



OFFICIAL NOTICE AND AGENDA  
of a meeting of a City Board, Commission, Department  
Committee, Agency, Corporation, Quasi-Municipal  
Corporation, or Sub-unit thereof.

A Meeting of Wausau Water Works Commission will be held in the  
Council Chambers, 1st Floor City Hall, Wausau, WI 54403 at ~~1:30 p.m.~~ **11:30 am**  
on ~~Tuesday, October 3<sup>rd</sup>, 2023~~ **October 10<sup>th</sup> 2023.**

**Members: Katie Rosenberg (President), Dawn Herbst, Jim Force, Joe Gehin, John Robinson**

### AGENDA

**\*Revised with  
new Date/Time\***

1. Approve Minutes of September 5<sup>th</sup> 2023 Meeting.
2. Director's Report on Utility Operations
  - Asset Management
  - Organization and Reclassifications
  - Drinking Water Treatment Facility PFAS Treatment Project Update
  - Drinking Water Excavation and Utility Work began on Carbon Filter and Resin Replaced
  - Drinking Water Staff Completed 2<sup>nd</sup> Round EPA PFAS Sampling- Awaiting Results
  - Drinking Water Lead Loops Up and Running for CCT Study
  - Drinking Water Staff Working with CTW Wells and Pumps Setting Up System and Procedures
  - Drinking Water Garage from River Drive Moved to New Facility
  - Drinking Water Presented Utility Achievement Award for 2023 by AWWA for Complex Plant Transition and Water Quality
  - Drinking Water has Been Working with Clark Dietz for Lock-Out Tag-Out Program
  - Drinking Water Staff Continues to work on Decommissioning of Old Water Treatment Plant
  - Drinking Water Staff Working on Projects with both ATT and T-Mobile
  - Drinking Water Staff Completed 17 Dig Jobs for Repairs/Replacements in September
  - Drinking Water Staff Continuously works on LSLR Efforts
  - Drinking Water Staff Completed Walkthroughs with both Travelers and CVMIC Insurance Companies
  - Wastewater Facility Construction Update
  - Wastewater Continues Discharging Quality Effluent
  - Wastewater Operations Tech Began Employment
  - Wastewater CIPP Project Expected to Commence
  - Wastewater PFAS Sample Containers Ordered
  - Wausau PD Investigates Unhoused Person Activity at Wastewater Plant
  - Class A Dryer/Biosolids Inspection Meeting Scheduled
  - Wastewater Lab Technician Submitted Letter of Resignation
  - 48<sup>th</sup> Ave Sanitary Interceptor Replacement Scheduled
3. Discussion on Proposed Ordinance for Mandatory Lead Service Line Replacement.

4. Discussion and Possible Action Approving an Agreement with Westrum Leak Detection for Leak Surveys in Years 2025, 2027 and 2029.
5. Discussion and Possible Action on Sole Source Request for Well 3 Rehabilitation and Cleaning.
6. Discussion and Possible Action Approving Ongoing Sole Source Request for Lab Testing Services Through Northern Lakes Services, Inc. (NLS).
7. Discussion and Possible Action Approving West Wausau Generator Project Budget Modification.
8. Discussion and Possible Action Approving an Amendment with Clark Dietz Adding Project Management and Oversight for the West Wausau Generator Project.
9. Discussion on Utility Financial Strategies and Key Performance Indexes.
10. Discussion and Possible Action Approving a Contract with Community Infrastructure Partners (CIP) for Lead Service Line Replacement.
11. Discussion and Possible Action Approving a Reimbursement Resolution for the Clean Water Fund for the Wastewater Treatment Facility Headworks Project.

## Adjourn.

*\*Next meeting scheduled for November 7<sup>th</sup> at 1:30 P.M.*

Signed by: /s/ Katie Rosenberg, Mayor  
Presiding Officer or Designee

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THIS NOTICE POSTED AT CITY HALL AND EMAILED TO CITY PAGES AND DAILY HERALD: September 29<sup>th</sup>, 2023 at 2:00 p.m.-  
Revision with New Date/Time Posted: October 3<sup>rd</sup> 2023 at 8:30 a.m.

*This meeting is being held in person.* Members of the public who do not wish to appear in person may view the meeting live over the internet, cable TV, Channel 981, and a video is available in its entirety and can be accessed at <https://tinyurl.com/wausaucitycouncil>. Any person wishing to offer public comment not appearing in person may e-mail [gina.vang@ci.wausau.wi.us](mailto:gina.vang@ci.wausau.wi.us) with "Water Commission Public Comment" in the subject line prior to the meeting start. All public comment, either by email or in person, will be limited to items on the agenda at this time. The messages related to agenda items received prior to the start of the meeting will be provided to the Chair.

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 (ADA), the City of Wausau will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs or activities. If you need assistance or reasonable accommodations in participating in this meeting or event due to a disability as defined under the ADA, please call the ADA Coordinator at (715) 261-6622 or [ADAServices@ci.wausau.wi.us](mailto:ADAServices@ci.wausau.wi.us) to discuss your accessibility needs. We ask your request be provided a minimum of 72 hours before the scheduled event or meeting. If a request is made less than 72 hours before the event the City of Wausau will make a good faith effort to accommodate your request.



## Minutes of September 5, 2023

A meeting of the Wausau Water Works Commission was called to order at 1:30 p.m. in City Hall on Tuesday, September 5<sup>th</sup>, 2023. In compliance with Wisconsin Statutes, this meeting was posted and receipted for by the Wausau Daily Herald on August 31<sup>st</sup>, 2023.

Members Present: President Rosenberg, Commissioners Herbst, Robinson, Force, Gehin  
Others Present: Eric Lindman, Scott Boers, Ben Brooks, Anne Jacobson, James Henderson, Tonia Westphal/ Clark-Dietz, Joe Kafczynski/ Becher Hoppe, Susan Wojtkiewicz/Donohue, Shawn Kerachsky/CIP, Sean Agid/CIP, Dave Hagenbucher/Marathon County Landfill.

### 1) **Approve Minutes of August 7<sup>th</sup> 2023 Meeting.**

Herbst motioned to approve minutes. Seconded by Gehin.  
Motion Carried 5-0.

### 2) **Director's Report on Utility Operations.**

Lindman began there's an update on PFAS testing from August, Corrosion Control Treatment update, and updates on wastewater facility and other projects included.

Gehin questioned if the CIPP project on Flieth and Imm Street was the larger pipe?

Brooks replied that it was the 30 inch.

Director's Report Placed on File.

### 3) **Presentation and Update by Capital Infrastructure Partners (CIP) Regarding the Lead Service Line 5-Year Replacement Scope of Services.**

Kerachsky and Agid presented with slides beginning on page 14 of the packet.

Robinson requested walkthrough for the process of the loan.

Agid replied about \$400 million coming to the State of Wisconsin over the next 5 years. At State level, 51% will be loans, 49% will be principal forgiveness/grants. Wisconsin DNR is breaking it down by City or Census track and will allocate a different percentage based on certain economic conditions. Wausau as a City qualifies for 75% principal forgiveness for construction costs. If we target certain census tracks that are more disadvantaged that should qualify higher than the 75% for principal forgiveness. If you break down year 1 of \$5.3 million, assume 80% will be construction costs, at least 75% city wide are eligible for principal forgiveness. Anything not covered by principal forgiveness will be awarded as loan so 0.25% interest subsidized below traditional drinking water state revolving funds and amortized over 20-year period. Intent to apply is due Oct 31<sup>st</sup> every year, application due following year June 30<sup>th</sup> to get money the following year. We anticipate funding for year 1 application for \$5.3 million will be announced next 4-6 weeks from DNR then we'll know what percentage is grant, principal forgiveness and what percentage would be loans. We could apply City wide understanding that Wausau qualifies for that 75% principal forgiveness with flexibility of where to use that money and/or very specific census

tracks or neighborhood blocks that qualify for a higher percentage of principal forgiveness. We are trying to get the city to maximize principal forgiveness and grants so we don't take on a lot of loans. We are looking at regional hub from different fundings, additional fundings and inaugural fundings get the lead out to maximize grant and principal forgiveness. Wausau will be going first, we are getting support from a national level, EPA and state level discussions with DNR. Our guarantee is we will explore all avenues. Vast majority of funding will be the bipartisan infrastructure law. Local will be defined in our contract, could be City of Wausau, Marathon County, 5 Counties that make up the Central Wisconsin or Statewide. The broader, the higher the percentage. Workforce development will set apprenticeships by year 2-3 will be ready to perform. Other is Contractor development, tap into residential plumbers and provide support/training to get certified on lead and create cohorts that provide hands on training.

Robinson questioned how critical would adopting a mandatory ordinance be?

Agid replied it is not critical but it helps. We take on responsibility of homeowner recruitment. Newark adopted ordinances where tenants gave access to homes and got a higher adoption rate. It helps moving forward through targeted outreach.

Force questioned the timeline for public outreach before digging March 2024 since we will be the 1<sup>st</sup> of a kind, 500 Lead Service Lines (LSL), then 1500, then 2000 lines, how do you see this happening, that's a lot of lines per day. Our experience is that it takes time to get lines in the grounds, how would this proceed at such a rapid pace?

Agid replied as soon as contract is signed ideally in October, we would start working with community outreach firms to educate homeowners and contractors to get their buy in. Then, soon as ground no longer frozen, we can start.

Kerachsky replied we've experienced with stormwater and other infrastructure before this and that's why you scale up. When you communicate that you have 5-year program and you complete year one, you attract contractors through outreach and workforce development that doesn't stop. You establish that the program is sustainable and attract contractors which also helps with price enforcement so you're not competing with one or two other firms. Wausau is doing all the right things to enable that.

Gehin questioned if the 8,000 lead is both public and private lines or just the private side? If you can't deliver, can we get out of the contract/ program? Are there any costs to the property owner? Pipes are in same trench, doing minimal open trench, if property owner wants sewer replaced could that be an add on charge?

Agid replied the program deals with both sides but city prefers to start with lines that have been replaced on public side. The DNR 1<sup>st</sup> awards private side then any principal forgiveness at State level will go to public side. Early years focus on lines already changed out on public side and only have private side left so you'll have a higher percentage grant/ principal forgiveness funding. Yes, you could get out of the contract.

Force stated there is some interest in non-mandated ordinance, what was your input on that?

Kerachsky replied, it makes your conversion rate higher but that is not a decision we would make, it would be up to this body to decide if that's what you want to pursue. The approach the City is taking from maximizing principal forgiveness and doing 500 lines, we are building public campaign, so people want to do this with an easy process, no rumors on lawns being dugout. People will see the success within the community.

Agid replied our colleagues went along to see replacements and we will try to do horizontal boring where we are not digging up lawns and avoid moving trees and digging up driveways. We could ask homeowners if they wanted to do their sewers too.

Rosenberg stated we could consider the ordinance as we get further along in process and find resistance.

Lindman replied that with the mandatory ordinance there could be stipulations. Commission could consider as funding is available. It's not a hard/ fast item but could be determined. If we do take loans with project, which we will, in order to pay loans for private side replacements with PSC revenue rates, we would need that mandatory ordinance in place to use those user rates. We could start discussing mandatory ordinance and some consideration that commission would like, the sooner the better as we roll this program out.

Robinson questioned the milestones relative to future action of this body and the council looking at loans and commitment to loans, approval of contracts. We still have the cumbersome intent to apply process with no guarantee. Have we stoked out what the milestones are? Range of risk or impact to the utility based on this schedule or cost on utility rates?

Lindman replied our initial contract from CIP will come likely in October for consideration on approval. From that point, any funding, closing on loans, principal forgiveness would have to go to council, every year moving forward from year to year we will come to this commission for approval as amendments. So, year 1 will be 2024, next year will be year 2 for 2025. We are moving forward with contracts and hopefully getting some information from DNR on the applications. Like this year we are expecting next year funding to come in next couple weeks for next year. We've brought estimates before but once we know funding for 2024, we'll work with Ehler's and finance and work with contractors to what are the impacts to ratepayers or if there is any impact. Like other funding CIP is pursuing for us we don't know what type of funding we'll be getting, if any.

Kerachsky replied to Robinson's question that the program can scale up or down, the body could decide in year 3 into this, we've got less principal forgiveness from DNR or debt threshold and we don't want to take on anymore debt, you're not tied beyond each year's annual plan with offering every year that the funding comes up. It gets brought in for each annual plan, we'll continuously sort that each year between sources.

Herbst questioned if we don't accomplish this in 5 years, could we do extension to a 6<sup>th</sup> year? I believe people will get on board and meet this commitment and hope the people buy into it.

Kerachsky replied we anticipate the utility going as long as it needs to go. It's the appetite of the individual entity using different funding sources. It's up to each community based on volume and how fast they want to push. This is where it sounds hyperbolic but the eyes are going to be on Wausau. No one here could afford anything but success and the resources will be brought in full force.

Rosenberg reiterated that the plan for replacement schedule was a 15-year plan and this is accelerating it to 5 years so it's exciting.

No Action Taken.

#### **4) Discussion and Possible Action Approving a Mandatory Lead Service Line Replacement Ordinance.**

Lindman questioned if anyone had any discussion for this item. We've brought it in a couple of times before in the past but with the last time from Nate Miller the attorney with the City, since that time, PSC is more open to requiring mandatory replacements of lead service line on private side, we could add verbiage to the ordinance subsidizing that cost up to 50% or as funding is available for commission or city to determine if the line needs to be replaced. The lead and copper rule goes into effect October 2024 and is requiring full replacement so if we replace our side, the private side needs to be replaced. Putting this into something official on the City side. As utility, we don't want to reconstruct a street and not be able to replace our side or lead service lines because laws are going to require us to do this, we need this in place to have the option to do this.

Force requested if we will be seeing some language at a subsequent meeting.

Lindman replied we were hoping to get some language today but didn't have it, we'll see some language but one thing is, are we open to this idea? I know we get some resistance from the public; I hear it too, we need to be careful and look at other municipalities and that PSC is ok with the language we put in.

Rosenberg stated if there are things this commission wants us to include into this ordinance, we could craft that into there.

Robinson wanted a discussion in enlightenment of the private side funding options and if the utility is picking up or loaning, how we are addressing the funding?

Force questioned if there is any data showing that lead levels gone down in drinking water after the lead service line was replaced, or data after we've taken the precaution?

Rosenberg stated we don't have that data but could find people who would know, like the health department.

Lindman replied the lead in water are from lines itself, eliminating the private side up to the meter will eliminate that threat, but we also have lead solder to lead, galvanized lines in the home, I do think with our testing- 5<sup>th</sup> liter, it will be a challenge to pass that type of testing. I haven't found that data but it would be interesting to see that data.

Robinson questioned if any other communities gone from street to the inside their homes or if we have any loans available for the interior of the homes?

Boers replied not that we are aware of for inside the homes.

Rosenberg replied we have HUD for lead paint and windows and some outreach on service lines.

Lindman replied the city will still be doing corrosion control because of those other issues even though we go through and replace the lead service lines within the city up to the meter. We know there are still potential risks and issues on the inside of the homes.

Robinson motioned staff to develop sample ordinance in future presentation to this commission. Seconded by Gehin.

Motion Carried 5-0.

##### **5) Discussion and Possible Action Approving Additional Costs to the GAC Project for Working Through Winter Shortening Time of Construction.**

Wojtkiewicz presented beginning with page 22-29 of packet of potential schedule acceleration to continue work through the Winter, otherwise based on current contract they may stop during Winter for several months and provided an update on where we are at with funding and bipartisan infrastructure law.

Robinson questioned cost of ion exchange resin and life expectancy of resin?

Boers replied the intention is to accelerate the construction so we don't have to replace the resin two times. The resin changeout is \$1.2 million per change out but it depends on the market value for the next changeout, based on purchase of the resin. TOC removal is 20 years.

Rosenberg reiterated that we are looking at an additional \$300,000 to push forward and get it done earlier and not have to do an additional resin changeout. Looking at finish date of late July.

Robinson questioned if we could amend contract to have stipulated penalties for failure to meet that if we are going to accelerate?

Wojtkiewicz replied yes, intent with change order substantial and final completion and liquidated damages associated with not completing it within those dates.

Rosenberg questioned if it's possible to do a partial resin changeout if we had to?

Wojtkiewicz replied depending on how we could sequence the operation, there may be options. Resin itself has only a certain amount of PFAS it could adhere dependent on level coming into and volume of water using.

Robinson motioned to advance the accelerated schedule as proposed. Seconded by Gehin.

Motion Carried 5-0.

**6) Discussion and Possible Action Approving PFAS Testing for the Wastewater Utility.**

Lindman began that we had conversations with Marathon County landfill with regards to accepting leachate and what process needed to be in place before we did that. With our future WPDES Discharge Permit we will be required to sample our Wastewater. It would be a good idea to consider getting baseline numbers for both influent/effluent and biosolids. If we will begin working with landfill, we could understand what we are accepting from the landfill, we could work with engineering firm to introduce that into our system and how much we could introduce and impacts. First step is to begin testing.

Robinson replied thank you for bringing this forward. I would support and move that we proceed with sampling with influent/effluent and our biosolids. Seconded by Herbst.

Motion Carried 5-0.

**7) Discussion and Possible Action Approving the Development of an Agreement with Marathon County Landfill to Determine the Feasibility of Accepting Leachate at the Wastewater Treatment Facility.**

Lindman began this is tied into the previous agenda item as well. We would like to begin working with the landfill, taking our test results and working with the landfill on an agreement to bring back to this body on what accepting the leachate would be like. First step would be test, what our treatment process could handle. We would like an agreement in writing maybe beginning to mid next year on whether we would be accepting leachate and what it looks like.

Robinson supports this and encourages us to be thoughtful in approach to capture expertise on ways to extract or destroy and/or if there are any grants available for that side. I would move to give authority to entering negotiations with Marathon County solid waste management relative to leachate samplings and evaluation of options. Seconded by Gehin.

Motion Carried 5-0.

**8) Financial Report Update on Utility Finances Discussing Possible Strategies and Key Performance Indexes.**

Rosenberg stated this item will be pulled as we are awaiting additional numbers and will bring back to the commission.

