AGENDA FOR REGULAR COMMON COUNCIL MEETING
SUPERIOR, WISCONSIN
Tuesday, July 20, 2021
6:30 p.m. - Government Center, Board Room 201

1. PLEDGE OF ALLEGIANCE

2. ROLL CALL

3. APPROVAL OF MINUTES July 6, 2021 - Regular Council meeting.

4. PRESENTATIONS AND PUBLIC HEARINGS

Flag presentation by Fond Du Lac Band of Lake Superior Chippewa Honor Guard.

5. CORRESPONDENCE TO BE FILED (No action)

6. MAYOR’S REPORT

6.1 The Mayor’s Report.

7. STANDING COMMITTEE REPORTS

7.1 Finance Committee, July 8, 2021
Report from the Chair.
1) To approve the amendment to the Billings Park Civic Center Lease Agreement.

7.2 Human Resources Committee, June 30, 2021
Report from the Chair.

7.3 Public Works Committee, July 1, 2021
Report from the Chair.
1) To approve the Bus Service Agreement with the Duluth Transit Authority as amended.
2) To approve ordinances updating the wording of accessible parking:
   O21-4242 Amending Traffic Code, Section 112-251, Penalties for Accessible parking zone.
   O21-4243 Amending Section 46-2 Elections, Compensation of Election Inspectors.
8. SPECIAL COMMITTEE REPORTS


9. OLD BUSINESS

10. NEW BUSINESS

10.1 City Clerk Kalan recommending approval of Miscellaneous Licenses.

10.2 City Clerk Kalan recommending approval of an Original Class B Liquor & Beer license for Jamrock Cultural Restaurant, LLC, Antonio O’Neil – agent, 1901 Tower Avenue.

10.3 City Clerk Kalan recommending approval to amend the premises of a Class B Liquor & Beer license for Main Club, 1217 Tower Avenue, for a special event September 3, 2021, 10:00 a.m. through September 6, 2021, 10:00 a.m.

10.4 City Clerk Kalan recommending approval to amend the premises of a Class B Liquor & Beer license for Jimmy’s Saloon, LLC, 1812 Iowa Avenue, for a special event August 6, 2021, 2:00 p.m. through August 9, 2021, 2:00 a.m.

10.5 R21-13565 Resolution supporting the land transfer of Wisconsin Point Burial Ground to the Fond Du Lac Band of Lake Superior Chippewa and the land transfer of the Ojibwe Mass Grave into Federal Trust; and the stewardship of both the Fond Du Lac Band of Lake Superior Chippewa.

10.6 R21-13566 Resolution Providing for the Issuance, Sale and Delivery of $4,250,000 General Obligation Refunding Bonds, Series 2021B of the City of Superior, Wisconsin; Establishing the Terms and Conditions Therefor; Directing Their Execution and Delivery; Creating a Debt Service Account Therefor; and Awarding the Sale Thereof.

10.7 R21-13567 Resolution of the Common Council of the City of Superior, Wisconsin Approving Execution of a Development Agreement, Grant Agreement and Lease Agreement in Connection with the Fraser Shipyards, Inc. Project
   o Form of Development Agreement (with Lease Agreement as Exhibit D)
   o Form of Grant Agreement

10.8 R21-13568 Resolution authorizing the filing of an application with the Wisconsin Department of Transportation for a Grant under the Harbor Assistance Program.

Business by Councilors
11. BUSINESS BY PUBLIC

If you would like to speak before the Council, please sign your name on the sign-up sheet prior to the Council meeting. Due to requirements of the Wisconsin Open Meetings laws, only matters placed on this agenda may be approved by the Council at this meeting, however, citizens may address the Council regarding items which require no action. No personal attacks on individuals will be allowed, and all comments by members of the public shall be limited to three (3) minutes in length, and must not include endorsements of any candidates or other electioneering.

Citizens should contact the Mayor, a Councillor, or the City Clerk to have a matter placed on a future Council agenda for consideration.

Pursuant to the Americans with Disabilities Act of 1990, if you are in need of an accommodation to participate in the public meeting process, please contact the City Clerk’s Office at (715) 395-7200 prior to the scheduled meeting. The City will attempt to accommodate any request depending on the amount of notice received. TDD (715) 395-7521.

In compliance with Wisconsin Open Meetings Law, this agenda was:
Posted: Government Center, Court House, & Public Library.
Fax to: Daily Telegram, Public Library****
The Regular Meeting of the Common Council was called to order by Mayor Jim Paine at 6:30 p.m. in the Government Center, Board Room 201.

1. PLEDGE OF ALLEGIANCE

2. ROLL CALL
   Present: Nick Ledin, Jenny Van Sickle, Warren Bender, Jack Sweeney, Brent Fennessey (via teleconference), Tylor Elm, Ruth Ludwig, Craig Sutherland (via teleconference), Keith Kern, Lindsey Grasley – 10
   Also Present: Mayor Paine, City Attorney Prell, City Clerk Kalan

3. APPROVAL OF MINUTES June 15, 2021 - Regular Council Meeting.
   MOTION by Councilor Bender, seconded by Councilor Grasley and carried to approve.

4. PRESENTATIONS AND PUBLIC HEARINGS

5. CORRESPONDENCE TO BE FILED (No action)
   5.1 Police Chief Alexander presenting the 2020 Annual Report.

6. MAYOR’S REPORT
   6.1 The Mayor’s Report.
   6.2 Recommending approval of appointment of Camila Ramos as City Clerk effective September 1, 2021.
      MOTION by Councilor Bender, seconded by Councilor Elm and carried to approve.
   6.3 Recommending approval of Jason Anderson to the Barker’s Island Review Committee for a term of one year; appoint David Kroll to the Parks & Recreation Commission for a three year term; appoint Kelly Isaacson to the Mayor’s Commission on Disabilities for a three year term; appoint Gavin Hamilton to the Festival Committee for a three year term; and appoint Ephraim Nikoi to the Mayor’s Commission on Communities of Color for a three year term.
      MOTION by Councilor Ludwig, seconded by Councilor Bender and carried to approve.
7. STANDING COMMITTEE REPORTS

7.1 Committee of the Whole, June 22, 2021
Report from the Chair.

7.2 Finance Committee, June 10, 2021
Report from the Chair.

7.3 Human Resource Committee, June 21, 2021
Report from the Chair.

8. SPECIAL COMMITTEE REPORTS

8.1 Plan Commission, June 16, 2021
Report from the Chair.
1. To approve a bluff buffer appeal for property at 408 36th Avenue East.
   MOTION by Councilor Van Sickle, seconded by Councilor Elm and carried to approve.

8.2 Wisconsin Point Committee, May 25 2021
Report from the Chair.

8.3 Parks & Recreation Commission, May 27, 2021
Report from the Chair.

8.4 Liability Claims Committee, April 28, 2021
Report from the Chair.

8.5 Festival Committee, June 14, 2021
Report from the Chair.

9. OLD BUSINESS

10. NEW BUSINESS

10.1 City Clerk Kalan recommending approval of miscellaneous licenses.
   MOTION by Councilor Ludwig, seconded by Councilor Bender and carried to approve.
10.2 City Clerk Kalan recommending approval of an Amend the Premise application for Flame Nightclub, 1612 Tower Avenue, Agent: Vince Nelson, for a special event on September 3, 2021 through September 5, 2021.
MOTION by Councilor Graskey, seconded by Councilor Bender and carried to approve.

10.3 City Clerk Kalan recommending approval of an Amend the Premise application for Birds Bar, 5801 Tower Avenue, Agent: Cory Gatzke, for a special event on July 17, 2021.
MOTION by Councilor Ledin, seconded by Councilor Elm and carried to approve.

10.4 City Clerk Kalan recommending approval of Amend the Premise application for the Belgian Club, 3931 E 2nd Street, Agent: James Trianoski, for a special event on July 24, 2021.
MOTION by Councilor Bender, seconded by Councilor Van Sickle and carried to approve.

10.5 City Clerk Kalan recommending referral of Claim # 21-10 to the Liability Claims Committee.
MOTION by Councilor Ludwig, seconded by Councilor Bender and carried to approve.

10.6 Public Works Director Janigo recommending approval of the Consent to Collateral Assignment of Land Lease for Hangar Sites A5 and C5 with Superior Flying Services, LLC, and National Bank of Commerce at the Richard I. Bong Memorial Airport.
MOTION by Councilor Elm, seconded by Councilor Bender and carried to approve.

10.7 Housing Planner/Coordinator Skrenes recommending approval of the Historic Designation Nomination of 1011 Weeks Avenue.
MOTION by Councilor Elm, seconded by Councilor Graskey and carried to approve.

10.8 ORDINANCE #O21-4239 introduced by the Common Council of the City of Superior amending City Code Chapter 112 – Traffic Code, Schedule J, Disabled Parking Zones, by removing 2306 Ogden Avenue.
MOTION by Councilor Bender, seconded by Councilor Ledin and carried to adopt the ordinance.
Business by Councilors

11. BUSINESS BY PUBLIC

Meeting adjourned at 6:52 p.m.

Respectfully submitted,
Terri Kalan, City Clerk
Superior, Wisconsin

Approved this 20th day of July, 2021.

Attest: ___________________________ Mayor

______________________________ City Clerk
Finance Committee Proceedings  
City of Superior  
July 08, 2021

Members Present:  Jack Sweeney, Tylor Elm and Keith Kern  
Staff Present:  Ashley Puetz, Jean Dotterwick, Deborah Kamunen, Nick Raverty and Jim Paine  
Others Present:  Jenny Van Sickle  
Members Excused:  Brent Fennessey

Jack Sweeney called the meeting to order at 5:00 pm with a quorum present. Attendance was done by sign in and virtual meeting.

1. Approval of June 10, 2021 Finance Committee meeting minutes.

   Motion was made by Keith Kern, seconded by Tylor Elm and carried to approve the June 10, 2021 Finance Committee meeting minutes.

2. Tabled from the June 10, 2021 Finance Committee meeting – Civic Center funding, upcoming lease expiration on August 7, 2021 and the need for the Civic Center’s financial statements and a capital asset plan.

   The Committee was informed that the Civic Center has no additional financials to present. The Civic Center has a cash balance and no debt as the Center was paid for by fundraising. Councilor Sweeney would like an assessed value of the property and to check with the Building Inspection department to help develop the value. The Committee is requesting language be added to the capital improvement definition to include it must last more than one year. Finance will approve if qualifying as a capital improvement. The Mayor recommended proceeding with a draft of the lease to get provisional terms.

   Motion was made by Keith Kern, seconded by Tylor Elm and carried to recommend $4,000 of the $10,000 annual rent be spent on operational expenses, each year.

   Motion was made by Keith Kern, seconded by Tylor Elm and carried to recommend $6,000 of the $10,000 annual rent be spent on capital improvements each year for a total of $18,000 over a 3 year contract period. If the $18,000 is not spent within a 3 year period, the balance will be forfeited. The annual $6,000 will stay with the City until approved by Finance to be paid out. The payment will list both the Civic Center and the contractor. Also there will be language added to require the Civic Center to comply with all City Building Inspecting permit regulations.


   Motion was made by Keith Kern, seconded by Tylor Elm and carried to receive and file the Golf course Financials.


   Motion was made by Tylor Elm, seconded by Keith Kern and carried to receive and file the June 2021 check register.


   Director Puetz indicated the final audit will be available by the end of July with an approximate surplus of $1.5 million. Puetz also indicated that 2021 is trending normally.
Motion was made by Tylor Elm, seconded by Keith Kern and carried to receive and file the review of General Fund Financial Statements – 2020 & 2021 Expenditure vs. Budget Analysis as of June 25, 2021.

6. General Financial Overview

   Top 3 financial concerns or updates.
   a. Puetz indicated that TCP Payroll has been rolled out to ESD, Finance, Human Resources and the IT department with a plan to add the Police and Fire departments imports next week.
   b. Puetz informed the committee that we should have our bond rating by mid-July with no changes expected.

7. Other financial matters.

   There were no other financial matters.

Having no other business, the Finance Committee Meeting adjourned at 5:53 p.m.

Minutes respectfully submitted by Jean Dotterwick
AMENDMENT I
TO THE
LAND LEASE AND USE AGREEMENT
BY AND BETWEEN
THE CITY OF SUPERIOR, WISCONSIN
AND
THE BILLINGS PARK CIVIC ASSOCIATION, INC.

The City of Superior ("City"), a Wisconsin municipal corporation, located at 1316 North 14th Street, Superior, Wisconsin and the Billings Park Civic Association, Inc. ("Civic Association") are parties to a land lease and use agreement dated August 3, 2016. The parties hereby wish to amend the agreement effective __________, 2021, as follows:

2. TERM. The term of this amendment shall be for three (3) years, commencing on August 7, 2021, with optional subsequent three (3) year extensions subject to mutual agreement of terms and fees, unless terminated earlier in accordance with the terms and provisions to this Agreement. It is acknowledged by the Civic Association that the community center will be primarily used for community based events.

5. RENT. In consideration for the City using the property for its recreation programs, the use of the facility as the Fourth Precinct Polling place and support of the mission of the Civic Association, the City will pay the Civic Association the flat amount of four thousand dollars ($4,000.00) annually.

In addition, the City agrees to allot six thousand dollars ($6,000.00) annually, for a total of eighteen thousand dollars ($18,000.00) for the term of this agreement, for capital improvements at the community center. Any funds allotted annually that are unspent in the allotment year shall be carried over to the following year and added to the following year’s allotment.

Capital improvements shall be defined as any single repair or upgrade which exceeds one thousand dollars ($1,000.00); and the capital improvements shall have a life of more than one year. The City shall pay the vendor and the Civic Association, together as a two party check, upon completion of the capital improvement and approval of the capital improvement by the City.

All improvements are subject to City building permit regulations.

If the total of eighteen thousand dollars ($18,000.00) allotted for capital improvements is not spent prior to the end of the term of this agreement, the Civic Association shall not be eligible to receive the unspent funds.
All other terms and conditions of this Agreement remain in full force and effect.

In Witness Whereof, the parties have signed the Amendment as of the date first listed above.

ATTEST: Billings Park Civic Center

_________________________  ___________________________
Name/Title  Name/Title

ATTEST: City of Superior

_________________________  ___________________________
Jim Paine, Mayor  Terri Kalan, Clerk

_________________________  ___________________________
Ashley Puetz, Finance Director  Frog Prell, City Attorney

Approved by the Superior Common Council:
LAND LEASE AND USE AGREEMENT
by and Between

THE CITY OF SUPERIOR, WISCONSIN

and

THE BILLINGS PARK CIVIC ASSOCIATION, INC.

This agreement is entered into this 3rd day of August, 2016, by and between the City of Superior ("City"), a Wisconsin municipal corporation, located at 1316 North 14th Street, Superior, WI, and the Billings Park Civic Association, Inc ("Civic Association"), a Wisconsin non-profit corporation, located at 3903 North 18th, Superior, WI.

1. LEASED PREMISES. Subject to the terms and conditions of this agreement as set forth hereinafter, The City hereby leases the following described parcel of land (Premises) to the Civic Association:
That part of the NW ¼ SEC 21-49-14 described as follows: Beginning at the intersection of the E’ly line of Texas Avenue and the S line of Belknap St; Thence S along the E’ly line of Texas Ave 656.02 FT to the point of beginning; Thence east along the S line of that parcel desc in vol 481-775, 830 FT to the W’ly line of New York Ave; Thence S 653.98 FT along the W’ly line of New York Ave; Thence W’ly on a line parallel with the S’ly line desc in volume 481-775, 665 ft; Thence N 410 FT; Thence W 165 FT to the E’ly R/W Line of Texas Ave; Thence N along said R/W 243.98 FT to the point of beginning.

2. TERM. The term of this lease shall be for five (5) years, commencing on August 7, 2016, with an optional subsequent five (5) year extension subject to mutual agreement of terms and fees, unless terminated earlier in accordance with the terms and provisions to this agreement. It is acknowledged by the Civic Association that the Community Center will be primarily used for community based events.

3. USE. The Civic Association, at its expense, has constructed a building known as a Community Center on the Premises. The building is a steel
building designed and built by Wick Buildings, Inc. It is 76’ by 76’ in size, with a concrete slab floor. Except as otherwise provided in this Lease Agreement, the Civic Association shall have complete management, control, and responsibility of the Premises.

The Civic Association holds title to the building. The Civic Association shall comply with all applicable statutes, laws, ordinances, orders, rules and regulations of any governmental authority having jurisdiction of the Premises.

The Civic Association agrees to provide space in the building for the rink attendant and warming room, in the winter months, and for recreational programming, in the summer months. This space will also include access to male and female toilet facilities.

4. **MAINTENANCE AND UTILITIES.** The Civic Association shall, at its expense, in a timely manner, maintain, preserve and keep the building in a good, sanitary, safe, and aesthetically pleasing condition. The Civic Association shall, at its expense, repair any vandalism, damage and provide litter control. The Civic Association shall, at its own expense, repair and replace concrete sidewalk improvements. The Civic Association shall, at its own expense, have the right to remodel, modify and improve the building for such uses as a Community Center. No structural alterations or permanent additions to the building shall be made by the Civic Association without the prior written approval of the City. All such additions, modification and improvements shall thereafter comprise part of the leased Premises and shall be subject to the provisions of this lease. Such additions, modifications and improvements shall not in any way damage the Premises, nor cause it to be used for purposes other than those authorized under the provisions of this lease. The Civic Association will not permit any mechanics or other liens to be established or remain against the Premises for any labor or materials furnished in connection with any remodeling, additions modification, improvements, repairs, renewals or replacements made by the Civic Association pursuant to this section.
The Civic Association will provide for its own weed removal from around the building, shoveling of the sidewalks, and heat, sewers, and utilities payments.

The City shall provide ground maintenance that includes mowing, snow plowing of the parking lot, minor repairs to the parking lot asphalt, garbage, and recycling service. Water supplied to the rinks and electrical power for lighting the rinks will be billed to the City via separate meters.

Parking lot replacement costs will be split equally between the Civic Association and the City. Replacement will be determined by the City.

5. RENT. In consideration for the City using the property for its recreation programs and the use of the facility as the Fourth Precinct Polling place, the City will pay the Civic Association the flat amount of three thousand dollars ($3,000.00) annually.

6. SCHEDULING. The City Recreation Department will schedule the fields. The Civic Association must recognize that the fields are for the primary use of local youth programming. The City will provide a recreation schedule to the Civic Association upon request.

7. INSURANCE. The Civic Association shall, at all times, keep and maintain, at its expense, Commercial General Liability with a minimum coverage of $1,000,000 per occurrence, $500,000 single limit liability, or $1,000,000 personal and advanced bodily injury, and $500,000 per occurrence, and $300,000 for damages for personal property. Such coverage shall be provided by an insurer licensed to do business in Wisconsin and shall remain active for the duration of the agreement. The City of Superior, Wisconsin, is to be shown as additionally insured on the certificate. The naming of said entities as Certificate Holders will not be acceptable.

The Civic Association shall annually provide such a certificate of insurance to the office of the City Clerk.

8. ENTIRE AGREEMENT. This lease contains the entire agreement between the parties. No verbal agreement or other action shall be deemed to be
part of the agreement nor shall they be considered to amend or change the conditions or terms of this lease in any way. The lease shall be amended only by written addendum approved by the City of Superior Common Council and the Directors of the Civic Association.

9. NO PARTNERSHIP. Nothing in this lease shall be interpreted as constituting a partnership between the parties or to make the City liable for the obligations of the Civic Association. The Civic Association is not an agent for the City.

10. INDEMNIFICATION. The Civic Association hereby agrees to indemnify, defend and hold harmless the City, its elected and appointed officials, officers, employees, agents, representatives and volunteers, and each of them, from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interests, attorneys’ fees, costs, and expenses of whatsoever kind or nature in any manner directly or indirectly caused, occasioned, or contributed to in whole or in part or claimed to be caused, occasioned, or contributed to in whole or in part, by reason of any act, omission, fault, or negligence, whether active or passive, of the Civic Association or of anyone acting under its direction or control or on its behalf, even if liability is also sought to be imposed on the City, its elected and appointed officials, officers, employees, agents, representatives and volunteers.

The obligation to indemnify, defend and hold harmless the City, its elected and appointed officials, officers, employees, agents, representatives and volunteers, and each of them, shall be applicable unless liability results from the sole negligence of the City, its elected and appointed officials, officers, employees, agents, representatives and volunteers.

The Civic Association shall reimburse the City, its elected and appointed officials, officers, employees, agent or authorized representatives or volunteers for all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. In the event that the Civic Association employs other persons, firms, corporations or entities (subcontractors) or volunteers as part of the work covered by the agreement, it shall be the responsibility of the Civic
Association to require and confirm that each subcontractor enters into an Indemnity Agreement in favor of the City, its elected and appointed officials, officers, employees, agents, representatives and volunteers, which is identical to this Indemnity Agreement.

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

11. ASSIGNMENT, SUBLETTING, MORTGAGING AND SELLING. The Civic Association shall not mortgage, sell, assign, transfer, encumber in any way or convey the Premises, or any portion thereof during the term of this lease without the prior written consent of the City.

12. DEFAULT AND TERMINATION. In the event that the Civic Association fails to timely and completely fulfill any obligation of this agreement, or in the event the Civic Association is dissolved or abandons the Premises, the City may, if the default remains uncured fifteen (15) days after written notice of the default has been provided to the Civic Association, terminate this agreement. Upon termination or default, the City, its officers, agents and employees may enter the Premises and take full possession, control and ownership of the Premises, including the right to contract for services.

In Witness Whereof, the Civic Association and the City of Superior have herein set their hands and seals this 26 day of August, 2016.

The Billings Park Civic Association, Inc.:

Mark Vaughan, President
8/29/2016

Spike Kalewski, Secretary
9/1/2016
City of Superior, Wisconsin:

Mayor

Bruce Hagen

City Attorney

Frog Prill

Finance Director/Sr Admin Officer

Jean Vito

City Clerk

Terri Kelen

Provision has been made to pay the liability that will accrue under this agreement

*Approved at the City of Superior common Council meeting on August 2, 2016
MEMBERS PRESENT: Ruth Ludwig, Jack Sweeney, Jenny VanSickle

OTHERS PRESENT: Debbie Bergstrom, Terri Kalan, Cammi Koneczny, Mayor Paine, Shelley Nelson, Camilla Ramos, Nick Raverty, Deb Williams

The HRC meeting was called to order at 5:00 pm.

1) Approve Revised Job Description:
   A) Deputy City Clerk

Motion by VanSickle, seconded by Sweeney to approve the revised job description for the deputy city clerk.

APPROVED

Motion by VanSickle, seconded by Sweeney to add a new #2 under Typical Tasks that says “Assists the city clerk in voter outreach, volunteer recruitment and community engagement.”

APPROVED

   B) City Clerk Assistant/Technician

Motion by Sweeney, seconded by VanSickle to approved the revised job description of the city clerk assistant/technician with the stated changes.

APPROVED

2) Request to fill position:
   A) Deputy City Clerk and Subsequent Vacancies

Motion by Sweeney, seconded by Van Sickle to approve the request to fill the deputy city clerk position and subsequent vacancies.

APPROVED

The meeting adjourned at 6:06 p.m.
PUBLIC WORKS COMMITTEE MEETING
JULY 1, 2021
GOVERNMENT CENTER ROOM 204

Members Present: Jenny Van Sickle, Ruth Ludwig, Nick Ledin, Keith Kern

Also Present: Todd Janigo (virtual), Chris Carlson, Jodi Saylor, Shelley Nelson, Nick Raverty, Mayor Jim Paine, Ian Schoenjke

Councilor Van Sickle called the meeting to order at 5:00 pm.

1. Elect new Chair and Vice-Chair
   a. Chair nominations
      MOTION by Ludwig, second by Ledin and carried to elect Van Sickle as chair.
   b. Vice-Chair nominations
      MOTION by Ludwig, second by Van Sickle and carried to elect Ledin as Vice-Chair.

2. Approval of the June 3, 2021 meeting minutes.

      MOTION by Ludwig, second by Ledin and carried to approve the minutes from the June 3, 2021 meeting.

