

## COMMERCIAL OFFER TO PURCHASE

### 1. GENERAL PROVISIONS

Werner Electric Ventures, L.L.C., a Minnesota limited liability company (hereinafter "Buyer"), offers to purchase the property in the City of La Crosse, La Crosse County, Wisconsin, as legally described on the attached Exhibit A ("Property") which Property is unimproved, from the City of La Crosse, Wisconsin, a municipal corporation in Wisconsin (the "Seller").

### 2. PURCHASE PRICE

Seller agrees to sell and Buyer agrees to buy the real property and other assets described herein at a total price of Two Hundred Eighty-Four Thousand, Two Hundred Seventy-Two and 63/100 Dollars (\$284,272.63) ("Purchase Price") on the following terms:

- a. \$10,000.00 Earnest Money to Seller, receipt of which by Seller prior to execution of this Offer is acknowledged by Seller.
- b. \$\_\_\_\_\_ in cash or by wire transfer of immediately available funds to Seller at Closing.

### 3. EARNEST MONEY

The Earnest Money shall be non-refundable except as specifically provided herein. The Earnest Money may be refunded if criteria set forth in this Offer for the refund of the same are met. At Closing, the Earnest Money shall be applied to the purchase price.

### 4. ADDITIONAL ITEMS INCLUDED IN PURCHASE PRICE

There are no additional items included in the Purchase Price. The Property is unimproved real estate and no personal property is conveyed therewith.

### 5. TIME IS OF THE ESSENCE

Time is of the essence as to (1) Earnest Money payment; (2) binding acceptance; (3) occupancy date; (4) date of Closing and all other dates and deadlines in this Offer.

### 6. ACCEPTANCE, DELIVERY AND RELATED PROVISIONS

This Offer is binding upon both parties only if a copy of the accepted Offer is delivered to Buyer on or before July 20, 2017. CAUTION: This Offer may be withdrawn in writing prior to delivery of the accepted Offer.

### 7. DELIVERY OF DOCUMENTS AND WRITTEN NOTICES

Unless otherwise stated in this Offer, delivery of documents and written notices to a party shall be effective only when accomplished in any of the following ways: (a) by depositing the document or written notice, postage or fees prepaid, in the U.S. Mail or commercial delivery system addressed to the party at:

Buyer: Werner Electric Ventures, L.L.C.  
7450 95<sup>th</sup> Street South  
Cottage Grove, MN 55016

With copy to: Tiede Grabarski PLLC  
Attn: Peter Tiede  
4770 White Bear Parkway  
Suite LL20  
White Bear Lake, MN 55110

Seller: The City of La Crosse  
400 La Crosse Street  
La Crosse, WI 54601  
Attn: City Clerk

With copy to: The City of La Crosse  
400 La Crosse Street  
La Crosse, WI 54601  
Attn: Planning Department, Economic Development Planner

or (b) by giving the document or written notice personally to the party.

**8. SELLER DELIVERABLES**

Within forty-five (45) days after the date of this Agreement, Seller shall, at its expense, furnish the following (collectively, the "Seller Deliverables") to Buyer:

- a. Title Insurance Commitment. A current ALTA form title commitment ("Commitment") for title insurance issued by Title, deleting standard exceptions and including affirmative insurance regarding zoning, contiguity, appurtenant easements, and covenants approved by the City of La Crosse, and such other matters as reasonably identified by Buyer. The Commitment will commit Title to insure title to the Property and all appurtenant easements, subject only to the encumbrances permitted in accordance with the provisions set forth in this Offer. To the extent that certain coverage terms are dependent upon Title being furnished with a current survey, the coverage terms will not be included in the Commitment unless Buyer elects to purchase a current survey meeting the requirements of Title.

- b. Survey. Any existing survey of the Property that is in Seller's possession will be provided to Buyer. If Buyer wishes to obtain an updated or ALTA survey, the cost of obtaining the survey will be borne by Buyer.
- c. Leases and Estoppels. Not applicable. There are no tenants.
- d. Taxes. Copies of the statements for real estate taxes payable in 2016 and 2017 (if any) with respect to the Property.
- e. Reports. Copies of any existing reports in Seller's possession regarding the soil and/or environmental condition of the Property.

