

DEVELOPMENT AGREEMENT

Return to:

Nicolas Sparacio
Community Development Director
City of Manitowoc
900 Quay Street
Manitowoc, WI 54220

See Exhibit A
Parcel Numbers

THIS DEVELOPMENT AGREEMENT (the "Agreement") is by and between DONEFF'S SCHUETTE BUILDING, LLC, a Wisconsin limited liability company ("Developer") and CITY OF MANITOWOC, WISCONSIN ("City").

RECITALS :

A. Developer owns certain real property located on a parcel with street addresses of 804 Jay Street and 914 S. 8th Street, Manitowoc, WI 54220 and a tax parcel no. of 052-000-230-120.00, which is legally described on Exhibit A attached hereto and made a part hereof (the "Property").

B. The City is interested in encouraging new development, eliminating blight and retaining and expanding existing business in the City.

C. Section 66.1105 of the Wisconsin Statutes (the "Tax Increment Law") provides the authority and establishes procedures by which the City may exercise powers necessary and convenient to carry out the purposes of the Tax Increment Law, cause project plans to be prepared, approve such plans, implement provisions and effectuate the purposes of such plans, and finance such development through the use of Tax Incremental Financing.

D. On September 18, 2017, the Common Council of the City of Manitowoc adopted a resolution creating Tax Incremental District No. 19 (the "District") and approved a plan for the redevelopment of the District consisting of the project plan for the District (the "Project Plan").

E. The City has created the District for the purpose of spurring downtown redevelopment and promoting economic development.

F. Developer wishes to complete a renovation of the historic Schuette Building to consist of façade restoration, approximately 17 apartment units, and "white box" commercial space consistent with the concept plans attached as Exhibit B (hereinafter, the "Project"). Developer anticipates that the total cost of acquiring the Property and constructing and outfitting the Project shall be not less than Six Million Five Hundred Thousand Dollars (\$6,500,000), inclusive of a land value of ~~---~~ Seventy-eight Thousand, Four Hundred Dollars (~~xxx78,400~~). The Project costs include hard construction costs and soft costs as described in Section 2.1 below (collectively, "TIF Items").

G. Developer shall commence construction of the Project as soon as practicable in calendar year 2018 but in no event shall the Project commence later than June 30, 2018 and shall be completed by Developer on or before August 31, 2019 subject to force majeure events beyond Developer's control.

H. The City finds that the development of the Project and the fulfillment, generally, of the terms and conditions of this Agreement are in the vital and best interests of the City and its residents, and serve the public purpose in accordance with state and local law, and are consistent with the Project Plan.

I. This Agreement is intended to provide for certain duties and responsibilities of the City and Developer in order to cause the construction and development of the Project in the City.

NOW THEREFORE, the City and Developer hereby agree as follows:

ARTICLE I

FINANCING

1.1 Construction of Project. Developer shall cause to be constructed the Project upon the Property as generally described in the recitals above.

1.2 Financing. The City shall, as a development incentive, provide financial assistance to Developer for costs associated with developing the Project. The City shall provide such financial assistance by issuing to Developer a tax increment revenue note (the "Note") in the form, and with the terms, set forth on Exhibit C attached hereto and made a part hereof.

(a) Note. The Note shall be issued by the City Treasurer and delivered to Developer within thirty (30) days of the date the conditions set forth in Article II, below have been satisfied. The principal amount of the Note shall be ~~Nine~~ One Million, One Hundred Thousand Dollars (~~\$9001,100,000~~). The final cost of the Project shall be based upon actual invoices and requests for payment and may be audited by the City at any time.

1.3 District Duration. Unless the Developer has been paid in full all amounts owed to Developer under the Note, the City covenants and agrees not to cause the early termination of the District prior to the District's full statutory life.

ARTICLE II

CONDITIONS TO FINANCING

Prior to the City's release of the Note to Developer, the following shall have occurred:

2.1 Certification of Project Cost. Developer shall have certified to the City each of the following (each certification may be made separately):

(a) That the Project is substantially complete as evidenced by a certificate of occupancy.

(b) The total cost of the Project, including without limitation, all hard costs (such as public or private utility or other infrastructure improvements, costs of labor and materials in constructing the Project, and site acquisition and preparation), all soft costs (such as professional fees, title insurance, builder's risk insurance, feasibility studies, environmental testing, development services, financing costs and construction interest), and other eligible building improvement related costs consistent with Wis. Stats. §66.1105(2)(f). Developer shall be allowed a funded developer fee not to exceed five percent (5%) of the actual hard construction costs of the Project. This certification shall be

accompanied by an itemized list of expenditures based upon actual invoices and requests for payment referred to in the last sentence of Section 1.2.

(c) Documentary evidence of Developer's contribution of at least \$600,000 in cash equity toward the Project which may include, but not be limited to, copies of paid invoices or other documentation of pre-paid project costs paid by Developer.

