

RESOLUTION R-25-16

A RESOLUTION APPROVING A 2016 BUDGET ADJUSTMENT FOR THE BORROWING OF FUNDS TO FACILITATE ACQUISITION, DEMOLITION, AND ENVIRONMENTAL CLEANUP OF THE PROPERTY AT 867 VALLEY ROAD AND THE ACCOMPANYING BORROWING TO BE INCLUDED WITHIN THE 2016 CAPITAL IMPROVEMENT PROGRAM BORROWING

Introduced by Alderman Krautkramer

WHEREAS, The City of Menasha did not include the purchase of land in the 2016 Capital Improvement Program Budget to eliminate blight and facilitate environmental cleanup of the property at 867 Valley Road; and

WHEREAS, The Common Council has authorized staff to pursue a purchase and sale agreement with Realty Opus Inc. to acquire the property for \$175,000; and

WHEREAS, The City of Menasha has been granted a Site Assessment Grant from the Wisconsin Economic Development Corporation for the amount of \$150,000 to assist with asbestos abatement, demolition, and soil testing at the property; and

WHEREAS, The City of Menasha will borrow funds to retain Key Engineering to perform professional environmental and engineering services in the amount of \$18,200; and

WHEREAS, The Common Council has authorized staff to pursue a development agreement with Multistorage, LLC to sell the property at the completion of the cleanup for the purpose of the construction of self-storage units; and

WHEREAS, The City of Menasha has already executed its 2016 Capital Improvement Program Borrowing and will need to include the purchase of the parcel at 867 Valley Road as well as the advancement of funds to pay for environmental cleanup activities at the site with the 2016 Capital Improvement Program Borrowing.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Common Council that staff is hereby authorized and directed to complete the following: (1) to approve the Purchase and Sale Agreement with Realty Opus Inc., and (2) to approve the Development Agreement with Multistorage, LLC., and (3) to amend the 2016 Capital Improvement Program Budget to include the purchase of land and acquisition of professional services to enable the improvement of the property 867 Valley Road in the amount of \$343,200, and (4) to execute a borrowing with the State Trust Fund Loan Program, as part of the 2016 Capital Improvement Plan borrowing, to fund the purchase and professional services.

Passed and approved this ____ day of July, 2016

Donald Merkes, Mayor

ATTEST:

Deborah A. Galeazzi, Clerk



To: Common Council
From: Kevin Englebert, Associate Planner *KRE*
Date: July 13, 2016
RE: Acquisition of 867 Valley Road (#4-00753-00)

Per action of the Common Council taken on March 7, 2016, Community Development staff was authorized to pursue the acquisition of the property at 867 Valley Road. The purpose of the acquisition is to facilitate environmental site clean-up in preparation for a developer to acquire and redevelop the property. The city has applied for and was awarded a Site Assessment Grant (SAG) from WEDC in the amount of \$150,000 to be applied to environmental site work. This includes asbestos abatement, demolition of the three existing structures, and soil testing. In order to fulfill the local match commitment of the grant, city staff is proposing to acquire the property temporarily and in conjunction with Key Engineering, manage the demolition and site clearance with the awarded WEDC funds.

Staff has reached agreements with Realty Opus (owner) and Multistorage LLC (developer) to purchase the property and develop the site. It is the desire of the developer to construct storage units at the location which is a permitted use in the I-1 General Industrial District and is consistent with the Comprehensive Plan. The following terms are contained within the agreements:

- City of Menasha to enter into a Development Agreement with Multistorage LLC and Purchase and Sale Agreement with Realty Opus Inc.
- City to purchase the property from Realty Opus for \$175,000.
- Realty Opus to escrow \$100,000 for any unforeseen environmental contamination that the \$150,000 WEDC grant does not cover.
- Key Engineering to update the Phase 1 Environmental assessment; Developer to pay for updating the Phase I Environmental assessment at a cost not to exceed \$1,500.
- Key Engineering to apply on behalf of the City for a Voluntary Party Liability Exemption (VPLE) from WDNR within 30 days of acquisition.
- In conjunction with Key Engineering, City to undertake demolition and site clearance in a timely manner upon receipt of all necessary approvals as may be related to clearance for asbestos abatement or any other conditions requiring approval by state or federal authorities.
- Developer to reimburse city for actual costs of WDNR Voluntary Party Liability Exemption application, case closure, and other WDNR permits and fees in an amount not to exceed \$30,000.

- City to sell property to developer upon completion of site clearance and receipt of VPLE certificate of completion from WDNR. Developer to pay \$175,000 plus interest to reimburse the City for real estate acquisition upon transfer. Closing to be within 60 days of receipt of certificate of completion from WDNR.
- City to transfer site to developer in a level, graded condition.

