Village Board

Regular Meeting Notice and Agenda

Village of Cross Plains
2417 Brewery Road, PO Box 97
Cross Plains, WI 53528
(608) 798-3241

Tuesday, August 30, 2016
7:00 pm

I. Call to Order, Roll Call, and Pledge of Allegiance

II. Public Comment – This is an opportunity for anyone to address the Village Board on any issue NOT on the current agenda. *Please observe the time limit of 3 minutes.* While the Village Board encourages input from residents, it may not discuss or act on any issue that is not duly noticed on the agenda.

III. Report of Village Officers

1. Village President

2. Interim Village Administrator/Parks and Recreation Director

3. Miscellaneous Trustee Reports

IV. General Business

1. Discussion and action regarding a Development Agreement with West Gateway Inc. to redevelop the property located at 1812-1904 Main Street as approved in the TIF Redevelopment Grant Application #2016-01.

2. Discussion and action regarding Resolution 17-2016 concerning the closing between the Village of Cross Plains and West Gateway, LLC on 1904 Main Street.

3. Discussion and action regarding alternatives for intersection alignment at Church Street and Military Road(s) as recommended in the Traffic Study of County Highway P (Church Street).

V. Adjournment

This meeting notice constitutes an official meeting of the above referenced group and was posted in accordance with all applicable laws related Open Meetings Law. It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above stated meeting to gather information. No action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to above in this notice. Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals. For additional information or to request this service, contact the Village Hall at (608) 798-3241 or maxon@cross-plains.wi.us

Village Board

Regular Meeting Minutes

Village of Cross Plains
2417 Brewery Road, PO Box 97
Cross Plains, WI 53528
(608) 798-3241

Monday, August 22, 2016
7:00 pm

I. Call to Order, Roll Call, and Pledge of Allegiance

President Andreoni called the regular Village Board meeting to order at 7:01 pm.

Present: Trustees Judy Ketelboeter, Clifford Zander, Jay Lengfeld, Lee Sorensen, William Brosius, and President Pat Andreoni.

Also Present: Virginia Diebold, Bill Diebold, Brian Berquist, Amy Hansen, Rachel Pientka, and Tom Pientka.

II. Public Comment – None

III. Ceremonial Matters

1. **Discussion and action to approve a resolution of commendation recognizing the Cross Plains Stingrays championship season. –** Tabled to the September meeting.

IV. Consent Agenda – A motion was made by Trustee Ketelboeter, seconded by Trustee Zander, and unanimously carried by the Village Board to approve the Consent Agenda as follows:

1. Minutes of regular meeting held on July 25, 2016.

2. Total Disbursements from July, 20, 2016 through August 17, 2016, in the amount of $235,961.77 as follows:

- 110 – General Fund: $68,870.38
- 120 – Capital Fund: $39,514.30
- 130 – Library Fund: $7,314.76
- 140 – Parks/Rec Fund: $30,786.80
- 150 – Debt Service Fund: $19,975.00
- 310 – TID Fund: $1,287.00
- 660 – Water Fund: $28,930.80
- 670 – Sewer Fund: $39,282.73

3. Approval of an Operator's (Bartender's) License for Michael W. Windels and Jordan D. Hill.
7. Approval of Invoices L45909 and L45910 from the Department of Transportation for work related to the reconstruction of Highway 14 (Main Street).

Trustee Brosius requested Consent Agenda Item #4, #5, #6 be removed for additional discussion. This item will be taken up under General Business.

V. Report of Village Officers

1. Village President

- Discussed the interview schedule for Thursday, September 8th regarding the four candidates chosen for the Administrator/Clerk position. A job offer will hopefully be made at the end of the day on September 8th.

2. Village Administrator/Clerk-Treasurer

- Stated that the Public Hearing on the Village's Petition for a new pedestrian railroad crossing will be held on Tuesday, August 30th at 1:00 pm.
- Public Facilities Director, Jerry Gray gave an update on the gateway signs located on Hwy 14 on the East and West ends of the Village. Construction of the signs should be completed within the next couple of weeks.

3. Miscellaneous Trustee Reports

- Jay Lengfeld received the Village EMS budget and they're looking to hire another fulltime EMT which Village cost would increase $7500. The fire department is looking to purchase a new fire truck that is over $600,000. The village cost share on this vehicle is 58%.

VI. Committee Discussion

1. Parks and Recreation Committee

a. **Approval to modify the Village Ordinance regarding dogs on leash being allowed in Village Parks and open spaces**.
Following discussion, a motion was made by Trustee Brosius, seconded by Trustee Lengfeld, and unanimously carried to have Attorney Johnson draft an ordinance to allow dogs on leash in public parks and open space areas, but not near shelters, playgrounds or on ball fields. Favor-5, Apposed-1 Trustee Ketelboeter. Motion carried.

2. Plan Commission

   a. **Discussion and action regarding a request from West Gateway Inc. for a Specific Implementation Plan (SIP) for 1812-1904 Main Street in order to construct a mixed use residential and commercial building as a Planned Development (PD).** – Following discussion, a motion was made by Trustee Ketelboeter, seconded by Trustee Zander, and unanimously carried by the Village Board to approve the SIP for 1812-1904 Main Street subject to the following conditions:
      i. Exterior building façade, materials used, color, and pattern be subject to further discussion with samples provided to the next plan meeting.
      ii. The exterior balcony and railings enhanced to feature a more esthetic design.

3. US Highway 14 Streetscape Workgroup

   a. Discussion and action regarding the 2016 Streetscape Project Plan and Design by MSA Professional Services. – Following discussion, a motion was made by Trustee Lengfeld, seconded by Trustee Sorenson, and unanimously carried by the Village Board to approve 2016 Streetscape Project Plan and Design by MSA Professional Services.

V. <u>General Business</u>

1. **Discussion and action regarding a Development Agreement with West Gateway Inc. to redevelop the property located at 1812-1904 Main Street as approved in the TIF Redevelopment Grant Application #2016-01.** – Following discussion, the Development Agreement with West Gateway Inc. was tabled.

2. **Presentation from Casey Koenig and Amy Hansen as they look to partner with the Village of Cross Plains to conduct a Market Analysis of our community.** – Following a presentation from Casey Koenig and the Chamber of Commerce, a motion by Trustee Ketelboeter, seconded by Trustee Brosius, and unanimously carried to partner with the Economic Development Committee to conduct a Market Analysis of our community in the form of $2,000 as requested by the committee.

3. **Discussion and action to accept the Traffic Study of County Highway P (Church Street) as prepared by SRF Consulting.** – Following discussion, a motion was made by Trustee Lengfeld, seconded by Trustee Sorenson, and unanimously carried to accept the traffic study of County Highway P (Church Street) as prepared by SRF Consulting.

4. **Discussion regarding alternatives for intersection alignment at Church Street and Military Roads as recommended in the Traffic Study of County Highway P (Church Street).** – Brian Berquist, Town and Country Engineer presented alternatives and cost estimates for intersection alignment at Church Street and Military Road(s) recommended in the traffic study of County Highway P. Virginia Diebold presented the Village Board with a petition to exclude the roundabout as an alternative to include in the record.

5. **Discussion and action regarding Resolution 16-2016 concerning the closing between the Village of Cross Plains and VH Cross Plains, LLC on Lot 1, Glacier Ridge subdivision.** – A motion was made by Trustee Brosius, seconded by Trustee Ketelboeter, and unanimously carried by the Village Board to allow President Andreoni and Interim Administrator Axon, sign for the closing of Lot 1 with VH Cross Plains, LLC, of the Glacier Ridge Subdivision.

6. **Consent Agenda Item #4: Approval of a rezoning request within the Village extraterritorial jurisdiction from Josh W. Aeschbach of 5141 County Highway P in the Town of Berry from A-1EX (Exclusive Agriculture) to A-2(1) (Agriculture District) for a zoning compliance for existing parcel as recommended by the Plan Commission.** – Following discussion, a motion was made by Trustee Brosius, seconded by Trustee Ketelboeter, and unanimously carried by the Village Board to approve the rezoning request within the Village Extraterritorial jurisdiction of 5141 Highway P in the Town of Berry from A-1EX to A-2(1) for zoning compliance as recommended by the Plan Commission.

7. **Consent Agenda Item #5: Approval of a rezoning request within the Village extraterritorial jurisdiction from Janice Doyle of 4575 Garfoot Road in the Town of Cross Plains from A-2(4) (Agricultural District) to A-2(2) (Agriculture District) for a shifting of property lines between adjacent land owners as recommended by the Plan Commission.** – Following discussion, a motion was made by Trustee Brosius, seconded by Trustee Ketelboeter, and unanimously carried by the Village Board to approve the rezoning request within the Village extraterritorial jurisdiction from 4575 Garfoot Road in the Town of Cross Plains from A-2(4) to A-2(2) for a shifting of property lines between adjacent land owners as recommended by the Plan Commission.

