



OFFICIAL NOTICE AND AGENDA

of a meeting of a City Board, Commission, Department, Committee, Agency, Corporation, Quasi-Municipal Corporation, or Sub-unit thereof.

Meeting: CAPITAL IMPROVEMENTS AND STREET MAINTENANCE COMMITTEE

Members: Gary Gisselman (C), Sherry Abitz, Karen Kellbach, Lisa Rasmussen, Rebecca McElhaney.

Location: Council Chambers, City Hall, 407 Grant Street.

Date/Time: Thursday, January 12, 2017, at 5:30 p.m.

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1. Public Comment for matters not appearing on the agenda. (Comments relating to an agenda item will be allowed when the specific item is considered.)
 2. CONSENT AGENDA (Any item can be removed from the Consent Agenda at the request of a Committee member.)
 - A. Approve minutes of the December 8, 2016 meeting.
 - B. Action on Stormwater Maintenance Agreement for WTH 9 LLC at 6701-6705 Stewart Avenue.
 3. PUBLIC HEARING: Discussion and possible action on amending the Official City Map for the realignment of Curling Way at Townline Road.
 4. Discussion and possible action to prohibit parking on North River Drive from 250 feet north of Fulton Street to 300 feet north of Bridge Street.
 5. Discussion and possible action on preliminary resolution to approve a public hearing for the Thomas Street Project.
 6. Discussion and possible action on a draft License Agreement with Mobilitie for utilization of Public Rights of Way.
 7. Future agenda items for consideration.
- Adjourn.

The next regular meeting is scheduled for February 9, 2017.

GARY GISSELMAN, Chairperson

THIS NOTICE POSTED AT CITY HALL AND FAXED TO CITY PAGES AND DAILY HERALD: January 5, 2017 at 11:30 a.m.

It is possible that members of and possibly a quorum of members of other committees of the Common Council may be in attendance at this meeting to gather information. No action will be taken by any such groups at this meeting other than the committee specifically referred to in this notice.

Upon reasonable notice, effort will be made to accommodate the needs of disabled individuals through appropriate aids and services. For information or to request this service, contact the City Clerk at (715) 261-6620.

Agenda distribution: Committee members, Council members, Assessor, Attorney, Clerk, Community Development, Engineering, Finance, Inspections, Mayor, Parks, Planning, Public Works, County Planning, Police Department, Daily Herald, City Pages, Wausau School District, Wausau Area Events, Becher-Hoppe Associates, AECOM, Mi-Tech, REI, Glenn Speich, Judy Bayba, Scholfield Group, Evergreen Civil Engineering, Clark Dietz, Inc.

CAPITAL IMPROVEMENTS AND STREET MAINTENANCE COMMITTEE

Date of Meeting: December 8, 2016, at 5:30 p.m. in the Council Chambers of City Hall.

Members Present: Gisselman, Abitz, Kellbach, McElhaney (Rasmussen was excused.)

Also Present: Wesolowski, Sean Gehin, Graham, Stratz, Joe Gehin

In compliance with Chapter 19, Wisconsin Statutes, notice of this meeting was posted and received by the *Wausau Daily Herald* in the proper manner.

Noting the presence of a quorum, at approximately 5:30 p.m. Chairman Gisselman called the meeting to order.

Public Comment for matters not appearing on the agenda

No one came forward to offer public comment.

CONSENT AGENDA

A. Approve minutes of the November 10, 2016 meeting

B. Action on Stormwater Maintenance Agreement for Wisconsin CVS/pharmacy, LLC at 102 Central Bridge Street

Kellbach moved to approve the consent agenda items. McElhaney seconded and the motion carried unanimously 4-0.

Discussion and possible action on proposed neighborhood signage. (This item was deferred from the October 13, 2016 meeting.)

Stratz stated staff would like to work with each neighborhood association to create an identifying logo/sign for their neighborhood district. The signs would be double sided and placed on city light poles. This is a pilot program with the Longfellow District. The banners for Longfellow would be placed mainly on Prospect Avenue and staggered on possibly every third pole. After the Longfellow District has been completed, staff will work with East Towne and other associations. Gisselman questioned the number of banners to be placed on Prospect Avenue. Stratz indicated there are 51 light poles and they are anticipating placing banners on every third pole. The exact number would be determined once physically on site. She has not met with the association on their thoughts for placement but anticipates installing approximately 20 banners and staggering them on the light poles along both sides of the road.

Abitz feels this is a good idea. She is involved with the SW Jones District and is looking forward to new development, new streets, and promoting that area. She is concerned with the number of poles and wondered if the banner dimension was large enough. Stratz explained the banner cannot be wider than 30" based upon ordinance. The rendering provided shows the banner as big as they can make it. Abitz feels it is great to promote the neighborhood groups but is concerned with the sign causing vision issues. She also stated color makes a big difference and the need to consider those with color blindness. Abitz questioned the cost. Stratz worked with Wausau Canvas and other vendors for signage ideas. The Longfellow District chose the rendering provided. Community Development Block Grant (CDBG) funds will be used to purchase the banners at a cost of approximately \$400 per light pole. This is not a typical street sign as it is made of vinyl over a frame. This is durable and expected to last 8 to 10 years. Stratz noted the color scheme was chosen by the Longfellow Group and staff intends to work with each neighborhood group. McElhaney supports the neighborhood associations and feels this is a great idea. She questioned the reason why these would only be placed on one road. Stratz explained the signage cannot be placed on WPS light poles. In the Longfellow District, the City owns the lights on Prospect and on the corner of Grand Avenue and Forest Street. Stratz added that Prospect is a main thoroughfare for this area. McElhaney is excited to see this in the Forest Park and Riverview area. Stratz indicated this may be difficult in some neighborhoods as there may not be City-owned light poles. Additionally,

CDBG funds are being used, which means the signage can only be placed in income qualifying neighborhoods. Gisselman feels every third pole may be overkill. Stratz said that is not set in stone and intends to work with the neighborhood group and DPW regarding placement. Placement will depend upon the positioning of the light poles.

Abitz moved to approve the proposed neighborhood signage. Kellbach seconded and the motion carried unanimously 4-0.

Discussion and possible action on Detour Agreement with WisDOT regarding STH 52

Wesolowski explained that the DOT is planning to place an epoxy overlay on the flyovers on Highways 51 and 29 to protect the concrete. During this project, they will need a detour route. The DOT is proposing to use STH 52. Wesolowski outlined the proposed detour routes and indicated the work is estimated to take two days for one overpass and twelve days for the other. Wausau is the maintaining authority of STH 52; therefore, the DOT needs permission to use this section of roadway for the detours. In return, the DOT is proposing to repaint the lane markings. Wesolowski provided pictures of the condition of the pavement at STH 52 and Stewart Avenue, which is 10 years old and in need of some repair. He believes there was a failure in construction as this pavement was going bad when it was first placed. He suggested also asking the DOT to repair the pavement at this intersection when the detour is completed.

Abitz is concerned with the timeframe of this detour as Thomas Street will also be detoured. She does not want to see a conflict with the detour of Thomas Street. Wesolowski indicated the DOT is unsure when this work will take place and it is unlikely to take place next summer. If it would take place next year, it would be difficult to avoid Thomas Street construction as that project will be ongoing all summer.

Abitz moved to approve the agreement along with inquiring with the DOT on repair of the intersection at STH 52 and Stewart Avenue. McElhaney seconded and the motion carried unanimously 4-0.

Discussion and possible action on preliminary resolutions for 2017 projects

Wesolowski explained that approving the preliminary resolutions will allow moving forward with public hearings for 2017 projects. The streets that were approved in the budget are Washington Street from the railroad tracks to 13th Street, 2nd Street from Bridge Street to East Wausau Avenue and East Wausau Avenue from the railroad tracks to 3rd Street.

Kellbach moved to approve the preliminary resolution for 2017 projects. McElhaney seconded and the motion carried unanimously 4-0.

Discussion and possible action to prohibit parking on the south side of the 900 block of Bopf Street

Graham explained there are three things staff looks at when considering restricting parking, which are accident history, road width and visibility issues. He performed a query of crashes from January 1, 2011 to November 1, 2016. Two total accidents were reported. One accident was the result of inattentive driving striking a vehicle parked on the south side of the road. The at-fault unit was driving east on Bopf Street and turned south onto 9th Avenue when it struck a legally parked vehicle. The operator stated she was not accustomed to operating a large conversion van. The width of the roadway is approximately 31', which can safely accommodate parked vehicles on both sides of the road. There are three residential properties in this block along with Holy Name and each use off-street parking options. Parking on both sides of the street is likely limited to special events associated with the church. There are no design or geographic elements to the intersection that result in a restricted view. Based upon the road width, accident history, and Graham's observation of view, staff does not recommend prohibiting

parking on the south side of the 900 block of Bopf Street. When there is a need for detours, CISM could adopt temporary restrictions to accommodate a better flow of traffic on an as needed basis. If CISM recommends restricting parking, Graham requested listening to the opinions of Holy Name and the residents of the block.

Abitz said this is the second time she has brought this forward. The first time was with Parking and Traffic and former Lieutenant Dennis Saager. It was miscommunicated to the residents that all parking was to be restricted when Abitz only had requested restricting parking in five spots on the south side of the street. Residents have again contacted Abitz as there are issues especially when there are church services or funerals. Vehicles cannot get through from 8th Avenue to 10th Avenue. If someone is driving a SUV, only one vehicle can get through. She added that people parking along the curb are actually staying further away from the curb than need be. Wide vehicles and vehicles with a trailer or boat cannot get through. Some larger vehicles, such as vans and SUV's block the view of traffic when parked on the street. If there would be no parking on the south side, the church has spots available in the back. Another option would be restricting parking during church services. Emergency vehicles cannot make it through if cars are parked on both sides of the road. If parking is restricted to one side, it would be wide enough and provide more visibility. During Holy Name Fun Days you cannot see traffic approaching as vehicles are parked close to the corner. One homeowner on the corner cannot back out because she cannot see vehicles coming. Another homeowner parks sideways in his driveway so they can exit easier. Another resident has a two-lane driveway but has a hard time seeing because of the telephone pole and large vehicles parking on the road. Traffic with the right-of-way on Bopf cannot see a person crossing the street until it is too late. She would like to see no parking on the south side, even if it is just during church services or events.

Gary Kurtzweil, 1404 Ivy Lane, personally drove down the road yesterday during a funeral and he did not have a problem getting through. He can think of similar situations such as around the park during the fair and St. Anne's during their festival. He does not feel it is the fault of the road not being wide enough, but rather just bad parking. He cannot see a reason to restrict parking and has never seen an accident happen there. People with boats are not an issue during the winter and should know to use alternate streets just as we will have to during the reconstruction of Thomas Street. Abitz stated during winter the snow banks get in the roadway so people park further into the street. DPW does come through and cut the snowbanks but there is a resident who cannot get through with a snowmobile trailer. Just the other day she was traveling east and a vehicle approached from the west. Both had to figure out where to go to allow one to get through. Other times a car has had to pull into the alley or stay at the intersection to let cars go through. She lives at 7th and Bopf and travels the area often. She has been stuck there to let a vehicle go through. She noted times where a vehicle pulling a large boat and another with a snowmobile trailer could not get through. She is trying to prevent cars from getting damaged. This would only affect five spaces on the street and the church has spots available in the back to park.

Abitz moved to approve prohibiting parking on the south side of the 900 block of Bopf Street.

Abitz said this is not just her concern but also her residents and feels there is an accident waiting to happen. There have been times when she has been standing on the corner during a function and is amazed no one has gotten hit. The resident on the corner suggested installing a 4-way stop as at least twice a day there is someone that nearly gets hit because they cannot see vehicles coming.

Abitz's motion failed due to lack of a second. She asked that members attend a neighborhood meeting to explain why they did not vote for this. McElhaney suggested having a representative from the Police Department explain this to the neighborhood group. Graham stated staff can attend a meeting, but noted this is the reason to hold meetings such as this. Letters regarding this meeting were sent to the residents and no residents are present.

No further motions were offered. This will proceed with the recommendation of staff.