**9. DUE DILIGENCE PERIOD**

Buyer shall be allowed a period of sixty (60) days following delivery of the last of the Seller Deliverables to make objections thereto and to undertake any investigation that Buyer may deem warranted in its sole discretion ("Due Diligence Period"), (all activities connected with Buyer's investigation into suitability of the Property hereinafter "Due Diligence"), said objections to be made in writing or deemed to be waived. In conjunction therewith, Seller shall provide to Buyer for Buyer's review copies of all instruments referenced in the Commitment, Schedule B-Section II, and shall provide Buyer and its agents, inspectors and others such reasonable access as they may request for purposes of Buyer's Due Diligence. Until the end of the Due Diligence Period, Buyer shall have the absolute right, at its sole election and discretion, to cancel the Offer and receive its Earnest Money refunded by Seller to Buyer in full. If Buyer, in its sole discretion, decides to terminate this Offer prior to the end of the Due Diligence Period, it shall deliver, in writing, to Seller a notice indicating its intention to terminate this Offer pursuant to the terms of this paragraph. Upon termination pursuant to Buyer's rights under this paragraph, this Offer shall be cancelled, the Earnest Money shall be returned to Buyer, and the parties shall have no further obligations to each other except as to those obligations which specifically survive termination.

Any objection not received by the end of the Due Diligence Period shall be deemed waived.

If Buyer elects not to cancel, but makes written objections to any title matter, then, within ten (10) days of its receipt of such written objections, Seller shall notify Buyer in writing whether it intends to cure such title objections at its expense. If Seller elects to cure such objections, Seller shall be allowed thirty (30) days from the date of Seller's receipt of Buyer's written objections to make such title marketable and shall proceed to do so diligently and in good faith. Pending correction of title, the Closing date shall be postponed. If title to the Property is not marketable and is not made so by Seller, despite Seller's diligent and good faith efforts, within thirty (30) days from the date of Seller's receipt of Buyer's written objections as above provided, or if Seller notifies Buyer within the time provided above that it has elected not to cure the Buyer's title objections, then Buyer may, at its option, do any of the following: (a) terminate this Offer by notice to Seller, in which case all Earnest Money paid by Buyer to Seller hereunder shall be promptly refunded to Buyer; or (b) waive the objections and proceed to close. If title to the

Property is found marketable or is so made within said time, or if Buyer does not object in writing to title prior to the end of the Due Diligence Period, then Buyer will be deemed to have accepted title as satisfactory.

**10. OCCUPANCY AND RELATED PROVISIONS**

Occupancy of the Property shall be given to Buyer at time of Closing unless otherwise agreed in writing.

**11. LEASES AND CONTRACTS**

There are no written or oral leases for any portion of the Property. The Property is vacant.

**12. RENTAL WEATHERIZATION**

This transaction is exempt from State of Wisconsin Rental Weatherization Standards (ILHR 67, Wisconsin Administrative Code).

**13. CLOSING**

This transaction is to be closed at a mutually agreeable location no later than                     , 2017 (“Closing”), unless another date or place is agreed to in writing by both parties.

**14. WALK-THROUGH AND FINAL ADJUSTMENTS**

No walk through shall be necessary. Prior to Closing, Buyer shall be granted full access to the Property, though Buyer is not permitted, absent specific written permission, to undertake any excavations (other than de minimis borings as part of Due Diligence) or in any way alter the appearance of the Property. Buyer may undertake such soil testing as is reasonably necessary during Due Diligence but may not begin any construction or place any structures or property on the Property prior to Closing absent specific written permission from Seller.

**15. CLOSING ADJUSTMENTS**

The following items shall be adjusted at Closing:

- a. All expenses accruing on or after the date of Closing shall be the sole obligation of Buyer.
- b. Seller and Buyer will equally share the Closing fees or charges imposed by any closing agent.

- c. Seller shall pay all state transfer tax regarding the general warranty deed to be delivered by Seller under this Offer. Buyer shall pay any mortgage taxes regarding any mortgage to be granted by Buyer on the Property in connection with the Closing.
- d. Seller will pay the cost of recording all documents necessary to place record title in condition warranted and required of Seller in this Offer. Buyer will pay the cost of recording the general warranty deed and any mortgages and related documents which Buyer grants on the Property in connection with the transaction contemplated by this Offer.
- e. Real estate taxes shall be prorated and adjusted as set forth herein.

**16. REAL ESTATE TAXES, SPECIAL ASSESSMENTS AND PERSONAL PROPERTY TAX**

Seller will be responsible for real estate taxes payable in 2017 (if any) and prior years. Buyer will be responsible for all real estate taxes payable in 2018 and subsequent years. Seller will be responsible for levied assessments payable in 2017 and prior years. Buyer will be responsible for all assessments payable in 2018 and subsequent years.

