



Common Council Meeting Agenda

January 28, 2025 - 6:08 PM
(Following the Committee of the Whole Meeting)
City Hall Council Chambers

Agenda Amended & Published: 1/27/2025, 4:20 PM

Agenda Amended & Published: 1/26/2025, 11:10 PM

Published: 1/24/25

AGENDA

1. PRIVILEGE OF THE FLOOR

Each speaker is limited to 3 minutes. The session will conclude at 6:30 pm.

2. CALL TO ORDER, PLEDGE OF ALLEGIANCE

3. ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE

4. APPROVAL OF MINUTES

- A. January 14, 2025 Common Council Meeting Minutes

5. REPORTS

- A. City Clerk
B. Council President
C. Mayor

6. COMMUNICATIONS

7. BOARD OF PUBLIC WORKS

- A. ITEM 1-25 Discussion and recommendation to the Common Council for the approval of the Two -Party Construction Agreement for the reconstruction of CTH O (Moorland Rd) from CTH ES (National Ave) to CTH D (Cleveland Ave) subject to final review as to form by the City Attorney and final plans on file.

8. UTILITY COMMITTEE

- A. UT 01-25 Recommend to the Common Council to approve the Milwaukee Metro Sewerage District (MMSD) Funding Agreement for the Private Property Infiltration and Inflow (PPI/I) in an amount not to exceed \$338,400.00 for cost incurred throughout the work described in Attachment A in this agreement.
B. Discussion and possible recommendation to the Common Council to approve a gas service easement agreement with We Energies for Calhoun Tower, as reviewed and approved by the City Attorney.

9. RECREATION COMMISSION

- A. Discussion and possible action to recommend to Common Council approval of the vendor agreements with Banks Family Consulting LLC to provide consulting services for small businesses and individuals, as well as personal athletic training.

10. PARKS, BUILDINGS & GROUNDS COMMISSION

- A. Discussion and possible recommendation to the Common Council for the approval of Resolution 25-02 - A Resolution Amending the 2025 Capital Projects Budget to purchase a trailer for transporting an urban mower with a gross weight of less than 10,000 pounds.
- B. Discussion and possible recommendation to the Common Council for the approval of Resolution 25-01 - A Resolution Amending the 2025 Capital Projects Budget to purchase a dozer blade skid steer attachment.
- C. Discussion and possible recommendation to Common Council to approve a donation agreement between the New Berlin Pumas Select Baseball Corporation and the City of New Berlin for a field reconditioning project at the Buena Park West Baseball Field.
- D. Discussion and possible recommendation to the Common Council for the approval of signage within Malone Park restricting dogs from within the playground area and requiring dogs to be on a leash in all other areas of the park.

11. MAYORAL APPOINTMENTS

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

12. DEFERRED, REFERRED & TABLED ITEMS

13. ITEMS REMOVED FROM CONSENT AGENDA, if any

14. CONSENT AGENDA-----

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.

15. MINUTES

- A. January 14, 2025 Committee of the Whole Meeting Minutes

16. UTILITY & FINANCE

- A. Discussion and possible action to recommend approval to the Common Council of the January 29, 2025, Water Utility claims in the amount of \$19,939.97 for 2024 invoices and \$2,075.15 for 2025 invoices. Sewer Utility claims in the amount of \$17,259.96 for 2024 invoices and \$2,161.70 for 2025 invoices. General City claims in the amount of \$704,087.24 for 2024 invoices and \$288,302.63 for 2025 invoices. US BANK VISA EFT of \$52,985.15 for November and December of 2024.

17. LICENSES & PERMITS

- A. Discussion and possible action to recommend to the Common Council approval of a "Class B" combo liquor license for Drake's Watering Hole, located at 3612 S. Moorland Road, as outlined in the application and premise description on file. The license is currently held by Chumley's Pub, which has formally submitted its intent to surrender the liquor license, enabling the new applicant to apply for the establishment

18. MISCELLANEOUS

- A. Golf Course Commission Update
- B. Discussion and possible action to recommend to the Common Council approval of the contract to upgrade the City of New Berlin's phone system
- C. Discussion and possible action to recommend to Common Council that a joint public hearing be set for March 3, 2025 at 6:00 p.m. to be held before the Plan Commission to amend the Future Land Use Map within the City's Comprehensive Plan (Chapter 11 - Neighborhood "A" Greenfield Avenue and Chapter 10 - Land Use) from Suburban Commercial, Mixed Residential and Institutional with a Planned Unit Development

Overlay to Mixed Use Residential with a PUD Overlay for approximately 33.76 acres for the parcels located at 1640 S. Moorland Road (includes Tax Keys #'s 1158.989.001, 1158.989.002 & 1158.989.003). **AND** Recommend to the Common Council that a joint public hearing be set for March 3, 2025 at 6:00 p.m. to be held before the Plan Commission to rezone approximately 33.76 acres for the parcels located at 1640 S. Moorland Road (includes Tax Keys #'s 1158.989.001, 1158.989.002 & 1158.989.003) from B-1/PUD, Rm-1/PUD, I-1/PUD & C-2 to Rm-1/PUD & C-2/PUD to amend Planned Unit Development Overlay Ordinance # 2679 (also amended by Ordinance #2688). The development will include multi-family residential with retail integrated within.

- D. Discussion and possible action to recommend to the Common Council that a public hearing be set for March 3, 2025 at 6:01 p.m. to be held before the Plan Commission on the amendments to the Zoning Code (Chapter 275).

19. END CONSENT AGENDA-----

20. CLOSED SESSION

- A. *The basis for the items to be discussed in Closed Session are as enumerated in Section 19.85(1)(c) of the Wisconsin State Statutes which permits closed sessions for the purpose of considering employment, promotion, compensation, or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility, more specifically:*
- B. Salary Study and Proposed 2025 Employee Compensation Adjustments
- 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. Thomas J. Jocz Claim

21. RECONVENE TO OPEN SESSION

- A. Discussion and possible action re: Thomas J. Jocz claim

22. 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

January 14, 2025 - 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

Each speaker is limited to 3 minutes. The session will conclude at 6:30 pm.

There were no participants during the Privilege of the Floor.

2. CALL TO ORDER, PLEDGE OF ALLEGIANCE

Mayor Ament called the meeting to order at 6:06 PM and led the pledge of allegiance.

3. ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE

City Clerk Rubina R. Medina took the roll call as follows:

Present: Alderperson Hopkins, Alderperson Harenda, Alderperson Stribl, Alderperson Horbinski, Alderperson Kroupa, Alderperson La Fever

Excused: Alderperson Dave Maxey

Staff Present: Mayor Dave Ament, City Attorney Thomas Schmitzer, City Clerk Rubina R. Medina

The City Clerk stated that a quorum had been established, and the meeting was properly posted.

4. APPROVAL OF MINUTES

A. December 10, 2024 Common Council Meeting Minutes

MOTION: Motion to Approve

VOTE: Motion by: Alderperson Harenda
Second by: Alderperson Kroupa
Motion Passed 6-0

5. REPORTS

A. City Clerk

The City Clerk announced that a statewide primary election for the Wisconsin Superintendent of Public Instruction will take place on February 18, 2025. Absentee ballots will be mailed by January 28, 2025, to voters with absentee applications on file. If you would like an absentee ballot mailed to you, please visit the MyVote Wisconsin website at www.myvote.wi.gov. Additionally, in-person absentee voting (IPAV) will begin at City Hall on February 4, 2025, at the Clerk's Counter.
End of Report.

B. Council President

No report.

C. Mayor

- Congratulations to **Prolite Sports**, located at 2861 South James Drive, on being named our **January Business of the Month**. Prolite Sports has over 40 years of experience in the booming pickleball industry. Prolite focuses on enhancements to the player's experience within

pickleball paddles and accessories. They continue to bring to market innovative and technologically advanced paddles as well as customization of paddles for teams.

- The Streets department will continue to pickup real/natural Christmas trees throughout the month of January as staffing and the weather allows. Residents should remove lights and bases from the tree before leaving it on the end of their driveway. To advise Streets of a tree pickup please contact 262-780-4609.
- The **New Berlin History Museum** will be open on the **2nd Sunday of each month in 2025**. The museum will be open from **1pm-4pm**. For more information, please visit the New Berlin Historical Society's website.
- As a reminder, Winter Recycling Center hours are in affect. The Recycling Center will be open only on Saturdays from 8:00 a.m. until 4:00 p.m.
- As we continue through the Winter Season, please help keep **fire hydrants** clear of snow – clear an area of approximately 3 feet around the fire hydrant – every second counts in an emergency.
- Finally, in the wake of increased natural and man-made disasters, emergency preparedness has become a significant issue nationwide. The **City of New Berlin Emergency Management**, with consultation from the City of New Berlin Fire Department and Police Department, has created a **Emergency Preparedness Workbook & Guide** which provides step-by-step advice on how to prepare for, respond to, and recover from most disasters. A copy of this workbook & guide can be found on the City of New Berlin's Emergency Management webpage.

6. COMMUNICATIONS

- A. Notice of Claim: Imperial Lithographing, Inc., represented by Attorney Anthony J. Machi
Mayor Ament stated that the two claims listed under Communications have been forwarded to the City Attorney for review.
- B. Notice of Claim: Deborah R. Miller

7. PLAN COMMISSION

- A. (1) KH Discussion and possible action to recommend to Common Council approval of LD-2402701 Luke Sebald with Keller, Inc. - 12860 and 12900 W. National Avenue - 1 Lot Certified Survey Map
- MOTION:** Motion to Approve
- VOTE:** Motion by: Alderperson Stribl
Second by: Alderperson Harenda
Motion Passed 6-0
- B. Discussion and possible action to recommend to Common Council rejection of (4) KH SP-2500053 Ryan's Buying LLC – 5751 S. Sunny Slope Road - Theofila Estates Final Plat
- MOTION:** Motion to Approve the rejection
- VOTE:** Motion by: Alderperson Stribl
Second by: Alderperson Horbinski
Motion Passed 6-0

8. DEFERRED, REFERRED & TABLED ITEMS

None

9. ITEMS REMOVED FROM CONSENT AGENDA, if any

None

10. **CONSENT AGENDA**-----

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: Alderperson Stribl
Second by: Alderperson Horbinski
Motion Passed 6-0

11. MINUTES

- A.** December 10, 2024 Committee of the Whole Meeting Minutes

12. UTILITY & FINANCE

- A.** Discussion and possible action to recommend approval to the Common Council of the December 25th, 2024, Water Utility claims in the amount of \$194,209.31. Sewer Utility claims in the amount of \$773,588.70, and General City claims in the amount of \$866,783.41. US BANK VISA EFT of \$31,816.14
- B.** Discussion and possible action to recommend approval to the Common Council of the January 15th, 2024, Water Utility claims in the amount of \$155,804.30 for 2024 invoices and \$5,084 for 2025 invoices. Sewer Utility claims in the amount of \$57,013.63 for 2024 invoices and \$1,305 for 2025 invoices. General City claims in the amount of \$627,402.20 for 2024 invoices and \$202,933.95 for 2025 invoices. Tax overpayment checks totaling \$33,738.72 were also generated. We Energies EFT of \$59,401.66

13. MISCELLANEOUS

- A.** Discussion and possible action to recommend approval to the Common Council for the Director of Finance to sign the Declaration of Official Intent for the 2025 Debt Issue, not to exceed the approved 2025 Capital Improvement Budget amounts plus projected issuance costs
- B.** Discussion and possible action to recommend approval to the Common Council of the 2025 Salary Table, as presented in the agenda packet, effective January 6, 2025.
- C.** Discussion and possible action to recommend approval to the Common Council to authorize the reclassification of a Facilities Maintenance Technician position to a Lead Facilities Maintenance Technician position for the 2025 budget year

14. END CONSENT AGENDA-----

15. ADJOURN

MOTION: Motion to Adjourn at 6:14 PM

VOTE: Motion by: Alderperson Stribl
Second by: Alderperson La Fever
Motion Passed 6-0

Respectfully Submitted by:
Rubina R. Medina, City Clerk



MOTION SHEET

TO: Common Council
Mayor Ament
Ald. Horbinski

FROM: Board of Public Works/Joelle Erickson

DATE: January 28, 2025

RE: January 20, 2025, BPW items requiring Common Council action

A.	ITEM 1-25 Discussion and recommendation to the Common Council for the approval of the Two -Party Construction Agreement for the reconstruction of CTH O (Moorland Rd) from CTH ES (National Ave) to CTH D (Cleveland Ave) subject to final review as to form by the City Attorney and final plans on file.
Council Motion:	
	This item was considered at the BPW meeting on January 20, 2025. It was recommended to the Common Council by a unanimous vote. I do hereby make a motion to recommend to the Common Council to approve the Two -Party Construction Agreement for the reconstruction of CTH O (Moorland Rd) from CTH ES (National Ave) to CTH D (Cleveland Ave) subject to final review as to form by the City Attorney and final plans on file.

STAFF REPORT EXECUTIVE SUMMARY

APPLICANT/PROJECT: Waukesha County/City of New Berlin/CTH O (Moorland Road) Reconstruction

LOCATION: From CTH ES (National Avenue) to CTH D (Cleveland Avenue)

REQUEST: Approval of a Two-Party Construction Agreement for the CTH O (Moorland Road) Reconstruction Project

DCD RECOMMENDATION: Approval of the Two-Party Construction Agreement for Reconstruction of CTH O (Moorland Road) from CTH ES (National Avenue) to CTH D (Cleveland Avenue) subject to final review as to form by the City Attorney and final plans on file.

1. General:

- a. Waukesha County will be reconstructing CTH O (Moorland Road) from CTH ES (National Avenue) to CTH D (Cleveland Avenue) in 2025. As part of the reconstruction process, the City of New Berlin is responsible for the relocation of any City owned facilities within the County Right-of-Way.
- b. City owned public infrastructure relocations and improvements include the Emergency Vehicle Preemption (EVP) equipment on the traffic signals, the decorative pedestrian lights located in the terrace areas, the brick terraces, and utility structure adjustments.
- c. Funding for this agreement will be accounted for in the 2025 CIP Budget.

DETAILS IN ATTACHED STAFF REPORT

CITY OF NEW BERLIN
DEPARTMENT OF COMMUNITY DEVELOPMENT
BOARD OF PUBLIC WORKS STAFF REPORT

Meeting of January 20, 2025

Waukesha County / City of New Berlin
CTH O Reconstruction – CTH ES to CTH D

DATE STAFF REPORT CREATED: January 15, 2025

PROJECT NAME: Allison Bussler / Waukesha County

NAME OF PROJECT: CTH O (Moorland Road) Reconstruction

PROJECT LIMITS: CTH ES (National Avenue) to CTH D (Cleveland Avenue)

TYPE OF PROJECT: Reconstruction

CONSTRUCTION DATE: 2025

SUMMARY OF CITY INFRASTRUCTURE COSTS:

Sanitary Sewer:	19 Manhole Adjustments
Water Main:	4 Hydrant relocates, 32 Valve Box Adjustments
EVP:	2 Intersection EVP Equipment Removals & Reinstalls
Terrace Areas	40 CY
Street Lighting:	13 new pole Installations (National to Coffee, East side only)

ESTIMATED AMOUNT OF COST SHARE: \$304,768.81

PROJECT FUNDING: 04251100 63029 C2025 Moorland Rd – National to Greenfield \$440,000

DCD RECOMMENDATION: Approval of the Two-Party Construction Agreement for Reconstruction of CTH O (Moorland Road) from CTH ES (National Avenue) to CTH D (Cleveland Avenue) subject to final review as to form by the City Attorney and final plans on file.
SEE EXECUTIVE SUMMARY.

Attachments:

Location Map & Info
Two-Party Construction Agreement
Cost Estimate

Plans on file with the City Engineering Department

TWO-PARTY CONSTRUCTION AGREEMENT
Between
WAUKESHA COUNTY by the DEPARTMENT OF PUBLIC WORKS
And
The CITY OF NEW BERLIN

This Agreement is made and entered into between Waukesha County by the Department of Public Works (hereinafter called the "DEPARTMENT") and the City of New Berlin (hereinafter called the "CITY") to designate the responsibility for design, construction, maintenance and payment of certain costs associated with improvements and other items to be designed and constructed in conjunction with the DEPARTMENT'S pavement replacement of Moorland Road (CTH O), CTH ES to CTH D under Project Number 2722-08-01/71 (hereinafter called the "Project").

WHEREAS, the DEPARTMENT is planning for the pavement replacement of Moorland Road (CTH O) within the City of New Berlin in 2025, and

WHEREAS, the Project will include various road and infrastructure improvements that will be funded by the CITY and the DEPARTMENT, and

WHEREAS, the DEPARTMENT and the CITY agree to enter into this mutually beneficial agreement to construct and maintain improvements and other items concurrent with and under the same contracts as the Project, and

WHEREAS, the CITY agrees to pay the costs associated with the actual construction costs of Non-Participating Items listed in the cost estimate attached hereto as Attachment 1 and incorporated by reference, including the actual construction costs and construction engineering necessary to incorporate those Non-Participating Items into the Project, and

NOW, THEREFORE, BE IT RESOLVED, that the parties do mutually agree to the responsibilities related to the design and construction of the Non-Participating Items and to the funding of said construction as described below:

RESPONSIBILITIES:

The DEPARTMENT shall:

1. Through WDOT, finance and pay for the Municipal costs share of design and construction of the Project and subject to the terms of this Agreement.
2. Make the necessary changes to the contract plans, specifications and estimates in order to include the Non-Participating Items requested by the CITY, which are described in Attachment 1.
3. Through WDOT, publically bid said roadway improvement under Project Number 2722-08-71 in accordance with all applicable state and local laws.

4. Through WDOT's construction management, keep accurate accounts of all construction activities, changes in work, construction costs, and any delays or additional work necessary to complete the Project and accurately assess any incremental increases or decreases in quantities or costs.
5. Make available to the City, with reasonable notice, bidding documents, bid results, notice of award, and copies of all records recommendations of awards, reports, engineer findings, and correspondence regarding said roadway improvements.
6. Duly execute, award, and administer all such construction contracts necessary to complete the Project, including the Non-Participating Items, in an expeditious fashion in accordance with generally approved engineering and construction standards.
7. Issue work change directives, change orders, or other appropriate documents to the contractor, as contract or construction changes dictate, to expedite the progress of the construction work. Any document that would increase the CITY's costs shall be provided before execution by the DEPARTMENT, via email, to the CITY'S Representative for review, and the DEPARTMENT shall consider CITY'S comments thereon if received by the DEPARTMENT within two business days of the time the document was emailed to the CITY'S Representative.
8. Upon completion of the Project, furnish to the CITY a detailed breakdown of all actual construction costs incurred for the Non-Participating Items, including all change orders, work change directives and construction management services.
9. Invoice the CITY for construction costs on completion of Project.

The CITY shall:

1. Pay the actual costs associated for the Non-Participating Items listed in Attachment 1, including the actual construction engineering costs for such items (10% of construction cost). It is understood that Non-Participating Items listed in Attachment 1 are the **PS&E estimated bid costs** for such items (\$277,062.55) and **estimated construction engineering costs** (\$27,706.26), for a **total estimated cost of** (\$304,768.81). The CITY shall pay the total actual as-bid and as-built costs for these items when they are invoiced by the DEPARTMENT.
2. Within 30 days of receipt of an invoice from the DEPARTMENT, pay the entire actual design/construction invoice costs for the items that are the responsibility of the CITY.
3. Upon completion of the Project, accept ownership and all future maintenance responsibilities for all Non-Participating Items.
4. Designate a representative to act for the CITY under this Agreement. The representative shall be:

Tamara M. Simonson, P.E.
City Engineer, City of New Berlin
3805 S. Casper Drive
New Berlin, WI 53151
262.797.2445
tsimonson@newberlin.org

OTHER TERMS

1. Assignment: The parties agree that there shall be no assignment or transfer of this Agreement nor of any interests, rights or responsibilities contained herein without a written amendment agreed to by both parties.
2. Amendment: The parties, by mutual consent, may amend this Agreement in writing at any time.
3. Severability: If any provision of this Agreement is held invalid under any applicable law, such invalidity shall not affect any other provision of this Agreement that can be given effect without the invalid provision and, to this end, the provisions hereof are severable.

Attachment 1: Item Description and Estimated Cost

APPROVAL

This Agreement will be effective on the date of the DEPARTMENT'S signature.

CITY:

By: _____ Date: _____

By: _____ Date: _____

COUNTERSIGNED: funds necessary to pay the liabilities of this contract have been provided.
§62.09(10)(f), Wis. Stats.

By: _____ Date: _____

DEPARTMENT:

CITY:

By: _____ Date: _____
Allison Bussler
Director of Public Works

Address for DEPARTMENT:

Address for CITY:

Waukesha County Department of
Public Works
515 W. Moreland Blvd. Room AC 210
Waukesha, WI 53188

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

Attachment 1

PS&E ESTIMATE OF QUANTITIES

Project ID 2722-08-01/71
 Title Moorland Road (CTH O)
 Limits CTH ES to CTH D
 County Waukesha County

Item Number	Description	Unit	Est. Quantity	Est. Bid Price	Extension
405.0200	Coloring Concrete Custom	CY	40	\$170.00	\$6,800.00
405.1000	Stamping Colored Concrete	CY	40	\$200.00	\$8,000.00
612.0902.S	Insulation Board Polystyrene (2-Inch)	SY	76	\$45.00	\$3,420.00
652.0225	Conduit Rigid Nonmetallic Schedule 40 2-Inch	LF	1,485	\$12.75	\$18,933.75
655.0625	Electric Wire Lighting 6 AWG	LF	12,201	\$2.00	\$24,402.00
655.0900	Traffic Signal EVP Detector Cable	LF	2,232	\$2.40	\$5,356.80
SPV.0060	Special 01. 15-foot Decorative Light Pole	EACH	13	\$8,000.00	\$104,000.00
SPV.0060	Special 02. Decorative Luminaire Arm	EACH	13	\$1,000.00	\$13,000.00
SPV.0060	Special 03. Decorative LED Luminaire	EACH	13	\$300.00	\$3,900.00
SPV.0060	Special 04. Decorative Banner Arm	EACH	13	\$1,000.00	\$13,000.00
SPV.0060	Special 05. Concrete Bases Type 5 Modified	EACH	13	\$1,000.00	\$13,000.00
SPV.0060	Special 06. Furnish and Install Dead-Front GFCI	EACH	13	\$200.00	\$2,600.00
SPV.0060	Special 09. Adjusting Sanitary Manhole Covers	EACH	19	\$750.00	\$14,250.00
SPV.0060	Special 10. Adjusting Water Valve Boxes	EACH	32	\$200.00	\$6,400.00
SPV.0060	Special 11. Adjusting Water Manhole Covers	EACH	3	\$800.00	\$2,400.00
SPV.0060	Special 12. EVP Equipment Installation CTH O (S Moorland Rd) & W Ryerson Rd	EACH	1	\$9,400.00	\$9,400.00
SPV.0060	Special 13. Reinstall Temporary EVP Equipment CTH O (S Moorland Rd) & W Ryerson Rd	EACH	1	\$9,200.00	\$9,200.00
SPV.0060	Special 18. Relocating Hydrant	EACH	4	\$2,500.00	\$10,000.00
SPV.0060	Special 19. Reconstructing Sanitary Manholes	EACH	2	\$2,000.00	\$4,000.00
SPV.0060	Special 27. Reconnect EVP System CTH O (S Moorland Rd) & W Coffee Rd	EACH	1	\$5,000.00	\$5,000.00
					\$0.00
CITY OF NEW BERLIN SUBTOTAL					\$277,062.55
CONSTRUCTION ENGINEERING (10%)					\$27,706.26
ESTIMATED CITY OF NEW BERLIN COST					\$304,768.81



Project Summary – January 3, 2022

Project 2722-08-01

Moorland Road (County O)

W. Cleveland Avenue (County D) to W. National Avenue (County ES)

City of New Berlin | Construction is anticipated to begin in 2025

Project Overview

Waukesha County is planning and designing improvements to Moorland Road between National Avenue and Cleveland Avenue in the City of New Berlin. The road is a key link in the region's transportation system, carrying more than 30,000 vehicles on an average day and providing access to shopping, jobs, schools, and services.

At just over one mile in length, this pavement replacement project will bring Moorland Road up to current safety standards and serve the region's growing traffic volumes. Project details are being determined, and may include

- replacing the existing concrete pavement
- reconfiguring intersections and lanes to improve safety and capacity
- replacing and upgrading traffic signals
- investigating the addition of sidewalks and/or bicycle lanes

It is anticipated that the outside curb line will remain in its current location, with the exception of intersection areas that may require minor widening. Access to businesses and residences along Moorland Road will be maintained during and after construction. This project is being coordinated with similar improvements on Moorland Road between I-94 to I-43.

Project Funding

Reconstructing this segment of Moorland Road is part of the county's capital program. The project is being designed and constructed through the Wisconsin Department of Transportation's (WisDOT) Surface Transportation Program - Urban (STP-U), which allows federal funding for a wide range of transportation-related activities, including projects on higher-function local roads and local safety improvements.

Waukesha County, WisDOT, and the Federal Highway Administration will coordinate and review design and construction. All entities have committed funds to design and build the project. Also, City of New Berlin will participate in funding of requested amenities for the project that may include sidewalks, street lighting, or other features.

Project Schedule

Project Design	Fall 2021 – Fall 2023	
<i>Public Involvement</i>	Public Involvement Meeting 1	Late Winter 2021-22
	Public Involvement Meeting 2	Fall 2022
	Public Involvement Meeting 3	Fall 2024
Construction	Spring 2025 – Fall 2025	

Contact Us

Questions or comments about this project? Reach out to:

Edward Hinrichs, Waukesha County Project Manager at 262-548-7740 or EHinrichs@WaukeshaCounty.gov or

William Schilling, AECOM Project Manager at 414-418-1964 or bill.schilling@aecom.com.



0 1,000 2,000
Feet

**Moorland Road (CTH O)
Cleveland Ave to National Ave
State Project ID 2722-08-01
Waukesha County, WI**



2722-08-01

County Highway O • Moorland Rd

National Ave (County Highway ES) to **Cleveland Ave** (County Highway D)
City of New Berlin

Project Overview

In 2021, Waukesha County will begin a study of Moorland Road between CTH ES (National Avenue and CTH D (Cleveland Avenue) in the City of New Berlin. The transportation improvement is being studied to address growing local and regional traffic volumes, and to enhance traffic flow and safety.

