



**CITY OF MANITOWOC**  
WISCONSIN, USA  
[www.manitowoc.org](http://www.manitowoc.org)

June 9, 2022

**To:** Mayor and Common Council  
**From:** Industrial Development Corporation  
**Subject:** **Discussion and Possible Action: Protective Covenants for the I-43 Hecker – Viebahn Industrial Park**

Dear Mayor and Common Council:

At the June 8, 2022 meeting of the Manitowoc Industrial Development Corporation, the Corporation recommended to the Common Council the following action:

***Approve the following:***

- 1. Creation of the I-43 Hecker – Viebahn Protective Covenants.***
- 2. Authorize the Industrial Development Corporation to act as the City's agent to promote, develop and manage the I-43 Hecker – Viebahn Industrial Park per the responsibilities detailed in the by-laws of the Industrial Development Corporation.**

Respectfully Submitted,  
Paul Braun – City Planner

Covenants

MANITOWOC I-43 HECKER – VIEBAHN INDUSTRIAL PARK

PROTECTIVE COVENANTS

JULY, 2022

## TABLE OF CONTENTS

|       |   |    |
|-------|---|----|
| I.    | GENERAL PURPOSE   | 3  |
| II.   | LAND SALE, RESALE AND MINIMUM DEVELOPMENT CONDITIONS    | 3  |
|       | A. <u>Land Sale and Resale Conditions</u>               | 3  |
|       | B. <u>Minimum Size Sites</u>                            | 5  |
|       | C. <u>Tax Exempt Uses on Land Not Owned by the City</u> | 5  |
| III.  | RIGHT OF FIRST REFUSAL/OPTION POLICY                    | 6  |
| IV.   | LAND USE REGULATIONS                                    | 6  |
|       | A. <u>Permitted Land Uses</u>                           | 6  |
|       | B. <u>Interpretation of Provisions</u>                  | 7  |
|       | C. <u>Minimum Setback/Building Regulations</u>          | 7  |
|       | D. <u>Landscaping/Open Space</u>                        | 8  |
|       | E. <u>Maintenance</u>                                   | 8  |
|       | F. <u>Utility Easements</u>                             | 9  |
|       | G. <u>Performance Standards</u>                         | 9  |
|       | H. <u>Site Drainage</u>                                 | 10 |
| V.    | SITE PLAN APPROVAL                                      | 10 |
| VI.   | ARCHITECTURAL AND DESIGN CONTROLS                       | 11 |
|       | A. <u>Buildings</u>                                     | 11 |
|       | B. <u>Non-Building Site Elements</u>                    | 12 |
|       | C. <u>Landscaping</u>                                   | 13 |
|       | D. <u>Stormwater Detention/Retention Facilities</u>     | 14 |
|       | E. <u>Exterior Lighting</u>                             | 14 |
|       | F. <u>Off-Street Parking and Loading</u>                | 14 |
|       | G. <u>Signs</u>   | 15 |
|       | H. <u>Utilities</u>                                     | 16 |
| VII.  | AUTHORITY   | 16 |
| VIII. | ENFORCEMENT   | 16 |
| IX.   | EXCEPTIONS  | 17 |
| X.    | AMENDMENT AND OWNERSHIP                                 | 17 |
| XI.   | OTHER PROVISIONS  | 17 |
|       | EXHIBIT "A" – MAP                                       | 19 |
|       | EXHIBIT "B" - LEGAL DESCRIPTION                         | 20 |

## I. GENERAL PURPOSE

The Manitowoc I-43 Hecker – Viebahn Industrial Park (hereinafter referred to as the "Park") is a planned development owned by the City of Manitowoc (hereinafter referred to as the "City"), and managed by the Industrial Development Corporation of City of Manitowoc (hereinafter referred to as the "Corporation"). The controls and guidelines described herein are intended to:

- A. Provide for the orderly and attractive grouping of business park operations which, on the basis of physical and operational characteristics, would provide long-term value to the City;

Preserve and permanently protect the overall quality of development in the Park;

- C. Maintain a consistently high quality of building and land uses including, but not limited to architectural and landscape design, integrated into a natural setting; and
- D. Limit the uses permitted to insure a high-quality environment for the growth and expansion of business and industry in the Park.

The City, as owner of the real property designated as the Park and identified in Exhibit "A" and, legally described in Exhibit "B"; said Exhibits being attached and incorporated herein by reference, hereby makes the following declaration of limitations and restrictions on the Park, and further specifies that such declarations shall constitute covenants applied to the Park and subsequent development, and which shall bind all parties obtaining an interest in said Park and their successors. These Protective Covenants are in addition to the City's Municipal Code (hereinafter referred to as the "Code") requirements.

References to any City representative or agent such as the Community Development Director or the City's Inspection Supervisor shall be defined herein as that particular party or their designee.