3. Councilor Elm
   a. Request to add a 2-way stop on N 16th Street East/West on Cumming Avenue and a 2-way stop on 16th Street North/South on Baxter Avenue.

      The concern in this area is that traffic going East/West on 16th Street is too fast. This area is a block from Belknap and seems to be getting higher volumes between Hammond and Lamborn. Councilor Ludwig would like to see a longer term plan to slow traffic down versus adding requests as they are coming in more often. Ian Schoenjke, a resident in the area, said that there have been several accidents in the area that were not reported to police.

      In general, the Committee feels that while stop signs can help, they tend to move the traffic to another location as people will seek routes without stop signs. They feel there needs to be consistency in stop sign placements. Councilor Van Sickle stated that she has asked Chief Alexander to come together with Director Janigo and Assistant Director Carlson to try to figure out the resistance of the community to abide by stop signs. She would like to see what the area looks like a few months after installing a stop sign to see what, if any, difference they are making. The Police are implementing a new “Smart Force” software that deploys GPS technology that shows if there were officers near the intersection in question. What was going on? How are we preparing for enhanced traffic that we know about – i.e. during construction? This committee is design and policy. How is the Committee being proactive in design and calming measures? There needs to be a
balance between the burden with PD and writing citations and the Public Works Committee taking best practices and design and putting those in the ground in our City. Public Works and the Police Department need to work together on this.

The Mayor lives in this neighborhood. He states there are some traffic calming methods that we accept. He gave the example of clearing the main roads during snow; people can drive slowly until they reach a main road. We should expect slower traffic in residential areas.

Council Van Sickle believes we need to find a way to find out if they are working long term. First 3 or 4 days show a change but we need to know if it is long lasting. She believes the City has a larger responsibility beyond stop signs. She was not saying stop signs won’t help; but they are not a long term solution.

The Mayor mentioned eliminating calendar parking in the summer which would allow people to park on both sides of the road, thus slowing traffic down.

Officer Trone provided crash stats for some of those intersections in the area that were reported. Assistant Director Carlson spoke with Officer Trone who mentioned having an east/west stop sign at 16th and Cummings, rather than Baxter and 16th, move it down to Harrison and Baxter. There would be a 2 block drive in either direction with stops. For calendar parking, need to verify how many roads can accommodate two way traffic at all times. Maybe change calendar parking to October 1 to April 1st or 15th. Councilor Van Sickle would like to discuss a seasonal repeal at the August Public Works Committee meeting.

**MOTION by Ludwig, second by Ledin and carried to table item 3 until the August meeting.**

4. *Councilor Ledin*
   a. Discussion regarding traffic calming efforts at 58th Street and Baxter Avenue.

   This conversation started around traffic calming methods and then the residents gathered signatures on a petition for a stop sign. The section in question is next to the 58th Street softball fields where the other side there is just fields. People tend to go faster out there. There is currently a speed gun out there to gather data on speeding. There has been increased traffic through the area due to the construction on US2. The golf course is also much busier, bringing more traffic to the area. It is also one of the “south end shortcuts” for people. There are no sidewalks or crosswalks so residents in the area are feeling “trapped in” and not able to walk across the street easily. Councilor Van Sickle would be curious if traffic in this area slows down now that all of the traffic control is being pulled off the highway. Councilor Ledin stated that the problem was there before the construction on Hwy 2 so doesn’t expect to see much of a decline.

   Director Janigo said there are no sidewalks or crosswalks on that section of 58th Street. There are some pretty steep areas, so ADA compliance might be tough. We could look at adding a sidewalk along those three blocks and then could put in
a main crosswalk to get people across and heading to a central area. When you have those main crossing cross walks, there is more of a tendency for people to then be conscious of a neighborhood and slow down. It would likely be also adding a boulevard.

There was more discussion about how to institute more traffic calming methods including no truck signs or weight limit signs to reduce truck traffic, fog lines, narrowing of lanes and more. The Mayor pointed out that adding a boulevard gives a place to plant trees which can also help with traffic calming.

**MOTION by Ledin, second by Ludwig and carried to table this item for further discussion.**

_Ian Schoenjke left the meeting at 5:43pm_

5. **Parks, Recreation and Forestry Department**
   a. Woodstock Bay oversight/design modifications (no action)
   Last year the department went through the design process to redesign the Woodstock Bay area. The full redesign was a $1.1M project. Director Cadotte applied for and received a $400K grant towards the project. This design modification would be to take the whole project and pare it down to a $400K project. The intent would be to do the full redesign eventually.

   b. HVAC System Designs at Barker’s Island Marina (no action)
   This project is to fix the HVAC problems at the Barker’s Island Ship Store. It is a design for a replacement of the system. The project is under $25K so no approval is needed from the committee.

6. **Mass Transit**
   a. Request to approve the Bus Service Program Agreement.
   This new agreement would have the City cover cost for secondary students to ride the DTA. Students cannot ride the public school bus if they live within 2 miles of the school. That can be a long walk or bike ride for many of them. There are a lot of complicating factors even if you can ride, including making extracurricular activities more difficult to get to and from. This program will teach young folks how to ride the bus so as they get older, they have other options for transportation. The biggest barrier is knowing how to ride and not necessarily the cost. Figuring out a bus schedule can be pretty intimidating. The fiscal impact to the City is practically nothing. The agreement would waive all fees for secondary students and certain staff. We have a set cost to operate the bus so any fares would be applied to those costs. This would take almost no revenue away from young people. We have nothing to lose even if a whole bunch of secondary students start riding.

   Councilor Van Sickle believes that riding a bus comes naturally to kids and that students that know how to ride public transit are employable and real world ready.
The agreement does need to be amended to change the wording in Section 1 that defines what district passengers are. It needs to be clarified to say it is for 6th -12th grade students in the middle school or high school.

If approved, the City, school district and DTA would work together to get the word out to parents and students. In certain cases, some school district employees would be covered as well. There are no specified time limits in which students may ride the bus, so they could also ride outside of school hours.

**MOTION by Ledin, second by Ludwig and carried to amend the agreement to insert the word “secondary” between “district and students” under Section 1, Subsection a.i.**

**MOTION by Ludwig, second by Ledin and carried to approve the Bus Service Program Agreement.**

7. **Public Works**
   a. Updates to accessible parking ordinances
      This is a continuation of what was approved at the last Public Works Meeting. There were additional places in the ordinance, primarily schedules J and K, which need to be changed to the new wording.

_Mayor Pane left the meeting at 5:56._

**MOTION by Ludwig, second by Ledin, carried to approve the additional updates to the wording of the accessible parking ordinances.**

b. Review current MUTCD Accessible Parking Signs
   We currently have older signs that do not reflect the new wording for accessible parking. We will be reviewing and replacing signs to reflect his change.

c. Continued discussion on Electric Vehicle Conversion
   Councilor Van Sickle was interested to hear feedback from the committee since this was in the news. Since the Committee last met, she has learned how to convert carbon per metric ton. She discussed calculating the upfront costs versus the long term costs. The current federal rate is $52 per metric ton which is about $900 per 18 metric tons saved. The point of this change is not to save loads of money by converting, but that we would more responsibly acting as a Municipality to reduce emissions. She is still working on the figures and watching the federal legislation around infrastructure and public charging stations; so far it looks promising. The article that was included in the agenda packet talked about initiatives that are happening in other communities and offered different resources that can be used in discussions for the City. The City still has 4 vehicles to purchase that have been postponed at this point.

Director Janigo and Assistant Director Carlson are working on gathering more information. Director Janigo is working on getting quotes to install charging stations for our own use in City lots as well as public charging stations. The total
cost depends on which features are chosen, but would roughly be $50-75K. A big part of that cost is the location. In order to put one in the Employee lot, we would need to run conduit, bury it, and have electrical infrastructure built.

There has not yet been anything posted to the MN State Bid Net site for the vehicles. Director Janigo checked with fleet management but nothing is available yet. When they become available and when you can actually get them is a consideration as to how we move forward. Chief Alexander discussed with Councilor Van Sickle that to order squads, they are a year plus out right now. Being that they are so far out, they don’t want to put prices on anything yet.

WI Clean Cities picked up the story from the paper. Councilor Van Sickle has been discussing this with them. They can supply some fleet assessments, areas to get grants, purchasing options, and more when we are ready to move forward. They will help the City and steer us as we go. We would need to purchase a membership to WI Clean Cities. She will be discussing that with them in the next few weeks. She feels this transition would make the city resistant to high maintenance costs and gas spikes.

8. ESD Director’s Report

Received and filed.

9. Public Works Director’s Report
   a. Hammond Ave Reconstruction – The preferred design consultant is going through pricing process. Excited to get SEH team out there. They have 1 person that has written both NACTO and Vision Zero documents for other Cities, so Director Janigo feels we have a very good team.
   b. Tower and 105 signals – All concrete poured, line painting this week. Detours down from 105 for weekend or until railroad or signal parts are ready.
   c. E 2nd St pulling traffic control today. It will be open through Labor Day. There is some bridge work and retaining wall work to do, so they will be doing some of that work after Labor Day when it slows down a little bit.
   d. Hired a new building inspector – Brian Bustrak, He comes to us with a PE in Mechanical Engineering in MN and WI and a Commercial Building Inspector certification in Wisconsin.
   e. Parkland Sanitary District. We are continuing to work with them on the odor investigation and hydrogen sulfide issue where the system enters the City of Superior system. We had some contact with them about a week ago and we have been doing monitoring. Janigo hasn’t heard yet, but they must be doing something because the hydrogen sulfide levels have gone down quite significantly. We have some timelines set, just like a code compliance issue, and hope to talk to them in the next few days on what their plan is moving forward.
   f. Sidewalk program pretty much complete in UWS area. Moving over to Billings Park. There is a shortage of the mulch for hydro seeding. The restoration in that area will take a little time until they can get the mulch. They should be about half way done in Billings Park. That should be done in about 2-3 weeks. They will get
the black dirt in and get everything cleaned up and then will be waiting on the hydro seeding.

g. Garbage route reconfiguration has been pretty quiet. Haven’t heard much about it. There will be a notice going out in the utility bills. After that, we will do a news flash the week or so before and put it in the paper, on Facebook and on the radio before Aug 1.

h. Carlson – Building Inspection team has been working on their new software. They have been working hard to get it implemented. They did a soft launch last week and as people come in, they are using the new system. This will allow people to do online permitting and make the whole process more streamlined.

Councilor Van Sickle adjourned the meeting at 6:15 p.m.

The next Public Works Committee meeting will be held August 5, 2021 at 5 p.m.

Minutes submitted to the Council Meeting of July 20, 2021.
BUS SERVICE PROGRAM AGREEMENT
BY AND BETWEEN
CITY OF SUPERIOR
AND
SUPERIOR SCHOOL DISTRICT
AND
DULUTH TRANSIT AUTHORITY

This Agreement ("Agreement") is made by and between the City of Superior (hereinafter referred to as 'City'), the Superior School District (hereinafter referred to as 'District') and the Duluth Transit Authority (hereinafter referred to as 'DTA'), individually a "party", and collectively "parties".

WHEREAS, pursuant to Wis. Stat. § 66.0301, and §66.0303, the City, the District and the DTA wish to formalize terms and conditions of the provision of bus services to the District; and

WHEREAS, the DTA is the public transportation provider in the City of Superior providing a mass transit system to the City under a Bus Service Agreement between the City and the DTA dated July 23, 1982; and

WHEREAS, the District is interested in offering a District transit pass program for students and faculty utilizing the DTA system; and

WHEREAS, the DTA wishes to promote and increase ridership of the DTA transit system.

NOW, THEREFORE, in consideration of the mutual promises without other valuable consideration exchanged herein, IT IS HEREBY AGREED AS FOLLOWS:

1. Definitions.
   a. District Passengers. District Passengers shall include:
      i. All currently enrolled District secondary students.
      ii. All District employees

2. Scope of Services.
   a. Commencing on __________, 2021, all District Passengers may ride DTA regular route and paratransit buses at no cost to the District Passengers in accordance with the terms set forth herein.
b. District Passengers presenting a valid school-issued, student or employee identification badge at the time of boarding may ride DTA regular route buses and eligible riders on paratransit buses at no charge to the District Passenger.

c. District Passengers shall comply with all DTA policies and procedures, including this Agreement.

d. The District and the City will have no control over DTA's operations in connection with providing said services, and the District and the City will have no control or supervision over the drivers of the buses used in said service by the DTA. Said drivers do not constitute agents or employees of the District or of the City and will be subject solely to the DTA’s supervision and control.

e. The DTA shall not be required to deviate from regular route services or paratransit operations policies in providing this scope of service.

3. District Roles and Responsibilities.
   a. The District shall annually provide to the DTA example images of all school-issued student and staff identification prior to the start of the school year.
   b. The District shall designate a point of contact for the administration of this Agreement.

4. DTA Roles and Responsibilities
   a. The DTA shall provide District with its established and regularly publicized fixed regular route bus service and paratransit service for eligible riders by June 1 of each year. Should the DTA update or revise its routes during the term of this Agreement, the revised route information shall be provided to the District as soon as practicable.
   b. In no event will the DTA be deemed to be in default of any provision of this Agreement for failure to perform where such failure is due to strikes, walkouts, riots, civil insurrections or disorders, acts of God, adverse weather conditions, lawful budgeting restrictions, or for any other cause or causes beyond the control of the DTA.
   c. The DTA shall keep ridership records of all District Passengers and provide quarterly ridership data to the District and the City on the 15th of the subsequent month.
   d. When District school is in session, the DTA shall provide information to relevant school principals regarding District Passenger bus behavior concerns upon request. DTA shall not be required to prepare special reports or other data not previously collected to report on District Passenger bus behaviors.
   e. The DTA shall designate a point of contact for the administration of this Agreement.
   f. The DTA shall at all times provide and use buses which are clean and in good safe mechanical condition.

5. District, DTA and City Roles and Responsibilities.
a. It is understood that the administration, management, marketing and promotion of the bus service program are the mutual responsibility of the DTA and the District.
   i. DTA shall work with the District to develop a plan and market the program.
   ii. Any Party to this Agreement may promote the District transit pass program at their own expense.

b. All parties agree to meet to discuss the program and ridership as necessary.

c. All parties agree that any and all legal obligations, whether set forth under state or federal laws, requiring the District to provide transportation for pupils shall remain exclusively with the District. This Agreement is entered into solely for the convenience of the parties, and nothing herein shall be deemed to create any obligation or legal responsibility for the DTA or the City to transport District Passengers to school.

6. Exchange of Information and Confidential Treatment of Such Information.
   a. The parties will share information as necessary for the administration and performance of this Agreement, consistent with local, state and federal law relating to confidentiality and disclosure of public records, including but not limited to District student records created or maintained by educational institutions and records created by public transportation agencies. Consistent with the foregoing, the parties shall cooperate and coordinate communication efforts in their mutual interest and promptly debrief all critical incidents. The District shall comply with the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13, as it applies to all data provided by the DTA under this Agreement and as it applies to all data created, collected, received, stored, used, maintained or disseminated by the District under this Agreement.

7. Payments to the DTA.
   a. The DTA shall charge City and City shall pay DTA $1.50 per ride for off-peak paratransit service, and $3.00 per ride for peak paratransit service. Payment shall be made within 30 days of invoice from the DTA.

8. Term and Termination.
   a. Term. The term of this Agreement shall be ________, 2021 to ________, 2022, and shall automatically renew for one year periods unless otherwise terminated in accordance with the terms herein.
   b. Termination. Any party may terminate this Agreement without cause with at least a 60 days' written notice to the other party.

9. Insurance.
a. The DTA shall maintain professional liability insurance coverage for itself, District and City of not less than $1,000,000 per incident and $2,000,000 per aggregate during the term of this Agreement.

b. The DTA acknowledges that as an independent contractor, it is by law not covered by or subject to the Workers' Compensation Disability Compensation Act coverage by the District or the City.

c. The DTA shall file with the District and the City a Certificate of Insurance. The Certificate of Insurance shall include the liability coverage limits, dates of coverage, coverage of the DTA and its agents, and a clause which names the District and the City as additional insured for claims arising under this Agreement.

10. During the term of this Agreement, the parties shall not discriminate against any person based on race, color, creed, religion, sex, national origin, age, ancestry, disability, sexual orientation, gender identity, gender non-conformity, gender expression, transgender status, pregnancy, or marital or parental status.

11. The provisions of this Agreement shall be interpreted, when possible, to sustain their legality and enforceability as a whole. In the event any provision of this Agreement shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, in whole or in part, neither the validity of the remaining part of such provision nor the validity of any other provision of the Agreement shall be in any way affected thereby.

12. No modification, addition, deletion, revision, alteration or other change to this Agreement shall be effective unless and until such is reduced to writing and executed by all parties.

13. Neither this Agreement nor any rights hereunder may be assigned or otherwise transferred by the parties without the prior written consent of all the parties.

14. Any Notice, demand, or request herein provided for shall be sufficiently given or made if hand delivered or mailed by registered mail, postage prepaid, and addressed:

District: School District of Superior
ATTN:

DTA: DTA
ATTN:

City: City of Superior
ATTN:
Any notice mailed shall be conclusively deemed to have been given on the next business day following the day on which it was mailed. The parties hereto may at any time give notice in writing to the other parties of any change of address and thereafter all notices shall be mailed to the new address as notified.

15. The parties each represent and warrant that it has carefully reviewed and fully understands this Agreement, including any attachment. This Agreement shall be binding upon and shall inure to the benefit of the parties and upon their respective heirs, successors, executors, administrators, personal representatives, and permitted successors and assigns.

16. This Agreement constitutes the entire agreement between the parties.

17. Counterparts
This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, but all of which together shall constitute but one and the same instrument. Signatures to this Agreement transmitted facsimile, by electronic mail in “portable document format” ("pdf") or by any other electronic means which preserves the original graphic and pictorial appearance of the Agreement shall have the same effect as physical delivery of the paper document bearing the original signature.
IN WITNESS WHEREOF, the parties have caused the Agreement to be executed by this duly-authorized representatives.

Dated this _______ day of _______, 2021

City of Superior

______________________________  ______________________________
Mayor                                      City Attorney

______________________________
Finance Director                      Clerk

On behalf of DTA:

______________________________
General Manager

School District of Superior

______________________________  ______________________________
Name/Title                                    Name/Title
ORDINANCE # O21-4240

AN ORDINANCE INTRODUCED BY THE PUBLIC WORKS COMMITTEE AMENDING THE TRAFFIC CODE, SCHEDULE J, UPDATING THE WORDING OF ACCESSIBLE PARKING
   The Common Council of the City of Superior, Wisconsin does ordain as follows:

SECTION 1. Schedule J. Disabled Accessible Parking Zones (Sec. 112-61(a)(1))

The on-street parking areas listed in "Schedule J - Disabled Accessible Parking Zones," which is made part of this section by reference, are hereby designated as disabled parking zones and shall be reserved for parking by persons authorized under Wis. Stats. § 346.50(2)(a) and (3). When official traffic signs indicating such restriction have been erected, no person shall park, stop, or leave standing any vehicle upon any portion of a street, highway, or public or private parking facility reserved for vehicles displaying special registration plates or identification cards or emblems issued by the Wisconsin Department of Transportation or, for vehicles registered in another jurisdiction, by such other jurisdiction designating the vehicle as one used by a physically-disabled person with a disability.

All of table in Schedule J remains the same accept for the following:

   East 4th Street – 2316 East 4th Street (St. Francis Xavier Church), two disabled accessible spaces on the East 4th Street side entrance of the church

   John Avenue – 5821 John Avenue – odd side only, two disabled accessible spaces (Bethel Lutheran Church)

SECTION 3. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 4. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence or clause or phrase or portion thereof.

SECTION 5. This ordinance shall take effect and be in force from and after its passage and publication, as provided by law.

Passed and adopted this 20th day of July, 2021

Mayor

Attest: ____________________________________

City Clerk
ORDINANCE # O21-4241

AN ORDINANCE INTRODUCED BY THE PUBLIC WORKS COMMITTEE AMENDING THE TRAFFIC CODE, SCHEDULE K, UPDATING THE WORDING OF ACCESSIBLE PARKING  The Common Council of the City of Superior, Wisconsin does ordain as follows:

SECTION 1. Schedule K, Disabled Accessible – Do Not Block Sidewalk Zones (Sec. 112-61(a)(2))

The "Do Not Block Sidewalk - Disabled Resident Person with a Disability" areas are listed in "Schedule K - Disabled Accessible - Do Not Block Sidewalk Zones," which is made part of this section by reference, are hereby designated as disabled parking zones and shall be reserved for use by persons authorized under Wis. Stats. § 346.50(2)(a) and (3). When official signs indicating such restrictions have been erected, no person shall park or block with any vehicle the designated sidewalk and/or path.

All of table in Schedule K remains the same.

SECTION 3. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 4. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence or clause or phrase or portion thereof.

SECTION 5. This ordinance shall take effect and be in force from and after its passage and publication, as provided by law.

Passed and adopted this 20th day of July, 2021

______________________________
Mayor

Attest: _________________________
City Clerk
ORDINANCE # O21-4242

AN ORDINANCE INTRODUCED BY THE PUBLIC WORKS COMMITTEE AMENDING THE TRAFFIC CODE, SECTION 112-251, PENALTIES, UPDATING THE WORDING OF ACCESSIBLE PARKING. The Common Council of the City of Superior, Wisconsin does ordain as follows:

SECTION 1. Section 112-251 Penalties

Sec. 112-251. Penalties.

(4) Disabled Accessible parking zone. The provisions of subsection (d)(2) notwithstanding, the penalty for violation of section 112-61 shall be not less than $60.00 nor more than $300.00 plus costs and assessments. (Ord. No. 2296, 12-5-84)

SECTION 3. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 4. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence or clause or phrase or portion thereof.

SECTION 5. This ordinance shall take effect and be in force from and after its passage and publication, as provided by law.

Passed and adopted this 20th day of July, 2021

__________________________
Mayor

Attest: ______________________
City Clerk
ORDINANCE # O21-4243

AN ORDINANCE INTRODUCED BY THE PUBLIC WORKS COMMITTEE AMENDING THE CODE OF ORDINANCES, SECTION 46-2, ELECTIONS, COMPENSATION OF ELECTION INSPECTORS

The Common Council of the City of Superior, Wisconsin does ordain as follows:

SECTION 1. Section 46-2 Compensation of Election Workers

Sec. 46-2. Compensation of election inspectors

(b) Each special voting deputy shall receive $30.00 each day they assist the elderly and disabled residents with a disability in this community with voting.

SECTION 3. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 4. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence or clause or phrase or portion thereof.

SECTION 5. This ordinance shall take effect and be in force from and after its passage and publication, as provided by law.

Passed and adopted this 20th day of July, 2021

Mayors

Attest: __________________________

City Clerk
Commercial Sexual Exploitation Commission
City of Superior
Friday, June 18, 2021 at 1:00 p.m. in Room 204 of the Government Center.

Members Present: Danna Livingston, Cindy Ellefson, Tatiana Bergrum, Kim Nelson, Laura Gapske, District Attorney Mark Fruehaufl, City Councilor Tylor Elm, and Lt. Captain Joe Tribbey.

Others Present:

Members Excused: Nichole Thole

The following items were discussed at the Committee Meeting:

1. Approval of April 16th, 2021 Committee Meeting minutes.
   
   Motion by Kim Nelson, 2nd by Councilor Elm. Motion passed unanimously.

2. Approval of May 21, 2021 Committee meeting minutes.
   
   Motion by Tatiana Bergrum, 2nd by Lt. Captain Joe Tribbey. Motion passed unanimously.

3. Approval of finalized Committee Mission and Goals from April and May meetings. (SEE ATTACHED)
   
   Motion by District Attorney Mark Fruehaufl, 2nd by Councilor Elm. Motion passed unanimously.

4. Recommendation and consideration to change the Committee's official name from the 'Commercial Sexual Exploitation Commission' to the 'Human Trafficking Task Force Commission' to be forwarded to Mayor Paine and City Council for approval.

