



Public Works Committee Meeting

Cravath Lakefront Room, 2nd floor
312 W. Whitewater St.
Whitewater, WI 53190
*In Person and Virtual

Tuesday, November 12, 2024 - 5:00 PM

AGENDA

Citizens are welcome (and encouraged) to join our webinar via computer, smart phone, or telephone. Citizen participation is welcome during topic discussion periods.

Please click the link below to join the webinar:

<https://us06web.zoom.us/j/83912779961?pwd=Zw6nXRJLaq7fkpv5FutbvQk7mQoUd1.1>

Telephone: +1 (312) 626-6799 US (Chicago)
Webinar ID: 839 1277 9961
Passcode: 653674

Please note that although every effort will be made to provide for virtual participation, unforeseen technical difficulties may prevent this, in which case the meeting may still proceed as long as there is a quorum. Should you wish to make a comment in this situation, you are welcome to call this number: (262) 473-0107.

CALL TO ORDER

ROLL CALL

APPROVAL OF AGENDA

A committee member can choose to remove an item from the agenda or rearrange its order; however, introducing new items to the agenda is not allowed. Any proposed changes require a motion, a second, and approval from the Committee to be implemented. The agenda shall be approved at each meeting even if no changes are being made at that meeting.

APPROVAL OF MINUTES

1. Approval of minutes from October 8, 2024

HEARING OF CITIZEN COMMENTS

No formal Committee action will be taken during this meeting although issues raised may become a part of a future agenda. Participants are allotted a three-minute speaking period. Specific items listed on the agenda may not be discussed at this time; however, citizens are invited to speak to those specific issues at the time the Committee discusses that particular item.

To make a comment during this period, or during any agenda item: On a computer or handheld device, locate the controls on your computer to raise your hand. You may need to move your mouse to see these controls. On a traditional telephone, dial *6 to unmute your phone and dial *9 to raise your hand.

NEW BUSINESS

2. Discussion and Possible Action regarding removing parking stalls from Parking Lot C.
3. Discussion and Possible Action regarding leasing space to AT&T on Lot 10B located off of E. Main Court.
4. Discussion and Possible Action regarding the Starin Road crosswalks near the University.
5. Discussion and Possible Action regarding Strand Task Order 24-08, Jefferson Street Reconstruction.
6. Discussion and Possible Action regarding Strand Task Order 24-09, 2025 Stormwater Detention Basin Maintenance.
7. Discussion and Possible Action regarding Strand Task Order 24-10, Starin Road Underground Wet Detention Basin.
8. Discussion and Possible Action regarding the turning movement at the southeast corner of Franklin Street and W. Main Street.
9. Discussion and Possible Action regarding an easement and hold harmless agreement for Bower House, 187 W. Main Street.

FUTURE AGENDA ITEMS**ADJOURNMENT**

A quorum of the Common Council may be present. This notice is given to inform the public that no formal action will be taken at this meeting.

Anyone requiring special arrangements is asked to call the Office of the City Manager / City Clerk (262-473-0102) at least 72 hours prior to the meeting.



Public Works Committee Meeting

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312 W. Whitewater St.
Whitewater, WI 53190
*In Person and Virtual

Tuesday, October 08, 2024 - 5:00 PM

MINUTES

CALL TO ORDER

The Public Works Committee Meeting was called to order by Hicks at 5:00 p.m.

ROLL CALL

Present: Majkrzak, Hicks
Absent: Smith
Others: Marquardt

APPROVAL OF AGENDA

It was moved by Majkrzak and seconded by Hicks to approve the agenda for the Public Works Committee meeting.

AYES: All by via voice vote (2). NOES: None. ABSENT: Smith.

APPROVAL OF MINUTES

1. Approval of minutes from September 10, 2024

It was moved by Majkrzak and seconded by Hicks to approve the minutes from the September 10, 2024, Public Works Committee meeting.

AYES: All by via voice vote (2). NOES: None. ABSENT: Smith.

HEARING OF CITIZEN COMMENTS

None

NEW BUSINESS

2. Discussion and Possible Action regarding changing winter parking restrictions to start December 1, instead of November 1.

Staff received a request from councilperson Brian Schanen to review the start date of winter parking restrictions. Currently, the winter parking ordinance restricts parking on all City streets between 2:00 am and 6:00 am, and goes into effect each year on November 1. The request is to move this date back to December 1. It was noted, if approved, there would be some cost associated in making and installing new signs.

Attached was a table of snowfall amounts for the month of November in Madison and Milwaukee. These two cities are the closest to Whitewater with online historical data available online. The table also included the coldest temperatures for the month of November in each city.

Staff recommended remaining with the November 1, start date for the winter parking restrictions. There were concerns with the potential for snowplowing around parked vehicles and the snowbanks freezing and remaining in place throughout the remainder of winter. Also, with the lack of a daily newspaper or a local TV station, getting the word out to residents for a one-day parking ban (snow emergency) would prove to be difficult.

In addition, Marquardt spoke with Chief Meyer regarding this possible change. Chief stated he recently met with the Finance Director and they looked at their revenue from issuing tickets, which has been down in recent years. If this parking restriction moved from November to December it could be another potential loss of parking ticket revenue. Marquardt stated the first two weeks only warnings are issued.

Majkrzak stated he could go either way on this topic. He asked Marquardt if he knew how many signs would need to be changed. Marquardt stated the signs that would have to be changed would be the signs on the main streets coming into the City that state the hours. He thought it would be about eight to 10 signs.

Hicks commented he could go either way as well. He mentioned the problem of getting the new information out there. It would be nice to have but it probably might not be in the best interest to change it right now.

Majkrzak agreed to do nothing. It is consistent with everyone else in the area.

After discussion, the Public Works Committee opted to not change the policy at this time. Marquardt stated he would put it on the next Council agenda as a staff report.

3. Discussion and Possible Action regarding request to paint traffic signal control boxes.

Marquardt stated Zeinert reached out to him regarding the request to paint traffic signal control boxes. Zeinert stated recently the Common Council asked staff to look into options for investing in public art. Due to this direction the Public Art Committee reemerged. At a recent Public Art Committee meeting Brienne Brown, a member of the Public Art Committee, asked if staff could explore painting either utility or traffic boxes. Zeinert met with Marquardt to ask if this was something they could pursue, and if so, what boxes were a good fit for this project.

Marquardt shared the traffic signal control boxes would be a great option for this project to come to fruition. Staff's recommendation was to allow the traffic signal control boxes to be painted by the Public Art Committee, with the designs brought to the Public Works Committee for final approval.

Hicks asked how many boxes were on Main Street? Marquardt thought there were eight boxes. Hicks said if the committee does move forward, he would like to see the design come to someone for approval with some limitations as to no political speech, no hate speech, and keep it generic. Hicks would also be interested in how they are going to paint the boxes. Are they going to coat them to last or is it just going to be two-year paint and then they would have to be painted again? Hicks didn't have a problem with it as long as the committee was okay with the project.

Majkrzak stated he would be interested if the chief had anything to say about the painted boxes being a distraction to drivers. Maybe not since other communities are doing this and he hasn't heard much of an issue with it. He agrees with Hicks and the same concerns with one addition. Could it just be the front of the boxes and no painting around seals or anything like that? He wouldn't want to jeopardize the integrity.

Marquardt will let Zeinert know the committee is open to the idea. Hopefully, the Public Art Committee can come back with what they are looking at doing, the type of paint, the life expectancy, etc., so the Public Works Committee has a better idea on the designs.

4. **Discussion and Possible Action regarding Bird Scooters.**

Marquardt stated at a recent Common Council meeting the use of Bird Scooters, particularly on sidewalks, was asked to be on an upcoming agenda for discussion.

Hicks stated he has seen scooters on sidewalks with residents acting stupid. He doesn't know how they can regulate or curb that behavior. Hicks think we should just continue to monitor it. He also hasn't heard of any other complaints.

Majkrzak said he agreed and hasn't heard any complaints either. He does like the service they offer. However, he is disappointed with the way they are stored at times. In general, he feels like management has done a better job with that issue than years past. He thinks we should continue to keep an eye on it. It could be added to the open session as a part of an agenda item or a staff report at a Council meeting.

Hicks thought it should be brought back to Council as a staff report just for additional questions.

Marquardt stated he will bring it back to Council as an agenda item or staff report.

5. **Discussion and Possible Action regarding pedestrians not crossing W. Main Street at designated crosswalks near the University.**

Marquardt stated at a recent Common Council meeting this item was asked to be on an upcoming agenda for discussion. The area in question is mainly adjacent to the University between Prince Street and Prairie Street. Students will sometimes cross mid-block, not using the traffic signals at Prince Street, Whiton Street, Prairie Street, or the pedestrian crossing at Cottage Street.

To deter students from crossing mid-block, some sort of deterrent would need to be installed, such as a fence. In Main Street's current lane configuration, the fence would need to be placed immediately behind the curb to have any deterrent; otherwise, students could still cut across and walk on the terrace instead of the sidewalk. And the fence would need to be placed on the north side of the street because of driveways on the south side. The location of immediately behind the curb would impede snow plowing operations.

Marquardt stated he travels Main Street quite often. He doesn't see many people crossing the street mid-block. However, the few he has seen cross seem to be paying attention because they are crossing mid-block and looking for cars, unlike the ones who cross in a crosswalk and think they are protected by two white lines. Those pedestrians think they can just cross and don't look for cars. He doesn't feel there is an issue or a need to do anything at this time.

Hicks agrees with Marquardt. Hicks stated he liked the idea of a fence but doesn't think we could do it with the property we have. Hicks recommended doing nothing right now. If it becomes more of an issue, and Starin Road is closed, it could be addressed at that time.

Majkrzak said, in general, a fence would look horrendous. If they end up doing something someday, it should be something more in the terrace. Majkrzak did agree with Marquardt that some people just don't look. He feels it something that should be monitored.

6. **Discussion and Possible Action regarding traffic concerns near Walmart and Aldi.**

Marquardt stated at a recent Common Council meeting this item was asked to be on an upcoming agenda for discussion. Marquardt said after the agenda was published he received a call from an elderly couple who live on the west side. They would like a crosswalk by Casey because they were almost hit while trying

to cross the street to get to Aldi. They cut through the sidewalk behind Casey's and then crossed Main Street to get to Aldi. Marquardt stated he didn't think the sidewalk behind Casey's was ever intended to be the public access to Main Street, across private property. Marquardt did reach out to Strand to get their thoughts on installing another crosswalk somewhere in the vicinity of Walmart and Aldi. Their response was mid-block pedestrian crossing on a four-lane undivided roadway is typically discouraged unless you have an active control, such as what we already have or adding a traffic signal. The nature of this area, with many driveways and few public intersections, would not leave vehicles to anticipate a pedestrian crossing. Marquardt said we do already have the crosswalk at Mulberry Glen and the hotel. In his opinion, that crosswalk was put there because it is the only residential area on the west side that is connected to the Main Street sidewalk. At the time, that's where a grocery was located. Right or wrong that crosswalk did get put in there. Their other thought was Main Street, in this area, has an annual average day traffic count of 8,700 vehicles a day. If there was a consideration made to restripe Main Street as a three lane, with a two-way left turn lane, a median refuge island could be added at crossing locations to improve and allow for crossing one direction of traffic at a time. Marquardt stated that would be taking the four lanes, two lanes in each direction, and taking it down to one lane in each direction. This would then let you create what is known as a suicide left turn lane with vehicles coming at you while trying to turn left in either direction. With so many driveways, at different locations, that could be a little dicey.

Since Aldi has only been open for about a month, Marquardt recommended if there are concerns with pedestrians crossing at the location that they wait until at least spring to see what traffic patterns evolve. If there are other people making the request about crossing in that area, it can be reviewed at that time. Putting in another crosswalk, at a non-public intersection, is not the right thing to do.

Hicks stated his only thought was about getting a cost of moving the flashing light crossing set up (at Mulberry Glen) to the west between Walmart and Aldi parking lot. He agrees that crosswalk was probably put there when we had a grocery store. Now we do have a grocery store but it's down further. If people from Mulberry Glen want to cross in that area, he feels it would be safer to walk on the south side of the road and cross over right before Aldi. He feels it would better moved west of where it is right now.

