



**CITY OF ELKHORN
COMMON COUNCIL MEETING AGENDA**

February 19, 2024 ~ 5:30 p.m.

Council Chambers, City Administration Offices, 311 Seymour Ct., Elkhorn, Wisconsin

- 1) **Call to Order**
- 2) **Pledge of Allegiance**
- 3) **Roll Call**
- 4) **Public Comment** *Public comments are limited to three minutes each. The public may speak on any item of City concern whether or not the topic is included on this agenda. However, if the topic does not pertain to an item listed on the Council agenda, the Council is not permitted to address or discuss the matter during this meeting. Under open meeting laws, the Council must notice an item on the agenda to allow discussion on that matter. If Council is not permitted to discuss your concerns, 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) Meeting Minutes from the Financial & Judicial Committee and Common Council February 5, 2024
- 6) **Bills Payable**
 - a) Consideration and recommendation to pay
- 7) **Report of City Officers**
 - a) Mayor
 - i) Swearing in of Elkhorn Area Fire Department personnel
 - b) City Administrator
- 8) **Reports of City Boards and Community Partners**
 - a) Fire Advisory
 - b) Library
 - c) Recreation Advisory
 - d) Chamber of Commerce
 - e) Community Grant Writer
- 9) **Committee Reports**
 - a) Financial & Judicial
 - i) Discussion and possible decision regarding the Municipal Court and staffing
- 10) **Unfinished Business**
 - a) Motion to reconsider the proposed contract with Associated Bank to provide banking services to the City from February 1, 2024 – January 31, 2028
 - b) Discussion and possible decision regarding the proposed contract with Associated Bank to provide banking services to the City from February 1, 2024 – January 31, 2028
- 11) **New Business**
 - a) Discussion and possible decision regarding MOU with St. Patrick's Parish to fund the installation of a Safe Haven Baby Box at the Elkhorn Fire Department
 - b) Discussion and possible decision regarding contract with Safe Haven Baby Boxes, Inc. for installation and maintenance of a Safe Haven Baby Box at the Elkhorn Fire Department

- c) Discussion and possible decision regarding proposed Ordinance No. 24-02: An Ordinance Allowing the Operation of All-Terrain Vehicles (ATVs) and Utility Terrain Vehicles (UTVs) on City of Elkhorn Streets (*first and possible second reading*)

12) Presentations

- a) Pam Carper, Housing Program Manager, WCEDA [*presentation @ approx. 6:00 p.m.*]
 - i) Overview of WCEDA's efforts to promote workforce housing in Walworth County
- b) Dale Broeckert, P.E., Foth Infrastructure & Environment, LLC [*presentation @ approx. 6:15 p.m.*]
 - i) Update regarding water system quality and projects
 - ii) Overview of bids and alternates for NEWTP water and sewer extension project

13) New Business Continued

- a) Discussion and possible decision regarding bids for 2024 NEWTP Water and Sewer Extension Project
- b) Discussion and possible decision regarding postponing 2024 Lakeland WTP HMO Rehab Project to 2025
- c) Discussion and possible decision regarding use of Park Funds for creation of concept design for park at 1750 North Wisconsin Street
- d) Discussion and possible decision regarding City-owned cameras for City parks and parking lots
- e) Discussion and possible decision regarding the future of the Historic Preservation Commission
- f) Discussion and possible decision regarding license agreement between City of Elkhorn and WE Energies for wireless attachments to City utility poles
- g) Discussion and possible decision regarding proposed Resolution No. 24-06: A Resolution Approving Memorandum of Understanding Between City of Elkhorn and Creekside Community Development, LLC regarding Access, Approvals, and Timelines for Creekside Community Development
- h) Discussion and possible decision regarding proposed Resolution No. 24-07: A Resolution Authorizing the City of Elkhorn to Petition the Wisconsin Office of the Commissioner of Railroads for a Public Crossing at Getzen Street, a Public Street Located South of East Centralia Street

14) Adjourn into Closed Session

- a) Closed Session: The Common Council may entertain a motion to go into CLOSED SESSION pursuant to Wisconsin Statutes Section 19.85(1)(e) for the purpose of deliberating or negotiating an offer to purchase public property
 - i) Lot 53 (Tax Key YU SW 00047)
 - ii) Lot 54 (Tax Key YELC 00475)
 - iii) Lot 55 (Tax Key YELC 00476)
 - iv) Lot 56 (Tax Key YU SW 00064)
- b) Closed Session: The Common Council may entertain a motion to go into CLOSED SESSION pursuant to Wisconsin Statutes Section 19.85(1)(g) for the purpose of conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved

15) Reconvene in Open Session for possible action on Closed Session items

The Common Council shall RECONVENE INTO OPEN SESSION reserving the right to take action on the matters discussed in CLOSED SESSION and to move to the remaining meeting agenda(s) as posted

- a) Discussion and possible decision regarding offer to purchase public property
 - i) Lot 53 (Tax Key YU SW 00047)
 - ii) Lot 54 (Tax Key YELC 00475)

iii) Lot 55 (Tax Key YELC 00476)

iv) Lot 56 (Tax Key YU SW 00064)

b) Discussion and possible decision regarding enforcement of development agreement (and amendments) with E&M Elkhorn, LLC for Tasch Land

16) Adjourn

DATED at Elkhorn, Wisconsin, this 16th day of February 2024

Lacey L. Reynolds, City Clerk

Should you have any questions or comments regarding any items on this agenda, please contact the City Clerk's office at (262) 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.

CITY OF ELKHORN
Financial & Judicial Committee Minutes
Council Chambers, 311 Seymour Ct., Elkhorn, Wisconsin

February 5, 2024

The Financial and Judicial Committee was called to order at 5:15 p.m. by Alderman McClory, followed by roll call.

Roll Call

Present: Aldermen Scott McClory & Ken Meinel. Absent: Tim Shiroda.

Also present: Mayor Bruce Lechner, Alderpersons Gary Lee Payson Jr. and Karel Young, City Administrator Adam Swann, City Clerk Lacey Reynolds, Municipal Court Clerk Claudia Last, Attorney Ward Phillips, Director of Public Works Matthew Lindstrom, Finance Director Corrie Daly, City Engineer Mike Timmers, other interested persons.

Discussion and possible decision regarding the Municipal Court and staffing. Administrator Adam Swann recapped the discussion from the F&J meeting in September 2023. Swann added since November 2023 City Clerk Reynolds has been training with Court Clerk Last. Municipal Court Clerk Claudia Last informed the committee of changes made over the past five years regarding the processes in the municipal court clerk's office. Last incorporated State Debt Collection, navigated police department staffing changes, COVID challenges and updated court software. Last recommended changing the court clerk position to part time. *Motion (Meinel/McClory) to change the municipal court clerk position to part time. Voice vote, all approved, motion carried.*

Adjournment

Motion (Meinel/McClory) to adjourn at 5:25 p.m. Voice vote, all approved, motion carried.

Lacey L. Reynolds
City Clerk

CITY OF ELKHORN COMMON COUNCIL
MEETING MINUTES
February 5, 2024
COUNCIL CHAMBERS, 311 SEYMOUR CT., ELKHORN, WI 53121

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

ROLL CALL

Present: Mayor Bruce Lechner, Alderpersons Gary Lee Payson Jr., Scott McClory, Ken Meinel & Karel Young.
Absent: Alderpersons Tim Shiroda & Ron Dunwiddie.

Others present: City Administrator Adam Swann, Attorney Ward Phillips, City Clerk Lacey Reynolds, Police Chief Joel Christensen, Director of Public Works Matthew Lindstrom, Interim Fire Chief Trent Eichmann, Finance Director Corrie Daly, Utility Field Office Coordinator Dawn Gall, Water Superintendent Tim Boss, City Engineer Mike Timmers, Michelle Shilts, Jason Roberts and other interested persons.

PUBLIC COMMENT

None.

CONSENT AGENDA

Motion (Payson Jr./Young) to approve the Legislative & Regulatory Meeting Minutes January 15, 2024, Common Council Meeting Minutes January 15 & 18, 2024, Temporary Class "B" Beer and "Class B" Wine license for Friends of Matheson Memorial Library at 203 E. Walworth St., Chamber Business After Hours, March 7, 2024; 5:00 to 7:00 pm and the Temporary Class "B" Beer licenses for the Walworth County Agricultural Society at the Walworth County Fairgrounds, Rodeos attached list of events. Voice vote, all approved, motion carried.

REPORT OF CITY OFFICERS

MAYOR'S REPORT – Mayor Lechner read a letter from retired Fire Chief Rod Smith.

CITY ADMINISTRATOR'S REPORT – Administrator Swann informed the Council staff met with Walworth County Food and Diaper Bank, the Shodeen Group and Community Action regarding development in the city. The PSC announced approval of the water rate increase and Swann shared it will go into effect March 1st. City staff are working on a Q&A regarding the city's water for the website.

PRESENTATION

Michelle Shilts made a presentation about Safe Haven Baby Boxes, fundraising and partnering with the City of Elkhorn to install a baby box at the Elkhorn Fire Station.

Jason Roberts, DNR safety warden shared about the state statutes regarding ATV/UTV use on municipal roads and answered questions regarding authority of cities to permit use of ATV/UTVs on city streets.

COMMITTEE REPORTS

Legislative and Regulatory

Alderman Meinel reported the L&R committee met on January 15th and the committee made a motion to leave the Child Safety Zone Maps as is.

UNFINISHED BUSINESS

Discussion and possible decision regarding drafting City ordinance to authorize use of ATVs/UTVs on City streets. *Motion (Payson Jr./Meinel) to draft an ordinance for all city streets 35 mph or less. Voice vote; 2-yes, 2-no. Tie vote 2-2. Lechner, yes. Motion carried 3-2.*

NEW BUSINESS

Discussion and possible decision regarding proposed contract with Associated Bank to provide banking services to the City from February 1, 2024 – January 31, 2028. *Motion (McClory/Payson Jr.) to approve the proposed contract with Associated Bank to provide banking services to the City from February 1, 2024 – January 31, 2028. Roll call vote: McClory, yes; Payson Jr., yes; Young, yes; Meinel, yes. Motion carried.*

Discussion and possible decision regarding proposal from Northern Lake Service, Inc. to conduct well testing at Centralia Water Treatment Plant as part of development of plan for future of plant (if reservoir is unavailable). *Motion (Payson Jr./Meinel) to approve the proposal from Northern Lake Service, Inc. to conduct well testing at Centralia Water Treatment Plant as part of development of the plan for future of the plant (if reservoir is unavailable). Roll call vote: Payson Jr., yes; Meinel, yes; McClory, yes; Young, yes. Motion carried.*

ADJOURN TO CLOSED SESSION

Motion (Payson Jr./Young) to adjourn to closed session where the Common Council may entertain a motion to go into CLOSED SESSION pursuant to Wisconsin Statutes Section 19.85(1)(e) for the purpose of deliberating or negotiating an offer to purchase public property of Lot 67 in the Elkhorn business park (Tax Key YV SE 00024) and the Common Council may entertain a motion to go into CLOSED SESSION pursuant to Wisconsin Statutes Section 19.85(1)(g) for the purpose of conferring with legal counsel concerning strategy to be adopted with respect to a threat of litigation related to conditions imposed upon a conditional use permit approved for Steve Smith, of Northshore Development, LLC, at 5384 Hwy 11, located in the City's ETZ in the Town of Delavan, to use the property for marine service and off-season storage. Voice vote, all approved, motion carried. Adjourned to closed session at 6:12 p.m.

RECONVENE IN OPEN SESSION

Reconvened in open session at 6:36pm.

The Common Council shall RECONVENE INTO OPEN SESSION reserving the right to take action on the matters discussed in CLOSED SESSION and to move to the remaining meeting agenda(s) as posted. Discussion and possible decision regarding offer to purchase public property Lot 67 in the Elkhorn business park (Tax Key YV SE 00024). *Motion (McClory/Payson Jr.) to counter the existing offer to include the condition within 3yrs there will be substantial construction or the City has the option to repurchase the property at the sale. Roll call vote: McClory, yes; Payson Jr, yes; Meinel, yes; Young, yes. Motion carried.* Motion to reconsider the request by Steve Smith, of Northshore Development, LLC, for a conditional use permit at 5384 Hwy 11, located in the City's ETZ in the Town of Delavan, to use the property for marine service and off-season storage. *Motion (Payson Jr./Meinel) to reconsider Voice vote, all approved, motion carried.*

Discussion and possible decision regarding request by Steve Smith, of Northshore Development, LLC, for a conditional use permit at 5384 Hwy 11, located in the City's ETZ in the Town of Delvan, to use the property for marine service and off-season storage. Alderman Payson Jr. made a motion and discussion took place regarding the conditions of the CUP. Steve Smith spoke and agreed to the conditions. *Motion (Payson Jr./McClory) to change the CUP to allow the business to operate on Sunday, no engine noise/operation on Sunday, allowed to sell parts, drop off and pick up boats on Sunday. Roll call vote: Payson Jr., yes; McClory, yes; Young, yes; Meinel, yes. Motion carried.*

ADJOURN

Motion (Payson Jr./McClory) to adjourn at 6:45p.m. Voice vote, all approved, motion carried.

Lacey L. Reynolds
City Clerk

Applicant	Location	License type	Name of event, date of event and serving times	Day of the week
Wal Co Ag Society	Fairgrounds	Beer	Rodeo, March 1, 2024 from 1pm-10pm	Fri
Wal Co Ag Society	Fairgrounds	Beer	Rodeo, March 2, 2024 from 1pm-10pm	Sat
Wal Co Ag Society	Fairgrounds	Beer	Rodeo, March 3, 2024 from 1pm-9pm	Sun
Wal Co Ag Society	Fairgrounds	Beer	Rodeo, March 8, 2024 from 1pm-10pm	Fri
Wal Co Ag Society	Fairgrounds	Beer	Rodeo, March 9, 2024 from 1pm-10pm	Sat
Wal Co Ag Society	Fairgrounds	Beer	Rodeo, March 10, 2024 from 1pm-9pm	Sun
Wal Co Ag Society	Fairgrounds	Beer	Rodeo, March 15, 2024 from 1pm-10pm	Fri
Wal Co Ag Society	Fairgrounds	Beer	Rodeo, March 16, 2024 from 1pm-10pm	Sat
Wal Co Ag Society	Fairgrounds	Beer	Rodeo, March 17, 2024 from 1pm-9pm	Sun
Wal Co Ag Society	Fairgrounds	Beer	Rodeo, March 22, 2024 from 1pm-10pm	Fri
Wal Co Ag Society	Fairgrounds	Beer	Rodeo, March 23, 2024 from 1pm-10pm	Sat
Wal Co Ag Society	Fairgrounds	Beer	Rodeo, March 24, 2024 from 1pm-9pm	Sun
Wal Co Ag Society	Fairgrounds	Beer	Rodeo, March 29, 2024 from 1pm-10pm	Fri
Wal Co Ag Society	Fairgrounds	Beer	Rodeo, March 30, 2024 from 1pm-10pm	Sat
Wal Co Ag Society	Fairgrounds	Beer	Rodeo, March 31, 2024 from 1pm-9pm	Sun

UNAPPROVED

C SHIFT

Ben Kempen

Dan Ace

Kelly Talty

A SHIFT

Abby Recklies

Matt Endres and Jordan Abts

Tristan McNamara

Jessica Nicikowski

B SHIFT

Bailey Vieau

Reed Johnson

Jeremy Castel

Simon Lee

Tanner Tenpas

MEMO

TO: Mayor Bruce Lechner
Alderman Ronald Dunwiddie
Alderman Scott McClory
Alderman Ken Meinel
Alderman Gary Payson, Jr.
Alderman Tim Shiroda
Alderman Karel Young

FROM: Adam Swann

DATE: February 16, 2024

RE: Common Council Meeting on February 19, 2024

City Administrator Report

- **Meeting with Briohn Building Corporation**

On Tuesday, February 13, 2024, Joe Jursenas and Caitlin Lajoie of Briohn Building Corporation met with a handful of City staff to review a preliminary layout for an industrial park on the 200+ acres owned by the Harold and Carol Deback Trusts (just west of Kunes RV). City staff included Public Works Director Matthew Lindstrom, Electric Superintendent BZ Kayser, Water Superintendent Tim Boss, Zoning Administrator Allison Schwark, and me. Kristen Parks of Anderson Commercial also attended the meeting. The next step is for Briohn to submit an application to present a concept plan to the Plan Commission and Common Council.

- **Preparation of RFP for a space needs analysis/study for the downtown fire station**

Public Works Director Matthew Lindstrom, Interim Fire Chief Trent Eichmann, and I are working on preparing an RFP to conduct an analysis of the space needs for the Fire Department and how these needs can be met at the fire

station. The goal had been to present the RFP for Council's review at the meeting on February 19, 2024, but it will likely be ready for review at the March 4, 2024 meeting instead.

- **Preparation of RFP for building-inspection services**

Last march when the Council approved the temporary contract with Municipal Zoning and Inspection Services for building inspection services, the Council indicated that they wanted to issue an RFP for a longer-term building inspector. I'm working on preparing that RFP with the goal of submitting it to Council for preliminary review at the March 4, 2024 Council meeting.

New Business

- **Discussion and possible decision regarding MOU with St. Patrick's Parish to fund the installation of a Safe Haven Baby Box at the Elkhorn Fire Department**

Pursuant to Council's direction at the last Council meeting, we've added the proposal for a Safe Haven Baby Box to the Council agenda for discussion and possible action. More specifically, we've prepared a proposed MOU between the City and St. Patrick's Parish in which the City would agree to host a baby box if St. Patrick's Parish provides the funding for installing and maintaining the baby box.

- **Discussion and possible decision regarding proposed contract with Save Haven Baby Boxes, Inc. for baby box at fire station**

The proposed MOU with St. Patrick's Parish states that the City will sign a contract with Safe Haven Baby Boxes, Inc. Unfortunately, we didn't receive a copy of the contract until late on Thursday, so we haven't had a chance to review it. The contract has been forwarded to City Attorney Ward Phillips for his review prior to Monday night.

- **Discussion and possible decision regarding proposed Ordinance No. 24-02: An Ordinance Allowing the Operation of All-Terrain Vehicles (ATVs) and Utility Terrain Vehicles (UTVs) on City of Elkhorn Streets**

Pursuant to Council direction, City Attorney Ward Phillips has prepared a proposed ordinance authorizing the operation of ATVs and UTVs on City streets.

New Business Continued

- **Discussion and possible decision regarding bids for 2024 NEWTP Water and Sewer Extension Project**

The City received four bids for the 2024 NEWTP Water and Sewer Extension Project. Three of the four lowest bids were less than half of the engineer's estimate of \$4,467,465. The lowest base bid was from Globe Contractors, Inc. in the amount of \$1,857,405, but the lowest overall bid is going to depend on whether Council wants to accept any of the three alternates. As a reminder, the base bid covers the sewer extension; the three alternates are the water portion of the project and involve adding watermain extensions. Foth Infrastructure and Environment will be providing more information about the options at the Council meeting on Monday.

When it comes to the funding, the sewer portion of the project has been approved for a Clean Water Fund loan. Unfortunately, the water portion of the project was deemed ineligible for Safe Drinking Water Fund loans. The City was told that it could apply again this summer—and this is currently the plan—but it is probably unlikely the project will be eligible for Safe Drinking Water Fund loans. As a result, realistically the City will have to issue water revenue bonds to fund the project. This funding method is more expensive than using the Safe Drinking Water Fund loans, but the City received good bids on the water alternates, so this helps offset the increased financing costs.

We've asked Ehlers to analyze the impact of issuing debt for the watermain extensions and the other significant water infrastructure projects planned in 2024 and 2025. Unfortunately, we haven't received those results yet. The Council packet includes a chart that Finance Director Corrie Daly prepared showing the upcoming costs for the 2024 and 2025 water and sewer projects. The water projects had been included in the CIP, and based on the bid results so far, the water projects are under budget. However, the City had planned on financing more of the costs with Safe Drinking Water Fund loans rather than issuing revenue bonds. (Approximately \$500,000 of phase 1 of the Centralia St. Reconstruction Project was deemed ineligible for Safe Drinking Water Fund loans, and as mentioned above, the watermain extensions for the NEWTP water and sewer extension project were also deemed ineligible.)

- **Discussion and possible decision regarding postponing 2024 Lakeland WTP HMO Rehab Project**

The 2024 Lakeland WTP HMO Project was planned for 2024 but has been on hold pending the potential \$3,300,000 in congressionally directed spending the project might receive if the federal budget is approved in March. Given the delay thus far and the upcoming start of the NEWTP Rehab Project—some portions of which have to be finished before the Lakeland project can move forward—it would be advantageous both financially and logistically for the Lakeland Project to be postponed until 2025.

- **Discussion and possible decision regarding City-owned cameras for City parks and parking lots**

This item is on the agenda at the request of Alderman Gary Lee Payson Jr., who was contacted by a constituent wanting cameras.

- **Discussion and possible decision regarding the future of the Historic Preservation Commission**

Background

Article 17.11 of the Elkhorn Municipal Code established a Historic Preservation Commission. The primary duties of the Historic Preservation Commission are 1) to designate landmarks and historic sites and 2) to regulate the construction, reconstruction, exterior alteration and demolition of properties and structures designated as landmarks and historic sites.

Section 17.11-3 of the Elkhorn Municipal Code states that the Historic Preservation Commission is supposed to comprise seven members, including five citizen members—two of which have to be an architect, historian, or appraiser/real estate broker.

The Historic Preservation Commission currently doesn't have any members and is not active. The City was recently contacted by a Plan Commission member—James Boardman—wanting the City to appoint members to the commission.

Question for Council

How does Council want the City to proceed? Resurrect the Historic Preservation Commission? Remove the Historic Preservation Commission from the City Code? Something else?

- **Discussion and possible decision regarding license agreement between the City of Elkhorn and WE Energies for wireless attachments to City utility poles**

WE Energies would like to add approximately 23 wireless attachments to the City's utility poles in furtherance of their AMI infrastructure. The City would be compensated well by WE Energies for using the City's poles. The MEUW has prepared a sample contract for municipalities to use for these types of arrangements. A copy of the contract is in the Council packet. The portions of the contract highlighted in yellow are those portions where the City had to supply information. This helps show that most of the contract is an MEUW template.

- **Discussion and possible decision regarding proposed Resolution No. 24-06: A Resolution Approving Memorandum of Understanding between City of Elkhorn and Creekside Community Development, LLC, regarding Access, Approvals, and Timelines for Creekside Community Development**

Creekside Community Development, LLC is requesting that the City approve an MOU to address the secondary access on S. Lincoln St. and the railroad crossing at Getzen Street. Basically Creekside wants verification from the City that the City is agreeable to making the secondary access on S. Lincoln St. temporary if the railroad crossing is approved. The MOU would also clarify that the City has to submit the petition for the railroad crossing but that Creekside will provide all documentation and will reimburse the City the costs.

The reason for this MOU is that Creekside originally planned on installing the railroad crossing as part of phase 2, and as a result, under the terms of the Development Agreement, the Council had required a second entrance on S. Lincoln St. as part of phase 1 to ensure the development had two access points. Creekside would now prefer to move forward with the railroad crossing as part of phase 1 and avoid having to install a second permanent access on S. Lincoln St. as part of phase 1.

The City Engineer and DPW support installing the Getzen St. railroad crossing as part of phase 1 rather than adding a second entrance on S. Lincoln St. because there are concerns about traffic design and flow with trying to add a second entrance north of the Deere Rd. intersection.

As far as clarifying in the MOU that the City will apply for the railroad crossing, it doesn't seem to contradict anything in the Development Agreement.

The Development Agreement specified that the City and developer would work together to apply for and install the crossing, and both the Development Agreement and proposed MOU state that the developer is responsible for paying for the costs of applying and constructing the railroad crossing.



January 31, 2024

Adam Swann
City Administrator
City of Elkhorn
311 Seymour Ct
Elkhorn, WI 53121

Dear Mr. Swann,

Please allow this letter to summarize and update some of the material portions of the agreement between Associated Bank, N.A. and the City of Elkhorn.

Term. Commencing February 1, 2024 and ending on January 31, 2028, with an option to renew.

Operational Requirements. Bank shall perform the operations and provide the services as set forth in the proposal dated October 23, 2015.

Earnings Credit. An earnings credit ("Earnings Credit") shall be applied to the \$650,000 peg balance in the account and shall offset Bank's fees. The Earnings Credit rate is indexed to the Targeted Federal Funds Rate less 1.00% (currently at 4.50%) as published under the "Money Rates" section in the Midwest Edition of the Wall Street Journal. The \$650,000 peg balance can be increased at any time to offset fees.

Insured Cash Sweep Account. The Bank Managed Interest Rate on the IntraFi Insured Cash Sweep account with a minimum average daily balance of \$10,000 would earn Targeted Federal Funds Rate less 0.10% (currently at 5.40%). These rates are subject to market fluctuations and can change at any time at the discretion of the bank.

Treasury Management Pricing. See attached Associated Bank Service Rates for updated pricing services.

FDIC Insurance/Collateral. Your Insured Cash Sweep deposits are covered though FDIC insurance and backed by the full faith and credit of the U.S. government. Joint custody collateral is provided for all other account balances above FDIC insurance limits and the State of Wisconsin Insurance Pool and placed in the City of Elkhorn's name held at the Federal Reserve Bank of Boston.



Associated Bank appreciates the opportunity to provide banking services for the City of Elkhorn. We appreciate your continued trust and confidence and look forward to continuing the relationship. As always, should you have any questions, please do not hesitate to contact me at 414-278-1983.