The City will be advancing funds to pay for the site acquisition and grant activities until reimbursement. The costs the City will be directly responsible include \$250 for an update of the Phase 1 environmental assessment, and \$1750 to pay for specifications to be written for demolition and asbestos abatement.

Attached to this memo are pictures of the property, a site map, the Purchase and Sale Agreement with Realty Opus, and the Development Agreement with Multistorage LLC.

Recommendation

Staff recommends approval of resolution R-25-16 which will allow the City to utilize the awarded grant funds to address the environmental site conditions and to develop the property to a higher and better use.

867 Valley Road









Memorandum

To: Common Council
From: Greg Keil, CDD *GK*
Date: February 3, 2016
RE: Acquisition of 867 Valley Road

Per action of the Common Council taken on March 17, 2014 (see attached) staff was authorized to pursue the acquisition of the above referenced property. The purpose of the acquisition was to facilitate environmental site clean-up in preparation for the future acquisition by and expansion of the adjacent Warehousing of Wisconsin (WOW) facilities. Subsequently, the city applied for and was awarded a Site Assessment Grant (SAG) in the amount of \$150,000 to be applied to environmental site work. Matching funds in the amount of \$175,000 are required and are to be used for property acquisition. At its expense WOW undertook a Phase 1 Environmental Assessment in 2014 and a wetland survey was also undertaken. A small pocket of wetlands were found in the area WOW was contemplating its expansion. Due to this condition and other factors WOW has elected not to proceed with its expansion plans.

City staff has made contact with WEDC regarding the status of the SAG grant and inquired whether the grant funds could still be used if the property were to be purchased by another entity. We received a positive response and have since met with two prospective purchasers who are interested in constructing self storage facilities on the site.

At this time I am seeking authorization of the Common Council to proceed with negotiating with the property owner and the prospective purchasers under the basic terms outlined in the attached. I recommend that we continue to pursue the acquisition of the property while we still have access to the grant funds to address the environmental site conditions.

REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT (this "Agreement") is made effective as of the ___ day of July, 2016, by and between Realty Opus Inc., a Wisconsin corporation ("Seller"), and the City of Menasha, a Wisconsin municipal corporation ("Purchaser").

Seller owns that certain property within the City of Menasha, State of Wisconsin, commonly referred to as 867 Valley Road, and as more fully described in Exhibit A (the real estate, together with all buildings and fixtures, are referred to herein as the "Property").

1. Agreement to Sell/Purchase. Purchaser agrees to purchase from Seller, and Seller agrees to sell to Purchaser, Seller's Property upon the terms, conditions and provisions set forth in this Agreement.

2. Purchase Price. The purchase price for the Property of ONE HUNDRED SEVENTY-FIVE THOUSAND AND 00/100 DOLLARS (\$175,000.00) will be paid in cash or equivalent at closing unless otherwise provided below.

3. Closing. The closing date for the transfer of the Property shall be on or before _____, 2016 and shall be held at the Office of the City Attorney, City Hall, 140 Main Street, Menasha, Wisconsin or where the Parties may otherwise agree. Closing shall be through an escrow established with the Title Insurer as escrowee. The Closing Escrow shall be auxiliary to this Agreement, and this Agreement shall not be merged into, nor in any manner superseded by, the Closing Escrow. The Closing Escrow costs and fees, including any fee for the Escrow Style closing, shall be equally divided between Purchaser and Seller.

4. Delivery of Documents and Written Notices. All notices and delivery of documents to a Party provided for under this Agreement shall be effective only when accomplished by one of the methods specified below:

- A. Personal Delivery: giving the document or written notice personally to the Party, or the Party's named recipient for delivery: Seller_____ Purchaser_____
- B. Fax: fax transmission of the document or written notice to the following telephone number: Seller_____ Purchaser_____
- C. Commercial Delivery: sent by a reputable national overnight delivery service, addressed either to the Party, or to the Party's named recipient for delivery

Each party shall have the right to designate other or additional addresses or addressees for the delivery of notices, by giving notice of the same to the other party hereto.

5. Occupancy. Occupancy of the entire Property shall be given to Purchaser at time of closing.

6. Title; Survey; Review Period.

(i) Title Commitment. Within fifteen (15) days after the effective date of this Agreement, Seller shall obtain a commitment for an ALTA Owner's Form policy of title insurance issued by an insurer licensed to write title insurance in Wisconsin. Seller shall pay all costs of providing title evidence to Purchaser. Seller shall also request that the Title Insurer provide copies of all title exceptions shown or referenced in the Commitment. If title is not acceptable for closing, Purchaser shall notify Seller in writing of objections to title within 15 days after delivery of the title commitment to Buyer. In such event, Seller shall have reasonable time, but not exceeding 5 days, from Purchaser's delivery of the notice stating title objections, to deliver notice to Purchaser stating Seller's election to remove the objections by the time set for closing. In the event that Seller is unable to remove said objections, Purchaser may deliver to Seller written notice of termination and this Agreement shall be null and void. Providing title evidence acceptable for closing does not extinguish Seller's obligations to give merchantable title to Purchaser.

