

*****ATTACHMENTS*****

CITY OF SHEBOYGAN

REQUEST FOR PUBLIC WORKS COMMITTEE CONSIDERATION

ITEM DESCRIPTION: Resolution authorizing an application for an Urban Nonpoint Source & Storm Water Program Construction Grant from the Wisconsin Department of Natural Resources.

REPORT PREPARED BY: Ryan Sazama, City Engineer

REPORT DATE: May 21, 2020

MEETING DATE: May 26, 2020

FISCAL SUMMARY:

Budget Line Item: N/A
Budget Summary: N/A
Budget Expenditure: N/A
Budgeted Revenue: N/A

STATUTORY REFERENCE:

Wisconsin Statutes: N/A
Municipal Code: N/A

BACKGROUND / ANALYSIS: The Department of Public Works is pursuing an Urban Nonpoint Source & Storm Water Program Grant from the Wisconsin Department of Natural Resources (“DNR”) to support the conversion of the 2nd Creek Pond (North 29th Street and Geele Avenue intersection) from a dry pond to a wet pond. This conversion from a wet pond to a dry pond will assist the City in meeting future clean water requirements.

STAFF COMMENTS: The Department of Public Works as stated above wants to convert the 2nd Creek pond from a dry pond to wet pond so the City is better prepared to meet future clean water requirements.

ACTION REQUESTED: Motion to recommend the Common Council adopt Res. No. 24-20-21 resolution authorizing an application for an Urban Nonpoint Source & Storm Water Program Construction Grant from the Wisconsin Department of Natural Resources.

ATTACHMENTS:

- I. Res. No. 24-20-21
- II. Grant Application

III

Res. No. 24 - 20 - 21. By Alderpersons Wolf and Sorenson.
May 18, 2020.

A RESOLUTION authorizing an application for an Urban Nonpoint Source & Storm Water Program Construction Grant from the Wisconsin Department of Natural Resources.

WHEREAS, the City of Sheboygan has the opportunity to pursue an Urban Nonpoint Source & Storm Water Program Grant ("Grant") from the Wisconsin Department of Natural Resources ("DNR") to support the conversion of 2nd Creek Pond from a dry pond to a wet pond in order to assist the City in meeting future clean water requirements; and

WHEREAS, in order for the City to apply for the Grant, which would provide the City with \$150,000 towards this project, which has an estimated cost of \$917,000, one requirement is a Governmental Responsibility Resolution; and

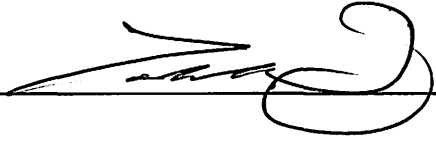
WHEREAS, the Governmental Responsibility Resolution must identify an Authorized Representative; and

WHEREAS, an Authorized Representative is an office, officer, or employee who is given authority to act on the applicant's behalf to: (1) sign and submit the grant application; (2) sign a grant agreement between the City and the DNR; (3) sign and submit reimbursement claims along with necessary supporting documentation; (4) sign and submit interim and final reports and other documentation as required by the grant agreement; (5) sign and submit an Environmental Hazards Assessment Form, if required, and (6) take necessary action to undertake, direct, and complete the approved project.

NOW, THEREFORE, BE IT RESOLVED: That the City of Sheboygan Common Council designates the City Engineer, Ryan Sazama, as its Authorized Representative for this Grant.

PW

BE IT FURTHER RESOLVED: That the City shall comply with all state and federal laws, regulations and permit requirements pertaining to implementation of this project and to fulfillment of the grant document provisions.



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


4.4

Res. No. 25 - 20 - 21. By Alderpersons Wolf and Sorenson.
May 18, 2020.

A RESOLUTION authorizing the appropriate City officials to execute the Amendment to Agreement Between the City of Sheboygan and Sheboygan Athletic Club, Inc. Regarding Lighting Improvements at Mary Testwuide Knauf Field at Wildwood Baseball Park.

RESOLVED: That the Mayor and City Clerk are hereby authorized to execute the Amendment to Agreement Between the City of Sheboygan and Sheboygan Athletic Club, Inc. Regarding Lighting Improvements at Mary Testwuide Knauf Field at Wildwood Baseball Park, in form substantially similar to the attached.

AD



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

**AMENDMENT TO
AGREEMENT BETWEEN THE CITY OF SHEBOYGAN, WISCONSIN AND
SHEBOYGAN ATHLETIC CLUB, INC.**

**REGARDING LIGHTING IMPROVEMENTS AT
MARY TESTWUIDE KNAUF FIELD AT WILDWOOD BASEBALL PARK**

This Amendment (“Amendment”) amends the Agreement between the City of Sheboygan, Wisconsin and Sheboygan Athletic Club, Inc. Regarding Lighting Improvements at Mary Testwuide Knauf Field at Wildwood Baseball Park (the “Agreement”). The Agreement’s effective date is October 9, 2018.

As a result of the global pandemic, which has created questions about what the nature of the 2020 baseball season will look like, the Parties agree that it is appropriate to amend the Agreement as set forth below to allow Sheboygan Athletic Club additional time to make its payments:

1. **Final Payment.** Section 5 of the Agreement provided, in relevant part, that on or before June 1, 2020, Sheboygan Athletic Club would make its final payment to the City in the amount of \$27,467.99, which included \$27,422.70 of principal and \$45.29 of interest. Instead of one final payment due on or before June 1, 2020, the remaining balance shall now be paid as follows:
 - Sheboygan Athletic Club shall receive a \$5,000 credit toward the remaining balance from the proceeds of the old lights at Mary Testwuide Knauf Field at Wildwood Baseball Park. As a result of this credit, the remaining principal balance is \$22,422.70.
 - Sheboygan Athletic Club shall make monthly interest-only payments in the amount of \$37.37 from June 1, 2020 through May 1, 2021.
 - On June 1, 2021, Sheboygan Athletic Club shall make a final payment of \$22,460.07.

The Amortization Schedule of this Loan is set forth below:

Date of Payment	Total Payment	Interest	Principal	Principal Balance
6/1/2020	\$5,000 ¹	\$0.00	\$5,000	\$22,422.70
6/1/2020	\$37.37	\$37.37	\$0.00	\$22,422.70
7/1/2020	\$37.37	\$37.37	\$0.00	\$22,422.70
8/1/2020	\$37.37	\$37.37	\$0.00	\$22,422.70
9/1/2020	\$37.37	\$37.37	\$0.00	\$22,422.70
10/1/2020	\$37.37	\$37.37	\$0.00	\$22,422.70

¹ This amount will be credited to Sheboygan Athletic Club as a result of the proceeds of the old lights at Mary Testwuide Knauf Field at Wildwood Baseball Park.

11/1/2020	\$37.37	\$37.37	\$0.00	\$22,422.70
12/1/2020	\$37.37	\$37.37	\$0.00	\$22,422.70
1/1/2021	\$37.37	\$37.37	\$0.00	\$22,422.70
2/1/2021	\$37.37	\$37.37	\$0.00	\$22,422.70
3/1/2021	\$37.37	\$37.37	\$0.00	\$22,422.70
4/1/2021	\$37.37	\$37.37	\$0.00	\$22,422.70
5/1/2021	\$37.37	\$37.37	\$0.00	\$22,422.70
6/1/2021	\$22,460.07	\$37.37	\$22,422.70	\$0.00

2. Promissory Note. A new Promissory Note, which replaces the Promissory Note attached to the Agreement, is attached to this Amendment and incorporated herein by reference.

3. Other Terms and Conditions. Except as specifically modified or amended herein, all other terms and provisions of the Agreement remain unchanged.

CITY OF SHEBOYGAN, WISCONSIN

SHEBOYGAN ATHLETIC CLUB, INC.

BY: _____
Michael J. Vandersteen, Mayor

BY: _____
Scott Stangel, President

ATTEST: _____
Meredith DeBruin, City Clerk

ATTEST: _____

DATE: _____

DATE: _____

PROMISSORY NOTE

\$22,422.70

Sheboygan, Wisconsin
June ____, 2020

FOR VALUE RECEIVED, Sheboygan Athletic Club, Inc. (the "Borrower"), promises to pay to the order of the City of Sheboygan, Wisconsin, a municipal corporation organized and existing under the laws of the State of Wisconsin, at its office in the City of Sheboygan, Wisconsin (the "Holder"), the principal sum of Twenty Two Thousand Four Hundred Twenty Two and 70/100 Dollars (\$22,422.70), with interest on all unpaid balances computed monthly from June 1, 2020 until paid at the rate of two percent (2%) per annum. Interest shall be payable monthly in installments of Thirty Seven and 37/100 Dollars (\$37.37) per month, beginning on the 1st day of June, 2020 and continuing to May 1, 2021. The final installment shall consist of a payment of Twenty Two Thousand Four Hundred Sixty and 7/100 Dollars (\$22,460.07) and shall be due on June 1, 2021. The Amortization Schedule for this Promissory Note is found in the Amendment to Agreement Between the City of Sheboygan, Wisconsin and Sheboygan Athletic Club, Inc. Regarding Lighting Improvements at Mary Testwuide Knauf Field at Wildwood Baseball Park.

This Note may be prepaid, in whole or in part, on any payment date without prepayment premium or penalty.

In the event any installment payment (including, without limitation, the entire principal balance upon maturity), becomes more than fifteen (15) days past due, the Borrower shall pay a late payment charge to Holder equal to five percent (5%) of the entire unpaid amount of the installment. Payments received after any installment becomes more than fifteen (15) days past due shall be applied first to current installment(s) and then to delinquent installments for purposes of this provision.

SHEBOYGAN ATHLETIC CLUB, INC.

By: _____

Printed Name: _____

Title: _____

Date: _____

CITY OF SHEBOYGAN

REQUEST FOR PUBLIC WORKS COMMITTEE CONSIDERATION

ITEM DESCRIPTION: Resolution authorizing the appropriate City officials to execute the Amendment to Agreement between the City of Sheboygan and Sheboygan Athletic Club, Inc. Regarding lighting improvements at Mary Testwuide Knauf Field at Wildwood Baseball Park.

REPORT PREPARED BY: Joseph L. Kerlin, Superintendent of Parks and Forestry

REPORT DATE: May 20, 2020

MEETING DATE: May 26, 2020

FISCAL SUMMARY:

Budget Line Item: N/A
Budget Summary: N/A
Budget Expenditure: N/A
Budgeted Revenue: N/A

STATUTORY REFERENCE:

Wisconsin Statutes: N/A
Municipal Code: N/A

BACKGROUND / ANALYSIS: On October 9th of 2018 the City of Sheboygan entered into a loan agreement with the Sheboygan Athletic Club for \$50,251.51 for the remaining costs of a \$492,260 lighting project. All payments have been paid to date with the remaining final payment of \$27,422.70 to be paid on June 1, 2020. As a result of the global pandemic Covid-19, The Sheboygan A's will be limited in hosting games and maintain normal revenues. It is being recommended to amend the attached agreement to allow the Sheboygan Athletic Club additional time to make its payments.

The Sheboygan Athletic Club will also receive a \$5,000 credit towards the remaining balance from the proceeds of the old lights that were sold. As a result of this credit, the remaining principal balance is \$22,422.70.

STAFF COMMENTS: City Staff and Sheboygan Athletic Club representatives have worked on this agreement together and request that it be approved by the City.

ACTION REQUESTED: Motion to recommend the Common Council adopt the appropriate City officials to execute the Amendment to Agreement between the City of Sheboygan and Sheboygan Athletic Club, Inc. regarding lighting improvements at Mary Testwuide Knauf Field at Wildwood Baseball Park.

ATTACHMENTS:

- I. Resolution No. 25-20-21
- II. Sheboygan Athletic Club, INC. Agreement

III

4.5

Res. No. 26 - 20 - 21. By Alderpersons Wolf and Sorenson.
May 18, 2020.

A RESOLUTION authorizing the appropriate City Officials to execute an Agreement between the City of Sheboygan and the Mid-Lake Softball Organization, Inc. for operation and management of the Wildwood Softball Complex.

RESOLVED: That the Mayor and City Clerk are hereby authorized to execute the Agreement between the City of Sheboygan and Mid-Lake Softball Organization, Inc. in form substantially similar to the attached.

RW



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
MID-LAKE SOFTBALL ORGANIZATION, INC.
AND
THE CITY OF SHEBOYGAN
REGARDING
OPERATIONS OF WILDWOOD SOFTBALL COMPLEX

This Agreement is made this _____ day of _____, 2020, by and between the City of Sheboygan, a municipal corporation existing under the laws of the State of Wisconsin, hereinafter referred to as the "City", and Mid-Lake Softball Organization, Inc., a non-profit corporation duly organized and existing under the laws of the State of Wisconsin, hereinafter referred to as "Mid-Lake."

RECITALS

- A. The City owns the public recreational facility commonly known as the Wildwood Softball Complex along New Jersey Avenue in Sheboygan. The recreational facilities on the south side of New Jersey Avenue have for many years been improved and devoted to softball.
- B. Mid-Lake has operated and managed the softball facilities at the Wildwood Softball Complex for several years, and wishes to continue to do so pursuant to the terms of this Agreement.

NOW, THEREFORE, the Parties agree as follows:

Section 1. Services to be Performed by Mid-Lake.

Mid-Lake shall provide or make arrangements for the provision of the following services during the Term of this Agreement, all at no cost to the City:

- a. Contribute time, effort and monies toward the improvement of the Wildwood Softball Complex and in management, scheduling and operation of organized Mid-Lake league and tournament play.
- b. Manage and operate all aspects of the softball facilities at the Wildwood Softball Complex, including, without limitation, administration, maintenance, staffing, concessions, reservations, and day-to-day operations, including responsibility for all day-to-day expenses and normal maintenance involved with operations. Such services include, but are not limited to, ballfield leveling, grooming, grass cutting (other than the once a week grass cutting provided by the City pursuant to Section 2 of this Agreement), and all grass trimming.
- c. Undertake or provide, at Mid-Lake's expense, for the removal of such items, equipment or otherwise, as may be brought upon the premises of the Wildwood Softball Complex by or through the action or inaction, direct or indirect, of Mid-Lake, determined by the Public Works Committee of the Common Council of the City ("Public Works Committee") to be inconsistent with or contrary to any existing or later enacted rules,

regulations, conditions or laws governing the acquisition, maintenance, operation and use of the Wildwood Softball Complex.

