

## REAL ESTATE PURCHASE AGREEMENT

**THIS REAL ESTATE PURCHASE AGREEMENT** (the "Agreement") is executed and shall be effective as of the Effective Date (as defined below), by and between **CITY OF LA CROSSE, WISCONSIN** (the "Seller") and **SCANNELL PROPERTIES, LLC**, an Indiana limited liability, or its assigns (the "Buyer") who acknowledge that the following recitals are a material part of this Agreement:

### **RECITALS:**

A. Seller is the owner, in fee simple, of a parcel of real estate containing approximately 23.75 acres located on Berlin Drive in the City of La Crosse in La Crosse County, Wisconsin and as more particularly described in the attached Exhibit A (the "Overall Property");

B. Seller is currently negotiating a contract to sell a portion of the Overall Property (the "Smaller Parcel"), to a third party (the "Third Party Buyer") to be acquired pursuant to the terms and conditions of a separate purchase agreement (the "Smaller Parcel Purchase Agreement");

C. Buyer desires to purchase, and Seller desires to sell, a portion of the Overall Property consisting of approximately 15 contiguous acres, which in no event shall consist of less than 12.93 contiguous acres (as determined by the Survey pursuant to Section 6 below), together with such contiguous portions of the Overall Property which are not acquired by the Third Party Buyer pursuant to the Smaller Parcel Purchase Agreement (collectively, the "Property");

**NOW, THEREFORE**, in consideration of the foregoing, the mutual covenants hereinafter contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Buyer and Seller (each a "Party", or collectively, the "Parties") agree as follows:

**1. Purchase and Sale.** Seller agrees to sell, and Buyer agrees to purchase the Property for the price and subject to the terms and conditions hereinafter set forth. Notwithstanding anything contained in this Agreement to the contrary, at Buyer's election, in the event that the Smaller Parcel Purchase Agreement is entered into but subsequently terminated prior to the Satisfaction Date (as defined in this Agreement), the definition of Property, as used throughout this Agreement shall be amended to mean the Property as depicted in the attached Exhibit B (the "Original Property").

**2. Purchase Price.** The purchase price for the Property (the "Purchase Price") shall be an amount determined by multiplying the number of Net Acres (as defined in Section 6 below) by One Hundred Eighteen Thousand Two Hundred Sixty-Eight and 15/100 Dollars (\$118,268.15).

**3. Payment of Purchase Price.** The Purchase Price shall be paid to Seller as follows:

(a) Within three (3) business days after the Effective Date, Buyer shall deposit with First American Title Insurance Company c/o Steven I. Zellinger, 30 North LaSalle Street, Suite 2700, Chicago, Illinois 60602 (the "Title Company") an earnest money deposit in the amount of Ten Thousand and No/100 Dollars (\$10,000.00) (the "Deposit"). In addition, if the Buyer exercises its right to extend the Satisfaction Date (as defined in Section 4 below), the Buyer shall deposit an additional sum of Five Thousand and No/100 Dollars (\$5,000.00) with the Title Company for each Extension (as defined in Section 4 below) (with each such additional deposit being referred to here as an "Additional Deposit"). The Deposit, and any and all Additional Deposits, if applicable, shall also be referred to herein as the "Earnest Money". The Earnest Money shall be held, applied, returned or retained in accordance with the terms of this Agreement. The Earnest Money shall be invested by the Title Company in an interest-bearing account, or as directed by Buyer, and all

interest on the Earnest Money shall be applied to the Purchase Price, or if the Closing (as defined in Section 10 below) does not occur, credited to the Party that is entitled to receive the Earnest Money pursuant to the terms of this Agreement. The Earnest Money shall be deposited with the Title Company pursuant to the terms of a separate escrow agreement, substantially in the specimen form attached hereto as Exhibit C, which shall be prepared in triplicate and executed by Buyer, and promptly executed by Seller and the Title Company.

(b) The remainder of the Purchase Price, plus or minus any prorations and adjustments made pursuant to this Agreement, shall be deposited by Buyer with the Title Company in cash, certified check, wire transfer or other immediately available funds, for payment to Seller at the Closing.

**4. Conditions.** The Buyer's obligations under this Agreement are subject to the satisfaction (or waiver in writing by Buyer) of the conditions in this Section 4 (the "Conditions") within one hundred eighty (180) days after the Effective Date (the "Satisfaction Date").

The Buyer shall have a unilateral right to extend the Satisfaction Date for two (2) additional and consecutive periods of sixty (60) days each (herein an "Extension") if Buyer determines that it requires additional time to attempt to satisfy the Conditions. If Buyer elects to exercise its rights to any such Extension, then Buyer shall advise Seller, in writing (such notice being referred to as an "Extension Notice") at any time on or prior to the date that is one hundred eighty (180) days after the Effective Date (for the first Extension) or at any time prior to the expiration of the then applicable Extension (for the next Extension). If Buyer timely delivers an Extension Notice, then the Satisfaction Date shall be extended for the applicable sixty (60) day period.

Buyer may terminate this Agreement on or before the Satisfaction Date (as that date may be extended if the Buyer exercises its right to any Extension as provided above) if the Buyer determines that any one or more of the Conditions specified below have not been or will not be satisfied.

If the Buyer determines, on or prior to the Satisfaction Date (as that date may be extended if the Buyer exercises its right to an Extension as provided above), that the Conditions are satisfied, in its sole discretion then the Buyer may, in its sole discretion, agree to proceed with Closing under this Agreement by delivery of a written notice to Seller, with a copy to the Title Company (herein an "Approval Notice"). To be effective, any such Approval Notice must be given on or before the Satisfaction Date (as that date may be extended if the Buyer exercises its right to an Extension as provided above). If the Buyer does not deliver such an Approval Notice to the Seller within the time period provided herein, then this Agreement will automatically terminate without the need for any further notice, and any refundable portion of the Earnest Money will be returned to Buyer, any non-refundable portion of the Earnest Money will be delivered to Seller, and neither party shall have any further rights or liability to the other hereunder, except as hereinafter specifically provided in this Agreement. Notwithstanding any of the foregoing to the contrary, if Buyer determines at any time prior to the Satisfaction Date that the Conditions are not satisfied, in its sole discretion, then the Buyer may deliver a written notice to Seller, with a copy to the Title Company (herein a "Termination Notice"). If the Buyer delivers such a Termination Notice to the Seller within the time period provided herein, then this Agreement will terminate, and any refundable portion of the Earnest Money will be returned to Buyer, any non-refundable portion of the Earnest Money will be delivered to Seller, and neither party shall have any further rights or liability to the other hereunder, except as hereinafter specifically provided in this Agreement.

If the Buyer delivers such a Termination Notice to the Seller within the time period provided herein, then this Agreement will terminate, the Deposit will be returned to Buyer, and neither party shall have any further rights or liability to the other hereunder, except as hereinafter specifically provided in this

Agreement. If the Buyer exercises its rights to any Extension, and then delivers a Termination Notice or is deemed to have delivered a Termination Notice on or prior to the expiration of the Satisfaction Date (as that date has been extended by any Extension), then the Additional Deposit(s) will be non-refundable (except in the event of a default by Seller, event of condemnation or casualty, or as otherwise expressly provided in this Agreement). The Additional Deposits delivered by Buyer to the Title Company pursuant to this Agreement will each and all be credited against and will reduce the Purchase Price at Closing.

If the Buyer does timely issue an Approval Notice, then the full amount of the Earnest Money will become non-refundable (subject to the provisions of Section 17(b) below, or as otherwise expressly provided herein) and all interest or other income earned in relation to the Earnest Money will be applied as a credit against the Purchase Price that is otherwise due under this Agreement.

The Conditions to be satisfied by Buyer, in its sole discretion, include and are limited to the following:

(a) Buyer shall have received the Title Commitment and Survey, as each is hereinafter defined, in the condition and as required under Section 5 and Section 6 of this Agreement.

