



City of Fort Atkinson  
City Manager's Office  
101 N. Main Street  
Fort Atkinson, WI 53538

**CITY COUNCIL MEETING  
IN PERSON AND VIA ZOOM  
TUESDAY, NOVEMBER 21, 2023 – 7:00 PM  
CITY HALL – SECOND FLOOR**

<https://us02web.zoom.us/j/5997866403?pwd=alcreldSbGpNUVI1VnR1RWF5bXovdz09>

Meeting ID: 599 786 6403

Passcode: 53538

Dial by Location

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**AGENDA**

1. Call meeting to order
2. Roll call
3. **Public Hearings** – None
4. **Public Comment:** *The City Council will receive comments from City residents. Comments are generally limited to three minutes per individual. Anyone wishing to speak is required to sign up in advance or state the following items for the record when called upon: name, address, subject matter, and contact information. No action will be taken on any public comments unless the item is also elsewhere on the agenda.*
5. **Consent Agenda:** *The Consent Agenda outlined below is hereby presented for action by the City Council. Items may be removed from the Consent Agenda on the request of any one Council member. Items not removed may be adopted by one action without debate. Removed items may be taken up either immediately after the Consent Agenda or placed later on the agenda at the discretion of the Council President.*
  - a. Review and possible action relating to the **minutes of the November 7, 2023 regular City Council meeting** (Ebbert, Clerk/Treasurer/Finance Director)

- b. Review and possible action relating to the **minutes of the November 13, 2023 Transportation and Traffic Review Committee meeting** (Selle, City Engineer/Director of Public Works)
- c. Review and possible action relating to the **minutes of the November 14, 2023 regular Plan Commission meeting** (Ebbert, Clerk/Treasurer/Finance Director)
- d. Review and possible action relating to the **minutes of the November 14, 2023 License Committee meeting** (Ebbert, Clerk/Treasurer/Finance Director)
- e. Review and possible action relating to **building, plumbing, and electrical permit report for October 2023** (Draeger, Building Inspector/Zoning Administrator)
- f. Review and possible action relating to the City Clerk-issued **License and Permit Report for October 2023** (Ebbert, Clerk/Treasurer/Finance Director)
- g. **City Sewer, Water, and Stormwater Utility Financial Statements** as of October 31, 2023 (Ebbert, Clerk/Treasurer/Finance Director)
- h. Review and possible action relating to **Alcohol Beverage License Agent Change** for Handyspot 105, LLC, 303 S. Main Street (Ebbert, Clerk/Treasurer/Finance Director)
- i. Review and possible action relating to **Special Event: Badger Bank Horse Drawn Wagon Rides and Santa visit**, December 2, 10 a.m.-1 p.m., located at Badger Bank, 220 Grant Street and surrounding blocks (Ebbert, Clerk/Treasurer/Finance Director)

#### **6. Petitions, Requests, and Communications:**

- a. Presentation from Trilogy Consulting, LLC. relating to the City's Stormwater Utility, Water Utility, and Wastewater Utility (Selle, City Engineer/Director of Public Works)

#### **7. Resolutions and Ordinances:**

- a. Review and possible action relating to a **Resolution Adopting the 2024 Stormwater Utility Rate** (Selle, City Engineer/Director of Public Works)
- b. Review and possible action relating to a **Resolution Adopting the 2024 Wastewater Utility Rates** (Selle, City Engineer/Director of Public Works)
- c. Review and possible action relating to a **Resolution Adopting the 2024 Annual Budget and Setting the Property Tax Levy for the City of Fort Atkinson, Jefferson County, Wisconsin** (Houseman, City Manager)
- d. Review and possible action relating to a **Resolution Confirming the Total Levy for Taxing Jurisdictions in the City of Fort Atkinson and Determining the Mill Rate** (Houseman, City Manager)
- e. Review and possible action relating to a **Resolution establishing the 2024 Schedule of Fees** for the City of Fort Atkinson, Jefferson County (Houseman, City Manager)
- f. First reading of an **Ordinance Annexing the territory addressed N2696 Banker Road** to the City of Fort Atkinson (Selle, City Engineer/Director of Public Works)

**8. Reports of Officers, Boards, and Committees:**

- a. City Manager's Report (Houseman, City Manager)

**9. Unfinished Business – None**

**10. New Business:**

- a. Review and possible action to authorize the City Manager to execute the **2024 Joint Powers Agreement** with Jefferson County for the County 911 Emergency System (Houseman, City Manager)
- b. Review and possible action relating to **Original Alcohol Beverage License Application for Wiereal, LLC dba Fat Boyz**, for use at 219 S. Main Street for the licensing period of November 30, 2023 through June 30, 2024 (Ebbert, Clerk/Treasurer/Finance Director)
- c. Review and possible action to authorize the City Manager to enter into a five-year contract with Running, Inc. for **Shared-Ride Taxi Service** from 2024-2028 (Selle, City Engineer/Director of Public Works)
- d. Review and possible action relating to a **Certified Survey Map** for the Dollar Tree project to be located at 1111 Madison Avenue (Draeger, Building Inspector/Zoning Administrator)

**11. Miscellaneous – None**

**12. Claims, Appropriations and Contract Payments:**

- a. Review and possible action relating to the **Verified Claims** presented by the Director of Finance and authorization of payment (Ebbert, Clerk/Treasurer/Finance Director)

**13. Adjournment**

*Date Posted: November 16, 2023*

*CC: City Council; City Staff; City Attorney; News Media; Fort Atkinson School District; Fort Atkinson Chamber of Commerce*

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Agenda  
City of Fort Atkinson  
City Clerk/Treasurer's Office  
101 N. Main Street  
Fort Atkinson, WI 53538

**CITY COUNCIL MEETING  
IN PERSON AND VIA ZOOM  
TUESDAY, NOVEMBER 7, 2023 – 7:00 PM  
CITY HALL – SECOND FLOOR**

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**1. CALL MEETING TO ORDER**

President Johnson called the meeting to order at 7:00 pm.

**2. ROLL CALL**

Present: Cm. Becker, Cm. Jaeckel, Cm. Lescohier, Cm. Schultz and President Johnson. Also present: City Manager, City Clerk/Treasurer, City Engineer, City Attorney, Public Works Superintendent, Museum Director, Park & Recreation Director and Police Chief.

**3. PUBLIC HEARINGS:**

- a) *Public Hearing relating to the City of Fort Atkinson 2024 Operating Budget, 2024 Capital Improvements Budget; and the 2024-2029 Capital Improvements Plan (Houseman, City Manager)*

Manager Houseman presented the 2024 Operating Budget, 2024 Capital Improvements Budget and CIP plan.

Council President opened the public hearing at 7:23 pm.

Ron Martin, 409 Nadig Drive, questioned additional shared revenue, he asked if there is a policy for how the funds will be allocated. He referenced the proposed borrowing for 2024 and asked about potential high interest rates, is borrowing feasible at this time. He commented the budget is set to increase again next year, was inflation and higher taxes taking into consideration.

Cm. Jaeckel appreciated the repair of the municipal building roof to be placed in the 2024 budget as a priority.

Cm. Lescohier inquired on the City's assessment ratio at 97% versus 100% after the Interim Market Update. Manager Houseman discussed the process and properties assessed by the State.

Cm. Becker referenced the debt policy and how the borrowing for 2024 aligns with our borrowing capacity. Manager Houseman discussed our percentages and that our financial advisors, Baird will be present in December to discuss our borrowing for 2024 and beyond.

President Johnson confirmed data provided in regard to the Interim Market Update displays a modest tax increase of starting at \$80 per year. Manager Houseman did provide three examples of properties assessment prior and post the IMU with the tax impact based on the City's budget.

Cm. Schultz confirmed that any borrowing done by the City has the ability to refinance when interest rates decrease or a savings can be found.



Council President closed the public hearing at 7:38 pm.

No action required.

**4. PUBLIC COMMENT:**

Elliott Larson, 415 McMillan Street – he spoke on the street construction on Florence and McMillan Street. He stated there is traffic driving on streets under construction that are posted as closed. He is seeking police patrol. He also asked about the stormwater drainage near 430 Wilcox Street which will be addressed later on the Council Agenda.

**5. CONSENT AGENDA:**

- a) *Review and possible action relating to the minutes of the October 16, 2023 Police and Fire Commission meeting (Ebbert, Clerk/Treasurer/Finance Director)*
- b) *Review and possible action relating to the minutes of the October 17, 2023 License Committee meeting (Ebbert, Clerk/Treasurer/Finance Director)*
- c) *Review and possible action relating to the minutes of the October 17, 2023 regular Fort Atkinson City Council meeting (Ebbert, Clerk/Treasurer/Finance Director)*
- d) *Review and possible action relating to the minutes of the October 24, 2023 regular Plan Commission meeting (Ebbert, Clerk/Treasurer/Finance Director)*
- e) *Review and possible action relating to Special Event: Fort Atkinson Drift Skippers Snowmobile Club request to use snowmobile trails through the Klement Business Park for the 2023-2024 season (Ebbert, Clerk/Treasurer/Finance Director)*
- f) *Review and possible action relating to Special Event: Frosty Rock Challenge 5K on Saturday, Nov. 11, 2023 at the Fort Atkinson High School with a 5K route through neighboring streets and 12K route on Banker Road to Dorothy Carnes from 7 a.m. to 11 a.m. (Ebbert, Clerk/Treasurer/Finance Director)*

Cm. Becker moved, seconded by Cm. Jaeckel to approve the Consent Agenda as listed, items 5.a. through 5.f. Motion carried.

**6. PETITIONS, REQUESTS, AND COMMUNICATIONS: – NONE**

**7. RESOLUTIONS AND ORDINANCES:**

- a) *Third Reading of Substitute Amendment #1, an Ordinance amending Section 94-151 of the City of Fort Atkinson Municipal Code relating to the use of All-Terrain Vehicles (ATVs) on City Streets (Houseman, City Manager)*

Manager Houseman discussed the history of the ordinance to date. The Ordinance Committee discussed amending the City's ordinances relating to ATV/UTV use on City streets on July 6<sup>th</sup>. The full City Council held workshops on August 15<sup>th</sup> and September 18<sup>th</sup> where the matter was discussed further. The Council performed the first reading of the draft ordinance allowing ATVs and UTVs to drive on City streets on October 3, 2023, and voted to amend the ordinance to include a windshield as a permitted form of eye protection. The second reading was performed at October 17, 2023. Staff does not support changing the City's ordinances to allow for ATV use in the City due to the safety and enforcement concerns, as well as the lack of consistent regulatory direction from the State of Wisconsin. Staff recommends that the City Council delay any decisions relating to ATV use within the City until such time that the State provides additional direction relating to the applicability of state motor vehicle laws to ATVs.

Cm. Schultz moved, seconded by Cm. Jaeckel to adopt the Ordinance to amend Section 94-151 of the City of Fort Atkinson Municipal Code relating to the use of All Terrain Vehicles (ATVs) on City Streets with an effective date of April 8, 2024. Motion carried, Lescohier opposed.

*b) Third reading of an Ordinance to amend Sections 70.04.03 and 70.04.04 of the City of Fort Atkinson Land Division and Development Ordinance relating to Updating and Enacting New Park Impact Fees (Franseen, Director of Parks and Recreation)*

Director Franseen discussed the action taken by Council that included a public hearing and first reading of the proposed amendments to Sections 70.04.03 and 70.04.04 of the City of Fort Atkinson Land Division and Development Ordinance relating to updating and enacting new park impact fees on October 3, 2023. A second reading of the ordinance was completed October 17, 2023.

Cm. Becker moved, seconded by Cm. Lescohier to adopt the Ordinance to amend Sections 70.04.03 and 70.04.04 of the City of Fort Atkinson Land Division and Development Ordinance relating to Updating and Enacting New Park Impact Fees with an effective date of January 1, 2024. Motion carried unanimously.

**8. REPORTS OF OFFICERS, BOARDS, AND COMMITTEES:**

*a) City Manager's Report (Houseman, City Manager)*

No action required.

**9. UNFINISHED BUSINESS – NONE**

**10. NEW BUSINESS:**

*a) Review and possible action relating to an Extra-Territorial Certified Survey Map for the property located at W6770 Pond Road (Selle, Director of Public Works)*

Engineer Selle introduced the request from the property owner, who would like to break off a parcel from the parent parcel. This is within the 3-mile extra-territorial area of the City of Fort Atkinson, about 1.4 miles from the City boundary.

Cm. Jaeckel moved, seconded by Cm. Becker to approve the Extra-Territorial Certified Survey Map for the property located at W6770 Pond Road. Motion carried unanimously.

*b) Review and possible action relating to Original Alcohol Beverage License application for the licensing period of November 8, 2023 to June 30, 2024 for Family Dollar located at 1517 Madison Avenue Ste. A (Ebbert, Clerk/Treasurer/Finance Director)*

Clerk/Treasurer Ebbert presented the submission from Family Dollar Stores of Wisconsin, LLC as they operate Family Dollar #26250 at 1517 Madison Avenue Ste A. They have applied for a Class "A" Fermented Malt Beverage license to sell products at their location. A copy of the current lease was submitted and a successful background was completed on the Agent. Properly submitted was the Original License application, Scheduled for Appointment of Agent, Supplemental Questionnaires, proof of Wisconsin Seller's Identification and Federal Identification Number. This location also holds a Cigarette and Tobacco Products License.

Cm. Becker moved, seconded by Cm. Schultz to approve the Class "A" Fermented Malt Beverage Alcohol Beverage License application for the licensing period of November 8, 2023 to June 30, 2024

for Family Dollar #26250 located at 1517 Madison Avenue Ste. A contingent upon all monies owed are paid prior to license issuance by the City Clerk. Motion carried unanimously.

- c) *Review and possible action relating to Original Alcohol Beverage License and Cigarette and Tobacco License application for the licensing period of November 8, 2023 to June 30, 2024 for The Langholf located at 225 Main St. (Ebbert, Clerk/Treasurer/Finance Director)*

Clerk/Treasurer Ebbert reviewed the prior license held by Big Bluestem Properties, LLC whom owned and operated Big Bluestem Market Collective on Main at 225-227 S. Main Street. September 2023, they sold the property to The Sweet Spot Coffee Shop LLC. The Sweet Spot Coffee Shop is looking to operate at 225 S Main Street as The Langholf. Big Bluestem submitted a letter confirming they would surrender their license upon License Committee and Council approval. A successful background check was performed with all required documentation submitted.

Cm. Schultz moved, seconded by Cm. Lescohier to approve the "Class B" Intoxicating Liquor and Class "B" Fermented Malt Beverage Alcohol License application for the licensing period of November 8, 2023 to June 30, 2024 for The Sweet Spot Coffee Shop, LLC dba The Langholf located at 225 S. Main Street contingent upon all monies owed are paid prior to license issuance by the City Clerk. Motion carried unanimously.

- d) *Review and possible action relating to the 2024 Small Animal Collection Contract with the Humane Society of Jefferson County (Ebbert, Clerk/Treasurer/Finance Director)*

Clerk/Treasurer Ebbert presented the annual contract with HSJC. The Humane Society has served our community by furnishing and maintaining facilities and equipment adequate for the housing, shelter and care of all dogs and cats unlawfully at large or surrendered to the shelter. The shelter will continue to provide current pickup and drop-off service for stray animals to residents and law enforcement during regular business hours and will be able to pickup animals collected overnight after the shelter opens for regular business hours as well.

Cm. Lescohier moved, seconded by Cm. Becker to approve the 2024 Small Animal Collection Contract with the Humane Society of Jefferson County. Motion carried unanimously.

- e) *Review and possible action to authorize the City Manager to enter into a contract for Stormwater Improvements at 430 Wilcox and Armenia Street (Selle, Director of Public Works)*

Engineer Selle provided that the City has been in communication with the management entity at 430 Wilcox St. This parcel includes a stormwater infiltration area in the rear yard that has been the source of complaints in the past over lack of maintenance. The parcel owner has addressed the inspection efforts required and will be moving ahead with some maintenance issues. The City has agreed to replace the section of pipe that accepts our drainage from the end of Armenia St. The project needs to move forward at this time, although unbudgeted, because the storm infrastructure on Wilcox has been improved with this year's project anticipating this new connection. The healthcare organization that operates the facility has agreed to provide a permanent easement for the work and further have completed their investigation into their side of the ownership of the drainage network. All of this has been borne out of a commitment to adjacent residents seeking a solution to this problem which came to the forefront during the public process of vacating N 4<sup>th</sup> St to the south.

Cm. Becker moved, seconded by Cm. Schultz to authorize the City Manager to enter into a contract with Walton Excavating in an amount not to exceed \$20,000 for Stormwater Improvements at 430 Wilcox and Armenia Street. Motion carried unanimously.

*f) Review and possible action relating to emergency water main replacement on Nelson Street  
(Selle, Director of Public Works)*

Engineer Selle discussed the 2" water main in Nelson Street and how it has experienced 3 breaks within the past several months. Breaks that are this close together in time are concerning and taken as an indication that the deterioration of the pipe has reached a point that replacement cannot wait. A similar situation occurred several years ago on Elsie St where the City declared an emergency and replaced the main in late fall. The project will extend around to Frederick St and Messmer St for a tie in. It is hopeful that balance of the 2" main in Nelson continuing south can be replaced next year. Under the emergency declaration traditional public bidding rules are suspended. In addition, the WDNR offers an expedited review process to permit the installation. The current contractor working on the main replacement at Florence and Wilcox will honor the same public bid prices from that project on this one. Staff authorized them to begin work Monday ahead of the official Council approval given the season and potential for significant weather and temperature changes. The new water main will need to be laid in nearly the same location as the existing main on Nelson St in order to avoid conflicts with gas and sewer in the narrow right of way. This will require the water department to provide temporary water to homes along the route for the duration of the project. This temporary water is placed above ground and highly susceptible to freezing temperatures.

Cm. Lescohier moved, seconded by Cm. Jaeckel to approve the emergency water main replacement work on Nelson Street for \$237,680 with Forest Construction. Motion carried unanimously.

**11. MISCELLANEOUS – NONE**

**12. CLAIMS, APPROPRIATIONS AND CONTRACT PAYMENTS:**

*a) Review and possible action relating to the Verified Claims presented by the Director of Finance and authorization of payment (Ebbert, Clerk/Treasurer/Finance Director)*

Cm. Becker moved, seconded by Cm. Jaeckel to approve the Verified Claims as presented. Motion Carried unanimously.

**13. ADJOURNMENT**

Cm. Jaeckel moved, seconded by Cm. Becker to adjourn. Meeting adjourned at 8:17 pm.

Respectfully submitted,  
Michelle Ebbert  
City Clerk/Treasurer/Finance Director



City of Fort Atkinson  
City Engineer's Office  
101 N. Main Street  
Fort Atkinson, WI 53538

**TRANSPORTATION & TRAFFIC REVIEW COMMITTEE**  
**CITY HALL AND REMOTE VIA ZOOM**  
**November 13, 2023 – 3 PM**

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**1. Call meeting to order**

The meeting was called to order by Chairperson Selle at 3 p.m.

**2. Roll call**

Members Present: Armstrong, Selle, Bump, Williamson, Rice, Lescohier, Maas, Moehling

Members Absent: Sweeney

**3. Review and possible action relating to the minutes of the December 8, 2022 meeting.**

Motion to approve the minutes of the December 8, 2022 meeting made by Bump and second by Williamson. Motion passed by unanimous voice vote.

**4. Parking Requests: None**

**5. Speed Limit Reviews: None**

**6. Traffic Signal Reviews: None**

**7. Miscellaneous: None**

**8. Transit Items: Update from Brown Cab on ridership and marketing for quarter preceding**

A representative from Brown Cab was not in attendance at the meeting. Selle presented the quarterly report. The continued challenges of finding drivers and reduced ridership were mentioned in a discussion of the situation. Agency ridership declined significantly and was a loss of revenue for the taxi.

In 2023, City staff renegotiated the contract for services down from 15,900 hours to 9,000 hours, with an attendant increase in the hourly cost to \$37.73. Staff estimated that at the close of 2023 the revenue from the taxi would not be able to cover the total contract cost. At present with 9 months of data, the City has a positive balance of \$2,700 (more revenue than expense) on the taxi contract going into the final 3 months of the year. If ridership remains as expected for 2023, the balance owed may be smaller than predicted. No action was taken by the Committee.

**Transit Items: 2024 Shared Ride Taxi Contract Procurement**

Chairman Selle discussed the contract saying 2024 was the contract year City staff chose to do two guaranteed years and three option years for the Shared-Ride Taxi Contract. Selle said the City would like to continue to provide the service at no cost to the City. The contract will go down to 8,000 hours and \$20,000 was budgeted to cover any shortfall for the contract.

The City's RFP resulted in a single bid from Brown Cab. Their contract cost held firm for the two fixed years of the contract at \$36.73. Using the previous assumptions on ridership the resulting prediction for 2024 and 2025 at a cost per hour of \$36.73 for 8,000 hours the contract would cost \$293,840 in 2024. The City portion would be \$129,289.60 with fare revenue projected to be \$111,971. The City would be responsible for the balance of \$17,318.60.

**Transit Items:** Brown Cab proposal recommendation

The City received one response to the City Shared Ride Taxi Request for Proposal. Brown Cab held firm on last year's price of \$36.73 for the next two years. The Source Selection Committee accepted that proposal.

A motion was made by Jack Rice and a second by Tom Williamson for the City Council to review the proposal from Brown Cab for an agreement for 2024-2028 contract years. The item was moved forward to City Council with a unanimous vote.

**9. Safe Routes to School:** Update on SRTS grants received and applied for

The City's grant will pay for 80% of this project. The City has until 2026 to begin the project. Additional grant opportunities were available to begin filling in sidewalk in the City with the focus near the City's schools. The proposal is about \$2.2 million and the City expects to hear back in March.

**10. Adjournment:**

Maas moved to adjourn, seconded by Bump. Meeting adjourned at 3:25 p.m.

Respectfully submitted,  
Sarah Weihert, Public Relations Executive Assistant



City of Fort Atkinson  
City Clerk/Treasurer's Office  
101 N. Main Street  
Fort Atkinson, WI 53538

**PLAN COMMISSION MEETING MINUTES  
IN PERSON AND VIA ZOOM  
TUESDAY, NOVEMBER 14, 2023 – 4:00 PM  
CITY HALL – SECOND FLOOR**

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**1. CALL MEETING TO ORDER**

Manager Houseman called the meeting to order at 4:00 pm.

**2. ROLL CALL**

Commissioners: Gray, Highfield (via Zoom), Kessenich (via Zoom), Shull (via Zoom), Council Rep Schultz (via Zoom), Manager Houseman, and Engineer Selle. Also present: City Clerk/Treasurer, Public Works Superintendent, and Building Inspector/Zoning Administrator.

**3. REVIEW AND POSSIBLE ACTION RELATING TO THE MINUTES OF THE OCTOBER 24, 2023  
REGULAR PLAN COMMISSION MEETING**

Gray moved, seconded by Kessenich to approve the minutes of the October 24, 2023 regular Plan Commission meeting. Motion carried.

**4. REVIEW AND POSSIBLE RECOMMENDATION TO THE CITY COUNCIL RELATING TO A  
CERTIFIED SURVEY MAP FOR THE DOLLAR TREE PROJECT TO BE LOCATED AT 1111  
MADISON AVE. (CSM-2023-13) (DRAEGER)**

Building Inspector Draeger presented the proposed development that includes the creation of one new 1.15-acre parcel on the east side of the existing 3.1 acre parcel to accommodate a proposed new 9,827 square foot, standalone commercial building for Dollar Tree. The infill development is proposed to utilize existing vacant property on the site to accommodate the new development but continue to maintain the existing driveway and parking area near Madison Avenue and cross access to adjacent properties to the east.

Draeger stated the proposed Certified Survey Map (CSM) is planned to create two parcels from the existing 3.1-acre parcel that makes up the site today. Following the proposed land division, Lot 1 will be 1.9 acres (western parcel) and Lot 2 will be 1.15 acres (eastern parcel). No changes are proposed to Lot 1, but Lot 2 is planned to be sold to Dollar Tree and accommodate the proposed new development.

Gray moved, seconded by Highfield to recommend the City Council approve a Certified Survey Map for the Dollar Tree Project to be located at 1111 Madison Avenue with the following contingencies: require the applicant to provide and record cross access easements from Lot 1 to Lot 2 and from Lot 2 to the parcel directly to the east and allow the minimum parking requirements to be met through a joint parking facility to serve both Lot 1 and 2. Motion carried unanimously.

**5. REVIEW AND POSSIBLE ACTION ON A SITE PLAN REVIEW FOR THE DOLLAR TREE PROJECT TO BE LOCATED AT 1111 MADISON AVE. (SPR-2023-17) (DRAEGER)**

Building Inspector Draeger reviewed the proposed use of the property as Indoor Sales or Service, which is permitted by right principal land uses in the UMU Zoning District. The additional land uses requirements associated with this use include minimum/maximum off-street parking. There are a total of 18 off-street surface parking spaces proposed. Additional parking will also be provided in the shared parking area between Lot 1 and Lot 2. The project's minimum required parking is 25 spaces and the maximum parking requirements are 31 spaces. Section 15.06.06(17) of the City's Zoning Ordinance provides the opportunity for the Plan Commission to approve joint parking facilities for multiple uses. There are a total of 41 parking stalls that exist today on Lot 1, combined with the 18 proposed on Lot 2 as part of the proposed project. Together, the parking requirements are met. The proposed project has submitted all required elements of the Site Plan review that are included within the attachment.

Staff recommends approval of the CSM and Site Plan, subject to the following conditions:

- Site Plan approval is contingent upon Plan Commission and City Council approval of the CSM to create Lot 1 and 2.
- Require submittal of a stormwater maintenance plan for the proposed BMP
- If desired, require a full signage plan be submitted by the applicant.
- Any other recommendations of City staff and the Plan Commission.

Garrett Bader, GB Real Estate Investments, LLC spoke on behalf of Dollar Tree and referenced the existing access easement on the proposed Lot 2 for the property to the east. He indicated that easement is recorded and in existence since 1977. He provided a presentation on the site plan and exterior design of the building.

Gray moved to table the approval of the site plan pending further discussion between Bader and the property owner to the east relating to parking spaces. Kessenich seconded.

Bader indicated that he would reach out to the adjacent property owner and make efforts to accommodate them.

Gray moved to retract his motion to table the approval of the site plan. Kessenich did not second. Kessenich moved to table the site plan, seconded by Shull. Motion failed 1-6 via roll call vote with Kessenich voting in favor of tabling.

Manager Houseman moved to approve the Site Plan subject to conditions outlined in the Staff report, including the requirement that screening to be installed between the parking spaces located on the northeast side of Lot 2 and the property to the east with staff approval. Gray seconded, and the motion and carried 6-1 with Kessenich voting in opposition.



**6. REVIEW AND POSSIBLE ACTION ON A SITE PLAN REVIEW FOR THE OSI PARKING LOT LOCATED AT 1200 INDUSTRIAL DRIVE (SPR-2023-18) (SELLE)**

Engineer Selle reviewed the submission from property owners OSI who owns a 11.7-acre site that includes an approximately 175,000 square foot building. The subject property is located between Klement Street, Industrial Drive, and Butler Drive, just west of Janesville Avenue. The proposed development includes a 53-stall new parking lot on the north end of the property, landscaping, and lighting. No other proposed changes to the site or structure are included within this review. Within the new Zoning Ordinance, only new additions, improvements, and development are subject to the requirements of the ordinance. This memo reviews only those proposed new features within the site.

Staff recommends approval of the Site Plan, subject to the following conditions:

- Requirement for at least four bicycle parking stalls.
- Waive the requirement for pedestrian access. There is no existing sidewalk along Butler Drive or any other nearby rights-of-way.
- Require OSI to provide a suitable storm water management plan and agreement to be approved by city staff.
- Any other recommendations of City staff and the Plan

Schultz moved, seconded by Kessenich to approve the Site Plan Review for the OSI parking lot located at 1200 Industrial Drive subject to conditions outlined in the Staff report. Motion carried.

**7. REVIEW AND POSSIBLE RECOMMENDATION TO THE CITY COUNCIL RELATING TO AN APPLICATION FOR ANNEXATION OF A PROPERTY LOCATED AT N2696 BANKER ROAD TO THE CITY OF FORT ATKINSON (PFA-2023-02) (SELLE)**

Engineer Selle reviewed the applications by property owners Josh and Somer Majewski as they have requested the annexation of the property located at N2696 Banker Road from the Town of Koshkonong to the City of Fort Atkinson. City utilities will be installed to the parcel. A deferred assessment is on the parcel in the amount of \$22,748.88. Repayment is governed by the attached annexation agreement. The property owners have requested that the property be in the City's SR-2, single-family residential zoning district.

Gray moved, seconded by Highfield to recommend the City Council adopt the ordinance annexing the territory as depicted on the attached annexation exhibit; and assign a zoning classification of SR-2 Single Family.

**8. ADJOURNMENT**

Highfield moved, seconded by Schultz to adjourn. Meeting adjourned at 4:51 pm.

Respectfully submitted,  
Michelle Ebbert  
City Clerk/Treasurer/Finance Director



City of Fort Atkinson  
City Clerk/Treasurer's Office  
101 N. Main Street  
Fort Atkinson, WI 53538

**LICENSE COMMITTEE MEETING  
IN PERSON AND VIA ZOOM  
TUESDAY, NOVEMBER 14, 2023 – 5:00 PM  
CITY HALL – SECOND FLOOR**

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**1. CALL MEETING TO ORDER**

President Johnson called the meeting to order at 5:02 pm.

**2. ROLL CALL**

Present: Cm. Jaeckel, Cm. Schultz and President Johnson. Also present: City Manager and City Clerk/Treasurer.

**3. REVIEW AND POSSIBLE RECOMMENDATION TO THE CITY COUNCIL RELATING TO ORIGINAL ALCOHOL BEVERAGE LICENSE APPLICATION FOR WIEREAL, LLC DBA FAT BOYZ, FOR USE AT 219 S. MAIN STREET FOR THE LICENSING PERIOD OF NOVEMBER 30, 2023 THROUGH JUNE 30, 2024.**

Clerk Ebbert presented the application submitted by Wiereal LLC for use at 219 S. Main Street. This location is currently Fat Boyz Inc, agent John Dawson. The property is for sale and scheduled to close on November 30<sup>th</sup>. Wiereal LLC will operate as Fat Boyz upon purchase. Should the purchase not take place, Dawson would retain the license for use at 219 S. Main Street. Background checks were successful, appropriate information was submitted with exception of the WI seller's permit number which has been applied for.

Cm. Jaeckel moved, seconded by Cm. Schultz to recommend to the City Council approval of the Original Alcohol Beverage License application for Wiereal, LLC dba Fat Boyz for use at 219 S. Main Street contingent upon the sale of the property/business from Fat Boyz Inc / John Dawson, Dawson surrendering the license and payment of monies owed by Wiereal, LLC for the licensing period November 30, 2023 to June 30, 2024.

**4. ADJOURNMENT**

Cm. Schultz moved, seconded by Cm. Jaeckel to adjourn. Meeting adjourned at 5:06 pm.

Respectfully submitted,  
Michelle Ebbert  
City Clerk/Treasurer/Finance Director



# Permit Report

10/01/2023 - 10/31/2023

Permit Date	Permit #	Permit Location	Owner Name	Permit Type	Permit Description	Estimated Project Cost	Total Fees
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## Group: Add/Alter Commercial

10/6/2023	23613	525 Handeyside Ln	Total Renal Care, Inc. c/o DaVita, Inc	Add/Alter Commercial	Interior Alterations to existing dialysis facility. Scope includes arch, elec, mech and plumbing.	262,400	\$1,185.00
							<b>\$1,185.00</b>

Group Total: 1

## Group: Certificate of Occupancy

10/6/2023	23611	210 Heritage Dr.	Tim Mephram	Certificate of Occupancy	Permit opened to apply Certificate of Occupancy	0	

Group Total: 1

## Group: Commercial/ Industrial

10/17/2023	23641		Darleen Meiners	Commercial/ Industrial	Adding offices	40,000	

Group Total: 1

## Group: Deck

10/27/2023	23663	618 Grant St	Kara & Tyler Lowrey	Deck	ADA compliant ramp/deck	38,600	\$175.50
10/27/2023	23662	1218 Talcott St	Zaughner's Properties LLC c/o Johnson & Hellekson Real Estate	Deck	Rebuild entry decks. Removing existing concrete decks and replacing with smaller wood deck	100,000	\$980.00
10/11/2023	23629	600 Short St	Clarice Fernelius	Deck	Rebuild landing and stairs to match	2,500	\$40.00

					existing shape and size at rear entrance.		
							<b>\$1,195.50</b>

**Group Total: 3**

**Group: Demo/Raze**

10/19/2023	23642	700 Oak St.	DB Oak	Demo/Raze	Removing section of building that was previously the kennel Klub	0	\$50.00
							<b>\$50.00</b>

**Group Total: 1**

**Group: Electrical**

10/24/2023	23656	1349 Erick St	Jessie Wielgat	Electrical	FIREPLACE WIRING	500	\$45.00
10/24/2023	23655	408 N Main St	Wendy Weyh	Electrical	Generator Installation	11,000	\$45.00
10/23/2023	23653	310 E Blackhawk Dr	CHRISTOPHER P VOGELSBERG	Electrical	Adding wall to basement, need to add outlets and light switch.	1,200	\$38.75
10/23/2023	23652	Waterford Condos	Waterford Condo Association	Electrical	New 4 Car Garage to be separated for individual ownership	128,000	\$145.00
10/19/2023	23644	1412 S Main ST	Angela Rex	Electrical	Sub Panel/ RV outlet installation	4,500	\$85.00
10/19/2023	23643	330 Zida St	Russel Toeller	Electrical	Expand an existing solar PV rooftop array by an additional (2) panels on the DC string. No changes to inverter or AC side of system or service. Existing system is (13) panels, we will increase by (2) to total of (15) panels.	2,861	\$55.00

10/16/2023	23638	409 Rock River Ln	Milo Jones	Electrical	Remodel	0	\$235.50
10/16/2023	23637	ROW at corner of Robert and Sherman	WE Energies	Electrical	New Service for Equipment	0	\$70.00
10/16/2023	23636	208 E Sherman Ave	Emily Maruszewski	Electrical	Exhaust Fan	0	\$40.00
10/13/2023	23634	300 E Sherman Ave	Restoration Build LLC	Electrical	Demo our old sunroom, add garage and add a few outlets and etc	90,000	\$50.75
10/10/2023	23628	1213 Comanche Ct	Mark Gustin	Electrical	Remodel	1,250	\$39.50
10/10/2023	23627	611 E Sherman Ave	FORT HEALTHCARE	Electrical	(PEI733172) NORTH PARKING LOT RENNOVATION	2,000,000	\$235.00
10/10/2023	23623	603 W Hilltop Tr	BETTY HULSTEIN	Electrical	REWIRE OF HOUSE	23,000	\$195.00
10/9/2023	23619	1503 Stacy Ln	Luke Walsh	Electrical	Solar Backup System	15,700	\$90.00
10/6/2023	23617	525 Handeyside Ln	Total Renal Care, Inc. c/o DaVita, Inc.	Electrical	See scope of work attachment.	262,400	\$65.25
10/3/2023	23605	1000 Pawnee Ct	Kory Knickrehm	Electrical	Underground wiring to pool pump	1,000	\$60.00
							<b>\$1,494.75</b>

**Group Total: 16**

**Group: Fence**

10/26/2023	23660	1246 Riverside	Jim Jelinek	Fence	Replacing Fence with the same	1,000	\$25.00
10/25/2023	23659	1531 S Main ST	Black Hawk Phase III LLC	Fence	Wood Privacy fence required per ordinance 15.03.06 (13) (c)	5,000	\$85.00
10/10/2023	23626	1012 Peterson St	Jeremy Kempfer	Fence	6' wood privacy	8,190	\$85.00
10/4/2023	23607	711 Lexington Blvd	Kelly and Tracy Jordan	Fence	New chain link fence in back and side yard	7,200	\$25.00

							<b>\$220.00</b>
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**Group Total: 4**

**Group: Fireplace**

10/16/2023	23639	1349 Erick St.	Jesse Wielgat	Fireplace	Add gas fireplace to living room	13,500	\$70.00
							<b>\$70.00</b>

**Group Total: 1**

**Group: HVAC**

10/27/2023	23665	409 Rock River Ln	Milo Jones	HVAC	Home Remodel, Replace Furnace, Add Ductless Heat Pump for Sun Room, Add Ductwork as needed	14,163	\$270.00
10/20/2023	23649	910 Hillcrest Dr	Russel Johnson	HVAC	Replacement of Furnace and AC	0	\$105.00
10/20/2023	23647	1639 Montclair	Todd Wilman (Roxolid)	HVAC	new construction	13,800	\$277.30
10/12/2023	23630	507 Jackson St	DON & CONNIE	HVAC	REPLACEMENT OF 60,000 btu FURNACE AND AC	5,231	\$105.00
10/9/2023	23620	29 W Milwaukee Ave	First Congregational Church	HVAC	Replace AC	0	\$70.00
10/6/2023	23616	525 Handeyside Ln	Total Renal Care, Inc. c/o DaVita, Inc.	HVAC	Provide (1) exhaust fan. Minor ductowrk and diffuser alterations.	262,400	\$120.00
10/4/2023	23608	825 Lexington unit 4	T-Mobile USA	HVAC	1) Provide and install (1) roof top unit 8.5-ton (RTU-1). - Includes supply and return ductwork. - Includes registers, grilles, and diffusers. - Install En-	33,500	\$211.65

					Touch thermostats and remote sensors, provided by others. - Provide and install low-voltage control wiring. - Crane for equipment to the roof. - Includes duct mounted smoke detector. 2) Install (1) exhaust fan provided by others. - Includes exhaust ductwork.		
10/3/2023	23604	901 Janesville Ave	Nasco Education	HVAC	Replacement rooftop unit - existing unit in place	21,883	\$70.00
							<b>\$1,228.95</b>

**Group Total: 8**

**Group: Plumbing**

10/24/2023	23657	825 Lexington Blvd	BECKER	Plumbing	REMODEL	2	\$77.00
10/23/2023	23654	413 East St	Julie Nelson	Plumbing	Installing water lines and drain to new kitchen sink, dishwasher, garbage disposal and fridge locations.	1,000	\$59.00
10/13/2023	23635	300 E Sherman Ave	Restoration Build LLC	Plumbing	Major construction is adding attached garage, for plumbing, we are simply updating some	90,000	\$77.00

					fixtures and relocated some plumbing and eliminated old systems that didn't work		
10/9/2023	23621	1559 Madison Ave	Kwik Trip Inc	Plumbing	Storm Sewer and Sanitary	35,000	\$110.00
10/6/2023	23615	525 Handeyside Ln	Total Renal Care, Inc. c/o DaVita, Inc.	Plumbing	Replace a total of 24 fixtures. Replace water treatment room and all dialysis stations for an existing dialysis facility.	262,400	\$179.00
10/5/2023	23609	24 South St	Heederik, Laurie	Plumbing	bathtub and surround being replaced with walkin shower and surround, including mixing valve and trap	13,884	\$47.00
10/4/2023	23606	1559 Madison Ave	Kwik Trip	Plumbing	Interior Plumbing of new addition	80,000	\$185.00
							<b>\$734.00</b>

**Group Total: 7**

**Group: Right of Way Opening Permit**

10/27/2023	23664	1700 Janesville Ave	Spacesaver	Right of Way Opening Permit	ROW - New Service Installation	0	\$50.00
10/26/2023	23661	636 Jackson St.	Henri Kinson	Right of Way Opening Permit	Driveway apron	0	\$50.00
10/20/2023	23650	625 Grant Street	Andy Schroedl	Right of Way Opening Permit	driveway	0	\$50.00
10/20/2023	23646	514 Adams Street	Lavern Maier	Right of Way Opening Permit	Driveway apron	0	\$50.00
10/13/2023	23632	100 E Blackhawk Dr		Right of Way Opening Permit	ROW - Vault Installation	0	\$50.00
10/9/2023	23622	1565 Madison Ave	Kwik Trip Inc	Right of Way Opening Permit	New driveway and existing drive closure	0	\$50.00
10/6/2023	23612	636 Jackson Street	Henri Kinson	Right of Way Opening Permit	driveway	0	\$50.00



							<b>\$350.00</b>
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**Group Total: 7**

**Group: Sign**

10/12/2023	23631	1200 Industrial Dr	Johnny Story	Sign	Signage: (2) Vinyl Signs reading "OSI"	13,000	\$145.00
10/10/2023	23624	611 E Sherman Ave	Fort Atkinson Memorial Hospital	Sign	Install of new directional monument signs on north & south parking lots	88,000	\$585.00
							<b>\$730.00</b>

**Group Total: 2**

**Group: Single Family Alteration/Addition**

10/25/2023	23658	413 East St	Julie Nelson	Single Family Alteration/Addition	Moving kitchen from rear of home to front room. Existing kitchen will become a bedroom on the first floor.	10,000	\$45.00
10/23/2023	23651	339 Monroe St	Bruce Bishop	Single Family Alteration/Addition	The repairs due to tree falling on home. Repairs include demo, reframing roof and interior structural walls, drywall, insulation, and rewiring affected walls on the second floor.	95,000	\$352.50
10/20/2023	23648	101 N Fourth St	Wrench Enterprises LLC	Single Family Alteration/Addition	Complete Home Renovation Conversion from Two Family to Single Family	50,000	\$620.00
10/19/2023	23645	310 E Blackhawk Dr	Christopher Vogelsberg	Single Family Alteration/Addition	Adding a wall to the already finished basement	1,200	\$35.00

10/13/2023	23633	406 W Hilltop Tr	Paul Engle	Single Family Alteration/Addition	Egress window and window well	2,500	\$60.00
10/10/2023	23625	603 W Hilltop Tr	BETTY HULSTEIN	Single Family Alteration/Addition	Remodel of Kitchen, Dining, and bathroom	20,000	\$222.50
10/6/2023	23610	409 Milo	Dave Frigo	Single Family Alteration/Addition	Kitchen Remodel	70,000	\$77.50
							<b>\$1,412.50</b>

**Group Total: 7**

							<b>\$8,670.70</b>
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**Total Records: 59**

**11/3/2023**



Jedidiah Dreager  
Building Inspector/Zoning Administrator



City of Fort Atkinson  
City Clerk/Treasurer's Office  
101 N. Main Street  
Fort Atkinson, WI 53538

## MEMORANDUM

**DATE:** November 21, 2023

**TO:** Fort Atkinson City Council

**FROM:** Michelle Ebbert, City Clerk/Treasurer/Finance Director

**RE:** Monthly Report of Licenses and Permits Issued by the City Clerk

The following is a list of the Licenses and Permits issued by the City Clerk for the period of October 17, 2023 through November 21, 2023 per the City of Fort Atkinson Municipal Code of Ordinances. No action is necessary by City Council, as these licenses and permits have already been issued. This report is for informational purposes only.

### BEEKEEPING

None

### OPERATOR

Licensing Period – July 1, 2022 – June 30, 2024

Applicant	Place of Employment	Recommended Approval by Fort Atkinson Police Department
Caroline Dring	Walgreens	Y
Manveet Singh Kaur	Handyspot 105 LLC	Y
Loretta Villarreal	Fat Boyz	Y
Taneah Bruce	Proof Speakeasy	Y

### MOBILE MERCHANT

Lyle Farrell	Tree Ripe Fruit – Central Coast	Y
La Chucheria	Food Truck – United Methodist Church	Y

### DOOR-TO-DOOR RESIDENTIAL / DIRECT SELLER

Richard Torres	Wisco Roofing & Windows	Y
Alexandra Torres	Wisco Roofing & Windows	Y



City of Fort Atkinson  
City Clerk/Treasurer's Office  
101 N. Main Street  
Fort Atkinson, WI 53538

## MEMORANDUM

**DATE:** November 21, 2023

**TO:** Fort Atkinson City Council

**FROM:** Michelle Ebbert, City Clerk/Treasurer/Finance Director

**RE:** Review and possible action relating to Alcohol Beverage License Agent Change  
Handyspot 105, LLC 303 S. Main Street

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### BACKGROUND

The State of Wisconsin regulates alcohol licensing for local governments through Chapter 125. Alcohol Licenses issued to Limited Liability Companies must appoint an agent to operate the business. Agent responsibilities per Statute are listed below:

**(6) LICENSES TO CORPORATIONS AND LIMITED LIABILITY COMPANIES; APPOINTMENT OF AGENTS.**

125.04(6)(a) **(a)** Agent. No corporation or limited liability company organized under the laws of this state or of any other state or foreign country may be issued any alcohol beverage license or permit unless:

125.04(6)(a)1. **1.** The entity first appoints an agent in the manner prescribed by the authority issuing the license or permit. In addition to the qualifications under sub. (5), the agent must, with respect to character, record and reputation, be satisfactory to the issuing authority.

125.04(6)(a)2. **2.** The entity vests in the agent, by properly authorized and executed written delegation, full authority and control of the premises described in the license or permit of the entity, and of the conduct of all business on the premises relative to alcohol beverages, that the licensee or permittee could have and exercise if it were a natural person.

125.04(6)(b) **(b)** Successor agent. A corporation or limited liability company may cancel the appointment of an agent and appoint a successor agent to act in the agent's place, for the remainder of the license year or until another agent is appointed, as follows:

125.04(6)(b)1. **1.** The successor agent shall meet the same qualifications required of the first appointed agent.

125.04(6)(b)2. **2.** The entity shall immediately notify the issuing authority, in writing, of the appointment of the successor agent and the reason for the cancellation and new appointment.

125.04(6)(c) **(c)** Authority of successor. A successor agent shall have all the authority, perform all the functions and be charged with all the duties of the previous agent of the corporation or limited liability company until the next regular or special meeting of the issuing authority if a license is held. However, the license of the corporation or limited liability company shall cease to be in force if, prior to the next regular or special meeting of the issuing authority, the clerk of the licensing authority receives notice of disapproval of the successor agent by a peace officer of the municipality issuing the license.

**DISCUSSION**

Handyspot 105 LLC, located at 303 S Main Street has submitted a request for an Agent Change. Agents for licensed establishments manage many aspects of a business including scheduling, hiring, ordering of product, and managing finances. A background check was performed on the applicant without concerns.

**FINANCIAL ANALYSIS**

There is a \$10.00 fee associated with an Agent change.

**RECOMMENDATION**

Staff recommends that the City Council approve the Agent Change for Handyspot 105 LLC, 303 S Main Street for Jaime Findorff for the licensing period November 22, 2023 through June 30, 2024.

**ATTACHMENTS**

Schedule for Appointment of Agent by Corporation



City of Fort Atkinson  
City Clerk/Treasurer's Office  
101 N. Main Street  
Fort Atkinson, WI 53538

## MEMORANDUM

**DATE:** November 21, 2023

**TO:** Fort Atkinson City Council

**FROM:** Michelle Ebbert, City Clerk/Treasurer/Finance Director

**RE:** Review and possible action relating to Special Event: Badger Bank Horse Drawn Wagon Rides and Santa visit, December 2, 10 a.m.-1 p.m., located at Badger Bank, 220 Grant Street and surrounding blocks

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### BACKGROUND

The City of Fort Atkinson is committed to supporting quality special events throughout the community. The Special Event Guide and Application was created to assist with planning events in the city and to allow appropriate contact information be obtained and forwarded to Departments. The planning guide is designed to assist members of the community in the planning, preparation and running of events and programs in Fort Atkinson.

The Special Event Guide defines a special event as a planned extraordinary occurrence or temporary aggregation of attractions, open to the public, that (a) is conducted on public property, (b) is conducted on private property and has a substantial impact on public property, (c) has activities that request special temporary licenses; or (d) require special city services, whether open to the public or not, including but not limited to, any of the following: street closures, provisions of barricades, garbage cans, stages or special no parking signs, special electrical services, or special police protection. Special events include, but not limited to, neighborhood and community festivals, parades, processions, fairs, and bicycle or foot races.

### DISCUSSION

#### Badger Bank

**Event:** Santa is Coming to Town

**Dates and Hours of Event:** Saturday December 2, 2023 – 10:00 am to 1:00 pm

**Location:** Badger Bank, 220 Grant Street

**Contact Person:** Tammi Windl, [twindl@badgerbank.bank](mailto:twindl@badgerbank.bank)

**Estimated Number of Attendees:** 250

Badger Bank will be hosting a visit from Santa with hayrides for those in attendance. The ride will begin and end at Badger Bank and will route on the following streets: Grant Street, S 3<sup>rd</sup> Street W, Main Street, S. Water Street W, Lumber Street, Milwaukee Ave W and return.

Event information was routed to Departments with the following comments without concerns.  
A Certificate of Insurance was provided.

**FINANCIAL ANALYSIS**

There is no financial impact to the City of Fort Atkinson for the event.

**RECOMMENDATION**

Staff recommends that City Council approve the Badger Bank Santa visit with hayrides on Saturday December 2, 2023.

**ATTACHMENTS**

Special Event Application, Area Map, Certificate of Insurance, Carriage image



CITY OF FORT ATKINSON  
Special Event Application  
Fee: \$25.00

Name of Business/Group Organizing Event:		
Contact Person for Event:		
Phone Number:	Email:	
Day of Event Contact Person (if different from above):	Phone:	Email:
Special Event Details		
Event Name:		
Event Date (mm/dd/yyyy):		
Event Location:		
Estimated Number of Attendees:	Hours of Event:	
Event Setup Time:	Event Tear Down Time:	
Event Description:		
Goal/Purpose of Event:		
Attach a map of the event including:	Designated parking areas and available number of spaces*, directional signage for events (i.e. parking guidance), pedestrian street crossing locations, location of any traffic control barricades or personnel to ensure safe coordination of vehicles and pedestrians  <i>* If limited parking available, provide proof of permission from neighboring businesses/property to utilize their parking</i>	
Check all applicable boxes:		
<input type="checkbox"/> I am renting a city park	Attach copy of paid park rental from Parks & Recreation Department. Equipment rentals are reservable through the Parks & Recreation office 920-397-9910. You are responsible for picking up, setting up, tearing down, and return of equipment. Each park is equipped with picnic tables and garbage/recycling receptacles, and additional are available upon request. If additional cans are requested, the event coordinator will need to pick up additional can liners from Park & Recreation office. The event coordinator is responsible for trash and recycling disposal. If there is no dumpster on site, a dumpster may be required and is the responsibility of the event coordinator.	
<input type="checkbox"/> I am renting city equipment	Please secure and submit payment for requested equipment prior to submitting Special Event Application. *Attach a map with a location for drop off of equipment with this application.  8' white plastic table (43 available; \$4.50/each) Qty ____ Metal folding chair (190 available; \$0.75/each) Qty ____ Additional Picnic Table (\$15/each; includes delivery & pick up)* Qty ____ Additional Garbage/Recycling Can* Qty ____ Barricades* Qty ____ Traffic Cones* Qty ____	
<input type="checkbox"/> Electrical Access	The City Electrician may reach out to you to address any needs/concerns.  Please specify if you have any requests or requirements beyond current access:	



<input type="checkbox"/> I will be having music	(Per City Ordinance 17.03) no person shall cause or allow loud, excessive or unusual noise that will disturb the comfort and quiet repose of persons in the vicinity. All music shall terminate as of 10:00 p.m. City noise ordinance must be followed  Start Time of Music: _____ End Time of Music: _____
<input type="checkbox"/> I will be closing a street(s)*	Barricades can be provided by Public Works upon request  <i>* Provide proof of permission from neighboring businesses/properties if street closure impacts daily activity</i>
<input type="checkbox"/> I will be selling beer and/or wine*	Alcohol license and licensed bartender(s) required. Contact City Clerk (920) 397-9901 prior to submitting this application.  <i>*Restroom Plan also required with sales of beer and/or wine. Refer to the Special Event Guide.</i>
<input type="checkbox"/> I will be erecting a tent, canopy or other temporary structure.*	  <i>*Event coordinator is responsible for ensuring that the temporary structure is safely installed. Event Coordinator is required to contact Diggers Hotline at least 4 business days prior to the event. Diggershotline.com, 1-800-242-8511</i>
<input type="checkbox"/> I am having a walk/race*	<i>*See map instructions above. In addition to the previously listed map requirements, clearly mark your walk/race route on the map.</i>

**By signing, I agree to the following statements:**

I understand I am responsible for a fire safety and medical plan. I understand it is my responsibility to read the Special Events Guide. I understand I may be required to provide Proof of Insurance. I understand that I may need to contact multiple Departments to arrange for assistance. I understand I am responsible for timely clean up after the event. I understand that additional charges may apply and that I can be billed after my event.

Responsible Party Signature: \_\_\_\_\_

Submission Date: \_\_\_\_\_

**For Office Use Only:**

Date Received:	_____
Date Paid:	_____
Council Approval / Denial Date:	_____
Date applicant notified of Council action and any event stipulations:	_____
Event Stipulations:	



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

1/25/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Midwest Bankers Insurance Services 8050 Washington Avenue South  Eden Prairie MN 55344	<b>CONTACT NAME:</b> Melissa Noonan <b>PHONE (A/C. No. Ext):</b> 608-441-1275 <b>E-MAIL ADDRESS:</b> melissan@mbisllc.com <b>FAX (A/C. No):</b> <b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> AmTrust / Security National Insurance Company <b>INSURER B:</b> <b>INSURER C:</b> <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b> <b>NAIC #</b>
<b>INSURED</b>  Badger Bank 220 Grant Street Fort Atkinson WI 53538	

**COVERAGES****CERTIFICATE NUMBER:** 20220921152900830**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			SPP1331025 07	1/01/2023	1/01/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			SMB1796312 02	1/01/2023	1/01/2024	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000 \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N <input type="checkbox"/>	N / A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES** (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate Holder is listed as Additional Insured - Designated Person or Organization - as per the Endorsement to the Commercial Package policy for locations 1 through 4 of the policy.