- d. Mid-Lake shall refrain from selling intoxicating liquors, other than fermented malt beverages, upon the premises of the Wildwood Softball Complex, and shall limit the sale of fermented malt beverages, to be served only in paper or plastic cups, plastic bottles or aluminum cans, to only those times when softball tournament activities, league play, or exhibition events are taking place at the Wildwood Softball Complex.
- e. Mid-Lake shall maintain a segregated Improvements Fund, separate and distinct from any bank accounts used for Mid-Lake's operational revenue and expenditures, and shall, on or before November 1 of each year of this Agreement, deposit \$10,000 in the Improvements Fund (the "Annual Deposit")¹. Mid-Lake shall provide the City with proof of compliance regarding the Annual Deposit within 3 business days of when it makes the Annual Deposit. Mid-Lake may only withdraw funds from the Improvements Fund for capital expenses. All withdrawals must be approved by the City's Director of Public Works or the designee of the City's Director of Public Works (collectively "City's Director") in advance. Mid-Lake shall provide all details reasonably requested by the City's Director related to the expenditure in order for the City's Director to evaluate the request. Depending on the nature of the proposed expenditure, the City's Director may need to report the proposed withdrawal to the Common Council of the City of Sheboygan ("Common Council") or the Public Works Committee prior to being able to approve the proposed expenditure. For the avoidance of doubt, the City shall have no liability to Mid-Lake if the price of a proposed expenditure increases as a result of the passage of time while the City is reviewing the proposed expenditure. In the event that Mid-Lake ceases to conduct operations at Wildwood Softball Complex for any reason, the Improvements Fund shall revert to the City to be used for expenditures related to Wildwood Softball Complex.

Section 2. Services Performed and Equipment Provided by the City.

At the commencement of this Agreement, the City shall provide Mid-Lake with the use of the following ballfield grooming, lawn mowing, and miscellaneous equipment that has traditionally been kept at the Wildwood Softball Complex:

- 1 Smithco ball diamond groomer
- 1 string trimmer
- 1 grease gun
- 14 existing picnic tables at the softball complex
- 1 fryer
- Garbage Cans

¹ In the event that softball is not able to be played at Wildwood Softball Complex in 2020, no Annual Deposit for 2020 shall be required. However, Mid-Lake's responsibilities under this Agreement with respect to maintenance of the Wildwood Softball Complex shall still apply. In the event that softball operations at Wildwood Softball Complex are only limited in 2020, the parties may agree to reduce the Annual Deposit to an appropriate amount based on the amount of softball activity that was possible at Wildwood Softball Complex. The City Director shall have the authority to consent to this reduction on behalf of the City.

All maintenance, repair, and replacement of this equipment during the Term of Agreement shall be the responsibility of Mid-Lake.

During the Term of this Agreement, the City will provide the following services and supplies for the Wildwood Softball Complex:

- The City will provide Mid-Lake with use of the existing storage garage at the Softball Complex and use of one City Public Works Department dumpster. The City agrees to provide garbage collection services (but this garbage collection service will only be pursuant to the City's normal collection schedule; any additional garbage collection services shall be the responsibility of Mid-Lake).
- Mowing of playing fields once per week.
- Restroom supplies of toilet paper and hand towels.
- Playground maintenance to remain compliant with current standards.
- Tree trimming as needed to correct hazards and eliminate impediments to softball games.

At the discretion of the City Director, the Public Works Department may assist with maintenance and repair of items at Wildwood Softball Complex which are the responsibility of Mid-Lake under this Agreement.

During the Term of this Agreement, the following services will not be provided by the City and shall be the responsibility of Mid-Lake:

- Gas, oil, grease, or any maintenance, repair, or replacement of equipment.
- String trimmer string.
- Garbage bags.
- Flags.
- Plumbing and electrical repairs and maintenance.
- Ballfield supplies, such as Diamond Mix, Turface, and chalk.
- Waterline and sprinkler maintenance.
- Snow plowing.
- Provision of hand tools.
- Grooming work, including but not limited to mowing of fields more than once a week, grass and weed trimming, lawn rolling, infield and warning track grading.
- Maintenance and repair of all existing facilities, including but not limited to scoreboards, fencing, lighting (including bulb replacement), fields, bleachers, dugouts, and concession stands, except as otherwise provided in this Agreement.

Section 3. Term.

This Agreement shall be in force and in effect for an initial term commencing on the effective date of this Agreement and ending December 31, 2020.² If not earlier terminated as provided in Section 16 below, unless either party gives notice in writing to the other at least 30 days prior to the end of the initial or extended term, this Agreement shall automatically be extended for an additional one year term; provided, however, that this Agreement shall not be automatically extended beyond December 31, 2024.

Section 4. Cost.

Other than the Annual Deposit Requirement, the City agrees that Mid-Lake may have use of the Wildwood Softball Complex at no charge during the softball season for the purpose of softball activities which shall include appropriate practice sessions, league games, and Mid-Lake sponsored tournaments; exclusive concession rights for food and drink at the Wildwood Softball Complex during such time as Wildwood Softball Complex is open and being used for Mid-Lake sponsored softball activities, and the right to charge other designated teams, organizations, and clubs a fee for the use of the concession stand and equipment designated by Mid-Lake according to the predetermined and Common Council approved fee schedule in effect at the time of said use.

Section 5. Improvements and Modifications to the Wildwood Softball Complex by Mid-Lake.

Any park improvements or modification projects planned to be performed, contracted for, or supervised by Mid-Lake 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. Mid-Lake shall be responsible for obtaining all required permits and inspections, and pay all associated fees. Any such approved park improvements or modifications to the Wildwood Softball Complex shall be free and clear of all liens and encumbrances and shall attach to the real estate and become the property of the City. All funding from Mid-Lake's gross revenues from operations of the Wildwood Softball Complex in a given year expended for such approved park improvements or modifications may be applied toward Mid-Lake's Annual Deposit Requirement for that given year.

² The Parties note that this Agreement has been executed during a State of Emergency, in which certain public gatherings, including team sports, have been limited. This Agreement explicitly requires Mid-Lake to comply with all applicable laws when utilizing the Softball Complex. This could mean that Mid-Lake is not permitted to utilize the Softball Complex for softball until sometime after the normal start of its season.

Section 6. Financial Review.

On or before November 1 of each year of the Agreement, and within 5 days of a request from the City's Director, Mid-Lake shall make its financial records, as they exist at that time, available to the City for inspection. In addition, following a request from the City's Director, Mid-Lake will have—at its sole expense—an audited financial report prepared and submitted to the City.

Section 7. Nondiscrimination.

Mid-Lake shall not knowingly discriminate in its operations at Wildwood Softball Complex. This specifically includes discrimination against:

- Any City resident or residents, organized team or teams within the City in the activities of their organization insofar as Mid-Lake League play, Mid-Lake sponsored softball tournaments, or other Mid-Lake activities are concerned.
- Any organized softball club or clubs within the City in such a manner as to place upon such club or clubs conditions or costs that are inconsistent with City of Sheboygan approved rules, regulations, and fee schedules at the Wildwood Softball Complex.
- Any individual who attends as either a participant or spectator at any Mid-Lake sponsored softball activities at the Wildwood Softball Complex or any other City ballfields.

Mid-Lake explicitly agrees that membership in Mid-Lake shall remain open to all residents of the City of Sheboygan.

Section 8. Compliance with All Laws.

Mid-Lake shall comply with all federal, state, county, and city laws, rules, and regulations regarding its activities at the Wildwood Softball Complex.

Additionally, Mid-Lake agrees to abide by all rules, regulations, ordinances and resolutions as shall be established for the operation, maintenance and use of the Wildwood Softball Complex.

Section 9. Indemnification and Insurance.

To the extent permitted by law, Mid-Lake shall indemnify and defend the City of Sheboygan from any liability by reason of injury or death of any person or persons, or damage to property of any person or persons, arising out of Mid-Lake's activities, actions, or services at the Wildwood Softball Complex.

Mid-Lake shall procure and maintain a Commercial General Liability Insurance Policy with a policy limit of at least \$1 million dollars per occurrence and at least \$2 million dollars in the aggregate. This Commercial General Liability Insurance Policy shall name the City of Sheboygan as an additional insured. Within 15 days of the Effective Date of this Agreement and within 15 days of any change to Mid-Lake's Commercial General Liability Insurance Policy, Mid-Lake shall provide proof of this insurance policy to the City.

During the Term of this Agreement, Mid-Lake shall procure and maintain a fidelity bond on its Treasurer and any other officer responsible for the custody and control of Mid-Lake's finances. This fidelity bond shall be in an amount sufficient to protect Mid-Lake from loss by reason of acts of fraud or dishonesty on the part of the treasurer or other officer directly or through connivance with others. Within 15 days of the Effective Date of this Agreement and within 15 days of any change to the identity of the Treasurer or any other officer responsible for the custody and control of Mid-Lake's finances, Mid-Lake shall provide proof of this insurance policy to the City.

Section 10. Mid-Lake Board Membership.

Mid-Lake agrees that during the Term of this Agreement it will provide for its board of directors to be comprised of not less than 2 representatives of the City, as non-voting members.

Section 11. Termination.

This Agreement may be terminated by either party for cause if the other party shall default in the performance of this Agreement and the default shall continue for a period of 30 days after written notice to the other party stating specifically the default.

In addition to any other action or inaction which could constitute a default under this Agreement, the following by Mid-Lake shall each constitute a default: (1) failure to timely make or provide proof of the Annual Deposit (time being of the essence); (2) an unauthorized expenditure from the Improvements Fund; and (3) the failure to make its financial records available to the City pursuant to this section (time being of the essence). If Mid-Lake defaults in one of these three ways, the City's Director may, in addition to any other remedy in law or equity, terminate this Agreement upon 7 days' written notice.

This Agreement may also be terminated by either party without cause upon 90 days advance written notice to the other party.

Expiration or termination of this Agreement for any reason shall not release any party from its obligations thereunder that have accrued prior to the termination or expiration date.

Section 12. Other Provisions.

1. Amendment. This Agreement may be amended only by a writing signed by both Parties.
2. Assignment. The benefits, rights, and obligations set forth herein are personal to the Parties, and, except as provided for herein, may not be assigned or transferred to a third party without the prior written consent of the other party. Any attempted assignment in violation of this section shall be void. Without in any way limiting the foregoing, this Agreement shall be binding upon, enforceable by, and inure to the benefit of the Parties, their permitted successors and assigns.

3. **Authority.** Each person executing this Agreement represents and warrants that the execution and delivery of this Agreement has been duly authorized, that the person executing this Agreement has 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.
4. **Counterparts.** This Agreement may be executed in two or more counterparts and all such counterparts together shall constitute one and the same instrument.
5. **Entire Agreement.** This Agreement contains the entire understanding between the Parties on the subject matter hereof and no representations, inducements, promises, or agreements, oral or otherwise, not embodied herein shall be of any force or effect. This Agreement supersedes any other oral or written agreement entered into between the Parties on the subject matter hereof.
6. **Force Majeure.** Neither party shall be deemed to be in violation of this Agreement if such party is prevented from performing any of its obligations hereunder for any reason beyond its reasonable control, including, without limitation, acts of God or of any public enemy, elements, flood, strikes, statutory or other law, regulation or rule of the federal or any state or local government or any agency thereof, or any ruling, decision or other of a state or federal court or arbitrator with appropriate jurisdiction.
7. **Governing Law.** This Agreement shall be construed and interpreted in accordance with the laws of the State of Wisconsin.
8. **Notice.** Any notice, consent, approval, request, or other communication required or permitted to be given pursuant to this Agreement (a "Notice") shall be in writing and shall be either personally delivered or sent by first class mail, postage prepaid, to the address each of the Parties keeps on record for the other party, or to such other address as either party may give notice of from time to time in accordance with this sub-section. Delivery shall be deemed effective upon personal delivery or deposit in the United States mail.

As of the Effective Date of this Agreement, the Addresses of Record are:

Sue Emmer
Mid-Lake Softball Organization, Inc.
2213 New Jersey Avenue
Sheboygan, WI 53081

City Clerk
City of Sheboygan
828 Center Ave.
Sheboygan, WI 53081

9. **Right of Entry.** For the avoidance of doubt, the City reserves, and shall at any time, have the right to enter and inspect the Wildwood Softball Complex at any time for any reason.
10. **Severability.** The invalidity or unenforceability of any particular provisions of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

11. Taxes. Mid-Lake shall be responsible for any taxes that arise as a result of its usage of Wildwood Softball Complex pursuant to this Agreement.
12. Venue. Venue of any dispute related to this Agreement shall be Sheboygan County, Wisconsin.
13. Waiver. No failure or delay of any party in exercising any right or power given to it under this Agreement shall operate as a waiver thereof. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent, or subsequent breach. No waiver of any breach or modification of this Agreement shall be effective unless contained in writing executed by both Parties.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the date first above written.

MID-LAKE SOFTBALL
ORGANIZATION, INC.

CITY OF SHEBOYGAN

By: _____

By: _____

Michael J. Vandersteen
Mayor

Date: _____

Date: _____

ATTEST:

By: _____

Meredith DeBruin
City Clerk

Date: _____

Signature Page for Agreement Between Mid-Lake Softball Organization, Inc. and the City of Sheboygan Regarding Operations of Wildwood Softball Complex

Authorized by Res. No. ____-20-21

CITY OF SHEBOYGAN

REQUEST FOR PUBLIC WORKS COMMITTEE CONSIDERATION

ITEM DESCRIPTION: Request authorizing the appropriate City officials to execute an Agreement between the City of Sheboygan and the Mid-Lake Softball Organization, Inc. for operation and management of the Wildwood Softball Complex.

REPORT PREPARED BY: Joseph L. Kerlin, Superintendent of Parks and Forestry

REPORT DATE: May 20, 2020

MEETING DATE: May 26, 2020

FISCAL SUMMARY:

Budget Line Item: N/A
Budget Summary: N/A
Budget Expenditure: N/A
Budgeted Revenue: N/A

STATUTORY REFERENCE:

Wisconsin Statutes: N/A
Municipal Code: N/A

BACKGROUND / ANALYSIS: In February of 2015 the City of Sheboygan and the Mid-Lake Softball Organization, Inc. entered into an Operation and Management agreement of the Wildwood Softball Complex. This was a one year agreement that would automatically extend for up to four, one year terms, not to extend past December 31, 2019.

Last May 2019 there was an amendment to the 2015 agreement. The original agreement stated that Mid-Lake would utilize their best efforts to return to the City twenty percent (20%) or more of the gross revenues from Mid-Lake’s annual operations. The City would hold these funds and they would be used for improvement to the Wildwood Softball Complex.

