

54.



City of West Allis Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number	Title	Status
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R-2007-0186	Resolution	In Committee
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Resolution authorizing the Purchase and Sale Agreement between the Community Development Authority of the City of West Allis and PyraMax Bank, F.S.B. for land located at the Southwest corner of W. National Ave. and S. 81 St. within Tax Incremental District Number Nine - Pioneer Neighborhood Redevelopment Area.

Introduced: 8/7/2007

Controlling Body: Safety & Development Committee

Sponsor(s): Safety & Development Committee

COMMITTEE RECOMMENDATION ADOPT

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>8/7/07</u>			Barczak				✓
			Czaplewski				
			Dobrowski				
			Kopplin				
			Lajsic	✓			
			Narlock				
		✓	Reinke	✓			
			Sengstock				
			Vitale	✓			
	✓		Weigel	✓			
			TOTAL	<u>4</u>	<u>0</u>		<u>1</u>

SIGNATURE OF COMMITTEE MEMBER

[Signature] _____
 Chair Vice-Chair Member

COMMON COUNCIL ACTION ADOPT

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>AUG - 7 2007</u>			Barczak				✓
			Czaplewski	✓			
			Dobrowski	✓			
			Kopplin	✓			
	✓		Lajsic	✓			
			Narlock	✓			
			Reinke	✓			
			Sengstock	✓			
		✓	Vitale	✓			
			Weigel	✓			
			TOTAL:	<u>9</u>			<u>1</u>



City of West Allis

7525 W. Greenfield Ave.
West Allis, WI 53214

Resolution

File Number: R-2007-0186

Final Action:

AUG - 7 2007

Sponsor(s): Safety & Development Committee

Resolution authorizing the Purchase and Sale Agreement between the Community Development Authority of the City of West Allis and PyraMax Bank, F.S.B. for land located at the Southwest corner of W. National Ave. and S. 81 St. within Tax Incremental District Number Nine - Pioneer Neighborhood Redevelopment Area.

WHEREAS, the Community Development Authority of the City of West Allis (the "Authority") is the owner of certain real property located within the Pioneer Neighborhood Redevelopment Area; and,

WHEREAS, the Authority has duly noticed and a held a Public Hearing on the sale of property on May 8, 2007; and,

WHEREAS, the Authority, by Resolution No. 684, adopted July 10, 2007, approved said Agreement by and between the Community Development Authority of the City of West Allis and PyraMax Bank, F.S.B for the Pioneer Neighborhood Redevelopment Area.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis, that it hereby approves the Purchase and Sale Agreement by and between the Community Development Authority of the City of West Allis and PyraMax Bank, F.S.B. for land located at the Southwest corner of W. National Ave. and S. 81 St. within Tax Incremental District Number Nine - Pioneer Neighborhood Redevelopment Area, dated August 7, 2007 which is hereby attached.

BE IT FURTHER RESOLVED that the Director of Development be and is hereby authorized to execute and deliver the Agreement on behalf of the City of West Allis.

BE IT FURTHER RESOLVED that the City Attorney be and is hereby authorized to make such substantive changes, modifications, additions and deletions to and from the various provisions of the Agreement, including any and all attachments, exhibits, addendums and amendments, as may be necessary and proper to correct inconsistencies, eliminate ambiguity and otherwise clarify and supplement said provisions to preserve and maintain the general intent thereof, and to prepare and deliver such other and further documents as may be reasonably necessary to complete the transactions contemplated therein.

cc: Development Department

DEV-R-479-8-7-07

ADOPTED AUG - 7 2007
Paul M. Ziehler
Paul M. Ziehler, City Admin. Officer, Clerk/Treas.

APPROVED August 8, 2007
Jeannette Bell
Jeannette Bell, Mayor

AGREEMENT FOR PURCHASE AND SALE

THIS AGREEMENT FOR PURCHASE AND SALE ("Agreement") is made as of the 9th day of July, 2007, by and between the **COMMUNITY DEVELOPMENT AUTHORITY OF THE CITY OF WEST ALLIS** ("Seller") and **PYRAMAX BANK, F.S.B.** ("Buyer"), collectively, the "Parties."

FOR AND IN CONSIDERATION of the undertakings and mutual covenants of the Parties set forth herein, the right and sufficiency of which are hereby acknowledged, Seller and Buyer hereby covenant and agree as follows:

1. **PROPERTY**. Seller hereby agrees to sell and convey unto Buyer and Buyer hereby agrees to buy and pay for the that certain tract of real property located at the southwest corner of W. National Ave. and S. 80 St., in the City of West Allis, Milwaukee County, Wisconsin, consisting of approximately 0.499 acres of land as more particularly described and depicted as City of West Allis tax key parcels:

Tax Key Nos.	
452-0596-000	8001 W. National Avenue
452-0522-000	80** W. National Avenue

A legal description and map of which is attached hereto as **Exhibit "A"** and made a part hereof (the "Property"), together with all of Seller's interest in each and every easement, access right, privilege and appurtenance thereto, currently in existence (or to be created pursuant to this Agreement) serving the Property subject to the terms of this agreement.

2. **PURCHASE PRICE**. The purchase price for the Property shall be Three Dollars (\$3.00) per sq. ft. for a total of Sixty-Five Thousand Two Hundred Nine and NO/100 Dollars (\$65,209.00) provided hereunder (the "Purchase Price"), to be paid as follows:

A. Sixty-Five Thousand Two Hundred Nine and NO/100 Dollars (\$65,209.00) in cash at Closing.

B. A credit of One Thousand and NO/100 Dollars (\$1,000.00) for the Pre-Construction Guarantee will be deducted from the Purchase Price at closing.

2.1 Conveyance. Seller shall at closing and upon payment of the Purchase Price, convey the Property to Buyer by Warranty Deed free and clear of all liens and encumbrances, except municipal and zoning ordinances, recorded utility easements, recorded building and use restrictions and covenants, and the Development Agreement as described in Section 9.

2.2 Site Preparation. Prior to sale, the site will be free of all structures. Seller shall convey the Property "as is". Buyer shall be responsible for all costs associated with foundation removal and all general site preparation. Site preparation shall be subject to the Environmental Addendum **Exhibit "B"**, which sets forth the agreement of the Parties with regard to environmental matters.

3. BUYER'S CONTINGENCIES. The obligation of Buyer to consummate the transaction contemplated hereby is subject to the fulfillment of all of the following conditions (which may be waived by Buyer in whole or in part, in its sole discretion):

A. Compliance with Agreement. Seller shall have performed and complied with all of its obligations under this Agreement to the extent such obligations are to be performed or complied with by Seller on or before the Closing Date (as defined below).

B. No Misrepresentation or Breach of Covenants and Warranties. There shall have been no breach by Seller in the performance of any of its covenants herein, and each of the representations and warranties of Seller outlined or referred to in this Agreement shall be true and correct in all respects on the Closing Date as though made on the Closing Date, except to the extent any deviation there from may be created by Buyer.

C. No Litigation. There shall be no litigation, threat, investigation, or other proceeding challenging or affecting the legality of the transactions contemplated by this agreement, or seeking

the restraint, prohibition, damages or other relief in connection with this agreement or the use intended for the property by Buyer, and none of the same shall have been instituted or threatened by any person, agency, or other entity prior to closing. Such litigation or threat thereof shall include, but not be limited to, challenges to Seller's right to take the Property or the rights of tenants or occupants of the Property to remain.

D. Title Evidence. As a condition to Buyer's obligations hereunder, Seller shall cause to be delivered to Buyer within ten (10) days after the date of this Agreement a commitment to issue ("Title Commitment") an ALTA owner's policy of title insurance (ALTA Owner's Policy – Form B 1970 (Rev. 10-17-70 and Rev. 10-17-84)) in the amount of the Purchase Price ("Title Policy") issued by Lawyers Title Insurance Corporation ("Title Company"). The final Title Policy issued pursuant to the Title Commitment shall show title as of the date of Closing subject only to the matters set forth below ("Permitted Encumbrances"):

- (1) Municipal and zoning ordinances;
 - (2) Recorded easements for public utilities and for drainage acceptable to Buyer;
 - (3) General real estate taxes levied in the year after the year of Closing and thereafter;
 - (4) This Agreement, the Development Agreement, attached hereto as **Exhibit "C"** and the Memorandum of Agreement, attached hereto as **Exhibit "D"**, described in Section 5, below. It is the intent of the Parties, pursuant to Section 66.1333(9)(c), Wis. Stat., that terms of this Purchase and Sale Agreement carry out the approved redevelopment plan and that the terms of the Agreement have priority over any other obligations of Developer and that said obligations run with the land.
 - (5) Those matters set forth in the Title Commitment not objected to by Buyer.
- Buyer shall have ten (10) days after the receipt of a written waiver of Seller's contingencies

described in Section 4 of this Agreement to object in writing to any condition of title not a Permitted Encumbrance under this Agreement, and to object to any existing easement that affects the Property. Buyer's failure to so object shall constitute a waiver of any objections. Matters specifically stated in the Title Commitment and not objected to by Buyer within ten (10) days after the receipt of a written waiver of Seller's contingencies described in Section 4 of this Agreement shall become Permitted Encumbrances. If any objection is made, Seller shall have fifteen (15) days thereafter in which to correct the condition. If the condition of title is not or cannot be corrected within the fifteen (15) day period to Buyer's satisfaction, Buyer shall within ten (10) days thereafter, at its option, either (a) declare this Agreement null and void and all money paid by Buyer as Earnest Money, if any, shall be returned immediately to Buyer, or (b) accept such title as Seller is able to convey and proceed to closing without adjustment of the Purchase Price. Seller's inability or failure to correct any such condition of title shall not constitute a default by Seller hereunder, unless such title condition is caused by Seller. If Buyer does not, within ten (10) days after the expiration of the fifteen (15) day period described above, elect either (a) or (b) above, then it shall be deemed that Buyer has elected (b) and has accepted such title as Seller is able to convey and shall proceed to closing without adjustment of the Purchase Price.

E. Seller's Permits, Approvals, Test, and Reports. Seller shall have furnished to Buyer such documents in Seller's possession or under its control, or which Seller may obtain hereafter, as may be requested by Buyer for purposes of evaluating the Property and its ability to use the Property for the use intended by Buyer. As a condition precedent to Seller's obligations under this provision, Buyer shall furnish to Seller, within forty-five (45) calendar days after the date of this Agreement, a comprehensive list of documents, test results, studies and reports ("Document List") referred to or described above that are already in the possession of Buyer or its agents, and Seller shall not be obligated to provide anything to Buyer which is contained on the Document List.

F. Governmental Approvals and Permits. As a condition to Buyer's obligations hereunder, Buyer shall have obtained at Buyer's expense sixty (60) days prior to the Closing Date for the Property, all governmental approvals and permits necessary in order to construct the contemplated development on the Property. Buyer acknowledges that Buyer will have sole responsibility for making applications for and securing all such necessary permits, approvals and licenses and Buyer agrees to act in good faith to attempt to obtain all such necessary permits, approvals and licenses. Seller shall cooperate with Buyer and assist in obtaining all documents necessary for Buyer to obtain the approvals and permits, including, but not limited to, one or more applications for approval by the Milwaukee Metropolitan Sewerage District. Failure to meet this contingency shall relieve the Parties of any further obligations under this agreement.

G. Utilities. All utilities (existing and future) shall be installed underground. Buyer shall have been satisfied, in its sole discretion, with the location, availability and suitability of municipal and other utilities in connection with Buyer's intended use of the Property. Except for the matters disclosed in the Document List the Seller make no representations or warranties regarding the location, availability or suitability of utilities. Seller assumes no obligation for the location, availability or suitability of utilities and Buyer assumes all costs therefore.

H. Termination. If Buyer fails to waive or acknowledge the satisfaction of the conditions in (A) through (G) in writing on or before the stated dates, if any, or within 60 days beyond signature of the agreement, then neither party shall have any further liability under this Agreement.

I. Closing Constitutes Waiver. Closing on the Property shall be deemed waiver and satisfaction of the said conditions.

4. SELLER'S CONTINGENCIES. Seller's obligation to conclude this transaction is conditioned upon the fulfillment of all of the following conditions (which may be waived by Seller in whole

or in part in its sole discretion) within thirty (30) days after the date of this Agreement:

A. Approvals. All necessary approvals from Seller's commissioners, the Common Council and/or Planning Commission of the City of West Allis together with any other approvals necessary for the consummation of the transactions contemplated herein and in the Development Agreement. If the contingencies and conditions set forth in this Section 4, other than Subsection (B), are not waived or satisfied by written notice thereof to Buyer on or before thirty (30) days after the date of this Agreement, Seller may by written notice to Buyer given within such thirty (30) day period terminate this Agreement, whereupon all Earnest Money, if any, paid hereunder shall forthwith be returned to Buyer and neither party shall have any further liability under this Agreement.

B. No Litigation. There shall be no litigation, threat, investigation, or other proceeding challenging or affecting the legality of the transactions contemplated by this agreement, or seeking the restraint, prohibition, damages or other relief in connection with this agreement or the use intended for the property by Buyer, and none of the same shall have been instituted or threatened by any person, agency, or other entity prior to closing. Such litigation or threat thereof shall include, but not be limited to challenges to Seller's right to take or ownership of the Property or the rights of tenants or occupants of the Property to remain.

C. Termination. In the event the conditions in this Section 4 have not been satisfied or waived by Seller, Seller, by written notice to Buyer on or before the closing Date, may terminate this Agreement. In case of such termination, all Earnest Money and interest thereon shall be returned to Buyer and neither party shall have any further liability under this Agreement. Closing on the Property shall be deemed waiver and satisfaction of the said conditions.

5. MEMORANDUM OF AGREEMENTS. The Community Development Authority of the City of West Allis and Buyer agree that they will execute a memorandum of this Agreement and the Development Agreement to be recorded in the Office of the Register of Deeds of Milwaukee County. The

Memorandum of Agreements shall be executed by the Parties at the time of execution of the Purchase and Sale Agreement. The Parties further agree that the Memorandum of Agreements shall be recorded prior to Buyer attaching any mortgage, lien, or other encumbrance on the Property.

6. **BUYER'S GUARANTEE.**

A. **Shortfall Agreement.** The Buyer hereby guarantees that the development project described under the Development Agreement will be substantially completed within one year from the execution of the Purchase and Sale Agreement. If the Developer fails to have more than 75% of the project completed within six months of the City completing their work on the premise, the Developer will pay the general property taxes as if the development project was fully constructed .

B. **Special Charge.** Buyer agrees that the amount of any property tax shortfall due on January 1, 2008 and owing to the City of West Allis in any given year may be treated as a special charge (as defined in Wis. Stat. 74.01(4)) levied against the Property, without notice or hearing, such notice and hearing being expressly waived by Buyer. The special charge shall be a lien on Buyer's, or subsequent owner's, commercial entity (from it's first floor space) and shall be extended upon the tax roll for the year in which it is due and owing against the Property. All proceedings in relation to collection, return and sale of the Property for delinquent real estate taxes shall apply to any such special charge.

7. **PERFORMANCE GUARANTEES.**

A. **Performance Guarantee – Preconstruction.** The Buyer will provide a One Thousand and NO/100 Dollars (\$1,000.00) deposit upon execution of the Letter of Intent, which will be credited toward the Purchase Price at a closing.

B. **Plan Commission Submittal Guarantee.** Buyer will apply for and submit all necessary site, landscaping, and architectural plans as well as a Rezoning and Certified Survey Map on or before the date referred to in **Exhibit "E"**.

C. **Construction Drawing Guarantee.** Buyer will have all necessary construction drawings completed and submitted on or before the date referred to in **Exhibit "E"**.

D. **Construction Start Guarantee.** Buyer guarantees that all required permits will be issued and construction will begin no later than the date referred to in **Exhibit "E"**. If required permits have not been issued and construction has not begun by the date referred to in **Exhibit "E"**, the Seller can exercise an option to purchase the land from Buyer for the Purchase Price. That option will remain in place until the construction is complete.

8. **PAYMENT IN LIEU OF TAXES.**

A. **Tax Incremental District.** Pursuant to the Wisconsin Tax Increment Law, Wis. Stats. §66.1105 *et seq.* the Common Council of the City of West Allis created, by resolution, Tax Incremental District Number Nine, City of West Allis Pioneer Neighborhood, as of February 28, 2006 (the "District") and approved the project plan (the "Project Plan") for the District. The Property is within the boundaries of the District.

B. **Property Exemption.** Ownership of the property by any person, partnership, corporation, or entity, which in any manner renders any part of the property exempt from property taxation during the life of the TIF District jeopardizes the success of the Project Plan and shall result in a payment in lieu of taxes from the Buyer or subsequent owner to the City of West Allis each year in an amount equal to the amount of taxes that would be due and owing on the property if it was not tax exempt and in no event less than the tax based upon an assessed value as set forth in this agreement. Such payment shall be due, payable and collected in the same manner as property taxes.

9. **CITY OF WEST ALLIS A THIRD PARTY BENEFICIARY.** It is the intent of the Parties that the City of West Allis, while not a party to this Agreement, receive the benefit of Sections 7 and 8, *supra*, and have the right to enforce said provisions in a court of law or equity.

10. **DEVELOPMENT AGREEMENT.** Simultaneously with the execution of this Agreement, Buyer and Seller shall execute a development agreement (the "Development Agreement") in the form attached hereto as **Exhibit "C"**.

11. **CLOSING.** The Closing of the sale and purchase of the Property ("Closing") will occur after final plan approval, issuance of building permits and rezoning of the Property and shall be held at the offices of the City Attorney of the City of West Allis, 7525 West Greenfield Avenue, West Allis, WI 53214, or such other place as the Parties may mutually agree on. If the Closing does not occur within ninety (90) days of the execution of this Agreement, either Party may void the Agreement and Buyer and Seller shall have no further liabilities under this Agreement.

12. **REPRESENTATION AND WARRANTIES.**

A. **Seller's Warranties.** Seller hereby represents and warrants that as of the date hereof and as of the Closing Date:

(1) **Organization; Good Standing.** Seller is a Community Development Authority duly organized and validly existing under Sec.66.1335 of the laws of the State of Wisconsin. Seller has full power and authority to sell, own, or hold under lease its properties and assets and to carry on its business as presently conducted, to enter into this Agreement, and to carry out the transactions contemplated hereby.

(2) **Authorization.** The execution and delivery of this Agreement and the consummation by Seller of the transaction contemplated hereby are within the power and authority of Seller and have been duly authorized by all necessary actions on the part of Seller and the persons executing this Agreement on behalf of the Seller have been duly authorized.

(3) **No Violation or Conflict.** The execution, delivery, and performance of this Agreement by Seller does not and will not conflict with or violate any law, regulation,

judgment, deed restriction, order, decree, or any contract or agreement to which Seller is a party or by which it is bound.

(4) **Floodplain**. No part of the Property is located in a floodplain, flood hazard area, shoreland, wetland, or similarly restricted area.

(5) **Liens**. All work performed or materials furnished for lienable work on the Property contracted for by Seller or at Seller's expense shall have been fully paid for, and Seller shall provide Buyer with appropriate lien waivers or releases from any and all contractors, laborers, or material men furnishing labor or material for lienable work on the Property during the six (6) months preceding the Closing Date.

(6) **Brokers**. Seller has not dealt with or engaged any brokers or finders or others to whom a commission might be owing upon closing of this transaction. Seller agrees to indemnify and hold Buyer harmless from any claim for commission made by any agent or broker claiming to have acted on Seller's behalf.

(7) **Assessments**. As of the date hereof and as of the Closing Date, there are no special assessments or charges outstanding for public improvements, which remain unpaid have been made or will have been made against the Property. Buyer shall pay all taxes, special assessments, and charges after the Closing Date.

(8) **Leases**. There are no written or oral leases affecting the Property.

(9) **Service Agreements**. There are no existing service, maintenance, management or any other agreements with regard to the Property.

(10) **No Default, Violation or Litigation**. Regarding the Property, to Seller's knowledge, the Seller is not in violation of any regulation, law, order of any court, federal, state, or municipal, or other governmental department, commission, board, bureau, agency or instrumentality, or restriction or covenant contained in any agreement or document of title

(including, without limitation, legislation, regulations and agreements applicable to environmental protection, civil rights, public and occupational health and safety), nor has the Seller received any notice of noncompliance that has not been remedied. To Seller's knowledge, there are no lawsuits, proceedings, claims, governmental investigations, citations or actions of any kind pending or threatened against the Seller or against the Property, nor is there any basis known to the Seller for any such action, and there is no action, suit or proceeding by any governmental agency pending or threatened which questions the legality, validity or propriety of the transactions contemplated hereby nor is there any basis known to the Seller for any such action.

(11) **Laws**. Except as disclosed in the exhibits and schedules attached to this Agreement relating to environmental condition and any documents listed thereon, there is no government agency or court order requiring repairs, alterations, or corrections of or relating to the Property or any condition which might be cause for any such order, and to Seller's knowledge, the Property complies with all laws. Further, except as disclosed in the exhibits and schedules attached to this Agreement relating to the environmental condition and any documents listed thereon, to the Seller's knowledge, there is no violation of any law or any building, zoning, environmental, or other ordinance, code, rule, or regulation and no notice from any governmental body or other person has been served upon the Seller or upon the Property claiming the violation of any such law, ordinance, code rule, or regulation; there are no legal actions, suits, or administrative proceedings, including condemnation, pending or threatened against the Property.

(12) **Access for Utilities**. The Seller makes no warranty or representation with respect to access or the availability or adequacy of public and private utilities required for the improvements to be constructed on the Property. Buyer acknowledges that it is purchasing

the Property on the basis of its own investigation of the availability, access, and adequacy of such utilities.

(13) **Zoning.** Seller shall provide to Buyer, evidence from the Office of the Department of Development of the City of West Allis that the Property and all improvements to be constructed thereon by Buyer pursuant to the Development Agreement conform and comply in all respects without need of a variance or similar approval with the zoning of the Property as contemplated in the Development Agreement.

(14) **Reliance.** Seller acknowledges that the warranties and representations made here and by Seller are a material inducement to Buyer entering into this Agreement, the Buyer is entitled to rely upon these warranties and representations despite independent investigation undertaken by Buyer and that the warranties and representations made here and by the Seller shall survive the Closing and the execution and delivery of the Deed.

(15) **Waiver and Release.** Except to matters otherwise specifically set forth herein, if this transaction closes, Buyer agrees that it waives, releases and forever discharges the Seller, the Seller's officers, employees and agents or any other person acting on behalf of Seller, of and from any claims, actions, causes of action, demands, rights, damages, costs, expenses or compensation whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, which Buyer now has or which may arise in the future on account of or in any way growing out of or connected with this transaction. This waiver and release does not extend to any matter with respect to which Seller had actual notice or knowledge prior to Closing and failed to disclose to Buyer or to any breach of this Agreement.

B. Buyer's Warranties. Buyer hereby represents and warrants that as of the date hereof and as of the Closing Date:

(1) **Organization; Good Standing.** Buyer is a domestic limited liability

company duly organized and validly existing under the laws of the State of Wisconsin and authorized to do business in the State of Wisconsin. Buyer has full power and authority to acquire and own real estate and to carry on its business as presently conducted, to enter into this Agreement, and to carry out the transactions contemplated hereby.

(2) **Authorization.** The execution and delivery of this Agreement and the consummation by Buyer of the transaction contemplated hereby are within the power and authority of Buyer and have been duly authorized by all necessary actions on the part of Buyer, and the persons executing this Agreement on behalf of the Buyer have been duly authorized.

(3) **No Violation or Conflict.** The execution, delivery, and performance of this Agreement by Buyer does not and will not conflict with or violate any law, regulation, judgment, deed restriction, order, decree, or any contract or agreement to which Buyer is a party or by which it is bound.

(4) **Brokers.** Buyer has not dealt with or engaged any brokers or finders or others to whom a commission might be owing upon closing of this transaction. Buyer agrees to indemnify and hold Seller harmless from any claim for commission made by any agent or broker claiming to have acted on Buyer's behalf.

(5) **Litigation.** To Buyer's knowledge, there are no lawsuits, proceedings, claims, governmental investigations, citation or action of any kind pending or threatened against the Buyer, nor is there any basis known to the Buyer for any such action, and there is no action, suit or proceeding by any governmental agency pending or threatened which questions the legality, validity or propriety of the transactions contemplated hereby nor is there any basis known to the Buyer for any such action.

(6) **Reliance**. Buyer acknowledges that the warranties and representations made here and by Buyer are a material inducement to Seller entering into this Agreement, the Seller is entitled to rely upon these warranties and representations despite independent investigation undertaken by Seller and that the warranties and representations made here and by the Buyer shall survive the Closing and the execution and delivery of the Deed.

C. **Waiver and Release**. Except to matters otherwise specifically set forth herein, if this transaction closes, Seller agrees that it waives, releases and forever discharges the Buyer, the Buyer's officers, employees and agents or any other person acting on behalf of Buyer, of and from any claims, actions, causes of action, demands, rights, damages, costs, expenses or compensation whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, which Seller now has or which may arise in the future on account of or in any way growing out of or connected with this transaction. This waiver and release does not extend to any matter with respect to which Buyer had actual notice or knowledge prior to Closing and failed to disclose to Seller or to any breach of this Agreement.

13. **CLOSING DOCUMENTATION**.

A. At the Closing, Seller shall deliver to Buyer the following:

(1) **Possession**. Legal and physical possession of the Property.

(2) **Warranty Deed**. A warranty deed to the Property.

(3) **Title Policy**. An owner's title insurance policy updated through and including the Closing Date, issued pursuant to and in every respect conforming with the Title Commitment required hereunder.

(4) **Closing Statement**. A closing statement setting forth a summary of the Purchase Price and credits to Buyer and Seller.

(5) **Transfer Return**. Seller shall provide for execution at the Closing a

properly completed Wisconsin Real Estate Transfer Return.

(6) **Payout Letter**. Seller shall deliver a payout letter for any mortgages or other liens being satisfied as of the Closing Date.

(7) **Development Agreement**. The Development Agreement required under Section 10, above.

(8) **Memorandum of Agreements**. The Memorandum of Agreements required under Section 5, above.

B. At the Closing, Buyer shall deliver to Seller the following:

(1) **Purchase Price**. The remaining balance of the Purchase Price required under Section 2.

(2) **Development Agreement**. The Development Agreement required under Section 10, above.

(3) **Memorandum of Agreements**. The Memorandum of Agreements required under Section 5, above.

14. CLOSING COSTS.

A. Seller shall pay the following:

(1) All title insurance premiums for the owner's Title Policy.

(2) The recording fee for any satisfaction of its existing liens and encumbrances and Deed Restrictions and Memoranda of Agreements.

B. Buyer shall pay the following:

(1) The cost to record the Deed.

(2) Any transfer fee, if any, arising by reason of transfer of the Property.

(3) All other non-specified closing costs.

C. Each Party shall pay its own attorney's fees.

15. CONDEMNATION. If, prior to the Closing Date, an authority other than Seller itself takes the Property or any material portion thereof by power or exercise of eminent domain, or institutes any proceedings to effect such a taking, Seller shall immediately give Buyer notice of such occurrence, and Buyer shall have the option to terminate this Agreement at its option, whereupon neither Party shall have any obligation to the other under this Agreement. If this Agreement is not so terminated, the conveyance that is the subject of this Agreement shall be completed and Buyer shall receive all proceeds of such condemnation. As used herein, a material portion of the Property shall be deemed taken if it unreasonably interferes with the intended use of the Property by Buyer.

16. NOTICES. All notices permitted or required by this Agreement shall be given in writing and shall be considered given upon receipt if hand delivered to the party or person intended, or one calendar day after deposit with a nationally recognized overnight commercial courier service, airbill prepaid, or two (2) business days hours after deposit in the United States mail, postage prepaid, by certified mail, return receipt requested, addressed by name and address to the party or person intended as follows:

To Seller: Community Development Authority of the City of West Allis
Department of Development
7525 West Greenfield Avenue
West Allis, WI 53214
Attn: Director of Development

with a copy to: City of West Allis
Office of the City Attorney
7525 West Greenfield Avenue
West Allis, WI 53214
Attn: City Attorney

To Buyer: PyraMax Bank, F.S.B.
7001 W. Edgerton Ave.
Greenfield, WI 53220
Attn: Karen Murphy

with a copy to: Joseph G Murphy
2013 14th Avenue,
South Milwaukee, WI 53172

17. FURTHER ASSURANCES. Following the Closing Date, each of the Parties will take such

further actions and execute and deliver such additional documents and instruments as may be reasonably requested by any other Party in order to perfect and complete the purchase and sale of the Property as set forth herein as well as any other transactions specifically contemplated herein.

18. **WAIVER OF TERMS.** Any of the terms or conditions of this Agreement may be waived at any time by the Party or Parties entitled to benefit thereof, but only as provided specifically herein or by a written notice signed by the Party or Parties waiving such terms or conditions. The waiver of any term or condition shall not be construed as a waiver of any other term or condition of this Agreement.

19. **RIGHT OF ENTRY.**

A. **To Buyer.** Seller grants to the Buyer, its agents and contractors, the right to enter upon the Property at all reasonable times prior to Closing for the purpose of performing physical and environmental tests, examinations and inspections.

B. **Cooperation.** The Parties shall cooperate with each other and their respective agents and contractors to facilitate the timely and accurate completion of the aforesaid tests, examinations, and inspections.

C. **Indemnification.** By the exercise of its right of entry to the Property, the Parties hereby undertakes and agrees to hold harmless, indemnify and defend Seller from and against any and all claims, losses, demands, expenses, damages or liabilities whatsoever arising out of the exercise by Buyer of the right and permission herein given and agree each will promptly restore any damage they may cause to the Property, which indemnification, hold harmless and restoration obligations shall survive the termination of this Agreement.

D. **License.** The Parties acknowledge that this right of entry is a license only and does not constitute a lease of or grant of any easement or other interests in real property; and each agree that in the exercise of such right they shall comply with all valid laws, ordinances, rules, orders or regulations of the United States, the State of Wisconsin, the County

of Milwaukee, the City of West Allis or any agencies, departments, districts or commissions thereof.

20. **AMENDMENT OF AGREEMENT.** This Agreement may be amended, supplemented, or modified at any time, but only by a written instrument duly executed by Seller and Buyer.

21. **GOVERNING LAW AND VENUE.** This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin. Any action concerning this Agreement shall be initiated and maintained in Milwaukee County, Wisconsin.

22. **AS IS, WHERE IS.**

A. **Sale.** The sale of the Property to Buyer hereunder shall be "AS IS, WHERE IS", with all faults, and without representation or warranty of any kind except as expressly provided in this Agreement (including but not limited to the Environmental Addendum). Any other warranties or representations of any kind made either orally or in writing by any agent or representative of Seller or anyone purporting to be an agent or representative of Seller shall be of no force and effect. Buyer hereby acknowledges that it does not rely upon any representation or warranty made by Seller or by Seller's agents, and that none have been made, except as expressly provided in this Agreement.

B. **Buyer Investigation.** Prior to Closing, Buyer will have investigated and will have knowledge of operative or proposed governmental laws and regulations (including, but not limited to, zoning, environmental and land use laws and regulations) to which the Property is or may be subject and shall accept the Property upon the basis of its review and determination of the applicability and effect of such laws and regulations, except as expressly provided in this Agreement.

C. **Warranties.** The Buyer further acknowledges that the Seller, its agents and employees and other persons acting on behalf of Seller have made no representation or warranty of any kind in connection with any matter relating to the condition, value, fitness, use or zoning of the

Property upon which the Buyer has relied directly or indirectly for any purpose other than as may be

expressly provided in this Agreement.

23. **SUCCESSORS AND ASSIGNS.** This Agreement and all rights and obligations therein, including but not limited to the indemnification provisions thereunder, may not be assigned or otherwise transferred by either party hereto without the other's prior written consent. Such consent may not unreasonably be withheld or delayed.

24. **EXECUTION IN COUNTERPARTS.** This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original Agreement, but all of which together shall constitute one and the same instrument.

25. **TITLES AND HEADINGS.** Titles and headings to sections or subsections are for purposes of references only and shall in no way limit, define, or otherwise affect the provisions herein.

26. **ENTIRE AGREEMENT.** This Agreement, including any schedules and Exhibits annexed hereto, constitutes the entire agreement between the parties and supersedes all other prior agreements and understandings, both written and oral, by the Parties or any of them, with respect to the subject matter hereof. All prior statements, letters of intent, representations, and offers, if any, are hereby terminated.

27. **INTERPRETATION.** Unless the context requires otherwise, all words used in this Agreement in the singular number shall extend to and include the plural, all words in the plural number shall extend to and include the singular, and all words in any gender shall extend to and include all genders.

28. **CONSTRUCTION.** Seller and Buyer acknowledge that each party and its counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

29. **NON-SEVERABILITY OF PROVISIONS.**

A. If any provision, clause, or part of this Agreement, or the application thereof, is held invalid, then either Party, upon notice to the other Party within thirty (30) days of such determination

of invalidity, may void the remaining provisions of this Agreement.

B. If the Agreement is voided pursuant to the provisions of this Section, the Buyer shall immediately transfer legal and physical possession of the Property back to Seller. Seller shall pay to Buyer:

(1) If no substantial construction has occurred on the Property, the price paid to Seller by Buyer for the Property;

(2) If construction has substantially begun, the repurchase price shall be the lesser of the cost or the fair market value of the construction plus the amount for the Property set forth in Subsection (1), above. If the Seller and Buyer are not able to agree on the value of the construction, such amount shall be determined by appraisal. Each Party will obtain a disinterested MAI appraiser. If the Parties are thereafter unable to agree upon the value of the construction, the Parties shall agree upon a third MAI appraiser to review the two appraisals and arrive at the value of the construction. The decision of the review appraiser shall be final if it is within 25% of each of the other two appraisals. If the Parties cannot agree upon the review appraiser, a court of competent jurisdiction shall appoint said review appraiser. If the review appraiser's determination does not resolve the value of construction, either party may petition the Milwaukee County Circuit Court for such determination; and

(3) Interest on the amount owed from the date the Buyer transferred the Property back to Seller at the rate of five percent (5%) shall be paid by Seller to Buyer upon agreement of the Parties as to the value of the construction or upon judicial determination of the value of the construction.

30. DEFAULT PROVISIONS AND REMEDIES.

A. Buyer's Default. Except as provided herein, should Buyer default under this Purchase and Sale Agreement, in addition to all other rights and remedies provided for in this

Agreement and the Development Agreement, Seller shall have the following specific rights and remedies: (1) with respect to matters that are capable of being corrected by the Seller, the Seller may at its option enter upon the Property for the purpose of correcting the default and the Seller's reasonable costs in correcting same, plus interest as provided in the Development Agreement, shall be paid by Buyer to the Seller immediately upon demand; (2) injunctive relief; (3) action for specific performance; and (4) action for direct money damages.

B. Seller's Default. Should Seller default under this Purchase and Sale Agreement, in addition to all other rights and remedies provided for in this Agreement and the Development Agreement, Buyer shall be entitled to a return of its Earnest Money or in the alternative, Buyer shall have the following specific rights and remedies: (1) with respect to matters that are capable of being corrected by Buyer, the Buyer may at its option correct the default and Buyer's reasonable costs in correcting same, plus interest, shall be paid by Seller to the Buyer immediately upon demand; (2) injunctive relief; (3) action for specific performance; and (4) action for direct money damages.

C. General Default Provisions. Either Party will be considered to be in default if any of the following occurs: (1) it assigns this Agreement without consent of the other party contrary to Section 23; (2) it fails to perform any material obligation under this Agreement; (3) it makes an assignment for the benefit of its creditors, or a receiver, trustee in bankruptcy or similar officer is appointed to take charge of its assets; (4) it files for relief under state or federal bankruptcy or receiver laws; (5) it is the subject of an involuntary petition to have it declared bankrupt or declared insolvent under Wis. Stat. Chapter 128.

31. DAMAGES. In the event of a default, neither Buyer nor Seller shall be liable to the other for consequential, indirect, incidental or exemplary damages, whether based on contract, negligence, strict liability or otherwise.

32. NO RELIANCE. No third party, except the City of West Allis, is entitled to rely on any of

the representations, warranties, or agreements of Buyer or Seller contained in this Agreement. Buyer and Seller assume no liability to any third party other than the City of West Allis because of any reliance on the representations, warranties and agreements of Buyer and Seller contained in this Agreement.

33. **SURVIVE THE CLOSING.** The agreements, covenants, warranties and representations contained herein shall survive the closing of the transaction contemplated herein.

34. **REPRESENTATIONS AND WARRANTIES.** All statements contained in any certificate, instrument or document delivered by or on behalf of any Party pursuant to this Agreement and the transactions contemplated hereby shall be deemed representations and warranties by the Parties unless otherwise expressly provided.

35. **BINDING EFFECT.** The terms and conditions of this Agreement shall be binding upon and benefit the parties and their respective successors and assigns.

36. **GOOD FAITH.** The Parties covenant and agree to act in good faith in the performance and enforcement of the provisions of this Agreement.

37. **INDEMNIFICATION.** If this transaction closes, the Parties agree that they will indemnify, hold harmless, and defend each other, their officers, employees and agents, or any other person acting on behalf of them, from and against any claim, actions, causes of action, demands, penalties, forfeitures, rights, damages, suits, costs, expenses, or compensation whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, which now exist or may arise in the future, on account of or in any way growing out of or connected with this transaction. This indemnification does not extend to any matter with respect to which the parties had actual notice or knowledge prior to closing.

38. **TIME.** Time is of the essence with regard to the Closing Date and all other dates and time periods in this Agreement.

39. **COURT COST AND ATTORNEY FEES.** In the event of litigation arising out of this

Agreement, the prevailing party shall be entitled to court costs and out-of-pocket litigation expenses only. Attorney fees shall not be awarded to the prevailing party.

40. **MEDIATION**. The parties shall endeavor to resolve their disputes by mediation. A request for mediation shall proceed in advance of legal or equitable proceedings for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. The parties agree that the mediator shall be, in the order listed: Benjamin S. Stern of 330 E. Kilbourn Ave. #1275, Milwaukee, WI; Stan Riffle, 720 N. East Ave., Waukesha, WI; Patrick L. Snyder, 999 Lake Country Court, Oconomowoc, WI; or, if none of the above listed mediators can serve, then a mediator mutually agreed to by the parties or appointed by the court.

41. **CITY ATTORNEY**. The West Allis City Attorney is acting as the Seller's attorney pursuant to the provisions of Section 66.1333(16), Wis. Stat. The West Allis City Attorney's participation in the preparation of this Agreement does not, in any manner, indicate or imply that the City of West Allis is a party to this Agreement other than as a third party beneficiary as set forth in Section 9.

42. **NO PERSONAL LIABILITY**. Under no circumstances shall any officer, official, director, member, or employee of the Seller or Buyer have any personal liability arising out of this Agreement, and neither Buyer nor Seller shall seek or claim any such personal liability.

43. **FORCE MAJEURE**. No Party shall be responsible to any other Party for any resulting losses and it shall not be a default hereunder if the fulfillment of any of the terms of this Agreement is delayed or prevented by revolutions or other civil disorders, wars, acts of enemies, strikes, fires, floods, acts of God, unusual adverse weather conditions, legally required environmental remedial actions, shortage of materials, or by any other cause not within the control of the Party whose performance was interfered with, and which by the exercise of reasonable diligence such Party is unable to prevent, whether of the class of causes hereinabove enumerated or not, and the time for performance shall be extended by the period of

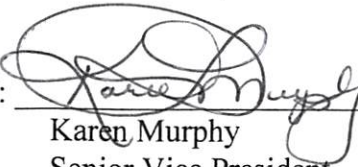
delay occasioned by any such cause.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first set forth above.

SELLER: COMMUNITY DEVELOPMENT AUTHORITY OF THE CITY OF WEST ALLIS

BY: 
John F. Stibal,
Executive Director

BUYER: PYRAMAX BANK, F.S.B.

BY: 
Karen Murphy
Senior Vice President

BY: 
Richard B. Hurd
Chief Operation Officer

Approved as to form this 9 day
of July, 2007.

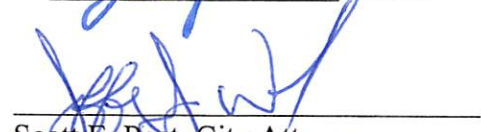

~~Scott E. Post, City Attorney~~
Johnny J. Wapinski, AST. City Attorney

EXHIBIT "A"

LEGAL DESCRIPTION

A. Legal Description

Tax Key No.
452-0596-000 8001 W. National Avenue
452-0522-000 80** W. National Avenue

A tract of land being part of the Continuation of Conklin Park subdivision, Block 8, located in the Northeast ¼ of Section 4, Township 6 North, Range 21 East, more particularly described as follows:

Beginning at Northwest corner of the Lot 1, in said Block 8; thence Northeasterly, 137.57 feet, along South right-of-way line of West National Avenue to the West right-of-way of South 80th Street; thence Southerly, 178.48 feet, along said West line to the North right-of-way line of Union Pacific Railroad; thence Westerly, 131.00 feet, along said North right-of-way line to the West line of said Lot1; thence Northerly, 145.72 feet, along said West line to the Point of Beginning.

Said land contains 0.499 Acres, more or less.

B. Map

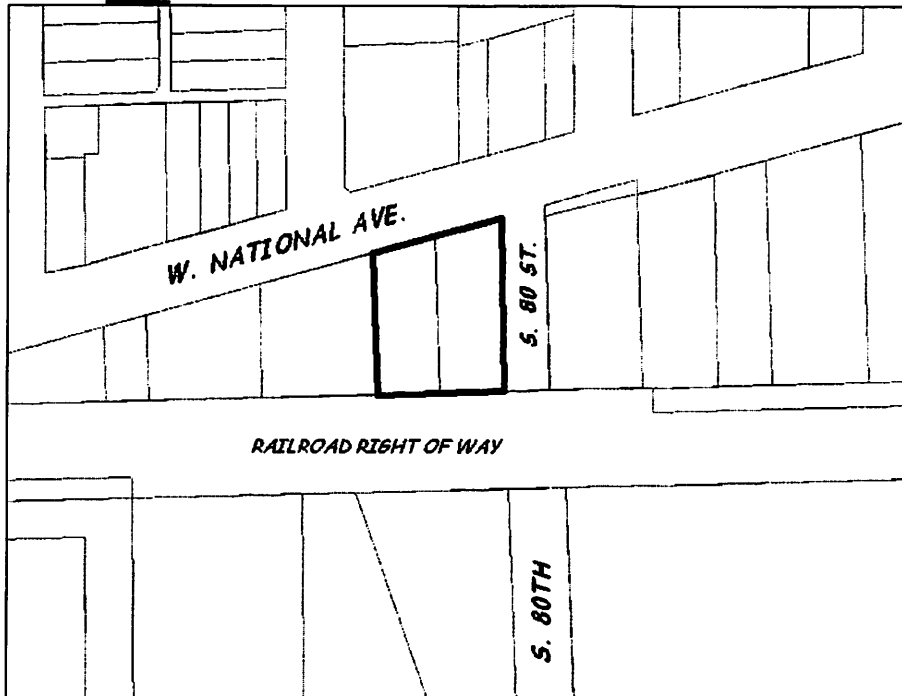


EXHIBIT "B"

ENVIRONMENTAL ADDENDUM

I. **SITE ASSESSMENTS.** Phase I Environmental Site Assessment and Phase II Environmental Site Assessment have been completed for the site, formerly known as the Advertoprint, Inc. property (Parcel Nos. 452-0523-000 and 452-0522-000) and have been provided to Buyer.

II. **RESPONSIBILITY OF THE COMMUNITY DEVELOPMENT AUTHORITY.**

A. **Asbestos and Other Hazardous Materials.**

(1) Assessment of the on-site structure has been completed to identify and quantify asbestos containing building materials (ACBM) and other hazardous materials (fluorescent light bulbs, light ballasts, mercury vapor lamps, mercury switches, refrigerant containing equipment, and other hazardous materials), which must be removed prior to building demolition.

(2) Friable and potentially friable ACBM and other hazardous materials referenced above will be removed prior to building demolition and disposed in a licensed disposal facility or recycled, as appropriate to the material.

B. **Demolition of Structures**

(1) The on-site building will be demolished and removed from the site to include the following:

(a) The garage/warehouse one-story concrete block building located at 8001 West National Avenue, including the at-grade floor slab, subgrade building walls, slabs, and footings to a depth of four (4) feet below the floor slab.

(b) Historical records indicate the potential presence of a 560-gallon petroleum UST on the west side of the on-site building. If a UST is encountered during building demolition it will be closed and removed from the site.

(2) Asphalt surface pavement will remain in place except to the extent removal is required for demolition of the on-site building. Maintenance of surface pavement will prevent soil erosion and ponding/drainage problems, as well as a cap above contaminated soil found in several areas of the site, during the period between demolition and the initiation of site redevelopment.

(3) On-site utility laterals and connections to on-site structures will be shut-off/abandoned and terminated/removed at the excavation boundary or site boundary, to be determined by the City and/or individual utility. Storm sewers, including manholes and catch basins, will be maintained in place except where they interfere with building demolition. All above grade disconnected/terminated electrical utilities on the site will be removed, including assembly units, poles, pole-top assemblies, conductor units, guys, anchors, transformers, secondary units and service units. The above grade parts of exterior lighting will also be removed.

(4) On-site excavations produced by building demolition will not be backfilled. Excavation side slopes will be laid back per OSHA regulations. Chain link security fencing erected around on-site excavations will be abandoned in place.

(5) All demolition debris will be removed from the site.

C. Soil Remediation.

Soil contamination consisting of Polyaromatic Hydrocarbon (PAH) compounds and/or metals above WDNR Residual Contaminant Levels (RCL) is present on the site primarily in two (2) areas as defined by the Phase II ESA completed recently:

(1) Beneath the pavement in the northeast area of the site in the area where the bank building will be constructed.

(2) Beneath the pavement on the site located at 80** West national Avenue where the western part of the bank parking lot will be constructed.

The CDA will be responsible for the cost of off-site disposal of this contaminated soil from the site, as defined in the Phase II ESA, to the extent required by the final location of structures in the site redevelopment plan and the depth of soil excavation required by the foundation design of these structures and utility trenches through this area.

All of the contaminated soil on the site is eligible to remain on-site provided a protective cap is maintained to prevent direct contact by human beings and infiltration of precipitation. Therefore, the CDA will be responsible only for the Incremental Cost of off-site disposal of contaminated soil which must be excavated for site redevelopment and which cannot be replaced on-site beneath a capped area (building, parking area, driveway, walkway, landscaped area).

Most of this soil would be suitable (pending WDNR approval) for disposal at a local CDA-owned response action site, which is also contaminated with PAH and is currently available to receive additional soil fill. A minor portion of the estimated maximum soil volume would require off-site disposal in a commercial landfill due to lead levels higher than acceptable at the CDA-owned site. For the purpose of this Exhibit B, Incremental Costs mean additional costs incurred in the transport and disposal of soils or debris solely as a result of the presence of contamination in such soils or debris. The term Incremental Costs does not include any cost that would otherwise be incurred in the handling of soils or debris had the contamination not been present.

III. RESPONSIBILITY OF DEVELOPER.

A. In the event that environmental case closure and/or WDNR approval of on-site management of contaminated soil requires construction and maintenance of a cap over the contaminated soil and preparation and adherence to a cap maintenance plan, the developer or successors will be responsible for all tasks associated with maintenance of the cap.

B. Removal of the fence described in Section II.B.4 once construction is completed.

IV. OTHER ENVIRONMENTAL AND GEOTECHNICAL MATTERS. Any other matter concerning remediation or management of contaminants, hazardous substances, other environmental matters, or any matters relating to the geotechnical suitability of the Property shall be the responsibility of the Buyer.

DOCUMENT LIST:

- 1. Phase I Environmental Site Assessments
By: Symbiont**
- 2. Phase II Environmental Site Assessments
By: Symbiont**
- 3. Asbestos Inspections
By: Cardinal Environmental**

L/Scott/Pyramax Bank-Envir Add-6-8-07

No. 4794 P. 2
City of West Allis/ Development
Jun. 20. 2007 12:08PM

EXHIBIT "C"

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement"), made and entered into as of the 9th day of July, 2007, by and between PYRAMAX BANK, F.S.B., ("Buyer"), and the **COMMUNITY DEVELOPMENT AUTHORITY OF THE CITY OF WEST ALLIS**, a separate body politic created by ordinance of the City of West Allis, pursuant to Section 66.1335 of the Wisconsin Statutes, (the "Seller"), collectively referred to as the "Parties".

WHEREAS, on even date herewith, the Seller and Buyer have executed a Purchase and Sale Agreement for the purchase by Buyer and the sale by the Seller of the Property; and,

WHEREAS, Buyer intends to develop the Property by constructing upon the Property a four thousand square foot bank facility with drive thru (the "Project") pursuant to the terms of this Agreement; and,

WHEREAS, the sale of the Property is contingent upon Buyer constructing the Project on the Property; and,

WHEREAS, Buyer and the Seller desire to set forth in writing the terms and conditions under which Developer has agreed to develop and maintain the Project.

NOW, THEREFORE, in consideration of the mutual covenants and benefits contained herein and in the Purchase and Sale Agreement signed herewith, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

1. **SELLER'S OBLIGATIONS.** The Seller shall be obligated as follows:

A. **Sale of the Property.** Subject to the obligations and contingencies set forth in the Purchase and Sale Agreement, Seller shall close the sale of the Property to Buyer.

B. **Zoning and Planning Approvals.** The Seller shall use its best efforts to expedite the zoning and plan review process of the City of West Allis to accommodate Buyer's development schedule for the construction of the Project. To the extent not already approved on or prior to the date of this Agreement, all such required approvals are subject to final approval of the Common Council of the City of West Allis and the City Plan Commission, as well as Seller. The commencement date for construction shall be no later than the date referred to in Exhibit "E". Failure of Buyer to commence construction as set forth in Exhibit "E" shall constitute a breach of this Agreement.

2. **BUYER'S OBLIGATIONS.** Buyer shall be obligated as follows:

A. **Purchase of the Property.** Subject to the obligations and contingencies set forth in the Purchase and Sale Agreement, Buyer shall close the purchase of the Property from the Seller as provided in the Purchase and Sale Agreement.

B. **Environmental Remediation.** Buyer shall be responsible for any additional environmental remediation and geotechnical site preparation beyond what Seller is responsible for in the Purchase and Sale Agreement.

C. **Construction of Bank Project.** The Buyer will construct and landscape the Project in accordance with an approved site, landscaping, architectural, and building plans and specifications (see Exhibit "1" and "2") filed and approved by the Seller according to its review and approval procedures as herein referenced.

No. 4794 P. 4

D. Schedule. Buyer shall commence construction of the Project no later than the date referred to in Exhibit "E" of the Purchase and Sale Agreement and shall proceed with due diligence to completion and occupancy no later than the date referred to in Exhibit "E" of the Purchase and Sale Agreement.

E. Information Sharing. Buyer has prepared a budget for the preparation, construction and landscaping of the Project and has submitted the same to the Seller for its approval. Buyer shall maintain records such that its actual expenditures for the preparation, construction and landscaping of the Project may be ascertained and reconciled against said budget. From time to time, upon reasonable notice from the Seller, the Seller shall be entitled to examine such records to verify construction costs.

F. Availability of Funds and Approval for Construction. Prior to the execution of this agreement, and from time to time thereafter, upon the request of the City, Buyer shall provide to the Seller evidence satisfactory to the Seller that Buyer has available to it necessary corporate approvals and sufficient funds for the completion of the Project upon the schedule set forth herein.

G. Conveyance. Buyer shall not sell, transfer or convey the Property to anyone other than an Affiliate until after the Occupancy Permit has been issued. For purposes of this Agreement "Affiliate" shall mean an entity controlling, controlled by or in common controlled with Buyer. Nothing herein shall preclude Buyer from selling a majority membership interest in the Property Owner.

H. Nondiscrimination. No owner or occupant of the Property shall restrict the use or enjoyment of the Property or the Project upon the basis of sex, race, creed, color, or national origin in the sale, use or occupancy thereof.

I. No Subdivision. Without the prior written consent of the Seller, no owner of the Property may subdivide the Property, nor sell, transfer or convey less than the entire Property.

3. CONSTRUCTION QUALITY GUARANTEE. Buyer shall provide the following:

A. Architecture. Proposed Building area (one story) 4,000 sq. ft. (no basement-slab on grade). Buyer has submitted and received conditional approval of plans to develop a 4,000 sq. ft. single story bank on a half acre of land on the south side of W. National Ave. on the intersection/corner of S. 80 Street. Architecturally the building will feature a brick exterior, punched windows, masonry sills, an entrance tower and gabled roof (7/12 pitch) with asphalt shingles. Soldier course brick accent headers, decorative wall sconces, dentils, and a contrasting color brick (on entrance tower) have also been included to enhance the building's design.

The proposed site plan features the new building being constructed up to the W. National Ave. property line and setback approximately 6-ft. from S. 80 St. The building's location creates the urban edge traditional for new urbanism design. Parking is located on the west side of the building and the drive through is located on the rear/south side of the building. A 10-ft. landscape area is shown on plan around the perimeter of the site and a six foot planting area is proposed on the east side of the new building. The north, northeast corner and west foundation areas around the building will feature a paved surface for pedestrian access from the public (right-of-way) sidewalk.

Access to the site is proposed via W. National Ave. and S. 80 Street. The City Engineering Department has recommended narrowing each driveway. The W. National Ave.

driveway will be for inbound traffic only (no exit). All existing from the site will take place from S. 80 Street.

The Plan Commission recommended Common Council approval of the Special Use Permit for proposed construction of PyraMax Bank with a drive-thru lane, to be located at 8001-80** W. National Ave. submitted by Lawson Rennie, The Redmond Co. and to approve the Site, Landscaping and Screening, and Architectural Plans for proposed construction of PyraMax Bank, subject to the following conditions:

(1) Revised Site, Landscaping and Screening and Architectural Plans being submitted to and approved by the Department of Development to show the following:

(1) Curb cut widths being reduced on both W. National Ave. (20' max.) and S. 80 St. (35-ft. max.); (2) a poured curb being provided around paved surfaces (details being shown on plan); (3) a detailed landscape plan being submitted and additional trees and landscape materials being infilled within proposed landscape areas, per the City Forester's recommendation; (4) a bike rack, planters and bench being included on plan.

(2) An estimated cost of landscaping and screening being submitted to the Department of Development for approval.

(3) A surety bond or other form of security as required under Secs. 12.13 of the Revised Municipal Code in the amount of 125% of the estimated cost of landscaping and screening shall be executed by the applicant prior to the issuing of a building permit. The attached security form shall be submitted to and approved by the Building Inspections and Zoning Department, relative to the cost estimate as determined in Condition #2.

(4) Documentation and approval showing compliance with the City of West Allis Stormwater Management Ordinance, to be submitted to the Engineering Department by a registered Civil Engineer. A stormwater permit must be obtained from the City Engineering Department.

(5) Necessary driveway permits being applied for and granted by the Board of Public Works.

(6) Common Council Approval of the Certified Survey map and the Special Use Permit.

(7) A signage and lighting plan being submitted to the Department of Development for review.

(8) Compliance with Section 2314 of the City's Policy and Procedures Manual relative to that policy as it relates to the replacement and repair to City walkways of damaged or defective (if any) abutting sidewalk.

4. **NO ASSIGNMENT.** The Buyer may not assign its rights in this Agreement without the prior written consent of the Seller, except that Buyer may assign this Agreement to an affiliate without the Seller's consent

5. **BUILDING STANDARDS AND UTILITIES.** All buildings and other site improvements (collectively "Improvements") to be constructed under this Agreement shall comply with the following minimum standards:

A. Improvements shall be designed by an architect or engineer. No side, elevation or facade of the building is exempt from public view; consequently, all sides, elevations or facades of the building shall be visually pleasing and architecturally and aesthetically compatible with the surrounding environment. Building Improvements are subject to architectural review and approval by the Plan Commission of the City as provided herein.

B. All trash disposal areas shall be screened in such a manner as to be harmonious with the building exterior and design.

C. No building improvements or structures shall be constructed on the Property until a site plan therefore (showing location, land coverage, building intensity, landscaping and off-street parking) have been submitted to and approved by the Planning Commission of the City (the "Site Plan"). Improvements shown and determined on the Site Plan shall include, but not be limited to:

- (1) All finished grade levels;
- (2) Location of all building and other structures (to include a schedule showing: lot area and total square feet in building (each floor);
- (3) Sidewalks and driveways (including types of materials);
- (4) Parking and access drive dimensions and locations, stall numbers and dimensions, curbs, loading docks, and snow storage areas;
- (5) Loading areas (including types of materials);
- (6) Utility and storage areas (including types of materials);
- (7) Lawns and landscaped areas (including types of materials);
- (8) Water impoundments;
- (9) Fences (including types of materials);
- (10) Lights (including types);
- (11) Areas of fill or cuts;
- (12) Storm water drainage plans and facilities;
- (13) On-site sewer, water and other utility locations, sizes and easement locations;

- (14) Location, screening and type of refuse collection facilities; and
- (15) All exterior signs and all other signs visible from the exterior of the building and other structures.
- (16) Dimensions of all front, side, and rear yards, drives, etc.
- (17) Other paved areas and uses, fencing and walls, outdoor lighting (location and direction of beams).

(18) A landscaping and screening plan showing the location, common and botanical names, planting size, root condition and quantity of all plant material. The plan shall also show all ground cover and mulch areas and landscape construction materials.

- (19) Locations and dimensions of all easements.
- (20) Surface details of all outside areas, such as paving.
- (21) Signs: design, size, location, and illumination.
- (22) Designation of future expansion areas.
- (23) Locations of all hydrants within the Site.
- (24) Grading Plan.
 - (a) Existing and proposed grades and contours.
 - (b) Surface water drainage and detention and/or retention.
 - (c) Finished grade at building.
 - (d) Catch basins and storm sewer locations.
 - (e) Connection to existing utilities.

6. **PARKING.**

A. Fourteen (14) parking spaces are required per zoning. Buyer will maintain the parking lot in accordance with the final plans approved by the Plan Commission. Approved plans will run with the land and will remain in effect regardless of changes in ownership of the subject property.

B. Drive Through – 4 lanes covered (3 teller lanes and one ATM lane)

7. **REFUSE.** All trash containers, including dumpsters, must be enclosed by a solid masonry wall that matches the building facade and provide a suitable visual screen. Enclosure areas will also feature a rooftop structure/covering to limit sight lines into the refuse area from housing units on site and adjacent to the property. Such wall shall be of sufficient height to cover the material stored and shall be maintained so as to present a good appearance at all times. All trash enclosures to be permitted in side and rear yards only.

8. **UTILITIES AND SITE LIGHTING.** All existing and proposed utility lines within the Site shall be installed underground in easements provided therefore. No overhead electric power, telephone or cable service will be permitted. Any existing or proposed utilities shall be located underground. Parking and roadway lighting (fixture, height, type and intensity) where provided shall be approved by the City. Area lighting shall not be mounted on the building. Full cut off fixtures shall be utilized to prevent light splay onto surrounding properties.

9. **LANDSCAPING.** Landscaping improvements shall be required as an integral part of the Property. All areas on the Property not used for building, storage, parking, walks, and access roads, shall be suitably graded and drained, seeded or sodded, and maintained in grass and landscaped areas as provided in Sec. 12.13 of the Revised Municipal Code. Landscaped areas shall contain trees, shrubs, grass and/or other suitable groundcover in accordance with a landscape plan for the Property

approved in writing by the Plan Commission. All required landscaping shall be completed within one year of the completion of construction of the principal building on the Property and shall, thereafter, be maintained in a manner acceptable to the City. Buyer will maintain the site landscaping in accordance with the final plans approved by the Plan Commission. Approved plans will run with the land and will remain in effect regardless of changes in ownership of the subject property.

10. **ARCHITECTURAL DESIGN AND URBAN FORM.** The project should create a high-density development to fit the context and vitality of the surrounding neighborhood while utilizing innovative "new urbanism" design standards. The development should substantially increase the tax base and enhance the neighborhood. Building plans and specifications, including architectural elevations, for the Project, to include construction materials, are subject to review and final approval by the City's Plan Commission pursuant to the provisions of this Agreement. The basic design and exterior construction materials of the Project shall be in conformity with Exhibit "1", which is attached hereto and made a part hereof. Facade treatments must be compatible with site standards and aesthetically appropriate. Final colors are subject to review and final approval by the City's Plan Commission.

A. At a minimum, the architectural portion of the Plan Commission submittal will consist of the plans attached in Exhibit "1" and "2".

11. **PEDESTRIAN AND VEHICULAR ACCESS.**

A. All existing and proposed utilities will be placed underground.

B. All curb cuts and service drives shall be designed to minimize disruption of pedestrian activity and movements and subject to the approval of the Common Council Board of Public Works;

C. Pedestrian and vehicle linkages and crossing access is encouraged between existing neighborhoods and the proposed development area in an effort to promote walkability, traffic safety, and reduction of the number of new driveways on major street arterials; and,

D. Loading docks and refuse areas shall be screened and concealed from street view.

12. **PROPERTY IMPROVEMENTS.**

A. **Plan Review.** No building or other Improvements shall be erected, placed or altered on the Property until the building plans and specifications for such improvements, including the Site Plan, and grading plan have been submitted to and approved by the Plan Commission of the City. The Plan Commission shall review and approve, approve conditionally, or disapprove the building plans and specifications with respect to their conformity with this Agreement and applicable enactments of the City, and with respect to the harmony of design and land use as it affects other property adjacent to the Property.

13. **ACCESSORY STRUCTURES.** The location, size and design compatibility of all permitted accessory structures in the Project, such as garages, maintenance buildings, etc., shall be approved in writing by the Plan Commission pursuant this Agreement, before construction. The term "accessory structure" includes, but is not limited to, the following (if such structures are to be located within the required setbacks): ground-mounted telephone and electrical transformers, gas meters, ground-mounted air conditioners, exhaust ducts and similar structures.

14. **OTHER BUILDING AND PROPERTY SPECIFICATIONS.** All other terms and conditions for the erection of buildings or structures and the use of the Property shall be governed by the ordinances of the City of West Allis.

No. 4794 P. 12
City of West Allis/ Development
Jun. 20. 2007 12:10PM

15. MAINTENANCE RESPONSIBILITIES

A. The Buyer shall keep the Property, all contiguous street right-of-way to edge of pavement, and easement areas in a well maintained, safe, clean, and attractive condition at all times. Such maintenance includes, but is not limited to, the following:

(1) Any Urban Art placed on the site or building shall be maintained appropriately. If materials age into poor condition the Plan Commission shall have the discretion to request that they be replaced. Plan Commission approval is required prior to the installation or change to the Urban Art.

(2) The removal of all litter, trash, refuse, and wastes.

(3) The mowing of all lawn areas to a height of less than five (5) inches unless otherwise approved in writing by the Plan Commission. Those designated and approve unused lot areas shall be cut a minimum of three (3) times per year.

(4) The maintenance of lawn and landscape areas in a weed-free, healthy and attractive condition.

(5) The care and pruning of trees and shrubbery outside of easements within property boundaries.

(6) The maintenance of exterior lighting, signs, and mechanical facilities in working order.

(7) The keeping of all exterior building surfaces in a clean, well maintained condition.

(8) The striping and sealing of parking and driveway areas.

(9) The removal of unlicensed or inoperable vehicles.

(10) Snow and ice removal.

B. During construction, it shall be the responsibility of the owner to insure that construction sites are kept free of unsightly accumulations of rubbish and scrap materials; and that construction materials, trailers, and the like are kept in a neat and orderly manner. Burning of excess or scrap construction material is prohibited. Construction site erosion control practices shall be implemented to prevent erosion, sedimentation and pollution of air or water during construction. Erosion control plan to be submitted and approved by the Building Inspection Department.

16. CONSTRUCTION REMEDIES.

A. In the event Buyer does not commence and/or complete construction of the Project as hereinabove set forth, because of the public interest involved the Seller shall have the right to specific performance of the covenants and obligations of Buyer to be performed hereunder by it, in addition to all other remedies the Seller may have under this Agreement, the Purchase and Sale Agreement, or at law or in equity.

B. In addition to all other remedies the Seller may have under this Agreement or at law or in equity, and as an alternative thereto, in the event Buyer does not commence and/or complete construction of the Project as hereinabove set forth, the Seller may, but shall not be required to proceed with the repurchase rights set forth in Section 29.B. of the Purchase and Sale Agreement.

17. PURCHASE AND SALE AGREEMENT TO GOVERN. All other terms and conditions of the Purchase and Sale Agreement signed contemporaneously with this Agreement shall govern the interpretation and application of this Agreement. Where the terms of this Agreement and the Purchase and Sale Agreement are in conflict, the terms of the Purchase and Sale Agreement shall govern.

Jun. 20. 2007 12:10PM City of West Allis/ Development No. 4794 P. 15

IN WITNESS WHEREOF, the Parties have executed this Agreement the date first above written.

PYRAMAX BANK, F.S.B.

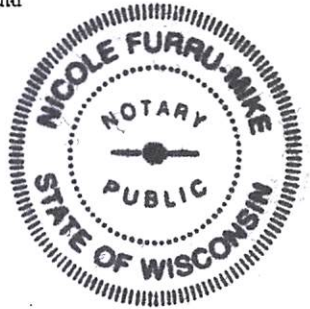
By: [Signature]
Karen Murphy, Senior Vice President

By: [Signature]
Richard B. Hurd, Chief Operation Officer

STATE OF WI)
) SS.
Milwaukee COUNTY)

Personally came before me this 9th day of July, 2007, the above-named Karen Murphy and Richard B. Hurd, Senior Vice President and Chief Operation Officer, respectively, of PyraMax Bank, F.S.B., to me known to be the persons who executed the foregoing instrument and acknowledged the same on behalf of said corporation.

[Signature] [SEAL]
Print Name: Nicole Furrumike
Notary Public, Milwaukee County
State of WI
My Commission: expires 1/24/10



(SIGNATURES CONTINUED ON NEXT PAGE)

COMMUNITY DEVELOPMENT AUTHORITY OF THE CITY OF WEST ALLIS

By: John F. Stibal
John F. Stibal, Executive Director

STATE OF Wisconsin)
) SS.
Milwaukee COUNTY)

Personally came before me this 8 day of August, 2007, the above-named John F. Stibal, Executive Director, of the COMMUNITY DEVELOPMENT AUTHORITY OF THE CITY OF WEST ALLIS, to me known to be the person who executed the foregoing instrument and acknowledged the same on behalf of said authority.



Diane L. Madinger [SEAL]
Print Name: Diane L. Madinger
Notary Public, Milwaukee County
State of Wisconsin
My Commission: 4-11-10

Approved as to form this 8TH day of August, 2007.

Scott E. Post
Scott E. Post, City Attorney
JAMES S. WARD, ASST. CITY ATTORNEY

L:\Scott\PymMax Bank-Dev Agrmnt Rev 6-8-07

EXHIBIT "1"
PLANS AND SPECIFICATIONS

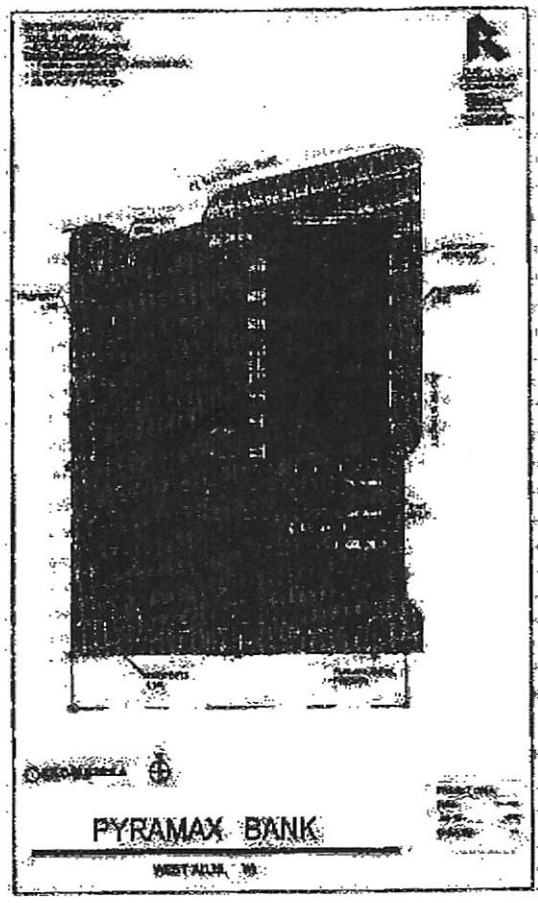


EXHIBIT "2"

ARCHITECTURAL ELEVATIONS

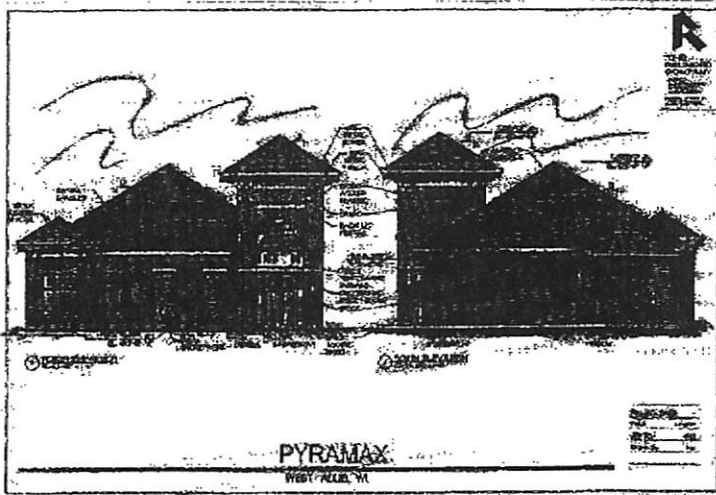


EXHIBIT "D"

Document Number _____

MEMORANDUM OF AGREEMENTS

NOTICE IS HEREBY GIVEN that a Purchase and Sale Agreement and Development Agreement have been made and entered into as of the 8 day of ~~June~~ ^{August}, 2007, by and between the COMMUNITY DEVELOPMENT AUTHORITY OF THE CITY OF WEST ALLIS ("Seller"), and Pyramax Bank, F.S.B., and its successors and assigns, wherein the parties have set forth the terms, conditions, restrictions and property owner guarantees governing the sale, purchase, development and use of certain lands located in the City of West Allis, Milwaukee County, State of Wisconsin, legally described on Exhibit "A", attached hereto and made a part hereof.

This space is reserved for recording data

Return to

City Attorney's Office
City of West Allis
7525 West Greenfield Avenue
West Allis, WI 53214

Parcel Identification Number/Tax Key Number

IN WITNESS WHEREOF, the undersigned have executed and delivered this Memorandum of Agreements.

COMMUNITY DEVELOPMENT AUTHORITY OF THE CITY OF WEST ALLIS

By: Gerald C. Matter
Gerald C. Matter, Chairman

Attest: John F. Stibal
John F. Stibal, Executive Director

State of Wisconsin)
) ss
Milwaukee County)

Personally came before me this 8 day of ~~June~~ ^{August}, 2007, Gerald C. Matter and John F. Stibal, the Chairman and Executive Director, respectively, of the Community Development Authority of the City of West Allis, to me known to be the person(s) who executed the foregoing instrument and acknowledged the same on behalf of said Authority.

Diann L. Malinger (SEAL)
(Diann L. Malinger)
Notary Public, State of Wisconsin
My Commission Expires: 4-11-10

(SIGNATURES CONTINUED ON NEXT PAGE)

PYRAMAX BANK, F.S.B.

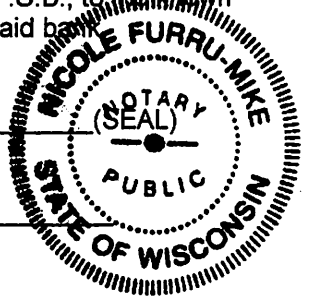
By: [Signature]
Karen Murphy, Senior Vice President

By: [Signature]
Richard B. Hurd, Chief Operation Officer

State of WI)
) ss
Milwaukee County)

Personally came before me this 9th day of July, 2007, the above-named Karen Murphy and Richard B. Hurd, Senior Vice President and Chief Operation Officer, respectively, of Pyramax Bank, F.S.B., to me known to be the persons who executed the foregoing instrument and acknowledged the same on behalf of said bank.

[Signature]
(Nicole Furru-mike)
Notary Public, State of Wisconsin
My Commission Expires: 1/24/10



This instrument was drafted by:

Scott E. Post
City Attorney
City of West Allis
7525 West Greenfield Avenue
West Allis, WI 53214

EXHIBIT "E"

1. DEVELOPMENT SCHEDULE AND PERFORMANCE GOALS

a. <u>City Land Assembly Actions</u>	<u>Date Required</u>	<u>Status</u>
<u>Community Development Authority</u>		
Public Hearing for the Sale of Land	May 8, 2007	Complete
Purchase/Sale/Dev. Agreement	July 10, 2007	Pending
<u>Plan Commission</u>		
Land Sale	February 18, 2007	Complete
Rezone (C-2)	May 23, 2007	Complete
Special Use	April 25, 2007	Complete
Certified Survey Map (deadline July 6, 2007)	July 25, 2007	
<u>Safety and Development Committee</u>		
Purchase/Sale/Dev. Agreement	August 7, 2007	
<u>Common Council</u>		
Land Sale and Purchase/Sale/Dev. Agreement.	August 7, 2007	
Rezone (C-2)	June 19, 2007	Complete
Special Use	May 15, 2007	Complete
Certified Survey Map	August 7, 2007	
b. <u>Developer Actions</u>		
Site, Landscape., Architectural	April 6, 2007	Approved, subject to conditions
Certified Survey Map (deadline July 6, 2007)		August 7, 2007
Closing	August 14, 2007 ?	
Construction Drawings (for permit review)	August 1, 2007 ?	
Construction Start	August 20, 2007?	
Construction Completion	January 1, 2008	