

## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor  
Matthew J. Frank, Secretary

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Madison, Wisconsin 53707-7921  
Telephone 608-266-2621  
FAX 608-267-3579  
TTY Access via relay - 711

December 15, 2008

Andrew Schiesl  
Quad/Graphics, Inc.  
N63 W23075 State Hwy 74  
Sussex, WI 53089-2827

Subject: Lease Liability Clarification Letter as to Environmental Liability for Quad/Graphics, Inc. when leasing property from First Industrial Investment, Inc.

Dear Mr. Schiesl:

The purpose of this letter is to provide Quad/Graphics, Inc. ("Quad/Graphics") with clarifications as to the environmental liabilities associated with leasing property from First Industrial Investment, Inc. ("First Industrial"). The Wisconsin Department of Natural Resources ("Department") has completed its review of the request for a lease liability clarification letter submitted by Sigma Environmental Services, Inc. ("Sigma"), on behalf of Quad/Graphics. The property to be leased is located at W156 N5834 Pilgrim Road, Menomonee Falls, WI, known as the former Druml Property, and is referred to hereafter as "the Property." A description of the Property is contained in Certified Survey Map ("CSM") No. 10627, which is attached to this letter (in draft form) as "Exhibit A." Sigma has notified the Department that CSM No. 10627 was recorded in Waukesha County on December 11, 2008, as Document No. 3614329, in Volume 102, Pages 129-132, in the same form as the draft document provided to the Department. The Property is an approximately 21.98 acre parcel, located in part of the Northeast ¼ and Northwest ¼ of the Southwest ¼ of Section 26, Township 8 North, Range 20 East, in the Village of Menomonee Falls, Waukesha County, WI. The determinations made in this letter assume that the Property has the legal description included on Exhibit A. Quad/Graphics will lease approximately 388,800 square feet in improvements on the Property, to be used for a commercial warehouse, office and distribution center.

You have requested that the Department determine whether Quad/Graphics would be held responsible under the Hazardous Substance Spills Law, s. 292.11, Wis. Stats., for a hazardous substance that was discharged on the Property prior to Quad/Graphics' lease agreement with First Industrial. The Department has reviewed the "Standard Form Industrial Building Lease" between First Industrial (Landlord) and Quad/Graphics (Tenant), with an effective date of February 20, 2008, for purposes of making this determination.

### Determination

As you are aware, s. 292.55(1)(d)1., Wis. Stats., authorizes the Department to issue a letter to a person seeking assistance concerning the liability of a person owning or leasing a property for environmental pollution of the property. The Department has reviewed the following documents in order to make this determination:

1. Lease letter request application—dated August 27, 2008, and submitted to me in October 2008.
2. Standard Form Industrial Building Lease (Build-to-Suite/Triple Net), submitted with application for lease letter, with attached Exhibits.
3. Site Map, submitted with application for lease letter.

4. Site environmental reports, submitted on a CD with application for lease letter. Information and reports regarding the environmental conditions at the Property are also contained in Department files, and have been reviewed by Mark Drews, Southeast Region project manager.
5. Certified Survey Map No. 10627 (draft).

The Standard Form Industrial Building Lease (Lease) between First Industrial (Landlord) and Quad/Graphics (Tenant) sets out the responsibilities of First Industrial and Quad/Graphics for environmental issues at the Property. Section 9.4 generally provides that Landlord (First Industrial) indemnifies Tenant from claims regarding the existence of hazardous materials at the Property as of the effective date of the lease except to the extent contributed to or exacerbated by Tenant. Section 9.2 provides that Tenant is responsible for the investigation and remediation of hazardous materials caused by Tenant.

While the Lease will bind the parties to these agreements, please be advised that it does not limit the Department's ability to pursue either the Landlord or Tenant as a party responsible to clean up contamination at the Property. Under s. 292.11(3), the Department can require a person who possesses or controls a hazardous substance discharge or a person who causes a hazardous substance discharge to restore the environment to the extent practicable and minimize the harmful effects from the discharge. Under certain circumstances, either the Landlord or Tenant, or both, could be interpreted to be "in possession or control" of a hazardous substance discharge at the Property. The terms of the Lease are generally consistent with the Department's enforcement policy. This policy is to first pursue the party who caused the discharge. If that person is unable or unwilling to conduct the cleanup, the Department would reserve its ability to pursue other responsible parties, such as those in possession or control of the hazardous substance discharge. Of course, that party could then bring a lawsuit against the other party to enforce the indemnification language in the Lease.

Based on its review and subject to the preceding statements, the Department determines that Quad/Graphics as a Tenant under the Lease, does not "possess or control," as those terms are used in s. 292.11(3), Wis. Stats., any hazardous substance discharges that were present on the Property prior to the lease agreement, conditioned on compliance with the following standards of performance:

- Quad/Graphics agrees to provide any responsible party, their consultants and Department personnel with reasonable access to the Property for the purposes of conducting any necessary environmental assessment or remediation activities.
- Quad/Graphics agrees to comply with all applicable state and federal laws that apply to the excavation and disposal of contaminated soils or other materials.
- Quad/Graphics agrees to minimize, as applicable and to the extent practicable, the placement of any structures in areas of the property impacted by environmental contamination or construct buildings or structures in such a manner as to allow remedial work to be conducted.
- Quad/Graphics agrees to comply with the requirements of s. 292.11, Wis. Stats., and the NR 700 rule series, Wisconsin Administrative Code, for the discharge of any hazardous substances that may be caused by Quad/Graphics as the lessee.

Under these conditions, the Department agrees not to hold Quad/Graphics in its capacity as a Tenant under the Lease, responsible for investigating or remediating any hazardous substances on the Property that were existing or occurred, or migrated from or onto the Property, prior to the date of the lease agreement, unless one of the aforementioned conditions is not satisfied.

The Department believes that a memorandum of understanding entered into by the State of Wisconsin and the Federal Environmental Protection Agency ("EPA") provides clarification to companies like yours that EPA is not interested in pursuing cleanup of properties where person(s) are working cooperatively with the Department.

If you have any questions concerning this letter or other related matters, please contact me at 608-266-9972.

Sincerely,



Judith M. Ohm  
Attorney  
Legal Services

Attachment

cc:

Mark Drews--SER/*Wankesha*

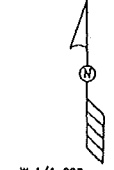
Michael Prager – RR/5

Kristin Kurzka, P.E.  
Sigma Environmental Services, Inc.  
1300 West Canal Street  
Milwaukee, WI 53233

# Exhibit A (p.1)

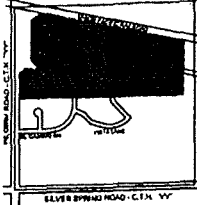
## CERTIFIED SURVEY MAP NO. \_\_\_\_\_

PART OF THE NORTHEAST 1/4 AND NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 26, TOWNSHIP 8 NORTH, RANGE 20 EAST, IN THE VILLAGE OF MENOMONEE FALLS, WAUKESHA COUNTY, STATE OF WISCONSIN



W 1/4 COR.  
SEC. 26-8-20  
N 418.317.75  
E 2,505,864.79  
CONV. MON.  
W/BRASS CAP

**LOCATION MAP:**

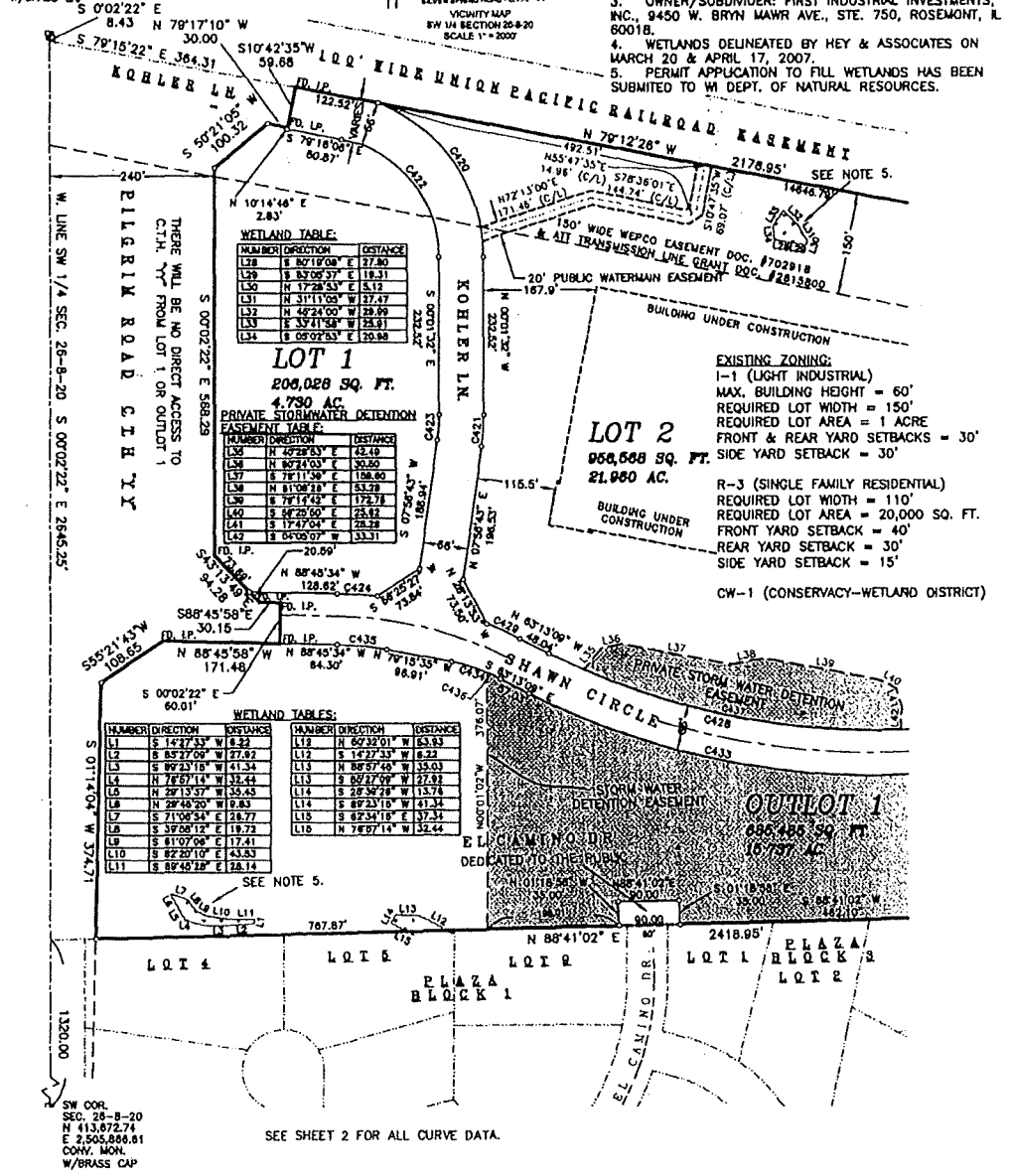


**LEGEND:**

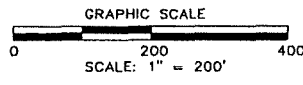
- USPLSS CONCRETE MONUMENT WITH BRASS CAP
- 1" IRON PIPE FOUND
- 5/8" X 18" REBAR TO BE SET, MIN. WT. 1.50 LBS PER LINEAL FT.

**NOTES:**

1. BEARINGS ARE BASED ON THE WEST LINE OF THE SOUTHWEST 1/4 OF SECTION 26, TOWN 8 NORTH, RANGE 20 EAST WHICH IS ASSUMED TO BEAR SOUTH 00°02'22" EAST.
2. ALL ELECTRIC, TELEPHONE AND COMMUNICATION DISTRIBUTION LINES AND LATERALS INCLUDING CATV CABLES, CONSTRUCTED AFTER THE RECORDING OF THIS CERTIFIED SURVEY MAP SHALL BE PLACED UNDERGROUND.
3. OWNER/SUBDIVIDER: FIRST INDUSTRIAL INVESTMENTS, INC., 9450 W. BRYN MAWR AVE., STE. 750, ROSEMONT, IL 60018.
4. WETLANDS DELINEATED BY HEY & ASSOCIATES ON MARCH 20 & APRIL 17, 2007.
5. PERMIT APPLICATION TO FILL WETLANDS HAS BEEN SUBMITTED TO WI DEPT. OF NATURAL RESOURCES.



**THE SIGMA GROUP**  
Single Source. Sound Solutions.  
www.thesigmagroup.com  
1300 West Canal Street  
Milwaukee, WI 53233  
Phone: 414-643-4200  
Fax: 414-643-4210



SEE SHEET 2 FOR ALL CURVE DATA.

Exhibit A  
(p. 2)

# CERTIFIED SURVEY MAP NO. \_\_\_\_\_

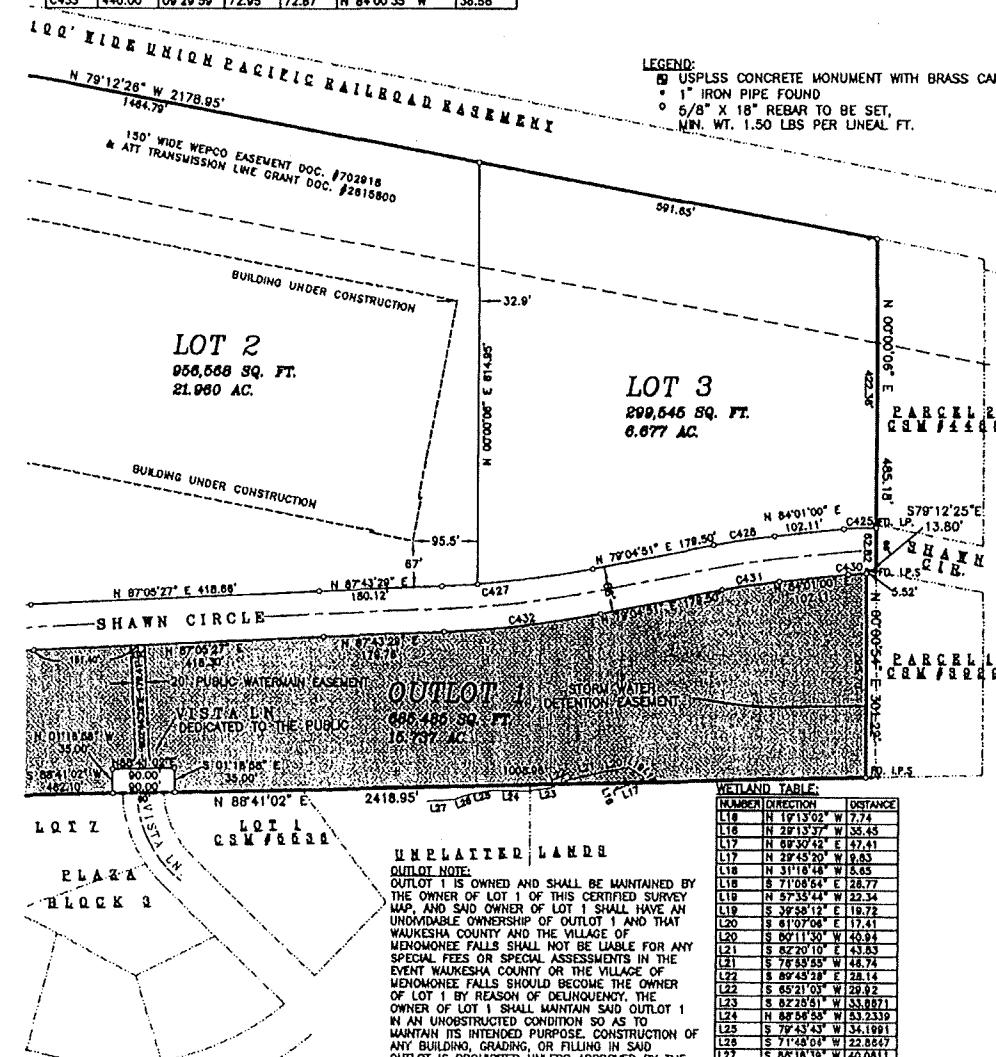
PART OF THE NORTHEAST 1/4 AND NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 28, TOWNSHIP 8 NORTH, RANGE 20 EAST, IN THE VILLAGE OF MENOMONEE FALLS, WAUKESHA COUNTY, STATE OF WISCONSIN

### CURVE DATA:

NUMBER	RADIUS	DELTA	ARC	CHORD	BEARING	TANGENT
C420	241.00	69°18'10"	291.50	274.06	N 34°40'37" W	166.57
C421	333.00	07°58'15"	46.33	46.29	N 03°57'36" E	23.20
C422	175.00	79°14'34"	242.03	223.20	S 39°38'49" E	144.88
C423	287.00	07°58'15"	37.14	37.11	N 03°57'36" E	18.60
C424	628.00	09°21'18"	58.70	58.67	N 88°04'55" W	29.37
C425	333.00	08°09'48"	47.45	47.41	S 88°05'54" W	23.78
C426	1039.48	04°58'09"	89.55	89.52	S 81°32'55" W	44.80
C427	1471.77	08°38'58"	89.55	89.52	S 81°32'55" W	44.80
LOT 2	1471.77	02°03'47"	52.99	52.98	S 86°41'56" W	26.50
LOT 3	1471.77	08°34'51"	168.05	168.95	S 82°22'17" W	84.52
C428	1065.78	29°41'24"	552.28	546.12	S 78°03'51" E	282.40
C429	628.00	08°01'40"	55.11	55.09	S 88°44'00" E	27.57
C430	287.00	08°47'31"	26.99	26.98	S 88°54'48" W	13.61
C431	973.46	04°58'09"	83.88	83.83	N 81°32'56" E	41.96
C432	1637.77	08°38'58"	232.00	231.78	S 83°24'10" W	116.22
C433	1131.78	29°41'24"	596.48	579.94	N 78°03'51" W	299.98
C434	242.00	18°02'26"	67.75	67.63	N 71°14'22" W	34.10
C435	440.00	08°29'59"	72.95	72.87	N 84°00'35" W	36.58

### PRIVATE STORMWATER DETENTION EASEMENT CURVE DATA:

NUMBER	RADIUS	DELTA ANGLE	ARC	CHORD	CHORD DIRECTION
C436	242.00	03°11'43"	13.50	13.49	S 64°49'01" E
C437	1065.78	29°40'46"	477.67	473.89	N 78°04'49" W

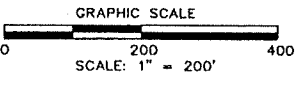


**LEGEND:**  
 □ USPLSS CONCRETE MONUMENT WITH BRASS CAP  
 • 1" IRON PIPE FOUND  
 ○ 5/8" X 18" REBAR TO BE SET, MIN. WT. 1.50 LBS PER LINEAL FT.

**WETLAND TABLE:**

NUMBER	DIRECTION	DISTANCE
L18	N 19°15'02" W	7.74
L16	N 29°15'37" W	35.45
L17	N 89°30'42" E	47.41
L17	N 29°43'20" W	9.83
L18	N 31°16'44" W	15.65
L18	S 71°08'54" E	28.77
L19	N 57°35'44" W	22.34
L19	S 39°58'12" E	18.72
L20	S 81°07'08" E	17.41
L20	S 80°11'55" W	42.91
L21	S 82°20'10" E	43.63
L21	S 76°55'55" W	48.74
L22	S 89°45'58" E	28.14
L22	S 85°21'03" W	29.92
L23	S 82°26'51" W	33.8871
L24	N 88°59'53" W	33.2339
L25	S 79°43'43" W	34.1891
L28	S 71°48'04" W	22.8647
L27	S 88°18'39" W	46.0411

**UNPLATTED LANDS**  
**OUTLOT NOTE:**  
 OUTLOT 1 IS OWNED AND SHALL BE MAINTAINED BY THE OWNER OF LOT 1 OF THIS CERTIFIED SURVEY MAP, AND SAID OWNER OF LOT 1 SHALL HAVE AN UNDEMIABLE OWNERSHIP OF OUTLOT 1 AND THAT WAUKESHA COUNTY AND THE VILLAGE OF MENOMONEE FALLS SHALL NOT BE LIABLE FOR ANY SPECIAL FEES OR SPECIAL ASSESSMENTS IN THE EVENT WAUKESHA COUNTY OR THE VILLAGE OF MENOMONEE FALLS SHOULD BECOME THE OWNER OF LOT 1 BY REASON OF DELINQUENCY. THE OWNER OF LOT 1 SHALL MAINTAIN SAID OUTLOT 1 IN AN UNOBSTRUCTED CONDITION SO AS TO MAINTAIN ITS INTENDED PURPOSE. CONSTRUCTION OF ANY BUILDING, GRADING, OR FILLING IN SAID OUTLOT IS PROHIBITED UNLESS APPROVED BY THE VILLAGE OF MENOMONEE FALLS. THE OWNER OF LOT 1 GRANTS THE VILLAGE THE RIGHT (BUT NOT THE RESPONSIBILITY) TO ENTER UPON OUTLOT 1 IN ORDER TO INSPECT, REPAIR, OR RESTORE SAID OUTLOT TO ITS INTENDED PURPOSE. EXPENSES INCURRED BY THE VILLAGE FOR SAID INSPECTION, REPAIR, OR RESTORATION OF SAID OUTLOT MAY BE PLACED AGAINST THE TAX ROLL FOR SAID OWNER AND COLLECTED AS A SPECIAL CHARGE BY THE VILLAGE.



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Exhibit A  
(p. 3)

# CERTIFIED SURVEY MAP NO. \_\_\_\_\_

PART OF THE NORTHEAST 1/4 AND NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 28, TOWNSHIP 8 NORTH, RANGE 20 EAST, IN THE VILLAGE OF MENOMONEE FALLS, WAUKESHA COUNTY, STATE OF WISCONSIN

### CORPORATE OWNER'S CERTIFICATE OF DEDICATION

FIRST INDUSTRIAL INVESTMENTS, INC., A CORPORATION DULY ORGANIZED AND EXISTING UNDER AND BY VIRTUE OF THE LAWS OF THE STATE OF ILLINOIS, AS OWNER, DOES HEREBY CERTIFY THAT SAID CORPORATION CAUSED THE LAND DESCRIBED ON THIS MAP TO BE SURVEYED, DIVIDED, DEDICATED AND MAPPED AS REPRESENTED ON THIS MAP.

FIRST INDUSTRIAL INVESTMENTS, INC., AS OWNER, DOES FURTHER CERTIFY THAT THIS MAP IS REQUIRED BY S. 236.10 OR 236.12 TO BE SUBMITTED TO THE FOLLOWING FOR APPROVAL OR OBJECTION: VILLAGE OF MENOMONEE FALLS

WITNESS THE HAND AND SEAL OF SAID OWNER THIS \_\_\_\_ DAY OF \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
OFFICER, FIRST INDUSTRIAL INVESTMENTS, INC.

\_\_\_\_\_  
OFFICER, FIRST INDUSTRIAL INVESTMENTS, INC.

STATE OF \_\_\_\_\_ )  
  :SS  
  COUNTY)

PERSONALLY CAME BEFORE ME THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2008, \_\_\_\_\_  
\_\_\_\_\_  
OFFICER, FIRST INDUSTRIAL INVESTMENTS, INC., AND \_\_\_\_\_ OFFICER, FIRST INDUSTRIAL INVESTMENTS, INC., TO ME KNOWN TO BE THE PERSONS WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THE SAME.

\_\_\_\_\_  
(SEAL)  
NOTARY PUBLIC, STATE OF \_\_\_\_\_  
MY COMMISSION EXPIRES \_\_\_\_\_

**THE SIGMA GROUP**  
Single Source. Sound Solutions.  
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Exhibit A  
(p. 4)

# CERTIFIED SURVEY MAP NO. \_\_\_\_\_

PART OF THE NORTHEAST 1/4 AND NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 26, TOWNSHIP 8 NORTH, RANGE 20 EAST, IN THE VILLAGE OF MENOMONEE FALLS, WAUKESHA COUNTY, STATE OF WISCONSIN

### SURVEYOR'S CERTIFICATE

I, BAIBA M. ROZITE, A REGISTERED LAND SURVEYOR, HEREBY CERTIFY:

THAT I HAVE SURVEYED, DIVIDED AND MAPPED THAT PART OF THE NORTHEAST 1/4 AND NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 26, TOWNSHIP 8 NORTH, RANGE 20 EAST, IN THE VILLAGE OF MENOMONEE FALLS, WAUKESHA COUNTY, STATE OF WISCONSIN DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHWEST 1/4 OF SECTION 26; THENCE SOUTH 0°02'22" EAST ALONG THE WEST LINE OF SAID SOUTHWEST 1/4 SECTION, 8.43 FEET TO THE SOUTHERLY LINE OF THE UNION PACIFIC RAILROAD RIGHT-OF-WAY; THENCE SOUTH 79°15'22" EAST ALONG SAID SOUTHERLY LINE, 364.31 FEET TO THE POINT OF BEGINNING; THENCE THE FOLLOWING TEN COURSES ALONG THE EASTERLY LINE OF PILGRIM ROAD (C.T.H. "YY"): THENCE SOUTH 10°42'35" WEST, 59.68 FEET; THENCE NORTH 79°17'10" WEST, 30.00 FEET; THENCE SOUTH 50°21'05" WEST, 100.32 FEET; THENCE SOUTH 0°02'22" EAST, 568.29 FEET; THENCE SOUTH 43°13'49" EAST, 94.28 FEET; THENCE SOUTH 88°45'58" EAST, 30.15 FEET; THENCE SOUTH 0°02'22" EAST, 60.01 FEET; THENCE NORTH 88°45'58" WEST, 171.46 FEET; THENCE SOUTH 55°21'43" WEST, 108.65 FEET; THENCE SOUTH 1°14'04" WEST, 374.71 FEET TO THE NORTH LINE OF BLOCK 1 OF PLAZA, A RECORDED SUBDIVISION PLAT; THENCE NORTH 88°41'02" EAST, 2418.95 FEET ALONG SAID NORTH LINE AND ITS EASTERLY EXTENSION; THENCE NORTH 0°00'54" EAST, 301.22 FEET; THENCE SOUTH 79°12'25" EAST 13.80 FEET ALONG THE NORTHERLY LINE OF PARCEL 1 OF CERTIFIED SURVEY MAP NO. 3929, VOL. 30, PAGE 223, DOC. NO. 1143515; THENCE NORTH 0°00'06" EAST, 485.18 FEET ALONG THE WESTERLY LINE OF PARCEL 1 OF CERTIFIED SURVEY MAP NO. 4488, VOL. 36, PAGE 19, DOCUMENT NO. 1248100, AND ITS SOUTHERLY EXTENSION, TO THE SOUTHERLY LINE OF THE UNION PACIFIC RAILROAD RIGHT-OF-WAY; THENCE NORTH 79°12'26" WEST, 2178.95 FEET ALONG SAID SOUTHERLY LINE TO THE POINT OF BEGINNING. SAID PARCEL CONTAINS 2,362,653 SQUARE FEET OR 54.24 ACRES OF LAND, MORE OR LESS.

THAT I HAVE MADE THE SURVEY, LAND DIVISION, AND MAP BY THE DIRECTION OF THE OWNER OF SAID LAND.

THAT THE MAP IS A CORRECT REPRESENTATION OF ALL EXTERIOR BOUNDARIES OF THE LAND SURVEYED AND THE LAND DIVISION THEREOF MADE.

THAT I HAVE FULLY COMPLIED WITH THE PROVISIONS OF CHAPTER 236.34 OF THE WISCONSIN STATUTES AND THE VILLAGE OF MENOMONEE FALLS CODE OF ORDINANCES IN SURVEYING, DIVIDING AND MAPPING THE SAME.

(SEAL)

BAIBA M. ROZITE, REGISTERED WISCONSIN  
LAND SURVEYOR 5-2351

### VILLAGE OF MENOMONEE FALLS BOARD APPROVAL

RESOLVED, THAT THIS CERTIFIED SURVEY MAP, BEING A PART OF THE SOUTHWEST 1/4 OF SECTION 26, TOWN 8 NORTH, RANGE 20 EAST, VILLAGE OF MENOMONEE FALLS, COUNTY OF WAUKESHA, STATE OF WISCONSIN HAVING BEEN APPROVED BY THE PLAN COMMISSION AND THE SAME IS HEREBY APPROVED AND THE DEDICATION CONTAINED HEREIN ACCEPTED BY THE VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF MENOMONEE FALLS ON

THIS \_\_\_ DAY OF \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
RICHARD A. RECHLICZ, VILLAGE PRESIDENT      DATE

\_\_\_\_\_  
VILLAGE CLERK      DATE

### VILLAGE OF MENOMONEE FALLS PLAN COMMISSION APPROVAL

PRELIMINARY APPROVAL \_\_\_\_\_, SECRETARY \_\_\_\_\_

FINAL APPROVAL \_\_\_\_\_, SECRETARY \_\_\_\_\_

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CERTIFIED SURVEY MAP NO	
DOCUMENT NO.	_____
DATE RECORDED	_____
VOLUME	PAGES