It is expected that a Quorum of the Personnel Committee, Board of Public Works, and Common Council will be attending this meeting: (although it is not expected that any official action of any of those bodies will be taken)

CITY OF MENASHA
ADMINISTRATION COMMITTEE
Third Floor Council Chambers
140 Main Street, Menasha
May 19, 2014
6:30 PM
or immediately following Common Council
AGENDA

A. CALL TO ORDER

B. ROLL CALL/EXCUSED ABSENCES

C. MINUTES TO APPROVE
   1. Administration Committee, 4/15/14

D. DISCUSSION/ACTION ITEMS
   1. Accept quote of The Post Crescent as the official City newspaper, May 2014-May 2015.
   2. Proposed Amendment to City of Menasha Human Health Hazard Ordinance (Cimex Lectularius) (Recommended by Board of Health)
   3. Development Agreement by and between The City of Menasha, Foodmen 2, Inc. and F 2 R, LLC for 205 Milwaukee Street, Menasha

E. ADJOURNMENT

"Menasha is committed to its diverse population. Our Non-English speaking population and those with disabilities are invited to contact the Menasha City Clerk at 967-3603 24-hours in advance of the meeting for the City to arrange special accommodations."

DRAFT

CITY OF MENASHA
ADMINISTRATION COMMITTEE
Third Floor Council Chambers
140 Main Street, Menasha
April 15, 2014
MINUTES

A. CALL TO ORDER
Meeting called to order by Clerk Galeazzi at 6:51 p.m.

B. ROLL CALL/EXCUSED ABSENCES
PRESENT: Aldermen Nichols, Taylor, Sevenich, Langdon, Keehan, Zelinski, Englebert, Benner
ALSO PRESENT: Mayor Merkes, CA/HRD Captain, PC Styka, AFC Green, CDD Keil, DPW Radtke, ASD Steeno, PRD Tungate, Clerk Galeazzi

C. MINUTES TO APPROVE
1. Administration Committee, 3/17/14
Moved by Ald. Englebert, seconded by Ald. Keehan to approve minutes.
Motion carried on voice vote.

D. ACTION ITEMS
1. Election of Chairman
Clerk opened floor for nominations

Moved by Ald. Sevenich, seconded by Ald. Zelinski to nominate Ald. Nichols as chairman.

Closed nominations.

Having no other nominations the clerk shall cast a unanimous ballot for Ald. Nichols as chairman.

Ald. Nichols took over at Chairman.

2. Election of Vice-Chairman
Chairman Nichols opened floor for nominations.

Moved by Ald. Sevenich, seconded by Ald. Zelinski to nominate Ald. Keehan as vice-chairman.

Closed nominations.

Having no other nominations the clerk shall cast a unanimous ballot for Ald. Keehan as vice-chairman.

E. ADJOURNMENT
Moved by Ald. Taylor, seconded by Ald. Sevenich to adjourn at 6:56 p.m.
Motion carried on voice vote.

Respectfully submitted by Deborah A. Galeazzi, WCMC, City Clerk

MEMO

To: Administration Committee

From: Debbie Galeazzi, City Clerk

Subject: Official City Newspaper

Date: May 15, 2014

The Post-Crescent was the only quote received for publishing council proceedings and other city advertising for the ensuing year.

Attached to this memo are the 2014 and 2013 rate quotes for comparison. The rate quoted for 2014 is slightly higher from 2013 and is based on the Post Crescents' most recent certification from the State of Wisconsin. The 2014 rate quotes are still lower than what was charged in 2012.

New this year will be a charge of $1.00 for an Affidavit of Publication. Not all publications require an Affidavit of Publication.

Wis. Stats. 985.06 states that the eligible newspaper making the lowest effective bid for the city's legal notices shall be awarded the contract. Eligibility is determined pursuant to Wis. Stats. 985.03.

POST-CRESCENT media
print | digital | social | mobile
A GANNETT COMPANY

PostCrescent.com

306 W. WASHINGTON ST. • P.O. BOX 59 • APPLETON, WI 54912-0059

April 30, 2014

Deborah A. Galeazzi, City Clerk
City of Menasha
140 Main St.
Menasha, WI, 54952

Dear Ms. Galeazzi

In accordance with the legal advertising rates established by the State of Wisconsin, we are pleased to quote you the following legal advertising rates for the publication of council proceedings and other city legal advertising for the upcoming year.

Classified 10 Column Per Line charge – Arial 6-point Font:

Number of Columns	First Insertion	Subsequent Insertion(s)
1	$0.65	$0.51
2	$1.26	$0.99
3	$1.96	$1.55
4	$2.67	$2.11
5	$3.37	$2.66
6	$4.07	$3.21
7	$4.77	$3.77
8	$5.48	$4.33
9	$6.18	$4.88
10	$6.88	$5.43

Classified 6 Column Per Line charge – Arial 6-point Font:

Number of Columns	First Insertion	Subsequent Insertion(s)
1	$1.06	$0.84
2	$2.25	$1.77
3	$3.43	$2.71
4	$4.46	$3.65
5	$5.80	$4.58
6	$6.99	$5.52

Our rates/fonts have changed since last year's bid based on our most recent certification from the state of Wisconsin. Going forward, if the State of Wisconsin changes their legal rate certifications, a 30 day notice will be sent accordingly. Our classified column width will be changing to a 6 column format in the next few months and will eliminate our 10 column format with this change.

Additional charges that may apply - affidavit charges $1.00 for each affidavit.

Thank you for the opportunity to serve your community.

Sincerely,

Steve T Broas

Steve Broas
Vice President of Advertising
Post Crescent Media

RECEIVED
MAY 13 2014
CITY OF MENASHA
BY dg

POST-CRESCENT
print | digital | social | mobile
A GANNETT COMPANY
PostCrescent.com

May 1, 2013

Deborah A. Galeazzi
City Clerk
City of Menasha
140 Main St.
Menasha, WI, 54952

Dear Ms. Galeazzi

In accordance with the legal advertising rates established by the State of Wisconsin as well as the May 1st, 2013 legal bid deadline, we are pleased to quote you the following legal advertising rates for the publication of council proceedings and other city legal advertising for the upcoming year.