   Motion by Danna Livingston, 2nd by Lt Captain Joe Tribbey
   
   Motion made to amend original proposal of "committee" to "commission" by Councilor Elm, 2nd by District Attorney Mark Fruehaufl. Motion passed unanimously.

5. Members agree to recommend to Mayor Paine the removal of Nichole Thole from CASDA, request a CASDA representative be appointed, Desiree Otterino, a local Indigenous community member, and Chelsea Branley, executive director from Harbor House. Chair, Gapske will forward requests to Mayor Paine and City Council for consideration.

6. Councilor Elm informed the members of the training budget requested through the Superior Police Department for Mayor Paine and City Council members to vote on. The training dollars would prioritize training needs of the committee in partnership with any requests from the local
Response Team on Trafficking. Training and consultation by and with trafficking survivors will also be prioritized if the funding is granted.

7. Due to limited time, agency policies and procedural review sharing from members on trafficking response was tabled for further in-depth discussion.

Having no other business, the Committee Meeting adjourned at 1:03 p.m.
Motion by Lt Captain Joe Tribbey, 2nd by Danna Livingston. Motion passed unanimously.

Next meeting will be Friday, July 16th, 2021 at 1 PM in room 204 of the Government Center.

Minutes respectfully submitted by

Laura Gapske
Commission Chair
City Clerk's Office - Miscellaneous License Applications

**2021-2022 Massage Therapy Business**
Radiant Massage Therapy

**2021-2022 Massage Therapy Practitioner**
Denver E. Boser

**2021-2022 Taxicab Operator**
<table>
<thead>
<tr>
<th>Brown, Brian H.</th>
<th>Korich, Kevin M.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cook, Tobin J.</td>
<td>Leddy, Joseph A.</td>
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<tr>
<td>Dagen, Claudia R.</td>
<td>Maki, Glen J.</td>
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<td>Denniger, Bryan M.</td>
<td>Oates, Marquise J.</td>
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<tr>
<td>Dick, Michelle L.</td>
<td>Petersen, Jerod C.</td>
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<tr>
<td>Dougherty, Timothy J.</td>
<td>Rabbitt, Lori J.</td>
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<td>Geving, William J.</td>
<td>Reamer, Jonathan R.</td>
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<tr>
<td>Griffin, Courtney B.</td>
<td>Sanders, Benjamin A.</td>
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<tr>
<td>Johnson, Brian R.</td>
<td>Smith, Johnhenry P.</td>
</tr>
<tr>
<td>Kanatzer, Jeremy R.</td>
<td>Wigchers, Robert A.</td>
</tr>
<tr>
<td>Kauti Sr., Michael J.</td>
<td>Wise, Bobbi J.</td>
</tr>
</tbody>
</table>

**2021-2022 Vehicle for Hire**
<table>
<thead>
<tr>
<th>Black Tie Affair LLC (Lic Plate 18149B)</th>
<th>Courtesy Cab 2 LLC (Lic Plate ADJ936)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black Tie Affair LLC (Lic Plate BLKTIE4)</td>
<td>Road Trip Limo (Lic Plate 996-ZTX)</td>
</tr>
<tr>
<td>Black Tie Affair LLC (Lic Plate BLKTIE5)</td>
<td>Road Trip Limo (Lic Plate AJE3071)</td>
</tr>
<tr>
<td>Black Tie Affair LLC (Lic Plate BLKTIE7)</td>
<td>SK Taxi USA (Lic Plate CLG820)</td>
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<td>Black Tie Affair LLC (Lic Plate BLKTIE8)</td>
<td>SK Taxi USA (Lic Plate EEZ650)</td>
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<td>Courtesy Cab 2 LLC (Lic Plate AFA7302)</td>
<td>SK Taxi USA (Lic Plate FVL986)</td>
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<td>Courtesy Cab 2 LLC (Lic Plate 839YYP)</td>
<td>SK Taxi USA (Lic Plate DSU858)</td>
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<tr>
<td>Courtesy Cab 2 LLC (Lic Plate AFA7301)</td>
<td>SK Taxi USA (Lic Plate ECG315)</td>
</tr>
<tr>
<td>Courtesy Cab 2 LLC (Lic Plate 837YYP)</td>
<td></td>
</tr>
</tbody>
</table>
An "Auxiliary Questionnaire," Form AT-103, must be completed and attached to this application by each individual applicant, by each member of a partnership, and by each officer, director and agent of a corporation or nonprofit organization, and by each member/manager and agent of a limited liability company. List the full name and place of residence of each person.

**President / Member Last Name**  | **(First) O'Neil** | **(Middle) Antonio** | **Home Address (Street, City or Post Office, & Zip Code)**  | **1209 Hammond Ave**
---|---|---|---|---
**Vice President / Member Last Name**  | **(First) Antonio** | **(Middle) Mauricio** | **Home Address (Street, City or Post Office, & Zip Code)**  | **1209 Hammond Ave**
**Secretary / Member Last Name**  | **(First) Antonio** | **(Middle) Mauricio** | **Home Address (Street, City or Post Office, & Zip Code)**  | **1209 Hammond Ave**
**Treasurer / Member Last Name**  | **(First) Antonio** | **(Middle) Mauricio** | **Home Address (Street, City or Post Office, & Zip Code)**  | **1209 Hammond Ave**
**Agent Last Name**  | **(First) Antonio** | **(Middle) Mauricio** | **Home Address (Street, City or Post Office, & Zip Code)**  | **1209 Hammond Ave**
**Directors / Managers Last Name**  | **(First) Antonio** | **(Middle) Mauricio** | **Home Address (Street, City or Post Office, & Zip Code)**  | **1209 Hammond Ave**

1. **Trade Name** Jamrock Cultural Restaurant  | **Business Phone Number** 218-310-6320
2. **Address of Premises** 1901 Tower Ave  | **Post Office & Zip Code** 54880
3. **Premises description:** Describe building or buildings where alcohol beverages are to be sold and stored. The applicant must include all rooms including living quarters, if used, for the sales, service, consumption, and/or storage of alcohol beverages and records. (Alcohol beverages may be sold and stored only on the premises described.)

   **At the Back of Building**
   **A School will be stored inside Day Storage**
   **Bar will be in seating area outside**
   **During winter we will sell inside from behind our counter / bar**
4. **Legal description** (omit if street address is given above):

5. (a) **Was this premises licensed for the sale of liquor or beer during the past license year?**  No

   (b) **If yes, under what name was license issued?**
SCHEDULE FOR APPOINTMENT OF AGENT BY CORPORATION/NONPROFIT ORGANIZATION OR LIMITED LIABILITY COMPANY

Submit to municipal clerk.

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

☐ Town

☐ Village of Superior

☐ City

County of Douglas

To the governing body of: ________________________________

The undersigned duly authorized officer(s)/members/managers of ________________ (registered name of corporation/organization or limited liability company) a corporation/organization or limited liability company making application for an alcohol beverage license for a premises known as

__________________________ (trade name)

located at ________________________________

appoints ________________________________ (name of appointed agent)

__________________________ (home address of appointed agent)

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

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

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

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

Place of residence last year ________________________________

For: ________________________________

(name of corporation/organization/limited liability company)

By: ________________________________

(signature of Officer/Member/Manager)

And: ________________________________

(signature of Officer/Member/Manager)

ACCEPTANCE BY AGENT

I, ________________________________, hereby accept this appointment as agent for the corporation/organization/limited liability company and assume full responsibility for the conduct of all business relative to alcohol beverages conducted on the premises for the corporation/organization/limited liability company.

__________________________ (signature of agent)

__________________________ (home address of agent)

7-13-21 (date) Agent's age 35

Date of birth 4-9-85

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

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

Approved on ______________________ by ________________________________ (signature of proper local official)

Title ________________________________ (town chair, village president, police chief)

AT-104 (R. 4-09) Wisconsin Department of Revenue
AUXILIARY QUESTIONNAIRE
ALCOHOL BEVERAGE LICENSE APPLICATION

Submit to municipal clerk. (please print)

Individual’s Full Name
(First name) Antonio
(Middle name) Mauricio

Home Address (Street/Number) 1209 Hammond Ave
City Superior
State WI
Zip Code 54880

Home Phone Number 218-510-6320
Age 35
Date of Birth 4-9-1985
Place of Birth Miami

The above named individual provides the following information as a person who is (check one):
☐ Applying for an alcohol beverage license as an individual.
☐ A member of a partnership which is making application for an alcohol beverage license.

[Officer/Director/Member/Manager/Agent] of [Name of Corporation, Limited Liability Company or Nonprofit Organization] which is making application for an alcohol beverage license.

The above named individual provides the following information to the licensing authority:

1. How long have you continuously resided in Wisconsin prior to this date? 3 Yes

2. Have you ever been convicted of any offenses (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of any other states or ordinances of any county or municipality? ☐ Yes ☐ No

If yes, give law or ordinance violated, trial court, trial date and penalty imposed, and/or date, description and status of charges pending. (If more room is needed, continue on reverse side of this form.)

3. Are charges for any offenses presently pending against you (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of other states or ordinances of any county or municipality? ☐ Yes ☐ No

If yes, describe status of charges pending.

4. Do you hold, are you making application for or are you an officer, director or agent of a corporation/nonprofit organization or member/manager/agent of a limited liability company holding or applying for any other alcohol beverage license or permit? ☐ Yes ☐ No

If yes, identify.

(Name, Location and Type of License/Permit)

(Name of Wholesale Licensee or Permittee) (Address By City and County)

5. Do you hold and/or are you an officer, director, stockholder, agent or employee of any person or corporation or member/manager/agent of a limited liability company holding or applying for a wholesale beer permit, brewery/winery permit or wholesale liquor, manufacturer or rectifier permit in the State of Wisconsin? ☐ Yes ☐ No

If yes, identify.

6. Named individual must list in chronological order last two employers.

<table>
<thead>
<tr>
<th>Employer’s Name</th>
<th>Employer’s Address</th>
<th>Employed From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>CN Roadrail</td>
<td>Duluth/Superior</td>
<td>10-19</td>
<td>4-20</td>
</tr>
<tr>
<td>NBS</td>
<td>Google</td>
<td>5-20</td>
<td>12-20</td>
</tr>
</tbody>
</table>

The undersigned, being first duly sworn on oath, deposes and says that he/she is the person named in the foregoing application; that the applicant has read and made a complete answer to each question, and that the answers in each instance are true and correct. The undersigned further understands that any license issued contrary to Chapter 126 of the Wisconsin Statutes shall be void, and under penalty of state law, the applicant may be prosecuted for submitting false statements and affidavits in connection with this application.

Subscribed and sworn to before me
this 20th day of June 2021

(Clerk/Notary Public)

[Signature of Applicant] (must be notarized)

Signature – Police Chief

My Commission expires: 05/27/2024

AT – 103 Wisconsin Department of Revenue (R. 8-11)
APPLICATION TO AMEND THE PREMISE OF A CLASS B LIQUOR & BEER LICENSE FOR A SPECIAL EVENT

**Application must be filed with City Clerk’s Office at least 15 days prior to Council action**

Today’s Date: 7/12/2021  What is the Special Event?  Pride

Corporation Name: Atypical Enterprises Inc

Trade Name: Main Club  Address: 1217 Tower Ave

Contact Person: Shawn Roos  Phone: 218-290-2067  Email shawnroos@yahoo.com

Date & Time of Event: From 10 a.m. 9/3/21  To 10 a.m. 9/6/21

Amend the premise to include: Please be specific include alley and 40x40 area of Androy parking lot

Do you own the premise to be added to your license? Yes  No  If No, list owner/s Androy Hotel

If the property is City-owned, you must sign a lease to cover the amended premises

Band  DJ  None  *Music outdoors is allowed during the special event only: Sunday - Thursday 12:00 p.m. - 10:00 p.m.  Friday & Saturday 12:00 p.m. - 12:00 a.m.

***If you are having a band you must have a Cabaret license (One Day Cabaret license $50)***

Will food be served?  Yes  No  If Yes, you must contact the Health Dept for their regulations.

What type of fence will you use to keep control of the amended premises? Orange Snow Fence

What are your plans to respond to emergencies?  In house staff/911

Security personnel to ensure crowd/noise/fire/litter control  Yes  No

By signing below I accept this license subject to revocation by the Council of the City of Superior, upon violation of any of the provisions of the Alcohol license ordinance.

Signature

(See back for requirements)

Fee: $25 + $15 Health (if food at event) = ($40)  Receipt # 18

Approval:

Police Chief

Fire Inspector  Date

Health Inspector  Date

Please return to Shannon Pettit, Deputy City Clerk 395-7595 by:
A detailed, drawn to scale, outline of the area must be submitted with application and must indicate:

- Dimensions of the area to be enclosed.
- All access and exit points (exit width dimensions - 3 foot minimum).
- Dimensions, location and intended use of all temporary or permanent structures such as tents booths, band stages, portable toilets, etc.
- Location of property lines.
- Location of streets and driveways.
- Information on whether any street, driveway, alley, or public walkway will be obstructed.

Other requirements:

- Adequate exiting must be provided for fenced in areas.
- Capacity must be posted near entrance of outdoor area. (Capacity is limited to 10 square feet per person excluding fixtures)
- You must provide adequate access for fire and other emergency response apparatus to both the outdoor area and neighboring buildings.
- Exterior structures, such as tents, must be provided with fire extinguishers (one within 75 feet walking distance of any point in the tent).
- Tent permits are required from Building Inspection.
- Fencing permits are required from Building Inspection.
- If any food is to be served contact the Health Department for a permit.
- Adequate toilet facilities may be required (first one must be handicap accessible).
- Adequate garbage receptacles must be provided.

Contact numbers:

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<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>Fire Inspector</td>
<td>715-394-0227</td>
</tr>
<tr>
<td>Health Inspector</td>
<td>715-395-1404</td>
</tr>
<tr>
<td>Police Department</td>
<td>715-395-7234</td>
</tr>
</tbody>
</table>

c: Capt. Matt Markon (attached new list of events)
1. Will the amended area include an enclosed structure/tent _x_ Yes ___ No
   a. If Yes, what is the square footage of the structure or tent ___ 900 ___ Sq. ft.
   b. If Yes, what material is the structure/tent made of ___ Plastic Fence ___
   c. Will there be power to the structure/tent ___ Yes _x_ No
      i. If yes, how will the power be run to the structure/tent _______________

2. What are the dimensions of the amended area?
   a. Length ___ 40 ___ ft.
   b. Width ___ 40 ___ ft.

3. How many exits will there be ___ 2 ___
   a. What is the total linear width of all of the exits combined ___ 20 ___ ft.

4. Will there be any fixtures, chairs, tables, portable bathroom, etc. in the area
   _x_ Yes ___ No
   a. If yes, please estimate the total area of all of the fixtures combined
      ___ 50 ___ Sq. ft.

5. Please attach a diagram of the proposed amended area. Be as descriptive as possible
including linear measurements of the area, placement of fixtures such as stages, tables, porta-
potties, etc. You can use streets for orientation. Mark clearly the exits on the drawing where
they will be along with the exit width. Finally, include extinguisher placement on the diagram.

Please submit these 2 pages to the City Clerk along with your application. Please contact the Fire
Dept. with questions on this portion of your application.
Superior Fire Dept. Headquarters
Phone 715-394-0227
Email - stubbp@ci.superior.wi.us
APPLICATION TO AMEND THE PREMISE OF A CLASS B LIQUOR & BEER LICENSE FOR A SPECIAL EVENT

**Application must be filed with City Clerk’s Office at least 15 days prior to Council action**

Today’s Date: 17-8-2021 What is the Special Event? RPD

Corporation Name: Jimmy’s Saloon LLC

Trade Name: Jimmy’s Saloon Address: 1812 Iowa Ave

Contact Person: Keith Kern Phone: 218-391-8087 Email JimmySaloon1812@gmail.com

Date & Time of Event: From 8-6-2021, 2 pm To 8-8-2021, 2:30 pm

Amend the premise to include: Please be specific Parking lot to the North

Do you own the premise to be added to your license? Yes ☑ No No If No, list owner/s ______________

If the property is City-owned, you must sign a lease to cover the amended premises

Band ☑ DJ None *Music outdoors is allowed during the special event only:

Sunday - Thursday 12:00 p.m. - 10:00 p.m. Friday & Saturday 12:00 p.m. - 12:00 a.m.

****If you are having a band you must have a Cabaret license (One Day Cabaret license $50)****

Will food be served? Yes ☑ No If Yes, you must contact the Health Dept for their regulations.

What type of fence will you use to keep control of the amended premises? Fence

What are your plans to respond to emergencies? 911

Security personnel to ensure crowd/noise/fire/litter control ☑ Yes No

By signing below I accept this license subject to revocation by the Council of the City of Superior, upon violation of any of the provisions of the Alcohol license ordinance.

Signature

(See back for requirements)

Fee: $25 + $15 Health (if food at event) = ($40) Receipt # 2816 Council: 7/12/21

Approvals: Police Chief Nicholas A. Alexander Date 7-13-21

Fire Inspector ______________________________ Date ______________________________

Health Inspector ______________________________ Date ______________________________

Please return to Shannon Pettit, Deputy City Clerk 715-395-7595 by: ______________________________
RESOLUTION INTRODUCED BY THE COMMON COUNCIL OF THE CITY OF SUPERIOR, WISCONSIN, SUPPORTING THE LAND TRANSFER OF WISCONSIN POINT BURIAL GROUND TO THE FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA AND THE LAND TRANSFER OF THE OJIBWE MASS GRAVE INTO FEDERAL TRUST; AND THE STEWARDSHIP OF BOTH TO THE FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA.

WHEREAS, the City of Superior acknowledges people of Lake Superior as the original inhabitants of the land now known as Superior, Wisconsin; and

WHEREAS, the City of Superior supports native voices, visibility, representation, art, and language preservation; and

WHEREAS, the City acknowledges an estimated 200 bodies were disinterred from the sacred burial ground on Wisconsin Point and transported to a mass grave at or near St. Francis Cemetery; and

WHEREAS, the City believes that the best caretakers of an indigenous burial site are the Anishinaabe people, who are the ethnic, cultural, familial, and spiritual heirs of the original people of Wisconsin Point; and

WHEREAS, the Superior City Council actively seeks and accepts guidance and leadership from tribal members and descendants, especially on issues related to native history, culture, and social practice; and

WHEREAS, the Superior City Council continues to honor the principles expressed in our 2019 Indigenous People’s Day Declaration;

THEREFORE, BE IT RESOLVED, the Superior City Council supports and directs the city administration to work towards the transfer of the known, current, documented boundaries of Wisconsin Point Burial Ground to the Fond du Lac Band of Lake Superior Chippewa; and

BE IT FURTHER RESOLVED, the Superior City Council supports the land transfer of the known, documented boundaries of the Ojibwe Mass Grave (burial ground adjacent to St. Francis Cemetery) into federal trust under the stewardship of the Fond du Lac Band of Lake Superior Chippewa.

Adopted this 20th day of July, 2021.

________________________
Mayor

Attest: ______________________
City Clerk
July 1, 2021

Chair Young and the members of the Wisconsin Burial Sites Preservation Board,

The City of Superior enjoys a rich history worthy of both celebration and respect. Like most Wisconsin communities however, our history is also stained by unforgettable crimes against the Indigenous peoples that lived on this land before the arrival of Europeans. While we maintain a commitment to tell the true story of our entire community and all of the people that lived here, we must recognize that such work is not just scholarship or storytelling. History is a living field of work with real consequences for the people of Wisconsin and the communities that surround Lake Superior. History sometimes exposes injustices that do not remain in the past. I am writing to request your support in the pursuit of justice, honor, and peace for a community still suffering the traumatic effects of colonialism and cultural genocide.

In 1918, U.S. Steel had acquired much of the land that now constitutes Wisconsin Point in Superior, WI. This site had been home for centuries to the Indigenous people of the Lake Superior region and, as such, contained a cemetery among other sites of personal and cultural significance. In anticipation of U.S. Steel’s development of an industrial site, the inhabitants were removed and the cemetery disinterred and moved to the area of the St. Francis cemetery on the nearby Nemadji River. The relocation site was poorly chosen and suffered a lack of care in the intervening decades, leading to erosion and the exposure of several of the remains.

The new burial ground is not a traditional Ojibwe burial site. It lacks the reverence and respect traditionally afforded to such places because it remains outside the control of Native communities. The City of Superior deeply values the Indigenous history of our region and we hope to be partners and neighbors with native people and their official communities. We therefore strongly support the recognition and respect of native history, culture, and traditional practices. We also believe that the best stewards of such traditions are native peoples. When we have denied that respect, we must not make excuses. We must take action. I am therefore requesting your support for the transfer of the St. Francis Indigenous burial site into federal trust or otherwise into the control and stewardship of the official Lake Superior Ojibwe communities.

The people that rest now along the Nemadji River are not lost. They survive in the stories and traditions of their descendants, who still live on the shores of Lake Superior. We have the rare and historic opportunity to bring some small justice and peace to a people that we would call our neighbors and friends. Please help us shape the next chapter of Superior’s history as a story of reconciliation.

Respectfully,

Jim Paine
Resolution #R19-13451

A RESOLUTION INTRODUCED BY MAYOR’S COMMISSION ON COMMUNITIES OF COLOR TO RECOGNIZE AND CELEBRATE INDIGENOUS PEOPLES DAY IN PLACE OF COLUMBUS DAY.

WHEREAS, City of Superior acknowledges People of Lake Superior, as the original inhabitants of the land now known as Superior, Wisconsin; and

WHEREAS, we occupy Native land and recognize the original settlement which relied on the seasons, water, plant life and practices to thrive in our area; and

WHEREAS, the original people maintain proud traditions and a rich culture that made this place a place of gathering and one of the most important trade routes in North America as shipping continues to be a proud heritage of this City; and

WHEREAS, the City of Superior recognizes forced assimilation, historical trauma and cultural genocide placed upon the original people of this land and the painful past of colonization that has been put upon the Anishinaabe people through the settling of this land; and

WHEREAS, the City of Superior supports the revitalization of Native voices, visibility, representation, art and language preservation; and

WHEREAS, the City of Superior accepts responsibility for removing a symbol of colonization represented by Columbus Day to take one step toward the ongoing efforts of understanding Indigenous People who remain here in their homelands; and

WHEREAS, Indigenous Peoples Day provides a permanent opportunity on shared and sacred land, our commitment to move forward as a diverse community. We recognize and celebrate the history, culture and contributions of Indigenous people; and

NOW, THEREFORE, BE IT RESOLVED, that the City of Superior will recognize and celebrate Indigenous Peoples Day every second Monday of October.

Dated this 20th day of August, 2019.

Adopted this 20th day of August, 2019.