In an effort to streamline the process and closeout the 2017 and 2018 season, it was proposed that the City no longer hold the funds. The amendment now requires Mid-Lake to create a segregated improvements fund, separate and distinct from any bank accounts used for Mid-Lake’s operation, and deposit \$20,000 into the account to cover gross revenues that were not given to the City.

Mid-Lake would also deposit \$10,000 into the account before November 1, 2019. Use of these funds by Mid-Lake would first need approval by the Director of Public Works and depending on the nature of the proposed expenditure; the Director may need to report the proposed withdrawal to the Common Council. This amended contract, requiring Mid-Lake to deposit \$10,000 annually to the improvement fund, is the basis for the new five year agreement.

STAFF COMMENTS: City Staff and Mid-Lake representative have worked on this agreement together and request that it be approved by the City.

ACTION REQUESTED: Motion to recommend the Common Council adopt Res. No. 26-20-21 authorizing the appropriate City officials to execute an Agreement between the City of Sheboygan and the Mid-Lake Softball Organization, Inc. for operation and management of the Wildwood Softball Complex.

ATTACHMENTS:

- I. Res. No. 26-20-21
- II. Mid-Lake Softball Organization, Inc. Agreement

CITY OF SHEBOYGAN

REQUEST FOR PUBLIC WORKS COMMITTEE CONSIDERATION

ITEM DESCRIPTION: Resolution authorizing the appropriate City officials to enter into a contract with August Winter & Sons to rebuild the floating cover on Digester #6 at the Waste Water Treatment Plant and to make other expenditures related to rebuilding the floating cover.

REPORT PREPARED BY: Steve Jossart, Superintendent of Wastewater

REPORT DATE: May 6, 2020

MEETING DATE: May 26, 2020

FISCAL SUMMARY:

Budget Line Item: 60138300-631100
Budget Summary: N/A
Budget Expenditure: N/A
Budgeted Revenue: N/A

STATUTORY REFERENCE:

Wisconsin Statutes: N/A
Municipal Code: N/A

BACKGROUND / ANALYSIS: The existing floating cover on Digester #6 has been in service for approximately 40 years and requires repair and re-coating. The existing coating is peeling off of the top of the cover, and based on previous inspections there is significant corrosion on the skirt at the air to water interface. The covers on digesters #5, #7 and #8 were repaired and repainted in 2010, but the cover for #6 was not done at that time, due to the complexity of taking digester #6 off line while being able to manage biosolids inventories and maintain the operation of the micro turbines.

STAFF COMMENTS: During previous inspections, the cover was found to have corrosion of the skirt, and repairs have been made in the past. With the reduction in sludge production and the reliable operation of the dryer, the facility now has the ability to take down the secondary digester and manage biosolids inventories. In preparation for this work a preliminary inspection from the outside of the digester was performed with the OEM to develop the project scope. Metal thickness tests were conducted by plant staff to determine the extent of corrosion to the top cover, and the top of the existing skirt. Based on these inspections, it is believed that the top cover is in good condition and that re-building the cover is the most cost effective option. The existing coatings tested negative for lead and there will be no additional costs required to blast the existing cover. A small amount of asbestos was found in the flashing and caulk which covers the gas dome, which will need to be removed and disposed of by a certified contractor.

The project scope includes cleaning the digester, removal of the concrete ballast blocks, and rigging the cover for removal. The cover will be set on cribbing outside of

the tank where it will be cleaned, have all asbestos removed and then closely inspected for defects. If necessary, the entire skirt will be replaced, otherwise repairs will be made after which the cover will be sandblasted and painted per specification. After painting is complete, the cover will be reinstalled and the paint will be touched up where the coating was marred from handling during re-installation.

Cost Breakdown:

Component/Service	Supplier/Contractor	Cost
Clean the digester	TBD and WWTP Staff	\$ 20,000.00
Remove cover, rollers and roller guides and ballast. Replace the entire skirt and reinstall all components.	August Winter & Sons	\$ 235,000.00
Blast and paint cover per specification. Includes touch-up after installation.	Howard Grote & Sons (sub-contractor of August Winter & Sons)	\$ 250,000.00
Misc. Hardware and Gas Piping	WWTP Staff	\$ 5,000.00
Remove and dispose of asbestos containing materials.	Advanced Asbestos Removal Inc.	\$ 2,000.00
Rebuild flame arrestor and relief valves.	WWTP Staff	\$ 2,000.00
OEM Balancing Assistance	Ovivo	\$ 3,500.00
Contingency (10%)		\$ 51,750.00
TOTAL		\$ 569,250.00

ACTION REQUESTED: Motion to recommend the Common Council adopt Res. No. 27-20-21 authorizing the appropriate City officials to enter into a contract with August Winter & Sons to rebuild the floating cover on Digester #6 at the Waste Water Treatment Plant and to make other expenditures related to rebuilding the floating cover.

ATTACHMENTS:

- I. Res. No. 27-20-21
- II. August Winter Contract

III

4.6

Res. No. 27 - 20 - 21. By Alderpersons Wolf and Sorenson.
May 18, 2020.

A RESOLUTION authorizing the appropriate City officials to enter into a contract with August Winter & Sons to rebuild the floating cover on Digester #6 at the Waste Water Treatment Plant and to make other expenditures related to rebuilding the floating cover.

WHEREAS, pursuant to Res. No. 164-19-20, the City has advertised for bids to rebuild the floating cover on Digester #6 at the Waste Water Treatment Plant (the "Work"); and

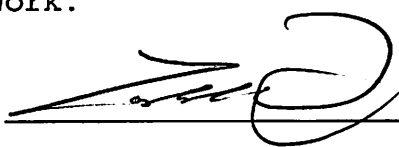
WHEREAS, the low bid for the Work was from August Winter & Sons, Inc. in the amount of \$485,000.00; and

WHEREAS, to avoid the appearance of serial contracting, there are additional expenditures related to the Work, at an estimated cost of \$84,250.00 for cleaning, asbestos abatement, start-up assistance, repairs, and contingency, which are not covered by the bid from August Winter & Sons, Inc.

NOW, THEREFORE, BE IT RESOLVED: That the appropriate City officials are hereby authorized to enter into the attached contract with August Winter & Sons, Inc. to rebuild the floating cover on Digester #6 at the Waste Water Treatment Plant.

BE IT FURTHER RESOLVED: That the appropriate City officials are authorized to draw funds, not to exceed \$569,250.00 from Account No. 60138300-631100 for the contract with August Winter & Sons, Inc. and the additional expenditures related to the Work.

PD.



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
AUGUST WINTER & SONS, INC.**

**REGARDING DIGESTER #6 COVER REHABILITATION
AT
SHEBOYGAN REGIONAL WASTE WATER TREATMENT FACILITY**

This Agreement (“Agreement”) is made and entered into effective this ____ day of _____, 2020 (the “Effective Date”), by and between the City of Sheboygan (the “City”), a municipal corporation, and August Winter & Sons, Inc. (“Contractor”).

WITNESSETH:

WHEREAS, the City is the owner of the Waste Water Treatment Plant at 3333 Lakeshore Drive, Sheboygan, Wisconsin (“Waste Water Treatment Plant”); and

WHEREAS, the City wishes to have the existing floating cover on Digester #6 at the Waste Water Treatment Plant rebuilt; and

WHEREAS, the City issued Request for Bids # 1984-20 to obtain bids from qualified providers of the services needed to rebuild the existing floating cover on Digester #6 (“Services”); and

WHEREAS, the City has opened the bids, and determined that the bid from Contractor (“Bid”) is the lowest responsive and responsible bid for the Services; and

WHEREAS, a copy of the Bid is attached to this Agreement as Exhibit 1; and

WHEREAS, Contractor desires to provide the City with the necessary Services under the terms set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

Article 1. Scope of Services

Contractor shall complete the Services necessary to rebuild the existing floating cover on Digester #6 per the Contract Specifications attached to this Agreement as Exhibit 2 and the Contract Drawings attached to this Agreement as Exhibit 3. This includes the provision of all necessary labor, equipment, licenses, permits¹, bonds, and travel expenses.

Article 2. Standard of Care

Contractor shall be responsible for completion of the Services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances (“Standard of Care”). The Owner’s Representatives shall be the sole judge of the adequacy of Contractor’s work in meeting the Standard of Care; however, the Owner’s Representatives shall not unreasonably withhold its approval as to the adequacy of Contractor’s performance. Upon notice to Contractor, Contractor will, without additional compensation, correct or replace any and all Services not meeting the Standard of Care which appear within a period of one year from the date of final payment of the Agreement.

Contractor shall be solely responsible for all construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under this Agreement.

Article 3. Responsibilities of the City

The City believes portions of the existing equipment contain asbestos bearing construction materials. It is the responsibility of the City to have these materials removed from the equipment prior to the mobilization of the Contractor.

The City designates Bernie Rammer and Steve Jossart as Owner’s Representative for purposes of this Agreement. If the Owner’s Representative deems it appropriate, the Owner’s Representative may consult with other employees of the City, or may retain an appropriate outside expert to assist with the management of this Project.

Article 4. Compensation

The City shall pay Contractor for the Services an amount not to exceed \$485,000.00.

Invoices shall be submitted pursuant to the Contract Specifications.

Article 5. Appropriation of Funds

Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by the City are at any time not forthcoming or are insufficient, through failure of any entity, including the City itself, to appropriate funds or otherwise, then the City shall have the right to terminate this Agreement without penalty. The City agrees that it will make its best effort to obtain sufficient funds for the Agreement to meet its obligations hereunder in full.

¹ Contractor shall be responsible for obtaining any and all applicable City permits and paying any and all applicable permit fees prior to beginning work.

Article 6. Performance and Payment Bond

Contractor shall, within fifteen (15) days of the approval of this Agreement by the Common Council of the City of Sheboygan, provide the City with a Performance Bond and a Payment Bond in the amount of one hundred percent (100%) of the contract amount.

Failure by Contractor to perform the work in a timely or satisfactory fashion may result in forfeiture of Contractor's Performance Bond.

If the Surety on any bond furnished by Contractor becomes a party to supervision or liquidation, or its right to do business in the State of Wisconsin is terminated, Contractor shall, within thirty (30) calendar days thereafter, substitute another bond or surety, both of which must be acceptable to the City.

Article 7. Schedule

Contractor shall commence work after receiving a Notice to Proceed from the Owner's Representative. At that point, Contractor shall commence work promptly, and shall continue the prosecution of the Services as quickly as is practicable until the Services are completed.

Contractor shall complete the services within sixty (60) days of receipt of the Notice to Proceed, or within such extra time as may have been allowed by a mutually agreed extension (the "Deadline"). The Owner's Representative shall have the authority to consent to an extension of the Deadline on behalf of the City.

Article 8. Liquidated Damages

In the event that Contractor does not complete the Services by the Deadline, there shall be deducted from any monies due or that may become due to Contractor, for each and every calendar day that the work remains uncompleted, a sum of Four Hundred and 00/100 Dollars (\$400.00) per calendar day.

This sum shall be considered and treated not as a penalty but as fixed, agreed, and liquidated damages due the City from Contractor by reason of inconvenience to the public, added cost of supervision, delay to other work scheduled at the Waste Water Treatment Plant, and other items which have caused an expenditure of public funds resulting from Contractor's failure to complete the work.

Permitting Contractor to continue and finish the work or any part of same after the time fixed for its completion, or after the date to which the time for completion may have been extended, shall in no way be construed as a waiver on the part of the City of any of its rights under this Agreement.

Article 9. Workmanship and Quality of Materials

Contractor's Warranty for the Services is set forth in the Contract Specifications.

Whenever, in any document, an article, material, or equipment is defined by describing a proprietary product, or by using the name of a manufacturer or vendor, the term "or equal" or the term "the equivalent" if not inserted, shall be implied, and it is done for the express purpose of

establishing a basis of durability and efficiency and not for the purpose of limiting competition. Whenever material or equipment is submitted for approval as being equal to that specified, the submittal shall include sufficient information and data to demonstrate that the material or equipment conforms to all contractual requirements. The decision as to whether or not such material or equipment is equal to that specified shall be made by the Owner's Representative. The approval by the Owner's Representative of alternate material or equipment as being equivalent to that specified shall not in any way relieve Contractor of responsibility for failure of the material or equipment due to faulty design, material, or workmanship, to perform the function required by the contract documents. The Owner's Representative shall be the sole and final judge of equivalency.

Article 10. Safety Requirements

All materials, equipment, and supplies provided to the City must comply fully with all safety requirements set forth under state and federal law.

Contractor shall be responsible for the safety of employees at all times and shall provide all equipment necessary to insure their safety. Contractor shall ensure the enforcement of all applicable safety rules, regulations, ordinances and laws, whether federal, state, or local.

Contractor's Superintendent of Safety shall make daily inspections upon the arrival and leaving of the site at the close of each workday.

Article 11. Open Records

Both parties understand that the City is bound by the Wisconsin Public Records Law and, as such, this Agreement is subject to that law. Contractor acknowledges that it is obligated to assist the City in retaining and producing records that are subject to Wisconsin Public Records Law, and that the failure to do so shall constitute a material breach of the Agreement, and that Contractor must defend and hold the City harmless from liability under that law. Except as otherwise authorized, those records shall be maintained for a period of seven (7) years after receipt of Final Payment under the Agreement.

Article 12. Default

If Contractor breaches this Agreement or fails to perform the work in an acceptable manner, it shall be considered in default. Any one or more of the following will be considered a default:

- Failure to begin the work under this Agreement within the time specified.
- Failure to perform the work with sufficient supervision, workers, equipment and materials to ensure prompt completion of said work within the time limits allowed.
- Unsuitable performance of the work as determined by City.
- Neglecting or refusing to remove defective materials or failure to perform anew such work as shall have been rejected.
- Discontinuing the prosecution of the work or any part of it.
- Inability to finance the work adequately.
- If, for any other reason, Contractor breaches this Agreement or fails to carry on the work in an acceptable manner.

The City shall send Contractor a written notice of default. If Contractor, within a period of seven (7) days after such notice, fails to remedy the default, then the City shall have full power and authority, without violation of the Agreement, to take the prosecution of the work out of the hands of Contractor, as set forth in this Agreement.

Article 13. Identity of Contractor

Contractor acknowledges that one of the primary reasons for its selection by the City to perform the Services is the qualifications and experience of Contractor. Contractor thus agrees that the Services to be performed pursuant to this Agreement shall be performed by Contractor. Contractor shall not subcontract any part of the Services without the prior written permission of the City. The Owner's Representative shall have the ability to provide this written permission. The City reserves the right to reject any of the Contractor's personnel or proposed outside professional sub-consultants, and the City reserves the right to request that acceptable replacement personnel be assigned to the project.