This 1.3-mile project involves

- pavement replacement of the existing roadway core of Moorland Road
- bring project area up to current safety standards

Additional improvements may include

- reconfiguring intersections to improve safety and lane capacity,
- replacing traffic signals,
- minor grading,
- storm water improvements,
- investigating the feasibility of including sidewalks and bicycle accommodations on one or both sides of the roadway.

Access to businesses and residential properties adjacent to Moorland Road **will be maintained during construction.**

Project Funding

Reconstructing this segment of Moorland Road is part of Waukesha County’s capital program and uses Wisconsin Department of Transportation’s (WisDOT) “Surface Transportation Program – Urban” (STP-U), which allows federal funding for a wide range of transportation-related activities, including projects on higher-function local roads not on the State Trunk Highway system and local safety improvements.

On a STP-U project, Waukesha County, WisDOT, and the Federal Highway Administration coordinate and review design and construction. All entities have committed funds to design and construction. Also, City of New Berlin will participate in funding requested amenities for the project that may include sidewalks, street lighting, or other features.

Anticipated Schedule

Summer 2021 to August 2024	Data Gathering and Design
Winter 2021-22	Public Involvement Meeting #1
Fall 2022	Public Involvement Meeting #2
Spring 2023	Real Estate Acquisition
December 2024	Project LET
Spring 2025	Construction

Project Contacts

Ed Hinrichs, P.E. Project Manager Waukesha County 262-548-7740 EHinrichs@WaukeshaCounty.gov	William Schilling, P.E. Project Manager AECOM 414-944-6080 Bill.Schilling@aecom.com
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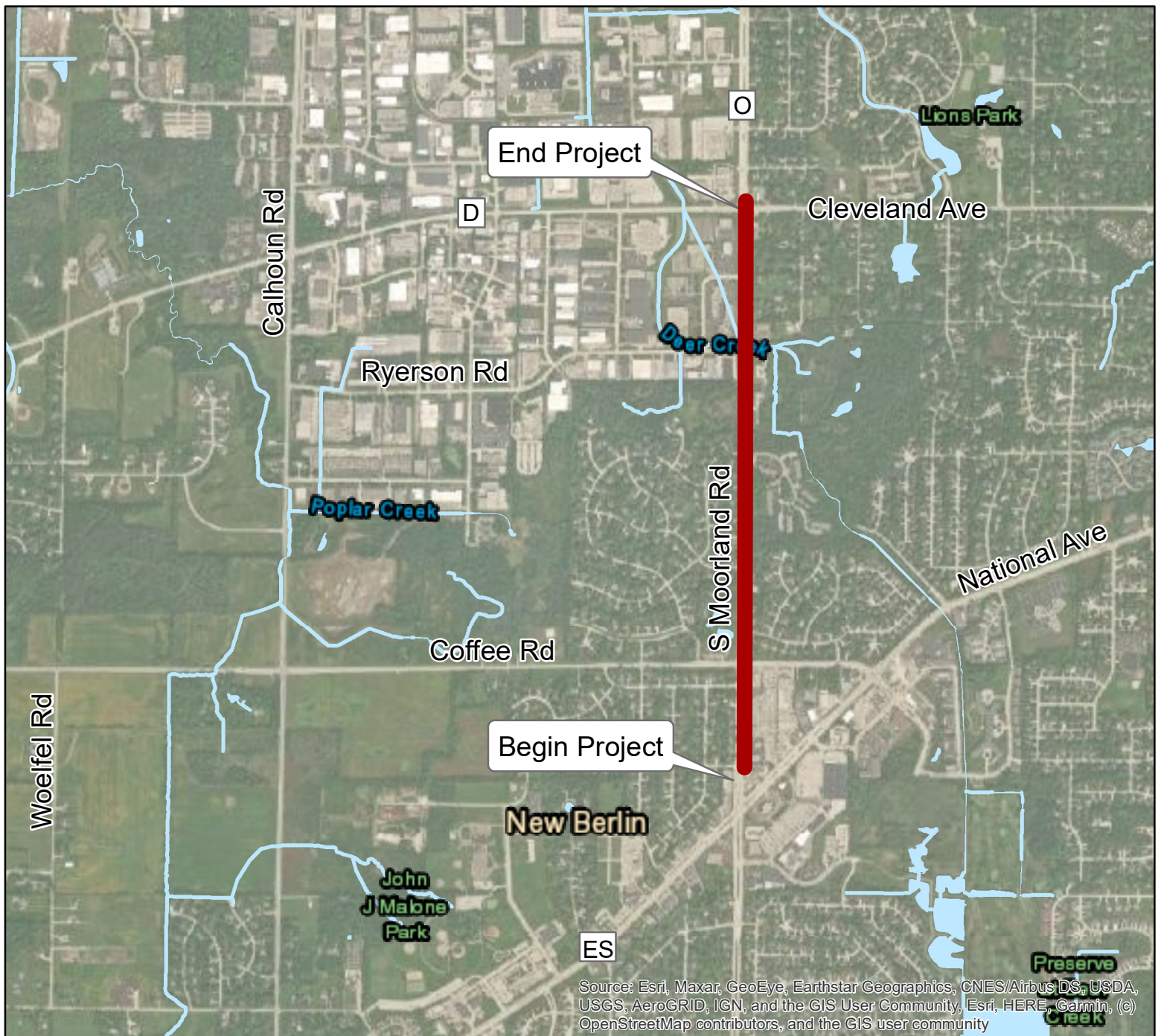


Exhibit 2:
Project Location Map (Project Area)
CTH O (Moorland Road)
CTH ES to CTH D
Local Street
Project ID 2722-08-01



0 0.25 0.5 1
 Miles



UTILITY STAFF REPORT EXECUTIVE SUMMARY

CUSTOMER/PROJECT: Milwaukee Metro Sewerage District (MMSD) Funding Agreement

LOCATION: Citywide

REQUEST: To Approve the Funding Agreement Between Milwaukee Metro Sewerage District (MMSD) and the City of New Berlin Utilities Department

UTILITY MANAGER RECOMMENDATION:

Recommend to the Common Council to approve the Milwaukee Metro Sewerage District (MMSD) Funding Agreement for the Private Property Infiltration and Inflow (PPI/I) in an amount not to exceed \$338,400.00 for cost incurred throughout the work described in Attachment A in this agreement.

DETAILS IN ATTACHED STAFF REPORT

CITY OF NEW BERLIN
UTILITIES DEPARTMENT
STAFF REPORT

NEW BERLIN – MMSD PPI 2025 Funding Agreement

DATE STAFF REPORT CREATED:	January 21, 2025
CUSTOMER/PROJECT NAME:	MMSD Funding Agreement
ISSUE/DESCRIPTION OF PROJECT:	This project consists of PPI/I repairs to laterals from the upcoming 2025 Dye Water Testing Project.
DATE OF COMPLETENESS DETERMINATION:	December 2025
REQUESTED ACTION:	Recommend to the Common Council to approve the Milwaukee Metro Sewerage District (MMSD) Funding Agreement for the Private Property Infiltration and Inflow (PPI/I) in an amount not to exceed \$338,400.00 for cost incurred throughout the work described in Attachment A in this agreement.
FISCAL IMPACT:	\$338,400.00 (Funds to be reimbursed from MMSD Intergovernmental Agreement)
SOURCE OF FUNDS:	MMSD Grant Fund Account/Utility will be reimbursed for expenses. Account 81001131-52050.
RATIONALE:	To repair private lateral to reduce infiltration and inflow to prevent basement backups.
PREVIOUS ACTION:	N/A
FINDINGS:	N/A
UTILITY MANAGER RECOMMENDATION:	See Executive Summary
ATTACHMENTS:	Funding Agreement M10005NB04

Funding Agreement M10005NB04

Private Property Infiltration and Inflow Reduction Program Agreement

This Agreement is made between the Milwaukee Metropolitan Sewerage District (“District”) with its principal place of business at 260 West Seeboth Street, Milwaukee, Wisconsin 53204-1446 and the City of New Berlin (“Municipality”) with its municipal offices at 3805 South Casper Drive, New Berlin, Wisconsin 53151.

WHEREAS, Wisconsin law, through Wis. Stats. § 66.0301 Stats., authorizes any municipality to enter into an intergovernmental cooperation agreement with another municipality for the furnishing of services; and

WHEREAS, the District is responsible for collecting and treating wastewater from the Municipality’s locally owned wastewater collection system; and

WHEREAS, the Municipality’s sewers collect wastewater from lateral sewers located on private property and owned by private property owners; and

WHEREAS, during wet weather events stormwater enters lateral sewers through defective pipes and leaky joints and connections (“infiltration”) and stormwater also enters lateral sewers from foundation drains, improper connections, and other sources (“inflow”); and

WHEREAS, infiltration and inflow increase the amount of wastewater that the District must collect and treat; and

WHEREAS, during wet weather events infiltration and inflow (“I/I”) into privately owned sewers contributes to the risk of sewer overflows; and

WHEREAS, the District has established the Private Property Infiltration and Inflow Reduction Program (“Program”) to provide guidelines, requirements, and a funding structure for municipalities to complete I/I reduction work on private property as more fully set forth in the Statement of Policy, Milwaukee Metropolitan Sewerage District Private Property Infiltration and Inflow Reduction Program (“Policy”); and

WHEREAS, the Municipality wishes to participate in the Program,

NOW, THEREFORE, in consideration of the mutual promises made by the parties to this Agreement, the parties agree as follows:

1. Term of Agreement

This Agreement becomes effective immediately upon signature by both parties and shall remain in effect until the earliest of (1) the Municipality receiving final payment from the District, (2) September 31st, 2025, or (3) termination of this Agreement as otherwise set forth herein.

2. District Funding

The District shall reimburse the Municipality in an amount not to exceed \$338,400.00 for approved private property I/I costs incurred through the work described in Attachment A (“Work” or “Work Plan”). Provided the Municipality is in compliance with the terms of this Agreement, the District funding shall be provided on a reimbursement basis in accordance with

Section 8 below. No reimbursement will be made for costs incurred prior to the effective date of this Agreement or for costs that are not supported by documentation as outlined by this Agreement.

3. Program Publicity and Outreach Requirements

The Municipality shall identify the District as a funder in informational literature and signage relating to the Work. Samples of all public involvement/public education documents shall be provided to the District for review prior to being distributed to the public.

A minimum of a one week notice of any public meetings shall be provided to the District. In the event the District is unable to attend and participate, detailed meeting minutes shall be provided within five days of the meeting.

4. Reserved

5. Selection of Non-Professional Service Providers by Municipality

Pursuant to a public Request for Qualifications process, the District has developed an Approved Contractors List organized by work type to ensure all Work funded by the District maintains specific quality standards. Those Approved Contractors and their suppliers can submit products they intend to utilize for inclusion in the District's Approved Products List. The appropriate subset of the Approved Contractor List and the Approved Products List shall be utilized as part of Municipality's bidding process for contracts to perform Work funded by this Agreement.

In addition to the above, all non-professional service providers to perform Work funded by this Agreement (for example: construction, sewer inspection, post-construction restoration) shall be procured in accordance with both State of Wisconsin statutes and regulations and the Municipality's ordinances and policies. Whenever Work valued over \$25,000 is procured without the use of a public sealed bidding process, the District may request, and the Municipality must provide, an opinion from a licensed attorney representing the Municipality stating that the procurement is in compliance with State of Wisconsin law and Municipal ordinances.

In addition:

- a. The Municipality shall provide the District with the opportunity to review and comment on the complete set of bidding documents prior to solicitation of bids, quotes, or proposals as set forth in Attachment B;
- b. Municipality shall provide the District with all bids and proposals for review prior to the award of the contract, as set forth in Attachment B. The District reserves the right to revoke funding based on project award to contractors who are not on the District's list of Authorized Contractors.

6. Non-professional Service Contract Terms and Conditions

The Municipality agrees to include Attachment C in all non-professional service contracts relating to the Work. Failure to include Attachment C in the non-professional service contracts will constitute a material breach of this Agreement.

7. Contractor Pay Applications

The District recommends referring to Attachment D, Contractor Pay Application Example, as a format for processing Municipality/Contractor pay applications. The District recommends submitting all pay applications and supporting documentation received from the Contractor, reviewed by Municipality, to the District through the District Municipal Portal prior to paying the Contractor request for payment.

8. Procedure for Reimbursement

The Municipality shall submit reimbursement requests to the District a minimum of two times throughout this Agreement.

Each reimbursement request shall include:

- a. An invoice from the Municipality clearly stating the requested reimbursement amount;
- b. All consultant invoices with hourly billing rates, hours worked by individuals with billing backup task entries, consultant expense documentation, and a summary of the status of contract tasks; and
- c. Contractor pay applications with units and cost for scope of work not funded by this Agreement clearly segregated and itemized. All contractor pay applications shall include supporting documentation confirming that the Municipality has received and reviewed a proportionate amount of construction contract deliverables as applicable to Attachment B Agreement Deliverables for which the Contractor is responsible.

Reimbursement requests should be submitted within a reasonable period of time of the costs being incurred. The initial reimbursement request shall be submitted prior to 50 % of Work being completed. The final reimbursement request shall be submitted upon completion of all Work. All reimbursement requests must be received prior to the expiration of this Agreement.

Reimbursement requests and the supporting documentation of costs shall be submitted through eBuilder. The corresponding deliverables shall be submitted as set forth in Attachment B. Questions concerning the Procedure for Reimbursement as provided for in this Section should be directed to the District's Project Manager (PM):

Becky Specht, P.E.
Urban Water Manager
Milwaukee Metropolitan Sewerage District
260 West Seeboth Street.
Milwaukee, WI 53204-1446

Final payment will not be provided until the Work is complete and all deliverables set forth in Attachment B have been received. The District shall attempt to reimburse requested amounts within 30 days of such request provided the applicable supporting documentation is included. The District will reject any reimbursement requests that do not strictly adhere to the requirements of this Section and will require the Municipality to resubmit any such requests. The District is

not responsible for any interest or fees associated with any reimbursement requests submitted by the Municipality which do not strictly adhere to the requirements of this Section.

9. Changes in Work and Modifications to the Agreement

Any proposed changes to the Work must be submitted to the District, in writing, in advance of the Work being completed. The District will not reimburse for Work that is not included in Attachment A (including all professional services and non-professional services contracts procured through the Work outlined in Attachment A) unless prior written approval has been requested from the District and approval has been obtained through the eBuilder change process.

This Agreement may be modified only in writing signed by both parties or through the eBuilder change process.

10. Responsibility for Work

The Municipality is responsible for overseeing construction and shall provide full time construction inspection for all Work. Each inspector shall be experienced, qualified, and certified for the scope of the Work.

11. Post-Construction Verification

The Municipality and its contractor(s), if applicable, shall report to the District any problems or warranty defects that arise with or related to the completed Work, whether discovered through inspection or through complaints from homeowners, for a period of 10 years following substantial completion of the Work. The Municipality shall also report any actions taken to investigate the complaint, and if within the warranty period, steps taken to resolve the issue.

The Municipality shall be responsible for reporting post-Work flow monitoring data and or other data related to identified measures of success for at least five years post-Work completion or as long as data is available, whichever period is longer.

All warranty inspection costs incurred by the District due to Municipality's failure to enforce the warranty inspection requirement in its construction contract(s) shall either be: (1) deducted from Municipality's Program account; or (2) invoiced to Municipality. The terms of this Section 11 shall survive termination of this Agreement.

12. Permits, Certificates, and Licenses

The Municipality is solely responsible for ensuring compliance with all federal, state, and local laws requiring permits, certificates, and licenses required to implement the Work.

13. Insurance

The District shall not provide any insurance coverage of any kind for the Work or for the Municipality. Municipality shall ensure that each contractor and subcontractor have adequate insurance to perform the Work and names the Municipality as an additional insured on its applicable insurance policies.

14. Terminating the Agreement

The District may terminate this Agreement at any time prior to commencement of the Work. After the Work has commenced, the District may terminate this Agreement only for good cause such as, but not limited to, breach of this Agreement by the Municipality. The Municipality may terminate this Agreement at any time but will not receive any payment from the District if the Work is not completed.

15. Exclusive Agreement

This is the entire Agreement between the Municipality and the District regarding reimbursement for Work.

16. Severability

If any part of this Agreement is held unenforceable, the rest of the Agreement will continue in full force and effect.

17. Applicable Law

This Agreement shall be governed by the laws of the State of Wisconsin.

18. Resolving Disputes

If a dispute arises under this Agreement, the parties agree to first try to resolve the dispute with the help of a mutually agreed-upon mediator in Milwaukee County. Any costs and fees, other than attorneys' fees, associated with the mediation shall be shared equally by the parties. If the dispute is not resolved within 30 days after it is referred to the mediator, either party may take the matter to court. Venue in any action brought under this Agreement shall be proper only in either Circuit Court for Milwaukee County or the United States District Court for the Eastern District of Wisconsin.

19. Notices

Unless otherwise set forth herein, all notices and other communications in connection with this Agreement shall be in writing and shall be considered given as follows:

- When delivered personally to the recipient's address as stated on this Agreement; or
- Three days after being deposited in the United States mail, with postage prepaid to the recipient's address as stated on this Agreement.

20. No Partnership

This Agreement does not create a partnership relationship nor give the Municipality the authority to make promises binding upon the District. The Municipality does not have the authority to enter into contracts on the District's behalf.

21. Assignment

The Municipality may not assign any rights or obligations under this Agreement without the District's prior written approval.

22. Public Records

The Municipality agrees to cooperate and assist the District in the production of any records as related to this Agreement in the possession of the Municipality that are subject to disclosure by the District pursuant to the State of Wisconsin's Open Records Laws, Wis. Stats. §§ 19.31 to 19.39. The Municipality agrees to indemnify the District against any and all claims, demands, and causes of action resulting from any failure of the Municipality to comply with this requirement.

Nothing contained within this Agreement is intended to be a waiver or estoppel of the Municipality or its insurer to rely upon the limitations, defenses, and immunities contained within Wisconsin law, including those contained within Wisconsin Statutes §§ 893.80, 895.52, and 345.05. To the extent that indemnification is available and enforceable, the Municipality or its insurer shall not be liable in indemnity or contribution for an amount greater than the limits of liability for municipal claims established by Wisconsin Law and further shall not be required to indemnify the District against their own negligent or intentional conduct.

23. Indemnification

The Municipality will defend, indemnify, and hold harmless the District and its commissioners, employees, and agents against any and all claims, damages, costs, liabilities, and expenses whatsoever, including attorneys' fees and related disbursements, arising from or connected with the planning, design, construction, operation, and/or maintenance of the Work.

Nothing contained within this Agreement is intended to be a waiver or estoppel of the Municipality or its insurer to rely upon the limitations, defenses, and immunities contained within Wisconsin law, including those contained within Wisconsin Statutes §§ 893.80, 895.46, and 345.05. To the extent that indemnification is available and enforceable, the Municipality or its insurer shall not be liable in indemnity or contribution for an amount greater than the limits of liability for municipal claims established by Wisconsin Law and further shall not be required to indemnify the District against their own negligent or intentional conduct.

*****REMAINDER OF PAGE LEFT BLANK INTENTIONALLY*****

*****SIGNATURE PAGE TO FOLLOW*****

**MILWAUKEE METROPOLITAN
SEWERAGE DISTRICT**

CITY OF NEW BERLIN

By: _____

Kevin L. Shafer, P.E., Executive
Director

By: _____

Dave Ament, Mayor

Date: _____

Date: _____

Approved as to form:

Attorney for the District

UTILITY STAFF REPORT EXECUTIVE SUMMARY

CUSTOMER/PROJECT: Calhoun Tower Gas Easement

LOCATION: 2600 South Calhoun Road

REQUEST: Approval of a gas easement agreement with We
Energies at 2600 South Calhoun Road/Tower 1

UTILITY MANAGER RECOMMENDATION:

Discussion and possible recommendation to Common Council to approve a gas service easement agreement with We Energies for Calhoun Tower, as reviewed and approved by the City Attorney.

DETAILS IN ATTACHED STAFF REPORT

CITY OF NEW BERLIN
UTILITIES DEPARTMENT
STAFF REPORT

Calhoun Tower Gas Easement

DATE STAFF REPORT CREATED:	January 24, 2025
CUSTOMER/PROJECT NAME:	Calhoun Tower Gas Easement
ISSUE/DESCRIPTION OF PROJECT:	Approval of a Gas Easement Agreement with We Energies at 2600 South Calhoun Road/Tower 1
REQUESTED ACTION:	Discussion and possible recommendation to Common Council to approve a gas service easement agreement with We Energies for Calhoun Tower, as reviewed and approved by the City Attorney.
FISCAL IMPACT:	N/A
SOURCE OF FUNDS:	N/A
RATIONALE:	Provide gas service to a new generator per the lease amendment with AT&T.
PREVIOUS ACTION:	N/A
FINDINGS:	N/A
UTILITY MANAGER RECOMMENDATION:	See Executive Summary
ATTACHMENTS:	Bid Award Recommendation Letter

LEGEND

Light Post

Utility Pole

Open Grate Storm Manhole

Storm Curb Inlet

Water Service Valve

Fire Hydrant

Gas Meter

Electric Meter

Communication Pedestal

Electrical Pedestal

Miscellaneous Sign

Centerline of Chainlink Fence

OHW

Underground Storm Line

Underground Water Line

Underground Electric Line

Underground Gas Line

Underground Communication Line

Found Iron Stake as noted

Found Mag Nail

Property Line

Parcel Line

Building

Asphalt

Concrete

Proposed

Lease Parcel

Utility Easement

Spot Elevation

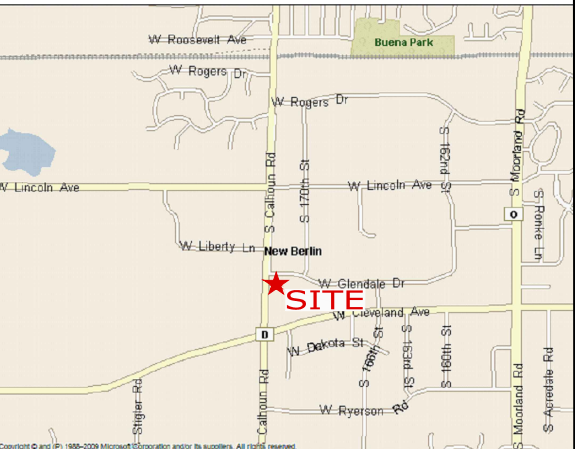
Finished Floor Elevation

P.O.C. Point of Commencement

P.O.B. Point of Beginning

Non-Deciduous Tree with Size in Inches

Location Map



NOT TO SCALE

Survey Notes

EASEMENTS AND SETBACKS SHOWN HEREON ARE BASED UPON THE RECORDED SUBDIVISION PLAT UNLESS NOTED OTHERWISE.

THE SURVEYOR EXPRESSES NO OPINION AS TO THE ACCURACY OF ANY UNDERGROUND UTILITIES WHEN NOT READILY VISIBLE FROM THE SURFACE. IT IS RECOMMENDED THAT THE APPROPRIATE GOVERNMENTAL AGENCY, MUNICIPALITY AND/OR UTILITY COMPANY BE CONTACTED FOR VERIFICATION.

THE PERMANENT PARCEL INDEX NUMBER FOR THE PROPERTY ENCUMBERED BY THE LEASE PARCEL DESCRIBED HEREON IS NBC 1190.029.

THE FLOOD RATE INSURANCE MAP SHOWS THAT THE PROPOSED LEASE AREA AND EASEMENTS DESCRIBED HEREON ARE FALLING WITHIN ZONE "X", FOUND ON MAP NUMBER 55133C0332G, WAUKESHA COUNTY AND INCORPORATED AREAS, MAP EFFECTIVE NOVEMBER 5, 2014. ZONE "X" IS AREA OF MINIMAL FLOOD HAZARD.

EASEMENTS AND SERVITUDES SHOWN HEREON ARE BASED UPON A REPORT OF TITLE BY U.S. TITLE SOLUTIONS, AND IDENTIFIED AS FILE NO. UST76370, REFERENCE NO. 10011994/ CALHOUN / WIO169, DATE OF REPORT: DECEMBER 06, 2023, BEGINNING JULY 10, 1969 AND EXTENDING THROUGH OCTOBER 16, 2023.

LOT 1

New Berlin Industrial Park

Calhoun Road Subdivision No. 2

Transformer on Pad

Grounding Well (Typical)

Generator Control Box

Electrical Box

Equipment Shelter on Concrete Pad

Proposed 4'x10' Generator

Utility Doghouse

A/C Unit (Typical)

22'x40' AT&T Lease Site*

PROPOSED 4.5'x14' LEASE PARCEL

Water Tower on Concrete Base

12' AT&T Access Easement*

8' AT&T Utility Easement*

6' AT&T Cable Easement*

50' Building Setback Line

Asphalt Drive

Site Benchmark: Chiseled Square on Top of Concrete Wall Elevation = 888.24

Wisconsin Gas Co. Easement Vol. 838, P. 396, Document 516943

20' Access Easement per Documents 2626173, 2708818 and 3574293

*Lease Site and Easements per ALTA Survey prepared by Advanced Surveying & Mapping, Inc. for Ameritech Mobile Communication, Inc. (AMCI) dated September 8, 1999, Project Number 220585. (Now AT&T per Accordance of Agreement per Document 4269373)

6. 7/17/2024 REVISED TO ADD PROPOSED 5' UTILITY EASEMENT

BASIS OF BEARING

BEARINGS SHOWN HEREON ARE BASED ON WISCONSIN STATE PLANE, SOUTH ZONE, NAD83 (2011)

MEAN MAGNETIC DECLINATION OBTAINED FROM U.S.G.S. 7 1/2 MINUTE SERIES MAP MUSKEGO QUADRANGLE STATE OF WISCONSIN

SCALE : 1" = 20'

11" X 17" PRINT IS THE FULL SCALE FORMAT OF THIS SURVEY. ANY OTHER SIZE IS AT AN ADJUSTED SCALE.

UTM GRID AND 2019 MAGNETIC NORTH DECLINATION AT CENTER OF QUAD MAP

3°39' 65 MILS

0°49' 15 MILS

SHEET INDEX

SHEET L-1 : LEASE PARCEL TOPOGRAPHIC DETAIL

SHEET L-2 : LEASE PARCEL TOPOGRAPHIC DETAIL

SHEET L-3 : PARENT TRACT DETAIL AND LEGAL DESCRIPTION

SHEET L-4 : LEASE PARCEL AND EASEMENT DETAILS AND LEGAL DESCRIPTIONS

BENCHMARK INFO

SOURCE BENCHMARK: NGS MONUMENT

DESIGNATION - BROOKFIELD S GPS

PID - DF9881

STATE / COUNTY - WI / WAUKESHA

USGS QUAD - WAUKESHA (2018)

ELEVATION = 864.14' (NAVD88)

811

Know what's below. Call before you dig.