[Signature]

MAYOR

ATTEST:

[Signature]

CITY CLERK, Deputy
# RESOLUTION

**THE COMMON COUNCIL OF SUPERIOR WISCONSIN**

<table>
<thead>
<tr>
<th>WHEREAS,</th>
<th>THE CITY OF SUPERIOR ACKNOWLEDGES PEOPLE OF LAKE SUPERIOR, AS THE ORIGINAL INHABITANTS OF THE LAND NOW KNOWN AS SUPERIOR, WISCONSIN; AND</th>
</tr>
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<tbody>
<tr>
<td>WHEREAS,</td>
<td>THE CITY OF SUPERIOR SUPPORTS NATIVE VOICES, VISIBILITY, REPRESENTATION, ART, AND LANGUAGE PRESERVATION; AND</td>
</tr>
<tr>
<td>WHEREAS,</td>
<td>THE CITY ACKNOWLEDGES AN ESTIMATED 200 BODIES WERE DISINTERRED FROM THE SACRED BURIAL GROUND ON WISCONSIN POINT AND TRANSPORTED TO A MASS GRAVE AT OR NEAR ST. FRANCIS CEMETERY; AND</td>
</tr>
<tr>
<td>WHEREAS,</td>
<td>THE CITY BELIEVES THAT THE BEST CARETAKERS OF AN INDIGENOUS BURIAL SITE ARE THE ANISHINAABE PEOPLE, WHO ARE THE ETHNIC, CULTURAL, FAMILIAL, AND SPIRITUAL HEIRS OF THE ORIGINAL PEOPLE OF WISCONSIN POINT; AND</td>
</tr>
<tr>
<td>WHEREAS,</td>
<td>THE SUPERIOR CITY COUNCIL ACTIVELY SEeks AND ACCEPTS GUIDANCE AND LEADERSHIP FROM TRIBAL MEMBERS AND DESCENDANTS, ESPECIALLY ON ISSUES RELATED TO NATIVE HISTORY, CULTURE, AND SOCIAL PRACTICE; AND</td>
</tr>
<tr>
<td>WHEREAS,</td>
<td>THE SUPERIOR CITY COUNCIL CONTINUES TO HONOR THE PRINCIPLES EXPRESSED IN OUR 2019 INDIGENOUS PEOPLE'S DAY DECLARATION</td>
</tr>
<tr>
<td>NOW, THEREFORE, BE IT RESOLVED,</td>
<td>THE SUPERIOR CITY COUNCIL SUPPORTS AND DIRECTS THE CITY ADMINISTRATION TO WORK TOWARDS THE TRANSFER OF THE KNOWN, CURRENT, DOCUMENTED BOUNDARIES OF WISCONSIN POINT BURIAL GROUND TO THE FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA; AND</td>
</tr>
</tbody>
</table>
United States Department of the Interior
National Park Service

National Register of Historic Places
Continuation Sheet

Section 8 Page 5
Wisconsin Point (47 DG-24)
Superior, Douglas County, WI

this place after it broke through the sand bank separating St. Louis Bay and Lake Superior (Warren 1984:81). Warren does not identify this location as the Superior Entry, although it was the only opening present along the sandpits at that time. In what seems to be a somewhat chimerical account published in 1895, the author noted that the Ojibwe felt that “Mudji Manitou,” the Great Spirit, “was located at the bottom of the bay close to the entry at Wisconsin Point” and suggested that this association arose at the point where the Nemadji River waters entered the bay, as the waters entering the bay in this location create an undercurrent and if the wind is blowing in from the lake this creates “quite a disturbance in the water” (The Evening Telegram 1895).

The treaties of 1835, 1837, 1842, and 1854 drastically reduced Ojibwe territory. They ceded large tracts of land in northern Wisconsin and eastern Minnesota in exchange for annuity payments and ultimately reservation lands while reserving the rights to follow certain traditional pursuits. The treaties also attempted to transform the Lake Superior Ojibwe culture by providing technical assistance and education aimed at eliminating their hunter-gatherer settlement/subsistence pattern (Danziger 1990:81). Even the distribution of the annuity payments served to disrupt traditional life cycles, as it required people to travel to remote locations that were distant from areas of economic and social necessity during the fall when their traditional activities were focused on building food stocks to last through the winter. The annuity process competed directly with critical activities such as ricing and hunting (Bokern 1987; Vennum 1988).

In 1850, President Zachary Taylor issued an executive order to remove the Wisconsin Ojibwe to northern Minnesota. This order was temporarily suspended in the spring of 1851 after more than 400 Wisconsin Ojibwe died while trying to collect their annuities at Sandy Lake, Minnesota, an event that has become known as the Sandy Lake Tragedy. When the order went back into effect in the fall of 1851 Chief Buffalo of La Pointe, accompanied by other Ojibwe leaders, decided to petition the President. In the spring of 1852, they traveled to Washington D.C. Along the way, they collected signatures on a petition to support the Ojibwes’ desire to remain in Wisconsin. Defying Indian Commission officials, they met with Taylor’s successor, President Millard Fillmore, and he rescinded the executive order and reestablished La Pointe, Wisconsin, as the site for annuity payments.

Two years later, the Ojibwe and United States signed the Treaty of La Pointe (1854) that established four reservations in Wisconsin: Bad River, Red Cliff, Lac Courte Oreilles, and Lac du Flambeau, and two in Minnesota that included the Fond du Lac reservation which incorporated portions of their lands.
United States Department of the Interior
National Park Service

National Register of Historic Places
Continuation Sheet

Wisconsin Point (47 DG-24)
Superior, Douglas County, WI

Section 8 Page 6

along the St. Louis River (Fond du Lac Band of Lake Superior Chippewa 2019). A trading post had been established at this location in 1816 when the American Fur Company took over the posts of the North West district (Danziger 1990:69). This location along the river and on islands in the river had long been an Ojibwe settlement location, possibly dating as far back as the 1600s (cf. Stowe 1942).

In addition to putting Ojibwe people under federal government supervision, the 1854 treaty “froze them into their locales with reduced lands” and was a “blow to the traditional economic system that required substantial territory” (Ritzenhaller 1978:745). Guthrie and Goc (1995:23) observed that the reservations assured that the Ojibwe had a place to live in Wisconsin, but they could not and did not guarantee the occupants a livelihood. Even as the 1854 treaty provided cash payments, as well as furniture, agricultural implements, cattle, and blacksmiths through the mid-1870s, the payments and land base were not sufficient. Consequently, a “home base” system became established, i.e., a system where many community residents stayed on the reservations only during the winter and subsisted on hunting, fishing, and gathering resources such as wild rice and berries from much larger areas during the remainder of the year. This “home base” system persisted as wage labor became a more common component of the Ojibwe economic cycle. Included in this carefully organized network of reservations, wage labor camps, seasonal gathering camps, and ceremonial gathering spots, were a number of permanently occupied off-reservation settlements, including Wisconsin Point, that were a vital element in perpetuating Ojibwe community life (e.g. Birmingham 1984, 1986, 2002, 2004, 2015; Broihahn and Holliday 2010; Broihahn and Thomas 2009).

Ojibwe Occupation of Wisconsin Point

As noted earlier, the Fond du Lac settlements were identified as the end point of the great western migration of the Ojibwe, likely dating to sometime in the seventeenth century (Gibbon 2012). Among these were the Ojibwe communities on Wisconsin Point and Minnesota Point. Though not confirmed through archaeological research, it has been suggested that Wisconsin Point occupation may date as early as the 1600s with 15 or so families living there during this time (The Evening Telegram 1986). Further, the Fond du Lac Band has asserted its association with the Wisconsin Point settlement, calling it “a primary original settlement...of which the Band maintained continuous occupation for at least three centuries until 1918” (Berg 2009:1). For now, based on Broihahn’s (2016:157) research, “certainly by the mid to late 1700s seasonal use of the Point seems well documented and the uses included social, religious activities as well as economic pursuits.”
While future archaeological research will elucidate Native occupation of Wisconsin Point prior to the nineteenth century, at present and with irrefutable documentation, the beginning date for the Ojibwe settlement (1840) rests firmly on oral history conveyed through court proceedings (Supreme Court 1927a, 1927b), early-twentieth century manuscripts (e.g., Bardon n.d.), and early newspaper references to site history. For example, Chief Osaugie (O-Sau-Gie, Osaw-gee, River Mouth), who later led the Wisconsin Point community, was born ca. 1800 in Michigan and is reported to have come to Wisconsin Point as a “young boy” (Bardon n.d.). Additionally, in reference to the Wisconsin Point Cemetery, Bardon (n.d.) and the Supreme Court records (1927a, 1927b) note that Frank Lemieux was an enrolled member of the Fond du Lac Band, and “that said cemetery was looked after by Frank Lemieux from at least 1854 down to the time of his death in 1902.” Finally, based on Ojibwe testimony presented in the record of the Supreme Court (1927b:2-3):

For a period of time at which the memory of man runneth not to the contrary, Wisconsin Point, either an island between Allouez Bay and Lake Superior, or of a point or peninsula so definitely segregated from other land as to become and be a separate parcel, was in the possession of the Indians, plaintiffs' ancestors. They lived upon the Point and buried their dead there. Frank Lemieux, a mixed blood, married Chief Osagie's daughter and prior to 1849 built a house on the Point in which his first child Maggie Martineau, was born.

During the first seven or so decades of occupation, archaeological and historic documentation suggests that Wisconsin Point was a vital and robust off-reservation settlement. For example, in the early-twentieth century Howenstine (1908) observed that the settlement included dwellings, medicine lodges and other community activity areas. And while permanent occupancy has been documented, community population appears to have varied seasonally based on subsistence activities associated with and use by reservation-based Fond du Lac Band members (Broihahn 2016).

During the mid-nineteenth century the Ojibwe settlement on Wisconsin Point was apparently most populous and most active during the warm season when fishing was a primary subsistence activity (Howenstein 1908). Based on his research Kaups (1978) has recounted the rich late-nineteenth century fishery in the vicinity of Wisconsin Point. Although not stated, it can be surmised that traditional aboriginal fishing practices and European-American fishing practices became increasingly aligned, perhaps extending Wisconsin Point’s Ojibwe occupation. Howenstein (1908) further notes that in 1834 the American Fur Company established a commercial fishing operation which, to some extent, likely
involved the Wisconsin Point Ojibwe. As described by Kaups (1978:45):

In the late 1850s and the 1860s, whitefish were common at Superior Entry and off Minnesota and Wisconsin points. The herring run is longer, lasting from November until late December. A secondary peak in fishing occurs from late May through July, when whitefish, and to a certain extent lake trout, come into shallow waters. Lake trout, whitefish, and herring were taken with gill nets set in the open lake and under the ice during the winter months. Trout were also caught with setlines and whitefish with seines. The St. Louis River fishery was especially productive during the April to June spawning run of walleye, northern pike, and sturgeon. One of the most positive contributions of the American Fur Company’s abortive fishing enterprise on Lake Superior in the years 1835 was the confirmation that commercial fisheries could be operated profitably on the lake provided there were markets for the fish.

Regarding non-Native settlement, Europeans first ventured into what is now the Duluth-Superior area during the early-seventeenth century, and within the context of the Fur Trade Era Europeans and Native peoples actively engaged in the exchange of furs and trade goods, with the Duluth-Superior area serving as an important intersection of trade routes (Gibbon 2012). European-American settlement of the Superior area, however, did not begin until the mid-nineteenth century, and the Ojibwe settlement of Wisconsin Point was well established at this time. European-American settlement was accelerated by the late-nineteenth century discovery of iron ore in northern Minnesota. With an excellent port and the requirement of transporting iron ore, grains, lumber and other materials, Superior became one of the busiest shipping ports in the world by the early-twentieth century (Minnesota Department of Natural Resources 2019). During this time, though proximate to the city of Superior, Wisconsin Point’s location across Allouez Bay provided some degree of seclusion, or separateness, but the community was clearly not isolated. This spatial separation is typical of many off/non reservation communities (e.g., Broihahn and Holliday 2010).

Though secluded, there was European-American interest and residency on Wisconsin Point by the mid-nineteenth century. As summarized by Broihahn (2016:21-22), non-Native resident Charles D. Felt moved into a house on Wisconsin Point that became a store or “trading post” (Felt 1855). He reported several sessions of trading and commerce with the Native American residents on the Point, as well as with others who may have been Point residents or simply visitors to the trading post. Felt noted that the Native American residents came to his post from their homes further south on the Point. Further, Broihahn (2016) notes evidence that Wisconsin Point was a destination for mainland visitors.
by the late 1800s, which is not surprising considering the expansive beaches that mark the Superior side of the Point (Photograph 1). However, during the late-nineteenth and early-twentieth century the Ojibwe community was largely separate from any European-American occupancy (Broihahn 2016). It is likely that the Ojibwe village location had shifted to some degree through time. However, with specific regard to the Ojibwe community during the first half of the nineteenth century and persisting into the early twentieth century, archaeological features most clearly point to an active and vibrant community situated within the northwestern region of Wisconsin Point in the vicinity of the cemetery.

Though not clearly understood, the relationship between the Ojibwe settlements on Wisconsin Point and Minnesota Point requires brief discussion. Early references document separate Ojibwe communities on Minnesota and Wisconsin points in the mid-nineteenth century (Bardon n.d.), though how long Ojibwe occupied Minnesota Point remains unclear (cf. Minnesota Archaeological Site Form 21SL0151, Office of the State Archaeologist 2019). The Minnesota Point occupation was said to be a "small Indian fishing village by the visiting German scientist and historian Johann Georg Kohl in the summer of 1855" (Kaups 1978:49). However, Kaups (1978:54) describes the rapid expansion of commercial fishing in the vicinity of Duluth-Superior in the 1860s, noting a European-American fish processing factory, or depot, was present on Minnesota Point by 1869. Additionally, Kaups (1978:42) includes a ca. 1870 photograph of Minnesota Point that shows a dense concentration of shacks, outbuildings, fishing boats and fishing-related activity areas within Minnesota Point. While Kaups (1978) implies that this is a European-American operation, the ethnic makeup of the Minnesota Point community is unclear. Pending further research and though speculative, it is concluded that unlike the Ojibwe settlement of Wisconsin Point, the Minnesota Point Ojibwe occupation may have been largely supplanted by a European-American fishing community by as early as 1870.

Whatever may have happened to the Minnesota Point Ojibwe village, the Wisconsin Point Ojibwe occupation persisted and appears to have thrived after 1870. This persistence may have resulted from cooperative fishing efforts with European-American fishing enterprises (The Evening Telegram 1942), continued resistance to removal based on their long association with Wisconsin Point, and other factors. However, the Ojibwe abandonment of Wisconsin Point appears to have begun around 1914 and increased following the legal rulings that negated their right to occupancy. As noted by Berg (2009:11), in 1914 “not only were they bitter about having their federal funds, and not the steel company’s funds, pay for the removal [cemetery exhumations], those 40 Ojibwe that lived on the Point would also have to move.” By 1927, there appears to have been only five families that still lived on
the Point (Berg 2009; Broihahn 2016). The abandonment of the Point for occupation may be better understood in a broader historic context of Native history in the Great Lakes region (i.e., a time when other regional “non” or “off reservation” sites were abandoned as home sites). As Broihahn (2016:161) has observed, “the 1930s were a time of significant economic dislocation and a time of changes in attitude and policies on many reservations. This dramatic positive change in atmosphere on most reservations was the result of the Meriam Report; John Collier’s relentless efforts to curtail religious persecution and to end the allotment process as a member of the American Indian Defense Association and his appointment as the Commissioner of Indian Affairs; the passage of the Indian Reorganization Act; and the determined efforts of American Indian communities to maintain their identity and insure their sovereignty (Treuer 2019:201-218). These changes all seem to siphon people away from the non-reservation communities. While these spaces were abandoned as home sites, or places to live, they were not forgotten and people returned to these places physically for a variety of reasons; and they returned in their memories, in the stories they recalled, and in the stories they recounted. The on-going use of the Monument-Memorial at Wisconsin Point exemplifies the relationship descendant community members have with these places.

As with the estimated date of establishment of the Ojibwe settlement on Wisconsin Point, the abandonment of the area for living is generally substantiated by historic documentation but must be considered approximate. Berg (2009) has noted, the Ojibwe abandonment was precipitated by legal proceedings that addressed ownership. Specifically, a decision by Circuit Court for Douglas County in 1924 awarded Wisconsin Point to the U.S. Steel Company (Agate Land Company), except for the 150-foot by 80-foot plot associated with the cemetery (The Evening Telegram 1927a). However, in the spring of 1927 U.S. Steel Company and the City of Superior appealed the 1924 decision in an attempt to eliminate any obstacles to development. By July 1927, the court decision had been overruled, deciding that the Ojibwe plaintiffs, John B. Lemieux, Peter Lemieux, Maggie Martineau, and Frank Lemieux, did not have title to the cemetery (The Evening Telegram 1927b; Milwaukee Journal 1927; Supreme Court 1927b), thus ending any possibility of Ojibwe land ownership within Wisconsin Point. In 1927, the Evening Telegram (1927c) reported that five families were living on the Point; the article does not mention the families by name and their ethnicity is unclear. Similarly, an article in the Evening Telegram in 1937 stated that there were still 17 people living on the Point, including the light house tender’s family, though again, there is no reference to the occupants’ ethnicity.

Archaeology/Historic Aboriginal
Based on a review of the Wisconsin Historic Preservation Database (December 2019), there are
currently 56 archaeological properties in Wisconsin associated with post-contact Native Americans that are National Register-listed or -eligible. Aside from those related to Ojibwe occupation, they include camps and villages associated with the Menominee, Potawatomi, Ho-Chunk, Odawa, Meskwaki, Sac, Kickapoo and Huron tribes. While there are several National Register-listed Ojibwe-related properties in Wisconsin, some with a degree of overlapping contemporaneity, e.g., Winston-Cadotte [47AS13] and Marina [47AS24], they are not representative of off-reservation Ojibwe occupations in the Great Lakes region following the Ojibwe’s disposition and displacement from traditional lands primarily through the treaties enacted in 1837, 1842 and 1854.

Fortunately, investigations have occurred at several off/non reservation sites in Wisconsin that are generally contemporary with, and functionally comparable to, Wisconsin Point that were occupied by the Ojibwe, Potawatomi, Ho-Chunk, and Menominee. When compared to other off-reservation sites Wisconsin Point is unique because of its location on Lake Superior and its proximity to a large urban area. The Ojibwe community sites known as Dogtown (47BT101 and 47BT170) and Little Indian Farms (47 TA109) are contemporaneous and were similar in size and community composition (Birmingham 1984; Bruhy 1985). Although not exclusively Ojibwe settlements, both McCord Indian Village (47ON221) and Big Indian Farms (47TA16) are contemporary and functionally similar as are the Star Lake Potawatomi settlements (Broihahn and Thomas 2009; Broihahn and Holliday 2010). The McCord Indian Village site (47 ON-221) is listed on the National Register of Historic Places. Although located further south in central Wisconsin, and outside of the western Great Lake’s great northern hardwood forest, Ho-Chunk homesteads documented over the last three years by Society staff are contemporaneous, functionally similar, and is the case with the sites noted above, retain a high degree of archaeological integrity as well (Bindley et al. 2019, Broihahn n.d.). Unfortunately these latter sites have not been evaluated for their edibility for listing. All of these sites, whether they are communities-clusters of family compounds-or more scattered family homesteads retain a significant degree of integrity and have the potential to provide important information on Postindian survivance that is not available from any other source and as a result appear to be eligible for listing. As a group these places, and the sites documented by the Lac Du Flambeau Tribe of Chippewa Indians and Menominee Indian Tribe of Wisconsin provide an unparalleled sample of sites occupied during a critical period in American Indian history and in our country’s history. In many other places across the nation, these types of sites are not preserved and when present have not been a focus of research (Lightfoot and Gonzales 2018)
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Social History and Native American/Ethnic Heritage

Ojibwe communities have faced many the challenge of preserving important cultural beliefs, societal institutions, and ways of making a living. In some instances, choices exist, and decisions are made in a timely, reflective environment. In other instances, communities face daunting decisions and a realization that the world has changed so drastically that some familiar ways of life must be set aside, and new approaches tried. In these situations, existing institutions and traditions are woven together with new ways of thinking to meet these challenges and maintain the communities into the future. Native American communities in Wisconsin and adjacent areas have faced many challenges since the arrival of Europeans and have used diverse strategies to preserve important cultural practices and remain vibrant societies into the twenty first century. The history of Wisconsin Point, as it relates to the area of Social History and Native American Ethnic Heritage, exemplifying the strategies employed by Native peoples to maintain Indian identity and maintain tribal sovereignty. Ojibwe resistance to sustained settler colonialism is expressed in the cultural features preserved on Wisconsin Point (Karamanski 2016:32; White 1991; Wolf 2006).

The final departure, if not forced removal, of Ojibwe from Wisconsin Point – and the end of most other off-reservation communities in Wisconsin – exemplifies an enormously harsh and challenging period for Native Americans, one which brought the majority of Native peoples to reservations such as that of the Fond du Lac Band. As noted by Mason (1988:296), despite most of these reservations being “too small to allow older subsistence techniques to be followed and too isolated to let Indians freely seek outside employment and education . . . they were nevertheless Indian places, refuges from a world that was neither safe nor accepting of Indian difference.”

Karamanski (2016:32), following White (1991) and others (Wolf 2006), has described settler colonialism as “a transactional process by which an incoming population displaces the Indigenous people and establishes their own sovereign regimes.” Further, he has summarized the cultural and political landscape of the western Great Lakes in the framework, or transactional process, of settler colonialism:

The United States government had a two-faced policy toward indigenous peoples. On one hand, it was committed to the taking of Indian land in order to accommodate its swelling agricultural population, yet it also claimed to be committed to “civilizing” Indians so they could eventually be incorporated into the general population (2016:28).
Though Karamanski (2016) specifically addresses the relentless efforts of the lumber industry, in concert with the federal government, to appropriate the wealth of the timber resource from Native peoples, his assessment serves as a corollary to the Ojibwe residents of Wisconsin Point – “instead of a war of conquest they entangled Anishinaabeg property owners in a bewildering legal and extralegal thicket” (Karamanski 2016:28).

In the context of this grossly unequal relationship, and the government’s relentless attempts to “civilize” and break up Indian communities, the residents of Wisconsin Point were steadfast in their resistance to such efforts using diverse strategies to maintain their sovereignty and identity. In this regard, though ultimately abandoned through coercive actions of the plunderbund headed by U.S. Steel, Wisconsin Point serves as a remarkable physical and cultural example of Ojibwe survivance. G. Vizenor originally defined survivance as “…an active sense of presence, the continuance of native stories, not a mere reaction, or a survivable name. Native survivance stories are renunciations of dominance, tragedy and victimry” (Vizenor 1999:vii). J. Doerfler (2019:191), in reviewing the concept, describes survivance as:

…as active word that goes beyond mere physical survival to include the “tease of tradition.” In this way, traditions are incorporated and adapted to contemporary issues, but this change and adaptation does not mean American Indians have “lost” anything; rather they are an integral part of survivance.

Viewed through this lens, Native communities strategically refused, infused, and adapted material culture through a process derived from deeply shared cultural values and a worldview built in part from their experiences and accrued knowledge gained from their negotiation with a series of American colonial enterprises (Lightfoot and Gonzales 2018).

P. Shifferd demonstrated that “by extending their traditional adaptive strategies and continuing their basic cultural flexibility” the Ojibwe did in fact adjust as communities to the significant changes in the social, political, and economic environment (Shifferd 1976:16). Shifferd determined that the diffuse hunting-and-gathering system of the Ojibwe initially defined by Cleland in his discussion of the focal-diffuse model (1966, 1976), with or without its agricultural component, had been adapted to incorporate wage labor, and the sale of “natural” products – e.g. berries, wood, maple products, and
deer meat. This diffuse model was ideally adaptable to the usual yearly and sometimes seasonally fluctuations in the availability, or quantity, of natural resources. Community members used this diffuse model—the built-in flexibility in the model—and their well-earned knowledge of the market system, to accommodate the national and international economic cycles and the incoherently inconsistent policies of the Bureau of Indian Affairs by simply expanding on their “diffuse” approach to living their lives.

Shifferd noted:

This period of social and cultural adaptation was not, however, a time of social collapse or massive disorganization for the Chippewa communities. Rather, the development may be viewed as the logical completion of the integration into the national and international markets begun by the fur trade two centuries earlier. The increasing importance of cash over barter did not, in my view; result in any fundamental economic or cultural discontinuity. I will argue that the pattern of economic change shown by the people represents a cultural continuity of adaptive mechanisms, that these mechanisms were highly intelligent and rational given the circumstances of the period and they permitted the social system to persist and survive, even to this present day (Shifferd 1976:16-18).

Cleland’s later analysis supported Shifferd’s conclusions as he noted that understanding market capitalism does not equate with accepting its values (Cleland 1993). This is a theme echoed by Brian Hosmer when he notes that American Indian communities can adapt to market capitalism and retain a sense of Indianness and by K. Pickering when she noted that American Indian communities responded to changes in their environment in “deeply indigenous, cultural terms” (Hosmer 1999:140; Pickering 2004:117). C. Norrgard’s detailed narrative on the Ojibwe of culturally appropriate reaction to the changing political, social, and economic environment of the western Great Lakes expands on Shiffers’s and Cleland’s comments and supports Cleland’s assertion of extending Shifferd’s idea of “a cultural continuity of adaptive mechanisms into the mid-20th century (Cleland 1993).

A more extensive discussion of American Indian survivance models and strategies is beyond the scope of this nomination. As noted above, participation in the larger/border market system did not mean that the participants incorporated all of the values frequently associated with it (Cleland 1993; Hosmer 1999; Norrgard 2014; Pickering 2004). E. Drake has recently argued that considering the concept of Bimaadiziwin may provide insights for the interpretation of the American Indian economics with regard to archaeological data (Drake 2012). Lawrence Gross defined the concept/practice of
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Bimaadiziwin, living the good life, or the “way of the good life” (Gross 2002). While this “living philosophy” has deep historical roots among the Anishinaabe people, similar concepts can be found in the world views of many American Indian groups (Bindley et al. 2018:67-68). Hosmer’s comments testify to this idea as do Erdman’s observations that the Ho-Chunk “business committee sought to help tribal members prosper, but as the same time to support traditional Winnebago values” (Erdman 1966:39; Hosmer 1999).

On the basis of the information reviewed for this nomination, it is our assessment that in the late nineteenth and early to mid-twentieth century Native American communities and community members participated in the local, regional, and national economy to the extent that they were allowed (e.g., see Jorgensen 1967, 1978; Norrgard 2014) and in a manner to which they were accustomed (Drake 2012; Gross 2002; Hosmer 1999; Norrgard 2014 Pickering 2004; Treuer 2019).

Potential Traditional Cultural Property
As it has been argued, the Wisconsin Point site squarely meets the National Register eligibility criteria A and D. Because Wisconsin Point is well-remembered in the Ojibwe community, continues to be considered a culturally significant place by the Ojibwe people, and because Ojibwe people continue to visit and use the property for specific purposes, further discussions with the Fond du Lac community and other south shore Ojibwe communities may lead to the determine that it meets the requirements for classification as a “traditional cultural property.” In the National Register Bulletin No. 38: Guidelines for Evaluating and Documenting Traditional Cultural Properties, Parker and King (1998:1) have provided definition and guidance regarding properties of this nature:

One kind of cultural significance a property may possess, and that may make it eligible for inclusion in the Register, is traditional cultural significance. "Traditional" in this context refers to those beliefs, customs, and practices of a living community of people that have been passed down through the generations, usually orally or through practice. The traditional cultural significance of a historic property, then, is significance derived from the role the property plays in a community's historically rooted beliefs, customs, and practices.

Parker and King (1998:1) go on to state that a location can be treated as a traditional cultural property if it is “a location associated with the traditional beliefs of a Native American group about its origins, its cultural history, or the nature of the world.” Informant interviews conducted with Fond du Lac Band
tribal members (Broihahn 2016) affirmed the earlier observation that Wisconsin Point is, has been, and will continue to be revered by the Ojibwe as a place of importance to the Fond du Lac Band.

The location of the former cemetery, which contributes to the archaeological value of the property, was marked in 1986 with a large stone monument with a commemorative plaque surrounded by a circle of truncated pyramid-shaped concrete blocks. This monument or memorial is located within the recorded boundaries of the Wisconsin Point Cemetery (BDG-45) and it has become the focal point for a wide variety of spiritual and associated cultural activities. This use is documented by objects that are continuously placed at the location of the monument and memorial. And the importance of the place and space of the monument-memorial is clear based upon the expansion of this commemorative use area beyond the plaque and concrete truncated pyramid circle as demonstrated by distribution of objects and commemorative activities, as noted by the comments of Wisconsin Point descendants, the use the location for annual gatherings (cf. The Evening Telegraph 1981a) as well as less well-documented activities. Recent birch bark peels were identified at 13 locations on Wisconsin Point and these may represent one aspect of the ongoing use, although this association should be treated with caution since local non-Native residents collect and use birch bark. In summary, newspaper accounts, on-the-ground physical evidence, Society staff observations, and anecdotal evidence clearly indicate that this location is associated with the traditional beliefs, origins, and cultural history of the Ojibwe people, particularly those communities residing along the south shore of Lake Superior.

In addressing the level of effort necessary to categorize a location as a traditional cultural property, Parker and King (1998:8) note that the first step is to contact the associated group that may ascribe significance to a property, and to next conduct field work in coordination with “knowledgeable parties” to identify locations that are culturally significant. As they note, such documentation — recording visual and non-visual indications of use — must be done by a study team exhibiting expertise in ethnographic documentation and preparation of National Register documentation of this type. According to Parker and King (1998:11), the second step is to determine the property’s integrity:

In the case of a traditional cultural property, there are two fundamental questions to ask about integrity. First, does the property have an integral relationship to traditional cultural practices or beliefs; and second, is the condition of the property such that the relevant relationships survive?
The third step, as suggested by Parker and King (1998), is to evaluate the property within the context of National Register eligibility criteria, and step four is to determine if any of the National Register Criteria Considerations make the property ineligible.

Direct observations and accounts of post-1930 activities on Wisconsin Point, after the legal case associated with the plans for the steel company complex were concluded, are limited and provide few if any insights of Ojibwe use of the location. However, information about the years following 1930 may be available in written sources not consulted by the Society (Broihahn 2016), or as traditional cultural knowledge in community members’ memories. It was the strong impression of the Society study team (Broihahn 2016) that Wisconsin Point continued to be remembered in the Ojibwe community and that Ojibwe use for a variety of activities continued following 1930. These activities either went unnoticed, or if observed, unreported. Further, it must be acknowledged that within the context of discriminatory attitudes towards Native Americans during the twentieth century, Native use of Wisconsin Point for ceremonial activities may have been secretive to avoid conflict with non-Native residents of the Duluth-Superior area. For now, without additional information that could be derived from informant interviews with Fond du Lac Band members who are knowledgeable about post-1930 Native use of Wisconsin Point, continuity of use of the area is poorly documented. As a means of providing documentation, the Fond du Lac Band has expressed an interested in gathering names of individuals who are knowledgeable about post-1930 use of Wisconsin Point, and are willing to share traditional knowledge through formalized informant interviews (Jill Hoppe, Tribal Historic Preservation Officer, Fond du Lac Band, personal communication June 2019).

Regarding the direct observation of Ojibwe ceremonial use of Wisconsin Point, around 1981 and likely much earlier, Ojibwe living in the Duluth-Superior area expressed an interest in maintaining the natural setting of Wisconsin Point, and voiced their desire to continue to hold ceremonial and religious activities in the approximate location of the Wisconsin Point Cemetery (The Evening Telegraph 1981a). Further, the placement of the Monument-Memorial in 1986 created a focal point for some of this activity and perhaps created a destination point for other activities. It remains unclear if the 16 locations where birch bark peels were observed are associated exclusively with American Indian use of Wisconsin Point or if the peels are being collected by non-Natives. Although not observed by the Society study team, the collection of other plants and plant materials may be ongoing if the use of Wisconsin Point parallels the collection practices noted at other off-reservation locations (Broihahn 2016; Broihahn and Holliday 2010).
Today the Monument-Memorial—and the area that immediately surrounds it—exhibits "visual" indications of use by Native Americans for ceremonial purposes. Without more formal (ethnographic) documentation the size of the ceremonial location cannot be determined, but it appears to include an area no less than 0.25 acre, and likely an area much larger. Specifically, the area said to be approximately 0.25 acre includes the Monument-Memorial, which as noted above is surrounded by a circular formation of eight concrete truncated pyramid blocks; the Monument-Memorial itself is accessed by a path that leads from a parking area adjacent to Wisconsin Point Road, with the trailhead of the path marked by two pyramidal concrete blocks that appear to serve as entry portals (Photograph 6). Numerous items have been placed, and continue to be placed, on the Monument-Memorial, on the pyramidal concrete blocks that surround the Monument-Memorial, and on the ground surface in the vicinity of the Monument-Memorial, as well as hung from surrounding trees (Photograph 5). These materials include, but are not limited to the following: small fabric pouches thought to contain ceremonial tobacco, pieces of fabric, feathers, pebbles, pieces of jewelry, braided sweet grass, a container of wild rice, a jar of maple syrup, plastic flowers, toys, and a variety of other objects. The weathering of some of these materials, and a scattering of similar materials on the ground surface, suggests they have been placed at this location in the past, though exactly when is unclear.

In summary, based on newspaper accounts cited in the archaeological study conducted by the Society (Broihahn 2016) along with information provided by Fond du Lac Band Tribal Historic Preservation Officer Jill Hoppe (personal communication June 2019), Wisconsin Point has been regularly used for ceremonial purposes by Fond du Lac Band members following its abandonment as a residential area sometime after 1930 and continuing to the present; and the place that is Wisconsin Point to Fond du Lac Band members and other south shore community residents continues play an important role in the stories and spiritual activities important to the south shore Ojibwe communities (Duluth News Tribune 2010; Superior Telegram 2011). Direct visual observation of ceremonial activities has been documented, and it appears tribal elders familiar with this use may be willing to step forward and share remembrances – and expand on the non-visible characteristics – that will support Wisconsin Point’s documentation as a traditional cultural property.

The Importance of Wisconsin Point
The Wisconsin Point archaeological site is eligible for the National Register of Historic Places, significant under Criteria A and D, in the areas of Historic Aboriginal Archaeology, Social History,
and Native American Ethnic Heritage. Developing a better understanding of the Wisconsin Point site, within the broader context of Native sovereignty and cultural survival during the mid- to late-nineteenth century and continuing into the early twentieth century, can address a series of important themes in American history, and in particular produce a more nuanced understanding of the inextricably intertwined lives of Natives and non-Natives in America and that American Indians are Natives and Americans (Treu 2019:294, 2020). For this reason the Wisconsin Point Ojibwe settlement of 1840-1930 meets Criterion A and Criterion D. Clearly, the recovery of pre-contact tools and tool-making artifacts has demonstrated that Native presence long precedes the Ojibwe occupation of the Wisconsin Point sandspit; it appears that the range of pre-contact artifacts, the nature of the geomorphic processes present on the point and the limited nature of other ground surface disturbances all lead to the conclusion that sub-surface living areas may be deeply buried and others may occur near the shore or in submerged contexts. The pre-contact component, however, requires future investigation to ascertain the archaeological integrity of the deposits and its potential to address important research questions as required by National Register eligibility.

What is certain is that the Ojibwe occupation of 1840 to 1930 most clearly and indelibly left its mark on the Wisconsin Point landform. Why this became an important Ojibwe settlement is clear; it is positioned next to an enormously rich and important fishery, one said to be one the most important commercial fisheries in the world during the nineteenth century (Kaups1978; Norrgard 2014). Further, it is situated proximal to the only known water passage between Lake Superior and the abundant interior resources such as game, plants, and technological materials critical to Ojibwe subsistence, pharmacology, and industry, items derived from interior forested uplands and wetland communities. Through much of the early- to mid-twentieth century, the Ojibwe community on Wisconsin Point thrived. During the mid- to late-nineteenth century, however, the community became caught up in expanding European-American settlement and governmental policies, such as the establishment of reservations and restricted access to territorial lands. It may also have been affected, to an unknown degree, by the declining Lake Superior fishery due to over-exploitation by European-American commercial fishing operations. Bolstering the significance of Wisconsin Point is the dearth of information regarding how the off-reservation communities survived into the twentieth century. These non-reservation communities and reservations were part of a much larger network of Native social, political, spiritual, and economic interactions—really a set of interwoven networks—that were part of the late-nineteenth and early-twentieth century cultural landscape of the United States. As suggested by Lowe (1998), off-reservation communities remain relatively unexplored as a source of information on
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a critical period in the history of Native communities throughout the United States, and certainly in the history of Wisconsin. Finally, it is acknowledged that the suggested period of significance may need to be adjusted based on future research, and the proposed boundary for the nomination may also need to be reconsidered as new information comes to light. If anything, however, both the site boundary and period of significance will be expanded.

The 1840-1930 Ojibwe component of the Wisconsin Point archaeological site (47 DG-24/BDG-45) also meets Criterion D because it has yielded and has the potential to yield answers to important research questions that will provide a deeper understanding of not only the Ojibwe community on Wisconsin Point, but of other related American Indian communities. The archaeological investigations of the Point, has demonstrated that a broad range of archaeological features and their spatial relationships are preserved at a number of locations within the site area. The larger community layout and community pattern seem intact. Further, there is a substantial archival record for Wisconsin Point and it appears that feature clusters can be associated with known family groups. Finally, whatever insights are brought to bear through future archaeological and ethnographic research, Wisconsin Point was, is, and will continue to be both culturally and spiritually important to the Ojibwe people, and a place that illuminates a difficult and important period in American history and the vibrant nature of American Indian communities today.

___End of Statement of Significance
Figure 3. A sketch map of the Monument-Memorial area at the Wisconsin Point Archaeological site (47 DG-24) depicting the carved Monument-Memorial stone with plaque, the phalanx of concrete truncated pyramids, portal stones, and parking area (formerly Pull Off #19). The cemetery boundary depicted on the map is based upon Keene’s 1918 map of the cemetery.
Figure 8. The 1915 Van Vleck map depicting the LaVerge, Lemieux-Sky; and St. John-LaPage-Young family compounds with the archaeological features identified by Wisconsin Historical Society staff projected on the map.
Chippewa may get control of 18 acres to become burial site

Land at end of Wisconsin Point declared surplus by Army late last year

SUPERIOR (AP) — Federal land at the end of Wisconsin Point could become a burial ground for human remains that were removed 85 years ago if a Minnesota Chippewa band's request is granted.

A dispute over land ownership led to removal of the remains in 1918, and they were reburied in a mass grave in St. Francis Cemetery.

Now the Fond du Lac Band of Lake Superior Chippewa proposes to use the former U.S. Army Corps of Engineer property as a cemetery at the end of the point, located along the shore of Lake Superior at the twin ports of Superior and Duluth.

"If we are successful in getting the property back, we would give due consideration for a reburial on Wisconsin Point for those individuals that were put in that mass grave," said Robert "Sonny" Peacock, chairman of the Fond du Lac Band.

"And we would like to keep that area as a historical site probably educational as well."

The Army declared the 18.2-acre property to be surplus in 2002. Earlier this year, the General Services Administration, which will dispose of the property, asked other federal agencies if they wanted the land.

The Bureau of Indian Affairs responded in March that it wants to hold the land in trust for the Fond du Lac Band. No money would change hands if the transaction advances.

The BIA is to submit a formal application to the GSA for the property later this month, said Herb Nelson, BIA environmental scientist.

The GSA will then review the application.

"If it's complete, we approve it, and the property is transferred," said GSA real estate specialist Arthur Ullenhag.

The property includes two houses, a four-bay garage and a dock that were part of a former U.S. lighthouse station built around 1912 or 1913. The Corps would reserve an easement on 3.33 acres to allow for work on the road and shipping channel.

The federal government has owned the property since it was condemned in 1901.

The Chippewa lost the site of Wisconsin Point around 1914 in a dispute with the Interstate Railroad Company.

In 1914, area Chippewa petitioned President Woodrow Wilson and Indian Commissioner Cato Sells for help.

"We do with horror contemplate being torn from the property of our fathers on Wisconsin Point, our dear honored dead removed and the sacred cemetery desecrated," they wrote. "Seven generations and more lie buried in this cemetery, including Chief O-sage?"

But corporate interests prevailed, and the Indians and some of their graves were moved.

"We found one paper that was written by a young man who was a water boy out there when they were moving the cemetery," said Robert Miller, president of the Superior Area Indian Center.

"They only moved the graves that were well marked. Out of about 300 bodies that were out there, they moved about 180. My grandmother knew where a lot were."

He said there were around seven homes in the village when its residents were evicted.

Today, some still consider the area to be sacred. Graves remain under the point's road and one of its parking lots, Miller said.
CHIPPEWA INDIAN BURIAL GROUNDS
south west corner of St. Francis
Cemetery. Moved here from
Wisconsin Point about 1918.
[Hulter, Jean M. & Judy Swenson, comps.]
Chippewa Indian Burial Grounds, SW corner of St. Francis Cemetery, City of Superior, Douglas County, Wis., burial records of graves moved from Wisconsin Point in 1918. (1981.)
Ms. (typewritten) 7 ll. Includes a hand-drawn map, explanatory text and a plot diagram. Superior Public Library Legler Collection, Area Research Center vertical files.
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<td>Juliet Frank Le Mieux</td>
<td>H. Le Mieux</td>
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<td>Woman 1 &amp; 2. Women</td>
<td>17. Margaret Labelle 3 Le Gault</td>
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<td>17. Margaret Labelle 3 Le Gault</td>
<td>18. 3 unknown babies</td>
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<td>John Morgan</td>
<td>19. 3 unknown babies</td>
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<tr>
<td>15. Josephine Chippona 2 GLAULT</td>
<td>32. Josephine Chippona 2 GLAULT</td>
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**Notes:**
- "LESSART?" is written above a column.
- "PROBABLY THE FAMILY." is written above a column.
Traveling on U.S. Highway 2 and 53 also known as East 2nd st., turn west at 31st Avenue. Go over the railroad tracks and keep going until you come to the road dividing the Nemadji Cemetery and the St. Francis Cemetery. Turn here and again at the first road to your right. There is a large sign stating this is the Chippewa Indian Burial Grounds. There are only a few stones telling when the remains were moved here. Our information came from the plot sheet given to us by the sexton of the St. Francis Cemetery. For further help

Mr. William A. Brunette, 1405 John Ave., Superior, Wi., a member of the Superior Indian Organization has made himself available. His telephone number is 715-394-4176. This was copied by members of the Twin Ports Genealogical Society
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<th>Buildings</th>
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- 31st Ave
- G 28.11
March 19, 2013

Mark Bruhy
Commonwealth Cultural Resources Group, Inc.
8669 North Deerwood Drive
Milwaukee, WI  53209

RE:  DEED SEARCH FOR NEMADJI CEMETERY AND ST. FRANCIS CEMETERY IN SUPERIOR, WI

Dear Mark:

Enclosed, please find the several deeds reflecting ownership in regards to the above captioned matter, as well as a map showing the same.

Attention is directed to the fact, that we were unable to locate any deeds to St. Francis affecting Blocks Two (2) and Four (4) on East 11th Street.  Also note, that Lot Nine (9) of Block One (1) on East 13th Street is owned by Margaret O'Brien and Lots Two (2), Four (4) and Six (6) of Block Two (2) on East 15th Street is owned by G. Norsving (since 1925).

Should you have any questions, please do not hesitate to call.

Sincerely,

DOUGLAS COUNTY ABSTRACT COMPANY, INC.

Thomas G. Anderson
President

/kmk
enc.
Deed Record, Vol. 88, Douglas County, Wisconsin.

No 139687

James Barlow, in

To

St. Francis Xavier's Catholic Congregation of Sisters.

James Barlow and Emma W. Barlow, his wife, grantors, of Douglas County, Wisconsin, hereby

Charles Lee, Register of Deeds, Deputy,

Said Emma to St. Francis Xavier's Catholic Congregation of Sisters, as corporation, hereby

grantor, of Sisters, in said

County, Wisconsin, for the sum of one DOLLAR, the

following tract of land in Douglas County, in the State of Wisconsin, being described as follows:

on East Elevant Street, on the south side of Superior, and on

Street, in said Superior, to the north of said Street, in said Superior.

began at the above named grantees on the 22nd day of August, 1909, and

granted to said grantees the parcel of

land hereinafter described, to-wit: on East Elevant Street, in said Superior, to the north of said Street, in said Superior. The said parcel of

land hereinafter described, to-wit: on East Elevant Street, in said Superior, was conveyed to the above named grantees, and

said parcel of

land is more particularly described in the adjoining plat, shown

herein.

Witnesse,
The hand and seal of said grantor, this 21st day of July, 1910.

State of Wisconsin:Personally came before me this 21st day of July, A.D. 1910, the above named

James Barlow, and Emma W. Barlow, his wife, to me known to be the persons who executed the foregoing instrument, and acknowledged the same.

Notary Seale

[Signature]

State of Wisconsin:Personally came before me, this 22nd day of July, A.D. 1910, the above named

William M. Gill, and Mary Gill, his wife, to me known to be the persons who executed the foregoing instrument, and acknowledged the same.

Notary Seale

[Signature]
Quit Claim Deed

The County of Douglas, in the State of Wisconsin, grantor, hereby quit claims to: St. Francis Cemetery Association, grantee, the following tract of land in said County of Douglas, to wit:

SE1/4 of Block 1, E. 13th Street, NW1/4 & SE1/4 of Block 2, E. 15th Street, Townsite of Superior, Lots 1 thru 7 (odd #'s) & 11 thru 31 (odd #'s), Block 1, McBean Blocks, E. 13th Street, Lots on E. 13th Street, Lots 2 thru 16 (even #'s), Block 1, McBean Blocks, E. 13th Street, Lots on E. 14th Street & Lots 8 thru 16 (even #'s), Block 2, McBean Blocks, E. 15th Street, Lots on E. 15th Street.

Mineral Rights Reserved by Grantor.
Subject to existing and recorded rights-of-way and easements.

IN TESTIMONY WHEREOF, I Raymond H. Somerville, the County Clerk of the County of Douglas State of Wisconsin, have executed this Deed pursuant to, and in virtue of the authority in me vested by the Statutes of the State of Wisconsin, and by the order of the Board of Supervisors of said County of record in my office, on the 20th day of June, 1991 and for and on behalf of the said County of Douglas aforesaid, and have hereunto subscribed my name officially, and affixed the seal of the said Board of Supervisors, and my seal, at Superior, in the said County of Douglas, this 21st day of June, 1991.

[Signature]
Raymond H. Somerville
County Clerk of Douglas County
State of Wisconsin.

STATE OF WISCONSIN)

)ss.

County of Douglas

BE IT REMEMBERED, that on the 21st day of June, 1991 before the undersigned, a Notary Public in and for said County, personally appeared Raymond H. Somerville, Clerk aforesaid to me known to be the person who executed the above Deed and acknowledged the same as County Clerk of the County of Douglas, State of Wisconsin, for and on behalf of said County for the purpose therein mentioned.

[Signature]
Rosanne Horfren
Notary Public, Douglas County, Wi.
My commission expires Oct. 17, 1993
This instrument drafted by
Douglas County Clerk.
Quit Claim Deed

The County of Douglas, in the State of Wisconsin, grantor, hereby quit claims to Namadgi Cemetery Association, grantee of Namadgi Cemetery Association, of Douglas County, in the State of Wisconsin, for the sum of One Dollar ($1.00) and other valuable considerations.

The above described property is conveyed on the express condition that it will be used by the grantee herein as and for cemetery purposes and in the event that at any time said property is not used for cemetery purposes by the grantee, its successors or assigns, title to such property shall revert to the said County of Douglas, grantor herein.

IN TESTIMONY WHEREOF, I, S.P. Gray, the County Clerk of the County of Douglas, State of Wisconsin, have executed this Deed pursuant to, and in virtue of the authority vested in me by the Statutes of the State of Wisconsin, and by the order of the Board of Supervisors of said County, of record in my office, on the 30th day of July, for and on behalf of the said County of Douglas aforesaid, and have hereto subscribed my name officially, and affixed the seal of the said Board of Supervisors, and my seal, at Superior, in said County of Douglas, on the 30th day of July, 1945, in the year of our Lord, one thousand nine hundred and forty-five.

DONE IN PRESENCE OF:
S.P. Gray—S.P. Gray (Seal)
County Clerk of Douglas County, State of Wisconsin

STATE OF WISCONSIN, County of Douglas,

BE IT REMEMBERED, That on the 30th day of July, A.D. 1945, before the undersigned, a Notary Public in and for said County, personally appeared S.P. Gray, Clerk aforesaid, to me known to be the person who executed the above Deed and acknowledged the same as County Clerk of the County of Douglas, State of Wisconsin, for and on behalf of said County for the purpose therein mentioned.

S.P. Gray—S.P. Gray
Notary Public, Douglas County, Wisconsin,
October 30th, 1945
My Commission Expires.

