



Utility Committee Meeting Agenda

January 28, 2025 - 4:45 PM
Council Chambers
3805 S. Casper Drive

Published: 01/24/2025

AGENDA

1. **CALL TO ORDER**
2. **ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE**
3. **APPROVAL OF MINUTES**
 - A. 12/03/2024 Meeting Minutes
4. **NEW BUSINESS**
 - 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. UT 02-25 Recommend to the Common Council to approve the professional services contract for the engineering and consulting for private property I/I dye testing with raSmith in the amount of \$82,000.00 with an additional \$8,200.00 (10%) for contingencies, resulting in a total project cost of \$90,200.00.
 - C. UT 03-25 Recommend to the Common Council to approve the professional services contract for a leak detection survey with Westrum Leak Detection in the amount of \$11,950.00, without contingency, for a total project cost of \$11,950.00.
 - D. UT 04-25 Recommend to the Common Council to award the construction contract for the Davit Lift Station Cranes to the lowest responsive bidder, Sabel Mechanical LLC, in the amount of \$68,279.00 with \$6,828.00 (10%) in contingencies, for a total project cost not to exceed \$75,107.00.
 - E. UT 05-25 Recommend to the Common Council to approve the professional services agreement with CBS Squared for consulting services related to the design, engineering, plans, specifications, and bidding documents for the Greenridge water main replacement project in the amount of \$148,700.00.
5. **OLD BUSINESS**
 - A. 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.
6. **UPDATES**
7. **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.



Utility Committee MEETING MINUTES

December 3, 2024 - 4:45 PM
A/B Conference Room
3805 S. Casper Drive

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

MINUTES

1. CALL TO ORDER

Aldersperson Harenda called the meeting to order at 4:47 PM.

2. ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE

Sarah Holtz took the roll call as follows:

Present: Aldersperson Hopkins, Aldersperson Harenda, Commissioner Nissen Jr., Commissioner Anderson, Aldersperson Kroupa

Staff Present: Utility Manager Alex Parker, Accounting Supervisor John Sughrue, Attorney Thomas Schmitzer, Assistant Deputy City Clerk Sarah Holtz

3. APPROVAL OF MINUTES

A. October 15, 2024 Meeting Minutes

MOTION: Motion to Approve

VOTE: Motion by: Aldersperson Kroupa
Second by: Aldersperson Hopkins
Motion Passed 5-0

4. NEW BUSINESS

- A. UT 18-24 – Recommend to the Common Council to award the construction contract for the Valley View Pumphouse low-slope roof replacement to the lowest responsive bidder, Kaschak Roofing, Inc., in the amount of \$24,900.00 with a contingency of \$10,000.00 for a total project cost of \$34,900.00.

MOTION: Motion to Approve

VOTE: Motion by: Aldersperson Hopkins
Second by: Aldersperson Kroupa
Motion Passed 5-0

- B.** UT 19-24 - Recommend to the Common Council to award the construction contract for the Grange and Greenridge Pumphouses steep-slope roof replacement to the lowest responsive bidder, D & H Royale Construction, LLC, in the amount of \$63,800.00 with a contingency of \$20,000.00 for a total project cost of \$83,800.00.

MOTION: Motion to Approve

VOTE: Motion by: Alderperson Kroupa
Second by: Commissioner Anderson
Motion 5-0

5. OLD BUSINESS

6. CLOSED SESSION

MOTION: Motion to Enter Closed Session at 4:53 PM

VOTE: Motion by: Alderperson Kroupa
Second by: Alderperson Hopkins
Motion Passed 5-0

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

- B.** Amendment of lease agreement with AT&T for the Calhoun Tower

7. RECONVENE TO OPEN SESSION

MOTION: Motion to Return to open session at 5:00 PM

VOTE: Motion by: Alderperson Kroupa
Second by: Commissioner Anderson
Motion Passed 5-0

- A.** Discussion and possible action re: Amendment of lease agreement with AT&T for the Calhoun Tower.

MOTION: Motion to Approve (subject to the Utility Manager and City Attorney's final approval)

VOTE: Motion by: Alderperson Kroupa
Second by: Commissioner Anderson
Motion Passed 5-0

8. UPDATES

9. ADJOURN

MOTION: Motion to Adjourn at 5:01 PM

VOTE: Motion by: Alderperson Kroupa
Second by: Commissioner Nissen Jr.
Motion Passed 5-0

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.

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*****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: 2025 Private Property I/I Dye Testing

LOCATION: Northeast Section of Sanitary Service Area

REQUEST: Approve Professional Services Contract with
raSmith for 2025 Private Property I/I Dye Testing
Project

UTILITY MANAGER RECOMMENDATION:

Recommend to the Common Council to approve the professional services contract for the engineering and consulting for private property I/I dye testing with raSmith in the amount of \$82,000.00 with an additional \$8,200.00 (10%) for contingencies, resulting in a total project cost of \$90,200.00.

DETAILS IN ATTACHED STAFF REPORT

CITY OF NEW BERLIN
UTILITIES DEPARTMENT
STAFF REPORT

2025 Private Property I/I Dye Testing

DATE STAFF REPORT CREATED: January 21, 2025

CUSTOMER/PROJECT NAME: 2025 Private Property I/I Dye Testing

ISSUE/DESCRIPTION OF PROJECT: Dye testing to determine sources of inflow/infiltration on private property in advance of the MMSD residential pipe repair project.

REQUESTED ACTION:
Recommend to the Common Council to approve the professional services contract for the engineering and consulting for private property I/I dye testing with raSmith in the amount of \$82,000.00 with an additional \$8,200.00 (10%) for contingencies, resulting in a total project cost of \$90,200.00.

