



**CITY OF PORT WASHINGTON, OZAUKEE COUNTY, WI  
GENERAL GOVERNMENT AND  
FINANCE COMMITTEE MEETING  
TUESDAY, JANUARY 16, 2024 AT 6:00 P.M.  
Port Washington City Hall, 100 W. Grand Avenue, Port Washington, WI  
53074  
Council Chambers Side Conference Room**

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**AGENDA**

- 1. Roll Call**
- 2. Approve Minutes of the Previous Meeting**
- 3. Consideration and Possible Action on “Class B” Liquor and Class “B” Beer License for Inventors Brewpub LLC (305 E. Washington Street and Cameron Huck-Agent)**
- 4. Consideration and Possible Action on a Software Service Agreement with BSA for a New Financial Management Program**
- 5. Consideration and Possible Action on a Proposal for Professional Services – Lead Service Line Inventory and Replacement Plan by CDM Smith/City Water**
- 6. Chairman’s Business**
- 7. Member’s Business**
- 8. Public Comments/Appearances**
- 9. Adjournment**

**Committee Members: Alderpersons- Jonathan Pleitner, Dan Benning, Deborah Postl**

Persons with disabilities requiring special accommodations for attendance at the meeting should contact the City Clerk at least one (1) business day prior to the meeting. Notice is hereby given that Common Council members or members of other governmental bodies who are not members of this board, commission or committee may be present at this meeting to gather information about a subject over which they have decision-making authority. In that event this meeting may also constitute a simultaneous meeting of the Council or of such other governmental bodies. Whether a simultaneous meeting is occurring depends on whether the presence of one or more Council members or members of such other governmental bodies results in a quorum of the Council or of such other governmental bodies and, if there is a quorum, whether any agenda items listed above involve matters within the Council’s or the other governmental bodies’ jurisdiction. If a simultaneous meeting is occurring, no action other than information gathering will be taken at the simultaneous meeting. [State ex rel. Badke vs. Greendale Village Board, 173 Wis. 2d 553 (1993).]



CITY OF PORT WASHINGTON, OZAUKEE COUNTY, WI  
GENERAL GOVERNMENT AND  
FINANCE COMMITTEE MEETING  
TUESDAY, DECEMBER 19, 2023 AT 5:45 P.M.  
Port Washington City Hall, 100 W. Grand Avenue, Port  
Washington, WI 53074  
Council Chambers Side Conference Room

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MINUTES

- 1. Roll Call-** Members present were Alderpersons Jonathan Pleitner, Dan Benning, and Deborah Postl. Also present was Interim City Administrator/City Clerk Susan Westerbeke, and ACA/HR Director Emily Blakeslee.
- 2. Approve Minutes of the Previous Meeting-** MOTION MADE BY ALD. POSTL, SECONDED BY ALD. BENNING TO APPROVE THE MINUTES FROM THE PREVIOUS MEETING AS PRESENTED. Motion carried unanimously.
- 3. Resolution 2023-16: Resolution Authorizing A Referendum For The City Of Port Washington To Allow The City To Exceed The State Imposed Levy Limit For Hiring Additional Fire Department Personnel Beginning With The 2024 Levy (Collected in 2025) And On An Ongoing Basis-** Finance Director-Treasurer Mark Emanuelson was present to discuss the resolution. Throughout the first half of 2023, the Fire Department staff developed several organizational models and staffing options designed to address the existing and future staffing challenges within the Port Washington Fire Department (PWFD). On September 5, 2023, the Common Council endorsed the Fire Department's proposed hybrid staffing model and directed staff to initiate the process for a spring 2024 referendum to ask the public to support a levy limit increase for the required funding to implement that staffing model. At that time, Fire Department staff estimated that to achieve the addition of six new full-time positions and maintain the existing two full-time positions funded by the Ozaukee County program, the city must secure approximately \$975,000 in sustainable funding for the year 2024 and moving forward. In addition, the city has applied approximately \$200,000 per year of American Rescue Plan Act (ARPA) funding to support current staffing, therefore a total of approximately \$1,175,000 would be needed to implement the enhanced staffing model in 2025 and moving forward. This is the amount of the proposed levy limit increase under Resolution 2023-16. The Finance Director confirmed an inflationary index was included in the calculations. MOTION MADE BY ALD. BENNING, SECONDED BY ALD. POSTL TO RECOMMEND APPROVAL OF RESOLUTION 2023-16: A RESOLUTION AUTHORIZING A REFERENDUM FOR THE CITY OF PORT WASHINGTON TO ALLOW THE CITY TO EXCEED THE STATE IMPOSED LEVY LIMIT FOR HIRING ADDITIONAL FIRE DEPARTMENT PERSONNEL BEGINNING WITH THE 2024 TAX LEVY (COLLECTED IN 2025) AND ON AN ONGOING BASIS AS PRESENTED. Motion carried unanimously.
- 4. Consideration and Possible Action on an Agreement for Professional Services with GRAEF-USA, Inc. Relating to the Creation of a New City Zoning Code-** The Planning and Development Director Bob Harris was present to review the agreement. After a consensus by the Common Council on the need to re-write the current zoning code (originally written in 1965) to address on-going and future development and redevelopment issues in Port Washington, the Planning Department was approved to budget \$200,000 in capital funds to hire a consulting team for the project. In September 2023, staff issued a Request for Proposal (RFP) seeking consultant services for the zoning code re-write project. In November 2023, the Common Council approved the recommended team of GRAEF (with CiviTek Consulting, the primary sub-consultant) as the preferred consultant for the project, subject to finalization and approval of the final agreement. Graef was the only firm who offered their own staff attorney review. This process is expected to begin in January 2024 and take 12 to 18 months to complete, including public information sessions during the process. MOTION MADE BY ALD. POSTL, SECONDED BY ALD. BENNING TO RECOMMEND APPROVAL OF THE AGREEMENT FOR PROFESSIONAL SERVICES WITH GRAEF-USA, INC RELATING TO THE CREATION OF A NEW CITY ZONING CODE AS PRESENTED. Motion carried unanimously.

**Consideration and Possible Action on a Contract Amendment with Short Elliot Hendrickson, Inc (SEH) to Provide Construction Services for the Water Filtration Plant Improvement Project-**

The Public Works Director Rob Vanden Noven reviewed the contract amendment. Also present was Tom Nennig from City Water, and Brad Weiss from SEH. At the November 21, 2023 meeting of the Common Council, the contract to construct improvements to the Water Filtration Plant was awarded to CD Smith. The proposed amendment to the SEH Agreement for professional services is to provide construction services including shop drawing review, contract administration, and on-site observation, documentation and enforcement of project plans and specifications. It is best practice to hire the engineering firm that prepared the design for these activities because it reduces risk to the City by ensuring that the construction meets the design intent. This amendment, which is currently under final review by the City Attorney, shall not exceed \$1.2 million. The City Attorney has minor language updates. MOTION MADE BY ALD. BENNING, SECONDED BY ALD. POSTL TO RECOMMEND APPROVAL OF THE CONTRACT AMENDMENT WITH SHORT ELLIOT HENDRICKSON (SEH) TO PROVIDE CONSTRUCTION RELATED ENGINEERING SERVICES FOR THE WATER FILTRATION PLANT UPGRADE PROJECT, WITH CITY ATTORNEY REVIEW AND APPROVAL AS PRESENTED. Motion carried unanimously.

**5. Chairman's Business-** None.

**6. Member's Business-** None.

**7. Public Comments/Appearances-** None.

**8. Adjournment-** MOTION MADE BY ALD. POSTL, SECONDED BY ALD. BENNING TO ADJOURN THE MEETING AT 6:14 PM. Motion carried unanimously.

Respectfully submitted,  
Susan L. Westerbeke, City Clerk

# AGENDA ITEM MEMORANDUM

City of Port Washington

**TO: General Government & Finance Committee and Common Council**

**FROM: Susan Westerbeke, City Clerk**

**DATE: Tuesday, January 16, 2024**

**SUBJECT: Consideration and Possible Action on Original “Class “B” Liquor and Class “B” Beer License for Inventors Brewpub LLC (305 E. Washington Street, Cameron Huck-Agent)**

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**ISSUE:** Should the General Government & Finance Committee and Common Council approve an Original “Class B” Liquor and Class “B” Beer License for Inventors Brewpub LLC and Cameron Huck-Agent?

**STAFF RECOMMENDATION:** The City Clerk has reviewed and approved the application and required supporting documentation. All required fees have been paid and the background record check was completed and approved by Police Chief Hingiss. The City Clerk is requesting approval of the license for Inventors Brewpub LLC.

**RECOMMENDED MOTION:** “I move to approve the Original “Class B” Liquor and Class “B” Beer License for Inventors Brewpub LLC and Cameron Huck as Agent as presented.”

**BACKGROUND/DISCUSSION:** Approval of Alcohol Licenses and Agent are required for any establishment who intends to sell, store or allow consumption of alcohol beverages on the premises. This licensed establishment and its Agent Cameron Huck intend to store, sell, serve and allow consumption of Liquor, Wine and Beer products at Inventors Brewpub’s new location at 305 E. Washington Street. This building is currently under construction and the anticipated completion date is March/April 2024. The owner Adam Draeger is required to hold this license to be able to continue with his application for a Brewers permit from the State. Once this establishment has an opening date, the current license held by Inventors Brewpub on Lake Street at the Legion will be surrendered and the City Clerk will issue this new original license for the new location.

**STRATEGIC PLAN:**

1. **Strategic Direction:** Creating Accountability Through Policies & Procedures
2. **Impact on Strategic Direction:** Consistency is following statutory requirements and municipal code for licensing.

**LEGAL:**

1. **City Attorney Review:** No
2. **Legal Comments & Conclusions:** N/A
3. **Statutory References:** N/A

**FISCAL IMPACT:** There is no fiscal impact.

**1. Amount of Recommendation/Cost of Project:**

Initial Project Cost Estimate:

Approved Budget Project Cost:

Prior Year Expenditures:

Total Project Costs to Date:

**2. Source of Funding:**

**3. Operating and Maintenance Cost:**

**BOARD/COMMITTEE/COMMISSION RECOMMENDATION:** The General Government and Finance Committee will have met prior to the Common Council meeting to consider this application.

**PUBLIC OUTREACH:**

**IF APPROVED, NEXT STEPS:** If approved, the establishment will be issued the appropriate license by the City Clerk upon surrender of their currently held license at their other location.

**ATTACHMENTS:** None.

# AGENDA ITEM MEMORANDUM

City of Port Washington

**TO:** General Government & Finance Committee; Common Council

**FROM:** Mark Emanuelson, Finance Director / Treasurer

**DATE:** Tuesday, January 16, 2024

**SUBJECT:** Consideration and Possible Action on a Software Service Agreement with BSA for a new Financial Management Program.

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**ISSUE:** Should the Common Council approve the selection of BS&A as the City's new financial software vendor?

**STAFF RECOMMENDATION:** Staff recommends approving the selection of BS&A as the City's new financial software vendor.

**RECOMMENDED MOTION:** "I move approving the selection of BS&A as the City's new financial software vendor and authorize staff to enter into a service contract contingent upon a review by the City Attorney." OR "Move to approve staff's recommendation."

**BACKGROUND/DISCUSSION:** Consistent with the Common Council's previous allocation of \$110,007.16 of ARPA funding in 2024 for the implementation of a new Financial Management Software system, staff issued an RFP for this project on October 2, 2023.

Staff received four qualified responses to this solicitation: Harris Local Government, Tyler Technologies, BS&A Software, and CIVIC Systems the City's current vendor.

<u>Proposal Cost summary:</u>	<u>Implementation</u>	<u>Annual Fees</u>	<u>5-year total costs</u>
Harris Local Government	\$105,913	\$30,667	\$278,143
Tyler Technologies	\$165,770	\$40,873	\$370,135
BS&A Software	\$124,215	\$35,375	\$307,584
CIVIC Systems	\$54,000	\$29,770	\$205,310

- *Costs are based on a hosted solution for the core modules identified in the RFP.*

After a review of the proposals, staff invited both BS&A and Civic Systems to make a presentation of their software systems. Based on those presentations and the other factors identified in the RFP, staff is recommending moving forward with the selection of BS&A for the City's new financial management platform. While BS&A is not the lowest cost option, we do believe that it will be the best fit for city based on functionality, ease of use, and overall system operations.

**STRATEGIC PLAN:**

1. **Strategic Direction:** Creating Accountability Through Policies & Procedures
2. **Impact on Strategic Direction:** This is a long-term process design opportunity.

**LEGAL:**

1. **City Attorney Review:** pending
2. **Legal Comments & Conclusions:** N/A
3. **Statutory References:** N/A

**FISCAL IMPACT:**

1. **Amount of Recommendation/Cost of Project:** \$124,215  
Initial Project Cost Estimate: \$110,007.16  
Approved Budget Project Cost: \$50,000 / \$110,007.16  
Prior Year Expenditures: N/A  
Total Project Costs to Date: N/A
2. **Source of Funding:** ARPA / General Fund
3. **Operating and Maintenance Cost:** This will result in a \$12,500 per year increase in ongoing annual costs.

**BOARD/COMMITTEE/COMMISSION RECOMMENDATION:** The General Government & Finance Committee will review the item prior to the Common Council meeting.

**PUBLIC OUTREACH:** None.

**IF APPROVED, NEXT STEPS:** If approved, Staff will coordinate with the City Attorney and BS&A to execute a software contract and project implementation agreement.

**ATTACHMENTS:**

BS&A Standard Licensing agreement

## **SOFTWARE AS A SERVICE AGREEMENT**

This Software as a Service Agreement, including the attached Exhibits ("Agreement"), is entered into by and between BS&A Software LLC ("BSA"), a Delaware limited liability company and the City of Port Washington WI ("Customer"), effective the date of the signature of the last Party to sign the Agreement ("Effective Date"). Each party to the Agreement is referred to as a "Party" and the parties, collectively, are referred to as "Parties."

This Agreement sets the terms and conditions under which BSA will furnish certain Software as a Service ("SaaS") and certain professional services described herein to Customer.

