It is expected that a Quorum of the Personnel Committee, Board of Public Works, Plan Commission, Redevelopment Authority and Administration Committee 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
COMMON COUNCIL
Third Floor Council Chambers
140 Main Street, Menasha
Monday April 4, 2011
6:00 PM
AMENDED AGENDA

A. CALL TO ORDER

B. PLEDGE OF ALLEGIANCE

C. ROLL CALL/EXCUSED ABSENCES

D. PUBLIC HEARING

E. RESOLUTIONS
1. R-14-11 – Resolution congratulating Thomas Allen

F. PUBLIC COMMENTS ON ANY MATTER OF CONCERN TO THE CITY
(five (5) minute time limit for each person)

G. REPORT OF DEPARTMENT HEADS/STAFF/CONSULTANTS
1. Clerk Galeazzi - the following minutes and communications have been received and placed on file:

Minutes to receive:
a. Administration Committee, 3/21/11
b. Board of Public Works, 3/21/11
c. Library Board, 3/17/11
d. NM Sewerage Commission, 3/15/11
e. NM Fire Rescue Joint Finance & Personnel Committee; 3/22/11
f. Police Commission, 3/17/11

Communications:
g. Dept. of the Army Corps of Engineers, 3/14/11; Lake Winnebago fill up strategy
h. Union President Mike Janke to CA/HRD Captain; 3/24/11; NM Fire Rescue Contract
i. Update on State ex rel. American Bank v. City of Menasha, et al. & LaFayette Life Ins. Co., et al. v. City of Menasha, et al.
j. East Central WI Regional Planning Commission, 3/28/11; 2011 Navigation season operating dates/hours for the bridges on the Fox River System
k. The Ponds of Menasha, LLC and Cypress Homes LLC final development agreements

H. CONSENT AGENDA
(Prior to voting on the Consent Agenda, items on the Consent Agenda may be removed at the request of any Alderman and place immediately following action on the Consent Agenda. The procedures to follow for the Consent Agenda are: (a) removal of items from Consent Agenda; and (b) motion to approve the items from Consent Agenda.)

Minutes to approve:
1. Common Council, 3/21/11
2. Special Common Council, 3/24/11

Board of Public Works, 3/21/11; recommends approval of:
3. Street use Application, Moose Fest, Saturday, May 7, 2011 9:00AM-7:00PM, Sunday May 8, 2011, 9:00AM-5:00PM (Steve & Deanna Krueger)
4. Change Order, MOD #0022-00; Neenah-Menasha Fire Rescue Station 36; Miron Job #101520; ADD $300
5. Change Order, MOD #0023-00; Neenah-Menasha Fire Rescue Station 36; Miron Job #101520; ADD not to exceed $350

H. CONSENT AGENDA, continued

Board of Public Works, 3/21/11; recommends approval of:

6. Change Order, MOD #0024-00; Neenah-Menasha Fire Rescue Station 36; Miron Job #101520; ADD $600
7. Authorization to Execute WisDOT Bridge Operation Agreement for fiscal Year 2011

Neenah-Menasha Fire Rescue Joint Finance & Personnel Committee, 3/22/11 recommends approval of:

8. Contract for the State-Wide Structural Collapse team for a one year-term with the maximum amount of team members set at 10 which would require a maximum payment from the State of Wisconsin of $14,400 for training

I. ITEMS REMOVED FROM CONSENT AGENDA

J. ACTION ITEMS

1. Accounts payable and payroll for the term of 3/23/11 to 3/31/11 in the amount of $1,133,775.96
2. Approval of WPPI Sale/Leaseback transaction documents

K. ORDINANCES AND RESOLUTIONS

L. APPOINTMENTS

1. Mayor's Appointment to the Ad-Hoc Sustainability Board:
   a. Paul Van de Sand

M. HELD OVER BUSINESS

N. CLAIMS AGAINST THE CITY

O. PUBLIC COMMENTS ON ANY MATTER LISTED ON THE AGENDA
(five (5) minute time limit for each person)

P. ADJOURNMENT

MEETING NOTICE

Spring Election – April 5, 2011
Sine Die – April 19, 2011

New Council - April 19, 2011 - Council Chambers
Common Council – 6:00 p.m.
Administration Committee – 6:30 p.m.
Board of Public Works – 7:00 p.m.

RESOLUTION
R-14-11

Congratulating Thomas Allen

WHEREAS, Thomas Allen, a Senior at Menasha High School and a member of the Wrestling Team, has shown leadership, dedication, commitment, and the skills to wrestle; and,

WHEREAS, Thomas starting his wrestling career in the 7th grade; and,

WHEREAS, Thomas has been captain of the Menasha High School Wrestling Team for the last three years; and,

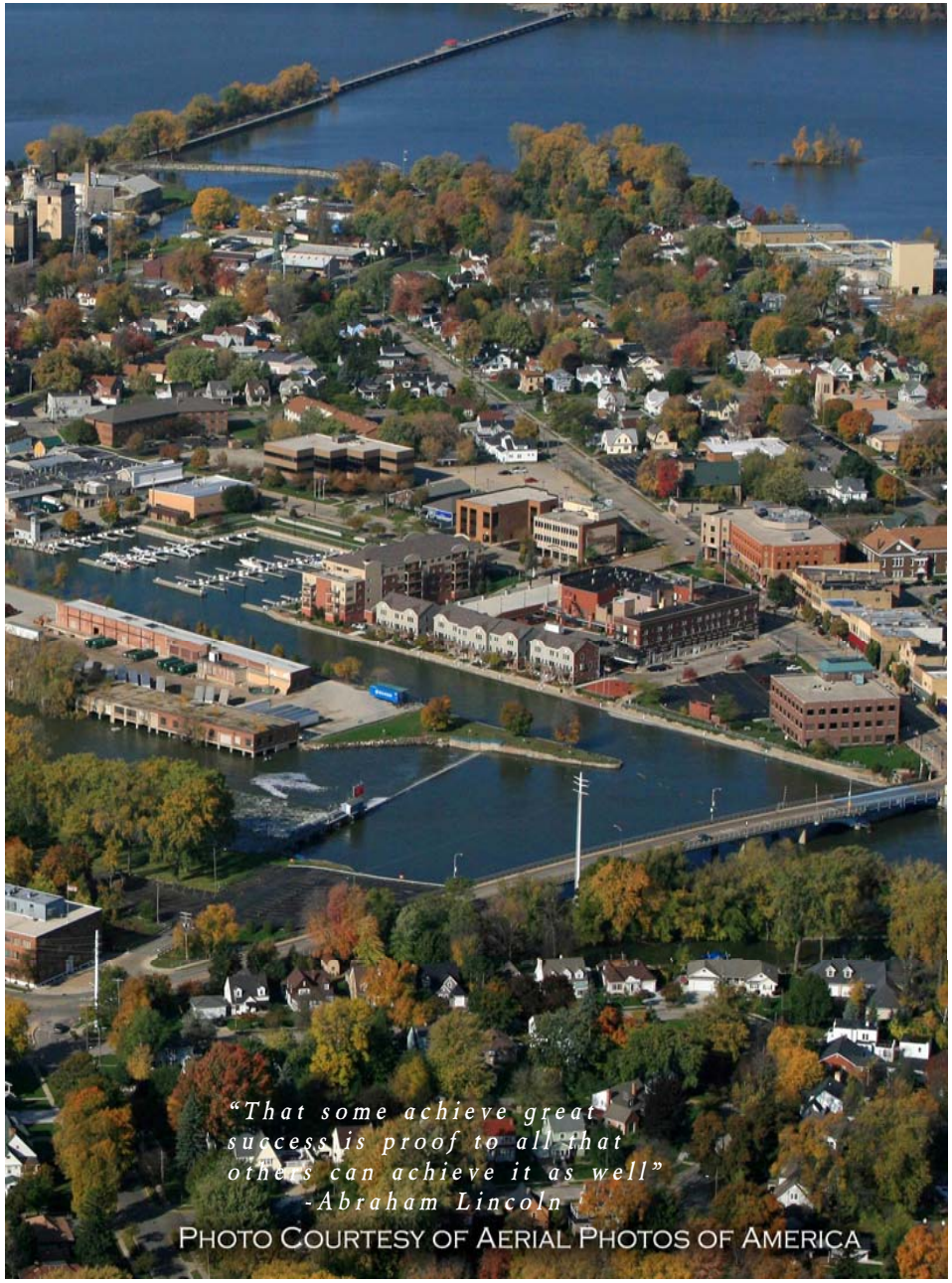
WHEREAS, Thomas finished the season with a 43-1 record in the 135 pound weight class; and,

WHEREAS, Thomas claimed a first place WIAA Division 1 State Wrestling Title; and,

WHEREAS, Thomas is the first wrestler from Menasha since1977 to become a State Wrestling Champion.

NOW, THEREFORE, BE IT RESOLVED, that I, Donald Merkes, Mayor, and the City of Menasha Common Council, do hereby congratulate and salute Thomas Allen on his achievements.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the City of Menasha, in the State of Wisconsin, this 4th day of April, 2011.



Menasha

Donald Merkes, Mayor

Deborah Galeazzi, Clerk

DRAFT

CITY OF MENASHA
ADMINISTRATION COMMITTEE
Third Floor Council Chambers
140 Main Street, Menasha
March 21, 2011
MINUTES

A. CALL TO ORDER
Meeting called to order by Chairman Wisneski at 7:20 p.m.

B. ROLL CALL/EXCUSED ABSENCES
PRESENT: Aldermen Langdon, Hendricks, Zelinski, Englebert, Benner, Roush, Taylor, Wisneski
ALSO PRESENT: Mayor Merkes, PC Stanke, FC Auxier, DPW Radtke, CDD Keil, C/T Stoffel, Clerk Galeazzi, and the Press

C. MINUTES TO APPROVE
1. Administration Committee, 3/7/11
Moved by Ald. Taylor, seconded by Ald. Benner to approve minutes.
Motion carried on voice vote.

D. ACTION ITEMS
None

E. ADJOURNMENT
Moved by Ald. Roush, seconded by Ald. Langdon to adjourn at 7:22 p.m.
Motion carried on voice vote.

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

DRAFT

CITY OF MENASHA
Board of Public Works
Third Floor Council Chambers
140 Main Street, Menasha
March 21, 2011
MINUTES

A. CALL TO ORDER
Meeting called to order by Chairman Taylor at 7:23 p.m.

B. ROLL CALL/EXCUSED ABSENCES
PRESENT: Aldermen Langdon, Hendricks, Zelinski, Englebert, Benner, Roush Taylor, Wisneski
ALSO PRESENT: Mayor Merkes, PC Stanke, FC Auxier DPW Radtke, CDD Keil, C/T Stoffel, Steve Krueger (Moose Fest), Doris Szymanski, Mike Prokash, Clerk Galeazzi and the Press.

C. MINUTES TO APPROVE
1. March 7, 2011

Moved by Ald. Hendricks, seconded by Ald. Wisneski to approve minutes.
Motion carried on voice vote.

D. ACTION ITEMS
1. Street Use Application – Moose Fest; Saturday, May 7, 2011, 9:00 AM – 7:00 PM; Sunday, May 8, 2011, 9:00 AM – 5:00 PM; (Steve & Deanna Krueger)

Steve Krueger explained Moose Fest will be a two-day family event in the downtown area. There will be no street closures, but he is asking to use the Broad Street and Water Street parking lots. There will be a carnival set up in part the Broad Street parking lot and helicopter rides in the Water Street parking lot. Through the downtown there will be food and craft vendors set up. He has met with staff to go over the Special Event Permit procedure. Mr. Krueger has talked to businesses downtown regarding this event.

Doris Szymanski, Club Liquor asked where people are going to park.

It was explained not all of the Broad Street parking lot will be used, the Marina ramp will be open and there will be on-street parking available.

Mike Prokash, The Blind Pig Saloon asked about consumption of alcohol during the event.

It was explained this is a family event, no alcohol will be served.

Moved by Ald. Wisneski, seconded by Ald. Roush to recommend approval to Common Council.
Motion carried on voice vote.

2. Change Order; MOD# 0022-00; Neenah-Menasha Fire Rescue Station 36; Miron Job #101520; Add: $300.00

FC Auxier explained the change order is to add additional electrical outlets in the sleeping area.

Moved by Ald. Hendricks, seconded by Ald. Wisneski to recommend approval to Common Council
Motion carried on voice vote/

DRAFT

3. Change Order; MOD# 0023-00; Neenah-Menasha Fire Rescue Station 36; Miron Job #101520; Add: $745.00

FC Auxier explained the change order is for extra countertop for a work space in the kitchen.

Discussion ensued on the inflated amount for the countertop.

Moved by Ald. Zelinski, seconded by Ald. Wisneski to recommend to Common Council the amount of the countertop not exceed $350.
Motion carried on voice vote. Ald. Englebert & Roush-nay.

4. Change Order; MOD# 0024-00; Neenah-Menasha Fire Rescue Station 36; Miron Job #101520; Add: $600.00

FC Auxier explained the change order is for the installation of an acoustical tack panel in the office area.

Moved by Ald Roush, seconded by Ald. Langdon to recommend approval to Common Council
Motion carried on voice vote.

5. Authorization to Execute WisDOT Bridge Operation Agreement for Fiscal Year 2011

DPW Radtke explained this is the annual bridge tenders' contract. The DOT reimburses the City 100% of wages for the bridge tenders. This is the same contract as previous years. The contract runs July 1, 2011 to June 30, 2012.

Moved by Ald. Hendricks, seconded by Ald. Roush to recommend approval to Common Council
Motion carried on voice vote.

E. ADJOURNMENT
Moved by Ald. Hendricks, seconded by Ald. Wisneski to adjourn at 7:50 p.m.
Motion carried on voice vote.

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

MINUTES OF REGULAR MEETING

ELISHA D. SMITH PUBLIC LIBRARY TRUSTEES

March 17, 2011

Call to order at 4:08 p.m. by Secretary Eisen
Present: Brunette, Crawmer, Eisen, Murray, Werley
Absent: Enos, Wicihowski, Wisneski
Also present: Interim Director Nelson, K. Seefeldt (Administrative Assistant), C. Brandt (Head of Circulation Services), J. Bongers (Head of Adult and Technical Services)

Welcome New Library Board Member
Trustees welcomed Mary Crawmer to the Board. She is a Spanish interpreter and translator for the Menasha Joint School District. Mayor Merkes appointed her to the Board to replace Liz Derouin.

Despite feeling ill, Mary Crawmer came to today's meeting to satisfy requirements for a quorum. Secretary Eisen offered to change the order of today's agenda items to address action items first in case she felt the need to leave early.

Motion
Motion to approve adjusting the order of today's agenda by Werley, seconded by Murray and carried unanimously.

20. Standing Committee Appointment. Mary Crawmer was appointed to serve on the Policies & Personnel Committee.

Motion
Motion to adjourn into closed executive session at 4:14 p.m. pursuant to WI Statute 19.85(1)(c) for the purpose of considering promotion, compensation or performance evaluation of employees by Werley, seconded by Murray. Motion approved on a roll call vote with Brunette, Crawmer, Eisen, Murray and Werley voting in favor. None opposed.

Brandt and Bongers left the meeting.

21. 2011 Step Promotions. Library Board members were asked to unfreeze staff promotions for library employees for 2011 to bring us in line with what the Common Council approved for other city non-rep employees. Employees recommended for step promotions were:
    Kathy Beson, Librarian III, Supervisor Step 9 to 10
    Joe Bongers, Librarian III, Supervisor Step 8 to 9
    Shannon Ely, Library Assistant I, Step 9 to 10
    Anne Keller, Library Assistant I, Step 2 to 3
    Marina Nelessen, Library Assistant II, Step 5 to 6
    Cassie Payne, Library II, Base step to 2
    Vanessa Taylir, Librarian III, Step 2 to 3
    Karen Drechsel was recommended for a performance recognition step, Library Assistant I, Step 10 to 11.

Motion
Motion to adjourn closed session at 4:30 p.m. and reconvene in open session by Werley, seconded by Murray. Motion approved on a roll call vote with Brunette, Crawmer, Eisen, Murray, and Werley voted in favor. None opposed.

Brandt and Bongers returned to the meeting.

Motion
Motion to rescind the 2010 decision to freeze library staff step promotions per the 2011 budget by Werley, seconded by Brunette, and carried unanimously.

Authorization of Bills
1. **Motion** to authorize payment of the December list of bills from the 2010 budget and the March list of bills from the 2011 budget by Murray, seconded by Brunette and carried unanimously.

Consent Business
The following Consent Business items were presented for the Board's consideration.
2. Accept minutes of the Ad Hoc Interim Director Selection Committee meeting of February 10, 2011
3. Accept minutes of the Executive Director Search Committee meeting of February 16, 2011
4. Approve minutes of the Library Board meeting of February 17, 2011
5. Accept minutes of the Executive Director Search Committee meeting of March 2, 2011

Motion
Motion to approve the minutes of the Library Board meeting of February 17, 2011 by Murray, seconded by Brunette and carried unanimously.

Motion
Motion to receive the minutes of the Ad Hoc Interim Director Selection Committee meeting of February 10, 2011, and the Executive Director Search Committee meetings of February 16 and March 2, 2011 by Brunette, seconded by Werley, and carried unanimously.

Director's Report/Information Items
6. Statistics. Interim Director Nelson addressed the Board's interpretation of our statistical reports. He presented a 3-year comparison of circulation, children's programs and attendance, door count, meeting room use, workstation sessions and exams proctored. This information was intended to provide a more complete overview of all the services we offer. The merits of increased children's programming were noted, as well as the positive impact of Menasha's strong history of services to children. Werley noted the significance of community outreach programs.
7. Winter Reading Program. 205 children from age 3 to grade 5 participated in this year's winter reading program compared to 288 in 2010. The number of consistent visits by participants increased over last year.
8. Read Off Your Fines. This event took place February 13-20, 2011. Six children read off fines in the amount of $37.00. Staff found that children and parents did not take advantage of this opportunity, even though it was well publicized.
9. Happy Birthday, Baby! This is our third year of providing this program for infants and their parents. Initially, the club had 49 members. This number increased to 84 participants in 2011.

10. Winnefox Library System Workshop for Trustees. Creative Fundraising for Trustees, Friends of the Library, and Other Volunteers is a workshop that is being offered by Winnefox Library System. It is scheduled to be held in Ripon on April 13. Werley and Eisen stated they would attend.
11. Friends Book Sale Receipts. Total receipts for the Friends Book Sale were $1803.70. Inclement weather affected weekend attendance.
12. Community Foundation end-of-Year Report for 2010. Year-end reports were distributed to the Board.
13. Endowment Donations. We received a $200 donation from the McClone Insurance Group and $25 donation from the Menasha Dock Association for meeting room use.
14. State Budget Report on Library Funding & Policy. Dir. Nelson summarized the impact of Governor Walker's proposed budget on libraries. Next month he plans to take an early look at the library's budget for 2012. Eisen noted the importance of building our endowment fund through alternative sources of funding.
15. WI Library Association Library Legislative Day. This annual event has been rescheduled to take place on March 22 at the Monona Terrace Convention Center in Madison.
16. Report of the Executive Director Search Committee. Items discussed and/or updated by the committee included the job description, job posting, achievement history questionnaire, rubric for evaluation, interview questions, scheduling of interviews, compensation for applicants traveling a considerably distance, as well as other relevant issues. The next meeting of this committee is scheduled to be held on April 6, 2011.
17. Report from Winnefox Library System Board Member Sue Werley. Sue Werley was recently appointed by our County Executive to the Winnefox Library System Board. She gave a brief overview of the composition of the Board and items discussed at their January meeting. Their next meeting is scheduled to be held in April 2011.

Discussion/Action Items

18. Annual Report. Secretary Eisen presented the 2010 annual report to the State for the Board's review. Werley noted that her retirement from the School District will be effective at the end of the school year. She is currently serving as the Superintendent of School's designee on our Board. We will contact him later in the spring to discuss his plans for replacing Werley on our Board.

Motion

Motion to accept the 2010 annual report to the State and to authorize the Board President and Interim Director to sign the document by Werley, seconded by Murray, and carried unanimously.

19. Library System Effectiveness. Each year, the Library Board is asked to determine if Winnefox Library System provided effective leadership and whether it adequately met the needs of our library.

Motion

Motion to discuss library system effectiveness by Werley, seconded by Brunette and carried unanimously.

Board members discussed ongoing concerns regarding the conflict of interest as a result of the dual role of Director of Oshkosh Public Library and Director of Winnefox Library System. Discussion ensued. Members felt it was imperative to again voice their concern to the state relative to the dual director position. Werley recommended that members of our Board also address the option of separating the dual director positions with other Library Boards in the Winnefox System in the coming year.

Motion
Motion to respond that Winnefox Library System did not provide effective leadership and did not adequately meet the needs of our library by Werley, seconded by Brunette. Discussion ensued.

Motion
Motion to table discussion on this item until the April 21, 2011 Board meeting by Murray, seconded by Brunette. Eisen, Brunette, Crawmer and Murray voted in favor. Werley voted nay. Motion passed.

Announcements
- We will review Library Board member appointments that are coming due.
- Wisconsin Statutes determine the number of trustees that a county may appoint to local Library Boards. Eisen requested that the Board discuss this topic at a future meeting.

Motion to adjourn the meeting at 5:47 p.m. by Brunette, seconded by Murray, and carried unanimously.

Future meeting dates
The next regular board meeting will be held in the Co. E Room on Thursday, April 21 at 4:00 p.m.

Respectfully submitted,
Paul Eisen, Secretary
Kris Seefeldt, Recording Secretary

NEENAH-MENASHA SEWERAGE COMMISSION

Special Meeting & Public Hearing

Tuesday March 15, 2011

Meeting was called to order by Commission President William Zelinski at 8:00 a.m.

Present: Commissioners Raymond Zielinski, Dale Youngquist, Gordon Falck, Kathy Bauer, William Helein, Tim Hamblin, William Zelinski; Manager Randall Much, Accountant Roger Voigt.

Also Present: Paul Much, Rob Franck (MCO); Mike Sambs (Waverly); Tom Kispert, Amy Vaclavik (McMAHON); Mark Stanek (WDNR); Steve Laabs (Town Menasha); Tod Galloway (Galloway Co); Tom Konetzke (Menasha); Mike King (Post Crescent) – sign in sheet attached.

Minutes of the Regular Meeting and Closed Session of February 22, 2011 were discussed. Motion made by Commissioner Raymond Zielinski, seconded by Commissioner Kathy Bauer to approve the minutes of the Regular Meeting and the minutes of the Closed Session from February 22, 2011. Motion carried unanimously.

Public Hearing to Discuss Wastewater Treatment Facilities Plan

Presentation: Tom Kispert (McMAHON) presented and discussed a PowerPoint presentation pertaining to the Neenah-Menasha Sewerage Commission Facilities Plan. Items discussed during the presentation included: background, projects since 1986, purpose, scope of plan, current customers, existing processes, current loadings (3-year), capacity needs, current performance, future design conditions, recommended plan, environmental impacts, and opinion of probable cost. Amy Vaclavik (McMAHON) discussed items in the PowerPoint presentation concerning: financing, clean water fund, cost impact, and options to reduce costs. Tom Kispert presented the current schedule of submitting the Facilities Plan to the DNR in January 2011 through the project closeout in November 2013.

Questions: An opportunity to ask additional questions was provided to those in attendance. Some items inquired about included: rates and the implementation of the rates – there will be a graduated upward change in the rates over a 2-3 year period beginning in 2012 or 2013.

Hearing no more questions, a motion was made by Commissioner Dale Youngquist, seconded by Commissioner Raymond Zielinski to adjourn the Public Hearing. Motion carried unanimously. Public Hearing adjourned at 8:46 a.m.

Motion made by Commissioner Raymond Zielinski, seconded by Commissioner Dale Youngquist to adjourn the meeting. Motion carried unanimously. Meeting adjourned at 8:47 a.m.

President

Secretary

Visitors

3-15-2011
Public Hearing

- Please sign in -

Name	Community
[illegible]	Nearly
Kathy Brown	Menasha
[illegible]	Wendy
Ken Nagel	[illegible]
[illegible]	Neenah
[illegible]	Menasha
Tim Hanson	[illegible]
Tom Kinast	McMahon
Amy Vaclavik	McMahon
Mark Stanek	WDR
Staya Lenker	Town of [illegible]
[illegible]	Menasha
[illegible]	Town of [illegible]
Todd Galloway	Galloway Company
Paul Much	NMSC
[illegible]	RC
Tom Konetzke	Menasha
Gordon Kolk	Town of Neenah

Draft

Neenah-Menasha Fire Rescue
Joint Finance & Personnel Committee Meeting
Tuesday, March 22, 2011 - 5:30 p.m.
Council Chambers – City of Neenah

Present: Ald. Wisneski, Stevenson, Hendricks and Zelinski.

Excused: Ald. Ramos and Ahles.

Also Present: Chief Auxier, Director Easker, Office Manager Theisen and Aldermanic Candidate Cari Lendrum.

Ald. Stevenson called the meeting to order at 5:30 p.m.

January 25, 2011 Meeting Minutes: The Committee reviewed the meeting minutes from January 25, 2011. **MSC Wisneski/Hendricks to approve the meeting minutes from January 25, 2011 and place on file, all voting aye.**

February 2011 Budget Report: The Committee reviewed the February 2011 budget report. The maintenance of radio account was reviewed. Chief Auxier did state we have had some issues with radios and have had to have them fixed. Clothing allowance was reviewed and it was noted that it is a contractual obligation to pay this out in January. **MSC Wisneski/Zelinski to accept February 2011 budget report and place on file, all voting aye.**

February 2011 Monthly Budget Report: This report was not available and will be emailed out to Committee members to review.

Special Operations Update: The Committee reviewed the Contract that was sent from the State of Wisconsin. City Attorney Godlewski has reviewed the contract for both municipalities and has approved it. The State is looking at the number of people we are willing to commit for this program. Addendum A, B & C were passed out and reviewed. It was noted that Exhibit C is for Milwaukee Fire Department and it is because they are self funded for work comp insurance and it has to be included in the contract. It is anticipated that 10 members from NMFR are willing to participate in the State team. It was noted that there is a clause in the contract that states if there were an event where members are needed, however, if we sent people and this would create a short fall in manning for our Department we do not have to send people to this event. Discussion was held on the reimbursement for personnel for calls and training. The Committee felt comfortable with this being a one-year contract and reviewing it to see how it goes. The Committee directed Chief Auxier to make the contract for one-year, fill in the maximum amount for Section 4.3 and the document should read throughout that it is with the Cities of Neenah and Menasha. Chief Auxier said he would make sure these changes were given to CA Godlewski.

MSC Hendrick/Zelinski recommends the City of Neenah and City of Menasha Common Councils approve the Contract for the State-Wide Structural Collapse team for a one year-term with the maximum amount of team members set at 10 which would require a maximum payment from the State of Wisconsin of $14,400 for training, all voting aye.

Dive Team Update: Chief Auxier said both City Councils did give permission to move forward with the dive team and asked that the County pay maintenance costs. He stated that Sheriff Mates doesn't have it in his current budget to be able to pay these costs. Chief Auxier said the next step for him is to approach the local County Board members to draft a resolution to support our dive team and asking that the County approve the maintenance costs. He also noted that donations have been received by the public and we have moved forward with writing the appropriate grants. The Committee asked Chief Auxier to move forward with contacting the County Board members to draft a resolution.

Radio Communication Update: The Committee reviewed the memo to Chief Auxier from Captain Voss updating him where Fox Comm is with the current radio situation. Discussion was held on the requirements the FCC has mandated and how decisions will be made within the near future by Winnebago County. It is not known at this time whether the County will fund this entire project or if each municipality will be required to pay for specific portions.

Wage Compression Issue: The Committee reviewed the memo from City Attorney Godlewski regarding the current wage compression issue for the Assistant Chief Prevention/Fire Marshal position. Chief Auxier said the City of Neenah Finance Committee did review a wage compression issue for the Neenah Police Department. While looking at this issue for the Police Department it was also reviewed for NMFR. It was noted that our Assistant Chief Prevention/Fire Marshal position makes less than the highest union position. Due to the wage freezes with the current budget there is no current way to move the salary of this position. Chief Auxier asked for the Committee to develop a gradual position increase over time.

Ald. Stevenson did note that discussion was held in the Neenah Finance Department to try to work through this issue. He also noted that due to the economic times for the past few years the non-represented employees have not received any raises. This is not an issue that has been resolved by the Neenah Finance Committee.

The Committee discussed the wage issue and the budget situation. It was noted that every year since consolidation NMFR has given back money back to both Cities. Ald. Wisenski said this is an issue and she supports putting together a compensation gradually over time and we have set past practice of doing this when the Deputy Chief position was making less than an Assistant Chief position in the Department.

The Committee reviewed wages from other Departments with the same positions as NMFR.

Director Easker stated he felt the Cities should go on record acknowledging the wage compression issues and both Council's should deal with it in a uniform way. Ald. Stevenson said that we have to have a definition of what compression is and deal with it in that manner. **MSC Wisneski/Hendricks recommend the City of Neenah Common Council and the City of Menasha Common Council move the position of Assistant Chief Prevention/Fire Marshal salary to midpoint, which is $66,369 of the current City of Neenah pay grade 13 which is an increase of $3,800 effective July 1, 2011 with Ald. Hendricks and Wisneski voting aye and Ald. Stevenson and Zelinski voting no. The motion failed on a roll call of 2-2.**

Other: The Committee thanked Ald. Wisneski for her years of service on the Committee and as an Aldermanic representative for the City of Menasha and wished her luck on her future endeavors.

MSC Zelinski/Hendricks to adjourn at 7:35 p.m., all voting aye.

Respectfully Submitted,

Al Auxier
Chief

AA/tt

City of Menasha

...a new horizon

MENASHA POLICE COMMISSION MEETING MINUTES
DRAFT

DATE: March 17, 2011

Commissioner Liebhauser called the regular bimonthly meeting to order at 5:00pm at the Menasha Safety Building, 430 First Street, Menasha, WI.

Present: Chief Stanke Jim Liebhauser, Ron Duuck, Tony Gutierrez, Terri Reuss, Marshall Spencer

Absent:

1. Meeting Minutes.
   - Ron Duuck moved to accept the January 20 2011 2010, minutes, Tony Gutierrez seconded the motion. The motion was unanimously supported.
2. Police Report – Chief Stanke
   - Dept member training certificates
     - Brett Halderson train the trainer Leica Geosystem Scan Station FVTC
     - Paul Scheppf FEMA training IS-200, IS-100, IS-241, IS 240, IS-19.11, IS-242, IS-20.11, IS-00906, IS-00548
     - Mike Brunn Succession Planning CVMIC
     - Aaron Zemlock, Nick Thorn and Pete Sawyer-Use of Volunteers CVMIC
     - Peter Sawyer,-National Terrorism Preparedness Institute LE Guide to Understanding Islamic Terrorism and Arabic Names
     - Matt Albrecht-Supervisor Resources and Tools CVMIC
3. CLOSED SESSION Wisconsin statutes sec 19.85 (1)(c)
   - Considering the employment, promotion, compensation or evaluating the performance of any employee under the commission's jurisdiction.
4. OPEN SESSION; The commission recommends continuation of the hiring process with candidates Christopher M. Spielbauer and Daniel J Hoernke.
5. Old Business: None
6. New Business- None
7. Next Meeting: 5:00pm May 19, 2011.
   - Adjourn, motion by Ron Duuck, seconded by Tony Gutierrez at 7:40 pm. The motion was unanimously supported.

Menasha alderpersons occasionally attend meetings of this body. It is possible that a quorum of Common Council, Board of Public Works, Administration Committee, Personnel Committee, may be attending; however no official Acton of any of these bodies will be taken.

Menasha is committed to its diverse population. Our non- English speaking population or those with disabilities are invited to contact the Chief of Police at 967-3500 at least 24-hours in advance to ensure special accommodations can be made.

Respectfully submitted,
Marshall Spencer
Commissioner, Secretary

DEPARTMENT OF THE ARMY
DETROIT DISTRICT, CORPS OF ENGINEERS
BOX 1027
DETROIT, MICHIGAN 48231-1027

March 14, 2011

Engineering & Technical Services Division
H&H Watershed Hydrology Branch

To Our Lake Winnebago Partners,

The purpose of this letter is to inform you of our upcoming interagency conference call regarding the Lake Winnebago fill-up strategy. During the conference call, the timing and extent of the 2011 fill-up on Lake Winnebago will be discussed. The agenda for the conference call is as follows:

- Introduction and Conference Call Guidelines
- Recap of Drawdown
- Basin Conditions
  - Lake Winnebago water levels
  - Snow pack
  - Ice cover
  - River flows
- Expected spring conditions
- Fill-up Strategy
- Wrap-up session

This conference call is open to the public. To join the conference call please dial (877) 322-9648 and enter 902875 when prompted for the pass code. After dialing in, please press #7 to mute your phone. You may press #7 again during the call when you wish to speak. The conference call is scheduled for April 7, 2011 at 10:00 AM (C.D.T.).

If you have any questions please feel free to call Mr. John Allis at (313) 226-2137.

Sincerely,

Michael K. O'Bryan

Michael K. O'Bryan, P.E.
Chief, Engineering & Technical
Services Division

Neenah - Menasha Professional Fire Fighters, Inc.

International Association Of Fire Fighters Local 275

Local 275

Mike Janke, President
Nate Monfort, Vice-President
Jamie Leonard, Secretary
George Van Schyndel, Treasurer

March 24, 2011

Pam Captain
City Attorney
City of Menasha
140 Main St.
Menasha, WI 54952

Dear Pam,

Neenah-Menasha IAFF Local 275 would like to open discussions pertaining to our contract that expires on December 31, 2011.

Sincerely,

Mike Janke

Mike Janke
President – Local 275

125 East Columbian Avenue, Neenah, Wisconsin 54956 ~ Telephone: (920) 886-6200 Fax: (920) 886-6208

RECEIVED MAR 30 2011

MEMORANDUM

TO: Common Council

FROM: Pamela A. Captain

SUBJECT: Update State ex rel. American Bank v. City of Menasha, et al. & Lafayette Life Ins. Co., et al. v. City of Menasha, et al.

DATE: March 31, 2011

State ex rel. American Bank v. City of Menasha, et al., Case No. 10-CV-0077 BR4

Plaintiff, American Bank, has notified the Winnebago County Circuit Court that the parties have executed a Settlement Agreement in the federal lawsuit which is anticipated to resolve this case. This case is stayed pending the outcome in the federal case.

Lafayette Life Ins. Co., et al. v. City of Menasha, et al., No. 4:09CV0064 (U.S. Dist.Ct.N.D. Ind.)

On March 28 the parties signed the Settlement Agreement after completion of the drafting of all of the Exhibits. A copy is attached for your reference.

Also attached is a spreadsheet setting forth the City's notice obligations under the Settlement Agreement.

Within the next 30 days it is anticipated that Plaintiffs will motion to the Court for a preliminary approval order. This will set in motion certain legal procedural steps towards final approval of the Settlement Agreement.

The following must be notified by:	SETTLEMENT AGREEMENT	
Name of Company	**Date/Circumstances to notify**	**Date completed**
Class Counsel	April 6, 2011 if WPPI transaction does not close by April 6	
Class Counsel	April 6, 2011 if Escrow amount not the same	
Class Counsel	Immediately copy of any WPPI Transaction Escrow Agreement **and** if amended or modified	
Class Counsel	Notify when WPPI Transaction contingencies have been satified/waived	
WPPI	Notify of entry of the Order and Final Judgment	
WPPI/Transaction Escrow Agent	Upon the Order and Final Judgment becoming Final	
WPPI/Transaction Escrow Agent	Notify to Transfer $17,450,000 to Settlement Escrow Agent	
State/Federal government officials	Within 10 days of plaintiff filing motion for preliminary approval order provide notice of the Settlement as required by 28 U.S.C. § 1715.	
Indiana Federal District Court	Upon expiration of 90 days after the later of the dates on which the appropriate federal and state officials are served with notice required under 28 U.S.C. § 1715 (b).	
Class Counsel/Settlement Escrow Agent	Identities and addresses of each purchaser, or current record holder, owner or beneficial owner, of the 2005 & 2006 BANs	
Settlement Escrow Agent	Within 60 days of execution of Settlement Agreement deposit $50,000 into Settlement Fund	
Class Counsel	If conditions precedent are not satisfied & Menasha exercises option to terminate	
Class Counsel	If Holder Opt-out Amount or Purchaser Opt-out amount, either separately or in combination, = 5% or > of the BANs Outstanding Prinicpal Balance & Menasha exercises option to terminate	

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION (LAFAYETTE)

THE LAFAYETTE LIFE INSURANCE COMPANY, MERCY RIDGE, INC., AMERICAN BANK, and all others similarly situated, Plaintiffs, - against - CITY OF MENASHA, WISCONSIN, a municipal corporation, MENASHA UTILITIES, MENASHA STEAM UTILITY, and RBC CAPITAL MARKETS CORP. f/k/a RBC DAIN RAUSCHER, INC., Defendants.	Cause No. 4:09-CV-64-TLS-APR

SETTLEMENT AGREEMENT

This Settlement Agreement, dated as of March 28, 2011 ("Agreement"), is made and entered into by and among the parties to the above-captioned action: (i) Plaintiffs, The Lafayette Life Insurance Company, Mercy Ridge, Inc., and American Bank ("Plaintiffs"), on their own behalf and on behalf of each member of the Settlement Class, as defined herein, by and through their counsel of record; and (ii) Defendants, City of Menasha, Wisconsin, a municipal corporation ("Menasha"), sued herein as City of Menasha, Menasha Utilities, and Menasha Steam Utility, and RBC Capital Markets, LLC (f/k/a RBC Capital Markets Corp.) ("RBC") (Menasha and RBC referred to collectively as "Defendants"), by and through their counsel of record (Plaintiffs and Defendants referred to collectively as the "Parties"). This Agreement is intended by the Parties to fully, finally and forever resolve, discharge, and settle the Released Claims, as defined herein, subject to the terms and conditions set forth herein. Capitalized terms

not otherwise defined shall have the meaning ascribed in the Definitions section of this Agreement.

I. THE LITIGATION

Plaintiffs filed this action in the United States District Court for the Northern District of Indiana (the "Court") on September 18, 2009, as a putative class action on behalf of themselves and all similarly situated persons or entities who purchased or hold certain bond anticipation notes ("BANs," as further defined herein) issued by Menasha in 2005 and 2006.

Plaintiffs allege that Defendants sold or participated in the sale of the BANs in violation of federal and state securities laws, and statutory and common law duties described in the First Amended Complaint, and that Menasha defaulted on the payment of principal and interest due on the BANs at their maturity on September 1, 2009, as well as breached covenants associated with the BANs. On June 7, 2010, Plaintiffs filed a First Amended Complaint. Defendants thereafter moved to dismiss the First Amended Complaint, and their motions are pending.

II. PLAINTIFFS' CLAIMS AND THE BENEFITS OF SETTLEMENT

Plaintiffs believe that the claims asserted in the First Amended Complaint have merit. Plaintiffs recognize and acknowledge, however, the expense and length of continued proceedings to prosecute the Action through trial and appeal. Plaintiffs have made a thorough investigation of the facts and believe that the settlement set forth in this Agreement would confer substantial benefits upon and is in the best interests of Plaintiffs and the Settlement Class.

III. DEFENDANTS DENY ANY LIABILITY

Defendants deny each of the claims and contentions alleged by Plaintiffs in the Action. Defendants expressly have denied and continue to deny that they committed any violation of law or engaged in any of the wrongful acts alleged in the First Amended Complaint. Defendants are

prepared to enter into this Agreement solely because the proposed settlement will eliminate the burden, expense, and uncertainty of further litigation. Defendants have, therefore, determined that it is desirable and beneficial to them that the Action be settled in the manner and upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the covenants, agreements and releases set forth herein, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree to settle the Action on the following terms and conditions.

IV. TERMS AND CONDITIONS

A. Definitions

The following terms, as used in this Agreement, have the following meanings:

1. "Action" means the above-captioned action, filed on September 18, 2009 in United States District Court for the Northern District of Indiana.

2. "Approved Disbursements" means the total amount of funds approved by the Court for disbursement from the Settlement Fund, for payment of the costs and expenses of the Settlement, including the costs of notice, expenses of administration of the Settlement Fund, the costs, fees, and expenses of the Settlement Escrow Agent or any claims administrator appointed by Class Counsel and approved by the Court, and the fees and disbursements awarded to Class Counsel.

3. "BAN" means bond anticipation note, but as used in this Agreement "BANs" refers collectively to the following: "2005 BANs" means the Taxable Steam Utility Revenue Bond Anticipation Notes, CUSIP #586499AA3, issued by Defendant City of Menasha, Wisconsin on or about February 1, 2005, with a stated maturity date of September 1, 2009; and

"2006 BANs" means the Taxable Steam Utility Revenue Bond Anticipation Notes, CUSIP #586499AB1, issued by Defendant City of Menasha, Wisconsin on or about December 1, 2006, with a stated maturity date of September 1, 2009. The BANs are the subject of the claims asserted in the Action.

4. "BANs' Outstanding Principal Balance" means the combined, outstanding and unpaid principal balance of the 2005 BANs and 2006 BANs, in the amount of $22,777,165.99, comprised of an outstanding and unpaid principal balance of $11,935,385.82 under the 2005 BANs and an outstanding and unpaid principal balance of $10,841,780.17 under the 2006 BANs.

5. "Claims Process" means the process formulated by Class Counsel in conjunction with the Settlement Escrow Agent and any claims administrator selected by Class Counsel, and approved by the Court, whereby Class Members shall be required to and may submit claims seeking a distribution from the Settlement Fund pursuant to any formula approved by the Court.

6. "Class" or "Settlement Class" means all persons or entities who purchased or held 2005 BANs or 2006 BANs during the Class Period, but excluding (i) persons or entities who have timely excluded themselves from the Class in accordance with the procedures described in this Agreement and the exhibits thereto; and (ii) Defendants and their respective parents, subsidiaries, and affiliates.

7. "Class Counsel" means the law firm of Ice Miller LLP, One American Square, Suite 2900, Indianapolis, Indiana, 46282.

8. "Class Member" or "Settlement Class Member" means each member of the Settlement Class who does not timely elect to be excluded from the Settlement Class.

9. "Class Member Holder Opt-out" means a potential Class Member who, as of the Exclusion Date, holds, owns or beneficially owns a 2005 BAN or 2006 BAN, and elects, in

accordance with the procedures described in this Agreement and the exhibits annexed hereto, to exclude him, her or itself from the Settlement.

10. "Class Member Purchaser Opt-out" means a potential Class Member who purchased during the Class Period, but as of the Exclusion Date does not hold, own or beneficially own, a 2005 BAN or 2006 BAN, and elects, in accordance with the procedures described in this Agreement and the exhibits annexed hereto, to exclude him, her or itself from the Settlement.

11. "Class Period" means the period from and including calendar year 2005 through the Effective Date.

12. "Class Representatives" means Plaintiffs The Lafayette Life Insurance Company, Mercy Ridge, Inc., and American Bank.

13. "Defendants" means City of Menasha, Wisconsin, a municipal corporation, sued herein as City of Menasha, Menasha Utilities, Menasha Steam Utility, and RBC Capital Markets, LLC (f/k/a RBC Capital Markets Corp.), referred to collectively.

14. "Effective Date" or "Effective" when used in connection with this Agreement means the first day on which all of the following are true: (a) the Court has entered the Order and Final Judgment approving this Agreement under Rule 23(e) of the Federal Rules of Civil Procedure and dismissing, as of the Effective Date, the Action against Defendants, on the merits with prejudice as to all Settlement Class Members and without costs, and the Order and Final Judgment has become Final; and (b) the Settlement Amount has been deposited with the Settlement Escrow Agent, irrevocably and without further condition or possibility of payment to any person or entity other than Class Members or Class Counsel (or for the payment of

Approved Disbursements), in furtherance of the Order and Final Judgment and in consummation of the Settlement.

15. "Exclusion Date" means the last date by which a Class Member may elect to exclude him, her or itself from the Settlement in accordance with the procedures described in this Agreement and the exhibits thereto.

