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May 28, 2010

Dan Kittelson, Chairman
Redevelopment Authority of the City of Stoughton
By email only: Kittleson@oakbankonline.com

Re: Highway Trailer property

Dear Dan:

As you know, I joined several members of City staff and the RDA to meet with representatives of Donald Wahlin (the "Seller") regarding the property located at 501 East South Street (the "Highway Trailer Property"). I write to inform you and the RDA of a number of issues relating to this property, and the acquisition of the property by the RDA.

The RDA and the Seller executed a Real Estate Purchase Agreement relating to the Highway Trailer Property on April 1, 2010. Since that time, a number of issues relating to the property have been raised by one party or the other. Those issues, and the questions for the RDA to consider, are set forth as follows.

1. *Water Main Issue*. The Seller has informed us that there is a private, 8-inch water main located partially on the Highway Trailer Property. This water main has been used to provide fire protection service to the building, and another building located on 8th Street that is also owed by Seller ("Plant Two"). The Seller wants to continue using this water main until alternative service can be provided to Plant Two from 8th Street. Stoughton Utilities currently plans to install a new water main in 8th Street in 2012, and Plant Two could be served from that water main at

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that time. There is no guarantee that the 8th Street water main will be installed in 2012.

We do not yet know the precise location of the water main on the Highway Trailer Property, and have asked the Seller to show the location on a survey. My understanding is that the water main extends along the westerly side of the building, then easterly through the southerly portion of the property, and then on to Plant 2.

One possible arrangement that staff has discussed with the Seller would involve the RDA purchasing the Highway Trailer Property with the water main in the ground, and granting the Seller a "license" (basically an agreement) to use the 8 inch water main until Stoughton Utilities installs the new water main in 8th Street. However, I think it would be wise to include a deadline for termination of the license agreement. I request direction from the RDA regarding what an appropriate deadline would be.

I request that the RDA decide whether it is willing to acquire the property with the water main still in use by the Seller, under a license agreement as described above. If so, I recommend we amend the purchase agreement accordingly, and prepare a license agreement.

2. *Seventh Street Right-of-Way Issues*. The survey we received shows a 25.15 foot wide right of way easement area adjacent to the easterly side of the property, and notes that it is unclear whether the right of way was ever dedicated to the City. This area provides access to two adjacent homes, contains water and sewer infrastructure underground, and is needed by both Stoughton Utilities and the Seller for electric infrastructure.

   A. The Seller is willing to convey whatever right-of-way interest it has in this property to the City. This area is likely public-right-of way in any event, by operation of law, under Wis. Stat. § 82.31(2), because it has been used and maintained by the City as a public right-of-way for more than 10 years.

   B. Stoughton Utilities has requested that the survey prepared by the Seller be modified to show the location of the sewer and water facilities, and Seller indicated a willingness to do this if the cost is acceptable.

3. *Electric Facility Issues*. There is a private electric line located on the easterly side of the Highway Trailer Property. The line is attached to the building in places. This line serves the Highway Trailer Property, and Plant Two. An additional line that is not serving anyone extends from the southeast corner of the building a short distance to the South. A third line that is not serving anyone extends from the southeast corner of the building to the West.

   A. The Seller intends to move the line serving Plant two off the Highway Trailer Property, and relocate it within the adjacent "Seventh Street" right-of-way. It is my understanding that this can be accomplished relatively quickly. **The Seller will need a permit from the City, under section 6409 of the City Code, authorizing the Seller to place its poles and lines in the Seventh Street right-of-way**.

   B. Stoughton Utilities is using the Seller's utility poles located on the Highway Trailer Property to provide electric service to the homes east of Seventh Street. Stoughton Utilities and the Seller appear to agree that Stoughton Utilities may provide service to these homes from Seller's relocated poles.

   C. The Seller said it is willing to remove the line that extends from the southeast corner of the building a short distance to the South. The Seller wants the RDA to assume responsibility for removing that extends from the southeast corner of the building to the West.

   D. **I recommend that the Seller be required to relocate its electric facilities before closing. I request direction from the RDA on this point.**

4. *Access Issues.* The only access to the rear of the existing building is the narrow Seventh Street right of way area, and it is not clear whether the Seventh Street right-of-way extends beyond the building. This makes access to the southerly part of the property difficult or impossible. The Seller indicated it would be willing to provide temporary access to the RDA over its right-of-way on the westerly side of the building during construction, and may also provide temporary access to the south of the Seventh Street right-of-way if needed. **I recommend we require the Seller to provide these access rights, and amend the purchase agreement accordingly. I request direction from the RDA on this point.**

5. *Monitoring Well.* The survey provided by Seller shows a monitoring well on the property. We have asked the Seller to provide information to us regarding the nature and purpose of this monitoring well.

Very truly yours,

Matthew P. Dregne

MPD:lab

cc: Mayor Donna Olson
Laurie Sullivan
Rodney Scheel
Robert Kardasz