CITY OF STOUGHTON, 207 S. FORREST ST, STOUGHTON, WISCONSIN

RESOLUTION OF THE COMMON COUNCIL

Approving a Pre-Annexation Agreement between the City of Stoughton and R.O.B. Real Estate Brokerage & Builders, LLC

Committee Action:	Finance Committee		
Fiscal Impact:	N/A		
File Number:	R--2022	**Date Introduced:**	April 26, 2022

WHEREAS, the City of Stoughton Finance Committee reviewed the Pre-Annexation Agreement between the City of Stoughton and R.O.B. Real Estate Brokerage & Builders, LLC; and

WHEREAS, this Pre-Annexation Agreement outlines items of mutual interest between the City and the petitioner; now therefore

BE IT RESOLVED by the Common Council of the City of Stoughton that the Pre-Annexation Agreement, attached as Attachment A, between the City of Stoughton and R.O.B. Real Estate Brokerage & Builders, LLC is hereby approved.

Council Action: ☐ **Adopted** ☐ **Failed** **Vote** _____

Mayoral Action: ☐ **Accept** ☐ **Veto**

_____

Tim Swadley, Mayor Date

Council Action: _____ ☐ **Override** **Vote** _____

Attachment A

PRE-ANNEXATION AGREEMENT

CITY OF STOUGHTON – R.O.B. Real Estate Brokerage & Builders, LLC

This Agreement is made and entered into by the City of Stoughton, a Wisconsin municipal corporation (the "City"), and R.O.B. Real Estate Brokerage & Builders, LLC, a Wisconsin limited liability corporation (hereafter referred to as the "Developer").

RECITALS

A. Developer has filed the Unanimous Petition for Direct Annexation Under § 66.0217(2), Wis. Stats. (the "Petition") attached as Attachment A to this Agreement. The Petition asks the City to annex certain territory (the "Territory") to the City of Stoughton.

B. Developer acknowledges that Developer is voluntarily and of its own accord requesting annexation of the Territory to the City, and that the City has not initiated or required the annexation.

C. Annexation of the Territory is consistent with the City's Comprehensive Plan and is necessary in order to provide urban services to the Territory.

D. The annexation and development of the Territory are beneficial to the City if accomplished in accordance with the terms of this Agreement in that such annexation and development will increase the City's tax base; provide lands for needed growth of the City; permit the sound planning and development of the Territory; and otherwise promote the public welfare.

E. The parties desire that the Territory be developed in a manner that complies with the City's Comprehensive Plan, the City's Official Map, and all City ordinances, and in a manner that minimizes the cost of the development to City taxpayers.

F. The City and Developer acknowledge that they enter into this Agreement for their mutual benefit and in order to address certain obligations and set forth certain understandings relating to the development of the Territory in the event the Territory is annexed to the City.

AGREEMENT

In consideration of the recitals and the mutual covenants and agreements set forth in this Agreement, the parties agree as follows.

1. ZONING AND DEVELOPMENT OF THE TERRITORY.

A. Zoning. The annexation ordinance shall provide a temporary zoning classification for the Territory of RH - Rural Holding.

B. Permanent Zoning and Compliance with Plans and Regulations. The parties anticipate that, following annexation, Developer will apply for permanent zoning of the Territory that is consistent with the City's Comprehensive Plan. Any development of the Territory shall be consistent with the City's Comprehensive Plan, and shall be reviewed and considered in accordance with the City's Comprehensive Plan, and land division, zoning, stormwater management, building and other regulations relating to the development of the Territory.

C. Public Improvements. Developer shall be solely responsible for the cost of constructing any and all public improvements needed to serve the development of the Territory, including the cost of extending any off-site improvements to the Territory. The City shall have no obligation to obtain any property interests needed to extend public improvements to the Territory, through the exercise of eminent domain or otherwise. Public improvements may include improvements (such as street widening, curb and gutter, sidewalk shared-use paths, storm sewer, etc.) to existing streets abutting the Territory

D. Other Requirements Apply. Nothing in this Agreement is intended to relieve, nor shall it be construed as relieving, or in any way satisfying, obligations, procedures or requirements to the City of Stoughton pertaining to the future development or division of the Territory.