Discussion and possible action to create a 4-way stop at South 9th Avenue and Bopf Street

Graham explained when staff receives this type of request; they are bound to make decisions based on an engineering study and upon warrants in the Manual on Uniform Traffic Control Devices (MUTCD). There was one crash in 2011, zero in 2012 through 2015, and one in 2016 for a rate of 0.33 crashes per year. In 2011 the accident was the result of failing to yield at the intersection. The at-fault unit was traveling south on South 9th Avenue and did not take time to observe traffic from the east. The unit struck a vehicle traveling west on Bopf Street. The second crash was a result of inattentive driving and discussed under the previous agenda item. A crash rate of 0.33 crashes per year is not alarming. The causes of the crashes are not atypical or unique to this intersection, meaning there does not appear to be a design element that is a factor. A restricted view does not exist at this intersection that would justify the conversion of this intersection to a 4-way stop. Based upon the fact that the MUTCD warrants have not been satisfied to convert the intersection to a 4-way stop, it is staff's recommendation that the intersection stay in its current state. Abitz said the item might as well be removed from the agenda as the committee did not vote for safety on the south side of the street.

A motion was not offered. This will proceed with the recommendation of staff.

Discussion and possible action to create a 4-way stop at Callon Street and South 2nd Avenue

Graham explained someone expressed speeding concerns to the Mayor regarding the intersection of Callon Street and 2nd Avenue. Currently traffic on South 2nd Avenue is controlled by stop signs. Traffic on Callon Street is not controlled. A request was made to install stop signs on Callon Street making the intersection a 4-way stop. A speed study was not conducive for a radar recorder or traffic counting tubes. A radar gun was used to manually capture vehicle speeds between South 1st Avenue and South 3rd Avenue. The speed of 222 vehicles was measured between 3:00 p.m. and 6:00 p.m. on Friday, November 4 and between 11:00 a.m. and 12:30 p.m. on Monday, November 7. The average speed was just under 20 MPH. The 85th percentile speed was 23 MPH and the top speed was 28 MPH. Based on officer observations, it was rare for a vehicle to enter the intersection without slowing down. Engineering staff counted vehicles entering the intersection and found there was more traffic on Callon Street than 2nd Avenue. Crash history found one crash per year on average from 2011 through 2016. Three crashes were the result of failing to yield the right-of-way. Two crashes were a failure to stop. One vehicle was traveling south and unable to stop in icy conditions; the second at-fault vehicle was traveling north. One crash was the result of unsafe backing. A crash rate of 1 per year is not alarming. The cause of the crashes are not atypical or unique to this intersection. Visibility is not an issue. The current in-place traffic control, stop sign placement and curb bump outs, is adequate for the existing conditions. Based upon the fact that the MUTCD warrants have not been met, staff recommends the intersection remain as is.

Mayor Mielke stated this was brought to his attention from Jim Schaefer, owner of the Antique Mall, and Lieutenant Tripp of the Salvation Army. Mayor Mielke observed the intersection three times, with it being busy one of those times. He is asking for consideration on behalf of the residents' concerns. He concurs that 2nd Avenue was not busy but Callon Street was. He observed a couple of vehicles that appeared to be speeding.

A motion was not offered. This will proceed with the recommendation of staff.

Discussion and possible action to create a 4-way stop at North 9th Street and Stark Street and/or North 10th Street and Stark Street

Graham stated Alderperson Neal received a resident's concern of speeding on Stark Street between 7th Street and 12th Street. Two speed studies were completed; one in the 900 block and one in the 1200 block. Two studies were completed as staff speculated that there would be traffic diverting onto 10th Street to go to Bridge Street. In

Speed Study #1, just over 5,400 vehicles were sampled. The 85th percentile speed was 30 MPH. 1.3% of vehicles traveled above the enforcement limit of 36 MPH, meaning 98.7% of the vehicles were traveling at a speed that they would not typically stop vehicles for. In Speed Study #2 approximately 6,000 vehicles were measured. The 85th percentile speed was 32 MPH with 2.8% of vehicles traveling above 36 MPH. There has been one accident in the last six years at 9th Street and Stark Street resulting in a rate of 0.16 crashes per year. The cause of the accident was failure to yield the right-of-way from a stop sign. At 10th Street and Stark Street, there have been three crashes over the last six years. The cause of each crash was failure to yield the right-of-way after stopping at the stop sign.

Gehin explained the radar recorder collected traffic volumes at the 900 and 1200 blocks. There were roughly 800 vehicles a day on Stark Street west of 10th Street and approximately 900 vehicles per day east of 10th Street. To confirm stop signs are located in the correct location, peak hour traffic volumes were collected. It was found that there is more traffic on Stark Street than 10th Street. According to the MUTCD, stop signs should be placed on the street with fewer vehicles. Therefore, the stop signs are placed in the correct location. He further explained that when a request for stop signs is received, an engineering study will look at speed, traffic, trends of crash history and available site distance. Staff believes the stop signs are placed at the correct location and would not recommend a 4-way stop.

A motion was not offered. This will proceed with the recommendation of staff.

Discussion and possible action to create a 4-way stop at South 12th Avenue and Bopf Street

Graham indicated concerns were expressed of safety because of limited visibility at the intersection of South 12th Avenue and Bopf Street. The crash history indicates a rate of 1.16 crashes per year or seven crashes within the last six years. Three accidents were a result of failing to yield the right-of-way after stopping for the stop sign. Two of the at-fault vehicles were traveling east on Bopf Street and one at-fault vehicle was traveling west on Bopf Street. In each case, the struck vehicle was traveling north on South 12th Avenue. As you are traveling east on Bopf Street and come to the stop sign it is difficult to see to the south. Three crashes were the result of vehicles traveling too fast for conditions and sliding past the stop sign into the intersection. The other crash was the result of failure to yield the right-of-way from a stop sign. This at-fault vehicle was traveling east on Bopf Street and struck a vehicle traveling north. Five of the seven vehicles involved eastbound vehicles colliding with a northbound vehicle, which gives evidence there may be a visibility issue. Operators appear to have difficulties seeing the stop sign. Graham noted the sign appears to be placed farther to the right than it should be. A photograph was provided showing a vehicle approximately $\frac{3}{4}$ of a block away and it is difficult to see the stop sign. Another photograph shows how a vehicle basically has to pull into the intersection to see vehicles traveling north.

Wesolowski observed the intersection and noticed there is more traffic on Bopf Street than 12th Avenue. This indicates the stop signs should be placed on 12th Avenue rather than Bopf Street. In the past before the bridge was reconstructed, there may have been more traffic on 12th Avenue. Placing the stop signs on 12th Avenue would provide a better view of traffic east and west. Staff's initial thought was to switch the stop signs from Bopf Street to 12th Avenue rather than creating a 4-way stop. Abitz said the request of a 4-way stop came from Kolbe and Kolbe so their vehicles do not have to wait for traffic to make a left hand turn. Without a 4-way stop vehicles would be waiting a long time, especially when employees leave at 2:30. This is due to the inflow of traffic from 17th Avenue. Traffic on Bopf Street has increased as they are avoiding Thomas Street and the traffic lights. If the stop sign is removed it would result in the increase of speed. Gisselman noted traffic still has to stop at 11th Avenue and Bopf Street. Abitz replied Bopf Street from 17th to 12th Avenue is a long area without a stop sign. She feels there is a need to control the intersection with a 4-way stop due to the amount of traffic.

Graham clarified that the MUTCD would warrant either switching the stop signs or converting the intersection to a 4-way stop. Typically they want to do whatever is the least restrictive. Abitz would like a 4-way stop because

of the traffic flow from Kolbe and Kolbe and it is a blind intersection. She feels a new can of worms would be opened by switching the stop sign placement. Wesolowski indicated there is limited visibility on the southwest corner. The recommendation was based on placing stop signs on the street with the least amount of traffic. Since there are warrants, staff would not have an issue with making this intersection a 4-way stop.

Abitz moved to approve creating a 4-way stop at South 12th Avenue and Bopf Street. McElhaney seconded.

Kurtzweil agreed. He travels from Rib Mountain to Holy Name almost every day and stated this is the most dangerous intersection he goes through. Visibility of the stop sign is bad and he feels it would be best to have a 4-way stop.

There being a motion and a second, motion to approve creating a 4-way stop at South 12th Avenue and Bopf Street carried unanimously 4-0.

Discussion and possible action to replace the yield signs at North 10th Street and Jefferson Street with stop signs

Graham indicated Alderperson Neal was contacted by a resident regarding increased accidents at North 10th Street and Jefferson Street. This intersection is controlled with yield signs for east and west bound traffic. The crash history shows three crashes in 2016, one in 2013 and one in 2011. All were the result of failure to yield the right-of-way. Three of the at-fault vehicles were traveling east. Two of the at-fault vehicles were traveling west. Graham added that even though there are yield signs at the intersection, a stop is required as there is limited visibility. Because limited visibility is one warrant looked for in respect to stop sign decisions, staff recommends converting the yield signs to stop signs.

Kellbach moved to approve converting the yield signs at North 10th Street and Jefferson Street to stop signs. McElhaney seconded and the motion carried unanimously 4-0.

Future agenda items for consideration

Joe Gehin would like to start the process of trying a second effort at a grant application regarding Stettin Drive and Brockmeyer Park bicycle/pedestrian access. This may not be ready for the next agenda but he hopes it have it on a future agenda.

Wesolowski stated the public hearing for placing the realignment of Curling Way at Townline Road on the Official City Map will be on the next agenda, along with a preliminary resolution for the reconstruction of Thomas Street and possibly other streets.

Adjourn

Kellbach moved to adjourn the meeting. McElhaney seconded and the motion carried unanimously 4-0. Meeting adjourned at approximately 6:25 p.m.

Agenda Item No.

2B

STAFF REPORT TO CISM COMMITTEE – January 12, 2017

AGENDA ITEM

Action on Stormwater Maintenance Agreement for WTH 9 LLC at 6701-6705 Stewart Avenue

BACKGROUND

Marathon Technical Services has prepared site plans for the construction of a new Commercial building and parking lot located at 6701 and 6705 Stewart Avenue. Construction of a water quality swale, installation of culverts, two infiltration basins, and placement of riprap at outfalls will assist the site in meeting the City and DNR stormwater requirements. To ensure properly functioning post-stormwater facilities year after year, the City requires the owner to sign a maintenance agreement, making the owner inspect and maintain the facilities on a bi-annual basis. The maintenance agreement is attached for your review.

FISCAL IMPACT

None

STAFF RECOMMENDATION

Staff recommends approval of the stormwater maintenance agreement.

Staff contact: Sean Gehin 715-261-6748

AGREEMENT
Document Title

Document No.

AGREEMENT FOR THE MANAGEMENT AND
MAINTENANCE OF A STORMWATER FACILITY

THIS AGREEMENT made this ____ day of _____, 20__, by and
between the City of Wausau, a municipal corporation of the State of
Wisconsin, hereinafter referred to as "CITY", and WTH 9 LLC

_____,
a corporation organized under the laws of the State of Wisconsin, hereinafter
referred to as "OWNER";

WITNESSETH:

WHEREAS, CITY has an interest in and an obligation for the development,
management, and maintenance of stormwater facilities within the corporate
limits of the City of Wausau, which interest and obligation is evidenced in
CITY's stormwater management ordinance and in this agreement which is
being entered into pursuant to that ordinance; and

WHEREAS, OWNER wishes to construct certain buildings on land in the City
of Wausau, and as an inducement for CITY to grant to OWNER a permit to
construct these improvements, OWNER wishes to enter into this agreement for
the management and maintenance of a stormwater facility; and

WHEREAS, the specific provision of the Wausau Municipal Code which provides for stormwater management is
Chapter 15.56 of the Wausau Municipal Code, which code provides for the routine and extraordinary post construction
maintenance of a stormwater management facility, and such a facility is being herein installed for the use and benefit of
the development of OWNER's property, and this agreement will specifically provide for the management and
maintenance of that stormwater facility.

NOW, THEREFORE, the parties hereto agree as follows:

1. That attached hereto, and incorporated herein by reference, is "Exhibit A," a map upon which there is located certain improvements and also a "detention pond" which is the subject of this agreement.
2. OWNER specifically agrees to maintain the detention pond in accordance with the schedules and procedures set forth in "Exhibit B" attached hereto and incorporated herein by reference.
3. OWNER specifically grants CITY access to, from and across the property encompassed in "Exhibit A" in order to evaluate and inspect the pond and, in addition to the detention pond, any other stormwater facilities, which evaluation and inspection will, from time to time, be necessary in order to ascertain that the practices concerning management and maintenance are being followed pursuant to CITY's stormwater management ordinances; CITY shall maintain, as a public record, the results of all site inspections, and shall recommend any corrective actions required to bring the stormwater management practices into proper operating condition.
4. Upon notification to OWNER that maintenance deficiencies exist on property, any corrective actions shall be undertaken by OWNER within a time frame as set forth by CITY, which time frame will be reasonable; should OWNER not satisfactorily complete any directives of CITY, as identified in any inspection report or directive, within the time frame provided by CITY, then the parties agree that CITY shall complete any corrective actions and the cost of those actions, including any administrative charges, shall be paid in full by OWNER or, in lieu thereof, shall be placed as a special assessment on the tax rolls of all of the property described on "Exhibit A" pursuant to Wisconsin Statutes.