8. **Consent Agenda Item #6: Approval of a rezoning request within the Village extraterritorial jurisdiction from Gary Nelson of 4924 Scherbel Road in the Town of Berry from A-1EX (Exclusive Agriculture) to A-2(1) (Agriculture District) for the creation of one residential lot as recommended by the Plan Commission.** – Following discussion, a motion was made by Trustee Brosius, seconded by Trustee Ketelboeter, and unanimously carried by the Village Board to approve the rezoning request within the Village estraterritorial jurisdiction from 4924 Scherbel Road in the Town of Berry

from A-1EX to A-2(1) for the creation of one residential lot as recommended by the Plan Commission.

VII. Closed Session

1. The Village Board will meet in Closed Session pursuant to the following: - A motion was made by Trustee Brosius, seconded by Trustee Ketelboeter, for the Village Board to meet in Closed Session at 9:53 pm pursuant to the following subsections.

a. 19.85(1)(e) of Wisconsin Statutes to deliberate or negotiate the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session, specifically regarding the acquisition of property and/or an easement at 1107 Bourbon Road for the Zander Park Trail Expansion Project.

A roll call vote is required. Yes – Andreoni, Brosius, Ketelboeter, Lengfeld, Sorensen, and Zander. No – None. Motion carried 6-0.

2. Reconvene into Open Session. – A motion was made by Trustee Lengfeld, seconded by Trustee Brosius, and unanimously carried by the Village Board.

3. Discussion and action regarding the acquisition of property and/or an easement at 1107 Bourbon Road for the Zander Park Trail Expansion Project. -Following discussion, a motion by Lengfeld, seconded by Trustee Ketelboeter, and unanimously carried by the Village Board to keep the current land easement on 1107 Bourbon Road for the Zander Park Trail Expansion Project.

VIII. Adjournment

A motion was made by Trustee Zander, Seconded by Trustee Brosius, and unanimously carried by the Village board to adjourn the meeting at 10:23 pm.

Pursuant to law, written notice of this meeting was given to the public and posted on the public bulletin boards in accordance with Open Meetings Law.

Respectfully submitted,

_____

Michael K. Axon
Interim Village Administrator/
Parks and Recreation Director

Village of Cross Plains
PO Box 97, 2417 Brewery Road
Cross Plains, WI 53528
Phone: (608) 798-3241
Fax: (608) 798-3817

Memorandum

To: Village Board of Trustees
From: Michael K Axon, Interim Village Administrator/Parks and Recreation Director
Date: August 29, 2016
Re: **Village Board Meeting** – *August 30, 2016*

IV. **1. Minutes of regular meeting held on August 22, 2016** – Recommended for approval.

V. Report of Village Officers

V. General Business

1. **Discussion and action regarding a Development Agreement with West Gateway Inc. to redevelop the property located at 1812-1904 Main Street as approved in the TIF Redevelopment Grant Application #2016-01.** – The draft proposed Development Agreement with West Gateway Inc. to redevelop the property located at 1812-1904 Main Street as approved in TIF Redevelopment Grant Application #2016-01 addresses the concerns from July 25th. Staff received changes to: Parking Lot Easement, Letter of Credit, and Assessment Value as discussed during the 8.22.16 Village Board Meeting. Further discussion is needed regarding the Purchaser (Esser Development, LLC), a Wisconsin Limited Liability Company, purchasing 1904 Main Street from the Village, transferring the property to the Landlord, and leaseback the combined Development Property for purpose of constructing the facility. Further explanation from Village Attorney Paul Johnson:

As we have been discussing, the developer threw the Village a curve when we discovered that the developer would not be owning all of the real estate that it will be developing. In my opinion, the Village is in a better position to protect its investment if the developer owns the property it is developing. For financing purposes, the developer is working with many entities (that it has an interest in) to bring this all together. If I understand correctly, The Village will be giving its funds to West Gateway. West Gateway will then be assigning its interest in the development agreement to Esser Development. Esser Development will actually be doing the development. Esser Development will be purchasing 1904 Main from the Village and will then be turning it over to an unnamed entity that will own 1904 and 1816. The unnamed entity will be combining the parcels into one parcel by CSM and then hold the parcel until the development is completed.

I think this version of the Agreement brings all the players into the agreement. The landlord is entering into the agreement to be bound to all of the terms that will occur post-development, and to give the Village notice if there is a default by the developer. Esser is brought in to obligate it to purchase 1904 and to do the development. All of this does not provide the Village with complete protection, but if the developer owned the property there would not be complete protection either. Under this agreement, if the developer defaults, the landlord will give notice to the Village and the Village will have the opportunity to cure the default. This will likely result in the Village infusing more cash into the deal or taking over the development. If the developer owned the property and defaulted, the Village could foreclose, but would not be in first position so that would not be a big benefit. The agreement does provide that the developer will reimburse the Village the funds given to developer, but if there is a default, there may not be any funds in developer's hands to get reimbursed with. In other words, with the agreement updated as it is, we have all the players involved, but the level of risk is basically the same with the developer leasing as it would be if the developer was owning.

In order to minimize the risk, the Village can consider the letter of credit. I know that concept has been in and out of the Agreement at various times. With a 1 million letter of credit in place until the developer gets its occupancy permit, the Village will have a financial guarantee that it will get its money back in the event of default by the developer. This is a decision to be made by the Board and if the Board requires the letter of credit, that language can be written into the agreement.

1. **Discussion and action regarding Resolution 17-2016 concerning the closing between the Village of Cross Plains and West Gateway, LLC on 1904 Main Street.** – A resolution has been drafted for the sale of 1904 Main Street to West Gateway, LLC as approved in the Development Agreement.

2. **Discussion and action regarding alternatives for intersection alignment at Church Street and Military Road(s) as recommended in the Traffic Study of County Highway P (Church Street).** – Alternative intersection alignments have been presented by Brian Berquist, Town and County Engineering. Staff would recommend alternative #2 for an estimated cost of $244,540.00. Staff would recommend a public hearing to discuss the changes proposed to Baer Street, as discussed at the August 22, 2016 Village Board meeting.

DEVELOPMENT AGREEMENT

THIS AGREEMENT entered into this _____day of _____, 2016 by and among (a) the Village of Cross Plains, WI, a Wisconsin municipal corporation (hereinafter referred to as "Village"), whose principal place of business is 2417 Brewery Road, Cross Plains, WI 53528; (b) West Gateway, Inc., a Wisconsin corporation, or its assigns (hereinafter referred to as "Developer") whose principal place of business is 901 Deming Way, Suite 102, Madison, WI 53717; (c) [Entity Name], a Wisconsin limited liability company (the "Landlord"), whose principal place of business is [Insert Address]; and (d) Esser Development, LLC, a Wisconsin limited liability company (the "Purchaser"), whose principal place of business is 901 Deming Way, Suite 102, Madison, WI 53717.

RECITALS

WHEREAS, that real property commonly known as 1816 Main Street, Cross Plains, WI (Parcel No. 0707-032-9931-1) (the "1816 property") is presently owned by the Landlord;

WHERAS, that real property commonly known as 1904 Main Street, Cross Plains, WI (Parcel No. 0707-031-4672-1) (the "1904 Property") is presently owned by the Village, but, pursuant to the terms and conditions of this Agreement, the Purchaser intends to purchase the 1904 Property from the Village;

WHEREAS, immediately following its acquisition of the 1904 Property, the Purchaser intends to convey the 1904 Property to the Landlord, whereupon the Landlord will combine the 1816 Property and 1904 Property into a single lot pursuant to a new certified survey map (collectively, the "Development Property"), and the Purchaser will leaseback the Development Property pursuant to a ground lease between Landlord and Purchaser (the "Ground Lease");

WHEREAS, Developer, or its assigns, desire to construct a mixed use three-story building including 6,446 square foot (approximate) first floor retail space and 45 one and two-bedroom apartment units, plus underground parking and associated site improvements, on the Development Property (hereinafter sometimes referred to as the "Facility");

WHEREAS, the Village desires to assist Developer in the construction of the Facility as shown in the attached Exhibit B and incorporated herein by reference;

WHEREAS, the Village has created Tax Incremental Financing District #3 pursuant to Wis. Stat. § 66.1105, which provides authority and establishes procedures by which the Village may exercise powers necessary and convenient to carry out the purposes of the Tax Increment Law, including Developer Incentives and which includes a Project Plan, which Project Plan, as so approved, and as may be amended from time to time, is hereby incorporated by reference into this Agreement and which is on file at the Village;

WHEREAS, development of the Facility within the boundaries of TID#3 will benefit the community through the elimination of blight, unhealthy, or unsafe conditions; increased property values and tax revenue; diversifying the Village's housing supply; and the promotion of economic opportunity;

WHEREAS, said Facility cannot occur without the assistance of the Village, as set forth in this Agreement;

WHEREAS, the Village believes that improvements to the Development Property within TID#3 is in the best interests of the Village and its residents and in accordance with the public purposes and conditions of applicable State and local laws;

WHEREAS, this Agreement is intended to outline the duties and responsibilities of the Village and Developer in order to facilitate the construction of the Facility within TID#3;

WHEREAS, the Landlord joins in executing this Agreement for the sole purpose of making certain covenants to Village in regard to the Ground Lease, and for agreeing to certain post-occupancy requirements in regard to the Development Property;

WHEREAS, the Purchaser joins in executing in this Agreement to acknowledge its intent to purchase Parcel #0707-031-4672-1 (1904 Main Street, Cross Plains, WI) from the Village pursuant to this Agreement and to comply with the restrictions relating to ownership and use of the property during its period of ownership;

NOW, THEREFORE, in consideration of the promises and mutual obligations of the parties hereto, each does hereby covenant and agree with the others as follows:

ARTICLE I DEFINITIONS

As used in this Agreement or in the Exhibits attached hereto, the following terms, shall have the following meanings:

1816 PROPERTY: That certain real property commonly known as 1816 Main Street, Cross Plains, WI, Parcel No. 0707-032-9931-1.

1904 PROPERTY: That certain real property commonly known as 1904 Main Street, Cross Plains, WI, Parcel No. 0707-031-4672-1.

AGREEMENT: The Development Agreement by and between the Village and Developer, which is this Agreement as amended and supplemented from time to time.

DEVELOPER: West Gateway, Inc. or its successors, assigns, or designee.

DEVELOPMENT COST: Those costs authorized pursuant to Wis. Stat. §66.1105 and as enumerated in the development budget set forth in Section E of Exhibit A.

DEVELOPMENT INCENTIVE: Shall have the meaning as applied in the Project Plan of Tax Increment Financing (TIF) District #3, and subsequent amendments.

DEVELOPMENT INCENTIVE PAYMENT: A payment made by the Village to the Developer as an incentive to construct the Facility on the Development Property.

DEVELOPMENT PROPERTY: The real property further described in Exhibits A & B to this Agreement, including the 1816 Property and the 1904 Property, upon which the Facility will be constructed.

EXHIBIT A. Tax Incremental Financing Application, 2016-01, as submitted by Developer, and approved by the Village.

EXHIBIT B. The Specific Development Plan (SDP) as allowed under the Planned Development District-Main Street Mixed Use Commercial Core Zoning District and as approved by the Village of Cross Plains Village Board for the Facility and the Development Property.

FACILITY: The mixed use three-story building to be constructed by the Developer upon the Development Property located within TID#3, as further described in Exhibits A and B hereto, which shall include approximately 6,446 square feet of first floor retail space and approximately 45 apartment units, plus underground parking and associated site improvements. Developer anticipates that the retail space shall be allocated between two separate units with addresses of 1820 and 1840 Main Street, with the apartment units having the address of 1900 Mill Creek Parkway.

LANDLORD: [ENTITY NAME], a Wisconsin limited liability company, the intended ultimate owner of the Development Property.

PURCHASER: Esser Development, LLC, a Wisconsin limited liability company, who will purchase the 1904 Property from the Village, transfer the same to the Landlord, and leaseback the combined Development Property for purpose of constructing the Facility thereon.

SITE IMPROVEMENTS: The plan for site and building improvements to the Development Property as described in Exhibit A and Exhibit B.

TID#3: Village of Cross Plains Tax Increment District #3 and Project Plan adopted by the Village, as certified by the Wisconsin Department of Revenue.

TOTAL DEVELOPMENT TAX INCREMENT: The actual Tax Increment collected from the Development Property from the date of execution of this Agreement through termination of this Agreement

VILLAGE: The Village of Cross Plains, Wisconsin, a Wisconsin municipal corporation.

VILLAGE DEVELOPMENT INCENTIVE COSTS: The Development Incentive Payment plus interest costs and financing fees associated with the debt service incurred by the Village for its payment under the obligations of this Agreement.

ARTICLE II VILLAGE OBLIGATIONS

In order to assist with the construction of the Facility and as an incentive to the Developer, the Village agrees to undertake the following obligations:

A. LAND TRANSFER. The Village agrees to sell to Purchaser, via warranty deed, the 1904 Property for the sum of $1.00 on or before December 31, 2016.

B. DEVELOPMENT INCENTIVE PAYMENT. As a Development Incentive, the Village agrees to pay to Developer a onetime payment of $ $1,025,000. This Agreement and the Developer Incentive Payment herein shall be a special and limited obligation of the Village and not a general obligation of the Village.

C. PAYMENT DATES. Payments under Article II, Section B shall be made at the closing of the purchase of the 1904 Property, provided the Developer has met its obligations under Article III, Section A (proof of property acquisition) and Article III, Section F (proof of financing)

D. USE OF ADJACENT VILLAGE PROPERTY. In accordance with Exhibit B, the Village agrees to allow the Developer to use Parcel #0707-032-6516-9, said parcel being owned by the Village, for the following purposes (the "Permitted Uses"): (a) on a temporary basis in order to enable the Developer to construct the Facility, (b) for ongoing customer parking for the retail spaces to be located within the Facility, of which two spaces will be reserved for short term parking, one for each retail tenant. The Village shall enter into a temporary construction easement in regard to subpart (a), and permanent easement in regard to subparts (b) and (c), in a form acceptable to Developer.

E. PROPERTY ASSESSMENT. The Village agrees to uniformly apply tax assessment procedures and practices with respect to the Development Site and the Development Property in accordance with state law regarding property tax assessments.

F. ADDRESSES. The Village agrees to assign the retail spaces located within the Facility the addresses of 1820 and 1840 Main Street, respectively, and the residential units with the address of 1900 Mill Creek Parkway.

ARTICLE III DEVELOPER OBLIGATIONS

In consideration of the obligations of the Village as set forth herein, the sufficiency and receipt of which is hereby acknowledged, Developer shall:

A. PROPERTY ACQUISTION. The Developer shall enter into a land lease for the Development Property. Proof of land ownership or lease shall be provided to the Village prior to receiving Development Incentive Payments described in Article II, Section B of this Agreement.

B. LAND TRANSFER. Purchaser agrees to purchase the 1904 Property from the Village for the sum of $1.00 for redevelopment of the property.

C. ENVIRONMENTAL REMEDIATION. The Developer shall be responsible for all costs and work to demolish the existing structures on the Development Property and for all environmental remediation required to demolish the existing structures and construct the Facility as described in Exhibit B.

D. CONSTRUCT PRIVATE DEVELOPMENT. Before January 1, 2018, Developer shall complete the construction of the Facility according to the plans (Exhibits A & B), which are incorporated herein by reference. The Developer shall expend Development Costs resulting in the assessed value (land + improvements) of the Development Property of not less than $6,300,000.00 (including personal property). Failure by the Developer to purchase the Development Property and complete the construction of the Facility according to the plans (Exhibits A & B) shall be deemed a breach of this Agreement and the Developer shall repay to the Village all previous Development Incentive Payments.

E. USE OF ADJACENT VILLAGE PROPERTY. As indicated above, the Developer shall be allowed to use Parcel #0707-032-6516-9 for the Permitted Uses, and shall enter into both temporary and permanent easements in a form acceptable to the Village regarding the same. The Developer shall reconfigure, regrade, and repave Parcel #0707-032-6516-9 in accordance with the approved site plan at the expense of the Developer. In exchange for the Permitted Uses, the Developer shall install landscaping improvements and parking lot lighting on Parcel #0707-032-6516-9 that is consistent with the Village's Streetscape Plan for Main Street and Mill Creek Parkway at the expense of the Developer. The Village shall be responsible for any ongoing and long term expenses to maintain, repave, and/or repair Parcel #0707-032-6516-9 at the Village's discretion, provided; however, that Developer shall be responsible for arranging for and paying the associated cost of snow removal. Developer shall not make any additional site or structural improvements to Parcel #0707-032-6516-9 without the express written permission of the Village Board of Cross Plains. The costs for any additional site or structural improvements requested by the Developer for use of Parcel #0707-032-6516-9 shall be the responsibility of the Developer. Any work performed by the Developer on Parcel #0707-032-6516-9 shall be reviewed and inspected by the Village for correctness prior to issuing a Certificate of Occupancy for the Facility. Use of Parcel #0707-032-6516-9 by Developer, or Developer tenants of the Facility shall be in conformance with Exhibit B and shall conform to all Village municipal ordinances, together with applicable state and federal laws and regulations.

F. FINANCING. The Developer shall provide to the Village proof of loan and financing approval from State Bank of Cross Plains for purchase of the Development Property and the construction of the Facility.

H. PENALTIES AND FEES. If the Developer does not construct or cause to be constructed the Facility and associated improvements that result in at least $6,300,000.00 of assessed value of land and improvements (including personal property) on the Development Property by January 1, 2018 or at any time during the term of this Agreement the Development Property does not maintain at least a $6,300,000.00 of assessed value of land and improvements (including personal property), the Developer agrees to provide the Village a payment equal to the difference between the projected tax revenues from all taxing jurisdictions anticipated if the $6,300,000.00 of land and improvements assessed value guarantee on the Development Property had occurred less the actual amount of tax revenues generated from the land and improvements on the Development Property. The penalty and fee shall continue to be enforced in each calendar year the Development Property does not maintain at least a $6,300,000.00 of assessed value of land and improvements (including personal property). The Facility and associated improvements shall be completed before January 1, 2018. The penalty shall first apply to the 2018 property assessment, 2019 property tax payments, and continue each year thereafter until termination of this Agreement. If the Facility and associated improvements result in an assessed value of land and improvements exceeding $6,300,000.00, taxes paid on the amount exceeding $6,300,000.00 will offset, by a corresponding amount, any future penalty and fee.

I. PAYMENT OF PROPERTY TAXES & FEES. The Developer shall timely pay all annual property taxes in full for the Development Property. Any fees imposed on the Developer as described in Article III, Section H of this Agreement, shall be paid to the Village by December 31st in any year in which the penalty and fees applies. Failure by the Developer to pay annual property taxes or fees shall be deemed a breach of this Agreement and the Developer shall repay to the Village all previous Development Incentive Payments. The Village may place any unpaid penalties and fees on the tax bill for the Development Property as a special charge pursuant to section 66.0627, Wis. Stats.

J. USE OF DEVELOPMENT SITE. The Developer shall obtain all necessary zoning, building, or engineering permits and approvals from the Village, and applicable state or federal agencies. The Facility and use of the Development Property shall at all times conform to the Village Zoning Code, Building Code, and all other Village ordinances, together with applicable state and federal laws and regulations.

K. OBLIGATION TO MAINTAIN AND REPAIR FACILITY. Developer shall at all times after construction of the Facility, or any part thereof, keep and maintain the Facility in good repair and maintenance. Developer shall also make or cause to be made from time to time all necessary repairs thereto so as to maintain the Facility in its intended use and usable form, absent ordinary wear and tear.

L. INSURANCE. Developer, its successors and assigns, shall purchase or cause to be purchased and continually maintain in effect, insurance against such risks, both generally and specifically, with respect to the Facility in such amounts to allow Developer to reconstruct the Facility in the event of damage or destruction and which shall include, but not be limited to: Casualty Insurance, Comprehensive General Liability Insurance, Physical Damage Insurance, Builder's Risk Insurance, and all other forms of insurance required by the State of Wisconsin for entities such as the Developer from time to time during construction and operation of the Facility. In the event the

Facility is damaged or partially or fully destroyed, Developer shall cause the insurance proceeds from such loss to be used to promptly repair, replace, reconstruct, and restore the Facility to its original condition.

M. INDEMNIFICATION/HOLD HARMLESS. The Developer, during the term of this agreement, shall defend, indemnify and hold the Village, its elected and appointed officials, officers, employees, authorized representatives or volunteers and each of them harmless from and against all losses, suits, actions, damages, demands, interest, attorney fees, claims, liabilities, expenses and costs of whatsoever kind or nature whether arising before, during or after completion of the Facility and in any manner directly or indirectly caused, occasioned or contributed to in whole or in part or claimed to be caused, occasioned, or contributed to in whole or in part, by reason of any act, omission, fault or negligence whether active or passive, of Developer or of anyone acting under its direction or control or on its behalf in connection with or incident to the performance of this Agreement or in any way related to the Facility or Development Property.

N. PAYMENT OF PROFESSIONAL FEES. Developer shall pay the actual cost incurred by the Village for all professional fees and costs related to the review and approval of the Facility (Exhibit B), Tax Incremental Financing Application (Exhibit A), and this agreement. The Village expects this amount not to exceed $10,000.00.

O. TRANSFER RESTRICTION DURING TERM OF THIS AGREEMENT. In addition to any other limitation on assignment or sale of the Development Property or any portion thereof, if prior to termination of this Agreement, Developer intends to sell, transfer or convey the Development Property or any portion thereof to any person or entity in any manner which would render the Development Property exempt from property taxation, the Developer shall repay to the Village all previous Development Incentive Payments to the Village on or before the date of sale. Developer shall obtain the prior express written consent of the Village for such sale, transfer or conveyance. Should Developer sell, transfer or convey the Development Property or any portion thereto prior to the termination of this Agreement, Developer's obligations herein shall not be released unless the Village has entered into an agreement with the purchaser acceptable to the Village.

P. RIGHT OF ACCESS. The Developer shall grant the Village right of access and utility easements to the Development Property, at no cost to the Village, for the purposes of installing public utility improvements, sidewalks, or trails as described and needed in Exhibit B. The Developer agrees to allow public use of the sidewalk along the east side of the proposed resident driveway connecting Main Street to Mill Creek Parkway. Developer further agrees to work in good faith efforts to allow potential use of the Development Property for streetscaping improvements, such as benches or information kiosks along the proposed sidewalk connecting Main Street to Mill Creek Parkway.

ARTICLE IV BINDING EFFECT/COMPLETE AGREEMENT

This Agreement shall inure to the benefit of and shall be binding upon the Village, the Developer and their respective successors and assigns. This Agreement represents the entire Agreement between Developer and the Village and shall not be amended, changed or modified except as provided herein. This Agreement shall not be affected, modified or impaired on the happening from time to time of any event, including without limitation, the following:

A. Failure to give notice to any party of default under the terms of the Agreement.

B. The waiver of payment or performance of any obligations contained in this Agreement.

C. The extension of time for payment of any amount or performance of any obligation under this Agreement.

D. The voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all the assets, marshaling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, compromise with creditors or readjustment of, or similar proceedings affecting Developer or its assets, any allegation or contest as to the validity of the Agreement in any such proceeding.

E. To the extent permitted by law, the release or discharge of Developer from the obligations or observation of any obligation, covenant or agreement contained in this Agreement or arising by operation of the law.

ARTICLE V AMENDMENT, CHANGES, MODIFICATIONS

This Agreement may be amended or any of its terms modified only by a written document duly authorized, executed and delivered by the Village and the Developer.

ARTICLE VI FURTHER ASSURANCES AND CORRECTIVE INSTRUMENTS

The Village and Developer agree that they will, from time to time, execute, acknowledge, deliver or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of this Agreement.

ARTICLE VII EXECUTION AND COUNTERPARTS

This Agreement may be simultaneously executed in several counterparts, each of which shall be original and all of which shall constitute one and the same instrument. Each party to this Agreement hereby expressly represents and warrants that it executes the Agreement with full and complete authorization of their respective entities.

ARTICLE VIII DEFAULT

A. REMEDIES ON DEFAULT. In the event of any default in or breach of this Agreement or any of its terms or conditions, by any party hereto or any successor in interest to such party, such party shall cure or remedy such default or breach within 60 days of written notice of default describing the nature of the default, what action, if any, is deemed necessary to cure the same and specify the time period of not less than 60 days in which the default may be cured by the defaulting party. In case such action is not taken or is not diligently pursued or the defaulted breach cannot be cured or remedied within the aforesaid time, the non-defaulting party may institute such proceedings as may be necessary or desirable in its opinion to cure the default or breach, including, but not limited to, proceedings to compel specific performance by the party in default or breach of its obligations. If such a proceeding is commenced, the prevailing party in such

proceeding shall be entitled to recover from the other party its reasonable costs incurred in such proceeding, including attorney fees.

B. RIGHTS AND REMEDIES. The rights and remedies of the parties to this Agreement whether provided by law or provided by the Agreement, shall be cumulative and the exercise by any party of any one or more of such remedies shall not preclude the exercise by it at the same or different times of any such remedies for the same event of default or breach or any other party. No waiver or breach of any term or condition of this Agreement shall operate as a waiver of any other breach of such term or condition, or of any other term or condition, nor shall any failure to enforce any provisions hereunder operate as a waiver of such provision or any other provision hereunder.

ARTICLE IX TERMINATION

This Agreement shall terminate and be of no further force and effect upon the earlier of:

A. Closure of TID#3 by the Village of Cross Plains, or,

B. December 31st, 2035, or,

C. By mutual agreement of the Village and Developer.

ARTICLE X MISCELLANEOUS

A. TRANSFER OF AGREEMENT. This Agreement shall be assignable by Developer with the consent of the Village Board of the Village of Cross Plains which consent shall not be unreasonably withheld. Should Developer sell, transfer or convey the Facility and Development Property prior to the termination of this Agreement, all subsequent owners of the Facility and Development Property shall be bound by the terms and conditions of this Agreement. It shall be the responsibility of the seller to notify the buyer of said Agreement, and conditions of transfer, prior to transfer of ownership. Any future assignee shall execute a document to be bound by the conditions of this Agreement prior to transfer of ownership. The Village hereby consents to the assignment of this Agreement to the State Bank of Cross Plains, or any subsequent Lender, as collateral for financing the purchase and development of the property.

B. ENFORCED DELAY. No party shall be considered in breach or default of its obligation in the event of enforced delay in the performance of such obligations due to causes beyond its control and without its fault including, but not restricted to: Acts of God, acts of the public enemy, acts of the Federal government, fires, floods, epidemics, quarantine restrictions, strikes, embargoes and severe weather. In the event of the occurrence of any such enforced delay, the time or times of performance of any of the obligations of the party shall be extended for the period of the enforced delay as determined by the other party, provided that the party seeking the benefit of the enforced delay shall have first notified the other party thereof and the cause or causes thereof and requested an extension of the period of the enforced delay.

C. WISCONSIN LAW/VENUE. This Agreement shall be deemed to have been made in the State of Wisconsin, and its validity, construction, performance, breach and operation shall be covered by

law of the State of Wisconsin. Venue for any dispute involving this Agreement or any other document executed pursuant to this Agreement shall be in Dane County Circuit Court, Wisconsin.

D. NOTICES, DEMANDS. All notices, demands or other communications under this Agreement shall be sufficiently given or delivered when hand delivered or when mailed by first class mail, postage prepaid, as indicated below:

Village: Michael Axon
Interim Village Administrator
2417 Brewery Road
Cross Plains, WI 53528

Developer: Tom Pientka, President
West Gateway, Inc.
901 Deming Way, Suite 102
Madison, WI 53717

E. ENVIRONMENTAL. Nothing in this Agreement is intended to, nor shall result in, any alteration or modification of Developer's responsibility or liability for environmental clean-up or costs in accordance with applicable law.

F. SEVERABILITY. If any, part, term, or provision of this Agreement is held by a court of competent jurisdiction to be illegal or otherwise unenforceable, such illegality or un-enforceability shall not affect the validity of any other part, term or provision and the rights of the parties will be construed as if the invalid part, term, or provision was never part of the Agreement.

G. NOT PRIVATE RIGHT OR CAUSE OF ACTION. Nothing contained herein shall be interpreted or construed to create any private right or any private cause of action by or on behalf of any person not a party hereto.

H. Nothing contained in this Agreement constitutes a waiver of the Village's sovereign immunity under applicable law. Moreover, nothing contained herein shall waive the rights and defenses to which the Village may be entitled under law, including all of the immunities, limitations, and defenses under Wis. Stats. §893.80 or any subsequent amendments thereof.

I. The Village does not, in any way or for any purpose, become a partner, employer, principal, agent or joint venturer of or with the Developer.

J. The Village may record a copy of this Agreement, or a memorandum thereof, in the Register of Deeds Office. All costs of recording shall be paid by Developer.

K. LANDLORD COVENANTS. Landlord agrees as follows (the "Landlord Covenants"): (a) the Village shall be added as a notice party under the Ground Lease; (b) upon the occurrence of an event of default under the terms of Ground Lease, the Village will have five (5) days for financial defaults and fifteen (15) days for nonfinancial defaults to cure such defaults; and (c) if the Landlord terminates the Ground Lease and takes back the Development Property, it shall continue to honor the obligation set forth in Article III, Section O that it shall not transfer or convey the Development Property or any portion thereof to any person or entity in any manner which would render the

Development Property exempt from property taxation. Apart from the Landlord Covenants contained herein, Landlord shall not be subject to any of the obligations imposed on Developer pursuant to the terms of this Agreement.

ARTICLE XI EXECUTION

A. EFFECTIVE DATE. This Agreement shall be effective as of the date and year first written below.

IN WITNESS WHEREOF, the parties have executed this Agreement, or caused it to be duly executed, and effective this _____day of _____, 2016.

DEVELOPER
West Gateway, Inc.:

By: _____
Tom Pientka, President

_____, Date

STATE OF WISCONSIN)
)
DANE COUNTY)

Personally came before me this _____ day of _____, 2016, the above-named persons to me known to be the persons who executed the foregoing instrument and acknowledged the same.

_____
Notary Public, Wisconsin
My Commission (is)(expires):_____

VILLAGE OF CROSS PLAINS:

_____
Pat Andreoni, President

_____, Date

Attest: _____
Michael Axon, Interim Administrator

Personally came before me this _____ day of _____, 2016, the above-named persons to me known to be the persons who executed the foregoing instrument and acknowledged the same.

STATE OF WISCONSIN)
)
DANE COUNTY)

_____
Notary Public, Wisconsin
My Commission (is)(expires):_____

LANDLORD:

[NAME OF ENTITY]:

By: _____
Name: _____
Title: _____

Personally came before me this _____ day of _____, 2016, the above-named persons to me known to be the persons who executed the foregoing instrument and acknowledged the same.

STATE OF WISCONSIN)
)
DANE COUNTY)

_____
Notary Public, Wisconsin
My Commission (is)(expires):_____

PURCHASER:

ESSER DEVELOPMENT, LLC

By: _____
Name: _____
Title: _____

Personally came before me this _____ day of _____, 2016, the above-named persons to me known to be the persons who executed the foregoing instrument and acknowledged the same.

STATE OF WISCONSIN)
)
DANE COUNTY)

_____
Notary Public, Wisconsin
My Commission (is)(expires):_____

PARKING EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT ("Agreement") is made and entered into as of the ____ day of _____, 2016 by and between the Village of Cross Plains, a Wisconsin Municipal Corporation (hereinafter "Cross Plains") and West Gateway, Inc., its successors, assigns or designees (collectively referred to as "Developer").

Drafted by and Return To:
Paul A. Johnson
Boardman & Clark LLP
PO Box 256
Lodi, WI 53555

0707-032-6516-9

Parcel Identification Number(s)

WHEREAS, Cross Plains is the owner of certain real property located in the Village of Cross Plains and more particularly described as set forth on the attached Exhibit A (the "Parking Lot"); and

WHEREAS, the Parking Lot is owned and operated by Cross Plains as a municipal parking facility open to the general public at times and under conditions as set forth by Cross Plains; and

WHEREAS, Developer is the owner of a mixed use facility that includes commercial and residential units located at 1816-1904 Main Street in the Village of Cross Plains ("the Facility"); and

WHEREAS, Developer desires to use the Parking Lot for access and parking for its commercial tenants and customers; and

WHEREAS, Cross Plains desires to grant to Developer an easement over the Parking Lot for those purposes under the terms and conditions set forth below.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. **Grant of Easement.** Cross Plains hereby grants to Developer for the benefit of Developer's commercial tenants and their customers a perpetual non-exclusive easement right and privilege to use the Parking Lot for vehicular parking and pedestrian access to and from the Developer's commercial tenant's places of business.

2. **Use.** The Parking Lot to be used for parking and driveway purposes only. The parking area of the Parking Lot shall be used solely for vehicular parking purposes and no improvements may be constructed upon the Parking Lot other than for vehicular parking purposes without the consent of Cross Plains.

3. **Obligations of Developer.**

a. Developer shall take all steps necessary to ensure that the Parking Lot is not used for employee parking or parking by its residential tenants, and will be used only for the commercial tenants of the Facility.

b. Developer shall be allowed to re-grade and re-pave the Parking Lot consistent with the approved site plan for the Facility to match the elevations of the

Facility; provided that such re-grading meets with the approval of Cross Plains and the re-paving is done with base material that is satisfactory to Cross Plains.

c. Developer shall be responsible for installing Parking Lot lighting and landscape features consistent with the Cross Plains Streetscape Plan to the satisfaction of Cross Plains.

d. Developer shall be responsible for arranging for and paying for all snowplowing.

e. Developer shall not make any other site or structural improvements to the parking Lot without the express written permission of Cross Plains

4. <u>Obligations of Cross Plains</u>.

a. Cross Plains shall be responsible for all capital improvements to the Parking Lot and any long term and ongoing expenses regarding the maintenance and repair of the Parking Lot.

b. Cross Plains shall post the Parking Lot to provide for a maximum parking time of four (4) hours during normal business hours.

c. Cross Plains acknowledges that eighteen (18) stalls of the Parking Lot are being used by Developer to meet the Parking Lot counts as required by the Cross Plains Zoning Code.

d. Cross Plains shall allow vehicular ingress and egress to one (1) accessory retail drive-thru window if requested by Developer.

5. **Covenants Run With Land**. All the terms, conditions, covenants and other provisions contained in this Agreement, including the benefits and burdens, shall run with the land and shall be binding upon and inure to the benefit of and be enforceable by Cross Plains and Developer, and their respective successors and assigns.

6. **Non-Use**. Non-use or limited use of the easements rights granted herein shall not prevent the benefiting party from later use of the same to the fullest extent authorized herein.

7. **Governing Law**. This Agreement shall be construed and enforced in accordance with the laws of the State of Wisconsin.

8. **Entire Agreement.** This Agreement sets forth the entire understanding of the parties and may not be changed except by a written document executed and acknowledged by Cross Plains and Developer and duly recorded in the office of the Register of Deeds of Dane County, Wisconsin.

9. **Notices**. All notices to either party to this Agreement shall be delivered in person or sent by certified mail, postage prepaid, return receipt requested to such party at such party's last known address. If a party's address is not known to the party desiring to send a notice, the address to which property tax bills for the property owned by such party

are sent may be used. A party may change its address for notice by written notice to the other parties.

10. **Invalidity**. If any term, covenant, or condition of this Agreement or the application thereof to any person or circumstance shall be deemed invalid or unenforceable, the remainder of this agreement, or the application of such term, covenant or condition to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby, and each term, covenant and condition shall be valid and enforceable to the fullest extent permitted by law.

11. **Waiver**. No delay or omission by any party in exercising any right or power occurring upon any default, non-compliance or failure of performance of any of the provisions of this Agreement shall be construed to be a waiver thereof. A waiver by a party of any of the obligations of the party shall not be construed to be a waiver of any breach of any other terms, covenants or conditions of this Agreement.

12. **Dispute Resolution.**

(a) **Parties shall mediate**. Before any action may be commenced in any court involving any dispute arising with respect to this Agreement, its making or validity, its interpretation, or its breach, the parties must first attempt to resolve the matter by mediation. The mediation shall be non-binding. If the parties are unable to resolve the dispute through mediation, any party shall have the right to

have the dispute resolved through litigation. The mediator's fee shall be equally shared by the disputing parties and the mediation shall be conducted at a location in Dane County, Wisconsin, unless the parties mutually agree to another location, by a single mediator mutually agreed to by the disputing parties. In the mediation each party shall be solely responsible for his, her, or its attorneys' fees and expenses.

(**b**) **Costs if court litigation is commenced**. In any court litigation with respect to any dispute arising under this Agreement, the prevailing party in the litigation shall be entitled to recover the costs of the litigation and reasonable attorney fees from the other party.

(c) **Enforcement**. Enforcement of this Agreement may be by proceedings at law or in equity against any person or persons violating or attempting or threatening to violate any covenant herein, either to restrain or prevent such violation or to obtain other relief.

Signature page to follow

VILLAGE OF CROSS PLAINS

Date: _____

By: _____
J. Patrick Andreoni, Village President

By: _____
Michael Axon, Interim Administrator

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Personally came before me this ____ day of _____, 2016, the above-named J. Patrick Andreoni, as Village President, to me known to be the person who executed the foregoing instrument and acknowledged the same.

_____
_____(print name)
Notary Public, Dane County, WI.
My commission expires: _____

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Personally came before me this ____ day of _____, 2016, the above-named Michael Axon, as Interim Administrator, to me known to be the person who executed the foregoing instrument and acknowledged the same.

_____
_____(print name)
Notary Public, Dane County, WI.
My commission expires: _____

WEST GATEWAY, INC.

By: _____
Tom Pientka, President

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Personally came before me this ____ day of _____, 2016, the above-named Tom Pientka, as President of West Gateway Inc, to me known to be the person who executed the foregoing instrument and acknowledged the same.

_____
_____(print name)
Notary Public, Dane County, WI.
My commission expires: _____

<u>This instrument drafted by</u>:
Attorney Paul A. Johnson
Boardman & Clark LLP
113 S. Main Street, Suite 301
Post Office Box 256
Lodi, WI 53555
608-592-3877 (p)
608-592-5844 (f)
pjohnson@boardmanclark.com
F:\DOCS\WD\53698\110\A2550951.DOCX

TEMPORARY LIMITED EASEMENT

RE: Lands set forth on the attached Exhibit A ("the Property").

Declaration made this ____ day of _____, 2016, by the Village of Cross Plains of Wisconsin Municipal Corporation (hereinafter "Cross Plains").

Drafted by and Return To:
Paul A. Johnson
Boardman & Clark LLP
PO Box 256
Lodi, WI 53555

_____
Parcel Identification Number(s)

WHEREAS, Cross Plains is the owner of the Property identified above; and

WHEREAS, Cross Plains has been informed that West Gateway, Inc. or its successors, assigns or designees ("Developer"), will be constructing a mixed use development on parcels located at 1816-1904 Main Street in the Village of Cross Plains; and

WHEREAS, as part of the construction, it will be necessary for Cross Plains to provide Developer with a Temporary Limited Easement for vehicular and pedestrian access over the Property described above until such time as the construction of the mixed use development has been completed.

NOW, THEREFORE, it is hereby declared by Cross Plains as follows:

1. Cross Plains hereby grants a nonexclusive temporary easement for the purpose of vehicular and pedestrian access, and for the purpose of grading and other construction, to Developer, and its respective contractors and invitees, over, under, upon and across the temporary easement area which is described as the Property as set forth above.

2. Developer, and its respective contractors and invitees shall, during construction, undertake and maintain necessary soil erosion control protections to prevent soil erosion within the Property and to prevent the depositing of soil upon other lands.

3. Any obstructions or impediments to the use of the Property may be removed, without notice, by Developer and the cost of such removal shall be borne by the party causing or responsible for the obstruction.

4. At such time as Developer has completed its work, this Declaration shall become null and void and of no further force and effect. At such time as this Declaration ceases, Developer shall notify Cross Plains that it no longer needs the Temporary Easement, and shall execute and record any and all documents necessary to terminate this Temporary Easement. Until such time, this Declaration shall run with the land as a right and obligation appurtenant thereto.

5. Unless directed otherwise by Cross Plains, upon termination of this Temporary Easement, so much of the surface or subsurface of the Property as was disturbed as a consequence of the use of the Property shall, at the expense of Developer, be restored by Developer in substantially the same condition as it existed immediately prior to the disturbance.

6. Developer shall hold Cross Plains, its successors and assigns free from any and all claims for damages, including the cost of defending against any such claims by a third party or parties arising out of the act, operations, and activities of Developer pursuant to the grant of this Declaration.

7. The terms and provisions of this Declaration shall not be modified except by the mutual agreement of Cross Plains and Developer.

(signature pages to follow)

VILLAGE OF CROSS PLAINS

Date: _____

By: _____
J. Patrick Andreoni, Village President

By: _____
Michael Axon, Interim Administrator

AUTHENTICATION

Signatures of J. Patrick Andreoni and Michael Axon in the capacities indicated, authenticated on this _____ day of _____, 2016.

_____
Paul A. Johnson
SBN: 1021492
TITLE: MEMBER, STATE BAR OF WISCONSIN
(If not, _____,
authorized by Wis. Stat. §706.06)

F:\DOCS\WD\53698\110\A2550902.DOCX

RESOLUTION 17-2016

VILLAGE OF CROSS PLAINS, DANE COUNTY, WISCONSIN

WHEREAS, the Village of Cross Plains and West Gateway, or its assigns (Developer) are parties to a Development Agreement in which the Village is required to sell to Developer certain land identified on the attached Exhibit A located in the Village of Cross Plains, Dane County, Wisconsin; and

WHEREAS, the purchase and sale of the property is scheduled to close on or before December 31, 2016, or sooner upon the mutual agreement of the parties; and

WHEREAS, the Village Board of the Village of Cross Plains desires to authorize certain representatives of the Village to execute any and all documents and take all steps necessary to complete the closing of this transaction.

NOW, THEREFORE, the Village Board of the Village of Cross Plains does hereby resolve as follows:

1. J. Patrick Andreoni, as Village President, and Michael Axon, as Interim Village Administrator, are hereby authorized to execute any and all documents necessary to complete the sale of the Exhibit A property pursuant to the terms of the Development Agreement between the Village of Cross Plains and Developer.

