

**VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL
MARCH 15, 2011 AGENDA**

| SUBJECT: | TYPE: | SUBMITTED BY: |
|--|--|-----------------------------------|
| Addendum to the Sales Tax Agreement with Pugi of Chicagoland | ✓ Resolution Ordinance Motion Discussion Only | David Fieldman Village Manager |

SYNOPSIS

A resolution has been prepared to approve a second amendment to the Sales Tax Rebate Agreement between the Village of Downers Grove and Downers Grove Imports, LTD. D/B/A Pugi of Chicagoland.

STRATEGIC PLAN ALIGNMENT

The Goals for 2011 to 2018 include *Strong, Diverse Local Economy* and *Steward of Financial and Environmental Sustainability* and *Exceptional Municipal Services*.

FISCAL IMPACT

The improvements to the Volkswagen and Hyundai facilities are expected to generate an additional \$40 million in taxable sales during the proposed six-year extension. After the payment of the sales tax rebates per the terms of the proposed amendment, the Village is expected to receive an additional \$300,000 in sales tax revenue during the proposed six-year extension.

RECOMMENDATION

Approval on the April 5, 2011 active agenda.

BACKGROUND

The Village entered into a sales tax rebate agreement with Pugi of Chicagoland in 2005 to provide incentives to operate a Volkswagen dealership within Downers Grove. Pugi of Chicagoland now operates three dealerships in Downers Grove: Volkswagen (2020 Ogden Ave), Mazda (1850 Ogden Ave) and Hyundai (1866 Ogden Ave). The agreement was amended in 2009. The original agreement and the first amendment are summarized below.

Pugi is making improvements to the existing Volkswagen dealership and recently relocated to the Hyundai dealership to the property formerly occupied by Saturn. Pugi will be making improvements to the Hyundai dealership property.

Second Amendment (2011)

The proposed second amendment to the sales tax rebate agreement requires Pugi to purchase the property at 1866 Ogden Avenue (Hyundai dealership) and to make improvements to the property including a new showroom and other on-site improvements pursuant to the Ogden Avenue Master Plan. All signage on the property shall conform to Village Code. The amendment also requires Pugi to improve the property at 2020 Ogden Avenue (Volkswagen dealership) including closing an existing curb cut, increasing the amount of greenspace on the site and bringing all signage on the site into conformance with Village Code. The term of the sales tax rebates would be extended by six years and would expire on December 31, 2023. Pugi will be required to continue to operate the three dealerships through December 31, 2026 or will be required to make repayments of the incentive payments.

Key Terms

- Pugi shall purchase the property at 1866 Ogden Avenue
- Pugi shall make improvements to the property at 1866 Ogden Avenue (Hyundai) as shown on the plans attached as Exhibit B. The improvements shall include bringing all signage into conformance with Village Code.
- Pugi shall complete improvements to the Hyundai dealership no later than December 31, 2011.
- Pugi shall make improvements to the property at 2020 Ogden Avenue as shown on the plans attached as Exhibit B. The improvements shall include bringing all signage into conformance with Village Code, closing an existing curb cut and increasing the amount of greenspace located on the site.
- Pugi shall commence the Volkswagen improvements no later than December 31, 2011 and shall complete the improvements no later than December 31, 2012.
- Pugi shall operate all three dealerships until December 31, 2026 or shall pay back the tax rebate payments on the following schedule
 - If Pugi or an approved successor fails to continue to operate during:
 - Year 1 through 7: 100% of the Incentive Payment
 - Year 8 through 12: 75% of the Incentive Payment
 - Year 13 through 18: 50% of the Incentive Payment
 - Year 19 through December 31, 2026 – 25% of the Incentive Payment

2005 Agreement

In 2005, the Village entered into a sales tax rebate agreement with Pugi of Chicagoland. The agreement states, among other things that:

- The Village shall rebate a portion of the sales tax revenue generated by Pugi for a period of seven years (no rebate for sales tax revenue up to \$27,000,000, 50% rebate for sales tax revenue between \$270,000 and \$800,000, and 25% rebate for sales tax revenue above \$800,000).
- Pugi shall continue to operate the dealership for a period of not less than 10 years from the effective date of the agreement.
- In the event Pugi fails to continue to operate the dealership per the terms of the agreement, Pugi shall reimburse the Village according to a specific schedule
 - Years 1 through 3 - 100% of the rebate payments
 - Years 4 through 5 – 75% of the rebate payments
 - Years 5 through 10 – 50% of the rebate payments