Classified 10 Column Per Line charge – Arial 6-point Font:

Number of Columns	First Insertion	Subsequent Insertion(s)
1	$0.6547	$0.5143
2	$1.2641	$0.9931
3	$1.9675	$1.5458
4	$2.6710	$2.0984
5	$3.3744	$2.6511
6	$4.0709	$3.1982
7	$4.7743	$3.7509
8	$5.4778	$4.3035
9	$6.1743	$4.8507
10	$6.8777	$5.4034

Retail 6 Column Per Line charge – Arial 6-point Font:

Number of Columns	First Insertion	Subsequent Insertion(s)
1	$0.9994	$0.7852
2	$2.1765	$1.7099
3	$3.3535	$2.6346
4	$4.5306	$3.5594
5	$5.7007	$4.4786
6	$6.8777	$5.4034

RECEIVED
MAY 7 2013
CITY OF MENASHA
BY

Classified Display rate for a font other then Arial 6-point Font:

1st Insertion - $11.23; Subsequent Insertion(s) - $8.82

Retail Display rate for a font other then Arial 6-point Font:

1st Insertion - $18.72; Subsequent Insertion(s) - $14.70

When electronic copy for the entire notice or substantial areas thereof is provided, eliminating typesetting, enlargements or reduction, or other changes by the newspaper, the maximum rate is the same as the maximum rate established for subsequent insertions.

Our rates/fonts have changed since last year's bid based on our most recent certification from the state of Wisconsin. Going forward, if the State of Wisconsin changes their legal rate certifications, a 30 day notice will be sent accordingly. We can discuss a change at that point if that specific rate change is suggested to take affect outside the normal bidding timeframe/guidelines

Thank you for the opportunity to serve your community.

Sincerely,

Nicole L Mertes

Nicole Mertes
Advertising Manager
Appleton Post Crescent

Proposed Amendment to City of Menasha Human Health Hazard Ordinance
Cimex Lectularius

(Recommendation from Board of Health)

Sec. 11-7-3 (addition to Nuisances affecting Health) - Bed Bug Management in residential rental structures

(a) Upon the authority and scope of City of Menasha Municipal Code as approved by the City of Menasha Common Council.

(b) Residential Rental Structures

a. Residential rental structures shall include all permanent residential rental structures where the occupant has that address listed as their permanent mailing address. Transient licensed residential facilities such as hotels, motels, bed and breakfasts are exempt from this ordinance. Licensed transient facilities are regulated by Sec. 7-6-1 Menasha Municipal Code and Wisconsin Administrative Codes adopted by reference.

(c) Property Owner/Landlord Responsibilities

a. It is the responsibility of every property owner/landlord/ property manager under this section to provide pest control services when bed bugs are found on any applicable rental residential premises. Pest control services shall be conducted by a licensed pest control professional as necessary to totally eliminate the infestation. Every property owner shall maintain a written record of every incidence where units were suspected to have a bed bug infestation and units where pest control was required to address an identified bed bug infestation. Records must be made available to enforcement authority upon request. Landlord/Property Owner/ Property Manager must provide appropriate written notice to tenants prior to accessing individual residential rental units.

b. Investigation and treatment of reported bed bug infestations shall be done as follows:

i. Inspection of the dwelling unit by a Pest Control Professional where a suspected bed bug infestation exists.

ii. Treatment by a Pest Control Professional of the affected unit and units on either side and directly above and below

iii. Treatment must be conducted per Pest Control Professional's inspection and treatment plan.

iv. Treatment plan must be submitted to the Menasha Health Department.

v. A signed clearance statement must be provided to the Menasha Health Department from the pest control contractor which states that the treatment plan has been completed and no identifiable bed bugs are present.

c. It shall be unlawful for any property owner/landlord/ property manager to advertise, offer to rent or rent any residential unit which has been identified or suspected to be a property which contains a bed bug infestation and which has not been inspected and/or completely treated to remove the infestation as evidenced by a signed clearance statement from the Pest Control Professional.

d. It shall be considered a violation of this ordinance for landlords/ property owner's/ property manager's to treat their own properties.

(c) **Tenant responsibilities**

a. A tenant shall immediately notify the property owner/landlord/property manager/Health Department or other appropriate governmental agency of any suspected bed bug infestation. Landlords may not retaliate against the tenants for notifying a property owner/ landlord/ property manager/ Health Department or other appropriate government agency about a bed bug infestation. Suspected retaliatory acts against tenants shall be immediately referred to the Wisconsin Department of Agriculture, Trade and Consumer Protection for enforcement under ATCP 134 (Landlord / Tenant Code).
b. Tenants shall cooperate with the property owner/landlord/property manager in the control, treatment and eradication of the bed bug infestation found or suspected to be in a tenant's rental unit or in units which are on either side and directly above and below a known or suspected unit infested with bed bugs.

   Tenant 's shall:

   i. Not interfere with inspections
   ii. Grant access within reasonable times and with adequate 12 hour prior notice from landlord/property owner/ property manager.
   iii. Make any necessary preparations for treatment or inspection per requirements provided by the pest control professional.
   iv. Any furniture items which are disposed of must be rendered unusable by cutting cushions or otherwise marking those items may contain bed bugs.
c. (b) Section does not apply to assisted living or other shared housing which provides tenants with assistance in daily living or other mandatory services.

(d) Enforcement Authority

a. Menasha Health Department and/or Menasha Police Department – Code Enforcement Officer shall have the authority to conduct inspection of the interior and exterior of affected buildings and request copies of all required records related to an identified bed bug infestations.

(e) Violations – Penalties

a. Any landlord, property owner or responsible party found in violation of this ordinance shall be fined not less than **** nor more than **** for each offense. Each day may be considered a separate violation and fines may be assessed for each continued day of violation.
b. Unoccupied residential units shall be considered non-rentable if the property owner/landlord/responsible party fails to comply with the provisions of this ordinance related to the treatment and extermination of an identified bed bug infestations. The Menasha Health Department shall issue an order in writing stating that the rental unit may not be rented for occupancy due to untreated bed bug infestation. This notice shall remain in effect until documentation is provided to the Menasha Health Department that the provisions of this ordinance have been met is provided.

Informational section

Reference question regarding landlord charging a tenant would be a retaliatory act.

(5) RETALIATORY EVICTION. No landlord shall terminate a tenancy or give notice preventing the automatic renewal of a lease, or constructively evict a tenant by any means including the termination or substantial reduction of heat, water or electricity to the dwelling unit, in retaliation against a tenant because the tenant has:
(a) Reported a violation of this chapter or a building or housing code to any governmental authority, or filed suit alleging such violation; or
(b) Joined or attempted to organize a tenant's union or association; or
(c) Asserted, or attempted to assert any right specifically accorded to tenants under state or local law.

ATCP 134 - ? 134.09 Reference Violation – Penalties

ATCP 134.09 Prohibited practices. (1) ADVERTISING OR RENTAL OF CONDEMNED PREMISES. No landlord may rent or advertise for rent any premises which have been placarded and condemned for human habitation, or on which a notice of intent to placard and condemn, or an order to raze, or to rehabilitate or raze, or any similar order has been received under state or local laws or ordinances, until and unless all repairs required to bring the property into compliance with the laws or ordinances have been completed.

