



Memorandum

TO: Common Council
FROM: Greg Keil, CDD *GK*
DATE: June 25, 2013
RE: Amendment #3 to the Development Agreement with PJC Group LLC

In 2007 the City of Menasha entered into a development agreement with the above-referenced entity and created Tax Incremental District #11 to facilitate site clearance and redevelopment of the former Gilbert Paper Mill site on Anhaip Street. The development agreement called for certain incentive payments to be made as related to specific projects within the area covered by the development agreement. We are now proposing to amend the development agreement to address mounting interest costs associated with the incentive payments and to make clarifications regarding site conditions and environmental liability for the portion of the site that has been donated to the city for the shoreline park.

The development agreement with the PJC Group provides for incentives to be paid in the amounts shown below for three projects within the overall project area:

- Warehouse Project \$250,000
- Executive Office Project \$250,000
- Land Reclamation Project: \$175,000
- Total: \$675,000

These incentive payments are to be made from the tax increment generated within each of the project areas. Incentive payments have been made for four years commencing in 2009 with a total payout as of 1/11/13 as shown:

- Warehouse Project \$75,111
- Executive Office Project \$27,142
- Land Reclamation Project: \$29,039
- Total: \$131,292

The remaining incentive owed, plus accrued interest at 8.25% is as follows as of 1/11/13 (additional interest will accrue from 1/11/13 to the final payout date):

- Warehouse Project \$259,356
- Executive Office Project \$312,651
- Land Reclamation Project: \$190,415
- Total: \$762,422

As can be seen from the foregoing, we have not made any progress on paying down the development incentives. This is due to the relatively high interest rate 8.25% that existed in 2007, and the lack of significant taxable improvements to the Land Reclamation Project site.

The proposed Amendment #3 to the development agreement is intended to address this situation through the following actions:

- Prepayment of the remaining incentive owed on the Warehouse and Executive Office projects (if prepaid on 8/1/13, the amount would be approximately \$597,592). This will require the city to borrow funds, however, at the current interest rate of 3.75%, our interest costs would be less than half of what we are now paying. Prepayment of the development incentive is permissible under the existing terms of the agreement. The repayment of the debt imposed by the borrowing will be paid out of TID #11 increment, and will not impact the property tax levy. We are proposing to advance monies from the general fund to prepay the incentives prior to the borrowing to accelerate the demolition timetable on the Land Reclamation Project.
- Reducing the interest rate to 4% on the Land Reclamation Project. We are not proposing prepayment on this project at this time because the project has not been completed. Furthermore, we are proposing that there should be no interest accrual on this project since its inception owing to the fact the Land Reclamation Project was not timely completed per the terms of the development agreement, and that interest will only begin accruing on the project after it has been completed.

In addition to the financial matters described above, the proposed Amendment #3 applies requirements to the condition the shoreline park is to be left in after demolition is completed. It also provides for indemnification of the city from environmental liability for the shoreline park area.

Executing this amendment will result in the acceleration of site clearance at the Gilbert site with the prepaid incentive to be applied to site clearance costs as follows:

- | | |
|---|-----------------|
| • Asbestos abatement at the boiler house: | \$95,000 |
| • Demolition of the Boiler House | \$110,000 |
| • Demolition of the smokestack: | \$35,000 |
| • Demolition/site preparation in the shoreline park area: | <u>\$35,000</u> |
| • Total: | \$205,000 |

The balance of the prepayment amount is to be applied to demolition expenses currently being held by the demolition contractor and to other project expenses.

The city will realize multiple benefits from amending the development agreement. The site will finally be cleared and be in a state that is ready for redevelopment. The prospects for sale and redevelopment will be much improved once this condition has been achieved. The city will save over half the interest that would otherwise accrue on the incentive payments. These cost savings would amount to about \$271,000 for the Warehouse and Executive Office projects, and \$75,000 for the Land Reclamation Project over the remaining fifteen years the development incentive is to be paid. The shoreline park area will be brought to a condition suitable for construction of improvements within a timetable consistent with the anticipated award of grant funds. And finally, the negative influences on the neighborhood of partially demolished buildings and a debris filled site will be alleviated.

I urge the Common Council to endorse this amendment so that the Gilbert site development can enter a new stage as quickly as possible.

**AMENDMENT #3 TO DEVELOPMENT AGREEMENT BETWEEN
PJC GROUP, LLC AND THE CITY OF MENASHA**

PJC Group LLC and the City of Menasha, wishing to amend their Development Agreement of December 7th 2007 in order to define certain environmental indemnifications and site preparation conditions between the parties, prepayment and interest obligations, hereby amend their Development Agreement as follows:

1. Article IV of the Agreement is amended to include the following sentences in section 4.5; **"On or before January 1, 2014, the Developer shall deliver the Shoreline Park area in a clean state, free of any structure or impediment, necessary to construct the park/trail area. Such areas to be cleaned of structures or other debris are marked in Exhibit E. Developer's responsibility shall include site preparation in accordance with the preliminary plans in Exhibit F such as sawcut and remove wall and concrete riverward, removal of the building foundations and floors and reestablishing the cap. The parties will cooperate in acquiring permitting under local, state and federal laws necessary to construct the park area/trail consistent with the plans. The City shall be responsible to pay the permit application fees."**
2. Exhibits E and F will be attached to and incorporated within the Development Agreement. Exhibit E is the CSM for the Shoreline Park site and will have the cleared area defined. Exhibit F is the preliminary park/trail Grading Plan & Profile prepared by R.A. Smith National.
3. Article VIII of the Development Agreement is amended to include the following paragraph; **"The Developer further agrees to indemnify the City against any and all environmental liability, known or unknown at the time of the gift of land to the City for Shoreline Park. The City agrees to use good faith efforts to apply for state, private or federal funds for which it may be eligible that have been identified in consultation with the Wisconsin Economic Development Corporation and the Wisconsin Department of Natural Resources before seeking indemnification from the Developer."**
4. Article VI of the Agreement is amended to include in section 6.1: **"City elects to prepay \$500,000.00 plus accrued interest, (\$250,000 Warehouse Project + \$250,000.00 Executive Office Project) of the remaining grant monies to Developer which amount due is \$675,000.00 on or before August 1, 2013 (\$581,506.71 assuming a loan closing date of August 1, 2013). Developer agrees to use these funds solely for completing the Land Reclamation Project including the Shoreline Park site preparation work described herein."**
5. Exhibit D in Article VI of the Agreement is amended to delete the sentence: **"This rate once established shall remain fixed for the entire period and shall be applied to the outstanding balance due the Developer from the City and shall not be modified."**

6. Exhibit D in Article VI of the Agreement is amended as follows: **“The rate of interest applied to the unpaid balance for the Land Reclamation Project (\$175,000.00) shall be 0% until such time as the Land Reclamation Project including the Shoreline Park site preparation work is completed. Upon completion of the Land Reclamation Project on or before January 1, 2014, the rate of interest applied to the unpaid balance, beginning the day after completion, shall be 4.00% per annum.”**

Dated this _____ of July 2013

BY THE CITY

BY PJC GROUP LLC

Edmund Jelinski
Managing Member

CERTIFIED SURVEY MAP NO. 6723

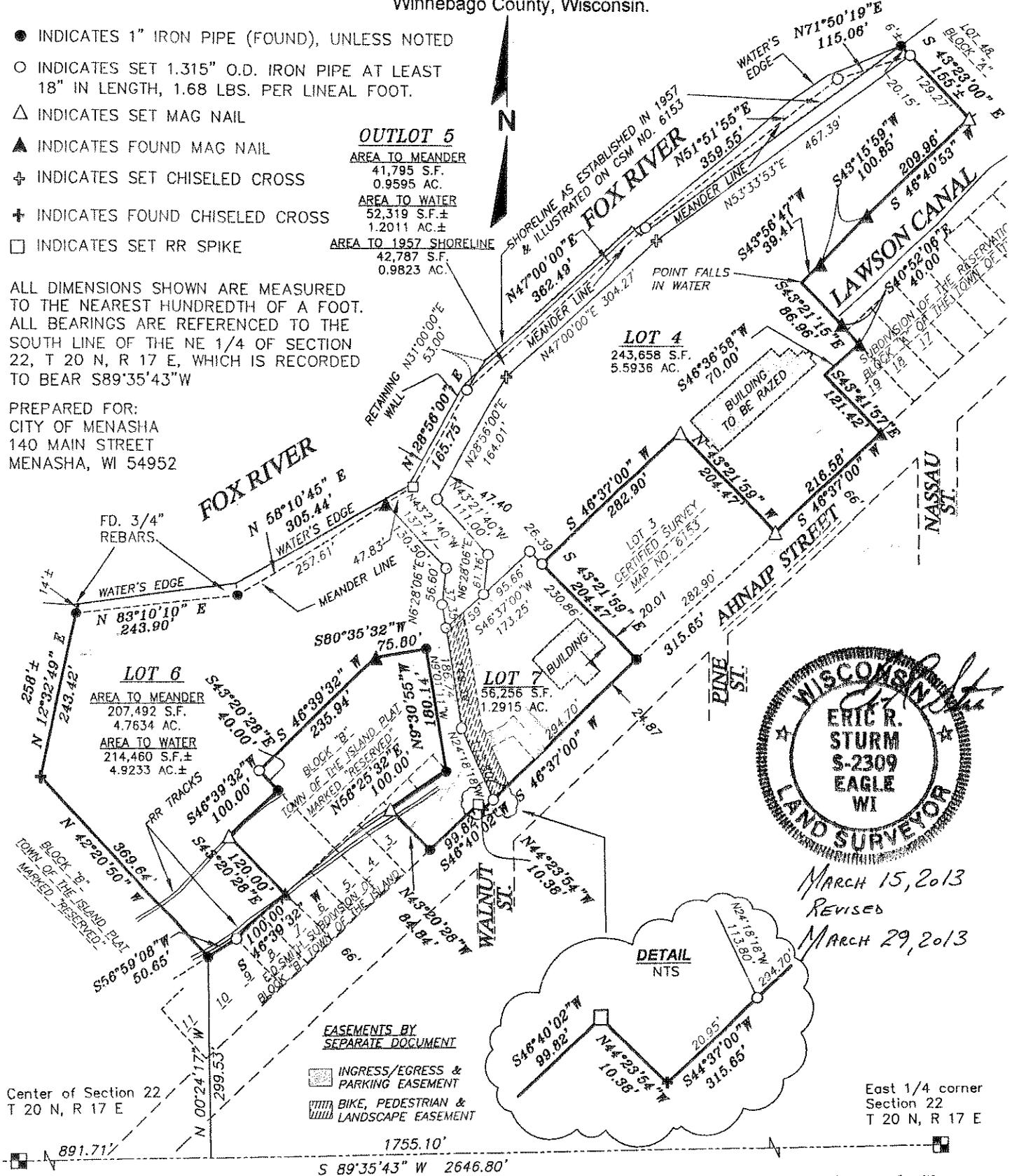
A division of Lots 1, 2 and 4 of Certified Survey Map No. 6153, Being part of the Southwest 1/4, Southeast 1/4 and Northeast 1/4 of the Northeast 1/4 of Section 22, Town 20 North, Range 17 East, in the City of Menasha, Winnebago County, Wisconsin.

