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July 14, 2015

Capitol East District Committee  
City of Madison  
Madison Municipal Building  
215 Martin Luther King, Jr. Boulevard  
Madison, WI 53710

RE: 800 Block South Proposal

Dear Members:

We represent T-Presents in the above matter. Our client requests that the Capitol East District Committee (“Committee”) reject the Gebhardt Development Proposal (“Gebhardt”) as outlined by Gebhardt in their submission to the Committee, dated July 10, 2015, and direct City staff to reissue a new Request for Proposal (“RFP”) for the above project.

T-Presents, by Toffer Christensen, makes this request despite a number of positive components in the Gebhardt proposal, particularly as to the Starting Block element and the involvement of American Family Insurance. Moreover, my client recognizes the contributions that Gebhardt has already made to the revitalization of the Capitol East District Corridor. Nevertheless, T-Presents believes that the latest Gebhardt proposal represents a significant misrepresentation made to the City.

### **Background**

On November 8, 2014, T-Presents submitted to this Committee, as part of the Gebhardt response to the City RFP, a detailed description of their vision for a music venue with a maximum capacity of 1,500 people. Based on this submission, the Committee requested that the City continue to negotiate with Gebhardt and bring back a more detailed implementation plan.

Prior to the Committee’s action, T-Presents was instrumental in convincing Starting Block to be a part of this project. T-Presents felt at that time and continues to believe that Starting Block represents a key element in the economic revitalization of this area and that the synergies between the Starting Block use and the 18,000 square feet of the T-Presents space represents significant advantages.

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Otto Gebhardt recognized the key role that T-Presents played in bringing Starting Block to the table in a number of ways. First, he agreed with Tom Christensen, the realtor for T-Presents, at a meeting on October 29, 2014, that the Christensen Company LLC was entitled to a real estate commission due to their efforts to include Starting Block in this project. Moreover, there were numerous meetings consisting of George Austin, Starting Block's facilitator, and representatives of Gebhardt and T-Presents to make their respective uses a reality.<sup>1</sup>

Once the Committee took its action on November 8, 2014, Gebhardt and T-Presents made significant progress. The parties agreed on a price for the commercial condominium space as well as the buildout costs for the music venue which T-Presents agreed to open in the fall of 2016. T-Presents developed a detailed business plan which included financial projections, successfully obtained financing from the Bank of McFarland and secured the necessary private investors. T-Presents also hired an independent CPA to verify those financial assumptions and he determined that the business was economically quite viable. T-Presents kept Gebhardt fully advised of all these efforts and thus reasonably relied that this financial transaction was going to be finalized.

Despite the fact that T-Presents made all of these good faith efforts, Gebhardt recently contacted another music promoter and the end result was that in the Gebhardt submission before you, the music venue is twice the size of what Gebhardt and T-Presents had represented to the Committee in its November 8, 2014 submission.

### **Arguments in Support of Reopening the RFP Process**

#### **1. The music venue portion of the Gebhardt proposal is significantly different in size from what was previously represented to the Committee.**

Gebhardt proposed to the Committee that T-Presents was going to be the second largest user of the Project space. It was represented that the T-Presents space would have a maximum capacity of 1,500 people and square footage of approximately 18,000 square feet. Because the T-Presents venue was to have a movable stage, artists and fans would be able to connect best in an intimate environment.

Compare that to the current Gebhardt submission which calls for the music venue to occupy 35,000 square feet and have a capacity of 2,500 people. This proposal represents a significant misrepresentation to the Committee which violates the intent of the RFP process.

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<sup>1</sup> It should be noted that Baum Development requested that Starting Block and T-Presents participate in their RFP response for this property, but T-Presents declined to do so because of its commitment made to Gebhardt.

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**2. The current proposed music space would undermine the economic viability of other entertainment venues in Madison.**

When T-Presents proposed a maximum capacity of 1,500 people, it carefully determined that number based on a size that was not currently available in Madison and would therefore have a minimal economic impact on other users. The enormous size of the Gebhardt music venue would have a very negative economic impact on the Overture Center and the Orpheum which have approximately the same capacity. I would assume that the City should be particularly concerned about the economic impact on the Overture Center. In addition, smaller music venues such as the Barrymore and the Majestic would suffer.

**3. The City should not ratify questionable business practices.**

It may be argued that what Gebhardt has done to T-Presents are common practices in the business world. However, in this particular situation, the City of Madison is not only the approving body, but is the property owner. Gebhardt's practices to refuse at the last minute to finalize the negotiations with T-Presents, but instead to pursue negotiations with another party are practices that the City of Madison should not be a party to.

I apologize for this late letter, but my client only became fully aware of all of this late last week despite their good faith efforts to complete this agreement. There is at least one other experienced developer who is prepared to build this project consistent with the Gebhardt Proposal of November 8, 2014 and to not request TIF financial assistance.

I appreciate your attention to this matter.

Sincerely,

**DeWitt Ross & Stevens s.c.**



Michael R. Christopher

MRC;jch