

Village of Mukwonago
Notice of Meeting and Agenda

SPECIAL VILLAGE BOARD MEETING
Wednesday, February 5, 2020

Time: **6:00 pm** (or immediately following Committee of the Whole of 5:30pm)
Place: **Mukwonago Municipal Building/ Board Room, 440 River Crest Court**

1. Call To Order

2. Roll Call

3. Closed Session

- 3.1 Motion to go into closed session pursuant to **Wis. Stats § 19.85 (1) (e)** (Deliberating or negotiating the purchase of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session) for negotiation on property located at 301 Main Street, and an MOU with Waukesha County, Walworth County, Village of East Troy, Town of East Troy, and East Troy Electric Railroad regarding a multi-use trail.

[301 Main Street Offer to Purchase 02052020](#)

[MOU Multi Use Trail ET](#)

4. Reconvene in Open Session

- 4.1 Motion to reconvene into open session pursuant to Wis. Stats. §19.85(2) for possible discussion and/or action concerning any matter discussed in closed session.

5. Adjournment

It is possible that a quorum of, members of other governmental bodies of the municipality may be in attendance at the above stated meeting to gather information. No action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to above in this notice. Please note, upon reasonable notice, efforts will be made to accommodate the needs of individuals with disabilities through appropriate aids and services. For additional information or to request this service, contact the Municipal Clerk's Office, (262) 363-6420.

MEMORANDUM

TO: Mukwonago Village Board
FROM: Village Attorney Mark G. Blum
SUBJECT: Proposed Offer to Sell for 301 Main Street, Mukwonago, WI
DATE: January 21, 2020

Dear Members of the Board:

I am in receipt of a copy of a Commercial Offer to Purchase relative to the sale by Mr. Dave Schwartz (the "Seller") of the property at 301 Main Street. The sale price would be \$250,000.00 with \$5,000.00 of earnest money being required. The Seller has given the Village until February 7, 2020 to accept this Offer. No Real Estate Property Condition Report was provided with the Offer; however, the Offer indicates it will be provided by Seller within 5 business days of acceptance. Closing is to take place within 30 days of the Village waiving the contingencies on the purchase. Although the property is currently operated as a commercial Clark gas station, the paragraph relative to leased property is not completed, suggesting that there is no outstanding lease.

On Line 11, the Offer indicates the property is being sold in "as is" condition and that the Village is being encouraged to thoroughly inspect it.

The Seller has provided for a document review contingency within 10 days of acceptance. The documents that the Seller is being required provide include a survey, environmental reports, floor plans, leases or other property related data. The Village then has 50 days to satisfy this contingency.

The satisfaction of the contingencies in the Offer is to occur within 50 days of acceptance. With respect to the title for the property, we have 15 days to advise them of any objections to title and the Seller gets 5 days to try and correct those situations.

The Offer does contain an inspection contingency to be satisfied within 60 days of acceptance.

With that background, I would note the property in question is currently being used as a Clark gas station. As a consequence, we are going to want to include an extensive provision related to environmental assessment; review of whether there is any registration for the tanks; any history of leakage; and any conditions or restrictions being placed on the property by the DNR as a result of those factors. In addition, it is my understanding the Village would be looking for grant money to convert the property for use as a parking area. As part of this, we will need to have the fuel tanks abandoned and removed. I am not certain what Brownfield Grant Money might be available to deal with a site like this, but I think we would want to have a period of time to pursue such outside funding to determine if the Village can convert the site in a cost effective manner.

If the Village is going to incur the cost of dealing with the fuel tanks and the demolition of the existing structures, we may want to revisit the proposed purchase price.

As to the property condition representation, we are going to want to have language providing that if we object to the Property Condition Report, we will have a defined period of time to do that. I would think the overall contingencies on the Offer will want to be extended to 120 days, for example, in order to make

sure that we can fully investigate the environmental issues, as well as our options for dealing with the fuel tanks and rehabilitating the site.

I think that we would also want to have a clause that provides that any brokerage fees will be the responsibility of the Seller.

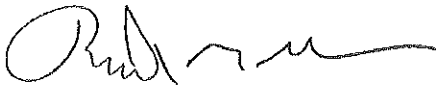
If the Village desires any financing in order to complete this transaction, we would need to identify what that is and include it in the Counter Offer. I also believe that we would want some kind of indemnity from the Seller that they are not aware of any violations of any State or Federal environmental laws, the discharge of any petroleum products or other hazardous materials on the site and/or leakage from the underground storage tanks, etc. They should indemnify us against claims arising from matters which they were aware of but did not report to us.

I do not know if the Village has established a plan for the use of this site., However, if that plan does exist and is contingent upon any other events occurring, we may want to investigate all of this to ensure the Village's ultimate plan, inclusive of this site, can be effectuated.

Please note that we have an obligation to respond to this Offer should we agree to accept it by February 7, 2020. It is my understanding that this will be placed on a Special Village Board Agenda for February 5, 2020. I think the reality is that we will need to counter this; however, I nevertheless wanted to make you aware of this deadline.

Please advise if you have questions or concerns.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark G. Blum', with a stylized, flowing script.

Mark G. Blum

MGB/jb

Approved by the Wisconsin Real Estate Examining Board
03-1-12 (Optional Use Date) 07-1-12 (Mandatory Use Date)

Anderson Commercial Group, LLC
WISCONSIN REALTORS® ASSOCIATION
4801 Forest Run Road
Madison, Wisconsin 53704
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WB-15 COMMERCIAL OFFER TO PURCHASE

1 LICENSEE DRAFTING THIS OFFER ON January 15, 2020 [DATE] IS (AGENT OF BUYER)
2 (AGENT OF SELLER/LISTING BROKER) (AGENT OF BUYER AND SELLER) **STRIKE THOSE NOT APPLICABLE**
3 **GENERAL PROVISIONS** The Buyer, Seller, Dave Schwartz, offers to sell to Buyer, Village of Mukwonago
4 and/or assigns,, offers to purchase the Property known as [Street Address] 301 Main Street
5 _____ in the Village
6 of Mukwonago, County of Waukesha, Wisconsin
7 (Insert additional description, if any, at lines 109-115 or 277-286 or attach as an addendum per line 479), on the following terms:
8 ■ PURCHASE PRICE: Two Hundred Fifty Thousand
9 _____ Dollars (\$ 250,000.00).
10 ■ EARNEST MONEY of \$ None accompanies this Offer and earnest money of \$ 5,000.00 will be
11 mailed, or commercially or personally delivered within 5 business days of acceptance to listing broker or
12 Title Company.
13 ■ THE BALANCE OF PURCHASE PRICE will be paid in cash or equivalent at closing unless otherwise provided below.
14 ■ INCLUDED IN PURCHASE PRICE: Seller is including in the purchase price the Property, all Fixtures on the Property on the date of this Offer
15 not excluded at lines 20-22, and the following additional items: _____
16 _____
17 _____
18 All personal property included in purchase price will be transferred by bill of sale or _____
19 _____
20 ■ NOT INCLUDED IN PURCHASE PRICE: Seller/Tenants personal property.
21 _____
22 _____
23 CAUTION: Identify trade fixtures owned by tenant, if applicable, and Fixtures that are on the Property (see lines 303-310) to be excluded
24 by Seller or which are rented and will continue to be owned by the lessor.
25 NOTE: The terms of this Offer, not the listing contract or marketing materials, determine what items are included/excluded.
26 **ACCEPTANCE** Acceptance occurs when all Buyers and Sellers have signed one copy of the Offer, or separate but identical copies of the Offer.
27 CAUTION: Deadlines in the Offer are commonly calculated from acceptance. Consider whether short term deadlines running from
28 acceptance provide adequate time for both binding acceptance and performance.
29 **BINDING ACCEPTANCE** This Offer is binding upon both Parties only if a copy of the accepted Offer is delivered to Buyer on or before
30 February 7, 2020. Seller may keep the Property on the market and accept
31 secondary offers after binding acceptance of this Offer.
32 CAUTION: This Offer may be withdrawn prior to delivery of the accepted Offer.
33 **OPTIONAL PROVISIONS** TERMS OF THIS OFFER THAT ARE PRECEDED BY AN OPEN BOX (☐) ARE PART OF THIS OFFER ONLY IF
34 THE BOX IS MARKED SUCH AS WITH AN "X." THEY ARE NOT PART OF THIS OFFER IF MARKED "N/A" OR ARE LEFT BLANK.
35 **DELIVERY OF DOCUMENTS AND WRITTEN NOTICES** Unless otherwise stated in this Offer, delivery of documents and written notices to a
36 Party shall be effective only when accomplished by one of the methods specified at lines 37-54.
37 (1) Personal Delivery: giving the document or written notice personally to the Party, or the Party's recipient for delivery if named at line 38 or 39.
38 Seller's recipient for delivery (optional): Dave Schwartz CC: Ray Goodden/Anderson Commercial Group LLC
39 Buyer's recipient for delivery (optional): Fred Winchowky/Village of Mukwonago
40 ☐ (2) Fax: fax transmission of the document or written notice to the following telephone number:
41 Seller: (_____) Buyer: (_____)
42 ☒ (3) Commercial Delivery: depositing the document or written notice fees prepaid or charged to an account with a commercial delivery
43 service, addressed either to the Party, or to the Party's recipient for delivery if named at line 38 or 39, for delivery to the Party's delivery address at
44 line 47 or 48.
45 ☒ (4) U.S. Mail: depositing the document or written notice postage prepaid in the U.S. Mail, addressed either to the Party, or to the Party's
46 recipient for delivery if named at line 38 or 39, for delivery to the Party's delivery address at line 47 or 48.
47 Delivery address for Seller: 8575 W Forest Home Ave, Suite 40, Greenfield, WI 53228
48 Delivery address for Buyer: 440 River Crest Ct, Mukwonago, WI 53149
49 ☒ (5) E-Mail: electronically transmitting the document or written notice to the Party's e-mail address, if given below at line 53 or 54. If this is a
50 consumer transaction where the property being purchased or the sale proceeds are used primarily for personal, family or household purposes,
51 each consumer providing an e-mail address below has first consented electronically to the use of electronic documents, e-mail delivery and
52 electronic signatures in the transaction, as required by federal law.
53 E-Mail address for Seller (optional): dschwartz@roteoil.com CC: rgoodden@andersoncommercialgroup.com
54 E-Mail address for Buyer (optional): president@villageofmukwonago.com
55 **PERSONAL DELIVERY/ACTUAL RECEIPT** Personal delivery to, or Actual Receipt by, any named Buyer or Seller constitutes personal delivery
56 to, or Actual Receipt by, all Buyers or Sellers.

