



PLANNING, DEVELOPMENT AND ASSESSMENT

400 LA CROSSE STREET | LA CROSSE, WI 54601 | P: (608) 789-7512

August 14, 2024

To whom it may concern,

The City of La Crosse has recently updated their Comprehensive Plan and is seeking proposals from qualified consulting firms to update their subdivision and zoning municipal codes. Attached is a Request for Proposals issued by the City of La Crosse Planning, Development, and Assessment Department.

The RFP contains information and guidelines for submittal along with the City's Standard Contract Terms and Conditions. The RFP provides the information needed for you to determine your interest in the project and assures an equitable process. Please make sure you read through all documents thoroughly before submitting your proposal.

Proposals must be submitted digitally to the City of La Crosse Planning, Development, and Assessment Department no later than 4:00 P.M.CDT on Monday, September 16, 2024.

We hope you find our project of interest and if there are any questions during the submittal process please contact me at acklint@cityoflacrosse.org or (608) 789-7391. We look forward to reviewing your proposals!

Sincerely,

Tim Acklin, AICP
Planning Manager
City of La Crosse Planning, Development, and Assessment

ANDREA TRANE, DIRECTOR
TIM ACKLIN, AICP, PLANNING MANAGER
JULIE EMSLIE, ECONOMIC DEVELOPMENT ADMINISTRATOR
LEWIS KUHLMAN, AICP, ENVIRONMENTAL PLANNER
JENNA DINKEL, ASSOCIATE PLANNER
STACI LOVEJOY, ADMINISTRATIVE SPECIALIST

MARA KEYES, COMMUNITY DEVELOPMENT ADMINISTRATOR
JONAH DENSON, NEIGHBORHOOD HOUSING DEVELOPMENT ASSOCIATE
LINZI WASHTOCK, PROGRAM COMPLIANCE SPECIALIST
KEVIN CONROY, HOUSING REHABILITATION SPECIALIST
BRIAN SAMPSON, HOMELESS SERVICES COORDINATOR



Request for Proposals

Zoning & Subdivision Ordinance Rewrite

City of La Crosse, Wisconsin

RFP Release Date: Wednesday, August 14, 2024

Proposal Due Date: Monday, September 16, 2024, at 4:00pm CDT

GENERAL OVERVIEW

The City of La Crosse seeks proposals from qualified consultant firms who demonstrate the capability and proven experience of providing professional planning and zoning services, to undertake the rewriting of the City's zoning and subdivision ordinances. The existing zoning ordinance has not been substantially updated since the 1980s. Due to the age of the ordinance, the recently adopted updated Comprehensive Plan, and changes to state statutes, the City recognizes the need for more than just an incremental reform of the current zoning code. The new ordinance must be readable, understandable by the public, and enforceable.

Electronic proposals are due by Monday, September 16, 2024, at 4:00 pm CDT. Inquires and proposals should be directed to:

Tim Acklin, AICP
Planning Manager
City of La Crosse, WI
400 La Crosse Street
La Crosse, WI, 54601

608-789-7391
acklint@cityoflacrosse.org

COMMUNITY BACKGROUND

The city of La Crosse is prominently located along the Mississippi River in western La Crosse County, Wisconsin. It borders the state of Minnesota and the Town of Campbell (west), the City of Onalaska (north), the Town of Medary (east) and the Town of Shelby (southeast). The city has a well-established connection to the region's surface water resources with its location at the confluence of the Mississippi, La Crosse, and Black Rivers. La Crosse encompasses 23.8 square miles and is a very low growth, urban center. La Crosse's population has fluctuated slightly from 51,320 people in 2010 (U.S. Census), to 52,580 in 2020 (U.S. Census)—a 2.7% increase. La Crosse's projected 2040 population is 51,850.

The prominent bluffs, rivers, adjacent municipalities, and the La Crosse River Marsh contribute to a landlocked community that continues to experience successful growth via commercial and residential redevelopment projects with a few occasional developments on vacant parcels. Multi-family residential development has predominately been the most desired land use, particularly around the Downtown, adjacent to the three institutions of higher learning, and along the State highways 16, 53, 35, and 14/61.

