

# **FINANCE NOTICE**

The **City of Stoughton** will hold a Meeting of the **Finance Committee on Tuesday, June 23<sup>rd</sup>, 2009 at 5:00 p.m.**, in the **Hall of Fame Room, Lower Level of City Hall, 381 East Main Street, Stoughton, WI.**

## **AGENDA:**

1. Call to order.
2. Minutes of the Finance Committee Meeting of June 9, 2009.
3. Communications.
4. Claims. (attached as separate document)
5. Offer to purchase Business Park North lots 30-31-32 by Stellar Services.
6. Review and Approve Attorney Contract.
7. Treasurer's Report (attached as separate document)
8. Future Agenda Items.
9. Adjournment.

6-17-09

LJS:dcr

## **SENT TO:**

Steve Tone

Ron Christianson

Greg Jenson

Tim Carter

Cc: Mayor Jim Griffin  
City Clerk Luann Alme  
Director of Finance, Laurie Sullivan  
Dep. Treasurer Julie Roberts  
City Attorney Matt Roethe  
Planning Director Rodney Scheel  
Stoughton Newspapers/Wisc. State Journal

Rollie Odland  
Department Heads  
Council Members  
Dep. Clerk Pili Hougan  
Debbie Myren

***\*\*The Meeting May Close Per State Statute 19.85(1)(e), deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session, and then reopen for the regular course of business.***

“IF YOU ARE DISABLED AND IN NEED OF ASSISTANCE, PLEASE CALL 873-6677 PRIOR TO THIS MEETING.”

**NOTE: AN EXPANDED MEETING MAY CONSTITUTE A QUORUM OF THE COUNCIL.**

**Note: For security reasons, the front door of the City Hall Building will be locked after 4:30 pm. If you need to enter City Hall after that time, please use the Fifth Street entrances.**

## FINANCE COMMITTEE MEETING MINUTES

Tuesday, June 9<sup>th</sup>, 2009 – 5:00 p.m.

Hall of Fame Room

PRESENT: Alderpersons Greg Jensen, Ron Christiansen, Tim Carter and Steve Tone.

OTHERS PRESENT: Deputy Treasurer Julie Roberts, Finance Director/Treasurer Laurie Sullivan, Mayor Jim Griffin, City Clerk Luann Alme, Utilities Director Bob Kardasz, Alderpersons Carl Chenoweth and Paul Lawrence.

Finance Chair Tone called the meeting to order at 5:00 p.m.

Minutes: Moved by Christianson, seconded by Carter to approve the May 18<sup>th</sup> and May 26<sup>th</sup>, 2009 minutes as presented. Carried unanimously with Mayor Griffin voting.

Communications: None.

RDA Request for Funding for a Marketing Feasibility Study: Discussion took place regarding the study. The entire scope of services would be \$7,000 with the RDA share being \$3,500. Christianson wanted to know what the specialized services would be. Mayor Griffin stated that this study would be required to get the types of funding and grants that would be needed. Tone stated that a funding option would be to take it out of the RDA budget. Alderperson Lawrence agreed that this would be appropriate. Moved by Carter, seconded by Christianson to recommend Council approve the marketing feasibility study for the RDA project contingent upon approval of the RDA spending up to \$3,500 of their own budgeted funds. Carried unanimously with Mayor Griffin voting.

Discuss Attorney Interviews: Moved by Christianson seconded by Carter to close the meeting per State Statute 19.85(1)(e), deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session, and then reopen for the regular course of business.

Moved by Christianson, seconded by Jensen to reopen the meeting for the regular course of business. Carried unanimously with Mayor Griffin voting.

Moved by Christianson, seconded by Carter to recommend Council enter into a 42 month contract with Stafford-Rosenbaum. Carried unanimously with Griffin voting.

Future Agenda Items: None.

Finance Committee Meeting Minutes

June 9<sup>th</sup>, 2009

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**Adjournment:** Moved by Christianson seconded by Carter to Adjourn at 6:25pm.  
Carried unanimously with Mayor Griffin voting.

Respectfully submitted,

Julie Roberts  
Deputy Treasurer



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

- 60 (a) planned or commenced public improvements which may result in special assessments or otherwise materially affect the Property
- 61 or the present use of the Property;
- 62 (b) completed or pending reassessment of the Property for property tax purposes;
- 63 (c) government agency or court order requiring repair, alteration or correction of any existing condition;
- 64 (d) any land division involving the subject Property, for which required state or local approvals had not been obtained;
- 65 (e) any portion of the Property being in a 100 year floodplain, a wetland or shoreland zoning area under local, state or federal laws;
- 66 (f) conditions constituting a significant health or safety hazard for occupants of Property;
- 67 (g) underground or aboveground storage tanks on the Property for storage of flammable or combustible liquids including but not limited to
- 68 gasoline and heating oil which are currently or which were previously located on the Property; **NOTE: Wis. Adm. Code, Chapter**
- 69 **Comm 10 contains registration and operation rules for such underground and aboveground storage tanks.**
- 70 (h) material violations of environmental laws or other laws or agreements regulating the use of the Property;
- 71 (i) high voltage electric (100 KV or greater) or steel natural gas transmission lines located on but not directly serving the Property;
- 72 (j) any portion of the Property being subject to, or in violation of, a Farmland Preservation Agreement under a County Farmland Preservation
- 73 Plan or enrolled in, or in violation of, a Forest Crop, Woodland Tax, Managed Forest, Conservation Reserve or comparable program;
- 74 (k) boundary disputes or material violation of fence laws (Wis. Stats. Chapter 90) which require the erection and maintenance of legal
- 75 fences between adjoining properties where one or both of the properties is used and occupied for farming or grazing purposes;
- 76 (l) wells on the Property required to be abandoned under state regulations (Wis. Adm. Code NR 112.26) but which are not abandoned;
- 77 (m) cisterns or septic tanks on the Property which are currently not servicing the Property;
- 78 (n) subsoil conditions which would significantly increase the cost of the development proposed at lines 271-272, if any, including, but not limited
- 79 to, subsurface foundations, organic or non-organic fill, dumpsites or containers on Property which contained or currently contain toxic or
- 80 hazardous materials, high groundwater, soil conditions (e.g. low load bearing capacity) or excessive rocks or rock formations on the Property;
- 81 (o) a lack of legal vehicular access to the Property from public roads;
- 82 (p) prior reimbursement for corrective action costs under the Agricultural Chemical Cleanup Program; (Wis. Stats. §94.73.)
- 83 (q) other conditions or occurrences which would significantly increase the cost of the development proposed at lines 271 to 272 or
- 84 reduce the value of the Property to a reasonable person with knowledge of the nature and scope of the condition or occurrence.

85 ■ **PROPERTY DIMENSIONS AND SURVEYS:** Buyer acknowledges that any land dimensions, total square footage/acreage figures, 86 or allocation of acreage information, provided to Buyer by Seller or by a broker, may be approximate because of rounding or other 87 reasons, unless verified by survey or other means. **CAUTION: Buyer should verify land dimensions, total square footage/acreage 88 figures or allocation of acreage information if material to Buyer's decision to purchase.**

89 ■ **ISSUES RELATED TO PROPERTY DEVELOPMENT:** WARNING: If Buyer contemplates developing Property for a use other than the 90 current use, there are a variety of issues which should be addressed to ensure the development or new use is feasible. Municipal and zoning 91 ordinances, recorded building and use restrictions, covenants and easements may prohibit certain improvements or uses and therefore should 92 be reviewed. Building permits, zoning variances, Architectural Control Committee approvals, estimates for utility hook-up expenses, special 93 assessments, charges for installation of roads or utilities, environmental audits, subsoil tests, or other development related fees may need 94 to be obtained or verified in order to determine the feasibility of development of, or a particular use for, a property. Optional contingencies 95 which allow Buyer to investigate certain of these issues can be found at lines 271 - 314 and Buyer may add contingencies as needed in 96 addenda (see line 188). Buyer should review any plans for development or use changes to determine what issues should be addressed 97 in these contingencies.

98 ■ **INSPECTIONS:** Seller agrees to allow Buyer's inspectors reasonable access to the Property upon reasonable notice if the inspections 99 are reasonably necessary to satisfy the contingencies in this Offer. Buyer agrees to promptly provide copies of all such inspection 100 reports to Seller, and to listing broker if Property is listed. Furthermore, Buyer agrees to promptly restore the Property to its original 101 condition after Buyer's inspections are completed, unless otherwise agreed in this Offer. An "inspection" is defined as an observation 102 of the Property which does not include testing of the Property, other than testing for leaking LP gas or natural gas used as a fuel source, 103 which are hereby authorized.

