



Department of Planning & Community & Economic Development

Economic Development Division

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- Office of Business Resources
- Office of Economic Revitalization
- Office of Real Estate Services

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June 11, 2013

Gary Gorman
President
Gorman & Company, Inc.
200 North Main Street
Oregon, WI 53575

RE: Sale by City of Madison of property located at 2504, 2507 and 2340 Winnebago Street
Real Estate Project No. 10069

Dear Mr. Gorman:

The purpose of this Letter of Intent (“LOI”) is to outline the principal terms and conditions for a Purchase and Sale Agreement (the “Agreement”) to be executed between the City of Madison (the “Seller”) and Gorman & Company, Inc. (the “Buyer”) pertaining to properties owned by the Seller located at 2504, 2507 and 2340 Winnebago Street, Madison, Wisconsin (collectively the “Property”), as legally described on the attached Exhibit A and shown on the attached Exhibit B, for a mixed-use redevelopment project subject to the following terms and conditions:

1. Property. Seller shall sell and convey to the Buyer by Warranty Deed (the “Deed”), fee simple ownership of the Property, including all improvements located thereon and all appurtenances thereto. The Property will be developed in the phases shown on the attached Exhibit C as Phase 1, Phase 2, Phase 3 and Phase 4 (individually a “Phase” and collectively, the “Phases”). The Property shall include portions of vacated roads located within the Property, including without limitation vacated portions of Winnebago Street, Florence Street, Sullivan Street, Milwaukee Street, and shall exclude the proposed new streets generally contemplated on Exhibit C.
2. Effective Date. The “Effective Date” shall be the later date of execution of the Agreement by the Seller or the Buyer, as indicated on the signature page.
3. Project. The Buyer or other entities owned or controlled by the Buyer (the “Buyers”) shall collectively develop a mixed-use project (the “Project”) on the Property. The Project shall consist of approximately 60,000 square feet of medical clinic space with parking on Phase 1 as required by the City of Madison pursuant to its design review and zoning review process (the “Phase 1 Project”), between 50 and 100 residential units with parking on Phase 2 (the “Phase 2 Project”), retail/office space that may accommodate a public branch library and residential units with parking stalls on Phase 3 (the “Phase 3 Project”), and retail, restaurant, and/or residential units on Phase 4 (the “Phase 4 Project”). The Phase 3 Project may be developed prior to the Phase 4

Project, and the Phase 4 Project may be developed prior to the Phase 3 Project. The precise uses of Phases 2, 3 and 4 are subject to adjustment based on market conditions and applicable zoning.

4. Acquisition and Development of Property. The Seller shall convey the Property to the Buyer for One Dollar (\$1.00) (the "Purchase Price"), subject to the following terms and conditions:
 - a. The Buyer shall complete and submit to the Seller, within sixty (60) days of the Effective Date, a Tax Increment Finance ("TIF") Application for the entire Project. The application shall demonstrate that the entire Project cannot be developed but for the provision of Six Million Dollars (\$6,000,000) of TIF assistance from the Seller. It is anticipated that Phase 1 of the Project will not demonstrate a financing gap of \$6,000,000.
 - b. At the closing of the conveyance of the Property to the Buyer (the "Closing Date"), the Buyer shall enter into a TIF Loan Agreement with the Seller (the TIF Loan Agreement) in the amount of Six Million Dollars (\$6,000,000) (the "TIF Loan"). The TIF Loan shall be repaid through tax increments generated by the Projects owned by the Buyer on the Property and/or out of pocket payments by the Buyer under the terms of a corporate guaranty to be executed by the Buyer (the "Corporate Guaranty") as provided in the TIF Loan Agreement. The TIF Loan Agreement shall provide that no Equity Participation Payment shall be due thereunder.
 - c. At the Closing, the Buyer shall execute a mortgage encumbering the Property in favor of the Seller securing payment of the TIF Loan and other obligations under the TIF Loan Agreement. Subject to Sections 4.e and f. herein, immediately prior to the development of each Phase in accordance with the Agreement, the Seller shall agree to execute, with respect to the portion of Property included within such Phase, a subordination of the Mortgage and TIF Loan Agreement for such Phase for construction and permanent financing and replacements and refinancing thereof, or for additional financing in an amount not to exceed ninety per cent (90%) of fair market value, as evidenced by an appraisal provided by the Buyer, at its sole cost, to the Seller, the proceeds of which are used to fund additional improvements to such Phase, in a form approved by the City of Madison's City Attorney.
 - d. Prior to the Closing, the Buyer shall provide an executed lease or leases in a form acceptable to the Seller securing commitments for a medical clinic to occupy not less than 60,000 square feet of net leasable area of the Phase 1 Project. The Buyer shall also provide evidence of financing in the form of a bank commitment letter and evidence of equity to be invested in the Phase 1 Project in an amount not less than fifteen percent (15%) of total development costs.
 - e. Subsequent to the closing on the Property and execution of the TIF Loan Agreement, separate LLCs of which the Buyer is a member ("Gorman LLC") may be created for the purpose of owning and developing the other Phases as these phases are ready for development. Ready for development shall be defined as obtaining all required land use approvals for the development of the respective Phase. Prior to the conveyance of any Phase to a Gorman LLC, the Gorman LLC shall provide to the Seller evidence of financing in an amount sufficient to construct the improvements on such Phase in accordance with the approved design therefore. The \$6 million TIF loan shall be apportioned based on the estimated amount of increment generated by each Phase to and assumed by each Gorman

LLC. Each Gorman LLC shall execute a note and a mortgage encumbering the respective phase in favor of the City securing payment of the apportioned TIF Loan. Payment of the note shall be guaranteed by the Buyer until the Gorman LLC's net worth equals or exceeds the then-outstanding principal balance of the note, at which time the City shall release the Buyer from any further liability under such guaranty. The original principal amounts of all the notes shall equal \$6 million. Each Gorman LLC will agree not to remove assets such that its net worth is less than the then-outstanding balance of the note and shall provide annual financial statements to the City demonstrating that its net worth is not less than the then-outstanding balance of the note. None of the Gorman LLCs will be eligible for additional TIF assistance.

- f. If the Buyer sells any of the phases the Seller will provide a partial release of mortgage for the phase sold provided that the Buyer is not in default of the TIF Loan Agreement or mortgage. There will be no release price if the Buyer sells any phase to a Gorman LLC. If the Buyer sells to another entity other than a Gorman LLC the Buyer shall pay to the Seller a release price based on the amount of the TIF Loan apportioned to the respective phase which shall be credited against the TIF Loan.
5. Conveyance to Tax-Exempt Entity. Each TIF Loan Agreement shall provide that if the Buyer sells or transfers any portion of the Phase to a tax exempt entity (the "Entity"), whereupon such ownership renders the portion as property tax exempt (the "Tax-Exempt Portion"), then the Entity shall pay the Seller an annual payment in lieu of taxes (the "PILOT") in the amount of the property tax last levied as of the date of sale to the Entity, frozen, through July 18, 2033. The Seller shall share said PILOT in proportion with the overlying taxing jurisdictions. The Entity shall execute a "PILOT Agreement" and a mortgage in favor of the Seller in the amount of the PILOT payments ("The Entity's Mortgage") at the time of the Entity's acquisition of the Tax-Exempt Portion. The PILOT Agreement and the Entity's Mortgage shall be satisfied by the Seller upon the receipt by the Seller of the required PILOT payments.
6. Title Insurance. The Seller shall provide to the Buyer at the Seller's expense within fourteen (14) days of the Effective Date a commitment from Chicago Title Insurance Company, issued through Preferred Title, LLC (the "Title Company") as agent, to issue an ALTA Owner's Title Insurance Policy in the amount of the TIF Loan upon the recording of proper documents. The commitment shall show title to the Property, as of a date no more than fifteen (15) days before such title proof is provided to the Buyer, to be subject to no liens and encumbrances other than those that would not materially and adversely affect development of the Project, and further subject only to liens which will be paid out of the proceeds of the closing and to any standard title insurance exceptions acceptable to the Buyer. The Buyer shall notify the Seller of any valid objection to title, in writing, prior to the end of the Buyer's Contingency Period. The Seller shall have a reasonable time, but not exceeding fifteen (15) days, to remove the objections and closing shall be extended as necessary for this purpose. Should the Seller be unable or unwilling to remove the objections, the Buyer shall then have the option, exercisable within thirty (30) days of the Buyer's delivery of its original notice of objection to title, to either (a) terminate the Agreement by delivery of written notice to the Seller, in which case the Agreement shall be null and void, or (b) waive such objections to title. The Buyer's failure to timely deliver written notice of termination under Section (a) of the preceding sentence shall be deemed to be waiver of the Buyer's objections to title. At Closing, the Seller shall also cause the Title Company to issue a gap endorsement. Between the effective date of the commitment and Closing, the Seller shall not place any

additional encumbrances against the Property (except for such encumbrances that the Seller shall remove at such Closing).

7. Reversionary Rights of Seller.

- a. There will be a reversionary interest in the deed from the Seller that provides that the Buyer will have five (5) years from the Closing to commence development of any or all of the remaining Phases (in any order) or at the end of five (5) years the Buyer will be required to reconvey to the Seller for One Dollar (\$1) any undeveloped phase(s) unencumbered and receive credit in the amount of the TIF Loan apportioned to such Phase against the balance of the TIF Loan. "Commence Construction" or "Commencement of Construction" shall be defined as commencement of excavation for the foundation of a Phase project on the respective Phase or Phases. The Buyer may reconvey any or all Phases to the City at any time within the five (5) year period and receive the credit.
 - b. The Buyer shall reconvey to the Seller the respective Phase or Phases, by warranty deed, conveying fee simple ownership to such Phase or Phases free and clear of all liens and encumbrances except (a) those subject to which the Buyer took title to such Phase, and (b) special assessments not yet due and payable. Real property taxes levied for the year in which the reconveyance occurs will be prorated between the parties. Any real estate transfer fees due shall be paid by the Buyer.
 - c. The Seller shall be required to release a Phase from its reversionary interest on the date the Buyer closes on its construction loan for such Phase if all of the following conditions have been met: (1) the Buyer has obtained the building permits necessary to commence construction, (2) the Buyer has provided the Seller with copies of signed agreements with contractors to commence construction, (3) the commencement of construction has occurred, and (4) Sections 4.e. and f. have been satisfied.
8. Effect of Reconveyance of Phase. Upon the reconveyance of any Phase or Phases to the Seller pursuant to Section 7, the Seller shall execute and deliver to the Buyer of such Phase such documents as are necessary to release such Phase from the Mortgage, Corporate Guaranty and the TIF Loan Agreement.
9. No Representations and Warranties; AS-IS Condition. The Agreement shall provide warranties of title, authority, a warranty that a Voluntary Party Liability Exemption certificate of completion has been issued for the Property, and a warranty that Seller has no notice or knowledge of new environmental contamination occurring during the Seller's period of ownership. In all other respects, the Buyer shall purchase the Property in "AS-IS, WHERE-IS" condition and "with all faults", and shall agree that it relied upon no warranties, representations or statements by the Seller, or any other persons for the Seller, in entering into the Agreement or in closing the transaction described herein. The Buyer's closing on the acquisition of the Property shall constitute conclusive evidence that the Buyer is satisfied with the condition of and title to the Property and has waived or satisfied the "Buyer Contingencies" set forth in Section 1. In closing and completing the transaction, the Buyer will have relied exclusively upon its own inspections and reviews, and not upon any representation or warranty of the Seller or its agents or employees, other than those set forth in this Section 9.

10. Environmental Remediation. Provided the Buyer has elected to proceed with the purchase of the Property following review of the Buyer's contingencies pursuant to Section 14, the Seller shall have no further responsibility for the remediation of any environmental contamination on the Property, except for the correction of any condition that violates the Seller's warranties under Section 9 regarding the environmental condition of the Property.
11. Billboard Removal. The Seller shall cause the billboard on the Property to be removed from the Property and the billboard rights on the Property to be terminated upon Commencement of Construction on the Property.
12. Street Construction. Subject to budgetary authorization, the Seller shall construct public improvements for that portion of the street designated "Union Green" from East Washington Avenue to Winnebago Street, as shown on Exhibit C, prior to the completion of the Phase 1 Project. The street shall be constructed to City of Madison standards which will, subject to approval by City Engineering and Traffic Engineering, require a minimum sixty (60) foot wide right of way to be dedicated, at no cost, to the Seller, that will enable the construction of the road including curb and gutter and sidewalks on both sides of the street. Construction of the street will also require the closing of one of the two (2) existing curb cuts on East Washington and one of the two (2) curb cuts on Winnebago Street and a widening of the (2) remaining curb cuts on East Washington Avenue and Winnebago Street, the installation of any public utilities (water, storm water, sewer) required for the development of the Property, and the final surfacing of Winnebago Street. All costs of the construction of the street, the closing and widening of curb cuts, the installation of any public utilities in the street required for the development of the Property, and the final surfacing of Winnebago Street shall be assessed to the abutting Phases as provided under City of Madison assessment policies. All assessments including any interest or other carrying costs shall be paid by the Buyer or the Gorman LLC for the Phase that the costs of the public improvements are assessed against at the time that the note and mortgage in favor of the Seller are executed encumbering the respective Phase.
13. Delivery of Documents. Within ten (10) days of the Effective Date, the Seller will reproduce at the Seller's expense and send to the Buyer one set of copies of all environmental studies, reports, surveys, permits, applications and remediation plans or assessments of the Property and all studies, reports, correspondence between the Seller or with any regulatory authority, the Voluntary Party Liability Exemption certificate of completion, plans or assessments related to the condition of the improvements on the Property including, but not limited to, asbestos, lead-based paint inspections and other hazardous waste inspections related to the physical condition of the improvements on the Property, in the Seller's possession or control.
14. Buyer Contingencies. The Buyer shall have one hundred eighty (180) days from the Effective Date, subject to extension as provided herein (as extended, the "Buyer Contingency Period"), to satisfy or waive the contingencies set forth below relative to the Property, or to otherwise terminate the Agreement if any contingency is unacceptable, in the Buyer's sole discretion. The Seller and the Buyer shall agree that the Property is being offered to the Buyer on an "all or nothing" basis, and that if the Buyer cancels the Agreement because of the failure of any contingency to be met, then the entire Agreement shall be null and void. The contingencies are:
 - a. Land Use Approvals. The Buyer securing all land use approvals for the development of the Property. Such approvals may include, but not be limited to: approval of a PUD, approval

by the Urban Design Commission, and all other zoning, building, engineering, traffic and similar approvals and permits necessary to complete the Phase 1 Project (the "Land Use Contingency").

- b. Project Financing. The Buyer securing financing acceptable for development of the Phase 1 Project.
- c. Inspections. The Buyer obtaining various inspections of the Property and agreeing to accept the Property in "as-is" condition (except for the warranties and representations described in Section 9). The Buyer, at its sole expense, may obtain an inspection of all buildings and related improvements located on the Property and/or a Phase 1 or 2 environmental assessment of the Property. In no event shall the Seller be required to cure any matter to which the Buyer objects relating to the condition of the Property or any improvements thereon. If the Buyer objects to any matters relating to the condition of the Property and any improvements thereon and the Seller is unwilling to cure the Buyer's objections, the Buyer shall have the right to terminate the entire Agreement.
- d. Survey and Title. The Buyer's reviewing and agreeing to accept the condition of title to the Property as revealed by the title commitment and surveys to be delivered to the Buyer under Sections 6, 15 and 16.
- e. Environmental Review. The Buyer's reviewing and approving the documents to be delivered to the Buyers under Section 13.

Provided that the Buyer has used diligent efforts to satisfy all contingencies during the Buyer Contingency Period, and, despite such efforts, has not yet satisfied the contingencies set forth in 14.a. or 14.b., the Buyer, acting unilaterally, may extend the Buyer Contingency Period for an additional ninety (90) days by delivery of written notice to the Seller prior to expiration of the Buyer Contingency Period.

- 15. Survey. The Seller shall provide to the Buyer, at the Seller's expense, within sixty (60) days of the Effective Date, an ALTA/ACSM Land Title Survey of the Property that meets the Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys effective February 23, 2011 in order to eliminate all survey related exceptions to the title insurance policy, certified as of a current date in favor of the Buyer and the Title Company providing the title insurance described in Section 6. The survey would show the location of all exceptions shown by the title commitment that are capable of being shown on a survey.
- 16. Certified Survey Map. The Seller shall, at its cost, be required to secure approval of a certified survey map that would create four (4) lots on the Property that would generally conform with the boundaries of the Phases as shown on the attached Exhibit C (i.e., Phases 1, 2, 3 and 4) which would be recorded prior to the Closing.
- 17. Access to Property. The Buyer and its authorized agents and contractors shall be permitted access to the Property for the purpose of conducting a Phase 1 or 2 environmental assessment of the Property and/or a physical inspection of any building and related improvements located on the Property at reasonable times with at least twenty-four (24) hour notice to the Seller. The Buyer shall repair all damages caused by its inspections, at their cost, so that the condition of the

Property is returned to as good or better condition as existed prior to the inspection. The Buyer shall provide the Seller with copies of all reports and/or studies resulting from any assessments or inspections of the Property performed by the Buyer or its authorized agents and contractors.

18. Indemnification. The Buyer and the Buyer's authorized agents, engineers, consultants and contractors shall be liable to and shall agree to indemnify, defend and hold harmless the Seller, and its officers, officials, agents, and employees against all loss or expense (including liability costs and reasonable attorney's fees) by reason of any claim or suit, or of liability imposed by law upon the Seller or its officials, officers, agents or employees for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons or on account of damages to the Property, including loss of use thereof, to the extent arising from, in connection with, caused by or resulting from the acts or omissions of the Buyer and/or its authorized agents, engineers, consultants and contractors, and all of their and Buyer's officers, agents, employees, assigns, guests, invitees, licensees, contractors or subcontractors, in the performance of any inspections or testing of the Property. Negligence on the part of the Seller and its officials, officers, agents or employees shall not eliminate the indemnification obligations stated in the preceding sentence.

19. Insurance. The Buyer and the Buyer's authorized agents and contractors performing any inspections or testing of the Property shall be required to carry commercial general liability insurance including contractual liability with no less than the following limits of liability, as may be adjusted from time to time by the Seller's Risk Manager: bodily injury, death and property damage of \$1,000,000 per occurrence. The policy or policies shall name the Seller as an additional insured. As evidence of this coverage, the Buyer and its authorized agents and contractors shall furnish to the Seller a certificate of insurance on a form provided by the Seller prior to entering on the Property to perform any inspections or testing as provided herein.

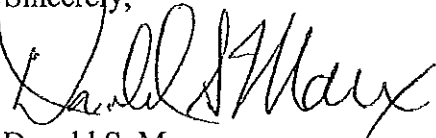
20. Closing.
 - a. Closing for the conveyance of the Property shall occur within thirty (30) days after the Buyer's satisfaction or waiver of the contingencies as provided in Section 14 above, at the office of the Title Company, unless the parties agree in writing to another date or place.
 - b. The Seller shall execute and deliver to the Buyer at closing the Deed the Property to the Buyer free and clear from all liens and encumbrances, excepting the reversionary interest described in Section 7 and the exceptions approved by the Buyer, or to which the Buyer has waived objection, under Sections 6 and 15.
 - c. The Buyer shall pay all recording/filing fees except that the Seller shall pay the recording/filing fees for such documents as are required to be recorded/filed in order to cause title to the Property to be in the condition called for by the Agreement.
 - d. All real estate taxes, if any, with respect to the Property shall be prorated between the Buyer and the Seller as of the date of closing based upon the real estate taxes for the year of closing, if known; otherwise, based on the real estate taxes for the year preceding closing.

- e. The Seller shall be responsible for any and all special assessments, area assessments, interceptor charges or any other charges payable to any municipality or utility with regard to the Property as of the date of closing.
- f. The Seller shall pay any Wisconsin Real Estate Transfer fee due in connection with conveyance of the Property.
- g. The Buyer shall pay one-half, and the Seller shall pay the other half of any closing escrow fees charged by the Title Company to facilitate closing. All other closing costs shall be prorated between the Buyer and the Seller as is customary for commercial real estate transactions in the City of Madison, Wisconsin.

21. Cooperation; Subordination. The Agreement and the TIF Loan Agreement shall provide that the Seller shall cooperate with the Buyer's mortgage lenders and tenants on commercially reasonable terms for subordination, nondisturbance and attornment agreements, sending the lenders and tenants notices of default, and other commercially reasonable lender and tenant requests. The TIF Loan Agreement will contain as attachments forms of estoppel letters and nondisturbance and attornment agreements that the parties thereto would be required to sign upon the other's request. Such attachments would be approved by the City Attorney

This is a "Letter of Intent" which does not constitute a definitive statement of all of the terms and conditions of the proposed transaction. This Letter of Intent is not intended to constitute an agreement to execute any contract in the future. If the parties enter into negotiations, either party may terminate such negotiations at any time. Neither party will be legally bound in any manner unless and until a contract has been prepared, executed and delivered between them. All terms and conditions remain subject to the final approval of the Common Council of the City of Madison and the City Attorney's Office. By signing in the spaces provided below, the parties indicate their desire to begin drafting a definitive Purchase and Sale Agreement. No binding agreement will exist between the Buyer and the Seller unless and until a Purchase and Sale Agreement is executed between the Buyer and the Seller.

Sincerely,

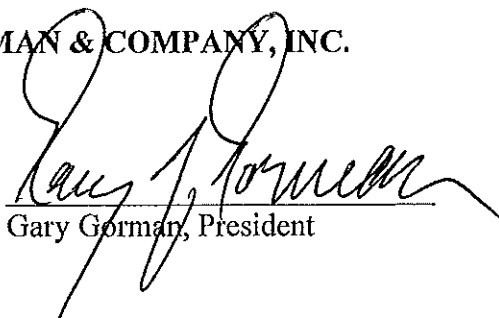


Donald S. Marx
Manager, Office of Real Estate Services

The proposal set forth in this Letter of Intent is acceptable to Gorman & Company, Inc. I further certify that I have the full authority to execute this Letter of Intent on behalf of said corporation.

GORMAN & COMPANY, INC.

By:



Gary Gorman, President

6/12/13
Date

EXHIBIT A
PROPERTY LEGAL DESCRIPTIONS

Lot 1 of Certified Survey Map No. 11774 recorded in the office of the Register of Deeds for Dane County, Wisconsin, in Volume 72 of Certified Survey Maps, at Page 134, as Document No. 4196068, located in the City of Madison, Dane County, Wisconsin.

Tax Roll Parcel No.: 251/0710-061-3428-4
Address Per Tax Roll: 2507 Winnebago Street

Lot 2 of Certified Survey Map No. 11774 recorded in the office of the Register of Deeds for Dane County, Wisconsin, in Volume 72 of Certified Survey Maps, at Page 134, as Document No. 4196068, located in the City of Madison, Dane County, Wisconsin.

Lot 1 of Certified Survey Map No. 11835 recorded in the office of the Register of Deeds for Dane County, Wisconsin, in Volume 72 of Certified Survey Maps, at Page 247, as Document No. 4206575, located in the City of Madison, Dane County, Wisconsin.

That portion of Vacated Sullivan Street and vacated Florence Street and that part of Vacated portion of Winnebago Street per Resolution Number 06-00599, and that vacated part of Milwaukee Street per Resolution Number 06-00854.

Tax Roll Parcel No.: 251/0710-061-3508-4
Address Per Tax Roll: 2504 Winnebago Street

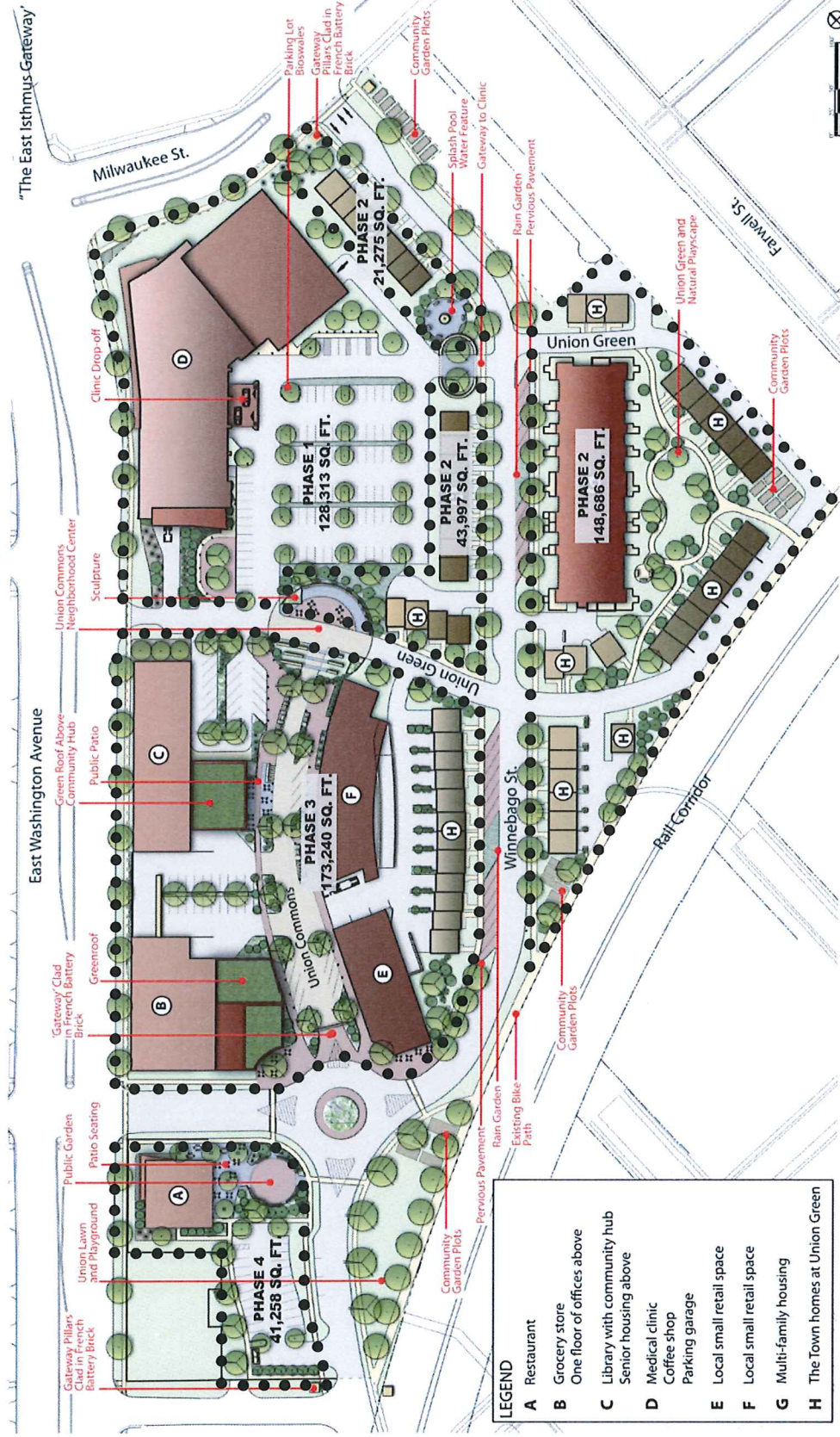
Lot 2 of Certified Survey Map No. 11835 recorded in the office of the Register of Deeds for Dane County, Wisconsin, in Volume 72 of Certified Survey Maps, at Page 247, as Document No. 4206575, located in the City of Madison, Dane County, Wisconsin.

Tax Roll Parcel No.: 251/0710-064-2220-9
Address Per Tax Roll: 2340 Winnebago Street

EXHIBIT B THE PROPERTY



EXHIBIT C
THE PHASES



LEGEND

A	Restaurant
B	Grocery store
C	One floor of offices above Library with community hub Senior housing above
D	Medical clinic Coffee shop Parking garage
E	Local small retail space
F	Local small retail space
G	Multi-family housing
H	The Town homes at Union Green

Master Site Plan