Bed Bug Complaints / Statistics
City of Menasha Health Department

33	Complaints related to a single apartment building over a 14 month period / Pest control treatments conducted for 12 of those months.
9	Complaints received from Winnebago County Social Services Personnel
11	Complaints received from State of Wisconsin Department of Probation and Parole
13	Complaints received from tenants, other individuals
1	Confirmed bed bug issue at a public building reported to be sourced from a tenant residing in the apartment building.
1	Complaint regarding an individual residing in the apartment building bringing bed bugs to a meal site.
12	Complaints received from another apartment building over a 6 month period. Tenants and management alleged that a resident of the apartment building cited above brought bugs to this building while cohabitating with one of the residents. Beg Bugs were confirmed in 6 units total. Initial pest control was ineffective (same contractor as was used at the apartment building cited above). Second pest control firm completely resolved the issue within 45 days. No additional complaints have been received for the 9 months since the second pest control firm provided clearance.
17	Additional complaints / contacts received regarding homes and rental properties throughout the City of Menasha over the last 12 months.

64 total complaints over an 18 month period
Majority of chronic complaints were due to inadequate treatment of previously identified infestations in both large apartment buildings described above.

Issues to consider:

Property Owner Considerations:

- Treating properly is less expensive than reacting to specific units
- Proper treatment reduces the risk of transfer to other commercial / public buildings
- Adverse information in the community resulting from long term issues with bed bugs
- Potential civil liability
- Review of treatment plans by Health Department protects the property owner's interest by involving a non-biased 3rd party to approve plans and duration of treatment and requires a clearance statement in writing for the property owner. Ordinance also protects landlord interests by requiring tenants to report the presence or potential presence therefore reducing the risk of spread to other units and off site.

What the ordinance does not do:

- Get involved with civil matters between landlords and tenants related to bed bugs and costs to treat
- Determines which party is at fault

What the ordinance does do:

- Requires proper treatment of bed bug infestations
- Reduces Menasha personnel staff time in investigating these issues over extended periods of time
- Reduces the risk of the bed bug issue being perpetuated to schools, churches, libraries and other public places

Centers for Disease Control and Prevention
CDC 24/7: Saving Lives. Protecting People.™

Joint Statement on Bed Bug Control in the United States from the U.S. Centers for Disease Control and Prevention (CDC) and the U.S. Environmental Protection Agency (EPA)

Printable PDF [PDF - 170 KB] (../Docs/Joint_Statement_on_Bed_Bug_Control_in_the_US.pdf)

Introduction and Purpose

The Centers for Disease Control and Prevention (CDC) and the U.S. Environmental Protection Agency (EPA) developed this document to highlight emerging public health issues associated with bed bugs (*Cimex lectularius*) in communities throughout the United States.

Photo 1. Bed Bug.
Photo courtesy of Dr. Harold Harlan, Armed Forces Pest Management Board Image Library

Bed bugs (**Photo 1**) have been common in U.S. history. Although bed bug populations dropped dramatically during the mid-20th century (1 (#1)), the United States is one of many countries now experiencing an alarming resurgence in the population of bed bugs. Though the exact cause is not known, experts suspect the resurgence is associated with increased resistance of bed bugs to available pesticides, greater international and domestic travel, lack of knowledge regarding control of bed bugs due to their prolonged absence, and the continuing decline or elimination of effective vector/pest control programs at state and local public health agencies.

In recent years, public health agencies across the country have been overwhelmed by complaints about bed bugs. An integrated approach to bed bug control involving federal, state, tribal and local public health professionals, together with pest management professionals, housing authorities and private citizens, will promote development and understanding of the best methods for managing and controlling bed bugs and preventing future infestations.

Research, training and public education are critical to an effective strategy for reducing public health issues associated with the resurgence of bed bug populations.

Impact of Bed Bugs on Public Health

Although bed bugs are not known to transmit disease, they are a pest of significant public health importance. Bed bugs fit into a category of blood-sucking ectoparasites (external parasites) similar to head lice (*Pediculus humanus capitis*). Bed bugs, like head lice, feed on the blood of humans but are not believed to transmit disease. Other ectoparasites, such as body lice (*Pediculus humanus corporis*), are known to transmit several serious diseases. Differences in the biology of similar species of pests, such as body lice and head lice (or bed bugs) can greatly impact the ability of pests to transmit disease.

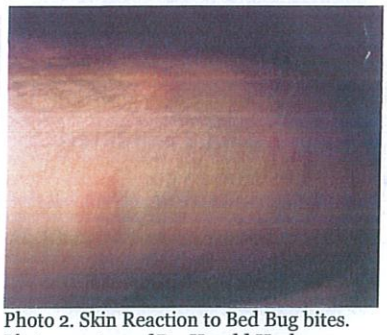

Photo 2. Skin Reaction to Bed Bug bites.
Photo courtesy of Dr. Harold Harlan

Bed bugs cause a variety of negative physical health, mental health and economic consequences. Many people have mild to severe allergic reaction to the bites with effects ranging from no reaction to a small bite mark to, in rare cases, anaphylaxis (severe, whole-body reaction) (2 (#2)). These bites (**Photo 2**) can also lead to secondary infections of the skin such as impetigo, ecthyma, and lymphanigitis (3 (#3),4 (#4)). Bed bugs may also affect the mental health of people living in infested homes. Reported effects include anxiety, insomnia and systemic reactions (1 (#1)).

Research on the public health effects of bed bugs has been very limited over the past several decades, largely due to the noted decline in bed bug populations in the latter half of the 20th century. Now that bed bug populations are rapidly increasing, additional research is needed to determine the reasons for the resurgence, the potential for bed bugs to transmit disease and their impact on public health.

Economically, bed bug infestations are also a burden on society. Although the exact dollar amount is not known, the economic losses from health care, lost wages, lost revenue and reduced productivity can be substantial. The cost of effectively eliminating bed bugs may be significantly more than the cost of eliminating other pests because bed bug control usually requires multiple visits by a licensed pest control operator and diligence on the part of those who are experiencing the infestation. Control in multi-family homes is much more difficult than in single family homes because bed bugs frequently travel between units, either by direct transport by humans or through voids in the walls. There are additional costs and complexities associated with coordinating and encouraging participation from multiple residents.