2.2 Covenants to Maintain Value. Developer agrees that, as long as the Note remains outstanding, Developer, for itself, its successors and assigns as owners of the Property, shall:

(a) Not sell, transfer or convey any portion of the Property to any party which would render such property exempt from property taxation without first obtaining the consent of the City to such transfer.

(b) Pay its real estate taxes and any other funds owed against the Property prior to delinquency.

(c) Not cause a reduction in the real property taxes paid with respect to the Property through willful destruction of any improvements or portions thereof, except for improvements that exist on the date of this Agreement and that are demolished in connection with the development of the Property.

(d) Not apply for any deferral of real property taxes on the Property.

(e) Shall not challenge any property tax assessment, real or personal.

This Section 2.2 shall run with the land.

ARTICLE III

GENERAL

3.1 Notices. Delivery of documents and written notices to a party shall be effective only when accomplished in any of the following ways:

By certified mail, return receipt requested at:

DEVELOPER: Doneff's Schuette Building, LLC.
c/o Anton Doneff Sr.
5160 Expo Drive
Manitowoc, WI 54220

WITH COPY TO: Reinhart Boerner van Deuren s.c.
c/o Nathan J. Wautier, Esq.

22 E Mifflin Street, Suite 600
Madison, WI 53703

CITY: CITY OF MANITOWOC
c/o Community Development Director
900 Quay Street
Manitowoc, WI 54420

WITH COPY TO: CITY OF MANITOWOC
c/o City Clerk
900 Quay Street
Manitowoc, WI 54220

By giving the document or written notice personally to the party.

3.2 Waiver. No waiver of any provision of this Agreement shall be deemed or constitute a waiver of any other provision, nor shall it be deemed or constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement nor shall it be deemed a waiver of any subsequent default or defaults of the same type. Failure to exercise any right under this Agreement shall not constitute the approval of any wrongful act.

3.3 Amendment/Modification. This Agreement may be amended or modified only by a written amendment approved and executed by the City and Developer.

3.4 Entire Agreement. This written Agreement and written amendments, and any referenced attachments hereto, shall constitute the entire Agreement among Developer and the City.

3.5 Time. Time is of the essence as to all dates and deadlines contained in this Agreement. Provided, however, in any instance where the performance of an act is required within a specified time or by a specified date, strict compliance within the specified time shall be extended if the delay or inability to perform is caused by or results from civil disasters or acts of God. It being the intent of this provision that in the event of the occurrence of any such delay, the time or times of performance of any of the obligations of the party shall be extended for the period of the delay as determined by the other party, provided that the party seeking the extension due to the delay shall have first notified the other party thereof and requested an extension of the period of the delay.

3.6 Defaults; Litigation. Neither party shall be deemed to be in default under this Agreement for failure to perform any term or condition of this Agreement unless the other party (the "Non-Defaulting Party") has first given the party alleged to be in default (the "Defaulting Party") written notice describing such failure, and the Defaulting Party does not, within thirty (30) days thereafter cure such failure (an "Event of Default"). Notwithstanding the foregoing, if a Defaulting Party is diligently pursuing a cure, such Defaulting Party shall be granted a longer time as is reasonably necessary to complete the

cure prior to any such failure being deemed an Event of Default. Following an Event of Default, the Non-Defaulting Party shall have all rights and remedies available to it under law or in equity against the Defaulting Party. In connection with any litigation arising out of this Agreement, the prevailing party shall be entitled to recover all costs incurred, including reasonable attorney's fees.

3.7 Severability. If any part, term, or provision of this Agreement is held by the courts to be illegal or otherwise unenforceable, such illegality or unenforceability shall not affect the validity of any other part, term, or provision and the rights of the parties will be construed as if the part, term, or provision was never part of this Agreement.

3.8 Immunity. Nothing contained in this Agreement constitutes a waiver of the City's sovereign immunity under applicable law.

3.9 Personal Jurisdiction and Venue. Personal jurisdiction and venue for any civil action commenced by either party to this Agreement whether arising out of or relating to the Agreement shall be deemed to be proper only if such action is commenced in the Circuit Court for Manitowoc County, Wisconsin. Developer expressly waives its right to bring such action in or to remove such action to any other court whether state or federal.

3.10 Further Assurances and Corrective Instruments. The City and Developer agree that they will, from time to time, execute, acknowledge, deliver, cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the express intentions of this Agreement.

3.11 Authority. Each party warrants and represents to each other that the execution of this Agreement by their respective officers or agents has been duly authorized and that this Agreement, when fully executed, constitutes a valid, binding, and legally enforceable obligation of itself.

3.12 Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

3.13 Recordation. The City shall record a memorandum of this Agreement in the Register of Deeds Office for Manitowoc County, Wisconsin. All costs of recording shall be paid by the Developer.