57 **PROPERTY CONDITION REPRESENTATIONS** Seller represents to Buyer that as of the date of acceptance Seller has no notice or knowledge
 58 of Conditions Affecting the Property or Transaction (lines 181-215) other than those identified in Seller's disclosure report dated _____
 59 and Real Estate Condition Report, if applicable, dated _____, which was/were received by Buyer prior to Buyer
 60 signing this Offer and which is/are made a part of this offer by reference COMPLETE DATES OR STRIKE AS APPLICABLE and
 61 shall be completed by Seller and delivered to Buyer within 5 business days of acceptance

62 INSERT CONDITIONS NOT ALREADY INCLUDED IN THE DISCLOSURE OR CONDITION REPORT(S).

63 **CAUTION:** If the Property includes 1-4 dwelling units, a Real Estate Condition Report containing the disclosures provided in Wis. Stat. §
 64 709.03 may be required. Excluded from this requirement are sales of property that has never been inhabited, sales exempt from the real
 65 estate transfer fee, and sales by certain court-appointed fiduciaries, (for example, personal representatives who have never occupied
 66 the Property). Buyer may have rescission rights per Wis. Stat. § 709.05.

67 **CLOSING** This transaction is to be closed no later than 30 days after Buyers waiver of Contingencies
 68 _____ at the place selected by Seller, unless otherwise agreed by the Parties in writing.

69 **CLOSING PRORATIONS** The following items, if applicable, shall be prorated at closing, based upon date of closing values: real estate taxes,
 70 rents, prepaid insurance (if assumed), private and municipal charges, property owners association assessments, fuel and _____

72 **CAUTION:** Provide basis for utility charges, fuel or other prorations if date of closing value will not be used.

73 Any income, taxes or expenses shall accrue to Seller, and be prorated at closing, through the day prior to closing.

74 Real estate taxes shall be prorated at closing based on [CHECK BOX FOR APPLICABLE PRORATION FORMULA]:

75 ☒ The net general real estate taxes for the preceding year, or the current year if available (Net general real estate taxes are defined as
 76 general property taxes after state tax credits and lottery credits are deducted) (NOTE: THIS CHOICE APPLIES IF NO BOX IS CHECKED)

77 ☐ Current assessment times current mill rate (current means as of the date of closing)

78 ☐ Sale price, multiplied by the municipality area-wide percent of fair market value used by the assessor in the prior year, or current year if
 79 known, multiplied by current mill rate (current means as of the date of closing)

81 **CAUTION:** Buyer is informed that the actual real estate taxes for the year of closing and subsequent years may be substantially
 82 different than the amount used for proration especially in transactions involving new construction, extensive rehabilitation, remodeling
 83 or area-wide re-assessment. Buyer is encouraged to contact the local assessor regarding possible tax changes.

84 ☐ Buyer and Seller agree to re-prorate the real estate taxes, through the day prior to closing based upon the taxes on the actual tax bill for
 85 the year of closing, with Buyer and Seller each owing his or her pro-rata share. Buyer shall, within 5 days of receipt, forward a copy of the bill
 86 to the forwarding address Seller agrees to provide at closing. The Parties shall re-prorate within 30 days of Buyer's receipt of the actual tax
 87 bill. Buyer and Seller agree that is a post-closing obligation and is the responsibility of the Parties to complete, not the responsibility of the real
 88 estate brokers in this transaction.

89 **OCCUPANCY** Occupancy of the entire Property shall be given to Buyer at time of closing unless otherwise provided in this Offer at lines 109-115
 90 or 277-286 or in an addendum attached per line 479. At time of Buyer's occupancy, Property shall be in broom swept condition and free of all
 91 debris and personal property except for personal property belonging to current tenants, or that sold to Buyer or left with Buyer's consent.
 92 Occupancy shall be given subject to tenant's rights, if any.

93 **LEASED PROPERTY** If Property is currently leased and lease(s) extend beyond closing, Seller shall assign Seller's rights under said lease(s)
 94 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,
 95 are _____

96 _____ . Insert additional terms, if any, at lines 109-115 or 277-286 or attach as an addendum per line 479.

97 ☐ **ESTOPPEL LETTERS:** Seller shall deliver to Buyer no later than _____ days before closing, estoppel letters dated within
 98 _____ days before closing, from each non-residential tenant, confirming the lease term, rent installment amounts, amount of security
 99 deposit, and disclosing any defaults, claims or litigation with regard to the lease or tenancy.

100 **RENTAL WEATHERIZATION** This transaction (is) (is not) STRIKE ONE exempt from Wisconsin Rental Weatherization Standards (Wis. Admin.
 101 Code Ch. SPS 367). If not exempt, (Buyer) (Seller) STRIKE ONE ("Buyer" if neither is stricken) shall be responsible for compliance, including all
 102 costs, with Wisconsin Rental Weatherization Standards. If Seller is responsible for compliance, Seller shall provide a Certificate of Compliance at
 103 closing.

104 **TIME IS OF THE ESSENCE** "Time is of the Essence" as to: (1) earnest money payment(s); (2) binding acceptance; (3) occupancy; (4) date of
 105 closing; (5) contingency Deadlines STRIKE AS APPLICABLE and all other dates and Deadlines in this Offer except: _____

106 _____ . If "Time
 107 is of the Essence" applies 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"
 108 does not apply to a date or Deadline, then performance within a reasonable time of the date or Deadline is allowed before a breach occurs.

109 **ADDITIONAL PROVISIONS/CONTINGENCIES** 1. Electronic Signature/s: Signatures made electronically using
 110 DocuSign or any other electronic signature software shall be considered original signatures.

111 2. Seller is selling, and Buyer agrees to purchase the Property in its "As Is" condition. Broker
 112 has advised Buyer to have the Property thoroughly inspected. Buyer acknowledges that it, or
 113 qualified inspectors on its behalf, will have adequate opportunity to inspect the Property.

114 Neither Seller nor Broker has made any representations or warranties except as expressly set forth
 115 in the Offer.

Property Address: 301 Main St, Mukwonago, WI 53149

☐ PROPOSED USE CONTINGENCIES: Buyer is purchasing the Property for the purpose of: _____

_____ [insert proposed use and type and size of building, if applicable; e.g. restaurant/tavern with capacity of 350 and 3 second floor dwelling units]. The optional provisions checked on lines 123-139 shall be deemed satisfied unless Buyer delivers to Seller by the deadline(s) set forth on lines 123-139 written notice specifying those items which cannot be satisfied and written evidence substantiating why each specific item included in Buyer's notice cannot be satisfied. Upon delivery of Buyer's notice, this Offer shall be null and void. Seller agrees to cooperate with Buyer as necessary to satisfy the contingencies checked at lines 123-139.

☐ **EASEMENTS AND RESTRICTIONS:** This Offer is contingent upon Buyer obtaining, within _____ days of acceptance, at (Buyer's) (Seller's) **[STRIKE ONE]** ("Buyer's" if neither is stricken) expense, copies of all public and private easements, covenants and restrictions affecting the Property and a written determination by a qualified independent third party that none of these prohibit or significantly delay or increase the costs of the proposed use or development identified at lines 116 to 118.

☐ **APPROVALS:** This Offer is contingent upon Buyer obtaining, at (Buyer's) (Seller's) **[STRIKE ONE]** ("Buyer's" if neither is stricken) expense, all applicable governmental permits, approvals and licenses, as necessary and appropriate, or the final discretionary action by the granting authority prior to the issuance of such permits, approvals and licenses, for the following items related to Buyer's proposed use:

or delivering written notice to Seller if the item(s) cannot be obtained or can only be obtained subject to conditions which significantly increase the cost of Buyer's proposed use, all within _____ days of acceptance of this Offer.

☐ **ACCESS TO PROPERTY:** This Offer is contingent upon Buyer obtaining, within _____ days of acceptance, at (Buyer's) (Seller's) **[STRIKE ONE]** ("Buyer's" if neither is stricken) expense, written verification that there is legal vehicular access to the Property from public roads.

☐ **LAND USE APPROVAL:** This Offer is contingent upon Buyer obtaining, at (Buyer's) (Seller's) **[STRIKE ONE]** ("Buyer's" if neither is stricken) expense, a ☐ zoning; ☐ conditional use permit; ☐ license; ☐ variance; ☐ building permit; ☐ occupancy permit; ☐ other _____

☐ **[CHECK ALL THAT APPLY]**, for the Property for its proposed use described at lines 116-118 or delivering written notice to Seller if the item(s) cannot be obtained or can only be obtained subject to conditions which significantly increase the cost of Buyer's proposed use, all within _____ days of acceptance.