No Action Taken.

**9) Discussion and Possible Action Approving Budget Modification for Incentive Pay in 2023.**

Lindman began that we've talked about certifications our staff work towards having and came up with schedule for incentive pay as employees become certified and provides incentives for them to become certified. There's a cost per hour and outlined certifications in the attached table. Staff would like this implemented immediately this year as the first part of our approach. This will get our staff trained up and so we do have a highly trained staff.

Herbst stated this was long overdue.

Robinson stated the underlying assumption is that we are not able to attract and retain staff and we continually lose them. One of our factors is our pay grade system. This is a step in the process to make us more competitive with others in allowing for recognition and training and expertise they bring to the city.

Gehin questioned if the certification was administered through the DNR?

Brooks replied all the certification and testing are through the DNR.

Gehin asked if this affects other support staff or would that come through the salary study?

Rosenberg replied yes.

Robinson questioned fiscal impact; do we have capacity to absorb these costs due to vacancies we've had?

Lindman replied yes.

Force noted retention on employees just don't depend on payrate there are other factors that cost employees to stay or leave.

Robinson move to implement this. Seconded by Herbst.

Motion Carried 5-0.

#### **10) Discussion and Possible Action Approving Budget for Necessary Job Reclassifications and Adding New Positions at Wausau Water Works in 2024.**

Lindman began looking at both staff and employees for retention and recruiting, the proposal in front of you is what we'd like to establish this for the first pay period of 2024. We've looked at other municipalities as well as AWWA wage comparisons and job responsibilities. We came up with some of our shortfalls within our pay structure from Superintendent to admins. Looked at job classification and propose some jobs be reclassified and there are some budget impacts in here. We are looking for a budget approval for the 2024 and move this forward to make these changes.

Robinson questioned if we had the fully loaded cost of this and by time you put in retirement, social security you're looking at 28% or 30%? How is this compared to work City is doing? Are we kicking the can down the road or solving the problem?

Henderson stated we are at the end of the report with Gallagher who are recommending a 3% change in the pay bands. This will be discussed in our HR meeting coming up Monday, September 11<sup>th</sup> at 4:45pm if the Commission would like to be there.

No Action Taken.

#### **11) Adjourn.**

Herbst motioned to adjourn. Seconded by Gehin.

Motion Carried 5-0.

Link to view meeting in its entirety: <https://tinyurl.com/wausaucitycouncil>

Gina Vang, Recording Secretary

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## MEMORANDUM

TO: President Rosenberg  
Commissioner Herbst  
Commissioner Force  
Commissioner Gehin  
Commissioner Robinson

FROM: Eric Lindman, P.E.  
Director of Public Works & Utilities

SUBJECT: Director's Report – October 2023

1. Asset Management – The utility is in desperate need of implementing an asset management software in order to begin identifying and properly setting up maintenance schedules for critical assets. Utility staff over the past two years have looked at a few different asset management software platforms compatible with Workday. Two major AM software platforms are Cartegraph (now Open Gov) and City Works. Utility staff has chosen City Works as their preferred software and would like to move forward with beginning the process of setting up our vertical assets (treatment facilities) in GIS and then begin establishing the assets that will be identified and placed in City Works.

We would be moving forward with the purchase of the City Works software and with a consulting firm (Axim Geospatial) to implement the AM software. Axim we can hire using cooperative purchasing agreement through GSA pricing and City Works software we can purchase by “piggy backing” off of another municipalities RFP process, both are within the City procurement policy. This will save significant time while ensuring pricing is competitive for having this work completed.

This will be a multi-step process beginning with the upgrade to GIS/Esri software and establishing our vertical assets in the GIS mapping. Staff will begin working with Axim to prepare a scope of services to begin this process and as steps are completed task orders will be issued as we work through the various steps to complete the work and eventually have City Works integrated with Workday. We anticipate this work will take 9-12 months to complete. The utility currently has \$200,000 budgeted in 2023 for Asset Management implementation and we are proposing an additional \$200,000 to be budgeted in 2024, estimated to complete the work.

2. Organization and Reclassifications - Staff is working with finance to gather information to present to a joint HR/Commission meeting in the near future. It is important we continue to move forward with the proposed reclassifications to make sure staff are classified correctly, this will allow us to correctly classify the proposed new positions. It is also important we move this forward during the

budget process for 2024 so we do not lose yet another year without improving the utility organization setting it up for success.

Reclassification of existing employees has an estimated budget impact for Water of \$88,000 annually and for wastewater of \$62,000 annually; this is well within the same impacts as other recently approved reclassifications city wide. These reclassifications would properly classify utility positions based on the position responsibilities needed to properly maintain and manage the water and sewer utility. The wage surveys used have detailed summaries of job descriptions and responsibilities and these were used as a comparable to the job responsibilities needed for each position at Wausau Water Works. Other departments recently had reclassifications completed based on the same merits and I have used the same principles used in those classifications as is proposed for the utility. Staff looks forward to having this discussion and moving a decision forward to set the utility up for success.

3. Drinking Water Treatment Facility PFAS Treatment Project Update: Construction is underway for the Granular Activated Carbon PFAS treatment system. The contractor is setting up temporary construction facilities, excavating for the building foundation and installing underground utilities. The contractor is also performing changeout of the Anion Exchange resin. One vessel is taken out of service at a time and the resin is replaced. The contractor is currently working on the fourth of six vessels.

The construction team is working on reviewing equipment and building materials submittals. The construction schedule is currently on the accelerated track as discussed at the September Water Works Commission meeting. Contractor is working to define delivery schedules with suppliers and a negotiation of a change order for the accelerated schedule is anticipated.

WDNR has communicated that based on the amount of Safe Drinking Water Loan Emerging Contaminants (EC) Principal Forgiveness (PF) and the number of EC projects that were received, they will be able to fully allocate EC PF to each of Wausau's PFAS projects – the interim IEX resin changeout and the permanent GAC treatment system. Donohue will be working with WDNR and the City on the SDWLP funding plan and working toward loan closings.

## **WATER DIVISION**

1. Excavation and utility work has begun on the carbon filter facility. Resin has been replaced in four of the six IX vessels.
2. Staff has completed the second round of EPA PFAS Sampling at the Water Treatment Facility. We are awaiting results.
3. Lead loops are up and running for the Corrosion Control Treatment Study. Water is now being continuously run through the loop skids to “season” the lines. Sampling of the lines will start in the beginning of October.

4. Staff has been working with CTW Wells and Pumps, setting up a system and procedures for cleaning our VOC Stripper Media in place. This will eliminate the labor-intensive process of removal and re-installation of the media annually for cleaning.
5. The steel garage from the River Drive Plant has been moved to the new facility.
6. Wausau Water Works was presented the Utility Achievement Award for 2023 by the Wisconsin Section of the American Water Works Association. The award was in recognition of the “Complex Plant Transition with Water Quality Considerations”. Congratulations to staff.
7. Staff has been working with Clark Dietz on a comprehensive Lock-out-tag-out Program. This work is expected to be ongoing until December. Once complete, this program will cover our new facility and all outlying locations.
8. Staff continues to work on the decommissioning of the old water treatment plant. Currently, work has been focused on reconditioning meter testing equipment and chemical relocation and disposal. Work will be ongoing for the next few months.
9. Staff has been working on projects with both AT&T and T-Mobile for upgrades to their equipment on our tower.
10. Staff has completed 17 dig jobs to make repairs or replacements in September.
11. Staff continues to work on our LSLR effort. Record updates and line verification frequency will increase as we move into next year’s projects.
12. Staff completed walkthroughs with both Travelers and CVMIC Insurance Companies. The tours resulted in minor requests from those parties. We are hoping to start some hazard assessments soon.

## **WASTEWATER DIVISION**

1. The Wastewater Treatment Plant continues to discharge a quality effluent. Optimization throughout the plant continues to ensure a quality effluent is being discharged.
2. Wastewater Plant Operations Technician: Mike Bradberry began employment on 9/18/23. Welcome to the Wastewater Team Mike!
3. The 2023 Cured-In-Place (CIPP) project for Flieth Street and Imm Street is expected to commence October 9, 2023 and will be completed by the end of November.
4. Wastewater PFAS sample containers have been ordered and awaiting arrival. Analysis will include plant influent, effluent and biosolids.

5. Wausau PD was contacted on September 22, 2023 to investigate unhoused person activity at the Wastewater Treatment Plant. Wausau PD issued a fifteen-day eviction notice to the individuals that had placed temporary housing on City property.
6. A Class A Dryer/Biosolids Inspection meeting has been scheduled for November 16, 2023 with WDNR, Donohue and Wastewater Treatment Staff. WDNR will determine at this time if all Class A requirements have been met and biosolids are stored in their appropriate outfall locations.
7. Lab Technician, Tyler Wagner, submitted his letter of resignation on September 27, 2023 with an effective date of October 31, 2023.
8. 48<sup>th</sup> Avenue Sanitary Interceptor replacement project scheduled to start the week of October 9, 2023. 937 feet of new 24” ductile gravity main pipe will replace the existing 15” pipe.

# Wausau, Wi.

## Computerized Leak Detection Survey

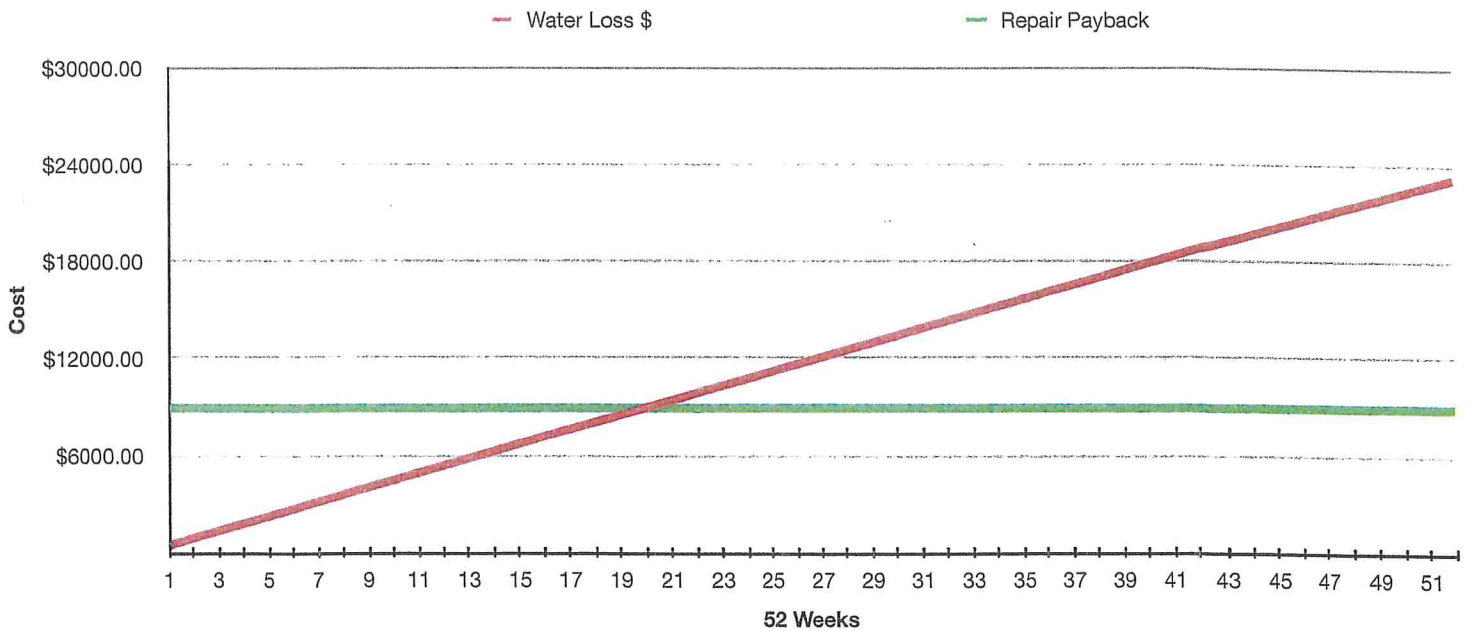
8/28/23

### Cost Analysis

This survey was conducted by Westrum Leak Detection utilizing the latest leak detection correlation technology to pinpoint suspected leakage in the system. The following leaks were located.

Leak Chart is \$1 per 1000 gallons lost

	No. of Leaks	GPD (per leak)	Millions per year	Dollars per year
Main leaks	5	5,000	9.125	\$9,125
Abandoned leaks	0	0	0	\$0
Service line leaks	6	6,000	13.14	\$13,140
Valve leaks	0	0	0	\$0
Hydrant leaks	5	500	0.9125	\$913
<b>Total</b>	<b>16</b>	<b>11,500</b>	<b>23.1775</b>	<b>\$23,178</b>



Survey Cost	\$8,900.00
Leak cost per week:	\$446
<b>Estimated payback period in weeks:</b>	<b>20</b>

As you know, because of increased production and test and maintenance costs, operation and maintaining an efficient water distribution system has become a necessity. The most effective method to reach and maintain that goal is with an annual leak detection program. We appreciate the opportunity to serve you.

WESTRUM LEAK DETECTION	3226 360th St Stratford, IA 50249	515-838-2222 (24-7) 888-500-4433 (24-7)	Cell 515-231-0122
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# Project Status Report



Wastewater Treatment Facility Improvements Project – Engineer During Construction

City of Wausau, Wisconsin

Donohue Project Number 13229

Period | August 12, 2023 – September 9, 2023

Invoice 75

## Engineer Activities This Period

- Construction administration services related to the remaining project close-out efforts associated with responding to contract interpretation questions (RFIs), initiating requests for proposals (RFPs), attending random construction progress meetings, processing work changes to the contract, and contractor monthly payment requests.
- Prepared and submitted Clean Water Fund disbursement request and provided CWF administration.
- The Engineer's application engineering staff continues to fine tune the various systems as unit process systems are being operated.
- Change Order 27 has been executed and final Change Order 28 for Contractor review has been drafted.
- Majority of final Certificates of Substantial Completion for those process systems that the Owner has begun to operate have been provided to the Contractor with necessary constraints.
- Continued to address punch list items.
- Continued to assist Owner with WDNR Class A biosolids approval.

## Engineer Near-Term Activities

- As the project proceeds to closure, the engineer will continue to provide construction administration services including processing final change orders, reviewing contractor payment requests, and providing on-site engineering services as needed.
- Application Engineering programming to fine tune operations.
- Review punch list items as they are completed by the Contractor.
- Preparation of CWF closeout documentation.