Article 14. Independent Contractor Status

During the entire term of this Agreement, Contractor shall be an independent contractor, and in no event shall any of its personnel, agents or sub-contractors be construed to be, or represent themselves to be, employees of the City. Contractor shall be solely responsible for the payment and reporting of all employee and employer taxes, including social security, unemployment, and any other federal, state, or local taxes required to be withheld from employees or payable on behalf of its employees.

Article 15. Conflict of Interest

Contractor declares that it has no present interest, nor shall it acquire any interest, direct or indirect, which would conflict with the performance of Services under this Agreement. Contractor agrees that no person having any such interest shall be employed in the performance of this Agreement.

Article 16. 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 shall be considered to be a waiver of any other term or breach thereof.

Article 17. 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 Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

Article 18. Third Party Rights

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and Contractor.

Article 19. 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.

Article 20. Non-Discrimination

In connection with the performance of work under this Agreement, Contractor agrees not to discriminate against any employee or applicant for employment because 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 not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Contractor further agrees to take affirmative action to ensure equal employment opportunities.

Article 21. Compliance with Laws

In performing the Services under this Agreement, Contractor shall comply with any and all applicable federal, state and local statutes, ordinances, plans, and regulations. This includes the Federal Occupational Safety and Health Act and the Wisconsin Administrative Code, Chapter 35, Safety in Construction.

The City reserves the right to cancel this Agreement if Contractor fails to follow the requirements of Wis. Stat. 77.66 and related statutes regarding certification for collection of sales and use tax. The City also reserves the right to cancel this Agreement with any state or federally debarred contractor.

Contractor shall have any and all licenses and permits required to perform the work specified, and shall furnish proof of such licensing authorization and permits upon request.

Article 22. Notices

Any notice required by this Agreement shall be made in writing to the individuals/addresses specified below:

City:

Contractor:

City Clerk		
City of Sheboygan		
828 Center Ave.		
Sheboygan, Wisconsin 53083		

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the City and Contractor.

Article 23. Intent to be Bound

The City and Contractor each binds 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.

Article 24. Force Majeure

Neither party shall be in default by reason of any failure in performance of this Agreement in accordance with reasonable control and without fault or negligence on their part. Such causes may include, but are not restricted to, acts of nature or the public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather. In every case, the failure to perform must be beyond the reasonable control and without the fault or negligence of the party.

Article 25. Integration and Modification

This Agreement may be modified only by a written amendment signed by both parties hereto.

This Agreement consists of the following parts, each of which is as fully a part of this Agreement as if fully set out herein:

1. This Agreement and its Attachments
2. Any Written Amendment to the Agreement which may be delivered or issued after the Effective Date of the Agreement (including Change Orders)
3. Notice of Award
4. The Request for Bids (including all attachments)
5. All Addenda to the Request for Bids
6. Contractor's Bid Response (including the Items to be Attached)
7. All Other Submittals by Contractor
8. The Performance and Payment Bonds

(collectively "the Contract").

This Contract is the entire and integrated agreement between the City and Contractor regarding the subject matter of this Contract. It supersedes all prior and contemporaneous communications, representations and agreements that are not part of this Contract.

In resolving conflicts, errors, discrepancies and disputes concerning the Scope of Work to be performed by Contractor, the document expressing the greater quantity, quality, or other scope of work in question, or imposing the greater obligation upon Contractor and affording the greater right or remedy to the City shall govern. Otherwise, the documents shall be given precedence in the order set forth above.

Article 26. Non-Collusion

Contractor is certifying, under penalty of perjury, that to the best of its knowledge and belief:

1. The prices in its bid were arrived at independently, without collusion, consultation, communication, or agreement for the purpose of restricting competition as to any other matter relating to such prices with any other bidder, or with any other competitor.
2. The prices quoted in its bid were not knowingly disclosed—directly or indirectly—by the bidder prior to bid opening.
3. No attempt was made to induce any other person, partnership, or corporation to submit or not submit a bid for the purpose of restricting competition.

Article 27. Other Provisions

1. Material Safety Data Sheet. If any item(s) on an order(s) resulting from this Agreement is a hazardous chemical, as defined under 29 C.F.R. 1910.1200, Contractor shall provide one (1) copy of a Material Safety Data Sheet for each item with the shipped container(s) and one (1) copy with the invoice(s).
2. Advertising and News Releases. Reference to or use of the City, or any of its departments, officials, or employees, for commercial promotion is prohibited. News releases pertaining to this procurement shall not be made without prior approval of the Owner's Representative. Release of broadcast e-mails pertaining to this procurement shall not be made without prior written authorization of the Owner's Representative.
3. Foreign Corporation. A foreign corporation (any corporation other than a Wisconsin corporation) which becomes a party to this Agreement is required to conform to all the requirements of Wis. Stat. 180 relating to a foreign corporation, and must possess a certificate of authority from the Wisconsin Department of Financial Institutions, unless the corporation is transacting business in interstate commerce or is otherwise exempt from the requirement of obtaining a certificate of authority.

4. 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.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first written above.

CITY OF SHEBOYGAN, WISCONSIN

AUGUST WINTER & SONS, INC.

BY: _____
Michael J. Vandersteen, Mayor

BY: _____

ATTEST: _____
Meredith DeBruin, City Clerk

ATTEST: _____

DATE: _____

DATE: _____

**REQUEST FOR PROPOSAL
CITY OF SHEBOYGAN
WASTEWATER TREATMENT FACILITY
DIGESTER #6 COVER REHABILITATION**

PROPOSER INFORMATION AND COST FORM

Company Name August Winter & Sons, Inc.

Address 2323 N Roemer Road

Appleton, WI 54911

Coatings Subcontractor Howard Grote

Proposal Cost

The following is the proposed price the above named company will agree to as the cost to provide all work defined in the attached Digester #6 Floating Cover Mechanical Scope of Work and Digester #6 Floating Cover Surface Preparation and Coating Scope of Work.

General Management and Mobilization: \$10,000

Cover Removal and Cribbing: \$50,000

Cleaning and Inspection: \$25,000

Cover Skirt Removal and Replacement: \$95,000

Surface Preparation and Coating: \$250,000

Cover Installation: \$50,000

Balancing and Final Inspection \$5,000

Total Price: \$485,000

Authorized Signature: 

Printed Name: Travis Glennon

Date: May 5, 2020

Proposal Contact Name: Eric LeBlanc

Address: 2323 N Roemer Road

Appleton, WI 54911

Telephone Number: 920-739-8881

Email: eleblanc@augustwinter.com

DIVISION 1 -GENERAL REQUIREMENTS

1.1 PROTECTION OF PERSONS

- A. Work shall be executed in compliance with the Federal Occupational Safety and Health Act and the Wisconsin Administrative Code, Chapter 35, Safety in Construction.

1.2 APPLICATION OF THIS DIVISION OF THE SPECIFICATIONS

- A. The work is subject to the requirements of the Instructions to Bidders and this Division 1.
- B. The Contractor is fully responsible for seeing that no work shown is inadvertently left out. The listing in the specifications of any article, material, operation, process or method means that the Contractor shall provide each item listed, of quality noted and subject to qualifications noted, and the Contractor shall perform each operation so prescribed according to the conditions stated, furnishing therefore all necessary labor, materials, equipment, and incidentals required to complete the work.
- C. In the absence of any specific instruction or specification, workmanship of equal quality to that specified elsewhere in these documents, or as approved by the Engineer shall be employed.

1.3 INTENT OF CONTRACT DOCUMENTS

- A. The Sections of the Contract Document and the Contract Drawings are complementary and what is called for by any one shall be binding as if called for by all. The intention of the Contract Document is to include in the contract price the cost of all labor and materials, water, fuel, tools, plants, equipment, light, transportation, and all other expenses as may be necessary for the proper execution and completion of the work included in the Contract.
- B. In interpreting the Contract Documents, words describing materials which have a well-known technical or trade meaning unless otherwise specifically defined in the Contract Documents, shall be construed in accordance with such well known meanings recognized by Architects, Engineers, and the trade.
- C. Any work shown on the Contract Drawings and not covered in the Contract Specifications, or included in the Contract Specifications and not shown on the Contract Drawings, shall be executed by the Contractor as though both shown on the Contract Drawings and included in the Contract Specifications. If the Contract Drawings and the Specifications should be contradictory in any part, the Contract Specifications shall govern.

1.4 MECHANICAL SCOPE OF WORK

- A. The Contract work shall include the furnishing of all labor, materials, equipment, transportation, appliances and services necessary to complete all work shown or reasonably inferred on the drawings and/or as described in the specifications.
 - 1. Prepare the cover to be lifted off the corbels.
 - a. Fabricate and attach lifting lugs per OEM lifting plan.
 - b. Provide access for safe removal of ballast blocks.
 - c. Remove ballast blocks from skirt and set inside digester. Mark and label exact location for each block so after the steel is painted the blocks can be placed in the same location to ensure the cover remains balanced.
 - 2. Lift and crib cover to provide access for cleaning and repairs.
 - a. Estimated weight is 80 tons without ballast blocks.
 - 3. Remove roller guides and rollers.

Exhibit 2

- a. Rollers will be rebuilt by WWTP staff after removal.
4. Inspect cover with WWTP Staff.
 - a. Water blast cover as needed so that the skirt, roof and structural members can be inspected.
 - b. WWTP staff will determine if there are items outside the scope that will require repairs or replacement. Items may include structural members, ballast block supports etc.
5. Repair steel structure.
 - a. Remove and replace the entire skirt.
 - b. Remove sampling port on top of cover and make a cover to bolt to existing flange.
 - c. Replace gaskets for man ways and access covers. All gaskets will be ¼" thick Neoprene with a 60 Durometer hardness.
 - d. Ballast supports will be re-used.
 - e. Repair pad for broken guide roller.
 - f. Provide leak testing on all new welds per cover manufacturers recommended test method.
 - g. Properly dispose of all scrap steel and other waste materials.
6. Re-install cover and all components after the application of the coating system is complete.
 - a. Install roller guides and rollers.
 - b. Install digester cover.
 - c. Install ballast blocks in their original location.
7. Balance Cover
 - a. Digester will be filled with water to float the cover by WWTP staff.
 - b. Balance cover and add weight as needed to level cover within OEM specifications. Follow manufacturers recommended method.
8. **Alternate**

Perform, in conjunction with the owner, an inspection of the skirting (#5a above) to determine if the condition of the skirting is such that it could be restored more economically than complete replacement. If the Contractor and Owner mutually agree that the condition of the skirting lends itself to restoration and is more economical than complete replacement, negotiate a change order for the work. (Note: owner has in his possession, the proper diagnostic tools to perform an analysis of the metal thickness and will deploy this resource during the inspection.

*Contractor's welding procedures, equipment, and welding operators shall be qualified and certified in accordance with the requirements of American Welding Society (AWS)

**Contractor shall perform all field welding in conformance with information shown on Manufacturer's drawing regarding location, type, size and length of all welds and in accordance with applicable AWS standards.

1.5 OWNER'S REPRESENTATIVE

- A. All work under this Contract will be regularly viewed by the Owner's Representatives. Owner's Representatives will regularly visit the site of the project and observe the work for conformity with the Contract Documents, and will immediately report any lack of conformity to the Owner/ Engineer. They will refer questions of interpretation of the Documents to the Owner/ Engineer for decision.
- B. The Owner's Representatives will have authority to stop any portion of the work not in conformity with the Documents until the Owner has investigated and decided upon procedure.

Exhibit 2

- C. No work aside from that performed during the regular work week will be allowed unless prior due notice is given to the Owner or to the Owner's Representatives. Any work performed without prior notice and approval to do so may be required to be removed for inspection at Contractor's expense.

1.6 SUPERINTENDENCE

- A. The Contractor will give personal superintendence to the work, or have at the site of the work, at all times, a competent foreman, superintendent, or other representative, satisfactory to the Owner and having the authority to act for the Contractor.
- B. Insofar as is practicable, and excepting in the event of discharge by the Contractor, or in the event of proven incompetence, the individual who has been accepted by the Owner to represent the contractor shall so act, and shall follow without delay instructions of the Engineer in the prosecution of the work in conformity with the contract.

1.7 LABOR

- A. The Contractor shall employ none but competent and skilled workmen and foremen in the prosecution of work on this Contract. The Owner shall have the authority to order the removal from the work any Contractor's employee who refuses to or neglects to obey any of its instructions or those of the Engineer or Inspectors, relating to the carrying out of the provisions and intent of the provisions of the Contract, or who is incompetent, unfaithful, abusive, threatening or disorderly in his conduct, and any such person shall not again be employed on this project.

1.8 FIRE PROTECTION

- A. The Contractor shall provide and maintain an adequate number of hand fire extinguishers and take all other precautions necessary to prevent fires, and shall conform to local Fire Department regulations.

1.9 LAWS, REGULATIONS, FEES AND PERMITS

- A. The Contractor shall comply with all laws, ordinances, rules and regulations of the local Building Department, Fire Department, Health Department, Department of Water Supply, Gas and Electricity, Department of Highways and all State and Federal agencies having jurisdiction.
- B. Contractor shall obtain and pay for all permits, fees and inspections required by such agencies.
- C. Contractor shall pay for legitimate costs required by private utility and communication companies.

1.10 WATCHMEN AND OTHER SAFEGUARDS

- A. The Contractor shall provide the necessary safeguards including, but not limited to, warning signs and barricades to prevent accidents, to avoid all necessary hazards, and protect the public, the work and the property at all times, including Saturdays, Sundays, holidays and other times when no work is being done.
- B. Neither the Owner nor the Engineer shall be responsible for any loss or damage to the project materials, tools, equipment, etc., from any cause whatsoever.

1.11 CODES AND STANDARDS

- A. All materials and workmanship shall comply with all applicable codes, specifications, local ordinances, industry standards and utility company regulations.
- B. In case of difference between building codes, specifications, state laws, local ordinances, industry standards and utility company regulations and the Contract Documents, the most stringent shall govern. The Contractor shall promptly notify the Engineer in writing of any such difference.