First Amendment (2009)

In 2009, the Village approved an amendment to the agreement which included the following key terms:

- Extended the term of the rebate payments from seven years to twelve years.
- Extended the requirement for Pugi to operate the dealership from ten years to fifteen years.
- Required Pugi to reimburse the Village in an amount equal to 25% of the rebate payments for years 10 through 15 in the event that Pugi fails to operate the dealership
- Deleted the letter of credit submittal requirement.

ATTACHMENTS

Resolution

Addendum to the Sales Tax Rebate Agreement

Sales Tax Rebate Agreement

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING EXECUTION OF A
SECOND AMENDMENT TO THE SALES TAX REBATE AGREEMENT
BETWEEN THE VILLAGE OF DOWNERS GROVE AND
DOWNERS GROVE IMPORTS, LTD. D/B/A PUGI OF CHICAGOLAND**

BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois, as follows:

1. That the form and substance of a certain Sales Tax Rebate Agreement (the "Agreement"), between the Village of Downers Grove (the "Village") and Downers Grove Imports, Ltd. d/b/a Pugi of Chicagoland ("Pugi"), as set forth in the form of the Agreement submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

2. That the Mayor and Village Clerk are hereby respectively authorized and directed for and on behalf of the Village to execute, attest, seal and deliver the Agreement, substantially in the form approved in the foregoing paragraph of this Resolution, together with such changes as the Manager shall deem necessary.

3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Agreement.

4. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

Mayor

Passed:

Attest: _____
Village Clerk

**SECOND AMENDMENT TO THE SALES TAX REBATE AGREEMENT
BETWEEN THE VILLAGE OF DOWNERS GROVE AND
DOWNERS GROVE IMPORTS, LTD. D/B/A PUGI OF CHICAGOLAND**

The Village of Downers, Illinois, an Illinois Municipal Corporation situated in the County of DuPage, Illinois (the "Village") and Downers Grove Imports, Ltd. d/b/a Pugi of Chicagoland ("Pugi") hereby agree that the following language shall be and is hereby incorporated in-to the agreement dated March 1, 2005, as amended June 16, 2009, as follows:

WITNESSETH:

WHEREAS, Pugi has purchased a site for a new dealership to be located at 1866 Ogden Avenue, Downers Grove, Illinois and is legally described as follows (the "Hyundai Dealership"):

LOT 3 (EXCEPT THE WEST 270.35 FEET AS MEASURED ALONG THE SOUTH LINE THEREOF AND PARALLEL WITH THE EAST LINE OF LOT 3), ALL OF LOTS 4 AND 6, AND LOT 7 (EXCEPT THAT OF LOT 7 DESCRIBED AS BEGINNING AT THE NORTHWESTERLY MOST CORNER OF SAID LOT 7; THENCE NORTH 86°17'16" EAST ALONG THE NORTHERLY MOST LINE OF SAID LOT 7 A DISTANCE OF 46.95 FEET; THENCE SOUTH 59°25'00" WEST, 94.56 FEET TO AN ANGLE POINT; THENCE SOUTH 62°29'12" WEST, 105.70 FEET TO A PONT ON THE NORTHWESTERLY LINE OF SAID LOT 7; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 2987.68 FEET AND SUBTENDING A CHORD OF 159.00 FEET BEARING NORTH 53°47'59" EAST FOR AN ARC DISTANCE OF 159.02 FEET TO THE POINT OF BEGINNING), AND THE NORTH 200 FEET OF TRACT F IN LLOYD A. GODING'S ASSESSMENT PLAT, BEING A SUBDIVISION OF PART OF SECTION 1, TOWNSHIP 38 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, AND PART OF SECTION 6, TOWNSHIOP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 19, 1958 AS DOCUMENT 873882, IN DUPAGE COUNTY, ILLINOIS.