(ii) Title Policy. Seller shall cooperate reasonably with Purchaser in causing the Title Insurer to issue, or to be irrevocably committed to issue, to Purchaser an ALTA Owner's title policy at Closing, subject only to the permitted exceptions and in the amount of the Purchase Price or such other value as determined by Purchaser and acceptable to the Title Insurer.

7. Conveyance. Seller shall convey the Property by warranty deed free and clear of all liens and encumbrances, except: municipal and zoning ordinances and agreements entered under them and recorded easements for the distribution of utility and municipal services. Seller shall complete and execute the documents necessary to record the conveyance at Seller's cost and pay the Wisconsin Real Estate Transfer Fee. General real estate taxes for the current year and any and all special taxes or assessments which are a lien but not yet due and payable will be estimated, for example taxes shall be based on the net general real estate taxes for the preceding year, or the current year if available and all such amounts will be paid by Seller to Purchaser at closing. There will be no proration.

8. Representations and Warranties.

- a. The representations and warranties set forth herein shall be true and correct in all material respects at and as of the closing date and shall survive the closing.
- b. Seller represents and warrants there is no action, suit, proceeding, claim, arbitration against Seller, its activities or assets before any court or governmental agency except as disclosed in writing to the Purchaser.
- c. Seller represents and warrants to Purchaser that it has provided all documents responsive to paragraph 9 below.
- d. Seller has full power and authority to enter into this Agreement and to perform all the obligations of Seller hereunder and no further consent or

approval is required in order for this Agreement to constitute a legal, valid and binding obligation of Seller;

- e. Seller has disclosed all environmental reports and written notices regarding environmental matters pertaining to the Property; and
- f. Seller is not a foreign person, as that term is defined under Section 1445 of the Internal Revenue Code, and at Closing, Seller shall provide Purchaser with an affidavit, in customary form, establishing that Purchaser is not required to withhold any portion of Seller's proceeds.

9. Document Disclosure Contingency. Seller shall deliver the following documents to Purchaser within 10 days of the effective date of this Agreement:

- a. Any and all notices of federal, state or local regulations requiring repairs, alterations or corrections of an existing condition
- b. Any and all government investigation or private assessment/audit of environmental matters conducted
- c. Any and all notices of the Property or any portion of the Property in a floodplain, wetland or shoreland zoning area under local, state or federal regulations
- d. Surveys
- e. Permits and licenses related to the Property

All documents Seller delivers to Purchaser shall be true, accurate, legible and complete and shall be listed on Exhibit A attached hereto and made a part of this Agreement.

10. Inspection Contingency. The Purchaser's obligation to purchase the Property is contingent upon the Purchaser's ability to secure a contract with a contractor or contractors to demolish the buildings, clearance of the site to a reasonably uniform level or gently sloping surface and asbestos abatement/disposal at a cost not to exceed \$130,000. Seller authorizes Purchaser and its prospective contractors to physically inspect the Property to the extent necessary in order to get written estimates. This contingency shall be deemed satisfied unless Purchaser, within 45 days of the effective date notifies Seller that it is unable to secure said contract(s) at a cost that exceeds \$130,000.

11. Closing Adjustments. All installments of assessments and utility charges which are due and payable as of Closing shall be paid by Seller. General and special real estate taxes, utilities charges and installments of assessments not due and payable as of the Closing shall be on the basis of the most recently applicable and ascertainable bill/information therefor and paid by Seller to Purchaser.

12. After-Closing Adjustments. Seller is aware that Purchaser has secured a Wisconsin Economic Development Corporation Site Assessment Grant (Grant) in relation to the

Property. Purchaser will have a Phase I (update) and Phase II environmental assessment performed and may need to engage in remediation activities arising from the results of the environmental assessment in its efforts to pursue a Wisconsin Department of Natural Resources Voluntary Party Liability Exemption. If the costs of remediation exceed the Grant monies, then Seller shall be responsible to pay the excess costs in an amount up to \$100,000.00. These costs shall be paid from the escrowed funds.

13. Applicable Law. This Agreement shall be interpreted and enforced according to the laws of the state of Wisconsin.

14. No Waivers. Failure of the Purchaser to enforce any provision contained herein will not be deemed a waiver of the Purchaser's right to enforce such provision or any other provision in the event of a subsequent default.

15. Construction. Seller and Purchaser hereby acknowledge that both parties participated equally in the negotiation of this Agreement and that no court construing this Agreement shall construe it more stringently against one party than against the other, regardless of which party's counsel drafted this Agreement.

16. Time Of The Essence. Time is of the essence with respect to performance required under this Agreement.

17. Non-Business Days. If the Closing Date or the date for delivery of a notice or performance of some other obligation of a party falls on a Saturday, Sunday or legal holiday, then the Closing Date or such notice or performance shall be postponed until the next business day.

18. Special Assessments. Special assessments, if any, levied or for work actually commenced prior to the date of this Agreement shall be paid by Seller no later than closing.

DEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF MENASHA, WISCONSIN

AND

MULTISTORAGE, LLC

DATED AS OF JULY _____, 2016

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT is made and entered into as of the ____ day of July 2016, by and between the CITY OF MENASHA, Wisconsin, a Wisconsin municipal corporation with its principal offices located at 140 Main St., Menasha, Wisconsin 54952 (hereinafter "CITY"), and MULTISTORAGE, LLC., a Wisconsin limited liability company with its principal offices located at _____ 54956 (hereinafter "DEVELOPER").

ARTICLE I

SECTION 1.01 Purpose of Agreement. The parties hereto are entering into this Development AGREEMENT for the redevelopment and construction of commercial property at 867 Valley Road, Menasha, Wisconsin (hereinafter "PROPERTY"). The parties have worked cooperatively regarding initial planning, financing, and feasibility of such a development. Further, the parties have reached an understanding regarding participation in the future development and intend to enter into this Development AGREEMENT to record the understandings and undertakings of the parties and to provide a framework within which the development may proceed.

ARTICLE II

OVERVIEW OF THE PROJECT

SECTION 2.01 The PROJECT consists of two phases. The first phase is site acquisition, investigation, demolition, and clearing up environmental conditions on the PROPERTY to make the site ready and available for commercial development. The second phase of the PROJECT is commercial development of the PROPERTY resulting in the construction of not less than 7 mini-storage buildings comprised of between 225-275 units in various sizes ranging from 10' x 10' to 14' x 36'. Each of these buildings will range in size from 3,200 sq. ft. to 11,990 sq. ft.

ARTICLE III

CONDITIONS PRECEDENT TO CLOSING

SECTION 3.01 Conditions to DEVELOPER's Obligation to Close. DEVELOPER's obligation to consummate the transactions to be performed by it in connection with the Closing is subject to satisfaction of the following conditions:

SECTION 3.01.1 The CITY's acquisition of the PROPERTY;

SECTION 3.01.2 The CITY'S demolition of the building(s) and structure(s) on the PROPERTY, the CITY's hauling away and disposing of all debris from said demolition (except for crushed debris used for fill) and the CITY'S restoration of the PROPERTY to a reasonably uniform level or gently sloping surface suitable for the PROJECT." To that end, the CITY's engineer and the DEVELOPER's engineer shall work together so that the resulting grade will be sufficient to meet the Parties' needs and objectives; and

- SECTION 3.01.3 The CITY's acquisition of WDNR Voluntary Party Liability Exemption following any required remediation on the PROPERTY, and the CITY's receipt of an unconditional Certificate of Completion acceptable to the DEVELOPER's engineer.
- SECTION 3.01.4 The CITY's pre-approval of all zoning, permitting, drainage, and site plans associated with the PROJECT.
- SECTION 3.01.4 The DEVELOPER's receipt of an updated Phase I environmental assessment at the conclusion of the CITY's remediation process, indicating no substantial issues which, in the opinion of the DEVELOPER's engineers, would materially increase DEVELOPER's costs or potential current of future risks or liabilities in continuing with the PROJECT.
- SECTION 3.01.5 The DEVELOPER's review and approval of the title insurance commitment provided by the CITY.
- SECTION 3.01.6 Receipt of an opinion from the DEVELOPER's engineer that the PROPERTY, in light of all information acquired during the CITY's remediation of the PROPERTY, the VPLE process, the site plan and permitting application process, and the updated Phase I environmental analysis, is suitable for development of the PROJECT without extraordinary costs or potential current or future risks or liabilities.
- SECTION 3.02 Pre-Closing Undertakings of the DEVELOPER. Prior to Closing, the DEVELOPER agrees that it shall at its expense have obtained all necessary approvals and permits necessary to undertake the Development, including but not limited to, site plan review, zoning approvals, and any other local, state, or federal approvals or permits.