(b) Buyer shall have determined that the Property is suitably zoned to a zoning classification compatible with Buyer's intended use of the Property with all necessary classifications, variances, permissions, exceptions, conditional uses, and other approvals having been obtained from all applicable governmental agencies, on terms acceptable to Buyer, and such approvals being final, non-appealable and in full force and effect. In the event Buyer determines that it requires any approvals, consents or other documentation with respect to the zoning of the Property (including but not limited to rezoning, exception or a special use permit) to permit Buyer's proposed use of the Property, Buyer shall have the right, at Buyer's expense, to file such petitions for such approvals as Buyer deems necessary or appropriate. In such a case, the Seller agrees that it shall execute all necessary consents and other documents necessary for the filing of such petitions and obtaining the appropriate governmental approvals.

(c) Buyer shall have determined that the Property is suitably subdivided and is a separate tax parcel, with all subdivision approvals having been obtained from all applicable governmental agencies, on terms acceptable to Buyer, and such approvals being final, non-appealable and in full force and effect. In the event that the Property is not subdivided or is not a separate tax parcel, and governmental approvals, consents or other documentation with respect to the subdivision of the Property are required in order to permit the conveyance of the Property by Seller and/or in order to permit the development of the Property as contemplated by the Buyer, the Buyer shall, at Buyer's expense, file such plats and petitions for subdivision approvals as are necessary or appropriate. In such a case, the Seller agrees that it shall execute all necessary consents and other documents necessary for the filing of subdivision plats and/or petitions and obtaining the appropriate governmental approvals. For purposes of this Agreement, the term "subdivision" shall include such lot splits or consolidations as determined necessary by Buyer.

(d) Buyer shall have determined that the Property is suitable in all respects and all site plan approvals, permits, consents, approvals and other things required or desired by Buyer to be obtained from all federal, state and local governmental, municipal, public and other authorities, bodies and agencies, including but not limited to environmental approvals, as well as under any covenants, conditions or restrictions applicable to the Property and Buyer's proposed use thereof (collectively the "Approvals"), either have been obtained and remain in full force and effect or will be obtainable by Buyer, in either case on terms acceptable to Buyer.

(e) Buyer shall have determined that utilities, including, but not limited to, gas, electricity, water, sanitary sewer, storm sewer, telephone and other telecommunication utilities, are available at the Property line, in such capacities and in such locations as are satisfactory to Buyer. If such utilities are not available at the Property line in such capacities as will permit the Buyer to use the Property for its proposed use, the Buyer shall have determined that such utility infrastructures are available, in sufficient capacities, to be extended by Buyer through perpetual easements that benefit the Property or through public rights-of-way, that will permit the Buyer to extend such utilities to the Property, at Buyer's expense.

(f) Buyer shall have determined that the Property has free, unrestricted and direct legal rights of access and ingress and egress to one or more public roads or highways, with access drives and curb cuts to such specifications and in such number and at such locations as deemed necessary or desirable by Buyer, including but not limited to, Berlin Drive in the City of La Crosse, Wisconsin

(g) Buyer shall have received such environmental site assessments, archaeological studies and geotechnical reports, which may include a delineation of any wetlands on the property, and any other information that the Buyer deems relevant to its proposed use of the Property, all of which shall be acceptable to Buyer.

(h) Buyer shall have determined that any and all improvements, structures, facilities and fixtures on the Property (which, if any, are collectively referred to herein as the "Improvements") are located entirely within the bounds of the Property and that there are no encroachments upon the Property by improvements or appurtenances on any property adjoining the Property.

(i) Buyer shall have determined that the Property is not protected habitat for any endangered or protected species of plant, animal or other living organism.

(j) Buyer shall have determined that the Property is not located within any area of special flood hazard and that flood insurance will not be required for any improvements that may be developed by the Buyer on the Property. Buyer shall have determined that: (i) it can develop a feasible site plan for its proposed development; and (ii) the acquisition and development of the Property presents a viable economic opportunity.

(k) Buyer shall have obtained financing acceptable to Buyer for its acquisition of the Property.

(l) Buyer shall have entered into a memorandum of understanding with or received other adequate assurances from the applicable governmental agency confirming that tax increment financing, tax abatement or other similar incentives are available for improvements to be developed on the Property. In the event that Buyer seeks any such incentives, Buyer shall have the right, at Buyer's expense, to file such petitions for such incentives as Buyer deems necessary or appropriate. In such a case, the Seller agrees that it shall execute all necessary consents and other documents necessary for the filing of such petitions and obtaining the appropriate governmental incentives.

(m) Buyer shall have procured an executed lease for the Property from a commercial tenant, on terms acceptable to Buyer.

(n) Seller shall have terminated any existing leases pertaining to the use and occupancy and/or farming activities in and/or upon the Property.

Seller's representative, Andrea Schnick ("Seller's Representative"), agrees to reasonably cooperate with Buyer, including furnishing Buyer with all necessary information, and executing such applications and other documents as may be required, in connection with Buyer's satisfaction of the above Conditions, all at no cost to Buyer. Furthermore, Seller shall, upon Buyer's request, attend and support Buyer in any meetings or hearings of administrative officials and legislative bodies necessary to obtain such Permits and Approvals. ***In connection with the execution of any applications or other documents that may be required in connection with Buyer's satisfaction of the above conditions, Seller authorizes and hereby confirms that Seller's Representative shall be the authorized representative of Seller, acting individually, to execute any such application or other documents for and on behalf of Seller.***

At any time after the Effective Date, Buyer and its agents shall have the right to enter upon the Overall Property and make and conduct any and all tests and inspections that Buyer deems necessary and/or appropriate to satisfy Buyer as to the condition of the Overall Property, including, but not limited to, environmental testing; provided, however, that Buyer shall promptly restore any damage to the Overall Property resulting from the entry of Buyer or its agents (however, if any tree clearing is required to perform certain inspections permitted pursuant to this Agreement, Buyer's restoration obligations shall not require tree replacement or hauling of any cleared trees/shrubs from the Overall Property). All such tests shall be at Buyer's cost and expense.

## **5. Title.**

(a) Buyer shall procure a commitment for an owner's policy of title insurance (the "Title Commitment") issued by the Title Company on the ALTA 2006 Owner's Policy form (or other form acceptable to Buyer), in which the Title Company shall agree to insure, for the full amount of the Purchase Price, merchantable fee simple title to the Property in the name of Buyer, free from the Schedule B standard printed exceptions and all other exceptions except those exceptions which are acceptable to the Buyer, in its sole discretion (the "Permitted Exceptions") after delivery of the Deed (as defined in Section 11) to Buyer from Seller. Buyer acknowledges that the Property is subject to the Declaration of Protective Covenants for the La Cross International Business Park (the "Declaration"). The Title Commitment shall cover and include any easements and other rights appurtenant to the Property. Such Title Commitment shall have attached thereto complete, legible copies of all instruments noted as exceptions thereto. The Title Commitment shall be updated prior to the Closing to reflect the state of the title not more than ten (10) days prior to the Closing. Seller shall pay any and all costs and expenses related to the title insurance, including all search fees, closing fees and the premium for the owner's title insurance policy and all endorsements (the "Title Policy") issued pursuant to the Title Commitment.

