

**CITY OF MADISON, WISCONSIN**

<p>REPORT OF: Supplemental Report of City Attorney and Real Estate Unit</p> <p>TITLE: The Center for Industry &amp; Commerce - Proposed Amendment</p> <p>AUTHOR: Michael P. May, City Attorney Don Marx, Real Estate Manager</p> <p>DATED: May 2, 2005</p>	<p>PRESENTED February 22, 2005</p> <p>REFERRED Board of Estimates</p> <p>mtgs. of April 11 and May 9, 2005</p> <p>REREFERRED _____</p> <p>REPORTED BACK _____</p> <p>ADOPTED _____ POF _____</p> <p>RULES SUSPENDED _____</p> <p>ID NUMBER <u>00653</u></p>
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**TO THE MAYOR AND COMMON COUNCIL:**

This supplements our report dated April 7, 2005. We are filing this supplemental report to clear up some mistaken impressions which seem to have found their way into the discussion on this issue.

**THE AGREEMENT WITH CIC IS NOT A PARTNERSHIP OR A JOINT VENTURE**

There have been several references to the arrangement between the City and the Center for Industry and Commerce (CIC) as a "partnership" or some "joint venture." The agreement with CIC does not establish a partnership or joint venture. In fact, the agreement explicitly states that it is not a partnership or joint venture.

Paragraph 6 of the agreement between the City and CIC provides in full as follows (emphasis added):

- 6. Disclaimer of Relationships. Developer acknowledges that nothing contained in this Agreement or any contract between the Developer and the City, nor any act by the City, or any of the parties, shall be deemed or construed by any of the parties, or by third persons, to create any relationship of third-party beneficiary, principal or agent, limited or general partnership, or joint venture, or of any association or relationship involving the City.

A partnership is a specific legal entity. More importantly, certain legal rights and obligations flow from the creation of a partnership. Both the City and CIC, and Mr. Wall, expressly disclaimed any desire to for a partnership or to undertake those legal duties and obligations.

**PROTECTION FROM COMPETITION**

There is nothing in the agreement and no other written understanding with CIC that it would be the only industrial park on the east side of Madison. In fact, any such agreement by the City could face strong challenge as being in violation of the anti-trust laws. CIC may have hoped or even wished that it had such an arrangement, but it does not.

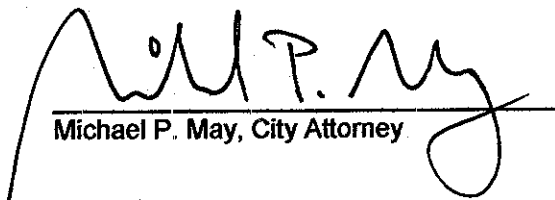
**INABILITY TO COMPETE**

In our prior report, we recommended that the City not approve any changes in the agreement with CIC. In large part, this was due to the lack of any basis for such changes, and the lack of any benefit to the City in making such changes.

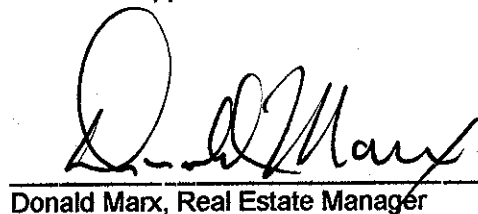
In recent statements, and perhaps underlying the entire request for a change in the agreement by CIC, the argument has been made that this industrial park will simply not develop successfully under the current structure of the agreement. That is, CIC is contending that it is unable to compete for the types of development necessary in order to bring in the business to this industrial park.

The CIC industrial park faces similar challenges to other industrial parks in its immediate area and within the City of Madison but is well positioned in location, price and amenities to be competitive in the Madison industrial park market. It is strategically located to Interstate and State highway transportation corridors and the Dane County Regional Airport. It is located within an area that has been identified in the City's Hanson Road Neighborhood Development Plan for industrial development. The lands adjacent to CIC are zoned industrial and are being developed as industrial parks. These lands and land in other industrial parks within the City are currently being marketed for sale at prices consistent with CIC's pricing structure. The sale prices of CIC and other industrial parks located within the City will not be price competitive with suburban industrial parks because of lower land prices. They were never intended to be. These Madison industrial parks are being marketed to companies that want or need to locate or expand within the City.

For information of the members of the Common Council, we attach the agreement between CIC and the City and the original resolution from May 2002, in which the agreement was approved.



Michael P. May, City Attorney



Donald Marx, Real Estate Manager

AGREEMENT TO PURCHASE AND UNDERTAKE DEVELOPMENT  
OF THE  
NORTHEAST INDUSTRIAL PROPERTY  
BETWEEN  
THE CITY OF MADISON  
AND  
THE CENTER FOR INDUSTRY & COMMERCE L.L.C.

This Agreement to Purchase and Undertake Development ("Agreement") is entered into as of the 15<sup>th</sup> day of November, 2002, by and between The Center for Industry & Commerce L.L.C., a Wisconsin limited liability company ("Developer"), its permitted successors and assigns, and the City of Madison, a Wisconsin municipal corporation, located in Dane County, Wisconsin ("City").

WITNESSETH:

WHEREAS, in January of 1994, the City conducted an Industrial Land Study which identified a shortage of developable land for industrial development; and

WHEREAS, on October 15, 1996, the Common Council of the City ("Common Council") adopted Resolution No. 53,617, I.D. No. 20,306, approving the purchase of the 264-acre Chase Farm by the City; and

WHEREAS, the City retained approximately 54 acres for wetlands preservation and 5 acres for future street right-of-way; and

WHEREAS, on May 4, 1999, the Common Council adopted a resolution authorizing the exchange of 40 acres of the Chase Farm property to Tancho Investment Limited Partnership ("Tancho") in exchange for Tancho lands to facilitate the consolidation of the Northeast Open Space; and

WHEREAS, the City set aside the remaining 165 acres, commonly referred to as the Northeast Industrial Property ("Property") for future industrial development, which real property is described in Exhibit A, attached hereto and incorporated herein by reference; and

WHEREAS, on August 1, 2000, the Common Council adopted Resolution No. 57,500, I.D. No. 27,008 adopting the Hanson Road Neighborhood Development Plan that identified the Property for light-industrial uses; and

WHEREAS, on September 17, 2001 the City advertised a Request for Qualifications (RFQ) to qualified land developers to purchase and co-develop the Property as an industrial park; and

WHEREAS, on April 1, 2002 staff recommended to the Board of Estimates that the City accept the qualifications and proposal submitted by the Developer and at the Board's direction signed a

Letter of Intent with the Developer stipulating the terms and conditions of co-developing the Property as an industrial park; and

WHEREAS, the Developer wishes to enter into this Agreement for the purpose of purchasing the Property from the City, in phases, over a prescribed period of time, and developing said Property as an industrial park; and

WHEREAS, this Agreement is intended to provide for the phased purchase of the Property by the Developer and certain duties and responsibilities of the City and the Developer; and