16. "Exclusion Request" means the written request that any Class Member seeking to exclude him, her or itself from the Settlement must complete, certify and timely submit in accordance with the procedures described in this Agreement and the exhibits annexed hereto.

17. "Execution Date" means the last date on which this Agreement is signed by the Parties, which is the date first written above.

18. "Final" when used in connection with the Settlement or the Order and Final Judgment means the date on which the time for appeal or to seek permission to appeal from the Order and Final Judgment has expired, or the Order and Final Judgment has been affirmed in its entirety by the Court of last resort to which such appeal has been taken and such affirmance has become no longer subject to further appeal or review.

19. "Order and Final Judgment" means that order and final judgment to be entered by the Court in the Action, substantially in the form of Exhibit D hereto, which finally approves this Agreement and the Settlement under Rule 23(e) of the Federal Rules of Civil Procedure, and which, as of the Effective Date, dismisses the Action against Defendants, on the merits with prejudice as to all Class Members and without costs. The Order and Final Judgment shall provide that it shall not become final and binding until the Effective Date.

20. "Released Claims" means and includes any and all claims, causes of action, demands, rights or liabilities, complaints, agreements, promises (express or implied), contracts,

undertakings, covenants, guarantees, grievances, damages, obligations, expenses, debts and demands whatsoever, whether present or future, of whatever kind or nature, whether sounding in law or in equity, from the beginning of time until the end of time, including both known and Unknown Claims, as defined herein, and including but not limited to, claims of fraud, negligence, negligent misrepresentation, gross negligence, professional negligence, breach of duty of care, breach of loyalty, breach of fiduciary duty, mismanagement, corporate waste, breach of contract, or violations of any federal or state statute, rule, or regulation, that have been or could have been asserted in the Action or in any other forum by or on behalf of the Settlement Class, or any Member of the Settlement Class, based on, arising out of, related to, or in any way connected with the 2005 BANs, 2006 BANs, or the facts, allegations, events, occurrences, transactions, or subject matter referred to or described in the First Amended Complaint or the Action.

21. "Releasees" means and refers individually and collectively to: Defendants, and WPPI, and/or their current and former, direct and indirect subsidiaries (wholly-owned or not), parents, successors, affiliates, assignees, personal representatives, business units or groups, and assigns, and any and all of each of their current and/or former employees, agents, attorneys, officers and directors, shareholders or members, or in the case of Menasha, any duly elected or appointed public officials, including but not limited to the Mayor of Menasha and each and every member of the Menasha Common Council.

22. "Releasors" shall refer jointly and severally and individually and collectively to each Member of the Settlement Class, and their respective past and present parents, attorneys, subsidiaries, affiliates, agents, heirs, executors, administrators, guardians, successors and assigns; and Class Counsel.

23. "Settlement" means the settlement of the Action described in this Agreement and subject to the terms and conditions set forth herein.

24. "Settlement Amount" means the sum of $17,500,000.

25. "Settlement Escrow Agent" means The Bank of New York Mellon Trust Company, N.A., or such other entity selected by Plaintiffs, which has been or will be retained by Plaintiffs to carry out the duties of the Settlement Escrow Agent specified in this Agreement, including but not limited to administration of the Settlement Fund.

26. "Settlement Fund" means the interest-bearing account established by order of the Court and maintained under the Court's jurisdiction as a Qualified Settlement Fund within the meaning of Treasury Regulation 1.46813-1, as amended, for the purpose of investing, conserving and protecting the Settlement Amount, and any interest earned thereon, prior to distribution, and distribution as directed by the Court.

27. "Unknown Claims" means and includes any and all Released Claims which Plaintiffs or any member of the Settlement Class does not know or suspect exists in his, her or its favor at the time of their release of the Releasees, which if known by him, her, or it might have affected his, her or its decision(s) with respect to the Settlement. With respect to any and all such Unknown Claims, the Parties agree that, upon the Effective Date, each Member of the Settlement Class shall have, by operation of this Agreement, and the Order and Final Judgment of the Court approving this settlement, expressly waived any and all provisions, rights and benefits conferred by any law of the United States, or of any state or territory of the United States, or principle of common law, which is equivalent, comparable, or similar in any way to Cal. Civ. Code § 1542, which provides:

> A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

The Parties acknowledge, and Members of the Settlement Class are deemed to acknowledge, that inclusion of Unknown Claims within the definition and scope of Released Claims has been a separately bargained for and key element of the Settlement.

28. "WPPI" means WPPI Energy, a Wisconsin municipal electric company.

29. "WPPI Agreement" means that certain Asset Purchase Agreement by and among City of Menasha, Wisconsin, Menasha Utilities Commission, and WPPI Energy, dated as of December 8, 2009.

30. "WPPI Transaction" means that combined asset sale and leaseback transaction, respecting certain utility assets now owned by Menasha, which is the subject of the WPPI Agreement and which Menasha and WPPI intend to close no later than April 6, 2011.

31. "WPPI Transaction Contingencies" means those conditions and contingencies set forth in the WPPI Agreement or the WPPI Transaction Escrow Agreement, to which transfer of the Settlement Amount, inclusive of the WPPI Transaction Net Proceeds, to the Settlement Escrow Agent is or may be subject, unless waived by WPPI, including but not limited to various actions by governmental regulatory bodies over which neither WPPI nor Menasha has control, WPPI's right to terminate the WPPI Transaction Escrow Agreement pursuant to its terms, as well as the condition precedent that the Settlement and Order and Final Judgment be approved by the Court and become Final.

32. "WPPI Transaction Escrow Agreement" and "WPPI Transaction Escrow Agent" mean, respectively, (i) that escrow agreement to be entered into between WPPI, Menasha and JPMorgan Chase Bank, National Association, as escrow agent, in connection with the WPPI

Transaction, and (ii) the escrow agent duly appointed to act pursuant to the WPPI Agreement and the WPPI Transaction Escrow Agreement, and to whom the Settlement Amount, inclusive of the WPPI Transaction Net Proceeds, shall be deposited upon closing of the WPPI Transaction, and who is or shall be authorized to transfer the Settlement Amount, inclusive of the WPPI Transaction Net Proceeds, to the Settlement Escrow Agent for deposit into the Settlement Fund when the Order and Final Judgment becomes Final.

33. "WPPI Transaction Net Proceeds" means the sum of not less than $17,300,000 to be deposited by WPPI with the WPPI Transaction Escrow Agent, upon the closing of the WPPI Transaction and for the purpose of applying such sum to payment of the Settlement Amount.

B. <u>Certification of the Settlement Class</u>

34. The Parties agree, only for purposes of the Settlement and for no other purpose, that the requirements of Federal Rules of Civil Procedure 23(a) and 23(b)(3) are satisfied and, subject to the Court's approval, that the following Class may be certified for settlement purposes only:

> All persons or entities who purchased or held a 2005 BAN or 2006 BAN during the Class Period, but excluding (i) persons or entities who have timely excluded themselves from the Class in accordance with the procedures described in this Agreement and the exhibits thereto, and (ii) Defendants and their respective parents, subsidiaries, and affiliates.

In the event the Settlement, for whatever reason, does not obtain final approval from the Court, is terminated, or otherwise does not become Final and Effective pursuant to the terms and conditions of this Agreement, then any Settlement Class that has been certified by the Court shall be deemed decertified, and Defendants shall have the right to oppose certification of a class in any subsequent legal proceedings.

C. Express Conditions Precedent to the Settlement

35. The Settlement, and any obligation of Menasha to pay the Settlement Amount, are expressly contingent and conditioned upon (i) closing of the WPPI Transaction, (ii) satisfaction (or waiver by WPPI) of the WPPI Transaction Contingencies, as determined by WPPI in its sole discretion under the terms of the WPPI Agreement and the WPPI Transaction Escrow Agreement, (iii) WPPI's transfer of the WPPI Transaction Net Proceeds, in the sum of not less than $17,300,000, to the WPPI Transaction Escrow Agent, (iv) the Order and Final Judgment being entered and becoming Final, and (v) the WPPI Transaction Escrow Agent's transfer of the Settlement Amount (less any sum advanced pursuant to paragraph 42), inclusive of the WPPI Transaction Net Proceeds, free and clear of any liens, security interests or other superior right, title or interest, to the Settlement Escrow Agent for deposit into the Settlement Fund and payment of the Settlement Amount. Menasha and WPPI intend to close the WPPI Transaction by April 6, 2011; however, no assurance, representation or warranty can be or is being given that the WPPI Transaction will close by April 6, 2011, or at any time, or that the WPPI Transaction Contingencies will be satisfied (or waived by WPPI). Notwithstanding the foregoing, Menasha shall immediately notify Class Counsel (i) if the WPPI Transaction does not close by April 6, 2011, (ii) if the WPPI Transaction closes but the WPPI Net Proceeds transferred to the WPPI Transaction Escrow Agent are less than $17,300,000, and (iii) upon Menasha's being notified by WPPI that all WPPI Transaction Contingencies (other than the Order Condition and Appeal Condition as defined in the WPPI Escrow Agreement) have been satisfied (or waived by WPPI), and in connection therewith shall provide Class Counsel with a copy of such notice from WPPI. Plaintiffs, on their own behalf and on behalf of each Member of the Settlement Class, expressly acknowledge that the foregoing conditions set forth in (i) to (v) are express conditions precedent

to this Agreement becoming Effective, the Settlement, and any obligation of Menasha to pay the Settlement Amount.

36. The Settlement, and any obligation of the Releasors to give and the effectiveness of the Release, are expressly contingent and conditioned upon (i) closing of the WPPI Transaction no later than May 6, 2011, or such other extended date as may be agreed upon by the Parties, (ii) the sum of not less than $17,450,000 being deposited with the WPPI Transaction Escrow Agent in connection with the closing of the WPPI Transaction, (iii) Menasha providing notice to Class Counsel, as required in paragraph 35, of its receipt of notification from WPPI that the WPPI Transaction Contingencies (other than the Order Condition and Appeal Condition as defined in the WPPI Escrow Agreement) have been satisfied (or waived by WPPI), within 60 days of the Execution Date, or such other extended date as may be agreed upon by the Parties, and (iv) the WPPI Transaction Escrow Agent's irrevocable transfer of the full Settlement Amount (less the sum advanced by Menasha pursuant to paragraph 42) to the Settlement Escrow Agent for deposit into the Settlement Fund. For the foregoing purposes, Menasha anticipates that the WPPI Transaction Contingencies (other than the Order Condition and Appeal Condition as defined in the WPPI Escrow Agreement) will be satisfied (or waived by WPPI) within approximately 60 days of the Execution Date; however, no assurance, representation or warranty can be or is being given that the WPPI Transaction Contingencies will be satisfied (or waived by WPPI) within such time. Also for the foregoing purposes, Plaintiffs acknowledge that they have been provided a copy of, and Class Counsel has reviewed, the WPPI Transaction Agreement and a draft of the WPPI Transaction Escrow Agreement (and as to the latter Plaintiffs have also been provided a copy of, and Class Counsel has reviewed, relevant sections of a draft Closing Agreement between WPPI and Menasha that define the conditions to release of the Settlement

Amount by the WPPI Transaction Escrow Agent set forth in the WPPI Transaction Escrow Agreement, WPPI's rights to terminate the WPPI Transaction Escrow Agreement, and applicable deadlines with respect to both), and that such agreements set forth the WPPI Transaction Contingencies. Menasha shall provide Class Counsel with an executed copy of the WPPI Transaction Escrow Agreement (and a final version of the sections of the Closing Agreement referenced above) upon execution, and in the event WPPI and Menasha amend or modify the WPPI Transaction Escrow Agreement, Menasha shall promptly provide Class Counsel with a copy of same; provided, however, that nothing herein shall be deemed a waiver of Plaintiffs' right to assert that any material changes to the terms of the WPPI Escrow Agreement reflected in such executed, amended or modified versions thereof constitute a breach of one or more terms of this Agreement.

D. <u>The Settlement</u>

37. Subject to the WPPI Transaction closing, and the WPPI Transaction Net Proceeds being transferred to the WPPI Transaction Escrow Agent in the sum of at least $17,300,000, Menasha shall, at the closing of the WPPI Transaction, ensure that sufficient additional funds are deposited with the WPPI Transaction Escrow Agent so that the sum of such additional funds and the WPPI Transaction Net Proceeds total at least $17,450,000, representing the Settlement Amount of $17,500,000 less $50,000 to be advanced by Menasha pursuant to paragraph 42 for the payment of interim expenses of administration of the Settlement. Upon Menasha receiving notice from WPPI that the WPPI Transaction Contingencies (other than the Order Condition and Appeal Condition as defined in the WPPI Escrow Agreement) have been satisfied (or waived by WPPI), and subject to any other conditions set forth in paragraph 35, and Class Members' rights under paragraph 52, Menasha shall notify Class Counsel, and the Parties shall thereupon proceed

to seek entry of the Order and Final Judgment. Upon entry of the Order and Final Judgment, Menasha shall provide written notification of same to WPPI. Upon the Order and Final Judgment becoming Final, Menasha shall, pursuant to the terms of the WPPI Transaction Escrow Agreement, provide written notification to WPPI and the WPPI Transaction Escrow Agent that the Order and Final Judgment has become Final, and direct the WPPI Transaction Escrow Agent, in accordance with the terms of the WPPI Transaction Escrow Agreement, to transfer the $17,450,000 to the Settlement Escrow Agent for deposit into the Settlement Fund. The Settlement Escrow Agent shall thereupon administer the Settlement Fund for the sole purpose of paying the Settlement Amount, less any Approved Disbursements, to the Settlement Class pursuant to the terms and conditions herein, the Order and Final Judgment, and any further direction of the Court. In the event WPPI does not, in accordance with the terms of the WPPI Transaction Escrow Agreement, provide written confirmation to the WPPI Transaction Escrow Agent that all WPPI Transaction Contingencies have been satisfied, thereby authorizing the WPPI Transaction Escrow Agent to transfer the Settlement Amount to the Settlement Escrow Agent, Menasha shall make demand upon WPPI to comply with its obligation to authorize such transfer. For the foregoing purposes, Plaintiffs, on their own behalf and on behalf of the Settlement Class, expressly acknowledge that the Settlement Amount shall not be deposited into the Settlement Fund, and full payment of the Settlement Amount (less the sum referred to in paragraph 42) shall not be made until after the Order and Final Judgment has been entered in the Action and becomes Final.

E. Notice and Court Approval

38. Within a reasonable period of time, but not more than thirty (30) days after the execution of this Agreement, Class Counsel shall apply to the Court by motion for an order,

substantially in the form of Exhibit A hereto ("Preliminary Approval Order"), that (i) certifies the Settlement Class, approves the appointment of Ice Miller LLP as Class Counsel, and preliminarily approves the Settlement as set forth in this Agreement, (ii) approves the retention of the Settlement Escrow Agent, (iii) approves the mailing of notice of the terms and conditions of the Settlement to Settlement Class Members, substantially in the form of Exhibit B hereto ("Class Notice"), and publication of summary notice, substantially in the form of Exhibit C hereto ("Publication Notice"), (iv) sets forth dates by which the Class Notice and Publication Notice shall be mailed and published, respectively, as well as dates by which Settlement Class Members must either file any objections to, or exercise any right to exclude themselves (opt-out) from the Settlement; provided, however, that Plaintiffs shall not be required to mail the Class Notice or publish the Publication Notice prior to the time Menasha notifies Class Counsel, as required in paragraph 35, of Menasha's receipt of notification from WPPI that the WPPI Transaction Contingencies (other than the Order Condition and Appeal Condition as defined in the WPPI Escrow Agreement) have been satisfied (or waived), and (v) schedule a final fairness hearing for purposes of approving the Settlement and entering an Order and Final Judgment, substantially in the form of Exhibit D herein. Publication Notice shall be published twice in The Bond Buyer with an interval of two weeks between each publication. Defendants shall support the motion, and shall cooperate with Class Counsel in seeking Court approval of, and in implementing the Settlement. Subject to the Parties' rights under paragraph 55, the Parties waive any appeal from the Order and Final Judgment.

39. Within ten (10) days of the filing of the motion referenced above, Menasha shall provide notice of the Settlement, the motion and other court papers to federal and state government officials as required by 28 U.S.C. § 1715. The notice to be provided by Menasha

shall be substantially in the form of Exhibit E hereto, inclusive of the attachments thereto. Pursuant to 28 U.S.C. § 1715(d), Menasha shall notify the Court upon expiration of ninety (90) days after the later of the dates on which the appropriate federal official and the appropriate state official are served with the notice required under 28 U.S.C. § 1715(b).

40. Immediately following execution of this Agreement, Class Counsel shall notify the Court overseeing the Action and request, with the support of Defendants and on behalf of all Parties, that the Court stay the Action and hold all proceedings (other than those connected to the Settlement) in abeyance pending final disposition of the Settlement process. Immediately following execution of this Agreement, Plaintiff American Bank shall notify and request the applicable Court to hold in abeyance, pending final disposition of this Action, the proceeding entitled *American Bank v. City of Menasha, Wisconsin, Debbie Galeazzi and Menasha Utilities*, Case No. 10-cv-0077-BR4, pending in the Winnebago County, Wisconsin Circuit Court, Branch 4. Upon the Effective Date, American Bank shall move the same Court to dismiss the foregoing matter, with prejudice, and without any award of damages, attorneys' fees, or costs.

F. Administration of the Settlement Fund and Claims Process

41. The Settlement Fund and the Claims Process shall be administered by Class Counsel in conjunction with the Settlement Escrow Agent, and any claims administrator appointed by Class Counsel and approved by the Court, pursuant to the terms of this Agreement, and any formula for distribution of the Settlement Amount approved by the Court, subject to the direction and jurisdiction of the Court. Within a reasonable period of time following the Execution Date, Defendants shall supply the Settlement Escrow Agent and Class Counsel information to the best of their knowledge, which information may be obtained through third parties, regarding the identities and addresses of each purchaser, or current record holder, owner

or beneficial owner, of the 2005 BANs and 2006 BANs. Following the Effective Date, but within the time prescribed by the Court, the Settlement Fund, less any disbursements for Approved Disbursements, shall be distributed by the Settlement Escrow Agent to Members of the Settlement Class pursuant to any Claims Process and plan of distribution approved by the Court and administered by Class Counsel and any claims administrator.

42. Before the Court enters the Order and Final Judgment approving this Agreement, disbursements for Plaintiffs' and Class Members' reasonable expenses actually and necessarily incurred (not including attorneys' fees) and associated with the following may be made from the Settlement Fund as directed by Class Counsel, for which purpose only the sum of $50,000, advanced against and deductible from the Settlement Amount, shall be deposited by Menasha with the Settlement Escrow Agent within sixty (60) days after the Execution Date: providing and publishing notice of the Settlement to the Settlement Class, administering the settlement and any claims process, and any payments and expenses incurred in connection with taxation matters relating to the Settlement and this Agreement as addressed by paragraph 30 of this Agreement. Sums actually disbursed for such reasonable expenses shall not be refundable to Menasha in the event the Agreement is later disapproved, terminated, or otherwise fails to become effective. Under no circumstances shall the $50,000 sum be considered a limitation on the administrative expenses that may be incurred; provided, however, that in no event shall Defendants have any responsibility, financial obligation, or liability whatsoever with respect to any of the foregoing expenses, all of which shall be payable or paid solely from the Settlement Fund.

43. After the Effective Date, Plaintiffs and Class Counsel shall have the right to seek, and Defendants shall not oppose, Court approval of payments from the Settlement Fund for distribution to Settlement Class Members or to reimburse Class Counsel for Approved

Disbursements. In no event shall Defendants have any responsibility, financial obligation, or liability whatsoever with respect to the foregoing expenses, or the investment, distribution, or administration of the Settlement Fund, including, but not limited to, the costs and expenses of such distribution and administration, or any fees or expenses of the Settlement Escrow Agent, or any other Approved Disbursements, all of which shall be payable or paid solely from the Settlement Fund.

44. Class Counsel shall be reimbursed and paid solely out of the Settlement Fund for all fees, costs and expenses incurred in this Action including, but not limited to, attorneys' fees, costs and expenses. Pursuant to Federal Rules of Civil Procedure 23(h) and 54(d)(2), Plaintiffs and Class Counsel shall move for, and Defendants shall not oppose, the Court's approval of the payment of attorneys' fees, costs and expenses in the aggregate amount of $1,238,149, to be paid from the Settlement Fund. Plaintiffs' and Class Counsel's motion for an award of attorneys' fees and costs shall be filed, and posted on the Settlement website, no later than 14 days prior to the final fairness hearing. No attorneys' fees, costs or expenses, other than the reimbursement of any costs or expenses advanced by Class Counsel associated with providing notice of the Settlement to the Settlement Class, administering the Settlement, or in connection with taxation matters relating to the Settlement and this Agreement as addressed by paragraph 57 of this Agreement, if any, shall be paid to Class Counsel prior to the Effective Date. In no event shall Defendants have any responsibility, financial obligation, or liability whatsoever for any costs, fees or expenses of Class Counsel, or any other of Plaintiffs' or the Settlement Class's respective attorneys, experts, advisors, agents, or representatives, or any other Approved Disbursements, all of which shall be payable or paid solely from the Settlement Fund.

G. Releases

45. Upon the Effective Date, in consideration of delivery of the Settlement Amount to the Settlement Escrow Agent, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Releasees, and each of them, shall be completely released, acquitted, and forever discharged from any and all of the Released Claims, including the Unknown Claims, whether known or unknown, whether fraudulently concealed or otherwise concealed, or whether the damages or injury have fully accrued or will accrue in the future, whether class, individual or otherwise in nature, that Releasors, or any of them, ever had, now has, or hereafter can, shall, or may have on account of, or in any way related to the 2005 BANs or 2006 BANs, or arising out of or resulting from conduct, including but not limited to any conduct or action or inaction related to or arising out of any alleged wrongdoing associated with the 2005 BANs or the 2006 BANs from 2005 through the end of the Class Period, including but not limited to any conduct alleged, and causes of action asserted, or that could have been alleged or asserted, in the Action.

46. The Releasors shall not, after the Effective Date of this Agreement, seek to recover against any of the Releasees for any of the Released Claims. In accordance with and to the extent required by 15 U.S.C. § 78u-4(f)(7)(A), upon the Effective Date the Releasees shall be released from all claims for contribution and indemnification brought by other persons. The Releasors and Releasees shall jointly request that the Order and Final Judgment bar any and all future claims for contribution or indemnification arising out of any Released Claim belonging to the Class, including, but not limited to, any claim that is based upon, arises out of or relates to this Action or the transactions and occurrences referred to in the First Amended Complaint, (i) by any person or entity against any Releasee and (ii) by any Releasee against any person or

entity other than as set out in 15 U.S.C. § 78u-4(f)(7)(A)(ii), and providing that such claims for contribution and indemnification are permanently barred, extinguished, discharged, satisfied, and unenforceable.

47. Upon the Effective Date, for good and valuable consideration, the Releasees shall be completely released, acquitted, and forever discharged from any and all Released Claims by Releasors against any and all of the Releasees. The failure of any member of the Settlement Class to exclude themselves from the Settlement by the Exclusion Date set by the Court, or to obtain any payment from the Settlement Fund, whether by any action or failure to act of the Settlement Escrow Agent or Class Counsel, or for any other reason, shall not affect the releases herein. Nor shall the releases be affected in any way by any subsequent determination that the allocation of any payment to the Settlement Class from the Settlement Fund was unfair. Upon the Effective Date, for good and valuable consideration, any claims against Releasors arising out of, relating to or in connection with the Action as against the Defendants are hereby released by the Releasees and their counsel, and they are permanently enjoined and barred from instituting, asserting or prosecuting any and all claims which the Releasees or their counsel or any of them, had, have or may in the future have against Releasors, arising out of relating to or in connection with the Action as against the Defendants. Class Counsel shall include in any notices and payments of Settlement Funds to Class Members contemplated by this Agreement a description of the claims being released, including the "Released Claims", and a copy of the Release provisions of this Agreement.

H. Class Members' Option to Exclude Themselves from the Settlement

48. Class Members shall be afforded the opportunity to exclude themselves from the Settlement by timely submitting an Exclusion Request. Each Class Member submitting an

Exclusion Request shall be categorized as either a Class Member Holder Opt-out or Class Member Purchaser Opt-out.

49. For each Class Member Holder Opt-out submitting an Exclusion Request, Class Counsel shall, with notice to Defendants' counsel, calculate, or otherwise determine in conjunction with the claims administrator or Defendants, the outstanding principal balance on the 2005 BAN or 2006 BAN held, owned, or beneficially owned by such Class Member Holder Opt-out. The aggregate amount of such outstanding principal balances for all Class Member Holder Opt-outs shall be defined as the "Holder Opt-out Amount."

50. Class Member Purchaser Opt-outs shall be required to certify in their Exclusion Request, subject to verification through any records or information reasonably available to the Parties, (i) the amount paid for the BAN purchased by them, together with the date of such purchase, and (ii) the amount received by them upon the subsequent sale of the BAN, together with the date of such sale and the identity of the purchaser. No Exclusion Request submitted by a Class Member Purchaser Opt-out shall be valid or effective for the purpose of excluding him, her or itself from the Settlement and the Release herein, if it does not contain the foregoing certification. For each such Exclusion Request, Class Counsel shall, with notice to Defendants' counsel, calculate the amount reflecting the difference between the purchase price and sale price of the BAN, as certified by the Class Member Purchaser Opt-out, and shall calculate the aggregate amount of such differences for all Class Member Purchaser Opt-outs who submit completed Exclusion Requests, which aggregate amount shall be defined as the "Purchaser Opt-out Amount."

51. The Parties represent that they have not encouraged, directly or indirectly, and agree that they will not encourage, directly or indirectly, any potential Class Member to exercise

any right to exclude him, her or itself from the Settlement, and Defendants each further represent that they have not provided, and agree that, except with the prior consent of Class Counsel, they will not provide, assistance, advice, counsel or information to any potential Class Member related to that potential Class Member's right to request exclusion from the Settlement.

I. Termination Events and Effect of Termination

52. In the event, for whatever reason, any one or more of the conditions precedent described in paragraph 35 above is not satisfied (or waived), then, at Menasha's sole option and discretion, with notice to Class Counsel, this Agreement shall terminate and no longer be of any force or effect, and the Order and Final Judgment, if it has been entered, shall be vacated upon joint application of the Parties; provided, however, that in the event, for whatever reason, the WPPI Transaction Net Proceeds transferred by the WPPI Transaction Escrow to the Settlement Escrow Agent for deposit into the Settlement Fund are less than $17,300,000, then, at Plaintiffs' sole option and discretion, on their own behalf and on behalf of the Settlement Class, the Settlement may proceed pursuant to the existing terms and conditions in this Agreement, except that the Settlement Amount shall be reduced dollar for dollar by the amount of such net proceeds below $17,300,000; provided, further, however, that the $200,000 contribution by Menasha shall remain part of the Settlement Amount.

53. In the event the Holder Opt-out Amount or the Purchaser Opt-out amount, either separately or in combination, represents five percent (5%) or more of the BANs' Outstanding Principal Balance, then, at Menasha's sole option and discretion, with notice to Class Counsel, this Agreement shall terminate and no longer be of any force or effect. In the event and to the extent Class Members exclude themselves from the Settlement, but the Agreement is not terminated, then the Settlement Amount shall be reduced by a percentage equal to: the combined

total of the Holder Opt-out Amount and the Purchaser Opt-out Amount *divided by* the BANs' Outstanding Principal Balance. The amount reflecting such percentage shall be retained in full by the WPPI Transaction Escrow Agent and, pursuant to the terms of the WPPI Transaction Escrow Agreement, shall be paid to Menasha.

54. In the event, for whatever reason, any one or more of the conditions precedent described in paragraph 36 above is not satisfied (or waived), then, at Plaintiffs' sole option and discretion, with notice to Defendants' counsel, and subject to Plaintiffs' rights under paragraph 52, this Agreement shall terminate and no longer be of any force or effect, and the Order and Final Judgment, if it has been entered, shall be vacated upon joint application of the Parties.

55. In the event the Court refuses to approve this Agreement or any material part hereof, or if such approval is reversed, modified in a material way or set aside on appeal, or if the Court does not approve an Order and Final Judgment substantially and materially in the form attached as Exhibit D hereto, or if the Court enters the Order and Final Judgment and appellate review is sought and, on such review, some material provision thereof is vacated, then each of Menasha and the Plaintiffs shall, at its or their sole option and discretion, and without incurring any liability to each other or to any other party to this Agreement, have the option to terminate this Agreement in its entirety. A modification or reversal on appeal of any amount of Class Counsel's attorneys' fees and expenses awarded by the Court from the Settlement Fund or any plan of allocation of the Settlement Fund shall not be deemed a modification of all or a part of the terms of this Agreement or such final judgment sufficient to trigger any right of termination of the Agreement.

56. In the event the Agreement does not become Final and Effective or is terminated, the Parties will return in all respects to the status quo ante. Defendants each enter this

Agreement without in any way acknowledging any fault, liability or wrongdoing of any kind. Nothing contained in this Agreement or any notice or other exhibit to this Agreement, including the Class definition and any reference to wrongdoing in this Agreement or in any notice or other exhibit to this Agreement, shall be construed in any way as an admission or evidence of any illegal conduct, fault, liability or wrongdoing of any kind by Defendants. Further, Plaintiffs and Defendants agree that this Agreement, whether or not it is finally approved and whether or not terminated or rescinded, and any and all negotiations, documents, and discussions associated with it, shall not be deemed or construed to be an admission or evidence of any violation of any statute or law, or of any liability or wrongdoing by any defendant, or of the truth of any of the claims or allegations contained in the First Amended Complaint or any other pleading filed by Plaintiffs in the Action, and evidence thereof shall not be discoverable or used directly or indirectly, in any way, whether in the Action or in any other action, proceeding or context.

J. Taxes

57. The Settlement Fund shall be established and maintained at all times as a Qualified Settlement Fund within the meaning of Treasury Regulation Section 1.468B-1, as amended. Class Counsel shall be solely responsible for filing all informational and other tax returns necessary to report any net taxable income earned by the Settlement Fund and shall file all informational and other tax returns necessary to report any income earned by the Settlement Fund and shall be solely responsible for taking out of the Settlement Fund, as and when legally required, any tax payments, including interest and penalties due on income earned by the Settlement Fund. All taxes (including any interest and penalties) due with respect to the income earned by the Settlement Fund shall be paid from the Settlement Fund. Defendants shall have no responsibility to make any filings relating to the Settlement Fund and will have no responsibility

to pay tax on any income earned by the Settlement Fund or pay any taxes on Settlement Fund, unless the Settlement is not consummated. In the event the Settlement is not consummated, Menasha shall be responsible for the payment of all taxes on said income that have not already been paid out of the Settlement Fund as provided in this Agreement. However, Defendants shall not be responsible for paying any interest or penalties relating to tax filings made by Class Counsel or tax payments owed as a result of those filings or the lack of timely filing thereof.

K. Miscellaneous

58. The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any dispute arising out of or relating to this Agreement, or the interpretation, applicability, or specific enforcement of its terms, which cannot be resolved by negotiation and agreement by Plaintiffs and Defendants.

59. This Agreement constitutes the entire agreement between Plaintiffs and Defendants pertaining to the Settlement of the Action and supersedes any and all prior and contemporaneous undertakings in connection therewith. This Agreement may be modified or amended only by a writing executed by Plaintiffs and Defendants, and approved by the Court.

60. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of Releasors and Releasees. Without limiting the generality of the foregoing and subject to the Effective Date occurring: (a) each and every covenant and agreement made herein by Plaintiffs or Class Counsel shall be binding upon all Class Members and Releasors, and (b) each and every covenant and agreement made herein by a Defendant shall be binding upon that Defendant's Releasees.

61. This Agreement may be executed in counterparts by Plaintiffs and Defendants, and a digital or facsimile signature shall be deemed an original for purposes of this Agreement.

62. Neither Defendants, Plaintiffs, nor any of them, shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of an Agreement.

63. Nothing expressed or implied in this Agreement is intended to, shall, or shall be construed to, confer upon or give any person or entity other than Plaintiffs, Settlement Class Members, Class Counsel, Releasors, Releasees any right or remedy under or by reason of this Agreement.

64. Where this Agreement requires any party to provide notice to any other party, such notice, communication, or document shall be provided by letter sent by same day facsimile transmission or electronic mail transmission with confirmation by overnight delivery or hand delivery.

65. Each of the undersigned attorneys represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Agreement, subject to Court approval.

66. This Agreement shall be interpreted and construed in accordance with the substantive laws of the State of Wisconsin, and any dispute or claims arising under or related to the terms or provisions of this Agreement, whether styled in contract, tort or otherwise, shall be governed by the substantive laws of the State of Wisconsin without reference to choice of law or conflict of law principles.

Remainder of Page Intentionally Left Blank

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Execution Date set forth above.

THE LAFAYETTE LIFE INSURANCE COMPANY

By: Jerry B. Stillwell
Its: President & CEO
Date: March 25, 2011

By: William F. Olds
Its: Sr. VP - Projects + Planning
Date: March 25, 2011

Attested By: Kimberly Meyer
Title: V.P. - Human Resources + Ass't Secy
Date: March 25, 2011

MERCY RIDGE, INC.

By: _____
Name: _____
Title: _____
Date: _____

AMERICAN BANK, A NATIONAL ASSOCIATION

By: _____
Name: _____
Title: _____
Date: _____

ICE MILLER LLP

_____
Michael A. Wukmer
One American Square
Suite 2900
Indianapolis, IN 46282-0200

Counsel for Plaintiffs and Class Counsel

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Execution Date set forth above.

THE LAFAYETTE LIFE INSURANCE COMPANY

By: _____
Its: _____
Date: _____

By: _____
Its: _____
Date: _____

Attested By: _____
Title: _____
Date: _____

MERCY RIDGE, INC.

By: _____
Name: John G. Fogg
Title: Treasurer
Date: 3/25/11

AMERICAN BANK, A NATIONAL ASSOCIATION

By: _____
Name: _____
Title: _____
Date: _____

ICE MILLER LLP

_____
Michael A. Wukmer
One American Square
Suite 2900
Indianapolis, IN 46282-0200

Counsel for Plaintiffs and Class Counsel

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Execution Date set forth above.

THE LAFAYETTE LIFE INSURANCE COMPANY

By: _____
Its: _____
Date: _____

By: _____
Its: _____
Date: _____

Attested By: _____
Title: _____
Date: _____

MERCY RIDGE, INC.

By: _____
Name: _____
Title: _____
Date: _____

AMERICAN BANK, A NATIONAL ASSOCIATION

By: [signature] Pres
Name: James R. Chatterton
Title: President
Date: 3-25-2011

ICE MILLER LLP

_____
Michael A. Wukmer
One American Square
Suite 2900
Indianapolis, IN 46282-0200

Counsel for Plaintiffs and Class Counsel

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Execution Date set forth above.

THE LAFAYETTE LIFE INSURANCE COMPANY

By: _____
Its: _____
Date: _____

By: _____
Its: _____
Date: _____

Attested By: _____
Title: _____
Date: _____

MERCY RIDGE, INC.

By: _____
Name: _____
Title: _____
Date: _____

AMERICAN BANK, A NATIONAL ASSOCIATION

By: _____
Name: _____
Title: _____
Date: _____

ICE MILLER LLP

_____
Michael A. Wukmer
One American Square
Suite 2900
Indianapolis, IN 46282-0200

Counsel for Plaintiffs and Class Counsel

CITY OF MENASHA, WISCONSIN

By: _____
Name: Donald Merkes
Title: Mayor
Date: 25 MARCH 2011

By: Deborah A. Galeazzi
Name: Deborah A. Galeazzi
Title: City Clerk
Date: 3-25-11

HUNTON & WILLIAMS LLP

_____
Edward J. Fuhr
Joseph J. Saltarelli
951 E. Byrd Street
Riverfront Plaza, East Tower
Richmond, Virginia 23219

BARNES & THORNBURG LLP
Brian E. Casey
Alice J. Springer
600 1st Source Bank Center
Riverfront Plaza, East Tower

Counsel for City of Menasha, Wisconsin

RBC CAPITAL MARKETS, LLC (f/k/a RBC Capital Markets Corp.)

By: _____
Name: _____
Title: _____
Date: _____

KATTEN MUCHIN ROSENMAN LLP

_____
Christian T. Kemnitz
Brian J. Poronsky
525 West Monroe St.
Chicago, IL 60661-3693

Counsel for RBC Capital Markets, LLC (f/k/a RBC Capital Markets Corp.)

CITY OF MENASHA, WISCONSIN

By: _____
Name: _____
Title: Mayor

By: _____
Name: _____
Title: City Clerk

HUNTON & WILLIAMS LLP

_____
Edward J. Fuhr
Joseph J. Saltarelli
951 E. Byrd Street
Riverfront Plaza, East Tower
Richmond, Virginia 23219

BARNES & THORNBURG LLP
Brian E. Casey
Alice J. Springer
600 1st Source Bank Center
Riverfront Plaza, East Tower

Counsel for City of Menasha, Wisconsin

RBC CAPITAL MARKETS, LLC (f/k/a RBC Capital Markets Corp.)

By: Ralph DeSena
Name: Ralph DeSena
Title: Director & Senior Counsel

KATTEN MUCHIN ROSENMAN LLP

_____
Christian T. Kemnitz
Brian J. Poronsky
525 West Monroe St.
Chicago, IL 60661-3693

Counsel for RBC Capital Markets, LLC (f/k/a RBC Capital Markets Corp.)

Exhibit "A"

Exhibit "A"

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION (LAFAYETTE)

THE LAFAYETTE LIFE INSURANCE COMPANY, MERCY RIDGE, INC., AMERICAN BANK, and all others similarly situated, Plaintiffs, - against - CITY OF MENASHA, WISCONSIN, a municipal corporation, MENASHA UTILITIES, MENASHA STEAM UTILITY, and RBC CAPITAL MARKETS CORP. f/k/a RBC DAIN RAUSCHER, INC., Defendants.	Cause No. 4:09-CV-64-TLS-APR

[PROPOSED] ORDER PRELIMINARILY APPROVING SETTLEMENT

WHEREAS, Plaintiffs, The Lafayette Life Insurance Company, Mercy Ridge, Inc., and American Bank ("Plaintiffs"), on their own behalf and on behalf of each Member of the Settlement Class, as defined herein, and Defendants, City of Menasha, Wisconsin, a municipal corporation ("Menasha"), sued herein as City of Menasha, Menasha Utilities, and Menasha Steam Utility, and RBC Capital Markets, LLC (f/k/a RBC Capital Markets Corp.) ("RBC") (Menasha and RBC referred to collectively as "Defendants"), have submitted to the Court a Settlement Agreement, with Exhibits, dated March [ ], 2011 (the "Agreement"), reflecting the terms of a proposed Settlement of this putative class action, and applied to the Court, pursuant to Rule 23 of the Federal Rules of Civil Procedure, for an order that (i) certifies the Settlement Class, approves the appointment of Ice Miller LLP as Class Counsel, and preliminarily approves

the Settlement, as set forth in the Agreement, (ii) approves the retention of the Settlement Escrow Agent, (iii) approves the mailing of notice of the terms and conditions of the Settlement to Settlement Class Members ("Class Notice"), and publication of summary notice ("Publication Notice"), (iv) sets forth dates by which the Class Notice and Publication Notice shall be mailed and published, respectively, as well as dates by which Settlement Class Members must file claims and/or any objections to, or exercise any right to exclude themselves (opt-out) from the Settlement, and (v) schedules a hearing (the "Fairness Hearing") to finally approve the Settlement as fair, reasonable, and adequate to the Settlement Class, approve the Settlement, and enter an Order and Final Judgment; and

WHEREAS, the Court has given due consideration to the Settlement, the Agreement, the Exhibits to the Agreement, the submissions of the Parties in support of preliminary approval of the Settlement, and the record of proceedings herein, and finds that the Settlement should be preliminarily approved pending notice to Settlement Class Members and the Fairness Hearing;

ACCORDINGLY, IT IS HEREBY ORDERED:

1. This Order incorporates by reference the definitions in the Agreement, and any terms capitalized herein and not otherwise defined shall have the meanings ascribed to them in the Agreement.

2. This Court has jurisdiction of the subject matter of the Action and over all Parties, including all Members of the Settlement Class.

3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court certifies, for the purpose of effectuating the Settlement, a Settlement Class of all persons or entities who purchased or held 2005 BANs or 2006 BANs during the Class Period. Excluded from the Settlement Class are Defendants and their respective parents, subsidiaries, and affiliates, and

persons or entities who timely excluded themselves from the Settlement Class in accordance with the procedures described in the Agreement and the exhibits thereto.

4. Pursuant to Federal Rule of Civil Procedure 23, the Court preliminarily finds, for the purpose of effectuating the Settlement, that: (a) Members of the Settlement Class are so numerous that joinder of all Settlement Class Members would be impracticable; (b) there are questions of law and fact common to the Settlement Class that predominate over any individual questions relating to Settlement Class Members; (c) the claims of Plaintiffs are typical of, and Plaintiffs have no interests that conflict with the interests of, other Members of the Settlement Class; (d) Plaintiffs and Class Counsel have fairly and adequately represented and protected the interests of all Members of the Settlement Class; and (e) a class action is superior to other available methods for the fair and efficient adjudication of the controversy herein.

5. The Court appoints Plaintiffs The Lafayette Life Insurance Co., Mercy Ridge, Inc. and American Bank as Settlement Class Representatives, and Ice Miller LLP as Class Counsel. The Court approves the retention of The Bank of New York Mellon Trust Company, N.A. as the Settlement Escrow Agent as selected by Settlement Class Counsel.

6. The Court finds that the terms of the Settlement, as set forth in the Agreement, are within the range of a fair, reasonable, and adequate settlement between the Settlement Class and the Defendants under the circumstances of this case. The Court therefore preliminarily approves the Settlement, and directs the Parties to effectuate the Settlement pursuant to the terms and conditions set forth in the Agreement.

7. The Court approves the notice provided by Defendants within ten (10) days of the filing of Plaintiffs' application for this Order, to federal and state government officials, pursuant

to 28 U.S.C. § 1715, in the form attached to the Agreement as Exhibit "E", inclusive of the attachments thereto.

8. The Court approves the proposed Notice of Class Action Settlement and Hearing in the forms attached to the Agreement as Exhibit "B" (for mailed notice, the "Class Notice") and Exhibit "C" (for publication notice, the "Publication Notice"), and the manner of mailing, distribution and publication of such Notice, as set forth in Paragraph 9 below, are hereby approved as the best notice practicable to the Settlement Class. The form, content and method of notifying the Settlement Class of the settlement of the Action as a class action and of the terms and conditions of the proposed Settlement meet the requirements of Rule 23 of the Federal Rules of Civil Procedure, Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(7), as amended by the Private Securities Litigation Reform Act (PSLRA) of 1995, due process and any other applicable law. Such notice constitutes the best notice practicable under the circumstances and constitutes due and sufficient notice to all persons and entities entitled thereto.

9. Class Counsel shall: (a) mail or cause to be mailed to each Settlement Class Member for whom an address is available, or by means of the Depository Trust Company[1], as soon as practicable but no later than _____ days from the date of this Order, a copy of the Class Notice substantially in the form attached to the Agreement as Exhibit "B"; provided, however, that the Class Notice shall not be required to be mailed prior to the time Class Counsel receives the notification related to the satisfaction or waiver of the WPPI Transaction Contingencies as described in paragraph 35 of the Agreement, in which event Class Notice shall be mailed within ten (10) days of receipt thereof; and (b) cause the Publication Notice, substantially in the form

[1] Class Notice may be mailed to Settlement Class Members by means of the Depository Trust Company, which shall forward the Class Notice to Settlement Class Members.

attached to the Agreement as Exhibit "C", to be published twice in The Bond Buyer with an interval of two weeks between each publication, beginning no later than ____ days from the date of this Order; provided, however, that the Publication Notice shall not be required to be published prior to the time Class Counsel receives the notification related to the satisfaction or waiver of the WPPI Transaction Contingencies as described in paragraph 35 of the Agreement, in which event Publication Notice shall be requested to be published beginning within ten (10) days of receipt thereof. Not later than fourteen (14) days prior to the Fairness Hearing, Class Counsel shall serve on Defendants' counsel and file with the Court proof, by affidavit or declaration, of such mailing and publication.

10. Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, the Fairness Hearing shall be held before the undersigned at _____ o'clock, on _____, at the United States Courthouse, 230 North Fourth Street, Lafayette, Indiana, for the purpose of: (a) determining whether the Settlement is fair, reasonable, and adequate and should be finally approved; (b) determining whether an Order and Final Judgment should be entered dismissing with prejudice the claims of the Settlement Class Members against the Defendants and the Action; (c) considering the plan of distribution of the Settlement Amount proposed by Class Counsel; and (d) considering Class Counsel's motion for an award of attorneys' fees, costs and expenses pursuant to Rule 23(h), which motion shall be filed with the Court and posted on the Settlement website [insert address] no later than fourteen (14) days prior to the Fairness Hearing. The Court may adjourn, continue, and reconvene the Fairness Hearing pursuant to oral announcement without further notice to the Settlement Class, and may consider and grant final approval of the Settlement without further notice to the Settlement Class.

11. Any Settlement Class Member requesting to share in the distribution of the Settlement Amount shall complete and submit a claim form in the manner and within the time set forth in the Class Notice. Such claim forms must be submitted no later than sixty (60) days from the mailing of, and in the manner prescribed in, the Class Notice (the "Claim Deadline"). Any Settlement Class Member who does not submit a valid claim form, by the Claim Deadline and in the manner set forth in the Class Notice, shall be barred from sharing in the distribution of the Settlement Amount.

12. Any person or entity requesting exclusion from the Settlement Class shall do so by submitting a duly completed Exclusion Request in the manner and within the time set forth in the Class Notice. All such Exclusion Requests must be submitted no later than sixty (60) days from the mailing of the Class Notice (the "Exclusion Deadline"). Any Settlement Class Member who does not submit a valid Exclusion Request, by the Exclusion Deadline and in the manner set forth in the Class Notice, shall be included within the Settlement Class. All persons or entities submitting valid and timely Exclusion Requests shall have no rights under the Agreement, shall not share in the distribution of the Settlement Amount, and shall not be bound by the Agreement, Settlement, or Order and Final Judgment to be entered in the Action.

13. Settlement Class Members who have not excluded themselves shall be afforded an opportunity to object to the terms of the Settlement. Any objection must: (i) contain the full name and current address of the person objecting; (ii) contain the title and a statement of authority of any person objecting on behalf of an entity other than a person; (iii) contain the title of the Lawsuit: "The Lafayette Life Insurance Company, et al, v. City of Menasha, Wisconsin et al;" (iv) state the reasons for the Class Member's objection; (v) be accompanied by any evidence, legal briefs, motions or other materials the Settlement Class Member intends to offer in support

of the objection; (vi) be signed by or on behalf of the Settlement Class Member; and (vii) be filed with the Clerk of the Court [add details], and served upon Class Counsel [add details] and Defendants' counsel [add details] by U.S. mail, first class and postage prepaid, with a postmark no later than sixty (60) days from the mailing of the Class Notice (the "Objection Deadline").

14. Any Member of the Settlement Class who does not mail his, her, or its objection by the Objection Deadline and in the manner provided in the Class Notice shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness or adequacy of the proposed Settlement. Settlement Class Members shall be bound by all determinations and orders regarding the Settlement, including the Order and Final Judgment, whether favorable or unfavorable to the Settlement Class.

15. Settlement Class Members may appear at the Fairness Hearing in connection with an objection, individually or through counsel of their choice, at their own expense. If they do no not appear, they will be represented by Class Counsel at the Fairness Hearing. Any attorney (other than Class Counsel) intending to appear at the Fairness Hearing must be authorized to represent a Settlement Class Member, must be duly admitted to practice law before the United States District Court for the Northern District of Indiana, and must file a written appearance not later than seven (7) days prior to the date of the Fairness Hearing. Copies of the appearance must be served on Class Counsel and Defendants' counsel in accordance with the Federal Rules of Civil Procedure.

16. Not later than ten (10) days after the Exclusion Deadline, Class Counsel shall serve Defendants' counsel and file with the Court a Notice of Settlement Class Exclusions, listing the names and addresses of all persons or entities who or which have timely and validly

excluded themselves from the Settlement Class; provided, however, that such filing and notice shall be in addition to the requirements set forth in paragraphs 49 and 50 of the Agreement.

17. At the Fairness Hearing, the Court shall determine whether the plan of distribution of the Settlement Amount proposed by Settlement Class Counsel shall be approved.

18. Not later than fourteen (14) days prior to the Fairness Hearing, Plaintiffs and Class Counsel shall file a motion for and Defendants shall not oppose, the Court's approval of the payment of attorneys' fees, costs and expenses in the aggregate amount of $1,238,149, to be paid from the Settlement Fund under the terms of the Settlement, along with any supporting materials. No attorneys' fees, costs or expenses, other than the reimbursement of any costs or expenses advanced by Class Counsel associated with providing notice of the Settlement to the Settlement Class, administering the Settlement, or in connection with taxation matters relating to the Settlement and the Agreement as addressed by paragraph 57 of the Agreement, if any, shall be paid to Class Counsel prior to the Effective Date. Any decision by Class Counsel to defer seeking an award of attorneys' fees or reimbursement of expenses prior to or at the time of the Fairness Hearing on the Settlement shall not be deemed a waiver of the right of Class Counsel, under the Settlement or otherwise, to seek an award of attorneys' fees or reimbursement of expenses from the Settlement Fund at another time.

19. The Court may adjourn the Fairness Hearing without further notice to Settlement Class Members, and retains jurisdiction to consider all further applications arising out of or made in connection with the proposed Settlement.

IT IS SO ORDERED.

Date: _____

_____
The Honorable Theresa L. Springmann, Judge

United States District Court,
Northern District of Indiana

EXHIBIT "B"

[cover page]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION (LAFAYETTE)

THE LAFAYETTE LIFE INSURANCE COMPANY, MERCY RIDGE, INC., AMERICAN BANK, and all others similarly situated, Plaintiffs, - against - CITY OF MENASHA, WISCONSIN, a municipal corporation, MENASHA UTILITIES, MENASHA STEAM UTILITY, and RBC CAPITAL MARKETS CORP. f/k/a RBC DAIN RAUSCHER, INC., Defendants.	Cause No. 4:09-CV-64-TLS-APR

STATEMENT REQUIRED BY SECTION 21D(a)(7) OF THE SECURITIES EXCHANGE ACT OF 1934, 15 U.S.C. § 78u-4(a)(7) AS AMENDED BY THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995

Pursuant to Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(7), as amended by the Private Securities Litigation Reform Act (PSLRA) of 1995, the parties state:

1. The amount of the settlement proposed to be distributed to members of the settlement class is, in the aggregate, $17.5 million in cash.[1] On an average per share basis, this means a payment of $3,841.50 per share, but less Approved Disbursements, as defined in the

[1] The $17.5 million is in addition to the earlier partial payment, on the maturity date of September 1, 2009, of $1,382,834.01 in principal out of a total principal obligation of $24,160,000. Combined with such partial payment amount, on an average per share basis, this means a payment of $3,907.87 per share. Unpaid interest is not taken into consideration in this or any other calculation herein.

Settlement, for attorneys' fees and administrative costs. These disbursements are described in paragraph 3 below.[2]

2. The settling parties agree that if plaintiffs prevailed on each claim alleged under the Securities Exchange Act, plaintiffs would recover an average amount of potential damages of $4,713.92 per share, plus interest.[3]

3. Plaintiffs, through lead counsel, Michael A. Wukmer, Ice Miller LLP, intend to apply to the Court for an award of attorneys' fees and costs in the aggregate amount of $1,238,149 which equals $272 on an average per share basis. The sum available for distribution to Class Members will be lessened by this amount, subject to Court approval. Such an award is supported by the outcome achieved, counsel's experience in securities, class and other complex litigation, the stakes involved and the vigorous defense presented by defendants in this matter.

4. Lead counsel for the plaintiff class is Michael A. Wukmer, Ice Miller LLP, One American Square, Suite 2900, Indianapolis, IN 46282. Phone No. (317) 236-2100. Counsel is reasonably available to answer questions from class members concerning any matter contained in this notice.

5. The parties have proposed to settle this matter on the following basis due to the inherent risks of litigation to both parties, the burden and expense of complex litigation, the inherent uncertainty of the litigation's outcome, the risk posed to plaintiffs by defendants' dispositive motions and a potentially adverse trial verdict and the defendants' potential exposure for greater loss. There is a risk that, if the litigation proceeds, Class Members could receive no recovery.

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[2] A share is defined as a $5,000.00 note, which was the denomination in which each note at issue was issued. The PSLRA requires disclosure of certain financial information in per share amounts. The bond anticipation notes at issue in the Action were not issued in "shares" as such, as is the case with other types of securities, such as stock. For purposes of complying with the PSLRA disclosure requirements, Class Counsel have therefore assumed a $5,000 face value "share" because this is the lowest denomination in which the bond anticipation notes were sold. Class Counsel have sought and obtained the Court's approval for this treatment of the PSLRA "share" definition. At the maturity date of September 1, 2009, there was approximately $22.7 million in principal outstanding, after the partial principal payment of $1,382,834.01 mentioned above (footnote 1). The per share figure of $3,841.50 is derived by dividing the settlement amount of $17.5 million by the outstanding principal balance on the notes, multiplied by $5,000.

[3] This figure reflects the partial payment described in footnote 1 above.

Exhibit "B"

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA

NOTICE OF CLASS ACTION SETTLEMENT AND HEARING

If you are a person or entity who purchased or hold Taxable Steam Utility Revenue Bond Anticipation Notes, CUSIP #586499AA3, issued by the City of Menasha, Wisconsin on or about February 1, 2005, with a stated maturity date of September 1, 2009 (the "2005 BANs") or Taxable Steam Utility Revenue Bond Anticipation Notes, CUSIP #586499AB1, issued by the City of Menasha, Wisconsin on or about December 1, 2006, with a stated maturity date of September 1, 2009 (the "2006 BANs"), you may be entitled to receive a payment as part of the proposed settlement of a class action lawsuit brought on your behalf.

The United States District Court for the Northern District of Indiana has authorized this notice. This is not a solicitation. This is not a lawsuit against you and you are not being sued.

You received this Notice because you have been identified as a person or entity who purchased or holds Taxable Steam Utility Revenue Bond Anticipation Notes, CUSIP #586499AA3, issued by Defendant City of Menasha, Wisconsin on or about February 1, 2005, with a stated maturity date of September 1, 2009 (the "2005 BANs") or Taxable Steam Utility Revenue Bond Anticipation Notes, CUSIP #586499AB1, issued by Defendant City of Menasha, Wisconsin on or about December 1, 2006, with a stated maturity date of September 1, 2009 (the "2006 BANs") (the proposed "Settlement Class", a member of which is a "Class Member").

A Settlement has been reached between the Plaintiffs and Defendants in *The Lafayette Life Insurance Company, et al, v. City of Menasha, Wisconsin et al*, Cause No. 4:09-cv-0064-TLS-APR (the "Lawsuit"), and the proposed Settlement Class has been certified by the United States District Court for the Northern District of Indiana (the "Court"). The Plaintiffs in the Lawsuit are The Lafayette Life Insurance Company, Mercy Ridge, Inc., and American Bank. The Defendants in the Lawsuit are the City of Menasha and RBC Capital Markets, LLC (f/k/a RBC Capital Markets Corp."), and they are not members of the Settlement Class. The Court has appointed the Plaintiffs to represent the Settlement Class and appointed Ice Miller LLP as counsel to the Settlement Class.

The purpose of this Notice is to advise members of the Settlement Class defined above of the proposed Settlement of claims being asserted against the Defendants, and how to assert any rights you may have under the Settlement. It is also intended to advise you of a hearing to consider the proposed settlement on _____. The Court must decide whether to approve the Settlement as fair, just and reasonable.

The Lawsuit asserts that the Defendants sold or participated in the sale of the 2005 BANs and the 2006 BANs in violation of Federal and State securities laws and in violation of certain other statutory and common law duties, and that Menasha is in payment default with regard to the BANs. The Defendants have denied and raised various defenses to these claims, which if sustained by the Court following a trial would minimize or defeat any recovery for the Class. There is a risk that, if the litigation proceeds, Class Members could receive no recovery.

If you are a member of the Settlement Class, your legal rights are affected whether you act or choose not to act. PLEASE READ THIS NOTICE CAREFULLY.

YOUR LEGAL RIGHTS AND OPTIONS: **(YOU MUST CHOOSE ONE OF THESE OPTIONS BY THE DEADLINE)**		**DEADLINE**
EXCLUDE YOURSELF	You may exclude yourself from the Settlement, in which case you will not be considered a Class Member of the Settlement Class and will not be eligible to receive any payments from the Settlement Fund approved by the Court, or to comment on the Settlement. If you exclude yourself from the Settlement and wish to pursue legal claims against the Defendants with respect to the 2005 or 2006 BANs, you will have to do so at your own expense and any claims will be subject to applicable statutes of limitation.	M/D/Y
SUBMIT A CLAIM	If you qualify as a Class Member, as defined above, and wish to receive a distribution from the Settlement Fund, you must complete and submit the Claim Form enclosed with this Notice within 60 days of the mailing of this Notice, or on or before _____, 2011. The completed Claim Form must be sent to Class Counsel. If you do not timely submit a properly-completed Claim Form, you will not receive any payment from the Settlement Fund, and any claim you have to a distribution from the Settlement Fund will be barred. The Claim Form requires each Class Member to certify the amount of the Class Member's claimed loss and submit reasonably available documentation. Subject to verification by Class Counsel and the Court of the accuracy of each Class Member's claimed loss, Class Counsel anticipates that it will seek Court approval for a distribution of the Settlement Fund, less Approved Disbursements, based on the total amount of verified claims. The approximate amount of compensation available from the Settlement Fund on a per share basis is described at the beginning of this Notice, but this is only an estimate and the actual distribution will depend on the total amount of verified claims submitted and the plan of distribution of the Settlement Amount ultimately approved by the Court. All Class Members of the Settlement Class, regardless of whether they submit a claim or receive	M/D/Y

	any distribution from the Settlement Fund, will forever release and discharge any claim they might have against the Defendants.	
OBJECT	Write to the Court if you do not wish to exclude yourself from the Settlement but do not think the Settlement is fair. If you exclude yourself from the Settlement you may not object.	M/D/Y
GO TO A HEARING	If you object, you may also ask to speak in Court about the fairness of the Settlement.	M/D/Y

These rights and options - and the deadlines to exercise them - are explained in this Notice.

BASIC INFORMATION

Why did I get this Notice?

This Notice has been sent to you because you have been identified as a person or entity who purchased or holds the 2005 BANs or 2006 BANs issued by the City of Menasha in 2005 or 2006. You have the right to know about a proposed settlement of a class action lawsuit that may affect your rights.

This Notice explains the Lawsuit, the terms of the Settlement, your legal rights, what benefits may be available, who may be eligible for them, and what you will be giving the Defendants in this Settlement.

The Court in charge of the case is the United States District Court for the Northern District of Indiana. The case is known as *The Lafayette Life Insurance Company, et al, v. City of Menasha, Wisconsin et al*, Cause No. 4:09-cv-0064-TLS-APR. The entities who sued are called the Plaintiffs. The municipal entities or companies the Plaintiffs sued are called the Defendants. The Defendants participated in the issuance and/or sale of the BANs in the period from 2005 to 2006. That is the focus of the Lawsuit.

What is the Lawsuit about?

In the Lawsuit, the Plaintiffs claim that in 2005 and 2006, the Defendants sold or participated in the issuance and/or sale of the BANs in violation of Federal and State securities laws and in violation of certain statutory and common law duties arising under State law, and that Menasha is in payment default with regard to the BANs. The Plaintiffs claim that the Defendants made false and misleading statements, and omitted to state certain material facts, in connection with their issuance and/or sale of the BANS. Plaintiffs are seeking money damages and other relief on behalf of themselves and other persons and entities who purchased or hold the BANs. The Defendants have denied all of Plaintiffs' claims, and have filed dispositive motions to dismiss the Plaintiffs' claims. There is a risk that, if the litigation proceeds, Class Members could receive no recovery. The Court has not made any determination of the Defendants' liability for the claims alleged by Plaintiffs, nor has the Court made any determination on Defendants' dispositive motions.

What is a class action?

A class action is a lawsuit in which one or more persons called class representatives sue on behalf of other persons who have similar claims. Together all these persons are a Class or individually, Class Members. One court resolves the issues for all Class Members, except for those who exclude themselves from the Class. For this reason, the judge must find that the Settlement of this class action is fair, reasonable and adequate before the Settlement can receive final court approval.

Why is there a settlement?

The Lawsuit has not gone to a trial. Instead, the Plaintiffs and the Defendants agreed to settle to avoid the costs and risks of trial, including the risk that Class Members could receive no recovery if the litigation proceeds. The Settlement provides the opportunity for payments or other benefits to be made available to Class Members. Under this Settlement, Class Members give the Defendants a release of any right they may have to pursue the same legal claims brought, or which could have been brought, in this case against the Defendants.

WHO IS IN THE SETTLEMENT?

How do I know if I am part of the settlement?

You are a member of the Proposed Settlement Class if you purchased or hold the BANs.

Are there exceptions to being included?

You are not a Settlement Class Member if you are one of the Defendants, or their respective parents, subsidiaries, or affiliates.

THE SETTLEMENT TERMS

What does the settlement provide?

The Defendants have agreed to pay the cash amount of $17,500,000 ("Settlement Amount") subject to the terms and conditions of the Settlement. On an average per share basis, this means payment of $3,841.50 per share, but less Approved Disbursements, as defined in the Settlement, for attorneys' fees and administrative costs, as described herein[4]. The settling parties agree that if Plaintiffs prevailed on each claim alleged under the Securities Exchange Act, Plaintiffs would recover an average amount of potential damages of $4,713.92 per share, plus interest.[5] At the maturity date of September 1, 2009, there was approximately $22.7 million in principal outstanding, after a partial principal payment of $1,382,834.01. The per share figure is derived

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[4] The $17.5 million is in addition to the earlier partial payment, on the maturity date of September 1, 2009, of $1,382,834.01 in principal out of a total principal obligation of $24,160,000. Combined with such partial payment amount, on an average per share basis, this means a payment of $3,907.87 per share. Unpaid interest is not taken into consideration in this or any other calculation herein.

[5] This figure reflects the partial payment described in footnotes 1 and 4 above.

by dividing the settlement amount of $17.5 million by the outstanding principal balance on the notes, multiplied by $5,000. This Settlement was achieved after more than eighteen months of litigation and numerous negotiating sessions between Class Counsel and the lawyers for the Defendants. The Defendants deny any liability and the Court has not made any liability determination. Because of the inherent risks of litigation Plaintiffs believe that the Settlement provides a fair and efficient resolution of the Plaintiffs' and Class Members' claims against the Defendants. The parties have proposed to settle this matter on this basis due to the inherent risks of litigation to both parties, the burden and expense of complex litigation, the inherent uncertainty of litigation's outcome, the risk posed to Plaintiffs by Defendants' dispositive motions and a potentially adverse trial verdict and the Defendants' potential exposure for greater loss.

Under the terms of the Settlement, Class Members receive at least $17,450,000, representing the Settlement Amount of $17,500,000 less $50,000 to be advanced by Menasha for the payment of interim expenses of administration of the Settlement, and also less attorneys' fees, costs and expenses approved by the Court. Class Counsel will seek Court permission to distribute the Settlement Fund to Class Members and to pay amounts approved by the Court for Class Counsel's attorneys' fees and reasonable expenses, reasonable future expenditures made or to be made by Class Counsel on behalf of Class Members and notices to Class Members.

No dismissal with prejudice of the Lawsuit will occur until the Effective Date of the Settlement, at which time the judgment entered in the case approving the Settlement becomes final and non-appealable, the Settlement Amount is paid to an escrow agent selected by Class Counsel and approved by the Court, and the Plaintiffs release Defendants for any and all claims related to the Lawsuit.

It is anticipated that the proposed distribution of amounts from the Settlement Fund to Class Members will be in approximate proportion to a Class Member's claimed loss associated with the BANs held or purchased by the Class Member, and subject to verification by Class Counsel and the Court. Once the Court has approved a plan of distribution of the Settlement Fund, more detailed information about the proposed distribution will be provided to Class Members. Generally speaking, and subject to any qualifications or exceptions required by the Court in the interest of fairness to the Class as a whole, the loss of Class Member Holders (as defined below) will be defined by reference to the face value of the BANs held by the Class Member Holder. The loss of Class Member Purchasers (as defined below) will be defined as the difference between the Class Member Purchaser's purchase price and re-sale price, if reflective of a loss. Class Counsel, with the assistance of a claims administrator hired by Class Counsel, anticipate seeking the Court's approval for a distribution of the Settlement Fund, less Approved Disbursements, with respect to both Class Member Holders and Class Member Purchasers in accordance with a plan of distribution approved by the Court, although the amount of such distribution as a percentage of a Class Member's claimed and verified loss will depend upon the total amount of claims submitted by all Class Members.

When will the Settlement be final?

The Court will hold a hearing on **[Month, Day, Year]** to decide whether to give final approval to the Settlement. If the Court approves the Settlement and there are no appeals, the Settlement will become final thirty (30) days after the Court's approval.

PARTICIPATING IN THE SETTLEMENT

How do I participate in the Settlement?

If you believe you are a member of the Settlement Class and wish to receive a distribution as part of the Settlement, you must timely submit a Claim Form, as described above. Once the Court approves a method of distributing the Settlement Fund, more detailed information about the distribution of settlement funds will be provided to Class Members.

Do I have to give anything up to participate?

If you are a member of the Settlement Class and do not exclude yourself, you will be bound by the terms of the Settlement and any orders of the Court related to the Settlement, and you agree to and will release any right you may have to pursue the same legal claims brought, or which could have been brought, in this case against the Defendants in the Lawsuit.

EXCLUDING YOURSELF FROM THE SETTLEMENT

How do I get out of the Settlement Class?

You may request to be excluded from, or to "opt-out" of, the Settlement Class. If you elect to be excluded from the Class, you will not be bound by any of the terms of the Settlement or any judgment entered pursuant to the Settlement, nor will you be eligible to receive any of the benefits of the Settlement. You will retain and be free to pursue any claims that you may have against the Defendants on your own behalf and at your own cost.

If you wish to exclude yourself from the Settlement Class, you must mail a written request for exclusion, no later than _____, to the following:

Settlement Class Counsel:
Michael A. Wukmer Ice Miller LLP One American Square, Suite 2900 Indianapolis, IN 46282
Counsel for the Defendants:
Edward J. Fuhr HUNTON & WILLIAMS, LLP 951 East Bird Street Riverfront Plaza, East Tower Richmond, VA 23219 **Christian T. Kemnitz** KATTEN MUCHIN ROSENMAN LLP 525 West Monroe Street Chicago, IL 60661-3693

A "Class Member Holder" means a Class Member who holds, owns or beneficially owns a 2005 BAN or 2006 BAN. A "Class Member Purchaser" means a Class Member who purchased, but does not currently hold, own or beneficially own, a 2005 BAN or 2006 BAN.

Requests for exclusion do not need to be in any particular format, except that the request by a Class Member Holder must:

- State that you intend to "opt-out" or request "exclusion" from the Settlement Class against the Defendants;
- Contain the full name and current address of the person or entity requesting exclusion;
- Contain the title and a statement of authority of any person requesting exclusion from the Settlement Class on behalf of an entity other than a person;
- Contain the title of the Lawsuit: "*The Lafayette Life Insurance Company, et al, v. City of Menasha, Wisconsin et al*";
- Be signed by you;
- Be sent by U.S. mail, first class and postage prepaid, with a postmark on or before _____; and
- State the face amount of the BAN purchased by you, the amount paid by you for the BAN, and the date of such purchase.

Requests for exclusion do not need to be in any particular format, except that the request by a Class Member Purchaser must:

- State that you intend to "opt-out" or request "exclusion" from the Settlement Class against the Defendants;
- Contain the full name and current address of the person or entity requesting exclusion;
- Contain the title and a statement of authority of any person requesting exclusion from the Settlement Class on behalf of an entity other than a person;

Contain the title of the Lawsuit: "*The Lafayette Life Insurance Company, et al, v. City of Menasha, Wisconsin et al*";
Be signed by you;
Be sent by U.S. mail, first class and postage prepaid, with a postmark on or before _____;
State the face amount of the BAN purchased by you, the amount paid by you for the BAN, and the date of such purchase; and
State the amount received by you upon the subsequent sale of the BAN, together with the date of such sale and the identity of the purchaser (if known).

You cannot exclude yourself by phone or email.

If I do not exclude myself, can I sue the Defendants later?

Unless you exclude yourself, you cannot sue the Defendants for the claims resolved by this Settlement, which include any and all claims which have been, might have been, or might be asserted against the Defendants related in any way to the 2005 BANs or 2006 BANs. If you exclude yourself from the Settlement, you cannot participate in or object to the Settlement, and any claims you may have against the Defendants will be subject to applicable statutes of limitation.

COMMENTING ON THE SETTLEMENT

How do I tell the Court if I do not think the Settlement is fair?

If you are a Settlement Class Member and have not excluded yourself, you can object to the Settlement or any part of the Settlement. The Court will consider your views. Your objection must be in writing, and must be mailed, no later than _____, to the following:

Class Counsel:	**Counsel for the Defendants:**
Michael A. Wukmer Ice Miller LLP One American Square, Suite 2900 Indianapolis, IN 46282	Edward J. Fuhr Hunton & Williams LLP 951 East Bird Street Riverfront Plaza, East Tower Richmond, VA 23219 Christian T. Kemnitz Katten Muchin Rosenman LLP 525 West Monroe Street Chicago, IL 60661-3693
The Court:	
The Honorable Theresa L. Springmann, Judge United States District Court, Northern District of Indiana United States Courthouse	

230 North Fourth Street Lafayette, IN 47901	

An objection does not need to be in any particular format, except that the objection must:

Contain the full name and current address of the person objecting;
Contain the title and a statement of authority of any person objecting on behalf of an entity other than a person;
Contain the title of the Lawsuit: "*The Lafayette Life Insurance Company, et al, v. City of Menasha, Wisconsin et al*";
State the reasons for your objection;
Be accompanied by any evidence, legal briefs, motions or other materials you intend to offer in support of your objection;
Be signed by you;
Be sent by U.S. mail, first class and postage prepaid, with a postmark on or before _____; and
State the face amount of the BAN purchased by you, the amount paid by you for the BAN, the date of such purchase, and (if applicable) the amount received by you upon the subsequent sale of the BAN, together with the date of such sale and the identity of the purchaser (if known).

You cannot object to the Settlement by phone or email.

What's the difference between excluding myself and objecting?

If you exclude yourself, you are no longer a member of the Settlement Class and you keep your right to file your own lawsuit against the Defendants at your own expense. If you exclude yourself, you may not object to the Settlement and you cannot receive any payments or credits from the Settlement. If you remain a Settlement Class Member, you may object but still seek a distribution from the Settlement Fund on your claim.

Can I have a lawyer represent me?

The law firm of Ice Miller LLP has been appointed by the Court and represents you and other Settlement Class Members. These lawyers are called Class Counsel. Lead counsel for the Plaintiff Class is Michael A. Wukmer, Ice Miller LLP, One American Square, Suite 2900, Indianapolis, IN 46282, Telephone No. (317) 236-2100. Counsel is reasonably available to answer questions from Class Members concerning any matter contained in this Notice. If you want to be represented by your own lawyer, you may hire one at your own expense. However, any lawyer intending to appear at the Fairness Hearing must be duly admitted to practice law before the United States District Court for the Northern District of Indiana and must file a written appearance no later than ___. Copies of the appearance must be served on Class Counsel and counsel for the Defendants at the addresses included in this Notice in accordance with the Federal Rules of Civil Procedure.

SUBMITTING A CLAIM

How do I submit a claim?

Follow the instructions and fully complete the Claim Form enclosed together with this Notice and then submit the Claim Form, along with any required documentation, to Class Counsel on or before ___, 2011. The information you provide will be subject to verification and will be used by Class Counsel and a claims administrator hired by Class Counsel to disburse the Settlement Fund in accordance with a plan of distribution approved by the Court.

THE LAWYERS REPRESENTING YOU

How will the lawyers and costs be paid?

Plaintiffs, through lead counsel, Michael A. Wukmer, Ice Miller LLP, intend to move the Court for an award of attorneys' fees and costs in the aggregate amount of $1,238,149 which equals $272 on an average per share basis. If approved, this amount would be deducted from the Settlement Amount otherwise available for distribution to Class Members. Class Counsel believes such an award is supported by the outcome achieved, counsel's experience in securities, class and other complex litigation, the stakes involved and the vigorous defense presented by the defendants in this matter. Class Counsel's fee/costs motion pursuant to Federal Rules of Civil Procedure 23(h) and 54(d)(2) will be available on the settlement website and filed by Class Counsel no later than 14 days prior to the Fairness Hearing. The Court may consider whether to approve the payment of attorneys' fees and costs in this amount during the Fairness Hearing, or at a later time determined by the Court.

The Defendants have agreed not to oppose a request by Class Counsel for a payment of attorneys' fees and the reimbursement of reasonable expenses in the amount of $1,238,149, to be paid from the Settlement Fund. If the Court approves these fees and expenses, they will be paid from the Settlement Fund. These fees and expenses, however, will not be paid until time for appeal and/or any appeal of this Settlement has been exhausted. The costs of providing this Notice and published notice of the Settlement, and the costs of settlement administration, will be paid from the Settlement Fund.

THE COURT'S FAIRNESS HEARING

When and where will the Court decide whether to approve the Settlement?

The Court will hold a hearing — which is called the Fairness Hearing — at the United States Courthouse, 230 North Fourth Street, Lafayette, Indiana, at ____ o'clock on _____. At the Fairness Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court will consider any objections, and listen to people who have made written objections and timely asked to speak at the hearing. After the Fairness Hearing, the Court will decide whether to approve the Settlement.

Do I have to come to the hearing?

You do not need to attend the Fairness Hearing, but you are welcome to come at your own expense. If you have sent a written objection, you do not need to be present for the Court to consider it.

May I show up and speak at the hearing?

If you have submitted a timely written objection to the Settlement and requested to be heard, the Court may allow you to speak at the Fairness Hearing. If you wish for your lawyer to speak for you, he or she must have submitted a timely appearance as provided above.

Reminder: If you have excluded yourself from the Settlement Class, you may not object to the Settlement and you may not speak at the Fairness Hearing.

GETTING MORE INFORMATION

How can I get more information?

The description in this Notice is general and does not cover all of the issues and the proceedings thus far. More details about the Lawsuit and the Settlement, including a detailed definition of terms, are in the Settlement Agreement. You may review the Settlement Agreement and the court file during business hours at the Office of the Clerk of the United States District Court, United States Courthouse, 230 North Fourth Street, Lafayette, Indiana, or on the following internet website: [insert address]. You may also direct questions concerning the Settlement to Class Counsel at the address above. **Please do not contact the Court directly with any questions.**

Additional information about the Lawsuit and the Settlement, including a copy of Class Counsel's motion for award of attorneys' fees and costs, may be obtained from the following Internet website: [insert address].

/s/ Hon. Theresa L. Springmann, Judge
United States District Court,
Northern District of Indiana

Exhibit "C"

[PSLRA Statement]

STATEMENT REQUIRED BY SECTION 21D(a)(7) OF THE SECURITIES EXCHANGE ACT OF 1934, 15 U.S.C. § 78u-4(a)(7) AS AMENDED BY THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995

Pursuant to Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(7), as amended by the Private Securities Litigation Reform Act (PSLRA) of 1995, the parties state:

1. The amount of the settlement proposed to be distributed to members of the settlement class is, in the aggregate, $17.5 million in cash. [1] On an average per share basis, this means a payment of $3,841.50 per share, but less Approved Disbursements, as defined in the Settlement, for attorneys' fees and administrative costs. These disbursements are described in paragraph 3 below.[2]

2. The settling parties agree that if plaintiffs prevailed on each claim alleged under the Securities Exchange Act, plaintiffs would recover an average amount of potential damages of $4,713.92 per share, plus interest.[3]

3. Plaintiffs, through lead counsel, Michael A. Wukmer, Ice Miller LLP, intend to apply to the Court for an award of attorneys' fees and costs in the aggregate amount of $1,238,149 which equals $272 on an average per share basis. The sum available for distribution to class members will be lessened by this amount, subject to Court approval. Such an award is

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[1] The $17.5 million is in addition to the earlier partial payment, on the maturity date of September 1, 2009, of $1,382,834.01 in principal out of a total principal obligation of $24,160,000. Combined with such partial payment amount, on an average per share basis, this means a payment of $3,907.87 per share. Unpaid interest is not taken into consideration in this or any other calculation herein.

[2] A share is defined as a $5,000.00 note, which was the denomination in which each note at issue was issued. The PSLRA requires disclosure of certain financial information in per share amounts. The bond anticipation notes at issue in the Action were not issued in "shares" as such, as is the case with other types of securities, such as stock. For purposes of complying with the PSLRA disclosure requirements, Class Counsel have therefore assumed a $5,000 face value "share" because this is the lowest denomination in which the bond anticipation notes were sold. Class Counsel have sought and obtained the Court's approval for this treatment of the PSLRA "share" definition. At the maturity date of September 1, 2009, there was approximately $22.7 million in principal outstanding, after the partial principal payment of $1,382,834.01 mentioned above (footnote 1). The per share figure of $3,841.50 is derived by dividing the settlement amount of $17.5 million by the outstanding principal balance on the notes, multiplied by $5,000.

[3] This figure reflects the partial payment described in footnote 1 above.

supported by the outcome achieved, counsel's experience in securities, class and other complex litigation, the stakes involved and the vigorous defense presented by defendants in this matter.

4. Lead counsel for the plaintiff class is Michael A. Wukmer, Ice Miller LLP, One American Square, Suite 2900, Indianapolis, IN 46282. Phone No. (317) 236-2100. Counsel is reasonably available to answer questions from class members concerning any matter contained in this notice.

5. The parties have proposed to settle this matter on the following basis due to the inherent risks of litigation to both parties, the burden and expense of complex litigation, the inherent uncertainty of the litigation's outcome, the risk posed to plaintiffs by defendants' dispositive motions and a potentially adverse trial verdict and the defendants' potential exposure for greater loss. There is a risk that, if the litigation proceeds, Class Members could receive no recovery.

[end cover page]

Exhibit "C"

*****ATTENTION PURCHASERS AND/OR HOLDERS OF MENASHA, WISCONSIN 2005 AND 2006 TAXABLE STEAM UTILITY REVENUE BOND ANTICIPATION NOTES*****

NOTICE OF CLASS ACTION SETTLEMENT

If you are or were a person or entity who purchased or hold Taxable Steam Utility Revenue Bond Anticipation Notes, CUSIP #586499AA3, issued by Defendant City of Menasha, Wisconsin on or about February 1, 2005, with a stated maturity date of September 1, 2009 (the "2005 BANS") or Taxable Steam Utility Revenue Bond Anticipation Notes, CUSIP #586499AB1, issued by Defendant City of Menasha, Wisconsin on or about December 1, 2006, with a stated maturity date of September 1, 2009 (the "2006 BANS"), you may be entitled to receive a payment as part of the proposed settlement of a class action lawsuit brought on your behalf.

PLEASE READ THIS NOTICE CAREFULLY.

A Settlement has been reached between the Plaintiffs and the Defendants in *The Lafayette Life Insurance Company, et al, v. City of Menasha, Wisconsin et al,* Cause No. 4:09-cv-0064-TLS-APR (the "Lawsuit") and the proposed Settlement Class has been certified by the United States District Court for the Northern District of Indiana (the "Court").

WHAT THIS LAWSUIT IS ABOUT: The Lawsuit asserts that the Defendants sold or participated in the sale of Taxable Steam Utility Revenue Bond Anticipation Notes, CUSIP No. 586499AA3 ("2005 BANs") and Taxable Steam Utility Revenue Bond Anticipation Notes, CUSIP No. 586499AAB1 ("2006 BANs") in violation of Federal and State securities laws and in violation of certain other statutory and common law duties, and that Menasha is in payment default with regard to the BANs. The Defendants have denied and raised various defenses to these claims, which if sustained by the Court following a trial would minimize or defeat any recovery for the Class. There is a risk that, if the litigation proceeds, Class Members could receive no recovery.

WHO IS IN THE CLASS: You are a member of the proposed Settlement Class if you are a person or entity who purchased or holds 2005 BANs or 2006 BANs, but excluding the Defendants and their parents, subsidiaries or affiliates.

THE PROPOSED SETTLEMENT. The Defendants have agreed to pay the cash amount of $17,500,000 ("Settlement Amount") subject to the terms of the Settlement. On an average per share basis, this means payment of $3,841.50 per share, but less Approved Disbursements, as defined in the Settlement, for attorneys' fees and administrative costs, as described herein.[4]

[4] The $17.5 million is in addition to the earlier partial payment, on the maturity date of September 1, 2009, of $1,382,834.01 in principal out of a total principal obligation of $24,160,000. Combined with such partial

The settling parties agree that if Plaintiffs prevailed on each claim alleged under the Securities Exchange Act, Plaintiffs would recover an average amount of potential damages of $4,713.92 per share, plus interest.[5] At the maturity date of September 1, 2009, there was approximately $22.7 million in principal outstanding, after a partial principal payment of $1,382,834.01. The per share figure is derived by dividing the settlement amount of $17.5 million by the outstanding principal balance on the notes, multiplied by $5,000. This Settlement was achieved after more than eighteen months of litigation and numerous negotiating sessions between Class Counsel and the lawyers for the Defendants. The Defendants deny any liability and the Court has not made any liability determination. Because of the inherent risks of litigation Plaintiffs believe that the Settlement provides a fair and efficient resolution of the Plaintiffs' and Class Members' claims against the Defendants. The parties have proposed to settle this matter on this basis due to the inherent risks of litigation to both parties, the burden and expense of complex litigation, the inherent uncertainty of litigation's outcome, the risk posed to Plaintiffs by Defendants' dispositive motions and a potentially adverse trial verdict and the Defendants' potential exposure for greater loss.

Under the terms of the Settlement, Class Members receive at least $17,450,000, representing the Settlement Amount of $17,500,000 less $50,000 to be advanced by Menasha for the payment of interim expenses of administration of the Settlement, and also less attorneys' fees, costs and expenses approved by the Court. Class Counsel will seek Court permission to distribute the Settlement Fund to Class Members and to pay amounts approved by the Court for Class Counsel's attorneys' fees and reasonable expenses, reasonable future expenditures made or to be made by Class Counsel on behalf of Class Members and notices to Class Members.

No dismissal with prejudice of the Lawsuit will occur until the Effective Date of the Settlement, at which time the judgment entered in the case approving the Settlement becomes final and non-appealable, the Settlement Amount is paid to an escrow agent selected by Class Counsel and approved by the Court, and the Plaintiffs release Defendants for any and all claims related to the Lawsuit.

It is anticipated that the proposed distribution of amounts from the Settlement Fund to Class Members will be in approximate proportion to a Class Member's claimed loss associated with the BANs held or purchased by the Class Member, and subject to verification by Class Counsel and the Court. Once the Court has approved a plan of distribution of the Settlement Fund, more detailed information about the proposed distribution will be provided to Class Members. Generally speaking, and subject to any qualifications or exceptions required by the Court in the interest of fairness to the Class as a whole, the loss of Class Member Holders (as defined below) will be defined by reference to the face value of the BANs held by the Class Member Holder. The loss of Class Member Purchasers (as defined below) will be defined as the difference between the Class Member Purchaser's purchase price and re-sale price, if reflective of a loss. Class Counsel, with the assistance of a claims administrator hired by Class Counsel, anticipate seeking the Court's approval for a distribution of the Settlement Fund, less Approved

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payment amount, on an average per share basis, this means a payment of $3,907.87 per share. Unpaid interest is not taken into consideration in this or any other calculation herein.

[5] This figure reflects the partial payment described in footnotes 1 and 4 above.

Disbursements, with respect to both Class Member Holders and Class Member Purchasers in accordance with a plan of distribution approved by the Court, although the amount of such distribution as a percentage of a Class Member's claimed and verified loss will depend upon the total amount of claims submitted by all Class Members.

PAYMENT OF ATTORNEYS' FEES AND COSTS: Plaintiffs, through lead counsel, Michael A. Wukmer, Ice Miller LLP, intend to move the Court for an award of attorneys' fees and costs in the aggregate amount of $1,238,149 which equals $272 on an average per share basis. The sum available for distribution to Class Members will be lessened by this amount, subject to Court approval. Such an award is supported by the outcome achieved, counsel's experience in securities, class and other complex litigation, the stakes involved and the vigorous defense presented by Defendants in this matter. A copy of Class Counsel's fee/cost motion will be available on the settlement website and filed no later than 14 days prior to the Fairness Hearing. The Court may consider whether to approve the payment of attorneys' fees and expenses in this amount during the Fairness Hearing or at a later time determined by the Court, and the Defendants will not oppose the request for approval. These fees and expenses, however, will not be paid until time for appeal and/or appeal of this Settlement has been exhausted.

YOUR LEGAL RIGHTS AND OPTIONS IF YOU ARE A CLASS MEMBER: **(YOU MUST CHOOSE ONE OF THESE OPTIONS BY THE DEADLINE)**		**DEADLINE**
EXCLUDE YOURSELF	You may exclude yourself from the Settlement, in which case you will not be considered a Class Member of the Settlement Class and will not be eligible to receive any payments from the Settlement Fund approved by the Court, or to comment on the Settlement. If you exclude yourself from the Settlement and wish to pursue legal claims against the Defendants with respect to the 2005 or 2006 BANs, you will have to do so at your own expense and any claims will be subject to applicable statutes of limitation. A "Class Member Holder" means a Class Member who holds, owns or beneficially owns a 2005 BAN or 2006 BAN.. A "Class Member Purchaser" means a Class Member who purchased, but does not currently hold, own or beneficially own, a 2005 BAN or 2006 BAN. Requests for exclusion do not need to be in any particular format, except that the request by a Class Member Holder must: State that you intend to "opt-out" or request "exclusion" from the Settlement Class against the Defendants; Contain the full name and current address of the person	M/D/Y

	or entity requesting exclusion; Contain the title and a statement of authority of any person requesting exclusion from the Settlement Class on behalf of an entity other than a person; Contain the title of the Lawsuit: "*The Lafayette Life Insurance Company, et al, v. City of Menasha, Wisconsin et al*"; Be signed by you; Be sent by U.S. mail, first class and postage prepaid, with a postmark on or before _____; and State the face amount of the BAN purchased by you, the amount paid by you for the BAN, and the date of such purchase. Requests for exclusion do not need to be in any particular format, except that the request by a Class Member Purchaser must: State that you intend to "opt-out" or request "exclusion" from the Settlement Class against the Defendants; Contain the full name and current address of the person or entity requesting exclusion; Contain the title and a statement of authority of any person requesting exclusion from the Settlement Class on behalf of an entity other than a person; Contain the title of the Lawsuit: "*The Lafayette Life Insurance Company, et al, v. City of Menasha, Wisconsin et al*"; Be signed by you; Be sent by U.S. mail, first class and postage prepaid, with a postmark on or before _____; State the face amount of the BAN purchased by you, the amount paid by you for the BAN, and the date of such purchase; and State the amount received by you upon the subsequent sale of the BAN, together with the date of such sale and the identity of the purchaser (if known).	