Recording Area

Name and Return Address

City of Wausau Engineering Dept.
407 Grant Street
Wausau, WI 54403

PIN:

291.2907.311.0991

5. This agreement is being entered into pursuant to the provisions of Chapter 15.56 of the city ordinances of the City of Wausau, and the parties agree that OWNER will be bound by these provisions or any future amendments to these provisions or any separate provisions relating to stormwater management.
6. These covenants, agreements, and obligations provided for in this agreement shall travel with the land and be binding upon OWNER, its successors and assigns in perpetuity.

OWNER:

By: Mark J. Milanowski
 MARK J. MILANOWSKI

By: _____

CITY OF WAUSAU:

By: _____
 Robert B. Mielke, Mayor

By: _____
 Toni Rayala, Clerk

STATE OF WISCONSIN)
) ss.
 COUNTY OF MARATHON)

Personally came before me this 12 day of July, 2016, the above-named Mark J. Milanowski and _____ of _____, LLC, to me known to be the person(s) who executed the foregoing instrument and acknowledged the same.

Pata Vang
 Notary Public, Wisconsin
 My commission: 03-23-2020

STATE OF WISCONSIN)
) ss.
 COUNTY OF MARATHON)

Personally came before me this _____ day of _____, 20___, the above-named Robert B. Mielke, Mayor, and Toni Rayala, Clerk of the City of Wausau, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

 Notary Public, Wisconsin
 My commission: _____

EXHIBIT A

See Grading & Drainage Exhibit

EXHIBIT B

STORMWATER FACILITIES MAINTENANCE SCHEDULE AND PROCEDURES FOR WTH 9 LLC

The Owner, WTH 9 LLC, their successors, and assigns, shall inspect and maintain the following structural and/or non-structural measures. Maintenance inspections by the Owner shall take place at a minimum of twice per year, following Owner's acceptance of the Project from the Site Contractor. Owner shall maintain a written inspection and maintenance log.

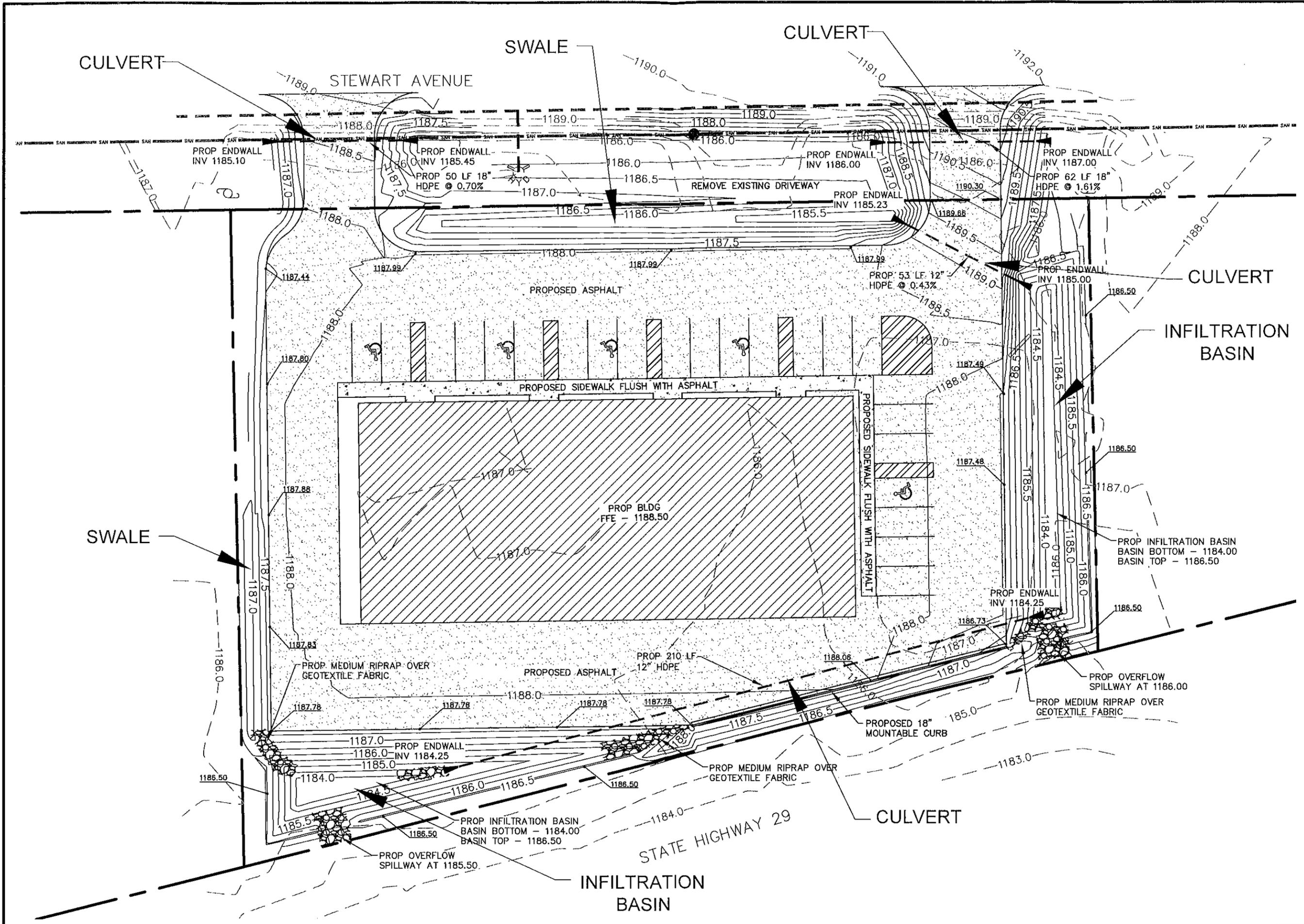
Maintenance and inspection shall be performed within the infiltration facility and its outlet structures on the site and drainage swales.

Maintenance at this location shall consist of the following tasks:

1. DEBRIS: Removal of trash, debris, sediment, and noxious weeds should be done on a regular basis to maintain aesthetics and functionality of the infiltration facility and drainage swale.
2. OUTLET STRUCTURES: Remove accumulated sediment and/or debris from the outlet structures of the infiltration facility.
3. INFILTRATION BASINS: Remove accumulated sediment and/or debris from basin bottoms. At least every five years, roto-till basin bottoms to recondition and promote infiltration.
4. INFILTRATION SWALES: Remove accumulated sediment and/or debris from swale bottoms.
5. CULVERTS: Remove accumulated sediment and/or debris from culverts.
6. RIPRAP: Inspect riprap and replace as may be needed to maintain integrity and a clean appearance of riprap.
7. MOWING: Mow the side slopes, swales, and embankments to promote aesthetic and control weed growth.
8. DRAINAGE SWALE: Maintain free-drainage within drainage swale on site.
9. SNOW PLOWING: Do not snow plow into infiltration device as this will cause premature failure of the device.
10. CLOGGING: If clogging occurs, remove the top 2-3 inches of soil. Chisel plow and add topsoil and compost. Revegetate.

Part of the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ and Part of the Southeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 31, T29N R7E, Marathon County, Wisconsin, described as follows:

Parcel 1 of Certified Survey Map No. 14275 recorded in the Office of Register of Deeds for Marathon County Volume 63 of Certified Survey Maps on Page 102.



MARATHON TECHNICAL SERVICES LLC
CONSULTING ENGINEERS
404 FRANKLIN ST - WAUSAU, WI 54403
PHONE & FAX - (715)843-7292
WWW.MTSLC.NET

REVISION DATE
08/13/2015
09/28/2015
05/08/2016

SURVEYED: VREELAND
DESIGNED: MTS
DRAWN BY: NSB
APPROVED: MWT

GRADING AND DRAINAGE PLAN
6701-6705 STEWART AVENUE
CITY OF WAUSAU, MARATHON CO.

SCALE
1"=30'
SHEET NO.
EXH A

AGENDA ITEM
<p>PUBLIC HEARING: Discussion and possible action on amending the Official City Map for the realignment of Curling Way at Townline Road</p>
BACKGROUND
<p>In October of 2016, CISM approved the realignment of Curling Way at Townline Road. In December of 2016, Council approved holding a public hearing to amend the Official City Map to include the proposed realignment of Curling Way.</p> <p>See attached public notice and map.</p>
FISCAL IMPACT
<p>There is no cost at this time to place land on the Official City Map.</p>
STAFF RECOMMENDATION
<p>Depending on the testimony received at the public hearing, staff recommends that the land for the realignment of Curling Way be placed on the Official City Map as proposed.</p>
<p>Staff contact: Sean Gehin 715-261-6748</p>



December 21, 2016

AMENDMENT TO OFFICIAL CITY MAP FOR
THE REALIGNMENT OF CURLING WAY AT TOWNLINE ROAD

Enclosed is a Notice of Public Hearing to identify on the City of Wausau Official City Map the land needed for future right-of-way to realign Curling Way at Townline Road.

The City of Wausau is considering the placement of land (shown on the enclosed map) on the Official City Map to reserve it for future right-of-way. ***The land remains private property until such time as it is acquired by the City.*** Placing land on the Official City Map is a formal means by which the City reserves the land for future public use. Official mapping discourages property owners from making significant improvements to the mapped property thus holding down the cost of the property when the City does acquire it. Placing land on the Official City Map notifies all current and future owners that there is a plan to acquire a portion of the property for public use. It does not prevent owners from selling their property or building outside of the area needed for public use. A time frame for land acquisition activities and schedule for construction have not been established and may not be developed for a number of years.

If you have any questions at this time, please contact our office.

Allen M. Wesolowski, P.E.
City Engineer

O:\Engineering\LMW\CurlingWay Realignment OCM PH notice.doc

CITY OF WAUSAU
NOTICE OF PUBLIC HEARING
FOR AMENDMENT TO OFFICIAL CITY MAP
REALIGNMENT OF CURLING WAY AT TOWNLINE ROAD

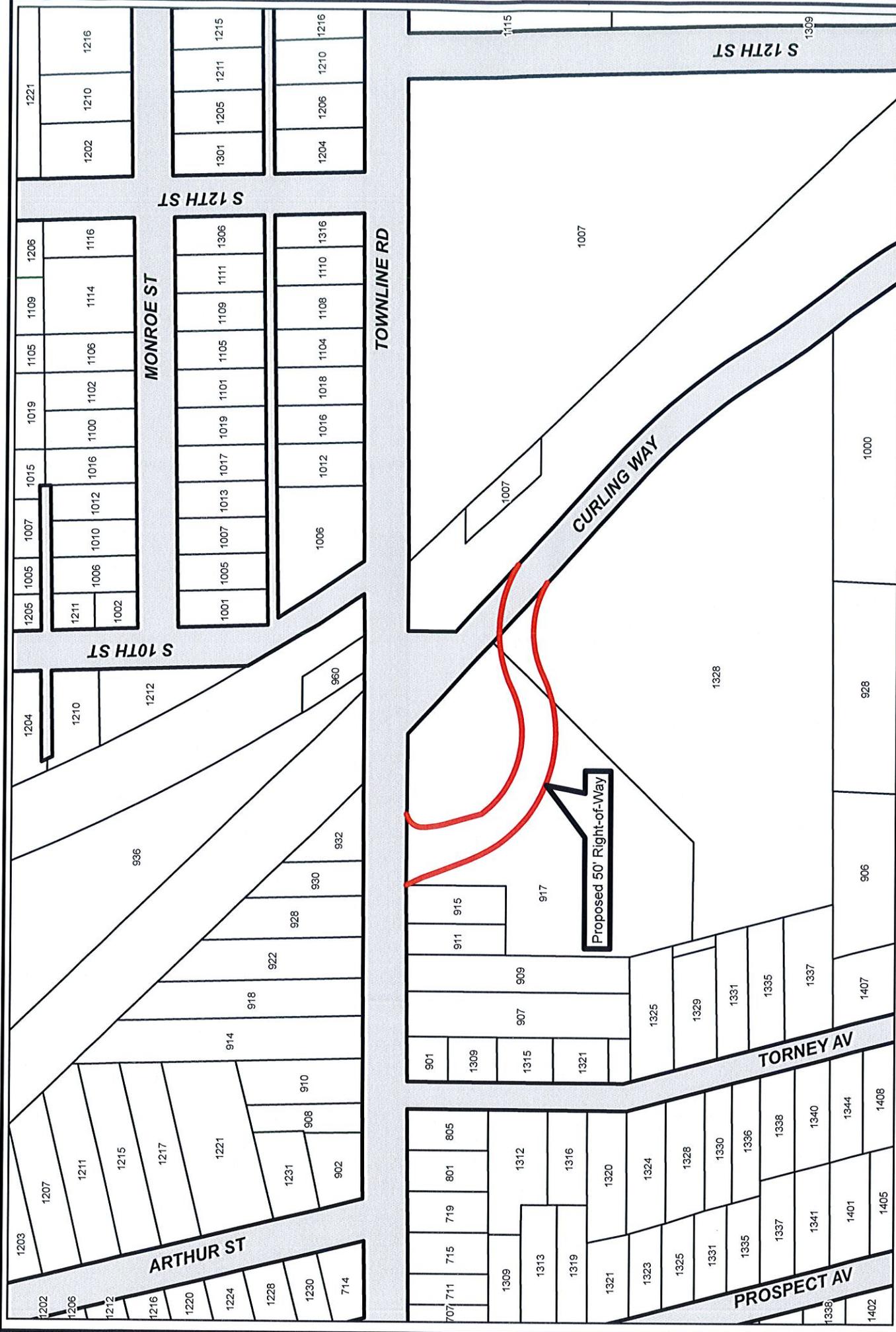
Notice is hereby given that the City of Wausau Capital Improvements and Street Maintenance Committee will hold a public hearing on January 12, 2017 at 5:30 p.m. in the Council Chambers of Wausau City Hall, 407 Grant Street, to consider an amendment to the Official City Map. The purpose of the public hearing is to receive input from interested parties regarding the proposed amendment, which includes establishing the location of the right-of-way lines for the realignment of Curling Way at Townline Road.

