

**CITY OF STEVENS POINT
SPECIAL MEETING OF THE COMMON COUNCIL**

**Stevens Point Police Department
Community Room
933 Michigan Ave**

**November 04, 2019
6:30 P.M.**

1. Roll Call

Discussion and Possible Action on the Following:

2. Resolution - Land Dedication Acceptance of approximately 0.968 acres north of Jefferson Street and east of Brilowski Road for right of way purposes on the south side of 5601 Highway 10 East and 5633 Highway 10 East (Parcel ID's 281240836230004 & 281240836230007).
3. Resolution - Land Acceptance of approximately 0.784 acres, north of Jefferson Street and east of Brilowski Road for Storm Water Pond on the south side of the 5601 Highway 10 East (Parcel ID 281240836230004).
4. Stormwater Agreement Approval with RBR Joint Venture for an area east of Brilowski Road and north of Jefferson Street.
5. Update from staff on the status of the Fox Theater.
6. Adjournment.

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.

RESOLUTION

[LAND DEDICATION ACCEPTANCE FOR RIGHT-OF-WAY PURPOSES]

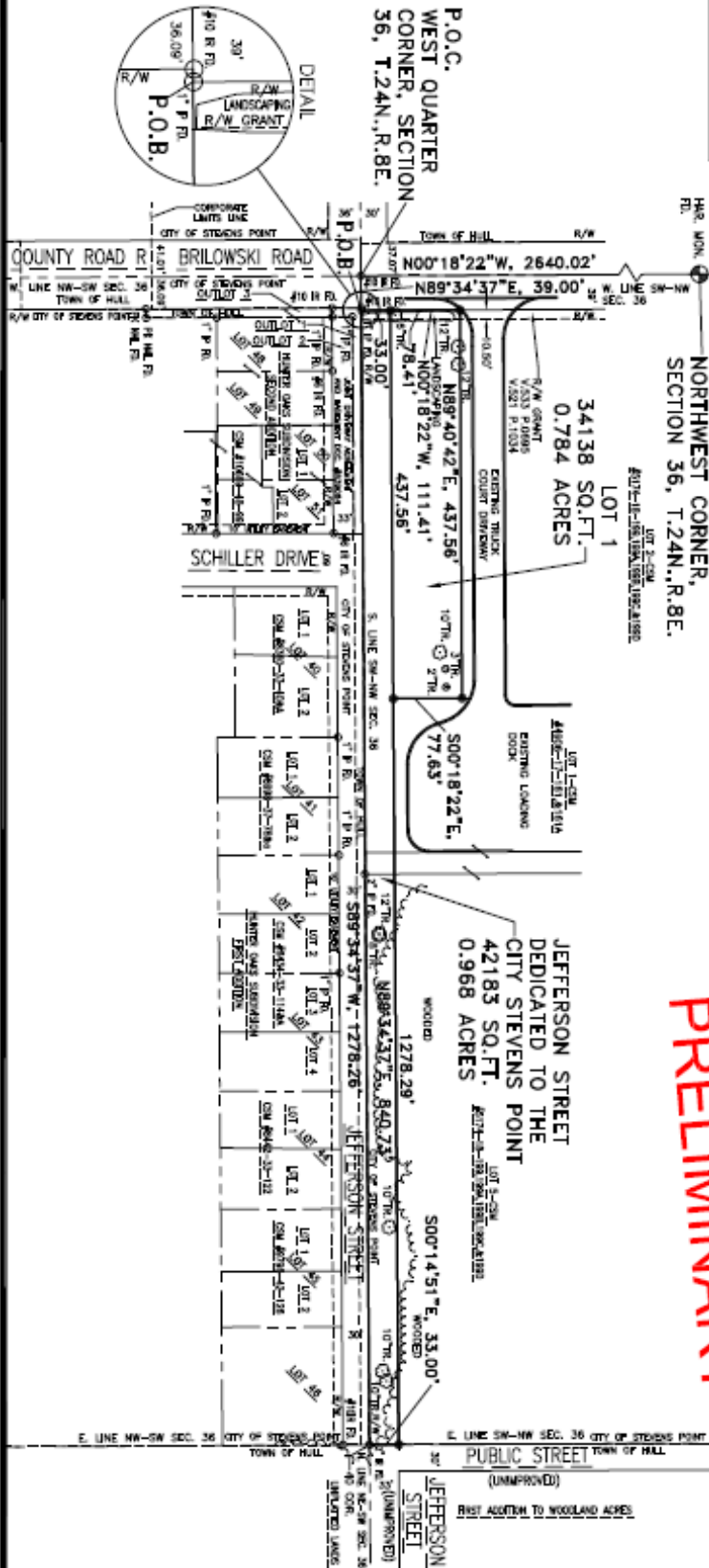
BE IT RESOLVED by the Common Council of the City of Stevens Point, Portage County, Wisconsin, does hereby accept the dedication of land for right-of-way purposes as shown on the attached map. Said land quantity may change slightly dependent upon development and other factors.

Approved: _____
Mike Wiza, Mayor

Attest: _____
Paul Piotrowski, City Clerk

Dated: October 31, 2019
Adopted: November 4, 2019

Drafted by: Kyle Kearns
Return to: City Clerk



PRELIMINARY

LEGEND

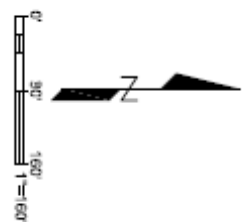
- 3/4" x 18" IRON REBAR SET-1.5#/FT.
- 1 1/4" x 18" IRON REBAR SET-4.3#/FT.

NOTES

THIS INSTRUMENT WAS DRAFTED BY PATRICK J. FUEHRER.
 THE BEARINGS HEREIN ARE REFERENCED TO THE WISCONSIN COUNTY COORDINATE SYSTEM-PORTAGE COUNTY-NAD 83. THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 36 BEARS N00°18'22"W.
 THIS CSM IS SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.
 LOT 1 OF THIS CSM IS RESERVED FOR A DETENTION POND AND ALL APPURTENANCES AS DEFINED BY THE STORMWATER INFRASTRUCTURE AGREEMENT DATED _____ 2019 AND RECORDED AS DOCUMENT NO. _____

CERTIFIED SURVEY MAP

BEGING PART OF LOTS 2 AND 5 OF PORTAGE COUNTY CERTIFIED SURVEY MAP NUMBER 5174-19-199, LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 36, TOWNSHIP 24 NORTH, RANGE 8 EAST, CITY OF STEVENS POINT, PORTAGE COUNTY, WISCONSIN.



SURVEYOR'S CERTIFICATE

I Patrick J. Fuehrer, Professional Land Surveyor, do hereby certify:

That I have surveyed, divided, and mapped the land described and represented by this Certified Survey Map, being part of Lots 2 and 5 of Portage County Certified Survey Map Number 5174-18-199, located in the Southwest Quarter of the Northwest Quarter of Section 36, Township 24 North, Range 8 East, City of Stevens Point, Portage County, Wisconsin.

Commencing at the west quarter corner of said Section 36; thence North 89 degrees 34 minutes 37 seconds East along the south line of said Southwest Quarter of the Northwest Quarter of Section 36 a distance of 39.00 feet to the east right-of-way line of Brilowski Road and the point of beginning; thence North 00 degrees 18 minutes 22 seconds West along said east right-of-way line 111.41 feet; thence North 89 degrees 40 minutes 42 seconds East 437.56 feet; thence South 00 degrees 18 minutes 22 seconds East parallel with said east right-of-way line 77.63 feet; thence North 89 degrees 34 minutes 37 seconds East parallel with said south line of the Southwest Quarter of the Northwest Quarter of Section 36 and the south line of said Lots 2 and 5 of Portage County Certified Survey Map Number 5174-18-199 a distance of 840.73 feet to the east line of said Southwest Quarter of the Northwest Quarter of Section 36 and the east line of said Lot 5; thence South 00 degrees 14 minutes 51 seconds East along said east line of the Southwest Quarter of the Northwest Quarter of Section 36 and said east line of Lot 5 a distance of 33.00 feet to the southeast corner thereof; thence South 89 degrees 34 minutes 37 seconds West along said south line of the Southwest Quarter of the Northwest Quarter of Section 36 and said south line of Lots 2 and 5 of Portage County Certified Survey Map Number 5174-18-199 a distance of 1,278.26 feet to the point of beginning and there terminating. Subject to restrictions, reservations, right-of-ways, and easements of record.

That I have made such survey, and map at the direction of the City of Stevens Point. That such map is a correct representation of all the exterior boundaries of the land surveyed. That I have fully complied with the provisions of Chapter 236.34 of the Wisconsin Statutes, and local ordinances of the City of Stevens Point, in surveying and mapping the same.

PRELIMINARY

Dated: _____, 2019

Patrick J. Fuehrer, PLS No. 2973

CITY OF STEVENS POINT ACCEPTANCE CERTIFICATE

I hereby certify this map and accompanying information is (approved) (conditionally approved) pursuant to the Building and Safety Ordinances of Stevens Point on the basis of the following (facts) (conditions):

By: _____

Kyle Kearns
Associate Planner/Zoning Administrator

CORPORATE OWNERS CERTIFICATE OF DEDICATION

RBR Joint Venture, a General Partnership duly organized and existing under and by the virtue of the laws of the state of Arkansas, as owner, does hereby certify that said general partnership has caused the land described on this Certified Survey Map to be surveyed, divided, mapped, and dedicated as represented herein; and RBR Joint Venture does further certify that this certified survey map is required by s.236.10 or s.236.12 of the Wisconsin Statutes to be submitted to the following for approval or objection.

- 1) City of Stevens Point

In witness whereof, said RBR Joint Venture has caused these presents to be signed by Doyle W. Rogers, Jr. and Barbara Rogers Hoover, Trustees for The Irrevocable Trust of Doyle W. Rogers, Sr. and Josephine Raye Rogers, at Little Rock, Arkansas and its corporate seal to be hereunto affixed this ____ day of _____, 2019.

Doyle W. Rogers, Jr.
Trustee

Barbara Rogers Hoover
Trustee

STATE OF ARKANSAS)
COUNTY OF _____)ss

Personally came before me this ____ day of _____, 2019, Doyle W. Rogers, Jr. and Barbara Rogers Hoover, of the above named general partnership, to me known to be the persons who executed the foregoing instrument and acknowledged that they executed the foregoing instrument as such officers, as the deed of said general partnership, by its authority.

Notary Public
_____ County, Arkansas
My commission expires _____.

PRELIMINARY

CITY OF STEVENS POINT COMMON COUNCIL APPROVAL

This land division is hereby approved by the City of Stevens Point Common Council as being in conformance with the City subdivision ordinances. The City of Stevens Point Common Council also hereby approves and accepts the land dedication shown thereon.

Adopted by Resolution No. _____ dated _____.

Mike Wiza
Mayor

Paul Piotrowski
City Clerk

RESOLUTION

[LAND ACCEPTANCE FOR RIGHT-OF-WAY PURPOSES]

BE IT RESOLVED by the Common Council of the City of Stevens Point, Portage County, Wisconsin, does hereby accept Lot 1 for stormwater purposes as shown on the attached map. Said land quantity may change slightly dependent upon development and other factors.

Approved: _____
Mike Wiza, Mayor

Attest: _____
Paul Piotrowski, City Clerk

Dated: October 31, 2019
Adopted: November 4, 2019

Drafted by: Kyle Kearns
Return to: City Clerk

SURVEYOR'S CERTIFICATE

I Patrick J. Fuehrer, Professional Land Surveyor, do hereby certify:

That I have surveyed, divided, and mapped the land described and represented by this Certified Survey Map, being part of Lots 2 and 5 of Portage County Certified Survey Map Number 5174-18-199, located in the Southwest Quarter of the Northwest Quarter of Section 36, Township 24 North, Range 8 East, City of Stevens Point, Portage County, Wisconsin.

Commencing at the west quarter corner of said Section 36; thence North 89 degrees 34 minutes 37 seconds East along the south line of said Southwest Quarter of the Northwest Quarter of Section 36 a distance of 39.00 feet to the east right-of-way line of Brilowski Road and the point of beginning; thence North 00 degrees 18 minutes 22 seconds West along said east right-of-way line 111.41 feet; thence North 89 degrees 40 minutes 42 seconds East 437.56 feet; thence South 00 degrees 18 minutes 22 seconds East parallel with said east right-of-way line 77.63 feet; thence North 89 degrees 34 minutes 37 seconds East parallel with said south line of the Southwest Quarter of the Northwest Quarter of Section 36 and the south line of said Lots 2 and 5 of Portage County Certified Survey Map Number 5174-18-199 a distance of 840.73 feet to the east line of said Southwest Quarter of the Northwest Quarter of Section 36 and the east line of said Lot 5; thence South 00 degrees 14 minutes 51 seconds East along said east line of the Southwest Quarter of the Northwest Quarter of Section 36 and said east line of Lot 5 a distance of 33.00 feet to the southeast corner thereof; thence South 89 degrees 34 minutes 37 seconds West along said south line of the Southwest Quarter of the Northwest Quarter of Section 36 and said south line of Lots 2 and 5 of Portage County Certified Survey Map Number 5174-18-199 a distance of 1,278.26 feet to the point of beginning and there terminating. Subject to restrictions, reservations, right-of-ways, and easements of record.

That I have made such survey, and map at the direction of the City of Stevens Point. That such map is a correct representation of all the exterior boundaries of the land surveyed. That I have fully complied with the provisions of Chapter 236.34 of the Wisconsin Statutes, and local ordinances of the City of Stevens Point, in surveying and mapping the same.

PRELIMINARY

Dated: _____, 2019

Patrick J. Fuehrer, PLS No. 2973

CITY OF STEVENS POINT ACCEPTANCE CERTIFICATE

I hereby certify this map and accompanying information is (approved) (conditionally approved) pursuant to the Building and Safety Ordinances of Stevens Point on the basis of the following (facts) (conditions):

By: _____

Kyle Kearns
Associate Planner/Zoning Administrator

CORPORATE OWNERS CERTIFICATE OF DEDICATION

RBR Joint Venture, a General Partnership duly organized and existing under and by the virtue of the laws of the state of Arkansas, as owner, does hereby certify that said general partnership has caused the land described on this Certified Survey Map to be surveyed, divided, mapped, and dedicated as represented herein; and RBR Joint Venture does further certify that this certified survey map is required by s.236.10 or s.236.12 of the Wisconsin Statutes to be submitted to the following for approval or objection.

- 1) City of Stevens Point

In witness whereof, said RBR Joint Venture has caused these presents to be signed by Doyle W. Rogers, Jr. and Barbara Rogers Hoover, Trustees for The Irrevocable Trust of Doyle W. Rogers, Sr. and Josephine Raye Rogers, at Little Rock, Arkansas and its corporate seal to be hereunto affixed this ____ day of _____, 2019.

Doyle W. Rogers, Jr.
Trustee

Barbara Rogers Hoover
Trustee

STATE OF ARKANSAS)
COUNTY OF _____)ss

Personally came before me this ____ day of _____, 2019, Doyle W. Rogers, Jr. and Barbara Rogers Hoover, of the above named general partnership, to me known to be the persons who executed the foregoing instrument and acknowledged that they executed the foregoing instrument as such officers, as the deed of said general partnership, by its authority.

Notary Public
_____ County, Arkansas
My commission expires _____.

PRELIMINARY

CITY OF STEVENS POINT COMMON COUNCIL APPROVAL

This land division is hereby approved by the City of Stevens Point Common Council as being in conformance with the City subdivision ordinances. The City of Stevens Point Common Council also hereby approves and accepts the land dedication shown thereon.

Adopted by Resolution No. _____ dated _____.

Mike Wiza
Mayor

Paul Piotrowski
City Clerk

STORMWATER INFRASTRUCTURE AGREEMENT

THIS STORMWATER INFRASTRUCTURE AGREEMENT (“Agreement”) is made and entered into as of the ___ day of _____, 2019 by and between the City of Stevens Point, Wisconsin, a Wisconsin municipal corporation with its primary office located at 1515 Strongs Ave., Stevens Point, Wisconsin 54481 (the “City”) and RBR Joint Venture, an Arkansas General Partnership, with primary offices located at C/O the Doyle Rogers Company, 2222 Cottondale Lane, Suite 300, Little Rock, Arkansas 72202 (“RBR”).

RECITALS

WHEREAS, the City operates a Stormwater Utility which constructs and operates stormwater infrastructure within the City; and

WHEREAS, the portion of Jefferson Street east of Brilowski Road within the City has experienced areal flooding due to stormwater runoff to an extent that is a threat to property and an inconvenience to residents; and

WHEREAS, RBR currently owns and maintains a stormwater detention pond on property it owns at the northeast corner of Brilowski Road and Jefferson Street identified as Lot 1 (as defined below); and

WHEREAS, the City desires to assume ownership, management and maintenance of the existing stormwater detention pond located on Lot 1; and

WHEREAS, The City desires to expand the Jefferson Street right-of-way to a full standard width and construct a ditch along the north edge of such right-of-way to divert stormwater into the existing stormwater detention pond on Lot 1 to alleviate the impact of stormwater runoff in the vicinity of Jefferson Street east of Brilowski Road; and

WHEREAS, RBR’s property located immediately north of Jefferson Street will benefit from improved stormwater management in the immediate vicinity of such property; and

WHEREAS, RBR wishes to dedicate a portion of its property to the City for purposes of constructing such stormwater infrastructure and for expanding the right-of-way for Jefferson Street to a standard width; and

NOW THEREFORE, in consideration of the promises and mutual obligations of the parties contained herein, each of them does hereby represent, covenant, and agree with the other as outlined in this Agreement.

Part 1. DEFINITIONS

Lot 1 – “Lot 1” is the approximately 0.784 acre area identified as Lot 1 on the Certified Survey Map attached as Exhibit A.

Jefferson Street Dedicated – “Jefferson Street Dedicated” is the approximately 0.968 acre area identified on the Certified Survey Map attached as Exhibit A as “Jefferson Street Dedicated to the City of Stevens Point”.

Walmart Property – “Walmart Property” is the property described on Exhibit B which is attached hereto.

RBR Property – “RBR Property” is the property described on Exhibit D C which is attached hereto.

Part 2. PARTIES’ WARRANTIES AND REPRESENTATIONS

Division 2.01 City Representations

The City makes the following representations as the basis for the undertaking on its part herein contained:

- A. The City is a municipal corporation and political subdivision organized under the laws of the State of Wisconsin.
- B. The City has the authority to enter into this Agreement and carry out its obligations hereunder pursuant to the authority granted to it by the Wisconsin Constitution and State law.
- C. The parties signing below on behalf of the City have been fully authorized to execute this Agreement on behalf of the City.

Division 2.02 RBR Warranties and Representations

RBR makes the following warranties and representations as the basis for the undertaking on its part herein contained:

- A. RBR is a duly organized general partnership under the laws of the State of Arkansas, and is not in violation of any provisions of its partnership agreement, as amended.
- B. RBR has the power to perform its obligations hereunder and has duly authorized the execution, delivery, and performance of this Agreement by proper partnership action.
- C. The parties signing below for RBR warrant that they have full power and authority to execute this Agreement on behalf of the RBR, and to bind RBR to the Agreement.

- D. Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with, or results in the breach of the terms, conditions, or provisions of any contractual restriction, evidence of indebtedness, agreement or instrument of whatever nature to which RBR is now a party or by which is bound, or constitutes a default under any of the foregoing.

Part 3. PARTIES' UNDERTAKINGS

Division 3.01 RBR's Undertakings

Section 3.01.01 Dedication of Land for Stormwater Infrastructure

RBR agrees to transfer Lot 1 for the City's use to operate and maintain an existing stormwater detention pond upon the condition of the City's fulfillment of the obligations and covenants stated in Section 3.02. RBR further agrees to dedicate all of Jefferson Street Dedicated as public right-of-way for the expansion of Jefferson Street upon the condition of the City's fulfillment of the obligations and covenants stated in Section 3.02. Such dedication shall be forever and irrevocable upon the execution of this Agreement so long as the City complies with its obligations and covenants contained in Section 3.02.

Division 3.02 City Undertakings

Section 3.02.01 Construction of Improvements

- The City shall construct stormwater infrastructure improvements and expand Jefferson Street east of Brilowski Road to full standard width and connect Jefferson Street to Brilowski Road.
- The City shall grant an easement to current & future owners of the former Walmart Property to use the stormwater detention pond located in Lot 1 for runoff originating from the Walmart Property up to the extent that stormwater had been diverted from impervious surface within the Walmart Property into the stormwater detention pond prior to the effective date of this Agreement. Any net addition of impervious surface to the Walmart Property subsequent to the effective date of this Agreement shall be subject to rules and regulations generally applicable to stormwater management under law, including but not limited to Chapter 31 of the Revised Municipal Code of the City of Stevens Point.
- Upon transfer of ownership of the stormwater detention pond on Lot 1 to the City, the City shall be responsible for maintenance and repair of all such stormwater

infrastructure of such property, including, but not limited to, mowing, litter removal, erosion control, and maintenance of clear water flow channels and pipes.

- The City shall expand and extend Jefferson Street from Brilowski Road to the eastern boundary of RBR's property when development of the Walmart Property, or any property owned by RBR adjacent to the Walmart Property or surrounding area necessitates it (such being a "Necessitating Event"). The request of RBR or any successor or assignee or any owner of the Walmart Property or RBR Property for approval of a building permit for the vacant parcel immediately east of the Walmart Property shall constitute a Necessitating Event. Such construction will require approval of the connection between Jefferson Street and Brilowski Road by Portage County. The City agrees to request such permission and diligently pursue its approval, but cannot guarantee that such connection will gain approval by Portage County.
- Pursuant to any approved site development plan for the vacant parcel adjacent to the Walmart Property, the City shall approve access from the RBR Property to the expanded Jefferson Street and thereby to Brilowski Road. Nothing in this section is intended to supersede any applicable design standards or applicable law governing the location and design of driveways or highway facilities.

Division 3.03 The obligations of RBR and the City pursuant to Division 3.01 and 3.02 shall survive the dedications contemplated by this Agreement and shall not be merged into any such dedication deeds or certificates. It is further understood and agreed by RBR and the City that such obligations and covenants under Division 3.01 and 3.02 shall survive and be enforceable by either party and require either party to execute any documents to give full effect to the intent of this agreement.

Part 4. ASSIGNMENT

The rights, duties, and obligations of the RBR hereunder may be assigned by RBR provided that prior to any such assignment RBR provides written notice to the City to the assignment.

Part 5. DEFAULT PROVISIONS

Division 5.01 Notice of Default

In the event either party is in default hereunder (the "Defaulting Party"), the other party (the "Non-defaulting Party") shall be entitled to take any action allowed by applicable law by virtue of said default provided that the Non-Defaulting Party first gives the Defaulting Party written notice of default describing the nature of the default, what action, if any, is deemed

necessary to cure the same and specifying a time period of not less than thirty (30) days in which the default may be cured by the Defaulting Party.

Part 6. NOTICES

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

To RBR:

RBR Joint Venture
C/O the Doyle Rogers Company
2222 Cottdale Lane, Suite 300
Little Rock, AR 72202

To the City:

City Clerk
City of Stevens Point
1515 Strongs Avenue
Stevens Point, WI 54481

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

Part 7. NO PERSONAL LIABILITY

Under no circumstances shall any alderperson, officer, official, commissioner, director, member, partner or employee of the City have any personal liability arising out of this Agreement, and no party shall seek or claim any such personal liability. The limitation on personal liability included in this Part shall extend to RBR's assignment of this Agreement to a partnership or to a limited liability company consistent with Part 4.

Part 8. MISCELLANEOUS PROVISIONS

Division 8.01 Entire Agreement

This document contains the entire agreement between RBR and the City and it shall inure to the benefit of and shall be binding upon the parties hereto and the respective heirs, executives, successors and assigns. This Agreement may be modified only by a written Amendment signed by the parties, which Amendment shall become effective upon the recording in the Office of the Register of Deeds for Portage County.

Division 8.02 Governing Law

The internal laws of the State of Wisconsin shall govern this Agreement.

Division 8.03 Captions

The captions or headings in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any of the provisions of this Agreement.

Division 8.04 Counterparts

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

Division 8.05 Severability

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

Part 9: AUTHORIZATIONS

For RBR:

The undersigned authorized representative of RBR has read, understands, and accepts the terms and conditions of the above Relocation Grant Award Agreement:

For RBR: The Irrevocable Trust of Doyle W. Rogers, Sr. and Josephine Raye Rogers

By: _____ Date: _____
Doyle W. Rogers, Jr.
Trustee

By: _____ Date: _____
Barbara Rogers Hoover
Trustee

For City:

The execution of this Agreement by the City was authorized by resolution of the City Council adopted the _____ day of _____ 20____.

By: _____
Mike Wiza, Mayor

Date: _____

Attest: _____
Paul Piotrowski, Clerk

Date: _____

EXHIBIT A

CSM

EXHIBIT B

Legal Description of Walmart Property

Lot 2 of Portage County Certified Survey Map Number 5174-18-199, located in the Southwest Quarter of the Northwest Quarter of Section 36, Township 24 North, Range 8 East, City of Stevens Point, Portage County, Wisconsin.

Excepting therefrom that part used for highway purposes recorded with the Portage County Register of Deeds as Document Number 684956.

Subject to all easements, restrictions, reservations, covenants, resolutions, and public dedications of record.

EXHIBIT C

Legal Description of RBR Property

Lots 4 and 5 of Portage County Certified Survey Map Number 5174-18-199, located in the Southwest Quarter of the Northwest Quarter of Section 36, Township 24 North, Range 8 East, City of Stevens Point, Portage County, Wisconsin.

Subject to all easements, restrictions, reservations, covenants, resolutions, and public dedications of record.