*** All present are expected to conduct themselves in accordance with our City's Core Values ***

OFFICIAL NOTICE AND AGENDA

of a meeting of a City Board, Commission, Department, Committee, Agency, Corporation, Quasi-Municipal Corporation, or sub-unit thereof.

Meeting of:	**JOINT FINANCE AND ECONOMIC DEVELOPMENT COMMITTEES**
Date/Time:	**Tuesday, March 14, 2017 at 5:15 pm.**
Location:	**City Hall, Council Chambers**
Finance:	Lisa Rasmussen (C), Joe Gehin, Karen Kellbach, Dave Nutting, Dennis Smith
ED	Tom Neal (C), Romey Wagner, Pat Peckham, Joe Gehin, Lisa Rasmussen

	AGENDA ITEMS FOR CONSIDERATION (All items listed may be acted upon)	**Presenter**
	FINANCE ONLY ITEMS	
1	Minutes of previous meeting(s) (2/14/17)	
2	Discussion and possible action on authorizing a Warranty Deed in satisfaction of Land Contract for Wilson-Hurd Mfg. Co., 311 Winton Street	Jacobson
3	**CLOSED SESSION** *pursuant to 19.85(1)(e) of the Wisconsin Statutes for 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* - Discussion and possible action on the acquisition of the following properties for the Thomas Street Reconstruction Project	Groat
	Parcel 6 – 1405 West Thomas Street Parcel 7 – 1401 West Thomas Street	Lindman
4	**RECONVENE** into Open Session to take action on Closed Session items, if necessary.	
	JOINT ITEMS	
5	Discussion and Possible Action on the Tax Increment Financing Request Received for the Property at 301 North 17th Avenue	
6	Discussion and Possible Action on the Request from SMJ International on Behalf of Uniti Towers to Construct a New Tower Site in the Vicinity of Stewart Avenue and South 84th Avenue	
7	Discussion and Possible Action on the Potential Relocation of Wausau Chemical and Associated Sale and Purchase of Affiliated Properties at 2001 North River Drive	
8	Discussion and Possible Action on the Sublease, Air Rights and Ground Lease and Parking for the Wausau Center Mall Property	
9	Discussion and Possible Action on the Proposal Received for the Property at 415 South First Avenue	
10	Discussion and Possible Action on the Proposal Received for 120 Scott Street	
11	**CLOSED SESSION** pursuant to 19.85(1)(e) of the Wisconsin Statutes for 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:	
12	▸Discussion and Possible Action on the Tax Increment Financing Request Received for the Property at 301 North 17th Avenue ▸Discussion and Possible Action on the Request from SMJ International on Behalf of Uniti Towers to Construct a New Tower Site in the Vicinity of Stewart Avenue and South 84th Avenue ▸Discussion and Possible Action on the Potential Relocation of Wausau Chemical and Associated Purchase and Sale of Property at 2001 North River Drive and Affiliated Properties ▸Discussion and Possible Action on the Sublease, Air Rights and Ground Lease and Parking for the Wausau Center Mall Property ▸Discussion and Possible Action on the Proposal Received for the Property at 415 South First Avenue ▸Discussion and Possible Action on the Proposal Received for 120 Scott Street	
13	**RECONVENE** into Open Session to take action on Closed Session items, if necessary. Adjournment	

Lisa Rasmussen, Finance Chair Tom Neal, ED Chair

It is likely that members of, and a quorum of the Council and/or members of other committees of the Common Council of the City of Wausau will be in attendance at the above-mentioned meeting to gather information. **No action will be taken by any such groups.**

This Notice was posted at City Hall and emailed to the Media on 3/08/17

Please note that, upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids & services. For information or to request this service, contact the City Clerk at (715) 261-6620.

Other Distribution: Media, Alderpersons, Mayor, City Departments

RECEIVED
MAR 01 2017
Community Development Dept
City of Wausau

WAUSAU
WISCONSIN

City of Wausau TIF Application

Please complete the following information and return it along with a $125 fee made payable to Community Development.

DEVELOPER

Legal Entity: Wausau Smiles Dental

d/b/a: _____

Main Office Location: 705 S 24th Ave #420, Wausau WI 54401

Type of Business: Dental Practice

Project Description:

New 4000 sf Office with leasable space in the lower level. Allows for existing practice to move out of space that is currently being leased.

Reason for Application Assistance:

The site development costs are much higher than what would be required to build on a different site. The site will require blasting,extensive retaining walls, and upsizing of current site utilities.

PROPERTY INFORMATION

Parcel 1
Address: 301 N 17th Avenue
Size: 1.266
Current Use: vacant
Current Assessed Value: 497,900
Current Property Taxes: 12,424.39

Parcel 2
Address: _____
Size: _____
Current Use: _____
Current Assessed Value: _____
Current Property Taxes: _____

PROPOSED IMPROVEMENTS

Describe improvement details

Development of green field site for a 4000 sf office building. 2 parking lots will be installed to service each level of the building.Existing Site Utilities to be up sized. Retaining Walls required

RETURN ON INVESTMENT ANALYSIS

Project Costs

	Amount ($)	Source of Funds
Purchase of Land	277,800	cash
Demolition Cost	NA	NA
Site Improvements	450,000	business loan - pending
Purchase of Existing Facility	NA	NA
Construction of New Building(s)	2,100,000	business loan - pending
Renovation of Existing Structure	NA	NA
Machinery & Equipment	150000	business loan - pending
Architectural & Engineering Fees	125,487	business loan - pending
Legal & Other Professional Fees	NA	NA
Contingency	100,000	business loan - pending
Working Capital		
Other (please specify)		
Total Project Costs	3,203,287	

Value of Property

- Lot Size (in acres): 1.27
- Improvement Square Footage: 32,951
- Current Assessed Values: Land $ 497,900 + Improvements $ 0 = 497,900
- Calculated Property Value: Land $ 497,900 + Improvements $ 2,550,000 = 3,047,900

Projected Property Taxes

- Current Property Taxes: $ 12,424.39
- Calculated Property Taxes: 76,045
- Calculated Tax Increment: 63,621

Zoning:

- Current Zoning: Interchange Business (IB)
- Proposed Zoning: Interchange Business (IB)

Requested City Participation/Financing

Source	Amount	Terms: Years/Interest	Contact Information
Loans:	2,500,000	pending	pending
Equity	277,800	cash purchase	
Requested City Participation:			
Loan:			
Grant:			
Other:	270,100	5 or 10 year reverse TIF	
Total Financing	2,500,000		

City of Wausau ROI: _____

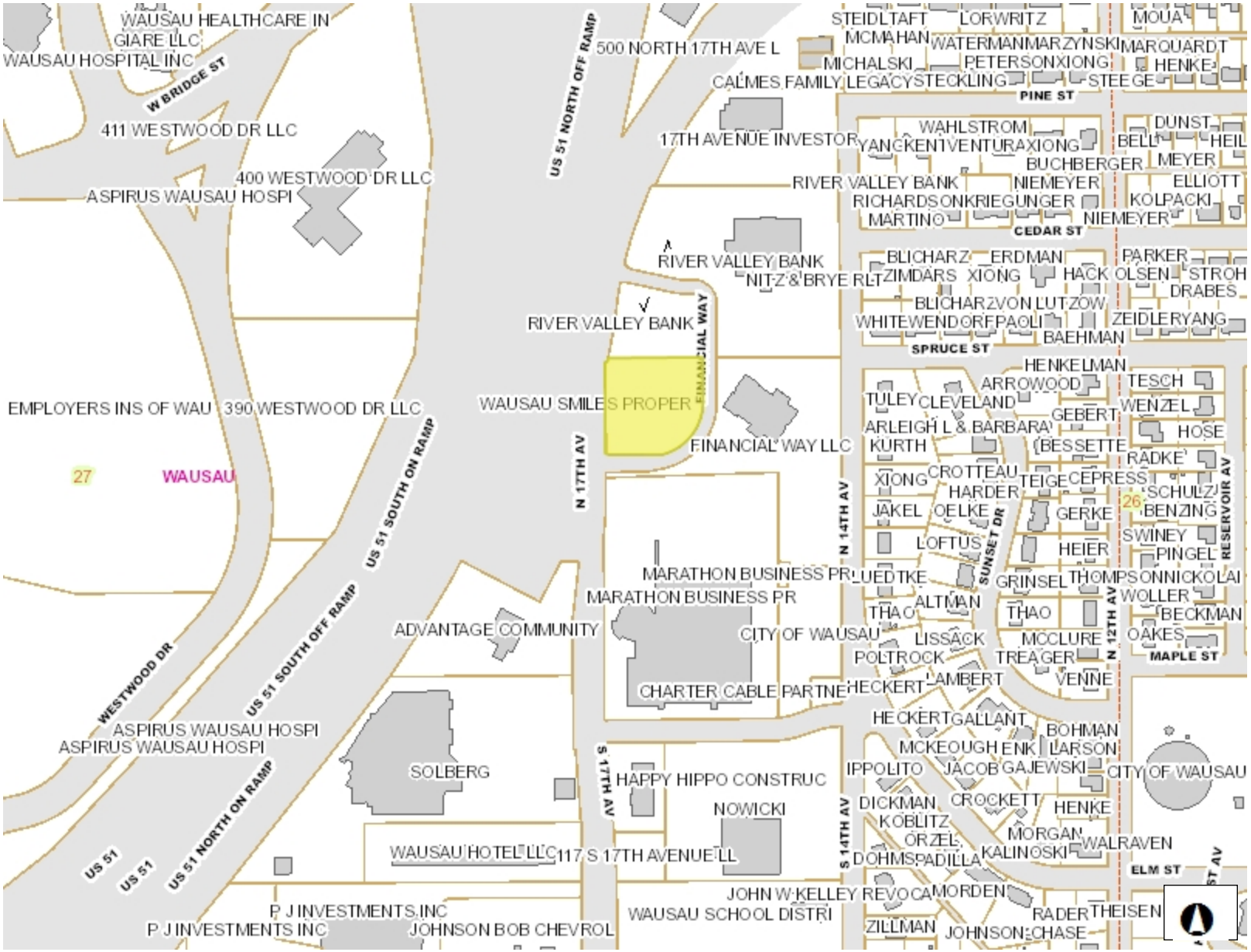
Jobs Created

- Up to $15,000: _____
- $15,001-$30,000: _____
- $30,001-$45,000: _____
- $45,001-$60,000: 8 jobs
- $60,001 and above: 2 jobs
- Description of Employee benefits:

Would expand practice by doubling current staff. Would also bring a second dentist into the practice.

Please return to Community Development, 407 Grant Street, Wausau, WI 54403.

Land Information Mapping System



Legend

- Owner Last Names
- Parcels
- Land Hooks
- Section Lines/Numbers
- Right Of Ways
- Wausau Buildings
- Municipalities

187.30 0 187.30 Feet

User_Defined_Lambert_Conformal_Conic

DISCLAIMER: The information and depictions herein are for informational purposes and Marathon County-City of Wausau specifically disclaims accuracy in this reproduction and specifically admonishes and advises that if specific and precise accuracy is required, the same should be determined by procurement of certified maps, surveys, plats, Flood Insurance Studies, or other official means. Marathon County-City of Wausau will not be responsible for any damages which result from third party use of the information and depictions herein or for use which ignores this warning.
THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

From: Dave Kaminski [mailto:dkaminski05@centurylink.net]
Sent: Sunday, January 22, 2017 10:46 AM
To: Christian Schock <Christian.Schock@ci.wausau.wi.us>
Cc: David Kaminski <dkaminski@smj-llc.com>
Subject: 10124165 Uniti Tower Lease Proposal-City of Wausau

Christian,

I am contracting for Uniti Towers who is interested in constructing a new tower site in the vicinity of Stewart Ave. and S. 84th Ave. There is an approx. 17 acre parcel of property which tax records show is owned by the City of Wausau zoned IP Industrial. (Parcel: 59-362906-005-020-00-00)

Uniti Towers is interested into entering into a long term lease agreement with the City of Wausau on noted parcel of property also shown on the attached map. I assume no real decision can be made on this proposal until it is reviewed and determined if the City of Wausau feels this is a viable use of the property. However please let this email indicate initiation of their interest.

Uniti Towers is offering $600 a month after commencement of construction with a 6% rental escalator every 5 years with 17 five year renewals. A lease area of 60'x 60' is requested for the construction of a 150' mono-pole type tower. Access and utility easements are also part of the lease area. Minimum setbacks to property lines needed to meet zoning regulations if any.

Any feedback you might be able to share pertaining to the probability of approval on behalf to the City of Wausau is certainly appreciated. This will help in determining a potential site move for the tower location.

I am sending a copy of the Uniti Tower Lease Agreement and Letter of Intent. Also included is just a rough field sketch of the approx. location on the property. The "Non-Binding" Letter of Intent will accompany the candidate package I will be working on this week. It simply states there is interest in potentially entering into an agreement with Unity Tower and the offered terms. This can be scanned/emailed or faxed to the number below.

Please reply by email or call me with any questions you might have and your determination of potential interest.

Regards,

David Kaminski
(p) 231-633-2775
(fax) 810-958-1424
(e) dkaminski@smj-llc.com

SMJ International

Uniti Towers

LETTER OF INTENT

This Letter of Intent represents the general terms and conditions upon which the Parties would consider a possible transaction regarding the installation and/or collocation of telecommunications structures/equipment upon the Property.

Property Street Address: +- 883 84th Ave. S.

City, State & Zip Code: Wausau, WI 54401

Owner Information:

Name: City of Wausau

Phone No.: 715-261-6683, Christian Schock, Interim Dir., Community Development
Email: Christian.schock@ci.wausau.wi.us

Proposed Sales Price: N/A
h
<OR>

Proposed Monthly Rent: $600

Proposed Escalator: **6%** X renewal term annual

Proposed Lease Term/Renewal: 5 yr Terms

By signing this document the Parties acknowledge that a conversation took place regarding a possible transaction regarding the installation and/or collocation of telecommunications structures/equipment upon the Property and that each Party is interested in pursuing further discussions regarding the possible transaction.

This Letter of Intent is **NOT** a contract and shall not be interpreted as such. This Letter of Intent is **NOT** binding and is only intended to advance discussions concerning the possible transaction.

Either Party may terminate further discussion at any time, for any reason whatsoever, without notice to the other Party and without any further obligation or liability. This Letter of Intent does **NOT** guarantee any further discussions or establish any exclusivity terms.

On behalf of Uniti Towers:

By: _____

Name: _____

Phone: _____

Date: _____

Owner:

By: _____

Name: _____

Date: _____

Or by: _____ {Site Acq. In Lieu of Owner}

Name: _____

Date: _____

CS&L
The Communications REIT
10802 Executive Center Drive, Suite 300
Little Rock, AR 72111
(501) 850-0820

Market: _____
Cell Site Number: _____
Cell Site Name: _____
Search Ring Name: _____
Fixed Asset Number: _____

FORM OF OPTION AND LEASE AGREEMENT

THIS OPTION AND LEASE AGREEMENT ("**Agreement**"), dated as of the latter of the signature dates below (the "**Effective Date**"), is entered into by _____, a _____ _____, having a mailing address of _____ ,and Uniti Towers LLC, a Delaware limited liability corporation having a mailing address of 10802 Executive Center Drive, Benton Building, Suite 300, Little Rock AR 72211 ("**Tenant**").

BACKGROUND

Landlord owns or controls that certain plot, parcel or tract of land, as described on **Exhibit 1,** together with all rights and privileges arising in connection therewith, located at _____, in the County of _____, State of _____ (collectively, the "**Property**"). Landlord desires to grant to Tenant the right to use a portion of the Property in accordance with this Agreement.

The parties agree as follows:

1. <u>OPTION TO LEASE.</u>

(a) Landlord grants to Tenant an exclusive option (the "**Option**") to lease a certain portion of the Property containing approximately _____ square feet including the air space above such ground space, as described on attached **Exhibit 1**, (the "**Premises**"), for the placement of a Communication Facility.

(b) During the Option Term, and during the Term, Tenant and its agents, engineers, surveyors and other representatives will have the right to enter upon the Property to inspect, examine, conduct soil borings, drainage testing, material sampling, radio frequency testing and other geological or engineering tests or studies of the Property (collectively, the "**Tests**"), to apply for and obtain licenses, permits, approvals, or other relief required of or deemed necessary or appropriate at Tenant's sole discretion for its use of the Premises and include, without limitation, applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits (collectively, the "**Government Approvals**"), initiate the ordering and/or scheduling of necessary utilities, and otherwise to do those things on or off the Property that, in the opinion of Tenant, are necessary in Tenant's sole discretion to determine the physical condition of the Property, the environmental history of the Property, Landlord's title to the Property and the feasibility or suitability of the Property for Tenant's Permitted Use, all at Tenant's expense. Tenant will not be liable to Landlord or any third party on account of any pre-existing defect or condition on or with respect to the Property, whether or not such defect or condition is disclosed by Tenant's inspection. Tenant will restore the Property to its condition as it existed at the commencement of the Option Term, reasonable wear and tear and loss by casualty or other causes beyond Tenant's control excepted.

(c) In consideration of Landlord granting Tenant the Option, Tenant agrees to pay Landlord the sum of _____ and No/100 Dollars ($_____.00) within thirty (30) business days after the Effective Date. The Option may be exercised during an initial term of one (1) year commencing on the Effective Date (the "**Initial Option Term**") which term may be renewed by Tenant for an additional one (1) year (the "**Renewal Option Term**") upon written notification to Landlord and the payment of an additional _____ and No/100 Dollars ($_____.00) no later than five (5) days prior to the expiration date of the Initial Option Term. The Initial Option Term and any Renewal Option Term are collectively referred to as the "**Option Term**."

(d) The Option may be sold, assigned or transferred at any time by Tenant without the written consent of Landlord. Upon notification to Landlord of such sale, assignment, or transfer, Tenant shall immediately be released from any and all liability under this Agreement, including the payment of any rental or other sums due, without any further action.

(e) During the Option Term, Tenant may exercise the Option by notifying Landlord in writing. If Tenant exercises the Option, then Landlord leases the Premises to Tenant subject to the terms and conditions of this Agreement. If Tenant does not exercise the Option during the Initial Option Term or any extension thereof, this Agreement will terminate and the parties will have no further liability to each other.

(f) If during the Option Term, or during the Term if the Option is exercised, Landlord decides to subdivide, sell, or change the status of the zoning of the Premises, Property or any of Landlord's contiguous, adjoining or surrounding property (the **"Surrounding Property**,") or in the event of a threatened foreclosure, Landlord shall immediately notify Tenant in writing. Landlord agrees that during the Option Term, or during the Term if the Option is exercised, Landlord shall not initiate or consent to any change in the zoning of the Premises, Property or Surrounding Property or impose or consent to any other use or restriction that would prevent or limit Tenant from using the Premises for the Permitted Use. Any and all terms and conditions of this Agreement that by their sense and context are intended to be applicable during the Option Term shall be so applicable.

2. PERMITTED USE. Tenant may use the Premises for the transmission and reception of communications signals and the installation, construction, maintenance, operation, repair, replacement and upgrade of communications fixtures and related equipment, cables, accessories and improvements, which may include a suitable support structure ("**Structure**"), associated antennas, equipment shelters or cabinets and fencing and any other items necessary to the successful and secure use of the Premises (collectively, the "**Communication Facility**"), as well as the right to test, survey and review title on the Property; Tenant further has the right but not the obligation to add, modify and/or replace equipment in order to be in compliance with any current or future federal, state or local mandated application, including, but not limited to, emergency 911 communication services, at no additional cost to Tenant or Landlord (collectively, the "**Permitted Use**"). Landlord and Tenant agree that any portion of the Communication Facility that may be conceptually described on **Exhibit 1** will not be deemed to limit Tenant's Permitted Use. If **Exhibit 1** includes drawings of the initial installation of the Communication Facility, Landlord's execution of this Agreement will signify Landlord's approval of **Exhibit 1**. For a period of ninety (90) days following the start of construction, Landlord grants Tenant, its subtenants, licensees and sublicensees, the right to use such portions of Landlord's contiguous, adjoining or surrounding property (the "**Surrounding Property**") as may reasonably be required during construction and installation of the Communication Facility. Tenant has the right to install and operate transmission cables from the equipment shelter or cabinet to the antennas, electric lines from the main feed to the equipment shelter or cabinet and communication lines from the Property's main entry point to the equipment shelter or cabinet, install a generator and to make other improvements, alterations, upgrades or additions appropriate for Tenant's Permitted Use including the right to construct a fence around the Premises or equipment, install warning signs to make individuals aware of risks, install protective barriers, install any other control measures reasonably required by Tenant's safety procedures or applicable law, and undertake any other appropriate means to secure the Premises or equipment at Tenant's expense. Tenant has the right to modify, supplement, replace, upgrade, expand the Communication Facility (including, for example, increasing the number of antennas or adding microwave dishes) or relocate the Communication Facility within the Premises at any time during the Term. Tenant will be allowed to make such alterations to the Property in order to ensure that the Communication Facility complies with all applicable federal, state or local laws, rules or regulations. In the event Tenant desires to modify or upgrade the Communication Facility, in a manner that requires an additional portion of the Property (the "**Additional Premises**") for such modification or upgrade, Landlord agrees to lease to Tenant the Additional Premises, upon the same terms and conditions set forth herein, except that the Rent shall increase, in conjunction with the lease of the Additional Premises by the amount equivalent to the then-current per square foot rental rate charged by Landlord to Tenant times the square footage of the Additional Premises. Landlord agrees to take such actions and enter into and deliver to Tenant such documents as Tenant reasonably requests in order to effect and memorialize the lease of the Additional Premises to Tenant.

3. TERM.

(a) The initial lease term will be five (5) years (the "**Initial Term**"), commencing on the effective date of written notification by Tenant to Landlord of Tenant's exercise of the Option (the "**Term Commencement Date**"). The Initial Term will terminate on the fifth (5th) anniversary of the Term Commencement Date.

(b) This Agreement will automatically renew for seventeen (17) additional five (5) year term(s) (each additional five (5) year term shall be defined as an "**Extension Term**"), upon the same terms and conditions set forth herein unless Tenant notifies Landlord in writing of Tenant's intention not to renew this Agreement at least sixty (60) days prior to the expiration of the Initial Term or then-existing Extension Term.

(c) Unless (i) Landlord or Tenant notifies the other in writing of its intention to terminate this Agreement at least six (6) months prior to the expiration of the final Extension Term, or (ii) the Agreement is terminated as otherwise permitted by this Agreement prior to the end of the final Extension Term, this Agreement shall continue in force upon the same covenants, terms and conditions for a further term of one (1) year, and for annual terms thereafter ("**Annual Term**") until terminated by either party by giving to the other party written notice of its intention to so terminate at least six (6) months prior to the end of any such Annual Term. Monthly rent during such Annual Terms shall be equal to the Rent paid for the last month of the final Extension Term. If Tenant remains in possession of the Premises after the termination of this Agreement, then Tenant will be deemed to be occupying the Premises on a month-to-month basis (the "**Holdover Term**"), subject to the terms and conditions of this Agreement.

(d) The Initial Term, any Extension Terms, any Annual Terms and any Holdover Term are collectively referred to as the "**Term**".

4. RENT.

(a) Commencing on the first day of the month following the date that Tenant commences construction (the "**Rent Commencement Date**"), Tenant will pay Landlord on or before the fifth (5th) day of each calendar month in advance, _____ and No/100 Dollars ($_____.00) (the "**Rent**"), at the address set forth above. In any partial month occurring after the Rent Commencement Date, Rent will be prorated. The initial Rent payment will be forwarded by Tenant to Landlord within forty-five (45) days after the Rent Commencement Date.

(b) Upon the commencement of each Extension Term, the monthly Rent will increase by ____ percent (__%) over the Rent paid during the previous five (5) year term.

(c) All charges payable under this Agreement such as utilities and taxes shall be billed by Landlord within one (1) year from the end of the calendar year in which the charges were incurred; any charges beyond such period shall not be billed by Landlord, and shall not be payable by Tenant. The foregoing shall not apply to monthly Rent which is due and payable without a requirement that it be billed by Landlord. The provisions of this subsection shall survive the termination or expiration of this Agreement.

5. APPROVALS.

(a) Landlord agrees that Tenant's ability to use the Premises is contingent upon the suitability of the Premises and Property for the Permitted Use and Tenant's ability to obtain and maintain all Government Approvals. Landlord authorizes Tenant to prepare, execute and file all required applications to obtain Government Approvals for the Permitted Use and agrees to reasonably assist Tenant with such applications and with obtaining and maintaining the Government Approvals.

(b) Tenant has the right to obtain a title report or commitment for a leasehold title policy from a title insurance company of its choice and to have the Property surveyed by a surveyor of its choice.

(c) Tenant may also perform and obtain, at Tenant's sole cost and expense, soil borings, percolation tests, engineering procedures, environmental investigation or other tests or reports on, over, and under the Property, necessary to determine if Tenant's use of the Premises will be compatible with Tenant's engineering specifications, system, design, operations or Government Approvals.

6. TERMINATION. This Agreement may be terminated, without penalty or further liability, as follows:

(a) by either party on thirty (30) days prior written notice, if the other party remains in default under Section 15 of this Agreement after the applicable cure periods;

(b) by Tenant upon written notice to Landlord, if Tenant is unable to obtain, or maintain, any required approval(s) or the issuance of a license or permit by any agency, board, court or other governmental authority necessary for the construction or operation of the Communication Facility as now or hereafter intended by Tenant; or if Tenant determines, in its sole discretion that the cost of or delay in obtaining or retaining the same is commercially unreasonable;

(c) by Tenant, upon written notice to Landlord, if Tenant determines, in its sole discretion, due to the title report results or survey results, that the condition of the Premises is unsatisfactory for its intended uses;

(d) by Tenant upon written notice to Landlord for any reason or no reason, at any time prior to commencement of construction by Tenant; or

(e) by Tenant upon sixty (60) days' prior written notice to Landlord for any reason or no reason, so long as Tenant pays Landlord a termination fee equal to three (3) months' Rent, at the then-current rate, provided, however, that no such termination fee will be payable on account of the termination of this Agreement by Tenant under any termination provision contained in any other Section of this Agreement, including the following: Section 5 Approvals, Section 6(a) Termination, Section 6(b) Termination, Section 6(c) Termination, Section 6(d) Termination, Section 11(d) Environmental, Section 18 Condemnation or Section 19 Casualty.

7. <u>INSURANCE</u>. During the Option Term and throughout the Term, Tenant will purchase and maintain in full force and effect such general liability policy as Tenant may deem necessary. Said policy of general liability insurance will at a minimum provide a combined single limit of One Million and No/100 Dollars ($1,000,000.00). Notwithstanding the foregoing, Tenant shall have the right to self-insure such general liability coverage.

8. <u>INTERFERENCE</u>.

(a) Prior to or concurrent with the execution of this Agreement, Landlord has provided or will provide Tenant with a list of radio frequency user(s) and frequencies used on the Property as of the Effective Date. Tenant warrants that its use of the Premises will not interfere with those existing radio frequency uses on the Property, as long as the existing radio frequency user(s) operate and continue to operate within their respective frequencies and in accordance with all applicable laws and regulations.

(b) Landlord will not grant, after the Effective Date, a lease, license or any other right to any third party, if the exercise of such grant may in any way adversely affect or interfere with the Communication Facility, the operations of Tenant or the rights of Tenant under this Agreement. Landlord will notify Tenant in writing prior to granting any third party the right to install and operate communications equipment on the Property.

(c) Landlord will not, nor will Landlord permit its employees, tenants, licensees, invitees, agents or independent contractors to interfere in any way with the Communication Facility, the operations of Tenant or the rights of Tenant under this Agreement. Landlord will cause such interference to cease within twenty-four (24) hours after receipt of notice of interference from Tenant. In the event any such interference does not cease within the aforementioned cure period, Landlord shall cease all operations which are suspected of causing interference (except for intermittent testing to determine the cause of such interference) until the interference has been corrected.

(d) For the purposes of this Agreement, "interference" may include, but is not limited to, any use on the Property or Surrounding Property that causes electronic or physical obstruction with, or degradation of, the communications signals from the Communication Facility.

9. <u>INDEMNIFICATION.</u>

(a) Tenant agrees to indemnify, defend and hold Landlord harmless from and against any and all injury, loss, damage or liability , costs or expenses in connection with a third party claim (including reasonable attorneys' fees and court costs) arising directly from the installation, use, maintenance, repair or removal of the

Communication Facility or Tenant's breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Landlord, its employees, invitees, agents or independent contractors.

(b) Landlord agrees to indemnify, defend and hold Tenant harmless from and against any and all injury, loss, damage or liability , costs or expenses in connection with a third party claim (including reasonable attorneys' fees and court costs) arising directly from the actions or failure to act of Landlord, its employees, invitees agents or independent contractors, or Landlord's breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Tenant, its employees, agents or independent contractors.

(c) The indemnified party: (i) shall promptly provide the indemnifying party with written notice of any claim, demand, lawsuit, or the like for which it seeks indemnification pursuant to this Section and provide the indemnifying party with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like; (ii) shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of the indemnifying party; and (iii) shall fully cooperate with the indemnifying party in the defense of the claim, demand, lawsuit, or the like. A delay in notice shall not relieve the indemnifying party of its indemnity obligation, except (1) to the extent the indemnifying party can show it was prejudiced by the delay; and (2) the indemnifying party shall not be liable for any settlement or litigation expenses incurred before the time when notice is given.

10. <u>WARRANTIES.</u>

(a) Each of Tenant and Landlord (to the extent not a natural person) acknowledge and represent that it is duly organized, validly existing and in good standing and has the right, power and authority or capacity, as applicable, to enter into this Agreement and bind itself hereto through the party or individual set forth as signatory for the party below.

(b) Landlord represents, warrants and agrees that: (i) Landlord solely owns the Property as a legal lot in fee simple, or controls the Property by lease or license; (ii) the Property is not and will not be encumbered by any liens, restrictions, mortgages, covenants, conditions, easements, leases, or any other agreements of record or not of record, which would adversely affect Tenant's Permitted Use and enjoyment of the Premises under this Agreement; (iii) as long as Tenant is not in default then Landlord grants to Tenant sole, actual, quiet and peaceful use, enjoyment and possession of the Premises without hindrance or ejection by any persons lawfully claiming under Landlord ; (iv) Landlord's execution and performance of this Agreement will not violate any laws, ordinances, covenants or the provisions of any mortgage, lease or other agreement binding on Landlord; and (v) if the Property is or becomes encumbered by a deed to secure a debt, mortgage or other security interest, Landlord will provide promptly to Tenant a mutually agreeable subordination, non-disturbance and attornment agreement executed by Landlord and the holder of such security interest in the form attached hereto as **Exhibit 10(b)**.

11. <u>ENVIRONMENTAL.</u>

(a) Landlord represents and warrants, except as may be identified in **Exhibit 11** attached to this Agreement, (i) the Property, as of the Effective Date, is free of hazardous substances, including asbestos-containing materials and lead paint, and (ii) the Property has never been subject to any contamination or hazardous conditions resulting in any environmental investigation, inquiry or remediation. Landlord and Tenant agree that each will be responsible for compliance with any and all applicable governmental laws, rules, statutes, regulations, codes, ordinances, or principles of common law regulating or imposing standards of liability or standards of conduct with regard to protection of the environment or worker health and safety, as may now or at any time hereafter be in effect, to the extent such apply to that party's activity conducted in or on the Property.

(b) Landlord and Tenant agree to hold harmless and indemnify the other from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of the indemnifying party for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding ("**Claims**"), to the extent arising from that party's breach of its obligations or representations under Section 11(a). Landlord agrees to hold harmless and

indemnify Tenant from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of Landlord for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any Claims, to the extent arising from subsurface or other contamination of the Property with hazardous substances prior to the Effective Date or from such contamination caused by the acts or omissions of Landlord during the Term. Tenant agrees to hold harmless and indemnify Landlord from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of Tenant for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any Claims, to the extent arising from hazardous substances brought onto the Property by Tenant.

(c) The indemnification provisions contained in this Section 11 specifically include reasonable costs, expenses and fees incurred in connection with any investigation of Property conditions or any clean-up, remediation, removal or restoration work required by any governmental authority. The provisions of this Section 11 will survive the expiration or termination of this Agreement.

(d) In the event Tenant becomes aware of any hazardous materials on the Property, or any environmental, health or safety condition or matter relating to the Property, that, in Tenant's sole determination, renders the condition of the Premises or Property unsuitable for Tenant's use, or if Tenant believes that the leasing or continued leasing of the Premises would expose Tenant to undue risks of liability to a government agency or other third party, Tenant will have the right, in addition to any other rights it may have at law or in equity, to terminate this Agreement upon written notice to Landlord.

12. **ACCESS.** At all times throughout the Term of this Agreement, and at no additional charge to Tenant, Tenant and its employees, agents, and subcontractors, will have twenty-four (24) hour per day, seven (7) day per week pedestrian and vehicular access ("**Access**") to and over the Property, from an open and improved public road to the Premises, for the installation, maintenance and operation of the Communication Facility and any utilities serving the Premises. As may be described more fully in **Exhibit 1**, Landlord grants to Tenant an easement for such Access and Landlord agrees to provide to Tenant such codes, keys and other instruments necessary for such Access at no additional cost to Tenant. Upon Tenant's request, Landlord will execute a separate recordable easement evidencing this right. Landlord shall execute a letter granting Tenant Access to the Property substantially in the form attached as **Exhibit 12**; upon Tenant's request, Landlord shall execute additional letters during the Term. Landlord acknowledges that in the event Tenant cannot obtain Access to the Premises, Tenant shall incur significant damage. If Landlord fails to provide the Access granted by this Section 12, such failure shall be a default under this Agreement. In connection with such default, in addition to any other rights or remedies available to Tenant under this Agreement or at law or equity, Landlord shall pay Tenant, as liquidated damages and not as a penalty, $500.00 per day in consideration of Tenant's damages until Landlord cures such default. Landlord and Tenant agree that Tenant's damages in the event of a denial of Access are difficult, if not impossible, to ascertain, and the liquidated damages set forth above are a reasonable approximation of such damages.

13. **REMOVAL/RESTORATION.** All portions of the Communication Facility brought onto the Property by Tenant will be and remain Tenant's personal property and, at Tenant's option, may be removed by Tenant at any time during or after the Term. Landlord covenants and agrees that no part of the Communication Facility constructed, erected or placed on the Premises by Tenant will become, or be considered as being affixed to or a part of, the Property, it being the specific intention of Landlord that all improvements of every kind and nature constructed, erected or placed by Tenant on the Premises will be and remain the property of Tenant and may be removed by Tenant at any time during or after the Term. Tenant will repair any damage to the Property resulting from Tenant's removal activities. Any portions of the Communication Facility that Tenant does not remove within one hundred twenty (120) days after the later of the end of the Term and cessation of Tenant's operations at the Premises shall be deemed abandoned and owned by Landlord. Notwithstanding the foregoing, Tenant will not be responsible for the replacement of any trees, shrubs or other vegetation.

14. **MAINTENANCE/UTILITIES.**

(a) Tenant will keep and maintain the Premises in good condition, reasonable wear and tear and damage from the elements excepted. Landlord will maintain and repair the Property and access thereto and all

areas of the Premises where Tenant does not have exclusive control, in good and tenantable condition, subject to reasonable wear and tear and damage from the elements. Landlord will be responsible for maintenance of landscaping on the Property, including any landscaping installed by Tenant as a condition of this Agreement or any required permit.

(b) Tenant will be responsible for paying on a monthly or quarterly basis all utilities charges for electricity, telephone service or any other utility used or consumed by Tenant on the Premises. In the event Tenant cannot secure its own metered electrical supply, Tenant will have the right, at its own cost and expense, to sub-meter from Landlord. When sub-metering is required under this Agreement, Landlord will read the meter and provide Tenant with an invoice and usage data on a monthly basis. Tenant shall reimburse Landlord for such utility usage at the same rate charged to Landlord by the utility service provider. Landlord further agrees to provide the usage data and invoice on forms provided by Tenant and to send such forms to such address and/or agent designated by Tenant. Tenant will remit payment within sixty (60) days of receipt of the usage data and required forms. Landlord shall maintain accurate and detailed records of all utility expenses, invoices and payments applicable to Tenant's reimbursement obligations hereunder. Within fifteen (15) days after a request from Tenant, Landlord shall provide copies of such utility billing records to the Tenant in the form of copies of invoices, contracts and cancelled checks. If the utility billing records reflect an overpayment by Tenant, Tenant shall have the right to deduct the amount of such overpayment from any monies due to Landlord from Tenant.

(c) As noted in Section 4(c) above, any utility fee recovery by Landlord is limited to a twelve (12) month period. If Tenant submeters electricity from Landlord, Landlord agrees to give Tenant at least twenty-four (24) hours advance notice of any planned interruptions of said electricity. Landlord acknowledges that Tenant provides a communication service which requires electrical power to operate and must operate twenty-four (24) hours per day, seven (7) days per week. If the interruption is for an extended period of time, in Tenant's reasonable determination, Landlord agrees to allow Tenant the right to bring in a temporary source of power for the duration of the interruption. Landlord will not be responsible for interference with, interruption of or failure, beyond the reasonable control of Landlord, of such services to be furnished or supplied by Landlord.

(d) Tenant will have the right to install utilities, at Tenant's expense, and to improve present utilities on the Property and the Premises. Landlord hereby grants to any service company providing utility or similar services, including electric power and telecommunications, to Tenant an easement over the Property, from an open and improved public road to the Premises, and upon the Premises, for the purpose of constructing, operating and maintaining such lines, wires, circuits, and conduits, associated equipment cabinets and such appurtenances thereto, as such service companies may from time to time require in order to provide such services to the Premises. Upon Tenant's or service company's request, Landlord will execute a separate recordable easement evidencing this grant, at no cost to Tenant or the service company.

15. <u>DEFAULT AND RIGHT TO CURE.</u>

(a) The following will be deemed a default by Tenant and a breach of this Agreement: (i) non-payment of Rent if such Rent remains unpaid for more than thirty (30) days after written notice from Landlord of such failure to pay; or (ii) Tenant's failure to perform any other term or condition under this Agreement within forty-five (45) days after written notice from Landlord specifying the failure. No such failure, however, will be deemed to exist if Tenant has commenced to cure such default within such period and provided that such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Tenant. If Tenant remains in default beyond any applicable cure period, Landlord will have the right to exercise any and all rights and remedies available to it under law and equity.

(b) The following will be deemed a default by Landlord and a breach of this Agreement: (i) Landlord's failure to provide Access to the Premises as required by Section 12 within twenty-four (24) hours after written notice of such failure; (ii) Landlord's failure to cure an interference problem as required by Section 8 within twenty-four (24) hours after written notice of such failure; or (iii) Landlord's failure to perform any term, condition or breach of any warranty or covenant under this Agreement within forty-five (45) days after written notice from Tenant specifying the failure. No such failure, however, will be deemed to exist if Landlord has commenced to cure the default within such period and provided such efforts are prosecuted to completion

with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Landlord. If Landlord remains in default beyond any applicable cure period, Tenant will have: (i) the right to cure Landlord's default and to deduct the costs of such cure from any monies due to Landlord from Tenant, and (ii) any and all other rights available to it under law and equity.

16. ASSIGNMENT/SUBLEASE. Tenant will have the right to assign this Agreement or sublease the Premises and its rights herein, in whole or in part, without Landlord's consent. Upon notification to Landlord of such assignment, Tenant will be relieved of all future performance, liabilities and obligations under this Agreement to the extent of such assignment.

17. NOTICES. All notices, requests and demands hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notices will be addressed to the parties as follows:

If to Tenant: Uniti Towers LLC
Attn: Real Estate
10802 Executive Center Drive
Benton Bldg, Suite 300
Little Rock AR 72211
Main Telephone: 501.850.0820

If to Landlord: _____
_____
_____
Telephone:

Either party hereto may change the place for the giving of notice to it by thirty (30) days' prior written notice to the other party as provided herein.

18. CONDEMNATION. In the event Landlord receives notification of any condemnation proceedings affecting the Property, Landlord will provide notice of the proceeding to Tenant within twenty-four (24) hours. If a condemning authority takes all of the Property, or a portion sufficient, in Tenant's sole determination, to render the Premises unsuitable for Tenant, this Agreement will terminate as of the date the title vests in the condemning authority. The parties will each be entitled to pursue their own separate awards in the condemnation proceeds, which for Tenant will include, where applicable, the value of its Communication Facility, moving expenses, prepaid Rent, and business dislocation expenses. Tenant will be entitled to reimbursement for any prepaid Rent on a *pro rata* basis.

19. CASUALTY. Landlord will provide notice to Tenant of any casualty or other harm affecting the Property within twenty-four (24) hours of the casualty or other harm. If any part of the Communication Facility or Property is damaged by casualty or other harm as to render the Premises unsuitable, in Tenant's sole determination, then Tenant may terminate this Agreement by providing written notice to Landlord, which termination will be effective as of the date of such casualty or other harm. Upon such termination, Tenant will be entitled to collect all insurance proceeds payable to Tenant on account thereof and to be reimbursed for any prepaid Rent on a *pro rata* basis. Landlord agrees to permit Tenant to place temporary transmission and reception facilities on the Property, but only until such time as Tenant is able to activate a replacement transmission facility at another location; notwithstanding the termination of this Agreement, such temporary facilities will be governed by all of the terms and conditions of this Agreement, including Rent. If Landlord or Tenant undertakes to rebuild or restore the Premises and/or the Communication Facility, as applicable, Landlord

agrees to permit Tenant to place temporary transmission and reception facilities on the Property at no additional Rent until the reconstruction of the Premises and/or the Communication Facility is completed. If Landlord determines not to rebuild or restore the Property, Landlord will notify Tenant of such determination within thirty (30) days after the casualty or other harm. If Landlord does not so notify Tenant and Tenant decides not to terminate under this Section, then Landlord will promptly rebuild or restore any portion of the Property interfering with or required for Tenant's Permitted Use of the Premises to substantially the same condition as existed before the casualty or other harm. Landlord agrees that the Rent shall be abated until the Property and/or the Premises are rebuilt or restored, unless Tenant places temporary transmission and reception facilities on the Property.

20. WAIVER OF LANDLORD'S LIENS. Landlord waives any and all lien rights it may have, statutory or otherwise, concerning the Communication Facility or any portion thereof. The Communication Facility shall be deemed personal property for purposes of this Agreement, regardless of whether any portion is deemed real or personal property under applicable law; Landlord consents to Tenant's right to remove all or any portion of the Communication Facility from time to time in Tenant's sole discretion and without Landlord's consent.

21. TAXES.

(a) Landlord shall be responsible for (i) all taxes and assessments levied upon the lands, improvements and other property of Landlord including any such taxes that may be calculated by a taxing authority using any method, including the income method (ii) all sales, use, license, value added, documentary, stamp, gross receipts, registration, real estate transfer, conveyance, excise, recording, and other similar taxes and fees imposed in connection with this Agreement and (iii) all sales, use, license, value added, documentary, stamp, gross receipts, registration, real estate transfer, conveyance, excise, recording, and other similar taxes and fees imposed in connection with a sale of the Property or assignment of Rent payments by Landlord. Tenant shall be responsible for (y) any taxes and assessments attributable to and levied upon Tenant's leasehold improvements on the Premises if and as set forth in this Section 21 and (z) all sales, use, license, value added, documentary, stamp, gross receipts, registration, real estate transfer, conveyance, excise, recording, and other similar taxes and fees imposed in connection with an assignment of this Agreement or sublease by Tenant. Nothing herein shall require Tenant to pay any inheritance, franchise, income, payroll, excise, privilege, rent, capital stock, stamp, documentary, estate or profit tax, or any tax of similar nature, that is or may be imposed upon Landlord.

(b) In the event Landlord receives a notice of assessment with respect to which taxes or assessments are imposed on Tenant's leasehold improvements on the Premises, Landlord shall provide Tenant with copies of each such notice immediately upon receipt, but in no event later than thirty (30) days after the date of such notice of assessment. If Landlord does not provide such notice or notices to Tenant in a timely manner and Tenant's rights with respect to such taxes are prejudiced by the delay, Landlord shall reimburse Tenant for any increased costs directly resulting from the delay and Landlord shall be responsible for payment of the tax or assessment set forth in the notice, and Landlord shall not have the right to reimbursement of such amount from Tenant. If Landlord provides a notice of assessment to Tenant within such time period and requests reimbursement from Tenant as set forth below, then Tenant shall reimburse Landlord for the tax or assessments identified on the notice of assessment on Tenant's leasehold improvements, which has been paid by Landlord. If Landlord seeks reimbursement from Tenant, Landlord shall, no later than thirty (30) days after Landlord's payment of the taxes or assessments for the assessed tax year, provide Tenant with written notice including evidence that Landlord has timely paid same, and Landlord shall provide to Tenant any other documentation reasonably requested by Tenant to allow Tenant to evaluate the payment and to reimburse Landlord.

(c) For any tax amount for which Tenant is responsible under this Agreement, Tenant shall have the right to contest, in good faith, the validity or the amount thereof using such administrative, appellate or other proceedings as may be appropriate in the jurisdiction, and may defer payment of such obligations, pay same under protest, or take such other steps as permitted by law. This right shall include the ability to institute any legal, regulatory or informal action in the name of Landlord, Tenant, or both, with respect to the valuation of the Premises. Landlord shall cooperate with respect to the commencement and prosecution of any such proceedings and will execute any documents required therefor. The expense of any such proceedings shall be borne by Tenant and any refunds or rebates secured as a result of Tenant's action shall belong to Tenant, to the extent the

amounts were originally paid by Tenant. In the event Tenant notifies Landlord by the due date for assessment of Tenant's intent to contest the assessment, Landlord shall not pay the assessment pending conclusion of the contest, unless required by applicable law.

(d) Landlord shall not split or cause the tax parcel on which the Premises are located to be split, bifurcated, separated or divided without the prior written consent of Tenant.

(e) Tenant shall have the right but not the obligation to pay any taxes due by Landlord hereunder if Landlord fails to timely do so, in addition to any other rights or remedies of Tenant. In the event that Tenant exercises its rights under this Section 21(e) due to such Landlord default, Tenant shall have the right to deduct such tax amounts paid from any monies due to Landlord from Tenant as provided in Section 15(b), provided that Tenant may exercise such right without having provided to Landlord notice and the opportunity to cure per Section 15(b).

(f) Any tax-related notices shall be sent to Tenant in the manner set forth in Section 17. Promptly after the Effective Date of this Agreement, Landlord shall provide the following address to the taxing authority for the authority's use in the event the authority needs to communicate with Tenant. In the event that Tenant's tax address changes by notice to Landlord, Landlord shall be required to provide Tenant's new tax address to the taxing authority or authorities.

(g) Notwithstanding anything to the contrary contained in this Section 21, Tenant shall have no obligation to reimburse any tax or assessment for which the Landlord is reimbursed or rebated by a third party.

22. <u>SALE OF PROPERTY.</u>

(a) Landlord may sell the Property or a portion thereof to a third party, provided: (i) the sale is made subject to the terms of this Agreement; and (ii) if the sale does not include the assignment of Landlord's full interest in this Agreement, the purchaser must agree to perform, without requiring compensation from Tenant or any subtenant, any obligation of Landlord under this Agreement, including Landlord's obligation to cooperate with Tenant as provided hereunder.

(b) If Landlord, at any time during the Term of this Agreement, decides to rezone or sell, subdivide or otherwise transfer all or any part of the Premises, or all or any part of the Property or Surrounding Property, to a purchaser other than Tenant, Landlord shall promptly notify Tenant in writing, and such rezoning, sale, subdivision or transfer shall be subject to this Agreement and Tenant's rights hereunder. In the event of a change in ownership, transfer or sale of the Property, within ten (10) days of such transfer, Landlord or its successor shall send the documents listed below in this Section 22(b) to Tenant. Until Tenant receives all such documents, Tenant's failure to make payments under this Agreement shall not be an event of default and Tenant reserves the right to hold payments due under this Agreement.

i. Old deed to Property
ii. New deed to Property
iii. Bill of Sale or Transfer
iv. Copy of current Tax Bill
v. New IRS Form W-9
vi. Completed and Signed Tenant Payment Direction Form
vii. Full contact information for new Landlord including phone number(s)

(c) Landlord agrees not to sell, lease or use any areas of the Property or Surrounding Property for the installation, operation or maintenance of other wireless communication facilities if such installation, operation or maintenance would interfere with Tenant's Permitted Use or communications equipment as determined by radio propagation tests performed by Tenant in its sole discretion. Landlord or Landlord's prospective purchaser shall reimburse Tenant for any costs and expenses of such testing. If the radio frequency propagation tests demonstrate levels of interference unacceptable to Tenant, Landlord shall be prohibited from selling, leasing or using any areas of the Property or the Surrounding Property for purposes of any installation, operation or maintenance of any other wireless communication facility or equipment.

(d) The provisions of this Section shall in no way limit or impair the obligations of Landlord under this Agreement, including interference and access obligations.

23. <u>RIGHT OF FIRST REFUSAL</u>. Notwithstanding the provisions contained in Section 22, if at any time after the Effective Date, Landlord receives a bona fide written offer from a third party seeking any sale, conveyance, assignment or transfer, whether in whole or in part, of any property interest in or related to the Premises, including without limitation any offer seeking an assignment or transfer of the Rent payments associated with this Agreement or an offer to purchase an easement with respect to the Premises ("**Offer**"), Landlord shall immediately furnish Tenant with a copy of the Offer. Tenant shall have the right within ninety (90) days after it receives such copy to match the financial terms of the Offer and agree in writing to match such terms of the Offer. Such writing shall be in the form of a contract substantially similar to the Offer but Tenant may assign its rights to a third party. If Tenant chooses not to exercise this right or fails to provide written notice to Landlord within the ninety (90) day period, Landlord may sell, convey, assign or transfer such property interest in or related to the Premises pursuant to the Offer, subject to the terms of this Agreement. If Landlord attempts to sell, convey, assign or transfer such property interest in or related to the Premises without complying with this Section 23, the sale, conveyance, assignment or transfer shall be void. Tenant shall not be responsible for any failure to make payments under this Agreement and reserves the right to hold payments due under this Agreement until Landlord complies with this Section 23. Tenant's failure to exercise the right of first refusal shall not be deemed a waiver of the rights contained in this Section 23 with respect to any future proposed conveyances as described herein.

24. <u>MISCELLANEOUS.</u>

(a) **Amendment/Waiver.** This Agreement cannot be amended, modified or revised unless done in writing and signed by Landlord and Tenant. No provision may be waived except in a writing signed by both parties. The failure by a party to enforce any provision of this Agreement or to require performance by the other party will not be construed to be a waiver, or in any way affect the right of either party to enforce such provision thereafter.

(b) **Memorandum.** Contemporaneously with the execution of this Agreement, the parties will execute a recordable Memorandum of Lease substantially in the form attached as **Exhibit 24b**. Either party may record this Memorandum of Lease at any time during the Term, in its absolute discretion. Thereafter during the Term, either party will, at any time upon fifteen (15) business days' prior written notice from the other, execute, acknowledge and deliver to the other a recordable Memorandum of Lease.

(c) **Limitation of Liability**. Except for the indemnity obligations set forth in this Agreement, and otherwise notwithstanding anything to the contrary in this Agreement, Tenant and Landlord each waives any claims that each may have against the other with respect to consequential, incidental or special damages, however caused, based on any theory of liability.

(d) **Compliance with Law**. Tenant agrees to comply with all federal, state and local laws, orders, rules and regulations ("**Laws**") applicable to Tenant's use of the Communication Facility on the Property. Landlord agrees to comply with all Laws relating to Landlord's ownership and use of the Property and any improvements on the Property.

(e) **Bind and Benefit.** The terms and conditions contained in this Agreement will run with the Property and bind and inure to the benefit of the parties, their respective heirs, executors, administrators, successors and assigns.

(f) **Entire Agreement.** This Agreement and the exhibits attached hereto, all being a part hereof, constitute the entire agreement of the parties hereto and will supersede all prior offers, negotiations and agreements with respect to the subject matter of this Agreement. Exhibits are numbered to correspond to the Section wherein they are first referenced. Except as otherwise stated in this Agreement, each party shall bear its own fees and expenses (including the fees and expenses of its agents, brokers, representatives, attorneys, and accountants) incurred in connection with the negotiation, drafting, execution and performance of this Agreement and the transactions it contemplates.

(g) **Governing Law.** This Agreement will be governed by the laws of the state in which the Premises are located, without regard to conflicts of law.

(h) **Interpretation.** Unless otherwise specified, the following rules of construction and interpretation apply: (i) captions are for convenience and reference only and in no way define or limit the construction of the terms and conditions hereof; (ii) use of the term "including" will be interpreted to mean "including but not limited to"; (iii) whenever a party's consent is required under this Agreement, except as otherwise stated in the Agreement or as same may be duplicative, such consent will not be unreasonably withheld, conditioned or delayed; (iv) exhibits are an integral part of this Agreement and are incorporated by reference into this Agreement; (v) use of the terms "termination" or "expiration" are interchangeable; (vi) reference to a default will take into consideration any applicable notice, grace and cure periods; (vii) to the extent there is any issue with respect to any alleged, perceived or actual ambiguity in this Agreement, the ambiguity shall not be resolved on the basis of who drafted the Agreement; (viii) the singular use of words includes the plural where appropriate and (ix) if any provision of this Agreement is held invalid, illegal or unenforceable, the remaining provisions of this Agreement shall remain in full force if the overall purpose of the Agreement is not rendered impossible and the original purpose, intent or consideration is not materially impaired.

(i) **Affiliates.** All references to "Tenant" shall be deemed to include any Affiliate of _____ using the Premises for any Permitted Use or otherwise exercising the rights of Tenant pursuant to this Agreement. "Affiliate" means with respect to a party to this Agreement, any person or entity that (directly or indirectly) controls, is controlled by, or under common control with, that party. "Control" of a person or entity means the power (directly or indirectly) to direct the management or policies of that person or entity, whether through the ownership of voting securities, by contract, by agency or otherwise.

(j) **Survival**. Any provisions of this Agreement relating to indemnification shall survive the termination or expiration hereof. In addition, any terms and conditions contained in this Agreement that by their sense and context are intended to survive the termination or expiration of this Agreement shall so survive.

(k) **W-9.** As a condition precedent to payment, Landlord agrees to provide Tenant with a completed IRS Form W-9, or its equivalent, upon execution of this Agreement and at such other times as may be reasonably requested by Tenant, including any change in Landlord's name or address.

(l) **Execution/No Option.** The submission of this Agreement to any party for examination or consideration does not constitute an offer, reservation of or option for the Premises based on the terms set forth herein. This Agreement will become effective as a binding Agreement only upon the handwritten legal execution, acknowledgment and delivery hereof by Landlord and Tenant. This Agreement may be executed in two (2) or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties. All parties need not sign the same counterpart.

(m) **Attorneys' Fees.** In the event that any dispute between the parties related to this Agreement should result in litigation, the prevailing party in such litigation shall be entitled to recover from the other party all reasonable fees and expenses of enforcing any right of the prevailing party, including reasonable attorneys' fees and expenses. Prevailing party means the party determined by the court to have most nearly prevailed even if such party did not prevail in all matters. This provision will not be construed to entitle any party other than Landlord, Tenant and their respective Affiliates to recover their fees and expenses.

(n) **WAIVER OF JURY TRIAL**. EACH PARTY, TO THE EXTENT PERMITTED BY LAW, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING UNDER ANY THEORY OF LIABILITY ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR THE TRANSACTIONS IT CONTEMPLATES.

(o) **Incidental Fees.** Unless specified in this Agreement, no unilateral fees or additional costs or expenses are to be applied by either party to the other party, including review of plans, structural analyses, consents, provision of documents or other communications between the parties.

(p) **Further Acts.** Upon request, Landlord will cause to be promptly and duly taken, executed, acknowledged and delivered all such further acts, documents, and assurances as Tenant may request from time to time in order to effectuate, carry out and perform all of the terms, provisions and conditions of this Agreement and all transactions and permitted use contemplated by this Agreement.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be effective as of the last date written below.

"LANDLORD"

_____

By: _____
Print Name: _____
Its: _____
Date: _____

"TENANT"

Uniti Towers LLC

By: _____
Print Name: Daniel Heard
Its: EVP-General Counsel and Secretary
Date: _____

[ACKNOWLEDGMENTS APPEAR ON NEXT PAGE]

LANDLORD ACKNOWLEDGMENT

STATE OF _____)
) ss:
COUNTY OF _____)

On the _____ day of _____, 20___, before me personally appeared Daniel Heard, who acknowledged under oath that he is the EVP-General Counsel and Secretary of Uniti Towers LLC, the Tenant named in the attached instrument, and as such was authorized to execute this instrument on behalf of the Tenant.

_____
Notary Public: _____
My Commission Expires: _____

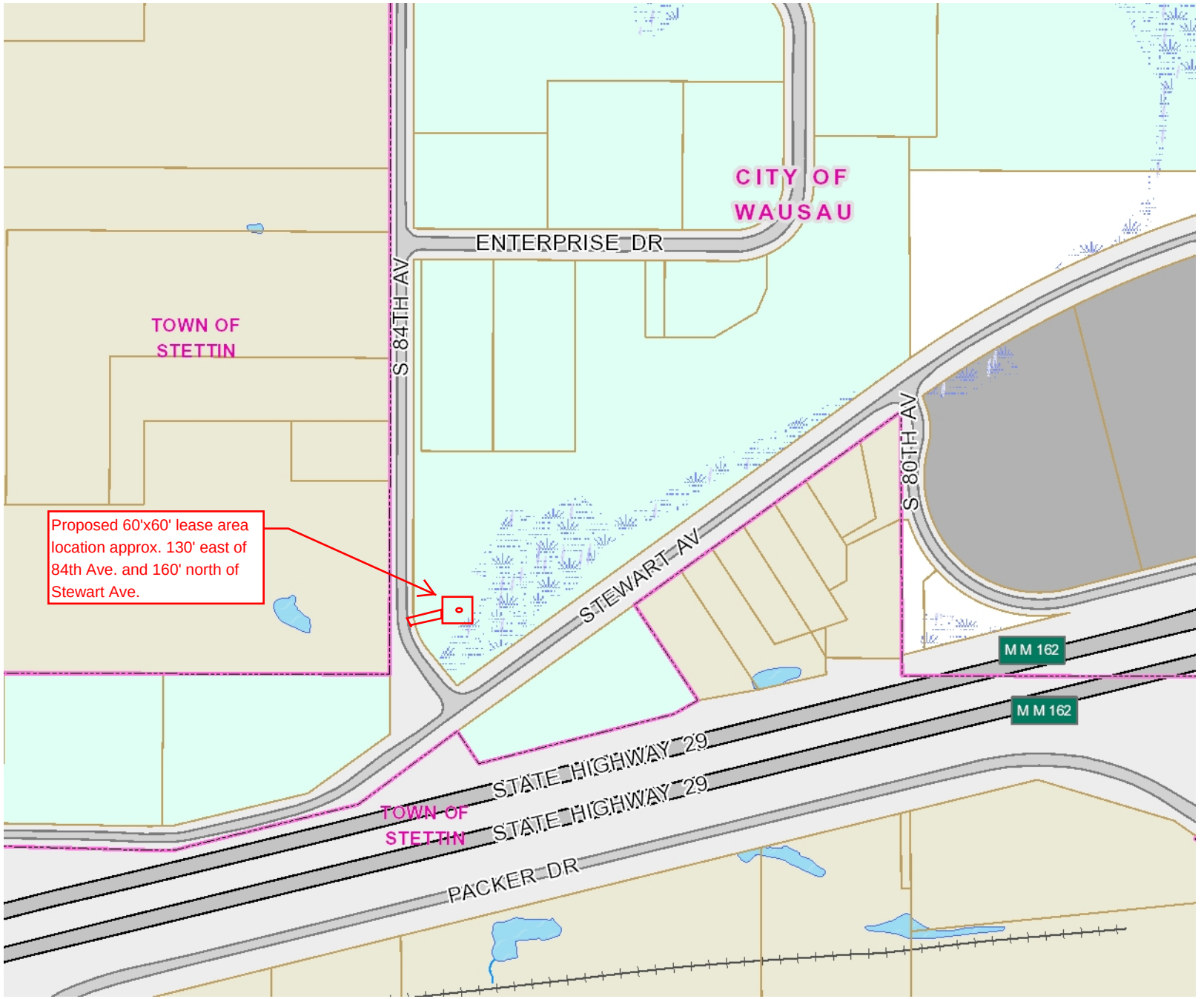
_____

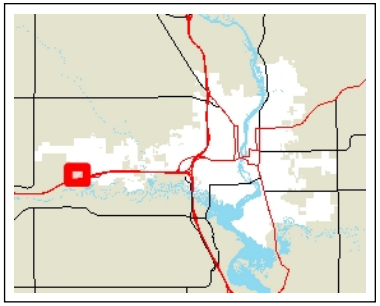
INDIVIDUAL ACKNOWLEDGMENT

STATE OF _____)
) ss:
COUNTY OF _____)

BE IT REMEMBERED, that on this _____ day of _____, 20____ before me, the subscriber, a person authorized to take oaths in the State of _____, personally appeared _____ who, being duly sworn on his/her/their oath, deposed and made proof to my satisfaction that he/she/they is/are the person(s) named in the within instrument; and I, having first made known to him/her/them the contents thereof, he/she/they did acknowledge that he/she/they signed, sealed and delivered the same as his/her/their voluntary act and deed for the purposes therein contained.

_____
Notary Public: _____
My Commission Expires: _____





Legend

- Parcels
- Railroad
- Bridge
- Overpass
- Paved Road
- Divided Highway
- Right Of Way
- Stream - River
- Pond - Lake
- Wausau Wetland
- Swamp

Zoning

- B1 - Neighborhood Shopping
- B2 - Community Service
- B3 - General Commercial
- B41 - Central Business
- B42 - Central Business
- B43 - Central Business
- IB - Interchange Business
- IM - Interchange Industrial
- IP - Industrial Park
- IR - Interchange Residential
- M1 - Limited Industrial
- M2 - General Industrial
- R1 - Single Family Residential
- R2 - Single Family Residential
- R3 - Two Family Residential
- R31 - Two Family Residential
- R4 - General Residential
- R41 - Limited General Residential

Map Created: 1/22/2017

185.75 0 185.75 Feet

User_Defined_Lambert_Conformal_Conic

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THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

In response to Request for Proposals
by: City of Wausau
for: Westside Battery and adjacent lot
ref: Lot 415-401 South 1st Ave.
Date of this Proposal: February 28th 2017

This is a Proposal by Urban Street Bistro (the Respondent) alone to supply the Requirements.

Prepared By
Urban Street Bistro
Urban Street bistro LLC
919 Edgewood Rd Wausau WI 54403 (current Address)
119 South 52nd Ave Wausau 54401 (previous Address)

Clinton Schultz
Owner Urban Street Bistro
715-302-4041 Cell
715-298-9441 Office
urbanstreetbistro@gmail.com

Urban Street Bistro owned by Clinton and Kelly Schultz is entering its fifth year in the Wausau area. What started out as a simple desire to bring locally sourced and thoughtfully prepared food to the streets of Wausau has expanded greatly during that time. The food truck portion of the business continues to be among the most well respected in the area.

The expanded catering division has grown to include four full-time employees and several part-time employees. The catering division has also become an industry leader in the area covering events ranging from 25 person corporate lunches to a 600 person gala.

The success of both aspects of the business is due to our core philosophies.

1. **Honest product delivered at a fair price.**
2. **The highest attention to detail**
3. **Unparalleled customer satisfaction**
4. **Willingness to reinvest to further growth**
5. **Commitment to locally sourced products when available**
6. **Commitment to philanthropy**

The next logical expansion to satisfy the customer base is the establishment of a brick-and-mortar restaurant. We believe the West Side Battery building is the perfect location and the style we are looking for.

Our proposed design would blend seamlessly into the Riverfront redevelopment. The design utilizes the current building and adds a landscaped parking area as well as an outside river view dining patio and mini greenhouse. Landscaping design would look to match the recent updates to second Avenue and provide a cohesive look to the riverfront area.

Updates to the building include new insulated roof, solar hot water heater, LED lighting, high efficiency HVAC and interior framing and insulation.

The proposed 99 seat full service restaurant and bar would be open six days a week. Weekends could feature live music. We have also offered to house the Wausau Winter Farmers market Saturday mornings until they're able to find a permanent home if we acquire the property.

The restaurant would employ 12 to 14 full-time employees and 30+ part-time.

We have retained Gaffney Construction to oversee the remodel/buildout.
Gaffney construction has a 30 year history in the Wausau area constructing some of the finest residential and commercial properties. Gaffney Construction has also worked on several riverfront properties and as a result have an exceptional understanding of the special requirements necessary for these projects.

Construction is estimated to take 12 months from time of closing.

The projected budget for the project would be as follows:

$225,000 purchase properties from the City Of Wausau

$550,000 to $600,000 estimated buildout cost.

Estimated taxable value $600,000.

This proposal is contingent upon approved finance from our primary bank The Pineries in Stevens Point and additional funding from the city of Wausau and MCDEVCO.

We would look for the following considerations from the city of Wausau and MCDEVCO.

$100,000 in commercial rehab loans interest only for the first 12 months.

$150,000 From MCDEVCO for commercial equipment purchase.

Cinton T Schultz
Owner Urban Street Bistro
February 28th 2017

Gaffney Construction LLC

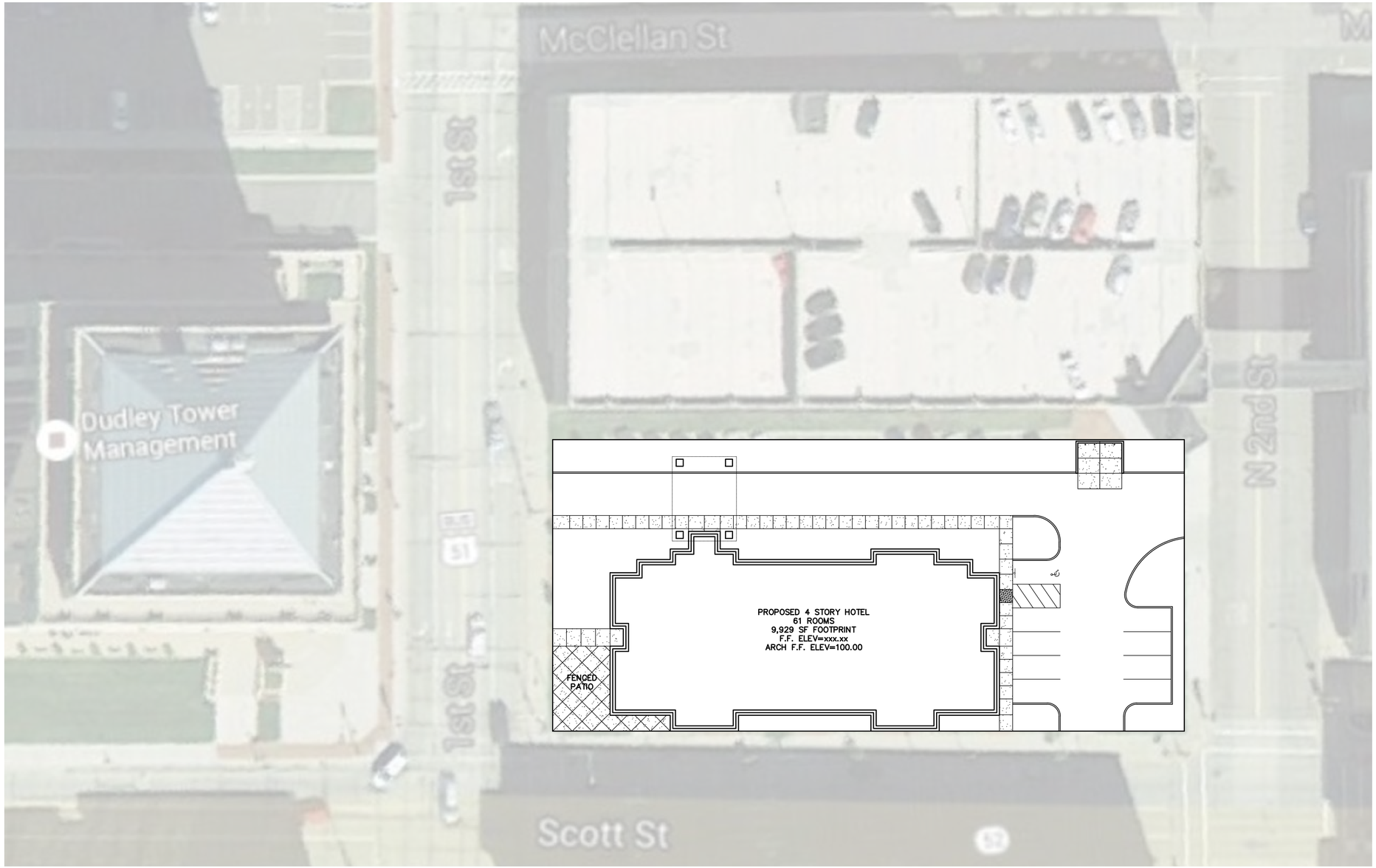
JUSTIN GAFFNEY | GAFFNEY CONSTRUCTION LLC

February 3, 2017

415 South First Avenue | URBAN STREET BISTRO RESTAURANT

A | 01

COBBLESTONE
HOTEL & SUITES
WISSOTA
CHOPHOUSE
NO PARKING
IN FRONT OF
DRIVEWAY
OR ALLEY



NORTH

CONCEPT PLAN

SCALE: 1"=20'-0"

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PHONE: (920) 926-9800
WWW.EXCELENGINEER.COM

COLLABORATION

BriMark Builders, LLC

PROJECT INFORMATION

PROJECT NUMBER 1625740

PROPOSED HOTEL FOR:

COBBLESTONE HOTEL & SUITES

120 SCOTT STREET • WAUSAU, WI

PROFESSIONAL SEAL

PRELIMINARY DATES

JUNE 14, 2016

NOT FOR CONSTRUCTION

SHEET INFORMATION

SITE PLAN

SHEET NUMBER

C1.2

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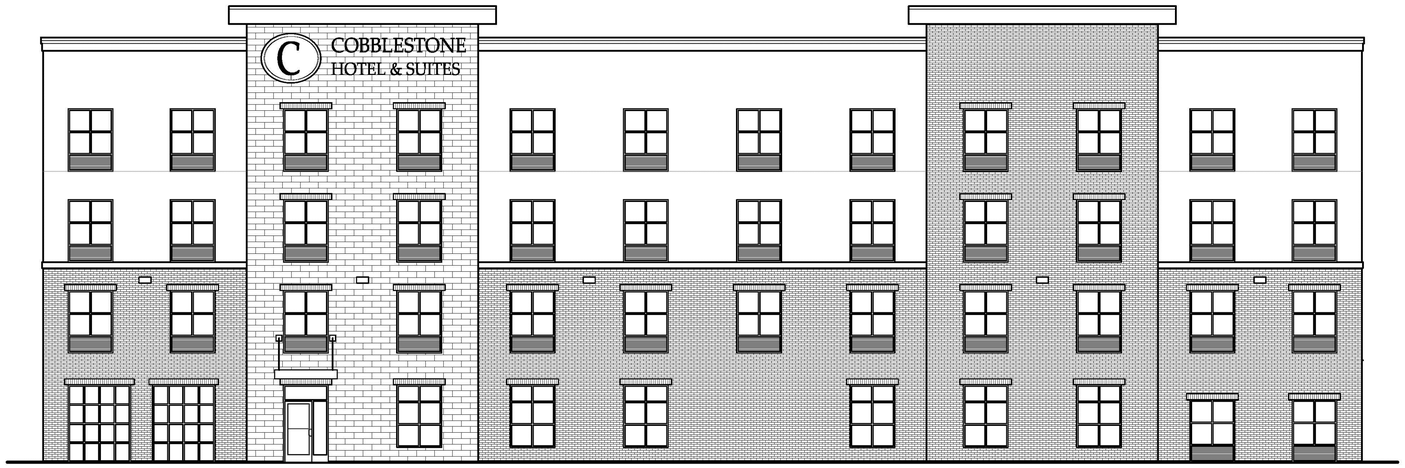
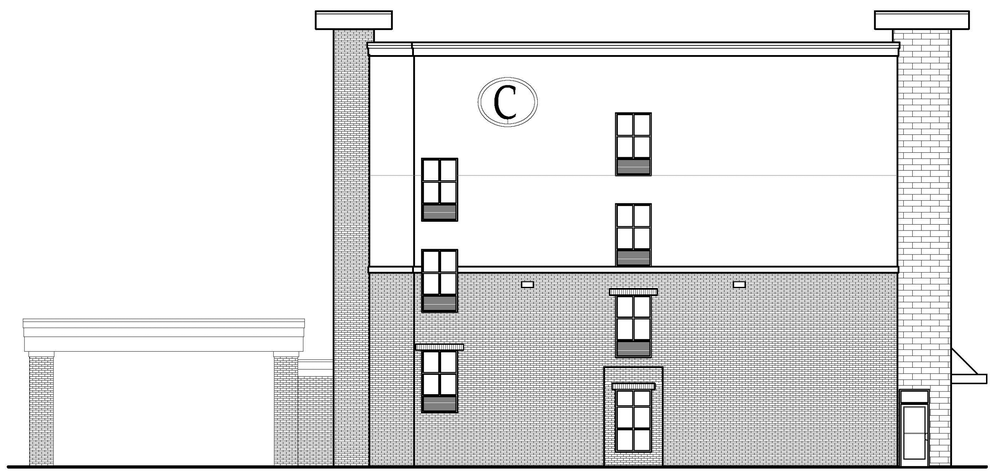


SOUTH ELEVATION

SCALE: 1/8" = 1'-0"



WEST ELEVATION

SCALE: 1/8" = 1'-0"

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COLLABORATION

BriMark Builders, LLC

PROJECT INFORMATION

PROJECT NUMBER 1601590

PROPOSED HOTEL FOR:
COBBLESTONE HOTEL & SUITES

PROFESSIONAL SEAL

PRELIMINARY DATES

JANUARY 22, 2016

NOT FOR CONSTRUCTION

SHEET INFORMATION

EXTERIOR ELEVATIONS

SHEET NUMBER

A2.0

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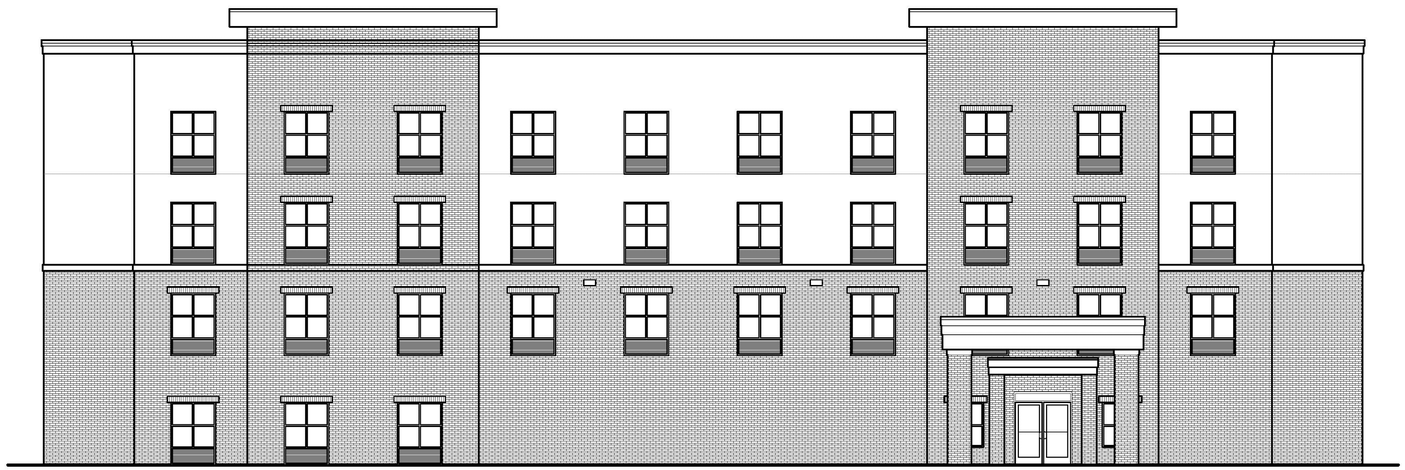

NORTH ELEVATION

SCALE: 1/8" = 1'-0"

EAST ELEVATION

SCALE: 1/8" = 1'-0"

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COLLABORATION

BriMark Builders, LLC

PROJECT INFORMATION

PROJECT NUMBER 1601590

PROPOSED HOTEL FOR:
COBBLESTONE HOTEL & SUITES

PROFESSIONAL SEAL

PRELIMINARY DATES

JANUARY 22, 2016

NOT FOR CONSTRUCTION

SHEET INFORMATION

EXTERIOR ELEVATIONS

SHEET NUMBER

A2.1

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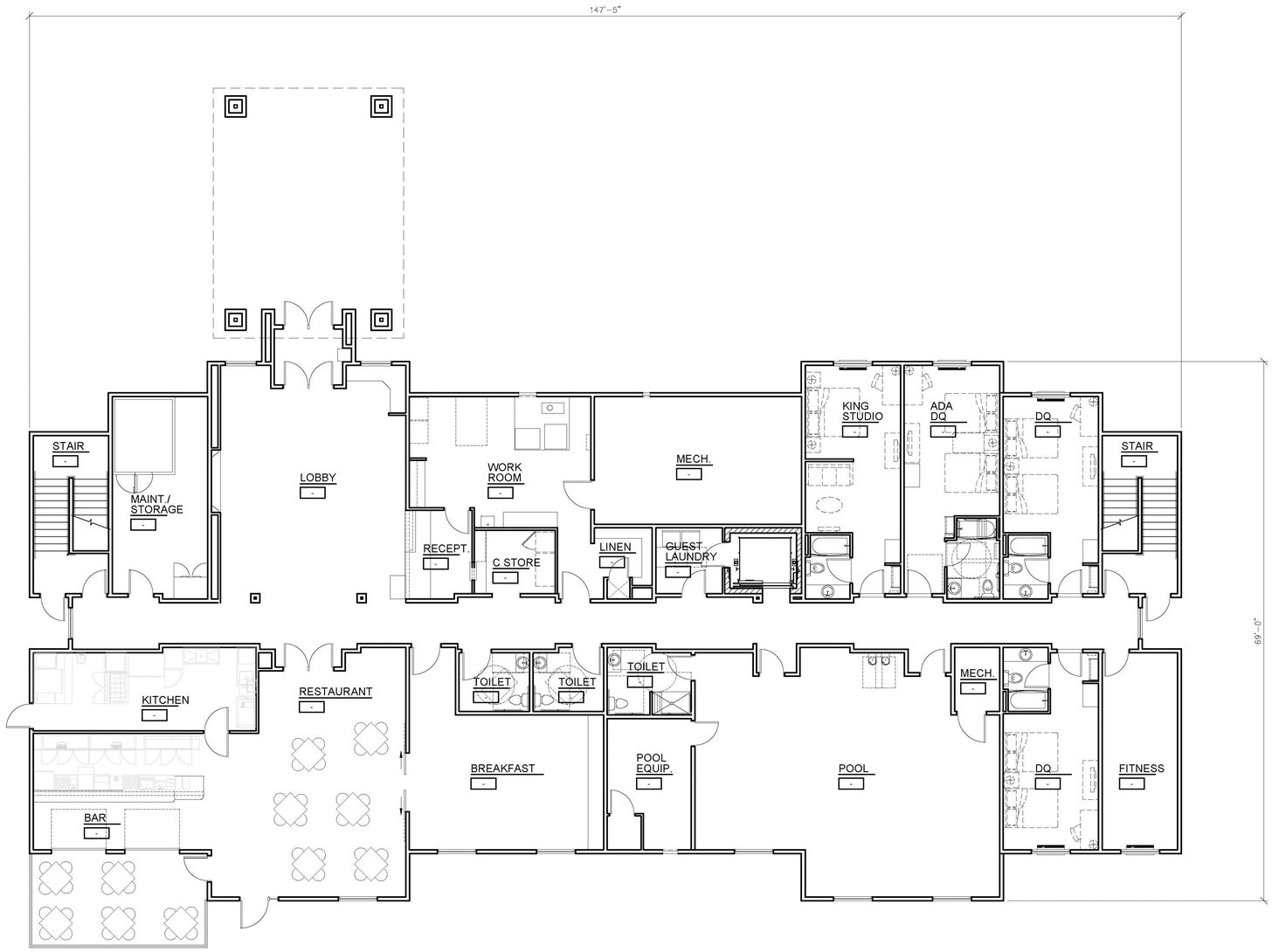

NORTH

FIRST FLOOR PLAN

SCALE: 1/8" = 1'-0"

8' 0' 8' 16'

HOTEL UNIT RECAP											
	KING	ADA KING	KING STUDIO	ADA KING STUDIO	KING SUITE	ADA KING SUITE	KING SUITE 2	DQ	ADA DQ	DQ STUDIO	TOTAL
1ST FLOOR	–	–	1	–	–	–	–	2	1	–	4
2ND FLOOR	1	1	3	–	3	–	–	7	–	4	19
3ND FLOOR	1	1	3	–	3	–	–	7	–	4	19
4TH FLOOR	1	1	3	–	3	–	–	7	–	4	19
TOTAL	3	3	10	–	9	–	–	23	1	12	61

	SQUARE FOOTAGE
1ST FLOOR	9,929
2ND FLOOR	9,114
3RD FLOOR	9,114
4TH FLOOR	9,114
TOTAL	37,271

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COLLABORATION

BriMark Builders, LLC

PROJECT INFORMATION

PROJECT NUMBER 1601590

PROPOSED HOTEL FOR:

COBBLESTONE HOTEL & SUITES

PROFESSIONAL SEAL

PRELIMINARY DATES

JANUARY 22, 2016

NOT FOR CONSTRUCTION

SHEET INFORMATION

FIRST FLOOR PLAN

SHEET NUMBER

A1.1

2016 © EXCEL ENGINEERING, INC.

NORTH

TYP. UPPER FLOOR PLAN

SCALE: 1/8" = 1'-0"

8' 0' 8' 16'

HOTEL UNIT RECAP											
	KING	ADA KING	KING STUDIO	ADA KING STUDIO	KING SUITE	ADA KING SUITE	KING SUITE 2	DQ	ADA DQ	DQ STUDIO	TOTAL
1ST FLOOR	–	–	1	–	–	–	–	2	1	–	4
2ND FLOOR	1	1	3	–	3	–	–	7	–	4	19
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COLLABORATION

BriMark Builders, LLC

PROJECT INFORMATION

PROJECT NUMBER 1601590

PROPOSED HOTEL FOR:

COBBLESTONE HOTEL & SUITES

PROFESSIONAL SEAL

PRELIMINARY DATES

JANUARY 22, 2016

NOT FOR CONSTRUCTION

SHEET INFORMATION

SECOND FLOOR PLAN

SHEET NUMBER

A1.2

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