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
October 4, 2010
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, 9/20/10

D. ACTION ITEMS
   1. O-17-10 An Ordinance Relating to Chronic Nuisance Premises (Introduced by Ald. Hendricks)
   2. Offer to Purchase, Lot 12 Midway Business Park, MHX3, LLC
   3. Amendment #2 to Development Agreement between the City of Menasha and PJC Group LLC

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
September 20, 2010
MINUTES

A. CALL TO ORDER
Meeting called to order by Chairman Wisneski at 8:34 p.m.

B. ROLL CALL/EXCUSED ABSENCES
PRESENT: Aldermen Langdon, Hendricks, Zelinski, Englebert, Benner, Roush, Taylor, Wisneski
ALSO PRESENT: Mayor Merkes, CA/HRD Captain, PC Stanke, DPW Radtke, CDD Keil, C/T Stoffel, Dave Maccoux (Schenck), Clerk Galeazzi

C. MINUTES TO APPROVE
1. Administration Committee, 9/7/10
Moved by Ald. Roush, seconded by Ald. Zelinski to approve minutes.
Motion carried on voice vote

D. ACTION ITEMS
1. Review and accept 2009 City of Menasha Audit Report (Dave Maccoux, Schenck)

Dave Maccoux reviewed the independent auditors' report on basic financial statements conducted by Schenck.

Moved by Ald. Langdon, seconded by Ald. Roush to accept the 2009 City of Menasha Audit Report.
Motion carried on voice vote.

2. Vacant Land Listing Contract with Drifka Group Inc for 81 & 87 Racine and 504 Broad (Held 9/7/10)

CDD Keil explained the listing price for the lots is $115,000. A 4'x6' standard sign will be installed.

Moved by Ald. Zelinski, seconded by Ald. Langdon to recommend to Common Council to list with Drifka Group Inc. and post a sign for 90 days.
Motion carried on voice vote.

3. Change to the handicap parking fine set forth in the City's fee schedule approved by The Common Council on Dec. 7, 2009. (Recommended by the Parking Committee)

The Parking Committee recommended increasing the fine for illegally parking in a handicap spot to $200. CA/HRD Captain stated as per City Code a change in the fee schedule will need approval by the Council.

Moved by Ald. Hendricks, seconded by Ald. Langdon to recommend to Common Council to increase handicap parking fines to $200.
Motion carried on voice vote.

DRAFT

4. O-16-10 An Ordinance Relating to the Annexation of Certain Property to the City of Menasha, Wisconsin (Golden Eagle Properties, LLC Annexation) (Mayor Merkes)

Mayor Merkes explained this ordinance is for the annexation of the three parcels the Council just approved the rezoning.

Moved by Ald. Hendricks, seconded by Ald. Roush to recommend to Common Council approval of O-16-10.
Motion carried on voice vote.

5. R-21-10 Resolution Requesting the U.S. Congress to Direct the United State Postal Service (USPS) to Eliminate from Consideration the Closure of the Oshkosh, WI Facility in Lieu of Consolidation of Services at the Green Bay, WI Facility (Ald. Taylor)

Moved by Ald. Taylor, seconded by Ald. Langdon to recommend to Common Council approval of R-21-10.
Discussion: Ald. Taylor stated good paying jobs could be lost if the Oshkosh Post Office was closed. It could also have a negative impact on City of Menasha residents and businesses.
Motion carried on voice vote.

E. ADJOURNMENT
Moved by Ald. Benner, seconded by Ald. Hendricks to adjourn at 9:10 p.m.
Motion carried on voice vote.

Respectfully submitted by Deborah A. Galeazzi, City Clerk

ORDINANCE O-17-10

AN ORDINANCE RELATING TO CHRONIC NUISANCE PREMISES

INTRODUCED BY ALDERMAN HENDRICKS

The Common Council of the City of Menasha does hereby ordain as follows:

SECTION 1: Amend Title 11, Chapter 7 of the Code of Ordinances of the City of Menasha, Wisconsin by creating SEC. 11-7-8 as follows:

Title 11 – Offenses and Nuisances

CHAPTER 7

Public Nuisances

SEC. 11-7-8 CHRONIC NUISANCE PREMISES.

(1) **Definitions**. The following terms shall be defined as follows in this subchapter.

(a) *Chief*. The Chief of Police or his/her designee.

(b) *Enforcement Action*. Arrest, the issuance of a citation, the issuance of a written or verbal warning, or an order to abate a code violation.

(c) *Nuisance Activity*. Any of the following activities, behaviors, or conduct whenever engaged in by property owners, operators, tenants, occupants, or persons associated with premises:

a. An act of harassment, as defined in 947.013, Wis. Stats.
b. Disorderly conduct, as defined in 947.01, Wis. Stats.
c. Crimes of violence, as defined in Chapter 940, Wis. Stats.
d. Obstructing or resisting an officer, as defined in 946.41, Wis. Stats.
e. Crimes against sexual morality, as defined in Chapter 944, Wis. Stats.
f. Any gambling crimes, as defined in Chapter 945, Wis. Stats.
g. Animal violations, as defined in Chapter 7, City of Menasha Municipal Code.
h. Theft, as defined in 943.20, Wis. Stats.
i. Receiving stolen property, as defined in 943.34, Wis. Stats.
j. Damage to property, as defined in 943. 01, Wis. Stats.
k. Arson, as defined in 943.02, Wis. Stats.
l. Possession, manufacture, or delivery of a controlled substance or related offenses, as defined in
Ch. 961, Wis. Stats.
m.Trespassing, as defined in 943.13 and 943.14, Wis. Stats.
n. Weapons violations, as defined in Chapter 11, City of Menasha Municipal Code.
o. Noise violations, as defined in Chapter 11, City of Menasha Municipal Code.
p. Alcohol violations, as defined in Chapter 11, City of Menasha Municipal Code and 125.07, Wis. Stats.
q. Loitering and curfew violations, as defined in Chapter 11, City of Menasha Municipal Code.
r. Reckless driving, as defined in 346.62, Wis. Stats.
s. Any conspiracy to commit, as defined in 939.31, Wis. Stats., or attempt to commit, as defined in 939.32, Wis. Stats., any of the activities, behaviors, or conduct enumerated in subsections (1) (c) a. through r. above.
t. The execution of arrest or search warrants at a particular location.
u. City of Menasha inspection-related calls where the Police Department responds.