(b) If: (i) the Title Commitment reflects any exceptions to title which are not acceptable to Buyer, in Buyer's sole discretion; or (ii) the Survey delivered to Buyer pursuant to Section 6 below, discloses any state of fact not acceptable to Buyer, in Buyer's sole discretion; or (iii) at any time prior to the Closing, title to the Property is encumbered by any exception to title not acceptable to Buyer, in Buyer's sole discretion (with any such exception or unacceptable state of fact being referred to herein as a "Title Defect"); then Buyer shall, on or before the Satisfaction Date (or, in the case of a Title Defect not disclosed by the Title Commitment prior to the Satisfaction Date, within fifteen (15) days after Buyer receives notice of such Title Defect, along with a copy of such exception), give Seller written notice of such Title Defect. Seller shall have the right, but not the obligation (except as specifically set forth below), during the thirty (30) day period after receipt of such notice, but not later than Closing, to remove such Title Defect or obtain affirmative title insurance coverage acceptable to Buyer, insuring and defending Buyer against any loss, cost or expense arising out of or related to such Title Defect ("Affirmative Coverage"). If Seller elects to do so, then on or before the Closing Date, Seller shall provide Buyer with reasonable evidence

of such removal or provide reasonable evidence that such Title Defect will be removed or that such Affirmative Coverage shall be obtained.

(c) The Title Policy to be issued at Closing shall include: (i) a zoning endorsement (if permitted by applicable law) in a form acceptable to the Buyer; (ii) an access endorsement to affirmatively insure access to and from the Property; (iii) a utilities endorsement to affirmatively insure that the Property has access to and is serviced by applicable, specified utility services; (iv) affirmative coverage of and for any appurtenant easements; (v) a contiguity endorsement, if the Property is comprised of two or more parcels; and (vi) any other title endorsements requested by Buyer.

(d) Seller shall have the right, if reasonably necessary, to extend the Closing Date (as defined in Section 10 below), for a period not to exceed twenty (20) days in order to cure or obtain Affirmative Coverage for any Title Defect.

(e) In the event Seller is unable or unwilling to cure or obtain Affirmative Coverage for any Title Defect within the time periods set forth above, Buyer shall have the option to either: (i) waive any such Title Defect and proceed to Closing; or (ii) terminate this Agreement and receive a full refund of the Earnest Money, in which case neither Party shall have any further obligations hereunder, except as specifically set forth in this Agreement.

**6. Survey.** Buyer, at its expense, shall procure a survey of the Property (the "Survey") prepared by a registered land surveyor satisfactory to Buyer. The Survey shall: (i) be completed in accordance with current ALTA/NSPS minimum standards, with such Table A items as may be required by Buyer, in its sole discretion; (ii) have one perimeter description of the Property; (iii) show all easements, rights of way, set-back lines, encroachments and other matters affecting the use or development of the Property; (iv) disclose on the face thereof the gross acreage of the Property included in the Property and the number of Net Acres (as hereinafter defined) included in the Property; (v) contain such other matters as are required for the Title Company to delete the standard exceptions on Schedule B to the Title Commitment; (vi) show the location of any and all Improvements; and (vii) be certified to Seller, Buyer, Title Company and Buyer's lender. For purposes of this Agreement, the term "Net Acre(s)" or "Net Acreage" or words of similar character will mean and refer to the gross acreage of the Property, subtracting out the portions of the Property that are (a) located within any publicly dedicated road right-of-ways; (b) located within the boundaries of any roadway easement encumbering the Property; (c) located within any designated wetland areas or waters of jurisdiction including regulated buffers located on the Property; or (d) located within the boundaries of any pipeline or similar easement which prevents and/or prohibits any development of any improvements on, over, across or through that easement area.

**7. Cooperation of Seller and Property Information.** Seller shall assist Buyer and its representatives, whenever reasonably requested by Buyer, in obtaining information about the Overall Property.

(a) Seller agrees that it shall, within ten (10) days following the Effective Date and at Seller's expense, deliver to Buyer true, correct and complete copies of the following documents and/or information, to the extent that such documents and/or information are within the Seller's custody or control: (i) copies of all current or most recent available real estate tax bills applicable to each parcel of the Overall Property; (ii) any utility bills pertaining to the Overall Property; (iii) any plans or specifications pertaining to any Improvements on the Overall Property; (iv) any warranties and/or service contracts pertaining to any Improvements on the Overall Property; (v) any existing surveys, geotechnical reports, maps, or other reports pertaining to the physical condition of the Overall Property, including, without limitation, structural reports, maintenance

reports, environmental reports (the "Environmental Reports"), soils reports and similar test or inspection reports; (vi) any permits or approvals pertaining to the Overall Property; (vii) any environmental impact reports, zoning commitments, declarations or similar development restrictions and/or approvals; (viii) any existing title insurance policy(ies); (ix) any management, service and maintenance contracts, or any leases, relating to the Overall Property, including any amendments thereto; (x) any covenant, condition and/or restriction that encumbers the Overall Property; and (xi) any legal notice received by Seller which affects the Overall Property.

(b) Seller agrees that it shall, within ten (10) days following the Effective Date and at no cost to Buyer, complete to its actual knowledge and deliver to Buyer the Environmental Site Assessment Owner's Disclosure (the "ESA") in the form attached as Exhibit D. The ESA is a statement of conditions and information concerning the Overall Property made to the best knowledge of the Seller on the date it is completed, and is not a guaranty or warranty of any kind by the Seller. The ESA is not a substitute for any inspections or tests, and the Buyer is solely responsible for obtaining its own independent professional investigations to determine the condition of the Overall Property.

(c) Buyer, its employees, agents and independent contractors shall have the right to enter upon the Overall Property to conduct all tests, inspections and examinations which Buyer deems necessary or desirable, provided, however, Buyer shall provide Seller with evidence of commercial general liability insurance and workers compensation insurance (consistent with the insurance requirements attached hereto as Exhibit E) prior to entering (or any of its agents or contractors entering) onto the Overall Property.

**8. Taxes and Assessments.** The records of the La Crosse County Auditor and/or Treasurer reflect the Property currently consists of part of Parcel No. 17-10560-15 and all of Parcel No. 18-4458-1 (approximately 15 acres). Copies of the La Crosse County Auditor's and/or Treasurer's records for the above parcels have been provided by the Seller to the Buyer.

**9. Insurance, Condemnation and Risk of Loss.** The Seller's insurance on the Property shall be cancelled as of the Closing Date. In the event that, prior to Closing, all or any portions of the Property, any interests therein, or any rights appurtenant thereto are (i) damaged or destroyed by any fire or other casualty, or (ii) taken or appropriated (either permanently or for temporary periods) under the power of eminent domain or condemnation by any authority having such power, or by virtue of any actions or proceedings in lieu thereof, or if any notice or threat of such taking or appropriation has been given or is pending at the Closing, then Buyer, at its option, may either (a) cancel this Agreement by written notice to Seller, in which event Title Company shall immediately refund the Earnest Money to Buyer and neither Party shall have any further obligation hereunder, except as specifically set forth in this Agreement, or (b) elect to proceed with Closing, in which event the Purchase Price shall be reduced by an amount equal to any sums previously paid or then payable to Seller by the insurance carrier (plus an amount equal to the amount of the deductible feature of the Seller's insurance policy) or by the condemning authority, by reason of any such casualty or by reason of any such taking, appropriation or action or proceeding in lieu thereof, and Seller shall transfer and assign to Buyer at Closing any and all further insurance or condemnation proceeds, claims, demands, actions and choses in action which may exist by virtue of such casualty, taking, appropriation or action or proceeding in lieu thereof; provided, however, that until the earlier of: (y) the Closing Date, or (z) termination of this Agreement, Seller shall not make any voluntary settlement or agreement regarding any casualty loss, taking, appropriation or action or proceeding in lieu thereof with any insurance carrier or any condemning authority, without first obtaining Buyer's written consent to such settlement or agreement.

**10. Closing.** The closing of the purchase and sale of the Property (the "Closing") shall occur at the offices of the Title Company or another location selected by both Seller and Buyer, upon the date (the "Closing Date") that is within sixty (60) days after the Satisfaction Date, with the exact Closing Date to be specified by Buyer in a written notice delivered to Seller at least five (5) days prior to the closing (or to otherwise be mutually agreed to by Buyer and Seller if such written notice is not provided by Buyer).