## II. LAND SALE, RESALE, AND MINIMUM DEVELOPMENT CONDITIONS

### A. Land Sale and Resale Conditions

The sale of land in the Park shall take place pursuant to terms, conditions, covenants and contingencies contained in an offer to purchase, and any subsequent amendments thereto, duly executed by and between the City and purchaser.

Each and every parcel of land in the Park shall be subject to the following conditions:

- (1) Persons or entities which purchase land in the Park (hereinafter referred to as an "Owner"), shall within 18 months of the date of land purchase, commence construction of a facility or facilities which occupy a minimum of 5,000 square feet of building per acre purchased, and shall have the same ready

for occupancy within 24 consecutive calendar months of the date of purchase of said land.

(2) In the event an Owner fails to commence construction as required in (1) or if an Owner fails to have the facility ready for occupancy within 24 consecutive calendar months of the date of purchase, the City shall have the sole right and option of repurchasing the land and improvements at the price per acre paid for by an Owner, and shall withhold from the purchase price any unpaid real estate and personal property taxes, assessments (special or otherwise) or other charges, including a proration of real estate taxes through and including the date of repurchase by the City. The proration shall be made on a daily basis using the actual real estate taxes levied for the current year, if known, otherwise on the net taxes for the preceding year. At closing, the seller shall deliver to the City the repurchased land, free and clear of all liens and encumbrances on the land except for those acceptable to the City.

Such option shall be exercisable upon delivery of a written notice to an Owner within 90 consecutive calendar days after expiration of the 18-month period or the 24-month period. Repurchase of the property shall take place within 45 consecutive calendar days following the exercise of such option on such date as shall be designated by the City. At closing, the seller shall convey said land to the City by warranty deed, in recordable form, duly executed and acknowledged by the seller, conveying title to the City free and clear of all liens, taxes, restrictions, tenancies, occupancies and encumbrances of every kind on the land except for those acceptable to the City. In addition, the City shall deduct from its repurchase price an amount equal to the following:

Original Sale Price of Land x Current Prime Rate of Interest at date of Repurchase  
x Number of Days from Original Date of Purchase divided by 365 days

(3) In the event an Owner elects to sell any portion of land which is not being used in connection with the business of an Owner, or which an Owner desires to sell, separate and distinct from any sale of the business, the same shall first be offered for sale to the City in writing and filed with the City Clerk, and the City shall have the sole right and option of repurchasing the land at the price per acre paid for by an Owner, and shall withhold from the purchase price any unpaid real estate and personal property taxes, assessments (special or otherwise) or other charges, including a proration of real estate taxes through and including the date of repurchase by the City. The proration shall be made on a daily basis using the actual real estate taxes levied for the current year, if known, otherwise on the net taxes for the preceding year. At closing, the seller shall convey said land to the City by warranty deed, in recordable form, duly executed and acknowledged by the seller, conveying title to the City free and clear of all liens, taxes, restrictions, tenancies, occupancies and encumbrances of every kind on the land except for those acceptable to the City.

(4) The City shall have 60 consecutive calendar days from receipt of an Owner's written notice of intent to sell, to exercise the option under (3) unless an extension of time is mutually agreed upon in writing, by and between an owner and the City. Acceptance of the option shall be by affirmative action of the City's Common Council. If the option is exercised, conveyance to the City shall be by warranty deed, in recordable form, duly executed and acknowledged by the seller, conveying title to the City free and clear of all liens, taxes, restrictions, tenancies, occupancies and encumbrances of every kind on the land except for those acceptable to the City.

(5) If the City does not exercise its option under (2) and (3), then an Owner may sell said lands to any person or entity, and the City shall have no further interest therein except as to the other restrictions contained in these Protective Covenants.

B. Minimum Size Sites

Each and every developable parcel of land sold, transferred, combined or resubdivided within the Park shall not result in parcels which are less than one (1) acre in area. Additionally, each lot shall have a frontage not less than 150 feet, unless this requirement is waived by the Corporation due to the unique configuration of the land or a lot is created for an essential service such as a stormwater feature, utility etc.

C. Tax Exempt Uses on Land Not Owned by the City

An owner hereby covenants and agrees that as a condition of acquiring title to land in the Park from the City, said owner shall not enter into any agreement to sell, lease, sub-lease or in any manner transfer all or any portion of owner's land in the Park to a third party entity that would result in all or any portion of the land use or underlying land in the Park becoming tax exempt or exempt from local taxation (hereinafter referred to as "Tax Exempt Entity" or "TEE") under Wis. Stats. §70.11. An owner shall prior to, and as a contingency of the sale, lease, sublease or transfer, provide notice to the City and shall require such TEE to enter into a payment in lieu of taxes agreement with the City, whereby such TEE shall contractually agree with the City to make an annual payment in lieu of property taxes to the City equivalent to the gross tax rate that would be imposed by the City if the use of land was not tax exempt. In connection therewith, the City covenants and agrees to enter into the payment in lieu of taxes agreement with a TEE, and to fairly and accurately assess the value of the TEE's interest in the land in the Park.