v. Violations of Fire and Safety Ordinances, as contained in Chapter 5, City of Menasha Municipal Code.

w. Violations of Public Nuisance Ordinances, as contained in Chapter 11, City of Menasha Municipal Code.

x. Violations of Building Code Ordinances, as contained in Chapter 15, City of Menasha Municipal Code.

Exception. Applicable drug, gangs, and prostitution offenses will be abated immediately as allowed in Chapter 823, Wis. Stats.

(d) *Owner.* The owner of the premises and his/her agents.

(e) *Persons associated with*. Any person who, whenever engaged in a nuisance activity, enters, occupies, patronizes, visits or attempts to enter, occupy, patronize or visit a property. Includes any officer, director, customer, agent, employee or independent contractor of a property owner, tenant, or occupant.

(f) *Premises.* An individual dwelling unit, an apartment building (all units included as one premises), or an individual business premises and associated common areas located in the City.

(2) **Notice.** Whenever the Chief determines that three or more nuisance activities resulting in enforcement action have occurred at the premises during a 12-month period, the Chief may notify the premises owner in writing. In calculating the requisite nuisance activities, the Chief may count separate qualifying nuisance activities resulting in enforcement action occurring on the same day (as long as they are distinct in time) or different days, but shall never count nuisance activities that were reported by the owner of the premises. The notice shall contain the street address or legal description sufficient to identify the premises, a description of the nuisance activities that have occurred at the premises, a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises, and a notice as to the appeals rights of the owner.

(3) **Delivery of Notice.** The notice shall be deemed to be properly delivered if sent either by certified mail to the property owner's last known address, or if delivered in person to the property owner. If the property owner cannot be located, the notice shall be deemed properly delivered if left at the property owner's usual place of residence in the presence of a competent family member at least 14 years of age, or a competent adult currently residing there and who shall be informed of the contents of the notice. If a current address cannot be located, it shall be deemed sufficient if a copy of the notice is sent by certified mail to the last known address of the owner as identified by the records of the tax roll.

(4) **Abatement Plan.** Any owner receiving notice pursuant to section (2) and (3), shall meet with the Chief, or his/her designee, within five business days of receipt of such notice. The parties shall review the nuisance activities occurring at the property and agree upon an abatement plan to end the nuisance activity on the property. The plan shall also specify a name, address, and telephone number of a person living within 60 miles of the property who can be contacted in the event of further police, fire, or inspection contact.

(5) **Additional Nuisance Activity.** Whenever the Chief determines that additional nuisance activity has occurred at a premises not less than 15 business days after notice has been issued, and that reasonable efforts have not been made to abate the nuisance activity, the Chief may calculate the cost of response and enforcement, by City personnel, for this and any subsequent nuisance activities. It shall also cause such charges and administrative costs to be assessed against the premises as a fee for current service authorized by 61.34 and 66.0628, Wis. Stats and collected as a special charge which the City may impose as a lien against the real estate upon which the premises is located.

(6) **Appeal.** Appeal of the determination of the Chief of Police pursuant to either the notice, abatement plan, or the levying of special charges may be made solely to the City Council requesting a hearing. Notice of Appeal must be in writing and submitted to the City Council in care of the Mayor with a copy submitted to the Chief of Police within five business days. Chapter 68 of the Wisconsin Statutes does not apply to this ordinance.

(7) **Penalties.** Any person who shall violate any provision of this subchapter shall be penalized pursuant to Section 11-7-9, City of Menasha Municipal Code, in addition to imposition of a fee for services constituting a special charge against the real estate imposed under section (5). Additionally, the City may pursue injunctive relief against the owner in the Circuit Court in the applicable county. All legal costs and attorney fees incurred by the City for enforcement of this Ordinance, pursuant to any remedy available, shall be payable to the City by the owner of the premises. Judgment for such obligations may be obtained by the City in either the Small Claims Court or Circuit Court for the applicable county.

(8) **Severability.** If any portion of this Ordinance shall be deemed invalid or unconstitutional, the remaining portions of the Ordinance shall remain in full force and effect. Any invalid or unconstitutional provision of this Ordinance as determined by a Court of law may be severed from the Ordinance without affecting the validity or enforceability of the remaining provisions.

SEC. 11-7-9 PENALTY.
Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in section 1-1-7 of this Code, in addition to the specific penalties provided in this chapter. Each day in which a violation of this chapter occurs or continues shall be a separate offense. This section shall not preclude the City from maintaining any appropriate action to prevent or remove a violation of this chapter.

SECTION 2: This amending Ordinance shall take effect upon passage and publication as provided by law.

Passed and approved this _____ day of October, 2010.

_____
Donald Merkes, Mayor

ATTEST: _____
Deborah A. Galeazzi, City Clerk

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

WB-13 VACANT LAND OFFER TO PURCHASE

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

GENERAL PROVISIONS The Buyer, MHX3, LLC offers to purchase the Property known as [Street Address] 2.44 Lot 12 in the Midway Business Park in the City of Menasha, County of Winnebago Wisconsin, (Insert additional description, if any, at lines 179 - 187 or attach as an addendum, line 188), on the following terms:

■ PURCHASE PRICE: Ninety thousand two hundred eighty Dollars ($ 90,280.00

■ EARNEST MONEY of $ _____ accompanies this Offer and earnest money of $ 5,000.00 will be paid within 5 days of acceptance.

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

■ ADDITIONAL ITEMS INCLUDED IN PURCHASE PRICE: Seller shall include in the purchase price and transfer, free and clear of encumbrances, all fixtures, as defined at lines 15 - 18 and as may be on the Property on the date of this Offer, unless excluded at line 14 and the following additional items: n/a

■ ITEMS NOT INCLUDED IN THE PURCHASE PRICE: n/a

A "Fixture" is defined as an item of property which is physically attached to or so closely associated with land so as to be treated as part of the real estate, including, without limitation, physically attached items not easily removable without damage to the Property, items specifically adapted to the Property, and items customarily treated as fixtures including but not limited to all: perennial crops; garden bulbs; plants; shrubs and trees. CAUTION: Annual crops are not included in the purchase price unless otherwise agreed at line 13.

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

ACCEPTANCE Acceptance occurs when all Buyers and Sellers have signed an identical copy of the Offer, including signatures on separate but identical copies of the Offer. *CAUTION: Deadlines in the Offer are commonly calculated from acceptance. Consider whether short term deadlines running from acceptance provide adequate time for both binding acceptance and performance.*

BINDING ACCEPTANCE This Offer is binding upon both Parties only if a copy of the accepted Offer is delivered to Buyer on or before 9/7/2010. *CAUTION: This Offer may be withdrawn prior to delivery of the accepted Offer.*

DELIVERY OF DOCUMENTS AND WRITTEN NOTICES Unless otherwise stated in this Offer, delivery of documents and written notices to a Party shall be effective only when accomplished by one of the methods specified at lines 27 - 36.

(1) By depositing the document or written notice postage or fees prepaid in the U.S. Mail or fees prepaid or charged to an account with a commercial delivery service, addressed either to the Party, or to the Party's recipient for delivery designated at lines 30 or 32 (if any) for delivery to the Party's delivery address at lines 31 or 33.

Seller's recipient for delivery (optional): _____

Seller's delivery address: _____

Buyer's recipient for delivery (optional): _____

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

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

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

Buyer: (920) 725-4208 Seller: (_____) _____

OCCUPANCY Occupancy of the entire Property shall be given to Buyer at time of closing unless otherwise provided in this Offer (lines 179 - 187 or in an addendum per line 188). Occupancy shall be given subject to tenant's rights, if any. **Caution: Consider an agreement which addresses responsibility for clearing the Property of personal property and debris, if applicable.**

LEASED PROPERTY If Property is currently leased and lease(s) extend beyond closing, Seller shall assign Seller's rights under said lease(s) and transfer all security deposits and prepaid rents thereunder to Buyer at closing. The terms of the (written) (oral) STRIKE ONE lease(s), if any, are N/A

PLACE OF CLOSING This transaction is to be closed at the place designated by Buyer's mortgagee or Title Company no later than November 30, 2010 unless another date or place is agreed to in writing.

CLOSING PRORATIONS The following items shall be prorated at closing: real estate taxes, rents, private and municipal charges, property owner's association assessments, fuel and none other. Any income, taxes or expenses shall accrue to Seller, and be prorated, through the day prior to closing. Net general real estate taxes shall be prorated based on (the net general real estate taxes for the current year, if known, otherwise on ~~the net general real estate taxes for the preceding year~~) (_____). STRIKE AND COMPLETE AS APPLICABLE

CAUTION: If proration on the basis of net general real estate taxes is not acceptable (for example, completed/pending reassessment, changing mill rate, lottery credits), insert estimated annual tax or other formula for proration.

PROPERTY CONDITION PROVISIONS

■ PROPERTY CONDITION REPRESENTATIONS: Seller represents to Buyer that as of the date of acceptance Seller has no notice or knowledge of conditions affecting the Property or transaction (see below) other than those identified in Seller's Real Estate Condition Report dated _____, which was received by Buyer prior to Buyer signing this Offer and which is made a part of this Offer by reference COMPLETE DATE OR STRIKE AS APPLICABLE and To be provided by Seller _____ INSERT CONDITIONS NOT ALREADY INCLUDED IN THE CONDITION REPORT

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

(a) planned or commenced public improvements which may result in special assessments or otherwise materially affect the Prop or the present use of the Property;

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

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

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

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

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

(g) underground or aboveground storage tanks on the Property for storage of flammable or combustible liquids including but not limited gasoline and heating oil which are currently or which were previously located on the Property; ***NOTE: Wis. Adm. Code, Chap Comm 10 contains registration and operation rules for such underground and aboveground storage tanks.***

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

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

(j) any portion of the Property being subject to, or in violation of, a Farmland Preservation Agreement under a County Farmland Preservat Plan or enrolled in, or in violation of, a Forest Crop, Woodland Tax, Managed Forest, Conservation Reserve or comparable program;

(k) boundary disputes or material violation of fence laws (Wis. Stats. Chapter 90) which require the erection and maintenance of le fences between adjoining properties where one or both of the properties is used and occupied for farming or grazing purposes;

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

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

(n) subsoil conditions which would significantly increase the cost of the development proposed at lines 271-272, if any, including, but not limi to, subsurface foundations, organic or non-organic fill, dumpsites or containers on Property which contained or currently contain toxic hazardous materials, high groundwater, soil conditions (e.g. low load bearing capacity) or excessive rocks or rock formations on the Property

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

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

(q) other conditions or occurrences which would significantly increase the cost of the development proposed at lines 271 to 272 reduce the value of the Property to a reasonable person with knowledge of the nature and scope of the condition or occurrence.

■ PROPERTY DIMENSIONS AND SURVEYS: Buyer acknowledges that any land dimensions, total square footage/acreage figure or allocation of acreage information, provided to Buyer by Seller or by a broker, may be approximate because of rounding or oth reasons, unless verified by survey or other means. ***CAUTION: Buyer should verify land dimensions, total square footage/acreag figures or allocation of acreage information if material to Buyer's decision to purchase.***

■ ISSUES RELATED TO PROPERTY DEVELOPMENT: WARNING: If Buyer contemplates developing Property for a use other than current use, there are a variety of issues which should be addressed to ensure the development or new use is feasible. Municipal and zoni ordinances, recorded building and use restrictions, covenants and easements may prohibit certain improvements or uses and therefore sho be reviewed. Building permits, zoning variances, Architectural Control Committee approvals, estimates for utility hook-up expenses, spec assessments, charges for installation of roads or utilities, environmental audits, subsoil tests, or other development related fees may ne to be obtained or verified in order to determine the feasibility of development of, or a particular use for, a property. Optional contingenci which allow Buyer to investigate certain of these issues can be found at lines 271 - 314 and Buyer may add contingencies as needed addenda (see line 188). Buyer should review any plans for development or use changes to determine what issues should be addresse in these contingencies.

■ INSPECTIONS: Seller agrees to allow Buyer's inspectors reasonable access to the Property upon reasonable notice if the inspection are reasonably necessary to satisfy the contingencies in this Offer. Buyer agrees to promptly provide copies of all such inspectio reports to Seller, and to listing broker if Property is listed. Furthermore, Buyer agrees to promptly restore the Property to its origin condition after Buyer's inspections are completed, unless otherwise agreed in this Offer. An "inspection" is defined as an observatio of the Property which does not include testing of the Property, other than testing for leaking LP gas or natural gas used as a fuel sourc which are hereby authorized.

■ TESTING: Except as otherwise provided, Seller's authorization for inspections does not authorize Buyer to conduct testing of the Propert A "test" is defined as the taking of samples of materials such as soils, water, air or building materials from the Property and the laborato or other analysis of these materials. If Buyer requires testing, testing contingencies must be specifically provided for at lines 179 - 187 in an addendum per line 188. Note: Any contingency authorizing testing should specify the areas of the Property to be tested, the purpo of the test, (e.g., to determine if environmental contamination is present), any limitations on Buyer's testing and any other material terms the contingency (e.g., Buyer's obligation to return the Property to its original condition). Seller acknowledges that certain inspections or tes may detect environmental pollution which may be required to be reported to the Wisconsin Department of Natural Resources.

■ PRE-CLOSING INSPECTION: At a reasonable time, pre-approved by Seller or Seller's agent, within 3 days before closing, Buyer sha have the right to inspect the Property to determine that there has been no significant change in the condition of the Property, except f changes approved by Buyer.

■ PROPERTY DAMAGE BETWEEN ACCEPTANCE AND CLOSING: Seller shall maintain the Property until the earlier of closing o occupancy of Buyer in materially the same condition as of the date of acceptance of this Offer, except for ordinary wear and tear. If, pri to closing, the Property is damaged in an amount of not more than five percent (5%) of the selling price, Seller shall be obligated to repa the Property and restore it to the same condition that is was on the day of this Offer. If the damage shall exceed such sum, Seller sha promptly notify Buyer in writing of the damage and this Offer may be canceled at option of Buyer. Should Buyer elect to carry out th Offer despite such damage, Buyer shall be entitled to the insurance proceeds relating to the damage to the Property, plus a credit towards the purchase price equal to the amount of Seller's deductible on such policy. However, if this sale is financed by a land contract or mortgage to Seller, the insurance proceeds shall be held in trust for the sole purpose of restoring the Property.

[FENCES] Wisconsin Statutes section 90.03 requires the owners of adjoining properties to keep and maintain legal fences in equa shares where one or both of the properties is used and occupied for farming or grazing purposes. ***CAUTION: Consider an agreeme addressing responsibility for fences if Property or adjoining land is used and occupied for farming or grazing purposes.***

[DELIVERY/RECEIPT] Unless otherwise stated in this Offer, any signed document transmitted by facsimile machine (fax) shall be treate in all manner and respects as an original document and the signature of any Party upon a document transmitted by fax shall be consider an original signature. Personal delivery to, or actual receipt by, any named Buyer or Seller constitutes personal delivery to, or actual recei by Buyer or Seller. Once received, a notice cannot be withdrawn by the Party delivering the notice without the consent of the Party receivin the notice. A Party may not unilaterally reinstate a contingency after a notice of a contingency waiver has been received by the other Party **The delivery provisions in this Offer may be modified when appropriate (e.g., when mail delivery is not desirable (see lines 25 - 36)** Buyer and Seller authorize the agents of Buyer and Seller to distribute copies of the Offer to Buyer's lender, appraisers, title insurance companie and any other settlement service providers for the transaction as defined by the Real Estate Settlement Procedures Act (RESPA).

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

[TIME IS OF THE ESSENCE] "Time is of the Essence" as to: (1) earnest money payment(s); (2) binding acceptance; (3) occupancy; (4) date of closing; (5) contingency deadlines [STRIKE AS APPLICABLE] and all other dates and deadlines in this Offer except: none other. If "Time is of the Essence" applies to a date or deadline, failure to perform by the exact date or deadline is a breach of contract. If "Time is of the Essence" does not apply to a date or deadline, then performance within a reasonable time of the date or deadline is allowed before a breach occurs.

[DATES AND DEADLINES] Deadlines expressed as a number of "days" from an event, such as acceptance, are calculated by excluding the day the event occurred and by counting subsequent calendar days. The deadline expires at midnight on the last day. Deadlines expressed as a specific number of "business days" exclude Saturdays, Sundays, any legal public holiday under Wisconsin or Federal law, and other day designated by the President such that the postal service does not receive registered mail or make regular deliveries on that day. Deadlines expressed as a specific number of "hours" from the occurrence of an event, such as receipt of a notice, are calculated from the exact time of the event, and by counting 24 hours per calendar day. Deadlines expressed as a specific day of the calendar year or as the day of a specific event, such as closing, expire at midnight of that day.

THE FINANCING CONTINGENCY PROVISIONS AT LINES 148 - 162 ARE A PART OF THIS OFFER IF LINE 148 IS MARKED, SUCH AS WITH AN "X". THEY ARE NOT PART OF THIS OFFER IF LINE 148 IS MARKED N/A OR IS NOT MARKED.

[X] **FINANCING CONTINGENCY:** This Offer is contingent upon Buyer being able to obtain a Conventional Loan [INSERT LOAN PROGRAM OR SOURCE] first mortgage loan commitment as described below, within 60 days of acceptance of this Offer. The financing selected shall be in an amount of not less than $ 65,000.00 for a term of not less than 10 years, amortized over not less than 15 years. Initial monthly payments of principal and interest shall not exceed $ _____. Monthly payments may also include 1/12th of the estimated net annual real estate taxes, hazard insurance premiums, and private mortgage insurance premiums. The mortgage may not include a prepayment premium. Buyer agrees to pay a loan fee not to exceed _____ % of the loan. (Loan fee refers to discount points and/or loan origination fee, but DOES NOT include Buyer's other closing costs.) If the purchase price under this Offer is modified, the financed amount, unless otherwise provided, shall be adjusted to the same percentage of the purchase price as in this contingency and the monthly payments shall be adjusted as necessary to maintain the term and amortization stated above. **CHECK AND COMPLETE APPLICABLE FINANCING PROVISION AT LINE 158 OR 159.**

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

[ ] **ADJUSTABLE RATE FINANCING:** The initial annual interest rate shall not exceed _____ %. The initial interest rate shall be fixed for _____ months, at which time the interest rate may be increased not more than _____ % per year. The maximum interest rate during the mortgage term shall not exceed _____ %. Monthly payments of principal and interest may be adjusted to reflect interest changes.

LOAN COMMITMENT: Buyer agrees to pay all customary financing costs (including closing fees), to apply for financing promptly, and to provide evidence of application promptly upon request by Seller. If Buyer qualifies for the financing described in this Offer or other financing acceptable to Buyer, Buyer agrees to deliver to Seller a copy of the written loan commitment no later than the deadline for loan commitment at line 149. **Buyer's delivery of a copy of any written loan commitment to Seller (even if subject to conditions) shall satisfy the Buyer's financing contingency unless accompanied by a notice of unacceptability.** ***CAUTION: BUYER, BUYER'S LENDER AND AGENTS OF BUYER OR SELLER SHOULD NOT DELIVER A LOAN COMMITMENT TO SELLER WITHOUT BUYER'S PRIOR APPROVAL OR UNLESS ACCOMPANIED BY A NOTICE OF UNACCEPTABILITY.***

SELLER TERMINATION RIGHTS: If Buyer does not make timely delivery of said commitment, Seller may terminate this Offer if Seller delivers a written notice of termination to Buyer prior to Seller's actual receipt of a copy of Buyer's written loan commitment.

FINANCING UNAVAILABILITY: If financing is not available on the terms stated in this Offer (and Buyer has not already delivered an acceptable loan commitment for other financing to Seller), Buyer shall promptly deliver written notice to Seller of same including copies of lender(s)' rejection letter(s) or other evidence of unavailability. Unless a specific loan source is named in this Offer, Seller shall then have 10 days to give Buyer written notice of Seller's decision to finance this transaction on the same terms set forth in this Offer and this Offer shall remain in full force and effect, with the time for closing extended accordingly. If Seller's notice is not timely given, this Offer shall be null and void. Buyer authorizes Seller to obtain any credit information reasonably appropriate to determine Buyer's credit worthiness for Seller financing.

[ADDITIONAL PROVISIONS/CONTINGENCIES]

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

[TITLE EVIDENCE]

CONVEYANCE OF TITLE: **Upon payment of the purchase price, Seller shall convey the Property by warranty deed (or other conveyance as provided herein) free and clear of all liens and encumbrances, except: municipal and zoning ordinances and agreements entered under them, recorded easements for the distribution of utility and municipal services, recorded building and use restrictions and covenants, general taxes levied in the year of closing and** n/a _____ (provided none of the foregoing prohibit present use of the Property), which constitutes merchantable title for purposes of this transaction. Seller further agrees to complete and execute the documents necessary to record the conveyance.

■ FORM OF TITLE EVIDENCE: Seller shall give evidence of title in the form of an owner's policy of title insurance in the amount of the purchase price on a current ALTA form issued by an insurer licensed to write title insurance in Wisconsin. ***CAUTION: IF TITLE EVIDENCE WILL BE GIVEN BY ABSTRACT, STRIKE TITLE INSURANCE PROVISIONS AND INSERT ABSTRACT PROVISIONS.***

■ PROVISION OF MERCHANTABLE TITLE: Seller shall pay all costs of providing title evidence. For purposes of closing, title evidence shall be acceptable if the commitment for the required title insurance is delivered to Buyer's attorney or Buyer not less than 3 business days before closing, showing title to the Property as of a date no more than 15 days before delivery of such title evidence to be merchantable, subject only to liens which will be paid out of the proceeds of closing and standard title insurance requirements and exceptions, as appropriate. ***CAUTION: BUYER SHOULD CONSIDER UPDATING THE EFFECTIVE DATE OF THE TITLE COMMITMENT PRIOR TO CLOSING OR A "GAP ENDORSEMENT" WHICH WOULD INSURE OVER LIENS FILED BETWEEN THE EFFECTIVE DATE OF THE COMMITMENT AND THE DATE THE DEED IS RECORDED.***

■ TITLE ACCEPTABLE FOR CLOSING: If title is not acceptable for closing, Buyer shall notify Seller in writing of objections to title by the time set for closing. In such event, Seller shall have a reasonable time, but not exceeding 15 days, to remove the objections, and the time for closing shall be extended as necessary for this purpose. In the event that Seller is unable to remove said objections, Buyer shall have 5 days from receipt of notice thereof, to deliver written notice waiving the objections, and the time for closing shall be extended accordingly. If Buyer does not waive the objections, this Offer shall be null and void. Providing title evidence acceptable for closing does not extinguish Seller's obligations to give merchantable title to Buyer.

■ SPECIAL ASSESSMENTS: Special assessments, if any, for work actually commenced or levied prior to date of this Offer shall be paid by Seller no later than closing. All other special assessments shall be paid by Buyer. ***CAUTION: Consider a special agreement if area assessments, property owner's association assessments or other expenses are contemplated.*** "Other expenses" are one-time charges or ongoing use fees for public improvements (other than those resulting in special assessments) relating to curb, gutter, street, sidewalk, sanitary and stormwater and storm sewer (including all sewer mains and hook-up and interceptor charges), parks, street lighting and street trees, and impact fees for other public facilities, as defined in Wis. Stat. § 66.55(1)(c) & (f).

[ENTIRE CONTRACT] This Offer, including any amendments to it, contains the entire agreement of the Buyer and Seller regarding the transaction. All prior negotiations and discussions have been merged into this Offer. This agreement binds and inures to the benefit of the Parties to this Offer and their successors in interest.

[DEFAULT]

Seller and Buyer each have the legal duty to use good faith and due diligence in completing the terms and conditions of this Offer. A material failure to perform any obligation under this Offer is a default which may subject the defaulting party to liability for damages or other legal remedies.

If Buyer defaults, Seller may:

(1) sue for specific performance and request the earnest money as partial payment of the purchase price; or

(2) terminate the Offer and have the option to: (a) request the earnest money as liquidated damages; or (b) direct Broker to return the earnest money and have the option to sue for actual damages.

If Seller defaults, Buyer may:

(1) sue for specific performance; or

(2) terminate the Offer and request the return of the earnest money, sue for actual damages, or both.

In addition, the Parties may seek any other remedies available in law or equity.

The Parties understand that the availability of any judicial remedy will depend upon the circumstances of the situation and the discretion of the courts. If either Party defaults, the Parties may renegotiate the Offer or seek nonjudicial dispute resolution instead of the remedies outlined above. By agreeing to binding arbitration, the Parties may lose the right to litigate in a court of law those disputes covered by the arbitration agreement.

NOTE: IF ACCEPTED, THIS OFFER CAN CREATE A LEGALLY ENFORCEABLE CONTRACT. BOTH PARTIES SHOULD READ THIS DOCUMENT CAREFULLY. BROKERS MAY PROVIDE A GENERAL EXPLANATION OF THE PROVISIONS OF THE OFFER BUT ARE PROHIBITED BY LAW FROM GIVING ADVICE OR OPINIONS CONCERNING YOUR LEGAL RIGHTS UNDER THIS OFFER OR HOW TITLE SHOULD BE TAKEN AT CLOSING. AN ATTORNEY SHOULD BE CONSULTED IF LEGAL ADVICE IS NEEDED.

[EARNEST MONEY]

■ HELD BY: Unless otherwise agreed, earnest money shall be paid to and held in the trust account of the listing broker (buyer's agent if Property is not listed or seller if no broker is involved), until applied to purchase price or otherwise disbursed as provided in the Offer. ***CAUTION: Should persons other than a broker hold earnest money, an escrow agreement should be drafted by the Parties or an attorney. If someone other than Buyer makes payment of earnest money, consider a special disbursement agreement.***

■ DISBURSEMENT: If negotiations do not result in an accepted offer, the earnest money shall be promptly disbursed (after clearance from payor's depository institution if earnest money is paid by check) to the person(s) who paid the earnest money. At closing, earnest money shall be disbursed according to the closing statement. If this Offer does not close, the earnest money shall be disbursed according to a written disbursement agreement signed by all Parties to this Offer (Note: Wis. Adm. Code § RL 18.09(1)(b) provides that an offer to purchase is not a written disbursement agreement pursuant to which the broker may disburse). If said disbursement agreement has not been delivered to broker within 60 days after the date set for closing, broker may disburse the earnest money: (1) as directed by an attorney who has reviewed the transaction and does not represent Buyer or Seller; (2) into a court hearing a lawsuit involving the earnest money and all Parties to this Offer; (3) as directed by court order; or (4) any other disbursement required or allowed by law. Broker may retain legal services to direct disbursement per (1) or to file an interpleader action per (2) and broker may deduct from the earnest money any costs and reasonable attorneys fees, not to exceed $250, prior to disbursement.