Any and all documentary stamps, transfer taxes or conveyance fees due and payable upon the transfer of title contemplated herein shall be the responsibility of and shall be paid by the Seller. Seller will pay for preparation of the Deed, and Buyer will pay the recording fee for the Deed. All closing costs and prorations shall be as provided in this Agreement, or in the absence of such provision, allocated according to the local custom in La Crosse County, Wisconsin. All prorations shall be final.

**11. Closing Documents.** At the Closing, Seller shall execute and deliver to Buyer: (i) a general warranty deed in recordable form conveying fee simple title to the Property to Buyer, using the Survey legal description and subject only to the Permitted Exceptions and otherwise free and clear of all liens and encumbrances except such as have been approved in writing by Buyer (the "Deed"); (ii) any and all applicable transfer tax declarations or other transfer or sale disclosure statements required by applicable law; (iii) a title affidavit in a form satisfactory to the Buyer and the Title Company, suitable to permit the Title Company to delete the standard, pre-printed exceptions (identified in the Title Commitment) from the Title Policy; (iv) a certification of non-foreign status pursuant to Section 1445(b)(2) of the Internal Revenue Code, as amended (the "Code"); (v) an IRS Form 1099-S Disclosure Statement (if required under the Code); (vi) an assignment, in a form satisfactory to the Buyer, of any and all leases, contracts and/or service agreements, if any, pertaining to the Property; (vii) a closing or settlement statement prepared by the Title Company (the "Settlement Statement"); and (viii) such other instruments, certificates or affidavits as may be provided herein or as Buyer or Title Company may reasonably request to effect the intention of the Parties hereunder. In addition to the foregoing, at the Closing, Seller agrees to grant to Buyer, and its successors and assigns, a drainage easement in, over and across the area depicted on Exhibit F attached hereto (the "Drainage Easement"). The Parties shall use good faith efforts to agree upon the form of the drainage easement agreement, whereby Seller grants to Buyer, and its successors and assigns, the Drainage Easement, within ninety (90) days of the Effective Date.

**12. Possession.** Sole and actual possession of the Property shall be delivered to Buyer on the Closing Date in the same condition as it is on the Effective Date, ordinary wear and tear excepted and subject to Section 9 above, free and clear of any rights or claims of any other party.

**13. Rights and Obligations.** The rights and obligations of Seller and Buyer herein contained shall inure to the benefit of and be binding upon the Parties and their respective permitted assigns.

**14. Notices.** All notices required or permitted to be given hereunder shall be in writing and delivered: (i) in person; or (ii) by certified or registered first class prepaid U.S. Mail, return receipt requested; or (iii) prepaid by nationally-recognized overnight courier service such as FedEx, to Seller or Buyer at their respective addresses set forth below, or at such other addresses, notice of which shall previously have been given to the other Party in accordance with this Section 14. Such notices shall be deemed given when personally delivered or when deposited in the mail or with such courier service. The Parties shall provide courtesy copies of notices by facsimile, e-mail or other means, but such copies shall not constitute notice under this Agreement.

**Seller:**

City of La Crosse  
Economic Development Planner  
400 La Crosse Street  
La Crosse, WI 54601



Attn: Andrea Schnick  
E-Mail: [schnicka@cityoflacrosse.org](mailto:schnicka@cityoflacrosse.org)

with a courtesy copy to: City of La Crosse  
City Clerk  
400 La Crosse Street  
La Crosse, WI 54601  
Attn: Teri Lehrke  
E-Mail: [lehrket@cityoflacrosse.org](mailto:lehrket@cityoflacrosse.org)

**Buyer:** Scannell Properties, LLC  
8801 River Crossing Blvd., Suite 300  
Indianapolis, IN 46240  
Attn: Marc D. Pflaging  
E-mail: [marcp@scannellproperties.com](mailto:marcp@scannellproperties.com)  
Facsimile: (317) 843-5957

with a courtesy copy to: Ice Miller LLP  
One American Square, Suite 2900  
Indianapolis, IN 46282  
Attn: Blake J. Schulz, Esq.  
E-Mail: [Blake.Schulz@icemiller.com](mailto:Blake.Schulz@icemiller.com)  
Facsimile: (317) 592-4218

**15. Representations and Warranties.** Seller hereby warrants and represents to Buyer, as of the Effective Date and as of the Closing Date, and covenants and agrees as follows:

(a) The execution, delivery and performance by Seller of its obligations under this Agreement will not conflict with or result in a breach of, or constitute a default under, any of the provisions of any law, governmental rule, regulations, judgment, decree or order by which the Seller is bound, or by any of the provisions of any contract to which the Seller is bound, or by the organic agreements establishing and regulating the Seller's business affairs, and the Seller has full power and authority to enter into and consummate the transactions contemplated by this Agreement, and all consents and approvals necessary therefor have been obtained.

(b) The Seller has full power and authority to enter into this Agreement and to assume and perform all of its obligations under this Agreement; and the person executing this Agreement on its behalf has been duly authorized and is empowered to bind it to this Agreement. If any Seller is an individual, that Party represents and warrants that he or she shall take such steps as are necessary to convey his or her interest in the Overall Property free and clear of all marital or homestead rights of his or her spouse.

(c) Seller is the legal and equitable owner of fee simple title to the Overall Property and has the right to convey such fee simple title by Deed to Buyer on the Closing Date free and clear of all options, rights, covenants, easements, liens and other rights in favor of third parties, other than the Permitted Exceptions. The Overall Property is not subject to any: (i) outstanding agreements of sale, options, liens, or other rights of third parties to acquire any interest(s) therein; (ii) ground leases or other leases or tenancies, including but not limited to equipment or signage leases, or other agreements relating to the ownership of the Overall Property; (iii) real estate, management, supply, promotional, operating, maintenance, security or other service contracts; (iv) declarations of covenants, conditions and restrictions, or similar encumbrances, affecting the

Overall Property, except the Declaration; or (v) other encumbrance(s) other than the Permitted Exceptions. Seller shall not encumber or allow the Overall Property to be encumbered by any of the foregoing without Buyer's consent, which may be granted or withheld in Buyer's sole discretion.

(d) Seller does not hold any approvals, licenses, certificates, or permits to own, operate, use and/or maintain the Overall Property, nor is Seller aware that any such approvals, etc., are necessary for Seller's current use of the Overall Property.

(e) No work has been done on the Overall Property, or materials or utilities furnished, that have not been fully paid for, and there is no claim against any portion of the Overall Property or Seller for or on account of work done, materials furnished or utilities supplied to the Overall Property. There are no payback agreements, revenue bonds, utility debt service expenses or other charges or expenses applicable to the Overall Property.

(f) To the best of Seller's Representative's knowledge: (i) there are no violations, or threatened or pending violations, of any laws, statutes, ordinances, rules or regulations with respect to the Overall Property open, noticed or existing; and (ii) no litigation, condemnation proceedings, eminent domain proceedings or similar actions or proceedings are now pending or threatened against the Overall Property, or which could result in any judgment lien against the Overall Property; nor does Seller know of or have reasonable grounds to know of any basis for any such violation, action or claim.

(g) There are no unpaid: (i) *ad valorem* real estate taxes or assessments; or (ii) assessments for public improvements pertaining to the Overall Property. To the best of Seller's knowledge: (i) there are no public plans or proposals for changes in road grade, access or other municipal improvements which would affect the Overall Property or result in any assessment; (ii) no ordinance authorizing improvements, the cost of which might be assessed against Buyer or the Overall Property, is pending; and (iii) there is no appellate tax proceeding pending for the reduction or increase of the assessed real estate tax valuation to the Overall Property or any portion thereof.

(h) The Property has direct legal and perpetual rights of access to and from the Property to one or more public roads.

