



**CITY OF ELKHORN  
COMMON COUNCIL MEETING AGENDA**

**October 7, 2019, 5:30 p.m.**

**Council Chambers, City Hall, 9 S. Broad St., Elkhorn, Wisconsin**

- 1) **Call to Order**
- 2) **Pledge of Allegiance**
- 3) **Roll Call**
- 4) **Public Comment** *Although the public may speak on any item that is not included on this agenda as a "Public Hearing or Forum", the Council may not respond or discuss the issue brought forward at this time. In accordance with open meeting laws the Council must notice an item on the agenda to allow discussion on that matter. Your comments will be considered and may be placed on a future agenda for further discussion.*
- 5) **Consent Agenda** *(One motion & a second will approve all of the following items listed. Any item may be pulled from the list and handled separately.)*
  - a) Council Meeting Minutes for September 16, 2019 and Special Council on September 23, 2019
  - b) Temporary Alcohol Beverage Licenses:
    - i) Elkhorn Area Chamber of Commerce: Fermented Malt Beverage for Multi Chamber Business After Hours, October 9, 2019, 4:00 – 9:00 p.m.; and Fermented Malt Beverage/Wine for Oktoberfest, October 19, 2019, 11:00 a.m. to 6:00 p.m.
    - ii) Walworth County Historical Society: Fermented Malt Beverage and Wine for Salute and Swing "USO" Dance, November 2, 2019 6:00 – 11:30 p.m.
- 6) **Report of City Officers**
  - a) Mayor
  - b) City Administrator
- 7) **Committee Reports**
  - a) Committee of the Whole
    - i) Recommendation to Replace Traffic Signals at N. Wisconsin St. and W. Market St. Intersection (Budget Adjustment)
- 8) **Unfinished Business**
  - a) Utility Easement for Great Lakes Components, 203 W. Centralia St.
- 9) **New Business**
  - a) Request to Fill Vacant Public Works Crewman Position
  - b) Kapur Task Order #5 for 2020 Street Improvement Program: Reconstruct portions of Court, Page, and Getzen Streets
  - c) TID #4 Improvements Project – Super Western Utility Delay Claim
- 10) **Adjourn**

DATED at Elkhorn, Wisconsin, this 4<sup>th</sup> day of October 2019

Cairie L. Virrueta, City Clerk

Should you have any questions or comments regarding any items on this agenda, please contact the City Clerk's office at 723-2219. Upon reasonable notice to the City Clerk, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services.

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**CITY OF ELKHORN COMMON COUNCIL  
MEETING MINUTES  
SEPTEMBER 16, 2019  
COUNCIL CHAMBERS, 9 S. BROAD ST., ELKHORN, WI 53121**

The Common Council meeting was called to order by Mayor Reynolds at 5:30 p.m. in the Council Chambers followed by the Pledge of Allegiance.

**ROLL CALL**

Present: Mayor Howie Reynolds, Aldermen Tim Shiroda, Frank Boggs, Scott McClory, Karel Young

Absent: Tom Myrin, Ron Dunwiddie

Others present: City Administrator Jim Heilman, Attorney Ward Phillips, Deputy Clerk Lacey Reynolds, Police Chief Joel Christensen, DPW Manager Matthew Lindstrom, Fire Chief Rod Smith, City Engineer Greg Calhoun, Recreation Director Karl Sorvick, Chris Clapper, Larry Gaffey, other interested persons

**PUBLIC COMMENT**

None.

**CONSENT AGENDA**

***Motion (McClory/Young) to approve the minutes of the September 3, 2019 Common Council & Public Safety meetings and September 9, 2019 Financial & Judicial, Legislative & Regulatory, Municipal Services & Utilities meetings. Voice vote, all approved, motion carried.***

Request to withdraw Temporary Class "B" Beer License for Plaza de Mexico on October 12, 2019 from the agenda as it will no longer take place.

Larry Gaffey asked about modifying a beer license for a September 22, 2019 event and moving the event to October 6, 2019. City Attorney Phillips said it has to be on the agenda to change it. It will need to come back for approval. City Administrator Jim Heilman suggested a special meeting of the Council for September 23, 2019 to approve the update.

***Motion (Young/Shiroda) to approve the Walworth County Ag Society Temporary Class "B" Beer License for a Concert, October 11, 2019 from 5 p.m. to 11:30 p.m. Voice vote, all approved, motion carried.***

Alderman McClory would like to discuss at the next Legislative & Regulatory meeting times for events at the fairgrounds and associated noise levels.

**BILLS PAYABLE**

***Motion (McClory/Shiroda) to approve the City and Utility Bills in the amount of \$2,228,327.22 (check numbers 160367-160535). Roll call vote: Young, yes; McClory, yes; Boggs, yes; Shiroda, yes; Motion carried.***

**REPORT OF CITY OFFICERS**

**MAYOR'S REPORT**

None.

**CITY ADMINISTRATOR'S REPORT**

A special thank you to the Elkhorn Area High School, students and the Chamber for organizing the *Day of Action*. The Fire Advisory Steering Committee will be meeting September 26, 2019. The committee has coordinated on a referendum, which will continue into 2020. Now working on public information in regards to volunteer fire fighters and bringing in full time fire fighters.

**LIAISON COMMITTEE MEETING REPORTS**

Fire Advisory Board – no report

Library Board – no report

Recreation Advisory Board – Frank Boggs reported the next meeting would be Wednesday October 2, 2019

Chamber – Chris Clapper reported on the EASD Day of Action and upcoming events

Fire Advisory Steering Committee – See City Administrators Report

## **COMMITTEE REPORTS**

### **PUBLIC SAFETY**

Recommendation to approve Police Department Revisions Regarding Bias-Based Policing (#401), Vehicle Towing and Release (#502) and Impaired Driving (#504). At the Public Safety meeting, it was a unanimous recommendation. Resolution under new Business, see below.

### **FINANCIAL AND JUDICIAL**

Derek with the EEDA came in requesting funds the same as last year. Also requested extending the building improvement grant. With the new Holiday Inn Express there will be more funds coming in to allow for more funding.

***Motion (McClory/Shiroda) to approve funding for 2020 to the EEDA in the amount of \$20,000 and extend the current building improvement grant program for 2020 up to \$50,000 with recommended meetings between the City Administrator and the EEDA. Roll call vote, Tim Shiroda, yes; Frank Boggs, yes; Scott McClory, yes; Karel Young, yes; Motion carried.***

### **Discussion on the Schedule for 2020 Budget Schedule.**

Going into the 2020 budget schedule cycle would like to have fewer Committee of the Whole and budget workshops.

### **LEGISLATIVE AND REGULATORY**

***Motion (Young/Shiroda) to conditionally approve Class "B" Fermented Malt Beverage License for Holiday Inn Express. Voice vote, all approved, motion carried.***

Discussion on changes to City Ordinance regarding open burning. Updating the information on where a resident can burn and what can be burned. The City has leaf pick up and the drop off site for yard waste and leaves. City Administrator Jim Heilman said he hopes to have the update ready by Spring 2020.

### **MUNICIPAL SERVICES AND UTILITIES**

#### **Recommendation to Replace Water Services, The Pines Subdivision**

The copper pipe is inadequate and needs to be replaced before the streets are fixed. ***Motion (Boggs/Shiroda) to have Kapur do a study for the road improvements and have a RFP for spring 2020. Voice vote, all approved, motion carried.***

Discussion on 1985 Annexation Agreement with Oakwood/Green Acres Subdivision. Alderman Boggs said there have been multiple complaints about the streets in this subdivision. This is a rural/residential zone and his district. Alderman Boggs believes the City needs to make contact with the residents and meet with them in regards to this agreement. The City Administrator and Public Works Manager are aware of the concerns and plan to have meetings with the residents.

#### **Recommendation to Widen and Improve a Portion of E Page Street in 2020**

The section of E Page Street is an outlet of the fairgrounds parking lot and becomes a one-way street during fair time, Public Works Manager Matthew Lindstrom said. It is recommended to widen E Page Street to the minimum of 28 ft. with sidewalk, curb and gutter at a cost of \$113,445. ***Motion (Boggs/Young) to go forward with widening and improving E. Page Street and incorporate into the 2020 budget. Voice vote, all approved, motion carried.***

**UNFINISHED BUSINESS**

**Ordinance 19-06 An Ordinance to Adopt Wisconsin Administrative Code SPS 316 and 324 related to Electrical Code (Second Reading)**

***Motion (McClory/Boggs) to approve Ordinance 19-06, An Ordinance to Adopt Wisconsin Administrative Code SPS 316 and 324 related to Electrical Code. Voice vote, all approved, motion carried.***

**Resolution No. 19-10 To name Ehlers and Associates Inc. as Pay Agent for the City of Elkhorn General Obligation & Revenue Bond Principal and Interest Payments**

***Motion (Shiroda/Young) to name Ehlers and Associates as Pay Agent. Voice vote, all approved, motion carried.***

**NEW BUSINESS**

**Resolution No. 19-12 Police Department Policy Updates**

***Motion (Boggs/McClory) to approve Resolution No. 19-12 Police Department Policy Updates. Voice vote, all approved, motion carried.***

**ADJOURN**

***Motion (McClory/Shiroda) to adjourn at 6:21 p.m. Voice vote, all approved, motion carried.***

Lacey L. Reynolds  
Deputy Clerk

UNAPPROVED

**CITY OF ELKHORN**  
**Committee of the Whole Minutes**  
**Common Council Chambers, 9 S. Broad Street, Elkhorn, Wisconsin**

September 23, 2019

The meeting was called to order by Mayor Reynolds at 5:00 p.m.

**Special Common Council Meeting**

**Roll Call**

Present: Mayor Howie Reynolds, Aldermen Frank Boggs, Ron Dunwiddie, Karel Young, Scott McClory, Tom Myrin, Tim Shiroda

Others present: Administrator James Heilman, City Clerk Cairie Virrueta, City Attorney Ward Phillips, Police Chief Joel Christensen, DPW Manager Matthew Lindstrom, Utility Director John Murphy, Fire Chief Rod Smith, Recreation Director Karl Sorvick, Kellen Olshefski

**Temporary Class "B" Fermented Malt Beverage Licenses for Walworth County Agricultural Society**

- Flat Track Racing, October 5, 2019, 12:00 – 10:00 p.m.
- Plaza de Mexico, October 6, 2019, 12:00 – 10:00 p.m.

***Motion (McClory/Dunwiddie) to approve the temporary beer licenses as presented. Voice vote, all approved, motion carried.***

**Adjourn**

***Motion (Dunwiddie/Shiroda) to adjourn the Special Council Meeting. Voice vote, all approved, motion carried.*** Adjourned at 5:01 p.m.

**Committee of the Whole Meeting**

**Roll Call**

Present: Mayor Howie Reynolds, Aldermen Frank Boggs, Ron Dunwiddie, Karel Young, Scott McClory, Tom Myrin, Tim Shiroda

**Traffic Signals at N. Wisconsin St. and W. Market St. Intersection**

DPW Manager Lindstrom said the signals are not timing correctly and the processor needs replacing. They are 17-18 years old and he recommended also replacing the cameras which have been giving issues when there are winds and snow. The new processor will work with the current cameras, however. He also suggested upgrading the monitor as the current one is very fuzzy. Administrator Heilman said this is not budgeted and would require a budget adjustment. Money would come from the contingency fund, which has over one million dollars available. ***Motion (Shiroda/Myrin) to recommend a budget adjustment to replace signals and monitor, including installation, at N. Wisconsin St. and W. Market St. for \$10,906. Roll call vote: Shiroda, yes; Boggs, yes; Dunwiddie, yes; McClory, yes; Myrin, yes; Young, yes. Motion carried.*** Alderman Shiroda asked if the installation cost is the same without the cameras; yes. Alderman Shiroda asked if this is a state expense; no, it is not, it is a city street. He also asked if more bids can be obtained. DPW Manager Lindstrom said in his experience Tapco is a sole source for the products. These would be the same cameras as used on Highway 67. ***Motion (Myrin/Dunwiddie) to approve replacing the cameras in the amount of \$6,568. Roll call vote: Shiroda, yes; Boggs, yes; Dunwiddie, yes; McClory, yes; Myrin, yes; Young, yes. Motion carried.***

**2020 Budget Discussion: Capital Improvement Plan / Vehicle and Equipment Replacement Plan**

Administrator Heilman reviewed items in the plans for 2020. They include street maintenance and crack sealing, street work in The Pines, city hall relocation, and work at Babe Mann. Also included are Court St. and E. Page St. work. Mayor Reynolds would like to see Getzen done in 2020. He asked if it had to have curb and gutter; DPW Lindstrom said it was needed as more traffic is anticipated on it with the DPW being there and it will help properly drain the area. Alderman McClory asked if the work could be done in two

years; the design would be done in one year and the work could be done in two different years. Administrator Heilman said the DOT is doing work on the bridge over Centralia and recommended doing work on it first as the bridge closing will shut down the road. Mayor Reynolds asked if money left from constructing the DPW building could be used towards Getzen; Administrator Heilman will look into it. He will move the work on Getzen to the 2020 budget. The Committee reviewed vehicles to be replaced in 2020. Mayor Reynolds asked when Loves and the hotel would go on the tax roll? Administrator Heilman said he expects them to be fully on by 2021. He said a restaurant, coffee shop and juice bar are also in the future plans for Loves. The Committee also reviewed the debt schedules for the City.

**Adjourn**

***Motion (Shiroda/Young) to adjourn at 5:46 p.m. Voice vote, all approved.***

Cairie L. Virrueta  
City Clerk

**9) What can the landowner expect in the easement acquisition process?**

Based on many years of experience, we developed a standard easement agreement which covers topics such as proper clearance/cover for utility facilities, restoration of the land and tree trimming. You, as a landowner, have the right to understand these issues as well as the need for distribution facilities.

To minimize impact on your property, we will make every reasonable effort to locate these facilities in setback areas that are unbuildable.

We also contact each potentially affected landowner and present the easement document.

**10) What is required of the landowner in the easement document?**

The easement document grants the utility the right to locate distribution facilities on the landowner's property. It also requires the landowner to keep the easement area clear to allow the utility access to these facilities for maintenance and repair. Easement area should stay clear of trees.

**11) What kinds of negotiations should be expected?**

While our standard easement is intended to cover normal distribution facility installations, terms or conditions may be negotiated. If the landowner has questions, we will get answers. The right-of-way agent is your contact person and your source of information.

**12) Are there specific waivers of rights involved in the easement negotiation process?**

For electric facilities, PSC 113.0509 gives the landowner, unless voluntarily waived by the landowner, a minimum period of five days to examine the materials we provided before signing any new or revised easement agreement. If you, as the landowner, are comfortable signing the easement agreement after reading the document and getting answers to questions, you may waive the five-day review period established under PSCW Administrative Rules.

There is not comparable code provision for gas facilities; however as a courtesy to our customers, We Energies applies the same practice in the attainment of gas distribution easements.

**13) Does the use of eminent domain enter into easement negotiation discussions?**

No. We do not mention eminent domain. We will work with the landowner to negotiate a solution on location of distribution facilities.

**14) Does the utility ultimately have the right to use eminent domain?**

Yes. However, as a general practice, we do not use eminent domain to install electric or gas distribution facilities. Only in extremely unusual situations would we consider the use of our eminent domain rights. In those cases specific discussions with the customer regarding the exercise of those rights will occur. (We have not used eminent domain on distribution facilities in over 35 years).

**For more information:**

For information on a specific project, contact the utility or the PSCW.

Contact the PSCW at:  
Public Service Commission of Wisconsin  
P.O. Box 7854  
Madison, WI 53707-7854  
608-266-5481

Because the PSCW does not have detailed information about every distribution project, please provide the following information when contacting them:

- Utility Name
- Project Name
- Project Location

## **RIGHTS-OF-WAY AND EASEMENTS**

### **For Electric and Gas Distribution Facility Construction**

## INTRODUCTION

This pamphlet is intended to help you, the landowner, better understand the possible need for new utility facilities, how utilities build those facilities, and how you can be an important part of the process.

Electric distribution lines carry electricity from substations to customers. These types of electric lines include customer service connections and local distribution lines.

Gas distribution pipes carry natural gas from regulator stations to customers. These types of gas pipes include distribution mains of various sizes and service laterals.

A utility right-of-way (ROW) is a strip of land that a utility uses to construct, maintain, repair, or replace an overhead power line, underground power line, or gas main. The ROW allows the utility to provide clearance from trees, buildings and other structures that could interfere with the installation, maintenance and operation of the utility facilities. This ROW may be located in the roadway or on private property. It usually is from 6 to 12 feet wide, unless terrain, vegetation, larger utility facilities, or unusual construction obstacles require a wider easement.

### 1) What are some reasons new or reconstructed power lines might be needed?

New power lines may be needed because of:

- a. Growth in customer's average electricity use
- b. Growth in the number of customers and businesses in Wisconsin
- c. Replacement of old lines due to age of equipment
- d. Additional lines constructed from new substations needed to meet increased demand

### 2) What are some reasons new or reconstructed gas facilities might be needed?

New gas facilities may be needed because of:

- a. Growth in the number of natural gas customers
- b. Replacement of old pipes due to age or condition

- c. Increased usage of natural gas by existing customers

### 3) Do utilities need government approval to build new power lines or gas mains?

Yes. A variety of permits are needed from various governmental agencies. The Public Service Commission of Wisconsin (PSCW) reviews our request if a project exceeds certain costs.

Local road permits, Wisconsin Department of Transportation permits, Wisconsin Department of Natural Resources permits, Federal Aviation Authority permits, etc. are all required if the interests of those agencies are involved.

### 4) Can conservation eliminate the need for power lines or gas mains?

Yes and no. Right now, conservation helps reduce the need for new power lines, but is not eliminating all future needs. In order to eliminate the need for new utility facilities, conservation would have to be great enough to offset all the needs mentioned in questions one and two.

Conservation can reduce the number of new power lines and power plants needed because conservation makes energy use more efficient. The PSCW reviews utility plans for conservative programs in its Biennial Strategic Energy Assessment ("SEA").

### 5) How is it decided when and where new or reconstructed utility facilities will be built?

Our engineers use computer models of the power and natural gas systems to study the need for new utility facilities. The results help a utility decide if a new power line or natural gas main is needed or if an existing line or main should be rebuilt or relocated. In some instances the need for new or rebuilt power lines or natural gas mains becomes apparent due to insufficient capacity to meet customer requirements in an area.

### 6) Does the utility have the right to construct its utility facilities on my property?

Wisconsin statutes allow us to construct our utility facilities on or along roadways with the consent of

local authorities as long as the utility facilities do not interfere with the use of the roadway by the public or with the use of the adjoining land. We usually have the option of building the distribution lines or mains and related facilities on private property or in the road right-of-way. However, if existing obstacles are in the way, the distribution line or main will be located to avoid these obstacles. If the distribution line or main is located on private property, an easement from the landowner is required. If the distribution line or main is located in road right-of-way, a permit from the municipality is required.

### 7) Will my trees need to be cut?

In some cases, power lines must be built along wooded areas or near existing trees. Therefore, trees in these areas need to be trimmed and sometimes removed.

In order to ensure safe and reliable power, it is important to keep power lines and above ground equipment free of any kind of interference. This means that tall-growing trees should not be placed near or under existing power lines. We maintain a regular trimming schedule to keep interference from trees to a minimum. It is important for customers to understand this requirement and cooperate with us for tree-trimming requirements.

In the case of natural gas facilities, trees or shrubs may need to be trimmed or removed for the installation and maintenance of the gas main.

In order to trim or remove trees along a roadway, the utility will obtain the consent of the owner of the tree.

### 8) What is an easement?

An easement is a written document that grants a permanent right to use land for a specific purpose, such as installing utility facilities to serve you and others. An easement "runs with the land" which means it stays with the property even if ownership of the property changes.







**Grantor:**

**CITY OF ELKHORN**

By \_\_\_\_\_

(Print name and title): \_\_\_\_\_

By \_\_\_\_\_

(Print name and title): \_\_\_\_\_

Personally came before me in \_\_\_\_\_ County, Wisconsin on \_\_\_\_\_, 2019,  
the above named \_\_\_\_\_, the \_\_\_\_\_  
and \_\_\_\_\_, the \_\_\_\_\_  
of the **CITY OF ELKHORN**.

\_\_\_\_\_  
Notary Public Signature, State of Wisconsin

\_\_\_\_\_  
Notary Public Name (Typed or Printed)

(NOTARY STAMP/SEAL)

My commission expires \_\_\_\_\_

**TASK ORDER NUMBER #05  
CIVIL ENGINEERING SERVICES**

This task order is made as of **October 4, 2019**, under the terms and conditions established in the MASTER AGREEMENT FOR ENGINEERING SERVICES, (the Agreement), between the **City of Elkhorn (Owner)** and **Kapur & Associates, Inc. (Engineer)**. This Task Order is made for the following purpose:

Provide civil engineering services for the design and specification preparation, and bidding for the City of Elkhorn 2020 Elkhorn Street Improvement Program. The streets slated for reconstruction include:

<b><u>Reconstructing Streets:</u></b>	<b>From</b>	<b>To</b>
Court Street	Griffin Street	N. Church Street
Page Street	N. Lincoln Street.	East Termini
Getzen Street	E. Centralia Street	South Termini

**Section A. – Scope of Services**

Engineer shall perform the following Services:

**Plan Preparation Activities**

1. Provide topographic survey and resultant basemap for Court Street, Page Street, and Getzen Street for above limits.
2. Provide construction plans for Court Street, Page Street, and Getzen Street. Plans to include location and detail of removals, new asphaltic pavement, curb and gutter replacement, sidewalk additions, sanitary sewer and storm sewer improvements on Court Street, hydrant replacements on Court Street, storm sewer improvements on Page Street, and existing sanitary sewer, storm sewer and water valve adjustments.
3. Provide a summary table to present a breakdown of quantities by street segment as information to bidder. Information may include but not limited to the length, width, square yardage of repair, number of manholes, number of inlets, type of asphalt and length of curb replacement (if necessary).
4. Provide details as needed to complete work.
5. Prepare and provide Project Manual including but not limited to Advertisement for Bids, Instruction to Bidders, Bid Form, Bidder's Qualification Statement, Agreement, and General Conditions of Contract, Supplementary Conditions, and Special Provisions.
6. Address and respond to bidder's questions, attend bid opening, review bids, make recommendation for award, and coordinate notice of award, agreement and notice to proceed documentation between City and selected contractor.

**Section B. – Schedule**

Engineer shall perform the Scope of Services and deliver the related Documents according a schedule agreed upon between the Owner and Engineer. A preliminary schedule is as follows:

1. Provide Final Plans and Specification to the Department of Public Works for bid in early 2020.
2. Bids due on or before a date in early 2020 to be decided by Department of Public Works and Engineer.

**Section C. – Compensation**

In return for the performance of the foregoing obligations, Owner shall pay to Engineer an amount not-to-exceed One Hundred Twenty Four Thousand One Hundred Twenty Eight Dollars and no cents (\$124,128.00) payable according to the following terms:

A not-to-exceed amount based on the rates as listed in Attachment A of the Agreement, plus direct expenses. Cost plus services are limited to an agreed maximum figure unless amended.

Engineer may request a change to the billing hours if scope changes, beyond the control of the Engineer, resulting in an extension of the schedule or necessitates a change in personnel.

Compensation for Additional Services (if any) shall be paid by Owner to Engineer according to the hourly billing rates shown in Attachment A of the Agreement.

IN WITNESS WHEREOF, the Owner and Engineer have executed the Task Order.

Owner: City of Elkhorn

Engineer: Kapur & Associates, Inc.

By: \_\_\_\_\_

By: Gregory R. Calhoun

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Title: Project Engineer

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Kapur Associates, Inc.**  
**Summary of Staff Hours and Labor Costs**  
**for the City of Elkhorn**

<b>TASK ORDER 12 - 2020 Elkhorn Street Improvement Program</b>																				
<b>Attachment A</b>																				
CLASSIFICATION		Project Manager		Senior Project Engineer		Project Engineer		Staff Engineer II		Senior Technician		GIS Technician		Surveyor		Survey Crew		Total Labor		
Average Hourly Wage		\$143.00		\$116.00		\$96.00		\$82.00		\$81.00		\$84.00		\$98.00		\$105.00				
TASK DESCRIPTION	ACT. Code	Hours	Dollars	Hours	Dollars	Hours	Dollars	Hours	Dollars	Hours	Dollars	Hours	Dollars	Hours	Dollars	Hours	Dollars	Hours	Dollars	
<b>Administration and Coordination</b>																				
Contract Administration						6	\$576.00											6	\$576.00	
<b>Field Survey</b>																				
Field Survey and Topographic Mapping		14	\$2,002.00							36	\$2,916.00					76	\$7,980.00	126	\$12,898.00	
<b>Court Street Reconstruction</b>																				
Final Plans/Review		8	\$1,144.00			32	\$3,072.00	120	\$9,840.00									160	\$14,056.00	
Meetings as required						8	\$768.00											8	\$768.00	
Roadway Design and Grading						40	\$3,840.00	120	\$9,840.00									160	\$13,680.00	
Sanitary Sewer Design						40	\$3,840.00	80	\$6,560.00									120	\$10,400.00	
Storm Sewer Design						40	\$3,840.00	80	\$6,560.00									120	\$10,400.00	
Permitting						32	\$3,072.00	32	\$2,624.00									64	\$5,696.00	
																		Subtotal	632	\$55,000.00
<b>Page Street Reconstruction</b>																				
Final Plans/Review		8	\$1,144.00			32	\$3,072.00	80	\$6,560.00									120	\$10,776.00	
Meetings as required						4	\$384.00											4	\$384.00	
Roadway Design and Grading						40	\$3,840.00	40	\$3,280.00									80	\$7,120.00	
Storm sewer design						16	\$1,536.00	40	\$3,280.00									56	\$4,816.00	
																		Subtotal	260	\$23,096.00
<b>Getzen Street Reconstruction</b>																				
Final Plans/Review		8	\$1,144.00			32	\$3,072.00	80	\$6,560.00									120	\$10,776.00	
Meetings as required						4	\$384.00											4	\$384.00	
Roadway Design and Grading						40	\$3,840.00	40	\$3,280.00									80	\$7,120.00	
																		Subtotal	204	\$18,280.00
<b>Project Manual/Administration</b>																				
Administration						20	\$1,920.00											20	\$1,920.00	
Advertisement/Project Manual						32	\$3,072.00	40	\$3,280.00									72	\$6,352.00	
Attend Bid Opening						2	\$192.00	1	\$82.00									3	\$274.00	
Post Bid Opening Activities						2	\$192.00	8	\$656.00									10	\$848.00	
Meetings as Required						4	\$384.00											4	\$384.00	
																		Subtotal	109	\$9,778.00
<b>TOTALS</b>		<b>24</b>	<b>\$5,434.00</b>		<b>\$ -</b>	<b>420</b>	<b>\$40,896.00</b>	<b>761</b>	<b>\$62,402.00</b>		<b>\$2,916.00</b>		<b>\$ -</b>				<b>\$7,980.00</b>	<b>2410</b>	<b>\$119,628</b>	
																	<b>Expenses:</b>		<b>\$4,500</b>	
																	<b>Project Total:</b>		<b>\$124,128</b>	

Summary of Expenses	Units	Cost	Total
Soil Borings	5	\$500.00	\$2,500.00
Soil Boring Report		\$2,000.00	\$2,000.00
<b>Totals</b>			<b>\$4,500.00</b>

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## MEMORANDUM TO THE CITY OF ELKHORN

**To: Matt Lindstrom, Jim Heilman**

**From: Greg Calhoun**

**Date: September 11<sup>th</sup>, 2019**

**Re: TID #4 Improvements Project – Super Western Utility Delay Claim**

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As part of the TID #4 Project this past year, several delays were encountered due to underground utility conflicts which inhibited the contractor's ability to progress the project as anticipated. Several of the delays were outside of the contractor's ability to control, and they had to adjust their operations and schedule as a result.

Specifically, Super Western, the earthwork contractor, has submitted a claim to the City to be reimbursed for several losses they feel were caused by the utility delays. Their claim and all received supporting documentation is attached to this memo. In summary, Super Western is requesting to be reimbursed for:

- 2 extra days of crew time for common excavation due to Spectrum and Charter conflicts at O'Connor and Tasch Drives - **\$4,654.47**
- 2 extra days equipment for common excavation due to Spectrum and Charter conflicts at O'Connor and Tasch Drives - **\$4143.74**
- ½ month rent for excavator rented for project due to 10 days of delays caused by TDS pedestals on Commerce Court - **\$5780.50**
- Dumpsite charges due to Super Western losing ability to use a free dumpsite they were planning on using, but had filled up before they could - **\$8800.00**
- **Total = \$23,378.72**

Kapur has reviewed this claim, compared provided dates to our own field notes and dates, requested additional backup information, and reviewed revised versions of the claim. We have come to the following conclusions.

Each of the encountered delays are determined as valid. On O'Connor and Tasch Drives, several utilities were not relocated as originally anticipated and caused the loss of Super Western being able to work for 2 days. Their request to be reimbursed for the crew time and equipment for those 2 days is seen as valid.

On Commerce Court, TDS's pedestals were not relocated in a timely manner, and additional delays were encountered due to utility lines that were relocated too shallow. The 10 days lost due to these delays is seen as valid as well, as is the cost requested as reimbursement for renting the excavator.

Super Western claims they had planned to utilize a free dumpsite in Delavan to haul material from the project to, but due to the 10 days of delay on Commerce Court, had to switch to a different dump site where they were charged. This would mean the free site filled up sometime between October 17<sup>th</sup> and October 29<sup>th</sup>, when the delays took place. Kapur requested additional documentation on the free site, for proof that it was free and that it filled up during that time period. Without such documentation there is no way of knowing whether Super Western was not able to utilize it because of the delays, or if they would not have been able to use it regardless. Furthermore, it is my opinion that the ability or inability to use certain sites to complete the project according to the contract is entirely the contractor's responsibility, and any change to a site's suitability for the project does not become the City's responsibility, but rather the contractor's duty as means and methods of completing the project.

Regardless, additional documentation could not be provided to prove what was requested. As a result, I do not see the \$8800.00 dumpsite reimbursement charge as valid.

I am recommending reimbursement for the first three items, a total of **\$14,578.72**, be made to Super Western due to the utility delays encountered as part of the TID #4 Improvements Project. Please let me know if there are any questions.





N59 W14601 Bobolink Avenue Menomonee Falls, WI 53051  
Phone: (262)252-5995 Fax: (262)252-5397  
Earthwork-Grading-Building Excavation

January 29, 2019

Payne and Dolan, Inc  
Attn: Matt Greg

Subject: Elkhorn TID 4 Utility Delays

Matt,

Per our meeting with Greg and Wyatt last week, I am submitting the following back-up for the delays due to utility conflicts:

**O'Connor and Tasch Drives:** Spectrum and Charter Communications had multiple conflicts within the radii that were widened; The original schedule showed seven working days for Common Excavation. Actual time was fifteen working days not including undercuts; Superwestern, Inc realizes not all of the extra time was due to utilities but feels that two extra days of crew time is warranted due to the handwork and/or smaller equipment needed to perform this work which slowed our production rates.

**Commercre Court:** Superwestern began Common Excavation on October 16, 2019, had to shutdown from October 17 through October 23 due to Pedestals being in the way; this amounted into a 5 day delay. We resumed work on October 24 and worked through October 27; Delayed from October 29 through November 2 due to shallow electric line which needed to be protected by means of hydro-excavation and slurry backfill; this amounted to a 5 day delay. Total amount of days delayed = 10 days or ½ of a month. I feel that we are being more than fair only asking for ½ month rent on the excavator that was rented for this project. Also, due to these delays, Superwestern lost its free dumpsite located in Delavan and not only had to truck the excavated material farther but also had to pay a dump fee of \$40.00/load for 200 loads = \$8000.00. We are only asking for the dump fee costs incurred due to this delay.

We respectfully request to be compensated in the amount of: **\$23,378.72.**

Attached, you will find the back-up information for the amount requested.

Sincerely,

  
Kevin Kosewski  
Vice President

## LABOR BREAKDOWN

Project Name: Elkhorn TID 4



SWI Job #: 2018221

Project Location: Elkhorn, WI

Project Number:

Contractor: Super Western, Inc.