■ LEGAL RIGHTS/ACTION: Broker's disbursement of earnest money does not determine the legal rights of the Parties in relation to this Offer. Buyer's or Seller's legal right to earnest money cannot be determined by broker. At least 30 days prior to disbursement per (1) or (4) above, broker shall send Buyer and Seller notice of the disbursement by certified mail. If Buyer or Seller disagree with broker's proposed disbursement, a lawsuit may be filed to obtain a court order regarding disbursement. Small Claims Court has jurisdiction over all earnest money disputes arising out of the sale of residential property with 1-4 dwelling units and certain other earnest money disputes. Buyer and Seller should consider consulting attorneys regarding their legal rights under this Offer in case of a dispute. Both Parties agree to hold the broker harmless from any liability for good faith disbursement of earnest money in accordance with this Offer or applicable Department of Regulation and Licensing regulations concerning earnest money. See Wis. Adm. Code Ch. RL 18. **NOTE: WISCONSIN LICENSE LAW PROHIBITS A BROKER FROM GIVING ADVICE OR OPINIONS CONCERNING THE LEGAL RIGHTS OR OBLIGATIONS OF PARTIES TO A TRANSACTION OR THE LEGAL EFFECT OF A SPECIFIC CONTRACT OR CONVEYANCE. AN ATTORNEY SHOULD BE CONSULTED IF LEGAL ADVICE IS REQUIRED.**

PROPERTY ADDRESS: 2.44 Acres, Lot 12 in the Business Park, Menasha, WI [page 5 of 5, WB-13]

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

[x] **PROPOSED USE CONTINGENCY:** Buyer is purchasing the property for the purpose of: Veterinary Clinic _____. This Offer is contingent upon Buyer obtaining the following:

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

[ ] Written evidence at (Buyer's) (Seller's) [STRIKE ONE] expense from a certified soils tester or other qualified expert that indicates that the Property's soils at locations selected by Buyer and all other conditions which must be approved to obtain a permit for an acceptable private septic system for: _____ [insert proposed use of Property; e.g., three bedroom single family home] meet applicable codes in effect as of the date of this offer. An acceptable system includes all systems approved for use by the State for the type of property identified at line 277. An acceptable system does not include a holding tank, privy, composting toilet or chemical toilet or other systems (e.g. mound system) excluded in additonal provisions or an addendum per lines 179 - 188.

[X] Copies at (~~Buyer's~~) (Seller's) [STRIKE ONE] expense of all public and private easements, covenants and restrictions affecting the Property ~~and a written determination by a qualified independent third party that none of these prohibit or significantly delay or increase the costs of the proposed use or development identified at lines 271 to 272.~~

[X] Permits, approvals and licenses, as appropriate, or the final discretionary action by the granting authority prior to the issuance of such permits, approvals and licenses at (Buyer's) (~~Seller's~~) [STRIKE ONE] expense for the following items related to the proposed development Kennel and Boarding License

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

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

[x] **MAP OF THE PROPERTY:** This Offer is contingent upon (~~Buyer obtaining~~) (Seller providing) [STRIKE ONE] a map of the Property prepared by a registered land surveyor, within 15 days of acceptance, at (~~Buyer's~~) (Seller's) [STRIKE ONE] expense. The map shall identify the legal description of the Property, the Property's boundaries and dimensions, visible encroachments upon the Property, the location of improvements, if any, and: _____ [STRIKE AND COMPLETE AS APPLICABLE] Additional map features which may be added include, but are not limited to: specifying how current the map must be; staking of all corners of the Property; identifying dedicated and apparent street, lot dimensions, total acreage or square footage, easements or rights-of-way. ***CAUTION: Consider the cost and the need for map features before selecting them.*** The map shall show no significant encroachment(s) or any information materially inconsistent with any prior representations to Buyer. This contingency shall be deemed satisfied unless Buyer, within five days of the earlier of: 1) Buyer's receipt of the map, or 2) the deadline for delivery of said map, delivers to Seller, and to listing broker if Property is listed, a copy of the map and a written notice which identifies the significant encroachment or the information materially inconsistent with prior representations.

[ ] **INSPECTION CONTINGENCY:** This Offer is contingent upon a qualified independent inspector(s) conducting an inspection(s), at Buyer's expense, of the Property and _____ which discloses no defects as defined below. This contingency shall be deemed satisfied unless Buyer within _____ days of acceptance delivers to Seller, and to listing broker if Property is listed, a copy of the inspector's written inspection report and a written notice listing the defects identified in the report to which Buyer objects. This Offer shall be null and void upon timely delivery of the above notice and report. ***CAUTION: A proposed amendment will not satisfy this notice requirement.*** Buyer shall order the inspection and be responsible for all costs of inspection, including any inspections required by lender or follow-up to inspection. Note: This contingency only authorizes inspections, not testing, see lines 98 to 110. For the purposes of this contingency a defect is defined as any condition of the Property which constitutes a significant threat to the health or safety of persons who occupy or use the Property or gives evidence of any material use, storage or disposal of hazardous or toxic substances on the Property. Defects do not include conditions the nature and extent of which Buyer had actual knowledge or written notice before signing this Offer.