3.14 Effective Date. This Agreement shall be effective as of the date and year first written above.

3.15 Agreement Contingent Upon State Certification. The financial assistance and this entire Agreement are subject to final certification of TID 19 by the Wisconsin Department of Revenue. If TID 19 is not certified, this Agreement is null and void.

[SIGNATURE PAGES FOLLOW]

DEVELOPER:

DONEFF'S SCHUETTE BUILDING, LLC

By: _____

Name: Anton Doneff, Sr.

Its: _____

Date: _____, 2018

AUTHENTICATION

STATE OF WISCONSIN)
 : SS
MANITOWOC COUNTY)

This instrument was acknowledged before me on the ____ day of _____,
2018, by Anton Doneff, Sr., as the _____ of Doneff's Schuette Building, LLC.

[Seal]

(_____)

Notary Public, State of Wisconsin
My commission is permanent.

This document was drafted by

Reinhart Boerner Van Deuren s.c.
c/o Nathan J. Wautier, Esq.
22 East Mifflin Street, Suite 600
Madison, WI 53703

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

The East One-half (E1/2) of Lot Numbered Three (3); All of Lot Numbered Ten (10); and All of Lots Numbered Eleven (11) and Twelve (12), excepting therefrom a parcel described in Warranty Deed recorded in Volume 1469 of Records, Page 142, as Document Number 868046.

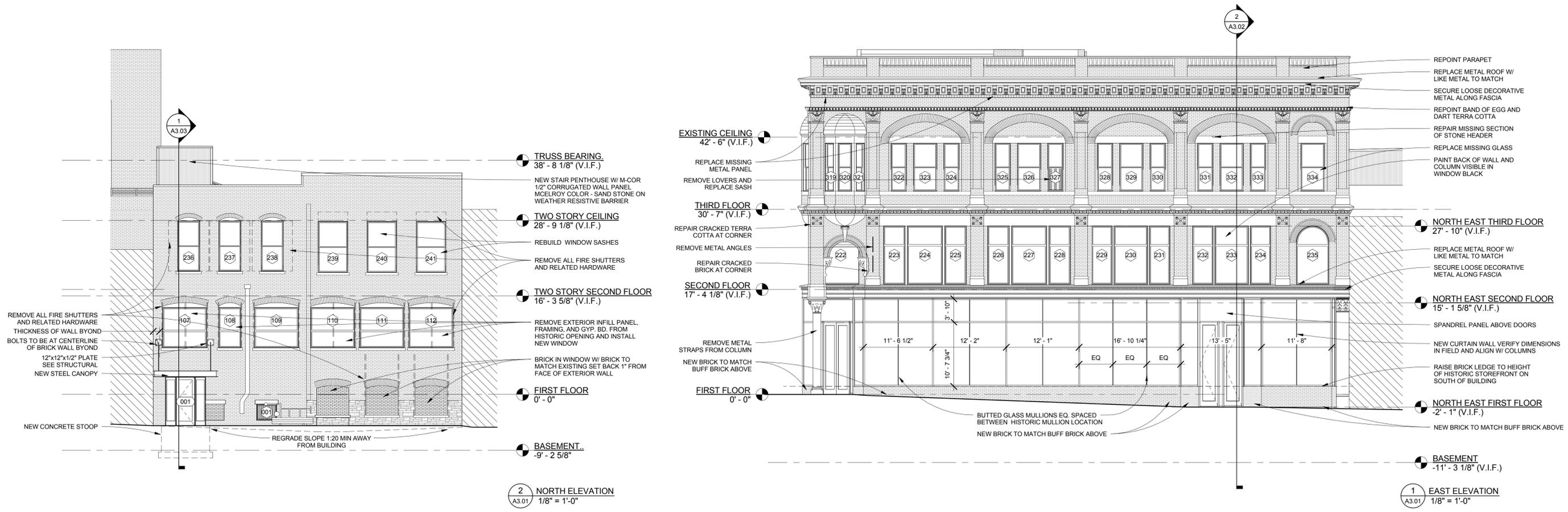
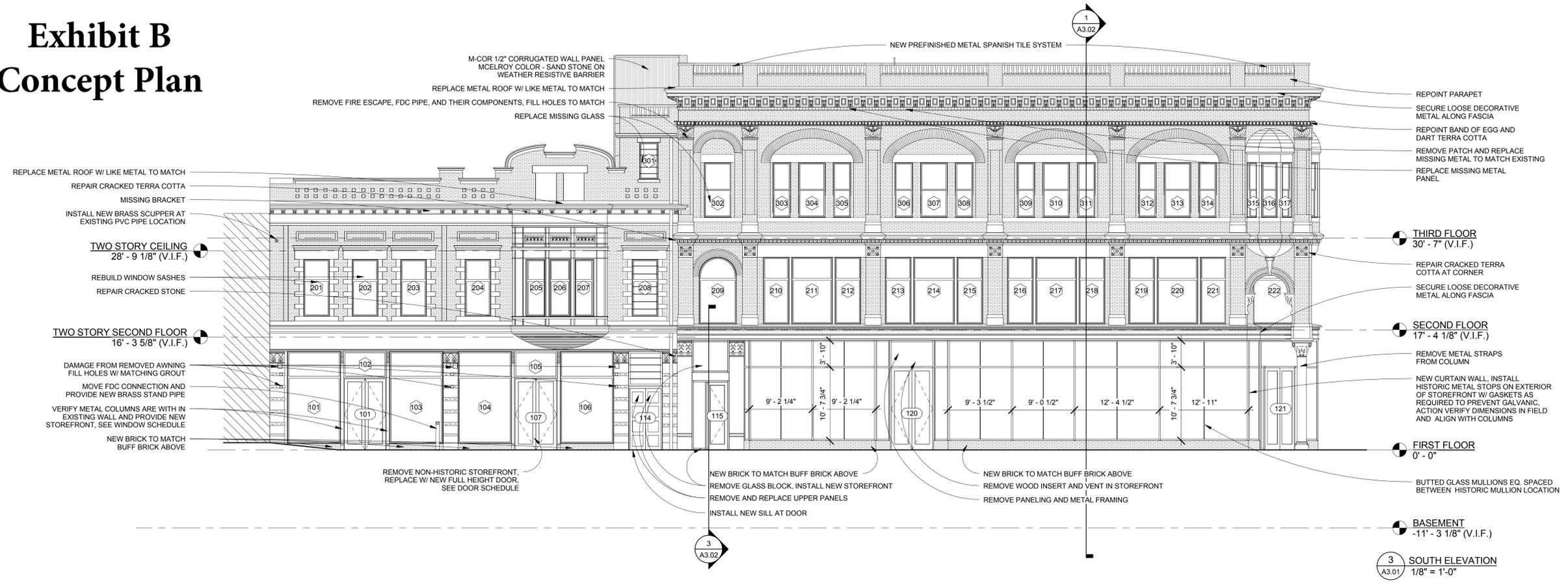
All in Block Numbered Two Hundred Thirty (230) of the Original Plat in the City of Manitowoc, Manitowoc County, Wisconsin, according to the Recorded Plat thereof.