☐ **MAP OF THE PROPERTY:** This Offer is contingent upon (Buyer obtaining) (Seller providing) **[STRIKE ONE]** ("Seller providing" if neither is stricken) a _____ survey (ALTA/ACSM Land Title Survey if survey type is not specified) dated subsequent to the date of acceptance of this Offer and prepared by a registered land surveyor, within _____ days of acceptance, at (Buyer's) (Seller's) **[STRIKE ONE]** ("Seller's" if neither is stricken) expense. The map shall show minimum of _____ acres, maximum of _____ acres, the legal description of the Property, the Property's boundaries and dimensions, visible encroachments upon the Property, the location of improvements, if any, and: _____

[STRIKE AND COMPLETE AS APPLICABLE] Additional map features which may be added include, but are not limited to: staking of all corners of the Property; identifying dedicated and apparent streets; lot dimensions; total acreage or square footage; utility installations; easements or rights-of-way. Such survey shall be in satisfactory form and accompanied by any required surveyor's certificate sufficient to enable Buyer to obtain removal of the standard survey exception on the title policy.

CAUTION: Consider the cost and the need for map features before selecting them. Also consider the time required to obtain the map when setting the deadline.

This contingency shall be deemed satisfied unless Buyer, within five (5) days of the earlier of: (1) Buyer's receipt of the map; or (2) the deadline for delivery of said map, delivers to Seller a copy of the map and a written notice which identifies: (1) a significant encroachment; (2) information materially inconsistent with prior representations; (3) failure to meet requirements stated within this contingency; or (4) the existence of conditions that would prohibit the Buyer's intended use of the Property described at lines 116-118. Upon delivery of Buyer's notice, this Offer shall be null and void.

☒ **DOCUMENT REVIEW CONTINGENCY:** This Offer is contingent upon Seller delivering the following documents to Buyer within 10 days of acceptance: **[CHECK THOSE THAT APPLY; STRIKE AS APPROPRIATE]**

- ☐ 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, equipment and other personal property 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.
- ☐ Rent roll.

☒ **Other copies of any documents available to or in Sellers possession relating to a survey of the property, environmental reports, floor plans, leases, or other property related data**

Additional items which may be added include, but are not limited to: building, construction or component warranties, previous environmental site assessments, surveys, title commitments and policies, maintenance agreements, other contracts relating to the Property, existing permits and licenses, recent financial operating statements, current and future rental agreements, notices of termination and non-renewal, and assessment notices.

All documents Seller delivers to Buyer shall be true, accurate, current and complete. Buyer shall keep all such documents confidential and disclose them to third parties only to the extent necessary to implement other provisions of this Offer. Buyer shall return all documents (originals and any reproductions) to Seller if this Offer is terminated.

☒ **CONTINGENCY SATISFACTION:** This contingency shall be deemed satisfied unless Buyer, within 50 days of the earlier of receipt of the final document to be delivered or the deadline for delivery of the documents, delivers to Seller a written notice indicating that this

contingency has not been satisfied. Such notice shall identify which document(s) have not been timely delivered or do not meet the standard set forth for the document(s). Upon delivery of such notice, this Offer shall be null and void.

DEFINITIONS

■ **ACTUAL RECEIPT:** "Actual Receipt" means that a Party, not the Party's recipient for delivery, if any, has the document or written notice physically in the Party's possession, regardless of the method of delivery.

■ **CONDITIONS AFFECTING THE PROPERTY OR TRANSACTION:** "Conditions Affecting the Property or Transaction" are defined to include:

- a. Defects in structural components, e.g. roof, foundation, basement or other walls.
- b. Defects in mechanical systems, e.g. HVAC, electrical, plumbing, septic, well, fire safety, security or lighting.
- c. Underground or aboveground storage tanks presently or previously on the Property for storage of flammable or combustible liquids, including but not limited to gasoline and heating oil.
- d. Defect or contamination caused by unsafe concentrations of, or unsafe conditions relating to, lead paint, asbestos, radon, radium in water supplies, mold, pesticides or other potentially hazardous or toxic substances on the premises.
- e. Production of or spillage of methamphetamine (meth) or other hazardous or toxic substances on the Property.
- f. Zoning or building code violations, any land division involving the Property for which required state or local permits had not been obtained, nonconforming structures or uses, conservation easements, rights-of-way.
- g. Special purpose district, such as a drainage district, lake district, sanitary district or sewer district, that has the authority to impose assessments against the real property located within the district.
- h. Proposed, planned or commenced public improvements which may result in special assessments or otherwise materially affect the Property or the present use of the Property.
- i. Federal, state or local regulations requiring repairs, alterations or corrections of an existing condition.
- j. Flooding, standing water, drainage problems or other water problems on or affecting the Property.
- k. Material damage from fire, wind, floods, earthquake, expansive soils, erosion or landslides.
- l. Near airports, freeways, railroads or landfills, or significant odor, noise, water intrusion or other irritants emanating from neighboring property.
- m. Portion of the Property in a floodplain, wetland or shoreland zoning area under local, state or federal regulations.
- n. Property is subject to a mitigation plan required under administrative rules of the Department of Natural Resources related to county shoreland zoning ordinances, which obligates the owner of the Property to establish or maintain certain measures related to shoreland conditions and which is enforceable by the county.
- o. Encroachments; easements, other than recorded utility easements; access restrictions; covenants, conditions and restrictions; shared fences, walls, wells, driveways, signage or other shared usages; or leased parking.
- p. High voltage electric (100 KV or greater) or steel natural gas transmission lines located on but not directly serving the Property.
- q. Structure on the Property designated as a historic building, any part of the Property located in a historic district, or burial sites or archeological artifacts on the Property.
- r. All or part of the land has been assessed as agricultural land, the owner has been assessed a use-value conversion charge or the payment of a use-value conversion charge has been deferred.
- s. All or part of the Property is subject to, enrolled in or in violation of a certified farmland preservation zoning district or a farmland preservation agreement, or a Forest Crop, Managed Forest (see disclosure requirements in Wis. Stat. § 710.12), Conservation Reserve or comparable program.
- t. A pier is attached to the Property that is not in compliance with state or local pier regulations.
- u. Government investigation or private assessment/audit (of environmental matters) conducted.
- v. Other Defects affecting the Property.

■ **DEADLINES:** "Deadlines" expressed as a number of "days" from an event, such as acceptance, are calculated by excluding the day the event occurred and by counting subsequent calendar days. The deadline expires at midnight on the last day. Deadlines expressed as a specific number of "business days" exclude Saturdays, Sundays, any legal public holiday under Wisconsin or Federal law, and other day designated by the President 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" 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. 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.

■ **DEFECT:** "Defect" means a condition that would have a significant adverse effect on the value of the Property; that would significantly impair the health or safety of future occupants of the Property; or that if not repaired, removed or replaced would significantly shorten or adversely affect the expected normal life of the premises.

(Definitions Continued on page 6)

Property Address: 301 Main St, Mukwonago, WI 53149

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IF LINE 228 IS NOT MARKED OR IS MARKED N/A LINES 264-269 APPLY.

☐ **FINANCING CONTINGENCY:** This Offer is contingent upon Buyer being able to obtain a written _____ days of acceptance of this [INSERT LOAN PROGRAM OR SOURCE] first mortgage loan commitment as described below, within _____ days of acceptance of this Offer. The financing selected shall be in an amount of not less than \$ _____ for a term of not less than _____ years, amortized over not less than _____ years. Initial monthly payments of principal and interest shall not exceed \$ _____. Monthly payments may also include 1/12th of the estimated net annual real estate taxes, hazard insurance premiums, and private mortgage insurance premiums. The mortgage may not include a prepayment premium. Buyer agrees to pay discount points and/or loan origination fee in an amount not to exceed _____ % of the loan. If the purchase price under this Offer is modified, the financed amount, unless otherwise provided, shall be adjusted to the same percentage of the purchase price as in this contingency and the monthly payments shall be adjusted as necessary to maintain the term and amortization stated above.

CHECK AND COMPLETE APPLICABLE FINANCING PROVISION AT LINE 238 or 239.☐ **FIXED RATE FINANCING:** The annual rate of interest shall not exceed _____ %.☐ **ADJUSTABLE RATE FINANCING:** The initial annual interest rate shall not exceed _____ %. The initial interest rate shall be fixed for _____ months, at which time the interest rate may be increased not more than _____ % per year. The maximum interest rate during the mortgage term shall not exceed _____ %. Monthly payments of principal and interest may be adjusted to reflect interest changes

If Buyer is using multiple loan sources or obtaining a construction loan or land contract financing, describe at lines 109-115 or 277-286 or in an addendum attached per line 479.

NOTE: If purchase is conditioned on buyer obtaining financing for operations or development consider adding a contingency for that purpose.

BUYER'S LOAN COMMITMENT: Buyer agrees to pay all customary loan and closing costs, to promptly apply for a mortgage loan, and to provide evidence of application promptly upon request of Seller. If Buyer qualifies for the loan described in this Offer or another loan acceptable to Buyer, Buyer agrees to deliver to Seller a copy of the written loan commitment no later than the deadline at line 229. Buyer and Seller agree that delivery of a copy of any written loan commitment to Seller (even if subject to conditions) shall satisfy Buyer's financing contingency if, after review of the loan commitment, Buyer has directed, in writing, delivery of the loan commitment. Buyer's written direction shall accompany the loan commitment. Delivery shall not satisfy this contingency if accompanied by a notice of unacceptability.

CAUTION: The delivered commitment may contain conditions Buyer must yet satisfy to obligate the lender to provide the loan. BUYER, BUYER'S LENDER AND AGENTS OF BUYER OR SELLER SHALL NOT DELIVER A LOAN COMMITMENT TO SELLER OR SELLER'S AGENT WITHOUT BUYER'S PRIOR WRITTEN APPROVAL OR UNLESS ACCOMPANIED BY A NOTICE OF UNACCEPTABILITY.