104 ■ **TESTING:** Except as otherwise provided, Seller's authorization for inspections does not authorize Buyer to conduct testing of the Property. 105 A "test" is defined as the taking of samples of materials such as soils, water, air or building materials from the Property and the laboratory 106 or other analysis of these materials. If Buyer requires testing, testing contingencies must be specifically provided for at lines 179 - 187 or 107 in an addendum per line 188. Note: Any contingency authorizing testing should specify the areas of the Property to be tested, the purpose 108 of the test, (e.g., to determine if environmental contamination is present), any limitations on Buyer's testing and any other material terms of 109 the contingency (e.g., Buyer's obligation to return the Property to its original condition). Seller acknowledges that certain inspections or tests 110 may detect environmental pollution which may be required to be reported to the Wisconsin Department of Natural Resources.

111 ■ **PRE-CLOSING INSPECTION:** At a reasonable time, pre-approved by Seller or Seller's agent, within 3 days before closing, Buyer shall 112 have the right to inspect the Property to determine that there has been no significant change in the condition of the Property, except for 113 changes approved by Buyer.

114 ■ **PROPERTY DAMAGE BETWEEN ACCEPTANCE AND CLOSING:** Seller shall maintain the Property until the earlier of closing or 115 occupancy of Buyer in materially the same condition as of the date of acceptance of this Offer, except for ordinary wear and tear. If, prior 116 to closing, the Property is damaged in an amount of not more than five percent (5%) of the selling price, Seller shall be obligated to repair 117 the Property and restore it to the same condition that it was on the day of this Offer. If the damage shall exceed such sum, Seller shall 118 promptly notify Buyer in writing of the damage and this Offer may be canceled at option of Buyer. Should Buyer elect to carry out this 119 Offer despite such damage, Buyer shall be entitled to the insurance proceeds relating to the damage to the Property, plus a credit towards 120 the purchase price equal to the amount of Seller's deductible on such policy. However, if this sale is financed by a land contract or a 121 mortgage to Seller, the insurance proceeds shall be held in trust for the sole purpose of restoring the Property.

122 ■ **FENCES:** Wisconsin Statutes section 90.03 requires the owners of adjoining properties to keep and maintain legal fences in equal 123 shares where one or both of the properties is used and occupied for farming or grazing purposes. **CAUTION: Consider an agreement 124 addressing responsibility for fences if Property or adjoining land is used and occupied for farming or grazing purposes.**

125 ■ **DELIVERY/RECEIPT:** Unless otherwise stated in this Offer, any signed document transmitted by facsimile machine (fax) shall be treated 126 in all manner and respects as an original document and the signature of any Party upon a document transmitted by fax shall be considered 127 an original signature. Personal delivery to, or actual receipt by, any named Buyer or Seller constitutes personal delivery to, or actual receipt 128 by Buyer or Seller. Once received, a notice cannot be withdrawn by the Party delivering the notice without the consent of the Party receiving 129 the notice. A Party may not unilaterally reinstate a contingency after a notice of a contingency waiver has been received by the other Party. 130 **The delivery provisions in this Offer may be modified when appropriate (e.g., when mail delivery is not desirable (see lines 25 - 36)).** 131 Buyer and Seller authorize the agents of Buyer and Seller to distribute copies of the Offer to Buyer's lender, appraisers, title insurance companies 132 and any other settlement service providers for the transaction as defined by the Real Estate Settlement Procedures Act (RESPA).

133 **PROPERTY ADDRESS:** Lots 30, 31 and 32, Business Park North, City of Stoughton [page 3 of 5, WB-13]

134 **TIME IS OF THE ESSENCE** "Time is of the Essence" as to: (1) earnest money payment(s); (2) binding acceptance; (3) occupancy; (4)  
135 date of closing; (5) contingency deadlines **STRIKE AS APPLICABLE** and all other dates and deadlines in this Offer except: None

136 \_\_\_\_\_ . If "Time is of the Essence"

137 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" does  
138 not apply to a date or deadline, then performance within a reasonable time of the date or deadline is allowed before a breach occurs.