The intent of this amendment is to reserve the street right-of-way which will be needed for the future realignment of Curling Way. Placing this land on the Official City Map does not constitute opening this area to public use nor does it constitute a taking or acceptance of any land for extending the street. The purpose of the Official Map is to conserve and promote the public health, safety, convenience, or general welfare.

The land to be placed on the Official City Map is a 50-foot wide strip of land, more or less.

A map which shows the proposed right-of-way and the properties which will be affected is available for inspection in the Engineering Department, City Hall, 407 Grant Street, Wausau, Wisconsin. Questions regarding the public hearing may be directed to the Engineering Department at (715) 261-6740.

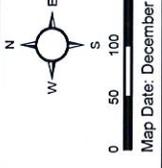
Notice is also given that the Common Council is anticipated to review and take final action on the proposed amendment to the Official Map at its meeting to be held February 14, 2017 at 7:00 p.m. in the Council Chambers of Wausau City Hall. (Please call the Customer Service Office at (715) 261-6620 to confirm the date, time, and location of the Common Council meeting.)



Proposed 50' Right-of-Way

- Legend**
- Proposed Right-of-Way
 - Existing Right-of-Way
 - Existing Parcel

PROPOSED CURLING WAY REALIGNMENT
CITY OF WAUSAU
MARATHON COUNTY, WISCONSIN



NOTES:
 1. DUPLICATION OF THIS MAP IS UNLAWFUL WITHOUT THE WRITTEN CONSENT OF THE CITY OF WAUSAU ENGINEERING DEPT.
 2. THIS MAP IS A DEVELOPMENT OF THE CITY OF WAUSAU AND MARATHON COUNTY. WAUSAU AND MARATHON COUNTY ASSUME NO RESPONSIBILITY FOR THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.
 3. MAP FEATURES DEVELOPED FROM APRIL 2010 AERIAL PHOTOGRAPHY.



Projections and measurements are determined by current survey data as of 2015. This map should not be used for site design or construction work.

Map Date: December 14, 2016

AGENDA ITEM
Discussion and possible action to prohibit parking on North River Drive from 250 feet north of Fulton Street to 300 feet north of Bridge Street
BACKGROUND
North River Drive was recently constructed to restrict on-street parking with the exception of designated areas where 90 degree on-street parking will be allowed. An ordinance needs to be created to restrict the parking.
FISCAL IMPACT
None
STAFF RECOMMENDATION
Staff recommends designating North River Drive no parking on the east side of North River Drive from a point 250 feet north of the centerline of Fulton Street to a point 300 feet north of the center line of Bridge Street. Also, designating no parking on the west side of North River Drive from a point 250 feet north of the centerline of Fulton Street to a point 900 feet north of the centerline of Fulton Street, and from a point 1600 feet north of the centerline of Fulton Street to a point 300 feet north of the centerline of Bridge Street.
Staff contact: Allen Wesolowski 715-261-6762

Agenda Item No.

5

STAFF REPORT TO CISM COMMITTEE – January 12, 2017

AGENDA ITEM

Discussion and possible action on preliminary resolution to approve a public hearing for the Thomas Street project

BACKGROUND

West Thomas Street, from South 15th Ave to South 3rd Ave, will be reconstructed in 2017. This project will be fully funded by the City of Wausau. As with the City's other funded street projects, it is proposed to special assess this street project.

FISCAL IMPACT

None at this time.

STAFF RECOMMENDATION

Staff recommends the preliminary resolution for special assessment be adopted and a public hearing scheduled. The public hearing would likely be held in February of 2017.

Staff contact: Eric Lindman 715-261-6745

CITY OF WAUSAU, 407 Grant Street, Wausau, WI 54403

RESOLUTION OF THE CAPITAL IMPROVEMENTS AND STREET MAINTENANCE COMMITTEE

Preliminary Resolution Levying Special Assessments for the 2017 Thomas Street Project

Committee Action:

Fiscal Impact: None at this time. Construction would take place in 2017 and the special assessments would be levied when the project is substantially completed.

File Number:

Date Introduced: January 24, 2017

FISCAL IMPACT SUMMARY

COSTS	<i>Budget Neutral</i>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
	<i>Included in Budget:</i>	Yes <input type="checkbox"/> No <input type="checkbox"/>	<i>Budget Source:</i>
	<i>One-time Costs:</i>	Yes <input type="checkbox"/> No <input type="checkbox"/>	<i>Amount:</i>
	<i>Recurring Costs:</i>	Yes <input type="checkbox"/> No <input type="checkbox"/>	<i>Amount:</i>
SOURCE	<i>Fee Financed:</i>	Yes <input type="checkbox"/> No <input type="checkbox"/>	<i>Amount:</i>
	<i>Grant Financed:</i>	Yes <input type="checkbox"/> No <input type="checkbox"/>	<i>Amount:</i>
	<i>Debt Financed:</i>	Yes <input type="checkbox"/> No <input type="checkbox"/>	<i>Amount</i> <i>Annual Retirement</i>
	<i>TID Financed:</i>	Yes <input type="checkbox"/> No <input type="checkbox"/>	<i>Amount:</i>
	<i>TID Source: Increment Revenue</i> <input type="checkbox"/> <i>Debt</i> <input type="checkbox"/> <i>Funds on Hand</i> <input type="checkbox"/> <i>Interfund Loan</i> <input type="checkbox"/>		

RESOLUTION

BE IT RESOLVED by the Common Council of the City of Wausau as follows:

1. The Common Council hereby declares its intention to exercise its police power under Section 66.0703 of the Wisconsin Statutes and Section 3.24.020 of the Wausau Municipal Code to levy special assessments upon property for special benefits conferred upon such property by the improvement of the following street under Street Construction projects to take place in 2017:

Thomas Street from South 15th Avenue to South 3rd Avenue

2. The public improvement shall include the removal and replacement of bituminous concrete and/or Portland cement concrete pavement, curb and gutter, drive approaches; installation and/or replacement of sidewalk and sanitary sewer, water and storm sewer laterals where necessary.

3. The total amount assessed against the properties in the defined assessment district shall not exceed the total cost of the City's share of the improvements. The City Council determines that the improvements constitute an exercise of the police power and the assessment against each parcel shall be

upon a reasonable basis. The final assessment bill will be sent to property owners upon substantial completion of the project.

4. Unless other installment plans are determined at the hereinafter stated public hearing, the assessment against any parcel shall be paid as follows:

Assessments under \$300: If payment is not made prior to November 1, 2017, the special assessment will be placed on the 2017 real estate tax bill and be due in full on or before January 31, 2018. There is no interest charged when paid in full. Assessments totaling less than \$300 must be paid in full and do not qualify for the five-year payment schedule.

Assessments totaling \$300 but less than \$20,000: If full payment is not made prior to November 1, 2017, assessments totaling \$300 but less than \$20,000 will automatically be placed on the five-year payment schedule on the 2017 real estate tax bill. Property owners may then pay their special assessment under either of two options:

- A. Payment in full without interest with the 2017 real estate taxes **OR**
- B. Payment of the first one-fifth of the assessment with the 2017 real estate taxes without interest. The remaining balance is paid in equal installments on the next four real estate tax bills and carries an interest charge of the borrowed fund rate plus 1% beginning February 1, 2018, on the unpaid balance. (The 2016 rate was 2.55%.) The remaining balance may be paid at any time with interest calculated through the month of payment.

Assessments over \$20,000: If payment is not made prior to November 1, 2017, assessments totaling \$20,000 or more will automatically be placed on the ten-year payment schedule on the 2017 real estate tax bill. Property owners may then pay their special assessment under either of two options:

- A. Payment in full without interest with the 2017 real estate taxes **OR**
- B. Payment of the first one-tenth of the assessment with the 2017 real estate taxes without interest. The remaining balance is paid in equal installments on the next nine real estate tax bills and carries an interest charge of the borrowed fund rate plus 1% beginning February 1, 2018, on the unpaid balance. (The 2016 rate was 2.55%.) The remaining balance may be paid at any time with interest calculated through the month of payment.

Real estate taxes may be paid in full or in three installments (January 31, April 30, July 31), however, the special assessments must be paid on or before January 31, 2018. No payments can be applied to real estate taxes if the special assessments are not paid. Section 74.12(11)(a), Wisconsin Statutes, specifically states if a treasurer receives a payment from a taxpayer which is not sufficient to pay all general property taxes, special assessments and special taxes due, the treasurer shall apply the payment to the amounts due, including interest and penalties, in the following order: (1) personal property taxes; (2)

delinquent utility charges; (3) special charges; (4) special assessments; (5) special taxes; (6) real property taxes.

5. The Engineering Department shall prepare a report which shall consist of the preliminary plans for the proposed work, an estimate of the cost of the work, a schedule of the proposed assessments for each parcel; a copy of the report shall be filed with the City Clerk for public inspection. In accordance with Section 66.0703(7)(a), Wisconsin Statutes, notice shall be given of a public hearing on the project; the hearing shall be held by the Board of Public Works in the Council Chambers of City Hall and will be scheduled early in 2017.

6. The installation of said improvements shall be accomplished according to the provisions of Title 12 and Chapter 3.24 of the Wausau Municipal Code, where applicable.

Approved:

Robert B. Mielke, Mayor

DRAFT

AGENDA ITEM

Discussion and possible action on draft License Agreement with Mobilitie for utilization of Public Rights of Way

BACKGROUND

Mobilitie (initially utilizing WITN as an LLC) initially approached the City to install 120 ft. poles in the City ROW; this initial request was in February 2016. The City denied these applications for various tangible reasons, but overall because of a lack of information. Mobilitie has since begun discussions with the city as well as many other municipalities in Wisconsin in hopes of coming to an arrangement for placing their poles within the city ROW.

Mobilitie, as approved by the PSC, is a Utility Company and is therefore able to legally request the use of City ROW to install their poles and equipment. This equipment will be used to “backhaul” cell phone coverage, which will be the majority of their business. They will also be, or could be, used to backhaul other wireless communication. The intent of the poles will be to handle much higher data exchange and improve service in all areas. Mobilitie is establishing this network across the country.

Through communication with Mobilitie and with other municipalities the City has prepared a License Agreement which outlines the process in which Mobilitie and other backhaul equipment utility companies will need to use in order to utilize our ROW. Through this agreement the City is able to charge for the use of ROW and it also allows us much more control regarding placement of the poles.

The draft agreement has been partially reviewed by the City Attorney and is currently being reviewed with City Ordinances to determine if any changes/modifications to City Ordinances need to be considered. IT Department is also reviewing this document to determine if they have any changes or will require any additional information and/or criteria.

FISCAL IMPACT

None at this time.

