

**City of Oconomowoc
Common Council**

**Tuesday, May 05, 2020 - 7:30 PM
City Hall - Council Chambers**



Notice: If a person with a disability requires that the meeting be accessible or that materials at the meeting be in an accessible format, call the City Clerk's office at least 48 hours in advance to request adequate accommodations. Tel: 569-2186

1. Call to Order and Confirmation of Appropriate Meeting Notice

2. Pledge of Allegiance

3. Roll Call

4. Approval of Meeting Minutes

- a. Minutes of March 17, 2020

5. Comments/Suggestions from Citizens

6. Committee Reports

- a. Utility - Kowieski, Chr; Mulder, Secy; Zapfel

- 1. Consider/act Pole Attachment License Agreement between City of Oconomowoc and Midwest Fiber Networks, LLC

7. Plan Commission

- a. Consider/act on Preliminary Plat to Create Pine Ridge Estates West

8. New Business

- a. Consider/act on Resolution 20-R2874 Authorizing the Issuance and Sale of \$9,755,000 General Obligation Promissory Notes, Series 2020A
- b. Consider/act on Resolution 20-R2875 Authorizing the Issuance and Sale of \$9,400,000 General Obligation Refunding Bonds, Series 2020B
- c. Consider/act on Resolution 20-R2876 Authorizing the Creation and Hiring of an Economic Development Marketing Intern for 2020
- d. Consider/act on Resolution 20-R2870 Authorizing Budget Amendment for Fleet Mechanics Tools
- e. Consider/act on Resolution 20-R2872 Approving Grant Application for the Golf Course Creek
- f. Consider/act on Ordinance 20-O977 to Repeal and Recreate Section 8.04 of the City of Oconomowoc Municipal Code Concerning Street Excavations and Above Ground Installations

- g. Consider/act on Inspection Services Contract Between the City of Oconomowoc and Wisconsin Building Inspections, LLP
- h. Consider/act on Resolution 20-R2863 Adjusting Fees for Building Inspection Services
- i. Consider/act on Resolution 20-R2871 Awarding 2020 Collins Parking Lot Design Engineering
- j. Consider/Act on Developer's Agreement for Bubbles Foam Farm
- k. Consider/ Act on Developer's Agreement for Vespera II
- l. Consider/act on Resolution 20-R2873 Approving Appointment of Official City Newspaper 2020-2021

9. Mayoral Appointments with Council Confirmation

- a. Plan Commission Member - Chad Vande Zande

10. Staff Reports

- a. Oconomowoc Responds Task Force Update - Duffy
- b. Update on State of Emergency City Operations - Kitsembel
- c. Presentation on City COVID-19 Revenue and Expense Effects on Current Budget - Sullivan

11. Reports and Comments from the Aldermen

12. Reports and Comments from the Mayor

13. Adjourn

**City of Oconomowoc
Common Council Meeting Minutes
March 17, 2020 - 7:30 PM**



Aldermen Present: Kevin Ellis, Karen Spiegelberg, Tom Strey, Lou Kowieski, Andy Rogers, Matt Rosek, Charlie Shaw

Absent: Ald. Zwart

Also Present: David Nold, Sarah Kitsembel, Stan Riffle, Ron Buerger, Diane Coenen, Kevin Freber, Mark Frye, Jason Gallo, Craig Hoepfner, Joe Pickart, Tony Posnik, Ivan Lam

Mayor Nold called the Common Council Meeting to order at 7:30 PM.

Call to Order and Confirmation of Appropriate Meeting Notice

Pledge of Allegiance

Roll Call

Approval of Meeting Minutes

a. Minutes of February 18, 2020

Motion to approve the minutes of February 18, 2020 Council minutes as presented made by Rosek and seconded by Rogers.

Motion carried 7-0-0.

Comments/Suggestions from Citizens

Sarah Ponath, N51 W14441 Jaclyn Ct., Menomonee Falls, introduced herself as a candidate for the Waukesha County Circuit Court Judge Branch 5.

Jack Melvin, 1738 River Lakes Rd N, introduced himself as a candidate for the Waukesha County Circuit Court Judge Branch 5.

Consent Agenda (Items listed under the Consent Agenda are considered in one motion - a Council member may request to remove an item):

Motion to approve the consent agenda made by Kowieski and seconded by Shaw.

Motion carried 7-0-0.

a. Licenses

b. Treasurer's Report

Committee Reports

a. Public Services - Strey, Chr; Zwart, Secy; Ellis

1. Consider/act on Resolution 20-R2864 Awarding the 2020 Street Improvement Program Contract

Motion to adopt Resolution 20-R2864 awarding the 2020 Street Improvement Program Contract made by Ellis and seconded by Rosek.

Frye gave a PowerPoint presentation.
Motion carried 7-0-0.

2. Consider/act on Resolution 20-R2861 Awarding Blain Street Park Tennis Court Reconstruction Contract

Motion to adopt Resolution 20-R2861 awarding Blain Street Park Tennis Court reconstruction contract made by Strey and seconded by Kowieski.

Motion carried 7-0-0.

Motion to approve to allow the Parks & Recreation Director to approve additional funds up to \$120,000 for soils or other problems during construction made by Rosek and seconded by Ellis.

Motion carried 7-0-0.

b. Utility - Kowieski, Chr; Zwart, Secy; Shaw

1. Consider/act on Resolution 20-R2862 Awarding Underground Utilities Locating Service Contract and Authorize Budget Amendment

Motion to adopt Resolution 20-R2862 awarding underground utilities locating service contract and authorize budget amendment made by Kowieski and seconded by Rosek.

Motion carried 7-0-0.

Plan Commission

a. Consider/act on Condominium Plat for Vespera II, Phase I, Located on NE Corner of Valley Road and St. Andrews Drive

Motion to approve Condominium Plat for Verpera II made by Shaw and seconded by Kowieski.

Motion carried 7-0-0.

New Business

a. Consider/act on Revised Pandemic Preparedness Plan and COVID-19 Response Matters

Riffle reported that due to COVID-19, the City has updated our Pandemic Preparedness Plan in response to guidance from the CDC, State and County Public Health agencies. The pandemic has had several impacts to City operations and the Governor's order could pose policy considerations for us. He briefed Council on facility closures, the impacts to customers and employees, election changes, and meeting procedures. He noted that the Employee Handbook had a change to the section regarding employees working from home. Staff will keep Council apprised of developments. Motion to approve the revised Pandemic Preparedness Plan and COVID-19 Response to be used as a general guideline to allow the City Administrator and staff to administer day to day operations, close City Hall to vendors and limit citizen entrance, and no travel by employees unless for essential certification/training made by Ellis and seconded by Rosek. Motion carried 7-0-0.

Riffle then reported on the State of Emergency Proclamation that was placed at Council stations. He referenced WI Stat. 323.11 which states the governing body of any local unit of government may declare by ordinance or resolution an emergency. This allows the Mayor, if the Council can't meet in time to deal with an emergency situation to declare a State of Emergency. He noted the proclamation will be changed to a resolution format. Once a State of Emergency is called, WI Stat. 323.14 deals with powers during an emergency and how this body is going to function between now and whenever the emergency is over and what will happen with staff and their interaction with the public. He informed Council that he had a meeting with all municipal attorneys in the State which was facilitated through the League of Wisconsin Municipalities and the consensus was that we have broad powers as municipalities in an emergency regarding how Council meetings are conducted. The City must announce ahead of time how we will conduct the meeting and how constituents have an opportunity to participate. Next, if Council wants to make specific directives, he recommends doing it through a resolution. Riffle clarified the resolution will authorize the Mayor, in consultation with staff, to implement measures associated with both future meetings and operations of the City, noting that if something goes awry Council can demand a meeting and rescind the resolution. The resolution is a general guideline. Motion by Rosek to adopt the resolution declaring a State of

Emergency in the City of Oconomowoc regarding COVID-19 and seconded by Kowieski. Motion carried 7-0-0.

Staff Reports

Kitsembel thanked Council for the candid discussion on the Pandemic Plan and COVID-19. Coenen stated the Tuesday, April 7th Election is open for voting from 7:00 AM – 8:00 PM and In-Office Absentee Voting starts on March 23rd at City Hall.

Reports and Comments from the Mayor

Nold read the Proclamation into the record.

a. 2020 Census Proclamation

Reports and Comments from the Aldermen

Kowieski thanked staff for going above and beyond during this difficult time and acknowledged our incredible community. He stated the April 7th election is important for the community. Rosek requested that in the future staff separate budget amendment items.

Adjourn

Motion to adjourn made by Strey and seconded by Rogers.

The meeting adjourned at 9:09 PM.

Motion carried 7-0-0.

Diane Coenen, City Clerk
City of Oconomowoc



MEMORANDUM

ELECTRIC UTILITY

Date: April 29, 2020
To: Common Council
From: Joe Pickart, Electric and Water Utility Manager
Re: Consider/Act on Pole Attachment License Agreement between City of Oconomowoc and Midwest Fiber Networks, LLC

RELATES TO THE STRATEGIC PLAN

N/A

BACKGROUND

The City of Oconomowoc and Midwest Fiber Networks, LLC have negotiated a Pole Attachment License Agreement to allow Midwest Fiber Networks to install new, or maintain existing cable, wires and associated equipment on the Electric Utility's poles to provide Communications Services to the public. The initial term of the agreement shall become effective upon signed Agreement and continue for ten (10) years (Initial Term). An additional Extension Term of the agreement is ten (10) years commencing on the expiration of the Initial Term, provided the Licensee is not in default under this Agreement. These terms and conditions are standard across the Pole Attachment agreements with our Communications providers.

The agreement provided has two (2) edits marked in red that have been corrected and re-submitted to Midwest Fiber Networks for signature. See page 1 of the agreement and page 1 of Appendix A (fee schedule). The edits are to correct the Communications entity name and the effective dates.

FINANCIAL IMPACT

Compensation to the City of Oconomowoc shall be:

Annual Pole Attachment Fee (charged on a per-pole basis) effective upon signed acceptance of both parties:

- Single: \$14.02
- Double: \$7.01
- Triple: \$4.67

Rates shall be recalculated every year. Non-Recurring fees such as permit applications, surveys, inspections, etc shall also apply with a 3% rate increase each year. The rates, fees and increases are standard across the Pole Attachment agreements with our Communication providers.

RECOMMENDATION

Staff recommends approval of the Pole Attachment License Agreement with corrected edits as marked.

SUGGESTED MOTION

Move to approve the Pole Attachment License Agreement between City of Oconomowoc and Midwest Fiber Networks, LLC. with corrected edits as marked.

EXECUTION VERSION

**POLE ATTACHMENT LICENSE AGREEMENT
BETWEEN CITY OF OCONOMOWOC, WISCONSIN
AND
MIDWEST FIBER NETWORKS, LLC**

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APPENDICES

APPENDIX A	POLE ATTACHMENT FEES AND CHARGES
APPENDIX B	SPECIFICATIONS FOR ATTACHMENTS TO UTILITY’S POLES (including POLE TOP DRAWINGS)
APPENDIX C	POLE ATTACHMENT PERMIT APPLICATION PROCESS
APPENDIX D	PERMIT APPLICATION FOR ATTACHMENT OR REMOVAL
APPENDIX D-2	OVERLASH APPLICATION FORM

**POLE ATTACHMENT LICENSE AGREEMENT
BETWEEN CITY OF OCONOMOWOC, WISCONSIN
AND
SPECTRUM MID-AMERICA, LLC**

*To Be Corrected
to Midwest Fiber Networks*

This Pole Attachment License Agreement (the "**Agreement**") dated this 1st day of August, 2019 > update ("**Effective Date**"), is made by and between the City of Oconomowoc, Wisconsin, a Wisconsin municipal corporation and public utility ("**Utility**" or "**Licensor**"), and Midwest Fiber Networks, LLC ("**Licensee**"), each a "**Party**" and collectively the "**Parties.**"

RECITALS

- A. Licensee proposes to install new, or maintain existing, cables, wires and associated equipment on Utility's Poles to provide Communications Services to the public.
- B. Utility is willing, when it may lawfully do so, to issue one or more Permits authorizing the placement or installation of Licensee's Attachments on Utility's Poles, provided that Utility may refuse, on a non-discriminatory basis, to issue a Permit where there is insufficient capacity or for reasons of safety, reliability, and generally applicable engineering purposes.
- C. The Parties intend that this Agreement shall supersede any and all pole attachment agreements (written or oral) between the Parties, and any such preexisting agreement are hereby terminated.

AGREEMENT

ARTICLE 1: DEFINITIONS

For the purposes of this Agreement, the following terms shall have the following meanings:

- 1.1 **Affiliate:** when used in relation to Licensee, means , any entity that is Controlled by Charter Parent, or any entity in which Charter Parent holds the power to vote, directly or indirectly, 25% or more of the voting securities. "**Control**" means the power to direct the management and policies of an entity, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise. "**Charter Parent**" means the ultimate parent entity of Licensee, which is the parent entity that holds the power to vote, directly or indirectly, 50% or more of the voting securities of Licensee, but in which no person or entity holds the power to vote 50% or more of such parent entity's voting securities.

- 1.2 Applicable Standards:** means the engineering and safety standards contained in **Appendix B** and all applicable engineering and safety standards governing the installation, maintenance and operation of utility facilities and the performance of all work in or around electric utility facilities, and includes the versions of the following codes in effect at the time of attachment: the National Electric Safety Code (“**NESC**”), the National Electrical Code (“**NEC**”), the Wisconsin State Electric Code (“**WSEC**”), the regulations of the Occupational Safety and Health Administration, the regulations of the Department of Workforce Development (including the rules regarding safety equipment), and the safety and engineering requirements of any state or federal agency with jurisdiction over utility facilities, each of which is incorporated by reference into this Agreement. Subsequent versions of the Applicable Standards shall apply on a prospective basis to Attachments made thereafter, unless such subsequent versions require retroactive application to existing Attachments.
- 1.3 Attaching Entity:** means any public or private entity that attaches to a Pole pursuant to a license agreement with Utility to provide Communications Service to the public.
- 1.4 Attachment:** means Licensee’s Communications Facilities that are placed directly on Utility’s Poles or Overlashed onto an existing Attachment but does not include a Riser or a service drop that is attached to a single Pole on which Licensee has an existing Attachment.
- 1.5 Climbing Space:** means that portion of a Pole that is free from encumbrances to enable Utility employees and contractors to safely climb, access, and work on Utility Facilities and equipment.
- 1.6 Communications Facilities:** means a wire, cable, or other facility and appurtenant equipment used to provide Communications Service.
- 1.7 Communications Service:** means the transmission or receipt of voice, video, data, broadband Internet, or other forms of digital or analog signals over Communications Facilities.
- 1.8 Make-Ready Work:** means all work, as reasonably determined by Utility, required solely to accommodate Licensee's Communications Facilities and/or to comply with all Applicable Standards. Such work may include, but is not limited to, rearrangement and/or transfer of Utility Facilities or existing Attachments, inspections, engineering work, permitting work, tree trimming (other than tree trimming performed for normal maintenance purposes), pole strengthening and construction. Notwithstanding the foregoing, Licensee shall not be responsible for the cost of Make-Ready Work required to correct the violations caused by third parties, including other Attaching Entities and Utility.

- 1.9 **Occupancy:** means the use or specific reservation of space for Attachments on a Pole.
- 1.10 **Overlash:** means to place an additional wire or cable onto an existing attached Communications Facility.
- 1.11 **Permit:** means written or electronic authorization by Utility for Licensee to make or maintain Attachments to specific Poles pursuant to the requirements of this Agreement.
- 1.12 **Permit Application:** means the application Licensee submits to Utility in order to obtain authorization to place Communications Facilities on Utility Facilities. See **Appendix D** for application form.
- 1.13 **Pole:** means a pole owned by Utility used for the distribution of electricity or provision of Communications Service that is capable of supporting Attachments for Communications Services. “Pole” may also include a pole owned by Utility used for the transmission of electricity, provided that Utility and Licensee agree that such pole can safely accommodate Attachments consistent with all Applicable Standards.
- 1.14 **Post-Construction Inspection:** means all work or operations performed to measure and/or observe Licensee’s Attachments shortly after installation to determine that the Attachments have been constructed in accordance with all Applicable Standards and this Agreement.
- 1.15 **Pre-Construction Survey:** means all work or operations required by Applicable Standards or Utility to determine the Make-Ready Work necessary to accommodate Licensee's Communications Facilities on a Pole. Such work includes, but is not limited to, field inspection, loading calculations, and administrative processing by Utility.
- 1.16 **Riser:** means metallic or plastic encasement materials placed vertically on the Pole to guide and protect wires and cables.
- 1.17 **Tag:** means to place distinct markers on wires and cables, coded by color or other means specified by Utility that will readily identify the type of Attachment and its owner.
- 1.18 **Utility Facilities:** means all personal property and real property owned or controlled by Utility, including Poles and related facilities.

ARTICLE 2: SCOPE OF AGREEMENT

- 2.1 Grant of License. Subject to Licensee's submitting an application for a Permit ("Permit Application") and receiving an approved Permit as required by the provisions of this Agreement, Utility grants Licensee a revocable, nonexclusive license authorizing Licensee to install and maintain Attachments to Utility's Poles.
- 2.2 Parties Bound by Agreement. Licensee and Utility agree to be bound by all provisions of this Agreement and of the Permits issued pursuant to this Agreement.
- 2.3 Permit Issuance Conditions. Utility will issue a Permit to Licensee only when Utility determines, in its sole judgment, reasonably exercised, that (i) it has sufficient capacity to accommodate the requested Attachments, (ii) Licensee complies with all applicable requirements set forth in this Agreement, and (iii) the affected Poles can safely accommodate the proposed Attachments consistent with all Applicable Standards.
- 2.4 Reserve Capacity. Access to space on Utility's Poles will be made available to Licensee with the understanding that such access is to Utility's reserve capacity for future electric service use. On giving Licensee at least ninety (90) calendar days' prior notice, Utility may reclaim such reserve capacity any time during the period following the installation of Licensee's Attachment if required for Utility's future electric service use, including the attachment of communications lines solely for internal Utility operational requirements. Utility will inform Licensee of any plans Utility may have to use such reserve capacity at the time Licensee submits its Permit Application, but this requirement shall not be a prerequisite to Utility's exercise of its right to reclaim capacity. On giving Licensee notice that it will reclaim reserve capacity, Utility shall give Licensee the option to remove its Attachment(s) from the affected Pole(s) or to pay for the cost of any MakeReady Work needed to expand the capacity of the affected Pole(s) so that Licensee can maintain its Attachment(s) on the affected Pole(s). The allocation of the cost of any such Make-Ready Work (including the transfer, rearrangement, or relocation of third-party Attachments) shall be determined in accordance with Article 9 and shall be shared with any other licensee who also has Attachments on the affected Pole(s) that is required to share in such costs pursuant to its pole attachment agreement with Utility that is already in effect as of the Effective Date. Utility shall cover the Make-Ready costs of any other licensee not required to share in such costs pursuant to its agreement with Utility.
- 2.5 No Interest in Property. No use, however lengthy, of any Utility Facilities, and no payment of any fees or charges required under this Agreement, shall create or vest in Licensee any easements or other ownership or property rights of any nature in any portion of such Facilities. Neither this Agreement, nor any Permit granted under this Agreement, shall constitute an assignment of any of Utility's rights to the Utility Facilities. Notwithstanding anything in this Agreement to the contrary, Licensee shall, at all times, be and remain a mere Licensee.

2.6 Effect of Failure to Exercise Access Rights. If Licensee does not exercise any access right granted pursuant to a Permit within one hundred twenty (120) days of the effective date of such right and any extension thereof, Utility may use the space scheduled for Licensee's Attachment. Utility shall grant an extension where Licensee demonstrates that events beyond its control prevented Licensee from exercising any such access right. In such instances, Utility shall endeavor to make other space available to Licensee, upon written request, as soon as reasonably possible.

2.7 Licensee's Right to Attach.

2.7.1 Except as otherwise expressly permitted by this Agreement, nothing in this Agreement, other than a Permit issued pursuant to Article 6, shall be construed as granting Licensee any right to attach Licensee's Communications Facilities to any specific Pole or to compel Utility to grant Licensee the right to attach to any specific Pole.

2.7.2 Nothing in this Agreement shall be construed to grant any Affiliate of Licensee the right to attach to any Poles without entering into a license agreement with Utility and receiving a permit pursuant to such agreement.

2.8 Necessity of Authorizations. Licensee is obligated to obtain all necessary certifications, permits, and franchises from federal, state, and local authorities prior to making any Attachments.

2.9 Utility's Rights over Poles. The Parties agree that this Agreement does not in any way limit Utility's right to locate, operate, maintain, or remove its Poles in the manner that it reasonably believes will best enable it to fulfill its own service requirements.

2.10 Expansion of Capacity. Utility will take reasonable steps to expand Pole capacity when necessary to accommodate Licensee's request for attachment. Notwithstanding the foregoing sentence, nothing in this Agreement shall be construed to require Utility to install, retain, extend, or maintain any Pole for use by Licensee when such Pole is not needed for Utility's own service requirements.

2.11 Other Agreements. Except as provided herein, nothing in this Agreement shall restrict or prohibit Utility from fulfilling any agreement or arrangement regarding Poles into which Utility has previously entered, or may enter in the future, with others not party to this Agreement, so long as Licensee is provided access on a reasonable and nondiscriminatory basis.

2.12 Permitted Uses. This Agreement is limited to the uses specifically stated in this Agreement, and no other use by Licensee shall be allowed without Utility's express written consent to such use. Nothing in this Agreement shall be construed to require Utility to allow Licensee to use Utility's Poles after the termination of this Agreement.

2.13 Overlashing. The following provisions will apply to Overlashing:

- (a) Permits for Overlashing shall be required and handled on an expedited basis as set forth in this Section 2.13. Absent such authorization, Overlashing constitutes an unauthorized Attachment.
- (b) Except as provided in Section 2.13(f), Licensee shall file an Overlash Permit Application Form (see Appendix D-2), which shall include a certification consistent with Section 6.4 ("Certification") that (1) the Overlash will not impair the structural integrity of the Poles, that the Overlash can be made in compliance with all Applicable Standards, and that no Make-Ready Work will be necessary to accommodate the proposed Overlash or (2) that Make-Ready Work is necessary.
- (c) Within five (5) business days of receipt of Licensee's Permit Application, Utility shall, in accordance with the requirements set forth below, approve the Permit Application, deny the Permit Application, or request further consultation with Licensee. The Permit Application shall be deemed approved if Utility fails to act during this five (5) business day period.
 - (1) **Approval.** If Utility agrees with Licensee's Certification, Utility shall approve the Application in writing, and Licensee may proceed with Overlashing upon receipt of such approval. If the Permit Application involves a project in which the Overlashed cable replaces an existing cable with one of no greater size nor weight than the one removed by Licensee, the Permit Application shall be deemed approved upon receipt, and Licensee may proceed with the Overlash within twenty-four (24) hours of submitting the Permit Application.
 - (2) **Denial.** Utility may deny the Permit Application on a non-discriminatory basis, where there is insufficient capacity, if the Permit Application is incomplete, or if the Permit Application lacks a Certification in accordance with Section 6.4.
 - (3) **Consultation Request.** Utility shall request consultation with Licensee regarding its Permit Application if Licensee's Certification states that Make-Ready Work is necessary to accommodate the proposed Overlash or

if Utility reasonably disagrees with Licensee's Certification as to the necessity of Make-Ready Work.

- (A) Within one (1) business day after receipt of Utility's Consultation Request, Licensee shall provide to Utility its documentation and analysis supporting its Certification.
- (B) Within ten (10) business days of receipt of Licensee's Permit Application and after the Consultation Request is made:
- (i) Utility shall approve the Permit Application if it determines that no Make-Ready Work is necessary to accommodate Licensee's proposed Overlash, and Licensee may proceed with the Overlash work; or
- (ii) If Utility determines that Make-Ready Work is necessary to accommodate Licensee's proposed Overlash, Utility shall notify Licensee, and the Parties shall meet to discuss and develop a mutually acceptable plan for completion of the Make-Ready Work. The plan shall indicate whether Utility or a contractor approved by Utility shall complete the Make-Ready Work and shall specify an agreed-upon construction schedule, which includes dates for:
- Delivery of cost estimate to Company;
 - Payment of estimate by Company;
 - Completion of Make-Ready Work;
 - Approval of Permit Application (so that Overlashing work can proceed
- (iii) If Licensee did not submit a Pre-Construction Survey with its overlash proposal, and Utility has a reasonable good faith belief that a Pre-Construction Survey is necessary to evaluate the proposed Overlash, Utility may, within this ten (10) business day period, either require Licensee to perform a Pre-Construction Survey or Utility may perform one on its own and at Licensee's reasonable cost.
- (d) If Overlashing is required to accommodate facilities of a third party, such third party must enter into a license agreement with Utility and obtain a permit pursuant to such Agreement. No such permits to third parties may be granted by Utility allowing Overlashing of Licensee's Communications Facilities unless Licensee has consented in writing to such Overlashing. Overlashing performed under this Section

2.13(d) shall not increase the Attachment Fees or other charges paid by Licensee pursuant to Appendix A. Nothing in this Agreement shall prevent Licensee from seeking a contribution from an Overlapping third party to defray fees and charges paid by Licensee.

- (e) At any time after completion of the proposed Overlapping work by Licensee, Utility shall have the right to inspect Licensee's Overlashed Attachment in accordance with Article 12.
- (f) A Permit Application is not required when the proposed Overlapping work is necessary as part of an Emergency Activity. The term "Emergency Activity" is defined as an activity that is not reasonably foreseeable and that is necessary to prevent injury of any person, restore an essential service, or to protect property from imminent and substantial harm. Licensee shall contact Utility immediately upon learning of conditions requiring emergency Overlapping work. Utility shall be available by phone on a 24-7 basis.
- (g) The Make-Ready Work procedures set forth in Article 7 shall apply to Overlapping work, subject to the requirements set forth in this Section 2.13.
- (h) The Parties agree that written notifications to be made under this Section 2.13 (including denials, approvals, and consultation requests) shall be made via e-mail in order to facilitate expedited processing of Permit Applications for Overlashed Attachments (which may be followed by hard copies sent via mail or overnight delivery). Such emailed notices may be sent to the following personnel for each Party:

If to Utility, to: Joe Pickart
 Utility Manager
 City of Oconomowoc
 jpickart@Oconomowoc-wi.gov

If to Licensee, to: Engineering Manager
 Midwest Fiber Networks
 6070 N Flint Road
 Glendale, WI 53209

ARTICLE 3: FEES AND CHARGES

3.1 Fee Schedule. Licensee shall pay to Utility the fees and charges specified in Appendix A and shall comply with the terms and conditions specified in this Agreement.

- 3.2 Annual Attachment. Licensee shall pay to Utility an annual “Attachment Fee” on a per Pole basis at the rate specified in Appendix A. The “Attachment Fee Rate” shall be recalculated every year based on Utility’s most recent annual report filed with the Public Service Commission of Wisconsin, using the methodology shown on Exhibit 1 to Appendix A.
- 3.3 Billing. Utility shall invoice Licensee for the Attachment Fee on an annual basis. Each annual rental period shall commence on January 1 of each year. The invoice shall set forth the total number of Utility’s Poles for which Licensee was issued and/or holds a Permit for Attachment during such annual rental period, including any previously authorized and valid Permits.
- 3.4 Payment. Licensee shall pay invoices for any fee or charge as specified in Appendix A within forty-five (45) days after the receipt of the invoice (“Due Date”). Licensee may dispute fees or charges invoiced to Licensee in accordance with the dispute resolution provision in Section 22.8 below as well as pay such disputed fees or charges under protest.
- 3.5 Late Charge. If Licensee fails to pay any undisputed amount owed under this Agreement within forty-five (45) days after the Due Date, Licensee shall pay interest to Utility, at the rate of 1.5% per month, on the amount past due.
- 3.6 Change in Fees/Charges. Any changes in fees or charges shall be as set forth in Appendix A.
- 3.7 Payment of Make-Ready Work. Licensee will be responsible for payment to Utility of all Make-Ready Work required to accommodate Licensee’s Attachments (including Overlashes). Licensee shall not be responsible for any Make-Ready Work costs related to the correction of preexisting safety violations caused by others, including Utility.
- 3.8 Advance Payment.
- 3.8.1 At the discretion of Utility, Licensee shall pay in advance all reasonable costs, including but not limited to, administrative, construction, inspection and Make Ready Work expenses, in connection with the initial installation or rearrangement of Licensee’s Attachments pursuant to the procedures set forth in Articles 6 and 7 below.
- 3.8.2 Wherever Utility at its discretion requires advance payment of estimated expenses prior to the undertaking of an activity under this Agreement and the actual cost of such activity exceeds the estimated cost, Licensee agrees to pay Utility for the difference in cost. To the extent that the actual cost of the activity is less than the estimated cost, Utility agrees to refund to Licensee the difference in cost.

- 3.9 Determination of Charges. Unless otherwise provided in this Agreement, wherever this Agreement requires Licensee to pay for work done or contracted for by Utility, the charge for such work shall include all reasonable material, labor, engineering, and administrative costs and applicable overheads that are not otherwise recovered in the Attachment Fee. Utility shall bill its services based upon actual reasonable costs, and such costs will be determined in accordance with Utility's cost accounting systems used for recording capital and expense activities. Utility shall provide Licensee with documentation of charges and costs to be paid by Licensee.
- 3.10 Work Performed by Utility. Wherever this Agreement requires Utility to perform any work, Utility may, at its sole discretion, utilize its own employees or contractors, or any combination of the two, to perform such work.
- 3.11 Default for Nonpayment. Nonpayment of any undisputed amount due under this Agreement beyond ninety (90) days from the due date shall constitute a default of this Agreement.
- 3.12 Failure to Timely Transfer or Remove Facilities Charge. Before levying the Failure to Timely Transfer or Remove Facilities Charge as set on in Appendix A, Utility shall give Licensee written notice (email notice is sufficient) that Licensee is subject to such charge for failing to transfer or remove its Communications Facilities within the time period set out in the applicable provision ("**Requisite Time Period**"). If the notice is given within the sixty (60) calendar days following the end of the Requisite Time Period, the charge shall be levied beginning on the day after the Requisite Time Period ends and will end on the day Licensee actually removes or transfers it facilities. Otherwise, the charge shall be levied beginning on the day the notice is given.

ARTICLE 4: SPECIFICATIONS

- 4.1 Installation/Maintenance of Communications Facilities. Licensee shall be responsible for the installation, maintenance, and repair of its Attachments, which shall be installed and maintained in accordance with all Applicable Standards. Utility reserves the right to have an employee on-site at the time Attachments are made, at no additional cost to Licensee. Licensee shall be required to comply with the version of the Applicable Standards in effect at the time of attachment, unless subsequent versions require otherwise.
- 4.2 Tagging. Licensee shall Tag all of its Communications Facilities as specified in Appendix B upon installation of such facilities. With regard to Attachments installed prior to the Effective Date, Licensee shall Tag such "**Pre-Existing Attachments**" within one (1) year after the Effective Date. Failure to provide proper tagging will be considered a violation of the Applicable Standards.

4.3 Interference. Licensee shall not allow its Communications Facilities to impair the ability of Utility to use Utility's Poles, nor shall Licensee allow its Communications Facilities to interfere with the use or operation of any Utility Facilities or the Attachments of any authorized user of Utility's Poles.

4.4 Protective Equipment. Licensee, its employees, and contractors shall utilize adequate protective equipment to ensure the safety of people and facilities. Except as provided in Article 14, Utility shall not be liable for any actual damage to Licensee's Communication Facilities or Licensee's customers' facilities, nor for consequential damages as a result of damage to Licensee's Communications Facilities or Licensee's customers' facilities.

4.5 Violation of Specifications. If Licensee's Communications Facilities, or any part thereof, are installed, used, or maintained in violation of this Agreement, and Licensee has not corrected the violation within thirty (30) calendar days from receipt of written notice of the violation from Utility, Utility may at its own option correct the violation. In the event of a violation of a nature not reasonably corrected in thirty (30) days, Licensee shall have a reasonable amount of additional time as mutually agreed upon by both Parties to correct such violation. Utility will attempt to notify Licensee in writing prior to performing such work whenever practicable. When Utility reasonably believes, however, that the violation poses an immediate threat to the safety of any person, interferes with the performance of Utility's electric service obligations, or poses an immediate threat to the physical integrity of Utility Facilities, Utility may perform such work and/or take such action as it deems necessary without first giving written notice to Licensee. As soon as practicable thereafter, Utility will advise Licensee of the work performed or the action taken. Licensee shall be responsible for paying Utility for all reasonable costs Utility incurs taking action under this section.

4.6 Removal of Nonfunctional Attachments. At its sole expense, Licensee shall remove any of its Attachments or any part thereof that becomes nonfunctional and no longer fit for service ("**Nonfunctional Attachment**") as provided in this Section 4.6. Except as otherwise provided, Licensee shall remove Nonfunctional Attachments within one (1) year of the Attachment becoming nonfunctional, unless Licensee receives written notice from Utility that removal is necessary to accommodate Utility's or another Attaching Entity's use of the affected Poles, in which case Licensee shall remove such Nonfunctional Attachments within sixty (60) days of receiving the notice. Where Licensee has received a Permit to Overlash a Nonfunctional Attachment, such Nonfunctional Attachment may remain in place until Utility notifies Licensee that removal is necessary to accommodate Utility's or another Attaching Entity's use of the affected Pole(s).

4.7 Restoration of Utility Electric Service. Utility's electric service restoration requirements shall take precedence over any and all work operations of Licensee on Utility's Poles.

ARTICLE 5: PRIVATE AND REGULATORY COMPLIANCE

5.1 Necessary Authorizations. Licensee shall be responsible for obtaining from the appropriate public and/or private authority or other appropriate persons any required authorization to construct, operate and/or maintain its Communications Facilities on public and/or private property before it occupies any portion of Utility's Poles. Utility retains the right to require reasonable evidence that appropriate authorization has been obtained before any Permit is issued to Licensee. Licensee's obligations under this Article 5 include, but are not limited to, its obligation to obtain all necessary approvals to occupy public/private rights-of-way and to pay all costs associated therewith. Licensee shall defend, indemnify and reimburse Utility for all loss and expense, including reasonable attorneys' fees, that Utility may incur as a result of claims by governmental bodies, owners of private property, or other persons, that Licensee does not have sufficient rights or authority to attach Licensee's Communications Facilities on Utility's Poles.

5.2 Compliance with Laws. Licensee's Communications Facilities must comply with all applicable local, state, and federal laws.

5.3 Utility's Rights. Utility may deny Licensee's request for a Permit to attach to a Pole if granting the request would result in a forfeiture of Utility's right to maintain its Pole in its current location. Utility may also revoke a Permit if the presence of Licensee's Communications Facilities on a Pole would cause such forfeiture. In that event, Licensee shall promptly remove its Communications Facilities upon receipt of written notice from Utility. Such notice shall provide an explanation as to Utility's potential forfeiture of its right to maintain the Pole at issue. If Licensee fails to remove its Facilities within thirty (30) calendar days after Licensee's receipt of the written notice or such other longer time period as the Parties may agree, Utility shall have the right to remove such Communications Facilities, using its own personnel or a contractor, at Licensee's sole expense. If Utility does not remove the Communications Facilities, the affected Attachments shall be subject to the Failure to Timely Transfer or Remove Facilities Charge set out in Appendix A until the affected Attachments are actually removed.

5.4 Effect of Consent to Construction/Maintenance. Utility's consent to the construction or maintenance of any of Licensee's Attachments shall not be deemed to be an acknowledgment that Licensee has the necessary authority to construct or maintain any such Attachments. It is Licensee's responsibility to obtain all necessary approvals from all appropriate parties or agencies.

ARTICLE 6: PERMITTING AND NOTIFICATION PROCEDURES

6.1 Permit Required. Except as allowed by the terms of this Agreement, Licensee shall not install any Attachments on any Pole without first applying for and obtaining a Permit pursuant to the applicable requirements set forth in this Agreement. Unless otherwise notified, Licensee's Pre-Existing Attachments shall be grandfathered with respect to permitting, but shall be subject to Attachment Fees in future billing periods. Licensee shall provide Utility with a list, in a form approved by Utility, of all such Pre-Existing Attachments within six (6) months of the Effective Date. All such Pre-Existing Attachments shall comply with the terms of this Agreement within eighteen (18) months of the Effective Date.

6.2 Service Drops. Licensee shall notify Utility annually of attachments of a service drop where an existing permitted Attachment exists. In the event that a service drop constitutes the initial Attachment to a given Pole, Licensee will be required to follow the permitting process referenced in Section 6.1. In this case, Licensee will be allowed thirty (30) days after the Attachment is made to complete the permitting process.

6.3 Permits for Modifications or Overlashing. Permits are required for any modifications to permitted attachments allowed under this Agreement that result in a material increase in the loading of the affected Pole or result in an increased use of vertical space on the Pole beyond twelve (12) inches, including Overlashing, as set out in Section 2.12 or Section 2.13 as applicable for Overlashing. Licensee, Licensee's Affiliate, or other third party, as applicable, shall pay any necessary Make-Ready Work costs to accommodate such modifications or Overlashing.

6.4 Pre-Construction Survey. As part of the Permit Application process, Licensee must conduct and, where required by Utility, submit a Pre-Construction Survey. If desired by Licensee and at Utility's option, Utility may perform this Pre-Construction Survey, using its own personnel or a contractor, at Licensee's expense (except to the extent any such expenses are recovered by the Annual Attachment Fee). Licensee must also certify that Licensee's Communications Facilities can be installed on the identified Poles in compliance with all Applicable Standards. Such certification must be made by one of the following:

6.4.1 A professional engineer with experience with electric utility facilities;

6.4.2 The head of Licensee's engineering department; or

6.4.3 An authorized representative of Licensee who is experienced working with electric utility facilities and performing line loading calculations and who has been pre-approved in writing by Licensor. Licensor shall not unreasonably withhold or delay such pre-approval. Licensor shall indicate its pre-approval on a separate "List of Pre-Approved Contractors and Authorized Representatives," which may be updated from time to time.

Utility shall waive the requirements of this Section 6.4 with respect to those service drops that do not come within the definition of Attachment.

6.5 Utility Review of Permit Application. Utility shall use reasonable efforts to act on a Permit request for an Attachment within thirty (30) days of the receipt of a completed Permit Application. Upon receipt of a complete and properly executed Permit Application (see Appendix C, Pole Attachment Permit Application Process), Utility will review the Permit Application as promptly as possible, and discuss any issues with Licensee, including unusual engineering or Make-Ready Work requirements associated with the Permit Application. Utility's acceptance of the submitted design documents does not relieve Licensee of full responsibility for any errors and/or omissions in the engineering analysis.

6.6 Expedited Process. Utility shall cooperate with Licensee to expedite the permitting process where the proposed Attachment is necessary to restore service or prevent an imminent service outage on Licensee's system.

6.7 Performance of Make-Ready Work. If Make-Ready Work is required to accommodate Licensee's Attachments, such work shall be performed in accordance with Article 7.

6.8 Permit as Authorization to Attach. After receipt of any required payments, including payment for any necessary Make-Ready Work, Utility will sign and return the Permit Application, which shall serve as authorization for Licensee to place its Attachments.

6.9 Risers. No Permit is required for Risers. All Risers shall be installed in compliance with the specifications set out in Appendix B.

6.10 Attachment Records. On an annual basis, Licensee shall furnish Utility with an up-to-date map depicting the locations of its Attachments in an electronic format specified by utility. If a map is not available, Licensee will provide a list in an electronic format specified by Utility.

ARTICLE 7: MAKE-READY WORK/INSTALLATION

7.1 Estimate for Make-Ready Work. In the event Utility determines after review of the Permit Application that it can accommodate Licensee's request for Attachment(s), including Overlapping of an existing Attachment as set forth in Section 2.13, Utility will advise Licensee of any estimated Make-Ready Work necessary to accommodate the Attachment.

7.2 Payment of Make-Ready Work. Upon completion of the Make-Ready Work, Licensee shall pay Utility's actual reasonable cost of such Make-Ready Work. Utility, at its discretion, may require payment in advance based upon the estimated cost of Make-Ready Work. Utility shall provide documentation of Make-Ready Work costs to Licensee.

7.3 Who May Perform Make-Ready Work. Make-Ready Work shall be performed only by Utility or a contractor pre-authorized by Utility to perform such work. If Utility cannot perform the Make-Ready Work to accommodate Licensee's Communications Facilities within sixty (60) days of Licensee's request for Attachment, Licensee may, with Utility's written consent not to be unreasonably withheld or delayed, employ a contractor preapproved by Utility to perform such work. Licensor shall not unreasonably withhold or delay such pre-approval. Licensor shall indicate its pre-approval on a separate "List of Pre-Approved Contractors and Authorized Representatives," which may be updated from time to time.

7.4 Scheduling of Make-Ready Work. In the event Licensee requests that the Make-Ready Work be performed on a priority basis or outside of Utility's normal work hours, Licensee agrees to pay any resulting increased costs. Nothing herein is intended, however, to require performance of Licensee's work before other scheduled work of Utility.

7.5 Licensee's Installation/Removal/Maintenance Work.

7.5.1 All of Licensee's installation, removal, and maintenance work shall be performed at Licensee's sole cost and expense, in a good and workmanlike manner, and must not adversely or materially affect the structural integrity of Utility's Poles or Utility Facilities or any other facilities or equipment attached thereto.

7.5.2 All of Licensee's installation, removal, and maintenance work performed on Utility's Poles or in the vicinity of other Utility Facilities, by either Licensee's own employees or contractors, shall be in compliance with all Applicable Standards. Licensee shall assure that any person installing, maintaining, or removing

Licensee's Communications Facilities be duly qualified and familiar with all Applicable Standards, the provisions of Article 15 (duties, responsibilities, and exculpation) and Article 16 (insurance requirements), and the specifications contained in **Appendix B**.

ARTICLE 8: TRANSFERS

8.1 **Transfers of Licensee's Communications Facilities.** Utility will notify Licensee when it is necessary to transfer its Communications Facilities. In such instances, Licensee shall transfer its Communications Facilities at its own expense within thirty (30) days after receiving notice from Utility. If Licensee fails to transfer its Communications Facilities within this time period or any extension thereof granted by Utility, Utility shall have the right to transfer Licensee's Communications Facilities, using its own personnel or contractors, at Licensee's expense. Utility shall not be liable for damage to Licensee's Communications Facilities except to the extent provided in Section 14.1. If Licensee fails to transfer its Communications Facilities within the required time period, Utility may perform the required transfer of Licensee's Communications Facilities, using its own personnel or contractor, and charge Licensee 125% of the actual cost incurred. If Licensee fails to timely perform the transfer and Utility is unable, in its sole judgment, to perform the work, Licensee shall be subject to the Failure to Timely Transfer Facilities Charge set out in **Appendix A** until the transfer actually occurs.

8.2 **Emergency Transfers.** When Utility reasonably determines that a transfer of Licensee's Communications Facilities is immediately necessary, Licensee agrees to allow such transfer. In such instances, Utility will, at its option, either perform the transfer using its personnel, and/or contractors. Utility shall not be liable for damage to Licensee's Communications Facilities except to the extent provided in Section 14.1. Utility shall provide written notice of any such actions taken within ten (10) days of the occurrence.

ARTICLE 9: POLE MODIFICATIONS AND/OR REPLACEMENTS

9.1 **Licensee's Action Requiring Modification/Replacement.** In the event that any Pole to which Licensee desires to make an Attachment is unable to support or accommodate the additional facilities in accordance with all Applicable Standards, Utility will notify Licensee of the changes necessary to provide an adequate Pole, including but not limited to replacement or extension of the Pole and rearrangement or transfer of Utility's Facilities. As provided in Section 7.1, Utility shall provide Licensee with an estimate of the costs for the replacement or modification of the Pole, including the costs associated with transferring Utility's Facilities (i.e., Make-Ready Work costs). If Licensee elects to go forward with the necessary changes, Licensee shall pay to Utility the actual cost of

making the required changes in accordance with Article 7. Utility may in its discretion require advance payment.

9.2 Allocation of Costs. The costs for any rearrangement or transfer of Licensee's Communications Facilities or the modification or replacement of a Pole (including any related costs for tree cutting or trimming required to clear the new location of Utility's cables or wires) shall be allocated to Utility or Licensee or other Attaching Entity on the following basis:

9.2.1 If Utility intends to modify or replace a Pole solely for its own requirements, it shall be responsible for the costs related to the modification or replacement of the Pole, and Licensee shall be responsible for the costs associated with the rearrangement or transfer of its own Communications Facilities. Prior to making any such modification or replacement, Utility shall provide Licensee prior written notice in order to allow Licensee a reasonable opportunity to elect to add to its existing Communications Facilities. If Licensee elects to add to its Communications Facilities within six (6) months after receiving such notice, Licensee shall bear a pro rata share of the costs incurred by Utility in making the space on the Poles accessible to Licensee. The notification requirement of this Section 9.2.1 shall not apply to routine maintenance or emergency situations.

9.2.2 If the modification or replacement of a Pole is necessitated by the requirements of Licensee, Licensee shall be responsible for the costs related to the modification or replacement of the Pole and for the costs associated with the transfer or rearrangement of any other Attaching Entity's Attachments. Utility shall not be obligated in any way to enforce or administer Licensee's responsibility for the costs associated with the transfer or rearrangement of another Attaching Entity's Attachments pursuant to this provision.

