Common Council Meeting Agenda

October 8, 2024 - 6:05 PM
(Following the Committee of the Whole Meeting)
City Hall Council Chambers

Published: 10/4/2024

AGENDA

1. **PRIVILEGE OF THE FLOOR**
2. **CALL TO ORDER, PLEDGE OF ALLEGIANCE**
3. **ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE**
4. **APPROVAL OF MINUTES**
   - **A.** September 24, 2024, Common Council Meeting Minutes
5. **REPORTS**
   - **A.** City Clerk
   - **B.** Council President
   - **C.** Mayor
   - **D.** City Attorney
6. **COMMUNICATIONS**
   - **A.** Juan Pablo Aranda Claim
7. **UTILITY COMMITTEE**
   - **A.** UT-10-24 – Recommend to Common Council the awarding of a two-year professional services contract to Hydro Corp for Cross Connection Inspection of industrial and commercial properties in the Utility Service area not to exceed $67,968.00 ($2,832 per month)
   - **B.** UT-11-24 - Recommend to Common Council to accept proposal from Visu-Sewer LLC to clean and televise sanitary lines in three locations throughout the city in the amount of $37,375.00
   - **C.** UT 12-24 – Recommend to the Common Council to award the maintenance contract for Westward Manor sewer lining to the lowest responsive bidder, Visu-Sewer LLC in the amount of $127,667.00 with a ten percent contingency of $12,767.00 or a total project cost of $140,434.00.
   - **D.** UT 13-24 – Recommend to the Common Council to award the maintenance contract for Kelly Pointe manhole lining to the lowest responsive bidder, Hydro-Klean LLC, in the amount of $54,573.60 with a ten percent contingency of $5,457.36 for a total project cost of $60,030.96.
8. **DEFERRED, REFERRED & TABLED ITEMS**
9. **ITEMS REMOVED FROM CONSENT AGENDA, if any**
10. **CONSENT AGENDA----------**

A. *Items under the Consent Agenda have passed unanimously by the Committee of the Whole. Items not passed by a unanimous vote will be removed from consent agenda and will be considered separately.*

11. MINUTES

A. September 24, 2024, Committee of the Whole Meeting Minutes

12. UTILITY & FINANCE

A. Recommendation to the Common Council for approval of the October 9th, 2024, Water Utility claims in the amount of $21,950.11, Sewer Utility claims in the amount of $710,023.68, and General City claims in the amount of $675,891.88.

13. MISCELLANEOUS

A. New Berlin Police Department Update

B. Discussion and possible action to recommend approval to the Common Council of Ordinance No. 2698, an ordinance to amend Section 24-8 of the City of New Berlin Municipal Code regarding expenses of Emergency Management

C. Discussion and possible action to recommend approval to the Common Council of Resolution No. 2024-22, a resolution amending the 2024 Capital Projects Budget as outlined in the RAS

D. Discussion and possible action to recommend approval to the Common Council for the extension of the City Attorney's contract between the City of New Berlin and Hippenmeyer, Reilly, Blum, Schmitzer & Fabian, S.C., commencing January 1, 2025, and concluding December 31, 2026.

14. END CONSENT AGENDA----------

15. CLOSED SESSION

A. *The basis for the items to be discussed in Closed Session are as enumerated in Section 19.85(1)(e) of the Wisconsin State Statutes. Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session. More specifically:*

B. Deliberation regarding the proposed collective bargaining agreement between the City of New Berlin and the New Berlin Professional Police Association

C. Deliberation regarding the proposed collective bargaining agreement between the City of New Berlin and the New Berlin Professional Firefighters Association

16. RECONVENE TO OPEN SESSION

A. Discussion and possible action re: The proposed collective bargaining agreement between the City of New Berlin and the New Berlin Professional Police Association

B. Discussion and possible action re: The proposed collective bargaining agreement between the City of New Berlin and the New Berlin Professional Firefighters Association

17. ADJOURN

Additional Information

- The agenda packet with supplemental information related to the agenda items is available online at www.NewBerlinWi.gov. Once finalized by the governing body, approved meeting minutes are also posted online.
- The governing body may consider agenda items out of order
- Members, and potentially a quorum of other governmental bodies of the municipality, may be present at the meeting to gather information. No action will be taken by any governmental body other than the one referenced in this notice.

- With reasonable notice, accommodations will be provided under the Americans with Disabilities Act to meet the needs of individuals with disabilities through appropriate aids and services. For more information or to request assistance, please contact the Office of the City Clerk at (262) 786-8610.

Common Council
MEETING MINUTES

September 24, 2024 - 6:05 PM
City Hall Council Chambers

Please note: Minutes are unofficial until approved at the next scheduled meeting.

MINUTES

1. PRIVILEGE OF THE FLOOR

No one participated in the Privilege of the Floor

2. CALL TO ORDER, PLEDGE OF ALLEGIANCE

Mayor Ament called the meeting to order at 6:13 PM and led the Pledge of Allegiance.

3. ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE

City Clerk Rubina Medina took the roll call as follows:
Present: Alderperson Hopkins, Alderperson Maxey, Alderperson Harenda, Alderperson Stribl, Alderperson Horbinski, Alderperson Kroupa, Alderperson La Fever
Excused: None

Staff Present: City Attorney Mark Blum, Human Resource Director Melissa Beck, City Clerk Rubina R. Medina, Mayor Ament

4. APPROVAL OF MINUTES

A. August 27, 2024, Common Council Meeting Minutes

MOTION: Motion to approve

VOTE: Motion by: Stribl
Second by: Kroupa
Motion 7-0

5. REPORTS

A. City Clerk

The General Election will take place on November 5th. Absentee Ballots have been mailed to all voters with valid applications on file. To receive an absentee ballot, please visit the MyVote Wisconsin website at www.myvote.wi.gov

B. Council President

No report.

C. Mayor

D. City Attorney

No Report

6. COMMUNICATIONS

None

7. RECREATION COMMISSION

A. Discussion and possible action to recommend to Common Council approval of an amendment terminating the Septemer 22, 2015, agreement with NBAA.

MOTION: Motion to approve

VOTE: Motion by: Harenda
Second by: Stribl
Motion 7-0

B. Discussion and possible action to recommend to Common Council approval of the creation of a Recreation Specialist - Youth Sports position for the Department of Community Development - Recreation Division.

MOTION: Motion to approve

VOTE: Motion by: Harenda
Second by: Horbinski
Motion 7-0

C. Discussion and possible action to recommend to Common Council approval of the vendor agreements with 1848 Coffee, 1840 Brewing, and Flour Girl and Flame LLC to host a Halloween Event at Malone Park on October 26, 2024.

MOTION: Motion to approve

VOTE: Motion by: Harenda
Second by: Stribl
Motion 7-0

D. Discussion and possible action to recommend to Common Council approval of a vendor agreement for cornhole tournament at Brews and Boos Halloween Event at Malone Park on October 26, 2024.

MOTION: Motion to approve

VOTE: Motion by: Harenda
Second by: Kroupa
Motion 7-0

8. MAYORAL APPOINTMENTS

A. Discussion and Possible Action to approve the Mayoral Appointments per the list as presented

MOTION: Motion to approve

VOTE: Motion by: Stribl
Second by: Kroupa
Motion 7-0

9. DEFERRED, REFERRED & TABLED ITEMS

10. ITEMS REMOVED FROM CONSENT AGENDA, if any

11. CONSENT AGENDA----------

A. *Items under the Consent Agenda have passed unanimously by the Committee of the Whole. Items not passed by a unanimous vote will be removed from consent agenda and will be considered separately.*

MOTION: Motion to approve

VOTE: Motion by: Kroupa
Second by: Maxey
Motion 7-0

12. MINUTES

A. August 27, 2024 Committee of the Whole Meeting Minutes

13. UTILITY & FINANCE

A. Recommendation to the Common Council for approval of the September 11, 2024, Water Utility claims in the amount of $39,359.35, Sewer Utility claims in the amount of $11,306.00, and General City claims in the amount of $288,489.60.

B. Recommendation to the Common Council for approval of the September 25, 2024, Water Utility claims in the amount of $148,882.24, Sewer Utility claims in the amount of $19,075.80, and General City claims in the amount of $555,151.67. US Bank VISA EFT of $47,047.11 and We Energies EFT of $61,842.07.

14. LICENSES & PERMITS

A. Discussion and possible action to recommend to the Common Council approval of the Extension of Premise application received from The Varsity Club for a fall event to be held on September 27th and September 28th, 2024, per the application on file

B. Discussion and possible action to recommend to the Common Council approval of the Extension of Premise application received from The Varsity Club for a fundraising event to be held on October 18th, 2024, per the application on file

C. Discussion and possible action to recommend to the Common Council approval of the Change of Agent for Speedway #4320 per the application on file

15. MISCELLANEOUS

A. Information Technology Department Update

16. END CONSENT AGENDA----------

17. CLOSED SESSION

A. *The basis for the items to be discussed in Closed Session are as enumerated in Section 19.85(1)(e) of the Wisconsin State Statutes. Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session. More specifically:*

The City Clerk read the basis for entering into a closed session. Roll call vote was taken:

MOTION: Motion to approve to enter into closed session at 6:24 PM

VOTE: Motion by: Stribl
Second by: Maxey
Motion 7-0

B. Update on the NBPFA union negotiations

C. *The basis for the items to be discussed in Closed Session are as enumerated in Section 19.85(1)(g) of the Wisconsin State Statutes. (g) Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved, more specifically:*

D. Shaver Claim

18. RECONVENE TO OPEN SESSION

MOTION: Motion to return to open session at 6:45 PM

VOTE: Motion by: Stribl
Second by: Kroupa
Motion 7-0

A. Discussion and possible action re: Shaver Claim

MOTION: Motion to approve the Shaver claim per the City Attorney

VOTE: Motion by: Hopkins
Second by: Maxey
Motion 7-0

19. ADJOURN

MOTION: Motion to adjourn at 6:46 PM

VOTE: Motion by: Kroupa
Second by: Stribl
Motion 7-0

Respectfully Submitted by:
Rubina R. Medina, City Clerk

UTILITY STAFF REPORT
EXECUTIVE SUMMARY

CUSTOMER/PROJECT:	City of New Berlin Cross Connection Contract
LOCATION:	Citywide
REQUEST:	To recommend approval of Professional Services Contract with Hydro Corp for 2025-2026

UTILITY MANAGER RECOMMENDATION:

Recommend to the Common Council the awarding of a Professional Services contract for Cross Connection Inspection of industrial and commercial properties in the Utility service area. Total cost of the two-year contract is not to exceed $67,968.00 ($2,832.00 per month).