An owner shall provide the City's Clerk and Community Development Departments with written notification of any sale, lease, sub-lease or transfer of all or any portion of land in the Park to a TEE not less than thirty (30) calendar days prior to the effective date of the sale, lease, sub-lease or transfer. The thirty (30) day period shall commence the date that the City is in receipt of said notice. If an owner fails to provide notice to the City and sells, leases, sub-leases or transfers all or any portion of land in the Park to a TEE, then the owner or grantor shall be the party responsible to make payments to the City in the amount that would be required had a payment in lieu of taxes agreement been executed between the City and the TEE as required in

these Protective Covenants. The payment payable by an owner shall be a pro-rata portion of the amount due under a payment in lieu of taxes agreement, and shall commence from the date an owner transfers land in the Park through and including the date a payment in lieu of taxes agreement is executed by and between the City and the TEE. Any payments made by an owner shall be on terms and conditions determined by the City.

If an owner or a TEE fails to issue any payment to the City as required under these Protective Covenants, the City shall have the right to institute any other actions or proceedings as it may have available at law or equity it deems desirable for effectuating the purposes of this section.

If an owner of land in the Park sells all, or any portion of the land in the Park, said owner shall require the grantee, as a condition pre-requisite to the completion of the transfer, to assume the owner's responsibilities under these Protective Covenants, and to execute any documents as may be required by the City to complete the assignment.

### **III. RIGHT OF FIRST REFUSAL/OPTION POLICY**

The Corporation shall have the exclusive right to grant Rights of First Refusal and Land Options related to the Park, on such terms and conditions as the Corporation may elect to offer.

### **IV. LAND USE REGULATIONS**

A. Permitted Land Uses. The Park shall be occupied and used for any of the following principal land uses:

- (1) Offices and facilities directly related to light manufacturing and production, fabrication, packaging and assembly of goods, warehousing (exclusive of mini-warehouses; construction materials and equipment sales; garage for storage, sale, service or repair of automobiles, trucks, tractors, and accessory equipment), and distribution activities permitted in the City's "I-1" Light Industrial District zoning.
- (2) Facilities designed to encourage new business development, energy efficiencies and technological innovation.
- (3) Corporate and professional headquarters or training facilities.
- (4) Scientific, research, laboratory, testing and related facilities intended for basic and applied research, the development of technology-based products and services, or the testing of technology-based products and services.
- (5) Technology-dependent or computer-based facilities dedicated to the processing of data or analysis of information including business service centers and collection agencies.

- (6) Incidental operations required to maintain or support any uses permitted herein including, but not limited to child and day care centers, environmental testing services and facilities, and wireless telecommunication facilities pursuant to Section 15.710 of the City's Code.
- (7) Office, business and professional uses.
- (8) Contractor's laydown yard, outdoor storage and shop; permitted only on the lots west of Hecker Road and South of W. Viebahn Street.

B. Interpretation of Provisions

In cases where it is unclear if a proposed use is permitted or prohibited, or where uncertainty exists as to the meaning or application of any part of these Protective Covenants, an interpretation shall be made by the majority opinion of the Community Development Director, Inspection Supervisor and the Corporation.

C. Minimum Setback/Building Regulations

All structures and buildings constructed within the Park shall conform to the following minimum setback regulations:

- (1) **Front yard:** Minimum of 25 feet which can be used only for landscape treatment, walks, identification sign, flagpoles, and driveways perpendicular or nearly so to the front lot line. The setback area shall be entirely graded, and seeded or sodded between side lot lines, and from the road shoulder to the building face in a manner that will produce an acceptable lawn.

Parking or storage of vehicles, materials, products or equipment shall be prohibited within this setback area.

- (2) **Street Side Yard:** Minimum of 25 feet which can be used only for landscape treatment, walks, identification sign, flagpoles, solar panels, wind turbines and driveways perpendicular or nearly so to the street side lot line. The setback area shall be entirely graded, and seeded or sodded.

- (3) **Interior Side Yard:** Minimum of ten (10) feet with a minimum of five (5) feet of the required yard adjacent to the interior side lot line landscaped with grass, trees, and/or shrubs. Those lots abutting a residential zoning district shall have a 25 foot side yard setback.

- (4) **Rear Yard:** Minimum of 25 feet. Those lots abutting a residential zoning district shall have a 50 foot rear yard setback, except that in the case where a public right-of-way intervenes between a particular parcel of land in the Park and the residential zoning district, the rear yard setback shall be reduced to 25 feet.