# Project Status Report

## Wastewater Treatment Facility Improvements Project – Engineer During Construction

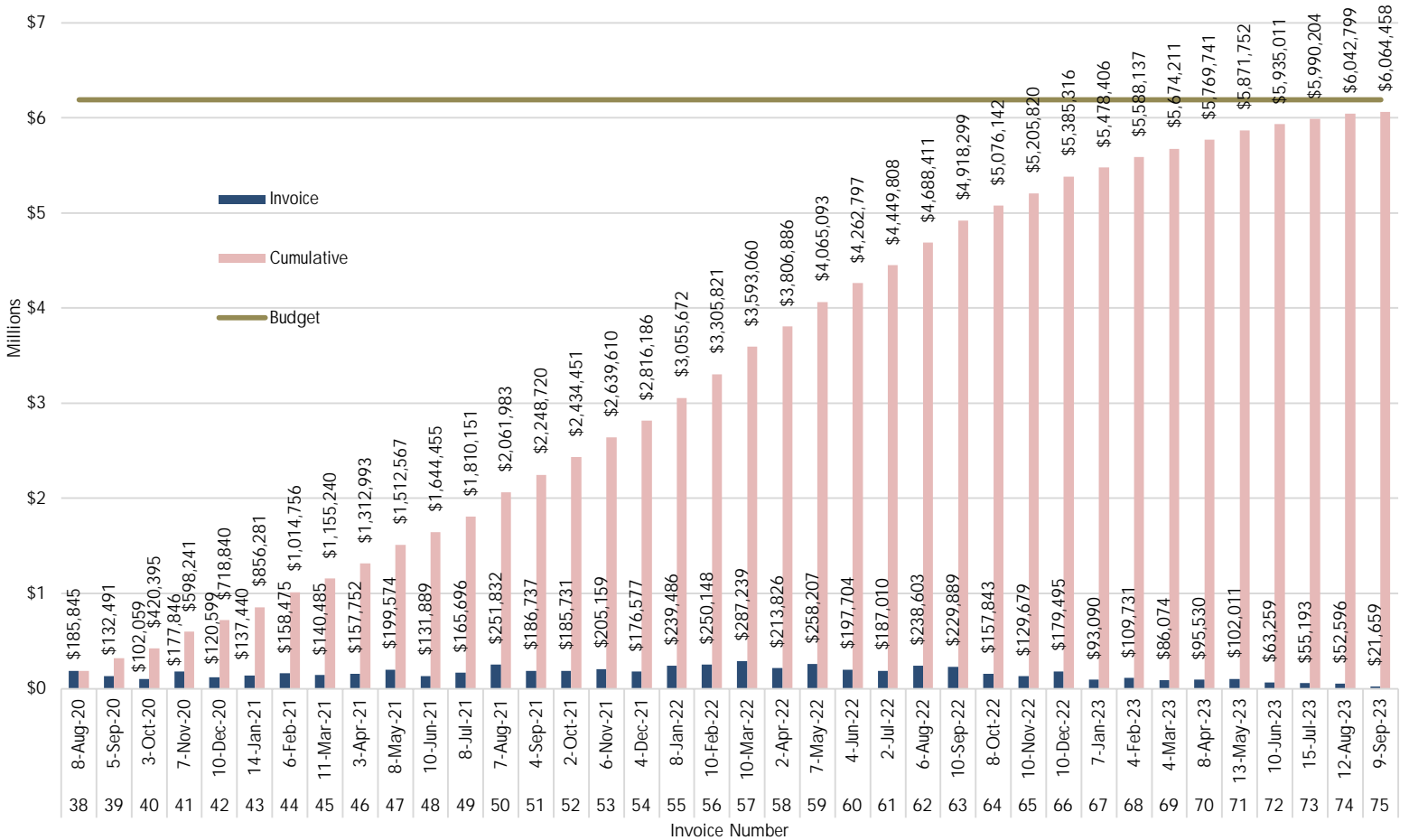
City of Wausau, Wisconsin

Donohue Project Number 13229

Period | August 12, 2023 – September 9, 2023  
Invoice 75

### Project Related Budget Snapshot

#### Construction Engineering Budget



# Project Status Report

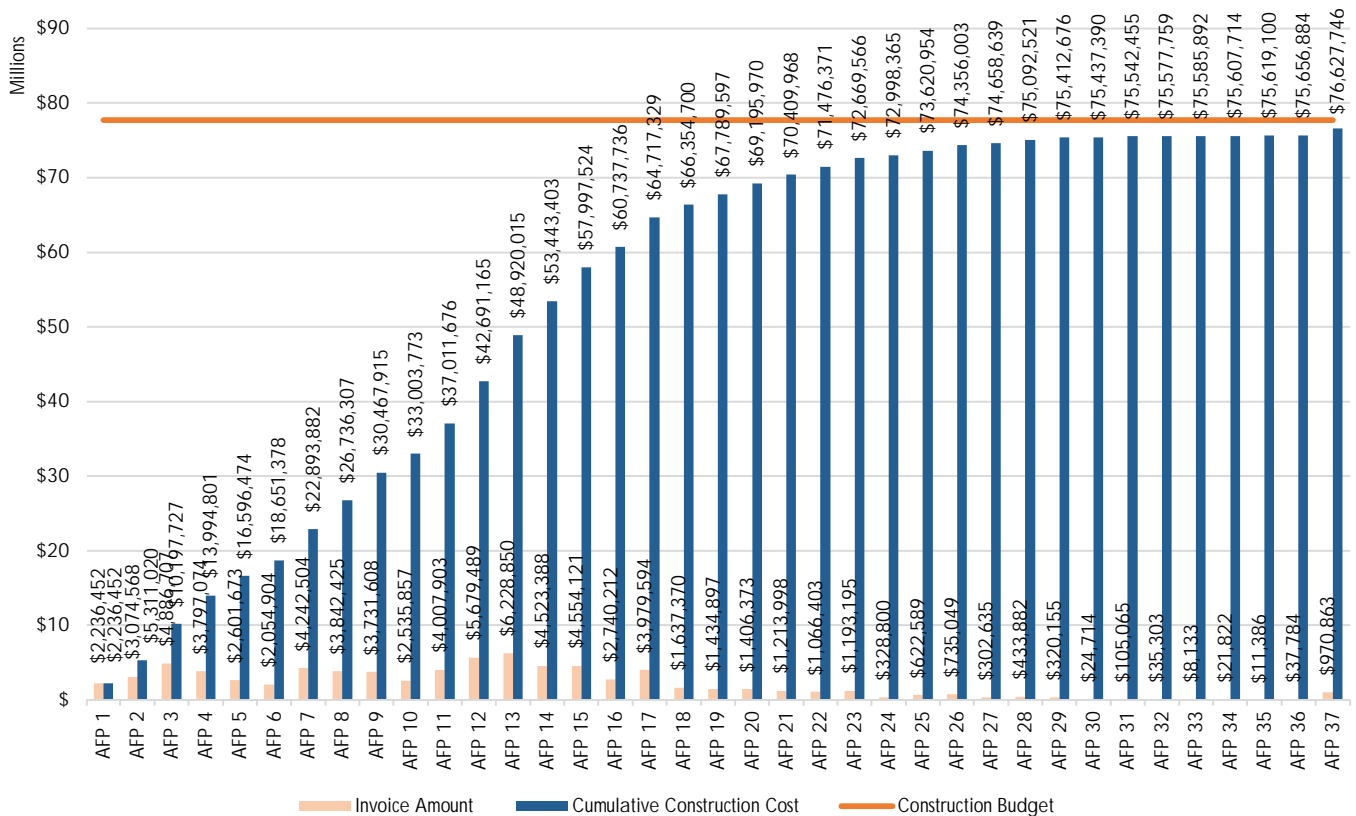
## Wastewater Treatment Facility Improvements Project – Engineer During Construction

City of Wausau, Wisconsin

Donohue Project Number 13229

Period | August 12, 2023 – September 9, 2023  
Invoice 75

### Construction Budget: Pay Applications Approved by Engineer





# Project Status Report

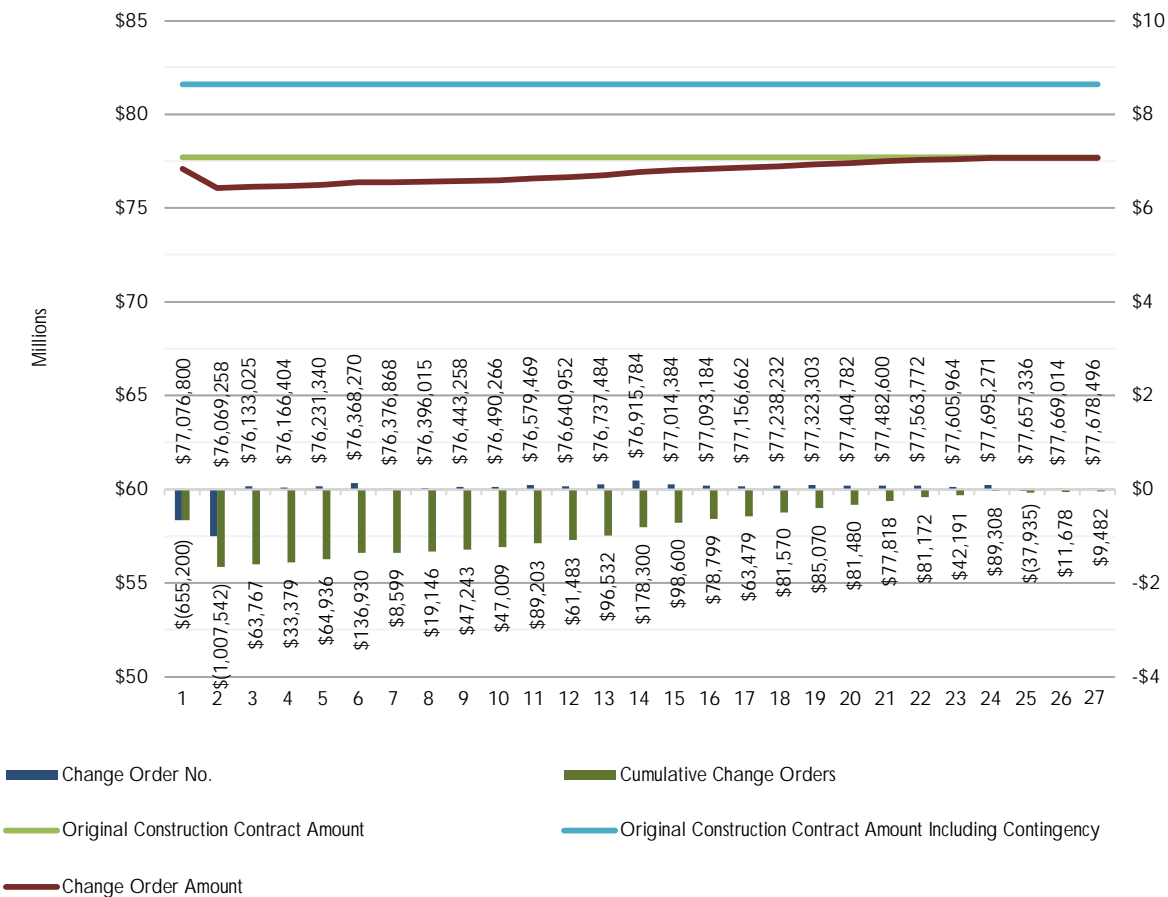
Wastewater Treatment Facility Improvements Project – Engineer During Construction

City of Wausau, Wisconsin

Donohue Project Number 13229

Period | August 12, 2023 – September 9, 2023  
Invoice 75

## Overall Project Budget



### Budget Notes:

1. No budget issues at this time.

### Remarks

1. Construction is complete except for punch list corrective work; therefore, construction photographs are no longer beneficial to document project progress.

# INVOICE



3311 Weeden Creek Road  
Sheboygan, WI 53081  
Phone: 920-208-0296  
www.donohue-associates.com

**Invoice To:**

City of Wausau  
Attn: Ben Brooks  
407 Grant Street  
Wausau, WI 54403

**Invoice Date:**

September 14, 2023

**Donohue Project No.:**

13229

**Invoice No:**

13229-75

**Project Manager:**

Mike Gerbitz

**Terms:**

Net 30 Days

**Billing Period:**

08/13/23 - 09/09/23

**Project Description:**

Wastewater Facilities Plan & Design

**Your Authorization:**

Engineering Services Agreement, Signed 03/29/17  
Amendment No. 1, Signed 06/28/18  
Amendment No. 2, Signed 03/05/19  
Amendment No. 3, Signed 01/27/20  
Amendment No. 4, Signed 05/07/20  
Permit Review Fees Payment Request, 02/27/20

**Compensation:**

Time and Expense	\$	129,220.00
Time and Expense	\$	984,565.00
Time and Expense	\$	3,323,900.00
Time and Expense	\$	4,351,831.00
Time and Expense	\$	1,843,325.00
Permit Review Fees	\$	12,534.50
Total	\$	10,645,375.50

**Billing Summary:**

Total Charges to Date	\$	10,515,693.02
Charges Previously Billed	\$	10,494,034.29
Current Charges	\$	21,658.73

**Summary of Current Charges**

Labor (107.0 hours)	\$	21,437.50
Reimbursable Expenses	\$	221.23
Permit Review Fees	\$	-
Subconsultants	\$	-
Total	\$	21,658.73

**Current Charges Due** **\$ 21,658.73**

**Please Remit to:**

Donohue & Associates, Inc.  
3311 Weeden Creek Road  
Sheboygan, WI 53081  
Phone: 920-208-0296  
Fax: 920-208-0402

**Aged Receivables**

<u>Current</u>	<u>31 - 60 Days</u>	<u>61 - 90 Days</u>	<u>91 - 120 days</u>	<u>≥120 days</u>
\$21,658.73	\$52,595.35	\$0.00	\$0.00	\$10,240.73



**TO:** Wausau Waterworks Commission

**FROM:** Eric Lindman, P.E.  
Director of Public Works & Utilities

**DATE:** October 3, 2023

**SUBJECT:** Lead Service Line Replacement Ordinance

---

Attached is a revised Lead Service Line Replacement ordinance for your review and discussion. There are a couple items to highlight that have been changed since you have seen the last version in 2021.

1. The city has changed from a 15-year replacement plan to a 5-year replacement plan and this has been reflected in the ordinance.
2. You will see in the ordinance the time for actual replacement was placed at 7-years and not 5-years. This was to account for the long lag time when funding is available versus when actual work is completed.
3. There has been language added in the ordinance to allow flexibility to not mandate or delay replacement of LSL's if funding is not available. This allows the utility to not put undue burden on the private owners or on the utility as it allows the replacement to be delayed until appropriate funding is available.
4. In order to use revenue rates to pay for private side LSL replacement the PSC requires a replacement ordinance in place. And we will need to begin the process of applying to the PSC for their permission to use user rates for private side LSL replacement.

Please review the attached DRAFT ordinance. This item is for discussion only and to get feedback from the Commission with the intention of bringing a final back with any changes to the November meeting for considering approval.

CITY OF WAUSAU, 407 Grant Street, Wausau, WI 54403

**ORDINANCE OF THE WAUSAU WATERWORKS COMMISSION**

Creating Chapter 13.66 Lead and galvanized water service line replacement, Section 13.66.010 Intent and purpose, Section 13.66.020 Authorization, Section 13.66.030 Rules of construction and definitions, Section 13.66.040 Survey and self-inspections, Section 13.66.050 Partial or full service line material replacement; water utility or customer side, Section 13.66.060 Replacement priority, Section 13.66.070 Application and Scheduling, Section 13.66.080 Financing of replacement, Section 13.66.090 Exceptions, Section 13.66.100 Prohibitions, Section 13.66.110 Severability, Section 13.66.120 Penalties.

Committee Action: Pending

**Ordinance Number:**

Fiscal Impact:

**File Number:**

**Date Introduced:**

The Common Council of the City of Wausau do ordain as follows:

Section 1. That Chapter 13.66 Lead and galvanized water service line replacement is hereby created and made up of the following Sections outlined below.

Section 2. That Section 13.66.010 Intent and purpose is hereby created to read as follows:

13.66.010 Intent and purpose.

Lead and galvanized service lines pose a threat to the public health based on the potential for leeching of lead into drinking water. The Common Council of the City of Wausau therefore finds that it is in the public interest to establish a comprehensive program for the removal and replacement of lead and galvanized pipe water service lines in use within the Wausau Water Utility system, and to that end, declares the purposes of this chapter to be as follows:

- (1) Continue to ensure that the water quality at every tap of Wausau Water Utility customers meets the water quality standards specified under the Federal Safe Drinking Water Act;

- (2) Continue to reduce the lead in City drinking water to meet EPA standards in City drinking water for the health of City residents;
- (3) Continue to meet the WDNR requirements for local compliance with the EPA's Lead and Copper Rule;
- (4) Continue to eliminate the constriction of water flow caused by mineral rich ground water flowing through lead and galvanized water service pipes and the consequent buildup of mineral deposits inside lead and galvanized pipes; and
- (5) Continue to affect the replacement of all high-risk lead and galvanized service lines within five years of their discovery and the replacement of all remaining lead and galvanized pipe water service lines in use in the City within seven years.

Section 3. That Section 13.66.020 Authorization is hereby created to read as follows:

13.66.020 Authorization.

This chapter is enacted pursuant to Wis. Stats. §§ 62.11(5) and 281.12(5), and as mandated by 42 USC 300g of the Federal Safe Drinking Water Act, enforced by the EPA and the WDNR.

Section 4. That Section 13.66.030 Rules of construction and definitions is hereby created to read as follows:

13.66.030 Rules of construction and definitions.

This section and all rules and orders promulgated under this section shall be liberally construed so that the purposes enumerated in Section 13.66.010 may be accomplished. Words and phrases shall be construed and understood according to their common and usual meaning unless the contrary is clearly indicated. Within this chapter:

*Childcare facility* means any state-licensed or county-certified childcare facility including, but not limited to, licensed family childcare, licensed group centers, licensed day camps, certified school-age programs and Head State programs.

*City* means City of Wausau.

*Confirmed water sample test* means a tap water analysis, completed after a prior analysis that indicated lead levels at the EPA action level, and conducted in accordance with the Lead and Copper Rule, with Wis. Admin. Code § N 809.547, and with instructions provided by the Water Utility.

*Customer-side water service line* means the water conduit pipe running from the customer's meter to the curb stop which is the Water Utility shut-off valve usually located behind the curb on public property.

*EPA* means the U.S. Environmental Protection Agency.

*EPA action level* means a concentration of 10 or more parts per billion (PPB) of lead as measured at a customer's tap.

*Federal Safe Drinking Water Act* as codified as 42 USC §§ 300f - 300j-26.

*Director* means the Director of Public Works and Utilities.

*High risk lead service* means a lead and/or galvanized customer-side water service line identified in Section 13.66.050 and any lead and/or galvanized customer-side water service line where a confirmed water sample test of a customer's tap water reveals a lead concentration at or above the EPA action level.

*Lead and Copper Rule* means the rule created by the EPA and adopted by the WDNR in response to the passage of the Safe Drinking Water Act, which provides maximum containment level goals and national primary drinking water regulations (NPDWR) for controlling lead and copper in drinking water. NPDWR regarding approved treatment techniques include corrosion control treatment, source water treatment, lead and galvanized service line replacement and public education. The rule may be found in 56 FR 26460, 40 CFR 141.80—141.90, and Wis. Admin. Code §§ NR 809.541 through 809.55.

*Licensed plumber* means a person, firm, corporation or other entity licensed to perform plumbing work in the City by the State of Wisconsin.

*PPB* means parts per billion.

*Property* means any possessory interest, legal or equitable, in real property, including an estate, trust, or lien, and any buildings, structures and improvements thereon.

*Service replacement schedule* means the schedule adopted by the Wausau Waterworks Commission for the replacement of lead and galvanized customer-side water service lines based on community resources; on availability of licensed plumbers and Water Utility resources to complete service line replacements; on physical location of properties with lead and/or galvanized customer-side water service lines; and on availability of federal, state, or local funding. Based on the above factors, customers will be assigned a time period within the schedule for replacing their lead and/or galvanized customer-side water service line. In no case shall a customer on this schedule have less than 30 days from the date of notification pursuant to Section 13.66.060 for the replacement of any lead and galvanized customer-side water service line.

*WDNR* means the Wisconsin Department of Natural Resources.

*Water Utility* means the City of Wausau public water utility system, also known as Wausau Water Utility.

Section 5. That Section 13.66.040 Survey and self-inspections is hereby created to read as follows:

13.66.040 Survey and self-inspections.

Upon notice from the Water Utility, any person who owns, manages or otherwise exercises control over a property within the Wausau Water Utility system shall allow the Water Utility to inspect the customer-side water service line or have the customer-side water service line inspected by a licensed plumber or other representative as authorized by the Director of Public Works and

Utilities to determine whether the service line is lead, copper, cast iron, galvanized steel, plastic or other material.

Section 6. That Section 13.66.050 Partial or full-service line material replacement; water utility or customer side is hereby created to read as follows:

13.66.050 Partial or full-service line material replacement; water utility or customer side.

- (a) All of the following service line material combinations are subject to partial or full replacement with copper, and/or plastic service lines under this division as identified:

SERVICE LINE MATERIAL REPLACEMENT

Water Utility-Side	Customer-Side	Side Requiring Replacement
Lead	Lead	Both
Lead	Galvanized	Both
Lead	Copper	Water utility only
Lead	Plastic	Water utility only
Copper	Lead	Customer only
Copper	Galvanized	Customer only
Copper	Copper	Neither
Copper	Plastic	Neither
Plastic	Lead	Customer only
Plastic	Galvanized	Customer only
Plastic	Copper	Neither
Plastic	Plastic	Neither
Galvanized	Galvanized	Both
Galvanized	Copper	Water utility only
Galvanized	Plastic	Water utility only
Galvanized	Lead	Both

No other service line material combinations have been identified which require replacement under this division.