La Crosse has a Council-Mayor form of government. The mayor is elected to implement the policies of the thirteen-member Common Council as well as overseeing the day-to-day operations of the City government. The City Plan Commission has been appointed to act on site plans, plats, and conditional use petitions, and makes recommendations to the Common Council regarding amendments to the Comprehensive Plan, Zoning Ordinance, and Zoning Map.

PROJECT BACKGROUND

After a multi-year effort, the Common Council adopted an updated comprehensive plan in October 2023 that is guided by one of the following goals:

Complete a comprehensive review and update of the City's zoning code to evaluate barriers to development that include off-street parking requirements, minimum lot size and setbacks, design standards, and permitting of ADU's

The Future Land Use section in the comprehensive plan is based on the "Neighborhood, District, and Corridor Framework" (NDC), a system devised by the Congress for New Urbanism (CNU). The intent of the NDC model is to encourage walkable, compact communities that are rich with amenities and celebrate the history of the built environment and the preservation of natural features, all while respecting the fabric of communities. The NDC model can pair well with form-based codes, a land development regulation that focuses on the physical form of the built environment in relation to the public realm as the

code's overarching principle. The NDC model can be useful in considering the integration of a form-based code during the zoning code update

The City is also currently reviewing the final draft of the La Crosse 2024 Housing Study that is guided by the following overarching action: (Adoption in September 2024)

Complete a comprehensive review and update of the City's zoning code to evaluate barriers to development

The City is in need of a comprehensive review of its zoning code to evaluate barriers to development. It has not been completely updated since the 1980s. Significant issues include:

- It has not been completely updated since the early 1980s.
- Inconsistencies with State Statutes.
- Amendments that may not be consistent with other chapter in the code.
- Outdate design standards.
- Disorderly arrangement leading to missed requirements.
- It lacks options for mixed-use districts.
- Key components of the code are difficult to understand by the public.
- The entire code perpetuates suburban-styled development that impedes opportunities to promote dense urban development and lacks the ability to achieve either traditional or modern development patterns in City's varied neighborhoods and corridors.
- Challenges to infill walkable urban development
- It is not user-friendly and lacks consistent graphics to improve readability.
- Many of the requirements do not reflect existing conditions, creating a large number of nonconforming properties. This has led to frequent variance requests, zoning code amendments, requests to rezone to Planned Unit Developments, or requests for exceptions to design standards
- Lack of specificity or common sense that makes administration difficult.
- Consistency with the City's recently updated Comprehensive Plan.

RESOURCES

Municipal Code Chapter 113- SUBDIVISIONS

https://library.municode.com/wi/la_crosse/codes/code_of_ordinances?nodeId=PTIILADEOR_CH113SU

Municipal Code Chapter 115-ZONING

https://library.municode.com/wi/la_crosse/codes/code_of_ordinances?nodeId=PTIILADEOR_CH115ZO

Forward La Crosse- 2040 Comprehensive Plan

<https://forwardlacrosse.org/complan/>

La Crosse 2024 Housing Study

[638590729542925127 \(cityoflacrosse.org\)](https://www.cityoflacrosse.org/638590729542925127)

Multi-Family Design Standards Handbook (115-510)

<https://www.cityoflacrosse.org/home/showpublisheddocument/6086/637847481002630000>

Commercial Design Standards Handbook (115-511)

<https://www.cityoflacrosse.org/home/showpublisheddocument/6084/637847479856030000>

PLANNING STAFF & STEERING COMMITTEE

The Planning Division is led by the Director of Planning, Development, and Assessment. There are three other planners in the division with the Planning Manager as project lead, and two associate planners. This Department works closely with the Engineering Department and Fire Department-Division of Community Risk Management on subdivision and zoning related activities within the City and anticipates their involvement in this project.

To reduce the amount of administrative work performed by the consultant, Planning staff will assist with gathering local data, coordinating with local property owners and stakeholders, arranging meetings, as well as other similar type responsibilities as determined.

During the project, the consultant shall work with elected and appointed officials, City boards and committees, City staff, identified stakeholder groups, and the general public. The Consultant will also work with a local media company, selected by the City, for marketing, website, and community engagement purposes. Using the stated selection criteria, proposals will be evaluated by Planning, Development, and Assessment Department staff and the City Plan Commission, who has been designated as the Steering Committee for this project. Only firms/teams submitting proposals by the deadline will be considered.