STAFF RECOMMENDATION

Staff recommends making final changes to the document and then forwarding onto Council once the document has been approved by the City Attorney. Staff also recommends any required ordinance changes that are needed be made prior to the final license agreement being approved by Council.

Staff contact: Eric Lindman 715-261-6745

**MASTER LICENSE AGREEMENT BETWEEN
THE CITY OF WAUSAU AND
WISCONSIN TECHNOLOGY NETWORKING, LLC,
FOR THE USE OF PUBLIC RIGHTS-OF-WAY**

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**MASTER LICENSE AGREEMENT BETWEEN
THE CITY OF WAUSAU AND
WISCONSIN TECHNOLOGY NETWORKING, LLC,
FOR THE USE OF PUBLIC RIGHTS-OF-WAY**

This MASTER LICENSE AGREEMENT FOR THE USE OF PUBLIC RIGHTS OF WAY (“Agreement”) is made and entered into by and between the City of Wausau (“City” or “Licensor”), and Wisconsin Technology Networking, LLC, a Delaware limited liability company (“Licensee”). Licensor and Licensee are at times collectively referred to hereinafter as the “Parties” or individually as the “Party.”

WHEREAS, Licensor is the owner, guarantee or licensee of certain light poles, traffic control poles, and other similar poles; and

WHEREAS, Licensee has requested use of certain locations within the public rights-of-way of the City to install, maintain and operate communications facilities as specified in this Agreement and/or upon certain of Licensor’s light poles, traffic control poles, and other similar poles; and

WHEREAS, the City has the power to regulate the public rights-of-way within its territorial boundaries and is willing to permit such use subject to the terms and conditions of this Agreement;

WHEREAS, the Parties acknowledge that they will enter into a Communication Site Application, a copy of which is attached hereto as Exhibit A, with respect to any particular location, site or pole that the Parties agree to license; and

WHEREAS, the Parties agree that all supplements regulated by the Agreement shall be subject to all current or future applicable ordinances, rules, and procedures of the City of Wausau.

NOW THEREFORE, IN RECOGNITION OF MUTUAL CONSIDERATION, THE ABOVE PARTIES AGREE TO THE FOLLOWING:

SECTION 1. DEFINITIONS

For purposes of this Agreement the following terms shall have the same meanings herein. When not inconsistent with the context, words in the plural number include the singular number, and words in the singular include the plural.

- (a) “Annual License Fee” means the annual rate described in Section 5 of this Agreement.
- (b) “Backhaul Equipment” means broadband backhaul transmission facilities, whether provided by landline communications infrastructure (including, without limitation, fiber, conduit and related equipment and improvements) (“Landline Backhaul

- Equipment”) and/or wireless communications infrastructure (including, without limitation, wireless microwave and related cables, wires, equipment and improvements) (“Wireless Backhaul Equipment”) that interconnects with Wireless Communication Equipment at the Point-of-Demarcation and is for the purpose of providing Backhaul Service.
- (c) “Backhaul Service” means communications transport service, whether provided by Landline Backhaul Equipment or Wireless Backhaul Equipment that interconnects with the Wireless Communication Equipment at the Point-of-Demarcation.
 - (d) “City Representative” means the Director of Public Works or authorized designee.
 - (e) “Communication Facility” means Wireless Communication Equipment and/or Backhaul Equipment.
 - (f) “Communication Service” means Wireless Communication Service and/or Backhaul Service.
 - (g) “Communication Site” means a location in the Public Rights-of-Way selected for the Communication Facility.
 - (h) “Communication Site Application” means a document, substantially in the form attached as Exhibit A, which shall identify the location of the proposed Communication Site, describe the characteristics of the proposed Communication Facility installation, and be accompanied by relevant documents to support approval of the proposed installation.
 - (i) “Communication Sites Inventory” means an accurate and current inventory of all Communication Sites approved by Licensor pursuant to this Agreement.
 - (j) “Effective Date” means the latest date on which this Agreement is signed by both Parties.
 - (k) “Point of Demarcation” means the point of where the Wireless Communication Equipment terminate and interconnect with Backhaul Equipment.
 - (l) “Rights-of-Way” or “Public Rights-of-Way” means the surface of, and the space above and below, not to exceed the current usual and customary height and/or depth of existing utilities (unless otherwise agreed to in a Communications Site Application), any public street, road, highway, freeway, lane, path, public way or place, sidewalk, alley, boulevard, parkway, drive, or other easement held by the City or over which the City exercises any rights of management control.
 - (m) “Rights-of-Way Regulations” means all portions of City ordinances and state laws that concern the regulation or management of Public Rights-of-Way, which are applicable to all Wisconsin Public Service Commission regulated utilities, including Competitive Local

Exchange Carrier (“CLEC users”) within the Public Rights-of-Way.

- (n) “Rights-of-Way Manager” means the the Director of public Works or authorized designee.
- (o) “Supplemental License” means a document, substantially in the form attached as Exhibit B. Each Communication Site installation will be subject to a Supplemental License.
- (p) “Transmission Media” means radios, antennas, transmitters, wires, fiber optic cables, and other wireless transmission devices which are part of the Wireless Communication Equipment.
- (q) “Unauthorized Communication Site” means use of Public Rights-of-Way for the installation of Communication Facility on City poles or poles owned by another party, or for the installation of Licensee poles or any other facilities, for which Licensee did not receive approval under this Agreement.
- (r) “Unauthorized Installation Charge” means the license fee payable by Licensee to Licensor under this Agreement for an Unauthorized Communication Site.
- (s) “Wireless Communication Service” means wireless, Wi-Fi, voice, data, messaging, or similar type of wireless service now or in the future offered to the public in general using spectrum radio frequencies, whether or not licensed by the Federal Communication Commission (“FCC”) or any successor agency.
- (t) “Wireless Communication Equipment” means the Transmission Media attached, mounted, or installed on a pole located in Public Rights-of-Way, in addition to control boxes, cables, conduit, power sources, and other equipment, structures, plant, and appurtenances between the Transmission Media and the Point-of-Demarcation for the purpose of providing Wireless Communication Service.

SECTION 2. GRANTING CLAUSE

- (a) **License to Use Rights-of-Way** – Licensor hereby grants Licensee, a non-exclusive license to use and occupy Rights-of-Way throughout the territorial boundaries of the City, as these boundaries may be adjusted from time-to-time due to annexations, for the permitted uses contemplated under Section 3, subject to the conditions outlined in this Agreement.
- (b) **License to Use City Poles** – Licensor also grants Licensee the right to use City poles for the purpose of attaching the Communication Facility based on the then-current inventory of City poles. Access to individual City poles will be determined on a case-by-case basis pursuant to the provisions of this Agreement.
- (c) **Non-Exclusive License** – The Licensee’s right to use and occupy the Public Rights-of-Way and attach to City poles shall not be exclusive as the City reserves

the right to grant a similar use of same to itself or any person or entity at any time during the Term.

SECTION 3. PERMITTED USE OF RIGHTS-OF-WAY

Provision of Personal Communication Service – Public Rights-of-Way may be used by Licensee, seven (7) days a week, twenty-four (24) hours a day, only for the installation, construction, use, maintenance, operation, repair, modification, replacement and upgrade of the Communication Facility by Licensee from time to time for Wireless Communication Service and/or Backhaul Service or to comply with applicable law, and not for any other purpose whatsoever. This Agreement shall include new types of Wireless Communication Equipment or Backhaul Equipment that may evolve or be adopted using wireless technologies. Licensee shall, at its expense, comply with all applicable federal and state laws, ordinances, rules and regulations, and Rights-of-Way Regulations in connection with the use of Public Rights-of-Way. All modification, replacement and upgrades shall require a Communication Facility Application (as provided in Section 8(g)).

- (a) **Installations** – Wireless Communication Equipment and Wireless Backhaul Equipment may be installed only on Licensor’s poles under the terms of this Agreement, on poles under the terms of a separate agreement with the owner of such poles, or on Licensee’s poles and surrounding space until the Point-of-Demarcation, and Landline Backhaul Equipment may be installed only at the locations and as provided in a Supplemental License executed by the City. If the Communication Facility is to be installed on a Licensee pole, such pole shall be deemed part of the Communication Facility for purposes of this Agreement.

SECTION 4. TERM AND AMENDMENTS

- (a) **Term of Agreement** – The term of this Agreement shall be for five (5), five-year periods commencing on the Effective Date and ending at midnight on the last day of the initial five year term (the “Term”), which Term shall be automatically renewed for each of the four (4) subsequent five-year periods (each a “Renewal Term”) unless: (a) Licensee provides written notice to Licensor if its intent not to renew not less than three months in advance of the end of each then current term; or (b) Licensor provides written notice to Licensee of its intent not to renew not less than three months in advance of the end of the first five-year Renewal Term or the end of each Renewal Term thereafter. Both Licensor and Licensee also have the right to terminate this Agreement upon six months’ notice to the other party if, but only if, due to a change of Federal, State, or Local law, either party can no longer technically, or practicably, comply with both the duties and obligations of this Agreement and the

requirements of the law. Notwithstanding the foregoing, in no event shall the Term expire until: (i) terminated pursuant to Section 18, or (ii) the expiration or earlier termination of all Supplemental Licenses entered into hereunder.

- (b) **Supplemental Licenses** – Each Communication Site will be subject to a Supplemental License pursuant to the terms and conditions of this Agreement. The term of each Supplemental License shall be for (5) years commencing on the date the corresponding Communication Site Application is approved as provided hereunder (“Commencement Date”), provided however that, so long as the Term is still in effect, unless Licensee provides written notice to the City prior to the expiration of the then current term that Licensee will not renew the term, the term will automatically renew without any action by Licensee for consecutive one (1) year periods, upon the same terms and conditions set forth in this Agreement.

Termination of Supplemental Licenses – A Supplemental License may be terminated prior to the expiration of the Term: (i) by Licensor upon notice to Licensee, if Licensee fails to pay any amount when due hereunder concerning the applicable Communication Facility and such failure continues for fifteen (15) days after Licensee's receipt of written notice of nonpayment from Licensor; or (ii) by either Party upon notice to the other Party, if such other Party materially breaches any provision of this Agreement concerning the applicable Communication Facility and the breach not cured within thirty (30) days after receipt of written notice of the breach from the non-breaching Party; or (iii) by Licensee, at any time, with or without cause, upon notice to Licensor.

- (c) **Effect of Termination** – All Annual License Fees paid prior to the expiration or earlier termination of the Supplemental License shall be retained by Licensor. Within 90 days after expiration of the Term or any early termination of the Agreement or termination of a Supplemental License, Licensee shall remove its equipment, conduits, fixtures and all personal property and restore the Premises to its original condition, reasonable wear and tear and casualty damage excepted. Licensee shall continue to be liable to Licensor for the Annual License Fee prorated for every month that such Communication Facility or any part of the Communication Facility remains in the Rights-of-Way and the Supplemental Licensee shall be deemed to remain in effect until it is removed. Except in circumstances where Licensee terminates supplemental licenses without cause, after such removal, the Supplemental License shall be of no further force or effect and Licensee shall have no further obligations for the payment of Annual License Fees to Licensor in connection therewith. Licensee shall remain responsible for License Fees upon termination of Supplemental Licenses without cause until the end of the Term or Renewal Term.

SECTION 5. LICENSE FEES

- (a) **Annual License Fee** – The Annual License Fee per Communication Site shall be as provided in the following table depending on the type of Communication Facility thereat:

Type of Communication Facility:	Annual License Fee:
Wireless Communication Equipment (or Wireless Backhaul Equipment) on a pole owned by Licensor	\$???
Landline Backhaul Equipment	The City’s standard underground utility rate

- (b) **Timing of License Fee Payments** – Licensee shall pay in advance to Licensor the Annual License Fee for the coming year for each Communication Site. The Annual License Fee for all Communication Sites installed during any given month will commence and be due on the first day of the following month (the “License Fee Commencement Date”), and shall be prorated between the Commencement Date and the last day of the calendar year in which the Commencement date occurs. Thereafter, Licensee shall pay Licensor the Annual License Fees on January 1 of each year.
- (c) **Late Payment Interest** – Any Annual License Fees not paid within fifteen (15) days of notice of non-payment shall cause license for each Communication Site to lapse and subject license to removal provision of 4(d).
- (d) **Annual License Fees to Licensor** – Licensee shall pay Licensor the fees specified in this Section in the form of a money transfer or a check made out to the order of the City of Wausau and sent to:

Director of Public Works and Utilities
 407 Grant Street
 Wausau, WI 54403

SECTION 6. APPROVAL OF COMMUNICATION SITES

- (a) **Communication Site Application** – Licensee shall file with the City Representative a Communication Site Application for every proposed Communication Site. Said application form may be modified from time-to-time by the City Representative as deemed necessary in order to more efficiently process applications from Licensee.
- (b) **Communication Site Approval Process** – Upon filing of a Communication Site Application, the City Representative shall process the Communication Site Application within sixty (60) days, unless the City Representative and Licensee agree in writing to extend such process.