Work Performed: Utility Delays

Date: 11-01-2018

Labor Wages - Base Rate	Hours	Rate	Total
Foreman-Operator	16.00	\$ 41.27	\$ 660.32
Equipment Operator	32.00	\$ 38.07	\$ 1,218.24
Apprentice	0.00	\$ 28.06	\$ -
<b>Subtotal</b>	<b>48.00</b>		<b>\$ 1,878.56</b>
<b>Labor Wages - Overtime Premium</b>			
Foreman-Operator	0.00	\$ 20.64	\$ -
Equipment Operator	0.00	\$ 19.04	\$ -
Apprentice	0.00	\$ 14.03	\$ -
<b>Subtotal</b>	<b>0.00</b>		<b>\$ -</b>
<b>Fringe Benefits</b>			
Foreman-Operator	16.00	\$ 22.55	\$ 360.80
Equipment Operator	32.00	\$ 22.55	\$ 721.60
Apprentice	0.00	\$ 22.55	\$ -
<b>Subtotal</b>	<b>48.00</b>		<b>\$ 1,082.40</b>
a) <b>Subtotal Labor Wages &amp; Fringe Benefits</b>			<b>\$ 2,960.96</b>
b) Markup - 35% of Wages and Benefits			\$ 1,036.34
c) Taxes & Insurance 22.53% of labor			\$ 423.24
d) Workers Comp - 7.89% of labor base rate			\$ 148.22
e) Markup 15% of Insurances [0.15 x (c+d)]			\$ 85.72
<b>FORCE ACCOUNT LABOR TOTAL</b>			<b>\$ 4,654.47</b>

### Taxes & Insurance for "c" above

WI Unemployment	9.05%
Federal Unemployment	0.60%
FICA	7.65%
General Liability Insurance	5.23%
<b>Total</b>	<b>22.53%</b>

Equipment:		Hours	Rate	M.U. @10%	Total
Kobelco SK500-9 Excavator	1 lump Sum		\$ 5,255.00	\$ 525.50	\$ 5,780.50
Volvo EW 170 Excavator		16	\$ 85.00	\$ 8.50	\$ 1,496.00
Cat 279 Track Skidsteer		16	\$ 45.44	\$ 4.54	\$ 799.74
Quad Axle Dump Truck		16	\$ 105.00	\$ 10.50	\$ 1,848.00
		Loads			
Dump Fee's	Estimated	200	\$ 40.00	\$ 4.00	\$ 8,800.00
			<b>Total Equipment &amp; Fees:</b>	<b>\$</b>	<b>18,724.24</b>
			\$	-	\$ -
			<b>Total Request:</b>	<b>\$</b>	<b>23,378.72</b>





www.miller-bradford.com

Corporate Office:
W250 N6851 Hwy 164
P.O. Box 904
Sussex, WI 53089
1-800-242-3115

DeForest, WI 1-800-585-7219
De Pere, WI 1-800-638-7448
Eau Claire, WI 1-800-585-7232
Marathon, WI 1-888-886-4410
Negaunee, MI 1-800-562-9770
Rockford, IL 1-800-585-7231

Ship To: SAME AS BELOW

Invoice To: SUPER WESTERN, INC.
N59 W14601 BOBOLINK
MENOMONEE FALLS WI 53051

Branch: 02 - SUSSEX
Date: 09/26/2018 Time: 8:27:00 (O) Page: 1
Account No: SUPER006 Phone No: 2622525995 Inv No: R01003
Ship Via: Purchase Order
Tax ID No: SB0000
Salesperson: JH1

RENTAL INVOICE

Description INVOICE #: R01003 For Contract #: 000469 Amount

Billing #: 3 Covering From 09/24/2018 to 10/21/2018

MONTHLY RENTAL OF A KOBELCO SK500-10 H&W WITH 78" BUCKET.
NET DUE UPON RECEIPT OF INVOICE.

2018221
(per Kevin)

KB SK500
EXC-TRACK Charge for usage of 1 4 WEE 10000.00
Stock #: 004987 Serial #: YS1405114
Date Out: 07/30/2018 00:08 Expected return date: 10/22/2018 00:08

WB ASK500
78" HD HI CAP BKT Charge for usage of 1 4 WEE
Stock #: 004113 Serial #: 273005-1-1
Date Out: 07/30/2018 00:08 Expected return date: 10/22/2018 00:08

Subtotal: 10000.00
W67-WAUKESHA COUNTY 5.10%: 510.00
RENTAL CHARGE SALE: 10510.00

Last day used @ Racine Lift Station 9/19, then mov'd to Elkhorn. DRM

Elkhorn
Streets

Dan

- 1. Items classified non-returnable by our vendor not acceptable for credit.
2. No returns without permission.
3. Returns must include packing list or invoice no. and items must be in saleable condition.
4. Returns must be shipped to MBR office from which the item was purchased.
5. 20% handling charge on all returns - 25% after 90 days.
6. Service charge will be charged after 30 days.

X

Received By

Thank You For Your Business!

PLEASE
REMIT TO

Miller-Bradford & Risberg, Inc.
P.O. Box 8409
Carol Stream, IL 60197-8409