9.2.3 If the modification or the replacement of a Pole is the result of an additional Attachment or the modification of an existing Attachment sought by an Attaching Entity other than Utility or Licensee, the Attaching Entity requesting the additional or modified Attachment shall bear the entire cost of the modification or Pole replacement and such Attaching Entity shall be responsible for the costs associated with transferring or rearranging Licensee's Communications Facilities, except as otherwise provided in this Agreement. Upon written notice from Utility or the Attaching Entity, provided such Attaching Entity agrees in writing to pay Licensee's costs, Licensee shall promptly perform any transfer or rearrangement of Licensee's Attachments necessary to accommodate the other Attaching Entity's Attachments to the Pole. If Licensee fails to perform such transfer or rearrangement within forty (40) days from the date of written notice from Utility,

or written notice and agreement to pay from the other Attaching Entity, Utility shall have the right, but not the obligation, to perform the transfer or rearrangement. In the event Utility performs the transfer or rearrangement, Utility may charge Licensee, and Licensee shall be obligated to pay Utility, for the cost of performing such work; however, Licensee will then be allowed to seek reimbursement from the Attaching Entity for the cost of the performed work. Except as otherwise provided in this Agreement, Licensee shall not be required to make any transfer or rearrangement at the request of another Attaching Entity unless and until the other Attaching Entity has made arrangements in writing with Licensee to pay for the cost of the transfer or rearrangement.

9.2.4 If a Pole must be modified or replaced for other reasons unrelated to the use of the Pole by Attaching Entities (e.g., storm, accident, deterioration), Utility shall pay the costs of such modification or replacement; provided however, that Licensee shall be responsible for the costs of rearranging or transferring Licensee's Communications Facilities.

9.3 Treatment of Multiple Requests for Same Pole. If Utility receives Permit Applications for the same Pole from two (2) or more prospective licensees within a sixty (60) day period, and accommodating their respective requests would require modification or replacement of the Pole, Utility will evenly allocate among such licensees the applicable costs associated with such modification or replacement.

9.4 Strengthening/Guying. Any strengthening of Poles through the use of guying to accommodate Licensee's Attachments shall be provided by Licensee at Licensee's expense and to the satisfaction of Utility as specified in Appendix B.

9.5 Utility Not Required to Relocate. No provision of this Agreement shall be construed to require Utility to relocate its Facilities on a Pole for the benefit of Licensee.

ARTICLE 10: REMOVAL OF POLES/OVERHEAD TO UNDERGROUND CONVERSIONS

10.1 Removal of Poles. If Utility desires at any time to take out of service any Poles on which Licensee has Attachments, Utility shall give Licensee notice in writing to that effect at least sixty (60) days prior to the date on which it intends to remove such Poles. If, following the expiration of this time period or any extension thereof granted by Utility, Licensee has not yet removed and/or transferred all of its Communications Facilities from the Pole, Utility shall have the right to remove or transfer such Communications Facilities, using its own personnel or a contractor, and may charge Licensee 125% of the actual reasonable cost incurred by Utility to remove or transfer such Communications Facilities. If Licensee fails

to timely remove the Attachments and Utility is unable, in its sole judgment, to perform the work, the affected Attachments shall be subject to the Failure to Timely Transfer or Remove Facilities Charges set out in Appendix A until the affected Attachments are actually removed or transferred. Utility shall give Licensee prior written notice of any such removal or transfer of Licensee's Communications Facilities.

10.2 Required Removal of Poles. Upon receipt of not less than thirty (30) days prior written notice from Utility to Licensee that any Pole must be removed by reason of any federal, state, county, municipal or other governmental requirement, or the requirement of a property owner, the license covering the use of such Pole shall terminate and Licensee's Communications Facilities shall be removed promptly from the Pole(s). If Licensee fails to remove its Communications Facilities from such Pole(s) within the prescribed time period, Utility shall have the right to remove Licensee's Facilities, using its own personnel or contractor, at the same time Utility removes the affected Pole(s), and Utility may charge Licensee 125% of the actual reasonable costs incurred by Utility for removal of Licensee's Facilities. If Licensee fails to timely remove its facilities, and Utility is unable, in its sole judgment, to perform the work, the affected Attachments shall be subject to the Failure to Timely Transfer or Remove Facilities Charge set out in Appendix A until the affected Attachments are actually removed.

10.3 Overhead to Underground Conversions. When Utility is planning to decommission and remove any Pole on which Licensee maintains Communications Facilities because Utility intends to convert an overhead electric distribution line to underground, Utility shall give written notice to Licensee of the planned conversion. In such instances, Licensee shall remove its Communications Facilities from the affected Poles at its own expense within sixty (60) days after receiving notice from Utility. If Licensee fails to remove its Communications Facilities within this time period or any extension thereof granted by Utility, Utility shall have the right to remove Licensee's Communications Facilities from such Poles, using its own personnel or contractors, at Licensee's expense. Utility shall give Licensee prior written notice of any such removal of Licensee's Communications Facilities. Utility shall not be liable for damage to Licensee's Communications Facilities, except to the extent provided in Section 14.1. If neither Licensee nor Utility performs the removal, the affected Communications Facilities shall be subject to the Failure to Timely Transfer or Remove Facilities Charge set out in Appendix A until the affected Communications Facilities are actually removed.

ARTICLE 11: TERMINATION OF PERMIT

11.1 Automatic Termination of Permit. Any Permit issued pursuant to this Agreement shall automatically terminate when Licensee ceases to have authority to construct and operate

its Communications Facilities on public or private property at the location of the particular Pole covered by the Permit or when Licensee surrenders a Permit pursuant to Section 11.2.

11.2 Surrender of Permit. Licensee may at any time surrender any Permit for any of its Attachments and may remove its Communications Facilities from the affected Pole(s), provided however that, before commencing any such removal, Licensee must obtain Utility's written approval, which approval shall not to be unreasonably withheld, delayed, or conditioned, of Licensee's plans for removal, including the name of the party performing such work and the date(s) and time(s) during which such work will be completed. All such work is subject to the insurance requirements of Article 16. No refund of any fees or costs will be made upon removal.

ARTICLE 12: INSPECTIONS OF LICENSEE'S FACILITIES/INVENTORIES

12.1 Inspections.

12.1.1 Utility's Right to Inspect Attachments. Utility has the right at any time to inspect Licensee's Attachments. The purpose of the inspection will be to determine whether Licensee's Attachments comply with all Applicable Standards. Utility will give Licensee reasonable advance written notice of such inspections, except in those instances where safety considerations justify the need for such inspection without the delay of waiting until written notice has been received. Licensee may have its own personnel present during any such inspections.

12.1.2 Inspection Costs. Licensee shall reimburse Utility for the actual costs Utility incurs in inspecting any of Licensee's Attachments when the inspection reveals a failure to comply with all Applicable Standards. Licensee shall also reimburse Utility for the actual costs Utility incurs in inspecting the affected Attachments to determine whether Licensee has brought such Attachments into compliance.

12.1.3 Duty of Full Compliance. Licensee agrees to bring its Attachments into full compliance with all Applicable Standards, at its sole expense, in the event that any inspection results in a finding by Utility that such Attachment does not fully comply with all Applicable Standards. Licensee shall bring such Attachment(s) into compliance with this Agreement thirty (30) days of receipt of notice from Utility or within such other time period agreed to by the Parties. For purposes of clarity, Licensee's Attachments will be required to comply with the version of the Applicable Standards in effect at the time of attachment, unless subsequent versions require retroactive effect.

12.2 No Liability. The making of any inspections under this Article 12, or the failure to do so, shall not operate to impose upon Utility any liability of any kind whatsoever or relieve Licensee of any responsibility, obligations, or liability whether assumed under this Agreement or otherwise existing.

ARTICLE 13: UNAUTHORIZED OCCUPANCY OR ACCESS

13.1 Unauthorized Attachment Charge. If any of Licensee's Attachments are found occupying any Pole for which no Permit has been issued and remains in effect, Utility, without prejudice to its other rights or remedies under this Agreement, may assess a nonrecurring Unauthorized Attachment Charge (as specified in Appendix A) for each Unauthorized Attachment identified by pole location and pole number, which charge shall be paid based on (1) one year's presumed occupancy. In the event Licensee fails to pay such charge within thirty (30) days of receiving notification thereof, Utility has the right to remove such Communications Facilities, using its own personnel or a contractor, at Licensee's expense. Upon payment of the Unauthorized Attachment Charge, Licensee shall be permitted to seek a Permit for any such Unauthorized Attachment.

13.2 No Ratification of Unauthorized Attachment. No act or failure to act by Utility with regard to such unauthorized Attachment shall be deemed as ratification of the unauthorized Attachment and if any Permit should be subsequently issued, such Permit shall not operate retroactively or constitute a waiver by Utility of any of its rights or privileges under this Agreement or otherwise; provided, however, that Licensee shall be subject to all liabilities, obligations, and responsibilities of this Agreement in regards to such unauthorized Attachment from its inception.

ARTICLE 14: LIABILITY AND DAMAGES

14.1 Liability. Utility reserves to itself the right to maintain and operate its Poles in such manner as will best enable it to fulfill its own electric utility service requirements. Each Party to this Agreement shall exercise reasonable precaution to avoid damaging the other Party's facilities and shall make an immediate report to the other of the occurrence of any such damage caused by the reporting Party's employees, agents, or contractors. Subject to Section 14.4, Utility agrees to reimburse Licensee for all reasonable costs incurred by Licensee for the physical repair of Licensee's facilities damaged by the negligence or willful misconduct of Utility, its employees, agents, or contractors. Licensee also agrees to reimburse Utility for all reasonable costs incurred by Utility for the physical repair of the Utility Facilities damaged by the negligence or willful misconduct of Licensee, its employees, agents, or contractors. Neither Party, however, shall be liable to the other Party for any fines, penalties, claims, or damages stemming from the interruption of or

interference with the other Party's service (including special, indirect, punitive, or consequential damages).

14.1.1 Licensee further agrees subject to Section 14.1.2: (i) to reimburse any Attaching Entity that is not a party hereto for all reasonable costs incurred by that non-party Attaching Entity for the physical repair of that non-party Attaching Entity's facilities damaged by the negligence or willful misconduct of Licensee, its employees, agents, or contractors and (ii) that Licensee shall not in any manner seek to hold a non-party Attaching Entity liable for any fines, penalties, claims, or damages stemming from the interruption of or interference with Licensee's service (including special, indirect, punitive, or consequential damages). Subject to Section 14.1.2, each such non-party Attaching Entity is explicitly made a thirdparty beneficiary of this Section 14.1.1.

14.1.2 Section 14.1.1 shall be null and void and unenforceable by or with respect to any non-party Attaching Entity, except to the extent that such non-party Attaching Entity has entered into a licensing agreement with Utility that contains a provision identical to Section 14.1.1, that provides Licensee with the same benefits and rights as those conferred upon non-party Attaching Entities by Section 14.1.1, and that is fully and equally enforceable by or for the benefit of Licensee as in Section 14.1.1.

14.2 Indemnification. Licensee, and any agent, contractor, or subcontractor of Licensee, shall defend, indemnify and hold harmless Utility and its officials, officers, board members, council members, commissioners, representatives, employees, agents, and contractors against any and all liability, costs, damages, fines, taxes, special charges by others, penalties, payments (including payments made by Utility under any Workers' Compensation Laws or under any plan for employees' disability and death benefits), and expenses (including reasonable attorney's fees of Utility and all other costs and expenses of litigation) for third party claims (excluding those covered by Sections 14.1.1 and 14.1.2 above) ("**Covered Claims**") arising from, Licensee's negligence or willful misconduct, in connection with the construction, maintenance, repair, presence, use, relocation, transfer, removal, or operation by Licensee, or by Licensee's officers, directors, employees, agents, or contractors, of Licensee's Communications Facilities, except to the extent of Utility's negligence or willful misconduct giving rise to such Covered Claims.

14.3 Environmental Hazards. Licensee represents and warrants that its use of Utility's Poles will not generate any Hazardous Substances, that it will not store or dispose on or about Utility's Poles or transport to Utility's Poles any Hazardous Substances, and that Licensee's Communications Facilities will not constitute or contain and will not generate any Hazardous Substances in violation of state or federal law now or hereafter in effect, including any amendments. "**Hazardous Substance**" shall be interpreted broadly to mean

any substance or material designated or defined as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, or other similar term by any federal, state, or local laws, regulations or rules now or hereafter in effect, including any amendments. Licensee further represents and warrants that in the event of breakage, leakage, incineration or other disaster, its Communications Facilities would not release such Hazardous Substances.

14.4 Municipal Liability Limits. No provision of this Agreement is intended, or shall be construed, to be a waiver for any purpose by Utility of the provisions of Wis. Stat. § 893.80, or any other applicable limits on municipal liability.

14.5 Procedures for Indemnification.

14.5.1 Utility shall promptly give Licensee notice of any claim or threatened claim, specifying the factual basis for such claim and the amount of the claim. If the claim relates to an action, suit or proceeding filed by a third party against Utility, Utility shall endeavor to give notice to Licensee no later than ten (10) calendar days after Utility receives written notice of the action, suit or proceeding.

14.5.2 Utility's failure to give the required notice within ten (10) calendar days shall not relieve Licensee of its obligation to indemnify Utility unless Licensee is materially prejudiced by such failure.

14.5.3 Licensee shall have the right at any time, by notice to Utility, to participate in or assume control of the defense of the claim. Licensee may utilize counsel of its choice. Utility shall cooperate fully with Licensee. If Licensee assumes control of the defense of any third-party claim, Utility shall have the right to participate in the defense at its own expense. If Licensee does not assume control or otherwise participate in the defense of a third-party claim, it shall be bound by the results obtained by Utility.

14.5.4 If Licensee assumes the defense of a third-party claim as described above, Utility shall not assume liability for or settle, compromise or discharge any third-party claim without Licensee's prior written consent, and Utility will agree to any settlement, compromise or discharge of any third-party claim recommended by Licensee that releases Utility completely from such claim and does not establish a precedent that may adversely affect Utility in the future.

14.5.5 The Indemnification Procedures set forth in this Section 14.5 are intended to apply only to Licensee's indemnification obligations expressly set forth in this Agreement

and are not intended to create a separate obligation on the part of Licensee to generally indemnify Utility.

ARTICLE 15: DUTIES, RESPONSIBILITIES, AND EXCULPATION

15.1 Duty to Inspect. Licensee acknowledges and agrees that Utility does not warrant the condition or safety of Utility's Poles, or the premises surrounding the Poles, and Licensee further acknowledges and agrees that it has an obligation to inspect Utility's Poles and/or the premises surrounding the Poles, prior to commencing any work on Utility's Poles or entering the premises surrounding the Poles.

15.2 Knowledge of Work Conditions. By executing this Agreement, Licensee warrants that it has acquainted, or will fully acquaint, itself and its employees and/or contractors and agents with the conditions relating to the work that Licensee will undertake under this Agreement and that it fully understands or will acquaint itself with the facilities, difficulties, and restrictions attending the execution of such work.

15.3 **DISCLAIMER. UTILITY MAKES NO EXPRESS OR IMPLIED WARRANTIES WITH REGARD TO UTILITY'S POLES, ALL OF WHICH ARE HEREBY DISCLAIMED, AND EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

15.4 Missing Labels. Utility does not warrant that all Poles are properly labeled or tagged. Licensee agrees to notify Utility immediately if it discovers that any labels or tags are missing or improper; however, Licensee shall not be liable for any injuries or damages caused by or in connection with improper or missing labels or tags or with Licensee's failure to so notify Utility.

15.5 Duty to Supervise. The Parties further understand and agree that in the performance of work under this Agreement, Licensee and its agents, servants, employees, contractors, and subcontractors will work near electrically energized lines, transformers, or other equipment of Utility, and it is the intention that energy therein will not be interrupted during the continuance of this Agreement, except in an emergency endangering life, grave personal injury, or property. Licensee shall ensure that its employees, servants, agents, contractors, and subcontractors have the necessary qualifications, skill, knowledge, training, and experience to protect themselves, their fellow employees, employees of Utility, and the general public, from harm or injury while performing work permitted pursuant to this Agreement. In addition, Licensee shall furnish its employees, servants, agents, contractors and subcontractors with competent supervision and sufficient and adequate tools and equipment for their work to be performed in a safe manner. Licensee agrees that in emergency situations in which it may be necessary to deenergize any part of Utility's

equipment, Licensee shall ensure that work is suspended until the equipment has been de-energized and that no such work is conducted unless and until the equipment is made safe.

15.6 Requests to De-Energize. In the event Utility de-energizes any equipment or line at Licensee's request and for Licensee's benefit and convenience in performing a particular segment of any work, Licensee shall reimburse Utility in full for all costs and expenses incurred in order to comply with Licensee's request for de-energization of any equipment or line. Before Utility deenergizes any equipment or line, it shall provide upon request an estimate of all costs and expenses to be incurred in accommodating Licensee's request, and upon reviewing such estimate, Licensee shall confirm whether it intends to continue or withdraw such request.

15.7 Interruption of Service. In the event that Licensee shall cause an interruption of service by damaging or interfering with any equipment of Utility, Licensee at its expense shall immediately do all things reasonable to avoid injury or damages directly resulting therefrom and shall notify Utility immediately.

15.8 Duty to Inform. Licensee further warrants that it understands the imminent dangers **(INCLUDING SERIOUS BODILY INJURY OR DEATH FROM ELECTROCUTION)** inherent in the work necessary to make installations and removals and to engage in operations on Utility's Poles by Licensee's employees, servants, agents, contractors, or subcontractors, and accepts it as its duty and sole responsibility to notify and inform Licensee's employees, servants, agents, contractors, or subcontractors of such dangers, and to keep them informed regarding same.

ARTICLE 16: INSURANCE

16.1 Policies Required. At all times during the term of this Agreement, Licensee shall keep in force and effect all insurance policies as described below:

16.1.1 Workers' Compensation and Employers' Liability Insurance. Statutory workers' compensation benefits and employers' liability insurance with a limit of liability no less than \$500,000 each accident. This policy shall be endorsed to include a waiver of subrogation in favor of Utility. Licensee shall require subcontractors and others not protected under its insurance to obtain and maintain such insurance.

16.1.2 Commercial General Liability Insurance. Policy will be written to provide coverage for, but not limited to, the following: premises and operations, products and completed operations, personal injury, blanket contractual coverage, broad form property damage, independent contractor's coverage and coverage for property

damage from perils of explosion, collapse or damage to underground utilities (commonly known as XCU coverage). Limits of liability not less than \$1,000,000 general aggregate, \$1,000,000 products/completed operations aggregate, \$1,000,000 personal injury, \$1,000,000 each occurrence.

16.1.3 Automobile Liability Insurance. Business automobile policy covering all owned, hired and non-owned private passenger autos and commercial vehicles. Limits of liability not less than \$1,000,000 each occurrence, \$1,000,000 aggregate.

16.1.4 Umbrella Liability Insurance. Coverage to be in excess of employers' liability, commercial general liability, and automobile liability insurance required above. Limits of liability not less than \$4,000,000 each occurrence, \$4,000,000 aggregate.

16.1.5 Property Insurance. Each Party to this Agreement will be responsible for maintaining property insurance on its own facilities, buildings and other improvements, including all equipment, fixtures, and utility structures, fencing, or support systems that may be placed on, within, or around Utility Facilities to fully protect against hazards of fire, vandalism and malicious mischief.

16.2 Qualification; Priority; Contractors' Coverage. The insurer must be authorized to do business under the laws of the State of Wisconsin and have an "A" or better rating in Best's Guide. Such insurance will be primary. All contractors and all of their subcontractors who perform work on behalf of Licensee shall carry, in full force and effect, workers' compensation, comprehensive general liability and automobile liability insurance coverages of the type that Licensee is required to obtain under this Article with the same limits. Prior to any such contractor or its subcontractors performing any work for Licensee under this Agreement, Licensee shall furnish Utility with a Certificate of Insurance for each such contractor or subcontractor.

16.3 Certificate of Insurance; Other Requirements.

16.3.1 Prior to the execution of this Agreement and prior to each insurance policy expiration date during the term of this Agreement, Licensee will furnish Utility with a certificate of insurance. The certificates shall reference this Agreement and all waivers of subrogation required by this Agreement. Utility shall be given written notice within thirty (30) days of cancellation or nonrenewal of insurance during the term of this Agreement.

16.3.2 Utility, in the name of its municipality, shall be named by as an "**Additional**

Insured” under all of the policies, except workers’ compensation, which shall be evidenced by an endorsement to the policy.

16.3.3 All policies, other than workers’ compensation, shall be written on an occurrence and not on a claims-made basis.

16.3.4 Licensee shall defend, indemnify, and hold harmless Utility from and against payment of any deductible and payment of any premium on any policy required under this Article.

16.4 Limits. The limits of liability set out in this Article 16 may be increased or decreased by mutual consent of the Parties, which consent will not be unreasonably withheld by either Party, in the event of any factors or occurrences, including substantial increases in the level of jury verdicts or judgments or the passage of state, federal or other governmental compensation plans or laws which would materially increase or decrease Utility’s or Licensee’s exposure to risk.

16.5 Deductible Amounts. Licensee shall be fully responsible for any deductible or selfinsured retention amounts contained in its insurance program or for any deficiencies in the amounts of insurance maintained.

ARTICLE 17: AUTHORIZATION NOT EXCLUSIVE

17.1 Utility shall have the right to grant, renew and extend rights and privileges to others not party to this Agreement, by contract or otherwise, to use Utility Facilities covered by this Agreement. Such rights shall not interfere with the rights granted to Licensee by the specific Permits issued pursuant to this Agreement.

ARTICLE 18: ASSIGNMENT

18.1 Limitations on Assignment. Licensee shall not assign this Agreement or its rights or obligations under this Agreement, in whole or in part, without the prior written consent of Utility, which consent shall not be unreasonably withheld or delayed. However, it shall be unreasonable for Utility to withhold, condition or delay consent to an assignment made in connection with the pledge of Licensee’s assets subject to the Agreement as security for any Licensee financing with financial institutions, and therefore, such assignments shall be considered approved following thirty (30) days from receipt of notice by Licensor, unless notice of reasonable denial has been received by Licensee. Notwithstanding the foregoing, Licensee may assign its rights or obligations under this Agreement without the consent of Utility so long as such assignment is to an entity

acquiring all or substantially all of the assets of Licensee or to a subsidiary or Affiliate of Licensee, so long as Licensee provides written notice of such assignment to Utility. Licensee shall use commercially reasonable efforts to provide prior written notice of such assignment to Utility, but if prior notice is not feasible, Licensee shall provide written notice promptly after such assignment. Assignments made in violation of this Section 18.1 shall be deemed null and void.

18.2 Obligations of Assignee/Transferee and Licensee. No assignment or transfer under this Article 18 shall be allowed until the assignee or transferee (including assignment or transfer to any assignee or transferee described in Section 18.1) becomes a signatory to this Agreement and assumes all obligations of Licensee arising under this Agreement. Licensee shall furnish Utility with prior written notice of the transfer or assignment, together with the name and address of the transferee or assignee.

18.3 Sub-licensing. Without Utility's prior written consent, Licensee shall not sub-license any rights under this Agreement to a third party (including Licensee's Affiliate(s)), including but not limited to allowing third parties to place Attachments on Utility's Poles, including Overlapping, or to place Attachments for the benefit of such third parties on Utility's Poles. Any such action shall constitute a material breach of this Agreement. The use of Licensee's Communications Facilities by third parties (including but not limited to leases of dark fiber) that involves no additional Attachment or Overlapping is not subject to the provisions of this Section 18.3.

ARTICLE 19: FAILURE TO ENFORCE

19.1 Failure of Utility or Licensee to take action to enforce compliance with any of the terms or conditions of this Agreement or to give notice or declare this Agreement or any authorization granted hereunder terminated shall not constitute a waiver or relinquishment of any term or condition of this Agreement, but the same shall be and remain at all times in full force and effect.

ARTICLE 20: DEFAULT

20.1 Utility's Right to Terminate. Notwithstanding Utility's rights under Article 11, Utility shall have the right, pursuant to the procedure set out in Section 20.2 to terminate this entire Agreement, or any Permit issued hereunder, whenever Licensee is in default of any material term or condition of this Agreement, including but not limited to the following circumstances, and has not cured such default within the time period set forth herein:

20.1.1 Construction, operation or maintenance of Licensee's Communications Facilities in violation of law or in aid of any unlawful act or undertaking; or

20.1.2 Construction, operation or maintenance of Licensee's Communications Facilities after any authorization required of Licensee has lawfully been denied or revoked by any governmental or private authority; or

20.1.3 Construction, operation or maintenance of Licensee's Communications Facilities without the insurance coverage required under Article 16.

20.2 Opportunity to Cure/Termination. Utility will notify Licensee in writing within ten (10) days, or as soon as reasonably practicable, of any condition(s) applicable to Section 20.1. Licensee shall take immediate corrective action to eliminate any such condition(s) within thirty (30) days, or such longer period mutually agreed to by the Parties, and shall confirm in writing to Utility that the cited condition(s) has (have) ceased or been corrected. If Licensee fails to discontinue or correct such condition(s) and/or fails to give the required confirmation, Utility may immediately terminate this Agreement or any Permit(s). In the event of such termination, Licensee shall remove its Communications Facilities from the affected Poles within sixty (60) days of such termination. If Licensee fails to remove its Facilities within that sixty (60) day period or such other longer time period as the Parties may agree, Utility shall have the right to remove such Facilities, using its own personnel or a contractor, and may charge Licensee 125% of the actual reasonable cost incurred by Utility. If removal by Utility is impracticable, in Utility's sole judgment, the affected Attachments shall be subject to the Failure to Timely Transfer or Remove Facilities Charge set out in Appendix A until the affected Attachments are actually removed.

ARTICLE 21: TERM OF AGREEMENT

21.1 Term/Termination. This Agreement shall become effective as of the Effective Date, and, if not terminated in accordance with other provisions of this Agreement, shall continue in effect for an initial term of ten (10) years ("**Initial Term**"). The extension term of this Agreement is ten (10) years (the "**Extension Term**"), commencing on the expiration of the Initial Term, provided that Licensee is not then in default under this Agreement. Either Party may terminate this Agreement by giving the other Party written notice of its intention not to renew at least six (6) months prior to the end of the then current term. If no notice of termination is given prior to the end of the Extension Term, and provided that Licensee is not then in default, this Agreement shall automatically continue in force until terminated by either Party after one (1) year's written notice.

21.2 Removal. On termination of this Agreement pursuant to Section 21.1, Licensee shall remove its Communications Facilities from Utility's Poles within sixty (60) calendar days of such termination, except that Utility shall extend this period where the following conditions are met: Licensee is negotiating a new agreement with Utility in good faith and Licensee is not in default under this Agreement ("**Negotiation Period**"). During the Negotiation Period, Licensee shall continue to make all required payments under this Agreement, and Licensee shall be subject to all other obligations and requirements of this Agreement. If a new license agreement has not been executed by the Parties by the expiration of the Negotiation Period and the Parties do not otherwise agree, in writing, to renew this Agreement, Licensee shall remove its facilities as specified above. If Licensee fails to remove its Communications Facilities as required by this Section 21.2, Utility shall have the right to remove such Communications Facilities, using its own personnel or a contractor, at Licensee's sole expense.

21.3 Survival of Obligations. Even after the termination of this Agreement, Licensee's indemnity obligations under this Agreement shall continue with respect to any claims or demands related to Licensee's Communications Facilities.

ARTICLE 22: MISCELLANEOUS

22.1 Amending Agreement. Notwithstanding other provisions of this Agreement, the terms and conditions of this Agreement shall not be amended, changed or altered except in writing and with approval by authorized representatives of both Parties.

22.2 Notices. Wherever in this Agreement notice is required to be given by either Party to the other, such notice shall be in writing and shall be effective when personally delivered to, or when mailed by certified mail, return receipt requested, with postage prepaid and, except where specifically provided for elsewhere, properly addressed as follows:

If to Utility, to: Joe Pickart
 Utility Manager
 City of Oconomowoc
 808 South Worthington Street
 Oconomowoc, WI 53066
 jpickart@Oconomowoc-wi.gov
 (262) 569-3197

If to Licensee, to: Engineering Manager
Midwest Fiber Networks
6070 N Flint Road
Glendale, WI 53209
contractmanagement@midwestfibenetworks.com
(414) 672 - 5612

or to such other address as either Party may, from time to time, give the other Party in writing.

22.3 Entire Agreement. This Agreement supersedes all previous agreements, whether written or oral, between Utility and Licensee for placement and maintenance of Licensee's Communications Facilities on Poles within the geographical operating area covered by this Agreement; and there are no other provisions, terms or conditions to this Agreement except as expressed herein.

22.4 Severability. If any provision or portion thereof of this Agreement is or becomes invalid under any applicable statute or rule of law, and such invalidity does not materially alter the essence of this Agreement to either Party, such provision shall not render unenforceable this entire Agreement but rather it is the intent of the Parties that this Agreement be administered as if not containing the invalid provision.

22.5 Governing Law. The validity, performance, and all matters relating to the effect of this Agreement and any amendment hereto shall be governed by the laws (without reference to choice of law) of the State of Wisconsin.

22.6 Incorporation of Recitals and Appendices. The recitals stated above and all appendices to this Agreement are incorporated into and constitute part of this Agreement.

22.7 Compliance with Laws. The Parties shall comply with all applicable federal or state laws.

22.8 Dispute Resolution. In the event any dispute arises between the Parties under this Agreement, the Party seeking resolution of the dispute must submit written notice to the other describing the dispute and such Party's desire to resolve the dispute in accordance with the provisions of this Section 22.8, unless the Parties at any time mutually agree in writing to dispense with the dispute resolution process under this Section 22.8 for a particular dispute. If the Parties are then unable to resolve such dispute in the normal course of business, each of the Parties shall promptly appoint a designated representative who has authority to settle the dispute. The designated representatives shall meet as often

as they reasonably deem necessary in order to discuss the dispute and negotiate in good faith in an effort to resolve such dispute. The specific format for such discussions will be left to the discretion of the designated representatives; however, all reasonable requests for relevant information made by one Party to the other Party shall be honored. If the Parties are unable to resolve issues related to the dispute within sixty (60) days after the Parties' appointment of the designated representatives, then either Party may resort to remedies available under law or equity.

The Parties have executed this Agreement on the day and year first written above.

[SIGNATURE PAGES FOLLOW]

CITY OF OCONOMOWOC, WISCONSIN

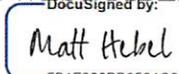
BY: _____

NAME: _____

TITLE: _____

DATE: _____

MIDWEST FIBER NETWORKS, LLC

BY:  _____
5B1F860BB0594C6...

NAME: Matt Hebel _____

TITLE: VP of Operations _____

DATE: 3/17/2020 _____

**APPENDIX A
POLE ATTACHMENT FEES AND CHARGES**

1. **Annual Pole Attachment Fee:** (fee will be charged on a per-Pole basis per Section 3.2)
 - Effective Date: January 1, 2019: > *Date to be updated*
 - Single: \$14.02
 - Double: \$7.01
 - Triple: \$4.67

2. **Adjustment of Annual Pole Attachment Fee:** Rates to be recalculated every year in accordance with Exhibit 1 to this Appendix A.

3. **Non-Recurring Fees:**
 - Permit Application Fee\$100.00 per Permit Application (10 Poles)
 - Permit Application Fee\$250.00 per Permit Application (11 or more Poles)
 - Pre-Construction Survey Fee Utility's Actual Cost
 - Make-Ready Work ChargesSee Article 3 of Agreement
 - Miscellaneous ChargesSee Article 3 of Agreement
 - Inspection Fees.....See Section 12.1.2 of Agreement **NOTE:**
Non-Recurring Fees shall increase once each year at the rate of 3%.

4. **Unauthorized Attachment Charge:** • 3 x Annual Average Attachment Fee, per occurrence.

5. **Failure to Timely Transfer or Remove Facilities Charge:** • ¼ Annual Average Attachment Fee per day, per Pole.

NOTE: In accordance with Section 3.12, Utility shall provide Licensee with prior written notice before levying this charge.

**Exhibit 1 to
Appendix A**

[Attached]

SMRH:4827-8028-3548.1



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/17/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Associated Benefits and Risk Consulting, LLC 100 N. Corporate Dr., #100 Brookfield WI 53045	CONTACT NAME: Sharon Miksic PHONE (A/C, No, Ext): 800-837-8822 FAX (A/C, No): 262-542-9750 E-MAIL ADDRESS: DivCerts@AssociatedBRC.com	
	INSURER(S) AFFORDING COVERAGE	
INSURED Midwest Fiber Networks, LLC 6070 N. Flint Rd. Glendale WI 53209	INSURER A: Travelers Property Casualty Company of America NAIC # 25674	
	INSURER B: Colony Insurance Company NAIC # 39993	
	INSURER C: Travelers Insurance Company NAIC # 24805	
	INSURER D: Travelers Casualty & Surety Company of America NAIC # 19038	
	INSURER E:	
	INSURER F:	

COVERAGES

CERTIFICATE NUMBER: 841598940

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			ZPP-11S04325	9/17/2019	9/17/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
D	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			BA-4N220874-19-15-G	9/17/2019	9/17/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Comp/Coll ded \$ 1,000
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			CUP0L734159	9/17/2019	9/17/2020	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	UB-4J236344	9/17/2019	9/17/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
C B	CyberTech E&O Pollution Liability			ZPL-14T35645-12 CSP304095	9/17/2019 11/5/2018	9/17/2020 11/5/2020	Each Occurrence 5,000,000 2,500 Ded 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Other Named Insureds: Midwest Networks Development, LLC.

FOLLOWING ENDORSEMENTS APPLY TO THE NAMES/PROJECTS/EVENTS LISTED BELOW ONLY IF REQUIRED BY WRITTEN CONTRACT OR AGREEMENT: General Liability: Blanket Additional Insured - On-going Operations and Blanket Waiver of Subrogation per Form CGD417 (07/08); Primary and Non-Contributory with respect to certain other insurance per Form CGD425 (07/08); Blanket Additional Insured Contractors per Form CGD246 (08/05); 30 day notice of cancellation/non-renewal provided by us per Form ILT400 (12/09). Automobile Liability: Blanket Additional Insured and Waiver of Subrogation per Form CAT353 (03/10); Workers Compensation: Blanket Waiver of Subrogation per Form WC000313 (04/84). Umbrella: Follows Form. Blanket Waiver of Subrogation and Primary & Non-Contributory per Form EU0001 (07/16). The additional insured and waiver of subrogation coverages indicated by the box(es) See Attached...

CERTIFICATE HOLDER**CANCELLATION**

Utility Manager City of Oconomowoc 808 South Worthington Street Oconomowoc WI 53066	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
--	---

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ADDITIONAL REMARKS SCHEDULE

AGENCY Associated Benefits and Risk Consulting, LLC		NAMED INSURED Midwest Fiber Networks, LLC 6070 N. Flint Rd. Glendale WI 53209	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

checked above are provided by the forms listed and only extend coverage if required of the insured by a written contract or agreement.

Utility Manager and City of Oconomowoc are included per the forms listed.

MEMORANDUM

TO: Aldermen
Mayor Magnus
Sarah Kitsembel, City Administrator

FROM: Jason Gallo, City Planner / Zoning Administrator 

DATE: April 27, 2020

SUBJECT: **Pine Ridge Estates West – Subdivision Plat Review**

On March 11, 2020 the City Plan Commission recommended approval of the Preliminary Plat for Pine Ridge Estates West Subdivision to the Common Council. The recommendation was subject to the applicant receiving approval from the Town of Oconomowoc Town Board for a secondary emergency access point connecting to Indianhead Trail, motion carried 6-0 vote.

City Staff, Western Lakes Fire District and the Plan Commission all felt it was important for the proposed 45 lot residential development contain at least two access points. The main access point to the proposed subdivision will be the extension of Juniper Lane, with a secondary access point shown on the Plat as an “emergency gated access point” connecting to Indianhead Trail.

Indianhead Trail is in the Town of Oconomowoc. In order to connect to this Town Road, the applicant will need to install pavement within the Town right-of-way. The Town Board needs to approve the connection to the Town Road within the Town right-of-way.

Neumann Development submitted a letter on March 12th requesting that the preliminary plat be removed from the March 17th Common Council meeting. This was to provide time for the Town Board to act on allowing the gated access connection to Indianhead Trail.

Staff wanted to bring the Subdivision Plat to the City Common Council with this access matter resolved. Ideally, we wanted the Common Council to have the information that this development will have one full access and one additional emergency access. With the COVID-19 pandemic, the Town Board has canceled their April meetings. At this time, the City does not have the confirmation from the Town of Oconomowoc that they will allow the gated emergency access connection to Indianhead Trail.

Staff feels the City Common Council could act on the Plat, even though the Town has not confirmed their position on the connection to Indianhead Trail. Feel free to contact me if you have any additional questions or concerns regarding this matter.

Planning Staff Report

City of Oconomowoc

Plan Commission – 3/11/2020

Pine Ridge Estates West

Preliminary Plat

Summary: The applicant submitted a request for the review of the Preliminary Plat of Pine Ridge Estates West Subdivision. The development would create 45 single-family residential lots in the City.

Property Location: North of Lisbon Road and Indian Head Trails Subdivision, east of 67 By-pass, west of Pine Ridge Estates III subdivision, south of Wood Creek Subdivision (see map below)

Property Owner: Herro Woodland Trust & David Radtke
156 E. Wisconsin Avenue
Oconomowoc, WI 53066

Applicant: Neumann Developments, Inc.
Mr. Bryan Lindgren
N27 W24025 Paul Court, Suite 100
Pewaukee, WI 53072

Existing Land Use: Vacant
Proposed Land Use: 45 Single-family homes



Location Map

History

The preliminary plat was submitted on December 11, 2019. The application was included in the packet. Since the initial submittal City staff has seen several different renditions of the layout, all containing 44 to 46 single-family lots and an access from Juniper Lane.

Zoning

Permanent SR zoning was established on the parcel. This zoning district was approved in January 2020. This zoning district allows for the proposed single-family residential development with target density of 3 dwelling units per gross acre.

Compliance with City's Comprehensive Plan

The single-family use conforms with the City's Comprehensive Plan, which designates this land as suburban residential.

Density

The density for the preliminary plat for this subdivision is 45 lots on 18.38 acres, or 2.44 dwelling units per acre. This is consistent with the other Pine Ridge Estates subdivisions.

Layout

Staff has concerns with the proposed subdivision layout. The development as proposed will contain only 1 access point to serve 45 lots. The applicant has been reviewing all potential ways of getting a secondary access to serve these lots. The latest alternative is in the packets, showing a 20' wide emergency access that would connect the proposed Indianhead Trail with the existing Indian Head Trail.

On Monday March 2nd, 2020 the Town Board denied all access points (included emergency access only) from this subdivision to either Indianhead Trail or Mohawk Ridge. Without a second access that has been confirmed, staff recommends denial of this subdivision.

Why are two access points so important for a subdivision development? Access is a matter of public safety. If there is activity near the intersection of Juniper Lane and Hummingbird Way, such as a house fire, road work, utility work, or other emergency situations, this would trap up to 45 households from getting out of the subdivision or possibly allowing emergency responders to serve these other homes. A major house fire could shut the road down for 8 hours or more.

For this reason, the City limits the total length of cul-de-sacs, so the number of homes are limited on dead end streets. By Ordinance 18.11 (2) Street and Block Layout.

(c) Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions or unless, in the opinion of the Commission, such extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layouts or for the most advantageous future development of adjacent tracts. **Dead-end streets of reasonable length (normally, not over 600 feet) will be approved where necessitated by topography or where, in the opinion of the Commission, they are appropriate to the type of development contemplated.**

On the latest plat revision, the developer shows an emergency access point to Indianhead Trail. At this time the City does not have assurances this was going to be allowed to be installed and connected to the Town right-of-way. This idea was specifically discussed and DENIED by the Town Board on March 2nd. Knowing the position of the adjacent community, there are concerns that Town could block their right-of-way and allow no access from the Town right-of-way. If this was allowed to be used for emergency purposes it would take care of one of the City's concerns, but the cul-de-sac would still exceed the ordinance 600' requirement.

What could be done to fix the problem? The City has been consistent that this development requires two vehicle access points. Since the Town will not allow connections to either Indianhead Trail or Mohawk Ridge, then the developer must look at other connections. Options at this point include connecting to the adjacent Spruce Court or continuing to work with the Town to have a formal connection agreed to a Town right-of-way.

Other review Agencies

The City has not heard from any outside agency including Waukesha County or the State.

Review Timelines

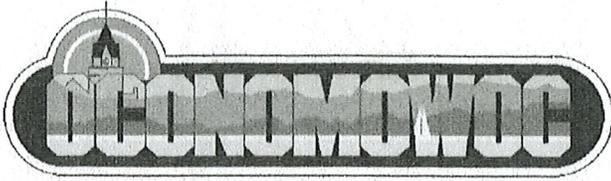
The final plat was officially submitted to the City on December 11, 2019. The City Common Council has 90 calendar days to act on the plat. An extension was granted from the Developer to act on the plat sometime in March.

Recommendation

Planning Staff recommends that the Plan Commission **recommend DENIAL** of the preliminary plat for ***Pine Ridge Estates West Subdivision***. This is a recommendation to the City Common Council.

Submitted by:


Jason Gallo, AICP
City Planner/Zoning Administrator



STAFF RECOMMENDATION FORM

TYPE OF REQUEST: **PRELIMINARY PLAT**

PROJECT NAME: **PINE RIDGE ESTATES WEST**

TAX KEY NO.:

PROJECT ADDRESS/LOCATION:

RECOMMENDATION SIGNATURES

CITY PLANNER: *[Signature]* Date: **2-24-20**

Comments: **RECOMMEND DENIAL - SEE COMMENTS IN STAFF REPORT**

CITY ENGINEER: *[Signature]* Date: **2-26-20**

Comments: **JUNIPER COURT SHOULD EXTEND TO INDIANHEAD TRAIL AS A PUBLIC STREET / PLACE GATE AT THAT LOCATION**

DIRECTOR OF PUBLIC WORKS: *[Signature]* Date: **03.03.20**

Comments: **DENY WITHOUT SECOND ACCESS**

WASTEWATER: *[Signature]* Date: **3-2-2020**

Comments:

WATER: *[Signature]* Date: **3/3/20**

Comments: **Denied based on W/M layout**

ELECTRIC: *[Signature]* Date: **3-3-20**

Comments:

PARKS, RECREATION & FORESTRY: *[Signature]* Date: **3-3-20**

Comments: **Needs Second Access**

POLICE CHIEF: *[Signature]* Date: **3/3/20**

Comments: **NEEDS A SECOND ACCESS (PUBLIC)**

FIRE: *[Signature]* Date: **2-24-20**

Comments: **See email**

DIRECTOR OF FINANCE: *[Signature]* Date: **3-2-20**

Comments: **- Sp. Assessment Due w/ Sale of Property**

ECONOMIC DEVELOPMENT DIRECTOR: *[Signature]* Date: **2-28-20**

Comments:



WESTERN LAKES FIRE DISTRICT

1400 Oconomowoc Parkway, Oconomowoc, WI 53066

Phone: 262-567-8282 Email: info@westernlakesfd.org

Date: February 7th, 2020

To:

Jeff Herrmann -Town of Oconomowoc Administrator/Planner

Jason Gallo -City of Oconomowoc Planner

Gentlemen,

The highest priority for the Western Lakes Fire District is the safety of the citizens in our communities. The District utilizes several standards to ensure this safety including the International Building Code, National Fire Protection Association, and the Wisconsin Department of Safety and Professional Services. When it comes to connectivity of roadways this is always preferred, however there are not any standards that require this to occur in this particular situation. Having a full connection of Indian Head Trail between the City of Oconomowoc and Town of Oconomowoc would improve the connectivity and ultimately reduce response times to the future residents in Pine Ridge Estates West. Though a full connection is recommended, it is not required. We have also evaluated the consideration of a private fire/emergency lane in lieu of a full connection. Due to maintenance of this fire lane, associated gate, and security the District doesn't feel this is the most appropriate recommendation. Other jurisdictions that have utilized these in lieu of a full connection have had problems with plowing the emergency lane and failures of the gate or barrier which ultimately delayed the response. Based on the Town of Oconomowoc's rejection of the full connection, for safety reasons on Lisbon Road as a result of increased traffic, the District will require an approved turnaround at the end of the new development roadway which is required under the International Building Code and the National Fire Protection Association Code. If the City of Oconomowoc would like to dedicate a right of way in the new development for a future connection the District would approve that. If there are any further discussions or questions please feel free to contact me.

Respectfully Submitted,

Adam J May

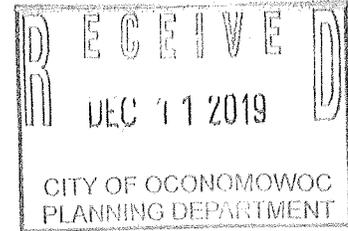
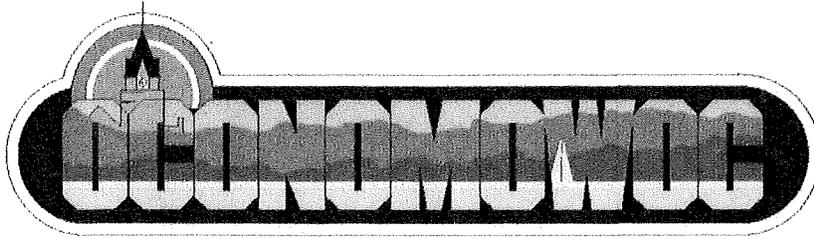
Deputy Chief of Fire Prevention

Pabst Station: 1400 Oconomowoc Parkway; Oconomowoc, WI 53066 – Fax: 262-569-6430

Dousman Station: 107 S. Main Street; Dousman, WI 53118 – Fax: 262-431-4812

Oconomowoc Station: 212 S. Concord Road; Oconomowoc, WI 53066 – Fax: 262-569-3297

Sullivan Station: 912 Front Street; Sullivan, WI 53178 – Fax: 262-593-8123



Development Application

Department of City Planning
 174 E. Wisconsin Avenue Oconomowoc, WI
 www.oconomowoc-wi.gov | 262.569.2166

X	Description	Administrative Fee
	Administrative Design Review	\$ 75.00
	Major Design Review	\$ 75.00
	Conditional Use Permit	\$ 500.00
	Zoning Determination Letter	\$ 100.00
	Temporary Use Permit	\$ 75.00
	Temporary Use Permit - Renewal	No Charge
	Variance	\$ 425.00
	Special Exceptions	\$ 425.00
	Appeals of Zoning Administrator	\$ 300.00
X	Zoning Map Amendment (From <u>UR</u> To <u>SR</u>)	\$ 425.00
	Zoning Text Amendment	\$ 425.00
	Comprehensive Plan Amendment	\$ 300.00
	Planned Development District	Step 1: Pre-application Conference
		Step 2: Concept Plan Review
		Step 3: General Development Plan Review
X	Preliminary or Final Plat Review	\$ 75.00
	Certified Survey Map or Extraterritorial Plat/CSM Review	\$ 75.00

*NOTE: Administrative filing fees are due at the time an application is filed with the City Clerk's Office and are not refundable. In addition to the Administrative fees, City Staff time (City Engineer, City Planner & City Attorney) will be charged back to the applicant. The Applicant will receive monthly invoices of payments due.