2. FEES AND COSTS.

A. Application, Review and Administrative Fees. Developer shall pay to the City, immediately after presentation of a written request for payment, all legal, engineering, and other consulting or administrative fees, costs and expenses incurred or accrued before or after the execution of this Agreement in connection with: (1) the review and processing of petitions, applications and plans for the annexation, rezoning, division or development of the Territory; (2) the negotiation, preparation, consideration and review of this Agreement and other agreements relating to the Development of the Property; (3) the rezoning, subdivision or development of the Territory. Consulting, planning, engineering, and legal fees shall be the actual costs to the City on the basis of submitted invoices. Administrative fees including city staff time shall be calculated based on the actual cost to the City, including all wages and benefits paid to City employees. Inspection and observation fees during construction shall be the actual cost to the City on the basis of submitted invoices. Before processing any application for approval of any land division, change in zoning, erosion control or stormwater management plan, or other approval, the City may require Developer to deposit funds with the City in such amount as the City may request, but not more than $20,000.00, to secure Developer's payment of costs pursuant to this Section. The City may apply the deposit to pay costs that are past due, in the City's sole discretion. If the deposit amount falls below $20,000.00, the City may require Developer to

supplement the deposit by such amount as the City may request, up to a total deposit of not more than $20,000.00. If Developer fails to pay any deposit or pay any cost when due, the City may suspend the processing of any and all pending applications, and Developer hereby agrees that any legally imposed time periods for acting on any land division, zoning or other approvals will be tolled until Developer makes any required deposit or pays any required costs pursuant to this Section.

B. Developer shall pay to the City, immediately after presentation of a written request for payment, all legal, engineering, and other consulting or administrative fees, costs and expenses incurred by the City in connection with any application to amend the Stoughton Urban Service Area, the Dane County Water Quality Plan or the Dane County Land Use and Transportation Plan to facilitate development of the Territory. Prior to the City applying to add the Territory to the Stoughton Urban Service Area, Developer shall deposit $25,000.00 with the City which the City shall apply to pay the costs it may incur in connection with the Urban Service Area amendment process. The City shall use the deposit before billing Developer for such costs. If the City's total costs in connection with the Urban Service Area amendment process are less than $25,000.00, then the balance of the deposit shall be returned to Developer.

C. Town Taxes. Developer shall reimburse the City for any amounts the City is required by law to pay to the Town of Dunkirk as a result of the annexation of the Territory. Any such reimbursements shall be paid within 30 days after the City requests payment.

D. Impact and Connection Fees. The City requires the payment of certain impact fees pursuant to Chapter 67 of the Municipal Code of the City of Stoughton. As of the effective date of this Agreement, the City does not require the payment of a fee to connect to the City's sanitary sewer system or water system. Nothing in this Agreement is intended to relieve Developer from paying to the City fees and costs related to the zoning, division or development of the Territory, and required by the City's ordinances or policies.

3. EFFECTIVE DATE AND EXPIRATION OF THIS AGREEMENT.

A. Effective Date. This Agreement shall be effective upon execution.

B. Expiration. If the City has not adopted an ordinance annexing the Territory on or before December 31, 2022, then this Agreement shall automatically, and without any further action, become null and void and of no force or effect, except that Developer shall pay any costs for which it is responsible under Section 2 of this Agreement as of such date.

4. OTHER PROVISIONS.

A. Duration. This Agreement shall continue until a written release signed by the City and Developer is recorded, or until it automatically terminates under section 3 B.

B. Governing Law. This Agreement shall be governed by, and enforced in accordance with the laws of the State of Wisconsin. Any claim arising under this Agreement shall be brought in Dane County Circuit Court, Dane County, Wisconsin.

C. No Third Party Beneficiaries. No claim as a third party beneficiary under this Agreement by any person shall be valid against the City or Developer.

D. Amendments and Modifications. No amendment or modification to this Agreement shall be effective until it is reduced to writing and approved and executed by all parties to this Agreement.

E. Interpretation. This Agreement shall be construed without regard to the identity of the party who drafted the various provisions of this Agreement. Moreover, each and every provision of this Agreement shall be construed as though all parties to this Agreement participated equally in the drafting of this Agreement. As a result of the foregoing, any rule or construction that a document is to be construed against the drafting party shall not be applicable to this Agreement. This Agreement shall be construed simply and fairly to both parties.

F. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes any and all prior agreements and negotiations between the parties, whether written or oral, relating to the subject matter of this Agreement.

G. Severability. If any part of this Agreement or its application to any person or property be held invalid by a court of competent jurisdiction, the remaining provisions of this Agreement shall not be impaired thereby, and the remaining provisions shall be interpreted, applied and enforced so as to achieve, as near as may be, the purpose and intent of the Agreement to the greatest extent permitted by applicable law.

IN WITNESS WHEREOF, the parties have executed this Pre-Annexation Agreement.

