

PETITION FOR CHANGE TO ZONING
CITY OF LA CROSSE

AMENDMENT OF ZONING DISTRICT BOUNDARIES

Petitioner (name and address):

JAY P. MOTTENRY - DIRECTOR OF FACILITIES
400 7TH ST. NORTH
LACROSSE, WI 54601

Owner of site (name and address):

WESTERN TECHNICAL COLLEGE
400 7TH ST. NORTH
LACROSSE, WI 54601

Address of subject premises:

#1- 712 LACROSSE ST, #2-320 8TH ST. N, #3- 314 8TH ST. N, #4- 310 8TH ST. N,
#5- 308 8TH ST. N, #6 624 VINE ST, #7 232 6TH ST. N,

Tax Parcel No.: #1-17-20144-80 #2 17-20171-50 #3 17-20171-60, #4 17-20171-70 #5 17-20171-90
#6 17-20169-10, #7 17-20168-100,

Legal Description:

SEE ATTACHED

Zoning District Classification: SEE ATTACHED

Proposed Zoning Classification: SEE ATTACHED

Is the property located in a floodway/floodplain zoning district? ___ Yes No

Is the property/structure listed on the local register of historic places? ___ Yes No

Is the Rezoning consistent with Future Land Use Map of the Comprehensive Plan? Yes ___ No

Is the Rezoning consistent with the policies of the Comprehensive Plan? Yes ___ No

Property is Presently Used For:

#1/#2/#3/#4/#5/#7, CAMPUS GREEN SPACE
#6 HORTICULTURE EDUCATION CENTER
#4 RENTAL PROPERTY

Property is Proposed to be Used For:

REMAINS THE SAME AS ABOVE

Proposed Rezoning is Necessary Because (Detailed Answer):

ALIGNS W ZONING FOR REST OF CAMPUS

Proposed Rezoning will not be Detrimental to the Neighborhood or Public Welfare Because (Detailed Answer):

USE DOES NOT CHANGE, NOR IN CONFLICT W/PILOT AGREEMENT

Proposed Rezoning will not be Detrimental to the City's Long Range Comprehensive Plan Goals, Objectives, Actions and Policies Because (Detailed Answer):

ALIGNED WITH CAMPUS LONG TERM PLAN AND WITHIN PILOT AGREEMENTS

The undersigned depose and state that I/we am/are the owner of the property involved in this petition and that said property was purchased by me/us on the _____ day of _____, _____.

I hereby certify that I am the owner or authorized agent of the owner (include affidavit signed by owner) and that I have read and understand the content of this petition and that the above statements and attachments submitted hereto are true and correct to the best of my knowledge and belief.

J. M. Cherry
(signature)
608-785-9120 2-4-22
(telephone) (date)
mcherryj@westerntc.edu
(email)

STATE OF WISCONSIN)
) ss.
COUNTY OF LA CROSSE)

Personally appeared before me this 4 day of Feb, 2022, the above named individual, to me known to be the person who executed the foregoing instrument and acknowledged the same.



Mary C. Peterson
Notary Public
My Commission Expires: 5/13/2022

PETITIONER SHALL, BEFORE FILING, HAVE PETITION REVIEWED AND INFORMATION VERIFIED BY THE DIRECTOR OF PLANNING & DEVELOPMENT.

Review was made on the _____ day of _____, 20__.

Signed: _____
Director of Planning & Development

No.	Address	Tax Parcel No.	Legal Description (hand copied from the COUNTY Landaccess.net web page)	Zoning Class	Proposed Zoning Class	Legal Description (copied from the County property information web page)	REF #
1	712 La Crosse Street	17-20144-80	<p>Lot 6, EXCEPT the West 80 feet thereof Block 10 of T. Burns, H.S. Durand, S.T. Smith and F.M. Rublee's addition to the city of La Crosse, La Crosse County, Wisconsin</p> <p>The North 17.21 feet, EXCEPT the West 80 feet thereof, of Lot 5, in Block 10 of T. Burns, H.S. Durand, S.T. Smith and F.M. Rublee's addition to the city of La Crosse, La Crosse County, Wisconsin</p> <p>Also, part of the NW ¼ of the SW ¼ of Section 32, Township 16 North, Range 7 West, City of La Crosse, La Crosse County Wisconsin, being the West 10 feet of vacated alley lying adjacent to the above described lands</p> <p>Together with and easement for ingress and egress over the East 10 feet of the West 90 feet of that part of Lot 5 in Block 10 in the city of La Crosse, La Crosse County, Wisconsin, lying Southerly of and adjacent to the North 17.21 feet of said Lot 5, as created in volume 1001 of records, page 165, as docum</p>	C1	PS	T BURNS HS DURAND ST SMITH & FM RUBLEES ADDITION LOTS 5 & 6 BLOCK 10 EX N 75 FT OF W 80FT & EX S 40.58FT & INCL W1/2 VAC ALLEY ADJ ON E T/W ESMT IN V1676 P730 LOT SZ: 75.75 +/- X 75	1716909 1708301
2	320 8 th Street North	17-20171-50	Lot 3 in Block 12 of T. Burns, G. Farnum and P. Burns addition to the city of La Crosse, La Crosse County, Wisconsin, and the Easterly 15 feet of vacated 8 th Street lying Westerly and adjacent thereto per, amended Resolution recorded on April 1, 2014 as document 1637426	R6	PS	T BURNS G FARNUM & P BURNS ADDITION LOT 3 BLOCK 12 & E 15FT VAC 8TH ST ADJ ON W PER RESL 1637426	1694687
3	314 8 th Street North	17-20171-60	Lot 4, EXCEPT the South 11 feet thereof, in Block 12 of T. Burns, G. Farnum and P. Burns addition to the city of La Crosse, La Crosse County, Wisconsin, and the Easterly 15 feet of vacated 8 th Street lying Westerly and adjacent thereto per, amended Resolution recorded on April 1, 2014 as document 1637426	R6	PS	T BURNS G FARNUM & P BURNS ADDITION LOT 4 EX S 11FT BLOCK 12 & E 15FT VAC 8TH ST ADJ ON W PER RESL 1637426	1694688
4	310 8 th Street North	17-20171-70	The South 11 feet of Lot 4 and the North ½ of Lot 5 in Block 12 of the T. Burns, G. Farnum and P. Burns addition to the city of La Crosse, La Crosse County, Wisconsin	R6	PS	T BURNS G FARNUM & P BURNS ADDITION S 11FT LOT 4 & N1/2 LOT 5 BLOCK 12 & E 15FT VAC 8TH ST ADJ ON W PER RESL 1637426	1788143
5	308 8 th Street North	17-20171-90	The West 72.95 feet of the South ½ of Lot 5 and the West 72.95 feet of Lot 6, all in the Block 12 of the T. Burns, G. Farnum and P. Burns addition to the city of La Crosse, La Crosse County, Wisconsin	R6	PS	T BURNS G FARNUM & P BURNS ADDITION W 72.95FT OF S1/2 LOT 5 & W 72.95FT LOT 6 BLOCK 12 & E 15FT VAC 8TH ST ADJ ON W PER RESL 1637426	1585800