WHEREAS, it is contemplated that the City will assist the Developer by holding the Property and selling said Property to the Developer in phases at a base price to be annually escalated at a percentage according to a purchase price schedule established herein; and

WHEREAS, it is also contemplated that the City shall construct public improvements, including public roads, water, and sanitary sewer to each phase, and by easement grant the Developer the right to use those lands owned by the City to the east of the Property and to the west of the delineated wetlands as storm water detention ponds; and

WHEREAS, it is further contemplated that the cost of said public improvements will be specially-assessed against the Property and collected by the City when individual lots are sold to third party buyers, to include the Developer or a wholly-owned subsidiary of the Developer if it purchases a lot as a third party buyer, or when a building permit is issued, not when a phase of the Property is first conveyed to the Developer or an affiliate of the Developer; and

WHEREAS, the Wisconsin Department of Transportation requires approximately 3.7 acres of land for the future expansion of USH 51, thereby reducing the acreage available in the Property for sale to the Developer to approximately 161 acres.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed by and between the parties hereto as follows:

1. Agreement Purpose. This Agreement is for the purpose of selling the Property to the Developer who shall develop said Property as a mixed use industrial park.
2. Conditions of Agreement.
  - a) The Developer shall pay a \$25,000 non-refundable earnest money deposit within ten (10) days of Common Council adoption of the resolution authorizing this Agreement. This deposit shall be applied toward the purchase price of the first phase of the Property.
  - b) The Developer and the City shall enter into this Agreement for the co-development of the Property within thirty (30) days of Common Council adoption of the authorizing resolution. This Agreement shall become effective upon its execution date.

- c) The Developer shall purchase 161.6177 gross acres of the Property and develop not less than 137.38 net acres (85% of the gross acreage) as a mixed-use industrial park. The City shall dedicate all land for roads on the approved final plat and/or certified survey map at the time the final plat and certified survey map is recorded. The City shall no later than December 31, 2003, subdivide by recorded final plat and/or certified survey map the entire 165 gross acres of the Property. The Developer shall pay the cost of preparing the preliminary plat, final plat, and CSM. The City agrees to the general placement of the roads, detention ponds and the conceptual layout of the lots as depicted on the Draft Preliminary Plat attached hereto as Exhibit C, subject to the approval of the Plan Commission and Common Council of the City.
- d) The City shall by easement grant the Developer the right to use approximately 8.9 acres of land, owned by the City to the east of the Property and to the west of the delineated wetlands for storm water detention ponds to be constructed and maintained (as depicted on the attached Draft Preliminary Plat in Exhibit C), at the Developer's sole expense, to a design approved by the City Engineer. The Developer at its discretion may assign its obligation to maintain the storm water detention ponds to an association of land owners. The right of the Developer to do so shall be included in The Center for Industry & Commerce Declaration of Covenants, Conditions, and Restrictions. Upon assignment of this obligation to the land owners, the Developer shall be released from any further obligations relating to such maintenance. The easement shall provide that the storm water detention swales and ponds shall be designed and built by the Developer to accommodate the storm water resulting from the Developer's use of the lands contained within the Property. The City agrees that it will not grant additional easements that will interfere with the Developer's use of lands for the purposes stated herein. In addition, the Developer shall hire a qualified consultant to prepare a wetland delineation and certification on those lands owned by the City to the east of the Property. The City agrees to reimburse the Developer for the cost of the consultant's services within 30 days of receiving receipt of invoice. Said cost of the consultant shall not exceed \$1,500.
- e) The Developer shall acquire the Property in not more than seven (7) phases over ten (10) years commencing from the date that the Developer has the ability to obtain a building permit, based upon public street, sewer and water being available ("Start Date") for all of the first phase. Each phase that the Developer acquires shall contain a minimum of 23.5 gross acres (including lands dedicated to the public). The Developer shall acquire the first phase using a base price of \$35,578 per gross acre, prorated in case of a partial acre. The first phase shall be located immediately north of Hanson Road (see map attached as Exhibit D). The base price per gross acre, on any portion of the Property, shall increase by ten per cent (10%) each year upon each anniversary of the Start Date (see Exhibit B: Purchase Price Schedule attached hereto and incorporated herein). The Developer shall purchase all 161.6177 gross acres by the end of Year 10. After the first phase has been acquired, the location and timing of future phase purchases shall be determined by the Developer.
- f) Upon receiving notice of the Developer's intent to purchase a particular phase (the "Phase Notice"), the City shall have 120 days (180 days if notice is given in the months

of December, January, or February) to begin construction of infrastructure to serve the phase described in the Phase Notice. Actual work will commence, weather permitting, during the normal construction period between April 1 and November 1. Once the City has begun construction, the City shall proceed with all due diligence to complete all infrastructure to serve the phase described in the Phase Notice.

- g) The Developer shall close upon the purchase of each phase described in the Phase Notice by the later of either forty-five (45) days after Common Council award of contract for construction of public improvements for the phase designated in the Phase Notice or thirty (30) days after the Developer has the ability to obtain a building permit based upon public street, sewer and water being available, as set forth in Madison General Ordinance 28.04(10)(b) for the phase designated in the Phase Notice or earlier than stated in this paragraph at the Developer's sole discretion. It is the intent of the City and the Developer to have public and private improvements constructed in parallel fashion as much as possible.
- h) Prior to the City commencing bidding, contract award and construction of public improvements to serve a given phase designated in a Phase Notice, the Developer shall secure financing for the purchase of such phase and shall demonstrate proof of financing to the City in the form of a commitment letter issued by a financial institution (i.e., a bank, savings and loan association, credit union, or insurance company). Said commitment letter shall commit to financing, at a minimum, the phase of the Property designated in the Phase Notice.
- i) The City shall construct public roads, storm sewer, water and sanitary sewer improvements and an extension of the sanitary sewer interceptor along or just east of the Property's east property line to the individual lots within the Property, consistent with the Developer's phasing of the Property. Prior to its acquisition of the first phase, the Developer shall be allowed to construct a road along the eastern boundary of the Property (over any public easement granted for the placement of the sewer interceptor), so that the Developer may apply for a building permit to begin construction of buildings within the first phase concurrently with City's construction of roads and utilities. At its option, the Developer shall be allowed to maintain this as a private road permanently subject to any conditions contained in the sewer easement. In addition, at the Developer's option, City shall allow the Developer and its contractors access to all portions of the Property prior to the Developer's closing on the purchase of the same for the construction of temporary roads, storm water detention ponds, berms and swales by the Developer.
- j) In accordance with Madison's General Ordinance regarding special assessments, the Developer shall pay for all public improvements constructed by the City, through special assessments of the Property. The City shall defer said special assessment(s) as permitted in Madison General Ordinance 4.081 (2)(a) for a period not to exceed ten (10) years of the approval of a special assessment district for the public improvements (the "Deferral Period"). The City shall collect special assessments for a particular lot when the lot is sold to a third party buyer, to include the Developer or a wholly-owned subsidiary of the Developer if it purchases a lot as a third party buyer, or when a building permit is issued.

