CITY OF STEVENS POINT
SPECIAL COMMON COUNCIL MEETING

Lincoln Center **September 24, 2012**
1519 Water Street **6:45 P.M.**

1. Roll Call.

Discussion and possible action on the following:

2. Actions of the special Plan Commission meeting of September 24, 2012.
3. Actions of the special Finance Committee meeting of September 24, 2012.
4. Approval and authorization to execute options to purchase certain real estate for development purposes, located in the towns of Hull, Stockton, and Plover, lying north of County Road HH, east of Brilowski Road/County Road R, south of Canadian National Railroad right-of-way, and west of Burbank Road, to be known as East Park Commerce Center. Such land consists of approximately 762 acres.
5. Approval and authorization to execute agreements with AECOM and/or landowners for environmental, engineering, and related services for the Certified Site Program.
6. Adjournment.

Maps further defining the above area(s) may be obtained from the City of Stevens Point Department of Community Development, 1515 Strongs Avenue, Stevens Point, WI 54481, or by calling 715-346-1567, during normal business hours.

Any person who has special needs while attending this meeting or needing agenda materials for this meeting should contact the City Clerk as soon as possible to ensure a reasonable accommodation can be made. The City Clerk can be reached by telephone at (715) 346-1569, TDD #346-1556, or by mail at 1515 Strongs Avenue, Stevens Point, WI 54481

Memo

Michael Ostrowski, Director
Department of Community Development
City of Stevens Point
1515 Strongs Avenue
Stevens Point, WI 54481
Ph: (715) 346-1567 • Fax: (715) 346-1498
mostrowski@stevenspoint.com

Community Development Department of the City of Stevens Point

To: Plan Commission, Finance Committee, and Common Council

From: Michael Ostrowski

CC:

Date: 9/20/2012

Re: Certified Sites Program

This memo is to explain the Certified Sites Program that is being administered through the Wisconsin Economic Development Corporation (WEDC), and the reason why the options are before you for consideration.

In 2010, the "Be Bold Wisconsin" study was completed. The study is described as follows: "The Wisconsin Competitiveness Study focuses squarely on producing a well-reasoned, executable economic development strategy for improving Wisconsin competitiveness and positioning the state for business growth, job creation and increased per capita income of our residents."[1]

A byproduct of that study was the creation of the Certified Sites Program by WEDC: "The 2010 'Be Bold Wisconsin' study demonstrated that Wisconsin's sites and permitting process consistently garnered less-than-favorable ratings. A lack of shovel-ready, pre-certified sites introduces unnecessary risk to prospective industrial investors. The Certified Sites Program will close an important gap in Wisconsin's competitiveness with other states. Certified sites also increase the comfort level of projects considering a region by removing unknowns about a site, and by accelerating the site due diligence and implementation timeline."[2]

The goal for WEDC is to create ten certified sites throughout the State within the first year of the program. The minimum size requirement for a certified site is 50 acres. Phase 1 of the program was the initial submission of sites by communities and the review by WEDC. The site submitted to WEDC for their consideration in the Stevens Point area consisted of over 700 acres of land east of CTH R, north of CTH HH, south of the railroad tracks, and west of Burbank Road, to be known as East Park Commerce Center (please see the attached map). This area has been identified in our Comprehensive Plan as the future growth area for a Business Park (please see the exterritorial land use map). After WEDC's initial review of the submissions, they selected certain sites to proceed on to Phase 2, and the East Park Commerce Center site was one of the sites selected. Representatives from the City, a representative for the land owners, WEDC, and Deloitte (WEDC's consultant firm) met to further discuss the site, as well as

[1] http://www.weda.org/be-bold-wisconsin
[2] http://wedc.org/certifiedsitesfaqs

to conduct a site visit. Since then, we have continued working on completing the Phase 2 submittal requirements. For reference, please find attached a listing of the requirements.

One of the requirements of the program is that there be a single owner of the site, or for the site to be controlled by a single entity. The primary reason for WEDC wanting the site to be controlled by a single entity is for the ease of dealing with potential developers/businesses who would like to acquire the property in the future. Currently, the East Park Commerce Center site (total area) is over 700 acres in size, with several parcels having different owners. Given that fact, in order to continue with the WEDC program and have the site certified, there must be a mechanism to have the site controlled by a single entity. One way to accomplish this requirement is for the City to option the property.

While the City would option all of the 700+ acres, initially, there is no intention to have the City actually purchase the property. The option could serve as a tool for the City to meet the WEDC requirement for site certification. Please find attached to this memo three options that cover the entire 700+ acres. As specified in the attached options, the City could assign the options to a third party (a developer), who would then have the ability to exercise the options. While the City would not have the intention to purchase the property, the options need to be reviewed by the Plan Commission and Finance Committee, and then approved by the Common Council.

In addition to the options, the next step in the process would be for the property to be annexed by the City. The owners plan to submit a petition for annexation upon approval of the options by the City. This action would then be taken up at the regular Plan Commission and Common Council meeting in October. All requirements for the program must be met by the end of October 2012.

While the timeline for the WEDC program is swift, there exists the potential for great benefits for the City by not only having a certified site, but having the single largest certified site in the State of Wisconsin located within the City. Given the size of the site, the site will not only be able to be marketed throughout the state and nation, but potentially globally, paving the way for continued job growth for the Stevens Point area for many years to come.

If you have any questions about the options or program, please do not hesitate to contact me.

Certified Sites FAQs

Why is WEDC creating the Certified Sites Program?

The 2010 "Be Bold Wisconsin" study demonstrated that Wisconsin's sites and permitting process consistently garnered less-than-favorable ratings. A lack of shovel-ready, pre-certified sites introduces unnecessary risk to prospective industrial investors. The Certified Sites Program will close an important gap in Wisconsin's competitiveness with other states. Certified sites also increase the comfort level of projects considering a region by removing unknowns about a site, and by accelerating the site due diligence and implementation timeline.

What are the objectives of WEDC's certified site program?

WEDC is working with Deloitte Consulting to create consistent standards for industrial site certification in Wisconsin. "Certification" communicates that the key approvals, documentations, and assessments most commonly required for industrial uses will already be in place. Certification criteria have been developed based on representative needs of advanced manufacturing projects.

What are the steps for identifying sites for possible certification?

- Deloitte and WEDC have prepared an online Request for Information (RFI), using Deloitte's Geosite platform.
- Those who wish to administer a site submission should send an email request to Graham Callis (graham.callis@wedc.org, 608-210-6837) to receive a link to the online RFI. This email request should include an indication of the county in which the site proposed for submission is located.
- Geosite is the only channel through which sites may be submitted, and it will be open to receive site data submissions for 5 weeks, beginning on May 1st.
- Deloitte will conduct a desktop review of submitted sites to select a pool to be visited for Field Investigations this summer.
- All sites entered into Geosite will be added to **Locate in Wisconsin,** regardless of the site's certification status.

What is the selection process?

Step 1:

- Complete the web-based Program RFI, submitting all Initial Data Collection requirements (to represent that the site meets specific thresholds) and document general information about the site.
- Deloitte will conduct a desktop review of all sites meeting the Initial Data Collection Requirements.
- Out of the desktop review process, approximately 20 sites will be carried forward to Step 2
- WEDC will notify sites not selected to advance into Step 2

Step 2:

- Preparation for additional documentation for review during Field Investigation.
- Deloitte will conduct a Field Investigation to validate that a site meets all of the pre-defined Site Certification

Criteria

- Deloitte will notify sites not selected. Sites with gaps in Certification Criteria that cannot be mitigated will not be certified. Deloitte will clearly identify and communicate these gaps to the submitting party.

What kind of data is required?

Click here to get more information on the requirements.

Why is the application fee at the amount it is, and what is it used for?

The fee is used to pay for the actual site visit by Deloitte to verify the site meets the certification requirements. WEDC is underwriting the cost of this certification, so if a site owner or community wanted to do this on their own, the cost could be 50% higher than the fee required through the WEDC Certified Sites Program.

When is the fee required to be paid?

The fee is required to be paid to WEDC prior to the site visit. Deloitte will not perform a site visit until payment is made.

What is the minimum required acreage for a certified site?

The minimum site size is 50 contiguous acres for a few different reasons. First, in Deloitte's experience as a global site selection consultant, 50 acres is the typical acreage for a mid-sized, big impact, advanced manufacturing project. Secondly, it's easier to divide a 50 acre certified site into several smaller pieces than it is to try and add to a 30 acre certified site when the need arises.

What are the requirements related to distance to an Interstate or 4-lane highway?

There are no mileage requirements for proximity to an Interstate or 4-lane restricted access highway. However, Deloitte will still need to understand the site's proximity to these highways.

What happens if a site is not initially selection in the first year, and we want to apply again?

From the initial site visit, Deloitte will determine if any conditions of the site are not met and allow those causes to be corrected. If those areas are addressed immediately, Deloitte will make a final determination on certification. If they are not addressed, Deloitte will need to do another site visit to verify the changes have been made, and that no conditions of the site have changed. At this early stage in the program, WEDC has not determined what the additional cost of this final site visit will be.

How will WEDC market the certified sites?

Deloitte will provide WEDC a data sheet on each site. The certified sites will have an exclusive layer on the LocateInWisconsin.com web site. WEDC will provide this information for any relevant RFI it receives. Additional marketing will be determined by WEDC as it begins its work with a marketing agency to brand and market Wisconsin's overall business climate and resources.

Wisconsin Economic Development Corporation
201 W. Washington Ave.
Madison, WI 53703
608-210-6700
Privacy Notice Terms of Use

WISCONSIN ECONOMIC DEVELOPMENT CORPORATION

Wisconsin Certified Sites Program

"Ready, set, build!"

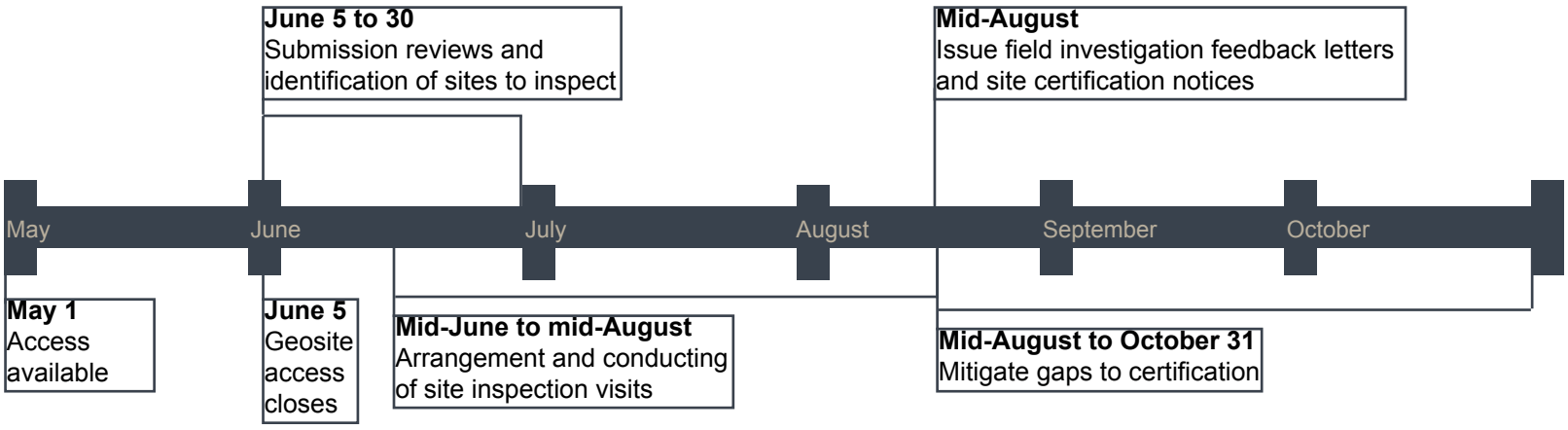
The Wisconsin Certified Sites Program aims to create consistent standards for industrial site certification in Wisconsin through coordination with the Wisconsin Economic Development Corporation (WEDC) and Deloitte. This entails having in place key approvals, documentations and assessments most commonly required for industrial uses. Twenty sites with a minimum of 50 contiguous acres, which meet certain requirements, will be asked to submit additional documentation in advance of field investigation. During the field investigation and document acquisition, any gaps will be identified and communicated.

The program will require all applicants to submit site data through Deloitte's Geosite online request for information (RFI). The RFI will require applicants to represent that the site being submitted meets specific thresholds.

Requirements include:

Step 1: Initial data requirements	Suggested sources of data*
• Master Site plan	
• Aerial photograph	• Internet mapping application
• Zoning certificate	• Local or county zoning office
• Site plan with exact dimensions and number of parcels	• Private surveyor
• FEMA-produced floodplain map	• Local or county zoning office
• Certificate of title	
• Letter from property owner/option holder stating that site is for sale/ lease	
• Letter of support from local economic development or elected officials	
• Asking price	
• Map(s) of existing utility infrastructure and proposed extensions where necessary	• Utility providers
• Description of proposed utility extensions	
• Map(s) showing road access currently to site, proposed improvements/extensions, and truck access to nearest highway(s)	• Internet mapping application and/or local public works office
• Confirmation that no known impediments to development exist	

Approximate Wisconsin Certified Sites Program Timeline, First Year



Step 2: Certification criteria	Suggested sources of data*
• ALTA Survey (American Land Title Association)	• Private consultant with registered land surveyor on staff
• Existing/planned zoning of surrounding land	• Local or county zoning office
• Codes, covenants, and restrictions on site and surrounding sites, as applicable	
• Letter from FAA indicating maximum building height (if < two miles of any airport)	
• Phase I Environmental Site Assessment (and Phase II if necessary)	• Private consultant
• Wetland delineation report and supporting materials	• Private consultant
• Maps of all utility infrastructure directly proximate to (or intersecting) the site	• Utility providers
• Topographic map with clearly defined contour intervals of 2' or less	• USGS topographic map or private surveying consultant
• Geotechnical Study results	• Private consultant
• Archaeological / historical study results	• A private archaeological consultant, available through the Wisconsin Historical Society's website
• Endangered species study results	• A private consultant certified to perform an endangered resources review, available through the DNR's website
• Fire Insurance Classification Rating	• Local fire department
• Transportation maps of surrounding region indicating distances and access routes	• Internet mapping application
• Map of existing rail infrastructure (if applicable)	• Rail provider
• Letter of support from the rail provider (if applicable)	
• Proposed costs, timing of rail spur extension/ development	• Private consultant/rail provider
• Driving distance to proximate commercial airport(s)	• Internet mapping application
• Handling capacity of each proximate freight airport	• Wisconsin Department of Transportation and individual airports
• Driving distance to proximate freight airport(s)	• Internet mapping application

• Detailed information for each utility, including:
  • Name of relevant service provider(s)
  • Size and location of current infrastructure
  • Available capacity and pressure (if applicable) that could be provided to the site
  • Cost, timing, and funding responsibility of improvements to provide service to site
	• Utility provider

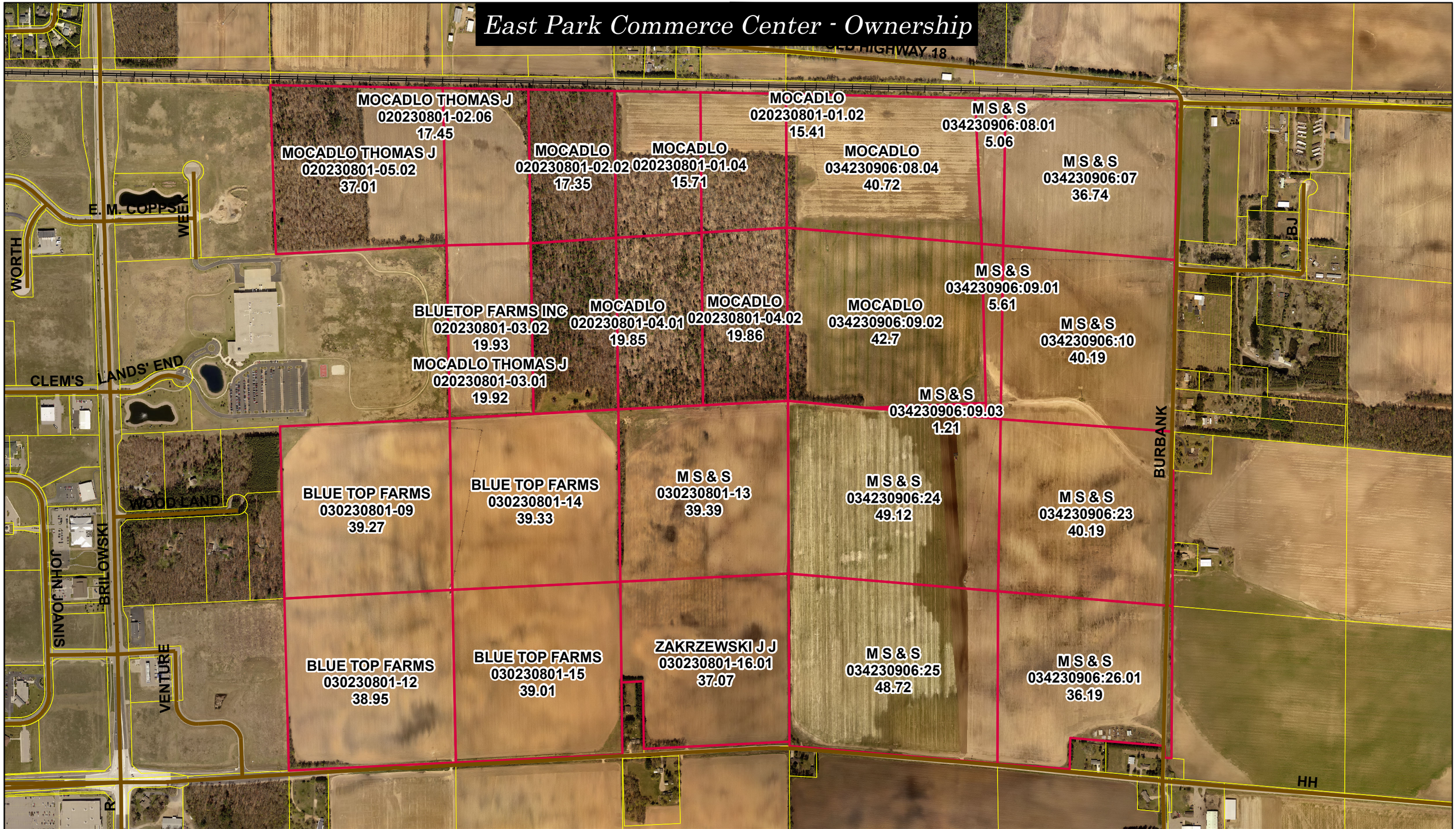
*All named sources of data are recommendations and do not represent conclusive or inclusive sources of associated criteria or requirements.

To request a link to the Geosite RFI, please contact Graham Callis. Links will be distributed May 1st by email. Please include the county in which the property is located and your contact information in the RFI link request.

For more information, you may also visit wedc.org/site-certification

CONTACT
Graham Callis
Graham.Callis@wedc.org
608-210-6837

East Park Commerce Center - Ownership



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This map was compiled by the City of Stevens Point's Community Development Department for reference purposes only. The accuracy of this map is not guaranteed and the City makes no express or implied warranties of any type regarding this map. Furthermore, the City is not liable for any direct or indirect damages suffered related to the use of this map.

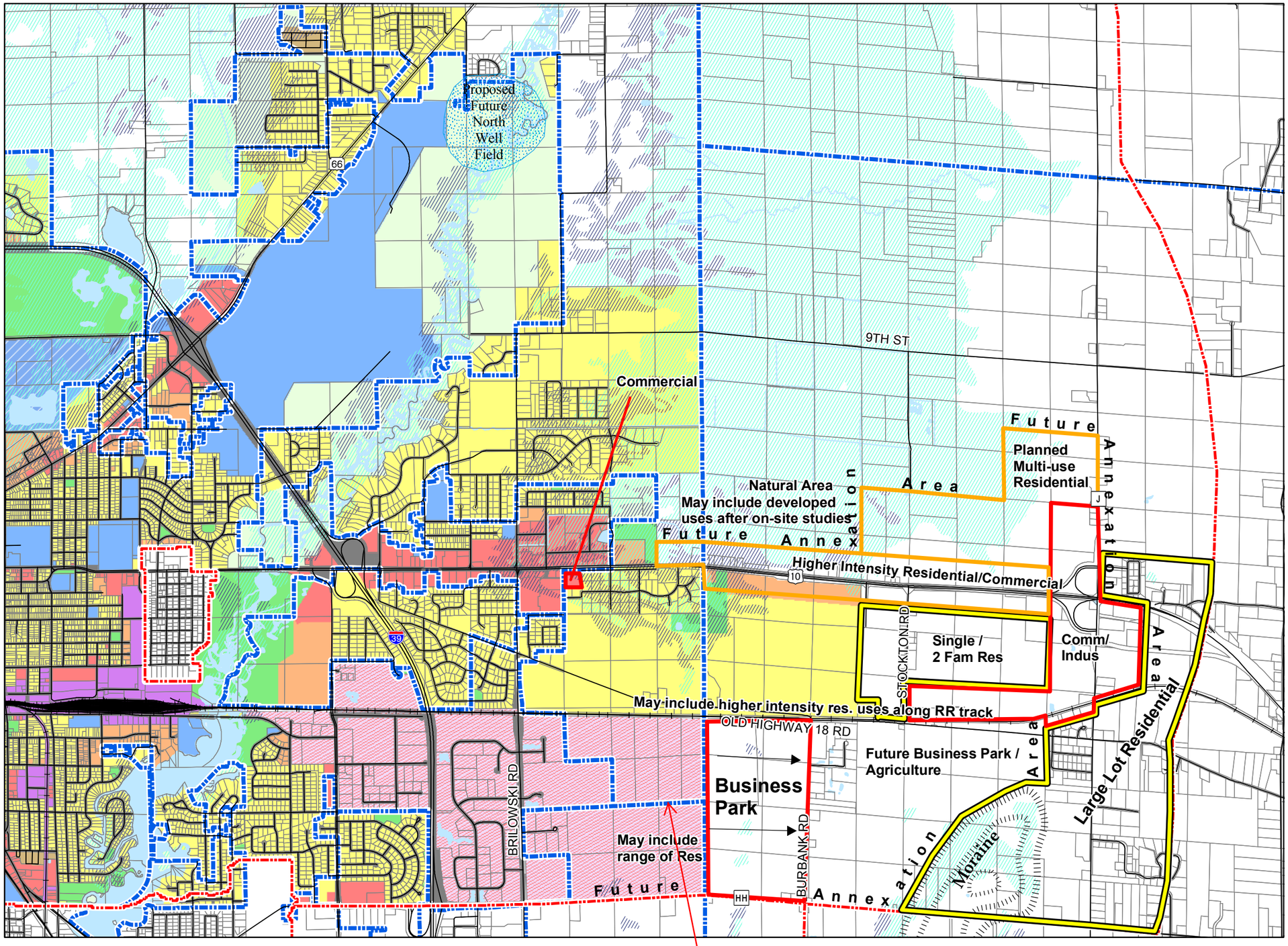
Legend

- Roads
- RailRoad
- East Park Commerce Center Properties
- Property Lines

0 550 1,100 2,200 Feet

Creation Date: August 8, 2012
Aerial Photograph: April 2012

Map 8.7B Extraterritorial Land Use



Future Land Use

- Residential
- Multi-family (3+ units)
- Mobile Home Park
- Commercial / Office
- Office / Multi-Family
- Downtown District
- Business Park District
- Institutional / Government
- UWSP
- Industry
- Park
- Not Developable / Restrictive Ownership
- Vacant
- Road Right-of-Way
- Water Bodies
- Municipal Boundary
- Extraterritorial Boundary

Depth to Groundwater

- 0 - 3 feet
- 3 - 5 feet

N W E S

0 0.25 0.5 1 Miles

Source: City of Stevens Point (2005)
Portage County Planning & Zoning (2005)

Adopted: June 19, 2006

City of Stevens Point Comprehensive Plan

Portage County Planning & Zoning
1462 Strongs Ave.
Stevens Point, WI 54481

WB-24 OPTION TO PURCHASE

Attorney DRAFTING THIS OPTION ON **9/21/2012** [DATE] IS AGENT OF (SELLER) ~~(BUYER) (DUAL AGENT)~~ STRIKE TWO

The Seller, **Blue Top Farms, Inc., a Wisconsin Corporation**, hereby grants to Buyer, **City of Stevens Point**, an option to purchase (Option) the Property known as [Street Address] **See attached Addendum A** in the **Towns** of **Plover and Hull**, County of **Portage**, Wisconsin, (if this Option is to be recorded, insert legal description at lines 218-224 or attach as an addendum per line 225) on the following terms:

DEADLINE FOR GRANT OF OPTION This Option is void unless a copy of the Option which has been signed by or on behalf of all Owners is delivered to Buyer on or before **September , 2012** (Time is of the Essence).

OPTION TERMS An option fee of $ **n/a** will be paid by Buyer within **n/a** days of the granting of this Option, and shall not be refundable if the Option is not exercised. If the Option is exercised, $ **n/a** of the option fee shall be a credit against the purchase price at closing. This Option may only be exercised by delivering written notice to Seller no later than midnight **September , 2012**. Buyer may sign and deliver the notice at lines 247-248, or may deliver any other written notice which specifically indicates an intent to exercise this Option. This Option shall be extended until **n/a**, upon payment of $ **n/a** in cash or equivalent to Seller on or before **n/a**, as an option extension fee which shall not be refundable if this Option is not exercised. If this Option is exercised, $ **n/a** of the option extension fee shall be a credit against the purchase price at closing. The option fee and option extension fee shall be (paid directly to Seller) (held in listing broker's trust account until **n/a**) STRIKE ONE.

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

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

■ PURCHASE PRICE: _____ Dollars ($ **See Addendum A**) will be paid in cash or equivalent at closing unless otherwise provided below.

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

■ ITEMS NOT INCLUDED IN THE PURCHASE PRICE: **irrigation systems and equipment**

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

PLACE OF CLOSING This transaction is to be closed at ~~the place designated by Buyer's mortgagee or~~ **See Addendum A** ~~within~~ _____ ~~days after the exercise of the Option~~, unless another date or place is agreed to in writing.

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

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

CLOSING PRORATIONS The following items shall be prorated at closing: real estate taxes, rents, private and municipal charges, ~~property owner's association assessments, fuel~~ and **See Addendum A**. Any income, taxes or expenses shall accrue to Seller, and be prorated, through the day prior to closing. Net general real estate taxes shall be prorated based on (the net general real estate taxes for the current year, if known, otherwise on the net general real estate taxes for the preceding year) (_____). STRIKE AND COMPLETE AS APPLICABLE

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

ZONING Seller represents that the property is zoned **For Agricultural and Agricultural Forest Use**.

REPRESENTATIONS REGARDING PROPERTY AND TRANSACTION Seller represents to Buyer that as of the date Seller grants this Option Seller has no notice or knowledge of conditions affecting the Property or transaction (as defined at lines 63 - 88) ~~other than those identified in Seller's property condition report, dated _____, which was received by Buyer prior to Buyer signing this Option~~ COMPLETE DATE OR STRIKE AS APPLICABLE and **The Buyer waives the right to receive a written property disclosure report and the right to rescind the Purchase Agreement.**

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

A "condition affecting the Property or transaction" is defined as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TITLE EVIDENCE

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

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

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

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

DELIVERY/RECEIPT

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

DATES AND DEADLINES

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

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

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

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

If Buyer defaults under the terms of purchase after exercise of this Option, Seller may:
(1) sue for specific performance and request the earnest money as partial payment of the purchase price; or
(2) terminate the purchase agreement and have the option to sue for actual damages.

If Seller defaults under the terms of purchase after exercise of this Option, Buyer may:
(1) sue for specific performance; or
(2) terminate the purchase agreement and sue for actual damages.

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

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

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

195 **PROPERTY ADDRESS:** **County Highway HH (See Addendum A)**

196 **AUTHORIZATION FOR INSPECTIONS AND TESTS** Buyer is authorized to conduct the following inspections and tests (see lines 110-121).
197 INSPECTIONS: **Environmental inspections with copies of all reports given to Seller (at no cost) contemporaneous**
198 **with delivery to Buyer.**
199 TESTS: **Environmental testing, with copies of all reports given to Seller (at no cost) contemporaneous with delivery to**
200 **Buyer.**

201 **DELIVERY OF DOCUMENTS AND WRITTEN NOTICES** Unless otherwise stated in this Option, delivery of documents and written
202 notices to a Party shall be effective only when accomplished by one of the methods specified at lines 203-212.
203 (1) By depositing the document or written notice postage or fees prepaid in the U.S. Mail or fees prepaid or charged to an account
204 with a commercial delivery service, addressed either to the Party, or to the Party's recipient for delivery designated at lines 206 or 208
205 (if any), for delivery to the Party's delivery address at lines 207 or 209.
206 Seller's recipient for delivery (optional): **Attorney Rick A. Flugaur, c/o Anderson, O'Brien Law Firm**
207 Seller's delivery address: **1257 Main Street, Stevens Point, WI 54481**
208 Buyer's recipient for delivery (optional): **Michael R. Ostrowski, Director of Community Development**
209 Buyer's delivery address: **c/o City of Stevens Point, 1515 Strongs Avenue, Stevens Point, Wlw 54481**
210 (2) By giving the document or written notice personally to the Party or the Party's recipient for delivery if an individual is designated at lines 206 or 208.
211 (3) By fax transmission of the document or written notice to the following telephone number:
212 Buyer: (**715**) **346-1568** Seller: (**715**) **344-1012**

213 **TIME IS OF THE ESSENCE** "Time is of the Essence" as to payment of option fees and extension fee and all other dates and
214 deadlines in this Option except: **No Exceptions**. If "Time is of the Essence"
215 applies to a date or deadline, failure to perform by the exact date or deadline is a breach of contract. If "Time is of the Essence" does not
216 apply to a date or deadline, then performance within a reasonable time of the date or deadline is allowed before a breach occurs.
217 **This Option (is) (~~is not~~) STRIKE ONE assignable. This Property (~~is~~) (is not) STRIKE ONE homestead property.**
218 **ADDITIONAL PROVISIONS** **See Addendum A**
219
220
221
222
223
224

225 **ADDENDA** The attached **Addendum A** is/are made part of this Option.
226 **IF GRANTED, THIS OPTION CAN CREATE A LEGALLY ENFORCEABLE CONTRACT. BOTH PARTIES SHOULD READ THIS**
227 **OPTION AND ALL ATTACHMENTS CAREFULLY. BROKERS MAY PROVIDE A GENERAL EXPLANATION OF THE**
228 **PROVISIONS OF THE OPTION BUT ARE PROHIBITED BY LAW FROM GIVING ADVICE OR OPINIONS CONCERNING**
229 **YOUR LEGAL RIGHTS UNDER THIS OPTION OR HOW TITLE SHOULD BE TAKEN AT CLOSING IF THE OPTION**
230 **IS EXERCISED. AN ATTORNEY SHOULD BE CONSULTED IF LEGAL ADVICE IS NEEDED.**
231 This Option was drafted on, **9/21/2012** [date] by ~~[Licensee and firm]~~ **Attorney Rick A. Flugaur, Anderson, O'Brien Law Firm**.

232 (X) _____ _____ _____
233 Buyer's Signature ▲ Print Name Here: ▶ **Andrew J. Halverson, Mayor** Social Security No. or FEIN (Optional) ▲ Date ▲

234 (X) _____ _____ _____
235 Buyer's Signature ▲ Print Name Here: ▶ **John Moe, City Clerk** Social Security No. or FEIN (Optional) ▲ Date ▲

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

240 (X) _____ _____ _____
241 Seller's Signature ▲ Print Name Here: ▶ **Blue Top Farms, Inc.** Social Security No. or FEIN (Optional) ▲ Date ▲

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

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

245 THIS OPTION IS REJECTED _____ _____ THIS OFFER IS COUNTERED [See attached counter] _____ _____
246 Seller Initials ▲ Date ▲ Seller Initials ▲ Date ▲

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

248 (X) _____ (X) _____
249 Buyer's Signature ▲ Date ▲ Buyer's Signature ▲ Date ▲

ADDENDUM A
TO OPTION TO PURCHASE

Blue Top Farms, Inc. ("Seller")
And
City of Stevens Point ("Buyer")

September 21, 2012

The following provisions are incorporated by reference to the Option Agreement:

Description of Property (See Map following this Addendum) and Purchase Price

Seller Parcel Number	Tax ID Parcel Number	Acreage	Purchase Price for the Applicable Seller Parcel Number
One	030230801-12	38.95	$1,363,250.00
One	030230801-09	39.27	$1,178,100.00
	Totals	78.22	$2,541,350.00
Two	030230801-15	39.01	$1,365,300.00
Two	030230801-14	39.33	$1,179,900.00
	Totals	78.34	$2,545,200.00
Three	020230801-03.02	19.93	$597,900.00
	Totals	19.93	$597,900.00

Exercise of the Option by Buyer

A. Voluntary Exercise:

1. Without the prior consent of Seller, Buyer may assign in whole or in part, its rights to exercise this Option to a third party of its choice.

2. Buyer may exercise the Option and purchase all property of Seller identified as Seller Parcel numbers One, Two and Three; or,

3. Buyer may exercise the Option and purchase portions of the property based on the following:

Option 1: All Tax ID Parcel Numbers identified as Seller Parcel Number One above;

Option 2: All Tax ID Parcel Numbers identified as Seller Parcel Numbers Two and Three above:

Option 3: All Tax ID Parcel Numbers identified as Seller Parcel Number Three above;

Each of the above options may be exercised independently and in any order at any time during the term of the option.

Seller's Initials _____ Buyer's Initials _____

B. Mandatory Exercise: If during the term of this option, the Buyer or any third party purchases all or any part of the adjacent property owned by Bernard J. Mocadlo identified by the current tax identification parcel number 020-23-0801-04.01, the Buyer shall be obligated to, simultaneous with the purchase of all or any of such adjacent property, purchase Seller Parcel Number Three (19.93 acres) identified above.

C. Closing of the Purchase:

The transactions shall be closed and occupancy tendered to Buyer thirty (30) days following Seller's receipt of Buyer's written notice of exercise of this Option or, in the event that there are growing crops on the property at the time Buyer's written notice is given, thirty (30) days following the harvest and removal of such crops from the subject Property.

D. Conveyance of Title:

Seller shall convey the Property by Special Warranty Deed upon payment of the Purchase Price.

E. Leases and Closing Prorations:

Seller warrants that all leases for the subject Property shall terminate as of the closing date. All rents pertinent to those leases for the year of closing shall remain the sole property of Seller.

F. Annexation of the Property to the City of Stevens Point:

Upon execution of this Option by both Seller and Buyer, Seller agrees to make application to the City of Stevens Point for annexation of the property to the City of Stevens Point. Upon completion of such annexation, the Buyer agrees that as long as the Property is used for agricultural purposes, it will be assessed as agricultural property (or as agricultural forest for the forested land) by the City of Stevens Point.

Seller's Initials _____ Buyer's Initials _____

WB-24 OPTION TO PURCHASE

Attorney DRAFTING THIS OPTION ON **9/21/2012** [DATE] IS AGENT OF (SELLER) ~~(BUYER) (DUAL AGENT)~~ STRIKE TWO

The Seller, **J. James Zakzrewski and Delores Zakrzewski, husband and wife**, hereby grants to Buyer, **City of Stevens Point**, an option to purchase (Option) the Property known as [Street Address] **See attached Addendum A** in the **Town** of **Plover**, County of **Portage**, Wisconsin, (if this Option is to be recorded, insert legal description at lines 218-224 or attach as an addendum per line 225) on the following terms:

DEADLINE FOR GRANT OF OPTION This Option is void unless a copy of the Option which has been signed by or on behalf of all Owners is delivered to Buyer on or before **September , 2012** (Time is of the Essence).

OPTION TERMS An option fee of $ **n/a** will be paid by Buyer within **n/a** days of the granting of this Option, and shall not be refundable if the Option is not exercised. If the Option is exercised, $ **n/a** of the option fee shall be a credit against the purchase price at closing. This Option may only be exercised by delivering written notice to Seller no later than midnight **September , 2012**. Buyer may sign and deliver the notice at lines 247-248, or may deliver any other written notice which specifically indicates an intent to exercise this Option. This Option shall be extended until **n/a**, upon payment of $ **n/a** in cash or equivalent to Seller on or before **n/a**, as an option extension fee which shall not be refundable if this Option is not exercised. If this Option is exercised, $ **n/a** of the option extension fee shall be a credit against the purchase price at closing. The option fee and option extension fee shall be (paid directly to Seller) (held in listing broker's trust account until **n/a**) STRIKE ONE.

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

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

■ PURCHASE PRICE: _____ Dollars ($ **See Addendum A**) will be paid in cash or equivalent at closing unless otherwise provided below.

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

■ ITEMS NOT INCLUDED IN THE PURCHASE PRICE: **irrigation systems and equipment**

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

PLACE OF CLOSING This transaction is to be closed at ~~the place designated by Buyer's mortgagee or~~ **See Addendum A** ~~within~~ _____ ~~days after the exercise of the Option~~, unless another date or place is agreed to in writing.

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

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

CLOSING PRORATIONS The following items shall be prorated at closing: real estate taxes, rents, private and municipal charges, ~~property owner's association assessments, fuel~~ and **See Addendum A**. Any income, taxes or expenses shall accrue to Seller, and be prorated, through the day prior to closing. Net general real estate taxes shall be prorated based on (the net general real estate taxes for the current year, if known, otherwise on the net general real estate taxes for the preceding year) (_____). STRIKE AND COMPLETE AS APPLICABLE

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

ZONING Seller represents that the property is zoned **For Agricultural Use**.

REPRESENTATIONS REGARDING PROPERTY AND TRANSACTION Seller represents to Buyer that as of the date Seller grants this Option Seller has no notice or knowledge of conditions affecting the Property or transaction (as defined at lines 63 - 88) ~~other than those identified in Seller's property condition report, dated _____, which was received by Buyer prior to Buyer signing this Option~~ COMPLETE DATE OR STRIKE AS APPLICABLE and **The Buyer waives the right to receive a written property disclosure report and the right to rescind the Purchase Agreement.**

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

A "condition affecting the Property or transaction" is defined as follows:

(a) planned or commenced public improvements which may result in special assessments or otherwise materially affect the Property or the present use of the Property;
(b) completed or pending reassessment of the Property for property tax purposes;
(c) government agency or court order requiring repair, alteration or correction of any existing condition;
(d) any land division involving the subject Property, for which required state or local approvals had not been obtained;
(e) any portion of the Property being in a 100 year floodplain, a wetland or a shoreland zoning area under local, state or federal laws;
(f) conditions constituting a significant health or safety hazard for occupants of Property; **Note: Possible LBP Disclosure Requirement.**
(g) underground or aboveground storage tanks on the Property for storage of flammable or combustible liquids including but not limited to gasoline and heating oil which are currently or which were previously located on the Property; **NOTE: Wis. Adm. Code, Chapter Comm 10 contains registration and operation rules for such underground and aboveground storage tanks.**
(h) material violations of environmental laws or other laws or agreements regulating the use of the Property;
(i) high voltage electric (100 KV or greater) or steel natural gas transmission lines located on but not directly serving the Property;
(j) any portion of the Property being subject to, or in violation of, a Farmland Preservation Agreement under a County Farmland Preservation Plan or enrolled in, or in violation of, a Forest Crop, Woodland Tax, Managed Forest, Conservation Reserve or comparable program;
(k) boundary disputes or material violation of fence laws (Wis. Stats. Chapter 90) which require the erection and maintenance of legal fences between adjoining properties where one or both of the properties is used and occupied for farming or grazing purposes;
(l) wells on the Property required to be abandoned under state regulations (Wis. Adm. Code NR 112.26) but which are not abandoned;
(m) cisterns or septic tanks on the Property which are currently not servicing the Property;
(n) subsoil conditions which would significantly increase the cost of building on the property including, but not limited to, subsurface foundations, organic or non-organic fill, dumpsites or containers on Property which contained or currently contain toxic or hazardous materials, high groundwater, soil conditions (e.g. low load bearing capacity) or excessive rocks or rock formations on the Property;
(o) a lack of legal vehicular access to the Property from public roads;
(p) prior reimbursement for corrective action costs under the Agricultural Chemical Cleanup Program (Wis. Stats. §94.73.);
(q) other conditions or occurrences which would reduce the value of the Property to a reasonable person with knowledge of the nature and scope of the condition or occurrence.

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

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

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

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

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

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

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

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

TITLE EVIDENCE

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

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

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

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

DELIVERY/RECEIPT

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

DATES AND DEADLINES

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

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

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

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

If Buyer defaults under the terms of purchase after exercise of this Option, Seller may:
(1) sue for specific performance and request the earnest money as partial payment of the purchase price; or
(2) terminate the purchase agreement and have the option to sue for actual damages.

If Seller defaults under the terms of purchase after exercise of this Option, Buyer may:
(1) sue for specific performance; or
(2) terminate the purchase agreement and sue for actual damages.

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

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

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

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

INSPECTIONS: **Environmental inspections with copies of all reports given to Seller (at no cost) contemporaneous with delivery to Buyer.**

TESTS: **Environmental testing, with copies of all reports given to Seller (at no cost) contemporaneous with delivery to Buyer.**

DELIVERY OF DOCUMENTS AND WRITTEN NOTICES Unless otherwise stated in this Option, delivery of documents and written notices to a Party shall be effective only when accomplished by one of the methods specified at lines 203-212. (1) By depositing the document or written notice postage or fees prepaid in the U.S. Mail or fees prepaid or charged to an account with a commercial delivery service, addressed either to the Party, or to the Party's recipient for delivery designated at lines 206 or 208 (if any), for delivery to the Party's delivery address at lines 207 or 209.

Seller's recipient for delivery (optional): **Attorney Rick A. Flugaur, c/o Anderson, O'Brien Law Firm**

Seller's delivery address: **1257 Main Street, Stevens Point, WI 54481**

Buyer's recipient for delivery (optional): **Michael R. Ostrowski, Director of Community Development**

Buyer's delivery address: **c/o City of Stevens Point, 1515 Strongs Avenue, Stevens Point, Wlw 54481**

(2) By giving the document or written notice personally to the Party or the Party's recipient for delivery if an individual is designated at lines 206 or 208.

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

Buyer: (**715**) **346-1568** Seller: (**715**) **344-1012**

TIME IS OF THE ESSENCE "Time is of the Essence" as to payment of option fees and extension fee and all other dates and deadlines in this Option except: **No Exceptions**. If "Time is of the Essence" applies to a date or deadline, failure to perform by the exact date or deadline is a breach of contract. If "Time is of the Essence" does not apply to a date or deadline, then performance within a reasonable time of the date or deadline is allowed before a breach occurs.

This Option (is) (~~is not~~) STRIKE ONE assignable. This Property (~~is~~) (is not) STRIKE ONE homestead property.

ADDITIONAL PROVISIONS **See Addendum A**

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

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

This Option was drafted on, **9/21/2012** [date] by ~~[Licensee and firm]~~ **Attorney Rick A. Flugaur, Anderson, O'Brien Law Firm**.

(X) _____ _____ _____
Buyer's Signature ▲ Print Name Here: ▶ **Andrew J. Halverson, Mayor** Social Security No. or FEIN (Optional) ▲ Date ▲

(X) _____ _____ _____
Buyer's Signature ▲ Print Name Here: ▶ **John Moe, City Clerk** Social Security No. or FEIN (Optional) ▲ Date ▲

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

(X) _____ _____ _____
Seller's Signature ▲ Print Name Here: ▶ **J. James Zakrzewski** Social Security No. or FEIN (Optional) ▲ Date ▲

(X) _____ _____ _____
Seller's Signature ▲ Print Name Here: ▶ **Delores Zakrzewski** Social Security No. or FEIN (Optional) ▲ Date ▲

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

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

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

(X) _____ (X) _____
Buyer's Signature ▲ Date ▲ Buyer's Signature ▲ Date ▲

ADDENDUM A
TO OPTION TO PURCHASE

J. James Zakrzewski and Delores Zakrzewski, husband and wife ("Seller")
And
City of Stevens Point ("Buyer")

September 21, 2012

The following provisions are incorporated by reference to the Option Agreement:

Description of Property (See Map following this Addendum) and Purchase Price

Seller Parcel Number	Tax ID Parcel Number	Acreage	Purchase Price for the Applicable Seller Parcel Number
One	030230801-16.01	37.07	$1,297,450.00
	Totals	37.07	$1,297,450.00

Exercise of the Option by Buyer

A. Assignment. Without the prior consent of Seller, Buyer may assign in whole or in part, its rights to exercise this Option to a third party of its choice.

B. Voluntary Exercise. Buyer may exercise the Option and purchase all property of Seller identified as Seller Parcel Number One at any time during the term of the Option.

C. Mandatory Exercise. If during the term of this Option, the Buyer or any third party purchases all or any part of the adjacent property owned by MS & S Enterprises, a limited partnership and identified by the current tax identification parcel number 030-23-0801-13, the Buyer shall be obligated to, simultaneous with the purchase of all or any of such adjacent property, purchase Seller's 37.07 acre parcel (Seller Parcel Number One) identified above.

D. Closing of the Purchase:

The transactions shall be closed and occupancy tendered to Buyer thirty (30) days following Seller's receipt of Buyer's written notice of exercise of this Option or, in the event that there are growing crops on the property at the time Buyer's written notice is given, thirty (30) days following the harvest and removal of such crops from the subject Property.

E. Conveyance of Title:

Seller shall convey the Property by Special Warranty Deed upon payment of the Purchase Price.

Seller's Initials _____ Buyer's Initials _____

F. Leases and Closing Prorations:

Seller warrants that all leases for the subject Property shall terminate as of the closing date. All rents pertinent to those leases for the year of closing shall remain the sole property of Seller.

G. Annexation of the Property to the City of Stevens Point:

Upon execution of this Option by both Seller and Buyer, Seller agrees to make application to the City of Stevens Point for annexation of the property to the City of Stevens Point. Upon completion of such annexation, the Buyer agrees that as long as the Property is used for agricultural purposes, it will be assessed as agricultural property (or as agricultural forest for the forested land) by the City of Stevens Point.

Seller's Initials _____ Buyer's Initials _____

WB-24 OPTION TO PURCHASE

Attorney DRAFTING THIS OPTION ON **9/13/2012** [DATE] IS AGENT OF (SELLER) ~~(BUYER) (DUAL AGENT)~~ STRIKE TWO

The Seller, **See attached Addendum**, hereby grants to Buyer, **City of Stevens Point, a Wisconsin municipal corporation**, an option to purchase (Option) the Property known as [Street Address] **See attached Addendum A** in the **Towns** of **Hull and Stockton**, County of **Portage**, Wisconsin, (if this Option is to be recorded, insert legal description at lines 218-224 or attach as an addendum per line 225) on the following terms:

DEADLINE FOR GRANT OF OPTION This Option is void unless a copy of the Option which has been signed by or on behalf of all Owners is delivered to Buyer on or before **September , 2012** (Time is of the Essence).

OPTION TERMS An option fee of $ **n/a** will be paid by Buyer within **n/a** days of the granting of this Option, and shall not be refundable if the Option is not exercised. If the Option is exercised, $ **n/a** of the option fee shall be a credit against the purchase price at closing. This Option may only be exercised by delivering written notice to Seller no later than midnight **September , 2012**. Buyer may sign and deliver the notice at lines 247-248, or may deliver any other written notice which specifically indicates an intent to exercise this Option. This Option shall be extended until **n/a**, upon payment of $ **n/a** in cash or equivalent to Seller on or before **n/a**, as an option extension fee which shall not be refundable if this Option is not exercised. If this Option is exercised, $ **n/a** of the option extension fee shall be a credit against the purchase price at closing. The option fee and option extension fee shall be (paid directly to Seller) (held in listing broker's trust account until **n/a**) STRIKE ONE.

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

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

■ PURCHASE PRICE: _____ Dollars ($ **See Addendum A**) will be paid in cash or equivalent at closing unless otherwise provided below.

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

■ ITEMS NOT INCLUDED IN THE PURCHASE PRICE: **irrigation systems and equipment**

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

PLACE OF CLOSING This transaction is to be closed at ~~the place designated by Buyer's mortgagee or~~ **See Addendum A** ~~within~~ _____ ~~days after the exercise of the Option~~, unless another date or place is agreed to in writing.

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

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

CLOSING PRORATIONS The following items shall be prorated at closing: real estate taxes, rents, private and municipal charges, ~~property owner's association assessments, fuel~~ and **See Addendum A**. Any income, taxes or expenses shall accrue to Seller, and be prorated, through the day prior to closing. Net general real estate taxes shall be prorated based on (the net general real estate taxes for the current year, if known, otherwise on the net general real estate taxes for the preceding year) (_____). STRIKE AND COMPLETE AS APPLICABLE

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

ZONING Seller represents that the property is zoned **For Agricultural and Agricultural Forest Use**.

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

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

A "condition affecting the Property or transaction" is defined as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TITLE EVIDENCE

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

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

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

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

DELIVERY/RECEIPT

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

DATES AND DEADLINES

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

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

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

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

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

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

(2) terminate the purchase agreement and have the option to sue for actual damages.

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

(1) sue for specific performance; or

(2) terminate the purchase agreement and sue for actual damages.

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

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

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

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

INSPECTIONS: **Environmental inspections with copies of all reports given to Seller (at no cost) contemporaneous with delivery to Buyer.**

TESTS: **Environmental testing, with copies of all reports given to Seller (at no cost) contemporaneous with delivery to Buyer.**

DELIVERY OF DOCUMENTS AND WRITTEN NOTICES Unless otherwise stated in this Option, delivery of documents and written notices to a Party shall be effective only when accomplished by one of the methods specified at lines 203-212. (1) By depositing the document or written notice postage or fees prepaid in the U.S. Mail or fees prepaid or charged to an account with a commercial delivery service, addressed either to the Party, or to the Party's recipient for delivery designated at lines 206 or 208 (if any), for delivery to the Party's delivery address at lines 207 or 209.

Seller's recipient for delivery (optional): **Attorney Mark O. Ilten, c/o Anderson, O'Brien Law Firm**

Seller's delivery address: **1257 Main Street, Stevens Point, WI 54481**

Buyer's recipient for delivery (optional): **Michael R. Ostrowski, Director of Community Development**

Buyer's delivery address: **c/o City of Stevens Point, 1515 Strongs Avenue, Stevens Point, Wlw 54481**

(2) By giving the document or written notice personally to the Party or the Party's recipient for delivery if an individual is designated at lines 206 or 208.

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

Buyer: (**715**) **346-1568** Seller: (**715**) **344-1012**

TIME IS OF THE ESSENCE "Time is of the Essence" as to payment of option fees and extension fee and all other dates and deadlines in this Option except: **No Exceptions**. If "Time is of the Essence" applies to a date or deadline, failure to perform by the exact date or deadline is a breach of contract. If "Time is of the Essence" does not apply to a date or deadline, then performance within a reasonable time of the date or deadline is allowed before a breach occurs.

This Option (is) (~~is not~~) STRIKE ONE assignable. This Property (~~is~~) (is not) STRIKE ONE homestead property.

ADDITIONAL PROVISIONS **See Addendum A**

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

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

This Option was drafted on, **9/ /2012** [date] by ~~[Licensee and firm]~~ **Attorney Mark O. Ilten, Anderson, O'Brien Law Firm**.

(X) _____ _____ _____
Buyer's Signature ▲ Print Name Here: ▶ **Andrew J. Halverson, Mayor** Social Security No. or FEIN (Optional) ▲ Date ▲

(X) _____ _____ _____
Buyer's Signature ▲ Print Name Here: ▶ **John Moe, City Clerk** Social Security No. or FEIN (Optional) ▲ Date ▲

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

(X) See attached signature page _____ _____
Seller's Signature ▲ Print Name Here: ▶ Social Security No. or FEIN (Optional) ▲ Date ▲

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

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

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

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

(X) _____ (X) _____
Buyer's Signature ▲ Date ▲ Buyer's Signature ▲ Date ▲

SIGNATURE PAGE
MOCADLO FAMILY OPTION TO CITY OF STEVENS POINT

_____
Jennie Mocadlo

_____
Bernard J. Mocadlo

_____
Thomas J. Mocadlo

_____
Sandra N. Mocadlo

_____
Margaret A. Jakusz

_____
Leo Mocadlo, Jr.

_____
Rosemary Gagas

_____
Leonard L. Mocadlo

_____
Anthony P. Mocadlo

Dated September ____, 2012

MOI:lw 9/13/2012 395711 2053C

ADDENDUM A
TO OPTION TO PURCHASE

Jennie Mocadlo (as to her life interest) and Bernard J. Mocadlo, Thomas J. Mocadlo, Sandra N. Mocadlo, Margaret A. Jakusz, Leo Mocadlo, Jr., Rosemary Gagas, Leonard L. Mocadlo and Anthony P. Mocadlo ("Seller")
And
City of Stevens Point ("Buyer")

September ____, 2012

The following provisions are incorporated by reference to the Option Agreement:

Description of Property (See Map following this Addendum) and Purchase Price

Seller Parcel Number	Ownership	Tax ID Parcel Number	Acreage	Purchase Price for the Applicable Seller Parcel Number
One	A	020-23-0801-05.02	37.01	$1,110,300.00
Two	A	020-23-0801-02.06	17.45	$523,500.00
Three	A	020-23-0801-03.01	19.92	$597,600.00
Four	B	020-23-0801-02.02	17.35	$520,500.00
Five	C	020-23-0801-01.04	15.71	$471,300.00
Six	C	020-23-0801-01.02	15.41	$462,300.00
Seven	C	020-23-0801-04.01	19.83	$594,900.00
Eight	C	020-23-0801-04.02	19.86	$595,800.00
Nine	C	034-23-0906-08.04	40.72	$1,221,600.00
Ten	C	034-23-0906-09.02	42.70	$1,281,000.00

Change to 19.85

Ownership Detail

A: Bernard J. Mocadlo, Thomas J. Mocadlo, Margaret A. Jakusz, Leo Mocadlo, Jr., Rosemary Gagas, Leonard Mocadlo, and Anthony P. Mocadlo subject to the life interest of Jennie Mocadlo.

B: Thomas J. Mocadlo and Sandra M. Mocadlo, husband and wife.

C: Bernard J. Mocadlo.

Exercise of the Option by Buyer

A. Voluntary Exercise:

Buyer may exercise the Option and purchase any combination of separately identified Seller Parcel Numbers provided that Seller Parcel Number Seven may only be acquired concurrently with Tax Parcel 020-23-0801-03.02 owned by Blue Top Farms, Inc.

The option may be exercised independently for each Seller Parcel Number and in any order at any time during the term of the option subject to the conditions described immediately above.

B. Closing of the Purchase:

The transactions shall be closed and occupancy tendered to Buyer thirty (30) days following Seller's receipt of Buyer's written notice of exercise of this Option or, in the event that there are growing crops on the property at the time Buyer's written notice is given, thirty (30) days following the harvest and removal of such crops from the subject Property.

C. Conveyance of Title:

Seller by the owners of record shall convey the Property by Special Warranty Deed upon payment of the Purchase Price.

D. Leases and Closing Prorations:

Seller warrants that all leases for the subject Property shall terminate as of the closing date. All rents pertinent to those leases for the year of closing shall remain the sole property of Seller.

E. Annexation of the Property to the City of Stevens Point:

Upon execution of this Option by both Seller and Buyer, Seller agrees to make application to the City of Stevens Point for annexation of the property to the City of Stevens Point. Upon completion of such annexation, the Buyer agrees that as long as the Property is used for agricultural purposes, it will be assessed as agricultural property (or as agricultural forest for the forested land) by the City of Stevens Point.

Seller's Initials _____	Buyer's Initials _____
Seller's Initials _____	
Seller's Initials _____	
Seller's Initials _____	Seller's Initials _____
Seller's Initials _____	Seller's Initials _____
Seller's Initials _____	Seller's Initials _____

WB-24 OPTION TO PURCHASE

~~BROKER DRAFTING THIS OPTION ON~~ September 7, 2012 [DATE] ~~IS AGENT OF (SELLER)(BUYER)(DUAL AGENT)~~ STRIKE TWO

The Seller, MS&S Enterprises, Limited Partnership, hereby grants to Buyer, City of Stevens Point, an option to purchase (Option) the Property known as [Street Address] See attached Addendum A in the Towns of Plover and Stockton, County of Portage, Wisconsin, (if this Option is to be recorded, insert legal description at lines 218-224 or attach as an addendum per line 225) on the following terms:

DEADLINE FOR GRANT OF OPTION This Option is void unless a copy of the Option which has been signed by or on behalf of all Owners is delivered to Buyer on or before September 12, 2012 (Time is of the Essence).

OPTION TERMS An option fee of $ n/a will be paid by Buyer within n/a days of the granting of this Option, and shall not be refundable if the Option is not exercised. If the Option is exercised, $ n/a of the option fee shall be a credit against the purchase price at closing. This Option may only be exercised by delivering written notice to Seller no later than midnight September 7, 2014. Buyer may sign and deliver the notice at lines 247-248, or may deliver any other written notice which specifically indicates an intent to exercise this Option. This Option shall be extended until n/a, upon payment of $ n/a in cash or equivalent to Seller on or before n/a, as an option extension fee which shall not be refundable if this Option is not exercised. If this Option is exercised, $ n/a of the option extension fee shall be a credit against the purchase price at closing. The option fee and option extension fee shall be (paid directly to Seller) (held in listing broker's trust account until n/a) STRIKE ONE.

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

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

■ PURCHASE PRICE: Dollars ($ see Addendum A) will be paid in cash or equivalent at closing unless otherwise provided below.

■ ADDITIONAL ITEMS INCLUDED IN PURCHASE PRICE: Seller shall include in the purchase price and transfer, free and clear of encumbrances, all fixtures, as defined at lines 172-175 and as may be on the Property on the date of this Option, unless excluded at lines 28-29, and the following additional items: none

■ ITEMS NOT INCLUDED IN THE PURCHASE PRICE: irrigation systems and equipment

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

PLACE OF CLOSING This transaction is to be closed at the ~~place designated by Buyer's mortgagee or~~ (see Addendum A) ~~within~~ _____ ~~days after the exercise of the Option~~, unless another date or place is agreed to in writing.

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

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

CLOSING PRORATIONS The following items shall be prorated at closing: real estate taxes, ~~rents,~~ private and municipal charges, ~~property owner's association assessments, fuel~~ and (see Addendum A) _____. Any income, taxes or expenses shall accrue to Seller, and be prorated, through the day prior to closing. Net general real estate taxes shall be prorated based on (the net general real estate taxes for the current year, if known, otherwise on the net general real estate taxes for the preceding year) (_____). STRIKE AND COMPLETE AS APPLICABLE

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

ZONING Seller represents that the property is zoned for agricultural uses.

REPRESENTATIONS REGARDING PROPERTY AND TRANSACTION Seller represents to Buyer that as of the date Seller grants this Option Seller has no notice or knowledge of conditions affecting the Property or transaction (as defined at lines 63 - 88) ~~other than those identified in Seller's property condition report, dated~~ _____, ~~which was received by Buyer prior to Buyer signing this Option~~ COMPLETE DATE OR STRIKE AS APPLICABLE ~~and~~ The Buyer waives the right to receive a written Property disclosure report and the right to rescind the purchase agreement.

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

(a) planned or commenced public improvements which may result in special assessments or otherwise materially affect the Property or the present use of the Property:
(b) completed or pending reassessment of the Property for property tax purposes;
(c) government agency or court order requiring repair, alteration or correction of any existing condition;
(d) any land division involving the subject Property, for which required state or local approvals had not been obtained;
(e) any portion of the Property being in a 100 year floodplain, a wetland or a shoreland zoning area under local, state or federal laws;
(f) conditions constituting a significant health or safety hazard for occupants of Property;**Note: Possible LBP Disclosure Requirement.**
(g) underground or aboveground storage tanks on the Property for storage of flammable or combustible liquids including but not limited to gasoline and heating oil which are currently or which were previously located on the Property; **NOTE: Wis. Adm. Code, Chapter Comm 10 contains registration and operation rules for such underground and aboveground storage tanks.**
(h) material violations of environmental laws or other laws or agreements regulating the use of the Property;
(i) high voltage electric (100 KV or greater) or steel natural gas transmission lines located on but not directly serving the Property;
(j) any portion of the Property being subject to, or in violation of, a Farmland Preservation Agreement under a County Farmland Preservation Plan or enrolled in, or in violation of, a Forest Crop, Woodland Tax, Managed Forest, Conservation Reserve or comparable program;
(k) boundary disputes or material violation of fence laws (Wis. Stats. Chapter 90) which require the erection and maintenance of legal fences between adjoining properties where one or both of the properties is used and occupied for farming or grazing purposes;
(l) wells on the Property required to be abandoned under state regulations (Wis. Adm. Code NR 112.26) but which are not abandoned;
(m) cisterns or septic tanks on the Property which are currently not servicing the Property;
(n) subsoil conditions which would significantly increase the cost of building on the property including, but not limited to, subsurface foundations, organic or non-organic fill, dumpsites or containers on Property which contained or currently contain toxic or hazardous materials, high groundwater, soil conditions (e.g. low load bearing capacity) or excessive rocks or rock formations on the Property;
(o) a lack of legal vehicular access to the Property from public roads;
(p) prior reimbursement for corrective action costs under the Agricultural Chemical Cleanup Program (Wis. Stats. §94.73);
(q) other conditions or occurrences which would reduce the value of the Property to a reasonable person with knowledge of the nature and scope of the condition or occurrence.

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

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

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

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

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

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

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

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

TITLE EVIDENCE

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

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

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

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

DELIVERY/RECEIPT

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

DATES AND DEADLINES

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

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

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

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

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

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

(2) terminate the purchase agreement and have the option to sue for actual damages.

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

(1) sue for specific performance; or

(2) terminate the purchase agreement and sue for actual damages.

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

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

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

195 PROPERTY ADDRESS: Cty. Hwy. HH and Burbank Road (see Addendum A) [page 4 of 4, WB-24]

196 **AUTHORIZATION FOR INSPECTIONS AND TESTS** Buyer is authorized to conduct the following inspections and tests (see lines 110-121).
197 INSPECTIONS: Environmental inspections, with copies of all reports given to Seller (at no cost)
198 contemporaneous with delivery to Buyer.
199 TESTS: Environmental testing, with copies of all reports given to Seller (at no cost) contemporaneous with
200 delivery to Buyer.

201 **DELIVERY OF DOCUMENTS AND WRITTEN NOTICES** Unless otherwise stated in this Option, delivery of documents and written
202 notices to a Party shall be effective only when accomplished by one of the methods specified at lines 203-212.
203 (1) By depositing the document or written notice postage or fees prepaid in the U.S. Mail or fees prepaid or charged to an account
204 with a commercial delivery service, addressed either to the Party, or to the Party's recipient for delivery designated at lines 206 or 208
205 (if any), for delivery to the Party's delivery address at lines 207 or 209.
206 Seller's recipient for delivery (optional): E. John Buzza, c/o First Law Group S.C.
207 Seller's delivery address: 2900 Hoover Road, Suite A, Stevens Point, WI 54481
208 Buyer's recipient for delivery (optional): Michael R. Ostrowski, Director of Community Development
209 Buyer's delivery address: c/o City of Stevens Point, 1515 Strongs Ave., Stevens Point, WI 54481
210 (2) By giving the document or written notice personally to the Party or the Party's recipient for delivery if an individual is designated at lines 206 or 208.
211 (3) By fax transmission of the document or written notice to the following telephone number:
212 Buyer: (715) 346-1568 Seller: (715) 341-7255

213 **TIME IS OF THE ESSENCE** "Time is of the Essence" as to payment of option fees and extension fee and all other dates and
214 deadlines in this Option ~~except:~~ _____. If "Time is of the Essence"
215 applies to a date or deadline, failure to perform by the exact date or deadline is a breach of contract. If "Time is of the Essence" does not
216 apply to a date or deadline, then performance within a reasonable time of the date or deadline is allowed before a breach occurs.
217 This Option (is)~~(is not)~~ **STRIKE ONE** assignable. This Property ~~(is)~~ (is not) **STRIKE ONE** homestead property.

218 **ADDITIONAL PROVISIONS** See Addendum A
219
220
221
222
223
224

225 **ADDENDA** The attached Addendum A is/are made part of this Option.
226 **IF GRANTED, THIS OPTION CAN CREATE A LEGALLY ENFORCEABLE CONTRACT. BOTH PARTIES SHOULD READ THIS**
227 **OPTION AND ALL ATTACHMENTS CAREFULLY. BROKERS MAY PROVIDE A GENERAL EXPLANATION OF THE**
228 **PROVISIONS OF THE OPTION BUT ARE PROHIBITED BY LAW FROM GIVING ADVICE OR OPINIONS CONCERNING**
229 **YOUR LEGAL RIGHTS UNDER THIS OPTION OR HOW TITLE SHOULD BE TAKEN AT CLOSING IF THE OPTION**
230 **IS EXERCISED. AN ATTORNEY SHOULD BE CONSULTED IF LEGAL ADVICE IS NEEDED.**
231 This Option was drafted on 09/07/2012 [date] by [~~Licensee and Firm~~] E. John Buzza First Law Group S.C.

232 (x) _____ _____ _____
233 Buyer's Signature ▲ Print Name Here: ► Andrew J. Halverson, Mayor Social Security No. or FEIN (Optional) ▲ Date ▲

234 (x) _____ _____ _____
235 Buyer's Signature ▲ Print Name Here: ► John Moe, City Clerk Social Security No. or FEIN (Optional) ▲ Date ▲

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

240 (x) _____ _____ _____
241 Seller's Signature ▲ Print Name Here: ► MS&S Enterprises Ltd. Part. Social Security No. or FEIN (Optional) ▲ Date ▲

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

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

245 THIS OPTION IS REJECTED _____ THIS OPTION IS COUNTERED [See attached counter] _____
246 Seller Initials ▲ Date ▲ Seller Initials ▲ Date ▲

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

248 (x) _____ (x) _____
249 Buyer's Signature ▲ Date ▲ Buyer's Signature ▲ Date ▲

ADDENDUM A

TO OPTION TO PURCHASE

MS&S Enterprises, Limited Partnership ("Seller")
And
City of Stevens Point ("Buyer")

September 7, 2012

The following provisions are incorporated by reference to the Option agreement:

Description of Property (See Map following this Addendum) and Purchase Price

Seller Parcel Number	Tax Id Parcel Numbers	Acreage	Purchase Price for the Applicable Seller Parcel Number
One	034-23-0906:08.01	5.06	
One	034-23-0906:07	36.74	
One	034-23-0906:10	40.19	
One	034-23-0906:09.01	5.61	
	TOTALS	**87.60**	**$ 3,070,467.60**
Two	034-23-0906:23	40.19	
Two	034-23-0906:26.01	36.19	
	TOTALS	**76.38**	**$ 2,677,195.38**
Three	034-23-0906:09.03	1.21	
Three	034-23-0906:24	49.12	
Three	034-23-0906:25	48.72	
Three	030-23-0801-13	39.39	
	TOTALS	**138.44**	**$ 4,852,460.44**

Exercise of the Option by Buyer

A. Voluntary Exercise:

1. Without the prior consent of Seller, Buyer may assign, in whole or in part, its rights to exercise this Option to a third party of its choice;

2. Buyer may exercise the Option and purchase all property of Seller identified as Seller Parcel Numbers One, Two and Three; or,

3. Buyer may exercise the Option and purchase portions of the property if purchased in the following order:

First Purchase: all Tax Id Parcel Numbers identified as Seller Parcel Number One above;

Second Purchase: all Tax Id Parcel Numbers identified as Seller Parcel Number Three above; and

Third Purchase: all Tax Id Parcel Numbers identified as Seller Parcel Number Two above.

B. Mandatory Exercise:

If during the Term of this Option, the Buyer or any third party purchases all or any part of the adjacent property identified by current Tax Id Parcel Numbers 030-23-0801-16.01, 030-23-0801-14 or 030-23-0801-15, the Buyer shall be obligated to, simultaneous with the purchase of all or any of such adjacent property, purchase Seller's 39.39 acre parcel of the Property identified as Tax Id Parcel Number 030-23-0801-13 above for the Purchase Price of $1,380,658.89.

C. Closing of the Purchase:

The transactions shall be closed and occupancy tendered to Buyer thirty (30) days following Seller's receipt of Buyer's written notice of exercise of this Option or, in the event that there are growing crops on the property at the time Buyer's written notice is given, thirty (30) days following the harvest and removal of such crops from the subject Property.

D. Conveyance of Title:

Seller shall convey the Property by Special Warranty Deed upon payment of the Purchase Price.

E. Leases and Closing Prorations:

Seller warrants that all leases for the subject Property shall terminate as of the closing date. All rents pertinent to those leases for the year of closing shall remain the sole property of Seller.

F. Annexation of the Property to the City of Stevens Point:

Upon execution of this Option by both Seller and Buyer, Seller agrees to make application to the City of Stevens Point for annexation of the Property to the City of Stevens Point. Upon completion of such annexation, the Buyer agrees that as long as the Property is used for agricultural purposes, it will be assessed as agricultural property by the City of Stevens Point.