

**\*\*\*ATTACHMENTS\*\*\***



January 14, 2021

HONORABLE MEMBERS OF THE COMMON COUNCIL:

I hereby submit the following appointment for your consideration:

William Bulson to be considered for appointment to the Library Board to fill a vacancy with the term expiring on 04/19/2021.

MICHAEL J. VANDERSTEEN, MAYOR

MAYOR'S OFFICE

CITY HALL  
828 CENTER AVE.  
SHEBOYGAN, WI  
53081

920-459-3317  
sheboyganwi.gov



William L. Bulson

The Rev. William L. Bulson began at Grace Episcopal Church in Sheboygan on November 15, 2020.

Fr. Bulson is originally from Kentucky. He has degrees in Russian literature and Slavic linguistics from the University of Kentucky in Lexington and The Ohio State University in Columbus. This included brief study in Moscow with the Pushkin Institute.

Fr. Bulson received his Master of Divinity from Virginia Theological Seminary, and has served parishes in Appalachia, Minnesota, and Japan, mostly in multi-ethnic and multilingual congregations. With the Episcopal Diocese of Minnesota Fr. Bulson co-translated the Book of Common Prayer into Hmong. He served as Rector most recently at St. Alban's Anglican-Episcopal Church in Tokyo, Japan.

Fr. Bulson has been an Oblate with the Order of St. Julian of Norwich in White Lake, WI since 2008. His call to ministry as a parish priest has been confirmed after a time of discernment as a novitiate monk with the order.

MAYOR'S OFFICE

CITY HALL  
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53081

920-459-3317  
sheboyganwi.gov

R. O. No. \_\_\_\_\_ - 20 - 21. By CITY CLERK. December 21, 2020.

Submitting various license applications.

\_\_\_\_\_  
City Clerk

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COMMERCIAL OPERATORS LICENSES (RENEW)

<u>No.</u>	<u>Name</u>	<u>Address</u>
1470	Alliant Energy	4421 Tower Drive
3256	Badger Turf LLC	712 S. Washington Dr., Howards Grove
2012	M & K Lawn Services	145 Foxglove Lane, Sheboygan Falls
1999	Professional Landscaping LLC	1145 Park Avenue Apt. A, Oostburg

SECONDHAND DEALER LICENSE (RENEW)

<u>No.</u>	<u>Name</u>	<u>Address</u>
1132	Gibson Girls	322 Bell Avenue

**VI**

R. C. No. \_\_\_\_\_ - 20 - 21. By LICENSING, HEARINGS, AND PUBLIC SAFETY  
COMMITTEE. January 18, 2021.

Your Committee to whom was referred R. O. No. 86-20-21 by City Clerk submitting various license applications; recommends Taxicab Driver License Application No. 3387 (Shyan M. Lipp) be denied due to her record of violations related to the licensed activity and her history as a habitual law offender.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ Committee

I HEREBY CERTIFY that the foregoing Committee Report was duly accepted and adopted by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, City Clerk

Approved \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, Mayor

II

3.5

R. O. No. 86 - 20 - 21. By CITY CLERK. October 19, 2020.

Submitting various license applications for the period ending December 31, 2020 and June 30, 2022.

\_\_\_\_\_  
City Clerk

BEVERAGE OPERATOR'S LICENSE (NEW) (June 30, 2022)

<u>No.</u>	<u>Name</u>	<u>Address</u>
3374	Allison, Destiny S.	3509 Eisner Ct. Apt D
2422	Bitter, Georgia S.	1011 S. 17 <sup>th</sup> Street
3379	Burns, Tricia M.	3023 N. 25 <sup>th</sup> Street
8558	Butler, Stefanni L.	1717 N. 2 <sup>nd</sup> Street
3384	Crosson, Amber L.	828 Whitcomb Avenue
3389	Damrow, Kelly M.	26 Ashwood Drive
3378	Evans, Dylan T.	1118 S. 13 <sup>th</sup> Street
2484	Hattleli, Lonnie A.	1501 S. 8 <sup>th</sup> Street
3390	Mallmann, Brianna A.	2316 S. 11 <sup>th</sup> Street
3381	Parke, Michael J.	1536 N. 35 <sup>th</sup> Street Apt. C
3388	Peterson, Christine	1903 S. 14 <sup>th</sup> Street
3385	Rolon, Janeliz	510 N. 15 <sup>th</sup> Street
2331	Wollin, Kristopher A.	3201 S. 12 <sup>th</sup> Street

TAXICAB DRIVERS LICENSE (NEW) (December 31, 2020)

<u>No.</u>	<u>Name</u>	<u>Address</u>
0799	Johnson, Mollijayne M.	W1833 Smies Road, Oostburg
3387	Lipp, Shyan M.	1133 Broadway Avenue #A

AHPS  
10-28 hold # 3387  
grant # 0799 contingent  
1-13-21 Deny # 3387

VII

R. C. No. \_\_\_\_\_ - 20 - 21. By LICENSING, HEARINGS, AND PUBLIC SAFETY COMMITTEE. January 18, 2021.

Your Committee to whom was referred pursuant to R. O. No. 117-20-21 by City Clerk submitting various license applications; recommends granting the following license applications with caveat (\*):

BEVERAGE OPERATOR'S LICENSE (NEW) (June 30, 2022)

<u>No.</u>	<u>Name</u>	<u>Address</u>
8017	Anderson, Randolph C.	1941 N. 35 <sup>th</sup> Street, Manitowoc
3443	Boje, Lorna M.	3635 S. 10 <sup>th</sup> Street
0891	Bower, Steven J.	2921 Whispering Winds Drive
3427	Favretto, Larissa M.	1320A Michigan Avenue
3444	Hemb, Jeanine	1218 N. 31 <sup>st</sup> Street
6554	Hough, Jennifer L.	616 Leavens Avenue, Sheb. Falls
3442	Landgraf Sr., Scott R.	1412 Illinois Avenue
1821	Lopez, Norma	1928 N. 11 <sup>th</sup> Street Apt. A
3438	Meyer, Breanna F.	3501 Lakeshore Road Apt. 2B
0679	O'Neil, Shaughn E.	2316 S. 17 <sup>th</sup> Street
3432	Ophelan, Amanda S.	1206 S. 13 <sup>th</sup> Street
3430	Ringwell, Valerie A.	2414 North Avenue
3433	Torres, Tanner N.	1522A S. 8 <sup>th</sup> Street
3428	Trudeau, Dennis T.	1727 N. 4 <sup>th</sup> Street
9846	Waraich, Celia M.	N6233 Woodland Road
1837	Wilmot, Chelsy	1326 Geele Avenue

COMMERCIAL QUADRICYCLE BUSINESS (RENEW) (December 31, 2021)

<u>No.</u>	<u>Name</u>	<u>Address</u>
3321	Shebikin' Pedal Tours	2205 S. 8 <sup>th</sup> Street

QUADRICYCLE DRIVER LICENSE (RENEW) (December 31, 2021)

<u>No.</u>	<u>Name</u>	<u>Address</u>
2148	Vannieuwenhoven, Justin P.	2205 S. 8 <sup>th</sup> Street

MASSAGE ESTABLISHMENT LICENSE (RENEW) (December 31, 2021)

<u>No.</u>	<u>Name</u>	<u>Address</u>
3626	Integrated Health Therapies Inc.	833 Pennsylvania Avenue #103
2868	Intouch	1427 N. 4 <sup>th</sup> Street

TAXICAB DRIVERS LICENSE (NEW) (December 31, 2021)

<u>No.</u>	<u>Name</u>	<u>Address</u>
*2558	Bogart Jr., Thomas	1616 N. 12 <sup>th</sup> Street
9663	Walcott, Katherine M.	822 S. 13 <sup>th</sup> Street

\*Withdrawn by applicant

TAXICAB DRIVERS LICENSE (RENEW) (December 31, 2021)

<u>No.</u>	<u>Name</u>	<u>Address</u>
1413	Brotz, James E.	2403 S. 8 <sup>th</sup> Street
8863	Castillo, Ivan V.	1415 S. 17 <sup>th</sup> Street
3032	Schmalz, Donna M.	919 Wisconsin Avenue #309
9846	Waraich, Celia M.	N6233 Woodland Road
0142	Waraich, Jesse S.	N6233 Woodland Road
2269	Wallgren, Paul A.	4253 Honeysuckle Court H106

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ Committee

I HEREBY CERTIFY that the foregoing Committee Report was duly accepted and adopted by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_, \_\_\_\_\_, City Clerk

Approved \_\_\_\_\_ 20\_\_\_\_, \_\_\_\_\_, Mayor

# VI

R. C. No. \_\_\_\_\_ - 20 - 21. By LICENSING, HEARINGS, AND PUBLIC SAFETY COMMITTEE. January 18, 2021.

Your Committee to whom was referred R. O. No. 120-20-21 by City Clerk submitting various license applications; recommends granting the following license applications with caveat (\*):

BEVERAGE OPERATOR'S LICENSE (NEW) (June 30, 2022)

<u>No.</u>	<u>Name</u>	<u>Address</u>
9767	Gahagan, Rachel M.	1607 Camelot Blvd.
3450	Klessig, Christina M.	4319 Morningview Court J205
3447	Larson, Jordan Mae	1917 N. 20 <sup>th</sup> Street
3449	Ness, Jason A.	4027 Oakdale Court
7016	Svoboda, Marvin R.	506 N. Water Street
3446	Wield, Olivia	1522 Main Avenue

MASSAGE ESTABLISHMENT LICENSE (RENEW) (December 31, 2021)

<u>No.</u>	<u>Name</u>	<u>Address</u>
2441	Darling Therapies	604 Erie Avenue
3336	Entourage Salon And Spa	726 Michigan Avenue
1701	Salon Sase	631 Riverfront Drive

TAXICAB DRIVERS LICENSE (RENEW) (December 31, 2021)

<u>No.</u>	<u>Name</u>	<u>Address</u>
1141	Frank, Jason J.	1308 N. 15 <sup>th</sup> Street
*3260	Hilbelink, Kirsten	1220 S. 9 <sup>th</sup> Street
2611	Kristoff, Seth	N3481 E. Highway A, Sheb. Falls
1149	Stewart, Harvey L.	1535 N. 9 <sup>th</sup> Street

\*Grant application with a warning to follow the law while driving Taxicab

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ Committee

I HEREBY CERTIFY that the foregoing Committee Report was duly accepted and adopted by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_, \_\_\_\_\_, City Clerk

Approved \_\_\_\_\_ 20\_\_\_\_, \_\_\_\_\_, Mayor

**II**

Other Matters

7.1

R. O. No. 120 - 20 - 21. By CITY CLERK. January 4, 2021.

Submitting various license applications for the period ending December 31, 2021 and June 30, 2022.

\_\_\_\_\_  
City Clerk

BEVERAGE OPERATOR'S LICENSE (NEW) (June 30, 2022)

<u>No.</u>	<u>Name</u>	<u>Address</u>
9767	Gahagan, Rachel M.	1607 Camelot Blvd.
3450	Klessig, Christina M.	4319 Morningview Court J205
3447	Larson, Jordan Mae	1917 N. 20 <sup>th</sup> Street
3449	Ness, Jason A.	4027 Oakdale Court
7016	Svoboda, Marvin R.	506 N. Water Street
3446	Wield, Olivia	1522 Main Avenue

MASSAGE ESTABLISHMENT LICENSE (RENEW) (December 31, 2021)

<u>No.</u>	<u>Name</u>	<u>Address</u>
2441	Darling Therapies	604 Erie Avenue
3336	Entourage Salon And Spa	726 Michigan Avenue
1701	Salon Sase	631 Riverfront Drive

TAXICAB DRIVERS LICENSE (RENEW) (December 31, 2021)

<u>No.</u>	<u>Name</u>	<u>Address</u>
1141	Frank, Jason J.	1308 N. 15 <sup>th</sup> Street
3260	Hilbelink, Kirsten	1220 S. 9 <sup>th</sup> Street
2611	Kristoff, Seth	N3481 E. Highway A, Sheb. Falls
1149	Stewart, Harvey L.	1535 N. 9 <sup>th</sup> Street

RHPS

**VIII**

R. C. No. \_\_\_\_\_ - 20 - 21. By PUBLIC WORKS COMMITTEE. January 18, 2021.

Your Committee to whom was referred Res. No. 139-20-21 by Alderpersons Dekker and Sorenson waiving the increase of boat dock fees for City-owned dock spaces on the Sheboygan River for the 2021 season; recommends adopting the Resolution.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ Committee

I HEREBY CERTIFY that the foregoing Committee Report was duly accepted and adopted by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_, \_\_\_\_\_, City Clerk

Approved \_\_\_\_\_ 20\_\_\_\_, \_\_\_\_\_, Mayor

III

4.5

Res. No. 139 - 20 - 21. By Alderpersons Dekker and Sorenson.  
December 21, 2020.

A RESOLUTION waiving the increase of boat dock fees for City-owned dock spaces on the Sheboygan River for the 2021 season.

WHEREAS, in Res. No. 135-05-06, the Common Council of the City of Sheboygan established dock fees for the City-owned dock space on the Sheboygan River; and

WHEREAS, Res. No. 135-05-06 provided for a 5% increase of the dock fees each year; and

WHEREAS, the Common Council finds that it is appropriate to not impose this 5% increase for the 2021 season.

NOW, THEREFORE, BE IT RESOLVED: That the automatic dock fee increase established in Res. No. 135-05-06 shall not apply for the 2021 season.

As  
adopt

Drew Dekker

John Sorenson

I HEREBY CERTIFY that the foregoing Resolution was duly passed by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, City Clerk

Approved \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, Mayor

VIII

R. C. No. \_\_\_\_\_ - 20 - 21. By PUBLIC WORKS COMMITTEE. January 18, 2021.

Your Committee to whom was referred Res. No. 142-20-21 by Alderpersons Dekker and Sorenson authorizing executing a one-year lease for the agricultural property in the City of Sheboygan formerly owned by John Poth, Jr.; recommends adopting the Resolution.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Committee

I HEREBY CERTIFY that the foregoing Committee Report was duly accepted and adopted by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, City Clerk

Approved \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, Mayor

III

4.3

Res. No. 142 - 20 - 21. By Alderpersons Dekker and Sorenson.  
January 4, 2021.

A RESOLUTION authorizing executing a one-year lease for the agricultural property in the City of Sheboygan formerly owned by John Poth, Jr.

RESOLVED: That the Mayor and City Clerk are hereby authorized and directed to execute the attached lease with David L. Gartman for the 2021 agricultural use of approximately 30 acres of the former John Poth, Jr. property in the City of Sheboygan.

PK  
adopt.

Devin Dekker  
[Signature]

I HEREBY CERTIFY that the foregoing Resolution was duly passed by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, City Clerk  
Approved \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, Mayor

**LEASE AGREEMENT**

**THIS AGREEMENT**, made this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by and between the City of Sheboygan, Wisconsin, a municipal corporation of the State of Wisconsin, hereinafter referred to as "**LESSOR**," and David L. Gartman, 5509 Moenning Rd., Sheboygan, WI 53081, hereinafter referred to as "**LESSEE**."

**IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE LESSOR AND THE LESSEE:**

1. That the **LESSOR** does hereby lease and let unto the **LESSEE** approximately 30 acres of tillable land located within certain agricultural property described as follows:

59281470988      S 1/2 OF S.W. S.W., Sec. 10

59281470989      S 1/2 of S.E. S.W., Sec. 10

59281472509      W 1/2 of N.W. S.E., Sec. 10

59281472510      N 1/2 of W 1/2 of S.W. S.E., Sec. 10

59281-470988/470989/  
472509 & 472510  
Parcel Ident. No.

All in T.14N., R.23E., City of Sheboygan, County of Sheboygan, State of Wisconsin.

2. That the term of this lease shall be for the period from January 1, 2021 through December 31, 2021.

3. That the total rental rate for this parcel of land for 2021 shall be at the rate of seventy (\$70.00) dollars per acre, for a total of two thousand one hundred (\$2,100.00) dollars per year, which shall be due and payable at the office of the Department of Public Works on the fifteenth (15th) day of December, 2021.

4. That the **LESSEE** shall use the plot of land only for agricultural purposes and that no other type of use is permitted thereon.

5. That the **LESSEE** agrees that the **LESSOR** may, at reasonable and proper times, and upon reasonable notice, enter upon the leased property whenever it is deemed to be in the public interest.

6. That the **LESSEE** shall save, protect and conserve the land to the best of his ability and commit no waste thereon.

7. The **LESSEE** hereby agrees that he will not assign, sublease, or otherwise grant or permit any other person to use the plot for any purpose whatsoever.

8. The **LESSEE** agrees to make no improvements of any kind whatsoever in or on the land.

9. The **LESSEE** hereby agrees that he will not encumber the land or crops growing thereon.

10. **LESSEE** shall not erect, install, operate or allow same, in or upon the land, any signs or other similar advertising devices without first having obtained the **LESSOR'S** written consent therefor.

11. **LESSOR** may construct, install and operate one (1) sign on said premises identifying said property.

12. The parties acknowledge that the property is being actively marketed for sale by **LESSOR**. **LESSOR** may remove from the total acreage leased any part thereof upon at least thirty (30) days written notice to **LESSEE**, and **LESSOR** shall not pay any damages for such taking of property from the **LESSEE**.

13. **LESSOR** shall be responsible for any and all taxes upon said land.

14. **LESSEE** shall save **LESSOR** harmless from any loss, cost or damage that may arise out of or in connection with this lease or the use of said premises by **LESSEE**, his agents, employees or any other person using said premises.

15. In the event the **LESSEE** shall become bankrupt or insolvent, or should a trustee or receiver be appointed to administer the **LESSEE'S** business, neither this lease nor any interest herein shall become an asset of such trustee or receiver, and, in the event of the appointment of any such trustee or receiver, this lease shall immediately terminate and end.

16. Waiver by the **LESSOR** of any default in performance by the **LESSEE** of any of the terms, covenants, or conditions contained herein, shall not be deemed a continuing waiver of the same or any subsequent default herein.

17. **LESSEE** shall have no right or interest in the renewal of this lease agreement.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2021.

**LESSEE**

**BY:** \_\_\_\_\_  
David L. Gartman

Dated this \_\_\_\_ day of \_\_\_\_\_, 2021.

**CITY OF SHEBOYGAN (LESSOR)**

**BY:** \_\_\_\_\_  
Michael J. Vandersteen  
Mayor

**ATTEST:** \_\_\_\_\_  
Meredith DeBruin  
City Clerk

Examined and Approved as to  
Form and Execution this \_\_\_\_  
day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Charles C. Adams  
City Attorney

This document is authorized by and in accordance with Res. No.  
\_\_\_\_-20-21.



City of  
**Sheboygan**  
spirit on the lake.

April 21, 2021

Mr. David L. Gartman  
5509 Moenning Road  
Sheboygan, WI 53081

Re: Lease of the Former Poth Property

Dear Mr. Gartman:

Enclosed please find a fully executed copy of the Lease Agreement for lease of the approximately 30 acres of agricultural land on the former Poth property for 2021.

Should you have any questions, please feel free to contact me.

Sincerely,

*Charles C. Adams*  
(Kah)

Charles C. Adams  
CITY ATTORNEY

CCA/kah  
Enclosure

cc: Deputy Finance Director Tara Duwe (w/enc.) via email  
City Clerk Meredith DeBruin (w/enc.) via email  
(authorized by Res. No. 142-20-21)

CITY ATTORNEY'S OFFICE

CITY HALL  
828 CENTER AVENUE  
SUITE 210  
SHEBOYGAN, WI 53081

920/459-3917  
FAX 920/459-3919

[www.sheboyganwi.gov](http://www.sheboyganwi.gov)

LEASE AGREEMENT

THIS AGREEMENT, made this 26<sup>th</sup> day of March, 2021, by and between the City of Sheboygan, Wisconsin, a municipal corporation of the State of Wisconsin, hereinafter referred to as "LESSOR," and David L. Gartman, 5509 Moening Rd., Sheboygan, WI 53081, hereinafter referred to as "LESSEE."

IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE LESSOR AND THE LESSEE:

1. That the LESSOR does hereby lease and let unto the LESSEE approximately 30 acres of tillable land located within certain agricultural property described as follows:

59281470988	S 1/2 OF S.W. S.W., Sec. 10	59281-470988/470989/ 472509 & 472510 <small>Parcel Ident. No.</small>
59281470989	S 1/2 of S.E. S.W., Sec. 10	
59281472509	W 1/2 of N.W. S.E., Sec. 10	
59281472510	N 1/2 of W 1/2 of S.W. S.E., Sec. 10	

All in T.14N., R.23E., City of Sheboygan, County of Sheboygan, State of Wisconsin.

2. That the term of this lease shall be for the period from January 1, 2021 through December 31, 2021.

3. That the total rental rate for this parcel of land for 2021 shall be at the rate of seventy (\$70.00) dollars per acre, for a total of two thousand one hundred (\$2,100.00) dollars per year, which shall be due and payable at the office of the Department of Public Works on the fifteenth (15th) day of December, 2021.

4. That the LESSEE shall use the plot of land only for agricultural purposes and that no other type of use is permitted thereon.

5. That the LESSEE agrees that the LESSOR may, at reasonable and proper times, and upon reasonable notice, enter upon the leased property whenever it is deemed to be in the public interest.

6. That the LESSEE shall save, protect and conserve the land to the best of his ability and commit no waste thereon.

7. The **LESSEE** hereby agrees that he will not assign, sublease, or otherwise grant or permit any other person to use the plot for any purpose whatsoever.

8. The **LESSEE** agrees to make no improvements of any kind whatsoever in or on the land.

9. The **LESSEE** hereby agrees that he will not encumber the land or crops growing thereon.

10. **LESSEE** shall not erect, install, operate or allow same, in or upon the land, any signs or other similar advertising devices without first having obtained the **LESSOR'S** written consent therefor.

11. **LESSOR** may construct, install and operate one (1) sign on said premises identifying said property.

12. The parties acknowledge that the property is being actively marketed for sale by **LESSOR**. **LESSOR** may remove from the total acreage leased any part thereof upon at least thirty (30) days written notice to **LESSEE**, and **LESSOR** shall not pay any damages for such taking of property from the **LESSEE**.

13. **LESSOR** shall be responsible for any and all taxes upon said land.

14. **LESSEE** shall save **LESSOR** harmless from any loss, cost or damage that may arise out of or in connection with this lease or the use of said premises by **LESSEE**, his agents, employees or any other person using said premises.

15. In the event the **LESSEE** shall become bankrupt or insolvent, or should a trustee or receiver be appointed to administer the **LESSEE'S** business, neither this lease nor any interest herein shall become an asset of such trustee or receiver, and, in the event of the appointment of any such trustee or receiver, this lease shall immediately terminate and end.

16. Waiver by the **LESSOR** of any default in performance by the **LESSEE** of any of the terms, covenants, or conditions contained herein, shall not be deemed a continuing waiver of the same or any subsequent default herein.

17. **LESSEE** shall have no right or interest in the renewal of this lease agreement.

Dated this 24 day of Feb., 2021.

**LESSEE**

BY: David L. Gartman  
David L. Gartman

Dated this 8<sup>th</sup> day of February, 2021.

**CITY OF SHEBOYGAN (LESSOR)**

BY: Michael J. Vandersteen  
Michael J. Vandersteen  
Mayor

ATTEST: Meredith DeBruin  
Meredith DeBruin  
City Clerk

Examined and Approved as to  
Form and Execution this 26  
day of March, 2021.

Charles C. Adams  
Charles C. Adams  
City Attorney

This document is authorized by and in accordance with Res. No.  
142-20-21.

**IX**

R. C. No. \_\_\_\_\_ - 20 - 21. By PUBLIC WORKS COMMITTEE. January 18, 2021.

Your Committee to whom was referred Gen. Ord. No. 30-20-21 by Alderpersons Dekker and Sorenson creating a no parking zone on the east side of Riverfront Drive south of Pennsylvania Avenue; recommends adopting the Ordinance.

_____	_____
_____	_____
_____	_____

Committee

I HEREBY CERTIFY that the foregoing Committee Report was duly accepted and adopted by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, City Clerk

Approved \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, Mayor

**I**

6.2

Gen. Ord. No. 30 - 20 - 21. By Alderpersons Dekker and Sorenson  
December 21, 2020.

AN ORDINANCE creating a no parking zone on the east side of Riverfront Drive south of Pennsylvania Avenue.

THE COMMON COUNCIL OF THE CITY OF SHEBOYGAN DO ORDAIN AS FOLLOWS:

Section 1. Pursuant to Section 118-126 of the Municipal Code entitled "Prohibitions and Restrictions Authorized," the east side of Riverfront Drive from the south curb line of Pennsylvania Avenue to 160 feet south of the south curb line of Pennsylvania Avenue is hereby added to the list of locations where parking is not permitted.

Section 2. The Department of Public Works and the Police Department are hereby authorized and directed to install the signs to give notification of the aforementioned parking restriction.

Section 3. All ordinances or parts thereof in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, and this ordinance shall be in effect from and after its passage and publication.

*Per  
adopt*

*Dean Dekker*

*Joe Sob...*

I HEREBY CERTIFY that the foregoing Ordinance was duly passed by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, City Clerk

Approved \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, Mayor

**II**

R. O. No. \_\_\_\_\_ - 20 - 21. By CITY PLAN COMMISSION. January 18, 2021.

Your Commission to whom was referred Gen. Ord. No. 29-20-21 by Alderperson Donohue and R. O. No. 116-20-21 by City Clerk granting John Michael Kohler Arts Center, its successors and assigns, the privilege of encroaching upon described portions of the 600 block of New York Avenue in the City of Sheboygan for the purpose of adding a second entrance sign; wishes to report this matter was discussed at the regular meeting of the City Plan Commission, January 12, 2021, and after due consideration, recommends receiving the R. O. and adopting the Ordinance.

---

CITY PLAN COMMISSION

**I**

6.1

Gen. Ord. No. 29 - 20 - 21. By Alderperson Donohue. December 21, 2020.

AN ORDINANCE granting John Michael Kohler Arts Center, its successors and assigns, the privilege of encroaching upon described portions of the 600 block of New York Avenue in the City of Sheboygan for the purpose of adding a second entrance sign.

THE COMMON COUNCIL OF THE CITY OF SHEBOYGAN DO ORDAIN AS FOLLOWS:

Section 1. Subject to the terms and conditions contained herein, John Michael Kohler Arts Center, its successors and assigns, is hereby granted the privilege of encroaching portions of the 600 block of New York Avenue, City of Sheboygan, Sheboygan County, Wisconsin, as follows:

Commencing at the northeast corner Block 309, Original Plat, City of Sheboygan; thence N89°34'00"W, along the north line Block 309, 80.73 feet; thence N00°26'00"E 7.66 feet to the point of beginning:

Thence, continuing N00°26'00"E 11.43 feet to the back of the south curb of New York Avenue; thence N89°46'09"W, along said back of curb, 11.00 feet; thence S00°26'00"W 11.37 feet to the face of the south sidewalk of New York Avenue; thence S89°28'18"E, along said face of walk, 11.00 feet to the point of beginning, and containing 125 square feet of land.

Also,

Commencing at the northeast corner Block 309, Original Plat, City of Sheboygan; thence N89°34'00"W, along the north line Block 309, 158.43 feet; thence N00°26'00"E 7.78 feet to the point of beginning:

Thence, continuing N00°26'00"E 11.03 feet to the back of the south curb of New York Avenue; thence N89°46'09"W, along said back of curb, 11.00 feet; thence S00°26'00"W 10.98 feet to the face of the south sidewalk of New York Avenue; thence S89°29'39"E, along said face of walk, 11.00 feet to the point of beginning, and containing 121 square feet of land.

for the purpose of adding a second entrance sign in accordance with the sketch attached hereto and made a part hereof.

Section 2. The privilege as granted above is granted only on the condition that by the acceptance of the privilege, the said John Michael Kohler Arts Center, its successors and assigns:

a. Shall become primarily responsible and liable for all and any damage to persons or property caused by and arising from the grant and exercise of such privilege.

*City Plan  
adopt*

b. Shall remove the encroachment allowed herein within ten (10) days after notice so to remove given by the State of Wisconsin or the City of Sheboygan; in the event of the failure so to remove, the said John Michael Kohler Arts Center its successors and assigns: shall pay the costs of removal by the State of Wisconsin or the City of Sheboygan, waiving all claim or claims for damages resulting from such removal, whether the removal is done by the said John Michael Kohler Arts Center, its successors and assigns, or by the State of Wisconsin or by the City of Sheboygan.

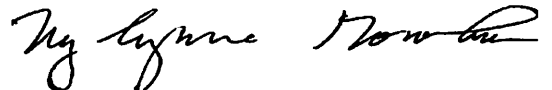
c. Shall pay such compensation to the City of Sheboygan for the grant of this privilege as may be determined by a board consisting of the Mayor, the Director of Public Works and the City Attorney; the compensation shall be paid into the General Fund.

d. Shall make such construction and/or alterations and maintain the same subject to the approval of the City Building Inspector and Director of Public Works, and shall waive the right to contest in any manner the validity of this ordinance or the amount of compensation charged.

Section 3. The provisions of §66.045(1)(2) of the Wisconsin Statutes are incorporated herein by reference to all intents and purposes as if set out fully.

Section 4. The City Clerk is authorized and directed to record a certified copy of this ordinance in the office of the Register of Deeds for Sheboygan County, Wisconsin, the costs thereof to be charged to the General Fund.

Section 5. This ordinance shall take effect and be in full force from and after its passage and publication and upon payment of the consideration to be determined hereunder, provided, however, that in the event of failure to exercise the privilege herein granted and the payment of such consideration within six (6) months from the effective date hereof, then and in that event such privilege shall be rendered null and void.



I HEREBY CERTIFY that the foregoing Ordinance was duly passed by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, City Clerk

Approved \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, Mayor

# JOHN MICHAEL KOHLER ARTS CENTER ENCROACHMENT REQUEST

## DESCRIPTION

Part of the 600 block of New York Avenue, City of Sheboygan, Sheboygan County, Wisconsin.

Commencing at the northeast corner Block 309, Original Plat, City of Sheboygan; thence N89°34'00"W, along the north line Block 309, 80.73 feet; thence N00°26'00"E 7.66 feet to the point of beginning:

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Also,

Commencing at the northeast corner Block 309, Original Plat, City of Sheboygan; thence N89°34'00"W, along the north line Block 309, 158.43 feet; thence N00°26'00"E 7.78 feet to the point of beginning:

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I HEREBY CERTIFY THAT THIS SURVEY IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF



DECEMBER 8, 2020

EDGAR HARVEY, JR. WI RLS NO S-1489

BEARINGS HEREON ARE REFERENCED TO THE SHEBOYGAN COUNTY COORDINATE GRID.

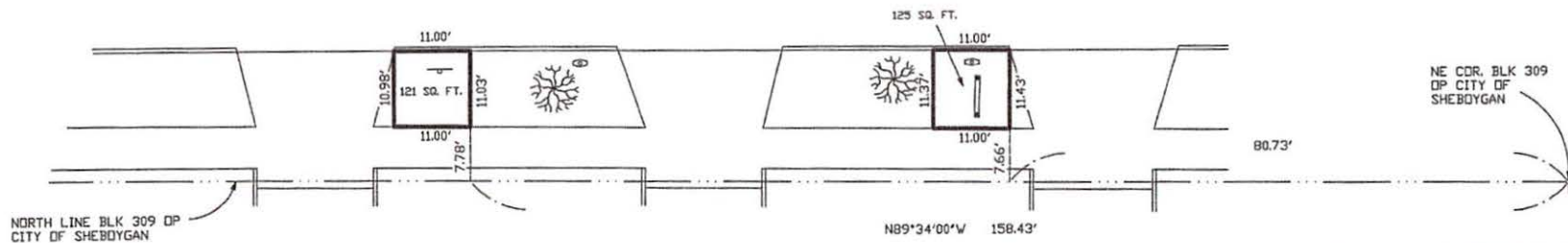


SCALE: 1" = 20'

## LEGEND

- ONE INCH IRON PIPE FOUND
- ⊥ PARKING RESTRICTION SIGN
- ⊕ PARKING METER
- ▬ EXISTING SIGN TO BE REPLACED

NEW YORK AVENUE



ED HARVEY'S LAND OFFICE, LLC.  
 N3635 TIMBERVIEW ROAD  
 WALDO, WI 53093  
 920-528-7071





# **John Michael Kohler Arts Center**

---

608 New York Ave  
Sheboygan, WI

**S1 D/F Illuminated Directional**

Remove existing parking monument to grade. Install (2) new d/f illuminated directionals, one per entrance. Directionals to have aluminum construction with push-thru copy. Logo (and possibly "visitor parking" copy) to be routed and backed due to size.