Exhibit 2

- C. **Non-compliance:** Should the Contractor perform any work that does not comply with the requirements of the applicable building codes, state laws, local ordinances, industry standards and utility company regulations, he shall bear all costs arising in correcting the deficiencies.
- D. Applicable Codes and Standards shall include all state laws, local ordinances, utility company regulations, and the applicable requirements of the following nationally accepted Codes and Standards:
1. Building Codes:
 - a. ICC Codes.
 - b. National Electrical Code.
 - c. Wisconsin Administrative Code.
 - d. National Fire Code
 2. Industry Standards, Codes and Specifications:
 - a. AIEE - American Institute of Electrical Engineers
 - b. ANSI - American National Standards Institute
 - c. ASHRAE - American Society of Heating, Refrigeration and Air Conditioning Engineers
 - d. ASME - American Society of Mechanical Engineers
 - e. ASTM - American Society of Testing Materials
 - f. IPCEA - Insulated Power Cable Engineers Assoc.
 - g. NBS - National Bureau of Standards
 - h. NEMA - National Electrical Manufacturers Assoc.
NFPA - National Fire Protection Assoc.
 - j. OSHA - Occupational Safety and Health Act
 - k. UL - Underwriters Laboratories
 - l. MSS - Manufacturers Standardization Society
 - m. AISC - American Institute of Steel Construction
 - n. AWS - American Welding Society
 - o. SMACNA - Sheet Metal and Air Conditioning Contractors National Assoc.

1.12 CUTTING AND PATCHING

- A. The Contractor shall be responsible for all required cutting, etc., and shall make all required repairs thereafter to satisfaction of the Engineer, but in no case shall the Contractor cut into any major structural element, beam or column without the written approval of the Engineer.

1.13 INSURANCE AND LIABILITY

- A. The Contractor and the Surety will be held responsible for and shall save the Owner harmless from all liability for damages occasioned by the digging up, use or occupancy of the street, alley, highway, public grounds and private grounds or which may result therefrom, or which may result in any way from the negligence or carelessness of the

Exhibit 2

Contractor, his agents, employees or workmen; or by reason of the elements, unforeseen or unusual difficulties, obstructions, or obstacles encountered in the prosecution of the work; and they shall indemnify the Owner for and save it harmless from all claims and liabilities, actions and causes of action, and liens for materials furnished or labor performed in the construction or execution of the work, and from all costs, charges and expenses incurred in defending such suits or actions, and from and against all claims and liabilities for injury or damage to persons or property emanating from defective or careless work methods, or from and against all claims or liabilities for royalties, license fees, actions, suits, charges and expenses or damage from infringement for reason of the use of any invention or improvement in tools, equipment or plant or any process, device or combination of devices used in the construction of the work.

- B. The Contractor shall not commence work under a Contract until he has obtained all insurance required under this paragraph and has filed certificates thereof with the Owner, nor shall the Contractor allow a Subcontractor to commence work until all similar insurance required has been so obtained and filed.
- C. **Workmen's Compensation**
1. Statutory coverages as required by chapter 102 of the Revised Statutes of the State of Wisconsin and all acts amendatory thereof and supplementary thereto, for all employees of the contractor. All subcontractors shall furnish to the Contractor and to the Owner, evidence of similar insurance for all of their respective employees unless such employees are covered by the protection afforded by the contractor.
- D. **Comprehensive General Liability and Property Damage Insurance**
1. Coverage to include operations; contractor's protective insurance, products coverage and completed operations; contractual coverage; underground coverage; blasting, explosion and collapse; all subject to the following limits:
 2. Bodily Injury \$1,000,000 per Person
\$2,000,000 Aggregate
 3. Property Damage \$500,000 per Occurrence
\$500,000 Aggregate
- E. **Comprehensive Automobile Liability and Property Damage**
1. Operation of owned, hired and non-owned motor vehicles:
 2. Bodily Injury \$1,000,000 per Person
\$1,000,000 per Occurrence
 3. Property Damage \$1,000,000 per Occurrence

Exhibit 2

- F. If the Contractor is employing Subcontractors or hiring pieces of equipment from another firm/contractor, said Contractor must furnish certificates of insurance for each to the Owner.

1.14 LAWS TO BE OBSERVED

- A. The Contractor shall give all notices and comply with all Federal, State and Local laws, ordinances and regulations in any manner affecting the conduct of the work and all such orders and degrees as exist, or may be enacted by bodies or tribunals having any jurisdiction or authority over the work, and shall indemnify and save harmless the Owner against any claim or liability arising from, or based on, the violation of any such law, ordinance, regulation, order or decree, whether by himself or his employees.

1.15 PUBLIC SAFETY AND CONVENIENCE

- A. The Contractor shall at all times so conduct his work as to insure the least possible obstruction to traffic and the least possible inconvenience to the general public and to the employees of the Owner.

1.16 USE OF JOB SITE

- A. The Contractor shall confine his equipment, apparatus, the storage of materials and operations of his workman to limits indicated by the law, ordinances, permit or directions of the Owner and shall not encumber the premises with his materials.
- B. The Contractor shall not load or permit any part of the structure to be loaded with a weight that will endanger its safety. The contractor shall observe and enforce the Owner's instructions regarding signs, advertisements, fires and smoke.

1.17 SCHEDULE OF VALUES

- A. The Contractor shall within ten (10) days of receipt of notice to proceed, submit a complete breakdown of the Contract Amount showing the value assigned to each part of the work, including an allowance for profit and overhead. Upon approval of the breakdown of the Contract Amount by the Engineer, it shall be used as the basis for all Requests for Payment.

1.18 REQUESTS FOR PAYMENT

- A. The Contractor may submit periodically but not more than once each month a Request for Payment of work done on the site and materials delivered and stored on the site. The Contractor shall furnish the Engineer all reasonable facilities required for obtaining the necessary information relative to the progress and execution of the work. Payment for materials stored on the site will be conditioned upon evidence submitted to establish the Owner's title to such materials. Each Request for Payment shall be computed from the work completed on all items listed in the Schedule of Values, less 10% to be retained until final completion and acceptance of the work and less previous payments.
- B. The Contractor shall be required to file waivers of lien from all suppliers, subcontractors, etc., with the Owner prior to receiving payment on the project.

1.19 RELEASE OF LIENS

- A. The Contractor shall deliver to the Owner a complete release of all liens arising out of this Contract before the retained percentage or before the final Request for Payment is paid. If any lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner such amounts as the Owner may have been compelled to pay in discharging such liens, including all costs and a reasonable attorney's fee.

1.20 PATENTS

Exhibit 2

- A. The Contractor shall pay for all royalties and license fees. The Contractor shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss on account thereof.

1.21 COOPERATION WITH OWNER

- A. Personnel in the employ of the Contractor or any of his subcontractors, either directly or indirectly, are prohibited from using any existing facilities on adjacent property or trespassing in or about adjacent facilities.

1.22 SUBCONTRACTS

- A. The Contractor shall notify the Owner, in writing, of the names of the subcontractors proposed on the Contract and shall not employ any subcontractors until the Owner's approval in writing has been obtained.
- B. The Contractor agrees to be fully responsible to the Owner for the acts or omissions of his subcontractors and of anyone employed directly or indirectly by him or them, and this Contract obligation shall be in addition to the liability imposed by law upon the Contractor.
- C. Nothing contained in the Contract documents shall create any contractual relationship between any subcontractors and the Owner. The Contractor agrees to bind every subcontractor (and every subcontractor of a subcontractor) by the terms of the General and special Provisions of the Contract, the Contract Drawings and Specifications, as far as applicable to his work, unless specifically noted to the contrary in a subcontract approved in writing as adequate by the Owner.

1.23 ASSIGNMENT OF CONTRACT

- A. No assignment by the Contractor of any construction contract, or any part thereof, or of the funds to be received there under by the Contractor, will be recognized, unless such assignment has had the written approval of the Owner and the Surety has been given due notice of such assignment and has furnished written consent thereto. Such written approval by the Owner shall not relieve that Contractor of the obligations incurred by him under the terms of this Contract. In addition to the usual recitals in assignment contracts, the following language must be set forth:
- B. "It is agreed that the funds to be paid to the assignee under this assignment are subjected to a prior lien for services rendered or materials supplied for the performance of the work called for in said contract in favor of any persons, firms, or corporations rendering such services or supplying such materials".

1.24 OTHER CONTRACTS

- A. The Owner may award other contracts for additional work at the site of the project (or other locations) and the Contractor shall fully cooperate with such other Contractors and carefully fit his own work to that provided under other contracts as may be directed by the Owner. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor.

1.25 OWNER'S RIGHT TO DO WORK

- A. If the Contractor neglects to prosecute the work to be performed on this Contract properly, or fails to perform any provision of this Contract, the Owner, after three days' written notice to the Contractor and his Surety, may, without prejudice to any other remedy he may have, make good such deficiencies and may deduct the cost thereof from the payment due the Contractor.

Exhibit 2

1.26 TERMINATION BY THE CONTRACTOR

- A. If the Owner fails to make payment through no fault of the Contractor for a period of thirty (30) days after such payment is due in accordance with the Contract Documents, the Contractor may, upon seven (7) days written notice to the Owner terminate the Contract and recover from the Owner payment for all work executed and for any proven loss sustained upon any materials, equipment, tools, and construction equipment and machinery including reasonable profit and damages.

1.27 TERMINATION BY THE OWNER

- A. If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents or fails to perform any provision of the Contract, the Owner may, after seven (7) days written notice to the Contractor and without prejudice to any other remedy he may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due the Contractor or, at his option, may terminate the Contract and take possession of the site and of all material, equipment, tools and construction equipment and machinery thereon owned by the Contractor and may finish the work by whatever method he may deem expedient, and if the unpaid balance of the Contract sum exceeds the expense of finishing the work, such excess shall be paid to the Contractor, but if such expense exceeds such unpaid balance, the Contractor shall pay the difference to the Owner.

1.28 CHANGES IN THE WORK

- A. The Owner without invalidating the Contract may order changes in the work consisting of additions, deletions, or modifications, the Contract Sum and the Contract Time being adjusted accordingly. All such changes in the work shall be authorized by written Change Order signed by the Owner.
- B. The Contract Sum and the Contract Time may be changed only by Change Order.
- C. The cost or credit to the Owner from a change in the work shall be determined by mutual agreement before executing the work involved.

1.29 CORRECTION OF WORK

- A. The Contractor shall correct any work that fails to conform to the requirements of the Contract Documents where such failure to conform appears during the progress of the work, and shall remedy any defects due to faulty materials, equipment or workmanship which appear within a period of one year from the date of final payment of the Contract or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents. The provisions of this Article apply to work done by Subcontractors as well as to work done by direct Employees of the Contractor. The obligations of the Contractor under this paragraph shall be in addition to and not in limitation of any obligations imposed upon him by special guarantees required by the Contract Documents or otherwise prescribed by law.

1.30 SANITARY CONVENIENCE

- A. The Contractor shall have access to the use of sanitary facilities available to the general public.

1.31 CLEANING UP AND FINAL INSPECTION

- A. The Contractor shall at all times keep the site of the work free from accumulation of waste material or rubbish caused by his employees on the construction work, and at the

Exhibit 2

completion of the work he shall remove all his rubbish from and about the work and all his tools, equipment, scaffolding, and surplus materials, and shall leave the completed work clean and ready for use. In case of dispute, the Owner may remove the rubbish and surplus materials and charge the cost to the several Contractors, if more than one is employed on the project, in proportion to the amounts as shall be determined by the Owner to be just.

1.32 OWNER'S RIGHT TO WITHHOLD CERTAIN AMOUNTS AND MAKE APPLICATION

- A. The Owner may withhold from payments to the Contractor, in addition to retained percentage, such an amount or amounts as may be necessary to cover:
 - 1. Payments that may be earned or due for just claims for labor or materials furnished in and about the work.
 - 2. For defective work not remedied.
 - 3. For failure of the contractor to make proper payments to the Subcontractors.
 - 4. Reasonable doubt that this Contract can be completed for the balance then unpaid.
 - 5. Evidence of damage to another Contractor.
 - 6. Liquidated damages due to failure to meet contract completion dates
- B. The Owner will disburse and shall have the right to act as agent for the Contractor in disbursing such funds as have been withheld pursuant to this paragraph to the part or parties who are entitled to payment therefrom. The Owner will render to the Contractor a proper accounting of all such funds disbursed in behalf of the Contractor.
- C. The Owner also reserves the right, even after full completion and acceptance of the work, to refuse payment of the final ten percent (10%) due the contractor until it is satisfied that all Subcontractors, material suppliers and employees of the Contractor have been paid in full.

1.33 CHANGES-PAYMENT

- A. The Owner may, upon proper action of its Common Council, authorize changes in the work to be performed or the materials to be furnished under the provisions of this Contract.
- B. Adjustment, if any, in the amounts to be paid to the Contractor by reason of any such changes shall be determined by one or more of the following methods:
 - 1. By an acceptable lump sum or unit price proposal by the Contractor.
 - 2. On a cost-plus limited basis not to exceed a specified limit (defined as the cost of labor, materials and insurance) plus a specified percentage of the cost of such labor, materials and insurance provided the specified percentage does not exceed fifteen percent (15%) of the aggregate of the cost of such labor, materials and insurance, and shall in no event exceed a specified limit.
- C. No claim for an addition to the contract price will be valid unless authorized as aforesaid.
- D. In cases where a lump sum proposal is submitted by the Contractor in excess of Five Hundred Dollars (\$500.00) and the Owner considers the proposal so submitted is

Exhibit 2

excessive or unreasonable for the changes or added work contemplated, the Owner reserves the right to request a proposal for the same changed items from other Contractors. If a proposal for such added work is obtained from other Contractors at a lesser amount, the Owner reserves the right to make an award of such work to another Contractor, unless the Contractor on this Contract agrees to do the added work or changed work for the price named by the other Contractor.

- E. It shall be expressly understood and hereby agreed to by the Contractor that no claim for extra work will be recognized by the Owner unless same has been ordered, in writing, by the Owner, or unless claim for such added work has been filed by the Contractor within five (5) days after the end of the calendar month in which such alleged work was performed. Inspectors and Resident Engineers are not authorized to act for the Owner in giving orders for the Owner for extra or additional work, either in writing or verbally.

1.34 DEDUCTION FOR UNCORRECTED WORK

- A. If the Owner deems it expedient to accept work damaged or not done in accordance with the Contract, an equitable adjustment will be made with a proper deduction from the contract price for unsatisfactory work.

1.35 FINAL ACCEPTANCE OF THE WORK

- A. The Contract shall be deemed as having been finally accepted by the Owner when owner accepts the work.