(Commonly known as 1866 Ogden Avenue, Downers Grove, IL PIN: 09-06-300-002)

WHEREAS, Pugi has purchased the Hyundai Dealership, built a new showroom and made other on-site improvements pursuant to the Ogden Avenue Commercial Corridor Plan as indicated on the Design Plan attached hereto and herein incorporated as Exhibit A (the "Hyundai Project"); and,

WHEREAS, Pugi is endeavoring to remodel the existing Volkswagen dealership located at 2020 Ogden – including building a new showroom and making other on-site improvements such as landscaping, increased greenspace and closing a curb cut pursuant to the Ogden Avenue Commercial Corridor Plan as indicated on the Design Plan attached hereto and herein incorporated as Exhibit B (the "Volkswagen Project") ; and,

WHEREAS, the Village, recognizing the economic and other benefits derived therefrom by the Village and its residents, seeks to assist Pugi in its completion of the Hyundai Project and the Volkswagen Project; and

WHEREAS, the Village desires to assist in the expansion and remodeling of the dealerships in order to serve the needs of the Village, to produce increased tax revenues and to stimulate employment and development within the Village; and

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby covenant and agree as follows:

1. **Incorporation of Recitals:** The foregoing recitals are hereby incorporated and adopted as set forth herein.

2. **General Terms:** The following paragraphs shall be added to section 2:

Pugi, after receipt of the promises and inducements contained herein, agrees to purchase the Hyundai Dealership and expand its automobile sales dealership in substantial accordance with the Exhibit A. It is understood that Hyundai Project shall be constructed substantially in accordance with the plans and specifications approved by the Village and construction shall be completed by no later than December 31, 2011. Pugi further agrees that it will remodel its existing Volkswagen dealership in accordance with Exhibit B. It is understood that the Volkswagen Project shall be constructed substantially in accordance with the plans and specifications approved by the Village and construction shall commence no later than December 31, 2011, and construction shall be completed by no later than December 31, 2012. Pugi shall not cause or permit the existence of any violation of Village ordinances, including but not limited to the Village's building code, zoning ordinances, fire code and any and all rules and regulations thereunder on any of property owned by Pugi, provided that, the parties agree that all signs at all Pugi owned dealerships shall come into compliance with Village sign regulations by no later than December 31, 2011.

3. **Sales Tax Incentives:** Section 3 shall be amended as follows:

In the event that all terms and conditions set forth in this Agreement are satisfactorily met by Pugi, including but not limited to the construction of the sidewalk improvements and landscaping as well

as the construction and development and operation of the Dealership on the Property, the Village hereby agrees to pay Pugi quarterly installments over a maximum period of ~~twelve (12)~~ eighteen (18) years (the "Incentive Period" – through year 2023) as follows, subject however to the following conditions and restrictions:

- a) It is understood that each amount will be due and payable solely from the proceeds of sales tax revenue received by the Village from the Dealership Property.
- b) It is acknowledged and understood by and between the parties hereto that the Village receives sales tax revenue monthly, and that the taxes generated by sales in any one month are distributed to the Village approximately three months later (e.g. taxes generated by sales in July are generally not received by the Village until October).
- c) The initial payment year (hereinafter referred to as the "Initial Payment Year") shall be that twelve (12) month period commencing on the first day of the full month that follows the month in which the Dealership at the 1850 Ogden Avenue site is operating and opened to the public for business and the sidewalk and landscaping improvements have been completed (each subsequent twelve month period is hereinafter referred to as "Subsequent Incentive Year").
- d) The incentive base for the Incentive Period shall be TWENTY SEVEN MILLION DOLLARS (\$27,000,000.00) (hereinafter referred to as the "Incentive Base"). For the Incentive Period, the Village shall be entitled to all the sales tax revenue received from the Dealership Property up to the Incentive Base. For the Incentive Period, respectively, Pugi shall thereafter be entitled to fifty percent (50%) of the sales tax revenue, if any, received from the Dealership Property that exceeds the Incentive Base up to \$800,000.00 cumulative and after said incentive is reached, the Village shall receive seventy-five percent (75%) of the sales tax revenue and Pugi shall be entitled to twenty-five percent (25%) of the sales tax revenue for the remainder of the Incentive Period.
- e) The Incentive Payments shall be computed at the close of each calendar quarter (March 31, June 30, September 30, December 31) by the Village as provided herein. The Village shall withhold the incentive payments for ninety (90) days after it receives notification from the State of the sales tax revenue generated by the Dealership Property. If Pugi fails to continue the dealership as set forth in Section 6, the withheld incentive payment will be automatically forfeited to the Village. Upon expiration of the ninety (90) day period set forth above, and only if Pugi is in compliance with Section 6, the Village will make payments to Pugi within thirty (30) days.

6. Commitment to Continue Dealerships: Section 6 shall be amended as follows:

The parties agree that all Incentive Payments are based in part upon: 1) a commitment by Pugi to purchase the property and to continue operation of ~~all the three Ddealerships~~, or an equivalent of ~~the three dealerships~~, on the ~~Pproperty located at 1850, 1866 and 2020 Ogden Avenue~~ -for a period of not less than ~~fifteen (15)~~ twenty-three (23) years from the effective date of this Agreement, and; 2) a scheduled reimbursement of such incentive payments, if the terms of this commitment are not fulfilled. To that end,

Pugi agrees to continue the operation of a new car Dealership(s) on the Property and shall continue to offer automotive sales with the point of sale being in Downers Grove for ~~fifteen (15)~~ twenty-three (23) years from the effective date of this Agreement. If, at any time during this time period, ~~the any of the three Ddealerships~~, or a successor, fails to offer automotive sales of new automobiles as proposed by the Dealership, then the Village shall be released and discharged from any further obligation to make payments under this Agreement, and Pugi or its successors shall reimburse the Village in accordance with Section 7 of this Agreement. The failure to meet this commitment is not a breach, but rather a foreseeable event for which the offsetting terms have been agreed to in Section 7 of this Agreement.

7. Reimbursement: Section 7 shall be amended as follows:

In the event Pugi, or any approved successor, fails to continue the operation of the three Ddealerships on the Pproperty located at 1850, 1866 and 2020 Ogden Avenue, as provided in Section 6 of this Agreement, Pugi, or such approved successor, shall reimburse to the Village within sixty (60) days of receipt of a written demand from the Village specifying the amount of the reimbursement all or a portion of the Incentive Payments and TIF Reimbursement Payments paid hereunder according to the following schedule:

If said event occurs during:

- * Year one through ~~three-seven~~ - One hundred percent (100%) of the Incentive Payment
- * Year ~~four-eight~~ through year ~~five-twelve~~ - seventy-five percent (75%) of the Incentive Payment
- * Year ~~five-thirteen~~ through year ~~ten-eighteen~~ - fifty percent (50%) of the Incentive Payment
- * Year ~~ten-nineteen~~ through year ~~fifteen-twenty-two~~ December 31, 2026 - twenty-five percent (25%) of the Incentive Payment

After the expiration of a sixty (60) day written demand by the Village to Pugi or its successors, specifying the amount due, the Village may, in its sole discretion, pursue any and all available legal remedies to recover said monies, including, without limitation:

- * Proceed with an action in law or in equity to recover the amounts owed.

8. The following paragraph shall be added as Section 8 and all the remaining sections shall be renumbered accordingly:

Prevailing Wage. Pugi is hereby notified by the Village that any and all work contemplated by

this Agreement may be subject to the Prevailing Wage Act 820 ILCS 130/1 et seq. Pugi agrees to comply with all applicable provisions of the Illinois Prevailing Wage Act as administered by the Illinois Department of Labor (IDOL). Pugi further agrees to contact IDOL for a determination of applicability of the Prevailing Wage Act to the projects contemplated by this Agreement. If required by IDOL, Pugi agrees to pay the prevailing wage rates and to require that all of its subcontractors pay prevailing wage to any laborers, workers or mechanics who perform work on the projects contemplated by this Agreement. For applicable rates, go to the State of Illinois – Department of Labor website and use the most current DuPage County rate. Pugi recognizes and agrees that it is solely responsible for compliance with the Prevailing Wage Act and agrees to fully indemnify, defend and hold harmless the Village pursuant to Section 10 below with regard to any actions or proceedings instituted regarding such compliance.

10. Assignments: The following paragraph shall be amended as follows:

_____Pugi shall not assign this Agreement to any person or entity without the prior written consent of the Village, said consent not to be unreasonably withheld. No such assignment shall be effective, even if consented to by the Village, unless and until the Assignee acknowledges in writing to the Village that the obligations of the Village to Pugi or any Assignee hereunder are contingent upon certain obligations on the part of Pugi which such Assignee is willing to assume, ~~including the issuance of a letter of credit in accordance with Section 8.~~ Notwithstanding any such assignments and/or assumption of responsibility, Pugi shall remain liable for all of its agreements, covenants and obligations and the performance thereof pursuant to this Agreement.

All remaining terms of the 2005 Agreement, as amended in 2009, shall apply equally to this Second Amendment.

WITNESS their hands and seals the day and year first above written.

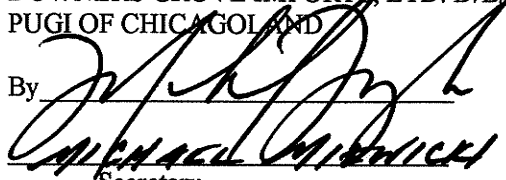
THE VILLAGE OF DOWNERS GROVE,
ILLINOIS, an Illinois Municipal Corporation

By _____
Mayor

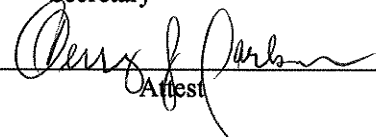
Attest _____
Village Clerk

Date _____

DOWNERS GROVE IMPORTS, LTD. D/B/A
PUGI OF CHICAGO, ILL.

By 

Secretary



Attest

Date 3.8.11

EXHIBIT A
Design Plan

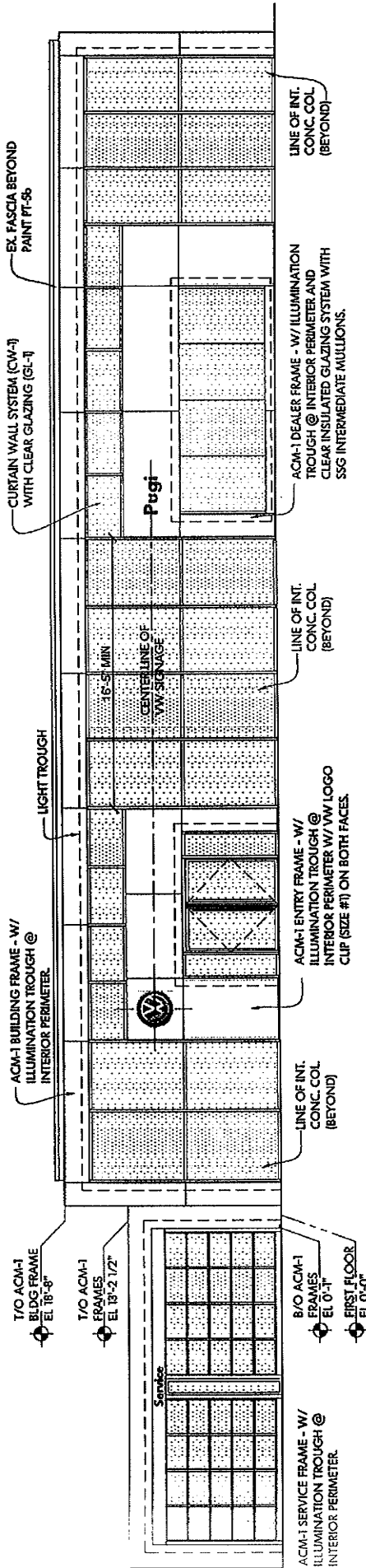
18604



EXHIBIT B
Design Plan



2020



1 - Front (North) Elevation
SCALE: 1/8" = 1'-0"

Pugi Volkswagen

Front Elevation



SHEET NOTES
SEE M2.1-M2.3 FOR MATERIAL SCHEDULE.
ALL ACM-1 JOINTS TBD BY SOBOTEC.
T/O ALL ACM FRAMES TO ALIGN.

SCALE: 1/8" = 1'-0"

City/State: Downers Grove, IL
CAI Job #: 09000.091

Prepared By
Cityscape Architects, Inc.

Date
11/03/10

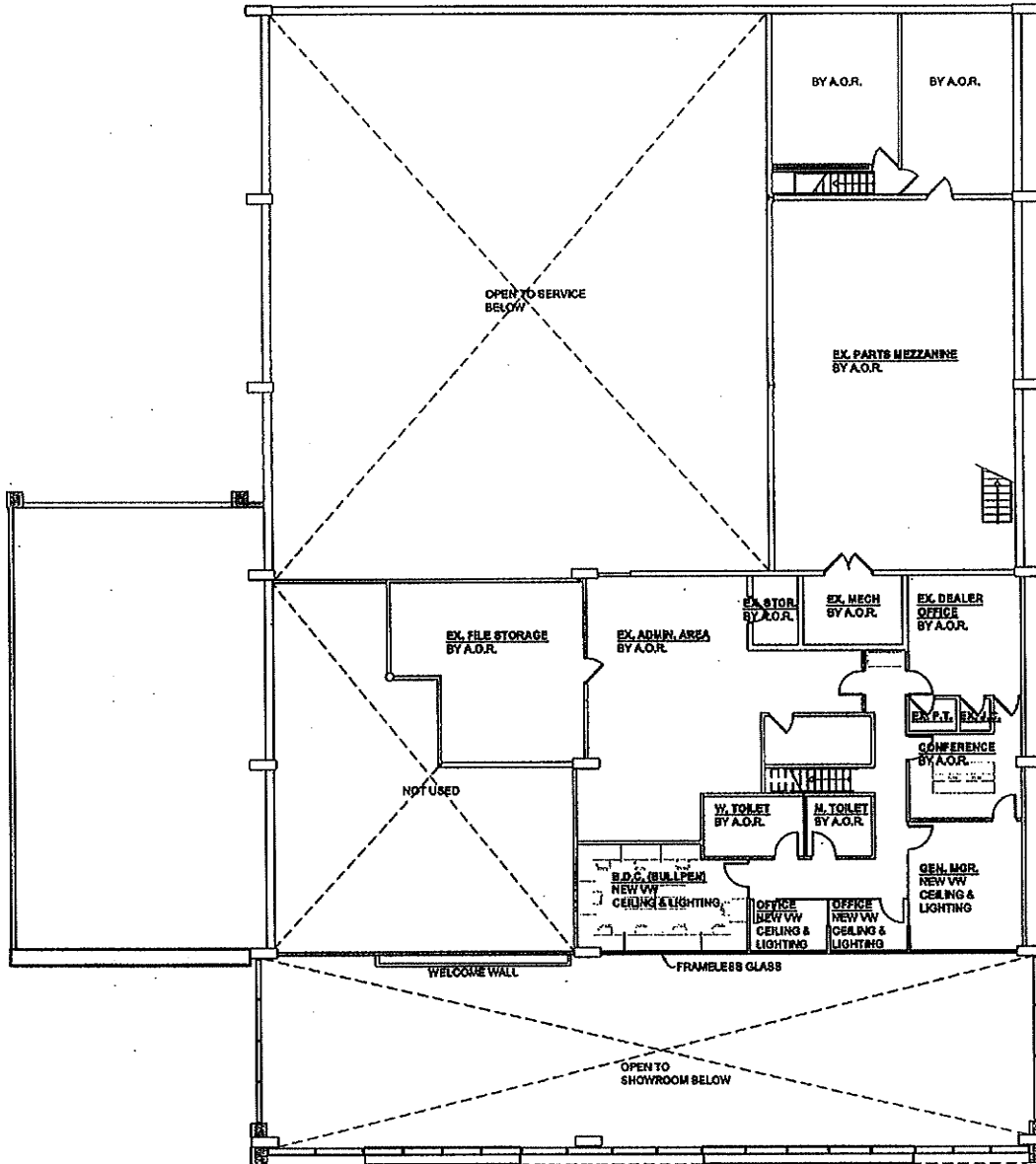
Issue
Design Survey

A2.1

20

These drawings are for communication of design intent only.
These drawings are not suited or intended for construction or fabrication.

| LEGEND | |
|--------|-----------------|
| | EXISTING DOOR |
| | PROPOSED DOOR |
| | EXISTING WALL |
| | PROPOSED WALL |
| | FRAMELESS GLASS |
| | CURTAIN WALL |



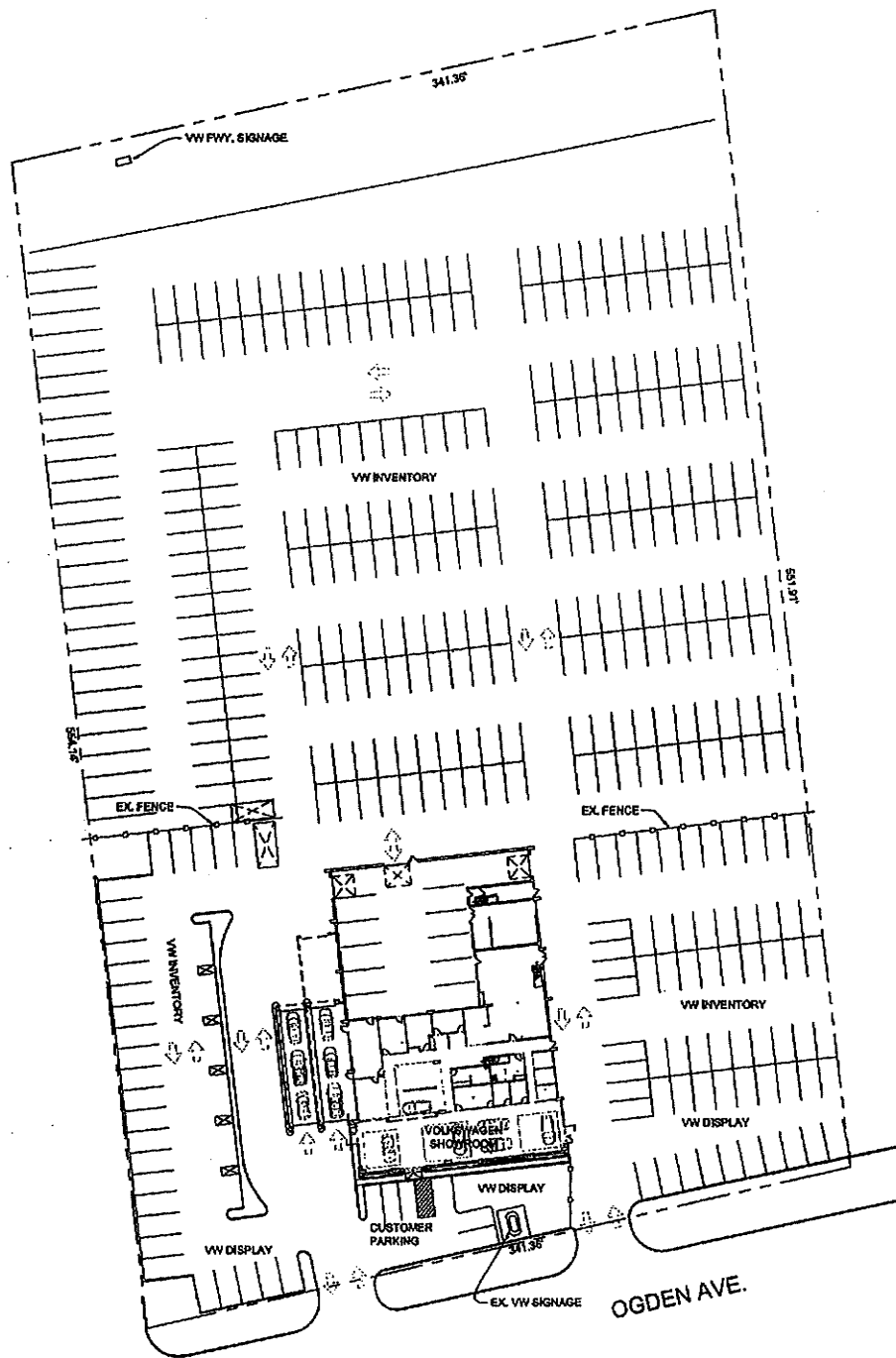
NOTE:
LOCAL ARCHITECT TO VERIFY ACCESSIBILITY REQUIREMENTS OF SECOND FLOOR. VERIFY ELEVATOR IS NOT REQUIRED.