Date: <u>12-11-19</u>	
Project/Business Name: <u>Pine Ridge Estates West</u>	
Address/Location: <u>West of Pine Ridge Estates from Juniper Lane</u>	
City, State, Zip Code: <u>Oconomowoc, WI 53066</u>	
Proposed Use of Property: <u>Residential Development of 45 lots</u>	
Applicant: <u>Newmann Developments, Inc. - Bryan Lindgren</u>	Property Owner: <u>Herro Woodland Trust</u>
Address: <u>N27 W24025 Paul Ct., Suite 100</u>	Address:
City/State/Zip: <u>Pewaukee, WI 53072</u>	City/State/Zip:
Phone: <u>262-542-9200</u>	Phone: <u>signed & submitted</u>
E-mail: <u>blindgren@newmanncompanies.com</u>	E-mail: <u>on separate copy</u>
Signature:	Signature:

This form is not valid unless signed by Owner or Agent under a written power-of-attorney (please provide). I, Owner/one of the Owner's of the property, declare that this application (including any accompanying documents) has been examined by me and to the best of my knowledge and belief is true, correct and complete. I further accept all liability, which may be a result of the City of Oconomowoc relying on this information I am providing in this application.



January 21, 2020

City of Oconomowoc
Attn: Jason Gallo
174 E. Wisconsin Avenue
Oconomowoc, WI 53066

Dear Mr. Gallo,

As a result of ongoing conversations and potential changes to our proposed Pine Ridge Estates West preliminary plat, we kindly request that the Plan Commission delay any action on the proposed preliminary plat and extend the time frame for action through March 2020. Thank you for your consideration of this extension and we are excited about working in the City of Oconomowoc.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bryan Lindgren", is written over a faint, circular stamp.

Bryan Lindgren
Neumann Developments Inc.



March 5, 2020

City of Oconomowoc
Attn: Jason Gallo
174 E. Wisconsin Avenue
Oconomowoc, WI 53066

Dear Mr. Gallo,

After having conversations with the Town of Oconomowoc, our request to extend the right-of-way to the established neighborhood to the south was denied by the Town Board. Residents had expressed concerns over additional traffic through both an existing neighborhood as well as Lisbon Road. There were also concerns regarding the safety at the intersections at Lisbon Road. The police chief and town supervisors shared these concerns.

We understand the potential safety issues with having one access point, and we fully support the City's request to include an emergency access drive that will serve future residents. Included in this submission is a preliminary plat design and construction drawings that respond to the Town Board denying a road connection to either of the existing Town roads to the south (Indianhead Trail and Mohawk Ridge).

The preliminary plat shows Indianhead Trail as a dedicated right-of-way to the property line. Indianhead Trail will be fully improved to the southern end of lots 1 and 45, and a fire apparatus turnaround will be installed at the end of the road to the south. Dedicated public right-of-way to the south that is beyond the improved road will be available as an option for the City to improve in the future should a right-of-way connection to the Town road be realizable.

Also shown on the plat is a 25' wide easement that will contain a 20' wide emergency access drive. This drive extends south of the proposed Indianhead Trail turnaround and leads into the right-of-way located within the town. Connecting to the existing Indianhead Trail will require a driveway permit from the Town. Installing the emergency access drive will allow for two connection points for emergency vehicles that will serve the 45 home neighborhood.

Included in this submission are the preliminary grading and utility plans that have been revised based on review comments from the City. Details for an emergency access gate are shown on the utility plan. The emergency access must meet the following specifications provided by the Western Lakes Fire District:

- The emergency access drive shall have an unobstructed width of not less than 20 ft.

NEUMANN DEVELOPMENTS, INC. * N27 W24025 PAUL CT. SUITE 100 * PEWAUKEE, WI 53072
262-542-9200 * FAX: 262-349-9324 * NEUMANNDEVELOPMENTS.COM



- The emergency access drive shall have an unobstructed vertical clearance of not less than 13 ft 6 in.
- The emergency access drive shall have a base designed to support a truck weighing 75,000 lbs.
- The emergency access drive shall have a gate, signage, and a KnoxBox (3200 series) approved by the City of Oconomowoc.

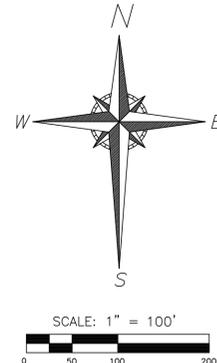
Based on feedback from the Plan Commission and Common Council, we are willing to make adjustments and do what is necessary to ensure public safety remains a top priority.

We kindly request the City of Oconomowoc Plan Commission approves the preliminary plat under the condition an emergency access drive located south of the proposed Indianhead Trail is included in the development and meets the specifications listed.

Thank you for the consideration. We appreciate your time, and we look forward to working in the City of Oconomowoc.

Respectfully,

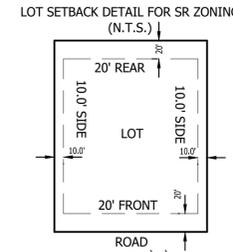
Ryan Fritsch
Neumann Developments, Inc.



BEARINGS ARE REFERENCED TO THE WISCONSIN STATE PLANE COORDINATE SYSTEM, SOUTH ZONE (NAD 1927) GRID NORTH ON THE EAST LINE OF THE SW 1/4 OF SECTION 27-8-17 AS N00°19'47"E, VERTICAL DATUM BASED ON NGVD 29.

DISTANCES ARE COMPUTED TO THE NEAREST 0.01' AND MEASURED TO THE NEAREST 0.01'

ANGLES ARE COMPUTED TO THE NEAREST 00°00'00.5" AND MEASURED TO THE NEAREST 00°00'05"



PRELIMINARY PLAT OF PINE RIDGE ESTATES WEST

LOT 2 OF CERTIFIED SURVEY MAP NO. 11253 BEING A PART OF THE SOUTHEAST 1/4 AND SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 27, T.8N., R.17E., CITY OF OCONOMOWOC, WAUKESHA COUNTY, WISCONSIN.

OVERALL DETAIL

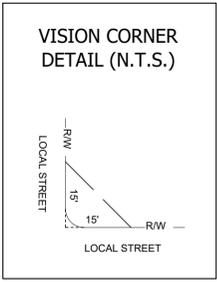
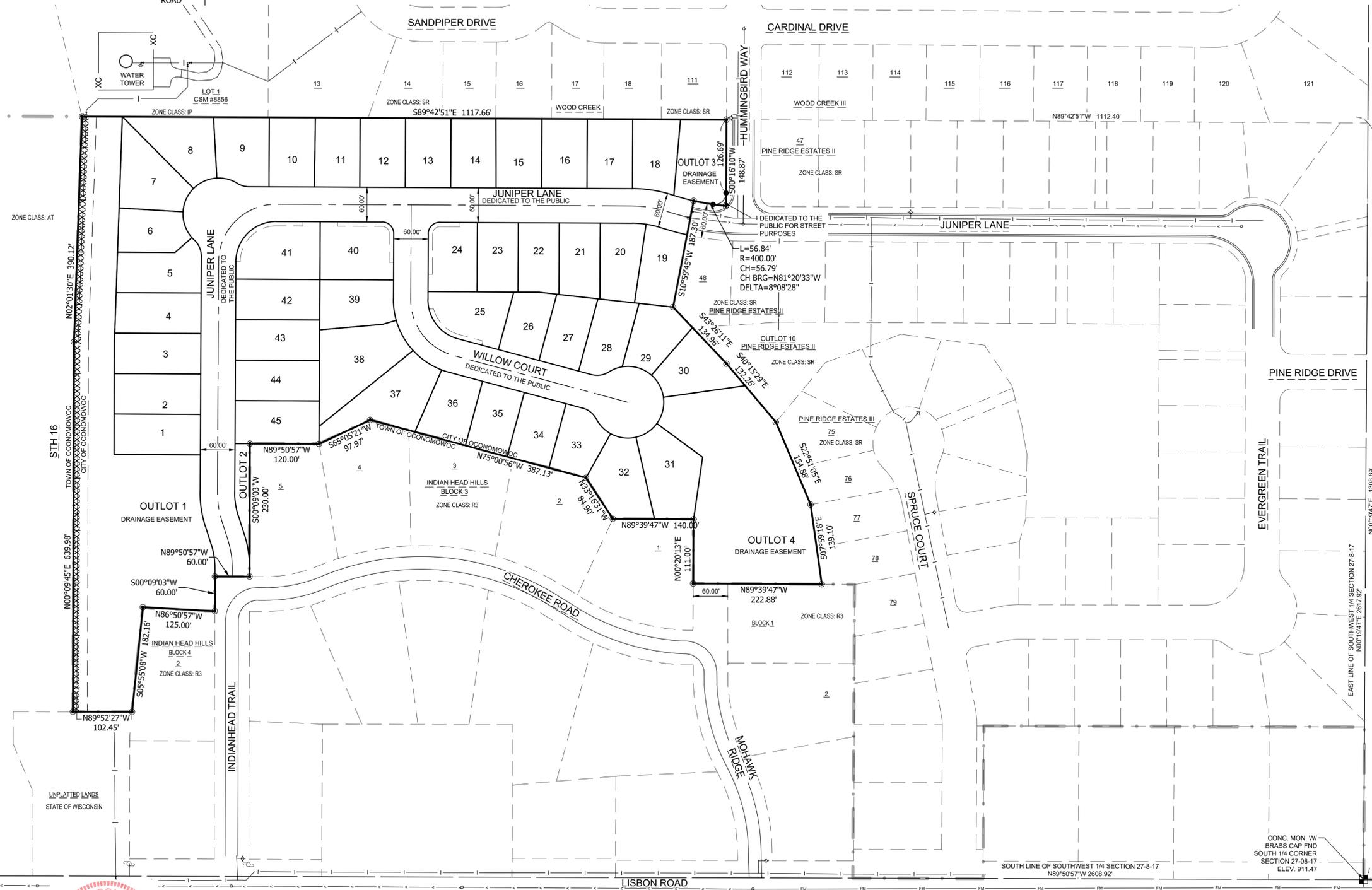


SURVEYOR:
KEITH A. KINDRED, PLS S-2082
SEH, INC.
501 MAPLE AVE.
DELAFIELD, WI 53018
(414) 949-8919
KKINDRED@SEHINC.COM

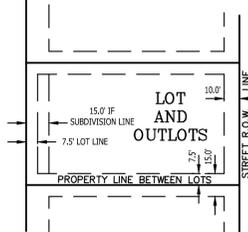
DEVELOPER:
NEUMANN COMPANIES INC.
N27W24025 PAUL CT.
STE 100
PEWAUKEE, WI 53072
262-542-9200

OWNER:
HERRO WOODLAND TRUST,
DAVID RADTKE,
BARBARA BROCKWAY
156 E. WISCONSIN AVE.
OCONOMOWOC, WI 53066

- NOTES:**
- ALL OUTLOTS TO BE FRACTIONALLY OWNED AND MAINTAINED BY LOT OWNERS AND ENCOMPASSED BY A DRAINAGE EASEMENT TO BE USED FOR STORMWATER PURPOSES.
 - EASEMENTS SHOWN PER FIRST AMERICAN TITLE INSURANCE CO. TITLE POLICY FTS19-27238 DATED SEPTEMBER 16, 2019.
 - ALL LOTS ARE TO BE SERVED BY MUNICIPAL SANITARY SEWER AND WATER MAIN.
 - WITHIN THE AREA OF VISION CORNER EASEMENT (V.C.E.), THE HEIGHT OF ALL PLANTINGS, BERMS, FENCING, SIGNS, OR ANY OTHER STRUCTURE SHALL BE LIMITED TO 24" ABOVE THE INTERSECTION ELEVATION.
 - SITE IS IN ZONE X, AREA OF MINIMAL FLOODING, PER FLOOD INSURANCE RATE MAP COMMUNITY PANEL NUMBER 55133C0151G, EFFECTIVE DATE NOVEMBER 5, 2014.
 - A STREET PLANTING PLAN WILL BE PROVIDED AT THE TIME OF THE FINAL PLAT.
 - TOTAL AREA 800,754 S.F., 18.38 AC.
 - ALL ROADS WITHIN THE SUBDIVISION ARE DEDICATED TO THE PUBLIC.
 - THE PLACEMENT OF DECKS, PATIOS, FENCES, OR ANY TYPE OF DECORATIVE LANDSCAPING, DRIVEWAYS OR ADDITIONAL HARD SURFACES WITHIN ANY PART OF A UTILITY EASEMENT IS PROHIBITED. AN EASEMENT INFRINGEMENT AGREEMENT MAY BE ENTERED INTO WITH THE CITY, IF APPROVED.
 - THE DEVELOPER IS RESPONSIBLE FOR CONSTRUCTION OF PUBLIC SIDEWALKS ALONG OUTLOT FRONTAGES.
 - ALL SIDE YARD GRADES MUST BE ADHERED TO, COINCIDENT WITH THE APPROVED MASTER GRADING PLAN FOR THE SUBDIVISION TO ENSURE PROPER STORMWATER DRAINAGE.
 - FENCES CANNOT BE CONSTRUCTED IN EASEMENTS WHERE PUBLIC WATERMAIN, SANITARY SEWER, AND STORM SEWER EXIST NOR IN ACCESS ROUTES TO STORMWATER MANAGEMENT FACILITIES (OUTLOTS).
 - ALL HOMES SHALL HAVE DRIVEWAYS PITCHED BACK TO STREET.
 - ALL SIDEWALKS IN OUTLOTS ARE TO BE MAINTAINED BY THE HOME OWNERS ASSOCIATION, THIS INCLUDES SNOW REMOVAL.
 - PER THE ZONING ORDINANCE, DRIVEWAYS FOR CORNER LOTS SHALL BE AS FAR FROM THE INTERSECTION AS POSSIBLE. DRIVEWAY ACCESS SHALL BE LIMITED ON LOTS 24, 25, 41, & 42. DRIVEWAYS SHALL ONLY BE PLACED WITHIN THE 25' AREA CLOSEST TO THE SIDE LOT LINES.
 - THE WATER VALVE CURB BOX SHALL NOT BE LOCATED IN A DRIVEWAY, NOR SIDEWALK.
 - ALL UTILITY EASEMENTS ARE GRANTED TO THE CITY OF OCONOMOWOC FOR THE PURPOSE OF INSTALLATION AND MAINTENANCE OF PUBLIC STORMWATER, WATER, WASTEWATER, AND ELECTRIC UTILITIES AND THEIR RELATED APPURTENANCES.



CITY OF OCONOMOWOC UTILITY EASEMENTS
CITY UTILITY EASEMENT FOR ALL LOTS AND OUTLOTS UNLESS OTHERWISE NOTED.
N.T.S.



THIS IS INTENDED FOR ALL UTILITIES AND STORM WATER MANAGEMENT: ELECTRIC, PHONE, GAS, SANITARY, STORM, WATER, CABLE TV



KEITH A. KINDRED, PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT IN MY PROFESSIONAL OPINION PRELIMINARY PLAT IS A CORRECT REPRESENTATION OF ALL EXISTING LAND DIVISION FEATURES, AND THAT I HAVE COMPLIED WITH ALL APPLICABLE ORDINANCES IN PREPARING THE SAME.

REVISED THIS 4TH DAY OF MARCH 2020
REVISED THIS 20TH DAY OF FEBRUARY, 2020
DATED THIS 13TH DAY OF NOVEMBER, 2019

- LEGEND**
- 2.375" O.D. IRON PIPE SET, 18" LONG, WT. = 3.65 LBS./LIN. FT. 1 1/16" REBAR SET AT ALL OTHER LOT & OUTLOT CORNERS, WT. = 1.13 LBS./LIN. FT.
 - ⊕ CONCRETE MONUMENT W/ BRASS CAP FOUND
 - 1" IRON PIPE FOUND (UNLESS OTHERWISE STATED)
 - XXXXXXX DENOTES NO ACCESS

CONC. MON. W/ BRASS CAP FND SOUTH 1/4 CORNER SECTION 27-08-17 - ELEV. 911.47



SURVEYOR:
 KEITH A. KINDRED, PLS S-2082
 SEH, INC.
 501 MAPLE AVE.
 DELAFIELD, WI 53018
 (414) 949-8919
 KKINDRED@SEHINC.COM

DEVELOPER:
 NEUMANN COMPANIES INC.
 N27W24025 PAUL CT.
 STE 100
 PEWAUKEE, WI 53072
 262-542-9200

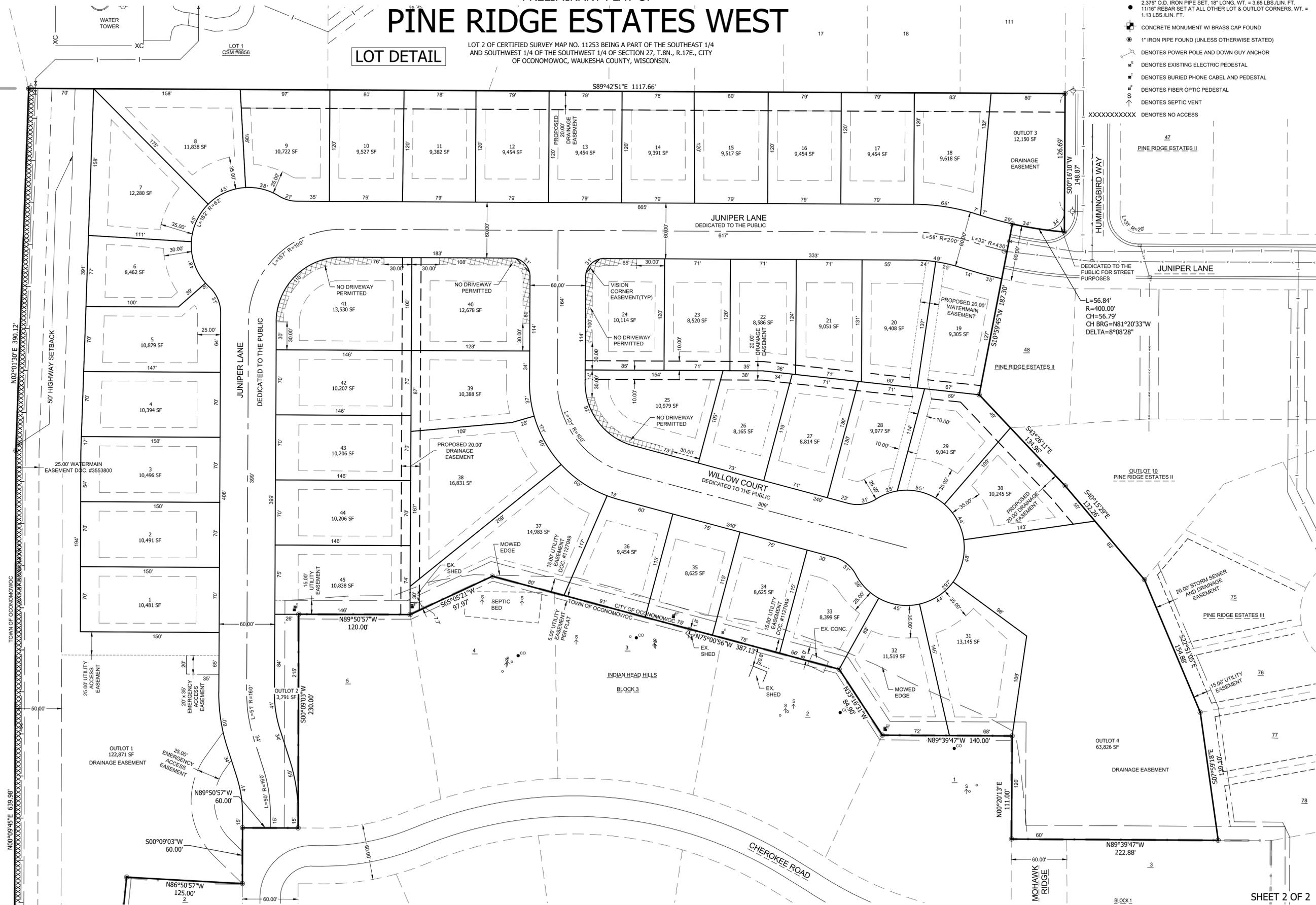
OWNER:
 HERRO WOODLAND TRUST,
 DAVID RADTKE,
 BARBARA BROCKWAY
 156 E. WISCONSIN AVE.
 OCONOMOWOC, WI 53066

PRELIMINARY PLAT OF PINE RIDGE ESTATES WEST

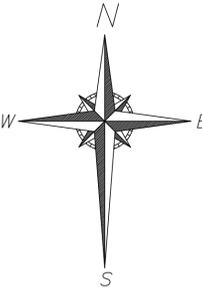
LOT 2 OF CERTIFIED SURVEY MAP NO. 11253 BEING A PART OF THE SOUTHEAST 1/4
 AND SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 27, T.8N., R.17E., CITY
 OF OCONOMOWOC, WAUKESHA COUNTY, WISCONSIN.

LOT DETAIL

- LEGEND**
- 2.375" O.D. IRON PIPE SET, 18" LONG, WT. = 3.65 LBS./LIN. FT.
 - 11/16" REBAR SET AT ALL OTHER LOT & OUTLOT CORNERS, WT. = 1.13 LBS./LIN. FT.
 - CONCRETE MONUMENT W/ BRASS CAP FOUND
 - 1" IRON PIPE FOUND (UNLESS OTHERWISE STATED)
 - ⊕ DENOTES POWER POLE AND DOWN GUY ANCHOR
 - ⊕ DENOTES EXISTING ELECTRIC PEDESTAL
 - ⊕ DENOTES BURIED PHONE CABEL AND PEDESTAL
 - ⊕ DENOTES FIBER OPTIC PEDESTAL
 - ⊕ DENOTES SEPTIC VENT
 - ⊕ DENOTES NO ACCESS



REVISED THIS 4TH DAY OF MARCH, 2020
 REVISED THIS 20TH DAY OF FEBRUARY, 2020
 DATED THIS 13TH DAY OF NOVEMBER, 2019

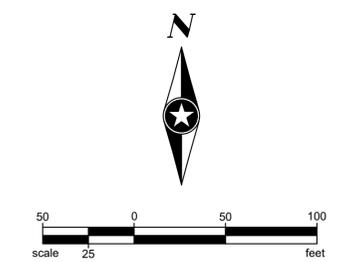
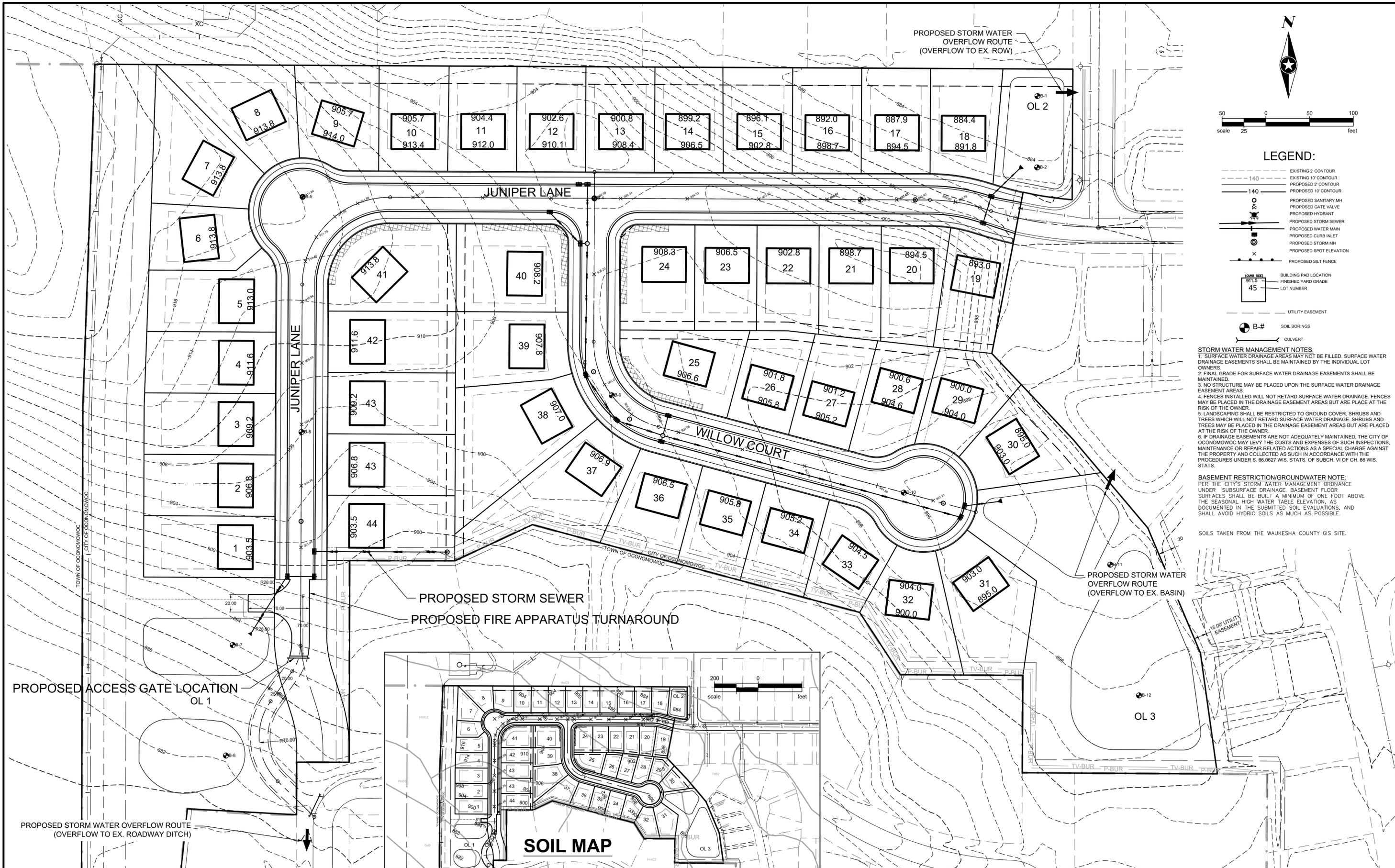


SCALE: 1" = 50'
 0 25 50 100

SEH
 PHONE: 414.949.8962
 501 MAPLE AVENUE
 DELAFIELD, WI 53018-9351
 www.sehinc.com

PROJECT NEUMA #152114

SHEET 2 OF 2



LEGEND:

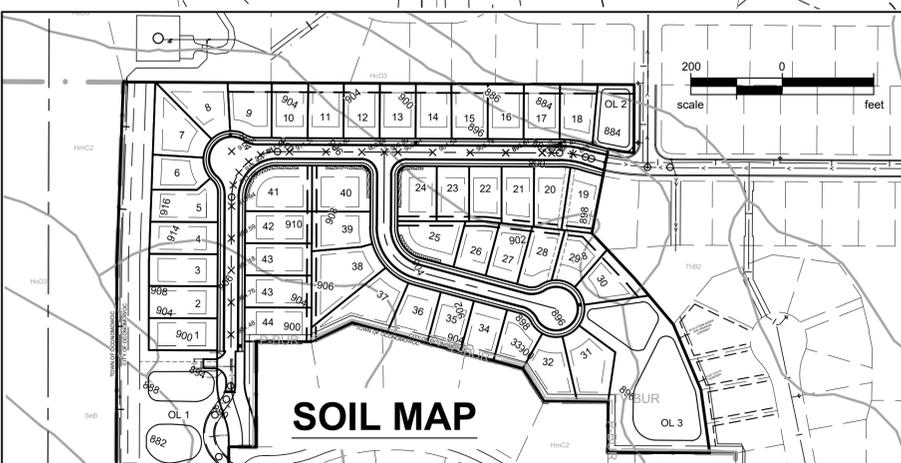
- 140 --- EXISTING 2' CONTOUR
- 140 --- PROPOSED 2' CONTOUR
- 140 --- EXISTING 10' CONTOUR
- 140 --- PROPOSED 10' CONTOUR
- PROPOSED SANITARY MH
- PROPOSED GATE VALVE
- PROPOSED HYDRANT
- PROPOSED STORM SEWER
- PROPOSED WATER MAIN
- PROPOSED CURB INLET
- PROPOSED STORM MH
- PROPOSED SPOT ELEVATION
- PROPOSED SILT FENCE
- (911.5) BUILDING PAD LOCATION
- 45 FINISHED YARD GRADE
- LOT NUMBER
- UTILITY EASEMENT
- B# SOIL BORINGS
- CULVERT

STORM WATER MANAGEMENT NOTES:

1. SURFACE WATER DRAINAGE AREAS MAY NOT BE FILLED. SURFACE WATER DRAINAGE EASEMENTS SHALL BE MAINTAINED BY THE INDIVIDUAL LOT OWNERS.
2. FINAL GRADE FOR SURFACE WATER DRAINAGE EASEMENTS SHALL BE MAINTAINED.
3. NO STRUCTURE MAY BE PLACED UPON THE SURFACE WATER DRAINAGE EASEMENT AREAS.
4. FENCES INSTALLED WILL NOT RETARD SURFACE WATER DRAINAGE. FENCES MAY BE PLACED IN THE DRAINAGE EASEMENT AREAS BUT ARE PLACED AT THE RISK OF THE OWNER.
5. LANDSCAPING SHALL BE RESTRICTED TO GROUND COVER, SHRUBS AND TREES WHICH WILL NOT RETARD SURFACE WATER DRAINAGE. SHRUBS AND TREES MAY BE PLACED IN THE DRAINAGE EASEMENT AREAS BUT ARE PLACED AT THE RISK OF THE OWNER.
6. IF DRAINAGE EASEMENTS ARE NOT ADEQUATELY MAINTAINED, THE CITY OF OCONOMOWOC MAY LEVY THE COSTS AND EXPENSES OF SUCH INSPECTIONS, MAINTENANCE OR REPAIR RELATED ACTIONS AS A SPECIAL CHARGE AGAINST THE PROPERTY AND COLLECTED AS SUCH IN ACCORDANCE WITH THE PROCEDURES UNDER S. 66.0627 WIS. STATS. OF SUBCH. VI OF CH. 66 WIS. STATS.

BASEMENT RESTRICTION/GROUNDWATER NOTE:
 PER THE CITY'S STORM WATER MANAGEMENT ORDINANCE UNDER "SUBSURFACE DRAINAGE, BASEMENT FLOOR SURFACES SHALL BE BUILT A MINIMUM OF ONE FOOT ABOVE THE SEASONAL HIGH WATER TABLE ELEVATION, AS DOCUMENTED IN THE SUBMITTED SOIL EVALUATIONS, AND SHALL AVOID HYDRIC SOILS AS MUCH AS POSSIBLE.

SOILS TAKEN FROM THE WAUKESHA COUNTY GIS SITE.



DRAWN BY:				
DESIGNER:				
CHECKED BY:				
DESIGN TEAM	NO.	BY	DATE	REVISIONS

SEH
 PHONE: 262.646.6855
 501 MAPLE AVENUE
 DELAFIELD, WI 53018
 www.sehinc.com

PINE RIDGE ESTATES WEST
CITY OF OCONOMOWOC, WI

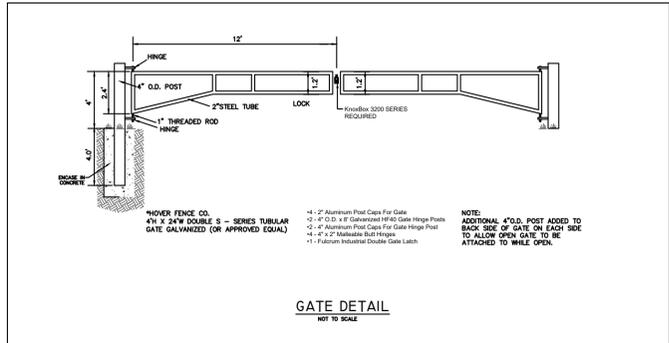
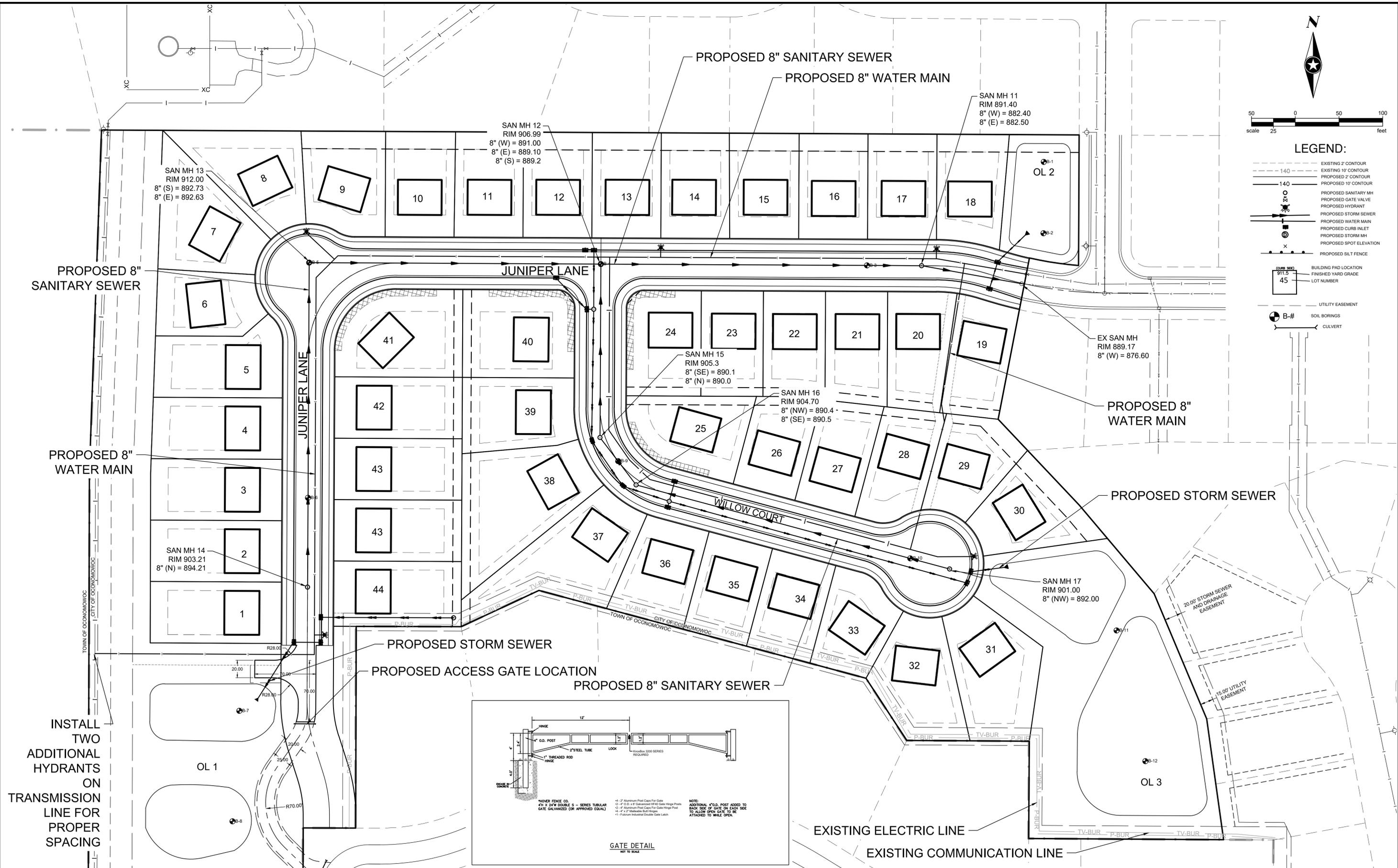
PRELIMINARY GRADING PLAN

FILE NO.	1
NEUMA_152114	
DATE	OF 2
03/04/2020	



LEGEND:

- - - - - EXISTING 2' CONTOUR
- - - - - EXISTING 10' CONTOUR
- - - - - PROPOSED 2' CONTOUR
- - - - - PROPOSED 10' CONTOUR
- SANITARY MH
- GATE VALVE
- HYDRANT
- STORM SEWER
- WATER MAIN
- CURB INLET
- STORM MH
- SPOT ELEVATION
- SILT FENCE
- BUILDING PAD LOCATION
- 45 FINISHED YARD GRADE
- LOT NUMBER
- UTILITY EASEMENT
- B-# SOIL BORINGS
- CULVERT



DRAWN BY: _____
 DESIGNER: _____
 CHECKED BY: _____

NO.	BY	DATE	REVISIONS



PINE RIDGE ESTATES WEST
CITY OF OCONOMOWOC, WI

PRELIMINARY UTILITY PLAN

FILE NO. NEUMA_152114	2
DATE 03/04/2020	OF 2



MEMORANDUM

DEPARTMENT

Date: April 30, 2020

To: Mayor Magnus, City Council, and Sarah Kitsembel, City Administrator

From: Laurie Sullivan, Finance Director

Re: Resolution Authorizing the Issuance and Sale of \$9,755,000 GO Promissory Notes

RELATES TO THE STRATEGIC PLAN

Strategic Goal-NA

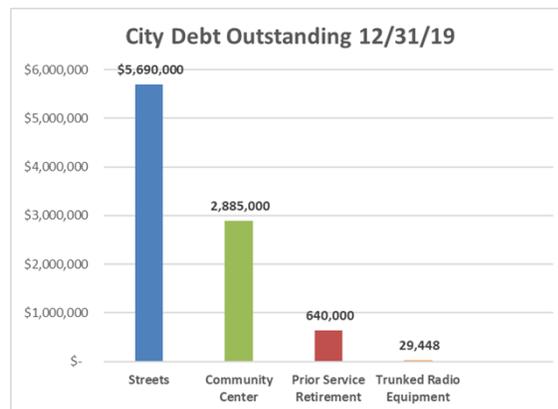
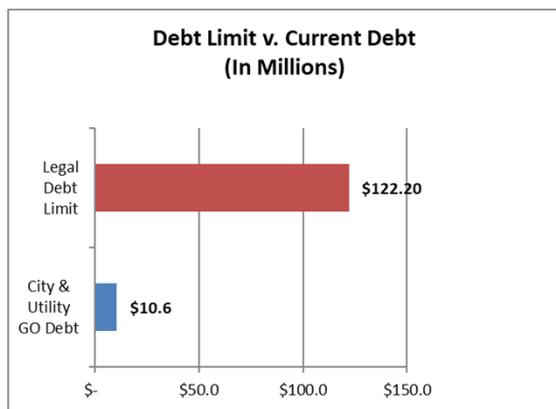
BACKGROUND

In 2019 the City delayed long term financing of the 2019 and 2020 Capital projects until all of the decisions were in place regarding the Public Safety Facility financing.

On March 5, as we prepared to Long Term Finance our 2019 and 2020 Capital projects the Committee of the Whole looked at several factors including our Current Debt Status, our financing needs, and our financing structure goals. The following is a recap of the City's current Debt status.

City of Oconomowoc Current Debt Status:

State Law limits a Municipalities borrowing to 5% of its Equalized Value. Currently the City's Debt Limit is \$122,190,795, the City is currently using \$10,624,448 or 8.7% of its Capacity. This leaves \$111,566,347 of capacity available.



ADDITIONAL ANALYSIS

At the Committee of the Whole meeting the Council reviewed the Capital financing needs. The Committee also recommended that we include the 2021 Thackeray Trail Reconstruction Project in the 2020 borrowing. This

decision will reduce issuance costs and also take advantage of the low interest rate environment that we are currently experiencing this included:

\$9,755,000 2020 General Obligation Promissory Notes to Finance:

Capital Projects

- Amount needed to finance street projects in 2019 totals \$1,000,000
- Amount needed to finance Police Dispatch equipment in 2020 is \$220,000
- Amount needed to finance Street/Storm Water/Park projects in 2020 totals \$2,150,000
- Amount needed to finance street projects in 2021 totals \$3,960,000
 - **Total 2020 General Fund-10 years \$7,330,000**

Water Projects *Water projects will be paid from the Water Fund

- Amount needed to finance Water projects in 2020 totals \$1,175,000
- Amount needed to finance Water projects in 2021 totals \$1,250,000
 - **Total 2020 Water Projects-10 years \$2,425,000**

FINANCIAL IMPACT

2020 Debt Financing Goals:

When structuring the payment schedules of the City’s Debt we look to:

- Structure the street portion of the financing so there is a minimal increase in the tax levy for debt service
- Leave room in future years to allow for additional debt with minimal impact in the levy
- Structure the Police Station Project portion over a 20-year term given the long useful life of the Project
- Complete the financing as soon as possible to take advantage of the current low interest rate environment

The City’s Financial Advisor, Jim Miller of Hutchinson, Shockey, Erley & Co attended the Committee of the Whole meeting and reviewed the different financing structures available to the City.

The two most common bond payment options are:

- 1) Structured for Level Debt Service, spreading the payments equally over the life of the loan
- 2) Structured to minimize the impact on the tax levy, structuring around the existing debt levy.

This chart shows the City’s existing debt and its structure:

	Total Principal (1)	Total Interest ⁽¹⁾	Total Debt Service
2020	\$ 1,599,816.00	283,993	1,883,809
2021	\$ 1,684,816.00	241,861	1,926,677
2022	\$ 1,729,816.00	196,363	1,926,179
2023	\$ 1,305,000.00	153,012	1,458,012
2024	\$ 1,210,000.00	113,600	1,323,600
2025	\$ 585,000.00	84,859	669,859
2026	\$ 625,000.00	64,681	689,681
2027	\$ 520,000.00	46,469	566,469
2028	\$ 560,000.00	30,900	590,900
2029	\$ 260,000.00	19,244	279,244
2030	\$ 270,000.00	11,787	281,787
2031	\$ 275,000.00	3953	278953
	\$ 10,624,448.00	\$1,250,722	\$11,875,170

RECOMMENDATION

The Committee of the Whole recommended structuring the 2020 debt to wrap around the existing debt and minimize the impact on the tax levy.

The City's bids for this bond are due on Tuesday, May 5th. Our Financial Advisor, Jim Miller will present the results at the May 5th Council meeting.

Staff recommends authorizing the Notes be sold to the low bidder as presented

SUGGESTED MOTION

Motion to Approve Resolution 20-R2874 authorizing the Sale of the Notes to the low bidder.

RESOLUTION NO. 20-R-2874

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE
OF \$9,755,000 GENERAL OBLIGATION PROMISSORY
NOTES, SERIES 2020A

WHEREAS, the Common Council hereby finds and determines that it is necessary, desirable and in the best interest of the City of Oconomowoc, Waukesha County, Wisconsin (the "City") to raise funds for public purposes, including paying the cost of street improvement projects, storm water projects, park projects, water projects and acquisition of police dispatch equipment (the "Project");

WHEREAS, the Common Council hereby finds and determines that the Project is within the City's power to undertake and therefore serves a "public purpose" as that term is defined in Section 67.04(1)(b), Wisconsin Statutes;

WHEREAS, the City is authorized by the provisions of Section 67.12(12), Wisconsin Statutes, to borrow money and issue general obligation promissory notes for such public purposes;

WHEREAS, the City has directed Huntington Securities, Inc. dba Huntington Capital Markets ("HSI") to take the steps necessary to sell its general obligation promissory notes (the "Notes") to pay the cost of the Project;

WHEREAS, HSI, in consultation with the officials of the City, prepared an Official Notice of Sale (a copy of which is attached hereto as Exhibit A and incorporated herein by this reference) setting forth the details of and the bid requirements for the Notes and indicating that the Notes would be offered for public sale on May 5, 2020;

WHEREAS, the City Clerk (in consultation with HSI) caused notice of the sale of the Notes to be published and/or announced and caused the Official Notice of Sale to be distributed to potential bidders offering the Notes for public sale;

WHEREAS, the City has duly received bids for the Notes as described on the Bid Tabulation attached hereto as Exhibit B and incorporated herein by this reference (the "Bid Tabulation"); and

WHEREAS, it has been determined that the bid proposal (the "Proposal") submitted by the financial institution listed first on the Bid Tabulation fully complies with the bid requirements set forth in the Official Notice of Sale and is deemed to be the most advantageous to the City. HSI has recommended that the City accept the Proposal. A copy of said Proposal submitted by such institution (the "Purchaser") is attached hereto as Exhibit C and incorporated herein by this reference.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City that:

Section 1. Ratification of the Official Notice of Sale and Offering Materials. The Common Council hereby ratifies and approves the details of the Notes set forth in Exhibit A attached hereto as and for the details of the Notes. The Official Notice of Sale and any other offering materials prepared and circulated by HSI are hereby ratified and approved in all respects. All actions taken by officers of the City and HSI in connection with the preparation and distribution of the Official Notice of Sale and any other offering materials are hereby ratified and approved in all respects.

Section 1A. Authorization and Award of the Notes. For the purpose of paying the cost of the Project, there shall be borrowed pursuant to Section 67.12(12), Wisconsin Statutes, the principal sum of NINE MILLION SEVEN HUNDRED FIFTY-FIVE THOUSAND DOLLARS (\$9,755,000) from the Purchaser in accordance with the terms and conditions of the Proposal. The Proposal of the Purchaser offering to purchase the Notes for the sum set forth on the Proposal, plus accrued interest to the date of delivery, is hereby accepted. The Mayor and City Clerk or other appropriate officers of the City are authorized and directed to execute an acceptance of the Proposal on behalf of the City. The good faith deposit of the Purchaser shall be applied in accordance with the Official Notice of Sale, and any good faith deposits submitted by unsuccessful bidders shall be promptly returned. The Notes shall bear interest at the rates set forth on the Proposal.

Section 2. Terms of the Notes. The Notes shall be designated "General Obligation Promissory Notes, Series 2020A"; shall be issued in the aggregate principal amount of \$9,755,000; shall be dated May 19, 2020; shall be in the denomination of \$5,000 or any integral multiple thereof; shall be numbered R-1 and upward; and shall bear interest at the rates per annum and mature on April 1 of each year, in the years and principal amounts as set forth on the Pricing Summary attached hereto as Exhibit D-1 and incorporated herein by this reference. Interest shall be payable semi-annually on April 1 and October 1 of each year commencing on April 1, 2021. Interest shall be computed upon the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The schedule of principal and interest payments due on the Notes is set forth on the Debt Service Schedule attached hereto as Exhibit D-2 and incorporated herein by this reference (the "Schedule").

Section 3. Redemption Provisions. The Notes maturing on April 1, 2029 and thereafter are subject to redemption prior to maturity, at the option of the City, on April 1, 2028 or on any date thereafter. Said Notes are redeemable as a whole or in part, and if in part, from maturities selected by the City, and within each maturity by lot, at the principal amount thereof, plus accrued interest to the date of redemption.

If the Proposal specifies that any of the Notes are subject to mandatory redemption, the terms of such mandatory redemption shall be set forth on an attachment hereto as Exhibit MRP and incorporated herein by this reference. Upon the optional redemption of any of the Notes subject to mandatory redemption, the principal amount of such Notes so redeemed shall be credited against the mandatory redemption payments established in Exhibit MRP for such Notes in such manner as the City shall direct.

Section 4. Form of the Notes. The Notes shall be issued in registered form and shall be executed and delivered in substantially the form attached hereto as Exhibit E and incorporated herein by this reference.

Section 5. Tax Provisions.

(A) Direct Annual Irrepealable Tax Levy. For the purpose of paying the principal of and interest on the Notes as the same becomes due, the full faith, credit and resources of the City are hereby irrevocably pledged, and there is hereby levied upon all of the taxable property of the City a direct annual irrepealable tax in the years 2020 through 2029 for the payments due in the years 2021 through 2030 in the amounts set forth on the Schedule.

(B) Tax Collection. So long as any part of the principal of or interest on the Notes remains unpaid, the City shall be and continue without power to repeal such levy or obstruct the collection of said tax until all such payments have been made or provided for. After the issuance of the Notes, said tax shall be, from year to year, carried onto the tax roll of the City and collected in addition to all other taxes and in the same manner and at the same time as other taxes of the City for said years are collected, except that the amount of tax carried onto the tax roll may be reduced in any year by the amount of any surplus money in the Debt Service Fund Account created below.

(C) Additional Funds. If at any time there shall be on hand insufficient funds from the aforesaid tax levy to meet principal and/or interest payments on said Notes when due, the requisite amounts shall be paid from other funds of the City then available, which sums shall be replaced upon the collection of the taxes herein levied.

Section 6. Segregated Debt Service Fund Account.

(A) Creation and Deposits. There be and there hereby is established in the treasury of the City, if one has not already been created, a debt service fund, separate and distinct from every other fund, which shall be maintained in accordance with generally accepted accounting principles. Debt service or sinking funds established for obligations previously issued by the City may be considered as separate and distinct accounts within the debt service fund.

Within the debt service fund, there hereby is established a separate and distinct account designated as the "Debt Service Fund Account for General Obligation Promissory Notes, Series 2020A" (the "Debt Service Fund Account") and such account shall be maintained until the indebtedness evidenced by the Notes is fully paid or otherwise extinguished. There shall be deposited into the Debt Service Fund Account (i) all accrued interest received by the City at the time of delivery of and payment for the Notes; (ii) any premium which may be received by the City above the par value of the Notes and accrued interest thereon; (iii) all money raised by the taxes herein levied and any amounts appropriated for the specific purpose of meeting principal of and interest on the Notes when due; (iv) such other sums as may be necessary at any time to pay principal of and interest on the Notes when due; (v) surplus monies in the Borrowed Money Fund as specified below; and (vi) such further deposits as may be required by Section 67.11, Wisconsin Statutes.

(B) Use and Investment. No money shall be withdrawn from the Debt Service Fund Account and appropriated for any purpose other than the payment of principal of and interest on the Notes until all such principal and interest has been paid in full and the Notes canceled; provided (i) the funds to provide for each payment of principal of and interest on the Notes prior to the scheduled receipt of taxes from the next succeeding tax collection may be invested in direct obligations of the United States of America maturing in time to make such payments when they are due or in other investments permitted by law; and (ii) any funds over and above the amount of such principal and interest payments on the Notes may be used to reduce the next succeeding tax levy, or may, at the option of the City, be invested by purchasing the Notes as permitted by and subject to Section 67.11(2)(a), Wisconsin Statutes, or in permitted municipal investments under the pertinent provisions of the Wisconsin Statutes ("Permitted Investments"), which investments shall continue to be a part of the Debt Service Fund Account. Any investment of the Debt Service Fund Account shall at all times conform with the provisions of the Internal Revenue Code of 1986, as amended (the "Code") and any applicable Treasury Regulations (the "Regulations").

(C) Remaining Monies. When all of the Notes have been paid in full and canceled, and all Permitted Investments disposed of, any money remaining in the Debt Service Fund Account shall be transferred and deposited in the general fund of the City, unless the Common Council directs otherwise.

Section 7. Proceeds of the Notes; Segregated Borrowed Money Fund. The proceeds of the Notes (the "Note Proceeds") (other than any premium and accrued interest which must be paid at the time of the delivery of the Notes into the Debt Service Fund Account created above) shall be deposited into a special fund (the "Borrowed Money Fund") separate and distinct from all other funds of the City and disbursed solely for the purpose or purposes for which borrowed. Monies in the Borrowed Money Fund may be temporarily invested in Permitted Investments. Any monies, including any income from Permitted Investments, remaining in the Borrowed Money Fund after the purpose or purposes for which the Notes have been issued have been accomplished, and, at any time, any monies as are not needed and which obviously thereafter cannot be needed for such purpose(s) shall be deposited in the Debt Service Fund Account.

Section 8. No Arbitrage. All investments made pursuant to this Resolution shall be Permitted Investments, but no such investment shall be made in such a manner as would cause the Notes to be "arbitrage bonds" within the meaning of Section 148 of the Code or the Regulations and an officer of the City, charged with the responsibility for issuing the Notes, shall certify as to facts, estimates, circumstances and reasonable expectations in existence on the date of delivery of the Notes to the Purchaser which will permit the conclusion that the Notes are not "arbitrage bonds," within the meaning of the Code or Regulations.

Section 9. Compliance with Federal Tax Laws. (a) The City represents and covenants that the projects financed by the Notes and the ownership, management and use of the projects will not cause the Notes to be "private activity bonds" within the meaning of Section 141 of the Code. The City further covenants that it shall comply with the provisions of the Code to the extent necessary to maintain the tax-exempt status of the interest on the Notes including, if applicable, the rebate requirements of Section 148(f) of the Code. The City further covenants

that it will not take any action, omit to take any action or permit the taking or omission of any action within its control (including, without limitation, making or permitting any use of the proceeds of the Notes) if taking, permitting or omitting to take such action would cause any of the Notes to be an arbitrage bond or a private activity bond within the meaning of the Code or would otherwise cause interest on the Notes to be included in the gross income of the recipients thereof for federal income tax purposes. The City Clerk or other officer of the City charged with the responsibility of issuing the Notes shall provide an appropriate certificate of the City certifying that the City can and covenanting that it will comply with the provisions of the Code and Regulations.

(b) The City also covenants to use its best efforts to meet the requirements and restrictions of any different or additional federal legislation which may be made applicable to the Notes provided that in meeting such requirements the City will do so only to the extent consistent with the proceedings authorizing the Notes and the laws of the State of Wisconsin and to the extent that there is a reasonable period of time in which to comply.

Section 10. Execution of the Notes; Closing; Professional Services. The Notes shall be issued in printed form, executed on behalf of the City by the manual or facsimile signatures of the Mayor and City Clerk, authenticated, if required, by the Fiscal Agent (defined below), sealed with its official or corporate seal, if any, or a facsimile thereof, and delivered to the Purchaser upon payment to the City of the purchase price thereof, plus accrued interest to the date of delivery (the "Closing"). The facsimile signature of either of the officers executing the Notes may be imprinted on the Notes in lieu of the manual signature of the officer but, unless the City has contracted with a fiscal agent to authenticate the Notes, at least one of the signatures appearing on each Note shall be a manual signature. In the event that either of the officers whose signatures appear on the Notes shall cease to be such officers before the Closing, such signatures shall, nevertheless, be valid and sufficient for all purposes to the same extent as if they had remained in office until the Closing. The aforesaid officers are hereby authorized and directed to do all acts and execute and deliver the Notes and all such documents, certificates and acknowledgements as may be necessary and convenient to effectuate the Closing. The City hereby authorizes the officers and agents of the City to enter into, on its behalf, agreements and contracts in conjunction with the Notes, including but not limited to agreements and contracts for legal, trust, fiscal agency, disclosure and continuing disclosure, and rebate calculation services. Any such contract heretofore entered into in conjunction with the issuance of the Notes is hereby ratified and approved in all respects.

Section 11. Payment of the Notes; Fiscal Agent. The principal of and interest on the Notes shall be paid by the City Clerk or the City Treasurer (the "Fiscal Agent").

Section 12. Persons Treated as Owners; Transfer of Notes. The City shall cause books for the registration and for the transfer of the Notes to be kept by the Fiscal Agent. The person in whose name any Note shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of either principal or interest on any Note shall be made only to the registered owner thereof. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Note to the extent of the sum or sums so paid.

Any Note may be transferred by the registered owner thereof by surrender of the Note at the office of the Fiscal Agent, duly endorsed for the transfer or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing. Upon such transfer, the Mayor and City Clerk shall execute and deliver in the name of the transferee or transferees a new Note or Notes of a like aggregate principal amount, series and maturity and the Fiscal Agent shall record the name of each transferee in the registration book. No registration shall be made to bearer. The Fiscal Agent shall cancel any Note surrendered for transfer.

The City shall cooperate in any such transfer, and the Mayor and City Clerk are authorized to execute any new Note or Notes necessary to effect any such transfer.

Section 13. Record Date. The 15th day of the calendar month next preceding each interest payment date shall be the record date for the Notes (the "Record Date"). Payment of interest on the Notes on any interest payment date shall be made to the registered owners of the Notes as they appear on the registration book of the City at the close of business on the Record Date.

Section 14. Utilization of The Depository Trust Company Book-Entry-Only System. In order to make the Notes eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City agrees to the applicable provisions set forth in the Blanket Issuer Letter of Representations, which the City Clerk or other authorized representative of the City is authorized and directed to execute and deliver to DTC on behalf of the City to the extent an effective Blanket Issuer Letter of Representations is not presently on file in the City Clerk's office.

Section 15. Official Statement. The Common Council hereby approves the Preliminary Official Statement with respect to the Notes and deems the Preliminary Official Statement as "final" as of its date for purposes of SEC Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934 (the "Rule"). All actions taken by officers of the City in connection with the preparation of such Preliminary Official Statement and any addenda to it or final Official Statement are hereby ratified and approved. In connection with the Closing, the appropriate City official shall certify the Preliminary Official Statement and any addenda or final Official Statement. The City Clerk shall cause copies of the Preliminary Official Statement and any addenda or final Official Statement to be distributed to the Purchaser.

Section 16. Undertaking to Provide Continuing Disclosure. The City hereby covenants and agrees, for the benefit of the owners of the Notes, to enter into a written undertaking (the "Undertaking") if required by the Rule to provide continuing disclosure of certain financial information and operating data and timely notices of the occurrence of certain events in accordance with the Rule. The Undertaking shall be enforceable by the owners of the Notes or by the Purchaser on behalf of such owners (provided that the rights of the owners and the Purchaser to enforce the Undertaking shall be limited to a right to obtain specific performance of the obligations thereunder and any failure by the City to comply with the provisions of the Undertaking shall not be an event of default with respect to the Notes).

To the extent required under the Rule, the Mayor and City Clerk, or other officer of the City charged with the responsibility for issuing the Notes, shall provide a Continuing Disclosure Certificate for inclusion in the transcript of proceedings, setting forth the details and terms of the City's Undertaking.

Section 17. Record Book. The City Clerk shall provide and keep the transcript of proceedings as a separate record book (the "Record Book") and shall record a full and correct statement of every step or proceeding had or taken in the course of authorizing and issuing the Notes in the Record Book.

Section 18. Bond Insurance. If the Purchaser determines to obtain municipal bond insurance with respect to the Notes, the officers of the City are authorized to take all actions necessary to obtain such municipal bond insurance. The Mayor and City Clerk are authorized to agree to such additional provisions as the bond insurer may reasonably request and which are acceptable to the Mayor and City Clerk including provisions regarding restrictions on investment of Note proceeds, the payment procedure under the municipal bond insurance policy, the rights of the bond insurer in the event of default and payment of the Notes by the bond insurer and notices to be given to the bond insurer. In addition, any reference required by the bond insurer to the municipal bond insurance policy shall be made in the form of Note provided herein.

Section 19. Conflicting Resolutions; Severability; Effective Date. All prior resolutions, rules or other actions of the Common Council or any parts thereof in conflict with the provisions hereof shall be, and the same are, hereby rescinded insofar as the same may so conflict. In the event that any one or more provisions hereof shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions hereof. The foregoing shall take effect immediately upon adoption and approval in the manner provided by law.

Adopted, approved and recorded May 5, 2020.

Robert P. Magnus
Mayor

ATTEST:

Diane Coenen
City Clerk

(SEAL)

EXHIBIT A

Official Notice of Sale

To be provided by Huntington Securities, Inc. dba Huntington Capital Markets and incorporated into the Resolution.

(See Attached)

EXHIBIT B

Bid Tabulation

To be provided by Huntington Securities, Inc. dba Huntington Capital Markets and incorporated into the Resolution.

(See Attached)

EXHIBIT C

Winning Bid

To be provided by Huntington Securities, Inc. dba Huntington Capital Markets and incorporated into the Resolution.

(See Attached)

EXHIBIT D-1

Pricing Summary

To be provided by Huntington Securities, Inc. dba Huntington Capital Markets and incorporated into the Resolution.

(See Attached)

EXHIBIT D-2

Debt Service Schedule and Irrepealable Tax Levies

To be provided by Huntington Securities, Inc. dba Huntington Capital Markets and incorporated into the Resolution.

(See Attached)

[EXHIBIT MRP

Mandatory Redemption Provision

The Notes due on April 1, ____, ____, and ____ (the "Term Bonds") are subject to mandatory redemption prior to maturity by lot (as selected by the Depository) at a redemption price equal to One Hundred Percent (100%) of the principal amount to be redeemed plus accrued interest to the date of redemption, from debt service fund deposits which are required to be made in amounts sufficient to redeem on April 1 of each year the respective amount of Term Bonds specified below:

For the Term Bonds Maturing on April 1, ____

<u>Redemption Date</u>	<u>Amount</u>
____	\$ ____
____	____
____	____ (maturity)

For the Term Bonds Maturing on April 1, ____

<u>Redemption Date</u>	<u>Amount</u>
____	\$ ____
____	____
____	____ (maturity)

For the Term Bonds Maturing on April 1, ____

<u>Redemption Date</u>	<u>Amount</u>
____	\$ ____
____	____
____	____ (maturity)

For the Term Bonds Maturing on April 1, ____

<u>Redemption Date</u>	<u>Amount</u>
____	\$ ____
____	____
____	____ (maturity)]

EXHIBIT E

(Form of Note)

REGISTERED UNITED STATES OF AMERICA DOLLARS
STATE OF WISCONSIN
WAUKESHA COUNTY
NO. R- _____ CITY OF OCONOMOWOC \$ _____
GENERAL OBLIGATION PROMISSORY NOTE, SERIES 2020A

MATURITY DATE: ORIGINAL DATE OF ISSUE: INTEREST RATE: CUSIP:
April 1, _____ May 19, 2020 _____% _____

DEPOSITORY OR ITS NOMINEE NAME: CEDE & CO.

PRINCIPAL AMOUNT: _____ THOUSAND DOLLARS
(\$ _____)

FOR VALUE RECEIVED, the City of Oconomowoc, Waukesha County, Wisconsin (the "City"), hereby acknowledges itself to owe and promises to pay to the Depository or its Nominee Name (the "Depository") identified above (or to registered assigns), on the maturity date identified above, the principal amount identified above, and to pay interest thereon at the rate of interest per annum identified above, all subject to the provisions set forth herein regarding redemption prior to maturity. Interest shall be payable semi-annually on April 1 and October 1 of each year commencing on April 1, 2021 until the aforesaid principal amount is paid in full. Both the principal of and interest on this Note are payable to the registered owner in lawful money of the United States. Interest payable on any interest payment date shall be paid by wire transfer to the Depository in whose name this Note is registered on the Bond Register maintained by the City Clerk or City Treasurer (the "Fiscal Agent") or any successor thereto at the close of business on the 15th day of the calendar month next preceding each interest payment date (the "Record Date"). This Note is payable as to principal upon presentation and surrender hereof at the office of the Fiscal Agent.

For the prompt payment of this Note together with interest hereon as aforesaid and for the levy of taxes sufficient for that purpose, the full faith, credit and resources of the City are hereby irrevocably pledged.

This Note is one of an issue of Notes aggregating the principal amount of \$9,755,000, all of which are of like tenor, except as to denomination, interest rate, maturity date and redemption provision, issued by the City pursuant to the provisions of Section 67.12(12), Wisconsin Statutes, for the public purpose of paying the cost of street improvement projects, storm water projects, park projects, water projects and acquisition of police dispatch equipment, as authorized by a resolution adopted on May 5, 2020. Said resolution is recorded in the official minutes of the Common Council for said date.

The Notes maturing on April 1, 2029 and thereafter are subject to redemption prior to maturity, at the option of the City, on April 1, 2028 or on any date thereafter. Said Notes are redeemable as a whole or in part, and if in part, from maturities selected by the City, and within each maturity by lot (as selected by the Depository), at the principal amount thereof, plus accrued interest to the date of redemption.

【The Notes maturing in the years _____ are subject to mandatory redemption by lot as provided in the resolution authorizing the issuance and sale of the Notes, at the redemption price of par plus accrued interest to the date of redemption and without premium.】

In the event the Notes are redeemed prior to maturity, as long as the Notes are in book-entry-only form, official notice of the redemption will be given by mailing a notice by registered or certified mail, overnight express delivery, facsimile transmission, electronic transmission or in any other manner required by the Depository, to the Depository not less than thirty (30) days nor more than sixty (60) days prior to the redemption date. If less than all of the Notes of a maturity are to be called for redemption, the Notes of such maturity to be redeemed will be selected by lot. Such notice will include but not be limited to the following: the designation, date and maturities of the Notes called for redemption, CUSIP numbers, and the date of redemption. Any notice provided as described herein shall be conclusively presumed to have been duly given, whether or not the registered owner receives the notice. The Notes shall cease to bear interest on the specified redemption date provided that federal or other immediately available funds sufficient for such redemption are on deposit at the office of the Depository at that time. Upon such deposit of funds for redemption the Notes shall no longer be deemed to be outstanding.

It is hereby certified and recited that all conditions, things and acts required by law to exist or to be done prior to and in connection with the issuance of this Note have been done, have existed and have been performed in due form and time; that the aggregate indebtedness of the City, including this Note and others issued simultaneously herewith, does not exceed any limitation imposed by law or the Constitution of the State of Wisconsin; and that a direct annual irrevocable tax has been levied sufficient to pay this Note, together with the interest thereon, when and as payable.

This Note is transferable only upon the books of the City kept for that purpose at the office of the Fiscal Agent, only in the event that the Depository does not continue to act as depository for the Notes, and the City appoints another depository, upon surrender of the Note to the Fiscal Agent, by the registered owner in person or his duly authorized attorney, together with a written instrument of transfer (which may be endorsed hereon) satisfactory to the Fiscal Agent duly executed by the registered owner or his duly authorized attorney. Thereupon a new fully registered Note in the same aggregate principal amount shall be issued to the new depository in exchange therefor and upon the payment of a charge sufficient to reimburse the City for any tax, fee or other governmental charge required to be paid with respect to such registration. The Fiscal Agent shall not be obliged to make any transfer of the Notes (i) after the Record Date, (ii) during the fifteen (15) calendar days preceding the date of any publication of notice of any proposed redemption of the Notes, or (iii) with respect to any particular Note, after such Note has been called for redemption. The Fiscal Agent and City may treat and consider the Depository in

whose name this Note is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes whatsoever. The Notes are issuable solely as negotiable, fully-registered Notes without coupons in the denomination of \$5,000 or any integral multiple thereof.

No delay or omission on the part of the owner hereof to exercise any right hereunder shall impair such right or be considered as a waiver thereof or as a waiver of or acquiescence in any default hereunder.

IN WITNESS WHEREOF, the City of Oconomowoc, Waukesha County, Wisconsin, by its governing body, has caused this Note to be executed for it and in its name by the manual or facsimile signatures of its duly qualified Mayor and City Clerk; and to be sealed with its official or corporate seal, if any, all as of the original date of issue specified above.

CITY OF OCONOMOWOC
WAUKESHA COUNTY, WISCONSIN

By: _____
Robert P. Magnus
Mayor

(SEAL)

By: _____
Diane Coenen
City Clerk

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

(Name and Address of Assignee)

(Social Security or other Identifying Number of Assignee)

the within Note and all rights thereunder and hereby irrevocably constitutes and appoints _____, Legal Representative, to transfer said Note on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

(e.g. Bank, Trust Company
or Securities Firm)

(Depository or Nominee Name)

NOTICE: This signature must correspond with the name of the Depository or Nominee Name as it appears upon the face of the within Note in every particular, without alteration or enlargement or any change whatever.

(Authorized Officer)



MEMORANDUM

DEPARTMENT

Date: April 30, 2020
 To: Mayor Magnus, City Council and Sarah Kitsembel, City Administrator
 From: Laurie Sullivan
 Re: Resolution Authorizing the Issuance and Sale of \$9,400,000 GO Refunding Bonds

RELATES TO THE STRATEGIC PLAN

Strategic Goal-N/A

BACKGROUND

The Committee of the Whole met on March 5, 2020 to review the Long Term Financing of the City's Short Term notes for the Public Safety Facility.

In December of 2018 the City issued a \$2,200,000 Short Term note to finance the purchase of the property at 630 E Wisconsin Avenue.

In November 2019 the City issued a \$7,200,000 Note Anticipation Note to short term finance the construction of the Public Safety Facility.

ADDITIONAL ANALYSIS

The City's current Debt structure is shown in the following table:

	Total Principal (1)	Total Interest ⁽¹⁾	Total Debt Service
2020	\$ 1,599,816.00	283,993	1,883,809
2021	\$ 1,684,816.00	241,861	1,926,677
2022	\$ 1,729,816.00	196,363	1,926,179
2023	\$ 1,305,000.00	153,012	1,458,012
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2030	\$ 270,000.00	11,787	281,787
2031	\$ 275,000.00	3953	278953
	\$ 10,624,448.00	\$1,250,722	\$11,875,170

The table shows debt payments decreasing starting in 2025 and ending in 2031.

FINANCIAL IMPACT

At the March 5 Committee of the Whole meeting Council members were presented with options to refund the Short Term Financing with a 20 year General Obligation Bond. Council agreed to a structure that wrapped the 2020 Bond payments around existing Debt payments to minimize the impact of the tax levy.

RECOMMENDATION

The Bond sale results will be presented by our Financial Advisor at the May 5th Council meeting. Staff recommends approving the Resolution authorizing the sale to the low bidder.

SUGGESTED MOTION

Motion to approve Resolution 20-R2875 Authorizing the Issuance and Sale of \$9,400,000 GO Refunding Bonds.

RESOLUTION NO. 20-R2875

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE
OF \$9,400,000 GENERAL OBLIGATION REFUNDING
BONDS, SERIES 2020B

WHEREAS, the Common Council hereby finds and determines that it is necessary, desirable and in the best interest of the City of Oconomowoc, Waukesha County, Wisconsin (the "City") to raise funds for the public purpose of refunding obligations of the City, including interest on them, specifically, the General Obligation Promissory Note, dated December 20, 2018, as amended on December 19, 2019 and the General Obligation Promissory Note, dated November 22, 2019 (collectively, the "Refunded Obligations") (hereinafter the refinancing of the Refunded Obligations shall be referred to as the "Refunding");

WHEREAS, the Common Council deems it to be necessary, desirable and in the best interest of the City to refund the Refunded Obligations for the purpose of providing permanent financing for the projects financed by the Refunded Obligations;

WHEREAS, the City is authorized by the provisions of Section 67.04, Wisconsin Statutes, to borrow money and issue general obligation refunding bonds to refinance its outstanding obligations;

WHEREAS, the City has directed Huntington Securities, Inc. dba Huntington Capital Markets ("HSI") to take the steps necessary to sell its general obligation refunding bonds (the "Bonds") to pay the cost of the Refunding;

WHEREAS, HSI, in consultation with the officials of the City, prepared an Official Notice of Sale (a copy of which is attached hereto as Exhibit A and incorporated herein by this reference) setting forth the details of and the bid requirements for the Bonds and indicating that the Bonds would be offered for public sale on May 5, 2020;

WHEREAS, the City Clerk (in consultation with HSI) caused notice of the sale of the Bonds to be published and/or announced and caused the Official Notice of Sale to be distributed to potential bidders offering the Bonds for public sale;

WHEREAS, the City has duly received bids for the Bonds as described on the Bid Tabulation attached hereto as Exhibit B and incorporated herein by this reference (the "Bid Tabulation");

WHEREAS, it has been determined that the bid proposal (the "Proposal") submitted by the financial institution listed first on the Bid Tabulation fully complies with the bid requirements set forth in the Official Notice of Sale and is deemed to be the most advantageous to the City. HSI has recommended that the City accept the Proposal. A copy of said Proposal submitted by such institution (the "Purchaser") is attached hereto as Exhibit C and incorporated herein by this reference; and

WHEREAS, it has been determined to issue the Bonds in the principal amount of \$9,400,000.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City that:

Section 1. Ratification of the Official Notice of Sale and Offering Materials. The Common Council hereby ratifies and approves the details of the Bonds set forth in Exhibit A attached hereto as and for the details of the Bonds. The Official Notice of Sale and any other offering materials prepared and circulated by HSI are hereby ratified and approved in all respects. All actions taken by officers of the City and HSI in connection with the preparation and distribution of the Official Notice of Sale and any other offering materials are hereby ratified and approved in all respects.

Section 1A. Authorization and Award of the Bonds. For the purpose of paying the cost of the Refunding, there shall be borrowed pursuant to Section 67.04, Wisconsin Statutes, the principal sum of NINE MILLION FOUR HUNDRED THOUSAND DOLLARS (\$9,400,000) from the Purchaser in accordance with the terms and conditions of the Proposal. The Proposal of the Purchaser offering to purchase the Bonds for the sum set forth on the Proposal (as modified on the Bid Tabulation and reflected in the Pricing Summary referenced below and incorporated herein), plus accrued interest to the date of delivery, is hereby accepted. The Mayor and City Clerk or other appropriate officers of the City are authorized and directed to execute an acceptance of the Proposal on behalf of the City. The good faith deposit of the Purchaser shall be applied in accordance with the Official Notice of Sale, and any good faith deposits submitted by unsuccessful bidders shall be promptly returned. The Bonds shall bear interest at the rates set forth on the Proposal.

Section 2. Terms of the Bonds. The Bonds shall be designated "General Obligation Refunding Bonds, Series 2020B"; shall be issued in the aggregate principal amount of \$9,400,000; shall be dated May 19, 2020; shall be in the denomination of \$5,000 or any integral multiple thereof; shall be numbered R-1 and upward; and shall bear interest at the rates per annum and mature on April 1 of each year, in the years and principal amounts as set forth on the Pricing Summary attached hereto as Exhibit D-1 and incorporated herein by this reference. Interest shall be payable semi-annually on April 1 and October 1 of each year commencing on April 1, 2021. Interest shall be computed upon the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The schedule of principal and interest payments due on the Bonds is set forth on the Debt Service Schedule attached hereto as Exhibit D-2 and incorporated herein by this reference (the "Schedule").

Section 2A. Designation of Maturities. For purposes of State law, the Bonds are designated as being issued to refund the debts incurred by the City through the issuance of the Refunded Obligations in the order in which those debts were incurred, so that the Bonds of the earliest maturities are considered to have refunded the debts which were incurred first.

Section 3. Redemption Provisions. The Bonds maturing on April 1, 2029 and thereafter are subject to redemption prior to maturity, at the option of the City, on April 1, 2028 or on any date thereafter. Said Bonds are redeemable as a whole or in part, and if in part, from maturities

selected by the City, and within each maturity by lot, at the principal amount thereof, plus accrued interest to the date of redemption.

If the Proposal specifies that any of the Bonds are subject to mandatory redemption, the terms of such mandatory redemption shall be set forth on an attachment hereto as Exhibit MRP and incorporated herein by this reference. Upon the optional redemption of any of the Bonds subject to mandatory redemption, the principal amount of such Bonds so redeemed shall be credited against the mandatory redemption payments established in Exhibit MRP for such Bonds in such manner as the City shall direct.

Section 4. Form of the Bonds. The Bonds shall be issued in registered form and shall be executed and delivered in substantially the form attached hereto as Exhibit E and incorporated herein by this reference.

Section 5. Tax Provisions.

(A) Direct Annual Irrepealable Tax Levy. For the purpose of paying the principal of and interest on the Bonds as the same becomes due, the full faith, credit and resources of the City are hereby irrevocably pledged, and there is hereby levied upon all of the taxable property of the City a direct annual irrepealable tax in the years 2020 through 2038 for the payments due in the years 2021 through 2039 in the amounts set forth on the Schedule.

(B) Tax Collection. So long as any part of the principal of or interest on the Bonds remains unpaid, the City shall be and continue without power to repeal such levy or obstruct the collection of said tax until all such payments have been made or provided for. After the issuance of the Bonds, said tax shall be, from year to year, carried onto the tax roll of the City and collected in addition to all other taxes and in the same manner and at the same time as other taxes of the City for said years are collected, except that the amount of tax carried onto the tax roll may be reduced in any year by the amount of any surplus money in the Debt Service Fund Account created below.

(C) Additional Funds. If at any time there shall be on hand insufficient funds from the aforesaid tax levy to meet principal and/or interest payments on said Bonds when due, the requisite amounts shall be paid from other funds of the City then available, which sums shall be replaced upon the collection of the taxes herein levied.

Section 6. Segregated Debt Service Fund Account.

(A) Creation and Deposits. There be and there hereby is established in the treasury of the City, if one has not already been created, a debt service fund, separate and distinct from every other fund, which shall be maintained in accordance with generally accepted accounting principles. Debt service or sinking funds established for obligations previously issued by the City may be considered as separate and distinct accounts within the debt service fund.

Within the debt service fund, there hereby is established a separate and distinct account designated as the "Debt Service Fund Account for General Obligation Refunding Bonds, Series

2020B" (the "Debt Service Fund Account") and such account shall be maintained until the indebtedness evidenced by the Bonds is fully paid or otherwise extinguished. There shall be deposited into the Debt Service Fund Account (i) all accrued interest received by the City at the time of delivery of and payment for the Bonds; (ii) any premium not used for the Refunding which may be received by the City above the par value of the Bonds and accrued interest thereon; (iii) all money raised by the taxes herein levied and any amounts appropriated for the specific purpose of meeting principal of and interest on the Bonds when due; (iv) such other sums as may be necessary at any time to pay principal of and interest on the Bonds when due; (v) surplus monies in the Borrowed Money Fund as specified below; and (vi) such further deposits as may be required by Section 67.11, Wisconsin Statutes.

(B) Use and Investment. No money shall be withdrawn from the Debt Service Fund Account and appropriated for any purpose other than the payment of principal of and interest on the Bonds until all such principal and interest has been paid in full and the Bonds canceled; provided (i) the funds to provide for each payment of principal of and interest on the Bonds prior to the scheduled receipt of taxes from the next succeeding tax collection may be invested in direct obligations of the United States of America maturing in time to make such payments when they are due or in other investments permitted by law; and (ii) any funds over and above the amount of such principal and interest payments on the Bonds may be used to reduce the next succeeding tax levy, or may, at the option of the City, be invested by purchasing the Bonds as permitted by and subject to Section 67.11(2)(a), Wisconsin Statutes, or in permitted municipal investments under the pertinent provisions of the Wisconsin Statutes ("Permitted Investments"), which investments shall continue to be a part of the Debt Service Fund Account. Any investment of the Debt Service Fund Account shall at all times conform with the provisions of the Internal Revenue Code of 1986, as amended (the "Code") and any applicable Treasury Regulations (the "Regulations").

(C) Remaining Monies. When all of the Bonds have been paid in full and canceled, and all Permitted Investments disposed of, any money remaining in the Debt Service Fund Account shall be transferred and deposited in the general fund of the City, unless the Common Council directs otherwise.

Section 7. Proceeds of the Bonds; Segregated Borrowed Money Fund. The proceeds of the Bonds (the "Bond Proceeds") (other than any premium not used for the Refunding and accrued interest which must be paid at the time of the delivery of the Bonds into the Debt Service Fund Account created above) shall be deposited into a special fund (the "Borrowed Money Fund") separate and distinct from all other funds of the City and disbursed solely for the purpose or purposes for which borrowed. Monies in the Borrowed Money Fund may be temporarily invested in Permitted Investments. Any monies, including any income from Permitted Investments, remaining in the Borrowed Money Fund after the purpose or purposes for which the Bonds have been issued have been accomplished, and, at any time, any monies as are not needed and which obviously thereafter cannot be needed for such purpose(s) shall be deposited in the Debt Service Fund Account.

Section 8. No Arbitrage. All investments made pursuant to this Resolution shall be Permitted Investments, but no such investment shall be made in such a manner as would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code or the

Regulations and an officer of the City, charged with the responsibility for issuing the Bonds, shall certify as to facts, estimates, circumstances and reasonable expectations in existence on the date of delivery of the Bonds to the Purchaser which will permit the conclusion that the Bonds are not "arbitrage bonds," within the meaning of the Code or Regulations.

Section 9. Compliance with Federal Tax Laws. (a) The City represents and covenants that the projects financed by the Bonds and by the Refunded Obligations and the ownership, management and use of the projects will not cause the Bonds or the Refunded Obligations to be "private activity bonds" within the meaning of Section 141 of the Code. The City further covenants that it shall comply with the provisions of the Code to the extent necessary to maintain the tax-exempt status of the interest on the Bonds including, if applicable, the rebate requirements of Section 148(f) of the Code. The City further covenants that it will not take any action, omit to take any action or permit the taking or omission of any action within its control (including, without limitation, making or permitting any use of the proceeds of the Bonds) if taking, permitting or omitting to take such action would cause any of the Bonds to be an arbitrage bond or a private activity bond within the meaning of the Code or would otherwise cause interest on the Bonds to be included in the gross income of the recipients thereof for federal income tax purposes. The City Clerk or other officer of the City charged with the responsibility of issuing the Bonds shall provide an appropriate certificate of the City certifying that the City can and covenanting that it will comply with the provisions of the Code and Regulations.

(b) The City also covenants to use its best efforts to meet the requirements and restrictions of any different or additional federal legislation which may be made applicable to the Bonds provided that in meeting such requirements the City will do so only to the extent consistent with the proceedings authorizing the Bonds and the laws of the State of Wisconsin and to the extent that there is a reasonable period of time in which to comply.

Section 10. Execution of the Bonds; Closing; Professional Services. The Bonds shall be issued in printed form, executed on behalf of the City by the manual or facsimile signatures of the Mayor and City Clerk, authenticated, if required, by the Fiscal Agent (defined below), sealed with its official or corporate seal, if any, or a facsimile thereof, and delivered to the Purchaser upon payment to the City of the purchase price thereof, plus accrued interest to the date of delivery (the "Closing"). The facsimile signature of either of the officers executing the Bonds may be imprinted on the Bonds in lieu of the manual signature of the officer but, unless the City has contracted with a fiscal agent to authenticate the Bonds, at least one of the signatures appearing on each Bond shall be a manual signature. In the event that either of the officers whose signatures appear on the Bonds shall cease to be such officers before the Closing, such signatures shall, nevertheless, be valid and sufficient for all purposes to the same extent as if they had remained in office until the Closing. The aforesaid officers are hereby authorized and directed to do all acts and execute and deliver the Bonds and all such documents, certificates and acknowledgements as may be necessary and convenient to effectuate the Closing. The City hereby authorizes the officers and agents of the City to enter into, on its behalf, agreements and contracts in conjunction with the Bonds, including but not limited to agreements and contracts for legal, trust, fiscal agency, disclosure and continuing disclosure, and rebate calculation services. Any such contract heretofore entered into in conjunction with the issuance of the Bonds is hereby ratified and approved in all respects.

Section 11. Payment of the Bonds; Fiscal Agent. The principal of and interest on the Bonds shall be paid by the City Clerk or the City Treasurer (the "Fiscal Agent").

Section 12. Persons Treated as Owners; Transfer of Bonds. The City shall cause books for the registration and for the transfer of the Bonds to be kept by the Fiscal Agent. The person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of either principal or interest on any Bond shall be made only to the registered owner thereof. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

Any Bond may be transferred by the registered owner thereof by surrender of the Bond at the office of the Fiscal Agent, duly endorsed for the transfer or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing. Upon such transfer, the Mayor and City Clerk shall execute and deliver in the name of the transferee or transferees a new Bond or Bonds of a like aggregate principal amount, series and maturity and the Fiscal Agent shall record the name of each transferee in the registration book. No registration shall be made to bearer. The Fiscal Agent shall cancel any Bond surrendered for transfer.

The City shall cooperate in any such transfer, and the Mayor and City Clerk are authorized to execute any new Bond or Bonds necessary to effect any such transfer.

Section 13. Record Date. The 15th day of the calendar month next preceding each interest payment date shall be the record date for the Bonds (the "Record Date"). Payment of interest on the Bonds on any interest payment date shall be made to the registered owners of the Bonds as they appear on the registration book of the City at the close of business on the Record Date.

Section 14. Utilization of The Depository Trust Company Book-Entry-Only System. In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City agrees to the applicable provisions set forth in the Blanket Issuer Letter of Representations, which the City Clerk or other authorized representative of the City is authorized and directed to execute and deliver to DTC on behalf of the City to the extent an effective Blanket Issuer Letter of Representations is not presently on file in the City Clerk's office.

Section 15. Official Statement. The Common Council hereby approves the Preliminary Official Statement with respect to the Bonds and deems the Preliminary Official Statement as "final" as of its date for purposes of SEC Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934 (the "Rule"). All actions taken by officers of the City in connection with the preparation of such Preliminary Official Statement and any addenda to it or final Official Statement are hereby ratified and approved. In connection with the Closing, the appropriate City official shall certify the Preliminary Official Statement and any addenda or final Official Statement. The City Clerk shall cause copies of the Preliminary Official Statement and any addenda or final Official Statement to be distributed to the Purchaser.

Section 16. Undertaking to Provide Continuing Disclosure. The City hereby covenants and agrees, for the benefit of the owners of the Bonds, to enter into a written undertaking (the "Undertaking") if required by the Rule to provide continuing disclosure of certain financial information and operating data and timely notices of the occurrence of certain events in accordance with the Rule. The Undertaking shall be enforceable by the owners of the Bonds or by the Purchaser on behalf of such owners (provided that the rights of the owners and the Purchaser to enforce the Undertaking shall be limited to a right to obtain specific performance of the obligations thereunder and any failure by the City to comply with the provisions of the Undertaking shall not be an event of default with respect to the Bonds).

To the extent required under the Rule, the Mayor and City Clerk, or other officer of the City charged with the responsibility for issuing the Bonds, shall provide a Continuing Disclosure Certificate for inclusion in the transcript of proceedings, setting forth the details and terms of the City's Undertaking.

Section 17. Redemption of the Refunded Obligations. The Refunded Obligations are hereby called for prior payment and redemption on May 19, 2020 at a price of par plus accrued interest to the date of redemption.

The City hereby directs the City Clerk to take all actions necessary for the redemption of the Refunded Obligations on their redemption date. Any and all actions heretofore taken by the officers and agents of the City to effectuate such redemption are hereby ratified and approved.

Section 18. Record Book. The City Clerk shall provide and keep the transcript of proceedings as a separate record book (the "Record Book") and shall record a full and correct statement of every step or proceeding had or taken in the course of authorizing and issuing the Bonds in the Record Book.

Section 19. Bond Insurance. If the Purchaser determines to obtain municipal bond insurance with respect to the Bonds, the officers of the City are authorized to take all actions necessary to obtain such municipal bond insurance. The Mayor and City Clerk are authorized to agree to such additional provisions as the bond insurer may reasonably request and which are acceptable to the Mayor and City Clerk including provisions regarding restrictions on investment of Bond proceeds, the payment procedure under the municipal bond insurance policy, the rights of the bond insurer in the event of default and payment of the Bonds by the bond insurer and notices to be given to the bond insurer. In addition, any reference required by the bond insurer to the municipal bond insurance policy shall be made in the form of Bond provided herein.

Section 20. Conflicting Resolutions; Severability; Effective Date. All prior resolutions, rules or other actions of the Common Council or any parts thereof in conflict with the provisions hereof shall be, and the same are, hereby rescinded insofar as the same may so conflict. In the event that any one or more provisions hereof shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions hereof. The foregoing shall take effect immediately upon adoption and approval in the manner provided by law.

Adopted, approved and recorded May 5, 2020.

Robert P. Magnus
Mayor

ATTEST:

Diane Coenen
City Clerk

(SEAL)

EXHIBIT A

Official Notice of Sale

To be provided by Huntington Securities, Inc. dba Huntington Capital Markets and incorporated into the Resolution.

(See Attached)

EXHIBIT B

Bid Tabulation

To be provided by Huntington Securities, Inc. dba Huntington Capital Markets and incorporated into the Resolution.

(See Attached)

EXHIBIT C

Winning Bid

To be provided by Huntington Securities, Inc. dba Huntington Capital Markets and incorporated into the Resolution.

(See Attached)

EXHIBIT D-1

Pricing Summary

To be provided by Huntington Securities, Inc. dba Huntington Capital Markets and incorporated into the Resolution.

(See Attached)

EXHIBIT D-2

Debt Service Schedule and Irrepealable Tax Levies

To be provided by Huntington Securities, Inc. dba Huntington Capital Markets and incorporated into the Resolution.

(See Attached)

[EXHIBIT MRP

Mandatory Redemption Provision

The Bonds due on April 1, _____, _____ and _____ (the "Term Bonds") are subject to mandatory redemption prior to maturity by lot (as selected by the Depository) at a redemption price equal to One Hundred Percent (100%) of the principal amount to be redeemed plus accrued interest to the date of redemption, from debt service fund deposits which are required to be made in amounts sufficient to redeem on April 1 of each year the respective amount of Term Bonds specified below:

For the Term Bonds Maturing on April 1, _____

<u>Redemption Date</u>	<u>Amount</u>
_____	\$ _____
_____	_____
_____	_____ (maturity)

For the Term Bonds Maturing on April 1, _____

<u>Redemption Date</u>	<u>Amount</u>
_____	\$ _____
_____	_____
_____	_____ (maturity)

For the Term Bonds Maturing on April 1, _____

<u>Redemption Date</u>	<u>Amount</u>
_____	\$ _____
_____	_____
_____	_____ (maturity)

For the Term Bonds Maturing on April 1, _____

<u>Redemption Date</u>	<u>Amount</u>
_____	\$ _____
_____	_____
_____	_____ (maturity)]

EXHIBIT E

(Form of Bond)

REGISTERED	UNITED STATES OF AMERICA	DOLLARS
	STATE OF WISCONSIN	
	WAUKESHA COUNTY	
NO. R- _____	CITY OF OCONOMOWOC	\$ _____
	GENERAL OBLIGATION REFUNDING BOND, SERIES 2020B	

MATURITY DATE:	ORIGINAL DATE OF ISSUE:	INTEREST RATE:	CUSIP:
April 1, _____	May 19, 2020	_____%	_____

DEPOSITORY OR ITS NOMINEE NAME: CEDE & CO.

PRINCIPAL AMOUNT: _____ THOUSAND DOLLARS
(\$ _____)

FOR VALUE RECEIVED, the City of Oconomowoc, Waukesha County, Wisconsin (the "City"), hereby acknowledges itself to owe and promises to pay to the Depository or its Nominee Name (the "Depository") identified above (or to registered assigns), on the maturity date identified above, the principal amount identified above, and to pay interest thereon at the rate of interest per annum identified above, all subject to the provisions set forth herein regarding redemption prior to maturity. Interest shall be payable semi-annually on April 1 and October 1 of each year commencing on April 1, 2021 until the aforesaid principal amount is paid in full. Both the principal of and interest on this Bond are payable to the registered owner in lawful money of the United States. Interest payable on any interest payment date shall be paid by wire transfer to the Depository in whose name this Bond is registered on the Bond Register maintained by the City Clerk or City Treasurer (the "Fiscal Agent") or any successor thereto at the close of business on the 15th day of the calendar month next preceding each interest payment date (the "Record Date"). This Bond is payable as to principal upon presentation and surrender hereof at the office of the Fiscal Agent.

For the prompt payment of this Bond together with interest hereon as aforesaid and for the levy of taxes sufficient for that purpose, the full faith, credit and resources of the City are hereby irrevocably pledged.

This Bond is one of an issue of Bonds aggregating the principal amount of \$9,400,000, all of which are of like tenor, except as to denomination, interest rate, maturity date and redemption provision, issued by the City pursuant to the provisions of Section 67.04, Wisconsin Statutes, for the public purpose of refunding certain obligations of the City, as authorized by a resolution adopted on May 5, 2020. Said resolution is recorded in the official minutes of the Common Council for said date.

The Bonds maturing on April 1, 2029 and thereafter are subject to redemption prior to maturity, at the option of the City, on April 1, 2028 or on any date thereafter. Said Bonds are redeemable as a whole or in part, and if in part, from maturities selected by the City, and within each maturity by lot (as selected by the Depository), at the principal amount thereof, plus accrued interest to the date of redemption.

【The Bonds maturing in the years _____ are subject to mandatory redemption by lot as provided in the resolution authorizing the issuance and sale of the Bonds, at the redemption price of par plus accrued interest to the date of redemption and without premium.】

In the event the Bonds are redeemed prior to maturity, as long as the Bonds are in book-entry-only form, official notice of the redemption will be given by mailing a notice by registered or certified mail, overnight express delivery, facsimile transmission, electronic transmission or in any other manner required by the Depository, to the Depository not less than thirty (30) days nor more than sixty (60) days prior to the redemption date. If less than all of the Bonds of a maturity are to be called for redemption, the Bonds of such maturity to be redeemed will be selected by lot. Such notice will include but not be limited to the following: the designation, date and maturities of the Bonds called for redemption, CUSIP numbers, and the date of redemption. Any notice provided as described herein shall be conclusively presumed to have been duly given, whether or not the registered owner receives the notice. The Bonds shall cease to bear interest on the specified redemption date provided that federal or other immediately available funds sufficient for such redemption are on deposit at the office of the Depository at that time. Upon such deposit of funds for redemption the Bonds shall no longer be deemed to be outstanding.

It is hereby certified and recited that all conditions, things and acts required by law to exist or to be done prior to and in connection with the issuance of this Bond have been done, have existed and have been performed in due form and time; that the aggregate indebtedness of the City, including this Bond and others issued simultaneously herewith, does not exceed any limitation imposed by law or the Constitution of the State of Wisconsin; and that a direct annual irrevocable tax has been levied sufficient to pay this Bond, together with the interest thereon, when and as payable.

This Bond is transferable only upon the books of the City kept for that purpose at the office of the Fiscal Agent, only in the event that the Depository does not continue to act as depository for the Bonds, and the City appoints another depository, upon surrender of the Bond to the Fiscal Agent, by the registered owner in person or his duly authorized attorney, together with a written instrument of transfer (which may be endorsed hereon) satisfactory to the Fiscal Agent duly executed by the registered owner or his duly authorized attorney. Thereupon a new fully registered Bond in the same aggregate principal amount shall be issued to the new depository in exchange therefor and upon the payment of a charge sufficient to reimburse the City for any tax, fee or other governmental charge required to be paid with respect to such registration. The Fiscal Agent shall not be obliged to make any transfer of the Bonds (i) after the Record Date, (ii) during the fifteen (15) calendar days preceding the date of any publication of notice of any proposed redemption of the Bonds, or (iii) with respect to any particular Bond, after such Bond has been called for redemption. The Fiscal Agent and City may treat and

consider the Depository in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes whatsoever. The Bonds are issuable solely as negotiable, fully-registered Bonds without coupons in the denomination of \$5,000 or any integral multiple thereof.

No delay or omission on the part of the owner hereof to exercise any right hereunder shall impair such right or be considered as a waiver thereof or as a waiver of or acquiescence in any default hereunder.

IN WITNESS WHEREOF, the City of Oconomowoc, Waukesha County, Wisconsin, by its governing body, has caused this Bond to be executed for it and in its name by the manual or facsimile signatures of its duly qualified Mayor and City Clerk; and to be sealed with its official or corporate seal, if any, all as of the original date of issue specified above.

CITY OF OCONOMOWOC
WAUKESHA COUNTY, WISCONSIN

By: _____
Robert P. Magnus
Mayor

(SEAL)

By: _____
Diane Coenen
City Clerk

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

(Name and Address of Assignee)

(Social Security or other Identifying Number of Assignee)

the within Bond and all rights thereunder and hereby irrevocably constitutes and appoints _____, Legal Representative, to transfer said Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

(e.g. Bank, Trust Company
or Securities Firm)

(Depository or Nominee Name)

NOTICE: This signature must correspond with the name of the Depository or Nominee Name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

(Authorized Officer)



MEMORANDUM

ECONOMIC DEVELOPMENT DEPARTMENT

Date: May 5, 2020

To: Personnel Committee and Council

From: Mayor Bob Magnus
Bob Duffy

Re: Consider, recommend, and approve the creation and hiring of an Economic Development Marketing Intern position

RELATES TO THE STRATEGIC PLAN

Strategic Goal: N/A

BACKGROUND

Due to the recent Coronavirus pandemic and its negative effects on local area businesses, extra staffing support is needed within the Economic Development Department. Currently, the Economic Development Department is minimally staffed (office of one full time employee with ½ part-time support). The addition of an Economic Development Marketing Intern will provide additional support for the Department and be a dedicated resource, assigned to the recovery task force during this pandemic recovery period. As you are aware, the Economic Development Department is the department that works with banks, consultants, associations, and other area development agencies to best match businesses' needs with Oconomowoc's opportunities. The needs of the business community are strong and a marketing intern will help ensure local businesses receive dedicated support during this recovery period.

The Economic Development Marketing intern will report to the Economic Development Director and be working directly with the recovery task force. The internship will be a limited term City position, non-benefited, working less than 1 year, up to 40 hours per week based on need and funding. Funding is to be obtained by outside funding and not funded by City funds. The internship will be paid \$13.25 per hour, the established City intern hourly rate for 2020. The Department will be seeking a senior level student or recent graduate in marketing, public relations, and/or communications with any combination of education and experience to be considered. Below are the primary duties of the Economic Development Marketing Intern (see attached job description).

- 1) Marketing, Public Relations, and Communications
 - a. Provide support to Economic Development Department and the task forces and committees it serves.
 - b. Execute various marketing strategies.
 - c. Work with Economic Development team to manage City image and marketing initiatives.
 - d. Develop and execute marketing campaigns.
 - e. Performs market and client research through various methods including contacting local businesses, vendors, and etc.
 - f. Create reports on marketing performance.
 - g. Maintain schedules for marketing initiatives.
 - h. Assist with social media marketing, website content, and press releases.
 - i. Organize and manage marketing collateral.

- j. Organize and participate in community activities and events; some of which may include evening or weekend time commitment
 - k. Special projects.
- 2) Administrative Support
- a. Performs various administrative tasks.
 - b. Performs other duties as assigned.

If approved, the plan is to hire an intern by mid-June 2020. If the internship is successful and benefits the department and local businesses, the Economic Department will consider hiring interns in future years.

ADDITIONAL ANALYSIS

See attached job description.

See attached resolution.

FINANCIAL IMPACT

The financial impact is \$0 as the internship is contingent and funded by outside sources.

RECOMMENDATION

Recommend the creation and hiring of an Economic Development Marketing Intern position beginning June 2020 to be funded by outside sources.

SUGGESTED MOTION

Move to approve the resolution authorizing the creation and hiring of an Economic Development Marketing Intern beginning June 2020.

RESOLUTION NO. 20-R2876
Authorizing the Hiring of an Economic Development Marketing Intern

WHEREAS, beginning April 2020, additional staffing in the Economic Development Department is needed to assist the department in providing support to local businesses and organization, especially those effected by the Coronavirus pandemic;

WHEREAS, an Economic Development Marketing intern position will be created to fulfill the staffing needs of the Economic Development Department; and

WHEREAS, the position will perform the duties as outlined in the position's established job description; and

WHEREAS, outside funding sources will be obtained to fund the Economic Development Marketing intern position;

NOW THEREFORE BE IT HEREBY RESOLVED, that the City Council authorizes the hiring of a limited term non-benefited Economic Development Marketing Intern position beginning June 2020; and

BE IT FURTHER RESOLVED, that a Budget Amendment is approved to increase the Economic Development Part Time wages Expense (100-509-9100-125) in the amount of \$40,000, and the offsetting revenue Economic Development Donation Revenue (100-408-8501-509) in the amount of \$40,000.

DATED: _____

CITY OF OCONOMOWOC

By: _____

Robert P. Magnus, Mayor

ATTEST:

Diane Coenen, Clerk

CITY OF OCONOMOWOC
JOB DESCRIPTION

DRAFT

ECONOMIC DEVELOPMENT MARKETING INTERN

REPORTS TO: Economic Development Director

POSITION OVERVIEW:

The Economic Development Marketing Intern position is a learning and working opportunity for college students and recent graduates providing municipal economic development experience. Primary duties include marketing, public relations, and community outreach. The position reports to the Economic Development Director and supports related task forces, committees, and special projects. The City will provide intermittent mentoring with area businesses and a marketing firm to enhance the learning experience.

EXAMPLES OF DUTIES:

- 1) Marketing, Public Relations, and Communications
 - a. Provide support to Economic Development Department and the task forces and committees it serves.
 - b. Execute various marketing strategies.
 - c. Work with Economic Development team to manage City image and marketing initiatives.
 - d. Develop and execute marketing campaigns.
 - e. Performs market and client research through various methods including contacting local businesses, vendors, and etc.
 - f. Create reports on marketing performance.
 - g. Maintain schedules for marketing initiatives.
 - h. Assist with social media marketing, website content, and press releases.
 - i. Organize and manage marketing collateral.
 - j. Organize and participate in community activities and events; some of which may include evening or weekend time commitment.
 - k. Special projects.

- 2) Administrative Support
 - a. Performs various administrative tasks.
 - b. Performs other duties as assigned.

QUALIFICATIONS

Education and Experience:

- Senior level college or technical school student or recent graduate of economic development, marketing, public relations, communications, or a closely related field required.
- Experience in business, economic development, marketing (including social media), public relations, communications, and/or community outreach desired.

- Equivalent combinations of education, training, and experience may be considered.

Necessary Knowledge Skills and Abilities:

- Knowledgeable of marketing, public relations, and community outreach concepts, techniques, and campaigns.
- Ability to spot emerging trends.
- Proficiency with social media platforms, social networking, email marketing, search engines, and Adobe Suite software.
- Strong written and verbal communication skills.
- Ability to effectively make cold calls, establish relationships, and network. Outgoing personality with strong interpersonal and social abilities.
- High level of organization and attention to detail.
- Comfort with multi-tasking in a deadline-driven environment.
- Excellent time management skills.
- Demonstrated problem solving and critical thinking skills.
- Strong typing, writing and copy-editing abilities and proficiency. Ability to prepare correspondence and reports.
- Ability to work collaboratively and cooperatively with management team and subordinates.
- Ability to effectively communicate with elected officials, staff and the public in both written and verbal form.
- Ability to define problems and deal with a variety of situations.
- Ability to think quickly, maintains self control, and adapt to stressful situations.
- Ability to use good judgment to effectively solve problems.
- Ability to plan work, establishes priorities, delegate responsibility and detect errors.
- Ability to assist public with questions.
- Ability to organize, prioritize, and carry out office work with minimal supervision.
- Ability to work evenings and weekends for community activities, events, and meetings when needed.

Special Requirements:

- Valid State Driver's License or the ability to obtain one.
- Reliable transportation to be used at work.

TOOLS AND EQUIPMENT USED:

Personal computer and software programs; including spreadsheets, word processing, databases, & website software; calculator; copy and fax machine; phone; mobile or portable radio; automobile.

PHYSICAL DEMANDS:

The physical demands described here are representative of those which must be met by an employee to successfully perform the essential functions of the job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Work is performed mostly in office settings. Hand-eye coordination is necessary to operate computers and various pieces of office equipment.

While performing the duties of this job, the employee is occasionally required to stand; walk; use hands to finger; handle, feel or operate objects, tools, or controls; and reach with hands and arms. The employee is occasionally required to sit; stoop, kneel, or crouch; talk or hear.

The employee must occasionally lift and/or move up to 25 pounds.

Specific vision abilities required by this job include close vision and the ability to adjust focus.

WORK ENVIRONMENT:

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

The noise level in the work environment is usually quiet while in the office. Community activities events and meetings include both indoor and outdoor work environments.

SELECTION GUIDELINES:

Formal application, rating of education and experience; oral interview and reference check; job related tests may be required.

The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of the specific statements of duties does not exclude them from the position if the work is similar, related or a logical assignment to the position.

The job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer as the needs of the employer and requirements of the job change.

EMPLOYEE SIGNATURE

Employee signature below constitutes employee's understanding of the position's essential duties, qualifications/requirements, necessary knowledge, skills, and abilities.

Employee _____ Date _____



MEMORANDUM

ELECTRIC AND WATER

Date: 04/28/2020

To: Utility/Council

From: Joe Pickart, Utility Manager

Re: Consider/Act on Fleet Budget Amendment for Mechanics Tools – 20-R2870

RELATES TO THE STRATEGIC PLAN

N/A

BACKGROUND

The City Fleet Maintenance Department was created in 2013 by combining mechanic staff from the Utility and Department of Public Works and retrofitting the former C.W. Brown building at 801 S. Worthington St into a mechanics shop. Both City mechanics had their own personal tools and tool storage and continued to use them for daily operations. On May 1, 2020 both Fleet mechanics will retire, and all their personal tools will be removed from the City Fleet shop. Due to the complete changeover of staff, discussion was held regarding the advantages of the City supplying and owning the tools vs. requiring new Fleet staff to supply their own. After analysis, I feel it would be to the City's advantage to supply the tools to the Fleet shop going forward.

ADDITIONAL ANALYSIS

- Investment in tools become a City asset instead of a mechanic's allowance that adds to their personal set. The tools I am recommending to purchase have a lifetime warranty and over time, the City will build a tool inventory that would be usable for many years. This would do away with the tool allowance for mechanics, so all tools the City purchases stay with the City upon the departure of a mechanic. Currently the City provides \$250 per year per mechanic as an allowance.
- Tools are often needed to work on things by other City staff. If we need to use tools that are in the Fleet Department and they are owned by the mechanics, we are borrowing their property. That has been an issue in the past if they are broken or lost. If the tools are City supplied, we are using City property and it becomes a non-issue.
- City policy does not allow staff in the facilities outside of work hours and work-related call outs. This poses a problem if the tools in our Fleet shop are owned by the mechanics and they need access to their tools for a personal project outside of work hours.
- I did some checking around with other Governmental entities to see what their policies were. They are as follows:
 - **Governmental entities that supply the tools for the mechanics:** Sussex, Muskego, Mukwonago Pewaukee, Waukesha County Fleet, Jefferson County Fleet, Watertown, Fort Atkinson.
 - **Governmental entities that do not supply the tools for the Mechanics:** City of Waukesha, City of Jefferson (they have a \$1000.00 per year tool allowance per mechanic), Dodge County Fleet (\$250.00 per year tool allowance per mechanic).

FINANCIAL IMPACT

Initial investment cost to outfit the Fleet Department with recommended tools and tool storage will be \$50,789.60. This cost will cover 2 (two) complete tool sets and tool storage, one for each new mechanic. This purchase will be funded with Fleet reserve funds from a current reserve balance of \$418,507.

The tools that we are proposing to purchase have been discounted on a governmental program compared to what the regular price would be. Below is the financial information:

Snap-on Industrial Tools – Per Set Pricing:

Tool kits included:	List Price:	Our Price:	Total:
9200AGSO			
9000GS4O			
9000GS6O			
9000GS3O			
9000GS5O			
KRA276D	\$34,625.00	\$18,680.19 x 2 sets	\$37,360.38
Tool Storage, Top	\$5,335.00	\$2878.23 x 2 sets	\$5,756.46
Tool Storage, Base	\$7111.00	\$3836.38 x 2 sets	\$7,672.76

The tool sets include professional grade tools including items such as sockets, wrenches, pliers, drivers and other tools specific to working in a Fleet Maintenance Technician environment.

The Snap-on Industrial Tool pricing was the most advantageous to the City based on the quotes received:

Snap-On Brand with Government Discount (recommended)	\$25,394.80 per set
Snap-On Brand via Snap On store/local dealer:	\$48,900.00 per set
Proto Brand (comparable quality set) via local dealer, storage option A:	\$33,809.55 per set
Proto Brand (comparable quality set) via local dealer, storage option B:	\$28,948.28 per set

RECOMMENDATION

Staff recommends acceptance of the budget amendment for 2020, in account number 730-579-9933-340 with funds made available from the Fleet Fund unrestricted fund balance of \$418,507 and purchase of two (2) sets of Mechanic Tools from Snap-on Industrial in the amount of \$50,789.60.

SUGGESTED MOTION

Motion to approve the resolution for Fleet budget amendment for mechanics tools.

RESOLUTION No. 20-R2870

RESOLUTION Authorizing Budget Amendment for Fleet Mechanics Tools

WHEREAS, Fleet Maintenance Department is hiring two (2) new mechanics due to retirements; and

WHEREAS, the Retiring Mechanics had supplied their personal tools for City use; and

WHEREAS, it would be to the City's advantage to own mechanic tools outright as City assets, a budget amendment is needed; and

WHEREAS, funding is available for the amendment within the Fleet reserve balance of \$418,507.

NOW THEREFORE, BE IT HEREBY RESOLVED, the quote from Snap-on Industrial in the amount of \$50,789.60 is hereby accepted and appropriate City officials are authorized to purchase the tools per this quote.

BE IT FURTHER RESOLVED, that the City Council recommends and authorizes a Fleet Maintenance budget amendment to add \$50,789.60 to account 730-579-9933-340 with funds coming from the Fleet Fund unrestricted fund balance.

DATED: _____

CITY OF OCONOMOWOC

By: _____
Robert P. Magnus, Mayor

ATTEST:

Diane Coenen, Clerk



MEMORANDUM

DEPARTMENT

Date: 05/05/2020

To: Utility Committee

From: Kevin Freber

Re: CONSIDER/RECOMMEND GRANT APPLICATION FOR THE GOLF COURSE CREEK

RELATES TO THE STRATEGIC PLAN

n/a

BACKGROUND

The City has been granted authority to work in the Oconomowoc River Watershed to help meet the Rock River TMDL Study requirements for reducing phosphorus in the Rock River Basin. The platform for this work is an Adaptive Management Plan which was approved for the City by the Wisconsin DNR in September of 2015. The Adaptive Management Plan's specific goals for the City are to reduce erosion and nutrient loads throughout the watershed with the goal of reducing sediment and phosphorus in the Oconomowoc River where it joins with the Rock River in the Town of Ixonia. The Adaptive Management Plan is an integral part of the City's overarching phosphorus reduction program entitled the Oconomowoc Watershed Protection Program, (OWPP).

The Golf Course Creek has been identified as a significant source of sediment and phosphorus and as such is a tributary that negatively influences the level of phosphorus in Lac La Belle and the Oconomowoc River downstream. Therefore, any erosion control project that will reduce sediment and phosphorus in the creek will benefit the water quality in the lake and in the river. For this reason, the OWPP is in full support of the Targeted Reduction Measure (TRM) project that is being proposed. The City has participated in previous projects along this creek in the past 10 years and plans to continue this effort in the future.

It is our understanding that the TRM Grant through the WDNR will address erosion along the creek corridor as it passes through the Lac La Belle Golf Course owned and operated by the Prestwick Company. We further understand that the grant has a maximum payment amount of \$225,000 and that the grantee must furnish a minimum 30% matching amount. We also understand that the Village will be the managing entity of the grant and that the Village along with three partners will furnish the matching funds required. The partners will include Prestwick, the Lac La Belle Management District, and the City (OWPP). Thus, the City is committed to fund this project up to \$25,000 for the construction of erosion control measures in 2021 (assuming the grant is awarded) as defined in the grant documents. We also are committing to fund the grant application process as an equal partner in 2020 in an amount not to exceed \$3,000 this money to be paid out of the 2020 budget.

ADDITIONAL ANALYSIS

n/a

FINANCIAL IMPACT

A maximum of \$3,000.00 in 2020 from the 2020 Watershed Budget for grant application

A maximum of \$25,000 in 2021 from the 2021 Watershed Budget for grant matching funding

RECOMMENDATION

Recommend approve the submission of the grant application with the partners the Village of Lac La Belle, Prestwick, the Lac La Belle Management District and committing the City to \$3,000.00 in 2020 for the grant application and \$25,000.00 in 2021 for the grant matching funding

SUGGESTED MOTION

Recommend approve the submitting the grant application committing the City to \$3,000.00 in 2020 and \$25,000.00 in 2021

RESOLUTION No. 20-R2872

RESOLUTION APPROVING GRANT APPLICATION FOR THE GOLF COURSE CREEK

WHEREAS, the Oconomowoc Watershed Protection Program OWPP was created to reduce Phosphorus and sediment in the Oconomowoc River Watershed; and

WHEREAS, the Wisconsin Department of Natural Resources is accepting applications for the Targeted Reduction Measure (TRM) Grant; and

WHEREAS, the Village of Lac La Belle, Prestwick, the Lac La Belle Management District and the OWPP agree that the Golf Course Creek is a perfect candidate for the is TRM Grant; and

WHEREAS, the grant will be a joint partnership with Village of Lac La Belle, Prestwick, the Lac La Belle Management District and the OWPP; and

WHEREAS, the City matching funds share in 2021 is \$25,000, funds to be taken from the Watershed budget; and

WHEREAS, these the City needs to make a commitment to budget the funds in the 2021 Watershed budget.

NOW THEREFORE, BE IT HEREBY RESOLVED, the City of Oconomowoc commits that \$25,000 will be budget in 2021 for the TRM Grant project on the Golf Course Creek as long as the project receives the TRM Grant from the WDNR

DATED: _____

CITY OF OCONOMOWOC

By: _____
Robert P. Magnus, Mayor

ATTEST:

Diane Coenen, Clerk



MEMORANDUM

PUBLIC WORKS

Date: May 5, 2020
To: Common Council
From: Mark Frye, Director of Public Works
Re: Repeal and Recreate Section 8.04 of the City of Oconomowoc Municipal Code

RELATES TO THE STRATEGIC PLAN

Strategic Plan:

Section V: Enhance the Effectiveness of Our City Government

Objective A: Develop/Update/Maintain City Ordinances/Policies

Task 1: City Ordinances Update/Review

BACKGROUND

What is the right-of-way? Every City street has a right-of-way that was dedicated to the City when the area developed. Standard width of a right-of-way can vary as we have 40, 50, 60, 66, 72, 80, 100 and 120 foot widths in Oconomowoc. The right-of-way includes the street, terrace and sidewalks. Section 8.04 of the ordinance regulates the use of the right-of-way.

Recent changes to Wisconsin Law regarding use of right-of-ways provided an opportunity for City Staff to review our ordinance to ensure compliance with the changes. Our existing ordinance is very short and only regulates excavations. The proposed ordinance, in addition to excavations, includes the application process and requirements for above grade structures, with additional requirements for use of installations for small wireless facilities. The proposed ordinance provides the requirements and procedures necessary to protect and regulate the use of the City's right-of-ways.

ADDITIONAL ANALYSIS

A summary of the ordinance is shown below. See the entire ordinance to view all of the requirements associated with these summary items.

1. Excavations
 - a. Minimum length and width
 - b. Permit Fee
 - c. Requires detailed plans
 - d. Sets time frame to approve, deny or conditionally grant the permit

2. Above Ground Installations
 - a. Provides reasonable exceptions (signs, mailboxes, ...)
 - b. Permit Fee
 - c. Professional fee charge back agreement
 - d. Detailed plans with structural engineering
 - e. Report detailing potential hazards to the public
 - f. Must not impact the operations/maintenance of the terrace, sidewalk or street
 - g. Alternative analysis of options
 - h. Additional requirements for use or installation regulated by Wisconsin Statutes Section 66.0414
 - i. Statement of the Federal or State deadlines that apply
 - ii. Separate and complete description of each proposed wireless facility
 - iii. Certification from applicant that the wireless facility will not materially interfere with traffic control equipment, sight lines or clear zones and is ADA compliant
 - iv. Certification from applicant the wireless facility will comply with relevant FCC regulations
 - v. Statement that the wireless facility meets all code requirements
 - vi. If support structure the equipment is mounted on is owned by third party, certify permission from the owner or the ability to enter a pole attachment agreement

3. Application for New Above Grade Uses
 - a. Common Council to hold Public Hearing
 - b. Common Council shall consider the following when considering an above ground right-of-way permit
 - i. Public safety, options and public good
 - ii. No new above grade where facilities don't exist or are underground
 - iii. No new above ground structures within 500 feet of historic structures or districts designated by the National Register or listed on State Register
 - iv. Mounted flush with existing structure and of matching color
 - v. Prohibited on decorative light poles unless installation is entirely on the interior of the pole
 - vi. Common Council may grant the permit, grant the permit with conditions or deny the permit

The proposed ordinance includes details for standards, agreements, permit conditions, protection of public, bonds, indemnification agreements, rights, compensation, waiver of deadlines, relocation, abandonment, appeals and penalties.

FINANCIAL IMPACT

The ordinance allows for compensation from the applicant for the City's costs.

RECOMMENDATION

Staff recommends approval of the repealed and recreated ordinance.

SUGGESTED MOTION

Suggested Common Council Motion: Motion to approve Ordinance 20-0977 to repeal and recreate Section 8.04 of the Municipal Code concerning street excavations and above-ground installations in the right-of-way.

ORDINANCE NO. 20-0977**AN ORDINANCE TO REPEAL AND RE-CREATE SECTION 8.04 OF THE CITY OF OCONOMOWOC MUNICIPAL CODE CONCERNING STREET EXCAVATIONS AND ABOVE-GROUND INSTALLATIONS**

WHEREAS, on or about July 10, 2019 the State of Wisconsin adopted 2019 Wisconsin Act 14, which created Wisconsin Statutes Section 66.0414 concerning small wireless facilities, and made other changes to State laws concerning telecommunications facilities; and

WHEREAS, as a result of this recent legislation, the City of Oconomowoc City staff have recommended that the Municipal Code be updated to address these issues in a manner permitted by current State laws; and

WHEREAS, wireless facilities in public right-of-way must be treated the same as other utility installations, and therefore the Municipal Code is proposed to be updated not only for wireless facilities, but for all above-ground installations in the public right-of-way; and

WHEREAS, the Common Council hereby intends to adopt the recommendations of City staff in this regard.

WHEREAS, the Common Council of the City of Oconomowoc deems it necessary to place reasonable restrictions on the public rights-of-way.

NOW THEREFORE, the Common Council of the City of Oconomowoc, Waukesha County, Wisconsin, does hereby ordain as follows:

SECTION 1: Chapter 8 of the City of Oconomowoc Municipal Code entitled, "Public Works," Section 8.04 entitled, "Street Excavations" is hereby repealed and re-created with the title "Street Excavations and Above-Ground Installations" as follows:

8.04 - STREET EXCAVATIONS AND ABOVE-GROUND INSTALLATIONS.

- (1) **PURPOSE AND FINDINGS.** In the exercise of governmental functions, the City has priority over all other uses of the public rights-of-way. The City desires to anticipate and minimize the number of excavations taking place therein and to regulate the placement of facilities in the rights-of-way to ensure that the rights-of-way remain available for public services and safe for public use. The taxpayers of the City bear the financial burden for the upkeep of the rights-of-way and a primary cause for the early and excessive deterioration of its rights-of-way is the frequent excavation by persons who locate facilities therein.

The City finds with increased use of the public rights-of-way there are increased costs to the taxpayers of the City and that these costs are likely to continue into the foreseeable future.

The City finds excavation of its rights-of-way causes costs to be borne by the City and its taxpayers, including but not limited to:

- (a) Administrative costs such as permitting, inspection and supervision, supplies and materials.
- (b) Management costs.
- (c) Repair or restoration costs.
- (d) Depreciation and decreased useful life.
- (e) In response to the foregoing facts, the City hereby enacts this Ordinance relating to administration of the right-of-way.
- (f) The purpose of this ordinance is to provide a legal framework within which to regulate and manage the public rights-of-way, and to provide for recovery of the costs incurred in doing so. This ordinance provides for the health, safety and welfare of the residents of the City as they use the right-of-way of the City, as well as to ensure the structural integrity of the public rights-of-way.

(2) EXCAVATIONS.

- (a) *Prohibition.* No person shall injure, tear up or deface any public improvement; nor dig any hole, ditch, drain or trench; nor make any alterations or construct any improvement of any kind in any public street or highway without a written permit from the Department of Public Works. Application for such permit shall be in such form and contain such information as shall be required by the Director of Public Works who shall issue such permit subject to such regulations, restrictions and conditions as he may adopt.
- (b) *Excavation Standards.* All excavations made pursuant to this Ordinance must be made to the full width of the roadway, with a minimum length of twenty (20) feet, and to the City Specifications unless waived by the Director of Public Works.
- (c) *Permit Required.* Any excavation in the right-of-way requires a right-of-way permit from the City prior to such excavation
 - 1. Application requirements.
 - a. A right-of-way excavation permit application shall be filed with the Director of Public Works.
 - b. The applicant shall pay the right-of-way excavation permit fee. The right-of-way permit fee shall be in the amount as established by Resolution of the Common Council, and may be amended from time to time. In addition, a professional fee charge back agreement shall be signed to ensure compliance with City professional fee chargeback ordinances.
 - c. The applicant shall provide a detailed plan describing the proposed excavation.
- (d) *Application approval process.*
 - 1. The Director of Public Works shall review the permit application and determine if all application materials have been submitted, within 15 days

of receipt of the initial application. Once a complete application is received, the Director of Public Works shall determine whether to approve, deny or conditionally grant the excavation permit, within 60 days of receipt of a complete application. Any grant of a right-of-way excavation permit is subject to all terms and conditions of this Ordinance, all applicable laws, and such other conditions as may be imposed by the Director of Public Works.

(3) ABOVE-GROUND INSTALLATIONS.

(a) *Above-ground installations prohibited.* No person shall encroach upon or obstruct or encumber any street, alley, sidewalk, public grounds or land dedicated to public use, or any part thereof, or permit such encroachment or encumbrance to be placed or remain on any public way, except as provided in subsection (b) and (c).

(b) *Exceptions.* The prohibition of subsection (a) shall not apply to the following.

1. Signs and clocks attached to buildings which project not more than six feet from the face of such building and which do not extend below any point ten feet above the sidewalk.
2. Awnings which do not extend below any point seven feet above the sidewalk.
3. Official signage, official traffic control devices, and utilities owned or leased by the City.
4. Goods, wares, merchandise or fixtures being loaded or unloaded which do not extend more than three feet on a sidewalk, provided such goods, wares, etc., do not remain thereon for more than three hours.
5. A use permitted by an outdoor establishment permit or auxiliary use granted under the applicable zoning code.
6. Building materials for the period specifically authorized by the Common Council which shall not obstruct more than half of the sidewalk or more than 1/3 of the traveled portion of the street, and which do not interfere with flow in the gutters.
7. Mailboxes for the collection of mail from the United States Postal Service are exempted from sub (a) if they comply with the City's standard for mailbox dimensions and installation guidelines.
8. A legally placed above grade use in existence prior to May 5, 2020.
9. Special privileges permitted pursuant to State law.
10. Street obstructions permitted by Section 8.06 of this Code.
11. Installation of a mobile cell facility (commonly referred to as "cell on wheels" or "cell on truck") for a temporary period in connection with an emergency or event, but no longer than required for the emergency or event, provided that installation does not involve excavation, movement, or removal of existing facilities.

12. The replacement of an existing small wireless facility with a small wireless facility that is substantially similar to, or the same size or smaller than, the existing small wireless facility, provided that there is no change to the support structure on which the small wireless facility is placed.

(c) *Permit required.* If an encroachment, obstruction, or excavation results in the above grade use of the right-of-way then an above grade right-of-way permit from the City is required prior to the encroachment, obstruction, or excavation being established.

1. Application requirements.

- a. An above grade right-of-way permit application shall be filed with the Director of Public Works.
- b. The applicant shall pay the above grade right-of-way permit fee. The above grade right-of-way permit fee shall be in the amount as established by resolution of the Common Council, and may be amended from time to time. In addition, a professional fee charge back agreement shall be signed to ensure compliance with City ordinance that professional fees incurred by the City to review said applications are not paid by the taxpayers, but by the applicant seeking special review and benefit.
- c. The applicant shall provide a detailed plan with structural engineering, scale drawings, visual rendering, and survey showing the exact location, size, appurtenances and or attachments of the equipment or structure to be placed in the right-of-way, along with the exact location of all streets, sidewalks, utilities, trees, and any other obstructions in the vicinity of the proposed installation, and the location of structures on abutting properties.
- d. The applicant shall provide a detailed report describing potential physical hazards to the public from said equipment, structure, and impacts due to location on safety for the driving public, pedestrians, and owners and users of adjacent property for such things as, but not limited to; fall zone, fire, explosion, chemical, environmental impacts, and vehicle crash impacts. Said report shall indicate the risk of the safety hazard and the proposed design element to address said safety hazard. The Director of Public Works may require the applicant's report to be provided by a structural engineer or other expert approved by the Director of Public Works, if the Director of Public Works deems it to be necessary to have such an expert opinion in light of the circumstances of the application, for the protection of public health and safety, in which case the applicant shall provide such an opinion at the applicant's cost.
- e. The plan must show how the installation and maintenance of said above grade right-of- way use will not impact snow or grass removal from the terrace, sidewalk or street, or conflict with the operation or maintenance of vehicular travel and existing utilities above or below ground.

- f. An alternative analysis shall be provided to show what options other than locating above grade in the right-of-way exists and the approximate costs of such alternatives.
- g. If the proposed use or installation includes matters regulated by Wisconsin Statutes Section 66.0414 (small wireless facilities), or a use or installation that would have a similar impact on the City due to size, location and construction materials, the following additional application requirements apply:
 - 1 A statement of which state or federal deadline(s) apply to the application.
 - 2 A separate and complete description of each proposed wireless facility and the work that will be required to install or modify it, including but not limited to detail regarding proposed excavations, if any; detailed site plans showing the location of the facility and technical specifications for each element of the facility, clearly describing the site and all structures and equipment at the site before and after installation or modification and identifying the owners of such preexisting structures and equipment; and describing the distance to the nearest residential dwelling unit. Before and after 360-degree photo simulations must be provided for each facility.
 - 3 A certification by the applicant that the wireless facility will not materially interfere with the safe operation of traffic control equipment or sight lines or clear zones for transportation of pedestrians, and will fully comply with the federal Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement.
 - 4 A certification by the applicant that the wireless facility will comply with relevant FCC regulations concerning radio frequency emissions from radio transmitters and unacceptable interference with public safety spectrum, including compliance with the abatement and resolution procedures for interference with public safety spectrum established by the FCC set forth in 47 C.F.R. §§ 22.971 to 22.973 and 47 C.F.R. §§ 90.672 to 90.675.
 - 5 A statement that the wireless facility will comply with the state electrical wiring code, as defined in Wis. Stat. § 101.80(4), as amended; the state plumbing code specified in Wis. Stat. § 145.02(2)(a), as amended; the fire prevention code under Wis. Admin. Code § SPS 314, as amended; the Wisconsin commercial building code under Wis. Admin. Code §§ SPS 361 to 366, as amended; the Wisconsin uniform dwelling code under Wis. Admin. Code §§ SPS 320 to 325, as amended; and all local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.

- 6 If the support structure on which the wireless equipment will be mounted is owned by a third party, a certification that the applicant has permission from the owner to mount its equipment on the structure. If the support structure is a governmental pole or a utility pole or other City structure or infrastructure, the application must state the applicant's willingness to enter a pole attachment agreement as referenced in subsection (e).

2. Application process.

- a. The application shall be submitted for review by the Director of Public Works, and shall include all information required by applicable laws. The application shall be subject to a completeness determination within the time required by applicable laws.
- b. Existing uses. City staff shall determine whether to approve, deny, or conditionally grant above grade right-of-way permits for any new encroachment, obstruction, or excavation added to either a previously approved above grade use or one that was legally placed prior to May 5, 2020, unless the Director of Public Works concludes the new encroachment, obstruction, or excavation may obstruct or incommode the public use in which case the application shall be subject to the procedures of subsection c.
- c. New uses. All above grade right-of-way permit applications other than those described pursuant to subsection b., shall be considered as follows.
 - 1 The Common Council shall hold a public hearing as reasonably soon as possible after application materials have been deemed complete by the City and proper notification period for a class 1 notice and notice to all properties within 200 feet of the proposed installation.
 - 2 The Common Council shall give consideration to the application, the testimony received at the public hearing, staff and expert reports, or other information as the Common Council determines appropriate, as follows.
 - A. The Common Council shall consider public safety, alternative options, and the public good when considering an above grade right-of-way permit.
 - B. All users of the City right-of-way shall comply with the following aesthetic standards:
 1. In areas where facilities are currently nonexistent or underground, undergrounding is required.
 2. No new above ground structures, including colocations on existing structures, shall be placed within 500 feet of historic structures or historic districts designated by the National Register of Historic Places in Wisconsin or listed on the State

Register of Historic Places. The 500-foot separation is waived for installations that are completely concealed from view, or are not visible from locations where the historic structure can be observed.

3. Attachments to existing structures shall be designed to be flush with the existing structure as much as can reasonably be done, shall be a color that matches the existing structure and shall be the smallest size possible to reasonably accommodate the intended purpose. If the structure to which the attachment is made changes color due to repainting, resurfacing or other means, the attachment shall be modified to match the new color.
4. Attachments are prohibited on City decorative light poles, unless the applicant demonstrates to the satisfaction of the Director of Public Works that the installation will be entirely interior to the existing pole or an identical replacement pole.
5. Any party objecting to the requirements of this Subsection b. shall have an opportunity to demonstrate that the requirement constitutes an effective prohibition in violation of State or Federal law, in an appeal made pursuant to Section 14.

C. The Common Council may grant the permit, grant the permit with conditions, or deny the permit. If the application is denied, the applicant must be provided a written documentation explaining the basis for the denial.

(d) *Standards.* Installations and modifications are subject to the following standards:

- 1 New support structures shall not be installed when the applicant has the right to place its facility on an existing structure on reasonable terms and conditions and placement in that location is technically feasible and not materially more expensive;
- 2 New support structure placement in residential areas should be avoided when commercial or industrial areas are reasonably available;
- 3 In no event may ground-mounted equipment interfere with pedestrian or vehicular traffic; and
- 4 Ground-mounted equipment must at all times must comply with the requirements of the Americans with Disabilities Act of 1990.

(e) *Pole Attachment Agreement.* For any use or installation that will be attached to a City utility pole, street light, or any other City structure or infrastructure, the applicant must enter a pole attachment agreement with the City in a form approved by the City Attorney.

(f) *Permit Conditions.* Any permit granted pursuant to this Section is subject to such permit conditions as may be imposed by the Director of Public Works or designee, to ensure the health, safety and welfare of the City is protected and in consideration of circumstances applicable to individual applications. In every case, the permit conditions, whether stated on the permit or not, unless specifically excluded in writing, hereby include the following:

- 1 Contact Information. The permit holder shall at all times maintain with the City, accurate contact information for the permit holder and all wireless service providers making use of the facility, which shall include a phone number, mailing address, and email address for at least one natural person.
- 2 Indemnification. The permit holder, by accepting a permit under this Chapter, agrees to indemnify and hold harmless the City, its elected and appointed officials, officers, employees, agents, representatives, and volunteers (collectively, the “Indemnified Parties”) from and against any and all liability and loss from personal injury or property damage resulting from or arising out of, in whole or in part, the use or occupancy of rights-of-way by the permit holder or anyone acting under its direction or control or on its behalf arising out of the rights and privileges granted under this Chapter, even if liability is also sought to be imposed on one or more of the Indemnified Parties. The obligation to indemnify and hold harmless the Indemnified Parties shall be applicable even if the liability results in part from an act or failure to act on the part of one or more of the Indemnified Parties. However, the obligation does not apply if the liability results from the sole negligence or willful misconduct of an Indemnified Party.
- 3 No Adverse Impacts on Adjacent Properties. The permit holder shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification, or removal of the facility.
- 4 Relocation. At the request of the City pursuant to Section (12), the permit holder shall promptly and at its own expense permanently remove and relocate its wireless facility in the right-of-way.
- 5 Abandonment. The permit holder shall promptly notify the City whenever a facility has not been in use for a continuous period of 60 days or longer and must comply with Section (13) of this Chapter.
- 6 Radio Frequency Emissions. Every wireless facility and any other installation with radio frequency emissions, shall at all times comply with applicable FCC regulations governing radio frequency emissions, and failure to comply with such regulations shall be treated as a material violation of the terms of the permit.

(g) *Failure to Obtain Permit.* Unless exempted from permitting by subsection (b), any installation made without a wireless permit must be removed within 30 days of receipt of written notice from the City. All costs incurred by the City in connection with the notice, removal, and right-of-way restoration shall be paid by the entities who own or control any part of the installation.

- (4) PROTECTION OF THE PUBLIC. No permit shall be issued unless the method of construction and the location of the work to be performed are such that the public safety and convenience will not be impaired. The person seeking the permit shall erect barriers, warning lights and signs to adequately inform the traveling public of the nature and location of the work being performed.
- (5) HINDERING STREET EXCAVATION PROHIBITED. No person shall hinder or obstruct any City employee or agent or any person employed by the Common Council or the Board of Public Works in making or repairing any pavement, sidewalk, crosswalk or any other public improvement ordered by the Common Council or the Board of Public Works.
- (6) RIGHT-OF-WAY RESTORATION. The work to be done under the permit, and the repair and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit to the satisfaction of the Director of Public Works or his or her designee. In addition to repairing its own work, the permittee must restore the general area of the work, and the surrounding areas, including the paving and its foundations, to the same condition that existed before the commencement of the work. The permittee must inspect the area of the work and use reasonable care to maintain the same condition for thirty-six (36) months thereafter.

The permittee shall perform repairs and restorations according to the standards and with the materials specified by the Director of Public Works or his or her designee. The Director of Public Works or his or her designee shall have the authority to prescribe the manner and extent of the restoration, and may do so in written procedures of general application or on a case-by-case basis. The Director of Public Works or his or her designee in exercising this authority shall be guided by the following standards and considerations.

- (a) The number, size, depth and duration of the excavations, disruptions or damage to the right-of-way.
- (b) The traffic volume carried by the right-of-way.
- (c) The character of the neighborhood surrounding the right-of-way; the preexcavation condition of the right-of-way.
- (d) The remaining life-expectancy of the right-of-way affected by the excavation.
- (e) Whether the relative cost of the method of restoration to the permittee is in reasonable balance with the prevention of an accelerated depreciation of the right-of-way that would otherwise result from the excavation, disturbance or damage to the right-of-way.
- (f) The likelihood that the particular method of restoration would be effective in slowing the depreciation of the right-of-way that would otherwise take place.

Methods of restoration may include, but are not limited to, patching, replacement of the right-of-way base, restoration of landscaping, and milling and overlay of the entire area of the right-of-way affected by the work. During the thirty-six (36) month period that follows the restoration, the permittee shall, upon notification from the Director of Public Works or his or her designee, correct all restoration work to the extent necessary using the method required by the Director of Public Works or his or her designee. Said work shall be completed within five (5) calendar days of the receipt of the notice from the Director of Public Works or his or her designee. If the permittee fails to restore the right-of-way in the manner and to the condition required by the Director of Public Works or his

or her designee, or fails to satisfactorily and timely complete all repairs required by the Director of Public Works or his or her designee, the Director of Public Works or his or her designee, at his or her option, may do such work. In that event, the permittee shall pay to the City, within thirty (30) days of billing, the cost of restoring the right-of-way.

- (7) **BOND.** Prior to commencing the work, any permittee performing work within the right-of-way shall post a financial guarantee in an amount approved by the Director of Public Works or his or her designee and in a form approved by the City Attorney, provided that the limitations of Wisconsin Statutes Section 66.0425(2) shall apply as applicable. If, thirty-six (36) months after completion of the restoration of the right-of-way, the Director of Public Works or his or her designee determines that the right-of-way has been properly restored, the surety on the performance bond shall be released.
- (8) **INDEMNIFICATION AGREEMENT.** Before any person, entity, or utility commences work pursuant to this Section, such person, entity or utility shall file an agreement with the City Clerk to hold the City harmless, indemnify, and defend the City from and against any and all injury and damage of any kind caused or occurring as a result of such work. The agreement shall be in a form approved by the City Attorney, and shall have continuing effect during the course of such work and for all time that the obstruction or facilities or installation remain within the right-of-way, and thereafter until such obstruction is removed and the site is fully restored to the satisfaction of the Director of Public Works or his or her designee.
- (9) **RESERVATION OF RIGHTS.** The City retains all rights in City right-of-way. The grant of a right-of-way permit per this section does not constitute a waiver of any City rights and remedies regarding ongoing compliance obligations toward such installations.
- (10) **COMPENSATION.** The City may require payment of compensation, in an amount determined by the Common Council, for the grant of any permit pursuant to this section, provided that compensation for more than applicable fees and cost recovery shall not be required of utilities that have the right to use the right-of-way by Wisconsin Statutes Section 182.017(1r). Costs for locating on City utility poles or other City structures or infrastructure shall be in an amount allowed by law as established from time to time by the City Council and as stated in the applicable pole attachment agreement.
- (11) **WAIVER OF DEADLINES.** Timeline deadlines in this process may be waived by written mutual agreement of the applicant and the City.
- (12) **RELOCATION.** Except as otherwise prohibited by state or federal law, a permit holder must promptly and at its own expense, with due regard for seasonal working conditions and as directed by the City, permanently remove and relocate any of its wireless facilities in the right-of-way whenever such relocation is necessary to prevent the wireless facility from interfering with a present or future City use of the right-of-way; a public improvement undertaken by the City; an economic development project in which the City has an interest or investment; when the public health, safety, or welfare require it; or when necessary to prevent interference with the safety and convenience of ordinary travel over the right-of-way. Notwithstanding the foregoing, a permit holder shall not be required to remove or relocate its facilities from any right-of-way that has been vacated in favor of a non-governmental entity unless and until that entity pays the reasonable costs of removal or relocation to the permit holder.

(13) ABANDONMENT.

(a) Cessation of Use. In the event that a permitted facility within the right-of-way is not in use for a continuous period of 60 days or longer, the permit holder must promptly notify the City and do one of the following:

- 1 Provide information satisfactory to the Administrator that the permit holder's obligations for its facilities under this Chapter have been lawfully assumed by another permit holder.
- 2 Submit to the Administrator a proposal and instruments for dedication of the facilities to the City. If a permit holder proceeds under this Section, the City may, at its option:
 - a. Accept the dedication for all or a portion of the facilities;
 - b. Require the permit holder, at its own expense, to remove the facilities and perform the required restoration under Section (6).

(b) Abandoned Facilities. Facilities of a permit holder who fails to comply with Section 13(a) and which, for one year, remain unused shall be deemed to be abandoned. Abandoned facilities are deemed to be a nuisance. In addition to any remedies or rights it has at law or in equity, the City may, at its option:

- 1 abate the nuisance and recover the cost from the permit holder or the permit holder's successor in interest;
- 2 take possession of the facilities; and/or
- 3 require removal of the facilities by the permit holder or the permit holder's successor in interest.

(14) APPEALS. Any person who wishes to dispute actions taken by the City pursuant to this Ordinance may contact the City Clerk and request to appear before the Common Council at an upcoming regular Common Council meeting and may, at that time, present the matter to the Common Council for resolution. Appeal from the decision of the Common Council shall be by writ of certiorari to the Waukesha County Circuit Court.

(15) COMPLIANCE WITH LAWS. Approval of a permit pursuant to this section does not waive the requirement to comply with all other applicable laws and ordinances. All applicable federal, State, Waukesha County, and City of Oconomowoc codes, statutes, regulations, administrative rules, ordinances and other laws must be followed.

(16) PENALTIES. Violation of this Ordinance is subject to the standard penalty provisions for City of Oconomowoc Ordinances described in Section 25.04 of the Municipal Code, including such amendments and modifications as may be made thereto from time to time.

SECTION 2: SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and

effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 3: EFFECTIVE DATE.

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Dated: _____

CITY OF OCONOMOWOC

By: _____
Robert P. Magnus, Mayor

ATTEST:

Diane Coenen, City Clerk



MEMORANDUM

PUBLIC WORKS

Date: May 5, 2020
To: Common Council
From: Sarah Kitsembel, City Administrator
Mark Frye, Director of Public Works
Re: Building Inspections Services Contract

RELATES TO THE STRATEGIC PLAN

Strategic Plan Goal V. Enhance the Effectiveness of our City Government

1. Develop/Update/Maintain City Ordinances/Policies
3. Review & Analyze Building Inspection Services

BACKGROUND

The building inspection division is responsible for enhancing the public safety by enforcing construction codes while processing building permits, occupancy permits and performing residential and commercial inspections to support development in the community. The types of permits issued include new construction and remodels for residential and commercial building permits, HVAC, plumbing, electrical, garage, roof, fence, pool, deck, shed, siding etc.

As part of the strategic planning process the Council identified the desire to review how to provide the City's building inspection services. This item was reviewed at the Committee of the Whole in September 2019. It was decided that Alderman Rosek would meet with City Staff to go over questions and comments he had. On December 5, 2019 Rosek, Kowieski, Kitsembel and Frye met to go over the process. The outcome of the meeting was to approach Wisconsin Building Inspection (WBI) to update the 1999 contract with a revised fee distribution percentage that would provide additional revenue to the City in years with above average permit fees. Since many of the fees hadn't been adjusted for several years, these would be reviewed also.

The decision to stay with WBI for inspection services was based on their history of excellent service to the City, builders and residents of the City. In addition to this, the favorable cost share of 60%/40% is better than the 75%/25% used in other communities. The use of a consultant for these services protects the City during the cyclical nature of development over the years. In 2009, 2010, 2012 and 2014 when the markets were down, we didn't have the liability of fixed cost for City employees. The proposed changes to the contract provide these same protections and increases the revenue to the City during the larger development years.

Our current contract for building inspection services provides the City access to certified building inspectors for both residential and commercial development in the City. The fee paid to the contractor is based on a percentage of building permit revenue collected. The contractor is paid 60% of revenue collected and the City retains the other 40%. The City's current contractor has seven inspectors within the company and serves 24 communities. The availability of multiple inspectors provides coverage for very large projects and during the times our assigned inspectors are not available

The new contract maintains all of the services that were completed at no cost to the City as the previous agreement:

- a. All City (municipal) construction projects on City owned property.
- b. All yearly liquor license inspections.
- c. All property maintenance inspections.
- d. All meetings on properties with Oconomowoc Electric Utility for required customer upgrades/changes.
- e. All requested police/fire department emergencies 24/7/365 days per year.

Term: The term starts on March 1 and covers the remainder of 2020, all of 2021 and 2022; three years. At the end of the term City Staff will report back to the Common Council to determine if it should be renewed, modified or terminated. City can terminate at any time for failure to perform. Either party can terminate with a 90 day written notice.

ADDITIONAL ANALYSIS

Shown below are the fees collected for 2008-2019. Columns 1 and 2 show the current fee distribution with Wisconsin Building Inspection 60% in yellow and the City 40% in green.

Columns 3, 4 and 5 illustrate the proposed fee distribution change. Column 3 is the first \$150,000 of fees distributed as they are now, WBI 60%. The next \$150,000, column 4, has a slight shift with WBI receiving 55% of the fees. For fees greater than \$300,000 the percentage drops to 40% for WBI, column 5. If the proposed fee structure were in place for 2008-2019, the payment to WBI would have been reduced by \$291,543 as shown in column 7.

Revenues to the City under the proposed fees would increase by the same amount \$291,543, columns 8-12 in green.

	Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	
	Total	Current	Wisconsin Building Inspection			Proposed		City of Oconomowoc			Total		
	Permit	Payment	Proposed New Payment			Adjusted	Difference	Proposed New Revenue			City	Difference	
	Costs	60%	60%	55%	40%	Payment		40%	45%	60%	Revenue		
			First \$150k	Second \$150k	Over \$300k			First \$150k	Second \$150k	Over \$300k			
2008	\$ 487,090.83	\$ 292,254.50	\$ 194,836.33	\$ 90,000.00	\$ 82,500.00	\$ 74,836.33	\$ 247,336.33	\$ (44,918.17)	\$ 60,000.00	\$ 67,500.00	\$ 112,254.50	\$ 239,754.50	\$ 44,918.17
2009	\$ 151,065.84	\$ 90,639.50	\$ 60,426.34	\$ 90,000.00	\$ 586.21		\$ 90,586.21	\$ (53.29)	\$ 60,000.00	\$ 479.63		\$ 60,479.63	\$ 53.29
2010	\$ 117,411.04	\$ 70,446.62	\$ 46,964.42	\$ 70,446.62			\$ 70,446.62	\$ -	\$ 46,964.42			\$ 46,964.42	\$ -
2011	\$ 231,495.55	\$ 138,897.33	\$ 92,598.22	\$ 90,000.00	\$ 44,822.55		\$ 134,822.55	\$ (4,074.78)	\$ 60,000.00	\$ 36,673.00		\$ 96,673.00	\$ 4,074.78
2012	\$ 181,682.46	\$ 109,009.48	\$ 72,672.98	\$ 90,000.00	\$ 17,425.35		\$ 107,425.35	\$ (1,584.12)	\$ 60,000.00	\$ 14,257.11		\$ 74,257.11	\$ 1,584.12
2013	\$ 361,254.64	\$ 216,752.78	\$ 144,501.86	\$ 90,000.00	\$ 82,500.00	\$ 24,501.86	\$ 197,001.86	\$ (19,750.93)	\$ 60,000.00	\$ 67,500.00	\$ 36,752.78	\$ 164,252.78	\$ 19,750.93
2014	\$ 197,130.17	\$ 118,278.10	\$ 78,852.07	\$ 90,000.00	\$ 25,921.59		\$ 115,921.59	\$ (2,356.51)	\$ 60,000.00	\$ 21,208.58		\$ 81,208.58	\$ 2,356.51
2015	\$ 318,215.00	\$ 190,929.00	\$ 127,286.00	\$ 90,000.00	\$ 82,500.00	\$ 7,286.00	\$ 179,786.00	\$ (11,143.00)	\$ 60,000.00	\$ 67,500.00	\$ 10,929.00	\$ 138,429.00	\$ 11,143.00
2016	\$ 460,714.75	\$ 276,428.85	\$ 184,285.90	\$ 90,000.00	\$ 82,500.00	\$ 64,285.90	\$ 236,785.90	\$ (39,642.95)	\$ 60,000.00	\$ 67,500.00	\$ 96,428.85	\$ 223,928.85	\$ 39,642.95
2017	\$ 496,982.63	\$ 298,189.58	\$ 198,793.05	\$ 90,000.00	\$ 82,500.00	\$ 78,793.05	\$ 251,293.05	\$ (46,896.53)	\$ 60,000.00	\$ 67,500.00	\$ 118,189.58	\$ 245,689.58	\$ 46,896.53
2018	\$ 643,873.74	\$ 386,324.24	\$ 257,549.50	\$ 90,000.00	\$ 82,500.00	\$ 137,549.50	\$ 310,049.50	\$ (76,274.75)	\$ 60,000.00	\$ 67,500.00	\$ 206,324.24	\$ 333,824.24	\$ 76,274.75
2019	\$ 486,742.00	\$ 292,045.20	\$ 194,696.80	\$ 90,000.00	\$ 82,500.00	\$ 74,696.80	\$ 247,196.80	\$ (44,848.40)	\$ 60,000.00	\$ 67,500.00	\$ 112,045.20	\$ 239,545.20	\$ 44,848.40
	\$4,133,658.65	\$2,480,195.19	\$1,653,463.46				\$ 2,188,651.77	\$ (291,543.42)				\$ 1,945,006.88	\$ 291,543.42

RECOMMENDATION

Wisconsin Building Inspections has served the City since 1999 in a satisfactory manner. The new contract provides the same level of service with additional revenue being returned to the City. Based on these factors Staff recommends continuing to contract for building inspection services with them under the new contract.

SUGGESTED MOTION

Motion to approve the Contract for Inspection Services through December 31, 2022.

Attachments:

- 1. Building Inspection Contract

CONTRACT FOR INSPECTION SERVICES

AGREEMENT, made this 1st day of March, 2020 between Wisconsin Building Inspections, **LLP**, herein called the Contractor, and the City of Oconomowoc, a Municipal Corporation, duly organized and located in the County of Waukesha, State of Wisconsin, hereinafter called the City, witnessed:

WHEREAS, The City is desirous of hiring an individual(s) to serve as Building Inspector for the City of Oconomowoc, and;

WHEREAS, The City is desirous of having a written agreement between the parties, and;

WHEREAS, The Contractor has agreed to provide such services in accordance with the terms and provisions of this contract, and;

NOW, THEREFORE, the Contractor and the City agree as follows:

- A The Contractor shall serve as Building Inspector for the City of Oconomowoc. Zoning administration and enforcement done by others.

- B. The Contractor shall be State certified in U.D.C. Construction, Electrical, Plumbing, Heating, Ventilating and Air Conditioning, as well as Commercial Building, Electrical, Plumbing, HVAC.

- C. The Contractor agrees to perform all Building Inspector duties, including, but not limited to:
 - 1. All DSPS classes of construction for all phases of construction.
 - 2. All construction building permit planreviews.
 - 3. All residential erosion control inspections.
 - 4. All regular inspections performed within 24/48 hours of a detailed/compliant request.
 - 5. Issue permits within five (5) days after all zoning/building review approvals have been completed.

- D. The Contractor agrees to hold office hours in the City offices as agreed upon between the Contractor and the City. The weekly hours are as follows except for observed holidays:
 - 7:30am to 9:00am Monday through Friday
 - 3:30pm to 4:30pm Tuesday and Thursday

- E. As compensation for providing building inspection services, the City shall pay the Contractor a fee split of all fees collected for all building permits. No additional compensation shall be paid. The City shall compensate the Contractor no later than the 21st day of the month following the period that services were rendered. The fee split shall be calculated as followed:
 - 1. \$0 to \$150,000- Contractor shall be paid 60% of all permit fees.
 - 2. \$150,001 to \$300,000- Contractor shall be paid 55% of all permit fees.
 - 3. Over \$300,000- Contractor shall be paid 40% of all permit fees.

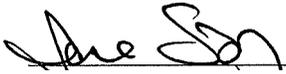
As a courtesy to the City, the Contractor will continue to waive all permit/inspection fees for:

- a. All City (municipal) construction projects on City owned property.
- b. All yearly liquor license inspections.
- c. All property maintenance inspections.
- d. All meetings on properties with Oconomowoc Electric Utility for required customer upgrades/changes.
- e. All requested police/fire department emergencies 24/7/365 days per year.

- F. The City shall provide office space, office supplies, desk, desk chair, file cabinet, computer, and use of photocopier, phone, and fax machine during the term of this contract.
- G. The Contractor shall keep an accurate record of the inspections performed and permits issued as the services under this contract. The Contractor shall provide a recap of permits issued on a monthly basis, including fees/revenue, estimated new construction valuation, and forward to the Department of Public Works.
- H. The Contractor shall provide:
 - 1. Field communication equipment and all other necessary equipment.
 - 2. Vehicles, fuel, and auto insurance for the Contractor and any staff.
 - 3. Supplemental systems and support and administrative coordination.
 - 4. Wisconsin license fees for the Contractor and any staff.
 - 5. Professional liability insurance in an amount Satisfactory to the municipality (Currently \$2,000,000 each occurrence for General Liability, \$2,000,000 aggregate for errors/omissions).
 - 6. Salary for any staff of the Contractor.
- I. This agreement shall be in effect from the 1st day of March, 2020 through the 31st day of December, 2022, after which this contract shall be reviewed for renewal by the common council unless modified and/or terminated. This contract shall not be assigned or sublet to any other person, firm or Corporation without the express written consent of the City.
- J. The City may terminate this contract at any time for failure of the Contractor to adequately provide inspection services as required or upon failure of the Contractor to otherwise adhere to the terms of this contract. Either party may terminate this Contract upon ninety (90) days written notice to the other party of the intention to terminate. Any notice to the City shall be sent to the City Administrator.
- K. It is further understood and agreed that the Contractor is an independent contractor and is not an employee of the City, and all persons engaged by the Contractor in performance of this contract shall be deemed the Contractor's agents and employees and not the agents and employee of the City. The Contractor shall hold harmless and indemnify the City for any and all damages resulting from the action or non-action on the part of the Contractor, or any of its employees, including, without limitation, all litigation costs and legal fees, arising in any out of its work as the Building Inspector for the City (except acts performed in good faith and without intentional misrepresentation by the Contractor as a recommendation only, for which the final action related to the claim was taken by a City governing body per State Statute 62.115(1)).
- L. Contractor recognizes that Wisconsin public records laws apply to records generated by Contractor. Contractor agrees to follow all City directions with regard to records requests.

IN WITNESS THEREOF, the City has caused these presents to be signed by its City Mayor, City Administrator and the Contractor has caused this contract to be executed by its duly authorized representatives.

Wisconsin Building Inspections, LLP



2-3-20

Date



2/3/2020

Mike Sindorf- WBI, LLP

Date

**City of Oconomowoc
A Municipal Corporation**

Robert P. Magnus- Mayor

Date

City of Oconomowoc

Sarah Kitsembel- Administrator

Date

City of Oconomowoc



MEMORANDUM

PUBLIC WORKS

Date: March 17, 2020
To: Committee of the Whole
From: Mark Frye, Director of Public Works
Re: Building Inspections Proposed Fee Changes

RELATES TO THE STRATEGIC PLAN

Strategic Plan Goal V. Enhance the Effectiveness of our City Government

1. Develop/Update/Maintain City Ordinances/Policies
3. Review & Analyze Building Inspection Services

BACKGROUND

As part of the review of building inspection services we also reviewed the permit fees. Since hiring the current contractor for building inspection services in 1999, there have been two fee adjustments. The first in March 2004 when the residential and commercial permits increased from \$0.15/square foot to \$0.20/square foot, additions and remodeling went from \$6/\$1,000 value to \$7/\$1,000 value and HVAC increased from \$0.02/square foot to \$0.03/square foot. The second increase was March 2015 when the residential and commercial building increased from \$0.20/square foot to \$0.30/square foot.

The next page shows the City's current building inspection fees with proposed fee changes highlighted in yellow in the second column. In addition neighboring community's fees have been included for your information. With the exception of mechanical permits, these fee changes are for projects that would take place on existing homes. Changes in regulations and the size/complexity of projects warrants these changes.

	City of Oconomowoc	City of Oconomowoc	Village of Summit	Village of Hartland	City of Delafield	Town of Oconomowoc	City Of Watertown
	Existing	Proposed					
Residential			Base: \$600			Base\$600	
new structure	.30/Sq ft.	.30/Sq ft.	.48/sq ft	.30/sq ft	.30/sq ft	.40/sq ft	.25/sq ft
erosion cont	\$75	\$150	\$150	\$175	\$175	\$150	
additions	\$7/k	\$8/k	\$8/k	.30/sq ft	\$8/k	\$8/k	.25/5k add .05/5k
remodel	\$7/k	\$8/k	\$8/k	\$8/k	\$8/k	\$8/k	
acc. Struct	\$30, \$40	\$60, \$100	\$60\$100	\$8/k	\$50	\$60 \$100	
occ permit	n/c	n/c	\$50	\$75/unit	\$50	\$200	
siding, roofing	\$25	\$8/k	n/c	\$8/k	\$8/k	n/c	
sign	\$25	\$25	n/c	\$8/k	\$8/k	n/c	\$25
fence	\$25	\$50	\$50	\$8/k	\$8/k	\$50	\$10
pool	\$25	\$8/k	\$7/k	\$8/k	50 100	\$8/k	\$25
deck	\$40	\$100	\$100	\$50	\$50	\$100	
early start	\$50	\$50	\$100	\$200	\$75	\$100	
razing	\$25	\$100	\$8/K	\$30 +1/1000cf	\$50	\$50	
plan exam	n/c	\$50 and \$100	\$150	\$200	\$200	\$150	\$55
compliance	n/c	n/c	\$50	\$100	\$30	\$75	
Commercial							
new structure	.30/sq ft	.30/sq ft	\$8/K	.30/sq ft	.30/sq ft	.25/sq ft	.25/sq ft
erosion con	n/c	n/c	\$225	75+5/1000sf	\$150	\$225	
remod/add	\$7/k	\$8/k	\$7/k	\$8/k	\$8/k	\$8/k	.25/5k add .05/5k
occupancy	n/c	n/c	n/c	\$75	\$50	\$200	\$25
change of use	n/c	n/c	\$50	\$100	\$30	\$50	
early start	\$75	\$75	\$75	\$200	\$100	\$200	\$55
plan exam	n/c	n/c	\$150	\$200	\$200	\$150	
Industrial							
new structure	.15/sq ft	.15/sq ft	.25/sq ft	.30/sq ft	.30/sq ft	.25/sq ft	
erosion cont	n/c	n/c	\$225	150+5/1000sf	\$150	\$225	
remod/add	\$7/k	\$8/k	\$7/k	\$8/k	\$8/k	\$8/k	
early start	\$175	\$175	\$100	\$200	\$100	\$200	
Mechanical							
new bldg/rem	.03/sq ft	.06/sq ft	.06/sq ft	.06/sq ft	.05/sq ft	.05/sq ft	.03/sq ft
minimum	\$35	\$50	\$50	\$35	\$35	\$50	\$35
HVAC							
furnace	\$35, \$45	\$35, \$45	\$45\$55	\$25 \$50	\$35\$45	\$45\$55	
a/c	\$35 \$45	\$35 \$45	\$35 \$45	\$25 \$50	\$25 \$35	\$45 \$55	
fireplace	\$35	\$35	\$35	\$35	\$25	\$55	
wall unit	1.25/kw	1.25/kw	1.25/kw	1.25/kw	1.25/kw	1.5/kw	
Sprinkler							
new bldg	.03/sq ft	.06/sq ft	.06/sq ft	.06/sq ft	.05/sq ft	.06/sq ft	
minimum	\$50	\$50	\$50	\$50	\$35	\$50	

ADDITIONAL ANALYSIS

In an effort to understand the potential revenue impact of the proposed fee increases, the analysis below uses 2015 as a representative average year. The average inspection fees are about \$300,000/year and 2015 was just slightly above that. The chart shows the actual number of permits issued or project square footage times the fee that was in place in 2015.

To the right, we have calculated the revenue increase if the proposed fee increases were implemented. The last column is the dollar change associated with the increase, an increase of \$62,161. Please note, the schedule only shows the fees proposed for change.

The second chart at the bottom of the page then calculates the split of the \$62, 161 in additional revenue between the contracted building inspector and the City, assuming the new proposed contract fee split was implemented. The City would receive \$37,296 and WBI the remaining \$24,864.

2015 Building Inspection	Actuals from 2015					Fee Changes																																																																														
	Fee In Place	# of Permits pulled in 2015	Sq. Ft.	2015 Fee Totals	Value of Work	Fee Change	New Fee Totals	Change																																																																												
Building Permits																																																																																				
Siding/Roof	\$25.00	29		\$ 725.00	\$ 571,115.00	\$8/K	\$ 4,568.92	\$ 3,843.92																																																																												
Deck	\$40.00	25		\$ 1,000.00		\$100.00	\$ 2,500.00	\$ 1,500.00																																																																												
Addition/Alteration	\$7/K			\$ 24,798.50	\$ 3,542,643	\$8/K	\$ 28,341.14	\$ 3,542.64																																																																												
Erosion Control	\$75	65		\$ 4,875.00		\$150	\$ 9,750.00	\$ 4,875.00																																																																												
Raze	\$25	11		\$ 275.00		\$100	\$ 1,100.00	\$ 825.00																																																																												
Min. on Building Permits	\$40	22		\$ 880.00		\$100	\$ 2,200.00	\$ 1,320.00																																																																												
Min. on Addition	\$75	4		\$ 300.00		\$100	\$ 400.00	\$ 100.00																																																																												
Plan Reviews																																																																																				
Plan Review	\$0			\$ -		\$50 - \$100	\$ 13,450.00	\$ 13,450.00																																																																												
12 Additions, 25 Decks, 10 Garages, 90 Remodels and 66 One and Two Single Family Homes																																																																																				
Accessory Permit																																																																																				
Fence	\$25	32		\$ 800.00		\$50	\$ 1,600.00	\$ 800.00																																																																												
Pool	\$40	4		\$ 160.00	\$ 64,500.00	\$8/K	\$ 516.00	\$ 356.00																																																																												
Acc. Bldg up to 150 sq. ft.	\$30	6		\$ 180.00		\$60	\$ 360.00	\$ 180.00																																																																												
150 - 600 sq. ft.	\$40	10		\$ 400.00		\$100	\$ 1,000.00	\$ 600.00																																																																												
Mechanical and Electrical Permits																																																																																				
Signs	\$25	28		\$ 700.00		\$50	\$ 1,400.00	\$ 700.00																																																																												
Mechanical Permits	\$35 base	154		\$ 5,390.00		\$50 base	\$ 7,700.00	\$ 2,310.00																																																																												
	.03/sq ft, min \$70		724,299	\$ 21,728.97		.06/sq ft	\$ 43,457.94	\$ 21,728.97																																																																												
Electric Service	\$25	29		\$ 725.00		\$80	\$ 2,320.00	\$ 1,595.00																																																																												
Pool Electric	\$50	7		\$ 350.00		\$80	\$ 560.00	\$ 210.00																																																																												
Minimum Fees	\$25	169		\$ 4,225.00		\$50	\$ 8,450.00	\$ 4,225.00																																																																												
Totals:				\$ 67,512.47			\$ 129,674.00	\$ 62,161.53																																																																												
Total All Permits from 2015				\$ 318,215.00		Revised Fee Totals		\$ 380,376.53																																																																												
<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th rowspan="3"></th> <th rowspan="3">Total Permit Costs</th> <th colspan="6">Wisconsin Building Inspection</th> <th colspan="3">City of Oconomowoc</th> <th rowspan="3">Total City Revenue</th> <th rowspan="3">Difference</th> </tr> <tr> <th rowspan="2">Current Payment</th> <th rowspan="2">Current City Revenue</th> <th colspan="3">Proposed New Payment</th> <th rowspan="2">Proposed Adjusted Payment</th> <th rowspan="2">Difference</th> <th colspan="3">Proposed New Revenue</th> </tr> <tr> <th>First \$150k</th> <th>Second \$150K</th> <th>Over \$300k</th> <th>First \$150k</th> <th>Second \$150K</th> <th>Over \$300k</th> </tr> </thead> <tbody> <tr> <td>2015</td> <td>\$ 318,215.00</td> <td>\$ 190,929.00</td> <td>\$ 127,286.00</td> <td>\$ 90,000.00</td> <td>\$ 82,500.00</td> <td>\$ 7,286.00</td> <td>\$ 179,786.00</td> <td>\$ (11,143.00)</td> <td>\$ 60,000.00</td> <td>\$ 67,500.00</td> <td>\$ 10,929.00</td> <td>\$ 138,429.00</td> <td>\$ 11,143.00</td> </tr> <tr> <td>2015 Adjusted</td> <td>\$ 380,376.00</td> <td>\$ 228,225.60</td> <td>\$ 152,150.40</td> <td>\$ 90,000.00</td> <td>\$ 82,500.00</td> <td>\$ 32,150.40</td> <td>\$ 204,650.40</td> <td>\$ (23,575.20)</td> <td>\$ 60,000.00</td> <td>\$ 67,500.00</td> <td>\$ 48,225.60</td> <td>\$ 175,725.60</td> <td>\$ 23,575.20</td> </tr> <tr> <td></td> <td>\$ 62,161.00</td> <td>\$ 37,296.60</td> <td>\$ 24,864.40</td> <td>\$ -</td> <td>\$ -</td> <td>\$ 24,864.40</td> <td>\$ 24,864.40</td> <td>\$ -</td> <td>\$ -</td> <td>\$ -</td> <td>\$ 37,296.60</td> <td>\$ 37,296.60</td> <td>\$ -</td> </tr> </tbody> </table>															Total Permit Costs	Wisconsin Building Inspection						City of Oconomowoc			Total City Revenue	Difference	Current Payment	Current City Revenue	Proposed New Payment			Proposed Adjusted Payment	Difference	Proposed New Revenue			First \$150k	Second \$150K	Over \$300k	First \$150k	Second \$150K	Over \$300k	2015	\$ 318,215.00	\$ 190,929.00	\$ 127,286.00	\$ 90,000.00	\$ 82,500.00	\$ 7,286.00	\$ 179,786.00	\$ (11,143.00)	\$ 60,000.00	\$ 67,500.00	\$ 10,929.00	\$ 138,429.00	\$ 11,143.00	2015 Adjusted	\$ 380,376.00	\$ 228,225.60	\$ 152,150.40	\$ 90,000.00	\$ 82,500.00	\$ 32,150.40	\$ 204,650.40	\$ (23,575.20)	\$ 60,000.00	\$ 67,500.00	\$ 48,225.60	\$ 175,725.60	\$ 23,575.20		\$ 62,161.00	\$ 37,296.60	\$ 24,864.40	\$ -	\$ -	\$ 24,864.40	\$ 24,864.40	\$ -	\$ -	\$ -	\$ 37,296.60	\$ 37,296.60	\$ -
	Total Permit Costs	Wisconsin Building Inspection						City of Oconomowoc			Total City Revenue	Difference																																																																								
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	\$ 62,161.00	\$ 37,296.60	\$ 24,864.40	\$ -	\$ -	\$ 24,864.40	\$ 24,864.40	\$ -	\$ -	\$ -	\$ 37,296.60	\$ 37,296.60	\$ -																																																																							

RECOMMENDATION

It is recommend to approve the proposed fee changes. With the proposed changes the City would still be comparable to the surrounding communities for building permit fees. If approved, the new fees would take place starting on Monday, June 8, 2020.

SUGGESTED MOTION

Motion to approve the Resolution for the proposed fee increases.

RESOLUTION NO. 20-R2863

RESOLUTION ADJUSTING FEES CHARGED FOR BUILDING INSPECTION SERVICES

WHEREAS, several building inspection fees have gone unchanged for 20 years; and

WHEREAS, a review of the inspection contract, fee allocation structure and inspection fees was recently completed; and

WHEREAS, based upon this review, the fees shown below are recommend to be adjusted as shown; and

<u>Building Permits</u>	<u>Exisiting</u>	<u>New</u>	<u>Change</u>
Siding/ Roof	\$25	\$8/K	
Deck	\$40	\$100	\$60
Addition/Alteration	\$7/K	\$8/K	\$1/K
Erosion Control	\$75	\$150	\$150
Raze	\$25	0 +\$ 15/ksq.ft	
Min Building Permit	\$40	\$100	\$60
Addition	\$75	\$100	\$25
Fence	\$25	\$50	\$25
Plan review	\$0	\$50-\$100	\$50-\$100
Pool	\$40	\$8/K	
Accessory Building up tp 150	\$30	\$60	\$30
150-600 Sq Ft.	\$40	\$100	\$60
over 600 Sq Ft.	.30/sq ft	.30/sq ft	\$0
Sign	\$25	\$50	\$25
Mechanical permits	\$35 base	\$50 base	\$15
	.03/sq ft	.06/sq ft	\$0.03
Electric service	\$25	\$80	\$55.00
Pool electric	\$50	\$80	\$30
Minimum fees	\$25	\$50	\$25

WHEREAS, the fee change will be effective starting on Monday, June 8, 2020; and

NOW THEREFORE BE IT HEREBY RESOLVED the fees for building inspection services, as shown above, will be adjusted and in effect on Monday, June 8, 2020.

DATED: _____

CITY OF OCONOMOWOC

By: _____

Robert P. Magnus, Mayor

ATTEST:

Diane Coenen, Clerk



MEMORANDUM

PUBLIC WORKS

Date: May 5, 2020
To: Common Council
From: Mark Frye, Director of Public Works
Re: Approve Engineering Consultant for Collins Parking Lot Design

RELATES TO THE STRATEGIC PLAN

Strategic Goal-
Section II: Improve and Maintain Our Infrastructure and Facilities
Part B: Maintain Our Existing Infrastructure

BACKGROUND

On March 3, 2020 the Committee of the Whole directed City Staff to start the process to reconstruct the Collins Parking Lot. The first step of this process is to obtain proposals to select a design engineering firm. On March 19, 2020 a Request for Proposals was sent to 19 firms we have on an email list for this type of work. Additionally 11 other firms reached out and requested the RFP.

Collins Parking Lot Project

- Complete reconstruct project. Consultant’s design to address both increased parking stall count and quantity of stormwater going to an existing lift station. The only design limitations are to maintain the existing ingress/egress to abutting parcels and no work to take place on the abutting properties.
- Provide three distinctive preliminary schematic designs to show options for access points, stormwater and parking stall locations. Stormwater to include the roof drainage in the eastern pedestrian alley.
- Include cost to attend four public meetings to discuss the various options with the abutting businesses, Committee of the Whole and Common Council.
- Design the electrical system for the parking lot lighting system. The bid will include the materials and conduit for the system. Contractor will be responsible for the installation of the system, lighting bases and installation/wiring of the light poles. City Utilities will provide the information for the poles and lights they are providing.
- Coordinate with all of the underground utility facility owners for any work they need to complete for conflicts or system upgrades.

- A vertical face concrete retaining wall frames the south and east side of the parking lot. Consultant to design the replacement wall to work with the previously completed design of Collins Street reconstruction. The reconstruction of Collins Street is a separate future project.
- A centralized dumpster in the northwest portion of the lot has been requested. Size and location to be part of the design.

RFP Task List

- Task 1 Pre Design Meeting
- Task 2 Permitting
- Task 3 Review of 60% Plans
- Task 4 Final Review Meeting
- Task 5 Project Bidding
- Task 6 Post Bid Tasks
- Task 7 Engineering Support Services during Construction
- Task 8 Estimate Hours Required for Construction Management

The RFP required a Not-to-Exceed (NTE) cost for the tasks associated with the design work. It was clearly stated in the document that the design firm would not be eligible to submit for the construction management work .Task 7 was added to account for the need to respond to any questions during the construction portion of the project. A fixed number of hours was provided in the RFP so all firms would be providing cost on the same level of service. For this task, it was stated the consultant would be paid on a time and material basis with the total cost Not-to-Exceed. This allows for fair comparison of the proposals and limits what is paid to actual hours. Task 8 of the scope of services is for the design engineer to provide the estimated number of hours expected for construction management services on the project. These hours will then be provided in the construction management RFP for all consultants to use as the basis of their proposal cost.

We utilize the hybrid QBS (Qualifications Based Selection) process to evaluate proposals. This hybrid evaluation process includes a technical evaluation consisting of 80% of points and cost evaluation consisting of 20% of points. The consultant with the highest combined total of points will be recommended to Council for approval with the not to exceed cost plus authorization for staff to execute a 10% contingency. Consultants may not perform construction management services for projects their firm designed.

ADDITIONAL ANALYSIS

Proposals were reviewed and scored by Mark Frye, Director of Public Works and David Stoiser, Assistant Director of Public Works. Four of the firms did not meet the 80% point requirement for further consideration. The scoring summary and the not-to-exceed cost information is shown below.

Collins Street Paarking Lot Design									
April 9, 2020									
Technical Score									
	Total Points	Average Points	Rank						
Baxter and Woodman	170	85	3						
Bloom Companies	158	79	5						
Cedar Corporation	143	71.5	7						
Collins Engineering	193	96.5	1						
Harwood	141	70.5	8						
raSmith	158	79	5						
SEH	166	83	4						
Vierbicher	182	91	2						
Total Possible Points	200	100.0							
Average Technical Score with Pricing Factor									
	Compliance with the RFP	Quality of the Response	Services to be Provided	Qualifications and Experience	Contract Cost Points	Total Points	Proposal Cost	% Cost Points	Rank
Baxter and Woodman	14.0	12.0	26.0	33.0	25.0	110.0	\$51,379.00	100%	1
Collins Engineering	14.5	15.0	28.5	38.5	13.2	109.7	\$97,485.00	53%	2
SEH	12.5	9.0	26.0	35.5	14.3	97.3	\$89,728.00	57%	4
Vierbicher	14.0	13.5	28.5	35.0	14.5	105.5	\$88,600.00	58%	3

FINANCIAL IMPACT

Based on the proposal received from Baxter and Woodman a Not-to-Exceed cost of \$51,379.00 plus a 10% contingency of \$5,138.00 for a total of \$56,517.00.

RECOMMENDATION

City Staff recommends acceptance of the proposal from Baxter and Woodman.

SUGGESTED MOTION

Motion to approve Resolution 20-R2871 for the Collins Parking Lot Design Services for the Not-to-Exceed cost of \$51,379.00 plus a 10% contingency of \$5,138.00 for a total of \$56,517.00.

404.505.5355.210 #419507.01, TID #4 Design Engineering \$51,379.00

404.505.5355.210 #419507.04, TID #4 Contingency \$5,138.00

RESOLUTION NO. 20-R2871

RESOLUTION AWARDING 2020 COLLINS PARKING LOT DESIGN ENGINEERING

WHEREAS, design engineering services are required for the 2020 Collins Parking Lot Reconstruction; and

WHEREAS, Department of Public Works representatives prepared a Request for Proposal advertisement, published the same, and based thereon received eight proposals; and

WHEREAS, City Staff followed Procurement Policy for professional services and used a combined approach to evaluate proposals by weighting 80% of the points for the technical evaluation and 20% for cost, so cost is incorporated as a factor; and

WHEREAS, based on the evaluation process completed by the Director of Public Works and Assistant Director of Public Works of the eight firms that responded, four received the points needed to have their cost envelopes opened; and

WHEREAS, based on the combination of the Technical and Cost points the final ranking of the four firms is as follows:

1. Baxter and Woodman
2. Collins Engineering
3. Vierbicher
4. SEH

WHEREAS, the proposal from Baxter and Woodman to complete the design engineering services, respond to construction related questions and preparation of record drawings for the project is \$51,379.00; and

WHEREAS, City staff recommend the proposal of Baxter and Woodman in the amount of \$51,379.00 for design engineering services, respond to construction related questions and preparation of record drawings for the Collins Parking Lot Reconstruction be accepted.

NOW THEREFORE, BE IT HEREBY RESOLVED the proposal of Baxter and Woodman in the amount of \$51,379.00 be and the same is hereby accepted, and appropriate City officials are authorized to enter into a contract with Baxter and Woodman for said work.

BE IT FURTHER RESOLVED this is a Not-to-Exceed price proposal with a 10% contingency of \$5,138.00 for a total cost of \$56,517.00.

BE IT FURTHER RESOLVED that the project cost will be allocated and charged to the following account numbers:

404.505.5355.210 #419507.01, TID #4 Design Engineering	\$51,379.00
404.505.5355.210 #419507.04, TID #4 Contingency	\$5,138.00

DATED: _____

CITY OF OCONOMOWOC

By: _____
Robert P. Magnus, Mayor

ATTEST:

Diane Coenen, Clerk



MEMORANDUM

PUBLIC WORKS

Date: May 5, 2020
To: Common Council
From: Mark Frye, Director of Public Works
Re: Developer's Agreement for Bubbles Foam Farm

RELATES TO THE STRATEGIC PLAN

N/A

BACKGROUND

Bubbles Foam Farm is a tunnel style car wash located at 1600 Summit Avenue. This property is south of the Kwik Trip on the southeast corner of STH 67/Oconomowoc Parkway. On February 18, 2020 the Common Council approved the Conditional Use Permit with all other approvals previously obtained.

A Developer's Agreement is required when public facilities are being constructed by the developer and dedicated to the City. For this project, these facilities include sanitary sewer and water mains. This standard agreement document also details stormwater management, grading, erosion control, financial guarantees and many other aspects of developing a commercial parcel.

ADDITIONAL ANALYSIS

N/A

FINANCIAL IMPACT

N/A

RECOMMENDATION

City Staff recommends approval of the Developer's Agreement for Bubbles Foam Farm.

SUGGESTED MOTION

Move to approve the Developer's Agreement for Bubbles Foam Farm.

DEVELOPER'S AGREEMENT
FOR
Bubble's Foam Farm

CITY of OCONOMOWOC, WAUKESHA COUNTY, WISCONSIN

THIS AGREEMENT made this, _____ day of May, 2020, between LCCW Real Estate LLC, a Wisconsin limited liability company (hereinafter called "Developer"), with an address at P.O. Box 11, Oconomowoc, Wisconsin 53066, and the CITY OF OCONOMOWOC in the County of Waukesha and the State of Wisconsin, hereinafter called the "CITY".

WITNESSETH:

WHEREAS, the DEVELOPER is the owner of land in the CITY, said land being described on EXHIBIT A attached hereto and incorporated herein, hereinafter called "SUBJECT LANDS"; and

WHEREAS, the DEVELOPER desires to divide and develop SUBJECT LANDS for commercial purposes by use of the standard regulations as set forth in Chapter 236 of the Wisconsin Statutes and the municipal ordinance regulating land division and development; and

WHEREAS, Section 236.13 of the Wisconsin Statutes provides that as a condition of approval, the governing body of a municipality within which the SUBJECT LANDS lie may require that the DEVELOPER make and install any improvements reasonably necessary and/or that the DEVELOPER provide financial security to ensure that the DEVELOPER will make these improvements within a reasonable time; and

WHEREAS, said SUBJECT LANDS are presently zoned General Commercial (GC), which allows the above-described development; and

WHEREAS, the DEVELOPER may be required to grant additional easements over the entrance and private street areas of the SUBJECT LANDS for electric, sanitary sewer, storm sewer and water; and

WHEREAS, the DEVELOPER may be required to grant additional easements over the entrance and private street areas of the SUBJECT LANDS for electric, sanitary sewer, storm sewer and water; and

WHEREAS, the DEVELOPER and CITY desire to enter into this agreement in order to ensure that the DEVELOPER will make and install all public improvements which are reasonably necessary and further that the DEVELOPER shall dedicate the public improvements to the CITY, provided that said public improvements are constructed to municipal specifications, all applicable government regulations and this agreement without cost to the CITY; and

WHEREAS, the DEVELOPER agrees to develop SUBJECT LANDS as herein described in accordance with this agreement, conditions approved by the CITY Plan Commission and CITY Common Council, conditions of certain agencies and individuals in the County, all CITY ordinances and all laws and regulations governing said development; and

WHEREAS, the Plan Commission and Common Council of the CITY have given conditional Preliminary CSM approval to the development, as shown on the document on file in the CITY Clerk's office, conditioned in part upon the DEVELOPER and the CITY entering into a DEVELOPER's Agreement, as well as other conditions as approved by the CITY Common Council.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the DEVELOPER does hereby agree to develop SUBJECT LANDS as follows and as otherwise regulated by CITY ordinances and all laws and regulations governing said development, the parties hereto agree as follows:

DEVELOPER'S COVENANTS

SECTION I. IMPROVEMENTS

A. SANITARY SEWER: The DEVELOPER hereby agrees:

1. Prior to the start of construction of improvements, DEVELOPER shall provide to the CITY written certification from the DEVELOPER's Engineer that the sanitary sewer plans are in conformance with all Federal, State and CITY specifications, regulations, ordinances and guidelines and written proof that the CITY Utility Engineer has approved said plans.
2. To construct, furnish, install and provide a complete sewerage system for the SUBJECT LANDS, all in accordance with the plans, specifications and drawings on file in the CITY Public Works office and all applicable Federal, State and CITY ordinances, specifications, regulations and guidelines for the construction of sewerage systems in the CITY and as approved by the CITY Utility Engineer.
3. Be responsible for the associated cost for the CITY to clean and televise all sanitary sewers in the SUBJECT LANDS prior to acceptance of the improvements and issuance of building permits by the CITY. DEVELOPER shall repair any defects as determined by the CITY Engineer.
4. The DEVELOPER shall comply with the specifications for all public facilities set forth in the City of Oconomowoc Specifications. Record drawings, including digital record drawing plans, shall be provided to all appropriate City departments as required by the City of Oconomowoc Specifications on file in the office of the Department of Public Works prior to any building permits being issued.
5. That no building permits shall be issued until the sanitary sewer system for the SUBJECT LANDS has been dedicated to the CITY and substantial completion has occurred.

B. WATER: The DEVELOPER hereby agrees:

1. Prior to the start of construction of improvements, DEVELOPER shall provide to the CITY written certification from the DEVELOPER's Engineer that the water system plans are in conformance with all Federal, State and CITY specifications, regulations, ordinances and guidelines and written proof that the CITY Utility Engineer has approved said plans.

2. To construct, furnish, install and provide a complete water system for the SUBJECT LANDS, all in accordance with the plans, specifications and drawings on file in the CITY Public Works office and all applicable Federal, State and CITY ordinances and specifications, regulations and guidelines for the construction of water systems in the CITY and as approved by the CITY Utility Engineer. No water lateral service valve shall be located within a driveway or sidewalk. Water valve boxes will not be accepted until the final lift of pavement has been approved by the CITY.
3. The DEVELOPER shall comply with the specifications for all public facilities set forth in the City of Oconomowoc Specifications. Record drawings, including digital record drawings plans, shall be provided to all appropriate City departments as required by the City of Oconomowoc Specifications on file in the office of the Department of Public Works prior to any building permits being issued.
4. That no building permits shall be issued until the water system for the SUBJECT LANDS has been dedicated to the CITY and substantial completion has occurred.

C. SURFACE AND STORMWATER DRAINAGE: The DEVELOPER hereby agrees that:

1. Prior to the start of construction of improvements, the DEVELOPER shall provide to the CITY written certification from the DEVELOPER'S Engineer or Surveyor that all surface and stormwater drainage facilities and erosion control plans are in conformance with all Federal, State and CITY regulations, guidelines, specifications, laws and ordinances, and written proof that the CITY Engineer has reviewed and approved said plans. Off-site easements must be recorded with Waukesha County prior to installation of subsurface facilities with copy to be provided to the CITY.
2. Provide CITY with the recorded Stormwater Maintenance Agreement and erosion control permit has been issued.
3. The DEVELOPER shall construct, install, furnish and provide adequate facilities for surface and stormwater drainage throughout the development with adequate capacity to transmit the anticipated flow from the development and adjacent property, in accordance with all plans and specifications on file in the CITY Public Works office, and all applicable federal, state, county and CITY regulations, guidelines, specifications, laws and ordinances, and as reviewed and approved by the CITY Engineer including where necessary as determined by the CITY Engineer, curb, gutter, storm sewers, catch basins and infiltration/retention/detention basins.
4. The DEVELOPER agrees that the site grading and construction of surface and stormwater drainage facilities shall be completed and accepted by the CITY before any building permits are issued.
5. To maintain roads free from mud and dirt from construction of the development.
6. The DEVELOPER shall clean all storm sewers, if any, prior to issuance of building permits.

7. The CITY retains the right to require DEVELOPER to install additional surface and stormwater drainage measures if it is determined by the CITY Engineer that the original surface and stormwater drainage plan as designed and/or constructed does not provide reasonable stormwater drainage within the development and surrounding area.
8. The DEVELOPER shall comply with the specifications set forth in the City of Oconomowoc Specifications. Record drawings, including digital as-built plans, shall be provided to all appropriate City departments as required by the City of Oconomowoc Specifications on file in the office of the Department of Public Works prior to any building permits being issued.

D. GRADING, EROSION AND SILT CONTROL: The DEVELOPER hereby agrees that:

1. Prior to commencing site grading and excavation, the DEVELOPER shall provide to the CITY written certification from the DEVELOPER'S Engineer or Surveyor that said plan, once implemented, shall meet all federal, state, county and local regulations, guidelines, specifications, laws and ordinances, including proof of notification of land disturbances to the State of Wisconsin Department of Natural Resources, if applicable, and written proof that the CITY Engineer, and the Army Corps of Engineers, if applicable, have approved said plans.
2. The DEVELOPER shall cause all grading, excavation, open cuts, side slopes and other land surface disturbances to be so seeded and mulched, sodded or otherwise protected that erosion, siltation, sedimentation and washing are prevented in accordance with the plans and specifications reviewed and approved by the State of Wisconsin Department of Natural Resources, if applicable, and written proof that the CITY Engineer, and the Army Corps of Engineers, if applicable, have approved said plans.
3. All disturbed areas shall be restored to the satisfaction of the CITY Public Works within seven (7) days of disturbance. Any cash or letter of credit posted with the CITY will not be released until the CITY Public Works is satisfied that no further erosion measures are required.
4. The DEVELOPER shall comply with the specifications for all facilities set forth in the City of Oconomowoc Specifications. Record drawings, including digital as-built plans, shall be provided to all appropriate City departments as required by the City of Oconomowoc Specifications on file in the office of the Department of Public Works prior to any building permits being issued.

E. LANDSCAPING AND SITE WORK: The DEVELOPER hereby agrees that:

1. The DEVELOPER shall preserve to the maximum extent possible existing trees, shrubbery, vines, and grasses not actually lying on the streets, drainage ways, building foundation sites, driveways, soil absorption waste disposal areas, paths and trails by use of sound conservation practices.

2. The DEVELOPER, as required by the CITY, shall remove and lawfully dispose of buildings, destroyed trees, brush, tree trunks, shrubs and other natural growth and all rubbish.
3. Landscaping and removal of unwanted items, including buildings, will be completed and certified as complete by the CITY Engineer prior to the issuance of any building permits.
4. The DEVELOPER shall delineate all wetlands by a certified wetland scientist that are on or adjacent to private lots by means of cedar posts, as approved by the CITY Staff prior to the issuance of building permits.
5. The CITY has the right to trim and remove any features which would interfere with safe operation and maintenance of the CITY right-of-ways and drainage ways.

F. ADDITIONAL IMPROVEMENTS:

The DEVELOPER hereby agrees that if, at any time after plan approval and during construction, the CITY Staff determines that modifications to the plans including additional improvements such as additional drainage ways, erosion control measures, and surface and stormwater management measures are necessary in the interest of public safety, are necessary in order to comply with current laws or are necessary for implementation of the original intent of the improvement plans, the CITY is authorized to order DEVELOPER, at DEVELOPER'S expense, to implement the same. If DEVELOPER fails to construct the additional improvement within a reasonable time under the circumstances, the CITY may cause such work to be carried out and shall charge against the financial guarantee held by the CITY pursuant to this agreement.

SECTION II. TIME OF COMPLETION OF IMPROVEMENTS:

The improvements set forth in Section I above shall be completed by the DEVELOPER in total within twelve (12) months of the date of this agreement being signed except as otherwise provided for in this agreement.

SECTION III. FINAL ACCEPTANCE.

Throughout this agreement, various stages of the development will require approval by the CITY. "Final Acceptance" as used herein, however, shall be the ultimate acceptance of all of the improvements in the completed development as a whole, and shall be granted specifically by a letter from the City Engineer. During the guarantee period, the CITY will hold 10% of the letter of credit for the final lift of asphalt cost. The guarantee period provided for the final lift shall not commence to run until Final Acceptance. The issuance of building permits and approval of various items of development shall not commence the guarantee period.

SECTION IV. DEDICATION OF IMPROVEMENTS:

Subject to all of the other provisions of this agreement, the DEVELOPER shall, without charge to the CITY, upon completion of the above described improvements, unconditionally give, grant, convey and fully dedicate the public improvements to the CITY, its successors and assigns, forever, free and clear of all encumbrances whatever, together with and including, without limitation because of enumeration, any and all land, buildings, structures, mains, conduits, pipes, lines, plant machinery, equipment, appurtenances and hereditaments which may in any way be a

part of or pertain to such improvements and together with any and all necessary easements for access thereto. After such dedication, the CITY shall have the right to connect or integrate other improvements as the CITY decides, with no payment or award to, or consent required of, the DEVELOPER.

Dedication shall not constitute acceptance of any improvement by the CITY. All improvements will be accepted by the CITY at such time as such improvements are in acceptable form and according to the CITY specifications. DEVELOPER will furnish proof to the CITY, prior to the dedication required, that the public land and improvements proposed for dedication are free of all liens, claims and encumbrances, including mortgages.

SECTION V. ACCEPTANCE OF WORK AND DEDICATION:

When the DEVELOPER shall have completed the improvements herein required and shall have dedicated the same to the CITY as set forth herein, the same shall be accepted by the CITY if said improvements have been completed as required by this agreement and as required by all federal, state, county or CITY guidelines, specifications, regulations, laws and ordinances and approved by the CITY Engineer, and the CITY shall be responsible for the future maintenance, repair, and replacement of the improvements so dedicated and accepted.

SECTION VI. APPROVAL BY CITY NOT TO BE DEEMED A WAIVER.

The ultimate responsibility for the proper design and installation of streets, water facilities, drainage facilities, ditches, landscaping and all other improvements are upon the DEVELOPER. The fact that the CITY or its engineer, or its attorney, or its staff may approve a specific project shall not constitute a waiver, or relieve the DEVELOPER from the ultimate responsibility for the design, performance and function of the development and related infrastructure.

SECTION VII. GUARANTEES OF IMPROVEMENTS:

- A. Guarantee. The DEVELOPER shall guarantee after Substantial Completion, the public improvements and all other improvements described in Section I hereof, against defects due to faulty materials or workmanship, provided that such defects appear within a period of one year from the date of Substantial Completion as part of the Letter of Credit described in Section X. Ten percent (10%) of the total cost of all public improvements will be held from the Letter of Credit as the financial assurance for this. Substantial Completion shall be as defined in Wisconsin Statutes 236.13(2)(a)2. The DEVELOPER shall pay for any damages to CITY property and/or improvements resulting from such faulty materials or workmanship. This guarantee shall not be a bar to any action the CITY might have for negligent workmanship or materials. Wisconsin law on negligence shall govern such situations. If the DEVELOPER fails to pay for any damages or defects to CITY property and/or improvements, and the CITY is required to draw against the cash or letter of credit on file with the CITY, the DEVELOPER is required to replenish said monies up to the aggregate amount of ten percent (10%) of the total cost of all public improvements.
- B. Obligation to Repair. The DEVELOPER shall make or cause to be made, at its own expense, any and all repairs which may become necessary under and by virtue during the term of the DEVELOPER'S guarantee and shall leave the improvements in good and sound condition, satisfactory to the CITY at the expiration of the guarantee period.

C. Notice of Repair. If during said guarantee period, the improvements shall, in the reasonable opinion of the CITY Staff, require any repair or replacement which, in their judgment, is necessitated by reason of settlement of foundation, structure of backfill, or other defective materials or workmanship, the DEVELOPER shall, upon notification by the CITY the necessity for such repair or replacement, make such repair or replacement, at its own cost and expense. Should the DEVELOPER fail to make such repair or replacement within the time specified by the CITY in the aforementioned notification, after notice has been sent as provided herein, the CITY may cause such work to be done, but has no obligation to do so, either by contract or otherwise, and the CITY may draw upon such guarantee security to pay any costs or expenses incurred in connection with such repairs or replacements. Should the costs or expenses incurred by the CITY in repairing or replacing any portion of the improvements covered by this guarantee exceed the amount of the guarantee security, then the DEVELOPER shall immediately pay any excess cost or expense incurred in the correction process.

D. Maintenance Prior to Acceptance.

1. All improvements shall be maintained by the DEVELOPER so they conform to the approved plans and specifications at the time of their Final Acceptance by the CITY. This maintenance shall include routine maintenance, asphalt repairs, concrete repairs and the like. In cases where emergency maintenance is required, the CITY retains the right to complete the required emergency maintenance in a timely fashion and bill the DEVELOPER for all such associated costs. Said bill shall be paid immediately by the DEVELOPER. The DEVELOPER'S obligation to maintain all improvements shall expire at the expiration of the guarantee period.
2. Street sweeping and dust suppression shall be done by the DEVELOPER upon a regular basis as needed to ensure a reasonably clean and safe roadway until Final Acceptance by the CITY. Should the DEVELOPER fail to meet this requirement, the CITY will cause the work to be done and will bill the DEVELOPER on a time and material basis. Said bill shall be paid immediately by the DEVELOPER.
3. In the event drainage problems arise within the SUBJECT LANDS or related activities on the SUBJECT LANDS, the DEVELOPER shall correct such problems to the satisfaction of the CITY Staff. Such correction measures shall include, without limitation because of enumeration, cleaning of soil, loose aggregate and construction debris from culverts, pipes, drainage ditches and streets; dredging and reshaping of siltation or retention ponds; replacing of siltation fences; sodding and seeding; construction of diversion ditches, ponds and siltation traps; and restoration of all disturbed areas. This responsibility shall continue until such time as the roads, ditches, and other disturbed areas have become adequately vegetated and the CITY is satisfied that the DEVELOPER has restored all areas which were disturbed because of this development.

SECTION VIII. CITY RESPONSIBILITY FOR IMPROVEMENTS:

The CITY shall not be responsible to perform repair, maintenance, or snow plowing on any improvements until accepted by the CITY. However, with regard to snowplowing, CITY will provide snowplowing services on any public streets after the binder course has been accepted.

SECTION IX. RISK OF PROCEEDING WITH IMPROVEMENTS PRIOR TO APPROVALS OF FINAL CSM:

If a DEVELOPER proceeds with the installation of improvements or other work on the site prior to approval of the CSM, it proceeds at its own risk as to whether or not the CSM will receive all necessary approvals. The DEVELOPER, prior to commencement of the installation of improvements or other work on site, shall notify the CITY of the DEVELOPER'S intention to proceed with work on site, prior to approval of the final CSM. Additionally, DEVELOPER shall make arrangements to have any work on site inspected by the CITY.

SECTION X. FINANCIAL GUARANTEE:

Prior to the execution of this agreement by the CITY, the DEVELOPER shall file with the CITY cash (escrow agreement) or a letter of credit setting forth terms and conditions in a form approved by the CITY Attorney in the amount of 110% of the cost of the public improvements and stormwater management as approved by the CITY Engineer as a guarantee that the DEVELOPER will perform all terms of this agreement no later than one year from the signing of this agreement except as otherwise set forth in this agreement. If at any time:

- A. The DEVELOPER is in default of any aspect of this agreement, or
- B. The DEVELOPER does not complete the installation of the improvements within one (1) year from the signing of this agreement unless otherwise extended by this agreement or by action of the CITY COMMON COUNCIL, or
- C. The letter of credit on file with the CITY is dated to expire sixty (60) days prior to the expiration of the same with an automatic renewal unless notice is given of expiration or replaced, or
- D. The DEVELOPER fails to maintain a cash deposit or letter of credit in an amount approved by CITY Engineer, and in a form approved by the CITY Attorney, to pay the costs of improvements in the development, the DEVELOPER shall be deemed in violation of this agreement and the CITY shall have the authority to draw upon the letter of credit.

The amount of the letter of credit shall be reduced from time to time as and to the extent that the portion of work required under this Agreement is completed, paid for and accepted by the CITY, provided that the remaining letter of credit is sufficient to secure payment for any remaining improvements and also provided that no reduction shall occur until it is approved in writing by the CITY Director of Finance. The CITY is hereby authorized to contact directly the Developer's or contractor's financial agent from time to time regarding the sufficiency of the financial guarantee.

The lending institution providing the irrevocable letter of credit shall pay to the CITY all sums available for payment under the irrevocable letter of credit upon demand, subject to the terms and conditions of the irrevocable letter of credit, and upon its failure to do so, in whole or in part, the CITY shall be empowered in addition to its other remedies, without notice or hearing, to impose a special charge for the amount of said completion costs, upon each and every lot in the development payable with the next succeeding tax roll.

SECTION XI. BUILDING AND OCCUPANCY PERMITS:

It is expressly understood and agreed that no building permits shall be issued for any buildings, until the CITY has determined that there is adequate improved access ways allowing for ingress and egress to and from the SUBJECT LANDS by emergency vehicles and personnel and adequate water facilities and supplies for fire suppression.

It is expressly understood and agreed that no occupancy permits shall be issued for any buildings, until the CITY has determined that:

The installation of the first lift of asphalt of the private street(s) providing access to and fronting a specific lot for which a building permit is requested has been completed and accepted by the CITY. Upon such substantial completion, any outstanding local building permits that are related to, and dependent upon, substantial completion shall be released.

The site grading and construction of surface and stormwater drainage facilities required to serve such buildings are completed, are connected with an operating system as required herein and are cleaned as needed.

The DEVELOPER has paid in full all fees, assessments and reimbursement of administrative costs as required by this agreement.

The DEVELOPER has prepared appropriate deed restrictions which are approved by the CITY Attorney, filed with the CITY Clerk and recorded with the Register of Deeds.

All destroyed trees, brush, tree trunks, shrubs and other natural growth and all rubbish are removed from the development and disposed of lawfully.

All required record drawings plans for the SUBJECT LANDS have been submitted.

All public and private utilities have been installed in the SUBJECT LANDS, including street lighting fixtures, stormwater, sanitary sewer, water and electrical.

The DEVELOPER is not in default of any aspect of this agreement.

There is no default of any aspect of this agreement as determined by the CITY.

The DEVELOPER has delineated the wetlands that are on or adjacent to private lots by means of cedar posts, as approved by the CITY Staff prior to the issuance of building permits.

SECTION XII. RESERVATION OF RIGHTS AS TO ISSUANCE OF BUILDING PERMITS:

The CITY reserves the right to withhold issuance of any and all building permits if DEVELOPER is in violation of this agreement.

SECTION XIII. VACANT LOT MAINTENANCE EASEMENT.

If applicable, Developer shall grant a vacant lot maintenance easement to the CITY, in a form that is subject to the approval of the CITY Attorney, which shall be recorded with the Waukesha County Register of Deeds. The easement shall grant the CITY the right (but not the obligation) to enter upon any vacant Lot in the SUBJECT LANDS in order to inspect, repair, or restore the property so that it is in compliance with all applicable provisions of the CITY Municipal Code. A vacant lot shall include any lot that does not have an occupied principal structure that is used for single-family purposes at the time of inspection, repair or restoration. All costs incurred by the CITY in exercising its right to inspect, repair or restore the Lot shall be borne by the owner of the Lot necessitating such inspection, repair or restoration and if not paid for by such Lot owner may be placed against the tax roll for the Lot and collected as a special charge by the CITY.

SECTION XIV. VACANT LOT MAINTENANCE.

If applicable, Developer shall guarantee that all vacant lots under its ownership in the SUBJECT LANDS shall, at all times, be properly maintained to the minimum standards described in the CITY Municipal Code.

SECTION XV. MISCELLANEOUS REQUIREMENTS: The DEVELOPER shall:

A. EASEMENTS:

Provide any easements including vision and typical Utility easements on SUBJECT LANDS deemed necessary by the CITY Staff before the CSM is signed and such easements shall be along lot lines if at all possible.

B. MANNER OF PERFORMANCE:

Cause all construction called for by this agreement to be carried out and performed in a good and workerlike manner.

C. SURVEY MONUMENTS:

Properly place and install any lot, block or other monuments required by State Statute, CITY Ordinance or the CITY Engineer.

D. DEED RESTRICTIONS:

If applicable, execute and record deed restrictions in a form that is subject to the approval of the CITY Attorney, and provide proof of recording prior to sale of lots for the SUBJECT LANDS. The Deed Restrictions shall contain language to require the lot owners and/or homeowner's association within the subdivision to maintain all stormwater management facilities in accordance with the recorded stormwater maintenance agreement. The deed restrictions shall also contain the following language:

"Each lot owner must strictly adhere to and finish grade its lot in accordance with the Grading Plan or any amendment thereto approved by the CITY Engineer on file in the office of the CITY Clerk. The DEVELOPER and/or the CITY and/or their agents, employees or independent contractors shall have the right to enter upon any lot, at any time, for the purpose of inspection, maintenance, correction of any drainage condition, and the property owner is responsible for cost of the same."

E. GRADES:

Prior to the issuance of a building permit for a specific lot, the DEVELOPER and/or lot owner and/or their agent shall furnish to the Building Inspector of the CITY a copy of the stake out survey showing the street grade in front of the lot, the finished yard grade, the grade of all four corners of the lot, and the lot corner grades of the buildings on adjoining lots where applicable, as existing and as proposed.

F. UNDERGROUND UTILITIES:

1. CITY Electric Utility. The DEVELOPER shall be responsible for the installation cost of electrical infrastructure to make proper and adequate service available to each unit in the SUBJECT LANDS. The electrical system, except for necessary appurtenances, shall be underground. The electric system shall be designed by CITY Electric Utility staff or their representative.

The DEVELOPER shall pay for all costs of design, installation, engineering and relocation of all electrical infrastructure required for the SUBJECT LANDS. Pursuant to Wisconsin Public Service Commission rules, payment for the costs of the electric infrastructure shall be made prior to the Electric Utility commencing work on the project. The prepayment shall be based upon a project estimate prepared by the Electric Utility. Upon completion of the project, a final determination shall be made with regard to the accuracy of the prepayment. A refund will be made in the event of overpayment; and in the event the project estimate was less than the actual costs, the DEVELOPER will be billed for the difference. The CITY Electric Utility must approve scheduling for the installation of the electric facilities for the project. Coordination between the Electric Utility and all other utilities shall be the responsibility of the DEVELOPER. The DEVELOPER shall comply with all rules and regulations of the CITY Electric Utility. The timing and schedule of the electrical work for the Project shall be agreed upon by the DEVELOPER and CITY Electric Utility and shall take in consideration the overall construction schedule for the project.

CITY Electric facilities cannot be installed until DEVELOPER provides notification that all lot corners and easements are staked and the grade is plus or minus 4 inches of the final grade. If the grade changes more than 4 inches after CITY Electric facilities have been installed, these facilities will be relocated at the expense of the DEVELOPER.

2. Street Lamps. If applicable, the CITY Electric Utility shall design the street lighting system and install all street lamps planned for the SUBJECT LANDS. DEVELOPER will pay for the cost of facilities and installation. Requirements for street lamps shall be established by the CITY Electric Utility pursuant to §18.05(5m) of the Municipal Code.
3. Street lights shall be similar in design to those already installed in Pabst Farms and on Pabst Farms Boulevard
4. Other Utilities. DEVELOPER shall be responsible for and cause telephone, cable, natural gas and any other utility facilities required by CITY or DEVELOPER to be installed in such manner as to make proper and adequate service available to the SUBJECT LANDS. None of such services shall be located on overhead poles. Plans indicating the proposed location of all such utilities to service the SUBJECT LANDS shall be approved by the CITY Electric Utility staff.

G. PERMITS:

Provide and submit to the CITY valid copies of any and all governmental agency permits.

H. REMOVAL OF TOPSOIL:

The DEVELOPER agrees that no topsoil shall be removed from the SUBJECT LANDS without approval from the CITY Director of Public Works.

I. APPLICABLE FEES:

Currently per CITY Ordinances each lot will be responsible at time of issuance of a building permit to pay impact and other fees. DEVELOPER agrees to notify all prospective purchasers of lots within the SUBJECT LANDS of the fees applicable at the time a building permit is applied for and that the fees may increase annually hereafter. The fees in place at the time of this agreement are shown on Exhibit B.

J. DIGGERS HOTLINE:

Developer shall become a member of Diggers Hotline and provide evidence of such membership to the CITY Clerk before commencement of any land disturbing activities on the Subject Lands. Developer shall maintain said membership until all subsurface Improvements required under Section I have been finally accepted by the CITY as provided in Section III. Until the record drawings have been filed with the CITY Engineer, the CITY shall not be responsible for responding to requests for utility and other underground locates (Digger's Hotline). All requests for utility and other underground locates shall be referred to the DEVELOPER. This does not apply to electric utility underground locates which shall be done by the CITY Electric Utility.

K. NOISE:

Make every effort to minimize noise, dust and similar disturbances, recognizing that the SUBJECT LANDS are located near existing residences. Construction of improvements shall not begin before 7:00 a.m. during weekdays and Saturdays, and 9:00 a.m. on Sundays. Construction of improvements shall not continue beyond 7:00 p.m. during weekdays and Saturdays, and 5:00 p.m. on Sundays.

L. DEBRIS:

Have ultimate responsibility for cleaning up debris that has blown from buildings under construction within the SUBJECT LANDS until such time as all improvements have been installed and accepted by the CITY. The CITY shall make a reasonable effort to require the contractor, who is responsible for the debris, to clean up the same or to hold the subject property owner who hired the contractor responsible. The DEVELOPER and/or subject property owner shall clean up the debris within forty-eight (48) hours after receiving a notice from the CITY. If said debris is not cleaned up after notification, the CITY will do so at the DEVELOPER'S and/or subject property owner's expense.

M. DUTY TO CLEAN ROADWAYS:

The DEVELOPER shall be responsible for cleaning up the mud and dirt on the roadways until such time as the final lift of asphalt has been installed. The DEVELOPER shall clean the roadways within forty-eight (48) hours after receiving a notice from the CITY. If said mud, dirt and stone is not cleaned up after notification, the CITY will do so at the DEVELOPER's expense. The CITY will do its best to enforce existing ordinances that require builders to clean up their mud from construction.

N. PUBLIC CONSTRUCTION PROJECTS:

If any aspect of the development involves a public construction project subject to the State law, all requirements of the State Public Construction Bidding Law must be satisfied, including but not limited to, providing a performance bond.

O. ZONING CODE:

The DEVELOPER acknowledges that the lands to be developed are subject to the CITY Zoning Code.

SECTION XVI. PAYMENT OF COSTS, INSPECTION & ADMINISTRATIVE FEES:

The DEVELOPER shall pay and reimburse the CITY promptly upon billing for all fees, expenses, costs and disbursements which shall be incurred by the CITY in connection with this development or relative to the construction, installation, dedication and acceptance of the development improvements covered by this agreement, including without limitation by reason of enumeration, design, engineering, review, supervision, inspection and legal, administrative and fiscal work. CITY employee costs shall be based on an annual rate determination by the CITY. Any costs for outside consultants shall be charged at the rate the consultant charges the CITY. Any such charge not paid by DEVELOPER within thirty (30) days of being invoiced may be charged against the financial guarantee held by the CITY pursuant to this agreement, or assessed against the development land as a special charge pursuant to §66.0627, Wis. Stats.

SECTION XVII. GENERAL INDEMNITY:

In addition to, and not to the exclusion or prejudice of, any provisions of this agreement or documents incorporated herein by reference, the DEVELOPER shall indemnify and save harmless and agrees to accept tender of defense and to defend and pay any and all legal, accounting, consulting, engineering and other expenses relating to the defense of any claim asserted or imposed upon the CITY, its officers, agents, employees and independent contractors growing out of this agreement by any party or parties. The DEVELOPER shall also name as additional insureds on its general liability insurance the CITY, its officers, agents, employees and any independent contractors hired by the CITY to perform services as to this development and give the CITY evidence of the same upon request by the CITY.

SECTION XVIII. OVERSIZING:

- A. DEVELOPER shall assume the cost of installing all mains, laterals to the lot lines and system appurtenances within the proposed SUBJECT LANDS except for the added cost of materials for installing sanitary and water mains larger than 8 inches in diameter in residential development areas. DEVELOPER shall bear the expense of oversizing, the cost thereof to be borne by the owner or developer of other areas, the development of which made such oversizing necessary. CITY shall act as collecting agent and arbitrator, charging the subsequent developer and reimbursing the developer paying the expense of oversizing at such time as the subsequent development occurs. Any oversizing required for capacity to serve the SUBJECT LANDS or for fire flows is the responsibility of the DEVELOPER.
- B. The CITY agrees to allow the DEVELOPER to connect to the CITY's municipal water system and sewerage system at such time as the water system and sanitary sewer system required herein has been dedicated to and accepted by the CITY.

SECTION XIX. INSURANCE:

The DEVELOPER, its contractors, suppliers and any other individual working on the SUBJECT LANDS in the performance of this agreement shall maintain at all times until the expiration of the guarantee period, insurance coverage in the forms and in the amounts as required by the CITY.

SECTION XX. EXCULPATION OF CITY CORPORATE AUTHORITIES:

The parties mutually agree that the CITY Mayor of the CITY Common Council, and/or the CITY Clerk, entered into and are signatory to this agreement solely in their official capacity and not individually, and shall have no personal liability or responsibility hereunder; and personal liability as may otherwise exist, being expressly released and/or waived.

SECTION XXI. GENERAL CONDITIONS AND REGULATIONS:

All provisions of the CITY Ordinances are incorporated herein by reference, and all such provisions shall bind the parties hereto and be a part of this agreement as fully as if set forth at length herein. This agreement and all work and improvements required hereunder shall be performed and carried out in strict accordance with and subject to the provisions of said Ordinances.

SECTION XXII. ZONING:

The CITY does not guarantee or warrant that the SUBJECT LANDS will not at some later date be rezoned, nor does the CITY herewith agree to rezone the lands into a different zoning district. It is further understood that any rezoning that may take place shall not void this agreement.

SECTION XXIII. COMPLIANCE WITH CODES AND STATUTES:

The DEVELOPER shall comply with all current and future applicable codes of the CITY, State and Federal government and, further, DEVELOPER shall follow all current and future lawful orders of any and all duly authorized employees and/or representatives of the CITY, County, State or federal government.

SECTION XXIV. CSM CONDITIONS:

The DEVELOPER acknowledges that the SUBJECT LANDS are subject to a conditional and final CSM approved by the CITY. The DEVELOPER further agrees that it is bound by these conditions. A copy of the approved and recorded CSM for the SUBJECT LANDS is attached hereto and incorporated herein as EXHIBIT C. If there is a conflict between the conditions as forth in said conditional approvals and the Developer's Agreement, the more restrictive shall apply.

SECTION XXV. AGREEMENT FOR BENEFIT OF PURCHASERS:

The DEVELOPER agrees that in addition to the CITY'S rights herein, the provisions of this agreement shall be for the benefit of the purchaser of any lot or any interest in any lot or parcel of land in the SUBJECT LANDS.

SECTION XXVI. ASSIGNMENT:

The DEVELOPER shall not assign this agreement without the written consent of the CITY. The assignee must agree to all terms and conditions of this document in writing.

SECTION XXVII. PARTIES BOUND:

The DEVELOPER or its assignees shall be bound by the terms of this agreement or any part herein as it applies to any phase of the development.

SECTION XXVIII. HEIRS & ASSIGNS:

This agreement is binding upon the DEVELOPER, owners, their successors and assigns, and any and all future owners of the SUBJECT LANDS.

SECTION XXIX. AMENDMENTS:

The CITY and the DEVELOPER, by mutual consent, may amend this Developer's Agreement at any meeting of the CITY Common Council. The CITY shall not, however, consent to an amendment until after first having received a recommendation from the CITY Plan Commission.

IN WITNESS WHEREOF, the DEVELOPER and the CITY have caused this agreement to be signed by their appropriate officers and their corporate seals (if any) to be hereunto affixed in three original counterparts the day and year first above written.

EXHIBIT A
Legal Description

PARCEL A:

Lot One (1) of CERTIFIED SURVEY MAP NO. 11977, being a part of Lot Two (2) of Certified Survey Map No. 11156, being a part of Parcel Thirteen (13) of Certified Survey Map No. 9172, in the Southwest One-quarter (1/4) and the Northwest One-quarter (1/4) of the Southeast One-quarter (1/4) of Section Ten (10), in Township Seven (7) North, Range Seventeen (17) East, in the City of Oconomowoc, Waukesha County, Wisconsin, recorded in the Office of the Register of Deeds for Waukesha County, Wisconsin on February 26, 2020 in Book 121 of Certified Survey Maps, Pages 258 to 261, inclusive, as Document No. 4456216.

PARCEL B:

Non-exclusive easements for access and utilities as set forth in a Roadway/Utility Easement recorded on March 4, 2014 as Document No. 4068449, and modified by a Declaration of Access & Utility Easement recorded on March 5, 2014 as Document No. 4068646, and further modified by a Declaration of Access and Utility Easement recorded on _____, 2020 as Document No. _____.

PARCEL C:

Non-exclusive easement for storm sewer as set forth in Storm Sewer Easement Agreement recorded on _____, 2020, as Document No. _____.

Tax Key No.: Part of OCOC 0616-999-020

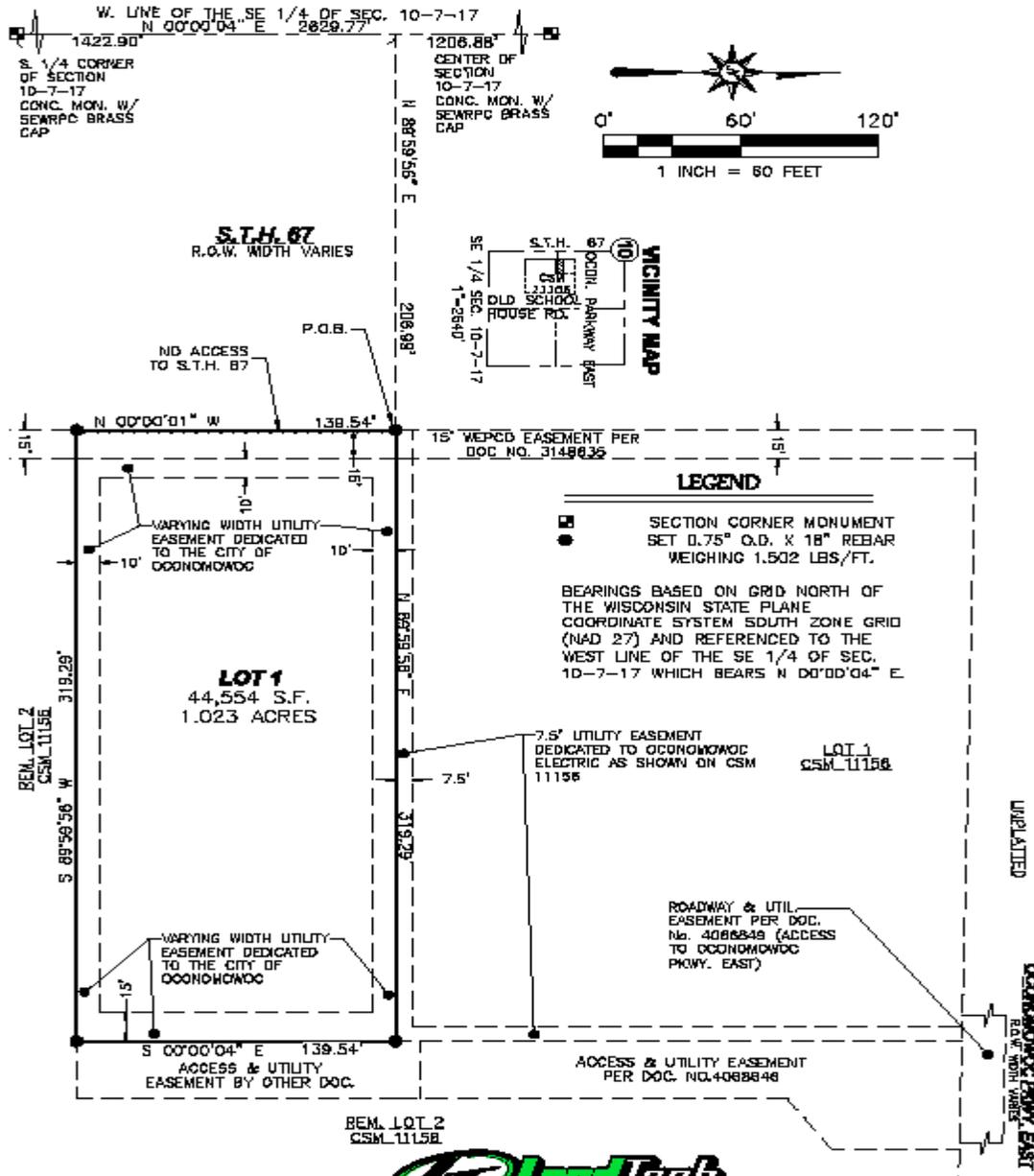
Address: Oconomowoc Parkway East, Oconomowoc, WI 53066

EXHIBIT B
Applicable Fees at Time of Agreement

Sewer Availability Charge	\$35,171.00
Highway and other Transportation Facilities Impact Fee	\$5,015.47
Law Enforcement Facilities Impact Fee	\$2,040.85
Assessment Fee for New Construction	\$100.00

EXHIBIT C
CSM

WAUKESHA CO. CERTIFIED SURVEY MAP NO.
BEING PART OF LOT 2 OF CERTIFIED SURVEY MAP NO. 11158, BEING A PART OF PARCEL 13 OF CERTIFIED SURVEY
MAP NO. 9172 IN THE SW 1/4 AND THE NW 1/4 OF THE SE 1/4 OF SECTION 10, TOWN 7 NORTH, RANGE 17 EAST, IN
THE CITY OF OCONOMOWOC, WALKESHA COUNTY, WISCONSIN



PREPARED FOR:
PABST FARMS LAND COMPANY I, LLC
P.O. BOX 508
RICHMOND, IL 60071

LandTech
SURVEYING

LAND SURVEYING ■ LAND PLANNING

111 W. 880 STREET
OCONOMOWOC, WI 53066
WWW.LANDTECH.WI.COM
(262) 387-7500

DATED 10/19/19
JOB #19115

THIS INSTRUMENT WAS DRAFTED BY MATTHEW T. O'ROURKE, 5-2771 SHEET 1 OF 4



MEMORANDUM

PUBLIC WORKS

Date: May 5, 2020
To: Common Council
From: Mark Frye, Director of Public Works
Re: Developer's Agreement for Vespera II Condominium

RELATES TO THE STRATEGIC PLAN

N/A

BACKGROUND

Vespera II is a condominium project located on the south end of the City just north of Valley Road and South of Oconomowoc Parkway along St. Andrews Drive. They are planning to construct a total of 13 duplex structures for a total of 26 residential condominium units.

The current project will complete the development of the area that started in 2006. For this reason, a majority of the public infrastructure has already been installed and accepted by the City. Within the Developer's Agreement document, there are several areas that do not apply because of this.

A Developer's Agreement is required when public facilities are being constructed by the developer and dedicated to the City. For this project, these facilities include sanitary sewer and water mains and the abandonment/reinstallation of sanitary and water laterals. This standard agreement document also details stormwater management, grading, erosion control, financial guarantees and many other aspects of developing a condominium parcel.

ADDITIONAL ANALYSIS

N/A

FINANCIAL IMPACT

N/A

RECOMMENDATION

City Staff recommends approval of the Developer's Agreement for Vespera II Condominiums.

SUGGESTED MOTION

Move to approve the Developer's Agreement for Vespera II Condominiums.

DEVELOPER'S AGREEMENT
FOR
VESPERA II CONDOMINIUM
CITY of OCONOMOWOC, WAUKESHA COUNTY, WISCONSIN

THIS AGREEMENT made this _____ day of _____, _____, between **Belforte, Inc., a Wisconsin Corporation, 700 Pilgrim Parkway, Suite 100, Elm Grove, WI 53122**, hereinafter called "DEVELOPER", and the CITY OF OCONOMOWOC in the County of Waukesha and the State of Wisconsin, hereinafter called the "CITY".

WITNESSETH:

WHEREAS, the DEVELOPER is the owner of land in the CITY, said land being described on EXHIBIT A attached hereto and incorporated herein, hereinafter called "SUBJECT LANDS"; and

WHEREAS, the DEVELOPER desires to divide and develop SUBJECT LANDS for residential purposes by use of the standard regulations as set forth in Chapter 236 of the Wisconsin Statutes and the municipal ordinance regulating land division and development; and

WHEREAS, Section 236.13 of the Wisconsin Statutes provides that as a condition of approval, the governing body of a municipality within which the SUBJECT LANDS lie may require that the DEVELOPER make and install any public improvements reasonably necessary and/or that the DEVELOPER provide financial security to ensure that the DEVELOPER will make these improvements within a reasonable time; and

WHEREAS, said SUBJECT LANDS are presently zoned RMH, multiunit high residential, which allows the above-described development; and

WHEREAS, the DEVELOPER may be required to grant additional easements over a part of the SUBJECT LANDS for electric, sanitary sewer, storm sewer and water; and

WHEREAS, the DEVELOPER and CITY desire to enter into this agreement in order to ensure that the DEVELOPER will make and install all public improvements which are reasonably necessary and further that the DEVELOPER shall dedicate the public improvements to the CITY, provided that said public improvements are constructed to municipal specifications, all applicable government regulations and this agreement without cost to the CITY; and

WHEREAS, the DEVELOPER agrees to develop SUBJECT LANDS as herein described in accordance with this agreement, conditions approved by the CITY Plan Commission and CITY Common Council, conditions of certain agencies and individuals in the County, all CITY ordinances and all laws and regulations governing said development; and

WHEREAS, the Plan Commission and Common Council of the CITY have given conditional approval to the development conditioned in part upon the DEVELOPER and the CITY entering into a DEVELOPER's Agreement, as well as other conditions as approved by the CITY Common Council.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the DEVELOPER does hereby agree to develop SUBJECT LANDS as follows and as otherwise regulated by CITY ordinances and all laws and regulations governing said development, the parties hereto agree as follows:

DEVELOPER'S COVENANTS

SECTION I. IMPROVEMENTS

A. **PUBLIC STREETS**: No public streets are being constructed as part of DEVELOPMENT subject to this agreement.

B. **SANITARY SEWER**: The DEVELOPER hereby agrees:

1. Prior to the start of construction of improvements, DEVELOPER shall provide to the CITY written certification from the DEVELOPER's Engineer that the sanitary sewer plans are in conformance with all Federal, State and CITY specifications, regulations, ordinances and guidelines and written proof that the CITY Utility Engineer has approved said plans.
2. To construct, furnish, install and provide the improvements in EXHIBIT D for the SUBJECT LANDS, all in accordance with the plans, specifications and drawings on file in the CITY Public Works office and all applicable Federal, State and CITY ordinances, specifications, regulations and guidelines for the construction of sewerage systems in the CITY and as approved by the CITY Utility Engineer.
3. Be responsible for the associated cost for the CITY to clean and televise all sanitary sewers in the SUBJECT LANDS prior to acceptance of the improvements and issuance of building permits by the CITY. DEVELOPER shall repair any defects as determined by the CITY Engineer.
4. The DEVELOPER shall comply with the specifications for all public facilities set forth in the City of Oconomowoc Specifications. Record drawings, including digital record drawing plans, shall be provided to all appropriate City departments as required by the City of Oconomowoc Specifications on file in the office of the Department of Public Works prior to any building permits being issued.
5. That no building permits shall be issued until the sanitary sewer system for the SUBJECT LANDS has been dedicated to the CITY and substantial completion has occurred.

C. **WATER**: The DEVELOPER hereby agrees:

1. Prior to the start of construction of improvements, DEVELOPER shall provide to the CITY written certification from the DEVELOPER's Engineer that the water system plans are in conformance with all Federal, State and CITY specifications, regulations, ordinances and guidelines and written proof that the CITY Utility Engineer has approved said plans.
2. To construct, furnish, install and provide the improvements in EXHIBIT D for the SUBJECT LANDS, all in accordance with the plans, specifications and drawings on file in the CITY Public Works office and all applicable Federal, State and CITY ordinances and specifications, regulations and guidelines for the construction of water systems in the CITY and as approved by the CITY Utility Engineer. No water lateral service valve shall be located within a driveway or sidewalk. Water valve boxes will not be accepted until the final lift of pavement has been approved by the CITY.
3. The DEVELOPER shall comply with the specifications for all public facilities set forth in the City of Oconomowoc Specifications. Record drawings, including digital record drawings plans, shall be provided to all appropriate City departments as required by the City of Oconomowoc Specifications on file in the office of the Department of Public Works prior to any building permits being issued.

4. That no building permits shall be issued until the water system for the SUBJECT LANDS has been dedicated to CITY and substantial completion has occurred.

D. SURFACE AND STORMWATER DRAINAGE: The DEVELOPER hereby agrees that:

1. Prior to the start of construction of improvements, the DEVELOPER shall provide to the CITY written certification from the DEVELOPER'S Engineer or Surveyor that all surface and stormwater drainage facilities and erosion control plans are in conformance with all Federal, State and CITY regulations, guidelines, specifications, laws and ordinances, and written proof that the CITY Engineer has reviewed and approved said plans.
2. Provide CITY with the recorded Stormwater Maintenance Agreement and erosion control permit has been issued.
3. The DEVELOPER shall construct, install, furnish and provide adequate facilities for surface and stormwater drainage throughout the development with adequate capacity to transmit the anticipated flow from the development and adjacent property, in accordance with all plans and specifications on file in the CITY Public Works office, and all applicable federal, state, county and CITY regulations, guidelines, specifications, laws and ordinances, and as reviewed and approved by the CITY Engineer including where necessary as determined by the CITY Engineer, curb, gutter, storm sewers, catch basins and infiltration/retention/detention basins.
4. The DEVELOPER agrees that the site grading and construction of surface and stormwater drainage facilities shall be completed and accepted by the CITY before any building permits are issued.
5. To maintain roads free from mud and dirt from construction of the development.
6. The CITY will not accept the surface and stormwater drainage system until the entire system is installed and landscaped in accordance with plans and specifications to the satisfaction of the CITY Engineer.
7. The DEVELOPER shall clean all storm sewers, if any, prior to issuance of building permits and acceptance of improvements by the CITY.
8. The CITY retains the right to require DEVELOPER to install additional surface and stormwater drainage measures if it is determined by the CITY Engineer that the original surface and stormwater drainage plan as designed and/or constructed does not provide reasonable stormwater drainage within the development and surrounding area.
9. The DEVELOPER shall comply with the specifications for all public facilities set forth in the City of Oconomowoc Specifications. Record drawings, including digital as-built plans, shall be provided to all appropriate City departments as required by the City of Oconomowoc Specifications on file in the office of the Department of Public Works prior to any building permits being issued.

E. GRADING, EROSION AND SILT CONTROL: The DEVELOPER hereby agrees that:

1. Prior to commencing site grading and excavation, the DEVELOPER shall provide to the CITY written certification from the DEVELOPER'S Engineer or Surveyor that said plan, once implemented, shall meet all federal, state, county and local regulations, guidelines, specifications, laws and ordinances, including proof of notification of land disturbances to the State of Wisconsin Department of Natural Resources, if applicable, and written proof that the CITY Engineer, and the Army Corps of Engineers, if applicable, have approved said plans.
2. The DEVELOPER shall cause all grading, excavation, open cuts, side slopes and other land surface disturbances to be so seeded and mulched, sodded or otherwise protected that erosion, siltation,

sedimentation and washing are prevented in accordance with the plans and specifications reviewed and approved by the State of Wisconsin Department of Natural Resources, if applicable, and written proof that the CITY Engineer, and the Army Corps of Engineers, if applicable, have approved said plans.

3. All disturbed areas shall be restored to the satisfaction of the CITY Public Works within seven (7) days of disturbance. Any cash or letter of credit posted with the CITY will not be released until the CITY Public Works is satisfied that no further erosion measures are required.
4. The DEVELOPER shall comply with the specifications for all public facilities set forth in the City of Oconomowoc Specifications. Record drawings, including digital as-built plans, shall be provided to all appropriate City departments as required by the City of Oconomowoc Specifications on file in the office of the Department of Public Works prior to any building permits being issued.

F. LANDSCAPING AND SITE WORK: The DEVELOPER hereby agrees that:

1. The DEVELOPER shall preserve to the maximum extent possible existing trees, shrubbery, vines, and grasses not actually lying on the public streets, drainage ways, building foundation sites, driveways, soil absorption waste disposal areas, paths and trails by use of sound conservation practices.
2. The DEVELOPER, as required by the CITY, shall remove and lawfully dispose of buildings, destroyed trees, brush, tree trunks, shrubs and other natural growth and all rubbish.
3. Landscaping and removal of unwanted items, including buildings, will be completed and certified as complete by the CITY Engineer prior to the issuance of any building permits.
4. The DEVELOPER shall delineate all wetlands by a certified wetland scientist that are on or adjacent to private lots by means of cedar posts, as approved by the CITY Staff prior to the issuance of building permits.
5. The CITY has the right to trim and remove any features that interfere with safe operation and maintenance of the CITY right-of-ways and drainage ways.

G. STREET SIGNS AND TRAFFIC CONTROL SIGNS: There are no street signs or traffic control signs required as part of the DEVELOPMENT subject to this agreement.

H. STREET LIGHTS: There are no public street lights required as part of the DEVELOPMENT subject to this agreement.

I. ADDITIONAL IMPROVEMENTS:

The DEVELOPER hereby agrees that if, at any time after plan approval and during construction, the CITY Staff determines that modifications to the plans including additional improvements such as additional drainage ways, erosion control measures, and surface and stormwater management measures are necessary in the interest of public safety, are necessary in order to comply with current laws or are necessary for implementation of the original intent of the improvement plans, the CITY is authorized to order DEVELOPER, at DEVELOPER'S expense, to implement the same. If DEVELOPER fails to construct the additional improvement within a reasonable time under the circumstances, the CITY may cause such work to be carried out and shall charge against the financial guarantee held by the CITY pursuant to this agreement.

SECTION II. TIME OF COMPLETION OF IMPROVEMENTS:

The improvements set forth in Section I above shall be completed by the DEVELOPER in total within twelve (12) months of the date of this agreement being signed except as otherwise provided for in this agreement.

SECTION III. FINAL ACCEPTANCE.

Throughout this agreement, various stages of the development will require approval by the CITY. "Final Acceptance" as used herein, however, shall be the ultimate acceptance of all of the improvements in the completed development as a whole, and shall be granted specifically by a letter from the City Engineer. During the guarantee period, the CITY will hold 10% of the letter of credit for the final lift of asphalt cost. The guarantee period provided for the final lift shall not commence to run until Final Acceptance. The issuance of building permits and approval of various items of development shall not commence the guarantee period.

SECTION IV. DEDICATION OF IMPROVEMENTS:

Subject to all of the other provisions of this agreement, the DEVELOPER shall, without charge to the CITY, upon completion of the above described improvements, unconditionally give, grant, convey and fully dedicate the public improvements to the CITY, its successors and assigns, forever, free and clear of all encumbrances whatever, together with and including, without limitation because of enumeration, any and all land, buildings, structures, mains, conduits, pipes, lines, plant machinery, equipment, appurtenances and hereditaments which may in any way be a part of or pertain to such improvements and together with any and all necessary easements for access thereto. After such dedication, the CITY shall have the right to connect or integrate other improvements as the CITY decides, with no payment or award to, or consent required of, the DEVELOPER.