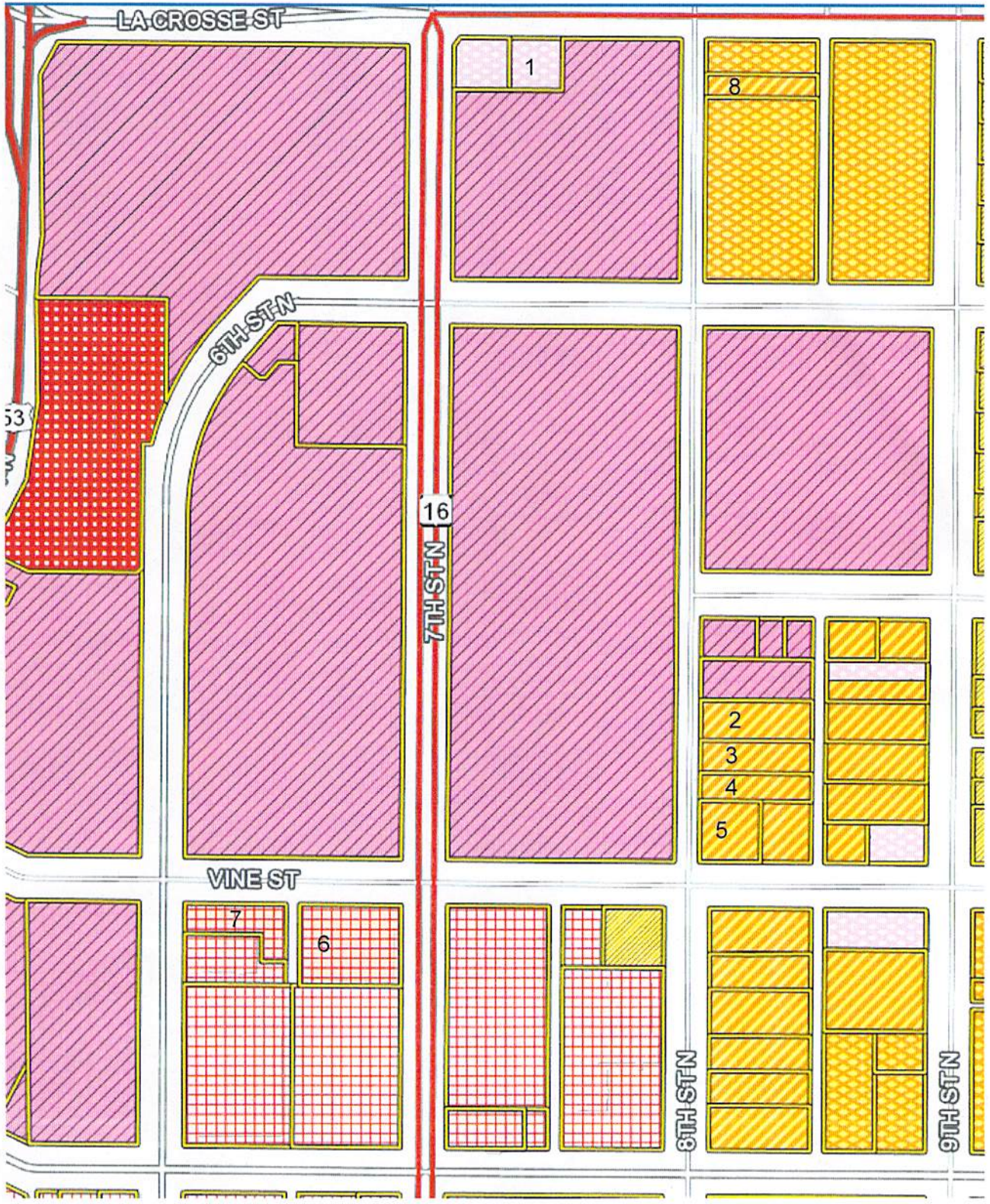
(OVER FOR)