- INDICATES 1" IRON PIPE (FOUND), UNLESS NOTED
- INDICATES SET 1.315" O.D. IRON PIPE AT LEAST 18" IN LENGTH, 1.68 LBS. PER LINEAL FOOT.
- △ INDICATES SET MAG NAIL
- ▲ INDICATES FOUND MAG NAIL
- ⊕ INDICATES SET CHISELED CROSS
- ⊕ INDICATES FOUND CHISELED CROSS
- INDICATES SET RR SPIKE

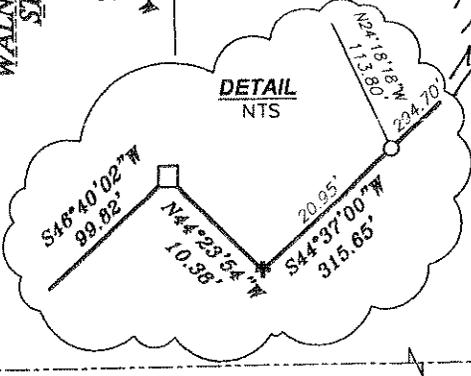
OUTLOT 5
 AREA TO MEANDER
 41,795 S.F.
 0.9595 AC.
 AREA TO WATER
 52,319 S.F.±
 1.2011 AC.±
 AREA TO 1957 SHORELINE
 42,787 S.F.
 0.9823 AC.

ALL DIMENSIONS SHOWN ARE MEASURED TO THE NEAREST HUNDREDTH OF A FOOT. ALL BEARINGS ARE REFERENCED TO THE SOUTH LINE OF THE NE 1/4 OF SECTION 22, T 20 N, R 17 E, WHICH IS RECORDED TO BEAR S89°35'43"W

PREPARED FOR:
 CITY OF MENASHA
 140 MAIN STREET
 MENASHA, WI 54952



MARCH 15, 2013
 REVISED
 MARCH 29, 2013



East 1/4 corner
 Section 22
 T 20 N, R 17 E

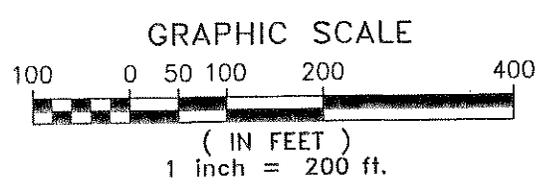
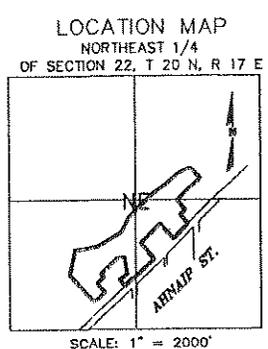
R.A. Smith National, Inc.

Beyond Surveying
 and Engineering

16745 W. Bluemound Road, Brookfield WI 53005
 262-781-1000 Fax 262-797-7373 www.rasmithnational.com
 Appleton, WI Orange County, CA Pittsburgh, PA

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SHEET 1 OF 6 SHEETS



CERTIFIED SURVEY MAP NO. 6723

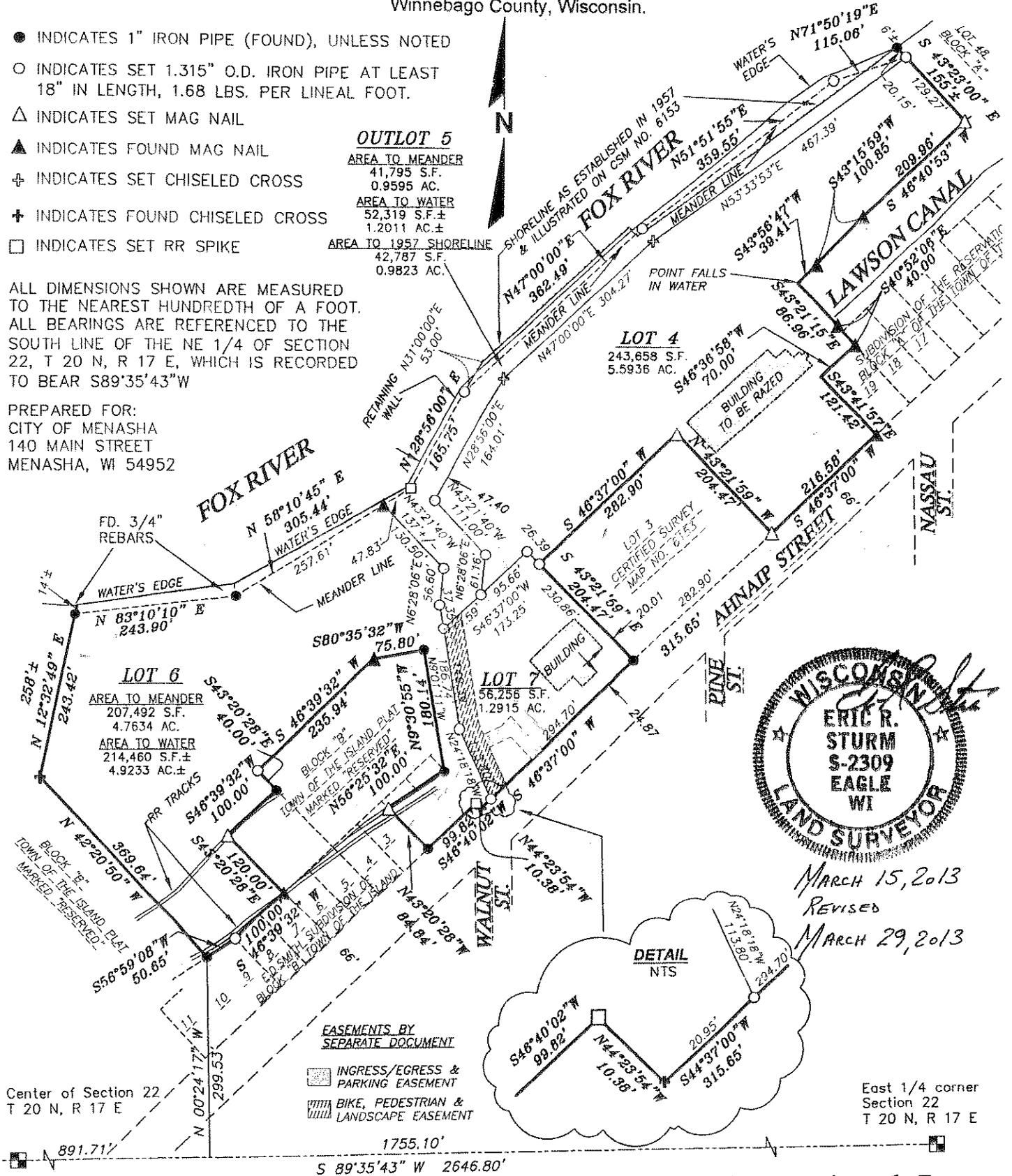
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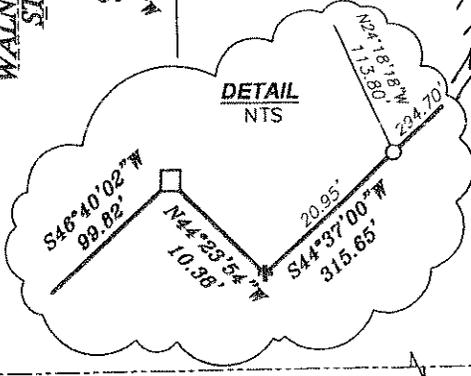
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140 MAIN STREET
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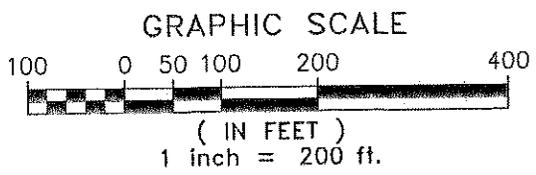
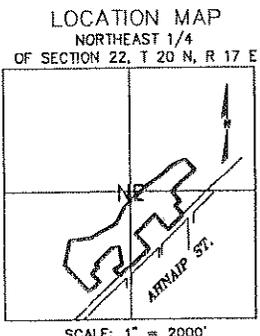
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MARCH 15, 2013
REVISED
MARCH 29, 2013



East 1/4 corner
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T 20 N, R 17 E



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Appleton, WI Orange County, CA Pittsburgh, PA

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CERTIFIED SURVEY MAP NO. 6723

A division of Lots 1, 2 and 4 of Certified Survey Map No. 6153, Being part of the Southwest 1/4, Southeast 1/4 and Northeast 1/4 of the Northeast 1/4 of Section 22, Town 20 North, Range 17 East, in the City of Menasha, Winnebago County, Wisconsin.