With Best Regards,



Linda Winkler
Sr. Vice President | Relationship Manager | Government Banking

Attachments: Associated Bank Service Rates

ACCEPTED FOR THE CITY OF ELKHORN

Adam Swann, City Administrator

Date

Associated Bank's Service Rates for the City of Elkhorn

February 1, 2024 to January 31, 2028

<i>Service Description</i>	2/2024 – 1/2028 Pricing Unit Price
Deposit Assessment	0.0600
Maintenance Charge	5.0000
Deposit	1.2500
Posted Credit	0.2500
Posted Debit	0.3500
Stop Payment	1.5000
Stop Payment - Online	1.5000
Check Block Base Fee	45.0000
Zero Balance Account Fee	Waive
Acct Analysis Online Stmt	5.0000
DDA Stmt - Daily	5.0000
DDA Stmt - Snapshot	5.0000
Stmt/Check Research Copy	5.0000
Cash Deposited	0.0012
Rolled Coin Ordered	0.1400
Currency Strap Ordered	0.7000
Item Deposited - On-Urs	0.1200
Item Deposited - Tier I	0.1200
Item Deposited - Tier II	0.1200
Item Deposited - Tier III	0.1200
Item Deposited - Rej/Rep	0.2800
Deposit Adjustment-Credit	7.0000
Deposit Adjustment-Debit	7.0000
Return Item - Reclear	13.0000
Return Item - Regular	13.0000
Return Item Special Instr	10.0000
Return Item - Phone Notice	20.0000
Return Item - Email Notice	3.0000
AC PosPay Service	10.0000
AC PosPay Suspect Item	1.5000
AC PosPay Issued Item	No Charge
AC PosPay Files Uploaded	No Charge
PosPay - Paid - Item	0.0200
PosPay - Return - Item	2.0000
PosPay - Manual File Load	0.8000
Payee PosPay Base	10.0000
Payee PosPay Item	0.0200
Check Paid	0.0500
ACH Received - Credit	0.0300

ACH Received - Debit	0.0300
AC Comm ACH Orig Service	Waive
AC Comm ACH Orig Acct	No Charge
ACH Credit Origination	0.1000
ACH Debit Origination	0.1000
ACH Addenda Record Orig	0.0100
ACH Orig - File Proc Fee	2.0000
ACH - NOC	0.2500
ACH - Return Item	0.2500
ACH Exception - Reversal	27.0000
ACH Exception - Deletion	25.0000
ACH Block - Base Fee	5.0000
ACH Filter - Base Fee	15.0000
ACH Filter Email Message	1.5000
ACH Filter Text Message	5.0000
ACH Filter Unauth Dr Stmt	2.0000
ACH Filter Add Approved	2.0000
Phone Wire-Out Freeform	12.0000
Phone Wire-Out Repetitive	10.0000
Branch Wire-Out Domestic	12.0000
Incoming Wire - Domestic	2.0000
Phone Wire-Out Intl USD	27.0000
Incoming Wire Intl	10.0000
Online Wire - Domestic	2.2500
Online Wire - Intl USD	27.0000
AC Wire Service	1.0000
AC Commercial Service	Waive
AC Commercial Account Fee	
First account	0.0000
Each Addl Account	Waive
AC Commercial Trans Count	Waive
AC Alert - Message Fee	
First 40	0.0000
> 40	0.0000
RD Standard Base Fee	10.0000
RD Deposit	1.0000
RD Item Deposited	
≤ 500 items	0.0900
501 ≤ 1000 items	0.0900
> 1000 items	0.0900

Memorandum of Understanding

WHEREAS, the City of Elkhorn, Wisconsin, and St. Patrick's Parish have come together to collaborate with Safe Haven Baby Boxes, Inc. to install a safety device known as a Safe Haven Baby Box; and

WHEREAS, the City of Elkhorn, Wisconsin, and St. Patrick's Parish have agreed to enter into a collaborative agreement in which St. Patrick's Parish will sponsor the installation of a Safe Haven Baby Box in the City of Elkhorn, Wisconsin; and

WHEREAS, the Safe Haven Baby Box will be installed at the Elkhorn Fire Department at 13 S. Broad St.; and

WHEREAS, the City of Elkhorn, Wisconsin will enter into an agreement with Safe Haven Baby Boxes, Inc. for the installation and operation of a Safe Haven Baby Box provided that all installation and maintenance expenses are covered by St. Patrick's Parish; and

WHEREAS, the approximate cost to purchase the Safe Haven Baby Box device with a camera in accordance with Wisconsin Statute is estimated to be \$15,500; and

WHEREAS, the approximate cost to install the Safe Haven Baby Box device with a camera in accordance with Wisconsin Statute is estimated to be between \$5,000 and \$7,000; and

WHEREAS, the approximate cost of recertifying and maintaining the Safe Haven Baby Box device is estimated to be \$1,000 a year; and

WHEREAS, the approximate cost of the term renewal (every five years) with Safe Haven Baby Boxes, Inc beginning five years after the date of the original signed contract and every five years thereafter is estimated to be \$500; and

WHEREAS, the City of Elkhorn and St. Patrick's Parish understand that the Fire Department's operational needs take priority and may require moving or removing the Baby Box in the future, such as if the fire station undergoes repairs, remodeling, etc.

NOW, THEREFORE, it is hereby agreed by and between the parties as follows:

1. St. Patrick's Parish agrees to cover the expense of purchasing the Safe Haven Baby Box device.
2. St. Patrick's Parish agrees to cover all of the costs associated with the installation of the Safe Haven Baby Box device.
3. St. Patrick's Parish shall make their payments directly to Safe Haven Baby Boxes, Inc. and furnish a copy of each paid receipt to the City of Elkhorn.

4. St. Patrick's Parish agrees to cover the cost of recertifying and maintaining the Safe Haven Baby Box device in accordance with the terms of the contract between the City of Elkhorn, Wisconsin, and Safe Haven Baby Boxes, Inc.

5. The City may terminate this arrangement if any of the costs of maintaining the Safe Haven Baby Box are not covered by St. Patrick's Parish or the provision of the Safe Haven Baby Box at the Elkhorn Fire Department is deemed not to be in the best interests of the Fire Department or City.

By signing this Memorandum of Understanding the authorities representing the parties agree to the terms stated for their respective organizations.

City of Elkhorn

St. Patrick's Parish

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

LEASE AND SERVICE AGREEMENT

THIS LEASE AND SERVICE AGREEMENT (“Agreement”) is made and entered into effective as of February 19, 2024 by and between Safe Haven Baby Boxes, Inc., an Indiana nonprofit corporation, (“SHBB”) and the City of Elkhorn, WI (“Provider”).

RECITALS

WHEREAS, SHBB is a nonprofit educational organization that provides information and services related to child welfare, safe haven laws, initiation and implementation of newborn safety devices (“Safety Device”) (as that term is defined under Indiana law), and awareness related to preventing child abandonment.

WHEREAS, Wisconsin Citation: Ann. Stat. § 48.195, *et al* (the “Safe Haven Laws”), provides certain protections to local fire departments that install a newborn safety device (the “Safety Device”);

WHEREAS, Provider desires to install a Safety Device on Provider’s premises pursuant to the Safe Haven Laws; and

WHEREAS, SHBB is agreeable to placing a Safety Device to the Provider’s premises and undertaking certain services in relation thereto;

WHEREAS, Provider has consulted its legal, financial and insurance related advisors and has confirmed that its location and operation is acceptable under the laws and regulations of its jurisdiction for the placement of a Safety Device.

NOW, THEREFORE, for and in consideration of the mutual terms and premises contained herein and for other good and valuable consideration, the parties agree as follows:

Section 1. Installation. SHBB shall provide to Provider one (1) Safety Device for installation by Provider on the premises located at the Elkhorn Area Fire Department, 13 S. Broad St., Elkhorn WI 53121. Delivery of the Safety Device shall be at the expense of the Provider. SHBB has the option at any time to oversee the installation of the Safety Device and advise as to installation on the appropriate placement to maximize awareness and implementation of its educational objectives as set forth in this Agreement. SHBB and Provider agree to cooperate with respect to the appropriate third-party contractors for the placement of the Safety Device and to ensure that such third-party has the appropriate skill and knowledge for constructing improvements to Provider’s facility. Provider is to pay for all installation costs and expenses for labor and/or materials. Provider is responsible for compliance with all applicable federal, state, and municipal or local laws, rules, and regulations and all laws, rules, and regulations pertaining to permitting requirements for the installation of the Safety Device. Provider agrees to abide by the policies and procedures for installation as outlined in Exhibit “A” (the “Policies and Procedures”)

of this Agreement, which is hereby made a substantive part of this Agreement by reference.

Section 2. Services by SHBB. SHBB shall provide annual services related to the performance of this Agreement. Such services shall include: (1) providing educational materials to Provider and policies and procedures relating to the maintenance of the Safety Device to Provider; (2) operating a toll-free phone number for the general public to utilize in emergency situations involving abandoned children or issues related thereto; (3) educating emergency services personnel related to the use of the Safety Device; (4) providing educational information to the general public regarding the location and awareness of the Safety Device at the Provider's facility as well as other educational resources related to child welfare advocacy and safe haven law awareness; (5) provide at minimum annual inspection and maintenance on the Safety Device; and (6) Will exclusively repair or replace parts if/when the Safety Device is malfunctioning at expense of Provider as set forth under Section 4 of this Agreement and as otherwise provided in this Agreement (collectively the "Services").

Section 3. Lease and Service Term. The term of this Agreement shall be for five (5) years ("Term") and shall renew for successive five (5) year terms upon the mutual agreement of terms, fees, and conditions or unless terminated in accordance with Section 9, below or as otherwise agreed to by the parties

Section 4. Consideration. In consideration for leasing the Safety Device and providing the Services described under Sections 1 and 2 above, Provider agrees to pay SHBB an initial fee of Fifteen Thousand and 00/100 Dollars (\$15,000.00), unless otherwise agreed to by the Parties under Section 3 of this Agreement. Provider shall pay a renewal fee of Five Hundred and 00/100 Dollars (\$500.00) for each successive Term under this agreement, due within thirty (30) days of the start of each successive Term. Additionally, Provider shall pay an annual fee of Five Hundred and 00/100 Dollars (\$500.00) and other associated expenses as determined from time to time by SHBB on January 1 of every year that this Agreement is in force. The foregoing fees and expenses include but are not limited to the services and expenses listed in the Services, Fees, and Expenses Schedule attached hereto as Exhibit "B".

Section 5. Obligations of Provider. In addition to any and all other obligations of the Provider set forth herein, Provider agrees to follow all policies and procedures provided by SHBB which may change from time to time. SHBB shall provide thirty (30) days' prior Notice to Provider. Such policies and procedures are included as Exhibit A to this Agreement and, by way of Provider's signature hereto, shall evidence Provider's acknowledgement and receipt of the Policies and Procedures. Provider agrees to maintain the Safety Device in good working order, the costs of which are to be borne by Provider. Provider agrees to not change, add to, subtract from, alter, rebrand, or otherwise modify the Safety Device and accompanying signage as set forth in Exhibit A in any manner whatsoever without the prior written approval of

SHBB. Provider agrees to use best efforts to prevent any third parties from adding to, subtracting from, altering, rebranding, or otherwise modifying the Safety Device and accompanying materials/signage as set forth in Exhibit A in any manner whatsoever without prior written approval by SHBB. Provider agrees to immediately notify SHBB of any modification to the Safety Device. Provider agrees to accept complete liability for any and all unapproved modifications to the Safety Device and any and all unapproved modifications to accompanying parts of the Safety Device, including required signage/materials. Provider agrees to accept complete liability for modifications to the Safety Device which are the result of: its own actions, omissions, and/or failure to use best efforts to maintain the Safety Device in good working order or best efforts to prevent any modifications to the Safety Device by a third party. Provider shall refer to the Safety Device as a “Safe Haven Baby Box”. Further, Provider shall procure and maintain a twenty-four (24) hour alarm monitoring of the Safety Device at all times and shall confirm with SHBB that such service is acceptable. Should alarm monitoring service be disconnected for any reason, Provider shall immediately notify SHBB and shall secure the Safety Device by locking its exterior door and removing all signage and materials related to its use and functionality. SHBB may, but is not required to, inspect the Safety Device at any time, including, but not limited to: to ensure that it is in good working order, to ensure proper branding and signage is being displayed, and to conduct tests related to its functionality and monitoring and alarm systems.

IT IS IMPERATIVE THAT ANY MALFUNCTION IDENTIFIED WITH RESPECT TO THE SAFETY DEVICE OR ANY DISCONNECTION IN THE SAFETY DEVICE MONITORING SYSTEM RESULT IN THE IMMEDIATE SECURING AND LOCKING OF THE SAFETY DEVICE SO THAT IT MAY NOT BE USED BY THE PUBLIC DURING THIS TIME PERIOD. FAILURE TO DO SO MAY RESULT IN A THREAT OF BODILY HARM OR DEATH TO AN INFANT PLACED IN THE SAFETY DEVICE DURING ANY PERIOD OF TIME IN WHICH THE SAFETY DEVICE IS MALFUNCTIONING OR NOT.

Section 6. Representations and Warranties.

- A. Representations & Warranties of Provider. Provider represents and warrants that the undersigned is a duly acting and authorized agent of Provider who is empowered to execute this Agreement with full authority of Provider. Further, Provider has undertaken a reasonable investigation into the laws and regulations governing the jurisdiction with which it intends to place the Safety Device and has confirmed that such placement and administration of the Safety Device does not violate any provision of any law, ordinance, governmental regulation, court order or other similar governmental controls.

B. Representations & Warranties of SHBB. SHBB represents and warrants that the undersigned is a duly acting and authorized agent of SHBB who is empowered to execute this Agreement with full authority of SHBB. Further, SHBB has full ownership of the Safety Device.

SHBB REPRESENTS THAT THE SAFETY DEVICE IS NOT A MEDICAL DEVICE AND HAS CONFIRMED SUCH WITH THE FOOD AND DRUG ADMINISTRATION. SHBB REPRESENTS THAT THE SAFETY DEVICE IS NOT INTENDED AS A CONSUMER PRODUCT AND THUS IS NOT REGISTERED WITH THE CONSUMER PRODUCT SAFETY COMMISSION. SHBB FURTHER REPRESENTS THAT THE SAFETY DEVICE IS NOT REGISTERED WITH THE FEDERAL TRADE COMMISSION AND/OR THE FEDERAL COMMUNICATIONS COMMISSION. SHBB REPRESENTS THAT THE SAFETY DEVICE IS NOT TESTED BY NATIONALLY RECOGNIZED TESTING LABORATORIES PROGRAM.

Section 7. Insurance. Provider agrees to procure and maintain in full force and effect at all times during the Term of this Agreement and any renewals thereof, at its own cost and expense, a policy or policies of comprehensive commercial general liability insurance on an occurrence basis, in the amount of \$1,000,000 per occurrence/\$2,000,000 aggregate and a \$2,000,000 limit umbrella coverage related to the Safety Device's placement and operation in or about Provider's facility against all loss, damage or liability for personal injury or death of any person or loss or damage to property occurring in upon or about the Safety Device during the Term of this Agreement and all extensions thereof. This insurance policy shall not be a separate policy solely because of this Agreement but, rather, will be part of the **City's** master general liability and umbrella policies. SHBB's liability as to the Safety Device in relation to the Provider under this Agreement is covered under **City's** master general liability and umbrella policies.

Section 8. Indemnification. Each party agrees to defend and indemnify, protect and hold harmless the other party, its officers, directors, employees, volunteers, independent contractors, agents and all other persons and related entities thereof against any loss, claim at law or equity, cause of action, expenses, damages or any other liability (collectively, "Claim") arising in relation to and to the extent of the indemnifying party's gross negligence or willful or wanton misconduct, whether acts or omissions, in the installment, placement, removal, use, and maintenance of the Safety Device in, on, or about Provider's facility or premises.

Section 9. Termination. Provider may terminate this Agreement upon sixty (60) days prior written notice from Provider to SHBB. SHBB may terminate this Agreement for any reason specified under Section 10, below. At the point of

termination of this Agreement, Provider shall secure and lock the Safety Device and remove all signage provided by SHBB. Provider shall place new visible signage denoting that the Safety Device is not functional and that any person desiring to utilize the Safety Device should instead contact emergency services. If Provider removes the Safety Device, then it shall make arrangements with SHBB for its conveyance or retrieval to SHBB. SHBB shall not be obligated to remove the Safety Device; however, at any time after this Agreement has terminated, SHBB may, at its sole discretion, notify Provider that it intends to remove and recover the Safety Device. Under such circumstances, Provider agrees to cooperate with SHBB in the retrieval of the Safety Device, the expenses of which shall be borne by SHBB, so long as expenses do not exceed \$500 and unless the termination of this Agreement was under Section 10, below, in which case the costs hereunder shall be borne by Provider.

Section 10. Remedies.

A. Option to Cure. Any uncured breach of this Agreement by Provider shall give SHBB the option of immediately terminating this Agreement and retrieving the Safety Device from Provider's facility at Provider's own cost and expense. If Provider is notified by SHBB that the Safety Device is not properly functional or lacks monitoring required by this Agreement, then SHBB may order the Safety Device secured and locked until further inspection. Provider shall have thirty (30) days to cure any lack of monitoring or improper functioning of the Safety Device, such time may be extended by any delay attributable to SHBB. If Provider does not cure any lack of monitoring or improper functioning of the Safety Device within the initial thirty (30) day period upon SHBB's review and report, Provider may have an additional thirty (30) days to cure any breach. If Provider fails to cure any breach of this Agreement after two attempts to cure as set forth above, SHBB may terminate this Agreement if it concludes in its sole discretion that Provider has not upheld its obligations under this Agreement. Any breach of this Agreement by Provider which has not been cured by Provider within thirty (30) days after notice received from SHBB shall give SHBB the option of terminating this Agreement and retrieving the Safety Device from Provider's facility at Provider's own cost and expense.

B. Attorneys' fees. Attorneys' fees, costs and expenses, shall be awarded to the prevailing party for any dispute relating to or arising from this Agreement.

Section 11. Ownership of Safety Device. Provider agrees and acknowledges that ownership of the Safety Device remains with SHBB and this Agreement is merely a services and lease agreement. Provider shall not sell or otherwise transfer

the Safety Device during or after the term of this Agreement without the specific written consent of SHBB.

Section 12. Disclaimer and Limitation of Warranties.

SHBB IS NOT THE MANUFACTURER OF THE SAFETY DEVICE AND MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, DIRECTLY OR INDIRECTLY, EXPRESS OR IMPLIED, AS TO THE SUITABILITY, DURABILITY, FITNESS FOR USE, MERCHANTABILITY, CONDITION, QUALITY, PERFORMANCE OR NON-INFRINGEMENT OF THE SAFETY DEVICE. WITH RESPECT TO SAFETY DEVICE, PROVIDER ACCEPTS IT "AS IS." THE SAFETY DEVICE SHALL BE SUBJECT TO ANY WARRANTIES PROVIDED TO PROVIDER BY THE SAFETY DEVICE MANUFACTURER AND/OR AVAILABLE BY THE SAFETY DEVICE'S COMPOSITE PARTS.

SHBB neither assumes nor authorizes any other person associated or related by legal right, corporate entity, governmental entity, or any other entity associated or related by legal right to assume for it, or any other liability in connection with the lease of the Safety Device. There are no warranties which extend beyond the terms of this Agreement, unless otherwise stated or provided for herein or by law via preemption. These warranties shall not apply to the Safety Device or improvements, restoration, repair, remodel, modifications, and/or any other construction work on the Safety Device, related to the Safety Device, or any other part thereof which has been subject to accident, negligence, alteration, abuse or misuse. SHBB makes no warranty whatsoever with respect to accessories or parts not supplied by it.

Section 13. Miscellaneous.

- A. Notice. Notice is effective when made in writing and sent to the parties' addresses or by email. Notice will be considered given as of the date of mailing.

SHBB Notice shall be given to:

Safe Haven Baby Boxes
Attn: Monica Kelsey
P.O. Box 185
Woodburn, IN 46797

Provider Notice shall be given to:

City of Elkhorn
PO Box 920
Elkhorn, WI 53121

- B. Assignability. This Agreement is binding and benefits the successors and assignees of the Provider, which includes any entity with which

the Provider may merge or consolidate, or to which it may transfer substantially all of its assets or equity interests. Provider shall not transfer or assign this Agreement, however, without the specific written consent of SHBB, which consent shall not be unreasonably withheld.

- C. Governing Law/Jurisdiction. The validity, interpretation, construction, and performance of this Agreement shall be governed by the laws of Indiana and Indiana courts. Each Party waives, to the fullest extent it may legally and effectively do so, any objection which it may now or subsequently have to the laying of venue of any claim or dispute at law or equity arising out of or relating to this Agreement or the transactions contemplated by it in any Indiana court in Allen County, State of Indiana, United States of America. Parties agree that any and all claims of any kind arising out of and relating to this Agreement if brought in a Court shall be brought in a court in Allen County, State of Indiana, United States of America. Each party waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court. Each party agrees and acknowledges that any term not defined herein shall be construed to have its every-day, contextual meaning as defined in the latest editions of the Merriam Webster Dictionary, and if a legal term, Black's Law Dictionary; and should any term, condition, or provision of this Agreement be deemed vague, ambiguous, or confusing, it shall not be construed in favor of either party.
- D. Integration. This Agreement along with the attached exhibits is the final written expression of the parties' agreement with respect to such terms included and may not be contradicted by evidence of any prior agreement.
- E. No Oral Modification. No change, modification, extension, termination, or waiver of this Agreement, or any of the provisions contained, will be valid unless made in writing and signed by duly authorized representatives of the parties.
- F. Waivers. No waiver of any of the provisions of this Agreement shall be valid and enforceable unless such waiver is in writing and signed by the Parties to be charged, and, unless otherwise stated, no such waiver shall constitute a waiver of any other provision or a continuing waiver.
- G. Severability. In the event that one or more of the provisions of this Agreement shall become invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained shall not be affected as a whole.

H. Time of the Essence. The Parties expressly recognize that in the performance of their respective obligations under this Agreement and that each Party is relying on timely performance by the other Party and will schedule operations and incur obligations to third parties in reliance upon timely performances by the other Party.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and be effective on the date first above written.

“SHBB”

By: _____
Monica Kelsey, Founder / CEO
Safe Haven Baby Boxes, Inc.

“PROVIDER”

By: _____

Its: _____

EXHIBIT A

SAFE HAVEN BABY BOXES, INC. POLICIES AND PROCEDURES

I. Purpose:

- A. Safe Haven Baby Boxes, Inc.'s product is the Baby Box. A Baby Box is a Newborn infant safety device provided for under the Wisconsin Safe Haven Law and legally permits a parent in crisis to safely, securely, and anonymously surrender his or her newborn. A Baby Box is installed in an exterior wall of a designated fire station or hospital. It has an exterior door that automatically locks upon placement of a newborn inside the Baby Box and an interior door which allows a medical staff member to secure the surrendered newborn from inside the designated building.

II. Policies:

- A. A Provider is a hospital or site, such as a fire department, staffed by an emergency services provider on a twenty-four (24) hour, seven (7) day a week basis and provides a legal location and maintenance for a Safe Haven Baby Box where a newborn may be dropped off by a person who wishes to relinquish custody under the Safe Haven Law of the applicable jurisdiction.
- B. The Baby Box is designed with three independent alarms and is activated:
 1. When the door is accessed from the outside.
 2. When the newborn is placed in the box and activates the motion sensor.
 3. When electrical failure occurs to the Baby Box.

III. Generic procedures when the Baby Box is Activated:

- A. Emergency Personnel, including, Firefighters, Police Officers, EMT's, and Paramedics must perform the act of retrieving a newborn and taking said newborn into custody when he or she is voluntarily placed in a Box and the parent does not express an intent to return for the newborn.
- B. Emergency Personnel who take custody of a newborn shall perform any act necessary to protect the child's health and safety.
- C. Emergency Personnel must respond every time an alarm is activated at the Baby Box to verify whether a newborn has been dropped off.
- D. Emergency personnel may access the Baby Box on the inside of the Provider's building. An alarm is activated to signal 911 when the door is opened and the newborn may be inside the door area on the prepared bed area.
- E. Newborns will be evaluated by medical personnel at the location and immediately transported to the closest hospital for further evaluation. The evaluation at the hospital will include screenings and examinations by physicians as necessary.

- F. EMS transporting newborn to hospital will notify the hospital personnel that this was a Safe Haven Baby Box newborn surrendered under the current Safe Haven Law.
- G. The hospital supervisor will notify the appropriate state agency and have a social services consult order placed.

IV. Additional Procedures for designated Providers:

- A. All Baby Boxes must be leased from Safe Haven Baby Box, Inc. and may not be re-sold. All Baby Boxes shall remain the property of Safe Haven Baby Box, Inc. throughout each and every Term of any Agreement between Provider and Safe Haven Baby Box, Inc.
- B. To support the education of, and to avoid confusion in the market, the Baby Box may not be rebranded or called anything but a "Safe Haven Baby Box", a "Baby Box", or referred to as a "Box".
- C. Each Provider will maintain uniform signage purchased from Safe Haven Baby Boxes, Inc. at its own expense. Any additional signage must have prior approval from Safe Haven Baby Boxes, Inc.
- D. The Baby Box will be delivered in accordance the following:
 - i Initial fee has been paid to Safe Haven Baby Boxes.
 - ii The Provider location is able to agree to install, test, train personnel, and schedule the unveiling / blessing within sixty (60) days of receipt of the Baby Box.
 - iii Provider understands delivery of the Baby Box will be scheduled 4 to 6 weeks after payment is received and with mutual agreement of the installation and unveiling / blessing dates.
- E. The Baby Box will not be announced to the public or otherwise discussed with third parties or go "live" prior to the official unveiling/blessing of the Baby Box, which will be agreed upon prior to "going live".
- F. The "Go-Live" date will be determined after the following:
 - i Installation is completed and the alarm system is ready for testing.
 - ii Seven consecutive days of successful alarm testing is completed.
 - iii Training of staff is completed.
 - iv Final Inspection is completed.
- G. Each Provider must maintain security monitoring at its own expense and may not turn off security monitoring without giving Safe Haven Baby Boxes, Inc. sixty (60) days' notice.
 - i If a Provider has the service discontinued without Safe Haven Baby Boxes, Inc.'s knowledge, the location is subject to liability.
 - ii Pending notice or drop of security monitoring, Safe Haven Baby Box, Inc. will uninstall the non-conforming location.
- H. Each Provider will provide medical information and a copy of parents' rights located in a bag inside the Baby Box. The bag is to be placed on the medical bassinet and leaning against the outside door.