SURVEYOR'S CERTIFICATE

STATE OF ILLINOIS } SS

COUNTY OF KANE }

I, CAROL A. SWEET-JOHNSON, AN WISCONSIN PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PLAT SHOWN HEREON, BEING COMPLETED IN THE FIELD ON 6/30/2023 IS A CORRECT REPRESENTATION OF A SURVEY PERFORMED AT AND UNDER MY DIRECTION.

THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS FOR A PROPERTY SURVEYS SET FORTH BY WISCONSIN STATE LAW AE 7.

ALL DIMENSIONS ARE IN FEET AND DECIMAL PARTS THEREOF.

GIVEN UNDER MY HAND AND SEAL THIS 17TH DAY OF JULY, A.D. 2024.

CAROL A. SWEET-JOHNSON
WISCONSIN PROFESSIONAL LAND SURVEYOR NO. 2542
LICENSE EXPIRES 1/31/2026

WISCONSIN LAND SURVEYOR

CAROL A. SWEET-JOHNSON
2542
BATAVIA
ILLINOIS

ADVANCED SURVEYING & MAPPING

Putting the Pieces Together....

Since 1984

PREPARED BY:

ASM

ASM Consultants, Inc.
16 E Wilson St - Batavia IL 60510
(630) 879-0200 - advanced@advct.com
Professional Design Firm #184-006014 expires 4/30/2025
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PLAT OF SURVEY OF LEASE PARCEL AND EASEMENT

PREPARED FOR:

at&t

MasTec
Network Solutions
507 Airport Blvd, Ste. 111
Morrisville, NC 27560

NO. DATE REVISION

1. 10/02/2023 FIELD SURVEY COMPLETED

2. 10/16/2023 ISSUED PRELIMINARY SURVEY

3. 12/06/2023 FINAL SURVEY COMPLETED

4. 12/15/2023 REVISED TO REFLECT TITLE REPORT AND 9'X14' LEASE PARCEL

5. 4/18/2024 REVISED TO REFLECT 4.5'X14' LEASE PARCEL

SITE DESIGNATION INFORMATION:

CALHOUN

WI0169

2620 S. CALHOUN RD.

NEW BERLIN, WI 53151

WAUKESHA COUNTY

DRAWN BY: EM

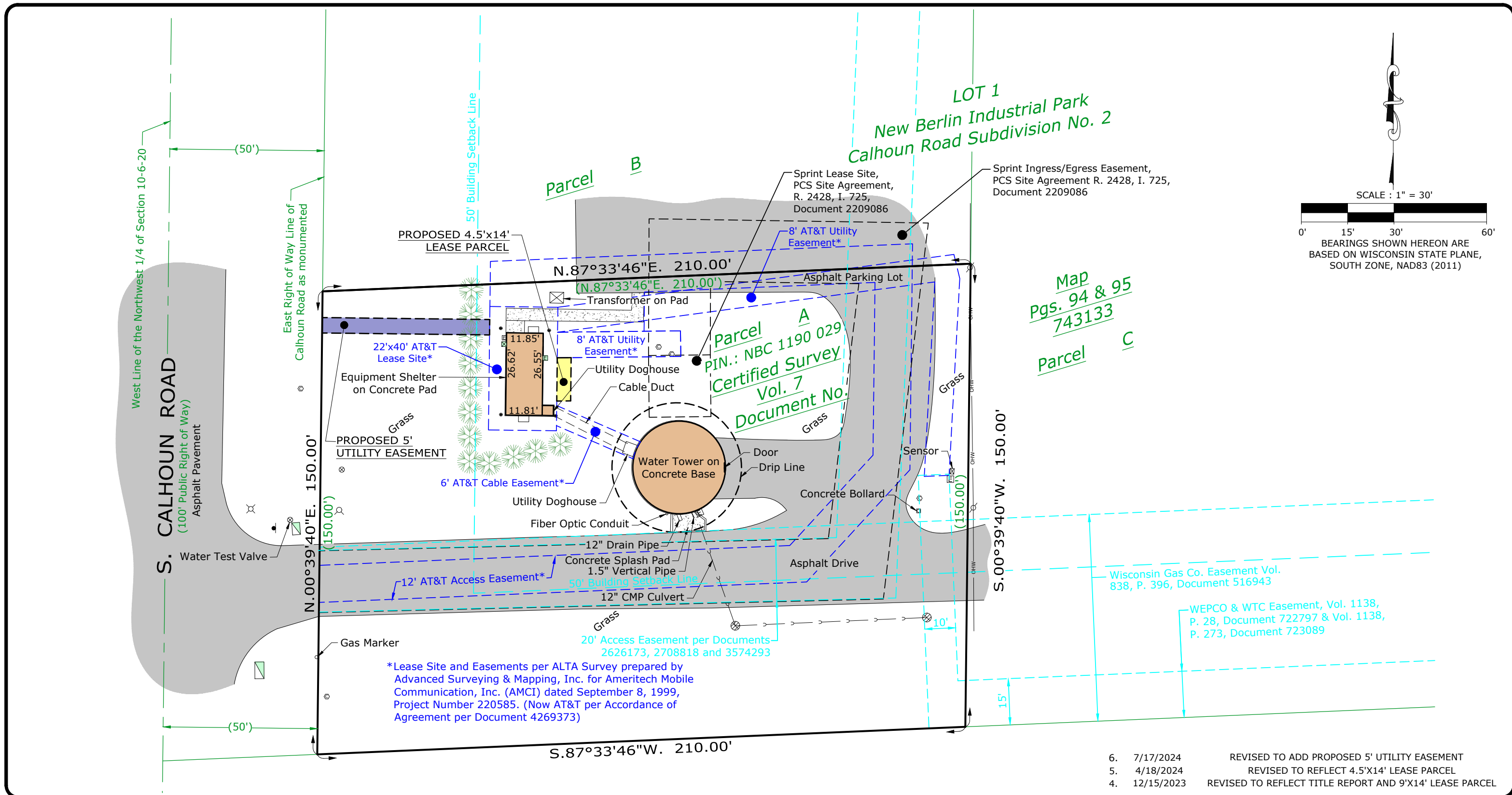
CHECKED BY: CSJ

PROJECT NO. 528094B

SHEET 1 OF 4

L-1

Page 30 of 108



ADVANCED SURVEYING & MAPPING

Putting the Pieces Together....

Since 1984

PREPARED BY:

ASM

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PLAT OF SURVEY OF LEASE PARCEL AND EASEMENT

PREPARED FOR:

at&t

MasTec
Network Solutions
507 Airport Blvd, Ste. 111
Morrisville, NC 27560

NO.	DATE	REVISION
1.	10/02/2023	FIELD SURVEY COMPLETED
2.	10/16/2023	ISSUED PRELIMINARY SURVEY
3.	12/06/2023	FINAL SURVEY COMPLETED

SITE DESIGNATION INFORMATION:

CALHOUN
WI0169
2620 S. CALHOUN RD.
NEW BERLIN, WI 53151
WAUKESHA COUNTY

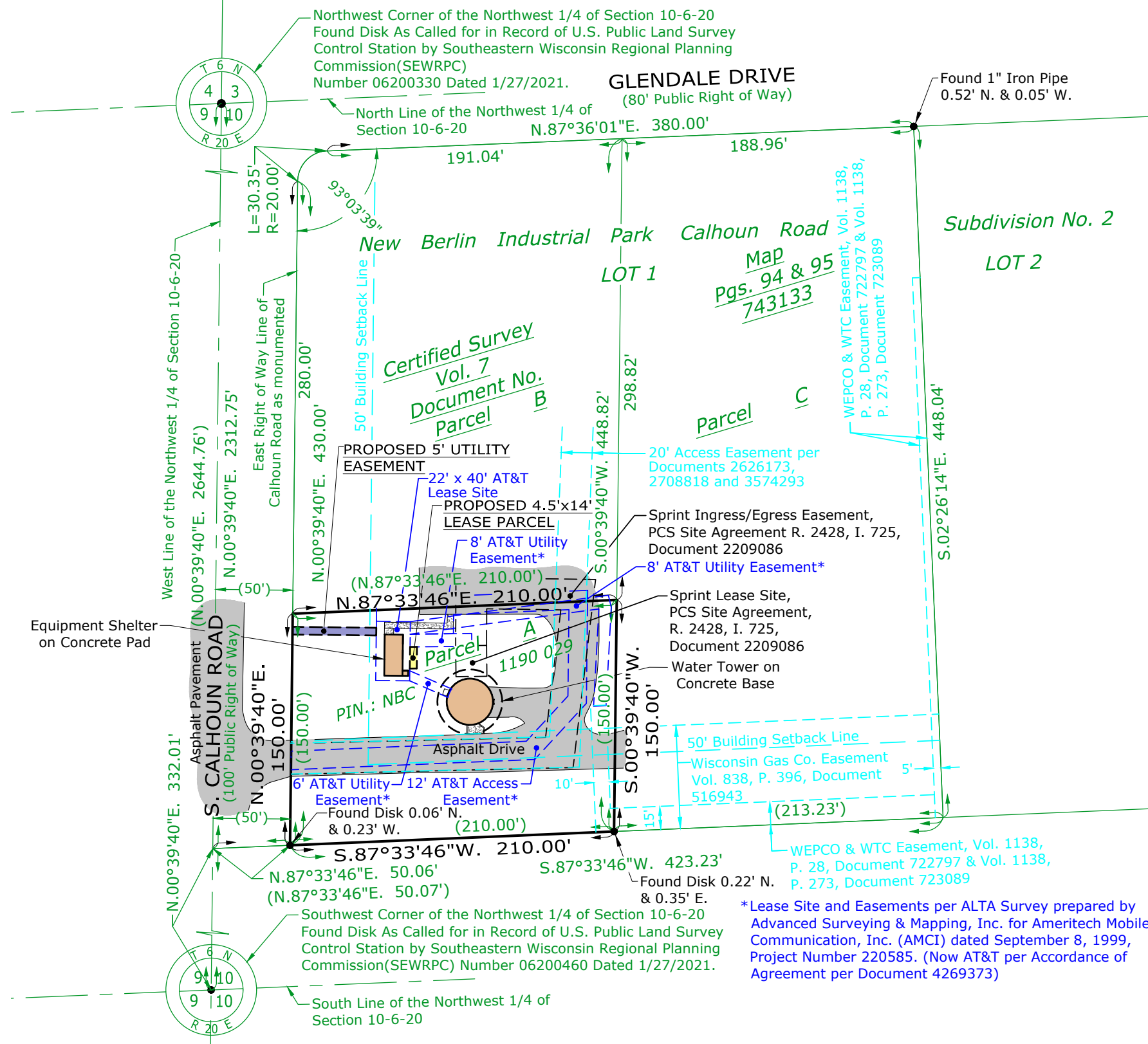
DRAWN BY: EM

CHECKED BY: CSJ

PROJECT NO. 528094B

SHEET 2 OF 4

L-2



PARENT TRACT LEGAL DESCRIPTION:

PARCEL "A" OF CERTIFIED SURVEY MAP NO. 1064, PART OF THE NORTHWEST ONE-QUARTER (1/4) OF SECTION TEN (10), IN TOWNSHIP SIX (6) NORTH, RANGE TWENTY (20) EAST, IN THE CITY OF NEW BERLIN, COUNTY OF WAUKESHA, STATE OF WISCONSIN, RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS FOR WAUKESHA COUNTY ON JULY 10, 1969 IN VOLUME 7 OF CERTIFIED SURVEY MAPS ON PAGES 94 AND 95, AS DOCUMENT NO. 743133.

6.	7/17/2024	REVISED TO ADD PROPOSED 5' UTILITY EASEMENT
5.	4/18/2024	REVISED TO REFLECT 4.5'X14' LEASE PARCEL
4.	12/15/2023	REVISED TO REFLECT TITLE REPORT AND 9'X14' LEASE PARCEL



PREPARED BY:



ASM Consultants, Inc.
16 E Wilson St - Batavia IL 60510
(630) 879-0200 - advanced@advct.com
Professional Design Firm #184-006014 expires 4/30/2025
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PLAT OF SURVEY OF LEASE PARCEL AND EASEMENT

PREPARED FOR:



MasTec
Network Solutions
507 Airport Blvd, Ste. 111
Morrisville, NC 27560

NO.	DATE	REVISION
1.	10/02/2023	FIELD SURVEY COMPLETED
2.	10/16/2023	ISSUED PRELIMINARY SURVEY
3.	12/06/2023	FINAL SURVEY COMPLETED

SITE DESIGNATION INFORMATION:

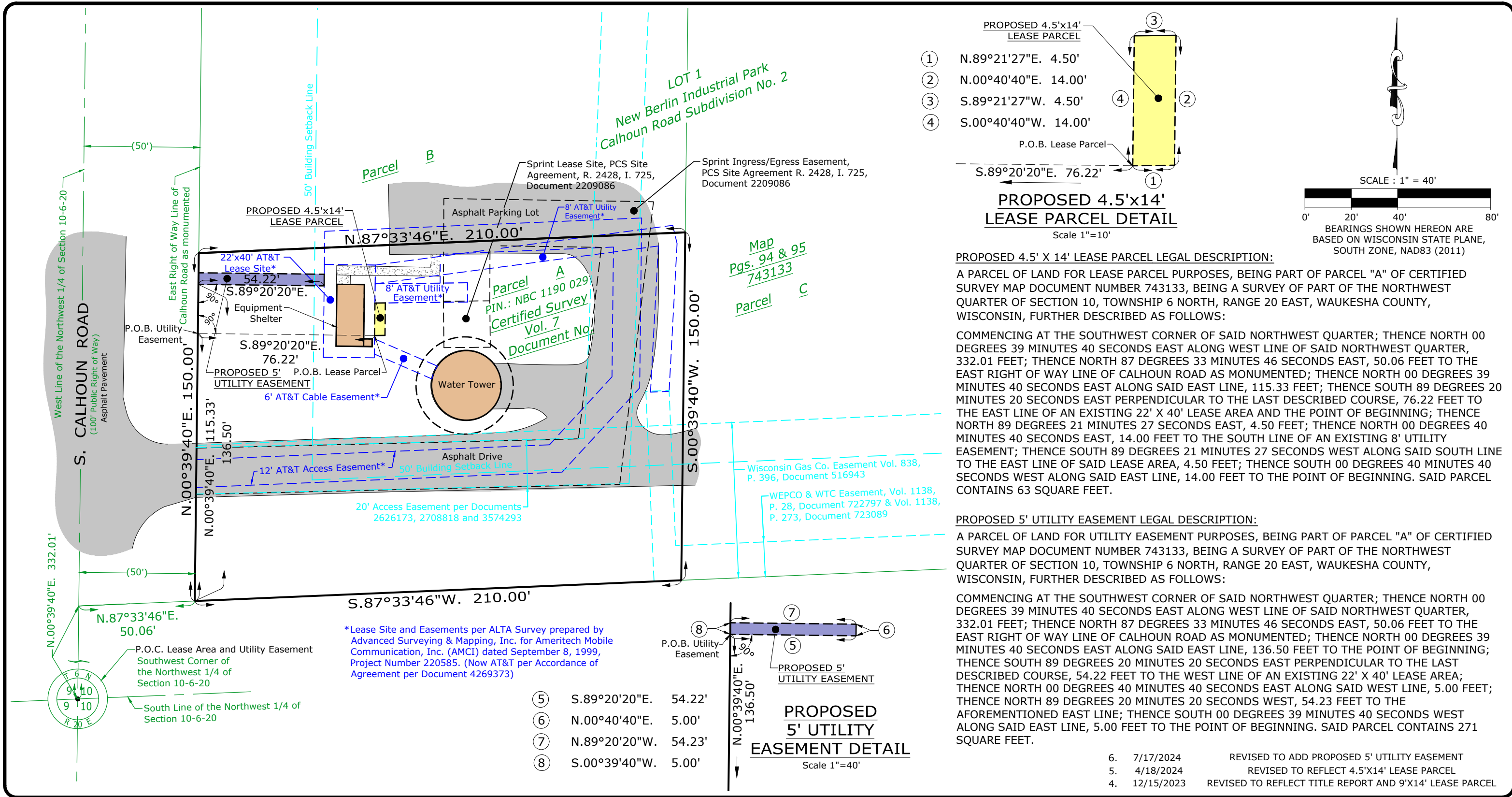
CALHOUN
WI0169
2620 S. CALHOUN RD.
NEW BERLIN, WI 53151
WAUKESHA COUNTY

DRAWN BY: EM
CHECKED BY: CSJ

PROJECT NO.
528094B

SHEET
3 OF 4

L-3



PREPARED BY:



ASM Consultants, Inc.
16 E Wilson St - Batavia IL 60510
(630) 879-0200 - advanced@advct.com
Professional Design Firm #184-006014 expires 4/30/2025
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PREPARED FOR:



MasTec
Network Solutions
507 Airport Blvd, Ste. 111
Morrisville, NC 27560

NO.	DATE	REVISION
1.	10/02/2023	FIELD SURVEY COMPLETED
2.	10/16/2023	ISSUED PRELIMINARY SURVEY
3.	12/06/2023	FINAL SURVEY COMPLETED

SITE DESIGNATION INFORMATION:

CALHOUN
WI0169
2620 S. CALHOUN RD.
NEW BERLIN, WI 53151
WAUKESHA COUNTY

DRAWN BY: EM
CHECKED BY: CSJ

PROJECT NO.
528094B

SHEET
4 OF 4

L-4

CALHOUN
WI0169
2620 S. CALHOUN ROAD
NEW BERLIN, IL 53151
ASM #528094B
7/17/2024

PARENT TRACT LEGAL DESCRIPTION:

PARCEL "A" OF CERTIFIED SURVEY MAP NO. 1064, PART OF THE NORTHWEST ONE-QUARTER (1/4) OF SECTION TEN (10), IN TOWNSHIP SIX (6) NORTH, RANGE TWENTY (20) EAST, IN THE CITY OF NEW BERLIN, COUNTY OF WAUKESHA, STATE OF WISCONSIN, RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS FOR WAUKESHA COUNTY ON JULY 10, 1969 IN VOLUME 7 OF CERTIFIED SURVEY MAPS ON PAGES 94 AND 95, AS DOCUMENT NO. 743133.

PROPOSED 4.5' X 14' LEASE PARCEL LEGAL DESCRIPTION:

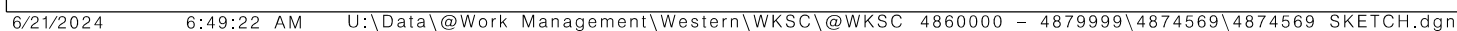
A PARCEL OF LAND FOR LEASE PARCEL PURPOSES, BEING PART OF PARCEL "A" OF CERTIFIED SURVEY MAP DOCUMENT NUMBER 743133, BEING A SURVEY OF PART OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 6 NORTH, RANGE 20 EAST, WAUKESHA COUNTY, WISCONSIN, FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER; THENCE NORTH 00 DEGREES 39 MINUTES 40 SECONDS EAST ALONG WEST LINE OF SAID NORTHWEST QUARTER, 332.01 FEET; THENCE NORTH 87 DEGREES 33 MINUTES 46 SECONDS EAST, 50.06 FEET TO THE EAST RIGHT OF WAY LINE OF CALHOUN ROAD AS MONUMENTED; THENCE NORTH 00 DEGREES 39 MINUTES 40 SECONDS EAST ALONG SAID EAST LINE, 115.33 FEET; THENCE SOUTH 89 DEGREES 20 MINUTES 20 SECONDS EAST PERPENDICULAR TO THE LAST DESCRIBED COURSE, 76.22 FEET TO THE EAST LINE OF AN EXISTING 22' X 40' LEASE AREA AND THE POINT OF BEGINNING; THENCE NORTH 89 DEGREES 21 MINUTES 27 SECONDS EAST, 4.50 FEET; THENCE NORTH 00 DEGREES 40 MINUTES 40 SECONDS EAST, 14.00 FEET TO THE SOUTH LINE OF AN EXISTING 8' UTILITY EASEMENT; THENCE SOUTH 89 DEGREES 21 MINUTES 27 SECONDS WEST ALONG SAID SOUTH LINE TO THE EAST LINE OF SAID LEASE AREA, 4.50 FEET; THENCE SOUTH 00 DEGREES 40 MINUTES 40 SECONDS WEST ALONG SAID EAST LINE, 14.00 FEET TO THE POINT OF BEGINNING. SAID PARCEL CONTAINS 63 SQUARE FEET.

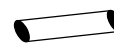
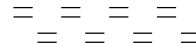
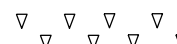
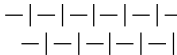
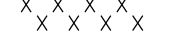
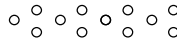
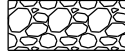
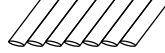
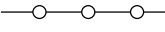
PROPOSED 5' UTILITY EASEMENT LEGAL DESCRIPTION:

A PARCEL OF LAND FOR UTILITY EASEMENT PURPOSES, BEING PART OF PARCEL "A" OF CERTIFIED SURVEY MAP DOCUMENT NUMBER 743133, BEING A SURVEY OF PART OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 6 NORTH, RANGE 20 EAST, WAUKESHA COUNTY, WISCONSIN, FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER; THENCE NORTH 00 DEGREES 39 MINUTES 40 SECONDS EAST ALONG WEST LINE OF SAID NORTHWEST QUARTER, 332.01 FEET; THENCE NORTH 87 DEGREES 33 MINUTES 46 SECONDS EAST, 50.06 FEET TO THE EAST RIGHT OF WAY LINE OF CALHOUN ROAD AS MONUMENTED; THENCE NORTH 00 DEGREES 39 MINUTES 40 SECONDS EAST ALONG SAID EAST LINE, 136.50 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89 DEGREES 20 MINUTES 20 SECONDS EAST PERPENDICULAR TO THE LAST DESCRIBED COURSE, 54.22 FEET TO THE WEST LINE OF AN EXISTING 22' X 40' LEASE AREA; THENCE NORTH 00 DEGREES 40 MINUTES 40 SECONDS EAST ALONG SAID WEST LINE, 5.00 FEET; THENCE NORTH 89 DEGREES 20 MINUTES 20 SECONDS WEST, 54.23 FEET TO THE AFOREMENTIONED EAST LINE; THENCE SOUTH 00 DEGREES 39 MINUTES 40 SECONDS WEST ALONG SAID EAST LINE, 5.00 FEET TO THE POINT OF BEGINNING. SAID PARCEL CONTAINS 271 SQUARE FEET.



WE ENERGIES - GAS OPERATIONS NOTES: Existing facilities should be field verified prior to excavation. Utility information shown are from plans and have not been field verified. Maintain 12” min vertical clearance at crossing of existing electrical facilities. Maintain 6” min vertical clearance at crossing of other existing facilities. Maintain 18” min vertical clearance at crossing of existing storm sewer pipes. Maintain 5' clearance from storm sewer inlets. Staking of route or ROW by surveyor required prior to construction. Clearances shown are min distances – reference permit for specific clearance requirements. Additional information on excavation, backfilling & clearances can be found in the Gas CRS 201. Restore all pavement, ROW, sidewalks, and customer's private property.	CONVENTIONAL SYMBOLS			
	M - Outside Meterset	 - Regulation Pit	 - Full Open Tee	 - Valve Pit
	 - Inside Meterset	 - Insulator	 - 45° Elbow	 - Regulation Station
	 - Valve (Boxed)	 - Bottom/Side/Half Line Stopper Fitting	 - 90° Elbow	 - Farm Tap
	 - Valve (Buried)	 - Save-A-Valve	 - Depth Change Elbow	 - Blow Down
	 - Transition Fitting	 - No Blow/Punch/HVTT/MVTT/EF Tee	 - Marker Post	 - Pressure Monitoring Device
	 - Reducer	 - Anode	 - Multi Wire Test Stand	 - Riser Used for Corrosion Reads
	 - Support Clamp or Squeeze Point	 - Cap with Anode	 - Single Wire Test Stand	 - Test Stand
	 - Coupling	 - Cap	 - Main Jump Symbol	 - Rectifier
	 - End of Main	 - Retirement Symbol	 - River Weight	 - Pressure Point

EROSION CONTROL LEGEND	
	APPROXIMATE LOCATION FOR UNDERGROUND FACILITY EXCAVATION
 A/B/C/D	INLET PROTECTION, TYPE
	12" WATTLE or 12"/20" SEDIMENT LOG or 9.5"/20" EROSION EEL
	STONE DITCH CHECK
	ROCK BAG
	MULCH
	SOIL STABILIZER, TYPE B
	EROSION MAT CLASS I, TYPE A
	EROSION MAT CLASS I, TYPE B
	EROSION MAT CLASS I, TYPE A URBAN
	EROSION MAT CLASS I, TYPE B URBAN
	EROSION MAT CLASS II
	EROSION MAT CLASS III
	VEGETATIVE BUFFER
	TRACKING PAD
	TIMBER MAT
	SILT FENCE
	APPROXIMATE DEWATERING BASIN LOCATION
	SURFACE WATER FLOW

WE ENERGIES WORK REQUEST ENVIRONMENTAL NOTES (Notes 1 through 7 apply to ALL work requests)

General

- If WDNR and/or USACE permits were obtained for the project, all permit conditions shall be met during construction of the project.

Erosion Control

- If soil disturbance occurs on slopes or channels/ditches leading to wetlands or waterways, or within wetlands, the disturbed areas shall be stabilized and appropriate erosion control Best Management Practices (BMP's) shall be implemented.
- Erosion Control BMR's shall meet or exceed the approved WDNR Storm Watter Management Technical Standards (http://dnr.wi.gov/topic/stormwater/standards/const_standards.html). Refer to We Energies Construction Site Sediment and Erosion Control Standards.
- Inspect installed erosion control BMP's at least one time per week and after ½" rain events: repair as necessary.
- When temporary stabilization is required (e.g. for winter or short-term construction) prior to final restoration, soil stabilizer shall be installed wherever possible. Erosion mat shall be used temporarily only where appropriate, in accordance with state standards, and when approved by the Operations Supervisor.

