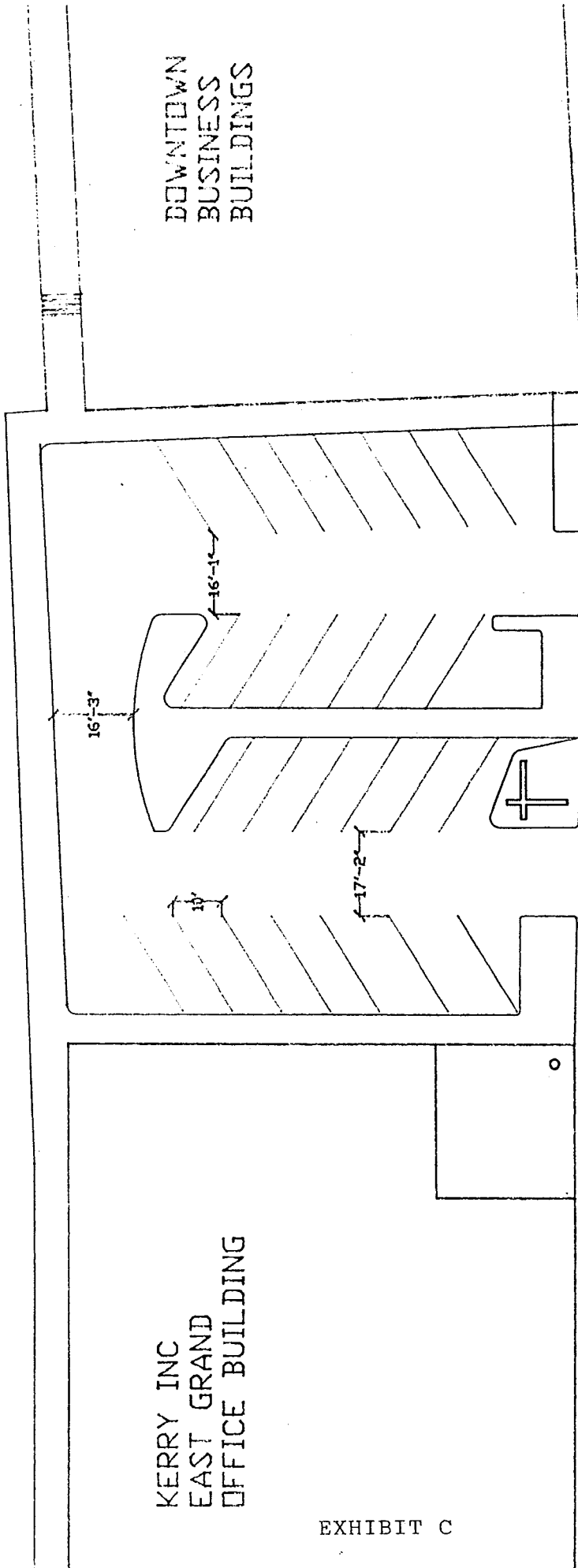


EXHIBIT C

GRAND AVENUE



SPECIAL PROJECT DEPARTMENT  
6880 363-1200

NOTICE: THIS PLAN IS THE PROPERTY OF AND REMAINS UNDER STRICT CONFIDENTIALITY. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREIN. IT IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY MANNER WITHOUT THE EXPRESS WRITTEN PERMISSION OF KERRY CORPORATION.

DRAWING TITLE: EAST GRAND PARKING LOT  
 PROPOSED LAYOUT

PLANT LOCATION SHEET: VI	SCALE: 1" = 20' - 0"
DRAWN BY: JPS	DATE: 10/22/98
APPROVED BY: T. STOVALL	REV: 9
ISSUE NO:	ISSUE NO:

**BUILDING PERMIT APPLICATION**  
**CITY OF БЕЛОIT, WISCONSIN**  
**DIVISION OF CODE ENFORCEMENT**

1354-0305  
 PARCEL NUMBER

24018  
 PERMIT NUMBER

**1. LOCATION**

A. ADDRESS 332, 334 & 352 EAST GRAND AVENUE B. ZONING DISTRICT \_\_\_\_\_  
 C. LOT # \_\_\_\_\_ BLOCK # \_\_\_\_\_ SUBDIVISION \_\_\_\_\_  
 D. FLOODPLAIN  YES  NO ELEVATION 746.99 E. FIRE LIMITS  YES  NO

**2. Nature of Work**

- A.  New Building
- B.  Addition
- C.  Alteration
- D.  Repair
- E.  Wracking
- F.  Reduction of Size
- G.  Moving
- H.  Foundation Only
- I.  Other \_\_\_\_\_

**3. Proposed Use**

- A.  Single Family
- B.  Two Family
- C.  Multi-Family, No. units \_\_\_\_\_
- D.  Rooming House, No. units \_\_\_\_\_
- E.  Hotel, Motel, No. units \_\_\_\_\_
- F.  Factory, Office, Merc.
- G.  Assembly Hall
- H.  School
- I.  Medical Institution
- J.  Hazardous Occupancy
- K.  Other \_\_\_\_\_

**5. Selected Characteristics**

- A. Foundation  full  crawl  slab  concrete  
 masonry thickness \_\_\_\_\_  
 Depth: Below Grade \_\_\_\_\_ Above Grade \_\_\_\_\_
- B. Depth of lateral at main \_\_\_\_\_
- C. Heating Fuel— Nat. gas  L.P. gas  Oil  
 Electric  Coal  Other \_\_\_\_\_  
 Size Oil Tank \_\_\_\_\_ Size L.P. Tank \_\_\_\_\_  
 Above ground  Underground  Inside
- D. Heating System— Forced Air  Hot Water  
 Steam  Electric  Other \_\_\_\_\_
- E. Fireplace  Yes  No Number \_\_\_\_\_
- F. Insulation:  Fiberglass  Rockwool  Sheetrock  
 Expanded  Full  Other \_\_\_\_\_
- G. Interior Wall Covering:  Drywall  Plaster  
 Wood  Other \_\_\_\_\_
- H. Roof Covering:  Asphalt  Wood  Metal  
 Slate  Ceramic  Other SINGLE PLY
- I. Exterior wall covering:  Wood  Metal  
 Masonry  Vinyl  Other \_\_\_\_\_
- J. No. Bedrooms: Per unit \_\_\_\_\_ Total \_\_\_\_\_
- K. No. Baths: Full \_\_\_\_\_ Partial \_\_\_\_\_
- L. If non residential describe proposed or most recent use in detail, e.g., food processing, restaurant, tavern, etc.

**3. Cost of Improvement**

A. Cost \$ 1,127,675 (Do not include cost of Mechanicals or painting)  
 B. Electrical Contractor GUENTHER ELECTRIC  
 C. Plumbing Contractor H.C.I. INC.  
 D. Heating Contractor H.C.I. INC.  
 E. Air Cond. Contractor H.C.I. INC.  
 F. Others (elevator, etc.) SCHUMACHER

**4. Class of Construction**

- A.  Fire Resistive -A
- B.  Fire Resistive -B
- C.  Metal Frame—Protected
- D.  Heavy Timber
- E.  Exterior Masonry
- F.  Metal Frame—Unprotected
- G.  Wood Frame—Protected
- H.  Wood Frame—Unprotected

**6. Size of Building**

A. Principal Building: Width 114 Depth 104 No. Stories 2 Area 23712 Height Above Grade 43'-10"  
 B. Garage: Attached \_\_\_\_\_ Detached \_\_\_\_\_ Width \_\_\_\_\_ Depth \_\_\_\_\_ Area \_\_\_\_\_ Height Above Grade \_\_\_\_\_  
 C. Accessory Building: Attached \_\_\_\_\_ Detached \_\_\_\_\_ Width \_\_\_\_\_ Depth \_\_\_\_\_ Area \_\_\_\_\_ Height Above Grade \_\_\_\_\_

**7. Remarks**

The principal building in the remodeling area, however the entire exterior of these addresses above will receive a new aluminum composite panel system finish.

**8. Identification**

	Name	Address	City & State	Telephone
A. Owner	KERRY INGREDIENTS	352 EAST GRAND AVE	BELOIT WISCONSIN	1-608-363-1200
B. Contractor	KLODGE CONST. CO., INC.	3140 E. COUNTY RD 5	BELOIT WISCONSIN	1-608-365-8123
C. Architect	ANGUS YOUNG ASSOCIATES	51 S. JACKSON ST	JANESVILLE WI	1-608-756-2326

A. Statement of Applicant



# BUILDING PERMIT APPLICATION

## CITY OF BELOIT, WISCONSIN

### DIVISION OF CODE ENFORCEMENT

1354-0305  
PARCEL NUMBER

24465  
PERMIT NUMBER

1. LOCATION																	
A. ADDRESS <u>340 E. GRAND AVE.</u>	B. ZONING DISTRICT <u>B-6</u>																
C. LOT # _____ BLOCK # _____ SUBDIVISION _____																	
D. FLOODPLAIN <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO ELEVATION _____																	
E. FIRE LIMITS <input type="checkbox"/> YES <input type="checkbox"/> NO																	
<b>2. Nature of Work</b> A. <input type="checkbox"/> New Building B. <input type="checkbox"/> Addition C. <input type="checkbox"/> Alteration D. <input type="checkbox"/> Repair E. <input type="checkbox"/> Working F. <input type="checkbox"/> Reduction of Size G. <input type="checkbox"/> Moving H. <input checked="" type="checkbox"/> Foundation Only I. <input type="checkbox"/> Other _____	<b>3. Proposed Use</b> A. <input type="checkbox"/> Single Family B. <input type="checkbox"/> Two Family C. <input type="checkbox"/> Multi-Family, No. units _____ D. <input type="checkbox"/> Rooming House, No. units _____ E. <input type="checkbox"/> Hotel, Motel, No. units _____ F. <input checked="" type="checkbox"/> Factory, Office, Merc. G. <input type="checkbox"/> Assembly Hall H. <input type="checkbox"/> School I. <input type="checkbox"/> Medical Institution J. <input type="checkbox"/> Hazardous Occupancy K. <input type="checkbox"/> Other _____	<b>5. Selected Characteristics</b> A. Foundation <input type="checkbox"/> full <input type="checkbox"/> crawl <input type="checkbox"/> slab <input type="checkbox"/> concrete <input type="checkbox"/> masonry thickness _____ Depth: Below Grade _____ Above Grade _____ B. Depth of lot at main _____ C. Heating Fuel: <input type="checkbox"/> Nat. gas <input type="checkbox"/> LP. gas <input type="checkbox"/> Oil <input type="checkbox"/> Electric <input type="checkbox"/> Coal <input type="checkbox"/> Other _____ Size Oil Tank _____ Size LP. Tank _____ <input type="checkbox"/> Above ground <input type="checkbox"/> Underground <input type="checkbox"/> Inside D. Heating System: <input type="checkbox"/> Forced Air <input type="checkbox"/> Hot Water <input type="checkbox"/> Steam <input type="checkbox"/> Electric <input type="checkbox"/> Other _____ E. Fireplace <input type="checkbox"/> Yes <input type="checkbox"/> No Number _____ F. Insulation: <input type="checkbox"/> Fiberglass <input type="checkbox"/> Rockwool <input type="checkbox"/> Sheetrock <input type="checkbox"/> Expanded <input type="checkbox"/> Full <input type="checkbox"/> Other _____ G. Interior Wall Covering: <input type="checkbox"/> Drywall <input type="checkbox"/> Plaster <input type="checkbox"/> Wood <input type="checkbox"/> Other _____ H. Roof Covering: <input type="checkbox"/> Asphalt <input type="checkbox"/> Wood <input type="checkbox"/> Metal <input type="checkbox"/> Slate <input type="checkbox"/> Ceramic <input type="checkbox"/> Other _____ I. Exterior wall covering: <input type="checkbox"/> Wood <input type="checkbox"/> Metal <input type="checkbox"/> Masonry <input type="checkbox"/> Vinyl <input type="checkbox"/> Other _____ J. No. Bedrooms: Per unit _____ Total _____ K. No. Baths: Full _____ Partial _____ L. If not residential describe proposed or most recent use in detail, e.g., food processing, restaurant, tavern, etc.															
* <u>385,000</u> Cost of Improvement (Do not include cost of Mechanics or painting) A. Cost \$ _____ B. Electrical Contractor _____ C. Plumbing Contractor _____ D. Heating Contractor _____ E. Air Cond. Contractor _____ F. Others (elevator, etc.) _____																	
<b>4. Class of Construction</b> A. <input type="checkbox"/> Fire Resistive - A B. <input type="checkbox"/> Fire Resistive - B C. <input type="checkbox"/> Metal Frame - Protected D. <input type="checkbox"/> Heavy Timber E. <input checked="" type="checkbox"/> Exterior Masonry F. <input type="checkbox"/> Metal Frame - Unprotected G. <input type="checkbox"/> Wood Frame - Protected H. <input type="checkbox"/> Wood Frame - Unprotected																	
<b>6. Size of Building</b> <u>5,980 SQ FT.</u>																	
A. Principal Building: Width _____ Depth _____ No. Stories _____ Area _____ Height Above Grade _____ B. Garage: Attached _____ Detached _____ Width _____ Depth _____ Area _____ Height Above Grade _____ C. Accessory Building: Attached _____ Detached _____ Width _____ Depth _____ Area _____ Height Above Grade _____																	
<b>7. Remarks</b> <u>STRUCTURAL PILING REPAIRS</u> <u>INSTALL 14 INCH DIAMETER AUGERCAST PILING TO A DEPTH OF 50' BELOW RIVER BED GRADE. INSTALL 20 FT LENGTHS OF 16 INCH DIAMETER CASING FROM WATER ELEV. AND SPLICE ADDITIONAL CASING TO REACH CAP GRADES.</u>																	
<b>8. Identification</b>																	
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 30%;">Name</th> <th style="width: 30%;">Address</th> <th style="width: 20%;">City &amp; State</th> <th style="width: 20%;">Telephone</th> </tr> </thead> <tbody> <tr> <td>A. Owner <u>KERRY INGREDIENTS</u></td> <td><u>352 E. GRAND AV</u></td> <td><u>BELOIT, WI</u></td> <td></td> </tr> <tr> <td>#B. Contractor <u>LUNDA</u></td> <td><u>Box 669</u></td> <td><u>BLACK RIVER FALLS, WI</u></td> <td><u>(715) 254-9491</u></td> </tr> <tr> <td>C. Architect <u>GRAEF ANHALT SCHLOEMER &amp; ASSOCIATES/FRED GROTH</u></td> <td><u>2317 INTERNATIONAL LANE</u></td> <td><u>MADISON, WIS</u></td> <td></td> </tr> </tbody> </table>		Name	Address	City & State	Telephone	A. Owner <u>KERRY INGREDIENTS</u>	<u>352 E. GRAND AV</u>	<u>BELOIT, WI</u>		#B. Contractor <u>LUNDA</u>	<u>Box 669</u>	<u>BLACK RIVER FALLS, WI</u>	<u>(715) 254-9491</u>	C. Architect <u>GRAEF ANHALT SCHLOEMER &amp; ASSOCIATES/FRED GROTH</u>	<u>2317 INTERNATIONAL LANE</u>	<u>MADISON, WIS</u>	
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C. Architect <u>GRAEF ANHALT SCHLOEMER &amp; ASSOCIATES/FRED GROTH</u>	<u>2317 INTERNATIONAL LANE</u>	<u>MADISON, WIS</u>															

PLG  
CHG 21 745

**ELECTRICAL PERMIT  
CITY OF BELoit**

**E 26585**

CALL ELECTRICAL INSPECTOR AT 364-6650

PERMIT NO.  
1354-0305

Fee \$ 402.10 Date Issued 8-27-96 Owner Phone # \_\_\_\_\_

Location 349 F. GRASS Owner KERRY

Contractor C. WEATHER Owner's Address SAME

GIVE CORRECT STREET NUMBER. DO NOT GIVE LOCATION ON STREET CORNER.

AREA OF WORK ITEMIZE WORK APPLIED FOR FEES

Bas. <input type="checkbox"/> 1st Flr. <input type="checkbox"/> 2nd <input type="checkbox"/>	Services Temp. <input type="checkbox"/> Perm. <input checked="" type="checkbox"/> Mast. <input type="checkbox"/> U. F. <input type="checkbox"/>
Attic <input type="checkbox"/> Bed Rm. <input type="checkbox"/> Bath <input type="checkbox"/>	Number Meters <u>1</u> Outdoor <input checked="" type="checkbox"/> Inside <input type="checkbox"/>
Kitch. <input type="checkbox"/> Liv. Rm. <input type="checkbox"/> Din. Rm. <input type="checkbox"/>	Number Wires <u>4</u> Phase 1 <input type="checkbox"/> 3 <input checked="" type="checkbox"/>
Ready <input type="checkbox"/> Will Call <input type="checkbox"/>	Amperes <u>1200</u> Volts 120/240 <input checked="" type="checkbox"/> 240 <input type="checkbox"/> 480 <input type="checkbox"/> <u>29.00</u>
	Conduit: Rigid <input type="checkbox"/> Emt <input type="checkbox"/> Flex <input type="checkbox"/>
	Cable: N. M. C. <input type="checkbox"/> W/G <input type="checkbox"/> Armored <input type="checkbox"/>
	Building: Existing <input checked="" type="checkbox"/> New <input type="checkbox"/>
	Type: S. F. R. <input type="checkbox"/> Duplex <input type="checkbox"/> Multi <input type="checkbox"/>
	Comm. <input checked="" type="checkbox"/> Indust. <input type="checkbox"/>

INSPECTION RECORD  
ROUGHED OUT 1st FLOOR  
OKED - RB  
ROUGHED 2nd FLOOR  
OKED 8-28-96 RB

SERVICE OKED  
W. P. # 9989  
9-5-96 RB  
FINISHED WORK  
DONE 1-6-97 RB

Outlets, Fixtures, Spl.	Ltg.,	Etc.	NUMBER	FEES
Outlets			317	95.10
Fixtures			27	6.75
Fluorescent Lamps			657	164.25
Floods <input type="checkbox"/> Mercury <input type="checkbox"/> Other <input checked="" type="checkbox"/>			3	3.00
Ranges <input type="checkbox"/> Ovens <input type="checkbox"/> Surface <input type="checkbox"/>				
Fans: Hood <input type="checkbox"/> Vent <input checked="" type="checkbox"/>			5	5.00
Disposal <input type="checkbox"/> Dishwasher <input type="checkbox"/>				
Furnaces: Gas <input type="checkbox"/> Oil <input type="checkbox"/> Electric <input type="checkbox"/>				
Water Heaters <input type="checkbox"/> WATTAGE _____				
Dryers <input type="checkbox"/> WATTAGE _____				
Electric Heating <input type="checkbox"/> WATTAGE _____				
Heating Devices <input type="checkbox"/> WATTAGE _____				
Air Conditioners: Room <input type="checkbox"/> Central <input checked="" type="checkbox"/>			1	4.00
Ducts: Plug-in Strip <input type="checkbox"/> Mtr. Drops <input type="checkbox"/> Other <input type="checkbox"/>				
Motors: (If Quantity - List Reverse Side)				
Signs: Fluorescent <input type="checkbox"/> Neon <input type="checkbox"/> Incand. <input type="checkbox"/>				
Other <input type="checkbox"/> Outdoor <input type="checkbox"/> Inside <input type="checkbox"/>				
Other Apparatus, Repairs, Etc.				

This permit authorizes only the work appearing on this form. VAV units GF'S 17 60.00  
 Additional work will require additional permits. 35 95.00

The undersigned hereby agrees that all work shall be done in accordance with this permit, all ordinances of the City of Beloit and all laws and orders of the State of Wisconsin.

Applicants' Signature \_\_\_\_\_

# Application For a Plumbing Permit

1354-0290

CITY OF БЕЛОIT

Location 350 358 Grand Av. Date 5-16 1996

Contractor MCT Owner Kerry Ingredients

Master Plumber Robert Morgan Owner's Address \_\_\_\_\_

Water Service (copper) \_\_\_\_\_ inch from Curb to Premise

Building Sewer (C.I.) \_\_\_\_\_ inch from (main) (curb) to (curb) (premise)

State License No. MP# 7014

Lot \_\_\_\_\_ Block \_\_\_\_\_ Subdivision \_\_\_\_\_

Connection Used \_\_\_\_\_

The undersigned hereby agrees that all work shall be done in accordance with this permit, all ordinances of the City of Beloit and all laws and orders of the State of Wisconsin.

Robert Morgan  
Applicants' Signature

REMARKS	FIXTURES & CONNECTIONS or Openings					
	Bathtubs		Floor Drains	4	Bar Wastes	
	Lavatories	5	Urinals	3	Grease Traps	
	Water Closets	7	Water Heaters	1	Service Sinks	
	Sinks	2	Bldg. Drains		Shower Stalls	1
	Disposal Units		Sill Cocks		Softeners	
	Dish Washers		Sumps		EJC	4
	Auto Washer Conn.		Humidifier Conn.			
	Laundry Trays		Boiler Conn.			
<b>FEEs</b>						
	Bldg. Sewer Connections	..... @ \$		\$		
	Openings	..... @ \$		\$		
	Fixtures	..... 27 @ \$ 5 <sup>00</sup>		\$		
	Water Service Inspection Fee	..... @ \$		\$		
	Total (General Fund) \$			135 <sup>00</sup>		

*Handwritten notes:*  
 350  
 358  
 5/16/96

John Zimmerman  
Plumbing Inspector

H 007018

HEATING PERMIT  
CITY OF BELOIT, WISCONSIN

DATE June 17, 1996 PARCEL # 1356-0430

PROPERTY ADDRESS 332/334 Grand Avenue  
OWNERS NAME(S) Kerry Ingredients  
OWNERS ADDRESS Same as above

HEATING CONTRACTOR M.C.I. Inc.  
ELECTRICAL CONTRACTOR \_\_\_\_\_

HEATING EQUIPMENT INFORMATION

NEW UNIT # OF HEATING UNITS 2  
 REPLACEMENT SIZE OF HEATING UNIT(S) 500,000 (BTU'S)  
 CONVERSION \_\_\_\_\_ (BTU'S)  
\_\_\_\_\_ (CFMS)

BOILER \_\_\_\_\_ UNIT HEATER \_\_\_\_\_ WOOD STOVE  
 FURNACE \_\_\_\_\_ INFRARED \_\_\_\_\_ FIREPLACE  
 AIR HANDLING \_\_\_\_\_ DUCT REHEAT \_\_\_\_\_

OTHER (SPECIFY) \_\_\_\_\_

AIR CONDITIONING  
(WALL OR CENTRAL AIR)

# OF UNITS 1 SIZE OF UNIT(S) 90 (TONS)  
\_\_\_\_\_ (TONS)

REMARKS: \_\_\_\_\_  
\_\_\_\_\_

APPLICANT: Dave Heather

APPROVED BY: John Zimmerman DATE: 6-17-96

FEE PAID: 153.00 CASH  CHECK  CK. # 53479



201 E. Washington Avenue  
P.O. Box 7969  
Madison, Wisconsin 53707

State of Wisconsin  
Department of Industry, Labor and Human Relations

April 3, 1996

LEAH  
CC: STOV 4/13/96

ANGUS YOUNG ASSOCIATES  
JEFFREY HAZEKAMP  
51 SOUTH JACKSON STREET  
JANESVILLE WI 53545

✓ KERRY INGRIENTS  
352 E GRAND AVENUE  
BELOIT WI 53511

RE: OFFICE  
KERRY INGRIENTS  
332, 334, 352 E GRAND AVENUE  
BELOIT County of ROCK  
Plan Number 96-03-0062-B  
Area: 22,950 square feet  
Suprv. Professional, Building: JEFFREY HAZEKAMP  
Suprv. Professional, HVAC: JEFFREY HAZEKAMP

Your Building and HVAC alteration plans have been conditionally approved.

The above-referenced plans have been stamped **CONDITIONALLY APPROVED** based upon review for conformance to the current edition of the Wisconsin Administrative Building and Heating, Ventilating and Air Conditioning Code, chapters ILHR 50-64, 66 & 69. These plans have NOT been reviewed for conformance to the Plumbing Code (chs. ILHR 81-86), the Electrical Code (ch. ILHR 16) and any ILHR code not specifically mentioned.