-  Faces & Returns: Painted N923SP Black
-  3M #3630-20 white vinyl

**Before**

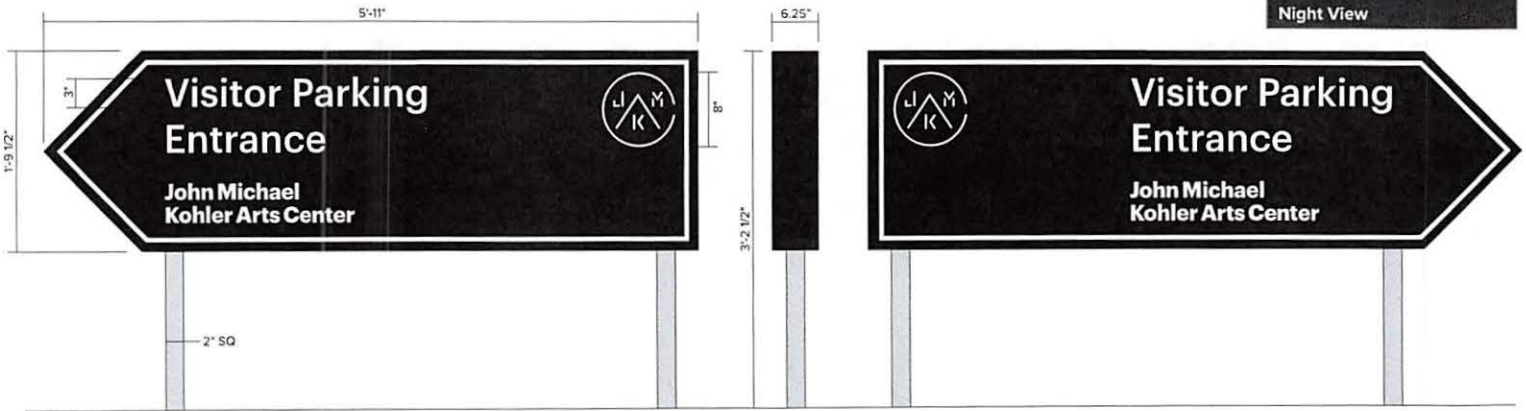


Existing Sign: 71" x 34"

**After**



Night View



Scale 1:1.10



Revisions:	Revisions:	Revisions:
Added author - KB - 8.2.2020	X	X
Updated title - KB - 10.2.2020	X	X
Revised text type - BM / 10.15.2020	X	X

Revisions:	Revisions:	Revisions:
X	X	X
X	X	X
X	X	X

Revisions:	Revisions:	Revisions:
X	X	X
X	X	X
X	X	X

File Location Drive/Client/	STND CSTMA
<input type="checkbox"/> AS	<input checked="" type="checkbox"/> CR
<input type="checkbox"/> EN	<input type="checkbox"/> EN

Date	08-25-2020
Designer	KB PM TB

City/State	Sheboygan, WI
Address	608 New York Ave

Drawing #	<b>C67646-2</b>
OE #	137034

S1

D/F Illuminated Directional

Placement/setback info

DIRECTIONAL 1

Before



Existing Sign: 71" x 34"

After

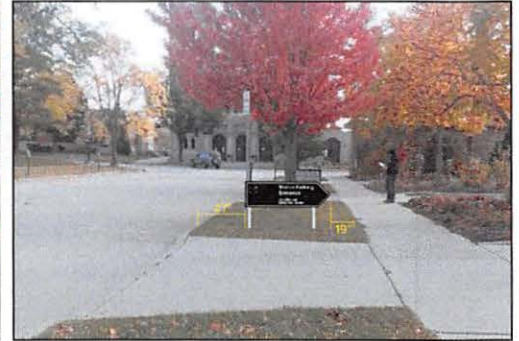


DIRECTIONAL 2

Before



After



Revisions:
X
X
X

Revisions:
X
X
X

Revisions:
X
X
X

File Location: Drive/Client/  
 AS  CR  EN

STND: CSTM

Date: 09-25-2020  
 Designer: K9 PM: TB

City/State: Sheboygan, WI  
 Address: 608 New York Ave

Drawing # **C67646-2**  
 OE # **137034**

**II**

31

R. O. No. 116 - 20 - 21. By CITY CLERK. December 21, 2020.

Submitting a communication from John Michael Kohler Arts Center requesting an encroachment on a portion of the 600 block of New York Avenue to add a second entrance sign.

*City Plan*

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CITY CLERK



November 2, 2020

To whom it may concern:

I write to you today to request consideration of an additional parking lot entrance sign.

Currently, we have one parking lot entrance sign next to the east driveway of our parking lot on New York Ave. across from the Arts Center. We are currently in the process of updating our branding and changing out the signage around the building.

One of the changes we would like to add is a second entrance sign next to the west driveway of the same parking lot. This would give a sense of balance to the two entrances as well as make the west entrance more visible to the arriving visitors.

We appreciate the consideration in this matter and look forward to any questions that you may have.

Thank you!

Douglas Brusky

Deputy Director of Operations

**John Michael  
Kohler Arts Center**

608 New York Ave  
Sheboygan, WI 53081  
+1 920 458 6144  
jmkac.org

# JOHN MICHAEL KOHLER ARTS CENTER ENCROACHMENT REQUEST

**DESCRIPTION**

Part of the 600 block of New York Avenue, City of Sheboygan, Sheboygan County, Wisconsin.

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EDGAR HARVEY, JR. WI RLS NO S-1489



BEARINGS HEREON ARE REFERENCED TO THE SHEBOYGAN COUNTY COORDINATE GRID.

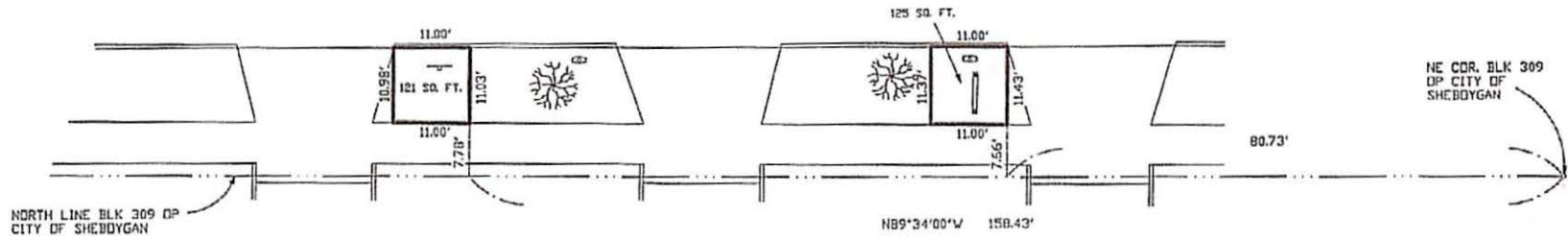


SCALE: 1" = 20'

**LEGEND**

- ONE INCH IRON PIPE FOUND
- ⊥ PARKING RESTRICTION SIGN
- ⊞ PARKING METER
- ▭ EXISTING SIGN TO BE REPLACED

NEW YORK AVENUE



ED HARVEY'S LAND OFFICE, LLC.  
N3635 TIMBERVIEW ROAD  
WALDO, WI 53093  
920-528-7071




# **John Michael Kohler Arts Center**

---

608 New York Ave  
Sheboygan, WI

**S1** D/F Illuminated Directional

Remove existing parking monument to grade. Install (2) new d/f illuminated directionals, one per entrance. Directionals to have aluminum construction with push-thru copy. Logo (and possibly "visitor parking" copy) to be routed and backed due to size.

 Faces & Returns: Painted N9235P Black

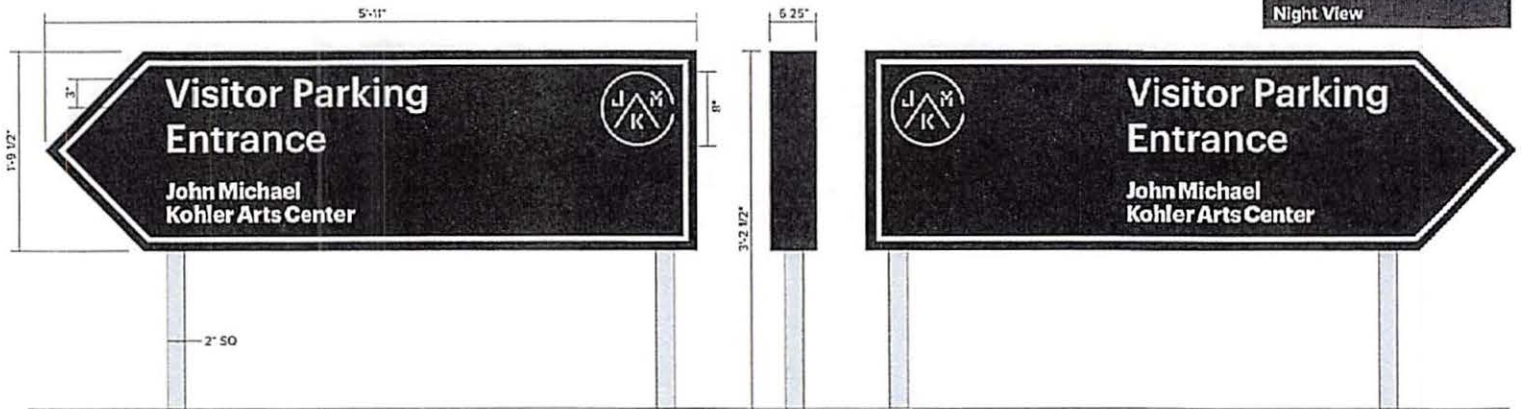
 3M #3630-20 white vinyl

Before



Existing Sign: 71" x 34"

After



Scale 1/10



Professional:  
 Address: 605 New York Ave  
 Milwaukee, WI 53212  
 Phone: 414.224.2222

Revisions:

Revisions:

File Location: S:\1702  
 Draw: C374

Date: 08-15-2019

City/State: Sheboygan, WI

Drawing #: **C67646-2**

AS  CH  EN

Designer: KB PM: TB Address: 605 New York Ave

GE # **137034**

**S1** D/F Illuminated Directional

Placement/setback info

**DIRECTIONAL 1**

Before



Existing Sign: 71" x 34"

After

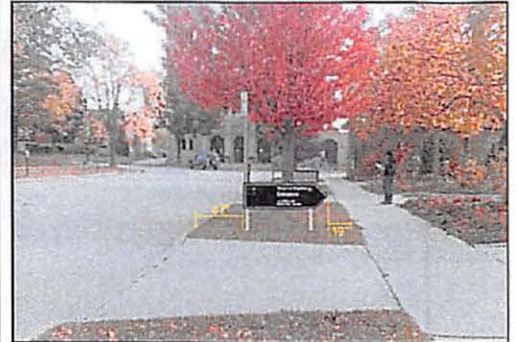


**DIRECTIONAL 2**

Before



After



Revisions:  
1  
2

Revisions:  
1  
2

Revisions:  
1  
2

File Location  
Drawn/Checked  
AS CR EN

STND  
CSTM

Date: 08-25-2020

City/State: Shattuckville, VA

Drawing # **C67646-2**

Designer: KB

PM: TB

Address: 508 New York Ave

DC # **137034**

III

R. O. No. \_\_\_\_\_ - 20 - 21. By CITY CLERK. January 18, 2021.

Submitting an amended Notice of Circumstances of Claim from Habush Habush & Rottier S.C. for alleged injuries that Austin Stiebs sustained on December 18, 2020.

---

CITY CLERK

F+P

JAN 12 '21 PM 2:08

**AMENDED NOTICE OF CIRCUMSTANCES OF CLAIM**

**TO: SHEBOYGAN COUNTY**  
**c/o Jon Dolson, County Clerk**  
**508 New York Avenue**  
**Sheboygan, WI 53081**

**AGING AND DISABILITY RESOURCE CENTER OF SHEBOYGAN COUNTY**  
**c/o Michelle Acevedo, ADRC Manager**  
**650 Forest Avenue**  
**Sheboygan Falls, WI 53085**

**CITY OF SHEBOYGAN**  
**c/o Meredith DeBruin, City Clerk**  
**828 Center Avenue, Suite 103**  
**Sheboygan, WI 53081**

**MARK A. FEUSTEL**  
**1416 Illinois Avenue, Apt. A**  
**Sheboygan, WI 53085**

Process Server  
 Date: 1/12/21 Time: 2:00 am  
 Personal  Substitute  
 Posted  Corporate

PLEASE TAKE NOTICE that Austin Stiebs who resides at 2245 N. 29<sup>th</sup> Street, Sheboygan, Wisconsin 53081, by his attorneys, HABUSH HABUSH & ROTTIER S.C.<sup>®</sup>, pursuant to Wis. Stat. § 893.80(1d)(a), does hereby serve written notice on you of the circumstances of a claim against you for damages arising out of the personal injuries sustained Austin Stiebs on December 18, 2020, as a result of a passenger van/passenger bus/automobile driven by Mark A. Feustel at the intersection of North 25<sup>th</sup> Street and Geele Avenue, in the city of Sheboygan, County of Sheboygan, State of Wisconsin.

These injuries and damages were sustained by reason of the negligence of the County of Sheboygan and Aging and Disability Resource Center of Sheboygan County and the City of Sheboygan through their employee, agent and representative, including Mark A. Feustel.



II

R. O. No. \_\_\_\_\_ - 20 - 21. By CITY CLERK. January 18, 2021.

Submitting a Summons and Complaint in the matter of UnitedOne Credit Union vs. Kathleen Repphun-Burss et al.

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CITY CLERK

F&P

**STATE OF WISCONSIN                      CIRCUIT COURT                      SHEBOYGAN**

UnitedOne Credit Union vs. Kathleen Repphun-Burss et al    **Electronic Filing Notice**

Case No. 2021CV000010  
Class Code: Foreclosure of Mortgage

FILED  
01-12-2021  
Sheboygan County  
Clerk of Circuit Court  
2021CV000010  
Honorable L Edward  
Stengel  
Branch 1  
JAN 14 '21 PM 8:18

CITY OF SHEBOYGAN  
828 CENTER AVENUE  
SHEBOYGAN WI 53081

Served On  
Name: City of Sheboygan  
Address: 828 Center Avenue  
City: Sheboygan, WI  
Date: 1/14/21  
Time: 3:15 PM  
Served By: Melissa Cleverger

Case number 2021CV000010 was electronically filed with/converted by the Sheboygan County Circuit Court office. The electronic filing system is designed to allow for fast, reliable exchange of documents in court cases.

Parties who register as electronic parties can file, receive and view documents online through the court electronic filing website. A document filed electronically has the same legal effect as a document filed by traditional means. Electronic parties are responsible for serving non-electronic parties by traditional means.

You may also register as an electronic party by following the instructions found at <http://efiling.wicourts.gov/> and may withdraw as an electronic party at any time. There is a \$20.00 fee to register as an electronic party.

If you are not represented by an attorney and would like to register an electronic party, you will need to enter the following code on the eFiling website while opting in as an electronic party.

**Pro Se opt-in code: fae0e3**

Unless you register as an electronic party, you will be served with traditional paper documents by other parties and by the court. You must file and serve traditional paper documents.

Registration is available to attorneys, self-represented individuals, and filing agents who are authorized under Wis. Stat. 799.06(2). A user must register as an individual, not as a law firm, agency, corporation, or other group. Non-attorney individuals representing the interests of a business, such as garnishees, must file by traditional means or through an attorney or filing agent. More information about who may participate in electronic filing is found on the court website.

If you have questions regarding this notice, please contact the Clerk of Circuit Court at 920-459-3068.

Sheboygan County Circuit Court  
Date: January 12, 2021

FILED  
01-12-2021  
Sheboygan County  
Clerk of Circuit Court  
2021CV000010  
Honorable L. Edward  
Stengel  
Branch 1

STATE OF WISCONSIN      CIRCUIT COURT      SHEBOYGAN COUNTY

---

UNITEDONE CREDIT UNION  
1117 South 10<sup>th</sup> Street  
Manitowoc, WI 54220

Plaintiff,

Case No. 21-CV-\_\_\_\_\_  
Classification Codes: 30404

vs.

KATHLEEN REPPHUN-BURSS  
a/k/a KATHLEEN S. BURSS  
1541 Division Ave.  
Sheboygan, WI 53083

GARY BURSS  
1541 Division Ave.  
Sheboygan, WI 53083

WENDY MICHELS  
3105 N. 13<sup>th</sup> Street, #23  
Sheboygan, WI 53083-3964

LAKESHORE CAP, INC. OF WISCONSIN  
702 State Street  
Manitowoc, WI 54221

CITY OF SHEBOYGAN  
828 Center Avenue  
Sheboygan, WI 53081

Defendants.

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**SUMMONS**

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THE STATE OF WISCONSIN

To each person named above as a Defendant:

You are hereby notified that the Plaintiff, UnitedOne Credit Union, has filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

**This communication is from a debt collector, and is an attempt to collect a debt. Any information provided to the undersigned by you in response to this communication or other communications we have with you will be used for the purposes of collecting this debt.**

Within twenty (20) days of receiving this Summons, the Defendants must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the Complaint. The Court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the Court, whose address is Sheboygan County Courthouse, 615 N. 5<sup>th</sup> Street, Sheboygan, Wisconsin 53081 and to the Law Firm of Conway, Olejniczak & Jerry, S.C., Plaintiff's attorneys, whose address is 231 South Adams Street, P.O. Box 23200, Green Bay, Wisconsin, 54305-3200. You may have an attorney help or represent you.

If you do not provide a proper answer within the time period stated above, the Court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated this 12<sup>th</sup> day of January, 2021.

LAW FIRM OF CONWAY, OLEJNICZAK & JERRY, S.C.  
Attorneys for Plaintiff

*Electronically signed by Michele M. McKinnon*

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

Michele M. McKinnon  
State Bar No. 1041053

POST OFFICE ADDRESS:  
231 South Adams Street  
P.O. Box 23200  
Green Bay, WI 54305-3200  
(920) 437-0476  
3645199

**This communication is from a debt collector, and is an attempt to collect a debt. Any information provided to the undersigned by you in response to this communication or other communications we have with you will be used for the purposes of collecting this debt.**

FILED  
01-12-2021  
Sheboygan County  
Clerk of Circuit Court  
2021CV000010  
Honorable L Edward  
Stengel  
Branch 1

STATE OF WISCONSIN      CIRCUIT COURT      SHEBOYGAN COUNTY

---

UNITEDONE CREDIT UNION  
1117 South 10<sup>th</sup> Street  
Manitowoc, WI 54220

Plaintiff,

Case No. 21-CV-\_\_\_\_\_  
Classification Codes: 30404

vs.

KATHLEEN REPPHUN-BURSS  
a/k/a KATHLEEN S. BURSS  
1541 Division Ave.  
Sheboygan, WI 53083

GARY BURSS  
1541 Division Ave.  
Sheboygan, WI 53083

WENDY MICHELS  
3105 N. 13<sup>th</sup> Street #23  
Sheboygan, WI 53083-3964

LAKESHORE CAP, INC. OF WISCONSIN  
702 State Street  
Manitowoc, WI 54221

CITY OF SHEBOYGAN  
828 Center Avenue  
Sheboygan, WI 53081

Defendants.

---

**COMPLAINT**

---

Plaintiff, UnitedOne Credit Union, by its attorneys, named below, alleges and shows the Court the following:

**THE PARTIES**

**This communication is from a debt collector, and is an attempt to collect a debt. Any information provided to the undersigned by you in response to this communication or other communications we have with you will be used for the purposes of collecting this debt.**

1. Plaintiff **UNITEDONE CREDIT UNION** (“UnitedOne”) is a lending institution organized, among other things, to lend money on notes, secured or unsecured, and other purposes as provided by law, with offices located at 1117 South 10<sup>th</sup> Street, Manitowoc, WI 54220.

2. Defendant **KATHLEEN REPPHUN-BURSS a/k/a KATHLEEN S. BURSS** (“Kathleen”, and referred collectively with Gary Burss as the “Bursse”) is, upon information and belief, an adult resident of the State of Wisconsin residing at 1541 Division Avenue, Sheboygan, Wisconsin 53083.

3. Defendant **GARY BURSS** (referred collectively with Kathleen Repphun-Burss as the “Bursse”) is, upon information and belief, an adult resident of the State of Wisconsin residing at 1541 Division Avenue, Sheboygan, Wisconsin 53083.

4. Defendant **WENDY MICHELS** (“Michels”) is, upon information and belief, an adult resident of the State of Wisconsin, residing at 3105 N. 13<sup>th</sup> Street #23, Sheboygan, Wisconsin 53083.

5. Defendant **LAKESHORE CAP, INC. OF WISCONSIN** (“Lakeshore”) is, upon information and belief, a lending institution with the last known business address of 702 State Street, Manitowoc, Wisconsin 54221. Upon information and belief, Lakeshore’s registered agent is Colleen Homb, 702 State Street, Sheboygan, Wisconsin, 54221.

6. Defendant **CITY OF SHEBOYGAN** (“City of Sheboygan”) is, upon information and belief, a body politic with its principal offices located at 828 Center Avenue, Sheboygan, Wisconsin 53081. Upon information and belief, the clerk for the City of Sheboygan is Meredith DeBruin at the location of 828 Center Avenue, Sheboygan, Wisconsin 53081.

**GENERAL ALLEGATIONS COMMON TO  
ALL CLAIMS FOR RELIEF**

**This communication is from a debt collector, and is an attempt to collect a debt. Any information provided to the undersigned by you in response to this communication or other communications we have with you will be used for the purposes of collecting this debt.**

7. On or about October 31, 2005, Kathleen executed and delivered to UnitedOne a Real Estate Mortgage Note (Non-Consumer) (the "Note") in the amount of Fourteen Thousand One Hundred Sixty-nine and 38/100 (\$14,169.38). A copy of the Note is attached hereto as **Exhibit A.**

8. The Note required monthly payments by Kathleen to UnitedOne.

9. Payment of the Note is secured by a real estate mortgage executed by the Bursses and Michels in favor of UnitedOne dated October 31, 2005 for the following parcel of real estate ("the Mortgage"):

THE EAST 7 FEET OF LOT NINETY-TWO (92) AND THE WEST 56 FEET OF LOT NINETY-ONE (91), ACCORDING TO THE RECORDED PLAT OF JOS, SCHUBERT SUBDIVISION, IN THE CITY OF SHEBOYGAN, SHEBOYGAN COUNTY, WISCONSIN.

Tax Parcel No. 59281627190

(the "Real Estate"). The Real Estate is more commonly known as 1541 Division Avenue, Sheboygan, Wisconsin 53083. A true and correct copy of the Mortgage is attached hereto as

**Exhibit B.**

10. The Mortgage was duly recorded in the Office of the Register of Deeds in Sheboygan County, Wisconsin on November 30, 2005 as Document No. 1783652.

11. To further secure payment on the Note, Michels executed a Guaranty Agreement on October 31, 2005 in which she guaranteed full payment of the Note to UnitedOne in the event of default by Kathleen (the "Guaranty").

12. Defendant Lakeshore may claim an interest in the Real Estate by virtue of a mortgage recorded with the Sheboygan County Register of Deeds on April 20, 2006 as

**This communication is from a debt collector, and is an attempt to collect a debt. Any information provided to the undersigned by you in response to this communication or other communications we have with you will be used for the purposes of collecting this debt.**

Document No. 1796275. This mortgage is junior and subordinate to the Mortgage held by UnitedOne.

13. Defendant City of Sheboygan may claim an interest in the Real Estate by virtue of a judgment lien in the amount of Six Hundred Ninety-one Dollars (\$691.00) docketed December 11, 2020 in Sheboygan County Case No. 2020TJ86. This Judgment is junior and subordinate to the Mortgage held by UnitedOne.

14. Defendant City of Sheboygan may further claim an interest in the Real Estate by virtue of a mortgage recorded with the Sheboygan County Register of Deeds on November 27, 2007 as Document No. 1840535. This mortgage is junior and subordinate to the Mortgage held by UnitedOne.

15. Michels may claim an interest in the Real Estate by virtue of a Quit Claim Deed dated May 31, 2006 and recorded with the Sheboygan County Register of Deeds on June 2, 2006 as Document 1799943 which purports to give Michels a residual interest in the Real Estate following Kathleen's death.

16. Kathleen has failed to comply with the terms and conditions of the Note by failing to make the payments when due to UnitedOne.

17. The Bursse and Michels have failed to pay real estate taxes due on the Real Estate as is required by the Mortgage.

18. On November 10, 2020, UnitedOne sent each of the Bursse and Michels a Notice of Right to Cure Default. Copies of the notice are attached as **Exhibit C**. Neither the Bursse nor Michels have responded to UnitedOne.

**This communication is from a debt collector, and is an attempt to collect a debt. Any information provided to the undersigned by you in response to this communication or other communications we have with you will be used for the purposes of collecting this debt.**

19. As of December 28, 2020, there is justly and owing to UnitedOne upon the Note the following amount:

Current Balance:	\$ 8,456.39
Late Charges through 12/28/2020	\$ 23.80
<u>Interest through 12/28/2020:</u>	<u>\$ 310.82</u>
Total Payoff through 12/28/2020:	\$ 8,791.01

20. In accordance with the provisions of the Note and Mortgage, UnitedOne is also entitled to collect its expenses in pursuing this action against the Bursses and Michels as provided in Wis. Stat. §428.103.

**CLAIM FOR RELIEF I**  
**FORECLOSURE OF REAL ESTATE**

21. UnitedOne realleges paragraphs 1 – 20 as if fully set forth herein.

22. The Real Estate, upon information and belief, is the homestead of the Bursses.

23. The Real Estate consists of less than 20 acres and cannot be sold in parts or parcels without injury to the parties.

24. No other proceedings have been had at law or otherwise for the recovery of the sums due under the Note, and secured by the Mortgage.

25. UnitedOne is still the lawful owner and holder of the Note and the Mortgage, which have not been sold or assigned.

26. Pursuant to §846.103(1), Wis. Stats., UnitedOne expressly elects to accept provision for sale of the Real Estate upon the expiration of six (6) months from the date of entry of judgment for the Real Estate. UnitedOne expressly waves judgment for deficiency which may remain due after the sale of the Real Estate.

WHEREFORE, UnitedOne prays for judgment as follows:

**This communication is from a debt collector, and is an attempt to collect a debt. Any information provided to the undersigned by you in response to this communication or other communications we have with you will be used for the purposes of collecting this debt.**

A. For a finding that Kathleen are indebted to UnitedOne for the outstanding amount of the Note, plus accrued interest and costs of this action;

B. For judgment of foreclosure and for the sale of the Real Estate as provided by law; and that

- (i) the amounts due to UnitedOne for principal, interest, late fees, other fees, taxes, costs, disbursements and attorneys' fees be adjudged and determined;
- (ii) The Bursses and Michels, and all persons claiming under them, be barred and foreclosed of all right, claim, lien and equity of redemption in or to the Real Estate, except the right to redeem the same before sale as provided by law;
- (iii) the amounts due upon the Note and Mortgage, with interest due to the time of such payment, together with costs and disbursements of this action and actual attorneys' fees, and such additional amounts as UnitedOne may advance for payment of taxes and insurance upon the Real Estate, with interest on the same as allowed by law from the date of judgment be paid out of the proceeds of such sale so far as the monies arising out of such sales and proceeds applicable will pay the same;
- (iv) the Bursses and Michels, and all persons claiming under them, be enjoined from committing waste upon the Real Estate or doing any other act that may impair the value of the same between the date of said judgment and the date sale of the Real Estate is confirmed by this Court; in the event there is a sale of the Real Estate as aforesaid, the Real Estate shall be sold subject to taxes and assessments, general or special, and free and clear of all claim, right or equity of redemption thereof, of all parties to this action, their heirs, successors and assigns, and all persons claiming under them subsequent to the filing of the pendency of this action;
- (vi) the Bursses and Michels, and all persons claiming under them, be barred and foreclosed of all right, title and equity of redemption in or to the Real Estate so sold, and for such other and further order, judgment or relief as is provided by law in such cases, and as may be just and equitable, and

C. For such other and further relief as the Court deems just and equitable.

Dated this 12<sup>th</sup> day of January, 2021.

**This communication is from a debt collector, and is an attempt to collect a debt. Any information provided to the undersigned by you in response to this communication or other communications we have with you will be used for the purposes of collecting this debt.**

LAW FIRM OF CONWAY, OLEJNICZAK & JERRY, S.C.  
Attorneys for UnitedOne

By: s/ Michele M. McKinnon

Michele M. McKinnon  
State Bar No. 1041053

**POST OFFICE ADDRESS:**

231 South Adams Street  
P. O. Box 23200  
Green Bay, WI 54305-3200  
(920) 437-0476  
3645222

**This communication is from a debt collector, and is an attempt to collect a debt. Any information provided to the undersigned by you in response to this communication or other communications we have with you will be used for the purposes of collecting this debt.**

## NOTICE OF DEBT VALIDATION

Law Firm of Conway, Olejniczak & Jerry, S.C. has been retained by UnitedOne Credit Union with respect to the case to which this Notice is attached. We filed this case seeking to obtain a judgment against you for money owed to the Plaintiff.

Federal law gives you 30 days after you receive this letter to dispute the validity of the debt under the contract, or any part of it. If you do not dispute it within that period, we will assume that the debt is valid. If you do dispute it – by notifying us, in writing, to that effect – we will, as required by the law, obtain and mail to you proof of the debt and if, within the same time period, you request in writing the name and address of the original creditor, if the original creditor is different from the current creditor, UnitedOne Credit Union, we will furnish you with that information as well.

The contents of this Notice pertain to your dealings with UnitedOne Credit Union as a debt collector. It does not affect your dealings with the Court and, in particular, it does not change the time in which you must respond to the Summons and Complaint. This Notice does not alter your rights and obligations as to the court or the Summons and Complaint. The Summons (which is a command provided for by statute) and Complaint are pleadings filed with the Court, and not merely correspondence from us. You must follow any instructions in the Summons and Complaint, even if you dispute the validity or amount of the debt. This Notice does not affect our relations with the Court. As lawyers, we may file papers in this case with the Court according to the Court's rules and the Judge's instructions.

This Notice is being given to you to comply with any provisions of the Fair Debt Collection Practices Act to the extent that it applies.

In the event you have any questions, you should contact your attorney.

**This communication is from a debt collector, and is an attempt to collect a debt. Any information provided to the undersigned by you in response to this communication or other communications we have with you will be used for the purposes of collecting this debt.**

REAL ESTATE MORTGAGE NOTE (NON-CONSUMER)

(May be used for any of the following real estate loans: business purpose loans, loans to organizations, agricultural loans or subordinate loans with amounts financed over \$25,000, first mortgage loans or equivalent first mortgage loans.)

Acct. No. 23 M1

MANITOWOC

FOR VALUE RECEIVED, the undersigned ("Borrower", whether one or more) jointly and severally promise(s) to pay to the order of UNITEDONE CREDIT UNION Credit Union of MANITOWOC, Wisconsin ("Credit Union") the principal sum of FOURTEEN THOUSAND ONE HUNDRED SIXTY-NINE AND 38/100 Dollars (\$ 14,169.38), together with interest on the unpaid balance before maturity at the rate of 6.450 % per annum. Subject to any variable rate loan provision stated below. The total of payments due hereunder shall be payable at the office of the Credit Union, or at such other place as the Credit Union may designate in writing. In the following manner:

(Check Applicable Box):

- (A) [ ] in installments of \$ , beginning on and on the day of each month thereafter, plus a final payment of \$ due on ;
(B) [X] in 299 installments of \$ 95.23, beginning on DECEMBER 1, 2005 and on the 1ST day of each month thereafter, plus a final payment of \$ 95.68 due on NOVEMBER 1, 2030. However, the entire indebtedness outstanding, including any additional advances shall be payable on demand of the Credit Union after OCTOBER 31, 2012. Until the Credit Union makes such demand, monthly payments of principal and interest shall continue as provided herein.
(C) [ ] (Other - Specify)

This repayment schedule is subject to revision based upon operation of the variable rate provision of the Note, additional advances under the Note, failure to make payments when due or operation of any other provision of the Note. Payments may be applied to installments, interest due, or delinquency charges in any order the Credit Union chooses.

If any installment of principal and interest is not paid within 15 days after its due date, the Credit Union may assess a delinquency charge of 5.000 percent of the unpaid amount of the installment. For purposes of calculating the late charge, payments will be credited first to current installments and then to delinquent installments. Interest on the balance due after acceleration or maturity of the loan shall be at a rate equal to the contract rate of interest then in effect. This Note contains the following variable rate loan provision:

This Mortgage Note is secured by a real estate Mortgage to the Credit Union dated 10/31/05 on property located at 1541 DIVISION AVE, SHEBOYGAN, WI 53083

and all of the terms and conditions of said Mortgage are hereby incorporated herein and made a part of this Note.

If checked here [ ] , in addition to the installments aforementioned, Borrower agrees to pay monthly to Credit Union one-twelfth (1/12th) of the estimated annual taxes, assessments, and property insurance premiums upon the premises mortgaged as collateral security for this Note. Upon demand, Borrower shall pay Credit Union such additional sums as are necessary to pay those charges in full when due. Credit Union shall apply said amounts against the taxes, assessments, and insurance premiums when due. Amounts paid by Borrower pursuant to this paragraph may be commingled with Credit Union's general funds, and interest shall be paid on the outstanding balance of such sums as required by law.

IN THE EVENT OF DEFAULT, BORROWER HEREBY PLEDGES ANY SHARES OR DEPOSITS, SHARE CERTIFICATES OF DEPOSIT NOW OR HEREAFTER HELD BY PROMISOR IN THIS CREDIT UNION AS ADDITIONAL SECURITY FOR THE PAYMENT OF THIS OBLIGATION. This Pledge shall not apply to any Individual Retirement Arrangements (IRA) or to any account for which the existence of the pledge would have an adverse impact on the tax-exempt status of the account.

If checked here [ ] , in the event a prepayment is made within 5 years of the date of this loan, Credit Union shall receive an amount equal to 60 days' interest at the contract interest rate on the amount by which the aggregate principal prepayments for any 12-month period exceeds 20% of the original amount of the loan. However, if this Note is subject to 138.056(3), Borrower may prepay this Note in whole or in part without penalty as permitted by 138.056(3). If a prepayment is made 5 or more years from the date of the Note, no premium or penalty will be charged by Credit Union.