Contaminated Soils

- Whenever soil exhibiting obvious signs of contamination (e.g., discoloration, petroleum or solvent odor, free liquids other than water, buried containers or tanks, or other obvious signs of environmental impacts) is encountered during excavation or installation, cease work immediately, take appropriate immediate precautions to ensure worker health and safety, and contact the Operations Supervisor or Inspector.

Spills

- If an oil spill occurs during construction, call the Environmental Incident Response Team (EIRT) at 414-430-3478:
 - Any quantity of oil is spilled into surface water;
 - Any oil spill greater than 50 ppm PCB into a sewer, vegetable garden, or grazing land;
 - Any oil spill containing greater than 500 ppm PCB;
 - Five gallons or more of oil spilled to the ground;
 - Any oil spill involving a police department, fire department, DNR, or concerned property owner.

Notes 8 through 27 apply as noted at specific points within each work request:

Dewatering

- Dewatering of pits or trenches shall be done in accordance with state standards. Use an approved sediment bag, a straw bale dewatering basin, a combination of both, or equivalent.

Wetlands

- As much as practicable, the majorityof the work shall be staged from the public roadways and road shoulders, keeping equipment out of adjacent wetlands.
- All work shall be conducted to minimize soil disturance. No rutting will be allowed within the wetlands.
- If soils are not frozen or stable to a point that avoids rutting, timber mats, mud tracks, or equivalent shall be utilized to access pole locations.
- Excavated soils cannot be stockpiled in wetlands.

- All excess spoils shall be removed from wetlands and placed in a suitable upland location.
- Trenching and pit excavations within wetlands shall include soil segregation to facilitate restoration of pre-construction soil stratification, and restoration to pre-construction elevations.
- Poles scheduled to be removed, and that occur within wetland, shall be cut at the ground surface.

Waterways

- No work can be performed within the banks or below the ordinary high watermark of any navigable waterways/streams.
- No crossing of navigable waterways with equipment can occur. Foot traffic is allowed.
- Any disturbed soil within 75-feet of the ordinary high water mark of any navigable waterways/streams shall be stabilized within 24 hours of construction completion.

Threatened and Endangered Species

- Threatened or endangered species are known to occur in the work area. It is illegal to harass, harm, or kill a protected species under state and federal regulations. Proper precautions shall be taken to ensure harm to individuals is avoided.
- In order to protect the threatened or endangered species, work must be conducted between November 5 and March 15.
- Exclusion fencing must be installed at the work area prior to March 15.
- A qualified biologist must be present when conducting work at this location.

Invasive Species

- State regulated invasive species are known to occur in the work area. Reasonable precautions are legally required to prevent the spread of these species. The Wisconsin Council on Forestry Transportation and Utility Rights-of Way Best Management Practices should be followed: (<http://council.wisconsinforestry.org/invasives/transportation/>).

Cultural and Historical Resources, cont.

- The project is within or adjacent to an area that is identified by the State of Wisconsin as potentially having Native American artifacts, burial mounds or burial sites, which could be encountered during construction.
- If human bone or any artifacts are discovered during construction, work must cease immediately. Contact the Environmental Department who will contact the State Burial Sites Preservation Office and determine the next steps that must be taken in order to comply with state law. Work at that site MAY NOT PROCEED until the Environmental Department authorizes it.
- A "qualified archaeologist," as specified under Wis. Stats 157.70 (1) (i) and Wis. Admin. Code HS 2.04 (6), must be present to monitor all ground disturbing activities.

Frac-out Contingency Plan

- A frac-out contingency plan shall be on-site and implemented accordingly. The contingency plan shall incorporate the following components.
 - Continuously inspect the bore paths for frac-outs in order to respond quickly and appropriately.
 - Containment materials (e.g. silt fence, straw bales, sand bags, etc.) shall be on site and available should a frac-out occur.



APPENDIX A
Page 36 of 108

**DISTRIBUTION EASEMENT
GAS**

Document Number

WR NO. **4874569** IO NO. **SN132500**

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the **CITY OF NEW BERLIN**, hereinafter referred to as "Grantor", owner of land, hereby grants and warrants to **WISCONSIN ELECTRIC POWER COMPANY, a Wisconsin corporation doing business as We Energies**, hereinafter referred to as "Grantee", a permanent easement upon, within, beneath, over and across a part of Grantor's land hereinafter referred to as "easement area".

The easement area is described as strip of land five (5) feet in width being a part of **Parcel A of Certified Survey Map No.1064**, recorded **July 10, 1969** in **Volume 7** of Certified Survey Maps on **Pages 94 & 95** as **Document No. 743133**, of a part of the Northwest 1/4 of Section 10, Township 6 North, Range 20 East, City of New Berlin, Waukesha County, Wisconsin.

The location of the easement area with respect to Grantor's land is as shown on the attached drawing, marked Exhibit "A", and made a part of this document.

RETURN TO:
We Energies
PROPERTY RIGHTS & INFORMATION GROUP
231 W. MICHIGAN STREET, ROOM P129
PO BOX 2046
MILWAUKEE, WI 53201-2046

nbc 1190029
(Parcel Identification Number)

- 1. Purpose:** The purpose of this easement is to construct, install, operate, maintain repair, replace and extend underground utility facilities, pipeline or pipelines with valves, tieovers, main laterals and service laterals, together with all necessary and appurtenant equipment under and above ground, including cathodic protection apparatus used for corrosion control, as deemed necessary by Grantee, for the transmission and distribution of natural gas and all by-products thereof, or any liquids, gases, or substances which can or may be transported or distributed through a pipeline, including the customary growth and replacement thereof. Trees, bushes, branches and roots may be trimmed or removed so as not to interfere with Grantee's use of the easement area.
- 2. Access:** Grantee or its agents shall have the right to enter and use Grantor's land with full right of ingress and egress over and across the easement area and adjacent lands of Grantor for the purpose of exercising its rights in the easement area.
- 3. Buildings or Other Structures:** Grantor agrees that no structures will be erected in the easement area or in such close proximity to Grantee's facilities as to create a violation of all applicable State of Wisconsin gas codes or any amendments thereto.
- 4. Elevation:** Grantor agrees that the elevation of the ground surface existing as of the date of the initial installation of Grantee's facilities within the easement area will not be altered by more than 4 inches without the written consent of Grantee.
- 5. Restoration:** Grantee agrees to restore or cause to have restored Grantor's land, as nearly as is reasonably possible, to the condition existing prior to such entry by Grantee or its agents. This restoration, however, does not apply to any trees, bushes, branches or roots which may interfere with Grantee's use of the easement area.
- 6. Exercise of Rights:** It is agreed that the complete exercise of the rights herein conveyed may be gradual and not fully exercised until some time in the future, and that none of the rights herein granted shall be lost by non-use.
- 7. Binding on Future Parties:** This grant of easement shall be binding upon and inure to the benefit of the heirs, successors and assigns of all parties hereto.
- 8. Easement Review:** Grantor acknowledges receipt of materials which describe Grantor's rights and options in the easement negotiation process and furthermore acknowledges that Grantor has had at least 5 days to review this easement document or voluntarily waives the five day review period.

Grantor:

CITY OF NEW BERLIN

By _____

(Print name and title): _____

By _____

(Print name and title): _____

Personally came before me in _____ County, Wisconsin on _____, _____,
the above named _____, the _____
and _____, the _____
of the the CITY OF NEW BERLIN, for the municipal corporation, by its authority, and pursuant to Resolution File
No. _____ adopted by its _____ on _____, _____.

Notary Public Signature, State of Wisconsin

Notary Public Name (Typed or Printed)

(NOTARY STAMP/SEAL)

My commission expires _____

This instrument was drafted by Jeff Fowle on behalf of Wisconsin Electric Power Company, PO Box 2046, Milwaukee, Wisconsin 53201-2046.



MOTION SHEET

TO: Common Council
Mayor Ament
Ald. Harenda

FROM: Recreation Commission/Joelle Erickson

DATE: January 28, 2025

RE: January 20, 2025, Recreation items requiring Common Council action

A.	Discussion and possible action to recommend to Common Council approval of the vendor agreements with Banks Family Consulting LLC to provide consulting services for small businesses and individuals, as well as personal athletic training.
Council Motion:	
	This item was considered at the Recreation Commission meeting on January 20, 2025. It was recommended to the Common Council by a unanimous vote. I do hereby make a motion to recommend to the Common Council the approval of the contract with Banks Family Consulting LLC to provide consulting services for small businesses and individuals, as well as personal athletic training. The City will receive 25% of each participant fee.



REQUESTED ACTION STATEMENT

TO: Recreation Commission
Common Council
Mayor Dave Ament

FROM: Katie Roth, Recreation Manager
Parker Dorothy, Recreation Specialist

RE: Requested Action Statement for the approval of Banks Family Consulting LLC Services Agreement.

DATE: January 16, 2025

REQUESTED ACTION: Requested Action Statement for the recommendation of approval to the Common Council of the vendor agreements with Banks Family Consulting LLC to provide consulting services for small businesses and individuals, as well as personal athletic training.

FISCAL IMPACT: The City will receive 25% of each participant fee.

RATIONALE/BACKGROUND: To expand program offerings at the ARC, the Recreation Department seeks to collaborate with Edwin Banks to introduce personal training and business education programs. Edwin Banks is an experienced and valued member of the team, currently serving as a paid fitness instructor teaching self-defense and tai chi.

SERVICES AGREEMENT



This Services Agreement (“Agreement”) is made and entered into this _____ day of _____, 2024 by and between the CITY OF NEW BERLIN, a Wisconsin municipal corporation, with its principal office located at 3805 South Casper Drive, New Berlin, Wisconsin, 53151 (hereinafter referred to as the “City”) and BANKS FAMILY CONSULTING LLC (hereinafter referred to as “Instructor”).

WHEREAS, the City offers recreational classes to the public; and

WHEREAS, Instructor provides consulting services for small businesses and individuals, as well as personal athletic training; and

WHEREAS, the parties are desirous of establishing the relationship where Instructor provides classes to the City during 2025.

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. Instructor holds himself out as being qualified to provides consulting services for small businesses and individuals, as well as personal athletic training . The City does hereby retain the Instructor to perform instruction as provided for hereunder.

2. All sessions are to be held at the New Berlin Activity and Recreation Center in the City of New Berlin in a space to be assigned by the City. The specific class schedule shall be established, occurring once per season; Winter-Spring, Summer, and Fall, by the parties. Instructor agrees to work with the City to develop class offerings and scheduling to be advertised in each New Berlin Activity Guide.

3. Instructor agrees to provide City with a rate they would like to collect per participant before seasonal activity guides are finalized. City may then charge participants any amount at or above what Instructor receives. The Instructor agrees all non-residents will be charged at the resident rate and the City keeps the non-resident fees. The Instructor will provide City with an invoice after classes. Payment of services shall follow City Finance Department policies. The Instructor agrees to provide the City with a signed IRS W9 form.

4. City will provide Instructor with a class participant list. City acknowledges if participant has registered for the designated classes before the class has begun, but they are not on the class participant list, then that participant may present a receipt at the class as proof of registration.

5. That Instructor agrees to carry comprehensive general liability insurance with limits of not less than \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate, which insurance

coverage shall provide that the City is named as an Additional Insured on a primary and non-contributory basis.

6. The Instructor is solely responsible for and shall have sole control of the performance of the services. The parties acknowledge that the Instructor is not an employee of the City of New Berlin and is responsible to determine the instruction methods and performance of the instruction provided for in this Agreement.

- a. The Instructor is responsible for and shall have sole control over the performance of the consulting services provided under this Agreement. These services include consulting for small businesses and individuals, as well as personal athletic training. The managing member of the Instructor is an employee of the City of New Berlin and teaches fitness classes involving tai-chi, self-defense and kickboxing. These services are independent of the consulting services offered by the Instructor and are not part of this Agreement.

7. Instructor acknowledges that neither he, nor his employees, are employees of the City for purposes of income tax, Wisconsin retirement system or social security or other payroll tax withholding.

8. Either party may terminate this contract, in whole or in part, for the convenience of the parties at such time as either party determines that the continuation of the work is not in the best interests of said party upon thirty (30) days written notice to the other.

9. Instructor will defend and hold harmless the City as and against any and all claims, demands, actions or causes of action brought by a third party for damages or losses arising out of the Instructor's performance of the work under this Agreement. 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. The Instructor's obligation to indemnify shall include her employees and/or agents. The Instructor agrees to notify those persons receiving business consulting services that those services are solely being supplied by the instructor and that the City is not responsible for the accuracy or completeness of that information.

10.

11. This Agreement represents the complete understanding of the parties with respect to the subject matter herein, and may only be modified in a subsequent agreement executed by each party.

12. This Agreement shall be governed and construed in accordance with the laws of the State of Wisconsin.

CITY:

City of New Berlin

By: _____

INSTRUCTOR:

Banks Family Consulting LLC

By: _____

CLASS EXAMPLE

Eddie, our Tai Chi and Self Defense instructor, also brings his expertise as a personal trainer and business consultant to help you reach your wealth and wellness goals. Don't miss out on this opportunity to improve your health, wealth and well-being!

Are you ready to change your life? Would you be in better shape if you just had someone to motivate you? Don't wait too late to change your health. Get started now with an Expert-Level Personal Trainer who has accredited experience and the desire to help people become the best version of themselves! Whether it's Cardio, Strength, or even Martial Arts, we can train you!

All it takes is a FREE Session to get started, and you will receive a detailed fitness game plan for your training custom-made for you specifically, and general nutritional guidance! We look forward to working with you!

To set up your FREE session, email edwinbanks@banksfamilyconsulting.com, call 262-797-2443, stop in at the ARC, or use the registration number below! Visit Banks Family Consulting's website

Eddie, our Tai Chi and Self Defense instructor, also brings his expertise as a personal trainer and business consultant to help you reach your wealth and wellness goals. Don't miss out on this opportunity to improve your health, wealth and well-being!

Ready to take your business to the next level? Do you want more sales or need to hire more employees? Join us at Banks Family Consulting, where we provide Business Planning, Sales, Recruitment, and more! We provide every kind of business service possible so that you can focus on making money!

All it takes is a FREE Consultation to get started, and you will receive a SWOT Analysis completed on your business to determine your current market value, status, and future viability! We look forward to working with you! To set up your FREE consultation, email edwinbanks@banksfamilyconsulting.com, call 262-797-2443, stop in at the ARC, or use the registration number below! Visit Banks Family Consulting's website with more information <https://www.banksfamilyconsulting.com/>

RESOLUTION NUMBER 2025-02

A RESOLUTION AMENDING THE 2025 CAPITAL PROJECTS BUDGET

WHEREAS, the City is desirous to purchase a trailer for transporting an urban mower with a gross weight of less than 10,000 pounds. The requested funds are from budget accounts for equipment purchases that have been completed under budget, and will allow the City to complete the purchase of this equipment.

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

04056200-59010-C2020	TRAILER	\$ 7,000
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EXPENDITURES - Decrease

04056200-61214-C2020	WHEEL LOADER	\$ 7,000
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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 28th day of January 2025.

David Ament, Mayor

Countersigned:

Rubina R Medina, City Clerk



REQUESTED ACTION STATEMENT

DATE: January 6, 2025

TO: Mayor
Common Council
Parks, Buildings, & Grounds Commission

FROM: Lucas Pichler – Director of Public Works

ISSUE: Resolution 2025-02 Amending the 2025 Capital Projects Budget

REQUESTED:

Recommend to Common Council to approve Resolution 2025-02 Amending the 2025 Capital Projects Budget.

FISCAL IMPACT:

Funding Source:

	EXPENDITURES - Increase	
04056200-59010-C2020	TRAILER	\$ 7,000
	EXPENDITURES - Decrease	
04056200-61214-C2020	WHEEL LOADER	\$ 7,000

RATIONALE:

The Department of Public Works – Streets Division desires to purchase a trailer used to transport its urban mower and related equipment. This trailer has a weight rating of less than 10,000 pounds, which allows it to be operated by an individual with a Class B Commercial Driver's License. The trailer would be outfitted with racks to accommodate other urban mowing equipment such as various hand tools. The source of funds is a past CIP account which has been completed, and the funds are no longer necessary in that account.



REQUESTED ACTION STATEMENT

DATE: January 6, 2025

TO: Mayor
Common Council
Parks, Buildings, & Grounds Commission

FROM: Lucas Pichler – Director of Public Works

ISSUE: Resolution 2025-01 Amending the 2025 Capital Projects Budget

REQUESTED:

Recommend to Common Council to approve Resolution 2025-01 Amending the 2025 Capital Projects Budget.

FISCAL IMPACT:

Funding Source:

	EXPENDITURES - Increase	
04056200-61212-C2020	DOZER BLADE	\$ 10,000
	EXPENDITURES - Decrease	
04056200-61213-C2020	ONE TON TRUCK w/HOTBOX	\$ 10,000

RATIONALE:

The Department of Public Works – Streets Division desires to purchase a dozer blade skid steer attachment. This attachment would be compatible with its existing equipment and would provide a variety of uses. Primarily this attachment would be used for roadside shoulder maintenance. The source of funds is a past CIP account which has been completed, and the funds are no longer necessary in that account.

RESOLUTION NUMBER 2025-01

A RESOLUTION AMENDING THE 2025 CAPITAL PROJECTS BUDGET

WHEREAS, the City is desirous to purchase a dozer blade skid steer attachment. The requested funds are from budget accounts for equipment purchases that have been completed under budget, and will allow the City to complete the purchase of this equipment.

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

04056200-61212-C2020	DOZER BLADE	\$ 10,000
----------------------	-------------	-----------

EXPENDITURES - Decrease

04056200-61213-C2020	ONE TON TRUCK w/HOTBOX	\$ 10,000
----------------------	------------------------	-----------

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 28th day of January 2025.

David Ament, Mayor

Countersigned:

Rubina R Medina, City Clerk



REQUESTED ACTION STATEMENT

DATE: January 6, 2025

TO: Mayor
Common Council
Parks, Buildings and Grounds Commission

FROM: Josh Fabian – Supervisor Parks Department

ISSUE: New Berlin Pumas Select Baseball Corporation – Buena Park West Baseball Field
Reconditioning Donation Agreement

REQUESTED:

Recommend to Common Council to approve a donation agreement between the New Berlin Pumas Select Baseball Corporation and the City of New Berlin for field reconditioning project at the Buena Park West Baseball Field.

FISCAL IMPACT:

None

RATIONALE:

Due to usage, the west baseball field is in need of reconditioning. The New Berlin Pumas are offering to perform reconditioning services as a donation to the City. This reconditioning will consist of two phases, one in spring 2025, and one in fall 2025. The work in spring 2025 will consist of regrading the infield. The work in fall 2025 will consist of removal of 14,000 square feet of infield mix and use that material to regrade the remainder of the infield. 40 yards of topsoil would be used to fill this area, which will be restored by City crews. An additional 44 tons of infield mix will be supplied by the Pumas to regrade the infield.

DONATION AGREEMENT

This Agreement is made and entered into by and between the CITY OF NEW BERLIN, a Wisconsin municipal corporation, with its principal office and place of business located at 3805 South Casper Drive, New Berlin, Wisconsin, 53151 (hereinafter referred to as the “City”) and the NEW BERLIN PUMAS SELECT BASEBALL CORPORATION, a Wisconsin non-stock corporation, duly organized and validly existing under the laws of the State of Wisconsin, with its principal office located at 15395 West Kingsway Drive, New Berlin, Wisconsin, 53151 (hereinafter referred to as the “Pumas”).

WHEREAS, the Pumas is desirous of donating field regrading and reconditioning services at the Buena Park West Baseball Field in the spring of 2025, between March 31, 2025 and April 11, 2025, as well as in the fall of 2025, between September 1, 2025 and September 26, 2025 (hereinafter the “Services”); and

WHEREAS, the Services would include reconditioning the infield of Buena Park West Baseball Field in the spring of 2025 and in the fall of 2025, the removal of approximately 14,000 square feet (15’ x 195’) of existing infield and to use the material to regrade the infield to fill in low areas and promote drainage. Said Services are to be provided under a contract between the Pumas and C3 Contractors LLC; and

WHEREAS, the Pumas are desirous of donating the costs of the Services through a contract between the Pumas and C3 Contractors LLC, as further described in the attached contract, Exhibit A; and

WHEREAS, the City is desirous of accepting the donation of the Services from the Pumas.

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 City consents to the Pumas and its contractor (C3 Contractors LLC), subcontractors, agents, employees and/or assigns to enter into Buena Park and to provide the Services, which are more fully described in Exhibit A (specifically, the regrading of the infield of the Buena Park West Baseball Field in the spring of 2025 [between March 31, 2025 and April 11, 2025], as well as the removal of approximately 14,000 square feet of existing infield and to use that material to regrade that material to regrade the infield and fill in low areas to promote draining [September 1, 2025 and September 26, 2025]). The City will supply approximately 40 yards of field run topsoil to be installed, graded and prepped for sod to match the existing slope. Two loads (44 tons) of Waupaca engineered infield mix will be supplied by the Pumas to top dress existing infield and will be box graded to promote drainage.

2. The Pumas agree to provide the City with evidence acceptable to the City that their contractors, and anyone providing services related to the Services, maintain adequate public liability insurance, workers compensation insurance and automobile insurance with limits

acceptable to the City. The public liability insurance shall list the City of New Berlin as an Additional Insured on a primary and non-contributory basis for public liability purposes.

3. The Pumas agree to indemnify and hold harmless the City, its employees, elected representatives, agents and assigns (the Indemnified Parties)as and against any and all claims, actions, demands, causes of action, including actual attorney fees incurred by the City or brought against it, arising from the Pumas or their subcontractors agents and assign's performance of this Agreement and the Services more specifically described in Exhibit A. This indemnity shall not cover liability arising from the sole negligence of the Indemnified Parties.

4. The parties agree the Services provided hereunder shall be solely at the expense of the Pumas and not the City, except for the supply of the 40 yards of field run topsoil and the installation/prepping for sod to match the existing slope. All other work/materials shall be supplied by the Pumas.

5. At the conclusion of the construction, the Pumas agree to provide the City with a full unconditional Lien Waiver evidencing the payment of all costs and expenses for materials and labor related to the Services.

6. The Pumas agree their contractors, subcontractors, agents and/or assigns will perform the Services in a good and workmanlike manner, consistent with the performance of such work by contractors in Southeastern Wisconsin. The Pumas, as well as any contractors/subcontractors which they may retain shall appropriately guard the worksite to prevent injury to any persons that may be in vicinity of those portions of Buena Park where the Services are being performed. The Pumas agree to coordinate the City of New Berlin Public Works Staff as to the dates and times of the Services.

7. The Pumas agree that in performing the services under this Agreement, their contractors/subcontractors, agents, employees and/or assigns shall comply with any applicable State Statutes, Administrative Code provisions or City of New Berlin Ordinances which may be applicable to their activities.

8. The Pumas agree that upon the completion of the Services, said Services shall become the property of the City of New Berlin.

9. This Agreement shall be governed and construed in accordance with 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 both parties.

10. This Agreement shall become effective on the date of the last party executes the same. Each party warrants and represents to the other it has received the authority of its governing body to permit the individual signing the Agreement to do so on its behalf.

Dated: _____

Dated: _____

CITY:
City of New Berlin

PUMAS:
New Berlin Pumas
Select Baseball Corporation

By: _____
David Ament, Mayor

By: _____

By: _____
Rubina Medina, Clerk

By: _____



C3 Contractors LLC
4829 Gunderson Rd
Waterford, WI 53185

steve@c3-mke.com

Purchaser- New Berlin Pumas	Project Name- Buena Park field Renovations
Email: newberlinpumas@gmail.com	Project Address- Buena Park
Phone: 1(414)630-2888 (Tony)	Project Manager- Steve Cianciolo

C3 Contractors hereby offers to supply the following labor

Supply all labor to fill and regrade softball field

Date of contract: November 11th 2024

C3 Contractors agrees to supply labor and equipment to remove 15' (15'x195') approximately 14,000SQ' of existing infield mix and use material to regrade infield to fill in low areas and promote drainage. New Berlin Pumas will supply 40 yards of field run topsoil to be installed, graded and prepped for sod to match existing slope. 2 loads (44 tons) of Waupaca engineered infield mix will be supplied by the pumas to topdress existing infield and will be box graded to promote drainage.

Total \$5,920.00

All materials to be provided by the buyer

Watering to be done by owner

Any sprinklers need to be marked by owner

Utilities to be marked by owner

Any extras will be charged time and material (Materials marked up 20%)

hourly rate below.

Hourly rates for

Labor \$105.00

Skid loader with plow or bucket - \$185.00

Mini Excavator- \$165.00

Tractor with 5' box grader- \$125.00

3 Yard dump for removal-\$125.00

Quad axle dump \$210.00

EXHIBIT A

Note 1: Down payment of 50% due at signing

Note 2: All extras will be billed time and material

Note3: Payment terms: Net 15 days of invoice. 2% finance charge after 30 days. Customer responsible for any late fees, attorney fees or any costs incurred during collection

If you have specifics for this property, please list here

All material is guaranteed to be as specified and the above work to be performed in accordance with the drawings and specifications submitted for above work and completed in a substantial workmanlike manner for the price quoted + Salting and/or Snow Removal. Payments are to be made by the invoice due date. The customer is responsible for all reasonable attorney fees and any other costs incurred for collections.

Any alterations or deviations from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge and delays may be beyond our control. C3 Contractors LLC reserves the right to adjust costs due to unforeseen circumstances and/or transfer, subcontract, or assign any or all parts of the contractual obligations contained in this document with a written notice. Owner to carry fire, tornado, and other necessary insurances for above work. Workmen's Compensation Insurance on above work to be taken out by C3 Contractors LLC (Certificate of Insurance to be mailed upon request).

Notice of Lien Rights: As required by the Wisconsin Lien law, contractor hereby notifies the owner that persons or companies furnishing labor or materials for the service on owners land may have lien rights on owners land and buildings. If not paid, those entitled to lien rights, in addition to the undersigned contractor, are those who contract directly with the owner or those who give the owner notice within 60 days after they first furnish labor or materials for the service accordingly, owner probably will receive notices for those who furnish labor or materials for the service and should give a copy of each notice received to his mortgage lender, if any. Contractor agrees to cooperate with the owner and his lender, if any, to see that all potential lien claimants are duly paid.

Company Representative-

Date-

Note: Proposal may be withdrawn by contractor if not accepted by August 30, 2023.