6 = #7

#7

No.	Address	Tax Parcel No.	Legal Description (hand copied from the COUNTY Landaccess.net web page)	Zoning Class	Proposed Zoning Class	Legal Description (copied from the County property information web page)	REF #
6	624 Vine Street	17-20169-10	Parts of Lot 1 and 2 in Block 7 of T. Burns, G. Farnum and P. Burns addition in the city of La Crosse, La Crosse County, Wisconsin, described as follows: beginning at the Northwest corner of said Lot 1; thence South along the Westline thereof; 43.50 feet; thence North 89° 50' East, 110.45 feet; thence South 00° 14' East, 39.00 feet; thence North 89° 51' East to the Eastline of said Lot 2; thence North, along said Eastline of Said Lots 2 and 1; thence North 89° 55' West, along the Northline of said Lot 1, a distance of 145.75 feet to the point of beginning. Lots 11 and 12 in the Block 7 of T. Burns, G. Farnum and P. Burns addition to the City of La Crosse, La Crosse County, Wisconsin	C2	PS	T BURNS G FARNUM & P BURNS ADDITION LOTS 11 & 12 BLOCK 7 SUBJ TO ESMT IN V883 P41 LOT SZ: 115.7X145.9	1597905
7	232 6 th Street North	17-20168-100	Parts of Lot 1 and 2, in Block 7 of the T. Burns, G. Farnum and P. Burns addition to the city of La Crosse, La Crosse County, Wisconsin, described as follows; beginning at the Northwest corner of said Lot 1; thence South along the Westline thereof 43.50 feet; thence North 89° 50' East, 110.45 feet; thence South 00° 14' East, 39.00 feet; thence North 89° 51' East to the East line of said Lot 2; thence North, along said East line of said Lot 2 and 1, a distance of 81.90 feet to the Northeast corner of said Lot 1; thence North 89° 55' West, along the Northline of said Lot 1, a distance of 145.75 feet to the point of beginning. Lots 11 and 12 in the Block 7 of the T. Burns, G. Farnum and P. Burns addition to the city of La Crosse, La Crosse County, Wisconsin	C2	PS	T BURNS G FARNUM & P BURNS ADDITION PRT LOTS 1 & 2 BLOCK 7 BEG NW COR LOT 1 S ALG W LN 43.5 FT N89D50ME 110.45FT S0D14ME 39FT N89D51ME TO E LN LOT 2 N ALG E LN LOTS 2 & 1 81.9FT TO NE COR LOT 1 N89D55MW ALG N LN LOT 1 145.75FT TO POB LOT SZ: IRR	1151590

Western Technical College 2022 Rezoning Application - 8 parcels



**AGREEMENT CONCERNING PAYMENT
FOR MUNICIPAL SERVICES, PAYMENT IN LIEU
OF TAXES, AND CONDITIONAL USE PERMITS**

Name and Return Address

Brandon J. Prinsen
Johns, Flaherty & Collins, S.C.
205 5th Avenue South, Suite 600
La Crosse, WI 54601

See Attached Exhibit A and C
Parcel Number

This Agreement is entered into as of the 10th day of May, 2019 ("Agreement"), by and between the City of La Crosse, a Wisconsin municipal corporation (the "City"), and Western Technical College ("Western").

RECITALS

A. Western currently owns the real estate and improvements located in the City of La Crosse and identified in Exhibit A attached hereto ("Western Downtown Campus Properties");

B. Western also owns real estate and improvements at 751 24th Street North (Parcel #17-20041-71) (the "Passive Solar House"), 2860 21st Place South (Parcel #: 17-50323-156) (the "Weaver Building"), and 2719 Larson Street (Parcel #17-10306-111) (the "Automotive Center"), in the City of La Crosse, Wisconsin (collectively the "Western Extended Campus Properties");

C. In this Agreement, the Western Downtown Campus Properties and the Western Extended Campus Properties are collectively referred to as the "Western Campus Properties";

D. Western intends to demolish certain structures and improvements located at 528 8th Street North, 314 8th Street North, 320-322 8th Street North, and 712-714 La Crosse Street, all in the City of La Crosse, Wisconsin ("Condition Use Properties");

E. Western is seeking Conditional Use Permits in order to facilitate the Conditional Use Properties new use for greenspace and/or parking:

F. Western and the City enter into this Agreement to clarify some of the terms and conditions for the issuing of the Conditional Use Permits and to resolve outstanding issues regarding the following, without limitation: (i) Payments In Lieu of Taxes; (ii) Municipal Service Agreements; (iii) Western's campus boundaries; (iv) future acquisition of real estate by Western's campus; and (vi) neighborhood improvement collaborative.

NOW THEREFORE, in consideration of the recitals and the mutual promises, obligations and benefits provided under this Agreement, the receipt and adequacy of which are hereby acknowledged, Western and the City agree as follows:

1. Western Campus Boundaries. Western and the City hereby agree that the boundaries for Western's campus in La Crosse, Wisconsin is outlined in Exhibit B and incorporates the Western Campus Properties and other real estate Exhibit C attached hereto ("Campus Boundary").

2. Municipal Services Agreement ("MSA"). Except for Western's residence hall located at 820 La Crosse Street, La Crosse, Wisconsin ("Residence Hall") which is subject to an MSA dated June 12th, 2014 and recorded at the Register of Deeds Office as Document No. 1643701 on August 12, 2014 a copy of which is attached hereto as Exhibit D ("Residence Hall MSA") and as otherwise set forth in this Section 2, all of the Western Campus Properties and any other real estate that Western acquires in the future within the Campus Boundary will not be subject to an MSA from the City. Except for the Residence Hall and as otherwise set forth in this Section 2, the City will not require Western to enter into an MSA in order to obtain a conditional use permit for the demolishing or removal of any buildings located within the Campus Boundary. If Western intends to demolish any of the Western Extended Campus Properties, then Western will be required to enter into a MSA (for the specific property which is part Western Extended Campus Properties) with the City in order to obtain a conditional use permit from the City to demolish any of the Western Extended Campus Properties.

3. Payment In Lieu of Taxes ("PILOT"). Except for the MSA for the Residence Hall, all of the Western Campus Properties and any real estate that Western acquires in the future within the Campus Boundary will not be subject to a PILOT from the City, nor will the City assess or require a PILOT for Western in order to obtain a conditional use permit for the demolishing or removal of any buildings located within the Campus Boundary. All PILOT's currently assessed to Western from the City for any of the Western Campus Properties, except for the MSA for the Residence Hall, shall terminate effective immediately. No further PILOT payments shall be due or made by Western to the City for any of the Western Campus Properties, except for the payments under the MSA for the Residence Hall and set forth below. If any of the Western Campus Properties have not obtained tax exempt status, then Western may apply for tax exempt status pursuant to applicable law. In no event shall Western owe, be assessed or pay any real estate taxes to the City for the Western Campus Properties or any real estate and

improvements acquired by Western within the Campus Boundary, provided that Western has applied for and obtained tax exempt status pursuant to applicable law.

4. Conditional Use Permits. The City agrees to issue conditional use permits to Western for the demolition of the buildings and structures located on the Conditional Use Properties, provided Western has submitted the proper applications, complied with all applicable federal, state and local laws and paid the necessary fees for the conditional use permits to the City.

5. Neighborhood Improvement Collaborative. Western and the City agree to establish a plan to improve the neighborhood surrounding Western and City Hall ("Collaborative"). The plan will address a wide variety of issues affecting the City and Western, including, but not limited to, safety, rental housing, future zoning, need for conditional use permits, and housing rehabilitation. Western agrees to make a one-time contribution to the City in the amount of \$30,000.00 for the Collaborative upon execution of this Agreement. As part of the Collaborative, Western and the City shall utilize their available resources to rehab and improve deteriorated housing in the area surrounding Western and City Hall. The area of the Collaborative is defined as Sixth Street to West Avenue and Main Street to the marsh and is further illustrated on the attached Exhibit E.

6. Municipal Services Payment.

(i) Pursuant to the terms of the Residence Hall MSA, Western shall continue to pay the City the amount due as a payment for municipal services provided by the City with respect to the Residence Hall calculated according to the terms set forth in Section 4 of the Residence Hall MSA ("Residence Hall MSA Payment"). The annual Residence Hall MSA Payment shall be paid by Western in accordance with the terms in Section 5 of the Residence Hall MSA.

(ii) During the term of this Agreement, if the annual Residence Hall MSA Payment is less than \$74,801.47, then Western agrees to pay the City the difference between \$74,801.47 and the Residence Hall MSA Payment so that the total annual payment to the City for Municipal Services is \$74,801.47, less any credits referenced in Section 4(h) of the Residence Hall MSA ("Deficiency Payment"). The Deficiency Payment shall be paid annually at the same time the Residence Hall MSA Payment is made to the City. The Residence Hall MSA Payment and Deficiency Payment shall collectively be referred to herein as "Total MSA Payment".

(iii) Western shall continue to receive a one-time aggregate credit to offset the Total MSA payment as set forth in Section 4(h) of the Residence Hall MSA. For each Valuation Year, the Total MSA Payment due to the City shall be reduced by the credit set forth in Section 4(h) of the Residence Hall MSA until the credit has been fully exhausted.

(iv) If any provisions in Section 6 of this Agreement conflict with the provisions in the Residence Hall MSA, then the provisions in this Section 6 shall control. Except as modified by Section 6 in this Agreement, the terms in the Residence Hall MSA shall remain in full force and effect and shall survive the termination or expiration of this Agreement.

(v) After 2019, the Total MSA Payment shall increase each calendar year by two percent (2%) of the Total MSA Payment paid in the previous calendar year.

(vi) In the event the La Crosse Medical Health Science Consortium, Inc ("HSC") provides confirmation to the City that it is assuming the PILOT payments made by Western for the real estate and improvements at 1305 Pine Street, La Crosse, Wisconsin ("HSC Building"), then the portion of the Total MSA payment that is allocated to HSC Building shall be reduced from the Total MSA payment that is paid by Western.

7. Successors and Assigns. This Agreement is binding on the parties hereto, their successors and assigns.

8. Notices. Any notice required to be given under this Agreement shall be deemed given when deposited in the United States mail, postage prepaid, to the party at the address stated below or when actually received by the party, whichever is first. The addresses are:

To City: City Clerk
City of La Crosse
400 La Crosse Street La Crosse, WI 54601

With a copy to: City Planner
City of La Crosse
400 La Crosse Street La Crosse, WI 54601

To Western: Western Technical College
400 7th Street North
La Crosse WI 54601

With a copy to: Attorney Brandon J. Prinsen
205 Fifth Ave S, Suite 600
La Crosse, WI 54601

Either party may change its address for notices by giving a notice as provided in this section.

9. Entire Agreement; Amendments. This Agreement constitutes the entire agreement of the parties. Any amendment to this Agreement shall be made in writing, signed by both parties. If Western desires to acquire property outside the Campus Boundary in the future, then Western shall be required to comply with all City of La Crosse zoning, use, and other ordinances that are applicable to the acquired property and Western's use of the property. Additionally, Western shall enter into a new MSA with the City for the acquired property outside the Campus Boundary, provided that, this provision shall not apply to Property outside the Campus Boundary that is gifted to Western in the future or property that Western acquires as part of a collaborative with another non-profit or tax exempt organization in the future.

10. Severability. If any part of this Agreement is determined to be invalid or

unenforceable, the remainder of the Agreement shall remain in effect.

11. **Waiver.** No waiver of any breach of this Agreement shall be deemed a continuing waiver of that breach or a waiver of any other breach of this Agreement.

12. **Governing Law.** This Agreement shall be governed, interpreted, and enforced in accordance with the laws of the State of Wisconsin.

13. **Interpretation of Agreement.** If any dispute arises concerning the interpretation of this Agreement, neither party shall be deemed the drafter of this Agreement for purposes of its interpretation. Venue for any action arising out of or in any way related to this Agreement shall be exclusively in the Circuit Court for La Crosse County, Wisconsin. Each party waives its right to challenge venue in La Crosse County.

14. **Dispute Resolution.** If there is any dispute between the parties arising out of, related to, or connected with this Agreement:

- a. The parties shall attempt in good faith to resolve the dispute.
- b. If the parties cannot resolve the dispute after reasonable efforts, the dispute shall be submitted to mediation, at the request of either party. The mediator shall be agreed on by the parties or, if they are unable to agree, selected by the Circuit Court of La Crosse County, on application of either party. The mediator shall be an attorney in La Crosse County, Wisconsin with at least ten (10) years' experience.
- c. If the parties cannot resolve the dispute by mediation, after reasonable efforts, either party may demand arbitration conducted in accordance with chapter 788, Wisconsin Statutes, or any successor statute, by a single arbitrator, chosen by mutual agreement of the parties or, if they do not agree, by the Circuit Court for La Crosse County, on application of either party. The party demanding arbitration shall bear all the costs of arbitration. The arbitrator shall be an attorney in La Crosse County, Wisconsin with at least ten (10) years' experience. Chapter 788, Wisconsin Statutes, or any successor statute, shall govern the arbitration proceeding, except that Western and the City each waive any right to trial by jury if a dispute concerning the arbitration proceeding is resolved by a court. Each party is hereby authorized to file a copy of this section in any proceeding as conclusive evidence of this waiver of jury trial by the other party.

15. **Representations.** Each party acknowledges and agrees that no representation or promise not expressly contained in this Agreement has been made by the other party or any of its employees, attorneys, agents, or representatives. Each party acknowledges that it is not entering into this Agreement on the basis of any such representation or promise, express or implied.

16. **Authorization.** Each person signing this Agreement on behalf of any Party represents and warrants that the person holds the position indicated beneath the person's signature and that the person has the requisite corporate or other authority to sign this Agreement on behalf of the Party. Each Party represents that entry into this Agreement is not in

contravention of any agreement or undertaking to which the Party is bound.

17. **Recording.** The City may record this Agreement with the Register of Deeds for La Crosse County and may record this document again, from time to time, in the City's sole discretion.

18. **Term.** This Agreement shall terminate April 17, 2029 ("Term"). Western or the City shall each have the option to extend the Term of this Agreement for one (1) additional period of five (5) years commencing at midnight on the date on which the Term expires, upon the same terms and conditions as contained in this Agreement. The extension option provided for herein shall be exercised by written notice not less than ninety (90) days prior to the expiration of the Term.

19. **City's PILOT Program disbursements.** The City maintains a PILOT program to assist taxing jurisdictions from losing tax base and tax revenue within the corporate limits of the City for various reasons, including, without limitation, the demolition and removal of existing buildings and improvements. Throughout the years of this program, the City has established, administered and enforced the program at its sole cost and expense as well as shared the PILOT payments received with the other taxing jurisdictions within the corporate limits of the City. Western agrees that the City shall retain Western's share of such payments and disbursements under this PILOT program until the earlier occurrence of: (i) the sixth (6th) anniversary date of this Agreement or (ii) the total of Western's share of the PILOT programs payments retained by the City reaches the sum of \$28,923.79. Upon the earlier occurrence of the above referenced events, then the City shall resume the disbursement to Western and Western shall receive, Western's share of the PILOT program's payments.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized representatives as of the date first set forth above.

[Handwritten Signature]

Western Technical College ("Western")

By: Roger Stanford

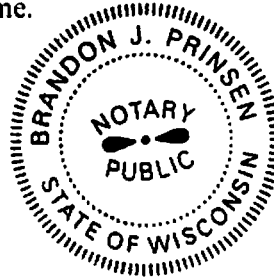
Title: President

State of Wisconsin)
)ss
County of La Crosse)

SUBSCRIBED and SWORN to before me this 10th day of May, 2019, Roger Stanford and _____, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

[Handwritten Signature]

By: Brandon Prinsen
Notary Public, State of Wisconsin
My commission: permanent



[Handwritten Signature]

Timothy Kabat, Mayor

[Handwritten Signature]

Teri Lehrke, City Clerk

State of Wisconsin)
)ss
County of La Crosse)

SUBSCRIBED and SWORN to before me this 10th day of May, 2019, Timothy Kabat and Teri Lehrke, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

[Handwritten Signature]

By: Brenda Buddenhagen
Notary Public, State of Wisconsin
My commission: 11-2-22

Exhibit A

Western Downtown Campus Properties

	111 7th St N	17-20165-50
#7	232 6th St N	17-20168-100
#6	624 Vine St	17-20169-10
	725 Badger St	17-20145-21
#8	528 8th St N	17-20148-30
#2	322 8th St N	17-20171-50
#3	314 8th St N	17-20171-60
#5	306 8th St N	17-20171-90
	312 7th St N	17-20143-81
	401 7th St N	17-20173-20
	419 9th St N	17-20148-120
	505 9th St N	17-20148-60
	532 8th St N	17-20148-50
	512 8th St N	17-20147-90
#1	712-714 La Crosse Street	17-20144-80
	812 Pine Street	17-20171-20
	814 Pine Street	17-20171-30

Exhibit B-2

Automotive Center
2719 Larson Street (Parcel #17-10306-111)



310 155 0 310 Feet

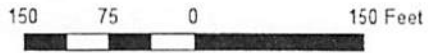
Author: Jack Zabrowski

Source: City of La Crosse GIS

Date: 3/29/2019

Exhibit B-3

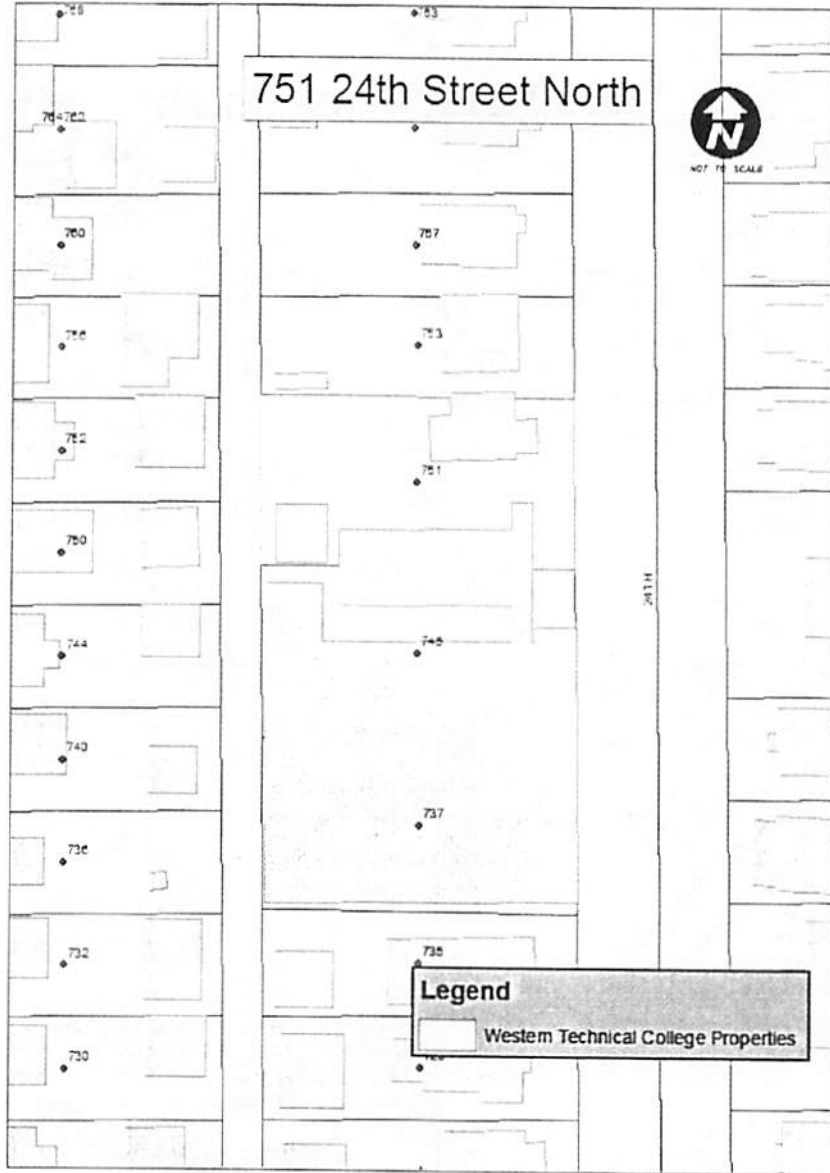
Weaver Building
2860 21st Place South (Parcel #: 17-50323-156)



Author: Jack Zabrowski Source: City of La Crosse GIS
Date: 3/29/2019

Exhibit B-4

Passive Solar House
751 24th Street North (Parcel #17-20041-71)



60 30 0 60 Feet

Author: Jack Zabrowski Source: City of La Crosse GIS
Date: 3/29/2019

Exhibit C

Real Estate Within Campus Boundary Not Owned by Western

818-824 Pine Street	17-20172-30
333 9th Street N	17-20172-20
327 9th Street N	17-20172-10
317-323 9th Street N	17-20171-140
315 9th Street N	17-20171-130
309 9th Street N	17-20171-120
303 9th Street N	17-20171-100
817 Vine Street	17-20171-110
813 Vine Street	17-20171-80
HA 310 8th Street N	17-20171-70
224 6th Street N	17-20168-110
704 La Crosse Street	17-20144-90

03.28.14

**AGREEMENT CONCERNING PAYMENT
FOR MUNICIPAL SERVICES**
(820 La Crosse Street)

This Agreement is entered into as of the 19th day of June 2014 (the "Agreement"), by and between the City of La Crosse (the "City") and Western Technical College (the "Owner").

RECITALS

A. Whereas Owner has entered into an agreement to purchase real property and operate a residence hall at 820 La Crosse Street, La Crosse, Wisconsin 54601 within the City of La Crosse (the "Property"), more particularly described as:

See attached Exhibit 2

B. Whereas Owner intends to continue its use and operation of the Property exclusively for a residence hall.

C. Whereas Owner is willing to make a payment for municipal services with respect to the Property.

NOW, THEREFORE, in consideration of the recitals and the mutual promises, obligations and benefits provided under this Agreement, the receipt and adequacy of which are hereby acknowledged, Owner and the City agree as follows:

1. **Representations and Warranties of Owner.** The recitals stated above are incorporated in this Agreement by reference as representations and warranties of Owner to the City. In addition, Owner represents and warrants to the City that Owner consists of Western Technical College, which: (1) is Wisconsin technical college organized and existing under Chapter 38, Wis. Stat.; (2) is in good standing; (3) has taken all action necessary to enter into this Agreement; and (4) has duly authorized the individual signers of this Agreement to do so

2. **Municipal Services.** If Owner uses the Property as provided in this Agreement, the City shall provide public health, safety, fire and police protection, streets and street maintenance, snow removal, and other governmental services ("Municipal Services") with respect to the Property that are funded by property taxes.

3. **Tax Status of Property.** Except as provided by law or as provided in section 4 of the Agreement, the Property shall be subject to property taxation and shall not be exempt from property



1643701
LACROSSE COUNTY
REGISTER OF DEEDS
CHERYL A. HCBRIDE

RECORDED ON
08/12/2014 01:29PM
REC FEE: 30.00
EXEMPT 0:
PAGES: 14

THIS SPACE RESERVED FOR RECORDING DATA

RETURN TO: #112
Stephen F. Matty
City Attorney, City of La Crosse
400 La Crosse St.
La Crosse, WI 54601

PLN
17-20148-060

taxation, in full or in part. In the event the City's assessor and Common Council determine the Property to be taxable, in full or in part, and the Owner disagrees with such determination, Owner may challenge such determination of non-exempt status by any procedure provided under Wisconsin law. Owner shall timely provide, at no cost to the City, all information and access to books, records, documents, and other evidence reasonably requested by the City's assessor to determine whether the Property is exempt from property taxes and shall permit the City's assessor to have reasonable access to the Property for that purpose.

4. Payment for Municipal Services If Property Becomes Tax Exempt. If the Property is determined by the City's assessor, the City's Common Council, or otherwise to be exempt from real property taxes, in full or in part, for any year (the "Valuation Year"), the City shall send Owner, by United States mail, postage prepaid, an invoice for the amount due as a payment for Municipal Services provided by the City with respect to the Property ("Payment for Municipal Services"), calculated according to this section of the Agreement. The amount due shall be calculated by the City for each Valuation Year by the following method.

- a. The City shall calculate the Total Budgeted City Costs, based on the budget as approved by the City's Common Council at the time the calculation is made. The City shall not be required to consider any change in the City's budget approved by the Common Council after the calculation is made and shall not consider any such change made after the City sends Owner an invoice for Payment for Municipal Services.
- b. The City shall calculate the Cost of Municipal Services to Be Defrayed, consisting of the sum of the total budgeted costs for the City's Fire Department, Police Department, Highway Department and other related highway expenses.
- c. The City shall calculate the Percent of Costs of Municipal Services to Be Defrayed costs by dividing the Cost of Municipal Services to Be Defrayed by the Total Budgeted City Costs.
- d. The City, through its assessor or, in the City's sole discretion, by an appraiser selected by the City, shall calculate the fair market value of the Property (the "Fair Market Value"), including land and improvements, as of January 1 of the year, in the same manner that would be used if the Property were assessed for property tax purposes.
- e. The City shall determine the Total City Mill Rate.
- f. The City shall calculate the Mill Rate to Apply to Value by multiplying the Total City Mill Rate by the Percent of Costs of Municipal Services to Be Defrayed.

- g. The City shall calculate the Payment for Municipal Services due to the City by multiplying the Mill Rate to Apply to Value by the Fair Market Value.
- h. The Owner shall receive a one-time aggregate credit to offset the Payment for Municipal Services due to the City. The aggregate credit shall be four hundred fifty-seven thousand fifteen dollars and ninety-five cents (\$457,015.95) calculated as the aggregate taxes paid to the local municipality for tax years 2010 through 2013 as documented in the real estate property tax bills attached as Exhibit 3 to this Agreement. For each Valuation Year, the Payment for Municipal Services due to the City shall be reduced by the credit until the credit has been fully exhausted. It is anticipated that the credit shall be completely exhausted on or about Valuation Year 9.

Attached to this Agreement as Exhibit 1 is an illustrative calculation by the method provided in this Agreement, using values of land and improvements provided by Owner and other figures provided by the City. These values and figures are used solely for illustrating the method of calculation provided in this section and are not intended to indicate in any way what the actual calculation for any Valuation Year shall be. The amount of the Payment for Municipal Services for any Valuation Year, calculated as provided in this section, shall be binding on the parties.

5. Terms of Payment. The City shall send Owner an invoice for the Payment for Municipal Services due for each Valuation Year by the end of the preceding year or as soon thereafter as practical. The full amount of the Payment for Municipal Services shall be due on January 31 of the year after the Valuation Year. Each payment shall be deemed made when actually received by the City. Any payment made by check shall not be deemed made until the check has cleared all banks. Any amount due that is not paid on time shall bear interest in the same manner and at the same rate as provided by law for unpaid property taxes. The Payment for Municipal Services shall constitute payment for all Municipal Services provided with respect to the Property during the Valuation Year, except Municipal Services requested by Owner that would not ordinarily be provided by the City. The City and Owner acknowledge and agree that the Payment for Municipal Services under this Agreement would constitute a reasonable and appropriate means of carrying out the intent of the parties and would fairly and reasonably compensate the City for the Municipal Services provided during the Valuation Year, except Municipal Services requested by Owner that would not ordinarily be provided by the City.

6. Special Assessments and/or Special Charges. Any Payment for Municipal Services that is not made when due shall entitle the City to levy a special assessment and/or special charge against the Property for the amount due, plus interest. Owner hereby consents to the levy of any such special assessment and/or special charge, and, pursuant to Wis. Stat. § 66.0703(7)(b) and/or Wis. Stat. § 66.0627, waives any right to notice of or any hearing on any such special assessment and/or special charge.

7. **Insurance.** Owner shall maintain insurance coverage on the Property, including all improvements, insuring against loss or damage in amounts sufficient to rebuild or replace the improvements constructed on the Property. Owner shall provide the City with a certificate of such insurance within five business days after requested by the City. Owner hereby grants the City a lien on each payment under such insurance sufficient to pay any amount due to the City under this Agreement at the time Owner receives the payment and shall hold the payment or such a sufficient part of the payment in trust for the City until paid to the City.

8. **Indemnification.** Owner shall indemnify the City for all amounts of attorneys' fees and expenses and expert fees and expenses incurred in enforcing this Agreement.

9. **Remedies.** The City shall have all remedies provided by this Agreement, and provided at law or in equity, necessary to cure any default or remedy any damages under this Agreement. Remedies shall include, but are not limited to, special assessments under section 6 of this Agreement, enforcement of a lien or trust under section 7 of this Agreement, indemnification under section 8 of this Agreement, and all remedies available at law or in equity.

10. **Successors and Assigns.** This Agreement is binding on the successors and assigns of the parties, including, but not limited to, any subsequent owner of the Property, any part of the Property, or any real property interest in the Property or any part of the Property. Owner shall provide not less than forty-five (45) days advance written notice of any intended transfer of ownership, assignment, lease, or sublease. If at any time the Property has more than one owner, the owners shall be jointly and severally liable for any Payment for Municipal Services due under this Agreement for any Valuation Year. For purposes of invoicing only, the City may, in its sole discretion, allocate the amount of the Payment for Municipal Services due among the owners in proportion to the Fair Market Value of their respective property interests as of January 1 of the Valuation Year, as determined by the City's assessor using the method of calculation described in section 5 of this Agreement. If the City makes such an allocation for purposes of invoicing only, then if any part of the Payment for Municipal Services is not timely paid, the City may, in its sole discretion, at any time or from time to time, send additional invoices to all the owners for all or part of the amount due until the amount due is fully paid.

11. **Notices.** Any notice required to be given under this Agreement shall be deemed given when deposited in the United States mail, postage prepaid, to the party at the address stated below or when actually received by the party, whichever is first. The addresses are:

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

With a copy to: Attn: City Attorney
City of La Crosse
400 La Crosse Street
La Crosse, WI 54601

To Owner: Western Technical College
Attn: Mike Pieper
400 South Seventh St.
La Crosse, WI 54601

Either party may change its address for notices by giving a notice as provided in this section.

12. **Term of Agreement.** The term of this Agreement shall begin on the date the Agreement is signed by both parties and shall continue unless terminated by mutual written agreement.

13. **Entire Agreement; Amendments.** This Agreement encompasses the entire agreement of the parties. Any amendment to this Agreement shall be made in writing, signed by both parties.

14. **Severability.** If any part of this Agreement is determined to be invalid or unenforceable, the rest of the Agreement shall remain in effect.

15. **Waiver.** No waiver of any breach of this Agreement shall be deemed a continuing waiver of that breach or a waiver of any other breach of this Agreement.

16. **Governing Law.** This Agreement has been negotiated and signed in the State of Wisconsin and shall be governed, interpreted, and enforced in accordance with the laws of the United States and the State of Wisconsin.

17. **Interpretation of Agreement.** The parties acknowledge that this Agreement is the product of joint negotiations. If any dispute arises concerning the interpretation of this Agreement, neither party shall be deemed the drafter of this Agreement for purposes of its interpretation. Venue for any action arising out of or in any way related to this Agreement shall be exclusively in the Circuit Court for La Crosse County, Wisconsin. Each party waives its right to challenge venue in La Crosse County.

18. Dispute Resolution. If there is any dispute between the parties arising out of, related to, or connected with this Agreement:

- a. The parties shall attempt in good faith to resolve the dispute.
- b. If the parties cannot resolve the dispute after reasonable efforts, the dispute shall be submitted to mediation, at the request of either party. The mediator shall be agreed on by the parties or, if they are unable to agree, selected by the Circuit Court of La Crosse County, on application of either party. If the dispute, in whole or part, concerns the Fair Market Value of the Property or the amount due of any payment for Municipal Services, the mediator shall be an assessor or appraiser licensed by the State of Wisconsin with at least ten years experience in the valuation of commercial property, unless the parties agree otherwise in writing. If the dispute is wholly on some other issue or issues, the mediator shall be an attorney in La Crosse County, Wisconsin with at least ten years experience.
- c. If the parties cannot resolve the dispute by mediation, after reasonable efforts, either party may demand arbitration conducted in accordance with chapter 788, Wisconsin Statutes, or any successor statute, by a single arbitrator, chosen by mutual agreement of the parties or, if they do not agree, by the Circuit Court for La Crosse County, on application of either party. The party demanding arbitration shall bear all the costs of arbitration. If the dispute, in whole or part, concerns the Fair Market Value of the Property or the amount of any payment for Municipal Services due under this Agreement, the arbitrator shall be an assessor or appraiser licensed by the State of Wisconsin with at least ten years experience in the valuation of commercial property, unless the parties agree otherwise in writing, and any demand for arbitration shall be made within sixty days after an invoice for payment for Municipal Services for the Valuation Year in dispute is sent by the City to Owner. If a demand for arbitration is not made within that time, the parties shall be deemed to have waived arbitration with respect to the Fair Market Value of the Property and the amount of any payment for Municipal Services due under this Agreement. If the dispute is wholly on some other issue or issues, the arbitrator shall be an attorney in La Crosse County, Wisconsin with at least ten years experience. Chapter 788, Wisconsin Statutes, or any successor statute, shall govern the arbitration proceeding, except that Owner and the City each waive any right to trial by jury if a dispute concerning the arbitration proceeding is resolved by a court. Each party is hereby authorized to file a copy of this section in any proceeding as conclusive evidence of this waiver of jury trial by the other party.

19. Representations. Each party acknowledges and agrees that no representation or promise not expressly contained in this Agreement has been made by the other party or any of its

employees, attorneys, agents, or representatives. Each party acknowledges that it is not entering into this Agreement on the basis of any such representation or promise, express or implied.

20. **Reading of Agreement.** Each person signing this Agreement on behalf of any Party acknowledges that the person has read this Agreement, that the person understands the terms and conditions of the agreement, that the person (if other than an attorney for the party) has been advised by legal counsel concerning this Agreement, and that the person freely and voluntarily signs this Agreement.

21. **Authorization to Sign Agreement.** Each person signing this Agreement on behalf of any Party represents and warrants that the person holds the position indicated beneath the person's signature and that the person has the requisite corporate or other authority to sign this Agreement on behalf of the Party. Each Party represents that entry into this Agreement is not in contravention of any agreement or undertaking to which the Party is bound.

22. **Recording.** The City may record this Agreement with the Register of Deeds for La Crosse County and may record this document again, from time to time, in the City's sole discretion.

23. **Execution of Agreement.** Owner shall sign, execute and deliver this Agreement to the City. After Owner has signed, executed and delivered the Agreement, the City shall sign and execute the Agreement as approved by the City's Common Council.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized representatives as of the date first set forth above.

Timothy Kabat
Nikki Eisen +
LCC Rasch

Subscribed and sworn to
before me on the 6th day
of August, 2014

Brenda Buddenhagen
Notary Public State of WI
My Commission expires 11-2-14

Approved as to form:


Stephen F. Matty
City Attorney

CITY OF LA CROSSE

BY: 
Timothy Kabat, Mayor

BY: 
Teri Lehrke, City Clerk

deputy

WESTERN TECHNICAL COLLEGE

By: 
Lee Rasch, President

Exhibit 1 attached: Illustrative Calculation

Exhibit 2 attached: Legal Description

Exhibit 3 attached: Real Estate Property Tax Bills for 2010 through 2013

**This instrument drafted by:
Stephen F. Matty, City Attorney
City of La Crosse
400 La Crosse Street
La Crosse, WI 54601**