(5) **Maximum building coverage:** Buildings shall not cover more than 70 per cent of the gross area of the parcel upon which such building(s) are situated.

(6) **Building height:** No building or structure (except chimneys or architectural features) shall exceed 50 feet in height. Wireless telecommunication facilities that are authorized to locate in the Park pursuant to Section 15.710 of the City's Code shall be exempt from this requirement.

D. Landscaping/Open Space

(1) All areas not used for building, storage, off-street parking, walks, access roads, and loading shall be suitably graded and drained, seeded or sodded, and maintained in grass.

(2) At least ten (10) per cent of each parcel shall be put into landscape treatment which shall consist of shrubs, trees, flowers, and other decorative materials, to the satisfaction of the Community Development Department.

(3) Landscaping shall be completed within 12 consecutive calendar months of the issuance of a temporary certificate of occupancy, in accordance with an approved site plan pursuant to Section 15.370(2) of the City's Code.

(4) All landscaped and open space areas shall be continually maintained in accordance with the approved site plan. It is the responsibility of an Owner to ensure that the premises are maintained properly.

(5) Contractor's laydown yard, outdoor storage and shop, when adjacent to residential uses shall be site screened by an opaque fence, wall, berm or landscaped hedge. Site screening shall be approved by the Community Development Department and Corporation prior to installation.

E. Maintenance

Each Owner shall keep their property in a well maintained, safe, clean, and attractive condition at all times. Such maintenance includes, but is not limited to the:

(1) Removal of noxious weeds, rubbish and debris.

(2) Mowing and maintenance of all lawn areas to a height of less than five (5) inches. Those designated and approved unused lot areas shall be cut a minimum of three (3) times per year, or maintained as an agricultural crop subject to approval of the Community Development Department.

(3) Maintenance of landscape areas in a healthy and attractive condition.

(4) Care and pruning of trees and shrubbery.

- (5) Maintenance of exterior lighting, signs, and mechanical facilities in working order.
- (6) Keeping of all exterior building surfaces in a clean, well maintained condition.
- (7) Snow and ice removal from gravel, blacktop and concrete surfaces.

F. Utility Easements

All Owners of said lands shall cooperate with the City and the Manitowoc Public Utilities (MPU) in the planning and granting, at no cost to the City and MPU, of all necessary and reasonable utility/drainage, signage and all other types and kinds of easements, and shall grant such easements provided they do not unduly restrict future development. No building or structure will be constructed over a utility/drainage easement.

Each Owner shall be responsible for required maintenance within identified easements on their properties. The City may create additional easements for utilities and other public purposes over lots owned by the City, if the City deems the same necessary and useful.

G. Performance Standards

(1) **Noise:** The sound level recurrently generated from any property in the Park shall not exceed 70 decibels at their property line.

(2) **Air Contaminants:** No smoke, soot, fly ash, dust, cinders, dirt, noxious or obnoxious acids, fumes, vapors, odors, toxic or radioactive substance, waste or particulate, solid, liquid or gaseous matter shall be introduced into the outdoor atmosphere alone or in any combination, in such quantities and of such duration that they would interfere with the safe and comfortable enjoyment of life or property or any use permitted in this Park, or adjacent zoning districts.

The limits on emission for particular contaminants shall be determined and enforced as provided for under the Wisconsin DNR Administrative Code NR 400-499, and the City's Municipal Code.

(3) **Liquid and Solid Waste:** Any disposal of wastes in the Park shall be done in such a manner that it will conform to the regulations of this section. No wastes shall be discharged into a storm sewer or roadside ditch or drainage area, except clear and unpolluted water. All liquid waste disposal shall be in conformance with the Wisconsin DNR Administrative Code NR 300-353, and Chapter 17 of the City's Code.

(4) **Electrical Emission:** There shall be no electrical emission beyond the property line which would adversely affect any other use. Any activity causing or resulting in electro-mechanical or electro-magnetic disturbance or radiation,

shall require a written application to, and the approval by the Inspection Supervisor and the Corporation.

(5) **Glare and Heat:** There shall be no reflection or radiation, directly or indirectly, of glare or heat beyond the boundary of the Park under any conditions, nor beyond the property line if it would adversely affect any other use within the Park.

(6) **Vibration:** There shall be no operation or activity which would cause ground transmitted vibrations in excess of the limits set forth below beyond the boundary of the Park under any conditions, nor beyond the property line if it would adversely affect any other use within the Park.

| <u>Frequency</u><br><u>Cycles Per Second</u> | <u>Maximum Permitted Displacement</u><br><u>Along Subdivision Boundaries</u><br>(in inches) |
|--|---|
| 0 to 10                                      | .0008   |
| 10 to 20                                     | .0005   |
| 20 to 30                                     | .0002   |
| 30 to 40                                     | .0002   |
| 40 and over                                  | .0001   |

H. Site Drainage

No land shall be developed and no use shall be permitted that results in the flooding, erosion, or sedimentation of adjacent properties. All runoff shall be properly channeled into a storm drain, watercourse, storage area, or other stormwater management facility.

V. **SITE PLAN APPROVAL**

No building permit for development within the Park will be issued by the City without first having a site plan submitted to, reviewed and approved by the Community Development Department in accordance with Section 15.370(2) of the City's Code, as well as approval of said site plan by the Corporation.

In addition to the requirements of Section 15.370(2) of the City's Code, the following shall be submitted in order to satisfy site plan submittal requirements:

- (1) Building elevations which identify and show that construction and finish materials requirements have been met.
- (2) Fence elevations, plans or other relevant information showing how stored materials (indicate type and quantity) will be screened.
- (3) A sketch of all proposed signs, indicating their size, location, height above ground level, materials to be used, sign information, and lighting characteristics.

- (4) Location and description of planting materials to be installed, and accompanying planting schedule identifying landscaping to be installed within 12 consecutive calendar months after initial date of occupancy.

In the event the Corporation fails to take action to either approve or disapprove a site plan meeting all the requirements of Section 15.370(2) of the City's Code within 30 consecutive calendar days after submittal of said site plan to the Corporation by the Community Development Department, such approval by the Corporation will not be required, and the site plan will be deemed to have been in compliance with this covenant, and shall only require the approval of the Community Development Department.

## **VI. ARCHITECTURAL AND DESIGN CONTROLS**

### **A. Buildings**

For all parcels in the Park, at least 50 per cent of each exterior wall facing a public right-of-way shall be faced with brick, decorative masonry, natural stone, ornamental and architectural metal, concrete panels, glass curtain walls, or equivalent finish material. Standard cinder block, concrete block, painted concrete or prefabricated sheet metal shall not be considered appropriate finish materials. Exterior walls facing I-43 shall be 100 per cent faced with brick, decorative masonry, natural stone, ornamental and architectural metal, concrete panels, glass curtain walls or equivalent finish materials. A suitable amount of metal or other trim materials will be allowed as approved in the site plan. Exterior walls not facing public right-of-ways must be coated with a colored finish representing at least 25 per cent of the exterior wall area, and which is a contrasting color to the predominant color on said exterior wall.

- (1) All buildings and structures in the Park shall be designed in accordance with the following design standards:
  - a. Any building or structure over two hundred (200) feet in length shall be designed so as to break up the visual expanse of the structure. Staggering the facade shall be attained by incorporating recesses and projections, changes in color or materials or variations in roof lines.
  - b. All roof top mechanical equipment shall be completely screened from public view by a continuous, permanent structure site screen compatible with the design and coloration of the principal structure. Whenever possible, the structure site screen shall be designed as an architectural component of the principal structure in the form of a parapet wall.
  - c. Buildings and structures shall be required to create a facade meeting the requirements contained herein for each side of the building and structure facing a public right-of-way.

- d. All electric meters, transformers, downspouts and other appurtenances shall either be incorporated internally into a building or structure, or be of the same or a similar color approved by the Community Development Department, so as to match or be unobtrusive at the site and be site screened to the fullest extent possible.
- e. All buildings and structures on a particular lot shall relate to other buildings in the Park, so that the development as a whole presents a unified appearance. However, monotony of design shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest.
- f. Architectural design is not restricted. Evaluation of the appearance of a building or structure shall be based on the quality of its design and relationship to surroundings.
- g. Landscape design shall be used to enhance and complement architectural features.
- h. In locations where plants are susceptible to injury by pedestrian or motor traffic, protection shall be provided with appropriate curbs, fences, tree guards or other devices.

**B. Non-Building Site Elements**

All operations shall be carried on within fully enclosed buildings and no outside activities shall be carried on, except storage of materials used in or resulting from an on-site manufacturing operation, and the parking, loading or unloading of vehicles. Contractor's laydown yard, outdoor storage activities are permitted only if properly screened and with Corporation approval.

Barbed wire in any form is specifically prohibited in the Park unless a demonstrated need for security is evident, upon which written approval shall be obtained from the Corporation.

All storage areas must be located in a rear or side yard area not fronting on a public right-of-way. Storage areas are to be sight screened a maximum of eight (8) feet in height, as approved by the Community Development Department. Such areas shall be maintained to present a clean appearance at all times.

All commercial trash dumpsters or other trash disposal areas shall be sight screened by a wall or fence on three (3) sides which shall be constructed of design materials complementary to the principal building on a lot, and a fourth side with a lockable access gate facing a service drive, with the height of the screen structure extending at least one (1) foot above the top of the dumpster or trash receptacle, but not more than eight (8) feet in height as measured from



Along all public rights-of-way, plant materials shall be selected and placed to avoid blocking site lines or vision clearance areas under Section 15.390(7) of the City's Code at intersections and curb cuts. Landscaping within and adjacent to utility easement areas shall not disrupt service or access to overhead or underground equipment.

All landscaping shall be designed to facilitate ongoing maintenance.

D. Stormwater Detention/Retention Facilities

All lots in the Park are required to have positive drainage, and shall not be permitted to drain to any adjacent lot or parcel, unless approved by the City's Engineer. Stormwater detention and retention facilities shall be designed so as to utilize aesthetically pleasing materials including, but not limited to rip rap and aggregate, so that during non-storm event periods there will be permanent vegetation cover. The plant materials installed in detention/retention facilities must be able to withstand periodic flooding.

Stormwater detention/retention facilities shall be designed and landscaped so that they provide an aesthetic amenity, as well as, provide storm water storage capacity. Stormwater facilities shall be permitted in any yard area. All development in the Park shall comply with Chapters 28 (Stormwater Management) and 29 (Soil Erosion Control) of the City's Code.

E. Exterior Lighting

For all lots in the Park, exterior lighting shall be shaded, recessed, or inwardly directed in such a manner so that no direct light or glare is cast upon adjoining lots, or upon adjoining rights-of-way.

New light standards shall be no higher than is necessary to provide sufficient security lighting for the Park or lot on which such lighting is located. In most situations, light standards should not be taller than twenty-five (25) feet above final grade.

Exterior lighting components such as fixtures, standards and exposed accessories should be harmonious with the overall Park design and thematic improvements.

The style and design of all non-building lighting fixtures shall require the approval of the Community Development Department.

F. Off-Street Parking and Loading

- (1) Parking areas shall be developed and landscaped pursuant to Section 15.690 of the City's Code. All site plans in the Park shall meet the requirements under Section 15.370(2) and Section 15.690 of the City's

Code. All landscape areas including tree islands shall be protected by concrete curbing, landscape timbers or equivalent structure.

- (2) The number, size, dimension and layout of parking areas, including identification and location of handicap parking, shall be provided for all off-street parking areas, and approved as part of the site plan.
- (3) Off-street parking shall be provided in accordance with Section 15.430 of the City's Code. In addition, one (1) parking space for each truck or vehicle stored or kept on the property shall be provided.
- (4) There shall be no on-street parking or loading permitted on any publicly owned right-of-way located in the Park.
- (5) Exterior off-street loading activities shall be permitted in any required yard, except the front yard and the front one-third of the building located in the street side yard unless approved by the Community Development Department based on extenuating circumstances or site constraints. Off-street loading shall be provided in accordance with Section 15.430(10) of the City's Code.

Snow storage areas that are not part of the landscape tree islands shall be designated on site plans under Section 15.370(2) of the City's Code.

#### G. Signs

Signs shall be part of the architectural concept in the Park, and shall complement the architectural style and scale of buildings and structures, and shall be designed as an integral architectural element of all buildings and sites to which it principally relates. All sign terminology shall have the meaning as defined or interpreted in Chapter 31 of the City's Sign Code.

In addition to the covenants, signs shall follow the SD-01 sign district as detailed in Chapter 31 – Sign Ordinance in the Municipal Code.

Size, color, lettering, location and arrangement shall be harmonious with the principal building design.

Sign information is limited to company name, address, logo and identification of its chief product(s).

Monument signs must include a landscaped setting of ornamental shrubs, flowers, groundcover, decorative materials, and the like, in an area equal to a minimum of two (2) times the area of the sign. The landscape area must be set back a minimum of 15 feet from street right-of-ways.



Directional signs shall be a post and panel system, and shall be permitted in addition to allowed identification signs, for such purposes as "in", "out", "visitor parking", "employee parking", and the like.

Signs painted on walls and roofs, off-premise signs, projecting signs, and movable signs shall not be permitted. No roof-mounted billboards, or signs projecting above the top of the highest exterior wall will be permitted.

All lettering on the building must be smaller in height than 20 per cent of the wall height, and all of the combined graphics shall not be longer than 50 per cent of the wall length.

No flashing light signs shall be permitted within the Park.

#### H. Utilities

All service-related utilities (excluding necessary utility pads) shall be placed underground. No one shall in any way disturb the functioning of overhead or underground utilities in the Park, without the written permission of the Corporation and MPU. Overhead facilities may be extended with approval of the Corporation and MPU.

### VII. **AUTHORITY**

By its adoption and approval of these Protective Covenants, the Common Council of the City of Manitowoc hereby authorizes the Corporation to exercise the powers and duties prescribed herein to be exercised by the Corporation. This authority shall continue until specifically amended or withdrawn by the Common Council.

### VIII. **ENFORCEMENT**

The enforcement of these Protective Covenants shall be by proceeding at law or in equity against any Owner(s) violating or attempting to violate any covenants, either to restrain violation or recover damages.

Invalidation of any of the conditions, covenants or restrictions contained herein, or the failure to enforce any of these at the time of a violation, shall in no way affect any of the other conditions, covenants or restrictions, nor be deemed a waiver of the right to enforce the same thereafter.

If any Owner has failed in any of the foregoing duties or responsibilities, then the City may give such Owner written notice of such failure, and such owner must within fourteen (14) consecutive calendar days after receiving such notice, rectify the problem.

Should any Owner fail to fulfill this duty and responsibility within such period, then the City, through its authorized agent, shall have the right and power to enter onto the premises and perform such care and maintenance without any liability for damages for wrongful entry or trespass. The Owner for which such work is performed shall

promptly reimburse the City for such cost. If such Owner shall fail to reimburse the City within 30 consecutive calendar days after receipt of a statement for such work, then said indebtedness shall be assessed against the lot Owner's annual real estate tax bill.

#### **IX. EXCEPTIONS**

Notwithstanding anything herein contained to the contrary, the Corporation expressly reserves the right to authorize land uses in the Park not expressly identified in these Protective Covenants, as well as to grant exceptions from the strict application of these Protective Covenants, where owing to special conditions, a literal enforcement of the provisions of these covenants will result in practical difficulty or unnecessary hardship, so that the spirit of the covenants will be observed and substantial justice done. Any exceptions hereunder shall be in writing.

#### **X. AMENDMENT AND OWNERSHIP**

These Protective Covenants may be changed, modified or amended at any time, in whole or in part, by a majority of Owners in the Park, together with the approval of the Corporation and the City Council. For the purposes of determining the vote of the Owners in the Park, each Owner of land in the Park, other than the Corporation or City, shall be entitled to one (1) vote regardless of the amount of land owned.

In cases where a parcel of land is under the ownership of more than one (1) party, the record Owner(s) shall be entitled to only one (1) vote. The vote of any Owner shall be evidenced by the signature of an authorized representative of that Owner, which need not be acknowledged or notarized.

These Protective Covenants may be modified and amended only upon the recording of an instrument in the office of the Manitowoc County Register of Deeds.

#### **XI. OTHER PROVISIONS**

No Liability of the City. The City shall have no obligation or liability to an owner or any other party retained by an owner in the performance of an owner's obligations and responsibility under the terms and conditions of these Protective Covenants.

Waiver of Rights. The failure of the City to enforce any of these Protective Covenants shall not be deemed to be a waiver of the right to do so thereafter nor of the right to enforce any other restriction.

Severability. If any provisions of these Protective Covenants is deemed by a court of competent jurisdiction to be invalid or unenforceable, the remainder of these Protective Covenants shall not be affected thereby, and such remainder would then continue to conform to the requirements of applicable laws.

Successors and Assigns. The terms of these Protective Covenants shall be binding upon and inure to the benefit of the parties hereto, as well as their respective

transferees, successors and assigns. Any transfer of any party's interest in land in the Park covered under these Protective Covenants, or the transfer of any portion or interest in land in the Park, shall not release the transferor from its obligations hereunder.

Indemnification. An owner hereby agrees to defend and indemnify the City, its officers, agents and employees, and to hold each of them harmless from any claims of any kind, and demands, causes of action, or damages of any kind, including reasonable attorney's fees, arising out of an owner's ownership and use of land in the Park.

Integration and Conflicts. If any provision of these Protective Covenants conflicts with the requirements contained in the City's zoning ordinance under Chapter 15 of the Code, the provisions of these Protective Covenants shall control unless the City determines otherwise.

Municipal Rights. Nothing in these Protective Covenants shall limit the right of the City to pass ordinances affecting the Park in the exercise of its governmental powers.

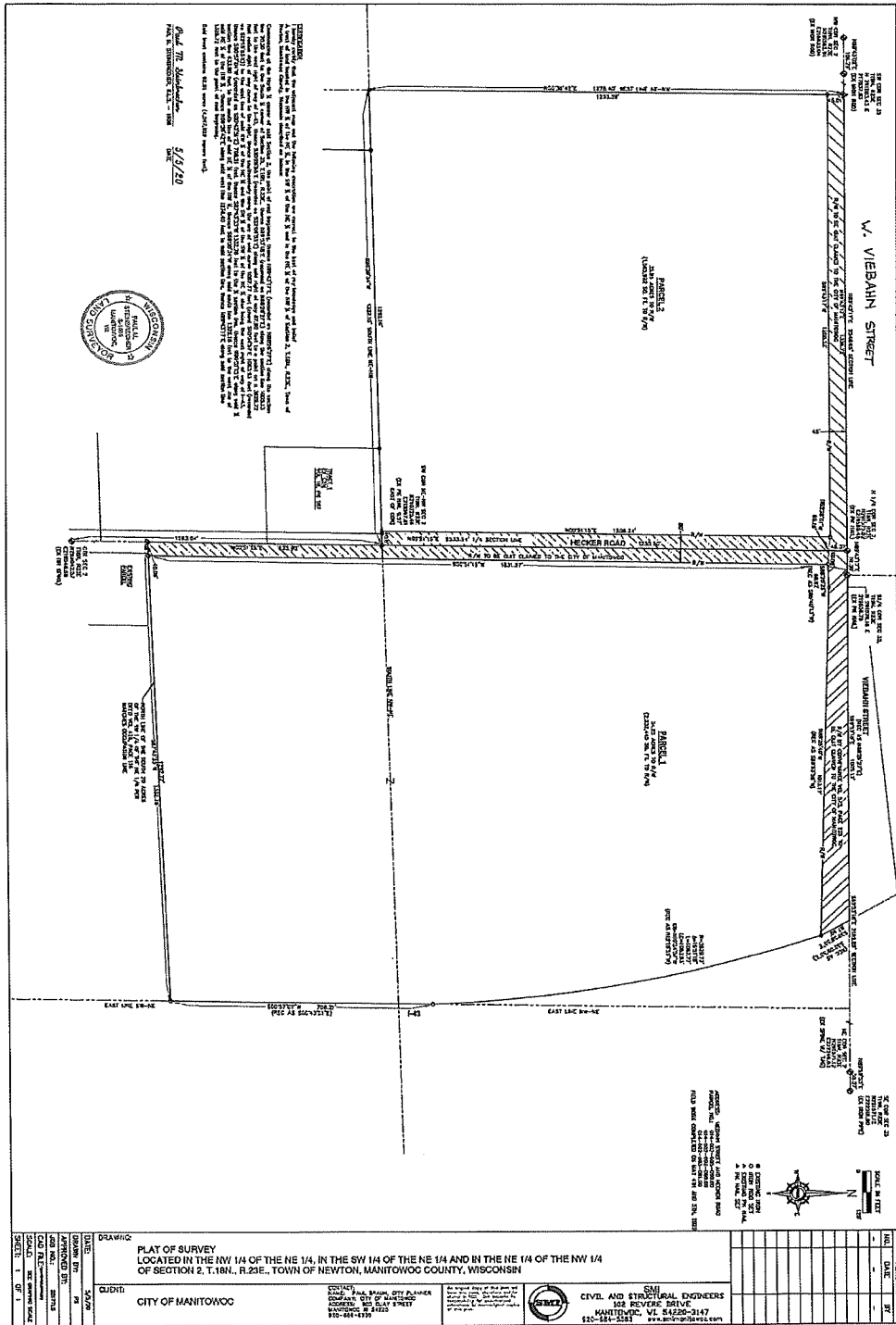


Figure 1 Exhibit "A" - Map

## Exhibit "B" - Legal Description

Area located in the NW 1/4 of the NE 1/4, in the SW 1/4 of the NE 1/4 and in the NE 1/4 of the NW 1/4 of Section 2, Township 18 North, Range 23 East, City of Manitowoc, Manitowoc County, Wisconsin describes as follows:

Commencing at the North 1/4 corner of said Section 2, the point of real beginning, thence N89° 43' 17"E (recorded as N88° 26' 27"E) along the section line 70.30 feet to the South ¼ corner of Section 35, T19N, R23E, thence N89° 53' 18"E (recorded as N88° 26' 27"E) along the section line 1,005.13 feet to the west right-of-way of I-43, thence S30° 28' 55"E (recorded as S32°09'53"E) along said right-of-way 87.90 feet to a point on a 3,629.72 foot radius right-of-way curve to the right, thence southeasterly along the arc of said curve 1,067.77 feet (chord S10° 34' 57"E, 1,063.93 feet (recorded as S12°15'55"E)) to the east line of said NW 1/4 of the NE 1/4 and the SW ¼ of the SW ¼ of the NE ¼ also being the west right-of-way of I-43, thence S00°57'04"W (recorded as S00°43'51"E) 708.21 feet, thence S87°43'33"W 1,332.78 feet to the 1/4 section line, thence N00°51'15"E along said 1/4 section line 633.90 feet to the south line of said NE 1/4 of the NW 1/4, thence S88°30'34"W along said south line 1,322.16 feet to the west line of said NE 1/4 of the NW 1/4, thence N00°36'42"E along said west line 1,278.40 feet to said section line, thence N89°43'17"E along said section line 1,326.72 feet to the point of real beginning.

Said described area contains 92.91 acres (4,047,020 square feet)

Area of Covenants excludes any areas dedicated for street purposes.