SELLER TERMINATION RIGHTS: If Buyer does not make timely delivery of said commitment, Seller may terminate this Offer if Seller delivers a written notice of termination to Buyer prior to Seller's Actual Receipt of a copy of Buyer's written loan commitment.

FINANCING UNAVAILABILITY: If financing is not available on the terms stated in this Offer (and Buyer has not already delivered an acceptable loan commitment for other financing to Seller), Buyer shall promptly deliver written notice to Seller of same including copies of lender(s)' rejection letter(s) or other evidence of unavailability. Unless a specific loan source is named in this Offer, Seller shall then have 10 days to deliver to Buyer written notice of Seller's decision to finance this transaction on the same terms set forth in this Offer, and this Offer 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 void. Buyer authorizes Seller to obtain any credit information reasonably appropriate to determine Buyer's credit worthiness for Seller financing.

IF THIS OFFER IS NOT CONTINGENT ON FINANCING: Within 7 days of acceptance, a financial institution or third party in control of Buyer's funds shall provide Seller with reasonable written verification that Buyer has, at the time of verification, sufficient funds to close. If such written verification is not provided, Seller has the right to terminate this Offer by delivering written notice to Buyer. Buyer may or may not obtain mortgage financing but does not need the protection of a financing contingency. Seller agrees to allow Buyer's appraiser access to the Property for purposes of an appraisal. Buyer understands and agrees that this Offer is not subject to the appraisal meeting any particular value, unless this Offer is subject to an appraisal contingency, nor does the right of access for an appraisal constitute a financing contingency.

☐ **APPRAISAL CONTINGENCY:** This Offer is contingent upon the Buyer or Buyer's lender having the Property appraised at Buyer's expense by a Wisconsin licensed or certified independent appraiser who issues an appraisal report dated subsequent to the date of this Offer indicating an appraised value for the Property equal to or greater than the agreed upon purchase price. This contingency shall be deemed satisfied unless Buyer, within _____ days of acceptance, delivers to Seller a copy of the appraisal report which indicates that the appraised value is not equal to or greater than the agreed upon purchase price, accompanied by a written notice of termination.

CAUTION: An appraisal ordered by Buyer's lender may not be received until shortly before closing. Consider whether deadlines provide adequate time for performance.

ADDITIONAL PROVISIONS/CONTINGENCIES

1. The title of the contract is hereby changed to "WB-15 Commercial Offer to Sell".

2. Line 29: "Buyer" is hereby changed to "Seller".

3. Lines 489 and 497-500: all references to "Seller" are hereby changed to "Buyer".

DEFINITIONS CONTINUED FROM PAGE 4

■ **ENVIRONMENTAL SITE ASSESSMENT:** An "Environmental Site Assessment" (also known as a "Phase I Site Assessment") (see lines 379-395) 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 search of title records showing private ownership of the Property for a period of 80 years prior to the visual inspection; (3) a review of historic and recent aerial photographs of the Property, if available; (4) a review of environmental licenses, permits or orders issued with respect to the Property; (5) an evaluation of results of any environmental sampling and analysis that has been conducted on the Property; and (6) a review to determine 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 including the National Priorities List, the Department of Nature Resources' (DNR) Registry of Waste Disposal Sites, the DNR's Contaminated Lands Environmental Action Network, and the DNR's Remediation and Redevelopment (RR) Sites Map including the Geographical Information System (GIS) Registry and related resources. Any Environmental Site Assessment performed under this Offer shall comply with generally recognized industry standards (e.g. current American Society of Testing and Materials "Standard Practice for Environmental Site Assessments"), and state and federal guidelines, as applicable.

CAUTION: Unless otherwise agreed an Environmental Site Assessment does not include subsurface testing of the soil or groundwater or other testing of the Property for environmental pollution. If further investigation is required, insert provisions for a Phase II Site Assessment (collection and analysis of samples), Phase III Environmental Site Assessment (evaluation of remediation alternatives) or other site evaluation at lines 109-115 or 277-286 or attach as an addendum per line 479.

■ **FIXTURE:** A "Fixture" is an item of property which is physically attached to or so closely associated with land or improvements so as to be treated as part of the real estate, including, without limitation, physically attached items not easily removable without damage to the premises, items specifically adapted to the premises and items customarily treated as fixtures, including, but not limited to, all: garden bulbs; plants; shrubs and trees; screen and storm doors and windows; electric lighting fixtures; window shades; curtain and traverse rods; blinds and shutters; central heating and cooling units and attached equipment; water heaters and treatment systems; sump pumps; attached or fitted floor coverings; awnings; attached antennas; garage door openers and remote controls; installed security systems; central vacuum systems and accessories; in-ground sprinkler systems and component parts; built-in appliances; ceiling fans; fences; storage buildings on permanent foundations and docks/piers on permanent foundations. A Fixture does not include trade fixtures owned by tenants of the Property.

CAUTION: Exclude Fixtures not owned by Seller such as rented fixtures. See lines 20-22.

■ **PROPERTY:** Unless otherwise stated, "Property" means the real estate described at lines 4-7.

■ **DISTRIBUTION OF INFORMATION** Buyer and Seller authorize the agents of Buyer and Seller to: (i) distribute copies of the Offer to Buyer's lender, appraisers, title insurance companies and any other settlement service providers for the transaction as defined by the Real Estate Settlement Procedures Act (RESPA); (ii) report sales and financing concession data to multiple listing service sold databases; and (iii) provide active listing, pending sale, closed sale and financing concession information and data, and related information regarding seller contributions, incentives or assistance, and third party gifts, to appraisers researching comparable sales, market conditions and listings, upon inquiry.

EARNEST MONEY

■ **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 is not listed or Seller's account if no broker is involved), until applied to purchase price or otherwise disbursed as provided in the Offer.

CAUTION: Should persons other than a broker hold earnest money, an escrow agreement should be drafted by the Parties or an attorney. If someone other than Buyer makes payment of earnest money, consider a special disbursement agreement.

■ **DISBURSEMENT:** If negotiations do not result in an accepted offer, the earnest money shall be promptly disbursed (after clearance from payor's 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 according to the closing statement. If this Offer does not close, the earnest money shall be disbursed according to a written disbursement agreement signed by all Parties to this Offer. If said disbursement agreement has not been delivered to broker within 60 days after the date 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 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 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 broker may deduct from the earnest money any costs and reasonable attorneys fees, not to exceed \$250, prior to disbursement.

■ **LEGAL RIGHTS/ACTION:** Broker's disbursement of earnest money does not determine the legal rights of the Parties in relation to this Offer. 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 shall send Buyer and Seller notice of the disbursement by certified mail. If Buyer or Seller disagree with broker's proposed disbursement, a lawsuit may be filed to obtain a court order regarding disbursement. Small Claims Court has jurisdiction over all earnest money disputes arising out of the sale of residential property with 1-4 dwelling units and certain other earnest money disputes. Buyer and Seller should consider consulting attorneys 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 disbursement of earnest money in accordance with this Offer or applicable Department of Safety and Professional Services regulations concerning earnest money. See Wis. Admin. Code Ch. REEB 18.

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340 **TITLE EVIDENCE**

341 ■ **CONVEYANCE OF TITLE:** Upon payment of the purchase price, Seller shall convey the Property by warranty deed (trustee's deed if
 342 Seller is a trust, personal representative's deed if Seller is an estate or other conveyance as provided herein) free and clear of all liens and
 343 encumbrances, except: municipal and zoning ordinances and agreements entered under them, recorded easements for the distribution of utility
 344 and municipal services, recorded building and use restrictions and covenants, present uses of the Property in violation of the foregoing disclosed
 345 in Seller's disclosure report, and Real Estate Condition Report, if applicable, and in this Offer, general taxes levied in the year of closing and
 346

347 _____
 348 _____ which constitutes merchantable title for purposes of this transaction. Seller shall complete and execute the documents
 349 necessary to record the conveyance at Seller's cost and pay the Wisconsin Real Estate Transfer Fee.

350 **WARNING:** Municipal and zoning ordinances, recorded building and use restrictions, covenants and easements may prohibit certain
 351 improvements or uses and therefore should be reviewed, particularly if Buyer contemplates making improvements to Property or a use
 352 other than the current use.

353 ■ **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 price on a
 354 current ALTA form issued by an insurer licensed to write title insurance in Wisconsin. Seller shall pay all costs of providing title evidence to Buyer.
 355 Buyer shall pay all costs of providing title evidence required by Buyer's lender.

356 ■ **GAP ENDORSEMENT:** Seller shall provide a "gap" endorsement or equivalent gap coverage at (Seller's) (Buyer's) ~~STRIKE ONE~~ ("Seller's" if
 357 neither stricken) cost to provide coverage for any liens or encumbrances first filed or recorded after the effective date of the title insurance
 358 commitment and before the deed is recorded, subject to the title insurance policy exclusions and exceptions, provided the title company will issue
 359 the endorsement. If a gap endorsement or equivalent gap coverage is not available, Buyer may give written notice that title is not acceptable for
 360 closing (see lines 365-371).

361 ■ **PROVISION OF MERCHANTABLE TITLE:** For purposes of closing, title evidence shall be acceptable if the required title insurance
 362 commitment is delivered to Buyer's attorney or Buyer not more than 15 days after acceptance ("15" if left blank), showing title to the
 363 Property as of a date no more than 15 days before delivery of such title evidence to be merchantable per lines 341-348, subject only to liens which
 364 will be paid out of the proceeds of closing and standard title insurance requirements and exceptions, as appropriate.