**CERTIFICATE HOLDER****CANCELLATION**

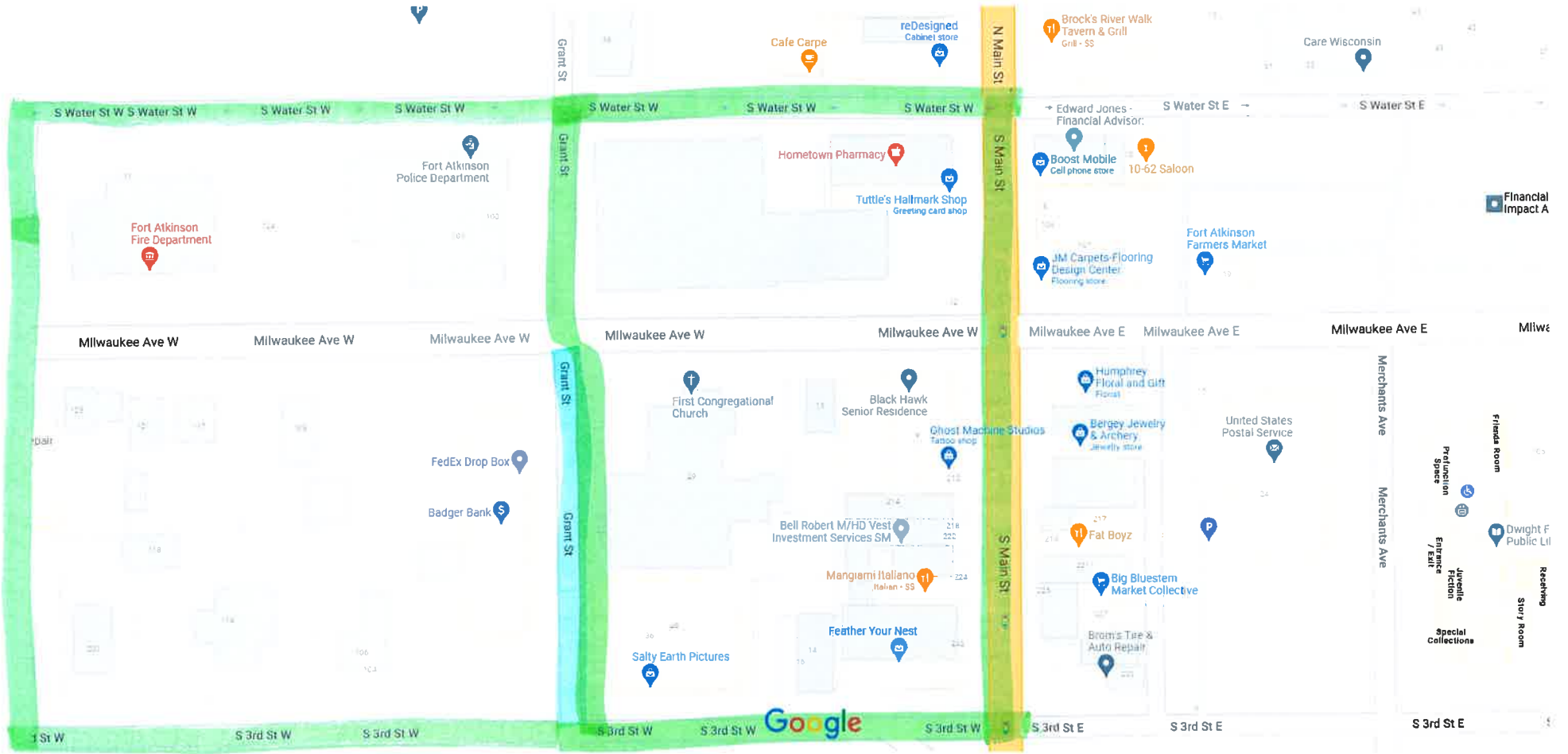
Wisconsin Power and Light Company  
4902 North Biltmore Lane  
Madison, WI 53718

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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# Google Maps Santa Hayride Route



Map data ©2021 Google 50 ft

parking (wagons loading)  
route may differ  
depending on weather conditions





Hay Wagon Rides  
Sponsored By:

 **Badger**  
Bank





## MEMORANDUM

**DATE:** November 21, 2023

**TO:** Fort Atkinson City Council

**FROM:** Andy Selle, PE Dir. Public Works / City Engineer

**RE:** Review and possible action relating to Resolutions setting the 2024 Wastewater Utility and Stormwater Utility Rates

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### BACKGROUND

The City Council authorized staff to work with Trilogy Inc. to aid in evaluating the current financial picture of the City's three utilities as well as look at forecasting future expenses and revenues. During the 2024 budget process that Council has reviewed over several recent meetings and workshops, the need for an increase in utility rates to meet anticipated expenses was noted, documented in more detail with the attached analyses. Trilogy will be providing a presentation this evening on their work. Staff has noted the salient points below and included the memo for each utility as an attachment.

### STORMWATER UTILITY

- A lack of rate increases over the last 3 years will end in 2024 with an increase of \$13.13 / ERU for a total of \$65.63 annually (25%).
- ERU = Equivalent Residential Unit = 3,096 Square feet of impervious surface on a parcel.
- Residential bills include a single ERU, Non-residential properties have their impervious surface (ERUs) measured specifically for their site.
- The Utility is projected to require several rate increases in coming years to meet major project needs including TMDL projects, borrowing costs for the Public Works and Parks Facility, and maintenance and replacement of existing stormwater infrastructure.
- This projected increase, at present, still places our Utility rates below those of our peer communities in the Rock River Basin.

### WATER UTILITY

- Our analysis in support of the successful rate case in 2020-2021 has held true except that the cost of hydrants, services, and road surface replacement have been increasing faster than anticipated
- All of these increased costs can be managed by utilizing the Simple Rate Case procedure allowed through the PSC annually to increase utility revenues slightly without a detailed case study
- Staff will learn in spring 2024 whether the financial results of 2023 allow the Utility to qualify for this Simple Rate Case increase, the allowed amount (percentage) will also be

noted at that time by PSC. If the Utility is eligible, staff will bring the request for the simplified rate case to the City Council for action.

### **WASTEWATER UTILITY**

- The analysis from 2020 in support of the \$13M dollar plant improvements was re-examined. That analysis recommended, and Council implemented, a 3 year schedule of rate increases that ended in 2023
- Results of the analysis indicated a very slight decrease in revenues that was unexpected, but overall the Utility remains on solid financial footing
- The recommendation for a 3% increase in rates moving into 2024 is included.

### **DISCUSSION**

Overall the City's Utilities are in good shape. Both the Stormwater and Wastewater utilities are managed wholly by Council, whereas rates and services of the Water Utility are overseen by the Public Service Commission with local control within certain parameters. The effort to engage Trilogy in our utility financial planning was twofold; first to provide the analysis captured in this report and second to develop financial guidelines that will inform management decisions going forward. These guidelines will focus on issues like acceptable fund balance (how much money do we keep on hand for emergency situations) and the examination of rates (annual and minor rate increases vs. less frequent but substantial increases). These and other questions will be documented in a policy, the critical elements of which will be presented to Council toward the end of the first quarter of 2024.

### **RECOMMENDATION**

Note that the proposed Wastewater and Stormwater Utility rate increases have been incorporated into the 2024 Budget document. Staff recommends that the City Council adopt the following resolutions:

- Resolution adopting 2024 Stormwater Utility Rate
- Resolution adopting 2024 Wastewater Utility Rates

### **ATTACHMENTS**

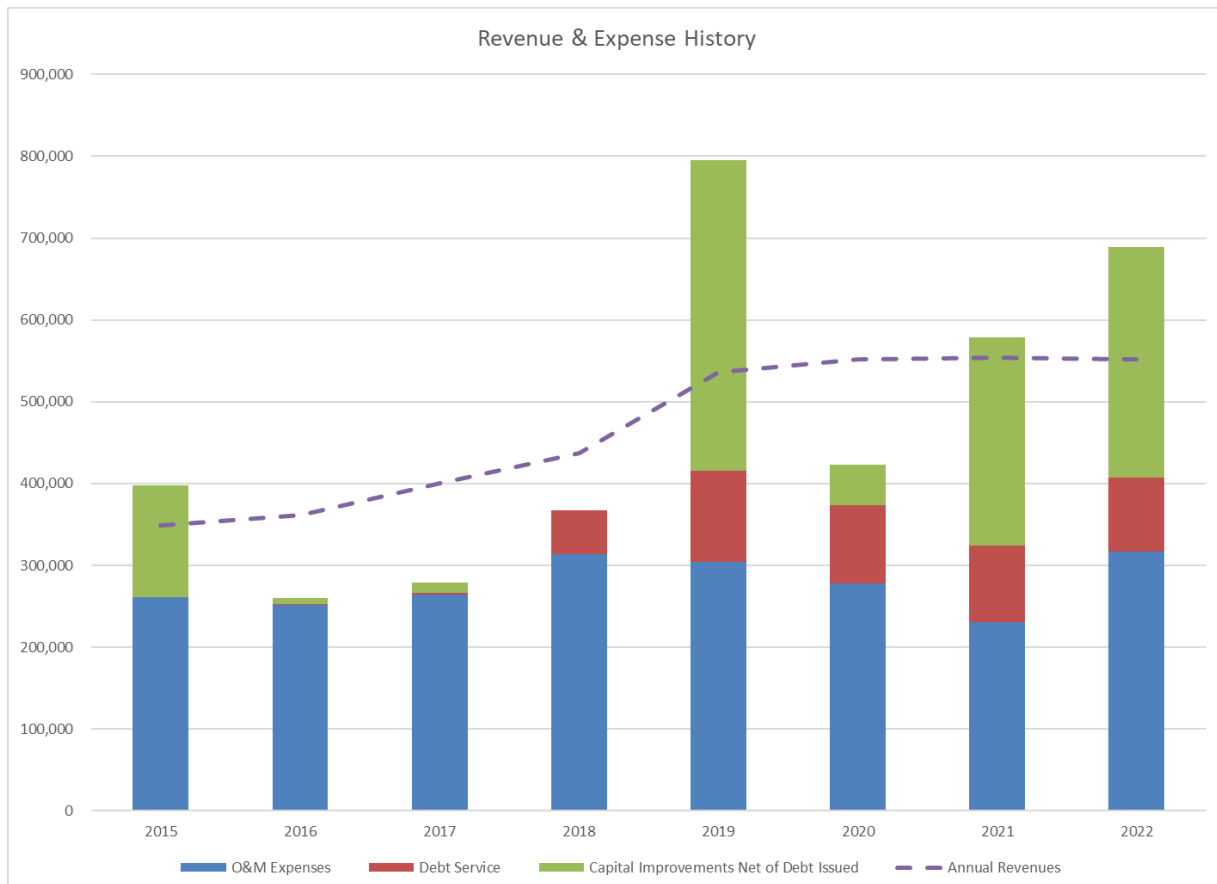
Reports for Stormwater Utility, Water Utility, and Wastewater Utility; Resolution Adopting 2024 Stormwater Utility Rate; Resolution Adopting 2024 Wastewater Utility Rates

**STORMWATER UTILITY FINANCIAL PLANNING**  
**November 2023**

**Financial Projections and User Rates**

The City hired Trilogy Consulting to review the Stormwater Utility's progress in meeting its financial goals and assess any needed updates to Utility policies and rates.

The Stormwater Utility was first implemented in September of 2009. Each property in the City is assigned a number of Equivalent Residential Units (ERUs), based on the amount of impervious area that contributes to storm water runoff. One ERU equals 3,096 square feet of impervious surface area. Every single-family home is assigned one ERU, with non-residential properties assigned ERUs based on actual measured impervious area. The original rate was \$27.60 per ERU per year. Rates gradually increased to the present rate of \$52.50 in 2020 and have remained constant since. Annual revenues from rates have grown from about \$300,000 in 2010 (first full year of implementation) to about \$550,000 in 2022. Historically, revenues have been adequate to pay for all O&M expenses of the Utility, annual capital investment, associated debt, and maintain significant reserves, as shown in the table below.



With rising capital project costs and debt service due to borrowing, the Utility’s annual cash needs are now higher than annual revenues, and the Utility has drawn on its reserves to fully fund the storm water utility. It is projected that expenses will continue to increase with improvements that are required by DNR associated with implementation of the Total Maximum Daily Loads (TMDL), the need to investigate and repair the existing collection system, and the Utility’s portion of the new Public Works and Parks facility.

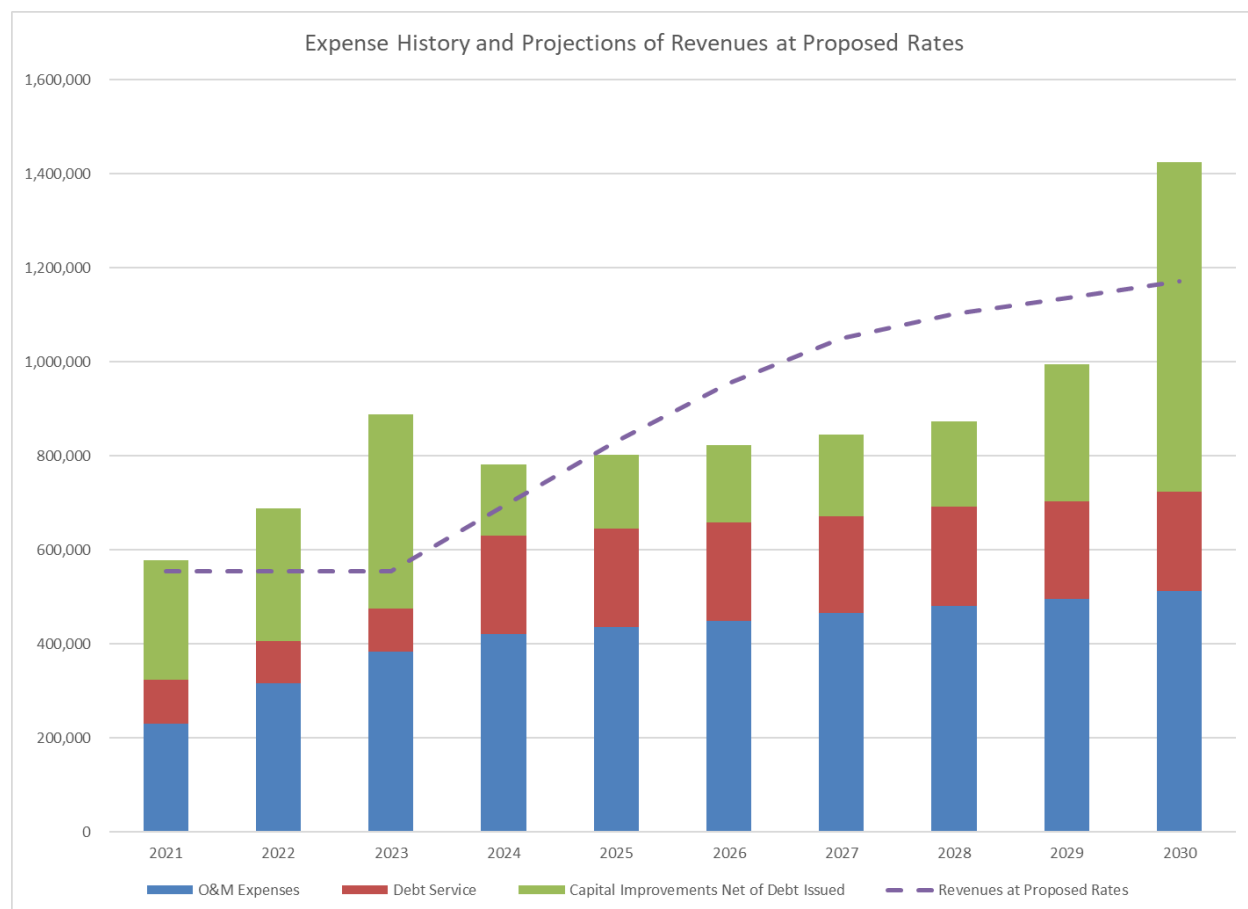
As of 12/31/2022, the Utility had reserves of \$490,000. By year-end 2023, it is estimated that these reserves will be drawn down to about \$155,000. Based on the Utility’s annual expenses, current assets to maintain, and annual debt requirements, it is recommended that the Utility maintain a minimum operating reserve comprised of 2 month’s operating expenses(\$64,000 in 2023), a full year’s debt service payments (\$92,000 in 2023), and \$100,000 for emergency capital needs. For 2024, the minimum recommended reserve level would be about \$380,000.



To build back Utility reserves while ensuring that annual obligations are satisfied, a 25 percent increase in the ERU rate (\$52.50 to \$65.63) is recommended for 2024. Additional increases in future years are recommended to keep the Utility financially healthy. Needed increases in future years are projected to be 20 percent in 2025 (\$65.63 to \$78.76), 15 percent in 2026 (\$78.76 to



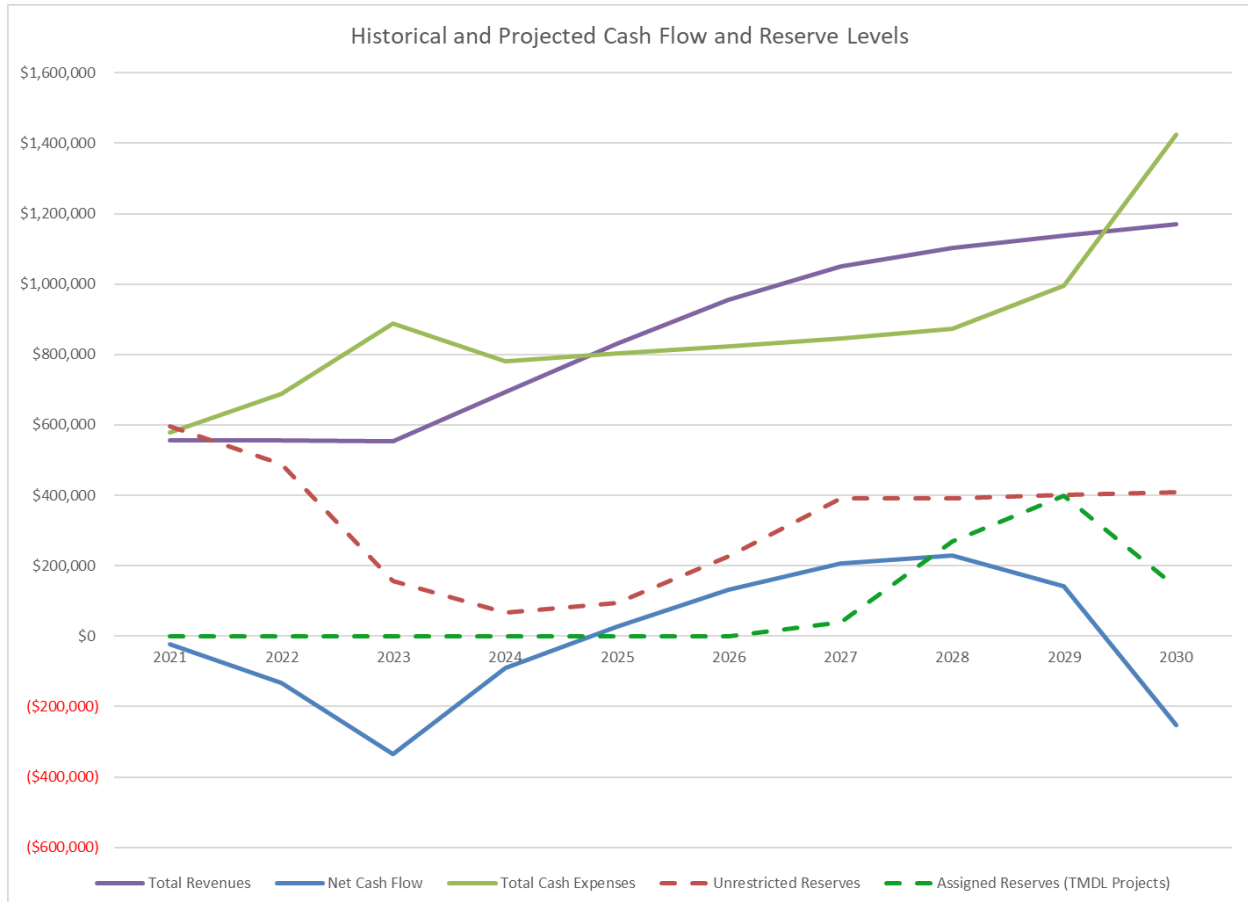
\$90.58), 10 percent in 2027 (\$90.58 to \$99.64), 5 percent in 2028 (\$99.64 to \$104.63), and inflationary increases of 3 percent annually thereafter. Inflation in O&M expenses and routine capital investment is assumed to be 3.8 percent annually beginning in 2025. This will increase the annual rate per ERU to about \$104.63 in 2028, with moderate increases after that time. The charts below show the Utility’s projected cash needs compared to revenues at both present and proposed rates.



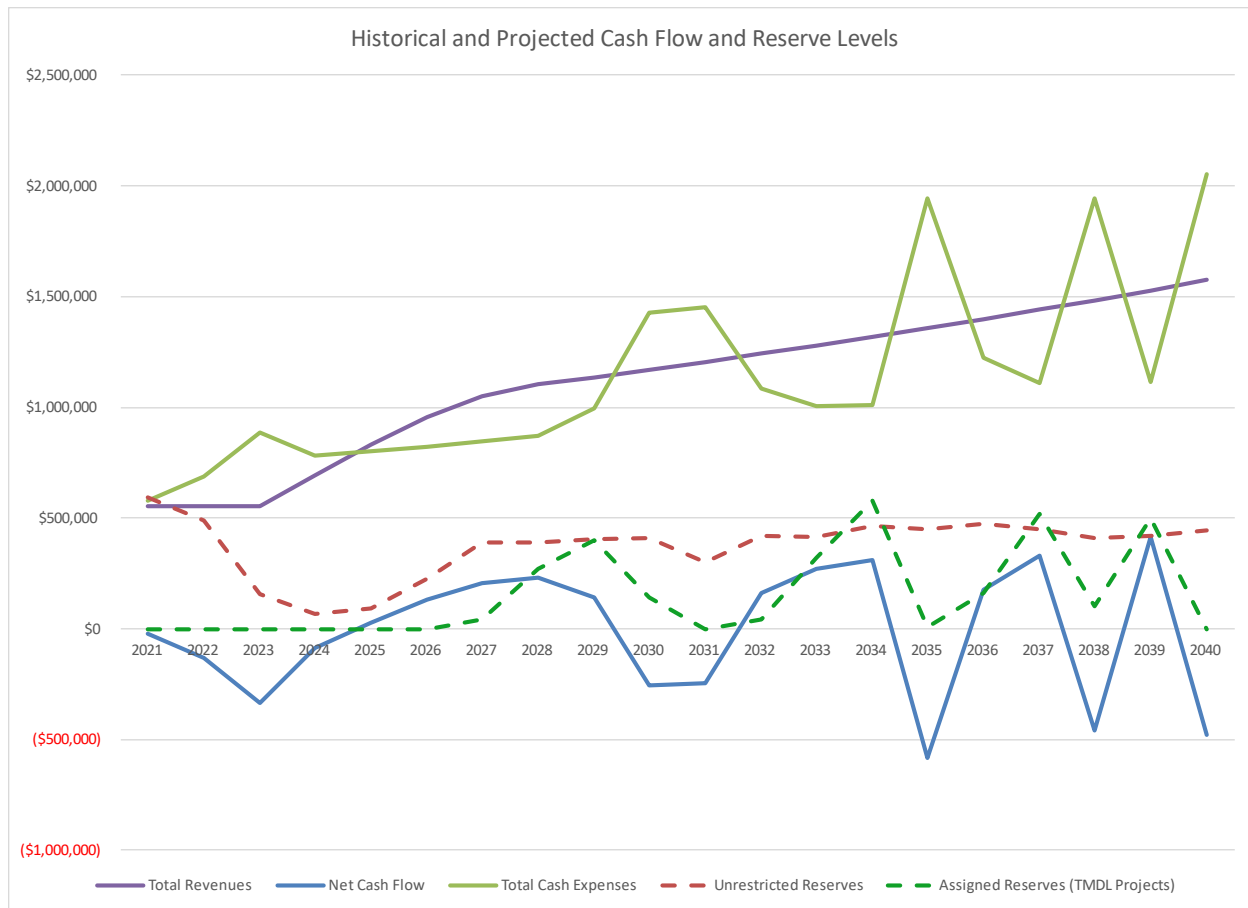
### **Reserve Management for Capital Projects**

To help in future capital planning, the Utility asked Trilogy to prepare cash flow projections that would estimate the amount of annual cash that can be built up in reserves and then available for TMDL projects that are mandated by the DNR but do not have a set schedule for implementation. These projects will total somewhere between \$3 Million and \$5 Million, but again do not have a deadline for implementation. WDNR only notes that “*progress must be made*” on meeting the TMDL plan. Before it can do that, however, the Utility should build up its operating reserve to a minimum level to ensure its long and short-term financial health. The following graph shows a

10-year look at cash flow and reserve levels under the proposed schedule of rate increases, both unrestricted reserves to be maintained for operating purposes, and a new assigned reserve for future TMDL projects. This analysis assumes the first spending on TMDL projects to occur in 2029 and 2030.



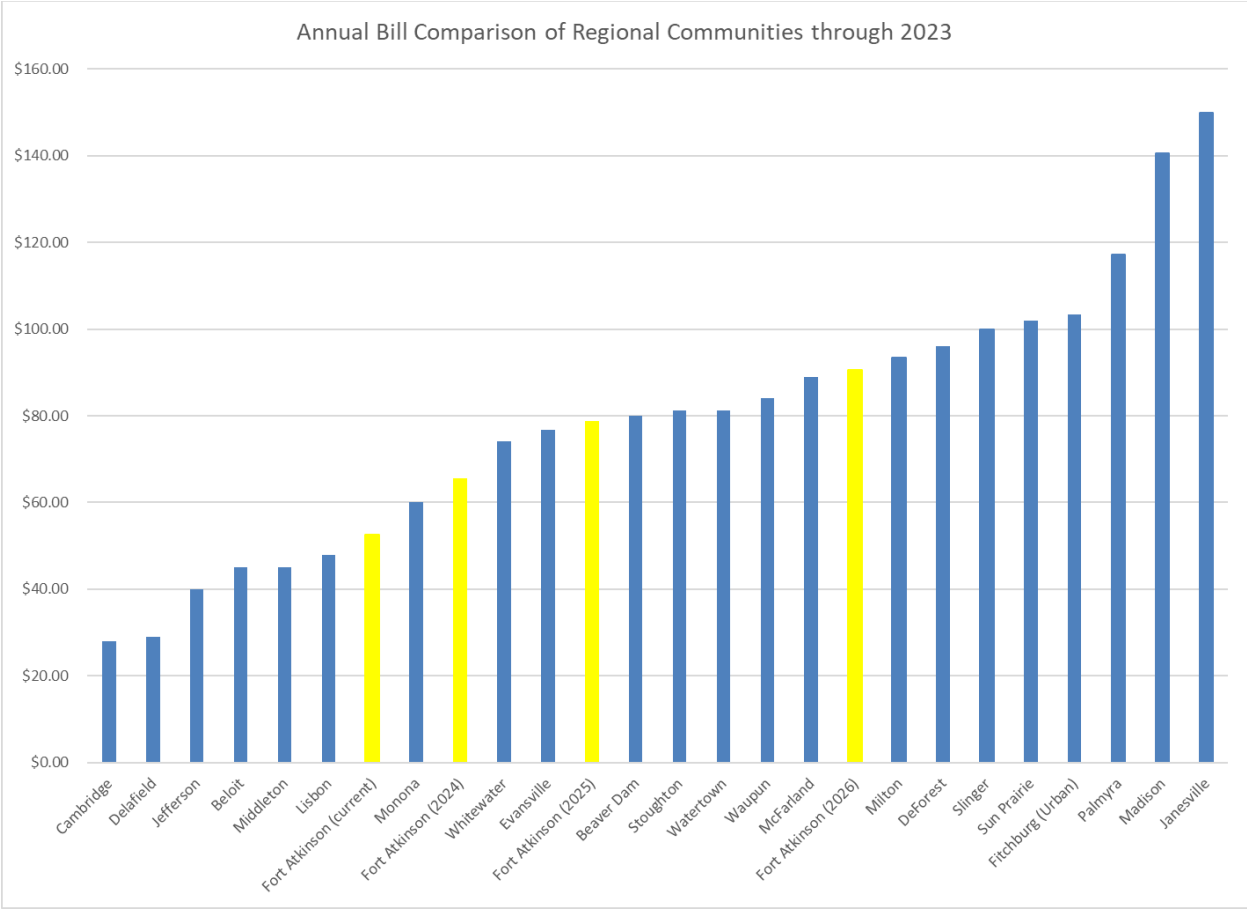
Extending the graph out an additional 10 years shows how the assigned reserve would operate in cycles of saving cash and spending on projects every few years. This would be accomplished while still maintaining a minimum operating reserve and limiting the increase in the rate per ERU to 3 percent per year without issuing additional debt. The tables following the 20-year graph show the detailed assumptions and calculations behind the figures. The total amount of TMDL projects that are forecast under these assumptions is \$3.95 million between 2029 and 2040. Should new regulations require a quicker timeline for construction, then the Utility may need to either raise rates higher than the current projections or issue new debt if reserves have not had adequate time to build. The City should also seek out any grant opportunities for stormwater projects to help offset the cost to the Utility.



	2023	2024	2025	2026	2027	2028	2029	2030	2031
Total Cash In	\$553,861	\$692,222	\$830,571	\$955,321	\$1,050,633	\$1,103,182	\$1,136,577	\$1,170,895	\$1,205,773
O&M Expenses	\$383,145	\$420,888	\$435,265	\$450,027	\$465,186	\$480,760	\$496,765	\$513,217	\$530,135
Debt Service	\$91,864	\$210,528	\$210,528	\$208,092	\$205,956	\$210,528	\$207,059	\$210,925	\$210,423
Cash Available for Capital	\$78,852	\$60,806	\$184,777	\$297,202	\$379,491	\$411,894	\$432,753	\$446,753	\$465,214
Borrowing for Capital	\$0	\$1,500,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Available for Capital	\$78,852	\$1,560,806	\$184,777	\$297,202	\$379,491	\$411,894	\$432,753	\$446,753	\$465,214
Actual / Planned Capital Needs	\$413,000	\$1,650,000	\$157,500	\$165,375	\$173,644	\$182,326	\$191,442	\$201,014	\$211,065
Estimated TMDL Project Spending	\$0	\$0	\$0	\$0	\$0	\$0	\$100,000	\$500,000	\$500,000
Projected Addition to / (Use of) Reserves	(\$334,148)	(\$89,194)	\$27,277	\$131,827	\$205,847	\$229,568	\$141,311	(\$254,261)	(\$245,851)
Projected Rate Increases		25.0%	20.0%	15.0%	10.0%	5.0%	3.0%	3.0%	3.0%
<b>Reserve Management</b>									
Contributions to Assigned Reserve	\$0	\$0	\$0	\$0	\$40,000	\$230,000	\$230,000	\$240,000	\$360,000
TMDL Project Costs	\$0	\$0	\$0	\$0	\$0	\$0	(\$100,000)	(\$500,000)	(\$500,000)
Assigned Reserve Balance (TMDL Projects)	\$0	\$0	\$0	\$0	\$40,000	\$270,000	\$400,000	\$140,000	\$0
Unassigned Reserve Balance	\$155,666	\$66,473	\$93,750	\$225,577	\$391,424	\$390,992	\$402,303	\$408,042	\$302,191
Cumulative Amount Assigned to TMDL Projects		\$0	\$0	\$0	\$40,000	\$270,000	\$500,000	\$740,000	\$1,100,000

	2032	2033	2034	2035	2036	2037	2038	2039	2040
Total Cash In	\$1,241,650	\$1,279,071	\$1,317,709	\$1,357,534	\$1,397,593	\$1,439,672	\$1,483,200	\$1,527,196	\$1,573,448
O&M Expenses	\$547,537	\$565,442	\$583,871	\$602,845	\$622,385	\$642,515	\$663,258	\$684,639	\$706,685
Debt Service	\$213,136	\$209,049	\$180,732	\$182,013	\$179,621	\$181,978	\$182,438	\$117,075	\$117,681
Cash Available for Capital	\$480,977	\$504,580	\$553,106	\$572,676	\$595,587	\$615,179	\$637,504	\$725,482	\$749,082
Borrowing for Capital	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Available for Capital	\$480,977	\$504,580	\$553,106	\$572,676	\$595,587	\$615,179	\$637,504	\$725,482	\$749,082
Actual / Planned Capital Needs	\$221,618	\$232,699	\$244,334	\$256,551	\$269,378	\$282,847	\$296,990	\$311,839	\$327,431
Estimated TMDL Project Spending	\$100,000	\$0	\$0	\$900,000	\$150,000	\$0	\$800,000	\$0	\$900,000
Projected Addition to / (Use of) Reserves	\$159,359	\$271,880	\$308,772	(\$583,875)	\$176,208	\$332,332	(\$459,486)	\$413,642	(\$478,349)
Projected Rate Increases	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%
<u>Reserve Management</u>									
Contributions to Assigned Reserve	\$140,000	\$280,000	\$260,000	\$330,000	\$300,000	\$360,000	\$380,000	\$400,000	\$400,000
TMDL Project Costs	(\$100,000)	\$0	\$0	(\$900,000)	(\$150,000)	\$0	(\$800,000)	\$0	(\$900,000)
Assigned Reserve Balance (TMDL Projects)	\$40,000	\$320,000	\$580,000	\$10,000	\$160,000	\$520,000	\$100,000	\$500,000	\$0
Unassigned Reserve Balance	\$421,549	\$413,430	\$462,202	\$448,326	\$474,534	\$446,866	\$407,381	\$421,023	\$442,674
Cumulative Amount Assigned to TMDL Projects	\$1,240,000	\$1,520,000	\$1,780,000	\$2,110,000	\$2,410,000	\$2,770,000	\$3,150,000	\$3,550,000	\$3,950,000

The final chart below shows the annual charge per ERU for those other communities within the greater Rock River Basin that have stormwater utilities and that charge on an ERU (or similar) basis, along with the proposed increases through 2026. The median annual charge (excluding Fort Atkinson) is about \$81 per year, well above the current charge for the City of Fort Atkinson. The proposed increases will bring the Utility's rates more in line with other communities facing similar circumstances. It should also be noted that several of these communities have increased their stormwater charges in the last several years and may also be facing increases in the future to fund mandated capital spending.



**SEWER UTILITY FINANCIAL PLANNING  
October 2023**

**Financial Projections and User Rates**

In 2020, the City retained Trilogy Consulting to prepare a Sewer Rate Study to develop recommended sewer rates to fund major upgrades to the wastewater treatment facility. The study, dated October 2020, recommended a series of three annual rate increases of 6.0 percent per year for 2021 through 2023 to provide sufficient revenues for debt coverage for the Clean Water Fund (CWF) loan for the wastewater treatment facility project. The City adopted the rates in November 2020.

A 25-year projection of user rates and cash flows was also prepared as part of the Sewer Rate Study to develop a plan to complete all necessary capital improvement projects and meet all debt requirements while maintaining the financial health of the Utility. A series of 3.0 percent per year rate increases were projected to be needed for 2024 and following years to allow the Utility to cash fund routine capital improvements while maintaining cash reserves at or above the recommended minimum level. The study also recommended that these future rate increases should be evaluated annually so that adjustments can be made to changes to the assumptions built into the cash flow projections.

Trilogy Consulting has completed an update to the cash flow projections for the Sewer Utility and recommends that the Utility continue to implement annual rate increases of at least 3.0 percent per year. The update included:

- Updating the projections with actual sewer utility sales, operation and maintenance expenses, revenues, capital expenditures, cash flows, and reserve balances for 2020 through 2022.
- Updating the future capital improvement expenditures to incorporate the Utility's proposed 2024-2029 Capital Improvement Program.
- Adjusting future projections of sales, revenues, and expenses based on 2020-2022 trends.

Based on this analysis, the current and proposed 2024 sewer rates are as follows:

## Flat Charge

Connection Size	Current Rates 2023	Proposed Rates - 2024	Percent Change
5/8	\$24.20	\$24.93	3%
3/4	\$24.20	\$24.93	3%
1	\$39.00	\$40.17	3%
1 1/4	\$51.00	\$52.53	3%
1 1/2	\$63.90	\$65.82	3%
2	\$93.70	\$96.51	3%
3	\$133.40	\$137.40	3%
4	\$163.20	\$168.10	3%
6	\$262.40	\$270.27	3%

## Usage Charges

	Units	Current Rates - 2023	Proposed Rates - 2024	Percent Change
<b>Domestic Sewage</b>	\$/CCF	\$2.59	\$2.67	3%
<b>Septic Tank</b>	\$/CCF	\$31.16	\$32.09	3%
	\$/1,000 gals per load	\$41.65	\$42.90	3%
<b>Holding Tank - Residential</b>	\$/CCF	\$8.92	\$9.19	3%
	\$/1,000 gals per load	\$11.92	\$12.28	3%
<b>Holding Tank - Commercial</b>	\$/CCF	\$10.73	\$11.05	3%
	\$/1,000 gals per load	\$14.34	\$14.77	3%
<b>Landfill Leachate</b>	\$/CCF	\$18.70	\$19.26	3%
	\$/1,000 gals per load	\$25.00	\$25.75	3%
<b>High-Strength Surcharge Rates</b>				
Flow	\$/CCF	\$2.59	\$2.67	3%
	\$/1,000 gals	\$3.46	\$3.56	3%
BOD	\$/pound	\$0.47	\$0.48	2%
TSS	\$/pound	\$0.66	\$0.68	3%
Phosphorus	\$/pound	\$3.75	\$3.86	3%
TKN	\$/pound	\$1.35	\$1.39	3%

## Cash Available for Capital

To help in future capital planning, the Utility asked Trilogy to prepare cash flow projections that would estimate the amount of annual cash that is available for capital projects. As shown in the table below, the Utility's cash reserves are currently well above the recommended target reserve levels. With increases in operation and maintenance expenses and the addition of \$3.7 million to the Utility's capital program in 2024 for the solar energy project at the Wastewater Treatment Plant (WWTP), the Public Works facility, and the Grove Street sewer main replacement, the Utility is projected to draw down its cash reserves over the next several years. Based on current projections, the Utility will need rate increases of 4.0 percent in future years.

These projections are based on numerous assumptions regarding trends in customer sales, inflation, the projected debt service schedule provided by the City's municipal advisors for the planned borrowing in 2024, and the Utility's 5-year Capital Improvement Program. Once the current WWTP is complete, the Utility should update its list of equipment for which it is required to maintain an Equipment Replacement Fund (ERF) and the required balance in the ERF. The Utility should also continue to evaluate the rates on an annual basis.

	2023	2024	2025	2026	2027	2028
Actual / Projected Rate Increase	6.0%	3.0%	4.0%	4.0%	4.0%	4.0%
Total Cash In	\$3,461,731	\$3,561,395	\$3,691,803	\$3,832,130	\$3,978,688	\$4,134,583
O&M Expenses	\$2,216,940	\$2,227,002	\$2,244,131	\$2,258,806	\$2,276,277	\$2,291,273
PILOT to Water Utility for Meters	\$45,003	\$47,253	\$49,616	\$52,097	\$54,701	\$57,436
Debt Service	\$836,445	\$952,632	\$1,189,227	\$1,187,083	\$1,184,750	\$1,108,542
Cash Flow Available for Capital	\$363,343	\$334,508	\$208,830	\$334,145	\$462,960	\$677,332
Borrowing / CWF Principal Forgiveness	\$3,794,790	\$3,100,000	\$0	\$0	\$0	\$0
Total Available for Capital	\$4,158,133	\$3,434,508	\$208,830	\$334,145	\$462,960	\$677,332
Planned Capital Outlay	\$4,376,790	\$4,515,000	\$890,000	\$640,000	\$655,000	\$560,000
Projected Addition to / (Use of) Reserves	(\$218,657)	(\$1,080,492)	(\$681,170)	(\$305,855)	(\$192,040)	\$117,332
Projected Reserve Balance at Year End						
Operating / Capital	\$3,685,638	\$1,866,421	\$1,182,451	\$859,796	\$661,105	\$775,638
Equipment Replacement Fund	\$1,260,156	\$1,905,881	\$1,908,681	\$1,925,481	\$1,932,131	\$1,934,931
Total	\$4,945,794	\$3,772,302	\$3,091,132	\$2,785,277	\$2,593,236	\$2,710,568
Recommended Reserves						
3 Months's Operating Expenses	\$554,235	\$556,750	\$561,033	\$564,701	\$569,069	\$572,818
Unrestricted Capital	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000
Equipment Replacement Fund	\$1,260,156	\$1,905,881	\$1,908,681	\$1,925,481	\$1,932,131	\$1,934,931
Total	\$2,214,391	\$2,862,631	\$2,869,714	\$2,890,182	\$2,901,200	\$2,907,749
Projected Debt Coverage	1.74	1.50	1.29	1.41	1.53	1.66



## **WATER UTILITY FINANCIAL PLANNING**

### **October 2023**

#### **Financial Projections and User Rates**

In September 2021, the Fort Atkinson Water Utility received approval from the Wisconsin Public Service Commission for an increase in water rates of 55% to fund its ongoing operations, begin an annual program of replacing aging water main infrastructure, and maintain a financially healthy utility. The City hired Trilogy Consulting to review the Utility's progress in meeting its financial goals and assess any needed updates to Utility policies and rates.

Based on the PSC's final decision, the Utility was projected to collect \$3.03 million annually from the new rates to fund all of its financial obligations and \$843,000 annually for replacement of water mains. Rates were implemented on October 1, 2021, so 2022 was the first full year under the Utility's approved rates. Revenues in 2022 from user rates totaled \$2.94 million, about \$90,000 less than what was originally projected. Additionally, costs for capital projects have risen significantly since the original projections were made in 2020, particularly for the replacement of hydrants and services related to the main replacement program, for which there is no dedicated source of funding.

Because of higher costs of materials and slightly lower sales revenues than anticipated, the Utility should plan to apply to the PSC for a Simplified Rate Case (SRC), if it meets the PSC's financial eligibility. The PSC sets its eligibility requirements for an SRC in January or February each year to determine what the appropriate benchmark rate of return (ROR) on investment is and the percentage rate increase that would apply to utilities seeking a SRC. For 2023, the benchmark ROR is 6.20%, meaning that in order for a utility to qualify, the revenues from the rate increase would not result in a utility earning more than 6.20%. The 2023 SRC rate increase was determined to be 8.0%, making the Fort Atkinson Water Utility ineligible to apply for the SRC during 2023.

With the expected construction activity for 2023, current projections show for 2023 that the Utility will earn about 4.1% ROR for 2023. If the financial eligibility requirements remain the same and revenues for 2023 are similar to 2022, then the Utility would still not be eligible for the SRC in 2024, although by a small margin. If revenues are down or if expenses are higher than expected by about \$20,000, then the Utility might qualify for the SRC under the current PSC criteria. Alternatively, if the PSC changes the eligibility benchmarks, then the Utility may qualify even under current projections.

An increase of 8.0% would result in additional revenues of about \$228,000. If the PSC changes the amount of the increase that a SRC would provide, then revenues would change accordingly.

The minimum increase that the PSC allows under the SRC process is 3.0%; at that level, revenues would increase by about \$85,000. An increase in revenues in this range would help to offset the rising costs of materials as the Utility continues its infrastructure replacement program. To fully fund the program if costs remain high, multiple SRCs may be needed, depending on the magnitude of any rate increases that the Utility can implement.

Under PSC rules, Class AB utilities can only utilize the SRC process to increase rates for 5 years since their last conventional rate case order. For the Water Utility, that was July 29, 2021, meaning it has the potential to increase rates through an SRC in 2024, 2025, and 2026, as long as the rates would go into effect prior to July 29, 2026. After that date, if the Utility needs to increase rates, then it would again need to go through the conventional rate case process.

### **Cash Available for Capital**

*Table 1 - Projected Cash Flow with Zero Rate Increase*

	2023	2024	2025	2026	2027
Total Cash In	\$2,976,881	\$2,974,344	\$2,974,521	\$2,976,367	\$2,978,029
O&M Expenses	\$1,053,358	\$1,113,891	\$1,154,530	\$1,140,275	\$1,096,128
Taxes	\$361,018	\$369,836	\$376,361	\$382,422	\$391,890
Debt Service	\$342,484	\$221,000	\$249,148	\$251,676	\$255,666
Cash Available for Capital	\$1,220,022	\$1,269,617	\$1,194,482	\$1,201,993	\$1,234,344
Projected Rate Increases		0.0%	0.0%	0.0%	0.0%
Required Spending on Main Replacements	\$843,000	\$843,000	\$843,000	\$843,000	\$843,000
Projected Spending on Hydrants & Services	\$400,000	\$435,000	\$332,000	\$600,000	\$400,000
Net Available for Other Capital	(\$22,978)	(\$8,383)	\$19,482	(\$241,007)	(\$8,656)
Actual / Planned Other Capital Needs	\$314,000	\$145,000	\$253,240	\$159,577	\$98,265
Projected Addition to / (Use of) Reserves	(\$336,978)	(\$153,383)	(\$233,758)	(\$400,584)	(\$106,920)
Recommended Minimum Reserve	\$917,585	\$814,227	\$855,527	\$857,484	\$850,437
Projected Reserves Above Minimum	\$108,624	\$170,264	\$120,239	(\$154,819)	(\$557,360)

In order to help in future capital planning, the Utility asked Trilogy to prepare cash flow projections that would estimate the amount of annual cash that is available for capital projects other than the main replacement program and related hydrants and services. With the increase in costs to replace hydrants and services, the Utility will have minimal annual funding for other capital investment without an increase in water rates. Instead, it will need to rely on Utility

reserves for other capital items. This may be adequate in the short term, but the Utility should maintain a minimum level of reserves for other purposes and cannot rely on reserves in the long term, as they will quickly dip below the recommended level. Table 1 above summarizes the projected cash flow of the Utility under no rate increases through 2027.

If the Utility is eligible for SRCs, even at a minimal level of 3.0% per year from 2024 through 2026, then it will be in a much more stable financial position, even though the amount of money that the Utility will be required to spend on main replacements will rise by the same percentage as well. However, this will help the Utility to keep pace on its goal to replace mains at an amount of 1% per year, as construction costs rise in the future. Table 2 below summarizes the cash flow projections at a minimal level of increases of 3.0% per year for three years. If the SRC percentage increase remains higher and the Utility is eligible for the increase, then the financial health of the Utility will only be improved, and it should pursue the implementation of SRCs, if possible.

*Table 2 – Projected Cash Flow with Minimal Rate Increases*

	2023	2024	2025	2026	2027
Total Cash In	\$2,976,881	\$3,059,892	\$3,148,183	\$3,240,787	\$3,242,450
O&M Expenses	\$1,053,358	\$1,113,891	\$1,154,530	\$1,140,275	\$1,096,128
Taxes	\$361,018	\$369,836	\$376,274	\$382,159	\$391,357
Debt Service	\$342,484	\$221,000	\$249,148	\$251,676	\$255,666
Cash Available for Capital	\$1,220,022	\$1,355,165	\$1,368,231	\$1,466,676	\$1,499,298
Projected Rate Increases		3.0%	3.0%	3.0%	0.0%
Required Spending on Main Replacements	\$843,000	\$868,000	\$894,000	\$921,000	\$921,000
Projected Spending on Hydrants & Services	\$400,000	\$435,000	\$332,000	\$600,000	\$400,000
Net Available for Other Capital	(\$22,978)	\$52,165	\$142,231	(\$54,324)	\$178,298
Actual / Planned Other Capital Needs	\$314,000	\$145,000	\$253,240	\$159,577	\$98,265
Projected Addition to / (Use of) Reserves	(\$336,978)	(\$92,835)	(\$111,009)	(\$213,901)	\$80,034
Recommended Minimum Reserve	\$917,585	\$814,227	\$855,527	\$857,484	\$850,437
Projected Reserves Above Minimum	\$108,624	\$170,264	\$180,787	\$28,478	(\$187,380)

The Utility's ability to implement SRC rate increases also depends on the timing of those increases, since an additional SRC cannot be implemented until the previous one has been in place for a minimum of 12 months. The schedule below outlines the process and deadlines for maximizing the use of SRCs over the next three years.

	2024	2025	2026
Get New Benchmarks from PSC	February - March	February - March	February - March
Council Approval	March - April	March - April	March - April
Prior Year Annual Report Due	May 1	May 1	May 1
Determine Final SRC Eligibility	May 2	May 2	May 4
Publish Customer Notice	May 8 – June 3	May 8 – June 3	May 8 – June 3
File SRC Application	May 15 – June 10	May 15 – June 10	May 15 – June 10
New Rate Implementation Date	July 1 - 27	July 1 - 27	July 1 - 27

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION  
ADOPTING 2024 STORMWATER UTILITY RATE**

**WHEREAS**, Chapter 98 of the City of Fort Atkinson Municipal Code provides regulations relating to Municipal Utilities; and

**WHEREAS**, Article V of Chapter 98 regulates the City's Stormwater Utility (hereinafter "Utility"); and Section 98-604 outlines rates and charges;

**WHEREAS**, Section 98-604(a) indicates that user charges shall be imposed on all developed property with impervious area in the City to recover all or a portion of the costs of the Utility; that the amount of such charges shall be based on a rate per equivalent runoff unit (ERU); and that the City Council shall establish the rate per ERU through a resolution; and

**WHEREAS**, all developed property with impervious area shall be assigned ERUs. Each single-family residential property shall be assigned one ERU; each two-family residential property shall be assigned 0.7 ERUs/dwelling unit; each three- and four-family residential property shall be assigned 0.5 ERUs/dwelling unit; and nonresidential property shall be assigned ERUs based upon the amount of impervious area on the property divided by 3,096 square feet, however shall not be less than one ERU.

**WHEREAS**, the user rate per ERC has remained the same at \$52.50 since 2020 and has failed to meet the needs of the Utility; and

**WHEREAS**, the City Council commissioned a Utility rate study from Trilogy Consulting, LLC, on August 15, 2023, and that study has been presented to the City Council at the meeting on November 21, 2023; and

**WHEREAS**, Trilogy Consulting, LLC, through the 25-year projection of user rates, cash flows, debt obligations, and future capital projects, recommends that the Utility implement annual rate increases, starting with a 25% rate increase in 2024, to complete all necessary capital improvement projects and meet all debt requirements while maintaining the financial health of the Utility.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Fort Atkinson, Jefferson County, Wisconsin, that the 2024 Utility rate is \$65.63 per ERU.

**BE IT FURTHER RESOLVED** that the rate of \$65.63 per ERU be implemented as of January 1, 2024.

Adopted and effective this 21<sup>st</sup> day of November 2023.

**CITY OF FORT ATKINSON**

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**Bruce Johnson, Council President**

ATTEST:

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Michelle Ebbert, City Clerk/Treasurer/Finance Director

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION  
ADOPTING 2024 WASTEWATER UTILITY RATES**

**WHEREAS**, Chapter 98 of the City of Fort Atkinson Municipal Code provides regulations relating to Municipal Utilities; and

**WHEREAS**, Article IV of Chapter 98 regulates the City's Wastewater Utility (also known as Sewer Utility, hereinafter "Utility"); and Division 9 outlines charges and fees;

**WHEREAS**, Section 98-361 includes a policy that states that the Utility obtain sufficient revenues to pay the costs of the debt retirement, including any debt service reserves and debt coverage required, annual cash funded capital outlay, and the operation and maintenance of the wastewater facilities, including replacement costs, through a system of sewer service charge. The system shall be based on a cost of service study that assures that each user of the wastewater facilities pays a proportionate share of the costs; and

**WHEREAS**, the City Council commissioned a Utility rate study from Trilogy Consulting, LLC, on August 15, 2023, and that study has been presented to the City Council at the meeting on November 21, 2023; and

**WHEREAS**, Trilogy Consulting, LLC, through the 25-year projection of user rates and cash flows, recommends that the Utility continue to implement annual rate increases of at least 3 percent per year, starting in 2024, to complete all necessary capital improvement projects and meet all debt requirements while maintaining the financial health of the Utility.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Fort Atkinson, Jefferson County, Wisconsin, that the following flat charges and user rates be implemented as of January 1, 2024:

Flat Charges

Connection Size	Current Rates 2023	Proposed Rates - 2024	Percent Change
5/8	\$24.20	\$24.93	3%
3/4	\$24.20	\$24.93	3%
1	\$39.00	\$40.17	3%
1 1/4	\$51.00	\$52.53	3%
1 1/2	\$63.90	\$65.82	3%
2	\$93.70	\$96.51	3%
3	\$133.40	\$137.40	3%
4	\$163.20	\$168.10	3%
6	\$262.40	\$270.27	3%

## Usage Charges

	Units	Current Rates - 2023	Proposed Rates - 2024	Percent Change
Domestic Sewage	\$/CCF	\$2.59	\$2.67	3%
Septic Tank	\$/CCF	\$31.16	\$32.09	3%
	\$/1,000 gals per load	\$41.65	\$42.90	3%
Holding Tank - Residential	\$/CCF	\$8.92	\$9.19	3%
	\$/1,000 gals per load	\$11.92	\$12.28	3%
Holding Tank - Commercial	\$/CCF	\$10.73	\$11.05	3%
	\$/1,000 gals per load	\$14.34	\$14.77	3%
Landfill Leachate	\$/CCF	\$18.70	\$19.26	3%
	\$/1,000 gals per load	\$25.00	\$25.75	3%
<b>High-Strength Surcharge Rates</b>				
Flow	\$/CCF	\$2.59	\$2.67	3%
	\$/1,000 gals	\$3.46	\$3.56	3%
BOD	\$/pound	\$0.47	\$0.48	2%
TSS	\$/pound	\$0.66	\$0.68	3%
Phosphorus	\$/pound	\$3.75	\$3.86	3%
TKN	\$/pound	\$1.35	\$1.39	3%

Adopted this 21<sup>st</sup> day of November 2023.

**CITY OF FORT ATKINSON**

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**Bruce Johnson, Council President**

ATTEST:

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Michelle Ebbert, City Clerk/Treasurer/Finance Director





## MEMORANDUM

**DATE:** November 21, 2023

**TO:** City of Fort Atkinson City Council

**FROM:** Rebecca Houseman, City Manager

**RE:** Review and possible action relating to the 2024 City of Fort Atkinson Operating Budget, 2024 Capital Improvements Projects Budget & 2025-2029 Capital Improvements Project Plan

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The City of Fort Atkinson 2024 Operating Budget, the 2024 Capital Improvements Project (CIP) budget, and the 2025-2029 CIP Plan are on the agenda for possible action by the City Council. Here is a link to the [2024 Proposed Budget Document](#).

### CHANGES FROM 11.7.23 PROPOSED BUDGET DOCUMENT

The following changes were incorporated into the proposed budget document:

- Certified levies from all taxing jurisdictions;
- Charts and tables outlining the mill rates in Section C; and
- Final TID increment revenue in Section O.

### FINANCIAL ANALYSIS

As outlined in the attached Resolution, the total necessary levy needed to support the City's 2024 operations is \$9,300,627, including the TIDs. The total assessed value of the property within the City is \$1,318,720,800, which equates to a City Mill Rate of \$7.05 per \$1,000 of assessed property value.

The total necessary levy needed to support the City, Jefferson County, the Fort Atkinson School District, and the Madison Area Technical College District in 2024 is \$28,343,552.25, which equates to an overall Mill Rate of \$20.838 per \$1,000 of assessed property value. Note that this does not include the school levy tax credit, which can reduce the overall mill rate by up to \$2.00 per \$1,000 of value.

### RECOMMENDATION

Staff recommends that the City Council adopt the following Resolutions, approving the 2024 City of Fort Atkinson Operating Budget, the 2024 Capital Improvements Projects Budget, the 2025-2029 Capital Improvements Projects Plan, and the 2024 Schedule of Fees:

1. Resolution Adopting the 2024 Annual Budget and Setting the Property Tax Levy for the City of Fort Atkinson, Jefferson County, Wisconsin; and
2. Resolution Confirming the Total Levy for Taxing Jurisdictions in the City of Fort Atkinson and Determining the Mill Rate; and
3. Resolution establishing the 2024 Schedule of Fees for the City of Fort Atkinson, Jefferson County

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION CONFIRMING THE TOTAL LEVY FOR ALL TAXING JURISDICTIONS IN  
THE CITY OF FORT ATKINSON AND DETERMINING THE MILL RATE**

**WHEREAS**, the City of Fort Atkinson City Council has approved by Resolution the required levy to support the 2024 Operating Budget of \$8,767,704.76 (TID out) and **\$9,300,627** (TID in); and

**WHEREAS**, Jefferson County has submitted a certified levy request of \$4,030,619.97 (TID out) for the 2024 fiscal year, and the City has determined the TID-in amount to be levied of **\$4,275,611.20** and

**WHEREAS**, the School District of Fort Atkinson (1883) has submitted a certified levy request of \$12,262,264.61 (TID out) for the 2023-2024 School Year, and the City has determined the TID-in amount to be levied of **\$13,007,594.76**; and

**WHEREAS**, Madison Area Technical College has submitted a certified levy request of \$843,756.18 (TID out) for the 2023-2024 Fiscal Year, and the City has determined the TID-in amount to be levied of **\$895,041.69**;

**WHEREAS**, the following tables summarize the total requested levy (TID in) and estimated Mill Rate based on the City's assessed value of \$1,318,720,800, without the School Levy Tax Credit:

**TABLE 1: City of Fort Atkinson Tax Increment Calculation**

City of Fort Atkinson TIDs	2023 DOR Full Value	Base Value	Increment Value	Value * Interim Tax Rate	
TID #6 Value	\$ 8,550,300.00	\$ 1,135,400.00	\$ 7,414,900.00	\$ 150,650.77	FUND 12
TID #7 Value	\$ 33,919,900.00	\$ 11,587,900.00	\$ 22,332,000.00	\$ 453,726.01	FUND 13
TID #8 Value	\$ 76,334,300.00	\$ 28,584,200.00	\$ 47,750,100.00	\$ 970,153.25	FUND 14
TID #9 Value	\$ 22,863,400.00	\$ 22,863,400.00	\$ -	\$ -	FUND 23
TID #10 Value	\$ 22,359,800.00	\$ 22,359,800.00	\$ -	\$ -	FUND 24
			<b>\$ 77,497,000.00</b>	<b>\$ 1,574,530.03</b>	

**TABLE 2: Taxing Jurisdictions Total Levy Comparison (2023-2022)**

Taxing Jurisdiction	2023 General Purpose Tax Levy	TID Tax Increment	Total 2023 Levy	Total 2022 Levy	Levy Increase (Decrease)
State of Wisconsin	\$ -	\$ -	\$ -	\$ -	\$ -
Jefferson County	\$ 4,030,619.97	\$ 244,991.23	\$ 4,275,611.20	\$ 4,462,996.43	\$ (187,385.23)
FA School District	\$ 12,262,264.61	\$ 745,330.15	\$ 13,007,594.76	\$ 13,777,525.62	\$ (769,930.86)
Madison Area Tech College	\$ 843,756.18	\$ 51,285.51	\$ 895,041.69	\$ 907,628.86	\$ (12,587.17)
City of Fort Atkinson	\$ 8,767,704.76	\$ 532,922.24	\$ 9,300,627.00	\$ 9,195,401.34	\$ 105,225.65
<b>TOTAL</b>	<b>\$ 25,904,345.52</b>	<b>\$ 1,574,529.12</b>	<b>\$ 27,478,874.64</b>	<b>\$ 28,343,552.25</b>	<b>\$ (864,677.61)</b>

**TABLE 3: City of Fort Atkinson Mill Rate Worksheet**

TAXING JURISDICTION	AMOUNT NEEDED (TID IN)	TAX BASE (ASSESSED VALUE)	MILL RATE	TAX RATE PER \$1,000 of ASSESSED VALUE
STATE OF WISCONSIN	0.00	1,318,720,800	0.000000000	\$ -
JEFFERSON COUNTY	4,275,611.20	1,318,720,800	0.003242241	\$ 3.24
FORT ATKINSON SCHOOL DISTRICT	13,007,594.76	1,318,720,800	0.009863797	\$ 9.86
MADISON AREA TECH COLLEGE	895,041.69	1,318,720,800	0.000678720	\$ 0.68
CITY OF FORT ATKINSON	9,300,627.00	1,318,720,800	0.007052764	\$ 7.05
<b>TOTALS</b>	<b>27,478,874.65</b>	<b>1,318,720,800</b>	<b>0.020837523</b>	<b>\$ 20.84</b>

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Fort Atkinson, Jefferson County, Wisconsin, hereby approves and confirms the amounts to be appropriated to the taxing jurisdictions outlined in this document for the year ending December 31, 2024.

**BE IT FURTHER RESOLVED** that the City Clerk is hereby authorized and directed to spread against the total assessed valuation of property in the City of Fort Atkinson heretofore determined to total the amount of \$27,478,874.65 upon the General Tax Roll for 2023 a tax rate of \$20.84 per \$1,000 of assessed valuation, not including the School Levy Tax Credit.

Adopted and effective this 21<sup>st</sup> day of November 2023.

**CITY OF FORT ATKINSON**

\_\_\_\_\_  
**Bruce Johnson, Council President**

ATTEST:

\_\_\_\_\_  
Michelle Ebbert, City Clerk/Treasurer/Finance Director

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION ADOPTING THE 2024 ANNUAL BUDGET  
AND SETTING THE PROPERTY TAX LEVY FOR THE  
CITY OF FORT ATKINSON, JEFFERSON COUNTY, WISCONSIN**

**WHEREAS**, the City of Fort Atkinson City Council has reviewed the 2024 Proposed Budget prepared by City Staff and has authorized publication of the summary budget; and

**WHEREAS**, a Public Hearing on the 2024 budget was held on November 7, 2023, following proper notice in accordance with §65.90 Wis. Stats.; and

**WHEREAS**, it is necessary to levy property taxes in the amount of \$9,300,627 for City purposes, including the Tax Incremental Finance Districts, upon all taxable property within the City of Fort Atkinson as returned by the Assessor in the year 2023 for the uses and purposes set forth in said budget; and

**WHEREAS**, the necessary levy of \$9,300,627 represents a \$105,225 (1.14%) increase over the 2022 levy (TID in).

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Fort Atkinson, Jefferson County, Wisconsin, that:

1. Budgeted revenue estimates and expenditure appropriations for the year 2024 for the City of Fort Atkinson are hereby adopted per the attached summary and as set forth in the budget document.
2. The property tax levy required to finance the City's 2024 budget is \$9,300,627 (including TIDs), and the tax rate is established at \$7.05 per thousand dollars of assessed property value, based on the total assessed value of \$1,318,720,800.

Adopted and effective this 21<sup>st</sup> day of November 2023.

**CITY OF FORT ATKINSON**

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**Bruce Johnson, Council President**

ATTEST:

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Michelle Ebbert, City Clerk/Treasurer/Finance Director

## 2024 City of Fort Atkinson Budget Summary

	2023 Adopted Budget	2024 Proposed Budget	Percent Change
<b>GENERAL REVENUES</b>			
General Property Taxes	\$ 7,025,167	\$ 6,052,414	-13.85%
Other Taxes	\$ 340,050	\$ 350,150	2.97%
Intergovernmental Revenues	\$ 2,074,926	\$ 2,222,572	7.12%
Regulation and Compliance Revenues	\$ 428,280	\$ 452,100	5.56%
Public Charges for Service Revenues	\$ 649,416	\$ 682,579	5.11%
Public Improvement	\$ -	\$ -	0.00%
General Revenues	\$ -	\$ -	0.00%
Commercial Revenues	\$ 104,710	\$ 150,060	43.31%
Other Financing Sources	\$ 360,874	\$ 160,525	0.00%
<b>Total General Revenues</b>	<b>\$ 10,983,423</b>	<b>\$ 10,070,400</b>	<b>-8.31%</b>
<b>GENERAL FUND EXPENDITURES</b>			
General Government	\$ 962,660	\$ 957,734	-0.51%
Public Safety	\$ 4,516,910	\$ 4,758,325	5.34%
Health and Social Services	\$ 35,500	\$ 33,000	-7.04%
Public Works	\$ 2,449,860	\$ 2,428,941	-0.85%
Culture and Recreation	\$ 1,600,453	\$ 1,627,315	1.68%
Conservation and Development	\$ 260,861	\$ 225,085	-13.71%
Public Service Enterprises	\$ 36,000	\$ 40,000	11.11%
<b>Total General Fund Allocations</b>	<b>\$ 9,862,244</b>	<b>\$ 10,070,400</b>	<b>2.11%</b>
<b>2024 PROPERTY TAX LEVY</b>			
	<b>2023</b>	<b>2024</b>	
General Property Taxes	\$ 6,001,822	\$ 6,052,414	0.84%
Debt Service Fund	\$ 1,296,445	\$ 1,397,791	7.82%
Transportation Fund	\$ 500,000	\$ 500,000	0.00%
Dwight Foster Public Library Fund	\$ 616,511	\$ 616,000	-0.08%
Capital Improvement Project Budget	\$ 211,400	\$ 201,500	-4.68%
<b>Total Levy Less TIDs</b>	<b>\$ 8,626,178</b>	<b>\$ 8,767,705</b>	<b>1.64%</b>
Klement Business Park - TID #6	\$ 53,976	\$ 50,990	-5.53%
Downtown Economic Development - TID #7	\$ 166,294	\$ 153,570	-7.65%
Northwest Corridor Development - TID #8	\$ 348,954	\$ 328,362	-5.90%
Northwest Overlay Development - TID #9	\$ -	\$ -	NEW
Northeast Blight Elimination - TID #10	\$ -	\$ -	NEW
<b>Total Levy Including TIDs</b>	<b>\$ 9,195,402</b>	<b>\$ 9,300,627</b>	<b>1.14%</b>

**RESOLUTION NO. \_\_\_\_**  
**A RESOLUTION ESTABLISHING THE 2024 SCHEDULE OF FEES**  
**FOR THE CITY OF FORT ATKINSON, JEFFERSON COUNTY**

**WHEREAS**, the City of Fort Atkinson has the authority to establish reasonable fees for services provided or costs incurred in the administration of government; and

**WHEREAS**, the City has been moving toward the goal of removing fees from the Municipal Code of Ordinances and establishing them by City Council resolution; and

**WHEREAS**, establishing an annual Schedule of Fees will allow the City Council and staff to review fees annually in conjunction with the budget process; and

**WHEREAS**, the fees established below represents the City's fees as of January 1, 2024; and

**WHEREAS**, the City Council has determined that all of the fees set forth hereinafter are reasonable, equitable, and necessary to cover the costs of various services.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Fort Atkinson hereby adopts and approved the Schedule of Fees as outlined below with an effective date of January 1, 2024.

**2024 CITY OF FORT ATKINSON SCHEDULE OF FEES**

<b>TYPE OF LICENSE OR PERMIT</b>	<b>2024 FEE AMOUNT</b>	<b>UNIT/DURATION</b>
Bicycle, E-Bicycle, E-Scooter: New Non-expiring	\$5.00	Per Bicycle, E-Bicycle, E-Scooter
Bicycle, E-Bicycle, E-Scooter: Replacement Non-expiring	\$1.00	Per Bicycle, E-Bicycle, E-Scooter
Room Tax – Per Quarter	5%	Based on gross receipts
Room Tax – Penalty	10% of previous quarter	Per quarter
Private Well Permit	\$200.00	Per two-year permit
Special Event Permit	\$25.00	Per event + additional services charges
Vehicle Registration Fee	\$20.00	Per car per year (with registration)
<b>ANIMAL</b>		
Dog – Altered	\$10.00	Per dog per year
Dog – Unaltered	\$15.00	Per dog per year
Cat – Altered	\$10.00	Per cat per year
Cat – Unaltered	\$15.00	Per cat per year
Late Fee - After April 1 <sup>st</sup>	\$10.00	Per dog/cat

TYPE OF LICENSE OR PERMIT	2024 FEE AMOUNT	UNIT/DURATION
<b>ALCOHOL</b>		
Class "A" Beer –	\$100.00	Per year
"Class A" Liquor	\$500.00	Per year
Class "B" Beer	\$100.00	Per year
"Class B" Liquor	\$500.00	Per year
Reserve License	\$10,000.00	Initial application
"Class C" Wine	\$100.00	Per year
Temporary Class "B" Beer	\$10.00	Per event
Temporary "Class C" Wine	\$10.00	Per event
Temporary Beer and Wine	\$10.00	Per event
Publication: New	\$100.00	Per license
Publication: Renewal	\$30.00	Per renewal
Operator (2 year) July 1 <sup>st</sup> – June 30 <sup>th</sup> Even Years	\$30.00	Per 2 years
Operator (1 year) July 1 <sup>st</sup> – June 30 <sup>th</sup> Odd Years	\$15.00	Per 1 year
Provisional Operator One per person	\$10.00	For 60 days
Temporary Operator One per person per year	\$10.00	For 1-10 consecutive days
<b>BUSINESS</b>		
Cigarettes	\$100.00	Per year
Door-to-Door Direct Seller	\$25.00	Per year/person
<b>MOBILE MERCHANT</b>		
Application Fee	\$25.00	Per application
Daily	\$5.00	Per day
Six Month	\$25.00	Per six months
Twelve Month	\$50.00	Per twelve months
<b>BUILDING</b>		
<b>One and Two Family Residential</b>		
Minimum Fee	\$35.00	Base fee
New Constructions	\$0.25	Per square foot
Addition/Alteration/Remodel	\$0.25	Per square foot
Kitchen Remodel	\$10.00	Per project
Plan Review	\$100.00	Per plan
UDC Stamp	\$35.00	Per structure
Erosion Control	\$100.00	Per project
Erosion Control – Addition with Foundation	\$25.00	Per Project
Occupancy	\$125.00	Per unit

TYPE OF LICENSE OR PERMIT	2024 FEE AMOUNT	UNIT/DURATION
<b>One and Two Family Residential (Con't)</b>		
Moving Principal Building	\$100.00	Per structure
Moving Accessory Building	\$50.00	Per structure
Raze	\$50.00	Per structure
Re-inspect	\$50.00	Per inspection
Early Start	\$75.00	Per project
<b>Commercial / Industrial</b>		
Minimum Fee	\$35.00	Base fee
New Construction	\$0.30	Per square foot
Additions/Alterations	\$0.30	Per square foot
Plan Review, not State approved	\$300.00	Per plan
Plan Review, State approved	\$100.00	Per plan
Erosion Control	\$125.00	Per project
Occupancy	\$175.00	Per unit
Moving Principal Building	\$100.00	Per structure
Moving Accessory Building	\$50.00	Per structure
Raze	\$50.00	Per structure
Re-inspect	\$75.00	Per inspection
Early Start	\$75.00	Per project
Commercial Specialty (Cell Towers, Solar, Windmills, etc.)	\$10.00	Per \$1,000 of project cost
<b>Electrical</b>		
<b>New Construction and Service Fees</b>		
Minimum Fee	\$35.00	Base fee
New Cons up to 1000 sq ft	\$70.00	Base fee
New Cons 1001 to 2000 sq ft	\$90.00	Base fee
New Cons 2001 to 3000 sq ft	\$100.00	Base fee
New Cons 3001 sq ft and up	\$110.00	Base fee
<b>Existing Structures</b>		
Minimum Fee	\$35.00	Base fee
0-100 Amp	\$35.00	Base fee
101-200 Amp	\$35.00	Base fee
201-400 Amp	\$45.00	Base fee
401-600 Amp	\$55.00	Base fee
600 Amp and up	\$65.00	Base fee
Feeder/Subfeeder	\$25.00	Base fee
Outlets/Fixtures	\$.75	Per outlet/fixture
Direct Wired	\$5.00	Per opening
220V	\$5.00	Per opening
Pole / Area Lighting and Signs	\$10.00	Per unit
Electric Heater	\$5.00	Per unit



TYPE OF LICENSE OR PERMIT	2024 FEE AMOUNT	UNIT/DURATION
<b>Electrical (Con't)</b>		
Gas/Oil Heater	\$10.00	Per unit
Exhaust Fan	\$5.00	Per unit
Air Conditioning	\$10.00	Per unit
Motors/Controllers	\$10.00	Per unit
Miscellaneous	\$10.00	Per unit
Swimming Pool	\$25.00	Per unit
<b>Plumbing</b>		
Minimum fee – New Construction (all)	\$35.00	Base fee
Minimum fee – Additions/Alterations (all)	\$35.00	Base fee
Per Fixture	\$6.00	Per fixture
Laterals	\$75.00	Per lateral
Grease Trap	\$50.00	Per trap per year
<b>Heating, Venting, Air Conditioning (HVAC)</b>		
Minimum Fee	\$35.00	Base fee
New residential and additions	\$0.05	Per SF of project
New commercial and additions	\$0.05	Per SF of project
New Furnace	\$60.00	Per unit
New Air Conditioning	\$45.00	Per unit
Replace Furnace	\$35.00	Per unit
Replace Air Conditioning	\$35.00	Per unit
Air Handler	\$60.00	Per unit
Unit Heater	\$25.00	Per unit
Boiler	\$25.00	Per unit
Exhaust	\$25.00	Per unit
Fireplace	\$35.00	Per unit
Solid Fuel Stove	\$35.00	Per unit
Miscellaneous	\$25.00	
<b>Miscellaneous Building Permits</b>		
Base Fee	\$35.00	Per structure
Awnings	\$25.00	Per awning
Deck	\$0.25	Per square foot
Fence	\$25.00	Per parcel
Pool	\$35.00	Per parcel
Signs	\$55.00	Per sign
Failure to obtain occupancy	\$250.00	Per parcel
Erosion Control Bond	\$1,500.00	Bond <sup>1</sup> ,

<sup>1</sup> Bond, less any fees accrued by the City for maintaining the site. Any remaining funds will be returned when perennial cover of 70% is achieved.

TYPE OF LICENSE OR PERMIT	2024 FEE AMOUNT	UNIT/DURATION
<b>Zoning Review Fees</b>		
Residential – New	\$100.00	Per project
Residential – Additions & Accessory Structures	\$50.00	Per project
Residential – Deck	\$25.00	Per project
Commercial – New	\$100.00	Per project
Commercial – Additions & Accessory Structures	\$100.00	Per project
<b>EMERGENCY MEDICAL SERVICES (EMS) FEES</b>		
Basic Life Support – Resident	\$1,500.00	Per response
BLS – Non City Resident	\$1,700.00	Per response
Advanced Life Support – Resident	\$1,700.00	Per response
ALS – Non City Resident	\$1,900.00	Per response
ALS2 – Resident	\$1,900.00	Per response
ALS2 – Non City Resident	\$2,100.00	Per response
BLS On Scene Care – Resident	\$600.00	Per response
BLS On Scene Care – Non City Resident	\$800.00	Per response
ALS On Scene Care – Resident	\$1,000.00	Per response
ALS On Scene Care – Non City Resident	\$1,200.00	Per response
Lift Assist – Resident (after 3rd per calendar year)	\$300.00	Per lift assist after 3 per calendar year
Lift Assist – Non City Resident (after 3rd per calendar year)	\$500.00	Per lift assist after 3 per calendar year
Mileage – Resident	\$26.00	Per mile
Mileage – Non City Resident	\$26.00	Per mile
<b>ENGINEERING FEES<sup>2</sup></b>		
Commercial Erosion and Sediment Control Permit Review	\$150.00	Per project
Right of Way Permit Review	\$50.00	Per request
Storm Water Permit Review	\$200.00	Per project
<b>LAND USE APPLICATIONS<sup>3</sup></b>		
Conditional Use Permit Review	\$200.00	Per request
Parkland Dedication	769 sf 577 sf 307 sf	Per single/dup. Per multifam unit Per senior unit

<sup>2</sup> In addition to application fees, land use applicants shall bear all reasonable costs and expenses associated with third-party consultants necessary to review applications in any case where the City does not have the in-house expertise to perform such review (§15.10.32(7)(a)1.).

<sup>3</sup> In addition to application fees, land use applicants shall bear all reasonable costs and expenses associated with third-party consultants necessary to review applications in any case where the City does not have the in-house expertise to perform such review (§15.10.32(7)(a)1.).

TYPE OF LICENSE OR PERMIT	2024 FEE AMOUNT	UNIT/DURATION
<b>LAND USE APPLICATIONS<sup>4</sup> (Con't)</b>		
Payment in Lieu of Parkland Dedication	\$741 \$556 \$296	Per single/dup. Per multifam unit Per senior unit
Park Impact Fees	\$1009 \$757 \$404	Per single/dup. Per multifam unit Per senior unit
Planned Unit Development Review	\$500.00	Per project (includes zoning change)
Plat Review	\$100.00 base plus \$10.00 per lot; Maximum \$500.00	Per lot or maximum fee
Certified Survey Review	\$100.00 base plus \$10.00 per lot; Maximum \$150.00	Per lot or maximum fee
Extraterritorial Certified Survey Map	\$10.00 per lot or \$100.00 max	Per lot or maximum fee
Sign Permit Review	\$75.00	Per sign
Site Plan Review	\$200.00	Per project
Special Area Design Review – Renovation Review	\$25.00	Per request
Special Area Design Review – Design Alteration Review	\$50.00	Per request
Special Area Design Review – Project Review	\$200.00	Per request
Temporary Use Permits	\$50.00	Per request
Variance	\$200.00	Per request
Zoning Ordinance Amendment	\$200.00	Per request
Zoning Map Amendment	\$200.00	Per request
<b>PARKS AND RECREATION FEES<sup>5</sup></b>		
Open Air Shelters	\$60.00 Deposit: \$50.00	Per day; deposit refundable
Clubhouse	\$225.00 Deposit: \$100.00	Per day; deposit refundable

<sup>4</sup> In addition to application fees, land use applicants shall bear all reasonable costs and expenses associated with third-party consultants necessary to review applications in any case where the City does not have the in-house expertise to perform such review (§15.10.32(7)(a)1.).

<sup>5</sup> The municipal building gym is not available for rent during Parks & Recreation sponsored programming. If there is a request to rent during Youth Center programming, there may be additional fees to relocate the Youth Center. Please see the Group Fee Schedule on file with the Parks and Recreation Director for additional information on table, chair, and shelter rental rates.

TYPE OF LICENSE OR PERMIT	2024 FEE AMOUNT	UNIT/DURATION
<b>PARKS AND RECREATION FEES<sup>6</sup> (Con't)</b>		
Rotary Pavilion	\$150.00 Deposit: \$50.00	Per day; deposit refundable
Table Rentals	\$4.50 per table	Per weekend
Chair Rentals	\$0.75 per chair	Per weekend
Aquatic Center Family Pass – Resident	\$100.00	Per Annual Pass
Aquatic Center Family Pass – Non Resident	\$115.00	Per Annual Pass
Aquatic Center Individual Pass – Resident	\$45.00	Per Annual Pass
Aquatic Center Individual Pass – Non Resident	\$55.00	Per Annual Pass
Aquatic Center Daily Admission – Child	\$3.50	Per Daily Pass
Aquatic Center Daily Admission – Adult	\$4.50	Per Daily Pass
Aquatic Center Pool Part Rental	\$175.00	Per hour (2 hour maximum)
Municipal Building Gym Rental – Birthday Parties	\$30.00	Per 2 hour maximum rental
Municipal Building Gym Rental – Open Gym Play	\$5.00	Per hour
Municipal Building Gym Rental – Special Events	\$50.00	Per day
Field Fees <sup>7</sup>	Various	See Attachment
<b>PUBLIC WORKS – OPERATIONS FEES<sup>8</sup></b>		
Brush collection in excess of 15 minutes	\$270.00	Per hour - billed in 10 Min increments
Front End Loader (use by PW Staff)	\$65.00	Per hour – billed in 15 Min increments
12-Yard Dump Truck (use by PW Staff)	\$57.00	Per hour – billed in 15 Min increments
Residential Lot Mowing - in excess of 8" in height (Cited as not maintained)	\$195.00	Per hour – billed in minimum 1 hour increments (with 15 min increments thereafter)
Large Vacant Lot Mowing - in excess of 24" in height (Cited as not maintained)	\$220.00	Per hour – billed in minimum 1 hour increments (with 15 min increments thereafter)

<sup>6</sup> The municipal building gym is not available for rent during Parks & Recreation sponsored programming. If there is a request to rent during Youth Center programming, there may be additional fees to relocate the Youth Center. Please see the Group Fee Schedule on file with the Parks and Recreation Director for additional information on table, chair, and shelter rental rates.

<sup>7</sup> See attached Fort Atkinson Parks & Recreation 2024 Field Fees

<sup>8</sup> Public Works – Operations Fees represent the actual labor and equipment costs associated with requested delivery from the compost site. The City does not rent equipment nor provide labor for private purposes.

TYPE OF LICENSE OR PERMIT	2024 FEE AMOUNT	UNIT/DURATION
<b>PUBLIC WORKS – OPERATIONS FEES<sup>9</sup> (Con't)</b>		
Public Works Staff Labor	\$40.00	Per hour – billed in 15 Min increments
<b>PUBLIC WORKS – COMPOST SITE FEES</b>		
Screened compost for purchase	\$25.00	Per cubic yard. Delivery fee extra based on actual labor & equip costs
Unscreened/unturned Compost	Free	No loading and delivery available.
Raw Leaves	Free	\$67.00 load and delivery fee per truckload within City limits.
Wood Mulch	Free	\$67.00 load and delivery fee within City limits.
Screened compost partials	\$15.00	Per ½ cubic yard
	\$10.00	Large container (13 gallon can)
	\$2.00	Small container (5 gal. bucket or smaller)
Tube-style TV/Monitor E-Waste	\$25.00	Per unit (designated days only)

Adopted this \_\_\_\_ day of \_\_\_\_\_ 2023.  
Effective the 1<sup>st</sup> day of January 2024.

**CITY OF FORT ATKINSON**

\_\_\_\_\_  
**Bruce Johnson, President**

ATTEST:

\_\_\_\_\_  
Michelle Ebbert, City Clerk/Treasurer/Finance Director

<sup>9</sup> Public Works – Operations Fees represent the actual labor and equipment costs associated with requested delivery from the compost site. The City does not rent equipment nor provide labor for private purposes.



# 2024 Field Fees:

Park	Facility		Reservation & Use Fee
Jones Park			
600 Janesville Avenue	Baseball Field	Game	\$100/1st game + \$50/additional game
		Tournament*	\$100/1st game + \$50/additional game
		Practice (2 hrs)	\$30/2 hrs
		Prep Fee	\$50/1st game
		Lights	\$10/day
If a non-resident team plays after a resident team, the fee is \$100/game			
If a resident team plays after a different resident team, the fee is \$50/game			
All diamond preparations during the week (Mon-Fri) will be the responsibility of the City, unless otherwise			
All diamond preparations during the weekend (Sat-Sun) will be the sports organization's responsibility, unless otherwise			
*Tournaments: if there is a game on Friday, then a game on Saturday, the Saturday game would be considered "additional game"			
Memorial Park			
520 Riverside Drive	Baseball Diamond #1	Game	\$40/game
		Tournament*	\$250/day/3 diamonds
		Practice (max 2 hrs)	\$10/hour
		Prep Fee	\$20/diamond
		Lights	\$10/day/3 diamonds
	Baseball Diamond #2	Game	\$40/game
		Tournament*	\$250/day/3 diamonds
		Practice (max 2 hrs)	\$10/hour
		Prep Fee	\$20/diamond
		Lights	\$10/day/3 diamonds
	Baseball Diamond #3	Game	\$40/game
		Tournament*	\$250/day/3 diamonds
		Practice (max 2 hrs)	\$10/hour
		Prep Fee	\$20/diamond
		Lights	\$10/day/3 diamonds
Ralph Park			
600 Jefferson Street	Softball Diamond North	Game	\$40/game
		Tournament*	\$250/day/2 diamonds (Fri 5:30-10:00 p.m. \$100/2 diamonds)
		Practice (max 2 hrs)	\$10/hour
		Prep Fee	\$20/field
		Lights	\$10/day/2 diamonds
	Softball Diamond South	Game	\$40/game
		Tournament*	\$250/day/2 diamonds (Fri 5:30-10:00 p.m. \$100/2 diamonds)
		Practice (max 2 hrs)	\$10/hour
		Prep Fee	\$20/field
		Lights	\$10/day/2 diamonds
Rock River Park			
1300 Lillian Street	Football Field North	Game/Practice - no prep	\$10/hour
		Lights	\$10/day/3 fields
	Football Field South	Game/Practice - no prep	\$10/hour
		Lights	\$10/day/3 fields
	Practice Field	Game/Practice - no prep	\$10/hour
		Lights	\$10/day/3 fields
*All tournaments require park shelter rental.			
Game/tourney fee includes use of dragging machine, 1 bag of chalk per 2 games, scoreboard (if operable), and up to 8 bags of diamond dry per day. \$15/bag of diamond dry if more is needed. \$10/bag of chalk if more is needed.			
Teams are required to perform pre and post game care of the field.			
No charge for Fort Atkinson City sponsored activities or Fort Atkinson School District activities.			





## MEMORANDUM

**DATE:** November 21, 2023

**TO:** Fort Atkinson City Council

**FROM:** Andy Selle, P.E., City Engineer/Director of Public Works

**RE:** First reading of an Ordinance Annexing the territory located at N2696 Banker Road to the City of Fort Atkinson

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### BACKGROUND

Applicants and property owners Josh Majewski and Somer Majewski have requested the annexation of the property located at N2696 Banker Road from the Town of Koshkonong to the City of Fort Atkinson in order to access the City's water and sewer infrastructure.

### DISCUSSION

Future land use for this site is listed as Planned Neighborhood. Per the City Comprehensive Plan, this parcel is part of the Northwest Quadrant Planning Area. The Proposed use is in concert with the City Comprehensive Plan.

This request has been submitted to the State Department of Administration. The Plan Commission reviewed this request at the meeting on November 14, 2023 and recommended the Council perform three readings and adopt the Ordinance as presented after notification of support from the Department of Administration.

### FINANCIAL ANALYSIS

The parcel has a deferred special assessment for the water, sewer, and road infrastructure on Banker Road and Campus Drive in the amount of \$22,748.88. Repayment is governed by the attached annexation agreement. Also, per Wis. Stats. §66.0217(14), the City must pay the Town of Koshkonong \$2,441.30, representing the loss of Town property taxes for the next five years. Staff will issue a check to the Town upon final adoption of the Annexation Ordinance.

### RECOMMENDATION

Staff recommends that the City Council perform the first reading of this Ordinance and direct the City Manager to prepare it for a second reading at the meeting on December 5, 2023.

### ATTACHMENTS

Plan Commission Staff Report; Annexation Application; Petition for Annexation; Annexation Agreement; Annexation Map; Legal description; DRAFT Annexation Ordinance

## REQUEST FOR ANNEXATION REPORT TO THE PLAN COMMISSION

**DATE:** November 14, 2023

**FILE NUMBER:** PFA-2023-02

**PROPERTY ADDRESSES:** N2696 Banker Rd

**EXISTING ZONING:** R-2, Jefferson County Zoning

**PARCEL NUMBERS:** 016-0614-3332-054

**EXISTING LAND USE:** Single-family Residential

**OWNER:** Somer and Josh Majewski

**REQUESTED ZONING:** SR-2, Single-family Residential

**APPLICANT:** Tip of the Spear LLC

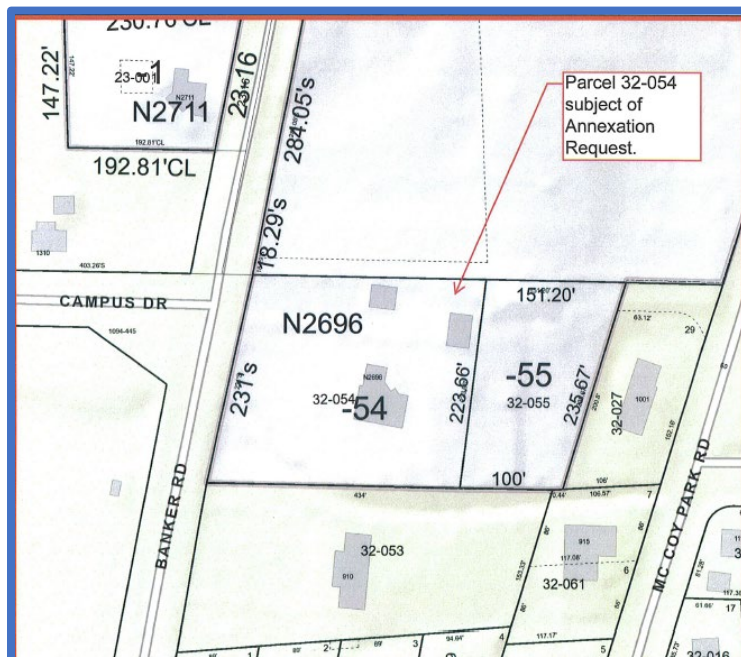
**REQUESTED USE:** Single-family Residential

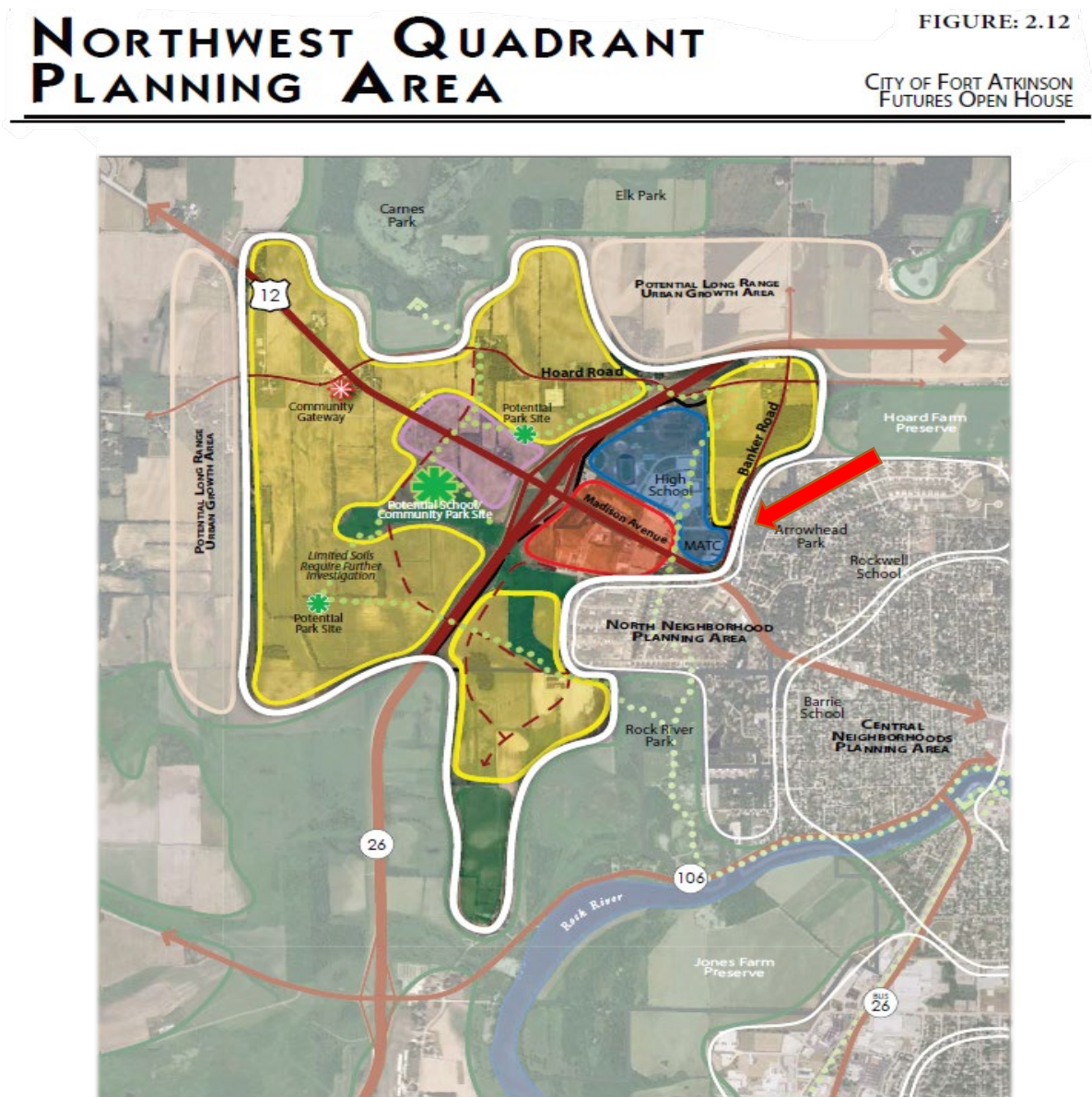
### REQUEST OVERVIEW:

Applicant and Property owner Josh and Somer Majewski have requested the annexation of the property located at N2696 Banker Road from the Town of Koshkonong to the City of Fort Atkinson. City utilities will be installed to the parcel. A deferred assessment is on the parcel in the amount of \$22,748.88. Repayment is governed by the attached annexation agreement. The property owners have requested that the property be in the City's SR-2, single-family residential zoning district.

### PUBLIC NOTICE:

Annexation by Unanimous Consent does not require a public notice.





**COMPREHENSIVE LAND USE PLAN (2019):**

Future land use for this site is listed as Planned Neighborhood. Per the City Comprehensive Plan, this parcel is part of the Northwest Quadrant Planning Area. The Proposed use is in concert with the City Comprehensive Plan.

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**REVIEW BY ZONING ADMINISTRATOR AND CITY STAFF:**

The applicant has requested that the property be zoned SR-2, Single Family. The zoning request was made to meet the requirements set forth in the Fort Atkinson Zoning Ordinance for the existing home.

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**RECOMMENDATION:**

Staff recommends the Plan Commission recommend the City Council adopt the ordinance annexing the territory as depicted on the attached annexation exhibit; and assign a zoning classification of SR-2 Single Family.

The City Council is expected to review this request at the regular meetings on Nov 21, Dec 5, and Dec 19<sup>th</sup> if needed.

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**ATTACHMENTS:**

- Annexation Application
- Petition for Annexation
- Annexation Agreement
- Annexation Map
- Legal description





City of Fort Atkinson  
City Engineer's Office  
101 N. Main Street  
Fort Atkinson, WI 53538

**PETITION FOR ANNEXATION  
TO THE CITY OF FORT ATKINSON**

Address(es) of Property: N2696 Banker Rd Fort Atkinson WI

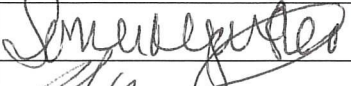
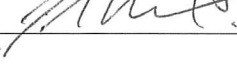
Parcel Number(s): 016-0614-333a-054

The current population or territory to be annexed and/or attached is 0 persons.

We, the undersigned, constituting all of the owners of the real property in Jefferson County, Wisconsin, lying contiguous to the City of Fort Atkinson, respectfully petition the City Council of the City of Fort Atkinson to annex the territory described and shown on the attached scale map to the City of Fort Atkinson, Jefferson County, Wisconsin. (Plat of Annexation or Attachment must include a legal description of the subject property.)

We the undersigned, elect that this annexation shall take effect to the full extent consistent with outstanding priorities of other annexation, incorporation or consolidation proceedings, if any.

We further respectfully request that this property be zoned Residential SR-2

Owner/Petitioner Signature:	Print Name:	Address:	Date:
	Somer Majewski	N2696 Banker Rd	10/12/23
	Josh Majewski	N2696 Banker	10-31-23

Personally came before me this 31 day of October, 2023, the above named,

Somer Majewski (day) (month) (year)  
Josh Majewski to me known to be the persons who executed the foregoing instrument and acknowledged the same.



Notary Public, Jefferson County, Wisconsin (SEAL)

My Commission is permanent or expires on: July 29, 2025

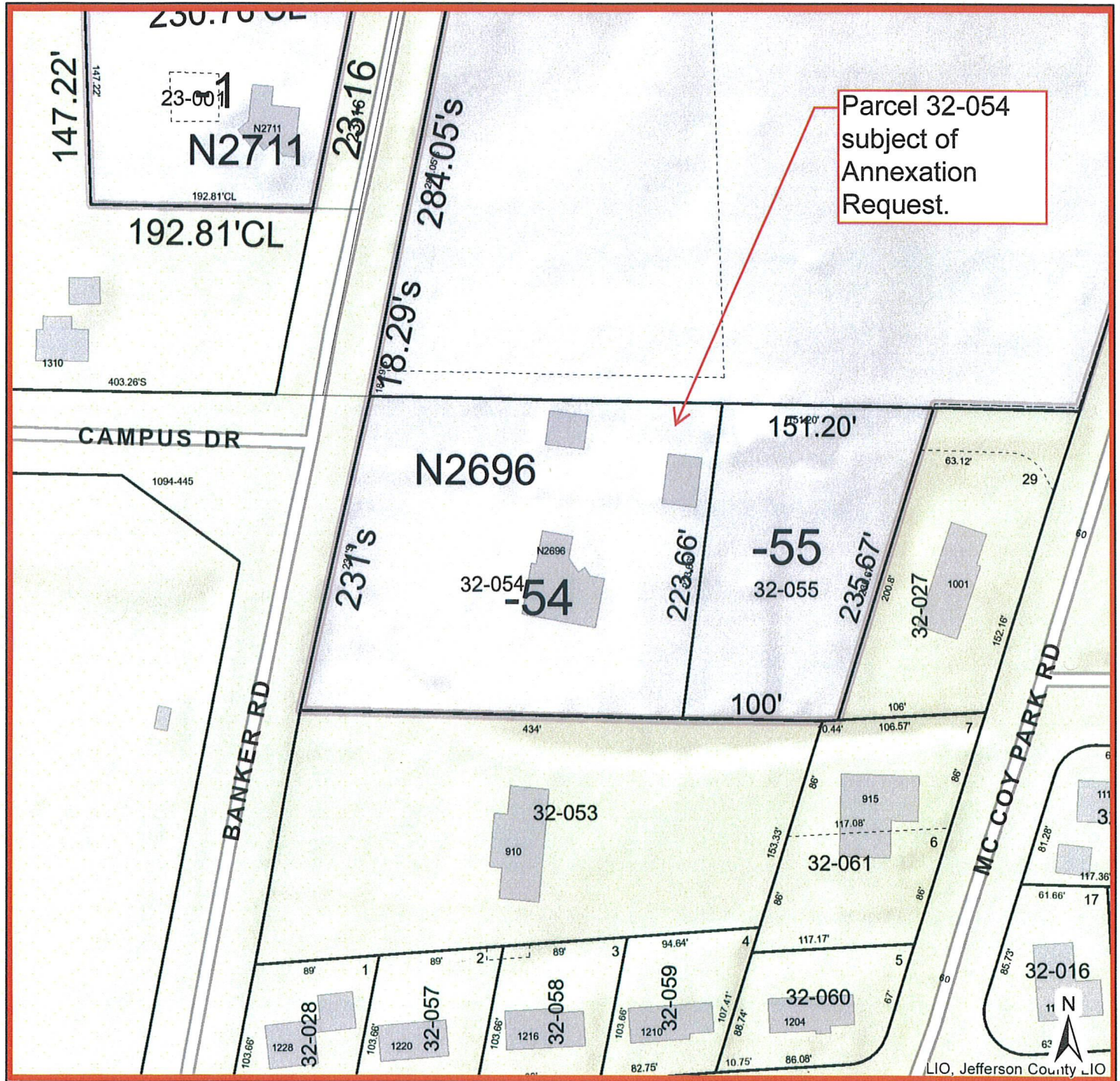
Jefferson County Parcel ID #016-0614-3332-054

A parcel of land located in the NW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  Section 33, T6N, R14E Town of Koshkonong, Jefferson Co. Wisconsin, bounded and described as follows:

Commencing at the West  $\frac{1}{4}$  corner of Section 33, thence 403.26 feet East along the North-South  $\frac{1}{4}$  line to Point of Beginning, thence bearing S12°42'W a distance of 231 feet, thence East to a point 100 feet West of the West line Re-plat of Barton Diest Subdivision thence bearing N6°13'E a distance of 223.66 feet, thence West along the North-South  $\frac{1}{4}$  line to the Point of Beginning. Parcel composed of about 1.45 Acres.

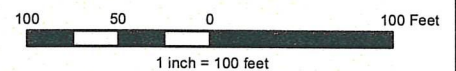


# Jefferson County Land Information



Parcel 32-054  
subject of  
Annexation  
Request.

- |                        |                             |               |
|------------------------|-----------------------------|---------------|
| Tax Parcel Information | Road Right of Ways          | PLSS Sections |
| <b>Parcel Lines</b>    | Section Lines               | Township      |
| Property Boundary      | Surface Water               |               |
| Old Lot/Meander Lines  | Map Hooks                   |               |
| Rail Right of Ways     | Public Survey System Co IDs |               |



Jefferson County Geographic Information System

DISCLAIMER: This map is not a substitute for an actual field survey or onsite investigation. The accuracy of this map is limited to the quality of the records from which it was assembled. Other inherent inaccuracies occur during the compilation process. Jefferson County makes no warranty whatsoever concerning this information.

Printed on: August 15, 2023

Author: Public User



# Annexation Review Questionnaire

Wisconsin Department of Administration

WI Dept. of Administration  
Municipal Boundary Review  
PO Box 1645  
Madison WI 53701  
608-264-6102 Fax: 608-264-6104  
[wimunicipalboundaryreview@wi.gov](mailto:wimunicipalboundaryreview@wi.gov)  
<http://doa.wi.gov/municipalboundaryreview>

Petitioner: **Majewski**

Petition Number: **14628**

1. Territory to be annexed: From **TOWN OF KOSHKONONG** To **CITY OF FORT ATKINSON**

2. Area (Acres): 1.45

3. Pick one: ☒ Property Tax Payments

OR ☐ Boundary Agreement

a. Annual town property tax on territory to be annexed:

\$ 488.26

a. Title of boundary agreement \_\_\_\_\_

b. Year adopted \_\_\_\_\_

b. Total that will be paid to Town

(annual tax multiplied by 5 years): 2,441.30

c. Participating jurisdictions \_\_\_\_\_

d. Statutory authority (pick one)

c. Paid by: ☐ Petitioner ☒ City ☐ Village

☐ s.66.0307 ☐ s.66.0225 ☐ s.66.0301

☐ Other: \_\_\_\_\_

4. Resident Population: Electors: 0 Total: \_\_\_\_\_

5. Approximate **present land use** of territory:

Residential: 100 % Recreational: \_\_\_\_\_ % Commercial: \_\_\_\_\_ % Industrial: \_\_\_\_\_ %

Undeveloped: \_\_\_\_\_ %

6. If territory is undeveloped, what is the **anticipated use**?

Residential: 100 % Recreational: \_\_\_\_\_ % Commercial: \_\_\_\_\_ % Industrial: \_\_\_\_\_ %

Other: \_\_\_\_\_ %

Comments: \_\_\_\_\_

7. Has a ☐ preliminary or ☐ final plat been submitted to the Plan Commission: ☐ Yes ☒ No

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

8. What is the **nature of land use adjacent** to this territory in the city or village?

Residential

In the town?: Residential

9. What are the **basic service needs** that precipitated the request for annexation?

☒ Sanitary sewer ☒ Water supply ☐ Storm sewers

☐ Police/Fire protection ☐ EMS ☐ Zoning

Other: \_\_\_\_\_

10. Is the city/village or town capable of providing needed utility services?

City/Village ☒ Yes ☐ No Town ☐ Yes ☐ No

If yes, approximate timetable for providing service:

Sanitary Sewers immediately

☒

☐

or, write in number of years. 1

Water Supply immediately

☒

☐

or, write in number of years. 1

Will provision of sanitary sewers and/or water supply to the territory proposed for annexation require capital expenditures (i.e. treatment plant expansion, new lift stations, interceptor sewers, wells, water storage facilities)?

☐ Yes ☒ No

If yes, identify the nature of the anticipated improvements and their probable costs: \_\_\_\_\_

11. Planning & Zoning:

a. Do you have a comprehensive plan for the City/Village/Town? ☒ Yes ☐ No

Is this annexation consistent with your comprehensive plan? ☒ Yes ☐ No

b. How is the annexation territory now zoned? Residential

c. How will the land be zoned and used if annexed? Residential SR-2

12. Elections: ☒ New ward or ☐ Existing ward? Will the annexation create a new ward or join an existing ward? For more information, please contact the Wisconsin Election Commission at (608) 266-8005, [elections@wi.gov](mailto:elections@wi.gov) or see their annexation checklist here: <http://elections.wi.gov/forms/el-100>

13. Other relevant information and comments bearing upon the public interest in the annexation:

Prepared by: ☐ Town ☒ City ☐ Village

Name: Michelle Ebbert

Email: mebbert@fortatkinsonwi.gov

Phone: 920 397 9901

Date: 11-1-2023

Please **RETURN PROMPTLY** to:

[wimunicipalboundaryreview@wi.gov](mailto:wimunicipalboundaryreview@wi.gov)

Municipal Boundary Review

PO Box 1645, Madison WI 53701

Fax: (608) 264-6104

(March 2018)

# Request for Annexation Review

Wisconsin Department of Administration

WI Dept. of Administration  
Municipal Boundary Review  
PO Box 1645, Madison WI 53701  
608-264-6102  
[wimunicipalboundaryreview@wi.gov](mailto:wimunicipalboundaryreview@wi.gov)  
<https://doa.wi.gov/municipalboundaryreview>

**Online Submittal and Payment: Instead of this form go to <https://appengine.egov.com/apps/wi/dir/annexation>  
This will speed up the process by eliminating the time it used to take to mail the check to us.**

## Petitioner Information

Name: **JOSH MAJEWSKI AND SOMER MAJEWSKI**

Phone:

Email:

## Contact Information if different than petitioner:

Representative's Name: **CITY OF FORT ATKINSON - MICHELLE EBBERT**

Phone: **920-397-9901**

E-mail: **MEBBERT@FORTATKINSONWI.GOV**

1. Town(s) where property is located: **TOWN OF KOSHKONONG**

2. Petitioned City or Village: **CITY OF FORT ATKINSON**

3. County where property is located: **JEFFERSON**

4. Population of the territory to be annexed: **0**

5. Area (in acres) of the territory to be annexed: **1.45**

6. Tax parcel number(s) of territory to be annexed (if the territory is part or all of an existing parcel):  
**016-0614-3332-054**

## Include these required items with this form:

- ☐ Legal Description meeting the requirements of [s.66.0217 \(1\) \(c\)](#) [see attached annexation guide]
- ☐ Map meeting the requirements of [s. 66.0217 \(1\) \(g\)](#) [see attached annexation guide]
- ☐ Signed Petition or Notice of Intent to Circulate [see attached annexation guide]
- ☐ Check or money order covering review fee [see next page for fee calculation]

(November 2022)

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# Annexation Review Fee Schedule

A Guide for Calculating the Fee Required by ss.16.53 (4) and 66.0217, Wis. Stats.

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## Required Fees

There is an initial filing fee and a variable review fee

**\$200 Initial Filing Fee** (required with the first submittal of all petitions)

\$200 – 2 acres or less

\$350 – 2.01 acres or more

**\$200 Review Fee** (required with all annexation submittals except those that consist ONLY of road right-of-way)

\$200 – 2 acres or less

\$600 – 2.01 to 10 acres

\$800 – 10.01 to 50 acres

\$1,000 – 50.01 to 100 acres

\$1,400 – 100.01 to 200 acres

\$2,000 – 200.01 to 500 acres

\$4,000 – Over 500 acres

**\$400 TOTAL FEE DUE** (Add the Filing Fee to the Review Fee)

**Include** check or money order, payable to: **Department of Administration**

**DON'T attach the check with staples, tape, ...**

**THE DEPARTMENT WILL NOT PROCESS  
AN ANNEXATION PETITION THAT IS NOT ACCOMPANIED  
BY THE REQUIRED FEE.**

**THE DEPARTMENT'S 20-DAY STATUTORY REVIEW PERIOD  
COMMENCES UPON RECEIPT OF THE PETITION AND REVIEW FEE**

Shaded Area for Office Use Only

Date fee & form received: \_\_\_\_\_

Payer: \_\_\_\_\_ Check Number: \_\_\_\_\_

Check Date: \_\_\_\_\_

Amount: \_\_\_\_\_

## ANNEXATION SUBMITTAL GUIDE

### s. 66.0217 (5) THE PETITION

- ☐ State the purpose of the petition:
- Direct annexation by unanimous approval; OR
  - Direct annexation by one-half approval; OR
  - Annexation by referendum.
- ☐ Petition must be signed by:
- All owners and electors, if by unanimous approval.
  - See [66.0217 \(3\) \(a\)](#), if by one-half approval.
  - See [66.0217 \(3\) \(b\)](#), if by referendum.
- ☐ State the population of the land to be annexed.

*[It is beneficial to include Parcel ID or Tax numbers, the parcel area, and identify the annexee (Town) and annexor (Village or City) in the petition.]*

### s. 66.0217 (1) (c) THE DESCRIPTION

- ☐ The annexation petition must include a legal description of the land to be annexed. The land must be described by reference to the government lot, private claim, quarter-section, section, town and range in which the land lies. The land must be further described by metes and bounds commencing from a monumented corner of the section or quarter-section, or the monumented end of a private claim or federal reservation, in which the land lies; OR
- ☐ If the land is wholly and entirely within a lot or lots, or all of a block or blocks of a recorded subdivision plat or certified survey map, it must be described by reference to the lot (s) and/or block (s) therein, along with the name of the plat or the number, volume, page, and County of the certified survey map.
- ☐ The land may NOT be described only by:
- Aliquot part;
  - Reference to any other document (plat of survey, deed, etc.);
  - Exception or Inclusion;
  - Parcel ID or tax number.

### s. 66.0217 (1) (g) THE MAP

- ☐ The map shall be an ***accurate reflection*** of the legal description of the parcel being annexed. As such, it must show:
- A tie line from the parcel to the monumented corner of the section or quarter-section, or the monumented end of a private claim or federal reservation, in which the parcel lies. The corner and monument must be identified.
  - Bearings and distances along all parcel boundaries as described.
  - All adjoiners as referenced in the description.
- ☐ The map must include a **graphic scale**.
- ☐ The map must show and identify the existing municipal boundary, in relation to the parcel being annexed.

*[It is beneficial to include a North arrow, and identify adjacent streets and parcels on the map.]*

### s. 66.0217 FILING

- ☐ The petition must be filed with the Clerk of the annexing City or Village and with the Clerk of the Town in which the land is located.
- ☐ If the annexation is by one-half approval, or by referendum, the petitioner must post notice of the proposed annexation as required by [s. 66.0217 \(4\)](#).



	<b>ANNEXATION AGREEMENT</b>

This Annexation Agreement (the "Agreement") is entered into effective the <u>31</u> day of <u>October</u> , 2023 by and between the Owners of the following described real estate located in Jefferson County, Wisconsin:	Return to:
	David R. Westrick
	93 N. Main St. Fort Atkinson, WI 53538

This Annexation Agreement (the "Agreement") is entered into effective the <u>31</u> day of <u>October</u> , 2023 by and between the Owners of the following described real estate located in Jefferson County, Wisconsin:	
	<u>016-0614-3332-054</u>
	Parcel ID Numbers

Parcel A – Owners Somer and Josh Majewski (hereinafter Majewski), parcel described as follows:

Jefferson County Parcel ID #016-0614-3332-054

A parcel of land located in the NW ¼ of the SW ¼ Section 33, T6N, R14E Town of Koshkonong, Jefferson Co. Wisconsin, bounded and described as follows:

Commencing at the West ¼ corner of Section 33, thence 403.26 feet East along the North-South ¼ line to Point of Beginning, thence bearing S12o42'W a distance of 231 feet, thence East to a point 100 feet West of the West line Re-plat of Barton Diest Subdivision thence bearing N6o13'E a distance of 223.66 feet, thence West along the North-South ¼ line to the Point of Beginning. Parcel composed of about 1.45 Acres.

And the City of Fort Atkinson, a Wisconsin Municipal Corporation.

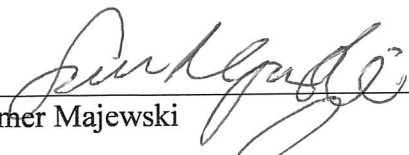
In consideration of the mutual benefits conferred on the owners of Parcel A and the City, the parties covenant and agree as follows:

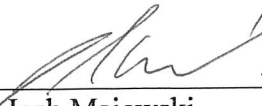
1. Majewski shall be responsible for annexing the above property into the City of Fort Atkinson. Upon annexation the sum of \$22,748.88 shall be payable to the City. However, the City will accept one-half (1/2) payment or \$11,374.44 at the closing

of the property to a third party buyer. The Buyer shall be responsible for the remaining \$11,374.44 payable over 10 years at the rate of \$1,100 per year due by December 31 of each year following the sale of the property with the first payment due in the year of the sale. No interest shall accrue on the balance.

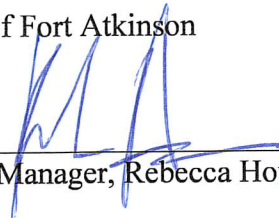
2. Buyers may renegotiate the balance due the City upon the sale of the property.
3. Majewski shall be responsible for the expense of hooking to the City's water main and the sewer.
4. Majewski shall be responsible for removing the existing septic system and the well. Both shall be accomplished with three (3) months of hooking into the City's sewer and water main. Lawn area shall then be restored to grass.

IN WITNESS WHEREOF, this Agreement is entered into the date first above written.

By   
Somer Majewski

By   
Josh Majewski

City of Fort Atkinson

By   
City Manager, Rebecca Houseman

STATE OF WISCONSIN

JEFFERSON COUNTY

Personally came before me this 12 day of October, 2023, the above-named Somer Majewski to be known to be the person who executed the foregoing instrument and acknowledged the same.



Notary Public, State of Wisconsin

My Commission Expires: July 29, 2025

STATE OF WISCONSIN

JEFFERSON COUNTY

Personally came before me this 31 day of October, 2023, the above-named Josh Majewski to be known to be the person who executed the foregoing instrument and acknowledged the same.

Manbert

Notary Public, State of Wisconsin

My Commission Expires: July 29, 2025

STATE OF WISCONSIN

JEFFERSON COUNTY

Personally came before me this 31 day of October, 2023, the above-named Rebecca Houseman to be known to be the person who executed the foregoing instrument and acknowledged the same.

Manbert

Notary Public, State of Wisconsin

My Commission Expires: July 29, 2025

This document drafted by:

David R. Westrick

93 N. Main St.

Fort Atkinson, WI 53538

[drw@rogerswestricklawoffice.com](mailto:drw@rogerswestricklawoffice.com)

920-563-5577

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE ANNEXING  
THE TERRITORY ADDRESSED N2696 BANKER ROAD  
TO THE CITY OF FORT ATKINSON**

**NOW, THEREFORE,** The City Council of the City of Fort Atkinson, Wisconsin, does hereby ordain as follows:

**Section 1. TERRITORY ANNEXED.** That pursuant to Wis. Stats. §66.0217 of the Wisconsin Statutes, and the Petition for Annexation filed by the City of Fort Atkinson as the property owner, the following described territory in the Town of Koshkonong, Jefferson County, Wisconsin, is hereby annexed to the City of Fort Atkinson, Wisconsin:

A PARCEL OF LAND LOCATED IN THE NW ¼ OF THE SW ¼ OF SECTION 33,  
T6N, R13E, TOWN OF KOSHKONONG, JEFFERSON COUNTY, WISCONSIN,  
BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST ¼ CORNER OF SECTION 33, THENCE 403.26  
FEET EAST ALONG THE NORTH-SOUTH ¼ LINE TO POINT OF BEGINNING,  
THENCE BEARING S12°42'W A DISTANCE OF 231 FEET, THENCE EAST TO A  
POINT 100 FEET WEST OF THE WEST LINE REPEAT OF BARTON DIEST  
SUBDIVISION THENCE BEARING N6°13'E A DISTANCE OF 223.66 FEET,  
THENCE WEST ALONG THE NORTH-SOUTH ¼ LINE TO THE POINT OF  
BEGINNING. CONSISTING OF 1.45 ACRES, ALSO KNOWN AS N2696 BANKER  
ROAD, PARCEL NUMBER 016-0614-3332-054

**Section 2. EFFECT OF ANNEXATION.** From and after the effective date of this Ordinance the territory described in Section 1 above shall be part of the City of Fort Atkinson for any and all purposes provided by law and any persons coming or residing within such territory shall be subject to all Ordinances, rules, and regulations governing the City of Fort Atkinson.

**Section 3. PAYMENT TO THE TOWN OF KOSHKONONG.** The property owner has requested annexation to the City per Wis. Stats. §66.0217(2) – Direct Annexation by Unanimous Approval. The City of Fort Atkinson agrees to pay the Town of Koshkonong one lump sum of \$2,441.30 to represent the lost Town taxes the next five years, as required by Section 66.0217(14) of the Wisconsin Statutes.

**Section 4. ZONING CLASSIFICATION. A)** The Territory annexed to the City of Fort Atkinson by this Ordinance is temporarily designated to be part of the following district of the City for zoning purposes and subject to all provisions of Title 15 of the Code of General Ordinances in the City of Fort Atkinson entitled “Zoning Ordinance” relating to such district classifications and to zoning in the City: SR-2, Single-family Residential District – 2. **B)** The boundaries of these designated districts are established as shown on the map filed in the office of the City Clerk.

**Section 5. WARD DESIGNATION.** The territory described in Section 1 of this Ordinance is hereby made part of Ward 3 of the City of Fort Atkinson, subject to all ordinances, rules, and regulations of the City. Population of this territory is zero (0) on the effective date of this Ordinance.

**Section 6. SEVERABILITY.** If any provision of this Ordinance is found to be invalid or unconstitutional or if the application of this Ordinance or any person or circumstance is invalid or unconstitutional such invalidity or unconstitutionality shall not affect the other provisions or application of this Ordinance which can be given effect without the invalid or unconstitutional provisions or applications.

**Section 7. EFFECTIVE DATE.** This Ordinance shall take effect upon passage and publication.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**CITY COUNCIL OF THE CITY OF FORT ATKINSON**

\_\_\_\_\_  
Bruce Johnson, President

ATTEST:

\_\_\_\_\_  
Michelle Ebbert, City Clerk/Treasurer/Finance Director



## MEMORANDUM

**DATE:** November 21, 2023

**TO:** Fort Atkinson City Council

**FROM:** Rebecca Houseman, City Manager

**RE:** Review and possible action to authorize the City Manager to execute the 2024 Joint Powers Agreement with Jefferson County for the County 911 Emergency System

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### BACKGROUND

Annually, Jefferson County seeks action from the County's municipalities to enter into a "Joint Powers Agreement" for the County 911 emergency system. The Agreement states that if an emergency services vehicle is dispatched in response to a 911 call for service through the County's dispatch system, that vehicle and its personnel will render aid to the persons needing such aid or services, regardless of whether the vehicle is operating inside or outside the vehicle's normal jurisdictional boundaries.

### DISCUSSION

Executing this Joint Powers Agreement will allow for City of Fort Atkinson emergency vehicles to respond outside of their jurisdiction when dispatched with impunity. It also allows for other municipal emergency service providers to respond within the City when dispatched through the County's 911 system.

This Agreement is required per State Statutes when the County has implemented a 911 system, as Jefferson County has done, and is necessary to provide emergency services to those in need, regardless of jurisdictional boundaries.

### FINANCIAL ANALYSIS

There are no costs associated with this Agreement.

### RECOMMENDATION

Staff recommends that the City Council authorize the City Manager to execute the Joint Powers Agreement for 2024.

### ATTACHMENTS

Sheriff Paul S. Milbrath Letter; Joint Powers Agreement County 911 Emergency System (January 1, 2024 – December 31, 2024)



# Office of the Sheriff - Jefferson County



411 S. Center Avenue  
Jefferson, Wisconsin 53549-1703

Paul S. Milbrath, Sheriff

Donald C. Hunter, Chief Deputy

Brian Olson  
Administrative Captain



Travis Maze  
Patrol Captain



Margareta Gray  
Jail Captain

**RECEIVED**

NOV 06 2023

CITY OF FORT ATKINSON  
CITY MANAGER

November 1, 2023

Honorable Mayor/Chairperson/President/City Manager:

Re: 911 Joint Powers Agreement

Wisconsin Statute 256.35(9)(a)(b) requires that a 911 Joint Powers Agreement be executed and filed with the Attorney General's office on a yearly basis.

The Mayor/President/Chairman/Manager of a municipality, town, or village must sign and return the enclosed Joint Powers Agreement to me. At that time, I will endorse the agreement and have the original signed by the Jefferson County Clerk as well. As required by Wisconsin Statute 256.35(9)(c), the original document will then be filed with the Attorney General's office and a copy, with signatures, will be returned to you for your files.

If you have any questions please feel free to contact me at 920.674.7329.

Sincerely,

A handwritten signature in cursive script that reads "Paul S. Milbrath".

Paul S. Milbrath  
Sheriff

Enclosure

**JOINT POWERS AGREEMENT  
COUNTY 911 EMERGENCY SYSTEM**

WHEREAS, Jefferson County and the municipalities located within the boundaries of Jefferson County have implemented an Emergency 911 System for the purposes of providing emergency services to residents and visitors of these municipalities, including fire fighting, law enforcement, ambulance, medical and other emergency services; and

WHEREAS, Sec. 256.35(9)(a)(b), Wis. Stats. "Joint Powers Agreement," requires that in implementing a 911 system as has been done in Jefferson County, municipalities shall annually enter into a Joint Powers Agreement, in which Agreement shall be applicable on a daily basis and which shall provide that if an emergency services vehicle is dispatched in response to a request through the Jefferson County 911 System, such vehicle shall render its service to the persons needing the services, regardless of whether the vehicle is operating outside the vehicle's normal jurisdictional boundaries.

THEREFORE, in consideration of the mutual promises, agreements, and conditions contained herein, it is hereby jointly agreed between Jefferson County and the **City of Fort Atkinson, Wisconsin** as follows:

1. Effective as of January 1, 2024, this Agreement shall, thereafter, be applicable on a daily basis for one year.
2. That if an emergency services vehicle operated by the municipality, or operated by an agency with which the municipality contracts for that particular emergency services, is dispatched in response to a request through the Jefferson County Emergency 911 System, such vehicle (whether owned and operated by the municipality or by the agency) shall render its services to the persons needing the services, regardless of whether the vehicle is operating outside the vehicle's normal jurisdictional (or as defined by contract) boundaries.
3. That a copy of this Agreement shall be filed with the State Department of Justice, as required by Sec. 256.35(9)(c), Wis. Stats.

JEFFERSON COUNTY (Dispatching agency)

By: Paul S. Milbrath dated: 11/03/23  
Paul S. Milbrath, Sheriff

JEFFERSON COUNTY CLERK

By: \_\_\_\_\_ dated: \_\_\_\_\_  
Audrey McGraw

\_\_\_\_\_  
CITY OF FORT ATKINSON (Participating agency)  
(Town/City/Village of)

By: \_\_\_\_\_ dated: \_\_\_\_\_  
Rebecca Houseman, City Manager



## MEMORANDUM

**DATE:** November 21, 2023

**TO:** Fort Atkinson City Council

**FROM:** Michelle Ebbert, City Clerk/Treasurer/Finance Director

**RE:** Review and possible action relating to Original Alcohol Beverage License application for the licensing period of November 30, 2023 to June 30, 2024

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### BACKGROUND

The State of Wisconsin regulates alcohol licensing for local governments through Chapter 125. There are three classes of Licenses; Class A, Class B and Class C. "Class C" pertains strictly to wine with consumption on-site in a restaurant. The difference between Class A and B is where alcohol is authorized for sale and for consumption. Class A generally offers sale of alcohol on-site with consumption off-site (e.g. grocery or liquor store, gas station or convenience store). Class B allows for on-site sale and on-site consumption (e.g. Restaurant, Bar, Bowling Alley, Tavern). Class A can easily be remembered because alcohol is consumed *Away* from the premises. Likewise, Class B you consume on-site, for example *Bar*.

Table 1: Existing Quotas (as of 11/10/2023)

<u>License</u>	<u>Quota</u>	<u>Licenses Issued</u>	<u>Licenses Available</u>
"Class A" Intoxicating Liquor	16 - 1 per 750 residents	16	0
Class "A" Fermented Malt	17 - 1 per 750 residents	15	1
"Class B" Intoxicating Liquor	25 - 1 per 500 residents	25	0
RESERVE "Class B" Intoxicating Liquor	4 - \$10,000 one-time fee	4	0

### DISCUSSION

Fat Boyz, Inc., owned and operated by John Dawson, is selling the business to Wiereal, LLC, dba Fat Boyz, for use at the same location, 219 S. Main Street. The license is a "Class B" Intoxicating Liquor and Class "B" Fermented Malt Beverage.

John Dawson, on behalf of Fat Boyz, Inc, has provided a letter confirming he would surrender said license to Wiereal, LLC, upon License Committee and City Council approval. The closing is scheduled to take place on Thursday, November 30, 2023. Should the closing not occur, the license would be retained by Fat Boyz, Inc., John Dawson owner and agent.

**FINANCIAL ANALYSIS**

The license fee will be pro-rated for November 30, 2023 – June 30, 2024. Publication fee is \$100.00 for the three-day, required printing for all alcohol beverage license applications.

**RECOMMENDATION**

The License Committee met on Tuesday, November 14, 2023, reviewed this matter, and recommended that the City Council approve the Original Alcohol License Application for the licensing period of November 30, 2023, to June 30, 2024, for Wiereal, LLC, dba Fat Boyz, at 219 S. Main Street, subject the following conditions:

- 1) Submission of Wisconsin Seller's Permit number to the City Clerk's Office; and
- 2) All monies owed to the City are paid prior to license issuance by the City Clerk.

**ATTACHMENTS**

Alcohol License Application materials

Date: November 8<sup>th</sup>, 2023

License Holder: John E. Dawson

Name of LLC/Sole Prop./Inc.: Fat Boyz Inc.

Address: 219 South Main Street, Fort Atkinson, WI 53538

Type of License: Class "B" Intoxicating Liquor and Class "B" Fermented Malt Beverage

I, John E. Dawson, hereby surrender my Class "B" Intoxicating Liquor and Class "B" Fermented Malt Beverage License contingent upon the approval for said license to Renee Wieloch, Paul Wieloch, Alvin Villareal and Loretta Villareal.

Should Renee Wieloch, Paul Wieloch, Alvin Villareal and Loretta Villareal not be approved for said license, I will hereby retain the license.

Signature:



Printed Name:

John E. Dawson

Date:

11-10-23



Form  
AT-106

Original Alcohol Beverage  
License Application

FOR CLERKS ONLY	
Municipality	
License Period	11-30-23 to 11-30-24

License(s) Requested

- ☐ Class "A" Beer ..... \$ \_\_\_\_\_ ☐ "Class A" Liquor ..... \$ \_\_\_\_\_
- ☒ Class "B" Beer ..... \$ \_\_\_\_\_ ☒ "Class B" Liquor ..... \$ \_\_\_\_\_
- ☐ "Class C" Wine ..... \$ \_\_\_\_\_ ☐ "Class A" Liquor (Cider Only) \$ 0
- ☐ Reserve "Class B" Liquor \$ \_\_\_\_\_ ☐ "Class B" (Wine Only) Winery \$ \_\_\_\_\_

License Fees	\$ 350 -
Publication Fee	\$ 100 -
Background Check	\$ -
<b>Total Fees</b>	\$

Part A: Premises/Business Information

1. Legal Business Name (registered entity name or individual's name if sole proprietorship)

Niereal, LLC

2. Trade Name or DBA

Fat Boyz,

3. Premises Address

219 S. Main Street

4. County

Jefferson

5. Municipality

City of Fort Atkinson

6. Aldermanic District

7. Mailing Address (if different from premises address)

8. FEIN

93-4223596

9. Wisconsin Seller's Permit Number

10. Premises Phone

920-563-3651

11. Premises Email

renewieloch@yahoo.com

12. Entity Type (check one)

- ☐ Sole Proprietor ☒ Partnership ☒ Limited Liability Company ☐ Corporation ☐ Nonprofit Organization

13. Premises Description - Describe the building or buildings where alcohol beverages are to be sold and stored. Describe all rooms including living quarters, if used, for the sales, service, consumption, and/or storage of alcohol beverages and records. Alcohol beverages may be sold and stored ONLY on the premises described in this application. Attach additional sheets if necessary.

2 story bldg - lower level dining, bar area, Kitchen, restrooms, game area, basement, storage. Upper level enter from game room to small bar goes out onto a deck 30 ft. long fenced in w/ fire exit to alley located 219 S. Main St dba Fat Boyz

Part B: Questions

1. Have the partners, agent, or sole proprietor satisfied the responsible beverage server training requirement for this license period? Submit a copy of Responsible Beverage Server Training Course Certificate ..... ☒ Yes ☐ No
2. Does the applicant business or its partners, officers, directors, managing members, or agent hold a direct or indirect interest in any alcohol beverage wholesaler or producer (e.g., brewer, brewpub, winery, distillery)? ..... ☐ Yes ☒ No  
If yes, please explain using the space below. Attach additional sheets if necessary.

**Part C: For Corporate/LLC Applicants Only**

1. State of Registration <b>WISCONSIN</b>	2. Date of Registration	
3. Is the applicant business owned by another corporation or LLC? If yes, please provide the name and FEIN of the parent company below, include parent company members in Part D, and attach Form AT-103 for all of the parent company's principal members, managers, officers, or directors ..... <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Name of Parent Company	FEIN of Parent Company	
4. Does the parent company or any of its officers, directors, managing members, or agent hold any direct or indirect interest in any other alcohol beverage wholesaler or producer (e.g., brewer, brewpub, winery, distillery)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, please explain using the space below. Attach additional sheets if necessary.		
5. Agent's Last Name <del>Villarreal</del> <b>Wieloch</b>	Agent's First Name <del>Lorreta</del> <b>Rene</b>	Phone <del>608-359-3390</del> <b>608-718-1457</b>

**Part D: Individual Information**

A Supplemental Questionnaire, Form AT-103, must be completed and attached to this application for each person involved in the applicant business and any parent company as indicated in Part C. Persons in the applicant business include: sole proprietor, all officers, directors, and agent of a corporation or nonprofit organization, all partners of a partnership, and all managing members and agent of a limited liability company.

List the full name, title, and phone number for each person below. Attach additional sheets if necessary.

Last Name	First Name	Title	Phone
Wieloch	Paul	Partner	262-745-9121
Wieloch	Rene	Partner	608-718-1457
Villarreal	Alvin	Partner	608-359-9530
Villarreal	Lorreta	Partner	608-359-3390

**Part E: Attestation**

Who must sign this application?

- sole proprietor      • one general partner of a partnership      • one corporate officer      • one managing member of an LLC

**READ CAREFULLY BEFORE SIGNING:** Under penalty of law, I have answered each of the above questions completely and truthfully. I agree that I am acting solely on behalf of the applicant business and not on behalf of any other individual or entity seeking the license. Further, I agree that the rights and responsibilities conferred by the license(s), if granted, will not be assigned to another individual or entity. I agree to operate this business according to the law, including but not limited to, purchasing alcohol beverages from state authorized wholesalers. I understand that lack of access to any portion of a licensed premises during inspection will be deemed a refusal to allow inspection. Such refusal is a misdemeanor and grounds for revocation of this license. I understand that any license issued contrary to Wis. Stat. Chapter 125 shall be void under penalty of state law. I further understand that I may be prosecuted for submitting false statements and affidavits in connection with this application, and that any person who knowingly provides materially false information on this application may be required to forfeit not more than \$1,000 if convicted.

Signature <b>Wieloch Rene</b>	Date <b>11-6-23</b>	
Name (Last, First, M.I.) <b>Wieloch Rene C</b>		
Title <b>Agent</b>	Email <b>renewieloch</b>	Phone <b>608 7181457</b>

**Part F: For Clerk Use Only**

Date application was filed with clerk <b>11-6-2023</b>	Date reported to governing body <b>11-21-2023</b>	Date provisional license issued (if applicable)
Date license granted	License number	Date license issued
Signature of Clerk/Deputy Clerk <b>Maubert</b>		



# Schedule for Appointment of Agent by Corporation / Nonprofit Organization or Limited Liability Company

Submit to municipal clerk.

All corporations/organizations or limited liability companies applying for a license to sell fermented malt beverages and/or intoxicating liquor must appoint an agent. The following questions must be answered by the agent. The appointment must be signed by an officer of the corporation/organization or one member/manager of a limited liability company and the recommendation made by the proper local official.

To the governing body of: ☐ Town ☐ Village ☒ City of Fort Atkinson County of Jefferson

The undersigned duly authorized officer/member/manager of Fat Boyz  
(Registered Name of Corporation / Organization or Limited Liability Company)

a corporation/organization or limited liability company making application for an alcohol beverage license for a premises known as WieReal LLC.  
(Trade Name)

located at 219 S. Main St.

appoints Rene Wieloch  
(Name of Appointed Agent)

8843 W. Whitmore Rd  
(Home Address of Appointed Agent)

to act for the corporation/organization/limited liability company with full authority and control of the premises and of all business relative to alcohol beverages conducted therein. Is applicant agent presently acting in that capacity or requesting approval for any corporation/organization/limited liability company having or applying for a beer and/or liquor license for any other location in Wisconsin?

☐ Yes ☐ No If so, indicate the corporate name(s)/limited liability company(ies) and municipality(ies).

Is applicant agent subject to completion of the responsible beverage server training course? ☒ Yes ☐ No

How long immediately prior to making this application has the applicant agent resided continuously in Wisconsin? 46 years

Place of residence last year 8843 W. Whitmore Rd Evansville WI

For: WieReal LLC.  
(Name of Corporation / Organization / Limited Liability Company)

By: Rene Wieloch  
(Signature of Officer / Member / Manager)

Any person who knowingly provides materially false information in an application for a license may be required to forfeit not more than \$1,000.

## ACCEPTANCE BY AGENT

I, Rene Wieloch, hereby accept this appointment as agent for the  
(Print / Type Agent's Name)

corporation/organization/limited liability company and assume full responsibility for the conduct of all business relative to alcohol beverages conducted on the premises for the corporation/organization/limited liability company.

Rene C. Wieloch 11.6.23  
(Signature of Agent) (Date)

Agent's age 46

8843 W. Whitmore Rd Evansville  
(Home Address of Agent)

Date of birth 6-8-1977

## APPROVAL OF AGENT BY MUNICIPAL AUTHORITY (Clerk cannot sign on behalf of Municipal Official)

I hereby certify that I have checked municipal and state criminal records. To the best of my knowledge, with the available information, the character, record and reputation are satisfactory and I have no objection to the agent appointed.

Approved on \_\_\_\_\_ by \_\_\_\_\_ Title \_\_\_\_\_  
(Date) (Signature of Proper Local Official) (Town Chair, Village President, Police Chief)



## MEMORANDUM

**DATE:** November 21, 2023

**TO:** Fort Atkinson City Council

**FROM:** Andy Selle, PE Dir. Public Works / City Engineer

**RE:** Review and possible action to authorize the City Manager to enter into a five-year contract with Running, Inc. for Shared-Ride Taxi Service from 2024-2028

### BACKGROUND

2023 was a challenging time for the taxi service in Fort Atkinson. City staff renegotiated the contract for services down from 15,900 hours to 9,000 hours, with an attendant increase in the hourly cost to \$36.73. Staff estimated that at the close of 2023 the revenue from the taxi would not be able to cover the total contract cost. At present with 9 months of data, the City has a positive balance of \$2,700 (more revenue than expense) on the taxi contract going into the final 3 months of the year. If ridership remains as expected for 2023, the balance owed may be smaller than predicted.

2023 is the last year of the contract with Brown Cab. In an effort to predict the future of the Brown Cab in Fort Atkinson, the following predictive analysis was done in late July.

- Total rides are predicted at 26,400 for 9000 hours of service provided.
  - Assumption* – with each drop of 1000 hours of service – we lose about 3000 total annual rides
- Hourly contract cost in 2023 was \$36.73 – negotiated up with the reduction in hours (15,900 to 9,000)
  - Assumption* – the bid we will receive from Brown Cab will be about 4% higher for the service in 2024 at \$38.19
- Ridership is predicted with the percent of users in each fare class. This varies through the years a bit – see below

	2023 Ridership AVG (9 MONTHS)	2022 Ridership AVG	2021 Ridership AVG
Adult	17%	14%	11%
Student	5%	4%	3%
Senior	17%	19%	25%
Disabled	48%	52%	54%
Agency Dis	14%	11%	7%
TOTAL RIDES =	19,346	28,558	32,277
PROJECTED	25,794.67		

- *Assumption* – the data through June 2023 above was used for the prediction of ridership in 2024 and fare revenue. UPDATE: Data collected through September has indicated total ridership slightly lower than this.

Using these scenarios under a range of contract hours from 9000 down to 5000, staff estimated the contract cost and the associated fare revenue to offset that cost. The table below indicates that there is no situation where the cost of the contract will be offset by the predicted revenue.

\$/HR	HOURS	RIDES	TOTAL CONTRACT	CITY PORTION	FARE REVENUE	CITY BALANCE
38.19	9000	26400	\$ 343,710.00	\$ 151,232.40	\$ 130,584.35	\$20,648.05
38.19	8000	23400	\$ 305,520.00	\$ 134,428.80	\$ 115,745.00	\$18,683.80
38.19	7000	20400	\$ 267,330.00	\$ 117,625.20	\$ 100,906.00	\$16,719.20
38.19	6000	17400	\$ 229,140.00	\$ 100,821.60	\$ 86,066.00	\$14,755.60
38.19	5000	14400	\$ 190,950.00	\$ 84,018.00	\$ 71,227.00	\$12,791.00

Based on the above information the City will budget \$20,000 to cover the possible shortfall of the City portion of the Shared Ride Taxi Contract and procure a contract for 8000 hours in 2024.

## DISCUSSION

The RFP resulted in a single bid from Brown Cab. Their contract cost held firm for the two fixed years of the contract at \$36.73. Using the previous assumptions on ridership the resulting prediction for 2024 and 2025 is noted below.

\$/HR	HOURS	RIDES	TOTAL CONTRACT	CITY PORTION	FARE REVENUE	CITY BALANCE
36.73	8000	22700	\$ 293,840.00	\$ 129,289.60	\$ 111,971.00	\$17,318.60

Brown Cab has provided the Shared Ride Taxi service in Fort Atkinson for many years. Their proposal was thorough and reviewed favorably by the Source Selection Committee.

## FINANCIAL ANALYSIS

The City has placed \$20,000 in the 2024 budget to cover the anticipated revenue shortfall for the taxi contract. Note that the source of funding is ARPA. ARPA funds have to be allocated by the end of 2024 and used by the end of 2026. As such, funding the taxi service with ARPA funds is a short-term solution.

**RECOMMENDATION**

The Transportation and Traffic Review Committee met on November 13<sup>th</sup> and recommended that the City Council approve the proposal and authorize the City Manager to enter into a five-year contract with Running, Inc. for shared ride taxi services from 2024-2028.

**ATTACHMENT**

Brown Cab (Running Inc) Proposal

**APPENDIX A of Procurement  
FORT ATKINSON SHARED RIDE TAXI  
City of Fort Atkinson 001  
CITY OF FORT ATKINSON  
Pricing Proposal**

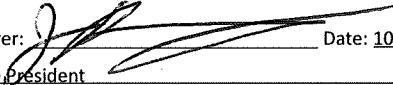
Vendors must submit costs for each deliverable. Provide your best pricing on this Pricing Proposal Excel Document. The total cost provided must be all inclusive to carry out the services included in this RFP, in accordance with the terms and conditions of this RFP. The Agency does not guarantee to purchase any specific quantity, or pay any minimum Contract price during the term of the Contract. Proposals that require a minimum number of commodities or services be ordered will be disqualified.

Please sign and date the Pricing Proposal.

This is a firm-fixed price contract for a base period of two years with three 1-year option periods. Proposers are required to submit a firm-fixed price for the contract base period (first two contract years) that covers all operating and administrative costs of performing the service. For evaluation purposes, Proposers must also submit fixed prices for Option Years 1, 2, and 3 (contract years 3, 4 and 5) using a CPI-U fixed at 1.0 percent, even though prices for the option years will ultimately be adjusted by the then-current CPI-U. All dollar amounts should not include a fraction of a cent, and therefore should be to the hundredth of a dollar.

The competitiveness of the offered prices will be based on the total price of the sum of Section A.

Base Contract Performance Period will cover the period of 01/01/2024-12/31/2025 (2-Year Base Contract). The contract will contain THREE (3) ONE (1) year options.	Deliverables	Cost
	a. Base Year 1 Hourly Service Rate	\$36.73
	b. Base Year 2 Hourly Service Rate	\$36.73
	c. Option Year 3 Hourly Service Rate	\$37.10
	d. Option Year 4 Hourly Service Rate	\$37.47
	e. Option Year 5 Hourly Service Rate	\$37.84
	Total	\$185.87\$0

Signature of Authorized Preparer:  Date: 10/31/2023  
Title/Role: Justin Running, Vice President  
Company Name: Brown Cab Service, Inc.



October 31, 2023

Mr. Andy Selle, P.E.  
City of Fort Atkinson  
101 North Main Street  
Fort Atkinson, WI 53538

Dear Mr. Selle,

Brown Cab Service, Inc. is pleased to submit the enclosed proposal for the operation of the Fort Atkinson Shared-Ride Taxi system.

It has been a pleasure providing transportation services in the City of Fort Atkinson over these last years and we look forward to working with you in the future. With more than 30 years of experience in the public transportation business, Brown Cab Service, Inc. has earned a reputation for being a trusted, reliable leader in shared-ride taxi service in Wisconsin, the only state in which we operate.

We have built Brown Cab Service Inc. with community relationships top-of-mind, and with the support and care of our partners across Wisconsin and within Fort Atkinson, where our central office is located. For decades, we have fostered a collaborative spirit and mutually beneficial relationships with people in the places where we operate. We make a point to do business with other local businesses, helping to fuel the success of our friends and neighbors by keeping dollars we generate in our communities. Without these people, we would not be where we are today.

Today we own and operate Brown Cab Service Inc. along with Running, Inc. and Passenger Transit, Inc. The three companies combined operate 30 shared-ride taxi programs, one ADA paratransit system and one intercity bus route.

In addition to our long-standing relationships, we also pride ourselves in being a forward-looking company. We continue to invest in technology to support our service offerings and enable our customers to access and book our services more easily. Our public-facing company website is integrated with our state-of-the-art dispatching system. Customers can request a ride by using the company website from their mobile phone or from a computer. We have also invested in a new phone system for our multiple call centers across Wisconsin. This upgraded system allows us to go online and schedule where calls will be received, ensuring continuous, state-wide coverage.

Another essential part of our philosophy and success is working in collaboration with the city. I regularly meet with WisDOT legislators to stay abreast of changes in transportation. We enjoy meeting with City officials to review ridership and make recommendations for changes that will help keep costs to the city as low as possible. We also prioritize accessing and providing accurate data for required quarterly and annual reporting to WisDOT. We can quickly and easily generate reports, types of rides, busier times of days, weeks, and months.

The Brown Cab Service, Inc. dispatch system has proven its worth and integrity through several successful state audits. Allowing WisDOT real-time access to all data through our dispatch program to assist with annual audits has proven to be very successful. Recent audits have had almost no findings or changes to audit results reported. With a dynamic responsible team who is committed to transparency and cooperation, Brown Cab Service, Inc. is constantly improving processes with the dispatch system and the data that flows through daily.

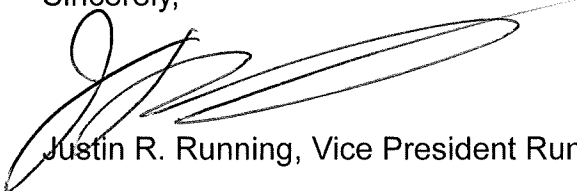
It is important to note that Brown Cab Service Inc. exceeds insurance coverage and is fully compliant with federal and state certifications and assurances including, but not limited to, equal employment opportunities, nondiscrimination, disadvantage business opportunities, and drug and alcohol testing.

We are confident in our ability to comply with all the stated contractual requirements in the City of Fort Atkinson's request for proposals. The information contained in the Brown Cab Service Inc. proposal is accurate and complete; the information is true and reasonably verifiable as of October 31, 2023.

Thank you for the opportunity to submit this proposal. We look forward to continuing to grow and serve Wisconsin with the best ride-share services possible that benefit the City of Fort Atkinson, the state, our customers, and the communities in which we work.

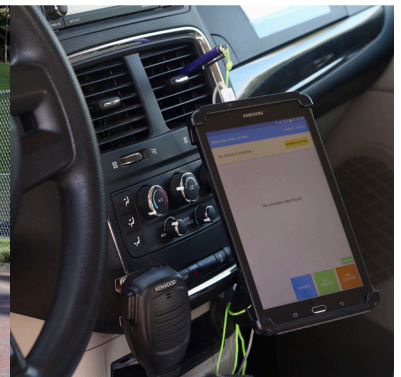
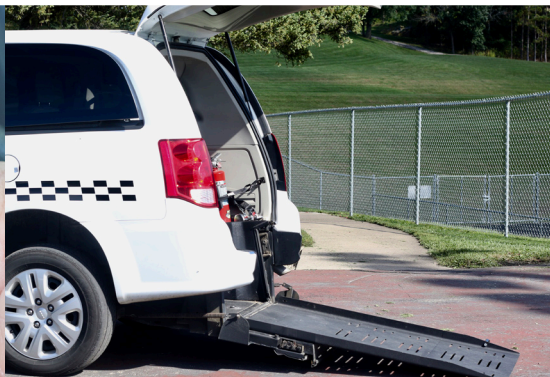
We would welcome the opportunity to meet with you and the selection committee to answer any questions you may have regarding our proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Justin R. Running", with a long, sweeping horizontal stroke extending to the right.

Justin R. Running, Vice President Running Inc.





**Request for Proposals**

# **Shared-Ride Taxi Service**

**City of Fort Atkinson**

**October 31, 2023**

**Brown Cab Service, Inc.**  
318 W. Decker Street, Viroqua, WI 54665  
Telephone: 608.637.2599, Fax: 608.637.6877  
[humanresources@runninginc.net](mailto:humanresources@runninginc.net)

***This bid proposal and accompanying bid documents, including company manuals, are the sole property of Brown Cab Service Inc. and may not be reproduced without the written consent of Richard D. Running, President. This proposal and accompanying documents are protected by the Federal Transit Administration's "trade secrets" assurances and shall only be viewed by authorized employees of the City of Fort Atkinson, RFP Evaluation Committee members, and representatives of the Wisconsin Department of Transportation and Federal Transit Administration.***

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**INSERT BROWN CAB TAB—**

**INFORMATION PERTINENT TO THE OFFEROR  
AND OFFEROR'S PROPOSAL**

# Information Pertinent to the Offeror and Offeror's Proposal

## 7.1 Offeror Identification

Brown Cab Service, Inc.  
318 W. Decker St.  
Viroqua, WI 54665  
(608) 637-2599  
(608) 637-6877 (FAX)  
humanresources@runninginc.net  
www.browncab.net

## 7.2 Offeror's Legal Status

For-Profit Corporation

## 7.3 Chief Executive or Administrator of Organization

Richard D. Running, President  
(608) 637-2599  
richard@runninginc.net

## 7.4 Offeror's Authorized Representative

Justin R. Running, Vice President  
(608) 637-2599  
justin@runninginc.net

## 7.5 Offeror's Business Function

Brown Cab Service, Inc. has a long history of providing transportation services in Wisconsin. The company was established in Fort Atkinson, Wisconsin, shortly after WWII. Patrick J. McGinty purchased the company in 1986 and incorporated the company as Brown Cab Service, Inc. in 1993. In 2010, Richard and Justin Running purchased Brown Cab Service Inc.

Richard and Justin Running also co-own and operate Running, Inc. that was established in 1994, and Richard also owns and operates Passenger Transit, Inc whose office is centralized in Watertown. Combined, Brown Cab, Running, Inc. and Passenger Transit, Inc. are the largest private providers of public transportation in Wisconsin.



The three companies are responsible for the daily operation and management of shared ride taxi systems in 33 Wisconsin communities, representing a total of 30 contracts. While they are separate corporations, the companies share resources and best practices. Bringing together these numerous rural and small-city operations under one management team creates cost efficiencies and allows knowledge sharing of best industry practices for the benefit of Wisconsin communities where we operate.

In addition to shared-ride taxi systems, Running, Inc. provides ADA complementary paratransit services to the Fox Cities (Valley Transit), and operates the Scenic Mississippi Regional Transit System (SMRT) in southwestern Wisconsin. This intercity bus system serves the Counties of Crawford, Vernon, La Crosse, and Monroe.

Brown Cab Service Inc. employs 37 full-time and 37 part-time employees. Its central office is in Fort Atkinson, Wisconsin. Brown Cab Service Inc. manages shared-ride taxi operations in Edgerton, Fort Atkinson, Jefferson, Lake Mills, Medford, Monroe, Prairie du Sac-Sauk Prairie, Ripon, Waupaca, Waupun, and Whitewater. Brown Cab Service Inc. dispatchers and drivers provide more than 216,000 shared-ride taxi trips annually.

Running, Inc. currently has 141 full-time personnel and 152 part-time employees. Its central office is in Viroqua, Wisconsin. Running, Inc. operates shared-ride taxi operations in Beaver Dam, Berlin, Chippewa Falls, Clintonville, Holmen, Marshfield, Mauston, New Richmond, Onalaska, Platteville, Prairie du Chien, Portage, Reedsburg, Rhinelander, Richland Center, River Falls, Stoughton, Tomah, and West Salem.

Passenger Transit Inc. employs 19 full-time and 26 part-time personnel, and its central office is in Watertown. Passenger Transit operates shared-ride taxi operations in Watertown, Viroqua, and Westby. Running, Inc.'s dispatchers and drivers provide another 857,000 trips annually, while Passenger Transit services approximately 132,000 trips each year.

The three companies regularly coordinate and communicate with the cities they serve, and management connects regularly with the Wisconsin Department of Transportation. Company supervisors respond to complaints and special requests.

Staff administers a federally recognized drug and alcohol testing program and collects all required data to submit accurate quarterly and annual state and federal transit reports.

All three companies are well acquainted with state and federal regulations.





**7.6 Minimum Qualifications –The Minimum Qualifications located in Section 6.1 will be used to determine eligibility to continue to the evaluation phase of this procurement. Restate each minimum qualification and provide a synopsis of how the Offeror meets those minimum qualifications.**

- A. Possess a fleet of vehicles to meet the service need outlined by the City of Fort Atkinson. Models shall be clean, free of visible damage and offensive odors. Models should be capable of carrying at least 2 passengers and any baggage. The City will provide five- 2011 Dodge Caravan minivans and one 2020 Dodge Caravan minivan to be utilized at the discretion of the contractor until their useful life is exceeded. An account of the City Owned Fleet is provided in the Appendix. At least three vehicles should be wheelchair accessible. The City will seek additional vehicles through procurement in each of the contract years, but will only purchase if federal grant funds are awarded.**

Brown Cab Service Inc. maintains and insures over 10 spare vehicles at our garage in Fort Atkinson. Because of the spare vehicles being available even at short notice, they will be able to provide the required number of vehicles reduced by the six minivans (with a wheelchair accessible ramp or lift) available for lease through the Municipality at \$1 per vehicle per year.

- B. Maintain and operate an automated dispatch and control system at a centralized office location, staffed at all times noted during required contract service, with a dedicated radio communications system between the dispatch office and vehicle operators.**

Brown Cab Service Inc. dispatches 13 hours, seven days a week, including holidays. With a recent upgrade to its dispatch service with customized software it easily provides accurate, real-time data that can monitor operations minute to minute. This way, calls can be answered from virtually anywhere at any time.

Our state-of-the-art dispatching program is fully integrated into our website. Through the public-facing company website for Brown Cab Service, Inc., customers can request a ride by accessing the website from their mobile phone, tablet or from a computer. After a ride request is approved, drivers can then communicate and update customers of their status via SMS-Text message.

We have also invested in an upgraded phone system for our multiple call centers across Wisconsin. This upgraded advanced system allows us to go online and schedule where calls will be received, ensuring continuous, state-wide coverage.

We have 15 telephone lines and 24 dispatchers. All dispatchers are cross trained to handle calls for the different programs. If a dedicated telephone line is busy, the call is transferred to an open dispatcher. A toll-free phone number and website are available for the public to obtain information.



Computer tablets are used for communication between dispatching and vehicle operators. Dispatching information is sent to the tablets silently, and the drivers' trip assignments are transmitted directly to the vehicles.

**C. At least three (3) years prior organizational history in the ground transportation service industry providing on-demand, scheduled, or reservation-based services.**

For 30 years, Richard and Justin Running have operated public transportation programs in Wisconsin with unwavering integrity and a commitment to providing high-quality service. These qualities, along with the long-standing relationships with the citizens and communities they serve, have made them among the most respected managers of public transit in Wisconsin. Brown Cab Service Inc. transportation programs include on-demand, scheduled and reservation-based services.

Additionally, Richard and Justin have a close working relationship with the Bureau of Transit at the Wisconsin Department of Transportation. In the past, both have served on special committees organized by the Bureau.

**D. Possess database software that tracks ridership and revenue activity and provides reports for such data which can be used for current and historical data purposes.**

Our customized dispatch software was recently redesigned using state-of-the-art technology that allows Brown Cab Service Inc. to track real-time data easily and accurately. We can monitor operations minute to minute and track ridership, revenue data and other required statistical data for the completion of state and federal transit reports. An important part of the design was to allow WisDOT real-time access to all data to assist with annual audits. Because of this detailed reporting, Brown Cab Service Inc. has been very successful with the annual WisDOT audit results. Please visit [www.browncab.net](http://www.browncab.net) to see how live data is incorporated by each city.

Additionally, the software also enables management to review operations daily, weekly, monthly, and annually. Staff can maximize efficiency by reviewing on-time performance, ride times, time between rides, etc. In addition, the software tracks mileage on all vehicles so companies can initiate preventative maintenance on a timely basis. The data is backed up continually so that current and historical data can be easily accessed.

## **7.7 Service Background**

Brown Cab Service Inc., Running, Inc. and Passenger Transit, Inc. are responsible for the daily operation and management of shared-ride taxi systems in 33 Wisconsin communities. In addition to shared-ride taxi systems, Running, Inc. provides ADA complementary paratransit services to the Fox Cities (Valley Transit) and it operates the Scenic Mississippi Regional Transit System (SMRT), an intercity bus system, in the Counties of Crawford, Vernon, La Crosse, and Monroe.



## 7.8 Service History

*The table below summarizes the transit services provided by Running Inc., Brown Cab Services, Inc., and Passenger Transit, Inc.*

Type of Service	Average Number of Vehicles Operating Per Month	Primary Area Being Served	Length of Current Operation From/To
Shared-Ride Taxi	4	Whitewater	1986 – Present
	7	Fort Atkinson	1987 – Present
	3	Jefferson	1990 – Present
	1	Lake Mills	1994 – Present
	4	Viroqua	1994 – Present
	5	Prairie du Chien	1995 – Present
	2	Sauk Prairie	1995 – Present
	8	Waupaca	1998 – Present
	14	Onalaska/Holmen/ West Salem	1999 – Present
	3	Medford	2000 – Present
	9	Monroe	2000 – Present
	1	Edgerton	2001 – Present
	3	Prairie du Sac	2001 – Present
	4	Ripon	2001 – Present
	2	Waupun	2002 – Present
	1	Westby	2005 – Present

	14	Portage	2006 – Present
	3	Richland Center	2010 – Present
	8	Chippewa Falls	2011 – Present
	17	Beaver Dam	2013 – Present
	13	Marshfield	2013 – Present
	3	New Richmond	2013 – Present
	2	Mauston	2015 – Present
	3	Platteville	2015 – Present
	2	River Falls	2015 – Present
	10	Watertown	2015 – Present
	4	Stoughton	2018- Present
	3	Berlin	2019 – Present
	4	Tomah	2019 – Present
	5	Reedsburg	2020 – Present
	4	Rhinelanders	2021 – Present
	2	Clintonville	2023 – Present
<b>ADA Complementary Paratransit</b>	30	Fox Cities (Valley Transit)	2009 - Present
<b>Intercity Bus Service</b>	4	Scenic Mississippi Regional Transit System	2013 - Present
<b>TOTAL</b>	<b>202</b>		

## 7.9 **References**

See **Appendix E** for a list of agency references that Brown Cab Service, Inc. has provided contract services with over the past three (3) years.



## 7.10 Key Personnel



**RICHARD D. RUNNING, PRESIDENT**

Richard established Running, Inc. in 1994 with the creation of a shared-ride taxi system in Viroqua. He then purchased Brown Cab Service, Inc. in 2010. Through hard work and dedication, Richard gradually grew his companies to become the largest private providers of public transportation in Wisconsin.

Richard is responsible for the overall management of Passenger Transit Inc. and a leader in Wisconsin's public transit sector. He has served as chair of the Wisconsin Association of Taxicab Owners (WATO) and director on the executive board of the Wisconsin Public Transportation Association. He has been selected multiple times to represent Wisconsin transit for the state's annual legislative event in Washington D.C. He also actively participates in Wisconsin Transit's annual legislative day in Madison.

Richard has earned a reputation as a highly competent, trustworthy transportation provider in Wisconsin. WisDOT has routinely asked him to sit on procurement committees, including selecting a statewide drug and alcohol testing vendor and hire a firm to conduct statewide transit Management Performance Reviews (MPR's).





**JUSTIN R. RUNNING, VICE PRESIDENT**

Justin oversees the company's entire operations, from customer service to financial functions. Justin personally meets with municipal officials on a regular basis to ensure the company exceeds expectations for unsurpassed service.

Justin is responsible for the overall management of Brown Cab Service Inc. and Running, Inc. He has been hands-on with every aspect of the organization, from driving to dispatching, to maintenance and procurements.

Justin meets regularly with WisDOT administrators and officials in the municipalities the company serves to address issues and concerns proactively. Justin will serve as one of the contacts for the City of Fort Atkinson Shared-Ride Taxi program. Any concerns may be directed to him.

Justin has participated with cities in the WisDOT compliance Site Reviews to assist in answering questions and gathering the required data. Because of Justin's experience with these reviews, they often take a few hours instead of the entire pre-scheduled day.

Justin's knowledge of the latest technology in the industry has allowed the company to grow to its impressive size, as well as to provide the most cost-efficient public transportation available in the state. In fact, Justin was responsible for working with a software developer to design custom, innovative, user-friendly dispatch software which the company utilizes in its transit systems. An important part of the software design is to allow WisDOT real-time access to all data to assist with the required annual audits.

Justin was honored to receive a "2019 Rising Star Under 40" award through 7 Rivers Alliance. The award is given to individuals in recognition of their exemplary work ethic and performance as well as their commitment and dedication to the community.



**AMANDA RUNNING, DIRECTOR OF PERSONNEL AND  
DRUG AND ALCOHOL PROGRAM MANAGER**

Amanda Running oversees Human Resources, working to create a culture of happy, motivated, and engaged employees with her positive attitude and demand for excellence. Amanda manages the hiring process, background checks, drug testing, review of motor vehicle records, review of the employee handbook with new employees and many other functions.

Amanda manages the Drug and Alcohol Program. This very specific and confidential function requires attention to detail and is time sensitive. She works diligently to stay on top of the ever-changing requirements of drug and alcohol regulations.

Worker Compensation insurance is also her responsibility. Amanda works closely with the company's insurance provider to offer employee training to keep employees safe and injuries to a minimum. When needed, she also coordinates reporting of any incidents to the insurance provider to ensure employees receive proper care.

OSHA requirements are continuously monitored by Amanda, along with proper training and facility notifications.

During the annual WisDOT audits, Amanda directs and manages the audit function to ensure timely, accurate audits.



**JOY VIETINGHOFF, CPA**  
**ACCOUNTING AND TAX SERVICE OF VIROQUA, LTD.**

Accounting and Tax Service of Viroqua Ltd., a certified public accounting firm, assists Brown Cab Service, Inc. with accounting, record keeping, reporting and audit functions. Its services include all accounting functions, tax planning and preparation, and business consulting.

Joy Vietinghoff, CPA and President, has 30 years of experience in public accounting and tax preparation. She and her staff have worked with shared-ride taxi systems for more than 20 years. Her expertise includes internal control systems, financial reporting that meets the Wisconsin Department of Transportation requirements, and timely filing of federal and state tax returns. She brings enthusiasm for public transit to Brown Cab Service, Inc. and a strong regard for the federal, state, and local funds that are used in the Public Transit Systems.

### **7.11 Volunteer Staff**

No volunteers will be utilized in the provision of the City of Fort Atkinson Shared-Ride Taxi Service.

### **7.12 Paid Staff**

- A. Current number of full-time employees on staff: 37
- B. Current number of part-time employees on staff: 37
- C. Minimum hiring criteria and compliance checking for drivers:

Brown Cab Service Inc. sets high standards when selecting potential candidates for hire. The company completes a driving record check, Bureau of Criminal Investigation background check, pre-employment chemical screen, and reference checks with previous employers on all candidates before they are hired.

During the interview process, the company is not only searching for drivers with the ability to operate vehicles safely and comfortably, but also looking for candidates who interact well with the public and are sensitive to people of all ages and abilities. Because of the company's discerning hiring process, employees are friendly, reliable, courteous, helpful, and truly concerned about the passengers served.

The general manager for Brown Cab Service Inc. monitors employees and operations closely for compliance with contract requirements and government regulations. He completes "ride checks" with drivers and conducts annual performance evaluations. He addresses service complaints and issues quickly, and he works with passengers to find a satisfactory resolution to concerns.

### **7.13 Drug and Alcohol Testing**

- A. Brown Cab Service, Inc. hereby certifies that it is fully compliant with the following federal substance abuse regulations:
  - a. Federal Transit Administration (FTA) regulation, 49 CFR Part 655 "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations".
  - b. U.S. DOT Regulation 49 CFR Part 40 "Procedures for Transportation Workplace Drug and Alcohol Testing Program".
- B. Brown Cab Service, Inc. has participated in the Drug and Alcohol Testing Consortium administered by WisDOT's approved Third Party Administrator, Energetix, that complies with 49 CFR Parts 40 and 655, as amended.



- C. Additionally, Brown Cab Service Inc. has provided documentation necessary to establish its compliance with Part 49 CFR Parts 40 and 655, as amended, and permit any authorized representative of the United States Department of Transportation or its operating administrations and/or the State of Wisconsin, Department of Transportation or its authorized agents, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 40 and 655 as amended and review the testing process.
- D. See **Appendix K** for the completed Drug and Alcohol Testing Program details.

## 7.14 **Training**

- A. All newly hired drivers attend a lengthy orientation and training program. All training documents will be available to the employee electronically both for initial training as well as review. The company utilizes trainers certified by Q'Straint in wheelchair securement techniques to conduct these orientations. The training includes, but is not limited to, the following topics:

- Passenger assistance
- Passenger sensitivity
- Lift operation
- Wheelchair securement
- Drug and alcohol testing policy
- Discrimination and harassment policy
- Pre-trip and post-trip vehicle inspections
- Review of employee manual
- Review of job description
- Two-way radio operation
- Dispatch operations
- Accident reporting requirements
- Complaint procedures
- Gas card use
- Completing paperwork and daily logs
- Collecting required reporting data

Each new driver is issued an employee manual and drug and alcohol testing policy. They sign a receipt acknowledging they have received copies of the manual and policy and have reviewed those documents with a supervisor.

Before drivers are placed on the road, they shadow a veteran driver for as long as necessary. They are also issued an identification badge so that customers may easily recognize them as a Brown Cab Service Inc. employee. New drivers meet regularly with their supervisor to receive performance feedback and assistance with any issues or concerns. Supervisory staff conduct ride checks periodically. Drivers are continually monitored and receive periodic training to ensure compliance with contract requirements.



- B. It is the policy of Brown Cab Service, Inc. that no employee shall use electronic devices while driving, unless it is to communicate with dispatch over the two-way radio. Speaking on a cell phone or texting while driving is absolutely prohibited. Drivers operating vehicles with tablets have been instructed that they may not utilize the tablets to communicate with dispatch unless they are pulled over and their vehicle is safely parked.
- C. Office and dispatch personnel also attend an orientation and training session, and office management personnel supervise them closely. Like all new employees, they receive a copy of the employee manual. Safety-sensitive positions, such as dispatchers, also receive a copy of the drug and alcohol testing policy and sign a receipt acknowledging that they have received copies of the manual and policy and have had a chance to review those documents with a supervisor.
- D. The company has worked diligently to develop a comprehensive, high-quality employee manual. Due to the proprietary nature of this document, we will provide the City of Fort Atkinson with a copy of the employee manual upon request if awarded this bid.

#### **7.15 Financial Capability**

##### **A. Financial Statement**

As the next few pages demonstrate, Brown Cab Service Inc. is a financially robust company with the fiscal capacity to provide premium public transit service for the City of Fort Atkinson.





Brown Cab Service Inc.  
Balance Sheet  
As of December 31, 2022

**ASSETS**

Current Assets

Checking/Savings	\$ 128,765
Accounts Receivable	47,943
Contract Receivable	199,177
Prepaid Expenses	11,749
Security Deposit	925

Total Current Assets	<u>388,559</u>
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Fixed Assets

Equipment	59,331
Leasehold Improvements	84,457
Transportation Equipment	518,378
Accumulated Depreciation	-605,009

Total Fixed Assets	<u>57,157</u>
--------------------	---------------

**TOTAL ASSETS**

<u>\$ 445,716</u>
-------------------

**LIABILITIES & EQUITY**

Liabilities

Current Liabilities

Accounts Payable	\$ 26,782
Accrued Payroll	113,781
Payroll Liabilities	2,778

Total Current Liabilities	<u>143,341</u>
---------------------------	----------------

Equity

Capital Stock	12,800
Additional Paid-in Capital	100,000
Fund Balance	189,575

Total Equity	<u>302,375</u>
--------------	----------------

**TOTAL LIABILITIES & EQUITY**

<u>\$ 445,716</u>
-------------------



Brown Cab Service Inc.  
Profit & Loss  
January through December 2022

**REVENUE**

Fares/Contract Revenue	\$ 2,515,585
Miscellaneous Income	16,182
Total Revenue	<u>2,531,767</u>

**EXPENSE**

Advertising	1,916
Building Rental	58,555
Building Repair & Maintenance	20,553
Depreciation	27,412
Dues, Memberships & Subscriptio	1,218
Employee Expenses	11,725
Fuel Expense	205,230
Insurance Expense	253,782
Interest Expense	1,769
Licenses	2,669
Office Furniture/Equip Lease	2,707
Office Supplies/Postage	26,849
Payroll Expenses	1,495,126
Professional Services	94,893
Property Tax	10,301
Sales & Use Tax	57
Shop Expense	5,066
Utilities	62,192
Vehicle Expense	146,957
Total Expense	<u>2,428,975</u>

<b>EXCESS OF REVENUE OVER EXPENSE</b>	<u><u>\$ 102,792</u></u>
---------------------------------------	--------------------------



## B. Liens and Judgments

Brown Cab Service, Inc., its officers, and its directors have no past, current or pending liens, judgments or lawsuits against property owned by or otherwise Brown Cab Service, Inc., nor any legal suits (pending) against the company that may potentially impact its capability to provide the required contract services solicited by this RFP.

## 7.16 Vehicle and Fleet Management Capabilities

### A. Computer Equipment and Software

Our state-of-the-art dispatch program is fully integrated into our website and can be accessed and operated from anywhere. It was designed and constructed as a custom cloud-based line-of-business software system to manage payroll and dispatching duties. The system is hosted in the Microsoft Azure cloud that runs around-the-clock every day of the year. All data is backed up and copied to geographically redundant servers each night.

Brown Cab Service Inc.'s dispatch system is built with a multi-tier architecture. The presentation layer consists of four independent websites, three custom Apps that have been optimized for Android tablets, and one secure Windows program that functions only on approved computers. Dispatchers, drivers, customers, office staff, accountants and auditors are all assigned different roles, and each is provided with an interface that is closely tailored to their needs.

All the pieces in the presentation layer communicate through an application programming interface (API) with the application layer (a.k.a. "business logic"). The application layer in turn is carefully separated from the data storage and communicates through the data access layer. All the payroll and ride information has been carefully canonicalized such that each relevant fact is stored in exactly one location. The underlying storage is provided by three classic relational databases running on a SQL Server.

The software powering the program was built by a local software developer to easily provide accurate, real-time data, such as how many rides are being given, how many cabs are operating, etc. This user-friendly program not only enables dispatchers to schedule trips as efficiently as possible, but it also automatically captures the data needed for the statistical reports required by federal and state transit authorities.

As part of our custom software, our employees can access an app from wherever they are to complete training, review training documents and view hours. Employees are also able to log onto the main website to access employee documents as needed.



Computer tablets are utilized for dispatching in the shared ride program. The dispatch center can communicate with the tablets silently, and the drivers' trip assignments are transmitted directly from the dispatch office to the vehicles.

With a public-facing company website integrated with our dispatch system, it allows the same city-specific fares and pre-paid options to be displayed for our drivers and office staff to have access to. The website provides a stable, mobile-first, responsive page for each city that can be used by customers to request a ride. A customer can also bookmark the page via "Add to my Homescreen" from any mobile phone, tablet, or computer. When a customer requests a ride directly from the website, the relevant dispatcher is audibly notified of the ride request. As the ride is approved through dispatch a ride is spawned, and the customer is notified of the status update. When the driver approaches the customer pickup location, the driver then can communicate their status (Taxi is on the way or Taxi has arrived) to the customer via SMS-Text message without the driver being aware of the customer's mobile phone number.

Another recent technology investment implemented by Brown Cab Service Inc. is a new phone system for our multiple call centers across Wisconsin. This upgraded system allows us to go online and schedule where calls will ring, which ensures a robust phone system for continuous, state-wide coverage.

**B. Dispatching and vehicle control procedures:**

(1)	Total number of Dispatchers during peak periods:	<u>15</u>
(2)	Hours of Call-Taking Operations (Sat-Sun):	<u>6 AM–7 PM</u>
(3)	Number of Telephone Lines:	<u>15</u>
(4)	Number of one-way trips, exclusive of school trips, scheduled on an average weekday	<u>1,100</u>

Brown Cab Service Inc. is fully compliant with all ADA regulations pertaining to public transit systems. We advertise the Wisconsin TTY phone number, 711, in all our brochures and publications so that our hard-of-hearing passengers can access our services.

**7.17 Fleet Description**

Brown Cab Service Inc. will lease six minivans total, in which six of these vehicles are accessible (with a wheelchair accessible ramp or lift) from the City of Fort Atkinson for the provision of this service at a rate of \$1 per year. Brown Cab Service Inc. will also provide an additional three wheelchair accessible vehicles capable of carrying at least two passengers and any baggage required to ensure the Service Standards are met. Brown Cab Service Inc. maintains and insures over 10 spare vehicles at our garage in Fort Atkinson, and these would be available upon short notice if one of the vehicles



dedicated to the Fort Atkinson Shared-Ride Taxi system was unavailable. There are several makes and models in the large, combined company fleet, including a Tesla that is being tested for potential future electric car purchases. Most of the vehicles in Brown Cab's fleet are in either good or excellent condition. The company believes that vehicles must be maintained meticulously to provide reliable, cost-efficient service. Please see **Appendix L- Vehicle Inventory and Fleet Management** for a list of vehicles that would be made available for the proposed contract services.

#### **7.18 Fleet Maintenance Program**

A copy of Brown Cab Service, Inc.'s Maintenance Plan may be found in Appendix P.

The company's commitment to passenger safety and comfort means that vehicle maintenance is a foremost concern. It does not matter if we lease or own the vehicles; we are dedicated to keeping vehicles well maintained through a strong preventative maintenance program to maximize fuel economy and minimize repair costs. The company's preventative maintenance program follows FTA/WisDOT requirements by following the manufacturer's requirements for preventative maintenance (PM) cycles based upon vehicle mileage. The company's dispatch software ensures we meet our PM's when they are due by automatically tracking vehicle mileage.

Vehicles are thoroughly inspected during PMs to see if additional maintenance is necessary. Brakes, tires, struts, etc. are replaced immediately when needed to keep vehicles safe and in excellent operating condition.

A significant maintenance strategy Brown Cab Service Inc. employs is to train drivers to spot and report issues as they arise. The company ensures that drivers complete federally mandated pre-trip and post-trip vehicle inspections so that management is notified without delay when a maintenance issue develops.

In addition, Brown Cab Service Inc. employs a full-time mechanic from the Fort Atkinson shop who is dispatched to our various properties when there is a need for his diagnostic services. He also reviews the maintenance reports for all Brown Cab Service Inc. vehicles to ensure that PMs are completed on time.

The appearance and cleanliness of each vehicle is very important to the successful operation of our transportation programs. Drivers and supervisors inspect our vehicles each day for cleanliness. Vehicles are washed as necessary, usually on a weekly basis. The interiors are cleaned each time a driver returns the vehicle at the end of his or her shift.

#### **7.19 Insurance Coverage**

See **Appendix M- Insurance** for the current vehicle liability insurance program for transportation services within Brown Cab Service, Inc.



October 4, 2023

City of Fort Atkinson  
101 North Main Street  
Fort Atkinson, WI 53538

RE: Brown Cab Service, Inc.  
318 W. Decker St  
Viroqua, WI 54665

To Whom it May Concern:

Brown Cab Service, Inc. has been an insurance client of our agency since 2004. They have paid all their premiums in a timely manner. During this time and prior to working with our agency, Brown Cab Service, Inc. has demonstrated an excellent safety record. Brown Cab Service, Inc. has become the leader in many areas of employee practices and procedures.

Please note below the limits Brown Cab Service, Inc. currently carries.

*Auto Liability:*

Combined Single Limit - 1,000,000

*General Liability:*

Combined Single Limit- 1,000,000

*Umbrella:*

\$2,000,000

**Total Auto Liability Limit Carried - \$3,000,000**

**Total General Liability Limit Carried - \$3,000,000**

Sincerely,



Julie Pelischek, CISR  
Senior Account Manager

Robertson Ryan Insurance  
330 E. Kilbourn Ave, Suite 850  
Milwaukee, WI 53202  
(866) 896-0281





## 7.20 **Record-Keeping**

Brown Cab Service Inc. uses custom-designed dispatch software that records all statistics and trip data required to be tracked by federal and state transit authorities. This software also allows the company to track revenues precisely and report them to the municipality on an itemized basis in timely synchronization with the invoicing. Please see **Appendix N- Record Keeping** for additional information.

## 7.21 **Fleet**

The proposed size and composition of the fleet as stated in Part 6.1. Minimum Qualifications, item A. is “Possess a fleet of vehicles to meet the service need outlined by the City of Fort Atkinson. Models shall be clean, free of visible damage and offensive odors. Models should be capable of carrying at least 2 passengers and any baggage. The City will provide five – 2011 Dodge Caravan minivans and one 2020 Dodge Caravan minivan to be utilized at the discretion of the contractor until their useful life is exceeded. An account of the City Owned Fleet is provided in the Appendix. At least three vehicles should be wheelchair accessible. The City will seek additional vehicles through procurement in each of the contract years but will only purchase if federal grant funds are awarded.

- Brown Cab Service, Inc. understands the vehicle requirements for all years including option years. Brown Cab Service, Inc. will lease the six minivans (with a wheelchair accessible ramp or lift) at a rate of \$1.00 per vehicle per year from the City of Fort Atkinson. The rationale for the selected fleet is based on historical data and the projected passenger ridership for the contract period. Brown Cab Service Inc. also maintains and insures more than 10 spare vehicles at our garage in Fort Atkinson, and these would be available upon short notice to ensure the service meets the required scheduled service standards.
- Whether owned or leased, our vehicles are maintained exceptionally well and inspected frequently. They are annually inspected to meet state and local safety standards. Vehicles that are subject to State Patrol inspection receive said inspections annually.
- Brown Cab Service Inc. is fortunate to have provided Shared-Ride Taxi management in the City of Fort Atkinson for many years. Regular preventative and corrective maintenance are described in Brown Cab Service Inc.’s Maintenance Plan found in Appendix P. We carefully monitor ongoing maintenance requirements via daily vehicle inspections, following manufacturers’ maintenance schedules and suggesting replacing vehicles as necessary. We have demonstrated our ability to use and schedule designated vehicles to provide service that meets the Contract’s schedule service standards Monday – Sunday each week and will be ready to accommodate any service changes.

## 7.22 **Operations and Reporting**

- A. Brown Cab Service Inc. will automatically guarantee farebox revenues to the City of Fort Atkinson with each trip provided. As soon as a trip is generated, the reporting system calculates the fare that will be credited to the municipalities.



In order that the company remains solvent, strict fare handling procedures are in place. Software informs dispatch of the daily fares to be collected by each driver, and this amount is also found on each driver's log. The drivers directly deposit their cash fares at the bank at the end of each shift. The bank deposit slip is then placed in the driver's envelope and turned into a secure location at the office/garage. The office staff matches the bank receipts to the drivers' logs and follows up on any discrepancies. Some cities will turn their cash into the supervisor, who will then match it to the electronic log and make the deposit. All revenue data is tracked and reported in dispatch software.

- B. The dispatch center communicates with drivers via mounted computer tablets. The drivers' trip assignments are transmitted directly from the dispatch office to the vehicles. This ensures that there are far fewer human errors in the preparation of the drivers' logs when the ride requests are automatically conveyed to the drivers' tablets. The tablets also provide GPS navigational services and can track extensively detailed data about riders and vehicles. In some locations, drivers are monitored through the GPS system, which is extremely useful when supervisors are investigating complaints.
- C. Brown Cab Service Inc. drivers have been trained and instructed in procedures for maintaining safe loading and unloading operations curbside, and those procedures are revisited regularly during annual training. First and foremost, drivers must park the vehicle and engage the parking brake prior to loading and unloading passengers. In lift equipped vehicles, the lift will not deploy until the parking brake has been engaged. All drivers have had classroom instruction in passenger sensitivity and understand the special considerations that must be given to elderly and/or disabled passengers when assisting them in and out of vehicles. If passengers require additional assistance, our company's drivers will provide door-to-door service.
- D. Brown Cab Service Inc. collects statistical data on all trips and revenues daily through custom software. Detailed passenger counts, sorted by category, will be submitted to the City of Fort Atkinson monthly with the invoice. The company compiles the required data (e.g., miles, hours, gallons of fuel, etc.) for the state quarterly and annual reports, thereby guaranteeing that the reporting process to WisDOT is easy and simple.
- E. Brown Cab Service Inc. utilizes a formal complaint process. Staff completes a Complaint Information Form when a grievance is received. Management reviews the form and action is taken immediately to resolve the issue. The company strives to ensure that the grievant's full satisfaction is reached. The Dispatch System provides an interface for each dispatcher to record customer feedback. Feedback incidents are kept in a separate list until a supervisor reviews, comments, and resolves the incident. Since its rollout in December 2019, there have been 265 incidents recorded – many of them from appreciative passengers. Here are a few examples:

*"Very happy with our service. Very friendly and helpful drivers"* Mary in Whitewater 7/27/2020

*"Diane says that he's a very nice man, wonderful experience in our cab thanks to him."* Diane in Fort atkinson 7/31/2020

*"Thank you for being so fast to pick me up so that I am not late for work."*  
Caroline in Watertown 8/19/2020



## 7.26 **Additional Relevant Information**

### ***Experienced Professionals with Integrity***

Richard Running and Justin Running have worked in public transportation for 30 years. They work hard to ensure their systems are fully compliant with the numerous federal and state regulations. They also understand that most of the municipalities they serve do not have the staffing or resources to meet federal and state regulations on their own. Therefore, the company employs the best and brightest professionals in the industry to assist with grantee compliance on behalf of the municipalities served.

Brown Cab Service Inc. has assisted its partner municipalities in responding to the state's implementation of a Medical Assistance (MA) Transportation brokerage system. To protect the financial interests of the City, Brown Cab Service Inc. helped establish "agency fares" to limit cost shifting from the state MA program to the local municipality. These agency fares, higher than the standard passenger fare, were established at a level to fully cover all local trip costs.

The most important value that Richard and Justin bring to Brown Cab Service Inc. is integrity. Richard and Justin were born and raised in Wisconsin and have lived here their whole lives. They care deeply about the communities they serve and the well-being of their employees. They are mindful that the services they provide are taxpayer-funded, so they use every strategy available to keep costs low while still providing first-class service.

Richard and Justin treat both customers and employees with utmost respect, and they make sure company employees are dedicated to the needs of the customers. They purposely ensure vehicles, whether leased or owned, far beyond RFP requirements to protect municipalities from potential liability.

Richard and Justin operate outstanding public transit programs in Wisconsin because they understand how vital the services are to their customers. They also know that a successful public transportation program keeps the local economy strong. Richard and Justin receive tremendous satisfaction from serving Wisconsin's small communities and the people who live in them.

### ***Exceptional Customer Service***

As with most public transit systems, most of the ridership is elderly and/or disabled. Brown Cab Service Inc. is proud of the fact that its drivers are sensitive to passengers' needs, whether they require assistance from their home to the vehicles, need assistance to get in and out of vehicles, or if they need help carrying packages and groceries. Best of all, the drivers provide all this assistance to customers with a warm smile on their faces.

Having worked in the public transportation business for years, the Brown Cab Service Inc. team is skilled at serving passengers that sometimes exhibit challenging behaviors. Our number one priority is to keep our passengers and employees safe. When we have a passenger who repeatedly displays behaviors that are a safety threat to him/herself and others, we work with the Municipality, County Human Services and Managed Care Organizations to find a solution. In some cases, it's as simple as making sure the



passenger always rides alone, or in other cases, requiring that the passenger travels with a guardian.

We handle these situations individually, delicately, and in compliance with the ADA. Our drivers are trained in passenger sensitivity and are given the tools needed to work with difficult customers. They understand that sometimes a passenger is just having a bad day, and they do not take it personally. In many cases, they know that a cognitively impaired passenger can be distracted and coaxed into better behaviors, so they do what it takes to deliver those challenging customers to their destinations safely.

### **Customer Testimonials**

We are fortunate to receive praise from our customers. Here are just a few of the customer comments and testimonials received in the past.

*“Hi I just wanted to commend an employee driver.....went over and beyond while transporting me yesterday. He was polite, kind and considerate. Kudos. Thank You” – J.B.*

*“I wish to commend the (Viroqua) Cab Company on the advantages they offer to wheelchair people. Thank you” – S.L.*

*“Thank you for your kindness” – A.P.*

*“A HUGE thank you for returning my daughter’s IPOD.....nice (of you) to go out of your way to find the owner.” – E.F.*

### **Community Relationships**

It is important in this industry to develop good working relationships with housing facilities, hospitals, clinics, long-term care facilities, etc. to ensure the success of the service. We fully understand that our customers will not always get in and out of their medical appointments on time. Likewise, there may be issues at a housing or long-term care facility that prevents a passenger from being ready and waiting at the door for their ride.

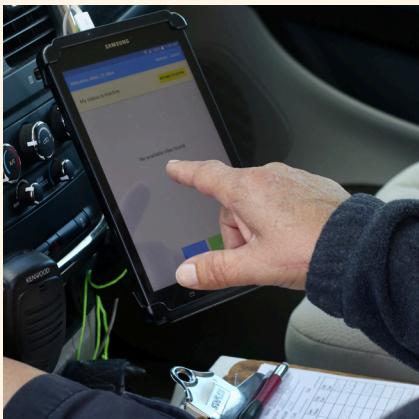
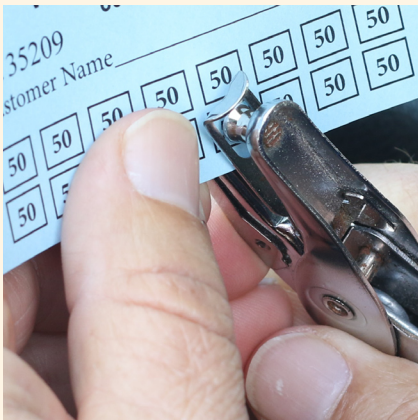
Our supervisors, drivers, and dispatchers are friendly and helpful and develop excellent relationships with the people working in these types of facilities in order that we might best serve our passengers. In many cities we operate in, we have been able to work with clinics to schedule appointments for our customers in a way that maximizes our efficiency. For example, we have found cooperation from dialysis centers that will stagger customer appointments so that not every single one of our passengers has the same arrival time.

At Brown Cab Service Inc., we go out of our way to serve our passengers, and that means we work closely with our passengers’ caregivers. If a customer has a special need or issue related to the facility they live in or the medical provider they see, we will make accommodations as able for the passenger and their caregivers.





# City of Fort Atkinson



INSERT **BROWN CAB** TAB—  
**APPENDICES**



**APPENDIX A of Procurement  
FORT ATKINSON SHARED RIDE TAXI  
City of Fort Atkinson 001  
CITY OF FORT ATKINSON  
Pricing Proposal**

Vendors must submit costs for each deliverable. Provide your best pricing on this Pricing Proposal Excel Document. The total cost provided must be all inclusive to carry out the services included in this RFP, in accordance with the terms and conditions of this RFP. The Agency does not guarantee to purchase any specific quantity, or pay any minimum Contract price during the term of the Contract. Proposals that require a minimum number of commodities or services be ordered will be disqualified.

Please sign and date the Pricing Proposal.

This is a firm-fixed price contract for a base period of two years with three 1-year option periods. Proposers are required to submit a firm-fixed price for the contract base period (first two contract years) that covers all operating and administrative costs of performing the service. For evaluation purposes, Proposers must also submit fixed prices for Option Years 1, 2, and 3 (contract years 3, 4 and 5) using a CPI-U fixed at 1.0 percent, even though prices for the option years will ultimately be adjusted by the then-current CPI-U. All dollar amounts should not include a fraction of a cent, and therefore should be to the hundredth of a dollar.

The competitiveness of the offered prices will be based on the total price of the sum of Section A.

	<u>Deliverables</u>	<u>Cost</u>
<b>Base Contract Performance Period will cover the period of 01/01/2024-12/31/2025 (2-Year Base Contract). The contract will contain THREE (3) ONE (1) year options.</b>	<b>a. Base Year 1 Hourly Service Rate</b>	
	<b>b. Base Year 2 Hourly Service Rate</b>	
	<b>c. Option Year 3 Hourly Service Rate</b>	
	<b>d. Option Year 4 Hourly Service Rate</b>	
	<b>e. Option Year 5 Hourly Service Rate</b>	
	<b>Total</b>	<b>\$0</b>

Signature of Authorized Preparer: \_\_\_\_\_ Date: 10/31/2023

Title/Role: Justin Running, Vice President

Company Name: Brown Cab Service, Inc.

## APPENDIX B

### Proposal Signature Page

In signing this Proposal we also certify that we have not, either directly or indirectly, entered into any agreement or participated in any collusion or otherwise taken any action in restraint of free competition; that no attempt has been made to induce any other person or firm to submit or not to submit a Proposal; that this Proposal has been independently arrived at without collusion with any other Proposer, competitor or potential competitor; that this Proposal has not been knowingly disclosed prior to the opening of PROPOSALS to any other Proposer or competitor; that the above statement is accurate under penalty of perjury.

We will comply with all terms, conditions and specifications required by the state in this Request for Proposal and all terms of our Proposal.

Name of Authorized Company  
Representative

Title

Phone

Justin Running

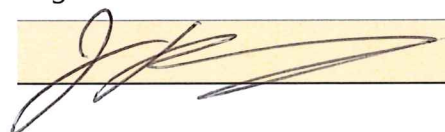
Vice President

608-637-2599

Signature of Above

Date

Email



10/31/23

justin@runninginc.net

## APPENDIX C

### AFFIDAVIT OF NON-COLLUSION

**City of Fort Atkinson 001**

#### Solicitation Number

I hereby swear (or affirm) under the penalty of perjury:

1. That I am the responder (if the responder is an individual), a partner in the company (if the responder is a company) or an officer or employee of the responding corporation having the authority to sign on its behalf (if the responder is a corporation);
2. That the attached offer (proposal) has been arrived at by the responder (Offeror) independently and has been submitted without collusion with and without any agreement, understanding, or planned common course of action with any other firm or entity designed to limit fair and open competition;
3. That the contents of the solicitation response (the Offeror's proposal) have not been communicated by the responder or its employees or agents to any person not an employee or agent of the responder and will not be communicated to any such persons prior to the official opening of the solicitation responses (Offers); and
4. I certify that the statements in this affidavit are true and accurate.

Name of Authorized Company  
Representative

Title

Phone

Justin Running

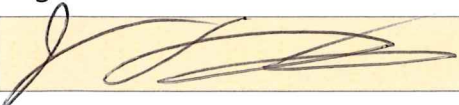
Vice President

608-637-2599

Signature of Above

Date

Email

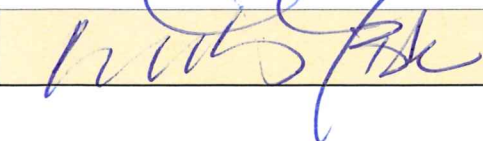


10/31/23

justin@runninginc.net

Signed Notary Public

My Commission Expires



10/23/2035

## APPENDIX D

### PROPOSER INFORMATION

<b>Proposing Company/Org. Name</b>	BROWN CAB SERVICE, INC.				
<b>FEIN</b>	39-1775090		<b>UEI</b>		
<b>Phone</b>	608-637-2599				
<b>Email</b>	<a href="mailto:humanresources@runninginc.net">humanresources@runninginc.net</a>				
<b>Address</b>	318 W. Decker St.				
<b>City</b>	Viroqua	<b>State</b>	WI	<b>Zip + 4</b>	54665-1511

<b>Contact person for questions concerning this proposal</b>	JUSTIN RUNNING				
<b>Title</b>	Vice President				
<b>Phone</b>	608-637-2599				
<b>Email</b>	<a href="mailto:justin@runninginc.net">justin@runninginc.net</a>				
<b>Address</b>	318 W. Decker St.				
<b>City</b>	Viroqua	<b>State</b>	WI	<b>Zip + 4</b>	54665-1511

<b>Contact person for Human Resources and/or Civil Rights</b>	AMANDA RUNNING				
<b>Title</b>	Director of Personnel/Human Resources				
<b>Phone</b>	608-637-2599				
<b>Email</b>	<a href="mailto:humanresources@runninginc.net">humanresources@runninginc.net</a>				
<b>Address</b>	318 W. Decker St.				
<b>City</b>	Viroqua	<b>State</b>	WI	<b>Zip + 4</b>	54665-1511

<b>Contact person for all Purchase Orders and Billing</b>	AMANDA RUNNING				
<b>Title</b>	Director of Personnel/Human Resources				
<b>Phone</b>	608-637-2599				
<b>Email</b>	<a href="mailto:humanresources@runninginc.net">humanresources@runninginc.net</a>				
<b>Address</b>	318 W. Decker St.				
<b>City</b>	Viroqua	<b>State</b>	WI	<b>Zip + 4</b>	54665-1511

## APPENDIX E

### REFERENCES

Brown Cab Service, Inc.
-------------------------

#### Vendor:

Provide company name, address, contact person, telephone number, and appropriate information on the product(s) and/or service(s) provided to customers similar to those requested in this solicitation document. Potential subcontractors cannot be references. Any subcontractor arrangement for the completion of this work shall be listed on a separate id page. **WisDOT employees must not be listed as references.**

<b>Company Name</b>	<b>City of Ripon</b>
<b>Address (include Zip + 4)</b>	<b>100 Jackson St. Ripon, WI 54971</b>
<b>Contact Person</b>	<b>Adam Sonntag</b>
<b>Email Address</b>	<b><u><a href="mailto:asonntag@cityofripon.com">asonntag@cityofripon.com</a></u></b>
<b>Phone Number</b>	<b>920-748-4914</b>
<b>Product(s) Used and/or Service(s) Provided</b>	<b>Shared-Ride Taxi Services</b>

<b>Company Name</b>	<b>City of Waupun</b>
<b>Address (include Zip + 4)</b>	<b>201 E. Main St. Waupun, WI 53963</b>
<b>Contact Person</b>	<b>Cassandra Langenfeld</b>
<b>Email Address</b>	<b><u><a href="mailto:finance@cityofwaupun.org">finance@cityofwaupun.org</a></u></b>
<b>Phone Number</b>	<b>920-324-7850</b>
<b>Product(s) Used and/or Service(s) Provided</b>	<b>Shared-Ride Taxi Services</b>

<b>Company Name</b>	<b>City of Medford</b>
<b>Address (include Zip + 4)</b>	<b>639 S. Second St. Medford, WI 54451</b>
<b>Contact Person</b>	<b>Robert Christensen</b>
<b>Email Address</b>	<b><u><a href="mailto:rchristensen@medfordwi.gov">rchristensen@medfordwi.gov</a></u></b>
<b>Phone Number</b>	<b>715-748-1184</b>
<b>Product(s) Used and/or Service(s) Provided</b>	<b>Shared-Ride Taxi Services</b>

**Company Name**

**Village of Prairie du Sac**

**Address (include Zip + 4)**

**335 Galena St. Prairie du Sac, WI 53578**

**Contact Person**

**Niki Conway**

**Email Address**

**[Niki@prairiedusac.net](mailto:Niki@prairiedusac.net)**

**Phone Number**

**608-643-2421**

**Product(s) Used and/or Service(s) Provided**

**Shared-Ride Taxi Services**



# APPENDIX F

## Designation of Confidential and Proprietary Information

The attached material submitted in response to the above indicated bid/proposal, includes proprietary and confidential information which qualifies as a trade secret, as provided in section 19.36(5) Wis. Stat., or is otherwise material that can be kept confidential under the Wisconsin Open Records Law. As such, we ask that certain pages, as indicated below, of this bid/proposal are treated as confidential material and not be released without our written approval.

**Prices always become public information when bids/proposals are opened, and therefore cannot be kept confidential.**

Other information cannot be kept confidential unless it is a trade secret. Trade secret is defined in s. 134.90(1)(c), Wis. Stats. as follows: "Trade Secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process to which all of the following apply:

1. The information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, or persons who can obtain economic value from its disclosure or use.
2. The information is the subject of efforts to maintain its secrecy that are reasonable under the circumstances.

We request that the following pages not be released:

Section	Page Number	Topic
7.15	15-17	Financials
Appendix O	O-1-O-27	Drug & Alcohol Testing Policy
Appendix P	P-1-P-11	Vehicle Maintenance Policy

**In the event the designation of confidentiality of this information is challenged, the undersigned agrees to provide legal counsel or other necessary assistance to defend the designation of confidentiality and agrees to hold the state harmless for any costs or damages arising out of the state's agreement to withhold the materials.**

# APPENDIX G

## STANDARD TERMS & CONDITIONS (DOA-3054 (R08/2016))

- 1.0 SPECIFICATIONS:** The specifications in this request are the minimum acceptable. When specific manufacturer and model numbers are used, they are to establish a design, type of construction, quality, functional capability and/or performance level desired. When alternates are bid/proposed, they must be identified by manufacturer, stock number, and such other information necessary to establish equivalency. The State of Wisconsin shall be the sole judge of equivalency. Bidders/proposers are cautioned to avoid bidding alternates to the specifications which may result in rejection of their bid/proposal.
- 2.0 DEVIATIONS AND EXCEPTIONS:** Deviations and exceptions from original text, terms, conditions, or specifications shall be described fully, on the bidder's/proposer's letterhead, signed, and attached to the request. In the absence of such statement, the bid/proposal shall be accepted as in strict compliance with all terms, conditions, and specifications and the bidders/proposers shall be held liable.
- 3.0 QUALITY:** Unless otherwise indicated in the request, all material shall be first quality. Items which are used, demonstrators, obsolete, seconds, or which have been discontinued are unacceptable without prior written approval by the State of Wisconsin.
- 4.0 QUANTITIES:** The quantities shown on this request are based on estimated needs. The state reserves the right to increase or decrease quantities to meet actual needs.
- 5.0 DELIVERY:** Deliveries shall be F.O.B. destination freight prepaid and included unless otherwise specified.
- 6.0 PRICING AND DISCOUNT:** The State of Wisconsin qualifies for governmental discounts and its educational institutions also qualify for educational discounts. Unit prices shall reflect these discounts.
  - 6.1** Unit prices shown on the bid/proposal or contract shall be the price per unit of sale (e.g., gal., cs., doz., ea.) as stated on the request or contract. For any given item, the quantity multiplied by the unit price shall establish the extended price, the unit price shall govern in the bid/proposal evaluation and contract administration.
  - 6.2** Prices established in continuing agreements and term contracts may be lowered due to general market conditions, but prices shall not be subject to increase for ninety (90) calendar days from the date of award. Any increase proposed shall be submitted to the contracting agency thirty (30) calendar days before the proposed effective date of the price increase, and shall be limited to fully documented cost increases to the contractor which are demonstrated to be industrywide. The conditions under which price increases may be granted shall be expressed in bid/proposal documents and contracts or agreements.
  - 6.3** In determination of award, discounts for early payment will only be considered when all other conditions are equal and when payment terms allow at least fifteen (15) days, providing the discount terms are deemed favorable. All payment terms must allow the option of net thirty (30).
- 7.0 UNFAIR SALES ACT:** Prices quoted to the State of Wisconsin are not governed by the Unfair Sales Act.
- 8.0 ACCEPTANCE-REJECTION:** The State of Wisconsin reserves the right to accept or reject any or all bids/proposals, to waive any technicality in any bid/proposal submitted, and to accept any part of a bid/proposal as deemed to be in the best interests of the State of Wisconsin.

Bids/proposals MUST be date and time stamped by the soliciting purchasing office on or before the date and time that the bid/proposal is due. Bids/proposals date and time stamped in another office will be rejected. Receipt of a bid/proposal by the mail system does not constitute receipt of a bid/proposal by the purchasing office.
- 9.0 METHOD OF AWARD:** Award shall be made to the lowest responsible, responsive bidder unless otherwise specified.

- 10.0 ORDERING:** Purchase orders or releases via purchasing cards shall be placed directly to the contractor by an authorized agency. No other purchase orders are authorized.
- 11.0 PAYMENT TERMS AND INVOICING:** The State of Wisconsin normally will pay properly submitted vendor invoices within thirty (30) days of receipt providing goods and/or services have been delivered, installed (if required), and accepted as specified.
- Invoices presented for payment must be submitted in accordance with instructions contained on the purchase order including reference to purchase order number and submittal to the correct address for processing.
- A good faith dispute creates an exception to prompt payment.
- 12.0 TAXES:** The State of Wisconsin and its agencies are exempt from payment of all federal tax and Wisconsin state and local taxes on its purchases except Wisconsin excise taxes as described below.
- The State of Wisconsin, including all its agencies, is required to pay the Wisconsin excise or occupation tax on its purchase of beer, liquor, wine, cigarettes, tobacco products, motor vehicle fuel and general aviation fuel. However, it is exempt from payment of Wisconsin sales or use tax on its purchases. The State of Wisconsin may be subject to other states' taxes on its purchases in that state depending on the laws of that state. Contractors performing construction activities are required to pay state use tax on the cost of materials.
- 13.0 GUARANTEED DELIVERY:** Failure of the contractor to adhere to delivery schedules as specified or to promptly replace rejected materials shall render the contractor liable for all costs in excess of the contract price when alternate procurement is necessary. Excess costs shall include the administrative costs.
- 14.0 ENTIRE AGREEMENT:** These Standard Terms and Conditions shall apply to any contract or order awarded as a result of this request except where special requirements are stated elsewhere in the request; in such cases, the special requirements shall apply. Further, the written contract and/or order with referenced parts and attachments shall constitute the entire agreement and no other terms and conditions in any document, acceptance, or acknowledgment shall be effective or binding unless expressly agreed to in writing by the contracting authority.
- 15.0 APPLICABLE LAW AND COMPLIANCE:** This contract shall be governed under the laws of the State of Wisconsin. The contractor shall at all times comply with and observe all federal and state laws, local laws, ordinances, and regulations which are in effect during the period of this contract and which in any manner affect the work or its conduct. The State of Wisconsin reserves the right to cancel this contract if the contractor fails to follow the requirements of s. 77.66, Wis. Stats., and related statutes regarding certification for collection of sales and use tax. The State of Wisconsin also reserves the right to cancel this contract with any federally debarred contractor or a contractor that is presently identified on the list of parties excluded from federal procurement and non-procurement contracts.
- 16.0 ANTITRUST ASSIGNMENT:** The contractor and the State of Wisconsin recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State of Wisconsin (purchaser). Therefore, the contractor hereby assigns to the State of Wisconsin any and all claims for such overcharges as to goods, materials or services purchased in connection with this contract.
- 17.0 ASSIGNMENT:** No right or duty in whole or in part of the contractor under this contract may be assigned or delegated without the prior written consent of the State of Wisconsin.
- 18.0 WORK CENTER CRITERIA:** A work center must be certified under s. 16.752, Wis. Stats., and must ensure that when engaged in the production of materials, supplies or equipment or the performance of contractual services, not less than seventy-five percent (75%) of the total hours of direct labor are performed by severely handicapped individuals.
- 19.0 NONDISCRIMINATION / AFFIRMATIVE ACTION:** In connection with the performance of work under this contract, the contractor agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01(5), Wis. Stats., sexual orientation as defined in s. 111.32(13m), Wis. Stats., or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the contractor further agrees to take affirmative action to ensure equal employment opportunities.

- 19.1** Contracts estimated to be over fifty thousand dollars (\$50,000) require the submission of a written affirmative action plan by the contractor. An exemption occurs from this requirement if the contractor has a workforce of less than fifty (50) employees. Within fifteen (15) working days after the contract is awarded, the contractor must submit the plan to the contracting state agency for approval. Instructions on preparing the plan and technical assistance regarding this clause are available from the contracting state agency.
- 19.2** The contractor agrees to post in conspicuous places, available for employees and applicants for employment, a notice to be provided by the contracting state agency that sets forth the provisions of the State of Wisconsin's nondiscrimination law.
- 19.3** Failure to comply with the conditions of this clause may result in the contractor's becoming declared an "ineligible" contractor, termination of the contract, or withholding of payment.
- 20.0 PATENT INFRINGEMENT:** The contractor selling to the State of Wisconsin the articles described herein guarantees the articles were manufactured or produced in accordance with applicable federal labor laws. Further, that the sale or use of the articles described herein will not infringe any United States patent. The contractor covenants that it will at its own expense defend every suit which shall be brought against the State of Wisconsin (provided that such contractor is promptly notified of such suit, and all papers therein are delivered to it) for any alleged infringement of any patent by reason of the sale or use of such articles, and agrees that it will pay all costs, damages, and profits recoverable in any such suit.
- 21.0 SAFETY REQUIREMENTS:** All materials, equipment, and supplies provided to the State of Wisconsin must comply fully with all safety requirements as set forth by the Wisconsin Administrative Code and all applicable OSHA Standards.
- 22.0 WARRANTY:** Unless otherwise specifically stated by the bidder/proposer, equipment purchased as a result of this request shall be warranted against defects by the bidder/proposer for one (1) year from date of receipt. The equipment manufacturer's standard warranty shall apply as a minimum and must be honored by the contractor.
- 23.0 INSURANCE RESPONSIBILITY:** The contractor performing services for the State of Wisconsin shall:
- 23.1** Maintain worker's compensation insurance as required by Wisconsin Statutes, for all employees engaged in the work.
- 23.2** Maintain commercial liability, bodily injury and property damage insurance against any claim(s) which might occur in carrying out this agreement/contract. Minimum coverage shall be one million dollars (\$1,000,000) liability for bodily injury and property damage including products liability and completed operations. Provide motor vehicle insurance for all owned, non-owned and hired vehicles that are used in carrying out this contract. Minimum coverage shall be one million dollars (\$1,000,000) per occurrence combined single limit for automobile liability and property damage.
- 23.3** The state reserves the right to require higher or lower limits where warranted.
- 24.0 CANCELLATION:** The State of Wisconsin reserves the right to cancel any contract in whole or in part without penalty due to nonappropriation of funds or for failure of the contractor to comply with terms, conditions, and specifications of this contract.
- 25.0 VENDOR TAX DELINQUENCY:** Vendors who have a delinquent Wisconsin tax liability may have their payments offset by the State of Wisconsin.
- 26.0 PUBLIC RECORDS ACCESS:** It is the intention of the state to maintain an open and public process in the solicitation, submission, review, and approval of procurement activities. Bid/proposal openings are public unless otherwise specified. Records may not be available for public inspection prior to issuance of the notice of intent to award or the award of the contract. Pursuant to §19.36 (3), Wis. Stats., all records of the contractor that are produced or collected under this contract are subject to disclosure pursuant to a public records request. Upon receipt of notice from the State of Wisconsin of a public records request for records produced or collected under this contract, the contractor shall provide the requested records to the contracting agency. The contractor, following final payment, shall retain all records produced or collected under this contract for six (6) years.

- 27.0 PROPRIETARY INFORMATION:** Any restrictions on the use of data contained within a request, must be clearly stated in the bid/proposal itself. Proprietary information submitted in response to a request will be handled in accordance with applicable State of Wisconsin procurement regulations and the Wisconsin public records law. Proprietary restrictions normally are not accepted. However, when accepted, it is the vendor's responsibility to defend the determination in the event of an appeal or litigation.
- 27.1** Data contained in a bid/proposal, all documentation provided therein, and innovations developed as a result of the contracted commodities or services cannot be copyrighted or patented. All data, documentation, and innovations become the property of the State of Wisconsin.
- 27.2** Any material submitted by the vendor in response to this request that the vendor considers confidential and proprietary information and which qualifies as a trade secret, as provided in s. 19.36(5), Wis. Stats., or material which can be kept confidential under the Wisconsin public records law, must be identified on a Designation of Confidential and Proprietary Information form (DOA-3027). Bidders/proposers may request the form if it is not part of the Request for Bid/Request for Proposal package. Bid/proposal prices cannot be held confidential.
- 28.0 DISCLOSURE:** If a state public official (s. 19.42, Wis. Stats.), a member of a state public official's immediate family, or any organization in which a state public official or a member of the official's immediate family owns or controls a ten percent (10%) interest, is a party to this agreement, and if this agreement involves payment of more than three thousand dollars (\$3,000) within a twelve (12) month period, this contract is voidable by the state unless appropriate disclosure is made according to s. 19.45(6), Wis. Stats., before signing the contract. Disclosure must be made to the State of Wisconsin Ethics Board, 44 East Mifflin Street, Suite 601, Madison, Wisconsin 53703 (Telephone 608-266-8123).
- State classified and former employees and certain University of Wisconsin faculty/staff are subject to separate disclosure requirements, s. 16.417, Wis. Stats.
- 29.0 RECYCLED MATERIALS:** The State of Wisconsin is required to purchase products incorporating recycled materials whenever technically and economically feasible. Bidders are encouraged to bid products with recycled content which meet specifications.
- 30.0 MATERIAL SAFETY DATA SHEET:** If any item(s) on an order(s) resulting from this award(s) is a hazardous chemical, as defined under 29CFR 1910.1200, provide one (1) copy of a Material Safety Data Sheet for each item with the shipped container(s) and one (1) copy with the invoice(s).
- 31.0 PROMOTIONAL ADVERTISING / NEWS RELEASES:** Reference to or use of the State of Wisconsin, any of its departments, agencies or other subunits, or any state official or employee for commercial promotion is prohibited. News releases pertaining to this procurement shall not be made without prior approval of the State of Wisconsin. Release of broadcast e-mails pertaining to this procurement shall not be made without prior written authorization of the contracting agency.
- 32.0 HOLD HARMLESS:** The contractor will indemnify and save harmless the State of Wisconsin and all of its officers, agents and employees from all suits, actions, or claims of any character brought for or on account of any injuries or damages received by any persons or property resulting from the operations of the contractor, or of any of its contractors, in prosecuting work under this agreement.
- 33. FOREIGN CORPORATION:** A foreign corporation (any corporation other than a Wisconsin corporation) which becomes a party to this Agreement is required to conform to all the requirements of Chapter 180, Wis. Stats., relating to a foreign corporation and must possess a certificate of authority from the Wisconsin Department of Financial Institutions, unless the corporation is transacting business in interstate commerce or is otherwise exempt from the requirement of obtaining a certificate of authority. Any foreign corporation which desires to apply for a certificate of authority should contact the Department of Financial Institutions, Division of Corporation, P. O. Box 7846, Madison, WI 53707-7846; telephone (608) 261-7577.

34. **WORK CENTER PROGRAM:** The successful bidder/proposer shall agree to implement processes that allow the State agencies, including the University of Wisconsin System, to satisfy the State's obligation to purchase goods and services produced by work centers certified under the State Use Law, s.16.752, Wis. Stat. This shall result in requiring the successful bidder/proposer to include products provided by work centers in its catalog for State agencies and campuses or to block the sale of comparable items to State agencies and campuses.
35. **FORCE MAJEURE:** Neither party shall be in default by reason of any failure in performance of this Agreement in accordance with reasonable control and without fault or negligence on their part. Such causes may include, but are not restricted to, acts of nature or the public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather, but in every case the failure to perform such must be beyond the reasonable control and without the fault or negligence of the party.



## APPENDIX H

### Supplemental Standard Terms and Conditions for Procurements for Services (DOA-3681 (R01/2022))

**1.0 ACCEPTANCE OF BID/PROPOSAL CONTENT:** The contents of the bid/proposal of the successful contractor will become contractual obligations if procurement action ensues.

**2.0 CERTIFICATION OF INDEPENDENT PRICE DETERMINATION:** By signing this bid/proposal, the bidder/proposer certifies, and in the case of a joint bid/proposal, each party thereto certifies as to its own organization, that in connection with this procurement:

**2.1** The prices in this bid/proposal have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder/proposer or with any competitor;

**2.2** Unless otherwise required by law, the prices which have been quoted in this bid/proposal have not been knowingly disclosed by the bidder/proposer and will not knowingly be disclosed by the bidder/proposer prior to opening in the case of an advertised procurement or prior to award in the case of a negotiated procurement, directly or indirectly to any other bidder/proposer or to any competitor; and

**2.3** No attempt has been made or will be made by the bidder/proposer to induce any other person or firm to submit or not to submit a bid/proposal for the purpose of restricting competition.

**2.4** Each person signing this bid/proposal certifies that: He/she is the person in the bidder's/proposer's organization responsible within that organization for the decision as to the prices being offered herein and that he/she has not participated, and will not participate, in any action contrary to 2.1 through 2.3 above; (or)

He/she is not the person in the bidder's/proposer's organization responsible within that organization for the decision as to the prices being offered herein, but that he/she has been authorized in writing to act as agent for the persons responsible for such decisions in certifying that such persons have not participated, and will not participate in any action contrary to 2.1 through 2.3 above, and as their agent does hereby so certify; and he/she has not participated, and will not participate, in any action contrary to 2.1 through 2.3 above.

**3.0 DISCLOSURE OF INDEPENDENCE AND RELATIONSHIP:**

**3.1** Prior to award of any contract, a potential contractor shall certify in writing to the procuring agency that no relationship exists between the potential contractor and the procuring or contracting agency that interferes with fair competition or is a conflict of interest, and no relationship exists between the contractor and another person or organization that constitutes a conflict of interest with respect to a state contract. The Department of Administration may waive this provision, in writing, if those activities of the potential contractor will not be adverse to the interests of the state.

**3.2** Contractors shall agree as part of the contract for services that during performance of the contract, the contractor will neither provide contractual services nor enter into any agreement to provide services to a person or organization that is regulated or funded by the contracting agency or has interests that are adverse to the contracting agency. The Department of Administration may waive this provision, in writing, if those activities of the contractor will not be adverse to the interests of the state.

**4.0 DUAL EMPLOYMENT:** Section 16.417, Wis. Stats., prohibits an individual who is a State of Wisconsin employee or who is retained as a contractor full-time by a State of Wisconsin agency from being retained as a contractor by the same or another State of Wisconsin agency where the individual receives more than \$12,000 as compensation for the individual's services during the same year. This prohibition does not apply to individuals who have full-time appointments for less than twelve (12) months during any period of time that is not included in the appointment. It does not include corporations or partnerships.

**5.0 EMPLOYMENT:** The contractor will not engage the services of any person or persons now employed by the State of Wisconsin, including any department, commission or board thereof, to provide services relating to this agreement without the written consent of the employing agency of such person or persons and of the contracting agency.

**6.0 CONFLICT OF INTEREST:** Private and nonprofit corporations are bound by ss. 180.0831, 180.1911(1), and 181.0831 Wis. Stats., regarding conflicts of interests by directors in the conduct of state contracts.

**7.0 RECORDKEEPING AND RECORD RETENTION:** The contractor shall establish and maintain adequate records of all expenditures incurred under the contract. All records must be kept in accordance with generally accepted accounting procedures. All procedures must be in accordance with federal, state and local ordinances.

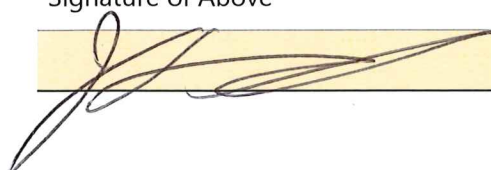
The contracting agency shall have the right to audit, review, examine, copy, and transcribe any pertinent records or documents relating to any contract resulting from this bid/proposal held by the contractor.

It is the intention of the state to maintain an open and public process in the solicitation, submission, review, and approval of procurement activities. Bid/proposal openings are public unless otherwise specified. Records may not be available for public inspection prior to issuance of the notice of intent to award or the award of the contract. Pursuant to §19.36 (3), Wis. Stats., all records of the contractor that are produced or collected under this contract are subject to disclosure pursuant to a public records request. Upon receipt of notice from the State of Wisconsin of a public records request for records produced or collected under this contract, the contractor shall provide the requested records to the contracting agency. The contractor, following final payment, shall retain all records produced or collected under this contract for six (6) years.

**8.0 INDEPENDENT CAPACITY OF CONTRACTOR:** The parties hereto agree that the contractor, its officers, agents, and employees, in the performance of this agreement shall act in the capacity of an independent contractor and not as an officer, employee, or agent of the state. The contractor agrees to take such steps as may be necessary to ensure that each subcontractor of the contractor will be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venturer, or partner of the state.

Failure to include this form in the bid/proposal response may mean that all information provided as part of the bid/proposal response will be open to examination and copying. The state considers other markings of "confidential" in the bid/proposal response to be insufficient. The undersigned agrees to hold the state harmless for any damages arising out of the release of any materials unless they are specifically identified above.

Name of Authorized Company Representative	Title	Phone
Justin Running	Vice President	608-637-2599

Signature of Above	Date	Email
	10/31/23	justin@runninginc.net

# **APPENDIX I**

## **Federal Clauses**

**for**

## **Federal Contracts**



**Prepared by the Wisconsin Department of Transportation  
Bureau of Transit, Local Roads, Railroads and Harbors**

September 6, 2023

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## **SPECIAL NOTIFICATION REQUIREMENTS FOR STATES**

### **Master Agreement**

Federal grant monies (\$117,485) fund this contract, in whole or in part (Section 5311-CFDA20.395)). As such, agencies receiving such funds and contractors awarded contracts that use such funds must comply with certain Federal certifications and clause requirements. This includes, for purchases of rolling stock over \$150,000, compliance with Buy America Act requirements, including pre-award and post-delivery audit requirements and certifications, as well as requirements and certifications applicable under the Federal Motor Vehicle Safety Standard (FMVSS). It is the contractor's responsibility to be aware of the pertinent certifications and contract clauses, as identified by the Issuing Agency for the instant procurement and ensure compliance with such requirements prior to award and throughout the term of any resultant contract. The full text of these clauses is available at the National Rural Transit Assistance Program (RTAP) website under "ProcurementPro." The website address is: <http://www.nationalrtap.org/>.

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### **NOTIFICATION TO FTA**

If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Recipient is located. The Recipient must include a similar notification requirement in its Third-Party Agreements and must require each Third Party Participant to include an equivalent provision in its subagreements at every tier, for any agreement that is a "covered transaction" according to 2 C.F.R. §§ 180.220 and 1200.220.

- (1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
- (2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.
- (3) The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct. This responsibility occurs whether the Project is subject to this 18

Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient.

## Table of Contents

No.	Title	Bidder Required Information
1	LOBBYING	Yes
2	GOVERNMENT-WIDE DEBARMENT AND SUSPENSION	Yes
3	DISADVANTAGED BUSINESS ENTERPRISE (DBE)	Yes
4	FLY AMERICA REQUIREMENTS	No
5	CHARTER BUS REQUIREMENTS	No
6	SCHOOL BUS REQUIREMENTS	No
7	CARGO PREFERENCE REQUIREMENTS	No
8	SEISMIC SAFETY REQUIREMENTS	No
9	ENERGY CONSERVATION REQUIREMENTS	No
10	CLEAN WATER REQUIREMENTS	No
11	ACCESS TO RECORDS AND REPORTS	No
12	FEDERAL CHANGES	No
13	BONDING REQUIREMENTS	No
14	CLEAN AIR	No
15	RECYCLED PRODUCTS	No
16	DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS	No
17	CONTRACT WORK HOURS AND SAFETY STANDARDS ACT	No
18	EQUAL EMPLOYMENT OPPORTUNITY	No
19	NO GOVERNMENT OBLIGATION TO THIRD PARTIES	No
20	PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS	No
21	TERMINATION	No
22	PRIVACY ACT	No
23	CIVIL RIGHTS REQUIREMENTS	No
24	BREACHES AND DISPUTE RESOLUTION	No
25	PATENT AND RIGHTS IN DATA	No
26	TRANSIT EMPLOYEE PROTECTIVE ARRANGEMENTS	No
27	INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS	No

28	DRUG AND ALCOHOL TESTING	No
29	SAFE OPERATION OF MOTOR VEHICLES	No
30	ADA ACCESS	No
31	VETERANS EMPLOYMENT	No
32	PROHIBITION ON PROVIDING OR USING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT	No

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## **1. LOBBYING**

### **31 U.S.C. 1352**

### **49 CFR Part 19**

### **49 CFR Part 20**

Applicability to Contracts: The Lobbying requirements apply to Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts over \$100,000.

Flow Down Requirement: The Lobbying requirements mandate the maximum flow down, pursuant to Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352(b)(5) and 49 C.F.R. Part 19, Appendix A, Section 7.

Mandatory Clause/Language: Clause and specific language therein are mandated by 49 CFR Part 19, Appendix A. Modifications have been made to the Clause pursuant to Section 10 of the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, *et seq.* ]

Lobbying Certification and Disclosure of Lobbying Activities for third party contractors are mandated by 31 U.S.C. 1352(b)(5), as amended by Section 10 of the Lobbying Disclosure Act of 1995, and DOT implementing regulation, "New Restrictions on Lobbying," at 49 CFR § 20.110(d)

Language in Lobbying Certification is mandated by 49 CFR Part 19, Appendix A, Section 7, which provides that contractors file the certification required by 49 CFR Part 20, Appendix A.

Use of "Disclosure of Lobbying Activities," Standard Form-LLL set forth in Appendix B of 49 CFR Part 20, as amended by "Government wide Guidance For New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96) is mandated by 49 CFR Part 20, Appendix A.

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, *et seq.*] - Contractors who apply or bid for an award of \$50,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.



## APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING

### Certification for Contracts, Grants, Loans, and Cooperative Agreements (To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96).


[Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*.)]

- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, Brown Cab Service, Inc., certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

Date	October 31, 2023
Name of Contractor's Authorized Official	Justin Running
Signature of Contractor's Authorized Official	
Company Name	Brown Cab Service, Inc.
Title of Contractor's Authorized Official	Vice President

## **2. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION**

**CFR part 180**

**CFR part 1200**

**CFR § 200.213**

**CFR part 200 Appendix II (I)**

**Executive Order 12549**

**Executive Order 12689**

### **Background and Applicability**

A contract award (of any tier) in an amount expected to equal or exceed \$25,000 or a contract award at any tier for a federally required audit (irrespective of the contract amount) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. part 180. The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Recipients, contractors, and subcontractors (at any level) that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) with which they propose to contract or subcontract is not excluded or disqualified. This is done by: (a) checking the SAM exclusions; (b) collecting a certification from that person; or (c) adding a clause or condition to the contract or subcontract.

### **Flow Down**

Recipients, contractors, and subcontractors who enter into covered transactions with a participant at the next lower level, must require that participant to: (a) comply with subpart C of 2 C.F.R. part 180, as supplemented by 2 C.F.R. part 1200; and (b) pass the requirement to comply with subpart C of 2 C.F.R. part 180 to each person with whom the participant enters into a covered transaction at the next lower tier.

### **Debarment, Suspension, Ineligibility and Voluntary Exclusion**


The Contractor shall comply and facilitate compliance with U.S. DOT regulations,

"Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- a) Debarred from participation in any federally assisted Award;
- b) Suspended from participation in any federally assisted Award;
- c) Proposed for debarment from participation in any federally assisted Award;
- d) Declared ineligible to participate in any federally assisted Award;
- e) Voluntarily excluded from participation in any federally assisted Award; or
- f) Disqualified from participation in any federally assisted Award.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the Recipient. If it is later determined by the Recipient that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the Recipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Date	October 31, 2023
Name	Justin Running
Signature	
Company Name	Brown Cab Service, Inc.
Title	Vice President

### **3. DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

#### **49 CFR Part 26**

**Applicability to Contracts:** The Disadvantaged Business Enterprise (DBE) program provides guidance to grantees on the use of overall and contract goals, requirement to include DBE provisions in subcontracts, evaluating DBE participation where specific contract goals have been set, reporting requirements, and

replacement of DBE subcontractors. Additionally, the DBE program dictates payment terms and conditions (including limitations on retainage) applicable to all subcontractors regardless of whether they are DBE firms or not.

The DBE program applies to all U.S. DOT- assisted contracting activities. A formal clause such as that below **must** be included in all contracts and subcontracts above the micro-purchase level (\$10,000 except for construction contracts over \$2,000).

### Clause Language

Each contract the **Recipient** signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following Federal Clause language:

- a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. WisDOT's DBE transit goal for **FFY 2023-2025 is 1.61%**. A separate contract specific goal ☐ **has or X has not** been established for this procurement.
- b. The **RECIPIENT**, contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this U.S. DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the **RECIPIENT** deems appropriate, which may include, but is not limited to:
  - i. Withholding monthly progress payments
  - ii. Assessing sanctions
  - iii. Liquidated damages, and/or
  - iv. Disqualifying the contractor from future bidding as non-responsible.
- c. The contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains written consent from the **RECIPIENT**.
- d. The contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the DBEs as listed in its written documentation of its commitment to the **RECIPIENT**.
- e. The contractor is required to pay subcontractors for satisfactory performance of their contracts no later than 10 calendar days from receipt of each payment the **RECIPIENT** makes to the contractor. The contractor may withhold payment to a subcontractor if, within 10 calendar days of receipt of that progress payment, the contractor provides written notification to the subcontractor and the **RECIPIENT** documenting "just cause" for withholding payment. The contractor is not allowed to withhold retainage from payments due subcontractors.

- f. The contractor will be required to report its DBE participation obtained throughout the period of performance.
- g. The contractor shall not terminate a DBE subcontractor listed in its written documentation of its commitment to the **RECIPIENT** to use a DBE subcontractor (or an approved substitute DBE firm) without the **RECIPIENT's** prior written consent per 49 CFR Part 26.53(f). This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.
- h. The contractor must promptly notify the **RECIPIENT** whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work. The contractor must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work under contract as the DBE that was terminated, to the extent needed to meet the contract goal established for the procurement. The good faith efforts shall be documented by the contractor.
- i. The contractor may provide written consent only if the **RECIPIENT** agrees, for reasons stated in the concurrence document, that it has good cause to terminate the DBE Firm. For purposes of this paragraph, good cause includes the following circumstances:
  - i. The listed DBE subcontractor fails or refuses to execute a written contract.
  - ii. The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor.
  - iii. The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements.
  - iv. The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
  - v. The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1,200 or applicable state law;
  - vi. **RECIPIENT** determined that the listed DBE subcontractor is not a responsible contractor;
  - vii. The listed DBE subcontractor voluntarily withdraws from the project and provides to you written notice of its withdrawal;
  - viii. The listed DBE is ineligible to receive DBE credit for the type of work required;
  - ix. A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
  - x. Other documented good cause that compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.
- j. Before transmitting to the **RECIPIENT** its request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to the **RECIPIENT**, of its intent to request to terminate and/or substitute, and the reason for the request.

## **Commercially Useful Function Monitoring**

Per 49 CFR 26.55 A DBE performs a commercially useful function (CUF) when the DBE is responsible for execution of their work under the contract and the DBE is carrying out its responsibilities by actually performing, managing, and supervising their work. A DBE firm does not perform a CUF if the DBE role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation.

On federal aid contracts, the signature of the Project Manager on the DT1582 Completion Certificate serves as certification that the Project Engineer and/or project staff effectually monitored the DBE work performance and contract records to verify that the DBE firms were responsible for the execution of their work under the contract having performed a CUF.

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## **4. FLY AMERICA REQUIREMENTS**

### **49 U.S.C. §40118**

### **41 CFR Part 301-10**

#### **Applicability to Contracts**

The Fly America requirements apply to the transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., or between places outside the U.S., when the FTA will participate in the costs of such air transportation. Transportation on a foreign air carrier is permissible when provided by a foreign air carrier under a code share agreement when the ticket identifies the U.S. air carrier's designator code and flight number. Transportation by a foreign air carrier is also permissible if there is a bilateral or multilateral air transportation agreement to which the U.S. Government and a foreign government are parties and which the Federal DOT has determined meets the requirements of the Fly America Act.

**Applicability to Micro-Purchases:** Micro-purchases are defined as those purchases under 10,000. These requirements do not apply to micro-purchases; except for construction contracts over \$2,000.

**Flow Down Requirements:** The Fly America requirements flow down from FTA recipients and subrecipients to first tier contractors, who are responsible for ensuring that lower tier contractors and subcontractors are in compliance.

**Model Clause/Language:** The relevant statutes and regulations do not mandate any specified clause or language. FTA proposes the following language.

**Fly America Requirements** - The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.



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## **5. CHARTER BUS REQUIREMENTS**

**49 U.S.C. 5323(d)**

**49 CFR Part 604**

### Applicability to Contracts

The Charter Bus requirements apply to the following type of contract: Operational Service Contracts.

Applicability to Micro-Purchases: Micro-purchases are defined as those purchases under \$10,000. These requirements do not apply to micro-purchases.

Flow Down Requirements: The Charter Bus requirements flow down from FTA recipients and subrecipients to first tier service contractors.

Model Clause/Language: The relevant statutes and regulations do not mandate any specific clause or language. The following clause has been developed by FTA.

Charter Service Operations - The contractor agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

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## **6. SCHOOL BUS REQUIREMENTS**

**49 U.S.C. 5323(F)**

**49 CFR Part 605**

Applicability to Contracts: The School Bus requirements apply to the following type of contract: Operational Service Contracts.

Flow Down Requirements: The School Bus requirements flow down from FTA recipients and subrecipients to first tier service contractors.

Model Clause/Language: The relevant statutes and regulations do not mandate any specific clause or language. The following clause has been developed by FTA.

School Bus Operations - Pursuant to 49 U.S.C. 5323(f) and 49 CFR Part 605, recipients and subrecipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.

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## **7. CARGO PREFERENCE REQUIREMENTS**

**46 U.S.C. 1241**

**46 CFR Part 381**

Applicability to Contracts: The Cargo Preference requirements apply to all contracts involving equipment, materials, or commodities which may be transported by ocean vessels.

Applicability to Micro-Purchases: Micro-purchases are defined as those purchases under \$10,000. These requirements do not apply to micro-purchases; except for construction contracts over \$2,000.

Flow Down Requirements: The Cargo Preference requirements apply to all subcontracts when the subcontract may be involved with the transport of equipment, material, or commodities by ocean vessel.

Model Clause/Language: The MARAD regulations at 46 CFR 381.7 contain suggested contract clauses. The following language is proffered by FTA.

Cargo Preference - Use of United States-Flag Vessels - The contractor agrees: a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading.) c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

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## **8. SEISMIC SAFETY REQUIREMENTS**

### **42 U.S.C. 7701 et seq. 49**

#### **CFR Part 41**

Applicability to Contracts: The Seismic Safety requirements apply only to contracts for the construction of new buildings or additions to existing buildings.

Applicability to Micro-Purchases: Micro-purchases are defined as those purchases under \$10,000. These requirements do not apply to micro-purchases; except for construction contracts over \$2,000.

Flow Down Requirements: The Seismic Safety requirements flow down from FTA recipients and subrecipients to first tier contractors to assure compliance, with the applicable building standards for Seismic Safety, including the work performed by all subcontractors.

Model Clauses/Language: The regulations do not provide suggested language for third-party contract clauses. The following language has been developed by FTA.

Seismic Safety - The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

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## **9. ENERGY CONSERVATION REQUIREMENTS**

**42 U.S.C. 6321 et seq.**

**2 CFR Part 1201**

Applicability to Contracts: The Energy Conservation requirements are applicable to all contracts.

Applicability to Micro-Purchases: Micro-purchases are defined as those purchases under \$10,000. These requirements do not apply to micro-purchases; except for construction contracts over \$2,000.

Flow Down Requirements: The Energy Conservation requirements extend to all third party contractors and their contracts at every tier and subrecipients and their subagreements at every tier.

Model Clause/Language: No specific clause is recommended in the regulations because the Energy Conservation requirements are so dependent on the state energy conservation plan. The following language has been developed by FTA.

Energy Conservation - The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

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## **10. CLEAN WATER REQUIREMENTS**

**33 U.S.C. 1251**

Applicability to Contracts: The Clean Water requirements apply to each contract and subcontract which exceeds \$150,000.

Flow Down Requirements: The Clean Water requirements flow down to FTA recipients and subrecipients at every tier.

Model Clause/Language: While no mandatory clause is contained in the Federal Water Pollution Control Act, as amended, the following language developed by FTA contains all the mandatory requirements.

Clean Water - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$50,000 financed in whole or in part with Federal assistance provided by FTA.

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## **11. ACCESS TO RECORDS AND REPORTS**

**49 U.S.C. 5325**

**18 CFR 18.36 (i)**

**49 CFR 633.17**

Applicability to Contracts: Reference Chart "Requirements for Access to Records and Reports by Type of Contracts"

Applicability to Micro-Purchases: Micro-purchases are defined as those purchases under \$10,000. These requirements do not apply to micro-purchases; except for construction contracts over \$2,000.

Flow Down Requirement: FTA does not require the inclusion of these requirements in subcontracts.

Model Clause/Language: The specified language is not mandated by the statutes or regulations referenced, but the language provided paraphrases the statutory or regulatory language.

Access to Records - The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 18 C. F. R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
2. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$250,000.
3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4. Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
5. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
6. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 18 CFR 18.39(i)(11).

7. FTA does not require the inclusion of these requirements in subcontracts.

#### REQUIREMENTS FOR ACCESS TO RECORDS AND REPORTS BY TYPES OF CONTRACT

	Operational Service Contract	Turnkey Contract	Construction Contract	Arch. or Engineering Contract	Rolling Stock Contract	Professional Service Contract
<b>State Grantees</b>						
<b>Contracts below Simplified Acquisition Threshold (Small Purchase) (\$250,000)</b>	None	Those imposed on state pass thru to Contractor	None	None	None	None
<b>Contracts above \$100,000/Capital Projects</b>	None unless <sup>1</sup> noncompetitive award	Those imposed on state pass thru to contractor	Yes, if noncompetitive award or if funded thru <sup>2</sup>	None unless noncompetitive award	None unless noncompetitive award	None unless noncompetitive award
			5307, 5309, 5311			
<b>Non-State Grantees</b>						
<b>Contracts below Simplified Acquisition Threshold (Small Purchase) (\$250,000)</b>	Yes	Those imposed on non-state Grantee pass thru to Contractor	Yes	Yes	Yes	Yes
<b>Contracts above \$100,000/Capital Projects</b>	Yes	Those imposed on non-state Grantee pass thru to Contractor	Yes	Yes	Yes	Yes

Sources of Authority: 49 USC 5325 (a), 49 CFR 633.17, 18 CFR 18.36 (i)

## 12. FEDERAL CHANGES

### 2 CFR Part 1201

Applicability to Contracts: The Federal Changes requirement applies to all contracts.

Applicability to Micro-Purchases: Micro-purchases are defined as those purchases under \$10,000. These requirements do not apply to micro-purchases; except for construction contracts over \$2,000.

Flow Down Requirement: The Federal Changes requirement flows down appropriately to each applicable changed requirement.

Model Clause/Language: No specific language is mandated. The following language has been developed by FTA.

Federal Changes - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

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### **13. BONDING REQUIREMENTS**

Applicability to Contracts: For those construction or facility improvement contracts or subcontracts exceeding \$250,000, FTA may accept the bonding policy and requirements of the recipient, provided that they meet the minimum requirements for construction contracts as follows:

- a. A bid guarantee from each bidder equivalent to five (5) percent of the bid price. The "bid guarantees" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
- b. A performance bond on the part to the Contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- c. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment, as required by law, of all persons supplying labor and material in the execution of the work provided for in the contract. Payment bond amounts required from Contractors are as follows:
  - (1) 50% of the contract price if the contract price is not more than \$1 million;
  - (2) 40% of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
  - (3) \$2.5 million if the contract price is more than \$5 million.
- d. A cash deposit, certified check or other negotiable instrument may be accepted by a grantee in lieu of performance and payment bonds, provided the grantee has established a procedure to assure that the interest of FTA is adequately protected. An irrevocable letter of credit would also satisfy the requirement for a bond.

Flow Down Requirement: Bonding requirements flow down to the first tier contractors.

Model Clauses/Language: FTA does not prescribe specific wording to be included in third party contracts. FTA has prepared sample clauses as follows:

#### **Bid Bond Requirements (Construction)**

##### **(a) Bid Security**

A Bid Bond must be issued by a fully qualified surety company acceptable to (Recipient) and listed as a company currently authorized under 31 CFR, Part 223 as possessing a Certificate of Authority as described thereunder.



(b) Rights Reserved

In submitting this Bid, it is understood and agreed by bidder that the right is reserved by (Recipient) to reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of [ninety (90)] days subsequent to the opening of bids, without the written consent of (Recipient).

It is also understood and agreed that if the undersigned bidder should withdraw any part or all of his bid within [ninety (90)] days after the bid opening without the written consent of (Recipient), shall refuse or be unable to enter into this Contract, as provided above, or refuse or be unable to furnish adequate and acceptable Performance Bonds and Labor and Material Payments Bonds, as provided above, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, he shall forfeit his bid security to the extent of (Recipient's) damages occasioned by such withdrawal, or refusal, or inability to enter into an agreement, or provide adequate security therefor.

It is further understood and agreed that to the extent the defaulting bidder's Bid Bond, Certified Check, Cashier's Check, Treasurer's Check, and/or Official Bank Check (excluding any income generated thereby which has been retained by (Recipient) as provided in [Item x "Bid Security" of the Instructions to Bidders]) shall prove inadequate to fully recompense (Recipient) for the damages occasioned by default, then the undersigned bidder agrees to indemnify (Recipient) and pay over to (Recipient) the difference between the bid security and (Recipient's) total damages, so as to make (Recipient) whole.

The undersigned understands that any material alteration of any of the above or any of the material contained on this form, other than that requested, will render the bid unresponsive.

**Performance and Payment Bonding Requirements (Construction)**

The Contractor shall be required to obtain performance and payment bonds as follows:

(a) Performance bonds

1. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the (Recipient) determines that a lesser amount would be adequate for the protection of the (Recipient).
2. The (Recipient) may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The (Recipient) may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(b) Payment bonds

1. The penal amount of the payment bonds shall equal:
  - (i) Fifty percent of the contract price if the contract price is not more than \$1 million.
  - (ii) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
  - (iii) Two and one half million if the contract price is more than \$5 million.
2. If the original contract price is \$5 million or less, the (Recipient) may require additional protection as required by subparagraph 1 if the contract price is increased.

**Performance and Payment Bonding Requirements (Non-Construction)**

The Contractor may be required to obtain performance and payment bonds when necessary to protect the (Recipient's) interest.

(a) The following situations may warrant a performance bond:

1. (Recipient) property or funds are to be provided to the contractor for use in performing the contract or as partial compensation (as in retention of salvaged material).
2. A contractor sells assets to or merges with another concern, and the (Recipient), after recognizing the latter concern as the successor in interest, desires assurance that it is financially capable.
3. Substantial progress payments are made before delivery of end items starts.
4. Contracts are for dismantling, demolition, or removal of improvements.

(b) When it is determined that a performance bond is required, the Contractor shall be required to obtain performance bonds as follows:

1. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the (Recipient) determines that a lesser amount would be adequate for the protection of the (Recipient).
2. The (Recipient) may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The (Recipient) may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(c) A payment bond is required only when a performance bond is required, and if the use of payment bond is in the (Recipient's) interest.

(d) When it is determined that a payment bond is required, the Contractor shall be required to obtain payment bonds as follows:

1. The penal amount of payment bonds shall equal:
  - (i) Fifty percent of the contract price if the contract price is not more than \$1 million;
  - (ii) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
  - (iii) Two and one half million if the contract price is increased.

#### **Advance Payment Bonding Requirements**

The Contractor may be required to obtain an advance payment bond if the contract contains an advance payment provision and a performance bond is not furnished. The (recipient) shall determine the amount of the advance payment bond necessary to protect the (Recipient).

#### **Patent Infringement Bonding Requirements (Patent Indemnity)**

The Contractor may be required to obtain a patent indemnity bond if a performance bond is not furnished and the financial responsibility of the Contractor is unknown or doubtful. The (recipient) shall determine the amount of the patent indemnity to protect the (Recipient).

#### **Warranty of the Work and Maintenance Bonds**

1. The Contractor warrants to (Recipient), the Architect and/or Engineer that all materials and equipment furnished under this Contract will be of highest quality and new unless otherwise specified by (Recipient), free from faults and defects and in conformance with the Contract Documents. All work not so conforming to these standards shall be considered defective. If required by the [Project Manager], the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

2. The Work furnished must be of first quality and the workmanship must be the best obtainable in the various trades. The Work must be of safe, substantial and durable construction in all respects. The Contractor hereby guarantees the Work against defective materials or faulty workmanship for a minimum period of one (1) year after Final Payment by (Recipient) and shall replace or repair any defective materials or equipment or faulty workmanship during the period of the guarantee at no cost to (Recipient). As additional security for these guarantees, the Contractor shall, prior to the release of Final Payment [as provided in Item X below], furnish separate Maintenance (or Guarantee) Bonds in form acceptable to (Recipient) written by the same corporate surety that provides the Performance Bond and Labor and Material Payment Bond for this Contract. These bonds shall secure the Contractor's obligation to replace or repair defective materials and faulty workmanship for a minimum period of one (1) year after Final Payment and shall be written in an amount equal to ONE HUNDRED PERCENT (100%) of the CONTRACT SUM, as adjusted (if at all).

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#### **14. CLEAN AIR**

**42 U.S.C. 7401 et seq**

**40 CFR 15.61**

**2 CFR Part 1201**

Applicability to Contracts: The Clean Air requirements apply to all contracts exceeding \$150,000, including indefinite quantities where the amount is expected to exceed \$150,000 in any year.

Flow Down Requirement: The Clean Air requirements flow down to all subcontracts which exceed \$150,000.

Model Clauses/Language: No specific language is required. FTA has proposed the following language.

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq . The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

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#### **15. RECYCLED PRODUCTS**

**42 U.S.C. 6962**

**40 CFR Part 247**

**Executive Order 12873**

Applicability to Contracts: The Recycled Products requirements apply to all contracts for items designated by the EPA, when the purchaser or contractor procures \$10,000 or more of one of these items during the fiscal year, or has procured \$10,000 or more of such items in the previous fiscal year, using Federal funds. New requirements for "recovered materials" will become effective May 1, 1996. These new regulations apply to all procurement actions involving items designated by the EPA, where the procuring agency purchases \$10,000 or more of one of these items in a fiscal year, or when the cost of such items purchased during the previous fiscal year was \$10,000.

Applicability to Micro-Purchases: Micro-purchases are defined as those purchases under \$10,000. These requirements do not apply to micro-purchases.

Flow Down Requirement: These requirements flow down to all to all contractor and subcontractor tiers.

Model Clause/Language: No specific clause is mandated, but FTA has developed the following language.

Recovered Materials - The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

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## **16. DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS**

### **Background and Application**

The Davis-Bacon and Copeland Acts are codified at 40 USC 3141, et seq. and 18 USC 874. The Acts apply to grantee construction contracts and subcontracts that “at least partly are financed by a loan or grant from the Federal Government.” 40 USC 3145(a), 29 CFR 5.2(h), 18 CFR 18.36(i)(5). The Acts apply to any construction contract over \$2,000. 40 USC 3142(a), 29 CFR 5.5(a). ‘Construction,’ for purposes of the Acts, includes “actual construction, alteration and/or repair, including painting and decorating.” 29 CFR 5.5(a). The requirements of both Acts are incorporated into a single clause (see 29 CFR 3.11) enumerated at 29 CFR 5.5(a) and reproduced below.

The clause language is drawn directly from 29 CFR 5.5(a) and any deviation from the model clause below should be coordinated with counsel to ensure the Acts’ requirements are satisfied.

### **Clause Language**

#### **Davis-Bacon and Copeland Anti-Kickback Acts**

(1) **Minimum wages** - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any

additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
- (4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(2) **Withholding** - The Recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and



mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the Recipient may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) **Payrolls and basic records** - (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the DavisBacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Recipient for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

- (1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete;
- (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) **Apprentices and trainees** - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In

the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) **Compliance with Copeland Act requirements** - The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) **Contract termination: debarment** - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) **Compliance with Davis-Bacon and Related Act requirements** - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) **Disputes concerning labor standards** - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) **Certification of eligibility** - (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

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## **17. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

### **Background and Application**

The Contract Work Hours and Safety Standards Act is codified at 40 USC 3701, et seq. The Act applies to grantee contracts and subcontracts "financed at least in part by loans or grants from ... the [Federal] Government." 40 USC 3701(b)(1)(B)(iii) and (b)(2), 29 CFR 5.2(h), 18 CFR 18.36(i)(6). Although the original Act required its application in any construction contract over \$2,000 or non-construction contract to which the Act applied over \$2,500 (and language to that effect is still found in 18 CFR 18.36(i)(6)), the Act no longer applies to any "contract in an amount that is not greater than \$100,000." 40 USC 3701(b)(3)(A)(iii).

The Act applies to construction contracts and, in very limited circumstances, non-construction projects that employ "laborers or mechanics on a public work." These non-construction applications do not generally apply to transit procurements because transit procurements (to include rail cars and buses) are deemed "commercial items." 40 USC 3707, 41 USC 403 (12). A grantee that contemplates entering into a contract to procure a developmental or unique item should consult counsel to determine if the Act applies to that procurement and that additional language required by 29 CFR 5.5(c) must be added to the basic clause below.

The clause language is drawn directly from 29 CFR 5.5(b) and any deviation from the model clause below should be coordinated with counsel to ensure the Act's requirements are satisfied.

### **Clause Language**

#### **Contract Work Hours and Safety Standards**

(1) **Overtime requirements** - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to

work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) **Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) **Withholding for unpaid wages and liquidated damages** - The (write in the name of the grantee) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

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## **18. EQUAL EMPLOYMENT OPPORTUNITY**

### **41 CFR §60-1.4**

Applicability to Contracts: Applicable to all contracts except micro-purchases (except for construction contracts over \$2,000).

Applicability to Micro-Purchases: Micro-purchases are defined as those purchases under \$10,000. These requirements do not apply to micro-purchases.

Flow Down Requirement: Not required by statute or regulation for either primary contractors or subcontractors, this concept should flow down to all levels to clarify, to all parties to the contract, that the Federal Government does not have contractual liability to third parties, absent specific written consent.

Model Clause/Language: Federal Requirements and Guidance. The Recipient agrees to prohibit, and assures that each Third Party Participant will prohibit, discrimination on the basis of race, color, religion, sex, or national origin, and:

(a) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*,

- (b) Facilitate compliance with Executive Order 11246, "Equal Employment Opportunity," as amended by Executive Order 11375, "Amending Executive Order 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, and as further amended by Executive Order 13672, "Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity," July 21, 2014,
  - (c) Comply with Federal transit law, specifically 49 U.S.C. § 5332, as provided in section 13.a of this Master Agreement, and
  - (d) Follow Federal guidance pertaining to Equal Employment Opportunity laws and regulations, and prohibitions against discrimination on the basis of disability, Specifics. The Recipient agrees:
    - (a) Prohibited Discrimination. As provided by Executive Order 11246, as amended, and as specified by U.S. Department of Labor regulations, to ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their:
      1. Race,
      2. Color,
      3. Religion,
      4. National origin,
      5. Disability, 6 . Age,
      - 7 . Sexual origin,
      8. Gender identity, or
      9. Status as a parent, and
    - (b) Affirmative Action. Take affirmative action that includes, but is not limited to:
      1. Recruitment advertising, recruitment, and employment,
      2. Rates of pay and other forms of compensation,
      3. Selection for training, including apprenticeship, and upgrading, and
      4. Transfers, demotions, layoffs, and terminations, but
    - (c) Indian Tribe. Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer," and
- Equal Employment Opportunity Requirements for Construction Activities. In addition to the foregoing, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), the Recipient agrees to comply, and assures that each Third Party Participant will comply, with:
- (a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and
  - (b) Executive Order 11246, "Equal Employment Opportunity," as amended by Executive Order 11375, "Amending Executive Order 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note.

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## **19. NO GOVERNMENT OBLIGATION TO THIRD PARTIES**

Applicability to Contracts: Applicable to all contracts

Applicability to Micro-Purchases: Micro-purchases are defined as those purchases under \$10,000. These requirements do not apply to micro-purchases; except for construction contracts over \$2,000.

Flow Down Requirement: Not required by statute or regulation for either primary contractors or subcontractors, this concept should flow down to all levels to clarify, to all parties to the contract, that the



Federal Government does not have contractual liability to third parties, absent specific written consent.

Model Clause/Language: While no specific language is required, FTA has developed the following language.

No Obligation by the Federal Government.

(1) The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

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## **20. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS**

**31 U.S.C. 3801 et seq.**

**49 CFR Part 31 18 U.S.C. 1001**

**49 U.S.C. 5307**

Applicability to Contracts: These requirements are applicable to all contracts.

Applicability to Micro-Purchases: Micro-purchases are defined as those purchases under \$10,000. These requirements do not apply to micro-purchases; except for construction contracts over \$2,000.

Flow Down Requirement: These requirements flow down to contractors and subcontractors who make, present, or submit covered claims and statements.

Model Clause/Language: These requirements have no specified language, so FTA proffers the following language.

Program Fraud and False or Fraudulent Statements or Related Acts.

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

- (3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

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## **21. TERMINATION**

### **2 CFR Part 1201**

### **2 CFR 200**

### **FTA Circular 4220.1F**

Applicability to Contracts: All contracts (with the exception of contracts with nonprofit organizations and institutions of higher education,) in excess of \$10,000 shall contain suitable provisions for termination by the grantee including the manner by which it will be affected and the basis for settlement. (For contracts with nonprofit organizations and institutions of higher education the threshold is \$250,000.) In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

Flow Down Requirement: The termination requirements flow down to all contracts in excess of \$10,000, with the exception of contracts with nonprofit organizations and institutions of higher learning.

Model Clause/Language: FTA does not prescribe the form or content of such clauses. The following are suggestions of clauses to be used in different types of contracts:

- a.** Termination for Convenience (General Provision) The (Recipient) may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to (Recipient) to be paid the Contractor. If the Contractor has any property in its possession belonging to the (Recipient), the Contractor will account for the same, and dispose of it in the manner the (Recipient) directs.
- b.** Termination for Default [Breach or Cause] (General Provision) If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the (Recipient) may terminate this contract for default. Termination shall be affected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the (Recipient) that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the (Recipient), after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.
- c.** Opportunity to Cure (General Provision) The (Recipient) in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If Contractor fails to remedy to (Recipient)'s satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor of written notice from (Recipient) setting forth the nature of said breach or default, (Recipient) shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude (Recipient) from also pursuing all available remedies against Contractor and its sureties for said breach or default.

- d. Waiver of Remedies for any Breach** In the event that (Recipient) elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by (Recipient) shall not limit (Recipient)'s remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.
- e. Termination for Convenience (Professional or Transit Service Contracts)** The (Recipient), by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.
- f. Termination for Default (Supplies and Service)** If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.

- g. Termination for Default (Transportation Services)** If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of Recipient goods, the Contractor shall, upon direction of the (Recipient), protect and preserve the goods until surrendered to the Recipient or its agent. The Contractor and (Recipient) shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the (Recipient).

- h. Termination for Default (Construction)** If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this

contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Recipient resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Recipient in completing the work.

The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause if-

1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of the Recipient, acts of another Contractor in the performance of a contract with the Recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. The contractor, within [10] days from the beginning of any delay, notifies the (Recipient) in writing of the causes of delay. If in the judgment of the (Recipient), the delay is excusable, the time for completing the work shall be extended. The judgment of the (Recipient) shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Recipient.

- i. Termination for Convenience or Default (Architect and Engineering) The (Recipient) may terminate this contract in whole or in part, for the Recipient's convenience or because of the failure of the Contractor to fulfill the contract obligations. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

If the termination is for the convenience of the Recipient, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, the Recipient may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Recipient.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.

- j. Termination for Convenience or Default (Cost-Type Contracts) The (Recipient) may terminate this contract, or any portion of it, by serving a notice of termination on the Contractor. The notice shall state whether the termination is for convenience of the (Recipient) or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the contractor has failed to perform the requirements of the contract. The Contractor shall account

for any property in its possession paid for from funds received from the (Recipient), or property supplied to the Contractor by the (Recipient). If the termination is for default, the (Recipient) may fix the fee, if the contract provides for a fee, to be paid the contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the (Recipient) and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of the (Recipient), the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, the (Recipient) determines that the Contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor, the (Recipient), after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

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## **22. PRIVACY ACT**

### **5 U.S.C. 552**

Applicability to Contracts: When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts.

Applicability to Micro-Purchases: Micro-purchases are defined as those purchases under \$10,000. These requirements do not apply to micro-purchases; except for construction contracts over \$2,000.

Flow Down Requirement: The Federal Privacy Act requirements flow down to each third party contractor and their contracts at every tier.

Model Clause/Language: The text of the following clause has not been mandated by statute or specific regulation, but has been developed by FTA.

Contracts Involving Federal Privacy Act Requirements - The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

- (1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.
- (2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

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### **23. CIVIL RIGHTS REQUIREMENTS**

**29 U.S.C. § 623, 42 U.S.C. § 2000**

**42 U.S.C. § 6102, 42 U.S.C. § 12112**

**42 U.S.C. § 12132, 49 U.S.C. § 5332**

**29 CFR Part 1630, 41 CFR Parts 60 et seq.**

Applicability to Contracts: The Civil Rights Requirements apply to all contracts.

Applicability to Micro-Purchases: Micro-purchases are defined as those purchases under \$10,000. These requirements do not apply to micro-purchases; except for construction contracts over \$2,000.

Flow Down Requirement: The Civil Rights requirements flow down to all third-party contractors and their contracts at every tier.

Model Clause/Language: The following clause was predicated on language contained at 49 CFR Part 19, Appendix A, but FTA has shortened the lengthy text.

#### **Civil Rights - The following requirements apply to the underlying contract:**

The following requirements apply to the underlying contract:

- (1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- (2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:
  - (a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.



- (b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- (c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- (3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

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## **24. BREACHES AND DISPUTE RESOLUTION**

### **2 CFR Part 1201**

#### **FTA Circular 4220.1F**

Applicability to Contracts: All contracts in excess of \$250,000 shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. This may include provisions for bonding, penalties for late or inadequate performance, retained earnings, liquidated damages or other appropriate measures.

Flow Down: The Breaches and Dispute Resolutions requirements flow down to all tiers.

Model Clauses/Language: FTA does not prescribe the form or content of such provisions. What provisions are developed will depend on the circumstances and the type of contract. Recipients should consult legal counsel in developing appropriate clauses. The following clauses are examples of provisions from various FTA third party contracts.

**Disputes** - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the Recipient. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Recipient.

In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Recipient shall be binding upon the Contractor and the Contractor shall abide by the decision.

**Performance During Dispute** - Unless otherwise directed by (Recipient), Contractor shall continue performance under this Contract while matters in dispute are being resolved.

**Claims for Damages** - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

**Remedies** - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the (Recipient) and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the (Recipient) is located.

**Rights and Remedies** - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the (Recipient), (Architect) or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

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## **25. PATENT AND RIGHTS IN DATA**

### **2 CFR Part 1201**

### **37 CFR Part 401**

### **49 CFR Part 19**

Applicability to Contracts: Patent and rights in data requirements for federally assisted projects ONLY apply to research projects in which FTA finances the purpose of the grant is to finance the development of a product or information. These patent and data rights requirements do not apply to capital projects or operating projects, even though a small portion of the sales price may cover the cost of product development or writing the user's manual.

Applicability to Micro-Purchases: Micro-purchases are defined as those purchases under \$10,000. These requirements do not apply to micro-purchases; except for construction contracts over \$2,000.

Flow Down Requirement: The Patent and Rights in Data requirements apply to all contractors and their contracts at every tier.

Model Clause/Language: The FTA patent clause is substantially similar to the text of 49 C.F.R. Part 19, Appendix A, Section 5, but the rights in data clause reflects FTA objectives. For patent rights, FTA is governed by Federal law and regulation. For data rights, the text on copyrights is insufficient to meet FTA's purposes for awarding research grants. This model clause, with larger rights as a standard, is proposed with the understanding that this standard could be modified to FTA's needs.

### **CONTRACTS INVOLVING EXPERIMENTAL, DEVELOPMENTAL, OR RESEARCH WORK.**

**A. Rights in Data** - This following requirements apply to each contract involving experimental, developmental or research work:

(1) The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

(2) The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:

(a) Except for its own internal use, the Purchaser or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Contractor authorize

others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.

(b) In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

1. Any subject data developed under that contract, whether or not a copyright has been obtained; and
2. Any rights of copyright purchased by the Purchaser or Contractor using Federal assistance in whole or in part provided by FTA.

(c) When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the Purchaser and the Contractor performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c) , however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.

(d) Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Purchaser or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Purchaser nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

(e) Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

(f) Data developed by the Purchaser or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause , provided that the Purchaser or Contractor identifies that data in writing at the time of delivery of the contract work.

(g) Unless FTA determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

(3) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e. , a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in

U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(4) The Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

**B. Patent Rights** - This following requirements apply to each contract involving experimental, developmental, or research work:

(1) General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.

(2) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(3) The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

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## **26. TRANSIT EMPLOYEE PROTECTIVE ARRANGEMENTS**

### **49 U.S.C. § 5310, § 5311, and § 5333**

#### **29 CFR Part 215**

Applicability to Contracts: The Transit Employee Protective Provisions apply to each contract for transit operations performed by employees of a Contractor recognized by FTA to be a transit operator. (Because transit operations involve many activities apart from directly driving or operating transit vehicles, FTA determines which activities constitute transit "operations" for purposes of this clause.)

Applicability to Micro-Purchases: Micro-purchases are defined as those purchases under \$10,000. These requirements do not apply to micro-purchases, except for construction contracts over \$2,000.

Flow Down Requirement: These provisions are applicable to all contracts and subcontracts at every tier.

Model Clause/Language: Since no mandatory language is specified, FTA had developed the following language. Transit Employee Protective Provisions. (1) The Contractor agrees to comply with applicable transit employee protective requirements as follows:

(a) General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

(b) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C.

§ 5310(a)(2) for Elderly Individuals and Individuals with Disabilities

- If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.

(c) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas

- If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

(2) The Contractor also agrees to include any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

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## **27. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS**

### **FTA Circular 4220.1F**

Applicability to Contracts: The incorporation of FTA terms applies to all contracts.

Applicability to Micro-Purchases: Micro-purchases are defined as those purchases under \$10,000. These requirements do not apply to micro-purchases; except for construction contracts over \$2,000.

Flow Down Requirement: The incorporation of FTA terms has unlimited flow down.

Model Clause/Language: FTA has developed the following incorporation of terms language:

Incorporation of Federal Transit Administration (FTA) Terms - The preceding provisions include, in part,

certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in [FTA Circular 4220.1F](#) are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

---

## **28. DRUG AND ALCOHOL TESTING**

**49 U.S.C. §5331**

**49 CFR Part 655**

Applicability to Contracts: The Drug and Alcohol testing provisions apply to Operational Service Contracts.

Applicability to Micro-Purchases: Micro-purchases are defined as those purchases under \$10,000. These requirements do not apply to micro-purchases, except for construction contracts over \$2,000.

Flow Down Requirements: Anyone who performs a safety-sensitive function for the recipient or subrecipient is required to comply with FTA regulation 49 CFR 655 "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations" and DOT regulation, 49 CFR Part 40 "Procedures for Transportation Workplace Drug and Alcohol testing Programs".

### Explanation of Model Clause/Language

Federal regulations 49 CFR 655 includes the following elements. First, they require recipients to ensure that any entity performing a safety-sensitive function on the recipient's behalf (usually subrecipients and/or contractors) implement a complex drug and alcohol testing program that complies with 49 CFR Part 655. Second, the rules condition the receipt of certain kinds of FTA funding on the recipient's compliance with the rules; thus, the recipient is not in compliance with the rules unless every entity that performs a safety-sensitive function on the recipient's behalf is in compliance with the rules. Third, the rules do not specify how a recipient ensures that its subrecipients and/or contractors comply with them.

### Explanation of Model Contract Clauses

#### Drug and Alcohol Testing

The contractor agrees to:

- (a) Establish and implement a drug and alcohol testing program that complies with Federal Transit Administration (FTA) regulation, 49 CFR Part 655 "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations" and US DOT regulation, 49 CFR Part 40 "Procedures for Transportation Workplace Drug and Alcohol Testing Program".
- (b) Participate in the Drug and Alcohol Testing Consortium administered by WisDOT's approved Third Party Administrator that complies with 49 CFR Part 655.
- (c) Provide documentation and reports necessary to establish its compliance with Part 655, as amended, and permit any authorized representative of the United States Department of Transportation or its operating administrations and/or the State of Wisconsin, Department of Transportation or its authorized agents, to inspect the facilities and records associated with the



implementation of the drug and alcohol testing program as required under 49 CFR Part 655 as amended and review the testing process.

---

## **29. SAFE OPERATION OF MOTOR VEHICLES**

**23 U.S.C. part 402**

**Executive Order No. 13043**

**Executive Order No. 13513**

**U.S. DOT Order No. 3902.10**

### Applicability to Contracts

The Safe Operation of Motor Vehicles requirements apply to all federally funded third party contracts. In compliance with Federal Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U.S.C. Section 402 note, FTA encourages each third party contractor to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company owned, rented, or personally operated vehicles, and to include this provision in each third party subcontract involving the project. Additionally, recipients are required by FTA to include a Distracted Driving clause that addresses distracted driving, including text messaging in each of its third party agreements supported with Federal assistance.

Flow Down Requirements: The Safe Operation of Motor Vehicles requirements flow down to all third party contractors at every tier.

Model Clause/Language: There is no required language for the Safe Operation of Motor Vehicles clause.

Recipients can draw on the following language for inclusion in their federally funded procurements.

### Safe Operation of Motor Vehicles Requirements -

Seat Belt Use: The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company A-60 rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the Contractor or AGENCY.

Distracted Driving: The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contactor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

---

## **30. ADA ACCESS**

**49 USC 531 (d)**

Applicability to Contracts: The ADA Access Requirements apply to all contracts.

Applicability to Micro-Purchases: Micro-purchases are defined as those purchases under \$10,000. These requirements do not apply to micro-purchases; except for construction contracts over \$2,000.

Flow Down Requirement: The ADA Access Requirements flow down to all third party contractors and their contracts at every tier.

Model Clause/Language: ADA Access. The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination and ensures equal opportunity and access for persons with disabilities.

**Access Requirements for Persons with Disabilities**

Contractor shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

---

**31. VETERANS EMPLOYMENT**

**FTA Circular 4220.1F (Chapter IV)  
49 USC §5325(K)**

Applicability to Contracts: The Veterans Employment provisions apply to all construction contracts.

Veterans Employment. Recipients and subrecipients of Federal financial assistance under this chapter shall ensure that contractors working on a capital project funded using such assistance give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or former employee.

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**32. PROHIBITION ON PROVIDING OR USING CERTAIN TELECOMMUNICATIONS AND VIDEO  
SURVEILLANCE SERVICES OR EQUIPMENT**

**Section 889**

Consistent with Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232 (Aug. 13, 2018), CONTRACTOR must not: (a) provide “covered telecommunications equipment or services” (as that term is defined in Section 889 of the Act) as part of its performance under this Contract, if such equipment or services will be used as a substantial or essential component of any system or as critical technology as part of any system; or (b) use such covered telecommunication equipment or services as a substantial or essential component of any system or as critical technology as part of any system, regardless of whether that use is in connection with performance of work under this Contract, subject only to the exception that covered telecommunications equipment or services may be provided or used if the equipment or services cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

# APPENDIX J

## Bid Opportunity List

### Instructions

49 Code of Federal Regulations Part 26.11 requires the Wisconsin Department of Transportation to develop and maintain a "bid opportunity list." The list is intended to show all firms that are participating, or attempting to participate on DOT-assisted contracts. The list must include all firms that bid on prime contracts, or bid or quote subcontracts and materials and supplies on DOT-assisted projects, including DBEs and non-DBES. For consulting companies, this list must include all subconsultants contacting you and expressing an interest in teaming with you on a specific DOT assisted project.

**Vendors must complete and submit this form with all bids and/or proposals.**

### Prime Contractors and Consultants (complete all columns )

1. Name of Bidder	2. Bidder's Contact Information (address, phone, email)	3. DBE Status	4. Age of Firm	5. Type of work	6. Annual Gross Receipts
Brown Cab Service Inc.	318 W. Decker St. Viroqua, WI 54665 (608) 637-2599	Not a DBE	30 Years	Public Transportation Provider	<input type="checkbox"/> Less than \$500,000 <input type="checkbox"/> \$500,000 - \$1 million <input type="checkbox"/> \$1 million - \$2 million <input checked="" type="checkbox"/> \$2 million - \$5 million <input type="checkbox"/> \$5 million and above

### Subcontractors and subconsultants (primes to complete columns 1 and 2, plus any information available on the last four columns )

1. Name of Bidder	2. Bidder's Contact Information (address, phone, email)	3. DBE Status	4. Age of Firm	5. Type of work	6. Annual Gross Receipts
					<input type="checkbox"/> Less than \$500,000 <input type="checkbox"/> \$500,000 - \$1 million <input type="checkbox"/> \$1 million - \$2 million <input type="checkbox"/> \$2 million - \$5 million <input type="checkbox"/> \$5 million and above
					<input type="checkbox"/> Less than \$500,000 <input type="checkbox"/> \$500,000 - \$1 million <input type="checkbox"/> \$1 million - \$2 million <input type="checkbox"/> \$2 million - \$5 million <input type="checkbox"/> \$5 million and above
					<input type="checkbox"/> Less than \$500,000 <input type="checkbox"/> \$500,000 - \$1 million <input type="checkbox"/> \$1 million - \$2 million <input type="checkbox"/> \$2 million - \$5 million <input type="checkbox"/> \$5 million and above
					<input type="checkbox"/> Less than \$500,000 <input type="checkbox"/> \$500,000 - \$1 million <input type="checkbox"/> \$1 million - \$2 million <input type="checkbox"/> \$2 million - \$5 million <input type="checkbox"/> \$5 million and above
					<input type="checkbox"/> Less than \$500,000 <input type="checkbox"/> \$500,000 - \$1 million <input type="checkbox"/> \$1 million - \$2 million <input type="checkbox"/> \$2 million - \$5 million <input type="checkbox"/> \$5 million and above
					<input type="checkbox"/> Less than \$500,000 <input type="checkbox"/> \$500,000 - \$1 million <input type="checkbox"/> \$1 million - \$2 million <input type="checkbox"/> \$2 million - \$5 million <input type="checkbox"/> \$5 million and above

## APPENDIX K

### Drug and Alcohol Testing

Offeror shall comply with the following federal substance abuse regulations:

- a. Federal Transit Administration (FTA) regulation, 49 CFR Parts 40 and 655 as amended. "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations".
- b. U.S. DOT Regulation, 49 CFR Part 40 "Procedures for Transportation Workplace Drug and Alcohol Testing Program".

#### Complete the following:

Does the Offeror currently have a Drug and Alcohol testing program that complies with FTA requirements?

Yes

X

No

If "Yes", describe the existing drug and alcohol control program for Safety Sensitive personnel and provide current policies regarding drug and alcohol testing below.

- Be sure to discuss how the program currently meets or will meet the requirements of the Federal Transit Administration's Drug and Alcohol Testing Regulations.
- A Drug and Alcohol policy **must** be attached

*All safety-sensitive employees are trained in the policy requirements and sign off on a verification form that they have received the training and agree to participate in the testing program. Furthermore, company management personnel overseeing safety sensitive employees have completed the required DOT "Reasonable Suspicion Training for Managers and Supervisors." The program currently meets all requirements of the Federal Transit Administration's Drug and Alcohol Testing Regulations. A copy of Brown Cab Service, Inc.'s Drug and Alcohol Testing Policy may be found in Appendix O. It is worth noting that Amanda & Justin Running are collectors, so they can test for drugs and alcohol as needed. The company plans to advance more supervisors through training.*

## APPENDIX L

Appendix L- Vehicle Inventory and Fleet Maintenance

Make	Model	Year	Mileage	Communications Equipment	ADA lift, Ramp or Non-ADA	# Wheelchair positions	# Ambulatory Seats	Condition	Notes
Chrysler	Voyager	2022	5423	No	WC-2	2	4	Excellent	108R
Dodge	Grand Caravan	2015	205238	No	AMB		6	Good	SP111
Dodge	Grand Caravan	2017	144816	No	AMB		7	Good	70
Dodge	Grand Caravan	2014	265832	No	WC-1	1	4	Fair	VT434
Dodge	Grand Caravan	2013	282955	No	WC-1	1	4	Fair	VT435
Chrysler	Voyager	2022	1946	No	WC-2	2	4	Excellent	106R
Dodge	Grand Caravan	2017	145610	No	AMB		6	Good	M50
Dodge	Grand Caravan	2017	133180	No	AMB		7	Good	M66
Dodge	Grand Caravan	2017	168378	No	AMB		6	Good	85
Dodge	Grand Caravan	2014	125502	No	WC-1	1	4	Good	S102
Chevrolet	Chevrolet	2017	69995	No	AMB		14	Good	203
Dodge	Grand Caravan	2014	328283	No	WC-1	1	4	Fair	432
Chrysler	Town & Country	2008	290000	No	WC-1	1	4	Good	811
Dodge	Grand Caravan	2014	207494	No	WC-1	1	4	Good	26
Dodge	Grand Caravan	2013	259373	No	AMB		6	Fair	73
Dodge	Grand Caravan	2019	113761	No	AMB		6	Good	27
Chrysler	Voyager	2022	7452	No	WC-2	2	4	Excellent	102R
Chevrolet	Chevrolet	2017	75191	No	AMB		14	Good	202
Dodge	Grand Caravan	2017	165585	No	AMB		6	Good	1611

## APPENDIX M

### Insurance

Describe the Offeror's current vehicle liability insurance program for transportation services by answering the following questions:

What are the current vehicle liability insurance program limits?

\$1,000,000	Per Person
\$1,000,000	Per Occurrence
\$1,000,000	Property Damage

Is the Offeror self-insured for any part of this coverage?

Yes

☐

No

X

If yes, describe the limits of self-insurance:

Provide the name of all insurance companies which currently provide the Offeror with vehicle liability insurance

Name of Company

Type (Primary, Excess, or Umbrella)

AdvisorNet Property & Casualty

Auto Liability, Umbrella, General Liability

West Bend Mutual Insurance

Worker's Compensation

Does the Offeror anticipate any problem with meeting the minimum insurance requirements specified in **Section 6.15**?

Yes

☐

No

X



## **APPENDIX N**

### **RECORD KEEPING**

Briefly describe the Offeror's record-keeping capabilities as they relate to the provision of shared-ride taxi service.

Be sure to include:

- Reimbursement request process
  - Tracking and providing eligible costs to WisDOT based on budgets and Scope of Work
  - How driver logs and trips are tracked
- Audits
- Cash Management
  - How are fares collected and internal processes in counting cash and keeping it safe

The company's driver logs are extremely detailed and collect the following data:

- Driver name and vehicle number
- Total daily passenger counts
- Trip destination
- Pick-up time
- Fare type and payment method summarized daily
- Daily miles total
- Mileage In and out
- Package delivery revenues collected

Through the assistance of the software program, dispatchers collect and report vast amounts of data including:

- Name
- Destination and pick-up time
- Vehicle number and driver assigned to the trip
- Package delivery requests

Brown Cab Service, Inc. will have no difficulty supplying the requested information for the quarterly and annual reports. All our records will be accurate, organized, and computerized so they are easily legible. Brown Cab Service, Inc. contracts with an independent accounting firm to assist with record-keeping functions required by the FTA and WisDOT.

Our dispatch system has proven its worth and integrity through several successful state audits. Allowing WisDOT auditors real-time access to all data through our dispatch program to assist with annual audits has proven to be very successful. With our experience and the assistance of our contracted independent accounting firm, recent audits have had almost no findings or changes to audit results reported.

In order that the company remains solvent, strict fare handling procedures are in place. Software informs dispatch of the daily fares to be collected by each driver, and this amount is also found on each driver's log. The drivers directly deposit their cash fares at the bank at the end of each shift. The bank deposit slip is then placed in the driver's envelope and turned into a secure location at the office/garage. The office staff matches the bank receipts to the drivers' logs and follows up on any discrepancies. Some cities will turn in the cash to their supervisor, who then matches the cash to the electronic log and makes the deposit. All revenue data is tracked and reported in dispatch software.

# APPENDIX O

## Second Chance Policy

### Drug and Alcohol Testing Policy

#### Brown Cab

Revised on: 12/30/21

Adopted on: 1/1/22

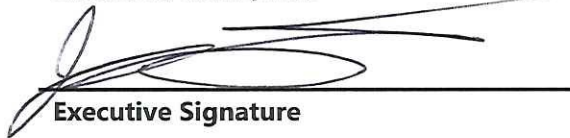
All provisions set forth in regular print are consistent with requirements set forth in 49 CFR Part 655 or Part 40, as amended. All underlined provisions are under the authority of **Brown Cab**.

The policy is hereby adopted and signed by:

#### Brown Cab

**Justin Running**

Executive Name/Title



Executive Signature

**Title:** Drug and Alcohol Program Manager

**Contact:** Amanda Running

**Address:** 318 West Decker St Viroqua WI 54665

**Phone:** 608-637-2599

**Email:** humanresources@runninginc.net

The Drug and Alcohol Program Manager (DAPM) is the person designated by **Brown Cab** to answer employee questions about the employer's anti-drug use and alcohol misuse programs.

## Second Chance Policy

### POLICY UPDATES

**Brown Cab** will stay up to date with Federal Transit Administration (FTA) drug and alcohol requirements and make policy changes as appropriate.

Anytime substantive changes are made to this policy, it will officially be approved by the approving authority of **Brown Cab** and communicated to all employees and the subrecipient, as applicable.

The date the policy was last revised and approved will be clearly indicated on this policy.

### Policy Updates – Activity Log

Date	Activity (Review/Update/Addendum/ Adoption/Distribution)	Person Responsible	Remarks
1/25/23	Updated TPA and MRO	Amanda Running DAPM	
12/30/21	Updated policy with removal of non-safety sensitive employees from drug and alcohol testing.	Amanda Running DAPM	
9/10/2019	Updated policy per FTA recommendations (e.g. clarification of statutory references, etc.)	Amanda Running	
12/21/2017	Update Prohibited Substances and Testing Procedures sections, move Definitions to Attachments section, Update information in Attachment A – System Contacts, update Table of Contents and corresponding sections	Amanda Running DAPM	
6/26/2017	Changed Drug and Alcohol Program Manager to Amanda Running No new drugs added or removed Multiple content changes as a result of RLS & Associates Inc. policy audit	Amanda Running DAPM	
7/22/2016	Changed Drug and Alcohol Program Manager to Justin Running No new drugs added or removed Content did not change	Justin Running DAPM	
3/1/2015	Clarification of definitions No new drugs added or removed Content did not change	Sue Trautsch DAPM	

## Second Chance Policy

<b>Date</b>	<b>Activity (Review/Update/Addendum/ Adoption/Distribution)</b>	<b>Person Responsible</b>	<b>Remarks</b>
11/11/2014	Added Refusal to Test details in Section Q No new drugs added or removed Content did not change	Sue Trautsch DAPM	
7/31/2014	Changed Drug and Alcohol Program Manager to Sue Trautsch No new drugs added or removed Content did not change	Sue Trautsch DAPM	
4/27/2012	Format changes No new drugs added or removed Content did not change	Lisa Wheeler DAPM	
1/9/2012	Changed Drug and Alcohol Program Manager to Lisa Wheeler No new drugs added or removed Content did not change	Lisa Wheeler DAPM	

## Second Chance Policy

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## Second Chance Policy

### PURPOSE

This policy complies with 49 CFR Parts 655 and 40, each as amended. Copies are available in the Drug and Alcohol Program Manager's office and can also be found on the internet at the Federal Transit Administration (FTA) Drug and Alcohol Program website:

<http://transit-safety.fta.dot.gov/DrugAndAlcohol/>

All covered employees are required to submit to drug and alcohol tests as a condition of employment in accordance with 49 CFR part 655.

Portions of this policy are not mandated by the U.S. Department of Transportation (USDOT) through the FTA, but instead reflect **Brown Cab's** policy. Such provisions are identified by underlined text. All tests conducted under the sole authority of **Brown Cab** will be performed on non-USDOT forms and will be separate from USDOT testing in all respects.

In addition, USDOT has published 49 CFR Part 32, implementing the Drug-Free Workplace Act of 1988, which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA.

All **Brown Cab** employees are subject to the provisions of the Drug-Free Workplace Act of 1988.

The unlawful manufacture, distribution, dispensing, possession, or use of controlled substances or misuse of alcohol is prohibited in the covered workplace.

### A. APPLICABILITY

This policy applies to every person, including an applicant or transferee, who performs or will perform a "safety-sensitive function" as defined in 49 CFR 655.4. Volunteers are considered safety sensitive and subject to testing if they are required to hold a Commercial Driver's License (CDL) or are remunerated for service in excess of their actual expense.

A safety-sensitive function is any duty related to the safe operation of public transportation service, including:

1. Operation of a revenue service vehicle, in or out of revenue service.
2. Operation of a non-revenue vehicle requiring a CDL.
3. Person controlling the movement of revenue service vehicles.
4. Maintenance of a revenue service vehicle or equipment used in revenue service.
  - Maintenance functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment.
5. Security personnel who carry firearms.



## Second Chance Policy

A list of safety-sensitive positions that perform one or more of the duties mentioned above are provided in Attachment B.

### B. PROHIBITED SUBSTANCES

1. Drugs: The use of illegal drugs is prohibited at all times.

Prohibited drugs include:

- Marijuana
- Cocaine
- Opioids
- Amphetamines
- Phencyclidine (PCP)

2. Alcohol: The use of beverages containing alcohol (including any mouthwash, medication, food, candy) or any other substances such that alcohol is present in the body while performing safety-sensitive job functions is prohibited.

Under 49 CFR Part 655 (as amended), a reasonable suspicion or random alcohol test can only be performed on a covered employee just before, during, or just after the performance of safety-sensitive job functions.

### C. PRESCRIPTION DRUGS (Rx) and OVER-THE-COUNTER MEDICATIONS (OTC)

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a [Brown Cab](#) supervisor and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions.

### D. PROHIBITED CONDUCT

1. All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.
2. All covered employees are prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions.
  - If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty.
  - [Brown Cab](#) will determine if the safety sensitive employee should be relieved of

## Second Chance Policy

- their on-call responsibilities.
- If the on-call employee claims the ability to perform his or her safety-sensitive function, he or she must take an alcohol test with a result of less than 0.02 prior to performance.
3. **Brown Cab** shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol.
  4. All covered employees are prohibited from performing or continuing to perform safety-sensitive functions while having an alcohol concentration of 0.04 or greater.
  5. An employee with a breath alcohol concentration which measures 0.02-0.039 is not considered to have violated the USDOT-FTA drug and alcohol regulations, provided the employee hasn't consumed the alcohol within (4) four hours of performing a safety-sensitive duty.
    - However, if a safety-sensitive employee has a concentration of 0.02-0.039, USDOT-FTA regulations require the employee to be removed from the performance of safety-sensitive duties until:
      - The employee's alcohol concentration measures less than 0.02; or
      - The start of the employee's next regularly scheduled duty period, but not less than (8) eight hours following administration of the test.
  6. No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.
  7. No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
  8. **Brown Cab** under its own authority, also prohibits the consumption of alcohol during lunch periods, rest breaks, split shift breaks, or anytime the employee is on duty.
  9. Consistent with the Drug-free Workplace Act of 1988, all **Brown Cab** employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the workplace, including **Brown Cab** premises, transit vehicles, while in uniform, or while on **Brown Cab** business.

## E. DRUG STATUTE CONVICTION

Consistent with the Drug Free Workplace Act of 1988, all employees are required to notify **Brown Cab** management of any criminal drug statute conviction for a violation occurring in the workplace within (5) five days after such conviction. Failure to comply with this provision shall result in disciplinary action as defined in Section H of this policy.

## F. TESTING REQUIREMENTS

Analytical urine drug testing and breath testing for alcohol will be conducted as required by 49 CFR Part 40, as amended.

All covered employees shall be subject to testing prior to performing a safety-sensitive duty, for reasonable suspicion, random and following an accident.

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A drug test can be performed any time a covered employee is on duty. A reasonable suspicion or random alcohol test can only be performed just before, during, or just after the performance of a safety-sensitive job function. Under **Brown Cab** authority, a non-USDOT alcohol test can be performed any time a covered employee is on duty.

All covered employees will be subject to urine drug testing and breath alcohol testing as a condition of ongoing employment with **Brown Cab**. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in Section H of this policy.

### Pre-Employment Testing

All applicants for covered transit positions shall undergo USDOT urine drug testing prior to the performance of a safety-sensitive functions in accordance with procedures set forth in 49 CFR Part 40. All offers of employment for covered transit positions (including a transfer into a safety-sensitive position) shall be extended conditional upon the applicant passing a pre-employment drug test.

1. A safety sensitive applicant shall not be allowed to perform a safety-sensitive duty unless the applicant takes a USDOT pre-employment drug test with verified negative results.
2. A non-safety-sensitive employee shall not be placed, transferred or promoted into a covered position until the employee takes a USDOT drug test with verified negative results.
3. If the applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded, and the applicant will be referred to a Substance Abuse Professional (SAP)<sup>1</sup>.
  - Before an applicant who fails a pre-employment drug test can be considered again for employment in a covered position, the applicant will be required to have:
    - a. A verified negative drug test.
    - b. Evidence of the absence of dependency from a SAP that complies with 49 CFR Part 40 (as amended).
4. When an employee being placed, transferred, or promoted from a non-covered position to a covered position submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with Section H.
5. If a pre-employment/pre-transfer test is canceled, **Brown Cab** will require the safety-sensitive applicant to take and pass another pre-employment drug test before performing safety-sensitive functions.
6. If a covered employee has not performed a safety-sensitive function for 90 or more consecutive calendar days, and has not been in the random testing pool during that time,

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<sup>1</sup> A Substance Abuse Professional (SAP) is a licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist or drug and alcohol counselor (certified by an organization listed at <https://www.transportation.gov/odapc/sap> with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

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the employee must take and pass a pre-employment test before he or she can return to a safety-sensitive function.

7. A safety-sensitive applicant with a dilute negative test result will be required to retest.
  - Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed by the MRO.
8. Safety-sensitive applicants are required (even if ultimately not hired) to provide their signed written release to **Brown Cab** requesting USDOT drug and alcohol records from all previous, USDOT-covered, employers that the safety-sensitive applicant has worked for within the last two years.
  - Failure to do so will result in the employment offer being rescinded.
9. **Brown Cab** is required to ask all safety-sensitive applicants (even if ultimately not hired) if they have tested positive or refused to test a pre-employment test for a DOT covered employer within the last two years.
  - If the applicant has tested positive or refused to test on a pre-employment test for a DOT covered employer, the safety sensitive applicant must provide **Brown Cab** proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

**Brown Cab** reserves the right to re-evaluate the employees job status based on the information received from the background checks.

## Reasonable Suspicion Testing

All **Brown Cab** safety-sensitive employees will be subject to a reasonable suspicion drug and/or alcohol test when **Brown Cab** has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse.

Reasonable suspicion referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance use or alcohol misuse.

A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. However, under **Brown Cab** authority, a non-USDOT reasonable suspicion alcohol test may be performed any time the covered employee is on duty.

A reasonable suspicion drug test can be performed any time the covered employee is on duty.

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A safety-sensitive employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified in Section H of this policy.

A written record of the observations, which led to a drug/alcohol test, based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to **Brown Cab** management and shall be attached to the forms reporting the test results.

**Brown Cab** shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending disciplinary action described in Section H of this policy.

When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his/her chain of command, the employee shall be referred to the Employee Assistance Program (EAP) for an assessment.

**Brown Cab** shall place the employee on administrative leave in accordance with the provisions set forth in this policy. Testing in this circumstance would be performed under the direct authority of the **Brown Cab**.

Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority. However, self-referral does not exempt the covered employee from testing under Federal authority as specified in this policy or the associated consequences as specified in Section H.

### Post-Accident Testing

Covered employees shall be subject to post-accident drug and alcohol testing under the following circumstances:

#### *Fatal Accidents*

As soon as practicable, all covered employees will be required to undergo urine and breath testing if they are involved in an accident with a transit vehicle resulting in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other employee whose performance may have been a contributing factor to the accident, as determined by **Brown Cab** using the best information available at the time of the decision.

#### *Non-Fatal Accidents*

## Second Chance Policy

As soon as practicable following an accident not involving the loss of a human life, drug and alcohol tests will be conducted on each covered employee operating the public transportation vehicle at the time of the accident if at least one of the following conditions is met:

1. The accident results in injuries requiring immediate medical treatment away from the scene, unless the covered employee can be completely discounted as a continuing factor to the accident.
2. One or more vehicles incurs disabling damage and must be towed away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident.

As soon as practicable following an accident, as defined in this policy, the transit supervisor investigating the accident will:

1. Notify the transit employee operating the transit vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test.
  - a. The supervisor will make the determination using the best information available at the time of the decision.
2. Ensure that an employee, required to be tested under this section, is tested as soon as practicable following the accident, but no longer than eight (8) hours after the accident for alcohol, and no longer than 32 hours after the accident for drugs.
  - a. If an alcohol test is not performed within two hours of the accident, the supervisor will document the reason(s) for the delay.
  - b. If the alcohol test is not conducted within (8) eight hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.
3. Inform any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test.

An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of their location if they leave the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.

Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

In the rare event that **Brown Cab** is unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), **Brown Cab** may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the FTA test. The state and local law enforcement officials must have

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independent authority for the test and **Brown Cab** must obtain the results in conformance with state and local law.

### Random Testing

Random drug and alcohol tests are unannounced and unpredictable, and the dates for administering random tests are spread reasonably throughout the calendar year. Random testing will be conducted at all times of the day when safety-sensitive functions are performed.

Testing rates will meet or exceed the minimum annual percentage rate set each year by the FTA administrator. The current year testing rates can be viewed online at:

[www.transportation.gov/odapc/random-testing-rates](http://www.transportation.gov/odapc/random-testing-rates)

The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety-sensitive employees.

1. Each covered employee shall be in a pool from which the random selection is made.
  - Each covered employee in the pool shall have an equal chance of selection each time the selections are made.
  - Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested.
  - There is no discretion on the part of management in the selection.
2. Random drug testing may occur anytime an employee is on duty.
3. Alcohol random tests can only be performed just before, during, or just after the performance of a safety-sensitive duty:
  - However, under **Brown Cab** authority, a non-USDOT random alcohol test may be performed any time the covered employee is on duty.
  - Testing can occur during the beginning, middle or an end of an employee's shift.
  - Random testing may occur anytime an employee is on duty so long as the employee is notified prior to the end of the shift.
4. Covered employees are required to proceed immediately to the collection site upon notification to report for a random drug and/or alcohol test.

### Return-to-Duty Testing

All covered employees who previously tested positive for a prohibited drug on a USDOT drug test or had a breath alcohol test result 0.04 or greater, or refused a test, must test negative for drugs, alcohol (below 0.02 BAC), or both, and be evaluated and released by the SAP in accordance with 49 CFR Part 40, Subpart O before returning to perform a safety-sensitive function.

For an initial positive drug test, a Return-to-Duty drug test is required and an alcohol test is allowed. For an initial breath alcohol test 0.04 or greater, a Return-to-Duty alcohol test is required and a drug test is allowed.



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Following an assessment, the SAP will recommend a course of rehabilitation unique to the individual.

The SAP should schedule the Return-To-Duty test only when the employee is known to be drug and alcohol free and there is no risk to public safety:

- Before returning to perform a safety-sensitive function, all covered employees who previously tested positive for a prohibited drug on a DOT drug test or had a breath alcohol test result 0.04 or greater (or refused a test), must do both of the following:
  - Test negative for drugs, alcohol (below 0.02 BAC), or both.
  - Be evaluated and released by the SAP, per 49 CFR Part 40, Subpart O.
- For an initial positive drug test, a Return-to-Duty drug test is required and an alcohol test is allowed.
- For an initial breath alcohol test 0.04 or greater, a Return-to-Duty alcohol test is required and a drug test is allowed.
- Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual.
  - The SAP will recommend the Return-to-Duty test only when:
    - The employee has successfully completed the treatment requirement, and
    - Is known to be drug and alcohol-free, and
    - There are no undue concerns for public safety

## Follow-Up Testing

**Brown Cab** will terminate the employment of any employee that tests positive or refuses a test as specified in this policy. In the event **Brown Cab** is required by legal authorities to reinstate the covered employee, the employer will comply with all mandated Follow-Up testing as follows:

Covered employees will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The frequency and duration of the follow-up tests will be determined by the SAP, reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to random, post-accident, reasonable suspicion and return-to-duty testing.

In the instance of a self-referral or management referral, the safety-sensitive employee will be subject to non-USDOT follow-up tests and follow-up testing plans modeled using the process described in 49 CFR Part 40, as amended. However, all non-USDOT follow-up tests and all paperwork associated with an employee's return-to-work agreement that was not precipitated by a positive test result (or refusal to test) does not constitute a violation of the Federal regulations and will be conducted under **Brown Cab** authority and performed using non-USDOT testing forms.

## G. TESTING PROCEDURES

### Drug Testing Procedures

All drug testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. See Section C for a list of drugs that will be tested.

After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection method described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a USDOT Custody and Control Form (CCF) and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a DHHS certified laboratory.

The test results from the DHHS certified laboratory will be reported to a Medical Review Officer (MRO). A MRO is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will:

- Review the test results to determine whether there is a legitimate medical explanation for a confirmed positive, substituted, invalid, or adulterated test result.
- Attempt to contact the employee to notify the employee of the non-negative laboratory result and provide the employee with an opportunity to explain the confirmed laboratory test result.
- Subsequently review the employee's medical history/ medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result:
  - If no legitimate medical explanation is found, the test will be verified positive, will be considered a refusal to test, or will be cancelled and reported to the **Brown Cab** DAPM.
  - If a legitimate explanation is found for a positive lab result, the MRO has the responsibility to raise fitness-for-duty considerations with **Brown Cab** during the verification process.
    - Once verified, the MRO will report the test result as negative to **Brown Cab**.
    - If the test is invalid without a medical explanation, a retest will be conducted under direct observation.
      - Employees do not have access to a test of their split specimen following an invalid result.

### Split Sample Test

Any covered employee who questions the results of a required drug test as stated in this policy may request that the split sample be tested. There is no split specimen testing for an invalid result.

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The split sample test must be conducted at a different DHHS-certified laboratory from the laboratory that analyzed the primary specimen.

The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample.

The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the MRO within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. **Brown Cab** will ensure that the cost for the split specimen is covered in order for a timely analysis of the sample. However, **Brown Cab** will seek reimbursement for the split sample test from the employee if the result of the split specimen analysis confirms the original result.

If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled.

The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary is positive, it will be retained in frozen storage for one year and the split specimen will also be retained for one year. Within the one-year period, the MRO, employee, employer or a DOT agency may request in writing that a specimen be retained for an additional period of time (e.g. for the purpose of preserving evidence for litigation or a safety investigation).

## Direct Observation Conditions

Consistent with 49 CFR Part 40 (as amended), observed collections<sup>2</sup> are required in the following circumstances:

1. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports there was not an adequate medical explanation for the result.
2. The MRO reports the original positive, adulterated, or substituted result had to be cancelled because the test of the split specimen could not be performed.
3. Anytime the collector observes materials brought to the collection site or the covered employee's conduct clearly indicates an attempt to tamper with a specimen.
4. The laboratory reports to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reports the specimen as negative-dilute and requires a second collection under direct observation.
  - See 49 CFR 40.197(b)(1)

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<sup>2</sup> 49 CFR Part 40.67, Procedures for Transportation Workplace Drug and Alcohol Testing Programs, as amended, outlines when and how a directly observed collection is conducted.

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5. The original specimen appeared to have been tampered with.
  - See 49 CFR 40.65(c)(1)
6. The temperature on the original specimen was out of range.
  - See 49 CFR 40.65(b)
7. The test is a return-to-duty test or follow-up test.

### Direct Observation Procedures

The employee who is being observed will be required to raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show the collector, by turning around that they do not have a prosthetic device. The direct observation must be conducted by a person of the same gender as the employee being tested.

### Split Specimen Testing

Employees do not have access to a test of their split specimen following an invalid result.

### Negative Dilute

If there is a negative dilute test result, **Brown Cab** will accept the test result and there will be no retest, unless the creatinine concentration of a negative dilute specimen was greater than or equal to (2) two mg/dL, but less than or equal to (5) five mg/dL.

### Alcohol Testing Procedures

Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT).

Alcohol screening tests may be performed using a non-evidential testing device, which is also approved by NHTSA. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the privacy of the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

- If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test.
- The confirmatory test must occur using a NHTSA-approved EBT operated by a trained BAT.
  - The confirmatory test will be conducted at least fifteen minutes after the completion of the initial test.
  - The EBT will identify each test by a unique sequential identification number.
  - This number time and unit identifier will be provided on each EBT printout.

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- The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee.
- An employee who has a confirmed alcohol concentration of 0.04 or greater will be considered to have a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in **Section H** of this policy.
- Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or for the duration of the work day whichever is longer and will be subject to the consequences described in **Section H** of this policy.
- An alcohol concentration of less than 0.02 will be considered a negative test.

**Brown Cab** affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.

The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign Step 2 of the ATF will be considered a refusal to submit to testing.

## H. RESULT OF DRUG/ALCOHOL TEST VIOLATION

Following a positive drug or alcohol test result – blood alcohol content (BAC) at or above 0.04 – or test refusal, the covered employee will be immediately removed from their safety-sensitive duty and referred to a SAP.

Following a BAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties for at least eight hours, unless a retest results in the employee's BAC being less than 0.02.

Any covered employee that has a verified positive drug or alcohol test, or who refuses to test, will be immediately removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available, and referred to a list of USDOT qualified SAPs for assessment, and will be terminated. Following successful treatment by a qualified Substance Abuse Professional (SAP) the employee may reapply.

The cost of any treatment or rehabilitation services will be paid directly by the employee or their insurance provider.

A voluntary referral does not shield an employee from:

1. Disciplinary action or guarantee employment with **Brown Cab** and

## Second Chance Policy

2. The requirement to comply with drug and alcohol testing.

No employee will be allowed to return to duty requiring the performance of safety-sensitive job functions without the approval of the SAP.

Failure of an employee to report within five days a criminal drug statute conviction for a violation occurring in the workplace shall result in termination.

### I. TEST REFUSALS

As a covered employee, if you refuse to take a drug and/or alcohol test, you incur the same consequences as testing positive and will be immediately removed from performing safety sensitive functions and referred to a Substance Abuse Professional.

**Refusals to test are listed in 49 CFR Part 40 (as amended): 49 CFR 40.191 (as amended) for drug tests, and 49 CFR 40.261 (as amended) for breath tests. An up-to-date copy of 49 CFR Part 40 is available upon request.**

#### Drug Test Refusals

An employee is considered to have refused to take a drug test if the employee:

1. Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
2. Fails to remain at the testing site until the testing process is complete.
  - An employee who leaves the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test.
3. Fails to provide a urine specimen.
  - An employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test.
4. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of your provision of a specimen.
5. Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.
6. Fails or declines to take an additional drug test **Brown Cab** or collector has directed you to take.
7. Fails to undergo a medical examination or evaluation, as directed by the MRO or as directed by the Designated Employee Representative (DER).
  - In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment.
    - If there was no contingent offer of employment, the MRO will cancel the test.

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8. Fails to cooperate with any part of the testing process; for example:
  - Refuses to empty pockets when directed by the collector.
  - Behaves in a confrontational way that disrupts the collection process.
  - Fails to wash hands after being directed to do so by the collector.
9. For an observed collection, fails to follow the observer's instructions to raise and lower clothing and to turn around to permit the observer to determine the presence of a prosthetic or other device that could be used to interfere with the collection process.
10. Possesses or wears a prosthetic or other device that could be used to interfere with the collection process.
11. Admits to the collector or MRO that the specimen was adulterated or substituted
12. The MRO verifies a test result as adulterated or substituted.
13. Fails to remain readily available for testing following an accident, including notifying a supervisor of their location if they leave the scene of the accident prior to submission to such tests.

## Alcohol Test Refusals

An employee is considered to have refused to take an alcohol test if the employee:

1. Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable USDOT agency regulations, after being directed to do so by the employer.
  - This includes the failure of an employee to appear for a test when called by a Third-Party Administrator (TPA).
2. Fails to remain at the testing site until the testing process is complete.
  - An employee who leaves the testing site before the testing process commences (see 49 CFR 40.243(a)) for a pre-employment test is not deemed to have refused to test.
3. Fails to provide an adequate amount of saliva or breath for any alcohol test required by this part or DOT agency regulations.
  - An employee who does not provide an adequate amount of breath or saliva because he or she has left the testing site before the testing process for a pre-employment test has not deemed to have refused to test.
4. Fails to provide a sufficient breath specimen, and the physician has determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.
5. Fails to undergo a medical examination or evaluation, as directed by **Brown Cab**.
6. Fails to sign the certification at Step 2 of the ATF (Alcohol Testing Form).
7. Fails to cooperate with any part of the testing process.
8. Fails to remain readily available for testing following an accident, including notifying a supervisor of their location if they leave the scene of the accident prior to submission of such tests.
9. Fails to take an additional test when directed by **Brown Cab** or collector.



## Second Chance Policy

### J. Voluntary Self-Referral

Any employee who has a drug and/or alcohol use problem and has not been selected for reasonable suspicion, random or post-accident testing or has not refused a drug or alcohol test may voluntarily refer her or himself to the [Brown Cab](#), Transit Manager/Drug and Alcohol Program Manager, who will refer the individual to a substance abuse counselor for evaluation and treatment.

The substance abuse counselor will evaluate the employee and make a specific recommendation regarding the appropriate treatment. Employees are encouraged to voluntarily seek professional substance abuse assistance before any substance use or dependence affects job performance.

Any safety-sensitive employee who admits to a drug and/or alcohol problem will immediately be removed from his/her safety-sensitive function and will not be allowed to perform such function until successful completion of a prescribed rehabilitation program.

A voluntary referral does not shield an employee from disciplinary action or guarantee employment with [Brown Cab](#).

In the instance of a self-referral or a management referral, disciplinary action against the employee shall include mandatory referral for an assessment by an employer approved counseling professional for assessment, formulation of a treatment plan and execution of a return to work agreement.

Failure to execute or remain compliant with the return-to-work agreement shall result in termination from [Brown Cab](#) employment.

### K. GRIEVANCE AND APPEAL

The consequences specified by 49 CFR 40.149 (a)(5) and (c), as amended, for a positive test or test refusal are not subject to arbitration.

### L. PROPER APPLICATION OF THE POLICY

[Brown Cab](#) is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

### M. EDUCATION AND TRAINING

## Second Chance Policy

Every covered employee will:

1. Receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, each as amended.
2. Undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment.
  - o The training also includes manifestations and behavioral cues that may indicate prohibited drug use.

All supervisory personnel or company officials who are in a position to determine employee fitness for duty will receive:

1. 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use, and
2. 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

Information on the signs, symptoms, health effects, and consequences of alcohol misuse can be found using resources listed in Attachment C of this policy.

**Brown Cab** will display and distribute to every covered employee informational material and if available, display and distribute a community service hot-line telephone number for employee assistance.

## N. RECORDS MANAGEMENT

According to 49 CFR Parts 655 and 40, each as amended, the following minimum record retention schedule shall be maintained by **Brown Cab**. Sometimes, additional records will be kept to thoroughly document the decision-making process.

### Record Retention Schedule

Record	Retention Period (Years)
<ul style="list-style-type: none"><li>- Alcohol Tests Results &lt; 0.02</li><li>- Records of Negative Test Results</li></ul>	1
<ul style="list-style-type: none"><li>- Education and Training Records</li><li>- Evidential breath device calibration documentation</li></ul>	2
<ul style="list-style-type: none"><li>- Information obtained through previous employer record checks</li></ul>	3
<ul style="list-style-type: none"><li>- Records of covered employee verified positive drug test results</li><li>- Alcohol test results with readings of 0.02 or greater</li><li>- Documentation of refusal to take required drug or alcohol test</li><li>- Documentation of employee disputes</li><li>- Employee evaluation and referrals</li><li>- Annual MIS reports</li></ul>	5

### Type of Records

## Second Chance Policy

The following specific records will be maintained:

1. Records related to general policies and procedures:
  - a. Current policy statement listing effective date and the approval by the highest-ranking official of **Brown Cab**.
  - b. Employee and new hire policy receipt acknowledgements.
  - c. Previous policy statements listing effective dates and the corresponding approvals by the highest ranking official.
  - d. Employee and new hire policy receipt acknowledgements.
2. Records related to employee training:
  - a. Training materials on drug use awareness and alcohol misuse, including a copy of **Brown Cab** policy on prohibited drug use and alcohol misuse.
  - b. Names of covered employees attending training on prohibited drug use and alcohol misuse and the dates and times of such training.
  - c. Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for drug and alcohol testing based on reasonable suspicion.
  - d. Certification that any training conducted complies with the requirements for such training.
3. Records related to the collection process:
  - a. Collection logbooks, if used.
  - b. Documents relating to the random selection process.
  - c. Documents generated in connection with decisions:
    - i. To administer reasonable suspicion drug or alcohol tests.
    - ii. On post-accident drug and alcohol testing.
  - d. MRO documents verifying existence of medical explanation of the inability of a covered employee to provide an adequate urine or breath sample.
4. Records related to test results:
  - a. **Brown Cab** copy of the CCF.
  - b. Documents related to the refusal of any covered employee to submit to a required test.
  - c. Documents presented by a covered employee to dispute the result of a test
5. Records related to referral and return to duty and follow-up testing:
  - a. Records concerning a covered employee's entry into and completion of the treatment program recommended by the substance abuse professional.
6. Records related to the employers MIS annual testing data:
7. Records related to credentials documenting that each service agent (i.e. MRO, SAP, Certified Labs, etc.) meets the minimum basic knowledge, qualifications training, certification/examination, error-correction training, and refresher training.
  - a. If the service agents maintain these records, the employer should perform and keep documents of periodic spot checks to ensure that the minimum requirements are met.

## Location of Records

## Second Chance Policy

Drug and alcohol testing records shall be maintained by **Brown Cab** DAPM in a locked and secure manner so that disclosure of information to unauthorized persons does not occur.

### Information Disclosure

Records will be released to the entities/individuals listed below in the following circumstances:

1. The employee, upon written request, is entitled to obtain copies of any record(s) pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records.
  - a. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications.
  - b. Employees may not have access to SAP follow-up testing plans.
2. **Brown Cab's** DAPM and other transit system management personnel for records of a verified a positive drug/alcohol test.
3. A third party only as directed by specific, written instruction of the employee.
4. A subsequent employer
  - a. Only upon receipt of a written request from the employee.
5. The National Transportation Safety Board (NTSB) during an accident investigation.
6. An agency with regulatory authority over **Brown Cab** or any of its employees, such as the USDOT or WisDOT.
7. The adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test.
  - a. The records will be released to the decision-maker in the proceeding
8. A federal, state, or local safety agency with regulatory authority over **Brown Cab** or the employee.
9. In cases of a contractor or subrecipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.
10. To the decision-maker in a criminal or civil action proceeding resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to **Brown Cab** to release the information.
  - a. **Brown Cab** will release the information with a binding stipulation that it will only be released to parties of the proceeding.

If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of 49 CFR Part 40 (as amended), necessary legal steps to contest the issuance of the order will be taken.

## ATTACHMENT A – SYSTEM CONTACTS

## Second Chance Policy

Any questions regarding this policy or any other aspect of the substance abuse policy should be directed to the following individual(s):

### Brown Cab

<b>Name:</b>	Brown Cab
<b>Title:</b>	Amanda Running Drug and Alcohol Program Manager
<b>Address:</b>	318 West Decker St
<b>Phone:</b>	608-637-2599
<b>Email:</b>	admin@runninginc.net

### Collection Sites

**Brown Cab** has numerous collection site locations. Safety sensitive employees subject to testing will be given specific instructions to the Collection Site by **Brown Cab**. A copy of **Brown Cab's** Collection Site list is available upon request.

<b>Name:</b>	Various Collection Sites – see above
<b>Address:</b>	
<b>Phone:</b>	
<b>Hours:</b>	

## Second Chance Policy

### Third Party Administrator (TPA)

HealthWORKS	
<b>Name:</b>	Kathy Wolfgang
<b>Email:</b>	<a href="mailto:Wolfgang.kathy@marshfieldclinic.org">Wolfgang.kathy@marshfieldclinic.org</a>
<b>Name:</b>	Jodie Laabs
<b>Email:</b>	<a href="mailto:Laabs.jodie@marshfieldclinic.org">Laabs.jodie@marshfieldclinic.org</a>
<b>Name:</b>	Patti Surita
<b>Email:</b>	<a href="mailto:Surita.patti@marshfieldclinic.org">Surita.patti@marshfieldclinic.org</a>
<b>Address:</b>	707 S University Ave, Beaver Dam WI 53916
<b>Phone:</b>	920-887-4090 Ext. 44090
<b>Fax:</b>	(920)887-4091

### Medical Review Officer (MRO)

#### Primary – MRO

<b>Name:</b>	Dr. Michael Curtis
<b>Address:</b>	707 S University Ave, Beaver Dam WI 53916
<b>Phone:</b>	715-847-3223
<b>Email:</b>	<a href="mailto:curtis.michael.a@marshfieldclinic.org">curtis.michael.a@marshfieldclinic.org</a>

#### Back Up – MRO

<b>Name:</b>	Dr. Suzanne Sherman
<b>Address:</b>	707 S University Ave, Beaver Dam WI 53916
<b>Phone:</b>	715-389-4799
<b>Email:</b>	<a href="mailto:Sherman.suzane@marshfieldclinic.org">Sherman.suzane@marshfieldclinic.org</a>

### DHHS Certified Laboratory – Primary Lab

<b>Name:</b>	Alere Toxicology
<b>Address:</b>	1111 Newton St Gretna, LA, 70053
<b>Phone:</b>	1-800-433-3823

### DHHS Certified Laboratory – Backup Lab

<b>Name:</b>	Quest Diagnostics
<b>Address:</b>	10101 Renner Blvd, Lenexa, KS, 66219
<b>Phone:</b>	1-610-454-4535

## Second Chance Policy

### Substance Abuse Professional (SAP)

Per 49 CFR 40.287, **Brown Cab** is required to provide each employee (including an applicant or new employee) who violates a USDOT drug and alcohol regulation a listing of SAPs readily available.

**Note:** **Brown Cab** is responsible under the federal regulations to ensure the SAPs listed for a referral are actually USDOT-qualified SAPs.

**A list of USDOT qualified SAPs in Wisconsin:** [www.saplist.com](http://www.saplist.com)

<b>Name:</b>	Kay Spicer
<b>Address:</b>	317 DeWitt St, Portage WI 53901
<b>Email and Phone:</b>	(608)393-1221

<b>Name:</b>	Elizabeth Doby
<b>Address:</b>	6709 Raymond Rd Madison WI 53719
<b>Email and Phone:</b>	(608)622-5453

## ATTACHMENT B – SAFETY SENSITIVE POSITIONS

The table below outlines all the safety sensitive positions covered by this policy.

Check All that Apply	TITLE	Testing Authority
	Supervisor (if performing a covered function)	FTA
	Revenue Vehicle Control/Dispatch	FTA
X	Revenue Vehicle Driver	FTA
X	Revenue Vehicle & Equipment Maintenance	FTA
	Other – specify	FTA

The table below outlines all additional positions covered by this policy.

Check All that Apply	TITLE	Testing Authority
	Other – specify	<b>Transit Provider</b>
	Other – specify	<b>Transit Provider</b>
	Other – specify	<b>Transit Provider</b>

Volunteer drivers are not subject to testing unless the volunteer is required to hold a CDL or receives remuneration in excess of expenses incurred while engaged in safety sensitive functions.



## ATTACHMENT C – RESOURCES

Note: Always consult FTA’s website for the most current version

### USDOT Office of Drug and Alcohol Policy and Compliance

USDOT Office of Drug and Alcohol Policy and Compliance (ODPAC)

<http://www.dot.gov/ost/dapc/>

What Employers Need to Know About DOT Drug and Alcohol Testing

[https://www.transportation.gov/odapc/employer\\_handbook](https://www.transportation.gov/odapc/employer_handbook)

What Employees Need to Know About DOT Drug and Alcohol Testing

<https://www.transportation.gov/odapc/employee-handbook-english>

ODPAC – Email Notification Updates

[https://www.transportation.gov/odapc/ListServe\\_Notices](https://www.transportation.gov/odapc/ListServe_Notices)

### Federal Transit Administration (FTA)

Federal Transit Administration

<https://www.transit.dot.gov/>

FTA – Legislation and Regulations

<http://transit-safety.fta.dot.gov/DrugAndAlcohol/Regulations/Default.aspx>

FTA – Regulation Updates

<http://transit-safety.fta.dot.gov/DrugAndAlcohol/Newsletters/Topics.aspx>

MIS – Drug and Alcohol Reporting

<https://www.transportation.gov/odapc/MISreporting>

Best Practices Manual: FTA Drug and Alcohol Testing Program

<https://www.transportation.gov/odapc/best-practices-dot-random-drug-and-alcohol-testing>

Prescription and Over-the-Counter Medications Toolkit

<https://transit-safety.fta.dot.gov/DrugAndAlcohol/Publications/DocumentInfo.aspx?DocID=223>

### Training Information

FTA Training

<http://transit-safety.fta.dot.gov/DrugAndAlcohol/Training/Default.aspx>

RTAP Scholarship Program

<http://www.dot.wisconsin.gov/localgov/transit/rtap.htm>

Alcohol Facts and Statistics

<https://www.niaaa.nih.gov/alcohol-health/overview-alcohol-consumption/alcohol-facts-and-statistics>

## APPENDIX P



# MAINTENANCE PLAN

LAST UPDATED: April 1<sup>st</sup>, 2021

# MAINTENANCE PLAN

<b>Prepared by:</b>	Justin Running, Vice President
<b>Prepared for:</b>	Brown Cab Service
<b>Service Area:</b>	<a href="#">Click here to enter text.</a>
<b>Date Adopted:</b>	4/1/2021
<b>Last Revised:</b>	4/1/2021

## Who is the main contact responsible for implementing and updating this plan?

<b>Title:</b>	Vice President
<b>Name:</b>	Justin Running
<b>Address:</b>	318 W. Decker St, Viroqua, WI 54665
<b>Phone:</b>	608-637-2599
<b>Email:</b>	justin@runninginc.net

# ACTIVITY LOG

## Maintenance Plan

Date	Activity (Review/Update/Addendum/Adoption/Distribution)	Concerned Person (Signature)	Remarks
4/1/2021	Adoption	Paul Woodward	Actual Implementation Date
5/1/22	Contact Name Updated	Justin Running	

## EXECUTIVE SUMMARY

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As a Subrecipient of Federal Transit Administration (FTA) funding, **BROWN CAB SERVICE** must develop – and adhere to – a written maintenance plan. Maintenance plans can address vehicles, facilities (and substantial facility components), and other substantial assets and/or “other equipment”.

For administrative purposes, **BROWN CAB SERVICE** under direction of the WisDOT considers assets to be “substantial” if:

1. The asset has an original cost of at least \$5,000;
2. The asset has an estimated useful life of at least five years; and
3. WisDOT determines that best industry practice dictates they be subjected to routine maintenance.

**BROWN CAB SERVICE** will submit a current and updated maintenance plan at WisDOT’s request. Once a plan has been submitted, **BROWN CAB SERVICE** is required to resubmit a plan only if substantial changes have been made to the plan since the previous submission (e.g. the acquisition of new assets and/or vehicle types).

By adopting this Transit Agency Maintenance Plan, **BROWN CAB SERVICE** agrees the following information is consistent with, and supports all required elements outlined in **Table 1**. Furthermore, **BROWN CAB SERVICE** agrees to thoroughly read the contents of any WisDOT templates and technical assistance resources and personalize such documentation as needed.

1. Mission Statement	<input type="checkbox"/>
2. Maintenance Procedures	<input type="checkbox"/>
a. <i>Maintenance Oversight</i>	<input type="checkbox"/>
b. <i>Maintenance Procedures for Vehicles</i>	<input type="checkbox"/>
c. <i>Maintenance Procedures for Accessibility Equipment</i>	<input type="checkbox"/>
d. <i>System to Identify and Recode Maintenance and Repair Activities</i>	<input type="checkbox"/>
e. <i>Authorizing and Controlling Maintenance Activities and Costs</i>	<input type="checkbox"/>
f. <i>Quality Control for Assets Maintained by a Service Contractor</i>	<input type="checkbox"/>
g. <i>Warranty Recovery</i>	<input type="checkbox"/>
3. Asset Inventory of State and/or Federally Funded Assets	<input type="checkbox"/>
4. Insurance Standards	<input type="checkbox"/>
5. Maintenance Records	<input type="checkbox"/>
6. Maintenance Schedules and Forms	<input type="checkbox"/>

**Table 1: Elements Required in the Transit Agency Maintenance Plan**

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Justin Running

**Executive Director of Brown Cab Service**

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4/1/2021

**Date Signed**

## TABLE OF CONTENTS

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**Section 1: Mission Statement**

**Section 2: Maintenance Procedures**

*2(a) Maintenance Oversight*

*2(b) Maintenance Procedures for Vehicles*

*2(c) Maintenance Procedures for Accessibility Equipment*

*2(d) System to Identify and Record Maintenance and Repair Activities*

*2(e) Authorizing and Controlling Maintenance Activities and Costs*

*2(f) Quality Control for Assets Maintained by a Service Contractor*

*2(g) Warranty Recoveries*

**Section 3: Asset Inventory**

**Section 4: Insurance Standards**

**Section 5: Maintenance Records**

**Section 6: Maintenance Schedules and Forms**

**APPENDIX A: Maintenance Staff Roster and Responsibilities**

**APPENDIX B: Asset Inventory**

**APPENDIX C: Proof of Insurance**

**APPENDIX D: Maintenance Logs and Records**

**APPENDIX E: Maintenance Schedules and Inspection Forms**

## **1. MISSION STATEMENT**

The mission of the **BROWN CAB SERVICE** maintenance program is to ensure the cleanliness, comfort, cost-effective operation, durability, reliability, and safety of all vehicles, equipment, and facilities in our transit system. As such, **BROWN CAB SERVICE** is dedicated to properly maintaining our assets. Our maintenance program adheres to manufacturer minimum maintenance requirements for all such assets, and we comply with all applicable federal and state maintenance requirements.

## **2. MAINTENANCE PROCEDURES**

### ***2(a) Maintenance Oversight***

The **BROWN CAB SERVICE** fleet manager has the overall responsibility for maintenance of our transit assets. The fleet manager's specific responsibilities include:

- Managing the timely completion of all vehicle, facility, and equipment inspections and ensuring that all substantial program assets receive timely and cost-effective preventative maintenance and (when necessary) repair
- Overseeing all record-keeping and warranty recovery for program assets
- Tracking regulatory and maintenance standard changes
- Analyzing fleet maintenance data to ensure that individual vehicles are performing reliably and cost-effectively
- Updating this plan as appropriate to reflect changes in **BROWN CAB SERVICE** asset inventory

The current fleet manager of **BROWN CAB SERVICE** is:

Title:	Fleet Manager
Name:	John Will
Address:	735 Madison Ave. Fort Atkinson, WI 53538
Phone:	920-563-6303
Email:	browncabfleet@gmail.com

### ***2(b) Maintenance Procedures for Vehicles***

**BROWN CAB SERVICE** adheres to manufacturer-specified preventative maintenance (PM) schedules and procedures for all transit vehicles.

**BROWN CAB SERVICE** uses schedules that apply for "severe duty" use. PM services are performed within 500 miles (plus or minus) and within three weeks (plus or minus) of specified intervals.

**BROWN CAB SERVICE** performs daily pre-trip and post-trip inspections on every transit vehicle in service. Drivers perform these inspections using vehicle-specific checklists that reflect industry best practices.

**BROWN CAB SERVICE** also conducts periodic engine oil analyses on each fleet vehicle. Analyses on each vehicle are scheduled based on mileage or hours of operation. The purpose of these analyses is early identification of unusual engine wear, thereby helping to prevent catastrophic engine failures. Oil analysis is conducted by:



Name:	John Will	Phone:	920-563-6303
Address:	735 Madison Ave.	Email:	browncabfleet@gmail.com

Finally, in addition to standard PM, daily inspections, and periodic oil analyses, we also subject each vehicle to an annual comprehensive inspection. Inspections and routine services are recorded and kept on file for at least 3 years.

**BROWN CAB SERVICE** performs all scheduled vehicle maintenance and inspections at:

Facility Title:	Brown Cab Service
Owner Name:	Justin Running
Address:	735 Madison Ave. Fort Atkinson, WI 53538
Phone:	920-563-6303
Email:	browncabfleet@gmail.com

We normally allocate substantial mechanical repairs and engine rebuilds to:

Facility Title:	Sleepy Hollow Dodge Chrysler
Owner Name:	LaVonn Felton.
Address:	1310 N. Main St. Viroqua, WI 54665
Phone:	608-637-3482
Email:	N/A

## **2(c) Maintenance Procedures for Accessibility Equipment**

**BROWN CAB SERVICE** adheres to manufacturer-specified preventative maintenance (PM) schedules and procedures for all wheelchair lifts and other accessibility equipment installed on transit vehicles.

Wheelchair lift schedules are based on operation cycles and time intervals. We perform PM services within the following allowances:

<b>Specified Maintenance Interval</b>	<b>Allowances</b>
Two weeks/160 cycles	+/- 2 days/20 cycles
Three months/950 cycles	+/- 10 days/50 cycles
Annual/3800 cycles	+/- 21 days/200 cycles

Additionally, we perform daily lift inspections regardless of the number of cycles from the prior day of operation.

In order to comply with requirements under the ADA, we take the following actions once a vehicle lift becomes inoperable:

1. We remove the vehicle from service before the start of our next service day
2. We do not resume using the vehicle until the lift is fully repaired
3. Unless we have an ADA-compliant replacement vehicle available, we resume using the vehicle – with a repaired or replaced lift – within three service days
4. If the lift becomes inoperable on a fixed route, we promptly provide alternative transportation to individuals with disabilities who are unable to use the vehicle because its lift does not work

**BROWN CAB SERVICE** subjects wheelchair tie-downs and occupant restraints to daily pre-trip inspections. We take care to keep all components clean, and to prevent contamination of belt webbing from oil, gases, polishes, and

chemicals. Additionally, we replace these components whenever they show any signs of excessive wear or damage, or have been in use during a vehicle impact.

#### ***2(d) System to Identify and Record Maintenance and Repair Activities***

We track maintenance and repair activities for each vehicle in our fleet using **RepairTrax Repair Shop Software**.

**BROWN CAB SERVICE** fleet manager uses this management system to establish a PM schedule, review open and closed work orders, and monitor fleet expenses and vehicle performance (by tracking individual vehicle expenses, road call rates, etc.) Maintenance staff use the management system to document performed maintenance, and to generate work orders for unscheduled and/or outside maintenance or repair.

Each work order identifies all specific maintenance and/or repair activities performed on the date(s) identified. It also indicates the equipment's mileage, service time, and/or cycles as appropriate.

#### ***2(e) Authorizing and Controlling Maintenance Activities and Costs***

The **BROWN CAB SERVICE** fleet manager is responsible for establishing the PM schedule for each type of vehicle we operate, and for ensuring that all PM activities are completed timely and consistent with manufacturers' recommendations. Both the manager and maintenance staff are responsible for reviewing PM and repair activities regularly, to ensure that review and decisions are made at a proper level of responsibility.

Each day the manager reviews our PM tracking report to identify which vehicles are due for preventative maintenance. The identified vehicles are removed from service and scheduled for work.

The manager then assigns the work to a maintenance technician who completes the appropriate PM inspection form and performs the required PM. The technician reviews the appropriate standard maintenance instructions as necessary, and is required to follow those instructions through completion. The technician may perform very minor repairs (i.e. light bulb replacements, securing of fasteners, etc.) during the PM services as well.

Technicians may identify other needed repairs, known as "write-ups," during the PM inspection. In addition, drivers may report vehicle problems that require repair. The manager and/or the lead technician will review the write-up and driver report. Subject to their approval, repairs are then scheduled into one of our service bays, assigned to a mechanic, and completed before the bus returns to service. We issue separate work orders for this type of repair.

Specialized vehicle components such as wheelchair lifts and fare collection systems are subject to separate inspection forms and maintenance schedules. However, maintenance and repair work on these components is still subject to fleet manager oversight. The manager or the lead technician is charged with scheduling the subject vehicle into one of our service bays and assigning the work to a mechanic.

In addition to overseeing maintenance activities, the **BROWN CAB SERVICE** fleet manager tracks maintenance repair costs, on both individual vehicles and the entire fleet. These costs are tracked against our annual maintenance budget, equipment replacement costs, and remaining equipment life. This approach improves productivity, reduces costs and optimizes resource allocations.

#### ***2(f) Quality Control for Assets Maintained by a Service Contractor***

Choose one of the scenarios identified below:

1. **BROWN CAB SERVICE** does not contract out routine vehicle maintenance to a service contractor at this time. If and when we elect to do so, we will require the contractor to maintain the vehicles in accordance with this plan. To ensure compliance, we will approve all contractor forms, require the

- contractor to submit all work orders for preventative maintenance and repairs to our fleet manager, and conduct annual physical inspections of all vehicles maintained by the contractor.
2. **BROWN CAB SERVICE** vehicles are maintained by a service contractor and thus **BROWN CAB SERVICE** provides the appropriate oversight of the contractor to ensure preventative maintenance and repairs are completed. Appropriate oversight of the contractor includes:
- Quarterly review of the work performed by the contractor(s). This is done by reviewing maintenance logs and records. These documents should be kept on file for at least 3 years.
  - A periodic physical inspection of the vehicles maintained by the contractor(s). A best practice is for the physical inspection to be completed on at least annually. Documentation of the review and checklists used for inspection should be kept on file for at least 3 years.
  - Semi-annual meetings between **BROWN CAB SERVICE** and the contractor to discuss maintenance related issues, topics, and concerns. Documentation, including the date, location and attendees of the meeting should be recorded and kept on file. Minutes of the meeting should also be recorded and distributed to all attendees.

### ***2(g) Warranty Recoveries***

The fleet manager aggressively pursues warranty recovery when appropriate to ensure that equipment manufacturers bear the costs to repair defects and premature component failures, not **BROWN CAB SERVICE** or the FTA.

While vehicles remain under warranty, the fleet manager of **BROWN CAB SERVICE** reviews the warranty terms before authorizing any substantial repairs or parts replacements. Additionally, the fleet manager periodically consults the following online sources to assess whether any fleet vehicles or vehicle components are subject to recalls:

- [www.epa.gov/otaq/recall.htm](http://www.epa.gov/otaq/recall.htm) (light-duty emission-related recalls)
- [www.recalls.gov/nhtsa.html](http://www.recalls.gov/nhtsa.html) (all other vehicle-related recalls)

Upon determining that a vehicle requires repairs while still under warranty, the fleet manager:

1. Initiates a warranty claim in writing with a local dealership or the manufacturer as appropriate
2. Adds a copy of the claim to the vehicle's maintenance record
3. Authorizes performance of the warranted work in-house, or delivery of the vehicle to an authorized repair business, whichever the manufacturer specifies
4. Adds warranty repairs to the vehicle's maintenance record; and
5. Ensures that repair records and failed parts for in-house warranty work are retained as required to ensure manufacturer reimbursement.

## **3. ASSET INVENTORY**

The asset inventory process is the approach **BROWN CAB SERVICE** takes in maintaining a register of the assets it owns or is responsible for maintaining. An asset inventory is the first step in organizing and managing asset information. Brown Cab Service can export their asset inventory using the new WisDOT Grants Management System (GMS). **The asset inventory should be updated whenever a new grant application is submitted to WisDOT.**

#### **4. Insurance Standards**

**BROWN CAB SERVICE** provides proof of insurance it maintains in an amount and form satisfactory to WisDOT, including the insurance or self-insurance (e.g., property, personal injury and collision coverage) adequate to cover the current value of project equipment and rolling stock throughout the period of required use.

Specifically for rolling stock, WisDOT sets minimum liability insurance requirements for all “common carriers,” i.e. private and public providers of mass transportation as found in Wis. Admin Code TRANS 176. These liability standards are presented below.

Subrecipients must carry collision and comprehensive coverage for 100 percent of the vehicle's market value.

<b>LIABILITY INSURANCE REQUIREMENTS</b>		
<b>Vehicle Capacity (# of passengers)</b>	<b>Bodily Injury (per person/per occurrence)</b>	<b>Property Damage</b>
<i>Vehicles Transporting Persons with Disabilities</i>		
1 - 7	\$75,000 - \$150,000	\$10,000
8 - 15	\$75,000 - \$200,000	\$10,000
16 - 24	\$75,000 - \$250,000	\$10,000
25 - 36	\$75,000 - \$375,000	\$10,000
37 - 49	\$75,000 - \$500,000	\$10,000
50	\$75,000 - \$500,000 \$10,000 for each passenger seat over 50	\$10,000
<i>All Other Vehicles</i>		
1 - 7	\$100,000 - \$300,000	\$50,000
8 - 12	\$100,000 - \$350,000	\$50,000
13 - 20	\$100,000 - \$400,000	\$50,000
21 - 30	\$100,000 - \$450,000	\$50,000
31 +	\$100,000 - \$500,000	\$50,000

#### **5. Maintenance Records**

**BROWN CAB SERVICE** is committed to record keeping as both an important part of maintenance compliance and an essential tool for ensuring that service schedules have been implemented. It helps to identify early warning signs of impending problems in equipment, and provides back-up information for warranty claims. Maintenance records include all completed work order forms, service receipts, inspection forms, warranty recovery requests, etc.

**BROWN CAB SERVICE** holds its maintenance records on file at **318 W. Decker St, Viroqua, WI 54665**

## **6. Maintenance Schedules and Forms**

**BROWN CAB SERVICE** utilizes maintenance schedules to identify all specific preventative maintenance actions – and intervals between these actions – for an asset or group of assets.

Maintenance schedules for vehicles normally are established by the manufacturer and provided in the owner's manual. However, when a manufacturer's maintenance requirements are not kept on file, **BROWN CAB SERVICE** will contact a local dealership or the original vendor to obtain this information.



318 W. Decker Street, Viroqua, WI 54665  
Telephone: 608.637.2599, Fax: 608.637.6877  
[humanresources@runninginc.net](mailto:humanresources@runninginc.net)



## MEMORANDUM

**DATE:** November 21, 2023

**TO:** Fort Atkinson City Council

**FROM:** Andy Selle, Director of Public Works

**RE:** Review and possible action relating to a Certified Survey Map for the Dollar Tree project to be located at 1111 Madison Avenue

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### BACKGROUND

The proposed development includes the creation of one new 1.15-acre parcel on the east side of the existing 3.1-acre parcel to accommodate a proposed new 9,827 square foot, standalone commercial building for Dollar Tree. The development is proposed to utilize existing vacant property on the site to accommodate the new development but continue to maintain the existing driveway and parking area near Madison Avenue and cross access to adjacent properties to the east.

### RECOMMENDATION

At the meeting on November 14, 2023, the Plan Commission reviewed this matter and recommended that the City Council approve the preliminary Certified Survey Map contingent on the inclusion of the following:

- Require the applicant to provide and record cross access easements from Lot 1 to Lot 2 and show such on the CSM
- Require the applicant to show the existing access easement to the parcel to the east on the CSM

The attached Certified Survey Map including the revision requested by the Plan Commission, and staff recommends that the City Council approve the two-lot CSM updated 11.15.23 and attached to this memorandum.

### ATTACHMENTS

Plan Commission Packet; CSM updated 11.15.23





City of Fort Atkinson  
City Engineer's Office  
101 N. Main Street  
Fort Atkinson, WI 53538

## SITE PLAN AND CERTIFIED SURVEY MAP REVIEW REPORT TO THE PLAN COMMISSION

**DATE:** November 14, 2023

**FILE NUMBER:** CSM-2023-13 SPR-2023-17

**PROPERTY ADDRESSES:** 1111 Madison Ave.

**EXISTING ZONING:** UMU, Urban Mixed Use

**PARCEL NUMBER:** 226-0614-3333-022

**PROPOSED ZONING:** UMU, Urban Mixed Use

**OWNER:** John Aufderhaar

**EXISTING LAND USE:** Physical Activity Studio and  
Vacant

**APPLICANT:** Dollar Tree

**REQUESTED USES:** Indoor Sales or Service

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### BACKGROUND ON CSM AND SITE PLAN REVIEW:

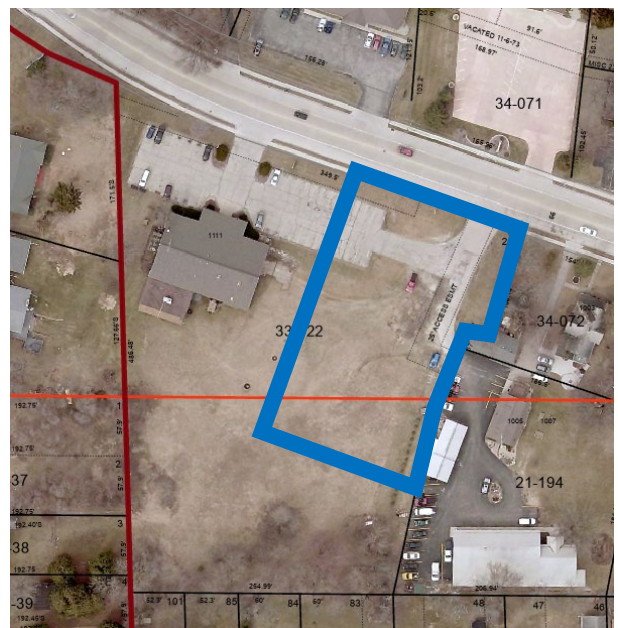
Section 70.05.04 and 70.06.03 of the City of Fort Atkinson Land Division and Development Ordinance outlines the requirements for Certified Survey Map (CSM) review and approval by the Plan Commission and City Council for conformance with all ordinances and plans.

Section 15.10.42 of the City of Fort Atkinson Zoning Ordinance outlines the requirements for the Site Plan application. This requires review of the proposed development's building configuration, site layout and access, parking, exterior building design, landscaping, grading and erosion, stormwater, exterior lighting, signage, and operational plan.

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### REQUEST OVERVIEW:

The proposed development includes the creation of one new 1.15-acre parcel on the east side of the existing 3.1-acre parcel to accommodate a proposed new 9,827 square foot, standalone commercial building for Dollar Tree. The infill development is proposed to utilize existing vacant property on the site to accommodate the new development but continue to maintain the existing driveway and parking area near Madison Avenue and cross access to adjacent properties to the east.



---

**CSM REVIEW:**

The proposed Certified Survey Map (CSM) is planned to create two parcels from the existing 3.1-acre parcel that makes up the site today. Following the proposed land division, Lot 1 will be 1.9 acres (western parcel) and Lot 2 will be 1.15 acres (eastern parcel). No changes are proposed to Lot 1, but Lot 2 is planned to be sold to Dollar Tree and accommodate the proposed new development.

The Land Division and Development Code requires that the CSM be reviewed by the Plan Commission for consistency with all other ordinances, laws, rules, regulations, and plans. The CSM is needed because the new Lot 2 is planned to be sold to a different entity (Dollar Tree) as part of the proposed development. The Zoning Ordinance has minimum and maximum density, intensity, and bulk regulations for all properties in the City. As further described below, the proposed CSM creates two new parcels, and both meet the requirements of the UMU zoning district.

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**SITE PLAN REVIEW:**

The buildings and site layout are required to meet the minimum dimensional standards of the zoning district. The proposed development meets these requirements, as shown below.

Requirement	Size	Proposed Development
Minimum Lot Area	10,000 sf	49,919 sf
Minimum Lot Width	60 feet	167 feet
Minimum Lot Depth	120 feet	301 feet
Minimum Lot Frontage at ROW	30 feet	>100 feet
Minimum Front Setback	10 feet	86 feet
Minimum Street Side Setback (on corner lots)	10 feet	NA
Minimum Side Setback	10 feet	10 feet
Minimum Rear Setback	10 feet	91 feet
Maximum Principal Building Height	40 feet	23 feet
Minimum Principal Building Separation	10 feet	>10 feet
Minimum Pavement Setback (lot line to pavement, excludes driveway entrances)	5 feet (side and rear) 10 feet (street ROW)	5 feet (side) >5 feet (rear) 10 feet (street ROW)
Maximum Impervious Surface Ratio	80%	57%
Minimum Green Space	25%	43%
Maximum Building Coverage	50%	20%

The proposed use of the property is Indoor Sales or Service, which is a permitted by right principal land uses in the UMU Zoning District. The additional land uses requirements associated with this use include minimum/maximum off-street parking.

There are a total of 18 off-street surface parking spaces proposed. Additional parking will also be provided in the shared parking area between Lot 1 and Lot 2. The project's minimum required parking is 25 spaces and the maximum parking requirements are 31 spaces.

Section 15.06.06(17) of the City's Zoning Ordinance provides the opportunity for the Plan Commission to approve joint parking facilities for multiple uses. There are a total of 41 parking stalls that exist today on Lot 1, combined with the 18 proposed on Lot 2 as part of the proposed project. Together, the parking requirements are met.