CORPORATE OWNER'S CERTIFICATE

PJC Group LLC, a limited liability company duly organized and existing under and by virtue of the laws of the State of Wisconsin, hereby certify that we caused the land above described to be surveyed, divided, and mapped all as shown and represented on this map.

Dated this 19 day of April, 2013.

Edmund Jelinski
(print name & title) MANAGING MEMBER

[Signature]
(signature)

State of Wisconsin }
 :SS
Winnebago County }

Personally came before me on the 19 day of April, 2013, the above named owners to me known to be the persons who executed the foregoing instrument and acknowledged the same.

[Signature] my commission expires Perms
(Notary name)

CONSENT OF CORPORATE MORTGAGEE N/A

COMMUNITY FIRST, duly organized and existing under and by virtue of the laws of State of _____, mortgagee of the above-described land, does hereby consent to the surveying, dividing, mapping and dedication of the land described on this certified survey map, and does hereby consent to the above certificate of said owner.

In witness whereof, the said COMMUNITY FIRST, has caused these presents to be signed by

_____, its _____, at _____

and its corporate seal to be hereunto affixed this _____ day of _____, 2013.

COMMUNITY FIRST

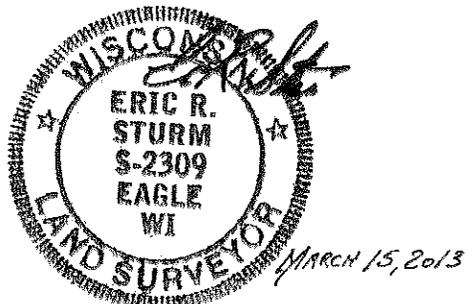
SIGNED: _____

TITLE: _____

STATE OF _____ }
 :SS
_____ COUNTY }

PERSONALLY came before me this _____ day of _____, 2013,

_____ to me known as the person who executed the foregoing instrument as such officer as the deed of the corporation, by its authority.



Notary Public, State of _____ (SEAL)

My commission expires

CERTIFIED SURVEY MAP NO. 6723

A division of Lots 1, 2 and 4 of Certified Survey Map No. 6153, Being part of the Southwest 1/4, Southeast 1/4 and Northeast 1/4 of the Northeast 1/4 of Section 22, Town 20 North, Range 17 East, in the City of Menasha, Winnebago County, Wisconsin.

CORPORATE OWNER'S CERTIFICATE

GILBERT WAREHOUSE, LLC, a limited liability company duly organized and existing under and by virtue of the laws of the State of Wisconsin, hereby certify that we caused the land above described to be surveyed, divided, and mapped all as shown and represented on this map.

Dated this 25th day of April, 2013.

RANSAL SCHWIMMELER MEMBER
(print name & title)

[Signature]
(signature)

State of Wisconsin }
Outagamie :SS
Winnebago County }

Personally came before me on the 25th day of April, 2013, the above named owners to me known to be the persons who executed the foregoing instrument and acknowledged the same.

Michelle Seefeldt my commission expires 3/29/15
(Notary name)

CONSENT OF CORPORATE MORTGAGEE

JOHNSON BANK, duly organized and existing under and by virtue of the laws of State of _____, mortgagee of the above-described land, does hereby consent to the surveying, dividing, mapping and dedication of the land described on this certified survey map, and does hereby consent to the above certificate of said owner.

In witness whereof, the said JOHNSON BANK, has caused these presents to be signed

by SCOTT M. FORTUNE its SVP at JOHNSON BANK

and its corporate seal to be hereunto affixed this 25th day of APRIL, 2013.

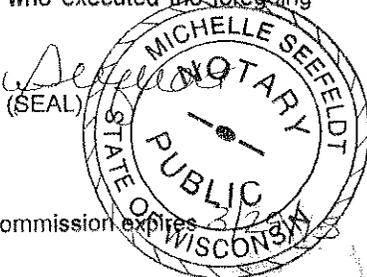
JOHNSON BANK
SIGNED: [Signature]
TITLE: SENIOR VICE PRESIDENT

STATE OF Wisconsin }
Outagamie COUNTY } :SS

PERSONALLY came before me this 25 day of April, 2013,

Scott Fortune, SVP, to me known as the person who executed the foregoing instrument as such officer as the deed of the corporation, by its authority.

Notary Public, State of Wisconsin



My commission expires 3/29/15

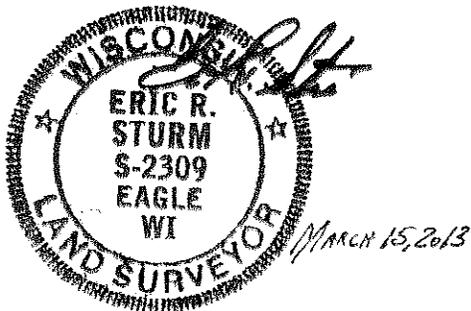
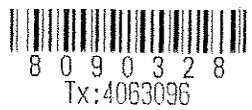


EXHIBIT E



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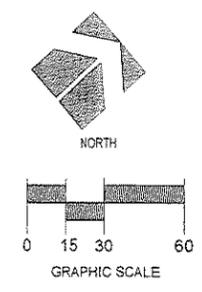
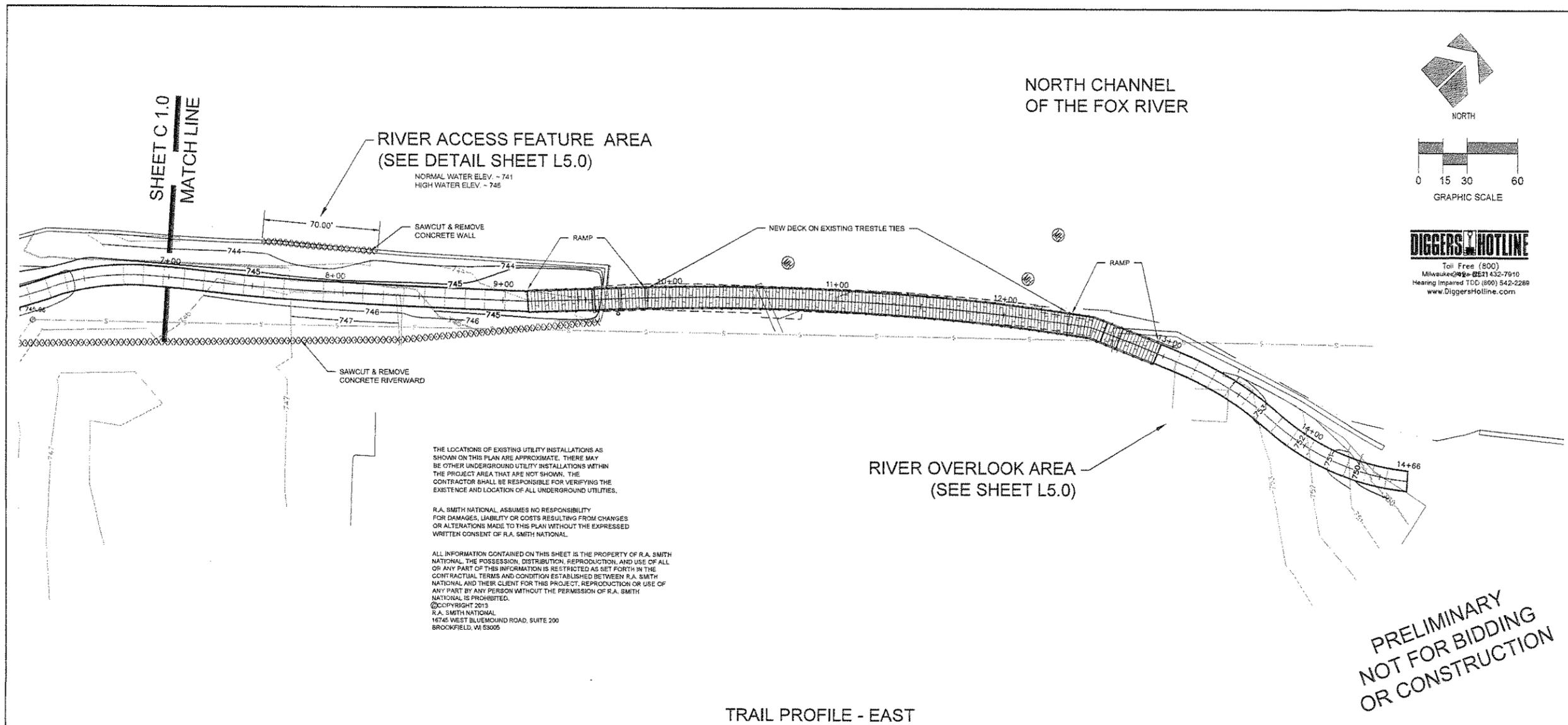
REGISTER'S OFFICE
WINNEBAGO COUNTY, WI
RECORDED ON

04/26/2013 2:07 PM
Vol. 1 Ps. 6723
JULIE PAGEL

REGISTER OF DEEDS

RECORDING FEE 30.00

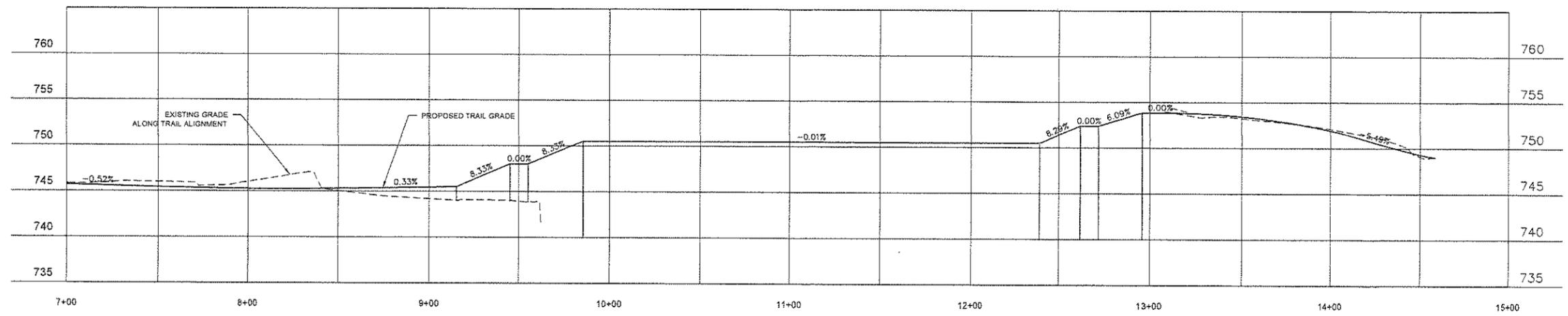
Charge



DIGGERS HOTLINE

Toll Free (800) Milwaukee 221-432-7910
 Hearing Impaired TDD (800) 542-2288
 www.DiggersHotline.com

**PRELIMINARY
 NOT FOR BIDDING
 OR CONSTRUCTION**



DESCRIPTION	
DATE	
R.A. Smith National	
<i>Beyond Surveying and Engineering</i>	
16745 W. Bluemound Road, Brookfield, WI 53005 262-781-1000 Fax 262-781-8468 www.ra-smithnational.com Appleton, WI Orange County, CA Pittsburgh, PA	
GILBERT RIVERFRONT TRAIL MENASHA, WI	GRADING PLAN & PROFILE EAST
© COPYRIGHT 2013 R.A. Smith National, Inc. DATE: 03/20/2013 SCALE: 1"=30' JOB NO. 1100015 PROJECT MANAGER: JEFF M. MAZANEC, P.E. DESIGNED BY: GER CHECKED BY: JMM SHEET NUMBER C 2.0	

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