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# City of West Allis Matter Summary

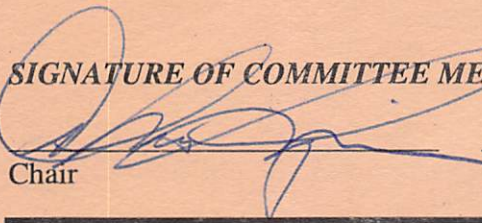
7525 W. Greenfield Ave.  
West Allis, WI 53214

File Number	Title	Status
R-2011-0030	Resolution	Introduced
Resolution authorizing a professional services contract with Cardinal Capital Management, Inc. to co-develop with the Community Development Authority of the City of West Allis for a Section 42 tax credit application and renovation of the Beloit Senior Housing Complex.		
Introduced: 2/1/2011		Controlling Body: Safety & Development Committee
Sponsor(s): Safety & Development Committee		

### COMMITTEE RECOMMENDATION ADOPT

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>2/1/11</u>	✓		Barczak				
			Czaplewski				
			Kopplin	✓			
			Lajsic	✓			
			Narlock	✓			
			Reinke	✓			
			Roadt				
			Sengstock				
		✓	Vitale	✓			
			Weigel				
TOTAL				<u>5</u>	<u>0</u>		<u>1</u>

### SIGNATURE OF COMMITTEE MEMBER

 \_\_\_\_\_  
 Chair Vice-Chair Member

### COMMON COUNCIL ACTION ADOPT

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>2-1-11</u>	✓		Barczak	✓			
			<del>Czaplewski</del>	✓			
			Kopplin	✓			
			Lajsic	✓			
		✓	Narlock	✓			
			Reinke	✓			
			Roadt	✓			
			Sengstock	✓			
			Vitale	✓			
			Weigel	✓			
TOTAL				<u>10</u>	<u>1</u>		

Dev  
Chris Phinney - Finance

## STANDING COMMITTEES OF THE CITY OF WEST ALLIS COMMON COUNCIL

### ADMINISTRATION & FINANCE

Chair: Kurt E. Kopplin  
Vice-Chair: Vincent Vitale  
Thomas G. Lajsic  
Richard F. Narlock  
Rosalie L. Reinke

### PUBLIC WORKS

Chair: Gary T. Barczak  
Vice-Chair: Martin J. Weigel  
Michael J. Czaplowski  
Daniel J. Roadt  
James W. Sengstock

### SAFETY & DEVELOPMENT

Chair: Thomas G. Lajsic  
Vice-Chair: Richard F. Narlock  
Kurt E. Kopplin  
Rosalie L. Reinke  
Vincent Vitale

### LICENSE & HEALTH

Chair: Michael J. Czaplowski  
Vice-Chair: James W. Sengstock  
Gary T. Barczak  
Daniel J. Roadt  
Martin J. Weigel

### ADVISORY

Chair: Rosalie L. Reinke  
Vice-Chair: Daniel J. Roadt  
Kurt E. Kopplin  
Richard F. Narlock  
Vincent Vitale



# City of West Allis

7525 W. Greenfield Ave.  
West Allis, WI 53214

## Resolution

**File Number: R-2011-0030**

**Final Action:**  
FEB 01 2011

**Sponsor(s):** Safety & Development Committee

Resolution authorizing a professional services contract with Cardinal Capital Management, Inc. to co-develop with the Community Development Authority of the City of West Allis for a Section 42 tax credit application and renovation of the Beloit Senior Housing Complex.

WHEREAS since the 1940's, the City of West Allis (the "City") has owned and operated the Beloit Road Senior Housing Complex (the "Property"), located at 7205-7333 W. Beloit Rd., 2521-2529 S. 72 St., 7216-7312 W. Dreyer Place and 7211-7341 W. Dreyer Place and has offered units as an affordable housing option for senior members of the community by collecting rent payments at 30% of an individual's income; and,

WHEREAS the Property's mission of affordable senior housing qualifies for the Section 42 Tax Credit program administered by the Wisconsin Housing and Economic Development Authority; and,

WHEREAS the Section 42 Tax Credit Program, a competitive process to obtain tax credits to create affordable housing choices, would attract equity and investment to the Property that would enhance and preserve the units and structures for current and future residents while maintaining the affordability of each living unit; and,

WHEREAS the Section 42 Tax Credit Program requires the City to enter into a co-development partnership with an experienced tax credit developer in order to score successfully in the competitive process as well as to effectively administer an allocation of tax credits; and,

WHEREAS the City partnered with Cardinal Capital Management, Inc. ("Cardinal Capital") in 2010 to complete the application and co-develop with the City for the renovation of the Property, but was unsuccessful in being awarded Section 42 tax credits; and,

WHEREAS the Director of Development recommends, the Community Development Authority of the City of West Allis ("Authority"), through Resolution No. 831, and the Common Council, through Resolution No. R-2010-0091, authorized the submittal of a new Section 42 Tax Credit application based on review of the financial performance of the property and the equity advantage provided to the City from the tax credit program towards the overall improvements of the property; and,

WHEREAS on January 25, 2011, through a 5:1 vote, the Authority authorized Cardinal Capital to co-develop with the Authority for the Section 42 Tax Credit application and to take part in the role

of construction manager for the renovation project of the Property; and,

WHEREAS the Common Council of the City of West Allis directs the Authority to establish a Project Based Voucher ("PBV") Program and allocate twenty percent of the Housing Choice Voucher Program Budget Authority to a PBV Program at the Property that equates to approximately \$42,000 per month; and,

WHEREAS the Common Council of the City of West Allis is authorizing the Authority the right to review and/or withdraw from the application process; and,

WHEREAS the City of West Allis owns the Property and in order to apply for Section 42 Tax Credits, the City will enter into a Purchase and Sale Agreement to sell the Property with Beloit Road Senior Apartments, LLC, of which the general partner will be a partnership between the Authority and Cardinal Capital; and,

WHEREAS the Director of Development is hereby authorized to negotiate and execute the sale of Beloit Road Senior Housing Complex on behalf of the City to Beloit Road Senior Apartments, LLC, subject to approval by the Mayor and City Attorney; and,

WHEREAS the Property is eligible for HOME funds and the project will require up to \$1,247,758 in HOME funds to create affordable units.

NOW, THEREFORE BE IT RESOLVED, that the Common Council hereby authorizes the Director of Development and Community Development Authority of the City of West Allis to submit a Section 42 Tax Credit application to the Wisconsin Housing and Economic Development Authority for the Beloit Road Senior Housing Complex.

BE IT FURTHER RESOLVED that the Common Council hereby selects Cardinal Capital Management, Inc. to complete the application, co-develop with the Community Development Authority of the City of West Allis, and take on the construction management role for renovation of the Property.

BE IT FURTHER RESOLVED that the Common Council authorizes the Community Development Authority of the City of West Allis to create a PBV program for Beloit Road Senior Housing Complex and that up to 20 percent of the City's Housing Choice Voucher Program budget authority will be allocated to the Property.


BE IT FURTHER RESOLVED that the Director of Development and Community Development Authority of the City of West Allis are authorized to apply for Section 42 Tax Credits, negotiate developer fees with Cardinal Capital Management, Inc., negotiate the sale of the Property, to enter into a Purchase and Sale Agreement for the sale of the Property, and to execute, sign all necessary documents and take necessary action to undertake, direct, complete and submit all necessary forms.

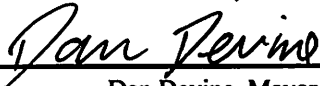
BE IT FURTHER RESOLVED that the Common Council recommends that \$1,247,758 in HOME funds be allocated to the Property to create affordable housing units.

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 Application and 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: Department of Development  
Chris Phinney, Grants Accounting Specialist

DEV-R-621-2-1-11

ADOPTED FEB 01 2011  
  
Paul M. Ziebler, City Admin. Officer, Clerk/Treas.

APPROVED 2/3/11  
  
Dan Devine, Mayor

MEMORANDUM OF UNDERSTANDING  
AND JOINT DEVELOPMENT AGREEMENT

THIS AGREEMENT is dated as of August 31, 2011 between CARDINAL CAPITAL MANAGEMENT, INC. ("Cardinal") and COMMUNITY DEVELOPMENT AUTHORITY OF THE CITY OF WEST ALLIS ("CDA").