Subject to highways, easements and rights-of-way of record.

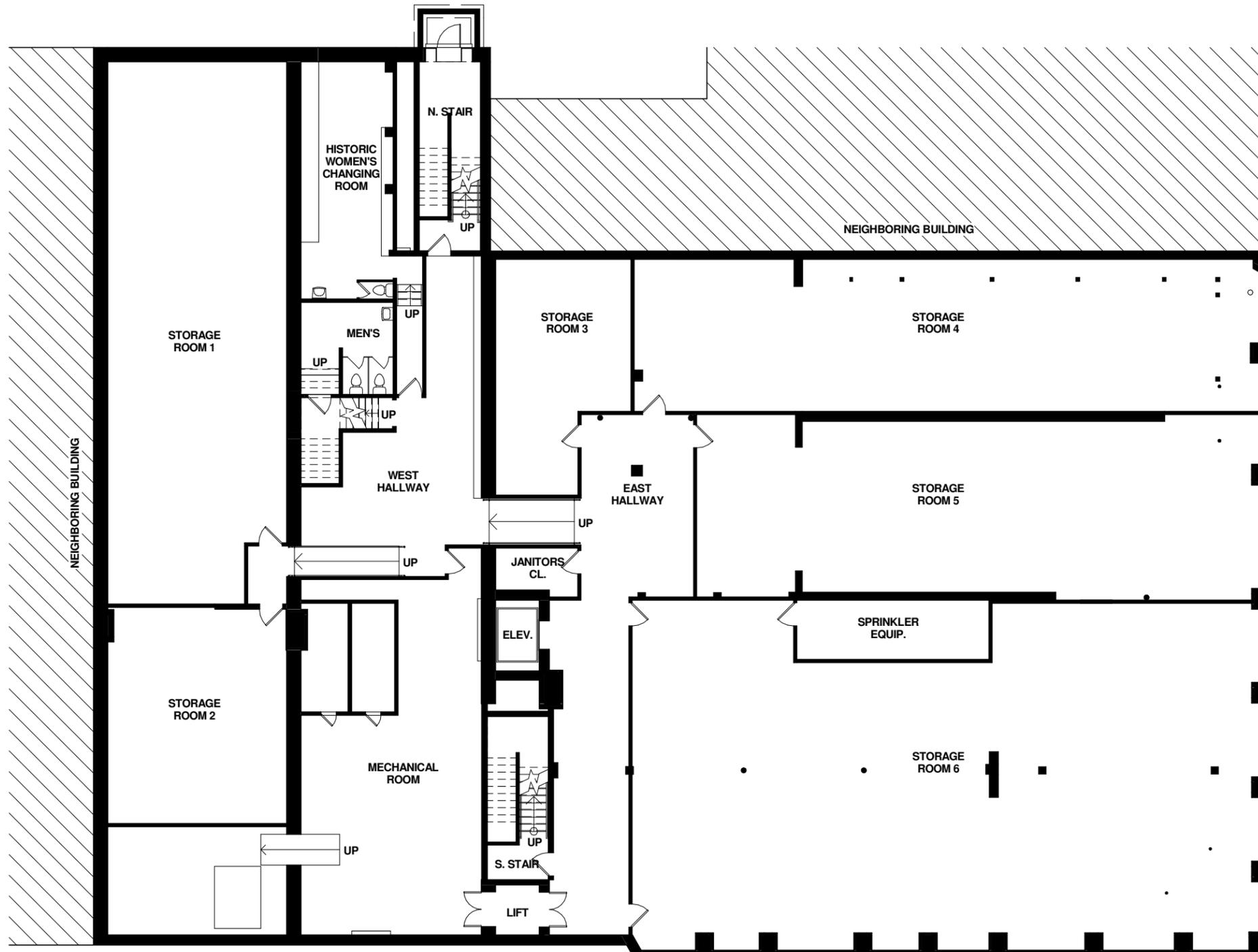
Tax Parcel No: 052-000-230-120.00

Also known as 804 Jay Street and 914 South 8th Street, Manitowoc, Wisconsin

Exhibit B Concept Plan



DATE	
NO. REVISIONS	
LEGACY architecture 605 Erie Avenue, Suite 101 Sheboygan, Wisconsin 53081 (920) 783-6303 www.legacy-architecture.com	