- (b) All lead and galvanized water service lines must be replaced regardless of whether on the Water Utility-side or the customer-side. If either a customer-side or Water Utility-side lead or galvanized water service line is connected to each other, both lines must be replaced at the time the Water Utility or the customer is replacing its side of the lead or galvanized water service line. As of the effective date of the ordinance from which this Chapter is derived, no lead or galvanized service line will be allowed to connect to a Water Utility line once replaced.

Section 7. That Section 13.66.060 Replacement priority is hereby created to read as follows:

13.66.060 Replacement priority.



- (a) Owners, managers or persons otherwise exercising control over properties within the Wausau Water Utility system with customer-side lead and/or galvanized water service lines shall be required to replace the customer-side water service lines according to the following order of priority and based on the replacement schedule established by the Wausau Waterworks Commission:
- (1) Schools or childcare facilities.
  - (2) Properties at which a confirmed water sample test at the tap shows lead concentration at 15 PPB or more.
  - (3) Properties where more than 20 people regularly have access to drinking water during any eight-hour period.
  - (4) Properties where the Water Utility or the customer is replacing its side of the lead and/or galvanized water service line to the property.
  - (5) All other properties not covered in subsections (a)(1) through (4) of this section.
- (b) Notwithstanding the schedules set forth herein and any limitations on funding sources which may be made available to either the Water Utility or the customer, all customer-side water service lines identified herein shall be replaced no later than seven years after the commencement of this program.

Section 8. That Section 13.66.070 Application and Scheduling is hereby created to read as follows:

13.66.070 Application and Scheduling.

Replacement of customer-side lead and/or galvanized pipes that are connected to a Water Utility-side lead and/or galvanized line must be completed at the time the Water Utility-side service line is replaced. Scheduling of all such replacements for customer-side lead and/or galvanized pipes must be coordinated between the homeowner's contractor and the Water Utility within 30 days of receipt of notice that the Water Utility-side water service lines are scheduled to be replaced. Owners, managers or persons otherwise exercising control over properties shall obtain from and submit to the Water Utility, in accordance with its service rules, an Application for Water Service which states an intention to replace the customer-side lead and/or galvanized water service lines. Additional time to schedule the customer-side lead and/or galvanized pipe replacement may be granted by the Director of the Water Utility for good cause.

Section 9. That Section 13.66.080 Financing of replacement is hereby created to read as follows:

13.66.080 Financing of replacement.

In the event funding is made available for this purpose through any means, an eligible property owner may apply to the City and/or Water Utility for financing of any portion of the cost of replacing a lead and/or galvanized customer-side water service line under the terms of such

financing program. Disputes regarding eligibility for financing may be appealed to the Wausau Waterworks Commission, unless otherwise noted in the funding program. As a condition of receiving any available financing from the City and/or Water Utility, the property owner must provide adequate documentation demonstrating that the contractor and/or plumber completing the work anticipated hereunder is properly certified and/or licensed by the State of Wisconsin and/or the City, as appropriate.

Section 10. That Section 13.66.090 Exceptions is hereby created to read as follows:

13.66.090 Exceptions.

- (a) The Water Utility may modify the inspection requirement set forth under 13.66.040 if the customer so requests and demonstrates a compelling need.
- (b) Upon the demonstration of a compelling need, the owner of a single-family dwelling or a business to which the public has no access to tap water and with no more than five employees, may request a change of schedule or an extension of time for compliance with Sections 13.66.050 through 13.66.070.
- (c) Guidelines for the consideration of requests under subsections (a) and (b) of this section will be established by the Wausau Waterworks Commission.
- (d) Compliance deadlines will be calculated on a calendar year basis but may be deferred during the months of December through March on the basis of weather constraints.

Section 11. That Section 13.66.100 Prohibitions is hereby created to read as follows:

13.66.100 Prohibitions.

It shall be unlawful for any person to fail to comply with the applicable lead and/or galvanized customer-side water service line replacement requirements as set forth herein or to violate any other provision of this chapter.

Section 12. That Section 13.66.110 Severability is hereby created to read as follows:

13.66.110 Severability.

If any section or portion of this chapter is for any reason determined to be invalid or unconstitutional by the decision of a court of competent jurisdiction, that section or portion shall be deemed severable and shall not affect the validity of the remaining sections or portions of this chapter.

Section 13. That Section 13.66.120 Penalties is hereby created to read as follows:

13.66.120 Penalties.

Any person who violates any provision of this chapter may be subject to a forfeiture of no less than \$50.00 and no more than \$1,000.00. Each day a violation continues may be considered a separate offense.

Section 14. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 15. This ordinance shall be in full force and effect from and after its date of publication.

Adopted:

Approved:

Published:

Attest:

Approved:

---

Katie Rosenberg, Mayor

Attest:

---

Mary Goede, Deputy Clerk

Westrum Leak Detection  
3226 360th St.  
Stratford, IA 50249  
515-838-2222

Wausau Water Department  
407 Grant Street  
Wausau, Wi. 54401

Dear Sirs;

Leak Detection Survey Description  
100% of the system

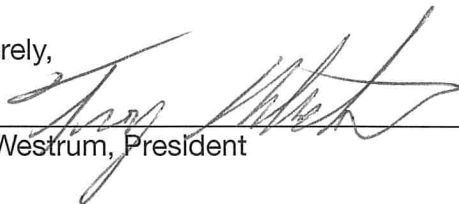
1. In the years of 2025, 2027 & 2029, all accessible hydrants will be monitored with sensitive listening transducers/amplifier equipment to determine if leakage is occurring.
2. All areas where leakage is confirmed will be further investigated with the computerized correlator to pinpoint the location of all leaks.
3. A report will be submitted containing detailed drawings of all leaks located, the estimated leak sizes, and the savings resulting from the repair of the leaks.
4. Westrum Leak Detection will provide all equipment and personnel to accomplish the above.
5. The customer shall provide all personnel for traffic control, (if needed) to successfully and safely complete the survey.

SURVEY COST

5 Year agreement (2025, 2027, 2029) ————— \$10,700 each year

Sign and date here \_\_\_\_\_

Sincerely,

  
\_\_\_\_\_  
Troy Westrum, President

Please sign & return a copy



**CITY OF WAUSAU**  
**SOLE SOURCE PURCHASE JUSTIFICATION**  
**REQUIRED FORM PURCHASE OF GOODS OR SERVICES EXCEEDING \$5,000**

Purchase of goods or services for no more than \$25,000 may be made without competition when it is agreed *in advance* between the Department Head and the Finance Director. Sole source purchasing allows for the procurement of goods and services from a single source without soliciting quotes or bids from multiple sources. Sole source procurement cannot be used to avoid competition, rather it is used in certain situations when it can be documented that a vendor or contractor holds a unique set of skills or expertise, that the services are highly specialized or unique in character or when alternate products are unavailable or unsuitable from any other source. Sole source purchasing should be avoided unless it is clearly necessary and justifiable. The justification must withstand public and legislative scrutiny. The Department Head is responsible for providing written documentation justifying the valid reason to purchase from one source or that only one source is available. Sole source purchasing criteria include: urgency due to public safety, serious injury financial or other, other unusual and compelling reasons, goods or service is available from only one source and no other good or service will satisfy the City's requirements, legal services provided by an attorney, lack of acceptable bids or quotes, an alternate product or manufacturer would not be compatible with current products resulting in additional operating or maintenance costs, standardization of a specific product or manufacturer will result in a more efficient or economical operation or aesthetics, or compatibility is an overriding consideration, the purchase is from another governmental body, continuity is achieved in a phased project, the supplier or service demonstrates a unique capability not found elsewhere, the purchase is more economical to the city on the basis of time and money of proposal development.

1. Sole source purchase under \$5,000 shall be evaluated and determined by the Department Head.
2. Sole source purchase of \$5,000 to \$25,000 a formal written justification shall be forwarded to the Finance Director who will concur with the sole source or assist in locating additional competitive sources.
3. Sole source purchase exceeding \$25,000 must be approved by the Finance Committee.

---

Ongoing Sole Source – 365 days

One Time Sole Source Request

---

1. Provide a detailed explanation of the good or service to be purchased and vendor.  
Inspection and rehabilitation of well #3. Vendor is a well and pump company specializing in this type of work.
2. Provide a brief description of the intended application for the service or goods to be purchased.  
Clean and service the well.
3. State why other products or services that compete in the market will not or do not meet your needs or comply with your specifications.  
This is a company that has done one project for us in the past. They did an outstanding job on that project, and we would like to continue with their services. They currently are able and available to do the work.
4. Describe your efforts to identify other vendors to furnish the product or services.  
We have used other companies in the past with mixed results.
5. How did you determine that the sole source vendor's price was reasonable?  
The price quoted is less than similar work that was provided through RFP for well 3 in 2017.

6. Which of the following best describes this sole source procurement? Select all that apply.

- Product or vendor is uniquely qualified with capability not found elsewhere.
- Urgency due to public safety, serious financial injury or other.
- The procurement is of such a specialized nature that by virtue of experience, expertise, proximity or ownership of intellectual property
- Lack of acceptable quotes or bids.
- Product compatibility or the standardization of a product.
- Continuation of a phased project.
- Proposal development is uneconomical.

**Department: Water**

**Preparer: Scott Boers**

**Vendor Name: CTW Wells and Pumps**

**Expected amount of purchase or contract: \$ 45,612.00**

**Department Head Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Finance Director Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_



**CITY OF WAUSAU**  
**SOLE SOURCE PURCHASE JUSTIFICATION**  
**REQUIRED FORM PURCHASE OF GOODS OR SERVICES EXCEEDING \$5,000**

Purchase of goods or services for no more than \$25,000 may be made without competition when it is agreed *in advance* between the Department Head and the Finance Director. Sole source purchasing allows for the procurement of goods and services from a single source without soliciting quotes or bids from multiple sources. Sole source procurement cannot be used to avoid competition, rather it is used in certain situations when it can be documented that a vendor or contractor holds a unique set of skills or expertise, that the services are highly specialized or unique in character or when alternate products are unavailable or unsuitable from any other source. Sole source purchasing should be avoided unless it is clearly necessary and justifiable. The justification must withstand public and legislative scrutiny. The Department Head is responsible for providing written documentation justifying the valid reason to purchase from one source or that only one source is available. Sole source purchasing criteria include: urgency due to public safety, serious injury financial or other, other unusual and compelling reasons, goods or service is available from only one source and no other good or service will satisfy the City's requirements, legal services provided by an attorney, lack of acceptable bids or quotes, an alternate product or manufacturer would not be compatible with current products resulting in additional operating or maintenance costs, standardization of a specific product or manufacturer will result in a more efficient or economical operation or aesthetics, or compatibility is an overriding consideration, the purchase is from another governmental body, continuity is achieved in a phased project, the supplier or service demonstrates a unique capability not found elsewhere, the purchase is more economical to the city on the basis of time and money of proposal development.

1. Sole source purchase under \$5,000 shall be evaluated and determined by the Department Head.
2. Sole source purchase of \$5,000 to \$25,000 a formal written justification shall be forwarded to the Finance Director who will concur with the sole source or assist in locating additional competitive sources.
3. Sole source purchase exceeding \$25,000 must be approved by the Finance Committee.

---

**Ongoing Sole Source – 365 days**                       **One Time Sole Source Request**

---

1. Provide a detailed explanation of the good or service to be purchased and vendor.  
Lab Analysis and Reporting, Northern Lakes Service, Inc. (NLS)
2. Provide a brief description of the intended application for the service or goods to be purchased.  
Water Quality and Regulatory Sample Analysis and Reporting.
3. State why other products or services that compete in the market will not or do not meet your needs or comply with your specifications.  
Others can provide this service. We have just not experienced the same level of service or convenience from some other vendors.
4. Describe your efforts to identify other vendors to furnish the product or services.  
We have and will continue to use other vendors as needs arise or change but would like this approved as to not have to quote all the samples or sampling projects we do or are required to do on an ongoing basis. This is a drain on resources and inefficient use of staff time.
5. How did you determine that the sole source vendor's price was reasonable?  
Lab pricing is very competitive, most lab costs are very similar. Where we find savings using NLS is through logistics.

6. Which of the following best describes this sole source procurement? Select all that apply.

- Product or vendor is uniquely qualified with capability not found elsewhere.
- Urgency due to public safety, serious financial injury or other. (explain)
- The procurement is of such a specialized nature that by virtue of experience, expertise, proximity or ownership of intellectual property
- Lack of acceptable quotes or bids.
- Product compatibility or the standardization of a product.
- Continuation of a phased project.
- Proposal development is uneconomical.

**Department: Water**

**Preparer: Scott Boers**

**Vendor Name: Northern Lakes Service, Inc.**

**Expected amount of purchase or contract: \$**

**Department Head Signature:** **Date:**

**Finance Director Signature:** **Date:**





To: Wausau Water Works Commission

From: Scott Boers, Water Operations Superintendent

Date: 9/27/23

Subject: West Wausau Ave Generator Project

All,

This project had an estimated cost of \$240,000.00, which was approved to be covered by ARPA Funding. We have purchased the Generator and Transfer Switch already (\$49,533.00) and delivery is expected in the next couple weeks. Bids were received for construction of the project with \$ 223,326.00 being low. With the addition of engineering costs, \$ 24,650.00 and project oversight, \$19,500 this project is over the original budget and will need a budget modification to be completed. The new budget would need to be \$320,000.00.

## Gina Vang

---

**From:** Gina Vang  
**Sent:** Thursday, September 28, 2023 9:42 AM  
**To:** Gina Vang  
**Subject:** RE: West Wausau Avenue Booster Station - Generator, Pump Replacement -- CONSTRUCTION ENGINEERING/OVERSIGHT

---

**From:** Tonia S. Westphal <[tonia.westphal@clarkdietz.com](mailto:tonia.westphal@clarkdietz.com)>  
**Sent:** Wednesday, September 27, 2023 3:03 PM  
**To:** Scott Boers <[Scott.Boers@ci.wausau.wi.us](mailto:Scott.Boers@ci.wausau.wi.us)>  
**Cc:** Paul L. Zouski <[Paul.Zouski@clarkdietz.com](mailto:Paul.Zouski@clarkdietz.com)>; Isaac W. Dolan <[Isaac.Dolan@clarkdietz.com](mailto:Isaac.Dolan@clarkdietz.com)>  
**Subject:** [EXTERNAL] West Wausau Avenue Booster Station - Generator, Pump Replacement -- CONSTRUCTION ENGINEERING/OVERSIGHT

Scott-

Please find the **corrected** task summary, assumptions, and associated fee for construction engineering and oversight for the West Wausau Avenue Booster Station Project.

Assumptions:

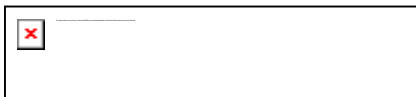
- Construction Phase Schedule: September 2023 to June 2024 (Final Payment)
- The majority of construction will take place in 2023. 2024 Construction is limited to restoration items.
- Construction Cost is approximately \$270,849 (\$223,326 + \$47,523)

Summary of Tasks:

- Project Management
- Submittals (Shop Drawings) Review
- RFIs
- Progress Meetings/Site Visits
- Meeting/Field notes
- Applications for Payment
- On-site observation for underground items
- Coordinate geotechnical testing (if necessary)
- Start Up – Generator & Pump
- Final Site Visit/Pump List
- Record Drawings

Associated Fee Estimate: \$19,500

Tonia



**Tonia S. Westphal, PE, LEED AP**

Vice President

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**MASTER PARTNERSHIP AGREEMENT**  
**FOR A COMMUNITY-BASED PUBLIC PRIVATE PARTNERSHIP FOR LEAD**  
**SERVICE LINE REPLACEMENT AND RELATED INFRASTRUCTURE WORK**  
**BETWEEN**  
**CITY OF WAUSAU,**  
**WAUSAU WATER WORKS**  
**AND**  
**COMMUNITY INFRASTRUCTURE PARTNERS LLC**

\_\_\_\_\_, 2023

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## **MASTER PARTNERSHIP AGREEMENT**

THIS MASTER PARTNERSHIP AGREEMENT (“this Agreement”) is entered into as of \_\_\_\_\_, 2023 (the “Effective Date”), by and between the CITY OF WAUSAU, a municipal entity created by the state of Wisconsin, and its municipal water authority, WAUSAU WATER WORKS (collectively, “the City”), and COMMUNITY INFRASTRUCTURE PARTNERS LLC, a Delaware limited liability company and authorized to do business in the State of Wisconsin (the “Manager”). The City or the Manager or both may be referred to herein as a “Party” or the “Parties.”

### **WITNESSETH**

WHEREAS, the City desires to augment and expand the capabilities of its Public Works Department to address lead service water lines that exist in its community;

WHEREAS, in 2023, the Manager responded to a Request for Professional Qualifications to deliver a comprehensive community-based delivery system model for lead service line replacement and associated infrastructure work;

WHEREAS, the City has accepted the Manager’s Statement of Qualifications as implemented by this Agreement;

WHEREAS, the City believes that the community-based public private partnership delivery model (the “Program”) provides significant advantages through (a) performance-based structure that shifts delivery risk from the City to the Manager; (b) resources to focus on accessing private property; (c) access to a large base of skilled subcontractors in the region that can maximize pricing efficiencies by combining economies of scale and increasing competition in the marketplace; and (d) greater construction capacity to manage program scale;

WHEREAS, the Manager and the City have agreed to enter into this Agreement with respect to the planning, design, construction, installation, management, maintenance, repair, replacement and inspection of Projects (hereinafter defined);

WHEREAS, the Parties acknowledge that there are significant opportunities for public benefit in the development, implementation and use of lead service line replacement and associated infrastructure management in and around the City; and

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties do covenant and agree as follows:

### **ARTICLE I. THIS AGREEMENT**

Section 1.1 Purpose. The purpose of this Agreement is to establish the terms and conditions pursuant to which the Manager shall (a) work with the City to develop and agree upon an Annual Plan (as defined below) setting forth the scope of Work (as defined below) to be completed within each such plan, (b) develop community and stakeholder outreach programs to

provide access to private property, and (c) create workforce and contractor development programs to ensure sufficient capacity to replace all lead service lines throughout the City in an accelerated manner.