1.36 CORRECTION OF WORK AFTER FINAL PAYMENT

- A. Neither the final payment on this Contract by the Owner nor any provision in these Contract Documents shall relieve the Contractor or Surety of the responsibility for negligence in the furnishing and installation of faulty materials or for faulty workmanship which shows up within the extent of the period provided by law nor of the responsibility of remedying such faulty workmanship and materials.

1.37 OWNER'S RIGHT TO USE UNCOMPLETED WORK

- A. The Owner shall have the right to take possession of and use portions of the work prior to final acceptance without waiving rights against the Contractor or his Surety for defects in the work or failure to complete same in its entirety.

1.38 PAYMENTS

- A. Pay estimate periods shall close on the last day of each calendar month so that completed estimates can be computed for processing. On each partial payment during the progress of the project, the Owner will retain an amount in accordance with Chapter 66.29 Wisconsin Statutes. No payment will be made for material stored at the job site.

1.39 DELAYS

- A. If the work of the Contractor is delayed because of any acts or omissions of any other Contractor, the Contractor shall have no claim against the Owner on that account other than an extension of time.
- B. In case any action in court is brought against the Owner or Engineer, or any officer or agent of either of them, for the failure, omission or neglect of the Contractor, utility company or Owner of other facilities within the project area to perform any of the covenants, acts, matters or things by this Contract undertaken, or for injury or damage

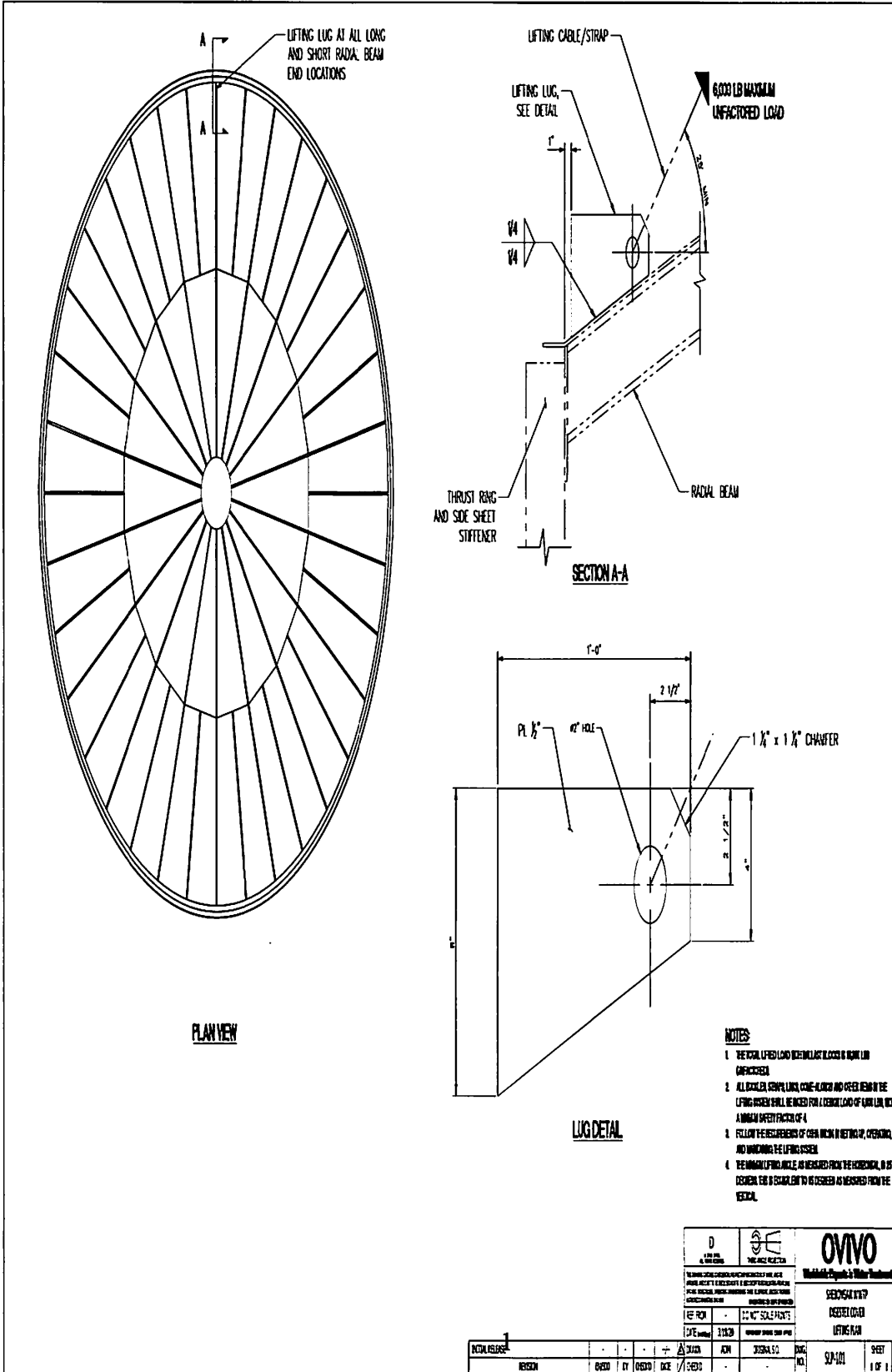
Exhibit 2

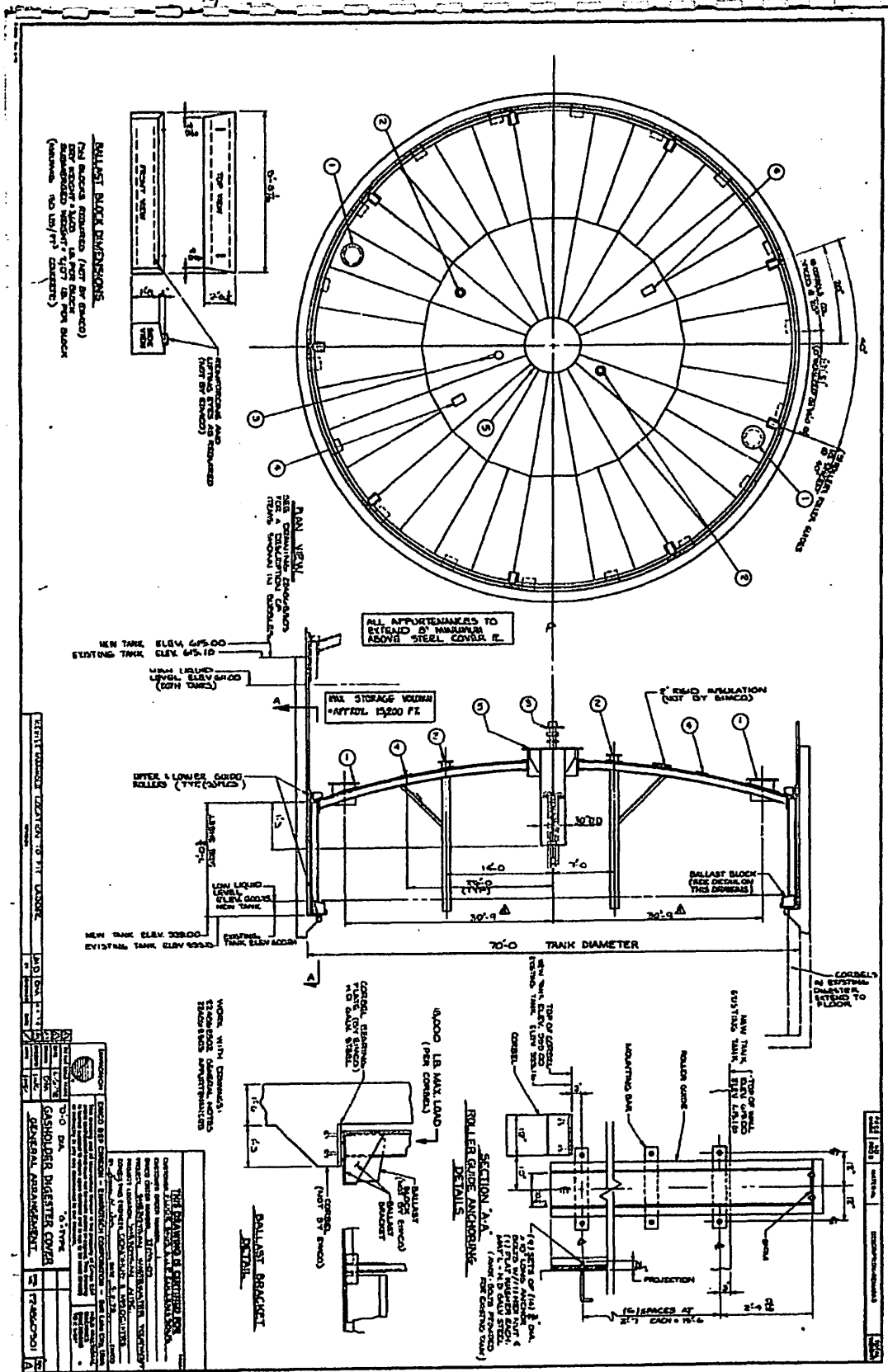
caused by the alleged negligence of the Contractor or his subcontractors or his or their agents, or in connection with any claim based on lawful demands of subcontractors, workmen, material men, or suppliers, the Contractor shall indemnify and save harmless the Owner and Engineer and their officers or agents, from all losses, damages, costs, expenses, judgments or decrees arising out of such action.

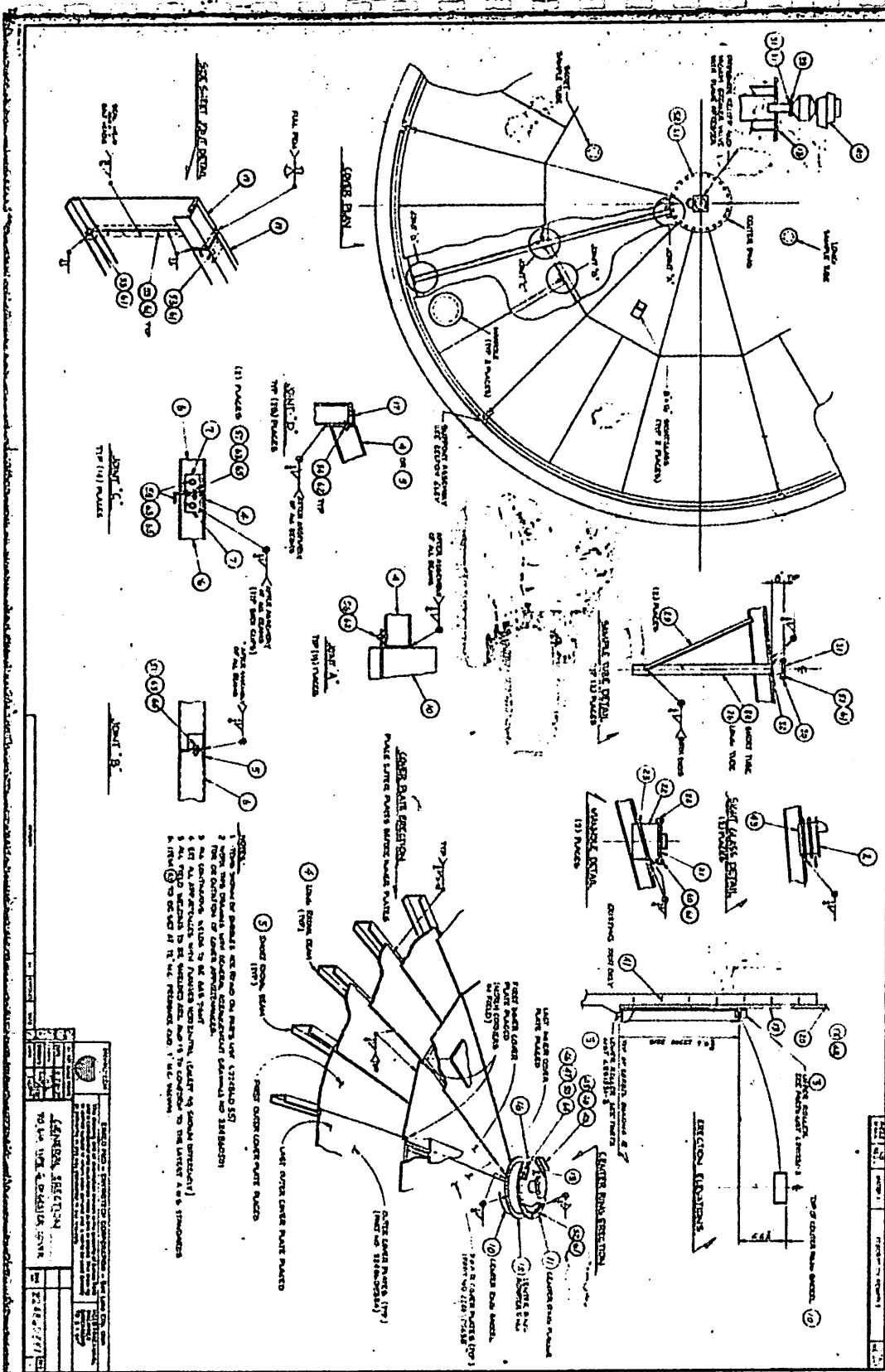
1.40 DETAILED PAINT SPECIFICATION

9. Blast all surfaces to SP-10 and utilize the proper surface profile per the coating manufacturer's requirements.
 - a. The cover and all associated support members, rollers and roller guides shall be blasted and coated.
 - b. Contain spent blast media and dust associated with sand blasting from leaving area. Tarp areas as needed to contain these wastes from being emitted.
 - c. Properly dispose of all sandblast wastes.
 - d. Clean area after completion of project.
 - e.
 10. First Coat: Tnemec Series 1 primer to 3 – 5 mils DFT or equivalent.
 11. Second Coat: Tnemec Series N69 to 3 – 6 mils DFT or equivalent.
 12. Third Coat: Tnemec Series N69 to 3 – 6 mils DFT or equivalent.
 13. Fourth Coat for exterior surfaces only: Tnemec Series 73 Topcoat 2 – 4 mils DFT or equivalent for UV protection.
 14. Touch-up coating will include confined space entry after the cover has been re-installed.
 - a. Interior areas will need to be accessed using scaffolds/ladders to touch up areas on the skirt where ballast blocks are re-installed and where lifting devices were used to install ballast blocks as well as any other area where the coating was compromised.
 15. Provide a coverage report documenting the dry film thickness (DFT) of each coat. A minimum of 30 DFT readings per quadrant of the cover will be required for each coat.
- *All coatings shall be applied per manufacturers recommended application guidelines.