**17. TITLE COMPANY**

First American Title Insurance Company or other title company as agreed by the parties, shall serve as closing agent and shall issue the title evidence ("Title").

**18. FORM OF TITLE EVIDENCE**

Seller shall deliver to Buyer the Commitment for a Grantee's policy of title insurance from Title in the amount of the purchase price on a current ALTA form. Seller shall pay all costs of providing the Commitment. Buyer shall be responsible for the payment of any premium for a Grantee's or lender's policy of title insurance.

**19. CONVEYANCE OF TITLE**

Upon payment of the purchase price, and compliance with all other terms and conditions set forth herein, Seller shall convey the Property by general warranty deed, free and clear of all liens and encumbrances, except: municipal and zoning ordinances recorded easements for public utilities and Covenants approved by the City of La Crosse, including, but not limited to the Declaration of Protective Covenants for the La Crosse International Business Park recorded with the Register of Deeds for La Crosse County on February 16, 2000 as Document Number 1246001, as amended and superseded, , general taxes and special assessments levied in the year of Closing, as previously noted herein, and such other matters either waived or not subject to Buyer's written objections (the "Permitted Encumbrances"). . Seller further agrees to complete and execute the documents necessary to record the conveyance.

**20. INSPECTIONS**

The Property is being sold “AS IS.” From and after the date of execution of this Offer and through the end of the Due Diligence Period, Buyer and its agents, employees, contractors and invitees may, following reasonable notice to and cooperation with Seller, enter upon the Property in order to perform engineering testing and such inspections as Purchaser may deem necessary, provided that neither Purchaser nor its agents shall engage in any intrusive testing (such as Phase II environmental work) without the prior written consent of Seller, which consent shall not be unreasonably withheld, conditioned or delayed. With respect to any inspection or access to the Property, Buyer hereby agrees to indemnify, defend and hold Seller harmless from and against any and all losses, claims, causes of action, liabilities and costs of defense (including reasonable attorney’s fees) incurred by Seller arising out of the actions of Buyer, its agents, employees, contractors or invitees. In the performance of any inspection to the Property and during any access to the Property, Buyer and its agents shall comply with all applicable laws and regulations with respect to the inspection and access and shall refrain from interfering with Seller’s or guests’ use of the Property. Buyer shall assume all liability for any damages to Property or injury to persons resulting from, arising out of or incurred in connection with any inspection or access to the Property by Buyer or its agents. Buyer agrees to promptly provide copies of all inspection reports to Seller.

**21. PROPERTY DAMAGE BETWEEN ACCEPTANCE AND CLOSING**

Seller shall maintain the Property until the earlier of Closing or occupancy by Buyer in materially the same condition as of the date of acceptance of this Offer. If, prior to the Closing, the Property is substantially damaged, Seller will promptly notify Buyer, in writing, of such damage. At any time (a) prior to Closing; and (b) within twenty (20) days after Buyer’s receipt of Seller’s notice of substantial damage, Buyer may, at Buyer’s option, terminate this Offer. If Buyer does not terminate this Offer pursuant to this paragraph 21, the parties will fully perform their obligations under this Agreement, and Seller will assign to Buyer all of Seller’s rights to any and all insurance proceeds which Seller is entitled to receive on account of such casualty loss. If, prior to the Closing date, the Property is damaged less than substantially, Seller will promptly notify Buyer and will repair such damage, and the parties will proceed to close pursuant to the provisions of this Offer, with the Closing date extended, if necessary, for a period of time not to exceed one hundred twenty (120) days. For purposes of this paragraph 21, the term “substantially damaged” will mean damage that requires repairs which cost more than \$10,000.00.

**22. CHANGES TO PROPERTY**

After the date hereof and prior to the Closing date, Seller shall make no material alterations in the condition of the Property, except for changes approved by Buyer in writing, in Buyer’s sole and absolute discretion.

### **23. SELLER'S CLOSING DOCUMENTS**

On the Closing date, Seller shall execute and/or deliver to Buyer the following:

- a. Deed. A General Warranty Deed conveying the Property to Buyer, free and clear of all encumbrances, except the Permitted Encumbrances.
- b. Seller's Affidavit. An Affidavit of an officer of Seller setting forth that officer's authority to execute said affidavit, and containing information updating and identifying any changes to the Seller Deliverables, or, for items for which there is no change, so stating, in form and substance acceptable to Buyer.
- c. Further Information and Affidavits. Such further and additional information and affidavits as may be requested by Title in order to close the Transaction and issue the requisite policy of title insurance to Buyer and its lender.

### **24. BUYER'S CLOSING DOCUMENTS**

On the Closing date, Buyer will execute and/or deliver to Seller the following:

- a. Purchase Price. The remainder of the Purchase Price, by wire transfer of immediately available funds or by certified check, to be received by Seller on or before the Closing date.
- b. FIRPTA. A FIRPTA Affidavit in form and substance acceptable to Title.
- c. Further Information and Affidavits. Such further and additional information and affidavits as may be requested by Title in order to close the Transaction and issue the requisite policy of title insurance to Buyer and its lender.
- d. Additional Documents. Such additional documents as may be required hereunder.

### **25. DEFAULT**

Seller and Buyer each have the legal duty to use good faith and due diligence in completing the terms and conditions of this Offer. A party's decision to terminate this Offer in accordance with the terms of a contingency shall not constitute a default hereunder.

If Buyer defaults, Seller may terminate this Offer and retain the Earnest Money, pursue any other damages or remedies at law, expect specific performance, and shall also be paid its costs and expenses expended in pursuit of this transaction and enforcement of the same. If Seller defaults, Buyer may sue for specific performance or terminate this Offer and receive a refund of the Earnest Money and shall also be paid its costs and expenses expended in pursuit of this transaction.

**26. ENTIRE CONTRACT**

This Offer, including any exhibits and amendments, contains the entire agreement of the parties regarding the transaction. All prior negotiations and discussions have been merged into this Offer. This Offer binds and inures to the benefit of the parties to this Offer and their successors in interest.

**27. LEGAL RIGHTS/ACTION**

Any litigation concerning this Offer shall be venued in La Crosse County, Wisconsin.

**28. DEFINITIONS**

Acceptance. Acceptance occurs when the Buyer and Seller have signed an identical copy of this Offer, including signatures on separate but identical copies of this Offer.

**29. BROKERS**

Seller shall pay a brokerage fee to the broker representing Buyer in the amount of \$14,213.63 which shall be taken from the money the City receives from the sale of the property. for this transaction. Buyer shall provide all contact information of the broker within fifteen (15) days of the signing of this Agreement.

**30. INSURANCE**

Buyer will, for itself and for all authorized parties on its behalf, obtain and maintain throughout the entire due diligence period, insurance coverage with financially reputable insurers that are licensed to do business in the State of Wisconsin in the following types and amounts of coverage: (a) workers' compensation as provided for under worker's compensation law or similar law; (b) comprehensive commercial general liability, with a limit of not less than \$1,000,000 combined single limit per occurrence for bodily injury, property damage and personal injury liability and \$2,000,000 general aggregate, including the City of La Crosse as additional insured; and (c) business vehicle insurance covering the ownership, maintenance or use of any owned, non-owned or hired vehicle with a limit of not less than \$1,000,000 combined single limit per accident for bodily injury, property damage and personal injury liability. This insurance will provide coverage for the activities of all authorized parties and any third party that Buyer permits or causes to enter the property. This insurance will include endorsements or other provisions stating that Buyer's insurance is the primary insurance. Within five (5) days of the effective date, Buyer will furnish Seller with evidence of the insurance coverage required under this section, certifying that it is in full force and effect, that it will not be terminated or substantially amended during the due diligence period to affect the coverage required except after prior notice thereof to Seller in accordance with the policy provisions, and including the City of La Crosse as an additional insured.



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BUYER:

\_\_\_\_\_  
Werner Electric Ventures, L.L.C.  
Authorized Representative of Buyer

\_\_\_\_\_  
Date

**SELLER ACCEPTS THIS OFFER. THE WARRANTIES, REPRESENTATIONS AND COVENANTS MADE IN THIS OFFER SURVIVE CLOSING AND THE CONVEYANCE OF THE PROPERTY. THE UNDERSIGNED HEREBY AGREES TO CONVEY THE ABOVE-MENTIONED PROPERTY ON THE TERMS AND CONDITIONS AS SET FORTH HEREIN AND ACKNOWLEDGES RECEIPT OF A COPY OF THIS OFFER.**

SELLER:

\_\_\_\_\_  
The City of La Crosse  
Authorized Representative of Seller

39-6005490  
Federal ID No.

\_\_\_\_\_  
Date

This Offer was presented to Seller by \_\_\_\_\_ on \_\_\_\_\_, 2017,  
at \_\_\_\_\_ a.m./p.m.

**Exhibit A**  
**Legal Description**

The following land in La Crosse County, Wisconsin:

All of Lot 8 of the International Business Park

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