E. Bloosquist—E. Bloosquist
Notary Public—seal
Douglas County, Wis.
of law, did, after due notice and advertisement, on the 4th day of November, A.D., 1927, by virtue of said order of license, offer for sale and sell at public auction, said lands to Octaaf Van Vynckt or the city of Superior, Douglas County, Wisconsin, for the sum of Three Thousand Eight Hundred Thirty ($3830.00) Dollars, being the best and highest bidder therefor:

AND, WHEREAS, Upon due report of my proceedings upon said order of license, the said County Court, on the 26th day of November, A.D., 1927, made an order confirming such sale at public auction and directing that this conveyance be executed:

NOW, THEREFORE, Know Ye, That I, in my capacity as such administrator de bonis non with will annexed aforesaid, by virtue of the power and authority in me vested, in consideration of the premises and of the said sum of Three Thousand Eight Hundred Thirty ($3830.00) Dollars to me in hand paid by the said purchaser, the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and convey unto the said Octaaf Van Vynckt, his heirs and assigns, the following described premises situated in the County of Douglas, State of Wisconsin, to wit:

The Northeast Quarter (NE\(\)Q) of the Southwest Quarter (SW\(\)Q) and the Southeast Quarter (SE\(\)Q) of the Southwest Quarter (SW\(\)Q) of Section Thirty-three (33), Township Forty-eight (48), Range Eleven (11), in Douglas County, Wisconsin.

To Have and to Hold the above bargained premises to the said grantee, his heirs and assigns, Forever.

IN WITNESS WHEREOF, I, the said administrator de bonis non with will annexed, have hereunto set my hand and sealed this 12th day of January, A.D., 1928.

Signed, Sealed and Delivered

Robert E. Kennedy (SEAL)

Administrator de bonis non with will annexed of the Estate of August Deschott, deceased.

Carl H. Daley
Hather Anderson

State of Wisconsin
Douglas County.

Be it Remembered, That on the 12th day of January, A.D., 1928, personally came before me, the above named Robert E. Kennedy, to me known to be the administrator de bonis non with will annexed of the Estate of August Deschott, deceased, mentioned in and who executed the above conveyance, and acknowledged the same to be his free act and deed for the uses and purposes therein mentioned.

Carl H. Daley
Notary Public, Douglas County, Wis.
My commission expires June 20, 1932.

WARRANTY DEED

Northwestern Improvement Company

Filed for record January 16, 1928, at 10:25 a'clock

Nemadji Cemetery Association

William McDougall, Register of Deeds.

Superior Town Property Division

Deed No. 11060

NORTHERN - - - - - IMPROVEMENT - - COMPANY - -

THIS DEED, made the nineteenth day of December in the year of our Lord one thousand nine hundred and twenty-seven, by the NORTHERN IMPROVEMENT COMPANY, a corporation of the State of New York, grantor, to the NEMADJI CEMETARY ASSOCIATION, a Wisconsin corporation, grantee, WITNESSETH:

The grantor, in consideration of the sum of Three hundred twenty-five Dollars ($325.00), unto it paid, the receipt whereof is acknowledged, grants, bargains, sells and conveys unto the grantee, its successors and assigns, the following described tract of land situated in the County of Douglas and State of Wisconsin:

West half of Block one (1) East Ninth Street, in the Townsite of Superior, now a part of the City of Superior, according to the plat of said Townsite of Superior filed in the office of the Register of Deeds of said County.

Together with all rights, privileges and appurtenances thereunto belonging or in any way appertaining.
Deed Record, Vol. 164, Douglas County, Wisconsin

No. 29153

Filed for Record the 14th day of May
A. D. 1926 at 3 o'clock P. M.

Sarah J. Hammonds, et al

To

San Francisco Xavier's Catholic Congregation, in the City of Superior, Douglas County, Wisconsin,

This Indenture, Made by Sarah J. Hammonds (widow) and Sarah A. Wallace (executor), grantees, and the said San Francisco Xavier's Catholic Congregation, grantee, for the sum of Fifty ($50) Dollars, as法宝,

In Witness Whereof, the said grantees, have hereunto set their hand and seal this 14th day of May, A. D. 1926.

Signed and sealed in Presence of

John Villalon

STATE OF WISCONSIN,

Douglas County

Personally came before me this 14th day of May, A. D. 1926, the above named

Sarah J. Hammonds and Sarah A. Wallace, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

John Villallon

Notary Public

FILED FOR RECORD

No. 29153

Filed for Record the 14th day of May
A. D. 1926 at 3 o'clock P. M.

William M. Dougal

To

Triphane Hassanhowe, et al

This Indenture, Made by Triphane Hassanhowe, et al, Augusto Hassanhowe, grantees, and the said San Francisco Xavier's Catholic Congregation, grantee

In Witness Whereof, the said grantees, have hereunto set their hand and seal this 14th day of May, A. D. 1926.

Signed and sealed in Presence of

John Villallon

STATE OF WISCONSIN,

Douglas County

Personally came before me this 14th day of May, A. D. 1926, the above named

Triphane Hassanhowe and Augusto Hassanhowe, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

William M. Dougal

Notary Public

FILED FOR RECORD

No. 29153

Filed for Record the 14th day of May
A. D. 1926 at 3 o'clock P. M.

William M. Dougal

To

Triphane Hassanhowe, et al

This Indenture, Made by Triphane Hassanhowe, et al, Augusto Hassanhowe, grantees, and the said San Francisco Xavier's Catholic Congregation, grantee

In Witness Whereof, the said grantees, have hereunto set their hand and seal this 14th day of May, A. D. 1926.

Signed and sealed in Presence of

John Villallon

STATE OF WISCONSIN,

Douglas County

Personally came before me this 14th day of May, A. D. 1926, the above named

Triphane Hassanhowe and Augusto Hassanhowe, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

William M. Dougal

Notary Public

FILED FOR RECORD

No. 29153

Filed for Record the 14th day of May
A. D. 1926 at 3 o'clock P. M.

William M. Dougal

To

Triphane Hassanhowe, et al

This Indenture, Made by Triphane Hassanhowe, et al, Augusto Hassanhowe, grantees, and the said San Francisco Xavier's Catholic Congregation, grantee

In Witness Whereof, the said grantees, have hereunto set their hand and seal this 14th day of May, A. D. 1926.

Signed and sealed in Presence of

John Villallon

STATE OF WISCONSIN,

Douglas County

Personally came before me this 14th day of May, A. D. 1926, the above named

Triphane Hassanhowe and Augusto Hassanhowe, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

William M. Dougal

Notary Public
Deed Record, Vol. 164, Douglas County, Wisconsin

Robert de Lannoy

TO

J. P. Kirby

This Indenture, made by Robert de Lannoy, his undower,

Grantor, of the County of Douglas, and the State of Wisconsin,

For the consideration of the sum of twenty-five dollars, to be paid to the said Grantor, for the premises hereby conveyed, the said Grantor grants and conveys to J. P. Kirby, his heirs and assigns, of the County of Douglas, and the State of Wisconsin, for the sum of twenty-five dollars, the following tract of land in the County of Douglas, and the State of Wisconsin:

The south east quarter of the southwest quarter of section 15, township 9 north, range 9 east of the 4th principal meridian, containing 40 acres, more or less, according to the United States government survey thereof.

In Witness Whereof, the said Grantor, hereunto set his hand and seal this 18th day of August, A.D. 1928.

[Seal]

Walter J. Prosser

Notary Public


John Dojic

TO

No. 293/2

This Indenture, made by John Dojic, his undower,

Grantor, of the County of Douglas, and the State of Wisconsin, hereby conveying and transferring to the undersigned, his undower, the following tract of land in the County of Douglas, and the State of Wisconsin:

The north half of the south half, section 15, township 9 north, range 9 east of the 4th principal meridian, containing forty acres, more or less, according to the United States government survey thereof.

In Witness Whereof, the said Grantor, hereunto set his hand and seal this 7th day of August, A.D. 1929.

[Seal]

John Dojic

Notary Public

My Commission expires April 1st, A.D. 1932.
This Indenture, Made by Mary M. Rogers (Widow) Grantor, of St. Paul, Ramsey County, Minnesota, hereby conveys and warrants to St. Francis Xavier's Catholic Congregation, a religious corporation, a grant of the sum of One Hundred and Eighty-seven 87 & 50/100 Dollars ($187.50) for the following tract of land in the County of Douglas, County, State of Wisconsin:

Lot Seventeen (17) on East Eleventh Street and Lots Eighteen (18), Twenty (20), Twenty-two (22), and Twenty-four (24) on East Twelfth Street, in Hendricks Subdivision of the City of Superior, described according to the plat of said subdivision recorded in the office of the Register of Deeds in and for said Douglas County.

In Witness Whereof, the said grantor, has hereunto set her hand and seal this 10th day of September, A. D. 1926.

Mary M. Rogers [Seal]

Vincent L. O'Connor [Seal]

STATE OF MINNESOTA
County of Ramsey

Personally came before me this 10th day of September, A. D. 1926, the above named
Mary M. Rogers [Seal]

to me known to be the person who executed the foregoing instrument and acknowledged the same.

No. 225547
Deed Record, Vol. 164, Douglas County, Wisconsin

This Indenture, Made by Swan J. Johnson and Emma Johnson, his wife, Grantors, of Douglas County, Wisconsin, hereby conveys and warrants to Emma Elizabeth Clark, Grantee, of Douglas County, Wisconsin, for the sum of one dollar and other valuable consideration, the following tract of land in the County of Douglas, Wisconsin:

Lot Twenty-Four (24) and Twenty-Five (25) of Block Five (5), Township of South Superior, First Division, in the City of Superior, according to the plat of said Division of Record in the office of the Register of Deeds of said Douglas County.

In Witness Whereof, the said Grantors, have hereunto set their hands and seals this 20th day of August, A. D. 1926.

Swan J. Johnson [Seal]

Emma Johnson [Seal]

No. 225957
Deed Record, Vol. 164, Douglas County, Wisconsin

This Indenture, Made by P.A. Hulme and Clifford J. Trudeau, Grantors, of Douglas County, Wisconsin, hereby conveys and warrants to Swan J. Johnson, Grantee, of said Douglas County, Wisconsin, for the sum of one dollar and other valuable consideration.

In Witness Whereof, the said Grantors, have hereunto set their hands and seals this 20th day of August, A. D. 1926.

P.A. Hulme [Seal]

Clifford J. Trudeau [Seal]
Deed Record Vol. 106, Douglas County, Wisconsin.

James Byrne et al.

TO

Charles Hamilton

grantee of Superior Cemetery Association, County, Wisconsin, hereby

Convey and Grant

grantee of Superior Cemetery Association, County, Wisconsin, for the sum of

one dollar and other valuable considerations,

Dollars, the following

tract of land in said Superior County, in the State of Wisconsin, to wit:

and unto

This instrument of conveyance was executed in the presence of the undersigned witnesses, who do certify that they saw the above-mentioned party of the grantee, to wit:

in the act of subscribing their names hereto.

By the command of the Governor of the State of Wisconsin, and for the sum of one dollar, the said deed was accepted.

In witness whereof, the party of the grantor, the party of the grantee, and the witnesses, to wit:

did each at their request subscribe their names to the within instrument.

Given under our hands and seals this 26th day of September, A.D. 1902.

[Seal]

James Byrne

[Seal]

Helen MacDugan Byrne

Robert C. Johnson

William J. Phillips

[Seal]

Notary Public, County, Wisconsin

My Commission expires [insert expiration date]

[Seal]

No. 172428

St. Francis Xavier Catholic Congregation

TO

Nemadji Cemetery Association

St. Francis Xavier Catholic Congregation of Superior, a church corporation, County, Wisconsin, hereby

Convey and Grant

grantee of Nemadji Cemetery Association, County, Wisconsin, for the sum of

one dollar and other valuable considerations,

Dollars, the following

tract of land in said Superior County, in the State of Wisconsin, to wit:

and unto

This instrument of conveyance was executed in the presence of the undersigned witnesses, who do certify that they saw the above-mentioned party of the grantee, to wit:

in the act of subscribing their names hereto.

By the command of the Governor of the State of Wisconsin, and for the sum of one dollar, the said deed was accepted.

In witness whereof, the party of the grantor, the party of the grantee, and the witnesses, to wit:

did each at their request subscribe their names to the within instrument.

Given under our hands and seals this 26th day of September, A.D. 1902.

[Seal]

James Byrne

[Seal]

Helen MacDugan Byrne

Robert C. Johnson

William J. Phillips

[Seal]

Notary Public, County, Wisconsin

My Commission expires [insert expiration date]

[Seal]
QUIT CLAIM DEED

The County of Douglas, in the State of Wisconsin, grantor, hereby quit claim to St. Francis Xavier's Catholic Congregation, a Wisconsin corporation, grantee of County in the State of Wisconsin for the sum of One Dollar ($1.00) and other valuable considerations, for the tract of land in said County of Douglas, to wit:

Block Two (2), on East Thirteenth Street, in the Townsite of Superior, according to the recorded plat or plat thereof on file and of record in the office of the Register of Deeds in and for said Douglas County.

The above described property is conveyed on the express condition that it will be used by the grantee herein as and for cemetery purposes and in the event that at any time said property is not used for cemetery purposes by the grantee, its successors or assigns, title to such property shall revert to the said County of Douglas, grantor herein.

IN TESTIMONY WHEREOF, I,

S. P. Gray

the County Clerk of the County of Douglas, State of Wisconsin, have executed this Deed pursuant to, and in virtue of the authority in me vested by the Statutes of the State of Wisconsin, and by the order of the Board of Supervisors of said County, of record in my office, on the 4th day of August, 1947, and for and on behalf of the said County of Douglas aforesaid, and have hereunto subscribed my name officially, and affixed the seal of the said Board of Supervisors, and my seal, at Superior, in said County of Douglas, this 4th day of August, 1947, in the year of our Lord, one thousand nine hundred and forty-seven.

BE IT REMEMBERED, That on the 4th day of August, 1947, A. D. 1947, before the undersigned, a Notary Public in and for said County, personally appeared S. P. Gray, Clerk aforesaid, to me known to be the person who executed the above Deed and acknowledges the same as County Clerk of the County of Douglas, State of Wisconsin, for and on behalf of said County for the purpose therein mentioned.
QUIT CLAIM DEED.

The County of Douglas, in the State of Wisconsin, grantor, hereby quit claims to
St. Francis Xavier's Catholic Congregation, a Wisconsin corporation,
grantee of Douglas County, in the State of Wisconsin,
for the sum of One and no/100 ($1.00) dollars,
the following tract of land in said County of Douglas, to wit: Fractional
Block Four (4), East Thirteenth Street, Town of Superior, according
to the recorded plat or plats thereof on file and of record in the office of the
Register of Deeds in and for said Douglas County, Wisconsin,

IN TESTIMONY WHEREOF, I, S. P. Gray the County Clerk of the County of Douglas, State of Wisconsin, have executed this Deed pursuant to, and in virtue of the authority in me vested by the Statutes of the State of Wisconsin, and by the order of the Board of Supervisors of said County of record in my office, on the 29th day of March, 1951, and for and on behalf of the said County of Douglas aforesaid, and have hereunto subscribed my name officially, and affixed the seal of the said Board of Supervisors, and my seal, at Superior, in said County of Douglas, this 8th day of August, 1951 in the year of our Lord, one thousand nine hundred and fifty-two.

Done in presence of

[Seal]
[Seal]
[Seal]

[Seal]

COUNTY CLERK

STATE OF WISCONSIN,
County of Douglas,

BE IT REMEMBERED, That on the 8th day of August, A. D. 1952 before the undersigned, a Notary Public in and for said County, personally appeared
S. P. Gray

S. P. Gray

Clerk aforesaid, to me known to be the person who executed the above Deed and acknowledged the same as County Clerk of the County of Douglas, State of Wisconsin, for and on behalf of said County for the purpose therein mentioned.

[Seal]

Rate Public, Douglas County, Wisconsin.


NOTARY PUBLIC

[Seal]
Alameda County, 

Personally came before me, this 3rd day of August, A.D., 1926, the above named Richard A. Gove and Emma G. Gove, his wife, to me known to be the persons who executed the foregoing instrument, and acknowledged the same.

T. E. Gay
Notary Public, Alameda County, California.
My commission expires March 31, A.D., 1920.

No. 29372

Coreita Register Davis -

Herman Stearns Davis -

FILLED for record August 26, 1926, at 2:15
o'clock P.M.

William McDougal, Register of Deeds.

This Indenture, Made by Coreita Register Davis, grantor, of Allegheny County, Pennsylvania, hereby quit claims to Herman Stearns Davis grantees, of Allegheny County, Pennsylvania, for the sum of One Dollar ($1.00) and other good and valuable considerations, the following tract of land in Douglas County, State of Wisconsin:

An undivided 2/3 interest in and to Diagram Lot 196, being the East 1/7 of the West 7/27 of the South 1/4 of the Southwest Quarter of Section 23, Township 49, Range 14, and in and to Lots 13, 14, 15, 16, 17, and 20, in Block 9, and Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, in said Township and Range, said lots in said subdivision being described according to the recorded plat of said subdivision in the office of the Register of Deeds in said county and state; and the whole title and interest in and to that part of the South 1/5 of the West 75.19 Acres of the NW of Section 34, Township 49, Range 14, lying west of the west line of Tower Avenue, in the City of Superior, Douglas County, Wisconsin.

In Witness Whereof, the said grantor has hereunto set her hand and seal this 20th day of August, A.D., 1926.

SIGNED AND SEALED IN PRESENCE OF ) Coreita Register Davis (SEAL)
Herman S. Davis )
J. F. McNeal, Jr. )
May Magee )

State of PENNSYLVANIA, )

ALLEGHENY County, )

Personally came before me, this 24th day of August, A.D., 1926, the above named Coreita Register Davis, to me known to be the person who executed the foregoing instrument, and acknowledged the same.

May Magee-Notary Public

Pittsburgh, Pa. --- Seal

My commission expires February 27th, 1929.

No. 29385

Rose E. McGraw, et al. -

Filed for record August 27th, 1926 at 2:10
o'clock P.M.

William McDougal, Register of Deeds

St. Francis Xavier's Catholic Congregation -

THIS INDEEDURE, Made by Rose E. McGraw (known before her marriage as Rose B. Russell and after marriage E. Russell), Blanche M. O'Neill (known before her marriage as Blanche M. Russell), and Grace V. Russell (known before her marriage as Grace V. Russell), Grantees, hereby Conveys and Warrants to the St. Francis Xavier's Catholic Congregation, a religious corporation, of Superior, Douglas County, Wisconsin, Grantees, for the sum of One Dollar ($1.00), and other good and valuable considerations.

Warrantly Deed

FILLED for record August 27th, 1926 at 2:10
o'clock P.M.
The South half of the West Quarter (S1/2 of W1/2) of Block One (1) of East Eleventh Street in the Townsite of Superior described according to the plat of said Townsite recorded in the office of the Register of Deeds in and for said Douglas County.

The Grantors are grand-daughters of George Lytle, deceased, and devisees under his Last Will and Testament, as to the property herein conveyed.

IN WITNESS WHEREOF, the said grantors have hereunto set their hands and seals this 5th day of August, 1926.

Signed and Sealed in Presence of
A.W. Warn (SEAL)
As to Rose B. McGraill
A. E. Lyden (SEAL)

Ralph L. Olivet
B. C. Newmark
(Chittick)

Blanche M. Chittick (SEAL)
As to Grace V. Curtis
Fred Scaha

Grace V. Curtis (SEAL)

State of Minnesota (SEAL)
Ramsey County (SEAL)

Personally came before me this 5th day of August, 1926, the
above named Rose B. McGraill to me known to be the person who executed the foregoing
instrument and acknowledged the same.

A.W. Warn
Notary Public, Ramsey County, Minnesota
My commission expires Nov. 1, 1936.

State of California (SEAL)
Alameda County (SEAL)

Personally came before me this 16th day of August, 1926, the within
named Blanche M. Chittick to me known to be the person who executed the foregoing
instrument and acknowledged the same.

Ralph L. Olivet
Notary Public, Alameda County, California
My commission expires August 26, 1927

State of California (SEAL)
San Francisco County (SEAL)

Personally came before me this 13th day of August, 1926
the within named Grace V. Curtis to me known to be the person who executed the foregoing
instrument and acknowledged the same.

Anne F. Swift
Notary Public, San Francisco County, California
My commission expires July 8, 1934

QUIT CLAIM DEED

O.R. Carlsen, et ux (blue)
Filed for record August 28, 1926, at 10:12 a.m. by
William McDonnell, Register of Deeds.

Ragnar Otsen (red)

THIS INDENTURE, made by O.R. Carlsen and Lena Carlsen, his wife, Guarantee County, Wisconsin, hereby quitclaim to Ragnar Otsen, Guarantee County, Wisconsin, for the sum of one dollar and other valuable consideration, all of the land in Douglas County, Wisconsin:

The West 25 feet of the East 50 feet of the South Half of the East Quarter of Block One (1) of East Eleventh Street, according to the plat of said Townsite recorded in the office of the Register of Deeds in and for said Douglas County.
Deed Record Vol. 156, Douglas County, Wisconsin

Received for Record this 2d day of March, A. D. 1926, at 10 o'clock a.m.

William M. Doughal Register

By

This Indenture, Made by National Improvement Company, a Corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin, granter, of Pennsylvania, and hereby agrees to sell, transfer, convey, assign, and deliver to the National Improvement Company, grantee, of Wisconsin, the following tract of land in the County of Douglas, State of Wisconsin:

The North one half of the East half of the West half of Section 22, Township 13 South, Range 5 East, in the Township of Superior, in the County of Douglas, State of Wisconsin, described according to the plat of said tract of land, recorded in the office of the Register of Deeds in said County.

In Witness Whereof, the said grantor has caused these presents to be signed by

President

Secretary

Signed and sealed in presence of

COUNTERSIGNED:

President

Secretary

STATE OF WISCONSIN

Personally came before me this 26th day of February, A. D. 1926

Notary Public

My commission expires January 3rd, A. D. 1927

No. 24,078

Received for Record this 4th day of March, A. D. 1926, at 9 o'clock a.m.

William M. Doughal Register

By

This Indenture, Made by National Improvement Company, Limited, a Corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin, granter, of Pennsylvania, and hereby agrees to sell, transfer, convey, assign, and deliver to the National Improvement Company, Limited, grantee, of Wisconsin, the following tract of land in the County of Douglas, State of Wisconsin:

The North one half of the East half of the West half of Section 22, Township 13 South, Range 5 East, in the Township of Superior, in the County of Douglas, State of Wisconsin, described according to the plat of said tract of land, recorded in the office of the Register of Deeds in said County, State of Wisconsin.

In Witness Whereof, the said grantor has caused these presents to be signed by

President

Secretary

Signed and sealed in presence of

COUNTERSIGNED:

President

Secretary

STATE OF WISCONSIN

Personally came before me this 26th day of February, A. D. 1926

Notary Public

My commission expires January 3rd, A. D. 1927

No. 24,078
QUIT CLAIM DEED

The County of Douglas, in the State of Wisconsin, grantor, hereby quit claim to

St. Francis Xavier Catholic

parish of Superior, in the County of Douglas, in the State of Wisconsin,

for the sum of $50.00.

The point of Northwest Quarter (N.W. 1/4) and one half

West Half of Northwest Quarter (W.N. 1/2), of Section

Six, T10N, R14E, in the Town of Superior, in the County of Superior, as

set forth in the records of the

County of Douglas, State of Wisconsin.

IN TESTIMONY WHEREOF, I, [signature], the County Clerk of the County of Douglas,
State of Wisconsin, have executed this Deed pursuant to, and in virtue of the authority in me vested by the Statutes of the State of Wisconsin, and by the order of the Board of Supervisors of said County, of record in my office, on the 5th day of February, 1924, and for and on behalf of the said County of Douglas aforesaid, and have hereunto subscribed my name officially, and affixed the seal of the said Board of Supervisors, and my seal, at Superior in said County of Douglas, this 5th day of February in the year of our Lord, one thousand nine hundred and twenty six.

State of Wisconsin,
County of Douglas.

BE IT REMEMBERED, That on the 5th day of February, 1924, before the undersigned, a Notary Public in and for said County, personally appeared [signature], the Clerk aforesaid, to me known to be the person who executed the above Deed and acknowledged the same as County Clerk of the County of Douglas, State of Wisconsin, for and on behalf of said County for the purpose therein mentioned.
No. 391539. Deed Record, Vol. 164, Douglas County, Wisconsin

Filed for Record the day of May—
A. D. 1926 at 3 o'clock P. M.

William Mc Dougall Register

By Deputy

This Indenture, Made by Sarah J. Hammond, tailor
unto St. Francis Xavier's Catholic Congregation
in the County of Douglas, Wisconsin, as
trustees of the same, for the sum of Fifty (50) Dollars
for and in consideration of the sum of Fifty (50) Dollars
the following tract of land in the County of Douglas, Wisconsin,
the sum of One (1) Dollar, to the grantee.

In Witness Whereof, the said grantee, ha eee, hereunto set their hand & seal & this 30th
day of April, A. D. 1926.

Signed and Sealed in Presence of

Sarah J. Hammond [Seal]
Sarah A. Wallace [Seal]
John Gillmore [Seal]

STATE OF WISCONSIN,

County of Douglas

Personally came before me this 30th day of April, A. D. 1926, the above named
Sarah J. Hammond & Sarah A. Wallace, to me known to be the person(s) who executed the foregoing instrument and acknowledged the same.

John Gillmore
Notary Public
County of Douglas


No. 391530

Filed for Record the day of May—
A. D. 1926 at 3 o'clock P. M.

William Mc Dougall Register

By Deputy

This Indenture, Made by Triphon Wassenhove & Augusta Wassenhove
unto Henry S. Butler
in the County of Douglas, Wisconsin, as
trustees of the above named
in the County of Douglas, Wisconsin, for
the sum of One (1) Dollar, to the grantee.

In Witness Whereof, the said grantee, ha eee, hereunto set their hand & seal & this 4th
day of May, A. D. 1926.

Signed and Sealed in Presence of

Triphon Wassenhove [Seal]
Augusta Wassenhove [Seal]

STATE OF WISCONSIN,
Deed Record, Vol. 166, Douglas County, Wisconsin

Lots nineteen (19), twenty-one (21), twenty-six (26), twenty-eight (28), thirty (30) and thirty-two (32) in paragraphed subdivision of East half of Block one (1) on East Eleventh Street, according to the plat of said subdivision on file or of record in the office of the Register of Deeds in and for said Douglas County, Wisconsin.

And I, said Bertha K. McCausland, being the widow of said Edwin F. McCausland, for a valuable consideration to me moving, do hereby in my own right quitclaim the said premises and release my every interest therein to said St. Francis Xavier's Catholic Congregation its successors and assigns.

TO HAVE AND TO HOLD the above bargained premises to the said grantee, its successors and assigns forever.

IN WITNESS WHEREOF, I, said Bertha K. McCausland have to this instrument set my hand and seal as Administratrix as aforesaid, and have also hereunto set my hand and seal in my own right this 17th day of March, 1926.

In presence of:

A. R. Cole
Agnes Holmes

As Administratrix of the estate of Edwin F. McCausland, deceased,

Bertha K. McCausland (Seal)

State of Wisconsin
Douglas County,
Persomly came before me, this 24th day of March, 1926, the above named Bertha K. McCausland, known to me to be the person who executed the foregoing instrument, both in her own right and as Administratrix of the estate of Edwin F. McCausland, deceased, and she acknowledged the same.

A. R. Cole
Notary Public, Douglas County, Wisconsin
My commission expires 3-24-1926

290638
Edward Swenson, Jr.  Piled for record March 29th, 1926 at 9:10 o'clock A.M. to
Edward Swenson, Senior

OK NOW ALL Men BY THESE PRESENTS, that the grantor, Edward Swenson, Junior (unmarried), residing in the City of Duluth, County of St. Louis and State of Minnesota, for and in consideration of the sum of one dollar and other valuable considerations to him in hand paid, does hereby convey, release and quitclaim to Edward Swenson, Senior of Duluth, St. Louis Co., Minnesota, all his interest in and to the following described real estate, to wit:

Lots eight (8), nine (9), ten (10), eleven (11), twelve (12), thirteen (13), and fourteen (14) Block Twelve (12), Twenty-six (26), Seventeen (17) on Lake Nebagamon, according to the recorded plat thereof on file and of record in the office of the Register of Deeds in and for Douglas County, State of Wisconsin, situate in the County of Douglas and State of Wisconsin.

Dated at Duluth, Minnesota this 28th day of March A.D. 1926.

Signed, sealed and delivered in presence of:

Edward Swenson, Jr. (Seal)

Walter C. Lundquist
Oliver Remstrom

State of Minnesota
County of St. Louis,

On this 28th day of March A.D. 1926, before me a Notary Public, within and for said County, personally appeared Edward Swenson, Junior (unmarried) to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

Oliver Remstrom
Notary Public, St. Louis County, Minn.
My commission expires Nov. 29, 1926
No. 222540
Deed Record, Vol. 164, Douglas County, Wisconsin

Filed for record the 15th day of September, A. D. 1926 at 6:30 o'clock A. M.

TO

St. Francis Xavier's Catholic Congregation

This Indenture, Made by Mary M. Rogers, (Maid) of Minnesota, grantee of St. Paul, Ramsey, a religious corporation, and conveys and warrants to St. Francis Xavier's Catholic Congregation, a religious corporation, of Douglas County, State of Wisconsin, the sum of One Hundred and Eighty-seven and 50/100 Dollars ($187.50) for the following tract of land in the County of Douglas, State of Wisconsin:

Lot Seventeen (17) on East Eleventh Street and Lots Eighteen (18), Twenty (20), Twenty-two (22) and Twenty-four (24) on East Twelfth Street, in Hendricks Subdivision of the East half of Block One (1) on East Eleventh Street in the Township of Superior, in the City of Superior, described according to the plat of said subdivision recorded in the office of the Register of Deeds in and for said Douglas County.

In Witness Whereof, the said grantor has hereto set her hand and seal this 10th day of September, A. D. 1926.

Mary M. Rogers [Seal]

McNeil V. Seymour [Seal]

Vincenzo L. O'Connor [Seal]

State of Minnesota, Ramsey County

Personally came before me this 10th day of September, A. D. 1926 the above named Mary M. Rogers...

To me known to be the person who executed the foregoing instrument and acknowledged the same.

McNeil V. Seymour [Seal]

Notary Public

Ramsey County, Minnesota

My Commission expires Aug. 21, A. D. 1926

No. 223553

This Indenture, Made by Swan J. Johnson, et ux., and Emma Elizabeth Clark, the following tracts of land in the County of Douglas, State of Wisconsin:

Lots Twenty-four (24) and Twenty-five (25), of Block Five (5), Town of Superior, First Division, in the City of Superior, according to the plat of said Division recorded in the office of the Register of Deeds of said Douglas County.

In Witness Whereof, the said grantor has hereto set their hands and seals this 26th day of August, A. D. 1926.

Signed and Sealed in Presence of

P.A. Beaman [Seal]

Clifford A. Traeder [Seal]

State of Wisconsin, Douglas County

Personally came before me this 26th day of August, A. D. 1926 the above named Swan J. Johnson and Emma Johnson, his wife.

To me known to be the person who executed the foregoing instrument and acknowledged the same.

P.A. Beaman [Seal]

Douglas County Notary Public

Clifford A. Traeder [Seal]

Emma Johnson [Seal]
Wisconsin Historical Society
Determination of Eligibility Form

WHS #: 12-1024/po

Property Name(s): Ojibwe Reburial Area, St. Francis Cemetery (BDG0024)
Address/Location: 31st Avenue East
City & County: Superior, Douglas
Zip Code: 54880
Town: 49N Range: 13W Section: 31 Date of Construction: 1918

Department of State Certification

As the designated authority under the National Historic Preservation Act, as amended, I hereby certify that this request for Determination of Eligibility:

___ Meets the National Register of Historic Places criteria.
___ Does not meet the National Register of Historic Places criteria.

US Department of State Date

State Historic Preservation Office

In my opinion, the property:

___ Meets the National Register of Historic Places criteria.
___ Does not meet the National Register of Historic Places criteria.

Michael E. Stevens, State Historic Preservation Officer Date

Comments (FOR AGENCY USE ONLY):

Division of Historic Preservation
Wisconsin Historical Society
816 State Street
Madison, WI 53706
**Classification:**

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<th>Ownership</th>
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<th># of Non-Contributing</th>
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**Function/Use:**

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**Architectural Style(s):**

**Criteria:**

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<th>E (reconstruction)</th>
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<td>F (commemorative)</td>
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<td>C (birthplace/grave)</td>
<td>G (&lt;50 years old)</td>
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<td>D (cemetery)</td>
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**Areas of Significance:**

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<td>Architect/Builder:</td>
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**Criteria Considerations:**

**ATTACHMENT CHECKLIST**

- [x] Historic boundary map
- [x] Labeled, professionally printed color photographs
- [x] USGS map with UTM coordinates
Name and location: St. Francis Cemetery (BDG0024), Town of Superior, Douglas County, Wisconsin

Property Info:
Acreage of Property: 1.9 acres

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Verbal Boundary Description:
The historic boundary for the Ojibwe Reburial Area, St. Francis Cemetery (BDG0024), generally forms a quadrangle with two sides that trend east to west and two that trend northeast to southwest; the north bank of the Nemadji River serves as the southern boundary. The boundary encompasses 1.9 acres. It is located in T49N, R13E, section 31, in the City of Superior, Douglas County. The boundary has been established based on lines of convenience. More specifically, the point of beginning, along the north shore of the Nemadji River, is 2,818 feet east and 4,397 feet north of the southwest corner of Section 31, T49N, R13W. Starting at the southwest corner (N5171070 E573064), proceed northeast at 24 degrees for 260 feet. Then proceed east at 93 degrees for 450 feet. Then proceed southwest at 228 degrees for 280 feet. Then proceed west along the northern Shore of the Nemadji River for approximately 350 feet to the point of beginning.

Boundary Justification:
The St. Francis Cemetery (BDG0024), in its entirety, is 18.30 acres in area and is located in T49N, R13E, Sections 30 and 31 (Figure 1). It is said to include over 1,500 burials (Mathis et al. 2009:98; Rolland Plunkett, sexton, personal communication). While most of the cemetery does not meet National Register of Historic Places (NRHP) eligibility criteria (Sherman Banker, Wisconsin Historical Society, letter dated March 7, 2013), the southern-most section that includes approximately 198 Ojibwe reburials is significant. Referred to as Ojibwe Reburial Area, St. Francis Cemetery (BDG0024), delineation of this area is based on field observations, literature review and informant interviews. A boundary has been established to ensure all reburied Ojibwe graves are included. Research has indicated that not all Ojibwe reburials are marked, so to ensure all graves are included in the Ojibwe Reburial Area it is unavoidable to include some European Americans graves.

Figures: Photos were taken by Allison Lange Mueller, December 2012
1. Location of the Ojibwe Reburial Area, St. Francis Cemetery (BDG0024), T49N, R13W, Section 31
2. Historic Boundary, NRHP Evaluated Ojibwe Reburial Area, St. Francis Cemetery (BDG0024), T49N, R13W, Section 31
3. Ojibwe Reburial Area, St. Francis Cemetery (BDG0024), View West to Southwest Facing Commemorative Sign, Central of Ojibwe Reburial Area
4. Ojibwe Reburial Area, St. Francis Cemetery (BDG0024), View West to Northwest from Southwest Corner of Ojibwe Reburial Area
5. Ojibwe Reburial Area, St. Francis Cemetery (BDG0024), View East from North Bank of River Toward Central Section of Ojibwe Re-burial Area.
6. Ojibwe Reburial Area, St. Francis Cemetery (BDG0024), View West from North Side of Commemorative Sign Showing Grave Markers
7. Ojibwe Reburial Area, St. Francis Cemetery (BDG0024), View West from South Side of Commemorative Sign Showing Grave Markers
8. St. Francis Cemetery (BDG0024), View Southeast of Stephen Bungo Commemorative Plaque
9. St. Francis Cemetery (BDG0024), View South to Southeast of Early Pioneers of Superior Memorial Plaque
10. Ojibwe Reburial Area, St. Francis Cemetery (BDG0024), View West to Southwest of Commemorative Ojibwe Reburial Sign Displaying "Spirit Offering"

Methodology:
The St. Francis Cemetery (BDG0024) (Figure 1) was identified through Phase I cultural resource survey (Doperalski et al. 2008) associated with the Enbridge Pipelines Alberta Clipper and Southern Lights Diluent pipelines projects. Based on a subsequent Phase II evaluation The 106 Group Ltd. concluded that the St. Francis Cemetery (BDG0024) is potentially NRHP eligible (Mathis et al. 2009:98-105). In December of 2012 as part of Determination of Eligibility (DOE) preparation, Commonwealth Cultural Resources Group, Inc. (CCRG) staff visited the Wisconsin Historical Society (WHS) to discuss the property with NR Coordinator Daina Penkiunas. Dr. Penkiunas advised CCRG staff of the NRHP eligibility requirements for cemeteries, noting that cemeteries are often found eligible under Criterion C, and those evaluated under Criteria A, B or C must also be justified under NRHP Criteria Consideration D. During this same visit CCRG staff reviewed the Superior Terminal Enhancement Project file (reference SHSW #08-0352), and were unable to find a project-related "Request for SHPO Comment and Consultation on a Federal Undertaking" specific to this project. As such, there appears to have been no SHPO comment on potential significance, and CCRG proceeded with DOE preparation. Through continuing consultation with WHS staff, in correspondence dated March 7, 2013 Mr. Sherman Banker reported that "while the larger St. Francis Cemetery is not eligible, the smaller area devoted to Native American reburials may be eligible under criterion A in the area of social history." Consequently, CCRG proceeded with preparation of a DOE for the Ojibwe Reburial Area (Figure 2) in accord with this direction.

Determining the legal boundary of the St. Francis Cemetery (BDG0024) was the initial step taken to understand context and assess significance (Figure 1). To achieve accurate boundary delineation, CCRG accessed the Douglas County land records (Douglas County 2012a and 2012b) to retrieve parcel ownership information, and next CCRG secured the deeds for the several parcels that make up the St. Francis Cemetery. Interpretation of this GIS-formatted parcel ownership data was used as the primary rationale for boundary delineation. As it was discovered, the cemetery is divided into four legal parcels,
two of which are owned by the St. Francis Cemetery, and two by the St. Francis Xavier Catholic Church. Further, it was discovered that the Old City Cemetery (BDG0023), as designated by the WHS, is owned by the St. Francis Xavier Catholic Church and is actually part of the St. Francis Cemetery (BDG0024). With regard to the Ojibwe Reburial Area (Figure 2), it is situated entirely in parcel 963752 owned by the St. Francis Cemetery.

Research for this DOE preparation is based on literature and records review, informant interview and field investigation. With regard to literature references, the investigation relied in part on a historic context developed by Mathis et al. (2009:86-105). As to site records, field observations documented in field notes taken by John Broihahn, Office of the State Archaeologist (on file at the WHS), provided extensive information about the property. An informant interview was conducted in December of 2012 with Rolland Plunkett, St. Francis Cemetery sexton. In this interview, in response to the question about the Ojibwe Reburial location, Mr. Plunkett said the burials are confined to the southernmost part of the cemetery "next to the Nemadji River" (Figures 3, 4, 5 and 6). Asked if he had observed human remains eroding along the embankment in this area, he responded by saying "yes, but I haven't seen any bones lately" (Rolland Plunkett, personal communication, December 26, 2012). Finally, the field phase of investigation, conducted in December of 2012, attempted to ascertain the extent of the Ojibwe Reburial Area based on visual observation.

**Narrative Description:**

**INTRODUCTION**

The St. Francis Cemetery (BDG0024) is located along the southeast side of 31st Avenue East, and north and adjacent to the Nemadji River (Figure 1). It is 18.3 acres in area and its main point of entry is a gravel drive marked by a wooden entrance sign situated along 31st Avenue East. It is estimated to include over 1,500 burials (Mathis et al. 2009:98; Rolland Plunkett, sexton, personal communication). While much of the cemetery is lawn covered, it is partially wooded in aspen, northern hardwoods and pines near the Nemadji River and in its eastern corner. Further, there are rows of mature spruce in its northern section. It is best described as a lawn cemetery (Potter and Boland 1992), lacking elaborate landscape elements or architectural features. Headstones are loosely arranged in columns and rows and include “stele, tablet, slant, obelisk, and flat markers. The most common materials for the markers are marble and granite, although other materials can be found" (Mathis et al. 2009:87).

Regarding the physical landscape, the cemetery is flat to gently rolling forming a terrace along the Nemadji River. The edge of this terrace – the location of the Ojibwe Reburial Area in the southernmost part of the cemetery – descends sharply into the Nemadji River (Figures 5, 6 and 7). In documentation which summarizes his June 15, 2009, visit to the St. Francis Cemetery, State Archaeologist John Broihahn, WHS, provided a description of the reburial area (on file at the Office of the State Archaeologist, WHS):
The reburial area sits on the SW corner of the older sections of St. Francis Cemetery (BDG-24). The newer burials are occurring closer to the road (31st Avenue). The original and oldest part of the St. Francis is immediately east of the reburial area. When the reburials occurred the area was a level terrace with a sharp, steep break to the Nemadji River. There are images of the setting (see Bob Miller). Today the southwest corner of the older part of the cemetery is bordered on the west and the south by the eroding slope. This area is being eroded because it is on the outside of an oxbow as well as being on the downstream side of the oxbow. So, the river is migrating – eroding to the north and the east. The slope is eroding via slump blocks.

There are two memorial plaques within the southern half of the cemetery, though both are situated outside the Ojibwe Reburial Area (Figure 2). The first plaque commemorates Stephen Bungo (1798-1884), an early resident of area of Ojibwe and African American ethnicity (Figure 8). As noted by Mathis et al. (2009:92):

Bungo's [sic] grandfather was brought to Sault St. Marie as a slave who worked in the fur trade. Bungo's father married a native woman and lived on Madeline Island and Wisconsin Point. Bungo was educated in Albany, New York, as a Presbyterian missionary but followed in his father's and grandfather's footsteps by getting involved in the fur business.

The second bronze plaque (Figure 9) commemorates “early pioneers of Superior” and reads: “On this hillside rest many of the early pioneers of Superior. Their records have perished. But the city they helped build endures and is their monument. Burials from 1854 – 1895.” To better understand why this monument was placed, local historian Judith Mooney Lindgren was interviewed (December 2012). Ms. Lindgren is listed as the transcriber for “The St. Francis Cemetery, East Superior, Douglas, WI” (Douglas County 2002). Asking Ms. Lindgren if she had knowledge of the burials commemorated by this plaque, she said she is aware of why it was placed. She stated that the burials in this location were moved to the St. Francis Cemetery from an “old city cemetery” that was located near the St. Louis River in Superior. As she understands it, in the late 1950s the US Department of Transportation began the process of constructing what was originally known as the High Bridge (later renamed the John A. Blatnik Bridge). Ms. Lindgren said that there was an “old city cemetery” located on the Wisconsin side of what was to be the foot of the new bridge. Consequently, sometime in the late 1950s all the burials at the “old city cemetery” were exhumed. As she reported, those remains not claimed by family members were reinterred at the St. Francis Cemetery near the monument described above. The ethnicity of those buried in the area is unknown. However, it can be inferred that the burials likely reflect the ethnic make-up of late nineteenth-century Superior, which at the time appears to be predominantly people of Swedish, Norwegian, Finnish, Polish and Russian descent (Wyatt 1986).
There is a third commemorative sign within the cemetery, that is, a wooden sign set on wooden posts placed on the terrace above the bank of the Nemadji River (Figure 3). This sign commemorates the approximately 198 Ojibwe burials disinterred from Wisconsin Point (47DG0024), located approximately two miles northeast of St. Francis Cemetery. The sign reads: “Burial Ground of Chippewa Indians 1854 – 1915. Donated by the Superior Indian Organization 1980.” As summarized by Mathis et al. (2009:102):

The Native American burials within the St. Francis Cemetery were repatriated from a site approximately two miles northeast, near the northwestern end of the Wisconsin Point peninsula that extends into the Superior-Duluth Harbor. That site was one of the burial grounds of the Chippewa starting in the seventeenth century. An unknown number of the approximately 200 graves removed from Wisconsin Point were moved to St. Francis Cemetery in 1918.

Further information is found in a letter written on May 14, 2002, by Commander Gary A. O’Keefe, United States Army Corps of Engineers (on file at the Office of the State Archaeologist, WHS):

The U.S. Steel Corporation came into possession of the property [Wisconsin Point], with plans to build a dock there. In 1918, the remains of approximately 198 Ojibwe people were exhumed and removed to the St. Francis Cemetery in Superior; many other graves remain on the Point. Gradually, the Indians remaining on Wisconsin Point were removed as well. Chief Osawge’s descendants lost a battle in the Wisconsin state courts over the property.

While the method of reburial is not completely clear, interviews with Native informants conducted by John Broihahn, noted in the documentation of his 2009 site visit, suggest that the remains exhumed from Wisconsin Point were in “caskets moved to St. Francis on a scow” (on file at the Office of the State Archaeologist, WHS). In absence of a specific reference, it is not known if the reburials were afforded ritual inhumation specific to Ojibwe mortuary practices. Regarding grave markers, some of reburials appear marked by headstones and concrete crosses, many are slumping toward the Nemadji River (Figures 5 and 6), and many have likely been lost to erosion and washed into the river. With regard to the Ojibwe Reburial Area plots, though references to location are imprecise (Mathis et al. 2009:102), no evidence suggests the reburials were placed anywhere other than the terrace adjacent to the eroding slope that extends southward toward the Nemadji River. In a video taken during his 2009 visit to the St. Francis Cemetery (BDG0024), Mr. Paul DeMain examines the eroding slope and recovers two fragments of bone that he said appear human (DeMain 2009). Additional confirmation is found in the aforementioned documentation of John Broihahn’s 2009 site visit, where he cites an informant who spoke of observing human remains having eroded into the river at this location. Finally, as mentioned earlier, Cemetery sexton Rolland Plunkett noted that the location of the Ojibwe Reburial Area is immediately
Name and location: St. Francis Cemetery (BDG0024), Town of Superior, Douglas County, Wisconsin

adjacent to the Nemadji River, and acknowledged that in the past he had observed human remains eroding into the river.

To summarize, the St. Francis Cemetery (BDG0024) conforms to the description of "perpetual lawn cemeteries" as described by Potter and Boland (1992:4), cemeteries that exhibit common open space and absence of monuments. It was established circa 1883 and continues to be actively used, and may include more than 1,500 burials. It is nominally maintained with lawn areas mowed, though fallen headstones were noted in the southern section, that is, the older section of the cemetery.

Narrative Statement of Significance:

Although the cemetery has three notable aspects, though only one conveys significance that addresses NRHP eligibility criteria, it eligible only under Criterion A for the Social History associated with the Ojibewa people. However the cemetery was considered potentially eligible under Criterion B for its association with significant people.

The cemetery is the burial place of Stephen Bungo (Figures 2 and 8), a notable resident of Superior – and Wisconsin Point – of Ojibwe and African-American heritage who lived in the area during the nineteenth century and was buried here in 1884. Mathis et al. (2009:95) have argued that Stephen Bungo, fur trader, interpreter and missionary of Ojibwe and African American descent is a person of transcendent importance because "he acted as a bridge between Native Americans and Euro-Americans during a time of major change." Certainly, Bungo was a noteworthy figure but he does not rise to the level of transcendent importance in the history of Superior or the broader region. Consequently, the St. Francis Cemetery is not eligible under Criterion B.

Further, the southern section of the cemetery includes an unknown number of European American graves – reburials – that date to the late nineteenth and early twentieth centuries (Figures 2 and 9). The burials from this cemetery were purportedly exhumed and moved to the St. Francis Cemetery, in the late 1950s, from a cemetery along the St. Louis River in Superior that was moved to make way for bridge construction. With regard to European American residents, it is noted that many individuals important in Superior's early development "likely" are buried here (Mathis et al. 2009:92). There is no evidence, however, that the cemetery includes those who played pivotal roles in the city's development, nor that the cemetery contains those who were part of any particular group dominant in the city's ethnic character. As such, this aspect of the cemetery does not meet the requirements of Eligibility Criterion B.