Majkrzak said he really likes the suggestion of moving it to the west. He is seeing more kids walking and there really isn't a great place to cross the street in that area. Majkrzak felt where the crosswalk is now is very hard to see. Maybe it's because of all the driveways and/or trees in that area. He doesn't know if a traffic light would be the best idea but does think moving the flashing light crosswalk would be a great compromise. It would be worth investigating it more.

Hicks agreed with Majkrzak that it is hard to see pedestrians when driving west on Main Street. He stated the tree canopy is covering it. It is also so close to the intersection at Elizabeth Street with the stop and go light that is controlled. Moving it to the west may help us avoid a stop and go light at Walmart at some point. He would like to get an initial cost estimate to move the flashing light to the west. He thought we could bring it back in the spring to Council.

Marquardt stated he will do a staff report on this discussion at the next Council meeting. That way they know the Public Works Committee is looking at possibly moving the flashing light, and could follow up with their thoughts and questions regarding this possible change.

7. **Discussion and Possible Action regarding Public Participation at Public Works Committee meetings.** Marquardt stated at the last Finance Committee meeting, staff was directed to revise the proposed changes regarding public comments and distribute them to all committees for review and feedback.

The Finance Committee is seeking input on how these proposed changes may affect Public Works Committee meetings and asked for this item be added to the agenda for discussion. All comments will be forwarded to Financial and Administrative Services Director.

The goal is to bring these insights back to the Finance Committee in November, with the aim of presenting a recommendation to the Council in December.

Marquardt stated he felt there are only a few committees that have public participation and need to be controlled in a certain manner. The Public Works Committee does not get much public participation. So, do we want to go through the process of having people sign in and make sure they only talk for three minutes? At a committee level, when dealing with things that public works deals with there is going to be more back and forth discussion on items, where the public has interest, and you want that discussion at a committee level hashed out before it goes to Council.

Hicks generally agreed with Marquardt. It is not an issue with the Public Works Committee meetings. Hicks thought the idea behind it was that it is uniform across the board. Council is limited to three minutes and then you go to a Park Committee meeting and they offer seven minutes. However, Hicks stated it does allow, as referenced on page 24, last paragraph... "The presiding officer, with the concurrence of the Common Council/Committee, may extend or limit any of the enumerated time allocations based on the complexity of the item and the number of persons wishing to speak on the item." If there is a room packed full of people for a Council meeting, based on this sentence, ground rules could be set before the meeting. Hicks has no problem taking it back to Council and working through it there.

Majkrzak likes the formality and transparency of it. He agreed in general that he's liked most of the discussion had at the Public Works Committee meetings. He likes how they can just have the conversation. However, the CDA gets more participation with more sensitive or interesting topics and it could be beneficial.

Hicks stated it has been pretty black and white that it's been three minutes, and now the last paragraph gives you the change to adjust, as needed, with the approval of the rest of the committee/Council.

Marquardt stated he will take those comments back to the Finance Department tomorrow.

8. Discussion and Possible Action regarding WE Energies request for 15-foot easement on City owned property just north of 110 N. First Street.

Marquardt stated WE Energies is upgrading the gas service to the customer at 162 W. Main Street. The three gas meters currently located inside the building will be moved outside. In order to serve the building, a new gas service needs to be installed. WE Energies is asking for a 15-foot easement from the City so they can install a new gas service to the building across City property that is located immediately north of the building. The northern face of the building is on the property line, thus there is no room on their own property to install the gas service.

It was moved by Hicks to approve WE Energies request for a 15-foot easement on City owned property just north of 110 N. First Street and seconded by Majkrzak.

AYES: All by via voice vote (2). NOES: None. ABSENT: Smith.

Marquardt stated it will be on the Council agenda next week for formal action.

9. Open Meeting Law Training.

Marquardt stated this item was only on the agenda in case it needed to be done. Marquardt stated he was informed that Hicks, Majkrzak, and Smith attended this training. This will be noted in the minutes that all three members of the Public Works Committee have completed this training.

FUTURE AGENDA ITEMS

None

ADJOURNMENT

It was moved by Majkrzak and seconded by Hicks to adjourn the Public Works Committee meeting at 5:38 p.m.

AYES: All by via voice vote (2). NOES: None. ABSENT: Smith.

Respectfully submitted,

Alison Stoll

Alison Stoll, Administrative Assistant
Department of Public Works



Public Works Agenda Item

Meeting Date:	November 12, 2024
Agenda Item:	Parking Lot C
Staff Contact (name, email, phone):	Brad Marquardt, bmarguardt@whitewater-wi.gov , 262-473-0139

BACKGROUND
(Enter the who, what, when, where, why)

The City has met with some interested individuals who are looking to bring more attention to the mural painted on the side of the building at 119 W. Center Street. They are interested if the City would be open to removing some or all of the parking stalls from Lot C (corner of Center Street and Whitewater Street). One option would be to remove all the parking stalls and turn the area into more of a park setting. Another option would be to remove only the four stalls adjacent to the building and enhance that area with some landscaping. The individuals plan on being in attendance to further present their request.

PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS
(Dates, committees, action taken)

N/A

FINANCIAL IMPACT
(If none, state N/A)

Parking Lot C currently has 8 stalls, all signed for 10 Hr Parking. No Permit parking is issued for this lot, so there is no reduction in permit fees. Any changes to the lot layout would need to be discussed as to the funding.

STAFF RECOMMENDATION

Staff has no recommendation on this item. The interested individuals wanted to get a sense from the Committee if they should continue with this endeavor or move on to something else.

ATTACHMENT(S) INCLUDED
(If none, state N/A)

1. Location Map





Public Works Agenda Item

Meeting Date:	November 12, 2024
Agenda Item:	AT&T Lease
Staff Contact (name, email, phone):	Brad Marquardt, bmarguardt@whitewater-wi.gov , 262-473-0139

BACKGROUND
(Enter the who, what, when, where, why)

The City has been approached by a firm representing AT&T about the possibility of leasing land to AT&T for a stand alone cell tower. The 100’ x 100’ lease area they are looking at is on Parcel 10B located off of E. Main Court as shown on the attached map. They have also supplied a sample ground lease.

PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS
(Dates, committees, action taken)

N/A

FINANCIAL IMPACT
(If none, state N/A)

If the City enters into an agreement with AT&T, the City would receive the agreed to monthly lease amount.

STAFF RECOMMENDATION

At this time, staff is asking the Committee for their thoughts on leasing the requested land to AT&T. If so, staff would review the ground lease agreement with the City Attorney and bring this item back as a closed agenda item to discuss terms of the lease.

ATTACHMENT(S) INCLUDED
(If none, state N/A)

1. Location Map
2. Sample Ground Lease



Landlord:
City of Whitewater
312 W Whitewater Street
Whitewater, Wisconsin 53190

Tenant:
BTS TOWERS, LLC
750 Park of Commerce Drive, Suite 200
Boca Raton, Florida 33487

Site #: US-WI-5758
Site Name: Bluff Rd

OPTION AND LEASE AGREEMENT

THIS OPTION AND LEASE AGREEMENT (this “**Agreement**”) is made this _____ day of _____, 20_____ (the “**Effective Date**”) by and between **City of Whitewater**, a Wisconsin municipality, (“**Landlord**”), whose address is 312 W Whitewater Street, Whitewater, Wisconsin 53190, and **BTS TOWERS, LLC**, a Delaware limited liability company (“**Tenant**”), whose address is 750 Park of Commerce Drive, Suite 200, Boca Raton, Florida 33487.

WHEREAS, Landlord owns certain real property located in the County of Walworth, in the State or Commonwealth of Wisconsin, that is more particularly described and/or depicted in **Exhibit 1** attached hereto (the “**Property**”); and,

WHEREAS, Tenant desires to lease from Landlord a certain portion of the Property measuring approximately 10,000 square feet and to obtain easements for landscape buffer, utilities and access (collectively, the “**Premises**”), which Premises is more particularly described and/or depicted in **Exhibit 2** attached hereto, for the placement of Communications Facilities (defined below).

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree:

1. OPTION TO LEASE.

(a) As of the Effective Date, Landlord grants to Tenant the exclusive option to lease the Premises (the “**Option**”) during the Option Period (defined below). At any time during the Option Period and Term (defined below), Tenant and its agents, engineers, surveyors and other representatives will have the right to enter upon the Property to inspect, examine, conduct soil borings, drainage testing, material sampling, and other geological or engineering tests or studies of the Property (collectively, the “**Tests**”), to apply for and obtain licenses, permits, approvals, or other relief required of or deemed necessary or appropriate at Tenant’s sole discretion for its use of the Premises including, without limitation, applications for zoning variances, zoning ordinances, amendments, special use permits, construction permits and any other permits and approvals deemed necessary by Tenant (collectively, the “**Government Approvals**”), initiate the ordering and/or scheduling of necessary utilities, obtain a title report with respect to the Property, and otherwise to do those things on or off the Property that, in the opinion of Tenant, are necessary in Tenant’s sole discretion to determine the physical condition of the Property, the environmental history of the Property, and the feasibility or suitability of the Property for Tenant’s permitted use under this Agreement, all at Tenant’s expense. Tenant shall be authorized to apply for the Government Approvals on behalf of Landlord and Landlord agrees to reasonably cooperate with such applications. Tenant will not be

liable to Landlord or any third party on account of any pre-existing defect or condition on or with respect to the Property, whether or not such defect or condition is disclosed by Tenant's Tests. Tenant will restore the Property to its condition as it existed prior to conducting any Tests, reasonable wear and tear and casualty not caused by Tenant excepted. In addition, Tenant shall indemnify, defend and hold Landlord harmless from and against any and all injury, loss, damage or claims arising directly out of Tenant's Tests.

(b) In consideration of Landlord granting Tenant the Option, Tenant agrees to pay Landlord the sum of Two Thousand Dollars (\$2,000.00) within thirty (30) days of the full execution of this Agreement. The Option Period will be for a term of two (2) years from the Effective Date (the "**Option Period**").

(c) Tenant may exercise the Option at any time during the Option Period by delivery of written notice to Landlord (the "**Notice of Exercise of Option**"). The Notice of Exercise of Option shall set forth the commencement date (the "**Commencement Date**") of the Initial Term (defined below). If Tenant does not provide a Notice of Exercise of Option during the Option Period, this Agreement will terminate and the parties will have no further liability to each other.

(d) During the Option Period or the Term, Landlord shall not take any action to change the zoning status or land use of the Property which would diminish, impair, or adversely affect the use of the Premises by Tenant for its permitted uses hereunder.

2. **TERM.**

(a) Effective as of the Commencement Date, Landlord leases the Premises to Tenant subject to the terms and conditions of this Agreement for an initial term of five (5) years (the "**Initial Term**").

(b) Tenant shall have the option to extend the Initial Term for nine (9) successive terms of five (5) years each (each a "**Renewal Term**"). Each Renewal Term shall commence automatically, unless Tenant delivers notice to Landlord, not less than thirty (30) days prior to the end of the then-current Term, of Tenant's intent not to renew. For purposes of this Agreement, "**Term**" shall mean the Initial Term and any applicable Renewal Term(s).

3. **RENT**

(a) Beginning on the first (1st) day of the third (3rd) month after the Commencement Date ("**Rent Commencement Date**"), Tenant shall pay to Landlord a monthly rent payment of Eight Hundred Dollars (\$800.00) ("**Rent**") at the address set forth in Section 29 above on or before the fifth (5th) day of each calendar month in advance. The initial payment of Rent will be forwarded by Tenant to Landlord within thirty (30) days after the Rent Commencement Date.

(b) Beginning on the first anniversary of the Rent Commencement Date of the first Renewal Term and each five-year anniversary of the Rent Commencement Date of each Renewal Term thereafter throughout the remainder of the Term and Renewal Term(s), if any, the Rent shall be increased by an amount equal to 5.00% % of the amount of the Rent for the previous Term or previous Renewal Term, as the case may be, which sum shall be payable in equal monthly installments in advance as herein set forth.

4. **TAXES.** Tenant shall pay any personal property taxes assessed on, or any portion of such taxes attributable to, the Communications Facilities located on the Premises. Landlord shall pay when due all real property taxes and all other fees and assessments attributable to the Property and the Premises. Tenant shall pay as additional rent any increase in real property taxes levied against the Premises, which are directly

attributable to Tenant's use of the Premises (but not, however, taxes attributable to periods prior to the Commencement Date such as roll-back or greenbelt assessments) if Landlord furnishes proof of such increase to Tenant (such increase, the "**Landlord Tax Reimbursement**"). In the event that Landlord fails to pay when due any taxes affecting the Premises or any easement relating to the Premises, Tenant shall have the right, but not the obligation, to pay such taxes and any applicable interest, penalties or similar charges, and deduct the full amount of the taxes and such charges paid by Tenant on Landlord's behalf from future installments of Rent. Notwithstanding the foregoing, Tenant shall not have the obligation to pay any tax, assessment, or charge that Tenant is disputing in good faith in appropriate proceedings prior to a final determination that such tax is properly assessed, provided that no lien attaches to the Property. In addition, Tenant shall not have the obligation to pay or reimburse Landlord for the Landlord Tax Reimbursement if Landlord has not provided proof of such amount and demand therefor within one (1) year of the date such amount is due and payable by Landlord.

5. USE. The Premises are being leased for the purpose of erecting, installing, operating, maintaining, repairing and replacing radio or communications towers, transmitting and receiving equipment, antennas, dishes, satellite dishes, mounting structures, equipment shelters and buildings, solar energy conversion and electrical power generation system, fencing and other supporting structures and related equipment (collectively, the "**Communications Facilities**"), and to alter, supplement and/or modify same. Tenant may, subject to the foregoing, make any improvements, alterations or modifications to the Premises as are deemed appropriate by Tenant for the permitted use herein. Tenant shall have the right to clear the Premises of any trees, vegetation, or undergrowth which interferes with the use of the Premises for the intended purposes by Tenant and/or its subtenants and licensees, as applicable. Tenant shall have the exclusive right to install and operate the Communications Facilities upon the Premises.

6. ACCESS AND UTILITIES. During the Term, Tenant and its guests, agents, employees, customers, invitees, subtenants, licensees and assigns shall have the unrestricted, exclusive right to use, and shall have free and unfettered access to, the Premises seven (7) days a week, twenty-four (24) hours a day. Landlord for itself, its successors and assigns, hereby grants and conveys unto Tenant, its customers, employees, agents, invitees, subtenants, licensees, successors and assigns a non-exclusive easement throughout the Term to a public right of way (a) for ingress and egress, and (b) for the construction, installation, operation, maintenance, repair and replacement of overhead and underground electric and other utility facilities (including fiber, backhaul, wires, poles, guys, cables, conduits and appurtenant equipment), with the right to reconstruct, improve, add to, enlarge, change and remove such facilities, over, across and through any easement for the benefit of and access to the Premises, subject to the terms and conditions herein set forth. Landlord agrees to coordinate, cooperate and assist Tenant with obtaining the required access and utility easements to the Premises from a public right of way up to and including negotiating and obtaining such access and utility rights from any applicable neighbor parcel. If there are utilities already existing on the Premises which serve the Premises, Tenant may utilize such utilities and services. The rights granted to Tenant herein shall also include the right to partially assign its rights hereunder to any public or private utility company or authority to facilitate the uses contemplated herein, and all other rights and privileges reasonably necessary for Tenant's safe and efficient use and enjoyment of the easements for the purposes described above. Upon Tenant's request, Landlord shall execute and deliver to Tenant requisite recordable documents evidencing the easements contemplated hereunder within fifteen (15) days of Tenant's request, and Landlord shall obtain the consent and joinder of Landlord's mortgagee to any such grant, if applicable.

7. EQUIPMENT, FIXTURES AND REMOVAL. The Communications Facilities shall at all times be the personal property of Tenant and/or its subtenants and licensees, as applicable. Tenant or its customers, subtenants or licensees shall have the right to erect, install, maintain, repair, replace and operate on the Premises such equipment, structures, fixtures, signs, and personal property as Tenant, its customers,

subtenants or licensees may deem necessary or appropriate, and such property, including the equipment, structures, fixtures, signs, and personal property currently on the Premises, shall not be deemed to be part of the Premises, but shall remain the property of Tenant or its customers, subtenants or licensees. Within ninety (90) days after the expiration or earlier termination of this Agreement (the “**Removal Period**”), Tenant, customers, subtenants or licensees shall remove its improvements and personal property and restore the Premises to grade and perform all obligations under this Agreement during the Removal Period, including, without limitation, the payment of Rent at the rate in effect upon the expiration or termination of this Agreement.

8. ASSIGNMENT AND SUBLEASE. Tenant may transfer or assign this Agreement to Tenant’s Lender (defined below), principal, affiliates, subsidiaries, subsidiaries of its principal or to any entity which acquires all of or substantially all of Tenant’s assets or ownership interests by reasons of merger, acquisition or other business reorganization without Landlord’s consent (a “**Permitted Assignment**”). As to transfers or assignments which do not constitute a Permitted Assignment, Tenant is required to obtain Landlord’s written consent prior to effecting such transfer or assignment, which consent shall not be unreasonably withheld, conditioned or delayed. Upon such assignment, including a Permitted Assignment, Tenant will be relieved and released of all obligations and liabilities hereunder. Tenant shall have the exclusive right to sublease or grant licenses without Landlord’s consent to use all or part of the Premises and/or the Communications Facilities, but no such sublease or license shall relieve or release Tenant from its obligations under this Agreement. Landlord may assign this Agreement only in its entirety and only to any person or entity who or which acquires fee title to the Property, subject to Section 15. Landlord may subdivide the Property without Tenant’s prior written consent provided the resulting parcels from such subdivision are required to afford Tenant the protections set forth in Section 14 hereof.

9. COVENANTS, WARRANTIES AND REPRESENTATIONS.

(a) Landlord warrants and represents that it is the owner in fee simple of the Property, free and clear of all liens and encumbrances except as to those which may have been disclosed to Tenant in writing prior to the execution hereof, and that it alone has full right to lease the Premises for the Term.

(b) Landlord shall pay promptly, when due, any other amounts or sums due and owing with respect to its ownership and operation of the Property, including, without limitation, judgments, taxes, liens, mortgage payments and other similar encumbrances. If Landlord fails to make any payments required under this Agreement, or breaches any other obligation or covenant under this Agreement, Tenant may (without obligation), after providing ten (10) days written notice to Landlord, make such payment or perform such obligation on behalf of Landlord and offset such payment (including any reasonable attorneys’ fees incurred in connection with Tenant performing such obligation) against payments of Rent.

(c) Landlord shall not do or knowingly permit anything that will interfere with or negate any special use permit or approval pertaining to the Premises or cause Tenant’s use of the Premises to be in nonconformance with applicable local, state, or federal laws. Landlord shall cooperate with Tenant in any effort by Tenant to obtain certificates, permits, licenses and other approvals that may be required by any governmental authorities. Landlord agrees to execute any necessary applications, consents or other documents as may be reasonably necessary for Tenant to apply for and obtain the Government Approvals required to use and maintain the Premises and the Communications Facilities.

(d) To the best of Landlord’s knowledge, Landlord has complied and shall comply with all laws with respect to the Property. No asbestos-containing thermal insulation or products containing PCB, formaldehyde, chlordane, or heptachlor or other hazardous materials have been placed on or in the Property by Landlord or, to the knowledge of Landlord, by any prior owner or user of the Property. There has been

no release of or contamination by hazardous materials on the Property by Landlord, or to the knowledge of Landlord, any prior owner or user of the Property.

(e) Tenant shall have access to all utilities required for the operation of Tenant's improvements on the Premises that are existing on the Property.

(f) Landlord warrants and represents that there currently exist no licenses, sublicenses, or other agreements, written or oral, granting to any party or parties the right of use or occupancy of any portion of the Property; there are no outstanding options or rights of first refusal to purchase the Property or any portion thereof or interest therein, or any equity or interest in Landlord if Landlord is an entity; and there are no parties (other than Landlord) in possession of the Property except as to those that may have been disclosed to Tenant in writing prior to the execution hereof.

10. HOLD OVER TENANCY. Should Tenant or any assignee, sublessee or licensee of Tenant hold over the Premises or any part thereof after the expiration of this Agreement, such holdover shall constitute and be construed as a tenancy from month-to-month only, but otherwise upon the same terms and conditions.

11. INDEMNITIES. Each party agrees to indemnify, defend and hold harmless the other party, its parent company or other affiliates, successors, assigns, officers, directors, shareholders, managers, members, agents and employees (collectively, "**Indemnified Persons**") from and against all claims, actions, judgments, damages, liabilities, losses, expenses and costs (including, without limitation, reasonable attorneys' fees and court costs) (collectively, "**Losses**") caused by or arising out of (a) such party's breach of any of its obligations, covenants, representations or warranties contained herein, or (b) such party's acts or omissions with regard to this Agreement; provided, however, in no event shall a party indemnify the other party for any such Losses to the extent arising from the gross negligence or willful misconduct of the party seeking indemnification. However, in the event of an Indemnified Person's contributory negligence or other fault, the Indemnified Person shall not be indemnified hereunder to the extent that the Indemnified Person's negligence or other fault caused such Losses. Tenant will indemnify Landlord from and against any mechanic's liens or liens of contractors and subcontractors engaged by or through Tenant.

12. WAIVERS.

(a) Landlord hereby waives any and all lien rights it may have, statutory or otherwise, in and to the Communications Facilities or any portion thereof, regardless of whether or not such is deemed real or personal property under applicable laws. Landlord will not assert any claim whatsoever against Tenant for loss of anticipatory profits or any other indirect, special, incidental or consequential damages incurred by Landlord as a result of the construction, maintenance, operation or use of the Premises by Tenant.

(b) EACH PARTY HERETO WAIVES ANY AND ALL CLAIMS AGAINST THE OTHER FOR ANY LOSS, COST, DAMAGE, EXPENSE, INJURY OR OTHER LIABILITY WHICH IS IN THE NATURE OF INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES WHICH ARE SUFFERED OR INCURRED AS THE RESULT OF, ARISE OUT OF, OR ARE IN ANY WAY CONNECTED TO THE PERFORMANCE OF THE OBLIGATIONS UNDER THIS AGREEMENT.

13. INSURANCE. Tenant shall insure against property damage and bodily injury arising by reason of occurrences on or about the Premises in the amount of not less than \$1,000,000. The insurance coverage provided for herein may be maintained pursuant to master policies of insurance covering other

communication facilities of Tenant and its corporate affiliates. All insurance policies required to be maintained by Tenant hereunder shall be with responsible insurance companies, authorized to do business in the State or Commonwealth where the Premises are located if required by law, and shall provide for cancellation only upon ten (10) days' prior written notice to Landlord. Tenant shall evidence such insurance coverage by delivering to Landlord, if requested, a copy of a certificate of insurance of such policies issued by the insurance companies underwriting such risks.

14. INTERFERENCE. During the Option Period and the Term, Landlord, its successors and assigns, will not grant any ground lease, license, or easement with respect to the Property (outside of the Premises) and any property adjacent or contiguous to the Property or in the immediate vicinity of the Property that is fee owned by Landlord: (a) for any of the uses contemplated in Section 5 herein; or (b) if such lease, license, or easement would detrimentally impact the Communications Facilities or Tenant's economic opportunities at the Premises, or the use thereof. Landlord shall not cause or permit the construction of communications or broadcast towers or structures, fiber optic backhaul facilities, or satellite facilities on the Property or on any other property of Landlord adjacent or contiguous to or in the immediate vicinity of the Property, except for the Communications Facilities constructed by Tenant. Landlord and Tenant intend by this Agreement for Tenant (and persons deriving rights by, through, or under Tenant) to be the sole parties to market, use, or sublease any portion of the Property for Communications Facilities during the Option Period and the Term. Landlord agrees that this restriction on the use of the Property is commercially reasonable, not an undue burden on Landlord, not injurious to the public interest, and shall be specifically enforceable by Tenant (and persons deriving rights by, through or under Tenant) in a court of competent jurisdiction. The foregoing restriction shall run with the land and be binding on the successors and assigns of Landlord.

15. RIGHT OF FIRST REFUSAL. In the event Landlord determines to sell, transfer, license or otherwise convey any interest, whether fee simple interest, easement interest, leasehold, or otherwise, and whether direct or indirect by way of transfer of ownership interests in Landlord if Landlord is an entity, which interest underlies or affects any or all of the Premises (the "**ROFR Property**") to any third party that is a Third Party Competitor (as defined below), Landlord shall offer Tenant a right of first refusal to purchase the Premises (or such larger portion of the Property that encompasses the Premises, if applicable). For purposes herein, a "**Third Party Competitor**" is any person or entity directly or indirectly engaged in the business of owning, acquiring, operating, managing, investing in or leasing communications infrastructure or any person or entity directly or indirectly engaged in the business of owning, acquiring, or investing in real property leases or easements underlying communications infrastructure. In such event, Landlord shall send a written notice to Tenant in accordance with Section 29 below that shall contain an offer to Tenant of a right of first refusal to purchase the ROFR Property, together with a copy of any offer to purchase, or any executed purchase agreement or letter of intent (each, an "**Offer**"), which copy shall include, at a minimum, the purchase price or acquisition price, proposed closing date, and financing terms (collectively, the "**Minimum Terms**"). Within thirty (30) days of receipt of such Offer, Tenant shall provide written notice to Landlord of Tenant's election to purchase the ROFR Property on the same Minimum Terms, provided: (a) the closing date shall be no sooner than sixty (60) days after Tenant's purchase election notice; (b) given Landlord's direct relationship and access to Tenant, Tenant shall not be responsible for payment of any broker fees associated with an exercise of Tenant's rights to acquire the ROFR Property; and, (c) Tenant shall not be required to match any components of the purchase price which are speculative or incalculable at the time of the Offer. In such event, Landlord agrees to sell the ROFR Property to Tenant subject to Tenant's payment of the purchase price and compliance with a purchase and sale agreement to be negotiated in good faith between Landlord and Tenant. If Tenant provides written notice that it does not elect to exercise its right of first refusal to purchase the ROFR Property, or if Tenant does not provide notice of its election within the thirty (30) day period, Tenant shall be deemed to have waived such right of first refusal only with respect to the specific Offer presented (and any subsequent

Offers shall again be subject to Tenant's continuing right of first refusal hereunder), and Landlord shall be permitted to consummate the sale of the ROFR Property in accordance with the strict terms of the Offer ("**Permitted Sale**"). If Landlord does not consummate the Permitted Sale within ninety (90) days of the date of Tenant's waiver of its right of first refusal, including if the Minimum Terms are modified between Landlord and the Third Party Competitor, Landlord shall be required to reissue a New Offer to Tenant.

16. SECURITY. The parties recognize and agree that Tenant shall have the right to safeguard and protect its improvements located upon or within the Premises. Consequently, Tenant may elect, at its expense, to construct such enclosures and/or fences as Tenant reasonably determines to be necessary to secure the Communications Facilities. Tenant may also undertake any other appropriate means to restrict access to the Communications Facilities including, without limitation, if applicable, installing security systems, locks and posting signs for security purposes and as may otherwise be required by law.

17. FORCE MAJEURE. The time for performance by Landlord or Tenant of any term, provision, or covenant of this Agreement shall be deemed extended by time lost due to delays resulting from acts of God, strikes, civil riots, floods, pandemics, material or labor restrictions by governmental authority, government shutdowns, quarantines, and/or other disease control measures and any other cause not within the control of Landlord or Tenant, as the case may be.

18. CONDEMNATION; CASUALTY.

(a) In the event Landlord receives any notice of any condemnation proceedings, or other proceedings in the nature of eminent domain related to the Property or the Premises, it will forthwith send a copy of such notice to Tenant. If all or any part of the Premises is taken by eminent domain, Tenant may, upon written notice to Landlord, elect to terminate this Agreement, whereupon neither party shall have any further liability or obligation hereunder. Notwithstanding any provision of this Agreement to the contrary, in the event of condemnation of all or any part of the Premises, Landlord and Tenant shall be entitled to separate awards with respect to the Premises, in the amount determined by the court conducting such condemnation proceedings based upon Landlord's and Tenant's respective interests in the Premises. If a separate condemnation award is not determined by such court, Landlord shall permit Tenant to participate in the allocation and distribution of the award. In no event shall the condemnation award to Landlord exceed the unimproved value of the Premises, without taking into account the improvements located thereon.

(b) In case of damage to the Premises or the Communications Facilities by fire or other casualty, Landlord shall, at its expense, cause any damage to the Property (excluding the Communications Facilities) to be repaired to a condition as nearly as practicable to that existing prior to the damage, with reasonable speed and diligence, subject to delays which may arise by reason of adjustment of loss under insurance policies, governmental regulations, and for delays beyond the control of Landlord, including a force majeure. Landlord shall coordinate with Tenant as to the completion of Landlord's work to restore the Property so as not to adversely impact Tenant's use of the Premises and the Communications Facilities. Landlord shall not be liable for any inconvenience or annoyance to Tenant, or injury to Tenant's business or for any consequential damages resulting in any way from such damage or the repair thereof, except to the extent and for the time that the Communications Facilities or the Premises are thereby rendered unusable for Tenant's intended purpose the Rent shall proportionately abate. In the event the damage shall be so extensive that Tenant shall decide, in its sole discretion, not to repair or rebuild the Communications Facilities, or if the casualty shall not be of a type insured against under standard fire policies with extended type coverage, or if the holder of any mortgage, deed of trust or similar security interest covering the Communications Facilities shall not permit the application of adequate insurance proceeds for repair or restoration, this Agreement shall, at the sole option of Tenant, exercisable by written notice to Landlord, be

terminated as of the date of such casualty, and the obligation to pay Rent (taking into account any abatement as aforesaid) shall cease as of the termination date and Tenant shall thereupon promptly vacate the Premises.

19. DEFAULT. The failure of Tenant or Landlord to perform any of the covenants of this Agreement shall constitute a default. The non-defaulting party shall give the other written notice of such default, and the defaulting party shall cure such default within thirty (30) days after receipt of such notice. In the event any such default cannot reasonably be cured within such thirty (30) day period, if the defaulting party shall proceed promptly after the receipt of such notice to cure such default, and shall pursue curing such default with due diligence, the time for curing shall be extended for such period of time as may be necessary to complete such curing, however, in no event shall this extension of time be in excess of sixty (60) days, unless agreed upon by the non-defaulting party.

20. REMEDIES. Should the defaulting party fail to cure a default under this Agreement, the other party shall have all remedies available either at law or in equity, and the right to terminate this Agreement. In the event Landlord elects to terminate this Agreement due to a default by Tenant (which remains uncured by Lender), Landlord shall continue to honor all sublease and license commitments made by Tenant through the expiration of the term of any such commitment and shall be entitled to collect and retain the rents or license fees associated with such subleases or license commitments, it being intended hereby that each such commitment shall survive the early termination of this Agreement.

21. ATTORNEYS' FEES. If there is any legal proceeding between Landlord and Tenant arising from or based on this Agreement, the unsuccessful party to such action or proceeding shall pay to the prevailing party all costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred by such prevailing party in such action or proceeding and in any appeal in connection therewith. If such prevailing party recovers a judgment in any such action, proceeding or appeal, such costs, expenses and attorneys' fees and disbursements shall be included in and as a part of such judgment.

22. ADDITIONAL TERMINATION RIGHT. If at any time during the Term, Tenant determines, in Tenant's sole and absolute discretion, with or without cause, that the Premises is no longer suitable or desirable for Tenant's intended use and/or purposes, Tenant shall have the right to terminate this Agreement upon sixty (60) days prior written notice to Landlord.

23. PRIOR AGREEMENTS. The parties hereby covenant, recognize and agree that the terms and provisions of this Agreement shall constitute the sole embodiment of the arrangement between the parties with regard to the Premises, and that all other written or unwritten agreements, contracts, or leases by and between the parties with regard to the Premises are hereby terminated, superseded and replaced by the terms hereof.

24. SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT. In the event the Property is encumbered by a mortgage or deed of trust or other security instrument of any kind (a "**Landlord Mortgage**"), Landlord, within fifteen (15) days following Tenant's request or immediately prior to the creation of any encumbrance created after the date this Agreement is fully executed, will obtain from the holder of each such Landlord Mortgage a fully-executed subordination, non-disturbance and attornment agreement (an "**SNDA**") in recordable form, which shall be prepared or approved by Tenant. The holder of every such Landlord Mortgage shall, in the SNDA, agree that in the event of a foreclosure, or conveyance in lieu of foreclosure of Landlord's interest in the Premises, such Landlord Mortgage holder shall recognize and confirm the validity and existence of this Agreement, not disturb the tenancy of Tenant (and its customers, subtenants, and licensees) and Tenant (and its customers, subtenants, and licensees) shall have

the right to continue its use and occupancy of the Premises in accordance with the provisions of this Agreement, provided Tenant is not in default of this Agreement beyond applicable notice and cure periods.

25. LENDER'S RIGHTS.

(a) Landlord agrees to recognize the subleases and licenses of all subtenants and licensees and will permit each of them to remain in occupancy of its premises notwithstanding any default hereunder by Tenant so long as each such respective subtenant or licensee is not in default under the lease/license covering its premises. Landlord agrees to execute such documents as any such subtenant and/or licensee might reasonably require, including customary subordination, non-disturbance and attornment agreements and/or Landlord recognition agreements, to further memorialize the foregoing, and further agrees to use Landlord's best efforts to also cause its lenders to similarly acknowledge, in writing, subtenant's and licensee's right to continue to occupy its premises as provided above.

(b) Tenant shall have the right from time to time to mortgage or otherwise encumber Tenant's interest in this Agreement, the Communications Facilities and/or leasehold estate in the Premises (a "**Tenant Mortgage**") and Landlord consents to the granting by Tenant of a lien and security interest in Tenant's interest in this Agreement and/or leasehold estate of the Premises and all of Tenant's personal property and fixtures attached to the real property described herein, and furthermore consents to the exercise by any such lender of Tenant ("**Lender**") of its rights of foreclosure with respect to its lien and security interest. Landlord agrees to recognize Lender as Tenant hereunder upon any such exercise by Lender of its rights of foreclosure. The term "**Lender**" as used in this Agreement shall mean the lender identified in Section 29 hereof and its successors, assigns, designees or nominees.

(c) Landlord hereby agrees to give Lender written notice of any breach or default of Tenant of the terms of this Agreement within fifteen (15) days after the occurrence thereof at the address set forth in Section 29. Landlord further agrees that no default under this Agreement by Tenant shall be deemed to have occurred unless such notice to Lender is also given and that, in the event of any such breach or default under the terms of this Agreement, Lender shall have the right, to the same extent, for the same period and with the same effect, as Tenant, plus an additional ninety (90) days after any applicable grace period to cure or correct any such default.

(d) Landlord acknowledges that nothing contained herein shall be deemed or construed to obligate Lender to take any action hereunder, or to perform or discharge any obligation, duty or liability of Tenant under this Agreement. Lender shall not become liable under the provisions of this Agreement or any lease executed pursuant to Section 26 hereof unless and until such time as it becomes, and then only for as long as it remains, the owner of the leasehold estate created hereby or thereby.

(e) This Agreement shall not be amended or modified without the consent of Lender. In the event that Lender shall become the owner of such leasehold estate, Lender shall not be bound by any modification or amendment of this Agreement made subsequent to the date of a Tenant Mortgage unless Lender shall have consented to such modification or amendment at the time it was made.

26. RIGHT TO NEW LEASE.

(a) In the case of termination of this Agreement for any reason, or in the event this Agreement is rejected or disaffirmed pursuant to any bankruptcy, insolvency or other law affecting creditor's rights, Landlord shall give prompt notice thereof to Lender at the address set forth in Section 29 or as may be provided to Landlord by Tenant following the Commencement Date. Thereafter, Landlord, upon written request of Lender, and within thirty (30) days after the receipt of such request, shall promptly execute and

deliver a new lease of the Premises and assignment of all subleases and licenses to Lender or its designee or nominee, for the remainder of the Term upon all the covenants, conditions, limitations and agreements contained herein (including, without limitation, options to extend the Term) except for such provisions which must be modified to reflect such termination, rejection or disaffirmance and the passage of time, provided that Lender (i) shall pay to Landlord, simultaneously with the delivery of such new lease, all unpaid rent due under this Agreement up to and including the date of the commencement of the term of such new lease and all reasonable expenses, including, without limitation, reasonable attorneys' fees and disbursements and court costs, incurred by Landlord in connection with the default by Tenant, the termination of this Agreement and the preparation of the new lease, and (ii) shall cure all defaults existing under this Agreement which are susceptible to being cured by Lender promptly and with due diligence after the delivery of such new lease. Notwithstanding anything to the contrary contained herein, provided Lender shall have otherwise complied with the provisions of this Section, Lender shall have no obligation to cure any defaults which are not susceptible to being cured by Lender (for example, the bankruptcy of Tenant).

(b) For so long as Lender shall have the right to enter into a new lease with Landlord pursuant to this Section, Landlord shall not enter into a new lease of the Premises with any person or entity other than Lender, without the prior written consent of Lender.

27. ADDITIONAL PROVISIONS.

(a) The parties hereto agree that (i) Tenant is in possession of the Premises notwithstanding the fact that Tenant has subleased or licensed, or may in the future sublease or license, certain of the improvements thereon or portions of the Premises to third parties, and (ii) the requirements of Section 365(h) of Title 11 of the United States Code (the Bankruptcy Code) with respect to Tenant's possession of the leasehold under this Agreement are satisfied. Accordingly, the right of Tenant to remain in possession of the leasehold under this Agreement shall continue notwithstanding any rejection of this Agreement in any bankruptcy proceeding involving Landlord, or any other actions by any party in such a proceeding. This provision, while included in this Agreement, has been separately negotiated and shall constitute a separate contract between the parties as well as a part of this Agreement. The provisions of this Section are for the benefit of Tenant and its assigns, including, without limitation, Lender. The parties hereto also agree that Lender is a party in interest and shall have the right to appear as a party in any proceeding brought under any bankruptcy law or under any other law which may affect this Agreement.

(b) The provisions of Section 25 and Section 26 hereof shall survive the termination, rejection or disaffirmance of this Agreement and shall continue in full force and effect thereafter to the same extent as if such Sections were a separate and independent contract made by Landlord, Tenant and Lender and, from the effective date of such termination, rejection or disaffirmance of this Agreement to the date of execution and delivery of such new lease, Lender may use and enjoy the leasehold estate created by this Agreement without hindrance by Landlord. The aforesaid agreement of Landlord to enter into a new lease with Lender shall be deemed a separate agreement between Landlord and Lender, separate and apart from this Agreement as well as a part of this Agreement, and shall be unaffected by the rejection of this Agreement in any bankruptcy proceeding by any party.

(c) Landlord shall have no right, and expressly waives any right arising under applicable law, in and to the rentals or other fees payable to Tenant, if any, under any sublease or license of the Premises by Tenant, which rentals or fees may be assigned by Tenant to Lender.

(d) If a Tenant Mortgage is in effect, this Agreement shall not be modified or amended by the parties hereto, or terminated or surrendered by Tenant, nor shall Landlord accept any such termination or surrender of this Agreement by Tenant, without the prior written consent of Lender.

(e) The provisions of Section 25 and Section 26 hereof are for the benefit of Lender and may be relied upon and shall be enforceable by Lender as if Lender were a party to this Agreement.

(f) Landlord shall, within ten (10) days of the request of Tenant or any Lender or prospective Lender, provide an estoppel certificate as to any matters reasonably requested by Tenant or Lender.

(g) The right to extend or renew this Agreement and any right of first refusal to purchase the Premises may be exercisable by the holder of a Tenant Mortgage and, before the expiration of any periods to exercise such a right, Landlord must provide to Lender at least thirty (30) days prior written notice before the expiration of the right to so extend or renew in order to extinguish Lender’s right to so extend, renew or purchase.

(h) Under no circumstances shall the fee estate of Landlord and the leasehold estate created hereby merge, even though owned by the same party, without the written consent of the holder of a Tenant Mortgage.

28. QUIET ENJOYMENT. So long as Tenant is not in default under this Agreement beyond the applicable notice and cure period, Landlord covenants and agrees that Tenant shall peaceably and quietly hold and enjoy the Premises throughout the Term, without any hindrance, molestation or ejection by Landlord, its successors or assigns or by those claiming by, through or under them.

29. NOTICES. All notices, requests, claims, demands, and other communications hereunder shall be in writing and may be hand delivered (provided the deliverer provides proof of delivery) or sent by nationally established overnight courier that provides proof of delivery, or certified or registered mail (postage prepaid, return receipt requested). Notice shall be deemed received on the date of delivery as demonstrated by the receipt of delivery. Notices shall be delivered to a party at the party’s respective address below, or to such other address that a party below may provide from time to time:

If to Landlord:

City of Whitewater
312 W Whitewater Street
Whitewater, Wisconsin 53190

If to Tenant:

BTS TOWERS, LLC
750 Park of Commerce Drive,
Suite 200
Boca Raton, Florida 33487
Ref: US-WI-5758
Attn: VP Asset Management

If to Lender:

Toronto Dominion (Texas) LLC
31 West 52nd Street
New York, NY 10019
Attn: Admin Agent
Fax No. 416-982-5535

With a copy to: General Counsel

30. MISCELLANEOUS.

(a) Each party hereto warrants and represents that it has the necessary power and authority to enter into and perform its respective obligations under this Agreement.

(b) If any term of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect.

(c) All attached exhibits are hereby incorporated by this reference as if fully set forth herein.

(d) Failure of a party to insist on strict performance of any of the conditions or provisions of this Agreement, or failure to exercise any of a party's rights hereunder, shall not waive such rights.

(e) This Agreement shall be governed by and construed in accordance with the laws of the State or Commonwealth in which the Premises are located.

(f) This Agreement constitutes the entire agreement and understanding of the parties and supersedes all offers, negotiations, other leases and/or agreements with regard to the Premises. There are no representations or understandings of any kind not set forth herein. Any amendment to this Agreement must be in writing and executed by both parties.

(g) This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

(h) A short-form Memorandum of Option to Lease (and a short-form Memorandum of Lease in the event Tenant exercises its option to lease the Premises) may be recorded at Landlord's or Tenant's option in the form as depicted in **Exhibit 3** and **Exhibit 4**, respectively, attached hereto. In addition, Tenant's subtenants and licensees shall have the right to record a memorandum of its sublease or license with Tenant.

(i) Landlord shall keep the terms of this Agreement confidential and shall not disclose any terms contained within this Agreement to any third party other than such terms as are set forth in the Memorandum of Option to Lease or Memorandum of Lease.

SIGNATURES BEGIN ON NEXT PAGE

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date (date last signed by a party hereto).

<p>WITNESSES:</p> <p>_____ Name: _____</p> <p>_____ Name: _____</p>	<p>LANDLORD:</p> <p>City of Whitewater, a Wisconsin municipality</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____</p>
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STATE OF _____

COUNTY OF _____

This instrument was acknowledged before me on _____, 20_____, by _____ (name of signatory), as _____ (title of signatory) of City of Whitewater, a Wisconsin municipality.

Notary Public

Print Name: _____

My Commission Expires: _____

(Tenant signature page to Option and Lease Agreement)

<p>WITNESSES:</p> <p>_____</p> <p>Name: _____</p> <p>_____</p> <p>Name: _____</p>	<p>TENANT:</p> <p>BTS TOWERS, LLC a Delaware limited liability company</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____</p>
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STATE OF FLORIDA

COUNTY OF PALM BEACH

This instrument was acknowledged before me on _____, 20_____, by _____ (name of signatory), as _____ (title of signatory) of BTS TOWERS, LLC.

Notary Public

Print Name: _____

My Commission Expires: _____

EXHIBIT 1

Legal Description of the Property (Parent Parcel)

(may be updated by Tenant upon receipt of final legal description from title)

EXHIBIT 2

Premises

(below may be replaced with a final survey and legal description of the Premises)

EXHIBIT 3

Memorandum of Option to Lease

(Attached)

(Above 3" Space for Recorder's Use Only)

Upon Recording Return to:

BTS TOWERS, LLC
750 Park of Commerce Drive, Suite 200
Boca Raton, Florida 33487
Attn: General Counsel

Site Name: Bluff Rd
Site Number: US-WI-5758
Commitment #: _____

MEMORANDUM OF OPTION TO LEASE

This Memorandum of Option to Lease (this “**Memorandum**”) evidences an Option and Lease Agreement (the “**Agreement**”) between **City of Whitewater**, a Wisconsin municipality (“**Landlord**”), whose address is 312 W Whitewater Street, Whitewater, Wisconsin 53190, and **BTS TOWERS, LLC**, a Delaware limited liability company (“**Tenant**”), whose address is 750 Park of Commerce Drive, Suite 200, Boca Raton, Florida 33487, dated _____, 20____ (the “**Effective Date**”), for a portion (the “**Premises**”) of the real property (the “**Property**”) described in **Exhibit A** attached hereto.

Pursuant to the Agreement, Landlord has granted Tenant an exclusive option to lease the Premises (the “**Option**”). The Option commenced as of the Effective Date and shall continue in effect for a period of two (2) years from the Effective Date.

Landlord ratifies, restates and confirms the Agreement and, upon exercise of the Option, shall lease to Tenant the Premises, subject to the terms and conditions of the Agreement. The Agreement provides for the lease by Landlord to Tenant of the Premises for an initial term of five (5) years with nine (9) renewal option(s) of an additional five (5) years each, and further provides:

1. Landlord may assign the Agreement only in its entirety and only to a purchaser of the fee interest of the Property;
2. Under certain circumstances, Tenant has a right of first refusal to acquire the Premises or the Property from Landlord;
3. Under certain circumstances, Landlord may subdivide the Property without Tenant’s prior written consent; and

4. The Agreement restricts Landlord's ability to utilize, or allow the utilization of the Property or real property owned by Landlord which is adjacent or contiguous to the Property for the construction, operation and/or maintenance of the Communications Facilities (as defined in the Agreement).

This Memorandum is not intended to amend or modify, and shall not be deemed or construed as amending or modifying, any of the terms, conditions or provisions of the Agreement. In the event of a conflict between the provisions of this Memorandum and the provisions of the Agreement, the provisions of the Agreement shall control. The Agreement shall be binding upon and inure to the benefit of Landlord and Tenant and shall inure to the benefit of their respective heirs, successors, and assigns, subject to the provisions of the Agreement.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK, SIGNATURES
BEGIN ON NEXT PAGE

IN WITNESS WHEREOF, the parties hereto have executed this MEMORANDUM OF OPTION TO LEASE effective as of the date last signed by a party hereto.

<p>WITNESSES:</p> <p>_____ Name: _____</p> <p>_____ Name: _____</p>	<p>LANDLORD:</p> <p>City of Whitewater a Wisconsin municipality</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____</p>
--	---

STATE OF _____

COUNTY OF _____

This instrument was acknowledged before me on _____, 20_____, by _____ (name of signatory), as _____ (title of signatory) of City of Whitewater, a Wisconsin municipality.

Notary Public

Print Name: _____

My Commission Expires: _____

(Tenant's Signature Page to Memorandum of Option to Lease)

<p>WITNESSES:</p> <p>_____ Name: _____</p> <p>_____ Name: _____</p>	<p>TENANT:</p> <p>BTS TOWERS, LLC a Delaware limited liability company</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____</p>
--	--

STATE OF FLORIDA

COUNTY OF PALM BEACH

This instrument was acknowledged before me on _____, 20_____, by _____ (name of signatory), as _____ (title of signatory) of BTS TOWERS, LLC.