Acceptance of Contract

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above. By signing below, I am accepting the contract and have read and agreed to the enclosed Plowing Terms and Conditions along with the notice of lien right. I agree this contract is legal and binding, pursuant to Wisconsin laws and statutes applicable. Any changes must be approved by both parties in writing. A 30 day written notice to terminate must be made within the first 30 days of service, or you may be held liable for the term of the contract and all fees that are applicable under law

Please Print

Signed

Date

Please return this signed contract with down payment to:

C3 Contractors LLC
W152S7887 Mystic Dr
Muskego WI, 53150

REQUESTED ACTION STATEMENT

DATE: January 6, 2025

TO: Mayor
Parks, Buildings and Grounds Commission

FROM: Josh Fabian – Supervisor Parks Department

ISSUE: Parks Signage – City Code Compliance for Pets on Leashes

REQUESTED:

Approve signage within Malone Park restricting dogs from within the playground area and requiring dogs to be on a leash in all other areas of the park.

FISCAL IMPACT:

None

RATIONALE:

Section 184-14 B. of the City of New Berlin Municipal Code allows the Parks, Buildings, and Grounds Commission to where dogs are allowed within public parks. When allowed, this section requires that all dogs remain on a leash. Currently Malone Park does not have signage posted throughout the park notifying the public that dogs are required to be on a leash. Alderwoman Kroupa has requested that the Commission authorize installation of such signage. Additionally, the Department is requesting the restriction of dogs in the playground area to avoid damage to the poured in place surfacing.

Sec. 184-14. Animals in parks and parkways.

A. Animals not allowed; exceptions. No animal except those placed in the park or parkways by the authority of the Commission, excepting horses when saddled or harnessed and in use for riding or pleasure driving only on roadways or paths duly designated, and except dogs on leash as regulated by Subsection B hereof, shall be conducted into or driven within the parks or parkways or be allowed to remain therein.

B. Dogs on leash; when excluded. No person having the control or care of a dog shall permit such dog to enter or remain in a public park or parkway unless it is led by a leash of suitable strength not more than six feet in length and then only within such areas in parks as have been designated by order of the Commission. The Commission shall cause signs to be posted in areas wherein dogs are not permitted.



DATE: January 20, 2025

TO: Rubina Medina
City Clerk

FR: Mayor Dave Ament

RE: Mayoral Appointments for the January 28, 2025 Common Council Mtg

Housing Trust Fund Board

Sara Clark
Affordable Housing Advocate
262-309-6025 (ext. 206)
sara@habitatwaukesha.org
(Re-Appointment)

Expiration Date

1/8/2027

For Office Purposes Only						
T T	Em l	We b	Provo x	Lt r	Ethc s	H B



Committee of the Whole MEETING MINUTES

January 14, 2025 - 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

The meeting was called to order by Mayor Ament at 6:00 PM.

2. ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE

City Clerk Rubina R. Medina took the roll call as follows:

Present: Alderperson Hopkins, Alderperson Harenda, Alderperson Stribl, Alderperson Horbinski, Alderperson Kroupa, Alderperson La Fever

Excused: Alderperson Dave Maxey

Staff Present: Mayor Ament, City Attorney Thomas Schmitzer, City Clerk Rubina R. Medina

The City Clerk stated that a quorum had been established, and the meeting was properly noticed.

3. APPROVAL OF MINUTES

A. December 10, 2024 Committee of the Whole Meeting Minutes

MOTION: Motion to Approve

VOTE: Motion by: Alderperson Harenda
Second by: Alderperson Stribl
Motion Passed 6-0

4. UTILITY & FINANCE

A. Discussion and possible action to recommend approval to the Common Council of the December 25th, 2024, Water Utility claims in the amount of \$194,209.31. Sewer Utility claims in the amount of \$773,588.70, and General City claims in the amount of \$866,783.41. US BANK VISA EFT of \$31,816.14

MOTION: Motion to Approve

VOTE: Motion by: Alderperson La Fever
Second by: Alderperson Harenda
Motion Passed 6-0

B. Discussion and possible action to recommend approval to the Common Council of the January 15th, 2024, Water Utility claims in the amount of \$155,804.30 for 2024 invoices and \$5,084 for 2025 invoices. Sewer Utility claims in the amount of \$57,013.63 for 2024 invoices and \$1,305 for 2025 invoices. General City claims in the amount of \$627,402.20 for 2024 invoices and \$202,933.95 for 2025 invoices. Tax overpayment checks totaling \$33,738.72 were also generated. We Energies EFT of \$59,401.66

Ald. Kroupa inquired whether January 15, 2024, should have been January 15, 2025. The City Clerk confirmed that the correct year is 2025.

MOTION: Motion to Approve

VOTE: Motion by: Alderperson Stribl
Second by: Alderperson Hopkins
Motion Passed 6-0

5. MISCELLANEOUS

- A.** Discussion and possible action to recommend approval to the Common Council for the Director of Finance to sign the Declaration of Official Intent for the 2025 Debt Issue, not to exceed the approved 2025 Capital Improvement Budget amounts plus projected issuance costs

MOTION: Motion to Approve

VOTE: Motion by: Alderperson Stribl
Second by: Alderperson Horbinski
Motion Passed 6-0

- B.** Discussion and possible action to recommend approval to the Common Council of the 2025 Salary Table, as presented in the agenda packet, effective January 6, 2025.

MOTION: Motion to Approve

VOTE: Motion by: Alderperson Harenda
Second by: Alderperson Hopkins
Motion Passed 6-0

- C.** Discussion and possible action to recommend approval to the Common Council to authorize the reclassification of a Facilities Maintenance Technician position to a Lead Facilities Maintenance Technician position for the 2025 budget year

MOTION: Motion to Approve

VOTE: Motion by: Alderperson Harenda
Second by: Alderperson Stribl
Motion Passed 6-0

6. ADJOURN

MOTION: Motion to Adjourn at 6:05 PM

VOTE: Motion by: Alderperson Kroupa
Second by: Alderperson Stribl
Motion Passed 6-0

Respectfully Submitted by:
Rubina R. Medina, City Clerk

Form
AB-200

Alcohol Beverage License Application

For Municipal Use Only	
Municipality	
License Period	

License(s) Requested: (up to two boxes may be checked)

- ☐ Class "A" Beer \$ _____ ☒ Class "B" Beer \$ _____
- ☐ "Class A" Liquor \$ _____ ☒ "Class B" Liquor \$ _____
- ☐ "Class A" Liquor (cider only) \$ _____ ☐ Reserve "Class B" Liquor \$ _____
- ☐ "Class C" Liquor (wine only) \$ _____

Fees	
License Fees	\$ 300
Background Check Fee	\$ 10
Publication Fee	\$ 35
Total Fees	\$ 345

Part A: Premises/Business Information

1. Legal Business Name (individual name if sole proprietorship) DRAKES WATERING HOLE INC.		PAID	
2. Business Trade Name or DBA DRAKES WATERING HOLE		JAN 21 2025	
3. FEIN 33-2843065	4. Wisconsin Seller's Permit Number Treasurer - City of New Berlin		
5. Entity Type (check one) ☐ Sole Proprietor ☐ Partnership ☐ Limited Liability Company ☒ Corporation ☐ Nonprofit Organization			
6. State of Organization WI	7. Date of Organization	8. Wisconsin DFI Registration Number	
9. Premises Address 3612 S. MOORLAND ROAD			
10. City NEW BERLIN	11. State WI	12. Zip Code 53151	
13. County WAUKESHA	14. Governing Municipality: ☒ City ☐ Town ☐ Village of: NEW BERLIN		15. Aldermanic District
16. Premises Phone	17. Premises Email	18. Website	
19. Premises Description - Describe the building or buildings where alcohol beverages are produced, sold, stored, or consumed, and related records are kept. Describe all rooms within the building, including living quarters. Authorized alcohol beverage activities and storage of records may occur only on the premises described in this application. Attach a map or diagram and additional sheets if necessary. Main building within shopping plaza Alcohol sold & consumed in dining space, stored in cooler at back bar & the room			
20. Mailing Address (if different from premises address)			
21. City	22. State	23. Zip Code	

Part B: Questions

1. Has the business (sole proprietorship, partnership, limited liability company, or corporation) been convicted of violating federal or state laws or local ordinances? Exclude traffic offenses unless related to alcohol beverages. ☐ Yes ☒ No		
If yes, list the details of violation below. Attach additional sheets if necessary.		
Law/Ordinance Violated	Location	Trial Date
Penalty Imposed		Was sentence completed? ☐ Yes ☐ No
Law/Ordinance Violated	Location	Trial Date
Penalty Imposed		Was sentence completed? ☐ Yes ☐ No

2. Are charges for any offenses pending against the business? Exclude traffic offenses unless related to alcohol . . ☐ Yes ☒ No
beverages.

If yes, describe the nature and status of pending charges using the space below. Attach additional sheets as needed.

3. Is the applicant business or any of its officers, directors, members, agent, employees, owners, or other related individuals or entities a restricted investor with any interest in an alcohol beverage producer or distributor? . . ☐ Yes ☒ No
If yes, provide the name of the restricted investor and describe the nature of the interest.

4. Is the applicant business owned by another business entity? ☐ Yes ☒ No
If yes, provide the name(s) and FEIN(s) of the business entity owners below. Attach additional sheets as needed.

4a. Name of Business Entity

4b. Business Entity FEIN

5. Have the partners, agent, or sole proprietor satisfied the responsible beverage server training requirement for this license period? Submit proof of completion. ☒ Yes ☐ No

6. Is the applicant business indebted to any wholesaler beyond 15 days for beer or 30 days for liquor/wine? ☐ Yes ☒ No

7. Does the applicant business owe past due municipal property taxes, assessments, or other fees? ☐ Yes ☒ No

Part C: Individual Information

List the name, title, and phone number for each person or entity holding the following positions in the applicant business or businesses listed in Part B, Question 4: sole proprietor, all officers, directors, and agent of a corporation or nonprofit organization, all partners of a partnership, and all members, managers, and agent of a limited liability company. Attach additional sheets if necessary.

Include Form AB-100 for each person listed below. Corporations and LLCs must appoint an agent by including Form AB-101.

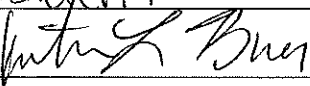
Last Name	First Name	Title	Phone
Buer	Kathryn	President	414.839.4396
Vecitis	Kelly	Secretary	414.736.5853

Part D: Attestation

One of the following must sign and attest to this application:

- sole proprietor • one general partner of a partnership • one corporate officer • one member of an LLC

READ CAREFULLY BEFORE SIGNING: Under penalty of law, I have answered each of the above questions completely and truthfully. I agree that I am acting solely on behalf of the applicant business and not on behalf of any other individual or entity seeking the license. Further, I agree that the rights and responsibilities conferred by the license(s), if granted, will not be assigned to another individual or entity. I agree to operate this business according to the law, including but not limited to, purchasing alcohol beverages from state authorized wholesalers. I understand that lack of access to any portion of a licensed premises during inspection will be deemed a refusal to allow inspection. Such refusal is a misdemeanor and grounds for revocation of this license. I understand that any license issued contrary to Wis. Stat. Chapter 125 shall be void under penalty of state law. I further understand that I may be prosecuted for submitting false statements and affidavits in connection with this application, and that any person who knowingly provides materially false information on this application may be required to forfeit not more than \$1,000 if convicted.

Last Name Buer		First Name Kathryn		M.I. L
Title President		Email		Phone 414.839.4396
Signature 			Date 01/19/2025	

Part E: For Clerk Use Only

Date Application Was Filed With Clerk	License Number	Date License Granted	Date License Issued
Signature of Clerk/Deputy Clerk		Date Provisional License Issued (if applicable)	

Alcohol Beverage
Appointment of AgentDate
01/19/2025

Agent Type (check one)

- ☒
- Original (no fee)
- ☐
- Successor (\$10 fee for municipal licensees only)

Part A: Business Information

1. Legal Business Name (individual name if sole proprietor)

DRAKES WATERING HOLE INC

2. Business Trade Name or DBA

DRAKES WATERING HOLE

3. Entity Type (check one)

- ☐
- Limited Liability Company
- ☒
- Corporation
- ☐
- Nonprofit Organization

4. Alcohol Beverage Business Authorization (check one)

- ☒
- Municipal Retail License
- ☐
- State Permit

5. If successor agent, provide State Permit or Municipal Retail License Number

6. Describe the reason for appointing a successor agent, if successor is checked above.

Part B: Agent Information

1. Last Name

BUER

2. First Name

KATHRYN

3. M.I.

L

4. Email

FRESHWATERKATE@fwhd.com

5. Phone

414.839.4396

6. Home Address

2871 S. 127th St.

7. City

NEW BERLIN

8. State

WI

9. Zip Code

53151

10. Age

43

11. Drivers License/State ID Number

B600-5128-1930-09

12. Drivers License/State ID State of Issuance

WISCONSIN

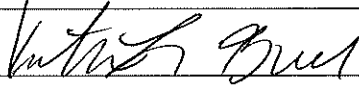
Part C: Agent Questions

1. Have you satisfied the responsible beverage server training requirement? ☒ Yes ☐ No
Submit proof of completion.
2. Have you completed Form AB-100, *Alcohol Beverage Individual Questionnaire*? ☒ Yes ☐ No
Submit a completed Form AB-100 with this form.
3. Have you been a Wisconsin resident for at least 90 continuous days? ☒ Yes ☐ No
See instructions for exceptions.

Continued →

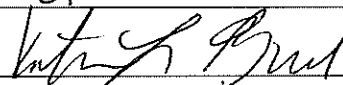
Part D: Business Attestation

READ CAREFULLY BEFORE SIGNING: I, the **Undersigned**, authorize the above-named individual to act for the above-named corporation, nonprofit organization, or limited liability company with full authority and control of the premises and of all alcohol beverage activities on such premises. I certify that I am authorized by the above-named entity to authorize this individual to act on behalf of the entity. If I am appointing a successor agent, I rescind all previous agent appointments for this premises. Further, I understand that I may be prosecuted for submitting false statements and affidavits in connection with this application, and that any person who knowingly provides materially false information on this application may be required to forfeit not more than \$1,000 if convicted.

Last Name BLUER		First Name KATHRYN		M.I. L
Title PRESIDENT	Email FRESHWATERKATE@yahoo.com		Phone 414 839.4396	
Signature 			Date 01/19/2025	

Part E: Agent Attestation

READ CAREFULLY BEFORE SIGNING: I, the **Agent**, hereby accept this appointment as agent for the above-named corporation, nonprofit organization, or limited liability company and assume full responsibility for the conduct of all alcohol beverage activities on the premises for the above-named business. I further understand that I may be prosecuted for submitting false statements and affidavits in connection with this application, and that any person who knowingly provides materially false information on this application may be required to forfeit not more than \$1,000 if convicted.

Last Name BLUER		First Name KATHRYN		M.I. L
Signature 			Date 01/19/2025	



City of New Berlin
Community Relations/City Clerk's Dept.
3805 South Casper Drive
New Berlin, WI 53151-0921

CITY OF NEW BERLIN, WISCONSIN
SURRENDER OF ALCOHOL BEVERAGE LICENSE

This form is to be filed with the City Clerk's Office at the time a new application is submitted.

This is to advise that, as licensee, I (We) intend to surrender our alcohol license for the premise indicated below:

Company Name: Chris Burr Inc

Trade Name (doing business as): Chumleys Pub

Located at: 3612 S Moorland Road

Class of Liquor License Issued: B

I am (we are) aware that a new applicant(s) will be applying for an original alcohol license for the premise indicated above. By signing this form, I (we) hereby surrender and relinquish the liquor license to the City Clerk's Office upon the approval of the application and the issuance of the license. I (we) do not have any intention on transferring this license to a new location within the City of New Berlin.

Current License Holder(s) – All members listed on the Alcohol License Application must sign this form.

Christopher Burr
Print Name

[Signature]
Signature

Print Name

Signature

Print Name

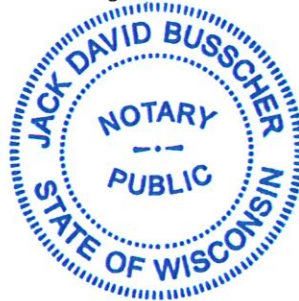
Signature

Subscribed and sworn to before me this

21 day of January, 2025

[Signature]
Notary Public, Waukesha County, State of Wisconsin

My Commission expires: November 25, 2025



New Berlin Hills GC Review



January 28, 2025



Tuesday, January 28, 2025



1. Congratulations
2. Management Team
3. Financial Performance, Rounds, & Rates
4. Facility Projects & Capital Improvement
5. Goals for 2025

Congratulations



Congratulations



NBH Management Team



- Peter Fish – Golf Course Superintendent (2025)
- Wendy Hafemann – Head Chef & Kitchen Manager (2018)
- Hanna Radewahn – Director of Events & Front of House Manager (2016)
- Jacob Szaniawski – Golf Shop Manager (2023)
- Matt Tausig – General Manager (2023)

Financial Performance



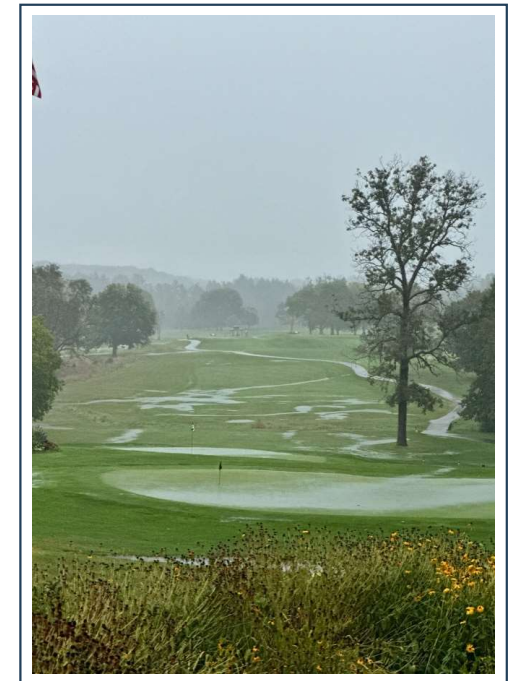
- Total revenue of \$2,279,328.
- Golf revenue of \$1,434,220.
- Food & Beverage revenue \$730,984.
- Merchandise revenue of \$106,763.
- Facility rent & profit share paid to the City of New Berlin was \$365,851 (3.3% increase).

Note: Financial performance numbers are preliminary and based on the year-end P&L statement for 2024. Final numbers will be provided in the Financial Statement after completion of the annual audit.

Rounds

- 44,914 rounds compared to 45,137 rounds in 2023 (-223).
- Weather took a toll on rounds and revenue in the peak months.

Measurable Rain	Days	Rounds Lost	Revenue Lost
May	9	1,300	\$25,915
June	15	1,265	\$53,475
July	11	835	\$33,425
August	6	765	\$23,205
September	3	525	\$25,875
Totals:	44	4,690	\$161,895



Rates

- Golf rates for 2025 were submitted to the Golf Commission for approval, proposing a \$1 increase on green fees. There will also be a \$1 - \$2 increase on cart fees. This will help offset the continued increase in expenses, while maintaining attractive rates for our guests.



2025 Proposed		
18-Holes	Weekend	Weekday
Public	\$ 50.00	\$ 40.00
Resident	\$ 42.00	\$ 33.00
Senior & Junior	N/A	\$ 28.00
Senior Resident	N/A	\$ 24.00
Twilight Evening	\$ 25.00	\$ 16.00

9-Holes	Weekend	Weekday
Public	\$ 29.00	\$ 25.00
Resident	\$ 23.00	\$ 22.00
Senior & Junior	N/A	\$ 19.00
Senior Resident	N/A	\$ 17.00
Twilight Evening	\$ 25.00	\$ 16.00

Cart Rates	18-Holes	9-Holes
Power Cart	\$ 18.00	\$ 12.00

2024 Actual	
Weekend	Weekday
\$ 49.00	\$ 39.00
\$ 41.00	\$ 32.00
N/A	\$ 27.00
N/A	\$ 23.00
\$ 25.00	\$ 16.00

Weekend	Weekday
\$ 28.00	\$ 24.00
\$ 22.00	\$ 21.00
N/A	\$ 18.00
N/A	\$ 16.00
\$ 25.00	\$ 16.00

18-Holes	9-Holes
\$ 16.00	\$ 11.00

Facility Projects & Capital



- Installed new roof on the clubhouse.
 - New golf cart fleet.
 - Purchased maintenance equipment.
 - Aerator
 - Greens Roller
 - Turbine Blower
- Tree removal and transplant.
 - Bridge improvements on hole 1.
 - Repaired portions of the parking lot.
 - Installed new phone system in the clubhouse.

Goals for 2025



- Maintain a quality, affordable, golf course for the residents of New Berlin, and surrounding communities.
- Continue managing outing and league usage to provide more tee times for the public.
- Work with the new superintendent to evaluate and prioritize needs to continue improving the property for short, mid, and long-term success.

DATE: January 23, 2025

TO: Mayor Ament
Common Council

FROM: Alan Skornia

REQUESTED ACTION:

Recommendation to Council to approve the contract for the upgrade of the City of New Berlin phone system.

FISCAL IMPACT:

The hardware and first 2 years of support would come out of the 2019 IT Infrastructure account. After that, I will need an additional \$25,000 added to the IT Maintenance to cover the annual support costs.

RATIONALE:

Our current phone system is over 7 years old and the hardware and software is no longer supported. So, the system is not secure and putting the entire network at risk. We are also out of licenses. So, we are unable to add any more phones to our system. We have checked with various different phone options and determined that it would be best to upgrade to the Cisco Webex system. This new system will allow us to use our current phones, add more phones, provide more features, stay updated with the latest security patches, and allow us to make updates that will better help the residents of New Berlin.

ATTACHMENTS:

City of New Berlin Webex Contract



Cisco Enterprise Agreement Program Terms for Collab Flex – End Users

These Cisco Enterprise Agreement Program Terms for Collab Flex – End Users (“**EA Program Terms**”) are Supplemental Terms to the General Terms and apply when You Order Cisco Offers through the Cisco Enterprise Agreement (the “**EA**” or “**EA Program**”). Capitalized terms, unless defined in this document, have the meaning in the General Terms.

1. Program Overview

- 1.1 **EA Program.** The EA Program provides You access to certain Software, Cloud Services and Services offered as Suites and Add-Ons.
- 1.2 **Applicable Terms.** These EA Program Terms together with the Enrollment Description and End User Information Form (“**EUIF**”) govern the EA Program and supplement the End User Terms that govern Your Use of the Suites and Add-Ons purchased under the EA Program (“**Purchased Suite(s)**”). These EA Program Terms must be signed and will be effective the earlier of (a) You placing Your initial EA Order with an Approved Source, or (b) the date of signature of these EA Program Terms.

2. Purchases and Adjustments

- 2.1 **Ordering.** All purchases under the EA Program will be made through Your Approved Source and all pricing will be provided by Your Approved Source. You may purchase Suites under the EA Program after Cisco has received the EUIF signed by Your authorized representative listing (a) Your Participating Affiliates and (b) the Purchased Suites. You can then place an Order for the Purchased Suites according to the process set forth in Your purchasing agreement with the Approved Source. Your first Order under the EA Program must meet the minimum requirements for the EA Program (“**Initial EA Order**”). You may purchase Suites or Add-ons after Your initial purchase in an Enrollment only through the Approved Source that sold the initial Suite within that Enrollment.
- 2.2 **Subsequent Purchases.** During the Suite Term, defined below, You may purchase an additional Cisco Collaboration Flex Plan Suite by placing an Order according to the process set forth in Your purchasing agreement with the Approved Source. Provided there is at least 12 months remaining in the EA Term, defined below, Suites and Add-Ons purchased after Your Initial EA Order will be governed by these EA Program Terms and, by default, co-terminate with the purchases in the Initial EA Order.
- 2.3 **Separate Purchases.** The following scenarios must be covered under a new EA Program purchase subject to Cisco’s then-current Enterprise Agreement Program Terms for End Users or through a separate license purchase: (i) Suites and Add-Ons purchased with less than 12 months remaining in the EA Term, or (ii) Suites and Add-Ons purchased after Your Initial EA Order which You choose not to co-terminate with the Initial EA Order.
- 2.4 **Services.** Basic Services are included in the price of the Purchased Suite and described in the applicable Enrollment Description and End User Terms. Higher levels of Services may be available for You to purchase as described in documentation provided to You at the time of purchase.
- 2.5 **Payment Obligations and Growth.** During the Suite Term, Your EA Commitment may increase as a result of increases in Use or Your purchase of additional Suites or Add-Ons.



- (a) True Forward. “**True Forward**” is Cisco’s periodic review and prospective billing process for increases in Use above Your then-current Entitlement. Cisco performs a True Forward for the Purchased Suites on each annual anniversary of the True Forward Effective Date. The “**True Forward Effective Date**” is the date on which you first enroll in Program Terms with a True Forward provision. For Your first True Forward, on the last day of the 11th month in the first year of the Suite Term, if You have exceeded the initial Entitlement plus Growth Allowance, the Approved Source will charge You for the Use above the initial Entitlement plus Growth Allowance through the remainder of the Suite Term. For each subsequent True Forward, on the last day of the 11th month of each subsequent year of the Suite Term, the Approved Source will check for any Use above the previous year’s Entitlement plus Growth Allowance and charge for additional consumption on the True Forward anniversary date and through the remainder of the Suite Term.
 - (b) Off-cycle True Forward.
 - 1. Initial Growth Cap. If Your Use of the Purchased Suite at any time during the first six months of the Suite Term exceeds 105% of Your initial Entitlement (“**Initial Growth Cap**”), then Cisco has the right to (1) issue to Your Approved Source(s) a True Forward invoice for all associated charges for such increased Use over the applicable Entitlement for the remainder of the Suite Term, after accounting for any applicable Growth Allowance; and (2) adjust Your Entitlement for that Suite or Add-On on a going-forward basis to the increased Use level.
 - 2. Deployed Knowledge Workers. If the peak number of Deployed Knowledge Workers exceeds five times (5x) Your then-current Entitlement plus Growth Allowance, the Entitlement is subject to an immediate reset and Your Approved Source will charge You for the Use above the Entitlement plus Growth Allowance through the remainder of the Suite Term.
 - (c) True Forward Payment Calculations. Your True Forward payment obligation for each Purchased Suite will be calculated by comparing Your Use of Cisco Offers to Your Entitlement plus Growth Allowance for the previous year. Any payment owed to the Approved Source will be determined as follows and reflected in the True Forward order: the unit price less any applicable discount or incentives multiplied by the quantity by which You exceeded Your then-current Entitlement. The price used to calculate any True Forward fees will be established when You place the Order for each Purchased Suite.
 - (d) Growth Allowance. During the Suite Term, You may Use up to 115% of Your Entitlement for Suites purchased under these Program Terms without incurring additional charges (“**Growth Allowance**”). At the time of Your next True Forward invoice, Your Approved Source will charge You for increased Use above Your initial Entitlement minus any specified Growth Allowance. If You exceed Your Entitlement but do not exceed the Growth Allowance, You will not incur any True Forward charges. Growth Allowance resets after each True Forward adjustment to Your Entitlement.
- 2.6 **Price Predictability.** True Forward charges will be based on not-to-exceed pricing as provided to You by Your Approved Source. The pricing and discount terms for specific Suites and Add-Ons apply only to the Approved Source from whom You purchased such Suites and Add-Ons.
- 2.7 **Responsibility for Affiliates.** Your payment obligation will be based on the EA Commitment by You and any Participating Affiliates. You remain responsible for all actions and omissions and payment of all charges incurred by You, any of Your Participating Affiliates, or any other Authorized Users. In addition, You will provide Your Approved Source with an updated list of Participating Affiliates to ensure compliance with the EA Program.



3. Term and Termination

- 3.1 **EA Term.** These EA Program Terms will remain in effect until expiration or termination of all the Suites and Add-Ons purchased in Your Initial EA Order ("**EA Term**").
- 3.2 **Suite Term.** The Suite Term for each Purchased Suite will commence on the Suite Start Date and last for the period specified in the order with the Approved Source, unless terminated in accordance with section 3.3 below ("**Suite Term**").
- (a) **Renewal.** At the end of the Suite Term, the Purchased Suite will automatically renew (a "**Renewal Suite Term**") unless: (a) You elect on the Order not to auto-renew; or (b) at least 45 days before the end of then-current Suite Term, You notify the Approved Source or Cisco of Your intention not to renew the Purchased Suite. If You notify only the Approved Source, the Approved Source must in turn notify Cisco within 30 Days of this intent. If the Growth Allowance has not been exceeded, the Purchased Suite will renew for the Knowledge Worker count as previously ordered. If the Growth Allowance has been exceeded, the Purchased Suite will renew the current plus incremental Deployed Knowledge Worker count for the remainder of the Suite Term.
 - (b) Notwithstanding the foregoing, the Approved Source will notify You of any fee changes reasonably in advance of the Renewal Suite Term. The new fees will apply for the upcoming Renewal Suite Term unless You notify the Approved Source that You do not accept the fee changes before the next Suite Start Date.
- 3.3 **Termination.**
- (a) Either party may terminate these EA Program Terms or a Purchased Suite if the other party materially breaches the Applicable Terms and that party does not cure the breach within 30 days of written notice of the breach. If You materially breach the Applicable Terms (including for non-payment of undisputed fees to the Approved Source), Cisco may suspend Your access to the EA Program (including Use of specific Suites or Add-Ons, or resources such as the Cisco EA Tool) after providing You notice and an opportunity to cure as set forth in this section.
 - (b) Other than as provided in this section 3 and to the extent permitted by law, these EA Program Terms and any Orders accepted under these EA Program are non-cancellable and may not be terminated.
- 3.4 **Consequences of Termination or Expiration of a Suite Term.**
- (a) Upon expiration of the Suite Term without a subsequent Renewal Suite Term or termination pursuant to Section 3.3(a), all rights to Use the affected Suites and Add-Ons, and the Cisco EA Tool and resources available as part of the Suites and Add-Ons, will terminate.
 - (b) If You terminate for Cisco's uncured material breach of these EA Program Terms, Cisco will provide a refund to the Approved Source for the remaining pro rata portion of amounts prepaid to Cisco for the terminated Purchased Suites and attributable to the period after termination.
 - (c) If Cisco terminates for Your uncured material breach, You will pay Your Approved Source all unpaid fees through the end of the then-current Suite Term for all Purchased Suites terminated.

4. Delivery

- 4.1 **Delivery.** Cisco will make electronically delivered Software available to You and Your Affiliates in the transaction country of record and You are responsible for distributing such Software across Your organization.

5. Interpretation

- 5.1 **Order of Precedence.** If there is a conflict between these EA Program Terms, EUIF, Enrollment



Description, and the End User Terms, the order of precedence for any Purchased Suite is: the EUIF, the Enrollment Description, these EA Program Terms, and then the End User Terms.

- 5.2 **Assignment & Transfer.** Neither these EA Program Terms, nor any right or obligation herein may be assigned or transferred by a party (including under Cisco's Software Transfer and Relicensing Policy) without the other party's prior written consent, which may not be unreasonably conditioned, withheld, or delayed. However, to continue providing You with the benefits of the EA Program, Cisco may assign or transfer its obligations (in whole or in part) upon written notice to You in the event of an acquisition of business assets to which these EA Program Terms relate. When validly assigned or transferred, these EA Program Terms will bind and inure to the benefit of the parties and their successors and assigns.
- 5.3 **Entire Agreement.** These EA Program Terms together with the applicable Enrollment Descriptions, End User Terms, and EUIF constitute the entire agreement between the parties concerning the purchase of Cisco Technology and Services under the EA Program and supersede all prior oral or written communications between the parties.

6. Definitions

Term	Meaning
Add-On	An optional Software, Cloud Services, and Services offering that is available as an additional add-on purchase to an underlying Suite.
Applicable Terms	The EA Program Terms, Enrollment Descriptions, EUIF and End User Terms, as described in Section 1.2.
Cisco EA Tool	The applicable platform, website, tool, or portal that Cisco makes available to You under the EA Program from time to time to enable You to: (i) view and manage Your Entitlement and Use of the Suites and Add-Ons; and (ii) access information about the EA Program.
EA Commitment	The initial Entitlement under Your Initial EA Order, (ii) additional Entitlements associated with subsequent purchases of Suites and Add-Ons, and (iii) increases in Use.
End User Terms	As specified in the Enrollment Descriptions: (i) For Cisco Software and Cloud Services, the General Terms (including applicable Offer Descriptions), or equivalent written agreement between You and Cisco for accessing and using Software and Cloud Services; and (ii) For Services, the Software Support Service and/or Solution Support as applicable
Enrollment	A standardized grouping of Suites and optional Add-Ons.
Enrollment Description	The description of EA Program features applicable to the Software, Cloud Services and Services in an Enrollment.
Entitlement	The type, duration, and quantity of Suites and Add-Ons that You have committed to acquire, as adjusted (e.g., as a result of a True Forward).
EUIF	The End User Information Form for the Purchased Suite.
Meter	The unit of measurement for Use of the Suites and Add-Ons. The applicable Meters are set forth in the Enrollment Descriptions.
Participating Affiliates	Your Affiliates who are included on the EUIF.
Services	Maintenance, technical assistance, or other support for the Software and Cloud Services in a Purchased Suite.
Suite	A defined combination of Software, Cloud Services, and Services made available under the EA Program.
Suite Start Date	With respect to each Purchased Suite, the earliest date any Software, Cloud Services and Services in the Purchased Suite is available for Your Use.
Use	To download, install, activate, provision, enable, or otherwise access or have available Suites and Add-Ons under the EA Program.
You or Your	The individual or legal entity purchasing the Software, Cloud Services, and Services under the EA Program, as identified in the EUIF.



End User Information Form For End Users of the Cisco Flex Plans

To purchase the Cisco Collaboration Flex Plan Enrollment or Cisco Spark Flex Plan under the EA an authorized representative of the end user must complete this form in its entirety and sign it. Your signature is required on this form prior to receiving access to the EA Program.

This form will be used ensure that You understand the terms of use that apply to EA. You will then be required to place an Order for the Purchased Suite(s) according to the process set forth in Your purchasing agreement with the Approved Source.

End User Overview

End User Information	
Full legal name of the end user organization (e.g., company, government entity)	CITY OF NEW BERLIN
Address of end user's principal place of business	3805 S. Casper Drive New Berlin, WI 53151

Participating Affiliates
Cisco requires any Participating Affiliate(s) for which You are purchasing coverage to be included in this End User Information Form. Cisco relies on this list to define the scope of the agreement, ensure accurate pricing, as well as effective provisioning and support.
Participating Affiliate(s)
☒ None ☐ Only listed Participating Affiliates (to be recorded immediately below)
Participating Affiliates



Cisco Collaboration Flex Plan Enrollment (“Flex Plan”)

Your Suite(s) purchased under the Flex Plan
You will have access to the Cisco Offers in the Suite(s) you purchase, as identified in any Orders You place through Your Approved Source. Any additional purchases can be made by placing an Order for the Purchased Suites according to the process set forth in Your purchasing agreement with the Approved Source.
☐ Cisco Collaboration Webex Suite Enterprise Agreement ☐ Cisco Collaboration Webex Suite Essentials Enterprise Agreement ☐ Cisco Collaboration Webex Customer Experience Essentials Enterprise Agreement ☐ Cisco Collaboration Flex Plan Meetings Enterprise Agreement ☒ Cisco Collaboration Flex Plan Calling Enterprise Agreement ☐ Cisco Collaboration Flex Plan for Education Meetings Enterprise Agreement ☐ Cisco Collaboration Flex Plan for Education Calling Enterprise Agreement ☐ Cisco Collaboration Flex Plan Enterprise Agreement for Public Sector ☐ Cisco Collaboration Webex for Government Webex Suite Enterprise Agreement ☐ Cisco Collaboration Webex for Government Webex Suite Essentials Enterprise Agreement ☐ Cisco Collaboration Webex for Government Webex Customer Experience Essentials Enterprise Agreement ☐ Cisco Collaboration Flex Plan Enterprise Agreement - Webex for Government

End User Acceptance

THE UNDERSIGNED REPRESENTS THAT THEY ARE AUTHORIZED TO SIGN THIS FORM ON THE END USER’S BEHALF AND THAT THE INFORMATION PROVIDED IS ACCURATE AS OF THE DATE OF SIGNATURE. THE UNDERSIGNED UNDERSTANDS THAT THE TERMS AND CONDITIONS ABOVE WILL APPLY IF AN ORDER IS PLACED.

End User Organization	
Full legal name of the end user organization (e.g., company, government entity) you represent (“End User”)	CITY OF NEW BERLIN
Last Name, First Name	
Title	
Date	
End User Authorized Representative Signature	



Cisco Collaboration Flex Plan Enrollment Description & Supplemental EA Program Terms

This Enrollment Description lists the available Suites under the Cisco Collaboration Flex Plan and additional terms and conditions that apply to the Cisco Collaboration Flex Plan Enrollment. You may purchase any or all of the Suites listed below, and for any particular Suite You purchase, You may select any or all of the available licenses listed. Purchasing a particular Suite does not give You access to licenses in another Suite.

Suite	Licenses	License Type	End User Terms	Meter
Cisco Collaboration Webex Suite	Webex Meetings	Cloud Service	Cisco Collaboration Flex Plan OD; Vidcast OD; General Terms	Deployed Knowledge Worker
	Webex App	Cloud Service		
	Vidcast	Cloud Service		
	Webex Calling; or Webex Calling Dedicated Instance	Cloud Service		
	Cisco Unified Communications Manager On-Premises Calling	Software		
	Webex Webinars	Cloud Service		
	Webex Events (formerly "Socio")	Cloud Service	Cisco Webex Events OD; General Terms	

Suite	Licenses	License Type	End User Terms	Meter
Cisco Collaboration Webex Suite Essentials	Webex Meetings	Cloud Service	Cisco Collaboration Flex Plan OD; Vidcast OD; General Terms	Deployed Knowledge Worker
	Webex App	Cloud Service		
	Vidcast	Cloud Service		
	Webex Calling; or Webex Calling Dedicated Instance	Cloud Service		

Suite	Licenses	License Type	End User Terms	Meter
Cisco Collaboration Webex Customer Experience Essentials	Webex Customer Experience Essentials	Cloud Service	Cisco Collaboration Flex Plan OD; Vidcast OD; General Terms	Deployed Knowledge Worker
	Vidcast	Cloud Service		

Suite	Licenses	License Type	End User Terms	Meter
Cisco Collaboration Flex Plan Meetings	Cisco Meeting Server	Software	Cisco Collaboration Flex Plan OD; Vidcast OD;	Deployed Knowledge Worker
	Webex Meetings	Cloud Service		
	Vidcast	Cloud Service		



Enterprise Agreement	Webex App	Cloud Service	General Terms	
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Suite	Licenses	License Type	End User Terms	Meter
Cisco Collaboration Flex Plan Calling Enterprise Agreement	Webex App	Cloud Service	Cisco Collaboration Flex Plan OD; Vidcast OD; General Terms	Deployed Knowledge Worker
	Vidcast	Cloud Service		
	Webex Calling or Webex Calling Dedicated Instance	Cloud Service		
	Webex Customer Experience Essentials	Cloud Service		
	UCM Cloud Calling	Cloud Service		
	Cisco Unified Partner Hosted Communications Manager Calling	Software		
	Cisco Unified Communications Manager On-Premises Calling	Software		

Suite	Licenses	License Type	End User Terms	Meter
Cisco Collaboration Flex Plan for Education Meetings Enterprise Agreement	Cisco Meeting Server	Software	Cisco Collaboration Flex Plan OD; Vidcast OD; General Terms	Deployed Knowledge Worker; Student
	Webex Meetings	Cloud Service		
	Vidcast	Cloud Service		
	Webex App	Cloud Service		

Suite	Licenses	License Type	End User Terms	Meter
Cisco Collaboration Flex Plan for Education Calling Enterprise Agreement	Webex Calling	Cloud Service	Cisco Collaboration Flex Plan OD; Vidcast OD; General Terms	Deployed Knowledge Worker
	Vidcast	Cloud Service		
	Cisco Unified Communications Manager On-Premises Calling	Software		

Suite	Licenses	License Type	End User Terms	Meter
Cisco Collaboration	Webex Meetings - Webex for Government	Cloud Service	Cisco Collaboration Flex Plan OD;	Deployed Knowledge



Flex Plan Enterprise Agreement for Public Sector	Vidcast	Cloud Service	Vidcast OD; General Terms	Worker
	Cisco Unified Communications Manager Cloud for Government Calling	Cloud Service		

Suite	Licenses	License Type	End User Terms	Meter
Cisco Collaboration Flex Plan Enterprise Agreement - Webex for Government	Webex Meetings - Webex for Government	Cloud Service	Cisco Collaboration Flex Plan OD; General Terms	Deployed Knowledge Worker
	Webex Calling - Webex for Government	Cloud Service		
	Cisco Unified Communications Manager Cloud for Government Calling	Cloud Service		
	Cisco Unified Communications Manager On-Premises Calling	Software		
	Webex App - Webex for Government	Cloud Service		
	Webex Webinars - Webex for Government	Cloud Service		

Suite	Licenses	License Type	End User Terms	Meter
Cisco Collaboration Webex for Government Webex Suite Enterprise Agreement	Webex Meetings - Webex for Government	Cloud Service	Cisco Collaboration Flex Plan OD; General Terms	Deployed Knowledge Worker
	Webex Calling - Webex for Government	Cloud Service		
	Webex App - Webex for Government	Cloud Service		
	Cisco Unified Communications Manager Cloud for Government	Cloud Service		
	Cisco Unified Communications Manager On-Premises Calling	Software		
	Webex Webinars - Webex for Government	Cloud Service		

Suite	Licenses	License Type	End User Terms	Meter
Cisco Collaboration Webex for Government Webex Suite Essentials Enterprise Agreement	Webex Meetings - Webex for Government	Cloud Service	Cisco Collaboration Flex Plan OD; General Terms	Deployed Knowledge Worker
	Webex Calling - Webex for Government	Cloud Service		
	Webex App - Webex for Government	Cloud Service		



Suite	Licenses	License Type	End User Terms	Meter
Cisco Collaboration Webex for Government Webex Customer Experience Essentials Enterprise Agreement	Webex for Government- Webex Customer Experience Essentials	Cloud Service	Cisco Collaboration Flex Plan OD; General Terms	Deployed Knowledge Worker



Supplemental Terms and Conditions for Collaboration Flex Plan Enrollment

Applicable Meters

The Meter for the Cisco Collaboration Flex Plan Enrollment is the number of Deployed Knowledge Workers. Your Orders through an Approved Source must reflect accurate Knowledge Worker counts for You and Your Participating Affiliates. Knowledge Worker count additions can be made through subsequent Orders.

“Deployed Knowledge Worker” means a Knowledge Worker who has a profile configured within the Software or Cloud Service provisioning platform and associates that profile with a license as specified in the Offer Description i.e., the applicable desk phone, Jabber client, Webex App, mobile phone, video device, or personal computing device. You must assign each Knowledge Worker a cloud, on-premises, or hosted account to be treated as a single Deployed Knowledge Worker. A Knowledge Worker who is assigned more than one configuration (cloud, on-premises, or hosted) will be counted as multiple Deployed Knowledge Workers. Changing a Knowledge Worker’s configuration to a new deployment model may result in an increased price, with any applicable fees being assessed at the time the new account is configured or subject to a True Forward as specified below.

“Knowledge Worker” means an employee or contractor who utilizes devices capable of running the Software, Cloud Services, or related browser plug-ins as part of their job duties.

“Student” means an individual who is currently enrolled or registered at Your institution for academic study on a full- or part-time basis. Employees, contractors, alumni, former students, prospective students, and students on an extended leave or indefinite absence are not considered Students. You will be required to provide a Student count when you place an Order through an Approved Source.

Included Entitlements & Option for Add-On Purchases

Some entitlements (e.g., Common Area, Device Registration, Webex Events) may be included in Your Enterprise Agreement at fixed quantities as either recurring or one-time allotments. Details of these included entitlements can be found in the respective data sheets. If additional quantities are needed for those entitlements, purchase is required. The respective data sheets also describe optional add-on features and benefits that are not necessarily included in a particular entitlement but may be purchased separately (e.g., Speechview, Real-Time Translation).

Downturn

After the first 12 months of the Suite Term, upon proof of a Downturn event, You can reduce Your Knowledge Worker quantity by up to 20% of Your then-current Entitlement, if such reduction is: a) attributed to such Downturn; and, b) does not cause Your Knowledge Worker quantity to fall below the 250 minimum requirement. To initiate a Downturn reduction, You must provide Your Approved Source with notice 60 days prior to the reduction. **“Downturn”** is defined as an event such as a corporate divestiture, merger, acquisition, or significant restructuring or reorganization of Your business that causes a reduction of Your Knowledge Workers by 20% or more.

You may only request a Downturn Knowledge Worker reduction once during the Suite Term and You may be required to provide a revised order at that time. No refunds or credits will be provided for any services that have been delivered and/or invoiced. Downturn only applies to the Suites listed in Table 1 below.



If Your Order contains any Suites other than those set forth in Table 1, the entire Order is excluded from Downturn eligibility

Table 1
Cisco Collaboration Webex Suite (Cloud)
Cisco Collaboration Webex Suite Essentials
Cisco Collaboration Webex Customer Experience Essentials
Cisco Collaboration Webex for Government Webex Suite Essentials
Cisco Collaboration Webex for Government Webex Suite (Cloud)
Cisco Collaboration Webex for Government Webex Customer Experience Essentials

Support Services

The basic support Services are set forth in the applicable Offer Description. Higher level of support is also available at an additional cost.



Offer Description – Product

Cisco Webex – Collaboration Flex Plan

This Offer Description is part of the [General Terms](#) or similar terms existing between You and Cisco (e.g., the End User License Agreement) (the “**Agreement**”). Capitalized terms, unless defined in this document, have the meaning in the Agreement. Any references to the Supplemental End User License Agreement or SEULA mean Offer Description.

1. Summary

1.1 **Cisco Collaboration Flex Plan.** A Cisco Collaboration Flex Plan subscription (“Flex Plan”) allows You to flexibly deploy various Cisco Offers for Cisco-hosted (“**Cloud Service(s)**”), on-premises or partner-hosted deployments. Cloud Services offered in the plan include the following:

- Webex Meetings;
- Webex Calling;
- Customer Experience Essentials (includes Webex Calling);
- Unified Communications Manager Cloud;
- Webex App;
- Webex Webinars (formerly Webex Events);
- Webex Video Integration for Microsoft Teams;
- Webex for Government;
- Unified Communications Manager Cloud for Government; and
- Slido App (offered on a stand-alone basis, separate from its inclusion as a feature of certain Webex Meetings).

In an on-premises or partner-hosted deployment (which includes the Webex App Cloud Service), Cisco may offer the following Software:

- Cisco Meeting Server;
- Cisco Unified Communications Manager (UCM); and
- HCS.

Each of the Cloud Services and Software listed above is a “Product.” In this Offer Description, “Product” may be used to refer to multiple Cloud Services and/or Software.

1.2 **Cisco Collaboration Flex Plan for Education.** The Flex Plan is offered to education customers, as described in this Offer Description. Cisco Collaboration Flex Plan for Education is intended for use by public or private institutions considered a school, college, university, or other education provider, under applicable law, regulation, or other government policy (“**Education Customer**”).

1.3 **Cisco Collaboration Flex Plan for FedRAMP Certified Services.** Webex for Government, UCM Cloud for Government and Webex Customer Experience Essentials for Government are certified by the Federal Risk and Authorization Management Program (“**FedRAMP**”).

- 1.4 **Cisco Webex Production Assist.** The Webex Production Assist Services team provides services through an assigned Cisco resource to assist in the use of the Flex Plan to conduct Webex Meetings, Trainings, and Webex Webinars (formerly Webex Events). Cisco Production Assist Services may include Technical Monitoring Assist, Standard Assist, Premium Assist, Premium Plus Assist, Event Assist or Lifecycle Assist. Your personnel must be available during the course of the services. Each service is further described in the order and the confirmed reservation. Reservations are required. Requests for reservations are not confirmed until the Webex Production Assist Services team sends a written confirmation. Additional charges apply to add-on services. In the event of cancellation of a confirmed reservation by customer, cancellation fees may apply. Your payment obligation is based on actual usage by Employees together with any applicable cancellation fees.
- 1.5 **Extended Security Pack.** The Extended Security Pack standalone offer includes access to Cloudlock for Webex. Please see the [Cloudlock Offer Description](#) for information related to Cloudlock. The Extended Security Pack with Duo Multi-Factor Authentication (MFA) bundle includes access to both Cloudlock and MFA authentication for Webex. This Duo feature-functionality is limited to basic MFA and single sign-on (SSO). Please see the [Duo Offer Description](#) for information related to Duo Security.
- 1.6 **Webex Video Integration for Microsoft Teams.** Cisco offers the Webex Video Integration for Microsoft Teams as described in its Offer Description.

2. Support and Other Services

The Flex Plan includes basic online support and phone support. Support will be provided by Cisco, except for Webex Calling for SP, HCS, and Unified Communication Manager Cloud for Government in which case support will be provided by Your third-party service provider. When support is provided by Cisco, Cisco will respond as set forth in the table below (Section 2.1) and may require information from You to resolve service issues. You agree to provide the information requested and understand that a delay in providing the information to Cisco may delay resolution and response time.

Online Support allows access for support and troubleshooting via online tools, email, and web case submission only. No telephone access is provided. Case severity or escalation guidelines are not applicable. Phone Support provides Cisco Technical Assistance Center (TAC) access 24 hours per day, 7 days per week to assist by telephone, or web case submission and online tools with use and troubleshooting issues.

You will also have access to Cisco.com, which provides helpful technical and general information about Cisco products, as well as access to Cisco's on-line knowledge base and forums. Please note that access restrictions identified by Cisco from time to time may apply.

For Software, Cisco will provide (i) work-around solutions or patches to reported problems and (ii) major, minor, and maintenance releases of the licensed Software version, which can be accessed on Cisco Software Central. You may be required to update to the latest Software release to correct a reported Software problem.

- 2.1 **Response Objectives.** The below table outlines Cisco's response objectives for submitted cases based on case severity. Cisco may adjust assigned case severity to align with the Severity definitions below.

Software Support Service	Technical Support Coverage	Response Time Objective for Case Severity 1 or 2	Response Time Objective for Case Severity 3 or 4
Basic with Phone Support	24x7 via Phone & Web	Response within 1 hour	Response within next Business Day
Basic with Online Support	Web	Response to all cases within next Business Day during Standard Business Hours	

2.2 Definitions. The following definitions apply to this Section 2:

“Response Time” means the time between case submission in the case management system to support engineer contact.

“Severity 1” means the Product is unavailable or down or there is a critical impact to a significant impact to Your business operation. You and Cisco both will commit full-time resources to resolve the situation.

“Severity 2” means the Product is degraded or significant aspects of Your business operation are negatively impacted by unacceptable software performance. You and Cisco both will commit full-time resources during Standard Business Hours to resolve the situation.

“Severity 3” means the Product is impaired, although most business operations remain functional. You and Cisco both are willing to commit resources during Standard Business Hours to resolve the situation.

“Severity 4” means minor intermittent functionality or performance issue, or information is required on the Product. There is little or no impact to Your business operation. You and Cisco both are willing to provide resources during Standard Business Hours to provide assistance or information as requested.

“Business Day” means the generally accepted days of operation per week within the relevant region where the support will be performed, excluding local holidays as observed by Cisco.

“Local Time” means Central European Time for support provided in Europe, Middle East and Africa, Australia’s Eastern Standard Time for support provided in Australia, Japan’s Standard Time for support provided in Japan, and Pacific Standard Time for support provided in all other locations.

“Standard Business Hours” means 8am to 5pm Local Time (relative to the location of the Cisco TAC) on Business Days.

3. Data Protection

3.1 **Privacy Data Sheets.** The Privacy Data Sheets for the Cloud Services included with the Flex Plan (available [at Cisco’s Trust Portal](#)) describe the Personal Data that Cisco collects and processes as part of delivering the Products.

3.2 **FedRAMP-Certified Cloud Services.** Webex for Government, Unified Communication Manager Cloud for Government, and Webex Customer Experience Essentials for Government have each been certified by the Federal Risk and Authorization Management Program (“**FedRAMP**”). Personal Data processed in connection with Your Use of these Cloud Services is stored in the United States and not subject to international data transfers. If You have access to federal information, it is Your responsibility to ensure that such information is restricted to a FedRAMP-authorized environment and not accessed in connection with the Cloud Services that are not FedRAMP-authorized. In addition, if You authorize Your Cisco Partner to access certain applications and exercise privileged operator rights on your behalf (e.g., the right to configure and manage Your organizations’ use of the Cloud Services in Your Control Hub), You hereby authorize Cisco to grant Your Cisco Partner such rights, and it is Your responsibility to ensure that Your Cisco Partner meets Your FedRAMP and other security requirements.

4. Special Terms

4.1 **License Model Terms.** The Product may be available in multiple license models, as described below. You have the flexibility to change Your license model from: (a) Named User to Active User or Enterprise Agreement or (b) Active User to Enterprise Agreement. You may not change Your subscription from Enterprise Agreement to any other license model.

(A) Named User. Your payment obligation and right to use the Product is based on the number of Named

Users on Your order, regardless of usage. If the number of Named Users who access the Cloud Services and Software exceed the number of Named Users on Your order, Your payment obligation will increase to reflect the additional Named Users. Billing reconciliation may occur at any time after You exceed the number of Named Users on Your order.

A “**Named User**” is an employee or contractor given access to the Cloud Services and Software. Each Named User receives an account that may not be shared or used by anyone other than the designated employee or contractor while that Named User is using the account. You, at your sole discretion, may transfer a Named User’s account from one employee or contractor to another employee or contractor. You are solely responsible for the acts and omissions of, or any fees incurred by, Your Named Users.

(B) Active User. The **Active User** license model provides your entire organization with access to Flex Plan Meetings.

(1) Payment Obligation – General. Your payment obligation is based on a minimum quantity of Active Users (“**AU Minimum**”) that may increase during the Use Term as Your organization grows or Your usage of Meetings increases. Your initial total Meetings Entitlement is determined by the number of Knowledge Workers on your initial order. Your order must reflect at least 250 Knowledge Workers or 40 Active Users for You to be eligible to participate in the Active User license model. Each Active User receives a unique account that may not be shared or used by anyone other than the designated employee or contractor.

At the beginning of the Use Term, your AU Minimum will be determined as follows:

- If You are purchasing under a legacy AU license model, Your AU Minimum will be the greater of 40 Active Users or 15% of Your Knowledge Workers. If You are purchasing under a then-current AU license model, Your AU Minimum will be 40 Active Users.
- If you are migrating from an existing subscription, You will retain the number of Active Users associated with Your existing subscription, and Your AU Minimum will be equal to such number.
- Your AU Minimum may be adjusted if the following occurs during the first year of Your subscription:
 - If the peak number of Active Users exceeds five times (5X) Your initial AU Minimum at any time, then Your AU Minimum is subject to an immediate reset such that it would equal the actual number of peak Active Users.
 - Each year on the anniversary of the Delivery Date, Cisco will measure Your Average Active Users – this process is called a “True Forward.” If Your Average Active Users is found to be greater than Your AU Minimum, Your AU Minimum will be increased, and You will owe incremental True Forward fees for these additional Active Users for the remainder of the Use Term. Billing reconciliation may occur at any time after Your AU minimum is increased as a result of the True Forward calculation. A True Forward will never result in a reduction of Your Active User count.
 - For details on the licensing model associated with Real Time Translation (RTT) for Webex Meetings under an Active User (AU) licensing model, see **Exhibit B**.

(2) Payment Obligation – FedRAMP Certified Cloud Services. Under the Active User licensing model, Your order must reflect the greater of the following number of Active Users: (a) 40 Active Users; (b) 10% of Your Employees; or (c) if You are migrating from an existing subscription, the number of Active Users on the order associated with Your existing subscription. After Your initial subscription year, Your minimum payment obligation will be the greater of the following number of Active Users: (a) 40 Active Users; (b) 10% of Your Employees; or (c) Your Average Active Users.

(C) Enterprise Agreement. The Collab Flex Enterprise Agreement license model is governed by the Cisco Enterprise Agreement Program Terms, which require Your acknowledgement when You place Your order. See those terms for your Use Rights.

(D) Shared Meetings. Your payment obligation and right to use the Product is based on the Concurrent Meetings Cap on Your order. You may host an unlimited number of meetings during Your Use Term, as long as You do not exceed the Concurrent Meetings Cap.

- If You exceed the Concurrent Meetings Cap, You must pay for the additional meetings pursuant to the True Forward process in this Section.
- You must purchase a Concurrent Meetings Cap of at least one but no more than 25 combined cloud and on premises meetings.
- No more than 250 of Your employees may be given access to Your cloud meetings.

A “**True Forward**” under this Section is the process to determine the fees due for Peak Concurrent Meetings that exceed the Concurrent Meetings Cap on Your order. Under the shared meetings license model, a True Forward is conducted quarterly beginning in the second quarter of Your Use Term. If Your Peak Concurrent Meetings exceed the Concurrent Meetings Cap on Your order, Your Approved Source will bill You for the excess meetings. Your minimum payment obligation for the remainder of Your Use Term will also increase to reflect the higher Peak Concurrent Meetings. A True Forward will not reduce Your Concurrent Meetings Cap.

(E) Guest-to-Guest Meetings. Your payment obligation and right to use the Product is based on the Concurrent Meetings Cap on Your order. You may host a number of concurrent Meetings across your Guest-to-Guest Site during Your Use Term, up to Your Concurrent Meetings Cap. If you wish to host more meetings than Your Concurrent Meetings Cap permits, You must purchase additional Meetings from Your Approved Source.

(F) Slido App. Your payment obligation and right to use the Product is based on the number of Users on Your order (initial or renewal), regardless of usage. If at the end of the initial Use Term or any Renewal Term, the number of Users who access the Product exceeds the number of Users on Your initial order or any renewal order, Your Approved Source may adjust Your subscription, payment obligation, and billing reconciliation to reflect the additional Users. You cannot reduce Your User count.

(G) Definitions. The defined terms used in this Section 4.1 mean the following:

“**Active User**” means a Knowledge Worker who accesses the Product and initiated at least one Meeting.

“**Average Active Users**” means the average number of Active Users per month in months nine, ten, and eleven of the preceding year. For clarification, months nine (9), ten (10), and eleven (11) are based on the corresponding three (3) thirty-day periods.

“**Concurrent Meetings Cap**” is the maximum number of cloud and on-premises meetings You are entitled to host simultaneously.

“**Guest-to-Guest Site**” means the specific site dedicated to Your use of Guest-to-Guest Meetings as provisioned via a service application that arranges, authorizes, and licenses Guest-to-Guest Meetings.

“**Knowledge Workers**” means Your employees and contractors who use computing or communications devices capable of running the Product as part of their duties performed on Your behalf.

“**Meeting**” is a meeting initiated: (a) in Webex Meetings, Webex App, or Cisco Meeting Server; or (b) by

phone using a Webex personal conferencing number regardless of whether Webex Meetings, Webex App, or Cisco Meeting Server is launched. An unscheduled meeting launched from a Webex App one-on-one space is not included as a Meeting.

“Peak Concurrent Meetings” means the greatest number of meetings hosted simultaneously during the previous quarter of the Use Term.

“Users” means Your employees and contractors.

4.2 **Term.** The initial Use Term starts on the date any portion of the Product is provisioned. Cisco will notify you when any portion of the Product is ready for provisioning, at which point You must perform certain steps to begin using it. If You do not complete the provisioning steps, Cisco may automatically activate Your licenses and invoice You for usage based on that auto-activation date. You understand that such auto-activation will mark the start of the initial Use Term and You agree to pay for all use from that date.

4.3 **Subscription Renewal.** Subscription Offers will automatically renew for the renewal period indicated on the order You or Your Cisco Partner placed with Cisco (**“Renewal Term”**) unless:

(A) You notify Your Approved Source in writing at least 45 days before the end of Your then-current Use Term of Your intention not to renew; or

(B) You or Your Cisco Partner elect not to auto-renew at the time of the initial order placed with Cisco.

Your Approved Source will notify You reasonably in advance of any Renewal Term if there are fee changes. The new fees will apply for the upcoming Renewal Term unless You or Your Cisco Partner promptly notify Cisco in writing, before the renewal date, that You do not accept the fee changes. In that case, Your subscription will terminate at the end of the current Use Term.

4.4 **Fees.** To the extent permitted by law, orders for the Product are non-cancellable. Fees for Your use of the Product are set out in Your purchase terms with Your Approved Source.

4.5 **General Restriction on Use by Minor Children**

(A) The Products are generally not directed at children under the age of 18 and may not be used by persons younger than the age at which an individual is considered a “child” under applicable laws limiting or prohibiting the collection, use and/or disclosure of personal information from and about children on the internet in their relevant jurisdiction (e.g., 13 years old in the United States under the US Children’s Online Privacy Protection Act of 1998, or 16 or 13 years old in the European Union as per Member State Law) (**“Minor Children”**). Minor Children are not permitted to create an account to use the Product, and You will not authorize Minor Children to access the Product.

(B) **Exception for Education Customers.** In some circumstances, the Products may be used by Minor Children if the Products are procured for use by an Education Customer if such use is consistent with applicable law, regulation, or other government policy including but not limited to purpose of providing educational services. Since we provide the Products to Education Customers to benefit and enhance a school’s curriculum, we rely on the Education Customer to obtain and provide appropriate legal basis (e.g., consent), if needed, to collect personal information of students. In such case, the Education Customer may have additional obligations with respect to Minor Children depending on the laws in the applicable jurisdiction. As between the parties: the Education Customer is solely responsible ensuring full compliance with all local laws relating to use by Minor Children, including but not limited to providing notifications, obtaining parental consent, enabling parent or guardian requests for access, correction, deletion, or suppression of personal information, and limiting use of personal information, as required by law.

4.6 **Geographic Terms and Restrictions.** In accordance with global telecommunications law and regulations, the

Product is currently available in the countries listed [here](#).

4.7 Webex Calling Offer

- (A) Your use of Webex Calling Plans, Webex Calling, Webex for Government, Unified Communications Manager Cloud (UCM-C) or Unified Communications Manager Cloud for Government (UCM-G) may include additional legal requirements as set out in **Exhibit A** to this Offer Description.
- (B) With regard to Webex Meetings, when Cisco includes dial-in numbers (toll and/or toll-free) and call back features, Cisco does not operate the underlying telecommunications facilities. Cisco obtains these capabilities from authorized operators and Cisco relies on the authorized operator for PSTN-related regulatory compliance.

4.8 Cisco Webex Hybrid Services. Cisco Webex Hybrid Services allow You to connect Your existing on-premises infrastructure with the Webex cloud platform. If You choose to use Cisco Webex Hybrid Services, You will be required to download and install software applications on Your premises to enable integration with Cisco Webex (“**Hybrid Software**”). You will exercise exclusive control over the Hybrid Software in Your environment. You will maintain the Hybrid Software in a secured environment accessible only to Your Authorized Third Parties and Users. You will replace or patch Hybrid Software as new releases become available. You will implement and maintain appropriate technical and organizational measures designed to protect the Hybrid Software against accidental loss, destruction or alteration, unauthorized access, or unlawful destruction.

4.9 Accounts for Personal Use. Cisco recommends that You use Your personal email address to access the Products for personal use. If You use Your employer-issued email address to access a Product for personal use and Your employer later purchases the Product from Cisco, You will be required to update the email address associated with Your personal account to a personal email address. You can change Your email address by following these instructions. If You do nothing, Your personal account and Personal Data will be controlled by Your employer and Your use will be subject to Your employer’s policies.



Exhibit A: Additional Terms for Cisco Calling Offers

This Supplement covers all uses of Cisco VoIP services, including the use of any device, system, network, or account in connection with Webex Calling, Cisco Calling Plans, Unified Communications Manager Cloud (UCM-C), and Unified Communications Manager Cloud for Government (UCM-G), Cisco Unified Communications Manager (UCM) (collectively, “**Cisco Calling Offers**”).

1. PSTN Requirement & Disclaimers

To use Webex Calling, UCM-C, or UCM-G, You must purchase a public switched telephone network (“**PSTN**”) local, long distance, emergency dialing, and direct- inward-dial service from either (1) a Cisco-approved third-party service provider or (2) Cisco as part of Cisco Calling Plans, to be combined with the Product. When you purchase PSTN service from Cisco, the applicable Cisco Affiliate, including BroadSoft Adaption LLC in the United States and Canada, is the provider of the service.

When utilizing FedRAMP Certified services and connecting to the Cloud Service from locations outside the United States, Cisco strongly recommends that You and Your meeting participants use integrated VoIP. You acknowledge that calls placed over PSTN are unencrypted and subject to local laws. If You use a PSTN connection and suffer harm resulting from the lack of encryption, You are solely responsible, and Cisco disclaims all liability for any such harm.

2. Emergency Calling Policy

Emergency calling through Cisco Calling Offers operates differently than traditional emergency calling services. Cisco Calling Offers allow You to make or receive telephone calls over the Internet to or from the PSTN. Though Cisco Calling Offers are similar to traditional telephone services, the nature of voice-over-IP services creates unique limitations and circumstances for emergency calling.

When you deploy Webex Calling or UCM-C combined with PSTN, You must ensure the collection of an emergency response location for Your Users, for purposes of their emergency calls to national or state-designated emergency numbers, as required in Your jurisdiction. This includes if you obtain PSTN service from Cisco via Cisco Calling Plans.

If You obtain PSTN service from Cisco via Cisco Calling Plans, You are also responsible for informing Your Users of Cisco’s relevant policies (located in this Exhibit) and of the need to update their emergency response location if the User’s location changes or the User relocates the equipment used to access the Cisco-provided PSTN service. Please note that Cisco’s [Numbering Policy](#) applies to Cisco Calling Plans.

For Webex Calling users, text to emergency services (including 911 and 988) is not supported. Contact emergency services using another means.

2.1 Registered Location. Because a voice-over-IP call can be made anywhere a User has an Internet connection, the caller’s telephone number will not necessarily correspond with the caller’s physical location. All customers must therefore provide Cisco with a “Registered Location” for each User when Cisco Calling

Offers service is set up. The **“Registered Location”** is the street address where the Users will be using the service.

If You or Your Users move the equipment to a new location, You or Your Users must immediately update the Registered Location with the new physical location of the device in Your Control Hub. If the Registered Location is not updated, any emergency calls made from the device may be sent to the wrong emergency response center and will transmit incorrect location information to emergency responders, delaying emergency assistance to Your Users. Customers with multiple Users are responsible for ensuring that an accurate and up-to-date Registered Location is maintained for each User, and that their Users are aware of how the Registered Location can be changed. There may be a delay in making the updated Registered Location available for routing and to emergency call centers.

You are responsible for notifying, and You agree to notify, any User or potential Users of Your VoIP services of the nature and limitations of emergency calls on the VoIP services described in this Policy.

- 2.2 Emergency Call Routing.** Emergency calls will be handled differently than traditional phone service. When Your Users make an emergency call, Cisco and/or a third-party service provider will attempt to automatically route Your User’s call to the emergency call center corresponding to the Registered Location on Your or Your User’s account. If Your User’s call cannot be routed to the designated emergency call center, for example because Your User’s account does not contain a Registered Location, the call will be routed to a specialized call center, for which You may incur a fee. Your User may be required to provide a name, address, and telephone number to the specialized call center.

Cisco will attempt to automatically provide the emergency call center dispatcher or emergency service operator with the name, Registered Location and telephone number associated with Your or Your User’s account. It is possible that the dispatcher receiving the call may not be able to capture or retain this information. Therefore, when making an emergency call, callers should always immediately inform the dispatcher of their location (or the location of the emergency, if different). If callers are unable to speak, the dispatcher may not be able to locate You if Your location information is not up to date.

Callers should remain on any emergency call until told to disconnect by the dispatcher, as the dispatcher may not have the caller’s number or contact information. If a caller is inadvertently disconnected, the caller should call back immediately.

For technical reasons, including network congestion, it is possible that an emergency call will produce a busy signal or will take longer to connect when compared with traditional emergency calls.

- 2.3 Service Limitations.** Emergency calling will not work in certain circumstances:

- If the equipment You or Your Users use to make voice-over-IP calls fails or is not configured correctly;
- if You or Your Users are experiencing a power outage or an outage, suspension, or disconnection of Your Internet service; and
- if Your service has been terminated or suspended.

If You or Your Users are not comfortable with the limitations of emergency calls made using Cisco services, Cisco recommends that You or Your Users consider an alternate means for accessing traditional emergency calling services.

- 2.4 Disclaimer.** Your emergency response location for purposes of emergency calls may be limited to your company address. It is your responsibility to advise your Authorized Users to always provide their current location when calling emergency services. If your broadband connection, PSTN service, or electrical power fails or is temporarily suspended or interrupted, or any other issue interrupts your network

connectivity, the Product (including emergency calls) will also fail. Cisco will not be liable for any claims arising from failure of your network connectivity.

The availability of certain features, such as transmission of an emergency response location or Your or Your User's telephone number, depends on factors outside of Cisco's control, including whether local emergency response centers support those features. Cisco disclaims all responsibility for the conduct of local emergency response centers, third parties engaged by You to facilitate emergency response location or other address updates, and all other third parties involved in the provision of emergency response services. As permitted by applicable law, You hereby release, discharge, and hold harmless Cisco (including its directors, officers, employees, contractors, licensors, and agents) from and against any liability relating to or arising from (1) any acts or omissions of such third parties or other third parties involved in the handling of or response to any emergency call, (2) Your inability to use a Cisco-provided PSTN service to contact emergency services, or (3) Your failure to make additional arrangements to access emergency services.

3. Authorized Use of Cisco Calling Plans

Cisco Calling Plans may be used only for lawful, proper, and appropriate purposes. You shall not use Cisco Calling Plans to engage in any of the following prohibited activities. Likewise, You shall ensure that Your Affiliates and Users do not use Cisco Calling Plans to engage in any of these activities. Additionally, You shall not authorize, assist, or enable any third party to use Cisco Calling Plans to engage in any prohibited activities including:

- Activity that is illegal or that promotes illegal activity or violence, including activity that is defamatory, harassing, threatening, abusive, libelous, malicious, deceptive, or fraudulent behavior
- Activity in connection or conjunction with any pornographic and/or adult entertainment industry purposes, regardless of whether such activity is lawfully permitted
- Misrepresentations as to identity or affiliation with any entity or organization
- Activity that threatens, exploits, or otherwise harms minors or that facilitates or supports human trafficking or terrorism
- Violating or infringing any intellectual property or proprietary rights of Cisco or others
- Unauthorized messages, advertising, or spam, including:
 - Posting multiple messages similar in content to Usenet or other newsgroups, listservs, forums, email mailing lists or other similar groups or lists,
 - High volume use (e.g., customer service numbers) or contact center deployments,
 - Conducting or forwarding surveys, contests, pyramid schemes, charity requests, or chain letters,
 - Relaying email in an anonymous fashion or forging any TCP-IP packet header,
 - Mailbombing, flooding, overloading, attacking, or otherwise interfering with a system or network, or
 - Sending unsolicited calls, messaging, or e-mailings (including without limitation, commercial advertising, and informational announcements) if such unsolicited activities could reasonably be expected to or do in fact provoke complaints
- Harvesting, collecting, or gathering user data without consent
- Activity that is harmful or disruptive to Cisco Calling Plans
- Attempting to circumvent restrictions on access, usage, or security of Cisco Calling Plans
- Bulk call-in lines and auto-dialing or "predictive" dialing

- Repetitive and/or continuous messaging or calling to the same destination or number if such activity could reasonably be expected to or in fact does provoke complaints
- Long duration calls (defined as calls to the same number in excess of four continuous or cumulative hours within a 24-hour period) and/or calls placed to specific numbers/destinations for the purpose of generating charges or fees for or with a third party or any other calling activity that could be construed as traffic pumping or access stimulation
- Use of call services in a manner that does not consist of uninterrupted live human voice dialog by and between natural human beings
- Selling, reselling, subleasing, assigning, licensing, or sublicensing Cisco Calling Plans or any component thereof or using or offering the same on a service-bureau or time-sharing basis
- Using Cisco Calling Plans in any manner that violates industry standards or any third-party policies (including, without limitation, all of the applicable guidelines published by the CTIA (Cellular Telecommunications Industry Association), the Mobile Marketing Association, NENA (National Emergency Number Association), or any other applicable accepted industry associations, carrier guidelines or other similar or analogous industry standards, third party policies or requirements in any jurisdiction)
- Without permission from the owner of a system or network, doing any of the following:
 - accessing the system or network,
 - monitoring data or traffic,
 - probing, scanning, and/or testing firewalls,
 - testing the vulnerability of a system or network, or
 - breaching or bypassing any security or authentication routines of a system or network
- Operating a server in connection with the Services in an “open relay” configuration (a configuration whereby a mail server processes email messages where neither the sender nor the recipient is a local user)
- Use of an open telephone line as a monitoring, intercom, or similar service.

4. Supplemental Country-Specific Terms

In certain countries, additional supplemental terms apply to Your Cisco Calling Plans. Those terms may be found here: <http://cs.co/callingplansterms>.

5. Authorized Use of Business Texting

To the extent Cisco makes business texting available to Users, they may only use business texting to send person-to-person texts to their contacts. You shall not use business texting to engage in any of the following prohibited activities. Likewise, You shall ensure that Your Affiliates and Users do not use business texting to engage in any of these activities. Additionally, You shall not authorize, assist, or enable any third party to use business texting to engage in any prohibited activities including:

- Sending spam (messages, whether automatically or manually, at a high volume and frequency);
- Automated messaging, including bot messaging or use of chatbots;
- Unauthorized texts or phishing text messages;
- Using business texting to store or transmit in any way, messages or content that is illegal, harmful, unwanted, inappropriate, or objectionable, including, but not limited to, messages or content which we determine is false, inaccurate, misleading, unlawful, harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar,

obscene, invasive of another's privacy or hateful or may bring us into disrepute and cause damage to our reputation;

- Sending messages which consist of or contain viruses or malware; and
- Sending messages in breach of any advertising codes of conduct.

Cisco may block or throttle texting traffic that does not conform to authorized use.

6. UCM Software

UCM is solely for Your use. If You host UCM in a third-party data center, then You must hold legal title to all necessary hardware and related infrastructure required to run UCM, and a valid license to the software. A third-party cannot host UCM and deliver it as a partner-hosted or similar service without Cisco's written permission. Please contact Cisco or Your Cisco Partner to get this permission.



Exhibit B: Offer Description Supplement for Real Time Translation – Active User

For customers who have purchased Real Time Translation (RTT) for Webex Meetings under an Active User (AU) licensing model, the following term applies:

Real time translation (RTT) is an add-on service for Webex Meetings or Webinars. RTT Active User (RTT AU) offers customers an Active User licensing model for consumption of RTT services. Under this model, Cisco may conduct a True Forward for customers who purchase RTT AU. The “**True Forward**” operates as follows:

- If the peak number of RTT Active Users exceeds five times (5X) Your initial RTT Active User Minimum at any time, then Your RTT Active User Minimum is subject to an immediate reset such that it would equal the actual number of peak RTT Active Users.
- Each year on the anniversary of the Delivery Date, Cisco will measure Your Average Active Users. If Your Average Active Users is found to be greater than Your AU Minimum, Your AU Minimum will be increased, and You will owe incremental True Forward fees for these additional Active Users for the remainder of the Usage Term.
- Billing reconciliation may occur at any time after Your AU minimum is increased as a result of the True Forward calculation.
- A True Forward will never result in a reduction of Your Active User count.

General Terms

1. Scope and applicability

- 1.1 These terms (the “**General Terms**”) govern Your access to, and use of, Cisco Offers and incorporate any Supplemental Terms and Offer Descriptions applicable to Your Order. Capitalized terms are defined in section 14 (Definitions).
- 1.2 You agree to these terms by accessing or using a Cisco Offer, finalizing Your Order or through Your express agreement, whichever happens first. These terms apply independently of any contract You may have with a Cisco Partner.

2. Use Rights

- 2.1 **License and right to use.** Cisco grants You, for Your direct benefit, a non-exclusive:
 - (a) license to use Software and Cisco Content; and
 - (b) right to use Subscription Offers, including Cloud Services,in accordance with Your Order or as otherwise agreed in writing (collectively, the “**Use Rights**”). Your Use Rights are non-transferable (except Software as permitted under the Transfer Policies).
- 2.2 **Limits on usage.** You may not:
 - (a) transfer, sell, sublicense, monetize or provide the functionality of any Cisco Offer to any third party, except as authorized by Cisco;
 - (b) use the Software on second hand or refurbished Cisco devices or use Software licensed for a specific device on a different device unless authorized by Cisco or permitted under the Transfer Policies;
 - (c) remove, change, or conceal any product identification, copyright, proprietary, intellectual property notices or other marks from any Cisco Offer;
 - (d) reverse engineer, decompile, decrypt, disassemble, modify, or make derivative works of Cisco Offers; or
 - (e) use Cisco Content other than as reasonably needed to exercise Your Use Rights.
- 2.3 **Acceptable use.** You will ensure Your access or use of Software or Subscription Offers does not:
 - (a) violate applicable laws or the rights of any third party; or
 - (b) impede or interfere with the security, stability, availability or performance of any Cloud Service, or any other network or service (e.g., denial-of-service attacks, penetration testing or distribution of malware).
- 2.4 **Suspension.** Cisco may suspend Your access to Software or Subscription Offers if it reasonably believes that You or an Authorized User have materially breached sections 2.2 (Limits on usage) or 2.3 (Acceptable use).
- 2.5 **Use by third parties.** If You permit Authorized Users to access Cisco Offers on Your behalf:
 - (a) You will make sure all Authorized Users follow these terms; and
 - (b) You are liable for any breach of these terms by an Authorized User.
- 2.6 **Interoperability requirements.** If required by law, Cisco will promptly provide the information You request to achieve interoperability between applicable Cisco Offers and another independently created program on terms that reasonably protect Cisco’s proprietary interests.
- 2.7 **Use with third party products.** Cisco does not support or guarantee integration with third party technologies or services unless they are included as part of a Cisco Offer or agreed in writing.
- 2.8 **Changes to Subscription Offers.** Cisco may change its Subscription Offers, typically to enhance them or add features. These changes will not materially reduce the core functionality of the affected Subscription Offers during the Use Term.
- 2.9 **Maintaining Subscription Offers.** Cisco may occasionally perform maintenance of its Subscription Offers which may disrupt the performance or availability of affected Subscription Offers. Cisco will provide advanced notice of planned maintenance when reasonably possible. If Cisco performs emergency maintenance without notice, it will take reasonable steps to reduce any disruption of affected Subscription Offers.
- 2.10 **Open-source technology.** Separate license terms apply to third party open-source technology used in Cisco Offers. Open-source terms are found at [Cisco's Open Source](#) webpage. As long as You use Cisco Offers according to these General Terms, Cisco’s use of open-source technology in Cisco Offers will not impede Your exercise of Use Rights or cause Your software to become subject to an open-source license.

3. Free trials

- 3.1 **Accessing Free Trials.** Your Approved Source may let You access or use Cisco Offers on a trial, evaluation, beta or other free-of-charge basis ("**Free Trial**"). You may only access or use the Free Trial for the period specified ("**Free Trial Period**") and under any additional terms specified by Your Approved Source in writing. If no Free Trial Period is specified, You may only access or use the Free Trial for 60 days after the Free Trial is available to You. Free Trials may not come with support and may be incomplete or have errors. Unless agreed in writing by Cisco, You will not use the Free Trial in a production environment.
- 3.2 **Ending Free Trials.** At the end of a Free Trial, You will promptly Return the Cisco Offers as described in the Free Trial terms. Your Approved Source may change or terminate a Free Trial at its discretion with reasonable notice.
- 3.3 **Continued use and disclaimer.**
- (a) If You continue accessing a Cisco Offer after a Free Trial Period or fail to Return a Cisco Offer, You will pay any applicable fees reasonably charged by Your Approved Source.
 - (b) **Unless agreed by Cisco in writing or required by law, Free Trials are provided "AS-IS" without any express or implied warranties.**

4. End of life

- 4.1 **Notification.** Cisco may end the life of Cisco Offers by providing notice at the [End-of-Sale and End-of-Life Products](#) webpage.
- 4.2 **Pre-paid Cloud Service.** If Your Approved Source is prepaid a fee for Your use of a Cloud Service that is end of life before Your then-current Use Term ends, Cisco will either (a) provide You with a generally available alternative offer, or (b) if Cisco cannot reasonably provide an alternative offer, it will credit the unused balance of fees paid for the relevant Cloud Service to Your Approved Source or You (if Cisco is the Approved Source) once You Return the Cloud Service.
- 4.3 **Credit.** Credits issued under section 4.2 (Pre-paid Cloud Service) are calculated from the last date the applicable Cloud Service is available to the end of the applicable Use Term and may be applied only towards the future purchase of Cisco Offers.

5. Paying Your Approved Source

You will pay Your Approved Source all amounts due under Your Orders, including fees for additional consumption of a Subscription Offer or under a Buying Program.

6. Confidentiality

- 6.1 **General obligation.** A recipient of Confidential Information will protect that Confidential Information using the same standard of care it uses to protect its own confidential information of a similar nature, but no less than a reasonable standard of care. This section 6 (Confidentiality) will not apply to information which:
- (a) is known by the recipient without confidentiality obligations;
 - (b) is or has become public knowledge through no fault of the recipient; or
 - (c) is independently developed by, or for, the recipient.
- 6.2 **Permitted recipients.** A recipient of Confidential Information will not disclose Confidential Information to any third party, except to its employees, Affiliates and contractors who need to know. The recipient is liable for a breach of this section 6 by its permitted recipients and must ensure each of those permitted recipients have written confidentiality obligations at least as restrictive as the recipient's obligations under these terms.
- 6.3 **Required disclosures.** The recipient may reveal Confidential Information if required by law (including under a court order) but only after it notifies the discloser in writing (if legally permissible). A recipient will reasonably cooperate with a discloser's reasonably requested protective actions, at the discloser's expense.
- 6.4 **Returning, destroying and retaining Confidential Information.** The recipient will return, delete or destroy all Confidential Information and confirm in writing it has done so within 30 days of the discloser's written request unless retention is required by law or Confidential Information has been stored in a backup system in the ordinary course of business. Retained Confidential Information will continue to be subject to this section 6 for five years, or until the Confidential Information is no longer a trade secret under applicable law.

7. Privacy and security

- 7.1 Cisco respects Your Data and will access and use Data in accordance with the Data Briefs.
- 7.2 In addition, if Cisco processes Personal Data or Customer Content, Cisco will process such data according to:
- (a) the Data Processing Terms for Personal Data (which are incorporated by reference);
 - (b) the security measures described in Cisco's Information Security Exhibit;
 - (c) the Privacy Data Sheets applicable to the relevant Cisco Offer; and

(d) privacy and data protection laws applicable to Cisco Offers.

- 7.3 You will ensure Your use of Cisco Offers (including collection, processing and use of Customer Content with Cisco Offers) complies with privacy and data protection laws applicable to Your Cisco Offers, including industry-specific requirements. You are also responsible for providing notice to, and getting consents from individuals whose data may be collected, processed, transferred and stored through Your use of Cisco Offers.

8. Ownership of intellectual property

- 8.1 Unless agreed in writing, nothing in these terms transfers ownership in any intellectual property rights. You keep ownership of Customer Content and Cisco keeps ownership of Cisco Offers and Cisco Content.
- 8.2 Cisco may use any feedback You provide in connection with Your use of Cisco Offers.

9. Intellectual property indemnity

- 9.1 **Claims.** Cisco will defend any third-party claim against You asserting that Your valid use of a Cisco Offer infringes a third party's patent, copyright or registered trademark (the "**IP Claim**"). Cisco will indemnify You against the final judgment entered by a court of competent jurisdiction or any settlements arising out of an IP Claim, if You:
- (a) promptly notify Cisco in writing of the IP Claim (but failure to promptly notify Cisco only limits Cisco's obligations to the extent it is prejudiced by the delay);
 - (b) fully cooperate with Cisco in the defense of the IP Claim; and
 - (c) grant Cisco the right to exclusively control the defense and settlement of the IP Claim, and any appeal.
- Cisco does not have to reimburse You for attorney fees and costs incurred before Cisco receives notification of the IP Claim. You may retain Your own legal representation at Your own expense.
- 9.2 **Additional remedies.** If an IP Claim prevents or is likely to prevent You from accessing or using the applicable Cisco Offer, Cisco will either get the right for You to continue using the Cisco Offer or replace or modify the applicable Cisco Offer with non-infringing functionality that is at least equivalent. If Cisco determines those options are not reasonably available, then Cisco will provide a prorated refund for the impacted Cisco Offer.
- 9.3 **Exclusions.** Cisco has no duty regarding any IP Claim to the extent based on:
- (a) any designs, specifications or requirements provided by You, or on Your behalf;
 - (b) modification of a Cisco Offer by You, or on Your behalf;
 - (c) the amount or duration of use made of a Cisco Offer, revenue You earned, or services You offered;
 - (d) combination, operation, or use of the Cisco Offer with non-Cisco products, software, content or business processes; or
 - (e) Your failure to change or replace the Cisco Offer as required by Cisco.
- 9.4 To the extent allowed by law, this section 9 states Your only remedy regarding an IP Claim against You.

10. Performance standards

- 10.1 **Service Level Agreement.** Cisco Offers will comply with applicable Service Level Agreements, as set out in the corresponding Offer Description.
- 10.2 **Warranties.** Cisco provides these warranties for Cisco Offers:

Warranty	Cisco Offer		
	Hardware	Software	Subscription Offers
Cisco warrants that the Cisco Offer substantially complies with the Documentation as follows: (a) if the Cisco Offer is a Subscription Offer, starting from commencement of the service, for the duration of the services; and (b) if the Cisco Offer is Hardware or Software, for 90 days from shipment or longer as stated in Documentation, or as set out in Product Warranties webpage.			
Cisco warrants it will use commercially reasonable efforts and methods to deliver the Cisco Offer free from Malicious Code.			
Cisco warrants that the Cisco Offer is free from defects in material and workmanship for 90 days from shipment or longer as stated in Documentation or as set out in Product Warranties webpage.			

To make a claim for breach of these warranties, promptly notify both Cisco and Cisco Partner (if they are Your Approved Source) within any specified warranty period.

10.3 Qualifications

- (a) You may have legal rights in Your country that prohibit or restrict the limitations set out in this section 10. This section 10 applies only to the extent permitted under applicable law.

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- (b) Section 10.2 does not apply if Your breach of the General Terms contributes to the breach of warranty, or if the Cisco Offer:
 - (1) has not been used according to its Documentation;
 - (2) has been altered, except by Cisco or its authorized representative;
 - (3) has been subjected to abnormal or improper environmental conditions, accident or negligence, or installation or use inconsistent with Cisco's instructions or the terms on which it is supplied by Cisco;
 - (4) is provided under a Free Trial; or
 - (5) has not been provided by an Approved Source.
- (c) Your sole remedy for breach of a warranty under section 10.2 is, at Cisco's option, either:
 - (1) repair or replacement of the applicable Cisco Offer; or
 - (2) a refund of either:
 - (A) the fees paid for Use Rights in the non-conforming Software;
 - (B) the fees paid for the period in which the Subscription Offer did not conform less any amounts paid or owed under a Service Level Agreement; or
 - (C) the fees paid for the non-conforming Hardware.
- (d) **Except as provided in Section 10.2 above, and to the extent allowed by law, Cisco makes no express or implied warranties of any kind regarding the Cisco Offers. This disclaimer includes any warranty, condition or other term as to merchantability, merchantable quality, fitness for purpose or use, course of dealing, usage of trade, or non-infringement. Cisco does not warrant that Cisco Offers will be secure, uninterrupted or error-free.**

11. Liability

- 11.1 **Excluded liability.** Neither party is liable for:
 - (a) indirect, incidental, reliance, consequential, special or exemplary damages; or
 - (b) loss of actual or anticipated revenue, profit, business, savings, data, goodwill or use, business interruption, damaged data, wasted expenditure or delay in delivery (in all cases, whether direct or indirect).
- 11.2 **Liability cap.** Each party's entire liability for all claims relating to these terms will not exceed the greater of: (a) the fees paid to Cisco for the specific Cisco Offer that is the subject of the claim in the 12 months before the first incident giving rise to such liability; or (b) \$100,000 USD. This cap is cumulative for all claims (not per incident) and applies collectively to each party and its Affiliates (not per Affiliate).
- 11.3 **Unlimited liability.** Nothing in this section 11 limits or excludes liabilities that cannot be excluded or limited under applicable law, or for:
 - (a) bodily injury or death resulting directly from the other party's negligence;
 - (b) fraudulent misrepresentation or wilful misconduct;
 - (c) breach of confidentiality obligations, unless the breach relates to section 7 (Privacy and security);
 - (d) failure to pay for Cisco Offers;
 - (e) misuse or misappropriation by a party of the other party's intellectual property rights; or
 - (f) failure to comply with export control obligations.

12. Termination

- 12.1 **Material breach.** Either party may provide written notice to the other party if the other party materially breaches these terms or any written terms otherwise agreed under an affected Order. If the breach remains uncured after 30 days of the date of that notice, the non-breaching party may immediately terminate the affected Orders, in whole or in part.
- 12.2 **Termination for Compliance with Laws.** Cisco may terminate these terms and affected Orders immediately upon written notice if continued provision of the Cisco Offers will result in a violation of section 13.7 (Compliance with Laws).
- 12.3 **Effect of termination or expiration.** You will Return applicable Cisco Offers (except any Cisco Offer in which title has transferred to You) at the end of Your Use Term or upon termination of an Order.

13. General provisions

- 13.1 **Survival.** Sections 5 (Paying Your Approved Source), 6 (Confidentiality), 7 (Privacy and security), 8 (Ownership of intellectual property), 9 (IP Indemnity), 10 (Performance standards), 11 (Liability), 12 (Termination) and 13 (General provisions) survive termination of these terms.

- 13.2 **No agency.** These terms do not create any agency, partnership, joint venture, or franchise relationship.
- 13.3 **Assignment and subcontracting.**
- (a) Except as set out below, neither party may assign or novate these terms in whole or in part without the other party's written consent which will not be unreasonably withheld. Cisco may assign these terms in connection with the sale of a part of its business, or to its Affiliates if it provides prior written notice to You.
 - (b) Cisco may subcontract any performance associated with any Cisco Offer to third parties if such subcontract is consistent with these terms and does not relieve Cisco of any of its obligations under these terms.
- 13.4 **Third party beneficiaries.** These terms do not grant any right or cause of action to any third party.
- 13.5 **Use records.** You will keep reasonable records of your use of the Cisco Offers. You will let Cisco and its auditors who are under a written obligation of confidentiality access records of Your use of the Cisco Offers (including books, systems, and accounts) within 30 days' notice from Cisco. Cisco may not give this notice more than once in any 12-month period and will conduct any audit during Your normal business hours. If the verification process reveals underpayment of fees, You will pay these fees within 30 days.
- 13.6 **Changes to these terms.** The version of the General Terms applicable to Your Order is the version published at the [Cisco General Terms](#) webpage when the Order is placed. If Cisco changes these terms or any of its parts, these changes will be published at the [Cisco General Terms](#) webpage. These changes will only apply to Cisco Offers Ordered or renewed after the date of the change.
- 13.7 **Compliance with laws**
- (a) **General.** Cisco will comply with all applicable laws relating to providing Cisco Offers under these terms. You will comply with all applicable laws relating to Your receipt and use of Cisco Offers, including sector-specific requirements and obtaining required licenses or permits (if any).
 - (b) **Trade Compliance.** Cisco Offers are subject to US and other export control and sanctions laws around the world. These laws govern the use, transfer, export and re-export of Cisco Offers. Each party will comply with such laws and obtain all licenses or authorizations it is required to maintain. Please refer to Cisco's trade compliance policies at the [General Export Compliance](#) webpage.
- 13.8 **Governing law and venue.** These terms, and any disputes arising from them, are subject to the governing law and exclusive jurisdiction and venue listed below, based on Your primary place of business. Each party consents and submits to the exclusive jurisdiction of the courts in the listed venue. These laws apply despite conflicts of laws rules or the United Nations Convention on Contracts for the International Sale of Goods. Despite the below, either party may seek interim injunctive relief in any court of appropriate jurisdiction regarding any alleged breach of confidentiality obligations or intellectual property or proprietary rights.

Your Primary Place of Business	Governing Law	Jurisdiction and Venue
United States, Latin America or the Caribbean, or a location not specified below	State of California, United States	Superior Court of California, County of Santa Clara and Federal Courts of the Northern District of California
Africa, Asia*, Europe*, Middle East, Oceania*	England	English Courts
Australia	State of New South Wales, Australia	State and Federal Courts in New South Wales
Canada	Province of Ontario, Canada	Courts of the Province of Ontario
Mainland China	People's Republic of China	Hong Kong International Arbitration Center
Italy	Italy	Court of Milan
Japan	Japan	Tokyo District Court of Japan

* Excluding locations listed separately in this table.

If You are a US State, Local and Education ("SLED") Government end user, these terms, and any disputes arising from them, are subject to the laws of the primary jurisdiction in which You are located.

If You are a US Federal Government end user, these terms, and any disputes arising from them, are subject to the laws of the United States.

13.9 US Government end users

- (a) **US SLED Government.** These terms govern all access to Software, Subscription Offers and Documentation by US SLED Government end users. No other rights are granted by Cisco.
- (b) **US Federal Government.** The Software, Subscription Offers and Documentation are considered "commercial computer software" and "commercial computer software documentation" under FAR 12.212 and DFARS 227.7202. These terms govern all access to Software, Subscription Offers and

Documentation by US Federal Government end users. No other rights are granted by Cisco, but any inconsistency in these terms with federal procurement regulations is not enforceable against the US Federal Government.

- 13.10 **Notice.** Unless provided in these terms, applicable Offer Description, or an Order, notices to Cisco (a) should be sent to Cisco Systems, Legal Department, 170 West Tasman Drive, San Jose, CA 95134 or by email to contract-notice@cisco.com, and (b) are considered effective (i) upon delivery, if personally delivered, (ii) the next day, if sent by overnight mail, (iii) 3 business days after deposit, postage prepaid, if mailed, or (iv) the same day receipt is acknowledged, if sent by e-mail. Cisco may deliver notice to You under these terms via email or regular mail, but it may provide notices of a general nature applicable to multiple customers on cisco.com.
- 13.11 **Force majeure.** Neither party is responsible for delay or failure to perform its obligations to the extent caused by events beyond a party's reasonable control including severe weather events, acts of God, supply shortages, labor strikes, epidemic, pandemic, acts of government, war, acts of terrorism or the stability or availability of utilities (including electricity and telecommunications). The affected party must make commercially reasonable efforts to mitigate the impact of the force majeure event.
- 13.12 **No waiver.** Failure by either party to enforce any right under these terms will not waive that right.
- 13.13 **Severability.** If any term in these terms is invalid or unenforceable, then the rest of these terms will continue with full force and effect to the extent possible.
- 13.14 **Entire agreement.** These terms are the complete agreement between the parties regarding the subject of these terms and replace all previous communications, understandings or agreements (whether written or oral).
- 13.15 **Translations.** Cisco may provide local language translations of these terms in some locations. Those translations are provided for informational purposes only. If there is any inconsistency in those translations, the English version of these terms will prevail.
- 13.16 **No publicity.** Neither party will issue any press release or other publications regarding Your use of Cisco Offers without the other party's advance written permission.
- 13.17 **Order of precedence.**
- (a) If there is any conflict between these General Terms, Supplemental Terms or any Offer Descriptions, the order of precedence (from highest to lowest) is:
 - (1) Regional terms;
 - (2) Data Processing Terms;
 - (3) Offer Descriptions;
 - (4) Supplemental Terms (other than Regional Terms);
 - (5) these General Terms; then
 - (6) any applicable Cisco policy referenced in these General Terms.
 - (b) As between You and Cisco, these terms prevail over any inconsistencies with Your contract with any Cisco Partner.

14. Definitions

Term	Meaning
Affiliate	Any corporation or company that directly or indirectly controls, or is controlled by, or is under common control with the relevant party, where "control" means to: (a) own over 50% of the relevant party; or (b) be able to direct the affairs of the relevant party through voting rights or other lawful means (e.g., a contract that allows control).
Approved Source	Cisco, a Cisco Partner, or a fulfillment agent (e.g., public cloud marketplaces) as may be appointed by Cisco from time to time.
Authorized Users	Your users including Affiliates, Your third-party service providers, and each of their respective Users.
Buying Program	Cisco's consumption-based programs for buying Cisco Offers such as the Cisco Enterprise Agreement.
Cisco, we, our or us	Cisco Systems, Inc. or its applicable Affiliates.
Cisco Content	Systems Information and data, materials or other content provided by Cisco directly or through Your Approved Source to You as part of Your access to Cisco Offers.
Cisco Offer	Cisco-branded (a) Hardware, (b) Use Rights in Software or Cloud Services, (c) technical support included in a Subscription Offer and (d) incidental technology and resources.
Cisco Partner	A Cisco authorized reseller, distributor, systems integrator or other third party authorized by Cisco to sell Cisco Offers.
Cloud Service	An on-demand service provided by Cisco accessible via the internet and provides software, platform, infrastructure and network products and services on an 'as-a-service' basis as described in the applicable Offer Description.

Term	Meaning
Confidential Information	Non-public proprietary information of the discloser obtained by the recipient in connection with these terms, which: (a) is conspicuously marked as confidential if written or clearly stating the information is confidential when (or promptly after) it is verbally disclosed; or (b) is information which by its nature should reasonably be considered confidential whether disclosed in writing or orally.
Customer Content	As defined in the Data Brief at the Customer Content - Data Brief webpage.
Data	Personal Data, Customer Content and Systems Information.
Data Briefs	Documents describing each type of Data (e.g., Personal Data, Customer Content and Systems Information) that Cisco Offers collect, how it is collected, and when it is used, available at the Trust Portal webpage.
Data Processing Terms	Cisco's data processing terms in the Data Protection Agreement , or terms agreed between You and Cisco covering the same scope.
Documentation	The technical specifications and use materials officially published by Cisco specifying the functionalities and capabilities of the applicable Cisco Offer as updated from time to time.
Free Trial	As defined in section 3.1 (Accessing free trials).
Free Trial Period	As defined in Section 3.1 (Accessing free trials).
Hardware	Tangible Cisco-branded hardware products as generally available on the Price List. Hardware does not include any tangible product listed on the Price List in the name of a third party.
Information Security Exhibit	A document describing the security measures that Cisco implements to secure Personal Data and Customer Content, available at the Information Security Exhibit webpage.
Malicious Code	Code designed or intended to disable or impede the normal operation of, or provide unauthorized access to, networks, systems, Software or Cloud Services other than as intended by the Cisco Offer (e.g., as part of Cisco's security products).
Offer Description	A document published by Cisco as an 'Offer Description' that has more information or related terms specific to a Cisco Offer or Buying Program, available at the Product Specific Terms webpage.
Order	The transaction through which You acquire a Cisco Offer from an Approved Source, including through buying and ordering documents, signing an agreement or statement of work, or transacting through an online ordering tool or marketplace.
Personal Data	Any information about, or relating to, an identifiable individual. It includes any information that can be linked to an individual or used to, directly or indirectly, identify an individual, natural person. Further information regarding Personal Data is on the Personal Data - Data Brief webpage.
Price List	The price lists published at Cisco.com corresponding to the Cisco entity that sells the applicable Cisco Offer.
Privacy Data Sheet	The privacy data sheet applicable to a Cisco Offer available on the Trust Portal - Privacy Data Sheet webpage.
Return	Stopping all use of, destroying or returning applicable Cisco Offers to Your Approved Source, as directed by Cisco or Your Approved Source.
Service Level Agreement	The service level agreement applicable to a Subscription Offer (if applicable) as set out in the applicable Offer Description.
Software	Cisco-branded computer programs, including Upgrades and firmware.
Subscription Offer	Cisco Offers provided on a term, or subscription, basis under Your Order.
Supplemental Terms	Any additional terms applicable to Your Order (including those applying to a specific region or Buying Program).
Systems Information	As defined in the Systems Information – Data Brief webpage.
Transfer Policies	Cisco policies for movement of Use Rights as set out in the Cisco Software Transfer and Re-licensing Policy and the Software License Portability Policy .
Upgrades	All updates, upgrades, bug fixes, error corrections, enhancements and other modifications to the Software.
Use Term	The period You may exercise Use Rights in the Cisco Offer under Your Order.
Use Rights	As set out in section 2.1.
You, Your	The individual or legal entity acquiring access to Cisco Offers.

REQUESTED ACTION STATEMENT

MEMO TO: Mayor David Ament
Common Council

CC: Plan Commission (via email)

MEMO FROM: Gregory W. Kessler, AICP - Director

DATE: January 13, 2025

ISSUE: Nicholas Wimmer on behalf of The Conservancy, LLC (Wimmer Communities) has filed a petition to rezone from B-1/PUD, Rm-1/PUD, I-1/PUD & C-2 to Rm-1/PUD and C-2/PUD to amend Planned Unit Development Overlay Ordinance # 2679 (also amended by Ordinance #2688) and to amend the Future Land Use Map within the City's Comprehensive Plan (Chapter 11 - Neighborhood "A" Greenfield Avenue and Chapter 10 - Land Use) from Suburban Commercial, Mixed Residential and Institutional with a Planned Unit Development (PUD) Overlay to Mixed Use Residential with a PUD Overlay for approximately 34 acres for the parcels located at 1640 S. Moorland Road (includes Tax Keys #'s: 1158.989.001, 1158.989.002 & 1158.989.003)

REQUESTED: Recommend to Common Council that a joint public hearing be set for March 3, 2025 at 6:00 p.m. to be held before the Plan Commission to amend the Future Land Use Map within the City's Comprehensive Plan (Chapter 11 - Neighborhood "A" Greenfield Avenue and Chapter 10 - Land Use) from Suburban Commercial, Mixed Residential and Institutional with a Planned Unit Development Overlay to Mixed Use Residential with a PUD Overlay for approximately 33.76 acres for the parcels located at 1640 S. Moorland Road (includes Tax Keys #'s 1158.989.001, 1158.989.002 & 1158.989.003).

AND

Recommend to the Common Council that a joint public hearing be set for March 3, 2025 at 6:00 p.m. to be held before the Plan Commission to rezone approximately 33.76 acres for the parcels located at 1640 S. Moorland Road (includes Tax Keys #'s 1158.989.001, 1158.989.002 & 1158.989.003) from B-1/PUD, Rm-1/PUD, I-1/PUD & C-2 to Rm-1/PUD & C-2/PUD to amend Planned Unit Development Overlay Ordinance # 2679 (also amended by Ordinance #2688). The development will include multi-family residential with retail integrated within.

RATIONALE: Per Chapter 275-21.1 of the City's Zoning Code, this applicant has filed a completed application and petitioned the City to amend the Comprehensive Plan / Future Land Use Map for this property. Per this section, the applicant submits the application to the Common Council for initial review. DCD staff prepares a requested action statement to refer the request to the Plan Commission to hold a public hearing and take action via a resolution. A report shall be forwarded to the Common Council for final action.

Per Chapter 275-22 of the City's Zoning Code, this applicant has filed a completed application and petitioned the City to rezone these properties. In

addition, per State Statute 62.23(7), the Common Council may refer to the Plan Commission all petitions to rezone a property and require that a public hearing be held to obtain public input and that the Plan Commission formulate a recommendation. These recommendations shall be forwarded to the Common Council for final action.

Per Zoning Code Section 275-20I, Mr. Wimmer has simultaneously filed a Land Division application.

Note:

Staff is continuing to prepare the 2030 Comprehensive Plan Updates as time permits. Please note this request will include other basic changes to these chapters. This will represent a public hearing for the 2030 Comprehensive Plan updates. Additional public hearings will be set up to handle the remaining chapters at a future date.

REQUESTED ACTION STATEMENT

MEMO TO: Mayor David Ament
Common Council

CC: Plan Commission (via email)

MEMO FROM: Gregory Kessler, AICP – Director of Community Development

DATE: January 28, 2025

ISSUE: Common Council to set the public hearing date for updates to the Zoning Code.

REQUESTED: Recommend to the Common Council that a public hearing be set for March 3, 2025 at 6:01 p.m. to be held before the Plan Commission on the amendments to the Zoning Code (Chapter 275).

RATIONALE: Per Chapter 275-15D(1) of the City's Zoning Code, the Department of Community Development is recommending an update to the Zoning Code.

The Common Council sets the date for the public hearing that will take place before the Plan Commission. The Plan Commission will then take action to approve the proposed amendments and will forward their recommendation to the Common Council for final action via ordinance.

The draft changes will be available for review on the City's website and the amendments will be presented/introduced and possible action at the March 3, 2025 Plan Commission meeting.