Exhibit 3







NO. 104	NO. 104	NO. 104	NO. 104
NO. 104	NO. 104	NO. 104	NO. 104
NO. 104	NO. 104	NO. 104	NO. 104
NO. 104	NO. 104	NO. 104	NO. 104

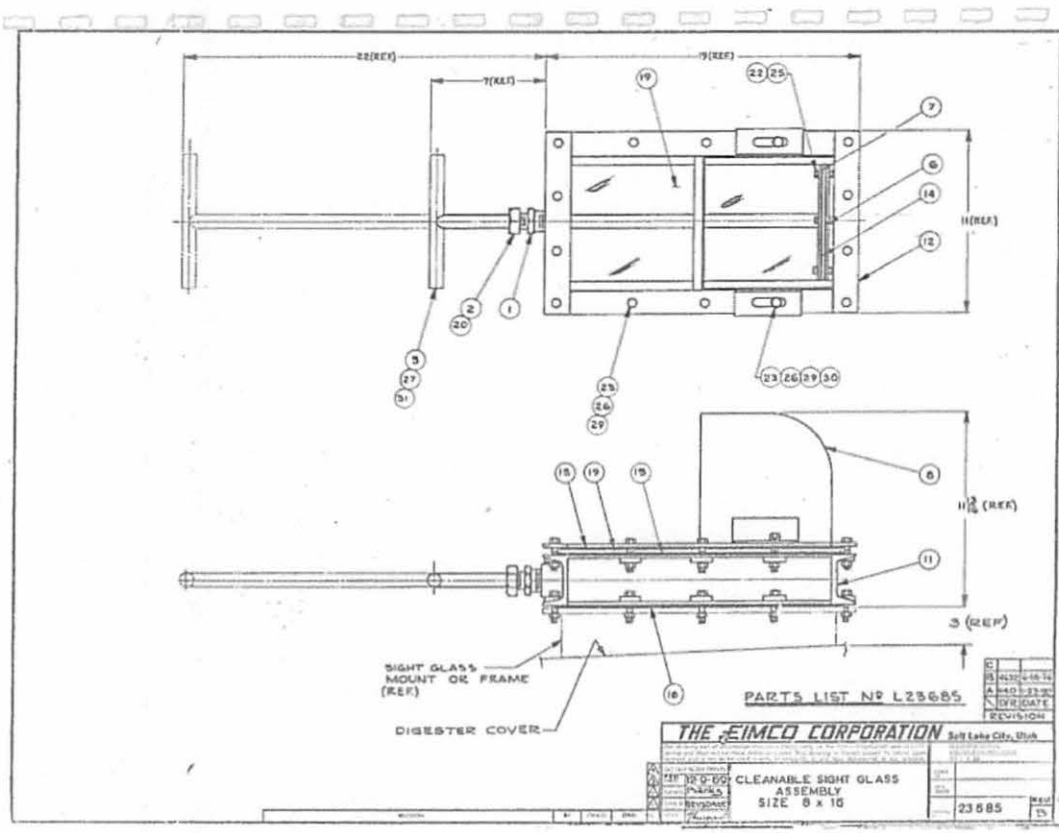
GENERAL SPECIFICATIONS

NO. 104

NO. 104

NO. 104

NO. 104



SIGHT GLASS MOUNT OR FRAME (REF)
 DIGESTER COVER

PARTS LIST NO L23685

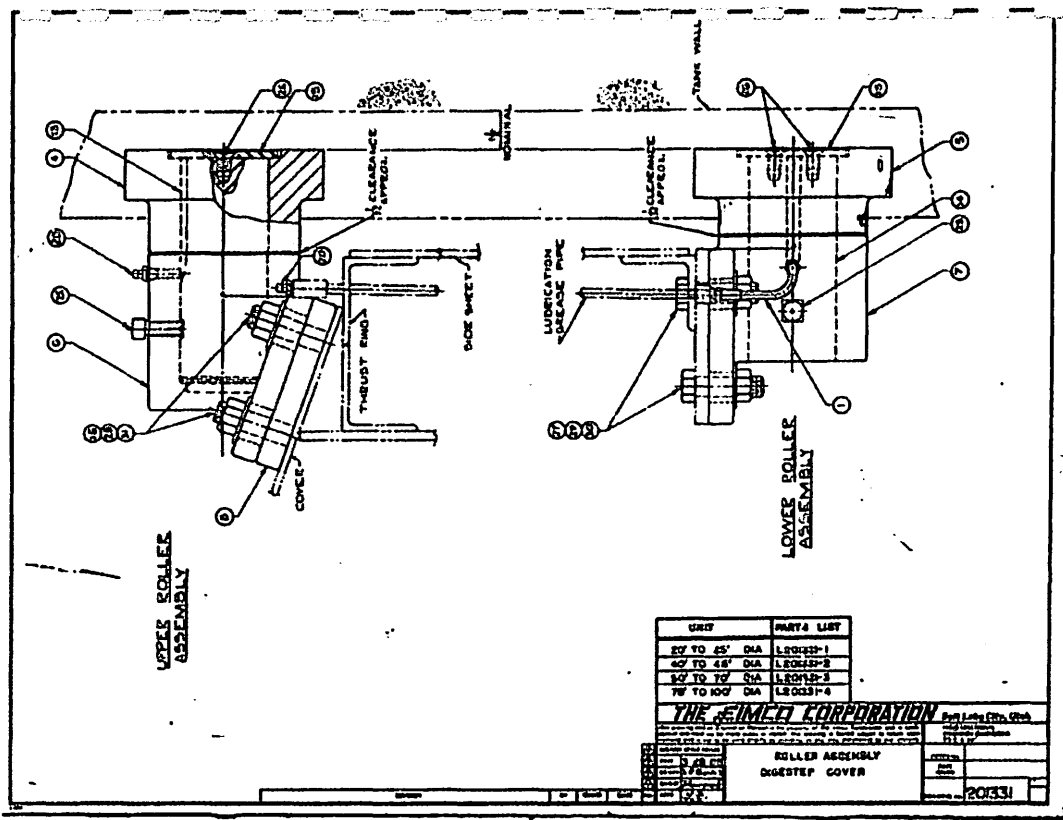
THE EIMCO CORPORATION 309 Lake City, Utah

REV	DESCRIPTION	DATE	BY
1	ASSEMBLY		
2	REVISED		

CLEANABLE SIGHT GLASS ASSEMBLY
 SIZE 8 x 16

REV	DESCRIPTION	DATE	BY
1	ASSEMBLY		
2	REVISED		

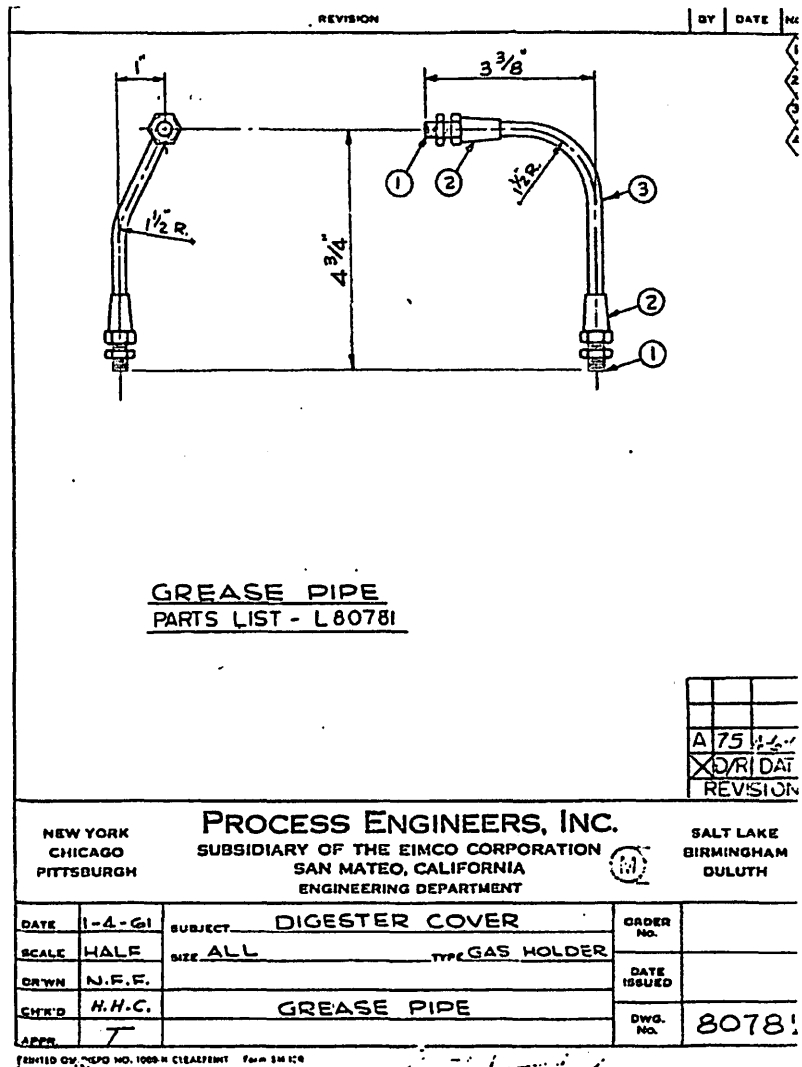
23685



SIZE	PARTS LIST
24" TO 25" DIA	LR02231-1
40" TO 45" DIA	LR02231-2
50" TO 70" DIA	LR02231-3
70" TO 100" DIA	LR02231-4

THE SIMCO CORPORATION Dept. L-404 Erie, Ohio

TITLE ROLLER ASSEMBLY DIGESTER COVER	DATE 2/27/54	DRAWN BY J. L. ...	CHECKED BY ...	APPROVED BY ...	20331
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NEW YORK
CHICAGO
PITTSBURGH

PROCESS ENGINEERS, INC.
SUBSIDIARY OF THE EIMCO CORPORATION
SAN MATEO, CALIFORNIA
ENGINEERING DEPARTMENT

SALT LAKE
BIRMINGHAM
DULUTH

DATE	1-4-61	SUBJECT	DIGESTER COVER	ORDER No.	
SCALE	HALF	SIZE	ALL TYPE GAS HOLDER	DATE ISSUED	
DRWN	N.F.F.	GREASE PIPE		DWG. No.	8078!
CHK'D	H.H.C.			APPR.	T

PERMITTED COPY, PENNY NO. 1000-N CLEARPRINT Form 24-1108

SPEC. NAME	NO.	MATERIAL	DESCRIPTION/REMARKS	TOTAL QUANTITY												
COVER																
<p>1. ALL ITEMS (*) DENOTE VARIANCE FROM ORIGINAL CONTRACT DOCUMENTS AND SHOULD BE PARTICULARLY NOTED.</p> <p>2. ENCO FURNISHES GAS HOLDER COVER TO EXIST EXACT AS SHOWN, BUT IS NOT RESPONSIBLE FOR CONCRETE DESIGN. CUSTOMER WILL PROVIDE REINFORCING STEEL FOR CONCRETE WORK AND DETERMINE THE SIZE OF WALLS AND FOOTINGS TO SUIT LOCAL CONDITIONS.</p> <p>3. ENCO WILL FURNISH (2) STEEL DISCHUTE COVER(S) WITH GUIDE ROLLERS, ROLLER COUPLERS, AND OTHER APPURTENANCES AS SHOWN AND NOTED ON DRAWING 22466-0501 22466-0502.</p> <p>4. ENCO DOES NOT FURNISH CONCRETE, PIPING, VALVES, PIPE SUPPORTS OR FITTINGS, WALL BRACKETS, CORNERS, COVERS FOR OVERFLOW BOX, OVERFLOW SINGS, OIL OR GREASE FOR LUBRICATION, FIELD ELECTION, FIELD WELDING OR WELD JOBS, EXCEPT FOR TESTING, OR PAINT EXCEPT AS SPECIFICALLY NOTED.</p> <p>5. ESTIMATED TOTAL WEIGHT OF COVER = <u>80000</u> LBS.</p> <p>6. APPROXIMATE FIELD WEIGHT = <u>1400</u> LINEAR FEET.</p> <p>7. ENCO IS NOT RESPONSIBLE FOR DAMAGE, LOSS, OR INJURY RESULTING FROM USE OF DISCHUTE EQUIPMENT INVOLVING OR CONTAINING COMBUSTIBLE GAS MIXTURES.</p> <p>8. FOR FURTHER CONCRETE AND PIPING DETAILS, REFER TO PLANS FOR WASTEWATER TREATMENT PLANT CITY OF SHERIDAN WYOMING - <u>CONDITIONS AND ASSOCIATED CONSULTING ENGINEERS.</u></p>																
<p>15. COVER OPERATING CONDITIONS</p> <p>WITHOUT BALLAST AND WITHOUT SNOW OR LIVE LOADS, NORMAL OPERATING PRESSURE WILL BE <u>0</u> W.C.</p> <p>WITH CONCRETE BALLAST AS SHOWN ON DRAWING 22466-0501, NORMAL COVER OPERATING PRESSURE WILL BE <u>A</u> W.C. (BALLAST TOTALLY SUBMERGED)</p> <p>PRESSURE OBTAINABLE WITH ALL BALLAST OUT OF LIQUID WILL BE <u>10.0</u> W.C.</p> <p>PRESSURE RELIEF - VACUUM BREAKER VALVE WILL BE SET TO RELIEVE AT <u>0</u> W.C. PRESSURE AND <u>0</u> W.C. VACUUM. REGULATORS TO REGULATE GAS PRESSURE, HEATING EQUIPMENT, ETC., SHOULD BE SET ACCORDINGLY.</p> <p>M. STEEL TO HAVE <u>1/2</u> IN. THICKNESS.</p> <p>PLATE TO BE BLANKED IN THE FIELD.</p> <p>COVER IS DESIGNED FOR SNOW VACUUM & LIVE LOADS + 30 P.S.F.</p>																
<p>THIS DRAWING IS CERTIFIED FOR L 1075</p> <p>CUSTOMER: <u>ENCO, S.A.P. KRAMER, LYONS</u></p> <p>CUSTOMER ORDER NUMBER: <u>1</u></p> <p>ENCO ORDER NUMBER: <u>22466-0502</u></p> <p>PROJECT: <u>THE POLY GAS WASTEWATER T.P.</u></p> <p>PROJECT LOCATION: <u>AT FERTILE VALLEY</u></p> <p>DESIGNED BY: <u>ENCO, INC. & ASSOCIATES</u></p> <p>DATE: <u>5-8-78</u></p> <p>BY: <u>[Signature]</u></p> <p>ENCO P.M.D. ENVROTECH CORPORATION</p>																
<p>SURFACE PREPARATION AND PAINT REQUIREMENTS</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:25%;">INTERIOR STEEL</td> <td style="width:25%;">EPSC-8P6</td> <td style="width:25%;">COMMERCIAL SANDBLAST</td> <td style="width:25%;">INTERIOR STEEL ((11CONT))</td> <td style="width:25%;">KOPPER'S 694</td> <td style="width:25%;">L.S. HILLS TOTAL D.P.F.</td> </tr> <tr> <td>EXTERIOR STEEL</td> <td>EPSC-8P6</td> <td>COMMERCIAL SANDBLAST</td> <td>EXTERIOR STEEL ((11CONT))</td> <td>KOPPER'S 621</td> <td>L.S. HILLS TOTAL D.P.F.</td> </tr> </table>					INTERIOR STEEL	EPSC-8P6	COMMERCIAL SANDBLAST	INTERIOR STEEL ((11CONT))	KOPPER'S 694	L.S. HILLS TOTAL D.P.F.	EXTERIOR STEEL	EPSC-8P6	COMMERCIAL SANDBLAST	EXTERIOR STEEL ((11CONT))	KOPPER'S 621	L.S. HILLS TOTAL D.P.F.
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EXTERIOR STEEL	EPSC-8P6	COMMERCIAL SANDBLAST	EXTERIOR STEEL ((11CONT))	KOPPER'S 621	L.S. HILLS TOTAL D.P.F.											
<p>10. CARE SHOULD BE TAKEN WHEN LOCATING ALL PIPING AND PIPE SUPPORTS AS SHOWN AND AVOID THIS DISCHUTE COVER TO BE WARE THEY DO NOT INTERFERE WITH COVER MOVEMENT AND OR TANK APPURTENANCES.</p> <p>11. STEEL TO BE PAINTED WITHIN 3" OF ALL FIELD WELDS.</p> <p>12. ALL WELDING IS TO BE SHIELDED ARC WELDING AND SHALL CONFORM TO A.W.S. STANDARDS FOR GRD-TIGHT WELDING.</p>																
<p>WORK WITH DRAWINGS 22466-0501 & 22466-0502</p>																
<p>ENVIRONMENT</p> <p>ENCO ESP DIVISION - ENVROTECH CORPORATION - 808 LENO CITY, OHIO</p> <p>This drawing and all information thereon is the property of Enco ESP and is loaned and must not be made public in any way. This drawing is loaned subject to return upon demand and is not to be used directly or indirectly in any way other than as set forth.</p> <p>GENERAL NOTES</p> <p>70 FT. DIA. G-TYPE DISCHUTE COVER</p> <p>NO. <u>22466-0502</u></p>																