Notary Public

Print Name: _____

My Commission Expires: _____

EXHIBIT A
(TO MEMORANDUM OF OPTION TO LEASE)

The Property

(may be updated by Tenant upon receipt of final legal description from title)

Access and utilities serving the Premises (as defined in the Agreement) includes all easements of record as well as that portion of the Property designated by Landlord and Tenant for Tenant (and Tenant's guests, agents, customers, subtenants, licensees and assigns) ingress, egress, and utility purposes to and from a public right-of-way.

EXHIBIT 4

Memorandum of Lease

(Attached)

(Above 3" Space for Recorder's Use Only)

Upon Recording Return to:

BTS TOWERS, LLC
750 Park of Commerce Drive, Suite 200
Boca Raton, Florida 33487
Attn: General Counsel

Site Name: Bluff Rd
Site Number: US-WI-5758
Commitment #: _____

MEMORANDUM OF LEASE

This Memorandum of Lease (this "**Memorandum**") evidences a Lease Agreement (the "**Lease**") between **City of Whitewater**, a Wisconsin municipality ("**Landlord**"), whose address is 312 W Whitewater Street, Whitewater, Wisconsin 53190, and **BTS TOWERS, LLC**, a Delaware limited liability company ("**Tenant**"), whose address is 750 Park of Commerce Drive, Suite 200, Boca Raton, Florida 33487, dated the _____ day of _____, 20____ (the "**Effective Date**"), for a portion (the "**Premises**") of the real property (the "**Property**") described in Exhibit A attached hereto.

Landlord hereby ratifies, restates and confirms the Lease and leases to Tenant the Premises, subject to the terms and conditions of the Lease. The Commencement Date of the Lease is _____. The Lease provides for the lease by Landlord to Tenant of the Premises for an initial term of five (5) years with nine (9) renewal option(s) of an additional five (5) years each, and further provides:

1. Landlord will attorn to any mortgagee of Tenant, subordinate any Landlord's lien to the Lease and to liens of Tenant's mortgagees, and not disturb the tenancy of Tenant;
2. The Lease restricts Landlord's ability to utilize, or allow the utilization of the Property or real property owned by Landlord which is adjacent or contiguous to the Property for the construction, operation and/or maintenance of Communications Facilities (as defined in the Lease);
3. Tenant (and persons deriving rights by, through, or under Tenant) are the sole parties to market, use, or sublease any portion of the Property for Communications Facilities during the term of the Lease (such restriction shall run with the land and be binding on the successors and assigns of Landlord);

4. The Premises may be used exclusively by Tenant for all legal purposes, including, without limitation, erecting, installing, operating and maintaining Communications Facilities;

5. Tenant is entitled to sublease and/or license the Premises, including any Communications Facilities located thereon;

6. Under certain circumstances, Tenant has a right of first refusal to acquire the Premises from Landlord;

7. Landlord may assign the Lease only in its entirety and only to a purchaser of the fee interest of the Property; and

8. Under certain circumstances, Landlord may subdivide the Property without Tenant's prior written consent.

This Memorandum is not intended to amend or modify, and shall not be deemed or construed as amending or modifying, any of the terms, conditions or provisions of the Lease. In the event of a conflict between the provisions of this Memorandum and the provisions of the Lease, the provisions of the Lease shall control. The Lease shall be binding upon and inure to the benefit of Landlord and Tenant and shall inure to the benefit of their respective heirs, successors, and assigns, subject to the provisions of the Lease.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK, SIGNATURES
BEGIN ON NEXT PAGE

IN WITNESS WHEREOF, the parties hereto have executed this MEMORANDUM OF LEASE as of the date last signed by a party hereto.

<p>WITNESSES:</p> <p>_____ Name: _____</p> <p>_____ Name: _____</p>	<p>LANDLORD:</p> <p>City of Whitewater a Wisconsin municipality</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____</p>
--	---

STATE OF _____

COUNTY OF _____

This instrument was acknowledged before me on _____, 20_____, by _____ (name of signatory), as _____ (title of signatory) of City of Whitewater, a Wisconsin municipality.

Notary Public

Print Name: _____

My Commission Expires: _____

(Tenant's Signature Page to Memorandum of Lease)

<p>WITNESSES:</p> <p>_____</p> <p>Name: _____</p> <p>_____</p> <p>Name: _____</p>	<p>TENANT:</p> <p>BTS TOWERS, LLC a Delaware limited liability company</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____</p>
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STATE OF FLORIDA

COUNTY OF PALM BEACH

This instrument was acknowledged before me on _____, 20_____, by _____ (name of signatory), as _____ (title of signatory) of BTS TOWERS, LLC.

Notary Public

Print Name: _____

My Commission Expires: _____

EXHIBIT A
(TO MEMORANDUM OF LEASE)

The Property

(may be updated by Tenant upon receipt of final legal description from title)

Access and utilities serving the Premises (as defined in the Lease) includes all easements of record as well as that portion of the Property designated by Landlord and Tenant for Tenant (and Tenant's guests, agents, customers, subtenants, licensees and assigns) ingress, egress, and utility purposes to and from a public right-of-way.

Said interest being over land more particularly described by the following description:

Insert metes and bounds description of area



Public Works Agenda Item

Meeting Date:	November 12, 2024
Agenda Item:	Starin Road Crosswalks
Staff Contact (name, email, phone):	Brad Marquardt, bmarguardt@whitewater-wi.gov , 262-473-0139

BACKGROUND
(Enter the who, what, when, where, why)

Aldersperson Smith had requested this item be added to the agenda after receiving concerns about the painting of the crosswalks.

Staff paint the white lines of the crosswalks every summer before the University is in session. There are seven crosswalk areas that were initially textured as brick and painted red when Starin Road was reconstructed in 2001. Street Department staff’s recollection is that the paint wore off in the travel areas within a year and the decision was made to not waste paint and time every year to repaint these larger areas. Each crossing area has a pedestrian crossing sign associated with the crossing.

PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS
(Dates, committees, action taken)

N/A

FINANCIAL IMPACT
(If none, state N/A)

N/A

STAFF RECOMMENDATION

Staff’s recommendation is to continue to only paint the white crosswalk lines.

ATTACHMENT(S) INCLUDED
(If none, state N/A)

- N/A



Public Works Agenda Item

Meeting Date:	November 12, 2024
Agenda Item:	Jefferson Street Reconstruction
Staff Contact (name, email, phone):	Brad Marquardt, bmarguardt@whitewater-wi.gov , 262-473-0139

BACKGROUND
(Enter the who, what, when, where, why)

Jefferson Street from Main Street to north of Starin Road is scheduled for reconstruction in 2026. Therefore, design work must be completed in 2025. Task Order 24-08 outlines the work Strand will provide for the design and bidding of Jefferson Street. Design work entails the design of all new sanitary sewer, water main, storm sewer, sidewalk, curb & gutter and asphalt pavement. Sanitary sewer work will also include the possibility of rerouting the sanitary sewer that runs cross country between Main Street and North Street.

PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS
(Dates, committees, action taken)

N/A

FINANCIAL IMPACT
(If none, state N/A)

The estimated cost, based on an hourly rate basis plus expenses, is not to exceed \$196,000. Money was approved in the 2024-2025 CIP budget for this design.

STAFF RECOMMENDATION

Staff's recommendation is to recommend approval to the full Council.

ATTACHMENT(S) INCLUDED
(If none, state N/A)

1. Task Order Jefferson Street Reconstruction



NFS TO OWNER

Task Order No. 24-08
City of Whitewater, Wisconsin (OWNER)
and Strand Associates, Inc.® (ENGINEER)
Pursuant to Agreement for Technical Services dated December 30, 2020

Project Information

Project Name: Jefferson Street Reconstruction

Project Description: Reconstruction of street and utilities on Jefferson Street between Main Street and the Jefferson County line (3,100 linear feet [LF]).

Services Description: Design and bidding-related services.

Scope of Services

ENGINEER will provide the following services to OWNER.

Design Services

1. Contact Diggers Hotline to locate buried utilities and conduct topographic survey of the Jefferson Street right-of-way. Prepare base mapping drawings from the survey data.
2. Assist OWNER with procuring a geotechnical engineer for soil borings and geotechnical report.
3. Assist OWNER with procuring a wetland delineation for potential wetlands at the north end of Jefferson Street.
4. Design up to 2,400 LF of water main replacement and include on plan and profile drawings. No water main replacement is planned north of Starin Road.
5. Design up to 3,000 LF of sanitary sewer replacement and include on plan and profile drawings. The sanitary sewer southwest of the intersection of Jefferson Street and North Street will be rerouted in easements.
6. Design up to 1,500 LF of storm sewer replacement and include on plan and profile drawings. The new storm sewer will connect to the existing storm sewer at the North Street intersection and at the west right-of-way on North Jefferson Street. Design of stormwater management facilities is not anticipated nor included in this Task Order.
7. Design up to 3,100 LF of street reconstruction on Jefferson Street. Prepare plan and profile drawings and cross sections for street and sidewalk. Street reconstruction will match existing street widths and will include an urban section south of Starin Road and a rural section north of Starin Road. Street reconstruction will include sidewalk replacement along both sides of the urban section of Jefferson Street. Up to 16 curb ramps will be replaced. Retaining walls are anticipated to not be impacted and to remain in place during construction.

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City of Whitewater
Task Order No. 24-08
Page 2
October 28, 2024

8. Prepare traffic control and construction staging drawings. It is anticipated the project corridor will be closed to through traffic during construction.
9. Prepare erosion control drawings and details. Submit erosion control permit application to the Wisconsin Department of Natural Resources (WDNR) for approval.
10. Prepare and submit permit applications to the WDNR for water main and sanitary sewer extension approval.
11. Prepare up to two legal descriptions and exhibits for sanitary sewer and storm sewer easements west of Jefferson Street.
12. Submit design drawings to private utility companies for the utility companies to prepare work plans to address utility conflicts with OWNER's project. Utilities shall review and resolve all conflicts with the proposed design. Conflict resolution by the utility companies that causes design changes shall be considered additional services.
13. Prepare for and attend one public information meeting/open house to discuss the project.
14. Participate in up to two meetings with OWNER to discuss the project.
15. Prepare drawings and technical specifications for OWNER to review and address comments, as appropriate.
16. Prepare Bidding Documents using Engineers Joint Contract Documents Committee C-700 Standard General Conditions of the Construction Contract, 2018 edition, technical specifications, and engineering drawings.
17. Prepare opinion of probable construction cost for project and submit to OWNER.

Bidding-Related Services

1. Distribute Bidding Documents electronically through QuestCDN, available at www.strand.com and www.questcdn.com. Submit Advertisement to Bid to OWNER for publishing.
2. Prepare addenda and answer questions during bidding.
3. Conduct electronic bid opening through QuestCDN. Tabulate and analyze bid results. Assist OWNER with award of the construction contract.
4. Prepare two sets of Contract Documents for signature.

Compensation

OWNER shall compensate ENGINEER for Services under this Task Order on an hourly rate basis plus expenses an estimated fee not to exceed \$196,000.



Public Works Agenda Item

Meeting Date:	November 12, 2024
Agenda Item:	Task Order 24-09 2025 Stormwater Detention Basin Maintenance
Staff Contact (name, email, phone):	Brad Marquardt, bmarguardt@whitewater-wi.gov , 262-473-0139

BACKGROUND
(Enter the who, what, when, where, why)

The City has 31 public stormwater management facilities throughout the City. These facilities do require maintenance to keep them in proper working order. Street Department staff is able to do some of the maintenance, like removing brush or trees from the slopes of a detention pond. But when it comes to dredging wet or dry detention basins, we lack the necessary equipment to have these cleaned. Task Order 24-09 is for Strand to put together design plans and bidding documents for three basins: East Clay Street Wet Detention Basin, Parkcrest Subdivision Dry Detention Basin, and Walton’s Pine Bluff Southwest Dry Detention Basin.

PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS
(Dates, committees, action taken)

N/A

FINANCIAL IMPACT
(If none, state N/A)

The estimated cost, based on an hourly rate basis plus expenses, is not to exceed \$43,000. Money was approved in the 2024-2025 CIP Budget.

STAFF RECOMMENDATION

Staff’s recommendation is to recommend approval to the full Council.

ATTACHMENT(S) INCLUDED
(If none, state N/A)

1. Task Order 2025 Stormwater Detention Basin Maintenance



Task Order No. 24-09
City of Whitewater, Wisconsin (OWNER)
and Strand Associates, Inc.® (ENGINEER)
Pursuant to Agreement for Technical Services dated December 30, 2020

Project Information

Project Name: 2025 Stormwater Detention Basin Maintenance

Services Description: Provide topographic survey, sediment sampling, design, and bidding-related services for maintenance of three existing stormwater detention basins.

Scope of Services

ENGINEER will provide the following services to OWNER.

Design Services

1. Attend one virtual kickoff meeting with OWNER to discuss the scope of services and project schedule.
2. Prepare topographic survey of existing stormwater detention basins at the following locations:
 - a. East Clay Street Wet Detention Basin
 - b. Parkcrest Subdivision Dry Detention Basin
 - c. Walton's Pine Bluff Southwest Dry Detention BasinCorrespond with utility marking company to locate buried utilities prior to topographic survey.
3. Provide the following sediment and parent material sampling services at the East Clay Street Wet Detention Basins.
 - a. Collect a composite sediment sample from two sediment cores taken at each end of the existing wet detention basin. Collect a parent material sample from the bottom of each sediment core (total of four samples) from the wet detention basin site.
 - b. Submit two sediment samples and two parent material samples for laboratory analysis for the parameters listed in Chapter NR 528.06(3)(b)1–4 of the Wisconsin State Code, plus herbicides and pesticides. Samples will be submitted to CT Laboratories, LLC, in Baraboo, Wisconsin.
 - c. Evaluate laboratory analysis results and proposed sediment end use. Provide OWNER with criteria for potential disposal sites for potentially contaminated sediment.
 - d. Provide OWNER with a signed Certification Form 4400-248, supporting documentation consisting of a map showing sample locations, and the laboratory report.
4. Provide the following design drawings for each of the three stormwater detention basin sites:
 - a. Cover sheet.
 - b. Existing survey and control sheet.
 - c. Access and erosion control sheet.
 - d. Detail sheets.
 - e. Plan and profile sheets.

City of Whitewater, Wisconsin
Task Order No. 24-09
Page 2
November 7, 2024

- f. Cross section sheets.
- g. Restoration sheet.
5. Submit preliminary design drawings to private utility companies. Communicate with utility companies regarding work plans for conflicts with OWNER's project identified by the private utilities. Design changes caused by conflict resolution shall be considered additional services.
6. Prepare Bidding Documents using Engineers Joint Contract Documents Committee C-700 Standard General Conditions of the Construction Contract, 2018 edition, technical specifications, and engineering drawings. Submit preliminary Bidding Documents to OWNER in portable document format file for review.
7. Prepare a prebid opinion of probable construction cost for the project and submit to OWNER.
8. Attend a virtual progress meeting with OWNER to discuss preliminary Bidding Documents.
9. Modify preliminary Bidding Documents to address comments from OWNER, as appropriate.
10. Prepare an updated opinion of probable construction cost for the project and submit to OWNER.
11. Communicate with regulatory agencies to discuss project status and permitting.
12. Prepare and submit a Water Resources Application for Project Permit seeking construction site stormwater permit coverage from the Wisconsin Department of Natural Resources for the project.

Bidding-Related Services

1. Distribute Bidding Documents electronically through QuestCDN, available at www.strand.com and www.questcdn.com. Submit advertisement to Bid to OWNER for publishing.
2. Prepare addenda and answer questions during bidding.
3. Attend virtual bid opening, tabulate and analyze bid results, assist OWNER in the award of the Construction Contract, and prepare Contract Documents for electronic signature via DocuSign.

Service Elements Not Included

In addition to those listed in the associated Agreement for Technical Services, the following services are not included in this Task Order and, if required, may be provided as noted.

1. Additional Sediment Sampling: Collection and analysis of additional sediment samples, if recommended due to detection of elevated contaminant levels, will be provided through an amendment to this Task Order.
2. Wetland-Related Permitting, if Required by Regulatory Agencies: It is anticipated that any wetlands within the Bloomingfield Acres and East Clay Street Wet Detention Basins could be removed, as necessary, to complete the work by invoking an NR 103 Water Quality Standards for Wetlands exemption in accordance with Chapter NR 103.06(4) of the Wisconsin State Code, which allows removal of an artificial wetland that is associated with a stormwater detention facility operated and maintained only for sediment detention and flood storage purposes.



Public Works Agenda Item

Meeting Date:	November 12, 2024
Agenda Item:	Task Order 24-10 Starin Road Wet Basin
Staff Contact (name, email, phone):	Brad Marquardt, bmarguardt@whitewater-wi.gov , 262-473-0139

BACKGROUND
(Enter the who, what, when, where, why)

The City has submitted an Intent to Apply for Clean Water Funds for this project. We will not find out our ranking until sometime in January 2025. If the project ranks high enough to receive funding, final plans need to be sent in by September 30, 2025. In anticipation of receiving funding, staff would like to get the survey work done yet this year so design could commence as soon as possible after the rankings are released. This Task Order is for services to survey and produce a topographical survey of the area. This Task Order would be amended in the future to include design of the wet basin, submittal of a facilities plan (required by March 31, 2025) and submittal of Clean Water Fund financial assistance application (due by September 30, 2025), if the project ranks high enough.

PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS
(Dates, committees, action taken)

Staff received approval from Council in March 2024 to apply for a DNR Construction Grant for this project. The Park & Recreation Board approved the location of the underground basin at their November 2023 meeting.

FINANCIAL IMPACT
(If none, state N/A)

The estimated cost, based on an hourly rate basis plus expenses, is not to exceed \$17,400. This project was added to the 2025 CIP budget.

STAFF RECOMMENDATION

Staff's recommendation is to recommend approval to the full Council.

ATTACHMENT(S) INCLUDED
(If none, state N/A)

1. Task Order Starin Road Underground Wet Detention Basin



OWNER REVIEW

DRAFT

Strand Associates, Inc.®
910 West Wingra Drive
Madison, WI 53715
(P) 608.251.4843
www.strand.com

Task Order No. 24-10
City of Whitewater, Wisconsin (OWNER)
and Strand Associates, Inc.® (ENGINEER)
Pursuant to Agreement for Technical Services dated December 30, 2020

Project Information

Services Name: Starin Road Underground Wet Detention Basin

Services Description: Provide topographic survey-related service for the Starin Road underground wet detention basin. The project is anticipated to be partially funded by a Wisconsin Department of Natural Resources (WDNR) Urban Nonpoint Source Construction Grant.

Scope of Services

ENGINEER will provide the following services to OWNER.

Provide a topographic survey for the area of the underground wet detention basin (approximately 1.77 acres) along Starin Road and within Starin Park. Correspond with utility marking companies to locate buried utilities prior to topographic survey.

Compensation

OWNER shall compensate ENGINEER for Services under this Task Order on an hourly rate basis plus expenses an estimated fee not to exceed \$17,400.

Schedule

Services will begin upon execution of this Task Order, which is anticipated the week of November 18, 2024. Services are scheduled for completion on April 14, 2025.

TASK ORDER AUTHORIZATION AND ACCEPTANCE:

ENGINEER:

STRAND ASSOCIATES, INC.®

OWNER:

CITY OF WHITEWATER, WISCONSIN

DRAFT

DRAFT

Joseph M. Bunker Date
Corporate Secretary

John Wetdl Date
City Manager

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Public Works Agenda Item

Meeting Date:	November 12, 2024
Agenda Item:	Franklin & Main Street Intersection
Staff Contact (name, email, phone):	Brad Marquardt, bmarguardt@whitewater-wi.gov , 262-473-0139

BACKGROUND
(Enter the who, what, when, where, why)

At the September 2024 PWC meeting, the Committee asked Strand to come up with a concept and cost estimate eliminating the right turn lane, so there would only be one lane heading north. Attached for discussion is the Intersection Exhibit and Cost Estimate.

PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS
(Dates, committees, action taken)

N/A

FINANCIAL IMPACT
(If none, state N/A)

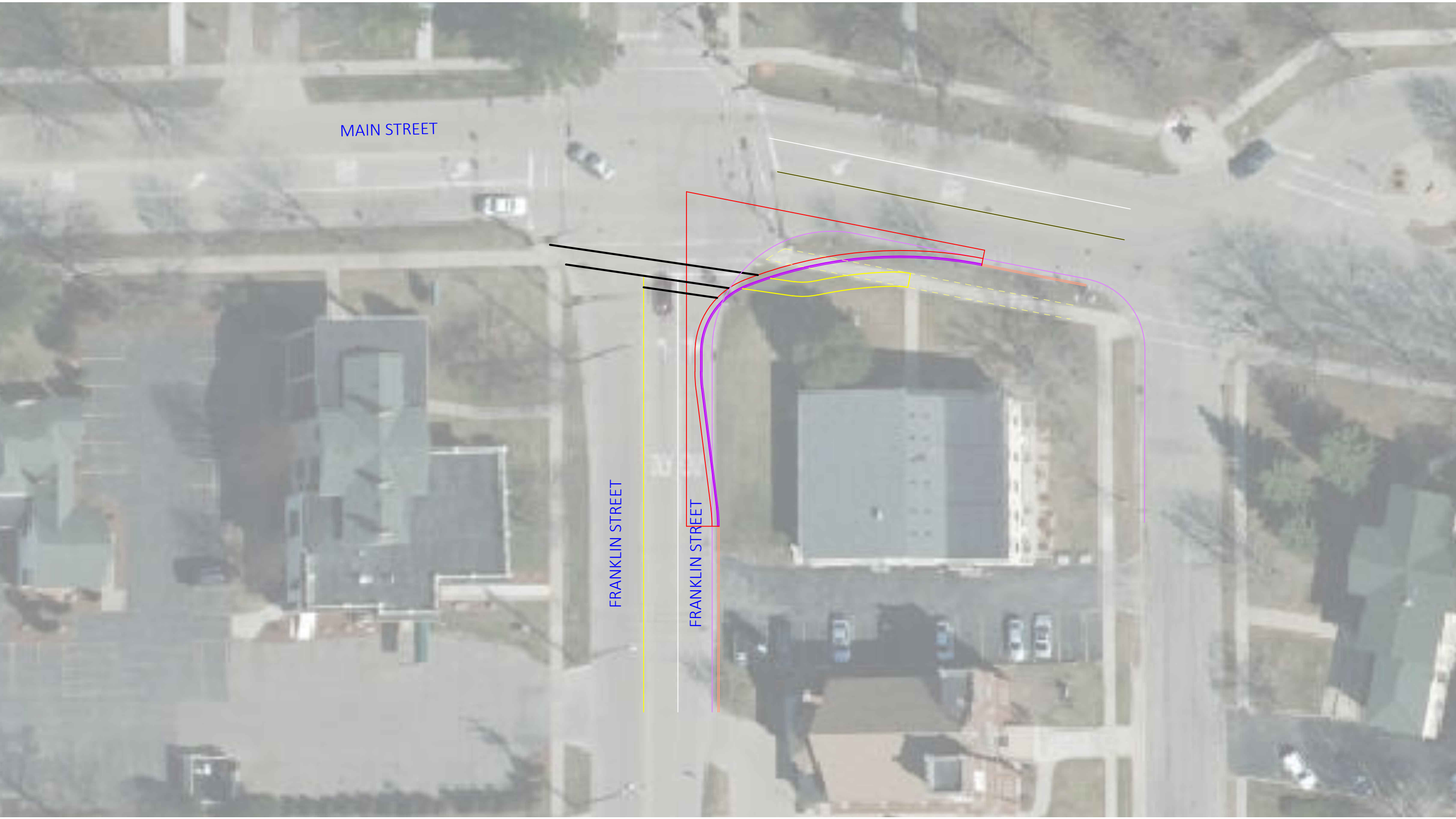
The Opinion of Probable Construction Cost is \$126,554. This does not include cost to design, purchase the property, or to reprogram the traffic signals.