BUILDING RENOVATION FOR: DONEFF'S SCHUETTE BUILDING LLC 804 JAY STREET MANITOWOC, WI 54220	
PROJECT NUMBER	15.051
DRAWN BY	J. DEJARDIN
CHECKED BY	J. LEHRKE
DATE	12/17/2015
SHEET TITLE	EAST, SOUTH, AND NORTH ELEVATION
SHEET NUMBER	A3.01



BASEMENT PLAN

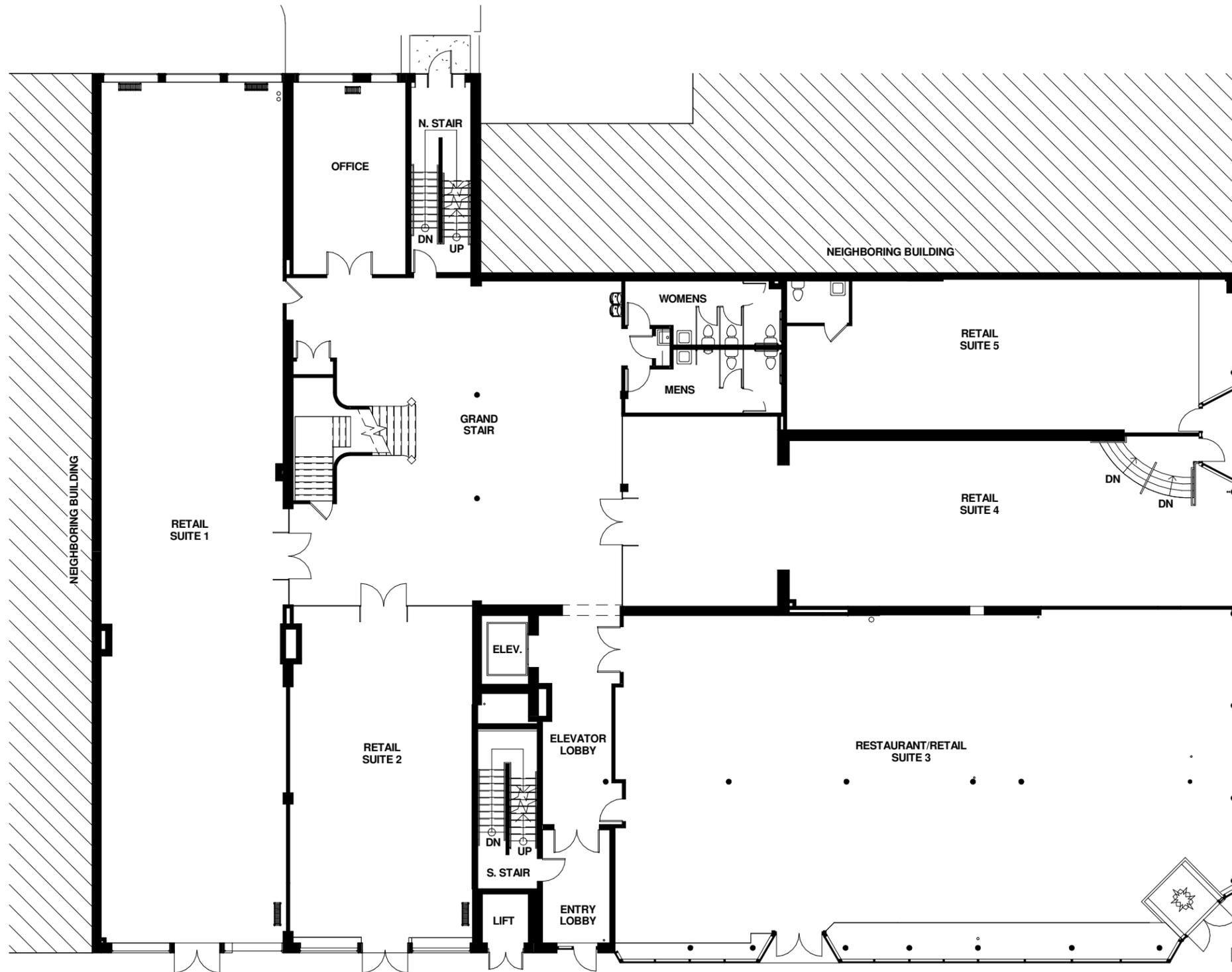
1/16" = 1'-0"