ARTICLE IV

DEVELOPER OBLIGATIONS

- SECTION 4.01 Acquisition of PROPERTY. Following completion of the pre-closing conditions DEVELOPER shall acquire title to PROPERTY.
- SECTION 4.01.1 CITY agrees to transfer the PROPERTY to DEVELOPER by warranty deed. DEVELOPER agrees to purchase the PROPERTY for \$175,000 (plus interest) to be paid to CITY at closing. DEVELOPER shall also pay at closing the cost of updating the Phase I Environmental assessment at a cost not to exceed \$1,500 (the CITY shall be responsible for the balance, if any) plus the actual costs to CITY to secure WDNR Voluntary Party Liability Exemption, other WDNR permits and fees, and USACOE permits and fees if necessary in an amount not to exceed \$30,000 (the CITY shall pay the balance, if any). If closing does not occur, the CITY shall be responsible for said costs.
- SECTION 4.01.2 Title Insurance. The CITY shall provide an ALTA title insurance commitment letter prior to closing and the CITY shall provide a title insurance policy to DEVELOPER. The standard terms of a WB-15 Commercial Offer to Purchase concerning closing proration, special assessments, and title evidence shall apply.

- SECTION 4.01.3 Title. The CITY shall cooperate with DEVELOPER to clear up any defect in title that may be pertaining to the PROPERTY; provided, however, conveyance shall be subject to (1) reasonable and customary easements and restrictions of record; (2) requisite public and private utility easements; (3) CITY covenants/restrictions, none of which may be removed or modified without CITY's approval; and (4) all other terms and conditions of this AGREEMENT.
- SECTION 4.01.3 Closing Date. The closing date for the transfer of the PROPERTY shall be within sixty (60) days of receipt of an unconditional VPLE Certificate of Completion from WDNR and shall be held at Evans Title Company in Appleton, WI. If closing does not occur on or before June 1, 2017, DEVELOPER shall have the option to terminate this Agreement and its obligations hereunder.
- SECTION 4.02 DEVELOPER's Covenant to Develop. Upon Closing, DEVELOPER agrees and covenants to use its best efforts to proceed with due diligence to complete the PROJECT substantially in accordance with the Concept Plan attached to this AGREEMENT as **EXHIBIT A**.
- SECTION 4.03 Standards of Construction. DEVELOPER shall see to it that all infrastructure and improvements are constructed in a good and workmanlike manner and consistent with prevailing industry standards for high quality construction in the area of the city. DEVELOPER shall perform all work in compliance with applicable laws, regulations, ordinances, and permits and DEVELOPER shall, at its own cost and expense, obtain all necessary permits and licenses for such development.
- SECTION 4.04 Compliance with Codes, Plans, and Specifications. DEVELOPER, at its own expense, shall obtain all approvals, permits, and licenses as may be required by any governmental or non-governmental entity in connection with the PROJECT. The building and other improvements to be constructed upon the PROPERTY, the construction thereof, and their uses shall be in compliance with all applicable codes and ordinances of the CITY, and with all pertinent provisions of this AGREEMENT, the Project Plan and the Plans and Specifications. DEVELOPER agrees to maintain the liability exemption provided by the VPLE, including but not limited to, continuing required maintenance and monitoring of the PROPERTY.
- SECTION 4.05 Taxes. It is understood that the land, improvements, and personal property resulting from the development PROJECT shall be subject to property taxes. DEVELOPER shall pay when due all federal, state, and local taxes in connection with the PROJECT.
- SECTION 4.06 Easements. DEVELOPER shall grant the CITY or any public utility such easements as reasonably necessary for public improvements, infrastructure, ingress or egress, utilities, stormwater, lighting or landscaping, or any other need necessary to effectuate the PROJECT in accordance with approved plans at no cost to the CITY.
- SECTION 4.07 Record Retention. DEVELOPER understands and acknowledges that the CITY is subject to Public Records Law of the State of Wisconsin. As such, DEVELOPER agrees to retain all records as defined by Wisconsin
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Statute §19.35(2) applicable to this AGREEMENT for a period of not less than seven (7) years. DEVELOPER agrees to assist the CITY in complying with any public records request they receive pertaining to this AGREEMENT. DEVELOPER agrees to indemnify and hold the CITY, their officers, employees, and authorized representatives harmless for any liability, including without limitation, reasonable attorney fees relating to or in any way arising from DEVELOPER's actions or omissions, which contribute to the CITY'S inability to comply with the Public Records Law. In the event DEVELOPER decides not to retain its records for a period of seven (7) years, then it shall provide written notice to the CITY whereupon the CITY shall take custody of said records assuming such records are not already maintained by the CITY. This provision shall survive termination of this AGREEMENT.