DEVELOPER:
R.O.B. REAL ESTATE BROKERAGE AND BUILDERS, LLC

By_____
Rob Hostrawser, [Authorized Member? Manager?]

CITY:
City of Stoughton
Dane County, Wisconsin

By_____
Tim Swadley, Mayor

By:_____
Candee, City Clerk

Attachments:
Exhibit A - Annexation Petition

Approved as to Form:

STAFFORD ROSENBAUM LLP
Attorneys for the City of Stoughton

By_____
Matthew P. Dregne

EXHIBIT A

ANNEXATION PETITION

PETITION FOR ANNEXATION

The undersigned, constituting 100 percent of the owners of the following described territory located in the Town of Dunkirk, Dane County, Wisconsin, lying contiguous to the City of Stoughton, petition the Honorable Mayor and Common Council of said city to annex the territory described below and shown upon the attached map, as permitted by Chapter 66 of the Wisconsin Statutes, to the City of Stoughton, Dane County, Wisconsin.

A part of the Southeast ¼ of the Southwest ¼ and the Southwest ¼ of the Southeast ¼ of Section 8, Township 5 North, Range 11 East in the Town of Dunkirk, Dane County, Wisconsin, more particularly described as follows:

Beginning at the South ¼ corner of said Section 8; thence South 89°50'45" West along the South line of the Southeast ¼ of the Southwest ¼ of said Section 8, a distance of 1072.96 feet; thence North 00°33'26" West, a distance of 255.01 feet; thence South 89°50'45" West, a distance of 255.47 feet to a point on the West line of the said Southeast ¼ of the Southwest ¼; thence North 00°08'05" East along the said West line, a distance of 899.02 feet to the Southwest corner of Lot 1 of Certified Survey Map (CSM) No. 8119; thence South 89°59'58" East along the South line of said CSM No. 8119, a distance of 790.06 feet to a point on the West Right-of-Way line of S. Page Street; thence South 00°37'54" West along the said West Right-of-Way line, a distance of 40.00 feet; thence South 89°59'58" East along the South line of CSM No. 8119 and CSM No. 8118, a distance of 525.20 feet to the Southeast corner of Lot 4 of said CSM No. 8118; thence North 00°24'48" West along the West line of said Lot 4, a distance of 20.00 feet; thence South 89°59'58" East, a distance of 172.75 feet to the centerline of S. 4th Street; thence southeasterly 168.63 feet along the said centerline being a curve to the left having a radius of 786.20 feet, the chord of said curve bears South 24°12'47" East a distance of 168.30 feet; thence South 30°21'26" East along the said centerline, a distance of 407.34 feet; thence South 59°16'57" West, a distance of 247.92 feet to a northerly angle point of CSM No. 15888; thence South 80°54'48" West along the North line of said CSM No. 15888, a distance of 137.98 feet to the Northwest corner of said CSM No. 15888; thence South 00°10'56" West along the West line of said CSM No. 15888, a distance of 477.25 feet to a point on the South line of the Southwest ¼ of the Southeast ¼ of said Section 8; thence North 89°49'05" West along the said South line, a distance of 82.63 feet to the Point of Beginning.

