

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 7, 2012
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, 4/17/12](#)

D. ACTION/DISCUSSION ITEMS

1. [Accept quote of The Post Crescent as the official City newspaper, May 2012-May 2013.](#)
2. [Proposal from McMahon Engineers/Architects for architectural design modifications to Menasha Senior Center](#)
3. [Updates to Operator's License Guidelines](#)
4. [Motion to Remove from the Table – Option to Purchase from FP One LLC, former NMFR Station 36, 901 Airport Road.](#)

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."

CITY OF MENASHA
ADMINISTRATION COMMITTEE
Third Floor Council Chambers
140 Main Street, Menasha
April 17, 2012
MINUTES

DRAFT

A. CALL TO ORDER

Meeting called to order by Clerk Galeazzi at 7:38 p.m.

B. ROLL CALL/EXCUSED ABSENCES

PRESENT: Aldermen Klein, Taylor, Sevenich, Langdon, Krueger, Zelinski, Benner

EXCUSED: Alderman Englebert

ALSO PRESENT: Mayor Merkes, PC Styka, DPW Radtke, CDD Keil, C/T Stoffel,
PRD Tungate, LD Lenz, Clerk Galeazzi

C. MINUTES TO APPROVE

1. [Administration Committee, 4/2/12](#)

Moved by Ald. Klein, seconded by Ald. Langdon to approve minutes.

Motion carried on voice vote.

D. ACTION ITEMS

1. Election of Chairman

Moved by Ald. Krueger, seconded by Ald. Langdon to nominate Ald. Klein for Chairman.

Having no other nominations the clerk was directed to cast a unanimous ballot for Ald. Klein as Chairman.

Alderman Klein took over as Chairman

2. Election of Vice-Chairman

Moved by Ald. Klein, seconded by Ald. Zelinski to nominate Ald. Langdon as Vice-Chairman.

Having no other nominations the clerk was directed to cast a unanimous ballot for Ald. Langdon as Vice-Chairman.

3. [Appeal of Operator's License - Cory Roehrig](#)

Cory Roehrig explained he forgot to list the underage drinking convictions when completing the application for the operator's license.

PC Styka explained Mr. Roehrig's application was denied because he provided false information on the application, which according to the guideline, is reason for denial. The application states to include any underage drinking convictions.

Moved by Ald. Krueger, seconded by Ald. Benner to deny the appeal of operator's license of Cory Roehrig.

Motion carried on roll call 7-0.

4. [Option to Purchase from FP One LLC, former NMFR Station 36, 901 Airport Road](#)

CDD Keil explained the amended Option to Purchase submitted by FP One. The parcel will need to be rezoned from single-family to commercial

General discussion ensued on the insurance estimates to repair the building; the cost to raze the building; the assessed value of the property; other interested parties.

Moved by Ald. Klein, seconded by Ald. Sevenich to table the Option to Purchase from FP One LLC.

Motion carried on voice vote.

E. ADJOURNMENT

Moved by Ald. Zelinski, seconded by Ald. Langdon to adjourn at 7:55 p.m.

Motion carried on voice vote.

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



MEMO

To: Common Council
From: Debbie Galeazzi, City Clerk
Subject: Official City Newspaper
Date: May 3, 2012

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 2012 and 2011 rate quotes for comparison. The rate quoted for 2012 has increased from 2011 and is based on the Post Crescents' most recent certification from the state of Wisconsin.

Although there is an increase this year, there was no change in the quote from 2010 to 2011.

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.

THE POST-CRESCENT

April 30, 2012

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, 2012 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	\$0.7217	\$0.5670
2	\$1.3935	\$1.0948
3	\$2.1689	\$1.7040
4	\$2.9443	\$2.3132
5	\$3.7197	\$2.9224
6	\$4.4875	\$3.5256
7	\$5.2629	\$4.1348
8	\$6.0383	\$4.7440
9	\$6.8061	\$5.3472
10	\$7.5815	\$5.9564

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

Number of Columns	First Insertion	Subsequent Insertion(s)
1	\$1.1017	\$0.8656
2	\$2.3992	\$1.8849
3	\$3.6967	\$2.9043
4	\$4.9942	\$3.9237
5	\$6.2840	\$4.9370
6	\$7.5815	\$5.9564

RECEIVED
MAY 01 2012
CITY OF MENASHA
BY dg

THE POST-CRESCENT

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

1st Insertion - \$11.28; Subsequent Insertion(s) - \$8.82

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

1st Insertion - \$18.80; 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,

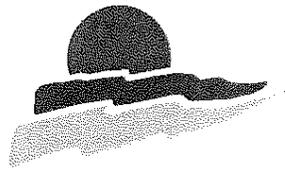


Jennifer Maertz
Advertising Manager
Appleton Post Crescent

PROPOSAL Professional Services

MENASHA COMMUNITY CENTER MODIFICATIONS

Prepared For The
**City of
Menasha**



Inside:
Cover Letter
Company Background
Professional Services
Project Approach
Proposed Fee

MARCH 12, 2012

McMAHON
ENGINEERS ARCHITECTS



NEENAH WISCONSIN
920.751.4200

MACHESNEY PARK ILLINOIS
815-636.9590

VALPARAISO INDIANA
219.462.7743

WWW.MCMGRP.COM

McMAHON

ENGINEERS ARCHITECTS

March 12, 2012

Ms. Jean Wollerman
Active Older Adult Director
Neenah-Menasha YMCA
110 W. North Water Street
Neenah, WI 54956

Re: Proposal for Professional Services
Menasha Senior Center Modifications
McM No. M0032-620008.10

Dear Ms. Wollerman:

McMAHON is pleased to present our proposal for conceptual design and budgeting regarding potential improvements to the Menasha Senior Center. McMAHON is a local, 103 year old, professional engineering/architectural firm and thus one of the most trusted firms in the region. Our full service capabilities allow us to uniquely provide solutions completely in-house.

For your project, we have included the services of Miron Construction to provide conceptual budgeting for the project. The McMAHON/Miron team has a proven track record of delivering accurate/timely results for numerous local projects. Our combined team is passionate about creating the most suitable, cost effective solution to address the long term needs of your facility.

Thank you for the opportunity to be part of your project! We look forward to beginning the process of reshaping your environment.

Sincerely,

McMAHON



Craig J. Sachs, AIA
Senior Architect

CJS:lm1



Company Background

The McMahon Group is comprised of three affiliated companies with over 160 employees which include Architects, Civil, Process, Electrical, Environmental and Structural Engineers, Land Surveyors and support staff. Each company complements the other, so that a broad spectrum of professional services can be offered to our clients to meet their specific needs.

The three affiliated companies are:

McMahon Associates, Inc. (McMAHON)

Full-Service Engineering/Architectural Firm; Est. 1909

Midwest Contract Operations, Inc. (MCO)

Full-Service Operations and Maintenance Firm; Est. 1987

McMahon, Inc.

Full-Service Design/Build Firm; Est. 1991

Office Locations:

Corporate Headquarters: Neenah, Wisconsin

Regional Offices: Machesney Park, Illinois and Valparaiso, Indiana

Professional Services

The McMahon Group provides Professional Engineering and Architectural Services to commercial, industrial, medical, educational, federal, state, county and municipal clients. Since 1909, our dedication to superior client service has allowed us to offer multi-disciplined expertise in planning, analysis, design and construction services for a variety of projects. We are committed to helping our clients develop innovative and effective solutions to the complexities of today's economic and regulatory challenges.

The McMahon Group's Professional Services include:

- | | |
|---------------------------------|---|
| Architecture | Site Development |
| Civil Engineering | Structural Engineering |
| Construction Management | Wastewater Systems Engineering |
| Electrical/Controls Engineering | Water Systems Engineering |
| Environmental Engineering | Funding Strategies and Grant Assistance |
| Industrial Engineering | Design / Build Services |
| LEED® Certification | Operations Services |
| Land Surveying | |

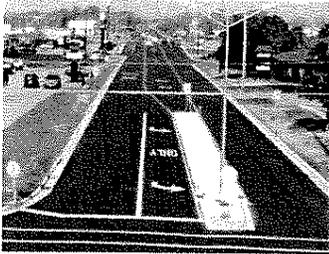
Distinct Advantage

The McMahon Group has been recognized regionally and nationally for its award-winning designs and leadership in innovation, has been named a Top 500 Design Firm by Engineering News Record (ENR), and a Best Civil Engineering Firm to Work For by CE News. We place great emphasis on adding value to all phases of a project. This "Value-Added" business philosophy, combined with our diverse design capabilities contribute to our strong history of repeat business. The McMahon Group has a strong history of implementing sustainable design principles into our projects and continues to be on the cutting edge of sustainable issues, including LEED® certification, Lean Practices, and Waste-to-Energy concepts.



NEENAH WI
MACHESNEY PARK IL
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Professional Services



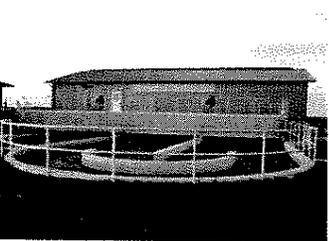
Civil Engineering

- Infrastructure Planning & Design
- Storm Water Management
- Transportation
- GIS Systems
- AutoCAD Mapping
- Site Development
- Parks and Recreation



Water Systems Engineering

- Water Supply and Treatment Systems
- Storage and Distribution Systems
- Disinfection and Control Systems



Wastewater Systems Engineering

- Facilities Planning, Design and Operations for Wastewater Treatment and Biosolids Management
- Pretreatment
- Collection System Design
- Infiltration/Inflow Analysis



Architecture

- Project Programming and Budget Estimating
- Building Design and Contract Documents
 - Commercial
 - Healthcare
 - Cultural
 - Industrial
 - Educational
 - Municipal
 - Residential
- Project Administration



Electrical / Controls Engineering

- Power Distribution System Design
- Instrumentation and Controls Design
- Standby Power
- Lighting



Environmental Engineering

- Environmental Site Assessments
- Petroleum Release Investigations/Remediation
- Wetland Delineation and Mitigation
- Ecological Assessments, Restoration Plans and Management
- Prairie Design and Management
- Endangered Species Assessments

Structural Engineering

- Studies and Cost Estimating
- Analysis and Design of Structures for:
 - Commercial/Industrial/Municipal Clients
 - Architectural-Led Projects
 - Water and Wastewater Facilities
 - Dams and Bridges
 - Rehabilitation Projects

Industrial Engineering

- Pre-project Evaluations & Planning
- Scheduling & Budget Estimations
- Full-Service Engineering Design
- Project Management
- Construction & Startup Services

Land Surveying

- Land Planning and Subdivision Plats
- Right-of-Way Coordination
- Certified Survey Maps
- Legal Descriptions
- Topographic Surveys
- Construction Staking

Funding Strategies & Grant Assistance

- Grant/Loan Research, Applications and Management for:
 - Clean Water Fund
 - Safe Drinking Water Loan Program
 - USDA Rural Development
 - Community Development Block Grants

Design / Build Services

- Project Management
- Municipal, Industrial, Commercial
- Construction Management

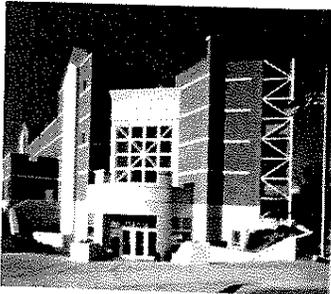
Operations Services

- Specializing In Management, Operation and Maintenance of Water Systems, Wastewater Systems, and Public Works Departments
- Full-service Contract Operations, Contract Management or As-Needed Services
- Controls
- Telemetry
- Instrumentation
- Electrical
- Laboratory
- Computer-Related Services
- Water and Wastewater
 - Flow Monitoring and Sampling, I/I Inspections
- Environmental Services

Architectural Services

At McMAHON, architecture is the result of an integrated, collaborative process of translating your mission and vision into a physical environment that supports and reflects those goals. Every project is unique, and the design solution must involve the organization, management and coordination of a passionate team of experts who creatively respond to the design requirements or your specific project.

At McMAHON, we have an experienced team who listens first and who has the knowledge, technology, and resources to efficiently deliver your project. We welcome your architectural challenge - no matter the size or complexity.



Pre-design

- Facilities Planning and Programming
- Space Schematics and Flow Diagrams
- Existing Facilities Surveys
- Project Scheduling and Budget
- ADA Compliance Review

Site Analysis & Evaluations

- Building Footprint
- Parking Requirements
- Circulation and Open Space
- Physical, Cultural and Regulatory
- Site Selection
- Land Use Planning and Zoning
- Soils and Topography
- Landscaping

Building Design

- Program, Codes and Site Influences
- Building Context and Technology
- Establishing Design Goals
- Alternatives Evaluation
- Mechanical and Electrical Systems

Construction Documents

- Construction Drawings
- Specifications

Bidding & Negotiation

- Pre-Qualification of Bidders
- Advertisement for Bids
- Owner/Contractor Agreement Form

Construction Administration

- Design-Bid-Build
- Design/Build
- Construction Management
- Field Administration
- Project Schedule Monitoring
- Project Close-Out

Post-Construction

- Operational and Maintenance Programming
- Start-Up Assistance
- Record Drawings
- Warranty Review
- Post-Construction Evaluation

Supplemental

- Sustainability Services
- LEAN Architecture
- Integrated Project Delivery
- Existing Building Energy Efficiency/Conservation analysis through the Sustainable Rewards Program (SRP)
- Equipment Relocation/Space Planning
- Graphic Design, Renderings, Models
- Interior Design
- Tenant-Related Services
- Life Cycle Cost Analysis/Value Analysis
- Computer Applications
- Government/Environmental Liaison

McMAHON
ENGINEERS ARCHITECTS

NEENAH WI
MACHESNEY PARK II
VALPARAISO IN
WWW.MCMGRP.COM

Project Approach

The project scope is to develop a conceptual plan and budget to address various current facility inefficiencies, including:

- Covered entrance/exterior canopy for ease of access from rear (primary) parking area.
- Covered entrance/exterior canopy for ease of drop-off for guests arriving via assisted transportation.
- Develop better entry/reception area adjacent to a new covered entrance to include reception desk, coat area, and office. This is most likely an addition to the existing structure.
- Remodel existing entrance area into lounge and coffee area.
- Provide new carpet in existing TV room, craft room, and health screening room.

Tasks:

Task #1

Architect to visit site/building and document area considered for expansion

Task #2

Develop two-three alternatives addressing the programmatic issues

Task #3

Review alternatives with core team/owner

Task #4

Revise alternatives to create preferred option

Task #5

Miron to develop conceptual estimate for project

Task #6

Present final design and conceptual estimate to core team.

Final Deliverables to Include:

- Scale floor plan of entire building indicating areas of modification.
- Scale site plan of entire site indicating areas of modification.
- Exterior elevation indicating areas of modification.
- Conceptual estimate.

Proposed Fee

Basic Services:

McMAHON proposes to provide the scope of services represented in the response for the *Lump Sum Fee* of \$2,950.00.

Reimbursables:

Reimbursables are included in the above lump sum fee. Reimbursable expenses include: mileage, copies, photographs and production of final report. Other additional expenses are not included in the above stated lump sum fee.

Scope of Services Not Included:

- 3-D Rendering
- Overall Building Analysis including HVAC, Plumbing and Electrical Systems
- Site Survey
- Subsurface Investigation
- Material and/or Invasive Testing
- Design Development Services
- GIS Mapping
- Construction Document Services
- Construction Services
- On-line Surveys

IMPORTANT NOTE: The proposed *Lump Sum Fee* is based on McMAHON's interpretation, experience and understanding of the requirements of the project based on our initial meeting. The overall value of the services included in the Project Approach Section is \$6,800.00 and the Team is willing to discount this project to \$2,950.00



**McMAHON
GENERAL TERMS & CONDITIONS**

1. McMahan will bill the Owner monthly with net payment due in 30-days. Past due balances shall be subject to a service charge at a rate of 1.0% per month. In addition, McMahan may, after giving 48-hours notice, suspend service under any Agreement until the Owner has paid in full all amounts due for services rendered and expenses incurred. These expenses include service charges on past due invoices, collection agency fees and attorney fees incurred by McMahan to collect all monies due McMahan. McMahan and Owner hereby acknowledge that McMahan has and may exercise lien rights on subject property.
 2. The stated fees and Scope Of Services constitute our best estimate of the fees and tasks required to perform the services as defined. This Agreement, upon execution by both parties hereto, can be amended only by written instrument signed by both parties. For those projects involving conceptual or process development services, activities often cannot be fully defined during initial planning. As the project progresses, facts uncovered may reveal a change in direction, which may alter the Scope. McMahan will promptly inform the Owner in writing of such situations so changes in this Agreement can be negotiated, as required.
 3. The stipulated fee is firm for acceptance by the Owner for 60-days from date of Agreement publication.
 4. Costs and schedule commitments shall be subject to re-negotiation for delays caused by the Owner's failure to provide specified facilities or information, or for delays caused by unpredictable occurrences, including without limitation, fires, floods, riots, strikes, unavailability of labor or materials, delays or defaults by suppliers of materials or services, process shutdowns, acts of God or the public enemy, or acts or regulations of any governmental agency. Temporary delay of services caused by any of the above, which results in additional costs beyond those outlined, may require re-negotiation of this Agreement.
 5. Reimbursable expenses incurred by McMahan in the interest of the project including, but not limited to, equipment rental will be billed to the Owner at cost plus 10% and sub-consultants at cost plus 12%. When McMahan, subsequent to execution of an Agreement, finds that specialized equipment must be purchased to provide special services, the cost of such equipment will be added to the agreed fee for professional services only after the Owner has been notified and agrees to these costs.
 6. McMahan will maintain insurance coverage in the following amounts:

Worker's Compensation	Statutory
General Liability	
Bodily Injury - Per Incident / Annual Aggregate	\$1,000,000 / \$2,000,000
Automobile Liability	
Bodily Injury	\$1,000,000
Property Damage	\$1,000,000
Professional Liability Coverage	\$2,000,000
- If the Owner requires coverage or limits in addition to the above stated amounts, premiums for additional insurance shall be paid by the Owner. McMahan's liability to Owner for any indemnity commitments, reimbursement of legal fees, or for any damages arising in any way out of performance of our contract is limited to \$1,000,000.
7. The Owner agrees to provide such legal, accounting and insurance counseling services as may be required for the project for the Owner's purpose. All unresolved claims, disputes and other matters in question between the Owner and McMahan shall be submitted to mediation, if an agreement cannot be reached by Owner and McMahan.
 8. Termination of this Agreement by the Owner or McMahan shall be effective upon 7-days written notice to the other party. The written notice shall include the reasons and details for termination; payment is due as stated in paragraph 1. If the Owner defaults in any of the Agreements entered into between McMahan and the Owner, or if the Owner fails to carry out any of the duties contained in these terms and conditions, McMahan may, upon 7-days written notice, suspend its services without further obligation or liability to the Owner unless, within such 7-day period, the Owner remedies such violation to the reasonable satisfaction of McMahan.
 9. Re-use of any documents or AutoCAD representations pertaining to this project by the Owner for extensions of this project or on any other project shall be at the Owner's risk and the Owner agrees to defend, indemnify and hold harmless McMahan from all claims, damages and expenses, including attorneys' fees arising out of such re-use of the documents or AutoCAD representations by the Owner or by others acting through the Owner.
 10. Purchase Orders - In the event the Owner issues a purchase order or other instrument related to the Engineer's services, it is understood and agreed that such document is for Owner's internal accounting purposes only and shall in no way modify, add to or delete any of the terms and conditions of this Agreement. If the Owner does issue a purchase order, or other similar instrument, it is understood and agreed that the Engineer shall indicate the purchase order number on the invoice(s) sent to the Owner.
 11. McMahan will provide all services in accordance with generally accepted professional practices. McMahan will not provide or offer to provide services inconsistent with or contrary to such practices nor make any warranty or guarantee, expressed or implied, nor to have any Agreement or contract for services subject to the provisions of any uniform commercial code. Similarly, McMahan will not accept those terms and conditions offered by the Owner in its purchase order, requisition or notice of authorization to proceed, except as set forth herein or expressly accepted in writing. Written acknowledgment of receipt, or the actual performance of services subsequent to receipt, of any such purchase order, requisition or notice of authorization to proceed is specifically deemed not to constitute acceptance of any terms or conditions contrary to those set forth herein.
 12. McMahan intends to serve as the Owner's professional representative for those services, as defined in this Agreement, and to provide advice and consultation to the Owner as a professional. Any opinions of probable project costs, approvals and other decisions made by McMahan for the Owner are rendered on the basis of experience and qualifications, and represent our professional judgment.
 13. This Agreement shall not be construed as giving McMahan the responsibility or authority to direct or supervise construction means, methods, techniques, sequence or procedures of construction selected by Contractors or Subcontractors, or the safety precautions and programs incident to the work of the Contractors or Subcontractors.
 14. The Owner shall be responsible for maintenance of the structure, or portions of the structure, which have been completed and have been accepted for its intended use by the Owner. All structures are subject to wear and tear, and environmental and man-made exposures. As a result, all structures require regular and frequent monitoring and maintenance to prevent damage and deterioration. Such monitoring and maintenance is the sole responsibility of the Owner. McMahan shall have no responsibility for such issues or resulting damages.



To: Members of the Administrative Committee

From: Chief Tim Styka

Date: March 22, 2012

RE: Bartender Licensing Policy

Over the past few months there has been discussion about reviewing the Alcohol Operator Licensing Policy. I thought it would be appropriate to provide some foundation to the issue by looking at the number of applications, approvals and denials.

The Police Department has received over 340 applications since the 2011 cycle began. During this same time period the Police Department denied approximately 24 applications, or just over 7% of total applications. Eleven of the 24 denials did come before the Administration Committee, which resulted in four licenses being granted.

We have already updated the application form, which should reduce some of the issues. Should you wish to review the criteria used to make the decision to approve or deny an application I have attached the policy with the following possible changes which various committee members have brought to my attention or I am recommending:

- Alderman Langdon's Request: Reduce the amount of time in Guideline #2 from 7 years for two offenses to 5 years for two offenses.
- Alderman Taylor's Request: Reduce the amount of time in Guideline #3 from 7 years for two offenses to 3 years for two offenses.
- I am suggesting adding "criminal" to disorderly conduct in Guideline #2. Disorderly conduct is listed in both Guideline #2 and #3. Adding criminal clarifies that a criminal charge would fall into #2, while a municipal or civil forfeiture charge would fall into #3.

I also took this possible new standard to see what impact this would have had on the licenses which were denied. It would appear that 5 licenses would have been approved during the initial application process, reducing total denials to 19.

I hope this information is helpful in making any updates to the policy the committee deems appropriate.

CITY OF MENASHA POLICY GUIDELINES FOR OPERATOR LICENSES

1. Intent: It is the responsibility of the Menasha Police Chief to screen applications for operators' licenses (bartender licenses) for the City of Menasha. The following guidelines are adopted in order to specify the reasons for denying, non-reviewing or revoking an operator's license and outlines the steps and considerations given, for any denials that are appealed to the Menasha Common Council.

All applications for operators' license applications are submitted to the Menasha Police Department for a background check. The Menasha Police Chief makes the decision on licensing by either accepting or rejecting the application.

*Due to the discretionary nature of the alcohol beverage licensing process, it is not possible to state every circumstance that may result in approval of a license application and what circumstances will result in approval of a license application. However, it is possible to enumerate what will be considered in the decision-making and what circumstances are more likely to result in the **denial** of a license application.*

Individuals granted an operator's license must act in cooperation with law enforcement to enforce the alcohol beverage laws, drunk driving laws, and assist with minimizing disturbances of the peace and maintain the safety of the community. Therefore, individuals with a past history of negative or uncooperative contacts with police agencies will be scrutinized.

It is with these goals in mind that these guidelines are adopted. Furthermore, to the extent that Wis. Statutes Ch. 125 or Menasha City Ordinances provide additional grounds for denial, suspension, revocation or non-renewal, the Police Chief may also rely on such provisions.

In the event an individual with an operator's license is considered for non-renewal, suspension or revocation, all offenses will be considered, the circumstances of which are substantially related to the license regardless of whether some of the offenses occurred prior to the adoption of these guidelines.

Upon request, a copy of these guidelines shall be provided to each person who applies for a license.

Guidelines: What is meant by substantially related? The law does not specifically define this term although there are many court decisions on the topic. The Wisconsin Supreme Court has stated that the purpose of the test is to assess whether the tendencies and inclinations to behave a certain way in a particular context are likely to reappear later in a related context, based on the traits revealed. The "**substantially related**" test looks

at the circumstances of an offense, where it happened, when, what, etc. compared to the circumstances of the licensed activity. Where does the licensed activity typically occur, when and what is involved in performing the licensed activity, etc.

Examples of “substantially related” in the context of an operator’s license: There is a substantial relationship between the illegal purchase, use and sale of controlled substances and engaging in bartending, which involves the purchase and sale of a closely regulated substance. The same is true for offenses involving alcohol, e.g. drunk driving, selling to underage, possession and/or consuming as an underage, committing law violations while under the influence of alcohol or drugs, etc.

- **Guideline 1.** Provided the offense is substantially related to the circumstances of the license activity, circumstances of the offense substantially relate to the circumstances of the job or licensed activity, **any person who has been convicted of any FELONY, unless duly pardoned, does not qualify for an operator’s license.** Sec. 125.04(5)(b), Wis. Stats. (To the extent the other guidelines reference a specific offense; this guideline shall apply if the offense constitutes a *felony*.)

- **Guideline 2.** Provided the circumstances of the offense substantially relate to the circumstances of the job or licensed activity, **offense is substantially related to the circumstances of the licensed activity**, any person who has been convicted of or has a current charge pending, for two (2) or more offenses within the last **five**seven (57) years or for two (2) or more offenses, arising out of separate incidents, within the last **five**seven (75) years in the following subcategories, does not qualify for an operator’s license:
 - Violent crimes against the person of another, including but not limited to battery, **criminal** disorderly conduct, sexual assault, injury by negligent use of a vehicle, intimidation of a victim or witness.
 - Crimes involving cooperation (or lack thereof) with law enforcement officials, including but not limited to, resisting or obstructing a police officer, bribery of public officers/employees, eluding police, bail jumping, hit and run, perjury, or acts/threats of terrorism.
 - Manufacturing, distributing, delivering a controlled substance or a controlled substance analog; maintaining a drug trafficking place; possessing with intent to manufacture, distribute, or deliver a controlled substance or a controlled substance analog. Sec. 111.335(1)(c), Wis. Stats.

- **Guideline 3.** Provided the circumstances of the offense substantially relate to the circumstances of the job or licensed activity, offense is **substantially related to circumstances of the license activity**, any person who has been convicted of or has a current charge pending, for two (2) or more offenses, arising out of separate incidents, within the last **three**seven (37) years in the following subcategories, does not qualify for an operator’s license:

- Disorderly conduct, criminal damage to property, solicitation of prostitution or other prostitutions-related offenses, wherein the offense involves an incident at a place that is, or should have been licensed under Wis. Stat. Ch. 125.
- Alcohol beverage offenses (under Wis. Stat. Ch. 125 or Menasha City Ordinances).
- Possessing a controlled substance, controlled substance analog without a valid prescription, or possessing drug paraphernalia.
- Operating a motor vehicle while under the influence of intoxicants or drugs.
- Operating a motor vehicle with a prohibited alcohol concentration (PAC) in excess of .08% by weight.
- Open intoxicants in a public places or in a motor vehicle.

What is a **habitual law offender**? The term “habitual” refers to multiple convictions or pending charges and could include an offender with two (2) offenses occurring within a relatively short period of time. The term “offender” refers to a person with civil violations such as ordinance convictions and/or misdemeanor convictions (or pending charges), which substantially relate to the licensing activity. A legal opinion rendered by the League of Wisconsin Municipalities states that a person with two drunk driving convictions within the last couple years would be considered a habitual offender under the alcohol beverage licensing laws. Intoxicating Liquors #890 (1991). Some examples include:

- Two (2) or more offenses, each with a separate incident, within the immediately preceding one (1) year.
 - Three (3) or more offenses, each a separate incident, within the immediately preceding five (5) years.
 - Six (6) or more offenses, each a separate incident, within the preceding ten (10) years.
- **Guideline 4.** Applicants must truthfully and completely fill out applications:
 - If an applicant provides false information on an application, that application shall be denied and the applicant shall not be eligible to reapply for an operator license for a period of one (1) year from the date of denial of such application.
 - If the Police Chief determines that information was *intentionally* omitted from an application, the application shall be denied and the applicant shall not be eligible to reapply for an operator license for a period of one (1) year from the date of the denial of such application.
 - If the Police Chief determines that information was OMITTED from an application due to inadvertence, mistake or excusable neglect, the Chief may allow the applicant to submit a corrected application and recommend granting of the license, if the applicant is otherwise qualified.

- **Guideline 5.** Recommending approval of an operator’s license application for an applicant who would otherwise be denied under these policy guidelines:
 - The Common Council may approve an operator’s license application if the application would otherwise be denied under this policy if the applicant presents substantial, credible evidence of rehabilitation. Such evidence includes letters of recommendation from Alcohol and Other Drug (“AODA”) counselors, probation agents or other relevant service providers, other professional counselors, certificates and/or letters confirming satisfactory completion of an AODA or other relevant counseling program. Any such letters shall be on the letterhead of the agency offering the recommendation in order for the letter to be considered credible evidence of rehabilitation. Any evidence must be in the form of documents submitted to the Common Council and may not be statements of the applicant at the time of the hearing.
 - The reason for any recommendation of approval of an operator’s license application under this paragraph must be clearly stated in the record.

- **Guideline 6.** If the Police Chief recommends denial of an operator’s license application, the reasons for the denial must be clearly stated on the record and shall be consistent with the criteria outlines above.

APPEAL PROCESS FOR DENIED LICENSE APPLICATION.

If the Police Chief recommends denial of an operator’s license application, the applicant has the right to file an appeal with the City Clerk within thirty (30) days and appear and be represented before the Common Council, to be heard, to present evidence in favor of the granting of the license, and to rebut the evidence presented in opposition to the granting of the license, at a hearing held within forty (40) days of the filing of such appeal.

WB-24 OPTION TO PURCHASE

1 Attorney
2 **BROKER DRAFTING THIS OPTION ON** April 10, 2012 [DATE] IS AGENT OF (SELLER)(BUYER)(DUAL AGENT) **STRIKE TWO**
3 The Seller, City of Menasha, Wisconsin, hereby grants to Buyer,
4 FP One, LLC, an option to purchase (Option) the Property
5 known as [Street Address] 901 Airport Road in the
6 City of Menasha, County of Winnebago, Wisconsin,

7 (if this Option is to be recorded, insert legal description at lines 218-224 or attach as an addendum per line 225) on the following terms:
8 **DEADLINE FOR GRANT OF OPTION** This Option is void unless a copy of the Option which has been signed by or on behalf of
9 all Owners is delivered to Buyer on or before May 15, 2012 (Time is of the Essence).

10 **OPTION TERMS** An option fee of \$ 1,000.00 will be paid by Buyer within 10 days of the granting of this Option, and
11 shall not be refundable if the Option is not exercised. If the Option is exercised, \$ 1,000.00 of the option fee shall be a credit
12 against the purchase price at closing. This Option may only be exercised by delivering written notice to Seller no later than
13 midnight [see Addendum]. Buyer may sign and deliver the notice at lines 247-248, or may deliver any other written notice
14 which specifically indicates an intent to exercise this Option. This Option shall be extended until _____, upon
15 payment of \$ _____ in cash or equivalent to Seller on or before _____, as an option extension
16 fee which shall not be refundable if this Option is not exercised. If this Option is exercised, \$ _____ of the option extension
17 fee shall be a credit against the purchase price at closing. The option fee and option extension fee shall be (paid directly to Seller)
18 (held in listing broker's trust account until N/A).

19 This Option, or a separate instrument evidencing this Option, (may) (may not) **STRIKE ONE** be recorded. **CAUTION: FAILURE TO**
20 **RECORD MAY GIVE PERSONS WITH SUBSEQUENT INTERESTS IN THE PROPERTY PRIORITY OVER THIS OPTION.**

21 **TERMS OF PURCHASE** If this Option is exercised per the terms of this Option, the following shall be the terms of purchase:

22 ■ **PURCHASE PRICE:** Seventy-Five Thousand
23 _____ Dollars (\$ 75,000.00) will be paid in cash or equivalent at closing unless otherwise provided below.

24 ■ **ADDITIONAL ITEMS INCLUDED IN PURCHASE PRICE:** Seller shall include in the purchase price and transfer, free and clear of
25 encumbrances, all fixtures, as defined at lines 172-175 and as may be on the Property on the date of this Option, unless excluded at lines
26 28-29, and the following additional items: [See additional terms included on Addendum]

27
28 ■ **ITEMS NOT INCLUDED IN THE PURCHASE PRICE:** the existing structures located on the Property

29
30 ■ **CONVEYANCE OF TITLE:** Upon payment of the purchase price, Seller shall convey the Property by warranty deed (or
31 other conveyance as provided herein) free and clear of all liens and encumbrances, except: municipal and zoning ordinances and
32 agreements entered under them, recorded easements for the distribution of utility and municipal services, recorded building and use
33 restrictions and covenants, general taxes levied in the year of closing and no other exceptions serving the Property
34 _____ (provided none
35 of the foregoing prohibit present use of the Property), which constitutes merchantable title for purposes of this transaction. Seller
36 further agrees to complete and execute the documents necessary to record the conveyance.

37 **PLACE OF CLOSING** This transaction is to be closed at the place designated by Buyer's mortgagee or Evans Title Companies
38 _____ within 60 days after the exercise of the Option, unless another date or place is agreed to in writing.

39 **OCCUPANCY** Occupancy of the entire Property shall be given to Buyer at time of closing unless otherwise provided in this Option
40 (lines 218-224 or in an addendum per line 225). Occupancy shall be given subject to tenant's rights, if any. **Caution: Consider**
41 **an agreement which addresses responsibility for clearing the Property of personal property and debris, if applicable.**

42 **LEASED PROPERTY** If Property is currently leased and lease(s) extend beyond closing, Seller shall assign Seller's rights under the
43 lease(s) and transfer all security deposits and prepaid rents thereunder to Buyer at closing. The terms of the (written) (oral) **STRIKE ONE**
44 lease(s), if any, are The Property will not be subject to any leases at closing.

45 **CLOSING PRORATIONS** The following items shall be prorated at closing: real estate taxes, rents, private and municipal charges,
46 property owner's association assessments, fuel and N/A

47 _____ Any income, taxes or expenses shall accrue to Seller, and be prorated, through the day prior to closing. Net
48 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
49 general real estate taxes for the preceding year) (N/A

50 _____) **STRIKE AND COMPLETE AS APPLICABLE**

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

53 **ZONING** Seller represents that the property is zoned R-1 [see Addendum]

54 **REPRESENTATIONS REGARDING PROPERTY AND TRANSACTION** Seller represents to Buyer that as of the date Seller grants this
55 Option Seller has no notice or knowledge of conditions affecting the Property or transaction (as defined at lines 63 - 88) other than those
56 identified in Seller's property condition report, dated _____, which was received by Buyer prior to Buyer signing
57 this Option **COMPLETE DATE OR STRIKE AS APPLICABLE** and N/A

58 _____

59 Seller agrees to notify Buyer of any condition affecting the Property or transaction which is materially inconsistent with the above
60 representations, which arises after this Option is granted, but prior to exercise of this Option. Buyer shall have reasonable access to the
61 Property, upon reasonable notice, from the time this Option is granted until the time for closing, for the purpose of inspecting and testing
62 the Property to the extent reasonably necessary to fulfill the inspection and testing provisions of this Option. (See lines 110-124).
63 A "condition affecting the Property or transaction" is defined as follows:

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

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

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

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

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

70 (f) conditions constituting a significant health or safety hazard for occupants of Property; **Note: Possible LBP Disclosure Requirement.**

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

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

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

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

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

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

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

82 (n) subsoil conditions which would significantly increase the cost of building on the property including, but not limited to, subsurface
83 foundations, organic or non-organic fill, dumpsites or containers on Property which contained or currently contain toxic or hazardous
84 materials, high groundwater, soil conditions (e.g. low load bearing capacity) or excessive rocks or rock formations on the Property;

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

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

87 (q) other conditions or occurrences which would reduce the value of the Property to a reasonable person with knowledge of the
88 nature and scope of the condition or occurrence.

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

93 **■ PROPERTY DAMAGE BETWEEN EXERCISE OF OPTION AND CLOSING:** Seller shall maintain the Property until the earlier of
94 closing or occupancy of Buyer in materially the same condition as of the date Buyer exercises this Option, except for ordinary wear and
95 tear. If, prior to closing, the Property is damaged in an amount of not more than five per cent (5%) of the purchase price, Seller shall be
96 obligated to repair the Property and restore it to the same condition that it was on the day this Option is exercised. If the damage is greater
97 than 5% of the purchase price, Seller shall promptly notify Buyer in writing of the damage and this Option may be rescinded by Buyer and
98 all Option fees paid by Buyer shall be immediately returned to Buyer. Should Buyer elect to exercise this Option despite such damage,
99 Seller shall either repair the Property and restore it to the same condition that it was on the day of exercise of this Option, except for
100 ordinary wear and tear or Buyer shall be entitled to the insurance proceeds relating to the damage to the Property, plus a credit
101 towards the purchase price equal to the amount of Seller's deductible on such policy.

102 **■ BUYER DUE DILIGENCE:** Prior to exercising this Option Buyer may need to perform certain inspections, investigations and testing.
103 Buyer is only authorized to do those inspections, investigations and tests which are authorized at lines 196-200 or lines 218-225. In
104 addition to these inspections, investigations and tests, Buyer may need to obtain financing, approvals or other information, including
105 but not limited to building permits, zoning variances, Architectural Control Committee approvals, review of condominium documents,
106 review of business records, estimates for utility hook-up expenses, special assessments, charges for installation of roads or utilities, etc.
107 **WARNING:** If Buyer contemplates developing Property or a use other than the current use, there are a variety of issues which should
108 be addressed in order to determine the feasibility of development of, or a particular use for, a property. Buyer is solely
109 responsible for all expenses relating to financing, inspections, investigations, testing, approvals, permits, estimates, etc.

110 **■ INSPECTIONS:** An "inspection" is defined as an observation of the Property which does not include testing of the Property, other than
111 testing for leaking LP gas or natural gas used as a fuel source, which are hereby authorized. Seller agrees to allow Buyer's inspectors
112 reasonable access to the Property upon reasonable notice for those inspections authorized at lines 197-198. Buyer agrees to
113 promptly restore the Property to its original condition after Buyer's inspections are completed, unless otherwise agreed in this Option.

114 **■ TESTING:** Except as otherwise provided, Seller's authorization for inspections does not authorize Buyer to conduct testing of the
115 Property. A "test" is defined as the taking of samples of materials such as soils, water, air or building materials from the Property and
116 the laboratory or other analysis of these materials. Seller agrees to allow Buyer's testers reasonable access to the Property upon
117 reasonable notice for those tests authorized at lines 199-200. Note: The authorization for testing should specify the areas of the
118 Property to be tested, the purpose of the test, (e.g., to determine if environmental contamination is present), any limitations on Buyer's
119 testing and any other material terms of the authorization. Unless otherwise agreed, Buyer shall return the Property to its original
120 condition following testing. **Seller acknowledges that certain inspections or tests may detect environmental pollution**
121 **which may be required to be reported to the Wisconsin Department of Natural Resources.**

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

125 **■ CONDOMINIUM DISCLOSURES:** If the Property is a Condominium, Seller agrees to provide Buyer, at Seller's cost (see
126 Wisconsin Statutes §703.20(2)), complete, current copies of the disclosure materials (organization and operational documents, plans, financial

127 statements, and in the case of a conversion condominium property information) as required by Wisconsin Statutes §703.33 no later than 15
 128 days prior to closing and any amendment to these materials promptly after it's adoption (except as limited for small residential
 129 condominiums per Wisconsin Statutes §703.365). These materials are available at cost from the condominium association. As provided in
 130 Wisconsin Statutes §703.33(4), Buyer may, within five business days after receipt of these documents, including any material modification
 131 thereto, rescind this Option by written notice mailed or delivered to Seller, the date of mailing or actual delivery being the effective date of notice.

132 **TITLE EVIDENCE**

133 ■ **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
 134 purchase price on a current ALTA form issued by an insurer licensed to write title insurance in Wisconsin. **CAUTION: IF TITLE
 135 EVIDENCE WILL BE GIVEN BY ABSTRACT, STRIKE TITLE INSURANCE PROVISIONS AND INSERT ABSTRACT PROVISIONS.**

136 ■ **PROVISION OF MERCHANTABLE TITLE:** Seller shall pay all costs of providing title evidence. For purposes of closing, title evidence shall
 137 be acceptable if the commitment for the required title insurance is delivered to Buyer's attorney or Buyer not less than 3 business days
 138 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
 139 only to liens which will be paid out of the proceeds of closing and standard title insurance requirements and exceptions, as
 140 appropriate. **CAUTION: BUYER SHOULD CONSIDER UPDATING THE EFFECTIVE DATE OF THE TITLE COMMITMENT PRIOR
 141 TO CLOSING OR A "GAP ENDORSEMENT" WHICH WOULD INSURE OVER LIENS FILED BETWEEN THE EFFECTIVE DATE
 142 OF THE COMMITMENT AND THE DATE THE DEED IS RECORDED.**

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

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

155 **DELIVERY/RECEIPT**

156 Unless otherwise stated in this Option, any signed document transmitted by facsimile machine (fax) shall be treated in all manner and respects
 157 as an original document and the signature of any Party upon a document transmitted by fax shall be considered an original signature. Personal
 158 delivery to, or actual receipt by, any named Buyer or Seller constitutes personal delivery to, or actual receipt by Buyer or Seller. Once
 159 received, a notice cannot be withdrawn by the Party delivering the notice without the consent of the Party receiving the notice. A Party may
 160 not unilaterally reinstate a contingency after a notice of a contingency waiver has been received by the other Party. **The delivery
 161 provisions in this Option may be modified when appropriate (e.g., when mail delivery is not desirable (see lines 203-209).** Buyer
 162 and Seller authorize the agents of Buyer and Seller to distribute copies of the Option to Buyer's lender, appraisers, title insurance companies
 163 and any other settlement service providers for the transaction as defined by the Real Estate Settlement Procedures Act (RESPA).

164 **DATES AND DEADLINES**

165 Deadlines expressed as a number of "days" from an event, such as exercise of this Option, are calculated by excluding the day the
 166 event occurred and by counting subsequent calendar days. The deadline expires at midnight on the last day. Deadlines expressed as
 167 a specific number of "business days" exclude Saturdays, Sundays, any legal public holiday under Wisconsin or Federal law, and other
 168 day designated by the President such that the postal service does not receive registered mail or make regular deliveries on that day.
 169 Deadlines expressed as a specific number of "hours" from the occurrence of an event, such as receipt of a notice, are calculated from
 170 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
 171 as the day of a specific event, such as closing, expire at midnight of that day.

172 **FIXTURES** A "fixture" is defined as an item of property which is physically attached to or so closely associated with land
 173 or improvements so as to be treated as part of the real estate, including, without limitation, physically attached items
 174 not easily removable without damage to the Property, items specifically adapted to the Property, and items customarily
 175 treated as fixtures.

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

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

182 If **Buyer defaults** under the terms of purchase after exercise of this Option, Seller may:

- 183 (1) sue for specific performance and request the earnest money as partial payment of the purchase price; or
- 184 (2) terminate the purchase agreement and have the option to sue for actual damages.

185 If **Seller defaults** under the terms of purchase after exercise of this Option, Buyer may:

- 186 (1) sue for specific performance; or
- 187 (2) terminate the purchase agreement and sue for actual damages.

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

189 ~~The Parties understand that the availability of any judicial remedy will depend upon the circumstances of the situation and the~~
 190 ~~discretion of the courts. If either Party defaults, the Parties may renegotiate the terms of purchase or seek nonjudicial dispute resolution~~
 191 ~~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~~
 192 ~~disputes covered by the arbitration agreement.~~

193 **RENTAL WEATHERIZATION** Unless otherwise agreed Buyer shall be responsible for compliance with Rental Weatherization Standards
 194 (Wis. Adm. Code Comm. 67), if applicable.

195 PROPERTY ADDRESS: 901 Airport Road [page 4 of 4, WB-24]

196 **AUTHORIZATION FOR INSPECTIONS AND TESTS** Buyer is authorized to conduct the following inspections and tests (see lines 110-121).

197 INSPECTIONS: [See Addendum]

198

199 TESTS: [See Addendum]

200

201 **DELIVERY OF DOCUMENTS AND WRITTEN NOTICES** Unless otherwise stated in this Option, delivery of documents and written notices to a Party shall be effective only when accomplished by one of the methods specified at lines 203-212.

203 (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 206 or 208 (if any), for delivery to the Party's delivery address at lines 207 or 209.

206 Seller's recipient for delivery (optional): Greg Keil, Director, Community Development

207 Seller's delivery address: 140 Main St., Menasha, WI 54952

208 Buyer's recipient for delivery (optional): Todd Platt

209 Buyer's delivery address: Pfefferle Co., 200 E. Washington, Ste. 2A, Appleton, WI 54911

210 (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 206 or 208.

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

212 Buyer: (920) 730-4286 Seller: (920) 967-5272

213 **TIME IS OF THE ESSENCE** "Time is of the Essence" as to payment of option fees and extension fee and all other dates and deadlines in this Option except: _____ . If "Time is of the Essence"

215 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.

217 This Option (is)(is not) **STRIKE ONE** assignable. This Property (is)-(is not) **STRIKE ONE** homestead property.

218 **ADDITIONAL PROVISIONS** [See additional terms included on Addendum]

219 _____

220 _____

221 _____

222 _____

223 _____

224 _____

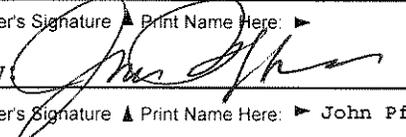
225 **ADDENDA** The attached Addendum is/are made part of this Option.

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

231 This Option was drafted on 04/10/2012 [date] by [Licensee and Firm] Atty. Richard J. Knight

232 (x) FP ONE, LLC

233 Buyer's Signature ▲ Print Name Here: ► _____ Social Security No. or FEIN (Optional) ▲ Date ▲

234 (x) By  _____ 4/10/12

235 Buyer's Signature ▲ Print Name Here: ► John Pfefferle, Manager Social Security No. or FEIN (Optional) ▲ Date ▲

236 SELLER GRANTS THIS OPTION. THE WARRANTIES, REPRESENTATIONS AND COVENANTS MADE IN THIS OPTION SURVIVE CLOSING AND THE CONVEYANCE OF THE PROPERTY. THE UNDERSIGNED HEREBY AGREES TO CONVEY THE ABOVE-MENTIONED PROPERTY ON THE TERMS AND CONDITIONS AS SET FORTH HEREIN AND ACKNOWLEDGES RECEIPT OF A COPY OF THIS OPTION.

240 (x) _____

241 Seller's Signature ▲ Print Name Here: ► _____ Social Security No. or FEIN (Optional) ▲ Date ▲

242 (x) _____

243 Seller's Signature ▲ Print Name Here: ► _____ Social Security No. or FEIN (Optional) ▲ Date ▲

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

245 THIS OPTION IS REJECTED _____ THIS OPTION IS COUNTERED [See attached counter] _____

246 Seller Initials ▲ Date ▲ Seller Initials ▲ Date ▲

247 **NOTICE OF EXERCISE OF OPTION** By signing below and delivering this notice (see lines 201-212) Buyer exercises the Option to Purchase.

248 (x) _____ (x) _____

249 Buyer's Signature ▲ Date ▲ Buyer's Signature ▲ Date ▲

**ADDENDUM TO OPTION TO PURCHASE
PROPERTY: 901 Airport Road, Menasha
BUYER: FP One, LLC**

A. The terms of the printed WB-24 Option to Purchase are modified and supplemented as follows:

1. Line 12. The Option may be exercised no later than midnight on the first year anniversary following the date on which the Seller certifies to the Buyer that (a) the former fire station and all other improvements on the Property and all building foundations have been removed; (b) all debris from the demolition of the improvements has been removed from the Property and properly disposed of; (c) engineered fill has been delivered and rough graded to properly fill holes left following demolition of the improvements; and (d) the Seller delivers to Buyer copies of a Phase I environmental audit report, as described below, indicating that no hazardous conditions exist on the Property, as also described below.

Notwithstanding the foregoing, the Seller shall have the option to terminate this Option to Purchase effective after six months, rather than one year, by delivering written notice of termination to Buyer no later than five months following Seller's above certification to Buyer. If the Seller exercises the option to terminate this Option to Purchase after six months, the Option Fee provided by Buyer shall be returned to Buyer along with the notice of early termination.

2. Environmental Audit. The environmental audit report referenced above, to be provided by the Seller are described as follows:

The Seller shall provide a written environmental assessment of the property from an independent environmental consultant approved by Buyer, indicating that: (1) the property is free from all toxic and hazardous substances and environmental contaminants, (2) the property complies with all federal, state and local environmental, health and safety laws and regulations, and (3) there are no material contingent liabilities affecting the property under said laws and regulations. The cost of obtaining the report shall be paid by Seller and Seller shall be responsible for obtaining it.

The Assessment shall evaluate the present and past uses of the Property, and the presence on, in or under the Land (and on land sufficiently proximate to any of the Property as to pose the risk to migration, or other adverse effect on any of the Property) of any Hazardous Materials. The Assessment shall reveal no Hazardous Material on or Hazardous Condition at any of the Property and no other environmental matters unacceptable to Buyer. In the event that (i) the results of the Assessment are inconclusive, or (ii) the results of the Assessment reveal material environmental matters unacceptable to Buyer, in its sole judgment, then, within 21 days of the Buyer's receipt of a copy of the Assessment, the Buyer may elect to terminate this Option and the Option Fee shall be returned to Buyer within five (5) business days of the Seller's receipt of Buyer's notice terminating the Option.

B. The following additional provisions shall apply to this transaction:

1. Rezoning. No later than the date of closing, the Property shall be rezoned to C-1 by the Seller at Seller's cost. If, despite its reasonable efforts, the Seller is unable to obtain the rezoning, the Buyer shall have no obligation to conclude this transaction, may elect to declare this Option to Purchase null and void and the Option Fee shall be promptly returned to Buyer.

2. Right to Advertise and Access the Property. The Seller agrees that the Buyer and a real estate broker with whom the Seller enters into a listing agreement may post signs on the Property advertising the Property for development including for sale or lease. The Buyer shall be permitted to post such signs and to have unrestricted access to the Property effective on the date of the Option to Purchase. In addition to the Buyer having access to the Property to advertise it and to show it to prospects for sale or lease, the Buyer may also conduct such inspections and geotechnical tests on the Property as Buyer chooses provided that the Buyer repairs all damage caused to the Property and returns it to the same condition as existed prior to the inspection or test.

3. Electronic Document Delivery. The parties agree that the delivery standards and definitions set forth in the above provisions of this Option to Purchase (the "Document") are supplemented to add delivery of documents or written notices relating to this Document by e-mail. E-mail delivery of documents and written notices is effective upon the electronic transmission of the document or notice to the e-mail address specified below for the party.

The parties' e-mail addresses are:

Seller: gkeil@ci.menasha.wi.us

Buyer: tplatt@pfefferle.biz

ADDENDUM TO OPTION TO PURCHASE
PROPERTY: 901 Airport Road, Menasha
BUYER: FP One, LLC

A. The terms of the printed WB-24 Option to Purchase are modified and supplemented as follows:

1. Line 12. The Option may be exercised no later than midnight on the first year anniversary following the date on which the Seller certifies to the Buyer that (a) the former fire station and all other improvements on the Property and all building foundations have been removed; (b) all debris from the demolition of the improvements has been removed from the Property and properly disposed of; (c) engineered fill has been delivered and rough graded to properly fill holes left following demolition of the improvements; and (d) the Seller delivers to Buyer copies of a Phase I environmental audit report, as described below, indicating that no hazardous conditions exist on the Property, as also described below.

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Notwithstanding the foregoing, the Seller shall have the option to terminate this Option to Purchase effective after six months, rather than one year, by delivering written notice of termination to Buyer no later than five months following Seller's above certification to Buyer. If the Seller exercises the option to terminate this Option to Purchase after six months, the Option Fee provided by Buyer shall be returned to Buyer along with the notice of early termination.

2. Environmental Audit. The environmental audit report referenced above, to be provided by the Seller are described as follows:

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The Seller shall provide a written environmental assessment of the property from an independent environmental consultant approved by Buyer, indicating that: (1) the property is free from all toxic and hazardous substances and environmental contaminants, (2) the property complies with all federal, state and local environmental, health and safety laws and regulations, and (3) there are no material contingent liabilities affecting the property under said laws and regulations. The cost of obtaining the report shall be paid by Seller and Seller shall be responsible for obtaining it.

The Assessment shall evaluate the present and past uses of the Property, and the presence on, in or under the Land (and on land sufficiently proximate to any of the Property as to pose the risk to migration, or other adverse effect on any of the Property) of any Hazardous Materials. The Assessment shall reveal no Hazardous Material on or Hazardous Condition at any of the Property and no other environmental matters unacceptable to Buyer. In the event that (i) the results of the Assessment are inconclusive, or (ii) the results of the Assessment reveal material environmental matters unacceptable to Buyer, in its sole judgment, then, within 21 days of the Buyer's receipt of a copy of the Assessment, the Buyer may elect to terminate this Option and the Option Fee shall be returned to Buyer within five (5) business days of the Seller's receipt of Buyer's notice terminating the Option.

Deleted: Seller agrees to proceed immediately with a Phase II assessment and to be responsible for all costs required to pursue the recommendations of the environmental consultant with regard to Phase II physical testing of the property and to remediate the Property so as to make it free of environmental "defects", as described above

B. The following additional provisions shall apply to this transaction:

1. Rezoning. No later than the date of closing, the Property shall be rezoned to C-1 by the Seller at Seller's cost. If, despite its reasonable efforts, the Seller is unable to obtain the rezoning, the Buyer shall have no obligation to conclude this transaction, may elect to declare this Option to Purchase null and void and the Option Fee shall be promptly returned to Buyer.

2. Right to Advertise and Access the Property. The Seller agrees that the Buyer and a real estate broker with whom the Seller enters into a listing agreement may post signs on the Property advertising the Property for development including for sale or lease. The Buyer shall be permitted to post such signs and to have unrestricted access to the Property effective on the date of the Option to Purchase. In addition to the Buyer having access to the Property to advertise it and to show it to prospects for sale or lease, the Buyer may also conduct such inspections and geotechnical tests on the Property as Buyer chooses provided that the Buyer repairs all damage caused to the Property and returns it to the same condition as existed prior to the inspection or test.

3. Electronic Document Delivery. The parties agree that the delivery standards and definitions set forth in the above provisions of this Option to Purchase (the "Document") are supplemented to add delivery of documents or written notices relating to this Document by e-mail. E-mail delivery of documents and written notices is effective upon the electronic transmission of the document or notice to the e-mail address specified below for the party.

The parties' e-mail addresses are:

Seller: gkeil@ci.menasha.wi.us

Buyer: tplatt@pfefferle.biz

Deleted: Seller shall execute an Indemnification Agreement at closing in which the Seller agrees to indemnify and hold the Buyer, its agents and assigns, harmless from all costs and expenses for which the Buyer may be obligated in order to completely eliminate all environmental defects. The indemnification shall extend to the cost of attorney's fees, disbursements and court costs and all other professional and consultants' expenses. ¶

¶ Notwithstanding the foregoing, if at any time, the environmental consultant estimates that the cost of testing and remediation of the Property is likely to exceed \$100,000, then the Seller may choose to terminate the Option to Purchase and declare the agreement null and void in which case all option fees shall be returned promptly to Buyer. ¶

Deleted: 2. Survey. Within twenty-one (21) days of the date of Buyer's exercise of the Option, Seller shall deliver to Buyer an updated survey of the Property (the "Survey"), dated as of a date on or after the date the Option is exercised, prepared by a surveyor duly registered in the State of Wisconsin, and certified by said surveyor as having been prepared in accordance with the minimum detail and classification requirements of the land survey standards of the American Land Title Association, and specifically incorporating all of the standards and protocols contemplated by the minimum standard detail requirements and classifications for ALTA/ASCM land title surveys and shall include an "ALTA Certification", acceptable to the title company, to permit the maximum possible removal of title exceptions resulting from a survey. The cost of the survey shall be paid by Seller. ¶

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