COVER APERTURES FOR EACH COVER AS INDICATED BY BUBBLES ON DRAWING 22406 D501

- ① 30" OUTSIDE DIA MANHOLES WITH BOLTED COVER AND NEOPRENE GASKET (2 PROVIDED)
- ② 8" DIA SCH 20 SAMPLE TUBES WITH BOLTED COVER AND NEOPRENE GASKET (2 PROVIDED)
- ③ 4" DIA SCH 40 NOZZLE WITH 4" VAREC F6 5000-B1 PRESSURE-RELIEF - VACUUM-BREAKER-VALVE WITH FLAME ARRESTER AND NEOPRENE GASKET (1 PROVIDED)
- ④ 8" x 16" GAS-TIGHT CLEANABLE SAFETY GLASSES WITH CLEANING ROD WIPER (2 PROVIDED)
- ⑤ 4" I.D. CENTER RING WITH BOLTED AND GASKETED COVER/FLOTATION BOWNET ASSEMBLY.

PIECE MARK	NO. REQ'D	MATERIAL	DESCRIPTION/REMARKS	TOTAL WEIGHT
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COVER APERTURES FOR EACH COVER AS INDICATED BY BUBBLES ON DRAWING 22406 D501

THIS DRAWING IS CERTIFIED FOR

CUSTOMER: ELIOTT BROS. & J.P. SWANSON / Salt Lake

CUSTOMER ORDER NUMBER: 1

ENSCO ORDER NUMBER: TRAIL-01


PROJECT: SHERIDAN WASTEWATER TREATMENT PLANT

PROJECT LOCATION: SHERIDAN, UTAH

CONSULTING ENGINEER: DRUMMOND ASSOCIATES

BY: [Signature] DATE: 11.1.78

ENSCO PNO - ENVROTECH CORPORATION

 <p>DO NOT SCALE FROM THIS DRAWING</p>	DATE	11.7.78	<p>ENSCO PNO - ENVROTECH CORPORATION - Salt Lake City, Utah</p> <p>This drawing and all information thereon is the property of ENSCO PNO and is confidential and must not be made public or copied. This drawing is issued subject to return upon demand and is not to be used directly or indirectly in any way detrimental to our interests.</p>	<p>SCALE: <u>AS SHOWN</u></p> <p>DATE: <u>11.1.78</u></p>
	DESIGN	DNA		
	CHECKED	[Signature]		
	APPROVED	[Signature]		
<p>COVER APERTURES</p>		<p>ENSCO PNO - ENVROTECH CORPORATION - Salt Lake City, Utah</p>	<p>SCALE: <u>AS SHOWN</u></p> <p>DATE: <u>11.1.78</u></p>	
<p>BY: [Signature] DATE: [Signature]</p>		<p>ENSCO PNO - ENVROTECH CORPORATION - Salt Lake City, Utah</p>	<p>SCALE: <u>AS SHOWN</u></p> <p>DATE: <u>11.1.78</u></p>	

III

Other Matters

Res. No. 20 - 20 - 21. By Alderpersons Wolf and Sorenson. May 18, 2020.

A RESOLUTION authorizing a Relocation Order in the City of Sheboygan, Sheboygan County, Wisconsin.

WHEREAS, the City of Sheboygan has determined a need to improve vehicular transportation facilities at the intersection of Union Ave and South Taylor Drive in the City of Sheboygan; and

WHEREAS, the City has developed a transportation design in the affected area which will require city infrastructure to control traffic in the area and, in so doing, determined the need to acquire additional right-of-way from a parcel in the City of Sheboygan; and

WHEREAS, the map attached and incorporated as Exhibit A shows the location of the right-of-way and the land and interests required in order to complete the required transportation design; and

WHEREAS, the map attached and incorporated as Exhibit A also includes the legal description of the right-of-way depicted in that Exhibit.


NOW, THEREFORE, BE IT RESOLVED: That this Resolution is a Relocation Order, in accordance with Wis. Stat. § 32.05(1), relating to the acquisition of right-of way for public transportation purposes.

BE IT FURTHER RESOLVED: That it is necessary, in accordance with Wis. Stat. § 32.07(2), for the City of Sheboygan to acquire fee title to the real estate depicted and described on Exhibit A.

BE IT FURTHER RESOLVED: That the City of Sheboygan will acquire, by condemnation, in accordance with Wis. Stat. chapter 32, if necessary, such interest in said real estate from the record owners as identified on Exhibit A and from any and all other persons or entities who may have an interest in said real estate.

RB

BE IT FURTHER RESOLVED: That all City officials, employees, and agents are further authorized and directed to take such steps as are lawful and necessary in furtherance thereof.



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

EXHIBIT

CLIENT
Mortenson

SITE ADDRESS
3114 Union Ave. City of Sheboygan, Sheboygan County, Wisconsin.

LEGAL DESCRIPTION

Right of way Conveyance for 3114 Union Avenue
Bearing reference per Document No. 1843935 as recorded in Sheboygan County Register of Deeds.

A part of the Southwest 1/4 of the Southeast 1/4 of Section 28, Township 15 North, Range 23 East, City of Sheboygan, Sheboygan County, Wisconsin, more fully described as follows:

Commencing at the Southwest corner of said Southeast 1/4 section; thence North 01°10'24" West along the West line of said Quarter Section and East line of S. Taylor Drive 33.00 feet to the point of beginning of the lands described hereinafter; thence North 01°10'24" West along said West line 26.52 feet to a point; thence S86°23'16"E 115.63 feet to a point; thence N87°54'05"E 152.78 feet to a point on the West line of Georgia Avenue; thence South along said West line 15.00 feet to a point on the North line of Union Avenue; thence S87°53'56"W along said North line 267.72 feet to the point of beginning.

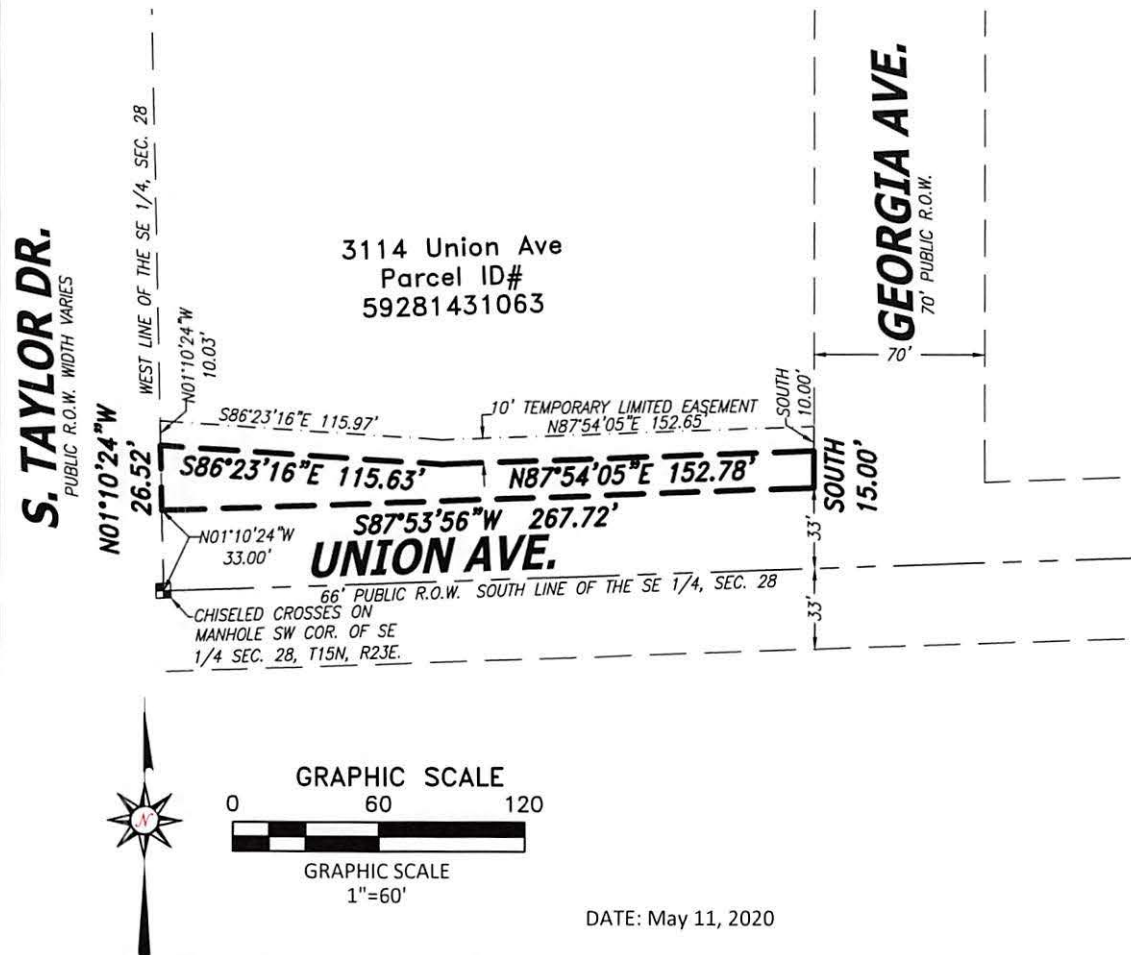
Said land contains 4681 square feet or 0.1075 acres.

TEMPORARY LIMITED EASEMENT:

A part of the Southwest 1/4 of the Southeast 1/4 of Section 28, Township 15, Range 23 East, City of Sheboygan, Sheboygan County, Wisconsin, more fully described as follows:

Commencing at the Southwest corner of said Southeast 1/4 section; thence North 01°10'24" West along the West line of said Quarter Section and East line of S. Taylor Drive 59.52 feet to the point of beginning of the lands described hereinafter; thence North 01°10'24" West along said West line 10.03 feet to a point; thence South 86°23'16" East 115.97 feet to a point; thence North 87°54'05" East 152.65 feet to a point on the West line of Georgia Avenue; thence South along said West line 10.00 feet to a point; thence South 87°54'05" West 152.78 feet to a point; thence North 86°23'16" West 115.63 feet to the point of beginning.

Said land contains 2,684 square feet or 0.0616 acres.



CHAPUT
LAND SURVEYS

234 W. Florida Street
Milwaukee, WI 53204
414-224-8068
www.chaputlandsurveys.com

Date	Revision description

This document is an instrument of professional service, and may be protected by the surveyors work product doctrine or surveyor / client privilege. The information shown hereon is intended solely for the use of the client and client directed third parties.
Drawing No. 2568-far

CITY OF SHEBOYGAN

REQUEST FOR PUBLIC WORKS COMMITTEE CONSIDERATION

ITEM DESCRIPTION: Resolution authorizing a Relocation Order in the City of Sheboygan, Sheboygan County, Wisconsin.

REPORT PREPARED BY: Ryan Sazama, City Engineer

REPORT DATE: May 21, 2020

MEETING DATE: May 26, 2020

FISCAL SUMMARY:

STATUTORY REFERENCE:

Budget Line Item: N/A
Budget Summary: N/A
Budgeted Expenditure: N/A
Budgeted Revenue: N/A

Wisconsin Statutes: N/A
Municipal Code: N/A

BACKGROUND / ANALYSIS: The reconstruction of Union Avenue will require the purchase of right-of-way at 3114 Union Avenue to allow the project to be constructed to meet the current needs of the roadway and to meet current standards.

STAFF COMMENTS: This project is the reconstruction of Union Avenue from 500 feet east of Georgia Avenue to 1500 west of Taylor Drive. This project is scheduled to be constructed in 2020.

ACTION REQUESTED: Motion to recommend the Common Council adopt Res. No. 28-20-21 A resolution authorizing Relocation Order of the City of Sheboygan, Sheboygan County, Wisconsin.

ATTACHMENTS:

- I. Res. No. 28-19-20
- II. Exhibit A – Map
- III. Exhibit B – Legal Description