Dedication shall not constitute acceptance of any improvement by the CITY. All improvements will be accepted by the CITY at such time as such improvements are in acceptable form and according to the CITY specifications. DEVELOPER will furnish proof to the CITY, prior to the dedication required, that the public land and improvements proposed for dedication are free of all liens, claims and encumbrances, including mortgages.

SECTION V. ACCEPTANCE OF WORK AND DEDICATION:

When the DEVELOPER shall have completed the improvements herein required and shall have dedicated the same to the CITY as set forth herein, the same shall be accepted by the CITY if said improvements have been completed as required by this agreement and as required by all federal, state, county or CITY guidelines, specifications, regulations, laws and ordinances and approved by the CITY Engineer.

SECTION VI. APPROVAL BY CITY NOT TO BE DEEMED A WAIVER.

The ultimate responsibility for the proper design and installation of streets, water facilities, drainage facilities, ditches, landscaping and all other improvements are upon the DEVELOPER. The fact that the CITY or its engineer, or its attorney, or its staff may approve a specific project shall not constitute a waiver, or relieve the DEVELOPER from the ultimate responsibility for the design, performance and function of the development and related infrastructure.

SECTION VII. GUARANTEES OF IMPROVEMENTS:

A. Guarantee. The DEVELOPER shall guarantee after Substantial Completion, the public improvements and all other improvements described in Section I hereof, against defects due to faulty materials or workmanship, provided that such defects appear within a period of one year from the date of Substantial

Completion as part of the Letter of Credit described in Section X. Ten percent (10%) of the total cost of all public improvements will be held from the Letter of Credit as the financial assurance for this. Substantial Completion shall be as defined in Wisconsin Statutes 236.13(2)(a)2. The DEVELOPER shall pay for any damages to CITY property and/or improvements resulting from such faulty materials or workmanship. This guarantee shall not be a bar to any action the CITY might have for negligent workmanship or materials. Wisconsin law on negligence shall govern such situations. If the DEVELOPER fails to pay for any damages or defects to CITY property and/or improvements, and the CITY is required to draw against the cash or letter of credit on file with the CITY, the DEVELOPER is required to replenish said monies up to the aggregate amount of ten percent (10%) of the total cost of all public improvements.

- B. Obligation to Repair. The DEVELOPER shall make or cause to be made, at its own expense, any and all repairs which may become necessary under and by virtue of the DEVELOPER'S guarantee and shall leave the improvements in good and sound condition, satisfactory to the CITY at the expiration of the guarantee period.
- C. Notice of Repair. If during said guarantee period, the improvements shall, in the reasonable opinion of the CITY Staff, require any repair or replacement which, in their judgment, is necessitated by reason of settlement of foundation, structure of backfill, or other defective materials or workmanship, the DEVELOPER shall, upon notification by the CITY the necessity for such repair or replacement, make such repair or replacement, at its own cost and expense. Should the DEVELOPER fail to make such repair or replacement within the time specified by the CITY in the aforementioned notification, after notice has been sent as provided herein, the CITY may cause such work to be done, but has no obligation to do so, either by contract or otherwise, and the CITY may draw upon such guarantee security to pay any costs or expenses incurred in connection with such repairs or replacements. Should the costs or expenses incurred by the CITY in repairing or replacing any portion of the improvements covered by this guarantee exceed the amount of the guarantee security, then the DEVELOPER shall immediately pay any excess cost or expense incurred in the correction process.
- D. Maintenance Prior to Acceptance.
 - 1. All improvements shall be maintained by the DEVELOPER so they conform to the approved plans and specifications at the time of their Final Acceptance by the CITY. This maintenance shall include routine maintenance, asphalt repairs, concrete repairs and the like. In cases where emergency maintenance is required, the CITY retains the right to complete the required emergency maintenance in a timely fashion and bill the DEVELOPER for all such associated costs. Said bill shall be paid immediately by the DEVELOPER. The DEVELOPER'S obligation to maintain all improvements shall expire at the expiration of the guarantee period.
 - 2. Street sweeping and dust suppression shall be done by the DEVELOPER upon a regular basis as needed to ensure a reasonably clean and safe roadway until Final Acceptance by the CITY. Should the DEVELOPER fail to meet this requirement, the CITY will cause the work to be done and will bill the DEVELOPER on a time and material basis. Said bill shall be paid immediately by the DEVELOPER.
 - 3. In the event drainage problems arise within the SUBJECT LANDS or related activities on the SUBJECT LANDS, the DEVELOPER shall correct such problems to the satisfaction of the CITY Staff. Such correction measures shall include, without limitation because of enumeration, cleaning of soil, loose aggregate and construction debris from culverts, pipes, drainage ditches and streets; dredging and reshaping of siltation or retention ponds; replacing of siltation fences; sodding and seeding; construction of diversion ditches, ponds and siltation traps; and restoration of all disturbed areas. This responsibility shall continue until such time as the roads, ditches, and other disturbed areas have become adequately vegetated and the CITY is satisfied that the DEVELOPER has restored all areas which were disturbed because of this development.

SECTION VIII. CITY RESPONSIBILITY FOR IMPROVEMENTS:

The CITY shall not be responsible to perform repair, maintenance, or snow plowing on any improvements until accepted by the CITY. Snowplowing will be completed on any public streets where the binder has been accepted.

SECTION IX. RISK OF PROCEEDING WITH IMPROVEMENTS PRIOR TO APPROVALS OF FINAL PLAT:

DEVELOPMENT is not a single family subdivision. This section is not applicable since it involves the construction of condominium units that have been approved by the Plan Commission and Common Council.

SECTION X. FINANCIAL GUARANTEE:

Prior to the execution of this agreement by the CITY, the DEVELOPER shall file with the CITY cash or a letter of credit setting forth terms and conditions in a form approved by the CITY Attorney in the amount of 110% of the cost for the public improvements and stormwater management as approved by the CITY Engineer as a guarantee that the DEVELOPER will perform all terms of this agreement no later than one year from the signing of this agreement except as otherwise set forth in this agreement. If at any time:

- A. The DEVELOPER is in default of any aspect of this agreement, or
- B. The DEVELOPER does not complete the installation of the improvements within one (1) year from the signing of this agreement unless otherwise extended by this agreement or by action of the CITY COMMON COUNCIL, or
- C. The letter of credit on file with the CITY is dated to expire sixty (60) days prior to the expiration of the same with an automatic renewal unless notice is given of expiration or replaced, or
- D. The DEVELOPER fails to maintain a cash deposit or letter of credit in an amount approved by CITY Engineer, and in a form approved by the CITY Attorney, to pay the costs of improvements in the development, the DEVELOPER shall be deemed in violation of this agreement and the CITY shall have the authority to draw upon the letter of credit.

The amount of the letter of credit may be reduced from time to time as and to the extent that the portion of work required under this Agreement is completed, paid for and accepted by the CITY, provided that the remaining letter of credit is sufficient to secure payment for any remaining improvements and also provided that no reduction shall occur until it is approved in writing by the CITY Director of Finance. The CITY is hereby authorized to contact directly the Developer's or contractor's financial agent from time to time regarding the sufficiency of the financial guarantee.

The lending institution providing the irrevocable letter of credit shall pay to the CITY all sums available for payment under the irrevocable letter of credit upon demand, subject to the terms and conditions of the irrevocable letter of credit, and upon its failure to do so, in whole or in part, the CITY shall be empowered in addition to its other remedies, without notice or hearing, to impose a special charge for the amount of said completion costs, upon each and every lot in the development payable with the next succeeding tax roll.

SECTION XI. BUILDING AND OCCUPANCY PERMITS:

It is expressly understood and agreed that no building or occupancy permits shall be issued for any homes, including model homes, until the CITY has determined that:

- A. The installation of the first lift of asphalt of the public street(s) providing access to and fronting a specific lot for which a building permit is requested has been completed (substantial completion) and

accepted by the CITY. Upon substantial completion, any outstanding local building permits that are related to, and dependent upon, substantial completion shall be released.

- B. The site grading and construction of surface and stormwater drainage facilities required to serve such homes are completed, are connected with an operating system as required herein, and are cleaned as needed.
- C. All landscaping and removal of unwanted items, including buildings, has been certified as complete by the CITY.
- D. All required grading plans have been submitted to and reviewed by the CITY.
- E. The DEVELOPER has paid in full all fees, assessments and reimbursement of administrative costs as required by this agreement.
- F. The DEVELOPER has prepared appropriate deed restrictions which are approved by the CITY Attorney, filed with the CITY Clerk and recorded with the Register of Deeds.
- G. All destroyed trees, brush, tree trunks, shrubs and other natural growth and all rubbish are removed from the development and disposed of lawfully.
- H. All required record drawings plans for the SUBJECT LANDS have been submitted.
- I. All public and private utilities have been installed in the SUBJECT LANDS, including street lighting fixtures, stormwater, sanitary sewer, water and electrical.
- J. The DEVELOPER is not in default of any aspect of this agreement.
- K. There is no default of any aspect of this agreement as determined by the CITY.
- L. The DEVELOPER has delineated the wetlands that are on or adjacent to private lots by means of cedar posts, as approved by the CITY Staff prior to the issuance of building permits.

SECTION XII. RESERVATION OF RIGHTS AS TO ISSUANCE OF BUILDING PERMITS:

The CITY reserves the right to withhold issuance of any and all building permits if DEVELOPER is in violation of this agreement.

SECTION XIII. VACANT LOT MAINTENANCE EASEMENT.

DEVELOPMENT is not a single family subdivision. This section is not applicable since it involves the construction of condominium units that have been approved by the Plan Commission and Common Council.

SECTION XIV. VACANT LOT MAINTENANCE.

DEVELOPMENT is not a single family subdivision. This section is not applicable since it involves the construction of condominium units that have been approved by the Plan Commission and Common Council.

SECTION XV. MISCELLANEOUS REQUIREMENTS: The DEVELOPER shall:

A. EASEMENTS:

Provide any easements including vision and typical Utility easements on SUBJECT LANDS deemed necessary by the CITY Staff before the final plat is signed or on the final plat and such easements shall be along lot lines if at all possible.

B. TREE PLANTING:

DEVELOPMENT is not a single family subdivision. This section is not applicable since it involves the construction of condominium units that have been approved by the Plan Commission and Common Council. This item removes the street tree planting requirement. The landscaping of the condominium units will be completed as required.

C. MANNER OF PERFORMANCE:

Cause all construction called for by this agreement to be carried out and performed in a good and workerlike manner.

D. SURVEY MONUMENTS:

Properly place and install any lot, block or other monuments required by State Statute, CITY Ordinance or the CITY Engineer.

E. DEED RESTRICTIONS:

DEVELOPMENT is not a single family subdivision. This section is not applicable since it involves the construction of condominium units that have been approved by the Plan Commission and Common Council.

F. GRADES:

DEVELOPMENT is not a single family subdivision. This section is not applicable since it involves the construction of condominium units that have been approved by the Plan Commission and Common Council.

G. UNDERGROUND UTILITIES:

1. CITY Electric Utility. The DEVELOPER shall be responsible for the installation cost of electrical infrastructure to make proper and adequate service available to each unit in the SUBJECT LANDS. The electrical system, except for necessary appurtenances, shall be underground. The electric system shall be designed by CITY Electric Utility staff or their representative.

The DEVELOPER shall pay for all costs of design, installation, engineering and relocation of all electrical infrastructure required for the SUBJECT LANDS. Pursuant to Wisconsin Public Service Commission rules, payment for the costs of the electric infrastructure shall be made prior to the Electric Utility commencing work on the project. The prepayment shall be based upon a project estimate prepared by the Electric Utility. Upon completion of the project, a final determination shall be made with regard to the accuracy of the prepayment. A refund will be made in the event of overpayment; and in the event the project estimate was less than the actual costs, the DEVELOPER will be billed for the difference. The CITY Electric Utility must approve scheduling for the installation of the electric facilities for the project. Coordination between the Electric Utility and all other utilities shall be the responsibility of the DEVELOPER. The DEVELOPER shall comply with all rules and regulations of the CITY Electric Utility. The timing and schedule of the electrical work for the Project shall be agreed upon by the DEVELOPER and CITY Electric Utility and shall take in consideration the overall construction schedule for the project.

CITY Electric facilities cannot be installed until DEVELOPER provides notification that all lot corners and easements are staked and the grade is plus or minus 4 inches of the final grade. If the grade changes more than 4 inches after CITY Electric facilities have been installed, these facilities will be relocated at the expense of the DEVELOPER.

2. Street Lamps. The CITY Electric Utility shall design the street lighting system and install all public street lamps planned for the SUBJECT LANDS. DEVELOPER will pay for the cost of facilities and installation. Requirements for street lamps shall be established by the CITY Electric Utility pursuant to §18.05(5m) of the Municipal Code.
3. Other Utilities. DEVELOPER shall be responsible for and cause telephone, cable, natural gas and any other utility facilities required by CITY or DEVELOPER to be installed in such manner as to make proper and adequate service available to the SUBJECT LANDS. None of such services shall be located on overhead poles. Plans indicating the proposed location of all such utilities to service the SUBJECT LANDS shall be approved by the CITY Electric Utility staff.

H. PERMITS:

Provide and submit to the CITY valid copies of any and all governmental agency permits.

I. REMOVAL OF TOPSOIL:

The DEVELOPER agrees that no topsoil shall be removed from the SUBJECT LANDS without approval from the CITY Director of Public Works.

J. PARK AND PUBLIC SITE DEDICATION FEES:

To pay as provided in the CITY Ordinances, a fee per lot developed in lieu of dedication of lands for park and public sites.

K. APPLICABLE FEES:

Currently per CITY Ordinances each lot will be responsible at time of issuance of a building permit to pay impact and other fees. DEVELOPER agrees to notify all prospective purchasers of lots within the subdivision of the fees applicable at the time a building permit is applied for and that the fees may increase annually hereafter. The fees in place at the time of this agreement are shown on Exhibit B.

L. DIGGERS HOTLINE:

Developer shall become a member of Diggers Hotline and provide evidence of such membership to the CITY Clerk before commencement of any land disturbing activities on the Subject Lands. Developer shall maintain said membership until all subsurface Improvements required under Section I have been finally accepted by the CITY as provided in Section III. Until the record drawings have been filed with the CITY Engineer, the CITY shall not be responsible for responding to requests for utility and other underground locates (Digger's Hotline). All requests for utility and other underground locates shall be referred to the DEVELOPER. This does not apply to electric utility underground locates which shall be done by the CITY Electric Utility.

M. PREVAILING WAGE RATES AND HOURS OF LABOR:

If any aspect of the development involves a project of public works that is regulated by Wisconsin Statutes Section 66.0903 or 66.0904 then: (1) The Developer shall pay wage rates not less than the prevailing hourly wage rate as described and regulated pursuant to such statutes and related laws; and (2) The Developer shall comply with the prevailing hours of labor as described and regulated pursuant to such statutes and related laws; and (3) The Developer shall fully comply with the reporting obligations, and all other requirements of such laws; and (4) The Developer shall ensure that the Developer's subcontractors also fully comply with such laws. The Developer's General Indemnity obligation of this Agreement shall apply to any claim that alleges that work contemplated by this Agreement is being done, or has been done, in violation of prevailing wage rates, prevailing hours of labor, or Wisconsin Statutes Section 66.0903 or 66.0904, for any work arising out of this agreement.

N. NOISE:

Make every effort to minimize noise, dust and similar disturbances, recognizing that the SUBJECT LANDS are located near existing residences. Construction of improvements shall not begin before 7:00 a.m. during weekdays and Saturdays, and 9:00 a.m. on Sundays. Construction of improvements shall not continue beyond 7:00 p.m. during weekdays and Saturdays, and 5:00 p.m. on Sundays.

O. DEBRIS:

Have ultimate responsibility for cleaning up debris that has blown from buildings under construction within the SUBJECT LANDS until such time as all improvements have been installed and accepted by the CITY. The CITY shall make a reasonable effort to require the contractor, who is responsible for the debris, to clean up the same or to hold the subject property owner who hired the contractor responsible. The DEVELOPER and/or subject property owner shall clean up the debris within forty-eight (48) hours after receiving a notice from the CITY. If said debris is not cleaned up after notification, the CITY will do so at the DEVELOPER'S and/or subject property owner's expense.

P. DUTY TO CLEAN ROADWAYS:

The DEVELOPER shall be responsible for cleaning up the mud and dirt on the roadways until such time as the final lift of asphalt has been installed. The DEVELOPER shall clean the roadways within forty-eight (48) hours after receiving a notice from the CITY. If said mud, dirt and stone is not cleaned up after notification, the CITY will do so at the DEVELOPER's expense. The CITY will do its best to enforce existing ordinances that require builders to clean up their mud from construction.

Q. PUBLIC CONSTRUCTION PROJECTS:

If any aspect of the development involves a public construction project subject to the State law, all requirements of the State Public Construction Bidding Law must be satisfied, including but not limited to, providing a performance bond.

R. ZONING CODE:

The DEVELOPER acknowledges that the lands to be developed are subject to the CITY Zoning Code.

SECTION XVI. PAYMENT OF COSTS, INSPECTION & ADMINISTRATIVE FEES:

The DEVELOPER shall pay and reimburse the CITY promptly upon billing for all fees, expenses, costs and disbursements which shall be incurred by the CITY in connection with this development or relative to the construction, installation, dedication and acceptance of the development improvements covered by this agreement, including without limitation by reason of enumeration, design, engineering, review, supervision, inspection and legal, administrative and fiscal work. CITY employee costs shall be based on an annual rate determination by the CITY. Any costs for outside consultants shall be charged at the rate the consultant charges the CITY. Any such charge not paid by DEVELOPER within thirty (30) days of being invoiced may be charged against the financial guarantee held by the CITY pursuant to this agreement, or assessed against the development land as a special charge pursuant to §66.0627, Wis. Stats.

SECTION XVII. GENERAL INDEMNITY:

In addition to, and not to the exclusion or prejudice of, any provisions of this agreement or documents incorporated herein by reference, the DEVELOPER shall indemnify and save harmless and agrees to accept tender of defense and to defend and pay any and all legal, accounting, consulting, engineering and other expenses relating to the defense of any claim asserted or imposed upon the CITY, its officers, agents, employees and independent contractors growing out of this agreement by any party or parties. The DEVELOPER shall also name as additional insureds on its general liability insurance the CITY, its officers,

agents, employees and any independent contractors hired by the CITY to perform services as to this development and give the CITY evidence of the same upon request by the CITY.

SECTION XVIII. OVERSIZING:

- A. DEVELOPER shall assume the cost of installing all mains, laterals to the lot lines and system appurtenances within the proposed SUBJECT LANDS except for the added cost of materials for installing sanitary and water mains larger than 8 inches in diameter in residential development areas. DEVELOPER shall bear the expense of oversizing, the cost thereof to be borne by the owner or developer of other areas, the development of which made such oversizing necessary. CITY shall act as collecting agent and arbitrator, charging the subsequent developer and reimbursing the developer paying the expense of oversizing at such time as the subsequent development occurs. Any oversizing required for capacity to serve the SUBJECT LANDS or for fire flows is the responsibility of the DEVELOPER.
- B. The CITY agrees to allow the DEVELOPER to connect to the CITY's municipal water system and sewerage system at such time as the water system and sanitary sewer system required herein has been dedicated to and accepted by the CITY.

SECTION XIX. INSURANCE:

The DEVELOPER, its contractors, suppliers and any other individual working on the SUBJECT LANDS in the performance of this agreement shall maintain at all times until the expiration of the guarantee period, insurance coverage in the forms and in the amounts as required by the CITY.

SECTION XX. EXCULPATION OF CITY CORPORATE AUTHORITIES:

The parties mutually agree that the CITY Mayor of the CITY Common Council, and/or the CITY Clerk, entered into and are signatory to this agreement solely in their official capacity and not individually, and shall have no personal liability or responsibility hereunder; and personal liability as may otherwise exist, being expressly released and/or waived.

SECTION XXI. GENERAL CONDITIONS AND REGULATIONS:

All provisions of the CITY Ordinances are incorporated herein by reference, and all such provisions shall bind the parties hereto and be a part of this agreement as fully as if set forth at length herein. This agreement and all work and improvements required hereunder shall be performed and carried out in strict accordance with and subject to the provisions of said Ordinances.

SECTION XXII. ZONING:

The CITY does not guarantee or warrant that the SUBJECT LANDS will not at some later date be rezoned, nor does the CITY herewith agree to rezone the lands into a different zoning district. It is further understood that any rezoning that may take place shall not void this agreement.

SECTION XXIII. COMPLIANCE WITH CODES AND STATUTES:

The DEVELOPER shall comply with all current and future applicable codes of the CITY, State and Federal government and, further, DEVELOPER shall follow all current and future lawful orders of any and all duly authorized employees and/or representatives of the CITY, County, State or federal government.

SECTION XXIV. PRELIMINARY PLAT AND FINAL PLAT CONDITIONS:

DEVELOPMENT is not a single family subdivision. This section is not applicable since it involves the construction of condominium units that have been approved by the Plan Commission and Common Council.

SECTION XXV. AGREEMENT FOR BENEFIT OF PURCHASERS:

The DEVELOPER agrees that in addition to the CITY'S rights herein, the provisions of this agreement shall be for the benefit of the purchaser of any lot or any interest in any lot or parcel of land in the SUBJECT LANDS.

SECTION XXVI. ASSIGNMENT:

The DEVELOPER shall not assign this agreement without the written consent of the CITY. The assignee must agree to all terms and conditions of this document in writing.

SECTION XXVII. PARTIES BOUND:

The DEVELOPER or its assignees shall be bound by the terms of this agreement or any part herein as it applies to any phase of the development.

SECTION XXVIII. HEIRS & ASSIGNS:

This agreement is binding upon the DEVELOPER, owners, their successors and assigns, and any and all future owners of the SUBJECT LANDS.

SECTION XXIX. PHASING OF DEVELOPMENT:

DEVELOPMENT is not a single family subdivision. This section is not applicable since it involves the construction of condominium units that have been approved by the Plan Commission and Common Council.

SECTION XXX. AMENDMENTS:

The CITY and the DEVELOPER, by mutual consent, may amend this Developer's Agreement at any meeting of the CITY Common Council. The CITY shall not, however, consent to an amendment until after first having received a recommendation from the CITY Plan Commission.

IN WITNESS WHEREOF, the DEVELOPER and the CITY have caused this agreement to be signed by their appropriate officers and their corporate seals (if any) to be hereunto affixed in three original counterparts the day and year first above written.

Beforte, Inc.

By: _____
Craig A. Caliendo, President

STATE OF WISCONSIN)
)ss.
COUNTY OF WAUKESHA)

Personally came before me this _____ day of _____, _____, the above named **Craig A. Caliendo, President of Belforte, Inc.**, to me known to be the person who executed the foregoing instrument and acknowledged the same.

NOTARY PUBLIC, STATE OF WI
My commission expires: _____

CITY OF OCONOMOWOC
WAUKESHA COUNTY, WISCONSIN

Mayor

Clerk

STATE OF WISCONSIN)
)ss.
COUNTY OF WAUKESHA)

Personally came before me this _____ day of _____, _____, the above-named _____, CITY Mayor, and _____, CITY Clerk, of the above-named municipal corporation, to me known to be the persons who executed the foregoing instrument and to me known to be such CITY Mayor and CITY Clerk of said municipal corporation and acknowledged that they executed the foregoing instrument as such officers as the deed of said municipal corporation by its authority and pursuant to the authorization by the CITY COMMON COUNCIL from their meeting on the _____ day of _____, _____.

NOTARY PUBLIC, STATE OF WI
My commission expires: _____

APPROVED AS TO FORM:

CITY Attorney

EXHIBIT A
Legal Description and Map

CONDOMINIUM PLAT OF
VESPERA II CONDOMINIUM

BEING A PART OF LOTS 1 AND 2 OF C.S.M. NO. 7326, LOCATED IN THE NW 1/4
AND SW 1/4 OF THE SE 1/4, AND IN THE NE 1/4 OF THE SW 1/4, ALL IN SECTION 9,
T.7N., R.17E., CITY OF OCONOMOWOC, WAUKESHA COUNTY, WISCONSIN.

Legal Description of Lands Reserved for Future Expansion

Being a part of Lot 1 of C.S.M. No. 7326, located in the NW 1/4 and SW 1/4 of the SE 1/4, and in the NE 1/4 of the SW 1/4, all in Section 9, T.7N., R.17E., City of Oconomowoc, Waukesha County, Wisconsin, more fully described as follows:
Beginning at the NW corner of said Lot 1; thence S88°52'54"E, along the north line of said Lot 1, 643.37 feet to the NE corner of said Lot 1; thence S00°09'44"E, along the westerly right-of-way line of St. Andrews Drive, 22.22 feet to a point of curvature; thence continuing along said westerly line 160.57 feet along the arc of a curve to the right, with a radius of 170.00 feet, whose chord bears S26°53'47"W, 154.67 feet to a point of tangency; thence continuing along said westerly line, S53°57'18"W, 24.69 feet to a point; thence N36°02'42"W, 68.11 feet to a point; thence N83°53'20"W, 17.85 feet to a point; thence N25°01'56"W, 60.02 feet to a point; thence S53°57'18"W, 85.00 feet to a point; thence S33°39'34"E, 139.12 feet to the westerly right-of-way line of St. Andrews Drive; thence along said westerly line 69.89 feet along the arc of a curve to the left, with a radius of 205.00 feet, whose chord bears S44°11'18"W, 69.55 feet to a point; thence N55°34'45"W, 141.57 feet to a point; thence S27°26'25"W, 157.52 feet to a point; thence N62°33'15"W, 73.64 feet to a point; thence N64°24'28"W, 228.24 feet to a point; thence N07°56'20"E, 220.945 feet to the place of beginning. ALSO being a part of Lot 2 of C.S.M. No. 7326, located in the NW 1/4 and SW 1/4 of the SE 1/4 of Section 9, T.7N., R.17E., City of Oconomowoc, Waukesha County, Wisconsin, more fully described as follows:
Beginning at the northernmost corner of said Lot 2; thence S00°09'44"E, along the east line of said Lot 2, 404.65 feet to a point; thence N89°50'16"E, 83.72 feet to a point of curvature; thence 32.50 feet along the arc of a curve to the right, with a radius of 16.36 feet, whose chord bears S33°14'51"E, 27.41 feet to a point of tangency; thence along the westerly right-of-way line of Silver Lake Drive on the following described courses; thence S23°40'03"W, 169.26 feet to a point; thence S22°50'58"W, 87.72 feet to a point of curvature; thence 52.86 feet along the arc of a curve to the right, with a radius of 275.18 feet, whose chord bears S28°21'08"W, 52.78 feet to a point of tangency; thence S33°51'18"W, 119.92 feet to a point of curvature; thence 33.92 feet along the arc of a curve to the right, with a radius of 25.00 feet, whose chord bears S72°43'16"W, 31.38 feet to a point of tangency on the northerly right-of-way line of C.T.H. B (Valley Road); thence N68°24'05"W, along said northerly line, 186.19 feet to a point of curvature; thence 39.59 feet along the arc of a curve to the right, with a radius of 25.00 feet, whose chord bears N23°02'07"W, 35.58 feet to a point of tangency on the easterly right-of-way line of St. Andrews Drive; thence N22°19'50"E, along said easterly line, 163.58 feet to a point of curvature; thence continuing along said easterly line, 79.24 feet along the arc of a curve to the left, with a radius of 160.00 feet, whose chord bears N08°08'34"E, 78.43 feet to a point of tangency; thence N06°02'42"W, continuing along said easterly line, 5.08 feet to a point; thence N89°43'00"E, 146.28 feet to a point; thence N00°17'00"W, 94.28 feet to a point; thence N48°52'12"W, 56.67 feet to a point; thence N85°56'42"W, 111.38 feet to the easterly right-of-way line of St. Andrews Drive; thence along said easterly line on the following described courses; thence 107.90 feet along the arc of a curve to the right, with a radius of 145.00 feet, whose chord bears N32°38'13"E, 105.43 feet to a point of tangency; thence N53°57'18"E, 117.25 feet to a point of curvature; thence 217.24 feet along the arc of a curve to the left, with a radius of 230.00 feet, whose chord bears N26°53'47"E, 209.25 feet to the place of beginning. Said lands containing 291,708 sq. ft. (6.696 acres).

EXHIBIT B

Applicable Fees at Time of Agreement

The fees listed below are per each residential unit within the subdivision.

Sewer Availability Charge	\$3,930.00
Highway and other Transportation Facilities Impact Fee	\$382.00
Law Enforcement Facilities Impact Fee	\$418.00
Park and Recreational Facilities Impact Fee	\$2,831.00
Assessment Fee for New Construction	\$50.00

EXHIBIT C

Condominium Plat

CONDOMINIUM PLAT OF VESPERA II CONDOMINIUM

BEING A PART OF LOTS 1 AND 2 OF C.S.M. NO. 7326, LOCATED IN THE NW 1/4 AND SW 1/4 OF THE SE 1/4, AND IN THE NE 1/4 OF THE SW 1/4, ALL IN SECTION 9, T.7N., R.17E., CITY OF OCONOMOWOC, WAUKESHA COUNTY, WISCONSIN.

SURVEYOR

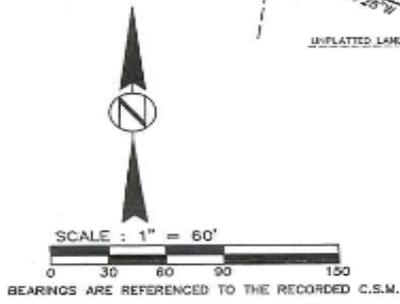
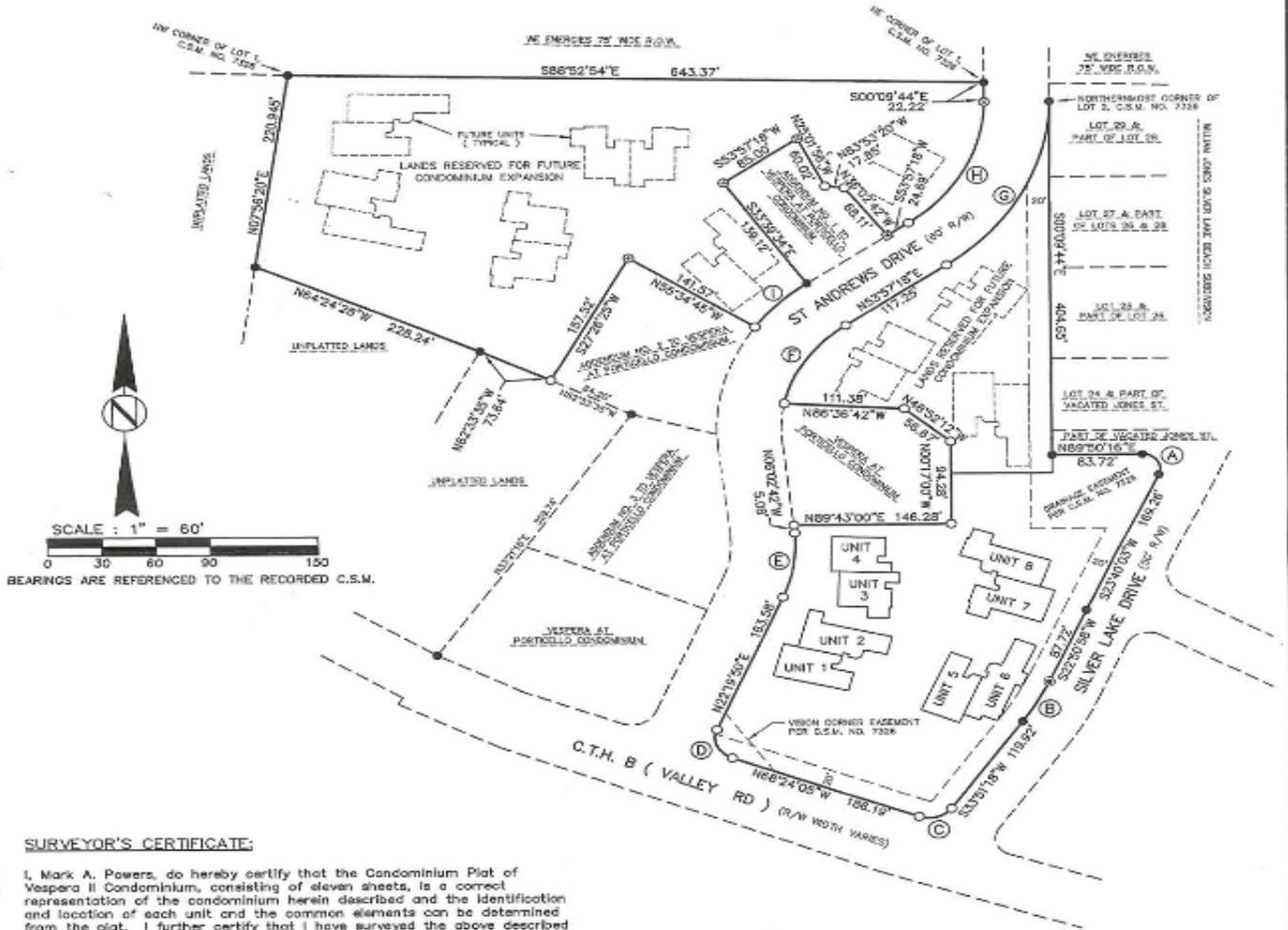
MARK A. POWERS, PLS 1701
LAKE COUNTRY ENGINEERING, INC.
870 S. SILVER LAKE ST., SUITE 105
OCONOMOWOC, W. 53056
(262)568-8331

LEGEND

- - 1.25" DIA. IRON PIPE FOUND
- - 3/4" DIA. IRON REBAR SET
- 18" LONG, WT = 1.5 LBS/FT
- ⊙ - 1.5" DIA. IRON PIPE FOUND
- ⊕ - P.K. NAIL SET IN ASPHALT
- ⊞ - SCRIBED CROSS SET IN CONC

SURVEY FOR

BELFORTE, INC.
700 PILGRIM PARKWAY, SUITE 100
ELM GROVE, W. 53122



SURVEYOR'S CERTIFICATE:

I, Mark A. Powers, do hereby certify that the Condominium Plat of Vespera II Condominium, consisting of eleven sheets, is a correct representation of the condominium herein described and the identification and location of each unit and the common elements can be determined from the plat. I further certify that I have surveyed the above described property and that the above map is a true representation thereof and shows the size and location of the property, its exterior boundaries, and the location of all visible structures.

Dated this 10th day of February, 2020



Mark A. Powers
Mark A. Powers, P.L.S. No. 1701

GENERAL NOTES:

- 1) COMMON ELEMENTS: THE COMMON ELEMENTS CONSIST OF THE ENTIRE CONDOMINIUM DESCRIPTION, EXCEPT THE UNITS.
- 2) LIMITED COMMON ELEMENTS: THE LIMITED COMMON ELEMENT (L.C.E.) PORTION OF THE COMMON ELEMENT SHALL CONSIST OF ALL COMMON ELEMENTS THAT ARE OWNED BY LESS THAN ALL OF THE UNIT OWNERS. SUCH LIMITED COMMON ELEMENTS INCLUDE BUT ARE NOT LIMITED TO COURTYARDS, PORCHES, DECKS, DRIVEWAYS AND WALKS WHICH SERVICE AND / OR ARE APPURTENANT TO ONE OR MORE UNITS, BUT LESS THAN ALL OF THE UNITS.
- 3) SHADED AREA DESIGNATE LANDS INCLUDED IN THE CONDOMINIUM.
- 4) SEE SHEET 2 FOR CONDOMINIUM DETAILS
- 5) SEE SHEET 3 FOR CONDOMINIUM LEGAL DESCRIPTIONS.

CURVE NO.	RADIUS LENGTH	CENTRAL ANGLE (DMS)	ARC DISTANCE	CHORD DISTANCE	CHORD BEARING (DMS)	TAN. BEARING 1 (DMS)	TAN. BEARING 2 (DMS)
A	16.36'	113-47-58	32.59'	27.41'	S33-14-51E	N89-50-18E	S23-40-03W
B	275.18'	11-00-23	52.86'	52.78'	S28-21-08W	S22-50-58W	S33-51-18W
C	25.00'	77-44-48	33.92'	31.38'	S72-43-36W	S33-51-18W	N68-24-05W
D	25.00'	90-43-50	39.59'	35.88'	N23-02-07W	N68-24-05W	N22-18-50E
E	160.00'	28-22-29	79.24'	78.43'	N08-08-34E	N22-19-50E	N06-02-42W
F	145.00'	42-38-08	107.90'	105.43'	N32-38-13E	N11-19-09E	N53-57-18E
G	230.00'	54-07-02	217.24'	209.25'	N26-53-47E	N53-57-18E	N00-09-44W
H	170.00'	54-07-02	160.57'	154.87'	S26-53-47W	S00-08-44E	S53-57-18W
I	205.00'	18-32-00	69.89'	69.55'	S44-11-18W	S53-57-18W	S34-25-18W

EXHIBIT D
Sanitary Sewer and Water Utility Improvements

1. Provide water main easements for WE Energies Right-of-Way crossing.
2. Install water main extension from Oconomoc Parkway to Vico Pass as the approved plan dated 11-6-2019.
3. Provide water main and sanitary sewer easement over entire water and sanitary sewer system located outside of public Right-of-Way with in the Condominium Plat.
4. Provide electric utility easement over all existing areas, and proposed areas needed to provide underground electric to this area.
5. Building 1E and 2D
 - a. Relay water lateral from water main to new curb stop location to ensure curb stops are 5-ft back of Toscano Terrace and out of driveway. Keep water curb stop location 5-ft apart.
 - b. Install new sanitary sewer lateral.
 - c. Electric will need to be relocated.
6. Building 3B and 4B
 - a. No known utility concerns.
7. Building 5E and 6D
 - a. If needed, relay water lateral from water main to new curb stop location to ensure curb stops are 5-ft back of Toscano Terrace and out of driveway. Keep water curb stop location 5-ft apart.
 - b. Adjust hydrant height as needed with grading plan.
 - c. If needed, install new sanitary sewer lateral.
 - d. Electric will need to be relocated.
8. Building 7E and 8D
 - a. Relay water lateral from water main to new curb stop location to ensure curb stops are 5-ft back of Toscano Terrace and out of driveway. Keep water curb stop location 5-ft apart.
 - b. Electric will need to be relocated.
9. Building 9D and 10E
 - a. Relay water lateral from water main to new curb stop location to ensure curb stop is 5-ft back of Toscano Terrace and out of driveway.
10. Building 11B and 12B
 - a. Electric may need to be relocated, so it is not under the driveway.
11. Building 13B and 14B
 - a. Relay water lateral from water main to new curb stop location to ensure curb stops are 5-ft back of St Andrews Dr and out of driveway. Keep water curb stop location 5-ft apart.
12. Building 15E and 16D
 - a. No known utility concerns.
13. Building 17D and 18D
 - a. Relay water lateral from water main to new curb stop location to ensure curb stops are 5-ft back of Vico Pass and out of driveway. Keep water curb stop location 5-ft apart.

14. Building 19C and 20C
 - a. Relay water lateral from water main to new curb stop location to ensure curb stop is 5-ft back of Vico Pass and out of driveway.
 - b. Plug extra sanitary sewer lateral at main.
 - c. Electric will need to be relocated.
15. Building 21C and 22C
 - a. Relay water lateral from water main to new curb stop location to ensure curb stops are 5-ft back of Vico Pass and out of driveway. Keep water curb stop location 5-ft apart.
 - b. If needed, install new sanitary sewer lateral.
 - c. Electric will need to be relocated.
16. Building 23D and 24E
 - a. Add and relay water lateral from water main to new curb stop location to ensure curb stops are 5-ft back of Vico Pass and out of driveway. Keep water curb stop location 5-ft apart.
 - b. Abandon water main and sanitary sewer per plan approved on 11-6-2019.
 - c. Electric will need to be relocated.
17. Building 25E and 26D
 - a. Add and relay water lateral from water main to new curb stop location to ensure curb stops are 5-ft back of Vico Pass and out of driveway. Keep water curb stop location 5-ft apart.
 - b. Abandon water main and sanitary sewer per plan approved on 11-6-2019.
 - c. Electric will need to be relocated.



MEMORANDUM

CLERK'S

Date: April 30, 2020
To: Mayor Magnus
Common Council
From: Diane Coenen
Re: Appointment of Official Newspaper

RELATES TO THE STRATEGIC PLAN

Strategic Goal – N/A

BACKGROUND

Bids for the Official City Newspaper will be opened at 12:00 PM on Tuesday, May 5, 2019. The two local newspapers, the Lake Country Now (Focus) and the Oconomowoc Enterprise submitted bids. An updated memo and resolution will be placed at Council stations listing the recommendation of the newspaper that will act as the Official City Newspaper for the 2020-2021 term.

ADDITIONAL ANALYSIS

N/A

FINANCIAL IMPACT

N/A

RECOMMENDATION

Based on the results of the bid opening, the Clerk will make a recommendation to Council during the meeting.

SUGGESTED MOTION

Motion to adopt the resolution appointing as the Official City Newspaper for the 2020-2021 term.

RESOLUTION No. 20-R2873

RESOLUTION APPROVING APPOINTMENT OF OFFICIAL NEWSPAPER FOR 2020-2021

WHEREAS, §985.06, Wis. Stats., provides in cities of the Third Class, the Clerk shall, on or before the second Tuesday of April, advertise in the official City newspaper for proposals to publish Council proceedings and the City's legal notices; and

WHEREAS the City Clerk did so advertise; and

WHEREAS, pursuant to §985.06, Wis. Stats., it is required the bids be delivered in writing, sealed, to the Clerk's office by 12:00 noon on the first Tuesday of May, and the Clerk shall then open the bids and enter them in a record kept for that purpose; and

WHEREAS, the *Lake Country NOW* and the *Oconomowoc Enterprise* submitted bids, with the lowest effective bid being that of the *Oconomowoc Enterprise*.

NOW THEREFORE, BE IT HEREBY RESOLVED the City hereby accepts the bid of the _____ to be the official City newspaper for the year 2020-2021.

DATED: May 5, 2020

CITY OF OCONOMOWOC

By: _____
Robert P. Magnus, Mayor

ATTEST:

Diane Coenen, Clerk

**CITY OF OCONOMOWOC INFORMATION PROFILE
FOR PUBLIC SERVICE APPOINTMENT CONSIDERATION**

NAME: Chad Vander Zande HOME/CELL PHONE: 414-491-6593 DATE: 5/1/2020
 ADDRESS: 134 Woodland Ln BUSINESS PHONE: _____
 CITY / STATE / ZIP: Oconomowoc WI 53066 E-MAIL ADDRESS: _____
 RESIDENCY: Years in City: 25 (+) Years in Waukesha County: 30 (+)

Please mark your **TOP THREE CHOICES. RANK BY PREFERENCE 1...2...3**

QUALIFICATIONS

- | | |
|---|---|
| <p>_____ Architectural Commission.....
(Meets 2nd Wednesday of the Month @ 5:00 PM)</p> <p>_____ Board of Review.....
(Meets annually - Spring & Summer - Day/Times vary)</p> <p>_____ Bureau of Economic Development.....
& Tourism Commission
(Meets as needed - Day/Times Vary)</p> <p><u>2</u> _____ Community Development Authority.....
(Meets as needed - Day/Times Vary)</p> <p>_____ Elderly Housing Authority.....
(Meets as needed - Day/Times Vary)</p> <p>_____ Library Board.....
(Meets 2nd Thursday of the Month @ 6:00 PM)</p> <p>_____ Parks & Recreation Board.....
(Meets 2nd Monday of the Month @ 6:30 PM)</p> <p><u>1</u> _____ Plan Commission.....
(Meets 2nd Wednesday of the Month @ 6:30 PM)</p> <p>_____ Police & Fire Commission.....
(Meets as needed - Day/Times vary)</p> <p>_____ Technology Committee.....
(Meets as needed - Day/Times vary)</p> <p>_____ Zoning Board of Appeals.....
(Meets as needed - Day/Times vary)</p> | <p>Should be an established builder, building contractor, registered professional engineer practicing in building or building design or a state licensed architect</p> <p>Should be a City resident (cannot hold a public office or be publicly employed), available for meetings Monday-Friday, 8 am to 5 pm & must take a training session</p> <p>Should be either the Executive Director or on Bd of Directors from the Chamber of Commerce (City resident or have City related interests), from the motel/hotel industry, or City's retail or food & beverage industry</p> <p>Should be a City resident with abilities & experiences in the fields of urban renewal, community development & housing</p> <p>Should be a City resident with experience in elderly housing needs</p> <p>Should be a City resident, except 2 members may be from towns adjacent to the City</p> <p>Should be a City resident. The Board oversees City Parks & Recreation programs and sets policy for City Parks.</p> <p>Should be a City resident, with recognized experience and qualifications. No more than 2 members shall be from the same aldermanic voting district</p> <p>Should be a City resident & maintain residency during their term. You may need to provide your political party as not more than 3 members may be from the same party</p> <p>Should be a City resident, with recognized experience and qualifications in the healthcare, technology or IT/cellular industries</p> <p>The Board hears requests of residents wanting a variance on their property, and takes action based on direction given by the City Planner from the Zoning Code.</p> |
|---|---|

(Continued on back)

Please indicate your reason for applying for this position, any education or experience that would be relevant to the specific committee(s) you have requested and any other pertinent information that you feel would be helpful in selecting you for a position or submit a resume.

I've been in the Commercial/Real estate business for 30+ years. Currently I'm a Principal at Cushman; Wakefield/Doerke where I lead the top Industrial RE team in the State. Additionally I spent 9 years at CenterPoint Properties, a CalPERS Company, as Senior VP of Acquisitions. My job requires me to attend Plan Commission meetings through out the Area and State in which I have the opportunity to observe and participate. I graduated from both Oconomowoc High School and the University of Wisconsin Madison. Previously I've served on the City's Architectural Commission and I'm presently on the Community Development Authority.

If you have any questions or would like more information on a particular committee and the responsibilities of volunteer service, please feel free to stop in City Hall or call the City Clerk at (262) 569-2175.

Return to: Office of the City Clerk
174 E. Wisconsin Avenue, Oconomowoc, WI 53066
or Email: dcoenen@oconomowoc-wi.gov