- (1) **Rights-of-Way Determination** – The Licensor will determine whether the location (and any existing pole) identified by Licensee as a Communication Site is within City Rights-of-Way.
- (2) **Ownership of City Pole** – The Licensor will confirm the ownership of any City pole identified for installation of the Communication Facility.
- (3) **Site Eligibility** – Licensor shall determine whether a requested City pole or the location for the installation for a new pole is eligible as a Communication Site based on space availability or other considerations. In addition, Licensor must determine whether public safety considerations prevent eligibility of a pole as a Communication Site. Licensee and Licensor agree to favor co-location of Communications Facility on an existing pole (either owned by applicant, City or a third party) over construction of a new pole pursuant to the review criteria set forth in Section 6 (4)(b) below. Concerning a request to install a new pole, Licensor shall determine whether Rights-of-Way Regulations and availability of Rights-of-Way prevent the pole installation at the requested location.
- (4) **Review Criteria** – For each Communication Site Application, the City Representative shall:
 - a. Verify that the Communication Site Application is complete.
 - b. Review engineering design documents to determine:
 - i. compliance with contractual requirements under this Agreement; and
 - ii. for new pole installations, whether sufficient evidence is presented to demonstrate that the applicant is prohibited from using an existing pole (either owned by City, applicant or a third party) because such use is technically infeasible, economically prohibited, or prohibited by law;
 - iii. for new pole installations due to height and size, poses no greater danger to health, safety and welfare of the public than existing poles in nearby Right-of-Way;
 - iv. no interference with City public safety radio system, traffic signal light system, or other communications components; and
 - v. compliance with City pole attachment regulations for traffic light poles, including replacement of an electric meter with dual meters, if and as applicable.

- vi. Structural integrity of new or existing pole.
- c. Determine compliance with any other applicable requirements including City of Wausau Municipal Code, and county, state, and federal rules, laws, and regulations.

All Communication Site Applications requesting access to a City pole must include a load bearing study to determine whether the attachment of the Communication Facility may proceed without pole modification or whether the installation will require pole reinforcement or replacement. If pole reinforcement or replacement is necessary, Licensee shall provide engineering design and specification drawings demonstrating the proposed alteration to the pole.

As appropriate, the City Representative shall require Licensee to make design modifications in order to comply with applicable contractual, regulatory, or legal requirements. Failure to make the requested design modifications shall result in an incomplete Communication Site Application which may not be processed under this Agreement.

Approval of Application – Upon finding that the Communication Site Application is complete and in compliance with all applicable requirements set forth above, the City Representative shall approve such Communication Site application. The approval of the Communication Site Application requesting to attach to a City pole, or to install a new pole, shall authorize Licensee to proceed to obtain all generally applicable, ministerial permits that are required of CLEC users, as necessary (collectively, “ROW Permit”). Licensee shall comply with the requirements of the Rights-of-Way Regulations. Licensee shall pay all appropriate Wisconsin standard promulgated one-time ROW Permit fees (“ROW Permit Fees”), when required. Licensor may impose on the ROW Permit conditions that are necessary to protect structures in the Public Rights-of-Way, to ensure the proper restoration of the Public Rights-of-Way and any structures located therein, to provide for protection and the continuity of pedestrian and vehicular traffic, and otherwise to protect the safety of the public's utilization of the Public Rights-of-Way and in accordance with all applicable law. Upon obtaining a ROW Permit, Licensee may proceed to install the Communication Facility in coordination with Licensor. Approval of a Communication Site Application related to the use of a pole owned by a third party, shall authorize Licensee to proceed with attachment process applicable to the pole owner and in accordance with the pole owner's regulations proceed to install the Communication Facility in coordination with the Licensor.

- (5) **Execution of Supplemental License** – Upon approval of the Communication Site Application, the Parties shall execute a Supplemental License, which shall be effective as of the date of application approval.

SECTION 7. CONSTRUCTION WORK-REGULATION BY CITY

- (a) **Compliance with Law Required** – The work done by Licensee in connection with the installation, construction, maintenance, repair, and operation of Communication Facility on poles within the Public Rights-of-Way shall be subject to and governed by all pertinent local and state laws, rules, regulations, including the City’s Rights-of-Way Regulations, that are applicable to ensuring the work done does not unduly inconvenience the public in the use of the surface of the streets and sidewalks.
- (b) **Duty to Minimize Interference** – All pole excavations, construction activities, and aerial installations on poles in the Rights-of-Way shall be carried on as to minimize interference with the use of City’s Rights-of-Way and with the use of private property, in accordance with all regulations of the City necessary to provide for public health, safety and convenience.

SECTION 8. CONSTRUCTION, RESTORATION AND MAINTENANCE ACTIVITIES

- (a) **Eligibility of City Pole** – Prior to submitting a Communication Site Application related to the use of a City pole, Licensee shall verify with the City the eligibility of the specified pole for attachment of the Communication Facility. In addition, Licensee shall conduct an engineering load bearing study to determine whether the pole can withstand the added weight of the Communication Facility. If the proposed installation will require pole reinforcement or replacement, the engineering design documents included with the Communication Site Application shall include specifications relating to the proposed pole reinforcement or replacement. Construction activities involving pole reinforcement or replacement shall be coordinated with applicable City personnel and the Rights-of-Way Manager.
- (b) **Compliance with Rights-of-Way Regulations** – In the installation, construction, maintenance, upgrade, and operation of Communication Facility, Licensee shall comply with the provisions of the Rights-of-Way Regulations, including but not limited to provisions pertaining to the following activities:
 - (1) construction activities related to the installation, maintenance, repair, upgrade, and removal of Communication Facility on existing poles in the Rights-of-Way;
 - (2) installation of new poles in the Rights-of-Way;
 - (3) cut or otherwise disturb the surfaces of the Rights-of-Way;
 - (4) disruption of vehicular and pedestrian traffic on Rights-of-Way to a minimum as reasonably necessary to execute the required work;
 - (5) applicable excavation and restoration standards; and

- (6) electric installations
- (7) pavement repairs.
- (c) **Submission of Engineering Plans** – Prior to installation, Licensee shall submit engineering plans to the Rights-of-Way Manager for review and approval in accordance with the Rights-of-Way Regulations.
- (d) **Identification of Utility Lines** – Prior to beginning any excavation or boring project on Public Rights-of-Way, Licensee engage a utility locator service. Licensee has the responsibility to protect and support the various utility facilities of other providers while conducting construction, installation, and maintenance operations.
- (e) **Electrical Service** – LICENSEE shall ensure the facility is served by separate electric service. LICENSEE shall arrange for the provision of a metered power source and additional electrical service, at no cost to LICENSOR, to the Communications Facility equipment at each pole subject to the Supplements. LICENSEE shall be solely responsible to pay the electrical utility service provider directly for electrical usage attributable to its Communications Facility Equipment.
- (f) **Maintenance and Repair of Communication Facility** – Licensee shall keep and maintain all Communication Facility installed on Public Rights-of-Way in commercially reasonable condition and repair throughout the Term, normal wear and tear and casualty excepted. Licensee shall have the right to conduct testing and maintenance activities, and repair and replace damaged or malfunctioning Communication Facility at any time during the Term.
- (g) **Upgrade of Communication Facility** – Licensee shall have the right to upgrade the Communication Facility with next-generation equipment and innovative new technologies. Prior to making any such equipment or technology upgrade that materially changes the size or weight of the Communication Facility, Licensee shall file a Communication Facility Application with the City Representative, who shall review the application for compliance with the permitted use under this Agreement and to verify that the new installation is structurally sound and the pole upon which it is placed will support the new installation provided however that equipment swaps or “like for like” equipment exchanges or minor modification in the ordinary course of maintenance shall not require a Communications Facility Application. Additionally, City representatives will verify that the new installation will not cause any interference with City’s public safety communications system, traffic light signal system, or other City communications infrastructure operating on spectrum where the City is legally authorized to operate. Licensee will address any interference issues prior to approval of such application.

- (h) **Coordination of Maintenance and Equipment Upgrade Activities** – Prior to Licensee engaging in planned or routine maintenance activities, or equipment upgrades concerning Communication Facility attached to a City traffic light pole, Licensee shall provide thirty (30) days advance notice to the City Representative in order to coordinate such maintenance activities with City operations.

Licensee shall obtain a ROW Permit prior to engaging in any maintenance or equipment upgrade activities in the Rights- of-Way regardless of pole ownership. Such thirty (30) day advance notice shall not be required in the case of an emergency.

- (i) **Removal of Non-Compliant Installations** – The City shall have the authority at any time to order and require Licensee to remove and abate any Communication Facility or other structure that is in violation of the City’s Rights-of-Way Regulations. In case Licensee, after receipt of written notice and thirty (30) days opportunity to cure, fails or refuses to comply, the City shall have the authority to remove the same at the expense of Licensee, all without compensation or liability for damages to Licensee.
- (j) **Reservation of Rights** – The City reserves the right to install, and permit others to install utility facilities in the Rights-of-Way. In permitting such work to be done by others, the City shall not be liable to Licensee for any damage caused by those persons or entities.
- (k) **No Limitation in City’s Operation**– The Parties agree that this Agreement does not in any way limit Licensors’ right to locate, operate, maintain, and remove City poles in the manner that best enables the protection of public safety. The City Representative may deny access to City traffic light poles due to operational conditions at the requested site, limited space availability, public safety concerns, future traffic signal system planning, or other operational considerations. Further, nothing in this Agreement shall be construed as granting Licensee any attachment right to install Communication Facility to any specific traffic light pole, other than an approved Communication Site Application and execution of the corresponding Supplemental License under the terms of this Agreement.
- (l) **Coordination of Traffic Light Maintenance Activities and Emergency Response** – Prior to conducting planned or routine maintenance on specific components of the traffic light signal system mounted on poles where Communication Facility has been installed, the City shall provide Licensee thirty (30) days advance notice of such maintenance activities. In advance of such maintenance activities, Licensee shall temporarily cut-off electricity to its Communication Facility for the safety of maintenance personnel. In the event of failure of components of the traffic light signal system for whatever reason, including damage resulting from vehicular collisions, weather related events, or malicious attacks, Licensors will respond to restore traffic light signal operations as a matter of public safety under the emergency provisions outlined in Section 12.

Should the events that results in damage or failure of the traffic light signal system also affect Communication Facility, Licensee shall have the sole responsibility to repair or replace its Communication Facility and shall coordinate its own emergency efforts with the City.

SECTION 9. SUPERVISION BY CITY OF LOCATION OF POLES

- (a) **Supervision by Rights-of-Way Manager** – Other than Licensee’s replacement of City pole as provided by 8(a), in the event Licensee is unable to utilize existing pole or structure as set forth in Section 6.(4)b.ii, iii. and iv, Licensee may install poles on Public Rights-of-Way in order to install Communication Facility as approved at a selected Communication Site. In such circumstances, such poles shall be owned and maintained by Licensee. Such poles shall be of adequate strength and straight, and shall be set to that they will not interfere with the flow of water in any gutter or drain, so that they will not unduly interfere with ordinary travel on the streets or sidewalks or maintenance of the Rights-of-Way, have an adequate fall zone, will not endanger the public safety or otherwise interfere with public use of the Rights-of-Way. Such new poles shall not exceed the usual and customary height of existing poles in the vicinity of the subject Rights-of-Way unless as otherwise approved in a Communication Site Application. The location of all Licensee’s personal property, poles, and electrical connections placed and constructed by the Licensee in the installation, construction, and maintenance of Communication Facility shall be subject to the lawful, reasonable and proper control, direction and/or approval of the Rights-of-Way Manager.
- (b) **Utility Locations**– Prior to submitting a Communication Site Application covering the installation of a new pole, Licensee shall use a utility locator service to identify the existence of other utilities at the proposed pole location. Licensee shall include in the Communication Site Application documentation from the utility location service.