SCOPE OF WORK

The consultant shall submit a proposed work plan with a timeline based on the below scope of work. With work beginning no later than December 2024, staff estimates the process could take as long as 18-24 months. The City's source of funding requires that a contract is signed with a consultant before end of year 2024 and completed by end of year 2026.

Provide both a summary and the detail of the proposed services, or alternatively recommend another process or modifications, including any technical/innovative approaches, for the project if they have found them to be effective in zoning code rewrites.

The scope of work should include the following:

- **Review of Current Municipal Code**— Review, familiarize, analyze, and critique Municipal Code Chapter 113- Subdivisions and Chapter 115- Zoning and any other related codes. Review should include, but is not limited to, the following:
 - Definitions
 - Processes and requirements for division of land and plats. (Chapter 113)
 - Process for enforcement of zoning. (115-2 to 115-34)
 - Non-Conforming Uses. (115-33)
 - Variances/Board of Zoning Appeals. (115-57 to 115-61)
 - Review of past applications (20 years) and why this zoning district was utilized.
 - Process for rezoning property. (115-34, 115-81 to 115-90)
 - Basic zoning districts. (115-140 to 115-158)
 - Includes Permitted uses, Setbacks, Lot Size, Height Requirements, Density, Off-Street Parking, etc.
 - Traditional Neighborhood Development Zoning. (115-403)
 - Review of past applications (20 years) and why this zoning district was utilized.
 - Off-Street Parking Requirements (115-393)
 - Planned Development District. (115-403)
 - Review of past applications (20 years) and why this zoning district was utilized.
 - Multi-Family Design Standards- (115-510)
 - Process and Standards.
 - Commercial Design Standards. (115-548)
 - Process and Standards.
 - Conditional Use Permits (115-342)
 - Adherence to State Law and ACT 67
 - Incorporate Sign Code (Chapter 111) into Zoning Code (Chapter 115)

- **Review of Comprehensive Plan and other related plans:** The consultant will review the plans, goals, objectives, and recommendations of the comprehensive plan and other related plans identified by planning staff and the steering committee to ensure the new code will be consistent with current planning documents. This includes, but is not limited to, the following:
 - Forward La Crosse-2040 Comprehensive Plan
 - La Crosse 2024 Housing Study
 - Bicycle and Pedestrian Master Plan
 - Climate Action Plan
 - Downtown 2040 Master Plan

- **Public Outreach:** The consultant will provide a public participation plan designed to receive input from community stakeholders, staff, and the public as well as educate and inform them on the process. It is anticipated that the following items will be considered public outreach and should be addressed in the public participation plan:
 - Creating education materials to be used by staff and the consultant at public meetings on the importance of rewriting zoning codes, types of zoning codes (Euclidean, Form-Based, & Hybrid) and their benefits.
 - Work with a local media company, selected by Planning staff, for marketing, social media presence, and managing the project website. This will permit the consultant to develop surveys, polls, project information, maps or any other materials for the public to view and provide input to as well as advertise meetings and input opportunities.
 - Meetings with the City Plan Commission to obtain input and/or provide updates on the process. The City Plan Commission meets monthly. Attendance can be virtual.
 - Stakeholder Identification. Review and discussion of certain sections of the code will require separate stakeholder meetings. These sections include, but are not limited to, the following:
 - Multi-Family and Commercial design standards.
 - Off-Street Parking
 - Basic Zoning District Uses and Regulations
 - Board of Zoning Appeals
 - Subdivision Ordinance
 - Stakeholder Meetings. Work with staff to prepare materials and conduct identified stakeholder meetings. Staff is prepared to conduct these meetings on behalf of the consultant using materials prepared by the consultant. The consultant may choose to conduct these meetings. In some cases, attending virtual may not be an option. It is anticipated that anywhere from 3-5 meetings with these groups will be conducted throughout the process. These stakeholder meetings would include, but are not limited, to the following:
 - Advocacy Organizations
 - Community Institutions

- Student Organizations
 - Tenant Associations
 - Other housing related organizations. (Habitat, CouleeCap)
 - Neighborhood Associations.
 - Board of Zoning Appeals staff and board members.
 - Engineering/Public Works Staff
 - Architects/Developers/Contractors
 - Fire Department Division of Community Risk Management Staff
 - Elected Officials.
 - City Staff (City Attorney, City Clerk, Engineering)
 - Public Meetings. Over the course of the project the consultant will conduct four to five (4-5) public engagement opportunities, such as open houses, during the project. (kick-off, middle, and near the end). Planning staff will work with the consultant on meeting logistics.
 - Additional strategies or opportunities for public engagement that have worked well for you in other projects. Best practice engagement techniques, including building more equity into the process, are important to capture input from people often not engaged.
- **Analysis and Recommendations.** Provide an analysis of the City’s existing code, highlighting its strengths and shortcomings based on the consultant’s review of existing code, review of current plans, and community and stakeholder input. Include recommended approach for potential revisions that include best practices/example codes as related to low-carbon sustainable development, form-base designs, affordable/attainable housing, missing middle housing, mixed housing integration, parking reductions, multi-modal transportation, performance standards for various uses, equity, accessibility, etc.
 - **Documents:** The consultant will prepare drafts of the zoning ordinance for review by staff, the steering committee, and the public culminating in a final version to be acted upon by the City Plan Commission and adopted by the Common Council. These documents include, but are not limited to, the following:
 - Draft and format code revisions, including all progressive iterations and final versions with cross-references.
 - Code Accompaniments – Add relevant tables, illustrations, and images (such as improved use tables, design guidance, etc.).
 - Recommended amendments to the Comprehensive Plan that are anticipated. May include future land use map/GIS shapefile and text changes.
 - Refine, finalize and deliver to the City an electronic copy of the final zoning code rewrite. Final proposed zoning code rewrite must be compliant with the City’s Municipal Code format and numbering system.

- **Project Schedule:** The consultant provides the City an anticipated schedule for the above work, with a goal of completion by the end of 2026.

PROPOSAL REQUIREMENTS

The City of La Crosse is not liable for any costs incurred in replying to the RFP. Consultants are asked to submit a concise proposal describing their capacity to manage the project and their experience with similar projects. Samples of zoning code revisions / rewrites and public participation plans are expected. The proposals should include a clear outline of how the consultant would help the City meet the project objectives.

All proposals shall include the following elements:

- **General Information.**
 - Name and address of submitting organization; give the state in which incorporated or chiefly located; indicate whether licensed to operate in Wisconsin; identify prime contact in organization and telephone numbers.
 - Provide a general narrative of your understanding of the project, your understanding of municipal code rewrites, and your involvement in projects of similar size and scope and describing any modifications or expansion of the information provided. A list of client references for which the consultant has provided similar services should be provided, including the name, address and phone number, and email of a contact person for each reference. Indicate the type, scope and duration of the work done for each client.
- **Project Plan**
 - Address the objectives stated in the above Scope of Work.
 - A detailed project time schedule with start date and major project milestones. Indicate the date on which your team would be able to initiate the study and whether the project can begin by end of year 2024 and completed by end of year 2026.
- **Budget.**
 - The budget for this project is not to exceed \$260,000. Please indicate the anticipated expenditures appropriate to a lump sum contract. For each task within your detailed work plan, please submit a lump sum budget. Include a percentage of support costs as a separate line item in your overall budget. Support costs should include costs such as travel time, transportation, lodging, meals, printing, communication, etc.
- **Project Management & Development Team.**
 - Provide a narrative describing the project operations and management strategy

- Include an outline of essential functions of the project management role, the expected City role, and examples of prior site plans that the team has successfully implemented
 - Provide a list of principals and staff assigned and committed to this project and their expertise/qualifications.
 - Include any conflicting assignments/projects during the projected project timeline
 - Provide testimonials or reference letters from public clients for the team's past projects
- **Additional Required Attachments.**
 - One example of your firm's typical services agreement or contract.
 - Signed City of La Crosse Standard Terms and Conditions. (Attachment A)
 - Submittal of an RFP constitutes acceptance of the City of La Crosse's Standard Terms and Conditions with no requested amendments.

The La Crosse Planning, Development, and Assessment Department reserves the right to accept or reject any or all proposals.

EVALUATION/SELECTION CRITERIA

The RFPs will be reviewed and evaluated by the Planning staff and the City Plan Commission using the evaluation criteria provided below.

Category	Points
Overall Quality of Proposal <ul style="list-style-type: none"> • Completeness and thoroughness in addressing the scope of work and requested information. 	25
Approach to the Project Scope. <ul style="list-style-type: none"> • Work Plan, Deliverables, Any Innovations • Timeline • Budget 	50
Organization, Personnel, and Experience <ul style="list-style-type: none"> • Qualifications of Personnel • Specific experience of firm in Municipal Code rewrite or strongly related activities. (Examples of related work with other communities) • Experience of individual team members in Municipal Code analysis and rewriting. • An interdisciplinary team of bona fide personnel 	25
Public Participation Strategy <ul style="list-style-type: none"> • Approach to all inclusive, community wide participation 	50
Proposal Total	150

After evaluating the submitted RFPs, the City Plan Commission may determine to award a consultant with the project or select firms for interviews. If interviews are needed, we anticipate they will be held between October 7, 2024-October 18, 2024, and will be separately scored.

Upon selection of a finalist, the City by its proper officials shall attempt to negotiate and reach a final agreement with the finalist. If the City, for any reason, is unable to reach a final agreement with this finalist, the City then reserves the right to attempt to reject such finalist and negotiate a final agreement with another finalist who has the next most viable proposal or bid. The City may also elect to reject all proposals and re-issue a new RFP.

Proposals Due

Only electronic submittals will be accepted. Electronic proposals will be accepted until Monday, September 16, 2024 @ 4:00 PM CDT. Proposals must be submitted to Tim Acklin, AICP at acklint@cityoflacrosse.org.

STANDARD 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 section titled "Standard Terms and Conditions" 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 performed in a manner consistent with the degree of care and skill ordinarily exercised by members of the same professions currently practicing under similar circumstances providing like services. Contracting Party agrees to abide by all applicable federal, state and local laws, regulations and ordinances, and all provisions of this Agreement.

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 shall be authorized or permitted under state and local law to perform the services.

4. **SCOPE OF SERVICES.** Contracting Party is required to perform, do and carryout in a satisfactory, 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, including without limitation materials, equipment, supplies, and incidentals. The scope of services to be performed shall include, without limitation, 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, including, if applicable, information supplied by Contracting Party. Scope may not be fully definable during initial phases. As projects progress, facts discovered may indicate that the scope must be redefined. Parties shall provide a written amendment to this Agreement to recognize such change.

6. **COMPENSATION.** Contracting Party will be compensated by La Crosse for the services provided under this Agreement and subject to the terms, conditions and contingencies 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 must be itemized to include labor costs and the Contracting Party's direct expenses, including subcontractor 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. 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.

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 any cause, 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, 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, at least ten (10) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, reports or other material related to the services performed by the Contracting Party under this Agreement for which compensation has been made or may be agreed to be 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 this Agreement by the Contracting Party, 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.

9. **TERMINATION FOR CONVENIENCE.** La Crosse may terminate this Agreement at any time and for any reason by giving written notice to the Contracting Party of such termination and specifying the effective date, at least ten (10) days before the effective date 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 and satisfactorily performed 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 persons or property.

11. **DELAYS.** 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. **OPINIONS OF COST.** Any opinion of costs prepared by La Crosse is supplied for general guidance of Contracting Party only. La Crosse cannot guarantee the accuracy of such opinions as compared to actual costs to Contracting Party.

13. **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.

14. **INSURANCE.** Contracting Party shall, at its sole expense, obtain and maintain in effect at all times during this Agreement the following insurance coverage:

- 1) Commercial General Liability Insurance of not less than \$2,000,000.00 per occurrence for bodily injury, personal injury and property damage;
- 2) Automobile Liability Insurance of not less than \$1,000,000.00 per occurrence for bodily injury and property damage covering all vehicles to be used in relationship to this Agreement;
- 3) Umbrella Liability Insurance of not less than \$1,000,000.00 per occurrence for bodily injury, personal injury and property damage in excess of coverage carried for commercial general liability and automobile liability;
- 4) Professional Liability Insurance of not less than \$1,000,000.00 per claim and annual aggregate; and
- 5) To the extent that Contracting Party employs any employees or as otherwise required by law, Workers' Compensation and Employees' Liability Insurance with Wisconsin statutory limits.

On the certificate of insurance, La Crosse shall be named as an additional insured on any General Liability Insurance, Automobile Insurance, and Umbrella Liability Insurance. The certificate must state the following: The City of La Crosse, its officers, agents, employees, and authorized volunteers shall be Additional Insureds. Prior to execution of the Agreement, Contracting Party shall file with La Crosse, a certificate of insurance 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. Contracting Party shall provide La Crosse with a thirty (30) day notice prior to termination or cancellation of the policy. La Crosse reserves the right to require review and approval of the actual policy of insurance before it executes this Agreement.

15. **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 or authorized representatives or volunteers, from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, losses, interest, attorney's fees (including in-house counsel legal fees), costs and expenses of whatsoever kind, character or nature whether arising before, during, or after completion of the Agreement hereunder and in any manner directly or indirectly caused or contributed to in whole or in part, by reason of any act, omission, fault, or negligence, whether active or passive of Contracting Party, or of anyone acting under its direction or control or on its behalf in connection with or incident to the performance of this Agreement, regardless if liability without fault is sought to be imposed on La Crosse. Contracting Party's aforesaid indemnity and hold harmless agreement shall not be applicable to any liability caused by the willful misconduct of La Crosse, its elected and appointed officials, officers, employees or authorized representatives or volunteers. Nothing in this Agreement shall be construed as La Crosse waiving its statutory limitation and/or immunities as set forth in the applicable Wisconsin Statutes or other applicable law. This indemnity provision shall survive the termination or expiration of this Agreement.

Contracting Party shall reimburse La Crosse, its elected and appointed officials, officers, employees or authorized representatives or volunteers for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contracting Party's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by La Crosse, its elected and appointed officials, officers, employees or authorized representatives or volunteers.

16. **NO PERSONAL LIABILITY.** Under no circumstances shall any trustee, officer, official, commissioner, director, member, partner or employee of La Crosse have any personal liability arising out of this Agreement, and Contracting Party shall not seek or claim any such personal liability.

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.** Contracting Party shall:

- (1) As soon as possible and in any event within a reasonable period of time after the occurrence of any default, notify La Crosse in writing of such default and set forth the details thereof and the action which is being taken or proposed to be taken by Contracting Party with respect thereto.
- (2) Promptly notify La Crosse of the commencement of any litigation or administrative proceeding that would cause any representation and warranty of Contracting Party contained in this Agreement to be untrue.
- (3) Notify La Crosse, 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 Contracting Party or any guarantor or an investigation, clean-up, removal, remedial action or other response by or on the part of Contracting Party or any guarantor under any environmental laws, rules, regulations, ordinances or which seeks damages or civil, criminal or punitive penalties from or against Contracting 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.** Contracting Party shall not assign, sublet, or transfer its interests or obligations under the provisions of this Agreement without the prior written consent of La Crosse. This Agreement shall be binding on the heirs, successors, and assigns of each party hereto. Contracting Party shall provide not less than forty-five (45) days advance written notice of any intended assignment, sublet or transfer.

23. **NO WAIVER.** The failure of any party to insist, in any one or more instance, upon performance 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 shall not engage in any political activities while in performance of any and all services and work under this Agreement.

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. This Agreement, however, shall be deemed read to include and incorporate such minutes, approvals, plans, and specifications, as referenced in this Agreement, and in the event of a conflict between this Agreement and any action of La Crosse, granting approvals or conditions attendant with such approval, the specific action of La Crosse shall be deemed controlling. 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 time is of the essence, and modification or deviation from such schedules shall occur only upon approval of La Crosse. 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.

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 depot 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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Contracting party shall identify in writing and provide to La Crosse the contact person and address for notices under this Agreement.

34. **INCORPORATION OF PROCEEDINGS AND EXHIBITS.** All motions adopted, approvals granted, minutes documenting such motions and approvals, and plans and specifications submitted in conjunction with any and all approvals as granted by La Crosse, including but not limited to adopted or approved plans or specifications on file with La Crosse, and further including but not limited to all exhibits as referenced herein, are incorporated by reference herein and are deemed to be the contractual obligation of Contracting Party whether or not herein enumerated.

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 this Agreement, for the purpose of making audits, examinations, excerpts and transcriptions.

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. Additionally, Contracting Party agrees to indemnify and hold harmless La Crosse, its elected and appointed officials, officers, employees, and authorized representatives for 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 any and all applicable federal, state and local laws, regulations and ordinances.

40. **FORCE MAJEURE.** La Crosse shall not be responsible to Contracting Party 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 for any reason.

Revised: 10-07-08