### **SECTION A – SAAS SERVICES**

#### **1. Rights Granted.**

**1.1.** Upon the Effective Date, subject to the terms of this Agreement and Customer's ongoing compliance therewith, BSA hereby grants to Customer a non-exclusive, non-transferable, and non-assignable license to use the BSA Software Products. "BSA Software Product(s)" means, the: (i) BSA Software as a Service set forth in **Schedule 1 to Exhibit A**; (ii) related interfaces and customizations; (iii) BSA manuals, BSA official specifications, and BSA user guides provided in or with BSA software products set forth in **Schedule 1 to Exhibit A** ("Documentation"); and (iv) all modifications to the BSA software products set forth in **Schedule 1 to Exhibit A**, including, but not limited to, fixes, new versions, new releases, updates, upgrades, corrections, patches, work-arounds (collectively, "Modifications"). For the avoidance of doubt, Documentation does not include advertising, other general statements about products, or statements by sales or other staff members.

**1.2.** Customer acknowledges that BSA will not ship copies of the BSA Software Products as part of the SaaS Services.

**2. Restrictions.** Customer will not (i) sublicense, modify, adapt, translate, or otherwise transfer, reverse compile, disassemble or otherwise reverse engineer BSA Software Products or any portion thereof without prior written consent of BSA; (ii) access or otherwise use the BSA Software Products to create or support, and/or assist a third party in creating or supporting software products competing with the BSA Software Products; or (iii) assign, disclose, display, distribute, host, lease, license, outsource, permit timesharing or service bureau use, rent, sell, transfer or otherwise use the BSA Software Products for any commercial use other than fulfilling Customers own internal business purposes. Without limiting the foregoing, the BSA Software Products may not be modified by anyone other than BSA. If Customer modifies the BSA Software Products without BSA's prior written consent, any BSA obligation to provide support services on, and the warranty for, the BSA Software Products will be void. All rights not expressly granted are reserved.

**3. SaaS Fees.** Customer agrees to pay BSA, and BSA agrees to accept from Customer as payment in full for the rights granted herein, the SaaS fees set forth in **Schedule 1 to Exhibit A**.

#### **4. Ownership.**

**4.1.** BSA retains all ownership and intellectual property rights to the SaaS Services, the BSA Software Product(s), and anything developed by BSA under this Agreement. Customer does not acquire under this Agreement any license to use the BSA Software Product(s) beyond the scope and/or duration of the SaaS Services. Customer agrees not to challenge such rights and hereby assigns any and all copyrights and other intellectual property rights in and to the BSA Software Products to BSA and agrees to execute any and all documents necessary to effect the purpose of this paragraph. "Intellectual property rights" means all trademarks, copyrights, patents, trade secrets, moral rights, know-how, and all other proprietary rights.



4.2. Customer retains all ownership and intellectual property rights to the data.

**5. Limited Software Warranty.**

5.1. BSA warrants, for the term of use granted, that the BSA Software Products will perform without material defects in workmanship or materials. Customer's exclusive remedy in the event of a breach of this warranty shall be to have BSA use reasonable efforts, consistent with industry standards, to repair or replace the non-conforming BSA Software Product so as to render it conforming to the warranty, in accordance with the maintenance and support process set forth below in **Exhibit C** and BSA's then current Support Call Process.

5.2. THE FOREGOING LIMITED SOFTWARE WARRANTY IS IN LIEU OF ALL OTHER REPRESENTATIONS OR WARRANTIES RELATING IN ANY WAY TO THE BSA SOFTWARE PRODUCTS INCLUDING, *BUT NOT LIMITED TO*, THEIR FEATURES, ATTRIBUTES, FUNCTIONALITY, AND PERFORMANCE. THE FOREGOING LIMITED SOFTWARE WARRANTY IS IN LIEU OF ALL SUCH REPRESENTATIONS OR WARRANTIES WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OR REPRESENTATIONS OF MERCHANTABILITY, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND THOSE ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM THE COURSE OF DEALING OR USAGE OF TRADE. BSA DOES NOT REPRESENT OR WARRANT THAT THE BSA SOFTWARE PRODUCTS WILL MEET ANY OR ALL OF CUSTOMER'S PARTICULAR REQUIREMENTS, THAT THE OPERATION OF THE BSA SOFTWARE PRODUCTS WILL OPERATE ERROR FREE OR UNINTERRUPTED, OR THAT ALL PROGRAMMING ERRORS IN THE BSA SOFTWARE PRODUCTS CAN BE FOUND IN ORDER TO BE CORRECTED.

6. **One Year Money Back Guarantee.** BSA offers a one (1) year Money Back Guarantee on all SaaS products. If, for any reason, Customer is not satisfied with the BSA Software Product, Customer may cancel service within one (1) year of the date that the BSA Software Product becomes available for use ("Activation Date"), for a full refund of the SaaS Fees, as identified in **Schedule 1 to Exhibit A**. Customer must notify BSA of intention to terminate at least thirty (30) days prior to the end of the one (1) year period.

**7. SaaS Services.**

7.1. BSA's Services are audited at least annually in accordance with the AICPA's Statement on Standards for Attestation Agreements ("SSAE") No. 16, Type 2. BSA has attained, and will maintain, Type II SSAE compliance, or its then current equivalent, for as long as Customer maintains timely payment for SaaS services. Customer may make a written request and, upon execution of a mutually acceptable Non-Disclosure Agreement ("NDA"), BSA will make available a summary of our SSAE-16 compliance report or its equivalent. Every year thereafter, for so long as the NDA is in effect, Customer may make an additional written request for BSA to provide the same information.

7.2. Customer will utilize shared hardware in a data center, but in a database dedicated to Customer's use, which is not accessible to other customers.

7.3. Microsoft Azure data centers, or any replacement data centers utilized by BSA during the term of this Agreement are accessible only by authorized personnel, for specific business purposes, with prior approval required.

7.4. Data centers utilized by BSA will have redundant telecommunications access, electrical power, and the necessary hardware to provide access to the BSA Software Products in the event of a disaster or component failure. In the event any of Customer's data is lost or damaged due to a negligent act or omission of BSA, or due to a defect in the BSA Software Product, BSA will use reasonable commercial efforts to restore data on servers in accordance with the system capabilities and with the objective of minimizing any data loss possible. BSA's systems are reasonably designed to ensure that the recovery point shall not exceed a maximum of twenty-four (24) hours from declaration of disaster. For purposes of this section, the declaration of disaster

shall be declared by BSA in response to issues discovered by BSA, or upon confirmation of issues relayed by Customer to BSA. Said declaration of disaster will not be unreasonably withheld by BSA.

- 7.5.** In the event that a backup must be restored due to a declaration of disaster, or database failure, BSA will be responsible for importing backup data and verifying that Customer can log in. Customer will be solely responsible for running reports and testing critical processes to verify the restored data.
- 7.6.** BSA's systems are reasonably designed to ensure that, access to the BSA Software Products can be restored within one (1) business day of the declaration of disaster.
- 7.7.** BSA performs tests of the disaster recovery plan at least annually. Such tests are not specific to individual Customer databases.
- 7.8.** Customer will not attempt to reverse engineer, bypass, or otherwise subvert security restrictions in the BSA Software Products or the SaaS environment related to the BSA Software Products. Unauthorized attempts to access files, passwords, other confidential information, or unauthorized vulnerability and penetration testing of BSA's system (hosted or otherwise) is prohibited without the prior express written approval of BSA.

## **SECTION B – PROFESSIONAL SERVICES**

- 8. Professional Services.** BSA shall provide the services ("Professional Services") set forth in **Schedule 2 to Exhibit A**, for the prices indicated, provided Customer fulfills its obligations set forth in this Agreement. BSA and Customer may enter into future Statements of Work, which shall become part of this Agreement. Future Statements of Work resulting from a change in scope to the contracted services may necessitate Change Orders to indicate changes to the agreed upon scope of work and any increase or decrease in costs related to the change in scope. Customer acknowledges that the fees stated in the Cost Summary are good-faith estimates of the amount of time and materials required for Customer's implementation. BSA will bill Customer for the actual fees incurred based on the services provided to Customer.
- 9. Change Orders.** In the event of a change in the agreed upon project scope for professional services not covered or otherwise included in the existing Agreement, Customer shall deliver to BSA's Project Manager a written change order and specify in such change order the proposed work with sufficient detail to enable BSA to evaluate it ("Change Order"). BSA may, at its discretion, prescribe the format of the Change Order. BSA shall provide the Customer with an evaluation of the Change Order, which may include a written proposal containing the following: (i) implementation plan; (ii) the timeframe for performance; and (iii) the estimated price for performance of such change, based on the then current rates for said services. Upon execution, all Change Orders shall be governed by the terms and conditions of this Agreement, unless mutually agreed upon otherwise in writing. Customer acknowledges that such Change Orders may affect the implementation schedule and dates otherwise established as part of the project plan. The implementation schedule and schedule of activities for contracted services (the "Project") shall be established based on a timeline mutually agreed upon between the Parties following the execution of this Agreement.
- 10. License and Ownership.**
  - 10.1.** All rights, including intellectual property rights, in and to work product delivered as a result of Professional Services under this Agreement shall be owned by BSA. For the avoidance of doubt, work product that constitutes a BSA Software Product, or portion thereof shall be governed by Section A of this Agreement, including Section 1.1 thereof.
  - 10.2.** Subject to Section 10.1 and Customer's compliance with this Agreement (including payment in full), BSA grants to Customer a non-exclusive, non-transferrable, and non-assignable license to use the work product and the intellectual property rights therein for Customer's internal business purposes only.

**11. Cancellation.** In the event Customer cancels or reschedules Professional Services (other than for Force Majeure or breach by BSA), and without prejudice to BSA's other rights and remedies, Customer is liable to BSA for: (i) all non-refundable expenses actually incurred by BSA on Customer's behalf; and (ii) daily Project Management or Training fees associated with the cancelled Professional Services (in accordance with the daily fee rate), if less than thirty (30) days advance notice is given regarding the need to cancel or reschedule and BSA cannot reasonably reassign its affected human resources to other projects where comparable skills are required.

**12. Limited Professional Services Warranty.**

**12.1.** BSA warrants that its Professional Services will be performed in a professional and workmanlike manner, consistent with industry standards. In the event of a breach of the foregoing warranty and a claim in accordance with the breach, BSA's sole obligation and Customer's exclusive remedy with respect to such claim will be to have BSA reperform the portion of the Professional Services with respect to which the warranty has been breached, to bring it into compliance with such warranty. Any claim for breach of the foregoing warranty must be made by notice to BSA within thirty (30) days of performance of the portion of the Professional Services with respect to which the claim is made or said claim shall be deemed waived.

**12.2.** THE FOREGOING LIMITED PROFESSIONAL SERVICES WARRANTY IS IN LIEU OF ALL OTHER REPRESENTATIONS OR WARRANTIES RELATING TO THE PROFESSIONAL SERVICES, EXPRESS OR IMPLIED. INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OR REPRESENTATIONS OF MERCHANTABILITY, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND THOSE ARISING BY STATUTE OR OTHERWISE IN LAW, OR FROM THE COURSE OF DEALING OR USAGE OF TRADE.

**13. Customer Site Access and Assistance.**

**13.1.** Customer agrees and acknowledges that the implementation of the BSA Software Products is a cooperative process requiring time and resources of Customer personnel. Customer shall, and shall cause Customer personnel to, use all reasonable efforts to cooperate with and assist BSA as may be reasonably required to meet the project deadlines and other project milestones agreed to by the Parties for implementation. BSA shall not be liable for failure to meet such deadlines and milestones when such failure is due to force majeure (as defined in Section 30, below) or to the failure by Customer personnel to provide such cooperation and assistance (either through action or omission.)

**13.2.** At no cost to BSA, Customer agrees to provide to BSA full access to and use of personnel, facilities, and equipment as reasonably necessary for BSA to provide implementation and training services. Such access will be subject to any reasonable security protocols or written policies provided to BSA prior to Effective Date of this Agreement, or mutually agreed to thereafter.

**SECTION C – MAINTENANCE AND SUPPORT**

**14. Maintenance and Support Generally.**

**14.1.** For a one (1) year period, commencing on the Activation Date, and subject to Customer's compliance with the Agreement, BSA will provide, at no charge to Customer, "Maintenance and Support", meaning the following; (i) Modifications (such as patches, corrections and updates) as are generally provided at no additional charge by BSA to BSA customers; and (ii) technical support assistance, as further described in Section 14, during BSA's normal business hours.

**14.2.** Commencing one (1) year from the Activation Date, Maintenance and Support will continue to be provided subject to compliance with the terms of the Agreement and payment of the SaaS Fees outlined in **Exhibit B**.

**14.3.** BSA guarantees that the annual SaaS Fees, as set forth in **Exhibit B** will not change for two (2) years from the Activation Date. After that date, BSA reserves the right each year to increase the fee over the previous year by no more than an amount that is proportionate to the increase (measured from the beginning of such previous

year) in the Consumer Price Index as set forth by the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index – All Urban Customers – U.S. City Average (CPI-U), or a similar measure should such data become unavailable.

**14.4.** Maintenance and Support and the SaaS fee do not include amounts that may be due for such items as additional training, additional BSA Software Products, custom development work, hardware purchases, BSA staff time to create or modify report writer based reports, configurable imports or exports, or data entry. Additional fees may be payable for items charged on a per event basis, such as Permit Application Submission Fees related to online permit applications.

## **15. Support.**

**15.1.** With respect to Errors following expiration of the Limited Software Warranty, BSA's sole obligation and Customer's sole remedy are set forth in this Section 15. Subject to Customer's compliance with the terms of the Agreement and payment of SaaS fees, BSA shall use commercially reasonable efforts, commensurate with the severity level, to achieve its support response and resolution targets with respect to Errors as set forth in **Exhibit C**. An "Error" means a verifiable and reproducible failure of a BSA Software Product to operate in accordance with the Documentation under conditions of normal use and where the Error is directly attributable to the BSA Software Product as updated with current Modifications. If the customer modifies the BSA Software Products without BSA's written consent, BSA's obligation to provide support services on the BSA Software Products will be void.

**15.2.** Support does not include the following: (i) installation or implementation of the BSA Software Products; (ii) onsite training/support, remote training, application design, and other consulting services; (iii) support of an operating system, hardware, or support outside of BSA's normal business hours; (iv) support or support time due to a cause external to the BSA Software Products adversely affecting their operability or serviceability, which shall include, but not be limited to, water, fire, lightning, other natural calamities, misuse, abuse, or neglect; (v) repair of the BSA Software Products modified in any way other than modifications made by BSA or its authorized agents; and (vi) support of any other third-party vendors' software, such as operating system software, network software, database managers, word processors, etc. All such excluded Maintenance and Support Services performed by BSA at Customer's request shall be invoiced to Customer on a time and materials basis, plus reasonable expenses associated therewith.

**15.3.** Notwithstanding anything to the contrary, Customer shall provide prompt notice of any Errors discovered by Customer, or otherwise brought to the attention of Customer. Proper notice may include, without limitation, prompt telephonic and written (either via e-mail or postal mail) notice to BSA of any purported Error. If requested by BSA, Customer agrees to provide written documentation of Errors to substantiate those Errors and to otherwise assist BSA in the detection and correction of said Errors. BSA will use its commercially reasonable judgment to determine if an Error exists, and the severity of the Error.

**15.4.** Customer acknowledges and agrees that BSA and product vendors may require online access to the BSA Software Product in order for BSA to provide Maintenance and Support Services hereunder. Accordingly, Customer shall provide a high-speed internet connection to facilitate BSA's remote access to the BSA Software Products. BSA shall provide remote connection software, which may require installation of a software component on a workstation or server computer.

## **SECTION D – THIRD PARTY PRODUCTS**

### **16. Third Party Products.**

**16.1.** BSA will sell, deliver and install onsite any hardware products not produced by BSA ("Third-Party Hardware"), if purchased by Customer, for the prices set forth in **Schedule 1 to Exhibit A**, as modified by any subsequent Change Order(s).

- 16.2.** BSA shall not provide any warranty services on Third Party Hardware sold. BSA is not the manufacturer of the Third-Party Products. To the extent applicable, BSA will grant and pass through to Customer any warranty that BSA may receive from the supplier of the Third-Party Product(s).

## **SECTION E – GENERAL TERMS AND CONDITIONS**

### **17. BSA Proprietary Information.**

- 17.1.** Customer acknowledges that the information associated with or contained within the BSA Software Products and information used in the performance of Professional Services include information relating to BSA Software Products, BSA's business, and the terms of this Agreement (the "Proprietary Information").
- 17.2.** Customer shall maintain in confidence and not disclose Proprietary Information, directly or indirectly, to any third party without BSA's prior written consent. Customer shall safeguard the Proprietary Information to the same extent that it safeguards its own most confidential materials or data, but in no event shall the standard implemented be less than industry standard. Proprietary Information shall be used by Customer solely to fulfill its obligations under this Agreement. Customer shall limit its dissemination of such Proprietary Information to employees within the Customer's business organization who are directly involved with the performance of this Agreement and have a need to use such Proprietary Information. Customer shall be responsible for all disclosures by any person receiving Proprietary Information, by or through it, as if Customer itself disseminated such information.
- 17.3.** Proprietary Information shall not include any information that: (a) is or becomes publicly known through no wrongful act of breach of any obligation of confidentiality by Customer; (b) was lawfully known to Customer prior to the time it was disclosed to or learned by Customer in connection with this Agreement, provided that such information is not known to Customer solely because of its prior business relationship with BSA; (c) was received by Customer from a third party that is not under an obligation of confidentiality to BSA; or (d) is independently developed by Customer for a party other than BSA without the use of any Proprietary Information. The following circumstances shall not cause Proprietary Information to fall within any of the exceptions (a) through (d) above: (i) a portion of such Proprietary Information is embraced by more general information said to be in the public domain or previously known to, or subsequently disclosed to, the Customer; or (ii) it is a combination derivable from separate sources of public information, none of which discloses the combination itself.
- 17.4.** If Customer is required, or anticipates that it will be required, to disclose any Confidential Information pursuant to a court order or to a government authority, Customer shall, at its earliest opportunity, provide written notice to BSA so as to give BSA a reasonable opportunity to secure a protective order or take other actions as appropriate. Customer shall at all times cooperate with BSA so as to minimize any disclosure to the extent allowed by applicable law.

- 18. Limitation on Liability and Damages.** BSA'S ENTIRE LIABILITY AND RESPONSIBILITY FOR ANY AND ALL CLAIMS, DAMAGES, OR LOSSES ARISING FROM THE BSA SOFTWARE PRODUCTS (INCLUDING BUT NOT LIMITED TO THEIR USE, OPERATION AND/OR FAILURE TO OPERATE), PROFESSIONAL SERVICES, MAINTENANCE AND SUPPORT, ANY THIRD-PARTY PERFORMANCE OR LACK THEREOF, OR OTHERWISE ARISING OUT OF OR RELATING TO THIS AGREEMENT, SHALL BE ABSOLUTELY LIMITED IN THE AGGREGATE FOR ALL CLAIMS TO DIRECT DAMAGES NOT IN EXCESS OF THE INITIAL SAAS FEES PAID FOR THE FIRST YEAR OF SERVICE OF THE BSA SOFTWARE PRODUCTS PLUS, TO THE EXTENT APPLICABLE, THE PURCHASE PRICE OF ANY PROFESSIONAL SERVICE SET FORTH IN THIS AGREEMENT THAT GIVES RISE TO A CLAIM. NOTWITHSTANDING ANY PROVISION CONTAINED HEREIN, BSA SHALL NOT BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, OR CONTINGENT DAMAGES OR EXPENSES, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, ARISING IN ANY WAY

OUT OF THIS AGREEMENT, BSA SOFTWARE PRODUCTS, ANY THIRD-PARTY PERFORMANCE, OR LACK THEREOF, OR BSA'S PERFORMANCE, OR LACK THEREOF, UNDER THIS AGREEMENT, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, LOSS OF REVENUE, PROFIT, OR LOSS OF USE. TO THE EXTENT THAT APPLICABLE LAW DOES NOT PERMIT THE LIMITATIONS SET FORTH HEREIN, THE LIABILITY AND DAMAGES SHALL BE LIMITED AND RESTRICTED TO THE EXTENT PERMITTED BY LAW.

- 19. Additional Disclaimer.** BSA PROVIDES NO WARRANTY FOR ANY THIRD-PARTY SOFTWARE AND/OR HARDWARE, EXCEPT AS SET FORTH IN THIS AGREEMENT, BSA WILL NOT BE RESPONSIBLE FOR ANY THIRD-PARTY SOFTWARE, THIRD-PARTY SERVICES AND/OR HARDWARE.

**Indemnification for Intellectual Property Infringement.** If a claim is made or an action is brought alleging that a BSA Software Product infringes on a U.S. patent, or any copyright, trademark, trade secret or other proprietary right, BSA will defend Customer against such claim and will pay resulting costs and damages finally awarded, provided that: (a) customer promptly notifies BSA in writing of the claim; (b) BSA has sole control of the defense and all related settlement negotiations; (c) Customer reasonably cooperates in such defense at no expense to BSA; and (d) Customer remains in compliance with the Agreement and has continued to remain current on payment of SaaS fees. The obligations of BSA under this Section are conditioned on Customer's agreement that if the applicable BSA Software Product, in whole or in part, or the use or operation thereof, becomes, or in the opinion of BSA is likely to become, the subject of such a claim, BSA may at its expense and without obligation to do so, either procure the right for the Customer to continue using the BSA Software Product or, at the option of BSA, replace or modify the same so that it becomes non-infringing (provided such replacement or modification maintains the same material functionality and does not adversely affect Customer's use of the Update as contemplated hereunder). In the event that BSA provides a replacement for Customer, Customer shall cease use of the infringing product immediately upon receiving the replacement. THIS SECTION 20 SETS FORTH THE ENTIRE LIABILITY AND OBLIGATION OF BSA AND THE SOLE AND EXCLUSIVE REMEDY FOR CUSTOMER FOR ANY DAMAGES ARISING FROM ANY CLAIM OR ACTION COVERED BY THIS SECTION 20.

- 20. No Intended Third-Party Beneficiaries.** This Agreement is entered into solely for the benefit of BSA and Customer. No third party will be deemed a beneficiary of this Agreement, and no third party will have the right to make any claim or assert any right under this Agreement.

- 21. Governing Law and Venue.** This Agreement shall be governed by, and construed in accordance with, the laws of the state of Michigan, without regard to its choice of law rules. BSA and the Customer agree that the exclusive venue for any legal or equitable action shall be the Courts of the County of Clinton, State of Michigan, or in any court in the United States of America lying in the Western District of Michigan.

- 22. Entire Agreement.** This Agreement represents the entire agreement of Customer and BSA with respect to the subject matter hereof, and supersedes any prior agreements, understandings, and representations, whether written, oral, expressed, implied, or statutory. Customer hereby acknowledges that in entering into this Agreement, it did not rely on any information not explicitly set forth in this Agreement.

- 23. Contract Term.** This initial term of this Agreement extends from the Effective Date of the Agreement until one (1) year from the Activation Date. Upon expiration of the initial term, this Agreement will renew automatically for successive one (1) year terms under the same terms and conditions set forth herein without further documentation being required unless and until either party provides written notice to the other party, at least sixty (60) days prior to the end of the then current term. Customer's right to access or use the BSA Software Product will terminate at the end of the Agreement.

- 24. Payment Terms.** Customer shall pay BSA for all amounts in accordance with this Agreement and **Exhibit A**.
- 25. Termination.** Without prejudice to other rights and remedies, and except as otherwise provided in this Agreement, either Party may terminate this Agreement as set forth below. Upon termination of this Agreement: (a) Customer shall promptly pay BSA for all fees and expenses that are not subject to a good faith dispute and that are related to the software, products, and/or services received, or expenses BSA has incurred or delivered, prior to the effective date of the termination (b) Customer shall return or destroy, at the direction of BSA, BSA's Proprietary Information in its possession. The termination of this Agreement will not discharge or otherwise affect any pre-termination obligations of either Party existing under this Agreement at the time of termination. Sections 2, 4, 16 through 18, 21-23, 25 -39, and the provisions of this Agreement which by their nature extend beyond the termination of this Agreement, will survive the termination of the Agreement. No action arising out of this Agreement, regardless of the form of action, may be brought by Customer more than one (1) year after the date the action occurred.
- 25.1. Termination for Cause.** If Customer believes that BSA has materially breached this Agreement, Customer may terminate this Agreement for Cause in the event BSA does not cure, or create a mutually agreeable plan to address, a material breach of this agreement within thirty (30) days after Notification by Customer. Notice shall be provided in accordance with Section 31, below.
- 25.2. Force Majeure.** Either Party may terminate this Agreement if a Force Majeure event suspends performance of the SaaS Services for a period of forty-five (45) days or greater.
- 25.3. Lack of Appropriations.** If Customer cannot appropriate, or otherwise make available funds sufficient to continue to utilize the SaaS Services, Customer may unilaterally terminate this Agreement with thirty (30) days written notice to BSA. Customer shall not be entitled to a refund, offset, or credit for previously paid, but unused SaaS fees.
- 25.4. Failure to Pay SaaS Fees.** Customer acknowledges that timely payment of SaaS Fees is necessary to maintain continued access to the SaaS Services. In Customer does not make timely payment of SaaS fees, BSA may discontinue the SaaS Services, and deny access to the BSA Software Products. If such failure to pay is not cured within forty-five (45) days of receiving BSA's notice of intent to terminate, BSA may terminate this Agreement.
- 25.5. Convenience.** If Customer terminates SaaS Services for convenience, any SaaS fees already paid will not be prorated, and will be retained by BSA.
- 26. Severability.** If any term or provision of this Agreement, or the application thereof, to any extent, is held invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected thereby, and each term and provision of this Agreement will be valid and enforced to the fullest extent permitted by law.
- 27. No Waiver.** In the event that any terms or conditions of this Agreement are not strictly enforced by either Party, such nonenforcement will not act as, or be deemed as, a waiver or modification to this Agreement, nor will such nonenforcement prevent either Party from enforcing terms of the Agreement thereafter.
- 28. Successors and Assigns.** This Agreement shall be binding upon the successors, permitted assigns, representatives, and heirs of the Parties hereto. For avoidance of doubt, any expanded use by Customer of the Program, for example, in the event of annexation or desired shared services, shall require the consent of BSA.
- 29. Force Majeure.** "Force Majeure" is defined as an event beyond the reasonable control of a Party, including governmental action, war, riot or civil commotion, fire, natural disaster, epidemic, pandemic, other public health emergency, problematic weather, lack of availability of Customer provided technology, labor disputes, restraints affecting shipping or credit, delay of carriers or any other cause that could not, with reasonable diligence, be

foreseen, controlled or prevented by the Party. Neither Party shall be liable for delays in performing its obligations under this Agreement to the extent that the delay is caused by Force Majeure.

- 30. Notice.** All notices, requests, demands, and determinations under the Agreement (other than routine operational communications), shall be in writing and shall be deemed duly given: (i) when delivered by hand; (ii) one (1) business day after being given to a nationally recognized overnight delivery service for next-business-day delivery, all fees prepaid; (iii) when sent by confirmed facsimile with a copy sent by another means specified in this provision; or (iv) six (6) calendar days after the day of mailing, when mailed by United States mail, *via* registered or certified mail, return receipt requested, postage prepaid, and in each case addressed as shall be set forth below. A Party may from time-to-time change its address or designee for notification purposes by giving the other prior written notice of the new address or designee and the date upon which it will become effective.

If to BSA:  
BSA Software  
14965 Abbey Lane  
Bath, MI 48808  
Attn: Contracts Manager  
Telephone: 517-641-8900

If to Customer:  
City of Port Washington  
100 W. Grand Avenue  
Port Washington, WI 53074  
Telephone: 262-284-5585

- 31. Independent Contractor.** This is not an agreement of partnership or employment of BSA or any of BSA's employees by Customer. BSA is an independent contractor for all purposes under this Agreement.
- 32. Cooperative Procurement.** To the maximum extent permitted by applicable law, BSA agrees that this Agreement may be used as a cooperative procurement vehicle by eligible jurisdictions. BSA reserves the right to negotiate and customize the terms and conditions set forth herein, including but not limited to pricing, to the scope and circumstances fitting to that cooperative procurement.
- 33. Business License.** In the event a local business license is required for BSA to perform the services under this Agreement, Customer agrees to promptly notify and inform BSA of such requirement, as well as to provide BSA with the necessary paperwork and contact information so that BSA can obtain such license in a timely manner.
- 34. Nondiscrimination.** BSA will not discriminate against any person employed, or applying for employment, concerning the performance of BSA's responsibilities under this Agreement. This discrimination prohibition will apply to all matters of employment including hiring, tenure, and terms of employment, or otherwise with respect to any matter directly or indirectly relating to employment concerning race, color, religion, national origin, age, sex, sexual orientation, ancestry, disability that does not impact the individual's ability to perform the duties of a particular job or position, height, weight, marital status, or political affiliation. BSA will post, where appropriate, all notices related to nondiscrimination as may be required by applicable law.



**35. Taxes.** Fees for SaaS Services, Professional Services, or any other fees shown in Schedule 1 to Exhibit A do not include any taxes, including, without limitation, any sales, use or excise tax. Customer shall be responsible for all taxes, exclusive of taxes on BSA's net income, arising out of this Agreement. If Customer is not validly tax-exempt, and BSA is required to remit taxes on customer's behalf, Customer agrees to reimburse BSA for any taxes by BSA.

**36. Contract Documents and Order of Precedence.** The text of this Agreement without any Exhibits and Schedules shall control over any inconsistent text in any of the Exhibits or Schedules. This Agreement includes the following Exhibits and Schedules:

*Exhibit A – Payment Terms Generally*

*Schedule 1 to Exhibit A – SaaS/Interface/Customization Fees*

*Schedule 2 to Exhibit A – Professional Service Fees*

*Exhibit B – Annual Service and Hosting Fees*

*Exhibit C – Support Call Process*

**IN WITNESS THEREOF**, the Parties hereto have executed this Agreement as of the dates set forth below.

**BS&A SOFTWARE, LLC**

**CUSTOMER**

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

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

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

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

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

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

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

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

## **EXHIBIT A**

### **Payment Terms**

1. Customer shall pay BSA within thirty (30) days of invoice. Payments not received within fifteen (15) days of the due date shall be subject to a one and one-half percent (1.5%) per month interest charge (or, if lower, the highest amount chargeable at law) assessed against the unpaid balance from the date due until the date payment is received
2. Any amount not subject to good faith dispute and not paid within fifteen (15) days of the due date of each invoice shall, without prejudice to other rights and remedies, be subject to an interest charge equal to the lesser of 1.5% monthly or the maximum interest charge permissible under applicable law, payable on demand. Any charges not disputed by Customer in good faith will be deemed approved and accepted by Customer. For purposes of this Agreement, a good faith dispute regarding amounts owed exists only if Customer provides in writing at least ten (10) days prior to due date of payment on the invoice, notification of such dispute, the specific portion of the invoice in dispute, and the specific grounds of the dispute (which must be asserted in good faith), and Customer pays in timely fashion such portions that are not subject to such dispute.
3. In the event of a phased implementation approach, where different modules are implemented with separate go-live phases, the SaaS fees, Implementation and Training costs and travel expenses shall be invoiced separately for each separate phase of the project.
4. BSA shall invoice Customer \$51,575 upon Effective Date for BSA's Project Management/Implementation Planning Fees and Data Conversion fees as set forth in Schedule 2.
5. BSA shall invoice Customer \$35,375 upon activation of Customer's site for use of the BSA Software Product(s). Such amount equals BSA's SaaS Fees as set forth in Schedule 1.
6. BSA shall invoice Customer \$70,990 at completion of On-Site Implementation and Training. Such amount equals On-Site Implementation and Training costs, Customization and Interface costs, and travel expenses, as set forth in Schedule 2.

**Schedule 1 to Exhibit A**

**SaaS Fees**

*Software is licensed for use only by municipality identified on the cover page. If used for additional entities or agencies, please contact BS&A for appropriate pricing. Prices subject to change if the actual count is significantly different than the estimated count.*

**Modules**

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**Financial Management**

General Ledger	<b>\$4,225</b>
Accounts Payable	<b>\$3,470</b>
Cash Receipting	<b>\$3,865</b>
Accounts Receivable	<b>\$3,185</b>
Utility Billing <i>(based on 5,200 utility customers)</i>	<b>\$6,540</b>

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**Personnel Management**

Payroll	<b>\$5,725</b>
Human Resources	<b>\$3,970</b>
Timesheets	<b>\$2,605</b>

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**BS&A Online**

Public Records Search + Online Bill Pay <i>With use of integrated Credit Card Processor</i>	<b>\$1,790</b>
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Subtotal **\$35,375**

**Schedule 2 to Exhibit A**

**Professional Services Fees**

**Data Conversions**

**Conversion scope and price are estimates, pending review of preliminary data.**

Convert existing Civic (Cassele) data to BS&A format:	
General Ledger (COA, Balances, Budget, Up to 10 Years Journal Transaction history)	<b>\$4,600</b>
Accounts Payable (Vendors, Up to 10 Year Invoices and Check History)	<b>\$3,800</b>
Cash Receipting (Setup of Receipt Items/Tender Types)	<b>\$4,200</b>
Utility Billing (Accounts, Services, Deposits, Rates, Meters, Unlimited Years of Service, billing and Payment History)	<b>\$8,800</b>
Database Setup:	
Accounts Receivable (Setup of Billing Items, Penalties)	<b>\$1,600</b>
Payroll (Manual Entry or Import of Employee Master File/Setup/YTD as of a Specified Date.)	<b>\$9,600</b>
Human Resources (Setup of Licenses, Certifications, Benefit Plans, Positions. Not assigned to Employees)	<b>\$3,400</b>
Subtotal	<b>\$36,000</b>

No conversion or database setup to be performed for:  
Timesheets

**Project Management and Implementation Planning**

**Services include:**

- *Analyzing customer processes to ensure all critical components are addressed.*
- *Creating and managing the project schedule in accordance with the customer's existing processes and needs.*
- *Planning and scheduling training around any planned process changes included in the project plan.*
- *Modifying the project schedule as needed to accommodate any changes to the scope and requirements of the project that are discovered.*
- *Providing a central contact between the customer's project leaders, developers, trainers, IT staff, conversion staff, and other resources required throughout the transition period.*
- *Installing the software and providing IT consultation for network, server, and workstation configuration and requirements.*
- *Reviewing and addressing the specifications for needed customizations to meet customer needs (when applicable).*

**\$15,575**

## Implementation and Training

- \$1,100/day
- Days quoted are estimates; you are billed for actual days used

### **Services include:**

- Setting up users and user security rights for each module
- Performing final process and procedure review
- Configuring custom settings in each module to fit the needs of the customer
- Setting up module integration and workflow methods
- Onsite verification of converted data for balancing and auditing purposes
- Training and Go-Live

Software Setup	Days:	4		<b>\$4,400</b>
Financial Management Modules	Days:	19		<b>\$20,900</b>
Personnel Management Modules	Days:	14		<b>\$15,400</b>
	Total:	37	Subtotal	<b>\$40,700</b>

## Post-Go Live Assistance

- Review and consult on streamlining day-to-day activities as they relate to the processes within the BS&A modules
- Assist customers with more detailed and advanced report options available within the BS&A modules
- Revisit commonly-used procedures discussed during training
- As needs arise, provide assistance with bank reconciliations
- \$1,100/day
- Days quoted are estimates; you are billed for actual days used

Post-Go Live for all modules for which training was performed      Days: 4      **\$4,400**

**EXHIBIT B**

**Annual Service Fees**

*Unlimited support is included in your Annual Service Fee. Service Fees are billed annually. After two (2) years, BS&A Software reserves the right to increase the Annual Service Fee by no more than the yearly Consumers Price Index for All Urban Consumers U.S. city average (CPI-U).*

	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 4</b>	<b>Year 5</b>
<b>Financial Management</b>					
General Ledger	\$0	\$4,225	\$4,352	\$4,483	\$4,617
Accounts Payable	\$0	\$3,470	\$3,574	\$3,681	\$3,791
Cash Receipting	\$0	\$3,865	\$3,981	\$4,100	\$4,223
Accounts Receivable	\$0	\$3,185	\$3,281	\$3,379	\$3,480
Utility Billing	\$0	\$6,540	\$6,736	\$6,938	\$7,146
<b>Personnel Management</b>					
Payroll	\$0	\$5,725	\$5,897	\$6,074	\$6,256
Human Resources	\$0	\$3,970	\$4,089	\$4,212	\$4,338
Timesheets	\$0	\$2,605	\$2,683	\$2,763	\$2,846
<b>BS&amp;A Online</b>					
Public Records Search	\$0	\$1,790	\$1,844	\$1,899	\$1,956
<b>Total Annual Service Fees</b>	<b>\$0</b>	<b>\$35,375</b>	<b>\$36,437</b>	<b>\$37,529</b>	<b>\$38,653</b>

## **EXHIBIT C**

### **Support Call Process**

BSA's standard hours for telephone support are from 8:30 a.m. to 5:00 p.m. (EST), Monday through Friday, excluding holidays.

Customer can lodge a support request in three ways: (i) **Contact Customer Support** option located within the Help menu of all of BSA's applications (ii) BSA's toll-free support line (1-855-BSA-SOFT) or via email.

BSA targets less than thirty (30) minutes for initial response ("Initial Response Target").

#### **Customer service requests fall into four main categories:**

- A. Technical.** Questions or usage issues relating to I.T. functionality, future hardware purchases, and configuration. BSA tries to resolve these issues within BSA's Initial Response Target or as soon thereafter as reasonably possible.
- B. Questions/Support.** General questions regarding functionality, use, and set-up of the applications. BSA tries to resolve these issues within BSA's Initial Response Target or as soon thereafter as reasonably possible.
- C. Requests.** Customer requests for future enhancements to the applications. Key product management personnel meet with development staff on a regular basis to discuss the desirability and priority of such requests. BSA tries to resolve these issues within BSA's Initial Response Target or as soon thereafter as reasonably possible.
- D. Issues/Bugs.** Errors fall into three (3) subcategories:
  - i. Critical.** Cases where an Error has rendered the application or a material component unusable or not usable without substantial inconvenience causing material and detrimental consequences to business -- with no viable Customer workaround or alternative. The targeted resolution time for critical issues is less than one (1) business day.
  - ii. Moderate.** Cases where an Error causes substantial inconvenience and added burden, but the application is still usable by Customer. The targeted resolution time for all moderate issues is within two (2) weeks, which is within BSA's standard update cycle.
  - iii. Minimal.** Cases that are mostly cosmetic in nature, and do not substantially impede functionality in any significant way. These issues are assigned a priority level at BSA's regular meetings, and resolution times are based on the specified priority.

#### **Remote Support Process**

Some support calls may require further analysis of Customer's database or set-up to diagnose a problem or to assist Customer with a question. BSA's remote support tools share Customer's desktop *via* the Internet to provide Customer with virtual on-site support. BSA's support team is able to connect remotely to Customer's desktop and view its setup, diagnose problems, or assist Customer with screen navigation.

# AGENDA ITEM MEMORANDUM

## City of Port Washington

**TO:** Common Council  
General Government & Finance Committee

**FROM:** Dan Fisher, Water Utility Superintendent

**DATE:** January 16, 2024

**SUBJECT:** Consideration and Possible Action on a Proposal for Professional Services - Lead Service Line Inventory and Replacement Plan by CDM Smith/City Water

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**ISSUE:** Should the Common Council approve a contract with CDM Smith/City Water for the development of a Lead Service Line Inventory and Replacement Plan?

**STAFF RECOMMENDATION:** Staff recommends approving Phase 1 of the CDM Smith/City Water proposal for professional services, which includes Task 1 not to exceed \$38,500 and Task 2 not to exceed \$83,500. Staff recommends reallocating \$75,000 from the CIP currently dedicated for master planning. Master planning will be postponed to the 2025 CIP. The remaining \$47,000 will be paid by the operating budget Outside Services Employed.

**RECOMMENDED MOTION:** I move to approve the staff recommendation.

**BACKGROUND/DISCUSSION:** On January 15, 2021, the Environmental Protection Agency (EPA) issued Lead and Copper Rule Revisions (LCRR). Specifically, a lead service line inventory and removal plan needs to be developed under the LCRR to help achieve 100% removal of lead service lines. The requirement to prepare and maintain this inventory is due by October 16, 2024. The EPA's National Primary Drinking Water Regulation: Lead and Copper Rule Improvements focuses on four areas of rulemaking.

- Replacing all lead service lines
- Compliance in tap sampling
- Action and trigger level requirements
- Prioritizing historically underserve communities

**Lead Service Line Inventory:** A utility must identify the materials of each public and private service line as lead, non-lead, or galvanized requiring replacement (if it has ever been downstream of a lead or unknown service line), and lead status unknown. The LCRR requires water systems to provide households with an initial notification of lead, galvanized requiring replacement or lead status unknown within 30 days of completion of the service line inventory, and then annually after that.

Developing and maintaining the LSLI and a Lead Replacement Program will be challenging for just staff to complete before the October 16, 2024, deadline. Hundreds of hours are needed to complete the necessary records reviews such as:

- Previous materials evaluations
- Construction and plumbing permits and records
- Water system records
- Inspection records



Service line investigations in the field will be necessary to complete the inventory. To do this, staff will assist CDM Smith with field verification of service materials and public outreach and communication.

The GIS map has been formatted and updated to accommodate the needed tools for this massive inventory. The GIS will be the key source of data collection to help build the actual inventory required. Once complete, the inventory must be made publicly available. The GIS map can be made to be viewed by the public when completed.

CDM Smith and City Water will use their experience to develop a Lead Service Line Replacement (LSLR) plan in accordance with the EPA LCRR and WDNR requirements. This plan would include:

- Utility policies and standards
- Private lead replacement line funding options
- Identify and recommend any ordinance changes or modifications needed
- Identify funding sources and strategies
- Develop methods for LSL replacement construction

Task 1 of completing the LSL will start in February 2024 and will go through March 2024. Task 2 will start February 2024 with full completion by the end of August 2024.

#### **STRATEGIC PLAN:**

1. **Strategic Direction:** Creating Accountability Through Policies & Procedures
2. **Impact on Strategic Direction:** A new Lead Service Line Replacement program will meet EPA and WDNR requirements and create utility policies and standards for a successful replacement program.

#### **LEGAL:**

1. **City Attorney Review:** Yes
2. **Legal Comments & Conclusions:**
3. **Statutory References:**

**FISCAL IMPACT:** This project was not included in the 2023 or 2024 budget estimates.

1. **Amount of Recommendation/Cost of Project:**
  - Project Cost : Time & materials not to exceed \$122,000
  - Approved Budget Project Cost: \$0
  - Prior Year Expenditures: \$0
  - Total Project Costs to Date: \$0
2. **Source of Funding:** Reallocate \$75,000 from the CIP currently designated for an updated water system master plan. The master plan will be moved to the 2025's CIP. The remaining \$47,000 will be paid from Outside Services Employed (total budget \$60,000).
3. **Operating and Maintenance Cost:** N/A

**BOARD/COMMITTEE/COMMISSION RECOMMENDATION:** Board of Public Works recommended approval for the Proposal for Professional Services – Lead Service Line Inventory and Replacement Plan by CDM Smith/City Water.

**PUBLIC OUTREACH:** Customers who have a service line that is unable to be identified will be contacted through a direct mailing. Information about lead service laterals and the City's inventory and implementation of the EPA's lead and copper rules will be available on the City's website. A completed inventory will be publicly available, and all households identified as having lead and galvanized requiring replacement will be notified 30 days after completion of the inventory.

**IF APPROVED, NEXT STEPS:** Send Notice of Award and Execute the Contract subject to City Attorney Review.

**ATTACHMENTS:**

- CDM Smith LSLI & Replacement Plan Proposal
- Agreement Between Owner and Engineer – Port Washington LSLR Services
- Exhibit A Between Owner and Engineer
- EPA Proposed Lead & Copper Rule Improvements



247 Freshwater Way, Suite 527  
Milwaukee, Wisconsin 53204  
tel: 414 291-5100

December 22, 2023

Mr. Dan Fisher  
408 North Lake Street  
Port Washington, Wisconsin 53074

Subject: Proposal for Professional Services  
Lead Service Line Inventory and Replacement Plan

Dear Dan:

The Port Washington Water Utility (Water Utility) is charged with delivering safe and reliable drinking water to its customers. The USEPA and the Wisconsin DNR have passed new rules to address Lead Service Lines (LSLs) in water systems statewide. These rules will require communities to have a plan to address LSLs and move toward complete replacement. We applaud Port Washington's proactive approach to its prime task of providing safe and reliable drinking water by completing its LSL Replacement Program in a manner that is consistent with the current and expected changes to the Lead and Copper Rule and allows the Water Utility to be in front to future funding options.

We are pleased to submit our team's proposal to assist the Water Utility in developing a LSL Replacement Plan. As a trusted adviser, we recognize this project as an opportunity to provide dedicated local experience with one of America's leading experts on Lead Service Line Replacement Programs. CDM Smith and City Water, LLC have partnered to provide such a team. The CDM Smith/City Water Team's expertise is an exact match to Port Washington's need for developing a LSL Replacement Plan meeting DNR's requirements.

## Project Understanding

It is our understanding that the Water Utility would like to:

1. Update and complete its lead service line (LSL) inventory
2. Develop a lead service line replacement (LSLR) plan for submittal to DNR in 2024. This plan is intended as a supplement to the City's future Master Plan and would include:
  - Number of public and private side lead service laterals



Mr. Dan Fischer  
December 22, 2023  
Page 2

- Annual replacement goal to remove lead services
  - Develop annual project design and submittal schedule to coincide with DNR's annual Safe Drinking Water Loan Program (SDWLP); and, investigate other funding opportunities and strategies
  - Develop customer information outreach program to promote the removal of lead service lines
3. Review corrosion inhibitor and proactively collaborate with DNR staff to optimize the corrosion control inhibitor by completing a Corrosion Control Treatment Study (if required) to recommend which inhibitor to use and meet the requirements of the Wisconsin DNR

## Scope of Services

Phase 1 of this project will cover tasks 1 and 2. Phase 2 includes Task 3 and is only needed if the Wisconsin DNR (WDNR) requires it. The scope and fee for both phases are listed below. Both Phases will be included in the contract. The CDM Smith/City Water Team will complete Phase 1 and Phase 2 will only begin if required by WDNR and authorized by the Port Washington Water Utility.

### Task 1: LSL Inventory

The CDM Smith/City Water team will complete an LSL Inventory map in accordance with the proposed EPA Lead and Copper Rule (LCR) Revisions and Wisconsin DNR guidelines. The proposed process is to gather information and develop a GIS database the Utility can use to inform customers of service materials throughout the City. A Map would be used for public information, Utility communications, and in the development of an LSL replacement program. The Study will include the following:

- Update existing private side material inventory map based on meter replacement data
- Update existing public side service material inventory map based on City records from permit data, age of home, as-built information, service repair orders, and operator interviews
- Private and public side service material will be entered into the City's GIS and results will be updated in real time on the Lead Service Line desktop application.



Mr. Dan Fischer  
December 22, 2023  
Page 3

- Develop strategies for services with unknown material, including:
  - Predictive modeling
  - Homeowner surveys
  - Utility public side test pits
- Identify sensitive customer locations
  - Schools
  - Daycares (3 licensed facilities in the City of Port Washington)
- Develop LSL Inventory and technical memorandum for methodology used for inventory map

## **Task 2: LSLR Plan**

The CDM Smith/City Water team will develop an LSL Replacement (LSLR) Plan in accordance with the proposed EPA Lead and Copper Rule Revisions (LCRR), LCRR improvements, and WDNR requirements. The Plan may include the following components:

- Develop plan for replacement of LSLs
- Develop customer outreach program including:
  - Community Web page on LSL Replacements
  - Utility policies and standards
  - Mailings; e.g. “How to Identify If You Have an LSL” post card
  - Private LSL Funding options
  - Customer notifications
  - Annual LSL material mailing
  - New sampling procedures
- Identify funding sources and strategies
- Identify and recommend any ordinance changes or modifications

Mr. Dan Fischer  
December 22, 2023  
Page 4

- Develop methods for LSL replacement construction
- Prioritize replacement of LSLs over the planning horizon
- Develop investigation protocols and procedures in the event of a sample result above the action level including:
  - Identify the source of a high lead test level
  - Work with DNR representatives to develop find and fix investigative procedures to help immediately reduce a customer's high lead level in their tap water.
  - Customer communication brochures and follow-up protocols for homes that have a lead level above the action level
- Up to two Workshops/meetings WDNR (assumed to be virtual meetings)
- Up to two presentations to the Common Council
- Draft and final LSLR reports (incorporating comments from Utility and WDNR)

### **Task 3: Corrosion Control Treatment (CCT) Desktop Study (if needed)**

The CDM Smith/City Water Smith team will work with the City to complete a CCT Study in accordance with the proposed EPA Lead and Copper Rule Revisions (LCRR), LCRR improvements, and WDNR requirements. This study will include data gathering and analysis with the goal of meeting with Wisconsin DNR in 2024 to propose changes to the Water Utility's CCT process. The Study will include the following:

- Kickoff meeting to discuss Study objectives, data needs and overall timeline for completion.
- Review of historical water quality (WQ) data of effluent and in the distribution system
- Identify sampling locations for: total chlorine residual, lead and copper, disinfection by-products, and other water quality data
- Review historical LCR and other regulatory/compliance data
- Develop historical water quality database (free chlorine residual, temperature, pH, phosphate, and other parameters)



Mr. Dan Fischer  
December 22, 2023  
Page 5

- Develop a GIS database illustrating:
  - Location of all WQ sites
  - WQ complaints
  - Water system assets
  - LSLs
  - Water age
- Using the existing calibrated model, develop water age contours at different conditions and identify high age sites
- Identify potential sites for sequential sampling (sampling to be completed by the Utility).
- Identify sample locations based on sensitive areas in distribution system (sampling to be completed by the Utility)
  - Longest hydraulic residence time
  - Locations with high concentration of lead services
- Collect water quality data including lead results from analogous systems using different phosphate inhibitors and doses
- Using desktop models, evaluate lead solubility under a variety of phosphate doses to assess impact on lead levels.
- Up to three meetings/workshops with WDNR (assumed to be virtual meetings)
- Prepare draft and final reports incorporating comments from the Water Utility and WDNR
- Provide recommendations to address overall water system water quality, including recommendations for uni-directional flushing, and additional distribution system or finished water monitoring



## Work to be Completed by Water Utility Staff

The City's LSL Inventory and LSL Replacements require the assistance of Water Utility Staff. Items to be completed by staff include:

- Verification of service materials to reduce the number of unknown materials in the inventory.
- Public Outreach and communication during replacement projects.

## Assumptions and Exclusions

- Port Washington will provide requested water quality and system data in electronic format.
- Water quality testing, including sequential sampling will be conducted by the Utility; Utility will pay for lab costs associated with the sampling
- Water Utility will harvest a lead service line for scale analysis. The Water Utility will pay the cost of the scale analysis.
- Workshops/meetings with WDNR are assumed to be virtual.
- Any required bench scale or pilot scale testing will be conducted in a separate future phase if required by WDNR or USEPA.
- Field work for LSL inventory is not part of this Project and will be completed by the Water Utility or separate contract.
- Schedule is based on receipt of requested data within two weeks of Notice to Proceed.
- Task 3 does not include field testing, bench scale testing or pipe loop testing for the CCT Study. If WDNR determines during the course of the desktop study that additional field, bench scale or pipe loop testing is required, an amendment to this Contract will be required or it will be added as a separate contract.





Mr. Dan Fischer  
December 22, 2023  
Page 7

## Fee

The CDM Smith/City Water Smith team will complete the proposed Scope of Services for Phase 1 on an hourly basis with an estimated fee of \$122,000, including reimbursable expenses. Below is a breakdown by task. We have attached a level of effort by task to this proposal.

### Phase 1

Task 1.....	\$38,500.00
Task 2.....	\$83,500.00
Phase 1 Total.....	\$122,000.00

### Phase 2

Task 3.....	\$69,250.00
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## Schedule

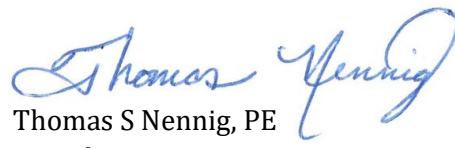
The City Water, CDM Smith team will commence the project immediately upon Notice to Proceed from the Port Washington Water Utility. We will complete the Scope of Services:

- Task 1: February 2024 – March 2024
- Task 2: February 2024 – August 2024
- Task 3: February 2024 – July 2024

Please note that this proposal applies through January 31, 2024. Impending State and Federal deadlines may require additional level of effort for the project team to meet those deadlines should the notice to proceed be issued after January 31, 2024.

Sincerely,

  
 Matthew J Bednarski, PE  
 Client Service Leader  
 CDM Smith Inc.

  
 Thomas S Nennig, PE  
 President  
 City Water





## Estimated Level of Effort

City of Port Washington Lead Service Line Inventory, Lead Service Line Replacement Plan, & Corrosion Control Study CDM Smith in Cooperation with City Water, LLC December 2023		Bednarski, Matthew J Client Service Leader	Atassi, Amrou Project Manager	Cummings, Joanna K LSLR Plan	Carvajal, Melody A Outreach Plan	Senior GIS	Junior GIS	Hagerty, Jacquelyn Outreach Plan	Junior Engineer	Ridge, Joseph T Funding/Financing	Kutzing, Sandra L Technical Review Committee	White, Mark C Technical Review Committee	O'Neill, Sarah S Support Team	Sharma, Akhil Support Team	CDM Smith Hours	Tom Nennig Principal Engineer	Eric Fulsaaas Project Engineer	Jim Voigt Operations Manager	City Water Hours	Total Hours
<b>Task 1</b>	<b>LSL Inventory</b>																			
1.0	Project Management	2	10										5	5	22				0	22
1.1	Update Existing Inventory Map														0	8	80		88	88
1.2	Develop Strategies for Unknown Services	4	4	8		8									24	8	16	4	28	52
1.3	ID Sensitive Customer Locations														0	8	16	4	28	28
1.4	LSL Inventory Tech Memo	4	8	8							4				24	8	16	2	26	50
<b>Subtotal</b>	<b>Task 1</b>	<b>10</b>	<b>22</b>	<b>16</b>	<b>0</b>	<b>8</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>5</b>	<b>5</b>	<b>70</b>	<b>32</b>	<b>128</b>	<b>10</b>	<b>170</b>	<b>240</b>
<b>Task 2</b>	<b>LSLR Plan</b>																			<b>0</b>
2.0	Project Managemtn	4	20										10	10	44	4			4	48
2.1	Develop LSL Replacement Plan	4	6	28		16	4	24							82	4			4	86
2.2	Develop Outreach Plan	4	2	2	40			8							56	4			4	60
2.3	ID Funding Sources	2	2	2				8							14	2			2	16
2.4	ID Required Ordinances		2	2											4	2			2	6
2.5	Develop Replacement/Construction Methods		4	8				8							20	4			4	24
2.6	Prioritize LSL Replacement	2	4	16		8	16								46				0	46
2.7	Workshops/Meetings with Council and WDNR	4	16	8											28	12			12	40
2.8	Draft and Final LSLR reports	4	8	16		16	12	24			4	16			100	4			4	104
<b>Subtotal</b>	<b>Task 2</b>	<b>24</b>	<b>64</b>	<b>82</b>	<b>40</b>	<b>16</b>	<b>36</b>	<b>4</b>	<b>88</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>26</b>	<b>10</b>	<b>394</b>	<b>36</b>	<b>0</b>	<b>0</b>	<b>36</b>	<b>430</b>
<b>Task 3</b>	<b>CCT Study</b>																			<b>0</b>
3.0	Project Management	3	14										8	8	33	4	8		12	45
3.1	Review Historical Data		4			8	8								20	4	8		12	32
3.2	ID Sampling Locations		4					8							12		6		6	18
3.3	Review Historical LCR, etc							8							8	4	2	6	12	20
3.4	Develop Historical WQ Database							8							8	2	6		8	16
3.5	Develop GIS														0	4	10		14	14
3.6	Develop Water Age														0	8	24		32	32
3.7	ID Sequential Sampling Sites														0				0	0
3.8	Analogous System Data Collection		16				24								40				0	40
3.9	Workshops and Meetings with WDNR	4	8				12								24				0	24
3.10	Prepare Draft and Final Reports	4	12	24			48		4	4	4				100				0	100
3.11	Develop Uni-Directional Flushing Plan														0	8	40	8	56	56
<b>Subtotal</b>	<b>Task 3</b>	<b>11</b>	<b>58</b>	<b>24</b>	<b>0</b>	<b>0</b>	<b>8</b>	<b>0</b>	<b>116</b>	<b>0</b>	<b>4</b>	<b>4</b>	<b>12</b>	<b>8</b>	<b>245</b>	<b>34</b>	<b>104</b>	<b>14</b>	<b>152</b>	<b>397</b>
<b>Total</b>		<b>45</b>	<b>144</b>	<b>122</b>	<b>40</b>	<b>24</b>	<b>44</b>	<b>4</b>	<b>204</b>	<b>0</b>	<b>8</b>	<b>8</b>	<b>43</b>	<b>23</b>	<b>709</b>	<b>102</b>	<b>232</b>	<b>24</b>	<b>358</b>	<b>1067</b>





## Key Staff Resumes

# Amrou Atassi, PE, BCEE, PMP



Amrou brings over 23 years of water related experience in the Midwest and has worked with over dozen water systems in Wisconsin on a wide range of water supply, treatment and corrosion control/lead replacements. Over the last decade, Amrou has been leading or supporting several lead inventory, LSLR planning and replacements for several water systems in the Midwest. Amrou led several LSLR related projects in Wisconsin, including Racine, Cudahy, and Wausau, and is now working with Wauwatosa and West Ellis on their inventories and replacement plans. Amrou led Chicago's lead replacement planning efforts, which included an inventory of 400,000 LSLs. As a registered professional Engineer in Wisconsin with over two decades of high-profile water projects, Amrou has partnered with WDNR to improve water quality and meet regulatory challenges for several water systems in Wisconsin.

## Education

MS - Environmental Engineering,  
Purdue University

BS - Civil Engineering,  
Valparaiso University

## Location

Chicago, IL

## Registration

Professional Engineer:  
Wisconsin, Illinois

## Certifications

Project Management  
Professional (PMP)

HAZWOPER

Confined Space Entry

OSHA Construction  
Safety & Health

## Honors/Awards

Board Certified Environmental  
Engineer (BCEE), American  
Academy of Environmental  
Engineers and Scientists

First Place, AWWA ACE 2006  
(Toronto, Ontario) Poster Session

2002 Indiana Section AWWA Leo  
Bessozi Youth Delegate

## Program Manager, LSLR Plan, Inventory and Phase I LSLR Implementation, Chicago, Illinois.

Amrou worked with the City of Chicago and Mayor's office to develop Chicago's LSLR Plan, including an inventory of nearly 400,000 lead service lines (LSLs). He led development of various programs phased over time to remove LSLs in the system. The plan included prioritization strategies to phase the program, public outreach, construction details and costs, financing and funding options, and more. Amrou is currently working with the City to implement the Phase I Program, which includes replacement of 5,000 LSLs per year.

## Program Director/LSLR Program Vision, LSLR Plan, Inventory and 2023-2024 LSL Replacements, Evanston, Illinois.

Amrou served as project director and lead for the program vision for Evanston's LSLR plan, which included prioritization and outreach planning. As project director, Amrou oversaw LSL replacements in 2023 and 2024, which had over 95% LSLR participation and post replacement sampling/tracking.

## Project Manager and Technical Lead, LSLR Plan, Wausau, Wisconsin.

Amrou led the development of Wausau's LSLR plan, including review of inventory, prioritization for LSLR and the public outreach plan. He is also working with the City to reduce unknowns and recently worked with the City to implement the first LSLR pilot project.

## Technical Advisor/Reviewer, LSLR Programs, Various Programs.

Amrou is serving as a technical advisor and/or reviewer on various LSLR programs around in the country, including Newark, Trenton, DC Water, and others. and led the program vision for Evanston's LSLR plan, which included prioritization and outreach planning.

## Technical Lead, LSLR Plans, West Allis and Wauwatosa, Wisconsin.

Amrou serving as technical lead for the development of West Allis and Wauwatosa's LSLR plans, including review of inventory, prioritization for LSLR and the public outreach plan.

## Project Manager, LCRR Compliance and LSL Inventory, Cudahy, Wisconsin.

Amrou led the development of the corrosion control study for the Cudahy Water Utility. The Study also included preparation of the initial LSL inventory. Amrou is also working with Cudahy on LCRR preparation and LSLR planning.

**Lead Process Engineer, Corrosion Control Optimization Study and LCR-R Compliance, Racine, Wisconsin.** Amrou worked with Racine to develop a corrosion control optimization program that includes desktop analysis, bench-scale testing, pipe loop testing, and negotiations with the regulatory agency. He is also assisting the City with LCR-R compliance, including sequential sampling, scale analysis, and most recently replacement of LSLs.

**Project Manager, MWW Howard Ave Filter Investigation and Rehab Project, Milwaukee, Wisconsin.** Amrou served as the project manager for the evaluation of filters at Howard and Linnwood WTPs and also led the development of contract documents for rehabilitation of filters at the Howard Ave WTP, which is currently in bidding.

# Matthew Bednarski, PE, ENV SP



## Education

Executive MBA – University of Wisconsin-Milwaukee

BS – Civil Engineering, University of Wisconsin-Milwaukee

## Location

Milwaukee, WI

## Registration

Professional Engineer: Wisconsin, Illinois

## Certifications

Envision Sustainability Professional  
WIAWWA Board Member

**Matt is no stranger to Milwaukee, Wisconsin. He has managed multiple Milwaukee projects as well as other projects in Wisconsin. For 24 years, Matt has refined his experience and expertise in large and collaborative efforts on a number of watercourse and public works projects. He is a project manager, principal-in-charge, and municipal engineer specializing in water resource projects. Matt's experience encompasses project management, contract administration, client relations, construction supervision, Stormwater management, and modeling, community relations, and special assessments.**

### **Project Manager, Lead Service Line Replacement Plan, Wausau, Wisconsin.**

Matt is the Project Manager for the Wausau LSLR Plan. This plan is laying out the sequencing and timing to replace approximately 8,000 LSLs over a 15-year period. Wausau's plan includes construction method evaluations, public outreach recommendations, and funding options.

**Principal-in-Charge, Various Projects, Wisconsin.** Matt serves as principal-in-charge for a number of CDM Smith's projects throughout Wisconsin. As principal-in-charge, he is responsible for driving project delivery, overseeing QA/QC, and overall client communication and satisfaction. These projects include:

- Filter Rehabilitation Study and Design, Milwaukee Water Works, Milwaukee WI
- Lead Service Line Inventory and Corrosion Control Treatment Study, Cudahy Water, Cudahy, WI
- Lead Service Line Replacement Plan, Wauwatosa, WI
- Lead service Line Replacement Plan, West Allis, WI
- Private Lead Service Line Replacement Program Pilot, South Milwaukee Water, South Milwaukee, WI
- Private Lead Service Line Replacement Program Pilot, Racine Water Utility, Racine, WI
- Corrosion Control Treatment Study, Wausau Water Works, Wausau, WI
- Lake Michigan Intake, Sheboygan, WI
- Filter Rehabilitation, Racine, WI
- PFAS Remediation Study and Design, Adams, WI
- Various Projects, Gary Sanitary District, Gary, IN

### **Local Permitting Liaison, Site Plan and Stormwater Management, The Great Water Alliance, Waukesha Water Utility, Wisconsin.**

Matt was responsible for local permitting requirements for the water supply line and return flow pipeline that supplies potable water from Lake Michigan to the City Waukesha. In this capacity he convened meetings with the communities through with the pipelines passed to ensure the regional project met local permit requirements and local outreach needs. Additionally, he led the team responsible for site plans, structural design, and stormwater management for the Booster Pump Station and Chemical Feed Station.

# Thomas Nennig, P.E.

## President

### EDUCATION

Marquette University  
Bachelor of Science Civil  
Engineering

### CURRENT LICENSES

Professional Engineer - WI  
WIDNR – Certified Operator

### PROFESSIONAL ORGANIZATIONS

American Water Works  
Association

### WATER UTILITY EXPERIENCE

Tom has over 36 years of Civil Engineering Experience. He specializes in the management, operation, and design of water distribution systems. Prior to joining City Water, Tom worked as a Client Service Manager for Bonestroom, and an engineering technician for the City of Milwaukee, and Donohue.

### LEAD SERVICE LINE PROJECT EXPERIENCE

**Port Washington, WI** – Collaborated with City staff to develop and implement a pilot program for private lead service line replacements. Secured DNR principal forgiveness money to cover the cost of replacing over 30 private lead service lines in 2022. Pilot program included developing construction standards and bidding requirements for PLSL replacement.

Collaborated with Utility staff in creating service line material identification standards and developing strategies for entering material data into the City's GIS system.

**Shorewood, WI** – Project manager for the design and replacement of the water meter replacement project. Developed meter replacement protocols, cross-connection inspection standards and service line material identification. Data from the meter replacement project was used to develop the City's service material database that is presented in the Village's GIS system. Customers can access the GIS database to review service line material based on customer address.

Collaborated with Utility staff in developing Village ordinances and construction standards for service line replacement. Assisted staff in developing the Village's funding mechanism for private lead service line replacement. Program was approved by the PSC that allows utility funds to be used to pay for up to 50% of replacement costs to homeowners.

In 2024, City water will be assisting the Village in development of the Lead Service Line Replacement program including a rate analysis to fund the future replacement of water mains and services in the Village.

**Cudahy, WI** – Teamed with CDM Smith in development of a Lead Service Replacement Program. Program includes development of the service line material inventory, optimization of the corrosion control system to help reduce the lead levels in the drinking water, and the long-term replacement of lead service lines in the City.

**Whitefish Bay, WI** – Currently working with the Village to complete the service line inventory list for DNR submittal. Material identification is determined by review of property records, permits, as-built information, employee interviews and meter change records. In 2024, City water will be developing Lead Service Line Replacement program for Village including a rate analysis to fund the future replacement of water mains and services in the Village.

**South Milwaukee, WI** – Collaborated with City staff to help secure DNR principal forgiveness money for PLSL replacement. Developed and implemented construction standards and bidding requirements for PLSL replacement.





## References



## Memorandum



*To: Dan Fischer*

*From: Matt Bednarski*

*Date: December 22, 2023*

*Subject: LSLR Plan References*

## References

Below are references for similar projects throughout Wisconsin.

- City of Cudahy  
Frank Miller  
Director of Public Works  
414-755-6917  
[millerf@cudahy-wi.gov](mailto:millerf@cudahy-wi.gov)
  
- City of Wauwatosa  
Dave Simpson  
Director of Public Works  
414-831-0799  
[dsimpson@wauwatosa.net](mailto:dsimpson@wauwatosa.net)
  
- City of West Allis  
Mike Brofka  
Assistant Director of Public Works  
414-302-8827  
[mbrofka@westalliswi.gov](mailto:mbrofka@westalliswi.gov)

**STANDARD FORM OF AGREEMENT  
BETWEEN  
OWNER AND ENGINEER  
LEAD SERVICE LINE INVENTORY AND REPLACEMENT PLAN**

THIS IS AN AGREEMENT made as of November \_\_\_\_\_, 2023 between City of Port Washington ("OWNER") and CDM Smith, Inc. ("ENGINEER").

OWNER's Project is generally identified as follows Lead Service Line Inventory and Replacement Plan (the "Project").

OWNER and ENGINEER, in consideration of their mutual covenants herein, agree in respect of the performance or furnishing of services by ENGINEER to the Project and the payment for those services by OWNER as set forth below. Execution of this Agreement by ENGINEER and OWNER constitutes OWNER's written authorization to ENGINEER to proceed on the date first above written with the Services described in Article 1 below. This Agreement will become effective on the date first above written.

**ARTICLE 1 – SCOPE OF SERVICES**

- 1.1 ENGINEER agrees to perform, or cause to be performed, for OWNER services as described in Exhibit A (hereinafter referred to as "Services") in accordance with the requirements outlined in this Agreement.

**ARTICLE 2 – TIMES FOR RENDERING SERVICES**

- 2.1 Specific time periods and/or specific dates for the performance of ENGINEER's Services are set forth in Exhibit A.
- 2.2 If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- 2.3 If Owner authorizes changes in the scope, extent, or character of the Project or Engineer's services, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- 2.4 Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services. If ENGINEER's services are delayed or suspended in whole or in part by OWNER for more than three months through no fault of ENGINEER, ENGINEER shall be entitled to equitable adjustment of the schedule and of rates and amounts of compensation provided for elsewhere in this Agreement to reflect, among other things, reasonable costs incurred by ENGINEER in connection with such delay or suspension and reactivation.

**ARTICLE 3 – OWNER'S RESPONSIBILITIES**

OWNER shall:

- 3.1 Pay the ENGINEER in accordance with the terms of this Agreement.
- 3.2 Designate in writing a person to act as OWNER's representative with respect to the services to be performed or furnished by ENGINEER under this Agreement. Such person will have complete authority to transmit instructions, receive information, interpret, and define OWNER's policies and decisions with respect to ENGINEER's services for the Project.

- 3.3 Provide all criteria and full information as to OWNER's requirements for the Project, including, as applicable to the Services, design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and furnish copies of all design and construction standards which OWNER will require to be included in the Drawings and Specifications.
- 3.4 Be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items.
- 3.5 Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of any development that affects the scope or time of performance or furnishing of ENGINEER's Services or any relevant, material defect or nonconformance in ENGINEER's Services or in the work of any Contractor employed by Owner on the Project.
- 3.6 Bear all costs incident to compliance with the requirements of this Article 3.

#### **ARTICLE 4 – PAYMENTS TO ENGINEER FOR SERVICES**

- 4.1 Methods of Payment for Services of ENGINEER.
  - 4.1.1 OWNER shall pay ENGINEER for Services performed or furnished under this Agreement or as described in Exhibit A. The amount of any excise, VAT, or gross receipts tax that may be imposed shall be added to the compensation shown in Exhibit n/a. If after the Effective Date any governmental entity takes a legislative action that imposes additional sales or use taxes on Engineer's services or compensation under this Agreement, then Engineer may invoice such additional taxes for reimbursement by Owner. Owner shall reimburse Engineer for the cost of such invoiced additional taxes in addition to the compensation to which Engineer is entitled.
  - 4.1.2 Invoices for Services will be prepared in accordance with ENGINEER's standard invoicing practices and will be submitted to OWNER by ENGINEER at least monthly. Payments are due within 30 days of receipt of invoice.
  - 4.1.3 If OWNER fails to make any payment due ENGINEER for services and expenses within thirty days after receipt of ENGINEER's invoice therefor, the amounts due ENGINEER will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and, in addition, ENGINEER may, after giving seven days' written notice to OWNER, suspend services under this Agreement until ENGINEER has been paid in full all amounts due for services, expenses and charges. Payments will be credited first to interest and then to principal. In the event of a disputed or contested billing, only that portion so contested may be withheld from payment, and the undisputed portion will be paid.

OWNER agrees to pay ENGINEER all costs of collection including but not limited to reasonable attorneys' fees, collection fees and court costs incurred by ENGINEER to collect properly due payments.

#### **ARTICLE 5 – GENERAL CONDITIONS**

5.1 Standard of Care

The standard of care for all professional engineering and related services performed or furnished by ENGINEER under this Agreement will be the care and skill ordinarily used by members of ENGINEER's profession practicing under similar conditions at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer.

5.2 Technical Accuracy

Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.

5.3 Opinions of Probable Construction Cost

Engineer's opinions (if any) of probable Construction Cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate.

5.4 Compliance with Laws and Regulations, and Policies and Procedures

5.4.1 Engineer and Owner shall comply with applicable Laws and Regulations.

5.4.2 This Agreement is based on Laws and Regulations procedures as of the Effective Date. Changes after the Effective Date to Laws and Regulations may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation.

5.4.3 Engineer shall not be required to sign any document, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such document.

5.4.4 Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.

5.4.5 Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's, failure to furnish and perform the Work in accordance with the Construction Contract Documents.

5.4.6 Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer or its Consultants.

5.4.7 Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of

construction insurance or surety bonding requirements.

- 5.4.8 Engineer's services do not include providing legal advice or representation.
- 5.4.9 Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.
- 5.4.10 While at the Site, Engineer, its Consultants, and their employees and representatives shall comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

## 5.5 Termination

The obligation to provide further services under this Agreement may be terminated:

- 5.5.1 For cause,
  - a. by either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
  - b. by Engineer:
    - 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
    - 2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control, or as the result of the presence at the Site of undisclosed Constituents of Concern.
    - 3) Engineer shall have no liability to Owner on account of such termination.
  - c. Notwithstanding the foregoing, this Agreement will not terminate for cause if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.
- 5.5.2 For convenience, by Owner effective upon Engineer's receipt of notice from Owner.
- 5.5.3 Effective Date of Termination: The terminating party under Paragraph 5.5.1 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

#### 5.5.4 Payments Upon Termination:

- a. In the event of any termination under Paragraph 5.5, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all Reimbursable Expenses incurred through the effective date of termination. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 5.6.
- b. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in Paragraph 5.5.4.a, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs.

#### 5.6 Use of Documents

- 5.6.1 All Documents are instruments of service, and ENGINEER shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the ENGINEER) whether or not the Project is completed.
- 5.6.2 If Engineer is required to prepare or furnish Drawings or Specifications under this Agreement, Engineer shall deliver to Owner at least one original printed record version of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations.
- 5.6.3 Owner and Engineer may transmit, and shall accept, Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol. If this Agreement does not establish protocols for electronic or digital transmittals, then Owner and Engineer shall jointly develop such protocols. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.
- 5.6.4 OWNER may make and retain copies of Documents for information and reference in connection with use on the Project by OWNER. Upon receipt of full payment due and owing for all Services, ENGINEER grants OWNER a license to use the Documents on the Project, extensions of the Project, and related uses of OWNER, subject to the following limitations: (1) OWNER acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by ENGINEER, or for use or reuse by OWNER or others on extensions of the Project or on any other project without written verification or adaptation by ENGINEER; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by ENGINEER, as appropriate for the specific purpose intended, will be at OWNER's sole risk and without liability or legal exposure to ENGINEER or to ENGINEER's Consultants; (3) OWNER shall indemnify and hold harmless ENGINEER and ENGINEER's Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification without written verification, completion, or adaptation by ENGINEER; (4) such limited license to OWNER shall not create any rights in third parties.
- 5.6.5 If ENGINEER at OWNER's request verifies or adapts the Documents for extensions of the Project or for any other project, then OWNER shall compensate ENGINEER at rates or in an

amount to be agreed upon by OWNER and ENGINEER.

5.7 Controlling Law

This Agreement is to be governed by the Laws and Regulations of the state in which the Project is located.

5.8 Mutual Waiver of Consequential Damages

Notwithstanding any other provision of this Agreement to the contrary, neither party including their officers, agents, servants and employees shall be liable to the other for lost profits or any special, indirect, incidental, or consequential damages in any way arising out of this Agreement however caused under a claim of any type or nature based on any theory of liability (including, but not limited to: contract, tort, or warranty) even if the possibility of such damages has been communicated.

5.9 Limitation of Liability

In no event shall ENGINEER's total liability to OWNER and/or any of the OWNER's officers, employees, agents, contractors or subcontractors for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to this agreement from cause or causes, including, but not limited to, ENGINEER's wrongful act, omission, negligence, errors, strict liability, breach of contract, breach of warranty, express or implied, exceed the total amount of fee paid to ENGINEER under this agreement or \$50,000, whichever is greater.

5.10 Successors and Assigns

5.10.1 OWNER and ENGINEER each is hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and ENGINEER (and to the extent permitted by paragraph 5.10.2 the assigns of OWNER and ENGINEER) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

5.10.2 Neither OWNER nor ENGINEER may assign, sublet or transfer any rights under or interest (including, but without limitation, moneys that may become due or moneys that are due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

5.10.3 Unless expressly provided otherwise in this Agreement:

- a. Nothing in this Agreement shall be construed to create, impose or give rise to any duty owed by ENGINEER to any Constructor, other person or entity, or to any surety for or employee of any of them, or give any rights in or benefits under this Agreement to anyone other than OWNER and ENGINEER.
- b. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and ENGINEER and not for the benefit of any other party.

5.11 Notices

Any notice required under this Agreement will be in writing, addressed to the appropriate party at the address which appears on the signature page to this Agreement (as modified in writing from time to time by such party) and given personally, by registered or certified mail, return receipt requested, by



facsimile, or by a nationally recognized overnight courier service. All notices shall be effective upon the date of receipt.

5.12 Severability

Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and ENGINEER, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

5.13 Changed Conditions

If concealed or unknown conditions that affect the performance of the Services are encountered, which conditions are not ordinarily found to exist or which differ materially from those generally recognized as inherent in the Services of the character provided for under this Agreement or which could not have reasonably been anticipated, notice by the observing party shall be given promptly to the other party and, if possible, before conditions are disturbed. Upon claim by the ENGINEER, the payment and schedule shall be equitably adjusted for such concealed or unknown condition by change order or amendment to reflect additions that result from such concealed, changed, or unknown conditions.

5.14 Environmental Site Conditions

It is acknowledged by both parties that ENGINEER's scope of services does not include any services related to Constituents of Concern, as defined in Article 6. If ENGINEER or any other party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to disclosed or undisclosed Constituents of Concern as defined in Article 6, then ENGINEER may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until OWNER: (1) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Constituents of Concern, and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.

If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of ENGINEER's services under this Agreement, then the ENGINEER shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on 30 days' notice.

OWNER acknowledges that ENGINEER is performing professional services for OWNER and that ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous substances, so defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with ENGINEER's activities under this Agreement.

5.15 Insurance

ENGINEER shall procure and maintain insurance for protection from claims under workers' compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property.

5.16 Discovery

ENGINEER shall be entitled to compensation on a time and materials basis when responding to all requests for discovery relating to this Project and to extent that ENGINEER is not a party to the lawsuit.

5.17 Nondiscrimination and Affirmative Action

In connection with its performance under this Agreement, ENGINEER shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, age, sex, marital status, sexual orientation or affectional preference, national origin, ancestry, citizenship, physical or mental handicap or because he or she is a disabled veteran or veteran of the Vietnam era. ENGINEER shall take affirmative action to ensure that qualified applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, age, sex, marital status, sexual orientation or affectional preference, national origin, ancestry, citizenship, physical or mental handicap or because he or she is a disabled veteran or veteran of the Vietnam era. Such actions shall include recruiting and hiring, selection for training, promotion, fixing rates or other compensation, benefits, transfers and layoff or termination.

5.18 Force Majeure

Any delays in or failure of performance by ENGINEER shall not constitute a default under this Agreement if such delays or failures of performance are caused by occurrences beyond the reasonable control of ENGINEER including but not limited to: acts of God or the public enemy; expropriation or confiscation; compliance with any order of any governmental authority; changes in law; act of war, rebellion, terrorism or sabotage or damage resulting therefrom; fires, floods, explosions, accidents, riots; strikes or other concerted acts of workmen, whether direct or indirect; delays in permitting; OWNER's failure to provide data in OWNER's possession or provide necessary comments in connection with any required reports prepared by ENGINEER, or any other causes which are beyond the reasonable control of ENGINEER. ENGINEER's scheduled completion date shall be adjusted to account for any force majeure delay and ENGINEER shall be reimbursed by OWNER for all costs incurred in connection with or arising from a force majeure event, including but not limited to those costs incurred in the exercise of reasonable diligence to avoid or mitigate a force majeure event.

5.19 Waiver

Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

5.20 Headings

The headings used in this Agreement are for general reference only and do not have special significance.

5.21 Subcontractors

ENGINEER may utilize such ENGINEER's Subcontractors as ENGINEER deems necessary to assist in the performance of its Services.

5.22 Coordination with Other Documents

It is the intention of the parties that if the ENGINEER's Services include design then the Standard General Conditions will be used as the General Conditions for the Project and that all amendments thereof and supplements thereto will be generally consistent therewith. Except as otherwise defined herein, the terms which have an initial capital letter in this Agreement and are defined in the Standard General Conditions will be used in this Agreement as defined in the Standard General Conditions. The term "*defective*" will be used in this Agreement as defined in the Standard General Conditions.

5.23 Purchase Order

Notwithstanding anything to the contrary contained in any purchase order or in this Agreement, any purchase order issued by OWNER to ENGINEER shall be only for accounting purposes for OWNER and the pre-printed terms and conditions contained on any such purchase order are not incorporated

herein, shall not apply to this Agreement, and shall be void for the purposes of the Services performed by ENGINEER under this Agreement.

5.24 Dispute Resolution

In the event of any dispute between the parties arising out of or in connection with the contract or the services or work contemplated herein; the parties agree to first make a good faith effort to resolve the dispute informally. Negotiations shall take place between the designated principals of each party. If the parties are unable to resolve the dispute through negotiation within 45 days, then either party may give written notice within 10 days thereafter that it elects to proceed with non-binding mediation pursuant to the commercial mediation rules of the American Arbitration Association. In the event that mediation is not invoked by the parties or that the mediation is unsuccessful in resolving the dispute, then either party may submit the controversy to a court of competent jurisdiction. The foregoing is a condition precedent to the filing of any action other than an action for injunctive relief or if a Statute of Limitations may expire.

Each party shall be responsible for its own costs and expenses including attorneys' fees and court costs incurred in the course of any dispute, mediation, or legal proceeding. The fees of the mediator and any filing fees shall be shared equally by the parties.

## ARTICLE 6 – DEFINITIONS

Whenever used in this Agreement the following terms have the meanings indicated which are applicable to both the singular and the plural.

6.1 Agreement

This Agreement between OWNER and ENGINEER for Professional Services including those exhibits listed in Article 7.

6.2 Constituent of Concern

Any substance, product, waste, or other material of any nature whatsoever (including, but not limited to, Asbestos, Petroleum, Radioactive Material, and PCBs) which is or becomes listed, regulated, or addressed pursuant to [a] the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq, (“CERCLA”) [b] the Hazardous Materials Transportation Act, 49 U.S.C. §§1801 et seq.; [c] the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); [d] the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; [e] the Clean Water Act, 33 U.S.C. §v1251 et seq.; [f] the Clean Air Act, 42 U.S.C. §§7401 et seq.; and [g] any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

6.3 Construction Cost – ♦

The total cost to OWNER of those portions of the entire Project designed or specified by ENGINEER. Construction Cost does not include ENGINEER's compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to properties, or OWNER's legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project or the cost of other services to be provided by others to OWNER pursuant to Article 3. Construction Cost is one of the items comprising Total Project Costs.

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♦ This provision is applicable for projects where ENGINEER provides Design, Bidding and/or Construction Phase Services.

- 6.4 Constructor  
Any person or entity (not including the Engineer, its employees, agents, representatives, and Consultants), performing or supporting construction activities relating to the Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner's work forces, utility companies, other contractors, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
- 6.5 Contractor - ♦  
The person or entity with whom OWNER enters into a written agreement covering construction work to be performed or furnished with respect to the Project.
- 6.6 Documents  
As applicable to the Services, the data, reports, drawings, specifications, record drawings and other deliverables, whether in printed or electronic media format, provided or furnished by ENGINEER to OWNER pursuant to the terms of this Agreement.
- 6.7 ENGINEER's Subcontractor.  
A person or entity having a contract with ENGINEER to perform or furnish Services as ENGINEER's independent professional subcontractor engaged directly on the Project.
- 6.8 Reimbursable Expenses.  
The expenses incurred directly in connection with the performance or furnishing of Services for the Project for which OWNER shall pay ENGINEER as indicated in Exhibit .
- 6.9 Resident Project Representative - ♦  
The authorized representative of ENGINEER who will be assigned to assist ENGINEER at the site during the Construction Phase. The Resident Project Representative will be ENGINEER's agent or employee and under ENGINEER's supervision. As used herein, the term Resident Project Representative includes any assistants of Resident Project Representative agreed to by OWNER. The duties and responsibilities of the Resident Project Representative are set forth in Exhibit B, "Duties, Responsibilities and Limitations of Authority of Resident Project Representative" ("Exhibit B").
- 6.10 Standard General Conditions - ♦  
The Standard General Conditions of the Construction Contract (No. ) of the Engineers Joint Contract Documents Committee.
- 6.11 Total Project Costs - ♦  
The sum of the Construction Cost, allowances for contingencies, the total costs of design professional and related services provided by ENGINEER and (on the basis of information furnished by OWNER) allowances for such other items as charges of all other professionals and consultants, for the cost of land and rights-of-way, for compensation for or damages to properties, for interest and financing charges and for other services to be provided by others to OWNER under Article 3.
- 6.12 Work - ♦  
The entire construction or the various separately identifiable parts thereof required to be

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♦ This provision is applicable for projects where ENGINEER provides Design, Bidding and/or Construction Phase Services.

provided under the Construction Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Construction Contract Documents.

**ARTICLE 7 – EXHIBITS AND SPECIAL PROVISIONS**

7.1 This Agreement is subject to the provisions of the following Exhibits which are attached to and made a part of the Agreement:

Exhibit A - Engineer's Services, Owner's Responsibilities, Time for Performance, Method of Payment, and Special Provisions.

This Agreement (consisting of Pages 1 to 11 inclusive), and the Exhibits identified above constitute the entire agreement between OWNER and ENGINEER and supersede all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.


IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the date first above written.

OWNER:

By:  
Title:  
Date:

Address for giving notices:

ENGINEER:

By:   
Title: Client Service Leader  
Date: November 7, 2023

Address for giving notices:  
CDM Smith

247 Freshwater Way  
Milwaukee, Wisconsin 53204

**EXHIBIT A  
TO AGREEMENT BETWEEN  
OWNER AND ENGINEER  
Scope of Work**

This is an exhibit attached to and made a part of the Agreement dated November \_\_\_\_, 2023, between City of Port Washington (OWNER) and CDM Smith, Inc. (ENGINEER) for professional services.

1.0 ENGINEER'S SERVICES

1.1 Study and Report Phase

Upon this Agreement becoming effective, ENGINEER shall::

- 1.1.1 Consult with OWNER to clarify and define OWNER's requirements for the Project and review available data.
- 1.1.2 Advise OWNER as to the necessity of OWNER's providing or obtaining from others data or services which are not part of ENGINEER's Services, and assist OWNER in obtaining such data and services.
- 1.1.3 Identify and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Project specified by ENGINEER with whom consultation is to be undertaken in connection with the Project.
- 1.1.4 Evaluate various alternate solutions available to OWNER as described herein, and, after consultation with OWNER, recommend to OWNER those solutions which in ENGINEER's judgment best meet OWNER's requirements for the Project.
- 1.1.5 Prepare a report (the "Report") which will contain the statement of OWNER's requirements for the Project and, as appropriate, will contain schematic layouts, sketches and conceptual design criteria with appropriate exhibits to indicate the considerations involved and those alternate solutions available to OWNER which ENGINEER recommends. This Report will be accompanied by ENGINEER's opinion of Total Project Costs for each solution which is so recommended for the Project, including the following: opinion of probable Construction Cost, allowances for contingencies including costs of design professional and related services based on information furnished by OWNER for allowances and other items and services included within the definition of Total Project Costs.
- 1.1.6 Furnish the Report to and review it with OWNER.
- 1.1.7 Revise the Report in response to OWNER's comments, as appropriate, and furnish final copies of the Report in the number set forth herein.
- 1.1.8 Submit the Report within the stipulated period indicated herein.
- 1.1.9 ENGINEER's Services under the Study and Report Phase will be considered complete at the earlier of (1) the date when the Report has been accepted by OWNER or (2) thirty days after the date when such Report is delivered to OWNER for final acceptance, plus in each case such additional time as may be considered reasonable for obtaining approval of governmental authorities having jurisdiction to review the portions of the Project specified by ENGINEER, if such approval is to be obtained during the Study and Report Phase.

The duties and responsibilities of ENGINEER during the Study and Report Phase as set forth in this paragraph 1.1 are amended and supplemented as follows:

As described in the proposal dated November 7, 2023

## 2.0 OWNER'S RESPONSIBILITIES

2.1 Furnish to ENGINEER, as requested by ENGINEER for performance of Services as required by the Contract Documents, the following:

2.1.1 Data prepared by or services of others, including without limitation explorations and tests of subsurface conditions at or contiguous to the site, drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site, or hydrographic surveys;

2.1.2 The services of an independent testing laboratory to perform all inspections, tests and approvals of samples, materials and equipment;

2.1.3 Appropriate professional interpretation of all of the foregoing;

2.1.4 Environmental assessments, audits, investigations and impact statements, and other relevant environmental or cultural studies as to the Project, the site and adjacent areas;

2.1.5 Field surveys for design purposes and property, boundary, easement, right-of-way, topographic and utility surveys or data, including relevant reference points;

2.1.6 Property descriptions;

2.1.7 Zoning, deed and other land use restrictions; and

2.1.8 Other special data or consultations not covered in Article 2.

OWNER shall be responsible for, and ENGINEER may rely upon, the accuracy and completeness of all reports, data and other information furnished pursuant to this paragraph. ENGINEER may use such reports, data and information in performing or furnishing services under this Agreement.

2.2 Provide, as required by the Contract Documents, engineering surveys and staking to enable Contractor to proceed with the layout of the work, and other special field surveys.

2.3 Provide access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform services under this Agreement.

2.4 Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals and other documents presented by ENGINEER (including obtaining advice of an attorney, insurance counselor and other consultants as OWNER deems appropriate with respect to such examination) and render in writing decisions pertaining thereto.

2.5 Provide approvals and permits from all governmental authorities having jurisdiction to approve the portions of the Project designed or specified by ENGINEER and such approvals and consents from others as may be necessary for completion of such portions of the Project.

2.6 Provide, as may be required for the Project:

- 2.6.1 Accounting, bond and financial advisory, independent cost estimating and insurance counseling services;
  - 2.6.2 Such legal services as OWNER may require or ENGINEER may reasonably request with regard to legal issues pertaining to the Project, including any that may be raised by Contractor; and
  - 2.6.3 Such auditing services as OWNER may require to ascertain how or for what purpose Contractor has used the moneys paid on account of the Contract Price.
- 2.7 Provide such inspection or monitoring services by an individual or entity other than ENGINEER as OWNER may desire to verify:
- 2.7.1 That Contractor is complying with any law, rule, regulation, ordinance, code or order applicable to Contractor's performing and furnishing the work; or
  - 2.7.2 That Contractor is taking all necessary precautions for safety of persons or property and complying with any special provisions of the Contract Documents applicable to safety.

ENGINEER does not undertake in this Agreement to perform the services referred to in 2.7.1 and 2.7.2 above. The identity of any individual or entity employed to perform such services and the scope of such services will be disclosed to ENGINEER.

- 2.8 Advise ENGINEER of the identity and scope of services of any independent consultants employed by OWNER to perform or furnish services in regard to the Project, including, but not limited to, Construction Management, Cost Estimating, Project Peer Review, Value Engineering, and Constructability Review. If OWNER designates a person or entity other than, or in addition to, ENGINEER to represent OWNER at the site, OWNER shall define and set forth in an exhibit that is to be mutually agreed upon and attached to and made a part of this Agreement before such services begin, the duties, responsibilities and limitations of authority of such other party and the relation thereof to the duties, responsibilities and authority of ENGINEER.
- 2.9 Prior to the commencement of the Construction Phase, notify ENGINEER of any variations in the language of the Notice of Acceptability of Work, or of any notice or certification other than such Notice that ENGINEER will be requested to provide to OWNER or third parties in connection with the financing or completion of the Project. OWNER and ENGINEER shall reach agreement on the terms of any such requested notice or certification and OWNER shall authorize such Special Services as are necessary to enable ENGINEER to provide the notice or certification requested under this paragraph.
- 2.10 If more than one prime contract is to be awarded for work designed or specified by ENGINEER, designate a person or entity to have authority and responsibility for coordinating the activities among the various prime contractors, and define and set forth the duties, responsibilities and limitations of authority of such person or entity and the relation thereof to the duties, responsibilities and authority of ENGINEER in an exhibit that is to be mutually agreed upon and attached to and made a part of this Agreement before such services begin.
- 2.11 Furnish to ENGINEER data or estimated figures as to OWNER's anticipated costs for services to be provided by others for OWNER (such as services pursuant to paragraphs 2.1, 2.2 and 2.4 through 2.11, inclusive) and other costs so that ENGINEER may make the necessary calculations to develop and periodically adjust ENGINEER's opinion of Total Project Costs.
- 2.12 Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job-related meetings and Substantial Completion and final payment inspections.
- 2.13 Provide labor and safety equipment to open and protect manholes and/or to operate valves and hydrants as required by the ENGINEER.



2.14 Bear all costs incident to compliance with the requirements of the OWNER's Responsibilities.

3.0 TIME PERIOD FOR PERFORMANCE

The time periods for the performance of ENGINEER's services as set forth in Article 2 of said Agreement are as follows:

As described in the proposal dated November 7, 2023.

4.0 METHOD OF PAYMENT

The method of payment for Services rendered by ENGINEER shall be as set forth below:

As described in the proposal dated November 7, 2023.

5.0 SPECIAL PROVISIONS

OWNER has established the following special provisions and/or other considerations or requirements in respect of the Assignment:

n/a

## EPA's Proposed Lead and Copper Rule Improvements November 2023

On November 30, 2023, EPA announced the proposed Lead and Copper Rule Improvements (LCRI) to reduce lead in drinking water that can irreparably harm children and adults and disproportionately impacts those living in disadvantaged communities. The science is clear, there is no safe level of lead exposure. In adults, lead can cause increased blood pressure, heart disease, decreased kidney function, and cancer. In children, it can severely harm mental and physical development, slowing down learning and damaging the brain.

The use of lead pipes was banned in the 1980s, yet there are over 9 million lead service lines delivering water to families in neighborhoods across America. These lead pipes have been hidden underground for decades and pose an ever-present risk to the health and wellbeing of Americans. These lead pipes remain disproportionately concentrated in low-income and people of color communities.

### Proposed Lead and Copper Rule Improvements

The proposed LCRI represents a major advancement in protecting children and adults from lead in drinking water. These advancements are grounded in the science and existing practices utilized by drinking water systems. Key provisions in the proposal, include:

- **Achieving 100% Lead Pipe Replacement within 10 years.** When lead service lines are present, they represent the greatest source of lead exposure in drinking water. The proposed LCRI would require the vast majority of water systems to replace lead services lines within 10 years.
  - While corrosion control can be effective at reducing lead exposure, removing lead pipes provides even greater public health protection by eliminating the key source of lead and minimizing the impacts of poor treatment decisions that have occurred in the past.
  - **This is achievable.** Cities like Newark, NJ; Benton Harbor, MI; and Green Bay, WI replaced their lead service lines in less than 10 years and other systems like Detroit, MI; Saint Paul, MN; and Wheaton, IL have committed to a 10-year or less replacement timeline.
- **Locating Legacy Lead Pipes.** Knowing where lead pipes are is critical to replacing them efficiently and equitably. Water systems are currently required to provide an initial inventory of their lead service lines in the Fall of 2024. Under the proposed LCRI, all water systems would be required to regularly update their inventories, create a service line replacement plan, and identify the materials of all service lines of unknown material. This information will be critical to communities, water systems, states, tribes, and EPA in efficiently and equitably replacing lead pipes.
- **Improving Tap Sampling.** The proposed LCRI would make key changes to drinking water sampling requirements, informed by best practices already being deployed by leading states like Michigan. Water systems would be required to collect first liter and fifth liter samples at sites with lead service lines and use the higher of the two values when determining compliance with the rule.
- **Lowering the Lead Action Level.** EPA is proposing to lower the lead action level from 15 µg/L to 10 µg/L. When a water system's lead sampling exceeds the action level, the system would be required to inform

the public and take action to reduce lead exposure while concurrently working to replace all lead pipes. For example, the system would install or adjust corrosion control treatment to reduce lead that leaches into drinking water.

- Based on robust stakeholder input, EPA’s proposal would also **eliminate the existing rule’s Trigger Level** to simplify implementation.
- **Strengthening Protections to Reduce Exposure.** Water systems with multiple lead action level exceedances would be required to conduct additional outreach to customers and make filters available to all consumers. The filters must be certified to reduce lead.

Taken together, these provisions in the proposed LCRI would reduce complexity, streamline implementation, and strengthen public health protections.

## EPA’s Actions to Reduce Lead in Drinking Water

EPA is taking a comprehensive approach to getting the lead out, using our statutory authority under the Safe Drinking Water Act, historic funding for water projects through the Bipartisan Infrastructure Law, technical assistance for underserved communities, and practical implementation tools to help local municipalities. Together, these actions will achieve President Biden’s vision of removing all lead pipes across the country.

- **Regulatory Framework.** EPA’s proposed LCRI follow the science and EPA’s authority under the Safe Drinking Water Act to strengthen regulatory requirements to address lead in drinking water.
- **Funding.** Bipartisan Infrastructure Law provides \$50 billion to support upgrades to the nation’s drinking water and wastewater infrastructure. This includes \$15 billion dedicated to lead service line replacement and \$11.7 billion of general Drinking Water State Revolving Funds that can also be used for lead service line replacement.
- **Technical Assistance.** EPA’s water technical assistance (WaterTA), including the recently launched “Get the Lead Out” Initiative, helps communities identify lead services lines, develop replacement plans, and apply for funding to get the lead out.
- **Practical Implementation Tools.** Through training, tools, webinars, and case studies, EPA provides support to drinking water systems to reduce lead exposure.

## Whole of Government Approach

Through its [Lead Pipe and Paint Action Plan](#), the Biden-Harris Administration has made accelerating lead service line replacement a top priority. Under this Whole of Government Approach, 10 federal agencies are advancing over 15 new actions assuring the federal government is marshalling every resource to make rapid progress towards 100% lead pipe replacement. EPA’s actions, including the LCRI, are setting the nation on the course to solve for a legacy problem, a problem we can solve by getting the lead out.

## Public Input and Participation

EPA welcomes public input as part of the regulatory development process. EPA invites members of the public to review the proposed LCRI and supporting information and provide written comments at [www.regulations.gov](http://www.regulations.gov), Docket ID Number: EPA-HQ-OW-2022-0801. Follow the online instructions for submitting written comments. Comments must be submitted to the public docket during the 60-day public comment period.

EPA will consider all public comments in informing the development of the final regulation. For more information and instructions on how to submit written comments to the public docket, visit: <https://www.epa.gov/dockets/commenting-epa-dockets>.

EPA will also hold a virtual public hearing on January 16, 2024, at which the public will be invited to provide EPA with verbal comments. For more information on the public hearing and how to provide EPA with verbal and written comments, visit <https://www.epa.gov/ground-water-and-drinking-water/lead-and-copper-rule-improvements>.

**Disclaimer:** This document is being provided for informational purposes only to assist members of the public, States, Tribes, and/or public water systems in reviewing and commenting on the package for the proposed LCRI. In the event that there are any differences, conflicts, or errors between this document and the content included in the package for the proposed LCRI, including the preamble and proposed regulatory text, States, Tribes, and/or public water systems should refer to the rule package. The LCRI is only a proposed rule and the content discussed herein about the proposed LCRI is subject to change before a final LCRI is promulgated. This document does not impose any new legally binding requirements on EPA, States, Tribes, or the regulated community. Further, this document does not confer legal rights or impose legal obligations on any member of the public. In the event of a conflict between the discussion in this fact sheet and any statute or promulgated regulation, the statute and any promulgated regulations are controlling.