When a community starts to experience bed bug infestations, control is often more challenging because:

- Local public health departments have very limited resources to combat this problem and bed bugs frequently are not seen as a priority.
- Municipal codes struggle to identify those responsible for control of bed bug infestations. Tenants and landlords often dispute who is ultimately responsible for the cost of control and treatment. Treatment costs are high and transient populations make it difficult or impossible to assign responsibility.
- Pesticide resistance and limited control choices make treatment even more difficult. Some bed bug populations are resistant to almost all pesticides registered to treat them. Residents may use over-the-counter or homemade preparations that are ineffective (or even dangerous) and may promote further resistance.
- Pesticide misuse is also a potential public health concern. Because bed bug infestations are so difficult to control and are such a challenge to mental and economic health, residents may resort to using pesticides that are not intended for indoor residential use and may face serious health risks as a result. Additionally, residents may be tempted to apply pesticides registered for indoor use, but at greater application rates than the label allows. This results in a much greater risk of pesticide exposure for those living in the home. Pesticides must always be used in strict accordance with their labeling to ensure that the residents and applicators are not exposed to unsafe levels of pesticide residues.

Bed Bug Biology

Bed bugs are small, flat insects that feed on the blood of sleeping people and animals. They are reddish-brown in color, wingless, and range from 1 to 7 millimeters in length. They can live several months without a blood meal.

Infestations of these insects usually occur around or near the areas where people sleep or spend a significant period of time. These areas include apartments, shelters, rooming houses, hotels, nursing homes, hospitals, cruise ships, buses, trains, and dorm rooms.

Bed bugs are experts at hiding. They hide during the day in places such as seams of mattresses, box springs, bed frames, headboards, dresser tables, cracks or crevices, behind wallpaper, and under any clutter or objects around a bed. Their small flat bodies allow them to fit into the smallest of spaces and they can remain in place for long periods of time, even without a blood meal. Bed bugs can travel over 100 feet in one night, but they tend to live within 8 feet of where people sleep.

Photo 3. Bed Bug Exoskeletons.
Photo courtesy of Dr. Harold Harlan, Armed Forces Pest Management Board Image Library

Bed bugs are usually transported from place to place as people travel. Bed bugs travel in the seams and folds of luggage, overnight bags, folded clothes, bedding, furniture, and anywhere else where they can hide. Most people do not realize they can transport stow-away bed bugs as they travel potentially infesting new areas, including their homes, as they relocate.

One of the easiest ways to identify a bed bug infestation is by bite marks that appear on the face, neck, arms, hands, and any other body parts. However, these bite marks may take as long as 14 days to develop in some people so it is important to look for other clues when determining if bed bugs have infested an area. These signs may include the exoskeletons (**Photo 3**) of bed bugs after molting, bed bugs in the fold of mattresses and sheets, a sweet musty odor, and rusty-colored blood spots from their blood-filled fecal material that is often excreted on the mattress or nearby furniture.

When bed bugs bite, they inject an anesthetic and an anticoagulant that prevents a person from feeling the bite. Because bites usually occur while people are sleeping, most people do not realize they have been bitten until marks appear. The bite marks are similar to that of a mosquito or a flea - a slightly swollen and red area that may itch and be irritating. The bite marks may be random or appear in a straight line. Other symptoms of bed bug bites include insomnia, anxiety, and skin problems that arise from profuse scratching of the bites.

Everyone is at risk for bed bugs bites when visiting an infested area. However, anyone who travels frequently and shares living and sleeping quarters where other people have previously slept has an increased risk for being bitten and for spreading a bed bug infestation.

Integrated Pest Management for Bed Bugs

The current national problem with bed bugs is likely due to the convergence of three human behaviors: lack of awareness of the historical and biological link humans have with bed bugs, increased international travel, and past over-reliance on pesticides. Bed bugs are a "nest parasite" that resides in the human nest – the bedroom. Over time, bed bugs have evolved to develop resistance to many of the chemical pesticides currently used. In fact, bed bugs were widely resistant to DDT by the mid-1950s (5 (#5)).

Integrated pest management (IPM) is an effective and environmentally sensitive approach to pest management that relies on a combination of common-sense practices. IPM programs use current, comprehensive information on the life cycles of pests and their interaction with people and the environment. This information, in combination with available pest control methods, is used to manage pest damage by the most economical means, and with the least possible hazard to people, property, and the environment.

Bed bug control is most effective when an IPM approach is implemented with diligent participation by the residents. In multi-family housing, diligent participation is also required of the building management. IPM takes advantage of all appropriate pest management options, including the judicious use of pesticides. Although bed bugs may sometimes be controlled by non-chemical means alone, this approach is often very difficult, potentially less effective, and usually more resource intensive. A comprehensive IPM program to control bed bugs may include a number of methods such as:

- using monitoring devices,
- removing clutter where bed bugs can hide,
- applying heat treatment,

- vacuuming,
- sealing cracks and crevices to remove hiding places,
- using non-chemical pesticides (such as diatomaceous earth) and
- judicious use of effective chemical pesticides

A coordinated community IPM program can alleviate both the discomfort and cost of managing bed bugs. The underlying philosophy of bed bug IPM is based on the fact that bed bug infestations will not go away without intervention. Intervention is most effective when populations are low. Such a coordinated effort could create a partnership among government, property managers, citizens, and pest management professionals to ensure an effective intervention facilitated by environmental health professionals. EPA and CDC recommend that pest management and environmental health professionals throughout the U.S. continue to use IPM strategies as they address the bed bug issue.

The Role of Government Agencies and the Public in Bed Bug Control

CDC, EPA, and other federal agencies are working closely with state, tribal and local health departments, academia and private industries to monitor and better understand the recent resurgence of bed bugs in communities throughout the United States. CDC and EPA are facilitating communications and working to expand the knowledge base among agencies and programs that may have a role in reducing bed bug populations. The two agencies are also fostering cooperation with the private sector and the public to encourage their help with this endeavor.

CDC is partnering with experts in the areas of medicine, entomology, epidemiology and environmental toxicology to better understand the resurgence of bed bugs and the methods and tools that are needed for effective bed bug control. CDC will provide timely information on emerging trends in bed bug control with the goal of developing national strategies to reduce bed bug populations. CDC recognizes that very limited research has been conducted on bed bugs during the past several decades and encourages increased bed bug research to determine the causes of the resurgence, the most effective methods of control and the potential for bed bugs to transmit disease.

EPA's primary responsibility is the dual statutory charges to ensure that the pesticides with public health uses are (1) safe and (2) effective against the pests on their labels. EPA carries out this responsibility by conducting rigorous scientific screening of pesticides and imposing limits through registration of pesticides to ensure that when used to control pests, they do not harm people or the environment.

EPA is working to ensure that pest management professionals and the public have access to the latest information on effective bed bug control tools. EPA realizes that certain bed bug populations in communities across the nation are becoming increasingly resistant to many of the existing pesticides. EPA is actively working with industry and researchers to identify new compounds (or new uses of existing compounds) to control bed bugs. In addition, EPA is working to educate the general public, pest professionals, and public health officials about bed bug biology and IPM, which is critical to long-term bed bug control.