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

146 **THE FINANCING CONTINGENCY PROVISIONS AT LINES 148 - 162 ARE A PART OF THIS OFFER IF LINE 148 IS MARKED,**  
147 **SUCH AS WITH AN "X". THEY ARE NOT PART OF THIS OFFER IF LINE 148 IS MARKED N/A OR IS NOT MARKED.**

148  **FINANCING CONTINGENCY:** This Offer is contingent upon Buyer being able to obtain a \_\_\_\_\_  
149 **INSERT LOAN PROGRAM OR SOURCE** first mortgage loan commitment as described below, within \_\_\_\_\_ days of acceptance of this  
150 Offer. The financing selected shall be in an amount of not less than \$ \_\_\_\_\_ for a term of not less than \_\_\_\_\_ years,  
151 amortized over not less than \_\_\_\_\_ years. Initial monthly payments of principal and interest shall not exceed \$ \_\_\_\_\_.  
152 Monthly payments may also include 1/12th of the estimated net annual real estate taxes, hazard insurance premiums, and private  
153 mortgage insurance premiums. The mortgage may not include a prepayment premium. Buyer agrees to pay a loan fee not to exceed  
154 \_\_\_\_\_ % of the loan. (Loan fee refers to discount points and/or loan origination fee, but DOES NOT include Buyer's other closing  
155 costs.) If the purchase price under this Offer is modified, the financed amount, unless otherwise provided, shall be adjusted  
156 to the same percentage of the purchase price as in this contingency and the monthly payments shall be adjusted as necessary to maintain  
157 the term and amortization stated above. **CHECK AND COMPLETE APPLICABLE FINANCING PROVISION AT LINE 158 OR 159.**

158  **FIXED RATE FINANCING:** The annual rate of interest shall not exceed \_\_\_\_\_ %.

159  **ADJUSTABLE RATE FINANCING:** The initial annual interest rate shall not exceed \_\_\_\_\_ %. The initial interest rate shall  
160 be fixed for \_\_\_\_\_ months, at which time the interest rate may be increased not more than \_\_\_\_\_ % per year. The maximum  
161 interest rate during the mortgage term shall not exceed \_\_\_\_\_ %. Monthly payments of principal and interest may be adjusted  
162 to reflect interest changes.

163 **LOAN COMMITMENT:** Buyer agrees to pay all customary financing costs (including closing fees), to apply for financing promptly, and  
164 to provide evidence of application promptly upon request by Seller. If Buyer qualifies for the financing described in this Offer or other  
165 financing acceptable to Buyer, Buyer agrees to deliver to Seller a copy of the written loan commitment no later than the deadline for loan  
166 commitment at line 149. **Buyer's delivery of a copy of any written loan commitment to Seller (even if subject to conditions) shall**  
167 **satisfy the Buyer's financing contingency unless accompanied by a notice of unacceptability. CAUTION: BUYER, BUYER'S LENDER**  
168 **AND AGENTS OF BUYER OR SELLER SHOULD NOT DELIVER A LOAN COMMITMENT TO SELLER WITHOUT BUYER'S PRIOR**  
169 **APPROVAL OR UNLESS ACCOMPANIED BY A NOTICE OF UNACCEPTABILITY.**

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

172 **FINANCING UNAVAILABILITY:** If financing is not available on the terms stated in this Offer (and Buyer has not already delivered an  
173 acceptable loan commitment for other financing to Seller), Buyer shall promptly deliver written notice to Seller of same including copies  
174 of lender(s)' rejection letter(s) or other evidence of unavailability. Unless a specific loan source is named in this Offer, Seller shall then  
175 have 10 days to give Buyer written notice of Seller's decision to finance this transaction on the same terms set forth in this Offer and this  
176 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  
177 be null and void. Buyer authorizes Seller to obtain any credit information reasonably appropriate to determine Buyer's credit worthiness  
178 for Seller financing.

179 **ADDITIONAL PROVISIONS/CONTINGENCIES** See Addendum A attached and incorporated by reference.

180 \_\_\_\_\_  
181 \_\_\_\_\_  
182 \_\_\_\_\_  
183 \_\_\_\_\_  
184 \_\_\_\_\_  
185 \_\_\_\_\_  
186 \_\_\_\_\_  
187 \_\_\_\_\_

188  **ADDENDA:** The attached See Addendum A attached and incorporated by reference is/are made part of this Offer.

189 **TITLE EVIDENCE**

190 **CONVEYANCE OF TITLE:** Upon payment of the purchase price, Seller shall convey the Property by warranty deed (or other  
191 conveyance as provided herein) free and clear of all liens and encumbrances, except: municipal and zoning ordinances and  
192 agreements entered under them, recorded easements for the distribution of utility and municipal services, recorded building and use  
193 restrictions and covenants, general taxes levied in the year of closing and no other

194 \_\_\_\_\_  
195 \_\_\_\_\_ (provided none of the foregoing prohibit present use of the Property), which constitutes merchantable title  
196 for purposes of this transaction. Seller further agrees to complete and execute the documents necessary to record the conveyance.