(i) Utility services for water, sanitary and storm sewers, natural gas, electricity, and telephone and telecommunications services are available either at the Property or in the vicinity of the Property in locations wherein the Buyer can connect to such existing utility infrastructures and extend the same to the Property at its own expense through perpetual private easements that benefit the Property or through public rights-of-way.

(j) To the best of Seller's Representative's knowledge, without independent investigation or inquiry, except as otherwise disclosed in the Environmental Reports: (i) there are no underground storage tanks on the Overall Property, (ii) the Overall Property has never been used as a landfill or garbage dump, and (iii) there are no hazardous, toxic or infectious wastes, substances or materials present on the Overall Property in quantities or concentrations or otherwise stored or used in violation of any applicable Environmental Laws (as herein defined). For these purposes, the term "Environmental Laws" shall mean and refer to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and the Super Fund Amendments and Reauthorization Act (42 U.S.C. § 9601 *et seq.*); the Hazardous Materials Transportation Act (49 U.S.C. § 1801 *et seq.*); the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901 *et seq.*); the Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*); the Clean Air Act (42

U.S.C. § 7401 *et seq.*); the Toxic Substances Control Act of 1976 (15 U.S.C. § 2601 *et seq.*); the Safe Drinking Water Act (42 U.S.C. § 300f *et seq.*); the Occupational Safety and Health Act of 1970 (29 U.S.C. § 651 *et seq.*); and the Emergency Planning and Community Right to Know Act (42 U.S.C. § 11001 *et seq.*); each as heretofore and hereafter amended or supplemented, and any future or present local, state or federal statute, rule or regulation pertaining to the regulation and protection of the environment, industrial hygiene, pollution, or environmental effects on health and safety.

(k) Seller is currently in compliance with and shall at all times during the term of this Agreement remain in compliance with the regulations of the Office of Foreign Assets Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) and any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action relating thereto.

(l) Seller's Representative is the most knowledgeable person with respect to the Overall Property.

The representations and warranties in this Section 15 shall survive the Closing Date for a period of two (2) years. Seller shall indemnify, defend and hold Buyer harmless from and against any and all claims, demands, liabilities, damages, suits, actions, judgments, fines, penalties, loss, costs and expense (including, but not limited to, reasonable attorneys' fees) arising or resulting from, or suffered, sustained or incurred by Buyer as a result (direct or indirect) of the untruth or inaccuracy of any of the foregoing representations and warranties by Seller to Buyer or the breach of any of the foregoing representations, warranties or covenants, which indemnity shall survive the Closing Date for such period, and, regarding any such representations and warranties as to which any litigation that was filed within such period is pending, also during the pendency of any such litigation, including appeals, if any.

**16. Prorations.** Subject to the provisions of Section 8 above, Seller shall be entitled to all income and shall be responsible for all expenses produced from the operation of the Property which are allocable through and including the Closing Date. Buyer shall be entitled to income and shall be responsible for all expenses which are allocable to the period after the Closing Date. Unless otherwise specifically set forth in this Agreement, at the Closing, all items of income and expense shall be prorated in accordance with the foregoing principle.

**17. Default and Remedies.**

(a) In the event of a default by Buyer under the terms of this Agreement, Seller shall be entitled, as its sole and exclusive remedy hereunder, to terminate this Agreement and receive the Earnest Money as full liquidated damages for such default of Buyer, whereupon the Parties shall have no further rights or obligations hereunder, except for those which expressly survive any such termination. In the event of any such default, the Seller shall give the Buyer written notice of the occurrence of such default (a "Buyer Default Notice") and the Buyer shall have twenty (20) days following its receipt of such Buyer Default Notice in which to cure such default hereunder. It is hereby agreed that Seller's damages in the event of a default by Buyer hereunder are uncertain and difficult to ascertain, and that the Earnest Money constitutes a reasonable liquidation of such damages and is intended not as a penalty, but as full liquidated damages.

(b) In the event of a default by Seller under the terms of this Agreement, Buyer shall be entitled to pursue all remedies available at law or in equity, including, without limitation, the right to terminate this Agreement and receive a full refund of the Earnest Money, or to seek specific

performance of Seller's obligations under this Agreement. In the event of any such default, the Buyer shall give the Seller written notice of the occurrence of such default (a "Seller Default Notice") and the Seller shall have the earlier of (a) forty-five (45) days following its receipt of such Seller Default Notice, or (b) twenty (20) days following the scheduled Closing Date, in which to cure such default hereunder.

**18. Use of Brokers.** Buyer and Seller hereby represent and warrant to each other that they have not dealt with any broker in connection with this transaction, except JLL and RE Commercial LLC (collectively, the "Brokers"). Seller hereby represents and covenants that it has agreed to pay a finder's fee to the Brokers pursuant to the established amendment to the Seller's land price formula which is 5% and such finder's fee shall be taken from the money the Seller receives from the sale of the Property. Buyer and Seller hereby further represent and warrant to each other that no other fee, commission or similar compensation shall be payable by Seller or Buyer to any broker or any other person as a result of any agreement or action by Seller or Buyer, respectively.

**19. Attorneys' Fees.** In the event that either Party shall bring an action or legal proceeding for an alleged breach of any provision of this Agreement or any representation, warranty, covenant or agreement herein set forth, or to enforce, protect, determine or establish any term, covenant or provision of this Agreement or the rights hereunder of either Party, the prevailing Party shall be entitled to recover from the non-prevailing Party, as a part of such action or proceedings, or in a separate action brought for that purpose, reasonable attorneys' fees and costs, expert witness fees and court costs as may be fixed by the court or jury.

**20. Binding Effect.** This Agreement is executed by Buyer and submitted to Seller as an offer to purchase the Property. If Seller does not execute and deliver this Agreement, without revision, to Buyer within five (5) business days after the date of Buyer's execution of this Agreement, Buyer may, in its sole discretion, by delivery of written notice to Seller within such period, revoke its offer to purchase; in which case, Buyer shall have no further liability or obligation hereunder.

**21. Confidentiality.** The terms of this Agreement, the results of any tests and inspections performed by or on behalf of Buyer, and any information provided by Seller pursuant to Section 7 above, shall be kept and maintained confidential and shall not be disclosed by either Party to any third party without the prior written consent of the other Party. This provision shall not prohibit disclosures on a "need to know" basis to employees, agents, attorneys, brokers, surveyors, title companies, engineers, contractors, lenders, etc., as necessary to obtain financing or governmental permits and approvals, to potential tenants, or as compelled by legal process or required by law, including (without limitation) the Wisconsin Open Records Law. This provision shall survive any termination of this Agreement. Notwithstanding anything contained herein to the contrary, Buyer may market the Property for prospective tenants, users or other third parties during the term of this Agreement and Buyer may install advertising signs in connection with such marketing during the term of this Agreement.

**22. Section 1031 Exchange.** In the event that either Party elects to structure this transaction as a like-kind exchange pursuant to Section 1031 of the Code, the other Party shall reasonably cooperate upon the request of the electing Party, including prompt execution of such documents as may reasonably be required to effectuate such exchange, provided that: (a) the electing Party shall bear all costs in connection with such exchange and shall indemnify and hold the other Party harmless from and against any cost, claims, expenses or liabilities (including attorney's fees) incurred by the other Party solely as a result of structuring the transaction as a like-kind exchange; and (b) the exchange shall have no material effect on the terms of either Party's rights or obligations under this Agreement. Notwithstanding any other provision of this Agreement to the contrary, Seller agrees that Buyer may assign its rights in this Agreement to a third

party as part of any such exchange. Nothing contained herein shall prevent both Parties from electing a like-kind exchange.

**23. Force Majeure.** Except with regard to the payment of money due, if either Party hereto shall be delayed, hindered in, or prevented from the performance of its obligations hereunder by reason of any occurrence which is not within the reasonable anticipation or control of such Party, including but not limited to strikes, lockouts, labor troubles, governmental action or inaction, failure of power, riots, insurrection, war, acts of God, or other similar reason, and which occurrence, in any event, is not a result of the intentional act, negligence or willful misconduct of such Party (a "Force Majeure Event"), such Party's performance shall be excused for the period of time equivalent to the delay caused by such Force Majeure Event, provided such Party gives prompt notice to the other Party of such delay.