The proposed project has submitted all required elements of the Site Plan review that are included within the attachment. Below is a review of the various other zoning standards that are required with the proposed development:

**Access and Visibility Standards (Section 15.06.03, 15.06.04, and 15.06.05)**

- Multiple access points from one street can be approved through the Site Plan process on lots greater than 200 feet long = met (1 existing to remain)
- No access is permitted within 50 feet of an intersection = met
- Maximum driveway size is 24 feet wide = N/A (existing to remain)
- At least one ped/bicycle access point to at least one street frontage is required = met
- All structures must be located outside of vision triangle at intersections = met

**Parking and Loading Standards (Section 15.06.06 and 15.06.07)**

- All drive isles, driveways, and parking areas must be constructed of a hard surface = met
- Curbs are required along parking areas and internal landscape islands = met
- All parking stalls must provide pavement markings = met
- Throat depth (distance between street access and traffic circulation area/parking area must be a minimum of 25 feet) = met
- Minimum parking stall dimensions are required to be 9 feet wide and 18 feet long = met
- Minimum parking isles widths are required to be 24 feet wide = met
- Minimum and maximum off-street parking stalls requirements = met (see above)
- A minimum of 4 on-site bicycle stalls is required = met

**Exterior Lighting Standards (Section 15.06.20)**

- At the property line, a maximum of 1.0 footcandle is required = met
- The average lighting on-site is required to be a maximum average of 3.0 footcandles = met
- The maximum height of all freestanding light fixtures required is 20 feet = met (20 feet)
- All exterior light fixtures are full cut-off and downward facing = met

#### **Outdoor Storage and Screening Standards (Section 15.06.21)**

- All trash containment structures are required to be enclosed, a minimum of 6 feet in height, and made of solid wood with an access gate = met
- All building mechanicals on the exterior of the building are required to be screened = **not met** (**rooftop mechanicals not screen per elevations**)
- Outdoor storage areas must be screened = met (no other outdoor storage areas are proposed)

#### **Landscaping Standards (Section 15.08.30)**

Point values are provided for each type of plant and the amount required in each portion of the site is listed within the Zoning Ordinance. This provides the developer with options in customizing the planting selection and location to best fit the project and site.

- 105 landscaping points are required for the street frontage = met (115 provided)
- 80 landscaping points are required for the paved surface areas = met (120 provided)
- 164 landscaping points are required for the building foundation = met (171 provided)
- 99 landscaping points are required for the yards = met (105 provided)

#### **Exterior Building Design Standards (Section 15.07.40) and Business Park Covenants**

There are defined exterior building design standards for different types of uses in the Zoning Code. This project is proposed to be a commercial land use in the UMU Zoning District. Additionally, the design standards classify the following materials by type: Class I (brick, stone, glass), II (block, EIFS, stucco), or III (siding, wood, decorative metal panels).

- Building orientation toward the road and appearance of front façade as front entryway = met
- Façade lengths shall not be greater than 70 feet without articulation = met
- Front and side facades shall be predominantly clad in Class I materials with Class II and III used as accents (less than 50%) = met

---

The proposed building is clad in wood lap siding, brick slate, decorative metal panels and trim, windows, stone sills, and glass doors. Each façade is broken up through the use of varying materials and the front façade utilizes a wide variety of materials to provide architectural interest.

#### **Post Construction Stormwater Management (Ordinance 18-190)**

This ordinance follows state law for all developments with greater than 1 acre of disturbance. The ordinance manages stormwater based upon sites characterized as new construction, redevelopment, or in-fill. The ordinance requires the development's stormwater leaving the site be controlled among three categories, volume (peak runoff), TSS (total suspended solids) and Infiltration. This particular project is classified as re-development, however the site being developed is in fact green space without any previous, impervious surfaces. To this end Dollar Tree was asked to meet, to the extent

practical the requirements of the new construction ordinance as the creek receiving this stormwater is at capacity. Dollar Tree has complied with this request.

- Development Category = Re-development
  - Reduce TSS load by 40% based on average annual rainfall = met
  - Infiltration = exempt
  - Control peak discharge to pre-development condition for the 2 YR 24 HR storm = met
- Stormwater BMP Maintenance Agreement = not met

**Construction Site Erosion Control Plan (Ordinance 18-189)**

This ordinance follows requires certain levels of control during construction to reduce the movement of sediment (dirt) off the construction site and into local waterways (Rock River, Bark River, Allen Creek).

- Best Management Practices (BMP) that reduce the sediment load of stormwater runoff by a minimum of 80% = met
- Written Erosion Control Plan = met
- Prevent tracking of sediment off-site by equipment = met
- Protect catch basins that take sediment laden stormwater into local rivers = met
- Prevent the discharge of sediment as part of site dewatering = met

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**PUBLIC NOTICE:**

No public notice is required for Site Plan review and action.

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**COMPREHENSIVE LAND USE PLAN (2019):**

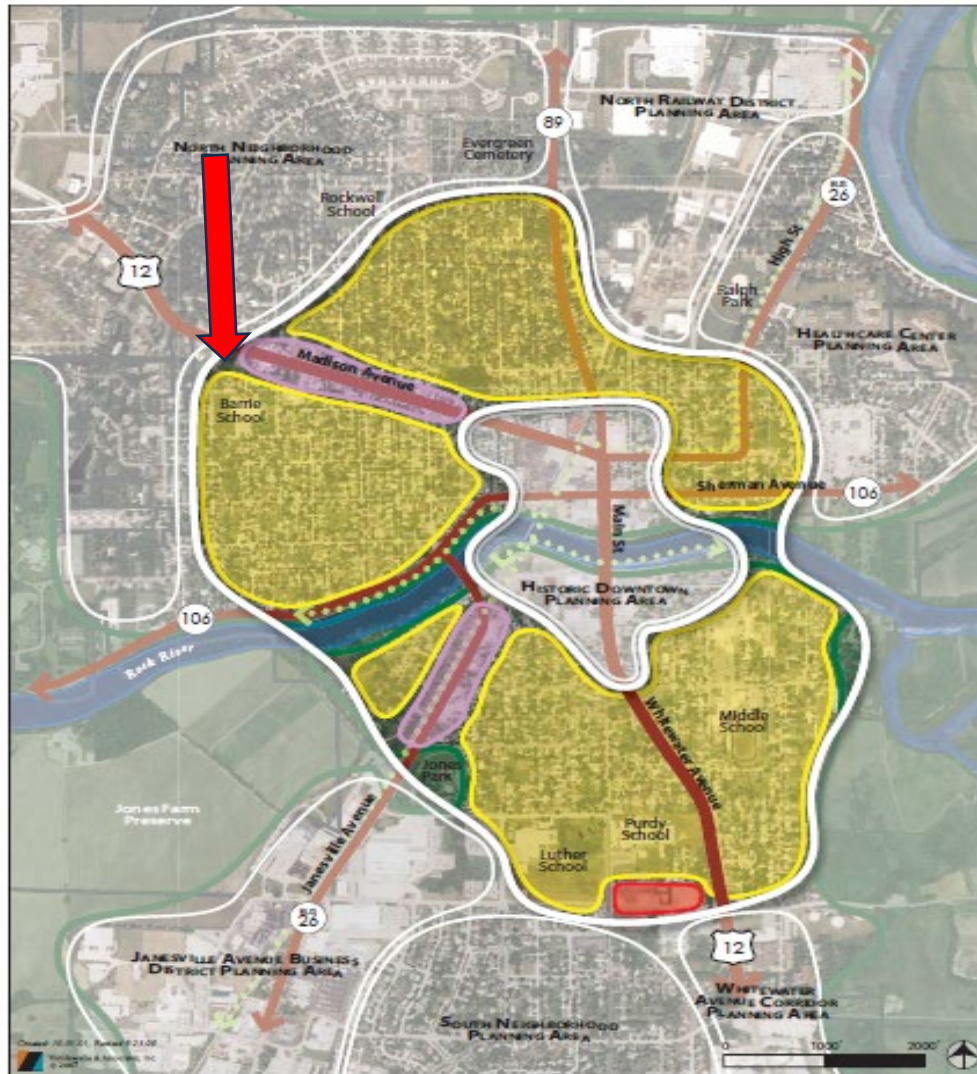
The subject parcel lies within the Central Neighborhoods Planning Area (see Attachments) and has been identified as Mixed-Use on the Plan. The opportunities indicated on the Plan include neighborhood retail revitalization along Madison Avenue.

The subject property is also shown as Neighborhood Commercial on the Future Land Use Map. This designation includes neighborhood supporting retail, service, and office uses that preserve and blend with surrounding neighborhood character through appropriate building scale, appearance, landscaping, and signage. Staff believes the proposal is in concert with the Comprehensive Plan.

## CENTRAL NEIGHBORHOODS PLANNING AREA

FIGURE: 2.16

CITY OF FORT ATKINSON  
FUTURES OPEN HOUSE



### DISCUSSION:

This type of infill development is consistent with adopted plans and the intended purpose of the UMU zoning district. The unused areas of this property have been vacant for many years and the proposed development works well within the confines of the existing property and neighborhood context to provide adequate buffering to the existing residential uses to the south. It also continues to utilize the existing driveway access point on Madison Avenue, existing underutilized parking areas in front of Blackhawk Fitness, and continues to provide access to adjacent properties and businesses to the east.

Overall, the proposed development is of high-quality design, meets the requirements of the City's ordinances, is in alignment with adopted City plans, and provides new tax base, jobs, and retail opportunities in the community. The City's Management Team has reviewed the application and all comments have been included within this document.

---

**RECOMMENDATION:**

City staff recommends approval of the CSM and Site Plan, subject to the following conditions:

- Site Plan approval is contingent upon Plan Commission and City Council approval of the CSM to create Lot 1 and 2.
- Require the applicant to provide and record cross access easements from Lot 1 to Lot 2 and from Lot 2 to the parcel directly to the east.
- Allow the minimum parking requirements to be met through a joint parking facility to serve both Lot 1 and 2.
- Require submittal of a stormwater maintenance plan for the proposed BMP
- If desired, require a full signage plan be submitted by the applicant.
- Any other recommendations of City staff and the Plan Commission.

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**ATTACHMENTS:****Submittal Documents**

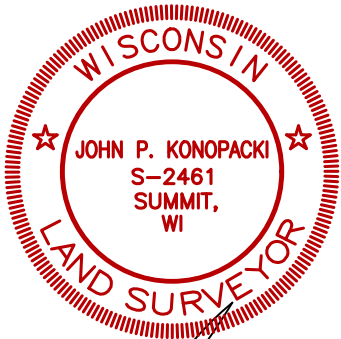
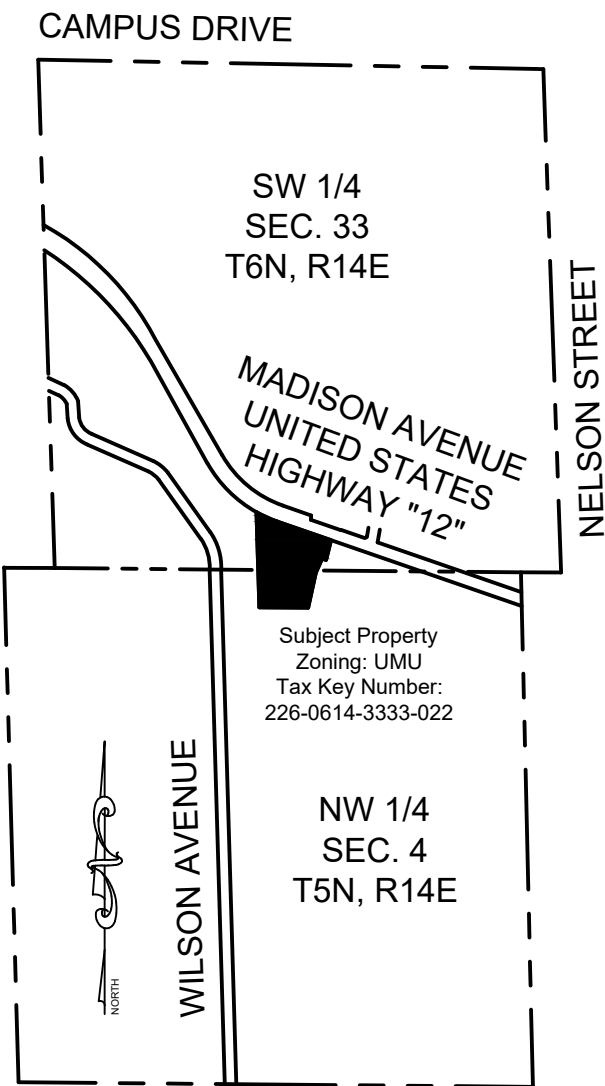
- CSM
- Site Plan Submittal
- Development Narrative
- Comprehensive Plan Future Land Use Map



# CERTIFIED SURVEY MAP NO. \_\_\_\_\_

Being all of Lot 2 of Certified Survey Map No. 989, being a part of the Southeast 1/4 and Southwest 1/4 of the Southwest 1/4 of Section 33, Township 6 North, Range 14 East and a part of the Northeast 1/4 and Northwest 1/4 of the Northwest 1/4 of Section 4, Township 5 North, Range 14 East, City of Fort Atkinson, Jefferson County, Wisconsin

## VICINITY MAP SCALE 1":1000'



OCTOBER 30, 2023

### NOTES:

- All measurements have been made to the nearest one-hundredth of a foot.
- All angular measurements have been made to the nearest one second.
- Coordinates referenced to the Wisconsin State Plane Coordinate System. Bearings referenced to the south line of the Southwest 1/4 of Section 33, Township 6 North, Range 14 East which has a bearing of S89°28'38"E.
- Flood Zone Classification: The property lies with in Zone "X" of the Flood Insurance Rate Map Community Panel No. 55055C03IIF with an effective date of FEBRUARY 4, 2015.



Prepared By:

**PINNACLE ENGINEERING GROUP**

20725 WATERTOWN ROAD | SUITE 100

BROOKFIELD, WI 53186

OFFICE: (262) 754-8888

Prepared for:

John & Christine Aufderhaar

1400 County Club Lane

Watertown, WI 53098

This instrument drafted by John P. Konopacki, PLS-License No. S-2461

DRAFTED BY:ST

PEG JOB#5130.00

SHEET 1 OF 6

CERTIFIED SURVEY MAP NO. \_\_\_\_\_

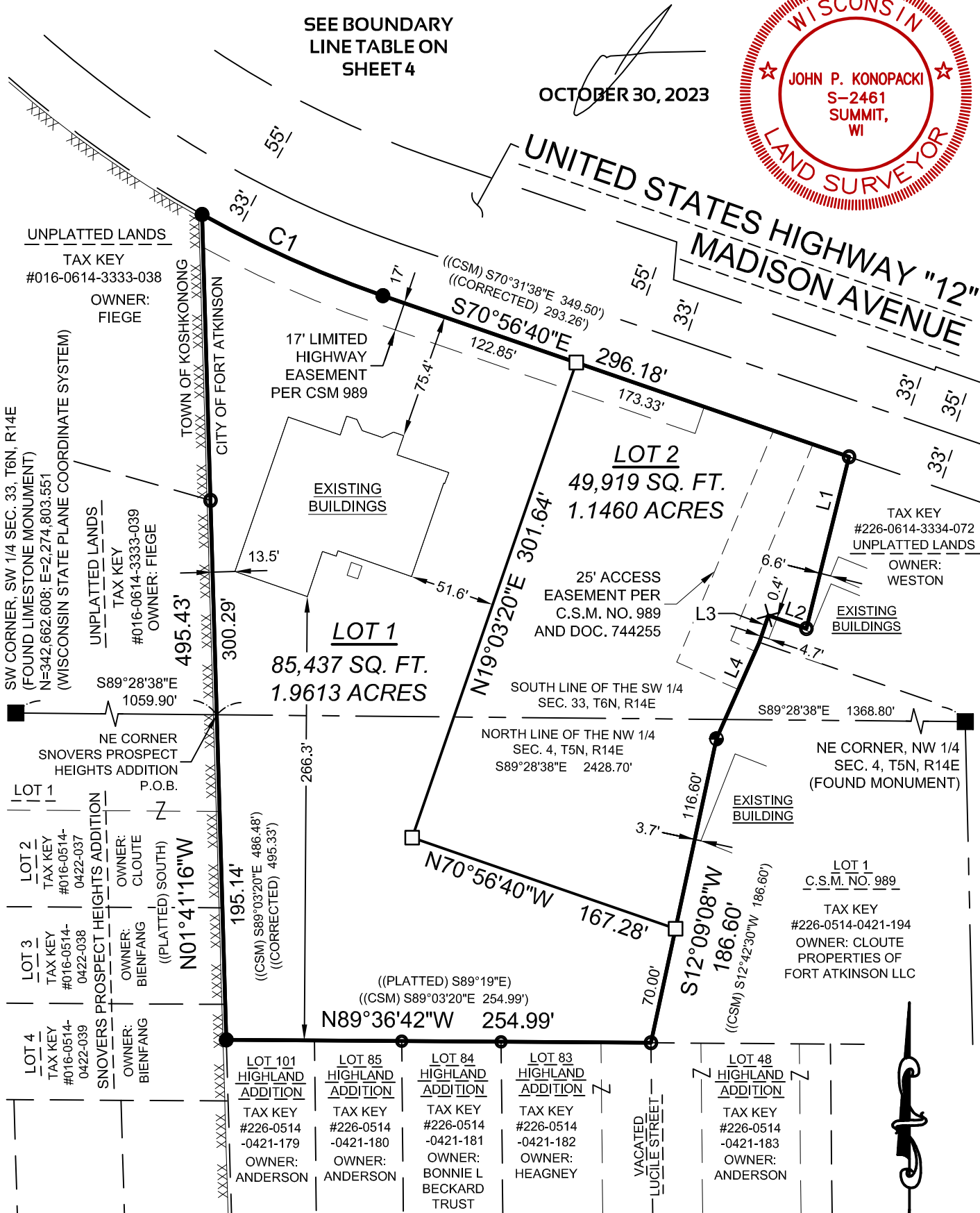
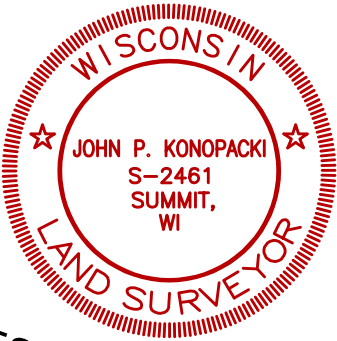
LEGEND:

- - Denotes Found 1" Iron Pipe
- - Denotes Found 3/4" Iron Rebar
- ⊙ - Denotes Found Mag Nail
- ⊗ - Denotes Found Chiseled Cross
- - Denotes Set 3/4" X 18" Iron Rebar, 1.5 LBS./FT.
- (R) - Denotes "Recorded As"
- XXXX - Municipal Boundary

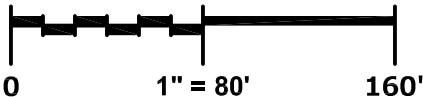
Being all of Lot 2 of Certified Survey Map No. 989, being a part of the Southeast 1/4 and Southwest 1/4 of the Southwest 1/4 of Section 33, Township 6 North, Range 14 East and a part of the Northeast 1/4 and Northwest 1/4 of the Northwest 1/4 of Section 4, Township 5 North, Range 14 East, City of Fort Atkinson, Jefferson County, Wisconsin

SEE BOUNDARY  
LINE TABLE ON  
SHEET 4

OCTOBER 30, 2023



GRAPHICAL SCALE (FEET)



Prepared By:

**PINNACLE ENGINEERING GROUP**  
20725 WATERTOWN ROAD | SUITE 100  
BROOKFIELD, WI 53186  
OFFICE: (262) 754-8888

This instrument drafted by John P. Konopacki, PLS-License No. S-2461

PEG JOB#5130.00  
SHEET 2 OF 6

CERTIFIED SURVEY MAP NO. \_\_\_\_\_

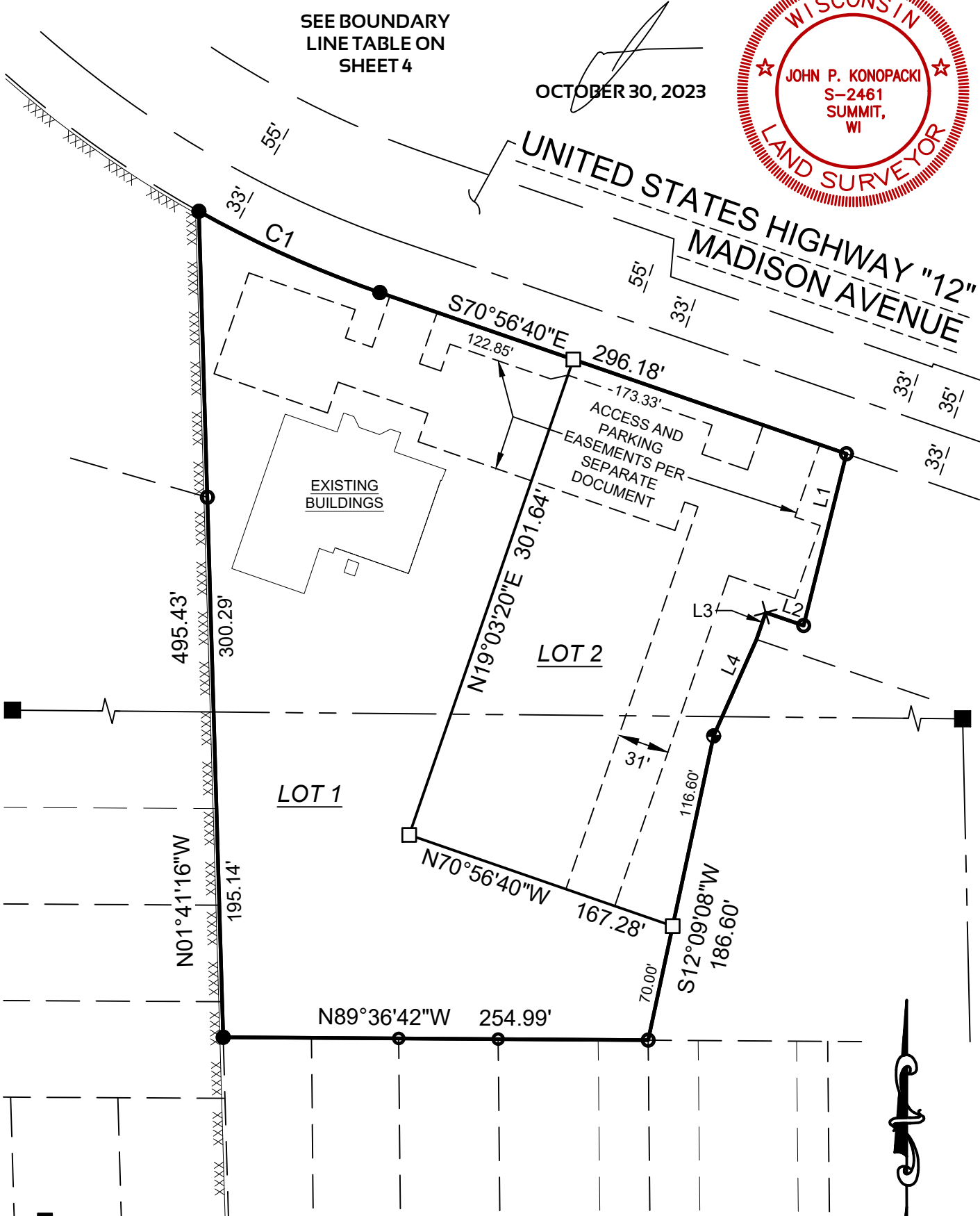
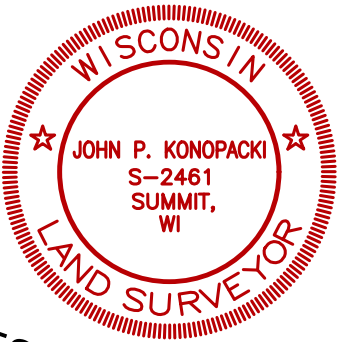
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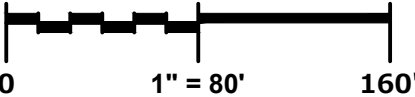
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SEE BOUNDARY  
LINE TABLE ON  
SHEET 4

OCTOBER 30, 2023



GRAPHICAL SCALE (FEET)



Prepared By:

**PINNACLE ENGINEERING GROUP**

20725 WATERTOWN ROAD | SUITE 100

BROOKFIELD, WI 53186

OFFICE: (262) 754-8888

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PEG JOB#5130.00

SHEET 2 OF 5

CERTIFIED SURVEY MAP NO. \_\_\_\_\_

Being all of Lot 2 of Certified Survey Map No. 989, being a part of the Southeast 1/4 and Southwest 1/4 of the Southwest 1/4 of Section 33, Township 6 North, Range 14 East and a part of the Northeast 1/4 and Northwest 1/4 of the Northwest 1/4 of Section 4, Township 5 North, Range 14 East, City of Fort Atkinson, Jefferson County, Wisconsin

SURVEYOR'S CERTIFICATE

STATE OF WISCONSIN)  
WAUKESHA COUNTY) SS

I, John P. Konopacki, Professional Land Surveyor, do hereby certify:

That I have surveyed, divided and mapped all of Lot 2 of Certified Survey Map No. 989, as recorded in the Register of Deeds office for Jefferson County as Document No. 743281 and Affidavit recorded as Document No. 746488, being a part of the Southeast 1/4 and Southwest 1/4 of the Southwest 1/4 of Section 33, Township 6 North, Range 14 East and a part of the Northeast 1/4 and Northwest 1/4 of the Northwest 1/4 of Section 4, Township 5 North, Range 14 East, City of Fort Atkinson, Jefferson County, Wisconsin, described as follows:

Commencing at the southwest corner of the Southwest 1/4 of said Section 33; thence South 89°28'38" East along the south line of said Southwest 1/4, 1059.90 feet to the northeast corner of Snovers Prospect Heights Addition, a recorded subdivision, and the Point of Beginning;

Thence North 01°41'16" West along the monumented west line of Certified Survey Map No. 989, a distance of 300.29 feet to the south right of way line of Madison Avenue - United States Highway "12" and a point on a curve;  
Thence southeasterly 119.14 feet along said curve and said south right of way line, whose radius is 669.60 feet and whose chord bears South 65°50'50" East, 118.98 feet;  
Thence South 70°56'40" East along said south right of way line, 296.18 feet;  
Thence South 14°01'29" West along the monumented east line of said Certified Survey Map, 106.14 feet;  
Thence North 71°05'00" West along said east line, 24.00 feet;  
Thence South 18°55'00" West along said east line, 17.00 feet to the northwest corner of Lot 1 of Certified Survey Map No. 989;  
Thence South 23°58'04" West along the west line of said Lot 1, 63.32 feet;  
Thence South 12°09'08" West along said west line, 186.60 feet to the monumented north line of Highland Addition, a recorded subdivision;  
Thence North 89°36'42" West along said north line, 254.99 feet to the east line of the aforesaid Snovers Prospect Heights Addition;  
Thence North 01°41'16" West along said east line, 195.14 feet to the Point of Beginning.

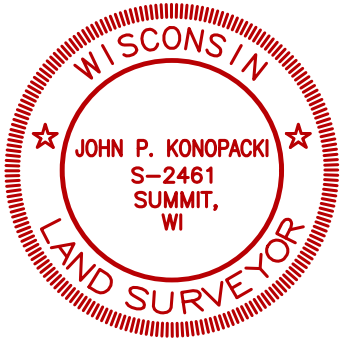
Containing 135,356 square feet (3.1073 acres) of land, more or less.


That I have made such survey, land division and map by the direction of John Aufderhaar and Christine Aufderhaar, owners of said land.

That such map is a correct representation of all the exterior boundaries of the land surveyed and the land division thereof made.

That I have fully complied with the requirements of Chapter 236 of the Wisconsin State Statutes and the City of Fort Atkinson Land Division Ordinance in surveying, mapping and dividing the land within the certified survey map.

Date: October 30, 2023



  
John P. Konopacki  
Professional Land Surveyor S-2461

CURVE TABLE				
CURVE NO.	LENGTH	RADIUS	CHORD BEARING	CHORD LENGTH
C1	119.14'	669.60'	S65°50'50"E	118.98'
(CSM)	(N/A)		(S67°50'20"E)	(62.81')
(CORRECTED)	(N/A)		(S65°16'25"E)	(122.62')

LINE TABLE		
LINE NO.	BEARING	DISTANCE
L1	S14°01'29"W	106.14'
(RECORDED)	(S14°34'51"W)	(106.14')
L2	N71°05'00"W	24.00'
(RECORDED)	(N70°31'38"W)	(24.00')
L3	S18°55'00"W	17.00'
(RECORDED)	(S19°28'22"W)	(17.00')
L4	S23°58'04"W	63.32'
(RECORDED)	(S24°31'26"W)	(63.32')

**CERTIFIED SURVEY MAP NO. \_\_\_\_\_**

Being all of Lot 2 of Certified Survey Map No. 989, being a part of the Southeast 1/4 and Southwest 1/4 of the Southwest 1/4 of Section 33, Township 6 North, Range 14 East and a part of the Northeast 1/4 and Northwest 1/4 of the Northwest 1/4 of Section 4, Township 5 North, Range 14 East, City of Fort Atkinson, Jefferson County, Wisconsin

## OWNER'S CERTIFICATE

John Aufderhaar and Christine Aufderhaar, as owners, hereby certify that we caused the land described on this map to be surveyed, divided and mapped as represented on this map in accordance with the requirements of the City of Fort Atkinson.

John Aufderhaar and Christine Aufderhaar, as owners, do further certify that this certified survey map is required by Chapter 236 of the Wisconsin State Statutes to be submitted to the following for approval:

1. City of Fort Atkinson

Date \_\_\_\_\_

---

John Aufderhaar

Date \_\_\_\_\_

---

Christine Aufderhaar

STATE OF WISCONSIN)  
\_\_\_\_\_ COUNTY ) SS

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023, John Aufderhaar and Christine Aufderhaar, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

Notary Public  
Name: \_\_\_\_\_  
State of Wisconsin  
My Commission Expires: \_\_\_\_\_

## CONSENT OF CORPORATE MORTGAGEE

\_\_\_\_\_, a corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin, mortgagee of the above described land, does hereby consent to the surveying, dividing and mapping of the land described in the forgoing affidavit of John P. Konopacki, surveyor, and does hereby consent to the above certification of owners.

IN WITNESS WHEREOF, the said \_\_\_\_\_, has caused these presents to be signed by \_\_\_\_\_, its \_\_\_\_\_, and its corporate seal to be hereunto affixed this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Date \_\_\_\_\_

Name - Title

STATE OF WISCONSIN)  
\_\_\_\_\_ COUNTY) SS

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023,  
\_\_\_\_\_, to me known to be the person who executed the  
foregoing instrument and to me known to be such officer of said corporation and  
acknowledged the same.

Notary Public  
Name: \_\_\_\_\_  
State of Wisconsin  
My Commission Expires: \_\_\_\_\_



~~OCTOBER 30, 2023~~

Prepared By:

**PINNACLE ENGINEERING GROUP**

20725 WATERTOWN ROAD | SUITE 100

BROOKFIELD, WI 53186

OFFICE: (262) 754-8888

This instrument drafted by John P. Konopacki, PLS-License No. S-2461

PEG JOB#5130.00

**SHEET 5 OF 6**

CERTIFIED SURVEY MAP NO. \_\_\_\_\_

Being all of Lot 2 of Certified Survey Map No. 989, being a part of the Southeast 1/4 and Southwest 1/4 of the Southwest 1/4 of Section 33, Township 6 North, Range 14 East and a part of the Northeast 1/4 and Northwest 1/4 of the Northwest 1/4 of Section 4, Township 5 North, Range 14 East, City of Fort Atkinson, Jefferson County, Wisconsin

PLAN COMMISSION APPROVAL

Approved by the Plan Commission of the City of Atkinson on this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Date

\_\_\_\_\_  
Secretary or Clerk

COMMON COUNCIL APPROVAL

Approved by the Common Council of the City of Fort Atkinson, Wisconsin, on this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Date

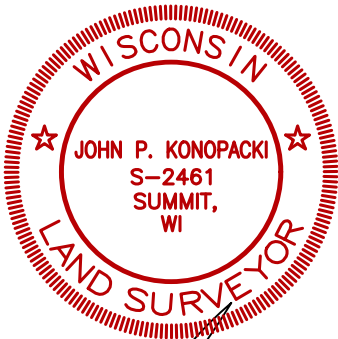
\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

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

OFFICE OF THE REGISTER OF DEEDS JEFFERSON COUNTY, WISCONSIN  
RECEIVED FOR REORDERING ON \_\_\_\_\_, 20\_\_ AT \_\_\_\_\_  
AND RECORDED AS MAP NO. \_\_\_\_\_  
DOCUMENT NO. \_\_\_\_\_  
VOLUME \_\_\_\_\_ PAGE \_\_\_\_\_

\_\_\_\_\_  
REGISTER OF DEEDS



OCTOBER 30, 2023



City of Fort Atkinson  
City Manager's Office  
101 N. Main Street  
Fort Atkinson, WI 53538

## City of Fort Atkinson Certified Survey Map Application

This form is designed to be used by the Applicant as a guide to submitting a complete application for review of a Certified Survey Map by the City to process the application.

APPLICANT Name, company, and client (if applicable): GB Real Estate Investments, LLC

Phone number: (813) 500-0296 Email: GB@gb-re.com

OWNER Name, company, and client (if applicable): John & Christine Aufderhaar

Phone number: (920) 285-2138 Email: johnaufderhaar73@gmail.com

Postal address for proposed CSM: \_\_\_\_\_  
1111 Madison Ave Fort Atkinson, WI 53538

Parcel Identification Numbers Involved: 55055C0311F

Brief description of proposed division or combination and purpose: \_\_\_\_\_  
A 1.146 AC section of the parcel is being sectioned off for the proposed development.

### I Application Packet Requirements

The Applicant shall submit one electronic copy of the application.

- ☒ A map of the subject property to scale depicting:
  - ☒ All lands and boundaries for the parcel(s)
  - ☒ Current zoning of the subject property and its environs, and the jurisdiction(s) which maintains that control.
  - ☒ All lot dimensions of the subject property.
  - ☒ A graphic scale and a north arrow.
- ☒ Legal Description
- ☒ All easements, setbacks or land restrictions on the parcel(s)





City of Fort Atkinson  
City Manager's Office  
101 N. Main Street  
Fort Atkinson, WI 53538

## II Process Checklist

- |  |             |
|--|-------------|
| <input type="checkbox"/> Application fee of \$100 plus \$10 per additional lot received by City Treasurer<br>(Maximum \$500) | Date: _____ |
| <input type="checkbox"/> Receipt of complete application packet by Zoning Administrator                                      | Date: _____ |
| <input type="checkbox"/> City Staff Review   | Date: _____ |
| <input type="checkbox"/> Plan Commission Public Hearing, review and recommendation   | Date: _____ |
| <input type="checkbox"/> City Council review and action  | Date: _____ |

Dated this 10<sup>th</sup> day of October, 20 23

Respectfully submitted,

\_\_\_\_\_  
(Signature of Applicant)

GB Real Estate Investments, LLC  
Licensed Wisconsin Brokerage  
Garritt R. Bader  
300 N. Van Buren Street, Green Bay, WI 54301  
Phone: (813) 500-0296 • E-Mail: gb@gb-re.com  
www.gb-re.com

---

October 10, 2023

Mr. Jedidiah Draeger  
Building Inspector & Zoning Administrator  
City of Fort Atkinson  
101 N. Main Street  
Fort Atkinson, WI 53538

**Re: Site Plan & Certified Survey Map Submittals  
Proposed Dollar Tree, 1100 block of Madison Avenue**

Mr. Draeger:

It is our pleasure to submit the accompanying site plan and CSM applications for our planned Dollar Tree development on Madison Avenue. We have enjoyed working with you and your team to present, what we believe, is a favorable addition to the City of Fort Atkinson.

The site plan, engineered by Pinnacle Engineering, lays out a new building of nearly 10,000 square feet on a parcel to be subdivided from the existing property at 1111 Madison Avenue. Parking fields will connect and be accessible to customers of both properties through a cross-access and cross-parking easement agreement. Existing driveways to Madison Avenue will be used and unaltered. Landscaping and stormwater will be provided as required by code and detailed herein.

The building itself will have façade treatments that include storefront glazing, masonry, maintenance-free “wood” (which doesn’t weather), and horizontal decorative panel. We believe this presents a classy modern building and will be viewed favorably. Please see the accompanying memorandum with details on other projects we’ve completed using these materials. (We’ll also have samples for officials to view in-person at Plan Commission).

Based on our previous conversations with city staff, we are of the understanding that our proposed use complies with the parcel’s existing zoning and future land use, and thus no zoning or land use changes are being requested.

GB Real Estate Investments, LLC  
Licensed Wisconsin Brokerage  
Garritt R. Bader  
300 N. Van Buren Street, Green Bay, WI 54301  
Phone: (813) 500-0296 • E-Mail: gb@gb-re.com  
www.gb-re.com

---

Every Dollar Tree store, including this one, is corporately operated by Dollar Tree Stores, Inc., a discount retailer based in Chesapeake, VA. The company operates over 15,000 stores throughout North America, each of which employs 10-15 associates who serve hundreds of customers each day.

As discussed in previous conversations, we are hopeful that our application is complete enough so that our project can be presented at the Plan Commission meeting on Tuesday, Nov. 14, 2023, followed by city council on Tuesday, Nov. 21, 2023. Given impending winter weather, we are greatly appreciative of any chance to start construction as early as possible.

Sincerely,



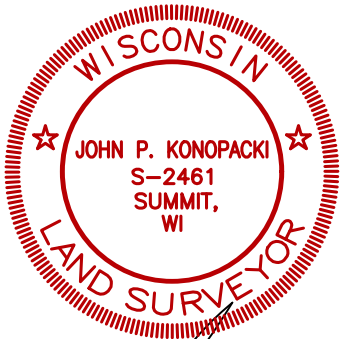
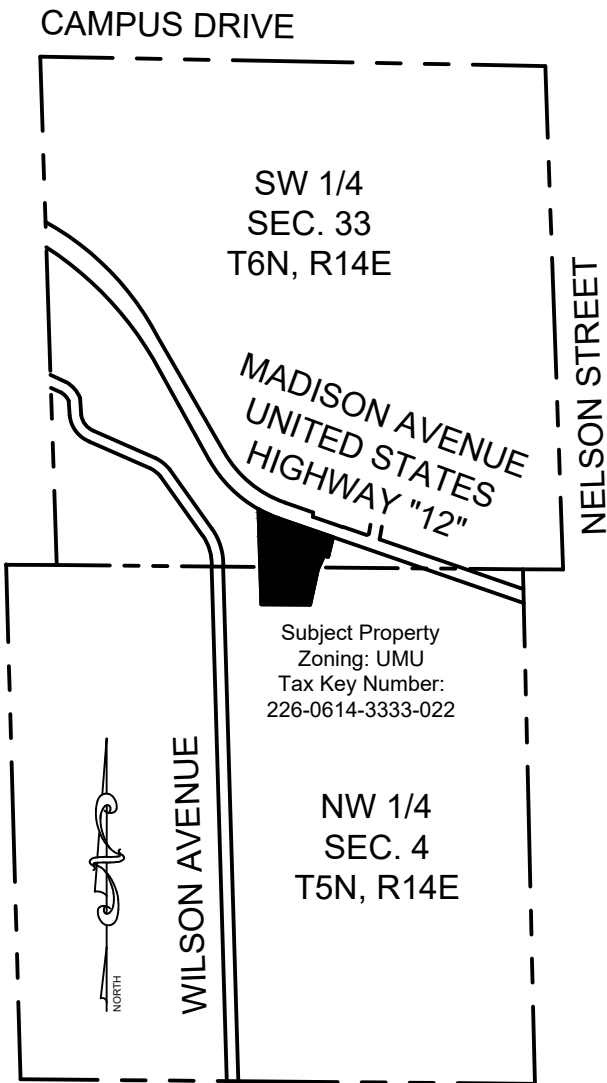
Garritt R. Bader

Principal, GB Real Estate Investments, LLC

CERTIFIED SURVEY  
MAP NO. \_\_\_\_\_

Being all of Lot 2 of Certified Survey Map No. 989, being a part of the Southeast 1/4 and Southwest 1/4 of the Southwest 1/4 of Section 33, Township 6 North, Range 14 East and a part of the Northeast 1/4 and Northwest 1/4 of the Northwest 1/4 of Section 4, Township 5 North, Range 14 East, City of Fort Atkinson, Jefferson County, Wisconsin

VICINITY MAP  
SCALE 1":1000'



OCTOBER 9, 2023

NOTES:

- All measurements have been made to the nearest one-hundredth of a foot.
- All angular measurements have been made to the nearest one second.
- Coordinates referenced to the Wisconsin State Plane Coordinate System. Bearings referenced to the south line of the Southwest 1/4 of Section 33, Township 6 North, Range 14 East which has a bearing of S89°28'38"E.
- 25' Access Easement for the benefit of Lot 1 of Certified Survey Map No. 989 and Document No. 744255 to be amended by separate document.
- Flood Zone Classification: The property lies with in Zone "X" of the Flood Insurance Rate Map Community Panel No. 55055C031IF with an effective date of FEBRUARY 4, 2015 .



Prepared By:

**PINNACLE ENGINEERING GROUP**

20725 WATERTOWN ROAD | SUITE 100  
BROOKFIELD, WI 53186  
OFFICE: (262) 754-8888

Prepared for:

John & Christine Aufderhaar  
1400 County Club Lane  
Watertown, WI 53098

This instrument drafted by John P. Konopacki, PLS-License No. S-2461

DRAFTED BY:ST  
PEG JOB#5130.00  
SHEET 1 OF 5

CERTIFIED SURVEY MAP NO.

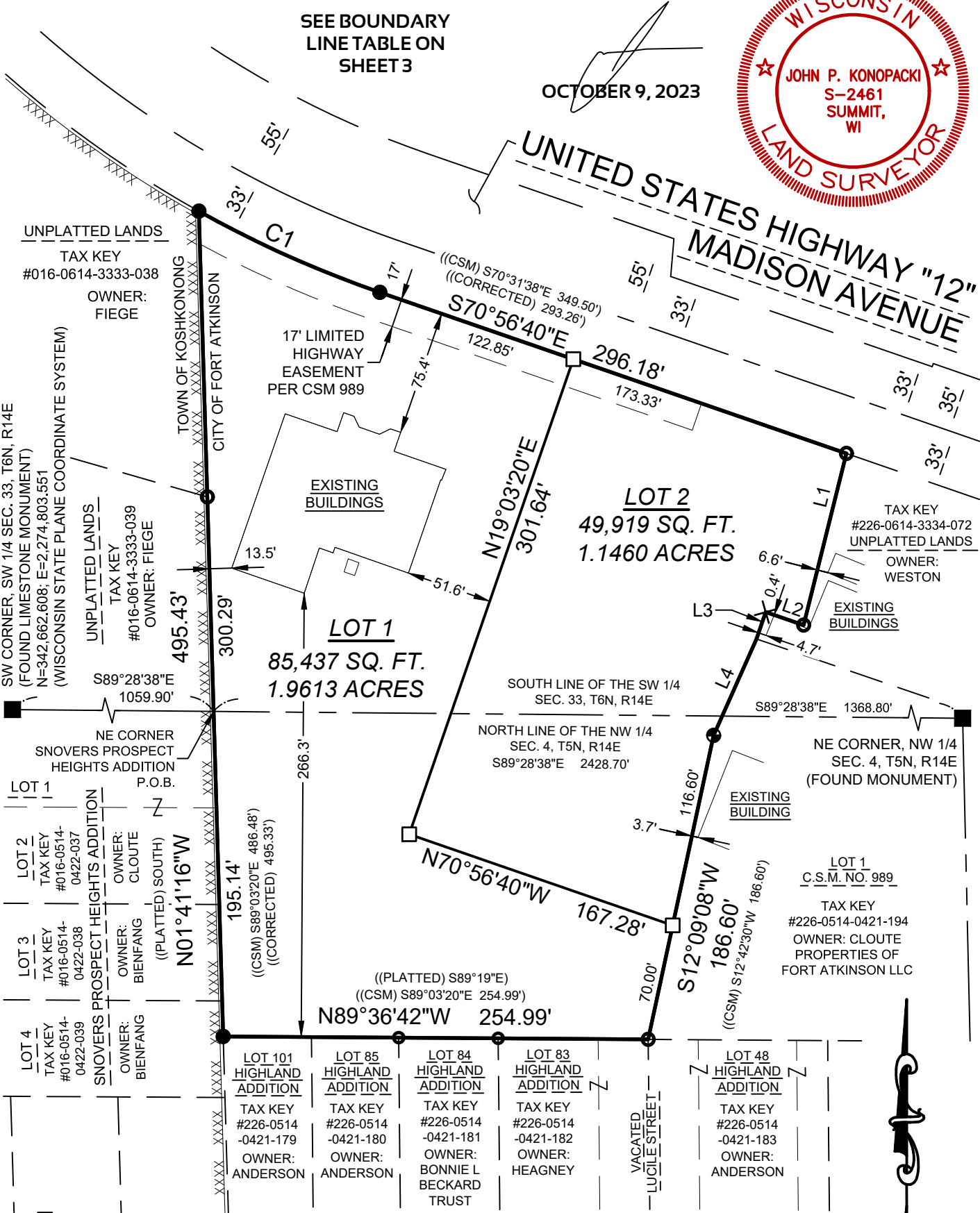
LEGEND:

- Denotes Found 1" Iron Pipe
- Denotes Found 3/4" Iron Rebar
- Denotes Found Mag Nail
- Denotes Found Chiseled Cross
- Denotes Set 3/4" X 18" Iron Rebar, 1.5 LBS./FT.
- Denotes "Recorded As"
- Municipal Boundary

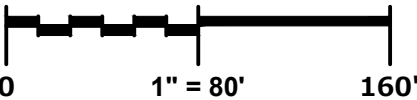
Being all of Lot 2 of Certified Survey Map No. 989, being a part of the Southeast 1/4 and Southwest 1/4 of the Southwest 1/4 of Section 33, Township 6 North, Range 14 East and a part of the Northeast 1/4 and Northwest 1/4 of the Northwest 1/4 of Section 4, Township 5 North, Range 14 East, City of Fort Atkinson, Jefferson County, Wisconsin

SEE BOUNDARY  
LINE TABLE ON  
SHEET 3

OCTOBER 9, 2023



GRAPHICAL SCALE (FEET)



Prepared By:

**PINNACLE ENGINEERING GROUP**  
20725 WATERTOWN ROAD | SUITE 100  
BROOKFIELD, WI 53186  
OFFICE: (262) 754-8888

This instrument drafted by John P. Konopacki, PLS-License No. S-2461

PEG JOB#5130.00  
SHEET 2 OF 5

CERTIFIED SURVEY MAP NO. \_\_\_\_\_

Being all of Lot 2 of Certified Survey Map No. 989, being a part of the Southeast 1/4 and Southwest 1/4 of the Southwest 1/4 of Section 33, Township 6 North, Range 14 East and a part of the Northeast 1/4 and Northwest 1/4 of the Northwest 1/4 of Section 4, Township 5 North, Range 14 East, City of Fort Atkinson, Jefferson County, Wisconsin

SURVEYOR'S CERTIFICATE

STATE OF WISCONSIN)  
WAUKESHA COUNTY) SS

I, John P. Konopacki, Professional Land Surveyor, do hereby certify:

That I have surveyed, divided and mapped all of Lot 2 of Certified Survey Map No. 989, as recorded in the Register of Deeds office for Jefferson County as Document No. 743281 and Affidavit recorded as Document No. 746488, being a part of the Southeast 1/4 and Southwest 1/4 of the Southwest 1/4 of Section 33, Township 6 North, Range 14 East and a part of the Northeast 1/4 and Northwest 1/4 of the Northwest 1/4 of Section 4, Township 5 North, Range 14 East, City of Fort Atkinson, Jefferson County, Wisconsin, described as follows:

Commencing at the southwest corner of the Southwest 1/4 of said Section 33; thence South 89°28'38" East along the south line of said Southwest 1/4, 1059.90 feet to the northeast corner of Snovers Prospect Heights Addition, a recorded subdivision, and the Point of Beginning;

Thence North 01°41'16" West along the monumented west line of Certified Survey Map No. 989, a distance of 300.29 feet to the south right of way line of Madison Avenue - United States Highway "12" and a point on a curve;  
Thence southeasterly 119.14 feet along said curve and said south right of way line, whose radius is 669.60 feet and whose chord bears South 65°50'50" East, 118.98 feet;  
Thence South 70°56'40" East along said south right of way line, 296.18 feet;  
Thence South 14°01'29" West along the monumented east line of said Certified Survey Map, 106.14 feet;  
Thence North 71°05'00" West along said east line, 24.00 feet;  
Thence South 18°55'00" West along said east line, 17.00 feet to the northwest corner of Lot 1 of Certified Survey Map No. 989;  
Thence South 23°58'04" West along the west line of said Lot 1, 63.32 feet;  
Thence South 12°09'08" West along said west line, 186.60 feet to the monumented north line of Highland Addition, a recorded subdivision;  
Thence North 89°36'42" West along said north line, 254.99 feet to the east line of the aforesaid Snovers Prospect Heights Addition;  
Thence North 01°41'16" West along said east line, 195.14 feet to the Point of Beginning.

Containing 135,356 square feet (3.1073 acres) of land, more or less.

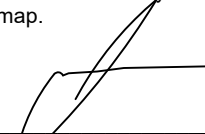
That I have made such survey, land division and map by the direction of John Aufderhaar and Christine Aufderhaar, owners of said land.

That such map is a correct representation of all the exterior boundaries of the land surveyed and the land division thereof made.

That I have fully complied with the requirements of Chapter 236 of the Wisconsin State Statutes and the City of Fort Atkinson Land Division Ordinance in surveying, mapping and dividing the land within the certified survey map.

Date: October 09, 2023



  
John P. Konopacki  
Professional Land Surveyor S-2461

CURVE TABLE				
CURVE NO.	LENGTH	RADIUS	CHORD BEARING	CHORD LENGTH
C1	119.14'	669.60'	S65°50'50"E	118.98'
(CSM)	(N/A)		(S67°50'20"E)	(62.81')
(CORRECTED)	(N/A)		(S65°16'25"E)	(122.62')

LINE TABLE		
LINE NO.	BEARING	DISTANCE
L1	S14°01'29"W	106.14'
(RECORDED)	(S14°34'51"W)	(106.14')
L2	N71°05'00"W	24.00'
(RECORDED)	(N70°31'38"W)	(24.00')
L3	S18°55'00"W	17.00'
(RECORDED)	(S19°28'22"W)	(17.00')
L4	S23°58'04"W	63.32'
(RECORDED)	(S24°31'26"W)	(63.32')

**CERTIFIED SURVEY MAP NO. \_\_\_\_\_**

Being all of Lot 2 of Certified Survey Map No. 989, being a part of the Southeast 1/4 and Southwest 1/4 of the Southwest 1/4 of Section 33, Township 6 North, Range 14 East and a part of the Northeast 1/4 and Northwest 1/4 of the Northwest 1/4 of Section 4, Township 5 North, Range 14 East, City of Fort Atkinson, Jefferson County, Wisconsin

## OWNER'S CERTIFICATE

John Aufderhaar and Christine Aufderhaar, as owners, hereby certify that we caused the land described on this map to be surveyed, divided and mapped as represented on this map in accordance with the requirements of the City of Fort Atkinson.

John Aufderhaar and Christine Aufderhaar, as owners, do further certify that this certified survey map is required by Chapter 236 of the Wisconsin State Statutes to be submitted to the following for approval:

1. City of Fort Atkinson

Date \_\_\_\_\_

---

John Aufderhaar

Date \_\_\_\_\_

---

Christine Aufderhaar

STATE OF WISCONSIN)  
\_\_\_\_\_ COUNTY ) SS

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023, John Aufderhaar and Christine Aufderhaar, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

Notary Public  
Name: \_\_\_\_\_  
State of Wisconsin  
My Commission Expires: \_\_\_\_\_

## CONSENT OF CORPORATE MORTGAGEE

\_\_\_\_\_, a corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin, mortgagee of the above described land, does hereby consent to the surveying, dividing and mapping of the land described in the forgoing affidavit of John P. Konopacki, surveyor, and does hereby consent to the above certification of owners.

IN WITNESS WHEREOF, the said \_\_\_\_\_, has caused these presents to be signed by \_\_\_\_\_, its \_\_\_\_\_, and its corporate seal to be hereunto affixed this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Date \_\_\_\_\_

Name - Title

STATE OF WISCONSIN)  
\_\_\_\_\_ COUNTY) SS

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023,  
\_\_\_\_\_, to me known to be the person who executed the  
foregoing instrument and to me known to be such officer of said corporation and  
acknowledged the same.

Notary Public  
Name: \_\_\_\_\_  
State of Wisconsin  
My Commission Expires: \_\_\_\_\_



~~OCTOBER 9, 2023~~

Prepared By:

**PINNACLE ENGINEERING GROUP**

20725 WATERTOWN ROAD | SUITE 100

BROOKFIELD, WI 53186

OFFICE: (262) 754-8888

This instrument drafted by John P. Konopacki, PLS-License No. S-2461

PEG JOB#5130.00

**SHEET 4 OF 5**



CERTIFIED SURVEY MAP NO. \_\_\_\_\_

Being all of Lot 2 of Certified Survey Map No. 989, being a part of the Southeast 1/4 and Southwest 1/4 of the Southwest 1/4 of Section 33, Township 6 North, Range 14 East and a part of the Northeast 1/4 and Northwest 1/4 of the Northwest 1/4 of Section 4, Township 5 North, Range 14 East, City of Fort Atkinson, Jefferson County, Wisconsin

PLAN COMMISSION APPROVAL

Approved by the Plan Commission of the City of Atkinson on this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Date

\_\_\_\_\_  
Secretary or Clerk

COMMON COUNCIL APPROVAL

Approved by the Common Council of the City of Fort Atkinson, Wisconsin, on this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Date

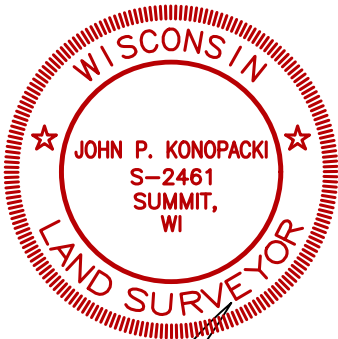
\_\_\_\_\_  
Mayor


\_\_\_\_\_  
Date

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

OFFICE OF THE REGISTER OF DEEDS JEFFERSON COUNTY, WISCONSIN  
RECEIVED FOR REORDERING ON \_\_\_\_\_, 20\_\_ AT \_\_\_\_\_  
AND RECORDED AS MAP NO. \_\_\_\_\_  
DOCUMENT NO. \_\_\_\_\_  
VOLUME \_\_\_\_\_ PAGE \_\_\_\_\_

\_\_\_\_\_  
REGISTER OF DEEDS



  
OCTOBER 9, 2023