Pugli Volkswagen

Second Floor Plan

SHEET NOTES
SEE SHEET A1.1 THROUGH A1.3 FOR MATERIAL SCHEDULE.
SEE FLD-FL4 FOR FIXTURE SCHEDULES.
EXACT FIXTURE SIZES, POWER REQUIREMENTS AND LOCATIONS
TBD BY FURNITURE & FIXTURE SUPPLIERS
BY A.O.R.; FINISHES TBD BY ARCHITECT OF RECORD.





| AREAS | |
|---|------------------|
| SITE (ACRES) | 4.3 AC. |
| SITE (PARKING) | 385 |
| FIRST FLOOR | |
| VW SHOWROOM | 3,350 SF |
| VW SALES OFFICE | 1,302 SF |
| CUSTOMER AREA | 937 SF |
| SERVICE VW | 385 SF |
| SERVICE RECEPTION | 1,785 SF |
| SERVICE DEPT. | 5,850 SF |
| PARTS | 1,300 SF |
| SECOND FLOOR | |
| OFFICE | 1,692 SF |
| OTHER | 1,383 SF |
| PARTS MEZZAINE | 2,089 SF |
| TOTAL EXIST. FOOTPRINT | 15,800 SF |
| <small>*DOES NOT INCLUDE SECOND FLOOR</small> | |

Pugi Volkswagen

Site Plan

SHEET NOTES
 SEE SHEET A02.1 THROUGH A02.5 FOR MATERIAL SCHEDULE.
 SEE SHEETS 13.5-13.7 FOR VW LANDSCAPE GUIDELINES.
 A02 TO VERIFY LANDSCAPE REQUIREMENTS W/ LOCAL MUNICIPALITY.



A0.1

Date
11/03/10

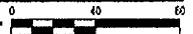
Issue
Design Survey

Prepared By
Cityscape Architects, Inc.

City/State: Downers Grove, IL
 CAJ Job #: 09000.091

These drawings are for communication of design intent only.
 These drawings are not suited or intended for construction or fabrication.

SCALE: 1"=40'-0"





600 W. Jackson Blvd.
Chicago, IL 60661
T. 312.798.7700
F 312.798.7777

1/24/2011

2020 West Ogden Ave Downers Grove, IL

| Division | Cost | Comments |
|--|------------------------|---|
| Exterior Construction Costs | | |
| Asphalt paving | | Resurfacing entire lot |
| Concrete paving | | Install around customer service area |
| Lighting | | New parking lot pole lighting |
| Fencing | | |
| Exterior Building Site | | |
| Demolition of exist. Storefront | \$ 30,000.00 | |
| New Customer Drive In Bldg | \$ 240,000.00 | 2,000 SF x \$120.00/SF |
| Aluminum Storefront/doors | \$ 150,000.00 | 3,000 SF x \$50.00/SF |
| Misc. Renovation work | \$ 50,000.00 | Roof repairs, existing RTU's, masonry wall repair/maintenance |
| Total Exterior Costs | \$ 770,000.00 | |
| Interior Construction Costs | | |
| Demolition | \$ 10,000.00 | Removal of all finishes and mechanical, electrical systems down to structure |
| Renovation/new finishes | \$ 150,000.00 | Includes new flooring, lighting, Ceiling 2,500 SF x 60.00/SF |
| Total Interior Construction Costs | \$ 160,000.00 | |
| Administration Renovation | \$ 384,000.00 | 4,800 SF x 80.00/SF Incl. new partitions, fixtures, mechanical distribution, electrical, lighting, plumbing and toilet rooms, ceilings, flooring |
| First Floor Office Areas | \$ 384,000.00 | |
| Second Floor Admin | \$ 192,000.00 | 2,400 x 80.00/SF |
| Demolition | \$ 21,000.00 | |
| Service Department Renovation | \$ 150,000.00 | 5,000 SF x \$30.00/SF Includes lighting, ventilation, finishes and equipment |
| Service Department | \$ 150,000.00 | |
| Total Interior Construction | \$ 907,000.00 | |
| Subtotal (Interior and Exterior) | \$ 1,677,000.00 | |
| 10% Contingency | \$ 167,700.00 | |
| Estimated Construction Total | \$ 1,844,700.00 | |