Other federal agencies are also involved in research and education about bed bugs. For example, the U.S. Department of Housing and Urban Development (HUD) is funding research on bed bug monitoring and control in low-income, multi-family housing, along with educating

public housing authorities and other housing industry groups about bed bug identification and control. Health departments can use local HUD field office personnel or local housing officials as resources when addressing bed bug issues in multi-family housing.

State, tribal, and local government agencies and health departments play a critical role in protecting the public from bed bugs. Public health departments serve on the front lines, providing information on prevention and control of bed bugs through various programs to the public and private sector.

The public, together with their local health agencies, must be involved in the control and management of bed bug populations and must be provided with the knowledge of best practices to prevent and control bed bug infestations. In some cases, a coordinated community control program may be necessary to reduce or eliminate bed bug populations.

Additional Information

For additional information about bed bugs and their control, please see the following print references:

- Cooper RA, Harlan HJ. Ectoparasites, part three: bed bugs and kissing bugs. In: Mallis A, Hedges SA, Moreland D, editors. Handbook of pest control, ninth edition. Richfield, OH: GIE Media, Inc.; 2004. p. 495-529.
- Harlan HJ, Faulde MK, Bauman GJ. Bedbugs. In: Bonnefoy X, Kampen H, Sweeney K, editors. Public health significance of urban pests. Copenhagen: World Health Organization; 2008. p. 131-53.
- Miller DM. Bed bugs (Insecta: Hemiptera: Cimicidae: Cimex spp.). In: Capinera J, editor. Encyclopedia of entomology. Dordrecht, Netherlands: Kluwer Academic Press Springer; 2008. p. 405-17.
- Usinger RL. Monograph of Cimicidae. Lanham, MD: The Entomological Society of America; 1966.

For additional information about bed bugs and their control, please see the following Web sites:

- U.S. Environmental Protection Agency (http://epa.gov/pesticides/controlling/bedbugs.html) (http://www.cdc.gov/Other/disclaimer.html)
- Centers for Disease Control and Prevention (../Topics/bedbugs.htm)
- Bed Bug Information (http://public.health.oregon.gov/HealthyEnvironments/Recreation/PoolsLodging/Pages/index.aspx (http://www.cdc.gov/Other/disclaimer.html)
- Central Ohio Bed Bug Task Force Information (http://centralohiobedbugs.org/) (http://www.cdc.gov/Other/disclaimer.html)
- Cornell Bed Bug Guide (http://www.nysipm.cornell.edu/publications/bb_guidelines/) (http://www.cdc.gov/Other/disclaimer.html)
- National Pest Management Association (http://www.pestworld.org/for-consumers/pest-frequently-asked-questions/bedbug-faq) (http://www.cdc.gov/Other/disclaimer.html)
- National Pesticides Information Center (http://npic.orst.edu/pest/bedbug.html) (http://www.cdc.gov/Other/disclaimer.html)
- New Jersey Bed Bug Fact Sheet [PDF - 169 KB] (http://www.nj.gov/health/eoh/phss/documents/bedbugfactsheet.pdf) (http://www.cdc.gov/Other/disclaimer.html)

- University of Kentucky Bed Bug Fact Sheet [PDF - 449 KB] (http://www.ca.uky.edu/entomology/entfacts/entfactpdf/ef636.pdf) (http://www.cdc.gov/Other/disclaimer.html)
- University of Minnesota Bed Bug Information for Travelers (http://www.extension.umn.edu/distribution/housingandclothing/M1196.html) (http://www.cdc.gov/Other/disclaimer.html)

References

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Suggested citation: Centers for Disease Control and Prevention and U.S. Environmental Protection Agency. Joint statement on bed bug control in the United States from the U.S. Centers for Disease Control and Prevention (CDC) and the U.S. Environmental Protection Agency (EPA). Atlanta: U.S. Department of Health and Human Services; 2010.

Page last reviewed: May 8, 2013
Page last updated: May 8, 2013
Content source: National Center for Environmental Health

Centers for Disease Control and Prevention 1600 Clifton Rd. Atlanta, GA 30333, USA
800-CDC-INFO (800-232-4636) TTY: (888) 232-6348 - Contact CDC–INFO

MEMORANDUM

To: Administration Committee
From: Kara Homan, AICP, Principal Planner
Date: May 15, 2014
Re: Proposed Development Agreement - Grocery Store, 205 Milwaukee

Over the course of the last several years, the mayor and Community Development staff have been in negotiations with the Mike Novak and Paul Fassbender, operators of Webster Avenue Market and University Avenue Market in Green Bay. The enclosed development agreement between the City of Menasha, Foodmen 2, Inc., and F 2 R, LLC, once executed, will serve to effectuate the incentives that are required to induce the redevelopment of a grocery store and related site improvements at 205 Milwaukee St (to be called "Third Street Market").

Keller Inc., the general contractor for the project, has prepared extensive renovation plans for the 22,000 sq ft building and 1.5 acre site, which will leave no surface untouched. But for the original building shell, every component of the building site will either be fully rehabilitated or replaced. The total project cost is estimated at $2.6 million, which will include building renovations, site design, property acquisition, paving, exterior lighting, landscaping, equipment, shelving, and startup inventory.

Incentives that are contemplated in this agreement will be paid on a yearly basis, over the course of 15 years (see Exhibit C). The agreement has provisions for two potential incentive schedules - one in the event that the City is awarded a Community Development Investment (CDI) Grant from the Wisconsin Economic Development Corporation (WEDC); the other where the grant is not awarded. A CDI grant request for $250,000 in funding was submitted to the WEDC on May 7.

Yearly incentives will not be paid unless the grocery store has completed all renovations, remains operational as a "full service" grocery store, and meets an assessed value as established in the agreement. As the development is to be privately financed, the city will not be required to do any borrowing for the project and will fund the incentive payments via tax increment that is generated within Tax Incremental District #10. The Project Plan for TID #10, adopted in 2006, included planned expenditures for development incentives related to the reestablishment of a grocery store within the project area. There is no need to amend the project plan to make incentives available as provided under the terms of the development agreement.

Additional city-related approvals pertaining to this project include approval of a Special Use Permit for the site, as well as a related land contribution/development agreement between the Redevelopment Authority of the City of Menasha and Community First Credit Union, the current owner of the site.

DEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF MENASHA, WISCONSIN,

FOODMEN 2, INC.