Upon prepayment of the Note in full, the Credit Union will calculate and refund unearned interest paid, if any, pursuant to Wis. Stats., § 138.052. Solely for purposes of calculating such refund, an installment paid within days before or after its scheduled due date shall be treated as paid when due.

In the event of default, the undersigned shall pay all reasonable costs incurred by Credit Union in collection of the amount due hereunder, including attorney's fees, to the extent such fees are not limited by Wis. Stats., § 428.103. The Borrower(s), whether Maker, Surety, Guarantor or Endorser, jointly and severally, hereby waive notice of and consent to any and all extensions of this Note, or any part thereof, without notice, and each hereby waives demand, presentment or payment, notice of acceleration, notice of nonpayment and protest.

The Credit Union has made no representations or warranties regarding any of the following: (1) the collection or enforcement of the obligation herein; (2) the collectibility or enforceability of any collateral securing the obligation; or (3) the financial condition of any Borrower. Each Borrower must independently determine the collectibility of the obligation and the creditworthiness of any Borrower.

The obligations of each of the Borrowers is joint and several; any use of the singular herein may also refer to the plural and vice versa; all references in this Note are to sections of the Wisconsin Statutes as they may be renumbered from time to time.

THIS AGREEMENT INCLUDES ALL THE PROVISIONS ON THE ATTACHED ADDITIONAL PROVISIONS. ALL BORROWERS ACKNOWLEDGE RECEIPT OF AN EXACT COPY OF THIS NOTE.

Sign and sealed this 31ST day of OCTOBER, 2005 In Presence of:

[Signature]

Borrower [Signature] (Seal) KATHLEEN S BURSS

Borrower (Seal)

Borrower (Seal)

Borrower (Seal)

CREDIT UNION USE: [ ] Wis. Stat. Ch. 428 [ ] Truth in Lending Disclosure (82041) [ ] RESPA (II B014) [ ] Wis. Stat. § 138.052 [ ] Wis. Stat. § 138.056 [ ] Real Estate Mortgage (82043) [ ] Right of Rescission (II B036)

## ADDITIONAL PROVISIONS

Upon the happening of any one or more of the following events or conditions, or in case of default in any of the terms, conditions or agreements of this Note or the Mortgage which secures it, the Credit Union may at its option and without notice declare the entire principal indebtedness evidenced by this Note due and payable, together with the interest thereon, costs and other expenses, and apply any indebtedness of the Credit Union to Borrower toward the payment of said indebtedness, and thereafter proceed by suit at law for judgment on this Note or to foreclose said Mortgage given as security for payment hereof, or both; upon default by Borrower in any payment provided in said Mortgage or by this Note; upon the making of a contract or agreement by Borrower or permitting anything to be done whereby anyone may acquire the right to place a lien, mortgage or other encumbrance against the mortgaged premises, or in case of the actual or threatened alteration, repair, or addition to, demolition or removal of any building on the premises, without obtaining the prior written consent of the Credit Union, or in the case Borrower or Borrower's spouse dies, changes marital status, changes marital domicile or becomes insolvent or a subject of a bankruptcy or other insolvency proceeding if that occurrence materially impairs the Borrower's ability to pay the amounts due under the Note, or in case of any act done or permitted to be done by Borrower, whereby the security hereby affected or intended to be affected shall be weakened, diminished or impaired, upon an adjudication in bankruptcy or a voluntary assignment for the benefit of creditors; or upon the failure of the Borrower to observe or perform any of the covenants and agreements contained herein or in the Mortgage which secures it. It is understood and agreed that the failure on the part of the Credit Union to exercise any of its rights hereunder for a default or breach of covenant shall not be construed to prejudice its rights for any other or subsequent default or breach of covenant.

This Agreement between Borrower and Credit Union is expressly limited so that in no contingency or event whatsoever whether by reason of advancement of the proceeds hereof, acceleration of maturity of the unpaid principal balance hereof, or otherwise, shall the amount paid or agreed to be paid to the holder hereof for the use, forbearance or retention of the funds to be advanced hereunder exceed the highest rate permissible under the laws of the United States or of the State of Wisconsin, whichever shall be applicable. If, under any circumstances whatsoever, fulfillment of any provision of the Note or Mortgage securing this Note or any other agreement referred to herein shall, at the time fulfillment of such provision be due, involve transcending the limit of validity prescribed by law which a court of competent jurisdiction may deem applicable hereto, then the obligation to be fulfilled shall be reduced to the limit of such validity, and if from any circumstance the holder thereof shall ever receive as interest an amount which would be excessive interest, such amount shall (a) be applied to the reduction of the unpaid principal balance due hereunder or (b) be refunded to Borrower, but shall never be credited or ascribed as the payment of interest. This provision shall control every other provision of all Agreements between Borrower and the holder hereof.

To the extent not prohibited by law, the Note is also secured by present and future security agreements between Credit Union and any Borrower or any other person providing security for Borrower's obligations. However, this Note is not secured by any principal dwelling unless described in this Note.

1783652

**MORTGAGE (NON-CONSUMER)**

(For use with any size first lien mortgage real estate loan to an individual for personal, family, household or agricultural purposes. Also used for subordinate mortgage loans over \$25,000 or a second mortgage real estate loan where the Credit Union also holds the first mortgage.)

SHEBOYGAN COUNTY, WI  
RECORDED ON

11/30/2005 10:02AM

DARLENE J. NAVIS  
REGISTER OF DEEDS

RECORDING FEE: 13.00  
TRANSFER FEE:  
EXEMPTION 0

STAFF ID 6  
TRANS 0 72102

0 OF PAGES: 2

Acct. No. 14323 M1

In consideration of the sum of **FOURTEEN THOUSAND ONE HUNDRED SIXTY-NINE AND 38/100**

Dollars (\$ 14,169.38 )

the receipt of which is acknowledged,

**KATHLEEN S BURSS AND GARY BURSS, HUSBAND AND WIFE AND WENDY MICHELS, A SINGLE PERSON**

("Mortgagor", whether one or more) mortgages, conveys and warrants to **UNITEDONE CREDIT UNION** ("Credit Union"),

of **MANITOWOC**, Wisconsin and its successors and assigns the following described real estate in **SHEBOYGAN**

County, Wisconsin, together with all privileges, hereditaments, easements and appurtenances, all rents, leases, issues and profits, all awards and payments made as a result of the exercise of the right of eminent domain, and all existing and future improvements and fixtures (all called the "Property"), to wit:

RETURN TO  
UNITEDONE CREDIT UNION  
1117 SOUTH 10TH STREET  
MANITOWOC WI 54220

Parcel ID Number 59281627190

**THE EAST 7 FEET OF LOT NINETY-TWO (92) AND THE WEST 56 FEET OF LOT NINETY-ONE (91), ACCORDING TO THE RECORDED PLAT OF JOS. SCHUBERT SUBDIVISION, IN THE CITY OF SHEBOYGAN, SHEBOYGAN COUNTY, WISCONSIN.**

This is (is not) a homestead property.  If checked, description of property is continued on an attached sheet.

- 1. **Covenant of Title.** Mortgagor warrants that Mortgagor is seized of good title to the Property in fee simple, free and clear of all liens and encumbrances, except restrictions and easements of record, municipal and zoning ordinances, current taxes and assessments not yet due and N/A

Mortgagor will forever warrant, guarantee and defend the title and quiet possession of the Property against all other claims.

- 2. **Mortgage as Security.** This Mortgage is given to secure prompt payment to Credit Union of the sum stated in the first paragraph of this mortgage, plus interest and charges according to the terms of a Promissory Note of Mortgagor to Credit Union of this date (or ) and any extensions, renewals or modifications thereof, and also to secure the payment of any additional and subsequent advances or payments made by Credit Union if evidenced by documentation which states they shall be secured by this Mortgage, (all called the "Note") and the performance of all covenants, conditions and agreements contained in this Mortgage, and costs and expenses of collection or enforcement to the extent not prohibited by law. If Mortgagor pays the Note, or causes it to be paid, according to its terms, and pays all additional and subsequent advances made by Credit Union according to the terms under which such advance is made and makes all other payments and performs all other terms, conditions, covenants and agreements contained in this Mortgage and the Note, then this Mortgage ceases and is void.

SEE PAGE TWO FOR ADDITIONAL PROVISIONS.

Kathleen S. Burss (Seal)  
Mortgagor  
\* **KATHLEEN S BURSS**

Signed and Sealed this 30th day of **OCTOBER 2005**  
Gary Burss (Seal)  
Mortgagor  
\* **GARY BURSS**  
Wendy Michels (Seal)  
Mortgagor  
\* **Wendy Michels**

STATE OF WISCONSIN )  
MANITOWOC County ) SS  
This instrument was acknowledged before me on **OCTOBER 31, 2005**  
**KATHLEEN S BURSS AND GARY BURSS, HUSBAND AND WIFE AND WENDY MICHELS, A SINGLE PERSON**

Julie Wilke  
\* **JULIE WILKE**  
Notary Public **MANITOWOC** County, Wis.  
My Commission Expires: **06/25/2006**

Wendy Michels signed before me Debra B. Jenik, Notary Public this 20 OCT 2005  
Debra B. Jenik

THIS INSTRUMENT WAS DRAFTED BY:  
JULIE WILKE

\* Type or Print Name Signed Above

Use in conjunction with Mortgage Note 82042 and Federal Truth in Lending Disclosure 82041

## ADDITIONAL PROVISIONS

3. **Taxes.** To the extent not paid to Credit Union under § 5(a), Mortgagor shall pay before they become delinquent all taxes, assessments and other charges which may be levied or assessed against the Property, or against Credit Union upon this Mortgage or the Note, or upon Credit Union's interest in the Property, and deliver to Credit Union receipts showing timely payment.
4. **Insurance.** Mortgagor shall keep the improvements now existing or hereafter erected on the Property insured against direct loss or damage occasioned by fire, extended coverage perils and such other hazards (e.g. flooding) as Credit Union may require, now or later, through insurers approved by Credit Union, in amounts not less than the unpaid balance of the Note without coinsurance, and shall pay the premiums when due. The policies shall contain the standard mortgage clause in favor of Credit Union and, unless Credit Union otherwise agrees in writing, the original of all policies covering the Property shall be deposited with Credit Union. Mortgagor shall promptly give notice of any loss to insurance companies and Credit Union. All proceeds from such insurance shall be applied at Credit Union's option, to the installments of the Note in the inverse order of their maturities (without penalty for prepayment) or to the restoration of the Property, including improvements.
5. **Mortgagor's Covenants.** Mortgagor covenants:
  - (a) To pay monthly to Credit Union one-twelfth (1/12th) of the estimated annual taxes, assessments, property insurance premiums and mortgage guaranty insurance premiums upon the Property. Upon demand, Mortgagor shall pay Credit Union such additional sums as are necessary to pay those charges in full when due. Credit Union shall apply said amounts against the taxes, assessments, and insurance premiums when due. Amounts paid by Mortgagor pursuant to this paragraph may be commingled with Credit Union's general funds, and interest shall be paid on those payments to the extent required by law;
  - (b) **Condition and Repair.** To keep the Property in good condition and repair, and to restore or replace damaged or destroyed improvements and fixtures;
  - (c) **Liens.** To keep the Property free from all liens and Mortgages other than this Mortgage and those liens and mortgages to which Credit Union has consented in writing;
  - (d) **Waste.** Not to commit waste or permit waste to be committed upon the Property;
  - (e) **Conveyance.** Not to, without prior written consent of Credit Union, convey, sell, mortgage, assign, lease, or in any other manner transfer any interest (legal or equitable) in all or any part of the Property or permit same to occur, except as provided in 12 C.F.R. Sec. 591.5; and Credit Union may, without notice to Mortgagor, deal with any transferee in the same manner as with Mortgagor without discharging Mortgagor's liability under the Note or this Mortgage;
  - (f) **Alteration or Removal.** Not to remove, demolish or materially alter any part of the Property, without Credit Union's prior written consent, except Mortgagor may remove a fixture, provided the fixture is promptly replaced with another fixture of at least equal utility;
  - (g) **Condemnation.** To pay to Credit Union all compensation received for the taking of the Property, or any part, by condemnation proceedings (including payments in compromise of condemnation proceedings), and all compensation received as damages for injury to the Property, or any part. The compensation shall be applied in such manner as Credit Union determines to rebuilding of the Property or to installments of the Note in the inverse order of their maturities (without penalty for prepayment);
  - (h) **Subrogation.** The Credit Union is subrogated to the lien of any mortgage or lien discharged, in whole or in part, by the Note proceeds;
  - (i) **Ordinances; Inspection.** To comply with all laws, ordinances and regulations affecting the Property; Credit Union and its authorized representatives may enter the Property at reasonable times to inspect it and, at Credit Union's option, repair or restore it.
6. **Authority of Credit Union to Perform for Mortgagor.** If Mortgagor fails to perform any duty imposed upon Mortgagor by this Mortgage or the Note, Credit Union may perform, or cause to be performed any of such duties, including but not limited to signing Mortgagor's name or paying any amount so required, and all amounts so paid by Credit Union for performance of such duties shall be secured by this Mortgage, shall be payable by Mortgagor upon demand, and shall bear interest from the date of payment by Mortgagor at the rate stated in the Note but shall not exceed the maximum rate permitted by law.
7. **Change of Ownership.** In the event the ownership of said mortgaged property or any part thereof becomes vested in a person other than Mortgagor, the Credit Union may, without notice to Mortgagor, deal with successor or successors in interest with reference to the mortgage and the debt secured thereby in the same manner as with the Mortgagor, and may forebear to sue or may extend time for payment of the debt secured by said mortgage without discharging or in any way affecting the liability of Mortgagor under said mortgage or upon the debt secured thereby.
8. **Hazardous Substances.** Mortgagor shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property; Mortgagor shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding sentence shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property. Mortgagor shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Mortgagor has actual knowledge. If Mortgagor learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Mortgagor shall promptly take all necessary remedial actions in accordance with Environmental Law. "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.
9. **Remedies of Default.** Upon the happening of any one or more of the following events or conditions, or in case of default in any of the terms, conditions, or agreements of this Mortgage or the Note which it secures, the Credit Union may at its option and without notice declare the entire principal indebtedness evidenced by this Note due and payable, together with the interest thereon, costs and other expenses, and apply any indebtedness of the Credit Union to Mortgagor toward the payment of said indebtedness, and thereafter proceed by suit at law to foreclose said Mortgage given as security for payment hereof, or both; upon default by Mortgagor in any payment provided in said Mortgage or by the Note said Mortgage secures; upon the making of a contract or agreement by Mortgagor or permitting anything to be done whereby anyone may acquire the right to place a lien, mortgage or other encumbrance against the mortgaged premises, or in case of the actual or threatened alteration, repair, or addition to, demolition or removal of any building on the premises, without obtaining the prior written consent of the Credit Union, or in the case Mortgagor or Mortgagor's spouse dies, changes marital status, changes marital domicile or becomes insolvent or a subject of a bankruptcy or other insolvency proceeding if that occurrence materially impairs the Mortgagor's ability to pay the amounts due under the Note, or in case of any act done or permitted to be done by Mortgagor, whereby the security hereby affected or intended to be affected shall be weakened, diminished or impaired, upon an adjudication in bankruptcy or a voluntary assignment for the benefit of creditors; or upon the failure of the Mortgagor to observe or perform any of the covenants and agreements contained herein or in the Note secured hereby. It is understood and agreed that the failure on the part of the Credit Union to exercise any of its rights hereunder for a default or breach of covenant shall not be construed to prejudice its right for any other or subsequent default or breach of covenant.
10. **Power of Sale.** In the event of foreclosure, Credit Union may sell the Property at public sale and execute and deliver to the purchaser(s) deeds of conveyance pursuant to statute.
11. **Receiver.** Upon the commencement or during the pendency of an action to foreclose this Mortgage, or enforce any other remedies of Credit Union under it, without regard to the adequacy or inadequacy of the Property as security for the Note, the court may appoint a receiver of the Property (including homestead interest) without bond, and may empower the receiver to take possession of the Property and collect the rents, issues and profits of the Property and exercise such other powers as the court may grant until the confirmation of sale, and may order the rents, issues and profits, when so collected, to be held and applied as the court may direct.
12. **Foreclosure without Deficiency Judgment.** If the Mortgaged Property is a one to four family residence that is owner-occupied at the time of foreclosure, a farm, church or owned by a tax exempt charitable organization, Mortgagor agrees to permit Credit Union the option to proceed pursuant to § 846.101 Wis. Stat., waive the right to a deficiency judgment and hold a sale of the Property of 20 acres or less six months after foreclosure judgment is entered. If the Mortgaged Property is other than owner-occupied one to four family residence, a farm, church or owned by tax exempt charitable organization, Mortgagor agrees to permit Credit Union the option to proceed pursuant to § 846.103 Wis. Stat., waive the right to a deficiency judgment and hold a sale of the Property three months after a foreclosure judgment is entered.
13. **Expenses.** Mortgagor shall pay all reasonable costs and expenses, including attorney's fees (to the extent not prohibited by 428.103(e) Wis. Stat.) and expenses of obtaining title evidence, incurred by Credit Union in foreclosing this Mortgage.
14. **Waiver.** Credit Union may waive any default without waiving any other prior or subsequent default on the mortgage.
15. **Severability.** Invalidity or unenforceability of any provision of this Mortgage shall not affect the validity of enforceability of any other provision.
16. **Successors and Assigns.** The Obligations of all Mortgagors are joint and several. This Mortgage benefits Credit Union, its successors and assigns, and binds Mortgagor(s) and their respective heirs, personal representatives, successors and assigns; any use of the singular herein may also refer to the plural and vice versa.
17. **Statutory References.** All references in this Mortgage to sections of the Wisconsin Statutes are to those sections as they may be renumbered from time to time.



November 10, 2020

SENT VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED  
AND FIRST CLASS MAIL

Kathy S Repphun-Burss                    91 7199 9991 7037 9792 3575  
Gary Burss  
1541 Division Ave  
Sheboygan, WI 53083

Wendy Michels  
114 East Dr  
Hendersonville TN 37075

RE: Real Estate Mortgage Note (Non Consumer) dated October 31, 2005  
("Note")  
Current Amount Outstanding on Note: \$8,456.39  
Mortgage dated October 31, 2005 ("Mortgage")  
Account and Loan \*\*\*23-L0000  
Mortgage Property Address: 1541 Division Ave. Sheboygan, WI 53081  
("Property")

Dear Mr. and Ms. Burss and Ms. Michels,

As of the date of this letter, you are in default under the Obligations as follows ("Default"):

Regular Monthly Payment -	August, 2020 \$84.20
	September, 2020 \$95.23
	October, 2020 \$95.23
	November, 2020 \$95.23
Past Due Real Estate Taxes-	2017 \$622.44
	2018 \$1,616.07
	2019 \$1,393.30
Total Due to Cure Default -	\$4,001.70

This letter is to notify you that in order to cure the Default, you must pay \$369.89 to UnitedOne and \$3,631.81 to Sheboygan County Treasurer on or before December 12, 2020. Failure to cure the Default on or before December 12, 2020 may result in acceleration of payment for all sums due under the Note, a foreclosure action(s) to pursue the sale of the Property, and/or any other remedy available at law or equity to UnitedOne. UnitedOne may also seek a judgment against each of you, on a joint and several basis, for any deficiency that exists after the sale of the Property.

UnitedOne Credit Union has the right to freeze any account associated with this loan.

If the Note is accelerated, you have the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of a borrower to acceleration and sale.

UnitedOne would like to work with you to avoid acceleration of the Note, foreclosure of the Property, and/or obtaining deficiency judgments against each of you. UnitedOne wants to see you bring your account back into good standing. Please make the required payments as indicated above or contact me to discuss other possible alternatives to resolve this situation.

Sincerely,


  
Shanna Schad  
Asset Protection Coordinator

EXHIBIT C



November 10, 2020

SENT VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED  
AND FIRST CLASS MAIL

Kathy S Repphun-Burss  
Gary Burss  
1541 Division Ave  
Sheboygan, WI 53083

91 7199 9991 7037 9792 3582

Wendy Michels  
114 East Dr  
Hendersonville TN 37075

RE: Real Estate Mortgage Note (Non Consumer) dated October 31, 2005  
("Note")  
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Sincerely,

  
Shannon Schad  
Asset Protection Coordinator

We're here because you're here!

1117 South 10th St • Manitowoc, WI 54220

Manitowoc 920-684-0361 • Sheboygan 920-451-8222





November 10, 2020

SENT VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED  
AND FIRST CLASS MAIL

Kathy S Repphun-Burss  
Gary Burss  
1541 Division Ave  
Sheboygan, WI 53083

Wendy Michels  
114 East Dr  
Hendersonville TN 37075

91 7199 9991 7037 9792 3599

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	September, 2020 \$95.23
	October, 2020 \$95.23
	November, 2020 \$95.23
Past Due Real Estate Taxes-	2017 \$622.44
	2018 \$1,616.07
	2019 \$1,393.30
Total Due to Cure Default -	\$4,001.70

This letter is to notify you that in order to cure the Default, you must pay \$569.89 to UnitedOne and \$3,631.81 to Sheboygan County Treasurer on or before December 12, 2020. Failure to cure the Default on or before December 12, 2020 may result in acceleration of payment for all sums due under the Note, a foreclosure action(s) to pursue the sale of the Property, and/or any other remedy available at law or equity to UnitedOne. UnitedOne may also seek a judgment against each of you, on a joint and several basis, for any deficiency that exists after the sale of the Property.

UnitedOne Credit Union has the right to freeze any account associated with this loan.

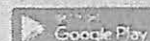
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Sincerely,

Sherrill Reed  
Asset Protection Coordinator

We're here because you're here!



II

R. O. No.       - 20 - 21. By CITY ATTORNEY. January 18, 2021.

Submitting a recommendation that the City of Sheboygan continue to use Quarles and Brady as bond counsel.

In October 2020, the City Attorney's Office issued a request for proposals seeking "proposals from a nationally recognized bond counsel to provide expert legal advice and opinions regarding the issuance and sale of notes and bonds." This request for proposals was issued, in part, as a result of the feedback the Council provided in 2020 during consideration of resolutions to retain Quarles and Brady as the City's bond counsel.

The City Attorney's office actively sought out qualified providers of bond counsel services, providing the request for proposals to every law firm (including those located outside of Wisconsin) where at least one attorney was licensed to practice law in the State of Wisconsin and was a member of the National Association of Bond Lawyers.

In all, seven law firms responded to the request for proposals. Staff interviewed six of the responding law firms.

After reviewing the responses and conducting the interviews, the City Attorney's Office recommends that the City continue to use Quarles and Brady as the City's bond counsel. The City Attorney's Office is pleased to report that during this request for proposals process, Quarles and Brady has agreed to make revisions to its engagement letter to more clearly reflect that the City (rather than the bond transaction) is Quarles and Brady's client. The City Attorney's Office anticipates this revised engagement letter coming before the Council as part of the City's annual borrowing program.

---

City Attorney

F&P

# II

R. O. No. \_\_\_\_\_ - 20 - 21. By FIRE CHIEF. January 18, 2020.

Pursuant to section 50-564 of the Municipal Code, I herewith submit my quarterly report of Benchmark Measurements for the Fire Department, for the period commencing October 1, 2020 and ending December 31, 2020.

Incident Types	2018	2019	2019	2019	2020	2020	2020
	Actual	4th Qtr	YTD	Actual	4th Qtr	YTD	Goals
Fires	94	18	89	89	14	82	< 90
Rescue & Emergency Medical Service	4,220	1,149	4,516	4,516	1,171	4,321	4,300
Non Fires	1,055	274	1,130	1,130	310	1,260	1,000
<b>TOTAL</b>	<b>5,369</b>	<b>1,441</b>	<b>5,735</b>	<b>5,735</b>	<b>1,495</b>	<b>5,663</b>	<b>5,300</b>

**Station Incident Count Per Station**

Station 1	1,560	387	1,556	1,556	410	1,620	1,550
Station 2	1,063	325	1,130	1,130	286	1,016	1,100
Station 3	1,417	306	1,422	1,422	380	1,400	1,400
Station 4	818	273	1,043	1,043	264	1,026	1,000
Station 5	474	134	543	543	137	533	500
Out of City	37	16	43	43	18	68	10

**Fire Loss**

Number of Incidents	56	10	55	55	10	67
Pre Incident Value	N/A	N/A	N/A	N/A	\$ 11,198,200	\$ 70,450,745
Total Property Loss	\$ 630,000	\$ 33,050	\$ 373,100	\$ 373,100	\$ 20,800	\$ 458,010
Total Content Loss	\$ 348,985	\$ 3,450	\$ 152,565	\$ 152,565	\$ 6,400	\$ 148,850
Total Loss	\$ 978,985	\$ 36,500	\$ 525,665	\$ 525,665	\$ 27,200	\$ 606,860
Average Loss	\$ 17,481	\$ 3,650	\$ 9,557	\$ 9,557	\$ 2,720	\$ 9,057

**Workload**

Inspections	1,926	121	1,987	1,987	345	2,179	1,926
School Safety Programs/Students	173/3,246	30/1,317	149/3,330	149/3,330	3,116	3,116*	
Public Events	51	15	46	46	6	55	45
Station Tours	N/A	N/A	N/A	N/A	0	5	25
Non-Compliance/Installed Smoke Alarms	N/A	31,131	128/161	128/161	14/16	85/90	
Fire Training Hours	8,514	1,359	8,437	8,437	1,636	6,494	8,000
EMS Training Hours	1,969	516	2,314	2,314	233	2,275	2,100
Investigations/Formal	100	21	91	91	17	88	

**Efficiency**

EMS Average Response Time (360 Seconds)	N/A	N/A	N/A	N/A	92%	89%	90%
Fire Average Response Time (380 Seconds)**	89%	88%	88%	88%	92%	89%	90%

**Effectiveness**

Resident Satisfaction Rating	99%	99%	99%	99%	99%	99%	80%
ISO Rating	2	2	2	2	2	2	1

\*School safety programs were virtual due to COVID-19

\*\* Fire response 380 seconds or less per NFPA standards



FIRE CHIEF

LHPS

# II

R. O. No. \_\_\_\_\_ - 20 - 21. By CHIEF OF POLICE CHRISTOPHER DOMAGALSKI.  
January 18, 2021.

Pursuant to section 54-65 of the Municipal Code, I herewith submit my quarterly report showing the Benchmark Measurements for my department for the period commencing October 1, 2020 and ending December 31, 2020.

<u>Patrol and Investgations</u>	2018 <u>Actual</u>	Y-T-D <u>12/31/19</u>	2019 <u>Actual</u>	Y-T-D <u>12/31/20</u>	2020 <u>Goals</u>
Homicide	0	1	1	2	0
Rape	14	31	31	20	20
Robbery	10	10	10	14	15
Aggravated Assault	146	114	114	107	100
Violent Crime Total	170	156	156	143	125
Burglary	90	89	89	96	100
Theft	719	678	678	689	900
Motor Vehicle Theft	25	19	19	35	30
Arson	8	3	3	10	5
Property Crime Total	842	789	789	830	1050
Percent of Offenses Cleared	52%	64%	64%	56%	70%
Value of Property Stolen	\$485,282	\$1,170,450	\$1,170,450	\$475,001	\$500,000
Value of Property Recovered	\$179,946	\$678,222	\$678,222	\$389,071	\$200,000
Percent of Stolen Recovered	37%	57%	57%	82%	40%
Accident Investigations	1,677	1,592	1,592	1,340	1,500
Traffic Stops	5,270	4,937	4,937	3,455	No Goal
Traffic Arrests	4,509	3,924	3,924	2,611	No Goal
Other Arrests	3,406	3,204	3,204	2,646	No Goal
Speed Trailer Deployments	17	17	17	8	20
HVEE Deployments	14	31	31	1	12
Parking Tickets Issued	9,032	7,840	7,840	6,098	10,000
Bicycles Recovered	158	168	168	118	150
Involuntary Commitments	121	110	110	101	No Goal
<u>Administration</u>					
District Attorney Request for Digital Evidence	1,321	1,326	1,326	1,216	2,750
Open Records Requests	4,804	6,546	6,546	7,318	4,000
Nixle Messages Sent	283	239	239	97	250
Press Releases	41	28	28	20	50
Tweets	236	224	224	92	350
Facebook likes	10,042	12,164	12,164	14,618	13,000
Reported Crime Maps	89	85	85	100	104
Crime Comparison Reports	36	25	25	24	26

\_\_\_\_\_  
CHIEF OF POLICE

LHPS

III

Res. No.       - 20 - 21. By Alderpersons Donohue, Dekker, Felde, Ackley,  
and Savaglio. January 18, 2021.

A RESOLUTION condemning the rioting and destruction at the U.S. Capitol.

WHEREAS, the rioting and destruction at the U.S. Capitol on Wednesday, January 6, 2021 have shaken the citizens of the United States, no matter what their political beliefs may be; and

WHEREAS, the violent assault on the U.S. Capitol was done in an attempt to stop the certification of the electoral college vote, breaking a hallmark tradition of American democracy - the peaceful transition of power; and

WHEREAS, these events have brought into sharp relief both the strength and fragility of our honored system of democracy; and

WHEREAS, such brutal acts of insurrection sow distrust in our institutions and undermine the democratic principles that have held our country together for nearly two and a half centuries; and

WHEREAS, it is incumbent upon all democratically elected leaders to denounce violence and behavior that erodes the public's trust in our institutions; and

WHEREAS, democracy is a precious gift that must be ardently defended against the perils of demagoguery, violent intimidation, and misinformation; and

WHEREAS, the Common Council of the City of Sheboygan affirms its deep commitment to democratic principles and our system of government, including the free, empowered and non-violent exchange of ideas.

suspend  
adopt

NOW, THEREFORE, BE IT RESOLVED: That the Common Council strongly condemns the rioting and destruction at the U.S. Capitol while pledging to work tirelessly to ensure this nation's and this city's democratic principles and practices are honored and protected.

\_\_\_\_\_  
\_\_\_\_\_

I HEREBY CERTIFY that the foregoing Resolution was duly passed by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, City Clerk

Approved \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, Mayor

III



Res. No.       - 20 - 21      . By Alderpersons Ackley, Donohue, Bohren, Savaglio, Filicky-Peneski, Felde, Phillips, Sorenson, Mitchell, and Dekker. January 18, 2021.

A RESOLUTION commemorating the distinguished service of Lawrence Felten to the City of Sheboygan.

WHEREAS, God and his divine wisdom, has called from this life our valued friend and former City Clerk Lawrence Felten;

WHEREAS, Lawrence Felten served the residents of the City of Sheboygan for 24 years, first as Deputy City Clerk, and later as City Clerk until his retirement in 1989; and

WHEREAS, Mr. Felten served the residents and the City of Sheboygan faithfully and honorably, being a man of outstanding ability and integrity; and

WHEREAS, Lawrence Felten passed away on December 7, 2020; and

NOW, THEREFORE, BE IT RESOLVED: That the Common Council hereby commemorates the distinguished service rendered by Mr. Lawrence Felten to the City of Sheboygan throughout his many years of service, expresses its sorrow in his passing, and offers to his entire family, its deepest sympathy.

BE IT FURTHER RESOLVED: That this resolution be published in this council's official proceedings, and that a suitable copy be presented to the family of Lawrence Felten.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

I HEREBY CERTIFY that the foregoing Resolution was duly passed by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, City Clerk

Approved \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, Mayor

**III**

Res. No. \_\_\_\_\_ - 20 - 21. By Alderpersons Donohue and Bohren.  
January 18, 2021.

A RESOLUTION authorizing the appropriate City officials to execute the Site Lease Agreement between the Wisconsin Power and Light Company and the City of Sheboygan regarding a solar photovoltaic generating facility.

RESOLVED: That the Mayor and City Clerk are hereby authorized to execute the Site Lease Agreement between the Wisconsin Power and Light Company and the City of Sheboygan, a copy of which is attached hereto and incorporated herein.

\_\_\_\_\_  
\_\_\_\_\_

F&P

I HEREBY CERTIFY that the foregoing Resolution was duly passed by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, City Clerk

Approved \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, Mayor

**SITE LEASE AGREEMENT  
WISCONSIN POWER AND LIGHT COMPANY  
and  
THE CITY OF SHEBOYGAN**

This Site Lease Agreement (“Lease” or “Agreement”), dated as of \_\_\_\_\_, 2021 (“Effective Date”), is by and between Wisconsin Power and Light Company, a Wisconsin corporation as Lessee (“Lessee”), and the City of Sheboygan as Lessor (“Lessor”). In this Lease, Lessor and Lessee are sometimes referred to individually as a “Party” and collectively as the “Parties.”

**RECITALS**

**WHEREAS**, Lessee is a public utility engaged in providing electric service in Wisconsin pursuant to Wis. Stat. § 196.01(5)(a);

**WHEREAS**, Lessee desires to construct and operate, or contract with a third party for the construction and operation of, a solar photovoltaic generating facility (the “*Customer-Hosted Facility*”) for the purpose of meeting the energy and capacity needs of Lessee’s retail and wholesale customers;

**WHEREAS**, in accordance with the Tariff (defined below) Lessee intends to use the Renewable Energy Facility shown on Exhibit B in support of and as part of the Alliant Energy Customer-Hosted Renewables Program;

**WHEREAS**, Lessee proposes to lease from Lessor certain of Lessor’s property located in Sheboygan County (the “*Property*”) as set forth on Exhibit A constituting the Lessee’s leasehold interest hereunder (the “*Premises*”), to facilitate the development and operation of the Customer- Hosted Facility shown on Exhibit B;

**NOW, THEREFORE**, in consideration of the foregoing recitals, the mutual premises, representations, warranties, covenants, conditions herein contained, and the Exhibits attached hereto, Lessee and Lessor agree as follows.

## SECTION 1 -- DEFINITIONS

When used in this Lease, the following terms shall have the meanings given below, unless a different meaning is expressed or clearly indicated by the context. Words defined in this Section 1 which are capitalized shall be given their common and ordinary meanings when they appear without capitalization in the text. Words not defined herein shall be given their common and ordinary meanings.

**“Access Easement”** means Lessee’s non-exclusive appurtenant rights for ingress, egress, and access to and from the Premises pursuant to the Access Easement is attached hereto and made a part hereof as Exhibit D, over a portion of the Property for purposes of providing Lessee with access to the Customer-Hosted Facility.

**“Accredited Capacity”** means the accredited capacity, in MW(ac) as calculated using the Midcontinent Independent System Operator Business Practice Manual then in effect as of the Effective Date. Accredited Capacity shall be fixed for the Term of the Lease.

**“Affiliate”** means with respect to any entity, such entity’s general partner or manager, or any other entity that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such entity.

**“Alteration”** has the meaning set forth in Section 8.7.

**“Applicable Legal Requirements”** means any present and future law, act, rule, requirement, order, by-law, ordinance, regulation, judgment, decree, or injunction of or by any Governmental Authority, ordinary or extraordinary, foreseen or unforeseen, and all licenses, permits, and other governmental consents, which may at any time be applicable to a Party’s rights and obligations hereunder, including, without limitation (i) the Lessee’s leasehold, access and easement interests in and to the Premises or any part thereof in connection with the Permitted Use, and (ii) the construction, operation, ownership, maintenance, repair, decommissioning and removal of the Customer-Hosted Facility.

**“Claims”** has the meaning in Section 11.1.

**“Commercial Operations”** means such operations of the Lessee where (1) the Committed Nameplate Capacity of the Customer-Hosted Facility is installed and the Customer-Hosted Facility can and does produce energy associated with such Committed Nameplate Capacity; and (2) all Permits and Required Approvals necessary to authorize that production and delivery of Delivered Energy have been obtained; and (3) Lessee has given Lessor prior written notice that the foregoing requirements with the respect to the Customer-Hosted Facility have been met.

**“Commercial Operation Date”** means the date (1) set forth in a written notice from Lessee to Lessor no later than ten (10) days prior to such date and (2) on which all other conditions to Commercial Operation as set forth in this Lease have been met.

**“Committed Nameplate Capacity”** means the total maximum designed power output Capacity of the Customer-Hosted Facility.

**“Concealed Conditions”** means subsurface or otherwise concealed physical conditions at the Premises that differ materially from the Documented Site Conditions or those conditions ordinarily expected to exist at a site like the Property and generally recognized as inherent in construction activities of the type and character as the work to be performed by Lessee under this Lease, and that Lessee could not have otherwise discovered through the exercise of reasonable diligence in advance of commencing its performance of its obligations at the Premises.

**“Confidential Information”** means all oral and written information exchanged between the Parties with either or both Parties which contain proprietary business or confidential information of a Party and is designated as “confidential” by such Party. The following exceptions, however, do not constitute Confidential Information for purposes of this Lease: (a) information that is or becomes generally available to the public other than as a result of a disclosure by either Party in violation of this Lease; (b) information that was already known by either Party on a non-confidential basis prior to this Lease; (c) information that becomes available to either Party on a non-confidential basis from a source other than the other Party if such source was not subject to any prohibition against disclosing the information to such Party; (d) information a Party is required to disclose in connection with any administrative or regulatory approval or filing process in connection with the conduct of its business or in accordance with any statute or regulations; and (e) any record required to be made available under federal or state law, including the Wisconsin Public Records Law (§§ 19.31 to 19.37, Wis. Stats.)

**“CONE”** means Cost of New Entry, which is defined in MISO to mean an estimate of capacity revenue needed by a new generator in its first year of operation to make it economically viable to build a power plant in MISO.

**“Constructive Abandonment”** has the meaning set forth in Section 6.1(c).

**“Customer-Hosted Facility”** means the solar power electrical generation facility and related structures, foundations, fixtures, facilities, equipment, energy storage facilities, gates, fences, barriers, landscaping, security systems, access roads within the Premises, and signage, and any other items or appurtenances that are used or useful in connection with the generation, production, interconnection, transmission, distribution, and sale of solar energy to be constructed, owned, operated, and maintained by Lessee, with specifications for an aggregate nameplate capacity of approximately 1 MW(ac), together with all appurtenant facilities and any transformers and interconnection facilities comprising underground cables and any necessary junction boxes or other equipment required to interconnect the facility to the local electric distribution system, and any and all Alterations, additions, replacements, or modifications thereto, all to be located on the Premises as further set forth in Exhibit B.

**“Documented Site Conditions”** means those conditions at the Premises documented in the Site Assessment in accordance with Section 2.6.

**“Effective Date”** means the date set forth in the introductory paragraph of this Lease.

**“Energy”** means the amount of electricity either used or generated by the Customer-Hosted Facility over a period of time, as expressed in units of kWh or MWh.

**“Environmental Attributes”** means any environmental offsets or allowances, renewable product, value, or credits of any kind or nature earned or attributable to (A) the Customer-Hosted Facility, and (B) the electric energy generated by the Customer-Hosted Facility, including, without limitation, those resulting from or associated with the Federal Clean Air Act, renewable energy credits, or any other federal or state acts, laws, regulations, or ordinances that provide offsets, allowances, or credits related to energy or emissions created through the generation of energy from the Customer-Hosted Facility.

**“Environmental Laws”** means all local, state or federal laws relating to health, safety, pollution, protection of the environment or Hazardous Materials, including, without limitation, the Resource Conservation and Recovery Act, as amended (“RCRA”), 42 U.S.C. §6901 et seq.; the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. §9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986 (“SARA”); the Clean Air Act, as amended, 42 U.S.C. §7401 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §5101 et seq.; the Clean Water Act, 33 U.S.C. §1251 et seq.; the Toxic Substances Control Act, 15 U.S.C. §2601 et seq.; the Safe Drinking Water Act, 42 U.S.C. §300f et seq.; the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §136 et seq.; the Emergency Planning and Community Right to Know Act, 42 U.S.C. §11001 et seq.; the Occupational Safety and Health Act, 29 U.S.C. §651 et seq.; and all amendments, regulations, orders, decrees, permits, licenses, common law duties, legally binding guidelines, and deed restrictions now or hereafter promulgated thereunder or made pursuant thereto.

**“Event of Default”** has the meaning set forth in Section 14.4.

**“Firm Demand”** means that portion of the demand that Lessee, as an electricity provider, is obligated to provide to Lessor, except when system reliability is threatened or during emergency conditions.

**“Force Majeure”** means any acts, events, or occurrences that: (i) are not anticipated as of the execution date of this Lease; (ii) are not caused by the fault, negligence, or willful misconduct of the affected Party; (iii) are beyond the reasonable control of the affected Party; and (iv) could not have been avoided or overcome by the exercise of due diligence of the affected Party. Force Majeure includes, specifically, but not exclusively, the following: earthquakes, tidal waves, floods, fire, hurricanes, blizzards, quarantine, blockade, governmental acts, war (declared or not), rebellion, terrorism (foreign and domestic), or regional or national strikes or labor disputes (including walk outs, work stoppages, or slowdowns).

**“Governmental Authority”** means any national, state or local government, independent system operator, regional transmission owner or operator, any political subdivision thereof or any other governmental, judicial, regulatory, public or statutory instrumentality, authority, body, agency, department, bureau, or entity.

**“Gross Negligence”** has the meaning in Section 11.3.

**“Hazardous Materials”** means collectively, (i) any substance, material, waste, solid, liquid, gas, odor or form of energy, from whatever source, that is subject to or regulated by any current or future Environmental Law; (ii) those substances included within the definitions of “hazardous substances,” “hazardous materials,” “toxic substances,” “pollutant,” “contaminant,” “solid waste,” or “hazardous waste” in any Environmental Law; (iii) mold, fungi, or other similar substance, and (iv) more specifically, but not by way of limitation, (a) any substance now or in the future designated pursuant to Section 311(b)(2)(A) of the Clean Water Act, as amended, 33 U.S.C. 1321(b)(2)(A); (b) any toxic pollutant listed under Section 307(a) of the Clean Water Act, 33 U.S.C. 1317; (c) any “hazardous substance” or “pollutant or contaminant” as defined in Sections 101(14) and 101(33) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601(14) & 9601(33); (d) any element, compound, mixture, solution, or substance designated pursuant to Section 102 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9602; (e) petroleum, including crude oil or any fraction thereof; (f) any hazardous waste having the characteristics identified under or listed pursuant to the Solid Waste Disposal Act, as amended, 42 U.S.C. 6921 et seq.; (g) any material defined as “hazardous waste” pursuant to 40 C.F.R. Part 260; (h) any hazardous air pollutant listed under Section 112 of the Clean Air Act, 42 U.S.C. 7412; (i) any imminently hazardous chemical substance or mixture for which the Administrator of the Environmental Protection Agency has taken action pursuant to Section 7 of the Toxic Substances Control Act, 15 U.S.C. 2606; (j) any substance, the presence of which causes or threatens to cause a nuisance on the Plant or Site or a nuisance or trespass to real estate in the vicinity of the Plant or Site; (k) underground storage tanks; (l) urea-formaldehyde foam insulation; (m) asbestos and asbestos containing materials (whether friable or non-friable); (n) atmospheric radon at indoor concentrations exceeding 4 picocuries per cubic liter; and (o) any and all other substances, materials, and wastes which are characterized as “pollutants” or “contaminants” or as “toxic” or “hazardous” under Environmental Laws.

**“Indemnified Party”** has the meaning in Section 11.1.

**“Indemnifying Party”** has the meaning in Section 11.1.

**“Interest Rate”** means a fluctuating interest rate per annum equal to the sum of (i) the Prime Rate as stated in the “Bonds, Rates & Yields” section of The Wall Street Journal on the Effective Date and thereafter on the first day of every calendar month, plus (ii) two (2) percentage points. (In the event that such rate is no longer published in The Wall Street Journal or such publication is no longer published, the Interest Rate shall be set using a comparable index or interest rate selected by Lessee and reasonably acceptable to Lessor.) The Interest Rate hereunder shall change on the first day of every calendar month. Interest shall be calculated daily on the basis of a year of three hundred sixty-five (365) days and the actual number of days for which such interest is due.

**“kW”** means kilowatt.

**“kWh”** means kilowatt hour.

**“Lease”** has the meaning set forth in the introductory paragraph of this Lease.

***“Leasehold Mortgage”*** has the meaning set forth in Section 13.4.

***“Lessee”*** has the meaning set forth in the introductory paragraph of this Lease.

***“Lessee Senior Representative”*** shall mean David DeLeon, President, Wisconsin Power and Light Company.

***“Lessor”*** has the meaning set forth in the introductory paragraph of this Lease.

***“Lessor Senior Representative”*** shall mean Chad Pelishek, Director of Planning and Development, City of Sheboygan.

***“Liens”*** has the meaning set forth in Section 16.2(b).

***“MW”*** means Megawatt.

***“MWh”*** means Megawatt hour.

***“MISO”*** means Midcontinent Independent System Operator.

***“Monthly Rent”*** shall mean the rent payable to Lessor for use of the Premises in connection with the operation of the Customer-Hosted Facility, and as further described in Exhibit E.

***“Mortgagee”*** shall have the meaning in set forth in Section 13.2(b).

***“Notice of Construction”*** has the meaning set forth in Section 2.5.

***“Parties”*** means Lessor and Lessee, and their respective successors and permitted assignees.

***“Party”*** means Lessor or Lessee, and their respective successors and permitted assignees.

***“Permits”*** means all state, federal, and local authorizations, certificates, permits, licenses, and approvals required by any Governmental Authority for the construction, operation, and maintenance of the Customer-Hosted Facility.

**“Permitted Improvements”** means the Customer-Hosted Facility that will be used to conduct the Permitted Use, together with accessory uses thereto, including, but not limited to, one or more solar energy generating and conversion systems and related structures, foundations, fixtures, facilities and equipment, energy storage facilities, access roads (including the Access Easement), electric interconnection facilities, comprising underground cables and any necessary junction boxes or other equipment needed to connect the Customer-Hosted Facility to the local electric distribution system, as further set forth in Exhibit B hereto, any gates, fences, barriers, landscaping, security systems, and signage, and any other items or appurtenances that are used or useful in connection with the generation, production, interconnection, transmission, distribution, and sale of solar energy.

**“Permitted Use”** means the use and occupation of the Premises solely and exclusively for the design, construction, operation, maintenance, repair, and removal of the Permitted Improvements, which are designed and intended for the purpose of generating renewable energy for sale within MISO, and any incidental uses thereto.

**“Person”** means an individual, partnership, corporation (including a business trust), limited liability company, joint stock company, trusts, unincorporated association, joint venture, or other business entity.

**“Premises”** has the meaning set forth in Exhibit A, as applicable, as such Exhibit A may be amended in accordance with the provisions of this Lease.

**“Prudent Solar Industry Practice”** means those practices generally recognized by the solar and battery storage industries, including Lessee, in the United States as good and proper, and such other practices, methods or acts which, in the exercise of reasonable judgment by those reasonably experienced in the industry in light of the facts known at the time a decision is made, would be expected to accomplish the result intended at a reasonable cost, consistent with reliability, safety, site security, expedition, project economics and Applicable Legal Requirements. Prudent Solar Industry Practices are not intended to be limited to the optimum practices, methods or acts to the exclusion of all others, but rather to be a spectrum of good and proper practices, methods and acts.

**“RECs”** means renewable energy credits, which are defined in Wis. Stat. § 196.378(3), and, for purposes of this Lease only, include those renewable energy credits generated by the Customer-Hosted Facility.

**“Release”** or **“Released”** means or refers to any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of any Hazardous Material into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any Hazardous Material or pollutant or contaminant), and includes a threatened Release.

**“Remediation”** or **“Remediate”** means or refers to any (i) investigation, monitoring, clean-up, containment, remediation, mitigation, restoration, enhancement, removal, disposal or treatment of any Release or other condition involving non-compliance with Environmental Laws to remediation standards required by Environmental Laws, including the preparation and implementation of any work plans and the obtaining of authorizations, approvals and permits from governmental authorities with respect thereto, and (ii) any response to, or preparation for, any inquiry, order, consent order, hearing or other proceeding by or before any Governmental Authority with respect to any such non-compliance or otherwise pursuant to any Environmental Law.

**“Required Approvals”** means the permits, licenses, or other approvals from any federal, state, or local Governmental Authority or other third parties, directly related to and required for the design, installation, construction, and operation of the Customer-Hosted Facility.

**“Tariff”** means, as applicable, the Wisconsin Power and Light Company Customer-Hosted Renewables Pilot, Volume III, Original, Sheet No. 9.70, Amendment 536, Schedule CHR-1.

**“Term”** has the meaning set forth in Section 3.1.

**“Termination Date”** means the earlier to occur of (i) the last day of the Term or any Renewal Term, (ii) the date of termination of this Lease pursuant to Section 15.

**“Work”** has the meaning set forth in Section 12.1.

## SECTION 2 -- LEASE OF PREMISES

2.1 **Premises.** Lessor, for and in consideration of the rents, covenants, and agreements herein contained on the part of Lessee to be paid, kept, and performed, does hereby lease, rent, let, and demise unto Lessee, and Lessee does hereby take, accept, hire, and lease from Lessor, upon and subject to the conditions hereinafter expressed, the Premises (as further described in Exhibit A, as such Exhibit A may be amended in accordance with the provisions of this Lease) for the sole and exclusive purpose of conducting the Permitted Use and designing, constructing, operating, maintaining, repairing, and expanding the Permitted Improvements. Appurtenant to Lessee’s rights to the Premises is the non-exclusive right, subject to the terms set forth herein, to use of the Access Easement on Exhibit D for its respective specified purpose. The Premises, which shall include the Lessee’s appurtenant rights to the Access Easement, shown on Exhibit B, respectively, are demised subject to the following:

(a) any encumbrances shown on a survey of the Premises as described in paragraph 2.6;

(b) upon Lessee's written request and sole expense, Lessor furnishing a current letter report from a title company of Lessee's choice to Lessee. Lessee shall have the right to obtain a title opinion for a leasehold title policy from a title company of its choice. If, in the reasonable opinion of Lessee, such title opinion shows any defects of title or any liens or encumbrances which materially and adversely affect Lessee's use of the Premises, Lessee shall have the right, in Lessee's sole discretion, to (i) request that Lessor use commercially reasonable efforts to cure such defect in title within a reasonable period of time, provided, Lessor has the right to decline to cure such defect in its sole discretion, or (ii) terminate this Lease upon thirty (30) days written notice to Lessor. Lessor agrees to reasonably cooperate with Lessee, at no cost to Lessor, to enable Lessee to obtain a title guarantee, certificate, or a standard policy of title insurance insuring the Lease granted hereunder (including such endorsements as Lessee shall reasonably request);

(c) covenants, restrictions, easements, agreements, and reservations, as set forth in Exhibits A, B, and D, as such Exhibits A, B, and D may be amended in accordance with the provisions of this Lease;

(d) present and future zoning laws, ordinances, resolutions and regulations of the municipality in which the Premises lies, and all present and future ordinances, laws, regulations, and orders of all boards, bureaus, commissions, and bodies of any municipal, county, state, or federal authority, now or hereafter having jurisdiction, so long as they permit the use of the Premises for the Permitted Use, provided that Lessor shall not restrict or encumber Lessee's use of the Premises for the Permitted Use after the Effective Date or otherwise mortgage Lessee's leasehold interests in the Property without first allowing Lessee fifteen (15) days prior to the execution of such mortgage to obtain a subordination, nondisturbance, and attornment agreement ("*SNDA*") from Lessor's lender in a form reasonably acceptable to Lessee; and

(e) the condition and state of repair of the Premises as the same may be on the Effective Date.

Exhibit B, attached to this Lease, as of the Effective Date includes the Lessee's initial approximation of the Permitted Improvements, and Exhibit B may be amended by Lessee from time to time, with prior written approval by Lessor, which approval shall not be unreasonably withheld, conditioned, or delayed.

**2.2 Net Lease.** Except as provided in this Lease, Lessor shall not be required to make any expenditure, incur any obligation, or incur any liability in connection with this Lease or the ownership, construction, operation, maintenance, removal, replacement, or repair of the Permitted Improvements throughout the Term, except as otherwise provided in this Lease. Lessee hereby accepts the condition of the Premises as it may affect Lessee's construction, operation, repair, demolition, maintenance, and management of the Permitted Improvements, except as otherwise provided in this Lease. The Parties agree that Lessee shall not be liable for any conditions on the Premises:

- (a) arising from or related to acts or omissions occurring prior to the Effective Date; or,
- (b) occurring after the Effective Date that arise from or are related to Lessor's or Lessor's employees', contractors, or agent's Gross Negligence or willful misconduct.

**2.3 Ownership of the Permitted Improvements.** Lessor shall have no ownership of, or other interest in, Lessee's equipment, machinery, appurtenances within the Premises, or the Permitted Improvements. Lessor shall have no ownership or, or other interest in, the Customer-Hosted Facility or any related appurtenances and apparatus or the Environmental Attributes. Provided, however, Lessor may, at its sole discretion, and no later than the Effective Date, elect to receive any RECs, subject to Exhibit E, Section (1).

**2.4 Additional Use.** Except with the prior express written consent of Lessor, Lessee shall not use the Premises for any use other than the Permitted Use. Lessor shall not conduct or permit, whether by act or omission, any uses on the Premises that conflict with or interfere with the Permitted Use.

**2.5 Notice of Construction; Delivery of Possession.** At any time after the Effective Date and before Lessee causes the commencement of construction of the Permitted Improvements on the Premises, which period shall not be more than seven hundred thirty (730) days after the Effective Date, Lessee shall deliver to Lessor a written notice (the "***Notice of Construction***"), stating the approximate date, which shall be not less than sixty (60) days after the date of the Notice of Construction, on which Lessee intends to begin construction at the Premises with respect to the Permitted Improvements. Lessor shall deliver possession of the Premises needed for the Customer- Hosted Facility to Lessee at least thirty (30) days prior to the date of commencement of construction of the Customer-Hosted Facility as stated in the Notice of Construction.

**2.6 Survey.** Lessee shall obtain a survey of the Property at its own expense. Lessor shall cooperate with provide Lessee and Lessee's agents with reasonable access to the Premises for the purposes of conducting a Survey, provided that Lessee shall provide reasonable advance notice of the need for such access to Lessor.

2.7 Access to Premises Before Notice of Construction. During the period after the Effective Date and before delivery of the Notice of Construction under Section 2.5, as requested by Lessee after Lessee's having provided reasonable advance notice to Lessor, Lessor shall provide Lessee with reasonable access to the Premises for purposes of evaluating the condition of the Premises and in connection with designing and engineering the Permitted Improvements.

### SECTION 3 -- TERM

3.1 Term. The "*Term*" shall begin on the Effective Date and end at noon central time on the twenty-fifth (25th) anniversary of the Effective Date.

3.2 Extended Term. So long as the Lessee is not then in an uncured Event of Default, this Lease will automatically renew for up to three (3) additional five (5) year terms after the initial Term (each a "*Renewal Term*") without action or notice by either Party, unless one Party gives the other written Notice of its intention not to renew this Lease for the upcoming Renewal Term ("*Non-Renewal Notice*"). Non-Renewal Notices shall be delivered no later than one hundred eighty (180) days prior to the expiration of the Term, or the then current Renewal Term, as the case may be, with the final day of the Term or last Renewal Term being the "*Termination Date*".

3.3 Memorandum of Lease. Promptly after the Effective Date and before delivery of the Notice of Construction under Section 2.5, the Parties shall execute a Memorandum of Lease in a form reasonably agreeable to both parties, and Lessee shall promptly thereafter record said Memorandum in the official records of Sheboygan County, Wisconsin. Upon the expiration or earlier termination of this Lease, Lessee agrees to execute an instrument releasing all of its rights granted herein except those rights which expressly survive the termination of this Lease, and to deliver the same to Lessor within ten (10) days after the Termination Date.

### SECTION 4 -- RENT AND OTHER CONSIDERATION

Lessee agrees to pay Lessor the amounts set forth in Exhibit E as consideration for the Lease, Access Easements, and Lessee's other rights and interests in the Lessor's Property.

## SECTION 5 -- INSURANCE

5.1 Insurance Requirements. Beginning on the Effective Date and throughout the Term, each Party shall maintain the policies and coverages set forth on Exhibit C. Upon request, each Party shall furnish to the other Party certificates of insurance showing policies carried. Further, each Party shall be named as an additional insured for the negligent acts and omissions of the other Party arising out of this Lease Agreement, on a primary and non-contributory basis, with respect to the Commercial General Liability coverage. Lessee may satisfy the foregoing insurance requirements, in whole or in part, through the provision of self-insurance by Lessee in the amounts identified in Exhibit C and pursuant to terms and conditions consistent with prudent utility practices and consistent with the manner in which Lessee insures other similar properties and risks. Each certificate of insurance delivered hereunder, to the extent obtainable, shall contain an agreement by the insurer that such policy shall not be cancelled or surrendered without at least thirty (30) days prior written notice to the other Party and to any mortgagee named in such policy. Failure of either Party to enforce the minimum insurance requirements listed above shall not relieve the other Party of responsibility for maintaining these coverages.

5.2 Waiver of Subrogation. Whether the loss or damage is due to the negligence of Lessor or Lessee, or their respective employees or agents, or any other cause, Lessor and Lessee do each herewith and hereby release and relieve the other, its employees, and agents from responsibility for and waive their entire claim of recovery for (a) any loss or damage to the real or personal property of either located anywhere on the Property, including the Property itself, arising out of or incident to the occurrence of any of the perils which are covered by a fire and extended coverage policy of insurance, and (b) any loss resulting from business interruption at the Premises or Property or loss of rental income from the Premises or Property or any portion thereof, arising out of or incident to the occurrence of any of the perils which are covered by any business interruption insurance policy or by any loss of rental income insurance policy. Each Party shall cause its insurance carriers to consent to such waiver and to waive all rights of subrogation against the other Party.

## SECTION 6 -- SURRENDER ON TERMINATION

### 6.1 Surrender of the Premises and Removal of the Permitted Improvements.

(a) On the Termination Date, Lessee shall peaceably and quietly leave, surrender and yield up unto Lessor the Premises.

(b) Notwithstanding the foregoing, Lessee shall be required, at Lessee's sole expense, as soon as reasonably practicable and no later than two hundred seventy (270) days after the Termination Date of this Lease, during which time Lessee shall continue to pay the Monthly Rent and Taxes, to decommission the Permitted Improvements subject to the Termination Date, remove the Permitted Improvements and any other alterations, changes, additions and improvements which may have been made upon the Subject Property, except the Access Easement, whether above-ground or below-ground, from the Premises and appurtenant areas, and restore and reclaim the Premises and appurtenant areas subject to the Termination Date to approximately their original condition existing on the Effective Date, normal wear and tear and casualty excepted. This shall include, but not be limited to, the removal from the Property of any and all deleterious material and substances that might cause injury to persons, crops, water supply sources, native vegetation or livestock, including junk material, pieces of iron, pipes, steel, concrete or other debris and foreign materials, leveling of all mounds, filling all pits, ruts and other excavations, restoring the surface of the Property used by Lessee to as near its original condition as is reasonably practicable after the completion of the operation or other activity conducted under this Lease in question, root plowing, discing and seeding of such areas with ten (10) pounds per acre of grass seed of Lessor's selection, and fertilizing the affected areas.

(c) Any property, improvements, or Permitted Improvements subject to the Termination Date left on the Premises after the passage of two hundred seventy (270) days following the Termination Date, or such longer period as granted by Lessor in its sole discretion, may, at the option of Lessor, be deemed abandoned (a "*Constructive Abandonment*") and thereafter shall become the personal property of Lessor; *provided*, the forgoing shall not apply to any property, improvements or Permitted Improvements of Lessee that are not timely removed if the failure to remove is caused by an event of *Force Majeure* or the negligent acts or omissions of Lessor (in which in either case the time period for removal shall be extended on a day-to-day basis).

(d) No later than the fifteenth (15<sup>th</sup>) anniversary date of the Commercial Operations Date, Lessee shall provide a bond or other security reasonably satisfactory to Lessor, which secures Lessee's obligation to remove the Improvements from the Subject Property at the end of the Term or earlier termination of this Lease. Such bond or other security ("Removal Bond") shall be in an amount equal to one hundred ten percent (110%) of Lessee's reasonable estimate of removal and restoration costs, less the reasonable salvage value of the Project, that will be incurred in complying with the terms of this Lease. The Removal Bond shall be assessed and the value accordingly adjusted if necessary due to an increase in the cost of performance under this Lease, at least once every five (5) years. If Lessee and Lessor are unable to agree to the proper amount of the Removal Bond, Lessee and Lessor shall mutually agree to a disinterested unaffiliated third party to determine said amount. The disinterested third party's determination shall be final for the purposes of assigning a value to the Removal Bond. The Removal Bond shall be released to Lessee upon Lessor's reasonable satisfaction that removal and restoration operations pursuant to this Lease have been complied with. The bond or other security shall extend for a reasonable period of time beyond the Term of this Lease and the form of bond (or other security) shall be reasonably satisfactory to the Parties. The provision of such bond or other security is not intended to limit the obligations of Lessee to comply fully with its obligations set forth in this section and to the extent the costs of compliance exceed the amount of the bond or other security, Lessee shall be responsible for such excess costs.

6.2 Title. Subject to Section 6.1(c), above, ownership and title to the Permitted Improvements, except the Access Easement, shall solely and exclusively be in the Lessee.

## SECTION 7 -- DUTY TO MAINTAIN

7.1 Lessee's Duty. Subject to Section 12, commencing upon and continuing after the date of the Notice of Construction for the Customer-Hosted Facility, Lessee shall keep the Permitted Improvements in good condition, reasonable wear and tear excepted, and perform its obligations with respect to the Premises, conduct all necessary maintenance and repairs to the Permitted Improvements and shall maintain and keep the Permitted Improvements in accordance with Prudent Solar Energy Industry Practice and Applicable Legal Requirements.

7.2 Lessor's Duty. During the Lease Term, Lessor shall maintain the Property more particularly described on Exhibit A and the Premises, but excluding the Customer-Hosted Facility described on Exhibit B, in good and usable condition. Excluding the Customer-Hosted Facility, Lessor shall be responsible for all maintenance and repairs to the Property related to flood, earthquake, storm, fire, tornado, lightning, windstorm, unusually inclement weather or other natural catastrophe; acts of God, casualty or accident; and war, sabotage, vandalism, civil strife or other violence, related to the Property at Lessor's sole cost and expense. Lessee shall be responsible for day-to-day maintenance, including but not limited to grass cutting, weed control, and snow removal.

7.3 Damage. Lessor shall immediately notify Lessee in the event Lessor or Lessor's agents damage any portion of the Customer-Hosted Facility. Lessor shall be responsible for actual reasonable costs of repair, to be performed by Lessee or an approved Affiliate or subcontractor.

7.4 Public Safety. Lessor shall, as promptly as it becomes aware thereof, notify Lessee of the occurrence of any event or the existence of any condition or circumstance that poses an imminent threat or hazard to public health or safety (an "*Emergency*") at the Premises. Lessee shall respond to any such Emergency as promptly as reasonably possible and take all measures necessary to address the condition that gave rise to the Emergency. Lessor shall not be required to incur any cost or expense attributable to the Customer-Hosted Facility in the event of such Emergency, except to the extent such emergency is caused by Lessor's negligence or willful misconduct.

7.5 Construction, Maintenance, and Monitoring of the Customer-Hosted Facility.

(a) Lessee, at its sole cost and expense, and in accordance with Prudent Solar Industry Practice and Applicable Legal Requirements, shall at all times:

(i) have responsibility for the costs and performance of construction of the Customer-Hosted Facility and procuring and maintaining or causing the procurement or maintenance of insurance on the Customer-Hosted Facility;

(ii) have responsibility for the costs and performance of all repairs, replacements, maintenance, Remediation, compliance with permits, and compliance with Applicable Legal Requirements;

(iii) bear the risk of loss in case of a theft, damage, casualty, condemnation or confiscation of Customer-Hosted Facility except in the case of Lessor's negligence or willful misconduct; and

(iv) be responsible, in accordance with Section 6, for removing the Permitted Improvements from the Premises upon the termination of this Lease.

(b) The Lessor shall have no obligation to perform any of the Lessee obligations set forth in Section 7.5(a) above, and Lessee or Lessee's agent(s), as applicable, shall be solely responsible for the performance of all such obligations.

7.6 Vegetation; Structures. Lessor agrees that it shall not permit on the Premises or on any adjacent or nearby property owned by Lessor or its Affiliates any new structure, vegetation, activity, or land use to penetrate the airspace in any manner that would cast a shadow on the Customer-Hosted Facility. While Lessee retains certain rights to expand the Customer-Hosted Facility upon the Premises, Lessor's obligations under this provision only extend the portion of the Premises actually in use at the time of approval/permitting of any new structures, vegetation, activity, or land use.

7.7 Security; Safety. Lessee shall be responsible for the security of the Property, including the Premises, and shall install or implement any other necessary security measures consistent with prudent industry practices.

**SECTION 8 --  
CONSTRUCTION AND OPERATION OF PERMITTED IMPROVEMENTS**

8.1 General Description. Except as otherwise specified herein, the Permitted Improvements shall consist of the improvements described on Exhibit B, which is each attached hereto and which, as of the Effective Date, includes a preliminary description of the specifications of the major components of the Permitted Improvements to be constructed by the Lessee.

8.2 Governmental Approval.

(a) Except as otherwise specified herein, Lessee will obtain at its sole cost all Permits required for Lessee's use of the Premises, the Permitted Use, and the Permitted Improvements from any and all Governmental Authorities having jurisdiction in the matter.

(b) At Lessee's request and sole expense, Lessor shall reasonably cooperate with Lessee so that Lessee can meet its obligations under this Lease. At Lessee's request and sole expense, Lessor agrees to take all reasonable measures with respect to which it has legal capacity to facilitate and expedite the review of all local permits and approvals necessary for the Permitted Improvements.

8.3 Development Commences Promptly. Lessee shall promptly and diligently prosecute to completion (subject only to an event of *Force Majeure*) all actions to: (a) commence the necessary activities for the permitting, designing and engineering of the Permitted Improvements following the Effective Date; and (b) commence the necessary activities for the construction of the Permitted Improvements following the date of its Notice of Construction.

8.4 Completion Requirements. Lessee will arrange for the construction of the Permitted Improvements in a good, careful, proper and workmanlike manner in accordance with Prudent Solar Industry Practice and all Applicable Legal Requirements.

8.5 Access to and Use of the Premises. Upon the Effective Date and throughout the Term, and during construction and operation of the Permitted Improvements, including, but not limited to, all related pre-construction activities, Lessee and its contractors or agents shall have unrestricted access, including ingress and egress rights, to the Premises at all times, provided, Lessee acknowledges that prior to delivery of the Notice of Construction Lessee's access to the Premises shall be non-exclusive. Lessor agrees to maintain all roads, parking lots, driveways, easements, and walkways that are now and may be located in and around the Premises necessary for proper ingress and egress to and from, and use of, the Premises. Prior to relocating access, Lessor shall consult with Lessee and seek Lessee's approval, which such approval shall not be unreasonably withheld.

8.6 Alterations. Lessee shall have the right from time to time both before and after the completion of the Permitted Improvements and at Lessee's sole cost and expense to make, or cause to be made, additions, alterations and changes, other than structural changes or repair or replacement of parts at the Permitted Improvements, to the Premises as is reasonably required to conduct the Permitted Use in compliance with the provisions of this Lease ("*Alteration*").

8.7 Signs. Lessee shall be permitted to place signs on the Property, provided, any such signs shall be subject to the approval of Lessor (such approval not to be unreasonably withheld, conditioned or delayed) and shall be consistent with size, height, area, lighting, setback or other restrictions under Applicable Legal Requirements.

## SECTION 9 -- SUBORDINATION; NONDISTURBANCE

### 9.1 Subordination and Nondisturbance.

(a) Except in accordance with and subject to the provisions of this Lease, including Section 9.1(b) below, after the Effective Date, neither Lessee nor Lessor shall create, or suffer to be created or to remain, and shall promptly discharge, any mechanic's, laborer's, or materialman's lien or any mortgage upon the Premises, and neither Lessee nor Lessor will suffer any other matter or thing arising out of Lessee's use and occupancy of the Premises whereby the estate, rights and interests of either Lessee or Lessor in the Premises or any part thereof might be impaired.

(b) Notwithstanding the foregoing, the Parties acknowledge and agree that Lessee may grant a security interest in its rights under its Lease and in and to the Customer- Hosted Facility. The Property is not presently encumbered by any deed of trust, mortgage or other lien, .

(c) Lessor agrees not to further restrict the Permitted Use or encumber the Premises after the Effective Date or otherwise further mortgage the Property without first allowing Lessee fifteen (15) days to obtain a SNDA from Lessor's lender.

9.2 Discharge. If any mechanic's, laborer's or materialman's lien, or any mortgage, shall at any time be filed against the Premises by reason of Lessee's or, as applicable, Lessor's failure to make a payment to any contractor or subcontractor of Lessee or Lessor, respectively, Lessee or Lessor, as applicable, within thirty (30) days after notice of the filing thereof, shall cause such lien to be discharged of record by payment, deposit, bond, insurance, order of court of competent jurisdiction or otherwise. If Lessee or Lessor, respectively, shall fail to cause such lien to be discharged within the period aforesaid, then, in addition to any other right or remedy, Lessee or Lessor, respectively, may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or by bonding. Any amount so paid by Lessee or Lessor, as applicable, and costs and expenses reasonably incurred by Lessee or Lessor, respectively, in connection therewith, together with interest thereon at the Interest Rate from the respective dates of Lessee's or Lessor's making of the payment of the cost and expenses, respectively, shall be paid by Lessee or Lessor to the other Party within thirty (30) calendar days of Lessee or Lessor's invoice therefor, as applicable.

## SECTION 10 -- QUIET ENJOYMENT

10.1 Quiet Enjoyment. Lessor represents and warrants that it has full right, power, and authority to execute this Lease. Lessor warrants and agrees that, throughout the Term and any extensions thereof:

(a) Any uses of the Property by Lessor or any third party shall not unreasonably interfere with the Permitted Use and the operational requirements of the Permitted Improvements and shall not materially reduce the solar insolation available to the Customer-Hosted Facility that uses solar to generate electricity; and

(b) Lessee shall be entitled to peaceful and quiet enjoyment of the Premises, subject to the terms of this Lease. Lessor agrees, in good faith, to make commercially reasonable efforts to protect Lessee from interference or disturbance by other lessees or third persons. Lessee covenants and agrees that it will not adversely affect the quiet enjoyment of other lessees in the Property.

## SECTION 11 -- INDEMNIFICATION

11.1 To the maximum extent permitted by law, each Party (the "*Indemnifying Party*") shall defend, indemnify and hold harmless the other Party and such other Party's Related Persons (as defined below) (each, an "*Indemnified Party*") from and against any and all claims, litigation, actions, proceedings, losses, damages, liabilities, obligations, costs and expenses, including reasonable attorneys', investigators' and consulting fees, court costs and litigation expenses (collectively, "*Claims*") suffered or incurred by such Indemnified Party, arising from:

(a) physical damage to the Indemnified Party's property to the extent caused by the Indemnifying Party or any Related Person thereof which (i) in Lessee's case, shall include damage to the Permitted Improvements and (ii) in Lessor's case, shall include damage to the Premises or Property;

(b) physical injuries or death to or of the Indemnified Party or the public, to the extent caused by the Indemnifying Party or any Related Person thereof;

(c) any Event of Default arising from breach of any covenant which remains uncured beyond applicable cure periods, and any failure to be true of any representation or warranty, made by the Indemnifying Party under this Agreement;

(d) the presence or release of Hazardous Materials in, under, on or about the Premises, which are or were brought or permitted to be brought onto the Premises by the Indemnifying Party or any Related Person thereof; or

(e) the violation of any Environmental Law by the Indemnifying Party or any Related Person thereof; or

11.2 In no event shall the Indemnifying Party be responsible for defending, indemnifying or holding harmless any Indemnified Party to the extent of any Claim caused by, arising from, or contributed to, by the Gross Negligence (defined below) or willful misconduct of such Indemnified Party or any Related Person thereof.

11.3 No Consequential Damages. In no event shall a Party be liable to the other Party for any indirect, consequential, incidental, special or punitive damages, including, without limitation, lost revenues, profits, interest charges, cost of capital, or claims of its customers except to the extent specifically provided under this Agreement; provided, however, that this limitation of liability will not limit a Party's liability for: (i) damages that are caused by the Gross Negligence, fraud, or willful misconduct of the Party claiming the benefit of this waiver; or (ii) damages payable by a Party to a third party as a result of a third party claim for which such Party is entitled to indemnification hereunder. For purposes of this agreement, "*Gross Negligence*" means (i) a marked and flagrant departure from the standard of conduct of a reasonable person acting in the circumstances at the time of the alleged misconduct, or (ii) such wanton and reckless conduct or omissions as constitutes in effect an utter disregard for harmful, foreseeable and avoidable consequences.

11.4 Related Persons. As used herein the term “Related Person” shall mean any Affiliates, contractors, lessees, and subtenants of a Party, and each of their respective, principals, officers, employees, servants, agents, representatives, subcontractors, licensees, invitees, guests, successors and/or assigns, but explicitly excluding the other Party and its Related Persons.

11.5 This indemnity shall survive expiration or earlier termination of this Agreement as provided Section 20.19.

## SECTION 12 -- DAMAGE OR DESTRUCTION

12.1 Lessee Repair and Restoration. If, at any time during the Term, a Permitted Improvement or portion thereof shall be substantially damaged or destroyed and rendered inoperable by fire or other casualty, Lessee may at its sole cost and expense either (a) repair or replace the Permitted Improvements, or (b) elect to terminate this Lease in which case Lessee shall decommission and remove the Permitted Improvements in accordance with Section 6 of this Lease; and perform environmental Remediation, if required; and promptly restore the Premises to substantially the same condition as existed prior to the Effective Date. Such removal, repair, Remediation, or replacement, including such changes and alterations as aforementioned and including temporary repairs, are referred to in this Section as the “*Work.*”

12.2 Conditions of the Work. Except as otherwise provided in this Section 12, the conditions under which any Work is to be performed and the method of proceeding with and performing the same shall be governed by all of the provisions of this Lease.

12.3 Failure to Commence Repairs. If the Work shall not have been commenced within one hundred eighty (180) days of the date of the casualty or other occurrence, or such longer period as may be reasonably required to adjust the insurance, achieve final plans and obtain all necessary Permits, or if such Work after commencement shall not proceed with due diligence (any *Force Majeure* event excepted), Lessor may terminate this Lease pursuant to Section 14. On such termination, Lessee shall decommission and remove the Permitted Improvements, except the Access Easement, and any other structures on the Premises and restore the Premises in accordance with Section 6. Upon the completion of such activities, Lessee shall have no further obligation to pay Lessor the Monthly Rent or any other amount under this Lease (other than payments due as of the Termination Date and payments required by any provisions of this Lease that expressly survive termination).

12.4 Lessee’s Right to Terminate in Event of Shutdown. In the event a Governmental Authority decrees, orders or demands that operation of the Permitted Improvements cease or that the Permitted Improvements be removed from the Premises, Lessee shall have the right to terminate this Lease without penalty to either Party. *[For purposes of this Section 12.4, Governmental Authority shall not include Lessor.]*

## SECTION 13 – ASSIGNMENT

13.1 Assignment by Lessor. Lessor shall be permitted to assign or transfer this Lease or any part thereof only upon the prior written consent of Lessee, such consent not to be unreasonably withheld, conditioned, or delayed.

13.2 Release of Lessor. Provided Lessee has consented to any assignment by Lessor in accordance with Section 13.1, above, Lessor shall be relieved from its obligations under this Lease:

(a) by any whole disposition of Lessor's interest in the Lease in compliance with Section 13.1, when coupled with a written instrument signed by the assignee or transferee of such interest in which said assignee or transferee accepts and agrees to be bound by the terms of this Lease; and

(b) in the event of any foreclosure on the Premises by any person with a mortgage interest in the Premises (a "*Mortgagee*"), in which case the Mortgagee shall substitute for the Lessor for purposes of this Lease and which Mortgagee shall be bound by the terms of this Lease; provided, however, that the Mortgagee subsequently shall be entitled to assign its right under this Lease in accordance with the provisions of Section 13.1.

Absent express written consent of Lessee, the execution of a Mortgage or any assignment from one Mortgagee to another Mortgagee shall not relieve Lessor from its obligations under this Lease. Any attempt by Lessor to assign or transfer this Lease or any rights, duties or interest hereunder in violation of this Section will be null and void.

13.3 Assignments by Lessee. Lessee shall be permitted to assign this Lease without the consent of Lessor in accordance with Section 13.4, below or with respect to an affiliate of Lessee. Lessee shall not otherwise have the right to assign any of its rights, duties, or obligations under this Lease without the written consent of Lessor, which such consent shall not be unreasonably withheld, conditioned, or delayed. In the event of any assignment under this Section 13.3, Lessee shall be released from any further liability under this Lease from and after the effective date of such assignment if, as of the date of assignment, the assignee accepts responsibility for all payment and performance obligations under the Lease. To the extent provided for in each conveyance document, an assignee under this Section 13.3 shall have all of the rights and benefits of Lessee under and pursuant to this Agreement.

13.4 Lessee's Right to Finance. Lessee will from time to time and at any time have the right, respectively, without the consent of Lessor, to collaterally assign or otherwise encumber Lessee's interests in this Lease or the Premises or any portion thereof held by Lessee by one or more mortgages, deeds of trust, security agreements, or other instruments in the nature thereof, as security for one or more loans, indebtedness or obligations incurred by Lessee ("**Leasehold Mortgage**"). A Leasehold Mortgage may encumber Lessee's right to use and occupy the Premises, the leasehold estate created hereby, all right, title and interest in and to any existing building, fixture, or personal property, as well as in and to any and all other buildings at any time located on or partially on the Premises, and any other property so affixed to the land, buildings or improvements as to be a part thereof. Any such indebtedness or obligation and any such Leasehold Mortgage will be for such amount and on such other terms and conditions as Lessee may agree to. The aforesaid right shall be a continuing right. Any Leasehold Mortgage or loans, or extensions, renewals, refinancings, or replacements thereof obtained by or on behalf of Lessee shall impose no personal liability on Lessor and the sole recourse of the Mortgagee to be against Lessee and their respective interests in this Lease and the Permitted Improvements.

## SECTION 14 -- TERMINATION, DEFAULT, AND REMEDIES

### 14.1 Termination for Convenience.

(a) Lessee's Right to Terminate for Convenience. Lessee shall have the right to terminate this Lease as to all or any part of the Premises (the "**Termination Option**") without cause at any time, provided:

(i) Lessee is not in default pursuant to this Lease on the date that Lessee exercises its option to terminate this Lease and on the Termination Date;

(ii) Lessee shall give written notice to Lessor of its termination of the Lease effective not less than one hundred eighty (180) days after the date of the written notice ("**Termination Date**").

(b) Lessor's Right to Terminate for Convenience. Lessor shall have the right to terminate the Lease:

(i) if Lessee has not commenced construction of the Permitted Improvements on the Premises by the date that is seven hundred thirty (730) days from the Effective Date; or

(ii) if the Commercial Operations Date has not occurred within one thousand ninety-five (1,095) days of the Effective Date, provided, termination under this Section 14.1(b) shall be effective upon thirty (30) days' written notice from the non-defaulting Party to the defaulting Party.

**14.2 Termination for Concealed Conditions.** Prior to the Full Operations Date, Lessee may immediately suspend its performance of its obligations under this Agreement if it encounters Concealed Conditions at the Premises.

(a) If the presence of or required remedy of such Concealed Conditions could reasonably be expected to cause a material increase in the length of time required for Lessee to perform its obligations under this Agreement, Lessee shall be entitled to a day-for-day extension in any deadline applicable to such performance under this Lease, provided Lessee has provided written notice to the Lessor of the need for and maximum timeframe for such a day-to-day extension.

(b) If the presence of or required remedy of such Concealed Conditions could reasonably be expected to cause a material increase in Lessee's cost of performance of any of its obligations under this Lease, Lessee shall be entitled to terminate this Lease upon ten (10) days prior notice to Lessor; provided, however, that if the required remedy for such Concealed Conditions consists of the implementation of structural changes or improvements to the Premises that are required to support the Permitted Improvements, then, in lieu of such termination, Lessee may give written notice to Lessor of such needed changes. Lessor shall respond in writing to such notice within thirty (30) days thereafter stating whether Lessor agrees to implement such changes. If Lessor states in its responsive notice that it agrees to make the structural changes identified by Lessee, Lessor shall implement such structural changes or improvements in accordance with Applicable Legal Requirements, during which time Lessee shall be entitled to a day-for-day extension in any deadline applicable to such performance under this Lease. If Lessor states in its responsive notice that it does not agree to implement the structural changes proposed by Lessee, then Lessee shall be entitled to terminate this Lease upon ten (10) days written notice to Lessor.

**14.3 Effect of Termination.** Upon any termination of this Lease, Lessee shall, in accordance with the provisions of Section 6, remove the Permitted Improvements from the Premises, including any above-ground or below-ground cables, wires, junction boxes, or other equipment included as part of or used in conjunction with the Permitted Improvements and shall restore the Premises and Access Easements to a condition reasonably similar to their original condition as of the Effective Date, excepting reasonable wear and tear and casualty. Upon termination of this Lease for convenience under Section 14.1 or for Concealed Conditions under Section 14.2, and except for any Concealed Conditions associated with a release or threatened release of Hazardous Materials or a violation of any Environmental Laws, neither Party shall any liability to the other Party and, except for those obligations that expressly survive termination, the obligations of the respective Party shall terminate as of the effective date of termination.

14.4 Termination for Default. The following events shall be deemed to be events of default (each an “*Event of Default*” and collectively, the “*Events of Default*”):

(a) The failure to make any payment required to be made hereunder as the same shall become due and payable, and such failure shall continue for a period of thirty (30) days after written notice of such failure has been received by the defaulting Party. If the Parties have a good faith dispute as to whether a payment is due hereunder, the alleged defaulting Party may deposit the amount in controversy in escrow with any reputable third party escrow agent or the court, which amount shall remain undistributed and shall not accrue interest penalties, and no Event of Default shall be deemed to have occurred, until final decision by a court of competent jurisdiction or upon agreement by the Parties. No such deposit shall constitute a waiver of the non-defaulting Party’s right to institute legal action for recovery of such amounts;

(b) Any act or omission of Lessor that materially impacts, affects, or impairs Lessee’s ability to operate the Permitted Improvements;

(c) This Lease becomes subject to execution, attachment, or other process or Law; or

(d) A Party’s failure to comply in any material respect with any material term, provision or covenant of this Lease, other than payment of monetary sums, and if such failure to continues for a period of thirty (30) days after written notice specifying such failure has been received by the defaulting Party and the defaulting Party’s Mortgagee or Leasehold Mortgagee, as the case may be, or in the case of any such failure which cannot with due diligence and in good faith be cured within thirty (30) days, within such additional period as may be reasonably required to cure such failure with due diligence and in good faith.

(e) A filing by the Lessee for bankruptcy or insolvency of the Lessee pursuant to Chapter 128, Wisconsin Statutes.

14.5 Remedies in the Event of Default. In an Event of Default, the non-defaulting Party shall be entitled to any or all of the following remedies:

(a) Terminate this Lease by written notice to (i) the defaulting Party and (ii) the defaulting Party’s Mortgagee or Leasehold Mortgagee, as applicable, and such termination shall be effective thirty (30) days after receipt of such notice. In the case of an Event of Default by Lessee, Lessee shall remove, or cause the removal of, the Permitted Improvements, surrender possession and vacate Premises in accordance with Section 6, and deliver possession thereof to Lessor;

(b) Cure the Event of Default for the account and at the defaulting Party's expense, and obtain reimbursement from the defaulting Party upon demand for the reasonable cost of curing the Event of Default, including, but not limited to, attorneys' fees and costs, together with the Interest Rate from the date of such expenditure until the same is repaid; and/or

(c) Exercise any and all remedies available to the non-defaulting Party at law or in equity, all of which remedies shall be cumulative, including the right to enforce this Lease by injunction or other equitable relief.

14.6 Additional Damages. In addition to any other damages to which the non-defaulting Party is entitled under this Lease and applicable law, the non-defaulting Party shall be entitled to the following additional damages in an Event of Default by the defaulting Party:

(a) Damages Incurred by Lessor to Regain Possession Following the Termination Date. If Lessee fails to surrender the Premises in accordance with Section 6, Lessor shall be entitled to recover from Lessee the cost of regaining possession of the Premises, including any reasonable attorneys' fees.

(b) Damages Incurred in Obtaining a New Location for the Customer-Hosted Facility. In an Event of Default by Lessor which results in the Customer-Hosted Facility or the Premises becoming unusable, in whole or in substantial part, for the purposes intended by this Lease as stated in this Lease, Lessee shall be entitled to recover from Lessor, within forty-five (45) days written demand from Lessee, all Lessee's reasonable expenses in connection with obtaining a new location for the Customer-Hosted Facility, brokerage commissions, and attorneys' fees, and cancellation charges, fees, or penalties imposed upon Lessee by third-parties.

(c) Damages Incurred in the Event of Constructive Abandonment Following the Termination Date. In the event of a Constructive Abandonment following the Termination Date under Section 6.1(c), Lessor may remove all Permitted Improvements from the Premises and shall be permitted to keep such Permitted Improvements as personal property. Lessee shall reimburse Lessor for reasonable and documented costs of such removal of the Permitting Improvements, net of salvage value, and restoration of the Premises to a condition reasonably similar to their original condition as of the Effective Date, excepting reasonable wear and tear and casualty. Lessee's liability for these damages shall survive expiration or earlier termination of this Lease.

14.7 Lessee Liability Upon Termination. Except as set forth in provisions surviving the termination of this Lease, as provided in Section 18.19 and except with respect to any amounts owed and due by Lessee prior to or following the Termination Date, the Termination of this Lease shall relieve Lessee of its liability and obligations under this Lease.

14.8 Force Majeure. If performance of the Lease or of any obligation hereunder is prevented or substantially restricted or interfered with by reason of an event of Force Majeure, the affected Party, upon giving notice to the other Party, shall be excused from such performance to the extent of and for the duration of such prevention, restriction or interference. The affected Party shall use its reasonable efforts to avoid or remove such causes of nonperformance and shall continue performance hereunder whenever such causes are removed.

## **SECTION 15 -- LESSEE REPRESENTATIONS, WARRANTIES, AND COVENANTS**

15.1 Lessee Representations and Warranties. As of the date of this Lease, Lessee represents and warrants to Lessor as follows:

(a) Lessee is a corporation, duly organized, validly existing, and in good standing under the laws of the State of Wisconsin and is qualified to transact business in the State of Wisconsin.

(b) Lessee has legal capacity to enter into and perform this Lease.

(c) The execution of this Lease has been duly authorized, and each person executing this Lease on behalf of Lessee has authority to do so and to bind Lessee.

(d) To Lessee's knowledge, there is no pending or threatened action, suit, proceeding, inquiry, or investigation before or by any judicial court or administrative or law enforcement agency against or affecting Lessee or its properties wherein any unfavorable decision, ruling, or finding would materially and adversely affect the validity or enforceability of this Lease or Lessee's ability to carry out its obligations under this Lease.

(e) To Lessee's knowledge, none of the documents or other written or other information furnished by or on behalf of Lessee to Lessor or Lessor's agents pursuant to this Lease contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements contained herein or therein, in the light of the circumstances in which they were made, not misleading.

15.2 Lessee Covenants. Lessee hereby represents, warrants, and covenants the following to Lessor:

(a) Minimal Impacts. Lessee agrees to design and construct the Permitted Improvements and to locate and operate the Permitted Improvements in such a way as to reasonably minimize impacts to the Premises and to Lessor's activities, if any, on the Premises, to the extent practical, without negatively impacting the Permitted Improvements or the operation and output of the Customer-Hosted Facility. Lessee shall operate and maintain the Permitted Improvements in good order and repair throughout the term of this Agreement.

(b) Costs. Lessee covenants to Lessor that Lessee shall be responsible for all costs necessary to construct, operate, maintain, repair, remove, replace, and expand the Permitted Improvements.

(c) Governmental Agencies. Lessee, at its expense, shall comply in all material respects with valid laws, ordinances, statutes, orders, and regulations of any governmental agency applicable to the Customer-Hosted Facility. Lessee shall have the right, in its sole discretion, to contest by appropriate legal proceedings, the validity or applicability to the Premises or Permitted Improvements of any law, ordinance, statute, order, regulation, property assessment, or the like now or hereafter made or issued by any federal, state, county, local or other governmental agency or entity. Any such contest or proceeding shall be controlled and directed by Lessee.

(d) Construction Liens. Lessee shall keep the Premises free and clear of all liens and claims of liens for labor and services performed on, and materials, supplies, or equipment furnished to, the Premises in connection with Lessee's use of the Premises pursuant to the Lease; provided, however, that if Lessee wishes to contest any such lien, Lessee shall, within sixty (60) days after it receives notice of the filing of such lien, remove or bond over such lien from the Premises pursuant to applicable law or provide Lessor with title insurance insuring Lessor's interest in the Premises against such lien claim.

(e) Hazardous Materials. Lessee shall not violate any federal, state, or local law, ordinance, or regulation relating to the generation, manufacture, production, use, storage, release, discharge, disposal, transportation or presence of any substance, material, or waste which is now or hereafter classified as hazardous or toxic, or which is regulated under any Environmental Law, on or under the Premises. Lessee shall indemnify Lessor against any such violation that is caused by Lessee or Lessee's agents or contractors and occurs after the Effective Date. Lessee shall promptly notify Lessor of any such violation. In no event, however, shall Lessee be required to clean up, remove or take other remedial action with regard to any contamination or damage to soil or ground water on or in the Premises caused by any Hazardous Materials brought onto the Premises by Lessor, or by Lessor's employees, agents, contractors, subcontractors, representatives or invitees. Lessee will not be responsible for any pre-existing Hazardous Materials not introduced to the Premises by Lessee or its employees, agents, contractors, subcontractors, representatives or invitees. Lessee is not responsible for any pre-existing environmental conditions at the Premises.

(f) GPS Coordinates. Lessee shall provide Lessor with as-built drawings of the Customer-Hosted Facility and any underground improvements constructed on the Premises within thirty (30) days of the date of mechanical completion, as defined in the relevant engineering, procurement, and construction agreement for the Customer-Hosted Facility. This provision shall survive expiration or earlier termination of this Lease.

**SECTION 16 --  
LESSOR REPRESENTATIONS, WARRANTIES AND COVENANTS**

16.1 Lessor Representations and Warranties. As of the date of this Lease, Lessor represents, warrants, and covenants the following to Lessee:

(a) Lessor has received any necessary state, local, or municipal authorizations, if any, necessary to enter into this Lease.

(b) Lessor is the sole owner of the Premises and has the unrestricted right and authority to execute this Agreement and to grant to Lessee the rights granted hereunder. Each person signing this Agreement on behalf of Lessor is authorized to do so. When signed by Lessor, this Agreement constitutes a valid and binding agreement enforceable against Lessor in accordance with its terms.

(c) The execution of this Lease has been duly authorized, and each person executing this Lease on behalf of Lessor has authority to do so and to bind Lessor.

(d) There are no oil, gas, or mineral rights affecting the Property and Lessor has delivered to Lessee true and complete copies of any and all oil, gas, or mineral leases, licenses, easements, or agreements affecting the Property or any part thereof, and Lessor unequivocally waives any surface rights it may have whatsoever to any minerals in, under, or on the Property.

(e) To Lessor's knowledge, none of the documents or other written or other information furnished by or on behalf of Lessor to Lessee or Lessee's agents pursuant to this Lease contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements contained herein or therein, in the light of the circumstances in which they were made, not misleading;

(f) Lessor's Property is in accordance with applicable state or local jurisdictional building code, whichever is more stringent.

16.2 Lessor Covenants. Lessor makes the following covenants to Lessee:

(a) No Interference. Lessor's activities and any grant of rights Lessor makes to any person or entity shall not, currently or prospectively, materially interfere with: the construction, installation, maintenance, or operation of the Permitted Improvements, except the Access Easement; access over the Premises to such Permitted Improvements or the undertaking of any other activities permitted hereunder. Without limiting the generality of the foregoing, Lessor's activities or any rights granted by Lessor to a third party shall not materially disturb or interfere with the efficiency or output of the Customer-Hosted Facility on the Premises or disturb the Property or the Premises such that it could be expected to damage or interfere with the structural integrity or expected maintenance or operation of the Customer-Hosted Facility. Lessor may not use, or otherwise grant the right to use, the Property for the development of any renewable energy facilities other than the Customer-Hosted Facility. Throughout the Term and any extensions thereof, as provided in Section 10.1, Lessor shall protect Lessee's rights of quiet enjoyment.

(b) Liens and Tenants. Lessor represents that there are no recorded or unrecorded liens, encumbrances, leases (including leases for tenant farmers), mortgages, deeds of trust (except as disclosed to Lessee in writing), or other exceptions (collectively, "Liens") to Lessor's fee title ownership of the Premises or to Lessor's right, title or interest in the Premises. Except as disclosed by Lessor in writing to Lessee, Lessor represents that there are no mortgages, deeds of trust, or similar liens or security interests encumbering all or any portion of the Premises. In accordance with Section 2.1(a), Lessor shall reasonably cooperate and assist Lessee in curing any title objection and obtaining any nondisturbance agreement from each party that holds rights (recorded or unrecorded) that might interfere with Lessee's rights under this Agreement.

(c) Requirements of Governmental Agencies. Lessor shall assist and reasonably cooperate with Lessee, at no out-of-pocket expense to Lessor, in complying with or obtaining any Required Approvals for the financing, construction, installation, monitoring, replacement, relocation, maintenance, operation or removal of Customer-Hosted Facility, including execution, if necessary, of applications for such Required Approvals, and including participating in any appeals or regulatory proceedings respecting the Permitted Improvements.

(d) **Hazardous Materials.** Lessor shall not violate any federal, state or local law, ordinance or regulation relating to the generation, manufacture, production, use, storage, release, discharge, disposal, transportation or presence of any Hazardous Materials on or under the Premises. Lessor shall indemnify Lessee against any such violation that is caused by any Lessor or any employee, contractor or agent of Lessor and that existed on or before the Effective Date. Lessor shall promptly notify Lessee of any such violation. If Remediation is required due to Hazardous Materials in, on, or under the Premises, not including the Access Easement, which was not proximately caused by Lessee, so long as Lessee is not in default of the Lease, Lessee shall have the option to terminate this Lease in accordance with Section 14 as if an Event of Default occurred under Section 14.4(d).

(e) **Title Insurance.** Lessor agrees that within ten (10) calendar days of receipt, Lessor shall use commercially reasonable efforts to execute and deliver to Lessee any documents reasonably required by the title insurance company selected by Lessee necessary to allow Lessee to obtain policies of title insurance insuring their respective interests in the Property.

(f) **Litigation.** **No litigation is pending, and, to the best of Lessor's knowledge, no actions, claims or other legal or administrative proceedings are pending, threatened in writing or anticipated with respect to, or which could affect, the Property. If Lessor learns that any such litigation, action, claim or proceeding is threatened in writing or has been instituted, Lessor shall promptly deliver notice thereof to Lessee.**

## SECTION 17 -- NO WAIVERS

17.1 **No Implied Waivers – Remedies Cumulative.** No covenant or agreement of this Lease shall be deemed to have been waived by Lessor or Lessee, unless such waiver shall be in writing and signed by the Party against whom it is to be enforced or such Party's agent. Consent or approval of Lessor or Lessee to any act or matter must be in writing and shall apply only with respect to the particular act or matter in which such consent or approval is given and shall not relieve the other Party from the obligation wherever required under this Lease to obtain consent or approval for any other act or matter. Lessor or Lessee may restrain any breach or threatened breach of any covenant or agreement herein contained, but the mention herein of any particular remedy shall not preclude either Lessor or Lessee from any other remedy it might have, either in law or in equity. The failure of Lessor or Lessee to insist upon the strict performance of any one of the covenants or agreements of this Lease or to exercise any right, remedy or election herein contained or permitted by law shall not constitute or be construed as a waiver or relinquishment for the future of such covenant or agreement, right, remedy or election, but the same shall continue and remain in full force and effect. Any right or remedy of Lessor or Lessee herein specified or any other right or remedy that Lessor or Lessee may have at law, in equity or otherwise upon breach of any covenant or agreement herein contained shall be a distinct, separate and cumulative right or remedy and no one of them, whether exercised or not, shall be deemed to be in exclusion of any other.



17.2 Acceptance of Payment. Neither receipt nor acceptance by Lessor of any payment due herein, nor payment of same by Lessee, shall be deemed to be a waiver of any default under the covenants or agreements of this Lease, or of any right or defense that Lessor or Lessee may be entitled to exercise hereunder.

## SECTION 18 -- MISCELLANEOUS

18.1 Confidentiality. Except as provided in this Section 18.1, neither Party shall publish, disclose, or otherwise divulge Confidential Information to any person at any time during or after the term of this Lease, without the other Party's prior express written consent, as applicable.

(a) Each Party shall permit knowledge of and access to Confidential Information only to those of its affiliates, attorneys, accountants, representatives, agents and employees who have a need to know related to this Lease.

(b) If required by any law, statute, ordinance, decision, order or regulation passed, adopted, issued or promulgated by a court, governmental agency or authority having jurisdiction over a Party, that Party may release Confidential Information, or a portion thereof, to the court, governmental agency or authority, as required by applicable law, statute, ordinance, decision, order or regulation, and a Party may disclose Confidential Information to accountants in connection with audits, provided however, to the extent permitted by law, such disclosing party shall notify the other parties of the required disclosure, such one or both of the other parties may attempt (if such party so chooses) to cause that court, governmental agency, authority or accountant to treat such information in a confidential manner and to prevent such information from being disclosed or otherwise becoming part of the public domain.

18.2 Successors and Assigns. This Lease shall run with the land and shall inure to the benefit of and be binding upon Lessor and Lessee and, assignment or other transfer under Section 14 hereof, Assignee, and their respective heirs, transferees, successors and assigns, and all persons claiming under them. References to Lessee in this Agreement shall be deemed to include Assignees that hold a direct ownership interest in this Lease and/or are exercising rights under this Lease to the extent consistent with such interest.

18.3 Notices. Any Notice pursuant to the terms and conditions of this Lease shall be in writing and deemed effective as follows: (a) if delivered personally, upon delivery; (b) if sent by certified mail, return receipt requested, upon certified receipt; (c) if sent by a recognized mail or courier service, with delivery receipt requested, upon receipt; (d) if sent by email, upon the opening by the recipient of the email and acknowledge by recipient as having been received or with a return receipt returned to the sender; or (e) if sent by facsimile transmission, when dispatched and acknowledged by recipient as having been received in full and in legible form. Notices shall be addressed to the following persons and address (or to such other persons or addresses as the respective Parties may add or substitute by written notice):

To Lessee: Wisconsin Power and Light Company  
4902 N Biltmore Lane  
Madison, Wisconsin 53718  
Attention: Cat Tackett  
Telephone: 608-458-3845  
Email: CatTackett@alliantenergy.com

To Lessor: City of Sheboygan  
828 Center Avenue, Suite 208  
Sheboygan, Wisconsin 53081  
Attention: Chad Pelishek  
Telephone: (920) 459-3377  
Email: Chad Pelishek@sheboyganwi.gov

18.4 Governing Law. This Lease and the rights and duties of the Parties hereunder shall be governed by and shall be construed, enforced and performed in accordance with the laws of the State of Wisconsin without regard to principles of conflicts of law. The Parties agree that any rule of construction to the effect that ambiguities are to be resolved in favor of either Party shall not be employed in the interpretation of this Agreement and is hereby waived.

18.5 Dispute Resolution. Unless otherwise expressly provided for in this Lease, the dispute resolution procedures of this Section 18.5 shall be the exclusive mechanism to resolve disputes arising under this Lease. The Parties agree to use their respective best efforts to resolve any dispute(s) that may arise regarding this Lease. Any and all disputes arising under, out of, or in relation to this Agreement, its negotiation, performance, purported breach or termination (“*Dispute*”) shall first be submitted for resolution in accordance with the provisions of this Section 18.5. Any Dispute shall first be referred to the Lessee Senior Representative and the Lessor Senior Representative for informal resolution. Any dispute that cannot be resolved between the Lessee Senior Representative and Lessor Senior Representative within ten (10) calendar days or in the case of payment disputes five (5) calendar days, after receipt by each thereof of Notice of such Dispute shall be referred to the executive officer designated by the Lessee as its designated representatives for resolution and the City Administrator on behalf of the Lessor. If the Parties, negotiating in good faith, fail to reach an agreement within a reasonable period of time, not exceeding ten (10) calendar days after such referral, then Lessee and Lessor may avail themselves to any process, including court action, to enforce any right or remedy available to them at law.

18.6 Condemnation. If eminent domain proceedings are commenced against all or any portion of the Property and the taking and proposed use of such property would prevent or adversely affect Lessee's construction, installation or operation of Customer-Hosted Facility on the Property, the Parties shall either amend this Lease to relocate the Customer-Hosted Facility, or, at Lessee's option, this Lease shall terminate in which event neither party shall have any further obligations hereunder. All compensation awarded for any taking pursuant to the power of eminent domain, whether for the whole or a part of the Premises, shall be Lessor's property, whether such damages shall be awarded as compensation for diminution in the value of leasehold or of the fee interest in the Premises or otherwise, and Lessee hereby assigns to Lessor all of Lessee's right, title and interest in and to all such compensation; provided, however, that Lessor shall not be entitled to any award made to Lessee for the taking of Lessee's Customer-Hosted Facility or alterations, or for moving expenses, reestablishment expenses, or similar items.

18.7 Waiver of Right to Trial by Jury. EACH OF THE PARTIES KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON THIS AGREEMENT, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO. EACH OF THE PARTIES TO THIS AGREEMENT WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT OR HAS NOT BEEN WAIVED. THIS PROVISION IS A MATERIAL INDUCEMENT TO EACH OF THE PARTIES FOR ENTERING INTO THIS AGREEMENT.

18.8 Counterparts. This Lease may be executed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same document.

18.9 Severability. If any article, section, phrase or portion of this Lease is, for any reason, held or adjudged to be invalid, illegal or unenforceable by any court of competent jurisdiction, such article, section, phrase, or portion so adjudged will be deemed separate, severable and independent and the remainder of this Lease will be and remain in full force and effect and will not be invalidated or rendered illegal or unenforceable or otherwise affected by such adjudication, provided the basic purpose of this Lease and the benefits to the Parties are not substantially impaired, and provided further, that the Parties shall enter into negotiations concerning the terms affected by such decisions for the purpose of achieving conformity with requirements of any Applicable Legal Requirements and the intent of the Parties. Entire Agreement. This Lease, together with its exhibits, contains the entire agreement between Lessee and Lessor with respect to the subject matter hereof to which Lessee and Lessor are Parties, supersedes all other understandings or agreements, both written and oral, between the Parties relating to the subject matter hereof.

18.10 Headings and Captions. The headings and captions in this Lease are intended for reference only, do not form a part of this Lease, and will not be considered in construing this Lease.

18.11 Singular and Plural, Gender. If two or more persons, firms, corporations or other entities constitute either Lessee or Lessor, the word "Lessee" or the word "Lessor" shall be construed as if it reads "Lessees" or "Lessors" and the pronouns "it," "he," and "him" appearing in this Lease shall be construed to be the singular or plural, masculine, feminine, or neuter gender as the context in which it is used shall require.

18.12 Press Releases. Lessee reserves the right to issue a written press release with respect to this Lease and the Customer-Hosted Facility without the prior written agreement of Lessor, provided, Lessee shall make a good faith effort to notify Lessor in advance of such issuance.

18.13 No Joint Venture. Each Party will perform all obligations under this Lease as an independent contractor. Nothing herein contained shall be deemed to constitute any Party a partner, agent or legal representative of the other Party or to create a joint venture, partnership, agency or any relationship between the Parties. The obligations of the Lessee and Lessor hereunder are individual and neither collective nor joint in nature.

18.15 Expenses. Except as otherwise agreed to, each Party hereto shall pay all expenses incurred by it in connection with its entering into this Lease, including, without limitation, all attorneys' fees and expenses.

18.16 No Broker. Lessee and Lessor each represents and warrants to the other that it has dealt with no broker in connection with the consummation of this Lease, and in the event of any brokerage claims against Lessee or Lessor predicated upon prior dealings with the other Party, the Party purported to have used the broker agrees to defend the same.

18.17 Amendments; Binding Effect. This Lease may not be amended, changed, modified, or altered unless such amendment, change, modification, or alteration is in writing and signed by both of the Parties to this Lease or their successor in interest. This Lease inures to the benefit of and is binding upon the Parties and their respective successors and permitted assigns.

18.18 Survival.

(a) The provisions of Sections 7.1 (Lessee's Duty), shall survive the expiration or termination of this Lease for a period of one hundred eighty (180) days.

(b) The provisions of Sections 6.1 (Surrender of the Premises and Removal of the Permitted Improvements), 6.2 (Title), 12.3 (Failure to Commence Repairs), 14.6 (Additional Damages), and 14.7 (Lessee Liability Upon Termination) shall survive the expiration or termination of this Lease for a period of three hundred sixty-five (365) days.

(c) The provisions of Sections 11 (Indemnification), 14.5 (Remedies in the Event of Default), and Section 18 (Miscellaneous), shall survive the expiration or termination of this Lease indefinitely.

18.19 No Third-Party Beneficiaries. This Lease is intended solely for the benefit of the Parties hereto. Except as expressly set forth in this Lease, nothing in this Lease shall be construed to create any duty to or standard of care with reference to, or any liability to, or any benefit for, any Person not a Party to this Lease.

18.20 Further Assurances. From time to time and at any time at and after the execution of the Lease, each Party shall execute, acknowledge and deliver such documents and assurances, reasonably requested by the other and shall take any other action consistent with the terms of the Lease that may be reasonably requested by the other for the purpose of effecting or confirming any of the transactions contemplated by the Lease. Neither Party shall unreasonably withhold, condition, or delay its compliance with any reasonable request made pursuant to this Section.

18.21 Good Faith. All rights, duties and obligations established by this Lease shall be exercised in good faith and in a commercially reasonable manner. In any instance when Lessor's consent or approval is required under this Lease, such consent shall not be unreasonably withheld.

18.22 Estoppel Certificate. Each Party hereto agrees that at any time during the term of this Lease, within ten (10) days after request by the other Party hereto, it will execute, acknowledge and deliver to such other Party or to any prospective purchaser, sublessee, assignee, Mortgagee, or Leasehold Mortgagee designated by such other Party, a certificate stating: (a) that this Lease is unmodified and in force and effect (or if there have been modifications, that this Lease is in force and effect as modified, and identifying the modification agreements); (b) the date to which rent has been paid; (c) whether or not there is any known existing Event of Default by either Party in the payment of any rent or other sum of money hereunder, and whether or not there is any other existing Event of Default by either Party hereto with respect to which a notice of default has been served, and if there is any such default, specifying the nature and extent thereof; and (d) whether or not there are any known set-offs, defenses of counterclaims against enforcement of the obligations to be performed hereunder existing in favor of the Party executing such certificate. Lessee's failure to execute the above instrument within ten (10) days after written request to do so by Lessor shall constitute an Event of Default.

18.23 Unpaid Amounts, Interest Rate. Any amount owed by Lessee hereunder, unless otherwise provided herein, shall be paid within ten (10) days from the date Lessor renders statements of account therefor to Lessee and shall bear interest from the date due until the date paid at a rate equal to the Interest Rate.

18.24 Merger of Title. No merger of Lessee's interest in this Lease or of the leasehold estate created by this Lease with the fee simple estate in the Premises, or any part thereof, will occur by reason of the fact that the same person may acquire or own or hold, directly or indirectly, (i) Lessee's interest in this Lease or the leasehold created by this Lease and (ii) the fee estate in the Premises or any part thereof or any interest therein, and no such merger will occur unless and until all persons having an interest in the ownership interests described in (i) and (ii) above join in a written instrument effecting such merger and record same.

18.25 Spreading of Mortgage. Notwithstanding the fact that no merger of estates will occur upon the simultaneous ownership by the same person or entity of the fee simple estate in the Premises and the leasehold estate created by this Lease, a leasehold mortgage in existence at the time such simultaneous ownership occurs will nevertheless attach to the fee simple interest held by the Lessee in the Property, as well as continuing to encumber the leasehold estate.

18.26 Lessor's Access to Premises. Lessor or any agent of Lessor shall have the right at any reasonable time and upon prior written notice to Lessee, (and Lessee shall have the right to have an agent of Lessee's present at the time of such entry and examination) to enter the Premises for the purpose of examination or for any purpose which it or they may deem necessary for the protection of the rights of Lessor. Nothing herein contained shall be deemed to obligate the Lessor to make any inspection or examination of the Premises or to maintain said Premises.

[Signature Page Follows]

IN WITNESS WHEREOF, Lessor and Lessee, acting through their duly authorized representatives, have executed this Agreement with the intent that it be effective as of the Effective Date, and certify that they have read, understand and agree to the terms and conditions of this Agreement.

**City of Sheboygan**

**Wisconsin Power and Light Company**

By: \_\_\_\_\_  
Name: Michael J. Vandersteen  
Title: Mayor

By: \_\_\_\_\_  
Name: JP Brummond  
Title: VP Business Planning

Attest: \_\_\_\_\_  
Name: Meredith De Bruin  
Title: City Clerk

City Signatures authorized pursuant to Res. \_\_\_\_ - \_\_\_\_ - \_\_\_\_.

**EXHIBIT A**  
**Legal Description of the Premises**

The property available is Lot 6, about 13 acres including the stormwater detention pond, located in the Sheboygan Business Park near 4243 Gateway Drive in Sheboygan, WI.

Of the acres available, the new solar facility will need ~5 acres in order to avoiding any potential wetland areas. There does seem to be minimal floodplain hazard, however, the parcel may require a floodplain permit.

SHEBOYGAN BUSINESS CENTER PRT OF LOT 6 DESC AS FOLLOWS: COM AT NE COR OF LOT 2 CSM REC IN VOL 9 P 17 R.O.D. THE PT OF BEGINNING, TH W 275.15', TH SWLY 284.86', TH N 71.88', TH SWLY 326.25', TH NWLY 627.42' TH NELY 260.85', THELY 942.72', TH S 465.40' TO P



**EXHIBIT B**  
**Customer-Hosted Facility**

After discussions conclude and a lease agreement is finalized, a detailed design will be developed to include the development of construction drawings and implementation schedule.

**EXHIBIT C**  
**Insurance Requirements**

Certificates of insurance must be on file with Lessee and Lessor, respectively, prior to commencement of construction of the Permitted Improvements, and such coverage must remain in effect for the duration of this Lease. Each Party shall provide the other Party with thirty (30) days' written notice prior to cancellation or non-renewal of any of the insurance policies required herein. Failure of either Party to enforce the minimum insurance requirements listed below will not relieve the other Party of responsibility for maintaining these coverages.

Policies	Minimum Limits
Workers' Compensation:	Statutory
Employer's Liability: Each Accident: Employer's Liability Disease	\$1,000,000
Each Employee: Employer's Liability Disease Policy Limit:	\$1,000,000 \$1,000,000
Commercial General Liability: coverage for products/completed operations, blanket contractual liability and personal injury.	\$1,000,000 Each Occurrence \$2,000,000 General Aggregate
Automobile Liability: Combined Single Limit, for all owned, non-owned and hired automobiles.	\$1,000,000
Excess or Umbrella Liability: Such coverage must include, as scheduled policies, the Employer's Liability Insurance, Commercial General Liability Insurance (including completed operations) and Automobile Liability Insurance described in this Section. The excess policies will be "following form."	\$4,000,000 Each Occurrence \$4,000,000 Aggregate
Errors and Omissions Insurance: Coverage under a "Claims Made" policy must remain in effect for a period of three (3) years after the completion of the Work.	\$3,000,000 Each Claim \$3,000,000 Aggregate

**Additional Endorsements Required and to be Stated on Certificates of Insurance:**

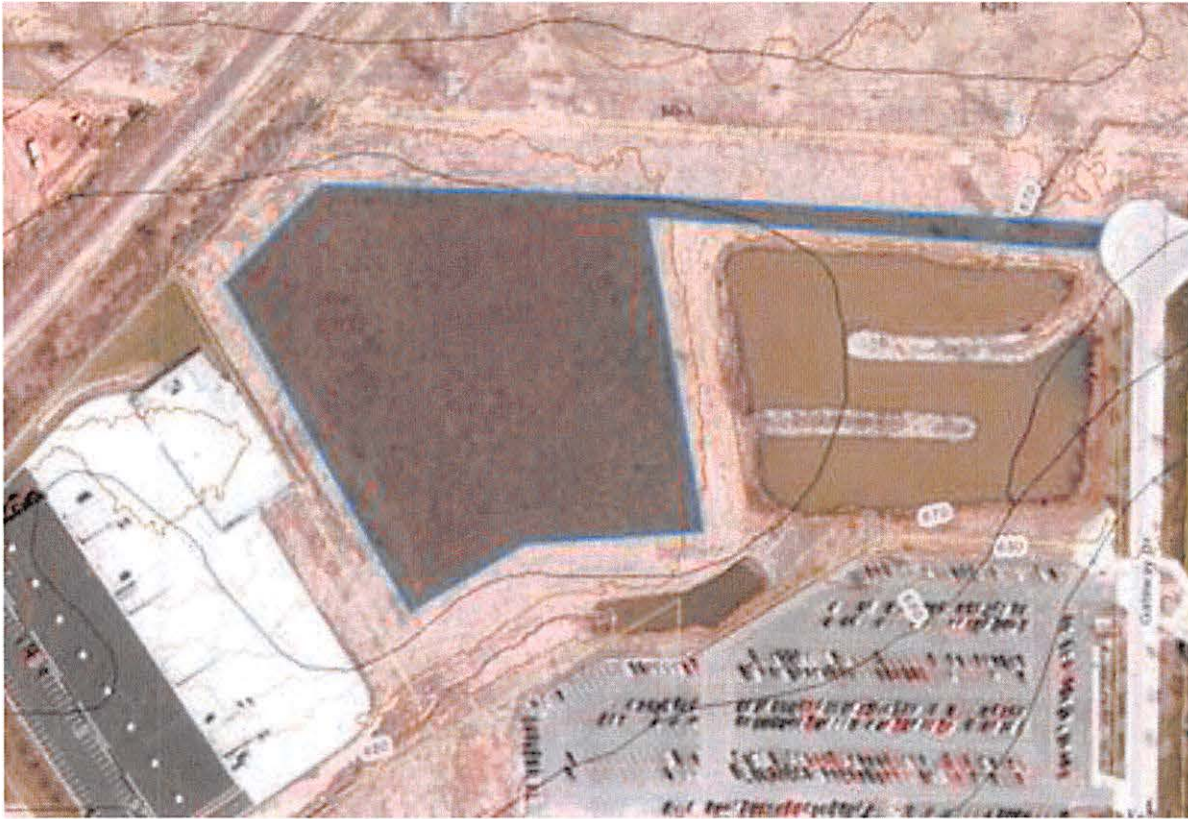
Lessor and its respective employees, officers and directors must be included as additional insured for the Permitted Improvements on a primary and non-contributory basis, with respect to General Liability and Excess/Umbrella (if any) coverages.

All policies applicable to the Work (except Errors and Omissions) must contain a waiver of subrogation in favor of the other Party.

## EXHIBIT D Access Easement

After discussions conclude and a lease agreement is finalized, a detailed design will be developed. We will require an access road easement off of the Gateway Drive cul-de-sac to access the facility control house (if required), transformer, inverters, etc.

The area shown below is only ~4.5 Acres and represents some reasonable set-backs from the property boundary as well as identified hydric soil areas and the stormwater detention pond.



**EXHIBIT E**  
**Lease and Access Easement Compensation**

- (1) **Payment for Lease and Access Easements.** During the Term, within thirty (30) days of the Effective Date and each month thereafter, Lessee shall pay to Lessor, in advance, without notice or demand, the Monthly Rent. If the first or last Lease Term is less than an entire calendar month, the Monthly Rent shall be prorated for the applicable portion of such Monthly Rent. All rights to RECs generated by the Customer-Hosted Facility will be retained by Lessee. The Monthly Rent shall be calculated as follows:

**Customer-Hosted Facility Rent Calculation**

1.	Nameplate Capacity of Facility (MWac)	1 MW
2.	Accredited Capacity of Facility (MWac)	0.5 MW
3.	Customer's Firm Demand	1.4 MW
4.	MISO CONE (2020 - Zone 2)	\$ 90,940.00
5.	Gross Annual Lease Amount	\$ 45,470.00
6.	Gross Monthly Lease Amount (divide Line 5 by 12)	\$ 3,789.16

- (2) **Payment Adjustments.** If Lessor owns less than the full surface estate in all or any part of the Property, all payments required hereunder shall be reduced to the proportion that Lessor's interest in the Property bears to the full surface estate in the Property, or any portion thereof subject to this Lease, as the case may be.
- (3) **Late Payments.** If any payment of Monthly Rent is not made within five (5) days of the date of written notice to Lessee from Lessor of such late payment, a one-time penalty of ten percent (10%) of the amount due shall be immediately payable by Lessee to Lessor.
- (4) **Taxes.**
- (a) **Lessee Taxes.** During the Term, Lessee shall, at Lessee's cost and expense, bear, pay, and discharge or cause to be borne, paid, and discharged, on or before the last day upon which the same may be paid without interest or penalty for the late payment thereof, all taxes, assessments, sewer rents, water rents and charges, duties, recaptured taxes due to a change in use, license and permit fees, charges for public utilities of any kind, and payments and other charges of every kind and nature whatsoever, ordinary or extraordinary, foreseen or unforeseen, general or special (all of which are herein sometimes collectively referred to as "**Taxes**") which shall pursuant to present or future law or otherwise, prior to or during the term hereby granted have been or shall be levied, charged, assessed, or imposed upon, or grow or become due and payable out of or for, or become or have become, a lien on the Premises and that are directly attributable to the Permitted Improvements. Lessee shall pay all interest and penalties imposed for late payment of any Taxes which Lessee is obligated to pay or to cause to be paid hereunder.

- (b) **Lessor Taxes.** Lessor shall pay before the same become delinquent (i) any transfer or conveyance tax arising out of this Lease; (ii) exclusive of any Taxes attributable to the Permitted Improvements, Lessor's municipal, state, or federal income, income profit or revenue tax imposed on rent, inheritance, estate, succession, transfer, gift, franchise, corporation, income or profit tax or capital levy or any tax related to a change in ownership of the Premises; and (iii) any other Taxes which are not obligated to be paid by Lessee in Exhibit E Section (4)(a), above.
- (c) The provisions of this Exhibit E Section (4) shall survive the expiration or earlier termination of this Lease such that all taxes that arise during the term of the Lease shall remain the responsibility of the Lessee.

III

Res. No. \_\_\_\_\_ - 20 - 21. By Alderpersons Donohue and Bohren.  
January 18, 2021.

A RESOLUTION authorizing the Director of Planning and Development to execute a SAAS Services Agreement with Benevate Inc. for Neighborly Software.

RESOLVED: That the Director of Planning and Development is hereby authorized to enter into the attached SAAS Services Agreement with Benevate, Inc. for Neighborly Software.

BE IT FURTHER RESOLVED: That the appropriate City officials are authorized to draw funds from the appropriate Community Development Block Grant account in payment of the fees due under the SAAS Services Agreement for the use of Neighborly Software.

BE IT FURTHER RESOLVED: That the Director of Planning and Development may, subject to the availability of funds, extend the term of the SAAS Services Agreement on the same or substantially similar terms, if the Director of Planning and Development believes doing so is in the best interest of the City.

\_\_\_\_\_  
\_\_\_\_\_

F&P

I HEREBY CERTIFY that the foregoing Resolution was duly passed by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, City Clerk

Approved \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, Mayor

**BENEVATE INC. (dba NEIGHBORLY SOFTWARE) SAAS SERVICES ORDER FORM**

<b>Customer:</b> City of Sheboygan, Wisconsin	<b>Contact:</b> Chad Pelishek, Director of Planning & Development
<b>Address:</b> 828 Center Avenue, Suite 208 Sheboygan, WI 53081	<b>Phone:</b> (920) 459-3383 <b>Email:</b> <a href="mailto:Chad.Pelishek@sheboyganwi.gov">Chad.Pelishek@sheboyganwi.gov</a>
<b>Department Manager Contact Information:</b>	<b>Name:</b> <b>Phone:</b> <b>Email:</b>
<b>Fiscal/Invoice Contact Information:</b>	<b>Name:</b> <b>Phone:</b> <b>Email:</b>
<b>Services:</b> Company will use commercially reasonable efforts to provide Customer the services described in the Services Statement of Work ("SOW") attached as Exhibit A hereto (the "Services").	
<b>Services Fees:</b> \$14,400.00 per year, payable annually in advance, subject to the terms of Section 4 and Per User Pricing attached as Exhibit D hereto.	<b>Initial Service Term:</b> One year from Effective Date
<b>Implementation Services:</b> Company will use commercially reasonable efforts to provide Customer the services described in the Implementation Services Statement of Work attached as Exhibit C hereto ("Implementation Services"), and Customer shall pay Company the Implementation Fee at Effective Date.  <b>Implementation Fee (one-time):</b> \$14,000.00	

**SAAS SERVICES AGREEMENT**

This SaaS Services Agreement ("Agreement") is entered into on this \_\_\_\_ day of \_\_\_\_\_ 20\_\_ (the "Effective Date") between Benevate Inc with a place of business at 3423 Piedmont Rd. NE, Suite 550 Atlanta, GA 30305 ("Company"), and the Customer listed above ("Customer"). This Agreement includes and incorporates the above Order Form, as well as the attached Terms and Conditions and contains, among other things, warranty disclaimers, liability limitations and use limitations. There shall be no force or effect to any different terms of any related purchase order or similar form even if signed by the parties after the date hereof.

**BENEVATE Inc.:**

**CITY OF SHEBOYGAN, WISCONSIN:**

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

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

Name: J. Jason Rusnak

Name: \_\_\_\_\_

Title: President, Benevate Inc

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

## **TERMS AND CONDITIONS**

### **1. SAAS SERVICES AND SUPPORT**

1.1 Company will use commercially reasonable efforts to provide Customer the services described in the Statement of Work ("SOW") attached as Exhibit A hereto.

1.2 Subject to the terms of this Agreement, Company will use commercially reasonable efforts to provide Customer the Services as described in accordance with the Service Level Terms attached hereto as Exhibit B.

### **2. RESTRICTIONS AND RESPONSIBILITIES**

2.1 Customer will not, directly or indirectly: reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Services or any software, documentation or data related to the Services ("Software"); modify, translate, or create derivative works based on the Services or any Software (except to the extent expressly permitted by Company or authorized within the Services); use the Services or any Software for timesharing or service bureau purposes.

2.2 Customer represents, covenants, and warrants that Customer will use the Services in compliance with all applicable laws and regulations. Customer hereby agrees to indemnify and hold harmless Company against any damages, losses, liabilities, settlements and expenses (including without limitation costs and attorneys' fees) in connection with any claim or action that arises from an alleged violation of the foregoing.

2.3 Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like (collectively, "Equipment").

2.4 Customer agrees that each set of login credentials (email address and password) for the Services may be used only by a single, named user ("Authorized User"). At no time is it permissible for an Authorized User to share their login credentials. The number of Authorized Users licensed hereunder is specified on Exhibit D: Per User Pricing. Customer agrees to notify Company of any unauthorized user access of which you become aware.

### **3. CONFIDENTIALITY; PROPRIETARY RIGHTS**

3.1 Both parties understand that Customer is bound by the Wisconsin Public Records Law and, as such, this Agreement is subject to that law and all other laws applicable to municipalities in the State of Wisconsin. The Wisconsin Public Records Law limits the extent to which Customer may prevent public access to a public record (as that term is defined by the Wisconsin Public Records Law). The Wisconsin Public Records Law prohibits the

disclosure of trade secrets. Each party (the "Receiving Party") understands that the other party (the "Disclosing Party") has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business (hereinafter referred to as "Proprietary Information" of the Disclosing Party). Proprietary Information of Company includes non-public information regarding features, functionality and performance of the Service. Proprietary Information of Customer includes non-public data provided by Customer to Company to enable the provision of the Services ("Customer Data"). The Receiving Party agrees: (i) to take reasonable precautions to protect such Proprietary Information, and (ii) not to use or divulge to any third person any such Proprietary Information, unless required by law (including in response to a public records request). In the event the Customer receives a public records request or similar request—such a subpoena—for Proprietary Information, the Customer will promptly email Company at [insert desired email address]. Company may provide guidance to Customer as to whether, in its opinion, requested information constitutes a trade secret or is otherwise protected from disclosure. Any such guidance shall be provided to Customer within 3 business days of Customer's email, time being of the essence, so that Customer has time to comply with its obligations to respond to the public records request. Customer agrees to consider any guidance provided by Company in making its decision how to proceed under the Wisconsin Public Records Law or similar law. If the Customer follows the guidance provided by Company, Company agrees to indemnify, defend, and hold the City harmless from any liability of any kind whatsoever that may result from the Customer following the guidance from Company.

3.2 Customer shall own all right, title and interest in and to the Customer Data, as well as any data that is based on or derived from the Customer Data and provided to Customer as part of the Services.

3.3 Company shall own and retain all right, title and interest in and to (a) the Services and Software, all improvements, enhancements or modifications thereto, (b) any software, applications, inventions or other technology developed in connection with Implementation Services or support, and (c) all intellectual property rights related to any of the foregoing.

3.4 Company shall have the right to collect and analyze data and other information relating to the provision, use and performance of various aspects of the Services and related systems and technologies (including, without limitation, information concerning Customer Data and data derived therefrom), and Company will be free (during and after the term hereof) to (i) use such information and data to improve and enhance the Services and (ii) disclose such data solely in aggregate or other de-identified form in connection with its business.

#### 4. PAYMENT OF FEES

4.1 Customer will pay Company the then applicable fees described in the Order Form for the Services and Implementation Services in accordance with the terms therein (the "Fees"). Company reserves the right to change the Fees or applicable charges and to institute new charges and Fees at the end of the Initial Service Term or then-current renewal term, upon thirty (30) days prior notice to Customer (which may be sent by email). Per User Pricing, set forth on Exhibit D, shall increase by no more than 3% (the "Renewal Price Cap"), applied to the then-effective Per User Pricing set forth on Exhibit D at the time of renewal. The aforementioned Renewal Price Cap shall be forfeited if the Services are not renewed prior to the termination date of the initial Service Term or then current renewal term; in which case, the fees for any subsequent renewal shall be calculated according to Company's then-current pricing.

4.2 Company may choose to bill through an invoice, in which case, full payment for invoices must be received by Company thirty (30) days after receipt of the invoice. The fees do not include any taxes, including, without limitation, sales, use or excise tax. If Customer is a tax-exempt entity, you agree to provide Company with a tax exempt certificate. Otherwise, Company will pay all applicable taxes to the proper authorities and Customer will reimburse Company for such taxes. If Customer has a valid direct-pay permit, you agree to provide us with a copy. For clarity, Company is responsible for paying Company's income taxes, both federal and state, as applicable, arising from Company's performance of this Agreement.

4.3 The parties acknowledge that appropriation of funds is a governmental function which the Customer cannot contractually commit itself in advance to perform and this Agreement does not constitute such commitment. The Customer's obligation to pay under this Agreement is contingent upon Customer's annual appropriation of funds for such purpose, and the non-appropriation of funding for such purpose in any fiscal year shall immediately relieve both parties of their respective obligations hereunder, as of the last day for which funds have been appropriated. The Customer shall endeavor, upon determining that sufficient funds will not be budgeted and appropriated in any fiscal year under this Agreement, to provide prompt written notice within 30 days of such event.

#### 5. TERM AND TERMINATION

5.1 Subject to earlier termination as provided below, this Agreement is for the Initial Service Term as specified in the Order Form, and shall be automatically renewed for additional periods of the same duration as the Initial Service Term (collectively, the "Term"), unless either party requests termination at least thirty (30) days prior to the end of the then-current term.

5.2 In addition to any other remedies it may have, either party may also terminate this Agreement upon thirty (30) days'

notice (or without notice in the case of nonpayment), if the other party materially breaches any of the terms or conditions of this Agreement. Customer will pay in full for the Services up to and including the last day on which the Services are provided.

5.3 Upon the termination of this Agreement Company shall, within five (5) business day following the termination of this Agreement, provide Customer, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Service Provider), with a final extract of the Customer Data in electronic format (Microsoft Excel .xls or Structured Query Language .sql). Further, Company will delete the database and file storage container on Microsoft Azure and shall certify to Customer the destruction of any Customer Data within the possession or control of Company, but such destruction shall occur only after the Customer Data has been returned to Customer. This Section shall survive the termination of this Agreement.

#### 6. WARRANTY AND DISCLAIMER

Company shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Implementation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Company or by third-party providers, or because of other causes beyond Company's reasonable control, but Company shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption. HOWEVER, COMPANY DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES AND IMPLEMENTATION SERVICES ARE PROVIDED "AS IS" AND COMPANY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

#### 7. INDEMNITY

As permitted by law, Company shall hold Customer harmless from liability to third parties resulting from infringement by the Service of any United States patent or any copyright or misappropriation of any trade secret, provided Company is promptly notified of any and all threats, claims and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over defense and settlement; Company will not be responsible for any settlement it does not approve in writing.

#### 8. LIMITATION OF LIABILITY

NOTWITHSTANDING ANYTHING TO THE CONTRARY, EXCEPT FOR BODILY INJURY OF A PERSON OR PROPERTY DAMAGE, COMPANY AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL EQUIPMENT AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND COMPANY'S REASONABLE CONTROL; OR (D) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE SERVICES UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## 9. INSURANCE

9.1 During the course of performing services under this Agreement, Company agrees to maintain the following levels of insurance: (a) Commercial General Liability of at least \$2,000,000 in aggregate and \$1,000,000 each occurrence; (b) Professional Liability (E&O) of at least \$5,000,000; (c) Cyber Liability of at least \$5,000,000; (d) Commercial Auto Insurance for Hire and Non-owned vehicles of at least \$1,000,000; and (e) Workers Compensation complying with applicable statutory requirements. Company will add Customer as an additional insured, primary and noncontributory, to our Commercial General Liability policy. Company will provide Customer with copies of certificates of insurance upon Customer's written request.

## 10. MISCELLANEOUS

10.1 If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.

10.2 This Agreement is not assignable, transferable or sublicensable by Customer except with Company's prior written consent. Company may transfer and assign any of its rights and obligations under this Agreement without consent.

10.3 This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein.

10.4 No agency, partnership, joint venture, or employment is created as a result of this Agreement and Customer does not have any authority of any kind to bind Company in any respect whatsoever.

10.5 All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

10.6 Company may use Customer's name and logo in a list of customers section on its website.

10.7 This Agreement shall be governed and construed in all respects in accordance with the laws of the State of Wisconsin.

## EXHIBIT A

### Services Statement of Work

1. SaaS Services Description. Company will provide Customer with hosted software for the enrollment, qualification, administration and reporting of the following activities:
  - a. Housing Rehabilitation
  - b. CDBG Public Services
  - c. CDBG Public Facilities
  - d. Acquisition and Disposition
  - e. Business Loans
  - f. Historic Preservation

Company will make available to Customer all updates, and any documentation for such updates, to the Services. Company will ensure that (i) new features or enhancements to existing features are synchronized with the previous version, and (ii) updates will not degrade the performance, functionality, or operation of the Services.

2. Training Services. Company will conduct one (1) eight (8) hour training session, which may be recorded by Customer. The purpose of the training sessions is to familiarize administrator personnel with the workflow and functionality of hosted software.
3. Technical Support. Company will provide Technical Support to Customer via electronic mail on weekdays during the hours of 9:00 am through 7:00 pm Eastern time, with the exclusion of Federal Holidays (“Support Hours”). Customer may initiate a helpdesk ticket during Support Hours by emailing [support@neighborlysoftware.com](mailto:support@neighborlysoftware.com). Company will use commercially reasonable efforts to respond to all Helpdesk tickets within one (1) business day.
4. Data Storage. Company agrees that any and all Customer data will be stored, processed, and maintained solely in data centers located in the United States.
5. Backup and Recovery of Customer Data. As a part of the Services, Company is responsible for maintaining a backup of Customer Data and for an orderly and timely recovery of such data in the event that the Services may be interrupted. Company shall maintain a contemporaneous backup of Customer Data that can be recovered within four (4) hours at any point in time.
6. Loss of Data. In the event of any act, error or omission, negligence, misconduct, or breach that compromises or is suspected to compromise the security, confidentiality, or integrity of Customer Data or the physical, technical, administrative, or organizational safeguards put in place by Company that relate to the protection of the security, confidentiality, or integrity of Customer Data, Company shall, as applicable: (a) notify Customer as soon as practicable but no later than twenty-four (24) hours of becoming aware of such occurrence; (b) cooperate with Customer in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by Customer; (c) in the case of Personally Identifiable Information (PII), at Customer’s sole election, (i) notify the affected individuals who comprise the PII as soon as practicable but no later than is required to comply with applicable law, or, in the absence of any legally required notification period, within five (5) calendar days of the occurrence; (d) in the case of PII, provide third-party credit and identity monitoring services to each of the affected individuals who comprise the PII for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for six (6) months following the date of notification to such individuals; (e) perform or take any other actions required to comply with applicable law as a result of the occurrence; Notification to affected individuals, as described above, shall comply with applicable law, be written in plain language, and contain, at a minimum: name and contact information of Company’s representative; a description of the nature of the loss; a list of the types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Company has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Company. This Section shall survive the termination of this Agreement.

**EXHIBIT B**

**Service Level Terms**

The Services shall be available 99.5%, measured monthly, excluding holidays and scheduled downtime. Further, any downtime resulting from outages of third party connections or utilities or other reasons beyond Company's control will also be excluded from any such calculation. Customer's sole and exclusive remedy, and Company's entire liability, in connection with Service availability shall be a "Performance Credit."

1) Definitions.

- (a) "Actual Uptime" shall mean the total minutes in the reporting month that the Services were actually available for normal use.
- (b) "Maintenance Window" shall mean the total minutes in the reporting month represented by the following day(s) and time(s) during which Company shall maintain the Services: Tuesday, Thursday, Saturday 11pm-3am ET.
- (c) "Scheduled Downtime" shall mean the total minutes in the reporting month represented by the Maintenance Window.
- (d) "Scheduled Uptime" shall mean the total minutes in the reporting month less the total minutes represented by the Scheduled Downtime.

2) Calculation.  $(\text{Actual Uptime} / \text{Scheduled Uptime}) * 100 = \text{Percentage Uptime}$  (as calculated by rounding to the second decimal point)

3) Performance Credit. Performance credits may not be redeemed for cash and will only apply a credit to the month in which the incident occurred.

- (a) Where Percentage Uptime is equal to or greater than 99.5%, no Performance Credit will be due to Customer.
- (b) Where Percentage Uptime is less than 99.5%, Customer shall be due a Performance Credit in the amount of 5% of the Services Fees (as calculated on a monthly basis for the reporting month)

## EXHIBIT C

### **Implementation Services Statement of Work**

This Implementation Services Statement of Work describes the Services to be performed, and Deliverables to be provided, by Company in completion and satisfaction of the Implementation Services.

- 1) **Company Key Roles.** Company will assign an Engagement Manager who will be Customer's primary contact person and who will coordinate all the activities of the Implementation team.
- 2) **Customer Key Roles.** Customer will assign a person to be the focal point to coordinate the user and technical support and resources needed for the implementation, and to be responsible for approvals and decisions. This person will coordinate data collection and reconciliation, review each stage of the implementation process, and provide end user involvement with systems and user acceptance training. Schedule and cost estimates assume that personnel acting in the roles noted above to be reasonably and readily available to the Company team as needed throughout the project. Additionally, all approvals and decisions are made within a reasonable time period.
- 3) **Implementation Steps.** The following are the general steps which make up the implementation process:
  - Kickoff meeting
  - Program Design and Documentation
  - System Configuration and Signoff
  - Data Review and Validation
  - Administrator Training
  - Historical Data Collection (if applicable)
- 4) **Implementation Deliverables.** The following are the items that will be delivered as part of implementation:
  - a. Program Design and Documentation
    - List of all documents to be uploaded into the system as part of the Program
    - List of all documents to be generated by the system as part of the Program
  - b. System Configuration
    - Create Administrator accounts in the system
    - Configure Customer enrollment application in the system
    - Configure Customer specific approvals and workflow in the system, including up to thirty (30) documents/images to be uploaded
    - Configure up to two (2) program documents to be generated by system
  - c. Data Review and Validation
    - Provide up to five (5) business days for Customer to test and validate system data and configuration
  - d. Administrator Training
    - Conduct one (1) eight (8) hour training session, which may be recorded by Customer.
  - e. Historical data conversion
    - (Optional) Upload Customer historical "active" data (i.e. outstanding loans, grants, etc.) to be provided by Customer in an electronic format specified by Company and priced in Exhibit D.
- 5) **Customer Responsibilities**
  - a. Design and approve data elements, program workflow, and eligibility criteria
  - b. Identify all program documents required to be stored in the system
  - c. Identify all program documents to be generated by the system
  - d. Provide historical data in electronic format specified by Company
  - e. Test and approve system configuration
  - f. Provide final sign off that the system meets all requirements ("Go Live")
  - g. Participate in administrator training session

**EXHIBIT D**

**Per User Pricing**

Additional programs can be added any time and user licenses may be purchased, pro-rata to the Initial Service Term, based on the pricing table below.

Annual Recurring Fees	USER PRICE	FREQ	USERS	ANNUAL PRICE
Neighborly Software Per Administrator Fee (Users 1-10)	\$200	Monthly	6	\$14,400.00
Neighborly Software Per Administrator Fee (Users 11+)	\$150	Monthly	0	\$0.00
- Technical Support	Included			
- Hosting/Security in Microsoft Tier IV Data Center	Included			
- Data Storage, Backup and Recovery	Included			

**ANNUAL TOTAL \$14,400.00**

One Time Implementation Fees	UNIT PRICE	FREQ	UNITS	AMOUNT
Software Implementation Per Program <sup>a</sup>	\$2,000	One Time	6	\$12,000.00
- Software Configuration to Client Design	Included			
- Administrator Training (8 hrs Virtual)	Included			
- Administrator Guide	Included			
- Travel ( <i>no travel during pandemic</i> )	\$800	Per Trip	0	\$0.00
- Rushed Implementation or Delayed Implementation: Fees may apply <sup>2a, 2b</sup>	see notes below	Per Program		\$0.00
Data Migration per program	\$2,000	Per Program	1	\$2,000.00
- Additional fees for migrations beyond 5 business days	\$100	Hour	0	\$0.00
Craftsman Book Spec. Database-Cost Estimating	\$500	Annually	0	\$0.00

a - Includes configuration for the following

**ONE TIME IMPLEMENTATION TOTAL \$14,000.00**

- (1) Housing Rehabilitation
- (2) CDBG Public Services
- (3) CDBG Public Facilities
- (4) Acquisition and Disposition
- (5) Business Loans
- (6) Historic Preservation (Loans & Grants)

<b>Year One Total: \$28,400.00</b>
<b>Estimated Year Two Total: \$14,400.00</b>

Notes
<p>1. <b>Recurring fees</b> are invoiced annually in advance.</p> <p>2. <b>Implementation fees</b> are invoiced at engagement based on an eight-week implementation period.</p> <p>2a. <b>Implementation greater than eight weeks:</b> The client is expected to dedicate the appropriate resources during the implementation period. If client requires implementation to be pushed beyond the eight-week period, Neighborly Software will charge \$500 per week of delay until the program has gone live.</p> <p>2b. <b>Rushed Implementation fee:</b> If the client requires a rushed implementation shorter than two-weeks, Neighborly Software will charge a one-time rushed implementation fee of \$1,000 in addition to the program</p> <p>3. <b>Loan/Asset/Grant Migration:</b> Neighborly Software will commit a staff person to dedicate 5 business days to complete the migration upon completion of the import template. We ask that the client commit resources to assist in this effort. Should the client cause the migration to extend beyond 5 business days, Neighborly Software will charge \$100 / hour for the time expended to complete the data migration project.</p>

III

Res. No. \_\_\_\_\_ - 20 - 21. By Alderpersons Sorenson and Dekker.  
January 18, 2021.

A RESOLUTION authorizing the appropriate City officials to execute the Sheboygan County Dive Team Intergovernmental Cooperative Agreement between the City of Sheboygan and Sheboygan County.

RESOLVED: That the Mayor, City Clerk, and Fire Chief are hereby authorized to execute the Sheboygan County Dive Team Intergovernmental Cooperative Agreement between the City of Sheboygan and Sheboygan County, a copy of which is attached hereto and incorporated herein.

\_\_\_\_\_  
\_\_\_\_\_

LHPS

I HEREBY CERTIFY that the foregoing Resolution was duly passed by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, City Clerk

Approved \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, Mayor

**SHEBOYGAN COUNTY DIVE TEAM**  
**INTERGOVERNMENTAL COOPERATIVE AGREEMENT**

**PARTIES.** The parties to the Agreement are the **CITY OF SHEBOYGAN** ("City"), a municipal corporation with offices at 828 Center Avenue, Sheboygan, Wisconsin 53081, and **SHEBOYGAN COUNTY** ("County"), a Wisconsin governmental body corporate, organized pursuant to Wis. Stat. § 59.01, having its principal offices at 508 New York Avenue, Sheboygan, Wisconsin 53081.

**PURPOSE.** City and County have a responsibility to provide law enforcement services to the citizens of Sheboygan and Sheboygan County. Per § 59.27, Wis. Stats., it is the duty of the sheriff of a county, when provided by the board, to conduct operations in waters of which the county has jurisdiction for the rescue of human beings and for the recovery of human bodies. The City also has waters over which it has jurisdiction. The parties have created a countywide Sheboygan County Dive Team ("Team") in order to better accomplish this goal. The Team is comprised of members of the Sheboygan County Sheriff's Office, Sheboygan Police Department, Sheboygan Fire Department and volunteers from the volunteer Fire Departments in Sheboygan County. In most jurisdictions the lead agency for water rescue is the Fire Department.

This Agreement ensures that the City, through the Sheboygan Fire Department, is authorized to provide water related rescues as the lead agency for the Team in all waters in Sheboygan County. By this Agreement, the Sheriff is authorizing the Sheboygan Fire Department to provide supervisory oversight of the Team.

**EFFECTIVE DATE; TERM; TERMINATION.**

**A. Effective Date.** This Agreement shall become effective on the last date of the required signatures at the end of this document.

**B. Initial Term; Renewals.** The initial term of this Agreement shall extend through December 31, 2022. This Agreement shall automatically renew for additional four (4) year terms unless either party provides the other with written notice of intent to not-renew at least three (3) months prior to the end of the initial term and at least three (3) months prior to the end of each renewal term thereafter.

**C. Termination for Cause.** Either party may terminate this Agreement at any time during the initial term or a renewal thereof in the event of a material default by the other party which default is not cured within two hundred forty (240) days after defaulting party's receipt of written notice of such default. If the defaulting party is proceeding in good faith with due diligence to cure such default but is unable to do so within two hundred forty (240) days, the cure period shall be extended as reasonably necessary.

**AUTHORITY.** This Agreement is entered into between the parties pursuant to Wis. Stat. § 66.0301, authorizing intergovernmental cooperation. Both parties represent that their respective governing bodies have authorized the entry into this Agreement.

**RESPONSIBILITIES OF COUNTY.**

- A. County shall provide the necessary equipment for water related rescues.
- B. County shall pay for any repairs needed for any damaged equipment.

**RESPONSIBILITIES OF CITY.**

- A. City Fire Department shall be responsible for providing supervisory oversight for the operations of the Team.
- B. City shall respond to all water related rescues/incidents within the jurisdiction of Sheboygan County.

**ENTIRE AGREEMENT.** This Agreement constitutes the entire understanding between the parties relating to their relationship.

Approved by the parties by the following authorized representatives:

**CITY OF SHEBOYGAN**

By: \_\_\_\_\_  
Michael J. Vandersteen, Mayor

\_\_\_\_\_  
Date Signed

By: \_\_\_\_\_  
Meredith DeBruin, City Clerk

\_\_\_\_\_  
Date Signed

By: \_\_\_\_\_  
Eric Montellano, Fire Chief

\_\_\_\_\_  
Date Signed

**SHEBOYGAN COUNTY**

By: Vern Koch  
Vern Koch, County Board Chairman

12/08/2020  
\_\_\_\_\_  
Date Signed

By: Cory S. Roeseler  
Cory Roeseler, Sheriff

12/07/2020  
\_\_\_\_\_  
Date Signed

**III**

Res. No.       - 20 - 21. By Alderpersons Sorenson and Dekker.  
January 18, 2021.

A RESOLUTION authorizing the Purchasing Agent to issue a Purchase Order for the purchase of 24 ruggedized laptop computers and vehicle mounting hardware for the Sheboygan Police Department.

WHEREAS, the Sheboygan Police Department utilizes ruggedized laptop computers ("Computers") in its fleet of squad car vehicles; and

WHEREAS, the current Computers were purchased in 2015 and have exceeded their useful expected life cycle; and

WHEREAS, the Computers have become less reliable, and several costly repairs have been incurred over the past few years; and

WHEREAS, there is sufficient funding in the 2021 Capital Improvements Budget to replace the Computers; and

WHEREAS, state law and the City's Procurement Policy allows the City to join with other units of government in cooperative purchasing plans when the best interest of the City would be served; and

WHEREAS, the State of Wisconsin has a number of cooperative purchasing agreements, which municipalities may use to take advantage of competitive, pre-negotiated prices; and

WHEREAS, having reviewed the State of Wisconsin's cooperative purchasing agreements for the purchase of ruggedized laptop computers, City staff believes, and the Council agrees that this is the best procurement method for this purchase.

NOW, THEREFORE, BE IT RESOLVED: That the Purchasing Agent is authorized to issue a Purchase Order to Baycom, Inc. for the purchase of 24 ruggedized laptop computers, vehicle mountings, and related accessories for the Sheboygan Police Department.

BE IT FURTHER RESOLVED: That the Council understands that this Purchase Order will be subject to the terms and conditions set forth in the State of Wisconsin's cooperative purchase agreement (Contract Number 505ENT-016-NASPOCOMPUT-02), a copy of which is available at [vendornet.wi.gov](http://vendornet.wi.gov).

LHPS

BE IT FURTHER RESOLVED: That the appropriate City Officials are hereby authorized to draw funds in the amount of \$75,251.00 from the 2021 Capital Improvement Fund (Acct. No. 40021140-641100) for the purchase of the Computers.

\_\_\_\_\_  
\_\_\_\_\_

I HEREBY CERTIFY that the foregoing Resolution was duly passed by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, City Clerk

Approved \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, Mayor

III

Res. No. \_\_\_\_\_ - 20 - 21. By Alderpersons Dekker and Sorenson.  
January 18, 2021.

A RESOLUTION authorizing the appropriate City officials to enter into an Agreement with Sheboygan County Interfaith Organization for use of Fountain Park for the operation of a Summer Farmer's Market in 2021, 2022, 2023, 2024, and 2025.

RESOLVED: That the appropriate City officials are hereby authorized to enter into the attached Agreement with Sheboygan County Interfaith Organization for the use of Fountain Park for a Summer Farmer's Market.

\_\_\_\_\_  
\_\_\_\_\_

PW

I HEREBY CERTIFY that the foregoing Resolution was duly passed by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, City Clerk

Approved \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, Mayor

AGREEMENT  
BETWEEN  
THE CITY OF SHEBOYGAN, WISCONSIN  
AND  
SHEBOYGAN COUNTY INTERFAITH ORGANIZATION

REGARDING THE USAGE OF FOUNTAIN PARK FOR A SUMMER FARMER'S  
MARKET

This Agreement ("Agreement") is made and entered into effective this \_\_\_\_ day of \_\_\_\_\_, 2020 (the "Effective Date"), by and between the City of Sheboygan, Wisconsin (the "City"), a municipal corporation and Sheboygan County Interfaith Organization ("SCIO").

WITNESSETH:

WHEREAS, the City owns certain property bounded on the east by North 8<sup>th</sup> Street, on the south by Ontario Ave., on the west by North 9<sup>th</sup> Street, and on the north by Erie Ave. ("Fountain Park"); and

WHEREAS, the City has the authority to rent or lease City-owned property; and

WHEREAS, SCIO has operated a Farmer's Market in the City since 1989; and

WHEREAS, a Farmer's Market is of benefit to the city and its residents and visitors; and

WHEREAS, SCIO desires to operate a Farmer's Market at Fountain Park; and

WHEREAS, it is desirable that the Parties set forth the terms and conditions under which the Farmer's Market will operate at Fountain Park.

NOW THEREFORE, the Parties hereby agree as follows:

1. Term of Agreement

This Agreement shall begin on the Effective Date. It shall cover the Farmer's Market Seasons for 2021, 2022, 2023, 2024, and 2025. It shall continue until December 31, 2025, unless terminated prior to that date pursuant to Section 9(e) or any other provision authorizing termination of the Agreement prior to that date.

## 2. Usage of Fountain Park

SCIO will operate a Farmer's Market at Fountain Park (other than the amphitheater/band shell area) according to the provisions, terms, and conditions of this Agreement, and in accordance with all applicable laws. A map showing the portion of Fountain Park to be used by SCIO is attached to this Agreement as Exhibit A.

SCIO has inspected the portion of Fountain Park it will be using, and accepts it in its present condition.

SCIO's right to use Fountain Park is a non-exclusive right. Thus, for the avoidance of doubt, nothing in this Agreement prohibits the City from allowing a vendor or group to use a portion of Fountain Park, even during a Day of Use. This includes, but is not limited to, the amphitheater/band shell area in Fountain Park. The City shall make reasonable efforts to inform SCIO when it has allowed a vendor or group to use a portion of Fountain Park. However, failure to inform SCIO that a vendor or group has been allowed to use a portion of Fountain Park shall not result in the City incurring any liability to SCIO or any other organization.

## 3. Definitions.

- a. Farmer's Market Season: The Farmer's Market shall begin on the earlier of the first Wednesday or first Saturday in June and continue through the later of the last Wednesday or last Saturday in October of each year of this Agreement.<sup>1</sup>
- b. Hours of Operation: For each Wednesday and Saturday during the Farmer's Market Season (a "Day of Use"), the exact hours of operations shall be set at the discretion of SCIO, but will not begin before 7:00am and will not end after 2:00pm.

## 4. SCIO's Responsibilities Related to the Usage of Fountain Park

- a. SCIO shall use the premises for the operation of a farmer's market, including, for the avoidance of doubt, for the sale of produce, processed and prepared food, crafts, and the promotion of health, on each Day of

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<sup>1</sup> The Parties note that this Agreement has been executed during a pandemic, in which public health officials have recommended that certain public gatherings be limited. Section 4(f) requires the Farmer's Market comply with all applicable public health guidance in effect on each Day of Use. Section 2 requires the Farmer's Market comply with all applicable laws. This could mean that the Farmer's Market is not permitted to operate until sometime after the beginning of the Farmer's Market Season, as that term is defined in Section 3(a).

Use during the Farmer's Market Season. This shall be the sole purpose of SCIO's usage of Fountain Park under this Agreement.

- b. SCIO shall be responsible for opening the restrooms at Fountain Park at the start of the Farmer's Market and for closing the restrooms at Fountain Park at the end of the Farmer's Market.
- c. SCIO shall not allow any unlawful use of Fountain Park including, but not limited to, driving on grass.
- d. SCIO shall ensure that all necessary licenses, permits, and authorizations required by law for its activities and for the activities of any vendor participating in the Farmer's Market—including from the Sheboygan County Department of Health and Human Services—are obtained.
- e. SCIO shall ensure that all vendors at the Farmer's Market observe and abide by any and all federal, state, county, and city laws, rules, and regulations (including regarding health, sanitation, and fire) applicable to the activities at the farmers' market. For the avoidance of doubt, breach of this provision shall authorize the City to close the Farmer's Market without notice, in addition to any other remedy permitted in this Agreement and under any law or in equity.
- f. SCIO shall comply, and shall ensure its volunteers and visitors using Fountain Park for Farmer's Market purposes comply, with all applicable public health guidance in effect on each Day of Use. This includes, but is not limited to, guidance issued by the Sheboygan County Health Officer, the State of Wisconsin (including the Department of Agriculture, Trade and Consumer Protection), and the federal government (including, but not limited to, the Centers for Disease Control).
- g. SCIO shall ensure that all vendors are assigned to locations such that the vendor's equipment does not damage Fountain Park or any other City property. The City reserves the right to have a vendor change location if the Director of Public Works determines that the vendor's equipment has damaged or is reasonably likely to damage Fountain Park or any other City property.
- h. SCIO shall operate the Farmer's Market in a businesslike manner, and will not permit any acts or conduct on the part of its employees, agents, or volunteers which would be detrimental to the City's interests.

- i. SCIO shall employ, whether for wages or on a volunteer basis, competent, courteous, and efficient help in such numbers as to properly conduct the farmers' market operation.
- j. SCIO shall, at all times during each Day of Use, keep and maintain Fountain Park in a neat, clean, sanitary, and safe condition.
- k. SCIO shall remove, or cause to be removed, in a timely and careful manner, all garbage, rubbish and debris generated at Fountain Park during the Day of Use, including all outside eating areas utilized by the public on the Day of Use. This will occur at the end of each Day of Use, and may include the need for garbage removal during hours of operation of the market. SCIO may use the dumpsters in Fountain Park that are provided by the City.
- l. SCIO shall submit to the City copies of all policies, rules, and regulations that it enacts relative to the operation of the Farmer's Market. SCIO shall follow and abide by such rules and regulations.
- m. SCIO agrees and promises to manage and operate the Farmer's Market in a fair manner and agrees that it will not, on the grounds of race, color, national origin, religion, age, sex, or any other protected class, discriminate against any person or group of persons. SCIO shall maintain, during the term of this Agreement a written policy and process governing selection of vendors. The policy and process shall give equal opportunity to all qualified vendors and contain content-neutral criteria for selection consistent with this Agreement.
- n. During the Term of Agreement, SCIO shall maintain the following insurance in full force and effect, and shall provide proof of insurance to the City's designated liaison. Such proof of insurance shall list the City as an additional insured.
  - i. Commercial General Liability Insurance — SCIO shall acquire and maintain, for the duration of the Agreement, Commercial General Liability Insurance of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
  - ii. Workers' Compensation Insurance — SCIO shall acquire and maintain, for the duration of the Agreement, Workers' Compensation Insurance that meets all statutory requirements.

This insurance must be primary and non-contributory to any insurance or self-insurance carried by the City. The insurance coverage required

must be provided by an insurance carrier with the "Best" rating of A-VII. All carriers shall be admitted carriers in the State of Wisconsin.

Approval of the insurance by the City shall not relieve or decrease the extent to which SCIO may be held responsible for payment of damages resulting from SCIO's operations under this Agreement. If SCIO fails or refuses to procure or maintain the insurance required by these provisions, or fails or refuses to furnish the City the required proof that the insurance has been procured and is in force and paid for, the City shall have the right at its election to terminate the Agreement.

- o. SCIO shall keep Fountain Park free from any liens arising out of any work performed, materials furnished, or obligations incurred by SCIO.
- p. In the event Fountain Park is damaged to such an extent as to render Fountain Park unsuitable for use as a Farmer's Market, SCIO shall give the City immediate written notice. The City may, in its sole discretion, repair or rebuild Fountain Park. SCIO shall have no obligation to conduct its Farmer's Market if Fountain Park is damaged to such an extent as to render Fountain Park unsuitable for use as a Farmer's Market, until such time as Fountain Park is rendered suitable for use as a Farmer's Market.

5. Indemnification. To the extent permitted by law, SCIO agrees to indemnify, defend, and hold the City, its elected and appointed officials, officers, employees, agents, representatives, and volunteers, and each of them, harmless from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorneys' fees, costs, and expenses of whatsoever kind or nature in any manner directly or indirectly caused, occasioned, or contributed to in whole or in part, or claimed to be caused, occasioned, or contributed to in whole or in part, by reason of any act, omission, fault, or negligence related to the provision of the Farmer's Market at Fountain Park. SCIO shall reimburse the City, its elected and appointed officials, officers, employees, agents or authorized representatives or volunteers for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing this provision. This provision shall survive the termination or expiration of this Agreement.

6. Invoices for Damage. In the event that damage arises as a result of the Farmer's Market, the City will invoice SCIO for such damages. The City will invoice SCIO regardless of whether the damage was caused by SCIO directly, by a vendor at the Farmer's Market, or by a patron of the Farmer's Market. Within thirty (30) days of receipt of the invoice for damage, SCIO shall remit payment to the City. If SCIO fails to remit payment to the City within that time period, the Director of Public Works may—in addition to any other remedy available in law or equity—prohibit SCIO from using Fountain Park for the Farmer's Market until the invoice is paid.

7. The City's Responsibilities Related to this Agreement

- a. Permits. Each year, prior to the beginning of the Farmer's Market Season, within thirty (30) days of SCIO's request, the City shall issue SCIO a permit for the Days of Use for that year.
- b. Liaison. The Director of Public Works shall appoint a staff person as a liaison to SCIO with respect to this Agreement.
- c. Maintenance. The City shall maintain, at its sole expense, Fountain Park, and shall keep the same in good condition and repair, except that the City shall not be responsible for repair of any damage resulting from the Farmer's Market.

8. Improvements / Modifications to Fountain Park by SCIO. Any park improvements or modification projects planned to be performed, contracted for, or supervised by SCIO at Fountain Park shall be submitted in writing to the City in advance for approval. Proposals shall contain a description of the planned project and be accompanied by drawings appropriate for the scale of the project, along with a funding plan outlining the project expenses and sources of funding. SCIO shall be responsible for obtaining all required permits and inspections, and for paying all associated fees.

Depending on the nature of the proposed improvement, approval may be possible by Staff, or approval may require the consent of the Public Works Committee or the Common Council. The City agrees to promptly review any proposal, but cannot and does not guarantee a final answer within a certain period of time.

Any approved park improvements or modifications shall be free and clear of all liens and encumbrances, and shall attach to the real estate and become the property of the City.

Unless otherwise agreed to in writing by the City and SCIO, SCIO is responsible for all expenses during the Term of this Agreement which are related to any park improvements or modifications that occur at the request of SCIO.

9. Miscellaneous Provisions

a. Independent Contractor. The Parties agree that SCIO's use of Fountain Park pursuant to this Agreement is as an independent contractor and not as a department of the City. Further, SCIO employees, agents, and volunteers are not employees of the City.

b. Assignment of Interests.

SCIO shall not, either directly or indirectly, assign, transfer, mortgage, pledge, hypothecate, or encumber this Agreement or any interest therein, and shall not lease or sublet the property it is using without the prior written consent of the City, which shall be in the City's sole discretion; and any attempt to do so without such consent being first obtained shall be wholly void and shall constitute a breach of this Agreement.

SCIO may allow vendors to use a portion of the Fountain Park property it is renting from the City under this Agreement without the specific separate consent of the City.

No consent by the City to any assignment, lease, or sublet by SCIO shall relieve SCIO of any obligation to be performed by them under this Agreement, whether occurring before or after such consent, assignment, lease, or sublet. The consent by the City to any assignment, lease, or sublet shall not relieve SCIO from obligation to obtain the City's express written consent to any other assignment, lease, or sublet. Consenting to one assignment, sublet, or other transfer shall not be deemed to constitute consent to any subsequent assignment, lease, sublease, or transfer.

c. Waiver. No failure of either party to enforce a term of this Agreement against the other shall be construed as a waiver of that term, nor shall it in any way affect the party's right to enforce that term. Any waiver of any term of this Agreement must be in writing. No waiver by any part of any term of this Agreement shall be considered to be a waiver of any other term or breach thereof.

- d. Right of Entry. For the avoidance of doubt, the City reserves, and shall at any time, have the right to enter and inspect Fountain Park at any time for any reason.
- e. Termination.
  - i. Either Party may terminate this Agreement for any reason by providing written notice to the other Party before the end of the Farmers' Market Season. Such termination shall occur December 31 of the calendar year.
  - ii. In the event one party breaches this Agreement, including any covenant, agreement, commitment, or condition contained in this Agreement, the other party shall have the right—in addition to all other rights or remedies which it may have at law or in equity—to terminate the Agreement upon written notice. The breaching party shall have ten (10) calendar days from the receipt of the termination notice to submit a plan for a cure acceptable to the other party, which approval shall not be unreasonably withheld.
- f. Notices. All Notices under this Agreement shall be in writing and delivered in person or sent by certified mail, return receipt requested, to the City and to SCIO at the addresses set forth below, or at such other address as one party may request by written notice to the other party. Notices mailed shall be deemed given upon receipt.

For the City:           City Clerk  
                              City of Sheboygan  
                              828 Center Ave.  
                              Sheboygan, WI 53083

For SCIO:               Lisa Stephan  
                              Sheboygan County Interfaith Organization  
                              1251 Geele Ave.  
                              Sheboygan, WI 53083

- g. Entire Agreement. This Agreement contains the entire Agreement between the Parties and shall not be modified in any manner except by an instrument in writing executed by the parties. If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provisions to persons or circumstances other than those as to which it

held invalid or unenforceable, shall not be affected thereby and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

- h. Third Party Rights. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and SCIO.
- i. Applicable Law; Venue. This Agreement shall be governed by the laws of the State of Wisconsin. Venue of any disputes arising under this Agreement shall be in Sheboygan Circuit Court, Sheboygan County, Wisconsin.
- j. Taxes. SCIO shall be responsible for any taxes that arise as a result of its usage of Fountain Park pursuant to this Agreement.
- k. Authority. Each person executing this Agreement on behalf of a party hereto represents and warrants to the other party: That the execution and delivery of this Agreement has been duly authorized, that the person or persons executing this Agreement have the full power, authority, and right to do so, and that such execution is sufficient and legally binding on such party to enable this Agreement to be enforceable in accordance with its terms.
- l. Intent to be Bound. The Parties each bind itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners to the other party to this Agreement, and to the successors, executors, administrators, permitted assigns, legal representatives and partners of such other party in respect to all provisions of this Agreement.

- m. Integration and Modification. This Agreement, including all Exhibits incorporated by reference, represents the entire and integrated agreement between the City and SCIO. It supersedes all prior and contemporaneous communications, representations and agreements, whether oral or written, relating to the subject matter of this Agreement. This Agreement may be modified only by a written amendment signed by both parties.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed the day and year first written above.

**CITY OF SHEBOYGAN, WISCONSIN**

**SHEBOYGAN COUNTY INTERFAITH ORGANIZATION**

BY: \_\_\_\_\_  
Michael J. Vandersteen, Mayor

BY: \_\_\_\_\_  
Lisa Stephan, Executive Director

ATTEST: \_\_\_\_\_  
Meredith DeBruin, City Clerk

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

*Signature Page to Agreement between the City of Sheboygan, Wisconsin and Sheboygan County Interfaith Organization Regarding the Usage of Fountain Park for a Summer Farmer's Market*

*Authorized by Res. No. \_\_\_\_\_*



**VIII**

R. C. No. \_\_\_\_\_ - 20 - 21. By FINANCE AND PERSONNEL COMMITTEE.  
January 18, 2021.

Your Committee to whom was referred Res. No. 141-20-21 by Alderperson Donohue and Bohren authorizing the appropriate City officials to execute the Agreement Between the City of Sheboygan, Lakeland University, and Kohler Credit Union regarding the 2021 Memorial Day parade; recommends to adopt the Resolution and amend the Agreement to replace Section 4(h) with the following: Hold Harmless / Indemnification. To the extent permitted by law, Launch shall hold harmless, defend, and/or indemnify KCU and the City from any and all claims, actions, suits, charges, awards, fines, labor disputes, charges or costs of any kind or character including attorney's fees and court costs that arise, or may arise, out of Launch's performance or non-performance of any term, obligation, service, or condition as set forth in this Agreement.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ Committee

I HEREBY CERTIFY that the foregoing Committee Report was duly accepted and adopted by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_, \_\_\_\_\_, City Clerk  
Approved \_\_\_\_\_ 20\_\_\_\_, \_\_\_\_\_, Mayor

III

4.2

Res. No. 141 - 20 - 21 . By Alderperson Donohue and Bohren.  
January 4, 2021.

A RESOLUTION authorizing the appropriate City officials to execute the Agreement Between the City of Sheboygan, Lakeland University, and Kohler Credit Union regarding the 2021 Memorial Day parade.

RESOLVED: That the Mayor and City Clerk are hereby authorized to execute the Agreement Between the City of Sheboygan, Lakeland University, and Kohler Credit Union, a copy of which is attached hereto and incorporated herein.

FRP

*My Lynne Donohue*

\_\_\_\_\_  
\_\_\_\_\_

I HEREBY CERTIFY that the foregoing Resolution was duly passed by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, City Clerk

Approved \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, Mayor

AGREEMENT BETWEEN THE  
CITY OF SHEBOYGAN, LAKELAND UNIVERSITY, AND KOHLER CREDIT UNION  
REGARDING  
THE 2021 MEMORIAL DAY PARADE IN SHEBOYGAN, WISCONSIN

This Agreement (“Agreement”) is between the City of Sheboygan (the “City”), a municipal corporation, Lakeland University, and Kohler Credit Union (“KCU”).

WITNESSETH:

- WHEREAS, Sheboygan has a proud tradition of hosting an annual Memorial Day Parade to honor fallen service members; and
- WHEREAS, traditionally the parade concludes with a ceremony at Fountain Park; and
- WHEREAS, the City desires to contract with an entity to provide the necessary services to organize and conduct the Memorial Day Parade and ceremony at Fountain Park (“Event Management Services”); and
- WHEREAS, the City also desires to obtain a sponsor to fund the costs of the Event Planning Services; and
- WHEREAS, Launch at Lakeland University (“Launch”) is willing to provide the City with the necessary Event Management Services under the terms of this Agreement; and
- WHEREAS, KCU is willing to sponsor the costs of the Event Management Services under the terms of this Agreement.

NOW, THEREFORE, the City, Launch, and KCU agree as follows:

1. Kohler Credit Union’s Responsibilities

Within 15 days of the execution of this Agreement, KCU shall remit an initial sponsorship payment of \$1,500 to the City.

Within 7 days of May 31, 2021, KCU shall remit a final sponsorship payment of \$1,500 to the City. In the event that it is necessary for the Event to be cancelled due to COVID-19, KCU shall not be responsible for making this final sponsorship payment.

Both sponsorship payments shall be sent to the Mayor’s Office (828 Center Ave., Suite 300, Sheboygan, WI 53081).

KCU shall also provide sponsorship support for incidental costs associated with the Event. Any sponsorship payment for incidental costs shall be handled via separate agreement between KCU and Launch.

## 2. Launch's Responsibilities

Launch shall assume responsibility for organizing, promoting, and executing the Memorial Day Parade and ceremony at Fountain Park (collectively, the "Event").

This includes, but is not limited to:

- a. Coordination and management of all pre-event logistics, on-site management, and post-event functions necessary for the Event to be a success.
- b. Coordination and management of the Memorial Day Parade, including: (1) parade entry, (2) coordination of line-up, (3) route management, (4) on-site management, and (5) official parade announcements.
- c. Negotiation for services and management of all necessary suppliers such as: (1) porta-potty/metro needs for the parade, (2) fencing, (3) seating and logistical setup, (4) electrical fulfillment, and (5) any other supplier relationships that may be necessary to successfully manage the Event.
- d. Coordination and collaboration with the Sheboygan Police Department, Sheboygan Department of Public Works, and any other municipal entities or departments as necessary to ensure public safety and proper use and need for City equipment and services including, but not limited to, public park use, traffic control, trash coordination for parks, street closures, and crowd control.
- e. Handle all permits, requests to the Common Council of the City, reservations to the Sheboygan Department of Public Works, and any other permits, licenses, or permissions necessary to ensure that proper resources and notifications are agreed to in advance by all parties and City departments involved in the Event.

Launch shall be solely responsible for the means, methods, techniques, sequences, and procedures by which it organizes, promotes, and executes the Event.

Launch shall comply, and shall ensure that all participants in the Event comply, with all applicable public health guidance in effect on the day of the Event. This includes, but is not limited to, guidance issued by the Sheboygan County Health Officer, the State of Wisconsin, and the federal government (including, but not limited to, the Centers for Disease Control).

Any and all agreements with third parties for services related to the Event (other than this Agreement) shall be between the third party and Launch.

## 3. The City's Responsibilities

The City shall, within 30 days of receipt of each sponsorship payment from KCU, pay the amount of the sponsorship payment received by the City to Launch. For the avoidance of doubt, in the event that KCU fails to make one or more of the sponsorship payments set forth in this Agreement, the City's obligation to pay the amount of the unpaid sponsorship payment shall not accrue.

The City recognizes that the Event require use of City land and services. The City agrees to provide the following for the Event at no cost:

- Use of Fountain Park for the ceremony at Fountain Park following the Parade
- Use of City streets and lots, upon approval of a parade permit submitted by Launch and approved by the City (as necessary for parade staging and route commencement).
- Appropriate police aid for traffic control and crowd control throughout the Event.
- Appropriate support and equipment from the Sheboygan Department of Public Works throughout the Event.

#### 4. General Provisions

- a. Access to Records. The parties recognize that the City is bound by the Wisconsin Public Records Law and, as such, this Agreement is subject to that law. Launch and KCU acknowledge that they are obligated to assist the City in retaining and producing records related to this Agreement, and that the failure to do so shall constitute a material breach of this Agreement, in which case the breaching party must defend and hold the City harmless from liability under the Wisconsin Public Records Law. Launch and KCU shall maintain all records related to this Agreement for a period of not less than 7 years after the termination of the Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case the records shall also be maintained until the disposition of all such litigation, appeals, claims, or exceptions related thereto.
- b. Assignment. No party shall assign, transfer, convey, pledge, sublet, or otherwise dispose of its interest in this Agreement without the prior consent of the other parties in writing.
- c. Authority. Each person executing this Agreement on behalf of a party hereto represents and warrants to the other parties: That the execution of this Agreement has been duly authorized, that the person or persons executing this Agreement have the full power, authority, and right to do so, and that such execution is sufficient and legally binding on such party to enable this Agreement to be enforceable in accordance with its terms.
- d. Compliance with All Laws. In performing the services under this Agreement, the parties shall comply with any and all applicable federal, state, and local statutes, ordinances, plans, and regulations.
- e. Conflict of Interest. Each party declares that it has no present interest, nor shall it acquire any interest—direct or indirect—which would conflict with the performance of the responsibilities set forth in this Agreement. The parties agree that no person having any such interest shall be employed in the performance of this Agreement.
- f. Default. Should any party be in default of the terms and provisions of this Agreement, and should such default continue for more than 30 days after written notice of the default from a non-defaulting party, then a non-defaulting party may terminate this Agreement upon written notice to the other parties.
- g. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Wisconsin. Venue of any disputes arising under this Agreement shall be in the Sheboygan County Circuit Court, Wisconsin.
- h. Hold Harmless/Indemnification. To the extent permitted by law, Launch shall hold harmless, defend, and/or indemnify KCU and the City from any and all claims, actions, suits, charges, awards, fines, labor disputes, charges or costs of any kind or character including attorney's

fees and court costs that arise, or may arise, out of Launch's performance or non-performance of any term, obligation, service, or condition as set forth in this Agreement.

- i. **Independent Contractor.** The parties to this Agreement are not partners. During the entire term of this Agreement, the relationship between the parties shall be that of independent contractors. No personnel, agent, or subcontractor of one party shall represent themselves to be an employee or otherwise affiliated with any other party to this Agreement.
- j. **Intent to be Bound.** Each party binds itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners to the other parties to this Agreement, and to the successors, executors, administrators, permitted assigns, legal representatives, and partners of such other parties in respect to all provisions of this Agreement.
- k. **Limitation of Authority.** Except as may be specifically provided for with respect to event management services, Launch shall have: (1) no power to solicit proposals, bids, or contracts on behalf of the City and (2) no authority to bind the City or act on the City's behalf in any manner whatsoever. Launch's authority is hereby limited to those duties and responsibilities specifically enumerated herein.
- l. **Modifications.** This Agreement may be modified or amended by the parties at any time, provided such changes are mutually agreed to, in writing, and signed by all parties.
- m. **Nondiscrimination.**
  - a. In connection with the performance of the services under this Agreement, Launch agrees not to discriminate against any employee or applicant for employment on the basis of age, race, religion, color, handicap, sex, physical condition, developmental disability (as defined in Wis. Stat. 51.01(5)), sexual orientation (as defined in Wis. Stat. 111.32(13m)), or national origin. This provision shall include, but is not limited to: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training. Launch further agrees to take affirmative action to ensure equal employment opportunities.
  - b. The selection of participants in the Event shall be done on a basis that does not discriminate on the basis of age, race, religion, color, handicap, sex, physical condition, developmental disability, sexual orientation, or national origin.
- n. **Notice.** Any notice required by this Agreement shall be made in writing to the parties as addressed below:

**City**  
City Clerk  
City of Sheboygan  
828 Center Ave.  
Sheboygan, Wisconsin 53081

**KCU**  
Laura Gabrielse  
Kohler Credit Union  
5727 Superior Ave.  
Sheboygan, WI 53083

**Launch**  
Kym Leibham  
Lakeland University  
W3718 South Drive  
Plymouth, WI 53073

This shall not be construed to restrict the transmission of routine communications between representatives of the parties.

- o. Other Sponsors. The Parties anticipate that KCU will be the only sponsor for the Event. If, during the course of planning the Event, one or more Parties believe that additional sponsors are appropriate, both KCU and the City must consent in writing to any additional sponsor. The Mayor shall have the authority to make this consent on behalf of the City.
- p. Severability. The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of the Agreement shall be construed and enforced as if it did not contain the particular provision held to be void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Section shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.
- q. Term. This Agreement shall cover the 2021 Event only. This Agreement shall begin upon its execution by all parties, and shall continue until July 15, 2021, unless it is extended by mutual agreement of all parties.
- r. Third Party Rights. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the parties.
- s. Waiver. No failure of either party to enforce a term of this Agreement against the other shall be construed as a waiver of that term, nor shall it in any way affect the party's right to enforce that term. No waiver by any party of any term of this Agreement—which may only occur in writing—shall be considered to be a waiver of any other term or breach thereof.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by duly authorized agents as of the dates written below.

**CITY OF SHEBOYGAN**

**LAKELAND UNIVERSITY**

BY: \_\_\_\_\_  
 Michael J. Vandersteen  
 Mayor

BY: \_\_\_\_\_  
 Amy Wirtz  
 Chief Financial Officer

ATTEST: \_\_\_\_\_  
 Meredith DeBruin  
 City Clerk

DATED: \_\_\_\_\_

DATED: \_\_\_\_\_

**KOHLER CREDIT UNION**

BY: \_\_\_\_\_  
 Laura Gabrielse  
 Senior Vice President of Member Experience

DATED: \_\_\_\_\_

AGREEMENT BETWEEN THE  
CITY OF SHEBOYGAN, LAKELAND UNIVERSITY, AND KOHLER CREDIT UNION  
REGARDING  
THE 2021 MEMORIAL DAY PARADE IN SHEBOYGAN, WISCONSIN

This Agreement ("Agreement") is between the City of Sheboygan (the "City"), a municipal corporation, Lakeland University, and Kohler Credit Union ("KCU").

WITNESSETH:

- WHEREAS, Sheboygan has a proud tradition of hosting an annual Memorial Day Parade to honor fallen service members; and
- WHEREAS, traditionally the parade concludes with a ceremony at Fountain Park; and
- WHEREAS, the City desires to contract with an entity to provide the necessary services to organize and conduct the Memorial Day Parade and ceremony at Fountain Park ("Event Management Services"); and
- WHEREAS, the City also desires to obtain a sponsor to fund the costs of the Event Planning Services; and
- WHEREAS, Launch at Lakeland University ("Launch") is willing to provide the City with the necessary Event Management Services under the terms of this Agreement; and
- WHEREAS, KCU is willing to sponsor the costs of the Event Management Services under the terms of this Agreement.

NOW, THEREFORE, the City, Launch, and KCU agree as follows:

1. Kohler Credit Union's Responsibilities

Within 15 days of the execution of this Agreement, KCU shall remit an initial sponsorship payment of \$1,500 to the City.

Within 7 days of May 31, 2021, KCU shall remit a final sponsorship payment of \$1,500 to the City. In the event that it is necessary for the Event to be cancelled due to COVID-19, KCU shall not be responsible for making this final sponsorship payment.

Both sponsorship payments shall be sent to the Mayor's Office (828 Center Ave., Suite 300, Sheboygan, WI 53081).

KCU shall also provide sponsorship support for incidental costs associated with the Event. Any sponsorship payment for incidental costs shall be handled via separate agreement between KCU and Launch.

## 2. Launch's Responsibilities

Launch shall assume responsibility for organizing, promoting, and executing the Memorial Day Parade and ceremony at Fountain Park (collectively, the "Event").

This includes, but is not limited to:

- a. Coordination and management of all pre-event logistics, on-site management, and post-event functions necessary for the Event to be a success.
- b. Coordination and management of the Memorial Day Parade, including: (1) parade entry, (2) coordination of line-up, (3) route management, (4) on-site management, and (5) official parade announcements.
- c. Negotiation for services and management of all necessary suppliers such as: (1) porta-potty/metro needs for the parade, (2) fencing, (3) seating and logistical setup, (4) electrical fulfillment, and (5) any other supplier relationships that may be necessary to successfully manage the Event.
- d. Coordination and collaboration with the Sheboygan Police Department, Sheboygan Department of Public Works, and any other municipal entities or departments as necessary to ensure public safety and proper use and need for City equipment and services including, but not limited to, public park use, traffic control, trash coordination for parks, street closures, and crowd control.
- e. Handle all permits, requests to the Common Council of the City, reservations to the Sheboygan Department of Public Works, and any other permits, licenses, or permissions necessary to ensure that proper resources and notifications are agreed to in advance by all parties and City departments involved in the Event.

Launch shall be solely responsible for the means, methods, techniques, sequences, and procedures by which it organizes, promotes, and executes the Event.

Launch shall comply, and shall ensure that all participants in the Event comply, with all applicable public health guidance in effect on the day of the Event. This includes, but is not limited to, guidance issued by the Sheboygan County Health Officer, the State of Wisconsin, and the federal government (including, but not limited to, the Centers for Disease Control).

Any and all agreements with third parties for services related to the Event (other than this Agreement) shall be between the third party and Launch.

## 3. The City's Responsibilities

The City shall, within 30 days of receipt of each sponsorship payment from KCU, pay the amount of the sponsorship payment received by the City to Launch. For the avoidance of doubt, in the event that KCU fails to make one or more of the sponsorship payments set forth in this Agreement, the City's obligation to pay the amount of the unpaid sponsorship payment shall not accrue.

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- Use of Fountain Park for the ceremony at Fountain Park following the Parade
- Use of City streets and lots, upon approval of a parade permit submitted by Launch and approved by the City (as necessary for parade staging and route commencement).
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4. General Provisions

- a. Access to Records. The parties recognize that the City is bound by the Wisconsin Public Records Law and, as such, this Agreement is subject to that law. Launch and KCU acknowledge that they are obligated to assist the City in retaining and producing records related to this Agreement, and that the failure to do so shall constitute a material breach of this Agreement, in which case the breaching party must defend and hold the City harmless from liability under the Wisconsin Public Records Law. Launch and KCU shall maintain all records related to this Agreement for a period of not less than 7 years after the termination of the Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case the records shall also be maintained until the disposition of all such litigation, appeals, claims, or exceptions related thereto.
- b. Assignment. No party shall assign, transfer, convey, pledge, sublet, or otherwise dispose of its interest in this Agreement without the prior consent of the other parties in writing.
- c. Authority. Each person executing this Agreement on behalf of a party hereto represents and warrants to the other parties: That the execution of this Agreement has been duly authorized, that the person or persons executing this Agreement have the full power, authority, and right to do so, and that such execution is sufficient and legally binding on such party to enable this Agreement to be enforceable in accordance with its terms.
- d. Compliance with All Laws. In performing the services under this Agreement, the parties shall comply with any and all applicable federal, state, and local statutes, ordinances, plans, and regulations.
- e. Conflict of Interest. Each party declares that it has no present interest, nor shall it acquire any interest—direct or indirect—which would conflict with the performance of the responsibilities set forth in this Agreement. The parties agree that no person having any such interest shall be employed in the performance of this Agreement.
- f. Default. Should any party be in default of the terms and provisions of this Agreement, and should such default continue for more than 30 days after written notice of the default from a non-defaulting party, then a non-defaulting party may terminate this Agreement upon written notice to the other parties.
- g. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Wisconsin. Venue of any disputes arising under this Agreement shall be in the Sheboygan County Circuit Court, Wisconsin.
- h. Hold Harmless/Indemnification. To the extent permitted by law, Launch shall hold harmless, defend, and/or indemnify KCU and the City from any and all claims, actions, suits, charges, awards, fines, labor disputes, charges or costs of any kind or character including attorney's

fees and court costs that arise, or may arise, out of Launch's performance or non-performance of any term, obligation, service, or condition as set forth in this Agreement.

- i. Independent Contractor. The parties to this Agreement are not partners. During the entire term of this Agreement, the relationship between the parties shall be that of independent contractors. No personnel, agent, or subcontractor of one party shall represent themselves to be an employee or otherwise affiliated with any other party to this Agreement.
- j. Intent to be Bound. Each party binds itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners to the other parties to this Agreement, and to the successors, executors, administrators, permitted assigns, legal representatives, and partners of such other parties in respect to all provisions of this Agreement.
- k. Limitation of Authority. Except as may be specifically provided for with respect to event management services, Launch shall have: (1) no power to solicit proposals, bids, or contracts on behalf of the City and (2) no authority to bind the City or act on the City's behalf in any manner whatsoever. Launch's authority is hereby limited to those duties and responsibilities specifically enumerated herein.
- l. Modifications. This Agreement may be modified or amended by the parties at any time, provided such changes are mutually agreed to, in writing, and signed by all parties.
- m. Nondiscrimination.
  - a. In connection with the performance of the services under this Agreement, Launch agrees not to discriminate against any employee or applicant for employment on the basis of age, race, religion, color, handicap, sex, physical condition, developmental disability (as defined in Wis. Stat. 51.01(5)), sexual orientation (as defined in Wis. Stat. 111.32(13m)), or national origin. This provision shall include, but is not limited to: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training. Launch further agrees to take affirmative action to ensure equal employment opportunities.
  - b. The selection of participants in the Event shall be done on a basis that does not discriminate on the basis of age, race, religion, color, handicap, sex, physical condition, developmental disability, sexual orientation, or national origin.
- n. Notice. Any notice required by this Agreement shall be made in writing to the parties as addressed below:

<u>City</u>	<u>KCU</u>	<u>Launch</u>
City Clerk	Laura Gabrielse	Kym Leibham
City of Sheboygan	Kohler Credit Union	Lakeland University
828 Center Ave.	5727 Superior Ave.	W3718 South Drive
Sheboygan, Wisconsin 53081	Sheboygan, WI 53083	Plymouth, WI 53073

This shall not be construed to restrict the transmission of routine communications between representatives of the parties.

- o. Other Sponsors. The Parties anticipate that KCU will be the only sponsor for the Event. If, during the course of planning the Event, one or more Parties believe that additional sponsors are appropriate, both KCU and the City must consent in writing to any additional sponsor. The Mayor shall have the authority to make this consent on behalf of the City.
- p. Severability. The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of the Agreement shall be construed and enforced as if it did not contain the particular provision held to be void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Section shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.
- q. Term. This Agreement shall cover the 2021 Event only. This Agreement shall begin upon its execution by all parties, and shall continue until July 15, 2021, unless it is extended by mutual agreement of all parties.
- r. Third Party Rights. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the parties.
- s. Waiver. No failure of either party to enforce a term of this Agreement against the other shall be construed as a waiver of that term, nor shall it in any way affect the party's right to enforce that term. No waiver by any party of any term of this Agreement—which may only occur in writing—shall be considered to be a waiver of any other term or breach thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by duly authorized agents as of the dates written below.

CITY OF SHEBOYGAN

BY: Michael J. Vandersteen  
 Michael J. Vandersteen  
 Mayor

LAKELAND UNIVERSITY

BY: Amy Wirtz  
 Amy Wirtz  
 Chief Financial Officer

ATTEST: Melissa Clevenger DATED: 1/22/2021  
~~Meredith DeBruin~~ Melissa Clevenger  
 Deputy City Clerk

DATED: January 25, 2021

KOHLER CREDIT UNION

BY: Laura Gabrielse  
 Laura Gabrielse  
 Senior Vice President of Member Experience

DATED: 1/20/2021

R. C. No. \_\_\_\_\_ - 20 - 21. By LICENSING, HEARINGS, AND PUBLIC SAFETY COMMITTEE.  
January 18, 2021.

At its meeting on January 13, 2021, your Committee voted to recommend that the Common Council grant Alc. Bev. Lic. No. 3461-HCM Hospitality [Bar 43 at Harbor Centre Marina] (Matt Bauer, Agent) an extension until June 30, 2021 to open for business.

Mr. Bauer appeared remotely before the committee and explained that they have not yet opened for business due to renovations taking longer than expected and they would also like to align the opening of the bar closer to the opening of the marina.

Your committee recommends that the common council grant an extension to HCM Hospitality under the continuation of business ordinance until June 30, 2021.

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\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Committee

I HEREBY CERTIFY that the foregoing Committee Report was duly accepted and adopted by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, City Clerk

Approved \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, Mayor

**IV**

R. C. No. \_\_\_\_\_ - 20 - 21. By PUBLIC WORKS COMMITTEE. January 18, 2021.

Your Committee to whom was referred Gen. Ord. No. 28-20-21 by Alderpersons Dekker and Sorenson re-establishing the bulkhead line along the north side of the Sheboygan River in the City of Sheboygan; recommends adopting the Ordinance.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ Committee

I HEREBY CERTIFY that the foregoing Committee Report was duly accepted and adopted by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, City Clerk

Approved \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, Mayor

~~X~~

7.3

Gen. Ord. No. 28 - 20 - 21. By Alderpersons Dekker and Sorenson.  
December 7, 2020.

AN ORDINANCE re-establishing the bulkhead line along the north side of the Sheboygan River in the City of Sheboygan.

WHEREAS, historical records related to the Lake Michigan shore line are entirely inconsistent related to location of the line demarking the dry land jurisdiction from land within the historic lake bed, for the purpose of separating jurisdictions related to construction and riparian activities; and

WHEREAS, re-establishing a bulkhead line along the Lake Michigan shoreline, pursuant to Wis. Stats. § 30.11(3) is in the public interest for the purpose of protecting public interest in preserving the shoreline and infrastructure along the shoreline given the anticipated historic rise in lake levels and the need to clarify regulatory interests related to the public trust doctrine.

THEREFORE, THE COMMON COUNCIL OF THE CITY OF SHEBOYGAN DO ORDAIN AS FOLLOWS:

Section 1. The Common Council hereby re-establishes in the public interest the bulkhead line along a portion of the Sheboygan River in the City of Sheboygan, more particularly described below and shown upon the attached map, which is attached and incorporated to this ordinance by reference:

A SIX-FOOT-WIDE ACCESS EASEMENT PARALLEL AND PERPENDICULAR TO THE FOLLOWING DESCRIBED ALIGNMENT IN GOVERNMENT LOT 4, SECTION 23, TOWNSHIP 15 NORTH, RANGE 23 EAST, LYING AND BEING IN THE CITY OF SHEBOYGAN, SHEBOYGAN COUNTY, STATE OF WISCONSIN, DESCRIBED AS: COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF SECTION 23; TOWNSHIP 15 NORTH, RANGE 23 EAST; THENCE ALONG THE WEST LINE OF SAID SOUTHEAST 1/4 SECTION, N 00°19'50" W, 787.66 FEET; THENCE N 89°40'10" E, 73.64 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION, SAID POINT BEING 788.07 FEET NORTH OF AND 69.09 FEET EAST OF SAID SOUTHWEST CORNER; THENCE S 89°55'08" E, 32.55 FEET; THENCE N 45°22'47" E, 4.01 FEET; THENCE N 00°07'35" E, 33.51 FEET; THENCE N 48°57'39" E, 254.67 FEET; THENCE 89°53'50" E, 230.83 FEET; THENCE 63.94 FEET ALONG THE ARC OF A CURVE DEFLECTING TO THE RIGHT HAVING A RADIUS OF 20.28 FEET AND A CHORD BEARING AND DISTANCE OF S 87°50'57" E, 40.56 FEET; THENCE S 89°36'02" E, 729.51 FEET TO THE END OF THIS ALIGNMENT, SAID POINT BEING 985.36 FEET NORTH OF AND 1297.51 FEET EAST OF SAID SOUTHWEST CORNER.

*Per  
extended  
adopt*

Section 2. That four certified copies of this ordinance, together with four true and correct copies of a map of such proposed bulkhead line (copies of which are attached to this ordinance by reference) shall be submitted to the State of Wisconsin Department of Natural Resources for its approval.

Section 3. This ordinance shall be effective upon passage and publication, and approval by the State of Wisconsin Department of Natural Resources.

Section 4. Upon approval by the Wisconsin Department of Natural Resources, the City Clerk shall deliver the map and this ordinance to the office of the Sheboygan County Register of Deeds for recording, and shall submit a copy of the map and this ordinance to be filed in the office of the Sheboygan County Clerk and with the office of the Department of Natural Resources, and shall include the map and the ordinance as part of section 1-4 of the supplement to the Municipal Code kept on file in the City Clerk's office pursuant to section 1-3 of the Code.

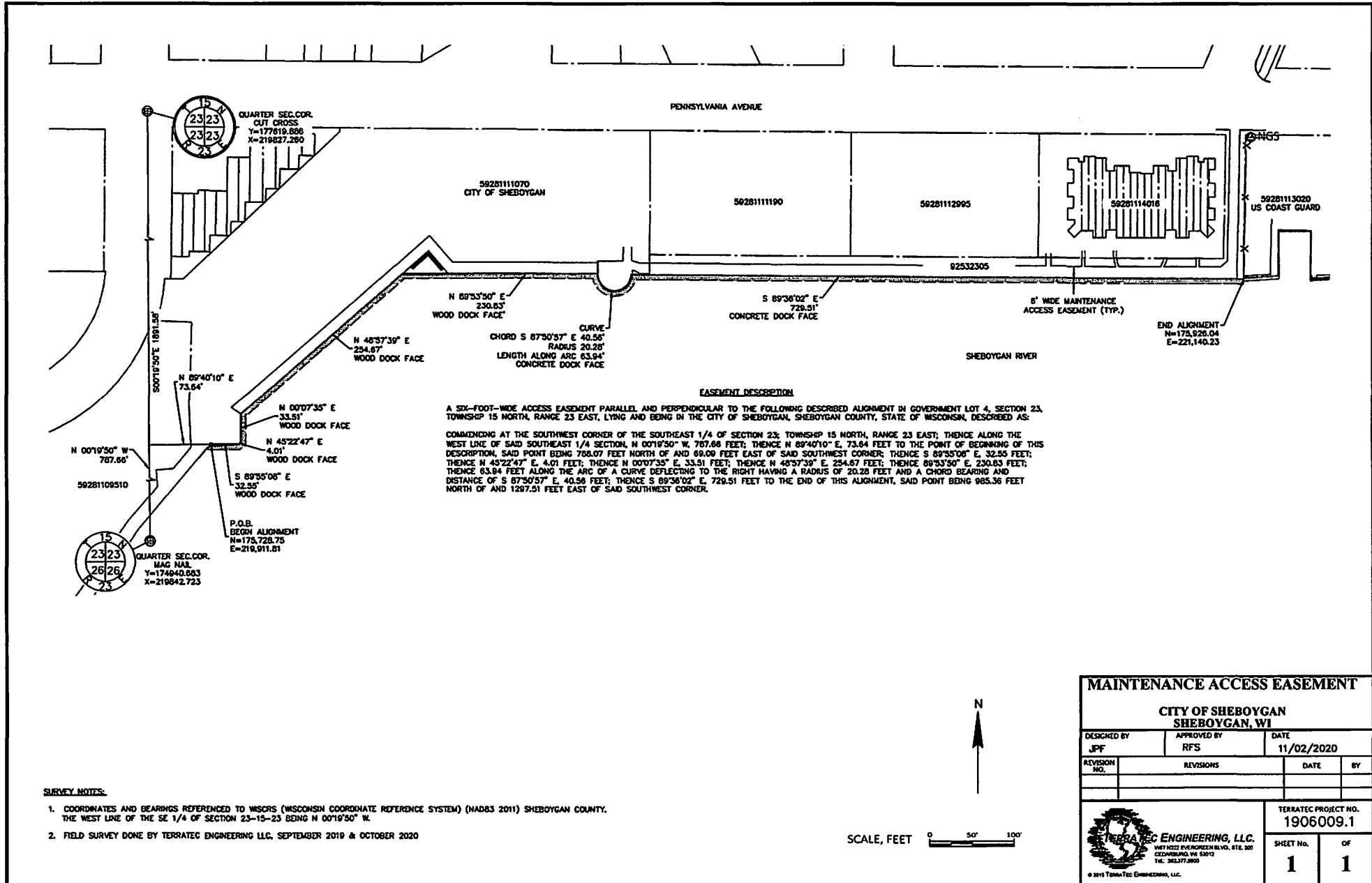
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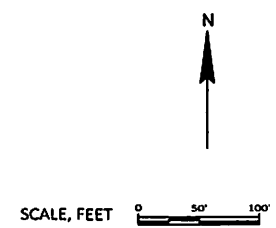
I HEREBY CERTIFY that the foregoing Ordinance was duly passed by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, City Clerk

Approved \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, Mayor



- SURVEY NOTES:**
- COORDINATES AND BEARINGS REFERENCED TO WISCONSIN COORDINATE REFERENCE SYSTEM (NAD83 2011) SHEBOYGAN COUNTY. THE WEST LINE OF THE SE 1/4 OF SECTION 23-15-23 BEING N 00°19'50" W.
  - FIELD SURVEY DONE BY TERRATEC ENGINEERING LLC, SEPTEMBER 2019 & OCTOBER 2020



MAINTENANCE ACCESS EASEMENT			
CITY OF SHEBOYGAN SHEBOYGAN, WI			
DESIGNED BY JPF	APPROVED BY RFS	DATE 11/02/2020	
REVISION NO.	REVISIONS	DATE	BY
TERRATEC PROJECT NO. 1906009.1		SHEET No.	OF
 TERRATEC ENGINEERING, LLC. 1611 2222 EVERGREEN BLVD., STE. 300 CEDAR RAPIDS, IA 52012 TEL: 319.277.8900 © 2019 TERRATEC ENGINEERING, LLC.		1	1

**IX**

R. C. No. \_\_\_\_\_ - 20 - 21. By PUBLIC WORKS COMMITTEE. January 18, 2021.

Your Committee to whom was referred Gen. Ord. No. 31-20-21 by Alderpersons Dekker and Sorenson amending section 74-42 of the Municipal Code to allow the waiver of park rental fees in certain circumstances; recommends adopting the Ordinance.

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\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Committee

I HEREBY CERTIFY that the foregoing Committee Report was duly accepted and adopted by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_, \_\_\_\_\_, City Clerk

Approved \_\_\_\_\_ 20\_\_\_\_, \_\_\_\_\_, Mayor

~~V~~

6.3.

Gen. Ord. No. 31 - 20 - 21. By Alderpersons Dekker and Sorenson.  
December 21, 2020.

AN ORDINANCE amending Section 74-42 of the Municipal Code to allow the waiver of park rental fees in certain circumstances.

THE COMMON COUNCIL OF THE CITY OF SHEBOYGAN DO ORDAIN AS FOLLOWS:

Section 1. Section 74-42 of the Municipal Code entitled "Use of park by permit" is hereby amended to read as follows:

"Sec. 74-42. *Use of park by permit.*

. . .

(b) Fees.

. . .

(4) The director of public works may, upon written request submitted at least thirty days prior to the park rental, waive or reduce the park rental fees set forth in this Section 74-42(b) for a non-profit entity that is formally recognized by the State of Wisconsin or the federal government which: (1) is holding an event open to the general public without an admission fee; (2) is not using the park rental as a fundraiser; (3) has provided good cause as to the financial hardship that would be caused by requiring the payment of the applicable full park rental fee; and (4) has established why the event benefits the City of Sheboygan and its citizens such that the park rental fee - which is set in a manner to reflect the costs incurred by the City as a result of the rental - should not be charged for the park rental; so long as (5) the event does not significantly impact city departments, services, operations, or activities, and (6) the event is the first event held by the non-profit entity in the City of Sheboygan. The decision of the director of public works shall be issued in writing.

Pro  
adopt

- (5) A non-profit entity whose park rental fee waiver request is denied by the director of public works may, within seven calendar days of the date of the denial, submit a written request to appeal the decision of the director of public works to the Public Works Committee, which shall consider the appeal as soon as is practicable and which may waive or reduce the park rental fees set forth in this Section 74-42(b) if it finds the criteria set forth in Section 74-42(b)(4) are met.
- (6) In the event that an event receives a park rental fee reduction or waiver under Section 74-42(b)(4) or (b)(5), that shall not serve as a waiver of any other fee related to the rental of the park, including the security deposit in Section 74-42(c).

. . . .

(d) City-Sponsored Events. Events planned, coordinated, and executed primarily by City employees in the scope of their official duties shall not be subject to the fees set forth in this Section 74-42."

Section 2. All ordinances or parts thereof in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, and this ordinance shall be in effect from and after its passage and publication.

Dean Decker  
[Signature]

I HEREBY CERTIFY that the foregoing Ordinance was duly passed by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, City Clerk  
 Approved \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, Mayor

II

R. O. No. 128 - 20 - 21. By CITY CLERK. January 18, 2021.

Submitting various license applications for the period ending December 31, 2021 and June 30, 2022.

\_\_\_\_\_  
City Clerk

BEVERAGE OPERATOR'S LICENSE (NEW) (June 30, 2022)

<u>No.</u>	<u>Name</u>	<u>Address</u>
3453	Allmann-Lawrence, Kyle A.	3324 S. 11 <sup>th</sup> Street
7509	Beniger, Amanda M.	809 Huron Avenue
0627	Daane, Aleyda A.	1721 N. 40 <sup>th</sup> Street
9794	East, Jacob A.	1031 Maryland Avenue Apt. 413
3459	Fuller, Seth A.	2511 N. 10 <sup>th</sup> Street
3457	Gast, David L.	816A Lincoln Avenue
2724	Gierke, Anthony R.	1419A Geele Avenue
2189	Hernandez, Vicky L.	6917 Rex Lane, Sarasota FL
3460	Hutton, Alexandra C.	W4578 County Road A N, Elkhart Lake
8206	La Frenier, Stacy L.	1123 Lincoln Avenue
3456	Martinez, Laquisha	1114 N. 11 <sup>th</sup> Street
1689	Miller, Courtney L.	218 East Mill Street, Plymouth
1879	Schuette, Emily A.	611 Mark Avenue, Sheboygan Falls
4884	Spindler, Tiffany A.	2332 Carmen Avenue Apt. 4C

MASSAGE ESTABLISHMENT LICENSE (RENEW) (December 31, 2021)

<u>No.</u>	<u>Name</u>	<u>Address</u>
3252	Fantoli Massage & Wellness, LLC	4027 S. Business Drive

TAXICAB DRIVERS LICENSE (NEW) (December 31, 2021)

<u>No.</u>	<u>Name</u>	<u>Address</u>
1982	Bouchard, Robert	819 Humboldt Avenue
3454	Garcia Correa, Rogelio	1218 Huron Avenue
2906	Forss, Brian J.	1319 N. 12 <sup>th</sup> Street
3057	Hrabrich, Gregory H.	428 St. Clair Avenue
3451	Konz, Karissa N.	1427 N. 11 <sup>th</sup> Street
2434	Lopez, Angela M.	3325 Main Avenue Apt. 102
3222	Pena, Kristina EM.	1812 S. 12 <sup>th</sup> Street
3452	Peterson, Jamie M.	N3455 Highway 57, Waldo

JMS