**24. Independent Contract Consideration.** In consideration of the Seller's execution of this Agreement and the permission afforded to the Buyer to have access to and rights of entry upon the Property, the Buyer agrees to pay to the Seller the sum of Twenty Five Dollars (\$25.00), which amount shall be non-refundable and non-applicable to the Purchase Price, and will constitute independent contract consideration for the Seller's agreement to enter into this Agreement.

**25. Miscellaneous Provisions.**

(a) This Agreement shall be interpreted and enforced according to the laws of the State of Wisconsin, without reference to its conflict of laws rules. The venue of any litigation arising out of this Agreement shall lie exclusively with the state or federal court in whose district the Property is located.

(b) All headings and section designations of this Agreement are inserted for convenience only and do not form a part of this Agreement or limit, expand or otherwise alter the meaning of any provisions hereof.

(c) This Agreement and any amendments hereto, may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. The Parties agree that, except for notices (which are governed by Section 14 above), signatures transmitted by facsimile or scanned and emailed shall have the legal effect of original signatures. At the request of either Party, the Parties shall promptly exchange executed original counterparts of this Agreement or any amendment.

(d) The provisions of this Agreement are intended to be for the sole benefit of the Parties and their respective successors and assigns, and none of the provisions of this Agreement are intended to be, nor shall they be construed to be, for the benefit of any third party.

(e) If, under any provision of this Agreement: (i) the date any act to be done or action to be taken; or (ii) the last day of any time period, including any notice period; falls on a Saturday, Sunday or legal holiday in the state whose law governs this Agreement, then such act or action shall be deemed to have been validly done or taken on, or such time period shall be deemed extended to, the next succeeding day which is not a Saturday, Sunday or legal holiday, and all succeeding time periods shall be deemed extended accordingly. Unless otherwise specified in this Agreement, all references herein to a "day" or "days" shall refer to calendar days.

(f) Buyer may assign this Agreement and all of its interests herein to an entity related to or affiliated with Buyer without obtaining the Seller's consent. Upon any assignment, the assignee shall have and be subject to all the rights, benefits, duties and obligations of Buyer

hereunder and the Buyer named in this Agreement will be relieved of any rights or obligations hereunder. Notwithstanding the foregoing, Buyer may not assign this Agreement to a non-profit or any other tax-exempt entity without obtaining the Seller's consent.

(g) This Agreement represents the entire agreement between Seller and Buyer covering everything agreed upon or understood in this transaction. There are no oral promises, conditions, representations, understandings, interpretations or terms of any kind as conditions or inducements to the execution hereof or in effect between the Parties. No change or addition shall be made to this Agreement except by a written agreement duly executed by Seller and Buyer.

(h) The Parties acknowledge that each has been represented by, or has had the opportunity to consult with, legal counsel of its own choosing in this matter, and this Agreement has been arrived at through arms' length negotiation. For purposes of the rule of contract interpretation that construes a document against its drafter, the Parties agree that neither Party nor its counsel shall be considered the drafter hereof.

(i) If any term, covenant or condition of this Agreement is held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed in accordance with its intent as if such invalid or unenforceable provision had never been contained herein.

(j) No failure by either Party, at any time, to require the performance by the other of any term of this Agreement, shall in any way affect the right of either Party to enforce such terms, nor shall any waiver by either Party of any term hereof be taken or held to be a waiver of any other provision of this Agreement. No waiver of any term or provision of this Agreement shall be effective unless the same is in writing and signed by the Party granting such waiver.

(k) The Parties each represent and warrant to the other that they have full power and authority to enter into this Agreement and to assume and perform all of its obligations under this Agreement; and the person executing this Agreement on its behalf has been duly authorized and is empowered to bind it to this Agreement.

(l) With regard to all matters in this Agreement requiring the consent or approval of either Party, the Parties agree that any such consent or approval shall not be unreasonably withheld, conditioned or delayed, unless otherwise specifically provided in this Agreement.

(m) All Exhibits to this Agreement are incorporated herein as though fully set forth.

(n) For purposes of this Agreement, the term "Effective Date" will mean and refer to the date upon which the latter of the parties executes this Agreement, as indicated by the respective dates set forth adjacent to each of the parties' respective signatures to this Agreement.

26. Notwithstanding any other provision in this Agreement to the contrary, (1) nothing in this Agreement is intended or shall be construed to be a waiver or estoppel of Seller or its insurer (or otherwise affect or alter their ability) to rely upon the limitations, defenses and immunities contained within Wis. Stat. §§ 345.05 and 893.80, or other applicable law; (2) neither Party shall be liable for indirect, special, exemplary, consequential, or incidental damages of any other Party, including, without limitation, any lost profits or revenue; (3) the aggregate damages, defense costs, and any other liabilities for which the Seller is responsible under this Agreement is further limited to an amount not to exceed the Purchase Price, regardless of whether paid to, incurred by, or in defense of Buyer and any subsequent assignees. To the extent that indemnification is available and

enforceable against Seller, (a) Seller or its insurer shall not be liable in indemnity, contribution, or otherwise for an amount greater than the limits of liability of municipal claims established by applicable Wisconsin or federal law; and (b) Seller's obligations under this Agreement are further conditioned upon the following: (i) the indemnified party shall promptly notify Seller in writing of any such claims, demands, liabilities, damages, costs and expenses within ten (10) days of discovery; (ii) Seller shall have sole control of, and the indemnified party shall reasonably cooperate in all respects, in the defense of the claims, demands, liabilities, damages, costs and expenses and all related settlement negotiations; and (iii) the indemnified party shall not make any admission or disclosure or otherwise take any action prejudicial to Seller except as required by law. The Parties represent that, as of the Effective Date, neither Party has any notice or knowledge of any claims, demands, liabilities, damages, costs and expenses asserted or threatened by any third party with respect to the matters contemplated in this Agreement.

27. Notwithstanding any other provision in this Agreement to the contrary, Buyer acknowledges that various of the specific undertakings of Seller described in this Agreement may require (a) approvals from the City of La Crosse Common Council, City of La Crosse bodies, and/or other public bodies, some of which may require public hearings and other legal proceedings as conditions precedent thereto, and (b) appropriation by the La Crosse Common Council (collectively, the "City Approvals"). Seller's obligation to perform under this Agreement is conditioned upon obtaining the City Approvals in the manner required by law. Seller cannot assure that all such approvals will be obtained; however, Seller covenants and agrees to use good faith diligent efforts to obtain all City Approvals within a timely manner.
28. Notwithstanding any other provision in this Agreement to the contrary, Buyer understands and acknowledges that Seller is subject to the Public Records Law of the State of Wisconsin. Buyer agrees, at no cost or expense to Buyer, to assist Seller in complying with any public records request that Seller receives pertaining to this Agreement.
29. The Seller's obligation to perform under this Agreement is conditioned upon the Buyer signing and delivering an agreement between Buyer and La Crosse County in substantial form and substance as the attached Exhibit G not less than ten (10) days before closing. If Buyer fails to satisfy this condition, Seller may terminate this Agreement and return all Earnest Money.

**[REMAINDER OF THIS PAGE INTENTIONALLY BLANK]**

**IN WITNESS WHEREOF**, this Agreement has been executed by the Parties as of the date(s) specified by their respective signatures.