AND

F 2 R, LLC

DATED AS OF-MM/DD/YYYY

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (AGREEMENT) is made and entered into as of the _____ day of _____ 2014, 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 FOODMEN 2, INC., a Wisconsin corporation, and F 2 R, LLC, a Wisconsin limited liability company with its principal offices located at 1220 South Webster Avenue, in Green Bay, Wisconsin, 54301 (hereinafter jointly referred to herein as "DEVELOPER").

ARTICLE I

SECTION 1.01 PURPOSE OF AGREEMENT. The parties hereto are entering into this AGREEMENT for the reestablishment of a full-service grocery store at property located at 205 Milwaukee Street, City of Menasha, Wisconsin and within City of Menasha Tax Incremental District Number 10 (TID #10). This AGREEMENT records the understandings and undertakings of the parties and provides a framework within which the Development may proceed.

SECTION 1.02 CERTAIN DEFINITIONS. As used in this AGREEMENT, the following terms shall have the meanings indicated:

"AVAILABLE TAX INCREMENT" – The amount of tax increment (as defined in Sec. 66.1105, Wis. Stats.) generated by the Development Area and Development Improvements as of January 1 of each calendar year and such other tax increment as may be available from TID #10 as may be necessary to pay the Performance Incentives.

"CDI GRANT" - Refers to the Wisconsin Economic Development Corporation's Community Development Investment Grant, of which the City of Menasha has made application to for development assistance.

"CONCEPT PLAN" – The conceptual plan for the contemplated development of the Development Property. It is attached as **EXHIBIT B**.

"DEVELOPMENT" – Refers to the Development Improvements that constitute the planned development project and the operation of a full-service grocery store that is the subject of this AGREEMENT.

"DEVELOPMENT AREA" – An area consisting of approximately 1.45 acres comprised of Original Plat of Menasha Lots 10, 11, 12, 13, 14, 15, 16 and 17 of Block 36 and within CITY of Menasha Tax Incremental Financing District #10 attached as **EXHIBIT A**.

"DEVELOPMENT IMPROVEMENTS" - Means either renovation of the existing building or demolition and new building construction (at least 20,000 square feet), parking lot paving, lighting, landscaping, stormwater management, and the installation of facilities and equipment necessary to the operation of a full-service grocery store constructed by DEVELOPER in compliance with Implementation Plan.

"IMPLEMENTATION PLAN" – Detailed plans, drawings, specifications and other information as required for the site plan, special use permit, or planned unit development (PUD) review under CITY Ordinances regarding the construction of Development Improvements. A specific Implementation Plan must be submitted to and approved by the CITY prior to demolition and/or construction as provided by CITY Ordinance. The Implementation Plan shall be attached to this AGREEMENT as **EXHIBIT D** upon approval by the CITY.

"PERFORMANCE INCENTIVE" – A payment from CITY to DEVELOPER from Available Tax Increment as provided in this AGREEMENT.

"TID #10" means CITY of Menasha Tax Incremental District Number 10 and project plan created by CITY in accordance with Section 5.02.3 hereinafter.

ARTICLE II

OVERVIEW OF THE PROJECT

SECTION 2.01 The DEVELOPMENT consists of reestablishment of an operating grocery store at 205 Milwaukee Street, Menasha, Wisconsin, including either building renovation or demolition and new building construction, equipment installation and site improvements. Construction will begin by August 1, 2014 with a completion date before January 1, 2015. Upon completion, the Development Improvements will create and maintain a value of at least $1.7 million.

ARTICLE III

DEVELOPER OBLIGATIONS

SECTION 3.01 Acquisition of Development Area. On or before July 15, 2014, DEVELOPER will acquire fee simple title to Development Area.

SECTION 3.02 The DEVELOPER will cause DEVELOPMENT IMPROVEMENTS to the DEVELOPMENT AREA to create and maintain an actual assessed value of not less than $1.7 million. [NOTE: The dates contained in this Article III are contingent on confirmation from lender and constructor. We expect to be able to confirm these dates or modify them in the next day or so.]

SECTION 3.02.1 On or before July 1, 2014, DEVELOPER will prepare and file with the appropriate City offices, an IMPLEMENTATION PLAN for review and approval by the CITY as per CITY ordinance.

SECTION 3.02.2 On or before August 1, 2014, DEVELOPER will prepare and file with the appropriate City offices, a demolition permit application (if applicable), a building permit application and plans approved by

the Wisconsin Department of Safety and Professional Services.

SECTION 3.02.3 On or before July 15, 2014, DEVELOPER will obtain and provide to the CITY for review: (1) a written financial commitment from a conventional lender, (2) written construction contract to construct and finance the Development, (3) other written proof of financial resources to construct the Development, or (4) any combination thereof. Said documents will be acceptable in all respects to the CITY, in the sole and absolute discretion of the City Comptroller or other agent for the CITY. DEVELOPER will have closed the loan, which is the subject of the financing commitment and in connection therewith, DEVELOPER will have provided copies of the documents to be executed in connection with the construction loan to the CITY Comptroller. DEVELOPER will provide to the CITY copies of all appraisals and market studies prepared in connection with the financial commitment.

SECTION 3.03 DEVELOPER will initiate DEVELOPMENT IMPROVEMENTS no later than August 1, 2014.

SECTION 3.04 DEVELOPER will complete construction of the DEVELOPMENT IMPROVEMENTS before January 1, 2015. Completion is demonstrated by the issuance of an occupancy permit.

SECTION 3.05 The DEVELOPMENT will be operating as a full service grocery store before January 1, 2015.

SECTION 3.06 Standards of Construction. DEVELOPER will 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.

SECTION 3.07 Compliance with Codes, Plans and Specifications. DEVELOPER, at its own expense, will obtain all approvals, permits and licenses as may be required by any governmental or non-governmental entity in connection with the DEVELOPMENT. The building and other improvements to be constructed upon the Property, the construction thereof, and its use as a full-service grocery store will be in compliance with all applicable codes and ordinances of the CITY, state and federal government, and with all pertinent provisions of this AGREEMENT, the Project Plan and the Plans and Specifications.

SECTION 3.08 Taxes. It is understood that the land, improvements and personal property resulting from the DEVELOPMENT will be subject to property taxes. . DEVELOPER will pay when due all federal, state and local taxes in connection with the DEVELOPMENT and all operating expenses in connection with the Real Estate and Development.

SECTION 3.09 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 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 that 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 to the extent which such actions or omissions contribute to the Indemnified Party'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 will 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 will survive termination of this AGREEMENT.

SECTION 3.10 Repair and/or Replacement of Infrastructure. DEVELOPER will repair and/or replace any damaged CITY infrastructure or other CITY property that may occur as a result of the Development.