- I. Each Provider must test the security/alarm system on the Baby Box at least once a week. Provider must keep a log or record of tests and submit the log or record to Safe Haven Baby Boxes, Inc. quarterly and upon the demand of Safe Haven Baby Box, Inc. The log or record shall list at least the name of the persons testing the Baby Box, the date tested, and the result of the test.
- J. Provider will ensure that no video monitoring will occur around the part of the building containing or facing the Baby Box.
- K. Provider must perform daily checks of the Baby Box to ensure the presence of a clean fitted bassinet sheet and a blanket.
- L. Provider must ensure a climate-controlled environment inside the Baby Box maintains a reasonable temperature for a newborn.
- M. Each Provider is responsible for training personnel on the use, features, and procedures of the Baby Box. Provider can contact Safe Haven Baby Box, Inc. for group training services.
- N. After retrieving a newborn from the Baby Box, the Provider must verify that the door to the Baby Box is secured and closed.
- O. After retrieving a newborn from the Baby Box, the Provider must reset the alarm system after deactivation.
- P. All safe surrenders are required to be reported to Safe Haven Baby Boxes, Inc. by phone at 260-750-3668 and to the Department of Child Services (DCS) at 800-800-5556 within two (2) hours of the surrender.
- Q. In the event that the Agreement with Safe Haven Baby Boxes, Inc. is terminated for whatever reason, Provider is responsible for all costs and expenses of removing respective Baby Boxes at Provider location(s).
- R. Provider is to use best efforts to secure the integrity and good working function of the Baby Box at all times, including upon removal of any Baby Box, if necessary. Damage to Provider's leased Baby Box(es) is compensable to Safe Haven Baby Boxes, Inc. by Provider. Provider is to reimburse Safe Haven Baby Boxes, Inc. for any and all damage to the Baby Box during the pendency of the Agreement and any termination or expiration of it. Any such reimbursements are to be sent within thirty (30) days to the name and address listed in the Notice provision of the Agreement.

V. Documentation (Documents & Forms):

- A. Documents
 - 1. Weekly Safe Haven Baby Box alarm system checks
 - 2. All Safe Surrenders by date and time

EXHIBIT B
SAFE HAVEN BABY BOXES, INC.
SERVICES, FEES, AND EXPENSES SCHEDULE
WISCONSIN

Initial Fee: \$15,500 with pre-installed camera. Required under Wisconsin Law

1. Baby Box including signage and provider kit.
2. "Pre-installation" Services:
 - a. Examination of location
 - b. Administrative/Legal resources
 - c. Consultation on programs
 - d. Assistance with raising funds to support the cost of the box (optional)
3. Installation Services:
 - a. Inspection of installation
 - b. Training to all emergency personnel
4. Post Installation Services:
 - a. Marketing of the box
 - b. 24/7 hotline available to the community
 - c. Advertising of the box
 - d. Efforts to support raising awareness on a local, state, and national level supporting the box in each community.

Annual Fee: \$500

1. Annual Fee Services
 - a. Recertification of the box by SHBB authorized personnel
 - b. Maintenance of box from expected use
 - c. Unlimited repairs and parts replacement as a result of a malfunction and not as a result of negligence or vandalism.

Term Renewal (every 5 years): \$500

1. Beginning five (5) years after the date of the original signed contract and every five (5) years thereafter.

OTHER FEES NOT INCLUDED IN INITIAL FEE: (Estimated at \$5,000-\$7,500)

**Fees vary based on location and/or services donated by local community members. The below items are estimates and not a guarantee of cost.*

1. Delivery: Minimum \$500.00. Cost based on location and transportation from Indiana. You can pick it up at our Woodburn IN manufacturing facility to waive the delivery charge. (Must be pre-scheduled)
2. Installation: Labor and materials~\$2,000-\$3,500 (Location may be able to get this donated)
3. Electrical and Alarm: hook up to internal alarm system (Internal alarm must go to 911 dispatch for use with the baby box) ~\$1,200.
4. Annual Alarm Service: Annual fee for monitoring~\$300 annually paid by location to Alarm Company
5. Permits or other requirements prior to construction. (varies)
6. Box comes pre-installed with the Amazon Blink™ camera and requires a third-party membership to activate. Location must have a Wi-Fi connection. **Alternatives may apply. Please contact SHBB for more information*

ORDINANCE NO. 24-02

An Ordinance Amending Chapter 7 of the Elkhorn Municipal Code To Adding a New “Section 7.245” entitled “Use and Regulation of All-Terrain Vehicles (ATV) and Utility Terrain Vehicles (UTV) on Elkhorn City Streets and Other Areas”

BE IT ORDAINED by the Common Council that the Elkhorn Municipal Code is hereby amended at Chapter 7 to add a Section numbered 7.245 as follows:

1. PURPOSE.

The purpose of this Ordinance is to designate all specific roadways, alleyways, or other public rights of way that are permitted as ATV/UTV routes within the territorial jurisdictional limits of the City of Elkhorn. Further, this Ordinance is intended to describe the circumstances and conditions required for such use by such person or persons. The City of Elkhorn, after considering the positive economic input of such use to the City’s taxpayers and businesses, but balancing that with the need for safety of all citizens within the City wishes to connect its community with nearby trail systems for ATV/UTV’s on those roadways specifically identified within this Ordinance.

2. AUTHORITY.

The City adopts and incorporates by reference all the provisions of Wisconsin Administrative Code NR 64 regulating ATV/UTV operation and Wis. Stats., §23.33. Under the City’s general regulatory authority pursuant to Wis. Stats., §62.11(5), this Ordinance addressing issues of safety, noise, registration, training, compliance with the traffic and regulatory signs, protective headgear, vehicle lighting, equipment regulation and requirements, and all other applicable vehicle traffic regulations, applicable hereto.

3. REQUIREMENTS.

All operators of ATV’s and UTV’s within the City of Elkhorn shall comply with all federal, state and local laws, orders, regulations, restrictions and rules, including but not limited to Section 23.33 of Wisconsin Statutes and Wisconsin Administrative Code NR 64.

4. DESIGNATED ATV/UTV ROUTES AND USAGE.

Designated ATV/UTV routes in the City of Elkhorn shall include all public roadways as shown on a City map to be adopted and maintained by the City Clerk’s Office.

5. EXCEPTIONS.

No ATV/UTV usage shall occur in the following areas:

- a. *[The following listed streets or roads shall not be used by ATV/UTV's as shall be designated by the City Common Council prior to adoption of this Ordinance:]*
- b. Alleys. Only residents of the City of Elkhorn may use alleyways from their residence to gain access to the nearest designated ATV/UTV designated route. Such residents shall take the most direct route to and from their residence.
- c. Signage. Regardless of any map that is maintained, pursuant to this Ordinance, no City street, highway or other area shall be traveled upon by an ATV/UTV unless proper signage consistent with the Wisconsin Manual of Uniform Traffic Control and pursuant to Wis. Stats., §349.065 is in place.
- d. Speed Limit. No ATV/UTV will be operated in the City of Elkhorn on any public roadway with a speed limit higher than 35 miles per hour.
- e. Non-Route Crossings.
 - i. Consistent with Wis. Stats., §23.33(4)(d), nothing in this Ordinance shall permit operation of an ATV/UTV on any highway within the territorial limits of the City of Elkhorn, unless:
 1. Crossing incidental to trail or route use in the most direct manner possible after coming to a complete stop and looking both ways.
 2. No crossing is permitted at any point an obstruction exists that prevents a quick and safe crossing.
 3. The ATV/UTV operator yields to all vehicles and pedestrian traffic.
 - ii. Crossing bridges, culverts or railroad rights of way is permitted only consistent with Wis. Stats., §23.33(4)(d)3 a or b.

6. TIMES OF OPERATION AND OTHER LIMITATIONS.

- a. Police Authority. Notwithstanding any other section herein, the Elkhorn City Police Department may temporarily close any ATV/UTV

route whenever conditions require closure for safety or other legitimate police purpose.

- b. Times. ATV/UTV's may not be operated on any Elkhorn city street between the hours of 10:00 p.m. and 5:00 a.m.
- c. Regulation of Minors. No person under the age of 16 years may operate any UTV on any designated route in the City of Elkhorn. If a minor between ages 12 and 16 years old is accompanied by a parent or guardian or someone who is at least 18 years old whose is designated by the parent or guardian to accompany that minor, then the minor can operate an ATV in the City on designated routes. In this Ordinance "accompany" means that the minor is subject to the continuous verbal direction or control of the supervisor or adult. No person under the age of 12 may operate an AVT or UTV on City roadways at all under any circumstances.
- d. Registration. No ATV/UTV shall be operated in the City of Elkhorn without proof of registration which is to be in the possession of the operator which shall be properly displayed on the vehicle or presented to any law enforcement officer or official upon request if not required by regulations to be affixed to the vehicle.
- e. Licensure. No person may operate a UTV on any city street in the City of Elkhorn without a valid driver's license and shall display the license on demand to any law enforcement officer or official as described in Section 23.33(12) of Wisconsin Statutes. Instructional permits do not meet the criteria for a valid operator's license. Individuals may operate ATV's (but not UTV's) who are over the age of 12 and under the age of 16 while properly accompanied by a supervisor or adult as designated within this Ordinance.

7. ROUTE SIGNS.

- a. All initial route signs will be installed and, thereafter, physically maintained by the City of Elkhorn Public Works Department in cooperation with Walworth County. No person may erect or remove any official designated route sign or signage, pursuant to this Ordinance, without the complete authorization of the City of Elkhorn Public Works Department in writing. Nothing preventing groups, clubs or organization from paying or contributing to the cost of installation or maintenance of signage.
- b. Any modification to the routes designated for ATV/UTV use must be approved by the City of Elkhorn Common Council by majority vote and no such modification is effective until new signage is installed.

8. OPERATION.

- a. Operation of ATV/UTV's on designated routes shall be subject to all

the provisions herein.

- b. Operation of all ATV/UTV's shall be on the extreme right side of the roadway.
- c. ATV/UTV operation shall be at a safe and reasonable and prudent speed considering all circumstances existing on the roadway at that time and place of operation regardless of marked speed. Under no circumstances shall an ATV/UTV rider exceed the posted speed limits.
- d. ATV/UTV operators shall ride single file on all streets.
- e. Proper headgear and seatbelts shall be worn consistent with Wisconsin Statutes Chapter 23.33 and Wisconsin Administrative Code NR 64 unless further restricted.
- f. No operator or passenger of an ATV/UTV may possess on any street or roadway designated for use by ATV/UTV's any bottle or receptacle containing alcoholic beverages, if that bottle or receptacle has been opened, the seal has been broken, or the contents of the bottle or receptacle have been partially removed or released.
- g. No person may ride in or on any part of an ATV/UTV that is not designated or intended by the manufacturer to be used by passengers.
- h. All ATV/UTV's must operate with fully functional headlights, taillights, and break lights.

9. SEVERABILITY.

Should any subject, clause or provision of this Ordinance be declared by any court of competent jurisdiction to be invalid, the City shall not effect the validity of this Ordinance as whole or any part thereof, other than the part declared invalid.

10. MAINTENANCE.

Designation of Elkhorn streets as ATV/UTV routes does not impose upon the City of Elkhorn any greater duty of care or responsibility for maintenance of those segments of streets or roadways that are not required for any other street or road. Operators of ATV/UTV's on City streets assume all of the usual and normal risks of ATV/UTV's operations.

11. VIOLATIONS AND PENALTIES.

Any individual violating any section of this Ordinance shall pay a forfeiture of not less than \$50.00 or no more than \$250.00 for each offense. This forfeiture is exclusive of any mandatory assessments and costs. Enforcement shall be consistent with Wis. Stats., §23.33(12).

This Ordinance shall be in force from and after its introduction and publication as provided by Statutes.

APPROVED AND ADOPTED this _____ day of _____, 2024.

Bruce A. Lechner, Mayor

ATTEST:

Lacey L. Reynolds, City Clerk

1st Reading _____
2nd Reading _____
Adopted _____
Published _____



Ballpark Commons Office Building
7044 S. Ballpark Drive, Suite 200
Franklin, WI 53132
(414) 336-7900
foth.com

February 16, 2024

Adam Swann, City Administrator
City of Elkhorn
311 Seymour Court
Elkhorn, WI 53121

RE: 2024 NE WTP Sewer and Water Extensions Project

Dear Adam:

We have reviewed the bids received on February 1, 2024, for the above referenced project. The City can award the project to the low bidder solely on the base bid price, or the base bid plus any combination of the bid alternates.

Base Bid: 12" gravity sanitary sewer from the NE WTP connection to an existing manhole near the Mobile station.

- **Need:** replaces the existing lift station and forcemain that cannot continuously and reliably serve the WTP.
- **Additional benefit:** this pipeline was sized to accommodate future growth in the immediate vicinity, providing additional value to the City.

Alternate Bid Item #1: Water main extension to connect existing 12" and 16" Hwy 12 water main crossings.

- **Benefit:** would provide a secondary/redundant crossing under HWY 12 for the WTP. If/when the existing single water main crossing were to fail, the NE WTP would have no connection to the City's water system until a repair was made. This water main would improve the resilience of this critical treated water source to the system. The savings to put this pipe in now, during the sanitary sewer project, is significant as it shares the same pipe alignment and disturbance area.

Alternate Bid Item #2: Raw water main extension along farm access road from Cobb Road to Hwy 12 right of way.

- **Benefit:** provides a segment of the future untreated (raw) water main required to serve Well 10 when it would be finished. Pending the City's future water demands and other factors, this pipe is currently estimated to be needed within 3-8 years. This segment would also serve the future Well 11 site if it were to be constructed. The savings to put this pipe in now, during the sanitary sewer project, is significant as it shares the same pipe alignment and disturbance area.



Alternate Bid Item #3: Raw water main extension along Cobb Road from NE WTP driveway to the farm entrance road.

- **Benefit:** provides a segment of the future untreated (raw) water main required to serve Well 10 when the well is put into operation. Pending the City’s future water demands and other factors, this pipe is currently estimated to be needed within 3-8 years. This segment would also serve the future Well 11 site if it were to be constructed. The savings to put this pipe in now, during the sanitary sewer project, is significant as it shares the same pipe alignment and disturbance area. This segment is also along/under Cobb Rd., so putting it in now would prevent Cobb Rd. from being dug up again in the future.

The engineer’s estimate for the project with all three alternate bid items included was \$5,726,665.00.

All bids and alternates came in significantly below the engineer’s estimate. The tight pricing between the three lowest bidders shows excellent bidder competition and clarity of the bidding documents/scope.

A summary table of the bid totals are shown below:

Bidder	Base Bid	Alt. #1	Alt. #2	Alt. #3	Base Bid w/All Alt.'s
Globe Contractors	\$1,857,405.00	\$337,700.00	\$212,010.00	\$160,195.00	\$2,567,310.00
Rock Road Companies	\$1,896,882.41	\$306,943.40	\$212,010.00	\$117,369.00	\$2,533,204.81
Willkomm Excavating	\$2,127,502.30	\$292,788.25	\$168,519.30	\$93,863.00	\$2,682,672.85
Dorner Inc.	\$3,924,502.92	\$389,006.00	\$240,660.00	\$107,065.00	\$4,661,233.92

Based on the benefits of each alternative, the savings captured by putting these alternates in now, and the excellent overall bid pricing; **we recommend the City award the base bid and all three alternate bid items based on the low bid costs received. In this scenario, Rock Road Companies is the low bidder with a total bid amount of \$2,533,204.81.** Their bid is complete and contains all required documentation.

When considering this recommendation, the City should verify the financial feasibility and ensure proper funding is in place to proceed.

A breakdown of the complete bid tab is attached as well as a figure showing the locations of the bid alternates.

Please contact me if you have any questions.

Sincerely,

Todd Deibert, PE

Project Manager



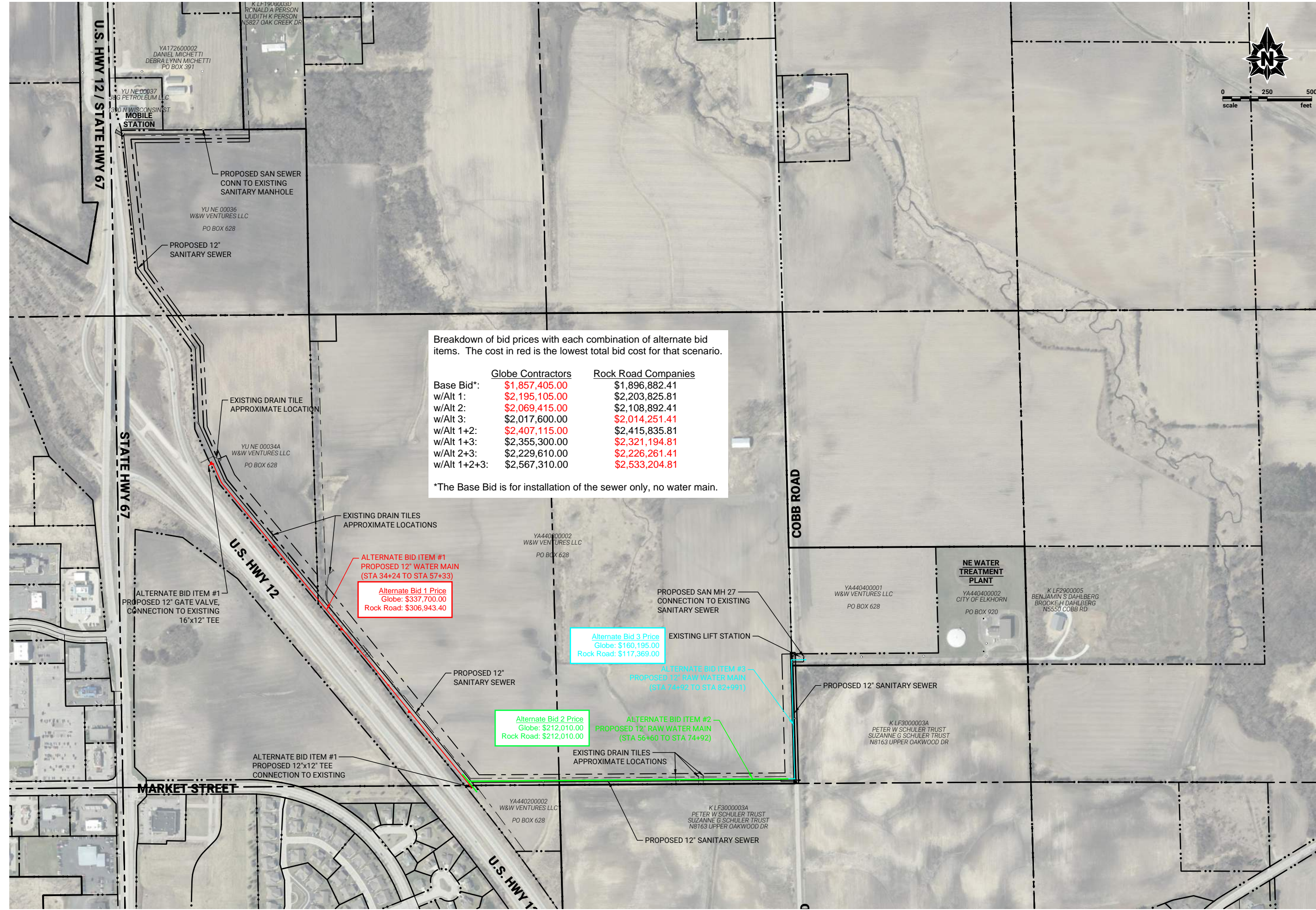
cc: Matt Lindstrom – City of Elkhorn
Tim Boss – City of Elkhorn
Corrie Daly – City of Elkhorn
Dawn Gall – City of Elkhorn
Dale Broeckert – Foth Infrastructure & Environment, LLC
Eve Schnell – Foth Infrastructure & Environment, LLC

Enclosures: NE WTP Sewer and Water Bid Worksheet
NE WTP Bid Breakdown Figure

NE WTP (#8914430)
 Owner: City of Elkhorn
 Solicitor: Foth - Milwaukee
 02/01/2024 10:00 AM CST

Section Title	Item Description	UofM	Quantity	Globe Contractors, Inc.		Rock Road Companies, Inc.		Willkomm Excavating		Dorner Inc.		Engineer's Estimate	
				Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension
GENERAL ITEMS					\$1,857,405.00		\$1,896,882.41		\$2,127,502.30		\$3,924,502.92		\$4,467,465.00
1	Mobilization/Demobilization	LS	1	\$56,000.00	\$56,000.00	\$144,437.00	\$144,437.00	\$75,000.00	\$75,000.00	\$143,578.00	\$143,578.00	\$200,000.00	\$200,000.00
2	Clearing and Grubbing	LS	1	\$3,500.00	\$3,500.00	\$1,000.00	\$1,000.00	\$2,500.00	\$2,500.00	\$3,050.00	\$3,050.00	\$15,000.00	\$15,000.00
3	Lift Station Removal	LS	1	\$15,000.00	\$15,000.00	\$9,400.00	\$9,400.00	\$9,600.00	\$9,600.00	\$37,824.00	\$37,824.00	\$55,000.00	\$55,000.00
4	Temporary Mailboxes	LS	1	\$500.00	\$500.00	\$150.00	\$150.00	\$330.00	\$330.00	\$2,500.00	\$2,500.00	\$1,600.00	\$1,600.00
5	Erosion Control	LS	1	\$23,500.00	\$23,500.00	\$22,580.00	\$22,580.00	\$26,000.00	\$26,000.00	\$59,657.00	\$59,657.00	Item added by Addendum	N/A
6	Restoration	LS	1	\$65,000.00	\$65,000.00	\$62,206.11	\$62,206.11	\$70,000.00	\$70,000.00	\$111,573.00	\$111,573.00	Item added by Addendum	N/A
7	Traffic Control	LS	1	\$7,500.00	\$7,500.00	\$5,000.00	\$5,000.00	\$3,200.00	\$3,200.00	\$5,000.00	\$5,000.00	\$20,000.00	\$20,000.00
8	Common Excavation	CY	600	\$30.00	\$18,000.00	\$22.00	\$13,200.00	\$24.00	\$14,400.00	\$26.57	\$15,942.00	\$25.00	\$15,000.00
9	Stripping, Stockpiling and Respreading Topsoil	LS	1	\$45,000.00	\$45,000.00	\$49,600.00	\$49,600.00	\$123,000.00	\$123,000.00	\$272,973.00	\$272,973.00	\$30,000.00	\$30,000.00
10	Stripping, Stockpiling and Respreading Wetland Soil	LS	1	\$15,000.00	\$15,000.00	\$37,900.00	\$37,900.00	\$15,000.00	\$15,000.00	\$33,088.00	\$33,088.00	\$30,000.00	\$30,000.00
11	Dewatering	LS	1	\$35,000.00	\$35,000.00	\$59,900.00	\$59,900.00	\$79,000.00	\$79,000.00	\$621,754.00	\$621,754.00	\$700,000.00	\$700,000.00
12	Tree Removal	LS	1	\$10,500.00	\$10,500.00	\$1,000.00	\$1,000.00	\$11,000.00	\$11,000.00	\$12,671.00	\$12,671.00	\$10,000.00	\$10,000.00
13	WTP Plumbing	LS	1	\$9,000.00	\$9,000.00	\$10,000.00	\$10,000.00	\$8,285.00	\$8,285.00	\$36,053.00	\$36,053.00	\$15,000.00	\$15,000.00
14	12" PVC Sanitary Sewer (<15' of Cover)	LF	3810	\$135.00	\$514,350.00	\$110.90	\$422,529.00	\$111.55	\$425,005.50	\$233.00	\$887,730.00	\$300.00	\$1,143,000.00
15	12" PVC Sanitary Sewer (?15' of Cover)	LF	3640	\$150.00	\$546,000.00	\$177.40	\$645,736.00	\$198.00	\$720,720.00	\$279.00	\$1,015,560.00	\$400.00	\$1,456,000.00
16	Sanitary Sewer Manhole	VF	405	\$685.00	\$277,425.00	\$616.62	\$249,731.10	\$883.00	\$357,615.00	\$1,163.00	\$471,015.00	\$1,500.00	\$607,500.00
17	Sanitary Sewer Manhole Casting	EA	26	\$915.00	\$23,790.00	\$1,450.00	\$37,700.00	\$979.00	\$25,454.00	\$1,607.00	\$41,782.00	\$600.00	\$15,600.00
18	Remove and Replace Culvert Pipe (15", RCP)	LF	180	\$120.00	\$21,600.00	\$78.50	\$14,130.00	\$92.50	\$16,650.00	\$96.00	\$17,280.00	\$100.00	\$18,000.00
19	Apron Endwalls	EA	8	\$1,800.00	\$14,400.00	\$740.40	\$5,923.20	\$1,238.00	\$9,904.00	\$1,863.00	\$14,904.00	\$400.00	\$3,200.00
20	Remove and Replace Culvert Pipe (15", HDPE)	LF	36	\$125.00	\$4,500.00	\$68.00	\$2,448.00	\$74.00	\$2,664.00	\$61.00	\$2,196.00	\$100.00	\$3,600.00
21	Remove and Replace Culvert Pipe (12", HDPE)	LF	36	\$95.00	\$3,420.00	\$68.00	\$2,448.00	\$64.00	\$2,304.00	\$55.00	\$1,980.00	\$100.00	\$3,600.00
22	Sawcut Pavement, Full Depth	LF	45	\$20.00	\$900.00	\$2.50	\$112.50	\$50.00	\$2,250.00	\$50.00	\$2,250.00	\$10.00	\$450.00
23	3/4" Base Aggregate Dense (Cobb Shoulders & WTP Drive)	TON	212	\$30.00	\$6,360.00	\$28.00	\$5,936.00	\$28.40	\$6,020.80	\$43.01	\$9,118.12	\$25.00	\$5,300.00
24	1 1/4" Base Aggregate Dense (Cobb Pavement & Shoulders)	TON	555	\$40.00	\$22,200.00	\$13.90	\$7,714.50	\$20.00	\$11,100.00	\$20.24	\$11,233.20	\$25.00	\$13,875.00
25	3" Base Aggregate Dense (Cobb Pavement & Shoulders)	TON	1220	\$41.00	\$50,020.00	\$19.40	\$23,668.00	\$25.00	\$30,500.00	\$27.32	\$33,330.40	\$28.00	\$34,160.00
26	Geogrid	SY	2130	\$10.00	\$21,300.00	\$9.50	\$20,235.00	\$11.00	\$23,430.00	\$2.91	\$6,198.30	\$10.00	\$21,300.00
27	HMA Binder Course	TON	230	\$104.00	\$23,920.00	\$99.00	\$22,770.00	\$113.00	\$25,990.00	\$132.19	\$30,403.70	\$100.00	\$23,000.00
28	HMA Surface Course	TON	170	\$100.00	\$17,000.00	\$96.00	\$16,320.00	\$98.00	\$16,660.00	\$99.94	\$16,989.80	\$110.00	\$18,700.00
29	Bituminous Tack Coat	GAL	180	\$4.00	\$720.00	\$4.00	\$720.00	\$4.00	\$720.00	\$4.43	\$797.40	\$1.00	\$180.00
30	Excavation Below Subgrade	CY	120	\$50.00	\$6,000.00	\$19.90	\$2,388.00	\$110.00	\$13,200.00	\$50.60	\$6,072.00	\$70.00	\$8,400.00
BID ALTERNATE 1 - Proposed 12" WM (STA 34+24 to STA 57+33)					\$337,700.00		\$306,943.40		\$292,788.25		\$389,006.00		\$607,600.00
31	12" PVC Water Main	LF	2375	\$108.00	\$256,500.00	\$104.20	\$247,475.00	\$97.35	\$231,206.25	\$128.00	\$304,000.00	\$240.00	\$570,000.00
32	6" PVC Water Main	LF	24	\$250.00	\$6,000.00	\$100.60	\$2,414.40	\$472.00	\$11,328.00	\$105.00	\$2,520.00	\$150.00	\$3,600.00
33	Hydrant Assembly	EA	4	\$10,250.00	\$41,000.00	\$7,200.00	\$28,800.00	\$6,106.00	\$24,424.00	\$11,671.00	\$46,684.00	\$8,500.00	\$34,000.00
34	12" Gate Valve and Box	EA	6	\$5,700.00	\$34,200.00	\$4,709.00	\$28,254.00	\$4,305.00	\$25,830.00	\$5,967.00	\$35,802.00	\$5,000.00	\$30,000.00
BID ALTERNATE 2 - Proposed 12" Raw Water Main (STA 56+60 to STA 74+92)					\$212,010.00		\$212,010.00		\$168,519.30		\$240,660.00		\$458,400.00
35	12" PVC Water Main	LF	1910	\$111.00	\$212,010.00	\$111.00	\$212,010.00	\$88.23	\$168,519.30	\$126.00	\$240,660.00	\$240.00	\$458,400.00
BID ALTERNATE 3 - Proposed 12" Raw Water Main (STA 74+92 to STA 82+91)					\$160,195.00		\$117,369.00		\$93,863.00		\$107,065.00		\$193,200.00
36	12" PVC Water Main	LF	805	\$199.00	\$160,195.00	\$145.80	\$117,369.00	\$116.60	\$93,863.00	\$133.00	\$107,065.00	\$240.00	\$193,200.00
Base Bid Total:					\$1,857,405.00		\$1,896,882.41		\$2,127,502.30		\$3,924,502.92		\$4,467,465.00
w/Alt 1					\$2,195,105.00		\$2,203,825.81		\$2,420,290.55		\$4,313,508.92		\$5,075,065.00
w/Alt 2					\$2,069,415.00		\$2,108,892.41		\$2,296,021.60		\$4,165,162.92		\$4,925,865.00
w/Alt 3					\$2,017,600.00		\$2,014,251.41		\$2,221,365.30		\$4,031,567.92		\$4,660,665.00
w/Alt 1+2					\$2,407,115.00		\$2,415,835.81		\$2,588,809.85		\$4,554,168.92		\$5,533,465.00
w/Alt 1+3					\$2,355,300.00		\$2,321,194.81		\$2,514,153.55		\$4,420,573.92		\$5,268,265.00
w/Alt 2+3					\$2,229,610.00		\$2,226,261.41		\$2,389,884.60		\$4,272,227.92		\$5,119,065.00
w/Alt 1+2+3					\$2,567,310.00		\$2,533,204.81		\$2,682,672.85		\$4,661,233.92		\$5,726,665.00