ARTICLE V

CITY OBLIGATIONS

SECTION 5.01 Certification of Completion. Upon completion and review of the PROJECT by DEVELOPER, the CITY shall provide the DEVELOPER with an appropriate recordable instrument certifying that the improvements have been made in accordance with this AGREEMENT and the project plans and any amendment or modifications thereto.

SECTION 5.02 City Performance Subject to Required Government Approvals. The DEVELOPER acknowledges that various of the specific undertakings of the CITY described in this AGREEMENT require approvals from the City's Common Council and/or Plan Commission as well as from governmental bodies external to the CITY, some of which approvals may require public hearings and other legal proceedings as conditions precedent thereto. The City's obligations are conditioned upon the DEVELOPER obtaining of all such approvals in the manner required by law. The CITY cannot assure that all such approvals will be obtained; however, it agrees to use good faith efforts to obtain such approvals on a timely basis.

SECTION 5.03 Other Obligations of CITY stated in this Agreement. In addition to the obligations of the CITY stated in this Article V, the CITY shall also be obligated as provided elsewhere in this Agreement.

ARTICLE VI

ASSIGNMENT

SECTION 6.01 The rights, duties, and obligations of the DEVELOPER hereunder may not be assigned by DEVELOPER without the written consent of the CITY to the assignment at its sole discretion. Any purchaser or transferee of any portion of the Property shall be bound by the terms and conditions of this AGREEMENT, which shall run with the land and be binding upon all such purchasers and transferees. Any such transfer or conveyance of any portions of the Property shall not relieve the DEVELOPER of its obligations hereunder.

ARTICLE VII

NOTICES

SECTION 7.01 All notices, demands, certificates, or other communications under this AGREEMENT shall be sufficiently given and shall be deemed given when hand delivered or mailed by first class mail, postage prepaid, properly addressed as indicated below:

To the DEVELOPER: Luke Bergstrom
320 Ninth Street
Neenah, WI 54956

With a copy to: Attorney Andrew Rossmeyssl
800 N. Lynndale Dr.
Appleton, WI 54914

To the CITY: City of Menasha, Wisconsin
City Hall
140 Main Street
Menasha, WI 54952
Attn: CITY Clerk

With a copy to: Community Development Director
City Hall
140 Main Street
Menasha, WI 54952

SECTION 7.01.1 Any party may, by written notice to the party(ies), designate a change of address for the purposes aforesaid

ARTICLE VIII

NONDISCRIMINATION

SECTION 8.01 In the performance of work under this AGREEMENT, the DEVELOPER agrees not to discriminate against any employee or applicant for employment nor shall the development or any portion thereof be sold to or leased or used by any party in any manner to permit discrimination or restriction on the basis of race, religion, marital status, age, color, sex, sexual orientation, physical condition, disability, national origin, or ancestry and that the construction and operation of the Development shall be in compliance with all effective laws, ordinances, and regulations relating to discrimination on any of the foregoing grounds.

ARTICLE IX

MISCELLANEOUS PROVISIONS

SECTION 9.01 The terms and conditions of the Wisconsin Economic Development Corporation, Site Assessment Grant Agreement, Contract #SAG FY15-

22934, are made a part of this AGREEMENT and incorporated herein. Both parties are required to comply with those terms and conditions contained therein.

- SECTION 9.02 Each of the parties will use its best efforts to take all action and do all things necessary, proper, or advisable in order to consummate and make effective the transactions contemplated by this AGREEMENT.
- SECTION 9.03 Entire Agreement. This document contains the entire AGREEMENT between DEVELOPER and the CITY. This AGREEMENT may be modified only by a written Amendment signed by the parties.
- SECTION 9.04 Survival of Agreement. Any provision of this AGREEMENT which has not been fully performed prior to transfer of possession shall not be deemed to have been terminate, but shall survive unless expressly waived in writing, and shall be in full force and effect until performed.
- SECTION 9.05 Default. In addition to any remedies set forth within this AGREEMENT, the Parties shall have all rights and remedies available under law or equity with respect to said default. All remedies shall be cumulative and the exercise of one remedy shall not preclude the use of any other or all of said remedies.
- SECTION 9.06 Failure to Enforce Not a Waiver. Failure of the CITY to enforce any provision contained herein shall not be deemed a waiver of the City's right to enforce such provision or any other provision in the event of a subsequent default.
- SECTION 9.07 Governing Law. This AGREEMENT shall be governed, enforced, and construed in accordance with the domestic laws of the State of Wisconsin.
- SECTION 9.08 Counterparts. This AGREEMENT may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.
- SECTION 9.09 Severability. If any provisions of this AGREEMENT shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case, in any jurisdiction(s) or in all jurisdictions, or in all cases, because it conflicts with any other provision(s) hereof, any constitution, statute, rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision(s) provisions herein contained invalid, inoperative, or unenforceable to any extent whatever.
- SECTION 9.10 Recording of Agreement. The parties hereto agree that the CITY may record this AGREEMENT or a memorandum of this AGREEMENT on the record title to the Property. The DEVELOPER shall upon request of the CITY execute and deliver any such memorandum or other document in connection with such recording.

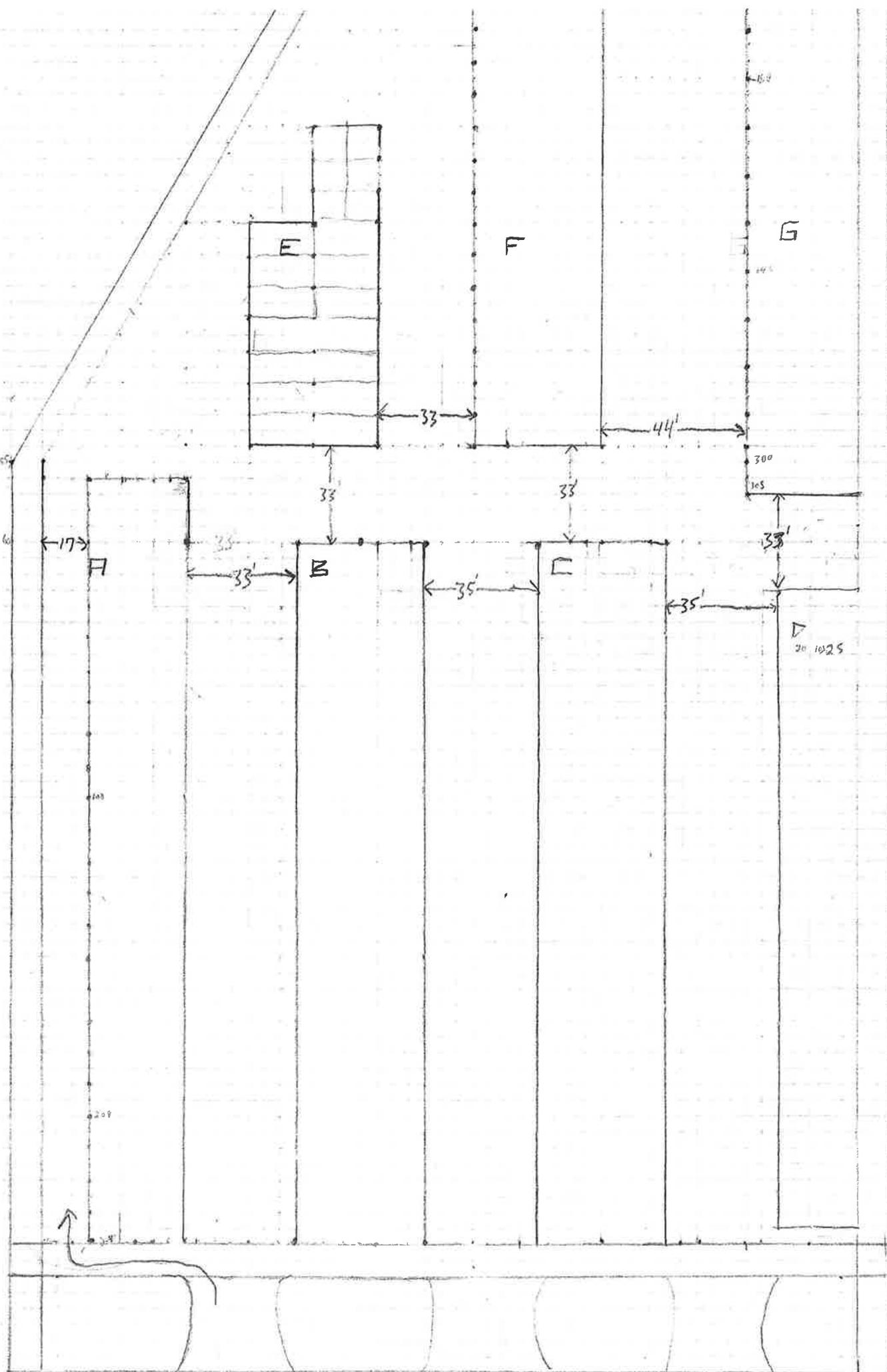
STATE OF WISCONSIN)
) ss.
COUNTY OF WINNEBAGO)

Personally came before me this _____ day of July 2016, the above named Donald Merkes, Mayor, and Deborah Galeazzi, City Clerk, of the City of Menasha, to me known to be the person who executed the foregoing instrument and acknowledged the same in the capacity and the purposes therein intended.

Notary Public, State of Wisconsin
My Commission: _____

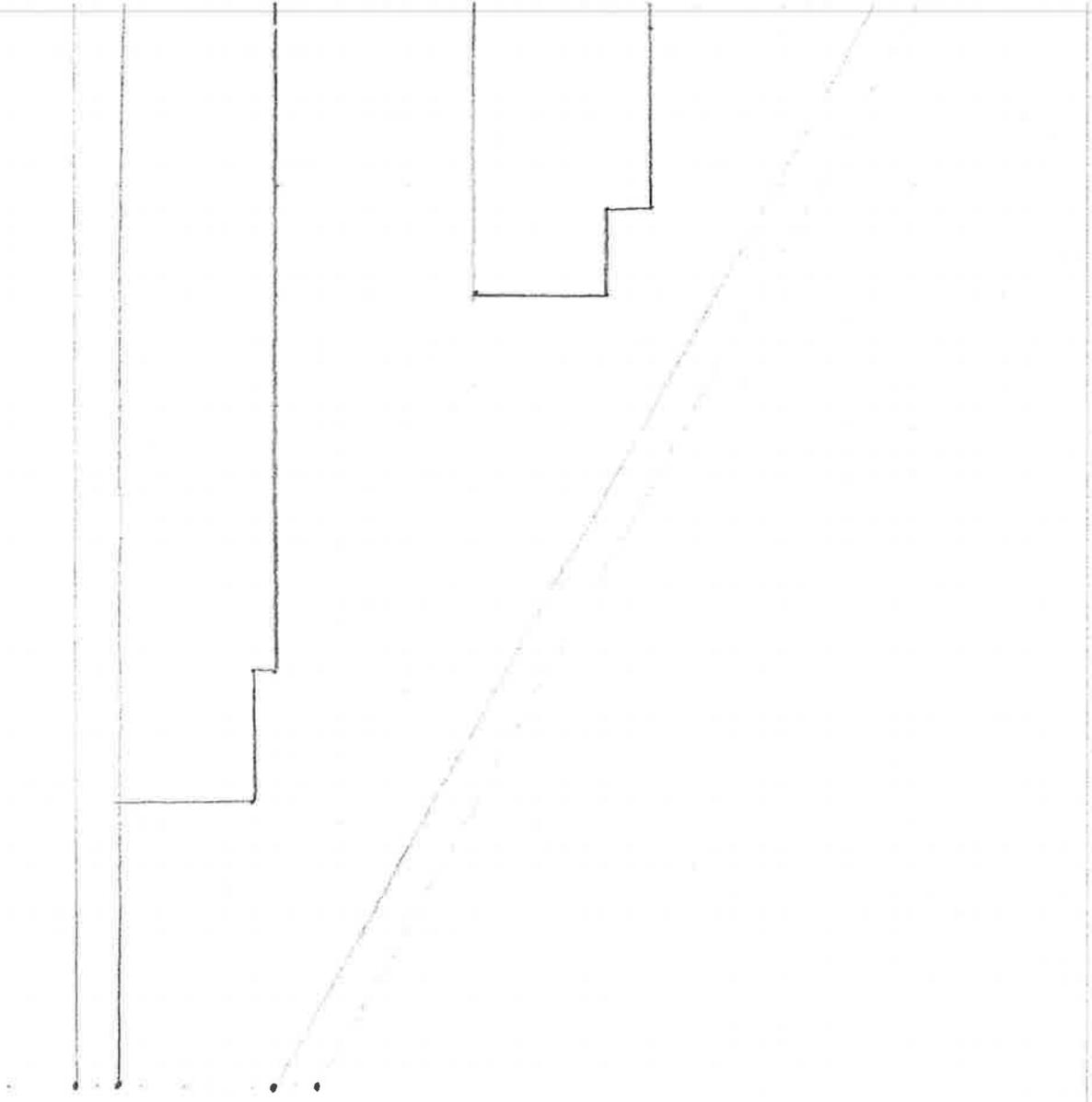
Countersigned pursuant to §62.09(10) Wis. Stats.

City Comptroller



300

- A = 48 units
10 x 15
- B = 44 units
10 x 20
- C = 44 units
10 x 20
- D = 20 units
10 x 25
- E = 14 units
10 x 25
6 units
10 x 20
- F = 21 units
10 x 10
19 units
10 x 30
- G = 22 units
14 x 36
3 units
10 x 30



867 Valley Road

VALLEY RD (COUNTY RD P)

280.63'

275.48'

163.00'

887

835

867

737.26'

923



0 50 100 Feet

STATE RD 441 WESTBOUND