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

(X) Mary Ann Hittle Mary Ann Hittle 8-26-10
Buyer's Signature & Print Name Here: Social Security No. or FEIN Date

(X) Murray Hurlbert 39-147-1461 8-26-10
Buyer's Signature & Print Name Here: Social Security No. or FEIN Date

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

Broker (By) _____

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

(X) _____
Seller's Signature & Print Name Here: Social Security No. or FEIN Date

(X) _____
Seller's Signature & Print Name Here: Social Security No. or FEIN Date

This Offer was presented to Seller by _____ on _____, _____, at _____ a.m./p.m.

THIS OFFER IS REJECTED _____ Seller Initials Date THIS OFFER IS COUNTERED [See attached counter] _____ Seller Initials Date

Addenda A
Offer to Purchase dated 8/25/2010
Seller: City of Menasha
Buyer: MHX3, LLC
Property: Lot 12 in the Midway Business Park

1. Seller shall, at its expense install lighted monument type business center signs at the entryways to the business park at Appleton Road/Wittmann Drive and Midway Road/University Drive identifying the Midway Business Park and its business located therein. Any portion of the cost of such sign related to identifying the Buyer's business as a Business Park tenant shall be borne by the Buyer. The signs shall be installed no later than Buyer's opening of their intended business. Buyer and Seller shall work together to design said proposed signage within the first 60 days after acceptance of this Offer. If for any reason, at Buyer's sole discretion, said signage design and location are unsatisfactory, Buyer shall serve written notice on Seller within 60 days for the date of acceptance of this Offer, and this Offer shall become null and void. Should Buyer fail to serve said written notice, Seller shall deem this contingency waived.

2. This offer is subject to Buyer determining that there are utilities available at the property line, road right-of-way, or at a suitable location to Buyer, without additional cost to Buyer other than the service provider standard hook-up fees, utility service lines for electricity, gas, storm sewer, sanitary sewer, water, cable and telephone from the appropriate public utility or governmental body having jurisdiction in sufficient quantities and with sufficient pressure to permit the operation of Buyer's contemplated development. If for any reason, at Buyer's sole discretion, said utilities are unsatisfactory, Buyer shall serve written notice on Seller within 60 days for the date of acceptance of this Offer, and this Offer shall become null and void. Should Buyer fail to serve said written notice, Seller shall deem this contingency waived.

3. Seller shall furnish, at their expense, Buyer with any and all available tests, reports, evaluations on said property and Business Park. These reports shall include, but not be limited to, Phase 1 environmental assessment, plots maps and soil reports. If for any reason, at Buyer's sole discretion, said reports and tests are unsatisfactory, Buyer shall serve written notice on Seller within 60 days for the date of acceptance of this Offer, and this Offer shall become null and void. Should Buyer fail to serve said written notice, Seller shall deem this contingency waived.

WB-44 COUNTER-OFFER

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

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

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

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

3. Addenda A Paragraph 3 shall be omitted.

Any warranties, covenants and representations made in this Counter-Offer survive the closing of this transaction.

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

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

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

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

Signature of Party Making Counter-Offer ▲ Date ▲
Print name ▶

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

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

This Counter-Offer was presented by _____ on _____.
Licensee and Firm ▲ Date ▲

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

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

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

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

WB-44 COUNTER-OFFER

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

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

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

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

This Counter-Offer was drafted by _____ on _____.
Licensee and Firm ▲ Date ▲

Signature of Party Making Counter-Offer ▲ Date ▲ | Signature of Party Making Counter-Offer ▲ Date ▲

Signature of Party Accepting Counter-Offer ▲ Date ▲ | Signature of Party Accepting Counter-Offer ▲ Date ▲

This Counter-Offer was presented by _____ on _____.
Licensee and Firm ▲ Date ▲

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

Note: Provisions from a previous Counter-Offer may be included by reproduction of the entire provision or incorporation by reference. Provisions incorporated by reference may be indicated in the subsequent Counter-Offer by specifying the number of the provision or the lines containing the provision. In transactions involving more than one Counter-Offer, the Counter-Offer referred to should be clearly specified. **NOTE: Number this Counter-Offer sequentially, e.g. Counter-Offer No.1 by Seller, Counter-Offer No.2 by Buyer, etc.**

ATTACH THIS COUNTER-OFFER TO THE OFFER TO PURCHASE - INSERT SOCIAL SECURITY NUMBERS OR FEIN ON OFFER

AMENDMENT #2 TO DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MENASHA AND PJC GROUP LLC

It is desirable to enter into this amendment to facilitate the financing arrangements necessary to advance the project contemplated by the original development agreement and correct said agreements to conform its language to the intentions of the parties.

For mutual consideration, the parties agree as follows:

1. Article VI Section 6.1 shall be amended such that the second sentence in paragraph one of this section shall be amended to read as follows:

"After the Tax Incremental Value of the Executive Office Project has exceeded $100,000 the City agrees to provide the Developer a grant in the amount of $250,000."

2. Article VI Section 6.1 shall be amended such that in the second paragraph of this section, the date of payment by the City to the Developer shall be changed from September 30 to January 30.

3. This amendment shall be retroactive to January 1, 2008 and any adjustments needed to bring the parties into conformity with this document shall be made forthwith.

BY THE CITY:	BY PJC GROUP LLC:
_____	_____
Pamela Captian	Edmund Jelinski
City Attorney	Managing Member