Low bid =



Breakdown of bid prices with each combination of alternate bid items. The cost in red is the lowest total bid cost for that scenario.

	Globe Contractors	Rock Road Companies
Base Bid*:	\$1,857,405.00	\$1,896,882.41
w/Alt 1:	\$2,195,105.00	\$2,203,825.81
w/Alt 2:	\$2,069,415.00	\$2,108,892.41
w/Alt 3:	\$2,017,600.00	\$2,014,251.41
w/Alt 1+2:	\$2,407,115.00	\$2,415,835.81
w/Alt 1+3:	\$2,355,300.00	\$2,321,194.81
w/Alt 2+3:	\$2,229,610.00	\$2,226,261.41
w/Alt 1+2+3:	\$2,567,310.00	\$2,533,204.81

*The Base Bid is for installation of the sewer only, no water main.

ALTERNATE BID ITEM #1
PROPOSED 12" WATER MAIN
(STA 34+24 TO STA 57+33)

Alternate Bid 1 Price
Globe: \$337,700.00
Rock Road: \$306,943.40

Alternate Bid 3 Price
Globe: \$160,195.00
Rock Road: \$117,369.00

Alternate Bid 2 Price
Globe: \$212,010.00
Rock Road: \$212,010.00

ALTERNATE BID ITEM #2
PROPOSED 12" RAW WATER MAIN
(STA 56+60 TO STA 74+92)

PREPARED FOR:

ELKHORN™
WISCONSIN

PREPARED BY:

Foth
Solving our clients' toughest science and engineering challenges

OFFICE OF ORIGINATION:

Foth Infrastructure & Environment, LLC
7044 S. Ballpark Drive, Suite 200
Franklin, WI 53132
Phone (414) 336-7900

DISCLAIMER:

REUSE OF DOCUMENTS
THIS DOCUMENT HAS BEEN DEVELOPED FOR A SPECIFIC APPLICATION AND NOT FOR GENERAL USE. THEREFORE IT MAY NOT BE USED WITHOUT THE WRITTEN APPROVAL OF FOTH INFRASTRUCTURE AND ENVIRONMENT, LLC. UNAPPROVED USE IS THE SOLE RESPONSIBILITY OF THE UNAUTHORIZED USER.

NO.	DATE	BY	REVISION DESCRIPTION

NE WATER TREATMENT PLANT
SEWER & WATER EXTENSIONS

OVERVIEW PLAN

ELKHORN, WISCONSIN

CAD FILE: C:\pwworkdir\pwworkdir\elkhorn\elkhorn\05c1.dwg

APPROVED BY:

DESIGNED:	DRAWN:	CHECKED:
TLD	PCG	GMS
BID DATE:		PRINT DATE:
02/01/2024		01/11/2024
PROJECT NO:		SHEET NO:
0021E010.02		05C1.00

NE WTP (#8914430)
 Owner: City of Elkhorn
 Solicitor: Foth - Milwaukee
 02/01/2024 10:00 AM CST

Section Title	Item Description	UofM	Quantity	Globe Contractors, Inc.		Rock Road Companies, Inc.		Willkomm Excavating		Dorner Inc.		Engineer's Estimate	
				Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension
GENERAL ITEMS					\$1,857,405.00		\$1,896,882.41		\$2,127,502.30		\$3,924,502.92		\$4,467,465.00
1	Mobilization/Demobilization	LS	1	\$56,000.00	\$56,000.00	\$144,437.00	\$144,437.00	\$75,000.00	\$75,000.00	\$143,578.00	\$143,578.00	\$200,000.00	\$200,000.00
2	Clearing and Grubbing	LS	1	\$3,500.00	\$3,500.00	\$1,000.00	\$1,000.00	\$2,500.00	\$2,500.00	\$3,050.00	\$3,050.00	\$15,000.00	\$15,000.00
3	Lift Station Removal	LS	1	\$15,000.00	\$15,000.00	\$9,400.00	\$9,400.00	\$9,600.00	\$9,600.00	\$37,824.00	\$37,824.00	\$55,000.00	\$55,000.00
4	Temporary Mailboxes	LS	1	\$500.00	\$500.00	\$150.00	\$150.00	\$330.00	\$330.00	\$2,500.00	\$2,500.00	\$1,600.00	\$1,600.00
5	Erosion Control	LS	1	\$23,500.00	\$23,500.00	\$22,580.00	\$22,580.00	\$26,000.00	\$26,000.00	\$59,657.00	\$59,657.00	Item added by Addendum	N/A
6	Restoration	LS	1	\$65,000.00	\$65,000.00	\$62,206.11	\$62,206.11	\$70,000.00	\$70,000.00	\$111,573.00	\$111,573.00	Item added by Addendum	N/A
7	Traffic Control	LS	1	\$7,500.00	\$7,500.00	\$5,000.00	\$5,000.00	\$3,200.00	\$3,200.00	\$5,000.00	\$5,000.00	\$20,000.00	\$20,000.00
8	Common Excavation	CY	600	\$30.00	\$18,000.00	\$22.00	\$13,200.00	\$24.00	\$14,400.00	\$26.57	\$15,942.00	\$25.00	\$15,000.00
9	Stripping, Stockpiling and Respreading Topsoil	LS	1	\$45,000.00	\$45,000.00	\$49,600.00	\$49,600.00	\$123,000.00	\$123,000.00	\$272,973.00	\$272,973.00	\$30,000.00	\$30,000.00
10	Stripping, Stockpiling and Respreading Wetland Soil	LS	1	\$15,000.00	\$15,000.00	\$37,900.00	\$37,900.00	\$15,000.00	\$15,000.00	\$33,088.00	\$33,088.00	\$30,000.00	\$30,000.00
11	Dewatering	LS	1	\$35,000.00	\$35,000.00	\$59,900.00	\$59,900.00	\$79,000.00	\$79,000.00	\$621,754.00	\$621,754.00	\$700,000.00	\$700,000.00
12	Tree Removal	LS	1	\$10,500.00	\$10,500.00	\$1,000.00	\$1,000.00	\$11,000.00	\$11,000.00	\$12,671.00	\$12,671.00	\$10,000.00	\$10,000.00
13	WTP Plumbing	LS	1	\$9,000.00	\$9,000.00	\$10,000.00	\$10,000.00	\$8,285.00	\$8,285.00	\$36,053.00	\$36,053.00	\$15,000.00	\$15,000.00
14	12" PVC Sanitary Sewer (<15' of Cover)	LF	3810	\$135.00	\$514,350.00	\$110.90	\$422,529.00	\$111.55	\$425,005.50	\$233.00	\$887,730.00	\$300.00	\$1,143,000.00
15	12" PVC Sanitary Sewer (?15' of Cover)	LF	3640	\$150.00	\$546,000.00	\$177.40	\$645,736.00	\$198.00	\$720,720.00	\$279.00	\$1,015,560.00	\$400.00	\$1,456,000.00
16	Sanitary Sewer Manhole	VF	405	\$685.00	\$277,425.00	\$616.62	\$249,731.10	\$883.00	\$357,615.00	\$1,163.00	\$471,015.00	\$1,500.00	\$607,500.00
17	Sanitary Sewer Manhole Casting	EA	26	\$915.00	\$23,790.00	\$1,450.00	\$37,700.00	\$979.00	\$25,454.00	\$1,607.00	\$41,782.00	\$600.00	\$15,600.00
18	Remove and Replace Culvert Pipe (15", RCP)	LF	180	\$120.00	\$21,600.00	\$78.50	\$14,130.00	\$92.50	\$16,650.00	\$96.00	\$17,280.00	\$100.00	\$18,000.00
19	Apron Endwalls	EA	8	\$1,800.00	\$14,400.00	\$740.40	\$5,923.20	\$1,238.00	\$9,904.00	\$1,863.00	\$14,904.00	\$400.00	\$3,200.00
20	Remove and Replace Culvert Pipe (15", HDPE)	LF	36	\$125.00	\$4,500.00	\$68.00	\$2,448.00	\$74.00	\$2,664.00	\$61.00	\$2,196.00	\$100.00	\$3,600.00
21	Remove and Replace Culvert Pipe (12", HDPE)	LF	36	\$95.00	\$3,420.00	\$68.00	\$2,448.00	\$64.00	\$2,304.00	\$55.00	\$1,980.00	\$100.00	\$3,600.00
22	Sawcut Pavement, Full Depth	LF	45	\$20.00	\$900.00	\$2.50	\$112.50	\$50.00	\$2,250.00	\$50.00	\$2,250.00	\$10.00	\$450.00
23	3/4" Base Aggregate Dense (Cobb Shoulders & WTP Drive)	TON	212	\$30.00	\$6,360.00	\$28.00	\$5,936.00	\$28.40	\$6,020.80	\$43.01	\$9,118.12	\$25.00	\$5,300.00
24	1 1/4" Base Aggregate Dense (Cobb Pavement & Shoulders)	TON	555	\$40.00	\$22,200.00	\$13.90	\$7,714.50	\$20.00	\$11,100.00	\$20.24	\$11,233.20	\$25.00	\$13,875.00
25	3" Base Aggregate Dense (Cobb Pavement & Shoulders)	TON	1220	\$41.00	\$50,020.00	\$19.40	\$23,668.00	\$25.00	\$30,500.00	\$27.32	\$33,330.40	\$28.00	\$34,160.00
26	Geogrid	SY	2130	\$10.00	\$21,300.00	\$9.50	\$20,235.00	\$11.00	\$23,430.00	\$2.91	\$6,198.30	\$10.00	\$21,300.00
27	HMA Binder Course	TON	230	\$104.00	\$23,920.00	\$99.00	\$22,770.00	\$113.00	\$25,990.00	\$132.19	\$30,403.70	\$100.00	\$23,000.00
28	HMA Surface Course	TON	170	\$100.00	\$17,000.00	\$96.00	\$16,320.00	\$98.00	\$16,660.00	\$99.94	\$16,989.80	\$110.00	\$18,700.00
29	Bituminous Tack Coat	GAL	180	\$4.00	\$720.00	\$4.00	\$720.00	\$4.00	\$720.00	\$4.43	\$797.40	\$1.00	\$180.00
30	Excavation Below Subgrade	CY	120	\$50.00	\$6,000.00	\$19.90	\$2,388.00	\$110.00	\$13,200.00	\$50.60	\$6,072.00	\$70.00	\$8,400.00
BID ALTERNATE 1 - Proposed 12" WM (STA 34+24 to STA 57+33)					\$337,700.00		\$306,943.40		\$292,788.25		\$389,006.00		\$607,600.00
31	12" PVC Water Main	LF	2375	\$108.00	\$256,500.00	\$104.20	\$247,475.00	\$97.35	\$231,206.25	\$128.00	\$304,000.00	\$240.00	\$570,000.00
32	6" PVC Water Main	LF	24	\$250.00	\$6,000.00	\$100.60	\$2,414.40	\$472.00	\$11,328.00	\$105.00	\$2,520.00	\$150.00	\$3,600.00
33	Hydrant Assembly	EA	4	\$10,250.00	\$41,000.00	\$7,200.00	\$28,800.00	\$6,106.00	\$24,424.00	\$11,671.00	\$46,684.00	\$8,500.00	\$34,000.00
34	12" Gate Valve and Box	EA	6	\$5,700.00	\$34,200.00	\$4,709.00	\$28,254.00	\$4,305.00	\$25,830.00	\$5,967.00	\$35,802.00	\$5,000.00	\$30,000.00
BID ALTERNATE 2 - Proposed 12" Raw Water Main (STA 56+60 to STA 74+92)					\$212,010.00		\$212,010.00		\$168,519.30		\$240,660.00		\$458,400.00
35	12" PVC Water Main	LF	1910	\$111.00	\$212,010.00	\$111.00	\$212,010.00	\$88.23	\$168,519.30	\$126.00	\$240,660.00	\$240.00	\$458,400.00
BID ALTERNATE 3 - Proposed 12" Raw Water Main (STA 74+92 to STA 82+91)					\$160,195.00		\$117,369.00		\$93,863.00		\$107,065.00		\$193,200.00
36	12" PVC Water Main	LF	805	\$199.00	\$160,195.00	\$145.80	\$117,369.00	\$116.60	\$93,863.00	\$133.00	\$107,065.00	\$240.00	\$193,200.00
Base Bid Total:					\$1,857,405.00		\$1,896,882.41		\$2,127,502.30		\$3,924,502.92		\$4,467,465.00
w/Alt 1					\$2,195,105.00		\$2,203,825.81		\$2,420,290.55		\$4,313,508.92		\$5,075,065.00
w/Alt 2					\$2,069,415.00		\$2,108,892.41		\$2,296,021.60		\$4,165,162.92		\$4,925,865.00
w/Alt 3					\$2,017,600.00		\$2,014,251.41		\$2,221,365.30		\$4,031,567.92		\$4,660,665.00
w/Alt 1+2					\$2,407,115.00		\$2,415,835.81		\$2,588,809.85		\$4,554,168.92		\$5,533,465.00
w/Alt 1+3					\$2,355,300.00		\$2,321,194.81		\$2,514,153.55		\$4,420,573.92		\$5,268,265.00
w/Alt 2+3					\$2,229,610.00		\$2,226,261.41		\$2,389,884.60		\$4,272,227.92		\$5,119,065.00
w/Alt 1+2+3					\$2,567,310.00		\$2,533,204.81		\$2,682,672.85		\$4,661,233.92		\$5,726,665.00

Low bid =

2024/2025 Water & Sewer Infrastructure Projects

	Water	Budgeted Water	Sewer	Budgeted Sewer
2023 Centralia Phase 1 Loop	\$ 500,000.00	\$ 500,000.00	\$ -	
2024 Centralia Phase 2	\$ 757,366.00	\$ 843,211.00	\$ 428,056.00	\$ 661,773.00
2024 NEWTP w/Alt 1, 2, 3	\$ 915,796.00	\$ 1,342,350.00	\$ 2,661,670.00	\$ 5,722,650.00
2024/2025 Sewer I&I Basin 2			\$ 1,549,868.00	\$ 1,705,610.00
2024/2025 Lakeland Water Plant (Congressional Direct Spending approx. 3.3 million)	\$ 4,200,000.00	\$ 4,200,000.00		
2025 Nettesheim Lift Station			\$ 4,581,800.00	\$ 4,581,800.00
2025 Centralia Phase 3	\$ 1,868,605.00	\$ 1,868,605.00	\$ 253,789.00	\$ 253,789.00

	\$ 8,241,767.00	\$ 8,754,166.00	\$ 9,475,183.00	\$ 12,925,622.00
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	\$ (3,300,000.00)
**Total with CD Spending of 3.3 million	\$ 4,941,767.00

Adam Swann

From: Broeckert, Dale R <Dale.Broeckert@foth.com>
Sent: Thursday, January 25, 2024 11:16 AM
To: Adam Swann; Tim Boss
Cc: Tushaus, Stacey M
Subject: RE: [External] RE: Lakeland WTP - bid timing decision - pros/cons/thoughts & recommendation

Hi Adam,

In regards to the safety and reliability question: because the City is planning on improvements at the NE WTP and Centralia/Well 6/Well 4 sites in 2024, to increase both of those sites' reliability, I am comfortable with a delay on Lakeland WTP during that time. Generally having too many projects going on at once within a system can cause reliability issues in itself, and much increased stress on operations. I believe completing the improvements at the other two sites first, before modifications begin at Lakeland WTP, is a net positive and will help minimize the overall system variables/stresses/risks in 2024.

Also note, if the City were to move forward with Lakeland WTP in the near term, it's completion time would be delayed/drag-out into 2025 regardless (due to the contractor schedule/work restrictions needed as the other two sites get done). So although this is a delay in the Lakeland bid date, being able to focus the Lakeland bid/work in 2025 (without schedule/work restrictions) is a schedule advantage. It will allow the contractor to get done much faster, so the overall project completion timing won't be impacted all that much (maybe only 6 months).

With these additional thoughts, please confirm the decision on Option 2 so I can inform our staff here and adjust our schedule/efforts accordingly.

Thanks,

Dale Broeckert, PE
Foth Infrastructure & Environment, LLC
Direct: (608) 628-3163



From: Adam Swann <aswann@cityofelkhorn.org>
Sent: Thursday, January 25, 2024 9:15 AM
To: Broeckert, Dale R <Dale.Broeckert@foth.com>; Tim Boss <Tboss@cityofelkhorn.org>
Cc: Tushaus, Stacey M <Stacey.Tushaus@Foth.com>
Subject: [External] RE: Lakeland WTP - bid timing decision - pros/cons/thoughts & recommendation

Dale,

Thanks for preparing an overview of the options. I'm not surprised that the DNR loan staff were more hesitant to affirmatively state that the CDS funds would not interfere with the DNR loan process. I think it's highly likely there will be additional review processes, documentation, etc. Your recommendation to postpone the Lakeland HMO project to 2025 makes sense in order to keep open the possibility of using the CDS funds and to minimize the complications of trying to have one DNR loan for both projects. The extra costs of reapplying for 2025 and having another loan closing in

2025 would probably be offset by the costs incurred trying to manage the loan application and closing for both NEWTP and Lakeland at the same time. As we've seen with the CWF and SDWF loans for S. Wright St. and Centralia, they don't make it easy.

What would be the impact to the safety and reliability of the City's water supply by delaying Lakeland for a year?

-Adam

Adam G. Swann

City Administrator
City of Elkhorn
311 Seymour Ct.
Elkhorn, WI 53121
262.723.2219



From: Broeckert, Dale R <Dale.Broeckert@foth.com>
Sent: Wednesday, January 24, 2024 7:42 PM
To: Adam Swann <aswann@cityofelkhorn.org>; Tim Boss <tboss@cityofelkhorn.org>
Cc: Tushaus, Stacey M <Stacey.Tushaus@Foth.com>
Subject: Lakeland WTP - bid timing decision - pros/cons/thoughts & recommendation

Hi Adam and Tim,

As discussed on Tuesday, the time has come to decide on the timing for bidding the Lakeland WTP. Stacey was able to get a bit more information/insight today regarding the possible coordination intricacies of the DNR loan & possible CDS funds, which helped complete our pros/cons list below. We have two (2) options to choose between:

Option 1: Proceed to bid in the next ~12 weeks or so (to ensure a SFY24 loan closing)

Pros:

- We can group the loan closing of Lakeland WTP with the closing of NE Utility project (that would likely save 8-10k in loan closing costs).
- Avoids needing to re-apply for SFY25 funding.

Cons:

- Loan closing can be more complicated with combined projects.
- If CDS funds are awarded, there's a chance that it will carry additional caveats that will require re-work to the bidding/contract/loan documents which we won't have time to address.
 - As of today, the consensus from the DNR loan staff is basically that they can't guarantee there won't be some additional intricacies associated with coordinating two funding sources. (This was different than their indicators in earlier conversations saying that it shouldn't be an issue).
- Schedule/work restrictions would need to be built into the contract (Tim can provide information on the importance of this to operations):
 - Waiting for the NE WTP sanitary work to be complete (so the NE WTP can have increased production & reliability when Lakeland would be offline)
 - Waiting for the Centralia WTP/Well 6/Well 4 alternative treatment plan to be in-place (to avoid the risks of the failing reservoir roof when Lakeland would be offline)
- We believe schedule/work restrictions will increase the Lakeland bid price (possibly 10-15%+).
- We believe these schedule/work restrictions will decrease overall bidder interest.

- Schedule/work restrictions will ‘drag-out’ the project completion time, increasing efforts for the City and the construction administrator.

Option 2: Bid early-2025 (planning on SFY25 funding)

Pros:

- Loan closing will be simplified with only one project.
- If CDS funds are awarded, there should be plenty of time to address any caveats and incorporate changes into the bidding/contract/loan documents.
- No schedule/work restrictions would need to be built into the contract (as the NE WTP and Centralia/Well 6/Well 4 work should be complete by then).
- No schedule/work restrictions will decrease the bid price.
- No schedule/work restrictions will maximize bidder interest.
- Construction timeline will be streamlined & coordination efforts with City staff & contractor will be minimized .

Cons:

- We cannot group the loan closing of Lakeland WTP with the closing of NE Utility project (that will likely cost \$8-10k for a separate loan closing)
- We would need to re-apply for SFY25 funding (the ITA’s are already in place). We would anticipate 8–12 hours of effort (from Foth) for each of the SDW and CWF re-applications & re-submittals.

Below is more insight from Stacey regarding her thoughts on SFY25 funding risks, and verifying that there shouldn’t be permit implications by waiting until early-2025:

Risk of making SFY25 funding lists:

- **SDW:** Lakeland was one of the highest-scoring non-LSL SDW projects for SFY24. That said, there is very little risk it wouldn’t make the list for SFY25.
- **CWF:** Elkhorn’s sewer projects barely made the funding list for SFY24. Based on other competition in SFY25, it may not make the list. However, the sewer portion isn’t much of the overall Lakeland construction cost estimate (see below).

MEETING 06, 06/27/24

Priority Score			Municipality	Project Number	Project Description
Total Score	Financial Need Points	Project Points			
51.4	1.4	50	OMRO, CITY OF	5032-06	Replace SS - Larabee St.
51.4	1.4	50	TWO RIVERS, CITY OF	4107-61	Replace Sanitary Sewer 2024 - Numerous Streets
51.2	1.2	50	BALDWIN, VILLAGE OF	4540-17	Replace Sanitary Sewer - Curtis Street
51.2	1.2	50	KEWASKUM, VILLAGE OF	4396-08	Replace USH 45/Fond du Lac Avenue Sewer
51.1	1.1	50	ELLSWORTH, VILLAGE OF	4170-11	Rehab Sanitary Sewer - Grant, Piety, Woodworth, Strickland Strs
51.0	1.0	50	BARABOO, CITY OF	4153-05	Replace Sanitary Sewer - STH 33 (8th Ave. & 8th St)
50.5	0.5	50	ELKHORN, CITY OF	4552-06	Replace Sewer Laterals/Manhole - Wright St
50.5	0.5	50	ELKHORN, CITY OF	4552-07	Upgrade NE WTP Sewer System Utilities
50.5	0.5	50	ELKHORN, CITY OF	4552-08	Upgrade Lakeland WTP Sewer
50.5	0.5	50	MADISON MSD ⁴	4010-67	Rehab Pump Station #4
50.2	0.2	50	WESTERN RACINE CO. SEWERAGE DISTRICT	5109-06	Replace Rochester LS & Interceptor

Permit Implications by waiting (no concerns):

DNR Construction Site Stormwater	Not applied for yet. Likely < 1 acre disturbance so permit not needed.
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DNR Water System	Received. Construction start by 09/12/25 or new application and plan submittal would be required.
PSC Approval	Submitted. Per PSC, will have approval by 02/20/24. Construction start within 2 years of approval date (02/20/26 at latest) or extension required.
DNR Sewer Extension	Received. Construction start by 11/07/25 or new application and plan submittal would be required.
SEWRPC 208 Conformance	Received. No expiration.
WALCOMET Sewer District Approval	Dale reached out 11/16/23 and provided information (in case they wanted it). No response was received.

In conclusion, when weighing the pros/cons of both options, we would recommend to proceed with Option 2 and hold-off on bidding Lakeland until early-2025. This does carry some small risks & costs; however, the large upsides related to the stream-lined construction/bid pricing & ensuring proper CDS coordination time (if awarded) are significant.

Please review and advise if the City agrees with this evaluation & recommendation. We would be happy to discuss any of these points further.

Thanks,

Dale Broeckert, PE



Foth Infrastructure & Environment, LLC

Direct: (608) 628-3163

foth.com

CAUTION: This email originated from outside of Foth. Do not click on links or open attachments unless you recognize the sender and know the content to be safe.

Memo

To: Common Council

From: Karl Sorvick, Recreation Director

Date: February 14, 2024

Re: Use of park funds for concept design for park at 1750 North Wisconsin St. property

Our community Grant Writer and Recreation Director have been in discussions with a family that is interested in making a significant contribution to fund a park on the tax foreclosure property acquired from the county in August of 2023.

The interested family has agreed to split the cost with the city for a concept design that will be prepared by Kapur & Associates. The cost of this design work is \$5,000. We are proposing the city pay for half of this amount using \$2,500 from the Park Fund.

Last year the Common Council approved allocating \$50,000 from the Park Fund for this property in 2024. This amount was allocated to pursue removing the buildings on the property and abandoning the wells & septic system. City staff have received quotes for the building removals, with the lowest quote coming in at \$23,000. Pending a council decision this evening, the total cost of design work and building removal will be approximately \$26,000. This is \$24,000 less than originally budgeted, although the City doesn't have quotes for abandoning the wells and septic system.

The Common Council also budgeted \$40,000 in Park Funds in 2024 for conducting an assessment on the band shell in Sunset Park in order to rehab the facility and apply for grant funds. The City recently received a grant from the State Historical Society to pay for half the cost of this assessment, so the City will be saving up to \$20,000 in Park Funds.

Request: Approve the use of Park Funds in the amount of \$2,500 for the concept design work for a park at 1750 North Wisconsin St.

February 13, 2024

Adam G. Swann
City Administrator
City of Elkhorn
311 Seymour Court
Elkhorn, WI 53121

RE: Elkhorn Park
Proposal for Elkhorn Park Planning

Dear Adam:

Kapur is pleased to submit this proposal for professional landscape design services for improvements to the Elkhorn Park.

CONCEPT DESIGN

- Assemble existing files to create a base map. Owner to provide pdf plans or acad of property, if available
- Create existing conditions map identifying current conditions
- Develop ideas to increase utilization of site amenities
- Generate plans/screenshots/photos to convey ideas
- Assemble package for review/comment
- Revise based on comments and resubmit

FEES

▪ Concept Design	Lump Sum Fee	\$5,000
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REIMBURSABLE EXPENSES

General expenses such as mileage, printing, and copying are included in our lump sum fees.

Thank you for the opportunity to submit this proposal. We look forward to working with you on this project. Should you have any questions, or require further information, please call me at (414) 751-7224 or email: tperez@kapurinc.com. Receipt of a signed copy of this document will constitute an executed agreement.

For Kapur

For City of Elkhorn

By: _____
Thomas R. Perez, P.E.
Principal | Site Development Manager

By: _____
Adam G. Swann
Senior Project Manager | Associate


Date: _____

Date: _____





JOHNSON CONTROLS
GLENDALE CAMPUS UPDATES

-  Oak Leaf Trail
-  Existing sidewalk
-  Existing granite path
-  Existing mulch path
-  Emergency exit door
-  Key card access door
-  Main building entries
-  Raised terraces



CAMPUS WIDE GOALS

- MAIN ENTRY ENHANCEMENTS
- CAMPUS TRAIL CONNECTIVITY
- EMPLOYEE WELLNESS INITIATIVES
- OUTDOOR EXTENSION OF OFFICE SPACE

MAIN ENTRY ENHANCEMENTS

- REWORK EMPLOYEE ENTRANCE TO PROVIDE A WELCOMING ENTRY SEQUENCE
- FRESHEN UP PLANTINGS AT BOTH ENTRANCES
- ENTRY PLAZA AT EMPLOYEE ENTRANCE
- UPDATE CURRENT RETAINING WALL BETWEEN VISITOR PARKING AND DRIVE LANE TO MAIN PARKING
- REPAVE (POSSIBLY REWORK) VISITOR PARKING AREA

CAMPUS TRAIL CONNECTIVITY

- INSTALL NEW TRAIL CONNECTION ON THE EAST SIDE OF THE MAIN FOUNTAIN POND
- UTILIZE PAVEMENT MARKING TO CONNECT TRAILS THROUGH EXISTING PAVEMENT
- FRESHEN UP GRANITE TRAILS WITH A NEW LAYER OF COMPACTED GRANITE
- EXTEND TRAIL FROM EMPLOYEE ENTRY ACROSS DRIVE LANE TOWARDS MAIN ENTRY
- UPDATE MULCH TRAILS TO BE CRUSHED GRANITE
- INSTALL BRIDGE TO CREATE A LOOP OF PATHWAY BETWEEN CAFETERIA TERRACE AND NEW PLAZA

EMPLOYEE WELLNESS INITIATIVES

- WALKING CLUB(S): DISTANCE, FREQUENCY, ETC
- EDUCATIONAL SIGNAGE ON PATHS (HISTORICAL, VEGETATION, MINDFULNESS)
- BODYWEIGHT (PARK GRADE) EXERCISE MACHINES ALONG PATH
- WALKING/HEALTH CHALLENGES BETWEEN EMPLOYEES
- MILE MARKERS AND WAYFINDING SIGNAGE
- ADDITIONAL LIGHTING FOR SECURITY AND EXTENSION OF HOURS OF USE

OUTDOOR EXTENSION OF OFFICE SPACE

- CONNECT TERRACE PATIOS DOWN TO THE GROUND LEVEL
- ADD ONE OR TWO MORE KEY CARD ACCESS DOORS
- ADD SHADE STRUCTURES TO PROVIDE OUTDOOR MEETING SPACE
- ALLOW FOR ADA ACCESSIBILITY WHERE POSSIBLE

UPDATE EXISTING RETAINING WALL



REWORK/UPDATE VISITOR PARKING

REWORK DRIVE LANE & NEW ENTRY PLAZA



CAMPUS WIDE GOAL:
MAIN ENTRY ENHANCEMENTS

UPGRADE MULCH PATHS TO GRANITE

EXTEND PATH AND ADD LANDSCAPE BUFFER



EXTEND PATH & CONNECT LOOP
TO OAK LEAF TRAIL ACCESS



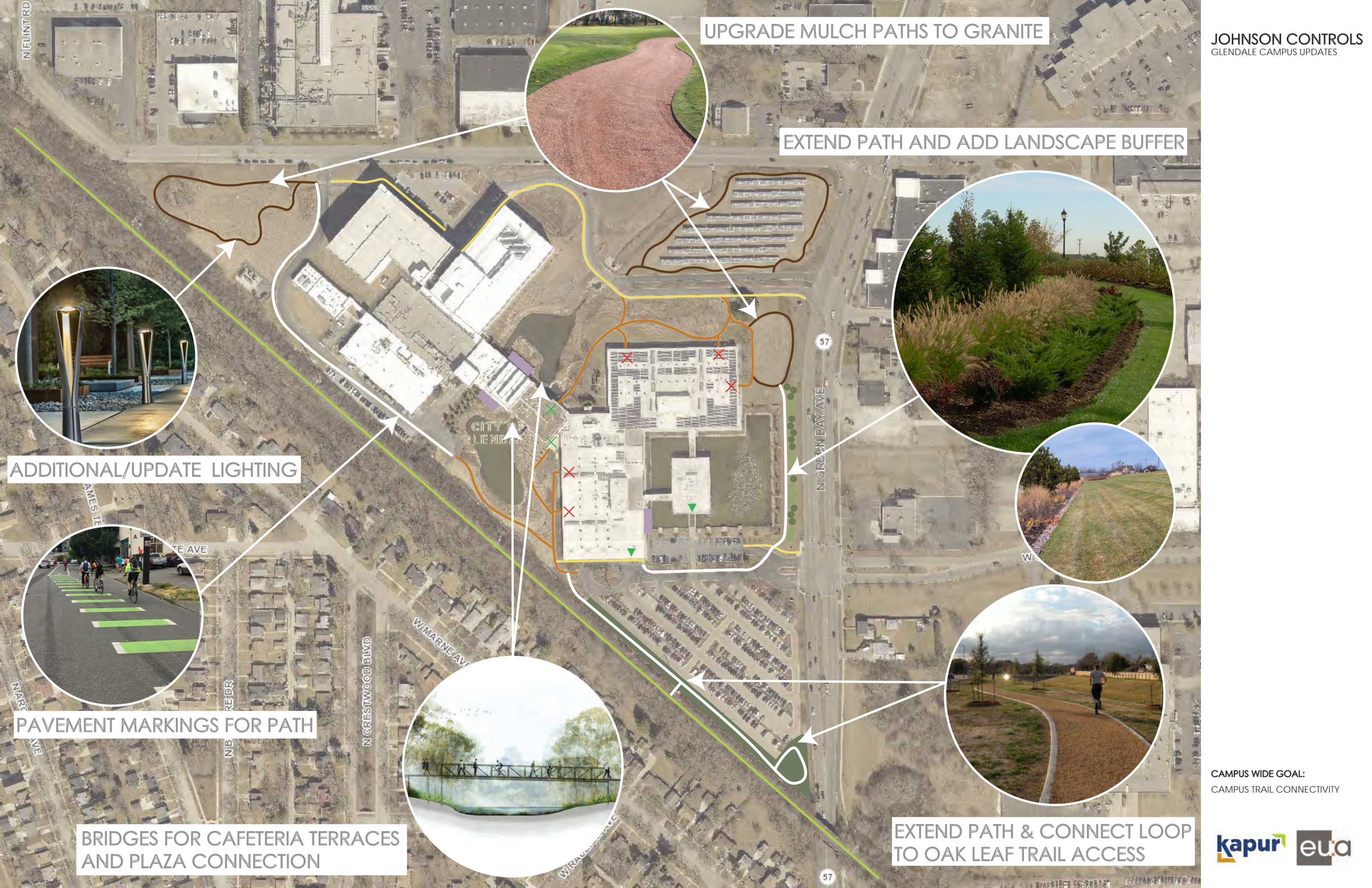
ADDITIONAL/UPDATE LIGHTING



PAVEMENT MARKINGS FOR PATH



BRIDGES FOR CAFETERIA TERRACES
AND PLAZA CONNECTION



CAMPUS WIDE GOAL:
CAMPUS TRAIL CONNECTIVITY

MINDFULNESS GARDEN/
QUIET WORK SPACE



MILE MARKERS AND WAYFINDING



BODY WEIGHT EXERCISE MACHINES



WALKING CLUBS AND CHALLENGES

EDUCATIONAL PLANT SIGNAGE



CAMPUS WIDE GOAL:
EMPLOYEE WELLNESS INITIATIVES

EXTENSION OF FLEX WORKSPACE



NEW KEY CARD ACCESS DOORS

COVERED MEETING SPACE, NEW
OUTDOOR WORKSPACE, UPDATE PLAZA



CAMPUS WIDE GOAL:
OUTDOOR EXTENSION OF OFFICE
SPACE PROPOSED IMPROVEMENTS

**LICENSE AGREEMENT
FOR WIRELESS ATTACHMENTS TO UTILITY POLES
BETWEEN CITY OF ELKHORN
AND
WE ENERGIES**

This LICENSE AGREEMENT (“**Agreement**”) dated as of the date of the last signature below (“**Effective Date**”), is made by and between the City of Elkhorn, a municipal corporation acting in its capacity as a Wisconsin public utility (“**Utility**”), and We Energies (“**Licensee**”), with its principal offices located at 333 W. Everett Street, Milwaukee, WI 53203.

RECITALS

- A. Licensee desires to install and maintain Wireless Equipment on Utility’s electric distribution poles to be used for Licensee’s AMI system supporting its gas utility business.
- B. Utility is willing, when it may lawfully do so, to issue one or more Permits authorizing the placement or installation of Licensee’s Wireless Attachments on Utility’s Poles, provided that Utility may refuse, on a non-discriminatory basis, to issue a Permit where there is insufficient capacity or for reasons of safety, reliability, generally applicable engineering purposes, or any other Engineering Standards, in accordance with the terms and conditions in this Agreement.
- C. The parties intend that this Agreement shall supersede any and all pole attachment agreements for wireless attachments (written or oral) between the parties.

AGREEMENT

THE PARTIES AGREE as follows:

ARTICLE 1: DEFINITIONS

For the purposes of this Agreement, the following terms shall have the following meanings:

- 1.1 **Affiliate**, when used in relation to Licensee, means another entity that owns or controls, is owned or controlled by, or is under common ownership control with Licensee.
- 1.2 **AMI** stands for advanced metering infrastructure.
- 1.3 **Communications Space**, consistent with 47 C.F.R. § 1.1402(r), means the lower usable space on a utility pole, which typically is reserved for low-voltage communications equipment and which may only be accessed by Qualified Communications Workers.
- 1.4 **Electric Space** means that space on Utility's wood electric distribution Poles where Utility has installed or may install energized electric conductors and related electric equipment and also includes the airspace above the Pole. This space is the “supply

space,” as defined in the Wisconsin State Electrical Code (“WSEC”). All work performed within this space shall be performed by Qualified Electrical Workers.

- 1.5 **Emergency** means a condition that poses a clear and immediate danger to life or health or of a significant loss of property or that requires immediate repair or replacement in order to restore electric service to a customer.
- 1.6 **Engineering Standards** means all applicable engineering and safety standards governing the installation, maintenance, and operation of utility facilities and the performance of all work in or around electric utility facilities, including all of Utility’s standards as reflected in this Agreement (including **Appendix B**) or otherwise adopted by Utility and the most current versions of the WSEC, the National Electrical Code, the National Electrical Safety Code, the regulations of the Occupational Safety and Health Administration (including the rules regarding safety equipment), and the safety and engineering requirements of any state or federal agency with jurisdiction over utility facilities, each of which is incorporated by reference into this Agreement.
- 1.7 **Good Utility Practice** means any of the practices, methods, and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any practices, methods, and acts which, in the exercise of good judgment in light of the facts known at the time the decision was made, could have expected to accomplish the desired result at the lowest reasonable cost consistent with good business practices, reliability, safety, and expedition.
- 1.8 **Laws** mean any federal, state, or local laws, rules, or regulations applicable to the activities contemplated under this Agreement.
- 1.9 **License Fee** means the annual per-pole fee specified in **Appendix A**, which Licensee is required to pay to Utility for the right to attach its Wireless Equipment to a Pole.
- 1.10 **Make-Ready Survey** means all work or operations necessary to determine whether Licensee’s proposed use of a Utility Pole is feasible based on capacity, safety, reliability, generally applicable engineering purposes, Good Utility Practice, and the Engineering Standards and to confirm or determine the Make-Ready Work necessary to accommodate Licensee’s proposed use of the Pole. Such work includes, but is not limited to, field inspections, administrative processing, and performance of loading calculations.
- 1.11 **Make-Ready Work** means all work, as reasonably determined by Utility, required to accommodate Licensee's Wireless Equipment on a Pole and/or to comply with all Engineering Standards and Good Utility Practice. Such work may include, but is not limited to, rearrangement and/or transfer of Utility’s facilities or existing attachments, inspections, engineering work, permitting work, tree trimming (other than tree trimming performed for normal maintenance purposes), pole strengthening, and related construction (such as pole replacement).
- 1.12 **Normal Business Hours** means Monday through Friday from **8:00 a.m. to 4:30 p.m.**

- 1.13 **Permit** means written or electronic authorization issued by Utility for Licensee to install, add to, substantially modify, or remove a Wireless Attachment on a specific Pole pursuant to the requirements of this Agreement.
- 1.14 **Pole** means a pole owned by Utility and used for the distribution of electricity that is capable of supporting Wireless Attachments.
- 1.15 **Post-Construction Inspection** means the inspection by Utility or Licensee or some combination of both to verify that the Wireless Attachments have been made in accordance with Engineering Standards and the Permit.
- 1.16 **Qualified Communications Worker** means a worker meeting all current training and experience requirements of all applicable federal, state, and local work rules, including OSHA Standard 1910.268 (29 C.F.R. § 1910.268).
- 1.17 **Qualified Electrical Worker** means a worker meeting all training and experience requirements of all applicable federal, state, and local work rules, including OSHA Standard 1910.269 (29 C.F.R. § 1910.269).
- 1.18 **Unauthorized Attachment** means the placement of Wireless Equipment on a Pole without a Permit or in violation of the terms of the Permit.
- 1.19 **Wireless Attachment** means Licensee’s Wireless Equipment used for Licensee’s AMI system placed directly on a Utility Pole.
- 1.20 **Wireless Equipment** means any antenna, hardware, facility, apparatus, device or other hardware, and cables or wires connecting such antenna to such equipment, apparatus, device, or other hardware placed on the same Pole and used for Licensee’s AMI system. This shall not include any microwave dishes and/or wires or cables used to connect to other wireless or wired communications facilities or equipment not on the same Pole. All Wireless Equipment that comprises a portion of an attachment authorized under this Agreement, whether owned by Licensee or by others, shall, for the purposes of this Agreement, be considered part of “**Licensee’s Wireless Equipment,**” and Licensee shall accept full responsibility for such equipment under this Agreement.

ARTICLE 2: SCOPE OF AGREEMENT

- 2.1 Grant of License. Subject to the provisions of this Agreement and to Licensee’s application for and receipt of a Permit, Utility hereby grants Licensee a revocable, nonexclusive license authorizing Licensee to install, maintain, and modify its Wireless Attachments on Utility’s Poles.
- 2.2 Parties Bound by Agreement. Licensee and Utility agree to be bound by all provisions of this Agreement and of the Permits issued pursuant to this Agreement.
- 2.3 Permit Issuance Conditions. Utility will issue a Permit to Licensee only when Utility determines, in its sole judgment, reasonably exercised, that (i) it has sufficient capacity to accommodate the requested Wireless Attachments, (ii) Licensee meets all requirements

set forth in this Agreement, and (iii) the affected Poles can safely accommodate the proposed Wireless Attachments consistent with all applicable Engineering Standards and Good Utility Practice.

- 2.4 Reservation of Rights. Utility may, in its reasonable discretion, revoke a Permit by written notice when necessary to ensure the safe and reliable operation and maintenance of Utility's utility systems. Licensee will have 30 days from receipt of such notice to remove its Wireless Equipment associated with the revoked Permit. If Licensee fails to timely remove such equipment, the remedies in Section 17.1.2 shall apply.
- 2.5 Licensee's Right to Attach.
- 2.5.1 Nothing in this Agreement, other than the issuance of a Permit, shall be construed as granting Licensee any right to place its Wireless Equipment within or below the Communication Space of any specific Pole (see Drawings at the end of **Appendix B**) or to compel Utility to grant Licensee the right to attach to any specific Pole. Under no circumstances shall Licensee have the right to place its Wireless Equipment within the Electric Space on any of Utility's Poles, except that power to supply the Wireless Equipment may extend into the Electric Space if installed in accordance with all applicable Engineering Standards and Good Utility Practice.
- 2.5.2 Nothing in this Agreement shall be construed to grant any entity other than Licensee (whether an Affiliate of Licensee or an unaffiliated entity) the right to attach to any Poles without entering into a license agreement with Utility and receiving a permit pursuant to such agreement.
- 2.5.3 No use by Licensee of Utility's Poles shall create or vest in Licensee any ownership or property rights in those Poles. Notwithstanding anything in this Agreement to the contrary, Licensee is and shall remain a mere licensee.
- 2.6 Necessity of Authorizations. Licensee shall secure all necessary certifications, permits (including for right-of-way use, if applicable), and franchises from federal, state, and local authorities prior to placing any Wireless Attachments on a Pole.
- 2.7 Necessity of Easements on Private Property. Licensee shall secure all necessary easements or other permissions from the property owner prior to placing any Wireless Attachments on a Pole located on private property.
- 2.8 Reserve Capacity. Access to space on Utility's Poles will be made available to Licensee with the understanding that such access is to Utility's reserve capacity for future electric service use. On giving Licensee at least 60 days' prior notice ("**Reclamation Notice**"), Utility may reclaim such reserve capacity any time within the five-year period following the installation of Licensee's Wireless Attachment. In the Reclamation Notice, Utility shall give Licensee the option to remove its Wireless Attachment from the affected Pole or to pay for the cost of any Make-Ready Work that Utility would otherwise be responsible for to expand the capacity of the affected Pole so that Licensee can maintain its Wireless Attachment on the affected Pole.

- 2.9 Permitted Uses. The license granted to Licensee is limited to the uses specifically stated in this Agreement, and no other use by Licensee shall be allowed without Utility's express written consent to such use. Nothing in this Agreement shall be construed to require Utility to allow Licensee to use Utility's Poles after the termination of this Agreement.
- 2.10 Effect of Failure to Exercise Access Rights. If Licensee does not exercise any access right granted pursuant to a Permit within 180 days of the issuance of the Permit or within 360 days in the case that pole replacement is required, the Permit shall be null and void and Utility may use the space scheduled for Licensee's Wireless Attachment. Utility shall grant an extension where Licensee demonstrates that events beyond its control prevented Licensee from exercising any such access right. In such instances, Utility shall endeavor to make other space available to Licensee, upon written request, as soon as reasonably possible.
- 2.11 Removal of Abandoned Equipment. At its sole expense, Licensee shall remove any of its Wireless Equipment that has not operated for a continuous period of 12 months, which shall at that point be deemed abandoned. Licensee shall remove such equipment within 180 days of its abandonment, unless Licensee receives written notice from Utility that removal is necessary to accommodate Utility's or a third-party attacher's use of the affected Poles, in which case Licensee shall remove such abandoned equipment within 60 days of receiving the notice. Licensee must submit a Permit Application authorizing the removal of the abandoned equipment. If Licensee fails to remove its abandoned equipment within the requisite time period, the remedies in Section 17.1.2 shall apply.
- 2.12 Agreements with Third Parties. Nothing contained in this Agreement shall be construed as affecting any rights or privileges conferred by Utility, by contract or otherwise, to others not a party to this Agreement to use any facilities or Poles covered by this Agreement. Utility shall have the right to continue to extend such rights and privileges. The privileges granted to Licensee shall at all times be subject to any such contracts and arrangements, including extensions thereof.

ARTICLE 3: FEES

- 3.1 Permit Application Fee. Licensee shall pay to Utility the Permit Application Fee specified in **Appendix A** at the time a Permit Application is submitted. The Permit Application Fee shall increase by 3% over then then-existing amount on each anniversary of the Effective Date.
- 3.2 License Fee. Licensee shall pay to Utility the applicable License Fee set out in **Appendix A** on the schedule set out in Section 3.4. The License Fee shall increase by 3% over the then-existing amount on each anniversary of the Effective Date.
- 3.3 Other Fees. The Unauthorized Attachment Fee and the Failure to Transfer/Remove Equipment Fee are set out in **Appendix A** and shall be charged in accordance with ArticleARTICLE 21: 21 and Section 17.1.2, respectively.

- 3.4 Billing Cycle. The total annual License Fee shall be determined based upon the number of Poles for which Permits have been issued under this Agreement and which are in effect on **October 1st** of the previous year. The initial License Fee period for each Wireless Attachment after **October 1st** of any year shall commence on the date the Permit was issued. The License Fee shall be prorated accordingly. The License Fee shall be due and payable, in advance, on or before **November 30**, of each year.
- 3.5 Physical Inventory to Verify Pole Count for Billing Purposes. Utility shall have the right to conduct a physical inventory of Licensee's Wireless Attachments on Utility's Poles upon 90 days' advance written notice. In such event, Utility employees or contractors selected by Utility shall conduct such physical inventory. Licensee shall notify Utility if Licensee chooses to have a representative present during the inventory process. A physical inventory shall be taken no more frequently than once every year; provided, however, that Utility may request and require a physical inventory to be taken more frequently in the event of a default by Licensee in the performance of its obligations hereunder. The cost of such physical inventory shall be shared equally among all users of the Poles, unless such inventory discloses unpermitted or otherwise Unauthorized Attachments, in which case Licensee shall pay the entire cost of the inventory for any Pole(s) determined to have Unauthorized Attachments.
- 3.6 Payment of Electric Service. Electric service for each wireless site will be billed in accordance with the Utility's applicable rate for electric service as filed with the Public Service Commission of Wisconsin.

ARTICLE 4: PAYMENT OF COSTS

- 4.1 Work Performed by Utility. Licensee shall be responsible to pay for the cost of work done or contracted for by Utility in support of the design, installation, and maintenance of Licensee's Wireless Equipment, including Utility's costs for Make-Ready Surveys (including pole-loading analyses), Make-Ready Work, and inspections.
- 4.2 Determination of Charges. Unless otherwise provided in this Agreement, wherever this Agreement requires Licensee to pay for work done or contracted for by Utility, the charge for such work shall include all reasonable material, disposal, transport, labor, engineering, and administrative costs, and applicable overheads (including a 10% adder). For work performed by Utility employees, labor costs shall be billed at the applicable hourly wage rate for work inside of and outside of Utility's Normal Business Hours.
- 4.3 Advance Payment.
- 4.3.1 Utility may require Licensee to pay in advance Utility's reasonable estimate of the costs of any work to be done or contracted for by Utility pursuant to this Agreement or in connection with Licensee's Wireless Equipment, in which case tility shall not schedule or commence such work until payment of the estimated costs has been received. Alternately, Utility may choose not to require advance payment, and instead invoice Licensee for the cost of such work after it is completed.

- 4.3.2 Whenever Utility requires advance payment of estimated expenses prior to the undertaking of an activity under this Agreement and the actual cost of such activity exceeds the estimated cost, Licensee agrees to pay Utility for the difference in cost if that amount exceeds the amount stated in the latest version of Wis. Admin Code § PSC 113.1009. To the extent that the actual cost of the activity is less than the estimated cost, Utility agrees to refund to Licensee the difference in cost, when that amount exceeds the amount stated in § PSC 113.1009.
- 4.4 Payment of Invoices. All invoices submitted to Licensee pursuant to this Agreement must be paid within 30 days. Failure to pay such costs by the specified payment date shall constitute a default under this Agreement.
- 4.5 Late Fee. Late fees of 1.5% per month will be applied to all balances not paid within 30 days of the due date. Failure to pay such fees by the specified payment date shall constitute a default under this Agreement.

ARTICLE 5: PERMIT PROCEDURES

- 5.1 Permit Required.
- 5.1.1 Licensee shall not install, add to, substantially modify, or remove any Wireless Equipment on any Pole or collocate on an existing facility attached to a Pole without first applying for and obtaining a Permit, using the application form as shown in **Appendix C**. A permit is not required for the removal of Wireless Equipment under Section 15.2.
- 5.1.2 Licensee shall submit a new permit application when it seeks to add to its existing Wireless Equipment on a Pole or make substantial modifications to such equipment. A like-for-like replacement of Wireless Equipment does not require a Permit.
- 5.1.3 Attachment to other Utility-owned facilities not covered by this Agreement must be separately negotiated with Utility. Attachments to structures within or outside of public right-of-way owned and controlled by the City are not covered by this Agreement. With respect to such structures, Licensee must negotiate a separate attachment agreement with the City.
- 5.2 Licensee's Certification. In Licensee's Permit application, Licensee must certify that Licensee's Wireless Equipment can be installed on the identified Poles in compliance with all applicable Engineering Standards. Such certification must be made by a Wisconsin-licensed professional engineer.
- 5.3 Review of Permit Application. A complete Permit application is an application that provides Utility with all of the information listed on the application form attached as **Appendix C** and all information necessary under this Agreement to perform a Make-Ready Survey with respect to the affected Poles. Upon receipt of a complete Permit

application, Utility will review the Permit application and will discuss any issues with Licensee, including any unusual engineering or Make-Ready Work requirements associated with the Permit application. Utility's acceptance of Licensee's submitted design documents does not relieve Licensee of full responsibility for any errors and/or omissions in the engineering analysis. If Utility denies the Permit application, it shall do so in writing and provide an explanation of the reasons the Permit was denied.

5.4 Make-Ready Survey. During the Permit Application review period, Utility may require Licensee to conduct and submit to Utility a Make-Ready Survey at Licensee's expense. Alternatively, Utility may perform the Make-Ready Survey, using its own personnel or a contractor, and charge Licensee for the cost. If the participation of an existing third-party attacher is required for a make-ready survey, Licensee shall coordinate and be responsible for obtaining the third-party attacher's participation in any required Make-Ready Survey. Utility agrees to cooperate with Licensee to coordinate and facilitate the third-party attacher's review and approval of any proposed Licensee Wireless Attachment. Licensee shall pay all third-party attacher costs related to the Make-Ready Surveys.

5.5 Cost Estimate and Payment of Make-Ready Work.

5.5.1 Payment of Make-Ready Work. Licensee will be responsible to pay Utility in advance for all Make-Ready Work required to accommodate Licensee's Wireless Equipment. Pursuant to Article 4, Utility shall provide an estimate of charges to perform all necessary Make-Ready Work and Licensee shall pay such charges before Utility commences the Make-Ready Work. After receipt of payment, Utility will issue the Permit by signing the Permit application, which shall serve as authorization for Licensee to make the approved Wireless Attachment(s). Licensee may not commence installation of any Wireless Attachment until the Make-Ready Work has been completed and the conditions in Section 6.1 have been met.

5.5.2 Pole Replacement. In the event replacement of a Pole is required to accommodate the installation of Licensee's Wireless Equipment, Licensee shall pay all costs related to such replacement including the cost of the new Pole, the cost to transfer all existing Utility facilities and those of any third-party attachers, and the cost to remove and dispose of the old Pole. Payment of Pole replacement costs does not grant Licensee any ownership interest in the new Pole. Licensee shall not be entitled to reimbursement from Utility of any amounts paid to Utility for Pole replacements or for rearrangement of attachments on Utility's Poles by reason of the use by Utility or other third-party attachers of any additional space resulting from such replacement or rearrangement.

5.6 Performance of Make-Ready Work.

5.6.1 Performance of Make-Ready Work. Make-Ready Work shall be performed only by Utility and/or a contractor authorized by Utility to perform such work. If Utility cannot perform the Make-Ready Work to accommodate Licensee's

Wireless Equipment within 45 days of the time period specified in the work schedule provided pursuant to Section 5.6.2, Licensee may seek permission from Utility for Licensee to perform such work itself or employ a qualified contractor to perform such work. Any person, company, or contractor who performs Make-Ready Work must be preapproved by Utility.

- 5.6.2 Projected Work Schedule. Utility agrees to submit an estimated schedule for the completion of Make-Ready Work within 15 days of receipt by Utility of Licensee's advance payment for the Make-Ready Work. Licensee acknowledges that actual completion of Make-Ready Work by Utility will depend on completion of all required Make-Ready Work by Licensee and other third-party attachers that must be completed prior to Utility's performance of its Make-Ready Work. In performing all Make-Ready Work to accommodate Licensee's Wireless Equipment, Utility will endeavor to include such work in its normal workload schedule. Timely completion of Make-Ready Work may also depend on whether the work is subject to Wisconsin's public bidding law requirements.
- 5.6.3 Priority Scheduling of Make-Ready Work. In the event Licensee requests that the Make-Ready Work be performed on a priority basis or outside of Utility's Normal Business Hours and Utility agrees to so perform the work, Licensee agrees to pay any resulting increased costs. Nothing herein shall be construed to require performance of Licensee's work before other scheduled work or Utility's own service restoration.
- 5.6.4 Notice to Third-Party Attachers. If the Make-Ready Work necessary to accommodate Licensee's Wireless Attachments involves third-party attachers, Utility shall provide notice to such attachers (with a copy to Licensee, along with the attacher's contact information) following Utility's receipt of Licensee's advance payment for Make-Ready Work. The notice shall contain the following information: (i) the identity of the Poles requiring Make-Ready Work, (ii) a description of the Make-Ready Work to be performed, (iii) the date such work is scheduled to be completed, and (iv) the date by which the third-party attacher must complete its share of the Make-Ready Work.

ARTICLE 6: INSTALLATION OF LICENSEE'S WIRELESS EQUIPMENT

- 6.1 Installation. Upon issuance of a Permit, completion of all required Make-Ready Work, and after Licensee has obtained all required federal, state, and local permits and approvals and any necessary easements or permissions under Section 2.7, Licensee may proceed to install the approved Wireless Equipment with a qualified workforce. No contractor may perform any work on Poles on Licensee's behalf unless the contractor has been approved by Utility. Once installation commences, such work shall be performed continuously until completion, unless Utility otherwise agrees.
- 6.1.1 All of Licensee's installation, removal, and maintenance work shall be performed at Licensee's sole cost and expense, in a good and workmanlike manner, and must

not adversely affect the structural integrity of Utility's Poles or facilities or any other third-party attacher's equipment attached thereto.

6.1.2 All of Licensee's installation, removal, and maintenance work performed on Poles or in the vicinity of other Utility facilities, either by its employees or contractors, shall be in compliance with all applicable Laws, Engineering Standards, and Good Utility Practice. Licensee shall ensure that any person installing, maintaining, or removing its Wireless Equipment is fully qualified and familiar with all Engineering Standards, including the specifications contained in **Appendix B**, and the provisions of Articles 10, 11, and 12.

6.1.3 Any strengthening of Poles through the use of guying to accommodate Licensee's Wireless Attachments shall be provided by Licensee at Licensee's expense and to the satisfaction of Utility as specified in **Appendix B**.

6.2 Disconnection/De-energization.

6.2.1 As the electric service provider, Utility will be responsible for the installation, removal, connection, and disconnection of all electric service connections required to operate Licensee's Wireless Equipment.

6.2.2 All Wireless Equipment requiring electricity to operate must have a disconnection mechanism accessible to Utility and its employees and contractors that, when operated, immediately powers down the equipment. Instructions for operating the disconnection mechanism should be clearly displayed in the notice required by Section 6.4.

6.3 Radio Frequency Hazard Area.

6.3.1 Licensee agrees to provide site-specific radio frequency (RF) emission data and required worker clearances from its operational Wireless Equipment. Such information shall be clearly displayed in the notice required by Section 6.4.

6.3.2 Licensee shall comply with all applicable Federal Communications Commission rules and guidelines regarding equipment certified under 47 C.F.R. § 15.247.

6.4 Posting of Information. Licensee shall post notices on each Pole on which it maintains Wireless Equipment in accordance with **Appendix B** (see drawings, note 14). The notices shall be updated as necessary so that all information contained in the notices is up to date.

6.5 Ground-Mounted Enclosures. Licensee shall not place new pedestals, vaults, or other ground-mounted enclosures within 10 feet of any Pole or other Utility facility without Utility's prior written permission. Licensee shall specifically identify this request in its permit application. If permission is granted by Utility, all such installations shall be in compliance with all other applicable Engineering Standards.

- 6.6 Required Pole Access. Should Utility, or other authorized attacher, require access to the Pole and such access is impeded as a result of Licensee's Wireless Equipment, Licensee shall work cooperatively to develop and support access requirements. Work shall be performed in accordance with all applicable Engineering Standards, which may require the temporary cessation of Licensee's wireless operations to comply with such standards. In such event, Utility agrees to provide at least five business days' notice in advance to Licensee of any such action by telephone and email (*see* attached Contact Sheet).
- 6.7 Inspections. Utility shall have the right to conduct Post-Construction Inspections of Licensee's Wireless Equipment at Licensee's expense.

ARTICLE 7: MAINTENANCE OF LICENSEE'S WIRELESS EQUIPMENT

- 7.1 Maintenance and Notice. Licensee shall be responsible for the maintenance of its Wireless Equipment at its sole cost and expense. Licensee shall provide Utility a minimum of 3 business days' advance notice by telephone and email (*see* attached Contact Sheet) of Licensee's need to perform routine or scheduled maintenance that may impact the Electric Space.
- 7.2 Emergency Maintenance: Authorization Required. Licensee shall not access the Electric Space to perform emergency maintenance without first obtaining Utility's authorization (*see* attached Contact Sheet).
- 7.3 Maintenance to Be Performed During Normal Business Hours. Unless Utility otherwise agrees, Licensee will perform routine maintenance and installation of Wireless Equipment only during Utility's Normal Business Hours.
- 7.4 Priority Restoration of Utility Service. Both parties agree that, in the event of widespread interruptions of Utility's and Licensee's Wireless Equipment (*e.g.*, a major storm or other event of force majeure) in connection with damage to Utility's Poles, Utility shall use Good Utility Practice to support restoration of Poles and Licensee's efforts to restore its Wireless Equipment, consistent with Utility's priority obligations to its core electric utility business. In the event of localized interruptions (*e.g.*, motor vehicle accidents), Utility shall notify Licensee of the incident after taking any required actions to clear and restore the site. Licensee shall reimburse Utility for all support services provided by Utility to clear and/or assist in the restoration of Licensee's Wireless Equipment. Utility shall invoice Licensee for such costs and expenses. Licensee shall pay such invoice within 30 days of receipt.

ARTICLE 8: SPECIFICATIONS

- 8.1 Specifications. All Licensee's Wireless Equipment shall be installed and maintained in accordance with all Engineering Standards (including those set out in **Appendix B**), Good Utility Practice, and any and all Laws. All fees, notices, permits, approvals, certifications, and licenses, and any easements or other permissions under Section 2.7 required for the installation, maintenance, and operation of Licensee's Wireless Equipment, shall be obtained and paid for by Licensee and shall be provided to Utility at no charge and upon request by Utility, prior to the start of work.

- 8.2 Identification of Wireless Equipment. Licensee shall identify all of its Wireless Equipment attached to Utility's Poles by means of the notices required by Section 6.4. No other tag, brand, or other device showing Licensee's name or insignia shall be placed on, or attached to, any Pole without obtaining Utility's prior written consent.
- 8.3 Protective Equipment. Licensee, its employees, and contractors shall utilize and install adequate protective equipment to ensure the safety of people and facilities. Licensee shall, at its own expense, install protective devices designed to handle the voltage and current impressed on its Wireless Equipment in the event of contact with the electric supply conductor.
- 8.4 Violation of Specifications. If Licensee's Wireless Equipment, or any part thereof, is installed, used, or maintained in violation of this Agreement, and Licensee has not corrected the violation(s) within 45 days from receipt of written notice of the violation(s) from Utility, Utility may, at its own option, correct those conditions or proceed to terminate the Permit under Article 15. Utility will attempt to notify Licensee in writing prior to performing such work, whenever practicable. When Utility reasonably believes, however, that a violation poses an immediate threat to the safety of any person, interferes with the performance of Utility's service obligations, or poses an immediate threat to the physical integrity of Utility's electric facilities, Utility may perform such work and/or take such action as it deems necessary without first giving written notice to Licensee. As soon as practicable thereafter, Utility will advise Licensee of the work performed or the action taken. Licensee shall be responsible for paying Utility for all reasonable costs Utility incurs in taking action under this provision.

ARTICLE 9: INTERFERENCE

- 9.1 No Interference. Licensee shall not use and operate its Wireless Equipment in a manner that will interfere with Utility's use of the Pole. For the purposes of this Article 9, the term “interfere” or “interference” includes, but is not limited to, blocking of access to the Pole, radio frequency interference, mechanical interference, or any interference with underground utilities or Utility's equipment. In the event any such interference occurs, Licensee shall (i) use its best efforts to remedy such interference as soon as possible but no later than within 24 hours after telephone or email notice to Licensee's emergency contact person (*see* attached Contact Sheet) or (ii) cease operation of the Wireless Equipment causing the interference until such interference can be eliminated with Utility's support, if required. If Licensee fails to timely remedy the interference or power down the Wireless Equipment responsible for the interference, Utility shall have the right to cut off electricity to the Wireless Equipment. If Licensee is unable to eliminate the interference within 14 business days of the telephone and/or email notice, Utility shall have the right to terminate the Permit related to the Wireless Equipment causing such interference. If Licensee fails to timely remove the Wireless Equipment for which the Permit was terminated, Section 17.1.2 shall apply.
- 9.2 Emergencies; Notice. In the event of an Emergency, Utility reserves the right to take any action it deems necessary with respect to the Wireless Equipment in order to avert or remedy the Emergency, including the authority to cut off electricity to the Wireless

Equipment. In such an Emergency, Utility shall give notice to Licensee's emergency contact as soon as reasonably possible.

- 9.3 No Interference with Third-Party Attachers. Licensee shall not use and operate its Wireless Equipment in a manner that will cause interference to another other third-party attacher's use of the Pole, provided that such other third-party attacher's installation predates the installation of such Wireless Equipment. In the event any such interference occurs, Licensee will (i) remedy such interference within 72 hours after telephone or email notice to Licensee's emergency contact person (*see* attached Contact Sheet) or (ii) cease operation of its Wireless Equipment causing the interference until such interference can be eliminated with Utility's support, if required. If such interference is not eliminated within this time period, Utility will have the right to take all necessary and reasonable steps, at Licensee's sole cost and expense, to eliminate such interference (after giving reasonable prior notice to Licensee of its intent to do so). Should Licensee be unable to so eliminate such interference, Utility shall have the right to terminate the Permit related to the Wireless Equipment causing such interference, and the termination provisions of Article 15 shall apply. Licensee shall cease operation of such equipment immediately upon receipt of notice pursuant to Article 15. If Licensee fails to timely remove the Wireless Equipment for which the Permit was terminated, Section 17.1.2 shall apply.
- 9.4 Cooperation for Access. If Utility, Licensee, or other authorized third-party attachers require access to the Pole and such access is restrained as a result of Utility's or Licensee's operational equipment, Licensee and Utility shall work cooperatively to develop and support access requirements. Work shall be performed in accordance with Utility's safety standards, which may require temporarily ceasing of wireless operations to comply with such standards.
- 9.5 Maintenance on Utility's Poles. Utility may, in its sole discretion reasonably exercised, de-energize any pole-mounted Wireless Equipment any time its personnel or contractors are doing maintenance work on such Poles. Utility shall endeavor to provide at least 24 hours' advance notice of planned maintenance work to Licensee's emergency contact person by telephone or email (*see* attached Contact Sheet). Advance notice of the de-energization of Wireless Equipment need not be provided in Emergency situations.

ARTICLE 10: INSURANCE

- 10.1 Policies Required. At all times during the term of this Agreement, and for so long as Licensee maintains any Wireless Equipment on Utility's Poles, Licensee shall self-insure or keep in force and effect all insurance policies as described below:
- 10.1.1 *Workers' Compensation and Employers' Liability Insurance.* Statutory workers' compensation benefits and employers' liability insurance with a limit of \$1,000,000 each accident/disease/policy limit. This policy shall include a waiver of subrogation in favor of Utility.

- 10.1.2 *Commercial General Liability Insurance.* Commercial general liability with a limit of \$5,000,000 per occurrence for bodily injury and property damage and \$5,000,000 general aggregate including premises, operations, products and completed operations, personal and advertising injury, blanket contractual liability coverage, independent contractor's coverage, and coverage for property damage from perils of explosion, collapse, or damage to underground utilities (commonly known as XCU coverage).
- 10.1.3 *Commercial Automobile Liability Insurance.* Commercial automobile liability policy in the amount of \$1,000,000 combined single limit each accident for bodily injury or property damage covering all owned, hired, and non-owned autos and vehicles.
- 10.1.4 Intentionally Omitted.
- 10.1.5 Intentionally Omitted.
- 10.2 Qualification; Priority; Contractors' Coverage. The insurer must be authorized to do business under the laws of the State of Wisconsin and have an "A" or better rating in Best's Guide. Such insurance will be primary.
- 10.3 Contractors and Subcontractors. Licensee shall require all contractors and subcontractors to who perform work on behalf of Licensee under this Agreement to obtain and maintain substantially the same coverage with substantially the same limits as required of Licensee under this Article 10. Prior to any such contractor or its subcontractors performing any work for Licensee under this Agreement, Licensee shall furnish Utility with a Certificate of Insurance or statement of self-insurance for each such contractor or subcontractor.
- 10.4 Certificate of Insurance; Other Requirements.
- 10.4.1 Upon the execution of this Agreement and within 15 days of each insurance policy expiration date during the term of this Agreement, Licensee will furnish Utility with a statement of self-insurance or certificate of insurance evidencing the coverage required by this Agreement. The certificates or statements shall reference this Agreement and workers' compensation and property insurance waivers of subrogation required by this Agreement as applicable.
- 10.4.2 The City of Elkhorn and its officials, board members, departments, commissioners, employees, and agents shall be included as "**Additional Insureds**" as their interest may appear under this Agreement under all of the policies, except worker's compensation and employer's liability, which shall be so indicated on the certificate of insurance or statement of self-insurance, as applicable.
- 10.4.3 All policies, other than worker's compensation, shall be written on an occurrence and not on a claims-made basis, unless occurrence-based coverage is not readily available in the commercial market.

- 10.4.4 No policies of insurance required under this Article 10 shall contain provisions that exclude coverage of liability arising from excavating, collapse, or underground work or coverage for injuries to Utility's employees or agents.
- 10.4.5 Licensee shall be fully responsible for any deductible amounts and for any deficiencies in the amounts of insurance maintained. Licensee shall defend, indemnify, and hold harmless Utility from and against payment of any deductible and payment of any premium on any policy required under this Article.
- 10.5 Policy Limits. The limits of liability set out in this Article 10 may be increased or decreased by mutual consent of the parties, which consent will not be unreasonably withheld by either party, in the event of any factors or occurrences, including substantial increases in the level of jury verdicts or judgments or the passage of state, federal or other governmental compensation plans or laws which would materially increase or decrease Utility's or Licensee's exposure to risk.
- 10.6 Accident or Incident Reports. Licensee shall promptly furnish Utility with copies of any accident or incident report(s) sent to Licensee's (or its contractors' or their subcontractors') insurance carriers covering accidents or incidents occurring in connection with and/or as a result of the performance of the work under this Agreement.
- 10.7 No Limitations. Nothing contained in these insurance requirements is to be construed as limiting the extent of either party's responsibility for payment of damages resulting from either party's activities under this Agreement or limiting, diminishing, or waiving Licensee's obligation to indemnify, defend and save harmless Utility other as set forth in Article 11.
- 10.8 Primary Insurance. It is the intent of both parties that Licensee's policies of insurance in place in accordance with the provisions of this Article 10 shall be primary coverage without reduction or right of offset or contribution on account of any insurance provided by Utility to itself or its officers, officials, agents, or employees and shall protect both Licensee and Utility from losses arising from the performance of this Agreement, but only to the extent loss or damage is not caused by Utility.
- 10.9 Limits and Coverage. The insurance requirements in this Article 10 shall in no way act to reduce coverage that is broader or that includes higher limits.

ARTICLE 11: INDEMNIFICATION

- 11.1 Licensee accepts the property in its present condition, as is and where is. Licensee, and its employees, agents, contractors, or subcontractors ("**Indemnifying Parties**") shall defend, indemnify, and hold harmless the City of Elkhorn and its officials, employees, commissioners, board members, council members, agents, and contractors ("**Indemnified Parties**") against any and all liability, costs, damages, fines, taxes, special charges by others, penalties, payments (including payments made by Utility under any Worker's Compensation laws or under any plan for employee disability and death benefits), and expenses (including reasonable attorney's fees of Utility and all other costs and expenses of litigation) ("**Covered Claims**") that may be asserted by any person or entity and arise

in any way, including any act, omission, failure, negligence, or willful misconduct, in connection with the construction, maintenance, repair, use, relocation, transfer, removal by Licensee or by another Indemnifying Party, of Licensee's Wireless Equipment, except to the extent of Utility's negligence or willful misconduct gives rise to such Covered Claims. Such Covered Claims include, but are not limited to, the following:

- 11.1.1 Intellectual property infringement, libel and slander, trespass, unauthorized use of television or radio broadcast programs and other program material, and infringement of patents as associated with Licensee's use.
- 11.1.2 Cost of work performed by Utility that was necessitated by Licensee's or another Indemnifying Party's failure to install, maintain, use, transfer, or remove Licensee's Wireless Equipment in accordance with the requirements and specifications of this Agreement, or from any other work this Agreement authorizes Utility to perform on Licensee's behalf.
- 11.1.3 Damage to property, injury to or death of any person arising out of the performance or nonperformance of any work or obligation undertaken by Licensee or other Indemnifying Party pursuant to this Agreement.
- 11.1.4 Liabilities incurred as a result of Licensee's violation, or a violation by an Indemnifying Party of any law, rule, or regulation of the United States, any state, or any other governmental entity or administrative agency.

11.2 Procedure for Indemnification.

- 11.2.1 Utility shall give prompt written notice to Licensee of any claim or threatened claim, specifying the factual basis for such claim and the amount of the claim. If the claim relates to an action, suit, or proceeding filed by a third party against Utility, Utility shall give the notice to Licensee no later than 15 days after Utility receives written notice of the action, suit, or proceeding.
- 11.2.2 Utility's failure to give the required notice will not relieve Licensee from its obligation to indemnify Utility unless, and only to the extent, that Licensee is materially prejudiced by such failure.
- 11.2.3 Licensee will have the right at any time, by notice to Utility, to participate in or assume control of the defense of the claim with counsel of its choice, which counsel must be reasonably acceptable to Utility. Utility agrees to cooperate fully with Licensee. If Licensee assumes control of the defense of any third-party claim, Utility shall have the right to participate in the defense at its own expense.
- 11.2.4 If Licensee assumes the defense of a third-party claim as described above, then in no event will Utility admit any liability with respect to, or settle, compromise or discharge, any third-party claim without Licensee's prior written consent.
- 11.2.5 Licensee shall take prompt action to defend and indemnify the Indemnified Parties against Covered Claims, actual or threatened, but in no event later than

notice by Utility to Licensee of the service of a notice, summons, complaint, petition or other service of a process against an Indemnified Party alleging damage, injury, liability, or expenses attributed in any way to this Agreement, the work to be performed under this Agreement, or the acts, fault, negligence, equipment, materials, properties, facilities, personnel, or property of Licensee or other Indemnifying Party. Licensee shall defend any such claim or threatened claim, including as applicable, engagement of legal counsel, to respond to, defend, settle, or compromise any claim or threatened claim.

ARTICLE 12: LIMITATION OF LIABILITY

- 12.1 Limited Liability. Regardless of any other provision of this Agreement, and with the exception of any third-party bodily injury or third-party property damage obligations, under no circumstances will either party be liable to the other, whether in contract, tort (including negligence and strict liability), warranty, or any other legal theory, for any incidental, indirect, special, or consequential damages whatsoever, such as, but not limited to, loss of profits or revenue, cost of capital or of substitute use or performance, interruptions to operations or for claims for damages by or to the other party's customers. Furthermore, Utility will not be held liable for the accuracy or integrity of any data or message communicated over Licensee's Wireless Equipment.
- 12.2 Licensee's Assumption of Risk. In addition, Licensee expressly acknowledges that Licensee's Wireless Equipment may be exposed to many risks beyond the reasonable control of Utility, including events of force majeure. Except as expressly provided in this Agreement, Licensee shall assume all risk of loss to Licensee's Wireless Equipment that may arise in connection with such hazards.
- 12.3 Environmental Hazards. Licensee represents and warrants that its use of the Poles will not generate any Hazardous Substance, that it will not store or dispose on or about the Poles or transport to Poles any Hazardous Substances, and that Licensee's Wireless Equipment will not constitute or contain and will not generate any Hazardous Substances in violation of any federal, state, or local law, regulation, or rule now or hereafter in effect, including any amendments. "**Hazardous Substance**" shall be interpreted broadly to mean any substance or material designated or defined as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic radioactive substance, or other similar term by any federal, state, or local laws, regulations, or rules now or hereafter in effect, including any amendments. Licensee further represents and warrants that in the event of breakage, leakage, incineration, or other disaster, its Wireless Equipment would not release Hazardous Substances.