STAFF RECOMMENDATION

Staff would recommend to keep pursuing this option.

ATTACHMENT(S) INCLUDED
(If none, state N/A)

1. Intersection Exhibit
2. Cost Estimate



MAIN STREET

FRANKLIN STREET

FRANKLIN STREET

FRANKLIN STREET

Main Street and Franklin Street
 Planning Level Opinion of Probable Construction Cost
 City of Whitewater
 10/9/2024

Main Street and Franklin Street NBR Curb Modificaiton					
Item No.	Item	Quantity	Unit	Unit Price	Extension
1	Removing Concrete Pavement	214	SY	\$ 30.00	\$ 6,420.00
2	Removing Curb & Gutter	181	LF	\$ 15.00	\$ 2,715.00
3	Removing Concrete Sidewalk	27	SY	\$ 25.00	\$ 675.00
4	Sawing Concrete	236	LF	\$ 4.00	\$ 944.00
5	Dense Graded Base	182	TON	\$ 28.00	\$ 5,096.00
6	Concrete Pavement 9-Inch	228	SY	\$ 100.00	\$ 22,800.00
7	Concrete Sidwalk, 5-IN	271	SF	\$ 19.00	\$ 5,149.00
8	Concrete Curb & Gutter 30-Inch	175	LF	\$ 30.00	\$ 5,250.00
9	Subtotal (Line 1-8)				\$ 49,049.00
10	Common Excavation	1	LS	\$ 7,400.00	\$ 7,400.00
11	Traffic Control	1	LS	\$ 5,000.00	\$ 5,000.00
12	Erosion Control	1	LS	\$ 1,500.00	\$ 1,500.00
13	Restoration	1	LS	\$ 1,500.00	\$ 1,500.00
14	Storm Sewer Modifications	1	LS	\$ 10,000.00	\$ 10,000.00
15	Pavement Marking	1	LS	\$ 3,000.00	\$ 3,000.00
16	Signing	1	LS	\$ 2,500.00	\$ 2,500.00
17	Miscellaneous Items (Includes Mobilization)	1	LS	\$ 9,900.00	\$ 9,900.00
18	Moving Traffic Signal Equipment	1	LS	\$ 7,500.00	\$ 7,500.00
19	Subtotal (Line 9-18)				\$ 97,349.00
20	Construction Engineering and Contingency - 30% of Line 19				\$ 29,205.00
21	Total (Line 19 & 20)				\$ 126,554.00

Notes

15% of Line 9
 10% of Line 9
 3% of Line 9
 3% of Line 9
 6% of Line 9
 5% of Line 9
 20% of Line 9



Public Works Agenda Item

Meeting Date:	November 12, 2024
Agenda Item:	Bower House easement
Staff Contact (name, email, phone):	Brad Marquardt, bmarquardt@whitewater-wi.gov , 262-473-0139

BACKGROUND
(Enter the who, what, when, where, why)

The Bower House, located at 187 W. Main Street, needs to provide ADA access into their remodeled building. They looked at two options, inside the building and outside the building. Their preferred option is to construct an ADA ramp on the outside of their building. The ramp would be 5.5 feet wide with an 18 inch wide planter along the ramp portion, and a 6 inch raised curb along the landing area. The 6 inch raised curb would be a total of 11 inches above the existing sidewalk.

If the Committee is amenable to this approach, an easement and hold harmless agreement should be signed by the property owner.

PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS
(Dates, committees, action taken)

N/A

FINANCIAL IMPACT
(If none, state N/A)

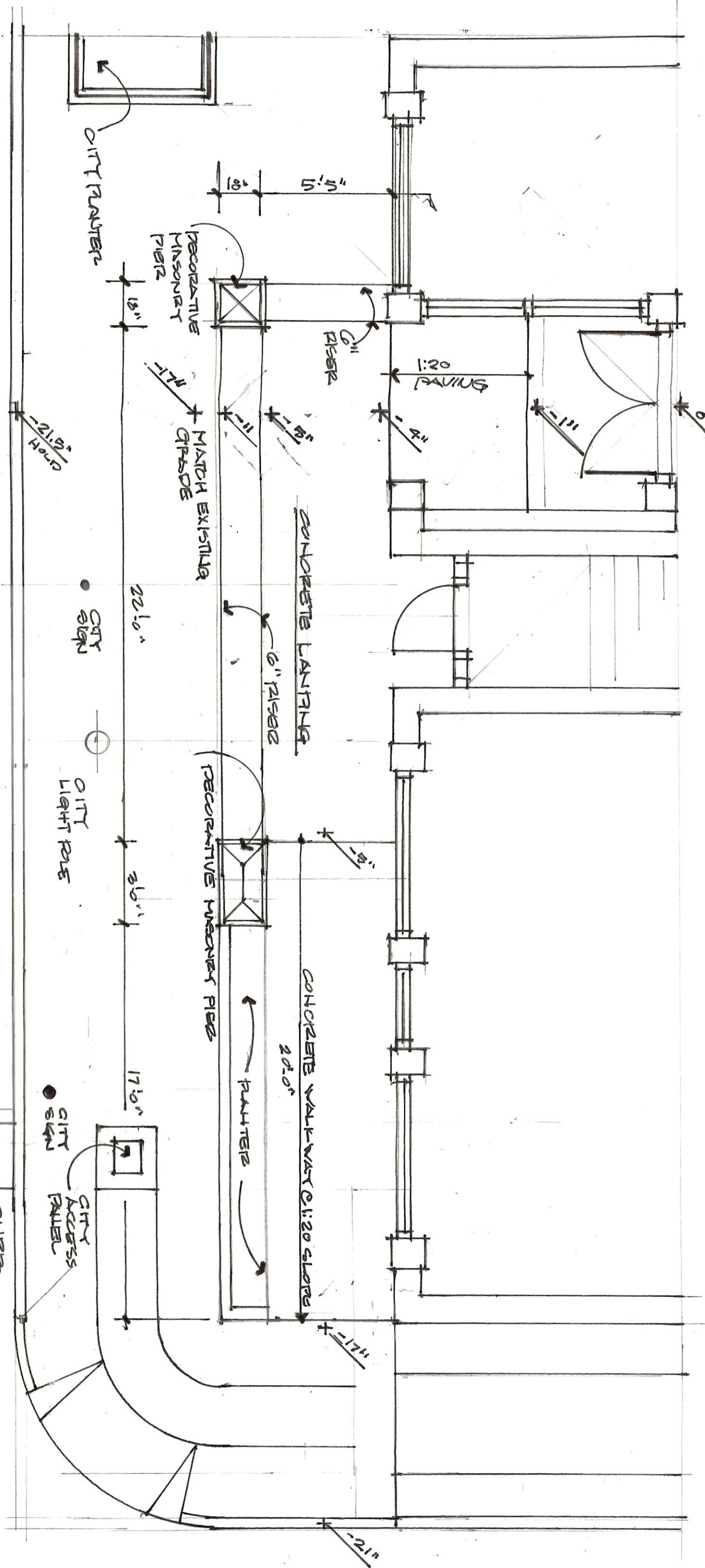
All costs should be borne by the property owner.

STAFF RECOMMENDATION

The City allows outside dining on W. Main Street. The area requested for the ADA ramp is no different than the area for outside dining. With this in mind, staff’s recommendation is to recommend approval to the full Council. If approved by the Public Works Committee, staff with work with the City Attorney to draft an easement and hold harmless agreement before bringing it to Council

ATTACHMENT(S) INCLUDED
(If none, state N/A)

1. Schematics



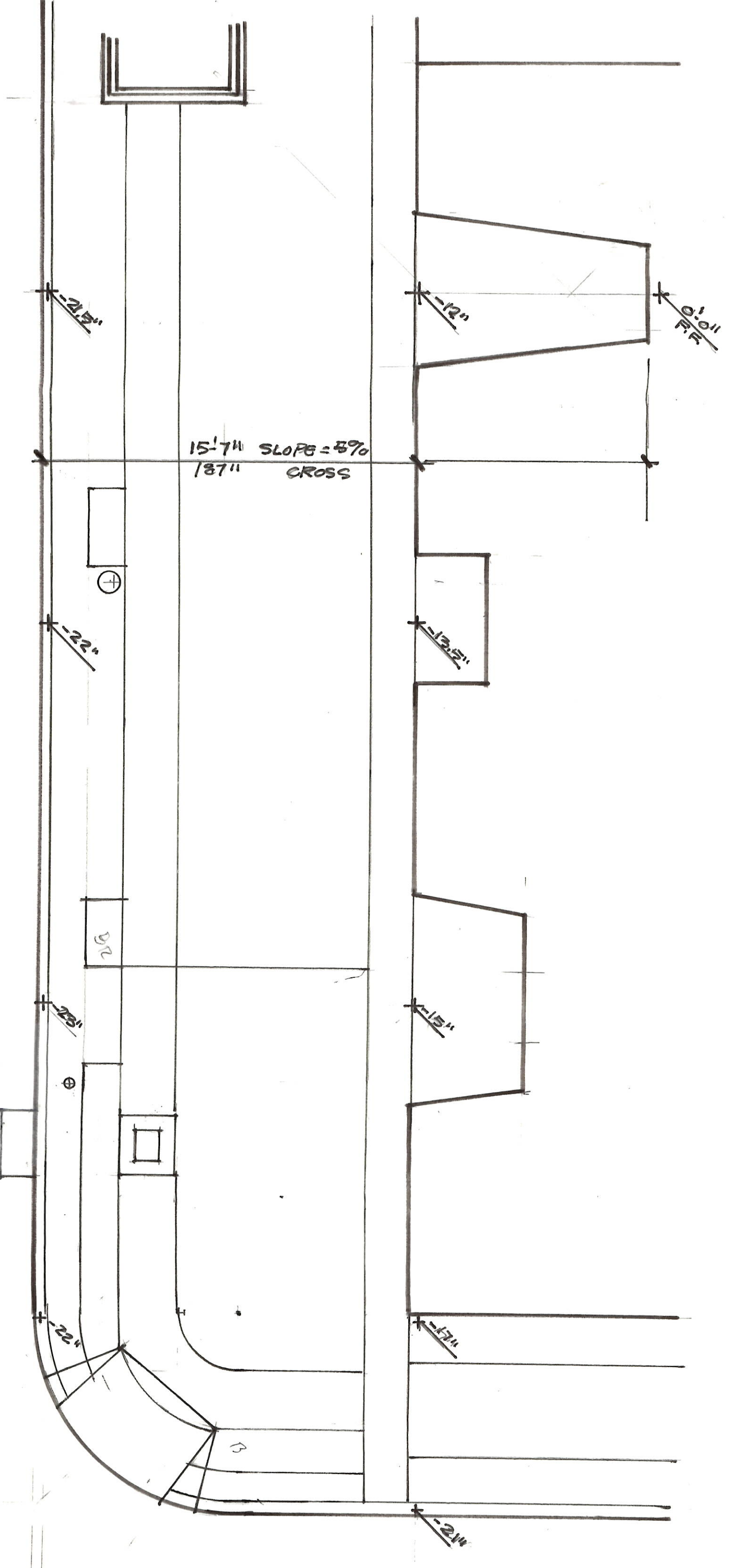
BOWERS HOUSE HOTEL

Apartment Alteration
 187 MAIN STREET
 WHITEWATER, WI. 53190
 November 6th, 2024



PROPOSED CONDITIONS AT ENTRY

SCALE 1/4"=1'-0"



BOWERS HOUSE HOTEL

Apartment Alteration
 187 MAIN STREET
 WHITEWATER, WI. 53190
 November 6th, 2024



EXISTING CONDITIONS AT ENTRY

SCALE 1/4"=1'-0"