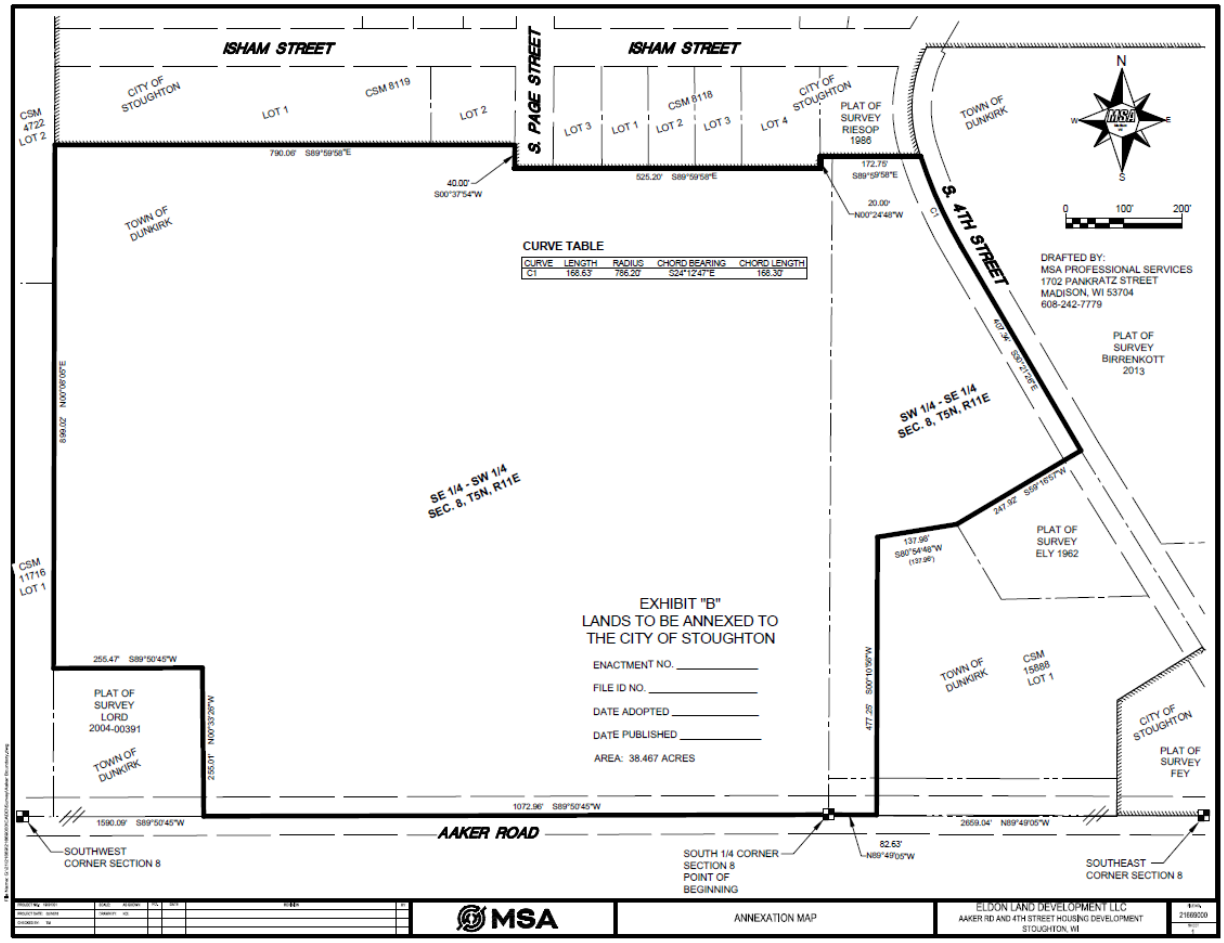
Said parcel contains 1,675,642 square feet or 38.467 acres more or less including areas within S. 4th Street and Aaker Road.

There are no persons residing in the territory.

Dated this 21st day of February, 2022

Signed: _____

Robert Hostrawser, Owner
Rob Real Estate Brokerage & Builders, LLC
3092 Linnerud Drive
Stoughton, WI 53589


ISHAM STREET
ISHAM STREET
S. PAGE STREET
S. 4TH STREET
AAKER ROAD
CITY OF STOUGHTON
TOWN OF DUNKIRK
CSM 8119
CSM 8118
CSM 4722 LOT 2
CSM 11716 LOT 1
CSM 15888 LOT 1
LOT 1
LOT 2
LOT 3
LOT 4
PLAT OF SURVEY RIESOP 1986
PLAT OF SURVEY BIRRENKOTT 2013
PLAT OF SURVEY ELY 1962
PLAT OF SURVEY LORD 2004-00391
PLAT OF SURVEY FEY
SE 1/4 - SW 1/4 SEC. 8, T5N, R11E
SW 1/4 - SE 1/4 SEC. 8, T5N, R11E
CURVE TABLE
CURVE LENGTH RADIUS CHORD BEARING CHORD LENGTH
C1 168.63' 786.20' S24°12'47"E 168.30'
EXHIBIT "B"
LANDS TO BE ANNEXED TO THE CITY OF STOUGHTON
ENACTMENT NO.
FILE ID NO.
DATE ADOPTED
DATE PUBLISHED
AREA: 38.467 ACRES
SOUTHWEST CORNER SECTION 8
SOUTH 1/4 CORNER SECTION 8 POINT OF BEGINNING
SOUTHEAST CORNER SECTION 8
DRAFTED BY:
MSA PROFESSIONAL SERVICES
1702 PANKRATZ STREET
MADISON, WI 53704
608-242-7779
MSA
ANNEXATION MAP
ELDON LAND DEVELOPMENT LLC
AAKER RD AND 4TH STREET HOUSING DEVELOPMENT
STOUGHTON, WI