FOR PRESENTATION ONLY - NOT FOR CONSTRUCTION



**BUILDING RENOVATION FOR:
DONEFF'S SCHUETTE BUILDING LLC**
804 JAY STREET
MANITOWOC, WI 54220

PROJECT NUMBER 15.051
DATE 8/30/2017
SHEET NUMBER PR1.01



FIRST FLOOR PLAN

1/16" = 1'-0"

FOR PRESENTATION ONLY - NOT FOR CONSTRUCTION



LEGACY
 architecture
 605 Erie Avenue
 Sheboygan, Wisconsin 53081
 (920) 783-6303
 www.legacy-architecture.com

**BUILDING RENOVATION FOR:
 DONEFF'S SCHUETTE BUILDING LLC**
 804 JAY STREET
 MANITOWOC, WI 54220

PROJECT NUMBER 15.051
DATE 8/30/2017
SHEET NUMBER PR1.02



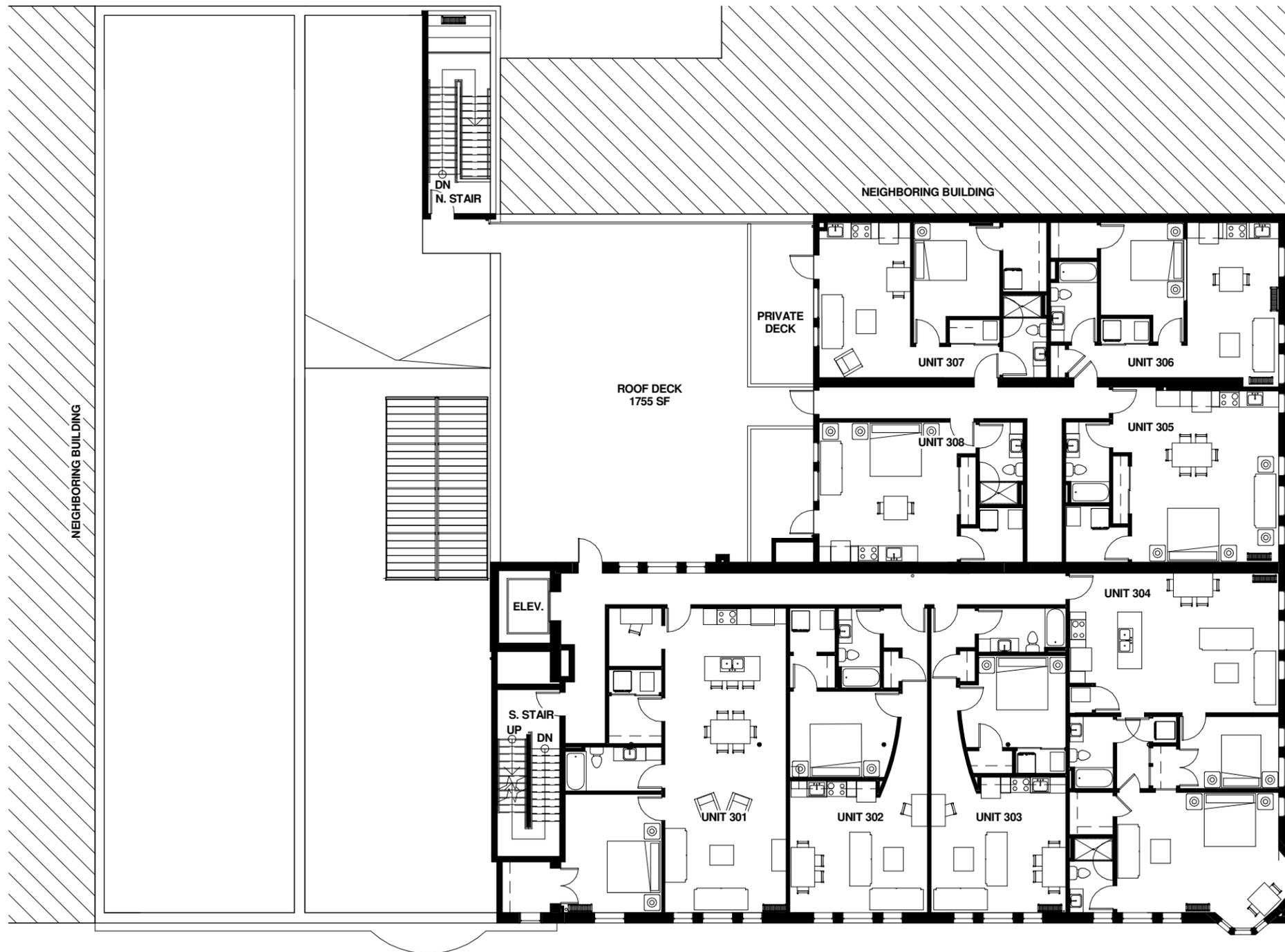
SECOND FLOOR PLAN
1/16" = 1'-0"