SECTION 10. INTERFERENCE WITH OTHER FACILITIES PROHIBITED

- (a) **Interference with Rights of Others Prohibited** – Licensee shall not impede, obstruct or otherwise interfere with the installation, existence and operation of any other facility in the Rights-of-Way, including sanitary sewers, water mains, storm water drains, gas mains, poles, aerial and underground electrical infrastructure, cable television and telecommunication wires, public safety and City networks, and other telecommunications, utility, or City personal property.
- (b) **Signal Interference with City’s Communication Infrastructure Prohibited** – In the event that Licensee’s Communication Facility interferes with the City’s traffic light signal system, public safety radio system, or other City communications infrastructure operating on spectrum where the City is legally authorized to operate, Licensee will respond to the Licensor’s request to address the source of the interference as soon as practicable, but in no event later than twenty-four (24) hours of receiving notice.

SECTION 11. COMPLIANCE WITH UTILITY REGULATIONS

(a) **Compliance with Local Regulations** – All Communication Facility installations shall be in compliance with all relevant legal requirements for connecting the Communication Facility to electricity and telecommunications service. City is not responsible for providing electricity or transport connectivity to Licensee.

SECTION 12. EMERGENCY CONTACTS

- (a) **Coordination of Emergency Events** – In case of an emergency or any unforeseen events, Licensor will act to protect the public health and safety of its citizens, and to protect public and private property, notwithstanding any provision in this Agreement. Licensor will make reasonable efforts to coordinate its emergency response with the Licensee. To that end, the Licensor will use the following emergency contacts: The Licensee’s network operations center may be reached 24/7 at (877) 244-7889.
- (b) **Licensee’s Duty to Maintain Current Emergency Contacts** – Licensee will maintain the emergency contact information current at all times with the City Representative.
- (c) **Licensee’s Response to Network Emergency** - In case of a network emergency, Licensee may access its Communication Facility without first obtaining a ROW Permit provided Licensee has conducted network trouble-shooting and diagnostic tests and has reasonably identified the point or points of network failure or malfunction and has notified the City Representative as set forth below. While acting under this provision to address a network emergency, Licensee shall conduct its activities within the Rights-of-Way in such a manner as to protect public and private property. Licensee shall coordinate its emergency response with the Licensor. To that end, prior to entering the Rights-of-Way, Licensee will notify the City Representative and give notice to Licensor of the network emergency and an estimated time period to address the situation. Licensee shall submit application for ROW permit after the emergency to document the emergency repair. Such ROW permit application shall be received by the City within 72-hours after repair is completed.

SECTION 13. INDEMNITY

(a) Licensee hereby agrees to indemnify, defend and hold harmless City of Wausau, its elected and appointed officials, officers, employees, agents, representatives and volunteers, and each of them, from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorneys’ fees, costs and

expenses of whatsoever kind or nature in any manner directly or indirectly caused, occasioned, or contributed to in whole or in part or claimed to be caused, occasioned, or contributed to in whole or in part, by reason of any act, omission, fault, or negligence, whether active or passive, of Licensee or of anyone acting under its direction or control or on its behalf, even if liability is also sought to be imposed on City of Wausau, its elected and appointed officials, officers, employees, agents, representatives and volunteers. The obligation to indemnify, defend and hold harmless the City of Wausau, its elected and appointed officials, officers, employees, agents, representatives and volunteers, and each of them, shall be applicable unless liability results from the sole negligence of the City of Wausau, its elected and appointed officials, officers, employees, agents, representatives and volunteers.

Licensee shall reimburse the City of Wausau, its elected and appointed officials, officers, employees, agent or authorized representatives or volunteers for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided.

In the event that Licensee employs other persons, firms, corporations or entities (sub-contractor) as part of the work covered by this Agreement, it shall be Licensee's responsibility to require and confirm that each sub-contractor enters into an Indemnity Agreement in favor of the City of Wausau, its elected and appointed officials, officers, employees, agents, representatives and volunteers, which is identical to this Indemnity Agreement.

Nothing contained within this agreement is intended to be a waiver or estoppel of the City or its insurer to rely upon the limitations, defenses, and immunities contained within Wisconsin law, including those contained within Wisconsin Statutes §§ 893.80 and 345.05. To the extent that indemnification is available and enforceable, the municipality or its insurer shall not be liable in indemnity or contribution for an amount greater than the limits of liability for municipal claims established by Wisconsin law.

This indemnity provision shall survive the termination or expiration of this Agreement.

- (b) **Licensor's Duty to Notify Licensee of Claims** – The City shall give written notice to Licensee of any claim for which the City seeks indemnification. Licensee shall have the right to investigate, defend, and compromise these claims with notice to the City attorney.
- (c) **Licensor's Consent to Settle Claims** – Licensee may not settle any claim subject to this Section without the consent of City, unless (i) the settlement will be fully funded by Licensee, and (ii) the proposed settlement does not contain an admission of liability or wrongdoing by any elected officials, employees, officers, directors, volunteers or representatives of City. The City's withholding its consent as allowed in the preceding sentence does not release or impair Licensee of any obligations under this Section. Licensee must give City at least twenty (20) days advance written notice of the details of a proposed settlement before it becomes binding. Any settlement purporting to bind City must first be approved by the City.

- (d) **General Limitation** – Neither party will be liable under this Agreement for punitive damages (including lost revenues, loss of equipment, interruption, loss of service, or loss of data) for any cause of action, whether in contract, tort, or otherwise, even if the party was or should have been aware of the possibility of these damages, whether under theory of contract, tort (including negligence), strict liability, or otherwise.

SECTION 14. INSURANCE REQUIREMENTS

- (a) Prior to the commencement of any work under this Agreement, the Licensee shall furnish copies of all required certificate(s) of insurance to the City Representative. The City shall have no duty to pay or perform under this Agreement until such certificate has been received by the City.

City reserves the right to review the insurance requirements of this Section during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when reasonably determined necessary by the City based upon changes in statutory law, court decisions, circumstances surrounding this Agreement or change in Citywide policy.

- (b) The Licensee’s financial integrity is of interest to the City; therefore, the Licensee shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at the Licensee’s sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Wisconsin and with an A.M. Best’s rating of no less than A-VII, in the following types and for an amount not less than the amount listed below:

Type of Coverage	Amounts
1. Workers’ Compensation	Statutory
2. Employers’ Liability	\$1,000,000
3. Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Independent Contractors c. Products/complete operations d. Property damage	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence and General Aggregate limit of \$2,000,000
4. Business Automobile Liability	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence

- (e) The Licensee agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:

- Name the City, its officers, officials, employees, and elected representatives as additional insureds, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies. Licensee's insurance carrier shall provide City with a Certificate of Insurance indicating the above coverages, together with a copy of the Additional Insured Endorsement.
- Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City. A copy of such policy or waiver with the subrogation language shall be provided to City.

City shall not be required to perform any act or obligation under this Agreement until it receives and approves the form and substance of the Certificate of Insurance, Additional Insured Endorsement and the Workers' Compensation Waiver of Subrogation.

- Upon receipt of notice from its insurer, Licensee will provide Licensor with thirty (30) days prior written notice of cancellation.
- (f) Within thirty (30) calendar days of a suspension, cancellation or non-renewal of coverage, the Licensee shall provide a replacement Certificate of Insurance and applicable endorsements to the City. The City shall have the option to suspend the Licensee's performance should there be a lapse in coverage at any time during this Agreement.
- (g) In the event that Licensee hires a contractor or subcontractor to work on the Communication Site, the Licensee warrants that the contractor or subcontractor will carry Workmen's Compensation and Business Automobile insurance and general liability in accordance with the policy limits and terms mentioned in this section
- (h) In addition to any other remedies the City may have upon the Licensee's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order the Licensee to stop work hereunder, and/or withhold any payment(s) which become due to the Licensee hereunder until the Licensee demonstrates compliance with the requirements hereof.
- (i) Nothing herein contained shall be construed as limiting in any way the extent to which the Licensee may be held responsible for payments of damages to persons or property resulting from the Licensee's or its subcontractors' performance of the work covered under this Licensee Agreement.

- (j) It is agreed that the Licensee’s insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the City for liability arising out of operations under this Agreement.
- (k) It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement.

SECTION 15. ADMINISTRATION OF LICENSE

- (a) **Administration of License by City Officials** – The City Representative is the principal City person responsible for the administration of this Agreement. The Rights-of-Way Manager shall review the operations of Licensee in the Rights-of-Way under this Agreement and the Rights-of-Way Regulations.
- (b) **Licensee’s Duty to Communicate with City Officials** – Licensee shall communicate with the Rights-of-Way Manager all matters in connection with or affecting the installation, construction, reconstruction, maintenance and repair of Licensee’s Communication Facility in the Rights-of-Way and provide periodic deployment plans to the Rights-of-Way Manager and the City Representative.
- (c) **Notice** – Notices required by this Agreement may be given by registered or certified mail by depositing the same in the United States mail in the continental United States, postage prepaid. Either Party shall have the right, by giving written notice to the other, to change the address at which its notices are to be received. Until any such change is made, notices shall be delivered as follows:

<p>If to Licensor:</p> <p>City of Wausau Attn: Director of Public Works 407 Grant Street Wausau, WI 54403</p>	<p>With a copy to:</p> <p>City of Wausau Attn: City Attorney 407 Grant Street Wausau, WI 54403</p>
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<p>If to Licensee:</p> <p>Wisconsin Technology Networking, LLC 2220 University Drive Newport Beach, CA 92660 Attention: Asset Management</p>	<p>With a copy to:</p> <p>Wisconsin Technology Networking, LLC 2220 University Drive Newport Beach, CA 92660 Attention: Legal Department</p>
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SECTION 16. ASSIGNMENT OF LICENSE

- (a) **Limited Right of Assignment** – This Agreement and each Supplemental License may be sold or assigned without the written consent of the Licensor, such consent not to be unreasonably withheld, conditioned or delayed. No change of stock ownership, partnership interest or control of Licensee or transfer upon partnership or corporate dissolution of Licensee shall constitute an assignment hereunder.
- (b) **Licensee’s Right to Grant Security Interest in License** – Additionally, Licensee may mortgage or grant a security interest in this Agreement and the Communication Facility, and may assign this Agreement and Communication Facility to any mortgagees or holders of security interest, including their successors or assigns (collectively “Mortgagees”), provided such Mortgagees’ interests in this Agreement are subject to and subordinate to all of the terms and provisions of this Agreement. In such event, City shall execute such consent to financing as may reasonably be required by Mortgagees.

SECTION 17. FUTURE CONTINGENCY

- (a) **Renegotiation for Incapacity of Contract** – Notwithstanding anything contained in this Agreement to the contrary, in the event that this Agreement, in whole or in part, is declared or determined by a judicial, administrative or legislative authority exercising its jurisdiction to be excessive, unrecoverable, unenforceable, void, unlawful, or otherwise inapplicable, the Licensee and Licensor shall meet and negotiate an amended Agreement that is in compliance with the authority’s decision or enactment and, unless explicitly prohibited.

SECTION 18. AGREEMENT VIOLATIONS LEADING TO TERMINATION

- (a) **Events of Termination** – Except as provided below, this Agreement may be terminated before the expiration date of the Term on written notice by City to Licensee, if Licensee materially breaches any provision of this Agreement and such breach is not cured by Licensee within thirty (30) days after Licensee’s receipt of written notice of such breach from the City. Licensee shall not be excused from complying with any of the terms and conditions of this Agreement by the previous failure of the City to insist upon or seek compliance with such terms and conditions. City may terminate this Agreement before the expiration date if Licensee fails to comply with all insurance requirements of Paragraph 14 and fails to cure the same within fifteen (15) calendar days of notice by the City.
- (b) **No Waiver of Duties** – Termination of this Agreement does not relieve Licensee from the obligation (i) to pay Annual License Fees accrued and owing to Licensor under the Agreement at the time of termination; (ii) concerning any claim for damages against Licensee under this Agreement; and (iii) Licensee Indemnity obligations under Section 13 of this Agreement. Licensor’s rights, options, and

remedies under this Agreement are cumulative, and no one of them is exclusive of the other. Licensor may pursue any or all such remedies or any other remedy or relief provided by law, whether or not stated in this Agreement. No waiver by Licensor of a breach of any covenant or condition of this Agreement is a waiver of any succeeding or preceding breach of the same or any other covenant or condition of this Agreement.