Subject to local regulations, construction may proceed except for those conditions listed below. The necessary corrections must be made before construction begins. The owner, as defined in chapter 101.01 (2)(e), Wisconsin Statutes, is responsible for compliance with all code requirements. The owner shall notify the state building inspector and local officials before taking possession of the building. The building will be inspected during and after construction.

ILHR 50.15 EVIDENCE OF APPROVAL. The architect, professional engineer, designer, builder or owner shall keep one set of plans bearing the appropriate stamp of approval at the building site.

EXHIBIT F-1



State of Wisconsin  
Department of Industry, Labor and Human Relations

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ANGUS YOUNG ASSOCIATES  
April 3, 1996  
Page 2

All future plan submittals required to complete this project must be submitted in quadruplicate, and be accompanied by the Plans Approval Application form (SB-118) and fees. When the building volume exceeds 50,000 cubic feet, all application forms shall include the name of the building or component designer AND BE SIGNED BY THE SUPERVISING PROFESSIONAL OF THE PROJECT.

This approval does not include approval for vertical transportation. Contact the Elevator Section at (608) 267-3576 for submittal requirements.

This building is classified as No. 5B, exterior masonry, unprotected const.

Sincerely,

Michael L. Valdovinos  
Staff Engineer  
(608) 267-2498

MLV:vs:0002

cc: State Building Inspector: R-1 Thompson (608) 884-4168 Mondays  
Building Inspector, BELoit

EXHIBIT F-2



**State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES**

Tommy G. Thompson, Governor  
George E. Meyer, Secretary  
Ruth E. Badger, District Director

Southern District Headquarters  
3911 Fish Hatchery Road  
Fitchburg, Wisconsin 53711  
TELEPHONE 608-275-3266  
FAX 608-275-3338  
TDD 608-275-3231

October 18, 1996

Jack Warner, CEO  
Kerry Ingredients  
352 East Grand Avenue  
Beloit WI 53511

Subject: Renovation of buildings at 332 and 334 East Grand Avenue (Kresge Building)

Dear Mr. Warner:

It was a pleasure meeting with you on September 12th. During our meeting I expressed some concern about Kerry Ingredients authority to place and maintain these buildings. Since our meeting I have been in contact with both your engineer and attorney in an effort to understand the scope of this project. In addition, I've researched past actions by the department's predecessors and the federal government and discussed your situation with other department staff and administration. Unfortunately, I have not been able to resolve all the issues which were raised. It is critical that all these issues be addressed before any foundation work is conducted. I understand that you would like to use the building as soon as possible and to that extent, the department will work through these issues as rapidly as possible.

Department staff are concerned that the recent improvements Kerry Ingredients has made to the former Kresge building may be in violation of Beloit's Floodplain Zoning Ordinance, which was adopted in 1973. Since the Kresge Building predated the adoption of the ordinance, it is a legal nonconforming structure. Section 12-5.21(c) of the city's floodplain zoning ordinance limits structural repairs, modifications and additions to nonconforming structures, to 50% of the present equalized assessed value of the structure. It is our understanding that Kerry Ingredients purchased the structure in 1995 for \$600,000 and is well into the process of spending \$2.5 million dollars renovating the structure. We also understand that preliminary estimates call for an additional \$400,000 - \$600,000 in repairs to the foundation. This would be a violation of the city's floodplain zoning ordinance, which is premised on the state floodplain zoning standards in ch. NR 116, Wis. Adm. Code. Since, the City of Beloit is a participant in the National Flood Insurance Program, whatever action the city takes to address the floodplain ordinance must also be consistent with the federal government's regulations. We have made contact with the City officials and have enclosed our letter to the city for your use.

A review of our records indicate that there is no Federal authorization for this project. Since this is a body of water regulated as navigable by the federal government under Section 10 of the Rivers and Harbors Act, it appears to us that federal authorization is required for maintenance of this building. Please provide us with a copy of your authorization under the Rivers and Harbors Act to maintain this building.

Finally, we have not been able to find any State authorization for these buildings. Since the Rock River is

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*Quality Natural Resources Management  
Through Excellent Customer Service*

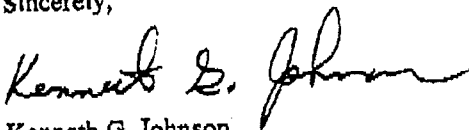


a navigable water body of the State, it will be necessary to also resolve this issue. As I discussed with your attorney, it would appear there are three alternatives to address this: 1) You could seek a state permit under chapter 30 of the statutes. The department would be forced to oppose that permit as inconsistent with the public interest in the waterway and the State's public trust doctrine which is derived from the state's constitution. 2) You could seek special authorization from the state legislature. This would be problematic because the legislature cannot authorize private non-navigational use of beds of public waterways. 3) You could enter into a stipulated agreement relative to the use of and future maintenance of the buildings. Your attorney has crafted a draft document consistent with the third alternative.

While we are very interested in working with you to quickly resolve these issues, we cannot move forward on the stipulation until the floodplain and federal issues are addressed. We will work with the city to resolve the floodplain issue as quickly as possible but only the city can resolve issues relative to its ordinance.

We look forward to resolving these issues in the near future. If you have question regarding this letter please feel free to call me.

Sincerely,



Kenneth G. Johnson

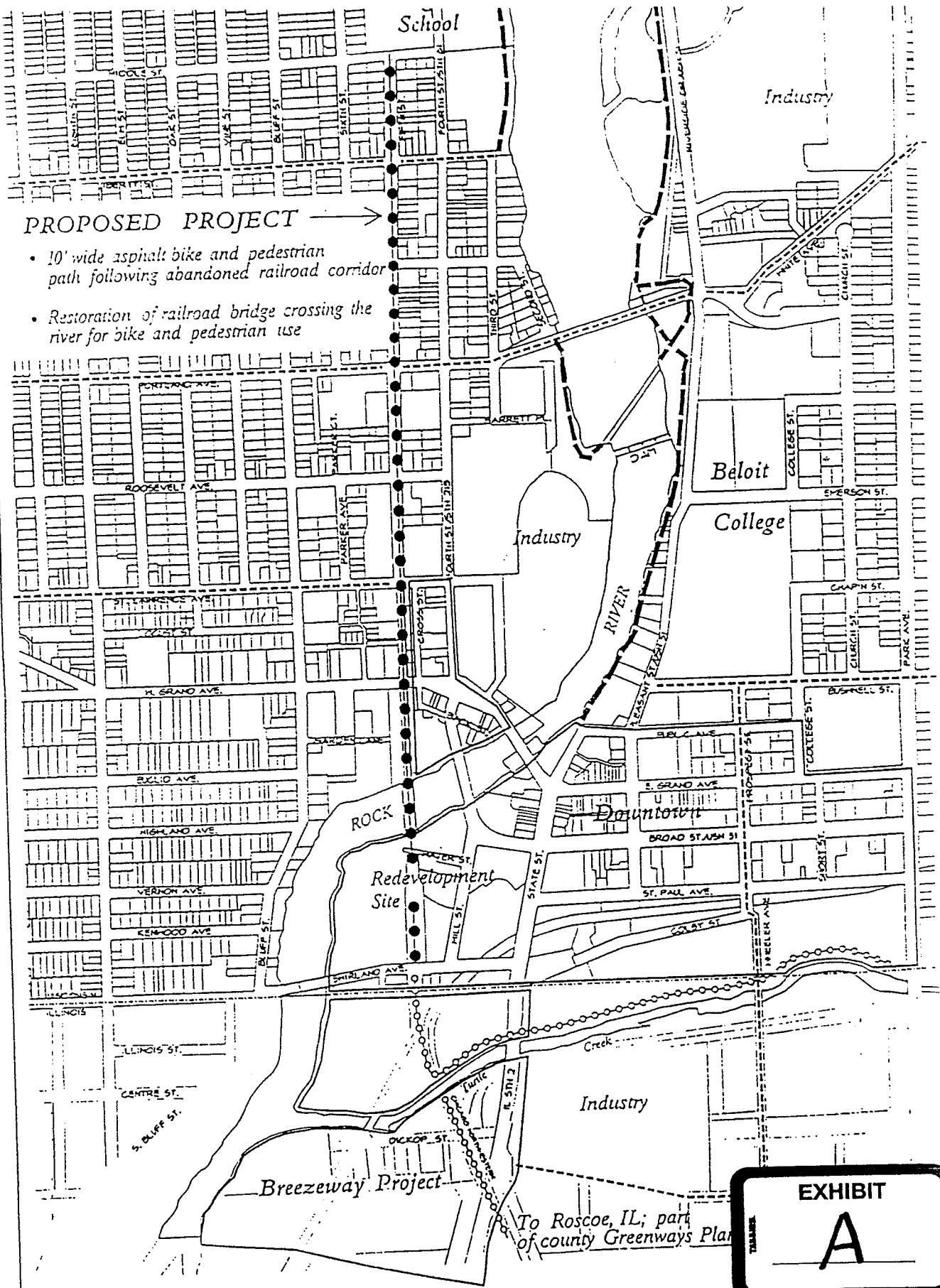
Basin Leader

DIRECT LINE: (608) 275-3243

E-MAIL: JOHNSK@DNR.STATE.WI.US

CC: George Meyer - Ad/5  
Ruthe Badger - SD  
Margie Devercaux - SD  
Mike Cain - LC/5  
Tom Steidl - LC/5  
Larry Larson - WT/6  
Ben Wopat - C.O.E.  
Daniel Kelley - City of Beloit  
William Cunningham





**PROJECT PLAN**  
**RIVERWALK PATH, PHASE III**  
 City of Beloit, Wisconsin  
 EXHIBIT H-1

To Roscoe, IL; part of county Greenways Plan

Match Line

High School Apartments

St. Paul Church

Retail

RIVER

Rail Road Bridge

ROCK

EXHIBIT H-2

BROWN Post Office

Broad St.

WATER

Water St.

LOT 1 Parking Lot

REDEVELOPMENT SITE

WASTE WATER TREATMENT FACILITY

Water Tower

CITY City Hall

(O.P. 61) (VACATED 5-5-75)

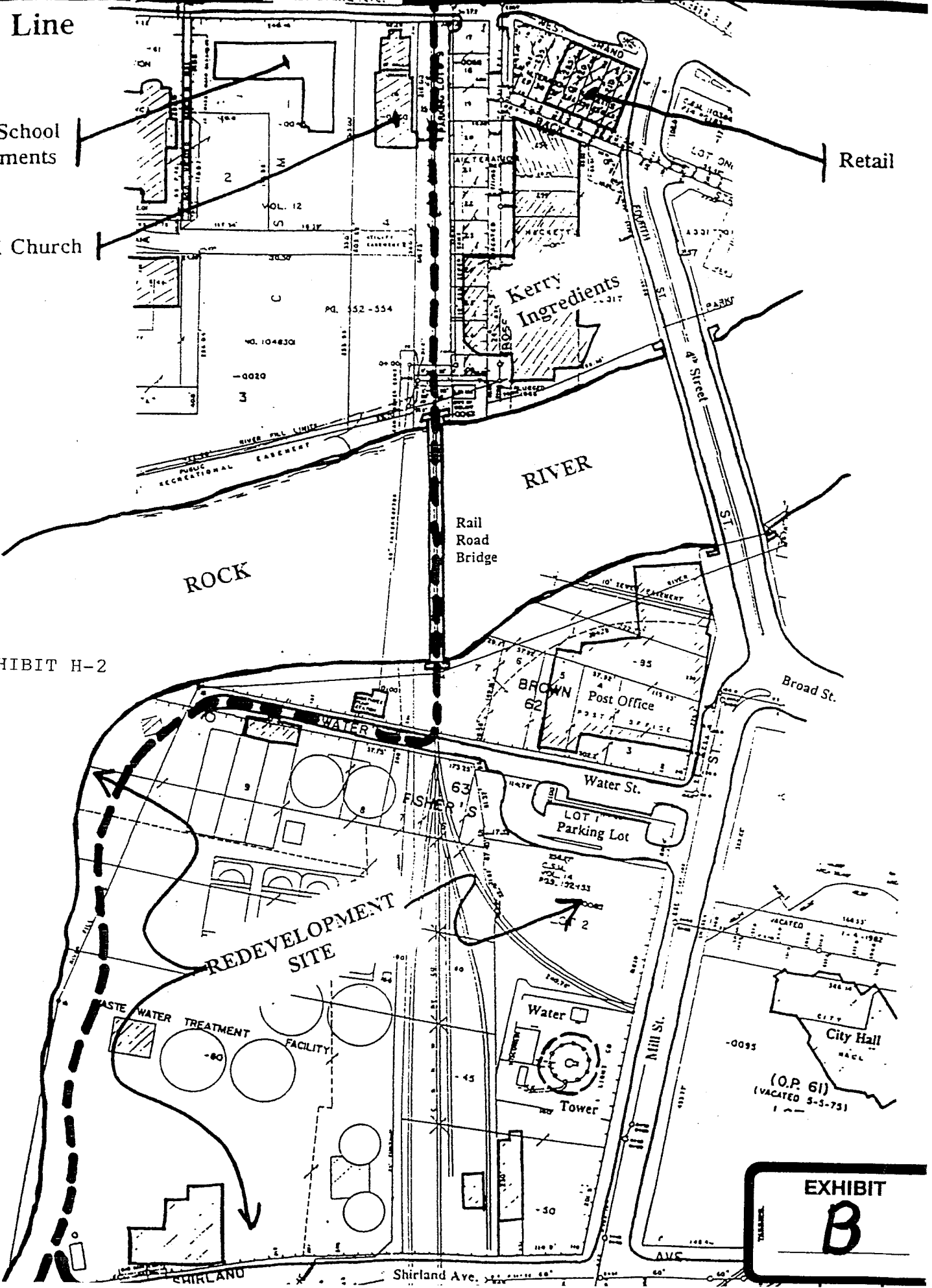
EXHIBIT

B

Shirland Ave.

SHIRLAND

TELEPHONE



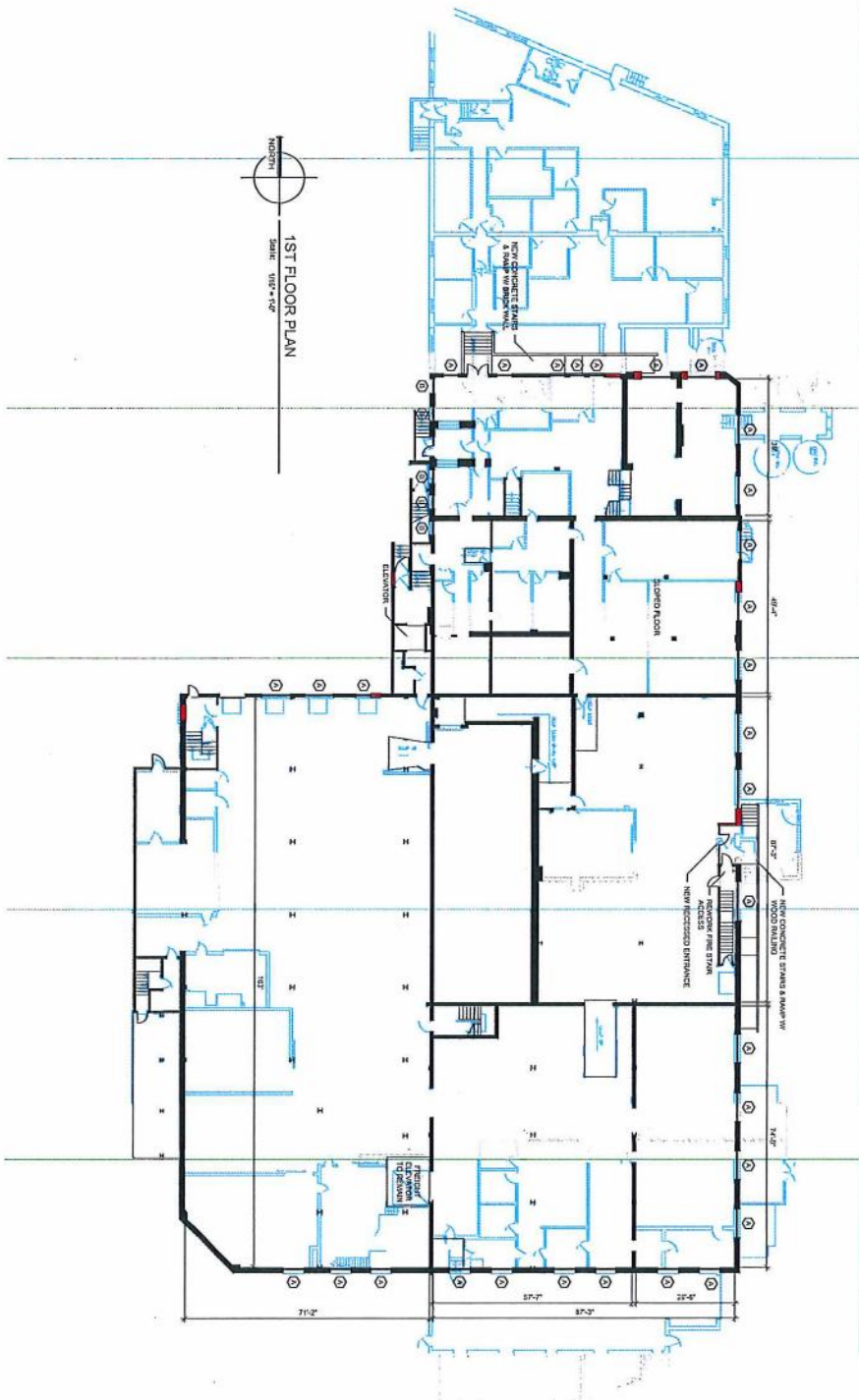
# EXHIBIT C

to  
Development Agreement

between  
City of Beloit  
&  
East Grand Avenue Development, LLC

# EXHIBIT

## FIRST FLOOR



**EXHIBIT**  
C  
 6 PAGES

- KEY**
- NEW EXISTING WALLS
  - CONCRETE WALLS EXISTING TO REMAIN (VERIFY LOCATION)
  - REMOVING WALLS
  - HITL, EXISTING OPENING TO MATCH
  - NEW WINDOW IN NEW OPENING VERIFIED BY ENGINEER
  - NEW WINDOW IN EXISTING OPENING

THIS DOCUMENT IS THE PROPERTY OF HENDRICKS COMMERCIAL PROPERTIES. LOCAL AGENCIES & CONTRACTORS MUST OBTAIN WRITTEN PERMISSION FROM HENDRICKS COMMERCIAL PROPERTIES.

NO.	REVISION	DATE

**200 WEST GRAND AVENUE**  
 BELOIT, WISCONSIN

**HENDRICKS**  
 COMMERCIAL PROPERTIES

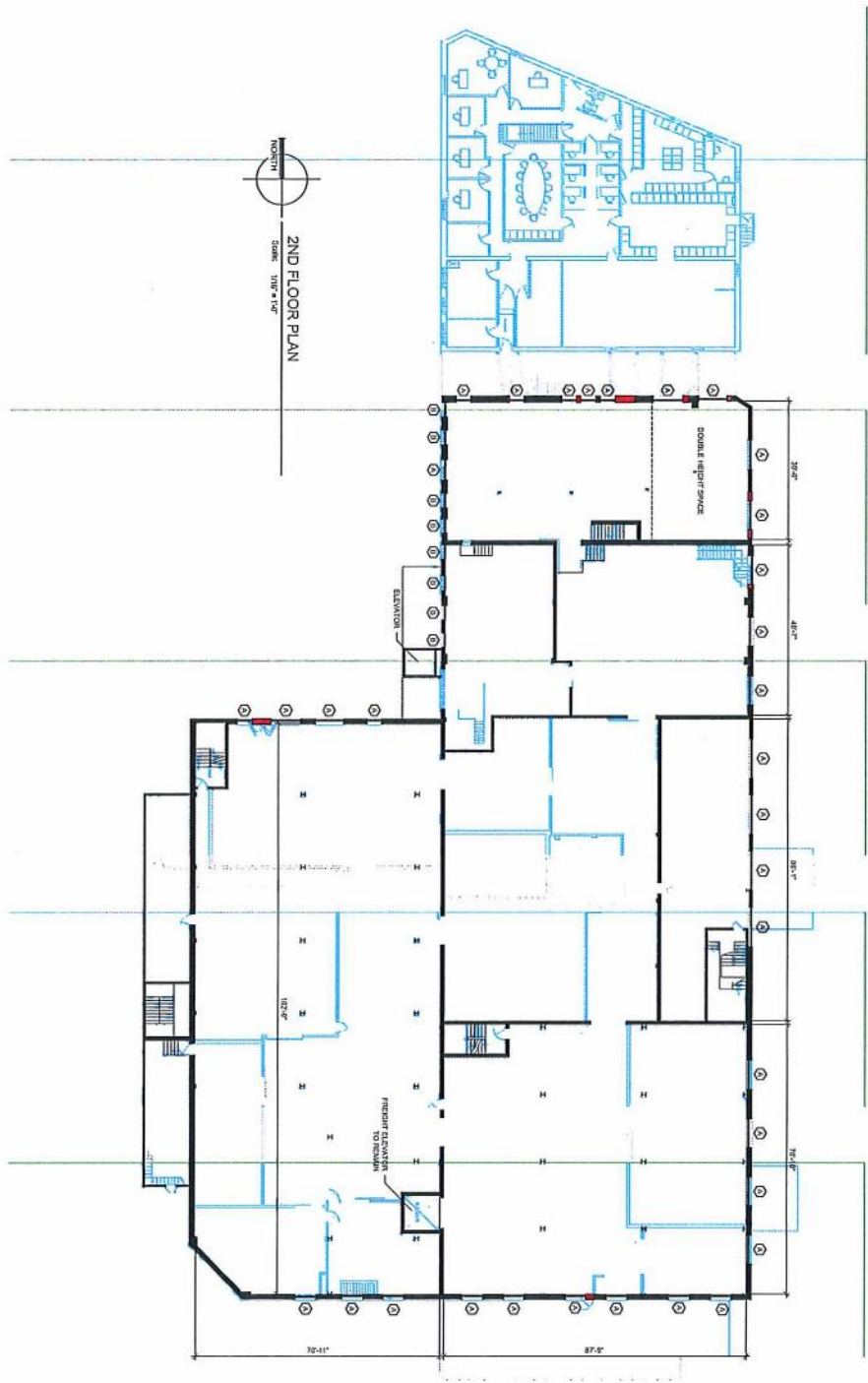
CGI

COMMERCIAL GROUP, INC.

