

MEMORANDUM OF UNDERSTANDING REGARDING SELLER'S BROKERAGE COMMISSION

STATEMENT OF POLICY

The development of publicly owned property within the City of Edgerton is often the product of a successful public-private partnership. The terms and conditions outlined in this Memorandum of Understanding (hereinafter "MOU") are intended to govern public-owned land transactions between the City of Edgerton, as seller, and brokers in broker assisted sales. The parcels covered by this MOU are generally industrial and are located within the City of Edgerton Business Park. Since the City of Edgerton may choose to incentivize certain projects through below market sales of publicly owned property, this MOU will protect brokers' commissions for those brokers bringing transactions to the City of Edgerton's attention which result in successful closings. It is the intent of the City of Edgerton to incentivize regional brokers to become actively involved with the opportunities hereunder.

MEMORANDUM OF UNDERSTANDING

NOW COMES the City of Edgerton (hereinafter "City") and _____
_____ (hereinafter "Broker")
and, in consideration of the mutual obligations herein, agree as follows:

1. The City hereby offers for sale certain of the parcels at the prices shown on Exhibit A attached hereto. The parcels offered herein as available for sale are subject to change from time to time by the City and the Broker should confirm the availability of any parcel of interest.
2. Any real estate Broker appropriately licensed to conduct business in the state of Wisconsin shall be able to sell (under terms and conditions approved by the City) and receive a commission upon a successful closing on any of the above properties; provided that the Broker otherwise meets the terms and conditions herein. Brokers eligible for commission shall be paid said commission by the City at closing in the amount of six percent (6%) of the gross listing price for the property sold, regardless of the actual or "incentivized" sales price.
3. This MOU shall be effective from the date of execution hereof until July 31, 2018, unless earlier terminated. Either party may terminate this MOU upon 30 days advanced written notice to the other; provided, however, that the City may not terminate the agreement as to any "pending transaction." A "pending transaction" shall be defined as any written offer submitted by a Broker to the City for consideration and discretionary action by the City, its committees or other applicable government agency(ies) prior to, or within 60 days after, the

City's delivery to the Broker of a notice to terminate this MOU; provided such offer, or any subsequent counter offer, to purchase receives final approval by the City.

4. The undersigned Broker agrees to communicate and coordinate with the City of Edgerton for the purposes of coordinating government licenses or permits needed by the buyer and maximizing business development incentives.

5. The undersigned Broker understands and agrees that the City will continue to market the subject property by its own efforts, too, as well by the efforts of other Brokers who enter into similar MOUs with the City. This MOU is not exclusive.

6. The City reserves unto themselves the absolute right to accept or reject any Broker procured offers and shall have the sole discretion to determine the acceptability, suitability and sufficiency, and may amend, modify and/or condition any such Broker procured offer and make one or more counteroffers at its sole discretion including, but not limited to, any proposed end use of the property. Should the City either reject an offer or should an accepted offer fail to close, the Broker shall be entitled to a full commission at closing on any subsequent sale by the City to the same buyer where such sale arises from an offer accepted within 12 months of the original offer rejection or the scheduled closing date for the failed closing; provided the Broker is otherwise in compliance with the terms and conditions herein, unless another Broker becomes involved with the same buyer and property, in which event all Brokers involved shall pro-rate the one (1) City paid commission calculated as set forth above.

7. The undersigned Broker understands and agrees that any sales agreements hereunder are subject to the formal approval by resolution of the City Council of the City of Edgerton.

8. The undersigned Broker agrees to disclose any and all conflicts of interest, including, without limitation, contracts or agreements, between the Broker and the buyer or other financial arrangements and interests of whatever kind or nature. In such cases, the Broker must make full disclosure to the City and in no case will the City pay any portion of a buyer's commission to Broker. In no event will the City pay any Broker commission in excess of six percent (6%) of the parcel's gross listing price or more than six percent (6%) of the parcel's gross listing price for the sale of any individual parcel to any combination of Brokers and/or other persons.

9. The undersigned Broker acknowledges and agrees that the City may enter similar or identical MOU's with other Brokers as to the same properties and further understands and agrees that this MOU gives the Broker no exclusive rights as a "listing broker." Broker's commission will not be paid on any transaction where the Broker did not initiate contact with or for the prospect that led to a real estate sale and closing.

10. The undersigned Broker understands and agrees that this MOU imposes no affirmative marketing obligations upon the Broker, although the City does hereby grant the Broker the right to market the property as the Broker sees fit including utilization of regional listing services.

11. This MOU shall be governed by the laws of the State of Wisconsin. Venue for all disputes shall be exclusively a court of competent jurisdiction in the County of Dane, State of Wisconsin. In all instances, all interpretations, ambiguities, conflicts, constructions, meaning, intent, and disputes shall be construed in favor of the City. This MOU does not bestow any third party rights.

Dated this _____ day of _____, 20_____.

CITY OF EDGERTON

_____, Broker

By: _____
Christopher Lund, Mayor

By: _____
(signature)

ATTEST:

(print name)

By: _____
Ramona Flanigan, City Administrator

Its _____
(print title)