SUBMIT A CLAIM	If you qualify as a Class Member, as defined above, and wish to receive a distribution from the Settlement Fund, you must complete and submit the Claim Form enclosed with this Notice within 60 days of the mailing of this Notice, or on or before _____, 2011. The completed Claim Form must be sent to Class Counsel. The information you provide will be subject to verification and will be used by Class Counsel and a claims administrator hired by Class Counsel to disburse the Settlement Fund in accordance with a plan of distribution approved by the Court. If you do not timely submit a properly-completed Claim Form, you will not receive any payment from the Settlement Fund, and any claim you have to a distribution from the Settlement Fund will be barred. The Claim Form requires each Class Member to certify the amount of the Class Member's claimed loss and submit reasonably available documentation. Subject to verification by Class Counsel and the Court of the accuracy of each Class Member's claimed loss, Class Counsel anticipates that it will seek Court approval for a distribution of the Settlement Fund, less Approved Disbursements, based on the total amount of verified claims. The approximate amount of compensation available from the Settlement Fund on a per share basis is described at the beginning of this Notice, but this is only an estimate and the actual distribution will depend on the total amount of verified claims submitted and the plan of distribution of the Settlement Amount ultimately approved by the Court. All Class Members of the Settlement Class, regardless of whether they submit a claim or receive any distribution from the Settlement Fund, will forever release and discharge any claim they might have against the Defendants.	**M/D/Y**
OBJECT	You may write to the Court if you do not wish to exclude yourself from the Settlement but do not think the Settlement is fair. If you exclude yourself from the Settlement you may not object. An objection does not need to be in any particular format, except that the objection must: Contain the full name and current address of the person objecting; Contain the title and a statement of authority of any person objecting on behalf of an entity other than a person; Contain the title of the Lawsuit: "*The Lafayette Life Insurance Company, et al, v. City of Menasha, Wisconsin et al*";	**M/D/Y**

	State the reasons for your objection; Be accompanied by any evidence, legal briefs, motions or other materials you intend to offer in support of your objection; Be signed by you; Be sent by U.S. mail, first class and postage prepaid, with a postmark on or before _____; and State the face amount of the BAN purchased by you, the amount paid by you for the BAN, the date of such purchase, and (if .applicable) the amount received by you upon the subsequent sale of the BAN, together with the date of such sale and the identity of the purchaser (if known).	
GO TO A HEARING	If you object, you may also ask to speak in Court about the fairness of the Settlement.	M/D/Y

FAIRNESS HEARING: The Court will hold a hearing – which is called the Fairness Hearing – at the United States Courthouse, 230 North Fourth Street, Lafayette, Indiana, at _____ o'clock on _____. At the Fairness Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. After the Fairness Hearing, the Court will decide whether to approve the Settlement. If you have submitted a timely written objection to the Settlement, you (or your lawyer) may be permitted to speak at the Fairness Hearing; however, you do not need to be present for the Court to consider your objection.

APPEAR BY COUNSEL: The law firm of Ice Miller LLP has been appointed by the Court and represents you and other Settlement Class Members. Those lawyers are called Class Counsel. Lead counsel for the plaintiff class is Michael A. Wukmer, Ice Miller LLP, One American Square, Suite 2900, Indianapolis, IN 46282, Telephone No. (317) 236-2100. Counsel is reasonably available to answer questions from Class Members concerning any matter contained in this notice. If you want to be represented by your own lawyer, you may hire one at your own expense. However, any lawyer intending to appear at the Farness Hearing must be duly admitted to practice law before the United States District Court for the Northern District of Indiana and must file a written appearance no later than _____. Copies of the appearance must be served on Class Counsel and counsel for the Defendants at the addresses included in this Notice in accordance with the Federal Rules of Civil Procedure.

CONTACT INFORMATION:

Class Counsel:	Defendants' Counsel:	The Court:
Michael A. Wukmer Ice Miller LLP One American Square Suite 2900 Indianapolis, IN 46282 (317) 236-2100	Edward J. Fuhr Hunton & Williams LLP 951 East Bird Street Riverfront Plaza, East Tower Richmond, VA 23219 Christian T. Kemnitz Katten Muchin Rosenman LLP 525 West Monroe Street Chicago, IL 60661-3693	The Honorable Theresa L. Springmann, Judge United States District Court Northern District of Indiana United Slates Courthouse 230 North Fourth Street Lafayette, IN 47901

ADDITIONAL INFORMATION: The description in this Notice is general and does not cover all of the issues and the proceedings thus far. More details about the Lawsuit and the Settlement, including a detailed definition of terms, are in the Settlement Agreement. You may review the Settlement Agreement and the court file during business hours at the Office of the Clerk of the United States District Court, United States Courthouse, 230 North Fourth Street, Lafayette, Indiana, or on the following internet website: [insert address]. You may also direct questions concerning the Settlement to Class Counsel at the address above. **Please do not contact the Court directly with any questions.**

Additional information about the Lawsuit and the Settlement, including a copy of Class Counsel's motion for an award of attorneys' fees and costs may be obtained from the following Internet website:
[insert address]

/s/ Hon. Theresa L. Springmann
United States District Court,
Northern District of Indiana

I/2600851.3

Exhibit "D"

Exhibit "D"

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION (LAFAYETTE)

THE LAFAYETTE LIFE INSURANCE COMPANY, MERCY RIDGE, INC., AMERICAN BANK, and all others similarly situated, Plaintiffs, - against - CITY OF MENASHA, WISCONSIN, a municipal corporation, MENASHA UTILITIES, MENASHA STEAM UTILITY, and RBC CAPITAL MARKETS CORP. f/k/a RBC DAIN RAUSCHER, INC., Defendants.	Cause No. 4:09-CV-64-TLS-APR

[PROPOSED] ORDER AND FINAL JUDGMENT

WHEREAS, this matter having come before the Court for hearing on _____ pursuant to an Order of this Court, dated _____ (the "Preliminary Approval Order"), on the application of Plaintiffs, The Lafayette Life Insurance Company, Mercy Ridge, Inc., and American Bank ("Plaintiffs"), on their own behalf and on behalf of each member of the Settlement Class, and Defendants, City of Menasha, Wisconsin, a municipal corporation ("Menasha"), sued herein as City of Menasha, Menasha Utilities, and Menasha Steam Utility, and RBC Capital Markets, LLC (f/k/a RBC Capital Markets Corp.) ("RBC") (Menasha and RBC referred to collectively as "Defendants"), for approval of the Settlement set forth in a Settlement Agreement, with Exhibits, dated March ___, 2011 (the "Agreement"), and due and adequate notice having been given of the Settlement as required in the Preliminary Approval Order and

the Court having heard the statements of counsel for the Plaintiffs and the Defendants, and of such persons as chose to appear at the hearing, and having considered all of the files, records and proceedings in the Action, the benefits to the Settlement Class under the Settlement and the risks, complexity, expense and probable duration of further litigation; and being fully advised in the premises;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. This Order and Final Judgment incorporates by reference the definitions in the Agreement, and any terms capitalized herein and not otherwise defined shall have the meanings ascribed to them in the Agreement.

2. This Court has jurisdiction of the subject matter of the Action and over all Parties, including all Members of the Settlement Class.

3. The Court hereby adopts and reaffirms the findings and conclusions set forth in the Preliminary Approval Order.

4. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court finds that the Settlement is in all respects fair, reasonable, and adequate to, and in the best interests of, the Plaintiffs, and each Member of the Settlement Class. The Court finds that the Settlement is the product of good faith, arm's-length negotiations between the Plaintiffs and Class Counsel, and the Defendants and their counsel, and the Settlement Class and the Defendants were represented by capable and experienced counsel. Accordingly, the Settlement is approved in all respects, and the Parties are directed to consummate the Settlement in accordance with the terms and conditions of the Agreement.

5. Pursuant to Federal Rule of Civil Procedure 23, the Court confirms, for the purpose of effectuating the Settlement, that: (a) Members of the Settlement Class are so

numerous that joinder of all Settlement Class Members would be impracticable; (b) there are questions of law and fact common to the Settlement Class which predominate over any individual questions relating to Settlement Class Members; (c) the claims of Plaintiffs are typical of, and Plaintiffs have no interests that conflict with the interests of, other Members of the Settlement Class; (d) Plaintiffs and Class Counsel have fairly and adequately represented and protected the interests of all Members of the Settlement Class; and (e) a class action is superior to other available methods for the fair and efficient adjudication of the controversy herein.

6. Pursuant to Federal Rule of Civil Procedure 23, the Court hereby confirms, for the purpose of effectuating the Settlement, a Settlement Class of all persons or entities who purchased or held 2005 BANs or 2006 BANs during the Class Period. Excluded from the Settlement Class are Defendants and their respective parents, subsidiaries, and affiliates, and all persons or entities (identified in Exhibit A) who timely requested exclusion from the Settlement Class pursuant to the notice provided to Settlement Class Members.

7. Notice of the proposed Settlement was mailed by means of the Depository Trust Company to all Settlement Class Members who could be identified with reasonable effort. Additionally, summary notice of the Settlement was published. The form, content, and method of notifying Settlement Class Members of the Settlement of the Action as a class action and of the terms and conditions of the Settlement (including without limitation Class Counsel's motion for an award of attorneys' fees and costs) met the requirements of Rule 23 of the Federal Rules of Civil Procedure, Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(7), as amended by the Private Securities Litigation Reform Act of 1995, due process and any other applicable law, constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

8. The notice provided by the Defendants to federal and state government officials, in the form attached to the Agreement as Exhibit "E," inclusive of the attachments thereto, satisfied 28 U.S.C. § 1715, and not less than ninety (90) days have passed since the later of the dates on which the appropriate federal official and the appropriate state official were served with the notice, as required under 28 U.S.C. § 1715(b).

9. Upon this Order and Final Judgment becoming Final, the Settlement Amount shall be delivered irrevocably to the Settlement Escrow Agent for deposit into the Settlement Fund, in accordance with the terms of the Agreement. The Settlement Escrow Agent shall thereupon administer the Settlement Fund for the sole purpose of paying the Settlement Amount, less any Approved Disbursements, to the Settlement Class pursuant to this Order and Final Judgment, and the plan of distribution approved (or to be approved) by the Court. The Court shall have continuing jurisdiction over the Settlement Fund, including the investment, distribution and administration of the Settlement Fund, which shall at all times be maintained as a Qualified Settlement Fund within the meaning of Treasury Regulation 1.468B-1, as amended.

10. Upon the Effective Date, the Releasees, and each of them, shall be deemed to, and by operation of this Order and Final Judgment shall be, completely released, acquitted, and forever discharged from any and all Released Claims, including the Unknown Claims, whether known or unknown, whether fraudulently concealed or otherwise concealed, or whether the damages or injury have fully accrued or will accrue in the future, whether class, individual or otherwise in nature, that Releasors, or any of them, ever had, now has, or hereafter can, shall, or may have on account of, or in any way related to the 2005 BANs or 2006 BANs, or arising out of or resulting from conduct, including but not limited to any conduct or action or inaction related to or arising out of any alleged wrongdoing associated with the 2005 BANs or the 2006 BANs

from 2005 through the end of the Class Period, including but not limited to any conduct alleged, and causes of action asserted, or that could have been alleged or asserted, in the Action, and Releasors are permanently enjoined and barred from instituting, asserting or prosecuting any Released Claim against the Releasees.

11. Upon the Effective Date, and in accordance with and to the extent required by 15 U.S.C. § 78u-4(f)(7)(A), the Releasees shall be deemed to, and by operation of this Order and Final Judgment shall be, released from all claims for contribution and indemnification brought by other persons, and any and all future claims for contribution or indemnification arising out of any Released Claim belonging to the Class, including, but not limited to, any claim that is based upon, arises out of or relates to this Action or the transactions and occurrences referred to in the First Amended Complaint, (i) by any person or entity against any Releasee and (ii) by any Releasee against any person or entity other than as set out in 15 U.S.C. § 78u-4(f)(7)(A)(ii), and all such claims for contribution and indemnification are permanently barred, extinguished, discharged, satisfied, and unenforceable.

12. Upon the Effective Date, the Releasees shall be deemed to, and by operation of this Order and Final Judgment shall be, completely released, acquitted, and forever discharged from any and all Released Claims by Releasors against any and all of the Releasees, and the failure of any Member of the Settlement Class to exclude themselves from the Settlement by the Exclusion Date set by the Court, or to obtain any payment from the Settlement Fund, whether by any action or failure to act of the Settlement Escrow Agent or Class Counsel, or for any other reason, shall not affect the releases herein. Nor shall the releases be affected in any way by any subsequent determination that the allocation of any payment to the Settlement Class from the Settlement Fund was unfair.

13. Upon the Effective Date, any claims against Releasors arising out of, relating to or in connection with the Action as against the Defendants shall be deemed to, and by operation of this Order and Final Judgment shall be, completely released by the Releasees and their counsel, and they are permanently enjoined and barred from instituting, asserting or prosecuting any and all claims which the Releasees or their counsel or any of them, had, have or may in the future have against Releasors, arising out of relating to or in connection with the Action as against the Defendants.

14. Upon the Effective Date, the Action shall be deemed to, and by operation of this Order and Final Judgment shall be, dismissed with prejudice and without assessment of costs or attorneys' fees against the Defendants.

15. Any plan of distribution of the Settlement Amount, or any order entered regarding the payment of expenses of administration of the Settlement, or attorneys' fees and expenses of Class Counsel, shall in no way disturb or affect this Order and Final Judgment, and shall be considered separate and apart from it.

16. Neither the Agreement, the Settlement or this Order and Final Judgment, nor any act performed pursuant to or in furtherance thereof: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, or of any wrongdoing or liability of the Defendants; or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Defendants in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. Defendants may file the Agreement and/or this Order and Final Judgment in any other action that may be brought against them in order to support a defense or counterclaim based on principles of

res judicata, collateral estoppel, judgment release and bar, settlement, reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

17. The Court hereby reserves its exclusive, general, and continuing jurisdiction over the Plaintiffs, the Settlement Class, Class Counsel, the Defendants, the Defendants' counsel, Releasors, Releasees, the Settlement Escrow Agent, and the Settlement Fund as needed or appropriate in order to administer, supervise, implement, interpret, or specifically to enforce the Settlement in accordance with its terms, including (without limitation) the investment, conservation, protection of the Settlement Fund prior to distribution, and distribution of the Settlement Fund.

18. This Order and Final Judgment shall become final and binding on the Parties on the Effective Date, and this Order and Final Judgment shall not become final and binding on the Parties until the Effective Date. In the event the Settlement does not become Effective in accordance with the terms of the Agreement or for any reason the Effective Date does not occur, then this Order and Final Judgment shall be rendered null and void and, in accordance with the Agreement, shall be vacated, and in such event all orders entered in connection herewith shall be null and void and no longer of any force or effect.

THERE BEING NO JUST REASON FOR DELAY, LET JUDGMENT BE ENTERED ACCORDINGLY.

IT IS SO ORDERED.

Date:_____

_____
The Honorable Theresa L. Springmann, Judge
United States District Court,
Northern District of Indiana

Exhibit "E"

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION (LAFAYETTE)

THE LAFAYETTE LIFE INSURANCE COMPANY, MERCY RIDGE, INC., AMERICAN BANK, and all others similarly situated, Plaintiffs, - against - CITY OF MENASHA, WISCONSIN, a municipal corporation, MENASHA UTILITIES, MENASHA STEAM UTILITY, and RBC CAPITAL MARKETS CORP. f/k/a RBC DAIN RAUSCHER, INC., Defendants.	Cause No. 4:09-CV-64-TLS-APR

NOTICE OF FILING OF A PROPOSED SETTLEMENT
OF A CLASS ACTION, PURSUANT TO TO 28 U.S.C. § 1715

TO: The Attorney General of the United States
The Attorneys General of the State(s) of _____.

Pursuant to the notification provisions of the Class Action Fairness Act of 2005, 28 U.S.C. § 1715(b), Defendants, the City of Menasha, Wisconsin, a municipal corporation sued in the above-captioned putative class action ("Action") as City of Menasha, Menasha Utilities, and Menasha Steam Utility ("Menasha"), and RBC Capital Markets, LLC (f/k/a RBC Capital Markets Corp.) ("RBC") (Menasha and RBC referred to collectively as "Defendants"), hereby give notice of a proposed class action settlement:

(1) A copy of Plaintiffs' original Complaint, with exhibits annexed thereto (Dkt. No. []), and First Amended Complaint, with exhibits annexed thereto (Dkt. No. []), may be accessed at the U.S. District Court's electronic case filing system ("ECF System") for the United States District Court for the Northern District of Indiana, http://www.innd.uscourts.gov.

(2) On [date], class counsel filed a motion seeking entry of an order that, among other things, preliminarily approves settlement of the Action and certifies a class for settlement purposes only, approves the form of notice to be sent to prospective class members describing the background and nature of the Action, terms of the proposed settlement, and class members' right to exclude themselves from the class, or object to the settlement ("Class Notice"), and the form of summary notice to be published ("Publication Notice"). A copy of the motion (Dkt. No. []) may be accessed at http://www.innd.uscourts.gov. No judicial hearing has yet been scheduled with respect to the motion or final approval of the settlement.

(3) Copies of the Class Notice and Publication Notice are attached as Exhibits A and B, respectively.

(4) A copy of the parties' Settlement Agreement, with exhibits annexed thereto, dated March [ ], 2011, is attached as Exhibit C.

(5) *See* item 4. There is no other agreement contemporaneously made between class counsel and counsel for the Defendants.

(6) The Settlement Agreement contemplates entry of a final judgment dismissing the Action, with prejudice, in accordance with the terms of the Settlement Agreement. However, no final judgment or notice of dismissal has been filed as of this time.

(7) It is not feasible for the Defendants to provide the number or names of class members as class members have not yet been identified. Under the Settlement Agreement, the

settlement class is defined as "All persons or entities who purchased or held [the bond anticipation notes at issue in the Action] during the Class Period, but excluding (i) persons or entities who or which have timely excluded themselves from the Class in accordance with the procedures described in this Agreement and the exhibits thereto; and (ii) Defendants and their respective parents, subsidiaries, and affiliates." Settlement Agreement ¶¶ 6, 34. It is estimated that approximately [%] of class members reside in the States of _____, and that the estimated proportionate share of the claims of such class members to the entire amount of the settlement is approximately [%], subject to class members excluding themselves from the settlement and any distribution of the settlement amount, the specific plan of distribution of the settlement amount proposed by class counsel and approved by the Court, and deductions from the settlement amount for class counsel fees, costs, and expenses, all as provided for in the Settlement Agreement and to be approved by the Court.

(8) There are no judicial opinions relating to the materials described in paragraphs (3) to (6) above (corresponding to 28 U.S.C. § 1715(b)(3) - (6)).

Dated: _____, 2011

HUNTON & WILLIAMS LLP

_____

Edward J. Fuhr
951 E. Byrd Street
Riverfront Plaza, East Tower
Richmond, Virginia 23219
(804) 788-8200

Counsel for Defendant City of Menasha

KATTEN MUCHIN ROSENMAN LLP

_____

Christian T. Kemnitz
525 West Monroe St.
Chicago, IL 60661-3693
(312) 902-5200

Counsel for Defendant RBC Capital Markets, LLC

RECEIVED
MAR 29 2011

EAST CENTRAL WISCONSIN REGIONAL PLANNING COMMISSION

132 Main Street Menasha Wisconsin 54952-3100 (920) 751-4770 Fax (920) 751-4771
Website: www.eastcentralrpc.org Email: staff@eastcentralrpc.org

An Economic Development District and Metropolitan Planning Organization
Serving the East Central Wisconsin Region for over 30 years

MEMORANDUM

TO: Dale Weber, Wisconsin Department of Transportation, NE Region, Green Bay
Jim Bonetti, U.S. Army Corps of Engineers, Kaukauna
John Silagy, U.S. Army Corps of Engineers, Detroit
Chief Marcus Evans, U.S. Coast Guard
CWO Jon Grob, U.S. Coast Guard
Eric Deksnis, Canadian National RR, Michigan
Steve Spanbauer, Dock Master, Neenah Boat and Dock
Mike Hendrick, Planner, Outagamie County, Appleton
Mark Harris, Winnebago County Executive, Oshkosh
John Haese, Winnebago County Highway Department
Bridge Operations Supervisor, Winnebago County
Jerry Bougie, Winnebago County Planner, Oshkosh
Robert Way, Parks Director, Winnebago Co.
Paula Van de Hey, Public Works Director, Appleton
Chad Weyenberg, Drawbridge Operations, Appleton
Roy Simonson, Public Works Director, DePere
John Sundelius, Public Works Director, Kaukauna
Rick Hermus, Village Administrator, Kimberly
Chuck Kell, Village Administrator, Little Chute
Mark Radtke, Public Works Director, Menasha
Brian Tungate, Parks Director, Menasha
Candice Mortara, President, Friends of the Fox
Doug Bodway, Valley Marine Mart, Inc.
Douglas Ales, Presentation Rentals
Tom Radtke, Radtke Contractors, Inc.
Diane Schabach, Harbor Master, Menasha Marina
Mel Wickert, Winnebago Waterways,Inc., Oshkosh
Dennis Arnoudussen, Fox River Navigation System Authority
Robert J. Stark, Fox River Navigation System Authority
Harlan Kiesow, CEO, Fox River Navigation System Authority

FROM: Walt Raith, Assistant Director
East Central Wisconsin Regional Planning Commission

DATE: March 28, 2011 **NOTE CORRECTED LOCK SCHEDULE**

RE: WisDOT 2011 navigation season operating dates and hours for bridges on the Fox River System.

OVER

Wisconsin Department of Transportation, Northeast Region - 2011 Bridge Operation Schedule

For the four bridges in Oshkosh (Main Street, Oregon/Jackson Streets, Wisconsin Street and Congress Avenue) and the Winneconne Main Street Bridge, the operating hours will be: **8:00 a.m. to 12:00 midnight from April 22, to October 9, 2011.** As in the past there will be **restricted operating hours** for the Oshkosh bridges on Monday through Friday to avoid undue conflicts with street traffic during the following time periods:

11:45 a.m. to 12:15 p.m.
12:45 p.m. to 1:15 p.m.
3:00 p.m. to 5:00 p.m.

For the two bridges in Menasha (Racine and Tayco Streets), the operating hours will be: **8:00 a.m. to 12:00 midnight on Friday through Sunday. Monday through Thursday normal operation hours are 10:00 a.m. to 10:00 p.m. beginning on April 22nd and ending on October 9th .** Operating hours on **Memorial Day, Monday, May 30th and Labor Day, Monday, September 5th will be from 8:00 a.m. to 12:00 midnight,** as on weekends.

Note: The Racine Street Bridge will not be operated on September 18, 2011 from 7:30 A.M until 1:30 P.M. to accommodate the Fox Cities Marathon route.

The Island Street bridge in Kaukauna and the Mill Street bridge in Little Chute are inoperable, and will not have scheduled hours for the 2011 season.

During the off season, all operable bridges in the system can be opened if at least twelve (12) hours notice is given. Railroad bridges and highway lift bridges will be operational and available for 12 hour non-operating hours notification prior to April 22, 2011 and after October 9, 2011.

The following is a listing of telephone contacts for the issuance of 12 hour notices by mariners of requests for drawbridge openings during unscheduled operating hours:

City of Appleton, Drawbridge Operations, Municipal Service Building, 2625 E. Glendale Avenue, Appleton, WI 54911 (920) 832-5580 [Police (920) 832-5500]

City of Menasha, Director, Department of Public Works, 140 Main Street, Menasha, WI 54952 (920) 967-5102 [Police (920) 967-5128]

Winnebago County (Oshkosh and Winneconne Drawbridges), Bridge Operations Supervisor, Winnebago County, 901 W. County Road Y, Oshkosh, WI 54903 (920) 232-1700 [After 3:00 p.m. (920) 420-2146] Off Hours (920) 232-1715

Canadian National, 6361 N. Western Avenue, Fond du Lac, WI 54937 (920) 929-6040.

Questions? Northeast Region Bridge Operations: Dale Weber, Wisconsin Department of Transportation, Northeast Region, 944 Vanderperren Way, Green Bay, WI 54304 (920) 492-7161.

CORRECTION

The Lower **Fox River Lock System** operating season for 2011 is May 7th through October 2nd. Off season lockages (surcharge applies) can be made by special 12 hour advance request by contacting:

Dennis Amoudussen at (920) 202-1853.

DEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF MENASHA, WISCONSIN,

AND

THE PONDS OF MENASHA, LLC

DATED AS OF MARCH____, 2011

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT is made and entered into as of the ___ day of March 2011, by and between the CITY OF MENASHA, Wisconsin, a Wisconsin municipal corporation with its principal offices located at 140 Main St., Menasha, Wisconsin 54952 (hereinafter "CITY"), and The Ponds of Menasha, LLC, a Wisconsin limited liability company with its principal offices located at 1300 N. Kimps Ct., Green Bay, Wisconsin 54313 (hereinafter "DEVELOPER").

RECITALS

The Project to be undertaken by the DEVEOPER, as described herein, is of particular importance to the CITY and provides special benefits to the CITY because it promotes the physical and economic development of the CITY, increases the range of choice in the CITY's housing stock, accelerates sales of CITY-owned property, provides a means of paying the CITY's debt associated with land acquisition and improvements of the CITY-owned development known as Lake Park Villas.

ARTICLE I

SECTION 1.01 PURPOSE OF AGREEMENT. The parties hereto are entering into this Development AGREEMENT for the preparation and construction of a residential development within Lake Park Villas Project Area and proposed City of Menasha Tax Incremental District Number 12 (TID #12). The parties have worked cooperatively regarding initial planning, financing and feasibility of such a development. Further, the parties have reached an understanding regarding participation in the future development and intend to enter into this Development AGREEMENT to record the understandings and undertakings of the parties and to provide a framework within which the development may proceed.

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

"AVAILABLE TAX INCREMENT" – The amount of tax increment (as defined in Sec. 66.1105, Wis. Stats.) generated solely by the Development Property and Development Improvements as of January 1 of each calendar year.

"CONCEPT PLAN" – The conceptual plan, estimated schedule and value estimates for the contemplated development of the Development Property. It is attached as **EXHIBIT** [insert].

"DEVELOPMENT" – The Development Improvements and Infrastructure that constitute the planned development project that is the subject of this AGREEMENT.

"DEVELOPMENT IMPROVEMENTS" - Means structures, buildings and accoutrements constructed by DEVELOPER in compliance with Implementation Plans comprised of the following:

- PHASE I – A single family residential development within Development Area "A" comprised of not less than 70 units at a density not less than three units per acre with an estimated improved value of $11,900,000.

- PHASE II – A single family residential development within Development Area "B" comprised of not less than 50 units at a density not less than three units per acre with an estimated improved value of $8.5 million.

- PHASE III– A multi-family residential development within Development Area "C" comprised of not less than 54 units with an estimated improved value of $2.7million (54 units @ $54,000 estimate = $2.7 million).

"DEVELOPMENT AREA A" – An area consisting of approximately 20 acres located in the NW ¼ of the NE ¼ of Section 17, T20N, R17E and proposed CITY of Menasha Tax Incremental Financing District # 12 attached as **EXHIBIT A**, the actual area of which is to be determined via a Certified Survey Map pursuant to Section 3.02.1

"DEVELOPMENT AREA B" - An area consisting of approximately 20 acres, excluding the area designated as a regional storm water pond, located in the NW ¼ of the NE ¼ of Section 17 T20N R17E and proposed CITY of Menasha Tax Incremental Financing District # 12 attached as **EXHIBIT B**, the actual area of which is to be determined via a Certified Survey Map pursuant to Section 3.02.1

"DEVELOPMENT AREA C" - An area consisting of approximately 3 acres, described as Lot 16 Lake Park Villas Plat and located in the proposed City of Menasha Tax Incremental Financing District # 12 attached as **EXHIBIT C**.

"DEVELOPMENT PROPERTY" - consists of Development Areas "A," "B," and "C."

"DEVELOPMENT COSTS" — The hard and soft costs enumerated in the development budget set forth in **EXHIBIT D**.

"EQUALIZED ASSESSED VALUE" – The value also known as "EAV" is defined as the estimated fair market value of land and buildings on the real estate tax bill for a particular parcel.

"INFRASTRUCTURE" – Public and Private Infrastructure.

"IMPLEMENTATION PLAN" – Detailed plans, drawings, specifications and other information as required for the site plan review under CITY Ordinances regarding the construction of Private Infrastructure, Infrastructure and Development Improvements. A specific Implementation Plan must be submitted to and approved by the CITY prior to construction as provided by CITY Ordinance. Each specific Implementation Plan shall be attached to this AGREEMENT as an exhibit upon approval by the CITY.

"PERFORMANCE INCENTIVE" – Annual payments of the Available Tax Increment, commencing in 2013 through 2031 to the DEVELOPER. Performance Incentive shall be

payable to DEVELOPER as provided in this AGREEMENT.

"PUBLIC IMPROVEMENTS" – The road improvements including final roadway street base course and four inch asphalt pavement, concrete curb and gutter, concrete sidewalks as well as sanitary sewer, water mains, storm water drainage, drainage ponds, and other public facilities normally provided by or required by local governments fronting the Development Property whether in place or to be constructed or upgraded in conjunction with the development contemplated in the Concept Plan, including storm water management ponds, but specifically excluding Infrastructure.

"PUBLIC INFRASTRUCTURE"– Consists of those Public Improvements that will be the responsibility of the DEVELOPER as more particularly described in Exhibit ____ (attached) and shall include sanitary sewer service, storm sewer, water mains, and two (2) inch binder temporary asphalt paving, street lighting, that have been constructed by DEVELOPER and dedicated to the CITY under this AGREEMENT.

"PRIVATE INFRASTRUCTURE" – Site grading in accordance with an approved grading and drainage plan, sanitary sewer laterals, potable water laterals and other facilities owned, constructed and maintained by DEVELOPER to service the Development Improvements from the Public Improvements or Private Infrastructure described more particularly in **EXHIBIT** [insert].

"TID # 12" means CITY of Menasha Tax Incremental District Number 12 and project plan created by CITY.

ARTICLE II

OVERVIEW OF THE PROJECT

SECTION 2.01 The Project consists of residential development to take place in three phases resulting in the creation of not less than 120 single family residential units and 54 multi-family units. The construction of at least ten (10) homes within Phase I is to begin by September 1, 2011 with an expected completion date of May 1, 2012. Projected completion dates are January 1, 2016 for Phase I, January 1, 2020 for Phase II. For Phase III, the projected completion date shall be thirty-six (36) months after the DEVELOPER acquires the Property. Upon completion, the entire project is expected to have a value of $23 million.

ARTICLE III

DEVELOPER OBLIGATIONS

SECTION 3.01 Acquisitions of Development Areas. Upon completion of the pre-closing conditions but in no case later than June ~~1~~30, 2011, DEVELOPER shall acquire fee simple title to Development Areas "A" and "B." Upon the City securing the purchase of Development Area "C" in accordance with Section 5.02.2 and before December 31, 2011, DEVELOPER shall acquire fee simple title to Development Area "C."

SECTION 3.01.1 CITY shall transfer the Real Estate for Phase I and Phase II to DEVELOPER by warranty deed for $17,000 per acre subject to the terms and conditions of this AGREEMENT and a separate Real Estate Purchase AGREEMENT to be executed by the parties. The Real Estate Purchase AGREEMENT shall provide that DEVELOPER shall pay $27,200 down at date of closing and shall execute a Promissory Note in favor of CITY in the amount of the balance of the Purchase Price. The terms of the Note shall be zero percent (0%) interest until paid in full, except that in the event DEVELOPER fails to pay in full before January 1, 2020, then interest shall be paid at five percent (5%) per annum of the remaining balance assessed from the date of closing. DEVELOPER shall be required to make a payment of $5,700 to CITY toward the outstanding balance of the Promissory Note for each Lot sold or transferred by DEVELOPER prior to or at the time of each closing using first proceeds for said payment. As security for said Promissory Note, the DEVELOPER shall give CITY a first mortgage position on the Real Estate Development Area "B" which CITY shall subordinate upon Phase I Development Improvements being completed and a second mortgage position on the Real Estate Development Area "A", second to the first mortgage position of the commercial lending institution approved by DEVELOPER in the approximate amount of $2,000,000 representing monies necessary for DEVELOPER's Public and Private Infrastructure obligations herein for Phase I and Phase II. Closing shall take place on or before June ~~1~~30, 2011. Real estate shall be defined as the Development Area A and the Development Area B estimated to be approximately forty (40) acres of land (Purchase Price estimated to be $680,000 ($17,000 x 40)). CITY shall be responsible for any and all transfer taxes as well as preparation of any and all Certified Survey Maps. CITY shall further be responsible for obtaining the two separate legal descriptions, one description for each Development Area. Certified Survey Map and legal description shall be provided to DEVELOPER by CITY, at CITY's sole expense, at least thirty (30) days prior to closing. The AGREEMENT of sale shall also provide that the CITY shall update all wetland studies for the Real Estate and provide a copy of said wetland studies to DEVELOPER at least fifteen (15) days prior to closing. The AGREEMENT shall further provide that the AGREEMENT is contingent upon the CSM mappings allowing for the development of one hundred twenty (120) or more residential real estate lots, as approved by DEVELOPER, within the real estate areas known as Development Area A and Development Area B.

SECTION 3.01.2 Title Insurance. The CITY shall obtain and pay for a title insurance commitment in the amount of the purchase price. A commitment by the title company agreeing to issue a title policy upon the recording of proper documents as agreed herein shall be deemed sufficient performance. DEVELOPER may obtain additional title insurance at its cost. The CITY shall provide to DEVELOPER a preliminary commitment for title insurance not less than fifteen (15) days prior to the closing.

SECTION 3.01.3 Title. The CITY shall cooperate with DEVELOPER to clear up any defect in title that may be pertaining to the property; provided, however, the Real Estate shall be conveyed subject to (1) reasonable and customary easements and restrictions of record; (2) a reversion of title in accordance with this AGREEMENT;

(3) requisite public and private utility easements; (4) CITY covenants which are attached hereto and fully incorporated herein, none of which may be removed or modified without CITY's approval (ATTACH COVENANTS AS EXHIBIT ____); and (5) all other terms and conditions of this AGREEMENT.

SECTION 3.01.4 Closing Date. The closing date for the transfer of the Real Estate shall be on or before June ~~1~~30, 2011 for Development Areas "A" and "B" and shall be held at the office of the City Attorney, City Hall, 140 Main Street, Menasha, Wisconsin or where the parties may otherwise agree. The closing date for Development Area "C" shall be on or before December 31, 2011.

SECTION 3.01.5 The Real Estate shall be conveyed "as is." The CITY is not responsible for any subsequent remediation, demolition, underground debris, or other clean up costs after conveyance.

SECTION 3.01.6 Listing Contract. CITY had previously engaged a broker for listing Development Areas A and B and the CITY may owe a brokerage fee to said listing broker as a result of the sale of real estate contemplated herein. Said CITY shall be responsible for the payment of any brokerage fees associated with the sale of the real estate.

SECTION 3.02 DEVELOPER's Covenant to Develop. DEVELOPER agrees and covenants to use its best efforts to proceed with due diligence to complete the Development substantially in accordance with the Concept Plan and Implementation Plans which plans and specifications shall be subject to such reasonable review and approval by the CITY as may be normal, customary or required in order to proceed with the Development in accordance with all applicable rules, codes, regulations, ordinances and laws. The DEVELOPER shall cause IMPROVEMENTS to the DEVELOPMENT AREAS to create a value of not less than $23 million including Phase III / Development Area C. The cost for such improvements shall include Development hard and soft costs, site clearance and preparation and costs associated with the construction of single family and multi-family housing units. DEVELOPER shall be required to complete construction Phase I of the Development by January 1, 2016, Phase II by January 1, 2020 and Phase III within thirty-six (36) months after acquisition of Development Area C by DEVELOPER. DEVELOPER agrees not to create a condominium unless or until Cypress Homes Inc. has sold all condominium units constructed in accordance with its development agreement with the City.

SECTION 3.03 Compliance with Codes, Plans and Specifications. DEVELOPER, at its own expense, shall obtain all approvals, permits and licenses as may be required by any governmental or non-governmental entity in connection with the Development. The building and other improvements to be constructed upon the Property, the construction thereof, and their uses shall be in compliance with all applicable codes and ordinances of the CITY, and with all pertinent provisions of this AGREEMENT, the Project Plan and the Plans and Specifications.

SECTION 3.04 Taxes. It is understood that the land, improvements and personal property resulting from the Development shall be subject to property taxes. DEVELOPER shall pay when due all federal, state and local taxes in connection with the Project and all operating expenses in connection with the Real Estate and Development.

SECTION 3.05 Reversion of Undeveloped Portion of Development Property. Notwithstanding the foregoing, in the event that the DEVELOPER does not construct Phase 1 on or before January 1, 2016 or the Aggregate Increment does not reach $8.925 million by January

1, 2016, the CITY may, at its discretion demand the reversion of any property in the Development Areas that have not been improved by Development Improvements contemplated by the Concept Plan. Upon receipt of such demand, the DEVELOPER shall deliver by warranty deed the property identified by the CITY free and clear of any encumbrances within 60 days of the demand. The purchase price of the property so conveyed shall be $17,000 per acre. In the event that the DEVELOPER fails to timely deliver the property, the CITY may commence an action to enforce this provision without further cure.

SECTION 3.06 Public Infrastructure. DEVELOPER shall in connection with and during the construction of the Development undertake at its expense, design and construction of Public Infrastructure in accordance with City of Menasha specifications as furnished to the DEVELOPER by the Menasha Department of Public Works. The Public Infrastructure shall be undertaken consistent with the overall schedule of construction for the Development and shall be completed upon substantial completion of the Development. The Public Infrastructure shall be funded solely by the DEVELOPER. Improvements designed and constructed by the CITY such as sidewalks, curb and gutter and final street paving will be specially assessed or otherwise charged against the benefitting properties within the Development, including lots owned by the DEVELOPER, but, as pertaining to Development Area A, not before at least eighty percent (80%) of the Development Improvements within Development Area A have been constructed or January 1, 2017, whichever occurs first and as pertaining to Development Area B, not before at least eighty percent (80%) of the Development Improvements have been constructed or January 1, 2021, whichever occurs first. DEVELOPER agrees to provide notice to each subsequent owner/purchaser of any real estate in Development Area "D" of the expected curb and gutter and final paving special assessment through a covenant recorded with the Calumet County register of deeds office.

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SECTION 3.07 Private Infrastructure. DEVELOPER shall in connection with and during the construction of the Development undertake at its expense, design and construction of Private Infrastructure in accordance with approved IMPLEMENTATION PLAN.

SECTION 3.08 Easements. DEVELOPER shall grant the CITY or any public utility such easements as reasonably necessary for public improvements, infrastructure, ingress or egress, utilities, lighting or landscaping or any other need necessary to effectuate the Development in accordance with approved plans at no cost to the CITY.

SECTION 3.09 Record Retention. DEVELOPER understands and acknowledges that the CITY is subject to Public Records Law of the State of Wisconsin. As such, DEVELOPER agrees to retain all records as defined by Wisconsin Statute §19.35(2) applicable to this AGREEMENT for a period of not less than seven (7) years. DEVELOPER agrees to assist the CITY in complying with any public records request that they receive pertaining to this AGREEMENT. DEVELOPER agrees to indemnify and hold the CITY, their officers, employees and authorized representatives harmless for any liability, including without limitation, reasonable attorney fees relating to or in any way arising from DEVELOPER's actions or omissions which contribute to the Indemnified Party's inability to comply with the Public Records Law. In the event DEVELOPER decides not to retain its records for a period of seven (7) years, then it shall provide written notice to the CITY whereupon the CITY shall take custody of said records assuming such records are not already maintained by the CITY. This provision shall survive termination of this AGREEMENT.

SECTION 3.10 Prevailing Wages. DEVELOPER shall pay all applicable prevailing

wages as required by Wisconsin law.

ARTICLE IV

CITY OBLIGATIONS

SECTION 4.01 The CITY shall be responsible for the installation of sidewalk, curb and gutter and final street paving, which will not be constructed earlier than one (1) winter season following completion of the development project. The CITY will assess each property/lot owner the cost and expenses associated with these public improvements in accordance with CITY ordinances and state statutes, but, as pertaining to Development Area A, not until at least eighty percent (80%) of the Development Improvements within Development Area A have been constructed or January 1, 2017, whichever occurs first and as pertaining to Development Area B, not until at least eighty percent (80%) of the Development Improvements have been constructed or January 1, 2021, whichever occurs first.

SECTION 4.02 Provision of Tax Increment Financial Incentive. In order to induce DEVELOPER to undertake the DEVELOPMENT within proposed TID #12, the DEVELOPER has requested and the CITY may be required to make available financial incentive to the DEVELOPER in a total amount not to exceed $4 million, for the purpose of implementing the proposed TID #12 Project Plan and this AGREEMENT (the "CITY Contribution"). The CITY Contribution is made pursuant to Sections 66.1105(2)(f)1 of the Wisconsin Statutes, and shall be made available in the amount as follows:

SECTION 4.02.1 DEVELOPER agrees to advance funds for project costs, which the CITY shall reimburse through financial incentive under the terms of this AGREEMENT, with funds to be made available upon verification of the Tax Increment increase as defined herein.

SECTION 4.02.2

- PHASE I
    - 16% of the Equalized Assessed Value (EAV) will be paid to the DEVELOPER for properties valued at $170,000 or less.
    - 18% of the Equalized Assessed Value (EAV) will be paid to the DEVELOPER for properties valued between $170,000 and $180,000.
    - 19% of the Equalized Assessed Value (EAV) will be paid to the DEVELOPER for properties valued greater than $180,000.

SECTION 4.02.3

- PHASE II
    - 17% of the Equalized Assessed Value (EAV) will be paid to the DEVELOPER for properties valued at $160,000 or less.
    - 18% of the Equalized Assessed Value (EAV) will be paid to the DEVELOPER for properties valued between $160,000 and

$170,000.

- 19% of the Equalized Assessed Value (EAV) will be paid to the DEVELOPER for properties valued greater than 170,000.

SECTION 4.02.4

- PHASE III
  - 10% of the EAV

SECTION 4.02.5 A total amount not to exceed $4 million of ACCUMULATED TAX INCREMENT may be distributed to the DEVELOPER according to the schedule set forth herein when and only when the threshold value of the Development Improvements reaches $2.5 million. The threshold value will be the equalized assessed value of the project on January 1, 2012.

- For four years beginning in 2013, 25% of the Available Tax Increment attributable to the Development Improvements will be distributed to the DEVELOPER payable on or before September 1 of each of the four years.

- Beginning in 2017 until termination of the City contribution, 80% of the Available Tax Increment attributable to the Development Improvements will be distributed to the DEVELOPER payable on or before September 1 of each year.

SECTION 4.02.6 CONDITIONS TO PAYMENT OF CITY CONTRIBUTION/SHORTFALL PROTECTION. If DEVELOPER has not constructed Development Improvement of a threshold EAV value of $2.5 million on January 1, 2012, the CITY may delay the commencement of payment of the Performance Incentive until the year following the attainment of a threshold EAV of $2.5 million, said EAV being measured as of January 1 of any particular year.

SECTION 4.02.7 If on or before January 1, 2016, the DEVELOPER has not completed Phase I, the DEVELOPER shall be required to pay in full, monies owed to the CITY for the purchase of Development Area "B."

SECTON 4.02.8 No City contribution to DEVELOPER provided for in this AGREEMENT shall be paid or deemed due and owing to DEVELOPER for any year in which any property tax pertaining to any portion of the Development Property which is under the ownership of the DEVELOPER, is not timely paid. In the event of any delinquency the CITY may give the DEVELOPER 30 days to cure. If the DEVELOPER fails to cure, the City contribution shall be withheld in that year. Nothing in this AGREEMENT shall in any way affect the City's right to enforce collection of property taxes in the manner provided by law.

SECTION 4.03 CERTIFICATION OF COMPLETION. Upon completion and review of the improvements of each phase by the CITY, the CITY shall provide the DEVELOPER with an appropriate recordable instrument certifying that the improvements have been made in accordance with this AGREEMENT and the project plans for each said phase and any amendment or modifications thereto.

SECTION 4.04 CITY PERFORMANCE SUBJECT TO REQUIRED GOVERNMENT APPROVALS. The DEVELOPER acknowledges that various of the specific undertakings of the CITY described in this AGREEMENT require approvals from the City's Common Council and/or Planning Commission as well as from governmental bodies external to the CITY, some of which approvals may require public hearings and other legal proceedings as conditions precedent thereto. The City's obligations are conditioned upon the obtaining of all such approvals in the manner required by law. The CITY cannot assure that all such approvals will be obtained; however, it agrees to use good faith efforts to obtain such approvals on a timely basis. DEVELOPER shall receive a reasonable extension on all time requirement deadlines set forth within this AGREEMENT due to approval delays by CITY.

SECTION 4.05 CITY REMOVAL OF SILOS. As and for additional consideration to DEVELOPER with respect to this AGREEMENT, CITY agrees that within one (1) year from the date of signing this AGREEMENT, CITY shall arrange for the removal of the two (2) silos within parcel Outlot 6 which lies adjacent to Development Area B ("Silo Parcel").

ARTICLE V

CONDITIONS PRECEDENT TO CLOSING

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

SECTION 5.02 Conditions to DEVELOPER's Obligation to Close. DEVELOPER's obligation to consummate the transactions to be performed by it in connection with the Closing is subject to satisfaction of the following conditions:

> SECTON 5.02.1 The CITY, at its expense, causing Development Areas "A" and "B" to be split from Lot 2 of the Lake Park Villas subdivision and that part, if any, of Parcel #7-01722-00 comprising the Development Area via Certified Survey Map.
>
> SECTON 5.02.2 As it relates to Development Area "C," DEVELOPER is not required to DEVELOP Development Area "C" unless and until CITY arranges for DEVELOPER to acquire Development Area "C" for not more than $165,000.
>
> SECTION 5.02.3 Creation of a Mixed Use Tax Incremental Financing District – Proposed TID#12 for twenty (20) years in duration.

SECTION 5.03 Pre-Closing Undertakings of the DEVELOPER. Prior to Closing, the DEVELOPER agrees that it shall:

> SECTION 5.03.1 Financing Commitment. DEVELOPER shall obtain and provide to the CITY: (1) a written financial commitment from a conventional lender for Public and Private Infrastructure of Phase I / Development Area A of not less than $_____, (2) written construction contract to construct and finance the Development, (3) other written proof of financial resources to construct the Development, or (4) any combination thereof. Said documents shall be acceptable in all respects to the CITY, in the sole and absolute discretion of the

CITY Comptroller or other agent for the CITY. DEVELOPER shall have closed the loan, which is the subject of the financing commitment and in connection therewith, DEVELOPER shall have provided copies of the documents to be executed in connection with the construction loan to the CITY Comptroller. DEVELOPER shall provide to the CITY copies of all appraisals and market studies prepared in connection with the financial commitment.

SECTION 5.03.2 Prepare conceptual lot layouts and restrictive covenants for the Development which are acceptable to the CITY and DEVELOPER.

SECTION 5.03.3 Financial Statements. Within five (5) business days of the execution of this Agreement, DEVELOPER, Lexington Homes and Jeffrey Marlow shall have provided to the City Comptroller, audited financial statements (if available, and if audited financial statements are not available, financial statements in a form reasonably acceptable to the City Comptroller) for fiscal years 2009 and 2010 plus three years complete tax returns, including all schedules. The financial statements must show a financial condition acceptable to the CITY, in the judgment of the CITY Comptroller.

SECTION 5.03.4 DEVELOPER shall at its expense have obtained all necessary approvals and permits necessary to undertake the Development, including but not limited to, site plan review, zoning approvals, and any other local, state or federal approvals or permits.

SECTION 5.03.5 Within 120 days of the execution of this AGREEMENT, DEVELOPER will, at its own cost and expense, prepare and file with the appropriate City offices, a Preliminary Plat pursuant to Sec. 14-1-4 of the City of Menasha Code of Ordinances. The Development Plan must allow for bike and pedestrian access to existing CITY bike / trail systems per map at Exhibit _____.

ARTICLE VI

REPRESENTATIONS, WARRANTIES AND COVENANTS

SECTION 6.01 DEVELOPER represents and warrants to and covenants with the CITY and the CITY represents and warrants to and covenants with DEVELOPER as respectively follows:

SECTION 6.02.1 Each of the parties will use its best efforts to take all action and to do all things necessary, proper, or advisable in order to consummate and make effective the transactions contemplated by this AGREEMENT.

SECTION 6.01.2 Each party shall give any notices to, make any filings with, and use its best efforts to obtain any authorizations, consents, and approvals of governments and governmental agencies in connection with the matters referred to in this AGREEMENT.

SECTION 6.01.3 DEVELOPER shall not engage in any practice, take any action, or enter into any transaction outside the Ordinary Course of Business and shall at its own cost and expense, maintain and preserve its business in accordance with prudent

business practices.

SECTION 6.01.4 DEVELOPER will permit representatives of CITY (including legal counsel, accountants, inspectors and consultants) to have full access at all reasonable times, and in a manner so as not to interfere with the normal business operations of DEVELOPER, to all premises, properties, personnel, books, records (including tax records), contracts, and documents of or pertaining to DEVELOPER's business.

SECTION 6.01.5 CITY represents and warrants it is a municipality, duly organized and validly existing under the laws of the state of Wisconsin.

SECTION 6.01.6 DEVELOPER represents and warrants it is a corporation, duly organized and validly existing under the laws of the state of Wisconsin.

SECTION 6.01.7 CITY and DEVELOPER have full power and authority to execute and deliver this AGREEMENT and to perform their obligations hereunder.

SECTION 6.01.8 The execution and delivery of this AGREEMENT, the consummation of the transactions contemplated in this AGREEMENT, and the execution and delivery of the documents required to be executed, delivered or acknowledged by DEVELOPER at the closing will not violate any provision of DEVELOPER's articles or bylaws or any applicable statute, rule, regulation, judgment, order or decree of the state of Wisconsin or a court having jurisdiction over DEVELOPER or its properties.

SECTION 6.01.9 DEVELOPER represents and warrants it has timely filed all tax returns required by law, all tax returns of DEVELOPER are true and correct in all material respects, DEVELOPER has paid all taxes due, except those, if any, currently being contested by it in good faith.

SECTION 6.01.10 DEVELOPER represents and warrants there is no action, suit, proceeding, claim, arbitration against DEVELOPER, its activities or assets before any court or governmental agency except as disclosed in writing to CITY.

SECTION 6.01.11 DEVELOPER represents and warrants its balance sheets and statements of income provided for review hereunder are true, correct and complete, and fairly represent the financial condition of DEVELOPER at the date or dates therein indicated and the results of operations for the period or periods therein specified and that there has not been any Material Adverse Change since the Balance Sheet Date.

SECTION 6.01.12 The Representations and Warranties set forth herein shall be true and correct in all material respects at and as of the Closing Date.

SECTION 6.01.13 DEVELOPER shall have a continuing obligation to immediately report to the CITY Comptroller any material adverse changes in its financial condition to the CITY from the Date of Closing through completion of construction.

ARTICLE VII

POST-CLOSING OBLIGATIONS OF DEVELOPER

SECTION 7.01 DEVELOPER will, at its expense, cause the Development Area to be platted.

SECTION 7.02 Public Infrastructure. DEVELOPER shall in connection with and during the construction of the Development Area undertake at its expense, design and construction of Public Infrastructure in accordance with City of Menasha specifications as furnished to the DEVELOPER by the Menasha Department of Public Works. The Public Infrastructure shall be undertaken consistent with the overall schedule of construction for the Development Area and shall be completed upon substantial completion of the Development Area. The Public Infrastructure shall be funded solely by the DEVELOPER. DEVELOPER agrees to provide either an Irrevocable Letter of Credit in favor of CITY or an escrow or other restricted account to be maintained, acceptable to the CITY, in an amount sufficient to cover all expenses associated with the construction of public infrastructure. DEVELOPER shall be responsible to ensure that Contractors installing such infrastructure comply with and pay prevailing wage rates as set forth by the Wisconsin Department of Workforce Development.

SECTION 7.03 DEVELOPER pledges that it shall complete the construction of the Public Infrastructure shown on [insert plan name] on or before December 31, 2017. In the event the public infrastructure has not been completed by that date, the parties may either agree to an extension, or the CITY may complete the public infrastructure and assess the costs of the public infrastructure against those portions of the Development Area that are benefitted.

SECTION 7.04 Dedication of Public Infrastructure. The DEVELOPER shall dedicate the Public Infrastructure to the CITY without cost to the CITY under the following terms. The CITY shall accept dedication of Public Infrastructure upon (a) receipt of As-Built Drawings, and (b) inspection and satisfaction of CITY staff that the Public Infrastructure was constructed in accordance with the as-built drawings; and (c) DEVELOPER's contractors execute a guarantee, in the form normally required by the CITY for similar work, guaranteeing the workmanship, adequacy and fitness for purpose of the Public Infrastructure for at least one (1) year after conveyance to the CITY.

SECTION 7.05 Maintenance of Private Infrastructure. The DEVELOPER shall be responsible for the cost of maintenance of the Private Infrastructure and Development Improvements.

SECTION 7.06 Failure to Dedicate Public Infrastructure. If the DEVELOPER does not timely dedicate the Public Infrastructure or the Public Infrastructure is not accepted by the CITY, the CITY shall give the DEVELOPER 30 days written notice to cure. Upon failure to cure the CITY may enter the Development Property and repair or reconstruct the Public Infrastructure to the CITY's satisfaction and assess the cost of the repair or reconstruction against benefitted properties or bring an action for specific performance or to otherwise compel compliance with this AGREEMENT.

SECTION 7.07 Except as may be mutually agreed by the CITY and DEVELOPER, the DEVELOPER will participate in FVHB Parade of Home events.

SECTION 7.08 DEVELOPER will initiate construction of at least ten (10) homes no later than September 1, 2011 in Development Area "A." with an expected completion date of May 1, 2012. Projected completion dates are estimated to be January 1, 2016 for Phase I, January 1 and

2020 for Phase II.

SECTION 7.09 Standards of Construction. DEVELOPER shall see to it that all infrastructure and improvements are constructed in a good and workmanlike manner and consistent with prevailing industry standards for high quality construction in the area of the CITY. DEVELOPER shall perform all work in compliance with applicable laws, regulations, ordinances and permits and DEVELOPER shall at its own cost and expense obtain all necessary permits and licenses for such development.

SECTION 7.10 If the DEVELOPER has not completed improvements on at least 75 % of the lots in Phase I by January 1, 2016, the CITY shall have the option to repurchase Development Area "B" (Phase II) for an amount of $17,000 per acre.

ARTICLE VIII

BUDGET AND BUDGET RECONCILITATION; FINANCIAL REPORTS

SECTION 8.01 Attached hereto as **EXHIBIT** [insert] is the DEVELOPER's budget for the Development. The DEVELOPER agrees to maintain records such that its actual expenditures for the Development may be ascertained and reconciled against such budget. From time to time upon reasonable notice from the CITY, authorized representatives of the CITY, including the CITY Comptroller, shall be entitled to examine such records at the DEVELOPER's offices to verify construction costs during and after construction.

ARTICLE IX

ASSIGNMENT

SECTION 9.01 The rights, duties and obligations of the DEVELOPER hereunder may not be assigned by DEVELOPER without the written consent of the CITY to the assignment, which consent shall not be unreasonably withheld. Any assignee or purchaser or transferee of any portion of the Real Estate shall be bound by the terms and conditions of this AGREEMENT, which shall run with the land and be binding upon all such assignees, purchasers and transferees. Written evidence satisfactory to the CITY that such assignee or entity has agreed in writing to be bound by the terms of this AGREEMENT must be provided to the CITY. Any such sale, transfer or conveyance of any portions of the Real Estate shall not relieve the DEVELOPER of its obligations hereunder.

ARTICLE X

INDEMNITY

SECTION 10.01 DEVELOPER shall indemnify and hold harmless the CITY, its officers, employees and authorized representatives (Indemnified Party) from and against any and all liabilities, including, without limitation, remediation required by any federal or state agency having jurisdiction, losses, damages, costs and expenses, including reasonable attorney fees and costs, arising out of any third-party claims, causes of action, or demands made against or suffered by the Indemnified Party on account of this AGREEMENT, unless such claims, causes of action, or demands: (a) relate to the Indemnified Party failing to perform its obligations to DEVELOPER; or (b) arise out of any willful misconduct of the Indemnified Party. At the Indemnified Party's request, DEVELOPER shall appear for and defend the Indemnified Party, at DEVELOPER's expense, in any action or proceeding to which the Indemnified Party may be

made a party by reason of any of the foregoing.

ARTICLE XI

NOTICES

SECTION 11.01 All notices, demands, certificates or other communications under this AGREEMENT shall be sufficiently given and shall be deemed given when hand delivered or when mailed by first class mail, postage prepaid, property addressed as indicated below:

To the DEVELOPER:	The Ponds of Menasha, LLC 1300 N. Kimps Court Green Bay, WI 54313
With a copy to:	
To the CITY:	City of Menasha, Wisconsin City Hall 140 Main Street Menasha, WI 54952 Attn: CITY Clerk
With a copy to:	Greg Keil, Community Development Director City Hall 140 Main Street Menasha, WI 54952

SECTION 11.02 Any party may, by written notice to the party (ies), designate a change of address for the purposes aforesaid.

ARTICLE XII

NONDISCRIMINATION

SECTION 12.01 In the performance of work under this AGREEMENT, the DEVELOPER agrees not to discriminate against any employee or applicant for employment nor shall the development or any portion thereof be sold to, leased or used by any party in any manner to permit discrimination or restriction on the basis of race, religion, marital status, age, color, sex, sexual orientation, physical condition, disability, national origin or ancestry and that the construction and operation of the Development shall be in compliance with all effective laws, ordinances and regulations relating to discrimination on any of the foregoing grounds.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

SECTION 13.01 ENTIRE AGREEMENT. This document contains the entire AGREEMENT between DEVELOPER and the CITY and it shall inure to the benefit of and shall be binding upon the parties hereto and the respective heirs, executives, successors and assigns. This AGREEMENT may be modified only by a written Amendment signed by the parties, which Amendment shall become effective upon the recording in the Office of Register of Deeds for the

County.

SECTION 13.02 SURVIVAL OF WARRANTIES, REPRESENTATIONS AND AGREEMENTS. Any warranty, representation or AGREEMENT herein contained shall survive the Closing. Any provision of this AGREEMENT which has not been fully performed prior to transfer of possession shall not be deemed to have been terminate, but shall survive unless expressly waived in writing, and shall be in full force and effect until performed.

SECTION 13.03 DEFAULT. In addition to any remedies set forth within this AGREEMENT, the Parties shall have all rights and remedies available under law or equity with respect to said default. All remedies shall be cumulative and the exercise of one remedy shall not preclude the use of any other or all of said remedies.

SECTION 13.04 FAILURE TO ENFORCE NOT A WAIVER. Failure of the CITY to enforce any provision contained herein shall not be deemed a waiver of the City's right to enforce such provision or any other provision in the event of a subsequent default.

SECTION 13.05 NO SUBORDINATION. The CITY shall not subordinate any interest it has in this AGREEMENT for any reason, unless it is determined to be in the best interests of the CITY.

SECTION 13.06 MEDIATION OF DISPUTES REQUIRED. Except as expressly provided herein, prior to litigation and as a condition precedent to bringing litigation, any party deeming itself aggrieved under this AGREEMENT shall be obligated to request nonbinding mediation of this dispute. Mediation shall proceed before a single mediator. In the event the parties cannot agree, the aggrieved party may then commence an action. However, the parties will be bound to agree to alternative dispute resolution as ordered by the Court.

SECTION 13.07 GOVERNING LAW. This AGREEMENT shall be governed by, enforced and construed in accordance with the domestic laws of the State of Wisconsin.

SECTION 13.08 COUNTERPARTS. This AGREEMENT may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

SECTION 13.09 AMENDMENTS AND WAIVERS. No amendment of any provision of this AGREEMENT shall be valid unless the same shall be in writing and signed by CITY and DEVELOPER. No waiver by any party of any provision of this AGREEMENT or any default, misrepresentation, or breach of warranty shall be valid unless the same shall be in writing and signed by the parties making such a waiver, nor shall such waiver be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

SECTION 13.10 SEVERABILITY. If any provisions of this AGREEMENT shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

SECTION 13.11 RECORDING OF AGREEMENT. The parties hereto agree that the CITY may record this AGREEMENT or a memorandum of this AGREEMENT on the record title to the Real Estate. The DEVELOPER shall upon request of the CITY execute and deliver any such memorandum or other document in connection with such recording.

SECTION 13.12 NO PARTNERSHIP. This AGREEMENT specifically does not create any partnership or joint venture between the parties, or render any party liable for any debts or obligations of the other party.

SECTION 13.13 CONSTRUCTION. The parties have participated jointly in the negotiation and drafting of this AGREEMENT. In the event an ambiguity or question of intent or interpretation arises, this AGREEMENT shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this AGREEMENT.

SECTION 13.14 INCORPORATION OF EXHIBITS. The **EXHIBITS** identified in this AGREEMENT are incorporated herein by reference and made a part hereof.

IN WITNESS WHEREOF, the parties have duly executed this AGREEMENT, or caused it to be duly executed, as of the _____ day of _____, 2011

THE PONDS OF MENASHA, LLC

By:_____

By:_____

CITY OF MENASHA

By:_____
Donald Merkes, Mayor

Attest:_____
Deborah A. Galeazzi, City Clerk

STATE OF WISCONSIN)
) ss.
COUNTY OF WINNEBAGO)

Personally came before me this _____ day of January 2011, the above named _____, to me known to be the person who executed the foregoing instrument and acknowledged the same in the capacity and the purposes therein intended.

_____
Notary Public, State of Wisconsin
My Commission: _____

STATE OF WISCONSIN)

) ss.
COUNTY OF WINNEBAGO)

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

_____
Notary Public, State of Wisconsin
My Commission: _____

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

_____
City Comptroller

APPROVED AS TO FORM:

_____
Pamela A. Captain, City Attorney

DEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF MENASHA, WISCONSIN,

AND

CYPRESS HOMES AND REALTY, INC.

DATED AS OF MARCH____, 2011

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT is made and entered into as of the ___ day of March 2011, by and between the CITY OF MENASHA, Wisconsin, a Wisconsin municipal corporation with its principal offices located at 140 Main St., Menasha, Wisconsin 54952 (hereinafter "CITY"), and CYPRESS HOMES AND REALTY, INC., a Wisconsin corporation with its principal offices located at 1500 W. College Avenue, Ste A, Appleton, WI 54914 (hereinafter "DEVELOPER").

~~RECITALS~~

~~The Project to be undertaken by the DEVEOPER, as described herein, is of particular importance to the CITY and provides special benefits to the CITY because it promotes the physical and economic development of the CITY, increases the range of choice in the CITY's housing stock, accelerates sales of CITY-owned property and provides a means of paying the CITY's debt associated with land acquisition and improvements of the CITY-owned development known as Lake Park Villas.~~

ARTICLE I

SECTION 1.01 PURPOSE OF AGREEMENT. The parties hereto are entering into this Development AGREEMENT for the preparation and construction of a residential development within Lake Park Villas Project Area and proposed City of Menasha Tax Incremental District Number 12 (TID #12). The parties have worked cooperatively regarding initial planning, financing and feasibility of such a development. Further, the parties have reached an understanding regarding participation in the future development and intend to enter into this Development AGREEMENT to record the understandings and undertakings of the parties and to provide a framework within which the development may proceed.

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

"AVAILABLE TAX INCREMENT" – The amount of tax increment (as defined in Sec. 66.1105, Wis. Stats.) generated solely by the Development Property and Development Improvements as of January 1 of each calendar year.

"CONCEPT PLAN" – The conceptual plan, estimated schedule and value estimates for the contemplated development of the Development Property. It is attached as **EXHIBIT** [insert].

"DEVELOPMENT" – The Development Improvements and Infrastructure that constitute the planned development project that is the subject of this AGREEMENT.

"DEVELOPMENT AREA 'D'" – An area consisting of approximately 5 acres located in the NW ¼ of the NE ¼ of Section 17, T20N, R17E and proposed CITY of Menasha Tax Incremental Financing District # 12 attached as **EXHIBIT A**, the actual area of which is to be determined via a Certified Survey Map pursuant to Section 3.02.1

"DEVELOPMENT IMPROVEMENTS" - Means structures, buildings and accoutrements constructed by DEVELOPER in compliance with Implementation Plans comprised of the following:

- Residential condominium development within Development Area "D" comprised of not less than 16 single family residential units with an estimated improved value of $2.8 million.

"DEVELOPMENT PROPERTY" - means Development Area "D."

"DEVELOPMENT COSTS" — The hard and soft costs enumerated in the development budget set forth in **EXHIBIT** [insert].

"INFRASTRUCTURE" – Public and Private Infrastructure.

"IMPLEMENTATION PLAN" – Detailed plans, drawings, specifications and other information as required for the site plan review under CITY Ordinances regarding the construction of Private Infrastructure, Infrastructure and Development Improvements. A specific Implementation Plan must be submitted to and approved by the CITY prior to construction as provided by CITY Ordinance. Each specific Implementation Plan shall be attached to this AGREEMENT as an exhibit upon approval by the CITY.

"PERFORMANCE INCENTIVE" – Payment of Available Tax Increment to the DEVELOPER as provided in this AGREEMENT.

"PUBLIC IMPROVEMENTS" – The road improvements, curb and gutter, storm water drainage ponds and other public facilities normally provided by or required by local governments fronting the Development Property whether in place or to be constructed or upgraded in conjunction with the development contemplated in the Concept Plan, including storm water management ponds, but specifically excluding Infrastructure.

"PUBLIC INFRASTRUCTURE"– Those Public Improvements that will be the responsibility of the DEVELOPER as more particularly described in **EXHIBIT** [insert] (attached) and shall include, without limitation, improvements necessary to provide adequate access, sanitary sewer service, storm sewer, water mains and any appurtenances associated with these facilities, storm water drainage, street base course, temporary asphalt paving consisting of at least a two inch binder course, street lighting, pedestrian facilities, trails, sidewalks or other public utility improvements to the Development Property that have been constructed by DEVELOPER and dedicated to the CITY under this AGREEMENT.

"PRIVATE INFRASTRUCTURE" – Site grading in accordance with an approved grading and drainage plan, sanitary sewer laterals, potable water laterals and other facilities owned, constructed and maintained by DEVELOPER to service the Development Improvements from the Public Improvements or Private Infrastructure described more particularly in **EXHIBIT** [insert].

"TID # 12" means CITY of Menasha Tax Incremental District Number 12 and project plan created by CITY in accordance with Section 5.02.3 hereinafter.

ARTICLE II

OVERVIEW OF THE PROJECT

SECTION 2.01 The Project consists of residential condominium development resulting in the creation of not less than 16 single family residential units. Construction is to begin by June 1, 2011 with an expected completion date of December 31, 2017. Upon completion, the Development Improvements will have a value of at least $2.8 million.

ARTICLE III

DEVELOPER OBLIGATIONS

SECTION 3.01 Acquisition of Development Areas. Upon completion of the pre-closing conditions but in no case later than June 1, 2011, DEVELOPER shall acquire fee simple title to Development Area "D."

SECTION 3.01.1 CITY shall transfer the Real Estate to DEVELOPER by warranty deed for $17,000 per acre subject to the terms and conditions of this AGREEMENT and a separate Real Estate Purchase Agreement to be executed by the parties [insert condition/date]. The Real Estate Purchase Agreement shall provide that DEVELOPER shall pay 8% of the purchase price at closing and DEVELOPER shall execute a Promissory Note in favor of CITY in the amount of the purchase price less the 8% paid at closing. The terms of the Promissory Note shall be zero percent (0%) interest until paid in full, except that in the event DEVELOPER fails to make any installment payment when due, then interest shall be paid at 5% per annum of the remaining balance assessed from the date of closing. ~~with interest at 3.25%.~~ Equal installment payments on the Promissory Note shall be due 12/31/2011, 12/31/2012, 12/31/2013 and 12/31/2014.

SECTION 3.01.2 Title Insurance. The CITY shall obtain and pay for a title insurance commitment in the amount of the purchase price. A commitment by the title company agreeing to issue a title policy upon the recording of proper documents as agreed herein shall be deemed sufficient performance. DEVELOPER may obtain additional title insurance at its cost. The CITY shall provide to DEVELOPER a preliminary commitment for title insurance not less than fifteen (15) days prior to the closing.

SECTION 3.01.3 Title. The CITY shall cooperate with DEVELOPER to clear up any defect in title that may be pertaining to the property; provided, however, the Real Estate shall be conveyed subject to (1) reasonable and customary easements and restrictions of record; (2) a reversion of title in accordance with this AGREEMENT; (3) requisite public and private utility easements; (4) CITY covenants, none of which may be removed or modified without City's approval; and (5) all other terms and conditions of this AGREEMENT.

SECTION 3.01.3 Closing Date. The closing date for the transfer of the Real Estate shall be on or before June 1, 2011 for Development Area "D" and shall be held at the office of the City Attorney, City Hall, 140 Main Street, Menasha, Wisconsin

or where the parties may otherwise agree.

SECTION 3.01.4 The Real Estate shall be conveyed "as is." The CITY is not responsible for any subsequent remediation, demolition, underground debris, or other clean up costs after conveyance.

SECTION 3.02 DEVELOPER's Covenant to Develop. DEVELOPER agrees and covenants to use its best efforts to proceed with due diligence to complete the Development substantially in accordance with the Concept Plan and Implementation Plans which plans and specifications shall be subject to such review and approval by the CITY as may be normal, customary or required in order to proceed with the Development in accordance with all applicable rules, codes, regulations, ordinances and laws. The DEVELOPER shall cause IMPROVEMENTS to the DEVELOPMENT AREAS to create a value of not less than $2.8 million. The cost for such improvements shall include Development hard and soft costs, site clearance and preparation and costs associated with the construction of single family condominium housing units. DEVELOPER shall be required to complete construction of the Development by December 31, 2017.

SECTION 3.03 Compliance with Codes, Plans and Specifications. DEVELOPER, at its own expense, shall obtain all approvals, permits and licenses as may be required by any governmental or non-governmental entity in connection with the Development. The building and other improvements to be constructed upon the Property, the construction thereof, and their uses shall be in compliance with all applicable codes and ordinances of the CITY, and with all pertinent provisions of this AGREEMENT, the Project Plan and the Plans and Specifications.

SECTION 3.04 Taxes. It is understood that the land, improvements and personal property resulting from the Development shall be subject to property taxes. DEVELOPER shall pay when due all federal, state and local taxes in connection with the Project and all operating expenses in connection with the Real Estate and Development.

SECTION 3.05 Public Infrastructure. DEVELOPER shall in connection with and during the construction of the Development undertake at its expense, design and construction of Public Infrastructure in accordance with City of Menasha specifications as furnished to the DEVELOPER by the Menasha Department of Public Works. The Public Infrastructure shall be undertaken consistent with the overall schedule of construction for the Development and shall be completed upon substantial completion of the Development. The Public Infrastructure shall be funded solely by the DEVELOPER. Improvements designed and constructed by the CITY such as curb and gutter and final paving ~~may~~ will be specially assessed or otherwise charged against the benefitting properties within the Development, including lots owned by the DEVELOPER ~~at the sole discretion of the CITY~~. DEVELOPER agrees to provide notice to each subsequent owner/purchaser of any real estate in Development Area "D" of the expected curb and gutter and final paving special assessment through a covenant recorded with the Calumet County register of deeds office.

SECTION 3.06 Private Infrastructure. DEVELOPER shall in connection with and during the construction of the Development undertake at its expense, design and construction of Private Infrastructure in accordance with the approved IMPLEMENTATION PLAN.

SECTION 3.07 Easements. DEVELOPER shall grant the CITY or any public utility such easements as reasonably necessary for public improvements, infrastructure, ingress or

egress, utilities, lighting or landscaping or any other need necessary to effectuate the Development in accordance with approved plans at no cost to the CITY.

SECTION 3.08 Record Retention. DEVELOPER understands and acknowledges that the CITY is subject to Public Records Law of the State of Wisconsin. As such, DEVELOPER agrees to retain all records as defined by Wisconsin Statute §19.35(2) applicable to this AGREEMENT for a period of not less than seven (7) years. DEVELOPER agrees to assist the CITY in complying with any public records request that they receive pertaining to this AGREEMENT. DEVELOPER agrees to indemnify and hold the CITY, their officers, employees and authorized representatives harmless for any liability, including without limitation, reasonable attorney fees relating to or in any way arising from DEVELOPER's actions or omissions which contribute to the Indemnified Party's inability to comply with the Public Records Law. In the event DEVELOPER decides not to retain its records for a period of seven (7) years, then it shall provide written notice to the CITY whereupon the CITY shall take custody of said records assuming such records are not already maintained by the CITY. This provision shall survive termination of this AGREEMENT.

SECTION 3.09 Repair and/or Replacement of Infrastructure. DEVELOPER shall repair and/or replace any damaged CITY infrastructure or other CITY property that may occur as a result of the Development.

SECTION 3.10 Prevailing Wages. DEVELOPER shall pay all applicable prevailing wages as required by Wisconsin law.

ARTICLE IV

CITY OBLIGATIONS

SECTION 4.01 The CITY shall be responsible for the installation of curb and gutter and final paving, which will not be constructed earlier than one (1) winter season following completion of the development project. The CITY, in its sole discretion, ~~may~~ will assess each property/lot owner the cost and expenses associated with these public improvements in accordance with CITY ordinances and state statutes.

SECTION 4.02 Provision of Tax Increment Financial Incentive. In order to induce DEVELOPER to undertake the DEVELOPMENT within proposed TID #12, the DEVELOPER has requested and the CITY may be required to make available financial incentive to the DEVELOPER in a total amount not to exceed $175,000, for the purpose of implementing the proposed TID #12 Project Plan and this AGREEMENT (the "CITY Contribution"). The CITY Contribution is made pursuant to Sections 66.1105(2)(f)1 of the Wisconsin Statutes, and shall be made available in the amount as follows:

SECTION 4.02.1 DEVELOPER agrees to advance funds for project costs, including costs associated with the installation of the Public Infrastructure. The CITY shall pay the DEVELOPER financial incentive under the terms of this AGREEMENT with funds to be made available upon verification of the Tax Increment increase as defined below.

SECTION 4.02.5 Earned financial incentive based on AVAILABLE TAX INCREMENT may be distributed to the DEVELOPER according to the schedule set forth herein when and only when the 10th residential unit in Development Area "D" is completed and certificate of occupancy have been issued: DEVELOPER to be paid an annual payment made on or before September 1, commencing in

2013, equal to 75% of AVAILABLE TAX INCREMENT received by CITY until $175,000 is paid out or until 2018, whichever occurs first.

SECTION 4.02.6 CONDITIONS TO PAYMENT OF CITY CONTRIBUTION
If on or before December 31, 2017, the DEVELOPER has not met the Minimum Development or threshold value of $2.8 million, the CITY shall not be required to continue to pay DEVELOPER the City contribution.

SECTON 4.02.7 No City contribution to DEVELOPER provided for in this AGREEMENT shall be paid or deemed due and owing to DEVELOPER for any year in which any property tax pertaining to the Development Property or any portion thereof which is under the ownership and control of the DEVELOPER, is not timely paid. In the event of any delinquency the CITY may give the DEVELOPER 30 days to cure. If the DEVELOPER fails to cure, the City contribution shall be withheld in that year. Nothing in this AGREEMENT shall in any way affect the City's right to enforce collection of property taxes in the manner provided by law.

SECTION 4.03 CERTIFICATION OF COMPLETION. Upon completion and review of the Development Improvements by the CITY, the CITY shall provide the DEVELOPER with an appropriate recordable instrument certifying that the improvements have been made in accordance with this AGREEMENT and the project plans and any amendment or modifications thereto.

SECTION 4.04 CITY PERFORMANCE SUBJECT TO REQUIRED GOVERNMENT APPROVALS. The DEVELOPER acknowledges that various of the specific undertakings of the CITY described in this AGREEMENT require approvals from the City's Common Council and/or Planning Commission as well as from governmental bodies external to the CITY, some of which approvals may require public hearings and other legal proceedings as conditions precedent thereto. The City's obligations are conditioned upon the obtaining of all such approvals in the manner required by law. The CITY cannot assure that all such approvals will be obtained; however, it agrees to use good faith efforts to obtain such approvals on a timely basis.

ARTICLE V

CONDITIONS PRECEDENT TO CLOSING

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

SECTION 5.02 Conditions to DEVELOPER's Obligation to Close. DEVELOPER's obligation to consummate the transactions to be performed by it in connection with the Closing is subject to satisfaction of the following conditions:

SECTION 5.02.1 The CITY, at its expense, causing Development Areas "D" to be split from Lot 2 of the Lake Park Villas subdivision and that part, if any, of Parcel #7-

01722-00 comprising the Development Area via Certified Survey Map.

SECTION 5.02.2 Creation of a Mixed Use Tax Incremental Financing District – Proposed TID#12 sufficient to meet obligations under this Agreement.

SECTION 5.03 Pre-Closing Undertakings of the DEVELOPER. Prior to Closing, the DEVELOPER agrees that it shall:

SECTION 5.03.1 Financing Commitment. DEVELOPER shall obtain and provide to the CITY: (1) a written financial commitment from a conventional lender, (2) written construction contract to construct and finance the Development, (3) other written proof of financial resources to construct the Development, or (4) any combination thereof. Said documents shall be acceptable in all respects to the CITY, in the sole and absolute discretion of the CITY Comptroller or other agent for the CITY. DEVELOPER shall have closed the loan, which is the subject of the financing commitment and in connection therewith, DEVELOPER shall have provided copies of the documents to be executed in connection with the construction loan to the CITY Comptroller. DEVELOPER shall provide to the CITY copies of all appraisals and market studies prepared in connection with the financial commitment.

SECTION 5.03.2 Prepare conceptual lot layouts and restrictive covenants for the Development which are acceptable to the CITY.

SECTION 5.03.3 Financial Statements. DEVELOPER shall have provided to the City Comptroller, audited financial statements (if available, and if audited financial statements are not available, financial statements in a form reasonably acceptable to the City Comptroller) for fiscal years 2009 and 2010 plus two years complete tax returns, including all schedules for DEVELOPER and any successors or assigns or transferees of DEVELOPER and each of the members of any of the foregoing and each member of the Board of Directors (or equivalent) of any of the foregoing. The financial statements must show a financial condition acceptable to the CITY, in the judgment of the CITY Comptroller.

SECTION 5.03.4 DEVELOPER shall at its expense have obtained all necessary approvals and permits necessary to undertake the Development, including but not limited to, site plan review, zoning approvals, and any other local, state or federal approvals or permits.

SECTION 5.03.5 Within 120 days of the execution of this AGREEMENT, DEVELOPER will, at its own cost and expense, prepare and file with the appropriate City offices, a Condominium Plat or Preliminary Plat pursuant to ~~Sec. 14.1.4 of the~~ City of Menasha Code of Ordinances. DEVELOPER will prepare restrictive covenants regarding home and development standards for the Development Area subject to design and permitting requirements of the CITY.

ARTICLE VI

REPRESENTATIONS, WARRANTIES AND COVENANTS

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

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

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

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

SECTION 6.04 DEVELOPER will permit representatives of CITY (including legal counsel, accountants, inspectors and consultants) to have full access at all reasonable times, and in a manner so as not to interfere with the normal business operations of DEVELOPER, to all premises, properties, personnel, books, records (including tax records), contracts, and documents of or pertaining to DEVELOPER's business.

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

SECTION 6.06 DEVELOPER represents and warrants it is a corporation, duly organized and validly existing under the laws of the state of Wisconsin.

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

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

SECTION 6.09 DEVELOPER represents and warrants it has timely filed all tax returns required by law, all tax returns of DEVELOPER are true and correct in all material respects, DEVELOPER has paid all taxes due, except those, if any, currently being contested by it in good faith.

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

SECTION 6.11 DEVELOPER represents and warrants its balance sheets and statements of income provided for review hereunder are true, correct and complete, and fairly represent the financial condition of DEVELOPER at the date or dates therein indicated and the

results of operations for the period or periods therein specified and that there has not been any Material Adverse Change since the Balance Sheet Date.

SECTION 6.12 The Representations and Warranties set forth herein shall be true and correct in all material respects at and as of the Closing Date.

SECTION 6.13 DEVELOPER shall have a continuing obligation to immediately report any material adverse changes in its financial condition to the CITY from the Date of Closing through completion of construction.

ARTICLE VII

POST-CLOSING OBLIGATIONS OF DEVELOPER

SECTION 7.01 DEVELOPER will, at its expense, cause the Development Area to be platted.

SECTION 7.02 Public Infrastructure. DEVELOPER shall in connection with and during the construction of the Development Area undertake at its expense, design and construction of Public Infrastructure in accordance with City of Menasha specifications as furnished to the DEVELOPER by the Menasha Department of Public Works. The Public Infrastructure shall be undertaken consistent with the overall schedule of construction for the Development Area and shall be completed upon substantial completion of the Development Improvements. The Public Infrastructure shall be funded solely by the DEVELOPER. DEVELOPER agrees to provide either an Irrevocable Letter of Credit in favor of CITY or an escrow or other restricted account to be maintained, acceptable to the CITY, in an amount sufficient to cover all expenses associated with the construction of public infrastructure. DEVELOPER shall be responsible to ensure that Contractors installing such infrastructure comply with and pay prevailing wage rates as set forth by the Wisconsin Department of Workforce Development. Other improvements constructed by the City, including sidewalks, curb and gutter and final paving ~~may~~ will be specially assessed or otherwise charged against the benefitting properties within the Development, including lots owned by the DEVELOPER.

SECTION 7.03 DEVELOPER acknowledges that the costs of the public infrastructure contemplated by this AGREEMENT is approximately $150,000. DEVELOPER pledges that it shall complete the construction of the infrastructure shown on [insert plan name] on or before September 1, 2011. In the event the public infrastructure has not been completed by that date, the parties may either agree to an extension, ~~or~~ the CITY may complete the public infrastructure and assess the costs of the public infrastructure against those portions of the Development Area that are benefitted or the City may declare the DEVELOPER in default.

SECTION 7.04 Dedication of Public Infrastructure. The DEVELOPER shall dedicate the Public Infrastructure to the CITY without cost to the CITY under the following terms. The CITY shall accept dedication of Public Infrastructure upon (a) receipt of As-Built Drawings, and (b) inspection and satisfaction of CITY staff that the Public Infrastructure was constructed in accordance with the as-built drawings; and (c) DEVELOPER's contractors execute a guarantee, in the form normally required by the CITY for similar work, guaranteeing the workmanship, adequacy and fitness for purpose of the Public Infrastructure for at least 1 year(s) after conveyance to the CITY.

SECTION 7.05 Maintenance of Private Infrastructure. The DEVELOPER shall be responsible for the cost of maintenance of the Private Infrastructure and Development

Improvements.

SECTION 7.06 Failure to Dedicate Public Infrastructure. If the DEVELOPER does not timely dedicate the Public Infrastructure or the Public Infrastructure is not accepted by the CITY, the CITY shall give the DEVELOPER 30 days written notice to cure. Upon failure to cure the CITY may enter the Development Property and repair or reconstruct the Public Infrastructure to the CITY's satisfaction and assess the cost of the repair or reconstruction against benefitted properties or bring an action for specific performance or to otherwise compel compliance with this AGREEMENT.

SECTION 7.07 Except as may be mutually agreed by the CITY and DEVELOPER, the DEVELOPER will participate in FVHB Parade of Home events. [Need specificity here.]

SECTION 7.08 DEVELOPER will initiate construction of at least one (1) home no later than June 1, 2011 in Development Area "D" with an expected completion date of November 1, 2011. All Development Improvements must be completed by December 31, 2017.

SECTION 7.09 Standards of Construction. DEVELOPER shall see to it that all infrastructure and improvements are constructed in a good and workmanlike manner and consistent with prevailing industry standards for high quality construction in the area of the CITY. DEVELOPER shall perform all work in compliance with applicable laws, regulations, ordinances and permits and DEVELOPER shall at its own cost and expense obtain all necessary permits and licenses for such development.

ARTICLE VIII

BUDGET AND BUDGET RECONCILITATION; FINANCIAL REPORTS

SECTION 8.01 Attached hereto as **EXHIBIT** [insert] is the DEVELOPER's budget for the Development. The DEVELOPER agrees to maintain records such that its actual expenditures for the Development may be ascertained and reconciled against such budget. From time to time upon reasonable notice from the CITY, authorized representatives of the CITY, including the CITY Comptroller, shall be entitled to examine such records at the DEVELOPER's offices to verify construction costs during and after construction.

ARTICLE IX

ASSIGNMENT

SECTION 9.01 The rights, duties and obligations of the DEVELOPER hereunder may not be assigned by DEVELOPER without the written consent of the CITY to the assignment, which consent shall not be unreasonably withheld. Any assignee or purchaser or transferee of any portion of the Real Estate shall be bound by the terms and conditions of this AGREEMENT, which shall run with the land and be binding upon all such assignees, purchasers and transferees. Written evidence satisfactory to the CITY that such assignee or entity has agreed in writing to be bound by the terms of this AGREEMENT must be provided to the CITY. Any such sale, transfer or conveyance of any portions of the Real Estate shall not relieve the DEVELOPER of its obligations hereunder.

ARTICLE X

INDEMNITY

SECTION 10.01 DEVELOPER shall indemnify and hold harmless the CITY, its officers, employees and authorized representatives (Indemnified Party) from and against any and all

liabilities, including, without limitation, remediation required by any federal or state agency having jurisdiction, losses, damages, costs and expenses, including reasonable attorney fees and costs, arising out of any third-party claims, causes of action, or demands made against or suffered by the Indemnified Party on account of this AGREEMENT, unless such claims, causes of action, or demands: (a) relate to the Indemnified Party failing to perform its obligations to DEVELOPER; or (b) arise out of any willful misconduct of the Indemnified Party. At the Indemnified Party's request, DEVELOPER shall appear for and defend the Indemnified Party, at DEVELOPER's expense, in any action or proceeding to which the Indemnified Party may be made a party by reason of any of the foregoing.

ARTICLE XI

NOTICES

SECTION 11.01 All notices, demands, certificates or other communications under this AGREEMENT shall be sufficiently given and shall be deemed given when hand delivered or when mailed by first class mail, postage prepaid, property addressed as indicated below:

To the DEVELOPER:	Cypress Homes and Realty, Inc. 1500 W. College Ave., Ste A Appleton, WI 54914
With a copy to:	
To the CITY:	City of Menasha, Wisconsin City Hall 140 Main Street Menasha, WI 54952 Attn: CITY Clerk
With a copy to:	Greg Keil, Community Development Director City Hall 140 Main Street Menasha, WI 54952

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

ARTICLE XII

NONDISCRIMINATION

SECTION 12.01 In the performance of work under this AGREEMENT, the DEVELOPER agrees not to discriminate against any employee or applicant for employment nor shall the development or any portion thereof be sold to, leased or used by any party in any manner to permit discrimination or restriction on the basis of race, religion, marital status, age,

color, sex, sexual orientation, physical condition, disability, national origin or ancestry and that the construction and operation of the Development shall be in compliance with all effective laws, ordinances and regulations relating to discrimination on any of the foregoing grounds.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

SECTION 13.01 ENTIRE AGREEMENT. This document contains the entire AGREEMENT between DEVELOPER and the CITY and it shall inure to the benefit of and shall be binding upon the parties hereto and the respective heirs, executives, successors and assigns. This AGREEMENT may be modified only by a written Amendment signed by the parties, which Amendment shall become effective upon the recording in the Office of Register of Deeds for the County.

SECTION 13.02 SURVIVAL OF WARRANTIES, REPRESENTATIONS AND AGREEMENTS. Any warranty, representation or AGREEMENT herein contained shall survive the Closing. Any provision of this AGREEMENT which has not been fully performed prior to transfer of possession shall not be deemed to have been terminate, but shall survive unless expressly waived in writing, and shall be in full force and effect until performed.

SECTION 13.03 DEFAULT. In addition to any remedies set forth within this AGREEMENT, the Parties shall have all rights and remedies available under law or equity with respect to said default. All remedies shall be cumulative and the exercise of one remedy shall not preclude the use of any other or all of said remedies.

SECTION 13.04 FAILURE TO ENFORCE NOT A WAIVER. Failure of the CITY to enforce any provision contained herein shall not be deemed a waiver of the City's right to enforce such provision or any other provision in the event of a subsequent default.

SECTION 13.05 NO SUBORDINATION. The CITY shall not subordinate any interest it has in this AGREEMENT for any reason, unless it is determined to be in the best interests of the CITY.

SECTION 13.06 GOVERNING LAW. This AGREEMENT shall be governed by, enforced and construed in accordance with the domestic laws of the State of Wisconsin.

SECTION 13.07 COUNTERPARTS. This AGREEMENT may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

SECTION 13.08 AMENDMENTS AND WAIVERS. No amendment of any provision of this AGREEMENT shall be valid unless the same shall be in writing and signed by CITY and DEVELOPER. No waiver by any party of any provision of this AGREEMENT or any default, misrepresentation, or breach of warranty shall be valid unless the same shall be in writing and signed by the parties making such a waiver, nor shall such waiver be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

SECTION 13.09 SEVERABILITY. If any provisions of this AGREEMENT shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

SECTION 13.10 RECORDING OF AGREEMENT. The parties hereto agree that the CITY may record this AGREEMENT or a memorandum of this AGREEMENT on the record title to the Real Estate. The DEVELOPER shall upon request of the CITY execute and deliver any such memorandum or other document in connection with such recording.

SECTION 13.11 NO PARTNERSHIP. This AGREEMENT specifically does not create any partnership or joint venture between the parties, or render any party liable for any debts or obligations of the other party.

SECTION 13.12 CONSTRUCTION. The parties have participated jointly in the negotiation and drafting of this AGREEMENT. In the event an ambiguity or question of intent or interpretation arises, this AGREEMENT shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this AGREEMENT.

SECTION 13.13 INCORPORATION OF EXHIBITS. The **EXHIBITS** identified in this AGREEMENT are incorporated herein by reference and made a part hereof.

IN WITNESS WHEREOF, the parties have duly executed this AGREEMENT, or caused it to be duly executed, as of the _____ day of _____, 2011

CYPRESS HOMES AND REALTY, INC.

By:_____

By:_____

CITY OF MENASHA

By:_____
Donald Merkes, Mayor

Attest:_____
Deborah Galeazzi, City Clerk

STATE OF WISCONSIN)
) ss.
COUNTY OF WINNEBAGO)

Personally came before me this _____ day of March 2011, the above named _____, to me known to be the person who executed the foregoing instrument and acknowledged the same in the capacity and the purposes therein intended.

_____
Notary Public, State of Wisconsin
My Commission: _____

STATE OF WISCONSIN)
) ss.
COUNTY OF WINNEBAGO)

Personally came before me this _____ day of March 2011, the above named Donald Merkes, Mayor, and Deborah Galeazzi, City Clerk, of the City of Menasha, to me known to be the person who executed the foregoing instrument and acknowledged the same in the capacity and the purposes therein intended.

_____
Notary Public, State of Wisconsin
My Commission: _____

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

_____
City Comptroller

APPROVED AS TO FORM:

_____
Pamela A. Captain, City Attorney

CITY OF MENASHA
COMMON COUNCIL
Third Floor Council Chambers
140 Main Street, Menasha
Monday March 21, 2011
MINUTES

DRAFT

A. CALL TO ORDER
Meeting called to order by Mayor Merkes 6:00 p.m.

B. PLEDGE OF ALLEGIANCE
Moment of Silence for the people of Japan and for the fallen and injured officers of the Fond du Lac Police Department.

C. ROLL CALL/EXCUSED ABSENCES
PRESENT: Aldermen Langdon, Hendricks, Zelinski, Englebert, Benner, Roush, Taylor, Wisneski
ALSO PRESENT: Mayor Merkes, CA/HRD Captain (via telephone at 7:50p.m.), PC Stanke, FC Auxier, DPW Radtke, CDD Keil, C/T Stoffel Clerk Galeazzi, Atty Joseph Saltarelli (via telephone at 7:50p.m.), and the Press.
DEPT. HEAD EXCUSED: PHD Nett, PRD Tungate

D. PUBLIC HEARING
None

E. PUBLIC COMMENTS ON ANY MATTER OF CONCERN TO THE CITY
(five (5) minute time limit for each person)

Steve Krueger, 943 Clovis Avenue, Menasha. Free fishing clinics in City of Menasha on May 21, June 11, and July 16

Dan Bissett, 5199 High Point Drive, Winneconne. Introduced himself as a candidate for the office of Winnebago Circuit Court Branch 5 Judge.

Paul Eisen, 1807 Brighten Beach Road, Menasha. Winnebago County Board of Supervisors voted to keep number of supervisors at 36. Redistricting information will be available soon.

Jim Longo, 1064 Kernan Avenue, Menasha. Opposed to sidewalks in Woodland Hills Subd.

Craig Kubiak, 969 Kernan Avenue. Menasha. Opposed to sidewalks in Woodland Hills Subd.

Mike Hagen, Woodland Hills developer. Separate out sidewalk from street/curb/gutter when voting on special assessment.

F. REPORT OF DEPARTMENT HEADS/STAFF/CONSULTANTS
1. CDD Keil – Plan Commission approval of Woodland Hills Subdivision (Ald. Taylor)

CDD Keil reported on the process of the Woodland Hills Subdivision Plat by the Plan Commission in 2002-2003. He explained the drainage map that was approved by the Plan Commission showed bike/pedestrian trail. The sidewalks to be installed in the City right-of-way. The bike/pedestrian trail is part of the official City maps.

2. Clerk Galeazzi - the following minutes and communications have been received and placed on file:
Minutes to receive:
a. Administration Committee, 3/7/11
b. Board of Public Works, 3/7/11
c. Library Executive Director Search Committee, 3/2/11
d. NM Sewerage Commission, 2/22/11
e. Plan Commission, 3/8/11
f. Sustainability Board, 2/15/11

DRAFT

2. Clerk Galeazzi - the following minutes and communications have been received and placed on file:
Minutes to receive: (cont'd)
Communications:
g. CVMIC to PC Stanke, 3/1/11; 2010 Liability & Auto Physical Damage Dividend Payment
h. Customer First, The Wire, March 2011
i. Linda Stoll, Chair of Sustainability Board, 3/15/11; Walkable/bikeable neighborhoods
j. Mayor Merkes, 3/16/11; Press Release-*Menasha Employees Work Together to Balance Budget*
k. Ald. Taylor, 3/17/11; Post Crescent Article and blogs: *Menasha residents speak out against sidewalks in Woodland Hills*

Mayor Merkes distributed a copy of an e-mail he received from Nila Miller, 1017 Kernan Avenue regarding the sidewalks in Woodland Hills area.

G. CONSENT AGENDA
(Prior to voting on the Consent Agenda, items on the Consent Agenda may be removed at the request of any Alderman and place immediately following action on the Consent Agenda. The procedures to follow for the Consent Agenda are: (a) removal of items from Consent Agenda; and (b) motion to approve the items from Consent Agenda.)

Minutes to approve:
1. Common Council, 3/7/11

Administration Committee, 3/7/11; recommends approval of:
2. Extension of Listing Agreement with Core Development for Lake Park Villas Phase II Vacant Lots with a conclusion date of September 30, 2011

Board of Public Works, 3/7/11; recommends approval of:
3. Change Order MOD #0021-00; Neenah-Menasha Fire Rescue Station 36; Miron Job #101520; ADD $2,292.00
4. ACC Planned Service; Contract No. 2011-01; Public Protection Facility HVAC Equipment Replacement $115,487.00

Plan Commission, 3/8/11; recommends approval of:
5. Proposed Utility Easement-HWY 114 and Lake Park Square

Ald. Englebert requested to remove item 2 (Core Development) from the Consent Agenda.
Ald. Zelinski requested to remove item 3 (Change Order MOD #0021-00) from the Consent Agenda.

Moved by Ald. Hendricks, seconded by Ald. Wisneski to approve items 1, 4, and 5 of Consent Agenda.
Motion carried on roll call 8-0.

H. ITEMS REMOVED FROM CONSENT AGENDA
1. Moved by Ald. Hendricks, seconded by Ald. Wisneski to approve item 2 of Consent Agenda (Extension of Listing Agreement with Core Development)
Discussion: Ald. Englebert will be abstaining.
Motion carried on roll call 7-0. Ald. Englebert - abstained

2. Moved by Ald. Taylor, seconded by Ald. Roush to approve item 3 of Consent Agenda (Change Order MOD #0021-00, N-M Fire Rescue Station 36, Miron Job #101520, ADD $2,292.00)
Discussion: FC Auxier explained the change is for additional lockers for firefighter equipment.
Motion carried on roll call 8-0.

I. ACTION ITEMS
1. Accounts payable and payroll for the term of 3/4/11 to 3/17/11 in the amount of $1,411,902.65
Moved by Ald. Wisneski, seconded by Ald. Zelinski to approve accounts payable and payroll.
Discussion/Questions/Answers on expenditures.
Motion carried on roll call 8-0.

DRAFT

J. ORDINANCES AND RESOLUTIONS

1. O-3-11 An Ordinance Relating to Restricted Parking (7th & Appleton Road) (Introduced by Ald. Taylor) (Recommendation of Board of Public Works)

Moved by Ald. Taylor, seconded by Ald. Langdon to adopt O-3-11
Motion carried on roll call 8-0.

K. APPOINTMENTS

L. HELD OVER BUSINESS

1. R-9-11 Final Resolution Authorizing Public Improvements and Levying Special Assessments Against Benefited Property – Ribblesdale Subdivision and Woodland Hills Subdivision (held 3/7/11)

Moved by Ald. Taylor, seconded by Ald. Zelinski to adopt R-9-11
Discussion ensued on different options for installation of sidewalks.
Craig Kubiak and Jim Longo spoke on holding off on installing sidewalks until the subdivision is totaled developed.
Moved by Ald. Benner, seconded by Ald. Langdon to amend to remove the installation of sidewalks on Woodland Hills Drive from the final resolution.
Motion on amendment failed on roll call 2-6. Ald. Benner, Langdon – yes.
Ald. Roush, Taylor, Wisneski, Hendricks. Zelinski, Englebert – no
Motion to adopt R-9-11 carried on roll call 8-0.

Mayor Merkes explained the development agreements (Items 2 & 3) would be acted on later on the agenda after the Closed Session. (See Item Q)

2. Development Agreement between City of Menasha and Cypress Homes and Realty, Inc. (held 3/7/11)
3. Motion to Remove from the Table – Development Agreement between City of Menasha and The Ponds of Menasha, LLC (tabled 3/7/11)

Mayor Merkes asked if there was no objection they would take up Item M after Item O.
No objection

N. PUBLIC COMMENTS ON ANY MATTER LISTED ON THE AGENDA
(five (5) minute time limit for each person)
No one spoke

O. RECESS TO ADMINISTRATION COMMITTEE & BOARD OF PUBLIC WORKS
Moved by Ald. Wisneski, seconded by Ald. Langdon to recess to Administration Committee and Board of Public Works at 7:19 p.m.
Motion carried on voice vote

Reconvene at 7:55 p.m.

M. CLAIMS AGAINST THE CITY

a. LaFayette Life Insurance Co. v. City of Menasha et al., U.S. District Court (Northern District, IN.) Case No. 4:09-CV-64-TLS; and State ex rel. American Bank v. City of Menasha et al. Case No. 10CV77 Br. 4

Via the telephone, CA/HRD Captain and Attorney Joseph Saltarelli (Hunton & Williams) explained a settlement agreement was reached with bond holders. They reviewed settlement agreement with the Council. They explained the process and timeline.
Some questions needed to be addressed in Closed Session.

DRAFT

P. CLOSED SESSION
Moved by Ald. Roush, seconded by Ald. Langdon to Adjourn into Closed Session pursuant to sec. 19.85(1)(g) & (e) conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved (LaFayette Life Insurance Co. v. City of Menasha et al., U.S. District Court (Northern District, IN.) Case No. 4:09-CV-64-TLS; and State ex rel. American Bank v. City of Menasha et al. Case No. 10CV77 Br. 4); and Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session (Development Agreements with Cypress Homes and Realty, Inc. and The Ponds of Menasha, LLC).
Motion carried on roll call 8-0.

Q OPEN SESSION
Moved by Ald. Roush, seconded by Ald. Wisneski to adjourn to Open Session.
Motion carried on voice vote

1. Moved by Ald. Wisneski, seconded by Ald. Roush to approve the Settlement Agreement presented to the council tonight in LaFayette Life Ins. Co. et al. v. City of Menasha et al. case no. 4:09-CV-64-TLS-APR, authorizing the attorney to conform Exhibits to the Settlement Agreement and execute the same.
Motion carried on roll call 8-0.

2. Development Agreement between City of Menasha and Cypress Homes and Realty, Inc. (held 3/7/11)
Moved by Ald. Wisneski, seconded by Ald. Taylor to table until more information is available.
Motion carried on voice vote.

3. Motion to Remove from the Table – Development Agreement between City of Menasha and The Ponds of Menasha, LLC (tabled 3/7/11)
No Action

R. SET SPECIAL MEETING DATE
Schedule Special Common Council meeting for Resolution and other financial matters related to WPPI transaction.

A Special Common Council meeting will be held on March 24, 2011 at 5:00PM

S. ADJOURNMENT
Moved by Ald. Hendricks, seconded by Ald. Wisneski to adjourn at 9:16 p.m.
Motion carried on voice vote.

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

DRAFT

CITY OF MENASHA
Special Common Council
Third Floor Council Chambers
140 Main Street, Menasha
March 24, 2011
MINUTES

A. CALL TO ORDER
Meeting called to order by Mayor Merkes at 5:00 p.m.

B. PLEDGE OF ALLEGIANCE

C. ROLL CALL/EXCUSED ABSENCES
PRESENT: Aldermen Hendricks, Zelinski, Englebert, Benner, Roush, Taylor, Wisneski, Langdon
ALSO PRESENT: Mayor Merkes, CA/HRD Captain (via telephone), C/T Stoffel, CDD Keil, Menasha Utility GM Melanie Krause and Dick Sturm, Clerk Galeazzi, and the Press.

D. PUBLIC COMMENTS ON ANY MATTER LISTED ON THE AGENDA
(five (5) minutes time limit for each person)
No one spoke.

E. ACTION ITEMS

1. Financial Advisory Agreement with Wisconsin Public Finance Professionals, LLC.

Moved by Ald. Taylor, seconded by Ald. Englebert to approve Financial Advisory Agreement with Wisconsin Public Finance Professionals, LLC
Discussion: C/T Stoffel explained the agreement will give Wisconsin Public Finance Professionals, LLC the authority to act on the City's behalf to complete the necessary financial matters in regard to the State Trust Fund Loan, for the purchase of State and Local Government Series Bonds, and to defease the City's 2005 Combined Utility Revenue Bonds.
Motion carried on roll call 8-0.

2. R-11-11 Resolution Amending Resolutions No. R-20-06, R-8-07 and R-9-09 to Remove Pledge of Electric Utility Revenues from Safe Drinking Water Loan Bonds.

Moved by Ald. Hendricks, seconded by Ald. Roush to adopt R-11-11
Discussion: CA/HRD Captain and GM Krause explained the purpose to separate the electric utility from the Safe Drinking Water Loan Bonds. The electric utility needs to be remove for the sale of the electric utility assets to WPPI Energy to move forward.
Motion carried on roll call 8-0.

3. R-12-11 Resolution Authorizing the Transfer of Funds, the establishment of an Escrow Account with Respect to and the Defeasance of the Combined Utility Revenue Refunding Bonds, Series 2005, Dated December 28, 2005.

Moved by Ald. Hendricks, seconded by Ald. Wisneski to adopt R-12-11
Discussion: C/T Stoffel explained this will establish the escrow account to hold the funds for water utility debt that is not due until 2017.
Motion carried on roll call 8-0.

DRAFT

4. R-13-11 Resolution Approving Application to Board of Commissioners of Public Lands to Borrow $3,500,000 from the State Trust Funds, Authorizing the Borrowing and the Issuance of Certificates of Indebtedness and Levying a Tax in Connection Therewith.

Moved by Ald. Roush, seconded by Ald. Wisneski to adopt R-13-11
Discussion: C/T Stoffel explained the purpose of the loan is for financing advance refunding of utility revenue bond.
Motion carried on roll call 8-0.

5. Closed Session

Moved by Ald. Wisneski, seconded by Ald. Hendricks to adjourn into Closed Session pursuant to sec. 19.85(1)(e) Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session (Development Agreement with The Ponds of Menasha LLC and Cypress Homes and Realty, Inc.)
Motion carried on roll call 8-0.

6. Open Session

Moved by Ald. Hendricks, seconded by Ald. Roush to go back into Open Session immediately following the Closed Session to take action on matters discussed in Closed Session.
Motion carried on voice vote.

7. Motion to Remove from the Table the Development Agreement between City of Menasha and The Ponds of Menasha LLC

Moved by Ald. Hendricks, seconded by Ald. Wisneski to remove from the table the Development Agreement between City of Menasha and The Ponds of Menasha LLC
Motion carried on roll call 8-0.
Moved by Ald. Hendricks, seconded by Ald. Englebert to approve the Development Agreement between City of Menasha and The Ponds on Menasha LLC contingent upon all the items recommended by staff as listed in memo dated 3/24/2011 be satisfied.
Motion carried on roll call 7-1. Ald. Zelinski – no.

8. Motion to Remove from the Table the Development Agreement between City of Menasha and Cypress Homes and Realty, Inc.

Moved by Ald. Hendricks, seconded by Ald. Englebert to remove from the table the Development Agreement between City of Menasha and Cypress Homes and Realty, Inc.
Motion carried on roll call 8-0.
Moved by Ald. Hendricks, seconded by Ald. Englebert to approve the Development Agreement between City of Menasha and Cypress Homes and Realty, Inc. contingent upon all the items recommended by staff as listed in memo dated 3/24/2011 be satisfied.

Moved by Ald. Taylor, seconded by Ald. Hendricks to amend Section 3.01.1 of the Cypress Homes and Realty Inc agreement to include language similar to the agreement with The Ponds of Menasha LLC on the terms of the Promissory Note.
Motion on amendment carried on roll call 7-1. Ald. Zelinski – no.
Motion as amended carried on roll 7-1. Ald. Zelinski – no.

F. ADJOURNMENT

Moved by Ald. Wisneski, seconded by Ald. Hendricks to adjourn at 6:46 p.m.
Motion carried on voice vote.

Respectfully submitted by Deborah A. Galeazzi, WCMC

STATE OF WISCONSIN

DEPARTMENT OF MILITARY AFFAIRS

DIVISION OF EMERGENCY MANAGEMENT

Michael T. Hinman
Administrator

Scott Walker
Governor

Keith Tveit
Fire Services Coordinator
DMA/WEM HQ
2400 Wright St.
Madison, WI. 53707-7865
Telephone: 608-220-6049

February 10, 2011

Chief Al Auxier
% Neenah/Menasha Fire Department
125 East Columbian Ave.
Neenah, Wisconsin 54956

Dear Chief Auxier;

As you are aware, Wisconsin Emergency Management is moving forward with the development and implementation of Wisconsin Taskforce 1 (WI TF 1) as a single team State resource for "structural collapse" emergency response. The Neenah/Menasha Fire Department has been a valued partner in this development since its inception in 2005. Our goal is to build this multifaceted Team from across Wisconsin's fire service community. To accomplish this we intend to utilize 225 members from various Wisconsin fire departments who, like Neenah/Menasha, have been involved in this endeavor since its inception.

Wisconsin Emergency Management is pleased to offer the Neenah/Menasha Fire Department and members of your "Structural Collapse Response Team" up to 8 positions on WI TF 1. Please note that the members you designate <u>must</u> be from the original Neenah/Menasha Fire Department members who attended training at the REACT Center.

I am also including a proposed Contract for Statewide Structural Collapse Team Members as well as Exhibits A, and B. Exhibit C in this contract applies only to the City of Milwaukee which is self-insured. As such, Exhibit C should be re-issued by the Milwaukee City Attorney to mirror Exhibit F in the existing Contract for Regional Hazardous Materials Response Team Services. I am attaching a copy of Exhibit F for your reference.

Lastly, I am enclosing a letter addressed Chief Jack Baus in his capacity as the President of the Wisconsin State Fire Chiefs Association relating to questions he had on the development and implementation of WI TF 1.

It is our sincere hope that the City's of Neenah/Menasha finds the terms and conditions of Contract acceptable.

Should you have any questions, please do not hesitate to contact me. Thank you for your time and consideration

Respectfully,

Keith Tveit, Fire Services Coordinator/Interim Director REACT Center
Wisconsin Emergency Management

Cc: Mr. Mike Hinman, Administrator, Wisconsin Emergency Management
Mr. Larry Reed, Deputy Administrator, Wisconsin Emergency Management
Ms. Randi Wind Milsap, Legal Counsel, Wisconsin Emergency Management

CONTRACT FOR
STATEWIDE STRUCTURAL COLLAPSE
TEAM MEMBERS

JULY 1, 201_ THROUGH JUNE 30, 201_

Between

STATE OF WISCONSIN
DEPARTMENT OF MILITARY AFFAIRS
DIVISION OF EMERGENCY MANAGEMENT

And

CITY OF _____, WISCONSIN

DATE: _____, 2011

DRAFT

CONTRACT FOR STATEWIDE STRUCTURAL COLLAPSE TEAM MEMBERS

1.0 General Contract Information

1.1 **Parties:** This contract is between the State of Wisconsin, Department of Military Affairs, Division of Emergency Management (hereinafter "Division") and the _____ Fire Department, City of _____, Wisconsin (hereinafter "Contractor") for the provision of Statewide Structural Collapse Team members as described herein and authorized under 2009 Wisconsin Act 43, as codified in §323.72 of the Wisconsin Statutes and as further amended.

1.2 **Recitals:** WHEREAS, in order to protect life and property against the dangers of emergencies involving catastrophic structural collapse, the Division may assign and make available for use in any county, city, or district, a Statewide Structural Collapse Team.

WHEREAS, the Division desires to enter into this Agreement with Contractor for the provision of team members to serve on one of three statewide platoons comprising the Statewide Structural Collapse Team, and Contractor desires to enter into this Agreement.

HOWEVER, the parties expressly recognize and attest by this Agreement that neither party intends to create or to assume fiduciary responsibilities to provide for the containment, cleanup, repair, restoration and investigation of the environment (air, land and water) in a structural collapse incident involving a hazardous substance, which is the responsibility and shall remain the sole obligation of the Wisconsin Department of Natural Resources under §§292.11 and 323.60(4), Wis. Stats.

1.3 **Contract Term:** This Agreement shall continue for __ years commencing July 1, 201_ through June 30, 201__.

2.0 Definitions

2.1 **Definitions:** The following definitions are used throughout this Agreement:

Agreement means this Contract, together with the Exhibits. Exhibits include the following:

Exhibit A	Standard Terms and Conditions
Exhibit B	Training Costs
Exhibit C	Certificate of Protection in Lieu of an Insurance Policy (as applicable)

State means the State of Wisconsin.
Department means the State of Wisconsin, Department of Military Affairs.
Division means the Division of Emergency Management.
Contractor means the City of _____ Fire Department, City of _____, Wisconsin by

which Statewide Structural Collapse Team members will be provided under this Agreement. Under §323.721), Stats., the Division may only contract with local agencies as defined in §323.70(1)(b), Stats.

Local Agency has the meaning under §323.7091)(b), Stats.

OJA means the State of Wisconsin, Office of Justice Assistance.

Responsible Party means the person(s), as defined in §323.72(3)(a) and (b), Stats., who possessed or controlled a structure that was involved in the structural collapse or the person who caused the structural collapse which caused the emergency to which Contractor has responded.

Regional Emergency All-Climate Training Center (REACT) is a training facility owned by the State of Wisconsin, Department of Military Affairs and operated by the Division of Emergency Management.

Structural collapse means an incident involving all types of construction with emergency response activities that include expertise in 1) evaluating existing and potential conditions at structural collapse incidents; 2) recognizing unique collapse or failure hazards; 3) conducting search operations intended to locate victims trapped inside and beneath collapse debris; 4) accessing victims trapped inside and beneath collapse debris; 5) performing extrication operations involving packaging, treating, and removing victims trapped within and beneath collapse debris; and 6) stabilizing the structure.

Structural Collapse Team Member means an individual provided by Contractor serving as a team member on one of three platoons comprising the Statewide Structural Collapse Team to provide statewide structural collapse emergency response that meets the standards under the National Fire Protection Association standards NFPA 1001 and 1670, as further amended.

Statewide Structural Collapse Team Platoon means a component of the Statewide Structural Collapse Team made up of team members provided by the Contractor and/or designated employees of the Contractor who are expected to respond to, control, and/or stabilize the actual or potential structural collapse.

WI Taskforce 1 means the name of the Statewide Structural Collapse Team.

3.0 Statement of Work

3.1 **Services to be provided by Contractor:** During the term of this Agreement, the Contractor agrees to provide statewide structural collapse team members for the three statewide platoons comprising the Statewide Structural Collapse Team (also known as WI Taskforce 1).

Contractor's response activities under this Agreement shall be limited to emergency operations, reporting and documentation of activities arising from catastrophic structural collapse incidents which threaten life, property and/or the environment. Contractor shall not provide under this Agreement any services with respect to the sampling, testing, analysis, treatment, removal, remediation, recovery, packaging, monitoring, transportation, movement of hazardous materials, cleanup, storage and disposal of hazardous materials except as these may be reasonably necessary and incidental to preventing a release or threat of release of a hazardous material or in stabilizing the emergency response incident, as determined by the Contractor.

WI Taskforce 1 shall establish safety perimeters at or near sites and vessels. WI Taskforce 1 shall not be required to locate underground utilities, insure appropriate traffic control services, conduct hydrological investigations and analysis, or provide testing, removal and disposal of underground storage tanks at or near the emergency response incident to which the Contractor is dispatched.

The Division and Contractor make no representations to third parties with regard to the ultimate outcome of the structural collapse services to be provided, but Contractor and Division shall respond to the best of its abilities, subject to the terms of this Agreement.

3.2 **Performance Conditions:** Contractor acknowledges that it shall demonstrate to the Division that its employees designated as structural collapse teams members, structural collapse equipment, and associated vehicles meet or exceed applicable NFPA training standards and any regulatory requirements.

3.3 **Personnel:** Contractor shall provide [the Division shall insert exact number] trained, medically monitored, and competent personnel as identified by Contractor and designated by the Division as is reasonably necessary to operate within the safety levels of a statewide structural collapse team. Contractor understands and agrees that identified team members will meet applicable training standards and certifications at the time they are identified by Contractor to serve as members of the Statewide Structural Collapse Team.

3.4 **Vehicles and Equipment:** If the Division requests vehicles and equipment from the Contractor, it shall limit its activities to that which can be safely accomplished within the technical limitations of the available vehicles and equipment. Contractor may retain structural collapse equipment and vehicles provided by grant funding through OJA for Contractor's local use, however, Contractor agrees that in the event of multiple responses, said equipment which is already not committed to a prior response shall be used on a priority basis to respond to a structural collapse incident.

3.5 **Vehicle and Equipment Use Limitations:** This Agreement in no way limits the Contractor from responding with structural collapse vehicles, equipment and supplies under local authority, mutual-aid agreements, or other contracts under local authority.

3.6 **Response Procedures and Limitations:** Contractor recognizes that its obligations under this Agreement are paramount to the State of Wisconsin. Contractor agrees that if local fire response obligations in Contractor's own jurisdiction create limits or unavailable resources, Contractor will seek aid from local jurisdictions to assist in local fire response obligations in Contractor's own jurisdiction.

Contractor's obligation to provide services hereunder shall arise, with respect to specific response actions, upon receipt of an emergency response request pursuant to Standard Operating Guidelines provided in Subsection 3.8 herein.

3.7 **Right of Refusal:** If, on occasion, a response under this Agreement would temporarily place a verifiable undue burden on the Contractor because Contractor's resources are

otherwise inadequate or unavailable and mutual aid is unavailable, then if notice has been provided to the Division, the Contractor may decline a request for a Statewide Structural Collapse Team emergency response.

3.8 **Standard Operating Guidelines:** Contractor and Division agree that the Statewide Structural Collapse team operations will be conducted in accordance with Standard Operating Guidelines and "Call-Out Procedure" that will be mutually approved by the parties to this Agreement. Contractor agrees and understands that it shall not self deploy structural collapse teams members to a catastrophic structural collapse. The Division shall notify Contractor of the need for structural collapse team member deployment and the need for mustering a platoon of WI Taskforce 1 at the REACT.

4.0 Training Costs and Reimbursement for Emergency Response

There are two types of Contractor costs under this Agreement: (1) Required Training Costs, and (2) Team Response Costs. Each of these costs are discussed more fully below.

4.1 **Required Training Costs:** Under §323.72(1), Stats., team personnel shall be trained and certified to the standards under the National Fire Protection Association standards NFPA 1001 and 1670, as further amended. As a condition of this Agreement, Contractor agrees that all team personnel shall attend structural collapse training and refresher training at the Regional Emergency All-Climate Training Center (REACT), which is owned and operated by the Division or at a location pre-approved in writing by the Division. The structural collapse and refresher training shall be a minimum of thirty-two (32) hours per team member per annum. Additional specialty training is available at REACT. All team personnel attending training at REACT shall be in a non-duty status with Contractor. To facilitate planning for required training, the REACT training schedule shall be posted at minimum of twelve months in advance, with the exception of the first contract period. Any team personnel who have not attended or completed the required training will not be allowed to respond under the scope of this Agreement. Team personnel shall also keep current any state required certifications. The Division shall maintain all structural collapse and refresher training records on each team member for training received at REACT.

4.2 **Team Response Costs and Reimbursement:** Under §323.72(2), Stats., the Division shall reimburse the Statewide Structural Collapse Team for costs incurred by the team in responding to an emergency involving a structural collapse incident if the team determines that a structural collapse emergency requiring a response existed. Reimbursement is limited to amounts collected from the responsible person(s) as defined in §323.72(3) (a) and (b), Stats. Reimbursement under this subsection is available only if the Statewide Structural Collapse Team has identified the person who is required to reimburse the Division and provided that information to the Division. Further, Contractor shall comply with all Division-approved reimbursement procedures and/or duly enacted Administrative Rule(s).

A person shall reimburse the Division for costs incurred by the Statewide Structural Collapse Team in responding to an emergency if the team determines that an

emergency requiring the team's response existed and that one of the following conditions applies:

(1) The person possessed or controlled a structure that was involved in the structural collapse.

(2) The person caused the structural collapse.

In the event a responsible person has been identified, Contractor shall be reimbursed for reasonable and necessary Team member response costs incurred in responding to a catastrophic structural collapse incident under this Agreement. Such Team response costs may include, but are not limited to:

(1) Reimbursement for use of Vehicle(s) and Apparatus: Contractor shall be reimbursed for the approved use of its vehicles and equipment at FEMA-established rates.

(2) Personnel Expenses: Contractor's team response personnel expenses which are approved and authorized under this Agreement are reimbursable at $45.00 per hour per deployed team member. During an emergency deployment, this shall be calculated as portal to portal.

(3) Backfill expenses: Contractor's personnel backfill expenses to cover deployed team members are reimbursable at the Contractor's actual cost.

(4) Emergency Expenses: Contractor's necessary and reasonable emergency expenses related to services rendered under this Agreement are reimbursable. All such expenses must be based on actual expenditures and fully documented by the Contractor. The Division reserves the right to deny any reimbursement of unjustifiable Contractor expenditures.

4.3 **Maximum Contract Payment for Training Costs:** This Agreement shall have a maximum contract payment of $_____ per annum for training costs as described in "Exhibit B" to this Agreement. This calculation is based upon $45 per hour for the minimum of thirty-two (32) hours per team member per annum. In addition to the maximum contract payment, the Division will pay for enhanced training for specialty job assignments for team members as determined and approved in advance by the Division. The maximum contract payment for training does not, however, include Contractor's team response costs as specified in Subsection 4.2 of this Agreement. Contractor's personnel backfill expenses to cover team members in training status are not reimbursable.

No additional Contractor payment or reimbursement shall be paid or any additional demands placed on Contractor under this Agreement unless otherwise specifically agreed to by the Division and the Contractor, and upon written amendment to this Agreement. The Division's reimbursement(s) shall be full payment for services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the services authorized under this Agreement. Acceptance of payment by the Contractor shall operate

as a release of the Division of all claims by Contractor for reimbursement of team response costs except where partial payment has been made due to limitations as set forth above.

4.4 **Billing System for Division Reimbursement of Team Response Costs:** Contractor will provide an invoice for its team member response costs to the Division within ten (10) working days of the response. The Division will not bill responsible person(s) unless it receives an invoice from the Contractor. Contractor's claim for reimbursement shall contain such documentation as is necessary to support the Division's cost-recovery operations and financial audits. The Division agrees to bill responsible person(s) for the Statewide Structural Collapse Team response costs. Team response costs include such items as vehicle and equipment use, expendables and personnel costs. In addition, Division administrative costs may be billed as part of the emergency costs. Further, Contractor shall comply with all Division-approved procedures and/or duly enacted Administrative Rule(s).

The Division shall bill identified responsible person(s) within sixty (60) days of receipt of Contractor's invoice. Contractor's team response costs shall be collected by the Division from the responsible person(s) before any payment is made to the Contractor. Contractor agrees to cooperate with the Division as is reasonable and necessary in order to allow the Division to bill third parties and pursue cost recovery actions.

4.5 **Approval:** The Division shall notify Contractor of the need for structural collapse team member deployment and the need for mustering a platoon of WI Taskforce 1 at the REACT. Contractor agrees and understands that it shall not self deploy structural collapse teams members to a catastrophic structural collapse. Contractor may deploy structural collapse team members directly to an ongoing catastrophic structural collapse event at the request of the Division. Contractor agrees to make reasonable and good faith efforts to minimize Responsible Party and/or Division expenses.

4.6 **Retirement System Status and Tax Payments:** Contractor and its employees are not entitled under this Agreement to Division contribution for any Public Employees Retirement Withholding System benefit(s). Contractor shall be responsible for payment/withholding of any applicable federal, Social Security and State taxes.

4.7 **Worker's Compensation:** A member of the Statewide Structural Collapse Team who is acting under the scope of this Agreement is an employee of the State for purposes of Worker's Compensation under §323.70(4) of the Wisconsin Statutes.

4.8 **Payment of Contractor's Obligations:** Contractor agrees to make payment promptly, as just, due, and payable to all persons furnishing services, equipment or supplies to Contractor. If Contractor fails, neglects or refuses to pay any such claims as they become due and for which the Division may be held liable, the proper officer(s) representing the Division, after ascertaining that the claims are just, due, and payable, may, but shall not be required to, pay the claim and charge the amount of the payment against funds due Contractor under this Agreement. The payment of claims in this manner shall not relieve Contractor of any duty with respect to any unpaid claims.

4.9 **Dual Payment:** Contractor shall not be compensated for work performed under this Agreement by any state agency or person(s) responsible for causing a catastrophic structural collapse emergency except as approved and authorized under this Agreement.

5.0 Liability and Indemnity

5.1 **Scope:** During operations authorized by this Agreement, Contractor and members of the Statewide Structural Collapse Team shall be agents of the State of Wisconsin for purposes of §895.46(1), Stats. For the purposes of this Article, operations means activities, including travel, directly related to a particular emergency response involving a structural collapse incident by the Statewide Structural Collapse Team. Operations also include advanced training activities provided under this Agreement to members of the Statewide Structural Collapse Team, but does not include travel to and from the training.

5.2 **Civil liability exemption; regional emergency response teams and their sponsoring agencies:** Under §895.483(4), Wis. Stats., a regional structural collapse team, a member of such a team, and a local agency, as defined in s. §323.70 (1) (b), that contracts with the division of emergency management in the department of military affairs for the provision of a regional structural collapse team, are immune from civil liability for acts or omissions related to carrying out responsibilities under a contract under §323.72 (1), Stats.

5.3 **Contractor Indemnification of State:** When acting as other than an agent of the Division under this Agreement, and when using the State's or Division's vehicles or equipment, the Contractor shall indemnify, defend and hold harmless the State, Division, its officers, Divisions, agents, employees, and members from all claims, suits or actions of any nature arising out of the activities or omissions of Contractor, its officers, subcontractors, agents or employees.

6.0 Insurance Provisions

6.1 **Public Liability and Property Damage Insurance:** Contractor shall maintain, at its own expense, and keep in effect during the term of this Agreement, commercial liability, bodily injury and property damage insurance against any claim(s) which might occur in carrying out this Agreement. Minimum coverage is one million dollars ($1,000,000) liability for bodily injury and property damage including products liability and completed operations.

If Contractor is self-insured or uninsured, a Certificate of Protection in Lieu of an Insurance Policy shall be submitted to the Division certifying that Contractor is protected by a Self-Funded Liability and Property Program or alternative funding source(s), attached hereto as "Exhibit C". The Certificate is required to be presented prior to commencement of this Agreement.

6.2 **Automobile Liability:** Contractor and team members shall obtain and keep in effect motor vehicle insurance for all owned, non-owned and hired vehicles that are used in carrying out this Agreement. This coverage may be written in combination with the

commercial liability, bodily injury and property damage insurance mentioned in Subsection 6.1. Minimum coverage limits shall be one million ($1,000,000) per occurrence combined single limit for automobile liability and property damage.

If Contractor is self-insured or uninsured, a Certificate of Protection in Lieu of an Insurance Policy shall be submitted to the Division certifying that Contractor is protected by a Self-Funded Liability and Property Program, or alternative funding source(s) attached hereto as "Exhibit C". The Certificate is required to be presented prior to commencement of this Agreement.

6.3 **Notice of Cancellation or Change:** Contractor agrees that there shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days written notice to the Division.

6.4 **Certificate(s) of Insurance:** As evidence of the insurance coverage required by this Agreement, Contractor shall provide an insurance certificate indicating this coverage, countersigned by an insurer licensed to do business in Wisconsin, covering the period of the Agreement. The insurance certificate is required to be presented prior to commencement of this Agreement.

7.0 Standard Contract Terms, Conditions and Requirements

7.1 **Disclosure of Independence and Relationship:** Contractor certifies that no relationship exists between the Statewide Structural Collapse Team, the State or the Division that interferes with fair competition or is a conflict of interest, and no relationship exists between the team and another person or organization that constitutes a conflict of interest with respect to a state contract. The Department of Administration may waive this provision, in writing, if those activities of the Contractor will not be adverse to the interest of the State.

Contractor agrees as part of this contract for services that during performance of this contract, they will neither provide contractual services nor enter into any agreement to provide services to a person or organization that is regulated or funded by the contracting agency or has interests that are adverse to the contracting agency. The Department of Administration may waive this provision, in writing, if those activities of the Contractor will not be adverse to the interests of the State.

7.2 **Dual Employment:** §16.417 of the Wisconsin Statutes, prohibits an individual who is a state employee or who is retained as a consultant full-time by a state agency from being retained as a consultant by the same or another agency where the individual receives more than $5,000 as compensation. This prohibition applies only to individuals and does not include corporations or partnerships.

7.3 **Employment:** Contractor will not engage the service of any person or persons now employed by the State, including any department, commission, or board thereof, to provide services relating to this Agreement without the written consent of the employer of such person or persons and the Department of Military Affairs and the Division.

7.4 **Conflict of interest:** Private and non-profit corporations are bound by §180.0831 and §181.225 Wis. Stats., regarding conflicts of interest by directors in the conduct of state contracts.

7.5 **Recordkeeping and Record Retention:** The Contractor shall establish and maintain adequate records of all expenditures incurred under the Agreement. All records must be kept in accordance with generally accepted accounting principles, and be consistent with federal and state laws and local ordinances. The Division, the federal government, and their duly authorized representatives shall have the right to audit, review, examine, copy and transcribe any pertinent records or documents relating to any contract resulting from this Agreement held by Contractor. The Contractor shall retain all documents applicable to the Agreement for a period of not less than three (3) years after the final payment is made or longer where required by law.

7.6 **Hold Harmless:** The Division of Emergency Management, the Department of Military Affairs, and the State of Wisconsin shall be held harmless in any disputes the team and/or fire department may have with their employees. This shall include, but not be limited to, charges of discrimination, harassment, and discharge without just cause.

7.7 **Termination of Agreement:** The Division and/or Contractor may terminate this Agreement at any time **for cause** by delivering one hundred twenty (120) days written notice to the other Party. Upon termination, the Division's liability will be limited to the pro rata cost of the training costs provided under Subsection 4.1 as of the date of termination plus expenses incurred with the prior written approval of the Division. Upon termination, Contractor will refund to the Division within one hundred twenty (120) days of said termination pro rata training payments made hereunder by the Division to the Contractor.

Contractor may terminate this Agreement **at will** by delivering one hundred twenty (120) days written notice to the Division. In the event the Contractor terminates this Agreement for any reason whatsoever, it will refund to the Division within one hundred twenty (120) days of said termination all payments made hereunder by the Division for training costs, under Subsection 4.1, provided to the Contractor for the contract year in which the termination occurs based in proportion to the number of days remaining in the contract year.

The Division may terminate this Agreement **at will** effective upon delivery of written notice to the Contractor, under any of the following conditions:

(1) If funding from federal, state, or other sources is not obtained and/or continued at levels sufficient to allow for training, the Agreement may be modified to accommodate a reduction or increase in funds.

(2) If federal or state laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement or are no longer eligible for the funding proposed for payments by this Agreement.

(3) If any license or certification required by law or regulation to be held by the Contractor to provide the services required by this Agreement is for any reason denied, revoked, or not renewed.

Any termination of the Agreement shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

7.8 **Cancellation:** The State of Wisconsin reserves that right to cancel any contract in whole or in part without penalty due to non-appropriation of funds or for failure of the Contractor to comply with the terms, conditions, and specifications of this Agreement.

7.9 **Prime Contractor and Minority Business Subcontractors:** In the event Contractor subcontracts for supplies and/or services, any subcontractor must abide by all terms and conditions of the Agreement. The Contractor shall be responsible for contract performance whether or not subcontractors are used.

Contractor is encouraged to purchase services and supplies when/if applicable from minority businesses certified by the Wisconsin Department of Development, Bureau of Minority Business Development.

Contractor shall file with the Department of Military Affairs quarterly reports of purchases of such supplies and services necessary for the implementation of this Agreement.

7.10 **Executed Contract to Constitute Entire Agreement:** The contents of the Agreement including Exhibits and additional terms agreed to, in writing, by the Division and the Contractor shall become a part of the Agreement herein. The written Agreement with referenced parts and attachments shall constitute the entire Agreement and no other terms and conditions in any document, acceptance, or acknowledgment shall be effective or binding unless expressly agreed to, in writing, by the contracting authority.

7.11 **News Releases:** News releases pertaining to the negotiation of this Agreement shall not be made without the prior approval of the Division.

7.12 **Applicable Law:** This Agreement shall be governed under the laws of the State of Wisconsin. The Contractor and State shall at all times comply with and observe all federal and state laws, local laws, ordinances and regulations which are in effect during the period of this Agreement and which may in any manner affect the work or its conduct.

7.13 **Assignment:** No right or duty, in whole or in part, of the Contractor under this Agreement may be assigned or delegated without the prior written consent of the State of Wisconsin.

7.14 **Successors in Interest:** The provisions of the Agreement shall be binding upon and shall inure to the benefit of the parties to the Agreement and their respective successors and assigns.

7.15 **Force Majeure:** Neither party to this Agreement shall be held responsible for delay or

default caused by fire, riots, acts of God and/or war which is beyond that party's reasonable control.

7.17 **Notifications:** Contractor shall immediately report by telephone and in writing any demand, request, or occurrence that reasonably may give rise to a claim against the State, its officers, Divisions, agents, employees and members. Such reports shall be directed to:

ATTN: Administrator
Division of Emergency Management
DMA Wisconsin
PO Box 7865
Madison, WI 53707-7865
Telephone #: (608) 242-3232
FAX #: (608) 242-3247

Copies of such written reports shall also be sent to:

ATTN: Office of Legal Counsel, WING-LGL
WI Dept. of Military Affairs
PO Box 14587
Madison, WI 53714-0587

7.17 **Severability:** If any provision of this Agreement is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected. The rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

7.18 **Amendments:** The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of Division and Contractor.

7.19 **Approval Authority:** Contractor's representative(s) certify by their signature herein that he or she, as the case may be, has the necessary and lawful authority to enter into contracts and agreements on behalf of the local government entity.

7.20 **Insufficient Funds:** The obligation of the Contractor under this Agreement is contingent upon the availability and allotment of funds by the Division to Contractor and Contractor may, upon one hundred twenty (120) days prior written notice, terminate this contract if funds are not available.

7.21 **No Waiver:** No failure to exercise, and no delay in exercising, any right, power or remedy, including payment, hereunder, on the part of the Division, State, or Contractor shall operate as a waiver hereof, nor shall any single or partial exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No express waiver shall effect any event or default other than the event

or default specified in such waiver, and any such waiver, to be effective, must be in writing and shall be operative only for the time and to the extent expressly provided by the Division, State or Contractor therein. A waiver of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition.

7.22 **Construction of Agreement:** This Agreement is intended to be solely between the parties hereto. No part of the Agreement shall be construed to add, supplement, amend, abridge, or repeal existing rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties.

7.23 **Disparity:** In the event of a discrepancy, difference or disparity in the terms, conditions or language contained any previous correspondence from the Division, it is agreed between the parties that the language in this Agreement shall prevail.

Approving Signatures:

ON BEHALF OF THE DIVISION OF EMERGENCY MANAGEMENT (DIVISION)

Dated this ____ day of _____, 201_

_____

Michael T. Hinman, Division Administrator

DRAFT

On Behalf of the City of _____
A Municipal Corporation

Dated this ____ day of _____, 201_

Signature: _____
Printed Name:
Title: Mayor
Address: City Hall
City/State: _____, WI Zip: 5____

On Behalf of the City of _____

Dated this ____ day of _____, 201_

Signature: _____
Printed Name:
Title: City Clerk/Treasurer
Address: City Hall
City/State: _____, WI Zip: 5____

On Behalf of the City of _____

Dated this ____ day of _____, 201_

Signature: _____
Printed Name:
Title: City Administrator
Address: City Hall
City/State: _____, WI Zip: 5_____

DRAFT

On Behalf of the City of _____ Fire Department

Dated this ____ day of _____, 201_

Signature: _____
Printed Name:
Title: Fire Chief
Address:
City/State: _____, WI Zip: 5_____

Approved as to form:

Dated this ____ day of _____, 201_

Signature: _____
Printed Name:
Title: City Attorney
Address: City Hall
City/State: _____, WI Zip: 5_____

DRAFT

EXHIBIT A

Standard Terms And Conditions (Request For Bids / Proposals)

1.0 SPECIFICATIONS: The specifications in this request are the minimum acceptable. When specific manufacturer and model numbers are used, they are to establish a design, type of construction, quality, functional capability and/or performance level desired. When alternates are bid/proposed, they must be identified by manufacturer, stock number, and such other information necessary to establish equivalency. The State of Wisconsin shall be the sole judge of equivalency. Bidders/proposers are cautioned to avoid bidding alternates to the specifications which may result in rejection of their bid/proposal.

2.0 DEVIATIONS AND EXCEPTIONS: Deviations and exceptions from original text, terms, conditions, or specifications shall be described fully, on the bidder's/proposer's letterhead, signed, and attached to the request. In the absence of such statement, the bid/proposal shall be accepted as in strict compliance with all terms, conditions, and specifications and the bidders/proposers shall be held liable.

3.0 QUALITY: Unless otherwise indicated in the request, all material shall be first quality. Items which are used, demonstrators, obsolete, seconds, or which have been discontinued are unacceptable without prior written approval by the State of Wisconsin.

4.0 QUANTITIES: The quantities shown on this request are based on estimated needs. The state reserves the right to increase or decrease quantities to meet actual needs.

5.0 DELIVERY: Deliveries shall be F.O.B. destination freight prepaid and included unless otherwise specified.

6.0 PRICING AND DISCOUNT: The State of Wisconsin qualifies for governmental discounts and its educational institutions also qualify for educational discounts. Unit prices shall reflect these discounts.

6.1 Unit prices shown on the bid/proposal or contract shall be the price per unit of sale (e.g., gal., cs., doz., ea.) as stated on the request or contract. For any given item, the quantity multiplied by the unit price shall establish the extended price, the unit price shall govern in the bid/proposal evaluation and contract administration.

6.2 Prices established in continuing agreements and term contracts may be lowered due to general market conditions, but prices shall not be subject to increase for ninety (90) calendar days from the date of award. Any increase proposed shall be submitted to the contracting agency thirty (30) calendar days before the proposed effective date of the price increase, and shall be limited to fully documented cost increases to the contractor which are demonstrated to be industrywide. The conditions under which price increases may be granted shall be expressed in bid/proposal documents and contracts or agreements.

6.3 In determination of award, discounts for early payment will only be considered when all other conditions are equal and when payment terms allow at least fifteen (15) days, providing the discount terms are deemed favorable. All payment terms must allow the option of net thirty (30).

7.0 UNFAIR SALES ACT: Prices quoted to the State of Wisconsin are not governed by the Unfair Sales Act.

8.0 ACCEPTANCE-REJECTION: The State of Wisconsin reserves the right to accept or reject any or all bids/proposals, to waive any technicality in any bid/proposal submitted, and to accept any part of a bid/proposal as deemed to be in the best interests of the State of Wisconsin.

Bids/proposals MUST be date and time stamped by the soliciting purchasing office on or before the date and time that the bid/proposal is due. Bids/proposals date and time stamped in another office will be rejected. Receipt of a bid/proposal by the mail system does not constitute receipt of a bid/proposal by the purchasing office.

9.0 METHOD OF AWARD: Award shall be made to the lowest responsible, responsive bidder unless otherwise specified.

10.0 ORDERING: Purchase orders or releases via purchasing cards shall be placed directly to the contractor by an authorized agency. No other purchase orders are authorized.

11.0 PAYMENT TERMS AND INVOICING: The State of Wisconsin normally will pay properly submitted vendor invoices within thirty (30) days of receipt providing goods and/or services have been delivered, installed (if required), and accepted as specified.

Invoices presented for payment must be submitted in accordance with instructions contained on the purchase order including reference to purchase order number and submittal to the correct address for processing.

A good faith dispute creates an exception to prompt payment.

12.0 TAXES: The State of Wisconsin and its agencies are exempt from payment of all federal tax and Wisconsin state and local taxes on its purchases except Wisconsin excise taxes as described below.

The State of Wisconsin, including all its agencies, is required to pay the Wisconsin excise or occupation tax on its purchase of beer, liquor, wine, cigarettes, tobacco products, motor vehicle fuel and general aviation fuel. However, it is exempt from payment of Wisconsin sales or use tax on its purchases. The State of Wisconsin may be subject to other states' taxes on its purchases in that state depending on the laws of that state. Contractors performing construction activities are required to pay state use tax on the cost of materials.

13.0 GUARANTEED DELIVERY: Failure of the contractor to adhere to delivery schedules as specified or to promptly replace rejected materials shall render the contractor liable for all costs in excess of the contract price when alternate procurement is necessary. Excess costs shall include the administrative costs.

14.0 ENTIRE AGREEMENT: These Standard Terms and Conditions shall apply to any contract or order awarded as a result of this request except where special requirements

are stated elsewhere in the request; in such cases, the special requirements shall apply. Further, the written contract and/or order with referenced parts and attachments shall constitute the entire agreement and no other terms and conditions in any document, acceptance, or acknowledgment shall be effective or binding unless expressly agreed to in writing by the contracting authority.

15.0 APPLICABLE LAW AND COMPLIANCE: This contract shall be governed under the laws of the State of Wisconsin. The contractor shall at all times comply with and observe all federal and state laws, local laws, ordinances, and regulations which are in effect during the period of this contract and which in any manner affect the work or its conduct. The State of Wisconsin reserves the right to cancel this contract if the contractor fails to follow the requirements of s. 77.66, Wis. Stats., and related statutes regarding certification for collection of sales and use tax. The State of Wisconsin also reserves the right to cancel this contract with any federally debarred contractor or a contractor that is presently identified on the list of parties excluded from federal procurement and non-procurement contracts.

16.0 ANTITRUST ASSIGNMENT: The contractor and the State of Wisconsin recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State of Wisconsin (purchaser). Therefore, the contractor hereby assigns to the State of Wisconsin any and all claims for such overcharges as to goods, materials or services purchased in connection with this contract.

17.0 ASSIGNMENT: No right or duty in whole or in part of the contractor under this contract may be assigned or delegated without the prior written consent of the State of Wisconsin.

18.0 WORK CENTER CRITERIA: A work center must be certified under s. 16.752, Wis. Stats., and must ensure that when engaged in the production of materials, supplies or equipment or the performance of contractual services, not less than seventy-five percent (75%) of the total hours of direct labor are performed by severely handicapped individuals.

19.0 NONDISCRIMINATION / AFFIRMATIVE ACTION: In connection with the performance of work under this contract, the contractor agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01(5), Wis. Stats., sexual orientation as defined in s. 111.32(13m), Wis. Stats., or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the contractor further agrees to take affirmative action to ensure equal employment opportunities.

19.1 Contracts estimated to be over twenty-five thousand dollars ($25,000) require the submission of a written affirmative action plan by the contractor. An exemption occurs from this requirement if the contractor has a workforce of less than twenty-five (25) employees. Within fifteen (15) working days after the contract is awarded, the contractor must submit the plan to the contracting state agency for approval. Instructions on preparing the plan and technical assistance regarding this clause are available from the contracting state agency.

19.2 The contractor agrees to post in conspicuous places, available for employees and applicants for employment, a notice to be provided by the contracting state agency that sets forth the provisions of the State of Wisconsin's nondiscrimination law.

19.3 Failure to comply with the conditions of this clause may result in the contractor's becoming declared an "ineligible" contractor, termination of the contract, or withholding of payment.

20.0 PATENT INFRINGEMENT: The contractor selling to the State of Wisconsin the articles described herein guarantees the articles were manufactured or produced in accordance with applicable federal labor laws. Further, that the sale or use of the articles described herein will not infringe any United States patent. The contractor covenants that it will at its own expense defend every suit which shall be brought against the State of Wisconsin (provided that such contractor is promptly notified of such suit, and all papers therein are delivered to it) for any alleged infringement of any patent by reason of the sale or use of such articles, and agrees that it will pay all costs, damages, and profits recoverable in any such suit.

21.0 SAFETY REQUIREMENTS: All materials, equipment, and supplies provided to the State of Wisconsin must comply fully with all safety requirements as set forth by the Wisconsin Administrative Code and all applicable OSHA Standards.

22.0 WARRANTY: Unless otherwise specifically stated by the bidder/proposer, equipment purchased as a result of this request shall be warranted against defects by the bidder/proposer for one (1) year from date of receipt. The equipment manufacturer's standard warranty shall apply as a minimum and must be honored by the contractor.

23.0 INSURANCE RESPONSIBILITY: The contractor performing services for the State of Wisconsin shall:

23.1 Maintain worker's compensation insurance as required by Wisconsin Statutes, for all employees engaged in the work.

23.2 Maintain commercial liability, bodily injury and property damage insurance against any claim(s) which might occur in carrying out this agreement/contract. Minimum coverage shall be one million dollars ($1,000,000) liability for bodily injury and property damage including products liability and completed operations. Provide motor vehicle insurance for all owned, non-owned and hired vehicles that are used in carrying out this contract. Minimum coverage shall be one million dollars ($1,000,000) per occurrence combined single limit for automobile liability and property damage.

23.3 The state reserves the right to require higher or lower limits where warranted.

24.0 CANCELLATION: The State of Wisconsin reserves the right to cancel any contract in whole or in part without penalty due to nonappropriation of funds or for failure of the contractor to comply with terms, conditions, and specifications of this contract.

25.0 VENDOR TAX DELINQUENCY: Vendors who have a delinquent Wisconsin tax liability may have their payments offset by the State of Wisconsin.

26.0 PUBLIC RECORDS ACCESS: It is the intention of the state to maintain an open and public process in the solicitation, submission, review, and approval of procurement activities.

Bid/proposal openings are public unless otherwise specified. Records may not be available for public inspection prior to issuance of the notice of intent to award or the award of the contract.

27.0 PROPRIETARY INFORMATION: Any restrictions on the use of data contained within a request, must be clearly stated in the bid/proposal itself. Proprietary information submitted in response to a request will be handled in accordance with applicable State of Wisconsin procurement regulations and the Wisconsin public records law. Proprietary restrictions normally are not accepted. However, when accepted, it is the vendor's responsibility to defend the determination in the event of an appeal or litigation.

27.1 Data contained in a bid/proposal, all documentation provided therein, and innovations developed as a result of the contracted commodities or services cannot be copyrighted or patented. All data, documentation, and innovations become the property of the State of Wisconsin.

27.2 Any material submitted by the vendor in response to this request that the vendor considers confidential and proprietary information and which qualifies as a trade secret, as provided in s. 19.36(5), Wis. Stats., or material which can be kept confidential under the Wisconsin public records law, must be identified on a Designation of Confidential and Proprietary Information form (DOA-3027). Bidders/proposers may request the form if it is not part of the Request for Bid/Request for Proposal package. Bid/proposal prices cannot be held confidential.

28.0 DISCLOSURE: If a state public official (s. 19.42, Wis. Stats.), a member of a state public official's immediate family, or any organization in which a state public official or a member of the official's immediate family owns or controls a ten percent (10%) interest, is a party to this agreement, and if this agreement involves payment of more than three thousand dollars ($3,000) within a twelve (12) month period, this contract is voidable by the state unless appropriate disclosure is made according to s. 19.45(6), Wis. Stats., before signing the contract. Disclosure must be made to the State of Wisconsin Ethics Board, 44 East Mifflin Street, Suite 601, Madison, Wisconsin 53703 (Telephone 608-266-8123).

State classified and former employees and certain University of Wisconsin faculty/staff are subject to separate disclosure requirements, s. 16.417, Wis. Stats.

29.0 RECYCLED MATERIALS: The State of Wisconsin is required to purchase products incorporating recycled materials whenever technically and economically feasible. Bidders are encouraged to bid products with recycled content which meet specifications.

30.0 MATERIAL SAFETY DATA SHEET: If any item(s) on an order(s) resulting from this award(s) is a hazardous chemical, as defined under 29CFR 1910.1200, provide one (1) copy of a Material Safety Data Sheet for each item with the shipped container(s) and one (1) copy with the invoice(s).

31.0 PROMOTIONAL ADVERTISING / NEWS RELEASES: Reference to or use of the State of Wisconsin, any of its departments, agencies or other subunits, or any state official or employee for commercial promotion is prohibited. News releases pertaining to this procurement shall not be made without prior approval of the State of Wisconsin. Release of broadcast e-mails pertaining to this procurement shall not be made without prior written authorization of the contracting agency.

32.0 HOLD HARMLESS: The contractor will indemnify and save harmless the State of Wisconsin and all of its officers, agents and employees from all suits, actions, or claims of any character brought for or on account of any injuries or damages received by any persons or property resulting from the operations of the contractor, or of any of its contractors, in prosecuting work under this agreement.

33.0 FOREIGN CORPORATION: A foreign corporation (any corporation other than a Wisconsin corporation) which becomes a party to this Agreement is required to conform to all the requirements of Chapter 180, Wis. Stats., relating to a foreign corporation and must possess a certificate of authority from the Wisconsin Department of Financial Institutions, unless the corporation is transacting business in interstate commerce or is otherwise exempt from the requirement of obtaining a certificate of authority. Any foreign corporation which desires to apply for a certificate of authority should contact the Department of Financial Institutions, Division of Corporation, P. O. Box 7846, Madison, WI 53707-7846; telephone (608) 261-7577.

34.0 WORK CENTER PROGRAM: The successful bidder/proposer shall agree to implement processes that allow the State agencies, including the University of Wisconsin System, to satisfy the State's obligation to purchase goods and services produced by work centers certified under the State Use Law, s.16.752, Wis. Stat. This shall result in requiring the successful bidder/proposer to include products provided by work centers in its catalog for State agencies and campuses or to block the sale of comparable items to State agencies and campuses.

35.0 FORCE MAJEURE: Neither party shall be in default by reason of any failure in performance of this Agreement in accordance with reasonable control and without fault or negligence on their part. Such causes may include, but are not restricted to, acts of nature or the public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather, but in every case the failure to perform such must be beyond the reasonable control and without the fault or negligence of the party.

EXHIBIT B

CONTRACT FOR STATEWIDE STRUCTURAL COLLAPSE TEAM MEMBERS

TRAINING COSTS

FY 201__ – 20__

NAME OF CONTRACTOR: _____

NUMBER OF TEAM MEMBERS PROVIDED: [insert # designated by WEM]

TRAINING COSTS CALCULATED AS:

Number of team members provided: _____

Required hours of training per annum: **32 hours**

Hourly training cost: **$45 per hour**

_____	X	___32_____	X	___$45.00_____	=	_$_____
(# members)		(Training hours)		(Hourly cost)		Total

ANNUAL TRAINING COSTS _____

DRAFT

EXHIBIT F

RE: CERTIFICATE OF PROTECTION IN LIEU OF AN INSURANCE POLICY

To Whom it May Concern:

This is to certify that the City of Milwaukee is self-insured for worker's compensation. In addition, sec. 895.46, Stats., provides that the City will pay judgments against its officers or employes for acts carried out while officers or employes were acting within the scope of their employment. Under sec. 893.80(3), Stats., the amount recoverable by any person for any damages, injuries or death in any action founded on tort against the City, its officers and employes, for acts done in their official capacity or in the course of their employment shall not exceed $50,000. Except that under sec. 345.05, Stats., a person suffering any damage proximately resulting from the negligent operation of a motor vehicle owned and operated by the City, which damage was occasioned by the operation of the motor vehicle in the course of its business, may recover for damages, injury or death in any action not to exceed $250,000.

This is to further certify that when a final judgment for the payment of money shall be recovered against the City or any officer thereof, the amount due with costs and interest to the time when the money is available for payment shall be added to the next tax levy and shall when received be paid to satisfy the judgment.

Please accept this as evidence of protection for applicable claims sought against the City, its officers and employes, and damage to property for which the City may be responsible.

Sincerely,

GRANT F. LANGLEY
City Attorney
City of Milwaukee Risk Manager

I:\CC ONDSCHAM\WPDATA\PROTECT|11/13/95|TEH:dms

CITY OF MENASHA DISBURSEMENTS

Accounts Payable for 3/23/11-3/31/11 Checks # 28984-29130	$ 984,153.65
Payroll Checks for 3/24/11-3/31/11	149,622.31
Total	$ 1,133,775.96

Medical Expense Reimbursement Trust-Retirement Pay Out

Menasha Employees Credit Union-Employee Deductions

Wisconsin Council 40 Per Capita Tax-Union Dues

Wisconsin Support Collections-Child/Spousal Support

United Way-Employee Donations

**A gap in check numbers is due to more invoices being paid than fits on one check stub. In that case the last check stub used for that vendor is the check number that will show on the check register.

AP Check Register
Check Date: 3/23/2011

Vendor Name	Check Number	Check Date	Invoice Number	Account Number	Amount	Description
ACCENT BUSINESS SOLUTIONS INC	28984	3/23/2011	12739	100-0601-551.24-04	100.00	EQUIPMENT REPAIR/MAINT
		3/23/2011	12739CR	100-0601-551.24-04	(50.00)	CREDIT
			Total for check: 28984		**50.00**	
AMAZON	28985	3/23/2011	012331590410	100-0601-551.30-14	170.23	LIBRARY MATERIALS
		3/23/2011	012332901281	100-0601-551.30-14	26.56	LIBRARY MATERIALS
		3/23/2011	012334373940	100-0601-551.30-14	11.00	LIBRARY MATERIALS
		3/23/2011	012337116773	100-0601-551.30-14	12.82	LIBRARY MATERIALS
		3/23/2011	012337793323	100-0601-551.30-14	5.50	LIBRARY MATERIALS
		3/23/2011	012337987949	100-0601-551.30-14	46.48	LIBRARY MATERIALS
		3/23/2011	012339611335	100-0601-551.30-14	672.81	LIBRARY MATERIALS
		3/23/2011	087279014456	100-0601-551.30-14	74.45	LIBRARY MATERIALS
		3/23/2011	283662746370	100-0601-551.30-14	57.97	LIBRARY MATERIALS
			Total for check: 28985		**1,077.82**	
AMERICAN-WISCONSIN FIRE PROTECTION	28986	3/23/2011	18698	100-0601-551.24-03	183.25	BLDG REPAIR/MAINTENANCE
			Total for check: 28986		**183.25**	
BAKER & TAYLOR INC	28989	3/23/2011	2025528369	100-0601-551.30-14	565.75	LIBRARY MATERIALS
		3/23/2011	2025531317	100-0601-551.30-14	312.39	LIBRARY MATERIALS
		3/23/2011	2025535579	100-0601-551.30-14	516.96	LIBRARY MATERIALS
		3/23/2011	2025536894	100-0601-551.30-14	56.56	LIBRARY MATERIALS
		3/23/2011	2025538190	100-0601-551.30-14	297.16	LIBRARY MATERIALS
		3/23/2011	2025542529	100-0601-551.30-14	17.57	LIBRARY MATERIALS
		3/23/2011	2025547862	100-0601-551.30-14	561.16	LIBRARY MATERIALS
		3/23/2011	2025548738	100-0601-551.30-14	29.06	LIBRARY MATERIALS
		3/23/2011	2025551169	100-0601-551.30-14	293.19	LIBRARY MATERIALS
		3/23/2011	2025555248	100-0601-551.30-14	174.62	LIBRARY MATERIALS
		3/23/2011	2025556700	100-0601-551.30-14	5.65	LIBRARY MATERIALS
		3/23/2011	2025559336	100-0601-551.30-14	320.91	LIBRARY MATERIALS
		3/23/2011	2025565829	100-0601-551.30-14	116.92	LIBRARY MATERIALS
		3/23/2011	2025572036	100-0601-551.30-14	600.50	LIBRARY MATERIALS
		3/23/2011	2025572853	100-0601-551.30-14	62.05	LIBRARY MATERIALS

AP Check Register
Check Date: 3/23/2011

Vendor Name	Check Number	Check Date	Invoice Number	Account Number	Amount	Description
BAKER & TAYLOR INC...	28989...	3/23/2011	2025579434	100-0601-551.30-14	422.32	LIBRARY MATERIALS
		3/23/2011	2025582237	100-0601-551.30-14	489.15	LIBRARY MATERIALS
		3/23/2011	2025583475	100-0601-551.30-14	244.99	LIBRARY MATERIALS
		3/23/2011	2025587587	100-0601-551.30-14	787.55	LIBRARY MATERIALS
		3/23/2011	2025589342	100-0601-551.30-14	149.80	LIBRARY MATERIALS
		3/23/2011	2025593171	100-0601-551.30-14	68.31	LIBRARY MATERIALS
		3/23/2011	2025593671	100-0601-551.30-14	102.18	LIBRARY MATERIALS
		3/23/2011	2025598374	100-0601-551.30-14	625.94	LIBRARY MATERIALS
		3/23/2011	2025602666	100-0601-551.30-14	318.58	LIBRARY MATERIALS
		3/23/2011	2025606325	100-0601-551.30-14	198.62	LIBRARY MATERIALS
		3/23/2011	2025612102	100-0601-551.30-14	45.84	LIBRARY MATERIALS
		3/23/2011	2025615734	100-0601-551.30-14	308.19	LIBRARY MATERIALS
		3/23/2011	2025618481	100-0601-551.30-14	133.51	LIBRARY MATERIALS
		3/23/2011	5011279606	100-0601-551.30-14	68.86	LIBRARY MATERIALS
		3/23/2011	5011302965	100-0601-551.30-14	68.44	LIBRARY MATERIALS
		3/23/2011	I45498380	100-0601-551.30-14	103.63	LIBRARY MATERIALS
		3/23/2011	I46080670	100-0601-551.30-14	81.94	LIBRARY MATERIALS
		3/23/2011	I47402700	100-0601-551.30-14	33.94	LIBRARY MATERIALS
			Total for check: 28989		**8,182.24**	
BOOK FARM INC	28990	3/23/2011	0022777	100-0601-551.30-14	3,867.40	LIBRARY MATERIALS
		3/23/2011	0022875	100-0601-551.30-14	129.46	LIBRARY MATERIALS
			Total for check: 28990		**3,996.86**	
THOMAS BOUREGY & CO INC	28991	3/23/2011	63743A	100-0601-551.30-14	139.50	LIBRARY MATERIALS
			Total for check: 28991		**139.50**	
BRAZEE ACE HARDWARE	28992	3/23/2011	012681	100-0601-551.30-13	4.99	HOUSEKEEPING SUPPLIES
			Total for check: 28992		**4.99**	
BRILLIANCE AUDIO INC	28993	3/23/2011	IN0589683	100-0601-551.30-14	218.80	LIBRARY MATERIALS

AP Check Register
Check Date: 3/23/2011

Vendor Name	Check Number	Check Date	Invoice Number	Account Number	Amount	Description
BRILLIANCE AUDIO INC...	28993...	3/23/2011	IN0591054	100-0601-551.30-14	32.98	LIBRARY MATERIALS
			Total for check: 28993		**251.78**	
CDW GOVERNMENT INC	28994	3/23/2011	WMQ6301	100-0601-551.30-10	251.76	OFFICE SUPPLIES
			Total for check: 28994		**251.76**	
CENGAGE LEARNING	28995	3/23/2011	92631333	100-0601-551.30-14	59.96	LIBRARY MATERIALS
		3/23/2011	92735721	100-0601-551.30-14	119.92	LIBRARY MATERIALS
			Total for check: 28995		**179.88**	
SHIRLEY CURTIS	28996	3/23/2011	03172011	100-0601-551.30-14	19.95	LIBRARY MATERIALS
			Total for check: 28996		**19.95**	
JESSE DERMODY	28997	3/23/2011	03172011	100-0601-551.20-05	100.00	PERFORMER'S FEE
			Total for check: 28997		**100.00**	
EBSCO	28998	3/23/2011	0078336DUO	100-0601-551.30-14	12.00	LIBRARY MATERIALS
			Total for check: 28998		**12.00**	
ENERGY CONTROL & DESIGN INC	28999	3/23/2011	0062012-IN	100-0601-551.24-03	1,071.24	BLDG REPAIRS/MAINTENANCE
		3/23/2011	0062012-INDUP	100-0601-551.24-03	1,113.72	BLDG REPAIR/MAINTENANCE
			Total for check: 28999		**2,184.96**	
FINDAWAY WORLD LLC	29000	3/23/2011	43286	100-0601-551.30-14	131.18	LIBRARY MATERIALS
		3/23/2011	44120	100-0601-551.30-14	168.08	LIBRARY MATERIALS
		3/23/2011	44440	100-0601-551.30-14	172.18	LIBRARY MATERIALS
		3/23/2011	44617	100-0601-551.30-14	94.28	LIBRARY MATERIALS
		3/23/2011	45944	100-0601-551.30-14	250.06	LIBRARY MATERIALS

AP Check Register
Check Date: 3/23/2011

Vendor Name	Check Number	Check Date	Invoice Number	Account Number	Amount	Description
FINDAWAY WORLD LLC...	29000...	3/23/2011	46842	100-0601-551.30-14	225.47	LIBRARY MATERIALS
			Total for check: 29000		**1,041.25**	
FOCOL	29001	3/23/2011	03172011	100-0601-551.32-01	25.00	MEMBERSHIP FEE
			Total for check: 29001		**25.00**	
GALE	29002	3/23/2011	17093807	100-0601-551.30-14	38.93	LIBRARY MATERIALS
		3/23/2011	17095402	100-0601-551.30-14	1,393.76	LIBRARY MATERIALS
		3/23/2011	17104346	100-0601-551.30-14	54.38	LIBRARY MATERIALS
			Total for check: 29002		**1,487.07**	
GANNETT WISCONSIN MEDIA	29003	3/23/2011	03172011	100-0601-551.30-14	375.69	LIBRARY MATERIALS
			Total for check: 29003		**375.69**	
DENNIS HAWK	29004	3/23/2011	03172011	100-0601-551.20-05	100.00	PERFORMER'S FEE
			Total for check: 29004		**100.00**	
HIGHSMITH	29005	3/23/2011	1016885179	100-0601-551.30-18	300.83	DEPARTMENT SUPPLIES
			Total for check: 29005		**300.83**	
INFOBASE PUBLISHING	29006	3/23/2011	121845	100-0601-551.30-14	69.75	LIBRARY MATERIALS
			Total for check: 29006		**69.75**	
KITZ & PFEIL INC	29007	3/23/2011	02-15-140014	100-0601-551.24-03	12.59	BLDG REPAIR/MAINTENANCE
		3/23/2011	0207090016	100-0601-551.30-13	21.21	HOUSEKEEPING SUPPLIES
			Total for check: 29007		**33.80**	

AP Check Register
Check Date: 3/23/2011

Vendor Name	Check Number	Check Date	Invoice Number	Account Number	Amount	Description
LIBRARY STORE INC	29008	3/23/2011	1016885179	100-0601-551.30-18	52.47	DEPARTMENT SUPPLIES
			Total for check: 29008		**52.47**	
JULIE MEINKE	29009	3/23/2011	03172011	100-0601-551.20-05	125.00	PERFORMER'S FEE
			Total for check: 29009		**125.00**	
MIDWEST TAPE	29010	3/23/2011	2429173	100-0601-551.30-14	21.98	LIBRARY MATERIALS
		3/23/2011	2434882	100-0601-551.30-14	66.96	LIBRARY MATERIALS
		3/23/2011	2440521	100-0601-551.30-14	47.98	LIBRARY MATERIALS
		3/23/2011	2446489	100-0601-551.30-14	52.97	LIBRARY MATERIALS
			Total for check: 29010		**189.89**	
OGDEN PLUMBING & HEATING INC	29011	3/23/2011	63023	100-0601-551.24-03	502.58	BLDG REPAIR/MAINTENANCE
			Total for check: 29011		**502.58**	
RANDOM HOUSE INC	29012	3/23/2011	1080869300	100-0601-551.30-14	67.50	LIBRARY MATERIALS
		3/23/2011	1080903027	100-0601-551.30-14	30.00	LIBRARY MATERIALS
		3/23/2011	1080910073	100-0601-551.30-14	108.71	LIBRARY MATERIALS
		3/23/2011	1080975330	100-0601-551.30-14	52.46	LIBRARY MATERIALS
		3/23/2011	1081003823	100-0601-551.30-14	1.00	LIBRARY MATERIALS
		3/23/2011	1180910073	100-0601-551.30-14	20.00	LIBRARY MATERIALS
			Total for check: 29012		**279.67**	
RECORDED BOOKS LLC	29013	3/23/2011	74118867	100-0601-551.30-14	260.20	LIBRARY MATERIALS
			Total for check: 29013		**260.20**	
RHYME BUSINESS PRODUCTS	29014	3/23/2011	282871	100-0601-551.30-10	89.88	OFFICE SUPPLIES
			Total for check: 29014		**89.88**	

AP Check Register
Check Date: 3/23/2011

Vendor Name	Check Number	Check Date	Invoice Number	Account Number	Amount	Description
SALEM PRESS	29015	3/23/2011	0391048-IN	100-0601-551.30-14	309.00	LIBRARY MATERIALS
			Total for check: 29015		**309.00**	
SHOWCASES	29016	3/23/2011	258040	100-0601-551.30-18	129.60	DEPARTMENT SUPPLIES
		3/23/2011	258158	100-0601-551.30-18	281.88	DEPARTMENT SUPPLIES
			Total for check: 29016		**411.48**	
TENACIOUS QUILL PRESS LTD	29017	3/23/2011	179	100-0601-551.30-14	40.00	LIBRARY MATERIALS
			Total for check: 29017		**40.00**	
UNIQUE BOOKS INC	29018	3/23/2011	354829	100-0601-551.30-14	380.08	LIBRARY MATERIALS
			Total for check: 29018		**380.08**	
UNIQUE MANAGEMENT SERVICES INC	29019	3/23/2011	207326	100-0000-441.19-00	331.15	COLLECTION AGENCY FEE
			Total for check: 29019		**331.15**	
WINNEFOX LIBRARY SYSTEM	29020	3/23/2011	4005	100-0601-551.30-14	44.50	LIBRARY MATERIALS
			Total for check: 29020		**44.50**	
					23,084.28	

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Vendor Name	Check Number	Check Date	Invoice Number	Account Number	Amount	Description	
ACC PLANNED SERVICE INC	29021	3/24/2011	4774	731-1022-541.24-03	469.10	BLOWER MOTOR	
			Total for check: 29021		**469.10**		
ACCENT BUSINESS SOLUTIONS INC	29022	3/24/2011	13535	731-1022-541.21-04	1,025.02	CONTRACT MAINTENANCE	
			Total for check: 29022		**1,025.02**		
ACCURATE	29023	3/24/2011	1100640	731-1022-541.30-18	394.77	SHOP SUPPLIES	
		3/24/2011	1102984	731-1022-541.30-18	26.25	SHOP SUPPLIES	
			Total for check: 29023		**421.02**		
AIRGAS NORTH CENTRAL	29024	3/24/2011	105899254	731-1022-541.21-06	63.67	ACETYLENE/ARGON/OXYGEN	CYLINDER RENTAL
		3/24/2011	105917585	731-1022-541.30-18	59.90	OXYGEN CYLINDERS	
			Total for check: 29024		**123.57**		
ASSOCIATED APPRAISAL CONSULTANTS	29025	3/24/2011	10756	100-0402-513.21-09	4,841.67	PROFESSIONAL SERVICES	
				100-0402-513.30-11	5.28	POSTAGE	
		3/24/2011	10757	100-0402-513.21-04	59.76	INTERNET POSTING	6640 PARCELS
			Total for check: 29025		**4,906.71**		
AT&T	29026	3/24/2011	920R09453003	601-1020-543.22-01	292.50	MONTHLY SERVICE	MAR 4 THRU APR 3
				100-1001-514.22-01	113.90	MONTHLY SERVICE	MAR 4 THRU APR 3
			Total for check: 29026		**406.40**		
BADGER LAB & ENGINEERING INC	29027	3/24/2011	INV000044168	601-1020-543.21-02	976.00	WASTEWATER SAMPLING	INTERTAPE POLYMER
			Total for check: 29027		**976.00**		
BAYCOM INC	29028	3/24/2011	131211	100-0801-521.29-05	487.50	INSTALL ARBITRATOR EQPT	
			Total for check: 29028		**487.50**		

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Vendor Name	Check Number	Check Date	Invoice Number	Account Number	Amount	Description
BECK ELECTRIC INC	29029	3/24/2011	H17	100-1008-541.24-04	200.20	ADJUST TRAFFIC CAMERAS
		3/24/2011	H18	100-1008-541.24-04	65.00	REPAIR TRAFFIC LIGHTS
			Total for check: 29029		**265.20**	
BERGSTROM	29030	3/24/2011	10562	731-1022-541.38-03	56.37	MOTOR ASSY
		3/24/2011	259959-1CVW	731-1022-541.38-03	73.66	PIPE
			Total for check: 29030		**130.03**	
CASCADE ENGINEERING	29031	3/24/2011	30011510	100-1016-543.30-15	3,806.25	PLASTIC CARTS
			Total for check: 29031		**3,806.25**	
CASPERS TRUCK EQUIPMENT INC	29032	3/24/2011	50909	731-1022-541.38-03	85.00	VALVE,SOLENOID
			Total for check: 29032		**85.00**	
FASTENAL COMPANY	29033	3/24/2011	WINEE61916	207-0707-552.30-18	19.41	STOCK SUPPLIES
		3/24/2011	WINEE61977	207-0707-552.30-18	45.16	STOCK SUPPLIES
			Total for check: 29033		**64.57**	
FOX CITIES CHAMBER FOUNDATION	29034	3/24/2011	DUES	100-0304-562.32-01	2,500.00	FCEDP ANNUAL DUES 2011
			Total for check: 29034		**2,500.00**	
FOX VALLEY HUMANE ASSOCIATION	29035	3/24/2011	031511	100-0806-532.25-01	1,237.55	4 ANIMALS HANDLED FEB 2011
			Total for check: 29035		**1,237.55**	
GRAINGER INC	29036	3/24/2011	9470491813	100-0703-553.24-03	25.00	MOTOR EXHAUST FAN
			Total for check: 29036		**25.00**	

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GRAYBAR	29037	3/24/2011	951922195	100-1012-541.80-05	70,800.00	NEPTUN LIGHT	
			Total for check: 29037		**70,800.00**		
GUNDERSON UNIFORM & LINEN RENTAL	29038	3/24/2011	1399044	100-0801-521.30-13	28.99	TOWEL/MAT SERVICE	
			Total for check: 29038		**28.99**		
JX ENTERPRISES INC	29039	3/24/2011	G-210550011	731-1022-541.38-03	491.07	STOCK SUPPLIES	
		3/24/2011	G-210550020	731-1022-541.38-03	224.66	MOTOR-WIPER-ELEC	
		3/24/2011	G-210560010	731-1022-541.38-03	72.48	STOCK SUPPLIES	
			Total for check: 29039		**788.21**		
KUNDINGER FLUID POWER INC	29040	3/24/2011	50128797	731-1022-541.38-03	175.82	ELEMENT	
			Total for check: 29040		**175.82**		
LOWE'S BUSINESS ACCOUNT/GEMB	29041	3/24/2011	02155	100-0703-553.30-18	9.28	PARTS	
		3/24/2011	02514	100-0703-553.24-03	512.60	PARTS	
		3/24/2011	02670	100-0703-553.24-03	105.49	PARTS	
		3/24/2011	02886	100-0703-553.30-18	43.72	PARTS	
			Total for check: 29041		**671.09**		
MC CLONE INSURANCE GROUP	29042	3/24/2011	89697	100-0801-521.32-01	20.00	NOTARY BOND	L BONNEVILLE
			Total for check: 29042		**20.00**		
MENARDS-APPLETON EAST	29043	3/24/2011	88218	100-0703-553.30-18	62.40	CAR BOLTS/TREATED AG	
			Total for check: 29043		**62.40**		
MENASHA EMPLOYEES CREDIT UNION	29044	3/24/2011	20110324	100-0000-202.05-00	19,068.50	PAYROLL SUMMARY	
			Total for check: 29044		**19,068.50**		

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MENASHA JOINT SCHOOL DISTRICT	29045	3/24/2011	MOBILEHOME	100-0000-412.00-00	6,294.80	MARCH MOBILE HOME
			Total for check: 29045		**6,294.80**	
ELISHA D SMITH PUBLIC LIBRARY	29046	3/24/2011	PETTYCASH	100-0601-551.30-11	8.81	PETTY CASH
				100-0601-551.30-16	97.52	PETTY CASH
				100-0601-551.30-18	4.99	PETTY CASH
				100-0601-551.30-13	3.04	PETTY CASH
			Total for check: 29046		**114.36**	
MODERN BUSINESS MACHINES	29047	3/24/2011	26239553	100-1001-514.24-04	53.56	CONTRACT SERVICE
		3/24/2011	26239554	100-1001-514.24-04	54.44	CONTRACT SERVICE
		3/24/2011	26244090	100-1001-514.24-04	280.50	MAINTENANCE CONTRACT
			Total for check: 29047		**388.50**	
MONOPRICE INC	29048	3/24/2011	4284579	731-1022-541.30-10	19.48	INK FOR PRINTERS
				743-0403-513.21-04	45.35	NETWORK CABLES
			Total for check: 29048		**64.83**	
N&M AUTO SUPPLY	29049	3/24/2011	350074	731-1022-541.38-03	(125.37)	TAIL PIPE CREDIT
		3/24/2011	350144	731-1022-541.38-03	26.99	FUEL PUMP
		3/24/2011	350476	731-1022-541.30-18	8.50	EPOXY SYRINGE
		3/24/2011	352031	731-1022-541.38-03	9.45	SPINNER KNOB
		3/24/2011	352115	731-1022-541.30-18	69.30	LIGHT
		3/24/2011	352190	731-1022-541.30-18	5.49	SILGLYDE
				731-1022-541.38-03	4.33	OIL FILTER
		3/24/2011	352328	731-1022-541.38-03	8.88	LAMP STOCK
		3/24/2011	352497	731-1022-541.30-18	11.69	ADHESIVE CLEANER
		3/24/2011	352633	731-1022-541.38-03	107.98	BRAKE PADS/ROTOR
			Total for check: 29049		**127.24**	

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NEENAH-MENASHA SEWERAGE COMMISSION	29050	3/24/2011	2010-148	601-1021-543.21-01	12,422.05	LEGAL REIMBURSEMENT FOX RIVER PCB ISSUE
			Total for check: 29050		**12,422.05**	
NETWORK HEALTH PLAN	29051	3/24/2011	00463694	100-0000-204.08-00	136,033.97	HEALTH PREMIUM 4/1/11-4/30/11
				100-0000-204.11-00	8,866.92	HEALTH PREMIUM 4/1/11-4/30/11
			Total for check: 29051		**144,900.89**	
OFFICE DEPOT	29052	3/24/2011	1483360	100-0904-531.30-10	14.67	OFFICE SUPPLIES
				100-0903-531.30-10	18.60	OFFICE SUPPLIES
			Total for check: 29052		**33.27**	
PACKER CITY INTERNATIONAL	29053	3/24/2011	3-2105690050	731-1022-541.38-03	66.60	LUBEFILT
			Total for check: 29053		**66.60**	
PETROLEUM TESTERS LLC	29054	3/24/2011	1052	731-1022-541.24-06	100.00	CLASS A&B UST OPR TRNG V MAAS/GRANT 160239
				207-0707-552.34-02	100.00	CLASS A&B UST OPR TRNG V MAAS/GRANT 160239
			Total for check: 29054		**200.00**	
RANGER SERVICES INC	29055	3/24/2011	22CM81	100-0706-561.21-02	400.00	TREES/CONSTRUCTION PROGRAM
			Total for check: 29055		**400.00**	
JENNIFER SASSMAN	29056	3/24/2011	MILEAGE	100-0401-513.34-01	131.40	CVMIC SUPERVISOR TRAINING
			Total for check: 29056		**131.40**	
HENRY SCHEIN INC	29057	3/24/2011	8839312-01	100-0916-531.30-18	140.53	MEDICAL SUPPLIES
			Total for check: 29057		**140.53**	
SERVICEMASTER BUILDING MAINTENANCE	29058	3/24/2011	130751	100-0801-521.20-01	1,395.00	CONTRACT JANITORIAL

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SERVICEMASTER BUILDING MAINTENANCE...	29058...	3/24/2011	130756	100-0801-521.20-01	50.00	CLEAN GARAGE
			Total for check: 29058		**1,445.00**	
SHELLY OR CHRISTOPHER REINKE	29059	3/24/2011	REINKE	100-0000-201.03-00	30.00	PARKING OVERPAYMENT CITATION 0051743
			Total for check: 29059		**30.00**	
STANLEY SECURITY SOLUTIONS INC	29060	3/24/2011	CH-552114	100-0703-553.24-03	48.96	DEADBOLT ASSY
			Total for check: 29060		**48.96**	
SUNGARD PUBLIC SECTOR INC	29061	3/24/2011	33418	743-0403-513.24-04	2,555.00	MAINTENANCE CONTRACT
			Total for check: 29061		**2,555.00**	
UNIFIRST CORPORATION	29062	3/24/2011	097 0082803	731-1022-541.20-01	107.58	MAT/MOP/CLOTHING SERVICE
			Total for check: 29062		**107.58**	
UNITED WAY FOX CITIES	29063	3/24/2011	20110324	100-0000-202.09-00	127.78	PAYROLL SUMMARY
			Total for check: 29063		**127.78**	
US OIL CO	29064	3/24/2011	L41278	731-1022-541.21-06	12.00	SAMPLE
			Total for check: 29064		**12.00**	
VAL-FAB INC	29065	3/24/2011	0038162-IN	100-1008-541.30-18	575.00	ALUMINUM PLATE
			Total for check: 29065		**575.00**	
VEOLIA ES SOLID WASTE MIDWEST	29066	3/24/2011	B40000289213	100-0000-123.00-00	89.03	BROAD ST RECYCLING
			Total for check: 29066		**89.03**	

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VISION INSURANCE PLAN OF AMERICA	29067	3/24/2011	96536	100-0000-204.10-00	1,080.60	PREMIUM BILLING	APRIL 2011
			Total for check: 29067		**1,080.60**		
WE ENERGIES	29068	3/24/2011	030911	100-0703-553.22-04	8.41	2170 PLANK RD	
			Total for check: 29068		**8.41**		
WERNER ELECTRIC SUPPLY CO	29069	3/24/2011	S3219710.001	100-0703-553.24-03	298.62		
			Total for check: 29069		**298.62**		
WINNEFOX COOPERATIVE TECH SERVICES	29070	3/24/2011	318114	100-0601-551.30-14	437.50	DVD'S REFINISHED IN 2010	
			Total for check: 29070		**437.50**		
WISCONSIN COUNCIL 40 PER CAPITA TAX	29071	3/24/2011	20110324	100-0000-202.06-00	260.00	PAYROLL SUMMARY	
			Total for check: 29071		**260.00**		
WISCONSIN COUNCIL 40 PER CAPITA TAX	29072	3/24/2011	20110324	100-0000-202.07-00	298.95	PAYROLL SUMMARY	
			Total for check: 29072		**298.95**		
WISCONSIN DEPT OF JUSTICE	29073	3/24/2011	L7101T	100-0801-521.21-06	91.00	NAME SEARCHES	
			Total for check: 29073		**91.00**		
WISCONSIN SECRETARY OF STATE	29074	3/24/2011	031811	100-0801-521.32-01	20.00	NOTARY FEE	L BONNEVILLE
			Total for check: 29074		**20.00**		

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Vendor Name	Check Number	Check Date	Invoice Number	Account Number	Amount	Description
WISCONSIN SUPPORT COLLECTIONS	29075	3/24/2011	20110324	100-0000-202.03-00	1,297.32	PAYROLL SUMMARY
			Total for check: 29075		**1,297.32**	

282,611.15

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ACCUDOCK	29076	3/31/2011	1880	207-0707-552.30-18	87.00	FRAME PLUG	
			Total for check: 29076		**87.00**		
ACCURATE	29077	3/31/2011	1103354	731-1022-541.30-18	258.00	STOCK SHOP SUPPLIES	
		3/31/2011	1103419	731-1022-541.38-03	481.02	KING PIN SET	
			Total for check: 29077		**739.02**		
ADVANTAGE PURCHASING LLC	29078	3/31/2011	02045	472-0501-522.82-01	39,920.26	N-M FIRE STATION	
			Total for check: 29078		**39,920.26**		
AIRGAS NORTH CENTRAL	29079	3/31/2011	105926022	731-1022-541.30-18	47.95	NOZZLE SHIELD	
		3/31/2011	105926023	731-1022-541.30-18	241.28	SHIELDS/HOLE SAW	
			Total for check: 29079		**289.23**		
AMBIR DORN	29080	3/31/2011	DORN	100-0000-441.25-00	115.00	PARK CANCELLATION REFUND	
			Total for check: 29080		**115.00**		
APPLETON AWNING SHOP	29081	3/31/2011	23378	100-0704-552.24-04	440.00	REPAIR 3 UMBRELLAS	
			Total for check: 29081		**440.00**		
CITY OF APPLETON	29082	3/31/2011	197489	100-0302-542.25-01	15,683.00	TRANSIT SERVICE	MARCH 2011
			Total for check: 29082		**15,683.00**		
BADGER HIGHWAYS CO INC	29083	3/31/2011	152814	100-1003-541.30-18	90.28	COLD MIX	
			Total for check: 29083		**90.28**		
BRAZEE ACE HARDWARE	29084	3/31/2011	012742	100-0703-553.30-18	1.99	BRUSH SET	
			Total for check: 29084		**1.99**		

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BUBRICK'S	29085	3/31/2011	433307	100-0801-521.30-10	99.71	OFFICE SUPPLIES
			Total for check: 29085		**99.71**	
CASPERS TRUCK EQUIPMENT INC	29086	3/31/2011	51207	731-1022-541.38-03	1,185.00	TARP ASSY
			Total for check: 29086		**1,185.00**	
DUMKE & ASSOCIATES &	29087	3/31/2011	APRIL2011	100-0903-531.29-06	2,077.50	316 RACINE ST APRIL 2011
			Total for check: 29087		**2,077.50**	
CARDMEMBER SERVICE	29090	3/31/2011	0025	100-1013-541.30-18	96.40	MODERN METAL FIRE EXT
		3/31/2011	0097	743-0403-513.30-15	23.90	PAYPAL CELL PHONE CASE IT
		3/31/2011	0668	100-0202-512.34-02	199.00	KRM INFORMATION
		3/31/2011	0929	100-0801-521.24-01	130.25	DICTATIONSTORE.COM
		3/31/2011	1593	100-0304-562.33-02	20.00	UNIV WIS PYLE CTR CLASS REGISTRATION
		3/31/2011	1963	100-0601-551.30-16	79.92	RHODE ISLAND NOVELTY
		3/31/2011	2283	100-0703-553.30-18	10.97	CELL PHONE SHOP
		3/31/2011	2345	100-0702-552.20-05	790.00	MILW BREWERS
		3/31/2011	2362	100-0801-521.30-18	47.00	OEMPCWORLD.COM
		3/31/2011	2582	743-0403-513.30-15	11.63	AMAZON CELL PHONE CASE IT
		3/31/2011	2591	601-1020-543.34-03	36.01	STEEL CITY
		3/31/2011	3379	100-0702-552.34-03	10.18	NOODLES & CO GREEN BAY
		3/31/2011	3402	743-0403-513.22-01	20.91	MAGICJACK PHONE LINE SR CENTER
		3/31/2011	3797	824-0801-521.30-18	96.57	TAILWAGGERS
		3/31/2011	4495	100-0401-513.34-03	80.00	BROOKFIELD SUITES BROOKFIELD
		3/31/2011	4726	100-0601-551.33-03	47.51	NAUTS LANDING
		3/31/2011	5078	100-0000-132.00-00	71.24	SCOTTISSUE
		3/31/2011	5316	100-0703-553.30-18	59.99	DICK'S SPORTING GOODS
		3/31/2011	5317	100-0000-201.03-00	(67.35)	CREDIT FOR FRAUD
		3/31/2011	5537	743-0403-513.34-04	12.95	EXPERTS EXCHANGE LLC ONLINE TECH DATABASE
		3/31/2011	5688	100-0801-521.30-18	179.94	DISCOUNTID.COM BARTENDER LIC SUPPLIES
		3/31/2011	5941	100-0401-513.34-03	17.60	TGI FRIDAY MADISON
		3/31/2011	5968	100-0702-552.30-18	25.18	WAL MART
		3/31/2011	6523	100-0801-521.30-10	120.98	OFFICEMAX TONERS AND INK

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CARDMEMBER SERVICE...	29090...	3/31/2011...	6523...	731-1022-541.30-10	52.99	OFFICEMAX TONERS AND INK
		3/31/2011	6538	100-0601-551.24-03	155.78	APEX CCTV LIB CAMERAS
		3/31/2011	6734	100-1001-514.24-03	(7.85)	MENARDS RETURN
		3/31/2011	7288	100-1001-514.30-13	27.03	ULINE
		3/31/2011	7967	601-1020-543.34-03	44.00	MARATHON OIL
		3/31/2011	8005	100-0401-513.34-03	10.50	FUDDRUCKERS BROOKFIELD
		3/31/2011	8426	100-0903-531.24-03	57.73	MENARDS HEALTH FAUCET
		3/31/2011	8530	100-0401-513.34-03	70.00	COMFORT INN MADISON
		3/31/2011	8548	100-0801-521.34-03	69.99	COMFORT INN MADISON
		3/31/2011	9604	100-1001-514.24-03	7.85	MENARDS
				100-0801-521.34-03	9.82	BWW EAST TOWN MALL MADISON
		3/31/2011	9683	601-1020-543.34-03	485.91	FAIRFIELD INN/KY
		3/31/2011	9787	100-0601-551.24-03	14.01	MOUSER ELEC LI ADA DOOR
			Total for check: 29090		**3,118.54**	
ENTRANCE TECHNOLOGIES I	29091	3/31/2011	3420	100-0920-531.24-03	130.00	DOOR REPAIR
			Total for check: 29091		**130.00**	
FABCO EQUIPMENT INC	29092	3/31/2011	C132895	731-1022-541.38-03	(95.68)	BEARINGS
		3/31/2011	C225762	731-1022-541.38-03	454.96	TREAD ASSY/COVER ASSY
		3/31/2011	C228048	731-1022-541.38-03	64.75	LATCH ASSY
			Total for check: 29092		**424.03**	
FASTENAL COMPANY	29093	3/31/2011	WINEE62177	207-0707-552.30-18	24.21	STOCK SUPPLIES
			Total for check: 29093		**24.21**	
ARTHUR J GALLAGHER & CO INSURANCE	29094	3/31/2011	311241	733-0206-512.51-11	3,764.65	UNDERGROUND STORAGE TANKS
			Total for check: 29094		**3,764.65**	

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GRAINGER INC	29095	3/31/2011	9477053483	731-1022-541.30-18	30.38	SAW BLADE
			Total for check: 29095		**30.38**	
GRIES ARCHITECTURAL GROUP INC	29096	3/31/2011	110216-12	472-0501-522.21-02	1,415.00	N-M FIRE STATION
			Total for check: 29096		**1,415.00**	
HOTSY CLEANING SYSTEMS INC	29097	3/31/2011	0074556-IN	731-1022-541.30-18	345.00	55 GALLON PANEL WASH
			Total for check: 29097		**345.00**	
HUNTON & WILLIAMS LLP	29098	3/31/2011	102011121	267-0102-581.21-01	6,011.50	STEAM UTILITY
		3/31/2011	102011124	267-0102-581.21-01	8,318.25	STEAM UTILITY
		3/31/2011	102011125	267-0102-581.21-01	15,940.20	DEFENSE LITIGATION
		3/31/2011	102011126	267-0102-581.21-01	5,862.65	DEFENSE OF LITIGATION
			Total for check: 29098		**36,132.60**	
KONE INC	29099	3/31/2011	150469785	100-1001-514.24-03	591.21	REPAIR ELEVATOR
			Total for check: 29099		**591.21**	
KUSTOM SIGNALS INC	29100	3/31/2011	436929	100-0801-521.24-04	43.16	WIRELESS REMOTE REPAIR
			Total for check: 29100		**43.16**	
MATTHEWS TIRE & SERVICE CENTER	29101	3/31/2011	37556	731-1022-541.38-02	567.24	TIRES
			Total for check: 29101		**567.24**	
MENARDS-APPLETON EAST	29102	3/31/2011	89235	100-0703-553.30-18	39.82	TREATED LUMBER
		3/31/2011	90806	100-0204-512.30-10	6.84	BUNGEE CORDS
				100-1001-514.24-03	11.47	LIGHT BULBS/POWER STRIP
			Total for check: 29102		**58.13**	

AP Check Register
Check Date: 3/31/2011

Vendor Name	Check Number	Check Date	Invoice Number	Account Number	Amount	Description
MENASHA EMPLOYEES CREDIT UNION	29103	3/31/2011	20110331	100-0000-202.05-00	1,978.00	PAYROLL SUMMARY
			Total for check: 29103		**1,978.00**	
MENASHA UTILITIES	29104	3/31/2011	BILLING	100-1008-541.22-03	291.23	ELEC OR WATER OR STORM
				100-0000-123.00-00	11.17	ELEC OR WATER OR STORM
				100-1012-541.22-03	78.76	ELEC OR WATER OR STORM
				100-0305-562.22-03	19.64	ELEC OR WATER OR STORM
				100-0305-562.22-06	17.50	ELEC OR WATER OR STORM
				743-0403-513.21-04	3,061.36	ELEC OR WATER OR STORM
				207-0707-552.22-03	275.12	ELEC OR WATER OR STORM
				207-0707-552.22-05	29.71	ELEC OR WATER OR STORM
				207-0707-552.22-06	31.87	ELEC OR WATER OR STORM
				100-0703-553.22-03	394.68	ELEC OR WATER OR STORM
				100-0703-553.22-05	75.04	ELEC OR WATER OR STORM
				100-0703-553.22-06	200.61	ELEC OR WATER OR STORM
				100-1001-514.22-03	1,213.32	ELEC OR WATER OR STORM
				100-1001-514.22-05	412.20	ELEC OR WATER OR STORM
				100-1019-552.22-03	164.09	ELEC OR WATER OR STORM
				100-1013-541.22-03	49.16	ELEC OR WATER OR STORM
				100-1013-541.22-06	187.49	ELEC OR WATER OR STORM
				100-1014-543.22-06	12.50	ELEC OR WATER OR STORM
				601-1020-543.22-03	27.61	ELEC OR WATER OR STORM
				100-0304-562.22-03	25.71	ELEC OR WATER OR STORM
		3/31/2011	PROVINCE	100-0000-123.00-00	178.01	1108 PROVINCE TERR
			Total for check: 29104		**6,756.78**	
MIRON CONSTRUCTION CO INC	29105	3/31/2011	032211	472-0501-522.82-01	254,801.38	N-M FIRE STATION
				472-0000-201.04-00	(12,740.07)	N-M FIRE STATION
			Total for check: 29105		**242,061.31**	

AP Check Register
Check Date: 3/31/2011

Vendor Name	Check Number	Check Date	Invoice Number	Account Number	Amount	Description
MORTON SAFETY	29106	3/31/2011	561014	731-1022-541.30-18	36.36	EARMUFF
			Total for check: 29106		**36.36**	
CITY OF NEENAH	29107	3/31/2011	APRIL2011	100-0501-522.25-01	257,692.00	NM FIRE RESCUE APRIL 2011
			Total for check: 29107		**257,692.00**	
NETWORK HEALTH SYSTEM INC	29108	3/31/2011	267462	100-0202-512.21-05	523.00	PRE-PLACEMENT PHYSICAL
		3/31/2011	267844	100-0202-512.21-05	55.00	DRUG SCREENING
			Total for check: 29108		**578.00**	
NORTH AMERICAN SALT CO	29109	3/31/2011	70653955	100-1006-541.30-18	3,781.55	BULK HIGHWAY COARSE SALT
		3/31/2011	70654595	100-1006-541.30-18	16,734.80	BULK COARSE SALT
		3/31/2011	70655276	100-1006-541.30-18	9,123.20	BULK COARSE SALT
			Total for check: 29109		**29,639.55**	
PACKER CITY INTERNATIONAL	29110	3/31/2011	3-210660067	731-1022-541.38-03	242.38	ADJUSTER/GASKET/SEAL
		3/31/2011	3-210670008	731-1022-541.38-03	176.56	ADJUSTERS
			Total for check: 29110		**418.94**	
PITNEY BOWES	29111	3/31/2011	4842044-MR11	100-1001-514.24-04	316.47	TERM RENTAL
			Total for check: 29111		**316.47**	
DENISE QUICK	29112	3/31/2011	MILEAGE	100-1001-514.33-01	10.80	MILEAGE
			Total for check: 29112		**10.80**	
REDI-WELDING CO	29113	3/31/2011	14163	731-1022-541.30-18	114.70	CAT LOADER LADDER
			Total for check: 29113		**114.70**	

AP Check Register
Check Date: 3/31/2011

Vendor Name	Check Number	Check Date	Invoice Number	Account Number	Amount	Description	
ROAD EQUIPMENT	29114	3/31/2011	WA526640	731-1022-541.38-03	7.62	DOCK BUMPER	
			Total for check: 29114		**7.62**		
ROSS IMAGINGLLC	29115	3/31/2011	90491	100-1001-514.24-04	823.77	CONTRACT MAINTENANCE	
			Total for check: 29115		**823.77**		
DR TERESA RUDOLPH	29116	3/31/2011	APRIL2011	100-0903-531.21-05	150.00	CITY PHYSICIAN	APRIL 2011
			Total for check: 29116		**150.00**		
SPEEDY CLEAN DRAIN & SEWER INC	29117	3/31/2011	52252	601-1020-543.21-02	72.41	CLEAN/TELEVISE	SANITARY SEWERS
			Total for check: 29117		**72.41**		
STANLEY SECURITY SOLUTIONS INC	29118	3/31/2011	CH-552479	100-0703-553.24-03	572.52	KEYS	
			Total for check: 29118		**572.52**		
STAPLES ADVANTAGE	29119	3/31/2011	3151145853	100-0304-562.30-10	20.89	OFFICE SUPPLIES	
		3/31/2011	3151145854	100-1001-514.30-10	17.81	OFFICE SUPPLIES	
				100-1002-541.30-10	8.73	OFFICE SUPPLIES	
			Total for check: 29119		**47.43**		
STUMPF MOTOR COMPANY INC	29120	3/31/2011	199757-1FOWG	731-1022-541.38-03	23.44	INDICATOR ASSY	
			Total for check: 29120		**23.44**		
TIERNEY BROTHERS INC	29121	3/31/2011	SMART	100-0918-531.24-01	80.00	SMART BOARD WARRANTY	
			Total for check: 29121		**80.00**		
ULINE	29122	3/31/2011	36859215	100-0000-132.00-00	78.28	ANTIBACTERIAL SOAP	
			Total for check: 29122		**78.28**		

AP Check Register
Check Date: 3/31/2011

Vendor Name	Check Number	Check Date	Invoice Number	Account Number	Amount	Description
UNIFIRST CORPORATION	29123	3/31/2011	097 0083253	731-1022-541.20-01	107.58	MAT/MOP/CLOTHING SERVICE
			Total for check: 29123		**107.58**	
UNITED PAPER CORPORATION	29124	3/31/2011	36219	100-1001-514.30-18	36.28	SQUEEGEE BLADE
		3/31/2011	36424	100-0000-132.00-00	2,281.58	BATH TISSUE/TOWELING
		3/31/2011	36444	100-0000-132.00-00	616.84	FACIAL TISSUE/TOWELING
			Total for check: 29124		**2,934.70**	
VALLEY GASKET INC	29125	3/31/2011	92545	100-0704-552.24-04	33.18	POOL SUPPLIES
			Total for check: 29125		**33.18**	
WE ENERGIES	29126	3/31/2011	032111	100-0000-123.00-00	1,164.79	GAS SERVICE
				100-1001-514.22-04	793.69	GAS SERVICE
				100-0801-521.22-04	1,608.52	GAS SERVICE
				100-0920-531.22-04	247.58	GAS SERVICE
				100-0601-551.22-04	2,828.71	GAS SERVICE
				100-0703-553.22-04	805.11	GAS SERVICE
				100-0704-552.22-04	218.92	GAS SERVICE
				207-0707-552.22-04	63.73	GAS SERVICE
				731-1022-541.22-04	6,523.65	GAS SERVICE
		3/31/2011	PROVINCE	100-0000-123.00-00	702.40	1108 PROVINCE TERRACE
			Total for check: 29126		**14,957.10**	
WINNEBAGO COUNTY TREASURER	29127	3/31/2011	DOGLIC	100-0000-201.03-00	1,400.00	DOG LICENSES
		3/31/2011	SHJ100546	100-0805-521.25-01	360.22	JAIL DIVISION
			Total for check: 29127		**1,760.22**	
WINNEBAGO COUNTY TREASURER	29128	3/31/2011	ATS	310-0409-571.61-01	5,721.15	ATS
				310-0410-571.61-02	3,413.54	ATS
			Total for check: 29128		**9,134.69**	

AP Check Register
Check Date: 3/31/2011

Vendor Name	Check Number	Check Date	Invoice Number	Account Number	Amount	Description
WISCONSIN COUNCIL 40 PER CAPITA TAX	29129	3/31/2011	20110331	100-0000-202.06-00	260.00	PAYROLL SUMMARY
			Total for check: 29129		**260.00**	
WISCONSIN SUPPORT COLLECTIONS	29130	3/31/2011	20110331	100-0000-202.03-00	440.23	PAYROLL SUMMARY
			Total for check: 29130		**440.23**	
					678,458.22	

MEMORANDUM OF LEASE

This Memorandum of Lease ("Memorandum") is entered into by and between WPPI ENERGY, a Wisconsin municipal electric company, as lessor ("Lessor"), and CITY OF MENASHA, as a Wisconsin municipality ("City") and as a municipal electric utility, acting through the Menasha Utilities Commission ("Commission"), as lessee, and the COMMISSION, (the City and the Commission collectively hereinafter referred to as "Lessee").

THIS SPACE RESERVED FOR RECORDING DATA

RETURN TO:
James B. Egle
Stafford Rosenbaum LLP
P. O. Box 1784
Madison, WI 53701-1784

P.I.N.
See attached

RECITALS

A. Lessor owns the real property described and defined on Exhibit A attached hereto and incorporated herein (the "Land").

B. Lessee is leasing the Land pursuant to a Lease dated April 6, 2011 by and between Lessor and Lessee ("Lease").

NOW, THEREFORE, this Memorandum is entered into for the purpose of placing on public records at the office of the Winnebago County Register of Deeds the fact that the Lessor, as owner of the Land, has leased the Land to Lessee under the terms of the Lease, commencing as of April 6, 2011 and expiring as of April 5, 2031.

Notwithstanding the express intent of the parties, should a court of competent jurisdiction determine that the Lease is not a true lease, then solely in that event and for the expressly limited purposes thereof, Lessee shall be deemed to have granted Lessor a security interest in all of its right, title and interest in and to the Land and all accessions and substitutions and replacements thereof, and proceeds (including insurance proceeds) thereof (but without the power of Lessee to dispose of the Land); to secure the prompt payment and performance as and when due of all obligations and indebtedness of Lessee to Lessor, whether now existing or hereafter created. From time to time Lessee must execute, acknowledge and deliver to Lessor a secured transactions financing statement or a fixture filing financing statement in any form reasonably necessary or requested by Lessor to record, perfect, or otherwise preserve Lessor's interest in the Land and a consent by Lessee to assignment of such security interest to any lender.

IN WITNESS WHEREOF, the parties have executed this Memorandum on the year and date first written above.

LESSEE

CITY OF MENASHA

By _____

ATTEST:

By _____

MENASHA UTILITIES COMMISSION

By _____

LESSOR

WPPI ENERGY

By _____

Attachment:

Exhibit A – Legal Description of the Land

ACKNOWLEDGMENT

STATE OF WISCONSIN

COUNTY OF DANE

Personally came before me this ____ day of April, 2011, the above-named_____ and _____, _____ for the City of Menasha, to me known to be the person who executed the foregoing instrument and acknowledged the same.

_____
Print name:_____
Notary Public, State of Wisconsin
My Commission:_____

ACKNOWLEDGMENT

STATE OF WISCONSIN

COUNTY OF DANE

Personally came before me this ____ day of April, 2011, the above-named _____, Member of the Menasha Utilities Commission, to me known to be the person who executed the foregoing instrument and acknowledged the same.

_____
Print name:_____
Notary Public, State of Wisconsin
My Commission:_____

ACKNOWLEDGMENT

STATE OF WISCONSIN

COUNTY OF DANE

Personally came before me this ____ day of April, 2011, the above-named _____, _____ of WPPI Energy, to me known to be the person who executed the foregoing instrument and acknowledged the same.

_____
Print name:_____
Notary Public, State of Wisconsin
My Commission:_____

EXHIBIT A
DESCRIPTION OF LAND

This instrument drafted by:
James B. Egle
Stafford Rosenbaum LLP
P. O. Box 1784
Madison, WI 53701-1784

UTILITY CONTRACT AGREEMENT

THIS UTILITY CONTRACT AGREEMENT (this "***Agreement***") is made and entered into effective as of April 6, 2011 by and among the City of Menasha, as a Wisconsin municipality ("***City***") and as a municipal electric utility, acting through the Menasha Utilities Commission ("***Commission***"), the Commission and WPPI Energy ("***WPPI***").

RECITALS

1. The City, the Commission and WPPI entered into an Asset Purchase Agreement dated December 8, 2009 (the "Asset Purchase Agreement"), in which WPPI agreed to acquire electric distribution assets ("Electric Assets") from the City.

2. The City, the Commission and WPPI are entering into a Lease dated April 6, 2011, under which WPPI leases the Electric Assets back to the City at closing ("Lease").

3. The City, acting through the Commission, has previously entered into contracts with third parties and obtained permits for the use of the Electric Assets, and for other rights to personal property and real property relating to the operation of the Electric Assets. A list of these contracts, agreements and permits is attached as Exhibit A ("MEU Contracts").

4. The parties wish to confirm that, in lieu of WPPI assuming the MEU Contracts at closing of the APA, (a) during the term of the Lease, the City will remain a party to the MEU Contracts, will perform all covenants and obligations of the City and its utilities under the MEU Contracts, and (b) if City and Commission default under the Lease, and WPPI exercises its right to repossess the Electric Assets, the City and Commission shall assign the MEU Contracts to WPPI at no additional cost to WPPI, if WPPI so elects.

NOW, THEREFORE, in consideration of the parties' covenants under this Agreement and other consideration, the receipt and sufficiency of which is acknowledged by each party, City, Commission and WPPI hereby agree as follows:

1. *Party to MEU Contracts Prior to Default.* Prior to any default under the Lease by the City and Commission and exercise by WPPI of its right to repossess the Electric Assets under section 10.1(a)(ii) of the Lease, the MEU Contracts will not be assigned or transferred by City or the Commission to WPPI. The City and the

Commission, as lessee under the Lease, shall perform all obligations of the City and its electric utility under the MEU Contracts and will be entitled to receive all benefits and compensation that would otherwise be received by City or Commission under the MEU Contracts. The parties confirm that the Lease authorizes the City and Commission to utilize the Electric Assets in performing under the MEU Contracts.

2. *Agreement To Transfer MEU Contracts Upon Default*. If City and Commission default under the Lease, and WPPI exercises its right to repossess the Electric Assets under section 10.1(a)(ii) of the Lease, the City and Commission shall assign the MEU Contracts to WPPI at no additional cost to WPPI, upon receipt of written notice from WPPI. WPPI may elect to take assignment of some or all of the MEU Contracts, as such MEU Contracts may be amended from time to time, in WPPI's sole discretion.

3. *Notice*. This Agreement hereby incorporates the notice provisions contained in section 15.4 of the Lease.

4. *Counterparts*. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any signed document transmitted by email or fax shall be treated as an original document and the signature of any party on a document transmitted by email or fax shall be considered an original signature.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to execute this Agreement effective as of the date first above written.

City: **CITY OF MENASHA**

By: _____
Name: _____
Title: Mayor

By: _____
Name: _____
Title: City Clerk

Commission, on its own behalf and acting on behalf of City: **MENASHA UTILITIES COMMISSION**

By: _____
Name: _____
Title: Commission President

WPPI: **WPPI ENERGY**

By: _____
Name: _____
Title: _____

EXHIBIT A – MEU CONTRACTS

EXHIBIT A

MEU CONTRACTS

1. Pole Sharing Agreement between Wisconsin Electric Power Company and City of Menasha dated December 27, 2000.

2. Agreement between City and Marcus CATV Corporation (now Time-Warner Cable) dated January 29, 1973.

3. Licensing Agreement for Communications Attachments to Utility Poles between City of Menasha and Wisconsin Bell, Inc. d/b/a Ameritech-Wisconsin dated October 19, 2001.

4. Licensing Agreement for Communications Attachments to Utility Poles between City of Menasha and TDS Metrocom dated January 1, 2002.

5. Lease evidenced by Memorandum of Lease between City of Menasha and United States Cellular Operating Company signed by City on January 20, 2003.

6. Pole Attachment License Agreement Between City of Menasha and RVP Fiber Co., LLC, with an Effective Date of July 1, 2002.

7. All permits issued by the Army Corps of Engineers pertaining to the Menasha Electric Utility.

8. All permits issued by the Wisconsin Department of Transportation pertaining to the Menasha Electric Utility.

9. Service Territory Agreement between Wisconsin Electric Power Company and City of Menasha dated April 27, 2001.

10. Common Facilities Agreement between City of Menasha and American Transmission Company dated May 5, 2008.

11. Distribution – Transmission Interconnection Agreement between American Transmission Company and City of Menasha dated June 25, 2001, as amended by agreement dated October 19, 2006 and by the Rider to The Transmission – Distribution Agreement dated November 14, 2001.

12. All licenses, easements and agreements relating to overhead wires, guy wires and underground cable crossings with Wisconsin Central Ltd.

13. All other licenses, permits, easements and agreements pertaining to the operation of the Menasha electric utility and which have not been conveyed to WPPI, whether entered before or after the date of this Agreement.

DEPOSIT ACCOUNT CONTROL AGREEMENT
(Capital Fund Account)

This Deposit Account Control Agreement ("Agreement") is entered by and among WPPI Energy ("Secured Party"), the City of Menasha, as a municipal electric utility, known as Menasha Utilities ("Account Holder") and First National Bank – Fox Valley ("Bank") as of April 1, 2011.

Bank holds deposit account number 215140 in the name of Account Holder (the "Account"), in which Account Holder will deposit the amount of $1 million. Account Holder has granted Secured Party a security interest in the Account. Secured Party, Account Holder and Bank are entering into this Agreement to perfect Secured Party's security interest in the Account.

NOW, THEREFORE, Bank, Account Holder and Secured Party hereby agree as follows:

1. **The Account**. Bank represents and warrants to Secured Party that at the time of execution of this Agreement by Bank, that Bank has not agreed with any party, other than Account Holder and Secured Party, to comply with instructions concerning the Account and that Bank does not know of any claim to or interest in the Account, other than the interests of Secured Party and Account Holder and any claim of Bank permitted under Section 2.

2. **Priority of Lien**. Bank waives any encumbrances, claims and rights of setoff (or recoupment) it may have against the Account and agrees that it will not assert any banker's lien, encumbrance, claim or setoff against the Account.

3. **Control**. Bank will comply with instructions, including, but not limited to, instructions to close the Account and transmit the Account balance to Secured Party, given by Secured Party concerning the Account without the consent of Account Holder. Bank will not agree with any other person to comply with instructions concerning the Account given by any person other than Account Holder or Secured Party.

4. **Account Holder's Authority to Withdraw**. Bank may comply with Account Holder's instructions concerning the Account until Secured Party notifies Bank that Secured Party is exercising exclusive control over the Account. Immediately upon Secured Party's provision of written notice to the Bank that it is exercising exclusive control over the Account, Bank shall stop complying with any instructions given by Account Holder. Bank has no liability to Secured Party for following Account Holder's instructions before Secured Party notifies Bank of Secured Party's exclusive control.

5. **Statements and Confirmations**. Bank will send copies of all statements and other correspondence concerning the Account to Secured Party to the name and address as Secured Party may direct from time to time.

6. **Responsibility of Bank**. Bank has no liability to Account Holder for complying with Secured Party's notice of exclusive control or complying with instructions concerning the Account given by Secured Party. This Agreement does not create any obligation or duty of Bank other than those expressly set forth herein.

7. **Tax Reporting**. All income, gain, expense and loss recognized in the Account shall be reported to all taxing authorities under Account Holder's name and taxpayer identification number.

8. **Customer Agreement**. The terms of this Agreement will prevail if this Agreement conflicts with any other agreement between Bank and Account Holder, including, but not limited to, any customer agreement between Bank and Account Holder. Chapter 409 of the Wisconsin Statutes shall govern the Account.

9. **Termination**. The obligations of Bank under this Agreement shall continue until Secured Party has notified Bank that Bank is released from further obligation to comply with Secured Party's instructions concerning the Account.

10. **Entire Agreement**. This Agreement is the entire agreement of the parties with respect to the subject matter of this Agreement and supersedes and discharges all prior agreements (written or oral) and negotiations and all contemporaneous oral agreements concerning this subject matter.

11. **Amendments**. No amendment, modification or termination of this Agreement or waiver of any right shall be binding on any party unless it is in writing and is signed by the party to be charged.

12. **Severability**. If any term of this Agreement is invalid or unenforceable, the remainder of this Agreement shall be construed as if such invalid or unenforceable term were omitted.

13. **Successors**. The terms of this Agreement are binding upon, and inure to the benefit of, the parties and their respective successors or heirs and personal representatives.

14. **Notices**. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and deemed to have been properly given when delivered in person, or when sent by telecopy or other electronic means and electronic confirmation of error-free receipt is received or 2 days after being sent by

certified or registered United States mail, return receipt requested, postage prepaid, addressed in the case of mail or electronic transmission or delivered in the case of personal delivery to the party at the address set forth next to such party's name below. Any party may change that party's address for notices in the manner set forth above.

If to Account Holder:	Comptroller City of Menasha 140 Main Street Menasha, WI 54952	*Copy to:*	General Manager Menasha Utilities P.O. Box 340 Menasha, WI 54952-0340
If to Secured Party:	General Counsel WPPI Energy 1425 Corporate Center Drive Sun Prairie, WI 53590		
If to Bank:	First National Bank – Fox Valley P.O. Box 339 320 Racine Street Menasha, WI 54952-0339 Attn: Kathy Blumreich		

15. **Choice of Law**. This Agreement shall be governed by the internal laws of the State of Wisconsin.

16. **Compensation of Escrow Agent**. Account Holder agrees to (a) pay the Escrow Agent upon execution of this Agreement and from time to time thereafter reasonable compensation for the services to be rendered hereunder, and (b) pay or reimburse the Escrow Agent upon request for all expenses, disbursements and advances, including, without limitation reasonable attorney's fees and expenses, incurred or made by it in connection with the performance, modification and termination of this Agreement. The obligations set forth in this Section 16 shall survive the resignation, replacement or removal of the Escrow Agent or the termination of this Agreement.

17. **Counterparts**. This Agreement may be executed in one or more counterparts (including by means of facsimile or other electronic copy of a document), each of which shall be deemed an original but all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed or caused this Agreement to be executed under seal as of the date and year first written above.

WITNESS/ATTEST:

SECURED PARTY
WPPI Energy

_____ By:_____(SEAL)

ACCOUNT HOLDER
City of Menasha, as a municipal electric utility, known as Menasha Utilities

_____ By:_____(SEAL)

BANK
First National Bank – Fox Valley

_____ By:_____(SEAL)

INVESTMENT PROPERTY CONTROL AGREEMENT
(Lease Reserve Escrow Agreement)

This Investment Property Account Control Agreement is entered by and among WPPI Energy ("Secured Party"), the City of Menasha, as a municipal electric utility, known as Menasha Utilities ("Account Holder") and First National Bank – Fox Valley ("Escrow Agent") as of April 1, 2011.

Background

Pursuant to the parties' Lease Reserve Escrow Agreement, Escrow Agent has established securities account number _____ in the name of Account Holder with _____ (the "Account"). Account Holder has granted Secured Party a security interest in the Account. Secured Party, Account Holder and Escrow Agent are entering into this Agreement to perfect Secured Party's security interest in the Account.

Agreement

In consideration of the Background, Escrow Agent, Account Holder and Secured Party agree as follows:

1. **Definitions**. For the purposes of this Agreement, "financial assets" includes all property held by Escrow Agent for Account Holder in the Account. "Security entitlement" means the rights and property interest of Account Holder with respect to financial assets held in the Account. An "entitlement order" means a notification communicated to Escrow Agent directing transfer or redemption of a financial asset. Escrow Agent will treat all property held in the Account as financial assets under Article 8 of the Uniform Commercial Code of Wisconsin.

2. **The Account**. Escrow Agent represents and warrants that Escrow Agent has not agreed with any party, other than Account Holder and Secured Party, to comply with entitlement orders concerning the Account and Escrow Agent does not know of any claim to or interest in the Account, other than the interests of Secured Party and Account Holder.

3. **Priority of Lien**. Escrow Agent shall not advance margin or loan monies to Secured Party for purposes of the Account. Escrow Agent waives any encumbrances, claims and rights of setoff it may have against the Account or any financial asset or credit balance in the Account and agrees that it will not assert any encumbrance or claim against the Account or any financial asset or credit balance in the Account. Escrow Agent will not agree with any person other than Account Holder and Secured Party as provided herein to comply with entitlement orders concerning the Account given by that person.

4. **Control**. Escrow Agent shall comply with entitlement orders given by Secured Party concerning the Account without the consent of Account Holder.

5. **Account Holder's Authority to Trade and Vote**. Either Account Holder (or a third party on account of Account Holder) will deposit a zero-coupon U.S. Treasury bill with a 20-year term and a face value of $300,000 at maturity in April 2031 ("Zero Bond) in the Account. It is the intention of Account Holder and Secured Party that the Escrow Agent hold such Zero Bond that is deposited until maturity, unless an event of default under the Lease as provided in the Lease Reserve Escrow Agreement or a Termination Notice is delivered as provided in the Lease Reserve Escrow Agreement. Escrow Agent may make trades of the Zero Bond or any other financial assets only upon the joint written direction of Account Holder and Secured Party. Except for permitting a withdrawal or payment in violation of Section 6 below or advancing margin or other credit to Account Holder in violation of Section 3 above, Escrow Agent has no liability to Secured Party for making trades at the direction of Account Holder and Secured Party.

6. **No Withdrawals**. Escrow Agent shall not comply with any entitlement order from Account Holder withdrawing any financial assets from the Account, deliver any financial assets to Account Holder or pay any free credit balance or other amount owing from Escrow Agent to Account Holder without written consent of the Secured Party.

7. **Statements and Confirmations**. Escrow Agent will send copies of all statements, confirmations and other correspondence concerning the Account to Secured Party at Secured Party's address set forth below in this Agreement.

8. **Responsibility of Escrow Agent**. Escrow Agent shall have no liability to Account Holder for complying with entitlement orders given by Secured Party and Account Holder. This Agreement does not create any obligation or duty of Escrow Agent other than those expressly set forth herein.

9. **Tax Reporting**. All income, gain, expense and loss recognized in the Account shall be reported to all taxing authorities under Account Holder's name and taxpayer identification number.

10. **Customer Agreement**. The terms of this Agreement will prevail if this Agreement conflicts with any other agreement between Escrow Agent and Account Holder, including, but not limited to, the Customer Agreement. Irrespective of any term of the Customer Agreement, this Agreement is governed by the internal laws of the State of Wisconsin. Account Holder agrees to (a) pay the Escrow Agent upon execution of this Agreement and from time to time thereafter reasonable compensation for the services to be rendered hereunder, and (b) pay or reimburse the Escrow Agent upon request for all expenses, disbursements and advances, including, without limitation reasonable attorney's fees and expenses, incurred or made by it in connection with the performance, modification and termination of this Agreement. The obligations set forth in this Section 10 shall survive the resignation, replacement or removal of the Escrow Agent or the termination of this Agreement.

11. **Termination**. The obligations of Escrow Agent under this Agreement shall continue until Secured Party has notified Escrow Agent that Escrow Agent is released from further obligation to comply with Secured Party's instructions regarding the Account.

12. **This Agreement**. This Agreement constitutes the entire agreement of the parties with respect to the subject matter of this Agreement and supersede and discharge all prior agreements (written or oral) and negotiations and all contemporaneous oral agreements concerning this subject matter.

13. **Amendments**. No amendment, modification or termination of this Agreement or waiver of any right shall be binding on any party unless it is in writing and is signed by the party to be charged.

14. **Severability**. If any term of this Agreement is invalid or unenforceable, the remainder of this Agreement shall be construed as if such invalid or unenforceable term were omitted.

15. **Successors**. The terms of this Agreement are binding upon, and inure to the benefit of, the parties and their respective successors or heirs and personal representatives.

16. **Notices**. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and deemed to have been properly given when delivered in person, or when sent by telecopy or other electronic means and electronic confirmation of error-free receipt is received or 2 days after being sent by certified or registered United States mail, return receipt requested, postage prepaid, addressed in the case of mail or electronic transmission or delivered in the case of personal delivery to the party at the address set forth next to such party's name below. Any party may change that party's address for notices in the manner set forth above.

If to Account Holder:	Comptroller City of Menasha 140 Main Street Menasha, WI 54952	*Copy to:*	General Manager Menasha Utilities P.O. Box 340 Menasha, WI 54952-0340
If to Secured Party:	General Counsel WPPI Energy 1425 Corporate Center Drive Sun Prairie, WI 53590		
If to Escrow Agent:	First National Bank – Fox Valley P.O. Box 339 320 Racine Street Menasha, WI 54952-0339 Attn: Kathy Blumreich		

17. **Choice of Law; Counterparts** . This Agreement is governed by the internal laws of the State of Wisconsin. This Agreement may be executed in one or more counterparts (including by means of facsimile or other electronic copy of a document), each of which shall be deemed an original but all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed or caused this Agreement to be executed under seal as of the date and year first written above.

WITNESS/ATTEST:

WPPI ENERGY

_____

By:_____(SEAL)

CITY OF MENASHA, as a municipal electric utility, known as Menasha Utilities

_____

By:_____(SEAL)

ESCROW AGENT

_____

By:_____(SEAL)

INVESTMENT PROPERTY CONTROL AGREEMENT
(Lease Reserve Escrow Agreement)

This Investment Property Account Control Agreement is entered by and among WPPI Energy ("Secured Party"), the City of Menasha, as a municipal electric utility, known as Menasha Utilities ("Account Holder") and First National Bank – Fox Valley ("Escrow Agent") as of April 1, 2011.

Background

Pursuant to the parties' Lease Reserve Escrow Agreement, Escrow Agent has established securities account number _____ in the name of Account Holder with _____ (the "Account"). Account Holder has granted Secured Party a security interest in the Account. Secured Party, Account Holder and Escrow Agent are entering into this Agreement to perfect Secured Party's security interest in the Account.

Agreement

In consideration of the Background, Escrow Agent, Account Holder and Secured Party agree as follows:

1. **Definitions**. For the purposes of this Agreement, "financial assets" includes all property held by Escrow Agent for Account Holder in the Account. "Security entitlement" means the rights and property interest of Account Holder with respect to financial assets held in the Account. An "entitlement order" means a notification communicated to Escrow Agent directing transfer or redemption of a financial asset. Escrow Agent will treat all property held in the Account as financial assets under Article 8 of the Uniform Commercial Code of Wisconsin.

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3. **Priority of Lien**. Escrow Agent shall not advance margin or loan monies to Secured Party for purposes of the Account. Escrow Agent waives any encumbrances, claims and rights of setoff it may have against the Account or any financial asset or credit balance in the Account and agrees that it will not assert any encumbrance or claim against the Account or any financial asset or credit balance in the Account. Escrow Agent will not agree with any person other than Account Holder and Secured Party as provided herein to comply with entitlement orders concerning the Account given by that person.

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17. **Choice of Law; Counterparts** . This Agreement is governed by the internal laws of the State of Wisconsin. This Agreement may be executed in one or more counterparts (including by means of facsimile or other electronic copy of a document), each of which shall be deemed an original but all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed or caused this Agreement to be executed under seal as of the date and year first written above.

WITNESS/ATTEST:

WPPI ENERGY

_____

By:_____(SEAL)

CITY OF MENASHA, as a municipal electric utility, known as Menasha Utilities

_____

By:_____(SEAL)

ESCROW AGENT

_____

By:_____(SEAL)

Mr. Don Merkes
Mayor
City of Menasha
140 Main St.
Menasha, WI 54952-3151

March 29, 2011

Dear Mayor Merkes,

I'm requesting an appointment as a member of the City of Menasha Sustainability Board.

Since August of 2010, I've attended all but one board meeting. The missed meeting was weather related.

As the head of We Energies Strategic Alliances and Sustainability Initiatives, I had identified the City of Menasha as a customer which embraced sustainability and actively began to undertake projects consistent with We Energies sustainability initiatives pilot program. My hope was that my participation would add value to the sustainability board's mission. I believe it has.

Since last July, We Energies has, through the pilot program been able to arrange for free commercial and municipal building site assessments, arrange for a global energy benchmarking and best practices evaluation, provide baseline gas usage data for all municipal buildings served by We Energies, and provide code, standards and energy project incentives consultation, and energy trend reporting.

Additionally, I arranged for board member Ed Kassel to present the City of Menasha's sustainability activities and accomplishments at the 2011 Green Energy Summit held in Milwaukee a few weeks ago. Very recently recently, I worked with fire chief Al Auxier to avoid $5000 worth of unnecessary gas sub-metering costs for LEED certification.

Now that the pilot program has concluded, my services are being redirected. However, I was given the opportunity to continue to serve customers which best demonstrated a continued commitment to sustainability. I identified the City of Menasha as one of them. The condition was that I be appointed to the sustainability board. At the March 2011 meeting I expressed this to the board members and asked for their support. The vote of the members present was unanimous. I respectfully ask for your support and that of the Common Council so I can continue to serve the City of Menasha.

Sincerely,

Paul Van de Sand

Paul Van de Sand
Strategic Alliances
Energy Incentives & Renewable Energy Programs
We Energies

Paul Van de Sand
Strategic Alliances ~~& Sustainability Initiatives~~
Energy Incentives & Renewable Energy Programs

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