FOR PRESENTATION ONLY - NOT FOR CONSTRUCTION



**BUILDING RENOVATION FOR:
DONEFF'S SCHUETTE BUILDING LLC**
804 JAY STREET
MANITOWOC, WI 54220

PROJECT NUMBER 15.051
DATE 8/30/2017
SHEET NUMBER PR1.03



THIRD FLOOR PLAN
1/16" = 1'-0"

FOR PRESENTATION ONLY - NOT FOR CONSTRUCTION



BUILDING RENOVATION FOR:
DONEFF'S SCHUETTE BUILDING LLC
804 JAY STREET
MANITOWOC, WI 54220

PROJECT NUMBER 15.051
DATE 8/30/2017
SHEET NUMBER PR1.04

EXHIBIT C

CITY OF MANITOWOC
TAX INCREMENT DISTRICT NO. 19
TAX INCREMENT REVENUE NOTE

THIS TAX INCREMENT NOTE (the "Note") is issued this ____ day of _____, 201__ by the CITY OF MANITOWOC, a Wisconsin municipal corporation (the "City") to DONEFF'S SCHUETTE BUILDING, LLC, its successors and assigns ("Developer").

W I T N E S S E T H

- A. The City and Developer have entered into a development agreement dated [_____], 2018 (the "Development Agreement").
- B. The Note is issued by the City pursuant to the Development Agreement.
- C. Terms that are capitalized in this Note that are not defined in this Note and that are defined in the Development Agreement shall have the meanings assigned to such terms by the Development Agreement.

A G R E E M E N T

1. General. The City hereby promises to pay to Developer, subject to all of the terms and conditions of this Note, the principal amount of ~~Nine One Million, One~~ Hundred Thousand Dollars (\$9001,100,000), together with interest as described in Section 2, below, in payments described in Section 3, below. **[The principal amount is subject to adjustment prior to issuance of the Note pursuant to Section 1.2 of the Development Agreement.]**

2. Interest. The rate of interest shall be five percent (5%) per annum up to a maximum of Three Hundred Thousand Dollars (\$300,000) in total interest payments. Interest shall accrue from the date Developer has commenced construction of the Project, as evidenced by the issuance of a demolition permit from the City.

3. Payments. Payments of principal and interest in the amounts set forth on the maturity schedule attached hereto as Schedule 1 shall be due in annual installments beginning on November 1, 2020 and annually thereafter through the calendar year following the closure of Tax Increment District No. 19. Each November 1st payment date described in this Section 3 is referred to as a "Note Payment Date." Interest accrued through November 1st preceding the first Note Payment Date shall be added to the principal outstanding under the Note effective on such November 1st date. Prepayment of the amounts evidenced by this Note may be made in full or in part at any time without penalty. If, by the final Note Payment Date, there has been over the life of this Note insufficient Tax Increment to pay all principal and interest due under this Note, the City

shall have no further obligation to make any payments whatsoever on this Note. This Note is unsecured and is non-recourse.

4. Nature of Obligation. **The principal and interest payments to be made on the Note Payment Dates shall be payable solely from the Tax Increment (as defined in the Tax Increment Law) from the Property (a) accrued during the calendar year or years preceding the applicable Note Payment Date, and (b) actually received by the City by such Note Payment Date. The Note shall be a special and limited obligation of the City and not a general obligation.** On each Note Payment Date, the City shall apply all Tax Increment received from the Property for the previous year's taxes in the following priority:

First, to the City's reasonable cost to administer the District.

Second, to payment of any interest due on this Note, which shall in no case exceed a total of Three Hundred Thousand Dollars (\$300,000).

Third, to the payment of any past due principal on this Note.

Fourth, to payment of any principal due under this Note on the Note Payment Date.

Fifth, if there is Excess Tax Increment (as defined below), such Excess Tax Increment shall be applied, at the City's option, as follows:

(a) to prepayment of the principal of this Note, or

(b) to be held by the City to be available for the payment of principal of or interest on this Note in future years.

Sixth, if there is Excess Tax Increment remaining after application of the Excess Tax Increment in accordance with the preceding paragraph, such Excess Tax Increment may be used by the City for any other purpose permitted by the Project Plan and the Tax Increment Law.

Nothing shall preclude City from using increment from other properties in the TID to pay this Note, however, the City is not required to use increment from other properties in the TID if the district is not performing.

5. Excess Tax Increment. "Excess Tax Increment" means the Tax Increment received by the City from the Property for any calendar year that exceeds the sum of scheduled payments of principal and interest for that year and any unpaid principal or accrued interest from prior years under this Note.

6. Subject to Appropriations. The City's obligation to make payments on this Note shall be conditioned on the requirement that the Common Council shall appropriate Tax Increment to make such payments, there shall not be an Event of Default

on the part of the Developer under the Development Agreement, and that all payments then due under any special assessments, if any, have been paid.

7. Transfer of Note. In order to transfer or assign this Note, the transferee or assignee shall surrender the same to the City either in exchange for a new bond or for transfer of this Note on the registration records for this Note maintained by the City. Any transferee or assignee shall take this Note subject to the foregoing conditions and subject to all of the provisions of the Development Agreement.

8. Miscellaneous. This Note is subject to the Tax Increment Law and to the Development Agreement.

[SIGNATURE PAGE FOLLOWS]

CITY:

CITY OF MANITOWOC, WISCONSIN

By: _____
Justin M. Nickels, Mayor

Date: _____, 2018

Attest: _____
Deborah Neuser, City Clerk

Date: _____, 2018

APPROVED AS TO FORM:

Kathleen McDaniel, City Attorney

Date: _____, 2018

DEVELOPER:

DONEFF'S SCHUETTE BUILDING, LLC

By: _____
Name: Anton Doneff, Sr.
Its: _____

Date: _____, 2018

SCHEDULE 1

NOTE PAYMENT SCHEDULE

Because the principal and interest payments to be made on the Note Payment Dates shall be payable solely from the Tax Increment from the Property accrued during the calendar year or years preceding the applicable Note Payment Date, and actually received by the City by such Note Payment Date, the payments will vary. The following schedule is provided as an example of setting the annual payment at \$76,520.75. Actual payments will be made will be based on Section 3 of the Note with the payment priorities set by Section 4 of the Note.

Payment Number	Date of Payment	Payment Due	Interest	Principal	Balance
					\$ 1,100,000.00
1	11/1/20	\$ 76,520.75	\$ 55,000.00	\$ 21,520.75	\$ 1,078,479.25
2	11/1/21	\$ 76,520.75	\$ 53,923.96	\$ 22,596.79	\$ 1,055,882.46
3	11/1/22	\$ 76,520.75	\$ 52,794.12	\$ 23,726.63	\$ 1,032,155.83
4	11/1/23	\$ 76,520.75	\$ 51,607.79	\$ 24,912.96	\$ 1,007,242.87
5	11/1/24	\$ 76,520.75	\$ 50,362.14	\$ 26,158.61	\$ 981,084.26
6	11/1/25	\$ 76,520.75	\$ 36,311.99	\$ 40,208.76	\$ 940,875.50
7	11/1/26	\$ 76,520.75		\$ 76,520.75	\$ 864,354.75
8	11/1/27	\$ 76,520.75		\$ 76,520.75	\$ 787,834.00
9	11/1/28	\$ 76,520.75		\$ 76,520.75	\$ 711,313.25
10	11/1/29	\$ 76,520.75		\$ 76,520.75	\$ 634,792.50
11	11/1/30	\$ 76,520.75		\$ 76,520.75	\$ 558,271.75
12	11/1/31	\$ 76,520.75		\$ 76,520.75	\$ 481,751.00
13	11/1/32	\$ 76,520.75		\$ 76,520.75	\$ 405,230.25
14	11/1/33	\$ 76,520.75		\$ 76,520.75	\$ 328,709.50
15	11/1/34	\$ 76,520.75		\$ 76,520.75	\$ 252,188.75
16	11/1/35	\$ 76,520.75		\$ 76,520.75	\$ 175,668.00
17	11/1/36	\$ 76,520.75		\$ 76,520.75	\$ 99,147.25
18	11/1/37	\$ 76,520.75		\$ 76,520.75	\$ 22,626.50
19	11/1/38	\$ 22,626.50		\$ 22,626.50	\$ -
		\$ 1,400,000.00	\$ 300,000.00	\$ 1,100,000.00	