DETAILS IN ATTACHED STAFF REPORT

CITY OF NEW BERLIN
UTILITIES DEPARTMENT
STAFF REPORT

2025-2026 Hydro Corp Cross Connection Inspection

DATE STAFF REPORT CREATED:	September 16, 2024
CUSTOMER/PROJECT NAME:	City of New Berlin Cross Connection Inspection Program
ISSUE/DESCRIPTION OF PROJECT:	To recommend to Common Council to approve contract for 2025-2026 for Cross Connection Inspection.

REQUESTED ACTION:
Recommend to the Common Council the awarding of a Professional Services contract for Cross Connection Inspection of industrial and commercial properties in the Utility service area. Total cost of the two-year contract is not to exceed $67,968.00 ($2,832.00 per month).

FISCAL IMPACT:	$67,968.00
SOURCE OF FUNDS:	Utility Operating Budget

RATIONALE:
This is a requirement by the Wisconsin DNR to inspect all utility customer properties for potential cross connections. Utility staff currently does inspections on all residential customers and Hydro Corp inspects all commercial and industrial properties due to a greater potential to be a hazard.

PREVIOUS ACTION:	N/A
FINDINGS:	N/A
UTILITY MANAGER RECOMMENDATION:	See Executive Summary
ATTACHMENTS:	Contract for professional services by Hydro Corp and the proposal to provide professional services to the City of New Berlin.

PROFESSIONAL SERVICE AGREEMENT

This agreement, made and entered into this January 1st, 2025 by and between the City of New Berlin organized and existing under the laws of the State of Wisconsin, referred to as "Utility", and HydroCorp™ a Michigan Corporation, referred to as "HydroCorp".

WHEREAS, the Utility supplies potable water throughout its corporate boundary to property owners; and desires to enter into a professional services contract for cross connection control program inspection, reporting and management services.

WHEREAS, HydroCorp is experienced in and capable of supplying professional inspection of potable water distribution systems and cross connection control program management to the Utility and the Utility desires to engage HydroCorp to act as its independent contractor in its cross connection control program.

WHEREAS, the Utility has the authority under the laws of the State of Wisconsin and its local governing body to enter into this professional services contract.

NOW THEREFORE, in consideration of the mutual agreements herein contained, and subject to the terms and conditions herein stated, the parties agree as follows:

ARTICLE I. Purpose

During the term of this Agreement, the Utility agrees to engage HydroCorp as an independent contractor to inspect and document its findings on its potable water distribution system in public, commercial and industrial facilities within the community. Each party to this Agreement agrees that it will cooperate in good faith with the other, its agents, and subcontractors to facilitate the performance of the mutual obligations set forth in this Agreement. Both Parties to this Agreement recognize and acknowledge that the information presented to them is complete and accurate, yet due to the inaccessible nature of water piping or due to access constraints within water users' facilities, complete and accurate data is not always available.

ARTICLE II. Scope of Services

The scope of services to be provided by HydroCorp under this Agreement will include the inspections/surveys, program administration, answering telephone call inquires, scheduling of inspections, program compliance review, public education materials, preparation of quarterly management reports, and annual cross connection reports with respect to the facilities to the extent specifically set forth in this Article II (hereinafter the "Scope of Services"). Should other reports/services be included within the Scope of Services, the same shall be appended to this Agreement as Exhibit 1.

2.1 **PROGRAM REVIEW/PROGRAM START UP MEETING.** HydroCorp will conduct a Program Startup Meeting for the Cross-Connection Control/Backflow Prevention Program. Items for discussion/review will include the following:

- Review state & local regulations
- Review and/or provide assistance in establishing local Cross-Connection Control Ordinance
- Review/establish wording and timeliness for program notifications including:
  - Inspection Notice
  - Compliance Notice
  - Non-Compliance Notices 1-2, Penalty Notices
- Special Program Notices
- Electronic use of notices/program information
- Obtain updated facility listing, address information and existing program data from Utility
- Prioritize Inspections (City buildings, schools, high hazard facilities, special circumstances.)
- Review/establish procedure for vacant facilities

- Establish facility inspection schedule
- Review/establish procedures and protocol for addressing specific hazards
- Review/establish high hazard, complex facilities and large industrial facility inspection/containment procedures including supplemental information/notification that may be requested from these types of facilities in order to achieve program compliance.
- Review/establish program reporting procedures including electronic reporting tools
- Review/establish educational and public awareness brochures

2.2 **INSPECTIONS.** HydroCorp will perform initial inspections, compliance inspections, and re-inspections at individual industrial, commercial, institutional facilities and miscellaneous water users within the utility served by the public water supply for cross-connections. Inspections will be conducted in accordance with Wisconsin Department of Natural Resources (DNR) Cross Connection Control Rules.

- *Initial Inspection* – the first time a HydroCorp representative inspects a facility for cross connections. Degree of Hazard will be assigned and/or verified during this facility visit. The Degree of Hazard will dictate future re-inspection frequency/schedule of facility, (facility will be either compliant or non-compliant after this inspection).
- *Compliance Inspection* – subsequent visit by a HydroCorp representative to a facility that was non-compliant during the *Initial Inspection* to verify that corrective action was completed and meets the program requirements.
- *Re-Inspection* – Revisit by a HydroCorp representative to a facility that was previously inspected. The re-inspection frequency/schedule is based on the degree of hazard assigned to the facility during the initial inspection (two, six or ten year re-inspection cycle).

2.3 **INSPECTION SCHEDULE.** HydroCorp shall determine and coordinate the inspection schedule. Inspection personnel will check in/out on a daily basis with the Utility's designated contact person. The initial check in will include a list of inspections scheduled. An exit interview will include a list of inspections completed.

2.4 **PROGRAM DATA.** HydroCorp will generate and document the required program data for the Facility Types listed in the Scope of Services using the HydroCorp Software Data Management Program. Program Data shall remain property of the Utility; however, the HydroCorp Software Data Management program shall remain the property of HydroCorp and can be purchased for an additional fee. Data services will include:

- Prioritize and schedule inspections
- Notify users of inspections, backflow device installation and testing requirements if applicable
- Monitor inspection compliance using the HydroCorp online software management program. (Note: WI Department of Safety & Professional Services (DSPS) manages backflow prevention assembly testing notification and compliance.)
- Maintain program to comply with all DNR regulations

2.5 **MANAGEMENT REPORTS.** HydroCorp will submit comprehensive management reports in electronic, downloadable format on a quarterly & annual basis to the Utility. Reports to include the following information:

- Name, location and date of inspections
- Number of facilities inspected/surveyed
- Number of facilities compliant/non-compliant

2.6 **REVIEW OF CROSS-CONNECTION CONTROL ORDINANCE.** HydroCorp will review or assist in the development of a cross-connection control ordinance. Items for review include:

- Code adoption references, standard operational procedures, program notice documentation, reporting procedures and preference standards.
- Penalties for noncompliance.

2.7 **VACUUM BREAKERS.** **Utility** will provide up to six (6) ASSE approved hose bill vacuum breakers or anti-frost hose bibb vacuum breakers per facility as required, in order to place a facility into immediate compliance at the time of inspection if no other cross-connections are identified.

2.8 **PUBLIC RELATIONS PROGRAM.** HydroCorp will assist the Utility with a community-wide public relations program including general awareness brochures and website cross connection control program content.

2.9 **SUPPORT.** HydroCorp will provide ongoing support via phone, fax, text, website or email for the contract period.

2.10 **FACILITY TYPES.** The facility types included in the program are as follows:

- Industrial
- Institutional
- Commercial
- Miscellaneous Water users
- Multifamily

Complex Facilities. Large industrial and high hazard complexes or facilities may require inspection/survey services outside the scope of this Agreement. (HydroCorp typically allows a maximum of up to three (3) hours of inspection time per facility.) An independent cross connection control survey (at the business owner's expense) may be required at these larger/complex facilities and the results submitted to the Utility to help verify program compliance.

2.11 **INSPECTION TERMS.** HydroCorp will perform **(382) Initial inspections, and up to (478)** total inspections over a **two (2)** year contract period. The total inspections include all initial inspections, compliance and re-inspections. *Vacant facilities that have been provided to HydroCorp, scheduled no show or refusal of onsite inspection will count as an inspection/site visit for purposes of the contract.*

2.12 **COMPLIANCE WITH DEPARTMENT OF NATURAL RESOURCES ADMINISTRATIVE CODE.** HydroCorp will assist in compliance with DNR and Wisconsin Administrative Code cross connection control program requirements for all commercial, industrial, institutional, multifamily and public authority facilities.

2.13 **POLICY MANUAL.** HydroCorp will review and/or develop a comprehensive cross connection control policy manual/plan and submit to WI-DNR for approval on behalf of the Utility.

2.14 **INVENTORY.** HydroCorp shall inventory all accessible (ground level) backflow prevention assemblies and devices. Documentation will include: location, size, make, model and serial number if applicable.

2.15 **DATA MANAGEMENT.** HydroCorp shall provide data management and program notices for all inspection services throughout the contract period.

2.16 **ANNUAL YEAR END REVIEW.** HydroCorp will conduct an on-site annual year-end review meeting to discuss overall program status and specific program recommendations.

2.17 **CROSS CONNECTION CONTROL BROCHURES.** HydroCorp will provide approximately **478** cross-connection control educational brochures for the duration of the Agreement.

2.18 **INSURANCE.** HydroCorp will provide all required copies of general liability, workers compensation and errors and omissions insurance naming the Utility as an additional insured if required.

ARTICLE III. Responsibilities of the Utility

3.1 UTILITY'S REPRESENTATIVE. On or before the date services are to commence under this Agreement, the Utility shall designate an authorized representative ("Authorized Representative") to administer this Agreement.

3.2 COMPLIANCE WITH LAWS. The Utility, with the technical and professional assistance of HydroCorp, shall comply with all applicable local, state, and federal laws, codes, ordinances, and regulations as they pertain to the water inspection and testing, and shall pay for any capital improvements needed to bring the water treatment and delivery system into compliance with the aforementioned laws.

3.3 NOTICE OF LITIGATION. In the event that the Utility or HydroCorp has or receives notice of or undertakes the prosecution of any actions, claims, suits, administrative proceedings, investigations or other proceedings in connection with this Agreement, the party receiving such notice or undertaking of such prosecution shall give the other party timely notice of such proceedings and will inform the other party in advance of all hearings regarding such proceedings

3.4 FACILITY LISTING. The Utility must provide HydroCorp a complete list of facilities to be inspected, including facility name, type of service connection, address, contact person, and phone number, (if available). ***Electronic file format such as Microsoft Excel, etc. is required. An additional one-time fee to manually enter facility listing will be charged at the rate of $80.00 per hour. Incorrect facility addresses will be returned to the Utility contact and corrected address will be requested***.

3.5 LETTERHEAD/LOGO. The Utility will provide HydroCorp with an electronic file copy of the utility logo or utility letterhead and all envelopes for the mailing of all official program correspondence only. All correspondence and it's content will be approved by the Utility before being sent. (300 dpi in either .eps, or other high quality image format for printing.)

ARTICLE IV. Term, Compensation and Changes in Scope of Services

4.1 **TERM AND TERMINATION TERM.** Services by HydroCorp under this Agreement shall commence on **January 1st, 2025** and end **two (2) years** from such date, unless this Agreement is renewed or terminated as provided herein. The terms of this Agreement shall be valid only upon the execution of this Agreement within ninety (90) days of its receipt. ***Failure to execute this Agreement within (120) days shall deem the proposed terms void.***

4.1 RENEWAL. Upon the expiration of this two-year agreement, unless either party provides written notice of termination not less than 60 days prior to the expiration of the initial term (or any such renewal term) this agreement will automatically renew in (1) year term increments. Inflationary adjustments to each renewal term will be equal to the cumulative Consumer Price Index as measured in the Utilities local/regional area at the time of renewal, or 4% whichever is greater.

4.2 TERMINATION. The Utility or HydroCorp may terminate this Agreement at any time and on any date in the initial and renewal terms of this Agreement, with or without any cause, by giving written notice of such intent to terminate to the other party at least thirty (30) days prior to the effective date of termination. Notice of the intent to terminate shall be given in writing by personal service, by an authorized agent, or by certified mail, return receipt requested. The Utility shall pay the balance of any outstanding accounts for work performed by HydroCorp.

4.3 BASE COMPENSATION. From the Beginning thirty (30) days after execution of this Agreement, the Utility shall pay HydroCorp as compensation ("Base Compensation") for labor, equipment, material, supplies, and utilities provided and the services performed pursuant to this Agreement, the sum of **$2,832.00** per month, **$33,984.00** annually for a **two (2)** year contract period totaling **$67,968.00.**

4.4 PAYMENT OF INVOICES. Upon presentation of invoices by HydroCorp, all payments including base and other compensation shall be due and payable on the first day of each month (due date) after the month for which

services have been rendered. All such payments shall be made no later than thirty (30) days after the due date. Failure to pay shall be deemed a default under this Agreement. For any payment to HydroCorp which is not made within thirty (30) calendar days after the due date, HydroCorp, shall receive interest at one and one-half (1½) percent per month on the unpaid balance, or the maximum interest rate permitted by law, whichever is lower.

4.5 **CHANGES IN SCOPE OF SERVICES.** In the event that the Utility requests and HydroCorp consents to perform additional work or services involving the consulting, management, operation, maintenance, and repair of the Utility's water delivery system where such services or work exceeds or changes the Scope of Services contemplated under this Agreement, HydroCorp shall be provided additional compensation. Within thirty (30) calendar days from the date of notice of such additional work or services, the parties shall mutually agree upon an equitable sum for additional compensation. This amount shall be added to the monthly sum effective at the time of change in scope. Changes in the Scope of Service include, but are not limited to, requests for additional service by the Utility or additional costs incurred in meeting new or changed government regulations or reporting requirements.

4.6 **CLIENT CONFIDENTIALITY.** Disclosure of all communications between HydroCorp and the Utility regarding business practices and other methods and forms of doing business is subject to the provisions of Wisconsin Public Records Law, Chapter 19, Wis. Stats. HydroCorp agrees to make available for inspection and copying all records (as defined in sec. 19.32 (2), Wis. Stats.) in its possession created, produced, collected or otherwise related to this Agreement to the same extent as if the records were maintained by the Utility. HydroCorp expressly acknowledges and agrees that its obligations concerning Public Records Law and compliance under this Agreement should not be limited by copyright, license, privacy and/or confidentiality except as authorized under the Public Records Law.

4.7 **ACCESSIBILITY.** Backflow prevention device information will be completed in full only when the identifying information (i.e. data plate, brass tag, etc.) is accessible and visible from ground level or from a fixed platform/mezzanine.

4.8 **CONFINED SPACES.** – HydroCorp personnel will not enter confined spaces.

ARTICLE V. Risk Management and General Provisions

5.1 **INFORMATION.** Both Parties to this Agreement recognize and acknowledge that the information presented to them is complete to the best of their knowledge, yet due to the inaccessible nature of water piping or lack of access provided by property owner/water user, complete accurate data is not always available. Cross-connection control inspection and results are documented as of a specific date. The property owner and/or water user may make modifications to the potable water system after the inspection date that may impact compliance with the program.

5.2 **LIMITATION OF LIABILITY.** HydroCorp's liability to the Utility for any loss, damage, claim, or expense of any kind or nature caused directly or indirectly by the performance or non-performance of obligations pursuant to this Agreement shall be limited to general money damages in an amount not to exceed or within the limits of the insurance coverage provided hereunder. HydroCorp shall in no event be liable for indirect or consequential damages, including but not limited to, loss of profits, loss of revenue, or loss of facilities, based upon contract, negligence, or any other cause of action.

5.3 **HYDROCORP INSURANCE.** HydroCorp currently maintains the following insurance coverage's and limits:

	Occurrence	Aggregate
Comprehensive General Liability	$1 Million	$2 Million
Excess Umbrella Liability	$5 Million	$5 Million
Automobile Liability (Combined Single Limit)	$1 Million	
Worker's Compensation/ Employer's Liability	$1 Million	
Errors and Omissions	$2 Million	$2 Million

Within thirty (30) calendar days of the start of the project, HydroCorp shall furnish the Utility with satisfactory proof of such insurance, and each policy will require a 30-day notice of cancellation to be given to the Utility while this Agreement is in effect. The Utility shall be named as an additional insured according to its interest under the general liability policy during the term of this Agreement.

5.4 **UTILITY INSURANCE.** The Utility will maintain liability insurance on an all risk basis and including extended coverage for matters set forth in this Agreement.

5.5 **RELATIONSHIP.** The relationship of HydroCorp to the Utility is that of independent contractor and not one of employment. None of the employees or agents of HydroCorp shall be considered employees of the Utility. For the purposes of all state, local, and federal laws and regulations, the Utility shall exercise primary management, and operational and financial decision-making authority.

5.6 **ENTIRE AGREEMENT AMENDMENTS.** This Agreement, along with the Cities signed Terms and Conditions contains the entire Agreement between the Utility and HydroCorp, and supersedes all prior or contemporaneous communications, representations, understandings, or agreements. This Agreement may be modified only by a written amendment signed by both parties. *To the extent there is a conflict between the City's terms and conditions and the terms and conditions of Hydo Corp's terms and conditions that the City's terms and conditions will control.*

5.7 **HEADINGS, ATTACHMENTS, AND EXHIBITS.** The heading contained in this Agreement is for reference only and shall not in any way affect the meaning or interpretation of this Agreement. The Attachments and Exhibits to this Agreement shall be construed as integral parts of this Agreement.

5.8 **WAIVER.** The failure on the part of either party to enforce its rights as to any provision of this Agreement shall not be construed as a waiver of its rights to enforce such provisions in the future.

5.9 **ASSIGNMENT.** This Agreement shall not be assigned by either party without the prior written consent of the other unless such assignment shall be to the affiliate or successor of either party.

5.10 **FORCE MAJEURE.** A party's performance under this Agreement shall be excused if, and to the extent that, the party is unable to perform because of actions due to causes beyond its reasonable control such as, but not limited to, Acts of God, the acts of civil or military authority, loss of potable water sources, water system contamination, floods, quarantine restrictions, riot, strikes, commercial impossibility, fires, explosions, bombing, and all such interruptions of business, casualties, events, or circumstances reasonably beyond the control of the party obligated to perform, whether such other causes are related or unrelated, similar or dissimilar, to any of the foregoing. In the event of any such force majeure, the party unable to perform shall promptly notify the other party of the existence of such force majeure and shall be required to resume performance of its obligations under this Agreement upon the termination of the aforementioned force majeure.

5.11 **AUTHORITY TO CONTRACT.** Each party warrants and represents that it has authority to enter into this Agreement and to perform the obligations, including any payment obligations, under this Agreement.

5.12 **GOVERNING LAW AND VENUE.** This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin, regardless of the fact that any of the parties hereto may be or may become a resident of a different state or jurisdiction. Any suit or action arising shall be filed in a court of competent jurisdiction within the State of Wisconsin, venue by the presiding County. The parties hereby consent to the personal jurisdiction of said court within the State of Wisconsin

.

5.13 **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

5.14 **NOTICES.** All notices, requests, demands, payments and other communications which are required or may

be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally or sent by nationally recognized overnight carrier, or mailed by certified mail, postage prepaid, return receipt requested, as follows:

If to HydroCorp:

HydroCorp
c/o Paul Patterson
5700 Crooks Road, Ste. 100
Troy, MI 48337
(248)250-5022

If to Utility:

City of New Berlin
16450 W National Ave.
New Berlin, WI 53151

5.15 **SEVERABILITY.** Should any part of this Agreement for any reason, be declared invalid or void, such declaration will not affect the remaining portion, which will remain in full force and effect as if the Agreement has been executed with the invalid portion eliminated.

SIGNATURES

IN WITNESS WHEREOF, the parties have duly executed this Agreement effective as of the date first above written.

CITY OF NEW BERLIN

_____
By:
Title:

HydroCorp

By: Paul Patterson

Appendix

Specific Qualifications & Experience

HydroCorp™ is a professional service organization that specializes in Cross Connection Control Programs. Cross Connection Control Program Management & Training is the main core and focus of our business. We are committed to providing water utilities and local communities with a cost effective and professionally managed cross connection control program in order to assist in protecting the public water supply.

- HydroCorp conducts over 30,000 Cross Connection Control Inspections ***annually***.
- HydroCorp tracks and manages over 35,000+ backflow prevention assemblies for our Municipal client base.
- Our highly trained staff works in an efficient manner in order to achieve maximum productivity and keep program costs affordable. We have a detailed **system** and **process** that each of our field inspectors follow in order to meet productivity and quality assurance goals.
- Our municipal inspection team is committed to providing outstanding customer service to the water users in each of the communities we serve. We teach and train customer service skills in addition to the technical skills since our team members act as representatives of the community that we service.
- Our municipal inspection team has attended training classes and received certification from the following recognized Cross Connection Control Programs: UF TREEO, UW-Madison, and USC – Foundation for Cross Connection Control and Hydraulic Research, American Backflow Prevention Association (ABPA), American Society for Sanitary Engineering (ASSE). HydroCorp recognizes the importance of Professional Development and Learning. We invest heavily in internal and external training with our team members to ensure that each Field Service and Administrative team member has the skills and abilities to meet the needs of our clients.
- We have a trained administrative staff to handle client needs, water user questions and answer telephone calls in a professional, timely and courtesy manner. Our administrative staff can answer most technical calls related to the cross connection control program and have attended basic cross connection control training classes.
- HydroCorp currently serves over 200 communities in Michigan, Wisconsin, Maryland, Delaware, Virginia & Florida. We still have our first customer!
- HydroCorp and its' staff are active members in many water industry associations including: National Rural Water Association, State Rural Water Associations, National AWWA, State AWWA Groups, HydroCorp is committed to assisting these organizations by providing training classes, seminars and assistance in the area of Cross Connection Control.
- Several Fortune 500 companies have relied on HydroCorp to provide Cross Connection Control Surveys, Program Management & Reporting to assist in meeting state/local regulations as well as internal company guidelines.

CITY OF NEW BERLIN
GENERAL TERMS and CONDITIONS OF SERVICE

1. Introduction. This document (hereinafter referred to as "Terms and Conditions") is hereby incorporated and part of the contract between the City of New Berlin (hereinafter referred to as "City") and the Service Provider identified below (hereinafter referred to as "Service Provider"). These Terms and Conditions, along with the Scope of Services and any attachments thereto, shall constitute the entire contract for material, work and other Services, collectively referred as to the "Services" between the City and the Service Provider. It is expressly agreed that no statement, arrangement, warranty or understanding, oral or written, expressed or implied, will be recognized unless it is stated in or otherwise permitted by these Terms and Conditions, and the aforementioned Scope of Services. These Terms and Conditions are solely for the benefit of the City and the Service Provider and are not intended for the benefit of any other party.

2. Proposal. The Service Provider is solely responsible for, and shall have sole control of, construction methods, sequences and coordination of all work described in the Scope of Services, unless expressly stated to the contrary. If no Scope of Services is attached to this agreement, the parties agree that the following description of the services to be provided, as well as the compensation to be provided for those services shall apply: _____

_____

_____

_____

_____

Dates on which services are to be provided: _____

The Services being provided hereunder shall be completed on or before: _____

The cost of the Services being provided are as follows: _____

3. Services and/or Construction Materials. All materials and work shall be furnished in accordance with normal industry standards and practices. Service Provider agrees to provide the services set forth in the Scope of Services in a good and workmanlike manner, in accordance with the professional practices of the profession.

4. Access to the Site. The City shall provide access to the Service Provider to work in and on City property.

5. Storage of Materials. The storage of materials and storage of Contractor's equipment shall be the responsibility of the Contractor. The City agrees to maintain access for the Contractor at the project site and to keep the project site free from obstructions and conflicting work. The Contractor shall be responsible for obtaining builders risk insurance coverage and in general, for insuring the materials and work being provided hereunder.

6. Insurance. Service Provider shall maintain workers compensation, automobile liability and commercial general liability insurance coverage with carriers licensed to do business

in the State of Wisconsin, and with such limits as the City may establish and require from time to time. Service Provider shall furnish a Certificate of Insurance evidencing the types and amounts of coverage. Said coverage shall be on an occurrence basis and the limits identified in the general liability coverage shall be for this project and not the policy as a whole. Service Provider agrees to require that the insurer list the City as an Additional Insured on a primary and noncontributory basis and to provide adequate evidence of said status through a liability insurance endorsement. Service Provider shall further obtain an endorsement from the insurance carrier indicating that any material changes to the policy or any cancellation of the coverage subsequent to the issuance of the Certificate, and until the completion of the services hereunder, shall necessitate that the insurer provide not less than thirty (30) days notice to the City of said fact. Clauses such as that the insurer will endeavor to notify the City are unacceptable and will be rejected.

7. Independent Service Provider. The parties warrant that no employer/employee relationship is established between the Service Provider and the City by virtue of the terms of this contract. It is understood by the parties hereto that the Service Provider is an independent Service Provider and as such, neither it nor its employees if any are employees of the City for purposes of tax, retirement system or social security withholding.

8. Records and Reports. Records relating to the performance of the services under this contract must be retained for seven (7) years after final disposition. However, if any litigation claim or audit has started before the expiration of the seven (7) year period, then records shall be retained for five (5) years after the litigation or audit is resolved. Notwithstanding any other clause written herein, Service Provider understands and agrees that the City is a municipal entity and therefore, is subject to the Open Records Law of the State of Wisconsin. Wisconsin Statute §19.36(3) requires governmental entities to make available for inspection a copy of any records produced or collected under a contract entered into by the municipal entity to the same extent as if the record were maintained by the municipality. Therefore, in the event there is a request for any other documentation pertaining to this agreement, Service Provider shall provide the information as requested and charge no more than the cost to copy said information. The parties agree that upon completion or termination of this contract, all project contract documents or instruments of service, including electronic files of computer-aided record drawings and field inspection reports shall be delivered to and shall become the property of the City. These records, drawings, reports, etc. may be used without restriction by the City for any public purpose and to implement construction and use of the project. Any such use or reuse of these documents outside the scope of the project shall be without compensation or liability to the Service Provider, excepting for errors and omissions associated with the completed project, services and documents performed under this agreement.

9. Advertisements. Service Provider shall not identify the City as a client or customer of the Service Provider, or utilize the name of the City or its logo in any advertisements or other documents placed in the public domain without the express written consent of the City.

10. Changes. In the event that the parties determine that a modification to the terms of the providing of these Services or services are necessary, said change shall not be effective unless executed by authorized representatives of both parties.

11. Delay. Work shall be completed within the number of working days set forth in the contract or otherwise as soon as reasonably practicable unless delay occurs due to work stoppage, adverse weather conditions, labor disputes or modifications to the Terms and Conditions of the Contract.

12. Dispute. These Terms and Conditions shall be deemed to have been made and governed by the laws of the State of Wisconsin. Any legal suit or action with regard to these Terms and Conditions or the project as a whole shall be venued in the Waukesha County Circuit Courts, Waukesha County, Wisconsin, unless the parties mutually agree to arbitration and/or mediation in place of civil litigation.

13. Limitation on Liability. The City's liability to the Service Provider shall not exceed the sums paid by the City to the Service Provider under this contract. In addition, to the extent that the Service Provider seeks indemnification from the City and the City consents to provide such indemnity, that indemnity shall be subject to the limitations set forth herein. No indemnity provided under any contract hereinunder shall be construed to be a waiver or estoppel of the City of New Berlin or its insureds' ability to rely upon the limitations, defenses and immunities contained within Wisconsin law, including, but not limited to those set forth in Wisconsin Statute §893.80, §895.52 and §345.05. To the extent indemnification is available and enforceable, the City of New Berlin or its insured shall not be liable in indemnity or contribution for any amount greater than the limits of liability for municipal claims established by Wisconsin law. The City's obligations to indemnify hereunder are further subject to the availability limits of applicable insurance coverage. Under no circumstances shall the City be required to indemnify the Service Provider for its own negligence or intentional conduct.

14. Modification and Assignability. This contract, including all documents incorporated by reference herein, may not be enlarged, modified or altered except upon written agreement signed by both parties. The Service Provider may not subcontract or assign its rights, including rights to compensation, or terms of performance arising hereunder without the prior written consent of the City. Any subcontractor or assignee shall be bound by all of the terms and conditions of the contract, and will be required to enter into a written agreement with the City.

15. Termination of Contract. This contract may be terminated as follows:

A. *Termination for Convenience.* City may terminate this contract in whole or in part for the convenience of the City when the City determines that the continuation of the project is not in the best interests of the City. Service Provider shall be entitled to payment for all of the services performed at the date of the termination, together with its direct costs of termination. Under no circumstances shall the Service Provider be entitled to any penalty for the termination nor shall the Service Provider be entitled to any payment for lost profits.

B. *Termination for Cause.* If the City determines that the Service Provider has failed to comply with any of the terms and conditions of the contract and the scope of services and related documents thereto, the City may give written notice to the Service Provider of any such deficiency and in the

event that the Service Provider fails to cure said deficiency within ten (10) days of the notice of such failure, the City may, with no further notice, declare this contract to be terminated. Service Provider will therefore be entitled to receive payment for those services performed at the date of termination, plus the amount of reasonable damages suffered by the City by reason of the Service Provider's failure to comply with the terms of the contract. Under no circumstances shall the Service Provider be entitled to any lost profits arising from the contract.

16. Warranty. Contractor warrants and guarantees to City that all materials and equipment and the work to be performed hereunder will be of good quality and free from faults and defects. This warranty shall cover materials for the manufacturer stated warranty period and workmanship for one (1) year from the date of substantial completion or as provided in the Scope of Services attached hereto, whichever is greater.

17. Conflicts. If there is any inconsistency between these Terms and Conditions and the Scope of Services or any attachments thereto, these Terms and Conditions shall apply and will control.

18. Protection of the Project Site. Contractor agrees to post signage and to appropriately guard the area in which the contract work is being performed, and to take all other steps that may be necessary in accordance with requirements of OSHA and/or other governmental agencies with jurisdiction to ensure that the project site is maintained in a safe manner so as to prevent workers and passersby from entering the project site.

19. Hold Harmless. The Service Provider will defend and hold harmless the City as and against any claims, actions, demands or causes of action brought by a third party for damages or losses arising out of Service Provider's performance of the work under these Terms and Conditions and the attached Scope of Services. Said indemnification shall include the City's actual attorney fees. Notwithstanding the foregoing, the obligation to indemnify shall not exist to the extent of the City's gross negligence or intentional conduct.

20. Indemnity. The City shall not be liable for failure on the part of the Service Provider or any other party performing under this contract in accordance with all applicable laws and regulations. Service Provider waives any and all claims and recourse against the City including the right of contribution for loss of damage to persons or property arising out of or growing out of or in any way connected with or incident to the performance of this contract, except for liability arising out of the sole negligence of the City or its officers, agents or employees.

21. Working Hours. Unless specifically noted, all work included in this contract is to be performed during normal business hours, Monday through Friday. Work performed at any other time or on legal holidays must be specifically approved by the City.

22. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Wisconsin and represents the complete understanding of the parties

with respect to the subject matter set forth herein, and may only be amended in a subsequent agreement executed by all parties.

23. Ongoing Services. If this is a contract for ongoing services, the parties shall indicate that fact by initially this paragraph in the margin, indicating this paragraph applies. The parties agree that these Terms and Conditions shall be applicable to an ongoing series of Services, which may be entered into and arranged between the parties from time to time during the period of time commencing _____ and concluding on _____, inclusive. A separate proposal and/or description of Scope of Services shall be provided for in each instance where the Service Provider is providing services to the City; however, in all instances of any work being provided by the Service Provider during the aforementioned time period, this set of Terms and Conditions shall apply.

24. COVID-19 Pandemic. The Service Provider acknowledges that in December of 2019 a novel strain of the Coronavirus (now referenced as COVID-19) was detected and has now spread throughout many countries, including the United States. Based upon this, the World Health Organization has declared a Public Health Emergency of international concern; and the United States Department of Health and Human Services has declared a Public Health Emergency. The Service Provider further acknowledges that it is aware of the COVID-19 pandemic and that the existence of said pandemic will not constitute a force majeure or otherwise preclude the Service Provider's ability to perform the terms of this agreement absent the issuance of any Order by a governmental entity with jurisdiction that would preclude such performance.

CITY:
City of New Berlin

By: _____
Jim Wagener CFO
[Print Name & Title]

SERVICE PROVIDER:

Hydrocorp, LLC
[Insert Service Provider Name}

By: _____

_____
[Print Name & Title]

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 8/26/2024

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

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

PRODUCER
RBN & Associates, Inc.
303 E Wacker Dr
Suite 650
Chicago IL 60601

CONTACT NAME: Telisa Gibson
PHONE (A/C, No, Ext): 312-856-9400 **FAX (A/C, No):** 312-856-9425
E-MAIL ADDRESS: tgibson@rbninsurance.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : The Travelers Indemnity Co.	25658
INSURER B : Travelers Prop Cas Co of Amer	25674
INSURER C : Travelers Casualty & Surety Co of America	19038
INSURER D : Twin City Fire Insurance Co.	29459
INSURER E : ARCH SPECIAITY INS CO	21199
INSURER F : St. Paul Travelers	

INSURED HYDRDES-01
HydroCorp, LLC
HydroSoft, LLC
Florida HydroCorp, Inc
5700 Crooks Road, Suite 100
Troy MI 48098

COVERAGES **CERTIFICATE NUMBER:** 1738860925 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X **COMMERCIAL GENERAL LIABILITY** [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [X] POLICY [ ] PRO-JECT [ ] LOC [ ] OTHER:	Y	Y	6602W649777	12/15/2023	12/15/2024	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 300,000 $ 10,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
F	**AUTOMOBILE LIABILITY** [X] ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [X] HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY	Y	Y	BA2W651552	12/15/2023	12/15/2024	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
B	X **UMBRELLA LIAB** X OCCUR **EXCESS LIAB** [ ] CLAIMS-MADE DED X RETENTION $ 10,000			CUP2W652616	12/15/2023	12/15/2024	EACH OCCURRENCE AGGREGATE	$ 5,000,000 $ 5,000,000
C	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N: N **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		UBW651969	12/15/2023	12/15/2024	X PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000
D E	Crime Cyber E & O/Pollution Liability			83KB0486036-23 C-4LPY-053219-CYBER-2023	11/4/2023 12/15/2023	12/15/2024 12/15/2024	Limit Limit/Aggregate PLEASE SEE BELOW	2,000,000 2,000,000 FOR LIMITS

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Professional (E & O) & Pollution Liability
Carrier: Underwriters at Lloyds
Effective 12/15/2023 Expiration 12/15/2024
Policy number: ANE1010955.23
Each Limit: 2,000,000
Aggregate Limit: 2,000,000
The City of New Berlin Its officers, elected & appointed employees, agents & volunteers are included as additional insureds on the general & automobile liability on a primary & non-contributory basis as required by written contract. Waiver of subrogation applies to the general, auto & work comp policies. 30 day notice of cancellation, 10 days for non-payment applies.

CERTIFICATE HOLDER

City of New Berlin
3805 S. Casper Dr
New Berlin WI 53151

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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UTILITY STAFF REPORT
EXECUTIVE SUMMARY

CUSTOMER/PROJECT:	Cleaning and Televising of Sanitary Sewer Lines by Visu-Sewer LLC
LOCATION:	Three Locations Throughout the City
REQUEST:	Recommend to Common Council to accept proposal from Visu-Sewer LLC to clean and televise sanitary lines in three locations throughout the city in the amount of $37,375.00.

UTILITY MANAGER RECOMMENDATION:
Accept proposal from Visu-Sewer LLC to clean and televise 11,500 feet of sanitary sewer in wooded easements at three locations throughout the city in the amount of $37,375.00.

DETAILS IN ATTACHED STAFF REPORT

CITY OF NEW BERLIN
UTILITIES DEPARTMENT
STAFF REPORT

Visu-Sewer LLC Sanitary Sewer Cleaning and Televising

DATE STAFF REPORT CREATED: September 16, 2024

CUSTOMER/PROJECT NAME: Visu-Sewer LLC Cleaning and Televising Project

ISSUE/DESCRIPTION OF PROJECT: To clean and televise 11,500 feet of sanitary sewer.

REQUESTED ACTION:
Approve Visu-Sewer LLC proposal to clean and televise 11,500 feet of sanitary sewer in wooded easements at three locations throughout the city.

FISCAL IMPACT: $37,375.00

SOURCE OF FUNDS: Wastewater Operations

RATIONALE:
These lines are inaccessible for maintenance without an easement machine, which the Utility does not possess.

PREVIOUS ACTION: N/A

FINDINGS: N/A

UTILITY MANAGER RECOMMENDATION: See Executive Summary

ATTACHMENTS:

Visu-Sewer
Inspect. Maintain. Rehabilitate.

Proposal

To: Joe Graser
City of New Berlin
4000 S. Casper Drive
New Berlin, WI 53151-5510
262-786-7086

From: Mike Olsen
Visu Sewer, LLC.
W230 N4855 Betker Dr.
Pewaukee, WI 53072
262-695-2340

Date: 8/8/2024

Project: Sanitary Sewer CCTV Inspection

Visu-Sewer is pleased to offer the following service:

CCTV inspection of approximately 11,500 linear feet of 8"-42" sanitary sewer, in The City of New Berlin. Project includes one (1) pass with a jet for light cleaning prior to televising, video data, inspection reports with PACP codes, and defect still photos. If needed, removal of obstructions (e.g., root, deposits, protruding taps) will be completed at the below T&M rates. Heavy cleaning with a vactor will be quoted separately.

Time & Material Rates:
Easement Access Lines – Three Man Crew: $455.00 per hour (Port to Port)
(Estimate of (+/-) 75 hours)
Street Access Lines – Two Man Crew: $325.00 per hour (Port to Port)
(Estimate of +/- 10 hours)

NOTES: By executing this agreement, you agree to pay for the actual time spent for mobilization and time on site to complete the project at the hourly rate above. Pipe sections where downstream manhole is inaccessible to cleaning equipment will be completed as CCTV only. Visu-Sewer will not be held liable for any damage and/or restoration to landscaping affected by the project.

The City of New Berlin will need to provide drivable equipment access to all manholes, detailed maps with naming conventions, water from nearby hydrants without charge, a dump site for captured debris, and traffic control beyond cones and signs.

Thank you for the opportunity to quote on this project. If you have any questions, please do not hesitate to call us at 800-876-8478.

All material is guaranteed to be as specified. All work to be completed in a substantial workmanlike manner according to specifications submitted, per standard practices. Any alteration or deviation from the above specifications involving extra costs will be executed only upon written orders and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control. Owner to carry fire, tornado, and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance. This proposal may be withdrawn if not accepted within 30 days of issue. Time and material rates are charges "port to port". Terms - Net 30 days.

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. Visu-Sewer, LLC. is authorized to do the work as specified.

Date: _____ Signature: _____

CITY OF NEW BERLIN
GENERAL TERMS and CONDITIONS OF SERVICE

1. Introduction. This document (hereinafter referred to as "Terms and Conditions") is hereby incorporated and part of the contract between the City of New Berlin (hereinafter referred to as "City") and the Service Provider identified below (hereinafter referred to as "Service Provider"). These Terms and Conditions, along with the Scope of Services and any attachments thereto, shall constitute the entire contract for material, work and other Services, collectively referred as to the "Services" between the City and the Service Provider. It is expressly agreed that no statement, arrangement, warranty or understanding, oral or written, expressed or implied, will be recognized unless it is stated in or otherwise permitted by these Terms and Conditions, and the aforementioned Scope of Services. These Terms and Conditions are solely for the benefit of the City and the Service Provider and are not intended for the benefit of any other party.

2. Proposal. The Service Provider is solely responsible for, and shall have sole control of, construction methods, sequences and coordination of all work described in the Scope of Services, unless expressly stated to the contrary. If no Scope of Services is attached to this agreement, the parties agree that the following description of the services to be provided, as well as the compensation to be provided for those services shall apply: Separate proposals will be generated to define the scope and pricing for individual projects. Unless specifically excluded in a proposal, landscape restoration needs resulting from work completed by Visu-Sewer, LLC will be completed by Visu-Sewer, LLC and cost shall be considered incidental.

Dates on which services are to be provided: TBD

The Services being provided hereunder shall be completed on or before: TBD

The cost of the Services being provided are as follows: Per signed proposal.

3. Services and/or Construction Materials. All materials and work shall be furnished in accordance with normal industry standards and practices. Service Provider agrees to provide the services set forth in the Scope of Services in a good and workmanlike manner, in accordance with the professional practices of the profession.

4. Access to the Site. The City shall provide access to the Service Provider to work in and on City property.

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8. Records and Reports. Records relating to the performance of the services under this contract must be retained for seven (7) years after final disposition. However, if any litigation claim or audit has started before the expiration of the seven (7) year period, then records shall be retained for five (5) years after the litigation or audit is resolved. Notwithstanding any other clause written herein, Service Provider understands and agrees that the City is a municipal entity and therefore, is subject to the Open Records Law of the State of Wisconsin. Wisconsin Statute §19.36(3) requires governmental entities to make available for inspection a copy of any records produced or collected under a contract entered into by the municipal entity to the same extent as if the record were maintained by the municipality. Therefore, in the event there is a request for any other documentation pertaining to this agreement, Service Provider shall provide the information as requested and charge no more than the cost to copy said information. The parties agree that upon completion or termination of this contract, all project contract documents or instruments of service, including electronic files of computer-aided record drawings and field inspection reports shall be delivered to and shall become the property of the City. These records, drawings, reports, etc. may be used without restriction by the City for any public purpose and to implement construction and use of the project. Any such use or reuse of these documents outside the scope of the project shall be without compensation or liability to the Service Provider, excepting for errors and omissions associated with the completed project, services and documents performed under this agreement.

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12. Dispute. These Terms and Conditions shall be deemed to have been made and governed by the laws of the State of Wisconsin. Any legal suit or action with regard to these Terms and Conditions or the project as a whole shall be venued in the Waukesha County Circuit Courts, Waukesha County, Wisconsin, unless the parties mutually agree to arbitration and/or mediation in place of civil litigation.

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14. Modification and Assignability. This contract, including all documents incorporated by reference herein, may not be enlarged, modified or altered except upon written agreement signed by both parties. The Service Provider may not subcontract or assign its rights, including rights to compensation, or terms of performance arising hereunder without the prior written consent of the City. Any subcontractor or assignee shall be bound by all of the terms and conditions of the contract, and will be required to enter into a written agreement with the City.

15. Termination of Contract. This contract may be terminated as follows:

A. *Termination for Convenience.* City may terminate this contract in whole or in part for the convenience of the City when the City determines that the continuation of the project is not in the best interests of the City. Service Provider shall be entitled to payment for all of the services performed at the date of the termination, together with its direct costs of termination. Under no circumstances shall the Service Provider be entitled to any penalty for the termination nor shall the Service Provider be entitled to any payment for lost profits.

B. *Termination for Cause.* If the City determines that the Service Provider has failed to comply with any of the terms and conditions of the contract and the scope of services and related documents thereto, the City may give written notice to the Service Provider of any such deficiency and in the

event that the Service Provider fails to cure said deficiency within ten (10) days of the notice of such failure, the City may, with no further notice, declare this contract to be terminated. Service Provider will therefore be entitled to receive payment for those services performed at the date of termination, plus the amount of reasonable damages suffered by the City by reason of the Service Provider's failure to comply with the terms of the contract. Under no circumstances shall the Service Provider be entitled to any lost profits arising from the contract.

16. Warranty. Contractor warrants and guarantees to City that all materials and equipment and the work to be performed hereunder will be of good quality and free from faults and defects. This warranty shall cover materials for the manufacturer stated warranty period and workmanship for one (1) year from the date of substantial completion or as provided in the Scope of Services attached hereto, whichever is greater.

17. Conflicts. If there is any inconsistency between these Terms and Conditions and the Scope of Services or any attachments thereto, these Terms and Conditions shall apply and will control.

18. Protection of the Project Site. Contractor agrees to post signage and to appropriately guard the area in which the contract work is being performed, and to take all other steps that may be necessary in accordance with requirements of OSHA and/or other governmental agencies with jurisdiction to ensure that the project site is maintained in a safe manner so as to prevent workers and passersby from entering the project site.

19. Hold Harmless. The Service Provider will defend and hold harmless the City as and against any claims, actions, demands or causes of action brought by a third party for damages or losses arising out of Service Provider's performance of the work under these Terms and Conditions and the attached Scope of Services. Said indemnification shall include the City's actual attorney fees. Notwithstanding the foregoing, the obligation to indemnify shall not exist to the extent of the City's gross negligence or intentional conduct.

20. Indemnity. The City shall not be liable for failure on the part of the Service Provider or any other party performing under this contract in accordance with all applicable laws and regulations. Service Provider waives any and all claims and recourse against the City including the right of contribution for loss of damage to persons or property arising out of or growing out of or in any way connected with or incident to the performance of this contract, except for liability arising out of the sole negligence of the City or its officers, agents or employees.

21. Working Hours. Unless specifically noted, all work included in this contract is to be performed during normal business hours, Monday through Friday. Work performed at any other time or on legal holidays must be specifically approved by the City.

22. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Wisconsin and represents the complete understanding of the parties

with respect to the subject matter set forth herein, and may only be amended in a subsequent agreement executed by all parties.

23. Ongoing Services. If this is a contract for ongoing services, the parties shall indicate that fact by initially this paragraph in the margin, indicating this paragraph applies. The parties agree that these Terms and Conditions shall be applicable to an ongoing series of Services, which may be entered into and arranged between the parties from time to time during the period of time commencing ___To be determined on a project by project basis._____ and concluding on _____, inclusive. A separate proposal and/or description of Scope of Services shall be provided for in each instance where the Service Provider is providing services to the City; however, in all instances of any work being provided by the Service Provider during the aforementioned time period, this set of Terms and Conditions shall apply.

24. COVID-19 Pandemic. The Service Provider acknowledges that in December of 2019 a novel strain of the Coronavirus (now referenced as COVID-19) was detected and has now spread throughout many countries, including the United States. Based upon this, the World Health Organization has declared a Public Health Emergency of international concern; and the United States Department of Health and Human Services has declared a Public Health Emergency. The Service Provider further acknowledges that it is aware of the COVID-19 pandemic and that the existence of said pandemic will not constitute a force majeure or otherwise preclude the Service Provider's ability to perform the terms of this agreement absent the issuance of any Order by a governmental entity with jurisdiction that would preclude such performance.

CITY:
City of New Berlin

By: _____

_____
[Print Name & Title]

SERVICE PROVIDER:

_Visu-Sewer, LLC_____
[Insert Service Provider Name}

By: Randy L. Belanger

Randy Belanger VP, Sales
[Print Name & Title]

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 9/6/2024

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

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

PRODUCER
R & R Insurance Services Inc
PO Box 1610
Waukesha WI 53187-1610

CONTACT NAME: Deborah Madsen
PHONE (A/C, No, Ext): (262)574-7000 **FAX (A/C, No):** (262)574-7080
E-MAIL ADDRESS: clcertificates@rrins.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Phoenix Ins Co (Travelers)	25623
INSURER B : Charter Oak Fire Ins Co (Travelers)	25615
INSURER C : Travelers Prop Cas Ins Co of America	25674
INSURER D : Travelers Indemnity Co of Connecticut	25682
INSURER E :	
INSURER F :	

INSURED
Visu-Sewer LLC
W230 N4855 Betker Rd
PO Box 804
Pewaukee WI 53072-0804

COVERAGES **CERTIFICATE NUMBER:** CL2431546577 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR 10,000 Ded - PD Only GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT LOC OTHER:	X		CO-5968X624 #CGD604 02-19 (AI) #CGD316 02-19 (WOS) #CGT100 02-19 (WOS)	4/1/2024	4/1/2025	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 300,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
B	AUTOMOBILE LIABILITY X ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS X HIRED AUTOS X NON-OWNED AUTOS	X		810-5968X624 #CAT353 02-15 (AI/WOS) #CAT499 02-16 (AI/PNC)	4/1/2024	4/1/2025	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
C	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 10,000			CUP-0J357280 #EU0001 07-16 (AI/PNC/WOS)	4/1/2024	4/1/2025	EACH OCCURRENCE AGGREGATE	$ 15,000,000 $ 15,000,000
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N: N N/A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			UB-3K116933	4/1/2024	4/1/2025	X PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000,000 $ 1,000,000 $ 1,000,000
B	Contractors Equipment			660-5167X974	4/1/2024	4/1/2025	Leased/Rented Equipment	300,000
B	Installation Floater			660-5167X974	4/1/2024	4/1/2025	Any One Jobsite & In Transit	500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
City of New Berlin and any of its employees, officers or agents are Additional Insureds on a primary and non-contributory basis for General Liability, including ongoing and completed operations, and Auto Liability per forms listed above when required by a written contract. A 30-Day Notice of Cancellation applies in favor of City of New Berlin for reasons other than non-payment.

CERTIFICATE HOLDER
City of New Berlin
3805 S. Casper Dr.
New Berlin, WI 53151

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Daniel Scheider/DM586

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UTILITY STAFF REPORT
EXECUTIVE SUMMARY

CUSTOMER/PROJECT: Westward Manor Sewer Lining

LOCATION: Westward Manor Area

REQUEST: Award Maintenance Contract to Lowest Responsive Bidder, Visu-Sewer LLC

UTILITY MANAGER RECOMMENDATION:
Recommend to the Common Council to award the maintenance contract for Westward Manor sewer lining to the lowest responsive bidder, Visu-Sewer LLC, in the amount of $127,667.00 with a ten percent contingency of $12,767.00 for total project cost of $140,434.00.

DETAILS IN ATTACHED STAFF REPORT

CITY OF NEW BERLIN
UTILITIES DEPARTMENT
STAFF REPORT

Westward Manor Sewer Lining

DATE STAFF REPORT CREATED: September 18, 2024

CUSTOMER/PROJECT NAME: Westward Manor Sewer Lining

ISSUE/DESCRIPTION OF PROJECT: C.I.P.P. Lining of 1,871 Feet of Sanitary Sewer

REQUESTED ACTION:
Recommend to the Common Council to award the maintenance contract for Westward Manor sewer lining to the lowest responsive bidder, Visu-Sewer LLC, in the amount of $127,667.00 with a ten percent contingency of $12,767.00 for total project cost of $140,434.00.

FISCAL IMPACT: $140,434.00

SOURCE OF FUNDS: Wastewater

RATIONALE:
Continuing Inflow/Infiltration Program

PREVIOUS ACTION: N/A

FINDINGS: N/A

UTILITY MANAGER RECOMMENDATION: See Executive Summary

ATTACHMENTS: Bid award recommendation letter

Clark Dietz

Engineering Quality of Life®

September 18, 2024

Alex Parker
City of New Berlin
4000 S. Casper Drive
New Berlin, WI 53151

Re: Westward Manor Sewer Lining

Dear Alex,

We have reviewed and tabulated the two bids received for the Westward Manor Sewer Lining project and confirmed that the as-read low bidder, Visu-Sewer, LLC of Pewaukee, Wisconsin is the low bidder for this project. The bid amounts received for the Base Bid items are as follows:

Visu-Sewer, LLC	**$ 127,667.00**
Insituform Technologies USA, LLC	$ 259,363.04

The bid also included an Alternate Bid for additional 8-inch and 10-inch sewer lining. Insituform's bid for the Alternate Item was $143,500.00, while Visu-Sewer listed a bid of "$0 per LF" for the Alternate Item. I discussed the Alternate Bid with Pete Baumann from Visu-Sewer, who clarified that they meant that the per lineal foot cost for the additional lining would be the same as their Base Bid amount. This was not clear on the Bid Form, and therefore I am not making a recommendation in relation to the Alternate Bid.

Clark Dietz recommends that the City award a contract to the low bidder, **Visu-Sewer, LLC** in the amount of **$127,667.00 for the Base Bid items**.

If you have any questions or require additional information regarding this matter, please contact our office.

Sincerely,

Diane L. Thoune

Diane L. Thoune, PE
Project Manager
Clark Dietz, Inc.

UTILITY STAFF REPORT
EXECUTIVE SUMMARY

CUSTOMER/PROJECT: Kelly Pointe Manhole Lining

LOCATION: Kelly Pointe Area

REQUEST: Award Maintenance Contract to Lowest Responsive Bidder, Hydro-Klean LLC

UTILITY MANAGER RECOMMENDATION:
Recommend to the Common Council to award the maintenance contract for Kelly Pointe manhole lining to the lowest responsive bidder, Hydro-Klean LLC, in the amount of $54,573.60 with a ten percent contingency of $5,457.36 for a total project cost of $60,030.96.

DETAILS IN ATTACHED STAFF REPORT

CITY OF NEW BERLIN
UTILITIES DEPARTMENT
STAFF REPORT

Kelly Pointe Manhole Lining

DATE STAFF REPORT CREATED: September 18, 2024

CUSTOMER/PROJECT NAME: Kelly Pointe Manhole Lining

ISSUE/DESCRIPTION OF PROJECT: Cementitious Lining of Eleven Manholes

REQUESTED ACTION:
Recommend to the Common Council to award the maintenance contract for Kelly Pointe manhole lining to the lowest responsive bidder, Hydro-Klean LLC, in the amount of $54,573.60 with a ten percent contingency of $5,457.36 for a total project cost of $60,030.96.

FISCAL IMPACT: $60,030.96

SOURCE OF FUNDS: Wastewater

RATIONALE:
Continuing Inflow/Infiltration Program

PREVIOUS ACTION: N/A

FINDINGS: N/A

UTILITY MANAGER RECOMMENDATION: See Executive Summary

ATTACHMENTS: Bid award recommendation letter

Clark Dietz

Engineering Quality of Life®

September 17, 2024

Alex Parker
City of New Berlin
4000 S. Casper Drive
New Berlin, WI 53151

Re: Kelly Pointe Manhole Lining

Dear Alex,

We have reviewed and tabulated the two bids received for the Kelly Pointe Manhole Lining project and confirmed that the as-read low bidder, Hydro-Klean, LLC of Des Moines, Iowa, is the low bidder for this project. The bid amounts received are as follows:

Hydro-Klean, LLC	**$ 54,573.60**
National Power Rodding Corp.	$ 74,400.00

Clark Dietz recommends that the City award a contract to the low bidder, **Hydro-Klean, LLC** for the bid amount of **$54,573.60**.

If you have any questions or require additional information regarding this matter, please contact our office.

Sincerely,

Diane L. Thoune

Diane L. Thoune, PE
Project Manager
Clark Dietz, Inc.

Committee of the Whole
MEETING MINUTES

September 24, 2024 - 6:00 PM
Council Chambers
3805 S. Casper Drive

Please note: Minutes are unofficial until approved at the next scheduled meeting.

MINUTES

1. CALL MEETING TO ORDER

Mayor Ament called the meeting to order at 6:00 PM

2. ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE

City Clerk Rubina Medina took the roll call as follows:
Present: Alderperson Hopkins, Alderperson Maxey, Alderperson Harenda, Alderperson Stribl, Alderperson Horbinski, Alderperson Kroupa, Alderperson La Fever
Excused: None

Staff Present: City Attorney Mark Blum, IT DIrector Alan Skornia, City Clerk Rubina R. Medina

3. APPROVAL OF MINUTES

A. August 27, 2024 Committee of the Whole Meeting Minutes

MOTION: Motion to Approve

VOTE: Motion by: Alderperson Harenda
Second by: Alderperson Hopkins
Motion Passed 7-0

4. UTILITY & FINANCE

A. Recommendation to the Common Council for approval of the September 11, 2024, Water Utility claims in the amount of $39,359.35, Sewer Utility claims in the amount of $11,306.00, and General City claims in the amount of $288,489.60.

MOTION: Motion to approve

VOTE: Motion by: Stribl
Second by: Maxey
Motion 7-0

B. Recommendation to the Common Council for approval of the September 25, 2024, Water Utility claims in the amount of $148,882.24, Sewer Utility claims in the amount of $19,075.80, and General City claims in the amount of $555,151.67. US Bank VISA EFT of $47,047.11 and We Energies EFT of $61,842.07.

MOTION: Motion to approve

VOTE: Motion by: Kroupa
Second by: Hopkins
Motion 7-0

5. LICENSES & PERMITS

A. Discussion and possible action to recommend to the Common Council approval of the Extension of Premise application received from The Varsity Club for a fall event to be held on September 27th and September 28th, 2024, per the application on file

MOTION: Motion to approve

VOTE: Motion by: Harenda
Second by: Horbinski
Motion 7-0

B. Discussion and possible action to recommend to the Common Council approval of the Extension of Premise application received from The Varsity Club for a fundraising event to be held on October 18th, 2024, per the application on file

MOTION: Motion to approve

VOTE: Motion by: Horbinski
Second by: Stribl
Motion 7-0

C. Discussion and possible action to recommend to the Common Council approval of the Change of Agent for Speedway #4320 per the application on file

MOTION: Motion to approve

VOTE: Motion by: Horbinski
Second by: La Fever
Motion 7-0

6. MISCELLANEOUS

A. Information Technology Department Update

The Information Technology Director Alan Skoria provided an update.

7. ADJOURN

MOTION: Motion to adjourn at 6:11 PM

VOTE: Motion by: Kroupa
Second by: Harenda
Motion 7-0

Respectfully Submitted by:
Rubina R. Medina, City Clerk

2024 Common Council Update

Chief Jeff Hingiss

Department Mission Statement

"The mission of the New Berlin Police Department is to protect the lives and property of the people we serve and prevent crime through our partnership with the community"

Vision Statement

"The vision of the New Berlin Police Department is to be regarded as a leader in law enforcement through a commitment to professionalism, training, and community oriented policing."

Value Statement

Core Set of Values:

Human Dignity

Integrity

Community Partnership

Leadership

2023 Accomplishments

- Clerk Staff Schedule
- State Grant Funding
- Public Safety Building Updates
- SRO MOU
- Safety Saturday
- Fourth of July
- Personnel

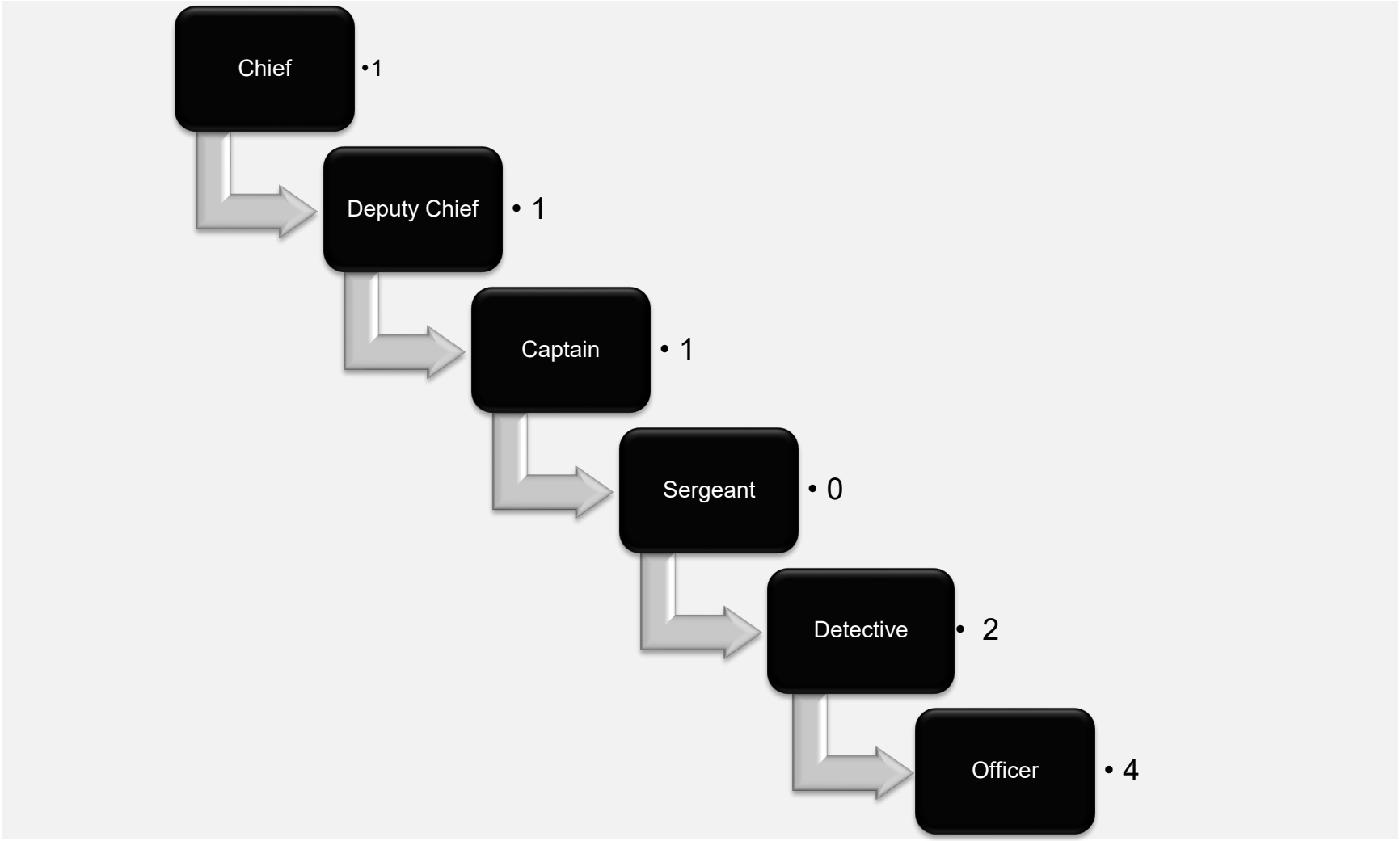
Additional 2022 Retirements

2023/24 Sworn Additions

Sworn Staffing

- Field Training: 0
- Recruit Training: 1
- Hiring: 2
- Retiring 2024: 0
- Retiring 2025: 2?

NBPD Retirements “Fully Eligible” 2024 - 2028



Non-Sworn Positions

- 2 Records Clerk – Now
- 1-3 Police Aides?

Professionalism

Fleet Cameras

AXON

Flock Cameras

Body Camera - Refresh

TASER 10

2023/24 Losses

- Chief Gary Blunt
- Sergeant Ben Langer
- Officer Jim Simonson
- Dispatcher Connie Motola
- K9 Condor

City of New Berlin Community Development
city living with a touch of country

Building Permits & Inspections • Engineering Services • GIS / LIS • Planning Services
3805 South Casper Drive
New Berlin, WI 53151
Phone: 262.797.2445
Fax: 262.780.4612
www.newberlin.org

REQUESTED ACTION STATEMENT

TO: Mayor Dave Ament
Common Council

FROM: Gregory Kessler, AICP – Director of Community Development

RE: Requested Action Statement to approve an amendment to Chapter 24.

DATE: September 25, 2024

REQUESTED ACTION: Requested Action Statement to approve Ordinance #: 2698 amending Chapter 24 – Emergency Management.

FISCAL IMAPCT: Not applicable

SOURCE OF FUNDS: Not applicable

RATIONALE / BACKGROUND:

Chapter 24 was last updated on May 23, 2023, via Ordinance #: 2671. Chapter 24-8 (*Expenses of Emergency Management*) sets forth purchasing authorities for the Mayor, DCD/EM Director, and EM Manager in the event of an emergency declaration. Under the current provisions, the DCD/EM Director and EM Manager are authorized to expend up to $50,000, while the Mayor can expend up to $100,000. The cumulative spending authority under this chapter is capped at $100,000.

A recent emergency response scenario and full-scale functional exercise have demonstrated that costs often exceed these limits, potentially delaying critical procurement and affecting overall response effectiveness. To enhance the capacity for rapid action during emergencies, this amendment proposes an increase in the purchasing authority for the Mayor.

Proposed Changes:

1. **Increase Mayor's Purchasing Authority:**
    - Current Limit: $100,000
    - Proposed Limit: Up to $150,000
    - Revised "Not-to-Exceed" Amount: $200,000
2. **Maintain DCD/EM Director and EM Manager Authority:**
    - Authority remains at $50,000

Rationale:

- **Enhanced Responsiveness:** Increasing the Mayor's purchasing authority allows for quicker decision-making and procurement during emergencies, which is essential for effective response and recovery.

- **Cost Management:** Allowing for a higher spending threshold helps prevent delays caused by seeking additional approvals once the initial limits are reached.
- **Historical Context:** Past emergency responses have shown that rapid access to resources is critical in minimizing the impact of emergencies on the community.

This amendment aims to equip municipal leadership with the necessary tools to respond promptly and effectively to emergencies, thereby protecting public safety and ensuring efficient use of resources.

STATE OF WISCONSIN : CITY OF NEW BERLIN : WAUKESHA COUNTY

ORDINANCE NO. 2698

**ORDINANCE TO AMEND SECTION 24-8
OF THE CITY OF NEW BERLIN MUNICIPAL CODE
REGARDING EXPENSES OF EMERGENCY MANAGEMENT**

The Common Council of the City of New Berlin do ordain as follows:

SECTION I

Section 24-8, of the Municipal Code of the City of New Berlin is hereby repealed and recreated to read as follows:

§24-8 Expenses of Emergency Management

Except as expressly provided hereunder, no person shall have the right to expend any public funds of the City in carrying out any emergency management activity authorized by this chapter without prior approval by the Common Council, nor shall any person have any right to bind the City by contract, agreement or otherwise without prior and specific approval of the Common Council and/or per the City's procurement or contract policies. Notwithstanding the foregoing, the Mayor and the Director of Community Development shall have the authority under the City's procurement policy to purchase supplies, equipment or services as may be necessary to address a current emergency as declared by the Mayor, Common Council President or Council of the City of New Berlin in a total amount not to exceed $150,000.00. The Emergency Management Manager or Director of Community Development shall have the authority to purchase supplies, equipment or services as may be necessary to address a current emergency situation as declared by the City in an amount not to exceed $50,000.00; however, the total amount spent shall not exceed $200,000.00 unless authorized by the Common Council. Any expenses incurred under this subsection shall immediately be reported to the Mayor and the Finance Director.

SECTION II

All Ordinances or parts of Ordinances contravening the terms and conditions of this Ordinance are hereby to that extent repealed.

SECTION III

The several sections of this Ordinance shall be considered severable. If any section shall be considered by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the other portions of the Ordinance.

SECTION IV

This Ordinance shall take effect upon passage and publication as approved by law, and the City Clerk shall so amend the Code of Ordinances of the City of New Berlin, and shall indicate the date and number of this amending ordinance therein.

PASSED AND ADOPTED by the Common Council this _____ day of _____, 2024.

APPROVED:

Countersigned:

_____
David Ament, Mayor

_____
Rubina Medina, Clerk

REQUESTED ACTION STATEMENT

DATE: October 4, 2024

TO: Mayor
Common Council

FROM: Lucas Pichler – Director of Public Works

ISSUE: Resolution 2024-22 Amending the 2024 Capital Projects Budget

REQUESTED:

Recommend to Common Council to approve Resolution 2024-22 Amending the 2024 Capital Projects Budget.

FISCAL IMPACT:

Funding Source:

EXPENDITURES - Increase

04251300-61215-C2024	FUELING STATION RECONSTRUCTION	$ 90,000

REVENUES - Increase

04011600-57051-CMISC	TRANSFER - CAPITAL PROJECTS FUND	$ 90,000

Project Costs:

Estimated Temporary Tank Costs: $15,000.00
Estimated Design Costs: $75,000.00

RATIONALE:

On September 16, 2024, the City's performed an annual inspection on the City's fueling station. The inspection found a crack in the outer wall of the diesel tank, and signs of stress in both the gasoline tank and the diesel tank. Interstate Pump & Tank, LLC advised that the stress is likely due to the age of the tanks and the fact that they are not placed on a concrete foundation. The uneven settling of the stone base is likely causing stress on the walls of the tank. As a result of the crack found on the diesel tank, it may no longer remain in service and a temporary diesel tank must be utilized. While the gasoline tank is showing similar signs of stress, it may remain in service. Furthermore, the controlling system for the fueling station is failing and in need of replacement.

Following the inspection, the City had an on-site meeting with Tim Anderson of United Engineering Consultants Inc. Tim advised that there was not visible signs of an active fuel leak from the diesel tank, but also advised that the tank be taken out of service. As a result, a temporary 3,000 gallon diesel tank has been brought on site and will be connected to our fueling system while design and construction occurs on a replacement fueling system. The replaced fueling station is expected to be in service in fall of 2025. Until then, the City must rent the temporary diesel tank.

A budget did not exist in the 2024 budget for this work. As a result, a transfer of funds is required to fund the temporary tank and replacement fueling station design costs expected to be incurred in 2024. A Capital Improvement Budget is being requested in the 2025 Budget for the construction costs associated with the reconstruction of the fueling station. The estimated temporary tank costs for the remainder of 2024 is $15,000. Design proposals are due from consultants on October 25, 2024, and are estimated to cost $75,000. To enter into the design contract in 2024 a budget must exist.

STATE OF WISCONSIN **WAUKESHA COUNTY** **CITY OF NEW BERLIN**

RESOLUTION NUMBER 2024-22

A RESOLUTION AMENDING THE 2024 CAPITAL PROJECTS BUDGET

WHEREAS, it was determined the tanks at the city fueling station are damaged and may no longer remain in service and the situation has to be addressed immediately to avoid environmental impact. The requested funds are for temporary fueling equipment and design of a replacement fueling station, the construction of the new fueling station will be in the 2025 Capital Projects Budget request. Source of funds is unspent 2014 Capital Projects fund that was closed out this year.

WHEREAS, It was determined that the Capital Projects Budget had to be amended to accomplish these goals.

NOW THEREFORE BE IT RESOLVED, by the Common Council of the City of New Berlin that the Capital Projects Fund Budget be amended as follows:

EXPENDITURES - Increase

04251300-61215-C2024	FUELING STATION RECONSTRUCTION	$ 90,000

REVENUES - Increase

04011600-57051-CMISC	TRANSFER - CAPITAL PROJECTS FUND	$ 90,000

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to publish this resolution in the The Freeman within 10 days of adoption by the Common Council.

RESOLUTION ADOPTED by the New Berlin Common Council this 8th day of October 2024.

_____

David Ament, Mayor

Countersigned:

_____

Rubina R Medina, City Clerk

CITY ATTORNEY CONTRACT EXTENSION

This Contract Extension Agreement is made and entered into this _____ day of October, 2024, by and between the City of New Berlin, a Wisconsin municipal corporation, acting by and through its authorized officers, and located in the County of Waukesha, State of Wisconsin (hereinafter referred to as the "City") and HIPPENMEYER, REILLY, BLUM, SCHMITZER & FABIAN, S.C., 720 Clinton Street, Waukesha, Wisconsin, 53186 (hereafter referred to as "Attorney").

WHEREAS, the City and the Attorney entered into a Contract Agreement for the Attorney to provide legal representation and services as City Attorney pursuant to Wis. Stats. Sec. 62.09 for the City of New Berlin, which Agreement was dated September 27, 2011 and had a term commencing January 1, 2012 and expiring on December 31, 2013; and

WHEREAS, the parties extended that Contract on September 10, 2013, with a new term commencing January 1, 2014 and expiring on December 31, 2015; and

WHEREAS, the parties extended that Contract again on July 28, 2015, with a new term commencing January 1, 2016 and expiring December 31, 2017; and

WHEREAS, the parties extended that Contract again on July 25, 2017, with a new term commencing January 1, 2018 and expiring December 31, 2020; and

WHEREAS, the parties extended that Contract again on October 28, 2020, with a new term commencing January 1, 2021 and expiring December 31, 2021; and

WHEREAS, the parties extended that Contract again on December 14, 2021, with a new term commencing January 1, 2022 and expiring December 31, 2024; and

WHEREAS, Mark G. Blum has offered his resignation as City Attorney; however, the parties are desirous of Thomas G. Schmitzer being appointed as the City Attorney concurrent with the effective date of this Extension.

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

1. The Contract Extension shall commence as of January 1, 2025 and will end on December 31, 2026.
2. Thomas G. Schmitzer is hereby appointed as the City Attorney concurrent with the effective date of this Extension.
3. The Compensation for City Attorney and Municipal Prosecution services to be rendered will be modified for the period January 1, 2025 through December 31, 2025 for a total amount of Three Hundred Seven Thousand Eight Hundred ($307,800.00) Dollars or Twenty-Five Thousand Six Hundred Fifty ($25,650.00) Dollars per month. The compensation for City Attorney and Municipal Prosecution services to be rendered will be modified effective January 1, 2026 through December 31, 2026 for the total sum of Three Hundred Twenty-Two Thousand Eight Hundred ($322,800.00) Dollars or Twenty-Six Thousand Nine Hundred ($26,900.00) Dollars per month.
4. Additional compensation shall be paid at a fee of Two Dollars ($200.00) per hour for cases which are not covered under the ordinary City Attorney and Municipal Prosecution services.
5. All other terms and conditions of the City Attorney Contract dated September 27, 2011 are hereby ratified and reaffirmed without modification. To the extent that this Contract Extension conflicts with the Contract dated September 27, 2011, this Extension shall control.

IN WITNESS WHEREOF, the parties to this Contract have caused it to be executed at New Berlin, Wisconsin, on the date indicated above.

CITY:
City of New Berlin

By: _____
David A. Ament, Mayor

By: _____
Rubina Medina, City Clerk

ATTORNEY:
Hippenmeyer, Reilly, Blum,
Schmitzer & Fabian, SC

By: _____
Mark G. Blum, City Attorney