Section 1.2 Term. The term of this Agreement shall commence on the Effective Date and end on December 31, 2029, unless extended by mutual written agreement of the Parties or terminated earlier pursuant to the terms of this Agreement (the “Term”).

Section 1.3 Entire Agreement. This Agreement, including the schedules attached hereto, (a) constitutes the entire and complete agreement with respect to the Work and the Budgeted Projects (as defined below) and (b) supersedes all prior or contemporaneous understandings, arrangements and commitments, whether oral or written, relating to the subject matter hereof. This Agreement contemplates that the Parties will enter into various agreements for services. The descriptions of any such agreements herein, in each and every case, are subject entirely to the actual terms of those agreements as executed.

## **ARTICLE II. DEFINITIONS AND GENERAL PROVISIONS**

Section 2.1 Terms Generally. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation/” except as the context may otherwise require. The words “agree,” “agreement,” “approval” and “consent” shall be deemed to be followed by the phrase “which shall not be unreasonably withheld or unduly delayed” except as the context may otherwise require. The word “or” is not exclusive. The phrase “sole cost and expense,” when used with respect to a cost or expense to be paid by the Manager, means that no portion of the amount payable shall be paid by the City apart from the Project Book Prices (as such term is defined below). Words in the singular number include words in the plural and vice versa unless the context of the usage of such term clearly indicates otherwise.

Section 2.2 Definitions. The following are definitions of certain terms used in this Agreement.

“Acceptance” or “Accepted” means the ultimate acceptance of all of the Work in each Completed Project, and which has been granted specifically by separate resolution of the City.

“Affiliate” means, when used with reference to a specified Person, any Person that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the specified Person.

“Agreement” shall have the meaning ascribed to it in the first paragraph of this Agreement, as the same may be amended from time to time in accordance with the terms herein.

“Applicable Laws” means (a) every applicable federal, state or City law, code, rule, constitution, mandate, statute, regulation, Permit, ordinance, municipal charter provision, and (b) any interpretation or administration of any of the foregoing by any Governmental Authority, in

each case, which applies to the activities or Parties under this Agreement, whether now or hereafter in effect.

“Application for Payment” shall have the meaning specified in Section 6.5.

“Authorized Representative” means the City’s Authorized Representative and/or the Manager’s Authorized Representative as the context of the usage of such term may require.

“Billing Month” means each calendar month in each Billing Year.

“Billing Year” means a Fiscal Year comprised of twelve (12) calendar months ending on December 31 of a given year, except that (a) the first Billing Year shall commence upon the Effective Date and end on December 31 next thereafter and (b) the last Billing Year shall end concurrently with the end of the Term or, if applicable, on the date of termination of this Agreement.

“Budgeted Project” shall have the meaning set forth in Section 3.1.

“Business Day” means each Monday, Tuesday, Wednesday, Thursday and Friday, which is not a legal holiday in the City.

“Certifier” means the person or firm engaged to verify to the City the Manager’s performance of Work in accordance with the requirements of this Agreement.

“Change in Law” means (a) the enactment, adoption, promulgation, modification or repeal, after the Effective Date, of any Applicable Law or any change in interpretation thereof by any Governmental Authority or (b) the imposition, after the Effective Date, of any conditions on the issuance, modification or renewal of any Permit which, in either event, (1) adversely affects the Manager’s performance of the Work or increases the Manager’s costs to perform the Work, (2) adversely affects the City’s ability to perform its obligations hereunder, or (3) imposes requirements on the applicable Party that are more burdensome than the most stringent requirements that (A) are in effect on the Effective Date or (B) have been accepted by the Manager in any applications for Permits.

The enactment into law after the Effective Date of any Applicable Law establishing a fee, charge, levy or assessment, or the increase of same, which was not in effect as of the Effective Date, shall be considered a Change in Law under this Agreement. The enactment into law after the Effective Date of any federal, City or state tax law imposing or changing the rate of income taxation upon the Manager or the owners of the Manager shall not be considered a Change in Law or any other Uncontrollable Circumstance under this Agreement. Changes in local tax law directly affecting the costs or timing of the Work may constitute a Change in Law.

“City Cause” means any material breach, failure, nonperformance or noncompliance by the City with the terms and provisions of this Agreement for any reason (other than Uncontrollable Circumstance or Manager Cause) or any act or omission of any officer, agent, employee, subcontractor or independent contractor of the City (other than the Manager or the Certifier) which, prevents or materially delays, either individually or cumulatively, (i) the City’s performance of its obligations under this Agreement, (ii) the Manager’s performance of its



obligations under this Agreement, (iii) prevents or materially delays the Work on the relevant Budgeted Project, (iv) causes a material increase in the Manager's actual project costs for such Project or (v) deprives the Manager of any of its material rights under this Agreement.

"City Indemnified Parties" shall have the meaning set forth in Section 7.1.

"Change Order" shall have the meaning set forth in Section 5.6.

"Change Order Proposal" shall have the meaning set forth in Section 5.6.

"Compensable Change Order(s)" means a change to the Work, the cost thereof or the schedule for a Budgeted Project that arises from (a) an Uncontrollable Circumstance, or (b) City Cause.

"Completed Project" shall mean a Project for which the Certifier has confirmed the project is Substantially Complete.

"Construction Commencement Date" means, with respect to each Budgeted Project, the earlier of (a) the date on which construction activities begin at the applicable Project Site and (b) the date on which the Manager commences acquiring equipment or materials for use at the Project Site.

"Construction Season" shall be defined as the period during each calendar year commencing on approximately May 1 and ending on approximately November 1.

"Construction Work" means Work contracted for by the Manager which is subject to competitive bidding requirements, and not Work contracted for professional services.

"Contractor" means any firm engaged by the Manager that provides Work but does not include vendors or suppliers for Manager's overhead, administrative, general requirements or insurance. Notwithstanding the foregoing, this term shall refer to general contractors, prime contractors, subcontractors, and vendors contracted for implementation of the Program, and including software, job cost accounting, project controls, outreach, marketing/communications, contractor/workforce development vendors.

"Direct Costs" means the costs incurred and paid or payable by the Manager in connection with the performance of the Work proposed in each Project Book and the Program. These costs shall include all costs associated with Contractors and Subcontractors directly working on Work related to the Program. "Effective Date" means the date of the execution of this Agreement by the Parties.

"Emergency" means an incident beyond the reasonable control of the Manager and Contractors requiring immediate action on the part of the Manager, which incident, if not immediately addressed, may reasonably be expected to result in imminent and substantial damage, injury or loss.

“Engineer” means a qualified engineer selected and engaged by Manager who has demonstrated experience in the area of civil engineering, planning, surveying, permitting, LSL replacements and water engineering.

“Environmental Litigation” means any lawsuit, filed in a court, arising out of soil or groundwater contamination, air contamination, or surface water contamination with recognized pollutants, whether initiated by federal or state governmental entity or by a private party.

“Final Project Book” shall have the meaning specified in Section 4.3.

“Fiscal Year” means each year of this Agreement commencing on January 1 and ending on the immediately succeeding December 31.

“Governmental Authority” means any federal, state, regional, municipal, city, City, or local government, any political subdivision thereof, or any other governmental, public or statutory instrumentality, authority, body, agency, commission, or court having jurisdiction over, as applicable, the Program, the Project(s), the Project Site(s), or the transactions with respect to the development, construction, installation, management, operation or maintenance of the drinking water system.

“Invitation to Bid” means a written invitation to prospective suppliers to submit a bid on materials or services.

“Key Performance Indicators” or “KPIs” shall mean a quantifiable measure of performance over time for a specific objective. Annual KPIs are measured in twelve-month segments during the Term of this Agreement and Semi-Annual KPIs are measured in six-month segments during the Term of this Agreement Term. “Local Business” means a business entity located in the state of Wisconsin.

“Local Business Utilization KPI” shall mean the Semi-Annual KPI as set out by Schedule 3 which is earned if the Manager awards at least 50% of Construction Work to Local Businesses.

“LSL” shall mean Lead Service Lines.

“LSL Cost KPI” shall mean the Annual KPI as set out by Schedule 3 which is structured as a not-to-exceed value per LSL replaced. The not-to-exceed value shall be determined annually in each Annual Plan in negotiations with the City. If the Manager delivers the scope at or less than agreed upon not-to-exceed value per LSL replaced, then the Manager earns this KPI. Any savings below the agreed upon per LSL not-to-exceed value shall be utilized by the Manager to replace additional LSLs.

“LSL Implementation Schedule KPI” shall mean the Annual KPI as set out by Schedule 3 which is earned if the Manager replaces a minimum number of LSLs each year, as determined annually in each Annual Plan in negotiations with the City, and adjusted in each Project Book if funding availability differs from what was initially projected.

“Losses” means any and all debts, claims, obligations and other liabilities, monetary damages, fines, fees, assessments, impositions, interest obligations, losses, costs, expenses

(including amounts paid in settlement, interest, court costs, costs of investigators, fees and expenses of attorneys, accountants, financial advisors, engineers and other experts, and other expenses of litigation) and any and all out-of-pocket costs incurred by the City for the procurement of similar services to cover any default by the Manager.

“Manager” shall have the meaning ascribed to it in the first paragraph of this Agreement identifying the Parties hereto.

“Manager Cause” means (a) any material breach, failure, nonperformance or noncompliance by the Manager with the terms and provisions of this Agreement for any reason except to the extent such breach, failure, nonperformance or noncompliance is caused by the occurrence or continuing effect of an Uncontrollable Circumstance or City Cause, or (b) any material breach, failure, nonperformance, noncompliance, negligence or willful misconduct of any agent, officer, or employee of the Manager which prevents or, individually or cumulatively, materially interferes with or delays the City’s performance of its obligations.

“Master Project List” means a list prepared by the Manager and updated monthly documenting (a) all Proposed Projects, which are prioritized based on their relative value to the Program, as determined in Manager’s reasonable discretion; (b) a schedule for the replacement and Substantial Completion of the Proposed Projects; and (c) an estimate of the number of LSL replacements.

“Material Change Order” shall have the meaning set forth in Section 5.6.

“Monthly Status Report” shall have the meaning set forth in Section 5.5.

“Notice” means written notice from the Authorized Representative of the applicable Party to the other, all in accordance with Section 10.3 and the timeframes and other applicable requirements of this Agreement.

“Permits” means all actions, reviews, approvals, consents, waivers, exemptions, variances, franchises, orders, permits, authorizations, rights, licenses, filings, zoning changes or variances, and entitlements which are required under Applicable Law to be obtained or maintained by any Person with respect to either or both of the subject Project or the Work.

“Person” means, without limitation, any individual, person, firm, corporation, company, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, Governmental Authority, and other entities.

“Posting Notice” shall mean an automatic and concurrent electronic notification (by email) to be generated and transmitted to all Parties each time information or data has been posted to a Project Dataroom.

“Program” shall have the meaning specified in the Recitals to this Agreement.

“Project” shall mean a Proposed Project, Budgeted Project, or Completed Project, as the context requires.

“Project Book” means a document setting forth, with respect to each Budgeted Project included therein:

- (a) its location and scope of Work (as defined below);
- (b) the LSLs and related improvements to be constructed or installed on the Project Site;
- (c) the proposed Construction Commencement Date and the Scheduled Substantial Completion Date (as defined below);
- (d) the estimated number of LSLs to be replaced;
- (e) the Manager’s estimated Project Book Price;
- (f) the Manager’s estimated annualized compensation for the Work for each such Project;
- (g) specifications for the scope of Work for each such Project;
- (h) a list of proposed Contractors and Subcontractors for each such Project, and
- (i) a list of the anticipated Permits required for each such Project.

“Project Book Amendment” shall have the meaning set forth in Section 4.4.

“Project Book Price” means the total price to fully replace the full LSL project bundle within a given Project Book.

“Project Dataroom” means the virtual data room maintained by the Manager (or a Contractor engaged by it) for each Project.

“Project Site” means, with respect to each Budgeted Project, the geographic area specified in the Project Book.

“Proposed Project” means a group of LSLs proposed to be replaced pursuant to the Program.

“Schedule” means a schedule to this Agreement which is incorporated into and shall be a part of this Agreement, unless the context or usage of such term clearly indicates a reference to another document.

“Scheduled Substantial Completion Date” shall, to the extent applicable, be the date anticipated for Substantial Completion of a Budgeted Project as stated in the applicable Project Book or as changed by Notice from the Manager in accordance with Section 5.1, as such Scheduled Substantial Completion Date may be extended pursuant to this Agreement.

“Section” means a section of this Agreement, unless the context or usage of such term clearly indicates a reference to another agreement or statute.

“Site Owner” shall mean the owner of real property where a Project is located.

“Subcontractor” means any firm engaged by a Contractor that provides Work but does not include vendors or suppliers for Manager’s overhead, administrative, general requirements or insurance.

“Substantially Complete” or “Substantial Completion” means that all of the Work with respect to a Project is sufficiently complete such that it is capable of functioning, as reasonably determined by the Certifier.

“Target Class Business” shall mean a business entity that is small business, a minority-owned business, a woman-owned business, a veteran owned-business, or a union business.

“Target Class Business Utilization KPI” shall mean the Semi-Annual KPI as set out by Schedule 3 which is earned if the Manager awards a negotiated percentage of Construction Work to Target Businesses.

“Term” shall have the meaning specified in Section 1.2.

“Training Individuals and Businesses KPI” shall mean the Annual KPI as set out by Schedule 3 which is earned if the Manager implements a Workforce or Contractor Development Program and achieves the quantifiable goals set out in Schedule 2 for each year or determined annually in each Annual Plan in negotiation with the City.

“Uncontrollable Circumstance” means any act, event or condition that:

- (a) prevents or, individually or in the aggregate, materially delays the Manager or the City from fulfilling its obligations hereunder, or
- (b) materially increases the cost of performing the applicable Party’s obligations under this Agreement, to the extent such act, event or condition is due to circumstances beyond the reasonable control of the Party asserting an Uncontrollable Circumstance; provided, however, such act, event or condition shall not be the result of such Party’s failure to perform its obligations hereunder in accordance with the terms and conditions of this Agreement.

(1) Subject to said terms and conditions, the following acts, events or conditions are examples, but not limitations, of what may qualify as an Uncontrollable Circumstance:

- (A) an act of God, hurricane, tornado, severe storm, tsunami, severe flood, epidemic, pandemic, severe earthquake, severe fire, explosion or landslide, act of a public enemy, terrorism, war, blockade, insurrection, riot, restraint of government and people, civil disturbance, sabotage or similar occurrence;
- (B) the order, injunction or judgment of any Governmental Authority, including any exercise of the power of eminent domain, police

power, condemnation or other taking by or on behalf of any public, quasi-public or private entity; excepting decisions interpreting federal, City, state or local tax laws; provided, so long as such order, injunction or judgment did not arise from the negligence or the willful misconduct of the Manager. For the avoidance of doubt, neither the contesting in good faith of any such order, injunction or judgment nor the reasonable failure to so contest shall constitute or be construed as negligence or the willful misconduct of the Manager;

- (C) the suspension, termination, interruption, denial, failure to issue, modification, or failure of renewal of any Permit; so long as such act, event or condition did not arise from the negligence or willful misconduct of the Party relying thereon and that neither the contesting in good faith of any such order nor the reasonable failure to so contest shall be construed as negligence or willful misconduct of such Party;
- (D) a Change in Law;
- (E) any subsurface or latent physical condition (including the presence or discovery of protected species, archaeological objects, unusual geological conditions or hazardous waste, but excluding such materials brought to a Project Site by the Manager), which shall prevent, or require redesign or change in, the construction of, or adversely affect the Work completion schedule for, the relevant Budgeted Project;
- (F) the failure of any Contractor to furnish services, materials, supplies, utilities or equipment on or before the dates agreed to, or the failure of any Subcontractor to procure labor or transportation in the open market; provided (i) such failure is the result of an act, event or condition outside of the Manager's reasonable control and not due to the negligence or willful misconduct of the Manager, (ii) such failure materially and adversely affects the Manager's ability to perform its obligations and (iii) the Manager is not reasonably able to obtain substitute services, materials, supplies, utilities, equipment, labor or transportation at comparable cost on or before the agreed upon dates;
- (G) any labor strike, walkout, work stoppage or slowdown or similar industrial or labor action by the employees of the Manager or any of its Contractors performing Work on a Budgeted Project which directly results in a material delay in the performance of the Work, unless the final adjudication by a court of competent jurisdiction finds that such event was principally caused by the Manager's breach of any applicable collective bargaining agreement;

- (H) the failure of the Certifier to perform its obligations other than as a result of Manager Cause; and
  - (I) Any interference by the Site Owner, or any officer, agent, employee, subcontractor or independent contractor of the Site Owner, with the development or maintenance of a Project, or damage to a Project caused by the Site Owner or any Person permitted on the Project Site by the Site Owner, or the failure of the Site Owner properly to maintain or protect the Project Site.
- (2) None of the following acts, events or conditions shall constitute an Uncontrollable Circumstance under this Agreement:
- (A) any act, event or condition which is caused by the negligence or willful misconduct or interference of (i) the Manager, any of its Affiliates or (ii) the City, its subcontractors, agents or employees; provided, however, if the affected Party is the Manager, then a Change in Law resulting from an enactment of an Applicable Law by the City shall nevertheless constitute an Uncontrollable Circumstance;
  - (B) reasonably anticipated weather conditions in the geographic area of the City, other than those listed in (1)(A) of this definition or other prolonged, severe weather conditions; and
  - (C) changes in the financial condition of the City, the Manager, Affiliates or any subcontractor or supplier affecting the affected Party's ability to perform its obligations under this Agreement.
- (3) The City may not assert the occurrence of an Uncontrollable Circumstance in order to excuse or delay the making of any payment due pursuant to this Agreement. In the event that the City is excused from the timely performance of any obligation hereunder because of the occurrence of an Uncontrollable Circumstance, the Manager shall be entitled to submit a Material Change Order, the need for which is directly attributable to the City's excused or delayed performance as a consequence of such Uncontrollable Circumstance.

“Warranty Period” means, with respect to a given Project, the period beginning upon Substantial Completion of that Project and lasting one (1) year thereafter.

“Work” means all the duties, obligations and activities the Manager is responsible for performing or causing to be performed with respect to each Project.

### Section 2.3 Data Sharing and Notifications.

Section 2.3.1 Project Dataroom. As a general rule, all documents with respect to the Program and the Projects shall be posted to the Project Dataroom maintained by the Manager when and as they are ready for delivery to the other Party. So long as the City has provided to

the Manager the names and valid email addresses for its Authorized Representatives and the Certifier, the Manager shall provide, or cause the Project Dataroom operator to provide to the City, its Authorized Representatives and the Certifier, at all times, full and complete access to the Project Dataroom, including the right and ability to view, print and download the information therein.

Section 2.3.2. Posting Notification. Each Party shall, promptly upon posting any document or information to the Project Dataroom, deliver or cause to be delivered to the other Parties (including their respective Authorized Representatives) a Posting Notice.

Section 2.3.3. Confidentiality and Disclosure. The Parties acknowledge and agree that, given the novel and innovative nature of the Program, (i) information contained in the Project Dataroom is intended to be of a confidential and proprietary nature, and (ii) access by, and disclosure of information in the Project Dataroom to, third parties (other than the Certifier or the Engineer) could either impair the future ability of the City, the Manager or its Affiliates to obtain information in a similar or different project or manner or could cause substantial harm to the competitive position of the City and/or the Manager or its Affiliates in similar or different endeavors. The City and the Manager will provide prompt Notice to each other of any requests from third parties (other than the Certifier or the Engineer) for information from or access to the Project Dataroom. The Parties further agree that in the event that use of the Project Dataroom as contemplated herein causes an enhanced risk of the disclosure to third parties (other than the Certifier or the Engineer) of confidential or proprietary information posted in the Project Dataroom, the Parties will collaborate in an effort to either make appropriate modifications to the requirements of the Project Dataroom or consider alternative means of communicating information under this Agreement intended to maintain the confidentiality of such information. Nothing herein shall prevent, impede or limit the City from complying with its obligations under Applicable Law with respect to the disclosure of information.

### **ARTICLE III. ANNUAL PLANNING**

#### **Section 3.1 Preparation and Contents of the Annual Plan.**

- (a) Preparation of the Annual Plan. During the one (1) year period prior to each Construction Season (or, with respect to the first Construction Season, within one hundred twenty (120) days following the Contract Date), representatives of the City and the Manager shall, not less than on a monthly basis, meet to discuss (a) the Proposed Project(s) contemplated to be initiated during the upcoming Construction Season, and (b) the workforce and/or contractor development requirements contemplated for the upcoming Construction Season. Based on such discussions between the Parties, not less than one hundred twenty (120) days prior to the start of each Construction Season (or, in the case of the first Billing Year, within one hundred twenty (120) days after the Contract Date), the Manager shall prepare a draft of the Annual Plan.
- (b) Contents of the Annual Plan. The draft Annual Plan, which shall be substantially in the form attached hereto as Schedule 1, shall set forth:



- (1) For each Proposed Project anticipated to be initiated during the upcoming Construction Season:
  - (A) the proposed Project Site;
  - (B) the total number of LSLs to be replaced within the City’s utility service area once such Proposed Project is Substantially Complete and Accepted;
  - (C) the anticipated Construction Commencement Date;
  - (D) the anticipated date of Acceptance;
  - (E) the budget for each such Annual Plan (“Annual Plan Budget”); and
  - (F) based on the Annual Plan Budget, the estimated Base Fee and Deferred Compensation Fee (as such terms are defined below).
- (2) An anticipated project schedule for the applicable Construction Season with respect to each Budgeted Project.
- (3) Proposed community outreach and stakeholder engagement activities for the upcoming calendar year.
- (4) Proposed workforce and/or contractor development activities for the upcoming Construction Season.

The Manager acknowledges and agrees that City will rely on such Annual Plan in determining the amount of the aggregate funding needed for development and construction of the Proposed Project(s) for each applicable Construction Season. The scope of each Annual Plan will be developed in alignment with the expected incoming funding from the Bipartisan Infrastructure Law administered through Wisconsin Department of Natural Resources (“WDNR”) and any other funding sources available to the City. Accordingly, in preparing the Annual Plan, the Manager shall use good faith estimates based on its current understanding of the relevant facts and circumstances for each Proposed Project.

If the Parties cannot agree on the Annual Plan Budget for one or more Proposed Project(s), the City may elect, by delivering Notice to the Manager’s Authorized Representative, to (A) extend the date for approval of the Annual Plan, or (B) remove the Proposed Project(s) from the Annual Plan.

Each Proposed Project specified for implementation during a particular Construction Season, as set forth and approved in an Annual Plan, shall be deemed to be a “Budgeted Project” for purposes of this Agreement.

Section 3.2 Review and Approval of the Annual Plan. The City and the Manager shall collaborate in good faith to finalize each Annual Plan by no later than January 31 in each Fiscal

Year, and in any event, prior to the start of each Construction Season. Each final Annual Plan, together with any changes, modifications or amendments thereto from time to time (the “Final Annual Plan”), shall be mutually acceptable to and executed by the Manager and the City. Upon execution thereof, a copy of each Final Annual Plan shall be attached as an exhibit to this Agreement.

Section 3.3 Amendment of Final Annual Plan. The Final Annual Plan for a Construction Season may only be amended, modified or supplemented with the prior written consent of the City and the Manager.

#### **ARTICLE IV. PROJECT PLANNING AND PRE-CONSTRUCTION**

Section 4.1 Development of Project Books. Not less than [fifteen (15) months] prior to the start of each Construction Season, the Manager and the City shall meet to review and discuss all Proposed Projects under the Program. By no later than [twelve (12) months] prior to the start of each Construction Season, the Manager and the City shall develop a list of Proposed Projects they agree to submit for implementation, pursuant to the process set forth in Section 4.3 below. Subject to the terms of Section 4.2 below, for each such Proposed Project, the Manager and the City shall cooperate in good faith to agree upon a list of Budgeted Projects and to finalize each Project Book therefor in accordance with the process set forth Section 4.4 below by no later than [ten (10) months] prior to the start of each Construction Season.

- (a) Competitive Pricing for Subcontracted Construction Work. Prior to submitting a Project Book to the City, the Manager shall conduct a public competitive pricing process for Subcontractors for all Construction Work expected to cost greater than [\$20,000] relating to construction of the Budgeted Projects. The lowest bid responding to the Invitation to Bid by a responsible bidder shall be selected, unless all bids are rejected. The Manager shall make such bid submissions available to the City by no later than the time the Manager submits the proposed Project Book for the City’s review.
- (b) Permits and Licenses. The Manager shall secure or set forth the process to secure all Permits necessary to construct the relevant Budgeted Projects. The City shall exercise all commercially reasonable efforts to assist the Manager in obtaining these Permits. Manager may submit and the City may review a particular Project Book prior to the obtaining of all required Permits; provided, however, the City’s review of such Project Book shall not relieve or otherwise diminish the Manager’s obligation to secure Permits prior to the performance of the Work for which such Permits are required.
- (c) Access to Project Site. The Manager shall obtain, or cause to be obtained, any and all access rights, servitudes, easements and rights-of-way necessary to construct the relevant Budgeted Projects from all Persons (other than the City), including all utility providers. The City shall exercise all reasonable efforts to assist the Manager in obtaining such necessary access rights, servitudes, easements and rights-of-way, including but not limited to from the City.

- (d) Agreements with Site Owners. Manager is responsible for obtaining all access and/or easement agreements from any Site Owner to conduct the Work for a particular Project, as deemed necessary in the Manager’s reasonable discretion.

Section 4.2 Termination of Budgeted Projects Prior to Final Project Book. Either the City or Manager shall have the right to terminate or defer consideration of a Budgeted Project prior to the City’s review of the Project Book in accordance with Section 4.4 for the relevant Budgeted Project (in which case, the proposed Project Book shall be modified accordingly).

Section 4.3 Submission of Project Books. The Manager will submit to the City for review one or more Project Books. Unless otherwise specified in a submittal, a reasonable time for review and comment by the City shall mean ten (10) Business Days after its receipt of a Project Book for review and comment. Failure by the City to deliver comments in writing to Manager within ten (10) Business Days after its receipt of a Project Book shall constitute a waiver of any comments or objections thereto; provided, however, that if, within such 10 Business Day period, the City notifies the Manager in writing that additional review time is required, a failure of the City to provide comments shall not constitute a waiver unless such failure continues for an additional five (5) Business Days.

Section 4.4 City Review of Project Books. Upon the later to occur of completion of review by the City of each Project Book, and confirmation of the availability of funds sufficient to pay the sum of the estimated Project Book Prices for Projects included in such Project Book, each Project described therein shall constitute a “Budgeted Project” and thereafter such Project Book shall be referred to as a “Final Project Book.” Manager shall thereafter proceed to implement the Budgeted Project(s) reflected therein in accordance with Article V. The Manager shall not be required to commence Work on a Budgeted Project unless the Manager shall determine, based upon such assurances or certifications from the City as Manager shall reasonably require, that adequate funds are available from the sources provided for herein for the Project Book Price for each Budgeted Project in the Final Project Book.

Section 4.5 Amendment of Final Project Book. A Final Project Book and a Budgeted Project may only be amended, modified or supplemented by written agreement of the City and the Manager or pursuant to a Change Order as authorized by this Agreement (each a “Project Book Amendment”).

## **ARTICLE V. CONSTRUCTION**

Section 5.1 General Scope of Construction Period Work. Following the City’s acknowledgement of a Final Project Book, the Manager shall deliver Notice to the City regarding any changes to the Construction Commencement Date and/or the Scheduled Substantial Completion Date for the applicable Budgeted Projects as stated in the Project Book. The Manager shall be responsible for selection, management and implementation of all construction means, methods, techniques, sequences, and procedures necessary or desirable for the correct, prompt and orderly prosecution and completion of the Work and the Budgeted Projects.

Section 5.2 Engagement of Certifier. Promptly following execution of this Agreement, the City and the Manager shall agree upon and the Manager shall engage a firm or an individual (the “Certifier”) appropriately qualified to inspect the construction Work performed, to advise the City whether or not such Work is performed in accordance with the applicable standards and to issue applicable KPIs for Projects that have achieved Substantial Completion. Either Party may, upon thirty (30) days’ Notice to the other Party, request that the Certifier be replaced by another mutually acceptable Person qualified to act in such capacity; provided that, unless agreed to by the Manager and accompanied by any necessary adjustment to the Scheduled Substantial Completion Date and the applicable Project Book(s), the Certifier shall not be replaced with respect to any Budgeted Project if such replacement would delay the completion or increase the cost of such Budgeted Project.

Section 5.3 Project Site; Access Roads and Utilities.

- (a) Site of Construction. Each Budgeted Project shall be constructed on the relevant Project Site described or depicted in the Final Project Book.
- (b) Access Roads and Utilities. If needed, the City will assist the Manager to obtain from the applicable municipality(ies) appropriate provision for roads, utilities and utility distribution systems within each Project Site. The Manager shall be responsible (i) for any damage, destruction, loss, or injury to roads, utilities and utility distribution systems within each Project Site caused by its negligence or willful misconduct in the performance of Work, (ii) for obtaining all necessary electricity service connections required for construction, installation and Substantial Completion of the relevant Budgeted Project, and (iii) with the cooperation of the City, for obtaining and maintaining all necessary taps into sewer and water lines. The cost of all such systems, design and construction shall be included in the Project Book Price.

The Manager shall be responsible for notifying all affected utility companies prior to performing any Work that could impact the relevant utility service or infrastructure and shall cooperate with the utility providers in connection with such Work. The Manager shall cooperate with the owners of any underground utilities or overhead utility lines in order to minimize the disruption of these utility operations to the extent reasonably practicable. In the event of interruption to utility services as a result of accidental breakage, or as a result of being exposed or unsupported, the Manager shall promptly notify the proper authority and shall cooperate in the restoration of the service.

Section 5.4 Construction.

- (a) Minimization of Interference.
  - (1) Public Convenience and Safety. The Manager shall at all times conduct the Work in a manner to create the least practicable interference and obstruction to all forms of traffic, the Site Owner and the general public, residents and tenants at or adjacent to the relevant Project Site, shall take commercially reasonable steps to minimize noise, any objectionable or

unpleasant odors, dust, vibrations, inconvenience and disruption to such Persons, and shall comply with Applicable Laws governing construction activities.

- (2) Preservation, Protection and Restoration of Property. The Manager shall exercise reasonable care to protect the property of others from injury or loss arising from the Work. The Manager shall, to the extent practicable, keep each Project Site clean of dirt, debris, rubbish and waste materials arising out of the Work. At the completion of the Work, the Manager shall promptly remove all dirt, debris, rubbish and waste materials arising out of the Work from and about the Project Site, including any material laydown, staging, storage or work force area, which shall be returned in a clean, neat, and workmanlike condition.
- (b) Discovery of Contamination. If, during construction, any Contractor encounters unexpected contamination or potential contamination such as, but not limited to: underground storage tanks, soil that is discolored or has an odor, or free product, the Contractor shall immediately take steps to ensure that the contamination is contained and protected and shall notify Manager. Manager shall deliver Notice to the City and the applicable Site Owner. Manager, City and such Site Owner shall determine the most appropriate next steps which may include:
  - (1) Notification of the WDNR;
  - (2) A decision whether the contamination can be removed, so as to allow the project to continue;
  - (3) A decision to terminate, modify, or continue with construction; and/or
  - (4) A Compensable Change Order for appropriate adjustments in the Project Book Price and Scheduled Substantial Completion Date.

The Manager shall not be compelled without its consent to continue with construction of the Project without a Compensable Change Order.

- (c) Environmental Litigation: Defense. In the event that the performance of all or any part of the Work on a Project or under the Program gives rise to Environmental Litigation where the City and/or Manager are named as defendants, each party shall be responsible for its own defense and liabilities.
- (d) Employees and Workmanship.
  - (1) Qualified Employees. Other than supervised apprentices or participants in workforce or contractor development/training programs, only personnel trained and skilled in the task assigned to them may be employed on any portion of the Work.

- (2) Licensed Employees. When Applicable Laws require that certain personnel be licensed, then all such personnel employed on the Work shall be so licensed.
- (3) Methods and Quality.
  - (A) All workmanship shall be of the standards set forth in the Project Book for such Budgeted Project. Recommendations of the manufacturers of specified materials shall be considered as a part of such specifications.
  - (B) Materials shall be accurately assembled and set, and when so required in good construction, shall be true to line, even, square, plumb, level, and regularly spaced and coursed.
- (4) Supervision. The Manager shall ensure appropriate and adequate supervision at each Project Site at all times during the progress of the Work.
- (5) Safety. The Manager shall require all legally mandated precautions to prevent injury or damage to persons and property in or about the Budgeted Project and each Project Site through until the applicable Project becomes a Completed Project.
- (6) Emergencies. In the event of any Emergency affecting the safety of persons, the Work or property (including the Project Site and property immediately adjacent thereto), absent specific instructions or authorizations from the City if time or circumstances do not permit, the Manager shall take whatever reasonable measures are necessary under such circumstances to prevent or mitigate threatened damage, injury or loss. The Manager shall, as expeditiously as reasonably practicable after the occurrence of such Emergency, give Notice to the City of such Emergency providing reasonable details thereof. If the Manager reasonably believes the Emergency required additional Work which was actually performed, the Manager may submit to the City a written statement describing in reasonable detail (a) the Work performed, (b) the cost of such Work and (c) the effect of the Work, if any, on the Project Book Price as set forth in the Project Book, or on the guarantees, warranties or obligations of the Manager under this Agreement, and shall be entitled to a Compensable Change Order with respect to such Work.

Section 5.5 Construction Management, Monitoring and Review; Inspections; Acceptance.

- (a) Work Progress: Monthly Status Report. Beginning with the Construction Commencement Date of a Budgeted Project, the Manager shall, on a monthly basis, prepare and submit to the City a written report (the “Monthly Status Report”) containing the status of planning, procurement and construction

activities for each Budgeted Project, including an updated project schedule therefor.

- (b) Monthly Meetings. The Manager shall meet with the City's Authorized Representatives monthly or on such other periodic basis as the Parties shall determine in order to review the Monthly Status Report, discuss problems and corrective actions planned, and generally keep the City up to date on all material issues related to the Projects. The Manager may request that representatives of the City at particular monthly meetings include such senior officials of the City as the Manager believes may be helpful in addressing particular issues or problems.
- (c) Inspections. After receiving written permission from Site Owners setting forth reasonable hours of access, the City, its agents and Authorized Representative shall be granted access to each Project Site at reasonable times in order to monitor or inspect the Project Site of each Budgeted Project. Any such inspections or visits shall be conducted in a manner to minimize interference with the Work.
- (d) Acceptance. At such time the Certifier confirms in writing to the City that each Project is Substantially Complete, the Manager shall no longer have any obligations with respect to such Project, except to satisfy warranty claims under Section 5.5(e) below.
- (e) Warranty. The Manager warrants to the City that materials and equipment furnished under this Agreement will be as provided by the Project Book for each Project and new unless the applicable Project Book requires or permits otherwise. The Manager further warrants that the Work will conform to the requirements of this Agreement and will be free from defects, except for those inherent in the quality of the Work or permitted by this Agreement or the applicable Project Book. Work, materials, or equipment not conforming to these requirements may be considered defective. The Manager's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Manager, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Certifier, the Manager shall furnish satisfactory evidence as to the kind and quality of materials and equipment. Notwithstanding any other provision of this Agreement, it is agreed that the Manager does not expressly or impliedly warrant the adequacy, sufficiency, or suitability of the plans, specifications, specified materials, or equipment, or other documents including in each applicable Project Book, including, without limitation, any specified sole source or brand-named products, equipment, or materials. Other than the express warranty contained in this Section 5.5(e), the Manager makes no other warranty whether express or implied. The duration of all warranties of any kind from the Manager to the City shall be for the duration of the Warranty Period. The Manager agrees to assign to the City at the time of final completion of each applicable Project any and all manufacturer's warranties relating to materials and labor used therein and further agrees to perform the Work in such manner so as to preserve any and all such manufacturer's warranties.

Section 5.6 Change Orders. Either Party may propose changes, improvements or additions to a Budgeted Project (each, a “Change Order”) at any time prior to Substantial Completion of such Budgeted Project. Manager may make changes that do not constitute Material Change Orders without Notice to the Owner.

- (a) Material Change Orders. Any Party proposing a Material Change Order (as defined below) shall submit Notice of the proposed Material Change Order to the other Party in advance for review and approval. For purposes hereof, a “Material Change Order” means any Change Order which will, or can reasonably be expected to:
- (1) change the quality, integrity, durability or reliability of such Budgeted Project; or
  - (2) substantially modifies the cost or schedule for a Budgeted Project from what is set forth in the Project Book therefor.

If the Manager proposes a Material Change Order, then it shall prepare and submit a proposed Project Book Amendment describing any resulting adjustment to the Project Book Price and/or Scheduled Substantial Completion Date.

If the City proposes a Material Change Order, then it shall submit to the Manager a Notice (a “Change Order Proposal”), which shall describe in reasonable detail the proposed Material Change Order, and within ten (10) Business Days after receipt thereof (or such longer time period as may reasonably be required), the Manager shall prepare and provide to the City a proposed Project Book Amendment as described above. The City shall have ten (10) Business Days to approve and execute or reject such Project Book Amendment, and failure of the City to act within such 10-day period shall be deemed to be an approval of the Project Book Amendment and the applicable Change Order proposal.

A Site Owner may propose Change Orders as long as the City, the Manager and the Site Owner agree to the modification of the Project and as to how the costs of such Change Order are to be borne.

Disputes arising out of this Section 5.6 shall be resolved in accordance with Section 10.16: provided, however, that the Manager shall not be required to proceed with any Material Change Order proposed by the City unless adequate provision, including adequate funding, is made for the direct impact, if any, of such Change Order on the Project Book Price, and/or Scheduled Substantial Completion Date. If the City and the Manager cannot agree as to the terms of “adequate provision” as described in the preceding sentence, and if the City insists upon proceeding with the particular Material Change Order, the Manager may terminate the applicable Budgeted Project as if for an Uncontrollable Circumstance in accordance with the provisions of Section 5.6(d).

- (b) Compensable Change Orders.

If an Emergency, an Uncontrollable Circumstance or City Cause results or is reasonably expected to result in a material alteration of the Work, the Manager’s costs thereof or the time to



construct a Budgeted Project in such fashion as otherwise to require a Material Change Order, the Manager shall (i) be entitled to an adjustment to any or both of (A) the Project Book Price and (B) the Scheduled Substantial Completion Date, and (ii) propose a Compensable Change Order to the City. The proposed Compensable Change Order may propose (a) suspension of the Budgeted Project; (b) termination of the Budgeted Project; and/or (c) modification of the Budgeted Project, in each case with a non-binding estimate of the impacts to the financial, construction, or schedule and obligations of the Manager and a reasonable date by which the Manager requires a response from the City, and, in the case of a suspension, a description of the circumstances under which the Budgeted Project could resume. The City shall provide timely a written response to the proposed Compensable Change Order, indicating its order of preference among or between the alternative courses of action outlined in the proposed Compensable Change Order.

(c) Resolution of Compensable Change Orders.

The Manager shall provide in writing the fixed price to (i) implement the City's preferred course of action or, (ii) if a fixed price cannot be provided on the basis of then-current information, to prepare a concept proposal with respect to the Compensable Change Order. If the City approves concept proposal for the Compensable Change Order, the Manager shall furnish a more detailed plan within fifteen (15) Business Days thereafter or such other period of time on which the Parties may mutually agree. The more detailed plan may include fixed prices where known, or may include a compensation structure based on agreed to labor rates and material mark-ups. As a guiding principle, the cost of the Compensable Change Order should reflect the original Project Book Price plus a reasonable incremental cost to address the Uncontrollable Circumstance or City Cause, plus a markup of twelve and a half percent (12.5%) for the Manager on the incremental costs.

The Compensable Change Order proposal shall describe in reasonable detail the appropriate revisions (i) to the Work and the standards, requirements and specifications, for the relevant Budgeted Project, (ii) of any obligation of either Party under this Agreement, and (iii) to the relevant Scheduled Substantial Completion Date, resulting from the Compensable Change Order (including the time periods for preparation, review and approval of said proposal). If, within ten (10) Business Days following receipt of the Manager's proposed price, or such other period of time on which the Parties may mutually agree, the City notifies the Manager that the City wishes to proceed with such Compensable Change Order, the items and obligations referred to above shall be revised, as applicable, in accordance with the Manager's proposal, and the Parties shall either execute the Compensable Change Order or prepare documentation for the City's next committee/commission agenda, if required. The Manager shall proceed with any Compensable Change Order pursuant to this Section 5.6(c) only upon receiving the City's written authorization; provided, however, the Manager is authorized, notwithstanding the provision of this paragraph, to proceed with any work necessary to address an Emergency.

(d) Failure of Parties to Agree to Compensable Change Order Terms. If the City and the Manager cannot agree to the terms of the Manager's proposal for a Compensable Change Order, or if the City elects not to proceed with a Change Order resulting from the occurrence of an Uncontrollable Circumstance or fails to provide sufficient funds therefor, the Manager may

suspend Work on the Budgeted Project in part or in whole, and/or terminate such Budgeted Project, and such dispute shall be resolved in accordance with Section 10.16.

## **ARTICLE VI. COMPENSATION**

Section 6.1 Actual Program Costs. The City shall pay and reimburse the Manager, on a monthly basis, the Direct Costs.

Section 6.2 Base Fee. The Manager's base fee for each Project ("Base Fee") shall be structured as a cost-plus fee and paid by the City to the Manager as a markup of the sum of the actual Direct Costs payable by the City in accordance with this section, as such costs are incurred and invoiced by the Manager to the City. The Base Fee is to address a set of actions taken to make capital improvement to address LSL and to the extent possible, shall be illustrated in each Annual Plan and Project Book to maximize eligibility for financial assistance under Wis. Admin. Code ch. NR 166 and applicable Wisconsin and federal law. The Base Fee will be paid monthly and will be a 7.5% markup of the sum of the Direct Costs. For the avoidance of doubt, the Base Fee does not include (i) the actual Project costs of Subcontractors directly relating to the planning, construction, installation and Acceptance of a Project, or (ii) the actual Program costs of Subcontractors directly relating to the implementation of the Socio Economic Development Plan set forth on Schedule 2 attached hereto.

Section 6.3 Performance-Based Fee. The Key Performance Indicators (KPIs) set forth on Schedule 3 are performance-based cost-plus fees. These fees will be derived and applied to all Direct Costs. The Manager's achievement of each of the KPIs set forth on Schedule 3 shall earn a corresponding fee in the amount of 1% Direct Costs, for a maximum of a 5% cumulative Performance-Based Fee. The details for goals and implementation of each KPI are set forth in Schedule 3. Within thirty (30) days following the end of each KPI reporting period, discussed below, the Manager shall prepare and deliver to the City a detailed report summarizing its performance and achievement with respect to the goals set forth in Schedule 3. If and to the extent the KPIs are earned by the Manager with respect to any KPI reporting period, then the amount due shall be invoiced by the Manager in its next monthly Application for Payment.

- (a) Reporting Period for Annual KPIs. The LSL Cost KPI, LSL Implementation Schedule KPI, Training Individuals and Businesses KPI shall be calculated and submitted by the Manager to the City within [thirty (30) days] after the end of each Construction Season.
- (b) Reporting Period for Semi-Annual KPIs. The Local Business Utilization KPI and the Target Class Business Utilization KPI shall be calculated and submitted by the Manager to the City within [one hundred thirty (30) days] following each June 30 and December 31 during the Term.

Section 6.4 General Requirements & Conditions. The manager shall be entitled to General Requirements and Conditions reimbursement equal to 2.5% of Direct Costs which shall include the Manager's expenses associated with the program such as personnel (whether as an

employee, consultant or otherwise), overhead, administrative and other internal costs of the Manager.

Section 6.5 Method of Payment by the City. With respect to items to be paid with City funds or funds administered by the City, the following procedures shall govern:

- (a) Application for Payment. On or before the eighth (8th) day of each Billing Month, the Manager shall submit to the City's Authorized Representative an application signed by the Manager ("Application for Payment") for the direct costs of each Project that has proceeded to construction pursuant to Article V, in each instance for the immediately preceding Billing Month. Each Application for Payment shall include:
  - (1) the Certifier's certification that the materials, supplies and labor incorporated in the applicable Project are in a percentage consistent with the Manager's Application for Payment for the applicable Billing Month;
  - (2) the Certifier's certification of KPIs delivered on a Project that has achieved Substantial Completion;
  - (3) for the applicable Billing Month, lien waivers from each Contractor for each Project, and which lien waivers shall set forth the amounts to be received from said disbursements, the official capacity of the signatory to the waivers, the name and address of the Project, and be properly acknowledged. Each such lien waiver, whether partial or final, must stipulate that all lien rights are waived with respect to the total amount disbursed up to and including the last date upon which labor or material was supplied and for which payment was made; and
  - (4) a sworn Contractor's statement, setting forth the names and addresses of all current and/or future Subcontractors and materialmen for the applicable Project including the labor to be furnished by such Subcontractors and the amounts of all subcontracts, the previous payments made on all subcontracts, the amounts due on all subcontracts for the current Application for Payment and the balance due on all subcontracts thereafter. The foregoing shall be delivered to the City on form AIA G702 or as an attachment to the Application for Payment.
- (b) General Payment Requirements. The City shall make payment for all amounts submitted for the immediately preceding Billing Month and documented in accordance with the preceding Section. These amounts shall include actual direct costs, the Base Fees earned and payable to the Manager, and if applicable, the Performance-Based Fee earned and payable to the Manager.

The City shall review and, within five (5) Business Days following the receipt thereof, either (a) approve such Application for Payment in the amount requested, in which case payment shall be made in thirty days or (b) notify the Manager in writing of any reasons then known for

withholding its approval of all or any portion of such application. In the latter case, the City shall pay the portion of the Application for Payment approved and the Manager shall resubmit the portions not approved (corrected to remove any deficiencies stated in writing by the City).

If the City shall determine that, for specified reasons, the Manager is not entitled to all or any portion of the payment sought, (a) the City shall approve that portion of the Application for Payment that is not in dispute and (b) when the grounds for withholding approval for payment have been cured to the City's reasonable satisfaction, any amount withheld shall be paid promptly by the City.

The Manager shall comply with Wis. Stat. § 66.0135 and pay subcontractors no later than seven (7) days of receipt of payment by the Manager from the City.

The Manager shall include in its agreements with Subcontractors, including suppliers and manufacturers of equipment, the provisions and requirements of this Agreement as applicable to their part of the Work included under this Agreement, together with such provisions as may be required pursuant to Applicable Law. Nothing contained in this Agreement creates any contractual relationship between the Manager and any Subcontractor.

Section 6.6 Reconciliation. Following the end of each Billing Year, the Manager shall deliver to the City an annual reconciliation and settlement statement, together with an invoice setting forth any amounts due the Manager in accordance with this Section.

## **ARTICLE VII. INDEMNIFICATION AND INSURANCE**

Section 7.1 Manager Indemnification. The Manager shall indemnify, hold harmless and defend the City and the City's agents, officers, and employees (collectively, the "City Indemnified Parties"), from and against any and all Losses on account of any negligence, recklessness, or willful misconduct (including any act of fraud) of the Manager. The Manager shall not be required to reimburse, defend, or indemnify the City Indemnified Parties for loss or claim due to the negligence or willful misconduct of such City Indemnified Parties. The Manager shall promptly notify the City of the assertion of any claim against which the City Indemnified Parties are indemnified hereunder, shall defend the City Indemnified Parties against any such claim, and shall have the right to settle such claim without the approval of the City Indemnified Parties. The City agrees that it shall promptly notify the Manager of the assertion of any claims against which the City Indemnified Parties seek to be indemnified hereunder; provided, however, that the failure to give such notice shall not affect the Manager's indemnification obligation hereunder, except insofar as the failure to provide such notice increases the amount of the particular Losses. The extent of the Manager's indemnification shall not be limited in any way as to the amount of any insurance limits contained in any insurance policy procured or provided in connection with this Agreement.

The indemnification provided by the Manager to the City pursuant to this Section 7.1 shall not run to any Site Owner and shall not extend to any loss based upon a claim of any Site Owner other than a claim caused by the negligence, recklessness, or willful misconduct (including any act or fraud) of the Manager.

Section 7.2 Insurance. The Manager shall maintain insurance of the types and in the amounts described in this Agreement and meeting the requirements specified in Schedule 1 attached hereto. The Manager shall cause the Contractor to secure and maintain insurance as part of their contracts with the Manager in accordance with Schedule 1. Such Contractor insurance, except for professional errors and omissions policies and workers compensation policies, shall name the City as an additional insured. The City may permit the Manager to arrange for a “contractor controlled insurance program” in order to satisfy some its insurance obligations hereunder, which coverage shall be as specified in the applicable Project Book for a Budgeted Project.

**ARTICLE VIII.  
CONTRACT EXTENSION**

Section 8.1 Extension Period. If any LSLs remain within the City at the expiration of the Term, the City may, in its sole discretion, extend the Term for additional periods (each such period, an “Extension Period”). If the City exercises its option under this Section 8.1 the City shall deliver Notice to the Manager’s Authorized Representative as soon as reasonably practicable, but at least thirty (30) days prior to expiration of the Term, whereupon this Agreement shall be extended on the same terms and conditions to facilitate completion of the Project(s) underway as of the date of such Notice of the applicable Extension Period.

**ARTICLE IX.  
REGIONALIZATION**

Section 9.1 Regional LSL Professional Services. The Parties agree to allow the Manager to make available to municipal and local governmental entities the extension of professional services for LSL replacement at a per LSL line cost. The Parties recognize the difficulty of administrating a Program and seek to develop a regional hub of LSL professional services. Upon request, the City agrees to enter into Intergovernmental Agreements under Wis. Stat. § 66.0301, if necessary, to facilitate the receipt or extension of LSL Professional Services by the Manager with other municipal and local governmental entities.

**ARTICLE X.  
MISCELLANEOUS**

Section 10.1 Representations, Warranties and Covenants of the Manager. Manager represents and warrants to the City and agrees and covenants with the City as of the Effective Date as follows:

- (a) All copies of documents, contracts and agreements that Manager has furnished to the City are true and correct in all material respects.
- (b) Manager has paid, and will pay when due, all federal, state and local taxes, and will promptly prepare and file returns for accrued taxes prior to any taxes becoming delinquent.
- (c) Manager will timely pay, or cause to be paid, for all work performed and materials furnished for the Project.

- (d) No statement of fact by Manager contained in this Agreement and no statement of fact furnished or to be furnished by Manager to the City pursuant to this Agreement.
- (e) Manager is a Delaware corporation duly formed and validly existing, in good standing, and has the power and all necessary licenses, permits and franchises to own its assets and properties and to carry on its business. Manager is duly licensed or qualified to do business and in good standing in all other jurisdictions in which failure to do so would have a material adverse effect on its business or financial condition.
- (f) The execution, delivery and performance of this Agreement have been duly authorized by all necessary action of Manager and constitute the valid and binding obligations of Manager enforceable in accordance with their terms, subject only to applicable bankruptcy, insolvency, reorganization, moratorium, general principles of equity, and other similar laws of general application affecting the enforceability of creditors' rights generally.
- (g) The execution, delivery, and performance of Manager's obligations pursuant to this Agreement will not violate or conflict with any of Manager's organizational documents or any indenture, instrument or agreement by which Manager is bound, nor will the execution, delivery, or performance of Manager's obligations pursuant to this Agreement violate or conflict with any law applicable to Manager or the Program.
- (h) No default, or event which with the giving of notice or lapse of time or both would be a default, exists under this Agreement, and Manager is not in default (beyond any applicable cure or grace period) of any of its obligations under any other agreement or instrument entered into in connection with the Program.

Section 10.2 Representations and Warranties of the City. The City represents and warrants to Manager that:

- (a) The City is a municipal corporation and political subdivision organized under the laws of the State of Wisconsin.
- (b) The City has the authority to enter into this Agreement and carry out its obligations hereunder pursuant to the authority granted to it by the Wisconsin Constitution and State law.
- (c) The City will cooperate with Manager throughout the term of this Agreement and shall use its best efforts to promptly review and/or process all submissions and applications in accordance with applicable City ordinances and policies.
- (d) The parties below on behalf of the City have been fully authorized to execute this Agreement on behalf of the City. When executed and delivered to Manager, this Agreement shall constitute a legal, valid and binding obligation of the City, enforceable in accordance with its terms.

Section 10.3 Notices. All notices hereunder must be in writing and must be sent by United States registered or certified mail (postage prepaid) or by an independent overnight courier service, addressed to the addresses specified below:

*Notices to Manager:*

Community Infrastructure Partners, LLC  
\_\_\_\_\_  
\_\_\_\_\_

Attn: \_\_\_\_\_

*with a copy to:*

Godfrey & Kahn, S.C.  
1 East Main St, Suite 500  
Madison, WI 53703  
Attn: Mike Wittenwyler

*Notices to the City:*

City of Wausau  
407 Grant Street  
Wausau, WI 54403  
Attn: City Clerk

*with a copy to:*

City of Wausau  
407 Grant Street  
Wausau, WI 54403  
Attn: City Attorney

Notices given by mail are deemed delivered within (3) three business days after the party sending the notice deposits the notice in the United States Post Office. Notices delivered by courier are deemed delivered on the next business day after the party delivering the notice timely deposits the Notice with the courier for overnight (next day) delivery.

Section 10.4 No Personal Liability. Under no circumstances shall any alderperson, council member, officer, official, director, attorney, employee or agent of the City or the Manager have any personal liability arising out of this Agreement, and no party shall seek or claim any such personal liability.

Section 10.5 Waiver; Amendment. No waiver, amendment, or variation in the terms of this Agreement shall be valid unless in writing and signed by the City and Manager, and then only to the extent specifically set forth in writing. Nothing contained in this Agreement is intended to or has the effect of releasing Manager from compliance with all applicable laws, rules, regulations and ordinances in addition to compliance with all terms, conditions and covenants contained in this Agreement.

Section 10.6 Entire Agreement. This Agreement and the documents executed pursuant to this Agreement contain the entire understanding of the parties with respect to the subject matter hereof. There are no restrictions, promises, warranties, covenants or undertakings other than those expressly set forth in this Agreement and the documents executed in connection with this Agreement. This Agreement and the documents executed in connection herewith supersede all prior negotiations, agreements and undertakings between the parties with respect to the subject matter hereof.

Section 10.7 No Third-Party Beneficiaries. This Agreement is intended solely for the benefit of Manager and the City, and no third party (other than successors and assigns) shall have any rights or interest in any provision of this Agreement, or as a result of any action or inaction of the City in connection therewith.

Section 10.8 Severability. If any covenant, condition, provision, term or agreement of this Agreement is, to any extent, held invalid or unenforceable, the remaining portion thereof and all other covenants, conditions, provisions, terms, and agreements of this Agreement will not be affected by such holding, and will remain valid and in force to the fullest extent by law.

Section 10.9 Governing Law. This Agreement is governed by, and must be interpreted under, the internal laws of the State of Wisconsin. Any suit arising or relating to this Agreement must be brought in Marathon County, Wisconsin.

Section 10.10 Time is of the Essence; Deadlines. Time is of the essence with respect to this performance of every provision of this Agreement in which time of performance is a factor. In the event a deadline herein falls on a non-business day, the deadline shall be deemed to fall on the next following business day.

Section 10.11 Relationship of Parties. This Agreement does not create the relationship of principal and agent, or of partnership, joint venture, or of any association or relationship between the City and Manager.

Section 10.12 Captions and Interpretation. The captions of the articles and sections of this Agreement are to assist the parties in reading this Agreement and are not a part of the terms of this Agreement. Whenever required by the context of this Agreement, the singular includes the plural and the plural includes the singular.

Section 10.13 Counterparts/Electronic Signature. This Agreement may be executed in several counterparts, each of which shall be deemed an original but all of which counterparts collectively shall constitute one instrument representing the agreement among the parties. Facsimile signatures and PDF email signatures shall constitute originals for all purposes.

Section 10.14 Termination.

(a) Termination by the Manager. If the Work is stopped for a period of 14 days through no fault of the Manager, the Manager may, upon seven additional days' written notice to the City, terminate the Agreement and recover from the City payment for Work executed including a 12.5% termination fee and reimbursement of the Manager's costs incurred by reason of such termination.

(b) Termination by the City for Cause.

(1) The City may terminate the Agreement if the Manager:

- (A) refuses or fails to supply enough properly skilled workers or proper materials;
- (B) fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Manager and the Subcontractors;



- (C) disregards Applicable Law of a Governmental Authority;  
or
- (D) is otherwise guilty of substantial breach of a provision of this Agreement.

(2) When any of the above reasons exist, the City may without prejudice to any other rights or remedies of the City and after giving the Manager seven days' written notice, terminate this Agreement, and:

- (A) take possession of the Project Site(s) and of all materials thereon owned by the Manager, and;
- (B) finish the Work by whatever reasonable method the City may deem expedient.

(3) When the Manager terminates the Agreement for one of the reasons stated in Section 10.15.a.1, the Manager shall not be entitled to receive further payment until the Work is finished.

(4) If the unpaid balance of the Base Fees and Performance-Based Fees exceeds costs of finishing the Work, such excess shall be paid to the Manager. This obligation for payment shall survive termination of the Agreement.

(c) Termination by the City for Convenience. The City may, at any time, terminate the Agreement for the Manager's convenience and without cause. In the event of a termination under this Section, the Manager shall be paid the value of the Work completed as of the date of termination as determined pursuant to the terms of the Agreement (including materials stored off-site if approved by Owner, fabricated items, specialty orders not able to be cancelled and re-stocking fees), less sums received by the Manager in advance of the Work performed plus a payment that shall include including a 12.5% termination fee and reimbursement of the Manager's costs incurred by reason of such termination.

#### Section 10.15 Dispute Resolution.

(a) Definition of Claims. A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Agreement. The term "Claim" also includes other disputes and matters in question between the City and the Manager arising out of or relating to the Agreement. The responsibility to substantiate Claims shall rest with the party making the Claim.

(b) Notice of Claims. Claims by either the City or the Manager must be initiated by written notice to the other party. Claims by either party must be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. The notice initiating such Claim shall clearly set out the specific matter of complaint, and the impact or damages which may occur or have occurred as a result thereof, to the extent the impact or damages can be

assessed at the time of the notice. If the impact or damages cannot be assessed as of the date of the notice, the notice shall be amended at the earliest date this is reasonably possible.

(c) Continuing Contract Performance. Pending final resolution of a Claim, the Manager shall proceed diligently with performance of the Agreement and the City shall continue to make payments in accordance with the Agreement.

(d) Mediation.

(1) Claims, disputes, or other matters in controversy arising out of or related to the Agreement, shall be subject to mediation as a condition precedent to binding dispute resolution.

(2) The Parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

(3) Either Party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

(4) The Parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

(e) Binding Dispute Resolution. For any Claim that is not resolved by mediation, the method of binding dispute resolution shall be litigation in a court of competent jurisdiction in the county in which the Project is located.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date first printed above.

MANAGER:

Community Infrastructure Partners, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

CITY:

City of Wausau

By: \_\_\_\_\_  
Katie Rosenberg, Mayor

Attested to By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Attachments:**

- Schedule 1 - Insurance
- Schedule 2 - Socio Economic Development Implementation Plan
- Schedule 3 - KPIs
- Annual Plan
- Project Book
- Codes/Standards
- Application for Payment

**Schedule 1 - Insurance**

**Manager's Insurance Coverage**

Insurance Requirements: The Manager shall provide the City with evidence of the Manager's commercial insurance coverage for the following exposures:

Worker's Compensation: An insurance policy complying with the requirements of the statutes of the jurisdiction(s) in which the work shall be performed. The Manager shall provide coverage for the exposures on an "if any basis." The coverage under such an insurance policy or policies shall have limits of not less than:

Worker's Compensation: STATUTORY LIMITS

Employer's Liability:	Each Accident	\$500,000
	Disease Policy Limits	\$500,000
	Disease – Each Employee	\$500,000

Commercial General Liability Insurance: An insurance policy covering the liability of the Manager for all work or operations under or in connection with this Agreement and all obligations assumed by the Manager under this Contract. Products, Completed Operation and Contractual Liability must be included. The required limits of liability in this section may be met by the purchase of an Excess or Umbrella Liability policy. The coverage under such an insurance policy or policies shall have limits of not less than:

COMMERCIAL GENERAL LIABILITY	\$1,000,000
BODILY INJURY AND PROPERTY DAMAGE LIABILITY	\$1,000,000/\$2,000,000 per occurrence/aggregate
PREMISES MEDICAL PAYMENTS	\$10,000
PERSONAL INJURY/ADVERTISING BUILDERS RISK	\$1,000,000 Damage is based on project estimated hard construction values
MANAGER'S POLLUTION LIABILITY	\$1,000,000

Automobile Liability Insurance: An insurance policy covering the use of all owned, non-owned, hired, rented, or leased vehicles bearing license plates appropriate for the circumstances for which they are being used, as required by the Motor Vehicle Laws of the State of Wisconsin and not covered under the Manager's aforementioned Commercial General Liability Insurance. The required limits of liability in this section may be met by the purchase of an Excess or Umbrella Liability policy.

The coverage under such an insurance policy or policies shall have limits not less than:

BODILY INJURY AND PROPERTY DAMAGE LIABILITY	\$2,000,000 Combined Single Limit
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Miscellaneous Professional (Errors and Omissions) Liability Insurance: A separate insurance policy to pay on behalf of the Manager all costs the Manager shall become legally obligated to pay as damages due to any claim caused by any negligent act, error, or omission of the Manager or any other person for whose acts the Manager is legally liable for arising out of the performance under this Contract. The coverage under such an insurance policy shall have a limit of liability of not less than:

\$1,000,000 per claim and aggregate

A Certificate of Insurance for the above-mentioned minimum requirements is needed after the Contract has been awarded.

Special Provisions for Insurance:

1. The Manager shall forward to the City, a certificate(s) of insurance indicating the Manager's insurance and any special provisions required under the foregoing provisions. Such certificate(s) shall be in a form satisfactory to the City and shall list the various coverages and limits. Insurance companies providing the coverage must be acceptable to the City, rated A.M. Best and carry at least an "A" Rating VIII. In addition to the aforementioned provisions; such insurance policies shall include an endorsement (provided such endorsement is reasonably commercially available) stating that such policies shall not be changed or canceled and that they will be automatically renewed upon expiration and continued in full force and effect until Substantial Completion and Acceptance of all Work covered by the Agreement, unless the City is given thirty (30) days written notice before any change or cancellation is made effective.
2. The Manager's initial and subsequent certificates of insurance shall include a description of the Project and the assigned Project number. Prior to beginning any project work, the Manager's insurance requirements as outlined must be submitted and approved in writing.
3. Manager's insurance shall be procured from insurance or indemnity companies acceptable to the City and licensed and authorized to conduct business in the State of Wisconsin. The City's approval or failure to disapprove insurance furnished by the Manager or any Contractor shall not release such parties of full responsibility for liability for damage and accidents.
4. If at any time the above required materially significant insurance policies should be canceled, terminated or modified so that the insurance is not in full-force and effect as required herein, Manager shall be considered in default of its obligations under the Agreement, and shall have ten (10) business days to cure such default to the City's reasonable satisfaction.
5. The Manager shall require each Subcontractor, at all tiers, to provide evidence of insurance coverage required. Such coverage shall remain in full force and effect during the performance of activities under this Agreement.

## **Schedule 2 - Socio Economic Development Implementation Plan**

The Manager shall develop a Socio Economic Development Plan (the “S/E Plan”) during the Term, and will submit it to the City by May 31, 2024. The S/E Plan will be aligned with the goals and objectives of the Community-Based Lead Service Line Replacement Program and will have the following components:

1. Contractor Capacity Development Program. The Manager will define a plan to forge innovative partnerships, to facilitate the building of a labor force within the City for low barrier-to-entry construction and skilled trades.
2. Outreach and Inclusion Program. Increase the participation of SWMBEs across all service areas and phases of the Community-Based Lead Service Line Replacement Program and meet a minimum of 25% participation goals. The plan will define several efforts to be conducted in order to meet the goals, which may include:
  - (a) Hosting outreach event(s) to increase awareness of opportunities for SWMBE under the Program;
  - (b) Participating in MBE conferences, fairs and outreach events;
  - (c) Advertising requirements, opportunities and support services available to Subcontractors from the MBE community;
  - (d) Establishing a transfer of technology plan that educates and trains SWMBEs in specialized technical areas, such as sustainability, green infrastructure, stormwater management technologies and practices;
  - (e) Developing a pre-qualified pool of Subcontractors;
  - (f) Tailoring project contracts and structures so as to recognize the qualifications of SWMBE Subcontractors and maximize their ability to participate;
  - (g) Incorporating local preference clauses in contracts and the bundling and earmarking of contracts for SWMBE inclusion; and
  - (h) Participate in small business job fair(s) within the City.
3. Mentor Development Program (Mentor Protege). Enhance the local City workforce by developing a mentor-protege network to enhance the protege firms’ skill levels so they can compete for significant work and increase their participation by leading and filling significant roles for the Work being performed hereunder. The Manager shall develop a network of protégé firms and integrate them into the activities carried out and the opportunities provided.
4. Stakeholder & Community Engagement Program. Provide up-to-date information to City residents and provide a forum to facilitate information exchange and to coordinate activities pertaining to the development of the Community-Based Lead Service Line

Replacement program. The Manager shall define the plan to meet with community organizations based in the City's area each Fiscal Year during the Term to provide an update on the Program.

### Schedule 3 – Key Performance Indicators

1. **LSL Cost KPI** – This KPI will be structured as a not-to-exceed price per LSL replaced. The exact cost will be set each year in the Annual Plan. During the annual planning process a detailed budget will be agreed upon by the City and CIP. If CIP delivers the scope at or less than the agreed upon budget, then CIP has earned the performance-based fee for this KPI. Any savings below the agreed upon budget will be used to replace more LSLs.
2. **LSL Implementation Schedule KPI** – This KPI will be tied to replacing a minimum number of lines in a given year, as determined by the agreed upon Annual Plan and adjusted in the Project Book(s) if expected funding availability changes. It will be CIP’s responsibility to develop an outreach program that generates property owner participation to ensure homeowners and tenants allow access to homes to enable replacement of their lead pipes.
3. **Local Business Utilization KPI** – This KPI will be tied to at least 50% of dollars spent on Construction Work must be awarded to Local Businesses.
4. **Target Class Business Utilization KPI** – This KPI will be tied to a percentage of dollars spent on Construction Work awarded to Target Class Businesses”. The following percentages will be the KPI thresholds:
  - Year 1 (contract execution to December 31, 2024) = 20%
  - Year 2 (January 1, 2025 – December 31, 2025) = 30%
  - Years 3 & beyond (beginning January 1, 2026) = 40%
5. **Training Individuals and Businesses KPI** – The purpose of this KPI is to develop contractor capacity that enables Wausau to remove all ~8,000 LSLs within a five-year period. To accomplish this CIP work in partnership with LiUNA, Wisconsin Laborers’ Council District and other organizations to create a workforce development program that trains individuals capable of replacing lead service lines so existing businesses can hire capable employees. Another service CIP will explore is establishing a contractor development program and recruit existing businesses, such as residential plumbers, that trains them for LSL replacement. For Year 1, CIP will be awarded this KPI by either recruiting one (1) residential plumber (individual or firm) into the program and/or launching an LSL replacements program within Wisconsin with LiUNA and/or Wisconsin Laborer’s Council District. The KPI metrics for subsequent years will be determined in alignment with each annual plan depending on the volume of lines expected to be replaced each year.



**CITY OF WAUSAU, 407 Grant Street, Wausau, WI 54403**

**RESOLUTION OF THE WAUSAU WATER WORKS COMMISSION**

Resolution Declaring Official Intent to Reimburse Expenditures from the Clean Drinking Water Fund Program for Wastewater Treatment Plant Headworks – Influent Screens in Year 2024.

Committee Action:

Fiscal Impact: Reimbursement of the cost of engineering services and construction services in the amount of up to \$3.75 million.

**File Number:**

**Date Introduced:**

**FISCAL IMPACT SUMMARY**

<b>COSTS</b>	<i>Budget Neutral</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
	<i>Included in Budget:</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<i>Budget Source:</i>
	<i>One-time Costs:</i>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	<i>Amount: \$3.75 Million</i>
	<i>Recurring Costs:</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<i>Amount:</i>
<b>SOURCE</b>	<i>Fee Financed:</i>	Yes <input type="checkbox"/> No <input type="checkbox"/>	<i>Amount:</i>
	<i>Grant Financed:</i>	Yes <input type="checkbox"/> No <input type="checkbox"/>	<i>Amount:</i>
	<i>Debt Financed:</i>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	<i>Amount: Annual Retirement</i>
	<i>TID Financed:</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<i>Amount:</i>
	<i>TID Source: Increment Revenue <input type="checkbox"/> Debt <input type="checkbox"/> Funds on Hand <input type="checkbox"/> Interfund Loan <input type="checkbox"/></i>		

**RESOLUTION**

**WHEREAS**, the City of Wausau, Marathon, County, Wisconsin (the “Municipality”) wishes to undertake a project for the Wastewater Treatment Plant (WWTP) Headworks – Influent Screens in year 2024, identified as DNR No. 4138-10 (the “Project”); and

**WHEREAS**, the Municipality expects to finance the Project through a combination of grants, forgivable loans and/or by issuing tax-exempt bonds or promissory notes (the “Bonds”); and

**WHEREAS**, because the grants, forgivable loans and/or Bonds will not be issued prior to expenditure of funds on the Project, the Municipality must provide interim financing to cover costs of the Project incurred prior to receipt of the proceeds of the grants, forgivable loans and/or Bonds; and

**WHEREAS**, it is necessary, desirable, and in the best interests of the Municipality to advance moneys from its funds on hand on an interim basis to pay the costs of the Project until the grants, forgivable loans and/or Bonds are issued; and

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

Section 1. Expenditure of Funds. The Municipality shall make expenditures as needed from its funds on hand to pay the costs of the Project until the grants, forgivable loans and/or Bond proceeds become available.

Section 2. Declaration of Official Intent. The Municipality hereby officially declares its intent under Treas. Regs. Section 1.150-2 to reimburse said expenditures with proceeds of the grants, forgivable loans and/or Bonds, the principal amount of which is not expected to exceed \$3.75 million.

Section 3. Unavailability of Long-Term Funds. No funds for payment of the Project from sources other than the grants, forgivable loans and/or Bonds are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside by the Municipality pursuant to its budget or financial policies.

Section 4. Public Availability of Official Intent Resolution. This Resolution shall be made available for public inspection at the City Clerk's office within 30 days after its approval in compliance with applicable State law governing the availability of records of official acts including Subchapter II of Chapter 19, *Wisconsin Statutes*, and shall remain available for public inspection until the grants, forgivable loans and/or Bonds are issued.

Section 5. Effective Date. This Resolution shall be effective upon its adoption and approval.

Passed and adopted this \_\_\_\_ day of \_\_\_\_\_, 2023.

Approved:

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Katie Rosenberg, Mayor