**SELLER:**

**CITY OF LA CROSSE, WISCONSIN**

**BUYER:**

**SCANNELL PROPERTIES, LLC**  
an Indiana limited liability company

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

James C. Carlino, Manager

Date: \_\_\_\_\_

**Index to Exhibits**

Exhibit A – Legal Description/Depiction of the Overall Property

Exhibit B – Legal Description/Depiction of the Original Property

Exhibit C –Form of Escrow Agreement

Exhibit D – Form of Environmental Site Assessment Owner’s Disclosure

Exhibit E – Insurance Requirements of the Seller

Exhibit F – Drainage Easement

Exhibit G – Agreement with La Crosse County

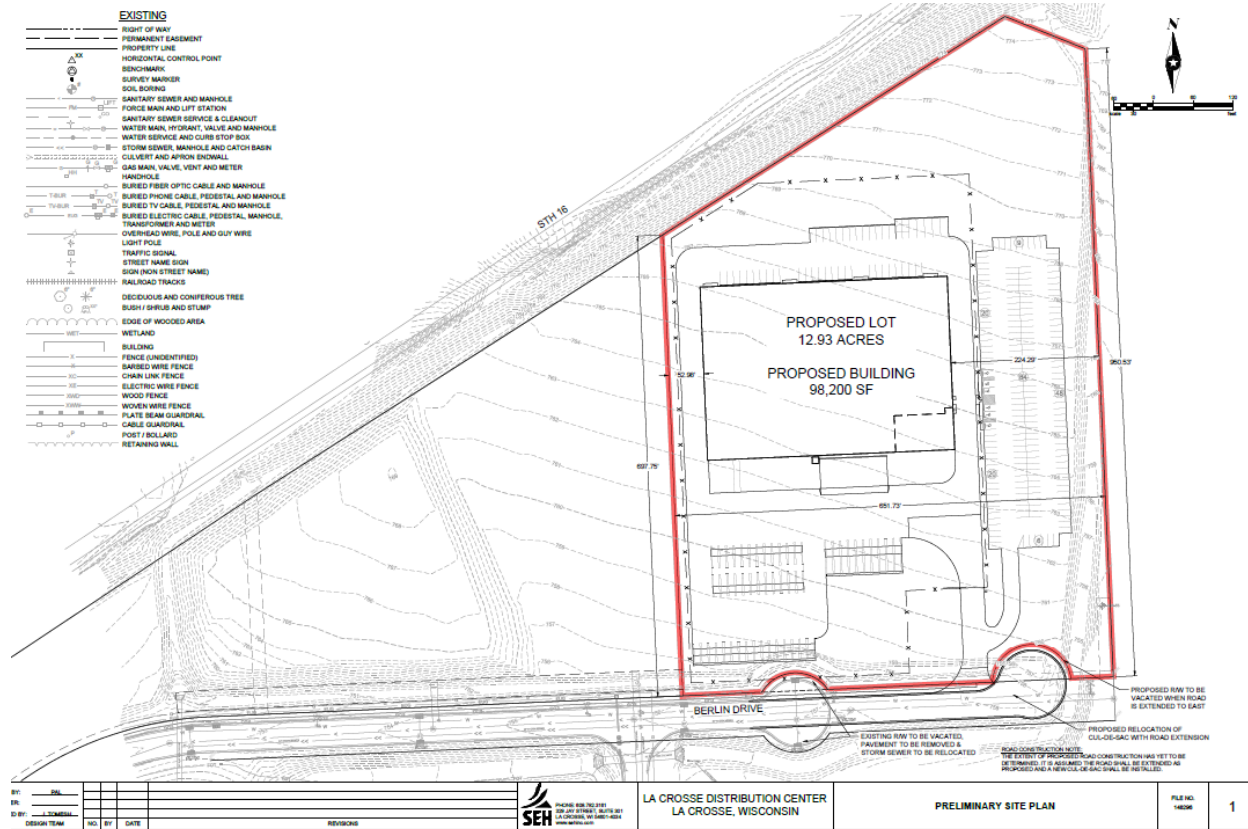


Exhibit A

Legal Description/Depiction of the Overall Property

# Exhibit B

## Legal Description/Depiction of the Original Property



**EXHIBIT C**

**Form of Escrow Agreement**

**ESCROW AGREEMENT**

**Escrow Number:** \_\_\_\_\_ **Date:** \_\_\_\_\_, 2018

**Property Address:** \_\_\_\_\_

**Deposit Amount:** \$ \_\_\_\_\_ .00

SCANNELL PROPERTIES, LLC, an Indiana limited liability company (the "Buyer"), and CITY OF LA CROSSE, WISCONSIN (the "Seller"), are parties to that certain Real Estate Purchase Agreement (the "Agreement") dated as of October \_\_\_\_\_, 2019, with respect to the above referenced property (the "Property"), which is more particularly described in the Agreement. The Buyer has deposited the sum of Ten Thousand and No/100 Dollars (\$10,000.00) (the "Deposit") with First American Title Insurance Company (the "Title Company") to be held under the terms of the Agreement and the terms of this Escrow Agreement (the "Escrow Agreement"). On or before the Satisfaction Date (as defined in the Agreement), the Deposit shall be refunded by the Title Company to the Buyer upon receipt of a written request from the Buyer, together with evidence that the Buyer has given the Seller written notice of termination in accordance with the terms of the Agreement. Following the Satisfaction Date, if the Title Company has not received any written request from the Buyer as set forth above, the Deposit and any Additional Deposits (as defined in the Agreement) shall be distributed to Seller and/or Buyer as directed in Section 4 of the Agreement.

Following the Satisfaction Date, the Title Company is hereby expressly authorized to disregard, in its sole discretion, any and all unilateral notices or warnings given by any of the parties hereto, or by any other person or corporation, except as otherwise expressly provided herein, but Title Company is hereby expressly authorized to regard and to comply with and obey any and all orders, judgments or decrees entered or issued by any court with or without jurisdiction, and in case Title Company obeys or complies with any such order, judgment or decree of any court it shall not be liable to any of the parties hereto or any other person, firm or corporation by reason of such compliance, notwithstanding any such order, judgment or decree being entered without jurisdiction or being subsequently reversed, modified, annulled, set aside or vacated. In case of any suit or proceeding regarding this escrow, to which Title Company is or may at any time become a party, it shall have a lien on the contents hereof for any and all costs, attorneys' fees, whether such attorneys shall be regularly retained or specially employed, and any other expenses which it may have incurred or become liable for on account thereof, and it shall be entitled to reimburse itself therefor out of said deposit, and the undersigned jointly and severally agree to pay Title Company upon demand all such costs, fees and expenses so incurred.

Except as expressly provided herein, in no case shall the above mentioned deposits be surrendered except on an order signed by the parties hereto, their respective legal representatives or assigns, or in obedience of the process or order of court as aforesaid.

Unless directed otherwise in writing by Buyer, all deposits made pursuant to this Escrow Agreement shall be invested on behalf of the Buyer in investments limited to interest-bearing, federally-insured instruments with a national bank or federal savings bank or in a money market fund authorized to invest solely in direct obligations of the United States of America ("Qualified Investments"). The funds invested in this manner shall have a maturity of 30 days or less. Interest and other earnings on any funds invested hereunder shall be added to the funds held on deposit by Title Company hereunder, and losses, if

any, incurred from any such investment shall reduce the balance of the funds on deposits hereunder. Buyer shall provide Title Company with a Form W-9 with its taxpayer identification number and such other investment forms as it may reasonably require. Title Company shall, upon request furnish information concerning its procedures for such investment, but shall not charge or otherwise assess any additional fees for the investment of such funds.

Billing Instructions: Escrow fee in the amount of \$0.00 will be billed as follows: Half to Seller and half to Buyer. NOTE – ESCROW FEES WAIVED IN ANTICIPATION THAT THE TITLE COMPANY WILL BE PROVIDING TITLE INSURANCE UNDERWRITING SERVICES IN CONNECTION WITH THE AGREEMENT FOR WHICH IT WILL BE COMPENSATED AT CLOSING.

Except as to deposits of funds for which Title Company has received express written direction concerning investment to other handling, the parties hereto agree that the Title Company shall be under no duty to invest or reinvest any deposits at any time held by it thereunder; and, further that Title Company may commingle such deposits with other deposits or with its own funds in the manner provided for the administration of funds held as a fiduciary under applicable law, provided, however, nothing herein shall diminish Title Company's obligation to apply the full amount of the deposits in accordance with the terms of the Agreement.

In the event the Title Company is requested to invest deposits hereunder in Qualified Investments pursuant to this agreement, Title Company shall not be held responsible for any loss of principal or interest which may be incurred as a result of making the investments or redeeming said investment for the purposes of these escrow instructions except to the extent that Title Company negligently or willfully fails to follow such investment directions.

This Escrow Agreement is intended to be executed in triplicate, but may be executed in multiple counterparts. Each such counterpart shall be deemed an original, but all of which together shall constitute one and the same document. The parties agree that, except for notice purposes, signatures transmitted by facsimile or scanned and e-mailed shall have the legal effect of original signatures. Upon the request of any party, the parties shall promptly exchange executed original counterparts of this Escrow Agreement.

[Execution page to be added.]

**EXHIBIT D**

**Environmental Site Assessment Owner's Disclosure**

**[ATTACHED]**

The following information is to be completed by the owner of the property.

<b>LANDOWNER</b>	Name:				Contact:			
	Address:							
	City:				State:		Zip Code:	
	Phone:			Fax:			Email:	

Site Address:							
City:				State:		Zip Code:	
Site or Facility Description, Assessor's Parcel No. (if undeveloped land):							

<b>SITE INFORMATION</b>				
Advise the following characteristics of the site:	Yes	No	Unk	Comments / Details
Property acreage:				
Date property developed:				
Garage?				
Garage floor drains?				
Truck wash area?				
Dock / warehouse floor drains?				
Dry wells?				
Sanitary sewer?				
Storm sewers?				
Septic systems?				
Well water systems?				
Public water?				
Sump systems?				
Oil/water separator systems?				
Service pits?				
Asphalt paving?				
Stone paving?				
Oil/gas spills on the site?				
Underground tanks?				
Aboveground tanks?				
Were tanks removed from site?				
Offsite fill used?				
Radon issues?				
Asbestos containing materials?				
Flood plain?				
Wetlands?				
Other environmental concerns with site?				

SITE INFORMATION				
<b>Advise uses and activities performed onsite:</b>				
Current use of property:				
Past use of property:				
	<b>Yes</b>	<b>No</b>	<b>Unk</b>	<b>Comments / Details</b>
Was used oil ever used for dust control?				
Hazardous wastes generated on site?				
Drums or containers stored onsite?				
Other environmental concerns?				

<b>Indicate adjacent uses of property (i.e., industrial, commercial residential, roads, rail, undeveloped, etc.):</b>	
North	
South	
East	
West	

<b>Advise if the following information is available:</b>	<b>Yes</b>	<b>No</b>	<b>Unk</b>	<b>Comments / Details</b>
Real estate appraisal				
Locator map				
Property survey				
Legal description				
Title commitment				
Geotechnical reports				
Environmental assessment or remediation reports				
Facility plans				
Environmental permits				
Inspection reports or notices of violations				
Public complaints about property				
Other information available?				

Completed by (print):			
Signed by:		Date:	

**Exhibit E**

**INSURANCE REQUIREMENTS**

**A. General Requirements**

A certificate of insurance acceptable to City evidencing the insurance requirements is to be provided. The certificate shall state that the issued insurance policies meet the requirements as outlined below. All certificates are to be provided within 30 days of final execution of this Letter of Intent. If such certificate is not received, the City has the authority to declare this Letter of Intent terminated.

All policies shall state that the City shall be afforded a thirty (30) day written notice of cancellation, non-renewal or material change by any insurers providing the coverage required by City for the duration of this Letter of Intent.

Insurance companies must be acceptable to City and must have a current A.M. Best rating of A- VIII or better.

All policies shall be written on an occurrence form, other than professional liability as noted below.

If subcontractors are used, each must meet all requirements in sections A and B.

**B. The minimum insurance requirements are as follows:**

**(1) Workers' Compensation and Employer's Liability**

Workers' Compensation	Statutory Coverage
Bodily Injury by Accident	\$100,000 each accident
Bodily Injury by Disease	\$500,000 policy limit
Bodily Injury by Disease	\$100,000 each employee

- Employer's Liability at limits noted above or higher limits if needed to meet Umbrella underlying insurance requirements.
- Coverage shall be modified to include a Waiver of Subrogation Endorsement in favor of City including its directors, officers, agents, employees and volunteers.

**(2) Commercial General Liability**

Commercial General Liability	\$1,000,000 each occurrence
General Aggregate	\$2,000,000 aggregate
Personal & Advertising Injury Limit	\$1,000,000 each occurrence
Products - Completed Operations Aggregate	\$2,000,000 aggregate
Medical Expense	\$ 5,000 each person

- Coverage must be equivalent to ISO form CG0001 or better.



- The City of La Crosse shall be added as an additional insured using ISO form CG2026 or its equivalent.
- Coverage shall be modified to include a Waiver of Subrogation Endorsement in favor of City including its directors, officers, agents, employees and volunteers.
- The policy shall include independent contractors (owners/contractors protective) and contractual liability.
- Coverage will apply on a primary and non-contributory basis. We suggest the following wording:  

"If you have agreed in a written contract that this policy will be primary and without right of contribution from any insurance in force for an Additional Insured for liability arising out of your operations, and the contract was executed prior to the bodily injury, property damage, personal injury or advertising injury, then this insurance will be primary over, and we will not seek contribution from, such insurance."
- Coverage shall apply to the risks associated with or arising out of the services provided under this contract.

**(3) Auto Liability**

Combined Single Limit	\$1,000,000 each accident
Medical Expense	\$ 10,000 each person

- If the Contractor owns or has any long term leased vehicles, coverage must be for Any Auto (Symbol 1). If there are no owned or long term leased vehicles, then coverage must be for Hired and Non-Owned Auto Liability (Symbols 8 and 9).
- Coverage shall be modified to include a Waiver of Subrogation Endorsement in favor of City including its directors, officers, agents, employees and volunteers.
- The City of La Crosse shall be added as an additional insured.
- Coverage shall include contractual liability for risks assumed in this contract.
- Coverage shall apply to the risks associated with or arising out of the services provided under this contract.
- If Federal or State government(s) require a Motor Carrier filing, such filing shall be made available to City upon request.

**(4) Umbrella (Excess) Liability**

Umbrella (excess) Liability	\$5,000,000 per occurrence
	\$5,000,000 aggregate

- The Umbrella Liability insurance shall provide coverage excess of the Employer's Liability, Commercial General Liability and Auto Liability Coverages, including the amendments stated above.

**(5) Professional Liability (If any professional work is to be done on the site.)**

Combined Single Limit \$5,000,000 each accident

- Coverage must remain in effect for a period of not less than two years beyond the termination date of the contract.
- If a claims-made form is used and a change of insurer occurs during the contract period, continuity of coverage must be maintained by either retaining the original retroactive date or exercising the extended reporting period endorsement option from the expired policy for a period of not less than two years, if the replacement insurer will not preserve the original retroactive date.
- Coverage shall be modified to include a Waiver of Subrogation Endorsement in favor of City including its directors, officers, agents, employees and volunteers.

**(8) Pollution Liability (If any excavation or drilling is to be done on the site.)**

Combined Single Limit \$2,000,000 each accident

- Coverage shall be modified to include a Waiver of Subrogation Endorsement in favor of City including its directors, officers, agents, employees and volunteers.
- The City of La Crosse shall be added as an additional insured.

**EXHIBIT F**  
**Drainage Easement**

**Exhibit G**  
**Agreement with La Crosse County**