2. J. Patrick Andreoni and Michael Axon are authorized to take any and all other steps necessary to complete the sale of the Exhibit A property pursuant to the Development Agreement.

Dated this 30th day of August, 2016.

VILLAGE OF CROSS PLAINS:

By: _____
J. Patrick Andreoni, Village President

Ayes: _____

Noes: _____

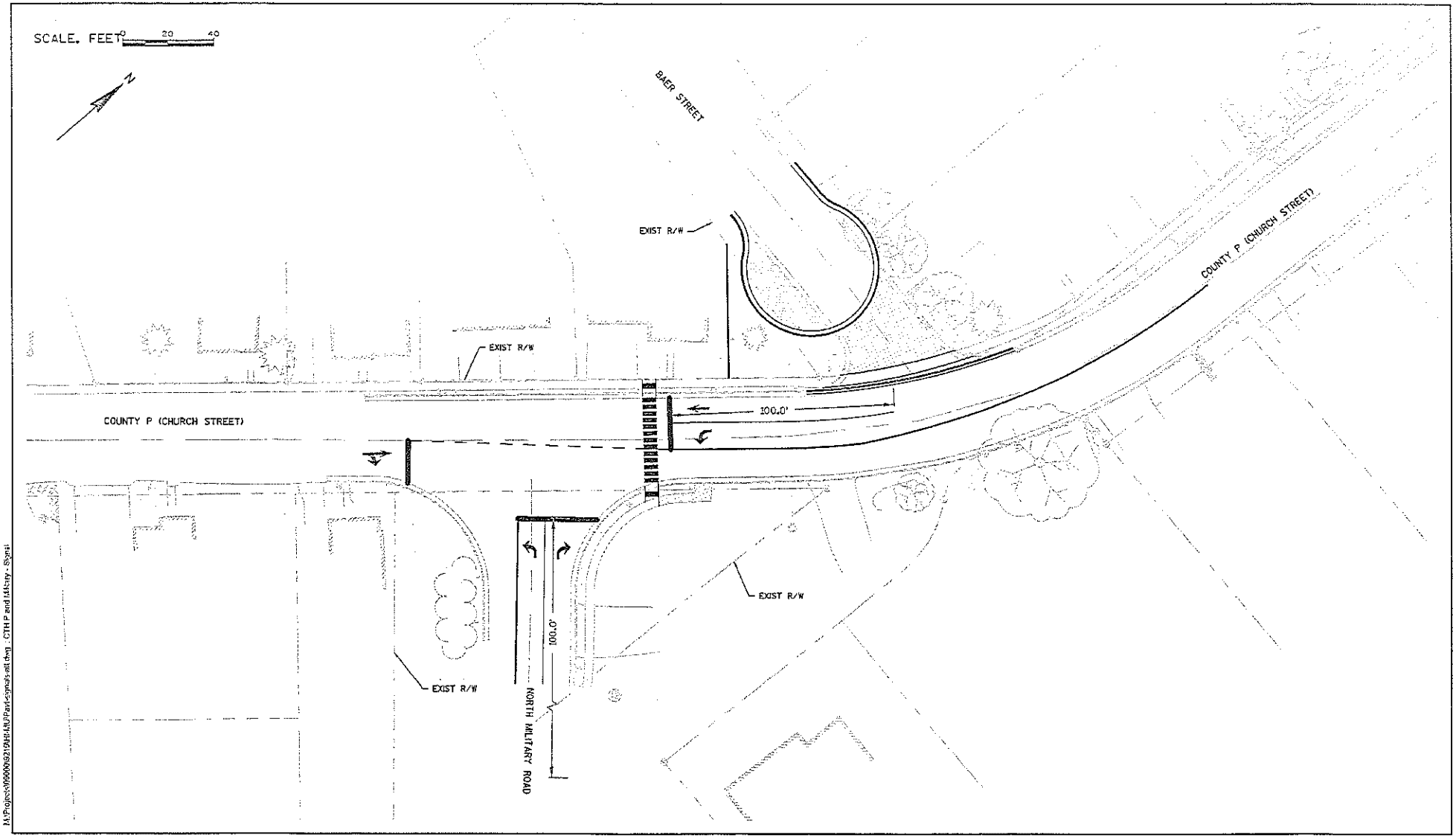
Adopted: _____

CERTIFICATION

I, Michael Axon, as Interim Administrator for the Village of Cross Plains, do hereby certify that the attached Resolution is a true and correct copy of the Resolution adopted by the Village Board of the Village of Cross Plains at a meeting duly called on August 30, 2016.

Date: _____

_____
Michael Axon, Interim Administrator,
Village of Cross Plains

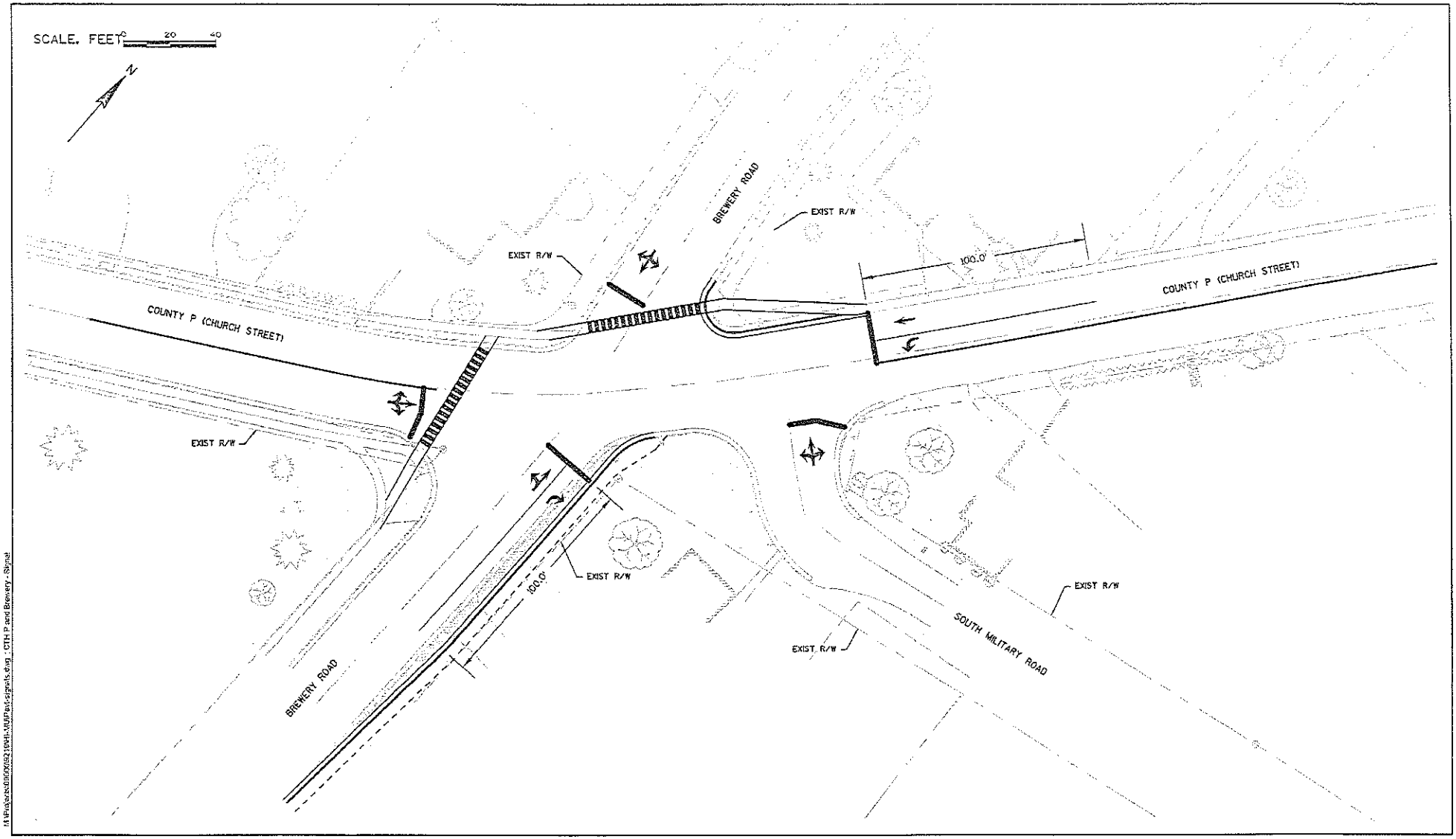


SRF Consulting Group, Inc.
Job #
6/24/2016 - 10:58AM

County P and Military - Traffic Signal

Village of Cross Plains
Dane County, Wisconsin

Construction Estimate: $140,000

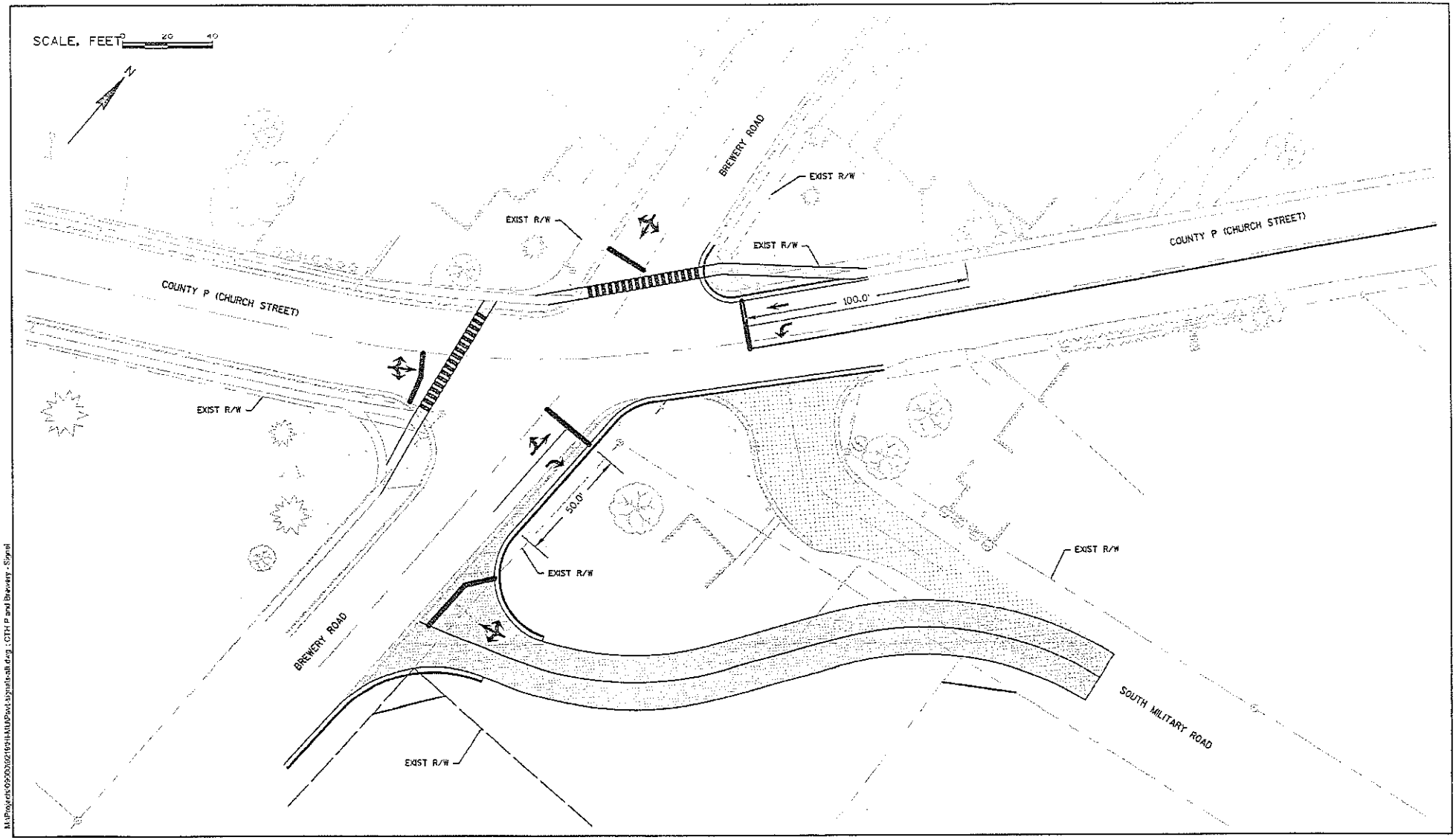


SRF Consulting Group, Inc.
Job #
6/24/2016 - 11:04AM

County P and Brewery - Traffic Signal (5-leg)

Village of Cross Plains
Dane County, Wisconsin

Construction Estimate: $244,540



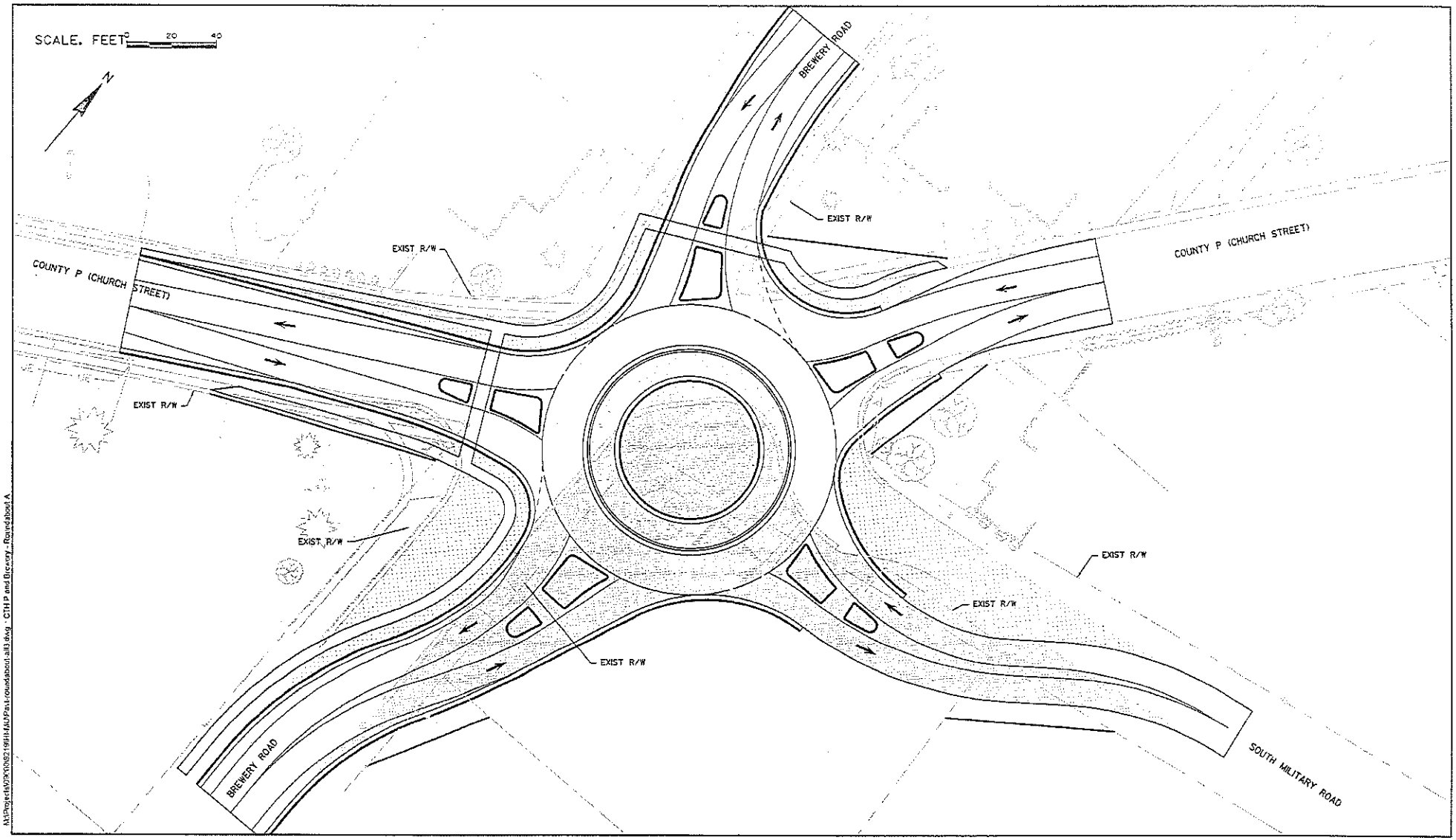
M:\Projects\09500\00216\HUD\Part-signals-all.dwg ; CTH P and Brewery - Signal

SRF Consulting Group, Inc.
Job #
6/24/2016 - 10:59AM

County P and Brewery - Traffic Signal with South Military Road Realigned

Village of Cross Plains
Dane County, Wisconsin

Construction Estimate: $550,150



SRF Consulting Group, Inc.

Job #
6/24/2016 - 11:02AM

County P and Brewery - Roundabout

Village of Cross Plains
Dane County, Wisconsin

Construction Estimate: $700,700