Special assessments shall not be collected when a phase of the Property is first conveyed to the Developer or an affiliate of the Developer. During the Deferral Period no installment payment of the special assessments shall be required on any lots prior to one of the aforementioned event's occurrence. The Developer at its sole discretion may pre-pay all or any portion of the special assessments. All outstanding special assessments shall be paid in full at the end of each Deferral Period.

- k) The City shall prepare a timing schedule for the improvement of Hanson Road and the installation of traffic signals at the intersection of Hanson Road and U.S. Highway 51 subject to the cooperation and participation of the Wisconsin Department of Transportation. The City shall resurface that portion of Hanson Road within City limits and create turning lanes into the Property by December 31, 2003. The City shall make best efforts to timely procure all approvals necessary and install traffic lights at the intersection of Hanson Road and US Highway 51. The City further agrees to oppose any actions to eliminate access from Hanson Road to US Highway 51. In the event Developer's access to US Highway 51 is eliminated or limited to right-in and right-out from Hanson Road, Developer shall have the right to terminate its obligations under this agreement towards the purchase of any future phases of the Property. The Developer shall pay its prorata share for such work in accordance with the City's General Ordinance regarding special assessments.
- l) The City shall at a minimum and at the latest, resurface that portion of Hoepker Road within City limits within 180 days of the Developer giving notice of its intent to acquire a phase of the Property that is adjacent to Hoepker Road. The Developer shall pay its prorata share for such work in accordance with City's General Ordinance regarding special assessments.
- m) The Developer shall have the right to assign the terms of this Agreement to a limited liability company (LLC), limited partnership or other entity controlled by Terrence R. Wall (including T. Wall Properties Master Limited Partnership or a sub-tier entity, provided the Developer delivers written notice to the City). Such assignment shall not constitute a sale or transfer for purposes of triggering a repayment of any portion or all special assessments levied against the Property.
- n) The Developer shall develop the Property consistent with M-1 zoning, to be restricted as approved by the City's Plan Commission and Common Council. The City and the Developer shall work jointly towards rezoning the Property from Temporary M-1 to a permanently restricted M-1 classification. In addition, approximately 5 acres may be developed as neighborhood commercial uses, for the principal purpose of serving the Property. The City agrees to work jointly with the Developer to obtain the zoning necessary to accommodate such neighborhood commercial uses. In the event the zoning necessary to accommodate such neighborhood commercial uses including a hotel user is not obtained the Developer shall have the right to terminate all obligations under this Agreement.

- o) Development within the Property, including any commercial development, shall conform to specific design covenants, as approved by the City's Plan Commission and Common Council, that shall ensure that the visual character and quality of the development are attractive and consistent with the City's commitment to maintain a high-quality environment for buyers in the Property and present an attractive northeast gateway to the City.
- p) If any state, local or federal governmental body or agency fails, by December 31, 2003 to provide any approval necessary to enable the Property to be final platted and rezoned in a manner acceptable to the Developer, or requires any adjustments to the Draft Preliminary Plat attached in Exhibit C, the Developer shall have the option to terminate this Agreement. If any state, local or federal governmental body or agency fails to provide any approval necessary to allow buildings and other improvements to be constructed on any portion of the Property that has not yet been conveyed to the Developer, the Developer shall have the option to terminate this Agreement with respect to that portion of the Property.
- q) The City states that the Property has not been valued as agricultural lands under Section 70.32(2r), Wis. Stats. and that the Developer's proposed change of the use of the Property to nonagricultural uses will not be subject to the penalty set forth in Section 74.48(1)(a), Wis. Stats.
- r) The City shall cause to be paid in full any and all outstanding special assessments levied or pending against the Property prior to the day proceeding such date that this Agreement is approved by the Common Council.
- s) As depicted on the Draft Preliminary Plat in Exhibit C, Lot 60 shall be dedicated on the Final Plat to the City for the purpose of locating a well site. The Developer shall not be required to compensate the City for such lot at the time that the Developer acquires the phase of the Property containing said lot.
- t) Prior to the Developer closing on a phase of the Property, the City shall be responsible for removal and clean-up of any and all items, of any nature, dumped on the Property. The Developer shall not under any circumstances be required to close upon any Phase that contains hazardous substances in levels that exceed those allowable under applicable state or federal environmental laws or regulations.
- u) Prior to the Developer closing on all phases of the Property, the City shall make best efforts to ensure that the Developer is on record to receive all public notices as though the Developer were owner of the entire Property from the date this Agreement is signed.

### 3. Closing.

- a) The series of phased closings called for in this document shall close as dictated in sections 2. (e) and 2. (g) of this document. The closings shall occur at the offices of First



American Title Insurance Company, which shall also issue the commitment for title insurance, unless the parties agree in writing to another title insurance company.

- b) The City agrees to execute and deliver to the Developer at closing a Warranty Deed conveying the Property to the Developer free and clear from all liens and encumbrances, excepting the following: municipal and zoning ordinances and agreements entered under them, recorded easements for the distribution of utility and municipal services, recorded building and use restrictions and covenants, and general taxes levied in the year of closing and exceptions to title previously approved by the Developer provided none of the forgoing are inconsistent with the Developer's intended use of the Property as outlined herein.
- c) The Developer shall pay all recording/filing fees, except that the City shall pay the recording/filing fees for such documents as are required to be recorded/filed in order to cause title to the Property to be in the condition called for in this Agreement.
- d) The City shall pay for title insurance and all real estate transfer taxes payable pursuant to Section 77.25, Wisconsin Statutes, if any.

4. Warranties of Developer.

- a) The Developer represents and warrants to the City that it is a Wisconsin limited liability company duly organized and existing under the laws of the State of Wisconsin, and that all company proceedings necessary to authorize the negotiation and execution of this Agreement and the consummation of the transaction contemplated by this Agreement have been taken in accordance with applicable law.
- b) The Developer represents and warrants to the City that this Agreement and all other documents required to be executed and delivered by the Developer at closing have been duly and validly authorized, executed and delivered by the Developer and will be enforceable against the Developer in accordance with their terms, except as limited by bankruptcy, insolvency or similar laws of general application affecting the enforcement of creditor's rights.
- c) The Developer represents and warrants to the City that the execution and delivery of this Agreement, the consummation of the transactions contemplated in this Agreement, and the execution and delivery of the documents required to be executed, delivered and acknowledged by the Developer at the closing, will not violate any provision of the Developer's operating agreements, bylaws, or any other contract, agreement, court order or decree which the Developer may be subject to.

5. Rights of Access to Property.

- a) The City does hereby reserve for itself the unqualified right to enter upon the Property at all reasonable times for the purpose of reconstructing, maintaining, repairing or servicing any public utilities now or hereinafter located within the Property boundary lines,

pursuant to specifically located easements. The City shall restore the Property to its previous condition following any such work.

- b) The Developer agrees to not construct any building or other structure or part thereof on, over or across any public or private utility or within the boundary lines of any easement or right-of-way therefore unless such construction has first been approved in writing by the City and all other public bodies having jurisdiction on the Property.
  - c) The Developer shall permit the representatives of the City to have access to the Property at all reasonable times, following acquisition by the Developer, when the City deems access necessary to insure compliance with the terms and conditions of this Agreement, including but not limited to access for inspection of all work being performed in connection with the development of the Property.
  - d) The City shall permit the Developer or its representatives to have access to the Property at all reasonable times, prior to acquisition by the Developer, for the purposes of planning future phase acquisitions, preparing environmental and soil testing reports, or performing any other tests, surveys, reports or studies determined by the Developer to be necessary for the development of the Property. Neither the Developer nor its representatives shall be held responsible for any damage to farm crops on the Property under lease with the City that occur as a result of the access provided herein. No compensation shall be payable nor shall any charge be made in any form by any party for the access to the Developer or its representatives provided in this section. The Developer or its representatives shall restore the Property to its previous condition following any such work.
6. Disclaimer of Relationships. Developer acknowledges that nothing contained in this Agreement or any contract between the Developer and the City, nor any act by the City, or any of the parties, shall be deemed or construed by any of the parties, or by third persons, to create any relationship of third-party beneficiary, principal or agent, limited or general partnership, or joint venture, or of any association or relationship involving the City.
7. Conflict of Interest. No officer, member, employee or agent of the Developer, or its designees, or agent, or consultant who is or has been a public official of the City and who exercises or who has exercised any function of responsibility with respect to the Property during his or her tenure as such public official, or who is in a position to formally participate in a decision-making process or gain insider information with respect to the Property, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, or work to be performed in connection with the Property, or in any activity, or benefit there from, which is part of this Property at any time during such person's tenure as such public official. This provision shall be in addition to the requirements in Section 3.47 of the Madison General Ordinances. However, upon request by the Developer, the City may agree in writing to waive a conflict otherwise prohibited by this provision whenever there has been a full public disclosure of the conflict of interest, and the City determines that undue hardship will result either to the City or the person affected by applying the prohibition in that the granting of a waiver is in the public interest. No such request for a waiver shall be made

which would in any way cause or constitute a violation of state or local law or any charter provision of the City.

8. Recording of Documents. The Developer shall, on the same day or on the next subsequent day following execution of this Agreement, promptly record this Agreement in the office of the Register of Deeds for Dane County, Wisconsin. The Developer shall pay all recording fees.
9. Place Sign On Site. The City shall allow the Developer, its contractors and lenders at their sole cost and expense, and subject to compliance with the City Street Graphics Control Ordinance, the ability to erect both temporary and permanent sign(s) at mutually agreed upon location(s) on the Property. Such sign(s) to include the following language in print of the same size, color, and type as that identifying the other Property financing sources: "[Property Name]: A [Developer's Name] and City of Madison Industrial Co-Development". In addition, the City agrees to erect such sign(s), at the Developer's sole cost and expense, at mutually agreed upon location(s) on City owned land contiguous to the Property, subject to the City Street Graphics Control Ordinance.
10. Property Website. The City agrees that the Developer may, at its cost, create, post and maintain a website for this project which may be linked to the City website. Such website shall be limited to development on the Property and shall not include links to other development projects of the Developer.
11. Indemnification. With respect to the performance of any work under this Agreement by the Developer, the Developer shall indemnify, save harmless and defend the City, its officers, agents and employees from any and all liability, suits, actions, claims, demands, losses, costs, damages and expenses of every kind and description, including attorney costs and fees, for claims of any character, including liability and expenses in connection with the loss of life, personal injury or damage to property, or any of them, brought because of any injuries or damages received or sustained by any person, persons or property on account of or arising out of the construction or operation of the Property or occupancy of the Property occasioned wholly or in part by any act or omission on the Developer's part or on the part of its agents, managers, contractors, subcontractors, invitees or employees, whether caused by or contributed to by the negligent acts of the City, its officers, officials, agents and employees. This requirement shall also apply with equal force to all work performed by the Developer, its architect, contractor, subcontractors or any other party directly or indirectly employed by or retained by the Developer to perform work relating to the construction, operation, or maintenance of the improvements or the Property. The City and its officers, agents and employees shall be additionally indemnified for, but not limited to, any claims arising out of the construction of the infrastructure improvements upon the Property, including safeguarding the work and the use of acceptable materials; claims arising because of any act, omission, neglect or misconduct of the architect, contractor, subcontractors or any other party directly or indirectly employed by or retained by the Developer; claims arising from infringement of patent, trademark or copyright; claims arising under the Workers Compensation Law; or claims arising from the violation of any law, ordinance, order or decree.

The City shall have no obligation or liability for any of the Developer's obligations or responsibilities to any lending institution, architect, contractor, subcontractors or any other party retained by the Developer in the performance of its obligations and responsibilities under the terms and conditions of this Agreement. The Developer specifically agrees that no representations, statements, assurances or guarantees will be made by the Developer to any third party or by any third party, which is contrary to this provision.

The Developer also agrees to indemnify, save harmless and defend the City, its officers, agents and employees from any and all liabilities, losses or damages (including attorneys' fees and costs) the City, its officers, agents and employees may suffer as a result of the Developer's not completing the development contemplated in this Agreement or which may result from an event of the Developer's default of any of the terms and conditions of this Agreement including the Developer's failure to furnish records requests by the City or a requestor in accordance with Chapter 19 of the Wisconsin Statutes.

12. Insurance. The Developer shall, at its sole cost, maintain in good repair lands owned or controlled by the Developer, within the Property. Additionally, the Developer shall carry commercial general liability insurance including contractual liability with no less than the following limits of liability, as may be adjusted, from time to time, by the City's Risk Manager: bodily injury, death and property damage of \$5,000,000 per occurrence. The policy or policies shall name the City as an additional insured. As evidence of this coverage, the Developer shall furnish to the City a certificate of insurance on a form provided by the City.

a) If any portion of the Property that has not previously been conveyed to the Developer is taken by eminent domain, the City shall immediately notify the Developer. The Developer may purchase the portion of the Property to be taken by eminent domain yet to be conveyed to the Developer not later than 60 days after receiving the City's notice, at the applicable price established in the Purchase Price Schedule (Exhibit B). In the event portions of the Property not previously conveyed to the Developer are taken by eminent domain and such taking significantly impacts the Developer's ability to develop the Property for the uses anticipated herein, the Developer shall have the option of terminating this Agreement.

b) The net proceeds of any insurance attributable to damage or destruction separately incurred by property of the Developer not comprising part of the Property yet to be conveyed to the Developer, or condemnation awards separately awarded for damages to or taking of the property of the Developer not comprising part of the Property yet to be conveyed to the Developer, or for damages on account of the taking of or interference with the Developer's rights to possession, use or occupancy of the Property shall be and remain at all times the property of the Developer.

### 13. Remedies in General

a) In the event of any default in, or breach of, this Agreement or any of its terms or conditions by the Developer, or any successor in interest to the Developer, the

Developer (or successor) shall have the right to cure or remedy such default or breach within thirty (30) days of written notice thereof unless a longer term is specified, or unless such default or breach requires more than the payment of money to cure and cannot reasonably be cured or remedied within such thirty (30)-day period, in which case no default or breach shall be deemed to exist if the Developer commences to cure within such thirty (30) day period and takes and continues to take such reasonable action to cure such default thereafter. In case such action is not taken or is not pursued, as described in the previous sentence, the City may institute such actions or proceedings as may be authorized by law and the Wisconsin Constitution, and as may be necessary or desirable in its opinion to cure the default or breach including, but not limited to, proceedings to compel specific performance by the Developer in default or breach of its obligations or for damages actually suffered by the City as a result of such breach. Nothing in this Agreement shall be construed to in any way affect or control the City's exercise of its police power.

- b) In the event of any default in, or breach of, this Agreement or any of its terms or conditions by the City, or any successor in interest to the City, the City (or successor) shall have the right to cure or remedy such default or breach within thirty (30) days of written notice thereof unless a longer term is specified, or unless such default or breach requires more than the payment of money to cure and cannot reasonably be cured or remedied within such thirty (30)-day period, in which case no default or breach shall be deemed to exist if the City commences to cure within such thirty (30) day period and takes and continues to take such reasonable action to cure such default thereafter. In case such action is not taken or is not pursued, as described in the previous sentence, the Developer may institute such actions or proceedings as may be authorized by law and as may be necessary or desirable in its opinion to cure the default or breach including, but not limited to, proceedings to compel specific performance by the City in default or breach of its obligations or for damages actually suffered by the Developer as a result of such breach.

14. No Waiver By Delay. Either party to this Agreement (the "Enforcing Party") shall have the right to institute such actions or proceedings as it may deem desirable for effectuating the purposes of this Agreement, provided that any delay by the Enforcing Party in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this section shall not operate as a waiver of such rights or to deprive it of or limit such rights in any way (it being the intent of this provision that the Enforcing Party should not be constrained so as to avoid the risk of being deprived of or limited in the exercise of the remedy provided in this section because of concepts of waiver, laches or otherwise, to exercise such remedy at a time when it may still hope otherwise to resolve the problems created by the subject default or breach); nor shall any waiver in fact be made by the Enforcing Party with respect to any specific default or breach by the other party under this section be considered or treated as the waiver of rights of the Enforcing Party with respect to any other default or breach by the other party under this section, or with respect to the particular default or breach except to the extent specifically waived in writing.

15 Termination. The City shall have the right, at its sole option, to declare this Agreement void, terminate the same, reenter and take possession of the Property by giving Developer a minimum of thirty (30) days written notice of termination, upon or after any one of the following events:

- i. The filing by the Developer of a voluntary petition in bankruptcy.
- ii. The institution of proceedings in bankruptcy against the Developer and the adjudication of the Developer as a bankrupt pursuant to such proceedings.
- iii. The taking by a court of competent jurisdiction of the Developer's assets pursuant to proceedings brought under the provisions of any federal or state reorganization act.
- iv. The appointment of a receiver of the Developer's assets.
- v. The divestiture of the Developer's estate herein by other operation of law.
- vi. The abandonment by the Developer of the Property

The termination shall not be effective, if within such thirty (30) day period, the event giving rise to the City's right to terminate ceases to exist. Failure of the City to declare this Agreement terminated upon the breach or default of Developer for any reason set forth herein shall not operate to bar or destroy any right of the City to terminate this Agreement for any subsequent breach or default of any term or condition of this Agreement.

16. Rights and Remedies Cumulative. The rights and remedies of the Developer and the City, whether provided by law or provided by this Agreement, shall be cumulative, and the exercise by the City or the Developer of any one or more of such remedies shall not preclude the exercise by it at the same or different times of any other such remedies for the same event of default or breach of any of its remedies for any other event or default or breach by the other party.

17. Non-Discrimination. In the performance of this Agreement, the Developer agrees not to discriminate against any employee or applicant for employment because of race, religion, marital status, age, color, sex, handicap, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs or student status. The Developer further agrees not to discriminate against any subcontractor or person who offers to subcontract on this Agreement because of race, religion, color, age, disability, sex or national origin.

18. Wisconsin Law. This Agreement shall be deemed to have been made in the State of Wisconsin and its validity, construction, performance, breach and operation shall be

governed by the laws of the State of Wisconsin. No provision of this Agreement shall be construed to require the City to take any action in violation of law.

- 19 Severability. If any term or provision of this Agreement or the application thereto to any person or circumstance, shall, to any extent, be held invalid, unlawful or otherwise unenforceable, the remainder of this Agreement, or the application of such term or provisions to the persons or circumstances other than those as to which it is invalid, unlawful or otherwise unenforceable shall not be affected thereby and every other term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
- 20 Inspection of Records. In the event of a non-cured Default by the Developer, the City shall, from the execution date of this Agreement, have the right upon at least 30 days' written notice and during business hours to audit and inspect any and all records, contracts, financial statements, ledgers or written documents from, to or in the possession of the Developer which relate to and are generated by the responsibilities of this Agreement. This right of audit and inspection shall apply to not only those records and documents that are within the physical control and custody of the Developer but also any records, statements and documents that may be within the custody and control of third parties or generated by third parties in the performance of the obligations and responsibilities hereunder, including but not necessarily limited to the architect, contractor and all subcontractors of the Developer.
- 21 Notices and Demands. A notice, demand or other communication under this Agreement by any party to any other party shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally to:

City: Real Estate Section  
P.O. Box 2983  
215 Martin Luther King, Jr. Blvd., LL-100  
Madison, WI 53701-2983

With copy to: City Attorney  
City County Building, Rm. 401  
210 Martin Luther King, Jr. Blvd  
Madison, WI 53709

Developer: The Center for Industry & Commerce L.L.C.  
P.O. Box 7700  
Madison, WI 53707-7700  
ATTN: Terrence R. Wall

or such other addresses as the parties may designate to each other in writing from time to time.

22. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute an original.
23. Amendments, Supplements. This Agreement may be supplemented or amended only by written instrument executed by the parties.
24. Covenants Running with Land. All of the covenants, obligations and promises of the Developer set forth herein shall be deemed to encumber the Property and run with the land and shall bind the Developer and its successors and assigns and all holders of any interest in the Property until such time as this Agreement is terminated. All of the covenants, obligations and promises of the City shall inure to the benefit of the Developer and bind the City and its assigns.
25. Termination: Release. This Agreement shall terminate and be of no further force and effect at such time as the Developer has fully performed all of its obligations set forth in Section 2 herein to the complete satisfaction of and in the sole discretion of the City. Provided that the Developer has fulfilled all of its development obligations under this Agreement with respect to a given phase, then, if a portion of such phase is to be conveyed to a third party, except the Developer or its wholly owned subsidiary if it purchases a lot as a third party buyer, or when a building permit is issued, the City shall provide to the Developer, within ten (10) days of written request therefor, with a document under which the City releases such portion from the terms and conditions of this Agreement.
26. Leases or Contracts. The City shall not enter into any leases or contracts with regards to the Property without receiving the express written consent of the Developer.
27. Liens.
- a. The Developer shall not suffer or permit any construction lien to be filed, or if filed, to remain uncontested or unbonded, against the those portions of the Property not acquired by the Developer, nor against the Developer's interest in the Property, by reason of work, labor services or materials supplied or claimed to have been supplied to the Developer and nothing contained herein shall be deemed or construed in any way as constituting the consent or request of the City, express or implied, by inference or otherwise, to any contractor, subcontractor, laborer or supplier for the performance of any labor or the furnishing of any materials for any specific improvement or activity on those portions of the Property not acquired by the Developer nor as giving the Developer any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to the filing of any construction lien against those portions of the Property not acquired by Developer. If any such lien is filed, Developer shall immediately cause the same to be discharged or released or shall provide adequate and acceptable security, title insurance coverage or bond to protect the City's interest.
  - b. If any such construction lien shall at any time be filed against those portions of the Property not acquired by the Developer arising or alleged to arise from the actions of



the Developer and/or the Developer's agents, employees, contractors or suppliers, the Developer covenants that it will promptly take and diligently prosecute appropriate action to have the same discharged or insured over by payment, bonding, provision of title insurance coverage or otherwise, and that it will hold the City free and harmless of and from any and all liability to any contractor, subcontractor, supplier, laborer or any other person relating to or arising because of any improvements or activities arising or alleged to arise from the actions of the Developer and/or the Developer's agents, employees, contractors or suppliers on those portions of the Property not acquired by the Developer, and that it will also defend on behalf of the City, at the Developer's sole cost and expense, any action, suit or proceeding which may be brought for the enforcement of any such lien, and that it will pay any damages and discharge any judgments entered therein. Upon the Developer's failure to do any of the foregoing things, the City may take such action as may be reasonably necessary to protect the City's interest, in addition to any other right or remedy which it may have; and any amount paid by the City in connection with such action shall be repaid by the Developer to the City upon demand, together with interest thereon at the rate of twelve percent (12%) per annum.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

**THE CENTER FOR INDUSTRY & COMMERCE  
L.L.C.,**

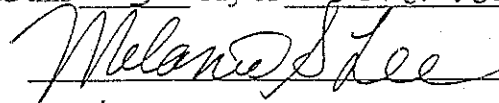
a Wisconsin limited liability company

By: T. Wall Properties Master Corp.  
Its Manager

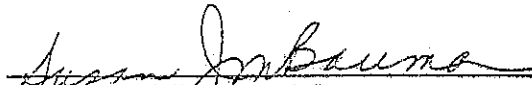
By:   
Terrence R. Wall, President

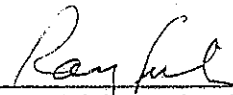
**AUTHENTICATION**

Signature of Terrence R. Wall authenticated this 15 day of November, 2002.

  
Melanie S. Lee  
Member, State Bar of Wisconsin

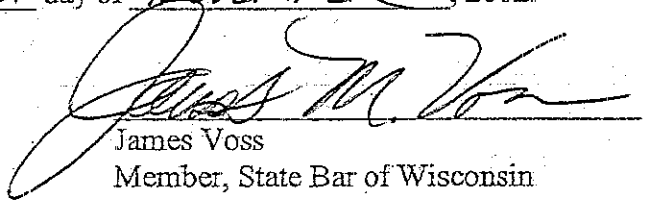
CITY OF MADISON,  
a Wisconsin municipal corporation

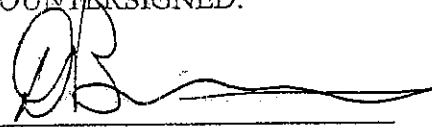
By:   
Susan J.M. Bauman, Mayor


By:   
Ray Fisher, City Clerk

AUTHENTICATION

Signatures of Susan J.M. Bauman and Ray Fisher, Mayor and City Clerk, respectively, of the City of Madison, authenticated this 21<sup>ST</sup> day of NOVEMBER, 2002.

  
James Voss  
Member, State Bar of Wisconsin

COUNTERSIGNED:  
  
Dean Brassler, City Comptroller

APPROVED AS TO FORM:  
  
James L. Martin, City Attorney

Execution of this Agreement is authorized by Second Substitute Resolution No. 59884 ID No. 31728, adopted by the Common Council of the City of Madison on November 5, 2002.

This Agreement was drafted by the City of Madison Real Estate Section. Project No. 2689

## EXHIBIT A

### THE PROPERTY

Lands located in part of the NW ¼, NE ¼, SE ¼ and SW ¼ of the NW ¼, part of the NW ¼ and SW ¼ of the NE ¼ and part of the NE ¼ of the SW ¼, all in Section 16, T8N, R10E, in the City of Madison, Dane County, Wisconsin, more fully described as follows:

Commencing at the Northwest Corner of said Section 16; thence N89°04'44"E, along the North line of the said NW ¼, 199.66 feet; thence S00°55'16"E, 110.13 feet; thence N87°24'59"E, along the South line of Hoepker Road, 54.05 feet; thence S70°58'58"E, along the said South line, 52.04 feet; thence N78°23'56"E, along the said South line, 42.23 feet to the point of beginning; thence continuing N78°23'56"E, along the said South line, 73.84 feet; thence N72°11'20"E, along the said South line, 147.32 feet; thence N 89°04'44" E, along the said South line, 389.52 feet; thence S01°10'21"W, 165.84 feet; thence N89°32'56"E, 340.07 feet; thence N01°10'12"E, 168.63 feet; thence N89°04'44"E, along the said South line of Hoepker Road, 840.75 feet; thence 40.14 feet along the arc of a curve to the right having a radius of 25.00 feet, a central angle of 91°59'44" and a long chord bearing S44°55'24"E, 35.97 feet to the point of tangency thereof; thence S01°04'28"W, 880.27 feet; thence 198.71 feet along the arc of a curve to the right having a radius of 1134.00 feet, a central angle of 10°02'24" and a long chord bearing S06°05'40"W, 198.46 feet to the point of tangency thereof; thence S11°06'52"W, 23.48 feet; thence S 78°53'08" E, 66.00 feet; thence S 80°31'47" E, 468.82 feet; thence S 55°27'15" E, 650.77 feet; thence S44°23'14"W, 194.05 feet; thence S38°49'06"W, 209.04 feet; thence S33°38'41"W, 168.69 feet; thence S23°23'29"W, 1238.11 feet; thence S00°48'45"W, 274.34 feet; thence S81°42'54"E, 34.89 feet; thence S03°55'11"E, 192.23 feet; thence S08°41'29"E, 256.51 feet; thence S89°39'51"W, along the south line of the said NE ¼ of the SW ¼, 1153.02 feet; thence N00°51'23"E, along the West line of the said NE ¼ of the SW ¼, 1319.64 feet; thence N01°01'53"E, along the West line of the said SE ¼ of the NW ¼, 305.74 feet; thence S89°40'34"W, 1067.86 feet; thence N04°20'43"W, 505.51 feet; thence N01°16'48"E, 155.11 feet; thence N04°03'19"W, 410.61 feet; thence N04°09'37"E, 301.18 feet; thence N08°12'22"E, 303.85 feet; thence N16°43'06"E, 441.77 feet; thence N04°10'27"E, 97.64 feet to the point of beginning.

Containing 7,040,067 square feet or 161.6177 acres, more or less.

EXHIBIT B

PURCHASE PRICE SCHEDULE

Base Price: \$35,578 per gross acre

Price Escalator: 10% per year

Anniversary Date: The Start Date

Period: Ten (10) years

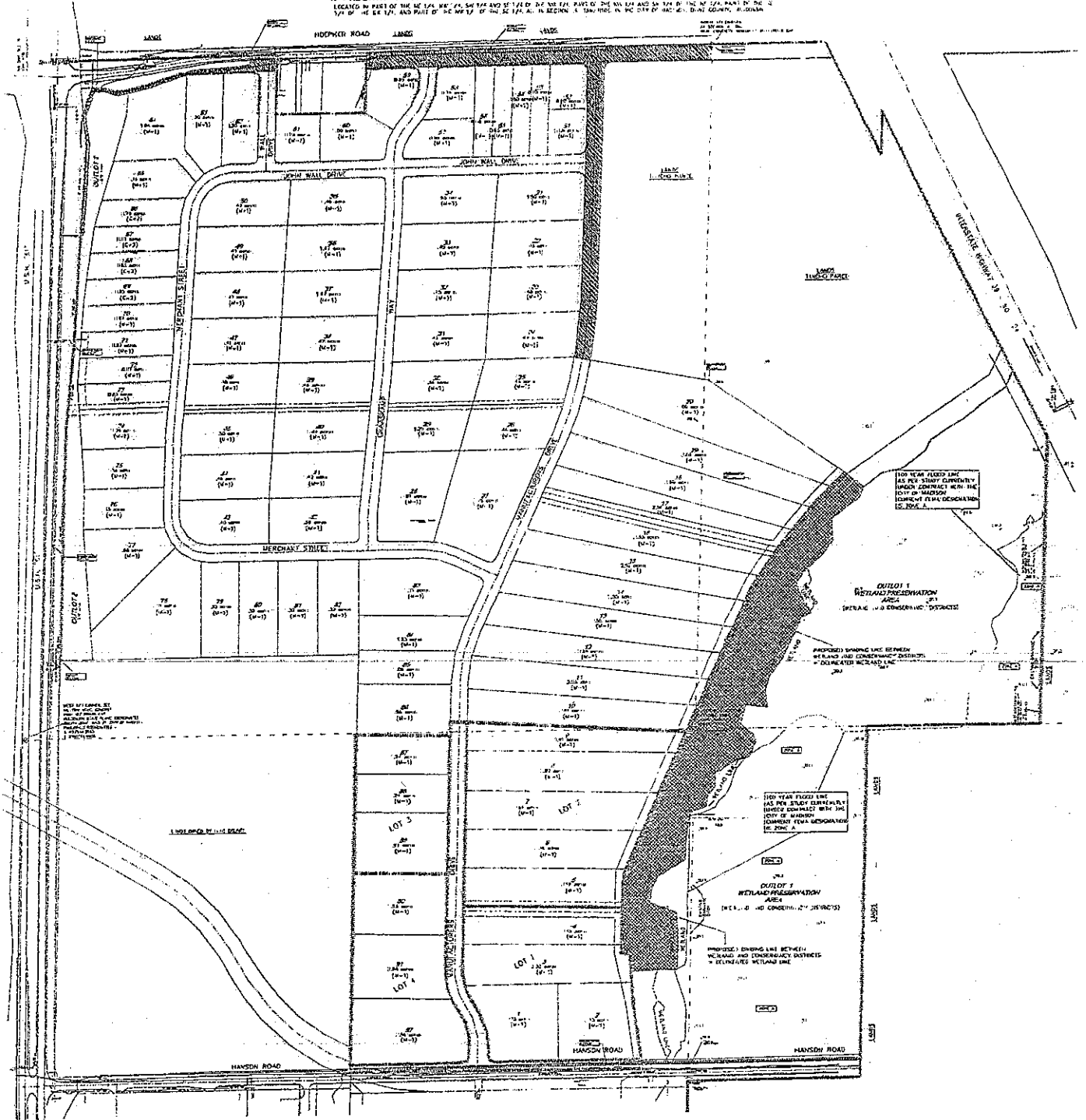
<u>Year</u>	<u>Price Per Gross Acre</u>
1	\$35,578
2	\$39,136
3	\$43,049
4	\$47,354
5	\$52,090
6	\$57,299
7	\$63,029
8	\$69,331
9	\$76,265
10	\$83,891

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# EXHIBIT D LOCATION MAP

## PRELIMINARY PLAT OF - THE CENTER FOR INDUSTRY & COMMERCE



City of Madison, Wisconsin

A SECOND SUBSTITUTE RESOLUTION \_\_\_\_\_

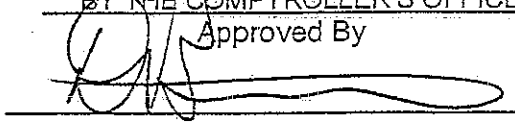
Presented May 7, 2002 May 21, 2002  
Referred Board of Estimates, BPW and  
Plan Commission  
Rereferred \_\_\_\_\_  
Reported Back \_\_\_\_\_  
Adopted  POF  
Rules Suspended \_\_\_\_\_  
Public Hearing \_\_\_\_\_

Accepting the Qualifications and Proposal from I Wall Properties to co-develop the 165-acre Northeast Industrial Property located at the northeast corner of Highway 51 and Hanson Road.

Drafted By: Joe Gromacki, Real Estate Development Specialist

Date: April 29, 2002

Fiscal Note: This agreement will result in total payments from Wall to the City of approximately ~~\$9,000,000~~ 7,700,000 during the 10-year development period. These payments will first repay the Sewer Utility a total of \$1,000,000 plus interest for its share of the original land purchase and \$406,000 in sewer and water main assessments. Additional payments will be deposited in the General Land Acquisition Fund and will be available for future land purchases approved by the Common Council. Construction of the required public improvements by the City can be financed using the Special Assessment Revolving Fund with no impact on the General Fund, tax levy or the State Expenditure Restraint Program.

APPROVAL OF FISCAL NOTE IS NEEDED  
BY THE COMPTROLLER'S OFFICE  
Approved By  


SECOND SUBSTITUTE  
RESOLUTION NUMBER 59884  
ID NUMBER 31728

Sponsors: Mayor Susan J.M Bauman  
Ald. Santiago Rosas, District 17

WHEREAS, in January of 1994, the City of Madison conducted an Industrial Land Study which identified a shortage of developable land for industrial development; and

WHEREAS, on October 15, 1996, the Common Council of the City of Madison adopted Resolution No.53, 617, I.D. No. 20,306 approving the purchase of the 264-acre Chase Farm by the City of Madison (hereinafter "City"); and

WHEREAS, the City retained approximately 54 acres for wetlands preservation and 5 acres for future street right-of-way; and

WHEREAS, on May 4, 1999, the Common Council adopted a resolution authorizing the exchange of 40 acres of the Chase Farm property to Tancho Investment Limited Partnership ("Tancho") in exchange for Tancho lands to facilitate the consolidation of the Northeast Open Space; and

WHEREAS, the City set aside the remaining 165 acres (hereinafter "Northeast Industrial Property") for future industrial development; and

WHEREAS, on August 1, 2000, the Common Council of the City of Madison adopted Resolution No. 57,500, I.D. No.27, 008 adopting the Hanson Road Neighborhood Development Plan that identified the Northeast Industrial Property for light-industrial uses; and

WHEREAS, on September 17, 2001 the City of Madison advertised a Request for Qualifications (RFQ) to qualified land developers to purchase and co-develop the Northeast Industrial Property as an industrial park; and

WHEREAS, City staff met and reviewed two (2) qualified proposals received in response to the RFQ (see attached memo); and

WHEREAS, on April 1, 2002 staff recommended to the Board of Estimates that the City of Madison accept the qualifications and proposal submitted by T. Wall Properties, Inc ("Wall") and at the Board's direction signed a Letter of Intent with Wall stipulating the terms and conditions of co-developing the Northeast Industrial Park; and

WHEREAS, subsequent to the execution of a Letter of Intent, the Wisconsin Department of Transportation indicated its need for approximately 3.7 acres for the future expansion of USH 51, reducing the acreage available for the Northeast Industrial Property to approximately 161 acres and necessitating a reduction in the per acre base price.

NOW, THEREFORE BE IT RESOLVED that the City of Madison hereby accepts the qualifications and proposal submitted by T. Wall Properties, Inc. for the co-development with the City of Madison of the Northeast Industrial Property.

BE IT STILL FURTHER RESOLVED that a development agreement be executed between T. Wall Properties, Inc. and the City of Madison to co-develop the Northeast Industrial Property with the following terms and conditions:

1. Wall shall pay a \$25,000 non-refundable earnest money deposit within ten (10) days of Common Council adoption of an authorizing resolution. This deposit shall be applied toward the purchase price of the first phase of the Property acquired
2. Wall and the City shall enter into a development agreement for the co-development of the Northeast Industrial Property within thirty (30) days of Common Council adoption of an authorizing resolution. The term of the development agreement shall commence upon its execution date and shall not exceed ten (10) years.
3. Wall shall purchase ~~165~~ 161 gross acres of the Property and develop not less than ~~140~~ 137 net acres (85% of the gross acreage) as a mixed-use industrial park. The remaining 25 acres (~~15~~ 16% of the gross acreage) shall be dedicated for roads at the time the final plat is recorded. Wall shall, at its expense, plat the entire 165 gross acres of the Property. In addition, the City shall by easement grant Wall the right to use those lands owned by the City to the east of the Property and to the west of the delineated wetlands for storm water detention ponds.
4. Wall shall acquire the Property in seven (7) phases over ten (10) years commencing from the date that ~~the final plat of the Property is recorded~~ Wall has the ability to obtain a building permit based upon public street, sewer and water being available for the first phase (the "Start Date"). Each phase shall contain approximately 23.5 gross acres (20 net acres). Wall shall guarantee payment of ~~\$871,200~~ 836,083 (using a base price of ~~\$37,026~~ 35,578 per gross acre or pro ration thereof) to the City for the first phase acquired. The first phase shall consist of 23.5 gross acres, generally located north of Hanson Road (see attached map) which shall be acquired within the first year. The base price per gross acre shall increase by ten per cent (10%) each year on the anniversary of the recording Start ~~d~~ate of the final plat of the Property (see Purchase Price Schedule below). Wall shall guarantee the purchase of all ~~165~~ 161 gross acres by the end of Year 10.
5. Wall shall purchase each phase by the later of either forty-five (45) days after Common Council award of contract for construction of public improvements for the respective phase purchased or thirty (30) days after Wall has the ability to obtain a building permit (based upon public street, sewer and water being available, as set forth in



Madison General Ordinance 28 04(10)(b)). It is the intent of the City and Wall to have public and private improvements constructed in parallel fashion as much as possible.

6. Wall shall secure financing for the purchase of each phase of the Property and shall demonstrate proof of financing to the City in the form of a commitment letter issued by a qualified financial institution prior to the City commencing bidding, contract award and construction of public improvements. Said commitment letter shall commit to finance either the entire ~~165~~ 161 gross acres of the Property or, at a minimum, each phase of the Property.
7. The City shall construct public roads, drainage, water and sanitary sewer improvements and an extension of the sanitary sewer interceptor along or just east of the Property's east property line to the individual lots within the industrial park. Wall shall pay for said public improvements by special assessment of the Property. The City shall defer said special assessment as permitted in Madison General Ordinance 4.081 (2)(a) for a period not to exceed ten (10) years of the approval of a special assessment district for the public improvements. The City shall collect special assessments when a building permit is issued or Wall sells or transfers lots to buyers. The City shall prepare a schedule for the improvement of Hanson Road and the installation of traffic signals at the intersection of Hanson Road and U.S Highway 51 subject to the cooperation and participation of the Wisconsin Department of Transportation. Cost of these improvements shall be assessed on a prorated basis to the industrial park.
8. Wall shall have the right to assign the terms of the development agreement to a limited liability corporation (LLC), limited partnership or other entity controlled by Terrence R. Wall (including T. Wall Properties Master Limited Partnership or its sub-tier entity), provided Wall delivers written notice to the City.
9. Wall shall develop the Property consistent with M-1 zoning, to be restricted as mutually agreed between the City and Wall. Approximately 5 acres may be developed as neighborhood commercial uses serving the industrial park.
- ~~10. Development within the industrial park, including commercial development, is expected to conform to specific design covenants that shall be created. Such covenants shall ensure that the visual character and quality of the light-industrial development are attractive and consistent with the City's commitment to maintain a high-quality environment for buyers in the industrial park and present an attractive northeast gateway to the City.~~

Purchase Price Schedule

Base Price: \$37,026 35,578 per gross acre  
 Price Escalator: 10% per year  
 Anniversary Date: ~~Date of recording final plat for 165 gross acres of the Property~~ Start Date  
 Period: Ten (10) years

<u>Year</u>	<u>Price Per Gross Acre</u>	
1	\$37,026	35,578
2	\$40,729	39,136
3	\$44,801	43,049
4	\$49,282	47,354
5	\$54,210	52,090
6	\$59,631	57,299
7	\$65,594	63,029
8	\$72,153	69,331
9	\$79,369	76,265
10	\$87,305	83,891

BE IT STILL FURTHER RESOLVED that the Development Agreement be submitted to the Common Council prior to the adoption of this resolution.

BE IT STILL FURTHER RESOLVED that the Mayor and City Clerk are hereby authorized to execute, deliver, accept, and record such documents and to take such other actions as shall be necessary or desirable to accomplish the purposes of this resolution