SECTION 3.11 CDI GRANT. In the event that the CITY is awarded, accepts and receives a CDI GRANT, the DEVELOPER agrees that any and all terms and conditions of acceptance of the grant monies imposed by the Wisconsin Economic Development Corporation will be incorporated herein and made a part of this AGREEMENT and DEVELOPER agrees to be bound by said terms and conditions. [We'll need to know what these might be before we can agree to accept them.]

ARTICLE IV

CITY OBLIGATIONS

SECTION 4.01 Provision of Tax Increment Financial Incentive. CITY finds that financial incentive is necessary to the implementation of the TID #10 Project Plan. In order to induce DEVELOPER to undertake the DEVELOPMENT within TID #10, the DEVELOPER has requested and the CITY may be required to make available performance incentive to the DEVELOPER in a total amount not to exceed $683,000, for the purpose of implementing the proposed TID #10 Project Plan and this AGREEMENT (the "CITY Contribution"). The CITY Contribution is made pursuant to Sections 66.1105(2)(f)1 & 2 of the Wisconsin Statutes, and shall be made available in the amount as follows:

SECTION 4.01.1 The CITY will pay the DEVELOPER performance incentive under the terms of this AGREEMENT with funds to be made available upon verification of the Tax Increment increase as defined below, and/or award, acceptance and receipt of a CDI GRANT.

SECTION 4.01.2 Earned performance incentive based on AVAILABLE TAX INCREMENT and/or CDI GRANT may be distributed to the DEVELOPER according to the schedule set forth herein when and only when Development Improvements have been completed, a certificate of occupancy has been issued and a full-service grocery store is operating: DEVELOPER to be paid the initial

development incentive within 30 days of issuance of the Certificate of Completion, and subsequent annual performance incentive payments made on or before October 1, commencing in 2015, in accordance with the incentive schedule in **EXHIBIT C**.

SECTION 4.01.3 CONDITIONS TO PAYMENT OF CITY CONTRIBUTION.

The amount of the CITY contribution shall be determined according to schedule A or B as listed in **EXHIBIT C**. Schedule A shall become the operant schedule should the CITY receive a CDI GRANT in an amount of $250,000 on or before September 1, 2014. Schedule B shall become the operant schedule if the CITY does not receive the aforementioned CDI GRANT by September 1, 2014. The failure of the CITY to receive the CDI GRANT shall not constitute any breach of this AGREEMENT by CITY nor shall non-receipt affect any other obligation of the parties except with respect to the operate schedule of the CITY contribution under this section.

An initial development incentive payment will be made to DEVELOPER only if the Certificate of Completion is issued.

The first annual performance incentive payment will be made to DEVELOPER only if the DEVELOPER has met the Development threshold actual assessed value of $1.7 million, a certificate of occupancy has been issued and a full-service grocery store is open for business.

Subsequent annual performance incentive payments will be reduced in an amount of $2,500 per $100,000 reduction in actual assessed value as rounded down to the next $100,000 for each year the threshold value of $1.7 million has not been maintained.

No performance incentive will be paid if the actual assessed value of the Development is less than $1.5 million.

CITY'S obligation to pay performance incentive ceases if the grocery store operations are terminated. A full-service grocery store is open for business if it is open to the public a minimum of seventy-two (72) hours per week each week of the year. A full-service grocery store includes the following departments: grocery, meat, frozen food, dairy, bakery, deli, general merchandise, produce and beer.

No performance incentive to DEVELOPER provided for in this AGREEMENT will be paid or deemed due and owing to DEVELOPER for any year in which any property tax pertaining to the Development Property or any portion thereof which is under the ownership and control of the DEVELOPER, is not timely paid. In the event of any delinquency the CITY may give the

DEVELOPER 30 days to cure. If the DEVELOPER fails to cure, the City contribution will be withheld in that year. Nothing in this AGREEMENT will in any way affect the City's right to enforce collection of property taxes in the manner provided by law.

CITY'S obligation to pay performance incentive under this AGREEMENT is valid only as long as the property is taxable.

SECTION 4.02 CERTIFICATION OF COMPLETION. Upon completion and review of the DEVELOPMENT IMPROVEMENTS by the CITY, the CITY will provide the DEVELOPER with an appropriate instrument certifying that the improvements have been made in accordance with this AGREEMENT and the project plans and any amendment or modifications thereto.

SECTION 4.03 CITY PERFORMANCE SUBJECT TO REQUIRED GOVERNMENT APPROVALS. The DEVELOPER acknowledges that various specific undertakings of the CITY described in this AGREEMENT require approvals from the City's Common Council and/or Planning 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 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.

ARTICLE V

PARTIES UNDERTAKINGS

SECTION 5.01 Purpose. The parties acknowledge that the Development will require substantial financial resources. While each party is willing and prepared to perform its obligations hereunder, the parties recognize that each must begin its performance and continue it without absolute assurance that the other will be able to raise and commit all the funds necessary to consummate this agreement.

ARTICLE VI

REPRESENTATIONS, WARRANTIES AND COVENANTS

DEVELOPER represents and warrants to and covenants with the CITY and the CITY represents and warrants to and covenants with DEVELOPER as respectively follows:

SECTION 6.01 Each of the parties will use its best efforts to take all action and to do all things necessary, proper, or advisable in order to consummate and make effective the transactions contemplated by this AGREEMENT.

SECTION 6.02 Each party will give any notices to, make any filings with, and use its best efforts to obtain any authorizations, consents, and approvals of governments and governmental agencies in connection with the matters

referred to in this AGREEMENT.

SECTION 6.03 DEVELOPER will not engage in any practice, take any action, or enter into any transaction outside the Ordinary Course of Business and will at its own cost and expense, maintain and preserve its business in accordance with prudent business practices.

SECTION 6.05 CITY represents and warrants it is a municipality, duly organized and validly existing under the laws of the State of Wisconsin.

SECTION 6.06 DEVELOPER represents and warrants Foodmen 2, Inc. is a corporation, duly organized and validly existing under the laws of the State of Wisconsin and that F 2 R, LLC is a limited liability company duly organized and validly existing under the laws of the State of Wisconsin.

SECTION 6.07 CITY and DEVELOPER have full power and authority to execute and deliver this AGREEMENT and to perform their obligations hereunder.

SECTION 6.08 The execution and delivery of this AGREEMENT, the consummation of the transactions contemplated in this AGREEMENT, and the execution and delivery of the documents required to be executed, delivered or acknowledged by DEVELOPER will not violate any provision of DEVELOPER's articles or bylaws or any applicable statute, rule, regulation, judgment, order or decree of the state of Wisconsin or a court having jurisdiction over DEVELOPER or its properties.

SECTION 6.09 DEVELOPER represents and warrants it has timely filed all tax returns required by law, all tax returns of DEVELOPER are true and correct in all material respects, DEVELOPER has paid all taxes due.