365 ■ **TITLE NOT ACCEPTABLE FOR CLOSING:** If title is not acceptable for closing, Buyer shall notify Seller in writing of objections to title within
 366 15 days ("15" if left blank) after delivery of the title commitment to Buyer or Buyer's attorney. In such event, Seller shall have a
 367 reasonable time, but not exceeding 5 days ("5" if left blank), from Buyer's delivery of the notice stating title objections, to deliver
 368 notice to Buyer stating Seller's election to remove the objections by the time set for closing. In the event that Seller is unable to remove said
 369 objections, Buyer may deliver to Seller written notice waiving the objections, and the time for closing shall be extended accordingly. If Buyer does
 370 not waive the objections, Buyer shall deliver written notice of termination and this Offer shall be null and void. Providing title evidence acceptable
 371 for closing does not extinguish Seller's obligations to give merchantable title to Buyer.

372 ■ **SPECIAL ASSESSMENTS/OTHER EXPENSES:** Special assessments, if any, levied or for work actually commenced prior to the date of this
 373 Offer shall be paid by Seller no later than closing. All other special assessments shall be paid by Buyer.

374 **CAUTION:** Consider a special agreement if area assessments, property owners association assessments, special charges for current
 375 services under Wis. Stat. § 66.0627 or other expenses are contemplated. "Other expenses" are one-time charges or ongoing use fees
 376 for public improvements (other than those resulting in special assessments) relating to curb, gutter, street, sidewalk, municipal water,
 377 sanitary and storm water and storm sewer (including all sewer mains and hook-up/connection and interceptor charges), parks, street
 378 lighting and street trees, and impact fees for other public facilities, as defined in Wis. Stat. § 66.0617(1)(f).

379 ☐ **ENVIRONMENTAL EVALUATION CONTINGENCY:** This Offer is contingent upon a qualified independent environmental consultant of
 380 Buyer's choice conducting an Environmental Site Assessment of the Property (see lines 288-302), at (Buyer's) (Seller's) expense ~~STRIKE ONE~~
 381 ("Buyer's" if neither is stricken), which discloses no Defects. For the purpose of this contingency, a Defect (see lines 223-225) is defined to also
 382 include a material violation of environmental laws, a material contingent liability affecting the Property arising under any environmental laws, the
 383 presence of an underground storage tank(s) or material levels of hazardous substances either on the Property or presenting a significant risk of
 384 contaminating the Property due to future migration from other properties. Defects do not include conditions the nature and extent of which Buyer
 385 had actual knowledge or written notice before signing the Offer.

386 ■ **CONTINGENCY SATISFACTION:** This contingency shall be deemed satisfied unless Buyer, within _____ days of acceptance,
 387 delivers to Seller a copy of the Environmental Site Assessment report and a written notice listing the Defect(s) identified in the Environmental Site
 388 Assessment report to which Buyer objects (Notice of Defects).

389 **CAUTION:** A proposed amendment is not a Notice of Defects and will not satisfy this notice requirement.

390 ■ **RIGHT TO CURE:** Seller (shall) (shall not) ~~STRIKE ONE~~ ("shall" if neither is stricken) have a right to cure the Defects. If Seller has the right to
 391 cure, Seller may satisfy this contingency by: (1) delivering written notice to Buyer within 10 days of Buyer's delivery of the Notice of Defects stating
 392 Seller's election to cure Defects, (2) curing the Defects in a good and workmanlike manner and (3) delivering to Buyer a written report detailing the
 393 work done within 3 days prior to closing. This Offer shall be null and void if Buyer makes timely delivery of the Notice of Defects and written
 394 Environmental Site Assessment report and: (1) Seller does not have a right to cure or (2) Seller has a right to cure but: (a) Seller delivers written
 395 notice that Seller will not cure or (b) Seller does not timely deliver the written notice of election to cure.

396 **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
397 material failure to perform any obligation under this Offer is a default which may subject the defaulting party to liability for damages or other legal
398 remedies.

399 If **Buyer defaults**, Seller may:

- 400 (1) sue for specific performance and request the earnest money as partial payment of the purchase price; or
401 (2) terminate the Offer and have the option to: (a) request the earnest money as liquidated damages; or (b) sue for actual damages.

402 If **Seller defaults**, Buyer may:

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

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

406 The Parties understand that the availability of any judicial remedy will depend upon the circumstances of the situation and the discretion of the
407 courts. If either Party defaults, the Parties may renegotiate the Offer or seek nonjudicial dispute resolution instead of the remedies outlined above.
408 By agreeing to binding arbitration, the Parties may lose the right to litigate in a court of law those disputes covered by the arbitration agreement.

409 **NOTE: IF ACCEPTED, THIS OFFER CAN CREATE A LEGALLY ENFORCEABLE CONTRACT. BOTH PARTIES SHOULD READ THIS**
410 **DOCUMENT CAREFULLY. BROKERS MAY PROVIDE A GENERAL EXPLANATION OF THE PROVISIONS OF THE OFFER BUT ARE**
411 **PROHIBITED BY LAW FROM GIVING ADVICE OR OPINIONS CONCERNING YOUR LEGAL RIGHTS UNDER THIS OFFER OR HOW TITLE**
412 **SHOULD BE TAKEN AT CLOSING. AN ATTORNEY SHOULD BE CONSULTED IF LEGAL ADVICE IS NEEDED.**

413 **ENTIRE CONTRACT** This Offer, including any amendments to it, contains the entire agreement of the Buyer and Seller regarding the
414 transaction. All prior negotiations and discussions have been merged into this Offer. This agreement binds and inures to the benefit of the Parties
415 to this Offer and their successors in interest.

416 **PROPERTY DIMENSIONS AND SURVEYS** Buyer acknowledges that any land, building or room dimensions, or total acreage or building square
417 footage figures, provided to Buyer by Seller or by a broker, may be approximate because of rounding, formulas used or other reasons, unless
418 verified by survey or other means.

419 **CAUTION: Buyer should verify total square footage or acreage figures and land, building or room dimensions, if material to Buyer's**
420 **decision to purchase.**

421 **BUYER'S PRE-CLOSING WALK-THROUGH** Within 3 days prior to closing, at a reasonable time pre-approved by Seller or Seller's agent, Buyer
422 shall have the right to walk through the Property to determine that there has been no significant change in the condition of the Property, except for
423 ordinary wear and tear and changes approved by Buyer, and that any Defects Seller has agreed to cure have been repaired in the manner agreed
424 to by the Parties.

425 **PROPERTY DAMAGE BETWEEN ACCEPTANCE AND CLOSING** Seller shall maintain the Property until the earlier of closing or occupancy of
426 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 Property
427 is damaged in an amount of not more than five percent (5%) of the selling price, Seller shall be obligated to repair the Property and restore it to
428 the same condition that it was on the day of this Offer. No later than closing, Seller shall provide Buyer with lien waivers for all lienable repairs and
429 restoration. If the damage shall exceed such sum, Seller shall promptly notify Buyer in writing of the damage and this Offer may be canceled at
430 option of Buyer. Should Buyer elect to carry out this Offer despite such damage, Buyer shall be entitled to the insurance proceeds, if any, relating
431 to the damage to the Property, plus a credit towards the purchase price equal to the amount of Seller's deductible on such policy, if any. However,
432 if this sale is financed by a land contract or a mortgage to Seller, any insurance proceeds shall be held in trust for the sold purpose of restoring the
433 Property.

434 **NOTICE ABOUT SEX OFFENDER REGISTRY** You may obtain information about the sex offender registry and persons registered with the
435 registry by contacting the Wisconsin Department of Corrections on the Internet at <http://www.widocoffenders.org> or by telephone at
436 (608) 240-5830.

437 **INSPECTIONS AND TESTING** Buyer may only conduct inspections or tests if specific contingencies are included as a part of this Offer. An
438 "inspection" is defined as an observation of the Property which does not include an appraisal or testing of the Property, other than testing for
439 leaking carbon monoxide, or testing for leaking LP gas or natural gas used as a fuel source, which are hereby authorized. A "test" is defined as
440 the taking of samples of materials such as soils, water, air or building materials from the Property and the laboratory or other analysis of these
441 materials. Seller agrees to allow Buyer's inspectors, testers, appraisers and qualified third parties reasonable access to the Property upon
442 advance notice, if necessary to satisfy the contingencies in this Offer. Buyer and licensees may be present at all inspections and testing. Except
443 as otherwise provided, Seller's authorization for inspections does not authorize Buyer to conduct testing of the Property.

444 **NOTE: Any contingency authorizing testing should specify the areas of the Property to be tested, the purpose of the test, (e.g., to**
445 **determine if environmental contamination is present), any limitations on Buyer's testing and any other material terms of the**
446 **contingency.**

447 Buyer agrees to promptly restore the Property to its original condition after Buyer's inspections and testing are completed unless otherwise agreed
448 to with Seller. Buyer agrees to promptly provide copies of all inspection and testing reports to Seller. Seller acknowledges that certain inspections
449 or tests may detect environmental pollution which may be required to be reported to the Wisconsin Department of Natural Resources.

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450 ☒ **INSPECTION CONTINGENCY:** This contingency only authorizes inspections, not testing (see lines 437-449). This Offer is contingent upon
 451 a qualified independent inspector(s) conducting an inspection(s) of the Property which discloses no Defects. This Offer is further contingent upon
 452 a qualified independent inspector or qualified independent third party performing an inspection of entire premises

453 _____ (list any Property feature(s) to be separately inspected, e.g., dumpsite, etc.) which
 454 discloses no Defects. Buyer shall order the inspection(s) and be responsible for all costs of inspection(s). Buyer may have follow-up inspections
 455 recommended in a written report resulting from an authorized inspection performed provided they occur prior to the deadline specified at line 461.
 456 Each inspection shall be performed by a qualified independent inspector or qualified independent third party.

457 **CAUTION:** Buyer should provide sufficient time for the primary inspection and/or any specialized inspection(s), as well as any follow-up
 458 inspection(s).

459 For the purpose of this contingency, Defects (see lines 223-225) do not include conditions the nature and extent of which Buyer had actual
 460 knowledge or written notice before signing the Offer.

461 **CONTINGENCY SATISFACTION:** This contingency shall be deemed satisfied unless Buyer, within 60 days of acceptance,
 462 delivers to Seller a copy of the inspection report(s) and a written notice listing the Defect(s) identified in the inspection report(s) to which Buyer
 463 objects (Notice of Defects).

464 **CAUTION:** A proposed amendment is not a Notice of Defects and will not satisfy this notice requirement.

465 **RIGHT TO CURE:** Seller (shall)(shall not) STRIKE ONE ("shall" if neither is stricken) have a right to cure the Defects. If Seller has the right to
 466 cure, Seller may satisfy this contingency by: (1) delivering written notice to Buyer within 10 days of Buyer's delivery of the Notice of Defects stating
 467 Seller's election to cure Defects, (2) curing the Defects in a good and workmanlike manner and (3) delivering to Buyer a written report detailing the
 468 work done within 3 days prior to closing. This Offer shall be null and void if Buyer makes timely delivery of the Notice of Defects and written
 469 inspection report(s) and: (1) Seller does not have a right to cure or (2) Seller has a right to cure but: (a) Seller delivers written notice that Seller will
 470 not cure or (b) Seller does not timely deliver the written notice of election to cure.

471 ☐ **CLOSING OF BUYER'S PROPERTY CONTINGENCY:** This Offer is contingent upon the closing of the sale of Buyer's property located at
 472 _____, no later than _____. If Seller accepts a bona fide secondary offer,
 473 Seller may give written notice to Buyer of acceptance. If Buyer does not deliver to Seller a written waiver of the Closing of Buyer's Property
 474 Contingency and _____

476 **[INSERT OTHER REQUIREMENTS, IF ANY (e.g., PAYMENT OF ADDITIONAL EARNEST MONEY, WAIVER OF ALL CONTINGENCIES, OR**
 477 **PROVIDING EVIDENCE OF SALE OR BRIDGE LOAN, etc.)]** within _____ hours of Buyer's Actual Receipt of said notice, this Offer shall be
 478 null and void.

479 ☐ **ADDENDA:** The attached _____ is/are made part of this Offer.

480 This Offer was drafted by [Licensee and Firm] Leah Hill/Anderson Commercial Group LLC
 481 _____ on 01/15/2020

482 **Buyer Entity Name (if any):** _____ **Seller Entity Name:** 301 Main Street Real Estate LLC
 483 DocuSigned by: _____ 1/16/2020

484 (X) Dave Schwartz
 484 **Buyer's/Authorized Signature** ▲ **Print Name/Title Here** ► Dave Schwartz **Date** ▲

485 (X) _____
 486 **Buyer's/Authorized Signature** ▲ **Print Name/Title Here** ► _____ **Date** ▲

487 **[EARNEST MONEY RECEIPT]** Broker acknowledges receipt of earnest money as per line 10 of the above Offer.

488 _____ **Broker (By)** _____

489 **SELLER ACCEPTS THIS OFFER. THE WARRANTIES, REPRESENTATIONS AND COVENANTS MADE IN THIS OFFER SURVIVE CLOSING**
 490 **AND THE CONVEYANCE OF THE PROPERTY. SELLER AGREES TO CONVEY THE PROPERTY ON THE TERMS AND CONDITIONS AS**
 491 **SET FORTH HEREIN AND ACKNOWLEDGES RECEIPT OF A COPY OF THIS OFFER.**

492 **Seller Entity Name (if any):** _____ **Buyer Entity Name:** Village of Mukwonago and/or assigns

493 (X) _____
 494 **Seller's/Authorized Signature** ▲ **Print Name/Title Here** ► Fred Winchowky **Date** ▲

495 (X) _____
 496 **Seller's/Authorized Signature** ▲ **Print Name/Title Here** ► _____ **Date** ▲

497 This Offer was presented to Seller by [Licensee and Firm] _____
 498 _____ on _____ at _____ a.m./p.m.

499 This Offer is rejected _____ This Offer is countered [See attached counter] _____
 500 **Seller Initials** ▲ **Date** ▲ **Seller Initials** ▲ **Date** ▲

MEMORANDUM OF UNDERSTANDING

Between

Waukesha County, Walworth County, the Village of Mukwonago, the Village of East Troy, the Town of East Troy and the East Troy Electric Railroad

The purpose of this Memorandum of Understanding ("MOU") is to provide a general outline and structure to the proposed Multi-Use Recreational Trail ("Project") between the Village of East Troy and the Village of Mukwonago, through the Town of East Troy in Waukesha and Walworth County, Wisconsin, with regards to their respective roles in the funding, coordination, design, construction and maintenance of the same. The Project is further detailed in Attachment A, the 2020-2021 Multimodal Local Supplement (MLS) Application that was submitted to the Wisconsin Department of Transportation for consideration on December 5, 2019. The Application was signed by the Town of East Troy and the Village of East Troy Sponsors on November 30, 2019.

This MOU is not intended to be a complete or exhaustive detailed description or enumeration of all the duties, obligations, responsibilities, or benefits for any of the MOU Signatories, but is simply intended to be a guide to help identify the major duties and responsibilities of each party hereto.

This MOU is subject to and conditioned upon obtaining funding and ultimately an execution of a Multi-Jurisdictional Agreement between Waukesha County, Walworth County, the Village of Mukwonago, the Village of East Troy and the Town of East Troy, as well as a License Agreement for use of the East Troy Electric Railroad Right of Way. Nothing in this MOU is binding but a reaffirmation that the proposed trail is a worthwhile community Project worth pursuing.

The Multi-Jurisdictional Agreement would name the Trail Authority and further define the responsibilities of each Signatory and would be the entity signing the License Agreement with the East Troy Electric Railroad ("ETERR"). The Trail Authority is provisionally named the East Troy to Mukwonago Recreational Trail Authority ("ETMRTA"). The proposed responsibilities are as follows:

1. Design, Construction, Construction Oversight and WDOT Oversight costs will be shared equally between the Municipal Signatories of the Multi-Jurisdictional Agreement. The ETERR has no cost responsibilities.
2. Maintenance costs of the completed Trail will lie with the underlying Village and Town as defined by the Corporate limits.
3. This MOU becomes effective the day the last signature is obtained.
4. This MOU is subject to, shall be construed under, and applied consistent with laws of the State of Wisconsin, if any.
5. This MOU may be amended by the parties at any time upon mutual agreement and execution of a modifying instrument.
6. This MOU shall be considered the work of all parties hereto.

By: _____

Date: _____

Paul L. Decker, Waukesha County Board
Chairperson

By: _____

Date: _____

Nancy Russell, Walworth County Board
Chairperson

By: _____

Date: _____

Fred Winchowky, Village of Mukwonago
President

By: _____

Date: _____

Scott AE Seager, Village of East Troy
President

By: _____

Date: _____

Joseph S. Klarkowski, Town of East Troy
Chairperson

By: _____

Date: _____

Steve Southworth, East Troy Railroad
Museum, Inc.

**2020-2021 MULTIMODAL LOCAL SUPPLEMENT (MLS) APPLICATION**Wisconsin Department of Transportation
9/2019**PROJECT AND SPONSOR: GENERAL INFORMATION**Improvement Type: ☐ Road ☐ Bridge ☐ Transit ☐ Railroad ☒ Bicycle/Pedestrian ☐ Harbor ☐ Multiple

Primary Project Sponsor

Town of East Troy

☐ City ☐ Village ☒ Town ☐ County ☐ Tribal Govt.

County

Walworth

Secondary Project Sponsor (If Applicable)

Village of East Troy

☐ City ☒ Village ☐ Town ☐ County ☐ Tribal Govt. ☐ Other

County

Walworth

Anticipated Project Construction Schedule Date
2022 (Calendar Year)

Funding Request

Design/Construction ☒ Construction ☐

Is Project Shovel Ready?

Yes ☐ No ☒**PROJECT IMPROVEMENT DESCRIPTION****ONLY FILL OUT THE SECTIONS BELOW THAT CORRESPOND TO THE IMPROVEMENT TYPE(S). ALL APPLICANTS MUST FILL OUT SECTIONS F-H.****SECTION A: ROAD OR BRIDGE IMPROVEMENTS (NOTE: Connecting highways are not eligible for MLS funding)****1. LOCATION & GENERAL INFORMATION: Complete for each Road or Bridge Improvement Application**

On Route	At Route – Start (include offset if applicable) Start	Offset	Toward Route – End
Surface Type SELECT	Surface Thickness (inches)	Travel Width (Per Lane) (feet) (inches)	
Left Shoulder (feet) (inches)	Right Shoulder (feet) (inches)	☐ Curb and Gutter?	
REQUIRED: Attach an 8 1/2 x 11 map showing project location.			
Length of Project (rounded to nearest tenth of a mile):		Average Daily Traffic (ADT):	ADT % Truck: Pavement Condition Rating:
Improvement Type: ☐ Replacement ☐ Rehabilitation ☐ Pavement Replacement ☐ Reconstruction			

2. BRIDGE INFORMATION: Complete for Bridge Improvement Applications ONLY

Bridge Type (If Other, specify in narrative): SELECT	Feature the Structure Passes Over:	Number of Spans:	Detour Length:
Clear Roadway Width of Bridge (feet):	Bridge Length (feet):	Approach Pavement Width (feet):	Total Approach Length (feet)
Structure ID (If Applicable):	Bridge Build Year:	Bridge Rehabilitation Year:	Posted or Statutory Speed Limit(s): (mph)
Deck Rating:	Substructure Rating:	Superstructure Rating:	Current Load Posting: (if none, enter N/A)

SECTION B: TRANSIT IMPROVEMENTS

Transit Improvement Type: ☐ Vehicle Purchase ☐ Facility Construction ☐ Equipment Purchase ☐ Other (describe)			
Number of Vehicles for Purchase	Vehicle Purchase Type:	Facility Type:	Facility Improvement Description
Equipment Purchase Description:		Other Improvement Description:	

SECTION C: RAILROAD IMPROVEMENTS

Type of Railroad Improvement SELECT	Total Annual Rail Carloads	New Rail Facility? Yes ☐ No ☐	Rail Operator:
Total Annual Eliminated Truck Traffic (Estimated in Tons):	Preserve Existing Rail Line? Yes ☐ No ☐	Restore Inactive Rail Line? Yes ☐ No ☐	
REQUIRED: Attach an 8 1/2 x 11 map showing project location.			

SECTION D: BICYCLE/PEDESTRIAN IMPROVEMENT

Bicycle/Pedestrian Improvement Type: ☒ Facilities ☐ Railroad Corridor Conversion ☐ Historic Preservation ☐ Other (describe)	
Improvement Location: Walworth & Waukesha County	Known Safety Issues? Yes ☐ No ☒ If Yes, specify:
Will the proposed improvement utilize local forces to complete the construction activities? Yes ☐ No ☒	
REQUIRED: Attach an 8 1/2 x 11 map showing project location.	

2020-2021 MULTIMODAL LOCAL SUPPLEMENT APPLICATION *(continued)*

Wisconsin Department of Transportation

SECTION E: HARBOR IMPROVEMENTS

Harbor Improvement Type:	
Dredging ☐	Port Infrastructure Expansion ☐ Dock Walls (Rehabilitation/Construction) ☐ Other ☐
Total Annual Transportation Economic Impact (Estimated):	Total Annual Benefit to Local Economy (Estimated):
REQUIRED: Attach an 8½ x 11 map showing project location.	

SECTION F: PROPOSED IMPROVEMENT NARRATIVE (REQUIRED FOR ALL APPLICATIONS)

This is a field to provide a detailed description of the project beyond what has already been provided in previous sections. Prepare the project narrative in a Word document, complete a spell check, and cut and paste the summary into the application form. Provide supporting project documentation such as any permits/licenses (including issuing agency & start/end dates) and any relevant transportation/bike-pedestrian/comprehensive planning documents. Describe potential project impact on regional economic activity, including freight movement (e.g., specific shipping/receiving facilities), worker access to employment opportunities and overall economic connectivity enhancements. Describe potential project impacts on safety and regional quality of life. Describe any relevant environmental/cultural issues, including any Section 4(f) and Section 6(f) concerns.

Include any information that demonstrates the viability of the proposed project by showing its value based on service life, economic benefits or in comparison to other alternatives. This may include benefit-cost analysis or other calculations.

A separate attached document not exceeding 1 page (double spaced, 10 pt. font) may be substituted for this section.

See attached.

2020-2021 MULTIMODAL LOCAL SUPPLEMENT APPLICATION (continued)

Wisconsin Department of Transportation

SECTION G: COST ESTIMATE/FUNDING (REQUIRED FOR ALL APPLICATIONS)

☐ Yes ☒ No Has the county/municipality/town/tribal government requested or been approved for other federal or state funding from the Wisconsin Department of Transportation (WisDOT) for the improvement?

If Yes, please specify the Local Program:

WisDOT Project I.D.:

☒ Yes ☐ No The Multimodal Local Supplement provides up to 90% state funding with a minimum 10% Local match. We anticipate the award process to be very competitive. Would the project sponsor accept a lower cost share to obtain funding?

Estimated Improvement Cost (NOTE: Attach separate spreadsheet showing detailed cost breakdown):

Design Costs:

\$ 231,297.83

State Review for Design Cost Estimate (Provided by WisDOT, if applicable):

\$

Construction Costs:

\$ 3,469,467.49

State Review for Construction Cost Estimate (Provided by WisDOT, if applicable):

\$

Total Improvement Costs (without State Review):

\$ 3,700,765.32

Total Improvement Costs (with State Review, if applicable):

\$

NOTE: For WisDOT use only.

NOTE: WisDOT state oversight estimates are based on the complexity of the project. Not all projects will require state oversight.

Additional Funding Comments:

This is an optional field to enter funding-related comments and estimated cost calculations.

The construction cost estimate is based on a 7 mile plus 10 foot wide HMA path with 2 foot wide CABG Shoulders. A substantial amount of Clearing and Grubbing is required on the East Troy Electric Railroad Right of Way. Discussions with this entity confirmed that they would like a fence to separate the low speed trolley from the trail where conditions warrant it. The trail on Village streets and town roads would be of a paved shoulder configuration. No bridges are required and there are no at grade crossings of the trail over the railroad tracks. Little or no wetland impacts are anticipated. No Real Estate needs to be purchased for this Project. The portion in Mukwonago on CTH ES Right of Way would be a stand alone trail well off the automobile traveled roadway. The Villages and Town have set aside funds for the local share as well as planning for fund raising if necessary. It is anticipated the the trail will be designed and built by 5 Municipalities and maintained by the 2 Villages and 1 Town within their Corporate Boundaries. The Trail Authority would be called the ETMRTA, the East Troy to Mukwonago Recreational; Trail Authority. It would be created by an Intergovernmental Agreement between the 5 Municipalities. Cost Estimate is attached.

SECTION H: SIGNATURE (REQUIRED FOR ALL APPLICATIONS)

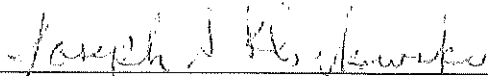
This request is made by the undersigned under proper legal authority to make such request for the designated County/Municipality/Town/Tribal Government.

☐ City ☐ Village ☒ Town ☐ County ☐ Tribal Government

East Troy

County

Walworth

X 

(Head of Government/Designee – Signature)

11/30/2019

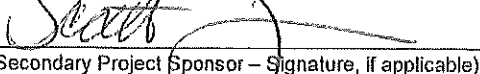
(Date – mm/dd/yyyy)

Joseph S. Klarkowski

Town Chairman

(Print Name)

(Title)

X 

(Secondary Project Sponsor – Signature, if applicable)

11/30/2019

(Date – mm/dd/yyyy)

Scott AE Seager

Village President

(Print Name)

(Title)

WisDOT will contact the primary project sponsor upon review of the application if any questions or a need for additional project documentation.

Submit completed application(s) to the following WisDOT email address: DOTLocalPrograms@dot.wi.gov

The project is a multi-use recreational trail between the Village of East Troy and the Village of Mukwonago through the Town of East Troy. The majority of the trail lies in Walworth County. The approximately 7 mile trail would not only connect 3 municipalities and 2 counties, but also 6 camps and parks. The trail would accommodate bikers, hikers, walkers and joggers. Except for maintenance, no motorized vehicles will be allowed. Equestrian use is not part of this project. The project will significantly expand travel choice, strengthen the local economy, improve the quality of life and protect the environment.

This project has been in the planning phase for almost 4 years. The project was initiated by the East Troy Community Foundation in the early spring of 2016. Initial contacts with the East Troy Electric Railroad (hereafter stated as ETERR), Wisconsin Bike Federation, Rails to Trails and SEWRPC representatives showed great interest and promise. Multiple meetings have been held with all stakeholders except Waukesha County. The majority of the project would be built on the north side of the ETERR 100-foot-wide right-of-way. The remainder would be built on County, Town and Village right- of- ways. No at grade crossings of the railroad tracks are anticipated.