FISCAL IMPACT: \$90,200.00

SOURCE OF FUNDS: MMSD Private Property I/I Dye Testing Grant
81001131-52050

RATIONALE:
Dye testing to determine sources of inflow/infiltration on private property in advance of the MMSD residential pipe repair project.

PREVIOUS ACTION: N/A

FINDINGS: N/A

UTILITY MANAGER RECOMMENDATION: See Executive Summary

ATTACHMENTS: Bid Award Recommendation Letter

**CITY OF NEW BERLIN
GENERAL TERMS and CONDITIONS OF SERVICE
FOR PROFESSIONAL SERVICES**

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

2. Proposal. The Service Provider is solely responsible for, and shall have sole control of, construction methods, sequences and coordination of all work described in the Scope of Services, unless expressly stated to the contrary.

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

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

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

6. Independent Service Provider. The parties warrant that no employer/employee relationship is established between the Service Provider and the City by virtue of the terms of this contract. It is understood by the parties hereto that the Service Provider is an independent

Service Provider and as such, neither it nor its employees if any are employees of the City for purposes of tax, retirement system or social security withholding.

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

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

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

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

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

12. Limitation on Liability. The City's liability to the Service Provider shall not exceed the sums paid by the City to the Service Provider under this contract. In addition, to the extent that the Service Provider seeks indemnification from the City, that indemnity shall be subject to the limitations set forth herein. No indemnity provided under any contract hereinafter

shall be construed to be a waiver or estoppel of the City of New Berlin or its insureds' ability to rely upon the limitations, defenses and immunities contained within Wisconsin law, including, but not limited to those set forth in Wisconsin Statute §893.80, §895.52 and §345.05. To the extent indemnification is available and enforceable, the City of New Berlin or its insured shall not be liable in indemnity or contribution for any amount greater than the limits of liability for municipal claims established by Wisconsin law. The City's obligations to indemnify hereunder are further subject to the availability limits of applicable insurance coverage. Under no circumstances shall the City be required to indemnify the Service Provider for its own negligence or intentional conduct.

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

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

- A. *Termination for Convenience.* City may terminate this contract in whole or in part for the convenience of the City when the City determines that the continuation of the project is not in the best interests of the City. Service Provider shall be entitled to payment for all of the services performed at the date of the termination, together with its direct costs of termination. Under no circumstances shall the Service Provider be entitled to any penalty for the termination nor shall the Service Provider be entitled to any payment for lost profits.
- B. *Termination for Cause.* If the City determines that the Service Provider has failed to comply with any of the terms and conditions of the contract and the scope of services and related documents thereto, the City may give written notice to the Service Provider of any such deficiency and in the event that the Service Provider fails to cure said deficiency within ten (10) days of the notice of such failure, the City may, with no further notice, declare this contract to be terminated. Service Provider will therefore be entitled to receive payment for those services performed at the date of termination, plus the amount of reasonable damages suffered by the City by reason of the Service Provider's failure to comply with the terms of the contract. Under no circumstances shall the Service Provider be entitled to any lost profits arising from the contract.

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

16. Hold Harmless. The Service Provider will defend and hold harmless the City as and against any claims, actions, demands or causes of action brought by a third party for damages or losses arising out of Service Provider's performance of the work under these Terms

and Conditions and the attached Scope of Services. Said indemnification shall include the City's actual attorney fees. Notwithstanding the foregoing, the obligation to indemnify shall not exist to the extent of the City's gross negligence or intentional conduct.

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

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

19. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Wisconsin and represents the complete understanding of the parties with respect to the subject matter set forth herein, and may only be amended in a subsequent agreement executed by all parties.

CITY:
City of New Berlin

SERVICE PROVIDER:

R. A. Smith, Inc.

[Insert Service Provider Name]

By: _____

[Print Name & Title]

By: _____

Benjamin High, P.E. - Project Manager

[Print Name & Title]

By: _____

Title: _____

Date: _____

ADDENDUM TO CITY OF NEW BERLIN CONTRACTS

This Addendum is made and entered into and shall be considered an attachment to all contracts entered into by the City of New Berlin for so long as the City of New Berlin is subject to the U.S. Department of Treasury Restrictions, as well as other federal restrictions related to the City's receipt of Coronavirus Local Fiscal Recovery Funds. The following Terms and Conditions shall be included in each such agreement and are incorporated as though fully set forth in the original contract.

1. No City contractor or employee shall operate any machinery or vehicle while utilizing a smart phone, including, but not limited to, the use of any cellular phone or texting.
2. All City employees and contractors, while engaged in the performance of City business or acting consistent with the performance of services under a contract with the City shall utilize seatbelts and any other safety devices related to the operation of a motor vehicle.
3. City employees or contractors whose duties and responsibilities are funded through the Coronavirus State and Local Fiscal Recovery Funds agree that they will not engage in any lobbying activities while in the course of providing services on behalf of the City of New Berlin, as restricted under the Hatch Act, 5 USC Sec. 1501-1508. No funds appropriated under the Coronavirus State and Local Fiscal Recovery Act shall be utilized for lobbying, and no political payments shall be made through the use of said funds.
4. All City employees and contractors, while in the performance of duties on behalf of the City shall abide by all local, state and federal regulations concerning the ingestion of controlled substances and shall not violate such Statutes or Ordinances. The City shall enforce drug free workplace standards and provide awareness programs for Staff. The City shall further agree to take action regarding individuals using drugs in the workplace according to law.
5. All City employees and contractors, in the course of performing of their duties on behalf of the City, shall, to the extent applicable, comply with the provisions in Wisconsin Statute Sec. 19.59 regarding conflicts of interest, as well as City of New Berlin Municipal Code Chapter 28 regarding ethics. Specifically, no City employee or contractor shall accept or solicit money or tangible personal property or otherwise receive consideration in exchange for the agreement to enter into a contract with a third party.
6. City employees shall avoid the acquisition of unnecessary items or property on behalf of the City.
7. City employees shall, to the extent applicable, engage in value engineering as part of any construction work performed on behalf of the City.
8. Contracts shall only be awarded to responsible contractors with experience in performing the services being contracted for.

9. City contracts shall avoid compensating for contractor work performed on a time and material basis and, to the extent practicable, shall have fixed-price contracts.
10. The selection of a contractor by the City should be done in an atmosphere of open and honest competition.
11. In the course of public bidding involving the purchase of equipment, the City shall not specify only a brand name for the purpose of limiting potential contracting parties.
12. The City shall verify that any entity with which it is contracting has not been excluded for contracting pursuant to 2 CFR 180.

December 17, 2024

Mr. Alex Parker
Utility Manager
City of New Berlin
3805 South Casper Drive
New Berlin, WI 53151

SENT VIA EMAIL

Re: Proposal for Professional Services
raSmith Project No.: 2254500

Dear Mr. Parker:

raSmith appreciates the opportunity to work with the City of New Berlin Utilities Department on the 2025 Dye Water Testing Project. As your trusted advisor, we are committed to understanding your challenges and providing cost-effective and timely solutions.

Scope of Services

A. Public Outreach

raSmith plans to complete the following tasks as a part of this item:

1. Create and distribute initial resident letter for properties in project area.
2. Handle notification of DNR and neighboring communities of dye testing work.
3. Handle resident questions during the duration of the project.
4. Work with the MMSD on public outreach documents review.
5. Collect and file resident related documents that will be needed for the MMSD reimbursement requests.

B. Project Bidding Documents

raSmith plans to complete the following tasks as a part of this item:

1. Create project specifications.
2. Create project exhibits.
3. Create bid advertisement.
4. Publicly bid project using Quest online bidding.
5. Create a bid summary of bidding results.
6. Create a project award recommendation letter.



Mr. Alex Parker
Utility Manager, City of New Berlin
Page 2 / December 17, 2024

7. Coordinate and facilitate the MMSD review of bidding documents, bid results, and award recommendation letter.

C. Construction Inspection

raSmith plans to supply a full-time construction inspector onsite for the duration of the field work for this project. Other tasks that will be completed as a part of this item are as follows:

1. Coordinate and facilitate Contractor efforts.
2. Create and supply the City with pay applications.
3. Track project quantities.
4. Collect and file information that will be needed for the MMSD reimbursement requests.

D. MMSD Summary Report

According to the City's existing funding agreement with the MMSD, a summary report at the end of the project is required. raSmith plans on completing this report as a part of this proposal.

Completion Schedule

The field work portion of this project will likely occur in Spring/Summer of 2025. Following the completion of the field work, the MMSD summary report will be completed within 60 days.

All work with this project is anticipated to be completed prior to the expiration of the funding agreement which is September 31, 2025.

Professional Fees

The above services will be provided based on a time and materials basis not to exceed **\$82,000.00**. Services will be billed each month based on the work completed.

Usual and customary expenses such as mileage, printing, delivery, and postage are not included in the fee and will be billed at cost as a reimbursable expense.

Client Responsibilities/Assumptions

The terms and conditions set forth herein are valid for 120 days from the date of this proposal and are conditioned upon our completion of all services within 365 days.

If you would like to authorize raSmith to proceed with your project, please sign the proceeding General Terms and Conditions of Service for Professional Services and forward a signed copy of the entire Agreement to our office. Once received, we will execute and return a copy for your records. We look forward to working with you on this project.

If you have any questions, please contact me at (262) 317-3273 or ben.high@rasmith.com.



Mr. Alex Parker
Utility Manager, City of New Berlin
Page 3 / December 17, 2024

Sincerely,
raSmith

A handwritten signature in blue ink, appearing to read 'Benjamin G. High', followed by a stylized flourish.

Benjamin G. High, P.E.
Project Manager

Enclosure:

bth:H:\2254600\Contract\Proposal\EP 121724 Parker New Berlin Dye Water Flooding.docx

UTILITY STAFF REPORT EXECUTIVE SUMMARY

CUSTOMER/PROJECT: Westrum Leak Detection Survey

LOCATION: Citywide

REQUEST: Approve Professional Services Contract with
Westrum Leak Detection

UTILITY MANAGER RECOMMENDATION:

Recommend to the Common Council to approve the professional services contract for a leak detection survey with Westrum Leak Detection in the amount of \$11,950.00, without contingency, for a total project cost of \$11,950.00.

DETAILS IN ATTACHED STAFF REPORT

**CITY OF NEW BERLIN
UTILITIES DEPARTMENT
STAFF REPORT**

Westrum Leak Detection Survey

DATE STAFF REPORT CREATED:	January 21, 2025
CUSTOMER/PROJECT NAME:	Westrum Leak Detection Survey
ISSUE/DESCRIPTION OF PROJECT:	Citywide survey to identify small leaks. This will prevent main breaks and cut down on water loss.
REQUESTED ACTION:	Recommend to the Common Council to approve the professional services contract for a leak detection survey with Westrum Leak Detection in the amount of \$11,950.00, without contingency, for a total project cost of \$11,950.00.
FISCAL IMPACT:	\$11,950.00
SOURCE OF FUNDS:	Operating Funds 91002673-52030, Water Mains Contracted Services
RATIONALE:	Citywide survey to identify small leaks. This will prevent main breaks and cut down on water loss.
PREVIOUS ACTION:	N/A
FINDINGS:	N/A
UTILITY MANAGER RECOMMENDATION:	See Executive Summary
ATTACHMENTS:	Bid Award Recommendation Letter

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

Alex Parker
City of New Berlin
3805 S. Casper Drive
New Berlin, Wi. 53151

Dear Alex;

Leak Detection Survey Description
100% of the system

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

1 Year agreement (2025) ————— \$11,950

Sign and date here _____

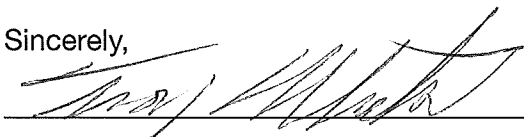
3 Year agreement (2025,2026,2027) ————— \$10,800 per year

Sign and date here _____

5 Year agreement (2025,2027,2029) ————— \$10,800 per year

Sign and date here _____

Sincerely,



Troy Westrum, President

Please sign & return a copy

UTILITY STAFF REPORT EXECUTIVE SUMMARY

CUSTOMER/PROJECT: David Lift Station Cranes

LOCATION: Regal Manor West Lift Station
Westward Manor Lift Station

REQUEST: Award Construction Contract for the Davit Lift Station Cranes to the Lowest Responsive Bidder, Sabel Mechanical LLC

UTILITY MANAGER RECOMMENDATION:

Recommend to the Common Council to award the construction contract for the Davit Lift Station Cranes to the lowest responsive bidder, Sabel Mechanical LLC, in the amount of \$68,279.00 with \$6,828.00 (10%) in contingencies, for a total project cost not to exceed \$75,107.00.

DETAILS IN ATTACHED STAFF REPORT

1. In November 2024, the City of New Berlin Utility solicited bids for the Davit Lift Stations Cranes installation project.
2. On December 5, 2024, the Utility received 4 bids for the Davit Lift Station Cranes installation project. Staff reviewed the bid and determined Sabel Mechanical LLC was the lowest responsive bidder.
3. A bid award recommendation and summary of the bid job is attached to this staff report.

**CITY OF NEW BERLIN
UTILITIES DEPARTMENT
STAFF REPORT**

David Lift Station Cranes

DATE STAFF REPORT CREATED: January 21, 2025

CUSTOMER/PROJECT NAME: Davit Lift Station Cranes

ISSUE/DESCRIPTION OF PROJECT: This project consists of installing the Davit Lift Station Cranes to Regal Manor West Lift Station and Westward Manor.

REQUESTED ACTION:

Recommend to the Common Council to award the construction contract for the Davit Lift Station Cranes to the lowest responsive bidder, Sabel Mechanical LLC, in the amount of \$68,279.00 with \$6,828.00 (10%) in contingencies, for a total project cost not to exceed \$75,107.00.

FISCAL IMPACT: \$75,107.00

SOURCE OF FUNDS: Wastewater CIP 80-107000

RATIONALE:

These cranes are needed at each site to raise/lower pumps and mixers from wet wells. In the past, we used a truck with a crane to raise/lower pumps, but with new equipment in wet wells, access to/through the hatches is more difficult. These permanent cranes will make it easier for removing and reinstalling equipment after inspection and repairs.

ATTACHMENTS: Award Recommendations

UTILITY STAFF REPORT EXECUTIVE SUMMARY

CUSTOMER/PROJECT: Greenridge Water Main Replacement

LOCATION: City of New Berlin
Moorland Road

REQUEST: Approve Professional Services Contract with CBS
Squared

UTILITY MANAGER RECOMMENDATION:

Recommend to the Common Council to approve the professional services agreement with CBS Squared for consulting services related to the design, engineering, plans, specifications, and bidding documents for the Greenridge water main replacement project in the amount of \$148,700.00.

DETAILS IN ATTACHED STAFF REPORT

**CITY OF NEW BERLIN
UTILITIES DEPARTMENT
STAFF REPORT**

Greenridge Water Main Replacement

DATE STAFF REPORT CREATED: January 22, 2025

CUSTOMER/PROJECT NAME: New Berlin Utility
Greenridge Water Main Replacement

ISSUE/DESCRIPTION OF PROJECT: Replacement of the water main on S. Russell Ct. and the eastern portion of W. Euclid Ave.

REQUESTED ACTION:
Recommend to the Common Council to approve the professional services agreement with CBS Squared for consulting services related to the design, engineering, plans, specifications, and bidding documents for the Greenridge water main replacement project in the amount of \$148,700.00.

FISCAL IMPACT: \$148,700.00

SOURCE OF FUNDS: Water CIP 90-107000

RATIONALE: The work is necessary to upgrade the aging water main and prevent frequent service interruptions.

**CITY OF NEW BERLIN
GENERAL TERMS and CONDITIONS OF SERVICE**

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

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

Dates on which services are to be provided: _____

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- A. *Termination for Convenience.* City may terminate this contract in whole or in part for the convenience of the City when the City determines that the continuation of the project is not in the best interests of the City. Service Provider shall be entitled to payment for all of the services performed at the date of the termination, together with its direct costs of termination. Under no circumstances shall the Service Provider be entitled to any penalty for the termination nor shall the Service Provider be entitled to any payment for lost profits.
- B. *Termination for Cause.* If the City determines that the Service Provider has failed to comply with any of the terms and conditions of the contract and the scope of services and related documents thereto, the City may give written notice to the Service Provider of any such deficiency and in the

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

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

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

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

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

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

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

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

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

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

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

CITY:
City of New Berlin

SERVICE PROVIDER:

CBS Squared Inc.

[Insert Service Provider Name]

By: _____

[Print Name & Title]

By:  _____

John Beckfield, Vice President

[Print Name & Title]

CBS Squared Inc.

Supplemental Agreement for Professional Services

This agreement is effective as of February 11th, 2025, between City of New Berlin (Client) and CBS Squared, Inc. (Consultant).

This letter agreement describes the scope, schedule, and payment conditions for Consultant's work on the Project described as follows: Euclid & Russel Ct Water Main Replacement.

SCOPE: The services to be provided by the Consultant for the Project will be Engineering Services for W Euclid Avenue from the west property line of Hoover Elementary School to S 124th St, and S Russel Court. The project includes design of water main and services, and replacement of roadway (matching existing profile) and storm sewer culverts. The project will not include curb and gutter or storm sewer structures and piping. There is no sidewalk included in the project. The scope of work includes topographic survey, plans and specifications, submittal to WDNR for storm water construction permitting, submittal to WDNR for water main approval, bidding administration, construction staking, construction administration, Resident Project Representative (RPR) construction services for construction year 2026, and funding application and administration for the Safe Drinking Water Loan Program (SDWLP).

The services to be provided by the Consultant for the Project are broken down into the following phases with estimated costs:

1. Topographic Survey (\$18,800):
 - a. Call in locate ticket prior to survey
 - b. Topographic Survey of project area
 - c. Culvert Inventories
 - d. Creation of base files for design
2. Design Services (\$40,800)
 - a. Design of road rural section.
 - b. Design of Water Main per DNR regulations.
 - c. Permitting (fees to be reimbursable):
 - i. WDNR Water Review
 - ii. WDNR Construction Stormwater permit
 - d. 30% and 90% review meetings
 - e. Plans, Specifications, and Cost estimate. All digital files are available.
3. Bidding Administration (\$9,600):
 - a. Required advertisement and upload to Quest CDN (fee reimbursable)
 - b. Answer questions during bidding
 - c. Addendum(s), if necessary
 - d. Host bid opening
 - e. Provide recommendation of award
 - f. Provide contract documents

4. Construction Administration (\$8,500):
 - a. Organizing and leading a pre-construction meeting
 - b. Review and processing of pay application and change orders
 - c. Leading progress meetings
 - d. Project closeout
5. Construction staking and RPR (\$49,700):
 - a. Full Time RPR during pipe work: estimated 20 working days
 - b. Part Time RPR during street reconstruction: estimated 4 working days
 - c. Construction Staking: Estimated 3 trips
 - d. Record Drawings
6. Funding Administration (\$21,300):
 - a. SDWLP Application and Administration

Contract Services Total: \$148,700.00

CBS Squared Project ID: NEWBE25001

PAYMENT: The Project will be invoiced on a **time and materials basis** excluding expenses and equipment. **Expenses and equipment charges are currently estimated at (\$6,800),** value included in above contract services total. Expenses will be invoiced based on actual cost and mileage per the current federal mileage rate.

If additional services are required or requested, the Consultant will submit an estimate of additional costs prior to commencement of the proposed work. No additional work will be performed until the amendment has been approved and signed by the Consultant.

The payment method, basis, frequency and other special conditions are set forth below:

Hourly Basis

The Client and Consultant select the hourly basis for payment for services provided by Consultant. The Client will be invoiced per the attached Rate Table for personnel. The Rate Table will be updated annually to reflect current Consultant billing rates. Monthly charges for services shall be based on Consultant's Rate Table for personnel for applicable employees plus charges for expenses and equipment as agreed upon between the parties. Consultant shall be paid monthly for work performed.

Expenses

The following items involve expenditures made by Consultant employees or professional consultants on behalf of the Client and shall be paid for as described in the Agreement.

1. Transportation and travel expenses (mileage).
2. Total station and GPS equipment.

3. Lodging and meal expenses connected with the Project.
4. Fees paid, in the name of the Client, for securing approval of authorities having jurisdiction over the Project.
5. Plots, reports, plan and specification reproduction expenses.
6. Postage, handling, and specific delivery services.
7. Expense of overtime work requiring higher than regular rates, if authorized in advance by the Client.
8. Renderings, models, mock-ups, professional photography, and presentation materials requested by the Client.
9. All taxes levied on professional services and on reimbursable expenses.
10. Other special expenses required in connection with the Project, including but not limited to, additional project specific insurance requirements.
11. The cost of special consultants or technical services (not already included in contracted fees) as required. The cost of sub-consultant services shall include actual expenditure plus 10% markup for the cost of administration and associated insurance.

Remittance Address for Checks:

770 Technology Way, Ste 1A
Chippewa Falls, WI, 54729

Email for ACH Invoice Remittance:

accountsreceivable@cbssquaredinc.com

Equipment Utilization

The utilization of specialized equipment, including automation (survey equipment, reproduction equipment etc.), is recognized as benefiting the Client. The Client, therefore, agrees to pay the reasonable cost for the use of such specialized equipment on the project.

Consultant invoices will contain detailed information regarding the use of specialized equipment on the project when it is to be reimbursed by the Client. Charges will be based on the standard rates for the equipment published by Consultant.

AGREEMENT SUMMARY: This Supplemental Agreement for Professional Services, Exhibits and any Attachments (collectively referred to as the "Agreement") supersedes all prior oral or written agreements and represents the entire understanding between Client and Consultant with respect to the services to be provided by Consultant within this document. The Agreement for Professional Services (including scope, schedule, fee and signatures) shall take precedence over attached Exhibits. This Agreement may not be amended except by written agreement signed by the authorized representatives of each party, within fifteen (15) calendar days of notification by either party.

The contract is between the following representatives:

Client's Representative: Alex Parker

Address: 3805 S. Casper Drive, New Berlin, WI 53151

Telephone: 262.786.7086 E-mail: aparker@newberlinwi.gov

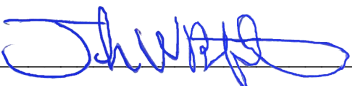
Project Manager: Tia McCarthy, PE

Address: 770 Technology Way, Suite 1A, Chippewa Falls, WI 54729

Telephone: 404.882.0083 E-mail: tmccarthy@cbssquaredinc.com

CBS Squared, Inc.

Client: Alex Parker

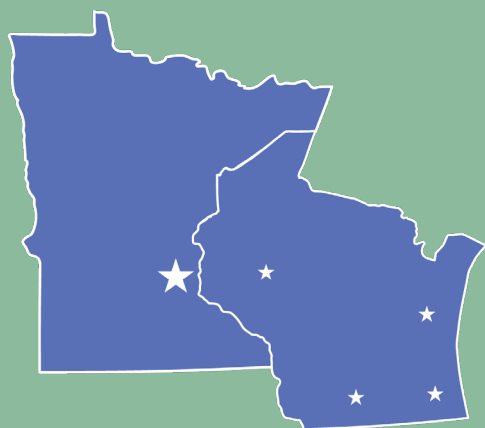
By:  _____

By: _____

Title: Vice President _____

Title: _____

Enclosures: Rate Table



615 First Avenue, NE, Suite 415
Minneapolis, MN 55413



info@cbssquaredinc.com



715.861.5226

EMPLOYEE RATE TABLE 2025		
	EMPLOYEE TYPE	RATE
ARCHITECTURE	Senior Architectural Project Manager	\$ 198. ⁰⁰
	Senior Architectural Design Leader	\$ 166. ⁰⁰
	Architectural Designer	\$ 155. ⁰⁰
	Senior Architectural Technician	\$ 132. ⁰⁰
	Architectural Technician	\$ 100. ⁰⁰
CONSTRUCTION	Senior Construction Project Manager	\$ 194. ⁰⁰
	Construction Project Manager	\$ 178. ⁰⁰
	Senior Construction Project Leader	\$ 169. ⁰⁰
	Construction Project Leader	\$ 148. ⁰⁰
	Senior Construction Technician	\$ 159. ⁰⁰
	Construction Engineer	\$ 135. ⁰⁰
	Construction Technician	\$ 110. ⁰⁰
	Field Assistant	\$ 100. ⁰⁰
DESIGN	Senior Design Leader	\$ 185. ⁰⁰
	Design Leader	\$ 170. ⁰⁰
	Senior Design Technician	\$ 132. ⁰⁰
	Design Engineer	\$ 135. ⁰⁰
	Design Technician	\$ 119. ⁰⁰
	Engineering Technician	\$ 110. ⁰⁰
MUNICIPAL	Senior Municipal Project Manager I	\$ 238. ⁰⁰
	Senior Municipal Project Manager II	\$ 194. ⁰⁰
	Municipal Project Manager	\$ 178. ⁰⁰
SURVEY	Senior Survey Project Manager	\$ 238. ⁰⁰
	Senior Professional Land Surveyor	\$ 188. ⁰⁰
	Senior Plat Specialist	\$ 146. ⁰⁰
	Senior Survey Specialist	\$ 142. ⁰⁰
	Professional Land Surveyor	\$ 135. ⁰⁰
	Plat Specialist	\$ 119. ⁰⁰
	Survey Specialist	\$ 119. ⁰⁰
	Survey Technician	\$ 110. ⁰⁰
STRUCTURAL	Senior Structural Project Manager	\$ 238. ⁰⁰
	Structural Project Manager	\$ 178. ⁰⁰
	Structural Design Leader	\$ 170. ⁰⁰
	Structural Design Engineer	\$ 135. ⁰⁰
TRAFFIC	Senior Traffic Project Manager	\$ 231. ⁰⁰
	Traffic Project Manager	\$ 194. ⁰⁰
	Senior Traffic Engineer	\$ 146. ⁰⁰
	Traffic Engineer	\$ 135. ⁰⁰
TRANSPORTATION	Senior Transportation Project Manager	\$ 238. ⁰⁰
	Transportation Project Manager	\$ 185. ⁰⁰
ADMINISTRATION	IT Manager	\$ 178. ⁰⁰
	Senior Administrative Leader	\$ 154. ⁰⁰
	Senior CAD Leader	\$ 157. ⁰⁰
	Administrative Leader	\$ 142. ⁰⁰
	Senior Administrative Specialist	\$ 128. ⁰⁰
	Administrative Specialist	\$ 105. ⁰⁰
	Student Engineer/Intern	\$ 100. ⁰⁰
	Meals, Per Diem, Mileage	GSA

Note: All rates based on Fiscal Year 2025

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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:

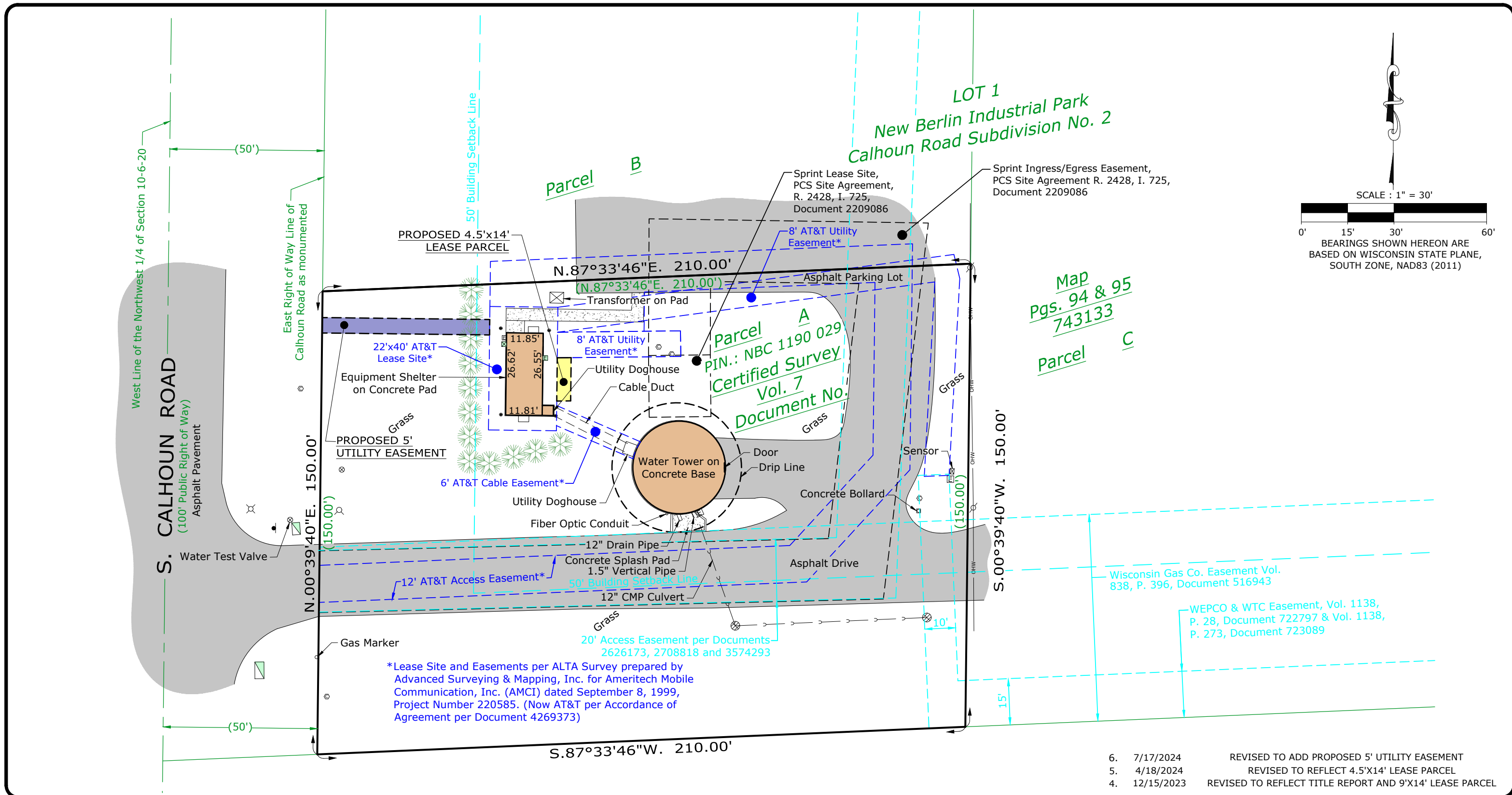
Discussion and possible recommendation to Common Council to approve a gas service easement agreement with We Energies for Calhoun Tower, as reviewed and approved by the City Attorney.

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





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

SITE DESIGNATION INFORMATION:

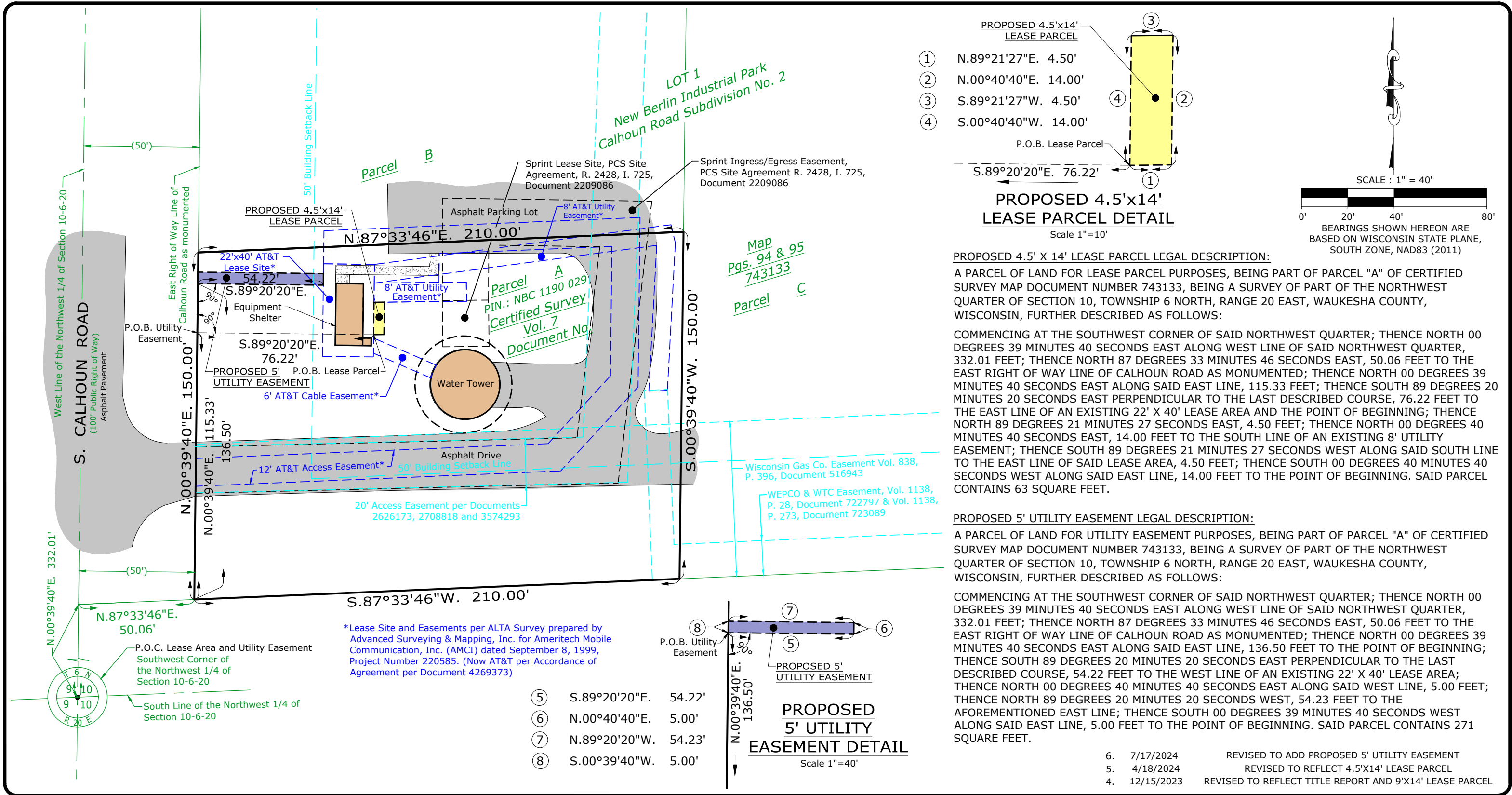
CALHOUN
WI0169
2620 S. CALHOUN RD.
NEW BERLIN, WI 53151
WAUKESHA COUNTY

DRAWN BY: EM
CHECKED BY: CSJ

PROJECT NO.
528094B

SHEET
2 OF 4

L-2



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:



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:

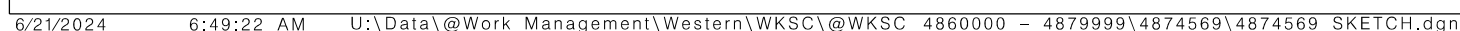
A PARCEL OF LAND FOR LEASE PARCEL PURPOSES, BEING PART OF PARCEL "A" OF CERTIFIED SURVEY MAP DOCUMENT NUMBER 743133, BEING A SURVEY OF PART OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 6 NORTH, RANGE 20 EAST, WAUKESHA COUNTY, WISCONSIN, FURTHER DESCRIBED AS FOLLOWS:

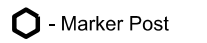
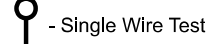
COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER; THENCE NORTH 00 DEGREES 39 MINUTES 40 SECONDS EAST ALONG WEST LINE OF SAID NORTHWEST QUARTER, 332.01 FEET; THENCE NORTH 87 DEGREES 33 MINUTES 46 SECONDS EAST, 50.06 FEET TO THE EAST RIGHT OF WAY LINE OF CALHOUN ROAD AS MONUMENTED; THENCE NORTH 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

☆

ENV

8, 27

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

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

Erosion Control

2. 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.

3. 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.

4. Inspect installed erosion control BMP's at least one time per week and after ½" rain events: repair as necessary.

5. 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

6. 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

7. If an oil spill occurs during construction, call the Environmental Incident Response Team (EIRT) at 414-430-3478:

a. Any quantity of oil is spilled into surface water;

b. Any oil spill greater than 50 ppm PCB into a sewer, vegetable garden, or grazing land;

c. Any oil spill containing greater than 500 ppm PCB;

d. Five gallons or more of oil spilled to the ground;

e. 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

8. 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

9. As much as practicable, the majorityof the work shall be staged from the public roadways and road shoulders, keeping equipment out of adjacent wetlands.

10. All work shall be conducted to minimize soil disturance. No rutting will be allowed within the wetlands.

11. 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.

12. Excavated soils cannot be stockpiled in wetlands.

13. All excess spoils shall be removed from wetlands and placed in a suitable upland location.

14. Trenching and pit excavations within wetlands shall include soil segregation to facilitate restoration of pre-construction soil stratification, and restoration to pre-construction elevations.

15. Poles scheduled to be removed, and that occur within wetland, shall be cut at the ground surface.

Waterways

16. No work can be performed within the banks or below the ordinary high watermark of any navigable waterways/streams.

17. No crossing of navigable waterways with equipment can occur. Foot traffic is allowed.

18. 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

19. 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.

20. In order to protect the threatened or endangered species, work must be conducted between November 5 and March 15.

21. Exclusion fencing must be installed at the work area prior to March 15.

22. A qualified biologist must be present when conducting work at this location.

Invasive Species

23. 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.

24. 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.

25. 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.

26. 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

27. A frac-out contingency plan shall be on-site and implemented accordingly. The contingency plan shall incorporate the following components.

a. Continuously inspect the bore paths for frac-outs in order to respond quickly and appropriately.

b. 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 51 of 53



**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.