SECTION 19. GOVERNING LAW, JURISDICTION AND VENUE

- (a) **Governing Law** – This Agreement is passed in accordance with the constitutions, statutes, ordinances, and regulations of the United States, the State of Wisconsin, and the City of Wausau in effect on the effective date of this Agreement, and as such local, state, and federal laws may be subsequently amended.
- (b) **Compliance with Local Ordinances** – Nothing in this Agreement shall be interpreted to limit the authority of the City to adopt, from time to time, ordinances, rules and regulations that are generally applicable to occupants of the Rights-of-Way that it determines necessary in the exercise of City’s governmental powers. Licensee shall abide by any Rights-of-Way Regulations that do not conflict or are otherwise preempted by state or federal law.
- (c) **Enforcement of Local Regulations** – Licensor expressly reserves the right to enforce requirements for issuance of ROW Permits. It is understood and agreed that Licensee is responsible for obtaining all such permits necessary to install, maintain and operate its Communication Facility.
- (d) **Jurisdiction and Venue** – THE PROVISIONS OF THE AGREEMENT SHALL BE CONSTRUED UNDER, AND IN ACCORDANCE WITH, THE LAWS OF THE STATE OF WISCONSIN, AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER SHALL BE PERFORMED IN THE COUNTY IN WHICH THE CITY IS LOCATED. THEREFORE, IN THE EVENT ANY COURT ACTION IS BROUGHT DIRECTLY OR INDIRECTLY BY REASON OF THIS AGREEMENT, THE COURTS OF SUCH COUNTY SHALL HAVE JURISDICTION OVER THE DISPUTE AND VENUE SHALL BE IN SUCH COUNTY.

SECTION 20. NON-DISCRIMINATION

- (a) **Non-Discrimination** – Licensee agrees not to engage in employment practices that discriminate against any employee or applicant for employment based on race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age, disability, or political belief or affiliation, unless exempted by state or federal law. In the event non-compliance occurs with this Section occurs, Licensee, upon written notification by City, shall commence compliance procedures within thirty (30) days.

SECTION 21. MISCELLANEOUS PROVISIONS

- (a) **Waiver** – None of the material provisions of this Agreement may be waived or modified except expressly in writing signed by the Licensee and Licensor. Failure of either Party to require the performance of any term in this Agreement or the waiver by either Party of any breach thereof shall not prevent subsequent enforcement of this term and shall not be deemed a waiver of any subsequent breach.
- (b) **Severability** – If any clause or provision of the Agreement is illegal, invalid, or unenforceable under present or future laws effective during the Term, then and in that event it is the intention of the Parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the Parties that in lieu of each clause or provision of this Agreement that is illegal, invalid, or unenforceable, there be added as part of this Agreement a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.
- (c) **Captions** – The captions contained in this Agreement are for convenience of reference only and in no way limit or enlarge the terms and conditions of this Agreement.
- (d) **Extent of Agreement** – This Agreement, together with its attached exhibits and the authorizing ordinance, if any, embodies the complete agreement of the Parties, superseding all oral or written previous and contemporary agreements between the Parties and relating to this Agreement.
- (e) **Authority** – The signer of this Agreement for the Licensee and the City hereby represents and warrants that he or she has full authority to execute this Agreement on behalf of the Licensee or the City respectively.
- (f) **Non-Waiver of Rights** – By entering this Agreement, neither Licensor nor Licensee has waived any rights either Party may have under applicable state and federal law pertaining to the provision of Communication Service or Licensee’s access rights concerning the Rights-of-Way.
- (g) **Force Majeure** – In the event a Party’s performance of any of the terms, conditions, obligations or requirements of this Agreement is prevented or impaired due to a force majeure event beyond such Party’s reasonable control, such inability to perform will be deemed to be excused and no penalties or sanctions will be imposed as a result thereof. For purposes of this subsection, “force majeure” means an act of God, a natural disaster or an act of war (including terrorism), civil emergencies and labor unrest or strikes, untimely delivery of equipment, pole hits, and unavailability of essential equipment, and/or materials, and any act beyond the Party’s reasonable control. It also includes an explosion, fire or other casualty or

accident, which is not the result of gross negligence, an intentional act or misconduct on the part of the Party.

- (h) **Technical Amendments** – Other than proposed substantive contractual amendments requested under Section 4, the Parties may mutually agree to make technical amendments to the Agreement and its exhibits without the approval of the City that would not alter the obligations and responsibilities of the Parties under the Agreement, in order to address advances and/or innovations in wireless technologies and equipment.
- (i) **No Partnership or Joint Venture** – The relationship between Licensor and Licensee is at all times solely that of licensor and licensee, not that of partners or joint venturers.
- (j) **Effect of Bankruptcy** – Bankruptcy, insolvency, assignment for the benefit of creditors, or the appointment of a receiver is an event of default.
- (k) **Counterparts** – This Agreement may be executed in multiple counterparts, each of which is an original. Regardless of the number of counterparts, they constitute only one agreement. In making proof of this agreement, it is not necessary to produce or account for more counterparts than are necessary to show execution by or on behalf of all Parties.
- (l) **Further Assurances** – The Parties must execute and deliver such additional documents and instruments as may be required to effect fully the provisions hereof. No such additional document(s), however, may alter the rights or obligations of the Parties as contained in this Agreement.

EXECUTED and AGREED.

CITY OF WAUSAU

**WISCONSIN TECHNOLOGY
NETWORKING, LLC**

(Signature)

(Signature)

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

(Signature)

Printed Name: _____

Title: _____

Date: _____

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

COMMUNICATION SITE APPLICATION

Applicant: _____ Date: _____

Licensee: _____

Application/License#: _____

Licensee Site ID #	Communication Site Coordinates	GIS	Type of Communication Facility
			[Wireless Communication Equipment] [Wireless Backhaul Equipment] [Landline Backhaul Equipment]

If Wireless Communication Equipment or Wireless Backhaul Equipment:

Pole Type	Pole Alteration	Attachment Height	Attachment Weight	Attachment Dimensions	Location of Equipment Shelter
[City Pole] [Third-Party Pole] [Licensee Pole] [Not Applicable/Needed]	[Pole Reinforcement] [Pole Replacement] [New Pole] [Not Applicable/Needed]				[Installed on Pole] [Installed in Ground (Vault)] [Other Location (Requires City Representative Approval)] [Not Applicable/Needed]

APPLICANT SHALL PROVIDE THE FOLLOWING IF/AS APPLICABLE:

Site plan and engineering design and specifications for installation of Communication Facility, including the location of radios, antenna facilities, transmitters, equipment

shelters, cables, conduit, point of demarcation, backhaul solution, electrical distribution panel, electric meter, and electrical conduit and cabling. Where applicable, the design documents should include specifications on design, pole modification, and ADA compliance.

- For City poles, include documentation from the City verifying that the pole is eligible for attachment. Also include a load bearing study that determines whether the pole requires reinforcement or replacement in order to accommodate attachment of Communication Facility. If pole reinforcement or replacement is warranted, the design documents should include the proposed pole modification.
- For new pole installations, include documentation from the Rights-of-Way Manager verifying that the pole location in the Rights-of-Way is eligible for installation and includes utility location information.
- If the proposed installation includes a new pole, provide design and specification drawings for the new pole.
- For new pole installations, submit evidence sufficient to demonstrate that the applicant is prohibited from using an existing pole or tower (either owned by the applicant or a third party) because such use is technically infeasible, economically prohibitive, or prohibited by law.
- For new pole installations, due to its height and size, poses no greater danger to the health, safety, and welfare of the public than existing poles in the nearby Right-of-Way.
- If the proposed installation will require reinforcement or replacement of an existing pole, provide applicable design and specification drawings.
- The number, size, type and proximity to the facilities of all communications conduit(s) and cables to be installed.
- Description of the utility services required to support the facilities to be installed.
- All necessary permits and letters of authorization from all affected parties.
- List of the contractors and subcontractors, and their contact information, authorized to work on the project.

THE CITY WILL PROCESS THIS APPLICATION WITHIN 60 DAYS OF RECEIPT DATE, UNLESS AN AGREEMENT IS EXECUTED BY APPLICANT AND THE CITY REPRESENTATIVE TO EXTEND THE APPROVAL DATE.

APPLICANT REPRESENTATIVE: _____ **PRINT NAME:**
TITLE: _____

----- **FOR CITY USE ONLY** -----

RECEIPT DATE: _____ APPLICATION NO.: _____

APPROVED BY: _____

PRINT NAME: _____

TITLE: _____

APPROVAL DATE: _____

**EXHIBIT B
Supplemental License Form**

**Supplemental License No. _____ For
Communication Facility Installation**

This Supplemental License is entered on this ____ day of _____, _____, between the City of Wausau, acting through its City Representative, or his/her designee, (“Licensor”) and Wisconsin Technology Networking, LLC, a Delaware limited liability company (“Licensee”).

1. Overview of Supplemental License – This Supplemental License applies to the Communication Sites described below.

Authorizing

Agreement:

License: Master License Agreement for Use of Public Rights-of-Way

Licensor: City of Wausau

Licensee: Wisconsin Technology Networking, LLC

Initial Aggregate _____

Annual License Fees:

Commencement Date: _____

Term: Term of 5 years, with one (1) year renewals subject to the Master License Agreement.

Licensee ID #	Site	Communication Coordinates	Site	GIS	Type of Communication Facility
					[Wireless Communication Equipment] [Wireless Backhaul Equipment] [Landline Backhaul Equipment]

If Wireless Communication Equipment or Wireless Backhaul Equipment:

Pole Type	Pole Alteration	Attachm ent Height	Attachm ent Weight	Attachment Dimensions	Location of Equipment Shelter
[City Pole] [Third-Party Pole] [Licensee Pole] [Not Applicable/Needed]	[Pole Reinforcement] [Pole Replacement] [New Pole] [Not Applicable/Needed]				[Installed on Pole] [Installed in Ground (Vault)] [Other Location (Requires City Representative Approval)] [Not Applicable/Needed]

2. Source of Authority – This Supplemental License is authorized and executed pursuant to the terms and conditions of the “Master License Agreement between the City and Licensee for the Use of Public Rights-of-Way,” as it may be amended by the Parties during its Term (“Master License Agreement”). All of the terms and conditions of the Master License Agreement, including any future amendments, are incorporated herein by reference and made a part hereof without the necessity of repeating or attaching the Master License Agreement. Capitalized terms used in this Supplemental License shall have the same definitions and meanings ascribed to them in the Master License Agreement, unless otherwise indicated herein.

3. Approval Process – This Supplemental License arises from and is part of the approval process associated with the Communication Site Application approved by the City Representative on_____. The Communication Site Application, including all attachments, is incorporated as Exhibit 1 and made a part hereto. If not attached, the Communication Site Application is hereby incorporated herein by reference and made a part hereof without the necessity of repeating or attaching it.

4. Scope of License – This Supplemental License is limited to the Communication Facility installation(s) referenced in the Communication Site Application associated with this Supplemental License.

5. Conflict in Interpretation – Nothing in this Supplemental License is intended to grant Licensee any rights or privileges beyond those addressed in the Master License Agreement. In the event of any conflict in contractual interpretation between this Supplemental License

and the Master License Agreement, the terms and conditions of the Supplemental License shall govern, provided however that any future amendments or modifications to the Master License Agreement shall simultaneously apply and serve to amend or modify this Supplemental License without the need by either Party to provide notice of such to the other.

6. Site Specific Conditions – All site specific conditions shall be addressed in the Communication Site Application associated with this Supplemental License.

7. Site Modifications – Prior to making any post-installation future material modifications to a Communication Site, other than maintenance and repair of site specific Communication Facility as further provided in the Master License Agreement, Licensee shall file a Communication Site Application with the City Representative describing the proposed modifications. The City Representative, or his/her designee, shall review the Communication Site Application pursuant to the terms and conditions in the Master License Agreement, and if approved such Communication Site Application shall be attached as Exhibit 2 and made a part hereto. Any additional site modifications shall be incorporated hereto in the same manner.

8. License Fee – The aggregate Annual License Fees applicable to this Supplemental License, as summarized in Section 1 above, shall be calculated based on the number of applicable Communication Facility as set forth in the Master License Agreement, payable by Licensee as provided therein.

9. Commencement Date – The Commencement Date for this Supplemental License shall be the same date that the Communication Site Application associated with this Supplemental License, which is hereby approved by the City Representative.

10. Term – The term for this Supplemental License, as described in Section 1 above, is set forth in the Master License Agreement.

NOW THEREFORE, the Parties hereto by the signature of their respective representatives hereby agree to enter into this Supplemental License.

LICENSOR

CITY OF WAUSAU

By: _____
Printed Name: _____
Title: _____
Date: _____

LICENSEE

WISCONSIN TECHNOLOGY NETWORKING, LLC

By: _____
Printed Name: _____
Title: _____
Date: _____