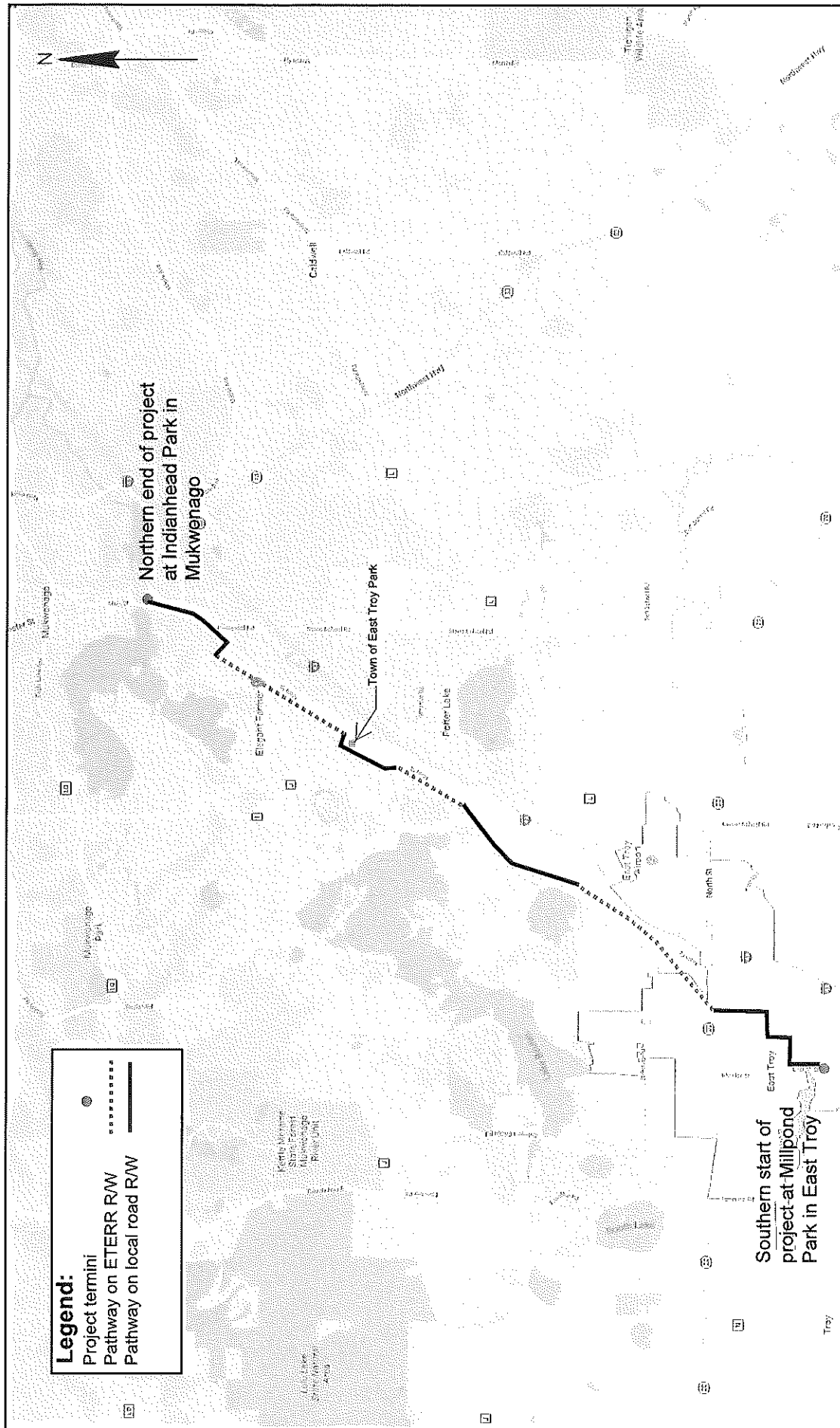
There will be 2 major legal documents necessary to facilitate this Connect Communities project:

- Intergovernmental agreement between 5 units of government, 2 Counties, 2 Villages and 1 Town.
- License agreement between the ETERR and the Trail Entity. This agreement would detail the permission for the trail to be built and operated on the ETERR Right-of-Way.

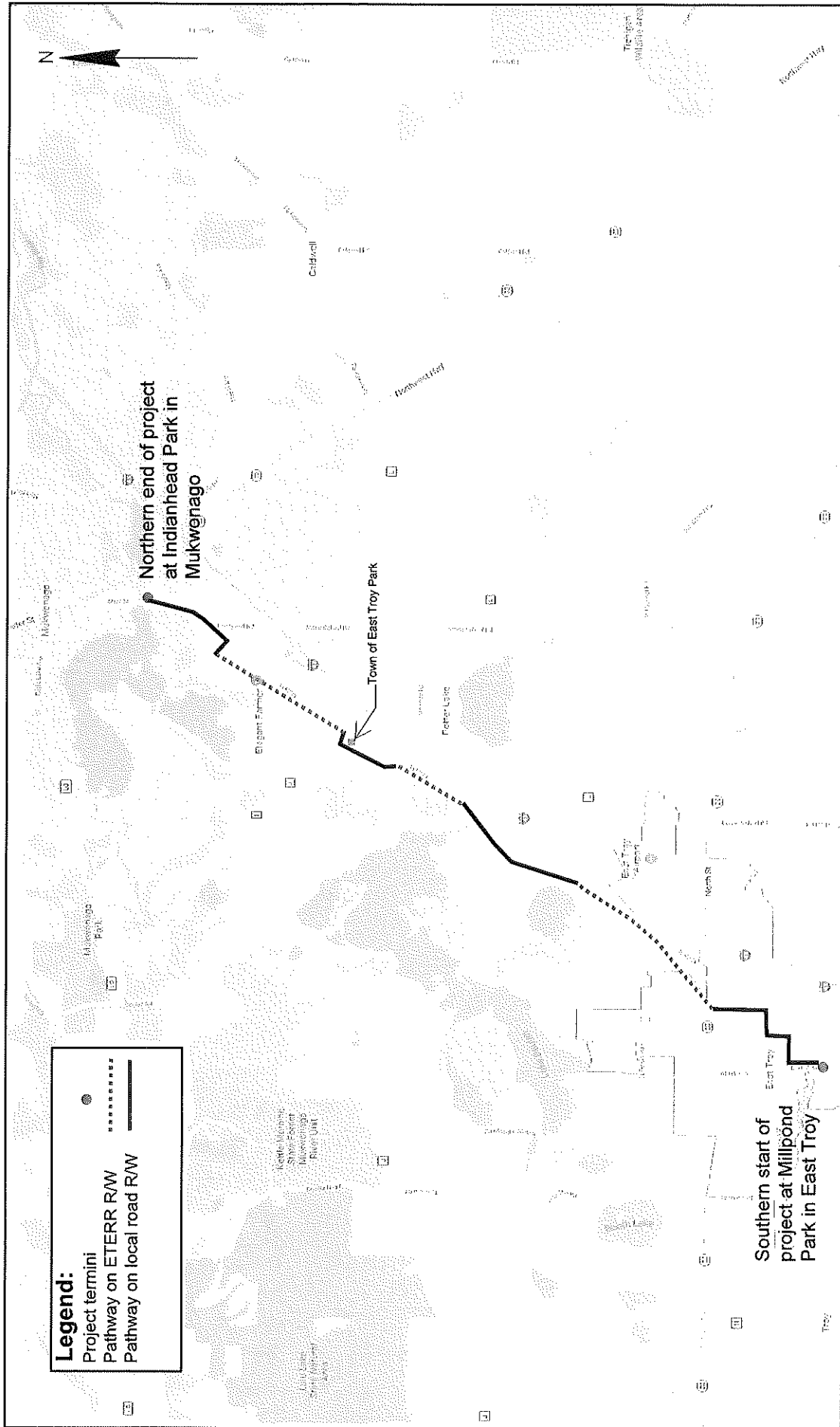
This Entity formed by the intergovernmental agreement would likely name the trail the "ETMRTA," The East Troy to Mukwonago Recreational Trail Authority. Maintenance of the trail would be by the underlying unit of government, namely the 2 Villages and 1 Town. These 3 communities have gone on record supporting this project as well as set aside funds for the anticipated local share.

The cost effectiveness of this project has been established. No Right-of-Way or bridges are required. Little or no impacts to wetlands are anticipated. This will be a safer mode of travel between the communities for the active residents of all ages as well as those looking for readily available options. Additionally, the trail would enhance the environment by reducing auto emissions as members of the community increase bike and foot traffic. The ETERR has stated that they will likely require fencing between the Trolley Rail and the Recreational Trail where site conditions warrant. The project provides the opportunity for all residents to enjoy the offerings of other communities. The trail will run through economic redevelopment zones in both Villages. The initial cost estimates for the design, construction and oversight is \$3.7 million. All involved communities believe this to be a worthwhile, significant landmark project.

The East Troy to Mukwonago Recreational Trail



The East Troy to Mukwonago Recreational Trail



Preliminary Construction Estimate East Troy to Mukwonago Recreational Trail

Item	Unit	Unit price	# Units	Total Cost
Mobilization	LS	\$40,000.00	1	\$40,000.00
Traffic Control	LS	\$10,000.00	1	\$10,000.00
Construction Staking	LS	\$56,000.00	1	\$56,000.00
Remove Railroad Ties, Rails and Appurtenances	LF	\$15.00	2000	\$30,000.00
Field Office Type B	EA	\$7,500.00	1	\$7,500.00
Common Excavation Main Corridor	CY	\$20.00	36,960	\$739,200.00
1 1/4" Base Agg Stone (6")	TON	\$20.00	15,967	\$319,340.00
3/4" Base Agg Stone (3")	TON	\$17.00	2,500	\$42,500.00
Asphaltic Surface (3")	TON	\$90.00	6,700	\$603,000.00
Sawing asphalt	LF	\$2.00	200	\$400.00
Salvaged Topsoil	SY	\$2.00	25,000	\$50,000.00
Seed	LBS	\$8.00	350	\$2,800.00
Mulching	SY	\$1.50	25,000	\$37,500.00
Railing/Fencing (5' Chain Link)	LF	\$35.00	18,000	\$630,000.00
Signing & marking allowance	LS	\$40,000.00	1	\$40,000.00
Detectable Warning Fields (DWFs)	SF	\$40.00	140	\$5,600.00
6" concrete @ DWFs (intersections)	SF	\$7.00	1400	\$9,800.00
Clearing & grubbing	STA	\$700.00	172	\$120,400.00
Marsh excavation	CY	\$40.00	400	\$16,000.00
Geotextile fabric for low areas, Type SAS	SY	\$3.00	75	\$225.00
3" stone for low areas	TON	\$15.00	800	\$12,000.00
Culverts & drainage	LS	\$20,000.00	1	\$20,000.00
Silt fence	LF	\$1.50	50,000	\$75,000.00
Tracking pads	EA	\$500.00	12	\$6,000.00
Subtotal				\$2,873,265.00
15% contingency				\$430,989.75
Preliminary Construction Estimate				\$3,304,254.75

Other costs:

Design (@ 7% --including geotech, environmental, etc. - MLS vs. WisDOT Local Program)	\$231,297.83
Local (MLS) construction oversight @ 5%	\$165,212.74
	\$396,510.57
Total Preliminary Estimate	\$3,700,765.32

Notes on the estimate:

Assumes no WisDOT oversight costs