

Approved by the Wisconsin Department of Regulation and Licensing  
7-1-99 (Optional Use Date)  
1-1-00 (Mandatory Use Date)

AIG Properties LTD

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

Page 1 of 3

1 **BROKER DRAFTING THIS OFFER ON** 08/26/2010 [DATE] IS (AGENT OF SELLER) (AGENT OF BUYER) (DUAL-AGENT) ~~STRIKE THE~~

2 **GENERAL PROVISIONS** The Buyer, MAX3, LLC

3 offers to purchase the Property known as (Street Address) 2.44 Lot 12 in the Midway Business Park

4 in the Menasha City of Menasha, County of Winnebago

5 Wisconsin, (Insert additional description, if any, at lines 179 - 187 or attach as an addendum, line 188), on the following terms:

6 **PURCHASE PRICE:** Ninety thousand two hundred eighty

7 Dollars (\$ 90,280.00)

8 **EARNEST MONEY** of \$ 5,000.00 accompanies this Offer and earnest money of \$ 5,000.00

9 will be paid within 5 days of acceptance.

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

11 **ADDITIONAL ITEMS INCLUDED IN PURCHASE PRICE:** Seller shall include in the purchase price and transfer, free and clear

12 encumbrances, all fixtures, as defined at lines 15 - 18 and as may be on the Property on the date of this Offer, unless excluded at line

13 and the following additional items: n/a

14 **ITEMS NOT INCLUDED IN THE PURCHASE PRICE:** n/a

15 A "Fixture" is defined as an item of property which is physically attached to or so closely associated with land so as to be treated as part

16 of the real estate, including, without limitation, physically attached items not easily removable without damage to the Property, items

17 specifically adapted to the Property, and items customarily treated as fixtures including but not limited to all: perennial crops; garden

18 bulbs; plants; shrubs and trees. CAUTION: Annual crops are not included in the purchase price unless otherwise agreed at line 13.

19 **ZONING:** Seller represents that the Property is zoned C-4 Business Park District

20 **ACCEPTANCE** Acceptance occurs when all Buyers and Sellers have signed an identical copy of the Offer, including signatures of

21 separate but identical copies of the Offer. CAUTION: Deadlines in the Offer are commonly calculated from acceptance. Consider

22 whether short term deadlines running from acceptance provide adequate time for both binding acceptance and performance.

23 **BINDING ACCEPTANCE** This Offer is binding upon both Parties only if a copy of the accepted Offer is delivered to Buyer on

24 before 9/7/2010. CAUTION: This Offer may be withdrawn prior to delivery of the accepted Offer.

25 **DELIVERY OF DOCUMENTS AND WRITTEN NOTICES** Unless otherwise stated in this Offer, delivery of documents and written notices

26 to a Party shall be effective only when accomplished by one of the methods specified at lines 27 - 36.

27 (1) By depositing the document or written notice postage or fees prepaid in the U.S. Mail or fees prepaid or charged to an account with

28 a commercial delivery service, addressed either to the Party, or to the Party's recipient for delivery designated at lines 30 or 32 (if any)

29 for delivery to the Party's delivery address at lines 31 or 33.

30 Seller's recipient for delivery (optional): \_\_\_\_\_

31 Seller's delivery address: \_\_\_\_\_

32 Buyer's recipient for delivery (optional): \_\_\_\_\_

33 Buyer's delivery address: AIG Properties, Ltd. 118 W. Peckham Street, Neenah, WI 54956

34 (2) By giving the document or written notice personally to the Party or the Party's recipient for delivery if an individual is designated at lines 30 or 32

35 (3) By fax transmission of the document or written notice to the following telephone number:

36 Buyer: ( 920 ) 725-4208 Seller: ( \_\_\_\_\_ ) \_\_\_\_\_

37 **OCCUPANCY** Occupancy of the entire Property shall be given to Buyer at time of closing unless otherwise provided in this Offer (lines

38 179 - 187 or in an addendum per line 188). Occupancy shall be given subject to tenant's rights, if any. CAUTION: Consider an agreement

39 which addresses responsibility for clearing the Property of personal property and debris, if applicable.

40 **LEASED PROPERTY** If Property is currently leased and lease(s) extend beyond closing, Seller shall assign Seller's rights under said

41 lease(s) and transfer all security deposits and prepaid rents thereunder to Buyer at closing. The terms of the (written) (oral) ~~STRIKE ONE~~

42 lease(s), if any, are N/A

43 **PLACE OF CLOSING** This transaction is to be closed at the place designated by Buyer's mortgagee or Title Company

44 no later than November 30, 2010 unless another date or place is agreed to in writing.

45 **CLOSING PRORATIONS** The following items shall be prorated at closing: real estate taxes, rents, private and municipal charges,

46 property owner's association assessments, fuel and none other

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

48 Net general real estate taxes shall be prorated based on (the net general real estate taxes for the current year, if known, otherwise or

49 the net general real estate taxes for the preceding year) ( \_\_\_\_\_ ) ~~STRIKE AND COMPLETE AS APPLICABLE~~

50 ~~STRIKE AND COMPLETE AS APPLICABLE~~

51 CAUTION: If proration on the basis of net general real estate taxes is not acceptable (for example, completed/pending

52 reassessment, changing mill rate, lottery credits), insert estimated annual tax or other formula for proration.

53 **PROPERTY CONDITION PROVISIONS**

54 **PROPERTY CONDITION REPRESENTATIONS:** Seller represents to Buyer that as of the date of acceptance Seller has no notice

55 or knowledge of conditions affecting the Property or transaction (see below) other than those identified in Seller's Real Estate Condition

56 Report dated \_\_\_\_\_, which was received by Buyer prior to Buyer signing this Offer and which is made a part of this Offer

57 by reference ~~COMPLETE DATE OR STRIKE AS APPLICABLE~~ and To be provided by Seller

58 INSERT CONDITIONS NOT ALREADY INCLUDED IN THE CONDITION REPORT

Aug 26 10 12:26p Julie

1-920-866-8155

p.4

58 A "condition affecting the Property or transaction" is defined as follows: [page 2 of 5, WE-10]

59 (a) planned or commenced public improvements which may result in special assessments or otherwise materially affect the Property

60 or the present use of the Property;

61 (b) completed or pending reassessment of the Property for property tax purposes;

62 (c) government agency or court order requiring repair, alteration or correction of any existing condition;

63 (d) any land division involving the subject Property, for which required state or local approvals had not been obtained;

64 (e) any portion of the Property being in a 100 year floodplain, a wetland or shoreland zoning area under local, state or federal laws;

65 (f) conditions constituting a significant health or safety hazard for occupants of Property;

66 (g) underground or aboveground storage tanks on the Property for storage of flammable or combustible liquids including but not limited to

67 gasoline and heating oil which are currently or which were previously located on the Property; **NOTE: Wis. Adm. Code, Chapter**

68 **Comm 10 contains registration and operation rules for such underground and aboveground storage tanks.**

69 (h) material violations of environmental laws or other laws or agreements regulating the use of the Property;

70 (i) high voltage electric (100 KV or greater) or steel natural gas transmission lines located on but not directly serving the Property;

71 (j) any portion of the Property being subject to, or in violation of, a Farmland Preservation Agreement under a County Farmland Preservation

72 Plan or enrolled in, or in violation of, a Forest Crop, Woodland Tax, Managed Forest, Conservation Reserve or comparable program;

73 (k) boundary disputes or material violation of fence laws (Wis. Stats. Chapter 90) which require the erection and maintenance of legal

74 fences between adjoining properties where one or both of the properties is used and occupied for farming or grazing purposes;

75 (l) wells on the Property required to be abandoned under state regulations (Wis. Adm. Code NR 112.26) but which are not abandoned;

76 (m) cisterns or septic tanks on the Property which are currently not servicing the Property;

77 (n) subsurface conditions which would significantly increase the cost of the development proposed at lines 271-272, if any, including, but not limited

78 to, subsurface foundations, organic or non-organic fill, dumpsites or containers on Property which contained or currently contain toxic

79 hazardous materials, high groundwater, soil conditions (e.g. low load bearing capacity) or excessive rocks or rock formations on the Property;

80 (o) a lack of legal vehicular access to the Property from public roads;

81 (p) prior reimbursement for corrective action costs under the Agricultural Chemical Cleanup Program; (Wis. Stats. §94.73.)

82 (q) other conditions or occurrences which would significantly increase the cost of the development proposed at lines 271 to 272

83 reduce the value of the Property to a reasonable person with knowledge of the nature and scope of the condition or occurrence.

84 **PROPERTY DIMENSIONS AND SURVEYS:** Buyer acknowledges that any land dimensions, total square footage/acreage figures

85 or allocation of acreage information, provided to Buyer by Seller or by a broker, may be approximate because of rounding or other

86 reasons, unless verified by survey or other means. **CAUTION: Buyer should verify land dimensions, total square footage/acreage**

87 **figures or allocation of acreage information if material to Buyer's decision to purchase.**

88 **ISSUES RELATED TO PROPERTY DEVELOPMENT: WARNING:** If Buyer contemplates developing Property for a use other than the

89 current use, there are a variety of issues which should be addressed to ensure the development or new use is feasible. Municipal and zoning

90 ordinances, recorded building and use restrictions, covenants and easements may prohibit certain improvements or uses and therefore should

91 be reviewed. Building permits, zoning variances, Architectural Control Committee approvals, estimates for utility hook-up expenses, special

92 assessments, charges for installation of roads or utilities, environmental audits, subsurface tests, or other development related fees may need

93 to be obtained or verified in order to determine the feasibility of development of, or a particular use for, a property. Optional contingencies

94 which allow Buyer to investigate certain of these issues can be found at lines 271 - 314 and Buyer may add contingencies as needed.

95 addenda (see line 188). Buyer should review any plans for development or use changes to determine what issues should be addressed

96 in these contingencies.

97 **INSPECTIONS:** Seller agrees to allow Buyer's inspectors reasonable access to the Property upon reasonable notice if the inspection

98 are reasonably necessary to satisfy the contingencies in this Offer. Buyer agrees to promptly provide copies of all such inspection

99 reports to Seller, and to listing broker if Property is listed. Furthermore, Buyer agrees to promptly restore the Property to its original

100 condition after Buyer's inspections are completed, unless otherwise agreed in this Offer. An "inspection" is defined as an observation

101 of the Property which does not include testing of the Property, other than testing for leaking LP gas or natural gas used as a fuel source

102 which are hereby authorized.

103 **TESTING:** Except as otherwise provided, Seller's authorization for inspections does not authorize Buyer to conduct testing of the Property.

104 A "test" is defined as the taking of samples of materials such as soils, water, air or building materials from the Property and the laboratory

105 or other analysis of these materials. If Buyer requires testing, testing contingencies must be specifically provided for at lines 179 - 187

106 in an addendum per line 188. Note: Any contingency authorizing testing should specify the areas of the Property to be tested, the purpose

107 of the test, (e.g., to determine if environmental contamination is present), any limitations on Buyer's testing and any other material terms

108 of the contingency (e.g., Buyer's obligation to return the Property to its original condition). Seller acknowledges that certain inspections or tests

109 may detect environmental pollution which may be required to be reported to the Wisconsin Department of Natural Resources.

110 **PRE-CLOSING INSPECTION:** At a reasonable time, pre-approved by Seller or Seller's agent, within 3 days before closing, Buyer shall

111 have the right to inspect the Property to determine that there has been no significant change in the condition of the Property, except for

112 changes approved by Buyer.

113 **PROPERTY DAMAGE BETWEEN ACCEPTANCE AND CLOSING:** Seller shall maintain the Property until the earlier of closing or

114 occupancy of Buyer in materially the same condition as of the date of acceptance of this Offer, except for ordinary wear and tear. If, prior

115 to closing, the Property is damaged in an amount of not more than five percent (5%) of the selling price, Seller shall be obligated to repair

116 the Property and restore it to the same condition that it was on the day of this Offer. If the damage shall exceed such sum, Seller shall

117 promptly notify Buyer in writing of the damage and this Offer may be canceled at option of Buyer. Should Buyer elect to carry out this

118 Offer despite such damage, Buyer shall be entitled to the insurance proceeds relating to the damage to the Property, plus a credit towards

119 the purchase price equal to the amount of Seller's deductible on such policy. However, if this sale is financed by a land contract or a

120 mortgage to Seller, the insurance proceeds shall be held in trust for the sole purpose of restoring the Property.

121 **FENCES:** Wisconsin Statutes section 90.03 requires the owners of adjoining properties to keep and maintain legal fences in equal

122 shares where one or both of the properties is used and occupied for farming or grazing purposes. **CAUTION: Consider an agreement**

123 **addressing responsibility for fences if Property or adjoining land is used and occupied for farming or grazing purposes.**

124 **DELIVERY/RECEIPT:** Unless otherwise stated in this Offer, any signed document transmitted by facsimile machine (fax) shall be treated

125 in all manner and respects as an original document and the signature of any Party upon a document transmitted by fax shall be considered

126 an original signature. Personal delivery to, or actual receipt by, any named Buyer or Seller constitutes personal delivery to, or actual receipt

127 by Buyer or Seller. Once received, a notice cannot be withdrawn by the Party delivering the notice without the consent of the Party receiving

128 the notice. A Party may not unilaterally reinstate a contingency after a notice of a contingency waiver has been received by the other Party.

129 The delivery provisions in this Offer may be modified when appropriate (e.g., when mail delivery is not desirable (see lines 25 - 36)).

130 Buyer and Seller authorize the agents of Buyer and Seller to distribute copies of the Offer to Buyer's lender, appraisers, title insurance companies

131 and any other settlement service providers for the transaction as defined by the Real Estate Settlement Procedures Act (RESPA).

133 PROPERTY ADDRESS: 2.44 Acres, Lot 12 in the Business Park, Menasha, WI (page 3 of 5, WE-3)

134 TIME IS OF THE ESSENCE Time is of the Essence as to: (1) earnest money payment(s); (2) binding acceptance; (3) occupancy; (4) 135 date of closing; (5) contingency deadlines [STRIKE AS APPLICABLE] and all other dates and deadlines in this Offer except: none other

136 If "Time is of the Essence" applies to a date or deadline, failure to perform by the exact date or deadline is a breach of contract. If "Time is of the Essence" does

137 not apply to a date or deadline, then performance within a reasonable time of the date or deadline is allowed before a breach occurs.

138 DATES AND DEADLINES Deadlines expressed as a number of "days" from an event such as acceptance, are calculated by excluding

139 the day the event occurred and by counting subsequent calendar days. The deadline expires at midnight on the last day. Deadlines

140 expressed as a specific number of "business days" exclude Saturdays, Sundays, any legal public holiday under Wisconsin or Federal

141 law, and other day designated by the President such that the postal service does not receive registered mail or make regular deliveries

142 on that day. Deadlines expressed as a specific number of "hours" from the occurrence of an event, such as receipt of a notice, are

143 calculated from the exact time of the event, and by counting 24 hours per calendar day. Deadlines expressed as a specific day of the

144 calendar year or as the day of a specific event, such as closing, expire at midnight of that day.

145 THE FINANCING CONTINGENCY PROVISIONS AT LINES 148 - 162 ARE A PART OF THIS OFFER IF LINE 148 IS MARKED,

146 SUCH AS WITH AN "X". THEY ARE NOT PART OF THIS OFFER IF LINE 148 IS MARKED N/A OR IS NOT MARKED.

147 X FINANCING CONTINGENCY: This Offer is contingent upon Buyer being able to obtain a Conventional Loan

148 INSERT LOAN PROGRAM OR SOURCE first mortgage loan commitment as described below, within 60 days of acceptance of this

149 Offer. The financing selected shall be in an amount of not less than \$ 65,000.00 for a term of not less than 10 year

150 amortized over not less than 15 years. Initial monthly payments of principal and interest shall not exceed \$

151 Monthly payments may also include 1/12th of the estimated net annual real estate taxes, hazard insurance premiums, and private

152 mortgage insurance premiums. The mortgage may not include a prepayment premium. Buyer agrees to pay a loan fee not to exceed

153 % of the loan. (Loan fee refers to discount points and/or loan origination fee, but DOES NOT include Buyer's other closing

154 costs.) If the purchase price under this Offer is modified, the financed amount, unless otherwise provided, shall be adjusted

155 to the same percentage of the purchase price as in this contingency and the monthly payments shall be adjusted as necessary to maintain

156 the term and amortization stated above. CHECK AND COMPLETE APPLICABLE FINANCING PROVISION AT LINE 158 OR 159.

157 X FIXED RATE FINANCING: The annual rate of interest shall not exceed 5.500 %.

158 ADJUSTABLE RATE FINANCING: The initial annual interest rate shall not exceed % . The initial interest rate shall

159 be fixed for months, at which time the interest rate may be increased not more than % per year. The maximum

160 interest rate during the mortgage term shall not exceed % . Monthly payments of principal and interest may be adjusted

161 to reflect interest changes.

162 LOAN COMMITMENT: Buyer agrees to pay all customary financing costs (including closing fees), to apply for financing promptly, and

163 to provide evidence of application promptly upon request by Seller. If Buyer qualifies for the financing described in this Offer or other

164 financing acceptable to Buyer, Buyer agrees to deliver to Seller a copy of the written loan commitment no later than the deadline for loan

165 commitment at line 149. Buyer's delivery of a copy of any written loan commitment to Seller (even if subject to conditions) shall

166 satisfy the Buyer's financing contingency unless accompanied by a notice of unacceptability. CAUTION: BUYER, BUYER'S LENDER

167 AND AGENTS OF BUYER OR SELLER SHOULD NOT DELIVER A LOAN COMMITMENT TO SELLER WITHOUT BUYER'S PRIOR

168 APPROVAL OR UNLESS ACCOMPANIED BY A NOTICE OF UNACCEPTABILITY.

169 SELLER TERMINATION RIGHTS: If Buyer does not make timely delivery of said commitment, Seller may terminate this Offer if Seller

170 delivers a written notice of termination to Buyer prior to Seller's actual receipt of a copy of Buyer's written loan commitment.

171 FINANCING UNAVAILABILITY: If financing is not available on the terms stated in this Offer (and Buyer has not already delivered an

172 acceptable loan commitment for other financing to Seller), Buyer shall promptly deliver written notice to Seller of same including copies

173 of lender(s)' rejection letter(s) or other evidence of unavailability. Unless a specific loan source is named in this Offer, Seller shall then

174 have 10 days to give Buyer written notice of Seller's decision to finance this transaction on the same terms set forth in this Offer and the

175 Offer shall remain in full force and effect, with the time for closing extended accordingly. If Seller's notice is not timely given, this Offer shall

176 be null and void. Buyer authorizes Seller to obtain any credit information reasonably appropriate to determine Buyer's credit worthiness

177 for Seller financing.

178 ADDITIONAL PROVISIONS/CONTINGENCIES:

179

180

181

182

183

184

185

186

187

188 X ADDENDA: The attached Addenda A is/are made part of this Offer.

189 TITLE EVIDENCE:

190 CONVEYANCE OF TITLE: Upon payment of the purchase price, Seller shall convey the Property by warranty deed (or other

191 conveyance as provided herein) free and clear of all liens and encumbrances, except: municipal and zoning ordinances and

192 agreements entered under them, recorded easements for the distribution of utility and municipal services, recorded building and use

193 restrictions and covenants, general taxes levied in the year of closing and n/a

194

195 (provided none of the foregoing prohibit present use of the Property), which constitutes merchantable title

196 for purposes of this transaction. Seller further agrees to complete and execute the documents necessary to record the conveyance.

Aug 26 10 12:27p Julie

1-920-866-8155

p.6

[page 4 of 5, WE-3]

197 ■ **FORM OF TITLE EVIDENCE:** Seller shall give evidence of title in the form of an owner's policy of title insurance in the amount of the  
198 purchase price on a current ALTA form issued by an insurer licensed to write title insurance in Wisconsin. **CAUTION: IF TITLE**  
199 **EVIDENCE WILL BE GIVEN BY ABSTRACT, STRIKE TITLE INSURANCE PROVISIONS AND INSERT ABSTRACT PROVISIONS.**  
200 ■ **PROVISION OF MERCHANTABLE TITLE:** Seller shall pay all costs of providing title evidence. For purposes of closing, title evidence  
201 shall be acceptable if the commitment for the required title insurance is delivered to Buyer's attorney or Buyer not less than 3 business  
202 days before closing, showing title to the Property as of a date no more than 15 days before delivery of such title evidence to  
203 merchantable, subject only to liens which will be paid out of the proceeds of closing and standard title insurance requirements and  
204 exceptions, as appropriate. **CAUTION: BUYER SHOULD CONSIDER UPDATING THE EFFECTIVE DATE OF THE TITLE**  
205 **COMMITMENT PRIOR TO CLOSING OR A "GAP ENDORSEMENT" WHICH WOULD INSURE OVER LIENS FILED BETWEEN THE**  
206 **EFFECTIVE DATE OF THE COMMITMENT AND THE DATE THE DEED IS RECORDED.**  
207 ■ **TITLE ACCEPTABLE FOR CLOSING:** If title is not acceptable for closing, Buyer shall notify Seller in writing of objections to title  
208 the time set for closing. In such event, Seller shall have a reasonable time, but not exceeding 15 days, to remove the objections, and  
209 the time for closing shall be extended as necessary for this purpose, in the event that Seller is unable to remove said objections, Buyer  
210 shall have 5 days from receipt of notice thereof, to deliver written notice waiving the objections, and the time for closing shall be extended  
211 accordingly. If Buyer does not waive the objections, this Offer shall be null and void. Providing title evidence acceptable for closing does  
212 not extinguish Seller's obligations to give merchantable title to Buyer.  
213 ■ **SPECIAL ASSESSMENTS:** Special assessments, if any, for work actually commenced or levied prior to date of this Offer shall be  
214 paid by Seller no later than closing. All other special assessments shall be paid by Buyer. **CAUTION: Consider a special agreement**  
215 **if area assessments, property owner's association assessments or other expenses are contemplated.** "Other expenses" are  
216 time charges or ongoing use fees for public improvements (other than those resulting in special assessments) relating to curb, gutter,  
217 street, sidewalk, sanitary and stormwater and storm sewer (including all sewer mains and hook-up and interceptor charges), parks, streets  
218 lighting and street trees, and impact fees for other public facilities, as defined in Wis. Stat. § 66.55(1)(c) & (f).  
219 **ENTIRE CONTRACT:** This Offer, including any amendments to it, contains the entire agreement of the Buyer and Seller regarding  
220 transaction. All prior negotiations and discussions have been merged into this Offer. This agreement binds and inures to the benefit  
221 the Parties to this Offer and their successors in interest.  
222 **DEFAULT:**  
223 Seller and Buyer each have the legal duty to use good faith and due diligence in completing the terms and conditions of this Offer.  
224 material failure to perform any obligation under this Offer is a default which may subject the defaulting party to liability for damages  
225 other legal remedies.  
226 If Buyer defaults, Seller may:  
227 (1) sue for specific performance and request the earnest money as partial payment of the purchase price; or  
228 (2) terminate the Offer and have the option to: (a) request the earnest money as liquidated damages; or (b) direct Broker to return  
229 the earnest money and have the option to sue for actual damages.  
230 If Seller defaults, Buyer may:  
231 (1) sue for specific performance; or  
232 (2) terminate the Offer and request the return of the earnest money, sue for actual damages, or both.  
233 In addition, the Parties may seek any other remedies available in law or equity.  
234 The Parties understand that the availability of any judicial remedy will depend upon the circumstances of the situation and the  
235 discretion of the courts. If either Party defaults, the Parties may renegotiate the Offer or seek nonjudicial dispute resolution instead  
236 the remedies outlined above. By agreeing to binding arbitration, the Parties may lose the right to litigate in a court of law those disputes  
237 covered by the arbitration agreement.  
238 **NOTE: IF ACCEPTED, THIS OFFER CAN CREATE A LEGALLY ENFORCEABLE CONTRACT. BOTH PARTIES SHOULD READ**  
239 **THIS DOCUMENT CAREFULLY. BROKERS MAY PROVIDE A GENERAL EXPLANATION OF THE PROVISIONS OF THE OFFER BUT**  
240 **ARE PROHIBITED BY LAW FROM GIVING ADVICE OR OPINIONS CONCERNING YOUR LEGAL RIGHTS UNDER THIS OFFER OF**  
241 **HOW TITLE SHOULD BE TAKEN AT CLOSING. AN ATTORNEY SHOULD BE CONSULTED IF LEGAL ADVICE IS NEEDED.**  
242 **EARNEST MONEY:**  
243 ■ **HELD BY:** Unless otherwise agreed, earnest money shall be paid to and held in the trust account of the listing broker (buyer's agent  
244 if Property is not listed or seller if no broker is involved), until applied to purchase price or otherwise disbursed as provided in the Offer.  
245 **CAUTION: Should persons other than a broker hold earnest money, an escrow agreement should be drafted by the Parties**  
246 **or an attorney. If someone other than Buyer makes payment of earnest money, consider a special disbursement agreement.**  
247 ■ **DISBURSEMENT:** If negotiations do not result in an accepted offer, the earnest money shall be promptly disbursed (after clearance  
248 from payor's depository institution if earnest money is paid by check) to the person(s) who paid the earnest money. At closing, earnest  
249 money shall be disbursed according to the closing statement. If this Offer does not close, the earnest money shall be disbursed according  
250 to a written disbursement agreement signed by all Parties to this Offer (Note: Wis. Adm. Code § RL 18.09(1)(b) provides that an offer  
251 to purchase is not a written disbursement agreement pursuant to which the broker may disburse). If said disbursement agreement has  
252 not been delivered to broker within 60 days after the date set for closing, broker may disburse the earnest money: (1) as directed by  
253 an attorney who has reviewed the transaction and does not represent Buyer or Seller; (2) into a court hearing a lawsuit involving the  
254 earnest money and all Parties to this Offer; (3) as directed by court order; or (4) any other disbursement required or allowed by law.  
255 Broker may retain legal services to direct disbursement per (1) or to file an interpleader action per (2) and broker may deduct from the  
256 earnest money any costs and reasonable attorneys fees, not to exceed \$250, prior to disbursement.  
257 ■ **LEGAL RIGHTS/ACTION:** Broker's disbursement of earnest money does not determine the legal rights of the Parties in relation to this  
258 Offer. Buyer's or Seller's legal right to earnest money cannot be determined by broker. At least 30 days prior to disbursement per (1)  
259 or (4) above, broker shall send Buyer and Seller notice of the disbursement by certified mail. If Buyer or Seller disagree with broker's  
260 proposed disbursement, a lawsuit may be filed to obtain a court order regarding disbursement. Small Claims Court has jurisdiction over  
261 all earnest money disputes arising out of the sale of residential property with 1-4 dwelling units and certain other earnest money disputes.  
262 Buyer and Seller should consider consulting attorneys regarding their legal rights under this Offer in case of a dispute. Both Parties  
263 agree to hold the broker harmless from any liability for good faith disbursement of earnest money in accordance with this Offer of  
264 applicable Department of Regulation and Licensing regulations concerning earnest money. See Wis. Adm. Code Ch. RL 18. **NOTE:**  
265 **WISCONSIN LICENSE LAW PROHIBITS A BROKER FROM GIVING ADVICE OR OPINIONS CONCERNING THE LEGAL RIGHTS**  
266 **OR OBLIGATIONS OF PARTIES TO A TRANSACTION OR THE LEGAL EFFECT OF A SPECIFIC CONTRACT OR CONVEYANCE**  
267 **AN ATTORNEY SHOULD BE CONSULTED IF LEGAL ADVICE IS REQUIRED.**

Aug 26 10 11:27a Julie

1-920-866-8155

p.2

268 PROPERTY ADDRESS: 2.44 Acres, Lot 12 in the Business Park, Menasha, WI [page 6 of 5, WB-12]

269 OPTIONAL PROVISIONS: THE PARAGRAPHS AT LINES 271 - 314 WHICH ARE PRECEDED BY A BOX ARE A PART OF THIS OFFER IF MARKED, SUCH AS WITH AN "X". THEY ARE NOT PART OF THIS OFFER IF MARKED N/A OR ARE LEFT BLANK.

270  PROPOSED USE CONTINGENCY: Buyer is purchasing the property for the purpose of: Veterinary Clinic

271 This Offer is contingent upon Buyer obtaining the following:

272  Written evidence at (Buyer's) (Seller's) ~~STRIKE ONE~~ expense from a qualified soils expert that the Property is free of any subsurface condition which would make the proposed development impossible or significantly increase the costs of such development.

273  Written evidence at (Buyer's) (Seller's) ~~STRIKE ONE~~ expense from a certified soils tester or other qualified expert that indicates that the Property's soils at locations selected by Buyer and all other conditions which must be approved to obtain a permit for an acceptable private septic system for:

274 (Insert proposed use of Property; e.g., three bedroom single family home) meet applicable codes in effect as of the date of this offer. An acceptable system includes all systems approved for use by the State for the type of property identified at line 277. An acceptable system does not include a holding tank, privy, composting toilet or chemical toilet or other systems (e.g. mound system) excluded in additional provisions or an addendum per lines 179 - 188.

275  Copies at (Buyer's) (Seller's) ~~STRIKE ONE~~ expense of all public and private easements, covenants and restrictions affecting the Property and a written determination by a qualified independent third party that none of these prohibit or significantly delay or increase the costs of the proposed use or development identified at lines 274 to 277.

276  Permits, approvals and licenses, as appropriate, or the final discretionary action by the granting authority prior to the issuance of such permits, approvals and licenses at (Buyer's) (Seller's) ~~STRIKE ONE~~ expense for the following items related to the proposed development:  kennel and boarding license

277  Written evidence at (Buyer's) (Seller's) ~~STRIKE ONE~~ expense that the following utility connections are located as follows (e.g. on the Property, at the lot line across the street, etc.): electricity \_\_\_\_\_; gas \_\_\_\_\_; sewer \_\_\_\_\_; water \_\_\_\_\_; telephone \_\_\_\_\_; other \_\_\_\_\_

278 This proposed use contingency shall be deemed satisfied unless Buyer within 60 days of acceptance delivers written notice to Seller specifying those items of this contingency which cannot be satisfied and written evidence substantiating why each specific item included in Buyer's notice cannot be satisfied.

279  MAP OF THE PROPERTY: This Offer is contingent upon (Buyer obtaining) (Seller providing) ~~STRIKE ONE~~ a map of the Property prepared by a registered land surveyor, within 15 days of acceptance, at (Buyer's) (Seller's) ~~STRIKE ONE~~ expense. The map shall identify the legal description of the Property, the Property's boundaries and dimensions, visible encroachments upon the Property, the location of improvements, if any, and:

280 ~~STRIKE AND COMPLETE AS APPLICABLE~~ Additional map features which may be added include, but are not limited to: specifying how current the map must be; staking of all corners of the Property; identifying dedicated and apparent street, lot dimensions, total acreage or square footage, easements or rights-of-way. CAUTION: Consider the cost and the need for map features before selecting them. The map shall show no significant encroachment(s) or any information materially inconsistent with any prior representations to Buyer. This contingency shall be deemed satisfied unless Buyer, within five days of the earlier of: 1) Buyer's receipt of the map, or 2) the deadline for delivery of said map, delivers to Seller, and to listing broker if Property is listed, a copy of the map and a written notice which identifies the significant encroachment or the information materially inconsistent with prior representations.

281  INSPECTION CONTINGENCY: This Offer is contingent upon a qualified independent inspector(s) conducting an inspection(s), at Buyer's expense, of the Property and \_\_\_\_\_ which discloses no defects as defined below. This contingency shall be deemed satisfied unless Buyer within \_\_\_\_\_ days of acceptance delivers to Seller, and to listing broker if Property is listed, a copy of the inspector's written inspection report and a written notice listing the defects identified in the report to which Buyer objects. This Offer shall be null and void upon timely delivery of the above notice and report. CAUTION: A proposed amendment will not satisfy this notice requirement.

282 Buyer shall order the inspection and be responsible for all costs of inspection, including any inspections required by lender or follow-up to inspection. Note: This contingency only authorizes inspections, not testing, see lines 98 to 110. For the purposes of this contingency a defect is defined as any condition of the Property which constitutes a significant threat to the health or safety of persons who occupy or use the Property or gives evidence of any material use, storage or disposal of hazardous or toxic substances on the Property. Defects do not include conditions the nature and extent of which Buyer had actual knowledge or written notice before signing this Offer.

283 This Offer was drafted on 08/26/2010 (date) by (Licensee and Firm) Philip L. Langohr AIG Properties, Ltd.

284  Buyer's Signature & Print Name Here: Mary Ann Hittle Mary Ann Hittle Social Security No. or FEIN \_\_\_\_\_ Date 8-26-10

285  Buyer's Signature & Print Name Here: Edie A. Munn Mary Murlburt Social Security No. or FEIN 39-147-1461 Date 8-26-10

286 EARNEST MONEY RECEIPT Broker acknowledges receipt of earnest money as per line 8 of the above Offer. (See lines 242 - 267) Broker (By) \_\_\_\_\_

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

288  Seller's Signature & Print Name Here: \_\_\_\_\_ Social Security No. or FEIN \_\_\_\_\_ Date \_\_\_\_\_

289  Seller's Signature & Print Name Here: \_\_\_\_\_ Social Security No. or FEIN \_\_\_\_\_ Date \_\_\_\_\_

290 This Offer was presented to Seller by \_\_\_\_\_ on \_\_\_\_\_, at \_\_\_\_\_ a.m./p.m.

291 THIS OFFER IS REJECTED \_\_\_\_\_ THIS OFFER IS COUNTERED [See attached counter] \_\_\_\_\_ Seller Initials & Date \_\_\_\_\_

Aug 26 10 12:25p Julie

1-920-866-8155

p.2

Addenda A

Offer to Purchase dated 8/25/2010

Seller: City of Menasha

Buyer: MHX3, LLC

Property: Lot 12 in the Midway Business Park

1. Seller shall, at its expense install lighted monument type business center signs at the entryways to the business park at Appleton Road/Wittmann Drive and Midway Road/University Drive identifying the Midway Business Park and its business located therein. Any portion of the cost of such sign related to identifying the Buyer's business as a Business Park tenant shall be borne by the Buyer. The signs shall be installed no later than Buyer's opening of their intended business. Buyer and Seller shall work together to design said proposed signage within the first 60 days after acceptance of this Offer. If for any reason, at Buyer's sole discretion, said signage design and location are unsatisfactory, Buyer shall serve written notice on Seller within 60 days for the date of acceptance of this Offer, and this Offer shall become null and void. Should Buyer fail to serve said written notice, Seller shall deem this contingency waived.
  
2. This offer is subject to Buyer determining that there are utilities available at the property line, road right-of-way, or at a suitable location to Buyer, without additional cost to Buyer other than the service provider standard hook-up fees, utility service lines for electricity, gas, storm sewer, sanitary sewer, water, cable and telephone from the appropriate public utility or governmental body having jurisdiction in sufficient quantities and with sufficient pressure to permit the operation of Buyer's contemplated development. If for any reason, at Buyer's sole discretion, said utilities are unsatisfactory, Buyer shall serve written notice on Seller within 60 days for the date of acceptance of this Offer, and this Offer shall become null and void. Should Buyer fail to serve said written notice, Seller shall deem this contingency waived.
  
3. Seller shall furnish, at their expense, Buyer with any and all available tests, reports, evaluations on said property and Business Park. These reports shall include, but not be limited to, Phase 1 environmental assessment, plots maps and soil reports. If for any reason, at Buyer's sole discretion, said reports and tests are unsatisfactory, Buyer shall serve written notice on Seller within 60 days for the date of acceptance of this Offer, and this Offer shall become null and void. Should Buyer fail to serve said written notice, Seller shall deem this contingency waived.

**WB-44 COUNTER-OFFER**

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

1 The Offer to Purchase dated 08/26/2010 and signed by Buyer MHX3, LLC,  
2 for purchase of real estate at Lot 12 of the Midway Business Park Plat  
3 is rejected and the following Counter-Offer is hereby made. All terms and conditions remain the same as stated in the  
4 Offer to Purchase except the following: [CAUTION: This Counter-Offer does not include the terms or conditions in  
5 any other Counter-Offer unless incorporated by reference.]

6 1. Addenda A Paragraph 1 shall be amended to read; "Seller shall, at its expense install  
7 lighted monument type business center sign, not to exceed \$ \_\_\_\_\_ , at the entry way to the  
8 business park at Appleton Road and Wittman Drive identifying the Midway Business Park and  
9 its business located therein. Any portion...."

10  
11 2. Addenda A Paragraph 1 and Paragraph 2 the Buyer due diligence dates shall be amended  
12 to read "30 days".

13  
14 3. Addenda A Paragraph 3 shall be omitted.  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

30 Any warranties, covenants and representations made in this Counter-Offer survive the closing of this transaction.  
31 This Counter-Offer is binding upon Seller and Buyer only if a copy of the accepted Counter-Offer is delivered to the Party  
32 making the Counter-Offer on or before September 30, 2010 (Time is of the  
33 Essence). Delivery of the accepted Counter-Offer may be made in any manner specified in the Offer to Purchase, unless  
34 otherwise provided in this Counter-Offer.

35 **NOTE: The Party making this Counter-Offer may withdraw the Counter-Offer prior to acceptance and delivery as**  
36 **provided at lines 31-34.**

37 This Counter-Offer was drafted by Robert Drifka, Drifka Group Inc. on 09/08/2010.  
38 Licensee and Firm ▲ Date ▲

39  
40 Signature of Party Making Counter-Offer ▲ Date ▲ Signature of Party Making Counter-Offer ▲ Date ▲  
41 Print name ▶ City of Menasha Print name ▶

42  
43 Signature of Party Accepting Counter-Offer ▲ Date ▲ Signature of Party Accepting Counter-Offer ▲ Date ▲  
44 Print name ▶ Print name ▶

45 This Counter-Offer was presented by \_\_\_\_\_ on \_\_\_\_\_.  
46 Licensee and Firm ▲ Date ▲

47 This Counter-Offer is (rejected) (countered) **STRIKE ONE** (Party's Initials) \_\_\_\_\_ (Party's Initials) \_\_\_\_\_

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

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

**WB-44 COUNTER-OFFER**

Counter-Offer No. 2 by (Buyer/Seller) **STRIKE ONE**

1 The Offer to Purchase dated 9/25/10 and signed by Buyer, 9/26/10  
2 for purchase of real estate at Lot 12 Midway Business Park is  
3 rejected and the following Counter-Offer is hereby made. All terms and conditions remain the same as stated in the Offer to  
4 Purchase except the following: [CAUTION: This Counter-Offer does not include the terms or conditions in any other  
5 counter-offer unless incorporated by reference.]

- 6 1. Lines 281 and 283 shall be deleted.
- 7 2. Addenda A Paragraph 1 shall be amended to read: Seller shall, at  
8 its expense install an externally lit monument type  
9 business center sign at a cost not to exceed \$10,000, at the  
10 entryway to the business park at Appleton Road and Wittmann  
11 Drive identifying the Midway Business Park and those  
12 businesses therein who elect to have their business name  
13 identified on the sign subject to the following conditions:  
14 A- Sign is to be lit from sunset to 10:00 PM,  
15 B- The cost for the inset panel containing the  
16 buyer's business name shall be done by the buyer.  
17 C- The type font and letter size shall be subject  
18 to approval by the city, and shall be legible at  
19 a distance of not less than 500'.

32 ANY WARRANTIES AND REPRESENTATIONS MADE IN THIS COUNTER-OFFER SURVIVE THE CLOSING OF THIS TRANSACTION.  
33 This Counter-Offer is binding upon Seller and Buyer only if a copy of the accepted Counter-Offer is delivered to the Party making  
34 the Counter-Offer on or before \_\_\_\_\_ (Time is of the Essence).  
35 Delivery of the accepted Counter-Offer may be made in any manner specified in the Offer to Purchase, unless otherwise provided  
36 in this Counter-Offer. **NOTE: The Party making this Counter-Offer may withdraw the Counter-Offer prior to acceptance and**  
37 **delivery as provided at lines 33 to 36.**

38 This Counter-Offer was drafted by \_\_\_\_\_ on \_\_\_\_\_  
39 Licensee and Firm ▲ Date ▲

40  
41 Signature of Party Making Counter-Offer ▲ Date ▲ Signature of Party Making Counter-Offer ▲ Date ▲

42  
43 Signature of Party Accepting Counter-Offer ▲ Date ▲ Signature of Party Accepting Counter-Offer ▲ Date ▲

44 This Counter-Offer was presented by \_\_\_\_\_ on \_\_\_\_\_  
45 Licensee and Firm ▲ Date ▲

46 This Counter-Offer is (rejected) (countered) **STRIKE ONE** (Party's Initials) \_\_\_\_\_ (Party's Initials) \_\_\_\_\_

47 Note: Provisions from a previous Counter-Offer may be included by reproduction of the entire provision or incorporation by reference.  
48 Provisions incorporated by reference may be indicated in the subsequent Counter-Offer by specifying the number of the provision or the  
49 lines containing the provision. In transactions involving more than one Counter-Offer, the Counter-Offer referred to should be clearly  
50 specified. **NOTE: Number this Counter-Offer sequentially, e.g. Counter-Offer No.1 by Seller, Counter-Offer No.2 by Buyer, etc.**  
51 **ATTACH THIS COUNTER-OFFER TO THE OFFER TO PURCHASE - INSERT SOCIAL SECURITY NUMBERS OR FEIN ON OFFER**