197 ■ **FORM OF TITLE EVIDENCE:** Seller shall give evidence of title in the form of an owner's policy of title insurance in the amount of the  
198 purchase price on a current ALTA form issued by an insurer licensed to write title insurance in Wisconsin. **CAUTION: IF TITLE**  
199 **EVIDENCE WILL BE GIVEN BY ABSTRACT, STRIKE TITLE INSURANCE PROVISIONS AND INSERT ABSTRACT PROVISIONS.**  
200 ■ **PROVISION OF MERCHANTABLE TITLE:** Seller shall pay all costs of providing title evidence. For purposes of closing, title evidence  
201 shall be acceptable if the commitment for the required title insurance is delivered to Buyer's attorney or Buyer not less than 3 business  
202 days before closing, showing title to the Property as of a date no more than 15 days before delivery of such title evidence to be  
203 merchantable, subject only to liens which will be paid out of the proceeds of closing and standard title insurance requirements and  
204 exceptions, as appropriate. **CAUTION: BUYER SHOULD CONSIDER UPDATING THE EFFECTIVE DATE OF THE TITLE**  
205 **COMMITMENT PRIOR TO CLOSING OR A "GAP ENDORSEMENT" WHICH WOULD INSURE OVER LIENS FILED BETWEEN THE**  
206 **EFFECTIVE DATE OF THE COMMITMENT AND THE DATE THE DEED IS RECORDED.**  
207 ■ **TITLE ACCEPTABLE FOR CLOSING:** If title is not acceptable for closing, Buyer shall notify Seller in writing of objections to title by  
208 the time set for closing. In such event, Seller shall have a reasonable time, but not exceeding 15 days, to remove the objections, and  
209 the time for closing shall be extended as necessary for this purpose. In the event that Seller is unable to remove said objections, Buyer  
210 shall have 5 days from receipt of notice thereof, to deliver written notice waiving the objections, and the time for closing shall be extended  
211 accordingly. If Buyer does not waive the objections, this Offer shall be null and void. Providing title evidence acceptable for closing does  
212 not extinguish Seller's obligations to give merchantable title to Buyer.  
213 ■ **SPECIAL ASSESSMENTS:** Special assessments, if any, for work actually commenced or levied prior to date of this Offer shall be  
214 paid by Seller no later than closing. All other special assessments shall be paid by Buyer. **CAUTION: Consider a special agreement**  
215 **if area assessments, property owner's association assessments or other expenses are contemplated.** "Other expenses" are one-  
216 time charges or ongoing use fees for public improvements (other than those resulting in special assessments) relating to curb, gutter,  
217 street, sidewalk, sanitary and stormwater and storm sewer (including all sewer mains and hook-up and interceptor charges), parks, street  
218 lighting and street trees, and impact fees for other public facilities, as defined in Wis. Stat. § 66.55(1)(c) & (f).  
219 **[ENTIRE CONTRACT]** This Offer, including any amendments to it, contains the entire agreement of the Buyer and Seller regarding the  
220 transaction. All prior negotiations and discussions have been merged into this Offer. This agreement binds and inures to the benefit of  
221 the Parties to this Offer and their successors in interest.  
222 **[DEFAULT]**  
223 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  
224 material failure to perform any obligation under this Offer is a default which may subject the defaulting party to liability for damages or  
225 other legal remedies.  
226 If Buyer defaults, Seller may:  
227 (1) sue for specific performance and request the earnest money as partial payment of the purchase price; or  
228 (2) terminate the Offer and have the option to: (a) request the earnest money as liquidated damages; or (b) direct Broker to return  
229 the earnest money and have the option to sue for actual damages.  
230 If Seller defaults, Buyer may:  
231 (1) sue for specific performance; or  
232 (2) terminate the Offer and request the return of the earnest money, sue for actual damages, or both.  
233 In addition, the Parties may seek any other remedies available in law or equity.  
234 The Parties understand that the availability of any judicial remedy will depend upon the circumstances of the situation and the  
235 discretion of the courts. If either Party defaults, the Parties may renegotiate the Offer or seek nonjudicial dispute resolution instead of  
236 the remedies outlined above. By agreeing to binding arbitration, the Parties may lose the right to litigate in a court of law those disputes  
237 covered by the arbitration agreement.  
238 **NOTE: IF ACCEPTED, THIS OFFER CAN CREATE A LEGALLY ENFORCEABLE CONTRACT. BOTH PARTIES SHOULD READ**  
239 **THIS DOCUMENT CAREFULLY. BROKERS MAY PROVIDE A GENERAL EXPLANATION OF THE PROVISIONS OF THE OFFER BUT**  
240 **ARE PROHIBITED BY LAW FROM GIVING ADVICE OR OPINIONS CONCERNING YOUR LEGAL RIGHTS UNDER THIS OFFER OR**  
241 **HOW TITLE SHOULD BE TAKEN AT CLOSING. AN ATTORNEY SHOULD BE CONSULTED IF LEGAL ADVICE IS NEEDED.**  
242 **[EARNEST MONEY]**  
243 ■ **HELD BY:** Unless otherwise agreed, earnest money shall be paid to and held in the trust account of the listing broker (buyer's agent  
244 if Property is not listed or seller if no broker is involved), until applied to purchase price or otherwise disbursed as provided in the Offer.  
245 **CAUTION: Should persons other than a broker hold earnest money, an escrow agreement should be drafted by the Parties**  
246 **or an attorney. If someone other than Buyer makes payment of earnest money, consider a special disbursement agreement.**  
247 ■ **DISBURSEMENT:** If negotiations do not result in an accepted offer, the earnest money shall be promptly disbursed (after clearance  
248 from payor's depository institution if earnest money is paid by check) to the person(s) who paid the earnest money. At closing, earnest  
249 money shall be disbursed according to the closing statement. If this Offer does not close, the earnest money shall be disbursed according  
250 to a written disbursement agreement signed by all Parties to this Offer (Note: Wis. Adm. Code § RL 18.09(1)(b) provides that an offer  
251 to purchase is not a written disbursement agreement pursuant to which the broker may disburse). If said disbursement agreement has  
252 not been delivered to broker within 60 days after the date set for closing, broker may disburse the earnest money: (1) as directed by  
253 an attorney who has reviewed the transaction and does not represent Buyer or Seller; (2) into a court hearing a lawsuit involving the  
254 earnest money and all Parties to this Offer; (3) as directed by court order; or (4) any other disbursement required or allowed by law.  
255 Broker may retain legal services to direct disbursement per (1) or to file an interpleader action per (2) and broker may deduct from the  
256 earnest money any costs and reasonable attorneys fees, not to exceed \$250, prior to disbursement.  
257 ■ **LEGAL RIGHTS/ACTION:** Broker's disbursement of earnest money does not determine the legal rights of the Parties in relation to this  
258 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)  
259 or (4) above, broker shall send Buyer and Seller notice of the disbursement by certified mail. If Buyer or Seller disagree with broker's  
260 proposed disbursement, a lawsuit may be filed to obtain a court order regarding disbursement. Small Claims Court has jurisdiction over  
261 all earnest money disputes arising out of the sale of residential property with 1-4 dwelling units and certain other earnest money disputes.  
262 Buyer and Seller should consider consulting attorneys regarding their legal rights under this Offer in case of a dispute. Both Parties  
263 agree to hold the broker harmless from any liability for good faith disbursement of earnest money in accordance with this Offer or  
264 applicable Department of Regulation and Licensing regulations concerning earnest money. See Wis. Adm. Code Ch. RL 18. **NOTE:**  
265 **WISCONSIN LICENSE LAW PROHIBITS A BROKER FROM GIVING ADVICE OR OPINIONS CONCERNING THE LEGAL RIGHTS**  
266 **OR OBLIGATIONS OF PARTIES TO A TRANSACTION OR THE LEGAL EFFECT OF A SPECIFIC CONTRACT OR CONVEYANCE.**  
267 **AN ATTORNEY SHOULD BE CONSULTED IF LEGAL ADVICE IS REQUIRED.**

268 PROPERTY ADDRESS: Lots 30, 31 and 32, Business Park North, City of Stoughton [page 5 of 5, WB-13]

269 OPTIONAL PROVISIONS: THE PARAGRAPHS AT LINES 271 - 314 WHICH ARE PRECEDED BY A BOX ARE A PART OF THIS OFFER IF  
270 MARKED, SUCH AS WITH AN "X". THEY ARE NOT PART OF THIS OFFER IF MARKED N/A OR ARE LEFT BLANK.

271  PROPOSED USE CONTINGENCY: Buyer is purchasing the property for the purpose of: \_\_\_\_\_  
272 \_\_\_\_\_ This Offer is contingent upon Buyer obtaining the following:

273  Written evidence at (Buyer's) (Seller's) STRIKE ONE expense from a qualified soils expert that the Property is free of any subsoil  
274 condition which would make the proposed development impossible or significantly increase the costs of such development.

275  Written evidence at (Buyer's) (Seller's) STRIKE ONE expense from a certified soils tester or other qualified expert that indicates that  
276 the Property's soils at locations selected by Buyer and all other conditions which must be approved to obtain a permit for an acceptable private  
277 septic system for: \_\_\_\_\_ [insert proposed use of Property; e.g., three

278 bedroom single family home] meet applicable codes in effect as of the date of this offer. An acceptable system includes all systems approved  
279 for use by the State for the type of property identified at line 277. An acceptable system does not include a holding tank, privy, composting  
280 toilet or chemical toilet or other systems (e.g. mound system) excluded in additional provisions or an addendum per lines 179 - 188.

281  Copies at (Buyer's) (Seller's) STRIKE ONE expense of all public and private easements, covenants and restrictions affecting the  
282 Property and a written determination by a qualified independent third party that none of these prohibit or significantly delay or increase  
283 the costs of the proposed use or development identified at lines 271 to 272.

284  Permits, approvals and licenses, as appropriate, or the final discretionary action by the granting authority prior to the issuance  
285 of such permits, approvals and licenses at (Buyer's) (Seller's) STRIKE ONE expense for the following items related to the proposed  
286 development \_\_\_\_\_

287  Written evidence at (Buyer's) (Seller's) STRIKE ONE expense that the following utility connections are located as follows (e.g.,  
288 on the Property, at the lot line across the street, etc.): electricity x; gas x; sewer  
289 x; water x; telephone x; other cable

290 This proposed use contingency shall be deemed satisfied unless Buyer within 10 days of acceptance delivers  
291 written notice to Seller specifying those items of this contingency which cannot be satisfied and written evidence substantiating why each  
292 specific item included in Buyer's notice cannot be satisfied.

293  MAP OF THE PROPERTY: This Offer is contingent upon (Buyer obtaining) (Seller providing) STRIKE ONE a map of the Property prepared  
294 by a registered land surveyor, within \_\_\_\_\_ days of acceptance, at (Buyer's) (Seller's) STRIKE ONE expense. The map shall identify the legal  
295 description of the Property, the Property's boundaries and dimensions, visible encroachments upon the Property, the location of improvements,  
296 if any, and: \_\_\_\_\_

297 \_\_\_\_\_ STRIKE AND COMPLETE AS APPLICABLE Additional map features  
298 which may be added include, but are not limited to: specifying how current the map must be; staking of all corners of the Property; identifying  
299 dedicated and apparent street, lot dimensions, total acreage or square footage, easements or rights-of-way. **CAUTION: Consider the cost  
300 and the need for map features before selecting them.** The map shall show no significant encroachment(s) or any information materially  
301 inconsistent with any prior representations to Buyer. This contingency shall be deemed satisfied unless Buyer, within five days of the earlier  
302 of: 1) Buyer's receipt of the map, or 2) the deadline for delivery of said map, delivers to Seller, and to listing broker if Property is listed, a copy  
303 of the map and a written notice which identifies the significant encroachment or the information materially inconsistent with prior representations.

304  INSPECTION CONTINGENCY: This Offer is contingent upon a qualified independent inspector(s) conducting an inspection(s), at  
305 Buyer's expense, of the Property and \_\_\_\_\_

306 \_\_\_\_\_ which discloses no defects as defined below. This contingency shall be deemed satisfied  
307 unless Buyer within \_\_\_\_\_ days of acceptance delivers to Seller, and to listing broker if Property is listed, a copy of the inspector's  
308 written inspection report and a written notice listing the defects identified in the report to which Buyer objects. This Offer shall be null and  
309 void upon timely delivery of the above notice and report. **CAUTION: A proposed amendment will not satisfy this notice requirement.**  
310 Buyer shall order the inspection and be responsible for all costs of inspection, including any inspections required by lender or follow-up to  
311 inspection. Note: This contingency only authorizes inspections, not testing, see lines 98 to 110. For the purposes of this contingency a defect  
312 is defined as any condition of the Property which constitutes a significant threat to the health or safety of persons who occupy or use the  
313 Property or gives evidence of any material use, storage or disposal of hazardous or toxic substances on the Property. Defects do not include  
314 conditions the nature and extent of which Buyer had actual knowledge or written notice before signing this Offer.

315 This Offer was drafted on 6/8/09 [date] by [Licensee and Firm] \_\_\_\_\_ Attorney Matthew T. Roethel

316 (X) Edward G. Bierer Buyer's Signature ▲ Print Name Here: ► Edward G. Bierer, Registered Agent Social Security No. or FEIN ▲ 39-201 Date ▲ 6/12/09

317 \_\_\_\_\_ Buyer's Signature ▲ Print Name Here: ► \_\_\_\_\_ Social Security No. or FEIN ▲ \_\_\_\_\_ Date ▲ \_\_\_\_\_

320 EARNEST MONEY RECEIPT Broker acknowledges receipt of earnest money as per line 8 of the above Offer. (See lines 242 - 267)

321 \_\_\_\_\_ Broker (By)  
322 SELLER ACCEPTS THIS OFFER. THE WARRANTIES, REPRESENTATIONS AND COVENANTS MADE IN THIS OFFER SURVIVE CLOSING AND  
323 THE CONVEYANCE OF THE PROPERTY. SELLER AGREES TO CONVEY THE PROPERTY ON THE TERMS AND CONDITIONS AS SET FORTH  
324 HEREIN AND ACKNOWLEDGES RECEIPT OF A COPY OF THIS OFFER.

325 (X) \_\_\_\_\_ 6/ /09  
326 Seller's Signature ▲ Print Name Here: ► Jim Griffin, City of Stoughton, Mayor Social Security No. or FEIN ▲ \_\_\_\_\_ Date ▲ \_\_\_\_\_

327 (X) \_\_\_\_\_ 6/ /09  
328 Seller's Signature ▲ Print Name Here: ► Laurie Sullivan, City of Stoughton, Finance Director Social Security No. or FEIN ▲ \_\_\_\_\_ Date ▲ \_\_\_\_\_

329 This Offer was presented to Seller by \_\_\_\_\_ on \_\_\_\_\_, at \_\_\_\_\_ a.m./p.m.

330 THIS OFFER IS REJECTED \_\_\_\_\_ THIS OFFER IS COUNTERED [See attached counter] \_\_\_\_\_  
331 Seller Initials ▲ Date ▲ Seller Initials ▲ Date ▲

**ADDENDUM TO VACANT LAND OFFER TO PURCHASE**

**Seller: City of Stoughton**

**Buyer: Stellar Commercial Properties, LLC**

**Property: Lots 30, 31 and 32, Business Park North, City of Stoughton, Dane County, WI.**

1. Line 179. The Declaration of Protective Covenants and Restrictions, Plat of Stoughton Business Park North, Dane County, Wisconsin and TIF District III are attached and are incorporated with this Offer. Buyer shall improve property to \$175,000.00 per acre within 18 months of closing. Since Buyer is purchasing 3.7 acres, required improvements shall be \$647,500.00 by December 31, 2010. If Buyer does not make the required improvements, Seller shall have the right to repurchase the property at the sales price, less a 10% penalty. Seller and Buyer shall sign and execute an Option to Repurchase Property Agreement prior to closing. Buyer shall also follow Business Park North sales policy, attached and incorporated as Business Park North Sales Information dated March 17, 2009.

2. Line 188. The attached Declaration of Protective Covenants and Restrictions, the Option to Repurchase Property Agreement, Addendum, and Business Park North Sales Information are made part of this Offer.

3. Lot 30 consists of 1.175 acres, Lot 31 consists of 1.234 acres and Lot 32 consists of 1.291 acres, for a total of 3.7 acres.

4. This offer is contingent upon required approvals of the City of Stoughton for zoning site plan and building construction, including approvals of the Business Plan North Committee, Plan Commission, and Common Council.

5. Buyer will be responsible to relocate underground utilities, if necessary, to accommodate its building development.


6. Buyer shall follow the wastewater and water requirements outlined in a memo dated March 9, 2009, from Stoughton Utility Director, Robert Kardasz, to Stoughton Mayor, which is attached hereto and incorporated herein.

SELLER:  
CITY OF STOUGHTON

\_\_\_\_\_  
By: Jim Griffin, Mayor

\_\_\_\_\_  
By: Laurie Sullivan  
Finance Director

BUYER:  
STELLAR COMMERCIAL PROPERTIES, LLC.

  
\_\_\_\_\_  
By: Edward G. Bierer  
Registered Agent