SECTION 6.10 DEVELOPER represents and warrants there is no action, suit, proceeding, claim, arbitration against DEVELOPER, its activities or assets before any court or governmental agency except as disclosed in writing to CITY.

SECTION 6.11 DEVELOPER represents and warrants its balance sheets and statements of income provided for review hereunder are true, correct and complete, and fairly represent the financial condition of DEVELOPER at the date or dates therein indicated and the results of operations for the period or periods therein specified and that there has not been any Material Adverse Change since the Balance Sheet Date.

SECTION 6.12 The Representations and Warranties set forth herein will be true and correct in all material respects at and as of the execution date.

SECTION 6.13 DEVELOPER will have a continuing obligation to immediately report any material adverse changes in its financial condition to the CITY from the date of execution through the term of the AGREEMENT.

ARTICLE VII

ASSIGNMENT

SECTION 7.01 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.

ARTICLE VIII

NOTICES

SECTION 8.01 All notices, demands, certificates or other communications under this AGREEMENT will be sufficiently given and shall be deemed given when hand delivered or when mailed by first class mail, postage prepaid, property addressed as indicated below:

To the DEVELOPER: Foodmen 2, Inc.
1220 South Webster Avenue
Green Bay WI 54301
Attn: Mike Novak

With a copy to: McCarty Law LLP
2401 East Enterprise Avenue
Appleton WI 54913
Attn: Scott C. Barr

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

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

Any party may, by written notice to the party (s), designate a change of address for the purposes aforesaid.

ARTICLE IX

NONDISCRIMINATION

SECTION 9.01 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, 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 will be in compliance with all effective laws, ordinances and regulations relating to discrimination on any of the foregoing grounds.

ARTICLE X

MISCELLANEOUS PROVISIONS

SECTION 10.01 ENTIRE AGREEMENT. This document contains the entire AGREEMENT between DEVELOPER and the CITY.

SECTION 10.02 DEFAULT. In addition to any remedies set forth within this AGREEMENT, the Parties will have all rights and remedies available under law or equity with respect to any default. All remedies will be cumulative and the exercise of one remedy will not preclude the use of any other or all of said remedies.

SECTION 10.03 FAILURE TO ENFORCE NOT A WAIVER. Failure of either party to enforce any provision contained herein will not be deemed a waiver of the party's right to enforce such provision or any other provision in the event of a subsequent default.

SECTION 10.04 GOVERNING LAW. This AGREEMENT will be governed by, enforced and construed in accordance with the domestic laws of the State of Wisconsin.

SECTION 10.05 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 10.06 AMENDMENTS AND WAIVERS. No amendment of any provision of this AGREEMENT will be valid unless the same will be in writing and signed by CITY and DEVELOPER. No waiver by any party of any provision of this AGREEMENT or any default, misrepresentation, or breach of warranty shall be valid unless the same will be in writing and signed by the parties making such a waiver, nor will such waiver be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

SECTION 10.07 SEVERABILITY. If any provisions of this AGREEMENT will be held or deemed to be or will, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances will 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 or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

SECTION 10.08 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 Real Estate. The DEVELOPER will upon request of the CITY execute and deliver any such memorandum or other document in connection with such recording.

SECTION 10.09 NO PARTNERSHIP. This AGREEMENT specifically does not create any partnership or joint venture between the parties, or render any party liable for any debts or obligations of the other party.

SECTION 10.10 CONSTRUCTION. The parties have participated jointly in the negotiation and drafting of this AGREEMENT. In the event an ambiguity or question of intent or interpretation arises, this AGREEMENT will be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this AGREEMENT.

SECTION 10.11 INCORPORATION OF EXHIBITS. The **EXHIBITS** identified in this AGREEMENT are incorporated herein by reference and made a part hereof.

SECTION 10.12 PREPAYMENT. CITY reserves the right to pre-pay any or all performance incentives in advance of the schedule contained in **EXHIBIT C**.

[Signature page follows]

[Signature page to Development Agreement]

IN WITNESS WHEREOF, the parties have duly executed this AGREEMENT, or caused it to be duly executed, as of the _____ day of _____, 2014.

FOODMEN 2, INC.

By:_____
Paul Fassbender, its _____

By:_____
Mike Novak, its _____

F 2 R, LLC

By:_____
Paul Fassbender, Member and Manager

By:_____
Mike Novak, Member and Manager

CITY OF MENASHA

By:_____
Donald Merkes, Mayor

Attest:_____
Deborah Galeazzi, City Clerk

STATE OF WISCONSIN)
) ss.
COUNTY OF WINNEBAGO)

Personally came before me this _____ day of _____, 2014 the above named Paul Fassbender and Mike Novak, authorized representatives of Foodmen 2, Inc. and F 2 R, LLC, to me known to be the persons who executed the foregoing instrument and acknowledged the same in the capacity and the purposes therein intended.

_____
Notary Public, State of Wisconsin
My Commission: _____

STATE OF WISCONSIN)
) ss.
COUNTY OF WINNEBAGO)

Personally came before me this _____ day of _____, 2014 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

EXHIBIT A

Development Area

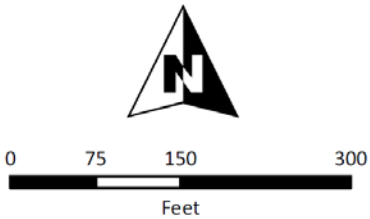

Exhibit A: Development Area

LEGEND

Development Area
205 Milwaukee St
Parcel # 1-00196-00

EXHIBIT B

Conceptual Site Plan

EXHIBIT C

Incentive Schedule

	SCHEDULE A	SCHEDULE B
Year	**Initial Development Incentive**	**Initial Development Incentive**
2014	$ 250,000.00	$ 25,000.00
Year	**Annual Performance Incentives**	**Annual Performance Incentives**
2015	$ 27,000.00	$ 47,000.00
2016	$ 27,000.00	$ 47,000.00
2017	$ 27,000.00	$ 47,000.00
2018	$ 27,000.00	$ 47,000.00
2019	$ 27,000.00	$ 47,000.00
2020	$ 27,000.00	$ 47,000.00
2021	$ 27,000.00	$ 47,000.00
2022	$ 27,000.00	$ 47,000.00
2023	$ 27,000.00	$ 47,000.00
2024	$ 27,000.00	$ 47,000.00
2025	$ 27,000.00	$ 47,000.00
2026	$ 27,000.00	$ 47,000.00
2027	$ 27,000.00	$ 47,000.00
2028	$ 27,000.00	$ 47,000.00

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EXHIBIT D

Implementation Plan