ARTICLE 13: PERFORMANCE BOND

- 13.1 Performance Bond Required. Prior to making any Wireless Attachments under this Agreement and no later than the 30th day after the Effective Date, Licensee shall provide to Utility a performance bond with an entity and in a form satisfactory to the City Attorney for the City of Elkhorn. The amount of the bond shall be Fifty Thousand Dollars and 00/100 (\$50,000.00) and shall be renewed as necessary and kept in full force

so long as Licensee maintains Wireless Attachments on Utility's Poles. The purpose of the bond is to ensure Licensee's faithful performance of all of its obligations under this Agreement, including the removal of its Wireless Equipment at the termination or expiration of this Agreement. Utility may, at its option, waive the performance bond when warranted based on Licensee's prior performance.

- 13.2 Waiver of Performance Bond. In light of Licensee's status as a regulated public utility, Licensor hereby waives the performance bond requirement.
- 13.3 Other Rights and Remedies. The rights reserved to Utility under the bond are in addition to all other rights. No action, proceeding, or exercise of a right regarding the bond shall affect Utility's rights to demand full and faithful performance under this Agreement or limit Licensee's liability for damages.

ARTICLE 14: TERM

- 14.1 Term. This Agreement shall become effective as of the Effective Date and shall continue in effect for an initial term of five years, subject to annual rate revisions pursuant to Article 3. Thereafter, this Agreement shall automatically renew from for one-year renewal terms unless terminated by either party by giving written notice of its intention to do so not less than 90 days prior to the end of the initial term or any subsequent renewal term.

ARTICLE 15: TERMINATION

- 15.1 Utility's Right to Terminate. Utility shall have the right to terminate this Agreement and/or any Permit, if:
- 15.1.1 Licensee fails to comply with any material provision of this Agreement or defaults in any of its obligations under this Agreement, and Licensee fails within 45 days after written notice from Utility to correct or undertake to correct with reasonable diligence such noncompliance or default, Utility may, at its option, and without further notice, declare this Agreement to be terminated in its entirety, or may terminate the Permit covering the Wireless Attachment(s) with respect to which such default or noncompliance shall have occurred. Excepting safety and/or code related defaults, if the default is of such a nature that it cannot be corrected within 45 days, Licensee's obligation is satisfied if Licensee, within 45 days, submits to Utility a reasonable written plan and work schedule to correct the default promptly and completes that plan on schedule and with reasonable diligence.
- 15.1.2 Licensee's Wireless Equipment is installed, operated, used, maintained, and/or modified in violation of any Law or in aid of any unlawful act or undertaking. Utility agrees not to terminate any Permit under this provision for a period of 45 days, provided that Licensee ceases operations at the site of the violation(s) and is making diligent efforts to correct the violation(s). Licensee shall provide Utility with prompt written notice of any such action under which operation or use of the Wireless Equipment is denied, revoked, canceled, or reinstated.

15.1.3 Any authorization that may be required by any federal, state, or local government or regulatory authority with respect to the installation, operation, use, maintenance, or modification of the Wireless Equipment is denied, revoked, or canceled. Utility agrees not to terminate any Permit under this provision for a period of 180 days after receipt of notice by the appropriate party, provided that Licensee ceases operations at the affected site and is making diligent efforts to obtain or reinstate such authorization(s). Licensee shall provide Utility with prompt written notice of any such action under which operation or use of the Wireless Equipment is denied, revoked, or canceled or reinstated.

15.1.4 Utility, in its reasonable discretion, believes that termination of any Permit is necessary to ensure the safe and reliable operation and maintenance of Utility's electric system under Section 2.4. Utility will provide at least 30 days' advance notice of termination of any Permit pursuant to this Section.

15.2 Removal of Wireless Equipment on Termination. In the event of termination of this Agreement, Licensee shall, in lieu of a Permit application for removal and within 60 days from the date of termination, submit a plan and schedule to Utility under which Licensee will remove, or have removed, its Wireless Equipment from Utility's Poles within 90 days from date of; provided however, that Licensee shall be liable for and pay all fees pursuant to the terms of this Agreement to Utility until Licensee's Wireless Equipment is completely removed. In the event that Licensee fails to vacate any Pole or fails to remove all of its Wireless Equipment, Utility shall have the right, after giving at least 10 days' prior written notice to Licensee, to remove the remaining Wireless Equipment, in which case such Wireless Equipment may be retained by Utility as its property without accounting to Licensee therefore, and the expense of such removal and repairs shall be charged to and paid by Licensee without credit for the value, if any, of such Wireless Equipment. Section 17.1.2 applies should Licensee fail to timely comply with this Section 15.2.

15.3 Survival of Obligations. Even after the termination of this Agreement, Licensee's responsibility and indemnity obligations under this Agreement shall continue with respect to any claims or demands related to Licensee's Wireless Equipment.

ARTICLE 16: DUTIES, RESPONSIBILITIES, AND EXCULPATION

16.1 Duty to Inspect. Licensee acknowledges and agrees that Utility does not warrant the condition or safety of Utility's Poles, or the premises surrounding the Poles, and Licensee further acknowledges and agrees that it has an obligation to inspect Utility's Poles and/or the premises surrounding the Poles, prior to commencing any work on Utility's Poles or entering the premises surrounding the Poles.

16.2 Knowledge of Work Conditions. By executing this Agreement, Licensee warrants that it has acquainted, or will fully acquaint, itself and its employees and/or contractors and agents with the conditions relating to the work that Licensee will undertake under this Agreement and that it fully understands or will acquaint itself with the facilities, difficulties, and restrictions attending the execution of such work.

- 16.3 **DISCLAIMER. UTILITY MAKES NO EXPRESS OR IMPLIED WARRANTIES WITH REGARD TO ITS POLES, ALL OF WHICH ARE HEREBY DISCLAIMED, AND EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**
- 16.4 Missing Labels. Licensee acknowledges that Utility does not warrant that all Poles are properly labeled and agrees that Utility is not liable for any injuries or damages caused by or in connection with missing labels or otherwise improperly labeled Poles. Licensee further agrees to notify Utility immediately if labels or tags are missing or otherwise believed to be improper; however, Utility agrees that Licensee is not liable for any injuries or damages caused by or in connection with Licensee's failure to so notify Utility.
- 16.5 Duty to Supervise. The parties further understand and agree that in the performance of work under this Agreement, Licensee and its agents, servants, employees, contractors, and subcontractors will work near electrically energized lines, transformers, or other equipment of Utility, and it is the intention that energy therein will not be interrupted during the continuance of this Agreement, except in an Emergency. Licensee shall ensure that its employees, servants, agents, contractors, and subcontractors have the necessary qualifications, skill, knowledge, training, and experience to protect themselves, their fellow employees, employees of Utility, and the general public, from harm or injury while performing work permitted pursuant to this Agreement. In addition, Licensee shall furnish its employees, servants, agents, contractors, and subcontractors with competent supervision and sufficient and adequate tools and equipment for their work to be performed in a safe manner. Licensee agrees that in an Emergency in which it may be necessary to de-energize any part of Utility's equipment, Licensee shall ensure that work is suspended until the equipment has been de-energized and that no such work is conducted unless and until the equipment is made safe.
- 16.6 Requests to De-energize.
- 16.6.1 In the event Utility de-energizes any equipment or line at Licensee's request and for Licensee's benefit and convenience in performing a particular segment of any work, Licensee shall reimburse Utility in full for all reasonable costs and expenses incurred in order to comply with Licensee's request for de-energization of any equipment or line. Except during an Emergency, Utility shall provide, upon Licensee's request, an estimate of all costs (including lost revenue) and expenses to be incurred in accommodating Licensee's request, and upon reviewing such estimate, Licensee shall confirm whether it intends to continue or withdraw such request.
- 16.6.2 Licensee shall not make or break electrical connection at Utility's electric service point at any time without Utility's authorization.
- 16.7 Interruption of Service. In the event that Licensee causes an interruption of service by damaging or interfering with any of Utility's equipment, Licensee at its expense shall

immediately do all things reasonable to avoid injury or damages directly resulting therefrom and shall notify Utility immediately.

- 16.8 Duty to Inform. Licensee further warrants that it understands the imminent dangers **(INCLUDING SERIOUS BODILY INJURY OR DEATH FROM ELECTROCUTION)** inherent in the work necessary to make installations and removals and to engage in operations on Utility's Poles by Licensee's employees, servants, agents, contractors or subcontractors, and accepts it as its duty and sole responsibility to notify and inform Licensee's employees, servants, agents, contractors or subcontractors of such dangers, and to keep them informed regarding same.

ARTICLE 17: TRANSFERS AND ALLOCATION OF COSTS

- 17.1 Required Transfer, Rearrangement, or Removal of Licensee's Wireless Equipment.

17.1.1 If Utility reasonably determines that it is necessary for Licensee's Wireless Equipment to be transferred to a different or new Pole, rearranged on the same Pole, or removed from the Pole (including due to an overhead to underground conversion, abandonment, or termination of a Permit) (collectively, "**Transfer**"), Licensee shall perform such work at its own expense within 40 days after receiving written notice from Utility or within such other time period for the particular type of Transfer as is set out elsewhere in this Agreement ("**Transfer Period**").

17.1.2 If Licensee fails to Transfer its Wireless Equipment as required under this Agreement within the requisite Transfer Period, it will be subject to the "**Failure to Transfer/Remove Equipment Fee**" (see Appendix A) and Utility may, in its sole discretion, do the work itself using its own personnel and/or contractors and charge Licensee 120% of the actual cost incurred. Utility shall not be liable for damage to Licensee's Wireless Equipment except to the extent provided in Article 12.

- 17.2 Allocation of Costs. The costs for any Transfer of Licensee's Wireless Equipment or the modification or replacement of a Pole (including any related costs for tree cutting or trimming required to clear the new location of Utility's cables or wires) shall be allocated to Utility, Licensee or other third-party attacher on the following basis:

17.2.1 If Utility intends to modify or replace a Pole solely for its own requirements, it shall be responsible for the costs related to the modification or replacement of the Pole, and Licensee shall be responsible for the costs associated with the Transfer of its own Wireless Equipment. Prior to making any such modification or replacement, Utility shall provide Licensee prior written notice in order to allow Licensee a reasonable opportunity to elect to modify or add to its existing Wireless Equipment. If Licensee elects to add to or modify its Wireless Equipment within one year after receiving such notice, Licensee shall bear a pro rata share of the costs incurred by Utility in making the space on the Pole accessible to Licensee.

- 17.2.2 If the modification or replacement of a Pole is necessitated by the requirements of Licensee, Licensee shall be responsible for the costs related to the modification or replacement of the Pole and for the costs associated with the transfer or rearrangement of any third-party attacher's facilities. Licensee must submit to Utility evidence, in writing, that it has made arrangements to reimburse all affected third-party attachers for the cost to transfer or rearrange such attacher's facilities. Utility shall not be obligated in any way to enforce or administer Licensee's responsibility for the costs associated with the transfer or rearrangement of a third-party attacher's facilities pursuant to this provision.
- 17.2.3 If the modification or the replacement of a Pole is the result of an additional attachment or the modification of an existing attachment sought by an attacher other than Utility or Licensee, the attacher requesting the additional or modified Attachment shall bear the entire cost of the modification or pole replacement as well as the costs associated with the Transfer of Licensee's Wireless Equipment. Licensee shall cooperate with such third-party attacher to determine the costs of the Transfer of Licensee's Wireless Equipment.
- 17.2.4 If a Pole must be modified or replaced for reasons unrelated to the use of the Pole (e.g., storm, accident, deterioration), Utility shall pay the costs of such modification or replacement; provided however, that Licensee shall be responsible for the costs of the Transfer of its Wireless Equipment.
- 17.3 Treatment of Multiple Requests for the Same Pole. If Utility receives applications to attach to the same Pole from two or more prospective attachers within a 60-day period and if accommodating their respective requests would require modification or replacement of the Pole, Utility will evenly allocate among such attachers the applicable costs associated with such modification or replacement.
- 17.4 Emergencies/Advance Notice. The written advance notification requirement of this Article shall not apply in an Emergency. During an Emergency, Utility shall provide such advance notice as is practical, given the urgency of the particular situation including a telephone call to Licensee's emergency number (*see* attached Contact Sheet). Utility shall then provide written notice of any such actions taken within 72 hours following the occurrence. When Utility reasonably determines that a Transfer of Licensee's Wireless Equipment, or any component thereof, is immediately necessary due to an Emergency, Licensee agrees to allow such Transfer. In such instances, Utility will, at its option, either perform the Transfer using its own personnel and/or contractors or require that Licensee do so immediately. Utility shall not be liable for damage to Licensee's Wireless Equipment except to the extent provided in Section 12.1. Utility shall provide written notice of such actions taken within 10 days of the occurrence.
- 17.5 Utility Not Required to Relocate. No provision of this Agreement shall be construed to require Utility to relocate its electric facilities on a Pole for Licensee's benefit.

ARTICLE 18: NOTICES

18.1 Written Notices. Unless otherwise provided in this Agreement, any notice, request, consent, demand, or statement contemplated to be made by one party upon the other shall be in writing and shall be treated as duly delivered when it is either (a) personally delivered to the office of Utility in the case of notice to be given to Utility, or personally delivered to the office of Licensee in the case of notice to be given to Licensee; or (b) deposited in the United States Mail and properly addressed to the party to be served as follows; or (c) electronically to the email addresses listed below:

If to Utility, to: Elkhorn Light & Water
 c/o Utility Field Office Coordinator
 PO Box 920
 Elkhorn, WI 53121
 dgall@cityofelkhorn.org

If to Licensee, to: We Energies
 c/o Michelle Kolp
 231 W Michigan St.
 Milwaukee, WI 53203
 michelle.kolp@wecenergygroup.com

or to such other address as either party may, from time to time, give the other party in writing.

18.2 Electronic Notices Allowed. The above notwithstanding, the parties may agree to use electronic communications (such as email) for notifications related to the Permit application and approval process and necessary transfers or pole modifications, but not for tender of any legal notices. Licensee shall provide a local contact for all such notices upon execution of this Agreement.

18.3 Licensee's 24-hour Emergency Number. Licensee shall maintain a staffed 24-hour emergency telephone number, not available to the general public, by which Utility can contact Licensee to report damage to Licensee's Wireless Equipment or other situations requiring immediate communications between the parties. Such contact person shall be qualified and able to respond to Utility's concerns and requests. Licensee's failure to maintain an emergency contact number shall eliminate Utility's liability to Licensee for any action Utility deems reasonably necessary given the specific circumstances.

ARTICLE 19: CONSTRUCTION OF LICENSE AGREEMENT

19.1 Wisconsin Law Shall Apply. This Agreement is deemed executed in the State of Wisconsin and shall be construed under the laws of the State of Wisconsin without regard to its conflict of laws principles.

19.2 Venue for Litigation. In the event suit or action is instituted to enforce or interpret any of the terms of this Agreement, the parties agree that proper venue for such action or suit shall lie in the Circuit Court, County of Walworth, State of Wisconsin.

ARTICLE 20: ASSIGNMENT

20.1 Assignment. Licensee may not assign or otherwise transfer its rights under this Agreement to any other person or entity without Utility's prior written consent, which consent shall not be unreasonably withheld.

20.2 No Sub-Licensing Without Consent. Licensee shall not sub-license any rights under this Agreement to a third party or Affiliate. Any such action shall constitute a material breach of this Agreement.

20.3 Obligations of Assignee/Transferee and Licensee. No assignment or transfer under this Article 20 shall be effective until the assignee or transferee acknowledges to Utility in that it agrees to assume all of Licensee's obligations arising under this Agreement. Licensee shall furnish Utility with written notice of the name, address, and contact information for the transferee or assignee.

ARTICLE 21: UNAUTHORIZED ATTACHMENTS

21.1 Unauthorized Attachment Fee.

21.1.1 Utility, without prejudice to its other rights or remedies under this Agreement, including requiring Licensee to immediately remove an Unauthorized Attachment, may require Licensee to submit a Permit Application and pay the "**Unauthorized Attachment Fee**" (which shall be in addition to the License Fee otherwise owed to Utility for the Unauthorized Attachment) within 30 days after the date of written or email notification from Utility of an Unauthorized Attachment. The Unauthorized Attachment Fee is set out in **Appendix A**.

21.1.2 If such Permit application is not received by Utility within the specified time period, Licensee must remove the Unauthorized Attachment within seven days at its sole expense. In the event Licensee fails to remove the Unauthorized Attachment with the seven-day period, Utility may remove the Unauthorized Attachment without prior notice and without liability, using its own personnel and/or contractors and charge Licensee 120% of the actual cost incurred.

21.2 Failure to Act. No act or failure to act by Utility under this Article 21 shall be deemed a ratification or grant of permission to Licensee to attach the Unauthorized Attachment. If any permission is subsequently issued, that permission shall not operate retroactively or constitute a waiver by Utility of any of its rights under this Agreement; provided, however, that Licensee shall be subject to all charges, liabilities, obligations, and responsibilities of this Agreement in regard to any such Unauthorized Attachment.

- 21.3 Waiver of Unauthorized Attachment Fee. Notwithstanding the foregoing, Utility hereby waives its right to collect an Unauthorized Attachment Fee for those attachments Licensee made prior to the execution of this Agreement.

ARTICLE 22: PAYMENT OF TAXES

- 22.1 Each party shall pay all taxes and assessments lawfully levied on its own property, facilities, and equipment, whether free-standing or attached to Utility's poles. The taxes and assessments which are levied on Utility's Poles shall be paid by Utility, but any tax, fee, or charge levied on Utility's Poles solely due to Licensee's use shall be paid by Licensee.
- 22.2 Licensee agrees that if any tax, fee, or charge is levied against Utility solely due to the presence of Licensee's Wireless Equipment on Utility's Poles, Licensee will reimburse Utility the full amount of such tax, fee, or charge.

ARTICLE 23: MISCELLANEOUS PROVISIONS

- 23.1 Amending Agreement. This Agreement shall not be amended, changed, or altered except in writing and with approval by authorized representatives of both parties. Notwithstanding the foregoing, Utility may unilaterally amend **Appendix B** from time to time by providing written notice to Licensee pursuant to Section 18.1.
- 23.2 Entire Agreement. This Agreement and its appendices constitute the entire agreement between the parties concerning attachment of Licensee's Wireless Equipment to Utility's Poles. Unless otherwise expressly stated in this Agreement, all previous wireless attachment agreements, whether written or oral, between Utility and Licensee are superseded and of no further effect (except as to provisions that survive termination).
- 23.3 Severability. If any provision of this Agreement or portion thereof is or becomes invalid under any applicable statute or rule of law, and such invalidity does not materially alter the essence of this Agreement to either party, such provision shall not render unenforceable this entire Agreement but rather it is the intent of the parties that this Agreement be administered as if it did not contain the invalid provision.
- 23.4 Headings. The headings of sections and subsections are for convenient reference only and will not be deemed to limit, construe, affect, modify, or alter the meanings of sections or subsections.
- 23.5 Interpretation. In this Agreement, *including* means "including but not limited to." This Agreement is the result of negotiation by the parties and each party had the opportunity to consult legal counsel with respect to this Agreement prior to execution. Nothing in this Agreement or any amendment or exhibit to it shall be construed more strictly for or against either party because that party or its attorney drafted this Agreement or any part thereof.
- 23.6 No Waiver. If Utility fails to take action to enforce compliance with any of the terms and conditions of this Agreement, such failure shall not constitute a waiver or relinquishment

of any term or condition of this Agreement, but the same shall be and remain at all times in full force and effect until terminated in accordance with this Agreement.

- 23.7 Incorporation of Recitals and Appendices. The recitals stated above and all appendices to this Agreement are incorporated into and constitute part of this Agreement.
- 23.8 Compliance with Laws. The parties shall comply with any and all Laws. Licensee shall indemnify and save Utility harmless from and against any and all direct and indirect costs (including the attorney's fees and costs of litigation), expenses, damages, and liability resulting from alleged or actual violations of such Laws.
- 23.9 No Third-Party Beneficiaries. Except as otherwise expressly stated, the parties have no intent, and do not create any third-party rights or interests in this Agreement.
- 23.10 Public Records. Materials provided to Utility pursuant to this Agreement are public records that may be made publicly available pursuant to state and federal public records law. Notwithstanding the foregoing, Licensee may designate items that it reasonably believes contain proprietary or confidential information by clearly marking each portion of such materials accordingly, and Utility shall endeavor to treat the information as propriety and confidential, subject to applicable state and federal public records laws and Utility's determination that Licensee's request for confidential or proprietary treatment of the application materials is reasonable. Utility shall not be required to incur any costs to protect any materials submitted to Utility pursuant to this Agreement from disclosure.
- 23.11 Signatures. This Agreement may be executed in counterparts, each of which shall be deemed an original. Execution of this Agreement by facsimile or electronic signatures shall have the same legally binding effect as an original paper version.

Utility and Licensee have executed this Agreement on the dates set forth on the signature pages that follow.

[SIGNATURE PAGES FOLLOW]

[SIGNATURE PAGE TO LICENSE AGREEMENT]

UTILITY:

**City of Elkhorn,
acting in its capacity as a Wisconsin public utility
By:**

Name: _____

Title: _____

Date: _____

[SIGNATURE PAGE TO LICENSE AGREEMENT]

LICENSEE:

We Energies

By:

Name: _____

Title: _____

Date: _____

**APPENDIX A
FEES**

The fees set out in the Fee Schedule shall increase annually as provided in Article 3 and shown in the tables below.

FEE SCHEDULE	
Permit Application Fee	\$150 per Pole if the Effective Date is during 2022 (if later, see table below) 3% annual escalator
License Fee	\$50 per Pole per year if the Effective Date is during 2022 (if later, see table below) plus 1.5% of pole cost if new pole was installed as part of Make Ready Work 3% annual escalator
Unauthorized Attachment Fee	4 x License Fee amount for each Unauthorized Attachment
Failure to Transfer/Remove Equipment Fee	1 x License Fee Rate for each affected Pole for each day, until the Wireless Equipment is transferred, rearranged, or removed

The table below illustrates the operation of the annual escalators. To determine the Permit Application Fee and License Fee in effect for the first year of the agreement, refer to the row for the year of the Effective Date. For example, if the Effective Date of this Agreement is July 1, 2023, the initial Permit Application Fee shall be \$154.50 per Pole and the initial License Fee shall be \$51.50 per Pole. These fees shall each increase by 3% on July 1, 2024, to \$159.14 per Pole and \$53.05 per Pole, respectively.

Year	Permit Application Fee	License Fee
2022	\$150.00 per Pole	\$50.00 per Pole
2023	\$154.50 per Pole	\$51.50 per Pole
2024	\$159.14 per Pole	\$53.05 per Pole

2025	\$163.91 per Pole	\$54.64 per Pole
2026	\$168.83 per Pole	\$56.28 per Pole
2027	\$173.89 per Pole	\$57.96 per Pole
2028	\$179.12 per Pole	\$59.70 per Pole
2029	\$184.48 per Pole	\$61.49 per Pole
2030	\$190.02 per Pole	\$63.34 per Pole
2031	\$195.72 per Pole	\$65.24 per Pole
...	3% annual escalator	3% annual escalator

APPENDIX B
SPECIFICATIONS FOR LICENSEE'S WIRELESS EQUIPMENT

1. Licensee is responsible for responding to any and all community concerns or complaints related to the antenna, including aesthetic appearance and health concerns due to radio frequency emissions.
2. Utility must approve all Pole locations selected for equipment placement.
3. All design and mounting requirements for antennas must be submitted to Utility for review.
4. All antenna, router, and gateway equipment must be placed within or below the Communications Space. Use of the Electric Space for the placement of any Wireless Equipment is prohibited, except that power to supply the Wireless Equipment may extend into the Electric Space if installed in accordance with all applicable Engineering Standards and Good Utility Practice.
5. Licensee may not attach to: **streetlights (except if the Poles are wood) or decorative poles.**
6. To prevent pole degradation, pole bands must be used in mounting the Wireless Attachment. Bolting may be permitted at Utility's discretion.
7. Proposed attachments must provide adequate pole space and not exceed the Pole's maximum loading. Licensee is solely responsible for the costs of all associated Make-Ready Work needed to bring the Pole into compliance.
8. Only one antenna unit (no more than two antennas per unit) shall be attached to a Pole.
9. Any audible noise output must not exceed 65 dB, measured at the device.
10. A Pole proposed for antenna placement must be a wood **or steel** tangent pole. Wireless Attachments are prohibited on any Pole that supports electric distribution equipment or existing primary switching equipment such as, but not limited to: primary risers, gang switches, transformers, capacitors, reclosers, sectionalizers, voltage-regulators, voltage-regulator racks, or primary metering. Wireless Attachments are prohibited on any Pole on which the primary supply conductors are changing direction (i.e., angle or corner Pole).
11. Licensee's Wireless Equipment must be readily accessible by bucket truck.
12. Licensee is responsible for the cost of any required pole-loading analysis.
13. All antennas will be installed by a contractor approved by Utility.
14. A metered electric service is required unless waived by Utility. All electrical permits, service rules, and electrical inspections required by the municipality and Utility shall apply. All antenna power sources must have a disconnect device and an overcurrent protection device installed according to applicable Engineering Standards.