202-1  
 FIRST FLOOR

# EXHIBIT

## SECOND FLOOR



- KEY**
- KEEP EXISTING WALLS
  - REMOVE WALLS (DOTTED LINE)
  - RELOCATE WALLS (DOTTED LINE)
  - NEW WALLS (SOLID LINE)
  - NEW WINDOW IN NEW OPENING
  - NEW WINDOW IN EXISTING OPENING
  - NEW WINDOW IN EXISTING OPENING
  - NEW WINDOW IN EXISTING OPENING

DATE	11/4/2014
PROJECT	200 WEST GRAND AVENUE
DESCRIPTION	RENOVATION
NO.	202-2
REV.	
DATE	
DESCRIPTION	

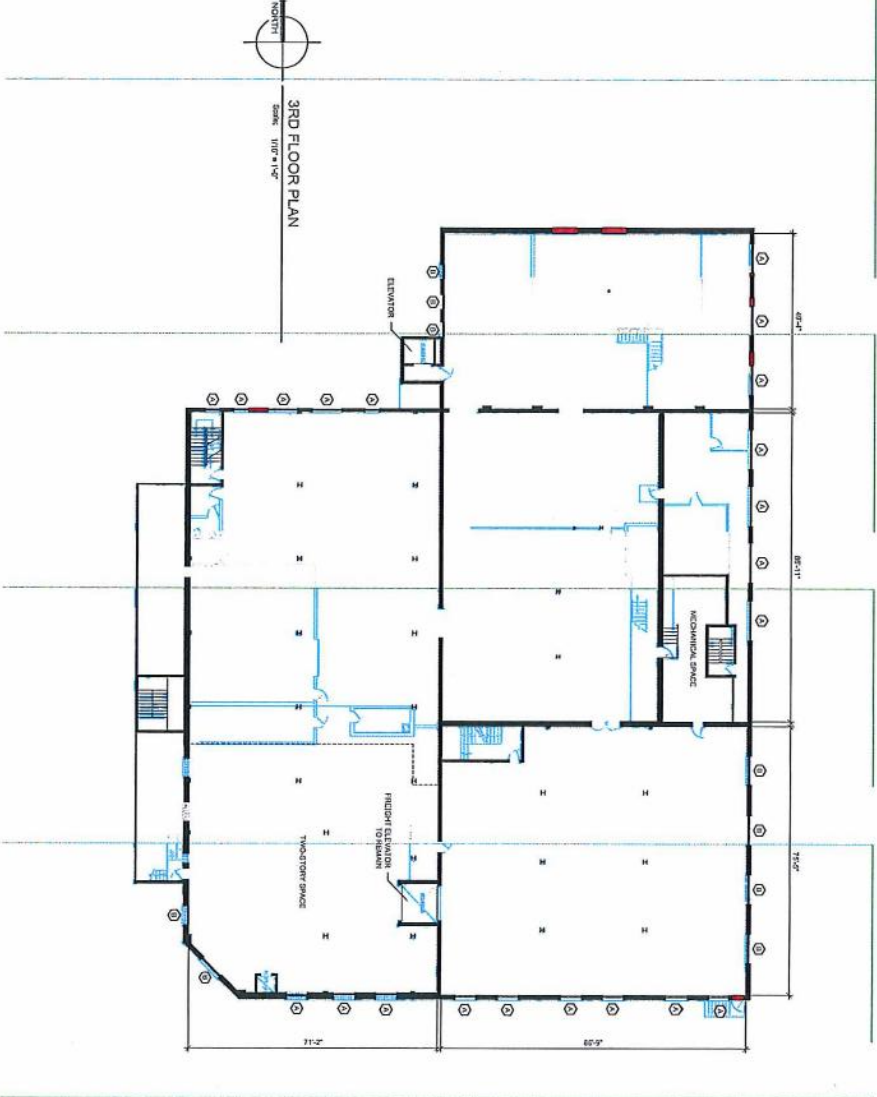
**200 WEST GRAND AVENUE**  
BELOIT, WISCONSIN



THIS DRAWING IS AN UNREVISED PRELIMINARY DESIGN ONLY. LOCAL APPLICABLE & GOVERNING BUILDING CODES SHALL BE USED IN CONSTRUCTION.

# EXHIBIT

## THIRD FLOOR

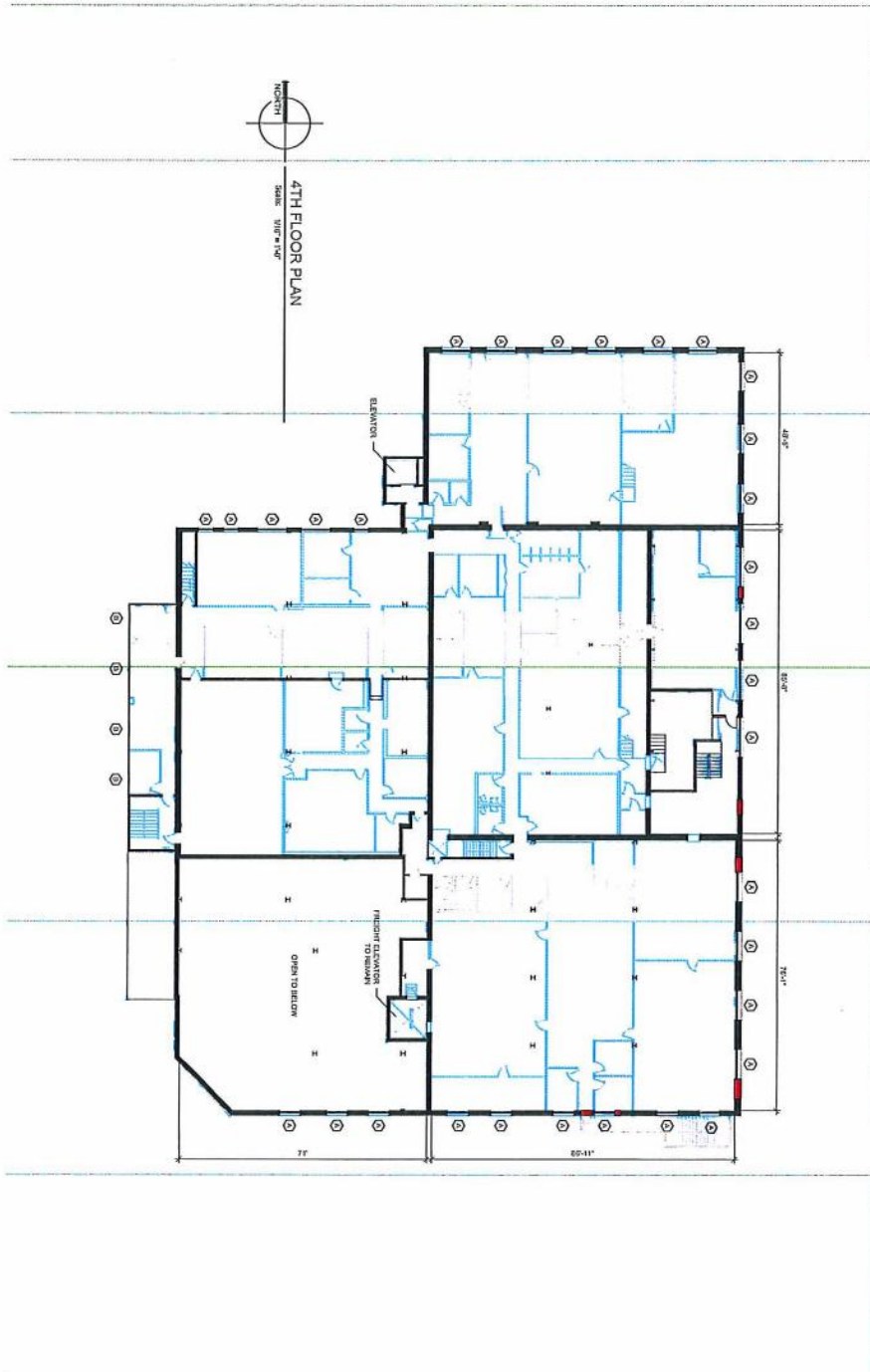


HENDRICKS ARCHITECTURAL ARCHITECTS  
 1300 CALVERT STREET, SUITE 400  
 WAUWATONIA, WI 53095  
 TEL: 414-257-7000 FAX: 414-257-7001  
 WWW.HENDRICKSARCHITECTS.COM

- KEY**
- KEEP EXISTING WALLS
  - DEMOLISH WALLS EXISTING TO REMAIN (REFER TO COMMENTS)
  - INITIAL EXISTING OPENING TO MATCH
  - NEW WINDOW IN NEW OPENING VERIFIED BY FRAMELESS
  - NEW WINDOW IN EXISTING OPENING

# EXHIBIT

## FOURTH FLOOR



NOTES:  
1. ALL DIMENSIONS ARE APPROXIMATE. FOR EXACT DIMENSIONS, SEE THE  
2. LOCAL AUTHORITY'S & CONTRACTOR'S RECORDING COPIES SHALL PREVAIL.  
3. HENRICKS ARCHITECTS

**KEY**

- KEEP EXISTING WALLS
- REMOVE WALLS EXISTING TO REMAIN (SEE FLOORING MATCH)
- NEW WINDOW IN NEW OPENING VERIFIED BY ENGINEER
- NEW WINDOW IN EXISTING OPENING

- ⊙
- ⊙

**200 WEST GRAND AVENUE**  
BELOIT, WISCONSIN

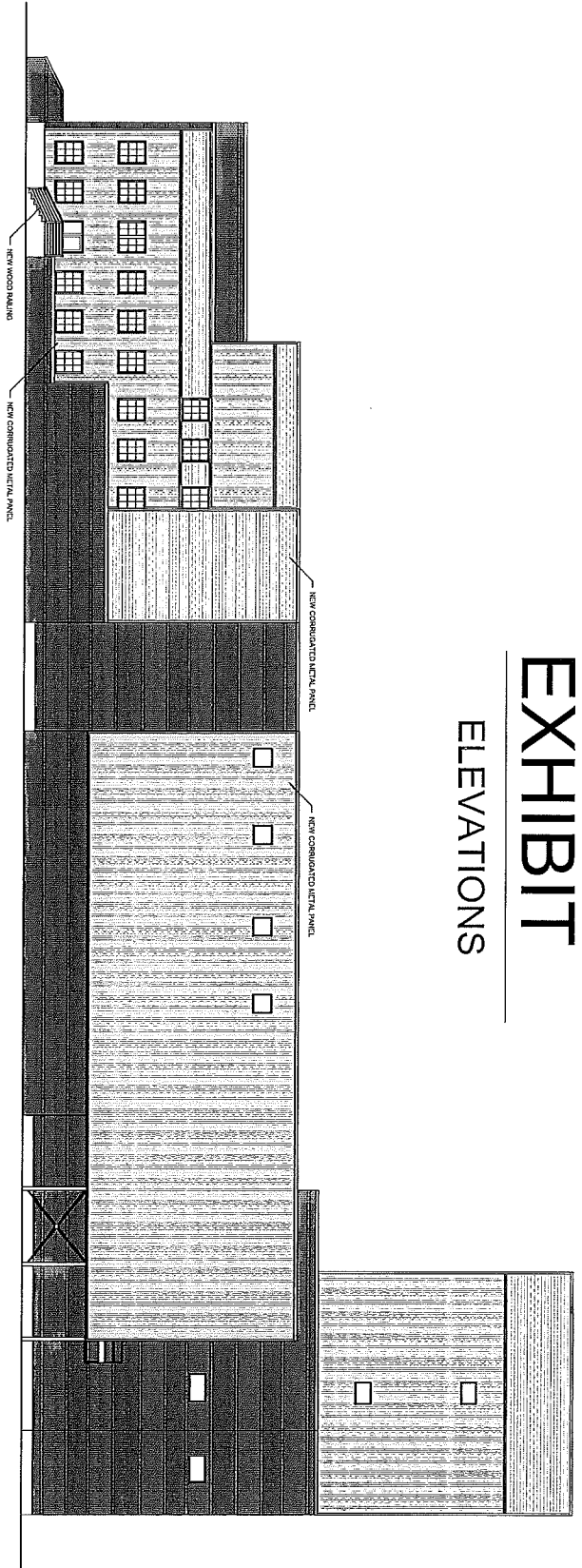


NO.	REVISION	DATE
1	ISSUE FOR PERMIT	11/7/2014
2	FOR CONSTRUCTION	11/7/2014
3	FOR CONSTRUCTION	11/7/2014
4	FOR CONSTRUCTION	11/7/2014
5	FOR CONSTRUCTION	11/7/2014
6	FOR CONSTRUCTION	11/7/2014
7	FOR CONSTRUCTION	11/7/2014
8	FOR CONSTRUCTION	11/7/2014
9	FOR CONSTRUCTION	11/7/2014
10	FOR CONSTRUCTION	11/7/2014

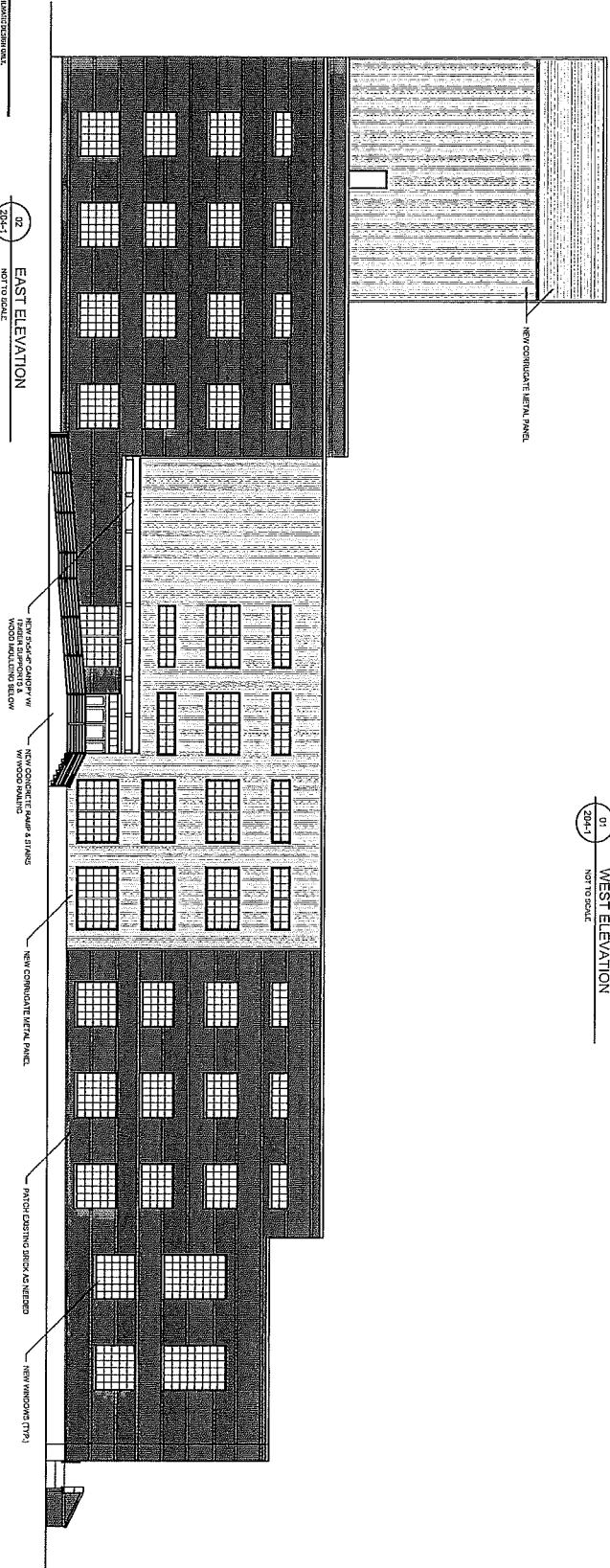
FOURTH FLOOR  
202-4

# EXHIBIT

## ELEVATIONS



01  
204-1  
WEST ELEVATION  
NOT TO SCALE



02  
204-1  
EAST ELEVATION  
NOT TO SCALE

NOTES:  
1. ALL FINISHES AND MATERIALS TO BE APPROVED BY THE ARCHITECT.  
2. ALL FINISHES AND MATERIALS TO BE APPROVED BY THE ARCHITECT.  
3. ALL FINISHES AND MATERIALS TO BE APPROVED BY THE ARCHITECT.

200 WEST GRAND AVENUE  
BELOIT, WISCONSIN



REVISIONS  
DATE  
BY  
11/4/2014  
204-1





# EXHIBIT D

to  
Development Agreement

between  
City of Beloit  
&  
East Grand Avenue Development, LLC



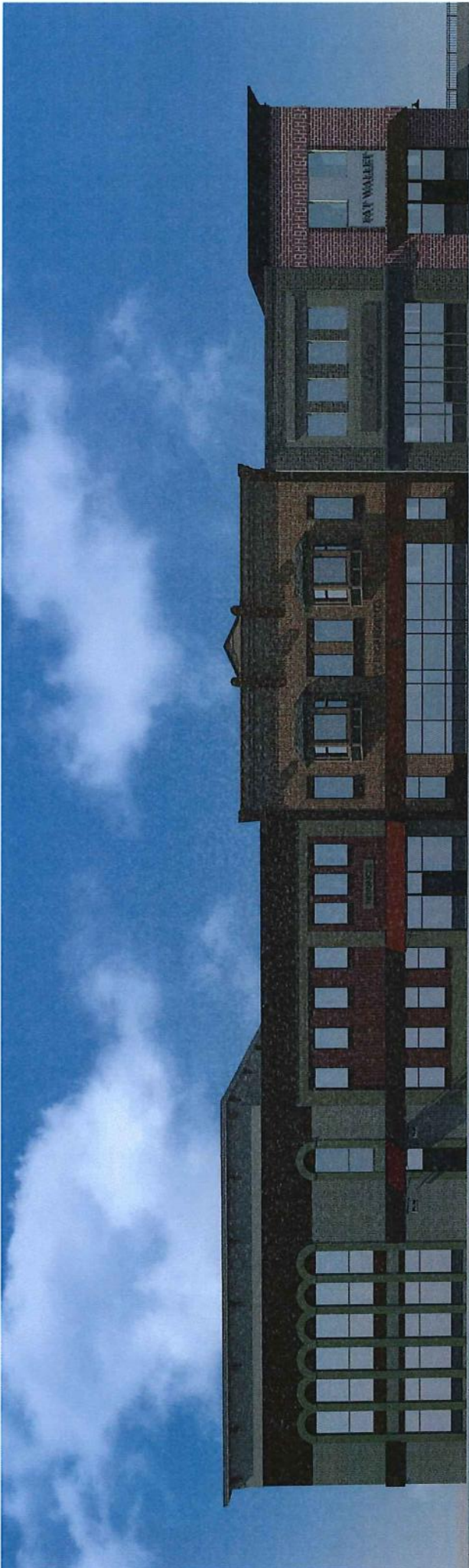
tabbles

EXHIBIT

D

5 PAGES









# EXHIBIT E

to  
Development Agreement

between  
City of Beloit  
&  
East Grand Avenue Development, LLC



## LEASE

THIS LEASE (hereinafter the "Lease") is made as of the 24th day of March, 2011, between the City of Beloit (hereinafter "City" or "Landlord"), and Storm Concepts, Inc., d/b/a FatWallet, a Wisconsin corporation (hereinafter "Tenant"), jointly and severally.

**Demise.** In consideration of the undertakings of the Parties contained herein, Landlord leases to Tenant, and Tenant leases from Landlord, the premises described in Sections 1.3 and 2 (the "Premises"), on the following terms and conditions:

1. **Basic Lease Provisions:** This section contains or refers to certain basic provisions of this Lease (the "Basic Lease Provisions"). Other sections of this Lease explain, define and are to be read in conjunction with the Basic Lease Provisions.

- 1.1 **Landlord:** City of Beloit  
100 State Street  
Beloit, Wisconsin 53511  
Attn: Andrew Janke  
Phone: (608) 364-6610  
Fax: (608) 364-6756
- 1.2 **Tenant:** <sup>TJK</sup> Storm Concepts, Inc. d/b/a FatWallet  
<sup>CWT</sup> 100~~80~~ East Grand Avenue  
Beloit, WI 53511  
Attn: Tim Storm  
Email: tim.storm@fatwallet.com
- 1.3 **Premises:**
- (a) Address: 80 & 100 East Grand Avenue, Beloit, Wisconsin
- (b) **Physical Description & Use:** <sup>TJK</sup> The Premises consist of a two-story office building at ~~80~~<sup>100</sup> East Grand Avenue, and the Parties agree that there is 23,066 square feet of useable space within that location. The Premises also consists of a 260-square foot <sup>8067A</sup> information technology room located in the adjacent building at ~~100~~<sup>100</sup> East Grand Avenue. The Tenant intends to use the Premises for an office building and at all times keep the Premises and all operations conducted therein in compliance with all applicable laws and regulations.
- 1.4 **Term, Possession, and Rent Commencement Date:** The Term of this Lease shall be for one year, commencing on the 11th day of April, 2011, and rent shall commence at said time. Upon full execution of this Lease, Tenant shall be allowed possession of the Premises for the purposes of preparing the Premises for engaging in business operations as of April 11, 2011.

1.5 Rent:

- (a) Tenant shall pay rent at the annual rate of Four and 50/100 Dollars (\$4.50) per square foot for 23,326 square feet of the Premises above described. Rent shall be payable in twelve (12) equal installments of Eight Thousand Seven Hundred Forty-Seven and 25/100 Dollars (\$8,747.25) each.
- (b) Net Rent. The net rent payable each month shall be Seven Thousand Seven Hundred Sixteen and 11/100 Dollars (\$7,716.11), which represents the monthly rental amount of Eight Thousand Seven Hundred Forty-Seven and 25/100 Dollars (\$8,747.25) less a credit for the base utility fee of One Thousand Thirty-One and 14/100 Dollars (\$1,031.14) as set forth in Section 4 herein.
- (c) Option To Extend: Tenant shall have the option to extend the Lease for one additional 12-month period on the same terms and conditions set out herein. Tenant shall deliver written notice to Landlord of intent to exercise this option not later than two months prior to the end of the initial term.

1.6 Casualty Insurance (See Section 11.1):

- (a) Amount: \$3,000,000
- (b) Insuring Party: Landlord (as referenced in Section 11.1)

1.7 Liability Insurance (See Section 11.2):

- (a) Amount:
  - (i) Bodily Injury: \$2,000,000
  - (ii) Property Damage: \$500,000
- (b) Insuring Party: Tenant

1.8 Real Estate Taxes: In addition to the rental amounts set out in Section 1.5 above, the Tenant shall pay a monthly amount equal to Three Hundred Three and 42/100 Dollars (\$303.42) for anticipated real estate taxes; provided,

however, that there shall be no payment for anticipated real estate taxes for the first nine (9) months of this Lease, and the first monthly payment to include anticipated real estate taxes shall be due January 11, 2012. Such monthly payment shall continue on the 11<sup>th</sup> day of each month thereafter, including any renewal period under Section 1.5(c).

2. **Premises:** During the Term of this Lease, the Premises shall consist of the Tenant's exclusive use of the interior space in Landlord's building as described in Section 1.3(b) herein.

3. **Rent:**

3.1 **Manner of Payment:** During the Term of this Lease, Tenant shall pay rent to Landlord at the address set forth in Section 1.1, or at such other address as Landlord may designate in writing at any time or from time to time, in monthly installments as set forth in Section 1.5 (the "Rent"). Such monthly installments due shall be payable in advance on or before the Rent Commencement Date as set forth in Section 1.4 and on or before the first business day of each calendar month thereafter. Rent for partial months at the inception or the termination of the Lease shall be prorated.

4. **Utilities:** The Parties acknowledge single metering points for the gas, sewer and water at 80 East Grand Avenue and 100 East Grand Avenue, and each building has an electric meter. Both 80 East Grand Avenue and 100 East Grand Avenue have been vacant for the past twenty-two (22) months, and the Parties agree that the Landlord will pay a "base" utility fee of One Thousand Thirty-One and 14/100 Dollars (\$1,031.14) per month beginning upon the rent commencement date. Said base amount reflects forty-four percent (44%) of the average vacant utility charges for gas, electric, sewer and water for both 80 East Grand Avenue and 100 East Grand Avenue. Tenant shall be responsible for all utility payments and shall be entitled to deduct the City's base payment obligation from its monthly rental payment to the City. The City shall not lease nor occupy the balance of the 100 East Grand Avenue premises without the written consent of the Tenant, which consent shall not be unreasonably withheld. Tenant shall maintain the 100 East Grand Avenue premises at 60 degrees or more.

5. **Reserved:**

6. **Possession of Premises:**

6.1 **Delivery of Possession; Condition:** Landlord shall deliver possession of the Premises to Tenant on the date set out in Section 1.4. Time shall be of the essence with respect to the delivery of possession to Tenant. Tenant agrees that ample opportunity has been provided for inspection of the Premises.

7. **Tenant Improvements:** Except as to structural improvements, for which Landlord's written consent (not to be unreasonably withheld or delayed) is required, Tenant, at its sole cost and expense, shall have the right but shall not be obligated prior to and during the Term of this Lease to improve, alter and renovate the Premises in any manner which Tenant deems necessary or desirable

to make the same fit and suitable for the conduct of its business operations, including without limitation painting, decorating, redecorating and installing partitions, floor coverings, wall coverings, drop ceilings, light fixtures. Unless otherwise agreed in writing by the Parties and subject to Section 8 below, any improvements, alterations and renovations to the Premises by Tenant pursuant to this section shall remain on the Premises upon the expiration or earlier termination of this Lease.

**8. Trade Fixtures; Personal Property:** Tenant, at its sole cost and expense, shall have the right, without Landlord's consent, but shall not be obligated during the Term of this Lease to install, use, replace, substitute and remove its trade fixtures and personal property such as, without limitation, telephone, teletype and other equipment, machinery. Upon the expiration of the Term of this Lease or the earlier termination of this Lease, Tenant shall have the right to remove its trade fixtures and personal property from the Premises, provided that Tenant shall repair all damage to the Premises resulting from such removal.

**9. Maintenance and Repairs by Landlord:**

9.1 General Requirements: Landlord, at its sole cost and expense, shall perform during the Term of this Lease all necessary maintenance and repairs with respect to all of the following portions of the Premises in accordance with the standards set forth in Section 15.1(a).

- (a) The structure and the exterior of Landlord's building in which the interior portions of the Premises shall be located, including, without limitation, the roof and roof membranes, exterior walls, floors, foundations, supports, skylights and roof vents, drains, and downspouts;
- (b) Repairs (other than repairs caused by Tenant's or their invitees' abuse or negligence) and replacement of the mechanical and utility systems situated on or serving the Premises, including, without limitation heating, ventilating, air conditioning, lighting, electrical, plumbing, gas, water supply, sanitary sewers and septic systems, storm sewers and storm water drainage systems, sprinkler systems, and communications lines (sometimes collectively referred to herein as the "Mechanical and Utility Systems"); and

9.2 Timely Performance: In the event of an emergency (defined as any condition other than damage or destruction described in Section 12 which impairs Tenant's ability to use and occupy the Premises for the conduct of its business operations) and Landlord's failure to perform promptly any of Landlord's maintenance and repair obligations as described in Section 9.1, or in the event of no emergency and Landlord's failure to perform such maintenance and repair obligations within fifteen (15) days after Tenant's delivery to Landlord of notice of the need for any such maintenance or repairs, Tenant shall have the rights and remedies to which Tenant may be entitled under Section 14, which section shall be applied in the event of emergency without

the further notice and cure provisions set forth therein.

**10. Maintenance and Repairs by Tenant:** Tenant, at its sole cost and expense, during the Term of this Lease shall keep the interior of the Premises in a clean and orderly condition and, shall perform: (i) any maintenance and repairs to the Premises occasioned by the negligence or misconduct of Tenant or its invitees and licensees, and (ii) maintenance (but not replacement) of all required maintenance to interior windows, pedestrian doors. In the event Tenant exercises its option to extend as set forth in Section 1.5(c), then during the renewal term Tenant shall also be responsible for all routine maintenance to the Mechanical and Utility Systems, including without limitation, any necessary changing of fan belts, light bulbs, washers, gaskets and the cleaning of and necessary adjustments to the furnace system (iii) all other maintenance and repairs not the express responsibility of Landlord hereunder, which Tenant reasonably deems necessary. If Tenant fails to perform its maintenance and repair obligations within fifteen (15) days after Landlord's delivery to Tenant of notice of the need for any such maintenance and repairs, then Landlord shall have the right, upon delivery of three (3) business days' written notice to Tenant, to perform all or part of such maintenance and repairs, at the sole cost and expense of Tenant, and Tenant shall reimburse Landlord for such costs and expenses within thirty (30) days after Landlord's delivery to Tenant of an invoice therefore. The foregoing notwithstanding, Tenant shall not be obligated to perform any maintenance or repairs to the extent covered by any warranty of Landlord or Landlord's contractors.

**11. Insurance:**

- 11.1 Casualty Insurance: At all times during the Term of this Lease, the Landlord, at its sole cost and expense, shall carry at least \$3 million (\$3,000,000) of fire and extended insurance coverage upon the Premises. The Parties understand that the City's insurance carrier treats the entirety of the facility located at 80 East Grand Avenue and 100 East Grand Avenue as a single insured risk and that the coverage applies to the entire facility. Tenant shall be entirely responsible for any contents insurance it desires and for any casualty insurance above and beyond the amount carried by the Landlord.
- 11.2 Public Liability Insurance: At all times during the Term of this Lease, the Tenant shall maintain in full force and effect a public liability insurance policy for the Premises in amounts not less than those set forth in Section 1.7. Such insurance policy shall name the Landlord as an additional insured.
- 11.3 Certificates: Any insuring party shall, upon request, provide an insured party with adequate evidence of the continued existence of applicable insurance coverage by certificate(s) of insurance. Each such certificate shall contain an unqualified agreement by the insurer that such insurance coverage shall not be modified or canceled without delivery of at least thirty (30) days' written notice to the insured party. An initial certificate of insurance shall be provided by the Tenant to the City at or before the execution hereof.
- 11.4 Mutual Waiver of Subrogation: Nothing in this Lease shall be construed so

as to authorize or permit any insurer of Landlord or Tenant to be subrogated to any right of Landlord or Tenant against the other party arising under this Lease. Landlord and Tenant each hereby release the other to the extent of any perils to be insured against under Section 11.1 of this Lease only, whether or not such insurance has actually been secured, and to the extent of insurance coverage for any loss or damage caused by any such casualty, even if such incidents shall be brought about by the fault or negligence of either party. All insurance policies to be provided under Section 11.1 by either Landlord or Tenant shall contain a provision that they are not invalidated by the foregoing waiver.

**12. Damage or Destruction:**

12.1 Repair and Restoration: In the event that the Premises shall be damaged or destroyed by fire, explosion or other casualty, or by any risk required to be insured against pursuant to Section 11.1 or at law, Tenant promptly shall deliver to Landlord notice thereof. Unless terminated pursuant to Section 12.2, this Lease shall remain in full force and effect, and Landlord, at its sole cost and expense, but with the right to use insurance proceeds to the extent of Landlord's interest therein, shall exercise good faith and diligent efforts promptly to repair the damage or destruction and restore the Premises to substantially that condition existing immediately prior to such damage or destruction. If Tenant remains in occupancy of the Premises, Landlord shall exercise such repair and restoration efforts in a manner so as not to interfere unreasonably with the use and occupancy of the Premises by Tenant for the conduct of its business operations. Until the completion of Landlord's repair and restoration pursuant to this section, Tenant's obligation to pay Rent and other amounts payable by Tenant hereunder shall be abated as of the date of the damage or destruction in proportion to the extent that the value of the Premises for the use and occupancy thereof by Tenant for the conduct of its business operations shall be reduced, as the Parties shall agree.

12.2 Rights of Termination: Landlord's and Tenant's respective rights to terminate this Lease upon the occurrence of certain damage or destruction shall be governed as follows:

- (a) If the Premises shall be damaged or destroyed to the extent of more than sixty percent (60%) of the Landlord's required casualty insurance coverage, then either Landlord or Tenant may elect to terminate this Lease by delivery of notice to the other within thirty (30) days after the date Landlord or Tenant first learned of such damage or destruction; or
- (b) If repair and restoration of any such damage or destruction cannot reasonably be completed within one hundred (100) days after the date of notice to the Landlord of the damage or destruction, then Tenant

may elect to terminate this Lease by delivery of notice to Landlord within thirty (30) days after the date of such damage or destruction; and

- (c) Upon delivery of any notice pursuant to Section 12.2(a) or 12.2(b), and the payment or assignment to Landlord of insurance proceeds to the extent of Landlord's interest therein, this Lease shall terminate as of the date of the damage or destruction unless otherwise provided in such notice, and Tenant shall have no further liabilities or obligations hereunder other than to pay Rent accrued hereunder as of the date of such termination.

### 13. Default; Remedies:

13.1 Tenant's Default: The following events shall be deemed to be events of default by Tenant under this Lease:

- (a) Tenant shall fail to pay any installment of the rent herein reserved when due, or any other payment or reimbursement to Landlord required herein when due, and such failure shall continue for a period of fifteen (15) days from the date such payment was due following written notice thereof by Landlord to Tenant. But in no event shall Tenant's cure period be less than ten (10) days from Landlord's notice of Tenant's failure to pay rent.
- (b) Tenant shall become insolvent, or shall make a transfer in fraud of creditors, or shall make an assignment for the benefit of creditors.
- (c) Tenant shall file a petition under any section or chapter of the National Bankruptcy Code, as amended, or under any similar law or statute of the United States or any state thereof; or an order for relief shall be entered against Tenant in any proceedings filed against Tenant thereunder.
- (d) A receiver or trustee shall be appointed for all or substantially all of the assets of Tenant.
- (e) Tenant shall fail to discharge any lien placed upon the Premises within thirty (30) days after any such lien or encumbrance is filed against the Premises.
- (f) Tenant shall fail to comply with any term, provision or covenant of this Lease (other than the foregoing in this Section 13) and shall not cure such failure within thirty (30) days after written notice thereof to Tenant.

13.2 Landlord's Remedies:

- (a) Upon the occurrence of any such events of default described in Section 13.1 hereof, Landlord shall have the option to pursue any one or more of the following remedies after fifteen (15) days written notice to Tenant:
  - (i) Terminate this Lease, in which event Tenant shall immediately surrender the Premises to Landlord and if Tenant fails so to do, Landlord may without prejudice to any other remedy which it may have for possession or arrearage in rent, enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying such Premises or any party thereof without being liable for prosecution or any claim for damages therefore.
  - (ii) Enter upon and take possession of Premises and expel or remove Tenant and any other person who may be occupying such Premises or any part hereof without being liable for prosecution or any claim for damages therefore, and re-let the Premises and receive the rent therefore, all without terminating the Lease.
  - (iii) Alter all locks and other security devices at the Premises without terminating this Lease.
- (b) In the event Tenant fails to pay any installment of rent hereunder within fifteen (15) days after notice that such installment is past due, Tenant shall pay to Landlord a late charge in an amount equal to that charge that is charged to Landlord for its failure to make its payment on its Mortgage(s). In any event said late charge shall not exceed five percent (5%) of any late installment under this Lease.

**14. Landlord's Default and Tenant's Remedies:** Landlord shall be in default of this Lease if Landlord fails to perform any term, condition, covenant or obligation of this Lease on the part of Landlord to be performed within thirty (30) days after the date on which Landlord receives written notice from Tenant by certified or registered mail specifically describing such failure. Tenant may cure such default by Landlord on behalf of, and at the sole cost and expense of, Landlord. Landlord shall reimburse Tenant for its costs and expenses in connection with any such cure within thirty (30) days after Tenant's delivery to Landlord of an invoice therefore, failing which Tenant may offset such costs and expenses against any Rent and other amounts payable by Tenant hereunder.

**15. Warranties and Representations:**

15.1 Compliance with Laws:



- (a) Landlord covenants for the benefit of Tenant that the improvements located within the Premises or within the building housing a portion of the Premises as well as Landlord's maintenance and repairs under Section 10 shall be done in a good and workmanlike manner and substantially comply with all laws, ordinances and requirements, including without limitation the procuring of all building and other permits, licenses, approvals and certificates of occupancy and the observance of applicable building, zoning and other code requirements, of governmental authorities with competent jurisdiction, and notwithstanding any other provision of this Lease to the contrary, if any improvements, alterations or renovations to the Premises shall be required by any law, ordinance or requirement of any governmental authority with competent jurisdiction, then Landlord, at its sole cost and expense, shall perform such improvements, alterations or renovations in a timely manner ( unless caused by Tenant's use of the premise); provided, however, no alleged violation by Landlord of any such law, ordinance or requirement shall be deemed to constitute a Landlord default, so long as Landlord shall contest, in good faith, the validity of such law, ordinance or requirement or the existence of the alleged violation thereof.
- (b) Tenant covenants for the benefit of Landlord that Tenant's Improvement Work, its maintenance and repairs and its use and occupancy of the Premises for the conduct of its business operations shall comply with all applicable laws, ordinances and requirements of governmental authorities with competent jurisdiction; provided, however, that: (I) no alleged violation by Tenant of any such law, ordinance or requirement shall be deemed to constitute a Tenant Default so long as Tenant shall contest, in good faith, the validity of such law, ordinance or requirement or the existence of the alleged violation thereof; and (ii) Tenant shall not be obligated to incur costs or expenses for improvements, alterations or renovations to the Premises required at any time or from time to time by any applicable law, ordinance or requirement of a governmental authority with competent jurisdiction, unless such improvements, alterations, or renovations specifically relate to Tenant's Improvement Work or Use.

15.2 Warranty of Title: Landlord covenants for the benefit of Tenant that:

- (a) Landlord has fee simple title to the Premises and has full authority to perform this Lease; and
- (b) as of the Lease Commencement Date (as extended hereunder from time to time), no third party has any right, title or interest adverse to Tenant's right, title and interest hereunder in or to the Premises and

no mortgage or deed of trust or other lien or restriction encumbers the Premises.

- 15.3 Fuel Tanks: Landlord represents and warrants that the Premises does not presently contain any underground or aboveground fuel storage tanks and related piping, venting and dispensing systems (collectively, "Fuel Tanks").
- 15.4 Hazardous and Toxic Conditions:
- (a) Landlord represents for the benefit of Tenant that the Premises does not now, and at the Tenant Possession Date will not, contain any material classified as toxic or hazardous under applicable federal, state and local laws, ordinances and requirements of governmental authorities with competent jurisdiction (collectively, a "Hazardous Substance"). If a Hazardous Substance is discovered on the Premises to the extent the condition existed prior to or on the Tenant Possession Date, then Landlord shall promptly give Tenant written notice of such condition and promptly cause such Hazardous Substance to be cleaned up and the Premises brought into compliance with applicable laws, ordinances and requirements of governmental authorities with competent jurisdiction. Landlord agrees to indemnify Tenant pursuant to the provisions of Section 17 hereof against any Losses as defined in Section 17 incurred by Tenant arising out of any such toxic or hazardous condition.
  - (b) Tenant agrees that, except for de minimis amounts of Hazardous Substances brought onto the Premises as necessary for Tenant's employees in the form of fluid for cigarette lighters and other personal items in accordance with all legal requirements, it shall not bring Hazardous Substances onto the Premises nor allow Tenant's employees or business invitees to bring Hazardous Substances onto the Premises. Tenant agrees to indemnify Landlord pursuant to the provisions of Section 17 hereof against any Losses incurred by Landlord arising out of any Hazardous Substance created by Tenant on the Premises or out of any Hazardous Substances brought onto the Premises by Tenant, its employees or business invitees. Tenant shall have the right at any time during the Term of the Lease, to make soil, environmental and other tests on the Premises, repairing all damages caused by such tests.
- 15.5 Prior Usage of Premises: To the best of Landlord's knowledge after due inquiry, Landlord represents for the benefit of Tenant there has not been any storage, treatment, recycling or disposal of waste on the Premises, except for storage of trash in containers in compliance with applicable federal, state and local laws, ordinances and other requirements of governmental authorities with competent jurisdiction, which containers have been removed from the

Premises and from which there has been no release of Hazardous Substances.

**16. Landlord's Right of Entry:** Following reasonable notice to Tenant, Landlord may enter upon the Premises as often as Landlord reasonably may deem necessary for the purposes of performing such maintenance and repairs as Landlord reasonably may deem necessary or lawfully may be required to perform, inspecting the Premises, offering the Premises for lease (but only during the period which commences six (6) months prior to the expiration of the then existing Primary Term or Extension Term in the event that Tenant shall not have elected further to extend the Term of this Lease) or offering the Premises for sale. During this period, Landlord shall have the right to display "For Sale" and "For Lease" signs on the Premises. Landlord's right of entry shall be exercised in a manner and during reasonable hours at times such that there shall be no unreasonable or material interference with the use and occupancy of the Premises by Tenant for the conduct of its business operations.

**17. Indemnification:**

- 17.1 **Tenant Indemnification:** Tenant agrees to indemnify and hold Landlord harmless from and against any and all losses, damages, claims, suits, actions, judgments, liabilities and expenses, including without limitation reasonable attorneys' fees (collectively, "Losses"), arising out of, or with respect to: (a) any breach of any warranty or representation or any covenant or agreement of Tenant, under this Lease; or (b) any injury to, or death of, persons and/or any damage to, or destruction of, property, on or about the Premises and attributable to the negligence or misconduct of Tenant, or Tenant's officers, employees, agents, contractors or invitees, except for any such breach, any injury or death or any damage or destruction arising out of, or with respect to, the negligence or misconduct of Landlord, or any of Landlord's officers, employees, agents, contractors or invitees, or as otherwise specifically provided in this Lease.
- 17.2 **Landlord Indemnification:** Landlord agrees to indemnify and hold Tenant harmless from and against any and all losses, damages, claims, suits, actions, judgments, liabilities and expenses, including without limitation reasonable attorneys' fees (collectively, "Losses"), arising out of, or with respect to: (a) any breach of any warranty or representation or any covenant or agreement of Landlord under this Lease; or (b) any injury to, or death of, persons and/or any damage to, or destruction of, property, on or about the Premises and attributable to the negligence or misconduct of Landlord or Landlord's officers, employees, agents, contractors or invitees, except for any such breach, any injury or death or any damage or destruction arising out of, or with respect to, the negligence or misconduct of the Tenant or any of Tenant's officers, employees, agents, contractors or invitees, or as otherwise specifically provided in this Lease.
- 17.3 **Conditions; Survival:** The indemnification obligations created by this Section 17 shall be expressly conditioned upon the party seeking

indemnification (a) delivering to the other party prompt notice of any event giving rise to such indemnification obligation; and (b) providing such other party the opportunity to defend itself from and against any Losses. The indemnification obligations under this Lease shall survive the expiration of the Term of this Lease (or earlier termination of this Lease).

**18. Transfers:**

18.1 Assignment and Subletting: Except as provided in this section, Tenant shall not assign this Lease nor sublet all or any portion of the Premises, without the written consent of Landlord, which consent shall not be unreasonably withheld or delayed. Absent the written agreement of Landlord, no assignment of this Lease or subletting of all or any portion of the Premises shall relieve Tenant of any of the terms, conditions, covenants and obligations of this Lease on the part of Tenant to be performed.

**19. Holding Over:** If Tenant shall continue to occupy the Premises after the expiration of the Term of this Lease or the earlier termination of this Lease, then Tenant shall be deemed to be occupying the Premises as a tenant from month-to-month, subject to the terms and conditions of this Lease; provided, however, that either party shall have the right to terminate such month-to-month tenancy upon delivery of thirty (30) days' notice to the other and the rent shall be one hundred fifty percent (150%) of the rent charged in the last full month before expiration of the term of this Lease or earlier termination of the Lease.

**20. Quiet Enjoyment:**

20.1 Landlord's Covenant: Landlord covenants and agrees that Tenant shall have the peaceful and quiet possession and enjoyment of the Premises (subject to all mortgages and other matters to which this Lease, is or shall become, subordinate in accordance with the provisions of Section 21) for the conduct of its business operations during the Term of this Lease, without hindrance by Landlord or any party whatsoever.

**21. Subordination and Attornment/Estoppel:**

21.1 Tenant covenants and agrees, on the terms and conditions provided in this section, that this Lease shall be subordinate to any institutional mortgage or deed of trust that now or hereafter shall encumber the Premises, provided that each named mortgagee or beneficiary shall execute and deliver to Tenant a non-disturbance, attornment and subordination agreement stating (in addition to other reasonable terms, if any) in substance that (a) if Tenant is not in default hereunder, the right of possession of Tenant to the Premises shall not be affected or disturbed by any mortgagee in the exercise of any of its rights under a mortgage or the note secured thereby, and any sale of the Premises pursuant to the exercise of any rights and remedies under a mortgage or otherwise shall be made subject to Tenant's right of possession to the

Premises under this Lease; and (b) Tenant shall attorn to any mortgagee or purchaser at a foreclosure sale (a "Purchaser") upon acquisition of title to the Premises by a mortgagee or Purchaser and notice to Tenant therefore, and this Lease shall continue in full force and effect between Tenant and such mortgagee or Purchaser. Upon Tenant's receipt and approval of such non-disturbance/attornment agreement from a mortgagee or beneficiary from time to time, Tenant covenants and agrees to attorn to such mortgagee or beneficiary upon foreclosure.

- 21.2 In the event that estoppel certificates now or hereafter may be required by any mortgagee or beneficiary of any mortgage or deed of trust, respectively, encumbering the Premises, Tenant further covenants and agrees to execute certificates containing the substance of the following statements (together with other reasonable terms, if any): (a) that the copy of the Lease attached to the certificate is a true and complete copy of the Lease and there are no amendments, modifications or alterations of the Lease, except as stated; (b) that the Premises required to be furnished under the Lease have been completed in accordance therewith, the date on which Tenant accepted possession of such Premises and that Tenant now occupies the same; (c) that Tenant began paying monthly installments of rent under the Lease on a given date and no such installment has been paid more than one month in advance; and (d) that the Lease is in full force and effect, and, except as noted, there exists, to Tenant's knowledge, no defense or offset to enforcement of the Lease by Landlord, and, to Tenant's knowledge, Landlord is not in default under the Lease.

**22. Surrender of Premises:** Upon the expiration of the Term of this Lease or the earlier termination of this Lease, Tenant shall deliver up and surrender the Premises to Landlord in as good order and condition as upon the Tenant Possession Date, subject to Tenant's improvements, alterations and renovations to the Premises, including without limitation Tenant's Improvement Work, normal wear and tear, damage by fire, explosion or other casualty, repairs and restoration for which Tenant shall not be responsible hereunder and Tenant's removal of its trade fixtures.

**23. Notices; Computation of Time:** For the purposes of all other notices and communications between the Parties, the addresses of Landlord and Tenant shall be as shown in Sections 1.1 and 1.2 herein. Any notices and other communications to be delivered by either party to the other pursuant to this Lease shall be in writing and shall be deemed delivered as follows, except as otherwise specifically provided in this Lease: (a) when hand delivered; (b) one (1) business day after mailing by Federal Express or other overnight courier service; or (c) three (3) business days after deposit (or, in the case of any notices sent by Tenant to Landlord for the purpose of exercising rights of first refusal and rights and options to extend the Primary Term or any Extension Term, to lease any additional portion of the Premises or to purchase any portion of the Premises or Landlord's right, title and interest therein), upon deposit in the United States mail by registered or certified mail, postage prepaid, return receipt requested, addressed to the party to be charged with notice at the above-recited address or the above-recited telecopier number or such other address or telecopier number as either party from time to time may designate by notice delivered to the other; provided,

however, that no notice of change of address or telecopier number shall be deemed given until received by the party to be notified. Except as otherwise specifically provided herein, in the computation of any period of time which shall be required or permitted hereunder or under any law for any notice or other communication or for the performance of any term, condition, covenant or obligation, the day from which such period runs shall be excluded and the last day of such period shall be included unless it is a Saturday, Sunday or legal holiday, in which case the period shall be deemed to run until the end of the next day which is not a Saturday, Sunday or legal holiday.

**24. Entire Agreement; Amendments:** This Lease contains the entire agreement between the Parties, and no promise, representation, warranty, covenant, agreement or understanding not specifically set forth in this Lease shall be binding upon, or inure to the benefit of, either party. This Lease may not be amended, altered, modified or supplemented in any manner except by an instrument in writing duly executed by the Parties.

**25. Governing Law; Interpretation:** This Lease shall be construed and enforced in accordance with the laws of Wisconsin. The fact that this Lease shall have been prepared by the attorney for either Landlord or Tenant shall not be used to construe or interpret this Lease for or against either party; the Parties intend that the provisions of this Lease shall be given their fair meaning and no court shall construe this Lease more stringently against one party than against the other.

**26. Authority; Binding Effect:** If Landlord or Tenant shall be a corporation, trust or general or limited partnership, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of such entity. The provisions of this Lease shall be binding upon, and shall inure to the benefit of, the Parties and their respective heirs, executors, administrators, personal and legal representatives, successors and assigns.

**27. No Waiver:** The failure of Landlord or Tenant to insist upon strict performance of any of the terms, conditions, covenants and obligations contained in this Lease shall not be deemed a waiver of any rights or remedies for any subsequent breach or default in the terms, conditions, covenants and obligations herein contained.

**28. Recording:** If Landlord or Tenant requests, the Parties shall execute and acknowledge a short form for recording purposes, which short form of lease shall be recorded at the expense of the party requesting the same, which party shall pay any documentary transfer tax or other special tax or assessment associated with, or triggered by, such recording.

**29. Signs:** Tenant shall have sign rights for the Premises, exterior and interior, and shall have the right to erect and display signs on the Premises and on such other areas of the Premises as Tenant reasonably may request, subject only to Landlord's prior written consent, not to be unreasonably withheld and compliance with applicable laws, ordinances and requirements of governmental authorities with competent jurisdiction.

**30. Incorporation of Exhibits:** Each of the attached exhibits hereby is incorporated in and made a part of this Lease as if set forth herein. In the event of any conflict between the body of

this Lease and the provisions set forth in the exhibits, the provisions set forth in the exhibits shall be deemed to control.

31. **Section Headings:** The section headings hereof are intended for convenience and reference purposes only and shall not be used to construe or interpret this Lease.

32. **Severability:** If any provision of this Lease shall be determined by any court to be invalid, illegal or unenforceable to any extent, then the remainder of this Lease shall not be affected, and this Lease shall be construed as if the invalid, illegal or unenforceable provision had never been contained in this Lease.

33. **Transmittal:** Submission of this Lease for examination, even though executed by Landlord or Tenant, shall not bind the other party in any manner, and no lease or other obligation on the part of either party shall arise until this Lease shall be executed and delivered by the Parties, each to the other.

34. **Additional Actions and Documents:** Landlord and Tenant hereby agree to exercise their best efforts to obtain, execute, deliver and file, or cause to be obtained, executed, delivered and filed, as the case may be, such additional documents, instruments and consents as may be necessary, or as reasonably may be requested by either party, and to take such further action as may be necessary, or as reasonably may be requested by either party, at the sole cost and expense of the requesting party, in order fully to effectuate the terms and conditions of this Lease.

35. **Counterparts:** This Lease may be executed in two (2) or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

36. **Mechanic's Liens and Tenant's Personal Property Taxes:**

36.1 Tenant shall have no authority, express or implied, to create or place any lien or encumbrance of any kind or nature whatsoever upon, or in any manner to bind the interest of Landlord in the Premises or to set off the rentals payable hereunder against any claim in favor of any person dealing with Tenant, including those who may furnish materials to perform labor for any construction or repairs. Tenant covenants and agrees that it will pay or cause to be paid all sums legally due and payable by it on account of any labor performed or materials furnished in connection with work performed by Tenant on the Premises (Tenant is not responsible or liable for sums which represent an obligation of Landlord under this Lease) on which any lien is or can be validly and legally asserted against the Premises or the improvements thereon. Tenant will save and hold Landlord harmless from any and all loss, cost or expenses based on or arising out of asserted claims or liens against the leasehold estate or against the right, title and interest of the Landlord in the Premises or under the terms of this Lease, if such asserted claims or liens are

a result from, through or under Tenant (including, without limitation, Tenant's performance of Tenant's Improvement Work or Tenant's performance of its obligations under this Lease), and in such event, Tenant agrees to give Landlord immediate written notice of the placing of any lien or encumbrance against the Premises.

36.2 Tenant shall be liable for and promptly pay when due all taxes levied or assessed against personal property, furniture, or fixtures placed by Tenant in the Premises. If any such taxes for which Tenant is liable are levied or assessed against Landlord or Landlord's property and if Landlord elects to pay the same or if the assessed value of Landlord's property is increased by inclusion of personal property, furniture or fixtures placed by Tenant in the Premises, and Landlord elects to pay the taxes based on such increase, Tenant shall pay the Landlord upon demand that part of such taxes.

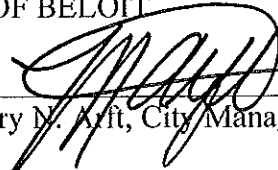
IN WITNESS WHEREOF, the Parties have caused this Lease to be duly executed by each of their respective authorized representatives as of the day and year first above written.

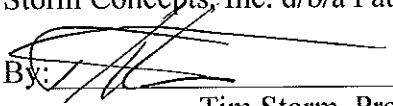
**LANDLORD:**

**TENANT:**

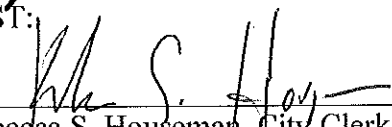
CITY OF BELOIT

Storm Concepts, Inc. d/b/a FatWallet

By:   
Larry N. Kift, City Manager

By:   
Tim Storm, President

ATTEST:

By:   
Rebecca S. Houseman, City Clerk

APPROVED AS TO FORM:

By:   
Thomas R. Casper, City Attorney





Via Registered US Mail  
Return Receipt Requested

January 27, 2012

City of Beloit  
100 State Street  
Beloit, Wisconsin 53511  
Attn.: Andrew Janke

**Re: Extension of Lease**

Dear Mr. Janke:

Reference is made to the Lease dated as of March 24, 2011, between the City of Beloit and Storm Concepts, Inc. d/b/a FatWallet ("*Tenant*"), pursuant to which Tenant agreed to lease office space located at 80 and 100 East Grand Avenue in Beloit, Wisconsin for a period of one year commencing April 11, 2011 (the "*Lease*"). Pursuant to Section 1.5(c) of the Lease, Tenant has the option to extend the Lease for one additional 12-month period on the same terms and conditions as set forth in the Lease. By this letter, Tenant hereby extends the Lease for a period of one year, through April 11, 2013.

To indicate your acknowledgement of this extension, please execute in the space set forth below and return one copy to my attention.

Very truly yours,

**STORM CONCEPTS, INC., D/B/A FATWALLET**

A handwritten signature in black ink, appearing to read "R. Washatka".

By: Ryan Washatka  
Title: General Manager

ACKNOWLEDGED:

**CITY OF BELOIT**

A handwritten signature in black ink, appearing to read "Andrew Janke".

By: Andrew Janke

100 E. Grand Ave., Beloit, WI 53511

P (888) 634-0098 F (888) 299-2752

## LEASE EXTENSION AGREEMENT

This Lease Extension Agreement is made on this 7th day of August, 2012, between the City of Beloit (hereinafter "City" or "Landlord") and FatWallet, Inc., a Wisconsin corporation (hereinafter "Tenant").

1. The City and Storm Concepts, Inc., d/b/a FatWallet, previously entered into a Lease Agreement on March 24, 2011 (hereinafter "Lease") and extended the terms of said Lease through April 11, 2013 by virtue of a written extension agreement dated January 27, 2012.

2. FatWallet, Inc. is the successor and/or assign in interest to said Lease, as amended, and is hereby substituted as the Tenant thereunder; and

3. The City and FatWallet, Inc. are desirous of further extending and amending the terms and conditions of said Lease, as amended.

4. It is hereby agreed that the Lease, as amended, shall be extended for a period of one year, commencing on April 12, 2013 through April 11, 2014.

5. Section 1.5 entitled "Rent" of said Lease is hereby replaced in its entirety as follows:

"1.5 Rent:

- (a) Tenant is currently leasing 23,326 square feet of the premises above-described. The Parties acknowledge that the currently leased square footage consists of 23,066 square feet of usable square feet at 80 East Grand Avenue and an additional 260-square-foot information technology room located on the first floor at 100 East Grand Avenue and further that 100 East Grand Avenue contains an additional 17,568 square feet of additional space. Tenant intends to take possession of and lease an additional 1,492 square-feet on the second floor at 100 East Grand Avenue. The additional space at 100 East Grand Avenue would add 1,492 square feet to this Lease for a total leased square footage of 24,818. Tenant may take possession of said additional 1,492 square feet at any time between the execution hereof and April 12, 2013; provided that Tenant must take possession of all of the additional square footage by April 12, 2013 or before. Tenant shall be obligated to pay rent for the entirety of the additional square footage upon the possession of any of the additional square

footage. If Tenant takes such possession prior to April 12, 2013 and on a date other than the beginning of a rental period, the rent shall be prorated based upon the number of days remaining in the rental period during which such possession begins. Rental rates shall be as set out below.

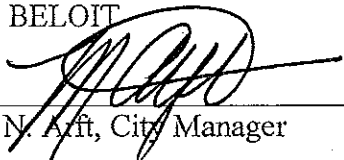
- (b) Current rent shall continue at the net rental rate of Seven Thousand Seven Hundred Sixteen and 11/100 Dollars (\$7,716.11) for the 23,326 square feet currently occupied until April 12, 2013, or such earlier date as the Tenant takes possession of any portion of the additional square footage located at 100 East Grand Avenue as described above, at which point rent will be calculated at the rate of Four and 50/100 Dollars (\$4.50) per square foot.
- (c) At such time as the Tenant begins possession of any portion of the additional square footage at 100 East Grand Avenue, the provisions of paragraph 4 of the Lease shall be replaced with the following: The Parties acknowledge single metering points for the gas, sewer and water at 80 East Grand Avenue and 100 East Grand Avenue, and each building has an electric meter. Both 80 East Grand Avenue and 100 East Grand Avenue had been vacant for twenty-two (22) months previous to the Tenants occupancy, and the Parties agree that the Landlord will pay a "base" utility fee of Nine Hundred Thirteen and 97/100 Dollars (\$913.97) per month. Said base amount reflects thirty-nine percent (39%) of the average vacant utility charges for gas, electric, sewer and water for both 80 East Grand Avenue and 100 East Grand Avenue. Tenant shall be responsible for all utility payments and shall be entitled to deduct the City's base payment obligation from its monthly rental payment to the City. The City shall not lease nor occupy the balance of the 100 East Grand Avenue premises without the written consent of the Tenant, which consent shall not be unreasonably withheld. Tenant shall maintain the 100 East Grand Avenue premises at 60 degrees or more.
- (d) Tenant shall be entitled to two further one-year extensions of this Lease, covering the periods of April 12, 2014 through April 11, 2015 and April 12,

2015 through April 11, 2016. The base rental rate of Four and 50/100 Dollars (\$4.50) per square foot shall be increased by three percent (3%) effective April 12, 2013 and the rental rate for each of the additional extensions provided for herein shall increase by three percent (3%) for each one-year extension. Tenant shall deliver written notice to Landlord of intent to exercise either of the renewals provided for herein not later than two (2) months prior to the beginning of the renewal period.”

6. Except as expressly modified herein, all the terms and provisions of the Lease, as amended, shall continue in full force and effect.


LANDLORD:

CITY OF БЕЛОIT

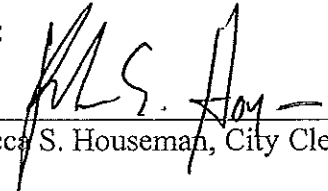
By:   
Larry N. Aft, City Manager

TENANT:

FATWALLET, INC.

By:   
Greg Kaplan, CFO

ATTEST:

By:   
Rebecca S. Houseman, City Clerk

APPROVED AS TO FORM:

By:   
Thomas R. Casper, City Attorney  
tdh/files/11-1057/lease=120801 1022 (cfn) (Ext to Lease)



February 3, 2014

VIA FAX 608-364-6756 AND FEDERAL EXPRESS

City of Beloit  
100 State Street  
Beloit, Wisconsin 53511


Attn: Andrew Janke  
Thomas R. Casper, City Attorney

Re: Lease Extension (Your File 11-1057)

Dear Sirs:

Pursuant to Section 1.5(d) of the Lease, dated March 24, 2011, between the City of Beloit and FatWallet, Inc., and amended by the Lease Extension Agreement, dated August 7, 2012, between the parties, FatWallet hereby gives notice that it intends to exercise its renewal term for the period from April 12, 2014, through April 11, 2015.

Sincerely,



David S. Oppenhiemer  
Director and Treasurer  
FatWallet, Inc., an Ebates Inc. company

Cc: Phil Strauss, Associate General Counsel, Ebates Inc.  
Ryan Washatka, General Manager, FatWallet, Inc.

ACKNOWLEDGED AND AGREED:



\_\_\_\_\_  
City of Beloit

By Name: Larry N. Arft  
Title: City Manager  
Beloit, WI



Ebates Inc.



February 3, 2015



VIA FAX 608-364-6756 AND FEDERAL EXPRESS

City of Beloit  
100 State Street  
Beloit, Wisconsin 53511

Attn: Andrew Janke  
Thomas R. Casper, City Attorney

Re: Lease Extension (Your File 11-1057)

Dear Sirs:

Pursuant to Section 1.5(d) of the Lease, dated March 24, 2011, between the City of Beloit and FatWallet, Inc., and amended by the Lease Extension Agreement, dated August 7, 2012, between the parties, FatWallet hereby gives notice that it intends to exercise its renewal term for the period from April 12, 2015, through April 11, 2016.

Sincerely,

Philip R. Strauss  
General Counsel  
FatWallet, Inc., an Ebates Inc. company

Cc: Ryan Washatka, General Manager, FatWallet, Inc.

ACKNOWLEDGED AND AGREED:

City of Beloit

By Name: *L.V. ARFT*  
Title: *CITY MANAGER*

Ebates Inc.

## SECOND LEASE EXTENSION AGREEMENT

This SECOND LEASE EXTENSION AGREEMENT is made on this 21<sup>st</sup> day of April, 2015, between the City of Beloit, a Wisconsin municipal corporation (hereinafter "City" or "Landlord") and FatWallet, Inc., a Wisconsin corporation (hereinafter "Tenant").

**WHEREAS**, the City and Storm Concepts, Inc., d/b/a FatWallet, previously entered into a Lease Agreement on March 24, 2011 (hereinafter "Lease") and extended the terms of said Lease through April 11, 2013 by virtue of a written extension agreement dated January 27, 2012; and

**WHEREAS**, the City and FatWallet, Inc., successor and/or assignee in interest to the Lease, entered into a Lease Extension Agreement dated August 7, 2012 which extended the terms and conditions of the Lease through April 11, 2014; and

**WHEREAS**, the Lease was extended through April 11, 2015 by virtue of a letter from Fat Wallet, Inc., dated February 3, 2014; and

**WHEREAS**, the Lease was further extended through April 11, 2016 by virtue of a letter from Fat Wallet, Inc., dated February 3, 2015; and

**WHEREAS**, the City and FatWallet, Inc., are desirous of further extending and amending the terms and conditions of the Lease, as amended.

**NOW, THEREFORE**, in consideration of the foregoing, the mutual covenants and promises contained herein, and other valuable consideration, the receipt and sufficiency of which they acknowledge, the City and FatWallet, Inc., agree as follows:

1. **RECITALS INCORPORATED.** The Recitals listed above are hereby incorporated into this SECOND LEASE EXTENSION AGREEMENT.
2. **RELATION TO LEASE, AS AMENDED.** To the extent that there is a conflict between any provision of this SECOND LEASE EXTENSION AGREEMENT, the Lease, as amended, and the Lease Extension Agreement dated August 7, 2012, the language and provisions of this SECOND LEASE EXTENSION AGREEMENT shall control and prevail.
3. Section 1.45 is hereby created to read as follows:

"1.45 **Term of Second Lease Extension Agreement.** The term of the Lease as amended by the SECOND LEASE EXTENSION AGREEMENT shall be for one year, commencing on the 12<sup>th</sup> day of April, 2016 and ending on April 11, 2017. Tenant shall have the option to extend the Lease for two additional one-year periods, covering periods April 12, 2017 through April 11, 2018 and April 12, 2018 through April 11, 2019, on the same terms and conditions as set out in the Lease, as amended or as otherwise provided in the SECOND LEASE EXTENSION AGREEMENT. Tenant shall deliver written notice to Landlord of its intent to exercise

this option no later than two months prior to the end of the initial term or any renewal term.”

4. Section 1.5 of the Lease Extension Agreement, dated August 7, 2012, entitled “Rent” is hereby replaced in its entirety to read as follows:

“1.5 **Rent.**

- a. Tenant is currently leasing 24,818 square feet of the Premises described above. For the initial term of the SECOND LEASE EXTENSION AGREEMENT, Tenant shall pay the base rental rate at the annual rate of Five and 065/100 Dollars (\$5.065) per square foot. The base rental rate shall be increased by three percent (3%) for each one-year extension. Rent shall be payable in twelve (12) equal installments. Tenant shall pay rent on or before the first business day of each calendar month.
  
- b. The Parties acknowledge single metering points for the gas, sewer and water at 80 East Grand Avenue and 100 East Grand Avenue, and each building has an electric meter. Both 80 East Grand Avenue and 100 East Grand Avenue had been vacant for twenty-two (22) months previous to the Tenants occupancy, and the Parties agree that the Landlord will pay a “base” utility fee of Nine Hundred Thirteen and 97/100 Dollars (\$913.97) per month. Said base amount reflects thirty-nine percent (39%) of the average vacant utility charges for gas, electric, sewer and water for both 80 East Grand Avenue and 100 East Grand Avenue. Tenant shall be responsible for all utility payments and shall be entitled to deduct the Landlord’s base payment obligation from its monthly rental payment to the Landlord. The Landlord shall not lease nor occupy the balance of the 100 East Grand Avenue premises without the written consent of the Tenant, which consent shall not be unreasonably withheld. Tenant shall maintain the 100 East Grand Avenue premises at 60 degrees or more.

<b><u>Term</u></b>	<b><u>Square Footage</u></b>	<b><u>Rent/ Sq Ft</u></b>	<b><u>Annual Base Rent</u></b>	<b><u>Base Rent per Month</u></b>	<b><u>Utility Credit</u></b>	<b><u>Net Rent Payment</u></b>
4/12/2016 - 4/11/2017	24,818	\$5.065	\$125,703.17	\$10,475.26	(\$913.97)	\$9,561.29
4/12/2017 - 4/11/2018 (if lease is extended)	24,818	\$5.217	\$129,475.51	\$10,789.63	(\$913.97)	\$9,875.66
4/12/2018 - 4/11/2019 (if lease is extended)	24,818	\$5.374	\$133,371.93	\$11,114.33	(\$913.97)	\$10,200.36

”



5. Section 1.8 entitled "Real Estate Taxes" of the Lease, as amended, is hereby replaced in its entirety to read as follows:

"1.8 **Real Estate Taxes.** In addition to the rental amounts set out in section 1.5, Tenant shall pay a monthly amount equal to Six Hundred Fifty and 00/100 Dollars (\$650.00) for real estate taxes. Said monthly payment shall be payable on or before April 12, 2016 and shall continue on or before the twelfth day of each month thereafter, including any renewal or extension period authorized pursuant to section 1.45. This monthly payment is not subject to any escalation as is otherwise applicable to base rental that is due under the Lease."

6. **LANDLORD'S RIGHT TO ENTRY.** The first sentence of Section 16 of the Lease is hereby deleted in its entirety and replaced with the following:

"Following reasonable notice to Tenant, Landlord may enter upon the Premises as often as Landlord reasonably may deem necessary for the purposes of performing such maintenance and repairs as Landlord reasonably may deem necessary or lawfully may be required to perform, inspecting the Premises, offering the Premises for lease (but only during the period which commences two (2) months prior to the expiration of the then current Term, including any Extension Terms, provided that Tenant has not exercised an Option to extend, as set forth in Section 1.5(d) hereof) or offering the Premises for sale."

7. **QUIET ENJOYMENT.** Section 20.1 of the Lease is hereby deleted in its entirety and replaced with the following:

"**20.1 Landlord's Covenant:** Landlord covenants and agrees that Tenant shall have the peaceful and quiet possession and enjoyment of the Premises (subject to all mortgages and other matters to which this Lease, is or shall become, subordinate in accordance with the provisions of Section 21) for the conduct of its business operations during the Term of this Lease, including any Extension Terms, without hindrance by Landlord, any successor in interest to Landlord, or any other party whatsoever."

8. **EFFECT OF AMENDMENT.** Except to the extent the Lease, as amended, is expressly modified by this SECOND LEASE EXTENSION AGREEMENT, the remaining terms and provisions of the Lease, as amended, shall remain unmodified and in full force and effect.

**IN WITNESS WHEREOF**, the parties have caused their properly authorized representatives to execute and seal this SECOND LEASE EXTENSION AGREEMENT on the date as set forth above.

**CITY OF BELOIT**

**FATWALLET, INC.**

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

By: \_\_\_\_\_  
Seiichiro Sonoda, Chief Financial Officer

ATTEST:

By: \_\_\_\_\_  
Jelene J. Ahrens, WCMC, Deputy City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Elizabeth A. Krueger, City Attorney

tdh/files/11-1057/Second Lease Extension Agreement = 20150406

# EXHIBIT F

to  
Development Agreement

between  
City of Beloit  
&  
East Grand Avenue Development, LLC

**EXHIBIT F**

**FORM OF ESTOPPEL CERTIFICATE**

(Landlord)

East Grand Avenue Development, LLC  
Attn: Ms. Lori Goff  
525 Third Street, Suite 300  
Beloit, WI 53511

*Re: Lease for space at \_\_\_\_\_*

Ladies and Gentlemen:

The undersigned ("Tenant") hereby certifies to \_\_\_\_\_ ("Landlord"), and East Grand Avenue Development, LLC, and its successors and assigns (collectively, "Purchaser"), and any lender providing financing to the Purchaser ("Lender"), as of the date of this Certificate:

1. Tenant is the Lessee under that certain Lease dated \_\_\_\_\_ relating to the building(s) located at \_\_\_\_\_ (the "Premises"), together with any amendments thereto (collectively, the "Lease").

2. The dates of all amendments to the Lease are as follows: \_\_\_\_\_

---

3. There are no other agreements, oral or in writing, between Landlord and Tenant with respect to the Premises excepted as identified above.

4. The Lease is in full force and effect.

5. Tenant is not in default under the Lease nor does any circumstance currently exist that, but for the giving of notice or the passage of time or both, would constitute a default by Tenant under the Lease.

6. No default exists under the Lease by Landlord nor does any circumstance currently exist that, but for the giving of notice or the passage of time or both, would constitute a default by Landlord under the Lease.

7. Tenant has no uncured claims or demand against the Landlord, except as noted below:

8. Monthly base rent is equal to \$\_\_\_\_\_ and has been paid through \_\_\_\_\_, 20\_\_\_. CAM/operating expense charges are paid as follows: \_\_\_\_\_. CAM/operating expense charges have been paid through \_\_\_\_\_, and a completed reconciliation for 2014 has been provided by Landlord and approved by Tenant.

9. Tenant's security deposit held by Landlord is \$\_\_\_\_\_.

10. Tenant has no right nor option to purchase any portion of the Premises or the real property upon which the Premises are situated.

11. The Lease commenced as of \_\_\_\_\_ and expires as of \_\_\_\_\_.

12. Tenant has no right to renew or extend the Lease, except for \_\_\_\_\_.

13. Tenant has accepted possession of the Premises leased under the Lease, and all improvements, alterations and other work to be performed or constructed by Landlord under the Lease have been completed and accepted by Tenant.

14. Tenant is not entitled to any future partial or total abatement of rent or other amounts due under the Lease.

15. Tenant has not assigned any of its rights under the Lease.

16. The address for notices to Tenant is as set forth in the Lease.

Tenant acknowledges that Purchaser and Lender will rely on the representations and agreements made by Tenant in this Estoppel Certificate in connection with the acquisition and financing of the property of which the Premises are a part, and Tenant agrees that Purchaser and Lender may so rely on such representations and agreements.

Dated: \_\_\_\_\_, 2015

TENANT

\_\_\_\_\_,  
a(n) \_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_  
(Print Name) (Title)

# EXHIBIT G

to  
Development Agreement

between  
City of Beloit  
&  
East Grand Avenue Development, LLC

## **EXHIBIT G**

### **Exceptions**

1. Stipulation and Settlement Agreement dated May 18, 1999 and recorded May 5, 2009 as Document #1862070 by and between State of Wisconsin, Department of Natural Resources and Kerry Ingredients, Inc. and Assignment and Assumption Agreement of said Agreement dated May 1, 2009 and recorded May 12, 2009 as Document #1862998 at 8:49 a.m. by and between Kerry, Inc. and City of Beloit.
2. Right of the State of Wisconsin and the public in any portion of the land between the land patented to a private owner and the bulkhead line established on Rock River.
3. Underground Gas and Electric Line Easement, dated September 29, 1991, and recorded September 26, 1991 on Card 498, Image 292, as Document #1142199, given by Arthur T. Donaldson, to Wisconsin Power and Light Company.
4. Right of Way and Easement Agreement, dated November 15, 1984, and recorded November 21, 1984, on Card 191, Image 872, as Document #996626, given by Arthur T. Donaldson to Tymar Industries, Ltd.
5. Underground Fiber Optic Cable Easement Agreement, dated May 25, 2012, and recorded June 4, 2012 as Document #1949263, given by the City of Beloit, a Wisconsin municipal corporation to Windstream KDI, Inc., a Kentucky corporation.
6. Rights of the public in any portion of the subject premises lying below the ordinary high water mark, and in the waters of, and airspace over the Rock River, and rights of the government to regulate the use of the shore and riparian rights.

\*\*\*\*\*

**RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING  
BETWEEN BELOIT COLLEGE AND THE CITY OF BELOIT  
REGARDING POWERHOUSE RIVERWALK PROJECT**

**WHEREAS**, in connection with the College's redevelopment of the Blackhawk Generating Station (the "Powerhouse"), the College approached the City with a plan to transform bicycle and pedestrian travel in the area of the Powerhouse by constructing an 850' public river walk along the west side of the redeveloped Powerhouse, filling in a key gap in the City's trail system, moving bike and pedestrian traffic away from USH 51 / Pleasant Street (hereinafter "Project"); and

**WHEREAS**, §85.021, Wis. Stats., authorizes the State of Wisconsin Department of Transportation ("DOT") to administer a program to award grants of assistance (the "Transportation Alternatives Program" or "TAP") to certain political subdivisions, state agencies, counties, local government units, and Indian tribes consistent with 23 U.S.C. 213, to "expand travel choice, strengthen the local economy, improve the quality of life, and protect the environment."; and

**WHEREAS**, under a TAP grant, design and construction costs are funded with 80% federal/state funding, up to a maximum of \$1,009,158, with the project sponsor agreeing to provide the remaining 20% and any funds in excess of the federal/state funding maximum, in accordance with the TAP guidelines.

**WHEREAS**, the City has agreed to act as the sponsoring agency for the Project (the "Project Sponsor") and enter into an agreement with the DOT under §§86.25(1), (2) and (3) and §66.0301 of Wisconsin Statutes for the purpose of receiving a TAP grant; and

**WHEREAS**, the DOT has approved a TAP grant for the Project in the maximum amount of \$1,009,158, conditioned upon the Project Sponsor providing a 20% local match (\$252,289).

**WHEREAS**, the City and the College wish to outline each of its various responsibilities related to the Project, including cost sharing in the attached Agreement.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Beloit, Rock County, Wisconsin, does hereby approve the attached Memorandum of Understanding between Beloit College and the City of Beloit and that the City Manager of the City of Beloit be, and is hereby, authorized to execute the same, to further execute any other documents to implement the terms and conditions thereof, and to do all other things necessary in order to carry out the purposes of this resolution.

Adopted this 18th day of May, 2015

**CITY COUNCIL OF THE CITY OF BELOIT**

ATTEST:

\_\_\_\_\_  
Charles M. Haynes, President

\_\_\_\_\_  
Judith A. Elson, Deputy City Clerk



# CITY OF BELOIT

## REPORTS AND PRESENTATIONS TO CITY COUNCIL



**Topic:** Resolution authorizing the City Manager of the City of Beloit to enter into a Memorandum of Understanding with Beloit College regarding the Powerhouse Riverwalk Project.

**Date:** May 18, 2015

**Presenter(s):** Larry Arft

**Department(s):** City Manager

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### Overview/Background Information:

The City of Beloit, in coordination with Beloit College, applied for and received a Transportation Alternatives Program (TAP) grant from the Wisconsin Department of Transportation (WisDOT) for the construction of an 850' public river walk along the west side of the Powerhouse redevelopment project. The MOU outlines the various responsibilities of the City of Beloit, including the cost sharing, for the project.

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### Key Issues (maximum of 6):

1. The City of Beloit has agreed to be the sponsoring agent for the project and has entered into an agreement with WisDOT for the purpose of receiving the grant (Exhibit B). The grant agreement is conditioned upon the local government providing a 20% local match.
2. The City of Beloit and Beloit College will jointly lead the design and construction of the Powerhouse project. The College will have the opportunity throughout the project for review and concurrence. The following points of review/concurrence are outlined in the MOU: Design Intent Preliminary meeting, Geometry Plan Review, 30% Plan Review, 60% Plan and Detail Review, 90% complete review, Final Plans/Specs. Review, and Bid Review.
3. Total Grant Amount: \$1,261,447  
Federal/State Funded - 80% \$1,009,158 (max. cap)  
Local Share – 20% \$ 252,289
4. The City of Beloit and Beloit College have agreed to equally split the local share of the project costs (\$126,144.50 for the City of Beloit and \$126,144.50 for Beloit College). Should the project costs exceed the grant, the City of Beloit has agreed to equally split the additional costs, subject to the City's total maximum contribution of \$250,000 for the entire project.
5. The project requires the transfer of property or easements to the City. The costs of requiring easements or other right of way access are not a component of the grant. The City has agreed to equally split with Beloit College any costs associated with such acquisitions, up to the total maximum contribution of \$250,000 from the City.
6. The ownership, operation and maintenance of the project will be the sole responsibility of the City of Beloit. The project will be incorporated into the City's existing trail system.

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

1. Develop a high quality community through the responsible stewardship and enhancement of City resources to further Beloit's resurgence as a gem of the Rock River Valley.

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### 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**  
Provides a link to the existing multi-modal recreational path along the river to be used by both pedestrians and bicyclists.
- **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**

Improves the functionality of the Riverwalk bike path by providing a direct link to the new Powerhouse activity and recreational center.

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

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**Action required/Recommendation:**

The Engineering Division recommends approving the resolution to enter into a Memorandum of Understanding with Beloit College in regards to the Powerhouse Riverwalk Project (project 5989-05-25/26)

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**Fiscal Note/Budget Impact:**

The City of Beloit and Beloit College have agreed to equally split the local share cost of \$252,289. In addition the City of Beloit has agreed to equally split any additional costs above and beyond the grant funding up to a total maximum contribution of \$250,000. Any additional costs about the total maximum contribution from the City will be the sole responsibility of Beloit College.

**To: Michael F Flesch, P.E., City Engineer**  
**Jason Dupuis, P.E., Transportation Engineer**

**From: Daniel Schooff, Secretary of the College and Chief of Staff**

**Date: May 7, 2015**

**Re: Memorandum of Understanding for the Powerhouse Riverwalk**

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Thank you for the opportunity for the City of Beloit and Beloit College to partner in securing funds for Powerhouse Riverwalk. Moving this 850' stretch of a public bike and pedestrian path away from a busy Hwy 51 to the river side of the reconstructed Powerhouse will be a great addition to an already beautiful riverfront.

### **Background on Powerhouse Project**

Beloit College seeks to convert the Blackhawk Generating Station, a riverfront, decommissioned 100-year-old power plant, into a vibrant student union and recreation center – The Powerhouse. Success will yield a signature college and community facility which advances the college's mission, connects the college and community, and enhances the college's reputation through innovative and creative use of space, sustainability, and its impact on the lives of our students.

The college entered into an agreement with Alliant/WPL in summer of 2014 to transfer ownership of the power plant after the \$38 million dollar fundraising goal has been met and Alliant/WPL had removed the unneeded equipment from the plant. That fundraising effort continues to go well and will continue for the next 18 to 24 months. The public riverwalk has been an incredibly important part of the conversations the college is having with friends and alumni.

### **Background on TAP Grant**

With a shared goal of bringing public access to the Rock River and to improve the bike and pedestrian paths in the area, the city and college cooperatively applied for a Transportation Alternative Project grant from the Wisconsin Department of Transportation in December 2013. In February 2014 we were notified that we were invited to submit a phase two application and in August 2014 received notification that of the \$13.3 million awarded statewide, the Powerhouse Riverwalk project was awarded \$1,009,158.

## **Memorandum of Understanding Details**

The latest memorandum of understanding (MOU) draft is attached to this memo. We know that with our continued partnership on this project, complicated questions will be worked through and a successful project will be completed.

The latest draft of the MOU attempts to put in legal terms what is a consensus around the key issues to ensure that this project is delivered on time and under budget.

- ❑ Both the City of Beloit and Beloit College have a shared goal and share responsibility to do everything in our power to bring the project in or under budget.
- ❑ The State and Federal government are funding 80% of the projects costs. The remaining 20% would be split evenly between the city and college. (\$125,000 from each party.)
- ❑ An additional \$125,000 from each party should be considered a *construction contingency*. It should be our shared goal to not use these resources if at all possible.
- ❑ Beyond this construction contingency, additional capital costs will be the college's responsibility.
- ❑ Coordination with the college's architectural, engineering, and construction team designing and building the Powerhouse project is vital.
- ❑ Early in the project, agreement will be required and not assumed. This will serve to help keep the project on or under budget and will prevent delays later in the project.
- ❑ During the construction phase, changes will need to be agreed to by both parties in a more streamlined fashion to prevent delays.

Thank you for your continued partnership on what we know will be a tremendous asset for the Beloit community when completed.

**MEMORANDUM OF UNDERSTANDING  
BETWEEN БЕЛОIT COLLEGE AND CITY OF БЕЛОIT  
REGARDING POWERHOUSE RIVERWALK PROJECT (Project 5989-05-25/26)**

**THIS MEMORANDUM OF UNDERSTANDING** (herein called this "Agreement") is made and entered into as of this \_\_\_ day of \_\_\_\_\_, 2015, between the City of Beloit, Wisconsin (herein called "City"), and Beloit College (herein called "College") (City and College are sometimes referred to herein individually as a "Party" and together as the "Parties").

**WHEREAS**, in connection with the College's redevelopment of the Blackhawk Generating Station (the "Powerhouse"), the College approached the City with a plan to transform bicycle and pedestrian travel in the area of the Powerhouse by constructing an 850' public river walk along the west side of the redeveloped Powerhouse, filling in a key gap in the City's trail system, moving bike and pedestrian traffic away from USH 51 / Pleasant Street (hereinafter "Project"); and

**WHEREAS**, §85.021, Wis. Stats., authorizes the State of Wisconsin Department of Transportation ("DOT") to administer a program to award grants of assistance (the "Transportation Alternatives Program" or "TAP") to certain political subdivisions, state agencies, counties, local government units, and Indian tribes consistent with 23 U.S.C. 213, to "expand travel choice, strengthen the local economy, improve the quality of life, and protect the environment."; and

**WHEREAS**, under a TAP grant, design and construction costs are funded with 80% federal/state funding, up to a maximum of \$1,009,158, with the project sponsor agreeing to provide the remaining 20% and any funds in excess of the federal/state funding maximum, in accordance with the TAP guidelines.

**WHEREAS**, the City has agreed to act as the sponsoring agency for the Project (the "Project Sponsor") and enter into an agreement with the DOT under §§86.25(1), (2) and (3) and §66.0301 of Wisconsin Statutes for the purpose of receiving a TAP grant; and

**WHEREAS**, the DOT has approved a TAP grant for the Project in the maximum amount of \$1,009,158, conditioned upon the Project Sponsor providing a 20% local match (\$252,289).

**WHEREAS**, the City and the College wish to outline each of its various responsibilities related to the Project, including cost sharing.

**NOW, THEREFORE**, for and in consideration of the foregoing promises, the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and College do hereby covenant and agree as follows:

**1. STATEMENT OF PURPOSE.** The Parties shall cooperatively undertake their responsibilities outlined in this Agreement for the construction of the Project. It is a desire of

the Parties to bring public access to the Rock River and to improve the bicycle and pedestrian paths in the Project area.

**2. PROJECT DESCRIPTION.** The Parties are working collaboratively to construct the Project, an 850' public river walk along the west side of the redeveloped Powerhouse, filling in a key gap in the City's trail system, moving bike and pedestrian traffic away from Highway 51 and alongside the Rock River. A rendering illustrating the location of the Project is attached hereto as Exhibit A and is incorporated herein by reference.

**3. TRANSPORTATION ALTERNATIVES PROGRAM.** The Parties understand that the City has agreed to serve as the Project Sponsor and, in cooperation with the College, has applied for and received a TAP grant from the DOT in the amount of \$1,009,158 (the "Grant"), conditioned upon the Project Sponsor providing a 20% local match of \$252,289 towards said Project. The Parties further understand that any costs exceeding \$1,009,158 are the responsibilities of the Parties. Further conditions and responsibilities of the TAP grant are outlined in the "State/Municipal Agreement for a State-Let Transportation Alternatives Program Project" which was entered into by the State of Wisconsin and the City after approval of the City Council on December 15, 2014, and attached hereto as Exhibit B is incorporated herein by reference (the "Grant Agreement").

**4. COST SHARING.** The Parties wish to outline their respective responsibilities for cost sharing with regard to the Project as follows:

a. Total Budget. The total budget for the Project is expected to be \$1,261,447 of which \$1,009,158 will be covered by the Grant as outlined above. The remaining portion of the Project costs (the "Non-grant Funded Costs"), currently estimated to be \$252,289, shall be divided between the parties as outlined herein.

b. Costs. The Parties agree to split equally the Non-grant Funded Costs, currently estimated to be \$252,289 (hereinafter "Current Estimate"). Should the Non-grant Funded Costs exceed the Current Estimate, the Parties agree to split equally the costs in excess of the Current Estimate, subject to the City's maximum contribution to the Project of \$250,000 (hereinafter "Maximum Contribution"). Any costs exceeding the Maximum Contribution shall be the sole responsibility of the College. At all times during the planning, design and project management phases of the Project, each Party shall act in good faith and with commercially reasonable efforts to meet the budget jointly established for the Project by the Parties and, notwithstanding anything to the contrary set forth herein, all Non-grant Funded Costs shall be subject to the approval process described in this Section, Section 7 and Section 8.

c. Benchmarks. With a shared commitment to keeping the Project at or under budget, the Parties agree that the following benchmarks are critical to such result. The benchmarks are as follows:

- (1) Design Intent Preliminary meeting;

- (2) Geometry Plan Review at 10% [review of the geometric layout and regulating line logic relating to the Powerhouse];
- (3) Plan Review at 30%;
- (4) Plan and Detail Review at 60% [including lighting concept and furniture [if any] review];
- (5) Complete Review at 90%;
- (6) Final Plans and Specifications Review; and
- (7) Bid Review

d. Consent to Proceed. The Parties shall each provide their respective decision, in writing, whether to proceed or not to proceed with the Project at each benchmark. The Parties agree to use good faith in reviewing the Project and to make all efforts to provide their respective consent within twenty-one (21) days of written notification that the applicable benchmark has been reached. Should the Project not move forward for any reason, the costs shall be equally divided between the Parties, up to the Maximum Contribution of the City.

e. State of Wisconsin Review Costs. The Parties understand that it is expected that if the Project does not proceed, the State of Wisconsin is estimated to have costs of \$157,681 for design and review of the Project. Should the State require reimbursement of those expenses, the Parties agree to split the cost of such reimbursement equally.

**5. EASEMENTS OR CONVEYANCE OF LAND.** The Project will require the transfer of property or easements to the City. The College agrees to: a) secure access and temporary easements to the Project site if such access or easements are needed prior to the College taking ownership of the Project site; b) provide permanent easements or convey such land necessary to design or construct the Project; and c) work with any adjoining property owners to secure easements across their respective properties for construction of the Project. The Parties understand the costs for acquiring such easements or other right of way access are not a component of the grant funding and that any costs associated with such acquisition shall be split equally, up to the Maximum Contribution of the City.

**6. MAINTENANCE.** The ownership, operation and maintenance of the Project shall be the sole responsibility of the City and incorporated into the City's trail system.

**7. DESIGN.** The design of the Project will be guided by the College's proposed design of the Powerhouse building. The Parties agree to facilitate the consultation and coordination between the design (architectural and engineering) and construction firms selected for the Project and the design (architectural and engineering) and construction firms selected for the Powerhouse building.

**8. MATERIAL CHANGES.** Following the College's final consent to the Plans, Specifications and Estimates Review as described in the preceding paragraph, the Plans and Specifications for the Project shall not be changed in any material respect, nor shall any aspect of the Project's design be altered without the College's written consent. In the event the City desires to propose any material change to the Plans and Specifications and/or any aspect of the Project's design, the City shall provide the College with written notice of the proposed change(s). If the College notifies the City of any objection to the proposed change(s) within fifteen (15) working days of receipt of such written notification, the parties shall work together in good faith and with commercially reasonable effort to resolve the objections. If the College fails to timely notify the City of any objection to the proposed change(s), the College shall be deemed to have approved the proposed change(s) and the Project shall proceed as planned.

**9. REIMBURSEMENT.** The College agrees to reimburse the City for all expenses owed by the College in connection with this Agreement within 30 days of notification by the City provided that the College shall have the right to raise reasonable objections to any such invoice, in which case the Parties shall work together in good faith to resolve the objections.

**10. ENTIRE AGREEMENT.** This Agreement, together with any exhibits hereto, integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the Parties or their predecessors in interest with respect to all or any part of the subject matter hereof.

**11. SEVERABILITY.** The provisions of this Agreement are severable, and, if any one or more provisions may be determined to be judicially unenforceable, in whole or in part, the remaining provisions, and any partially unenforceable provision, to the extent enforceable, in any jurisdiction, shall nevertheless be binding and enforceable if and to the extent that the economic and legal substance of the transactions contemplated is not materially adversely affected in any matter as to any party and shall be construed and enforced so as to effectuate the intent of the entire Agreement, including the wholly or partially unenforceable provision, to the maximum extent legally permissible.

**12. AMENDMENTS.** Any amendments to this Agreement shall be effective only when duly executed by the Parties.

**13. ATTORNEYS' FEES.** In the event that suit is brought for the enforcement of this Agreement or as the result of any alleged breach thereof, or any other court action occurs arising out of this Agreement, the prevailing party or parties in such suit shall be entitled to recover their reasonable attorneys' fees, costs, and expenses from the losing party or parties, and any judgment or decree rendered in such proceedings shall include an award thereof.

**14. NO THIRD PARTY BENEFICIARY RIGHTS.** This Agreement is entered into for the sole benefit of the Parties and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.



**15. GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin with venue in Rock County.

**16. ASSIGNMENT OF AGREEMENT.** Neither Party may assign or transfer their respective rights or obligations under this Agreement without first obtaining the prior written consent of the other, which consent may be granted or withheld in the sole and absolute discretion of the applicable Party.

**17. COUNTERPARTS.** This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**18. INDEMNIFICATION.** To the fullest extent permitted by law, the College agrees to protect, reimburse, indemnify and hold the City, its agents, employees, and officers free and harmless from and against any and all liabilities, claims, expenses, losses, costs, fines and damages (including but not limited to attorney's fees and court costs) and causes of action of every kind and character arising out of, resulting from, incident to, or in connection with any breach by the College of the terms of this Agreement. The obligations of the College under this paragraph shall survive the expiration or termination of this Agreement. The duty to defend arises immediately upon written presentation of a claim to the College.

To the fullest extent permitted by law, the City agrees to protect, reimburse, indemnify and hold the College, its agents, employees, and officers free and harmless from and against any and all liabilities, claims, expenses, losses, costs, fines and damages (including but not limited to attorney's fees and court costs) and causes of action of every kind and character arising out of, resulting from, incident to, or in connection with any breach by the City of the terms of this Agreement. The obligations of the City under this paragraph shall survive the expiration or termination of this Agreement. The duty to defend arises immediately upon written presentation of a claim to the City.

**19. NON-DISCRIMINATION.** In the performance of its obligations under this Agreement, the College will not discriminate against any qualified employee or qualified applicant for employment because of race, color, national origin, ancestry, religion, age, marital status, disability, sex, or sexual orientation. In the event any portion of this Agreement is subcontracted by the undersigned, said subcontract shall include a provision prohibiting the subcontractor from discriminating against any qualified employee or qualified applicant for employment because of race, color, national origin, ancestry, religion, age, marital status, disability, sex, or sexual orientation. This provision is inserted herein in compliance with Section 1.09 of the Code of General Ordinances of the City of Beloit, and shall be interpreted so as to carry out the intent of said ordinance.

**20. REPRESENTATIVE'S AUTHORITY TO CONTRACT.** By signing this document, each Party represents to the other that such person is duly authorized to execute this Agreement on behalf of such Party and that such Party agrees to be bound by the provisions thereof.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and sealed, all the day and year written above.

**CITY OF BELOIT**

**BELOIT COLLEGE**

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

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

ATTEST:

\_\_\_\_\_  
Print Name and Title

By: \_\_\_\_\_  
Jelene J. Ahrens, Deputy City Clerk

APPROVED AS TO FORM:

\*\*\*\*\*

By: \_\_\_\_\_  
Elizabeth A. Krueger, City Attorney

STATE OF \_\_\_\_\_ )  
  )SS  
COUNTY OF \_\_\_\_\_ )

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

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the above-named

By: \_\_\_\_\_  
Eric Miller, City Comptroller

\_\_\_\_\_, its \_\_\_\_\_, to me known to be such officer of Contractor and to me known to be the person who executed the foregoing agreement as such officer of said entity, by its authority.

\*\*\*\*\*

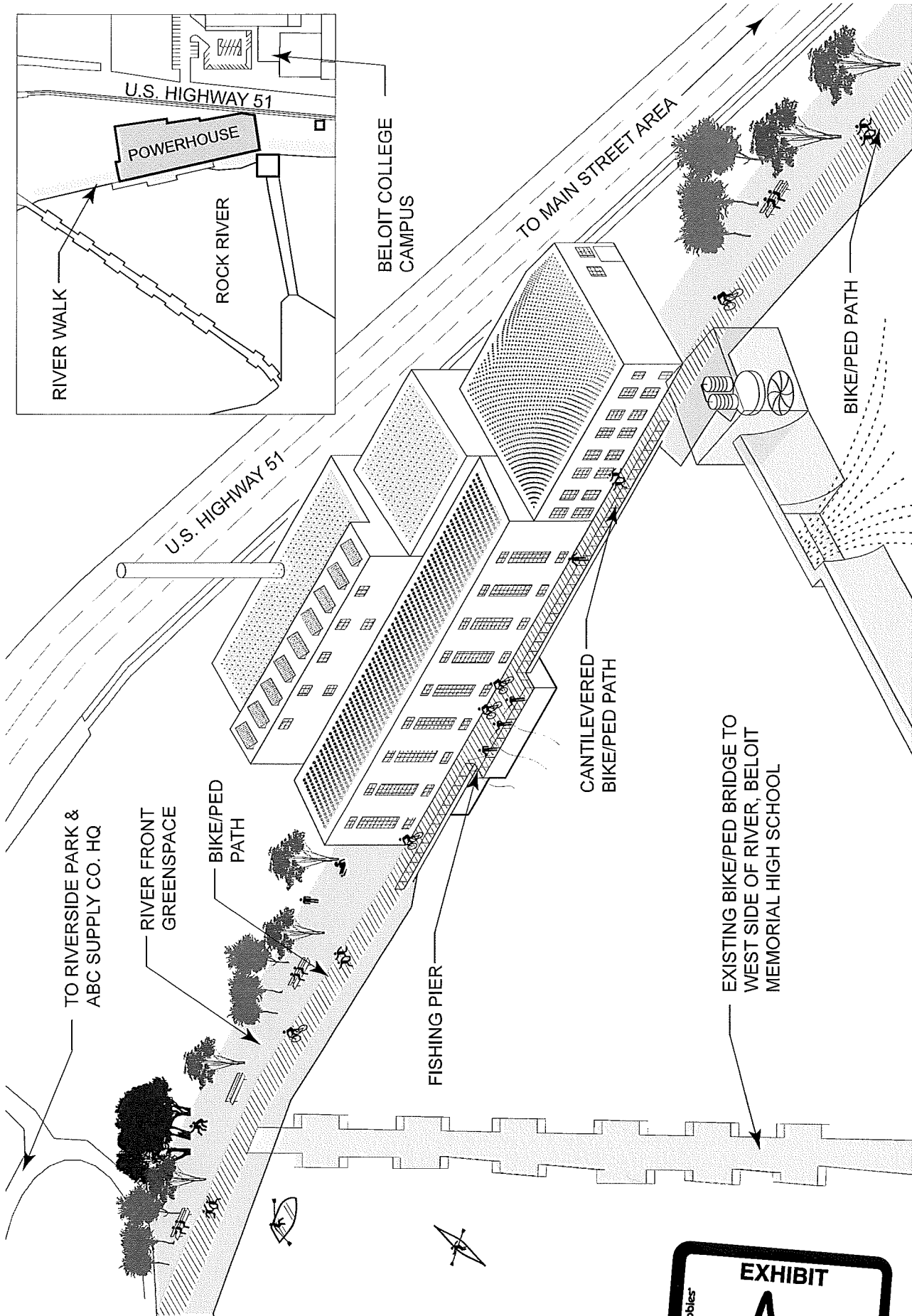
STATE OF WISCONSIN            )  
  )SS  
COUNTY OF ROCK             )

Personally appeared before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the above-named Larry Arft, City Manager and Jelene J. Ahrens, Deputy City Clerk, to me known to be such City Manager and Deputy City Clerk, and to me known to be the persons who executed the foregoing agreement as such officers of said entity, by its authority.

\_\_\_\_\_  
Notary Public, \_\_\_\_\_ County,  
\_\_\_\_\_  
My Commission is permanent. If not, state expiration date: \_\_\_\_\_

\_\_\_\_\_  
Elizabeth A. Krueger  
Notary Public, Rock County, Wisconsin  
My commission is permanent.

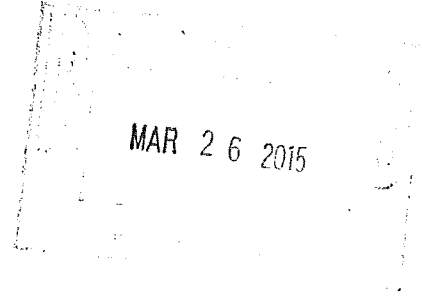
tdh/Files/14-1230/Memorandum of Understanding - Powerhouse Riverwalk 20150511 1535



**CORRESPONDENCE/MEMORANDUM**

**SW REGION LOCAL PROGRAM  
MANAGEMENT CONSULTANT  
KJohnson Engineers, Inc.  
DAAR/OTIE**

**Date:** March 24, 2015  
**To:** Mike Flesch, P.E.  
City of Beloit City Engineer  
**From:** Jeff Melville, P.E. *JSM*  
**Subject:** ID 5989-05-25/26  
City of Beloit, Powerhouse Riverwalk  
(Pleasant Street to South of Portland Avenue)  
Non Highway  
Rock County



The Wisconsin Department of Transportation approved the "State/Municipal Agreement for a State-Let Transportation Alternatives Program (TAP) Project" for the subject project on January 5, 2015. Enclosed is a copy of the Project Agreement Acceptance. The design project was authorized on February 12, 2015 and we received approval to begin work on March 13, 2015.

Please contact me at (608) 829-3858 should you have any questions.

i:\cindy\project agreements\5989-05-25,26 pa to city of beloit 3-24-15.docx



**CORRESPONDENCE/MEMORANDUM**

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***PROJECT AGREEMENT ACCEPTANCE***

DATE: December 22, 2014

SUBJECT: Project Agreement

5989-05-25/26  
City of Beloit, Powerhouse Riverwalk

The Attached Agreement Is Recommended For Approval:

WISDOT PROGRAM: Transportation Alternatives Program (50 – 200K)

LEGISLATIVE SUBPROGRAM: 290

CONCEPTS COVERED by this AGREEMENT: Construct an 850' public riverwalk along the west side of the redeveloped Blackhawk Powerplant.

ESTIMATED COST: \$1,261,447

PARTICIPATION: 80% Federal funding up to a limit of \$1,009,158. The City of Beloit is responsible for the remaining costs.

EXECUTED BY: City of Beloit

DATE: December 18, 2014

LET DATE: August 8, 2017

NOTES:

REGION REVIEWER:

*11/22/14 DANIELS*  
REGIONAL PROGRAM COORDINATOR

REGION: SW

*December 22, 2014*  
DATE



**STATE/MUNICIPAL  
AGREEMENT FOR A STATE-LET  
TRANSPORTATION  
ALTERNATIVES PROGRAM  
(TAP) PROJECT**

**Program Name: TAP**

**Sub-program #: 290**

Date: October 21, 2014

I.D.: 5989-05-25/26

Project Title: City of Beloit, Powerhouse Riverwalk

Location/Limits: Pleasant St. to South of Portland Ave.

Project Length: 850 feet

Project Sponsor: City of Beloit

County: Rock

MPO Area: Beloit

The signatory, City of Beloit, hereinafter called the Project Sponsor, through its undersigned duly authorized officers or officials, hereby requests the State of Wisconsin Department of Transportation, hereinafter called the State, to initiate and effect the transportation project hereinafter described.

Wisconsin Statute 85.021 authorizes the State to administer a program to award grants of assistance to certain political subdivisions, state agencies, counties, local government units, Indian tribes, consistent with federal law 23 U.S.C. 213.

The authority for the Project Sponsor to enter into this agreement with the State is provided by Sections 86.25(1), (2), and (3) and Section 66.0301 of the Statutes.

**NEEDS AND ESTIMATE SUMMARY:**

All components of the project must be defined in the environmental document if any portion of the project is federal/state funded. The Project Sponsor agrees to complete all participating and any non-participating work included in this improvement consistent with the environmental document. No work on final engineering and design may occur prior to approval of the environmental document.

**Proposed Project - Nature of work: the proposed project is to construct an 850' public riverwalk along the west side of the redeveloped Blackhawk Powerplant. The riverwalk will fill in a key 850' gap in Beloit's trail system, moving bike and pedestrian traffic away from USH 51 / Pleasant Street.**

Describe non-participating work included in the project and other work necessary to completely finish the project that will be undertaken independently by the Project Sponsor. Please note that non-participating components of a project/contract are considered part of the overall project and will be subject to applicable Federal requirements: **None**

The Project Sponsor agrees to the following State Fiscal Year 2014-2018 TAP project funding conditions:

Project design and construction costs are funded with 80% federal/state funding up to a maximum of **\$1,009,158** when the Project Sponsor agrees to provide the remaining 20% and any funds in excess of the **\$1,009,158** federal/state funding maximum, in accordance with the TAP guidelines. Non-participating costs are 100% the responsibility of the Project Sponsor. Any work performed by the Project Sponsor prior to federal authorization is not eligible for federal/state funding. The Project Sponsor will be notified by the State that the project is authorized and available for charging.

The subject project must be commenced within four (4) years of the project award date or the grant is rescinded. Sec. 85.021, Wis. Stats.

- 1) For construction projects, a project is commenced when construction is begun.
- 2) For planning projects, a planning project is commenced when the planning study is begun.

- 3) For non-infrastructure projects that do not fall within any of the above categories, a project is considered commenced on the date that WisDOT receives the first reimbursement request from the project sponsor, as noted on form DT1713 in the 'Date Received' field.

**Project Award date:** August 1, 2014  
**Commencement deadline:** August 1, 2018  
**Completion deadline:** August 1, 2021

**The project commencement deadline is fixed by statute, and may not be extended.**

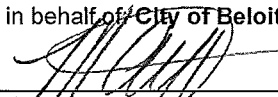
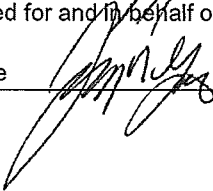
In accordance with the State's sunset policy for Transportation Alternatives Program projects, the subject 2014-2018 Transportation Alternatives Program improvement must be constructed and in final acceptance by August 1, 2021. WisDOT may consider a written request to extend the completion deadline from the Project Sponsor and may approve such a request in the presence of extenuating circumstances. The written request shall explain the reasons for project implementation delay and revised timeline for project completion.

In the summary funding table below, the federal/state share of the total estimated cost distribution indicates the maximum amount of federal/state funding available to the project, to be distributed across federal/state funded project phases. The final Project Sponsor share is dependent on the final federal/state participation, and the actual costs will be used in the final division of costs for billing and reimbursement.

SUMMARY OF COSTS					
PHASE	Total Est. Cost	Federal/State Funds	%	Project Sponsor Funds	%
<b>ID 5989-05-25</b>		<b>\$1,009,158</b>	<b>MAX</b>		
Design	\$118,261	\$94,609	80%	\$23,652	BAL*
State Review	\$39,420	\$31,536	80%	\$7,884	BAL*
<b>ID 5989-05-26</b>					
Participating Construction	\$985,505	\$788,404	80%	\$197,101	BAL*
Non-Participating Construction	\$0	\$0	0%	\$0	100%
State Review	\$118,261	\$94,609	80%	\$23,652	BAL*
<b>Total Est. Cost Distribution</b>	<b>\$1,261,447</b>	<b>\$1,009,158</b>	<b>N/A</b>	<b>\$252,289</b>	<b>N/A</b>

\*The project has a TAP federal/state funding maximum of \$1,009,158. This maximum is cumulative for all federal/state funded project phases.

This request is subject to the terms and conditions that follow (pages 3 – 7) and is made by the undersigned under proper authority to make such request for the designated Project Sponsor and upon signature by the State and delivery to the Project Sponsor shall constitute agreement between the Project Sponsor and the State. No term or provision of neither the State/Municipal Agreement nor any of its attachments may be changed, waived or terminated orally but only by an instrument in writing executed by both parties to the State/Municipal Agreement.

Signed for and in behalf of <b>City of Beloit</b> (please sign in blue ink.)			
Name		Title	City Manager
		Date	12/18/2014
Signed for and in behalf of the State:			
Name		Jeffrey R. Gust, P.E.	
		Wisconsin Department of Transportation	
		Southwest Region Planning Chief	
		Date	1-5-2015

**GENERAL TERMS AND CONDITIONS:**

1. All projects must be in an approved Transportation Improvement Program (TIP) or State Transportation Improvement Program (STIP) prior to requesting authorization.
2. Work prior to federal authorization is ineligible for federal/state funding.
3. The Project Sponsor, throughout the entire project, commits to comply with and promote all applicable federal and state laws and regulations that include, but are not limited to, the following:
  - a. Environmental requirements, including but not limited to those set forth in the 23 U.S.C. 139 and National Environmental Policy Act (42 U.S.C. 4321 et seq.) .
  - b. Equal protection guaranteed under the U.S. Constitution, WI Constitution, Title VI of the Civil Rights Act and Wis. Stat. 16.765. The Project Sponsor agrees to comply with and promote applicable Federal and State laws, Executive Orders, regulations, and implementing requirements intended to provide for the fair and equitable treatment of individuals and the fair and equitable delivery of services to the public. In addition, the Project Sponsor agrees not to engage in any illegal discrimination in violation of applicable Federal or State laws and regulations. This includes but is not limited to Title VI of the Civil Rights Act of 1964, which provides that "no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." The Project Sponsor agrees that public funds, which are collected in a nondiscriminatory manner, should not be used in ways that subsidize, promote, or perpetuate illegal discrimination based on prohibited factors such as race, color, national origin, sex, age, physical or mental disability, sexual orientation, or retaliation.
  - c. Prevailing wage requirements, including but not limited to 23 U.S.C 113 and Wis. Stat. 103.50.
  - d. Buy America Provision and its equivalent state statutes, set forth in 23 U.S.C. 313 and Wis. Stat. 16.754.
  - e. Competitive bidding requirements set forth in 23 U.S.C 112 and Wis. Stat. 84.06.
  - f. All DBE requirements that the State specifies.
  - g. Federal Statutes that govern the Transportation Alternatives Program, including but not limited to 23 U.S.C. 213 and Wis. Stat. 85.021.

**STATE RESPONSIBILITIES AND REQUIREMENTS:**

4. Funding of each project phase is subject to inclusion in Wisconsin's approved State Fiscal Year 2014-2018 Transportation Alternatives Program. Federal/State funding will be limited to participation in the costs of the following items, as applicable to the project:
  - a. The grading, base, pavement, and curb and gutter, sidewalk, and replacement of disturbed driveways in kind.
  - b. The substructure, superstructure, grading, base, pavement, and other related bridge and approach items.
  - c. Storm sewer mains necessary for the surface water drainage.
  - d. Catch basins and inlets for surface water drainage of the improvement, with connections to the storm sewer main.
  - e. Construction engineering incident to inspection and supervision of actual construction work (except for inspection, staking, and testing of sanitary sewer and water main).



- f. Signing and pavement marking.
  - g. New installations or alteration of street lighting and traffic signals or devices.
  - h. Landscaping.
  - i. Preliminary Engineering and design.
  - j. Management Consultant and State Review Services.
5. The work will be administered by the State and may include items not eligible for Federal/State participation.
  6. As the work progresses, the State will bill the Project Sponsor for work completed which is not chargeable to Federal/State funds. Upon completion of the project, a final audit will be made to determine the final division of costs. If reviews or audits show any of the work to be ineligible for Federal/State funding, the Project Sponsor will be responsible for any withdrawn costs associated with the ineligible work.

**PROJECT SPONSOR RESPONSIBILITIES AND REQUIREMENTS:**

7. Work necessary to complete the State Fiscal Year 2014-2018 TAP improvement project to be financed entirely by the Project Sponsor or other utility or facility owner includes the items listed below.
  - a. New installations of or alteration of sanitary sewers and connections, water, gas, electric, telephone, telegraph, fire or police alarm facilities, parking meters, and similar utilities.
  - b. Damages to abutting property after project completion due to change in street or sidewalk widths, grades or drainage.
  - c. Detour routes and haul roads. The Project Sponsor is responsible for determining the detour route.
  - d. Conditioning, if required and maintenance of detour routes.
  - e. Repair of damages to roads or streets caused by reason of their use in hauling materials incident to the improvement.
  - f. All work related to underground storage tanks and contaminated soils.
  - g. Street and bridge width in excess of standards, in accordance with the current WisDOT Facilities Development Manual (FDM).
  - h. Real estate for the improvement.
  - i. Other 100% Project Sponsor funded items: **None**
8. The construction of the subject improvement will be in accordance with the appropriate standards unless an exception to standards is granted by WisDOT prior to construction. The entire cost of the construction project, not constructed to standards, will be the responsibility of the Project Sponsor unless such exception is granted. The project sponsor is an eligible recipient of these grant funds pursuant to Wisconsin Statute 85.021 and federal law at 23 U.S.C. 213.
9. Work to be performed by the Project Sponsor without Federal/State funding participation necessary to ensure a complete improvement acceptable to the Federal Highway Administration and/or the State may be done in a manner at the election of the Project Sponsor but must be coordinated with all other work undertaken during construction.
10. The Project Sponsor is responsible for financing administrative expenses related to Municipal project responsibilities.

11. The Project Sponsor will include in all contracts executed by them a provision obligating the contractor not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01 (5), sexual orientation as defined in s. 111.32 (13m), or national origin.
12. The Project Sponsor will pay to the State all costs incurred by the State in connection with the improvement that exceed Federal financing commitments or are ineligible for Federal financing. In order to guarantee the Project Sponsor's foregoing agreements to pay the State, the Project Sponsor, through its above duly authorized officers or officials, agrees and authorizes the State to set off and withhold the required reimbursement amount as determined by the State from any moneys otherwise due and payable by the State to the Project Sponsor.
13. In accordance with the State's sunset policy for Transportation Alternatives Program projects, the subject 2014-2018 Transportation Alternatives Program improvement must be constructed and in final acceptance by August 1, 2021. WisDOT may consider a written request to extend the completion deadline from the Project Sponsor and may approve such a request in the presence of extenuating circumstances. The written request shall explain the reasons for project implementation delay and revised timeline for project completion.
14. If the Project Sponsor should withdraw the project, it will reimburse the State for any costs incurred by the State on behalf of the project.
15. Sponsors of TAP projects within the Safe Routes to School eligibility category are required to conduct pre and post-project/activity surveys using the SRTS Parent Survey and Student Tally Sheets. The results will be provided to the State at the conclusion of the project.
16. The Project Sponsor will at its own cost and expense:
  - a. Maintain all portions of the project that lie within its jurisdiction (to include, but not limited to, cleaning storm sewers, removing debris from sumps or inlets, and regular maintenance of the catch basins, curb and gutter, sidewalks and parking lanes [including snow and ice removal]) for such maintenance through statutory requirements in a manner satisfactory to the State, and will make ample provision for such maintenance each year. The Project Sponsor will ensure that facilities are available in all weather conditions, including clearing snow from sidewalks and multi-use trails.
  - b. Regulate [or prohibit] parking at all times in the vicinity of the proposed improvements during their construction.
  - c. Regulate [or prohibit] all parking at locations where and when the pavement area usually occupied by parked vehicles will be needed to carry active traffic in the street.
  - d. Assume general responsibility for all public information and public relations for the project and to make fitting announcement to the press and such outlets as would generally alert the affected property owners and the community of the nature, extent, and timing of the project and arrangements for handling traffic within and around the project.
  - e. Provide complete plans, specifications, and estimates.
  - f. Provide relocation orders and real estate plats.
  - g. Use the *WisDOT Utility Accommodation Policy* unless it adopts a policy, which has equal or more restrictive controls.
  - h. Provide maintenance and energy for lighting.
  - i. Provide proper care and maintenance of all landscaping elements of the project including replacement of any plant materials damaged by disease, drought, vandalism or other cause.
17. It is further agreed by the Project Sponsor that:

- a. The Project Sponsor assumes full responsibility for the design, installation, testing and operation of any sanitary sewer and water main infrastructure within the improvement project and relieves the state and all of its employees from liability for all suits, actions, or claims resulting from the sanitary sewer and water main construction under this agreement.
- b. The Project Sponsor assumes full responsibility for the plans and special provisions provided by their designer or anyone hired, contracted or otherwise engaged by the Project Sponsor. The Project Sponsor is responsible for any expense or cost resulting from any error or omission in such plans or special provisions. The Project Sponsor will reimburse WisDOT if WisDOT incurs any cost or expense in order to correct or otherwise remedy such error or omission or consequences of such error or omission.
- c. The Project Sponsor will be 100% responsible for all costs associated with utility issues involving the Contractor, including costs related to utility delays.
- d. All signs and traffic control devices and other protective structures erected on or in connection with the project including such of these as are installed at the sole cost and expense of the Project Sponsor or by others, will be in conformity with such "Manual of Uniform Traffic Control Devices" as may be adopted by the American Association of State Highway and Transportation Officials, approved by the State, and concurred in by the Federal Highway Administration.
- e. The right-of-way available or provided for the project will be held and maintained inviolate for public highway or street purposes. Those signs prohibited under Federal aid highway regulations, posters, billboards, roadside stands, or other private installations prohibited by Federal or State highway regulations will not be permitted within the right-of-way limits of the project. The Project Sponsor, within its jurisdictional limits, will remove or cause to be removed from the right-of-way of the project all private installations of whatever nature which may be or cause an obstruction or interfere with the free flow of traffic, or which may be or cause a hazard to traffic, or which impair the usefulness of the project and all other encroachments which may be required to be removed by the State at its own election or at the request of the Federal Highway Administration, and that no such installations will be permitted to be erected or maintained in the future.

#### **LEGAL RELATIONSHIPS:**

18. The State shall not be liable to the Project Sponsor for damages or delays resulting from work by third parties. The State also shall be exempt from liability to the Project Sponsor for damages or delays resulting from injunctions or other restraining orders obtained by third parties.
19. The State will not be liable to any third party for injuries or damages resulting from work under or for the Project. The Project Sponsor and the Project Sponsor's surety shall indemnify and save harmless the State, its officers and employees, from all suits, actions or claims of any character brought because of any injuries or damages received or sustained by any person, persons or property on account of the operations of the Project Sponsor and its sureties; or on account of or in consequence of any neglect in safeguarding the work; or because of any act or omission, neglect or misconduct of the Project Sponsor or its sureties; or because of any claims or amounts recovered for any infringement by the Project Sponsor and its sureties of patent, trademark or copyright; or from any claims or amounts arising or recovered under the Worker's Compensation Act, relating to the employees of the Project Sponsor and its sureties; or any other law, ordinance, order or decree relating to the Project Sponsor's operations.
20. Contract Modification: This State/Municipal Agreement can only modified by written instruments duly executed by both parties. No term or provision of neither this State/Municipal Agreement nor any of its attachments may be changed, waived or terminated orally.
21. Binding Effects: All terms of this State/Municipal Agreement shall be binding upon and inure to the benefits of the legal representatives, successors and executors. No rights under this State/Municipal Agreement may be transferred to a third party. This State/Municipal Agreement creates no third- party enforcement rights.

22. Choice of Law and Forum: This State/Municipal Agreement shall be interpreted and enforced in accordance with the laws of the State of Wisconsin. The Parties hereby expressly agree that the terms contained herein and in any deed executed pursuant to this State/Municipal Agreement are enforceable by an action in the Circuit Court of Dane County, Wisconsin.

#### **PROJECT FUNDING CONDITIONS**

23. The Project Sponsor agrees to the following State Fiscal Year 2014-2018 TAP project funding conditions:

- a. ID 5989-05-25: Design and any related review costs are funded with 80% federal/state funding when the Project Sponsor agrees to provide the remaining 20%. These costs are subject to the cumulative project federal/state funding cap. This includes Plan Development, Management Consultant Review, and State Review. The work includes project review, approval of required reports and documents and processing the final PS&E document for award of the contract.
- b. ID 5989-05-26: Construction:
  - i. Costs for participating construction items and any related review costs: are funded with 80% federal/state funding, when the Project Sponsor agrees to provide the remaining 20%. These costs are subject to the cumulative project federal/state funding cap.
- c. The maximum participation of federal/state funding will be limited to 80% of the actual eligible project cost or the total cost distribution of TAP funds shown on page 2 of this State/Municipal Agreement, whichever is less. The project federal/state funding maximum of **\$1,009,158** is cumulative for all federal/state funded project phases.

**[End of Document]**

**RESOLUTION APPROVING A LANDFILL DISPOSAL AGREEMENT  
BETWEEN THE CITY OF JANESVILLE AND THE CITY OF БЕЛОIT**

**WHEREAS**, Janesville owns and operates a solid waste landfill located at 525 Black Bridge Road, Janesville, Wisconsin 53545 (the "Landfill");

**WHEREAS**, Beloit is a provider of solid waste collection and transportation services located in the City of Beloit; and

**WHEREAS**, Janesville desires to dispose of waste delivered to the Landfill by the Beloit, and to provide other services to Beloit, and Beloit desires to deliver waste to the Landfill and receive other services from Janesville, upon the terms and conditions set forth in the attached Landfill Disposal Agreement.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the attached Landfill Disposal Agreement between the City of Janesville and the City of Beloit is hereby approved and the City Manager of the City of Beloit be, and is hereby, authorized to execute the same, to further execute any other documents to implement the terms and conditions thereof, and to do all other things necessary in order to carry out the purposes of this resolution.

Adopted this 18<sup>th</sup> day of May, 2015.

City Council of the City of Beloit

\_\_\_\_\_  
Charles M. Haynes, President

Attest:

\_\_\_\_\_  
Judith A. Elson, Deputy City Clerk

tdh\resolution\Landfill Disposal Agreement = res = 150511

# CITY OF BELOIT

## REPORTS AND PRESENTATIONS TO CITY COUNCIL



**Topic: Landfill Agreement**

**Date: May 18, 2015**

**Presenter(s): Christine Walsh**

**Department(s): Public Works - Operations**

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

On October 1, 2005 the City entered into a ten (10) year contract with Mallard Ridge Landfill to dispose of residential waste and inorganic material from the wastewater treatment plant. This agreement is set to expire on September 30, 2015. Currently, the City is paying Mallard Ridge Landfill \$32.68 per ton.

---

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

1. On February 6, 2015, Janesville City Manager, Mark Freitag, sent a letter proposing the cities enter into an intergovernmental agreement (IGA) to dispose of solid waste.
2. The City would realize a savings of \$186,994.00 in the first five (5) years of the agreement compared to our current rate, assuming the rate for Mallard Ridge remain constant.
3. This agreement would further bolster the intergovernmental cooperative relationship that already exists between Janesville and Beloit.
4. Economic stability for a local landfill is beneficial for Beloit. This will tend to keep the solid waste landfill market more competitive by helping to maintain the supply of landfill options.
5. This type of cooperative agreement is a "win-win" for both communities by reducing the City of Beloit's disposal cost and providing Janesville with increased revenue.

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

1. As an eco-friendly municipality, focus on the sustainable stewardship of City resources, services and infrastructure; to protect both our built and natural environment and enhance the quality of life for current and future generations.
2. Communicate and partner with other jurisdictions and organizations to coordinate effective and efficient service delivery and stimulate regional prosperity.

Clearly, this project supports both sustainable stewardship of resources and a partnership with other jurisdictions to promote a win-win for both 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**  
Operations semi will be driving less miles per year with average savings of 1,084 gallons or \$4,023 of diesel per year, reducing our Greenhouse gas emissions by 29,247 pounds annually.
- **Reduce dependence on chemicals and other manufacturing substances that accumulate in nature**  
N/A
- **Reduce dependence on activities that harm life sustaining eco-systems**  
The Janesville landfill is licensed and monitored by the State of Wisconsin Department of Natural Resources, to prevent harm.
- **Meet the hierarchy of present and future human needs fairly and efficiently**  
This agreement protects the regions ability to have landfill options, thus stabilizing regional landfill pricing

**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:**

Staff recommends that council vote in favor of authorizing the City Manager to proceed with entering into a Landfill Disposal Agreement between the City of Beloit and Janesville.

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### **Fiscal Note/Budget Impact:**

Five year projected Landfill savings approximately \$186,994.00

**LANDFILL DISPOSAL AGREEMENT BETWEEN  
THE CITY OF JANESVILLE AND  
THE CITY OF BELOIT**

**THIS AGREEMENT** is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2015, by and between the **City of Janesville**, a Wisconsin municipal corporation conducting its primary business at 18 North Jackson Street, City of Janesville, County of Rock, State of Wisconsin 53545 ("**Janesville**"), and the **City of Beloit**, a Wisconsin municipal corporation conducting its primary business at 100 State Street, City of Beloit, County of Rock, State of Wisconsin 53511 ("**Beloit**").

**RECITALS**

**WHEREAS, Janesville** owns and operates a solid waste landfill located at 525 Black Bridge Road, Janesville, Wisconsin 53545 (the "Landfill");

**WHEREAS, Beloit** is a provider of solid waste collection and transportation services located in the City of Beloit; and

**WHEREAS, Janesville** desires to dispose of Waste delivered to the Landfill by the **Beloit**, and to provide other services to **Beloit**, and **Beloit** desires to deliver Waste to the Landfill and receive other services from **Janesville**, upon the terms and conditions set forth herein.

**AGREEMENT**

**NOW, THEREFORE**, in consideration of these promises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, each intending to be legally bound, agree as follows:

1. **DEFINITIONS.** For the purpose of this Agreement, the following terms shall have the meanings set forth below:
  - a. "Affiliate" shall have the meaning set forth in Rule 12b-2 of the General Rules and Regulations under the Securities and Exchange Act of 1934, as amended, and shall additionally include successors, designees and assigns.
  - b. "Agreement" means this Agreement between **Beloit** and **Janesville** (collectively "Parties"), as modified, supplemented, or restated from time to time, together with any exhibits, schedules or attachments hereto.
  - c. "Class A Biosolids" means biosolids, as defined in Wisconsin Administrative Code § NR 204.03(55), that meet the Class A pathogen requirements set forth in Wisconsin Administrative Code § NR 204.07(6).
  - d. "Class B Biosolids" means biosolids, as defined in Wisconsin Administrative Code § NR 204.03(55), that meet the Class B pathogen requirements set forth in Wisconsin Administrative Code § NR 204.07(6).

- e. "Disposal Facility" or "Landfill" means the landfill known as the Landfill located at 525 Black Bridge Road, Janesville, Wisconsin 53545, and owned and/or operated by the City of Janesville, or its Affiliate.
- f. "Effective Date" is October 1, 2015.
- g. "Environmental Laws" means all applicable laws, directives, rules, ordinances, codes, guidelines, regulations, governmental, administrative or judicial orders or decrees or other legal requirements of any kind, including, without limitation, common law, whether currently in existence or hereafter promulgated, enacted, adopted or amended, relating to safety, preservation or protection of human health and the environment (including ambient air, surface water, groundwater, land or subsurface strata) and/or relating to the handling, treatment, transportation or disposal of waste.
- h. "Fees and Taxes" means any federal or state taxes, assessments, fees, surcharges or similar charges directly related to the acceptance and/or disposal of Waste that are imposed on the Disposal Facility and/or **Janesville** by law, rule, or regulation.
- i. "Hazardous Materials" means any pollutant, contaminant, hazardous or toxic substance, constituent or material, including, without limitation, petroleum products and their derivatives, or other substances, regulated under or pursuant to any Environmental Laws.
- j. "Hazardous Waste" means any waste regulated as such under or pursuant to any Environmental Laws. The term "Hazardous Waste" also includes any waste that is, after the Effective Date of this Agreement, deemed hazardous by any judicial or governmental entity, body, or agency having jurisdiction to make that determination.
- k. "Proposal" means the **Janesville's** Proposal. The Proposal is attached hereto and made a part hereof as Exhibit A.
- l. "Special Waste" means non-hazardous waste that requires special handling or management due to its composition or volume. The term "Special Waste" includes Class A Biosolids and Class B Biosolids. All Special Waste must comply with the Disposal Facility's Special Waste Program and procedures prior to acceptance.
- m. "Ton" means 2,000 pounds.
- n. "Unacceptable Waste" means any and all solid waste that the Disposal Facility is not authorized to accept for disposal pursuant to its permits and licenses, including, without limitation, highly inflammable substances, Hazardous Materials, Hazardous Waste, liquid wastes, certain pathological and biological wastes, explosives, radioactive materials and any other materials deemed by state or federal law, or in the reasonable discretion of **Janesville**, to be dangerous or threatening to health or the environment or the operations conducted at the Disposal Facility. For the purposes of this Agreement,



Unacceptable Waste shall include contaminated soils, foundry waste, mill cover or shredder fluff, asbestos, tires, appliances, high volume industrial waste.

- o. "Waste" means any and all non-hazardous solid waste delivered by **Beloit** to the Disposal Facility, and which the Disposal Facility is legally permitted to accept for disposal pursuant to the terms of its operating permit(s).

2. **TERM.** The term of this Agreement shall commence on the Effective Date and, unless earlier terminated, this Agreement shall remain in full force until September 30, 2020, (the "Initial Term"). This Agreement may be renewed and extended for a successive period of five (5) years by mutual written agreement of the Parties ("Renewal Term") and executed prior to the expiration of the Initial Term. All references herein to the "Term" of this Agreement shall be deemed to include the Initial Term and a Renewal Terms.

3. **DISPOSAL FEES.**

- a. **Beloit** shall pay **Janesville** disposal fees as follows for the disposal of Waste at the Disposal Facility during the Term of this Agreement. **Janesville** may not increase the disposal fees during the Term of this Agreement unless mutually agreed to by the Parties.

<b>Term</b>	<b>Fees</b>
Effective Date through 12/31/2016	\$15.00 per ton
1/1/2017 - 12/31/2017	\$15.50 per ton
1/1/2018 - 12/31/2018	\$16.00 per ton
1/1/2019 - 12/31/2019	\$16.50 per ton
1/1/2020 - 9/30/2020	\$17.00 per ton

- b. The Parties agree that the pricing schedule for the Renewal Term shall be based upon the prior year's base fee multiplied by a mutually agreeable, and as yet to be determined, Consumer Price Index, but in no event shall exceed three percent (3%) per year.
- c. **Janesville** shall pass through to **Beloit** all tonnage fees, taxes and surcharges imposed by the State of Wisconsin, as provided in Wisconsin Statutes and the Administrative Code, currently \$13.00 per ton. All pass-through fees, taxes and surcharges shall be included in **Beloit's** monthly invoice. Increases in these fees shall not be the sole basis for **Beloit** to terminate this agreement.
- d. **Janesville** shall send **Beloit** an invoice within ten (10) days after the conclusion of each month during the term of this Agreement. **Beloit** shall pay **Janesville** the full amount invoiced within thirty (30) days after receipt of the invoice.

4. **DELIVERY AND ACCEPTANCE OF WASTE**

- a. Each calendar month during the Term of this Agreement, **Beloit** agrees to deliver, and shall deliver, to the Disposal Facility for disposal ninety-five percent (95%) of the Waste (the "Base Volume") **Beloit** (or its contractor(s)) transports

and/or collects during the month within the City of Beloit (the “Exclusivity Obligation”). In the event **Beloit** desires to dispose of Waste in excess of the Base Volume at another landfill, **Beloit** shall first grant **Janesville** the option to accept such Waste upon the terms, conditions and Disposal Rate set forth herein. In the event **Janesville** exercises its option to accept such Waste, **Beloit** shall deliver such Waste to the Landfill pursuant to the terms and conditions set forth herein and furthermore **Beloit** shall pay for the disposal of said Waste at the Disposal Rate that is applicable hereunder on the date of delivery.

- b. **Janesville** shall weigh all vehicles delivering Waste by or on behalf of **Beloit** to the Disposal Facility. At any time, **Janesville** may confirm the tare weight of any vehicle delivering Waste to the Disposal Facility by or on behalf of **Beloit**.
- c. **Beloit** acknowledges that **Janesville** intends to reject Waste that, in **Janesville’s** sole determination, would be in violation of this Agreement, **Janesville’s** then existing licenses or permits, or would result in a violation of applicable federal, state or local laws, rules, regulations, ordinances or orders.
- d. Ownership of Waste delivered to the Landfill by or on behalf of **Beloit** shall pass to and be accepted by **Janesville** when the vehicle transporting the Waste is fully unloaded at the Disposal Facility.
- e. **Janesville** may detain and inspect the contents of all vehicles delivering Waste to the Disposal Facility. **Beloit** agrees to monitor and inspect on a regular basis the contents of its vehicles in order to ensure that the Waste being delivered to the Disposal Facility contains no Unacceptable Waste.
- f. **Beloit** shall not deliver to, or dispose of, any Unacceptable Waste at the Disposal Facility unless such action has been agreed to in advance, in writing, by **Janesville** and the Unacceptable Waste is of a type permitted to be disposed of in the Landfill.

5. **RESPONSIBILITIES OF JANESVILLE.** At its own expense, the **Janesville** shall have the following responsibilities in the administration of this Agreement:

- a. Project Officer. **Janesville’s** Operations Director, or his/her designee, shall act as **Janesville’s** representative with respect to this Agreement.
- b. Hours of Operation. At a minimum, unless the hours and/or days are changed by **Janesville**, in which event such changed hours and days shall govern, the **Janesville** shall maintain the following hours of operation at its landfill except as provided in (5)(c) and (d) of this Agreement:

Monday-Friday	7:00 a.m. to 3:30 p.m.
Saturday	8:00 a.m. to 1:00 p.m.

- c. Holidays. The Landfill will not be open for operations on the following holidays:

New Year’s Day  
Memorial Day  
Independence Day

Labor Day  
Thanksgiving Day  
Christmas Day

- d. Early Closure of Operations Due to Excessive Wind Speed. Occasionally, and from time to time, **Janesville** may close the Landfill earlier than as provided for in (5)(b) of this Agreement due to excessive wind speed. Such early closure shall be at the sole discretion of **Janesville**. In the event of early closure, **Janesville** shall open the Landfill, for use by **Beloit**, by 7:00 a.m. the day following such early closure, except that **Janesville** shall not open the Landfill for any reason on Sunday or any holiday listed in (5)(c) of this Agreement.
  - e. State-Certified Truck Scale. **Janesville** shall, at all times, maintain a state-certified truck scale at the Landfill with a maximum weighing capability of 100,000 pounds. Annual calibration, maintenance and licensing information shall be furnished to **Beloit** upon request.
  - f. **Janesville** shall, at all times, observe and comply with all Federal, State and local ordinances, laws and regulations, as from time to time amended, modified or rectified.
  - g. **Janesville** shall comply with all laws pertaining to sanitation, pollution, and the work performed by **Janesville**, the regulations of the Wisconsin Department of Natural Resources pertaining to solid waste management and recycling, and related regulations, as from time to time amended, modified or rectified.
6. **RESPONSIBILITIES OF BELOIT.** At its own expense, the **Beloit** shall have the following responsibilities in the administration of this Agreement:
- a. Insurance Requirements. **Beloit** shall, at all times, provide, pay for, and have in full force and effect, the following public liability insurance:
    - (1) Bodily injury in the amounts of \$1,000,000 for each person and \$1,000,000 for each occurrence. Completed operations and products liability aggregate limit of \$500,000 during the term of insurance. For coverage of bodily injuries or death suffered or alleged to have been suffered by any person or persons by reason of or in the course of operations under this Agreement, whether occurring by reason of the acts or omissions of the CITY OF BELOIT. Such insurance shall be maintained for the duration of this Agreement.
    - (2) Property damage in the amount of \$1,000,000 for each occurrence and \$1,000,000 in the aggregate during the term of insurance. For coverage of damages to property suffered or alleged to have been suffered by any person or persons by reason of or in the course of operations under this Agreement, whether occurring by reason of acts or omissions of the **Beloit**. Such insurance shall be maintained for the duration of this Agreement.

b. Laws and Regulations

- (1) **Beloit** shall, at all times, observe and comply with all Federal, State and local ordinances, laws and regulations, as from time to time amended, modified or rectified.
- (2) **Beloit** shall comply with all laws pertaining to sanitation, pollution, and the work performed by **Beloit**, the regulations of the Wisconsin Department of Natural Resources pertaining to solid waste management and recycling, and related regulations, as from time to time amended, modified or rectified.
- (3) **Beloit** shall not, to the extent possible, knowingly deliver for disposal at the Landfill, recyclable materials banned from disposal by §287.07(1m) to (5) Wis. Stats., and Janesville General Ordinance 8.64, as from time to time amended, modified or rectified.

c. Project Manager. Beloit's Director of Operations in the Public Works Department, or his/her designee, shall be assigned to be the point of contact for **Beloit** for the purposes of this Agreement.

7. **INSURANCE.** **Janesville** shall maintain at all times during the Term of this Agreement the insurance coverages set forth below. **Janesville** agrees to waive all rights of recovery by way of subrogation against **Beloit** in connection with any claims and/or damages covered by any of the insurance policies required to be maintained by **Janesville** under this section and **Janesville** agrees that it shall cause all such insurance policies to provide that the insurance company waives all rights of recovery by way of subrogation against **Beloit** in connection with any claims and/or damages covered by such policies.

a. **Commercial General Liability.**

(1)	General Aggregate Limit	\$1,000,000
(2)	Each Occurrence	\$1,000,000
(3)	Products/Completed Operations Aggregate Limit	\$1,000,000
(4)	Personal & Advertising Injury Limit	\$1,000,000
(5)	Medical Expense Limit/Any One Person	\$10,000

The Commercial General Liability policy will include protection for Bodily Injury and Property Damage Liability arising from premises, operations, products and completed operations, Contract Liability coverage for this Contract and related contracts, including subcontracts, Coverage for bodily injury or personal injury inflicted by one employee upon another, and Coverage for property in the care, custody or control of Janesville or a "Property of Others" policy.

b. **Automobile Liability Insurance.** **Janesville** shall maintain during the life of the Agreement such Automobile Liability Insurance as shall protect it against claims for damages resulting from (a) bodily injury, including wrongful death, and (b)

property damage which may arise from the operations of any owned, hired, or now-owned automobiles used by or for it in any capacity in connection with the carrying out of this Agreement. The minimum acceptable limits of liability to be provided by such Automobile Liability Insurance shall be as follows:

Bodily Injury and Property Damage: \$1,000,000 Combined Single Limit

- c. **Worker's Compensation.** **Janesville** shall provide Worker's Compensation Insurance coverage including coverage for injuries caused by fellow employees in accordance with Wisconsin statutory limits.
- d. **Changes in Coverage.** **Janesville** shall not discontinue or change liability insurance policies in effect during any part of this Agreement without buying "tail end" insurance to cover potential claims that may have occurred during the term of this Agreement. The hold harmless, indemnity and insurance provisions of this Agreement shall survive the termination of this Agreement and shall remain operative until the time that all potential claims or potential civil actions by the Parties or by third parties shall expire under existing law.

## 8. **INDEMNIFICATION.**

- a. **Beloit** shall, at all times, indemnify, save and keep harmless **Janesville**, its officers, agents and employees of and from all liabilities, liens, judgments, costs, damages and expenses of whatsoever kind which may in any way be suffered by **Janesville** or by any of its officers, agents, or employees, or which may accrue against or be charged to or recovered from **Janesville**, or its said officers, agents or employees by reason of or in consequence of **Beloit's** performance under this Agreement.
  - b. **Janesville** shall, at all times, indemnify, save and keep harmless **Beloit**, its officers, agents and employees of and from all liabilities, liens, judgments, costs, damages and expenses of whatsoever kind which may in any way be suffered by **Beloit** or by any of its officers, agents, or employees, or which may accrue against or be charged to or recovered from **Beloit**, or its said officers, agents or employees by reason of or in consequence of **Janesville's** performance under this Agreement. The duty to defend arises immediately upon written presentation of a claim to **Janesville**.
9. **PERSONNEL.** The Parties shall employ, at its own expense, all personnel required to perform the services required by this Agreement. No person employed by one of the Parties shall be construed to be an employee of the other Party at any time. The Parties warrant that all personnel engaged in the work performed under this Agreement shall be qualified and authorized/permitted by the State of Wisconsin to perform said work.
10. **DATA TO BE FURNISHED.** Secondary sources of information, data, reports, audits, records and maps as owned by **Janesville** and necessary for carrying out the work as outlined in this Agreement shall be furnished to **Beloit** upon request and without charge by **Janesville**.

11. **TRANSFER OR ASSIGNMENT OF AGREEMENT.** This Agreement, and the rights and privileges granted to the Parties pursuant to this Agreement, shall be binding upon and inure to the benefit of the successors of such parties hereto; provided, however, that no party may transfer or assign (whether by operation of law, merger or otherwise) this Agreement, or its rights or obligations under this Agreement without the prior written consent of the other party which consent shall not be unreasonably withheld, conditioned or delayed.
12. **NOTICES.** All notices or other communications to be given hereunder shall be in writing and shall be sent by facsimile, overnight delivery, or first class United States mail, properly addressed as follows:

**Janesville** John Whitcomb  
Operations Director  
2200 US Hwy 51 North  
P.O. Box 5005  
Janesville, WI 53547-5005

**Beloit** Christine Walsh  
Director of Operations  
City of Beloit Operations Facility  
2351 Springbrook Court  
Beloit, Wisconsin 53511

13. **AMENDMENTS.** No amendment to this Agreement shall be binding upon any party hereto until such amendment is reduced to writing and executed by the Parties.
14. **ENTIRE AGREEMENT.** This Agreement contains the entire agreement of the Parties regarding this project. All prior negotiations and discussions have been merged into this Agreement.
15. **FORCE MAJEURE.** No party shall be responsible to the other party for any losses if the fulfillment of any term of this Agreement is delayed or prevented by civil disorders, wars, strikes, floods, fires, acts of God, or by any other cause not within the reasonable control of the party whose performance was interfered with and which, by the exercise of reasonable diligence, such party is unable to prevent, whether or not of the class of causes enumerated above, and the time for performance shall be extended for the period of delay occasioned by any such cause.
16. **HEADINGS.** The headings set forth in this Agreement are for convenience and reference only and do not define or limit the scope or content of this Agreement or affect any of its provisions.
17. **DEFAULT AND NOTICE OF DEFAULT.** In the event any party fails to comply with or perform any of the covenants, agreements and obligations to be performed by that party under the terms and provisions of this Agreement, the other party shall be entitled to pursue any and all remedies available at law or in equity including, without limitation, a suit for specific performance of this Agreement. Any party seeking to enforce its rights hereunder may do so only after giving advance written notice to the other party

reasonably identifying the alleged breach and giving the breaching party thirty (30) days in which to cure the alleged breach, unless the cure cannot reasonably be completed within said thirty (30) day period, at which time the cure period will be extended by a reasonable time necessary for said cure.

18. **APPLICABLE LAW AND JURISDICTION.** This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin, and the Parties agree that Rock County, Wisconsin, shall have jurisdiction to handle any litigation between the Parties.
19. **AFFIRMATIVE ACTION.** **Janesville** represents and warrants that it will adopt an affirmative action plan to increase its partners, associates, and employees members of under-represented groups in all of its departments, job classifications, and salary categories in compliance with applicable Federal and State guidelines. This provision is inserted herein in compliance with Section 1.09 of the Code of General Ordinances of the City of Beloit, and shall be interpreted so as to carry out the intent of that ordinance.
20. **NONDISCRIMINATION.** **Janesville** shall not discriminate against any qualified employee or qualified applicant for employment because of race, color, national origin, ancestry, religion, age, marital status, disability, sex, or sexual orientation. In the event any portion of this Agreement is subcontracted by **Janesville**, **Janesville** shall include in such subcontract, a provision prohibiting the subcontractor from discriminating against any qualified employee or qualified applicant for employment because of race, color, national origin, ancestry, religion, age, marital status, disability, sex, or sexual orientation. This provision is inserted herein in compliance with section 1.09 of the Code of General Ordinances of the City of Beloit, and shall be interpreted so as to carry out the intent of said ordinance.
21. **WAIVER.** No waiver shall be effective unless it is in writing and is signed by the party asserted to have granted the waiver.
22. **SEVERABILITY.** The provisions of this Agreement are independent of and severable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that any provision may be invalid or unenforceable in whole or in part.
23. **TIME OF THE ESSENCE.** It is specifically declared that time is of the essence in the performance of this Agreement by each party hereto of each, every, and all provisions of this Agreement.
24. **MEASURES.** **Janesville** shall cooperate and maintain proper record keeping for the landfilling of Waste in conformance with all applicable federal, state and local laws. **Janesville** shall also cooperate with all reasonable directives from **Beloit** for procedures to evaluate the performance of **Janesville** on the following measures. The following measures shall be evaluated and utilized by **Beloit** in determining whether to agree to an extension of the Term of this Agreement:
  - a. Number of driver complaints and resolution of said complaints.
  - b. Number of accidents at the Landfill involving **Beloit's** vehicles.
  - c. Length of time taken to weigh in, drop load and weigh out **Beloit's** vehicles at the Landfill.

- d. Amount of supervisor monitoring effort expended to monitor delivery of Waste to the Landfill by **Beloit's** Vehicles.
  - e. Condition of the Landfill.
  - f. Any other aspects of evaluation imposed by **Beloit**.
25. **CONSTRUCTION.** The Parties agree and acknowledge that they have jointly participated in the negotiation and drafting of this Agreement. In the event of an ambiguity or a question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumptions or burdens of proof shall arise favoring any party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise.
26. **INTEREST OF PUBLIC OFFICIALS**
- a. Interest of Members of **Janesville**. No member of the governing body of **Janesville** and no other officer, employee, or agent of **Janesville** who exercises any functions or responsibilities in connection with the planning and carrying out of the program shall have any personal financial interest, direct or indirect, in this Agreement; and **Janesville** shall take appropriate steps to assure compliance.
  - b. Interest of Other Local Public Officials. No member of the governing body of **Beloit** and no other officer, employee, or agent of **Beloit** who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Agreement; and the **Beloit** shall take appropriate steps to assure compliance.
27. **DISPUTE RESOLUTION.** Any disputes related to this Agreement that are not resolved by mutual agreement of the Parties shall be resolved in a court of competent jurisdiction in Rock County, Wisconsin. Either party may sue the other for declaratory judgment, damages, specific performance, injunctive relief or any other legal or equitable relief as may be provided by law. All remedies are cumulative and not exclusive. The performance of this Agreement and the resolution of all disputes connected therewith shall be governed by the laws and regulations of the State of Wisconsin.
28. **TERMINATION UPON BREACH.** If either Party commits a breach or default in the performance or observance of any of its obligations under this Agreement, and such breach or default continues for a period of 30 days or any other period of time provided for in paragraph 17 of this Agreement then the non-breaching or non-defaulting party shall have the right to terminate this Agreement, with immediate effect, by giving written notice to the breaching or defaulting party.

***Signatures on following Page***