RECITALS

A. Cardinal and CDA desire to acquire and rehabilitate an affordable housing project (the "Project") located in the City of West Allis, Wisconsin. The Project contains thirteen eight-unit apartment buildings located at the following addresses: 7205 & 7213 W. Beloit Road; 7225 & 7233 W. Beloit Road; 7245 & 7253 W. Beloit Road; 7305 & 7313 W. Beloit Road; 7235 & 7333 W. Beloit Road; 2521 & 2529 S. 72nd Street; 7216 & 7224 W. Dreyer Place; 7234 & 7242 W. Dreyer Place; 7304 & 7312 W. Dreyer Place; 7211 & 7219 W. Dreyer Place; 7235 & 7241 W. Dreyer Place; 7311 & 7319 W. Dreyer Place; and 7335 & 7341 W. Dreyer Place. In addition to rehabilitating the buildings, the parties intend to construct a community center to serve the residents of the Project.

B. Cardinal and CDA desire to set forth in writing their agreements regarding the development of the Project.

AGREEMENTS

In consideration of the Recitals and the mutual agreements which follow, Cardinal and CDA hereby agree as follows:

1. CDA and Cardinal shall jointly develop the Project in accordance with the terms set forth below.

2. The Project has received an allocation of Low-Income Housing Tax Credits from the Wisconsin Housing and Economic Development Authority ("WHEDA"). In the event Cardinal and CDA develop the Project using the Low-Income Housing Tax Credits, the terms set forth below shall apply:

(a) CDA has agreed pay Cardinal a stipulated sum of \$20,000 for submitting the tax credit application to WHEDA pursuant to a separate agreement between the parties (the "Consulting Fee").

(b) CDA will form a limited liability company for purposes of owning the Project (the "Project Owner"). CDA and an equity investor will be the members of the Project Owner. This Agreement is contingent on the CDA authorizing and creating said limited liability company. If the CDA fails or refuses to so authorize or create the limited liability company, this Agreement shall become null and void.

(c) The Project Owner will be a member-managed limited liability company. CDA will be the managing member of the Project Owner and, as between CDA and Cardinal, subject to the rights of Cardinal under the Construction Contract (as hereinafter defined), will have full, exclusive and complete discretion in the management and control of the affairs of the Project Owner. As between CDA and Cardinal, CDA shall have the sole right (subject to the rights of Cardinal under the Construction Contract) to take any and all actions it deems desirable or necessary to conduct the business of the Project Owner including, without limitation, the execution and delivery on behalf of the Project Owner of any and all documents and agreements, and CDA shall not be required to obtain the consent of Cardinal to any actions it desires to take on behalf of the Project Owner. Cardinal shall have no authority to participate in the control of the business of the Project Owner or to take any actions on behalf of the Project Owner. CDA shall approve all of the consultants, attorneys, accountants and lenders for the Project subject to the rights of Cardinal under the Construction Contract and section 2(j) of this Agreement.

(d) CDA will admit an equity investor (the "Equity Investor") into the Project Owner. The Equity Investor will be selected by CDA, and the terms of the Equity Investor's admission into the Project Owner will be determined by CDA. As is customary in these types of projects, the Equity Investor will utilize its own form of operating agreement and other agreements for the Project. Cardinal will not have any approval rights over such documents except to the extent that the documents impose any liability on Cardinal, in which event Cardinal shall have the right to approve those provisions of the documents that so impose liability on Cardinal. If the CDA fails to reach acceptable terms with the Equity Investor, then this Agreement shall become null and void.

(e) Upon the Equity Investor's admission into the Project Owner, CDA will have a 0.01% interest and the Equity Investor will have a 99.99% interest in the Project Owner.

(f) CDA will be solely responsible for providing any guaranties required by the Equity Investor in connection with the Project, and Cardinal will have no obligation to provide any guaranties. Notwithstanding anything to the contrary in

this Agreement, in the event the Equity Investor requires Cardinal to be liable for any guaranty obligations, the respective rights and obligations of the parties, including the right to conduct the business of the Project Owner and the development fee split, shall be adjusted by mutual agreement of the parties.

(g) All cash flow from the Project will be payable to CDA and/or the Equity Investor pursuant to such terms as are negotiated between CDA and the Equity Investor.

(h) Cardinal and CDA will jointly act as the developer for the Project. CDA will be entitled to 80%, and Cardinal will be entitled to 20%, of the development fees payable on the Project. The amount and timing of the payment of the development fees will be negotiated with the Equity Investor. Cardinal and CDA will each be entitled to its prorata share of each payment of the development fees. The form of the development services agreement for the Project will be mutually agreed to among Cardinal, CDA and the Equity Investor.

(i) All expenses that Cardinal and CDA incur in connection with the Project will be reimbursed by the Project Owner. CDA shall be responsible for all expenses incurred in connection with the Project including but limited all attorney's fees, reservation fees, architect's fees, and the cost of all other professional services rendered in connection with the Project. Cardinal shall not be required to reimburse CDA for any expenses incurred in connection with the Project should the Project not proceed to closing and Cardinal shall be entitled to have all its out of pocket expenses reimbursed.

(j) Notwithstanding anything to the contrary in this Agreement, Cardinal will act as construction manager for the Project and shall have the right to select all architects, subcontractors and engineers retained in connection with the Project. It is the intent of the parties that the Project Owner and Cardinal will execute a "Construction Contract" in the form similar to the form attached hereto as Exhibit A subject to revisions required by the Equity Investor. Cardinal will, in good faith and to the extent reasonably possible, consult with CDA with respect to construction related matters.

(k) Subject to the approval of the Equity Investor, the Project Owner will grant to CDA a right of first refusal to acquire the Project at the end of the compliance period for the Low-Income Housing Tax Credits at the minimum purchase price allowed under the Internal Revenue Code of 1986, as amended. The terms of such right of first refusal agreement will be subject to the mutual agreement of CDA and the Equity Investor.



3. This Agreement shall terminate only upon the mutual agreement of Cardinal and CDA or in the event the Low-Income Housing Tax Credit Allocation expires.

4. Cardinal and CDA acknowledge that many of the terms and conditions of the development of the Project will need to be agreed upon between Cardinal and CDA as development progresses. Both parties shall cooperate with each other and negotiate in good faith in connection therewith.


5. Cardinal and CDA acknowledge that all of the terms of this Agreement are subject to the approval of the Project Owner's Equity Investor and construction and permanent lenders. Cardinal and CDA shall work cooperatively in good faith to achieve the intent of this Agreement. However, both parties acknowledge that the Equity Investor and/or lenders may require that the terms of this Agreement be modified.

6. This Agreement may be amended only by a writing signed by all of the parties hereto and shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns. Cardinal and CDA may create affiliated companies for purposes of being the members of the Project Owner and may assign their rights and obligations under this Agreement to such affiliated entities. However, neither Cardinal nor CDA may assign their rights under this Agreement to any third party without the consent of the other party.

**[Signature Page to Follow]**

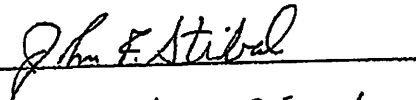
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

CARDINAL CAPITAL MANAGEMENT,  
INC.

BY 

ITS Vice-President/Principal

COMMUNITY DEVELOPMENT  
AUTHORITY OF THE CITY OF WEST  
ALLIS

BY 

ITS Executive Director

EXHIBT A

See Attached Construction Contract

**WB-15 COMMERCIAL OFFER TO PURCHASE**

1 ~~BROKEN DRAFTING THIS OFFER ON~~ \_\_\_\_\_ (DATE IS (AGENT OF SELLER) (AGENT OF BUYER) (DUAL AGENT) ~~STRIKE TWO~~)  
2 **GENERAL PROVISIONS** The Buyer, Community Development Authority of the City of West Allis or its assigns

3 offers to purchase the Property known as (Street Address) see attached Rider in the  
4 City of West Allis, County of Milwaukee, Wisconsin, (Insert additional

5 description, if any, at lines 293 - 297 or attach as an addendum per line 298), on the following terms:  
6  **PURCHASE PRICE:** Three Million Five Hundred Thousand Dollars  
7 Dollars (\$ 3,500,000).

8  **EARNEST MONEY OF \$** \_\_\_\_\_ accompanies this Offer and earnest money of \$ \_\_\_\_\_  
9 will be paid within \_\_\_\_\_ days of acceptance.

10  **THE BALANCE OF PURCHASE PRICE** will be paid in cash or equivalent at closing unless otherwise provided below.

11  **ADDITIONAL ITEMS INCLUDED IN PURCHASE PRICE:** Seller shall include in the purchase price and transfer, free and clear of encum-  
12 brances, all fixtures, as defined at lines 117 - 120 and as may be on the Property on the date of this Offer, unless excluded at lines 15 - 16, and  
13 the following additional items: see attached Rider

14  **ITEMS NOT INCLUDED IN THE PURCHASE PRICE:** **CAUTION: Address rented fixtures or trade fixtures owned by tenants, if**  
15 **applicable.** None

16 All personal property included in purchase price will be transferred by bill of sale or \_\_\_\_\_  
17 **ACCEPTANCE** Acceptance occurs when all Buyers and Sellers have signed an identical copy of the Offer, including signatures on separate  
18 but identical copies of the Offer. **CAUTION: Deadlines in the Offer are commonly calculated from acceptance. Consider whether short term**  
19 **deadlines running from acceptance provide adequate time for both binding acceptance and performance.**

20 **BINDING ACCEPTANCE** This Offer is binding upon both Parties only if a copy of the accepted Offer is delivered to Buyer on or before  
21 February 3, 2011. **CAUTION: This Offer may be withdrawn prior to delivery of the accepted Offer.**

22 **DELIVERY OF DOCUMENTS AND WRITTEN NOTICES** Unless otherwise stated in this Offer, delivery of documents and written notices  
23 to a Party shall be effective only when accomplished by one of the methods specified at lines 25 - 34.

24 (1) By depositing the document or written notice postage or fees prepaid in the U.S. Mail or fees prepaid or charged to an account with a com-  
25 mercial delivery service, addressed either to the Party, or to the Party's recipient for delivery designated at lines 28 or 30 (if any), for delivery to  
26 the Party's delivery address at lines 29 or 31.

27 Seller's recipient for delivery (optional): Dan Devine, Mayor

28 Seller's delivery address: 7525 W. Greenfield Avenue, West Allis, WI 53214

29 Buyer's recipient for delivery (optional): John F. Sheln, Executive Director Community Development Authority of the City of  
30 West Allis

31 Buyer's delivery address: 7525 W. Greenfield Avenue, West Allis, WI 53214

32 (2) By giving the document or written notice personally to the Party or the Party's recipient for delivery if an individual is designated at lines 28 or 30.

33 (3) By fax transmission of the document or written notice to the following telephone number:  
34 Buyer: ( \_\_\_\_\_ ) Seller: ( \_\_\_\_\_ )

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

38 **RENTAL WEATHERIZATION** This transaction (is) (is not) ~~STRIKE ONE~~ exempt from State of Wisconsin Rental Weatherization Standards  
39 (Wisconsin Administrative Code, Comm 67). If not exempt, (Buyer) (Seller) ~~STRIKE ONE~~ will be responsible for compliance, including all costs.  
40 If Seller is responsible for compliance, Seller shall provide a Certificate of Compliance at closing.

41 **PLACE OF CLOSING** This transaction is to be closed at the place designated by Buyer's mortgagee or mutually agreed  
42 upon by the parties no later than September 30, 2011 unless another date of place is agreed to in writing.

43 **CLOSING PRORATIONS** The following items shall be prorated at closing: real estate taxes, rents, water and sewer use charges, garbage pick-  
44 up and other private and municipal charges, property owner's association assessments, fuel, payments under governmental agricultural programs  
45 and none other. Any income, taxes or expenses shall accrue to Seller and be prorated through  
46 the day prior to closing. Net general real estate taxes shall be prorated based on (the net general real estate taxes for the current year, if known,  
47 otherwise on the net general real estate taxes for the preceding year) \_\_\_\_\_.

48 ~~STRIKE AND COMPLETE AS APPLICABLE~~ **CAUTION: If Property has not been fully assessed for**  
49 **tax purposes (for example, recent land division or completed/pending reassessment) or if proration on the basis of net general real**  
50 **estate taxes is not acceptable (for example, changing mill rate), insert estimated annual tax or other basis for proration.**

51 **PROPERTY CONDITION PROVISIONS**

52  **PROPERTY CONDITION REPRESENTATIONS:** Seller represents to Buyer that as of the date of acceptance Seller has no notice or  
53 knowledge of conditions affecting the Property or transaction other than those identified in Seller's Real Estate Condition Report  
54 dated \_\_\_\_\_, which was received by Buyer prior to Buyer signing this Offer and which is made a part of this Offer by reference  
55 ~~COMPLETE DATE OR STRIKE AS APPLICABLE~~ and \_\_\_\_\_

56 ~~INSERT CONDITIONS NOT ALREADY INCLUDED IN THE CONDITION REPORT~~

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

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

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

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

62 (d) structural inadequacies which if not repaired will significantly shorten the expected normal life of the Property;

63 (e) any land division involving the Property, for which required state or local approvals were not obtained;

64 (f) construction or remodeling on the Property for which required state or local approvals were not obtained;

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

66 (h) that a structure on the Property is designated as a historic building or that any part of the Property is in a historic district;

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

68 (j) conditions constituting a significant health or safety hazard for occupants of the Property;

69 (k) underground or aboveground storage tanks for storage of flammable, combustible or hazardous materials including but not limited to gasoline  
70 and heating oil, which are currently or which were previously located on the Property; **NOTE: The Wisconsin Administrative Code contains**  
71 **registration and operation rules for such underground storage tanks.**

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

73 (m) material levels of hazardous substances located on Property or previous storage of material amounts of hazardous substances on Property;

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

76  **PROPERTY DIMENSIONS AND SURVEYS:** Buyer and Seller acknowledge that any Property, building or room dimensions, or total acreage  
77 or building square footage figures, provided to Buyer or Seller may be approximate because of rounding or other reasons, unless verified by  
78 survey or other means. Buyer also acknowledges that there are various formulas used to calculate total square footage of buildings and that total  
79 square footage figures will vary dependent upon the formula used. **CAUTION: Buyer should verify total square footage formula; Property,**  
80 **building or room dimensions, and total acreage or square footage figures, if material to Buyer's decision to purchase.**

81  **INSPECTIONS:** Seller agrees to allow Buyer's inspectors reasonable access to the Property upon reasonable notice if the inspections are  
82 reasonably necessary to satisfy the contingencies in this Offer. Buyer agrees to promptly provide copies of all such inspection reports to Seller, and  
83 to listing broker if Property is listed. Furthermore, Buyer agrees to promptly restore the Property to its original condition after Buyer's inspections are  
84 completed, unless otherwise agreed with Seller. An "inspection" is defined as an observation of the Property which does not include testing of the  
85 Property, other than testing for leaking carbon monoxide, or testing for leaking LP gas or natural gas used as a fuel source, which are hereby authorized.

86  **TESTING:** Except as otherwise provided, Seller's authorization for inspections does not authorize Buyer to conduct testing of the Property. A  
87 "test" is defined as the taking of samples of materials such as soils, water, air or building materials from the Property and the laboratory or other  
88 analysis of these materials. If Buyer requires testing, testing contingencies must be specifically provided for at lines 293-297 or in an addendum  
89 per line 298. Note: Any contingency authorizing such tests should specify the areas of the Property to be tested, the purpose of the test, (e.g. to  
90 determine if environmental contamination is present), any limitations on Buyer's testing, and any other material terms of the contingency (e.g.,  
91 Buyer's obligation to return the Property to its original condition). Seller acknowledges that certain inspections or tests may detect environmental  
92 pollution which may be required to be reported to the Wisconsin Department of Natural Resources.

93  **PRE-CLOSING INSPECTION:** At a reasonable time, pre-approved by Seller or Seller's agent, within 3 days before closing, Buyer shall have the  
94 right to inspect the Property to determine that there has been no significant change in the condition of the Property, except for ordinary wear and  
95 tear and changes approved by Buyer, and that any defects Seller has elected to cure have been repaired in a good and workmanlike manner.

96  **ENVIRONMENTAL SITE ASSESSMENT:** An "environmental site assessment" (also known as a "Phase I Site Assessment") (see lines 279 to  
97 283) may include, but is not limited to: (1) an inspection of the Property; (2) a review of the ownership and use history of the Property, including a  
98 search of title records showing private ownership of the Property for a period of 60 years prior to the visual inspection; (3) a review of historic and  
99 recent aerial photographs of the Property, if available; (4) a review of environmental licenses, permits or orders issued with respect to the Property;  
100 (5) an evaluation of results of any environmental sampling and analysis that has been conducted on the Property; and (6) a review to determine  
101 if the Property is listed in any of the written compilations of sites or facilities considered to pose a threat to human health or the environment includ-  
102 ing the National Priorities List, the Department of Natural Resources' (DNR) registry of Abandoned Landfills, the DNR's Registry of Leaking  
103 Underground Storage Tanks, the DNR's most recent remedial response site evaluation report (including the inventory of Sites and Facilities Which  
104 May Cause or Threaten to Cause Environmental Pollution). Any "environmental site assessment" performed under this Offer shall comply with  
105 generally recognized industry standards (e.g. current American Society of Testing and Materials "Standards for Environmental Site Assessments for  
106 Commercial Real Estate"), and state and federal guidelines, as applicable. **CAUTION: Unless otherwise agreed, an**  
107 **"environmental site assessment" does not include subsurface testing of the soil or groundwater or other testing of the Property for**  
108 **environmental pollution.**

109  **PROPERTY DAMAGE BETWEEN ACCEPTANCE AND CLOSING:** Seller shall maintain the Property until the earlier of closing or occupancy  
110 of Buyer in materially the same condition as of the date of acceptance of this Offer, except for ordinary wear and tear. If, prior to closing, the  
111 Property is damaged in an amount of not more than five per cent (5%) of the selling price, Seller shall be obligated to repair the Property and  
112 restore it to the same condition that it was on the day of this Offer. If the damage shall exceed such sum, Seller shall promptly notify Buyer in writ-  
113 ing of the damage and this Offer may be canceled at the option of Buyer. Should Buyer elect to carry out this Offer despite such damage, Buyer  
114 shall be entitled to the insurance proceeds relating to the damage to the Property, plus a credit towards the purchase price equal to the amount of  
115 Seller's deductible on such policy. However, if this sale is financed by a land contract or a mortgage to Seller, the insurance proceeds shall be  
116 held in trust for the sole purpose of restoring the Property.

117  **FIXTURES** A "Fixture" is an item of property which is physically attached to or so closely associated with land and improvements so as to be  
118 treated as part of the real estate, including, without limitation, physically attached items not easily removable without damage to the Property, items  
119 specifically adapted to the Property, and items customarily treated as fixtures. A "fixture" does not include trade fixtures owned by tenants of the  
120 Property. See Lines 11 to 17.

121  **OCCUPANCY** Occupancy of the entire Property shall be given to Buyer at time of closing unless otherwise provided in this Offer at lines 293-  
122 297 or in an addendum per line 298. Occupancy shall be given subject to tenant's rights, if any.

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

129 PROPERTY ADDRESS: \_\_\_\_\_  
130 OPTIONAL FINANCING CONTINGENCY: THE CONTINGENCY AT LINES 132 THROUGH 160 IS A PART OF THIS OFFER IF MARKED, SUCH  
131 AS WITH AN "X," AT LINE 132. IT IS NOT PART OF THIS OFFER IF IT IS MARKED N/A OR LEFT BLANK.

132  FINANCING CONTINGENCY: This Offer is contingent upon Buyer being able to obtain: **CHECK APPLICABLE FINANCING BELOW**

133  land contract financing from Seller at closing as further described at lines 136 to 153 and 161 to 168.  
134  a \_\_\_\_\_ **INSERT LOAN PROGRAM** (fixed) (adjustable) **STRIKE ONE** rate first mort-

135 gage loan commitment as further described at lines 136 to 149 and 154 to 178, within \_\_\_\_\_ days of acceptance of this Offer.  
136 The financing selected shall be in an amount of not less than \$ \_\_\_\_\_ for a term of not less than \_\_\_\_\_ years, amortized  
137 over not less than \_\_\_\_\_ years. If the purchase price under this Offer is modified, the financed amount, unless otherwise provided, shall be  
138 adjusted to the same percentage of the purchase price as in this contingency and the monthly payments shall be adjusted as necessary to main-  
139 tain the term and amortization stated above.

140 IF FINANCING IS FIXED RATE the annual rate of interest shall not exceed \_\_\_\_\_ % and monthly payments of principal and interest shall  
141 not exceed \$ \_\_\_\_\_.

142 IF FINANCING IS ADJUSTABLE RATE the initial annual interest rate shall not exceed \_\_\_\_\_ %. The initial interest rate shall be fixed for  
143 \_\_\_\_\_ months, at which time the interest rate may be increased not more than \_\_\_\_\_ % per year. The maximum interest rate during the  
144 mortgage term shall not exceed \_\_\_\_\_ %. Initial monthly payments of principal and interest shall not exceed \$ \_\_\_\_\_. Monthly  
145 payments of principal and interest may be adjusted to reflect interest changes.

146 MONTHLY PAYMENTS MAY ALSO INCLUDE 1/12th of the estimated net annual real estate taxes, hazard insurance premiums, and private  
147 mortgage insurance premiums. The mortgage may not include a prepayment premium. Buyer agrees to pay a loan fee in an amount not  
148 to exceed \_\_\_\_\_ % of the loan. (Loan fee refers to discount points and/or loan origination fee, but DOES NOT include Buyer's other closing  
149 costs.) Note: Unless otherwise agreed, Buyer's delivery of any document labeled a loan commitment will satisfy this contingency.

150 IF FINANCING IS BY LAND CONTRACT \$ \_\_\_\_\_ shall be paid at closing (in addition to earnest money), interest rate following payment  
151 default shall be \_\_\_\_\_ %, the default period shall be \_\_\_\_\_ days for payments and \_\_\_\_\_ days for performance of any other  
152 obligations. Interest shall be calculated on a prepaid basis. Any amount may be prepaid on principal without penalty at any time. Buyer under-  
153 stands that if the term of the land contract is shorter than the amortization period a balloon payment will be due at the end of the term.

154 LOAN COMMITMENT: Buyer agrees to pay all customary financing costs (including closing fees), to apply for financing promptly, and to provide  
155 evidence of application promptly upon request by Seller. If Buyer qualifies for the financing described in this Offer or other financing acceptable  
156 to Buyer, Buyer agrees to deliver to Seller a copy of the written loan commitment no later than the deadline for loan commitment at line 135.  
157 Buyer's delivery of a copy of any written loan commitment (even if subject to conditions) shall satisfy the Buyer's financing contingency  
158 unless accompanied by a notice of unacceptability. **CAUTION: BUYER, BUYER'S LENDER AND AGENTS OF BUYER OR SELLER**  
159 **SHOULD NOT DELIVER A LOAN COMMITMENT TO SELLER WITHOUT BUYER'S PRIOR APPROVAL OR UNLESS ACCOMPANIED BY A**

160 **NOTICE OF UNACCEPTABILITY.**

161 LAND CONTRACT: If this Offer provides for a land contract both Parties agree to execute a State Bar of Wisconsin Form 11 Land Contract, the  
162 terms of which are incorporated into this Offer by reference. Prior to execution of the land contract Seller shall provide the same evidence of mer-  
163 chantable title as required above and written proof, at or before execution, that the total underlying indebtedness, if any, is not in excess of the pro-  
164 posed balance of the land contract, that the payments on the land contract are sufficient to meet all of the obligations of Seller on the underlying  
165 indebtedness, and that all creditors whose consent is required have consented to the land contract sale. Seller may terminate this Offer if creditor  
166 approval cannot be obtained. Seller may terminate this Offer if Buyer does not provide a written credit report which indicates that Buyer is credit  
167 worthy based upon reasonable underwriting standards within 15 days of acceptance. Buyer shall pay all costs of obtaining creditor approval and  
168 the credit report. Seller shall be responsible for preparation and the expense of preparation of all closing documentation, including the land contract.

169 FINANCING UNAVAILABILITY: If financing is not available on the terms stated in this Offer (and Buyer has not already delivered an acceptable  
170 loan commitment for other financing to Seller), Buyer shall promptly deliver written notice to Seller of same including copies of lender(s) rejection  
171 letter(s) or other evidence of unavailability. Unless a specific loan source is named in the financing contingency, Seller shall then have 10 days to  
172 give Buyer written notice of Seller's decision to finance this transaction on the same terms set forth in the financing contingency, and this Offer  
173 shall remain in full force and effect, with the time for closing extended accordingly. If Seller's notice is not timely given, this Offer shall be null and  
174 void, Buyer authorizes Seller to obtain any credit information reasonably appropriate to determine Buyer's credit worthiness for Seller financing.

175 SELLER TERMINATION RIGHTS: If Buyer does not make timely delivery of the loan commitment, Seller may terminate this Offer provided that  
176 Seller delivers a written notice of termination to Buyer prior to Seller's actual receipt of a copy of Buyer's written loan commitment.

177 NOTE: IF PURCHASE IS CONDITIONED ON BUYER OBTAINING FINANCING FOR OPERATIONS OR DEVELOPMENT CONSIDER ADDING

178 A CONTINGENCY FOR THAT PURPOSE.  
179 **TITLE EVIDENCE**

180  CONVEYANCE OF TITLE: Upon payment of the purchase price, Seller shall convey the Property by warranty deed (or other conveyance as  
181 provided herein) free and clear of all liens and encumbrances, except: municipal and zoning ordinances and agreements entered under them,  
182 recorded easements for the distribution of utility and municipal services, recorded building and use restrictions and covenants, general taxes levied  
183 in the year of closing and \_\_\_\_\_ none other \_\_\_\_\_ (provided none of the

184 foregoing prohibit present use of the Property), which constitutes merchantable title for purposes of this transaction. Seller further agrees to com-  
185 plete and execute the documents necessary to record the conveyance. **WARNING: If Buyer contemplates improving or developing Property,**  
186 **or a change in use, Buyer may need to address municipal and zoning ordinances, recorded building and use restrictions, covenants**  
187 **and easements which may prohibit some improvements or uses. The need for building permits, zoning variances, environmental audits,**  
188

Buyer's intended

180 etc., may need to be investigated to determine feasibility of improvements, development or use changes for Property. Contingencies  
190 for investigation of these issues may be added to this Offer. See lines 293 to 298.

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

194 **PROVISION OF MERCHANTABLE TITLE:** Seller shall pay all costs of providing title evidence. For purposes of closing, title evidence shall be  
195 acceptable if the commitment for the required title insurance is delivered to Buyer's attorney or Buyer not less than 3 business days before clos-  
196 ing, showing title to the Property as of a date no more than 15 days before delivery of such title evidence to be merchantable, subject only to liens  
197 which will be paid out of the proceeds of closing and standard abstract certificate limitations or standard title insurance requirements and excep-  
198 tions, as appropriate. **CAUTION: BUYER SHOULD CONSIDER UPDATING THE EFFECTIVE DATE OF THE TITLE COMMITMENT PRIOR TO**  
199 **CLOSING, A "GAP ENDORSEMENT" TO THE TITLE COMMITMENT OR AN ESCROW CLOSING.**

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

205 **DELIVERY/RECEIPT:** Unless otherwise stated in this Offer, any signed document transmitted by facsimile machine (fax) shall be treated in all man-  
206 ner and respects as an original document and the signature of any Party upon a document transmitted by fax shall be considered an original sig-  
207 nature. Personal delivery to, or actual receipt by, any named Buyer or Seller constitutes personal delivery to, or actual receipt by Buyer or Seller.  
208 Once received, a notice cannot be withdrawn by the Party delivering the notice without the consent of the Party receiving the notice. A Party may  
209 not unilaterally reinstate a contingency after a notice of a contingency waiver has been received by the other Party. The delivery/receipt provi-  
210 sions in this Offer may be modified when appropriate (e.g., when mail delivery is not desirable (see lines 25 - 31)). Buyer and Seller author-  
211 ize the agents of Buyer and Seller to distribute copies of the Offer to Buyer's lender, appraisers, title insurance companies and any other settle-  
212 ment service providers for the transaction.

213 **DATES AND DEADLINES:** Deadlines expressed as a number of "days" from an event, such as acceptance, are calculated by excluding the day the  
214 event occurred and by counting subsequent calendar days. The deadline expires at midnight on the last day. Deadlines expressed as a specific num-  
215 ber of "business days" exclude Saturdays, Sundays, any legal public holiday under Wisconsin or Federal law, and other day designated by the President  
216 such that the postal service does not receive registered mail or make regular deliveries on that day. Deadlines expressed as a specific number of "hours"  
217 from the occurrence of an event, such as receipt of a notice, are calculated from the exact time of the event, and by counting 24 hours per calendar day.  
218 Deadlines expressed as a specific day of the calendar year or as the day of a specific event, such as closing, expire at midnight of that day.

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

221 If Buyer defaults, Seller may:

- 222 (1) sue for specific performance and request the earnest money as partial payment of the purchase price; or  
223 (2) terminate the Offer and have the option to (a) request the earnest money as liquidated damages; or (b) direct Broker to return the  
224 earnest money and have the option to sue for actual damages.

225 If Seller defaults, Buyer may:

- 226 (1) sue for specific performance; or  
227 (2) terminate the Offer and request the return of the earnest money, sue for actual damages, or both.

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

229 The Parties understand that the availability of any judicial remedy will depend upon the circumstances of the situation and the discretion of the courts.  
230 If either Party defaults, the Parties may renegotiate the Offer or seek nonjudicial dispute resolution instead of the remedies outlined above. By agreeing  
231 to binding arbitration, the Parties may lose the right to litigate in a court of law those disputes covered by the arbitration agreement. **NOTE: IF**  
232 **ACCEPTED, THIS OFFER CAN CREATE A LEGALLY ENFORCEABLE CONTRACT. BOTH PARTIES SHOULD READ THIS DOCUMENT**  
233 **CAREFULLY. BROKERS MAY PROVIDE A GENERAL EXPLANATION OF THE PROVISIONS OF THE OFFER BUT ARE PROHIBITED BY LAW**  
234 **FROM GIVING ADVICE OR OPINIONS CONCERNING YOUR LEGAL RIGHTS UNDER THIS OFFER OR HOW TITLE SHOULD BE TAKEN AT**  
235 **CLOSING. AN ATTORNEY SHOULD BE CONSULTED IF LEGAL ADVICE IS NEEDED.**

236 **EARNEST MONEY**

237 **HELD BY:** Unless otherwise agreed, earnest money shall be paid to and held in the trust account of the listing broker (buyer's agent if Property  
238 is not listed or seller if no broker is involved), until applied to purchase price or otherwise disbursed as provided in the Offer. **CAUTION: Should**  
239 **persons other than a broker hold earnest money, an escrow agreement should be drafted by the Parties or an attorney. If someone other**  
240 **than Buyer makes payment of earnest money, consider a special disbursement agreement.**

241 **DISBURSEMENT:** If negotiations do not result in an accepted offer, the earnest money shall be promptly disbursed (after clearance from payor's  
242 depository institution if earnest money is paid by check) to the person(s) who paid the earnest money. At closing, earnest money shall be disbursed  
243 according to the closing statement. If this Offer does not close, the earnest money shall be disbursed according to a written disbursement  
244 agreement signed by all Parties to this Offer (Note: Wis. Adm. Code § RL 18.09(1)(b) provides that an offer to purchase is not a written disbursement  
245 agreement pursuant to which the broker may disburse). If the disbursement agreement has not been delivered to broker within 60 days after the date  
246 set for closing, broker may disburse the earnest money: (1) as directed by an attorney who has reviewed the transaction and does not represent Buyer  
247 or Seller; (2) into a court hearing a lawsuit involving the earnest money and all Parties to this Offer; (3) as directed by court order; or (4) any other  
248 disbursement required or allowed by law. Broker may retain legal services to direct disbursement per (1) or to file an interpleader action per (2) and  
249 broker may deduct from the earnest money any costs and reasonable attorneys fees, not to exceed \$250, prior to disbursement.

250 **LEGAL RIGHTS/ACTION:** Broker's disbursement of earnest money does not determine the legal rights of the Parties in relation to this Offer.  
251 Buyer's or Seller's legal right to earnest money cannot be determined by broker. At least 30 days prior to disbursement per (1) or (4) above, broker  
252 shall send Buyer and Seller notice of the disbursement by certified mail. If Buyer or Seller disagree with broker's proposed disbursement, a lawsuit  
253 may be filed to obtain a court order regarding disbursement. Small Claims Court has jurisdiction over all earnest money disputes arising out of the  
254 sale of residential property with 1-4 dwelling units and certain other earnest money disputes. The Buyer and Seller should consider consulting attor-  
255 nays regarding their legal rights under this Offer in case of a dispute. Both Parties agree to hold the broker harmless from any liability for good faith  
256 disbursement of earnest money in accordance with this Offer or applicable Department of Regulation and Licensing regulations concerning earnest  
257 money. See Wis. Adm. Code Ch. RL 18. **NOTE: WISCONSIN LICENSE LAW PROHIBITS A BROKER FROM GIVING ADVICE OR OPINIONS CON-**  
258 **CERNING THE LEGAL RIGHTS OR OBLIGATIONS OF PARTIES TO A TRANSACTION OR THE LEGAL EFFECT OF A SPECIFIC CONTRACT OR**  
259 **CONVEYANCE. AN ATTORNEY SHOULD BE CONSULTED IF LEGAL ADVICE IS REQUIRED.**

(page 5 of 5, WB-15)

PROPERTY ADDRESS: TIME IS OF THE ESSENCE as to: (1) earnest money payment(s); (2) binding acceptance; (3) occupancy; and all other dates and deadlines in this Offer except: (4) date of closing; (5) contingency deadlines. If "Time is of the Essence" does not apply to a date or deadline, failure to perform by the exact date or deadline is a breach of contract. If "Time is of the Essence" applies to a date or deadline, then performance within a reasonable time of the date or deadline is allowed before a breach occurs.

DOCUMENT REVIEW CONTINGENCY: This Offer is contingent upon Seller delivering the following documents to Buyer within days of acceptance: CHECK THOSE THAT APPLY

Documents evidencing that the sale of the Property has been properly authorized, if Seller is a business entity. A complete inventory of all furniture, fixtures and equipment included in this transaction which is consistent with representations made prior to and in this Offer.

Uniform Commercial Code lien search as to the personal property included in the purchase price, showing the Property to be free and clear of all liens, other than liens to be released prior to or at closing.

Other:  Other

days of the earlier of receipt of the final record to be delivered or the date the contingency shall be deemed satisfied unless Buyer, within days for delivery of the documents, delivers to Seller a written notice indicating that this contingency has not been satisfied. The notice shall identify which document(s) have not been timely delivered or do not meet the standard set forth for the document(s).

ENVIRONMENTAL EVALUATION/INSPECTION CONTINGENCY: This Offer is contingent upon: CHECK THOSE THAT APPLY

A qualified independent environmental consultant of Buyer's choice conducting an environmental site assessment of the Property (see lines 96 to 108), at Buyer's/Seller's expense. STRIKE ONE, which discloses no defects. A defect is defined as a material violation of environmental laws, a material contingent liability affecting the Property arising under any environmental laws, the presence of an underground storage tank(s) or material levels of hazardous substances either on the Property or presenting a significant risk of contaminating the Property due to future migration from other properties.

A qualified independent inspector of Buyer's choice conducting an inspection of the Property and at Buyer's/Seller's expense. STRIKE ONE, which discloses no defects.

A defect is defined as a structural, mechanical or other condition that would have a significant adverse effect on the value of the Property, that would significantly impair the health and safety of future occupants of the Property, or that if not repaired, removed or replaced would significantly shorten or have a significantly adverse effect on the expected normal life of the Property.

This contingency shall be deemed satisfied unless Buyer, within days of acceptance, delivers to Seller a copy of the environmental site assessment/inspection report(s) and a written notice listing the defect(s) identified in the environmental site assessment/inspection report(s) to which Buyer objects. Defects do not include conditions the nature and extent of which Buyer had actual knowledge or written notice before signing the Offer. Buyer agrees to deliver a copy of the report and notice to listing broker, if Property is listed, promptly upon delivery to Seller.

ADDITIONAL PROVISIONS/CONTINGENCIES: See Rider Attached hereto

ADDENDA: The attached Rider to WB-15 contains all amendments to this Offer. This Offer, including any amendments to it, contains the entire agreement of the Buyer and Seller regarding the transaction. All prior negotiations and discussions have been merged into this Offer. This agreement binds and inures to the benefit of the parties to this Offer and their successors in interest. This Offer was drafted on (date) by (licensee and firm)

Buyer's Signature & Print Name Here: John F. Shiba  
Social Security No. or FEIN (optional):  
Date: 2-3-11

Buyer's Signature & Print Name Here: [Signature]  
Social Security No. or FEIN (optional):  
Date: 2-3-11

Buyer's Signature & Print Name Here: [Signature]  
Social Security No. or FEIN (optional):  
Date: 2-3-11

Buyer's Signature & Print Name Here: [Signature]  
Social Security No. or FEIN (optional):  
Date: 2-3-11

Buyer's Signature & Print Name Here: [Signature]  
Social Security No. or FEIN (optional):  
Date: 2-3-11

Buyer's Signature & Print Name Here: [Signature]  
Social Security No. or FEIN (optional):  
Date: 2-3-11

Buyer's Signature & Print Name Here: [Signature]  
Social Security No. or FEIN (optional):  
Date: 2-3-11

Buyer's Signature & Print Name Here: [Signature]  
Social Security No. or FEIN (optional):  
Date: 2-3-11

Buyer's Signature & Print Name Here: [Signature]  
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Date: 2-3-11

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Date: 2-3-11

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Social Security No. or FEIN (optional):  
Date: 2-3-11

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Social Security No. or FEIN (optional):  
Date: 2-3-11

Buyer's Signature & Print Name Here: [Signature]  
Social Security No. or FEIN (optional):  
Date: 2-3-11

Buyer's Signature & Print Name Here: [Signature]  
Social Security No. or FEIN (optional):  
Date: 2-3-11



## RIDER TO WB-15 COMMERCIAL OFFER TO PURCHASE

This Rider is made part of the attached WB-15 Commercial Offer to Purchase form (the "Form") for the real property identified in paragraph 1 of this Rider (the "Property"), by an between Community Development Authority of the City of West Allis or its assigns ("Buyer") and the City of West Allis ("Seller"). In the event of any conflict between the terms and conditions of this Rider and the terms and conditions of the Form, the terms of this Rider shall control. The Form and this Rider are herein collectively referred to as the "Offer."

1. Property Description. The Property is located in the City of West Allis, Milwaukee County, Wisconsin. The Property contains thirteen eight unit apartment buildings located at the following addresses: 7205 & 7213 W. Beloit Road; 7225 & 7233 W. Beloit Road; 7245 & 7253 W. Beloit Road; 7305 & 7313 W. Beloit Road; 7235 & 7333 W. Beloit Road; 2521 & 2529 S. 72<sup>nd</sup> Street; 7216 & 7224 W. Dreyer Place; 7234 & 7242 W. Dreyer Place; 7304 & 7312 W. Dreyer Place; 7211 & 7219 W. Dreyer Place; 7235 & 7241 W. Dreyer Place; 7311 & 7319 W. Dreyer Place; 7335 & 7341 W. Dreyer Place.

2. Buyer's Use of the Property. Seller acknowledges that Buyer intends to rehabilitate the apartment units and construct a community center for the residents of the Property (the "Intended Use").

3. Survey. Buyer shall, at Buyer's expense, cause to be prepared a survey of the Property by a licensed surveyor, which survey shall be submitted to Buyer and the Title Insurer. The survey shall locate and legally describe the Property, all boundary lines thereof, all adjacent roadways and other means of access and limitations thereon, all utilities on or adjacent to the Property, all easements affecting the Property, the area of the Property, all encroachments affecting the Property, and all set back lines, and shall otherwise satisfy (unless any such requirements are waived by Buyer) the Minimum Standard Detail Requirements For ALTA/ACSM Land Title Surveys. The survey shall be certified to Buyer, Buyer's lender, and the Title Insurer. The condition of the Property as reflected in the survey (i) must be acceptable to Buyer in its reasonably exercised discretion, and (ii) must not reflect any matters which would prevent the Title Insurer from removing its standard survey exceptions without noting any specific survey exceptions other than immaterial encroachments upon the Property or improvements owned by adjacent landowners, or other minor matters related to the Property. In the event the survey is not as called for by this Section 3 and Seller is unwilling to cure all matters which would be required to make the survey comply with this Section 3, this Agreement shall be, at the election of Buyer, null and void and neither party shall have any further liability to the other. Buyer must remove or waive in writing this contingency on or before July 31, 2011.

4. Additional Items Included in Purchase Price. Seller shall include in the purchase price and transfer, free and clear of encumbrances, the following additional items:

(a) To the extent owned by and in the possession of Seller or the management company managing the Property (the "Management Company"), copies of all books, records and other materials of any kind directly related to the management or operation of the Property. The books and records to be conveyed by Seller to Buyer pursuant to this Section 4(a) shall not include the financial records (e.g., tax returns, financial statements, check books, bank statements, reserve account information and the like) of Seller, but shall include tenant files, and maintenance records.

(b) To the extent owned by and in the possession of Seller or the Management Company, copies of all site plans, surveys, soil and substrata studies, environmental reports, floor plans, landscape plans, architectural plans, specifications, HVAC plans and specifications for replacement, engineering plans and other studies relating to the Property. Seller shall, provide copies of all such plans, studies and reports to Buyer upon receiving an allocation of low-income housing tax credits (the "Tax Credits") from the Wisconsin Housing and Economic Development Authority ("WHEDA")

(c) All of Seller's interest as landlord in any and all leases and subleases arising out of or incident to the operation of the Property (collectively, the "Tenant Leases"), and all delinquent and prepaid rentals and escrowed security deposits, if any, under the Tenant Leases. Seller shall provide copies of all Tenant Leases to Buyer upon receiving an allocation of Tax Credits from WHEDA.

(d) Effective as of, and conditioned on the occurrence of a Closing, Seller hereby sells, transfers, assigns and conveys to Buyer all of Seller's rights under all assignable guarantees and warranties, if any, issued or made in connection with the construction, improvement, alteration and repair of any improvements comprising a part of the Property (and Seller shall provide to Buyer at Closing the originals of each such guaranty and warranty if in Seller's possession or the possession of the Management Company). Seller shall provide copies of all assignable guarantees and warranties upon receiving an allocation of Tax Credits from WHEDA.

(e) Effective as of, and conditioned on the occurrence of a Closing, Seller hereby transfers, assigns and conveys to Buyer all of Seller's interest in the Property's reserves and escrows, including but not limited to, replacement reserve account, residual receipts reserve, real estate tax escrows, insurance premium escrows, Operating Accounts (hereinafter defined) and all such other reserves, escrows and financial accounts (the collectively, the "Financial Accounts"). Seller agrees that the Financial Accounts hereby transferred and assigned to Buyer shall be free and clear of all liens and encumbrances excepting applicable regulations. Upon request by Buyer, Seller shall execute and deliver to Buyer at Closing any documents or other instruments that may be necessary to cause the Financial Accounts to be assigned and transferred to Buyer as herein contemplated.

5. Conditions on Buyer's Obligation to Close. In addition to any and all other conditions in this Offer, Buyer's obligation to close this transaction is conditioned upon the consummation of all the following within the applicable time period:

(a) On or before May 15, 2011, Buyer receiving a reservation of Tax Credits from WHEDA in at least the amount requested (\$763,469 annual tax credits) by Buyer in its Tax Credit Application submitted to WHEDA.

(b) On or before the Closing Date, Buyer obtaining equity commitments through the sale of the Tax Credits on terms acceptable to Buyer in its reasonably exercised discretion and in sufficient amounts to allow Buyer to proceed with development of the Property in accordance with Buyer's proposed plans.

(c) On or before July 31, 2011, Buyer obtaining, at Buyer's expense, written environmental assessments and/or evaluations of the property (including "Phase I" assessments and, if Buyer deems necessary, "Phase II" assessments, including laboratory testing of soil, water, and other substances) from qualified environmental consultants of Buyer's choice, confirming that (i) the Property complies with all Environmental Laws, (ii) there are no liabilities (contingent or otherwise) affecting the Property arising under the Environmental Laws, (iii) there are no underground or above ground storage tanks, associated pipes or equipment located on or at the Property, (iv) there are no Hazardous Substances on, under, at, in or migrating to or from the Property, (v) no portion of the Property has been filled and (vi) there are no wetlands on the Property.

(d) On or before July 31, 2011, Buyer obtaining any necessary zoning approvals, variances, conditional use permits, building permits, and/or government approvals necessary to develop the Property for Buyer's intended use of the Property.

(e) On or before July 31, 2011, Buyer obtaining, at Buyer's expense, a written report prepared by a recognized soil engineering firm stating that the soil and subsoil conditions of the Property are suitable to permit development and construction of improvements consistent with Buyer's intended use of the Property free from any unusual groundwater, soil, subsoil, or organic rock condition and at a cost acceptable to Buyer in its reasonably exercised discretion.

(f) On or before July 31, 2011, Buyer verifying to Buyer's satisfaction that all utility connections are currently located at the boundaries of the Property (or directly across the street from the Property) and are available in sufficient quality and quantity to adequately serve Buyer's intended use of the Property and that the location of any existing utility does not inhibit Buyer's intended use of the Property.

(g) On or before July 31, 2011, Buyer causing to be prepared (i) an appraisal of the Property by an appraiser selected by Buyer in its reasonably exercised discretion. Buyer's obligations hereunder are made expressly conditional on such appraisal concluding that the fair market value of the Property is not less than the Purchase Price. The cost of the appraisal shall be paid for by Buyer.

(h) The results of Buyer's due-diligence activities including, but not limited to, the following: (i) Buyer's inspection and evaluation of the physical and other

condition of the Property by Buyer or its designees including, but not limited to, with regard to the structural, roofing and HVAC systems and the existence of any adverse environmental conditions affecting the Property; (ii) Buyer's evaluation of the rental market in which the Property is located; (iii) Buyer's evaluation of the income and expenses of the Property; and (iv) Buyer's evaluation of such other matters with regard to the Property (including the information to be provided to Buyer by Seller as set forth below) as are reasonable under the circumstances in light of the nature of the transaction contemplated by this Agreement. The results of all such inspections and evaluations must be satisfactory to Buyer in its reasonably exercised discretion. Seller shall grant to Buyer from time to time reasonable access to the Property so as to permit Buyer to conduct the inspections and evaluations herein contemplated. This contingency must be removed or waived in writing by Buyer on or before July 31, 2011. In connection with Buyer's inspection and evaluation of the Property and to assist it with regard thereto, Seller shall permit to inspect, examine and copy the following, provided such are in Seller's possession or under Seller's control:

- (a) All leases with tenants ("Tenants") who occupy the Property or who will occupy the Property, and, with regard thereto, the most recent income certification reports;
- (b) All contracts and other agreements affecting the Property and its operation and maintenance, including by way of illustration, any applicable Section 8 contracts;
- (c) All surveys, maps, site plans, environmental assessments and soil tests relating to the Property, or any part of it;
- (d) All rights-of-way, reservations, easements, building and use restrictions and covenants, developer's agreements and any other agreements, instruments or documents which affect the Property;
- (e) All building plans and specifications, test results, architectural drawings, engineering studies and drawings and written warranties related to the Property or any component thereof;

Buyer shall indemnify and hold Seller harmless from and against all claims, actions, damages or costs related to or arising out of any act or omission by Buyer or its agents, contractors or employees arising out of or relating to the inspections and evaluations to be conducted by Buyer, or on Buyer's behalf, as provided in this Section 5(h), and Buyer shall not permit or allow any mechanic's or similar lien or encumbrance to be filed against the Property.

Seller agrees to cooperate with Buyer in connection with Buyer's due diligence. If any of the conditions in this Offer is not satisfied within the applicable time period, Buyer may terminate this Offer by giving written notice to Seller at any time on or before 5 business days following expiration of such time period. Upon such notice, this Offer shall be null and void and neither party shall have any further legal liability to

the other. If Buyer fails to give written notice to Seller terminating this Offer as required by this paragraph, this Offer shall remain in full force and effect.

6. Seller's Closing Conditions. Seller's obligations to close the transactions contemplated by this Agreement and to sell the Property shall be expressly contingent upon the approval of the Common Council of The City of West Allis. The approval of the Common Council may be conditioned on the allocation of Tax Credits to the Project by WHEDA. This contingency must be removed or waived in writing by Seller on or before July 31, 2010 or this Agreement shall be null and void, and neither party shall have any further legal liability to the other.

7. Interim Responsibilities of Seller. Seller hereby covenants and agrees that during the period from the date hereof through Closing:

(a) Seller shall (i) keep all existing insurance policies affecting the Property or any portion thereof in full force and effect, (ii) use due diligence and its best efforts to keep in full force and effect and/or renew all Licenses and Permits, (iii) provide all services and continue to operate, manage and maintain the Property (including mechanical equipment of every kind used in the operation thereof) in substantially the same manner as Seller has done prior to the date hereof so that the Property shall be in substantially the same condition on the Closing Date as on the date hereof, reasonable wear and tear excepted, and (iv) comply in all material respects with all governmental regulations.

(b) Service Contracts. Seller will not extend, renew, modify or replace any of the Service Contracts without the prior written consent of Buyer. Seller may enter into Service Contracts in the ordinary course of business so long as such Service Contracts can be terminated, without penalty or payment by Buyer, at or prior to Closing.

(c) No Additional Liens. Seller shall not, without the prior written consent of Buyer, convey any interest in the Property, and Seller will not subject the Property to any additional liens, encumbrances, covenants, conditions, easements, rights of way or similar matters after the date hereof, except as permitted hereunder or for normal repairs and maintenance in the ordinary course of business (which matters shall be disclosed to Buyer at or before Closing).

(d) No Alterations. Seller will not make any material alterations.

(f) Notice to Buyer. If known to Seller, Seller shall promptly notify Buyer of any material change in any condition with respect to the Property or of any event or circumstance which makes any representation or warranty of Seller under this Agreement untrue or misleading, or any covenant of Seller under this Agreement incapable or less likely of being performed. Seller's notice to Buyer shall relieve Seller of any liability for a breach by Seller of the Seller's representations, warranties or covenants in this Agreement affected by such notice, and any such representations, warranties or covenants shall be deemed

modified to include the information contained in any such notice given by Seller. Buyer shall be entitled to declare this Agreement null and void and without effect at any time after receipt of any such notice from Seller.

(g) Ongoing Management. Seller shall continue to operate and manage the Property in the manner in which the Property is being operated and managed as of the date hereof and consistent with past practices.

8. Assignment. Buyer may assign its rights and obligations hereunder without Seller's consent and upon any such assignment the Buyer assigning its rights shall be released from all future obligations and liabilities hereunder.

9. Eminent Domain. If, prior to closing, the Property or any portion thereof is taken by power or exercise of eminent domain or any proceedings are instituted to effect such a taking or the threat of eminent domain arises, Seller shall immediately give written notice to Buyer. In such event, Buyer shall have the option to terminate this Offer, whereupon neither party shall have any further liability to the other under this Offer. If Buyer does not elect to terminate this Offer, the transactions that are the subject of this Offer shall be completed and Buyer shall receive the proceeds of such condemnation.

10. Title Insurance. The title insurance commitment delivered to Buyer may initially contain the standard title insurance exceptions. Seller, shall, however, at Seller's expense, on or before the date of closing, cause the title insurance company to remove all of the standard title insurance exceptions from the title insurance commitment including, without limitation, standard survey exceptions and the "GAP" exception.

11. Brokerage Commission. The parties represent to each other that no brokers or agents are entitled to a commission or other form of compensation with respect to this transaction.

12. Authority. Seller has complete power and authority to sell, transfer and convey the Property to Buyer pursuant to this agreement.

**[Signature Page to Follow]**

BUYER:

COMMUNITY DEVELOPMENT AUTHORITY  
OF THE CITY OF WEST ALLIS

By: John F. Stibal

Its: Executive Director

SELLER:

CITY OF WEST ALLIS

By: Tom Reine

Its: Mayor

Approved as to form this 3 day  
Feb 2011

Scott Post  
Scott Post,  
City Attorney

COMPTROLLER'S CERTIFICATE

Countersigned this 3 day of FEB, 2011  
and I certify that the necessary funds have been  
provided to pay the liability that may be incurred,  
by the City of West Allis under this Agreement.

Gary Schmid  
Gary Schmid, Chief Financial Officer-  
Manager Finance/Comptroller

## SECOND AMENDMENT TO REAL ESTATE OFFER TO PURCHASE

This Second Amendment to Real Estate Offer to Purchase (this "Second Amendment") dated as of November 28, 2011, is by and between BELOIT ROAD SENIOR APARTMENTS, LLC ("Buyer") and the CITY OF WEST ALLIS ("Seller").

### RECITALS

A. Seller and Community Development Authority of the City of West Allis ("CDA") entered into that certain WB-15 Commercial Offer to Purchase dated February 3, 2011 (the "Original Offer") relating to the property located in the City of West Allis, Wisconsin which is legally described on Exhibit A attached hereto (the "Property").

B. CDA assigned all of its right, title and interest in and to the Original Offer to Buyer pursuant to that certain Assignment of Real Estate Offer to Purchase by and between CDA and Buyer dated September 20, 2011.

C. Buyer and Seller have further amended the Original Offer, pursuant to a certain First Amendment to Real Estate Offer to Purchase dated September 20, 2011 (the "First Amendment"), the Original Offer as amended by the First Amendment is referred to herein as the "Purchase Agreement").

D. Buyer and Seller wish to further amend the Purchase Agreement pursuant to the terms of this Second Amendment.

### AGREEMENTS

In consideration of the Recitals and the mutual agreements which follow, Buyer and Seller agree as follows:

1. The Closing Date is hereby amended from no later than November 30, 2011, to no later than December 31, 2011, unless another date is agreed to in writing.

2. All other terms of the Purchase Agreement remain unchanged. The parties acknowledge that the Purchase Agreement remains in full force and effect as amended by this Second Amendment. References in the Purchase Agreement and First Amendment to the "Form," the "Contract," the "Offer" or this "Offer" shall mean the Purchase Agreement as amended by this Second Amendment.

3. This Second Amendment may be signed in counterparts.

[Signature page follows]



In witness whereof, the parties have executed this Amendment as of the date written below.

**BUYER**

BELOIT ROAD SENIOR APARTMENTS, LLC

BY BELOIT ROAD SENIOR APARTMENTS  
MM, LLC, its managing member

BY COMMUNITY DEVELOPMENT  
AUTHORITY OF THE CITY OF  
WEST ALLIS, its sole member

BY John F. Stibal  
Name John F. Stibal  
Its Executive Director

Executed as of the 28 day of ~~December~~<sup>November</sup>, 2011

**SELLER**

CITY OF WEST ALLIS

BY Dan Devine  
Name Dan Devine  
Its Mayor

Executed as of the 29 day of ~~December~~<sup>November</sup>, 2011

Exhibit A

Parcel 1:

Lots One (1) to Nine (9), Block One (1), Rudolph Estates, being a resubdivision of parts of Lots Nine (9) and Ten (10) in Stones Subdivision and of Lot One (1), Block One (1), Assessor's Plat Number 266, all in the Northwest One-quarter (1/4) of Section Ten (10), Township Six (6) North, Range Twenty-one (21) East, in the City of West Allis, Milwaukee County, Wisconsin.

Parcel ID: 489 0546 000

Parcel 2:

Lots One (1) to Four (4), Block Two (2), Rudolph Estates, being a resubdivision of parts of Lots Nine (9) and Ten (10) in Stones Subdivision and of Lot One (1), Block One (1), Assessor's Plat Number 266, all in the Northwest One-quarter (1/4) of Section Ten (10), Township Six (6) North, Range Twenty-one (21) East, in the City of West Allis, Milwaukee County, Wisconsin.

Parcel ID: 489 0547 000