15. Riser cables for power or communications must be installed in conduit not larger in diameter than 2 inches, as dictated by Utility. Grounds must be covered by U-Guards.
16. Licensee must provide Utility with documentation that confirms all RF emissions comply with applicable laws governing RF exposure levels.
17. Antenna clearances in any direction from electric or communications lines must be in compliance with all applicable Engineering Standards. Under no circumstances shall antenna clearance be less than that specified by the WSEC.
18. Antenna installations shall comply with the following requirements:
 - a. There must be no less than 40 inches of vertical clearance between any third-party communications attachment and any portion of Licensee's antenna or associated supports.
 - b. The electric service conductors must be installed in conduit from the weatherhead at the electrical source of connection in the Electric Space all the way to the supply junction box on Licensee's antenna.
 - c. Drip loops shall be configured such that they do not drip onto either the fusible disconnect device or onto the meter socket.
 - d. Electric service conductors on the source side of an overcurrent protection device must be installed in schedule 80 PVC or rigid steel conduit as the conductors descend through the Communications Space to a fusible disconnect device.
 - e. Electric service conductors on the load side of an overcurrent protection device must be installed in schedule 40 PVC or intermediate metallic conduit as the conductors ascend from the fusible disconnect device through the Communications Space.
 - f. Seal tight flexible metallic conduit can be used to complete the conduit path from the Pole to the antenna supply junction box.
19. All Wireless Attachments must be placed so as to allow and maintain at all times, a clear and proper climbing space on the face of the Pole. In general, all equipment and vertical runs should be placed on the Pole's quarter faces.
20. Wireless Attachments on Poles, including metal attachment clamps and bolts, metal cross-arm supports, bolts and other equipment, must be attached so as to maintain the minimum separations specified in the WSEC. Utility adopts and requires Licensee's compliance with revisions of the WSEC upon adoption by WSEC.
21. The following pole drawings prepared by Forster Electrical Engineering are attached to and incorporated into this Appendix B:
 - GM-1: Intentionally omitted

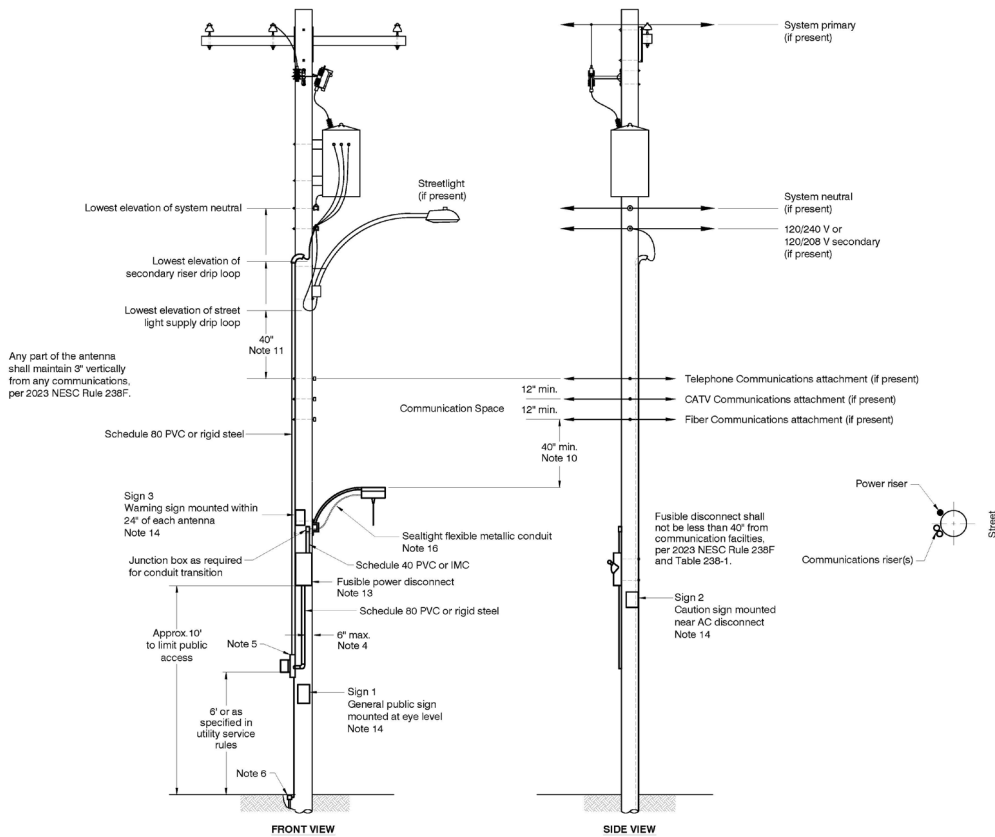
- GM-2: rev. 4 dated 2/7/2023
- GM-3: Intentionally omitted
- GM-4: rev. 4 dated 2/7/2023

NOTES:

1. This installation shall comply with all applicable electrical code and state, city, village, town, and utility requirements. See Utility service rules book.
2. All materials required to supply power solely to the Wireless Equipment shall be furnished and installed by Licensee except meter.
3. Service entrance conductors shall extend 30" beyond weatherhead and have 600 volt rated insulation. Utility will make connections to 120/240 V or 120/208 V source as available.
4. 6" maximum between service entrance conduit and communications cable.
5. Use Utility approved meter socket. See Utility service rules for details. Only the line side conductors shall enter the top of the socket.
6. Grounding shall be in accordance with National Electric Code article 250, Wis. State Electrical Code and Utility service rules.
7. Utility reserves the right to require alternate poles for attachment and/or alternate attachment locations on the pole on a case by case basis.
8. Proof of compliance shall be certified by an electrical inspector or a certificate of compliance from the electrician who performed the work.
9. Licensee is responsible for verifying the Utility supply voltage, before ordering equipment.
10. The 40" vertical separation between any communication attachments and any part of the antenna is based on Rule 238F2a of 2023 NESC.

NOTES:

11. Communication worker safety zone is 40" below lowest supply conductor present. This could be a secondary riser drip loop, or the secondary run, or the system neutral. Note based on Rules 235 and 238 of 2023 NESC.
12. 10' to allow linemen work area (clear fall/drop zone)
13. If a disconnect and overcurrent means is not permitted in the meter pedestal by Utility service rules, an accessible fusible power disconnect shall be installed.
14. The following signs shall be placed by Licensee on each Pole subject to the Agreement.
 - General public sign mounted at eye level (Sign 1) indicating the Antenna owner/operator's name, emergency 24-hour contact number, and a unique identifier for that Wireless Equipment location.
 - Caution sign mounted at the AC service disconnect (Sign 2) advising when/how to disconnect the power to the Wireless Equipment
 - FCC Compliance sign (Sign 3) shall cite applicable FCC Rules and RF Exposure Limits and be mounted within 24" of each piece of equipment where such sign is required.
 Licensee shall be responsible for specifying the appropriate sign(s) required, subject to approval by the Utility.
15. Any drip loop shall be configured such that it does not drip onto meter sockets or fusible disconnects below it.
16. The supply conductors from the disconnect to the antenna should be installed in PVC or seal tight to protect the communication worker that is only trained/authorized to work on equipment below 50 volts.



POLE-MOUNTED COMMUNICATION EQUIPMENT

Not to scale

INSTALLATIONS WITHOUT METERING MUST BE APPROVED BY THE UTILITY

Wireless facilities shall be de-energized before utility personnel work on poles above the RF caution sign as placed in accordance with FCC OET65. See the MEUW Safety manual for additional information.

Rev	Date	Description	Draft	Eng
4	02/07/23	Revised sign notes	FJW	BWB
3	02/03/23	Revised antenna positioning and notes	FJW	BWB
2	11/02/22	Revised notes	SMP	BWB
1	10/24/22	New drawing	SMP	BWB



Gas Utility AMI Antenna Attachments Overhead Service with Metering

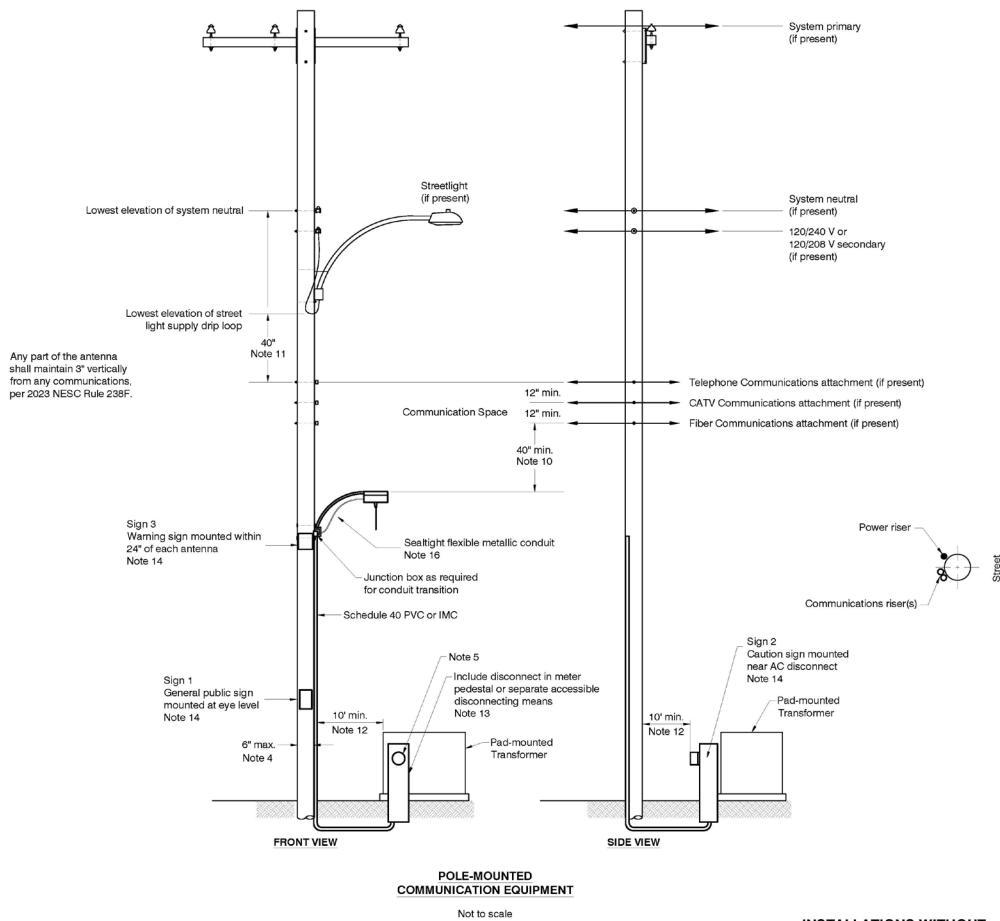
Drawing Number: **GM-2**

NOTES:

1. This installation shall comply with all applicable electrical code and state, city, village, town, and utility requirements. See Utility service rules book.
2. All materials required to supply power solely to the Wireless Equipment shall be furnished and installed by Licensee except meter.
3. Service entrance conductors shall extend 30" beyond weatherhead and have 600 volt rated insulation. Utility will make connections to 120/240 V or 120/208 V source as available.
4. 6" maximum between service entrance conduit and communications cable.
5. Use Utility approved meter socket. See Utility service rules for details. Only the line side conductors shall enter the top of the socket.
6. Grounding shall be in accordance with National Electric Code article 250, Wis. State Electrical Code and Utility service rules.
7. Utility reserves the right to require alternate poles for attachment and/or alternate attachment locations on the pole on a case by case basis.
8. Proof of compliance shall be certified by an electrical inspector or a certificate of compliance from the electrician who performed the work.
9. Licensee is responsible for verifying the utility supply voltage, before ordering equipment.
10. The 40" vertical separation between any communication attachments and any part of the antenna is based on Rule 238F2a of 2023 NESC.

NOTES:

11. Communication worker safety zone is 40" below lowest supply conductor present. This could be a secondary riser drip loop, or the secondary run, or the system neutral. Note based on Rules 235 and 239 of 2023 NESC.
12. 10' to allow linemen work area (clear fall/drop zone)
13. If a disconnect and overcurrent means is not permitted in the meter pedestal by Utility service rules, an accessible fusible power disconnect shall be installed.
14. The following signs shall be placed by Licensee on each Pole subject to the Agreement:
 - General public sign mounted at eye level (Sign 1) indicating the Antenna owner/operator's name, emergency 24-hour contact number, and a unique identifier for that Wireless Equipment location.
 - Caution sign mounted at the AC service disconnect (Sign 2) advising when/how to disconnect the power to the Wireless Equipment.
 - FCC Compliance sign (Sign 3) shall cite applicable FCC Rules and RF Exposure Limits and be mounted within 24" of each piece of equipment where such sign is required.
 Licensee shall be responsible for specifying the appropriate sign(s) required, subject to approval by the Utility.
15. Any drip loop shall be configured such that it does not drip onto meter sockets or fusible disconnects below it.
16. The supply conductors from the disconnect to the antenna should be installed in PVC or seal tight to protect the communication worker that is only trained/authorized to work on equipment below 50 volts.



INSTALLATIONS WITHOUT METERING MUST BE APPROVED BY THE UTILITY

Wireless facilities shall be de-energized before utility personnel work on poles above the RF caution sign as placed in accordance with FCC OET65. See the MEUW Safety manual for additional information.

4	02/07/23	Revised sign notes	FJW/BWE
3	02/03/23	Revised antenna positioning and notes	FJW/BWE
2	11/02/22	Revised notes	SMP/BWE
1	10/24/22	New drawing	SMP/BWE
Rev	Date	Description	[Draft] Eng



Gas Utility AMI Antenna Attachments
Underground Service with Metering

Drawing Number: **GM-4**

**APPENDIX C
PERMIT APPLICATION**

[ATTACHED]

PERMIT APPLICATION

Application Date: _____

To: Elkhorn Light & Water
ATTN: Admin Asst 1 – dpw/zoning
PO Box 920
Phone: 262-741-5104

In accordance with the terms and conditions of the License Agreement for Wireless Attachments, Licensee hereby applies for a Permit to attach, modify, or remove Wireless Attachments to Utility's Pole(s) in the locations detailed on the attached map(s).

Applicant desires to:

- Attach to Utility's Pole(s)
- Add to or substantially modify an existing permitted Wireless Attachment on Utility's Pole(s)
- Remove Attachment from Utility's Pole(s)

Number of Poles	Sheet 1 of ____
Licensee's Corporate Name	Licensee's Address
Contact Person's Name and Title	Contact Person's Phone No. and Email

Narrative Description of Proposed Activity:

The following items must accompany this Permit Application:

- 1) All required fees
- 2) A list of the affected Poles designated by pole number (or, if no pole number is available, by GPS coordinates) and a map showing their location.
- 3) The number and character of the Wireless Attachments to be placed on each Pole
- 4) A description of all equipment to be included in Licensee's Wireless Attachments

- 5) Detailed construction plans and drawings prepared by a Wisconsin-licensed professional engineer (provide the engineer's name, state registration number, and phone number), including:
 - a) all the information required in the License Agreement (including **Appendix B**)
 - b) a drawing showing the type and manner of equipment to be attached to each Pole
 - c) a drawing showing installation details and equipment specifications for the equipment Licensee proposes to use
 - d) a drawing noting whether a Utility or other ground is present at the specific Pole location proposed for the Wireless Attachment
- 6) A proposed work schedule for each Pole site Licensee proposed to use
- 7) Recommendations on Make-Ready Work, if directed by Utility to conduct a Make-Ready Survey or obtain a pole-loading analysis prepared by a Wisconsin-licensed structural engineer (provide the engineer's name, state registration number, and phone number). See **Appendix D** for loading calculation guidelines.
- 8) The name and qualifications of any contractor Licensee intends to hire to perform the installation or removal work
- 9) A staffed 24-hour emergency telephone number, not available to the general public, by which Utility can contact Licensee to report damage to its Wireless Equipment or other situations
- 10) Specific identification of any request to place new pedestals, vaults, or other ground-mounted enclosures within 10 feet of any Pole or other Utility facility.
- 11) The RF data required by Section 6.3 of the Agreement
- 12) The certification required by Section 5.2 of the Agreement
- 13) Technical drawings identifying all electrical specifications and requirements for the Wireless Attachment shall be provided to Utility and should accompany every Application for a Wireless Attachment
- 14) Any other information Utility reasonably requests
- 15) For an application to modify an existing Wireless Attachment, all items listed above (unless waived by Utility), as well as a description of the existing Wireless Equipment to be modified.
- 16) For an application to remove Wireless Equipment, items 1, 2, 6, 8, and 9 above, along with a detailed description of the Wireless Equipment to be removed and the measures Licensee will take to protect the strength integrity and restore the Pole to its pre-attachment condition.

ATTACHMENT PERMIT

The City of Elkhorn, acting in its capacity as a municipal electric utility, hereby grants permission to **We Energies** to attach, modify, or remove Wireless Attachment(s) and/or Wireless Equipment on the Poles indicated below, in strict conformance with the approved Permit application, subject to the terms and conditions of the License Agreement for Wireless Attachments to Utility Poles between the parties.

Poles for Wireless Attachments	Poles for Modifications	Vacated Poles
1. _____	1. _____	1. _____
2. _____	2. _____	2. _____
3. _____	3. _____	3. _____
4. _____	4. _____	4. _____
5. _____	5. _____	5. _____

DATE APPLICATION RECEIVED: _____

DATE APPROVED: _____

**CITY OF ELKHORN,
acting in its capacity as a Wisconsin
public utility**

By: _____

Print Name: _____

Title: _____

Date: _____

APPENDIX D
PERMIT GUIDELINES FOR POLE
LOADING/STRENGTH CALCULATIONS

Upon Utility's request, Licensee's Permit Application must include a report from a Wisconsin-licensed professional engineer experienced in electric utility system design. This report must clearly identify the proposed construction and must verify that the attachments proposed will maintain Utility's compliance with **NESC Class B construction for the loading district as outlined in the NESC Section 25.**

Licensee shall have performed all required calculations and be ready to provide the detailed information below within fifteen 15 days of notice. Licensee shall keep copies of the engineering data available for a period of 20 years.

In determining compliance, the following minimum conditions shall be used in the calculations for pole strength:

1. **All single-phase lines shall be assumed to have been reconducted to #2 ACSR, 7/1, Code Name SPARATE for both phase and neutral.**
2. **All three phase lines shall be assumed to have been reconducted to 336 ACSR, 18/1, Code Name MERLIN for 3 phases and neutral.**
3. **All pole lines shall assume a secondary/service conductor, installed from pole to pole, of #4/0 AWG triplex cable, with an ACSR messenger.**
4. **For pole strength calculations, all poles shall be as they actually exist, or be considered Class 4 for calculations.**
5. Points of attachment shall be as they actually exist on the poles.
6. For a Utility-approved joint use of anchors, Licensee shall utilize guy insulators in its guys.

CONTACT SHEET¹

UTILITY CONTACT INFORMATION		
	Phone Number(s)	Email
Business Hour Contact	262-723-3138	dgall@cityofelkhorn.org
Emergency Contact	262-723-3229	qkayser@cityofelkhorn.org

LICENSEE CONTACT INFORMATION		
	Phone Number(s)	Email
Business Hour Contact		
Emergency Contact/NOC		
Billing Department		

¹ This Contact Sheet is not part of the Agreement and should be updated as necessary to keep the information current.

**CITY OF ELKHORN
RESOLUTION NO. 24-06**

**A RESOLUTION APPROVING MEMORANDUM OF UNDERSTANDING BETWEEN
CITY OF ELKHORN AND CREEKSIDE COMMUNITY DEVELOPMENT, LLC
REGARDING ACCESS, APPROVALS, AND TIMELINES FOR CREEKSIDE
COMMUNITY DEVELOPMENT**

WHEREAS, the City has negotiated a Memorandum of Understanding with Creekside Community Development pertaining to the planned Creekside Community Development, and a copy of said MOU is attached hereto as Exhibit A; and

WHEREAS, the MOU is necessary for the continued development of the Creekside Community Development, and the Council deems the MOU to further the City's interests.

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the City of Elkhorn, Walworth County, Wisconsin hereby approves the Memorandum of Understanding, attached hereto as Exhibit A, between the City of Elkhorn and Creekside Community Development, LLC.

DATED this ____ day of _____, 2024.

Bruce Lechner, Mayor

ATTEST:

Lacey L. Reynolds, City Clerk

Approved:
Adopted:

EXHIBIT A

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“MOU”) is entered into on this ____ day of _____, 2024, by and between the CITY OF ELKHORN (“CITY”) and CREEKSIDE COMMUNITY DEVELOPMENT, LLC (“DEVELOPER”).

RECITALS:

WHEREAS, the CITY and the DEVELOPER have previously executed the DEVELOPMENT AGREEMENT dated October 23, 2023, setting forth certain obligations and commitments regarding the DEVELOPER’S mixed-use development known as the Creekside Community (the “DEVELOPMENT”), including the construction of an intersection at Deere Road and Lincoln Street and the installation of a railroad crossing at Getzen St.; and

WHEREAS, the parties desire to specify further and formalize their understanding regarding various aspects of the DEVELOPMENT, including access, approvals, and timelines.

NOW, THEREFORE, in consideration of the promises and covenants contained herein, the CITY and DEVELOPER hereby agree as follows:

1. ACCESS AND CONSTRUCTION

A. The DEVELOPER shall be responsible for all costs associated with the construction of the intersection at Deere Road and Lincoln Street, as outlined in the DEVELOPER AGREEMENT.

B. DEVELOPER acknowledges that Lincoln Street, also known as STH 67, requires approval from the DOT for any access.

C. The DEVELOPMENT AGREEMENT requires the DEVELOPER to provide access to the DEVELOPMENT at Getzen Street, which will necessitate a railroad crossing. The approval for this crossing shall be sought from the State of Wisconsin Office of the Commissioner of Railroads (“OCR”).

E. The CITY shall petition the OCR for approval of a public railroad crossing at Getzen Street. The DEVELOPER shall provide all necessary documentation for this petition and reimburse the CITY for any associated costs. The parties agree to expedite the petition as much as reasonably possible.

F. If a public railroad crossing is not approved at Getzen Street, then the DEVELOPER shall provide an alternative public access north of Deere Road from Lincoln Street to the residential portion of the Development.

2. TRAFFIC IMPACT ANALYSIS

A. The DEVELOPER has obtained a Traffic Impact Analysis (TIA) for the access at Deere Road and Lincoln Street, assuming the construction of access at Getzen Street.

B. The DEVELOPER shall also procure an additional Traffic Impact Analysis (TIA2) for a second access to the residential portion of the Development from Lincoln Street, north of Deere Road. The TIA2 shall assume that access at Getzen Street is not constructed; provided, however, that the DEVELOPER will be required to design and construct the second access to the residential portion of the Development from Lincoln Street, north of Deere Road, only if the public railroad crossing at Getzen Street is not approved or constructed.

3. TEMPORARY ACCESS AND OCCUPANCY

A. The DEVELOPER shall construct a temporary access to the DEVELOPMENT off of Lincoln Street for use during the construction phase.

B. The DEVELOPER shall refrain from occupying any of the residential units until a secondary permanent access—via either a public railroad crossing at Getzen Street or an alternative public access north of Deere Road from Lincoln Street—is provided.

4. TERMINATION CLAUSE

The parties agree that the provisions of this MOU shall remain in effect until either:

A. If the Getzen Street crossing is approved, the secondary access off of Lincoln Street north of Deere Road will not be required; or

B. A period of three years from the approval of the Precise Implementation Plan (PIP) for the Creekside Community Development by the City of Elkhorn, during which time the public railroad crossing at Getzen Street has not been approved, at which point the secondary access off Lincoln Street north of Deere Road shall become permanent.

5. PRIORITY OF CONTRACTS

In the event of a conflict between the terms of the Development Agreement and this Memorandum of Understanding, the Development Agreement will govern.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Understanding as of the date first above written.

CITY OF ELKHORN, WISCONSIN

By: _____

Name: _____

Title: _____

Date: _____

CREEKSIDE COMMUNITY DEVELOPMENT, LLC

By: _____

Name: _____

Title: _____

Date: _____

**CITY OF ELKHORN
RESOLUTION NO. 24-07**

**A RESOLUTION AUTHORIZING THE CITY OF ELKHORN TO PETITION
THE WISCONSIN OFFICE OF THE COMMISSIONER OF RAILROADS
FOR A PUBLIC CROSSING AT GETZEN STREET, A PUBLIC STREET
LOCATED SOUTH OF EAST CENTRALIA STREET**

WHEREAS, the City of Elkhorn (City) proposes to cross the tracks of the WATCO Railroad at-grade with Getzen Street, a public street located south of E. Centralia Street; and

WHEREAS, the crossing is necessary to promote public safety and convenience for City residents and visitors to the Creekside Community Development, which is planned to be constructed just south of the WATCO Railroad tracks referenced above; and

WHEREAS, the City has already had conversations with WATCO representatives, who indicated that WATCO would support the City's petition due to the importance of the project to the City and the limited traffic on the railroad; and

WHEREAS, Section 195.29 of the Wisconsin Statutes authorizes the Office of the Commissioner of the Railroads to determine the following: 1) whether the establishment of the crossing is necessary to promote public safety and convenience and is advisable, 2) what warning devices are necessary for the new crossing, and 3) how to apportion costs for the new crossing, including the costs of any automatic warning devices; and

WHEREAS, the City's costs for applying for the railroad crossing would be reimbursed by Creekside Community Development, LLC pursuant to a Development Agreement signed between the City and Creekside Community Development on October 23, 2023, and a Memorandum of Understanding subsequently approved by the City and Creekside Community Development on _____.

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the City of Elkhorn, Walworth County, Wisconsin hereby authorizes the City of Elkhorn to apply for a railroad crossing at Getzen Street.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Common Council directs City staff to take all necessary steps to petition the Wisconsin Office of the Commissioner of the Railroads for an investigation and order to approve the establishment of the new crossing, to determine the necessary warning devices, and to apportion the costs for the new crossing at Getzen Street.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City staff shall comply with Chapter 195 of the Wisconsin Statutes and RR 1.025 of the Wisconsin Administrative Code in the filing of the petition.

DATED this ____ day of _____, 2024.

Bruce Lechner, Mayor

ATTEST:

Lacey L. Reynolds, City Clerk

Approved:
Adopted: