



City of La Crosse, Wisconsin

City Hall
400 La Crosse Street
La Crosse, WI 54601

Meeting Agenda - Final-revised

Finance & Personnel Committee

Thursday, July 7, 2022

6:00 PM

Council Chambers, City Hall
400 La Crosse Street

This meeting is open for in-person attendance and will also be conducted through video conferencing. The meeting can be viewed by typing the URL in your web browser address bar:

<https://stream.lifesizecloud.com/extension/1271327/e7506959-fe5d-44ac-805c-9016fb33bd90>

Agenda items approved for public hearing by the committee are open to public comment. If you wish to speak on an agenda item, arrive early to sign up before the meeting begins. If attending virtually and you wish to speak, contact the City Clerk at the email or phone number below so we can provide you with information to join.

Members of the public who would like to provide written comments on any agenda may do so by emailing cityclerk@cityoflacrosse.org, using a drop box outside of City Hall or mailing the City Clerk, 400 La Crosse Street, La Crosse WI 54601. Questions, call 608-789-7510.

Public hearings before the respective standing committee shall be limited to 15 minutes for the proponents; followed by 15 minutes for the opponents and three-minute rebuttal for each side unless such time is extended by a majority vote of the committee. All speakers at a public hearing of the standing committees shall speak no more than three (3) minutes unless waived by the Chair or a majority of the committee.

Call To Order

Roll Call

Agenda Items:

NEW BUSINESS

[22-0739](#)

Resolution to appropriate funds for Council Chambers Equipment.

Sponsors: Reynolds

[22-0790](#)

Resolution authorizing the City of La Crosse to submit an application to Wisconsin Economic Development Corporation (WEDC) for the Idle Sites Redevelopment (ISR) Grant Program for the Copper Rocks development.

Sponsors: Kiel

[22-0805](#)

Resolution approving an appropriation of the City's ARPA monies earmarked for childcare to go towards a one-year contract with The Parenting Place.
(Note: The Committee and/or Council may convene in closed session pursuant to Wis. Stat. 19.85(1)(e) to formulate & update negotiation strategies and parameters. Following such closed session, the Committees and/or Council may reconvene in open session.)

Sponsors: Reynolds

- [22-0814](#) Resolution approving lease renewal with Rivercrest Village Partners.
Sponsors: Neumann
- [22-0815](#) Resolution authorizing additional funding for amendments 1 and 2 to design and bidding services contract with Short Elliott Hendrickson Inc. (SEH) for Phase II of River Point District.
Sponsors: Richmond
- [22-0833](#) Resolution appropriating unused funds to upgrade Water Utility network infrastructure for the SCADA (Supervisory Control and Data Acquisition) system.
Sponsors: Neumann
- [22-0865](#) Resolution authorizing the issuance of not to exceed \$11,950,000 aggregate principal amount of General Obligation Corporate Purpose Bonds, Series 2022A, of the City of La Crosse, La Crosse County, Wisconsin, in such amount, providing details, prescribing the form of bond, awarding the bonds to the best bidder, levying taxes, and related matters.
Sponsors: Reynolds
Short-circuited by Mayor Reynolds 6/28/2022
- [22-0866](#) Resolution authorizing the issuance of not to exceed \$3,185,000 aggregate principal amount of General Obligation Promissory Notes, Series 2022B, of the City of La Crosse, La Crosse County, Wisconsin, in such amount, providing details, prescribing the form of note, awarding the notes to the best bidder, levying taxes, and related matters.
Sponsors: Reynolds
Short-circuited by Mayor Reynolds 6/28/2022
- [22-0001](#) Collective Bargaining Update.
(Note: The Committee and/or Council may convene in closed session pursuant to Wis. Stat. 19.85(1)(e) to formulate & update negotiation strategies and parameters. Following such closed session, the Committees and/or Council may reconvene in open session.)
F&P Item Only, unless otherwise directed.

Adjournment

Notice is further given that members of other governmental bodies may be present at the above scheduled meeting to gather information about a subject over which they have decision-making responsibility.

NOTICE TO PERSONS WITH A DISABILITY

Requests from persons with a disability who need assistance to participate in this meeting should call the City Clerk's office at (608) 789-7510 or send an email to ADAcityclerk@cityoflacrosse.org, with as much advance notice as possible.

Finance & Personnel Members:

Doug Happel, Larry Slezniow, Barb Janssen, Mac Kiel, Rebecca Schwarz, Mark Neumann



City of La Crosse, Wisconsin

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400 La Crosse Street
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Text File

File Number: 22-0739

Agenda Date: 7/7/2022

Version: 1

Status: New Business

In Control: Finance & Personnel Committee

File Type: Resolution

Resolution to appropriate funds for Council Chambers Equipment.

RESOLUTION

WHEREAS, the Council Chambers conference rooms, 2021 CIP #509, are in need of video conferencing and computer equipment to complete the remodel project; and

WHEREAS, Capital Improvement Budget item number 2020-103 appropriated \$20,000 for the A/V setup for 3rd Floor Conference Room; and

WHEREAS, there is no longer a need for funding the A/V setup as there is no longer a 3rd Floor Conference Room due to the effects of COVID and facility changes.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of La Crosse that it hereby approves the appropriation of funds from the 2020 Capital Equipment Budget Item #103 (4800810-580601) in the amount of \$20,000 for said computer purchases for the Council Chambers in City Hall (4834295-580600-21509).

BE IT FURTHER RESOLVED that the Director of Information Technology and the Director of Finance are hereby authorized to take any and all steps necessary in connection with this resolution.



City of La Crosse, Wisconsin

City Hall
400 La Crosse Street
La Crosse, WI 54601

Text File

File Number: 22-0790

Agenda Date: 7/7/2022

Version: 1

Status: New Business

In Control: Finance & Personnel Committee

File Type: Resolution

Resolution authorizing the City of La Crosse to submit an application to Wisconsin Economic Development Corporation (WEDC) for the Idle Sites Redevelopment (ISR) Grant Program for the Copper Rocks development.

RESOLUTION

WHEREAS, the Wisconsin Economic Development Corporation (WEDC) has an Idle Sites Redevelopment Grant of which the City of La Crosse is eligible to apply; and

WHEREAS, as part of the grant, the City of La Crosse is required to jointly coordinate with MKB Copper Rocks, LLC on eligible activities such as building rehabilitation or demolition, environmental remediation, and infrastructure investment; and

WHEREAS, the grant application also requires a Resolution from the City approving the application of this grant for this project; and

WHEREAS, said grant application is necessary to obtain funding for the sources which will be defined in an upcoming Development Agreement to be approved by the Common Council.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of La Crosse that it hereby authorizes the City of La Crosse to apply for the ISR Grant.

BE IT FURTHER RESOLVED that the Mayor and Director of Planning, Development and Assessment are hereby authorized to take any and all steps necessary to effectuate this resolution.



IDLE SITES REDEVELOPMENT PROGRAM

BRINGING NEW LIFE TO IDLE SITES IN WISCONSIN®

Redeveloped idle industrial and commercial sites can again become generators for economic development and an improved quality of life for the cities and communities where they are located. The Wisconsin Economic Development Corporation's (WEDC's) **Idle Sites Redevelopment Program** helps communities pursue this opportunity.

HOW IT WORKS

The Idle Sites Redevelopment Program offers grants to Wisconsin communities to implement redevelopment plans for large commercial, institutional or industrial sites that have been idle, abandoned or underutilized for a period of at least five years.

Preference will be given to sites that are located in high-density urban areas or in central business districts. An approved redevelopment plan demonstrating strong potential for significant measurable economic benefits, such as increased generation of property taxes and the creation of full-time permanent jobs, will increase the competitiveness of a proposed project.

ELIGIBILITY REQUIREMENTS

Grants may be made to cities, villages, towns, counties, tribal entities or governmental entities for idle industrial sites exceeding five acres in size, for idle institutional parcels exceeding five acres in size, or for idle commercial sites exceeding 10 acres in size, where redevelopment is impeded due to existing site conditions.

ELIGIBLE ACTIVITIES

Grant funds may typically be used for the following activities:

- Building rehabilitation or demolition
- Environmental remediation
- Infrastructure improvements

LEARN MORE

For more information about becoming eligible for the Idle Sites Redevelopment Program, contact a Wisconsin Economic Development Corporation (WEDC) regional economic development director or call 855-INWIBIZ toll-free.

You can find the list of regional directors and territories covered at wedc.org/regional.



**Wisconsin Economic Development Corporation
Program Guidelines for Fiscal Year 2022**

Program Name: Idle Sites Redevelopment Program

Program Inception: WEDC FY14

Lead Division: Business and Community Development

New **Revised** [Click here to enter a date.](#)

Aid **Pass-thru Aid** **Technical Assistance**

Program Goal:

The goal of the Idle Sites Redevelopment (ISR) Program is to incent community redevelopment in the state of Wisconsin.

Program Description:

The program generally offers grants to Wisconsin communities for the redevelopment of sites that have been idle, abandoned, or underutilized for a period of at least five years. Blighted properties may be perceived as eyesores that can lead to decreased property tax revenue for a community. The Idle Sites Redevelopment Program provides incentives to help rejuvenate abandoned blighted sites and assistance in elevating local economies. Approved projects can use funds for demolition, environmental remediation, infrastructure or site-specific improvements to advance the site to shovel ready status or enhance the site’s market attractiveness.

Eligibility Requirements:

Definitions:

“Economically Distressed” means a county or municipality so designated by WEDC by considering the most current area and state data available for the following indicators:

- Unemployment rate
- Percentage of families with incomes below the poverty line
- Median family income
- Median per capita income
- Average annual wage
- Manufacturing assessment values by county
- Other significant or irregular indicators of economic distress – such as a natural disaster, or plant closings and layoffs

“Opportunity Zone” means a designated qualified opportunity zone in the State of Wisconsin under Internal Revenue Code § 1400Z-1.

The Applicant:

- Any city, village, town, county, government entity, or tribal entity that has one of the following:



- If a private developer is participating in the project, an officially approved development agreement that describes the project and its goals, anticipated outcomes, project timeline, and actions, obligations and investments to be made by each party; or
- If the project does not have a private developer, an officially approved resolution that describes the project and its goals, anticipated outcomes, project timeline, and actions, obligations and investments necessary to achieve redevelopment.

The Project Site:

- May be:
 - one or more contiguous industrial parcels that exceed 5 acres and had long term (over 25 years) industrial usage; or
 - one or more contiguous commercial parcels that exceed 10 acres and had long term (over 25 years) commercial usage; for projects in an Economically Distressed community or Opportunity Zone, parcels need to exceed 5 acres; or
 - one or more contiguous institutional parcels that exceed 5 acres and had long term (over 25 years) institutional usage
- Applicants must own the targeted site or demonstrate the legal ability to access the property and perform the work proposed in the application

Eligible Costs:

- Grant and matching funds can be used for demolition, environmental remediation, rehabilitation or infrastructure improvements.
- Match may also include acquisition costs.
- WEDC funds cannot exceed 30% of eligible project costs

Activities ineligible for grant assistance or matching funds include, but are not limited to:

- Past costs
- In-kind contributions
- Costs of new construction
- Indirect construction costs (a.k.a. “soft” costs)
- Environmental work occurring on properties in which the current owner is also a causer who possessed or controlled the contaminant(s) on the site

Applicants must provide a signed resolution by the governing elected body authorizing the submittal of an application to the ISR Program.

WEDC may take the following into account when considering an ISR grant:

- The potential of the project to promote economic and community development in the area
- A written financial commitment by a lending institution and / or government entity to the applicant enabling the project to reach fruition
- The adequacy and completeness of the site investigation and remediation effort
- The extent to which costs are budgeted and itemized by qualified parties
- The size and location of the property and the site’s relationship to economic centers
- Increase of taxable property values
- Reduction of urban sprawl
- Use of existing infrastructure



- Reduction of environmental risks
- Creation of full-time jobs
- Located in an Economically Distressed community
- Demonstrates involvement of diverse businesses, including women and veteran-owned contractors, in eligible project costs
- Feasibility and readiness of the proposed project

Incentives and Available Funding (FY22): \$2,000,000

The maximum award generally does not exceed \$250,000 unless the request for funds is for a project that, due to the size and scope of the redevelopment, clearly justifies an award beyond normal parameters. Applicants may receive one award per fiscal year.

Activities and Expected Outcomes:

Assist eight communities and achieve a 20:1 leverage of other investment.

Performance Reporting:

Recipients will be required to annually submit a performance report documenting capital investment, assessed taxable property values, as well as any other contract deliverable.

WEDC annually selects awards on a sample basis for an audit. All backup to the performance report is required to be maintained for the life of the award.

WEDC may impose additional reporting requirements to evaluate project performance and to ensure compliance with contract deliverables.

Application and Awards Process:

The ISR program has a continuous application process. Applicants for an ISR grant should complete an application through an Account Manager. The completed application will be assigned to an underwriter and will go through the award review process.

For more information on application review, internal process, and award distribution, please refer to WEDC's award administration policies and procedures.



Revision History:

Effective Date	Description of Change
7/1/2017	Changed to an ongoing application process
7/1/2017	Added requirement for signed resolution of support from local government unit submitting application
7/1/2017	Added limitation for one award per fiscal year per community
7/1/2018	Clarified the terms development agreement and redevelopment plan
7/1/2018	Expanded types of eligible sites and reduced acreage requirements in a Designated Rural County
7/1/2019	Clarified eligible costs; reduced acreage requirements for projects in an Opportunity Zone; clarified performance reporting requirements
7/1/2021	Clarified eligibility requirements; replaced Designated Rural County with Economically Distressed; added consideration for diverse businesses; reduced maximum grant.



PROGRAM REVIEW:

This document has been reviewed by the following parties (Check all that apply):

- Chief Operating Officer
- Chief Legal Officer
- Chief Financial Officer
- Other _____

Senior VP Strategic Investment and Policy: _____
enter a date.

Date Click or tap to

Division Vice President: _____

Date Click or tap to enter a date.

AUTHORIZED APPROVAL:

CEO or Designee: _____

Date Click or tap to enter a date.



City of La Crosse, Wisconsin

City Hall
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Text File

File Number: 22-0805

Agenda Date: 7/7/2022

Version: 1

Status: New Business

In Control: Finance & Personnel Committee

File Type: Resolution

Proposed Amended Resolution for F&P 7.7.2022

Amended Resolution approving an appropriation of the City's ARPA monies earmarked for childcare to go towards a one-year agreement with The Parenting Place.

RESOLUTION

WHEREAS, the City was awarded American Rescue Plan Act (ARPA) funding from the U.S. Treasury; and

WHEREAS, the City Council passed a Resolution 21-1732 on January 13, 2022 appropriating some of these ARPA funds to promote healthy childhood environments through improvements in childcare, mitigation of health disparities, and improvement of living and recreation environments; and

WHEREAS, the City Council passed a Resolution 22-0259 on March 10, 2022 further specifying the funding amounts and uses for this initiative; and

WHEREAS, City staff have been in conversations with multiple stakeholders for several months regarding the best usage of the City's ARPA monies allocated to address childcare, and in part due to the complexity of this issue and the ever-changing dynamics in play, the City has recognized the need to have a dedicated entity or group of people to directly oversee the success of the City's childcare initiatives over the lifetime of the grant period for ARPA; and

WHEREAS, the City previously facilitated another ARPA-funded initiative, the La Crosse Community Foundation project, with a similar structure: leveraging a local expert entity that is best positioned to carry out the work to reach the City's overall goals for the funding; and

WHEREAS, the City has identified The Parenting Place as the sole entity to oversee this project, and documented justification to meet the sole-source threshold, and part of that justification includes that there is "no other entity within La Crosse County that is doing this work: coordinating efforts of childcare, working directly with all providers, supporting parents and children, has complete familiarization and expertise of "nuts & bolts" of childcare (licensing, financial resources and programs available, regulations, etc.), and facilitates data collection and child care referrals".

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of La Crosse to allocate \$350,000 of ARPA funds to The Parenting Place for the first year of facilitation of a multi-year comprehensive approach to improving the wholistic childcare industry for all in the City of La Crosse: parents, providers, childcare employees, community stakeholders, and children.

BE IT FURTHER RESOLVED that this work will be carried out in compliance with all items include in the Grant Program Revised Agreement dated 6/24/2022.

BE IT FURTHER RESOLVED that the Mayor and City Clerk are hereby authorized to signed said agreement.

BE IT FURTHER RESOLVED that the Mayor and Director of Planning, Development and Assessment are hereby authorized to take any and all steps necessary to effectuate this resolution.

2022 ARPA GRANT PROGRAM AGREEMENT



Contract Number: ARPA-The Parenting Place-2022-25

THIS AGREEMENT, made and entered into this 14th day of July 2022, by and between the City of La Crosse, Wisconsin, a Wisconsin municipal corporation hereinafter referred to as "City" and The Parenting Place of La Crosse, its address at 1500 Green Bay St, WI 54601, a La Crosse corporation with its office at, La Crosse, Wisconsin, 54601 hereinafter referred to as "Subrecipient".

WHEREAS, the City was awarded American Rescue Plan Act (ARPA) funding from the U.S. Treasury; and

WHEREAS, the City Council passed a Resolution on January 13, 2022 appropriating some of these ARPA funds to promote healthy childhood environments through improvements in childcare, mitigation of health disparities, and improvement of living and recreation environments; and

WHEREAS, the City Council passed a Resolution on March 10, 2022 further specifying the funding amounts and uses for this initiative; and

WHEREAS, the City has documented justification for the Subrecipient to meet the sole-source threshold, and part of that justification includes that there is "no other entity within La Crosse County that is doing this work: coordinating efforts of childcare, working directly with all providers, supporting parents and children, has complete familiarization and expertise of "nuts & bolts" of childcare (licensing, financial resources and programs available, regulations, etc), and facilitates data collection and child care referrals"; and

WHEREAS, the Subrecipient has not received other funding for this need and there is no duplication of benefits from other sources; and

WHEREAS, as a result of that recommendation the City is willing to allocate \$350,000 of ARPA funds to the Subrecipient to facilitate a multi-year comprehensive approach to improving the wholistic childcare industry for all in the City of La Crosse: parents, providers, childcare employees, community stakeholders, and children; and

WHEREAS, prior to advancing funds to the Subrecipient, the City of La Crosse desires certain assurances as more fully set forth herein.

NOW, THEREFORE, IT IS AGREED THAT:

1. **Statements of Work, Uses of Funds, Performance Goals**
 - a. The City will grant to the Subrecipient a sum of \$350,000 from ARPA funds for the purpose of facilitating a multi-year comprehensive approach to improving the wholistic childcare industry for all in the City of La Crosse: parents, providers, childcare employees, community stakeholders, and children.

2022 ARPA GRANT PROGRAM AGREEMENT



Contract Number: ARPA-The Parenting Place-2022-25

- b. Refer to Attachment A for the agreed upon Statement of Work, Budget, Performance Goals, and Timetable.
- c. This grant is made only for the purpose(s) outlined in the grant application and Attachment A, must be used to support the Subrecipient's work in the City of La Crosse, and may not be expended for any other purpose without the City's prior written approval.

2. **Payment**

First half of payment shall be issued within 45 days after this agreement has been signed by both parties and fully executed. Second half of payment shall be issued within 45 days of receiving an impact report for the first 6 months and barring all other items in this Agreement are in compliance.

3. **Required Notification**

Subrecipient is required to provide the City with immediate written notification of: (1) any changes in its organization's tax-exempt status; (2) its inability to expend the grant for the purposes as awarded; or (3) any expenditure from this grant made for any purpose other than for which the grant was awarded.

Any portion of the grant not expended at the completion of the project and/or the end of the grant period must be returned immediately to the City. Subrecipient may seek prior written approval from the City to extend grant period and/or use remaining funds for a different need/purpose.

4. **Subrogation**

In consideration of the Subrecipient's funds from the City, the Subrecipient hereby assigns to the City all of its future rights to reimbursement and all payments received from any grant, subsidized loan, or insurance policies of any type or coverage or under any reimbursement or relief program related to or administered by the Federal government or other program to the extent of proceeds paid to Subrecipient under this Agreement and that are determined in the sole discretion of the City to be a duplication of benefits ("DOB"). This shall be defined as financial assistance, available to the Subrecipient, that can be used to pay for the costs described under the Subrecipient's grant application and are to be paid for by this grant (ARPA).

Upon receiving any proceeds from other relief programs, federal funds, or loan programs for this Use of Funds, that were not already described in the grant application, the Subrecipient agrees

2022 ARPA GRANT PROGRAM AGREEMENT



Contract Number: ARPA-The Parenting Place-2022-25

to immediately notify the City. If some or all of the proceeds are determined to be a DOB, the portion that is a DOB shall be paid to the City forthwith.

5. **Records and Reports**

- a. **Follow-up Reporting** - Subrecipient will provide records in accordance with all American Rescue Plan Act requirements through quarterly reporting requirements. Additionally, Subrecipient is expected to have met the items stated in Section 1, “Statements of Work, Uses of Funds, Levels of Accomplishment, Timetable”, by the end of the agreement and will provide updates on Performance Goals and the project overall in its quarterly reporting.

Subrecipient will meet with City staff on a monthly basis and attend the City’s Economic Development Commission meetings quarterly to provide updates on the work associated with this award. Programs developed in association with “Financial Support tools for childcare businesses” referenced in the Budget will be brought before the EDC for review and approval prior to implementation. Subrecipient will also complete an annual impact report to describe progress in achieving the purpose of the grant. The annual impact report is due once all the funds have been expended, and/or no later than 1 year from receipt of award check(s). It is recommended to include at least one success story with the impact report.

Subrecipient also agrees to provide any other additional information requested by the City pertaining to this grant.

If performance goals have not been met or quarterly and/or annual reporting is not completed, Subrecipient will have to provide evidence of factors beyond their reasonable control. Staffing issues will not be considered beyond their reasonable control. In the event that Subrecipient encounters factors beyond its control that interfere with the Subrecipient’s ability to perform under the contract, the City and Subrecipient shall work together to attempt to solve the issues that have arisen.

In the event, in the City’s opinion, that Subrecipient fails to provide sufficient documentation to satisfy the deficiency(s) in reporting and/or meeting performance goals, then the City may apply financial consequences which may include but are not limited to withholding future payment until the deficiency is resolved and/or require a total or partial refund of any grant funds if, in the City’s sole discretion, such action is necessary: (1) because Subrecipient has not fully complied with the terms and conditions of the grant; (2) lack of performance with grant results; (3) to protect the purpose and objectives of the grant; or (4) to comply with the requirements of any law or regulation applicable to Subrecipient, the City or the grant.

- b. **Financial Reporting**– The Subrecipient shall:

2022 ARPA GRANT PROGRAM AGREEMENT



Contract Number: ARPA-The Parenting Place-2022-25

- i. Maintain an effective system of internal fiscal control and accountability for all ARPA funds and property acquired or improved with ARPA funds, and make sure the same are used solely for authorized purposes.
 - ii. Ensure that all costs shall be supported by properly executed payrolls, time records, invoices, vouchers or other official documentation, as evidence of the nature and propriety of the charges. All accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible.
 - iii. Inform the City concerning any funds allocated to the Subrecipient, that the Subrecipient anticipates will not be expended according to this Agreement.
- c. **Data-** The Subrecipient shall maintain data demonstrating eligibility for funding. Such information shall be made available to the City, or their designees for review upon request.

6. **Uniform Administrative Requirements**

The Subrecipient will, to the maximum possible extent, ensure compliance with regulations regarding:

- a. Office of Management and Budget (OMB) Uniform Guidance, "Cost Principles, Audit and Administrative Requirements for Federal Awards" (2 CFR Part 200), which establishes principles for determining costs of grants, contracts, and other agreements with nonprofit organizations. These regulations are applicable for determining acceptable/allowable costs of work performed by nonprofit organizations. For example, to be allowed under an award, costs must meet general criteria such as:
 - i. Be reasonable for the performance of the award,
 - ii. Be accorded consistent treatment,
 - iii. Be determined in accordance with generally accepted accounting principles, and
 - iv. Be adequately documented.
- b. Office of Management and Budget (OMB) Uniform Guidance which, in part, provide that financial management systems operated by recipients of federal assistance will provide for accurate, current, reliable, and complete disclosure of financial and accounting records relating to the use of federal dollars.

All records will identify the source and application of funds for activities, and accounting records are to be made available for audit(s) at the City's direction to determine the fiscal integrity of financial transactions and performances. All future procurement transactions

2022 ARPA GRANT PROGRAM AGREEMENT



Contract Number: ARPA-The Parenting Place-2022-25

for supplies, equipment, construction, and other services, regardless of whether negotiated or advertised, will be conducted in a manner so as to provide maximum open and free competition.

The Subrecipient will give the U.S. Department of Treasury, the Comptroller General, the City of La Crosse, or any authorized representatives access to the right to examine all records and documents related to the grant. Such records will be maintained for a period of at least five (5) years after receipt of federal funds.

7. **Additional Federal Requirements**

The Subrecipient will ensure compliance with regulations regarding:

A. Civil Rights

1. General Compliance

Title VI and Title IX of the Civil Rights Act of 1964 (Public Law 88-352)(42 U.S.C. 2003d et seq.); and implementing regulations issued at 24 CFR Part 1; as amended by Executive Order 11375 and 12086, and implementing regulations at 41 CFR Chapter 60, which prohibits discrimination in any activity receiving federal financial assistance.

2. Nondiscrimination

Title VIII of the Civil Rights Act of 1968, (Public Law 90-284)(42 U.S.C. 3601 et seq.); as amended, which prohibits discrimination in housing on the grounds of race, color, religion, national origin, sex, disability, or familial status.

Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) which prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.

Section 504 of the Rehabilitation Act of 1973, (Public Law 93-112) as amended, and implementing regulations when published for effect. Said regulation provides for nondiscrimination based on disability in federally-assisted programs and activities.

B. Employment Restrictions

1. Prohibited Activity

The Subrecipient is prohibited from using funds provided herein or personnel employed

2022 ARPA GRANT PROGRAM AGREEMENT



Contract Number: ARPA-The Parenting Place-2022-25

in the administration of the program for: political activities; inherently religious activities; lobbying; political patronage; and nepotism activities.

C. Conflict of Interest

The Subrecipient agrees to abide by the provisions of 24 CFR 84.42 and 570.611, which include, but are not limited to the following:

1. The Subrecipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.
2. No employee, officer or agent of the Subrecipient shall participate in the selection, the award or the administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.
3. No covered persons who exercise or have exercised any functions or responsibilities with respect to ARPA-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the ARPA-assisted activity, or with respect to the proceeds from the ARPA-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the City, the Subrecipient, or any designated public agency.

D. Anti-Lobbying. The Subrecipient certifies that to the best of its knowledge and belief:

No federal-appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a federal contract, grant, loan, or cooperative agreement;

If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of

2022 ARPA GRANT PROGRAM AGREEMENT



Contract Number: ARPA-The Parenting Place-2022-25

Congress in connection with this federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying".

8. **Publicity**

The Subrecipient shall ensure recognition of the role of the City of La Crosse and Federal American Rescue Plan Act funding in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to the funding source.

The City may include information regarding this grant, including the amount and purpose of the grant and any other information or materials the Subrecipient provided about its organization, in its own publicity including, but not limited to: news releases, newsletters, annual reports and social media posts.

9. **Suspension and Termination**

The Subrecipient further agrees that this Agreement may be terminated or suspended in the event the Subrecipient fails to perform any of the conditions contained herein and that the City may take appropriate and corrective action in order to insure compliance with this Agreement, including withholding payments, re-allocating funds, an order to audit the Subrecipient's books and records pertaining to its activities and the utilization of federal funds.

In the event of default or violation by the Subrecipient or the necessity of corrective action, the City will provide the Subrecipient, by written notice, a demand to cure default explaining the nature and extent of the default or violation. The Subrecipient will cure or remedy said violation or default within ten (10) days after receipt of said notice, unless a longer time is agreed upon by the parties, in writing. In case default or violation is not cured, and corrective action is not completed within ten (10) days or a longer time as may be agreed upon, this Agreement may be terminated, and the City may have whatever remedy is authorized pursuant to state, local, and federal laws, including return of any funds previously given to the Subrecipient.

10. **Independent Status**

Nothing contained herein, nor any act of the City, the Subrecipient, or any other party, will be deemed or construed by any party, or by any other third person, to create any relationship with third party Subrecipient, principal or agent, limited or general partnership, or joint venture, or of any association or relationship involving the City. The Subrecipient is at all times considered an independent agency and not an agency or branch of the City.

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IN WITNESS WHEREOF, the parties hereto have affixed their hands and seals the day and year first above written.

CITY OF LA CROSSE, WISCONSIN

THE PARENTING PLACE

Mitch Reynolds, Mayor

Jodi Widuch, Executive Director

Nikki Elsen, Clerk

Sue Wrobel, Board Chair

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Attachment A: Agreed Upon Statement of Work, Budget, and Performance Goals

Scope of Work

This project would develop strategies retain the existing child care workforce so that the number of child care slots in the city of La Crosse are not reduced any further and would then work to increase the number of child care slots by staffing existing classrooms and expanding child care sites.

This project is designed to leverage the experience, programs, and connections of The Parenting Place to effectively coordinate child care capacity building efforts in the most efficient way possible. The Parenting Place facilitates several programs that support existing child care providers and that help prospective child care providers enter the field. These programs are the basis for a long-standing, trusted relationship with the child care community. In addition, The Parenting Place has a well-structured statewide communication network which allows the organization to be aware of legislative impacts, child care trends and related funding opportunities, positioning the agency as an informal coordinator of child care programs and relief efforts. There is not currently a position that is dedicated to this work and coordination efforts are layered on top of other responsibilities, leaving capacity for this coordination role to be much more effectively implemented. Despite the availability of the technical assistance The Parenting Place currently provides to existing programs, economic barriers are still causing child care sites to close. Finances are also a barrier to individuals entering the field. City of La Crosse ARPA funding would create a position dedicated to the coordination of child care capacity building in the City of La Crosse and would allow financial barriers to be removed to support the retention and expansion of child care in the city.

The newly created full-time Child Care Development Coordinator position would work to assess child care needs and challenges, act as a connector and liaison in the community and identify and avoid duplication of efforts. Responsibilities would include representing The Parenting Place and the City of La Crosse on local child care-focused committees, compile existing child care data, design inquiries for unfilled data needs, and facilitate identified recruitment, retention and expansion efforts. In addition, this role would work to further engage City of La Crosse employers in understanding the value of child care as a recruitment and retention tool and a driver of economic success and also return on investment in early childhood.

Financial incentives made possible by ARPA funding would focus initially on retention of existing child care slots and building back up to pre-COVID levels by utilizing existing capacity in child care sites left by unstaffed classrooms. Retention efforts designed by the Child Care Development Coordinator would focus on creating a sustainable revenue model that leads to wage increases and providing support for common challenges that lead to turnover in the field. Professional development opportunities in the form of classes, learning cohorts, support groups and one-on-one coaching would be customized to meet the needs of City of La Crosse providers based on research by the Child Care Development Coordinator. Professional development topics would include serving children who exhibit challenging behaviors, expulsion reduction, and trauma informed care to address the evolving

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needs of the child care population identified through data collection efforts. Finally, retention would be further supported by efforts to rebrand child care as a respected profession rather than the stigmatized field it has become due to low wages and lack of understanding of the importance of early childhood education. Marketing efforts would highlight the considerable educational qualifications, economic importance and lifelong impact that quality child care has on the success of individuals as well as portray the field as a dynamic and fulfilling career choice.

Many of the retention efforts highlighted above would also serve to facilitate recruitment into the field as wages, benefits, lack of respect and lack of training are all factors that impact the number of workers entering the early childhood field. In addition, efforts to increase the pipeline of workers would be explored and trialed such as increasing the focus on untapped demographic sectors (high schoolers, retirees, grandparents, displaced workers) and increasing the accessibility of required entry-level coursework.

An overall goal of recruitment and future expansion efforts would be to ensure equitable access to quality child care among income groups and other demographics, as well as geographic locations within the City of La Crosse. Work would expand to address transportation barriers, increase regulated slots that will accept Wisconsin Shares subsidy and eliminate geographic gaps as well as other strategies identified by the Child Care Development Coordinator.

The strategies outlined in this proposal represent innovative and unique pilot strategies that will be trialed to determine the long-term sustainability of individual efforts. Careful and thorough data collection will be conducted to support future funding support for these programs. Assessment and careful analysis of the success of programs/initiatives launched would reveal what works, what doesn't, and what is worth the investment. Future years would include a goal to identify sustainable sources of funding and/or revenue model as a responsibility of the Child Care Development Coordinator position.

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Budget

Staff Benefits & Compensation	\$ 72,954.00	Staff to implement program – year 1 of 4 years (includes wages and benefits for 1 FTE Coordinator position, limited data work and supervision/support)
Occupancy	\$ 2,047.00	Workspace and communication costs for staff
Mileage Reimbursement	\$ 1,313.00	Anticipated mileage reimbursement travel to providers, businesses, meetings
Professional Development	\$ 985.00	Training to increase skills and knowledge of staff
Supplies	\$ 500.00	Office supplies needed
Laptop	\$ 1,200.00	One time start-up cost for new staff
Total	\$ 78,999.00	Total Project Staff Costs
15% Administrative Costs	\$ 11,850.00	Administrative and back office support
Total Implementation	\$ 90,849.00	
Financial Support to child care businesses	\$ 183,000.00	Incentive to retain existing regulated child care providers thru bi-annual regulation maintenance awards
	\$ 37,500.00	Support expansion of existing regulated child care centers
	\$ 38,651.00	Start up support for new family child care and new child care center
Total Year 1 Project Cost	\$ 350,000.00	

Programs developed in association with “Financial Support tools for childcare businesses” referenced in the Budget will be brought before the EDC for review and approval prior to implementation.

Performance Goals

The overall goals for this work fall into three broad categories:

- Develop a Child Care Development Coordinator position to coordinate and oversee efforts within the City of La Crosse to address the child care shortage
- Retention of existing child care workers and slots in the City of La Crosse
- Expansion of child care slots to fill the unmet needs of workers in the City of La Crosse

Year one deliverables are broadly defined as follows so that there is room to adjust to evolving needs identified by this project:

Child Care Development Coordinator Position:

- Facilitate data collection on child care need within the city
- Produce data reports to guide project planning and implementation
- Regularly attend local, state and national collaborations that impact or inform City of La Crosse child care

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- Provide navigation services around support system and regulatory process for prospective family providers and new group centers
- Support at least 2 new family child care providers per year in achieving licensing or certification
- Support at least 1 new group center in achieving licensing per year
- Engage with 10 city employers per year to present information on child care as a recruitment/retention tool and businesses as a consumer of child care.
- Research and use data collected to create a sustainable revenue model (to be completed by the end of year 4)

Retention Strategies:

- Provide financial incentives to City of La Crosse group centers to provide retention bonuses to staff
- Develop and deliver professional development support on topics and in formats tailored to the needs of City of La Crosse child care providers based on data collection
- Coordinate outreach, recognition and/or marketing strategies to elevate and highlight the professionalism of the child care field

Expansion Strategies:

- Research untapped demographics to increase child care pipeline and identify strategies for recruitment
- Develop streamlined onboarding support around required entry-level course work
- Develop support for achieving entry-level requirements based on individual needs
- Collect data on equitable distribution of child care availability (geographic, economic, etc.) and develop strategies to address disparities
- Research and develop system of financial incentives to utilize available classroom capacity
- Develop a system of financial incentives to support new child care start-up sites

Timeline

July 15, 2022	Project start date
By August 15, 2022	Recruit and hire Child Care Development Coordinator
August 15 – December 31, 2022	Conduct data collection, outreach and begin committee involvement to assess need and begin development of tailored programs
January 1 – July 14, 2023	Develop, market and begin delivery of financial incentives, professional development programs, business presentations, and recognition programs
By July 14, 2023	Support 2 new family child care providers in achieving regulation
By July 14, 2023	Begin supporting one new group center in achieving licensing
Ongoing	Quarterly meetings, written narratives and data reports to City of La Crosse

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Attachment B. City of La Crosse Standard Contract Terms and Conditions

These are subject to modification at any time by the City of La Crosse and the final agreement with the City will include other provisions not in this agreement. Successful applicant will agree to abide by the City's Standard Contract Terms and Conditions.

1. **DEFINITIONS.** In this section "Contracting Party" shall mean any party that is entering into this Agreement with the City of La Crosse. "La Crosse" shall mean the City of La Crosse. These definitions shall apply only to this document titled "Standard Terms and Conditions (Service Contracts)" and shall not replace, modify or supersede any definitions used in other sections of this Agreement.
2. **STANDARD OF PERFORMANCE.** Contracting Party agrees that the performance of the services, pursuant to the terms and conditions of this Agreement, shall be in a manner at least equal to the degree of care and skill ordinarily exercised by members of the same professions currently practicing under similar circumstances providing like services
3. **FULLY QUALIFIED.** Contracting Party represents that all personnel engaged in the performance of the services set forth in this Agreement shall be fully qualified and, if applicable, shall be authorized or permitted under all applicable state and local laws and any other applicable laws or regulations to perform the services.
4. **SCOPE OF SERVICES.** Contracting Party is required to perform, do and carryout in a timely and professional manner the services set forth in this Agreement. The Contracting Party is required to furnish all services and labor necessary as indicated in this Agreement. The scope of services to be performed shall include, those services set forth in this Agreement. La Crosse may from time to time request the Contracting Party to perform additional services which are not set forth in this Agreement. In the event that such a request is made, the performance of such services shall be subject to the terms, conditions and contingencies set forth in this Agreement.
5. **CHANGE OF SCOPE.** The scope of service set forth in this Agreement is based on facts known at the time of the execution of this Agreement. The scope of service may not be fully definable during initial phases, and as the project progresses, facts discovered may indicate that the scope must be redefined. If mutually agreed to in advance in writing, Contracting Party shall make changes, furnish necessary materials, and perform the work that La Crosse may require, without nullifying this Agreement, at a reasonable addition to, or reduction from, the total cost of the project. Under no circumstances shall Contracting Party make any changes, either as additions or deductions, without the written consent of La Crosse, and La Crosse shall not pay any extra charges made by Contracting Party that have not been agreed upon in advance and documented in writing.
6. **COMPENSATION.** Contracting Party will be compensated by La Crosse for the services provided under this Agreement and subject to the terms, conditions and contingences set forth herein. Payments to Contracting Party for services rendered under this Agreement will be based on itemized invoices submitted on a monthly basis by the Contracting Party to La Crosse. These invoices, unless lump sum, must be itemized to identify labor costs and the Contracting Party's direct expenses, including subcontractor and supplier costs. In addition, such invoices shall show the hours worked by the Contracting Party's staff and the amount of work completed as a percentage of the work to be performed. If payment is by lump sum, then only the percent complete will be invoiced. The final payment of the balance due the Contracting Party for the completed service shall be made upon completion and acceptance of the services performed by the Contracting Party under this Agreement. Without prejudice to any other right or remedy it may have, La Crosse reserves the right to setoff at any time any amount owing to it by Contracting Party against any amount payable by La Crosse to Contracting Party.
7. **TAXES, SOCIAL SECURITY, INSURANCE AND GOVERNMENT REPORTING.** Personal income tax payments, social security contributions, insurance and all other governmental reporting and contributions required as a consequence of the Contracting Party receiving payment under this Agreement shall be the sole responsibility of the Contracting Party.
8. **TERMINATION FOR CAUSE.** If, through its own fault, intentional misconduct, or the fault or intentional misconduct of

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its subcontractors, agents or volunteers, the Contracting Party shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Contracting Party shall violate any of the covenants, agreements, or stipulations of this Agreement, both as determined by La Crosse in its sole discretion, La Crosse shall thereupon have the right to terminate this Agreement by giving written notice to the Contracting Party of such termination and specifying the effective date. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, reports or other deliverables performed by the Contracting Party under this Agreement for which compensation has been made shall, at the option of La Crosse, become the property of La Crosse. Notwithstanding the foregoing, the Contracting Party shall not be relieved of liability to La Crosse for damages sustained by La Crosse by virtue of the Contracting Party's intentional misconduct or negligent performance of this Agreement, and La Crosse may withhold any payments to the Contracting Party for the purpose of setoff until such time as the exact amount of damages due to La Crosse from the Contracting Party is determined. Use of incomplete or unfinished work is at the sole risk of La Crosse.

9. **TERMINATION FOR CONVENIENCE.** Either Party may terminate this Agreement for convenience at any time and for any reason by giving sixty (60) days written notice to the other Party of such termination. If this Agreement is terminated by La Crosse pursuant to this provision, Contracting Party will be paid an amount which bears the same ratio to the total compensation as the services actually performed and accepted by La Crosse bear to the total services of the Contracting Party covered by this Agreement, less payments for such services as were previously made. The value of the services rendered and delivered by Contracting Party will be determined by La Crosse.

10. **SAFETY.** Unless specifically included as a service to be provided under this Agreement, La Crosse specifically disclaims any authority or responsibility for general job site safety, or the safety of other persons or property. Except as otherwise provided in this Agreement, Contracting Party disclaims any authority or responsibility for general job site safety, or the safety of third-parties or their property.

11. **DELAYS.** If performance of Contracting Party's obligations under this Agreement is delayed through no fault of Contracting Party, Contracting Party shall be entitled to a reasonable extension of time as proposed by Contracting Party and as accepted or amended by La Crosse. If performance of La Crosse's obligations is delayed through no fault of La Crosse, La Crosse shall be entitled to an extension of time equal to the delay.

12. **USE OF LA CROSSE PROPERTY.** Any property belonging to La Crosse being provided for use by Contracting Party shall be used in a responsible manner and only for the purposes provided in this Agreement. No changes, alterations or additions shall be made to the property unless otherwise authorized by this Agreement.

13. **INSURANCE.** Unless otherwise specified in this Agreement, Contracting Party shall, at its sole expense, maintain in effect at all times during the Agreement, insurance coverage with limits not less than those set forth below with insurers and under forms of policies set forth below.

a. **Worker's Compensation and Employers Liability Insurance.** Contracting Party shall cover or insure under the applicable labor laws relating to worker's compensation insurance, all of their employees in accordance with the laws of the State of Wisconsin. Contracting Party shall provide statutory coverage for work related injuries and employer's liability insurance with limits of at least for employer's liability of one hundred thousand dollars (\$100,000.00) per each accident, one hundred thousand dollars (\$100,000.00) per each employee and five hundred thousand dollars (\$500,000.00) total policy limit.

b. **Commercial General Liability and Automobile Liability Insurance.** Contracting Party shall provide and maintain the following commercial general liability and automobile liability insurance:

i. Coverage for commercial general liability and automobile liability insurance shall, at a minimum, be at least as broad as the following:

1. Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG 0001).

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2. Insurance Services Office (ISO) Business Auto Coverage (Form CA 0001), covering Symbol 1 (any vehicle).

ii. Contracting Party shall maintain limits no less than the following:

1. General Liability. Two million dollars (\$2,000,000.00) per occurrence (\$2,000,000.00 general aggregate if applicable) for bodily injury, personal injury and property damage.

2. Automobile Liability. Two million dollars (\$2,000,000.00) for bodily injury and property damage per occurrence covering all vehicles to be used in relationship to the Agreement.

3. Umbrella Liability. Five million dollars (\$5,000,000.00) following form excess of the primary General Liability, Automobile Liability and Employers Liability Coverage. Coverage is to duplicate the requirements as set forth herein.

c. Professional Liability Insurance. When Contracting Party renders professional services to La Crosse under the Agreement, Contracting Party shall provide and maintain two million dollars (\$2,000,000.00) of professional liability insurance. If such policy is a “claims made” policy, all renewals thereof during the life of the Agreement shall include “prior acts coverage” covering at all times all claims made with respect to Contracting Party’s work performed under the Agreement. This Professional Liability coverage must be kept in force for a period of six (6) years after the services have been accepted by the La Crosse.

d. Required Provisions. The general liability, umbrella liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

i. La Crosse, its elected and appointed officials, officers, employees or authorized representatives or volunteers are to be given additional insured status (via ISO endorsement CG 2010, CG 2033, or insurer’s equivalent for general liability coverage) as respects: liability arising out of activities performed by or on behalf of Contracting Party; products and completed operations of Contracting Party; premises occupied or used by Contracting Party; and vehicles owned, leased, hired or borrowed by Contracting Party. The coverage shall contain no special limitations on the scope of protection afforded to La Crosse, its elected and appointed officials, officers, employees or authorized representatives or volunteers. Except for the workers’ compensation policy, each insurance policy shall contain a waiver of subrogation endorsement in favor of La Crosse.

ii. For any claims related to this Agreement, Contracting Party’s insurance shall be primary insurance with respect to La Crosse, its elected and appointed officials, officers, employees or authorized representatives or volunteers. Any insurance, self-insurance, or other coverage maintained by La Crosse, its elected and appointed officers, officials, employees or authorized representatives or volunteers shall not contribute to the primary insurance.

iii. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to La Crosse, its elected and appointed officers, employees or authorized representatives or volunteers.

iv. Contracting Party’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability.

v. Coverage shall not be canceled by the insurance carrier or the Contracting Party, except after sixty (60) days (ten (10) days for non-payment of premium) prior written notice by U.S. mail has been given to La Crosse.

vi. Such liability insurance shall indemnify La Crosse, its elected and appointed officials, officers, employees or authorized representatives or volunteers against loss from liability imposed by law upon, or assumed under contract by, Contracting Party for damages on account of such bodily injury, (including death), property damage personal injury, completed operations, and products liability.

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vii. The general liability policy shall cover bodily injury and property damage liability, owned and non-owned equipment, blanket contractual liability, completed operations. The automobile liability policy shall cover all owned, non-owned, and hired vehicles.

viii. All of the insurance shall be provided on policy forms and through companies satisfactory to La Crosse, and shall have a minimum AM Best's rating of A- VIII.

e. Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be declared to and approved by La Crosse.

f. Evidences of Insurance. Prior to execution of the Agreement, Contracting Party shall file with La Crosse a certificate of insurance (Accord Form 25-S or equivalent) signed by the insurer's representative evidencing the coverage required by this Agreement. Such evidence shall include an additional insured endorsement signed by the insurer's representative. Such evidence shall also include confirmation that coverage includes or has been modified to include all required provisions as detailed herein.

g. Sub-Contractor. In the event that Contracting Party employ other contractors (sub-contractors) as part of this Agreement, it shall be the Contracting Party's responsibility to require and confirm that each sub-contractor meets the minimum insurance requirements specified above.

h. Amendments. La Crosse may amend its requirements for insurance upon sixty (60) days written notice. Contracting Party shall procure updated insurance to comply with the new requirements of La Crosse if commercially available and at La Crosse's expense. Contracting Party may appeal any requirement to amend the insurance coverage to La Crosse's City Council who may, in its sole discretion, mutually agree to waive such changes.

14. INDEMNIFICATION. To the fullest extent allowable by law, Contracting Party hereby indemnifies and shall defend and hold harmless, at Contracting Party's expense, La Crosse, its elected and appointed officials, committee members, officers, employees, authorized representatives and volunteers ("La Crosse Indemnitees") from and against third party tort suits, actions, legal or administrative proceedings, claims, costs and expenses (including, without limitation, reasonable attorney and professional fees) to the extent caused by the negligent acts, errors or omissions of Contracting Party, its subcontractors or of anyone acting under its direction or control or on its behalf in the performance of this Agreement. Contracting Party's defense obligation shall not apply to professional liability claims. The aforesaid indemnity and hold harmless agreement shall not be applicable to any liability to the extent caused by La Crosse, its elected and appointed officials, officers, employees or authorized representatives, consultants, contractors or volunteers in the performance of this Agreement. Contracting Party's obligation to indemnify, defend and hold harmless shall not be restricted to insurance proceeds, if any, received by La Crosse, its elected and appointed officials, officers, employees, authorized representatives or volunteers. Nothing in this Agreement is intended or shall be construed to be a waiver or estoppel of La Crosse or its insurer (or otherwise affect or alter their ability) to rely upon the limitations, defenses and immunities contained within Wis. Stat. §§ 345.05 and 893.80, or other applicable law. To the extent that indemnification is available and enforceable against La Crosse, (a) La Crosse or its insurer shall not be liable in indemnity, contribution, or otherwise for an amount greater than the limits of liability of municipal claims established by applicable Wisconsin or federal law; and (b) La Crosse's obligations under this Agreement are further conditioned upon the following: (i) the indemnified party shall promptly notify La Crosse in writing of any such claims, demands, liabilities, damages, costs and expenses within ten (10) days of discovery; (ii) La Crosse shall have sole control of, and the indemnified party shall reasonably cooperate in all respects, in the defense of the claims, demands, liabilities, damages, costs and expenses and all related settlement negotiations; and (iii) the indemnified party shall not make any admission or disclosure or otherwise take any action prejudicial to La Crosse except as required by law. Neither party shall be liable for indirect, special, exemplary, consequential or incidental damages, including, without limitation, any damages for lost profits, revenue or business interruption. The parties represent that, as of the effective date, neither party has any notice or knowledge of any claims, demands, liabilities, damages, costs and expenses asserted or threatened by any third party with respect to the matters contemplated in this Agreement. This indemnity provision shall survive the termination or expiration of this Agreement.

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15. **NO PERSONAL LIABILITY.** Under no circumstances shall any trustee, officer, official, commissioner, director, member, partner or employee of either party have any personal liability arising out of this Agreement, unless an employee of the Contracting Party shall commit a criminal, fraudulent, malicious, or dishonest act which is excluded from Contracting Party's insurance coverage.

16. Intentionally omitted.

17. **INDEPENDENT CONTRACTORS.** The parties, their employees, agents, volunteers, and representative shall be deemed independent contractors of each other and shall in no way be deemed as a result of this Agreement to be employees of the other. The parties, their employees, agents, volunteers, and representatives are not entitled to any of the benefits that the other provides for its employees. The parties shall not be considered joint agents, joint ventures, or partners.

18. **GOVERNING LAW.** This Agreement and all questions and issues arising in connection herewith shall be governed by and construed in accordance with the laws of the State of Wisconsin. Venue for any action arising out of or in any way related to this Agreement shall be exclusively in La Crosse County, Wisconsin. Each party waives its right to challenge venue.

19. **JURY TRIAL WAIVER.** The parties hereby waive their respective rights to a jury trial on any claim or cause of action based upon or arising from or otherwise related to this Agreement. This waiver of right to trial by jury is given knowingly and voluntarily by the parties and is intended to encompass individually each instance and each issue as to which the right to a trial by jury would otherwise accrue. Each party is hereby authorized to file a copy of this section in any proceeding as conclusive evidence of this waiver by the other party.

20. **NOTIFICATION.** Parties shall:

(1) As soon as possible and in any event within a reasonable period of time after the occurrence of any event of default by either party, notify the other Party in writing of such default and set forth the details thereof and the action which is being taken or proposed to be taken by defaulting party to cure or mitigate the default.

(2) Promptly notify the other Party of the commencement of any litigation or administrative proceeding that would cause any representation contained in this Agreement to be untrue.

(3) If related to the performance of services and work under this Agreement, notify the other Party, and provide copies, immediately, upon receipt, of any notice, pleading, citation, indictment, complaint, order or decree from any federal, state or local government agency or regulatory body, asserting or alleging a circumstance or condition that requires or may require a financial contribution by a Party or any guarantor or an investigation, clean-up, removal, remedial action or other response by or on the part of a Party or any guarantor under any environmental laws, rules, regulations, ordinances or which seeks damages or civil, criminal or punitive penalties from or against a Party or any guarantor for an alleged violation of any environmental laws, rules, regulations or ordinances.

21. **SEVERABILITY.** The provisions of this Agreement are severable. If any provision or part of this Agreement or the application thereof to any person or circumstance shall be held by a court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part thereof to other persons or circumstances shall not be affected thereby.

22. **ASSIGNMENT, SUBLET, AND TRANSFER.** A Party shall not assign, sublet, or transfer its interests or obligations under the provisions of this Agreement without the prior written consent of the other Party. This Agreement shall be binding on the heirs, successors, and permitted assigns of each party hereto. A Party shall provide not less than forty-five (45) days advance written notice of request to assign, sublet or transfer any services provided under this Agreement. The decision to allow an assignment by Contracting Party rests solely with La Crosse, in its discretion

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23. **NO WAIVER.** The failure of any party to insist, in any one or more instance, upon performance of any of the terms, covenants, or conditions of this Agreement shall not be construed as a waiver, or relinquishment of the future performance of any such term, covenant, or condition by any other party hereto but the obligation of such other party with respect to such future performance shall continue in full force and effect.

24. **SUBCONTRACTING.** None of the services to be performed under this Agreement shall be subcontracted without the prior written approval of La Crosse. If any of the services are subcontracted, the performance of such services shall be specified by written contract and shall be subject to each provision of this Agreement. Contracting Party shall be as fully responsible to La Crosse for the acts and omissions of its subcontractors and of person either directly or indirectly employed by them, as it is for acts and omissions of persons directly employed by it.

25. **CONFLICTS OF INTEREST.** Contracting Party covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. Contracting Party further covenants that in the performance of this Agreement no person having any conflicting interest shall be employed. Any interest on the part of Contracting Party or its employee must be disclosed to La Crosse

26. **NON-DISCRIMINATION.** Pursuant to law, it is unlawful and Contracting Party agrees not to willfully refuse to employ, to discharge, or to discriminate against any person otherwise qualified because of race, color, religion, sex, sexual orientation, age, disability, national origin or ancestry, lawful source of income, marital status, creed, or familial status; not to discriminate for the same reason in regard to tenure, terms, or conditions of employment, not to deny promotion or increase in compensation solely for these reasons; not to adopt or enforce any employment policy which discriminates between employees on account of race, color, religion, sex, creed, age, disability, national origin or ancestry, lawful source of income, marital status or familial status; not to seek such information as to any employee as a condition of employment; not to penalize any employee or discriminate in the selection of personnel for training, solely on the basis of race, color, religion, sex, sexual orientation, age, disability, national origin or ancestry, lawful source of income, marital status, creed or familial status. Contracting Party shall include or cause to be included in each subcontract covering any of the services to be performed under this Agreement a provision similar to the above paragraph, together with a clause requiring such insertion in further subcontracts that may in turn be made.

27. **POLITICAL ACTIVITIES.** Contracting Party employees shall not engage in any political activities within the City of La Crosse while in performance of any and all services and work under this Agreement. This does not apply to periods of time in which employee is not at work, or is billing other than La Crosse for his/ her time.

28. **GOVERNMENTAL APPROVALS.** Contracting Party acknowledges that various of the specific undertakings of La Crosse described in this Agreement may require approvals from the City of La Crosse Council, City of La Crosse bodies, and/or other public bodies, some of which may require public hearings and other legal proceedings as conditions precedent thereto. Contracting Party further acknowledges that this Agreement is subject to appropriation by the La Crosse Common Council. La Crosse's obligation to perform under this Agreement is conditioned upon obtaining all such approvals in the manner required by law. La Crosse cannot assure that all such approvals will be obtained, however, it agrees to use good faith efforts to obtain such approvals on a timely basis.

29. **ENTIRE AND SUPERSEDING AGREEMENT.** This writing, all Exhibits hereto, and the other documents and agreements referenced herein, constitute the entire Agreement between the parties with respect to the subject matter hereof, and all prior agreements, correspondences, discussions and understandings of the parties (whether written or oral) are merged herein and made a part hereof. To the extent that any terms and conditions contained in this Agreement, all Exhibits hereto, and the other documents and agreement referenced herein conflict with these Standard Terms and Conditions, the Standard Terms and Conditions shall take precedence.

30. **AMENDMENT.** This Agreement shall be amended only by formal written supplementary amendment. No oral amendment of this Agreement shall be given any effect. All amendments to this Agreement shall be in writing executed by both parties.

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31. IMPLEMENTATION SCHEDULE AND TIME OF THE ESSENCE. Any and all phases and schedules which are the subject of approvals, or as set forth herein, shall be governed by the principle that modification or deviation from such schedules shall occur only upon approval of La Crosse or reasons of Force Majeure. Any phase or schedule that is determined to be “time of the essence” shall be specifically identified as such within the scope of services. The Mayor, or in the Mayor’s absence, the Council President, shall have the ability to postpone any deadline listed herein, up to a maximum of ninety (90) days. If such delays cause additional cost, Contracting Party shall be reimbursed.

32. TIME COMPUTATION. Any period of time described in this Agreement by reference to a number of days includes Saturdays, Sundays, and any state or national holidays. Any period of time described in this Agreement by reference to a number of business days does not include Saturdays, Sundays or any state or national holidays. If the date or last date to perform any act or to give any notices is a Saturday, Sunday or state or national holiday, that act or notice may be timely performed or given on the next succeeding day which is not a Saturday, Sunday or state or national holiday.

33. NOTICES. Any notice, demand, certificate or other communication under this Agreement shall be given in writing and deemed effective: a) when personally delivered; b) three (3) days after deposit within the United States Postal Service, postage prepaid, certified, return receipt requested; or c) one (1) business day after deposit with a nationally recognized overnight courier service, addressed by name and to the party or person intended as follows: To the City: Attn. City Clerk Copy to: Attn. City Attorney City of La Crosse City of La Crosse 400 La Crosse Street 400 La Crosse Street La Crosse, WI 54601 La Crosse, WI 54601 Contracting Party shall identify in writing and provide to La Crosse the contact person and address for notices under this Agreement.

34. Intentionally omitted.

35. ACCESS TO RECORDS. Contracting Party, at its sole expense, shall maintain books, records, documents and other evidence pertinent to this Agreement in accordance with accepted applicable professional practices. La Crosse, or any of its duly authorized representatives, shall have access, at no cost to La Crosse, to such books, records, documents, papers or any records, including electronic, of Contracting Party which are pertinent to the hourly rates of pay and reimbursable costs under this Agreement, for the purpose of making audits, examinations, excerpts and transcriptions. Once deliverables are provided to La Crosse, additional copies will be provided for a fee.

36. PUBLIC RECORDS LAW. Contracting Party understands and acknowledges that La Crosse is subject to the Public Records Law of the State of Wisconsin. As such, Contracting Party agrees to retain all records as defined by Wisconsin Statute § 19.32(2) applicable to this Agreement for a period of not less than seven (7) years after the termination or expiration of this Agreement. Contracting Party agrees to assist La Crosse in complying with any public records request that La Crosse receives pertaining to this Agreement. If the requested record is not within that which is required to be produced by statute or other authority, then Contracting Party may object, and La Crosse will reject the request. Contracting Party shall seek to intervene in any subsequent public records lawsuit, writ of mandamus, or other action against La Crosse seeking to compel disclosure in order to dispute disclosure of the requested record. Contracting Party shall also cooperate and provide assistance to La Crosse, at no cost, in the defense of such lawsuit, writ or other action. If the request is upheld by a court of law, then Contracting Party will produce the records or indemnify and hold harmless La Crosse Indemnitees from any liability, including without limitation, attorney fees related to or in any way arising from Contracting Party’s actions or omissions which contribute to La Crosse’s inability to comply with the Public Records Law. In the event that Contracting Party decides not to retain its records for a period of seven (7) years, then it shall provide written notice to La Crosse whereupon La Crosse shall take custody of said records assuming such records are not already maintained by La Crosse. This provision shall survive the termination of this Agreement.

37. CONSTRUCTION. This Agreement shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument to be drafted. This agreement shall be deemed to have been drafted by the parties of equal bargaining strength. The captions appearing at the first of each numbered section of this Agreement are inserted and included solely for convenience but shall never be considered or given any effect in construing this Agreement with the duties, obligations, or liabilities of the respective hereto or in ascertaining intent, if any questions of intent should arise. All

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terms and words used in this Agreement, whether singular or plural and regardless of the gender thereof, shall be deemed to include any other number and any other gender as the context may require.

38. **NO THIRD-PARTY BENEFICIARY.** Nothing contained in this Agreement, nor the performance of the parties hereunder, is intended to benefit, nor shall inure to the benefit of, any third party.

39. **COMPLIANCE WITH LAW.** The parties shall comply in all material respects with applicable federal, state and local laws, regulations and ordinances.

40. **FORCE MAJEURE.** Neither Party shall be responsible for any resulting losses and it shall not be a default hereunder if the fulfillment of any of the terms of this Agreement is delayed or prevented by revolutions or other civil disorders, wars, acts of enemies, strikes, fires, floods, acts of God, adverse weather conditions, legally required environmental remedial actions, industrywide shortage of materials, or by any other cause not within the control of the party whose performance was interfered with, and which exercise of reasonable diligence, such party is unable to prevent, whether of the class of causes hereinabove enumerated or not, and the time for performance shall be extended by the period of delay occasioned by any such cause.

41. **GOOD STANDING.** Contracting Party affirms that it is a company duly formed and validly existing and in good standing under the laws of the State of Wisconsin and has the power and all necessary licenses, permits and franchises to own its assets and properties and to carry on its business. Contracting Party is duly licensed or qualified to do business and is in good standing in the State of Wisconsin and in all other jurisdictions in which failure to do so would have a material adverse effect on its business or financial condition.

42. **AUTHORITY.** The persons signing this Agreement warrant that they have the authority to sign as, or on behalf of, the party for whom they are signing.

43. **EXECUTION OF AGREEMENT.** Contracting Party shall sign and execute this Agreement on or before sixty (60) days of its approval by the La Crosse Common Council, and Contracting Party's failure to do so will render the approval of the Agreement by the La Crosse Common Council null and void unless otherwise authorized.

44. **COUNTERPARTS.** This Agreement may be executed in one or more counterparts, all of which shall be considered but one and the same agreements and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party.

45. **SURVIVAL.** All express representations, indemnifications and limitations of liability included in this Agreement will survive its completion or termination.

46. **COMPLIANCE WITH LAW.** Contracting Party agrees to abide by applicable federal, state and local laws, regulations and ordinances, and all provisions of this Agreement.

47. **RELIANCE.** Contracting Party has the right to reasonably rely on information provided by or through La Crosse.

Revised: 06.21.19

Resolution approving an appropriation of the City's ARPA monies earmarked for childcare to go towards a one-year agreement with The Parenting Place.

RESOLUTION

WHEREAS, the City was awarded American Rescue Plan Act (ARPA) funding from the U.S. Treasury; and

WHEREAS, the City Council passed a Resolution 21-1732 on January 13, 2022 appropriating some of these ARPA funds to promote healthy childhood environments through improvements in childcare, mitigation of health disparities, and improvement of living and recreation environments; and

WHEREAS, the City Council passed a Resolution 22-0259 on March 10, 2022 further specifying the funding amounts and uses for this initiative; and

WHEREAS, City staff have been in conversations with multiple stakeholders for several months regarding the best usage of the City's ARPA monies allocated to address childcare, and in part due to the complexity of this issue and the ever-changing dynamics in play, the City has recognized the need to have a dedicated entity or group of people to directly oversee the success of the City's childcare initiatives over the lifetime of the grant period for ARPA; and

WHEREAS, the City previously facilitated another ARPA-funded initiative, the La Crosse Community Foundation project, with a similar structure: leveraging a local expert entity that is best positioned to carry out the work to reach the City's overall goals for the funding; and

WHEREAS, the City has identified The Parenting Place as the sole entity to oversee this project, and documented justification to meet the sole-source threshold, and part of that justification includes that there is "no other entity within La Crosse County that is doing this work: coordinating efforts of childcare, working directly with all providers, supporting parents and children, has complete familiarization and expertise of "nuts & bolts" of childcare (licensing, financial resources and programs available, regulations, etc.), and facilitates data collection and child care referrals".

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of La Crosse to allocate \$350,000 of ARPA funds to The Parenting Place for the first year of facilitation of a multi-year comprehensive approach to improving the wholistic childcare industry for all in the City of La Crosse: parents, providers, childcare employees, community stakeholders, and children.

BE IT FURTHER RESOLVED that this work will be carried out in compliance with all items include in the Grant Program Agreement.

BE IT FURTHER RESOLVED that the Mayor and City Clerk are hereby authorized to signed said agreement.

BE IT FURTHER RESOLVED that the Mayor and Director of Planning, Development and Assessment are hereby authorized to take any and all steps necessary to effectuate this resolution.

Sole Source Purchase Justification/Verbal Contract Agreement

Contractor/Vendor Name:

1. Description of Purchase (product or service) :

Facilitate a multi-year comprehensive approach to improving the holistic childcare industry for all in the City of La Crosse: parents, providers, childcare employees, community stakeholders, and children.

2. Cost/Price of product or service:

\$350,000 for year 1 (Approximately July 2022-June 2023)

3. Justification (why this contractor/vendor, product or service is unique):

The Parenting Place is the Child Care Resource and Referral Agency (CCR&R) in La Crosse County and also serves as the only entity that provides child care Certification and Pre-licensing Consultation in La Crosse County, programs that new regulated child care providers must participate in to start a business. As the designated CCR&R, the agency's role is to serve all regulated child care programs (in-home, centers, before and after school programs), with technical assistance, quality initiatives, and professional development. In addition, The Parenting Place works at the community level to coordinate child care initiatives, educate about child care issues, and represent the child care industry on work groups and task forces. The agency manages the only data base of all regulated child care providers from which it provides customized child care referrals to families and local data collection about child care gaps, trends and family child care needs. The Parenting Place is the only organization providing comprehensive services to child care providers that has a physical office presence in the City of La Crosse, staff located in the city and a comprehensive knowledge of the La Crosse Community. It is the only organization that serves both child care providers and families in the City of La Crosse, and assessing the child care needs of families is essential in finding and implementing solutions. Local childcare providers have referred to the Parenting Place as the local "neutral entity" that serves as a resource center and their (providers) "collective voice".

4. Reasons other contractor/vendor, products or services do not meet the needs or specifications:

There literally is no other entity within La Crosse County that is doing this work: coordinating efforts of childcare, working directly with all providers, supporting parents and children, has complete familiarization and expertise of "nuts & bolts" of childcare (licensing, financial resources and programs available, regulations, etc), and facilitates data collection and child care referrals. Additionally, any other entity working to build the number of child care providers would need to work with The Parenting Place to access certification or Pre-Licensing services which they cannot, themselves, provide. The Parenting Place is the only organization that provides services to the child care community and families who are searching for child care. The parent voice is crucial to identifying and effectively addressing child care needs. The Parenting Place's blend of services are inclusive of all child care providers including family child care, group centers, school age care and provide outreach, technical assistance and professional development to unregulated providers. If another contractor were to attempt to fulfill the obligations in the contract, they would be "starting from scratch", as no such other entity exists. Among many other things, the entity would need to develop similar community relationships which could take a significant portion of this contract timeline and jeopardize efficiency of the delivery of identified services.

5. Efforts to identify other sources:

Held open meeting with all current childcare providers in the City of La Crosse to gain feedback. Remained consistently engaged with others connected locally to the industry and this issue: County, higher-ed institutions, school district, key employers, statewide organizations, etc. Sought input from many of these experts in the field

to be assured of the role of The Parenting Place in the community and this industry, and that no other similar entity exists.

Definition

1. Sole Source. A product or service that is unique and that the contractor/vendor, to the best of the requestor's knowledge and belief, based on research of the requester is the only contractor/vendor able to furnish the product or service.
2. Unique. The product or service obtained can only be requested from one contractor/vendor and no other contractor/vendor's make or provide comparable products or services that meet standards.
3. Technical Specifications. A highly technical piece of equipment can be deemed "sole source" if the technical aspects of the piece of equipment are required or necessary for the work and no other contractor/vendor can provide those required technical specification in a similar or comparable piece of equipment.
4. Standards. If standards have been developed in an effort to streamline processes or reduce costs, then this could be an acceptable sole source purchase justification.
5. Compatibility. A piece of equipment can be a sole source purchase due to its compatibility with existing equipment.

Sole source justifications based on personal preference, perceived quality, contractor performance, delivery time are **NOT PERMITTED**; rather, these items may be considered in evaluating bids and proposals.

Signature: Julie Emslie

Date: 6/7/2022

Julie Emslie, Economic Development Administrator

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THIS AGREEMENT, made and entered into this 14th day of July 2022, by and between the City of La Crosse, Wisconsin, a Wisconsin municipal corporation hereinafter referred to as "City" and The Parenting Place of La Crosse, its address at 1500 Green Bay St, WI 54601, a La Crosse corporation with its office at, La Crosse, Wisconsin, 54601 hereinafter referred to as "Subrecipient".

WHEREAS, the City was awarded American Rescue Plan Act (ARPA) funding from the U.S. Treasury; and

WHEREAS, the City Council passed a Resolution on January 13, 2022 appropriating some of these ARPA funds to promote healthy childhood environments through improvements in childcare, mitigation of health disparities, and improvement of living and recreation environments; and

WHEREAS, the City Council passed a Resolution on March 10, 2022 further specifying the funding amounts and uses for this initiative; and

WHEREAS, the City has documented justification for the Subrecipient to meet the sole-source threshold, and part of that justification includes that there is "no other entity within La Crosse County that is doing this work: coordinating efforts of childcare, working directly with all providers, supporting parents and children, has complete familiarization and expertise of "nuts & bolts" of childcare (licensing, financial resources and programs available, regulations, etc), and facilitates data collection and child care referrals"; and

WHEREAS, the Subrecipient has not received other funding for this need and there is no duplication of benefits from other sources; and

WHEREAS, as a result of that recommendation the City is willing to allocate \$350,000 of ARPA funds to the Subrecipient to facilitate a multi-year comprehensive approach to improving the wholistic childcare industry for all in the City of La Crosse: parents, providers, childcare employees, community stakeholders, and children; and

WHEREAS, prior to advancing funds to the Subrecipient, the City of La Crosse desires certain assurances as more fully set forth herein.

NOW, THEREFORE, IT IS AGREED THAT:

1. **Statements of Work, Uses of Funds, Performance Goals**
 - a. The City will grant to the Subrecipient a sum of \$350,000 from ARPA funds for the purpose of facilitating a multi-year comprehensive approach to improving the wholistic childcare industry for all in the City of La Crosse: parents, providers, childcare employees, community stakeholders, and children.

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- b. Refer to Attachment A for the agreed upon Statement of Work, Budget, Performance Goals, and Timetable.
- c. This grant is made only for the purpose(s) outlined in the grant application and Attachment A, must be used to support the Subrecipient's work in the City of La Crosse, and may not be expended for any other purpose without the City's prior written approval.

2. **Payment**

First half of payment shall be issued within 45 days after this agreement has been signed by both parties and fully executed. Second half of payment shall be issued within 45 days of receiving an impact report for the first 6 months and barring all other items in this Agreement are in compliance.

3. **Required Notification**

Subrecipient is required to provide the City with immediate written notification of: (1) any changes in its organization's tax-exempt status; (2) its inability to expend the grant for the purposes as awarded; or (3) any expenditure from this grant made for any purpose other than for which the grant was awarded.

Any portion of the grant not expended at the completion of the project and/or the end of the grant period must be returned immediately to the City. Subrecipient may seek prior written approval from the City to extend grant period and/or use remaining funds for a different need/purpose.

4. **Subrogation**

In consideration of the Subrecipient's funds from the City, the Subrecipient hereby assigns to the City all of its future rights to reimbursement and all payments received from any grant, subsidized loan, or insurance policies of any type or coverage or under any reimbursement or relief program related to or administered by the Federal government or other program to the extent of proceeds paid to Subrecipient under this Agreement and that are determined in the sole discretion of the City to be a duplication of benefits ("DOB"). This shall be defined as financial assistance, available to the Subrecipient, that can be used to pay for the costs described under the Subrecipient's grant application and are to be paid for by this grant (ARPA).

Upon receiving any proceeds from other relief programs, federal funds, or loan programs for this Use of Funds, that were not already described in the grant application, the Subrecipient agrees

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to immediately notify the City. If some or all of the proceeds are determined to be a DOB, the portion that is a DOB shall be paid to the City forthwith.

5. **Records and Reports**

- a. **Follow-up Reporting** - Subrecipient will provide records in accordance with all American Rescue Plan Act requirements through quarterly reporting requirements. Additionally, Subrecipient is expected to have met the items stated in Section 1, “Statements of Work, Uses of Funds, Levels of Accomplishment, Timetable”, by the end of the agreement and will provide updates on Performance Goals and the project overall in its quarterly reporting.

Subrecipient will meet with City staff on a monthly basis and attend the City’s Economic Development Commission meetings quarterly to provide updates on the work associated with this award. Subrecipient will also complete an annual impact report to describe progress in achieving the purpose of the grant. The annual impact report is due once all the funds have been expended, and/or no later than 1 year from receipt of award check(s). It is recommended to include at least one success story with the impact report.

Subrecipient also agrees to provide any other additional information requested by the City pertaining to this grant.

If performance goals have not been met or quarterly and/or annual reporting is not completed, Subrecipient will have to provide evidence of factors beyond their reasonable control. Staffing issues will not be considered beyond their reasonable control. In the event that Subrecipient encounters factors beyond its control that interfere with the Subrecipient’s ability to perform under the contract, the City and Subrecipient shall work together to attempt to solve the issues that have arisen.

In the event, in the City’s opinion, that Subrecipient fails to provide sufficient documentation to satisfy the deficiency(s) in reporting and/or meeting performance goals, then the City may apply financial consequences which may include but are not limited to withholding future payment until the deficiency is resolved and/or require a total or partial refund of any grant funds if, in the City’s sole discretion, such action is necessary: (1) because Subrecipient has not fully complied with the terms and conditions of the grant; (2) lack of performance with grant results; (3) to protect the purpose and objectives of the grant; or (4) to comply with the requirements of any law or regulation applicable to Subrecipient, the City or the grant.

- b. **Financial Reporting**– The Subrecipient shall:

- i. Maintain an effective system of internal fiscal control and accountability for all ARPA

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- funds and property acquired or improved with ARPA funds, and make sure the same are used solely for authorized purposes.
- ii. Ensure that all costs shall be supported by properly executed payrolls, time records, invoices, vouchers or other official documentation, as evidence of the nature and propriety of the charges. All accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible.
 - iii. Inform the City concerning any funds allocated to the Subrecipient, that the Subrecipient anticipates will not be expended according to this Agreement.
- c. **Data-** The Subrecipient shall maintain data demonstrating eligibility for funding. Such information shall be made available to the City, or their designees for review upon request.

6. **Uniform Administrative Requirements**

The Subrecipient will, to the maximum possible extent, ensure compliance with regulations regarding:

- a. Office of Management and Budget (OMB) Uniform Guidance, "Cost Principles, Audit and Administrative Requirements for Federal Awards" (2 CFR Part 200), which establishes principles for determining costs of grants, contracts, and other agreements with nonprofit organizations. These regulations are applicable for determining acceptable/allowable costs of work performed by nonprofit organizations. For example, to be allowed under an award, costs must meet general criteria such as:
 - i. Be reasonable for the performance of the award,
 - ii. Be accorded consistent treatment,
 - iii. Be determined in accordance with generally accepted accounting principles, and
 - iv. Be adequately documented.
- b. Office of Management and Budget (OMB) Uniform Guidance which, in part, provide that financial management systems operated by recipients of federal assistance will provide for accurate, current, reliable, and complete disclosure of financial and accounting records relating to the use of federal dollars.

All records will identify the source and application of funds for activities, and accounting records are to be made available for audit(s) at the City's direction to determine the fiscal integrity of financial transactions and performances. All future procurement transactions for supplies, equipment, construction, and other services, regardless of whether negotiated or advertised, will be conducted in a manner so as to provide maximum open

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and free competition.

The Subrecipient will give the U.S. Department of Treasury, the Comptroller General, the City of La Crosse, or any authorized representatives access to the right to examine all records and documents related to the grant. Such records will be maintained for a period of at least five (5) years after receipt of federal funds.

7. **Additional Federal Requirements**

The Subrecipient will ensure compliance with regulations regarding:

A. Civil Rights

1. General Compliance

Title VI and Title IX of the Civil Rights Act of 1964 (Public Law 88-352)(42 U.S.C. 2003d et seq.); and implementing regulations issued at 24 CFR Part 1; as amended by Executive Order 11375 and 12086, and implementing regulations at 41 CFR Chapter 60, which prohibits discrimination in any activity receiving federal financial assistance.

2. Nondiscrimination

Title VIII of the Civil Rights Act of 1968, (Public Law 90-284)(42 U.S.C. 3601 et seq.); as amended, which prohibits discrimination in housing on the grounds of race, color, religion, national origin, sex, disability, or familial status.

Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) which prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.

Section 504 of the Rehabilitation Act of 1973, (Public Law 93-112) as amended, and implementing regulations when published for effect. Said regulation provides for nondiscrimination based on disability in federally-assisted programs and activities.

B. Employment Restrictions

1. Prohibited Activity

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; inherently religious activities; lobbying; political patronage; and nepotism activities.

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C. Conflict of Interest

The Subrecipient agrees to abide by the provisions of 24 CFR 84.42 and 570.611, which include, but are not limited to the following:

1. The Subrecipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.

2. No employee, officer or agent of the Subrecipient shall participate in the selection, the award or the administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

3. No covered persons who exercise or have exercised any functions or responsibilities with respect to ARPA-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the ARPA-assisted activity, or with respect to the proceeds from the ARPA-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the City, the Subrecipient, or any designated public agency.

D. Anti-Lobbying. The Subrecipient certifies that to the best of its knowledge and belief:

No federal-appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a federal contract, grant, loan, or cooperative agreement;

If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying".

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8. **Publicity**

The Subrecipient shall ensure recognition of the role of the City of La Crosse and Federal American Rescue Plan Act funding in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to the funding source.

The City may include information regarding this grant, including the amount and purpose of the grant and any other information or materials the Subrecipient provided about its organization, in its own publicity including, but not limited to: news releases, newsletters, annual reports and social media posts.

9. **Suspension and Termination**

The Subrecipient further agrees that this Agreement may be terminated or suspended in the event the Subrecipient fails to perform any of the conditions contained herein and that the City may take appropriate and corrective action in order to insure compliance with this Agreement, including withholding payments, re-allocating funds, an order to audit the Subrecipient's books and records pertaining to its activities and the utilization of federal funds.

In the event of default or violation by the Subrecipient or the necessity of corrective action, the City will provide the Subrecipient, by written notice, a demand to cure default explaining the nature and extent of the default or violation. The Subrecipient will cure or remedy said violation or default within ten (10) days after receipt of said notice, unless a longer time is agreed upon by the parties, in writing. In case default or violation is not cured, and corrective action is not completed within ten (10) days or a longer time as may be agreed upon, this Agreement may be terminated, and the City may have whatever remedy is authorized pursuant to state, local, and federal laws, including return of any funds previously given to the Subrecipient.

10. **Independent Status**

Nothing contained herein, nor any act of the City, the Subrecipient, or any other party, will be deemed or construed by any party, or by any other third person, to create any relationship with third party Subrecipient, principal or agent, limited or general partnership, or joint venture, or of any association or relationship involving the City. The Subrecipient is at all times considered an independent agency and not an agency or branch of the City.

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IN WITNESS WHEREOF, the parties hereto have affixed their hands and seals the day and year first above written.

CITY OF LA CROSSE, WISCONSIN

THE PARENTING PLACE

Mitch Reynolds, Mayor

Jodi Widuch, Executive Director

Nikki Elsen, Clerk

Sue Wrobel, Board Chair

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Attachment A: Agreed Upon Statement of Work, Budget, and Performance Goals

Scope of Work

This project would develop strategies retain the existing child care workforce so that the number of child care slots in the city of La Crosse are not reduced any further and would then work to increase the number of child care slots by staffing existing classrooms and expanding child care sites.

This project is designed to leverage the experience, programs, and connections of The Parenting Place to effectively coordinate child care capacity building efforts in the most efficient way possible. The Parenting Place facilitates several programs that support existing child care providers and that help prospective child care providers enter the field. These programs are the basis for a long-standing, trusted relationship with the child care community. In addition, The Parenting Place has a well-structured statewide communication network which allows the organization to be aware of legislative impacts, child care trends and related funding opportunities, positioning the agency as an informal coordinator of child care programs and relief efforts. There is not currently a position that is dedicated to this work and coordination efforts are layered on top of other responsibilities, leaving capacity for this coordination role to be much more effectively implemented. Despite the availability of the technical assistance The Parenting Place currently provides to existing programs, economic barriers are still causing child care sites to close. Finances are also a barrier to individuals entering the field. City of La Crosse ARPA funding would create a position dedicated to the coordination of child care capacity building in the City of La Crosse and would allow financial barriers to be removed to support the retention and expansion of child care in the city.

The newly created full-time Child Care Development Coordinator position would work to assess child care needs and challenges, act as a connector and liaison in the community and identify and avoid duplication of efforts. Responsibilities would include representing The Parenting Place and the City of La Crosse on local child care-focused committees, compile existing child care data, design inquiries for unfilled data needs, and facilitate identified recruitment, retention and expansion efforts. In addition, this role would work to further engage City of La Crosse employers in understanding the value of child care as a recruitment and retention tool and a driver of economic success and also return on investment in early childhood.

Financial incentives made possible by ARPA funding would focus initially on retention of existing child care slots and building back up to pre-COVID levels by utilizing existing capacity in child care sites left by unstaffed classrooms. Retention efforts designed by the Child Care Development Coordinator would focus on creating a sustainable revenue model that leads to wage increases and providing support for common challenges that lead to turnover in the field. Professional development opportunities in the form of classes, learning cohorts, support groups and one-on-one coaching would be customized to meet the needs of City of La Crosse providers based on research by the Child Care Development Coordinator. Professional development topics would include serving children who exhibit challenging behaviors, expulsion reduction, and trauma informed care to address the evolving

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needs of the child care population identified through data collection efforts. Finally, retention would be further supported by efforts to rebrand child care as a respected profession rather than the stigmatized field it has become due to low wages and lack of understanding of the importance of early childhood education. Marketing efforts would highlight the considerable educational qualifications, economic importance and lifelong impact that quality child care has on the success of individuals as well as portray the field as a dynamic and fulfilling career choice.

Many of the retention efforts highlighted above would also serve to facilitate recruitment into the field as wages, benefits, lack of respect and lack of training are all factors that impact the number of workers entering the early childhood field. In addition, efforts to increase the pipeline of workers would be explored and trialed such as increasing the focus on untapped demographic sectors (high schoolers, retirees, grandparents, displaced workers) and increasing the accessibility of required entry-level coursework.

An overall goal of recruitment and future expansion efforts would be to ensure equitable access to quality child care among income groups and other demographics, as well as geographic locations within the City of La Crosse. Work would expand to address transportation barriers, increase regulated slots that will accept Wisconsin Shares subsidy and eliminate geographic gaps as well as other strategies identified by the Child Care Development Coordinator.

The strategies outlined in this proposal represent innovative and unique pilot strategies that will be trialed to determine the long-term sustainability of individual efforts. Careful and thorough data collection will be conducted to support future funding support for these programs. Assessment and careful analysis of the success of programs/initiatives launched would reveal what works, what doesn't, and what is worth the investment. Future years would include a goal to identify sustainable sources of funding and/or revenue model as a responsibility of the Child Care Development Coordinator position.

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Budget

Staff Benefits & Compensation	\$ 72,954.00	Staff to implement program – year 1 of 4 years (includes wages and benefits for 1 FTE Coordinator position, limited data work and supervision/support)
Occupancy	\$ 2,047.00	Workspace and communication costs for staff
Mileage Reimbursement	\$ 1,313.00	Anticipated mileage reimbursement travel to providers, businesses, meetings
Professional Development	\$ 985.00	Training to increase skills and knowledge of staff
Supplies	\$ 500.00	Office supplies needed
Laptop	\$ 1,200.00	One time start-up cost for new staff
Total	\$ 78,999.00	Total Project Staff Costs
15% Administrative Costs	\$ 11,850.00	Administrative and back office support
Total Implementation	\$ 90,849.00	
Financial Support to child care businesses	\$ 183,000.00	Incentive to retain existing regulated child care providers thru bi-annual regulation maintenance awards
	\$ 37,500.00	Support expansion of existing regulated child care centers
	\$ 38,651.00	Start up support for new family child care and new child care center
Total Year 1 Project Cost	\$ 350,000.00	

Performance Goals

The overall goals for this work fall into three broad categories:

- Develop a Child Care Development Coordinator position to coordinate and oversee efforts within the City of La Crosse to address the child care shortage
- Retention of existing child care workers and slots in the City of La Crosse
- Expansion of child care slots to fill the unmet needs of workers in the City of La Crosse

Year one deliverables are broadly defined as follows so that there is room to adjust to evolving needs identified by this project:

Child Care Development Coordinator Position:

- Facilitate data collection on child care need within the city
- Produce data reports to guide project planning and implementation
- Regularly attend local, state and national collaborations that impact or inform City of La Crosse child care
- Provide navigation services around support system and regulatory process for prospective family providers and new group centers
- Support at least 2 new family child care providers per year in achieving licensing or certification

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- Support at least 1 new group center in achieving licensing per year
- Engage with 10 city employers per year to present information on child care as a recruitment/retention tool and businesses as a consumer of child care.
- Research and use data collected to create a sustainable revenue model (to be completed by the end of year 4)

Retention Strategies:

- Provide financial incentives to City of La Crosse group centers to provide retention bonuses to staff
- Develop and deliver professional development support on topics and in formats tailored to the needs of City of La Crosse child care providers based on data collection
- Coordinate outreach, recognition and/or marketing strategies to elevate and highlight the professionalism of the child care field

Expansion Strategies:

- Research untapped demographics to increase child care pipeline and identify strategies for recruitment
- Develop streamlined onboarding support around required entry-level course work
- Develop support for achieving entry-level requirements based on individual needs
- Collect data on equitable distribution of child care availability (geographic, economic, etc.) and develop strategies to address disparities
- Research and develop system of financial incentives to utilize available classroom capacity
- Develop a system of financial incentives to support new child care start-up sites

Timeline

July 15, 2022	Project start date
By August 15, 2022	Recruit and hire Child Care Development Coordinator
August 15 – December 31, 2022	Conduct data collection, outreach and begin committee involvement to assess need and begin development of tailored programs
January 1 – July 14, 2023	Develop, market and begin delivery of financial incentives, professional development programs, business presentations, and recognition programs
By July 14, 2023	Support 2 new family child care providers in achieving regulation
By July 14, 2023	Begin supporting one new group center in achieving licensing
Ongoing	Quarterly meetings, written narratives and data reports to City of La Crosse

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Attachment B. City of La Crosse Standard Contract Terms and Conditions

These are subject to modification at any time by the City of La Crosse and the final agreement with the City will include other provisions not in this agreement. Successful applicant will agree to abide by the City's Standard Contract Terms and Conditions.

1. **DEFINITIONS.** In this section "Contracting Party" shall mean any party that is entering into this Agreement with the City of La Crosse. "La Crosse" shall mean the City of La Crosse. These definitions shall apply only to this document titled "Standard Terms and Conditions (Service Contracts)" and shall not replace, modify or supersede any definitions used in other sections of this Agreement.
2. **STANDARD OF PERFORMANCE.** Contracting Party agrees that the performance of the services, pursuant to the terms and conditions of this Agreement, shall be in a manner at least equal to the degree of care and skill ordinarily exercised by members of the same professions currently practicing under similar circumstances providing like services
3. **FULLY QUALIFIED.** Contracting Party represents that all personnel engaged in the performance of the services set forth in this Agreement shall be fully qualified and, if applicable, shall be authorized or permitted under all applicable state and local laws and any other applicable laws or regulations to perform the services.
4. **SCOPE OF SERVICES.** Contracting Party is required to perform, do and carryout in a timely and professional manner the services set forth in this Agreement. The Contracting Party is required to furnish all services and labor necessary as indicated in this Agreement. The scope of services to be performed shall include, those services set forth in this Agreement. La Crosse may from time to time request the Contracting Party to perform additional services which are not set forth in this Agreement. In the event that such a request is made, the performance of such services shall be subject to the terms, conditions and contingencies set forth in this Agreement.
5. **CHANGE OF SCOPE.** The scope of service set forth in this Agreement is based on facts known at the time of the execution of this Agreement. The scope of service may not be fully definable during initial phases, and as the project progresses, facts discovered may indicate that the scope must be redefined. If mutually agreed to in advance in writing, Contracting Party shall make changes, furnish necessary materials, and perform the work that La Crosse may require, without nullifying this Agreement, at a reasonable addition to, or reduction from, the total cost of the project. Under no circumstances shall Contracting Party make any changes, either as additions or deductions, without the written consent of La Crosse, and La Crosse shall not pay any extra charges made by Contracting Party that have not been agreed upon in advance and documented in writing.
6. **COMPENSATION.** Contracting Party will be compensated by La Crosse for the services provided under this Agreement and subject to the terms, conditions and contingences set forth herein. Payments to Contracting Party for services rendered under this Agreement will be based on itemized invoices submitted on a monthly basis by the Contracting Party to La Crosse. These invoices, unless lump sum, must be itemized to identify labor costs and the Contracting Party's direct expenses, including subcontractor and supplier costs. In addition, such invoices shall show the hours worked by the Contracting Party's staff and the amount of work completed as a percentage of the work to be performed. If payment is by lump sum, then only the percent complete will be invoiced. The final payment of the balance due the Contracting Party for the completed service shall be made upon completion and acceptance of the services performed by the Contracting Party under this Agreement. Without prejudice to any other right or remedy it may have, La Crosse reserves the right to setoff at any time any amount owing to it by Contracting Party against any amount payable by La Crosse to Contracting Party.
7. **TAXES, SOCIAL SECURITY, INSURANCE AND GOVERNMENT REPORTING.** Personal income tax payments, social security contributions, insurance and all other governmental reporting and contributions required as a consequence of the Contracting Party receiving payment under this Agreement shall be the sole responsibility of the Contracting Party.
8. **TERMINATION FOR CAUSE.** If, through its own fault, intentional misconduct, or the fault or intentional misconduct of

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its subcontractors, agents or volunteers, the Contracting Party shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Contracting Party shall violate any of the covenants, agreements, or stipulations of this Agreement, both as determined by La Crosse in its sole discretion, La Crosse shall thereupon have the right to terminate this Agreement by giving written notice to the Contracting Party of such termination and specifying the effective date. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, reports or other deliverables performed by the Contracting Party under this Agreement for which compensation has been made shall, at the option of La Crosse, become the property of La Crosse. Notwithstanding the foregoing, the Contracting Party shall not be relieved of liability to La Crosse for damages sustained by La Crosse by virtue of the Contracting Party's intentional misconduct or negligent performance of this Agreement, and La Crosse may withhold any payments to the Contracting Party for the purpose of setoff until such time as the exact amount of damages due to La Crosse from the Contracting Party is determined. Use of incomplete or unfinished work is at the sole risk of La Crosse.

9. **TERMINATION FOR CONVENIENCE.** Either Party may terminate this Agreement for convenience at any time and for any reason by giving sixty (60) days written notice to the other Party of such termination. If this Agreement is terminated by La Crosse pursuant to this provision, Contracting Party will be paid an amount which bears the same ratio to the total compensation as the services actually performed and accepted by La Crosse bear to the total services of the Contracting Party covered by this Agreement, less payments for such services as were previously made. The value of the services rendered and delivered by Contracting Party will be determined by La Crosse.

10. **SAFETY.** Unless specifically included as a service to be provided under this Agreement, La Crosse specifically disclaims any authority or responsibility for general job site safety, or the safety of other persons or property. Except as otherwise provided in this Agreement, Contracting Party disclaims any authority or responsibility for general job site safety, or the safety of third-parties or their property.

11. **DELAYS.** If performance of Contracting Party's obligations under this Agreement is delayed through no fault of Contracting Party, Contracting Party shall be entitled to a reasonable extension of time as proposed by Contracting Party and as accepted or amended by La Crosse. If performance of La Crosse's obligations is delayed through no fault of La Crosse, La Crosse shall be entitled to an extension of time equal to the delay.

12. **USE OF LA CROSSE PROPERTY.** Any property belonging to La Crosse being provided for use by Contracting Party shall be used in a responsible manner and only for the purposes provided in this Agreement. No changes, alterations or additions shall be made to the property unless otherwise authorized by this Agreement.

13. **INSURANCE.** Unless otherwise specified in this Agreement, Contracting Party shall, at its sole expense, maintain in effect at all times during the Agreement, insurance coverage with limits not less than those set forth below with insurers and under forms of policies set forth below.

a. **Worker's Compensation and Employers Liability Insurance.** Contracting Party shall cover or insure under the applicable labor laws relating to worker's compensation insurance, all of their employees in accordance with the laws of the State of Wisconsin. Contracting Party shall provide statutory coverage for work related injuries and employer's liability insurance with limits of at least for employer's liability of one hundred thousand dollars (\$100,000.00) per each accident, one hundred thousand dollars (\$100,000.00) per each employee and five hundred thousand dollars (\$500,000.00) total policy limit.

b. **Commercial General Liability and Automobile Liability Insurance.** Contracting Party shall provide and maintain the following commercial general liability and automobile liability insurance:

i. Coverage for commercial general liability and automobile liability insurance shall, at a minimum, be at least as broad as the following:

1. Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG 0001).

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2. Insurance Services Office (ISO) Business Auto Coverage (Form CA 0001), covering Symbol 1 (any vehicle).
- ii. Contracting Party shall maintain limits no less than the following:
 1. General Liability. Two million dollars (\$2,000,000.00) per occurrence (\$2,000,000.00 general aggregate if applicable) for bodily injury, personal injury and property damage.
 2. Automobile Liability. Two million dollars (\$2,000,000.00) for bodily injury and property damage per occurrence covering all vehicles to be used in relationship to the Agreement.
 3. Umbrella Liability. Five million dollars (\$5,000,000.00) following form excess of the primary General Liability, Automobile Liability and Employers Liability Coverage. Coverage is to duplicate the requirements as set forth herein.
 - c. Professional Liability Insurance. When Contracting Party renders professional services to La Crosse under the Agreement, Contracting Party shall provide and maintain two million dollars (\$2,000,000.00) of professional liability insurance. If such policy is a “claims made” policy, all renewals thereof during the life of the Agreement shall include “prior acts coverage” covering at all times all claims made with respect to Contracting Party’s work performed under the Agreement. This Professional Liability coverage must be kept in force for a period of six (6) years after the services have been accepted by the La Crosse.
 - d. Required Provisions. The general liability, umbrella liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:
 - i. La Crosse, its elected and appointed officials, officers, employees or authorized representatives or volunteers are to be given additional insured status (via ISO endorsement CG 2010, CG 2033, or insurer’s equivalent for general liability coverage) as respects: liability arising out of activities performed by or on behalf of Contracting Party; products and completed operations of Contracting Party; premises occupied or used by Contracting Party; and vehicles owned, leased, hired or borrowed by Contracting Party. The coverage shall contain no special limitations on the scope of protection afforded to La Crosse, its elected and appointed officials, officers, employees or authorized representatives or volunteers. Except for the workers’ compensation policy, each insurance policy shall contain a waiver of subrogation endorsement in favor of La Crosse.
 - ii. For any claims related to this Agreement, Contracting Party’s insurance shall be primary insurance with respect to La Crosse, its elected and appointed officials, officers, employees or authorized representatives or volunteers. Any insurance, self-insurance, or other coverage maintained by La Crosse, its elected and appointed officers, officials, employees or authorized representatives or volunteers shall not contribute to the primary insurance.
 - iii. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to La Crosse, its elected and appointed officers, employees or authorized representatives or volunteers.
 - iv. Contracting Party’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability.
 - v. Coverage shall not be canceled by the insurance carrier or the Contracting Party, except after sixty (60) days (ten (10) days for non-payment of premium) prior written notice by U.S. mail has been given to La Crosse.
 - vi. Such liability insurance shall indemnify La Crosse, its elected and appointed officials, officers, employees or authorized representatives or volunteers against loss from liability imposed by law upon, or assumed under contract by, Contracting Party for damages on account of such bodily injury, (including death), property damage personal injury, completed operations, and products liability.

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vii. The general liability policy shall cover bodily injury and property damage liability, owned and non-owned equipment, blanket contractual liability, completed operations. The automobile liability policy shall cover all owned, non-owned, and hired vehicles.

viii. All of the insurance shall be provided on policy forms and through companies satisfactory to La Crosse, and shall have a minimum AM Best's rating of A- VIII.

e. Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be declared to and approved by La Crosse.

f. Evidences of Insurance. Prior to execution of the Agreement, Contracting Party shall file with La Crosse a certificate of insurance (Accord Form 25-S or equivalent) signed by the insurer's representative evidencing the coverage required by this Agreement. Such evidence shall include an additional insured endorsement signed by the insurer's representative. Such evidence shall also include confirmation that coverage includes or has been modified to include all required provisions as detailed herein.

g. Sub-Contractor. In the event that Contracting Party employ other contractors (sub-contractors) as part of this Agreement, it shall be the Contracting Party's responsibility to require and confirm that each sub-contractor meets the minimum insurance requirements specified above.

h. Amendments. La Crosse may amend its requirements for insurance upon sixty (60) days written notice. Contracting Party shall procure updated insurance to comply with the new requirements of La Crosse if commercially available and at La Crosse's expense. Contracting Party may appeal any requirement to amend the insurance coverage to La Crosse's City Council who may, in its sole discretion, mutually agree to waive such changes.

14. INDEMNIFICATION. To the fullest extent allowable by law, Contracting Party hereby indemnifies and shall defend and hold harmless, at Contracting Party's expense, La Crosse, its elected and appointed officials, committee members, officers, employees, authorized representatives and volunteers ("La Crosse Indemnitees") from and against third party tort suits, actions, legal or administrative proceedings, claims, costs and expenses (including, without limitation, reasonable attorney and professional fees) to the extent caused by the negligent acts, errors or omissions of Contracting Party, its subcontractors or of anyone acting under its direction or control or on its behalf in the performance of this Agreement. Contracting Party's defense obligation shall not apply to professional liability claims. The aforesaid indemnity and hold harmless agreement shall not be applicable to any liability to the extent caused by La Crosse, its elected and appointed officials, officers, employees or authorized representatives, consultants, contractors or volunteers in the performance of this Agreement. Contracting Party's obligation to indemnify, defend and hold harmless shall not be restricted to insurance proceeds, if any, received by La Crosse, its elected and appointed officials, officers, employees, authorized representatives or volunteers. Nothing in this Agreement is intended or shall be construed to be a waiver or estoppel of La Crosse or its insurer (or otherwise affect or alter their ability) to rely upon the limitations, defenses and immunities contained within Wis. Stat. §§ 345.05 and 893.80, or other applicable law. To the extent that indemnification is available and enforceable against La Crosse, (a) La Crosse or its insurer shall not be liable in indemnity, contribution, or otherwise for an amount greater than the limits of liability of municipal claims established by applicable Wisconsin or federal law; and (b) La Crosse's obligations under this Agreement are further conditioned upon the following: (i) the indemnified party shall promptly notify La Crosse in writing of any such claims, demands, liabilities, damages, costs and expenses within ten (10) days of discovery; (ii) La Crosse shall have sole control of, and the indemnified party shall reasonably cooperate in all respects, in the defense of the claims, demands, liabilities, damages, costs and expenses and all related settlement negotiations; and (iii) the indemnified party shall not make any admission or disclosure or otherwise take any action prejudicial to La Crosse except as required by law. Neither party shall be liable for indirect, special, exemplary, consequential or incidental damages, including, without limitation, any damages for lost profits, revenue or business interruption. The parties represent that, as of the effective date, neither party has any notice or knowledge of any claims, demands, liabilities, damages, costs and expenses asserted or threatened by any third party with respect to the matters contemplated in this Agreement. This indemnity provision shall survive the termination or expiration of this Agreement.

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15. **NO PERSONAL LIABILITY.** Under no circumstances shall any trustee, officer, official, commissioner, director, member, partner or employee of either party have any personal liability arising out of this Agreement, unless an employee of the Contracting Party shall commit a criminal, fraudulent, malicious, or dishonest act which is excluded from Contracting Party's insurance coverage.

16. Intentionally omitted.

17. **INDEPENDENT CONTRACTORS.** The parties, their employees, agents, volunteers, and representative shall be deemed independent contractors of each other and shall in no way be deemed as a result of this Agreement to be employees of the other. The parties, their employees, agents, volunteers, and representatives are not entitled to any of the benefits that the other provides for its employees. The parties shall not be considered joint agents, joint ventures, or partners.

18. **GOVERNING LAW.** This Agreement and all questions and issues arising in connection herewith shall be governed by and construed in accordance with the laws of the State of Wisconsin. Venue for any action arising out of or in any way related to this Agreement shall be exclusively in La Crosse County, Wisconsin. Each party waives its right to challenge venue.

19. **JURY TRIAL WAIVER.** The parties hereby waive their respective rights to a jury trial on any claim or cause of action based upon or arising from or otherwise related to this Agreement. This waiver of right to trial by jury is given knowingly and voluntarily by the parties and is intended to encompass individually each instance and each issue as to which the right to a trial by jury would otherwise accrue. Each party is hereby authorized to file a copy of this section in any proceeding as conclusive evidence of this waiver by the other party.

20. **NOTIFICATION.** Parties shall:

(1) As soon as possible and in any event within a reasonable period of time after the occurrence of any event of default by either party, notify the other Party in writing of such default and set forth the details thereof and the action which is being taken or proposed to be taken by defaulting party to cure or mitigate the default.

(2) Promptly notify the other Party of the commencement of any litigation or administrative proceeding that would cause any representation contained in this Agreement to be untrue.

(3) If related to the performance of services and work under this Agreement, notify the other Party, and provide copies, immediately, upon receipt, of any notice, pleading, citation, indictment, complaint, order or decree from any federal, state or local government agency or regulatory body, asserting or alleging a circumstance or condition that requires or may require a financial contribution by a Party or any guarantor or an investigation, clean-up, removal, remedial action or other response by or on the part of a Party or any guarantor under any environmental laws, rules, regulations, ordinances or which seeks damages or civil, criminal or punitive penalties from or against a Party or any guarantor for an alleged violation of any environmental laws, rules, regulations or ordinances.

21. **SEVERABILITY.** The provisions of this Agreement are severable. If any provision or part of this Agreement or the application thereof to any person or circumstance shall be held by a court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part thereof to other persons or circumstances shall not be affected thereby.

22. **ASSIGNMENT, SUBLET, AND TRANSFER.** A Party shall not assign, sublet, or transfer its interests or obligations under the provisions of this Agreement without the prior written consent of the other Party. This Agreement shall be binding on the heirs, successors, and permitted assigns of each party hereto. A Party shall provide not less than forty-five (45) days advance written notice of request to assign, sublet or transfer any services provided under this Agreement. The decision to allow an assignment by Contracting Party rests solely with La Crosse, in its discretion

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23. **NO WAIVER.** The failure of any party to insist, in any one or more instance, upon performance of any of the terms, covenants, or conditions of this Agreement shall not be construed as a waiver, or relinquishment of the future performance of any such term, covenant, or condition by any other party hereto but the obligation of such other party with respect to such future performance shall continue in full force and effect.

24. **SUBCONTRACTING.** None of the services to be performed under this Agreement shall be subcontracted without the prior written approval of La Crosse. If any of the services are subcontracted, the performance of such services shall be specified by written contract and shall be subject to each provision of this Agreement. Contracting Party shall be as fully responsible to La Crosse for the acts and omissions of its subcontractors and of person either directly or indirectly employed by them, as it is for acts and omissions of persons directly employed by it.

25. **CONFLICTS OF INTEREST.** Contracting Party covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. Contracting Party further covenants that in the performance of this Agreement no person having any conflicting interest shall be employed. Any interest on the part of Contracting Party or its employee must be disclosed to La Crosse

26. **NON-DISCRIMINATION.** Pursuant to law, it is unlawful and Contracting Party agrees not to willfully refuse to employ, to discharge, or to discriminate against any person otherwise qualified because of race, color, religion, sex, sexual orientation, age, disability, national origin or ancestry, lawful source of income, marital status, creed, or familial status; not to discriminate for the same reason in regard to tenure, terms, or conditions of employment, not to deny promotion or increase in compensation solely for these reasons; not to adopt or enforce any employment policy which discriminates between employees on account of race, color, religion, sex, creed, age, disability, national origin or ancestry, lawful source of income, marital status or familial status; not to seek such information as to any employee as a condition of employment; not to penalize any employee or discriminate in the selection of personnel for training, solely on the basis of race, color, religion, sex, sexual orientation, age, disability, national origin or ancestry, lawful source of income, marital status, creed or familial status. Contracting Party shall include or cause to be included in each subcontract covering any of the services to be performed under this Agreement a provision similar to the above paragraph, together with a clause requiring such insertion in further subcontracts that may in turn be made.

27. **POLITICAL ACTIVITIES.** Contracting Party employees shall not engage in any political activities within the City of La Crosse while in performance of any and all services and work under this Agreement. This does not apply to periods of time in which employee is not at work, or is billing other than La Crosse for his/ her time.

28. **GOVERNMENTAL APPROVALS.** Contracting Party acknowledges that various of the specific undertakings of La Crosse described in this Agreement may require approvals from the City of La Crosse Council, City of La Crosse bodies, and/or other public bodies, some of which may require public hearings and other legal proceedings as conditions precedent thereto. Contracting Party further acknowledges that this Agreement is subject to appropriation by the La Crosse Common Council. La Crosse's obligation to perform under this Agreement is conditioned upon obtaining all such approvals in the manner required by law. La Crosse cannot assure that all such approvals will be obtained, however, it agrees to use good faith efforts to obtain such approvals on a timely basis. . 2

9. **ENTIRE AND SUPERSEDING AGREEMENT.** This writing, all Exhibits hereto, and the other documents and agreements referenced herein, constitute the entire Agreement between the parties with respect to the subject matter hereof, and all prior agreements, correspondences, discussions and understandings of the parties (whether written or oral) are merged herein and made a part hereof. To the extent that any terms and conditions contained in this Agreement, all Exhibits hereto, and the other documents and agreement referenced herein conflict with these Standard Terms and Conditions, the Standard Terms and Conditions shall take precedence.

30. **AMENDMENT.** This Agreement shall be amended only by formal written supplementary amendment. No oral amendment of this Agreement shall be given any effect. All amendments to this Agreement shall be in writing executed by both parties.

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31. IMPLEMENTATION SCHEDULE AND TIME OF THE ESSENCE. Any and all phases and schedules which are the subject of approvals, or as set forth herein, shall be governed by the principle that modification or deviation from such schedules shall occur only upon approval of La Crosse or reasons of Force Majeure. Any phase or schedule that is determined to be “time of the essence” shall be specifically identified as such within the scope of services. The Mayor, or in the Mayor’s absence, the Council President, shall have the ability to postpone any deadline listed herein, up to a maximum of ninety (90) days. If such delays cause additional cost, Contracting Party shall be reimbursed.

32. TIME COMPUTATION. Any period of time described in this Agreement by reference to a number of days includes Saturdays, Sundays, and any state or national holidays. Any period of time described in this Agreement by reference to a number of business days does not include Saturdays, Sundays or any state or national holidays. If the date or last date to perform any act or to give any notices is a Saturday, Sunday or state or national holiday, that act or notice may be timely performed or given on the next succeeding day which is not a Saturday, Sunday or state or national holiday.

33. NOTICES. Any notice, demand, certificate or other communication under this Agreement shall be given in writing and deemed effective: a) when personally delivered; b) three (3) days after deposit within the United States Postal Service, postage prepaid, certified, return receipt requested; or c) one (1) business day after deposit with a nationally recognized overnight courier service, addressed by name and to the party or person intended as follows: To the City: Attn. City Clerk Copy to: Attn. City Attorney City of La Crosse City of La Crosse 400 La Crosse Street 400 La Crosse Street La Crosse, WI 54601 La Crosse, WI 54601 Contracting Party shall identify in writing and provide to La Crosse the contact person and address for notices under this Agreement.

34. Intentionally omitted.

35. ACCESS TO RECORDS. Contracting Party, at its sole expense, shall maintain books, records, documents and other evidence pertinent to this Agreement in accordance with accepted applicable professional practices. La Crosse, or any of its duly authorized representatives, shall have access, at no cost to La Crosse, to such books, records, documents, papers or any records, including electronic, of Contracting Party which are pertinent to the hourly rates of pay and reimbursable costs under this Agreement, for the purpose of making audits, examinations, excerpts and transcriptions. Once deliverables are provided to La Crosse, additional copies will be provided for a fee.

36. PUBLIC RECORDS LAW. Contracting Party understands and acknowledges that La Crosse is subject to the Public Records Law of the State of Wisconsin. As such, Contracting Party agrees to retain all records as defined by Wisconsin Statute § 19.32(2) applicable to this Agreement for a period of not less than seven (7) years after the termination or expiration of this Agreement. Contracting Party agrees to assist La Crosse in complying with any public records request that La Crosse receives pertaining to this Agreement. If the requested record is not within that which is required to be produced by statute or other authority, then Contracting Party may object, and La Crosse will reject the request. Contracting Party shall seek to intervene in any subsequent public records lawsuit, writ of mandamus, or other action against La Crosse seeking to compel disclosure in order to dispute disclosure of the requested record. Contracting Party shall also cooperate and provide assistance to La Crosse, at no cost, in the defense of such lawsuit, writ or other action. If the request is upheld by a court of law, then Contracting Party will produce the records or indemnify and hold harmless La Crosse Indemnitees from any liability, including without limitation, attorney fees related to or in any way arising from Contracting Party’s actions or omissions which contribute to La Crosse’s inability to comply with the Public Records Law. In the event that Contracting Party decides not to retain its records for a period of seven (7) years, then it shall provide written notice to La Crosse whereupon La Crosse shall take custody of said records assuming such records are not already maintained by La Crosse. This provision shall survive the termination of this Agreement.

37. CONSTRUCTION. This Agreement shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument to be drafted. This agreement shall be deemed to have been drafted by the parties of equal bargaining strength. The captions appearing at the first of each numbered section of this Agreement are inserted and included solely for convenience but shall never be considered or given any effect in construing this Agreement with the duties, obligations, or liabilities of the respective hereto or in ascertaining intent, if any questions of intent should arise. All

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terms and words used in this Agreement, whether singular or plural and regardless of the gender thereof, shall be deemed to include any other number and any other gender as the context may require.

38. **NO THIRD-PARTY BENEFICIARY.** Nothing contained in this Agreement, nor the performance of the parties hereunder, is intended to benefit, nor shall inure to the benefit of, any third party.

39. **COMPLIANCE WITH LAW.** The parties shall comply in all material respects with applicable federal, state and local laws, regulations and ordinances.

40. **FORCE MAJEURE.** Neither Party shall be responsible for any resulting losses and it shall not be a default hereunder if the fulfillment of any of the terms of this Agreement is delayed or prevented by revolutions or other civil disorders, wars, acts of enemies, strikes, fires, floods, acts of God, adverse weather conditions, legally required environmental remedial actions, industrywide shortage of materials, or by any other cause not within the control of the party whose performance was interfered with, and which exercise of reasonable diligence, such party is unable to prevent, whether of the class of causes hereinabove enumerated or not, and the time for performance shall be extended by the period of delay occasioned by any such cause.

41. **GOOD STANDING.** Contracting Party affirms that it is a company duly formed and validly existing and in good standing under the laws of the State of Wisconsin and has the power and all necessary licenses, permits and franchises to own its assets and properties and to carry on its business. Contracting Party is duly licensed or qualified to do business and is in good standing in the State of Wisconsin and in all other jurisdictions in which failure to do so would have a material adverse effect on its business or financial condition.

42. **AUTHORITY.** The persons signing this Agreement warrant that they have the authority to sign as, or on behalf of, the party for whom they are signing.

43. **EXECUTION OF AGREEMENT.** Contracting Party shall sign and execute this Agreement on or before sixty (60) days of its approval by the La Crosse Common Council, and Contracting Party's failure to do so will render the approval of the Agreement by the La Crosse Common Council null and void unless otherwise authorized.

44. **COUNTERPARTS.** This Agreement may be executed in one or more counterparts, all of which shall be considered but one and the same agreements and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party.

45. **SURVIVAL.** All express representations, indemnifications and limitations of liability included in this Agreement will survive its completion or termination.

46. **COMPLIANCE WITH LAW.** Contracting Party agrees to abide by applicable federal, state and local laws, regulations and ordinances, and all provisions of this Agreement.

47. **RELIANCE.** Contracting Party has the right to reasonably rely on information provided by or through La Crosse.

Revised: 06.21.19



City of La Crosse, Wisconsin

City Hall
400 La Crosse Street
La Crosse, WI 54601

Text File

File Number: 22-0814

Agenda Date: 7/7/2022

Version: 1

Status: New Business

In Control: Finance & Personnel Committee

File Type: Resolution

Agenda Number: 5

Resolution approving lease renewal with Rivercrest Village Partners.

AMENDED RESOLUTION

BE IT RESOLVED by the Common Council of the City of La Crosse that it hereby approves the amended one year lease, commencing July 1, 2022 and terminating on June 30, 2023, with Rivercrest Village Partners, LLC.

BE IT FURTHER RESOLVED that the Mayor and City Clerk are hereby authorized to execute the same.

BE IT FURTHER RESOLVED that City staff is hereby authorized to take any and all steps necessary to effectuate this lease.

AMENDED LEASE

THIS LEASE entered into this ____ day of July, 2022, by and between the City of La Crosse, Wisconsin, hereinafter referred to as CITY, and Rivercrest Village Partners, a Wisconsin Partnership, with principal offices located at 4535 Mormon Coulee Rd #5, La Crosse, WI 54601, hereinafter referred to as RIVERCREST;

WITNESSETH:

The CITY does hereby lease, demise and let unto RIVERCREST the following described premises in the City of La Crosse, County of La Crosse, State of Wisconsin, to-wit:

Part of the NW ¼ of the SW ¼ of Section 22, Township 15 North, Range 7 West described as follows:

Commencing at the northwest corner thereof; Thence N 89° 08' East 76 feet to an iron pipe on the Westerly right-of-way line of U.S. Highway 14 and 61; thence South 27° 27' East along said right-of-way line 212 feet to an iron pipe; thence continuing along said right-of-way line South 28° 42' East 37.73 feet to a point which is 30 feet distant normally from the Westerly right-of-way line of the railroad 22.45 feet; thence South 78° 13' West 192 feet to an iron pipe; thence North 8° 02' West 123.1 feet to an iron pipe; thence North 3° 10' east 159.6 feet to the point of beginning.

EXCEPT the following described area which is retained by the City for access to and maintenance of a watermain:

Beginning at the same point of beginning as the above description; thence N 89° 08' E 76 feet; Thence S 27° 27' E 92 feet; Thence N 65° 07' W 131.95 feet; Thence N 3° 10' E 25 feet to the point of beginning.

That the following specific agreements are the essence of this lease and any breach of the same shall entitle CITY to terminate this lease as hereinafter provided, to-wit:

1. TERM OF LEASE

RIVERCREST agrees to lease the SITE for a term of one (1) year, commencing on the first day of July 1, 2022 and terminating on the 30th day of June, 2023.

2. RENTAL

RIVERCREST shall make payment in the amount of ~~Nine Thousand Six Hundred Dollars- (\$9600.00)~~ Five Thousand Dollars (\$5000.00) to the City with the executed lease agreement.

3. INSURANCE AND INDEMNIFICATION

RIVERCREST agrees to carry public liability insurance insuring itself and the City of La Crosse in the amount of at least \$1,000,000.00 per occurrence for personal injury and at least \$500,000.00 for property damage. RIVERCREST shall name the City of La Crosse as additional insured. A certificate showing such insurance shall be continuously on file with the City Clerk. Such certificate should provide for at least thirty (30) days' notice to CITY in event of cancellation or expiration. RIVERCREST further agrees to hold harmless the CITY, its officers, agents and employees against any and all claims, costs, causes of action, penalties and damages of any nature as a result of the acts or use of the aforesaid premises by RIVERCREST.

4. ASSIGNMENT

This lease shall not be assigned, transferred or subletted in whole or in part by RIVERCREST except as herein provided without the prior written consent of CITY, which consent will not be unreasonably withheld. Any attempted assignment or transfer without prior written consent shall be void. Assignment or transfer also includes any change in corporate ownership or stockholders or partnership and such change shall require prior written consent of the CITY and Board of Public Works, which shall not be unreasonable withheld.

5. PURPOSES

Said premises shall be used for a mobile home park only and for no other purpose whatsoever without express written consent of CITY. RIVERCREST further agrees to comply with all applicable federal, state and local laws and regulations pertaining to the premises leased herein.

6. MAINTENANCE

RIVERCREST agrees that at all times during this lease it will keep said premise in good order and

condition. Upon expiration of this lease, or at any sooner termination thereof, RIVERCREST will quietly and peacefully and in as good an order and condition as the same was at the commencement thereof.

RIVERCREST further agrees to leave said premises free from all nuisances and dangerous and defective conditions. Maintenance, utilities and capital improvements to the premises shall be the sole responsibility of RIVERCREST.

7. DEFAULT

If RIVERCREST shall default hereunder and such default shall continue for a period of thirty (30) days after written notice thereof by CITY, CITY may cancel this lease and enter into and take possession of the premises and remove all persons and property therefrom and all improvements on the premises shall become the property of the CITY. Default under this lease shall include, but not be limited to, failure to pay rent, comply with the conditions of this lease, filing of bankruptcy, or abandonment of the premises or any of the terms and conditions of this lease.

8. TERMINATION

This lease may be terminated if RIVERCREST does the following: (a) breaches the terms or conditions of this lease and RIVERCREST's breach of this lease is not cured within thirty (30) days after receipt of notice of such breach; or (b) if RIVERCREST becomes insolvent or shall make any assignment for the benefit of creditors or if any of the Site shall be attached and not properly released, or if a petition is filed by or against RIVERCREST to have it adjudicated, bankrupt or if a Trustee or Receiver shall be appointed to take care of its assets; (c) or if it shall desert or abandon the Site for a period of thirty (30) days, then at or any time afterwards, CITY may, at its option, enter the Site and remove any and all of RIVERCREST's personal property and improvements or provide reasonable notice to RIVERCREST to remove the same and obtain possession of the Site, in which event this lease shall be considered terminated. The Board of Public Works may terminate this lease with one hundred eighty (180) days advance written notice to RIVERCREST for any reason. Upon termination or expiration of this lease, Lessee clearly understands it must vacate and abandon the Site.

9. ASSIGNMENT

RIVERCREST herein shall have no right of assignment or subletting except by the written consent of the CITY stating the exact extent to which the said RIVERCREST may assign or sublet any right, title or interest in and to the rights procured by this lease; and CITY may impose any additional terms, conditions or additional consideration as a condition upon granting such consent.

10. NOTICES

All notices required or options granted under this lease shall be given or exercised in writing and shall be deemed to be properly served if (a) sent by certified mail and return receipt requested, or (b) personally delivered to the addresses set forth above, or (c) sent by electronic mail to the electronic mail address specified by Rivercrest Village Partners as xxxx@xxxxxxx.xxx.

11. BINDING AGREEMENT

It is agreed that all covenants and conditions of the Lease shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the respective parties.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day first above written.

CITY OF LA CROSSE

RIVERCREST VILLAGE PARTNERS

Mitch Reynolds, Mayor

XXXX XXXX, XXXX

Nikki Elsen, City Clerk

XXXX XXXX, XXXX

Resolution approving lease renewal with Rivercrest Village Partners.

RESOLUTION

BE IT RESOLVED by the Common Council of the City of La Crosse that it hereby approves the one year lease, commencing July 1, 2022 and terminating on June 30, 2023, with Rivercrest Village Partners, LLC.

BE IT FURTHER RESOLVED that the Mayor and City Clerk are hereby authorized to execute the same.

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LEASE

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CITY OF LA CROSSE

RIVERCREST VILLAGE PARTNERS

Mitch Reynolds, Mayor

XXXX XXXX, XXXX

Nikki Elsen, City Clerk

XXXX XXXX, XXXX

Agenda Item 22-0814 (Andrea Trane)

Resolution approving lease renewal with Rivercrest Village Partners.

General Location

Parcel 17-50325-200, 5050 Mormon Coulee Rd, Council District #13. North end of River Crest Village.

Background Information

The Common Council approved a lease for this property on April 20, 1997 for a term from July 1, 1997 to December 31, 2021 and later amended the termination date to June 30, 2022. That 25 year lease began with a yearly payment of \$2,380 and was adjusted annually based on the Consumer Price Index. Based on this calculation, the 2021 payment was \$3,892.43.

Currently, land leases are determined by the Assessment office which considers factors such as current market conditions, highest and best use of the property, rental income (($\$325$ average monthly rent month x 6 homes)12 months= $\$23,400$ yearly income), and values of surrounding properties. The recommendation is that this lease should be an annual payment of $\$9,600$.

The property owners have expressed interest in purchasing the land rather than leasing, which explains the proposed 1 year lease. In that year staff hopes to explore the options for selling this property, which would include working with Engineering to determine if there are necessary easements.

Recommendation of Other Boards and Commissions

None at the time of this report.

Consistency with Adopted Comprehensive Plan

Future Land Use is HDH - Medium/High Density Housing, which is consistent with this current use.

Staff Recommendation

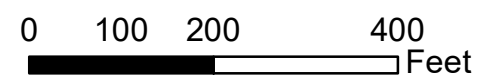
Staff recommends approval of the current lease as written.

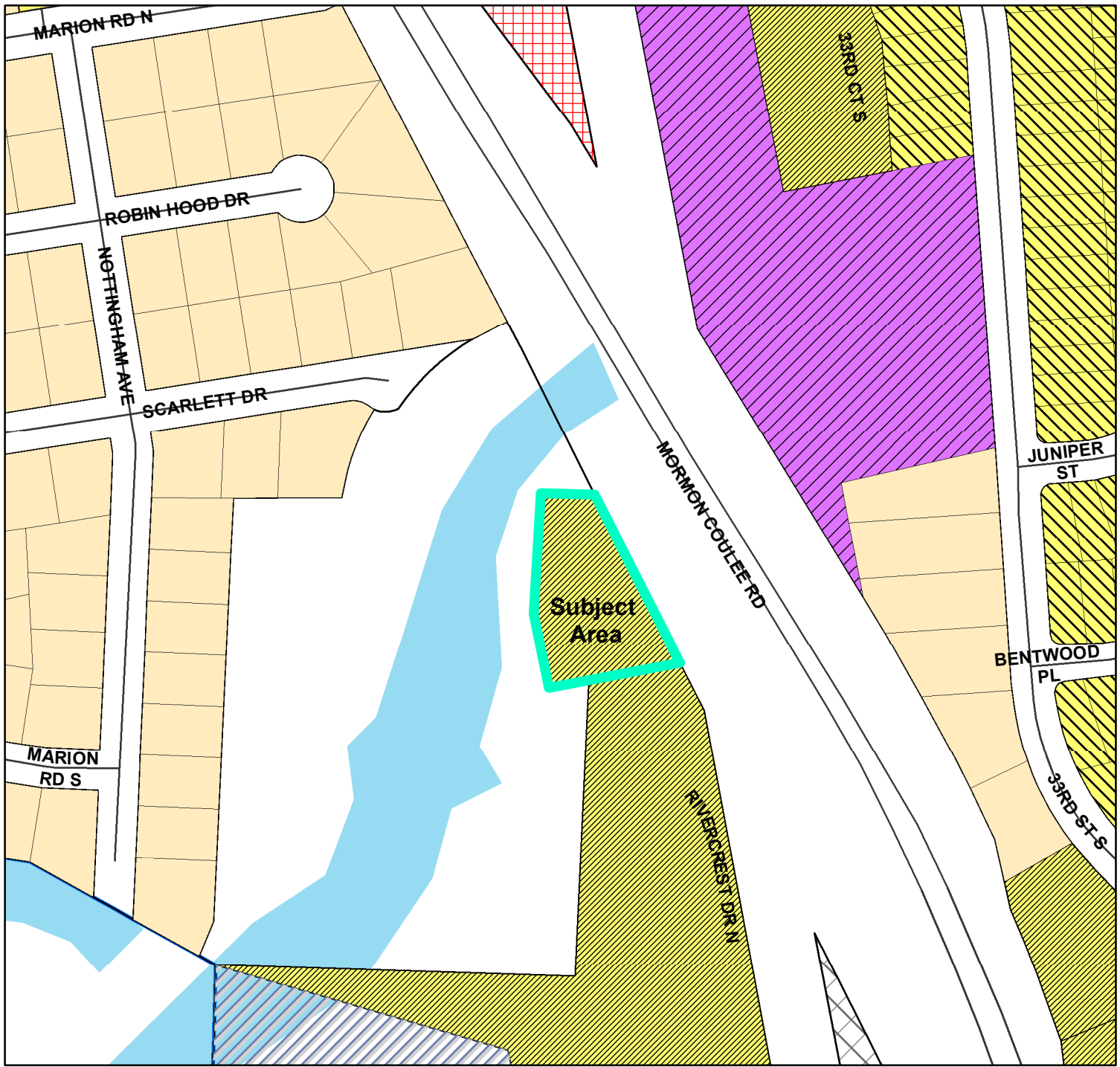
Routing F&P 7.7.2022



BASIC ZONING DISTRICTS

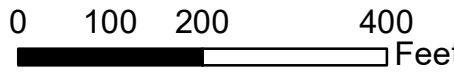
-  R1 - SINGLE FAMILY
-  R2 - RESIDENCE
-  WR - WASHBURN RES
-  R3 - SPECIAL RESIDENCE
-  R4 - LOW DENSITY MULTI
-  R5 - MULTIPLE DWELLING
-  R6 - SPECIAL MULTIPLE
-  PD- PLANNED DEVELOP
-  TND - TRAD NEIGH DEV.
-  C1 - LOCAL BUSINESS
-  C2 - COMMERCIAL
-  C3 - COMMUNITY BUSINESS
-  M1 - LIGHT INDUSTRIAL
-  M2 - HEAVY INDUSTRIAL
-  PS - PUBLIC & SEMI-PUBLIC
-  PL - PARKING LOT
-  UT - PUBLIC UTILITY
-  CON - CONSERVANCY
-  FW - FLOODWAY
-  A1 - AGRICULTURAL
-  EA - EXCLUSIVE AG
-  City Limits
-  SUBJECT PROPERTY





BASIC ZONING DISTRICTS

- R1 - SINGLE FAMILY
- R2 - RESIDENCE
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- SUBJECT PROPERTY





City of La Crosse, Wisconsin

City Hall
400 La Crosse Street
La Crosse, WI 54601

Text File

File Number: 22-0815

Agenda Date: 7/7/2022

Version: 1

Status: New Business

In Control: Finance & Personnel Committee

File Type: Resolution

Agenda Number:

Resolution authorizing additional funding for amendments 1 and 2 to design and bidding services contract with Short Elliott Hendrickson Inc. (SEH) for Phase II of River Point District.

RESOLUTION

WHEREAS, the City of La Crosse and the Redevelopment Authority have been working on the River Point District redevelopment site, which is preparing for the next phase of design, and has received a contract from SEH for this work; and

WHEREAS, this contract includes design and bidding services, which includes storm water design, landscape architecture design, street, sanitary sewer, water main, street lighting and traffic signal design, as well as permit applications and bidding services for these items; and

WHEREAS, Amendment 1 for this contract is proposed for the addition of Geotechnical Services in the amount of \$32,270; and

WHEREAS, Amendment 2 for this contract is proposed for the demolition plan for 110 Causeway Boulevard in the amount of \$9,300; and

WHEREAS, Resolution #21-1321 allocated expenses for original contract of \$488,800 to be paid from:

Water Utility Reserve Fund 640 (1% of contract): \$4,888.00

Tax Increment Financing District 18 cash available (99% of contract): \$483,912.00

WHEREAS, per Division 3 — Section 2-360 of the City Code of Ordinances, approval requires a two-thirds (2/3) vote of the Common Council members present as it was not listed in a previously adopted Capital Improvement Plan.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of La Crosse that the design and bidding services contract is approved and that expenses related to the amended contract of \$531,370 shall be amended to be paid from:

Water Utility Reserve Fund 640 (1% of contract): \$5,314.00

Tax Increment Financing District 18 cash available (99% of contract): \$526,056.00

BE IT FURTHER RESOLVED by the Director of Engineering and Public Works, Director of Planning, Development and Assessment and the Director of Finance are hereby authorized to implement this resolution.

Agreement for Professional Services – Amendment 1

This Agreement is effective as of February 18, 2022, between City of La Crosse (Client) and Short Elliott Hendrickson Inc. (Consultant).

This Agreement authorizes and describes the scope, schedule, and payment conditions for Consultant's work on the Project described as: River Point District Phase 2 – Geotechnical Services

Client's Authorized Representative: Ms. Andrea Trane
Address: 400 La Crosse Street
La Crosse, WI 54601
Telephone: 608.789.8321 email: tranea@cityoflacrosse.org

Project Manager: Jeremy Tomesh, PE
Address: 329 Jay Street
La Crosse, WI 54601
Telephone: 608.498.4947 email: jtomesh@sehinc.com

Scope: The Basic Services to be provided by Consultant as set forth herein are provided subject to the attached General Conditions of the Agreement for Professional Services (General Conditions Rev. 07.14.16), which is incorporated by reference herein and subject to Exhibits attached to this Agreement.

This scope of work amends the Agreement for Professional Services, effective July 1, 2021, for the project described as "River Point District Phase II (Street A) – Design and Bidding Services". The purpose of this amendment is to conduct a geotechnical evaluation for the below grade storm water storage tank that will service the River Point District. It will characterize subsurface geologic conditions at selected exploration locations, evaluate their impact on the project, and provide geotechnical recommendations for the design and construction of the below grade storm water tanks.

Task 1: Geotechnical Investigation (subconsultant, Braun Intertec, see Exhibit 2)

- Drill standard penetration tests, up to a total of 540 feet. Final depths may vary based on if concrete, rock, or other sound material is encountered. Rock or concrete drilling is not included.
- Conduct laboratory tests of the samples
- Utilize subsurface exploration and laboratory tests to evaluate the subsurface profile and groundwater conditions, and to perform engineering analyses related to structure design and performance.
- Provide a final report of the finding and recommendations

Subtotal: \$29,870

Task 2: Coordination, project management, and administration (See Exhibit 1)

- Create proposed soil boring map
- Create geotechnical scope and review proposal
- Coordinate schedule and mobilization
- Review report for conformance with proposed scope

Subtotal: \$2,400

Total: \$32,270

Schedule: Complete field work, laboratory analysis, and final report by March 25, 2022

Payment: The estimated fee for this amendment is subject to a not-to-exceed amount of \$32,270.00 including expenses and equipment, for a new contract total of \$521,070.00. The payment method, basis, frequency and other special conditions are set forth in attached Standard Terms and Conditions (Service Contracts)(SEH 06.21.19).

This Agreement for Professional Services, attached (Exhibit 3) Standard Terms and Conditions (Service Contracts)(SEH 06.21.19), Exhibits and any Attachments (collectively referred to as the "Agreement") supersedes all prior contemporaneous oral or written agreements and represents the entire understanding between Client and Consultant with respect to the services to be provided by Consultant hereunder. In the event of a conflict between the documents, this document and the attached Standard Terms and Conditions (Service Contracts)(SEH 06.21.19) shall take precedence over all other Exhibits unless noted below under "Other Terms and Conditions". The Agreement for Professional Services and the Standard Terms and Conditions (Service Contracts)(SEH 06.21.19)(including scope, schedule, fee and signatures) shall take precedence over attached Exhibits. This Agreement may not be amended except by written agreement signed by the authorized representatives of each party.

Other Terms and Conditions: Other or additional terms contrary to the General Conditions that apply solely to this project as specifically agreed to by signature of the Parties and set forth herein:
None.

\\sp-pz1.sehinc.com\pzprojects1\ko\lacs\163627\1-gen\10-setup-cont\02-contract\amend_1 phase 2 design services - geotechnical.docx

Short Elliott Hendrickson Inc.

City of La Crosse

By: 

Randy Sanford, PE
Title: Principal - Client Service Manager

By: _____
Title: _____

Exhibit 1

River Point District - Phase 2 Design: Amend 1 (Geotechnical Investigation)

	PM	GEOTECH ENG	ACCT	SUBS	TASK HOURS	TOTAL COST
				Cost		
CHARGE RATE	\$177.91	\$164.15	\$117.57			
Task 1 - Geotechnical Investigation (Braun Intertec)						
Staking and Utility Clearance				\$995.00	0	\$995.00
Snow Removal				\$1,955.00	0	\$1,955.00
Drilling				\$16,110.00	0	\$16,110.00
Laboratory Testing				\$4,790.00	0	\$4,790.00
Engineering Consulting with SEH				\$780.00	0	\$780.00
Coordination, Engineering Analysis, and Report				\$5,240.00	0	\$5,240.00
						\$29,870.00
Task 2 - Coordination, Project Management, Administration						
Coordination with sub	1	6			7	\$1,183.81
Soil boring layout and mapping	0.5	1			1.5	\$257.61
Project management	2				2	\$361.82
Review report	0.5	2			2.5	\$424.76
Administration	0.5		0.5		1	\$150.74
						\$2,378.73
TOTAL HOURS	4.5	9	0.5		14	\$32,248.73
TOTAL COST	\$800.60	\$1,477.35	\$58.79	\$29,870.00		\$32,248.73

Proposal \$32,270.00



Braun Intertec Corporation
2309 Palace Street
La Crosse, WI 54603

Phone: 608.781.7277
Fax: 608.781.7279
Web: braunintertec.com

January 14, 2022

Proposal QTB151646

Ms. Andrea Trane
Director of Planning, Development and Assessment
City of La Crosse
c/o Mr. Jeremy Tomesh, PE
Short Elliot Hendrickson
329 Jay Street, Suite 301
La Crosse, WI 54603
Email: jtomesh@sehinc.com

Re: Proposal for a Geotechnical Evaluation
Proposed Underground Storm Water Treatment System
River Point District Site Development
Copeland Avenue and Causeway Boulevard
La Crosse, Wisconsin

Dear Mr. Tomesh:

Braun Intertec Corporation respectfully submits this proposal to complete a geotechnical evaluation for the underground storm water treatment system for the River Point District project in La Crosse, Wisconsin.

Project Information

Based on preliminary plans, dated June 17, 2020, we understand the project will include development of the former Mobile Oil site for commercial development. This phase of the project includes design and construction of two underground storm water treatment system structures. These structures will be constructed with reinforced concrete that will be 100-ft by 100-ft and 15-ft in height, and 50-ft by 300-ft and 15-ft in height. These structures will be embedded approximately 5 feet below the water table. Settlement for each tank is to be limited to 1 inch total and ½-inch differential.

Site History and Geology

Historically, the site was owned by Mobile Oil and the site is known to have environmentally impacted soil and groundwater. The southern portion of the site was known to be utilized for concrete waste and concrete truck washout and has been described as a concrete monolith. It is possible borings for this phase of the project may encounter this material. Furthermore, the natural geologic materials are expected to consist of alluvial sand soils and organic swamp deposits.

Photograph 1. Aerial Photograph of Site in 1992

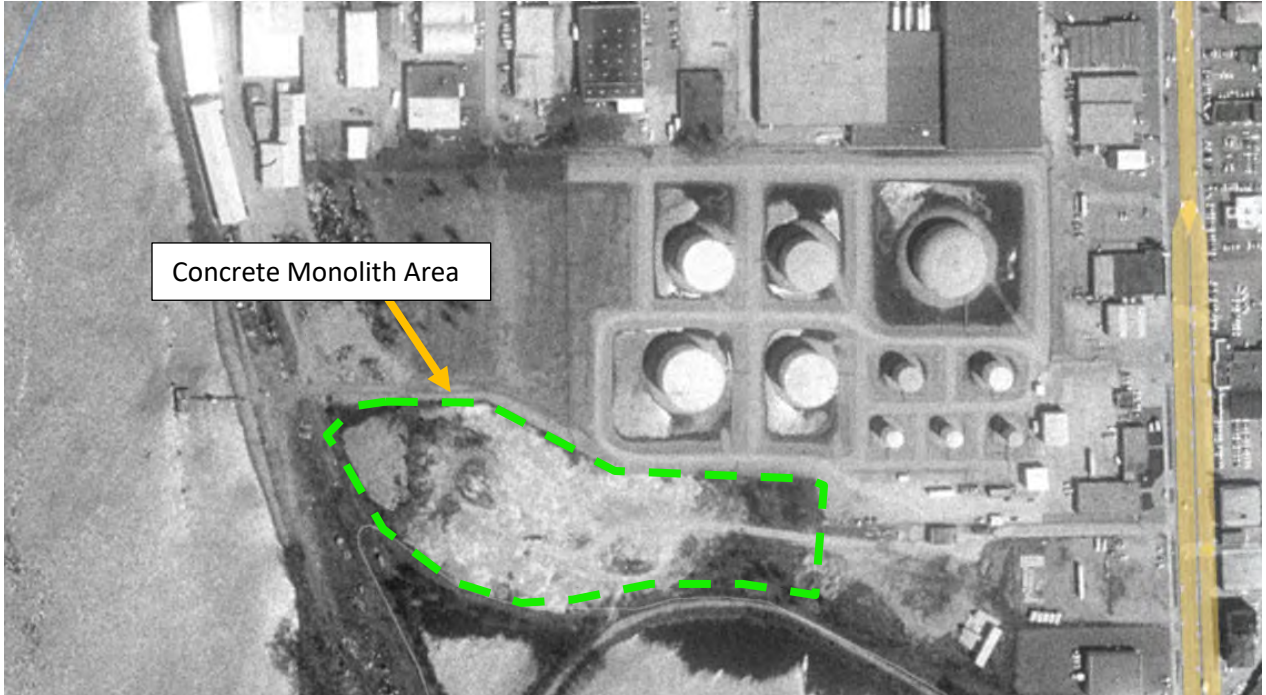
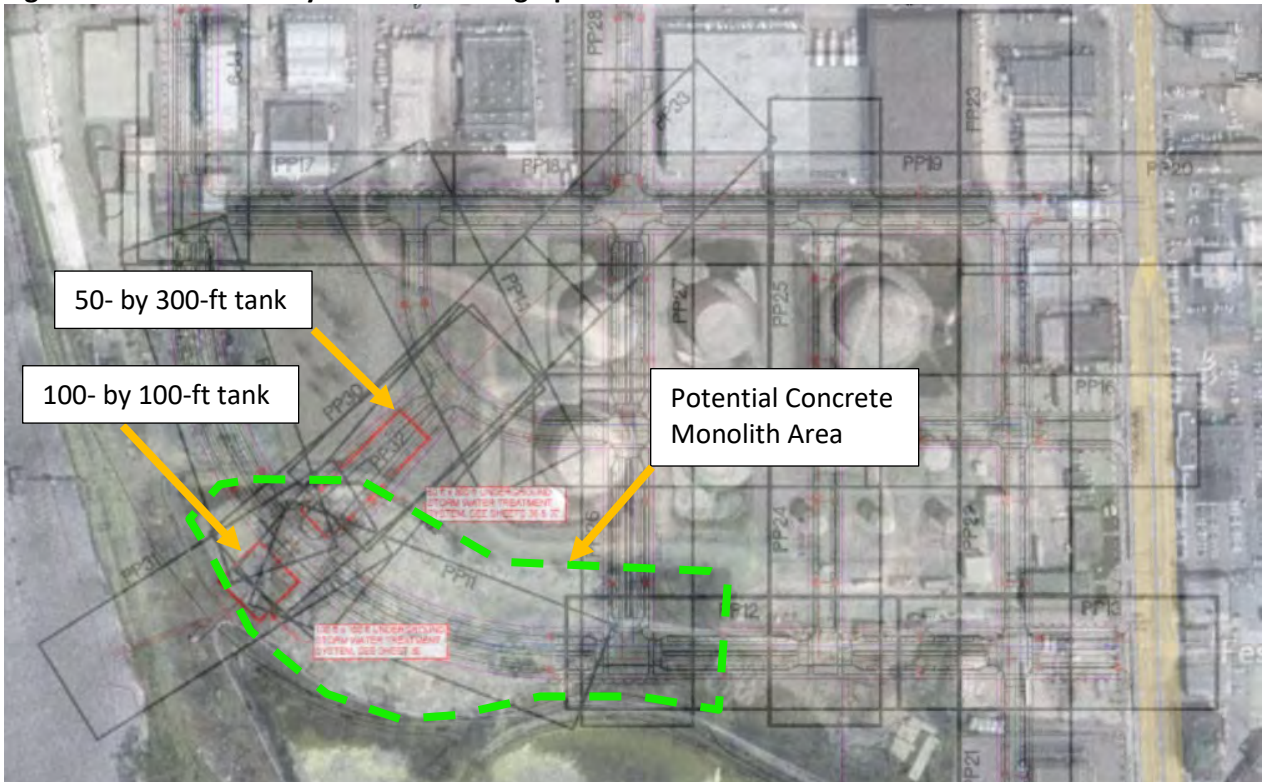


Figure 1. Site Plan overlay on Aerial Photograph



Purpose

The purpose of our geotechnical evaluation will be to characterize subsurface geologic conditions at selected exploration locations, evaluate their impact on the project, and provide geotechnical recommendations for the design and construction of the below grade tanks.

Scope of Services

We propose the following tasks to help achieve the stated purpose. If we encounter unfavorable or unforeseen conditions during the completion of our tasks that lead us to recommend an expanded scope of services, we will contact you to discuss the conditions before resuming our services.

Site Access

Based on aerial photographs, it appears that the site is accessible to an all-terrain vehicle (ATV) drill rig. We assume there will be no cause for delays in accessing the exploration locations.

Depending on access requirements, ground conditions or potential utility conflicts, our field crew may alter the exploration locations from those proposed to facilitate accessibility.

Our drilling activities may also impact the vegetation and may rut the surface to access boring locations. Restoration of vegetation and turf is not part of our scope of services.

Staking

We will stake prospective subsurface exploration locations, as selected by SEH, and obtain surface elevations at those locations using GPS (Global Positioning System) technology. For purposes of linking the GPS data to an appropriate reference, we request that you provide CAD files indicating location/elevation references appropriate for this project or give us contact information for the consultant that might have such information.

Utility Clearance

Prior to drilling or excavating, we will contact Digger's Hotline and arrange for notification of the appropriate utility vendors to mark and clear the exploration locations of public underground utilities. You, or your authorized representative, are responsible to notify us before we begin our work of the presence and location of any underground objects or private utilities that are not the responsibility of public agencies.

Penetration Test Borings

As requested, we will drill nine standard penetration test (SPT) borings for the project. Table 1 provides a summary of the proposed boring locations and depths. We will perform standard penetration tests at 2 1/2-foot vertical intervals to a depth of about 15 feet, and at 5-foot intervals at greater depths.

Table 1. Summary of Proposed Borings*

Boring Number*	Depth (feet)	Boring Number*	Depth (feet)
ST-1	40	ST-6	40
ST-2	100	ST-7	40
ST-3	40	ST-8	40
ST-4	40	ST-9	100
ST-5	100	---	---
Total			540

*Borings that encounter refusal on apparent concrete monolith, the boring will be offset up to 25 feet (horizontally) and will be re-drilled once. If refusal is met on the second (or offset) boring, we will note the refusal depth and move to the next boring.

If the intended boring depths do not extend through unsuitable material, we will extend the borings at least 5 feet into suitable material at greater depths. The additional information will help evaluate such issues as excavation depth, consolidation settlement, and foundation alternatives, among others. If we identify a need for deeper (or additional) borings, we will contact you prior to increasing our total estimated drilled footage and submit a Change Order summarizing the anticipated additional effort and the associated cost, for your review and authorization.

Borehole Abandonment

Wisconsin Administrative Code NR 141.25 requires us to seal any boring greater than 10 feet deep or any boring that intersects the water table. Boreholes greater than 4-inches in diameter that are less than 250 feet deep and have less than 150 feet of standing water may be abandoned using 3/8-inch bentonite chips.

Based on the intended exploration depths, we have made provisions to seal 540 lineal feet of borehole with 3/8-inch bentonite chips and prepare associated Wisconsin borehole abandonment forms.

Sample Review and Laboratory Testing

We will return recovered samples to our laboratory, where a geotechnical engineer will visually classify and log them. To help classify the materials encountered and estimate the engineering properties necessary to our analyses, we have budgeted to perform the laboratory tests presented in Table 2.

Table 2. Laboratory Tests

Test Name	Number of Tests	ASTM Test Method	Purpose
Moisture content	20	D2216	Soil classification, moisture condition, and engineering properties
Atterberg limits	4	D4318	Soil plasticity, shrink/swell potential, engineering parameters, suitability of soils for reuse
Moisture Content & Density	6	D2937	Wet and dry unit weight for use in settlement and bearing capacity analyses
Sieve analysis	4	D1140	Soil classification
Consolidation, one-dimensional	3	D2435	Evaluate settlement characteristics of soils
Percent passing #200 sieve	12	D1140	Soil classification, and evaluate frost susceptibility
Organic content	4	D2974	Evaluate suitability of soils for reuse

Samples that appear to be impacted will be notated on our boring logs and will include color, depth, and potential odor. It is our understanding that additional testing on impacted soil is not requested at this time.

Engineering Analyses

We will use data obtained from the subsurface exploration and laboratory tests to evaluate the subsurface profile and groundwater conditions, and to perform engineering analyses related to structure design and performance. Our analysis will provide recommendations to support the tanks on appropriate foundation systems to keep settlement to less than 1 inch total and ½ inch differential.

Report

We will prepare a report including:

- A CAD sketch showing the exploration locations.
- Logs of the borings describing the materials encountered and presenting the results of our groundwater measurements and laboratory tests.
- A summary of the subsurface profile and groundwater conditions.
- Discussion identifying the subsurface conditions that will impact design and construction.

- Discussion regarding the reuse of on-site materials during construction.
- Recommendations for preparing structure subgrades, and the selection, placement, and compaction of fill.
- Recommendations for the design and construction of below grade structures including buoyancy. We will also provide discussion regarding dewatering. Provide discussion regarding use of pressure relief values for the tanks.
- Provide recommendations for both shallow and deep foundation systems including recommended axial and uplift capacities and downdrag considerations.
- Provide modulus of subgrade reaction value.
- Provide recommendations for lateral earth pressure for design of below grade tank walls.

We will only submit an electronic copy of our report to you unless you request otherwise. At your request, we can also send the report to additional project team members.

Schedule

We anticipate performing our work according to the following schedule.

- Drill rig mobilization – during the second week in February
- Field exploration – 5 to 6 days on site to complete the work
- Classification and laboratory testing – within 1 week after completion of field exploration
- Preliminary results – within 1 week after completion of field exploration
- Draft report submittal – within about 2 weeks of completion of the field exploration and laboratory testing
- Final report submittal – within 5 days of receiving comments on the draft report

If we cannot complete our proposed scope of services according to this schedule due to circumstances beyond our control, we may need to revise this proposal prior to completing the remaining tasks.

Fees

We will furnish the services described in this proposal for a lump sum fee of **\$29,870**, which includes up to 6 hours of post deliverable consulting time. Additional requests for meetings, consulting or modifications to the report will be billed at a rate of \$130 per hour. Table 3 provides a breakdown of the proposed fees.

Table 3. Proposed Fee Breakdown

Service	Fee
Staking and Utility Clearance	\$995
Snow Removal	\$1,955
Drilling*	\$16,110
Laboratory Testing (as outlined in Table 2 above)	\$4,790
6 hours of Consulting time	\$780
Coordination, Engineering Analysis, and Report	\$5,240
Total	\$29,870

*Additional costs associated with drilling are presented below in **Additional Costs/Fewer Borings** section.

Our work may extend over several invoicing periods. As such, we will submit partial progress invoices for work we perform during each invoicing period.

Additional Borings/Fewer Borings

If the project team elects to increase the number of borings or reduce the number of borings, we will adjust our fees accordingly.

- For borings that extend beyond a depth of 40 feet, we will charge \$22 per foot to a depth of 50 feet.
- For borings that extend beyond a depth of 50 feet, we will charge \$26 per foot to a depth of 80 feet.
- For borings that extend beyond a depth of 80 feet, we will charge \$30 per foot to a depth of 100 feet.

Additional mobilizations to the site will be charged at a cost of \$1,200. If needed, per diem will be charged for our drilling crew at a cost of \$320 per night (split between a two-person crew).

General Remarks

We will be happy to meet with you to discuss our proposed scope of services further and clarify the various scope components.

We appreciate the opportunity to present this proposal to you. Please sign and return a copy to us in its entirety.

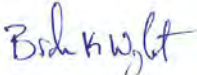
We based the proposed fee on the scope of services described and the assumptions that you will authorize our services within 30 days and that other will not delay us beyond our proposed schedule.

We include the Braun Intertec General Conditions, which provide additional terms and are a part of our agreement.

To have questions answered or schedule a time to meet and discuss our approach to this project further, please contact us at 608.781.7277.

Sincerely,

BRAUN INTERTEC CORPORATION



Brandon K. Wright, PE
Senior Engineer



Philip E. Bailey, PE
Business Unit Leader, Senior Engineer

Attachments:
General Conditions (1/1/18)

The proposal is accepted, and you are authorized to proceed.

Authorizer's Firm

Authorizer's Signature

Authorizer's Name (please print or type)

Authorizer's Title

Date

Exhibit 3

19-1018

Resolution approving Agreement for Professional Services and revised terms and conditions for the Floodplain Re-Mapping of Ebner Coulee by the consultant Short Elliott Hendrickson Inc. (SEH).

RESOLUTION

WHEREAS, the 2019 CIP #288 approved the re-mapping project for Ebner Coulee and provide \$150,000 in funding for the work; and

WHEREAS, the Floodplain Advisory Committee approved and directed the hiring of Short Elliott Hendrickson INC. (SEH) for this project in Resolution #18-1234; and

WHEREAS, SEH would not agree to the City's Standard Terms and Conditions; and

WHEREAS, the City Attorney and Utilities Manager worked with SEH to develop mutually agreeable revised Standard Terms and Conditions.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of La Crosse that the Agreement for Professional Services with revised Standard Terms and Conditions and dates is hereby approved.

BE IT FURTHER RESOLVED that additional contracts may use this revised Terms and Conditions in the future.

BE IT FURTHER RESOLVED that the Mayor and City Clerk are hereby authorized to sign the Agreement.

BE IT FURTHER RESOLVED that the Director of Finance, Utilities Manager and Director of Engineering and Public Works are hereby authorized and directed to take all necessary steps to implement this resolution.

STANDARD TERMS AND CONDITIONS (Service Contracts)

(SEH 06.21.19)

1. **DEFINITIONS.** In this section "Contracting Party" shall mean any party that is entering into this Agreement with the City of La Crosse. "La Crosse" shall mean the City of La Crosse. These definitions shall apply only to this document titled "Standard Terms and Conditions (Service Contracts)" and shall not replace, modify or supersede any definitions used in other sections of this Agreement.

2. **STANDARD OF PERFORMANCE.** Contracting Party agrees that the performance of the services, pursuant to the terms and conditions of this Agreement, shall be in a manner at least equal to the degree of care and skill ordinarily exercised by members of the same professions currently practicing under similar circumstances providing like services

3. **FULLY QUALIFIED.** Contracting Party represents that all personnel engaged in the performance of the services set forth in this Agreement shall be fully qualified and, if applicable, shall be authorized or permitted under all applicable state and local laws and any other applicable laws or regulations to perform the services.

4. **SCOPE OF SERVICES.** Contracting Party is required to perform, do and carryout in a timely and professional manner the services set forth in this Agreement. The Contracting Party is required to furnish all services and labor necessary as indicated in this Agreement. The scope of services to be performed shall include, those services set forth in this Agreement. La Crosse may from time to time request the Contracting Party to perform additional services which are not set forth in this Agreement. In the event that such a request is made, the performance of such services shall be subject to the terms, conditions and contingencies set forth in this Agreement.

5. **CHANGE OF SCOPE.** The scope of service set forth in this Agreement is based on facts known at the time of the execution of this Agreement. The scope of service may not be fully definable during initial phases, and as the project progresses, facts discovered may indicate that the scope must be redefined. If mutually agreed to in advance in writing, Contracting Party shall make changes, furnish necessary materials, and perform the work that La Crosse may require, without nullifying this Agreement, at a reasonable addition to, or reduction from, the total cost of the project. Under no circumstances shall Contracting Party make any changes, either as additions or deductions, without the written consent of La Crosse, and La Crosse shall not pay any extra charges made by Contracting Party that have not been agreed upon in advance and documented in writing.

6. **COMPENSATION.** Contracting Party will be compensated by La Crosse for the services provided under this Agreement and subject to the terms, conditions and contingences set forth herein. Payments to Contracting Party for services rendered under this Agreement will be based on itemized invoices submitted on a monthly basis by the Contracting Party to La Crosse. These invoices, unless lump sum, must be itemized to identify labor costs and the Contracting Party's direct expenses, including subcontractor and supplier costs. In addition, such invoices shall show the hours worked by the Contracting Party's staff and the amount of work

completed as a percentage of the work to be performed. If payment is by lump sum, then only the percent complete will be invoiced. The final payment of the balance due the Contracting Party for the completed service shall be made upon completion and acceptance of the services performed by the Contracting Party under this Agreement. Without prejudice to any other right or remedy it may have, La Crosse reserves the right to setoff at any time any amount owing to it by Contracting Party against any amount payable by La Crosse to Contracting Party.

7. **TAXES, SOCIAL SECURITY, INSURANCE AND GOVERNMENT REPORTING.** Personal income tax payments, social security contributions, insurance and all other governmental reporting and contributions required as a consequence of the Contracting Party receiving payment under this Agreement shall be the sole responsibility of the Contracting Party.

8. **TERMINATION FOR CAUSE.** If, through its own fault, intentional misconduct, or the fault or intentional misconduct of its subcontractors, agents or volunteers, the Contracting Party shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Contracting Party shall violate any of the covenants, agreements, or stipulations of this Agreement, both as determined by La Crosse in its sole discretion, La Crosse shall thereupon have the right to terminate this Agreement by giving written notice to the Contracting Party of such termination and specifying the effective date. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, reports or other deliverables performed by the Contracting Party under this Agreement for which compensation has been made shall, at the option of La Crosse, become the property of La Crosse. Notwithstanding the foregoing, the Contracting Party shall not be relieved of liability to La Crosse for damages sustained by La Crosse by virtue of the Contracting Party's intentional misconduct or negligent performance of this Agreement, and La Crosse may withhold any payments to the Contracting Party for the purpose of setoff until such time as the exact amount of damages due to La Crosse from the Contracting Party is determined. Use of incomplete or unfinished work is at the sole risk of La Crosse.

9. **TERMINATION FOR CONVENIENCE.** Either Party may terminate this Agreement for convenience at any time and for any reason by giving sixty (60) days written notice to the other Party of such termination. If this Agreement is terminated by La Crosse pursuant to this provision, Contracting Party will be paid an amount which bears the same ratio to the total compensation as the services actually performed and accepted by La Crosse bear to the total services of the Contracting Party covered by this Agreement, less payments for such services as were previously made. The value of the services rendered and delivered by Contracting Party will be determined by La Crosse.

10. **SAFETY.** Unless specifically included as a service to be provided under this Agreement, La Crosse specifically disclaims any authority or responsibility for general job site safety, or the safety of other persons or property. Except as otherwise provided in this

Agreement, Contracting Party disclaims any authority or responsibility for general job site safety, or the safety of third-parties or their property.

11. DELAYS. If performance of Contracting Party's obligations under this Agreement is delayed through no fault of Contracting Party, Contracting Party shall be entitled to a reasonable extension of time as proposed by Contracting Party and as accepted or amended by La Crosse. If performance of La Crosse's obligations is delayed through no fault of La Crosse, La Crosse shall be entitled to an extension of time equal to the delay.

12. USE OF LA CROSSE PROPERTY. Any property belonging to La Crosse being provided for use by Contracting Party shall be used in a responsible manner and only for the purposes provided in this Agreement. No changes, alterations or additions shall be made to the property unless otherwise authorized by this Agreement..

13. INSURANCE. Unless otherwise specified in this Agreement, Contracting Party shall, at its sole expense, maintain in effect at all times during the Agreement, insurance coverage with limits not less than those set forth below with insurers and under forms of policies set forth below.

a. *Worker's Compensation and Employers Liability Insurance.* Contracting Party shall cover or insure under the applicable labor laws relating to worker's compensation insurance, all of their employees in accordance with the laws of the State of Wisconsin. Contracting Party shall provide statutory coverage for work related injuries and employer's liability insurance with limits of at least for employer's liability of one hundred thousand dollars (\$100,000.00) per each accident, one hundred thousand dollars (\$100,000.00) per each employee and five hundred thousand dollars (\$500,000.00) total policy limit.

b. *Commercial General Liability and Automobile Liability Insurance.* Contracting Party shall provide and maintain the following commercial general liability and automobile liability insurance:

- i. Coverage for commercial general liability and automobile liability insurance shall, at a minimum, be at least as broad as the following:
 1. Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG 0001).
 2. Insurance Services Office (ISO) Business Auto Coverage (Form CA 0001), covering Symbol 1 (any vehicle).
- ii. Contracting Party shall maintain limits no less than the following:
 1. General Liability. Two million dollars (\$2,000,000.00) per occurrence (\$2,000,000.00 general aggregate if applicable) for bodily injury, personal injury and property damage.
 2. Automobile Liability. Two million dollars (\$2,000,000.00) for bodily injury and property damage per occurrence covering all vehicles to be used in relationship to the Agreement.

3. Umbrella Liability. Five million dollars (\$5,000,000.00) following form excess of the primary General Liability, Automobile Liability and Employers Liability Coverage. Coverage is to duplicate the requirements as set forth herein.

c. *Professional Liability Insurance.* When Contracting Party renders professional services to La Crosse under the Agreement, Contracting Party shall provide and maintain two million dollars (\$2,000,000.00) of professional liability insurance. If such policy is a "claims made" policy, all renewals thereof during the life of the Agreement shall include "prior acts coverage" covering at all times all claims made with respect to Contracting Party's work performed under the Agreement. This Professional Liability coverage must be kept in force for a period of six (6) years after the services have been accepted by the La Crosse.

d. *Required Provisions.* The general liability, umbrella liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- i. La Crosse, its elected and appointed officials, officers, employees or authorized representatives or volunteers are to be given additional insured status (via ISO endorsement CG 2010, CG 2033, or insurer's equivalent for general liability coverage) as respects: liability arising out of activities performed by or on behalf of Contracting Party; products and completed operations of Contracting Party; premises occupied or used by Contracting Party; and vehicles owned, leased, hired or borrowed by Contracting Party. The coverage shall contain no special limitations on the scope of protection afforded to La Crosse, its elected and appointed officials, officers, employees or authorized representatives or volunteers. Except for the workers' compensation policy, each insurance policy shall contain a waiver of subrogation endorsement in favor of La Crosse.
- ii. For any claims related to this Agreement, Contracting Party's insurance shall be primary insurance with respect to La Crosse, its elected and appointed officials, officers, employees or authorized representatives or volunteers. Any insurance, self-insurance, or other coverage maintained by La Crosse, its elected and appointed officers, officials, employees or authorized representatives or volunteers shall not contribute to the primary insurance.
- iii. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to La Crosse, its elected and appointed officers, employees or authorized representatives or volunteers.
- iv. Contracting Party's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- v. Coverage shall not be canceled by the insurance carrier or the Contracting Party, except after sixty (60) days (ten (10) days for non-payment of premium) prior written notice by U.S. mail has been given to La Crosse.

- vi. Such liability insurance shall indemnify La Crosse, its elected and appointed officials, officers, employees or authorized representatives or volunteers against loss from liability imposed by law upon, or assumed under contract by, Contracting Party for damages on account of such bodily injury, (including death), property damage personal injury, completed operations, and products liability.
- vii. The general liability policy shall cover bodily injury and property damage liability, owned and non-owned equipment, blanket contractual liability, completed operations. The automobile liability policy shall cover all owned, non-owned, and hired vehicles.
- viii. All of the insurance shall be provided on policy forms and through companies satisfactory to La Crosse, and shall have a minimum AM Best's rating of A- VIII.

e. *Deductibles and Self-Insured Retentions.* Any deductible or self-insured retention must be declared to and approved by La Crosse.

f. *Evidences of Insurance.* Prior to execution of the Agreement, Contracting Party shall file with La Crosse a certificate of insurance (Accord Form 25-S or equivalent) signed by the insurer's representative evidencing the coverage required by this Agreement. Such evidence shall include an additional insured endorsement signed by the insurer's representative. Such evidence shall also include confirmation that coverage includes or has been modified to include all required provisions as detailed herein.

g. *Sub-Contractor.* In the event that Contracting Party employ other contractors (sub-contractors) as part of this Agreement, it shall be the Contracting Party's responsibility to require and confirm that each sub-contractor meets the minimum insurance requirements specified above.

h. *Amendments.* La Crosse may amend its requirements for insurance upon sixty (60) days written notice. Contracting Party shall procure updated insurance to comply with the new requirements of La Crosse if commercially available and at La Crosse's expense. Contracting Party may appeal any requirement to amend the insurance coverage to La Crosse's City Council who may, in its sole discretion, mutually agree to waive such changes.

14. **INDEMNIFICATION.** To the fullest extent allowable by law, Contracting Party hereby indemnifies and shall defend and hold harmless, at Contracting Party's expense, La Crosse, its elected and appointed officials, committee members, officers, employees, authorized representatives and volunteers ("La Crosse Indemnitees") from and against third party tort suits, actions, legal or administrative proceedings, claims, costs and expenses (including, without limitation, reasonable attorney and professional fees) to the extent caused by the negligent acts, errors or omissions of Contracting Party, its subcontractors or of anyone acting under its direction or control or on its behalf in the performance of this Agreement. Contracting Party's defense obligation shall not apply to professional liability claims. The aforesaid indemnity and hold harmless

agreement shall not be applicable to any liability to the extent caused by La Crosse, its elected and appointed officials, officers, employees or authorized representatives, consultants, contractors or volunteers in the performance of this Agreement. Contracting Party's obligation to indemnify, defend and hold harmless shall not be restricted to insurance proceeds, if any, received by La Crosse, its elected and appointed officials, officers, employees, authorized representatives or volunteers.

Nothing in this Agreement is intended or shall be construed to be a waiver or estoppel of La Crosse or its insurer (or otherwise affect or alter their ability) to rely upon the limitations, defenses and immunities contained within Wis. Stat. §§ 345.05 and 893.80, or other applicable law. To the extent that indemnification is available and enforceable against La Crosse, (a) La Crosse or its insurer shall not be liable in indemnity, contribution, or otherwise for an amount greater than the limits of liability of municipal claims established by applicable Wisconsin or federal law; and (b) La Crosse's obligations under this Agreement are further conditioned upon the following: (i) the indemnified party shall promptly notify La Crosse in writing of any such claims, demands, liabilities, damages, costs and expenses within ten (10) days of discovery; (ii) La Crosse shall have sole control of, and the indemnified party shall reasonably cooperate in all respects, in the defense of the claims, demands, liabilities, damages, costs and expenses and all related settlement negotiations; and (iii) the indemnified party shall not make any admission or disclosure or otherwise take any action prejudicial to La Crosse except as required by law.

Neither party shall be liable for indirect, special, exemplary, consequential or incidental damages, including, without limitation, any damages for lost profits, revenue or business interruption. The parties represent that, as of the effective date, neither party has any notice or knowledge of any claims, demands, liabilities, damages, costs and expenses asserted or threatened by any third party with respect to the matters contemplated in this Agreement.

This indemnity provision shall survive the termination or expiration of this Agreement.

15. **NO PERSONAL LIABILITY.** Under no circumstances shall any trustee, officer, official, commissioner, director, member, partner or employee of either party have any personal liability arising out of this Agreement, unless an employee of the Contracting Party shall commit a criminal, fraudulent, malicious, or dishonest act which is excluded from Contracting Party's insurance coverage.

16. Intentionally omitted.

17. **INDEPENDENT CONTRACTORS.** The parties, their employees, agents, volunteers, and representative shall be deemed independent contractors of each other and shall in no way be deemed as a result of this Agreement to be employees of the other. The parties, their employees, agents, volunteers, and representatives are not entitled to any of the benefits that the other provides for its

employees. The parties shall not be considered joint agents, joint venturers, or partners.

18. **GOVERNING LAW.** This Agreement and all questions and issues arising in connection herewith shall be governed by and construed in accordance with the laws of the State of Wisconsin. Venue for any action arising out of or in any way related to this Agreement shall be exclusively in La Crosse County, Wisconsin. Each party waives its right to challenge venue.

19. **JURY TRIAL WAIVER.** The parties hereby waive their respective rights to a jury trial on any claim or cause of action based upon or arising from or otherwise related to this Agreement. This waiver of right to trial by jury is given knowingly and voluntarily by the parties and is intended to encompass individually each instance and each issue as to which the right to a trial by jury would otherwise accrue. Each party is hereby authorized to file a copy of this section in any proceeding as conclusive evidence of this waiver by the other party.

20. **NOTIFICATION.** Parties shall:

(1) As soon as possible and in any event within a reasonable period of time after the occurrence of any event of default by either party, notify the other Party in writing of such default and set forth the details thereof and the action which is being taken or proposed to be taken by defaulting party to cure or mitigate the default.

(2) Promptly notify the other Party of the commencement of any litigation or administrative proceeding that would cause any representation contained in this Agreement to be untrue.

(3) If related to the performance of services and work under this Agreement, notify the other Party, and provide copies, immediately, upon receipt, of any notice, pleading, citation, indictment, complaint, order or decree from any federal, state or local government agency or regulatory body, asserting or alleging a circumstance or condition that requires or may require a financial contribution by a Party or any guarantor or an investigation, clean-up, removal, remedial action or other response by or on the part of a Party or any guarantor under any environmental laws, rules, regulations, ordinances or which seeks damages or civil, criminal or punitive penalties from or against a Party or any guarantor for an alleged violation of any environmental laws, rules, regulations or ordinances.

21. **SEVERABILITY.** The provisions of this Agreement are severable. If any provision or part of this Agreement or the application thereof to any person or circumstance shall be held by a court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part thereof to other persons or circumstances shall not be affected thereby.

22. **ASSIGNMENT, SUBLET, AND TRANSFER.** A Party shall not assign, sublet, or transfer its interests or obligations under the provisions of this Agreement without the prior written consent of the other Party. This Agreement shall be binding on the heirs, successors, and permitted assigns of each party hereto. A Party shall provide not less than forty-five (45) days advance written notice of

request to assign, sublet or transfer any services provided under this Agreement. The decision to allow an assignment by Contracting Party rests solely with La Crosse, in its discretion

23. **NO WAIVER.** The failure of any party to insist, in any one or more instance, upon performance of any of the terms, covenants, or conditions of this Agreement shall not be construed as a waiver, or relinquishment of the future performance of any such term, covenant, or condition by any other party hereto but the obligation of such other party with respect to such future performance shall continue in full force and effect.

24. **SUBCONTRACTING.** None of the services to be performed under this Agreement shall be subcontracted without the prior written approval of La Crosse. If any of the services are subcontracted, the performance of such services shall be specified by written contract and shall be subject to each provision of this Agreement. Contracting Party shall be as fully responsible to La Crosse for the acts and omissions of its subcontractors and of person either directly or indirectly employed by them, as it is for acts and omissions of persons directly employed by it.

25. **CONFLICTS OF INTEREST.** Contracting Party covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. Contracting Party further covenants that in the performance of this Agreement no person having any conflicting interest shall be employed. Any interest on the part of Contracting Party or its employee must be disclosed to La Crosse

26. **NON-DISCRIMINATION.** Pursuant to law, it is unlawful and Contracting Party agrees not to willfully refuse to employ, to discharge, or to discriminate against any person otherwise qualified because of race, color, religion, sex, sexual orientation, age, disability, national origin or ancestry, lawful source of income, marital status, creed, or familial status; not to discriminate for the same reason in regard to tenure, terms, or conditions of employment, not to deny promotion or increase in compensation solely for these reasons; not to adopt or enforce any employment policy which discriminates between employees on account of race, color, religion, sex, creed, age, disability, national origin or ancestry, lawful source of income, marital status or familial status; not to seek such information as to any employee as a condition of employment; not to penalize any employee or discriminate in the selection of personnel for training, solely on the basis of race, color, religion, sex, sexual orientation, age, disability, national origin or ancestry, lawful source of income, marital status, creed or familial status.

Contracting Party shall include or cause to be included in each subcontract covering any of the services to be performed under this Agreement a provision similar to the above paragraph, together with a clause requiring such insertion in further subcontracts that may in turn be made.

27. POLITICAL ACTIVITIES. Contracting Party employees shall not engage in any political activities within the City of La Crosse while in performance of any and all services and work under this Agreement. This does not apply to periods of time in which employee is not at work, or is billing other than La Crosse for his/ her time.

28. GOVERNMENTAL APPROVALS. Contracting Party acknowledges that various of the specific undertakings of La Crosse described in this Agreement may require approvals from the City of La Crosse Council, City of La Crosse bodies, and/or other public bodies, some of which may require public hearings and other legal proceedings as conditions precedent thereto. Contracting Party further acknowledges that this Agreement is subject to appropriation by the La Crosse Common Council. La Crosse's obligation to perform under this Agreement is conditioned upon obtaining all such approvals in the manner required by law. La Crosse cannot assure that all such approvals will be obtained, however, it agrees to use good faith efforts to obtain such approvals on a timely basis. .

29. ENTIRE AND SUPERSEDING AGREEMENT. This writing, all Exhibits hereto, and the other documents and agreements referenced herein, constitute the entire Agreement between the parties with respect to the subject matter hereof, and all prior agreements, correspondences, discussions and understandings of the parties (whether written or oral) are merged herein and made a part hereof. To the extent that any terms and conditions contained in this Agreement, all Exhibits hereto, and the other documents and agreement referenced herein conflict with these Standard Terms and Conditions, the Standard Terms and Conditions shall take precedence.

30. AMENDMENT. This Agreement shall be amended only by formal written supplementary amendment. No oral amendment of this Agreement shall be given any effect. All amendments to this Agreement shall be in writing executed by both parties.

31. IMPLEMENTATION SCHEDULE AND TIME OF THE ESSENCE. Any and all phases and schedules which are the subject of approvals, or as set forth herein, shall be governed by the principle that modification or deviation from such schedules shall occur only upon approval of La Crosse or reasons of Force Majeure. Any phase or schedule that is determined to be "time of the essence" shall be specifically identified as such within the scope of services. The Mayor, or in the Mayor's absence, the Council President, shall have the ability to postpone any deadline listed herein, up to a maximum of ninety (90) days. If such delays cause additional cost, Contracting Party shall be reimbursed.

32. TIME COMPUTATION. Any period of time described in this Agreement by reference to a number of days includes Saturdays, Sundays, and any state or national holidays. Any period of time described in this Agreement by reference to a number of business days does not include Saturdays, Sundays or any state or national holidays. If the date or last date to perform any act or to give any notices is a Saturday, Sunday or state or national holiday, that act or

notice may be timely performed or given on the next succeeding day which is not a Saturday, Sunday or state or national holiday.

33. NOTICES. Any notice, demand, certificate or other communication under this Agreement shall be given in writing and deemed effective: a) when personally delivered; b) three (3) days after deposit within the United States Postal Service, postage prepaid, certified, return receipt requested; or c) one (1) business day after deposit with a nationally recognized overnight courier service, addressed by name and to the party or person intended as follows:

To the City:	Attn. City Clerk City of La Crosse 400 La Crosse Street La Crosse, WI 54601	Copy to:	Attn. City Attorney City of La Crosse 400 La Crosse Street La Crosse, WI 54601
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To SEH:	Attn. Bruce Olson SEH 10 N Bridge Street Chippewa Falls, WI 54729
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34. Intentionally omitted.

35. ACCESS TO RECORDS. Contracting Party, at its sole expense, shall maintain books, records, documents and other evidence pertinent to this Agreement in accordance with accepted applicable professional practices. La Crosse, or any of its duly authorized representatives, shall have access, at no cost to La Crosse, to such books, records, documents, papers or any records, including electronic, of Contracting Party which are pertinent to the hourly rates of pay and reimbursable costs under this Agreement, for the purpose of making audits, examinations, excerpts and transcriptions. Once deliverables are provided to La Crosse, additional copies will be provided for a fee.

36. PUBLIC RECORDS LAW. Contracting Party understands and acknowledges that La Crosse is subject to the Public Records Law of the State of Wisconsin. As such, Contracting Party agrees to retain all records as defined by Wisconsin Statute § 19.32(2) applicable to this Agreement for a period of not less than seven (7) years after the termination or expiration of this Agreement. Contracting Party agrees to assist La Crosse in complying with any public records request that La Crosse receives pertaining to this Agreement. If the requested record is not within that which is required to be produced by statute or other authority, then Contracting Party may object, and La Crosse will reject the request. Contracting Party shall seek to intervene in any subsequent public records lawsuit, writ of mandamus, or other action against La Crosse seeking to compel disclosure in order to dispute disclosure of the requested record. Contracting Party shall also cooperate and provide assistance to La Crosse, at no cost, in the defense of such lawsuit, writ or other action. If the request is upheld by a court of law, then Contracting Party will produce the records or indemnify and hold harmless La Crosse Indemnitees from any liability, including without limitation, attorney fees related to or in any way arising from Contracting Party's actions or omissions which contribute to La Crosse's inability to comply with the Public Records

Law. In the event that Contracting Party decides not to retain its records for a period of seven (7) years, then it shall provide written notice to La Crosse whereupon La Crosse shall take custody of said records assuming such records are not already maintained by La Crosse. This provision shall survive the termination of this Agreement.

37. CONSTRUCTION. This Agreement shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument to be drafted. This agreement shall be deemed to have been drafted by the parties of equal bargaining strength. The captions appearing at the first of each numbered section of this Agreement are inserted and included solely for convenience but shall never be considered or given any effect in construing this Agreement with the duties, obligations, or liabilities of the respective hereto or in ascertaining intent, if any questions of intent should arise. All terms and words used in this Agreement, whether singular or plural and regardless of the gender thereof, shall be deemed to include any other number and any other gender as the context may require.

38. NO THIRD-PARTY BENEFICIARY. Nothing contained in this Agreement, nor the performance of the parties hereunder, is intended to benefit, nor shall inure to the benefit of, any third party.

39. COMPLIANCE WITH LAW. The parties shall comply in all material respects with applicable federal, state and local laws, regulations and ordinances.

40. FORCE MAJEURE. Neither Party shall be responsible for any resulting losses and it shall not be a default hereunder if the fulfillment of any of the terms of this Agreement is delayed or prevented by revolutions or other civil disorders, wars, acts of enemies, strikes, fires, floods, acts of God, adverse weather conditions, legally required environmental remedial actions, industry-wide shortage of materials, or by any other cause not within the control of the party whose performance was interfered with, and which exercise of reasonable diligence, such party is unable to prevent, whether of the class of causes hereinabove enumerated or not, and the time for performance shall be extended by the period of delay occasioned by any such cause.

41. GOOD STANDING. Contracting Party affirms that it is a company duly formed and validly existing and in good standing under the laws of the State of Wisconsin and has the power and all necessary licenses, permits and franchises to own its assets and properties and to carry on its business. Contracting Party is duly licensed or qualified to do business and is in good standing in the State of Wisconsin and in all other jurisdictions in which failure to do so would have a material adverse effect on its business or financial condition.

42. AUTHORITY. The persons signing this Agreement warrant that they have the authority to sign as, or on behalf of, the party for whom they are signing.

43. EXECUTION OF AGREEMENT. Contracting Party shall sign and execute this Agreement on or before sixty (60) days of its approval by the La Crosse Common Council, and Contracting Party's failure to do so will render the approval of the Agreement by the La Crosse Common Council null and void unless otherwise authorized.

44. COUNTERPARTS. This Agreement may be executed in one or more counterparts, all of which shall be considered but one and the same agreements and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party.

45. SURVIVAL. All express representations, indemnifications and limitations of liability included in this Agreement will survive its completion or termination.

46. COMPLIANCE WITH LAW. Contracting Party agrees to abide by applicable federal, state and local laws, regulations and ordinances, and all provisions of this Agreement.

47. RELIANCE. Contracting Party has the right to reasonably rely on information provided by or through La Crosse.

Revised:
06.21.19

Agreement for Professional Services – Amendment 2

This Agreement is effective as of April 20, 2022, between City of La Crosse (Client) and Short Elliott Hendrickson Inc. (Consultant).

This Agreement authorizes and describes the scope, schedule, and payment conditions for Consultant's work on the Project described as: River Point District Phase 2 – Demolition Plan for 110 Causeway Boulevard

Client's Authorized Representative: Ms. Andrea Trane
Address: 400 La Crosse Street
La Crosse, WI 54601
Telephone: 608.789.8321 **email:** tranea@cityoflacrosse.org

Project Manager: Jeremy Tomesh, PE
Address: 329 Jay Street
La Crosse, WI 54601
Telephone: 608.498.4947 **email:** jtomesh@sehinc.com

Scope: The Basic Services to be provided by Consultant as set forth herein are provided subject to the attached General Conditions of the Agreement for Professional Services (General Conditions Rev. 07.14.16), which is incorporated by reference herein and subject to Exhibits attached to this Agreement.

This scope of work amends the Agreement for Professional Services, effective July 1, 2021, for the project described as "River Point District Phase II (Street A) – Design and Bidding Services". The purpose of this amendment is to prepare a demolition plan for 110 Causeway Boulevard which is intended to be acquired and demolished as part of Phase II of the River Point District project.

Task 1: Hazardous Building Materials Investigation (subconsultant, Braun Intertec, see Exhibit 2)

An asbestos inspection of materials comprising the structure will be conducted in preparation for building demolition. The asbestos inspection will be conducted by an asbestos inspector registered in the State of Wisconsin with the Wisconsin Department of Health. The asbestos inspection will be completed to meet the requirements of ch. NR 447.06 (1) Wisconsin Administrative Code and the Occupational Safety and Health Administration (OSHA) Asbestos Construction Industry Standard (29 CFR 1926.1101). Bulk samples of suspected asbestos containing materials will be collected and subsequently analyzed for percent asbestos using polarizing light microscopy methods. Point counting verification will be performed as necessary on samples at or near 1% asbestos content. The Client should be aware that bulk sampling results in damage to suspect asbestos containing materials being sampled, leaving holes in walls, etc.

A Hazardous Materials Assessment (HMA) will be conducted concurrently with the asbestos inspection. The HMA will provide an inventory of potentially hazardous objects or substances associated with the building so these items can be removed and either recycled, reused, or properly disposed prior to the onset of construction.

Subtotal: \$2,110

Task 2: Plans and Specifications (See Exhibit 1)

Demolition will include disconnection and/or removal of remaining utilities servicing the structure and complete removal of building structures, concrete, footings and foundations to the extent jointly determined with the Client. Consultant will incorporate demolition of the structures into a project manual that will include a project contract, standard contract conditions, supplementary conditions and technical

specifications. Drawings developed for the project manual may include a demolition and utility disconnection plan, a site filling, and grading and restoration plan. The specifications will include administrative and procedural requirements for salvaging, recycling, and disposing of nonhazardous demolition and construction waste. The specifications will also include provisions for addressing storage tanks, if any, encountered during construction as well as excavation and disposal of contaminated soils, if any, encountered during construction. A copy of the asbestos inspection and hazardous materials assessment report will be included in the Project Manual so contractors can plan for proper handling and disposal of hazardous materials. Other related reports, if any, available from the Client will be referenced in the Project Manual and can be made available to bidders upon request. The project manual can be used to solicit bids from qualified demolition and/or abatement contractors.

Subtotal: \$7,190

Total: \$9,300

Schedule: Complete work within 30 days of receiving full access to 110 Causeway Boulevard.

Payment: The estimated fee for this amendment is subject to a not-to-exceed amount of \$9,300 including expenses and equipment, for a new contract total of \$531,370.00. The payment method, basis, frequency and other special conditions are set forth in attached Standard Terms and Conditions (Service Contracts)(SEH 06.21.19).

This Agreement for Professional Services, attached (Exhibit 3) Standard Terms and Conditions (Service Contracts)(SEH 06.21.19), Exhibits and any Attachments (collectively referred to as the "Agreement") supersedes all prior contemporaneous oral or written agreements and represents the entire understanding between Client and Consultant with respect to the services to be provided by Consultant hereunder. In the event of a conflict between the documents, this document and the attached Standard Terms and Conditions (Service Contracts)(SEH 06.21.19) shall take precedence over all other Exhibits unless noted below under "Other Terms and Conditions". The Agreement for Professional Services and the Standard Terms and Conditions (Service Contracts)(SEH 06.21.19)(including scope, schedule, fee and signatures) shall take precedence over attached Exhibits. This Agreement may not be amended except by written agreement signed by the authorized representatives of each party.

Other Terms and Conditions: Other or additional terms contrary to the General Conditions that apply solely to this project as specifically agreed to by signature of the Parties and set forth herein:
None.

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Short Elliott Hendrickson Inc.

City of La Crosse

By: 
Randy Sanford, PE
Title: Principal - Client Service Manager

By: _____
Title: _____

Exhibit 1

River Point District - Phase 2 Design: Amend 2 (Demolition Plan)

	PM	STAFF ENV.	SR ENV.	ACCT	SUBS	TASK HOURS	TOTAL COST
					Cost		
CHARGE RATE	\$177.91	\$128.74	\$247.20	\$117.57			
Task 1 - Hazardous Building Materials Investigation (Braun Intertec)							
Proposal QTB157335					\$2,106.46	0	\$2,106.46
							\$2,106.46
Task 2 - Coordination, Project Management, Administration							
Demolition Plans & Spec		40				40	\$5,269.60
QA/QC			3			3	\$750.60
Coordination with Sub		6	1			7	\$1,019.64
Project management	0.5			0.5		1	\$150.74
							\$7,190.58
TOTAL HOURS	0.5	46	4	0.5		51	\$9,297.04
TOTAL COST	\$88.96	\$5,922.04	\$988.80	\$58.79	\$2,106.46		\$9,297.04

Proposal \$9,300.00

April 18, 2022

Proposal QTB157335

Mr. Bruce Olson
Short Elliot Hendrickson, Inc.
10 North Bridge Street
Chippewa Falls, WI 54729

Re: Proposed Services and Cost Estimate
Pre-Demolition Hazardous Building Materials Inspection
River Point Project – Commercial Building
110 Causeway Boulevard
La Crosse, WI 54603

Dear Mr. Olson:

Braun Intertec Corporation is pleased to present this proposal to provide services and a cost estimate for a Pre-Demolition Hazardous building materials inspection of the commercial structure located at 110 Causeway Boulevard in La Crosse, Wisconsin (Site). This proposed work will be performed in accordance with the terms and conditions in the Braun Intertec General Conditions.

Scope of Services

The goal of the inspection will be to identify potentially hazardous building materials that require separate handling and/or disposal prior to building demolition. The inspection will be conducted by our experienced and accredited asbestos inspectors. Our representatives will perform the following services:

- Visually examine accessible areas and identify the locations of suspect asbestos-containing materials (ACM), polychlorinated biphenyls (PCBs), mercury, and other miscellaneous hazardous materials.
- Collect and analyze representative bulk samples of materials suspected of containing asbestos. Examples of materials to be collected for analysis include, but are not limited to: floor tile, linoleum flooring, wall and ceiling plaster, suspended and acoustical ceiling tile, sheetrock, thermal system insulation, textured ceiling material and fireproofing.
- Conduct limited LBP testing of potential re-useable components (painted concrete, block or brick) with painted surfaces suspected of containing lead (where applicable). Testing will be accomplished via laboratory analysis (if client plans to recycle materials).
- Assign a hazard rating based on asbestos content with respect to the materials condition, friability, accessibility, and hazard potential.
- Document the various materials current conditions and estimated quantities of ACM based on visual observations.

AA/EOE

- Generate a final report, documenting the sample locations, analysis results, conditions, and ACM estimated quantities.

The Braun Intertec personnel conducting the inspection are fully accredited asbestos inspectors, in accordance with state and federal regulations. Asbestos analysis will be performed by a laboratory that is accredited for polarized light microscopy (PLM) asbestos bulk sample analysis by the National Institute of Standards and Technology's (NIST) National Voluntary Laboratory Accreditation Program.

Cost Estimate

Based on our current understanding of the project requirements and the assumptions stated herein, the above scope of services on a cost-plus (time-and-materials) basis for an estimated fee of **\$ 2,106.46**, which includes one hour of post deliverable consulting time for revisions to the draft report and/or communication with the project team and/or owner. This fee is broken down in the attached Cost Estimate detail sheet. Unit prices for time and expenses are set costs. Other figures such as number of hours to perform the inspection, number of samples, report time, etc. are estimated figures.

Consequently, our estimated costs may be higher or lower, depending on the actual site conditions encountered. The total projected cost will not be exceeded without additional authorization. The terms and conditions under which these services will be provided are detailed in the attached General Conditions, which are part of this proposal.

Note: If the Client would like lead based paint testing of potential reusable components (concrete, block, brick) it appears less than 5 samples would be necessary based on exterior google maps images. Additional laboratory fees would likely be less than \$103.50.

The site work will be performed during our normal work hours of 7:00 a.m. to 5:00 p.m., Monday through Friday. If conditions occur that require us to work outside of these hours or due to circumstances beyond our control or additional requests for meetings, consulting or modifications to the report, we will request additional fees to cover our additional encored costs.

Schedule

We will require 3-5 working days advanced notice to schedule the proposed scope of work. It is our understanding that an owner's representative will be responsible for scheduling the Site visit during normal business hours of 7:00 a.m. to 5:00 p.m. Monday through Friday. Our proposal also assumes that the on-Site work will be completed in one working day. If conditions occur that require us to work outside of these hours or due to circumstances beyond our control, we will request additional fees to cover our additional overtime costs.

Laboratory turnaround time for the specified asbestos sample analysis is 3-5 working days and lead based paint is 7-10 working days from laboratory receipt. Upon receipt of the laboratory reports, our

written reports will be submitted to you within 10 working days thereafter. Preliminary verbal results will be provided to you if requested.

Limitations

The sampling of materials for asbestos content will be accomplished by destructive means. Damage to the building and associated components are inevitable. Sampling of materials for asbestos content involves the collection of a small piece of that material. Some damage is inevitable. However, every effort will be made to limit cuts and holes to discreet locations. Our representatives will not be responsible for repairing materials damaged during sampling.

In any building, the potential exists for hazardous building materials to be located inside walls, above ceilings, under floors, buried underground, and other inaccessible areas. This inspection will attempt to identify hazardous building materials in these inaccessible areas. However, it is not feasible to inspect 100 percent of these areas. Therefore, Braun Intertec cannot be held responsible for the presence of any such hidden materials. The demolition contractor and other contractors involved in the project should be made aware of the potential for hazardous building materials to be located in inaccessible areas. If previously unidentified suspect hazardous building materials are exposed during their activities, they should be sampled and analyzed for content prior to any disturbance.

Braun Intertec will not be liable for any past, existing, or future damage to the roofing systems, the building structures, or the contents of the building.

In performing its services, Braun Intertec will use that degree of care and skill ordinarily exercised under similar circumstances by reputable members of its profession currently practicing in the same locality. No warranty, express or implied, is made.

General Remarks

The proposed fee is based on the scope of services described and the assumption that our services will be authorized within 30 days and others will not delay us beyond our proposed schedule. Invoices will be submitted monthly and are due on receipt, with interest added to unpaid balances after 30 days. The terms and conditions under which these services will be provided are detailed in the attached General Conditions, which are part of this proposal.

Braun Intertec appreciates the opportunity to present this proposal to you. It is being sent in an electronic version **only**. A hard copy of the proposal will be supplied upon request. **Please return a signed copy of the proposal in its entirety.**

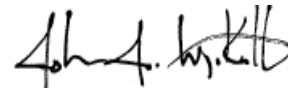
If you have questions regarding the contents of this proposal, please call Nikki Rhodes of John Wyciskalla at 6008.781.7277.

Sincerely,

BRAUN INTERTEC CORPORATION



Nikki M. Rhodes
Project Scientist



John J. Wyciskalla
Group Manager – Senior Scientist

Attachments:
Cost Estimate Detail

We include the Braun Intertec General Conditions, which provide additional terms and are a part of our agreement.

The proposal is accepted, and you are authorized to proceed.

Authorizer's Firm

Authorizer's Signature

Authorizer's Name (please print or type)

Authorizer's Title

Date

Project Proposal

QTB157335

River Point Project

Client:

Short Elliott Hendrickson, Inc.
Bruce Olson
10 N Bridge
Chippewa Falls, WI 54729

Work Site Address:

110 Causeway Blvd
La Crosse, WI 54603

Service Description:

Hazardous Materials Assessment

	Description	Quantity	Units	Unit Price	Extension
Phase 1	Hazardous Building Materials Inspection				
Activity 1.1	Prep and Field Work				\$569.00
321	Licensed Asbestos Inspector	6.00	Hour	94.00	\$564.00
1868	ENV Trip Charge	1.00	Each	5.00	\$5.00
Activity 1.2	Analytical Services				\$362.96
SUB	PLM Analysis (72 hrs TAT)	40.00	Each	9.07	\$362.96
SUB	PLM Analysis (72 hrs TAT) - Point Count (Only if needed)		Each	64.72	\$0.00
SUB	Lead Based Paint Analysis		Each	17.25	\$0.00
SUB1	Laboratory Disposal Fee		Each	17.25	\$0.00
Activity 1.3	Project Management and Reporting				\$1,174.50
360	Project Assistant	0.75	Hour	93.00	\$69.75
363	Project Control Specialist	1.00	Hour	93.00	\$93.00
390	Staff Consultant III	6.00	Hour	116.00	\$696.00
393	Project Consultant II	1.50	Hour	123.00	\$184.50
395	Senior Consultant I	0.75	Hour	175.00	\$131.25
Phase 1 Total:					\$2,106.46

Proposal Total:	\$2,106.46
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Section 1: Agreement

1.1 Our agreement with you consists of these General Conditions and the accompanying written proposal or authorization (“Agreement”). This Agreement is the entire agreement between you and us. It supersedes prior agreements. It may be modified only in a writing signed by us, making specific reference to the provision modified.

1.2 The words “you,” “we,” “us,” and “our” include officers, employees, and subcontractors.

1.3 In the event you use a purchase order or other documentation to authorize our scope of work (“Services”), any conflicting or additional terms are not part of this Agreement. Directing us to start work prior to execution of this Agreement constitutes your acceptance. If, however, mutually acceptable terms cannot be established, we have the right to terminate this Agreement without liability to you or others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

Section 2: Our Responsibilities

2.1 We will provide Services specifically described in this Agreement. You agree that we are not responsible for services that are not expressly included in this Agreement. Unless otherwise agreed in writing, our findings, opinions, and recommendations will be provided to you in writing. You agree not to rely on oral findings, opinions, or recommendations without our written approval.

2.2 In performing our professional services, we will use that degree of care and skill ordinarily exercised under similar circumstances by reputable members of our profession practicing in the same locality. If you direct us to deviate from our recommended procedures, you agree to hold us harmless from claims, damages, and expenses arising out of your direction. If during the one year period following completion of Services it is determined that the above standards have not been met and you have promptly notified us in writing of such failure, we will perform, at our cost, such corrective services as may be necessary, within the original scope in this Agreement, to remedy such deficiency. Remedies set forth in this section constitute your sole and exclusive recourse with respect to the performance or quality of Services.

2.3 We will reference our field observations and sampling to available reference points, but we will not survey, set, or check the accuracy of those points unless we accept that duty in writing. Locations of field observations or sampling described in our report or shown on our sketches are based on information provided by others or estimates made by our personnel. You agree that such dimensions, depths, or elevations are approximations unless specifically stated otherwise in the report. You accept the inherent risk that samples or observations may not be representative of things not sampled or seen and further that site conditions may vary over distance or change over time.

2.4 Our duties do not include supervising or directing your representatives or contractors or commenting on, overseeing, or providing the means and methods of their services unless expressly set forth in this Agreement. We will not be responsible for the failure of your contractors, and the providing of Services will not relieve others of their responsibilities to you or to others.

2.5 We will provide a health and safety program for our employees, but we will not be responsible for contractor, owner, project, or site health or safety.

2.6 You will provide, at no cost to us, appropriate site safety measures as to work areas to be observed or inspected by us. Our employees are authorized by you to refuse to work under conditions that may be unsafe.

2.7 Unless a fixed fee is indicated, our price is an estimate of our project costs and expenses based on information available to us and our experience and knowledge. Such estimates are an exercise of our professional judgment and are not guaranteed or warranted. Actual costs may vary. You should allow a contingency in addition to estimated costs.

Section 3: Your Responsibilities

3.1 You will provide us with prior environmental, geotechnical and other reports, specifications, plans, and information to which you have access about the site. You agree to provide us with all plans, changes in plans, and new information as to site conditions until we have completed Services.

3.2 You will provide access to the site. In the performance of Services some site damage is normal even when due care is exercised. We will use reasonable care to minimize damage to the site. We have not included the cost of restoration of damage in the estimated charges.

3.3 You agree to provide us, in a timely manner, with information that you have regarding buried objects at the site. We will not be responsible for locating buried objects at the site. *You agree to hold us harmless, defend, and indemnify us from claims, damages, losses, penalties and expenses (including attorney fees) involving buried objects that were not properly marked or identified or of which you had knowledge but did not timely call to our attention or correctly show on the plans you or others furnished to us.*

3.4 You will notify us of any knowledge or suspicion of the presence of hazardous or dangerous materials present on any work site or in a sample provided to us. You agree to provide us with information in your possession or control relating to such materials or samples. If we observe or suspect the presence of contaminants not anticipated in this Agreement, we may terminate Services without liability to you or to others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

3.5 Neither this Agreement nor the providing of Services will operate to make us an owner, operator, generator, transporter, treater, storer, or a disposal facility within the meaning of the Resource Conservation Recovery Act, as amended, or within the meaning of any other law governing the handling, treatment, storage, or disposal of hazardous substances. *You agree to hold us harmless, defend, and indemnify us from any claims, damages, penalties or losses resulting from the storage, removal, hauling or disposal of such substances.*

3.6 Monitoring wells are your property, and you are responsible for their permitting, maintenance, and abandonment unless expressly set forth otherwise in this Agreement.

3.7 You agree to make all disclosures required by law. In the event you do not own the project site, you acknowledge that it is your duty to inform the owner of the discovery or release of contaminants at the site. *You agree to hold us harmless, defend, and indemnify us from claims, damages, penalties, or losses and expenses, including attorney fees, related to failures to make disclosures, disclosures made by us that are required by law, and from claims related to the informing or failure to inform the site owner of the discovery of contaminants.*

Section 4: Reports and Records

4.1 Unless you request otherwise, we will provide our report in an electronic format.

4.2 Our reports, notes, calculations, and other documents and our computer software and data are instruments of our service to you, and they remain our property. We hereby grant you a license to use the reports and related information we provide only for the related project and for the purposes disclosed to us. You may not transfer our reports to others or use them for a purpose for which they were not prepared without our written approval. *You agree to indemnify, defend, and hold us harmless from claims, damages, losses, and expenses, including attorney fees, arising out of such a transfer or use.*

4.3 If you do not pay for Services in full as agreed, we may retain work not yet delivered to you and you agree to return to us all of our work that is in your possession or under your control.

4.4 Samples and field data remaining after tests are conducted and field and laboratory equipment that cannot be adequately cleansed of contaminants are and continue to be your property. They may be discarded or returned to you, at our discretion, unless within 15 days of the report date you give us written direction to store or transfer the materials at your expense.

4.5 Electronic data, reports, photographs, samples, and other materials provided by you or others may be discarded or returned to you, at our discretion, unless within 15 days of the report date you give us written direction to store or transfer the materials at your expense.

Section 5: Compensation

5.1 You will pay for Services as stated in this Agreement. If such payment references our Schedule of Charges, the invoicing will be based upon the most current schedule. An estimated amount is not a firm figure. You agree to pay all sales taxes and other taxes based on your payment of our compensation. Our performance is subject to credit approval and payment of any specified retainer.

5.2 You will notify us of billing disputes within 15 days. You will pay undisputed portions of invoices upon receipt. You agree to pay interest on unpaid balances beginning 30 days after invoice dates at the rate of 1.5% per month, or at the maximum rate allowed by law.

5.3 If you direct us to invoice a third party, we may do so, but you agree to be responsible for our compensation unless the third party is creditworthy (in our sole opinion) and provides written acceptance of all terms of this Agreement.

5.4 Your obligation to pay for Services under this Agreement is not contingent on your ability to obtain financing, governmental or regulatory agency approval, permits, final adjudication of any lawsuit, your successful completion of any project, receipt of payment from a third party, or any other event. No retainage will be withheld.

5.5 If you do not pay us in accordance with this Agreement, you agree to reimburse all costs and expenses for collection of the moneys invoiced, including but not limited to attorney fees and staff time.

5.6 You agree to compensate us in accordance with our Schedule of Charges if we are asked or required to respond to legal process arising out of a proceeding related to the project and as to which we are not a party.

5.7 If we are delayed by factors beyond our control, or if project conditions or the scope or amount of work changes, or if changed labor conditions result in increased costs, decreased efficiency, or delays, or if the standards or methods change, we will give you timely notice, the schedule will be extended for each day of delay, and we will be compensated for costs and expenses incurred in accordance with our Schedule of Charges.

5.8 If you fail to pay us in accordance with this Agreement, we may consider the default a total breach of this Agreement and, at our option, terminate our duties without liability to you or to others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

5.9 In consideration of our providing insurance to cover claims made by you, you hereby waive any right to offset fees otherwise due us.

Section 6: Disputes, Damage, and Risk Allocation

6.1 Each of us will exercise good faith efforts to resolve disputes without litigation. Such efforts will include, but not be limited to, a meeting(s)

attended by each party's representative(s) empowered to resolve the dispute. Before either of us commences an action against the other, disputes (except collections) will be submitted to mediation.

6.2 *Notwithstanding anything to the contrary in this Agreement, neither party hereto shall be responsible or held liable to the other for punitive, indirect, incidental, or consequential damages, or liability for loss of use, loss of business opportunity, loss of profit or revenue, loss of product or output, or business interruption.*

6.3 You and we agree that any action in relation to an alleged breach of our standard of care or this Agreement shall be commenced within one year of the date of the breach or of the date of substantial completion of Services, whichever is earlier, without regard to the date the breach is discovered. Any action not brought within that one year time period shall be barred, without regard to any other limitations period set forth by law or statute. We will not be liable unless you have notified us within 30 days of the date of such breach and unless you have given us an opportunity to investigate and to recommend ways of mitigating damages. You agree not to make a claim against us unless you have provided us at least 30 days prior to the institution of any legal proceeding against us with a written certificate executed by an appropriately licensed professional specifying and certifying each and every act or omission that you contend constitutes a violation of the standard of care governing our professional services. Should you fail to meet the conditions above, you agree to fully release us from any liability for such allegation.

6.4 *For you to obtain the benefit of a fee which includes a reasonable allowance for risks, you agree that our aggregate liability for all claims will not exceed the fee paid for Services or \$50,000, whichever is greater. If you are unwilling to accept this allocation of risk, we will increase our aggregate liability to \$100,000 provided that, within 10 days of the date of this Agreement, you provide payment in an amount that will increase our fees by 10%, but not less than \$500, to compensate us for the greater risk undertaken.* This increased fee is not the purchase of insurance.

6.5 *You agree to indemnify us from all liability to others in excess of the risk allocation stated herein and to insure this obligation. In addition, all indemnities and limitations of liability set forth in this Agreement apply however the same may arise, whether in contract, tort, statute, equity or other theory of law, including, but not limited to, the breach of any legal duty or the fault, negligence, or strict liability of either party.*

6.6 This Agreement shall be governed, construed, and enforced in accordance with the laws of the state in which our servicing office is located, without regard to its conflict of law rules. The laws of the state of our servicing office will govern all disputes, and all claims shall be heard in the state or federal courts for that state. Each of us waives trial by jury.

6.7 No officer or employee acting within the scope of employment shall have individual liability for his or her acts or omissions, and you agree not to make a claim against individual officers or employees.

Section 7: General Indemnification

7.1 *We will indemnify and hold you harmless from and against demands, damages, and expenses of others to the comparative extent they are caused by our negligent acts or omissions or those negligent acts or omissions of persons for whom we are legally responsible. You will indemnify and hold us harmless from and against demands, damages, and expenses of others to the comparative extent they are caused by your negligent acts or omissions or those negligent acts or omissions of persons for whom you are legally responsible.*

7.2 To the extent it may be necessary to indemnify either of us under Section 7.1, you and we expressly waive, in favor of the other only, any immunity or exemption from liability that exists under any worker compensation law.

7.3 You agree to indemnify us against losses and costs arising out of claims of patent or copyright infringement as to any process or system that is specified or selected by you or by others on your behalf.

Section 8: Miscellaneous Provisions

8.1 We will provide a certificate of insurance to you upon request. Any claim as an Additional Insured shall be limited to losses caused by our negligence.

8.2 You and we, for ourselves and our insurers, waive all claims and rights of subrogation for losses arising out of causes of loss covered by our respective insurance policies.

8.3 Neither of us will assign or transfer any interest, any claim, any cause of action, or any right against the other. Neither of us will assign or otherwise transfer or encumber any proceeds or expected proceeds or compensation from the project or project claims to any third person, whether directly or as collateral or otherwise.

8.4 This Agreement may be terminated early only in writing. You will compensate us for fees earned for performance completed and expenses incurred up to the time of termination.

8.5 If any provision of this Agreement is held invalid or unenforceable, then such provision will be modified to reflect the parties' intention. All remaining provisions of this Agreement shall remain in full force and effect.

8.6 No waiver of any right or privilege of either party will occur upon such party's failure to insist on performance of any term, condition, or instruction, or failure to exercise any right or privilege or its waiver of any breach.

Exhibit 3

19-1018

Resolution approving Agreement for Professional Services and revised terms and conditions for the Floodplain Re-Mapping of Ebner Coulee by the consultant Short Elliott Hendrickson Inc. (SEH).

RESOLUTION

WHEREAS, the 2019 CIP #288 approved the re-mapping project for Ebner Coulee and provide \$150,000 in funding for the work; and

WHEREAS, the Floodplain Advisory Committee approved and directed the hiring of Short Elliott Hendrickson INC. (SEH) for this project in Resolution #18-1234; and

WHEREAS, SEH would not agree to the City's Standard Terms and Conditions; and

WHEREAS, the City Attorney and Utilities Manager worked with SEH to develop mutually agreeable revised Standard Terms and Conditions.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of La Crosse that the Agreement for Professional Services with revised Standard Terms and Conditions and dates is hereby approved.

BE IT FURTHER RESOLVED that additional contracts may use this revised Terms and Conditions in the future.

BE IT FURTHER RESOLVED that the Mayor and City Clerk are hereby authorized to sign the Agreement.

BE IT FURTHER RESOLVED that the Director of Finance, Utilities Manager and Director of Engineering and Public Works are hereby authorized and directed to take all necessary steps to implement this resolution.

STANDARD TERMS AND CONDITIONS (Service Contracts)

(SEH 06.21.19)

1. **DEFINITIONS.** In this section "Contracting Party" shall mean any party that is entering into this Agreement with the City of La Crosse. "La Crosse" shall mean the City of La Crosse. These definitions shall apply only to this document titled "Standard Terms and Conditions (Service Contracts)" and shall not replace, modify or supersede any definitions used in other sections of this Agreement.

2. **STANDARD OF PERFORMANCE.** Contracting Party agrees that the performance of the services, pursuant to the terms and conditions of this Agreement, shall be in a manner at least equal to the degree of care and skill ordinarily exercised by members of the same professions currently practicing under similar circumstances providing like services

3. **FULLY QUALIFIED.** Contracting Party represents that all personnel engaged in the performance of the services set forth in this Agreement shall be fully qualified and, if applicable, shall be authorized or permitted under all applicable state and local laws and any other applicable laws or regulations to perform the services.

4. **SCOPE OF SERVICES.** Contracting Party is required to perform, do and carryout in a timely and professional manner the services set forth in this Agreement. The Contracting Party is required to furnish all services and labor necessary as indicated in this Agreement. The scope of services to be performed shall include, those services set forth in this Agreement. La Crosse may from time to time request the Contracting Party to perform additional services which are not set forth in this Agreement. In the event that such a request is made, the performance of such services shall be subject to the terms, conditions and contingencies set forth in this Agreement.

5. **CHANGE OF SCOPE.** The scope of service set forth in this Agreement is based on facts known at the time of the execution of this Agreement. The scope of service may not be fully definable during initial phases, and as the project progresses, facts discovered may indicate that the scope must be redefined. If mutually agreed to in advance in writing, Contracting Party shall make changes, furnish necessary materials, and perform the work that La Crosse may require, without nullifying this Agreement, at a reasonable addition to, or reduction from, the total cost of the project. Under no circumstances shall Contracting Party make any changes, either as additions or deductions, without the written consent of La Crosse, and La Crosse shall not pay any extra charges made by Contracting Party that have not been agreed upon in advance and documented in writing.

6. **COMPENSATION.** Contracting Party will be compensated by La Crosse for the services provided under this Agreement and subject to the terms, conditions and contingences set forth herein. Payments to Contracting Party for services rendered under this Agreement will be based on itemized invoices submitted on a monthly basis by the Contracting Party to La Crosse. These invoices, unless lump sum, must be itemized to identify labor costs and the Contracting Party's direct expenses, including subcontractor and supplier costs. In addition, such invoices shall show the hours worked by the Contracting Party's staff and the amount of work

completed as a percentage of the work to be performed. If payment is by lump sum, then only the percent complete will be invoiced. The final payment of the balance due the Contracting Party for the completed service shall be made upon completion and acceptance of the services performed by the Contracting Party under this Agreement. Without prejudice to any other right or remedy it may have, La Crosse reserves the right to setoff at any time any amount owing to it by Contracting Party against any amount payable by La Crosse to Contracting Party.

7. **TAXES, SOCIAL SECURITY, INSURANCE AND GOVERNMENT REPORTING.** Personal income tax payments, social security contributions, insurance and all other governmental reporting and contributions required as a consequence of the Contracting Party receiving payment under this Agreement shall be the sole responsibility of the Contracting Party.

8. **TERMINATION FOR CAUSE.** If, through its own fault, intentional misconduct, or the fault or intentional misconduct of its subcontractors, agents or volunteers, the Contracting Party shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Contracting Party shall violate any of the covenants, agreements, or stipulations of this Agreement, both as determined by La Crosse in its sole discretion, La Crosse shall thereupon have the right to terminate this Agreement by giving written notice to the Contracting Party of such termination and specifying the effective date. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, reports or other deliverables performed by the Contracting Party under this Agreement for which compensation has been made shall, at the option of La Crosse, become the property of La Crosse. Notwithstanding the foregoing, the Contracting Party shall not be relieved of liability to La Crosse for damages sustained by La Crosse by virtue of the Contracting Party's intentional misconduct or negligent performance of this Agreement, and La Crosse may withhold any payments to the Contracting Party for the purpose of setoff until such time as the exact amount of damages due to La Crosse from the Contracting Party is determined. Use of incomplete or unfinished work is at the sole risk of La Crosse.

9. **TERMINATION FOR CONVENIENCE.** Either Party may terminate this Agreement for convenience at any time and for any reason by giving sixty (60) days written notice to the other Party of such termination. If this Agreement is terminated by La Crosse pursuant to this provision, Contracting Party will be paid an amount which bears the same ratio to the total compensation as the services actually performed and accepted by La Crosse bear to the total services of the Contracting Party covered by this Agreement, less payments for such services as were previously made. The value of the services rendered and delivered by Contracting Party will be determined by La Crosse.

10. **SAFETY.** Unless specifically included as a service to be provided under this Agreement, La Crosse specifically disclaims any authority or responsibility for general job site safety, or the safety of other persons or property. Except as otherwise provided in this

Agreement, Contracting Party disclaims any authority or responsibility for general job site safety, or the safety of third-parties or their property.

11. DELAYS. If performance of Contracting Party's obligations under this Agreement is delayed through no fault of Contracting Party, Contracting Party shall be entitled to a reasonable extension of time as proposed by Contracting Party and as accepted or amended by La Crosse. If performance of La Crosse's obligations is delayed through no fault of La Crosse, La Crosse shall be entitled to an extension of time equal to the delay.

12. USE OF LA CROSSE PROPERTY. Any property belonging to La Crosse being provided for use by Contracting Party shall be used in a responsible manner and only for the purposes provided in this Agreement. No changes, alterations or additions shall be made to the property unless otherwise authorized by this Agreement.

13. INSURANCE. Unless otherwise specified in this Agreement, Contracting Party shall, at its sole expense, maintain in effect at all times during the Agreement, insurance coverage with limits not less than those set forth below with insurers and under forms of policies set forth below.

a. *Worker's Compensation and Employers Liability Insurance.* Contracting Party shall cover or insure under the applicable labor laws relating to worker's compensation insurance, all of their employees in accordance with the laws of the State of Wisconsin. Contracting Party shall provide statutory coverage for work related injuries and employer's liability insurance with limits of at least for employer's liability of one hundred thousand dollars (\$100,000.00) per each accident, one hundred thousand dollars (\$100,000.00) per each employee and five hundred thousand dollars (\$500,000.00) total policy limit.

b. *Commercial General Liability and Automobile Liability Insurance.* Contracting Party shall provide and maintain the following commercial general liability and automobile liability insurance:

- i. Coverage for commercial general liability and automobile liability insurance shall, at a minimum, be at least as broad as the following:
 1. Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG 0001).
 2. Insurance Services Office (ISO) Business Auto Coverage (Form CA 0001), covering Symbol 1 (any vehicle).
- ii. Contracting Party shall maintain limits no less than the following:
 1. General Liability. Two million dollars (\$2,000,000.00) per occurrence (\$2,000,000.00 general aggregate if applicable) for bodily injury, personal injury and property damage.
 2. Automobile Liability. Two million dollars (\$2,000,000.00) for bodily injury and property damage per occurrence covering all vehicles to be used in relationship to the Agreement.

3. Umbrella Liability. Five million dollars (\$5,000,000.00) following form excess of the primary General Liability, Automobile Liability and Employers Liability Coverage. Coverage is to duplicate the requirements as set forth herein.

c. *Professional Liability Insurance.* When Contracting Party renders professional services to La Crosse under the Agreement, Contracting Party shall provide and maintain two million dollars (\$2,000,000.00) of professional liability insurance. If such policy is a "claims made" policy, all renewals thereof during the life of the Agreement shall include "prior acts coverage" covering at all times all claims made with respect to Contracting Party's work performed under the Agreement. This Professional Liability coverage must be kept in force for a period of six (6) years after the services have been accepted by the La Crosse.

d. *Required Provisions.* The general liability, umbrella liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- i. La Crosse, its elected and appointed officials, officers, employees or authorized representatives or volunteers are to be given additional insured status (via ISO endorsement CG 2010, CG 2033, or insurer's equivalent for general liability coverage) as respects: liability arising out of activities performed by or on behalf of Contracting Party; products and completed operations of Contracting Party; premises occupied or used by Contracting Party; and vehicles owned, leased, hired or borrowed by Contracting Party. The coverage shall contain no special limitations on the scope of protection afforded to La Crosse, its elected and appointed officials, officers, employees or authorized representatives or volunteers. Except for the workers' compensation policy, each insurance policy shall contain a waiver of subrogation endorsement in favor of La Crosse.
- ii. For any claims related to this Agreement, Contracting Party's insurance shall be primary insurance with respect to La Crosse, its elected and appointed officials, officers, employees or authorized representatives or volunteers. Any insurance, self-insurance, or other coverage maintained by La Crosse, its elected and appointed officers, officials, employees or authorized representatives or volunteers shall not contribute to the primary insurance.
- iii. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to La Crosse, its elected and appointed officers, employees or authorized representatives or volunteers.
- iv. Contracting Party's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- v. Coverage shall not be canceled by the insurance carrier or the Contracting Party, except after sixty (60) days (ten (10) days for non-payment of premium) prior written notice by U.S. mail has been given to La Crosse.

- vi. Such liability insurance shall indemnify La Crosse, its elected and appointed officials, officers, employees or authorized representatives or volunteers against loss from liability imposed by law upon, or assumed under contract by, Contracting Party for damages on account of such bodily injury, (including death), property damage personal injury, completed operations, and products liability.
- vii. The general liability policy shall cover bodily injury and property damage liability, owned and non-owned equipment, blanket contractual liability, completed operations. The automobile liability policy shall cover all owned, non-owned, and hired vehicles.
- viii. All of the insurance shall be provided on policy forms and through companies satisfactory to La Crosse, and shall have a minimum AM Best's rating of A- VIII.

e. *Deductibles and Self-Insured Retentions.* Any deductible or self-insured retention must be declared to and approved by La Crosse.

f. *Evidences of Insurance.* Prior to execution of the Agreement, Contracting Party shall file with La Crosse a certificate of insurance (Accord Form 25-S or equivalent) signed by the insurer's representative evidencing the coverage required by this Agreement. Such evidence shall include an additional insured endorsement signed by the insurer's representative. Such evidence shall also include confirmation that coverage includes or has been modified to include all required provisions as detailed herein.

g. *Sub-Contractor.* In the event that Contracting Party employ other contractors (sub-contractors) as part of this Agreement, it shall be the Contracting Party's responsibility to require and confirm that each sub-contractor meets the minimum insurance requirements specified above.

h. *Amendments.* La Crosse may amend its requirements for insurance upon sixty (60) days written notice. Contracting Party shall procure updated insurance to comply with the new requirements of La Crosse if commercially available and at La Crosse's expense. Contracting Party may appeal any requirement to amend the insurance coverage to La Crosse's City Council who may, in its sole discretion, mutually agree to waive such changes.

14. **INDEMNIFICATION.** To the fullest extent allowable by law, Contracting Party hereby indemnifies and shall defend and hold harmless, at Contracting Party's expense, La Crosse, its elected and appointed officials, committee members, officers, employees, authorized representatives and volunteers ("La Crosse Indemnitees") from and against third party tort suits, actions, legal or administrative proceedings, claims, costs and expenses (including, without limitation, reasonable attorney and professional fees) to the extent caused by the negligent acts, errors or omissions of Contracting Party, its subcontractors or of anyone acting under its direction or control or on its behalf in the performance of this Agreement. Contracting Party's defense obligation shall not apply to professional liability claims. The aforesaid indemnity and hold harmless

agreement shall not be applicable to any liability to the extent caused by La Crosse, its elected and appointed officials, officers, employees or authorized representatives, consultants, contractors or volunteers in the performance of this Agreement. Contracting Party's obligation to indemnify, defend and hold harmless shall not be restricted to insurance proceeds, if any, received by La Crosse, its elected and appointed officials, officers, employees, authorized representatives or volunteers.

Nothing in this Agreement is intended or shall be construed to be a waiver or estoppel of La Crosse or its insurer (or otherwise affect or alter their ability) to rely upon the limitations, defenses and immunities contained within Wis. Stat. §§ 345.05 and 893.80, or other applicable law. To the extent that indemnification is available and enforceable against La Crosse, (a) La Crosse or its insurer shall not be liable in indemnity, contribution, or otherwise for an amount greater than the limits of liability of municipal claims established by applicable Wisconsin or federal law; and (b) La Crosse's obligations under this Agreement are further conditioned upon the following: (i) the indemnified party shall promptly notify La Crosse in writing of any such claims, demands, liabilities, damages, costs and expenses within ten (10) days of discovery; (ii) La Crosse shall have sole control of, and the indemnified party shall reasonably cooperate in all respects, in the defense of the claims, demands, liabilities, damages, costs and expenses and all related settlement negotiations; and (iii) the indemnified party shall not make any admission or disclosure or otherwise take any action prejudicial to La Crosse except as required by law.

Neither party shall be liable for indirect, special, exemplary, consequential or incidental damages, including, without limitation, any damages for lost profits, revenue or business interruption. The parties represent that, as of the effective date, neither party has any notice or knowledge of any claims, demands, liabilities, damages, costs and expenses asserted or threatened by any third party with respect to the matters contemplated in this Agreement.

This indemnity provision shall survive the termination or expiration of this Agreement.

15. **NO PERSONAL LIABILITY.** Under no circumstances shall any trustee, officer, official, commissioner, director, member, partner or employee of either party have any personal liability arising out of this Agreement, unless an employee of the Contracting Party shall commit a criminal, fraudulent, malicious, or dishonest act which is excluded from Contracting Party's insurance coverage.

16. Intentionally omitted.

17. **INDEPENDENT CONTRACTORS.** The parties, their employees, agents, volunteers, and representative shall be deemed independent contractors of each other and shall in no way be deemed as a result of this Agreement to be employees of the other. The parties, their employees, agents, volunteers, and representatives are not entitled to any of the benefits that the other provides for its

employees. The parties shall not be considered joint agents, joint venturers, or partners.

18. **GOVERNING LAW.** This Agreement and all questions and issues arising in connection herewith shall be governed by and construed in accordance with the laws of the State of Wisconsin. Venue for any action arising out of or in any way related to this Agreement shall be exclusively in La Crosse County, Wisconsin. Each party waives its right to challenge venue.

19. **JURY TRIAL WAIVER.** The parties hereby waive their respective rights to a jury trial on any claim or cause of action based upon or arising from or otherwise related to this Agreement. This waiver of right to trial by jury is given knowingly and voluntarily by the parties and is intended to encompass individually each instance and each issue as to which the right to a trial by jury would otherwise accrue. Each party is hereby authorized to file a copy of this section in any proceeding as conclusive evidence of this waiver by the other party.

20. **NOTIFICATION.** Parties shall:

(1) As soon as possible and in any event within a reasonable period of time after the occurrence of any event of default by either party, notify the other Party in writing of such default and set forth the details thereof and the action which is being taken or proposed to be taken by defaulting party to cure or mitigate the default.

(2) Promptly notify the other Party of the commencement of any litigation or administrative proceeding that would cause any representation contained in this Agreement to be untrue.

(3) If related to the performance of services and work under this Agreement, notify the other Party, and provide copies, immediately, upon receipt, of any notice, pleading, citation, indictment, complaint, order or decree from any federal, state or local government agency or regulatory body, asserting or alleging a circumstance or condition that requires or may require a financial contribution by a Party or any guarantor or an investigation, clean-up, removal, remedial action or other response by or on the part of a Party or any guarantor under any environmental laws, rules, regulations, ordinances or which seeks damages or civil, criminal or punitive penalties from or against a Party or any guarantor for an alleged violation of any environmental laws, rules, regulations or ordinances.

21. **SEVERABILITY.** The provisions of this Agreement are severable. If any provision or part of this Agreement or the application thereof to any person or circumstance shall be held by a court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part thereof to other persons or circumstances shall not be affected thereby.

22. **ASSIGNMENT, SUBLET, AND TRANSFER.** A Party shall not assign, sublet, or transfer its interests or obligations under the provisions of this Agreement without the prior written consent of the other Party. This Agreement shall be binding on the heirs, successors, and permitted assigns of each party hereto. A Party shall provide not less than forty-five (45) days advance written notice of

request to assign, sublet or transfer any services provided under this Agreement. The decision to allow an assignment by Contracting Party rests solely with La Crosse, in its discretion

23. **NO WAIVER.** The failure of any party to insist, in any one or more instance, upon performance of any of the terms, covenants, or conditions of this Agreement shall not be construed as a waiver, or relinquishment of the future performance of any such term, covenant, or condition by any other party hereto but the obligation of such other party with respect to such future performance shall continue in full force and effect.

24. **SUBCONTRACTING.** None of the services to be performed under this Agreement shall be subcontracted without the prior written approval of La Crosse. If any of the services are subcontracted, the performance of such services shall be specified by written contract and shall be subject to each provision of this Agreement. Contracting Party shall be as fully responsible to La Crosse for the acts and omissions of its subcontractors and of person either directly or indirectly employed by them, as it is for acts and omissions of persons directly employed by it.

25. **CONFLICTS OF INTEREST.** Contracting Party covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. Contracting Party further covenants that in the performance of this Agreement no person having any conflicting interest shall be employed. Any interest on the part of Contracting Party or its employee must be disclosed to La Crosse

26. **NON-DISCRIMINATION.** Pursuant to law, it is unlawful and Contracting Party agrees not to willfully refuse to employ, to discharge, or to discriminate against any person otherwise qualified because of race, color, religion, sex, sexual orientation, age, disability, national origin or ancestry, lawful source of income, marital status, creed, or familial status; not to discriminate for the same reason in regard to tenure, terms, or conditions of employment, not to deny promotion or increase in compensation solely for these reasons; not to adopt or enforce any employment policy which discriminates between employees on account of race, color, religion, sex, creed, age, disability, national origin or ancestry, lawful source of income, marital status or familial status; not to seek such information as to any employee as a condition of employment; not to penalize any employee or discriminate in the selection of personnel for training, solely on the basis of race, color, religion, sex, sexual orientation, age, disability, national origin or ancestry, lawful source of income, marital status, creed or familial status.

Contracting Party shall include or cause to be included in each subcontract covering any of the services to be performed under this Agreement a provision similar to the above paragraph, together with a clause requiring such insertion in further subcontracts that may in turn be made.

27. POLITICAL ACTIVITIES. Contracting Party employees shall not engage in any political activities within the City of La Crosse while in performance of any and all services and work under this Agreement. This does not apply to periods of time in which employee is not at work, or is billing other than La Crosse for his/ her time.

28. GOVERNMENTAL APPROVALS. Contracting Party acknowledges that various of the specific undertakings of La Crosse described in this Agreement may require approvals from the City of La Crosse Council, City of La Crosse bodies, and/or other public bodies, some of which may require public hearings and other legal proceedings as conditions precedent thereto. Contracting Party further acknowledges that this Agreement is subject to appropriation by the La Crosse Common Council. La Crosse's obligation to perform under this Agreement is conditioned upon obtaining all such approvals in the manner required by law. La Crosse cannot assure that all such approvals will be obtained, however, it agrees to use good faith efforts to obtain such approvals on a timely basis. .

29. ENTIRE AND SUPERSEDING AGREEMENT. This writing, all Exhibits hereto, and the other documents and agreements referenced herein, constitute the entire Agreement between the parties with respect to the subject matter hereof, and all prior agreements, correspondences, discussions and understandings of the parties (whether written or oral) are merged herein and made a part hereof. To the extent that any terms and conditions contained in this Agreement, all Exhibits hereto, and the other documents and agreement referenced herein conflict with these Standard Terms and Conditions, the Standard Terms and Conditions shall take precedence.

30. AMENDMENT. This Agreement shall be amended only by formal written supplementary amendment. No oral amendment of this Agreement shall be given any effect. All amendments to this Agreement shall be in writing executed by both parties.

31. IMPLEMENTATION SCHEDULE AND TIME OF THE ESSENCE. Any and all phases and schedules which are the subject of approvals, or as set forth herein, shall be governed by the principle that modification or deviation from such schedules shall occur only upon approval of La Crosse or reasons of Force Majeure. Any phase or schedule that is determined to be "time of the essence" shall be specifically identified as such within the scope of services. The Mayor, or in the Mayor's absence, the Council President, shall have the ability to postpone any deadline listed herein, up to a maximum of ninety (90) days. If such delays cause additional cost, Contracting Party shall be reimbursed.

32. TIME COMPUTATION. Any period of time described in this Agreement by reference to a number of days includes Saturdays, Sundays, and any state or national holidays. Any period of time described in this Agreement by reference to a number of business days does not include Saturdays, Sundays or any state or national holidays. If the date or last date to perform any act or to give any notices is a Saturday, Sunday or state or national holiday, that act or

notice may be timely performed or given on the next succeeding day which is not a Saturday, Sunday or state or national holiday.

33. NOTICES. Any notice, demand, certificate or other communication under this Agreement shall be given in writing and deemed effective: a) when personally delivered; b) three (3) days after deposit within the United States Postal Service, postage prepaid, certified, return receipt requested; or c) one (1) business day after deposit with a nationally recognized overnight courier service, addressed by name and to the party or person intended as follows:

To the City:	Attn. City Clerk City of La Crosse 400 La Crosse Street La Crosse, WI 54601	Copy to:	Attn. City Attorney City of La Crosse 400 La Crosse Street La Crosse, WI 54601
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To SEH:	Attn. Bruce Olson SEH 10 N Bridge Street Chippewa Falls, WI 54729
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34. Intentionally omitted.

35. ACCESS TO RECORDS. Contracting Party, at its sole expense, shall maintain books, records, documents and other evidence pertinent to this Agreement in accordance with accepted applicable professional practices. La Crosse, or any of its duly authorized representatives, shall have access, at no cost to La Crosse, to such books, records, documents, papers or any records, including electronic, of Contracting Party which are pertinent to the hourly rates of pay and reimbursable costs under this Agreement, for the purpose of making audits, examinations, excerpts and transcriptions. Once deliverables are provided to La Crosse, additional copies will be provided for a fee.

36. PUBLIC RECORDS LAW. Contracting Party understands and acknowledges that La Crosse is subject to the Public Records Law of the State of Wisconsin. As such, Contracting Party agrees to retain all records as defined by Wisconsin Statute § 19.32(2) applicable to this Agreement for a period of not less than seven (7) years after the termination or expiration of this Agreement. Contracting Party agrees to assist La Crosse in complying with any public records request that La Crosse receives pertaining to this Agreement. If the requested record is not within that which is required to be produced by statute or other authority, then Contracting Party may object, and La Crosse will reject the request. Contracting Party shall seek to intervene in any subsequent public records lawsuit, writ of mandamus, or other action against La Crosse seeking to compel disclosure in order to dispute disclosure of the requested record. Contracting Party shall also cooperate and provide assistance to La Crosse, at no cost, in the defense of such lawsuit, writ or other action. If the request is upheld by a court of law, then Contracting Party will produce the records or indemnify and hold harmless La Crosse Indemnitees from any liability, including without limitation, attorney fees related to or in any way arising from Contracting Party's actions or omissions which contribute to La Crosse's inability to comply with the Public Records

Law. In the event that Contracting Party decides not to retain its records for a period of seven (7) years, then it shall provide written notice to La Crosse whereupon La Crosse shall take custody of said records assuming such records are not already maintained by La Crosse. This provision shall survive the termination of this Agreement.

37. CONSTRUCTION. This Agreement shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument to be drafted. This agreement shall be deemed to have been drafted by the parties of equal bargaining strength. The captions appearing at the first of each numbered section of this Agreement are inserted and included solely for convenience but shall never be considered or given any effect in construing this Agreement with the duties, obligations, or liabilities of the respective hereto or in ascertaining intent, if any questions of intent should arise. All terms and words used in this Agreement, whether singular or plural and regardless of the gender thereof, shall be deemed to include any other number and any other gender as the context may require.

38. NO THIRD-PARTY BENEFICIARY. Nothing contained in this Agreement, nor the performance of the parties hereunder, is intended to benefit, nor shall inure to the benefit of, any third party.

39. COMPLIANCE WITH LAW. The parties shall comply in all material respects with applicable federal, state and local laws, regulations and ordinances.

40. FORCE MAJEURE. Neither Party shall be responsible for any resulting losses and it shall not be a default hereunder if the fulfillment of any of the terms of this Agreement is delayed or prevented by revolutions or other civil disorders, wars, acts of enemies, strikes, fires, floods, acts of God, adverse weather conditions, legally required environmental remedial actions, industry-wide shortage of materials, or by any other cause not within the control of the party whose performance was interfered with, and which exercise of reasonable diligence, such party is unable to prevent, whether of the class of causes hereinabove enumerated or not, and the time for performance shall be extended by the period of delay occasioned by any such cause.

41. GOOD STANDING. Contracting Party affirms that it is a company duly formed and validly existing and in good standing under the laws of the State of Wisconsin and has the power and all necessary licenses, permits and franchises to own its assets and properties and to carry on its business. Contracting Party is duly licensed or qualified to do business and is in good standing in the State of Wisconsin and in all other jurisdictions in which failure to do so would have a material adverse effect on its business or financial condition.

42. AUTHORITY. The persons signing this Agreement warrant that they have the authority to sign as, or on behalf of, the party for whom they are signing.

43. EXECUTION OF AGREEMENT. Contracting Party shall sign and execute this Agreement on or before sixty (60) days of its approval by the La Crosse Common Council, and Contracting Party's failure to do so will render the approval of the Agreement by the La Crosse Common Council null and void unless otherwise authorized.

44. COUNTERPARTS. This Agreement may be executed in one or more counterparts, all of which shall be considered but one and the same agreements and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party.

45. SURVIVAL. All express representations, indemnifications and limitations of liability included in this Agreement will survive its completion or termination.

46. COMPLIANCE WITH LAW. Contracting Party agrees to abide by applicable federal, state and local laws, regulations and ordinances, and all provisions of this Agreement.

47. RELIANCE. Contracting Party has the right to reasonably rely on information provided by or through La Crosse.

Revised:
06.21.19



City of La Crosse, Wisconsin

City Hall
400 La Crosse Street
La Crosse, WI 54601

Text File

File Number: 22-0833

Agenda Date: 7/7/2022

Version: 1

Status: New Business

In Control: Finance & Personnel Committee

File Type: Resolution

Agenda Number:

Resolution appropriating unused funds to upgrade Water Utility network infrastructure for the SCADA (Supervisory Control and Data Acquisition) system.

RESOLUTION

WHEREAS, the Utility currently uses cellular services for their primary SCADA network communications, and those cellular services have not provided sufficient reliability; and

WHEREAS, to increase resiliency, the Utility is upgrading the communication network infrastructure to better meet demands and mitigate risk; and

WHEREAS, unused funds are available from the Water Utility 2021 Capital Equipment budget; and

WHEREAS, creation of a new project not previously in a Capital Improvement Budget, for the purchase and/or installation of equipment, requires approval of the Common Council.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of La Crosse that it hereby authorizes creation of a CIP item for Water Utility SCADA Network Infrastructure Upgrades for purchase and/or installation of facilities and appurtenances, as necessary.

BE IT FURTHER RESOLVED that the Common Council hereby authorizes use of available unused funds *from* items:

2021 CAP EQUIP ITEM #E256 (Lift)	\$45,000
2021 CAP EQUIP ITEM #E207 (WAT-TRP-12)	\$45,000

And allocating those funds *to* item:

Water Utility SCADA Network Infrastructure Upgrades

BE IT FURTHER RESOLVED that City departments and staff are hereby authorized to effectuate this resolution.



City of La Crosse, Wisconsin

City Hall
400 La Crosse Street
La Crosse, WI 54601

Text File

File Number: 22-0865

Agenda Date: 7/7/2022

Version: 2

Status: New Business

In Control: Finance & Personnel Committee

File Type: Resolution

Agenda Number:

MINUTES of a regular, open, public session of the Common Council of the City of La Crosse, La Crosse County, Wisconsin, held in the City Hall Council Chamber, 400 La Crosse Street, La Crosse, Wisconsin, in said City, at 6:00 o'clock P.M., on the 14th day of July, 2022.

* * *

The meeting was called to order by the President, and upon the roll being called, Mitch Reynolds, the President, and the following Council Members were physically present at said location: _____

The following Council Members were absent and did not participate in the meeting in any manner or to any extent whatsoever: _____

The City Clerk announced that proposals had been received by the City for the purchase of the City's \$_____ aggregate principal amount of General Obligation Corporate Purpose Bonds, Series 2022A, pursuant to sealed bids, and that, for the purposes set forth therein, the Common Council would consider the adoption of a resolution providing details of said bonds, prescribing the form of bonds, awarding the bonds to the best bidder, levying taxes, and related matters.

Thereupon the following resolutions were introduced by Mayor Mitch Reynolds:

RESOLUTION 22-0865

RESOLUTION authorizing the issuance of not to exceed \$11,950,000 aggregate principal amount of General Obligation Corporate Purpose Bonds, Series 2022A, of the City of La Crosse, La Crosse County, Wisconsin, in such amount, providing details, prescribing the form of bond, awarding the bonds to the best bidder, levying taxes, and related matters.

WHEREAS, cities are authorized by the provisions of Chapter 67, *Wisconsin Statutes*, as supplemented and amended (the “*Statute*”), to issue bonds for any public purpose; and

WHEREAS, the term “*public purpose*” is defined in the Statute as “the performance of any power or duty of the issuing municipality;” and

WHEREAS, the City of La Crosse, La Crosse County, Wisconsin (the “*City*”) now wishes to finance the acquisition, construction, improvement, repair and replacement of street improvements, street improvement funding and street lighting, engine houses, and for pumps, water mains, reservoirs and all other reasonable facilities for fire protection apparatus or equipment for fire protection, libraries, parks and public grounds, bridges, and police facilities (collectively, the “*Projects*”); and

WHEREAS, the City has by initial resolutions duly adopted by the Common Council of the City (the “*Council*”) on June 9, 2022 (the “*Initial Resolutions*”) authorized to be issued not to exceed \$11,950,000 general obligation bonds of the City for the public purposes of paying the costs of the Projects:

\$3,050,000 public purpose of providing for street improvements, street improvement funding and street lighting (the “*Street Projects*”);

\$5,430,000 for the public purpose of financing the construction of engine houses, and for pumps, water mains, reservoirs and all other reasonable facilities for fire protection apparatus or equipment for fire protection (the “*Fire Protection Projects*”);

\$80,000 for the public purpose of financing the acquisition, construction and improvement of libraries (the “*Library Projects*”);

\$1,950,000 for the public purpose of financing the acquisition, construction and improvement of parks and public grounds (the “*Park Projects*”);

\$30,000 for the public purpose of financing the acquisition, construction, improvement, repair and replacement of bridges (the “*Bridge Projects*”); and

\$1,410,000 for the public purpose of financing the construction of police facilities (the “*Police Projects*”);

and

WHEREAS, official notice of the adoption of the Initial Resolutions was published on June 21, 2022 in the *La Crosse Tribune*; and

WHEREAS, no petition was filed with the City Clerk of the City requesting that the Initial Resolutions be submitted to the electors of the City within a period of 30 days following the adoption of the Initial Resolutions and, as such, the City is therefore authorized to issue its general obligation bonds for the purposes set forth in the Initial Resolutions; and

WHEREAS, none of the bonds authorized by the Initial Resolutions have been issued as of the date hereof; and

WHEREAS, it is considered necessary and desirable by the Council that the City borrow \$ _____ to pay the costs of the Projects (consisting of \$ _____ for the Street Projects, \$ _____ for the Fire Protection Projects, \$ _____ for the Library Projects, \$ _____ for the Park Projects, \$ _____ for the Bridge Projects, and \$ _____ for the Police Projects) and that the City issue its General Obligation Corporate Purpose Bonds, Series 2022A (the “*Bonds*”) to evidence the indebtedness thereby incurred; and

WHEREAS, notice of the sale of the Bonds was published on _____, 2022, in *The Bond Buyer*; and

WHEREAS, pursuant to the advertisement aforesaid, sealed bids were received for the purchase of the Bonds in the aggregate principal amount of \$ _____ until 10:00 A.M., C.T. on July 14, 2022, and are as follows:

NAME OF BIDDER

TRUE INTEREST RATE (%)

; and

WHEREAS, the bid of _____ (the “Purchaser”), at a price of \$13,170,908.49 plus accrued interest to the date of delivery (the “Purchase Price”), if any, was the best bid submitted, which bid is as attached hereto as *Exhibit A*; and

NOW, THEREFORE, Be It Resolved by the Common Council of the City of La Crosse, La Crosse County, Wisconsin, as follows:

Section 1. Incorporation of Preambles. The Council hereby find that all of the recitals contained in the preambles to this Resolution are full, true and correct and do incorporate them into this Resolution by this reference.

Section 2. Authorization. The issuance of \$_____ aggregate principal amount of general obligation bonds authorized in the Initial Resolutions is hereby authorized for the purpose of providing funds in an amount sufficient to finance the public purposes of completing the Projects as set out in the preambles to this Resolution.

The Bonds shall be designated “General Obligation Corporate Purpose Bonds, Series 2022A”, shall be dated the date of delivery thereof, as originally issued, and shall also bear the date of their authentication by _____, as bond registrar and paying agent (the “Registrar”). The Bonds shall be in fully registered form, shall be in denominations of \$5,000 each and integral multiples thereof (but no single Bond shall represent installments of principal maturing on more than one date), shall be appropriately lettered and numbered, shall mature as to principal serially on March 1 of each of the years and in the principal amounts, and shall bear interest at the rates per annum, as follows:

YEAR	PRINCIPAL AMOUNT	INTEREST RATE
2023		
2024		
2025		
2026		
2027		
2028		
2029		
2030		
2031		
2032		
2033		
2034		
2035		
2036		
2037		

Section 3. Interest; Payment Provisions. The Bonds shall bear interest from their date or from the most recent interest payment date to which interest has been paid or duly provided

for, at the interest rates set out above, such interest (computed upon the basis of a 360-day year consisting of twelve 30-day months) being payable on March 1 and September 1 of each year, commencing on March 1, 2023. Interest on each Bond shall be paid by check or draft of the Registrar to the person or entity in whose name such Bond is registered at the close of business on the fifteenth day of the calendar month next preceding the applicable interest payment date or by wire transfer to any securities depository referred to in Section 5 of this Resolution. The principal of each Bond shall be payable in lawful money of the United States of America only upon presentation and surrender of the Bonds at the designated office of the Registrar.

Section 4. Execution; Authentication. The Bonds shall be executed on behalf of the City with the manual or facsimile signature of the Mayor of the City and with the manual or facsimile signature of the City Clerk of the City, and sealed with the official seal of the City or a printed facsimile of such seal. In case any officer whose signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery. The Bonds may be prepared in printed or typewritten form.

All Bonds shall have thereon a certificate of authentication substantially in the form hereinafter set forth duly executed by the Registrar as authenticating agent of the City and showing the date of authentication of the Bonds. No Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit under this Resolution unless and until such certificate of authentication shall have been duly executed by the Registrar by manual signature, and such certificate of authentication upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Resolution. The certificate of authentication on any Bond shall be deemed to have been executed by the Registrar if signed by the Registrar.

Section 5. Registration of Bonds; Persons Treated as Owners. (a) The City shall cause books of the City kept by the Registrar to evidence the registration and transfer of the Bonds (the “*Bond Register*”) to be kept at the designated office of the Registrar, which is hereby constituted and appointed the registrar of the City with respect to the Bonds herein authorized. The City is authorized to prepare, and the Registrar shall keep custody of, multiple Bond blanks executed by the City for use in the transfer and exchange of Bonds.

Upon surrender for transfer of any Bond at the principal corporate trust office of the Registrar, duly endorsed by, or accompanied by a written instrument or instruments of transfer in form satisfactory to the Registrar and duly executed by, the registered owner or his or her attorney duly authorized in writing, the City shall execute and the Registrar shall authenticate, date and deliver in the name of the transferee or transferees a new fully registered Bond or Bonds of the same maturity of authorized denominations, for a like aggregate principal amount. Any fully registered Bond or Bonds may be exchanged at said office of the Registrar for a like aggregate principal amount of Bond or Bonds of the same maturity of other authorized denominations. The execution by the City of any fully registered Bond shall constitute full and due authorization of such Bond and the Registrar shall thereby be authorized to authenticate, date and deliver such Bond, *provided, however*, the principal amount of outstanding Bonds of each

maturity authenticated by the Registrar shall not exceed the authorized principal amount of Bonds for such maturity less previous retirements.

The Registrar may, but shall not be required to, transfer or exchange any Bond during the period of fifteen (15) days next preceding any interest payment date on such Bond, nor to transfer or exchange any Bond after notice calling such Bond for redemption prior to maturity has been given nor during the period of fifteen (15) days next preceding giving a notice of redemption of any Bonds.

The person or persons in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of the principal of, premium (if any) or interest on any Bond shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

No service charge shall be made for any transfer or exchange of Bonds, but the City or the Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any transfer or exchange of Bonds, except in the case of the issuance of a Bond or Bonds for the unredeemed portion of a Bond surrendered for redemption.

(b) *Global Book-Entry System.* The Bonds shall be initially issued in the form of a separate single fully registered Bond for each of the maturities of the Bonds determined as described in Section 2 hereof. Unless otherwise requested by any Purchaser, upon initial issuance, the ownership of each such Bond shall be registered in the Bond Register in the name of Cede & Co., or any successor thereto ("*Cede*"), as nominee of The Depository Trust Company, New York, New York, and its successors and assigns ("*DTC*"). All of the outstanding Bonds shall be registered in the Bond Register in the name of Cede, as nominee of DTC, except as hereinafter provided. The Mayor, the City Clerk, the Treasurer, the Director of Finance and any other business official of the City and the Registrar are each authorized to execute and deliver, on behalf of the City, such letters to or agreements with DTC as shall be necessary to effectuate such book-entry system (any such letter or agreement being referred to herein as the "*Representation Letter*"), which Representation Letter may provide for the payment of principal of or interest on the Bonds by wire transfer.

With respect to Bonds registered in the Bond Register in the name of Cede, as nominee of DTC, the City and the Registrar shall have no responsibility or obligation to any broker-dealer, bank or other financial institution for which DTC holds Bonds from time to time as securities depository (each such broker-dealer, bank or other financial institution being referred to herein as a "*DTC Participant*") or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the City and the Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than a registered owner of a Bond as shown in the Bond Register, of any notice with respect to the Bonds, including any

notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than a registered owner of a Bond as shown in the Bond Register, of any amount with respect to the principal of or interest on the Bonds. The City and the Registrar may treat and consider the person in whose name each Bond is registered in the Bond Register as the holder and absolute owner of such Bond for the purpose of payment of principal and interest with respect to such Bond, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Registrar shall pay all principal of and interest on the Bonds only to or upon the order of the respective registered owners of the Bonds, as shown in the Bond Register, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of the principal of and interest on the Bonds to the extent of the sum or sums so paid. No person other than a registered owner of a Bond as shown in the Bond Register, shall receive a Bond evidencing the obligation of the City to make payments of principal and interest with respect to any Bond. Upon delivery by DTC to the Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede, and subject to the provisions in Section 3 hereof with respect to the payment of interest to the registered owners of Bonds at the close of business on the 15th day of the month next preceding the applicable interest payment date, the name "Cede" in this resolution shall refer to such new nominee of DTC.

In the event that (i) the City determines that DTC is incapable of discharging its responsibilities described herein and in the Representation Letter, (ii) the agreement among the City, the Registrar and DTC evidenced by the Representation Letter shall be terminated for any reason or (iii) the City determines that it is in the best interests of the beneficial owners of the Bonds that they be able to obtain certificated Bonds, the City shall notify DTC and DTC Participants of the availability through DTC of certificated Bonds and the Bonds shall no longer be restricted to being registered in the Bond Register in the name of Cede, as nominee of DTC. At that time, the City may determine that the Bonds shall be registered in the name of and deposited with such other depository operating a universal book-entry system, as may be acceptable to the City, or such depository's agent or designee, and if the City does not select such alternate universal book-entry system, then the Bonds may be registered in whatever name or names registered owners of Bonds transferring or exchanging Bonds shall designate, in accordance with the provisions of Section 5(a) hereof.

Notwithstanding any other provisions of this resolution to the contrary, so long as any Bond is registered in the name of Cede, as nominee of DTC, all payments with respect to principal of and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, in the name provided in the Representation Letter.

Section 6. Prior Redemption. The Bonds maturing on and after March 1, 2032, shall be subject to redemption prior to maturity at the option of the City, as a whole or in part in such order as the City may determine (less than all of the Bonds of a single maturity to be selected by the Registrar as hereinafter provided), on March 1, 2031, and on any date thereafter, at a redemption price of 100% of the principal amount thereof being redeemed plus accrued interest to the date fixed for redemption.

The Bonds shall be redeemed only in the principal amount of \$5,000 each and integral multiples thereof. The City shall, at least forty-five (45) days prior to the date fixed for redemption (unless a shorter notice shall be satisfactory to the Bond Registrar) notify the Bond Registrar of such date fixed for redemption, of the principal amount of the Bonds to be redeemed prior to maturity and of the order of the Bonds to be redeemed prior to maturity. For purposes of any redemption of less than all of the outstanding Bonds of a single maturity, the particular Bonds or portions of Bonds to be redeemed prior to maturity shall be selected not more than sixty (60) days prior to the date fixed for redemption by the Bond Registrar from the outstanding Bonds by such method as the Bond Registrar shall deem fair and appropriate, and which may provide for the selection of Bonds or portions of Bonds for redemption in principal amounts of \$5,000 and integral multiples thereof.

The Bond Registrar shall promptly notify the City in writing of the Bonds or portions of Bonds selected for redemption prior to maturity and, in the case of any Bond selected for partial redemption prior to maturity, the principal amount thereof to be redeemed prior to maturity.

Section 7. Redemption Procedure. Unless waived by any registered owner of Bonds (or portions thereof) to be redeemed, notice of the call for any such redemption prior to maturity shall be given by the Registrar on behalf of the City by mailing the redemption notice by first class mail, postage prepaid, not less than thirty (30) days and not more than sixty (60) days prior to the date fixed for redemption to the registered owner of the Bond or Bonds to be so redeemed at the address shown on the Bond Register or at such other address as is furnished in writing by such registered owner to the Registrar. Failure to give such notice by mailing to any owner of any Bond, or any defect therein, shall not affect the validity of any proceedings for the redemption of any other Bonds.

All notices of redemption shall state:

- (1) the date fixed for redemption,
- (2) the redemption price,
- (3) if less than all outstanding Bonds are to be redeemed, the identification, including CUSIP numbers (and, in the case of any partial redemption, the respective principal amounts) of the Bonds to be redeemed,
- (4) that on the date fixed for redemption the redemption price will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date, and
- (5) the place where such Bonds are to be surrendered for payment of the redemption price, which place of payment shall be the designated office of the Registrar.

Unless moneys sufficient to pay the redemption price of the Bonds to be redeemed at the option of the City shall have been received by the Registrar prior to the giving of such notice of redemption, such notice may, at the option of the City, state that said redemption shall be

conditional upon the receipt of such moneys by the Registrar on or prior to the date fixed for redemption. If such moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Bonds, and the Registrar shall give notice, in the same manner in which the notice of redemption shall have been given, that such moneys were not so received and that such Bonds will not be redeemed. Otherwise, prior to any redemption date, the City shall deposit with the Registrar an amount of money sufficient to pay the redemption price of all the Bonds or portions of Bonds which are to be redeemed on that date.

Subject to the provisions for a conditional redemption described above, notice of redemption having been given as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the City shall default in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Registrar at the redemption price. Installments of interest due on or prior to the redemption date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the registered holder a new Bond or Bonds of the same maturity in the amount of the unpaid principal.

If any Bond or portion of Bond called for redemption shall not be so paid upon surrender thereof for redemption, the principal shall, until paid, bear interest from the redemption date at the rate borne by the Bond or portion of Bond so called for redemption. All Bonds which have been redeemed shall be cancelled and destroyed by the Registrar and shall not be reissued.

Section 8. Form of Bonds. The Bonds, the certificate of authentication to be endorsed thereon and the form of assignment to be endorsed thereon are all to be in substantially the following forms with necessary and appropriate variations, omissions and insertions as permitted or required by this Resolution:

No. R- _____

\$ _____

UNITED STATES OF AMERICA

STATE OF WISCONSIN

COUNTY OF LA CROSSE

CITY OF LA CROSSE

GENERAL OBLIGATION CORPORATE PURPOSE BOND, SERIES 2022A

RATE OF INTEREST	MATURITY DATE	DATED DATE	CUSIP NUMBER
_____ %	March 1, _____	_____, 2022	_____

Registered Owner:

Principal Amount:

KNOW ALL MEN BY THESE PRESENTS: That the City of La Crosse in the County of La Crosse and the State of Wisconsin (the “City”), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner hereinabove identified, or registered assigns as hereinafter provided, on the Maturity Date hereinabove identified the Principal Amount hereinabove identified and to pay interest (computed on the basis of a 360-day year consisting of twelve 30-day months) on such Principal Amount from the Dated Date hereinabove identified or from the most recent interest payment date to which interest has been paid at the Rate of Interest per annum hereinabove identified on March 1 and September 1 of each year, commencing on March 1, 2023, until said Principal Amount is paid, except as the provisions hereinafter set forth with respect to redemption prior to maturity may be and become applicable to this Bond.

The principal of this Bond is payable in lawful money of the United States of America only upon presentation and surrender of this Bond at the designated office of _____, as registrar and paying agent, or any successor registrar and paying agent (the “Registrar”). Payment of each installment of interest hereon shall be made to the Registered Owner hereof who shall appear on the registration books of the City maintained by the Registrar at the close of business on the fifteenth day of the calendar month next preceding the applicable interest payment date, and shall be paid by check or draft of the Registrar mailed to such Registered Owner at his address as it appears on such registration books or at such other address as may be furnished in writing by such Registered Owner to the Registrar, or may be paid by wire transfer to any securities depository as provided in the Resolution hereinafter referred to.

This Bond is one of an authorized issue of General Obligation Corporate Purpose Bonds, Series 2022A, aggregating the principal amount of \$_____ (the “Bonds”) issued for the following public purposes:

\$_____ public purpose of providing for street improvements, street improvement funding and street lighting;

\$_____ for the public purpose of financing the construction of engine houses, and for pumps, water mains, reservoirs and all other reasonable facilities for fire protection apparatus or equipment for fire protection;

\$_____ for the public purpose of financing the acquisition, construction and improvement of libraries;

\$_____ for the public purpose of financing the acquisition, construction and improvement of parks and public grounds;

\$_____ for the public purpose of financing the acquisition, construction, improvement, repair and replacement of bridges; and

\$_____ for the public purpose of financing the construction of police facilities;

pursuant to and in all respects in compliance with Chapter 67, *Wisconsin Statutes*, as supplemented and amended, and a resolution adopted by the City Council of the City on July 14, 2022 (the “Resolution”).

The Bonds of the issue of which this Bond is one maturing on and after March 1, 2032, are subject to redemption prior to maturity at the option of the City, as a whole or in part in such order as the City may determine in integral multiples of \$5,000, less than all Bonds of a single maturity to be selected by the Registrar, as provided in the Resolution, in such manner as it shall deem fair and appropriate, on March 1, 2031, and on any date thereafter, at a redemption price of 100% of the principal amount thereof being redeemed plus accrued interest to the date fixed for redemption.

Notice of any intended redemption shall be sent by registered or certified mail, postage prepaid, or be given by facsimile transmission, electronic transmission or overnight express delivery service not less than thirty (30) days and not more than sixty (60) days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed (in whole or in part) at the address shown on the registration books of the City maintained by the Registrar or at such other address as is furnished in writing by such registered owner to the Registrar. Such notice of redemption may be conditional as provided in the Resolution. When so called for redemption, this Bond, or the portion hereof being so called for redemption, will cease to bear interest on the

specified redemption date, provided funds for redemption are on deposit at the place of payment on that date, and shall not be deemed to be outstanding.

This Bond is transferable by the Registered Owner hereof in person or by his attorney duly authorized in writing at the designated office of the Registrar, but only in the manner, subject to the limitations and upon payment of the charges provided in the Resolution, and upon surrender and cancellation of this Bond. Upon such transfer, a new Bond or Bonds of the same maturity and interest rate of authorized denomination or denominations and for a like aggregate principal amount, will be issued to the transferee in exchange for this Bond.

The Bonds are issuable in fully registered form in denominations of \$5,000 each and integral multiples thereof. This Bond may be exchanged at the designated office of the Registrar for a like aggregate principal amount of Bonds of the same maturity and interest rate of other authorized denominations, upon the terms set forth in the Resolution.

The City and the Registrar may deem and treat the registered owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and interest due hereon and for all other purposes, and neither the City nor the Registrar shall be affected by any notice to the contrary.

It is hereby certified, recited and declared that all acts, conditions and things required to be done, exist, happen and be performed precedent to and in the issuance of this Bond have been done, have existed, have happened and have been performed in due time, form and manner as required by the Constitution and the laws of the State of Wisconsin; that this Bond, together with all other indebtedness of the City, does not exceed any limitation prescribed by law; and that the City has levied a direct annual irrepealable tax sufficient to pay the interest hereon when it falls due and also to pay and discharge the principal hereof at maturity.

The full faith, credit and resources of the City are hereby pledged for the payment of the principal of and interest on this Bond and the issue of which it is a part as the same respectively become due and for the levy and collection of sufficient taxes for that purpose.

This Bond shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed by the Registrar.

IN WITNESS WHEREOF the City of La Crosse, La Crosse County, Wisconsin, by its City Council, has caused this Bond to be executed with the duly authorized manual or facsimile signature of its Mayor and with the duly authorized manual or facsimile signature of its City Clerk, and its official seal or a facsimile thereof to be impressed or reproduced hereon, as of the Dated Date hereinabove identified.

City Clerk

Mayor

[SEAL]

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds described in the within mentioned Resolution, and is one of the General Obligation Corporate Purpose Bonds, Series 2022A, of the City of La Crosse, La Crosse County, Wisconsin.

Date of Authentication: _____, 2022

_____,
as Bond Registrar

By _____
Authorized Signatory

(FORM OF ASSIGNMENT)

ASSIGNMENT

The following abbreviations, when used in the inscription on the face of the within Bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM	—	as tenants in common	UNIF GIFT/TRANS MIN ACT- _____ Custodian _____
TEN ENT	—	as tenants by the entirety	(Cust) _____ (Minor) under Uniform Gifts/Transfers to Minors Act
JT TEN	—	as joint tenants with right of survivorship and not as tenants in common	_____ (State)

Additional abbreviations may also be used though not listed above.

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

(Name and Address of Assignee)

the within Bond and does hereby irrevocably constitute and appoint _____, or its successor as Registrar, to transfer the said Bond on the books kept for the registration thereof with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

Signature guaranteed: _____

NOTICE: Signature(s) must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Registrar, which requirements include membership or participation in STAMP or such other “signature guaranty program” as may be determined by the Registrar in addition to or in substitution for STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

Section 9. Sale of Bonds. The sale of the Bonds to the Purchaser for the Purchase Price is hereby confirmed, the same being the best bid submitted. The City Treasurer of the City is hereby authorized to deliver the Bonds to said purchasers upon payment of the purchase price. Upon the sale of the Bonds, the Mayor, City Clerk, City Treasurer, Finance Director and any other officer of the City, as shall be appropriate, shall be and are hereby authorized and directed to approve or execute, or both, such documents of sale of the Bonds as may be necessary, including, without limitation, the contract for the sale of the Bonds between the City and the Purchaser (the “*Purchase Contract*”), which may be evidenced by an executed bid form, term sheet or other document requested by a Purchaser.

The use by the Purchaser of any Preliminary Official Statement and any final Official Statement relating to the Bonds (the “*Official Statement*”) is hereby ratified, approved and authorized; the execution and delivery of the Official Statement is hereby authorized; and the officers of the Board are hereby authorized to take any action as may be required on the part of the City to consummate the transactions contemplated by the Purchase Contract, this Resolution, said Preliminary Official Statement, the Official Statement and the Bonds.

Section 10. Tax Levy. In order to provide for the collection of a direct annual tax sufficient to pay the interest on the Bonds and to pay and discharge the principal thereof at maturity, there is hereby levied upon all the taxable property in the City a direct annual tax in amounts sufficient for that purpose (except for the portion thereof to be paid from funds deposited into the Debt Service Fund (as hereinafter defined) at the time of the issuance of the Bonds, as described below), and there is hereby levied upon all taxable property in the City the following direct annual tax in each of the years and amounts, to-wit:

YEAR	AMOUNT
2022	
2023	
2024	
2025	
2026	
2027	
2028	
2029	
2030	
2031	
2032	
2033	
2034	
2035	
2036	
2037	

In each of said years from 2021 to 2037 inclusive, the direct annual tax above levied shall be extended upon the tax rolls of the City in the same manner and time as taxes for general City purposes, and when collected the proceeds of said taxes shall be deposited into the account of the Debt Service Fund established in favor of the Bonds, to be used solely for paying the principal of and interest on the Bonds as long as any of the Bonds remain outstanding.

The City has funds on hand and available in the amount of \$ _____ in the Debt Service Fund in respect of premium, which is sufficient to pay the interest on the Bonds coming due on _____ and a portion of the interest on _____, which funds are hereby appropriated to the payment of such interest.

Section 11. Sufficiency. Interest or principal maturing at any time during the life of the Bonds when there shall be insufficient funds on hand from the above tax levy to pay the same shall be paid promptly when due from the general fund of the City, and said fund shall be reimbursed in a like amount out of the proceeds of taxes hereby levied when the same shall have been collected.

Section 12. Establishment of Debt Service Fund. There is hereby established in the City Treasury a fund separate and distinct from all other funds of the City to be designated the “General Obligation Corporate Purpose Bonds, Series 2022A Debt Service Fund” (the “*Debt Service Fund*”), which fund shall be used solely for the purpose of paying the principal of, premium, if any, and interest on the Bonds. There shall be deposited in such fund all premium and accrued interest, if any, paid on the Bonds at the time the Bonds are delivered to the purchaser thereof; all money raised by taxation pursuant to Section 10 hereof; and such other sums as may be necessary to pay the interest on the Bonds when the same shall become due and to retire the Bonds at their respective maturity dates.

Section 13. Use of Proceeds; No Arbitrage; Bonds to Remain in Fully Registered Form. Proceeds of the Bonds in the amount of \$ _____ will be deposited into the Debt Service Fund and be used to pay the first interest coming due on the Bonds. The balance of the principal proceeds of the Bonds shall be deposited in a special fund (the “*Construction Fund*”), and used solely for the purpose for which the Bonds are hereby authorized. The principal proceeds from the sale of the Bonds shall be used only to pay the costs aforesaid and the Council hereby covenants and agrees that said principal proceeds shall be devoted to and used with due diligence for such purposes.

Section 14. List of Bondholders. The Registrar shall maintain a list of the names and addresses of the holders of all Bonds and upon any transfer shall add the name and address of the new Bondholder and eliminate the name and address of the transferor Bondholder.

Section 15. Non-Arbitrage and Tax-Exemption. The City hereby covenants that it will not take any action, omit to take any action or permit the taking or omission of any action within its control (including, without limitation, making or permitting any use of the proceeds of the Bonds) if taking, permitting or omitting to take such action would cause any of the Bonds to be an arbitrage bond or a private activity bond within the meaning of the Internal Revenue Code of 1986, as amended (the “*Code*”), or would otherwise cause the interest on the Bonds to be

included in the gross income of the recipients thereof for federal income tax purposes. The City acknowledges that, in the event of an examination by the Internal Revenue Service (the “IRS”) of the exemption from federal income taxation for interest paid on the Bonds, under present rules, the City may be treated as a “taxpayer” in such examination and agrees that it will respond in a commercially reasonable manner to any inquiries from the IRS in connection with such an examination.

The City also agrees and covenants with the purchasers and holders of the Bonds from time to time Outstanding that, to the extent possible under Illinois law, it will comply with whatever federal tax law is adopted in the future which applies to the Bonds and affects the tax-exempt status of the Bonds.

The City Council hereby authorizes the officials of the City responsible for issuing the Bonds, the same being the Mayor, City Clerk and Treasurer, to make such further covenants and certifications regarding the specific use of the proceeds of the Bonds as approved by the City Council and as may be necessary to assure that the use thereof will not cause the Bonds to be arbitrage bonds and to assure that the interest on the Bonds will be exempt from federal income taxation. In connection therewith, the City and the City Council further agree: (a) through their officers, to make such further specific covenants, representations as shall be truthful, and assurances as may be necessary or advisable; (b) to consult with counsel approving the Bonds and to comply with such advice as may be given; (c) to pay to the United States, as necessary, such sums of money representing required rebates of excess arbitrage profits relating to the Bonds; (d) to file such forms, statements, and supporting documents as may be required and in a timely manner; and (e) if deemed necessary or advisable by their officers, to employ and pay fiscal agents, financial advisors, attorneys, and other persons to assist the City in such compliance.

Section 16. Duties of Registrar. If requested by the Registrar, the Mayor and City Clerk are authorized to execute the Registrar’s standard form of agreement between the City and the Registrar with respect to the obligations and duties of the Bond Registrar hereunder which may include the following.

- (a) to act as bond registrar, authenticating agent, paying agent and transfer agent as provided herein;
- (b) to maintain a list of Bondholders as set forth herein and to furnish such list to the City upon request, but otherwise to keep such list confidential;
- (c) to give notice of redemption of the Bonds as provided herein;
- (d) to cancel and/or destroy Bonds which have been paid at maturity or submitted for exchange or transfer;
- (e) to furnish the City at least annually a certificate with respect to Bonds cancelled and/or destroyed; and

(f) to furnish the City at least annually an audit confirmation of Bonds paid, Bonds Outstanding and payments made with respect to interest on the Bonds.

Section 17. Continuing Disclosure Undertaking. The Mayor, the City Clerk and the City Treasurer/Director of Finance of the City, or any of them, are hereby authorized to execute and deliver on behalf of the City a continuing disclosure undertaking with respect to the Bonds (the “*Continuing Disclosure Undertaking*”). When the Continuing Disclosure Undertaking shall be executed and delivered on behalf of the City as contemplated herein, it shall be binding on the City, and all officers, employees and agents of the City are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the terms and provisions of the Continuing Disclosure Undertaking. Notwithstanding any other provision of this Resolution to the contrary, the sole remedy for the failure to comply with the Continuing Disclosure Undertaking shall be the ability of the beneficial owners of the Bonds to seek mandamus or specific performance.

Section 18. Record-Keeping Policy and Post-Issuance Compliance Matters. On October 14, 2021, the Council adopted a record-keeping policy (the “*Policy*”) in order to maintain sufficient records to demonstrate compliance with its covenants and expectations to ensure the appropriate federal tax status for the debt obligations of the City, the interest on which is excludable from “gross income” for federal income tax purposes or which enable the City or the holder to receive federal tax benefits, including, but not limited to, qualified tax credit bonds and other specified tax credit bonds. The Council and the City hereby reaffirm the Policy.

Section 19. Municipal Bond Insurance. In the event the payment of principal and interest on the Bonds is insured pursuant to a municipal bond insurance policy (the “*Municipal Bond Insurance Policy*”) issued by a bond insurer (the “*Bond Insurer*”), and as long as such Municipal Bond Insurance Policy shall be in full force and effect, the City and the Bond Registrar agree to comply with such usual and reasonable provisions regarding presentment and payment of the Bonds, subrogation of the rights of the Bondholders to the Bond Insurer upon payment of the Bonds by the Bond Insurer, amendment hereof, or other terms, as approved by the Mayor on advice of counsel, his or her approval to constitute full and complete acceptance by the City of such terms and provisions under authority of this Section.

Section 20. Other Documents. The Mayor, the City Clerk and the City Treasurer of the City and all other officers of the City are hereby authorized to execute all documents and certificates (including without limitation any certificate or agreement executed to comply with Rule 15c2-12 of the Securities and Exchange Commission) and to take all actions as may be necessary in connection with the authorization, issuance, sale and delivery of the Bonds and the performance of the obligations of the City hereunder and to carry out and comply with the terms of this Resolution, including without limitation, the Official Statement. This Resolution and all such documents shall be in substantially the same form contemplated by this Resolution, with such changes as shall be approved by the officers executing this Resolution and said documents, the execution thereof to constitute conclusive proof of such approval.

Section 21. Severability. If any section, paragraph or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such

section, paragraph or provision shall not affect any of the remaining sections, paragraphs and provisions of this Resolution.

Section 22. Conflicting Proceedings Superseded. All ordinances, resolutions or orders, or parts thereof, heretofore enacted, adopted or entered, in conflict with the provisions of this Resolution, shall be and in the same are hereby superseded to the extent of such conflict, and this Resolution shall be in effect from and after its passage.

Adopted: July 14, 2022

Approved: July 14, 2022

Recorded: July 14, 2022

/s/

Mayor

Attest:

/s/

City Clerk

EXHIBIT A
WINNING BID

Council Member _____ moved and Council Member _____ seconded the motion that said ordinance as presented and read by title be adopted.

After a full discussion thereof, the Mayor directed that the roll be called for a vote upon the motion to adopt said resolution.

Upon the roll being called, the following Council Members voted AYE: _____

and the following Council Members voted NAY: _____

Whereupon the Mayor declared the motion carried and said resolution adopted, approved and signed the same in open meeting and directed the City Clerk to record the same in full in the records of the City of La Crosse, La Crosse County, Wisconsin, which was done.

Other business not pertinent to the adoption of said ordinance was duly transacted at said meeting.

Upon motion duly made, seconded and carried, the meeting was adjourned.

City Clerk

STATE OF WISCONSIN)
) SS
COUNTY OF LA CROSSE)

CERTIFICATION OF MINUTES AND RESOLUTION

I, the undersigned, do hereby certify that I am the duly qualified and acting City Clerk of the City of La Crosse, La Crosse County, Wisconsin (the “City”), and as such official I further certify that I am the keeper of the records and files of the Common Council of the City (the “Common Council”).

I do further certify that the foregoing constitutes a full, true and complete transcript of the minutes of the meeting of the Common Council held on the 14th day of July, 2022 (the “Meeting”), insofar as same relates to the adoption of a resolution entitled:

RESOLUTION authorizing the issuance of not to exceed \$11,950,000 aggregate principal amount of General Obligation Corporate Purpose Bonds, Series 2022A, of the City of La Crosse, La Crosse County, Wisconsin, in such amount, providing details, prescribing the form of bond, awarding the bonds to the best bidder, levying taxes, and related matters.

a true, correct and complete copy of which said resolution as adopted at the Meeting appears in the foregoing transcript of the minutes of the Meeting.

I further certify that a true and correct statement of every step or proceeding had or taken to date in connection with the authorization of said bonds has been recorded by me in a separate record book, pursuant to the provisions of Section 67.05(12), *Wisconsin Statutes*, as supplemented and amended.

I do further certify that the resolution was adopted at the Meeting, which was an open, lawful public meeting of the Common Council, that the deliberations of the Common Council on the adoption of said resolution were conducted openly, that the vote on the adoption of said resolution was taken openly, and that the Meeting was called, noticed, held and conducted in the manner established by the Common Council and required by the *Wisconsin Statutes*, including, but not limited to, compliance with Sections 19.81 to 19.98, inclusive, of the *Wisconsin Statutes*, as supplemented and amended, notifying the public of the Meeting by distribution an agenda to the media not less than twenty-four (24) hours prior to the Meeting, which agenda is available to the public at the City Hall, located within the City, and that a true, correct and complete copy of the agenda as so provided with respect to the Meeting is attached hereto as *Exhibit A*.

WITNESS my official signature and the official seal of said City this 14th day of July,
2022.

City Clerk

[SEAL]



OFFICE OF THE MAYOR
LA CROSSE

22-0865

June 28, 2022

I hereby approve the submitting of the attached Legislation "Resolution authorizing the issuance of not to exceed \$11,950,000 aggregate principal amount of General Obligation Corporate Purpose Bonds, Series 2022A, of the City of La Crosse, La Crosse County, Wisconsin, in such amount, providing details, prescribing the form of bond, awarding the bonds to the best bidder, levying taxes, and related matters" to the Finance and Personnel Committee, to be considered by the members thereof at their next committee meeting. This approval is given due to the time element necessitating consideration of the attached Legislation at the earliest possible date.

Mayor Mitch Reynolds



City of La Crosse, Wisconsin

City Hall
400 La Crosse Street
La Crosse, WI 54601

Text File

File Number: 22-0866

Agenda Date: 7/7/2022

Version: 1

Status: New Business

In Control: Finance & Personnel Committee

File Type: Resolution

Agenda Number:

MINUTES of a regular, open, public session of the Common Council of the City of La Crosse, La Crosse County, Wisconsin, held in the City Hall Council Chamber, 400 La Crosse Street, La Crosse, Wisconsin, in said City, at 6:00 o'clock P.M., on the 14th day of July, 2022.

* * *

The meeting was called to order by the President, and upon the roll being called, Mitch Reynolds, the President, and the following Council Members were physically present at said location: _____

The following Council Members were absent and did not participate in the meeting in any manner or to any extent whatsoever: _____

The City Clerk announced that proposals had been received by the City for the purchase of the City's \$_____ aggregate principal amount of General Obligation Promissory Notes, Series 2022B, pursuant to sealed bids, and that, for the purposes set forth therein, the Common Council would consider the adoption of a resolution providing details of said notes, prescribing the form of notes, awarding the notes to the best bidder, levying taxes, and related matters.

Thereupon the following resolutions were introduced by Mayor Mitch Reynolds:

RESOLUTION 22-0866

RESOLUTION authorizing the issuance of not to exceed \$3,185,000 aggregate principal amount of General Obligation Promissory Notes, Series 2022B, of the City of La Crosse, La Crosse County, Wisconsin, in such amount, providing details, prescribing the form of note, awarding the notes to the best bidder, levying taxes, and related matters.

WHEREAS, cities are authorized, pursuant to the provisions of Section 67.12(12), *Wisconsin Statutes*, as supplemented and amended (the “*Statute*”), to issue promissory notes for projects undertaken for public purposes; and

WHEREAS, the term “*public purpose*” is defined in the Statute as “the performance of any power or duty of the issuing municipality;” and

WHEREAS, the City of La Crosse, La Crosse County, Wisconsin (the “*City*”) now wishes to fund various public purposes in and for the City (the “*Projects*”), and

WHEREAS, it is considered necessary and desirable by the Common Council of the City (the “*Council*”) that the City borrow \$ _____ to pay the costs of the Projects and that the City issue its General Obligation Promissory Notes, Series 2022B (the “*Notes*”) to evidence the indebtedness thereby incurred; and

WHEREAS, notice of the sale of the Notes was published on _____, in *The Bond Buyer*; and

WHEREAS, pursuant to the advertisement aforesaid, sealed bids were received for the purchase of the Notes in the aggregate principal amount of \$ _____ until 10:00 A.M., C.S.T. on July 14, 2022, and are as follows:

NAME OF BIDDER

TRUE INTEREST RATE (%)

; and

WHEREAS, the bid of _____ (the “Purchaser”), at a price of \$ _____ plus accrued interest to the date of delivery, if any (the “Purchase Price”) was the best bid submitted, which bid is attached hereto as *Exhibit A*; and

NOW, THEREFORE, Be It Resolved by the Common Council of the City of La Crosse, La Crosse County, Wisconsin, as follows:

Section 1. Incorporation of Preambles. The Council hereby find that all of the recitals contained in the preambles to this Resolution are full, true and correct and do incorporate them into this Resolution by this reference.

Section 2. Authorization. The issuance of \$ _____ aggregate principal amount of promissory notes is hereby authorized for the purpose of providing funds in an amount sufficient to finance the costs of the public purposes of completing the Projects and the Refunding, as set out in the preambles to this Resolution.

The Notes shall be designated “General Obligation Promissory Notes, Series 2022B,” shall be dated the date of delivery thereof, as originally issued, and shall also bear the date of their authentication by _____, as registrar and paying agent (the “Registrar”). The Notes shall be in fully registered form, shall be in denominations of \$5,000 each and integral multiples thereof (but no single Note shall represent installments of principal maturing on more than one date), shall be lettered “R” and numbered consecutively starting with the number one, shall mature as to principal serially on March 1 of each of the years and in the principal amounts, and shall bear interest at the rates per annum, as follows:

YEAR	PRINCIPAL AMOUNT	INTEREST RATE
2023		
2024		
2025		
2026		
2027		
2028		
2029		
2030		
2031		
2032		

Section 3. Interest; Payment Provisions. The Notes shall bear interest from their date or from the most recent interest payment date to which interest has been paid or duly provided for, at the interest rates set out above, such interest (computed upon the basis of a 360-day year consisting of twelve 30-day months) being payable on March 1 and September 1 of each year, commencing on March 1, 2023. Interest on each Note shall be paid by check or draft of the Registrar to the person or entity in whose name such Note is registered at the close of business on the fifteenth day of the calendar month next preceding the applicable interest payment date or

by wire transfer to any securities depository referred to in Section 5 of this Resolution. The principal of each Note shall be payable in lawful money of the United States of America only upon presentation and surrender of the Notes at the designated office of the Registrar.

Section 4. Execution; Authentication. The Notes shall be executed on behalf of the City with the manual or facsimile signature of the Mayor of the City and with the manual or facsimile signature of the City Clerk of the City, and sealed with the official seal of the City or a printed facsimile of such seal. In case any officer whose signature shall appear on any Note shall cease to be such officer before the delivery of such Note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery. The Notes may be prepared in printed or typewritten form.

All Notes shall have thereon a certificate of authentication substantially in the form hereinafter set forth duly executed by the Registrar as authenticating agent of the City and showing the date of authentication of the Notes. No Note shall be valid or obligatory for any purpose or be entitled to any security or benefit under this Resolution unless and until such certificate of authentication shall have been duly executed by the Registrar by manual signature, and such certificate of authentication upon any such Note shall be conclusive evidence that such Note has been authenticated and delivered under this Resolution. The certificate of authentication on any Note shall be deemed to have been executed by the Registrar if signed by the Registrar.

Section 5. Registration of Notes; Persons Treated as Owners. (a) The City shall cause books the books of the City kept by the Registrar to evidence the registration and transfer of the Notes (the “*Note Register*”) to be kept at the designated office of the Registrar, which is hereby constituted and appointed the registrar of the City with respect to the Notes herein authorized. The City is authorized to prepare, and the Registrar shall keep custody of, multiple Note blanks executed by the City for use in the transfer and exchange of Notes.

Upon surrender for transfer of any Note or Notes at the designated office of the Registrar duly endorsed by, or accompanied by a written instrument or instruments of transfer in form satisfactory to the Registrar duly executed by, the registered owner thereof or his attorney duly authorized in writing, the City shall execute and the Registrar shall authenticate, date and deliver in the name of the transferee or transferees a new fully registered Note or Notes of the same maturity and interest rate of authorized denomination or denominations, for a like aggregate principal amount. Any fully registered Note or Notes may be exchanged at said office of the Registrar for a like aggregate principal amount of Note or Notes of the same maturity and interest rate of other authorized denomination or denominations. The execution by the City of any fully registered Note shall constitute full and due authorization of such Note, and the Registrar shall thereby be authorized to authenticate, date and deliver such Note; *provided, however,* that the principal amount of the outstanding Notes authenticated by the Registrar shall never exceed the authorized principal amount of the Notes, less previous retirements.

The Registrar may, but shall not be required to, transfer or exchange any Note during the period of fifteen (15) days next preceding any interest payment date on such Note, nor to transfer

or exchange any Note after notice calling such Note for prepayment has been given nor during the period of fifteen (15) days next preceding giving a notice of prepayment of any Notes.

The person or persons in whose name any Note shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of the principal of, premium (if any) or interest on any Note shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Note to the extent of the sum or sums so paid.

No service charge shall be made for any transfer or exchange of Notes, but the City or the Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any transfer or exchange of Notes, except in the case of the issuance of a Note or Notes for the unprepaid portion of a Note surrendered for prepayment.

(b) *Global Book-Entry System.* The Notes shall be initially issued in the form of a separate single fully registered Note for each of the maturities of the Notes determined as described in Section 2 hereof. Unless otherwise requested by any Purchaser, upon initial issuance, the ownership of each such Note shall be registered in the Note Register in the name of Cede & Co., or any successor thereto ("*Cede*"), as nominee of The Depository Trust Company, New York, New York, and its successors and assigns ("*DTC*"). All of the outstanding Notes shall be registered in the Note Register in the name of Cede, as nominee of DTC, except as hereinafter provided. The Mayor, the City Manager, the Treasurer, the Director of Finance and any other business official of the City and the Registrar are each authorized to execute and deliver, on behalf of the City, such letters to or agreements with DTC as shall be necessary to effectuate such book-entry system (any such letter or agreement being referred to herein as the "*Representation Letter*"), which Representation Letter may provide for the payment of principal of or interest on the Notes by wire transfer.

With respect to Notes registered in the Note Register in the name of Cede, as nominee of DTC, the City and the Registrar shall have no responsibility or obligation to any broker-dealer, bank or other financial institution for which DTC holds Notes from time to time as securities depository (each such broker-dealer, bank or other financial institution being referred to herein as a "*DTC Participant*") or to any person on behalf of whom such a DTC Participant holds an interest in the Notes. Without limiting the immediately preceding sentence, the City and the Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede or any DTC Participant with respect to any ownership interest in the Notes, (ii) the delivery to any DTC Participant or any other person, other than a registered owner of a Note as shown in the Note Register, of any notice with respect to the Notes, including any notice of prepayment, or (iii) the payment to any DTC Participant or any other person, other than a registered owner of a Note as shown in the Note Register, of any amount with respect to the principal of or interest on the Notes. The City and the Registrar may treat and consider the person in whose name each Note is registered in the Note Register as the holder and absolute owner of such Note for the purpose of payment of principal and interest with respect to such Note, for the purpose of giving notices of prepayment and other matters with respect to such Note, for the purpose of registering transfers with respect to such Note, and for all other purposes whatsoever. The Registrar shall pay all principal of and interest on the Notes only to or upon the

order of the respective registered owners of the Notes, as shown in the Note Register, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of the principal of and interest on the Notes to the extent of the sum or sums so paid. No person other than a registered owner of a Note as shown in the Note Register, shall receive a Note evidencing the obligation of the City to make payments of principal and interest with respect to any Note. Upon delivery by DTC to the Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede, and subject to the provisions in Section 3 hereof with respect to the payment of interest to the registered owners of Notes at the close of business on the 15th day of the month next preceding the applicable interest payment date, the name "Cede" in this resolution shall refer to such new nominee of DTC.

In the event that (i) the City determines that DTC is incapable of discharging its responsibilities described herein and in the Representation Letter, (ii) the agreement among the City, the Registrar and DTC evidenced by the Representation Letter shall be terminated for any reason or (iii) the City determines that it is in the best interests of the beneficial owners of the Notes that they be able to obtain certificated Notes, the City shall notify DTC and DTC Participants of the availability through DTC of certificated Notes and the Notes shall no longer be restricted to being registered in the Note Register in the name of Cede, as nominee of DTC. At that time, the City may determine that the Notes shall be registered in the name of and deposited with such other depository operating a universal book-entry system, as may be acceptable to the City, or such depository's agent or designee, and if the City does not select such alternate universal book-entry system, then the Notes may be registered in whatever name or names registered owners of Notes transferring or exchanging Notes shall designate, in accordance with the provisions of Section 5(a) hereof.

Notwithstanding any other provisions of this resolution to the contrary, so long as any Note is registered in the name of Cede, as nominee of DTC, all payments with respect to principal of and interest on such Note and all notices with respect to such Note shall be made and given, respectively, in the name provided in the Representation Letter.

Section 6. Prepayment. The Notes maturing on and after March 1, 2031, shall be subject to prepayment at the option of the City, as a whole or in part in such order as the City shall determine (less than all of the Notes of a single maturity to be selected by the Registrar, as hereinafter provided), on March 1, 2030, and on any date thereafter, at a prepayment price of 100% of the principal amount thereof being prepaid plus accrued interest to the date fixed for prepayment.

The Notes shall be prepaid only in the principal amount of \$5,000 each and integral multiples thereof. At least forty-five (45) days prior to the date fixed for prepayment (unless a shorter notice shall be satisfactory to the Registrar), the City shall notify the Registrar of such date fixed for prepayment and of the principal amount and order of the Notes to be prepaid on such date. For purposes of any prepayment of less than all of the outstanding Notes of a single maturity, the particular Notes or portions of Notes to be prepaid shall be selected by the Registrar from the outstanding Notes of such maturity then outstanding by such method as the Registrar

shall deem fair and appropriate, and which may provide for the selection for prepayment of Notes or portions of Notes in principal amounts of \$5,000 and integral multiples thereof.

The Registrar shall promptly notify the City in writing of the Notes or portions of Notes selected for prepayment and, in the case of any Note selected for partial prepayment, the principal amount thereof to be prepaid.

Section 7. Prepayment Procedure. Unless waived by any registered owner of Notes (or portions thereof) to be prepaid, notice of the call for any such prepayment shall be given by the Registrar on behalf of the City by mailing the prepayment notice by registered or certified mail, postage prepaid, or given by facsimile transmission, electronic transmission or overnight express delivery service not less than thirty (30) days and not more than sixty (60) days prior to the date fixed for prepayment to the registered owner of the Note or Notes to be prepaid at the address shown on the Note Register or at such other address as is furnished in writing by such registered owner to the Registrar. Failure to give such notice by mailing or otherwise to any owner of any Note, or any defect therein, shall not affect the validity of any proceedings for the prepayment of any other Notes.

All notices of prepayment shall state:

- (1) the date fixed for prepayment,
- (2) the prepayment price,
- (3) if less than all outstanding Notes are to be prepaid, the identification, including CUSIP numbers (and, in the case of partial prepayment, the respective principal amounts) of the Notes to be prepaid,
- (4) that on the date fixed for prepayment the prepayment price will become due and payable upon each such Note or portion thereof called for prepayment, and that interest thereon shall cease to accrue from and after said date, and
- (5) the place where such Notes are to be surrendered for payment of the prepayment price, which place of payment shall be the designated office of the Registrar.

Unless moneys sufficient to pay the prepayment price of the Notes to be redeemed at the option of the City shall have been received by the Registrar prior to the giving of such notice of prepayment, such notice may, at the option of the City, state that said prepayment shall be conditional upon the receipt of such moneys by the Registrar on or prior to the date fixed for prepayment. If such moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Notes, and the Registrar shall give notice, in the same manner in which the notice of prepayment shall have been given, that such moneys were not so received and that such Notes will not be redeemed. Otherwise, prior to any prepayment date, the City shall deposit with the Registrar an amount of money sufficient to pay the prepayment price of all the Notes or portions of Notes which are to be redeemed on that date.

Subject to the provisions for a conditional prepayment described above, notice of prepayment having been given as aforesaid, the Notes or portions of Notes so to be redeemed shall, on the prepayment date, become due and payable at the prepayment price therein specified, and from and after such date (unless the City shall default in the payment of the prepayment price) such Notes or portions of Notes shall cease to bear interest. Upon surrender of such Notes for prepayment in accordance with said notice, such Notes shall be paid by the Registrar at the prepayment price. Installments of interest due on or prior to the prepayment date shall be payable as herein provided for payment of interest. Upon surrender for any partial prepayment of any Note, there shall be prepared for the registered holder a new Note or Notes of the same maturity in the amount of the unpaid principal.

If any Note or portion of Note called for prepayment shall not be so paid upon surrender thereof for prepayment, the principal shall, until paid, bear interest from the prepayment date at the rate borne by the Note or portion of Note so called for prepayment. All Notes which have been redeemed shall be cancelled and destroyed by the Registrar and shall not be reissued.

Section 8. Form of Notes. The Notes, the certificate of authentication to be endorsed thereon and the form of assignment to be endorsed thereon are all to be in substantially the following forms with necessary and appropriate variations, omissions and insertions as permitted or required by this Resolution:

No. R- _____

\$ _____

UNITED STATES OF AMERICA

STATE OF WISCONSIN

COUNTY OF LA CROSSE

CITY OF LA CROSSE

GENERAL OBLIGATION PROMISSORY NOTE, SERIES 2022B

RATE OF INTEREST	MATURITY DATE	DATED DATE	CUSIP NUMBER
_____ %	March 1, _____	_____, 2022	_____

Registered Owner:

Principal Amount:

KNOW ALL MEN BY THESE PRESENTS: That the City of La Crosse in the County of La Crosse and the State of Wisconsin (the “City”), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner hereinabove identified, or registered assigns as hereinafter provided, on the Maturity Date hereinabove identified the Principal Amount hereinabove identified and to pay interest (computed on the basis of a 360-day year consisting of twelve 30-day months) on such Principal Amount from the Dated Date hereinabove identified or from the most recent interest payment date to which interest has been paid at the Rate of Interest per annum hereinabove identified on March 1 and September 1 of each year, commencing on March 1, 2023 until said Principal Amount is paid, except as the provisions hereinafter set forth with respect to prepayment may be and become applicable to this Note.

The principal of this Note is payable in lawful money of the United States of America only upon presentation and surrender of this Note at the designated office of the _____, as registrar and paying agent, or any successor registrar and paying agent (the “Registrar”). Payment of each installment of interest hereon shall be made to the Registered Owner hereof who shall appear on the registration books of the City maintained by the Registrar at the close of business on the fifteenth day of the calendar month next preceding the applicable interest payment date, and shall be paid by check or draft of the Registrar mailed to such Registered Owner at his address as it appears on such registration books or at such other address as may be furnished in writing by such Registered Owner to the Registrar, or may be paid by wire transfer to any securities depository as provided in the Resolution hereinafter referred to.

This Note is one of an authorized issue of General Obligation Promissory Notes, Series 2022B, aggregating the principal amount of \$_____ (the “Notes”) and issued to finance the costs of the Projects (as defined in the hereinafter defined Resolution), in all respects in compliance with Chapter 67, *Wisconsin Statutes*, as supplemented and amended, and a resolution adopted by the Common Council of the City on July 14, 2022 (the “Resolution”).

This Note is transferable by the Registered Owner hereof in person or by his attorney duly authorized in writing at the designated office of the Registrar, but only in the manner, subject to the limitations and upon payment of the charges provided in the Resolution, and upon surrender and cancellation of this Note. Upon such transfer, a new Note or Notes of the same maturity and interest rate of authorized denomination or denominations and for a like aggregate principal amount, will be issued to the transferee in exchange for this Note.

The Notes are issuable in fully registered form in denominations of \$5,000 each and integral multiples thereof. This Note may be exchanged at the designated office of the Registrar for a like aggregate principal amount of Notes of the same maturity and interest rate of other authorized denominations, upon the terms set forth in the Resolution.

The City and the Registrar may deem and treat the registered owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and interest due hereon and for all other purposes, and neither the City nor the Registrar shall be affected by any notice to the contrary.

The Notes maturing on and after March 1, 2031, are subject to prepayment at the option of the City, as a whole or in part in such order as the City may determine in integral multiples of \$5,000, less than all Notes of a single maturity to be selected by the Registrar, as provided in the Resolution, in such manner as it shall deem fair and appropriate, on March 1, 2030, and on any date thereafter, at a prepayment price of 100% of the principal amount thereof being prepaid plus accrued interest to the date fixed for prepayment.

Notice of any intended prepayment shall be sent by registered or certified mail, postage prepaid, or be given by facsimile transmission, electronic transmission or overnight express delivery service not less than thirty (30) days and not more than sixty (60) days prior to the date fixed for prepayment to the registered owner of each Note to be prepaid (in whole or in part) at the address shown on the registration books of the City maintained by the Registrar or at such other address as is furnished in writing by such registered owner to the Registrar. Such notice of prepayment may be conditional as provided in the Resolution. When so called for prepayment, this Note, or the portion hereof being so called for prepayment, will cease to bear interest on the specified prepayment date, provided funds for prepayment are on deposit at the place of payment on that date, and shall not be deemed to be outstanding.

It is hereby certified, recited and declared that all acts, conditions and things required to be done, exist, happen and be performed precedent to and in the issuance of this Note have been done, have existed, have happened and have been performed in due time, form and manner as required by the Constitution and the laws of the State of Wisconsin; that this Note, together with all other indebtedness of the City, does not exceed any limitation prescribed by law; and that the

City has levied a direct annual irrevocable tax sufficient to pay the interest hereon when it falls due and also to pay and discharge the principal hereof at maturity.

The full faith, credit and resources of the City are hereby pledged for the payment of the principal of and interest on this Note and the issue of which it is a part as the same respectively become due and for the levy and collection of sufficient taxes for that purpose.

This Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed by the Registrar.

IN WITNESS WHEREOF the City of La Crosse, La Crosse County, Wisconsin, by its City Council, has caused this Note to be executed with the duly authorized manual or facsimile signature of its Mayor and with the duly authorized manual or facsimile signature of its City Clerk, and its official seal or a facsimile thereof to be impressed or reproduced hereon, as of the Dated Date hereinabove identified.

City Clerk

Mayor

[SEAL]

CERTIFICATE OF AUTHENTICATION

This Note is one of the Notes described in the within mentioned Resolution, and is one of the General Obligation Promissory Notes, Series 2022B, of the City of La Crosse, La Crosse County, Wisconsin.

Date of Authentication: _____, 2021

_____,
as Note Registrar

By _____
Authorized Signatory

The following abbreviations, when used in the inscription on the face of the within Note, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM-	as tenants in common	UNIF GIFT/TRANS MIN ACT- Custodian
		(Cust) (Minor)
TEN ENT-	as tenants by the entirety	under Uniform Gifts/Transfers to Minors
JT TEN-	as joint tenants with right of survivorship and not as tenants in common	Act (State)

Additional abbreviations may also be used though not listed above.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

(Name and Address of Assignee)

the within Note, and does hereby irrevocably constitute and appoint _____, or its successor as Registrar, to transfer the said Note on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this Assignment must correspond with the name of the registered owner as it appears upon the face of the within Note in every particular, without alteration or enlargement or any change whatever.

Signature guaranteed: _____

NOTICE: Signature(s) must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in STAMP or such other "signature guaranty program" as may be determined by the Registrar in addition to or in substitution for STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

Section 9. Sale of Notes. The sale of the Notes to the Purchaser for the Purchase Price is hereby confirmed, the same being the best bid submitted. The City Treasurer of the City is hereby authorized to deliver the Notes to said purchasers upon payment of the purchase price. Upon the sale of the Notes, the Mayor, City Clerk, City Treasurer, Finance Director and any other officer of the City, as shall be appropriate, shall be and are hereby authorized and directed to approve or execute, or both, such documents of sale of the Notes as may be necessary, including, without limitation, the contract for the sale of the Notes between the City and the Purchaser (the “*Purchase Contract*”), which may be evidenced by an executed bid form, term sheet or other document requested by a Purchaser.

The use by the Purchaser of any Preliminary Official Statement and any final Official Statement relating to the Notes (the “*Official Statement*”) is hereby ratified, approved and authorized; the execution and delivery of the Official Statement is hereby authorized; and the officers of the Board are hereby authorized to take any action as may be required on the part of the City to consummate the transactions contemplated by the Purchase Contract, this Resolution, said Preliminary Official Statement, the Official Statement and the Notes.

Section 10. Tax Levy. In order to provide for the collection of a direct annual tax sufficient to pay the interest on the Notes and to pay and discharge the principal thereof at maturity, there is hereby levied upon all the taxable property in the City a direct annual tax in amounts sufficient for that purpose (except for the portion thereof to be paid from funds deposited into the Debt Service Fund (as hereinafter defined) at the time of the issuance of the Notes, as described below), and there is hereby levied upon all taxable property in the City the following direct annual tax in each of the years and amounts, to-wit:

YEAR	AMOUNT
2022	
2023	
2024	
2025	
2026	
2027	
2028	
2029	
2030	
2031	

In each of said years from 2022 to 2031, inclusive, the direct annual tax above levied shall be extended upon the tax rolls of the City in the same manner and time as taxes for general City purposes, and when collected the proceeds of said taxes shall be deposited into the account of the Debt Service Fund established in favor of the Notes, to be used solely for paying the principal of and interest on the Notes as long as any of the Notes remain outstanding.

The City has funds on hand and available in the amount of \$ _____ in the Debt Service Fund in respect of premium, which is sufficient to pay a portion of the interest on the Notes coming due on _____ and _____ which funds are hereby appropriated to the payment of such interest.

Section 11. Sufficiency. Interest or principal maturing at any time during the life of the Notes when there shall be insufficient funds on hand from the above tax levy to pay the same shall be paid promptly when due from the general fund of the City, and said fund shall be reimbursed in a like amount out of the proceeds of taxes hereby levied when the same shall have been collected.

Section 12. Establishment of Debt Service Fund. There has been ordered to be established in the City Treasury a fund separate and distinct from all other funds of the City to be designated the “General Obligation Promissory Notes, Series 2022B Debt Service Fund” (the “Debt Service Fund”), which fund shall be used solely for the purpose of paying the principal of, premium, if any, and interest on the Notes. There shall be deposited in such fund all premium, if any, and accrued interest paid on the Notes at the time the Notes are delivered to the purchaser thereof; all money raised by taxation pursuant to Section 10 hereof; and such other sums as may be necessary to pay the interest on the Notes when the same shall become due and to retire the Notes at their respective maturity dates.

Section 13. Use of Proceeds; No Arbitrage; Notes to Remain in Fully Registered Form. Proceeds of the Notes in the amount of \$ _____ will be deposited into the Debt Service Fund and be used to pay the first interest coming due on the Notes. The balance of the principal proceeds of the Notes shall be deposited in a special fund (the “Construction Fund”), and used solely for the purpose for which the Notes are hereby authorized. The principal proceeds from the sale of the Notes shall be used only to pay the costs aforesaid and the Council hereby covenants and agrees that said principal proceeds shall be devoted to and used with due diligence for such purposes.

Section 14. List of Noteholders. The Registrar shall maintain a list of the names and addresses of the holders of all Notes and upon any transfer shall add the name and address of the new Noteholder and eliminate the name and address of the transferor Noteholder.

Section 15. Non-Arbitrage and Tax-Exemption. The City hereby covenants that it will not take any action, omit to take any action or permit the taking or omission of any action within its control (including, without limitation, making or permitting any use of the proceeds of the Notes) if taking, permitting or omitting to take such action would cause any of the Notes to be an arbitrage bond or a private activity bond within the meaning of the Internal Revenue Code of 1986, as amended (the “Code”), or would otherwise cause the interest on the Notes to be included in the gross income of the recipients thereof for federal income tax purposes. The City acknowledges that, in the event of an examination by the Internal Revenue Service (the “IRS”) of the exemption from federal income taxation for interest paid on the Notes, under present rules, the City may be treated as a “taxpayer” in such examination and agrees that it will respond in a commercially reasonable manner to any inquiries from the IRS in connection with such an examination.

The City also agrees and covenants with the purchasers and holders of the Notes from time to time Outstanding that, to the extent possible under Illinois law, it will comply with whatever federal tax law is adopted in the future which applies to the Notes and affects the tax-exempt status of the Notes.

The City Council hereby authorizes the officials of the City responsible for issuing the Notes, the same being the Mayor, City Clerk and Treasurer, to make such further covenants and certifications regarding the specific use of the proceeds of the Notes as approved by the City Council and as may be necessary to assure that the use thereof will not cause the Notes to be arbitrage bonds and to assure that the interest on the Notes will be exempt from federal income taxation. In connection therewith, the City and the City Council further agree: (a) through their officers, to make such further specific covenants, representations as shall be truthful, and assurances as may be necessary or advisable; (b) to consult with counsel approving the Notes and to comply with such advice as may be given; (c) to pay to the United States, as necessary, such sums of money representing required rebates of excess arbitrage profits relating to the Notes; (d) to file such forms, statements, and supporting documents as may be required and in a timely manner; and (e) if deemed necessary or advisable by their officers, to employ and pay fiscal agents, financial advisors, attorneys, and other persons to assist the City in such compliance.

Section 16. Duties of Registrar. If requested by the Registrar, the Mayor and City Clerk are authorized to execute the Registrar's standard form of agreement between the City and the Registrar with respect to the obligations and duties of the Registrar hereunder which may include the following.

- (a) to act as note registrar, authenticating agent, paying agent and transfer agent as provided herein;
- (b) to maintain a list of Noteholders as set forth herein and to furnish such list to the City upon request, but otherwise to keep such list confidential;
- (c) to give notice of redemption of the Notes as provided herein;
- (d) to cancel and/or destroy Notes which have been paid at maturity or submitted for exchange or transfer;
- (e) to furnish the City at least annually a certificate with respect to Notes cancelled and/or destroyed; and
- (f) to furnish the City at least annually an audit confirmation of Notes paid, Notes Outstanding and payments made with respect to interest on the Notes.

Section 17. Continuing Disclosure Undertaking. The Mayor, the City Clerk and the City Treasurer/Director of Finance of the City, or any of them, are hereby authorized to execute and deliver on behalf of the City a continuing disclosure undertaking with respect to the Notes (the "*Continuing Disclosure Undertaking*"). When the Continuing Disclosure Undertaking shall

be executed and delivered on behalf of the City as contemplated herein, it shall be binding on the City, and all officers, employees and agents of the City are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the terms and provisions of the Continuing Disclosure Undertaking. Notwithstanding any other provision of this Resolution to the contrary, the sole remedy for the failure to comply with the Continuing Disclosure Undertaking shall be the ability of the beneficial owners of the Notes to seek mandamus or specific performance.

Section 18. Record-Keeping Policy and Post-Issuance Compliance Matters. On October 14, 2021, the Council adopted a record-keeping policy (the “*Policy*”) in order to maintain sufficient records to demonstrate compliance with its covenants and expectations to ensure the appropriate federal tax status for the debt obligations of the City, the interest on which is excludable from “gross income” for federal income tax purposes or which enable the City or the holder to receive federal tax benefits, including, but not limited to, qualified tax credit bonds and other specified tax credit bonds. The Council and the City hereby reaffirm the Policy.

Section 19. Municipal Bond Insurance. In the event the payment of principal and interest on the Notes is insured pursuant to a municipal bond insurance policy (the “*Municipal Bond Insurance Policy*”) issued by a bond insurer (the “*Bond Insurer*”), and as long as such Municipal Bond Insurance Policy shall be in full force and effect, the City and the Registrar agree to comply with such usual and reasonable provisions regarding presentment and payment of the Notes, subrogation of the rights of the Noteholders to the Note Insurer upon payment of the Notes by the Note Insurer, amendment hereof, or other terms, as approved by the Mayor on advice of counsel, his or her approval to constitute full and complete acceptance by the City of such terms and provisions under authority of this Section.

Section 20. Other Documents. The Mayor, the City Clerk and the City Treasurer of the City and all other officers of the City are hereby authorized to execute all documents and certificates (including without limitation any certificate or agreement executed to comply with Rule 15c2-12 of the Securities and Exchange Commission) and to take all actions as may be necessary in connection with the authorization, issuance, sale and delivery of the Notes and the performance of the obligations of the City hereunder and to carry out and comply with the terms of this Resolution, including without limitation, the Official Statement. This Resolution and all such documents shall be in substantially the same form contemplated by this Resolution, with such changes as shall be approved by the officers executing this Resolution and said documents, the execution thereof to constitute conclusive proof of such approval.

Section 21. Severability. If any section, paragraph or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining sections, paragraphs and provisions of this Resolution.

Section 22. Conflicting Proceedings Superseded. All ordinances, resolutions or orders, or parts thereof, heretofore enacted, adopted or entered, in conflict with the provisions of this Resolution, shall be and in the same are hereby superseded to the extent of such conflict, and this Resolution shall be in effect from and after its passage.

Adopted: July 14, 2022

Approved: July 14, 2022

Recorded: July 14, 2022

/s/

Mayor

Attest:

/s/

City Clerk

EXHIBIT A
WINNING BID

Council Member _____ moved and Council Member _____ seconded the motion that said ordinance as presented and read by title be adopted.

After a full discussion thereof, the Mayor directed that the roll be called for a vote upon the motion to adopt said resolution.

Upon the roll being called, the following Council Members voted AYE: _____

and the following Council Members voted NAY: _____

Whereupon the Mayor declared the motion carried and said resolution adopted, approved and signed the same in open meeting and directed the City Clerk to record the same in full in the records of the City of La Crosse, La Crosse County, Wisconsin, which was done.

Other business not pertinent to the adoption of said ordinance was duly transacted at said meeting.

Upon motion duly made, seconded and carried, the meeting was adjourned.

City Clerk

STATE OF WISCONSIN)
) SS
COUNTY OF LA CROSSE)

CERTIFICATION OF MINUTES AND RESOLUTION

I, the undersigned, do hereby certify that I am the duly qualified and acting City Clerk of the City of La Crosse, La Crosse County, Wisconsin (the “City”), and as such official I further certify that I am the keeper of the records and files of the Common Council of the City (the “Common Council”).

I do further certify that the foregoing constitutes a full, true and complete transcript of the minutes of the meeting of the Common Council held on the 14th day of July, 2022 (the “Meeting”), insofar as same relates to the adoption of a resolution entitled:

RESOLUTION authorizing the issuance of not to exceed \$3,185,000 aggregate principal amount of General Obligation Promissory Notes, Series 2022B, of the City of La Crosse, La Crosse County, Wisconsin, in such amount, providing details, prescribing the form of note, awarding the notes to the best bidder, levying taxes, and related matters.

a true, correct and complete copy of which said resolution as adopted at the Meeting appears in the foregoing transcript of the minutes of the Meeting.

I further certify that a true and correct statement of every step or proceeding had or taken to date in connection with the authorization of said notes has been recorded by me in a separate record book, pursuant to the provisions of Section 67.05(12), *Wisconsin Statutes*, as supplemented and amended.

I do further certify that the resolution was adopted at the Meeting, which was an open, lawful public meeting of the Common Council, that the deliberations of the Common Council on the adoption of said resolution were conducted openly, that the vote on the adoption of said resolution was taken openly, and that the Meeting was called, noticed, held and conducted in the manner established by the Common Council and required by the *Wisconsin Statutes*, including, but not limited to, compliance with Sections 19.81 to 19.98, inclusive, of the *Wisconsin Statutes*, as supplemented and amended, notifying the public of the Meeting by distribution an agenda to the media not less than twenty-four (24) hours prior to the Meeting, which agenda is available to the public at the City Hall, located within the City, and that a true, correct and complete copy of the agenda as so provided with respect to the Meeting is attached hereto as *Exhibit A*.

WITNESS my official signature and the official seal of said City this 14th day of July,
2022.

City Clerk

[SEAL]



OFFICE OF THE MAYOR
LA CROSSE

22-0866

June 28, 2022

I hereby approve the submitting of the attached Legislation “Resolution authorizing the issuance of not to exceed \$3,185,000 aggregate principal amount of General Obligation Promissory Notes, Series 2022B, of the City of La Crosse, La Crosse County, Wisconsin, in such amount, providing details, prescribing the form of note, awarding the notes to the best bidder, levying taxes, and related matters” to the Finance and Personnel Committee, to be considered by the members thereof at their next committee meeting. This approval is given due to the time element necessitating consideration of the attached Legislation at the earliest possible date.

Mayor Mitch Reynolds



City of La Crosse, Wisconsin

City Hall
400 La Crosse Street
La Crosse, WI 54601

Text File

File Number: 22-0001

Agenda Date: 7/7/2022

Version: 1

Status: Agenda Ready

In Control: Finance & Personnel Committee

File Type: Status Update

Agenda Number: