



## AGENDA

**Eau Claire County Highway Committee**  
Thursday, September 20, 2018 / 6:15 am  
Eau Claire County Highway Department - Room 101  
2000 Spooner Avenue, Altoona, WI 54720

1. Call the meeting to order.
2. Confirmation of meeting notice
3. Review/Approval of past committee meeting minutes (9/6) Discussion/Action
4. Public comment
5. Future highway facility – purchase of state-owned land Discussion/Action
6. Painting of buildings 2 and 3 Discussion
7. Highway report
  - Highway Commissioner Update – Jon Johnson
  - Operations Update – Brian Spilde
  - Engineering Update – Rod Thorson
8. Payment vouchers (9/7, 9/14)
9. Future meeting dates, times, and agenda items
10. Adjourn.

\* the Committee may hear comments from the public for up to 30 minutes; not more than 5 minutes/person is allowed; this period is not considered a public hearing.

cc: Members, Media, Kathryn Schauf, Keith Zehms, Nick Smiar, Jon Johnson, Rod Thorson, Brian Spilde

Please note: Upon reasonable notice, efforts will be made to accommodate the need of disabled individuals through sign language interpreters or other auxiliary aids. For additional information or to request the service, contact the County ADA Coordinator at 839-4710, 839-1669 (FAX) or 839-4735 (TDD) or by writing to the ADA Coordinator, Human Resources Department, Eau Claire County Courthouse, 721 Oxford Avenue, Eau Claire, WI 54703.



## MINUTES

Eau Claire County • Committee on Highway

Thursday, September 6, 2018 / 6:15 am

Highway Department Meeting Room 101 • 2000 Spooner Avenue, Altoona, WI 54720

Members Present: Chairman Ray Henning, Vice Chairman Steve Chilson, Supervisor Carl Anton,  
Supervisor Nathan Anderson  
Staff Present: Highway Commissioner Jon Johnson, Operations Coordinator Brian Spilde, Engineer  
Rod Thorson, Admin. Associate Rhonda Olson

1. **Call meeting to order**

Chairman Henning called the meeting to order at 6:18 a.m.

2. **Confirmation of meeting notice - Review**

Meeting notice confirmed.

3. **Past committee meeting minutes (8/23) - Review/Action**

Motion: Supervisor Chilson moved for approval. Motion approved 3-0

4. **Public comment** – No public comment.

Supervisor Anton arrived.

5. **Transportation Sample Resolution**

Commissioner Johnson explained that the goal of the resolution is to make transportation stay in the spotlight, to bring lack of funding and issues to public and government attention.

Between 2012 and 2018, there was a 66% increase in borrowing for transportation.

Motion: Chairman Henning moved for approval. Motion approved 4-0

6. **Administration and Small Tool rate Charge to Customers**

Commissioner Johnson explained the handout which depicts percentages charged per department to state and county agencies. We do not charge certain county department administration, small tools charges, etc.

One township is disputing administration charges. The State requires we charge and administration rate for work provided.

7. **Highway Report**

- o Highway Commissioner Jon Johnson spoke on the following:
  - o A recent flooding even caused several road closings
  - o Forecasters let us know in advance what to expect in certain areas and we keep the public informed
  - o Winter Road School is coming up in January – agenda shared with committee members. Registration is \$175 per person

- Operations Coordinator Brian Spilde spoke on the following:
  - Project Updates:
    - CTH Q should open next week, the QQ detour will be repaired
    - Frase to IJ is paved – the finishing will be done in the next couple of weeks
    - Some projects will have delays due to flooding
  - He has been planning pertinent topics for Fall Training Day
  - Employees are being cross-trained on various equipment
  - We have been proactive with public notice posting of road projects and this has proven to be popular
- Engineer Rod Thorson spoke on the following:
  - Bridge and culvert inspections will be taking place in the next 3 months
  - Drainage is a main concern in the design of bridge and culvert projects
  - He viewed flooded areas this week to examine concerns and do risk analysis
  - Discussed CTH B culvert project
  - Explained design issues with bridges and culverts and showed the numerous documents that go into planning each project. Some designs allow for occasional overflow. There is substantial communication with other agencies to accommodate wetlands, etc.

**8. Payment vouchers (8/24, 8/31)**

Vouchers were reviewed

**9. Future meeting dates, times and agenda items**

Future Meetings:

- Thursday, September 20, 2018 at 6:15 a.m.
- Thursday, October 4, 2018 at 6:15 a.m.
- Thursday, October 18, 2018 at 6:15 a.m.

Future Agenda Items:

- Assembly Law AB442 – Discussion/Action
- Purchase of state owned property on USH 53
- Bids for painting buildings

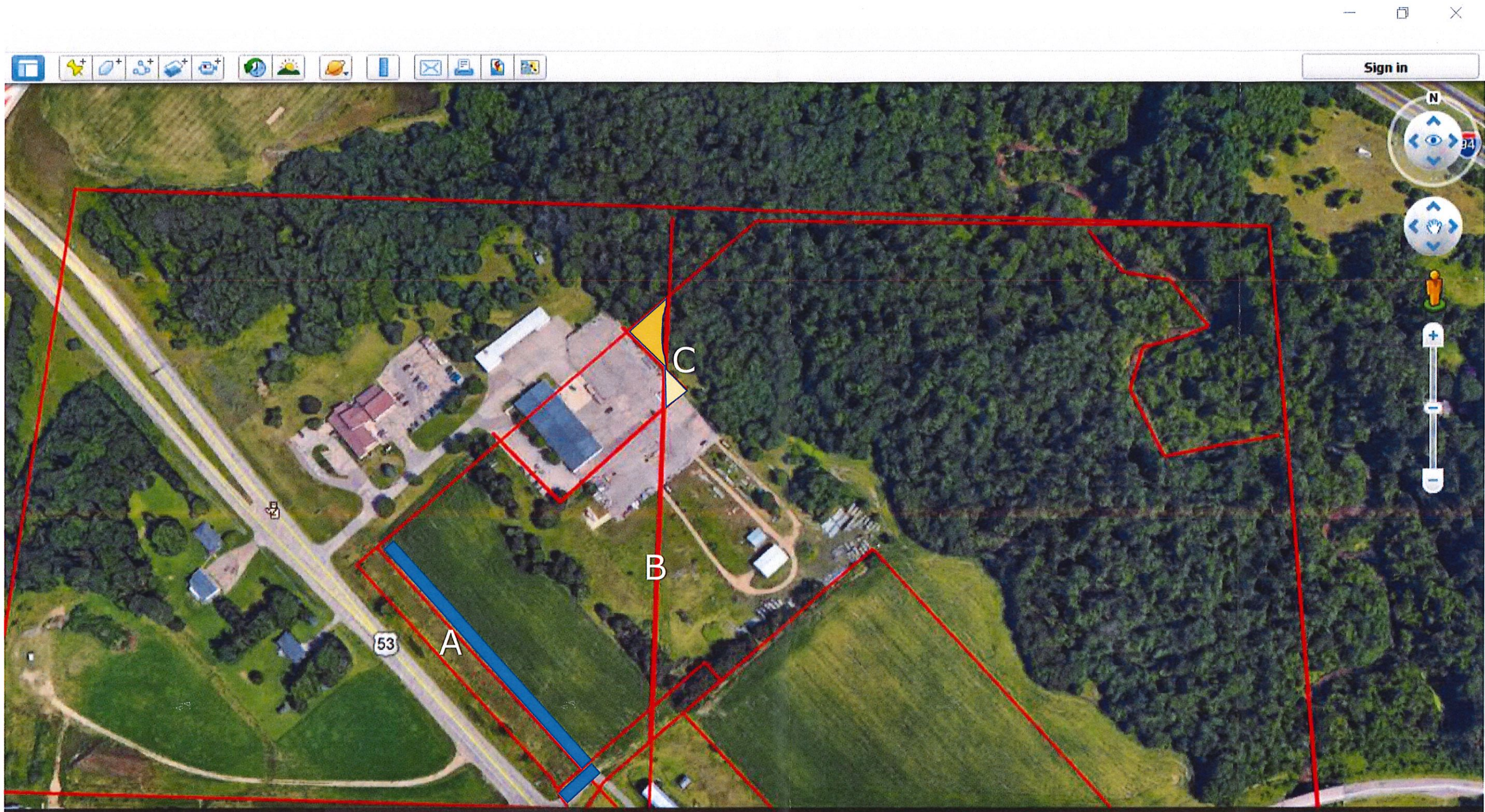
10. Adjourned at 7:47 a.m.

Respectfully submitted,

*Rhonda Olson*

Rhonda Olson, Administrative Associate  
Eau Claire Highway Department





A – Have confirmed the ‘inner’ line is the highway ROW line (120’ from reference line).

B-current municipal boundary for city of EC

C – would recommend that we ‘swap’ the two small triangles that are created by the bisecting municipal boundary. It’s only a couple thousand sq. feet difference – but significantly simplifies the legal description and likely simplifies the sale (we’d just be dealing with one parent parcel – depending on EC CO ordinance, may eliminate CSM need). WisDOT would retain the area of the sign shop – and then the municipal boundary becomes the property boundary. If we go this route, we can have legal description and parcel exhibit completed early next week. Would require some additional pavement in the wooded area WisDOT retains (but likely may be necessary anyway because of problems from recent rains).



## PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (the "Agreement") is entered into this \_\_\_ day ~~August~~~~June~~, 2018 between the Wisconsin Department of WisDOT ("WisDOT" or "the Department") and Eau Claire County Highway Department ("County"). WisDOT and County may be referred to herein singularly as a "Party" or collectively as the "Parties."

### RECITALS

WHEREAS, the Department owns property in the Town of Washington, more particularly described in Exhibit A, and referred to herein as the "Property," and has surveyed and subdivided said Property into two lots as further described on CSM (enter recording information), and referred to herein as Parcel 1 and Parcel 2;

WHEREAS, WisDOT desires to sell Parcel 1 to the County, and the County desires to purchase Parcel 1 upon and subject to the terms, covenants, and conditions set forth herein;

WHEREAS, by selling the property, WisDOT must abide by State law and evaluate the value of the properties described above, and said interests may only be released through the sale of excess property as set forth in Wis. Stats. Sec. 84.09(5);

WHEREAS, notwithstanding any conveyance of property, the County must comply with its obligations set forth in this Agreement and all other obligations set forth in any applicable law so as to protect the safety of the traveling public and to protect the investment of the WisDOT in the highway;

WHEREAS, WisDOT agrees to sell the Property to the County so long as the conditions set forth herein are agreed to by the County;

NOW THEREFORE, the Parties hereby acknowledge and understand the following terms and conditions for granting the break in access restrictions and between the Parties for the sale of the Access Rights and the Property.

### REQUIREMENTS AND CONDITIONS

**NOW, THEREFORE**, in consideration of the foregoing, the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, WisDOT and County agree as follows:

1. **Purchase and Sale.** County agrees to acquire the Property from WisDOT, and WisDOT agrees to convey the Property to County, upon and subject to

the terms, covenants and conditions set forth herein.

2. **Purchase Price.** The purchase price (the "Purchase Price") for the Property is \_\_\_\_\_ (\$X.00) Dollars payable in cash or equivalent at Closing (as hereinafter defined), adjusted for prorations and credits as specified in this Agreement.

3. **Parcel Descriptions:**

a. Legal Descriptions to be inserted.

4. **Reservation of Easement:**

a. WisDOT access easement for secondary access US 53. Eau Claire County will provide WisDOT the following access easement: Starting at the intersection of USH 53 & Prairie Park Drive, east 120', 90° from the centerline of USH 53, then north 700', 95° to existing driveway access. Easement width shall be 24 feet. ~~to be described (if necessary)~~

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5. **Effective Date.** The Effective Date is the date the County Board approves this "Purchase and Sale Agreement".

6. **WisDOT's Deliveries.**

a. **Property Documents.** Within ten (10) business days after the Effective Date, WisDOT shall deliver to County all existing environmental site assessments (including a phase I environmental report), boundary surveys, and reports with respect to the physical condition of the Property, all to the extent in WisDOT's possession (collectively, the "Property Documents") unless already provided to County prior to the Effective Date.

b. **Title Commitment.** Within ten (10) Business Days after the Effective Date, County will order and pay for an updated title insurance commitment for the Property in the amount of the Purchase Price (the "Title Commitment").

7. **Due Diligence: Title Review, Environmental Inspections and Fixtures/Furniture List.**

a. **Due Diligence Period.**

i. **Site Investigations.** WisDOT asserts that WisDOT has no knowledge of any existing hazardous or toxic waste or chemicals

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located on, in or under the Property or any condition constituting a significant health risk or safety hazard. Notwithstanding WisDOT's disclosures, County shall have the period from the Effective Date through the date which is thirty (30) days after the Effective Date (the "Due Diligence Period") to conduct due diligence investigations and analyses of the Property (collectively "County' Investigations"), including, without limitation: (i) studies, examinations, inspections, surveys, assessments, and other investigations as it may deem necessary or desirable in order to determine the feasibility of acquiring and using the Property for County' intended use; and (ii) environmental and other tests. County shall promptly restore the Property to its original condition after County' Investigations are completed. Prior to accessing the Property for County' Investigations, County shall give WisDOT at least two (2) Business Days (as hereinafter defined) prior written notice requesting such access; such access shall only be conducted during normal weekday business hours; and a representative of WisDOT shall be entitled to be present during each such access. Upon WisDOT's request, County shall deliver to WisDOT copies of any studies, reports and other documentation or information obtained during County' Investigations.

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~~ii. Fixtures. WisDOT will provide a list of fixtures it desires to keep, as shown in Exhibit X herein. As of the Effective Date of this Agreement, WisDOT shall not remove any fixtures other than those shown in Exhibit D. At closing, all remaining furniture and fixtures shall become County' property at no additional cost or expense. The provisions contained in paragraph 4.1 shall survive the termination of this Agreement and the Closing.~~

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b. Termination. If County determines it does not desire to acquire the Property for any or no reason whatsoever, in its sole and absolute discretion, then County shall have the right and option to terminate this Agreement by delivering written notice thereof to WisDOT at any time prior to 5:00 P.M. (Wisconsin time Central Time) on the last day of the Due Diligence Period, in which event this Agreement and all obligations of County and WisDOT hereunder shall terminate, except as expressly provided elsewhere herein. If County does not timely give notice of termination as aforesaid, then County' right and option to terminate shall immediately and automatically expire, and this Agreement and all obligations of County and WisDOT hereunder shall survive and remain in full force and effect.

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8. Conditions Precedent to Closing.



- a. WisDOT Approvals. The authority and ability of WisDOT to convey the Property and proceed to Closing as contemplated by this Agreement shall be expressly subject to and contingent upon WisDOT obtaining the approval of the Federal Highway Administration and the Governor of the State of Wisconsin ("WisDOT's Approving Parties") as well as the satisfaction of any condition or contingency to such approval imposed by WisDOT's Approving Parties. If any condition or contingency is not satisfied on or before Closing Date (as defined below), WisDOT may, at its option, rescind this Agreement by written notice to County, in which event this Agreement and all rights, obligations and liabilities of the WisDOT and County shall terminate, except for those set forth herein which expressly survive the termination of this Agreement.
- b. County' Approvals. The authority and ability of County to acquire the Property and proceed to Closing as contemplated by this Agreement shall be expressly subject to and contingent upon County obtaining the approvals of the County Board. If any condition or contingency is not satisfied on or before Closing Date (as defined below), County may, at its option, rescind this Agreement by written notice to WisDOT, in which event this Agreement and all rights, obligations and liabilities of the County and the WisDOT shall terminate, except for those set forth herein which expressly survive the termination of this Agreement.

9. County Obligations Upon Closing.

a. Parcel X Improvements.

~~The County acknowledges and agrees that included in the Purchase Price is the County's obligation to construct or provide certain site improvements on the Property, at the County's sole expense, for WisDOT's benefit, with such site improvements being more particularly described in Exhibit X ("the WisDOT Site Improvements").~~ County will construct ~~Such Site Improvements as part of new facility projects shall be fully constructed by no later than (date).~~

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e.a. Removal and Disposal of WISCORS Monument.

- i. The County acknowledges and agrees that it will dispose of the Wisconsin Continuously Operating Reference Station (WISCORS) monument on the Property (the "Monument"). The Monument consisting of a 12' deep x 3' wide reinforced concrete base with an 8' tall reinforced concrete obelisk with an antenna is located approximately 185' southeast of the WisDOT sign shop. In addition, a Solar system infrastructure consisting of an outdoor enclosure, battery enclosure and solar module is located approximately 30' southeast of the Monument.
  - 1. County shall remove and dispose of the concrete base and



obelisk, two remnant steel poles and former battery enclosure concrete pad. County shall also be responsible for filling in the excavated area following removal of the concrete base and obelisk to suit their purpose.

2. County shall allow WisDOT to disassemble, remove, and salvage any components of the Monument prior to County's removal of the Monument.

The provisions of this Section ~~7~~<sup>9</sup> shall survive Closing.

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10. "**AS IS**". County hereby acknowledges that WisDOT is a Wisconsin state agency and, as a result, County will not receive a Real Estate Condition Report for the Property pursuant to the provisions of Chapter 709 of the Wisconsin Statutes, it being hereby acknowledged and agreed that the Property is being conveyed to County without warranty or representation by WisDOT. County agrees that it will perform examinations and investigations of the Property prior to the expiration of the Due Diligence Period, and that County will rely solely upon such examinations and investigations in purchasing the Property. Notwithstanding anything to the contrary contained in this Agreement, it is expressly understood and agreed that County is acquiring the Property "AS IS" and "WHERE IS", and with all faults and that WisDOT has not made and does not make any representations or warranties, expressed or implied, with respect to the quality, physical condition, expenses or value of the Property, or any other matter or thing affecting or related to the Property or this Agreement (including, without limitation, warranties of habitability, warranties of merchantability and/or of fitness for a particular purpose), which might be pertinent in considering the purchase of the Property or the entering into of this Agreement, and County does hereby expressly acknowledge that no such representations or warranties have been made.

County will have an opportunity to review the environmental reports in WisDOT's possession for the Property, if any, and will have the unrestricted opportunity to investigate the environmental conditions associated with the Property, including, without limitation, site investigation, and soil and groundwater sampling. County expressly agrees that it is buying the Property "AS IS."

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The provisions of this Section ~~10~~<sup>7</sup> shall survive Closing.

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#### 11. **Closing.**

- a. **Closing Date.** The closing of the transaction contemplated hereunder ("Closing") shall occur on ~~April 15~~<sup>September 25</sup>, 2018, or at such time and place as WisDOT and County may agree upon in writing (the "Closing Date"). The Closing Date for each parcel may vary. Within five (5) days prior to closing, representatives from County and WisDOT shall

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inspect the Property to determine compliance with the terms and conditions contained in this Agreement.

b. Documents to be Delivered by WisDOT. WisDOT shall deliver at Closing the following, in each case duly executed and acknowledged, or otherwise completed in proper form:

i. Closing Statement. A closing statement (the "Closing Statement") reflecting the Purchase Price and all prorations and disbursements set forth therein. WisDOT shall be responsible for all utilities up to the Closing Date.

ii. WisDOT's Deed. A quit claim deed (the "Deed") from WisDOT to County for Parcel ~~X~~. The deed will incorporate the Standard DOT Title VI Assurances in Appendix C.A.1. to DOT Order 1050.2, revised April 24, 2013. The Deed will also contain covenants, as required by Wis. Stat. § 84.09(5)(c) for private sale of excess land to local government, for the benefit of and enforceable by WisDOT making County's ownership of the parcel contingent upon the public use identified for the parcel, and requiring that the parcel remain in the ownership of the County preserving the public use.

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iii. Owner's Affidavit. A Title Company's standard form Construction Work and Tenants Affidavit ~~similar in form and content as depicted in Exhibit X which is attached hereto and made a part hereof.~~

iv. Other Documents. Such other documents and items as may be reasonably requested by County and customarily required to close similar transactions in Wisconsin.

c. Documents to be Delivered by County. County shall deliver at Closing the following, in each case duly executed and acknowledged, or otherwise completed and in proper form:

i. Closing Statement. The Closing Statement.

ii. Other Documents. Such other documents and items as may be reasonably requested by WisDOT and customarily required to close similar transactions similar in Wisconsin.

d. Costs and Expenses. WisDOT shall pay: (i) any applicable Wisconsin real estate transfer fee; and (ii) all utility bills up to and including Closing Date. Except as otherwise provided herein, WisDOT and County shall bear its own expenses and the expenses of its counsel and other agents in connection with the transaction contemplated by this Agreement.



- e. Prorations and Adjustments. All prorations provided to be made "as of the Closing Date" shall each be made as of 12:01 a.m. on the Closing Date, and shall be deemed final at Closing.
- i. Taxes and Special Assessments. WisDOT shall pay all applicable real estate taxes, aids-in-lieu of taxes and special assessments or charges that are due and payable in all years prior to the year in which the Closing occurs.
  - ii. Other Items. Such other items as are customarily prorated in transactions of the type contemplated in this Agreement shall be prorated and/or paid in accordance with local custom in the State of Wisconsin. All prorations pursuant to this Section 7.5 shall be made as of the Closing Date, using the actual number of days of the year and month which shall have elapsed as of and including the Closing Date.

12. **Default.**

- a. Default by WisDOT. If WisDOT defaults under this Agreement by failing to close as required by this Agreement, or if WisDOT is otherwise in default and if such condition is not remedied within ten (10) days after written notice by County to WisDOT, then County may terminate County obligations under this Agreement by written notice to the WisDOT
- b. Default by County. If County defaults under this Agreement by failing to close as required by this Agreement, or if County is otherwise in default under this Agreement and if such condition is not remedied within ten (10) days after written notice by WisDOT to County, WisDOT may elect to terminate the WisDOT's obligations under this Agreement by written notice to County.

13. **Risk of Loss.** If, before Closing, the value of the Property is materially impaired as determined by County by fire, wind, water, force majeure or any other casualty, County may terminate this Agreement.

14. **Brokers.** County and WisDOT each represent to the other that they have not dealt with any real estate broker in connection with this transaction.

15. **Lease of WisDOT Premises.**

- i. Upon closing of this sale, WisDOT will retain ownership of Parcel X, where said Parcel contains the WisDOT Northwest Region Sign Shop (the "NWR Sign Shop"). The County has expressed interest in leasing a portion of the

NWR Sign Shop for use as part of their future operations. The Parties agree that if the County requests to enter into a lease for the use of the NWR Sign Shop, that WisDOT and County shall enter into a lease in substantially the same form and on substantially the same terms as provided in Exhibit X.

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16. **Miscellaneous.**

- a. **Notices.** All notices and other communications required or permitted hereunder shall be in writing and shall be sufficiently made or given only when sent by (a) certified mail, return receipt requested, (b) prepaid overnight commercial delivery service (such as FedEx, UPS or Airborne) with proof of delivery, or (c) electronic facsimile transmission (with telephonic confirmation of successful transmission) to the following addresses, or to such other address as any party hereto shall designate by like notice given to the other party hereto:

All notices or other communications given or made as aforesaid shall be deemed to have been given and received on the date which is the earlier of: (i) actual receipt; (ii) the third (3<sup>rd</sup>) Business Day following the post marked date (affixed by the United States Postal Service), of the inailing-mailing thereof as aforesaid; (iii) one (1) Business Day following deposit thereof with an overnight commercial delivery service when sent by overnight commercial delivery service; or (iv) upon telephonic confirmation of receipt as aforesaid if sent by electronic facsimile transmission.

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- b. **Modification.** Neither this Agreement nor any provision hereof may be modified or amended, except by an agreement in writing, executed and delivered by WisDOT and County.
- c. **Successors. Assigns.** This Agreement and all provisions hereof shall be binding upon and inure to the benefit of WisDOT and County hereto and their respective successors and assigns. Neither WisDOT nor County shall assign this Agreement or any of its rights hereunder to any person or entity without the prior written consent of the other party.
- d. **Headings.** The headings of the sections, subsections, paragraphs and subparagraphs of this Agreement are for purposes of convenience only and shall in no way affect the construction of any provision hereof.
- e. **Time of the Essence.** Time is of the essence with respect to all times, dates and deadlines in this Agreement.
- f. **Business Days.** The term "Business Day" shall mean Monday through



Friday excluding holidays recognized by the state government of the State of Wisconsin. If any deadline for delivery of any notice or taking any action required hereunder falls on a day other than a Business Day, then the deadline shall be extended until the next Business Day.

- g. Severability. If any provision of this Agreement or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable under applicable law, then the remainder hereof and the application of such provision to persons, entities and circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby.
- h. Governing Law. This Agreement and all the terms and provisions hereof and of the various instruments executed and delivered pursuant hereto shall be governed by the laws of the State of Wisconsin.

**Counterparts: Signatures**. This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument. Facsimile signatures shall be binding upon County and WisDOT.

- j. Non-Waiver. No waiver of any rights or obligations hereunder shall be deemed to have occurred unless in writing signed by the party against whom such waiver is asserted and no waiver shall be deemed a waiver of any other or subsequent rights or obligations.

**Construction**. This Agreement shall not be construed more strictly against one party than against the other merely by virtue of preparation by counsel for County or WisDOT, it being recognized that the WisDOT and County have contributed substantially and materially to the preparation of this Agreement.

- i. Non-appropriation. All obligations, liabilities and responsibilities contained this Agreement are contingent on the availability of legislative appropriations and shall not be construed as incurring a future debt in contravention of Article VIII, Wisconsin Constitution.

- m. Reserved Rights. WisDOT shall be responsible for real estate taxes, personal property taxes, assessments and charges imposed or levied on WisDOT's reserved rights, title and interests in the Property.

- 17. Entire Agreement. This Agreement, together with exhibits referenced herein, integrates and supersedes all other oral or written agreements and understandings between the County and the WisDOT and comprises the entire agreement of WisDOT and County

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*(Signatures Appear on the Following Pages)*

IN WITNESS WHEREOF, the Parties have caused this Memorandum of Agreement to be executed on the date cited above.

COUNTY OF EAU CLAIRE

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

WISCONSIN DEPARTMENT OF WISDOT  
NORTHWEST REGION

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

DRAFT