While neither the Bungo grave nor the graves of early European American settlers elevate the St. Francis Cemetery (BDG0024) to meet the requirements of NRHP eligibility, the Ojibwe Reburial Area within the cemetery is clearly notable, imminently threatened and unquestionably significant.
Criterion A: Social History

When first encountered by Europeans, the Ojibwe resided to the east of what is now Wisconsin in the region which surrounds Sault Ste. Marie, now in Michigan’s Upper Peninsula (Wyatt 1988:2-1). Gradually, during the mid- to late seventeenth century, the influences of European presence caused the Ojibwe to move westward to the Chequamegon Bay area. The movement of Ojibwe groups, along the Lake Superior shore and inland, continued into the eighteenth century and led to warfare with and displacement of resident Eastern Dakota. Though the Ojibwe were regionally dominant within and beyond the Lake Superior basin during the late eighteenth century, by the early to mid-nineteenth century the pressure of European American interests – resource exploitation and settlement – altered and affected Ojibwe lifeways. These pressures led to a series of treaties with the Ojibwe, treaties that ostensibly created a trust relationship between the Ojibwe and the United States, but more realistically served to control, exploit and confine Ojibwe to reservations. Through the terms of these treaties, particularly the 1842 Treaty of LaPointe, the Ojibwe ceded their territory in Michigan, Minnesota and Wisconsin to the United States, yet reserved rights that allowed them to pursue traditional subsistence and cultural practices within their ceded territories. While treaties called for the movement of Ojibwe to designated reservations, the relocation occurred over time and with considerable adversity to the Ojibwe. As noted by Carol I. Mason (1988:285):

Removal did not begin with the signing of treaties, and often it was years before Indians appreciated that they were expected to vanish as the land was sold to others. Settlers, moving in and clearing farms often regarded Indians as nuisances, especially when the land Indians used for villages and cropland was ideal for modern agriculture. Villages were sometime sold from under the Indians, and they were told to go away.

Wisconsin Point, a narrow peninsula that extending into Lake Superior, had been occupied by Ojibwe since at least the early nineteenth century (Gerry Smith, Lac Vieux Desert Band Tribal Historic Preservation Officer, personal communication). As summarized in the Wisconsin Historic Preservation Database (State Archaeological Site Inventory Number 47DG0024), Ojibwe occupation indeed extended back to the early nineteenth century and is distributed over much of this point. Features associated with this occupation include dwelling foundations, subsistence-related features, and a large cemetery. With United States jurisdiction established through the Treaty of LaPointe, in 1854 Joseph A. Bullen received a patent for Wisconsin Point though it was still occupied by an Ojibwe community. Ownership disputes continued for years with resolution having been reached in 1924:

Following a lengthy hearing Judge W.R. Foley [Supreme Court of Wisconsin] on October 28, 1924, rendered a decision stating that the Agate Land Company [subsidiary of United States Steel Corporation] had clear title to the land with the exception of the streets, belong to the City of Superior, and the small strip in Independence Square, which Frank Lemieux and his descendants had actually occupied since 1846. That bit of land, no
more than 150 by 80 feet, was awarded the Lemieux heirs [Zander 1924].

United States Steel Corporation’s interest in acquiring Wisconsin Point was driven by their goal of constructing docks to facilitate the transport of ore and other materials through the Twin Ports of Superior and Duluth, one of the Great Lakes’ busiest ports. Though their ownership was still being disputed at the time by the Ojibwe, in 1918 United States Steel Corporation initiated the removal of Ojibwe burials from Wisconsin Point. As recounted by Steve Kuchera (2003):

In 1914, area Ojibwe petitioned President Woodrow Wilson and Indian Commissioner Cato Sells for help in the ownership dispute. "We do with horror contemplate being torn from the property of our fathers on Wisconsin Point, our dear honored dead removed and the sacred cemetery desecrated," they wrote. "Seven generations and more lie buried in this cemetery, including Chief O-sa-gie." But corporate interests prevailed, and the Ojibwe and some of their graves were moved.

There has been and continues to be considerable media coverage of events that led to the removal of Wisconsin Point graves for reburial in St. Francis Cemetery (BDG0024), both local and state-wide, and this focus is testimony to the importance of these events. The WHS Archaeology and Burial Site Files (47DG0024; BDG0045) contains a plethora of newspaper stories, including the more recent such as the one above, as well as earlier stories that followed removal of the burials:

The United States Steel Corporation, through subsidiaries, has been prepared for many years to expend approximately $20,000,000 on gigantic loading docks for the big lake boats but has been held up by the refusal of descendants of the Indians who still occupy a portion of the peninsula. A few years ago the Steel Corporation even stood the expense of removing an Indian graveyard from the point to the mainland [Zander 1924].

The Ojibwe Reburial Area, St. Francis Cemetery (BDG0024) and the Wisconsin Point site (47DG0024) are both considered sacred by the Ojibwe (Mr. Jerry Smith, Tribal Historic Preservation Officer, Lac Courte Oreille Band, personal communication). A likely sign of this reverence a "spirit offering" in the form of a fabric bracelet affixed to the memorial sign (Figure 10), was observed during a December 2012 site visit. Beyond the issue of sanctity, however, the Ojibwe Reburial Area, St. Francis Cemetery (BDG0024) conveys remarkable historical significance in that it speaks to an important period in the history of the Ojibwe people. As Mathis et al. (2009:96) have noted, this location is "the embodiment of the forced removal of Native Americans from their homelands on the shores of Lake Superior during the late nineteenth and early twentieth century to allow for the Euro-American settlement and development of Superior" (Mathis et al. 2009:96-97). Clearly, these events must be considered of outstanding importance in "reflecting the significant cultural currents of the time" (Potter and Boland 1992:11). The Ojibwe Reburial Area, St. Francis Cemetery (BDG0024), qualifies for the NRHP under Criterion A in the area of
Social History, at the local level, because of its association with the Ojibwe reburied at this location in 1918, that is, the historical significance of the treatment of Native peoples during the expansion of European American settlement and control within the ceded territory of northwestern Wisconsin.

Criteria Consideration D: Significance from graves of persons of transcendent importance, from age, from distinctive design features, of from association with historic events

The Ojibwe Reburial Area, St. Francis Cemetery (BDG0024) was additionally evaluated under Criterion Consideration D which requires that a cemetery “derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, of from association with historic events” (Potter and Boland 1992: Glossary). While the larger cemetery is not distinctive in design, and it lacks evidence of graves associated with individuals of transcendent importance, the Ojibwe Reburial Area, St. Francis Cemetery (BDG0024) is associated with an important local event, one that clearly rises to the level of significance. Consequently, the St. Francis Cemetery (BDG0024) meets NRHP Criteria Consideration D. Along with meeting NRHP Criterion Consideration D, the issue of cemetery protection, detailed in the provisions of Wisconsin Statute 157.70, must be addressed.

CRM Context Chapters:

<table>
<thead>
<tr>
<th>Historic Indians: Chippewa/Ojibwa</th>
<th>Settlement: Swedes, Norwegians, Finns, Polish, Russian</th>
</tr>
</thead>
</table>

Bibliography:

Doperalski, M., J.M. Mark, M. Van Fleet and S. Van Eren

DeMain, P.

Douglas County Wisconsin


Name and location: St. Francis Cemetery (BDG0024), Town of Superior, Douglas County, Wisconsin

Kuchera, S.

Mathis, G. S., Van Erem, and D. Woodward

Mason, C.I.

Potter, E.W. and B.M. Boland

Wyatt, B.L., ed.

Zander, H.R.

Determination of Eligibility Prepared By:
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Email: mbruhy@ccrginc.com
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Zip: 53209
Date: March 2013

Sub-contracting to:
Natural Resource Group, LLC
Address: 1000 IDS Center; 80 S. Eighth St
City: Minneapolis State: MN
Email: jppincoske@nrg-llc.com
Phone: (612) 347-6789
Zip: 55402
Date: March 2013
Figure 1. Location of the Ojibwe Reburial Area, St. Francis Cemetery (BDG0024), T49N, R13W, Section 31
Figure 2. NRHP Evaluated Ojibwe Reburial Area, St. Francis Cemetery (BDG0024), T49N, R13W, Section 31
Figure 3. Ojibwe Reburial Area, St. Francis Cemetery (BDG0024), View West to Southwest Facing Commemorative Sign, Central of Ojibwe Reburial Area

Figure 4. Ojibwe Reburial Area, St. Francis Cemetery (BDG0024), View West to Northwest from Southwest Corner of Ojibwe Reburial Area
Figure 5. Ojibwe Reburial Area, St. Francis Cemetery (BDG0024), View East from North Bank of River Toward Central Section of Ojibwe Reburial Area

Figure 6. Ojibwe Reburial Area, St. Francis Cemetery (BDG0024), View West from North Side of Commemorative Sign Showing Grave Markers
Figure 7. Ojibwe Reburial Area, St. Francis Cemetery (BDG0024), View West from South Side of Commemorative Sign Showing Grave Markers

Figure 8. St. Francis Cemetery (BDG0024), View Southeast of Stephen Bungo Commemorative Plaque
Figure 9. St. Francis Cemetery (BDG0024), View Southeast of Early Pioneers of Superior Memorial Plaque

Figure 10. Ojibwe Reburial Area, St. Francis Cemetery (BDG0024), View West to Southwest of Commemorative Sign Displaying "Spirit Offering"
ST. FRANCIS XAVIER CHURCH
2316 East Fourth Street
Superior, Wisconsin 54880
(715) 398-7174

Wisconsin Historical Society Preservation Board
816 State Street
Madison, WI, 53706

July 1, 2021

To the Wisconsin Historical Society Preservation Board:

This letter acknowledges the full approval of the St. Francis Xavier Catholic Congregation in Superior, Wisconsin in the support of the land transfer of the known, documented boundaries of the Ojibwe mass burial grounds near the St. Francis Cemetery in Superior, Wisconsin. This land would be transferred into Trust to the Fond du Lac Band of Lake Superior Chippewa.

In 1918 Ojibwe graves were disinterred from Wisconsin Point and moved to land adjacent to the Saint Francis Cemetery. The Congregation of Saint Francis Xavier has worked with members of the Band to encourage their caring for this burial land. Therefore, the Congregation strongly supports the transferal into Trust of this property.

The above resolution has been approved by the pastor of the Saint Francis Xavier Catholic Congregation with proper advisement from the Trustees, the Parish Council and the Cemetery Board of the Congregation. Thank you for your assistance in the management and care concerns of the Chippewa burial project.

Sincerely,

Very Reverend James F. Tobolski
Pastor, St. Francis Xavier Congregation
Superior, Wisconsin
RESOLUTION NO. 21-_____

RESOLUTION PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF $4,250,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2021B OF THE CITY OF SUPERIOR, WISCONSIN; ESTABLISHING THE TERMS AND CONDITIONS THEREOF; DIRECTING THEIR EXECUTION AND DELIVERY; CREATING A DEBT SERVICE ACCOUNT THEREFOR; AND AWARDING THE SALE THEREOF

BE IT RESOLVED, by the Common Council of the City of Superior, Douglas County, Wisconsin (the "City"), as follows:

Section 1. Bonds Purpose, Authorization, and Award.

1.01 Under and pursuant to the provisions of Wisconsin Statutes, Section 67.04(3), the City is authorized to issue and sell its general obligation refunding bonds for the purpose of refunding any municipal obligation.

1.02 The City has previously issued its $6,420,000 General Obligation Corporate Purpose Bonds, Series 2011B, dated October 25, 2011 (the "2011 Bonds"). The 2011 Bonds were authorized and issued pursuant to Wisconsin Statutes Section 67.04 to (a) finance the City’s 2012 and 2013 street improvements program for various streets throughout the City; (ii) finance improvements to Moccasin Mike Landfill; and (iii) finance a new fire engine and other equipment for the Fire Department (collectively, the “Project”); and the refunding of the City’s $1,100,000 General Obligation Corporate Purpose Bonds, Series 2002B (the “2002B Bonds”).

1.03 Pursuant to the Wisconsin Statutes, Section 67.04(3), the Common Council hereby determines that, in order to reduce debt service costs on the 2011 Bonds, the City issue its $___________ General Obligation Refunding Bonds, Series 2021B (the “Bonds”), to:

A. refund the outstanding 2011 Bonds maturing on or after October 1, 2022, of which $4,195,000 in principal amount is hereby called for prepayment and redemption on October 1, 2021 (the "Redemption Date"); and

B. pay the costs of issuance thereof.

The outstanding 2011 Bonds maturing on and after October 1, 2022, are collectively referred to herein as the "Refunded Bonds."

1.04 Proceeds of the Bonds in the amount of:

A. $___________ will be attributable to financing the 2012 and 2013 Street Improvement Program (the “Street Improvement Portion of the Bonds”);

B. $___________ will be attributable to the improvements to the Moccasin Mike Landfill (the “Landfill Improvement Portion of the Bonds”);

C. $___________ will be attribute to the equipment for the Fire Department (the “Fire Department Portion of the Bonds”); and
D. $________ will be attributable to the refunding of the 2002 Bonds (the “Refunding Portion of the Bonds”).

The principal amount of the Bonds allocated to the Street Improvement Portion of the Bonds, the Landfill Improvement Portion of the Bonds, the Fire Department Portion of the Bonds; and the Refunding Portion of the Bonds shall be allocated as set forth on Exhibit A attached hereto.

1.05 Notice of the public sale of the Bonds has been provided in the Bond Buyer prior to the date hereof, which notice of sale is satisfied and confirmed.

1.06 The City has duly received bids for the Bonds including the bid of __________, of __________ (the “Purchaser”), to purchase the Bonds at a cash price of $____________, plus accrued interest on the total principal amount from August 19, 2021, to the date of delivery of the Bonds and upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such bid reasonable and proper and the best bid, and the bid of the Purchaser is hereby accepted. The Mayor and the City Clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser’s bid. All actions of the Mayor, the City Clerk and Ehlers & Associates, Inc., independent municipal advisor to the City, taken with regard to the sale of the Bonds are hereby ratified and approved.

Section 2. Terms and Form of the Bonds.

2.01 A. The Bonds to be issued hereunder shall be dated August 19, 2021, as the date of original issue, shall be issued in the denomination of $5,000, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall bear interest at the annual rates indicated below and shall mature on the following dates in the following maturity dates and amounts:

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B. The Bonds maturing on October 1 in the years 20__, 20__ and on 20__ shall be subject to mandatory redemption prior to maturity pursuant to the requirements of this Section 2.01B at a redemption price equal to the stated principal amount thereof plus interest accrued thereon to the redemption date, without premium. The Fiscal Agent, as designated below, shall select for redemption, by lot or other manner deemed fair, on June 1 in each of the following years the following stated principal amounts:
For Bonds maturing on October 1, 20__ (the “20__ Term Bonds”):

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* Final Maturity

For Bonds maturing on October 1, 20__ (the “20__ Term Bonds”):

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* Final Maturity

For Bonds maturing on October 1, 20__ (the “20__ Term Bonds”):

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</table>

* Final Maturity

2.02 The Bonds maturing, or subject to mandatory redemption, in the years 2022 through 2027 shall not be subject to optional redemption and prepayment before maturity, but those maturing, or subject to mandatory redemption, in the year 2028 and in subsequent years shall be subject to redemption and prepayment at the option of the City on October 1, 2027, and on any day thereafter, in whole or in part, and if in part, at the option of the City and in such manner as the City shall determine. If less than all the Bonds of a maturity are called for redemption, the City, through the Fiscal Agent, will notify The Depository Trust Company, Jersey City, New Jersey (“DTC”) of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant’s interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest. No more than 60 days and no fewer than 30 days prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed, at the address shown on the registration books of the City.

2.03 The Bonds shall bear interest at the annual rates stated therefor in Section 2.01. The interest shall be payable semianually on April 1 and October 1 in each year (each herein referred to as an “Interest Payment Date”) commencing on April 1, 2022. Interest will be computed upon the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Fiscal Agent appointed below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Fiscal Agent at the close of business on the 15th day (whether or not on a business day) of the month next preceding the Interest Payment Date at such owners’ addresses shown on such bond registration records.

2.04 A. The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the Mayor and attested by the manual or
facsimile signature of the City Clerk. In case any officer whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

B. The City Clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A., Duluth, Minnesota, which is to be complete except as to dating thereof and cause the opinion to be attached to each Bond.

2.05 Book-Entry System.

A. In order to make the Bonds eligible for the services provided by DTC, the City has previously agreed to the applicable provisions set forth in the Blanket Issuer Letter of Representations which has been executed by the City and DTC (the “Representation Letter”).

B. Notwithstanding any provision herein to the contrary, so long as the Bonds shall be in Book-Entry Form, the provisions of this Section 2.05 shall govern.

C. All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Fiscal Agent’s receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

D. DTC (or its nominees) shall be and remain recorded on the Bond Register as the holder of all Bonds which are in Book-Entry Form. No transfer of any Bond in Book-Entry Form shall be made, except from DTC to another depository (or its nominee) or except to terminate the Book-Entry Form. All Bonds of such stated maturity of any Bonds in Book-Entry Form shall be issued and remain in a single Bond certificate registered in the name of DTC (or its nominee); provided, however, that upon termination of the Book-Entry Form pursuant to the Representation Letter, the City shall, upon delivery of all Bonds of such series from DTC, promptly execute, and the Fiscal Agent shall thereupon authenticate and deliver, Bonds of such series to all persons who were beneficial owners thereof immediately prior to such termination; and the Fiscal Agent shall register such beneficial owners as holders of the applicable Bonds.

The Fiscal Agent shall maintain accurate books and records of the principal balance, if any, of each such outstanding Bond in Book-Entry Form, which shall be conclusive for all purposes whatsoever. Upon the authentication of any new Bond in Book-Entry Form in exchange for a previous Bond, the Fiscal Agent shall designate thereon the principal balance remaining on such bond according to the Fiscal Agent’s books and records.

No beneficial owner (other than DTC) shall be registered as the holder on the Bond Register for any Bond in Book-Entry Form or entitled to receive any bond certificate. The beneficial ownership interest in any Bond in Book-Entry Form shall be recorded, evidenced and transferred solely in accordance with the Book-Entry System.

Except as expressly provided to the contrary herein, the City and the Fiscal Agent may treat and deem DTC to be the absolute owner of all Bonds of each series which are in Book-Entry Form (i) for the purpose of payment of the principal of and interest on such Bond, (ii) for the purpose of giving notices hereunder, and (iii) for all other purposes whatsoever.
E. The City and the Fiscal Agent shall each give notices to DTC of such matters and at such times as are required by the Representation Letter, including the following:

(i) with respect to notices of redemption; and

(ii) with respect to any other notice required or permitted under this Bond Resolution to be given to any holder of a Bond.

All notices of any nature required or permitted hereunder to be delivered to a holder of a Bond in Book-Entry Form shall be transmitted to beneficial owners of such Bonds at such times and in such manners as shall be determined by DTC, the participants and indirect participants in accordance with the Book-Entry System and the Representation Letter.

F. All payments of principal, redemption price of and interest on any Bonds in Book-Entry Form shall be paid to DTC (or Cede & Co.) in accordance with the Book-Entry System and the Representation Letter in same day funds by wire transfer.

2.06 The City will enter into a contract with Bond Trust Services Corporation, of Roseville, Minnesota, to serve as its fiscal agent (the "Fiscal Agent") with respect to the Bonds pursuant to Wisconsin Statutes, Section 67.10(2), which contract shall be in substantially the form on file with the City Clerk (the "Fiscal Agency Agreement"). The Mayor and City Clerk are hereby authorized and directed to enter into the Fiscal Agency Agreement on the City's behalf. Such contract may provide, among other things, for the performance by the Fiscal Agent of the functions listed in Wisconsin Statutes, Section 67.10(2)(a) to (j), where applicable, with respect to the Bonds. No Bond shall be valid or obligatory for any purpose unless or until the Fiscal Agent's Authentication Certificate on such Bond, substantially as set forth in Section 3 hereof, shall have been duly executed by an authorized representative of the Fiscal Agent. Authentication Certificates on different Bonds need not be signed by the same representative. The executed Authentication Certificate on a Bond shall be conclusive evidence that it has been delivered under this Resolution.

2.07 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Fiscal Agent as of the date of its execution. The City and the Fiscal Agent shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the first publication or the mailing (if there is no publication) of notice of redemption in the case of a proposed redemption of the Bonds.

2.08 The City and the Fiscal Agent may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Fiscal Agent shall not be affected by notice to the contrary. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

2.09 The principal of and interest on the Bonds shall be payable by the Fiscal Agent in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Fiscal Agent for the disbursement of principal and interest.

2.10 Delivery of the Bonds and payment of the purchase price shall be made at a place mutually satisfactory to the City and the Purchaser. Executed Bonds shall be furnished by the City without cost to the Purchaser. The Bonds, when prepared in accordance with this Resolution and
executed, shall be delivered by or under the direction of the City Finance Director to the Purchaser thereof upon receipt of the purchase price plus accrued interest.

Section 3. Form of the Bonds.

3.01 The Bonds shall be typewritten or printed in substantially the following form:

UNITED STATES OF AMERICA
STATE OF WISCONSIN
COUNTY OF DOUGLAS

CITY OF SUPERIOR
GENERAL OBLIGATION REFUNDING BOND, SERIES 2021B

R-_ $_____

<table>
<thead>
<tr>
<th>Rate</th>
<th>Maturity Date</th>
<th>Date of Original Issue</th>
<th>CUSIP</th>
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<td>___%</td>
<td>October 1, 20__</td>
<td>August 19, 2021</td>
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</tr>
</tbody>
</table>

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: DOLLARS

The City of Superior, Douglas County, Wisconsin (the “City”), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above, on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from the date of original issue set forth above, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid, said interest being at the rate per annum specified above. Interest is payable semiannually on April 1 and October 1 of each year (each referred to herein as an “Interest Payment Date”) commencing on April 1, 2022. Both principal hereof and interest hereon are payable in lawful money of the United States of America by check or draft at the main office of Bond Trust Services Corporation of Roseville, Minnesota, as fiscal agent (the “Fiscal Agent”), or at the office of such successor fiscal agent as may be designated by the Common Council. The Fiscal Agent shall make all interest payments with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Fiscal Agent at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day) at such owners’ addresses shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligation of the City to the extent of the payments so made. Payment of principal shall be made when due upon presentation and surrender of this Bond to the Fiscal Agent. For the prompt and full payment of such principal and interest as they become due, the full faith and credit and resources of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of $_______, all of like date and tenor, except as to number, maturity date, denomination, redemption privilege and interest rate, pursuant to the authority contained in Wisconsin Statutes, Chapter 67, and all other laws thereunto enabling, and pursuant to an authorizing resolution adopted by the governing body of the City on July 20, 2021 (the “Resolution”), for the purpose of providing money to
refund, on a current refunding basis, the outstanding principal amount of the City’s $6,400,000 General Obligation Corporate Purpose Bonds, Series 2011B, dated October 25, 2011, maturing on and after October 1, 2022, on October 1, 2021, the redemption date. The Bonds are payable from the 2021B General Obligation Refunding Bonds Debt Service Account in the City’s Debt Service Fund by a direct annual ad valorem tax levied upon all of the taxable property within the City, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred.

This Bond has been designated by the City as a “qualified tax-exempt obligation” for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

The Bonds maturing on October 1 in the years 20__, 20__, and 20__, shall be subject to mandatory redemption and redeemed in installments as provided in the Resolution, at par plus accrued interest to the date of redemption.

The Bonds maturing, or subject to mandatory redemption, in the years 2022 through 2027 shall not be subject to optional redemption and prepayment before maturity but those maturing, or subject to mandatory redemption, in the year 2028 and in subsequent years shall be subject to redemption and prepayment at the option of the City on October 1, 2027, and on any day thereafter, in whole or in part, and if in part at the option of the City and in such manner as the City shall determine and by lot as to Bonds maturing in the same year, at a price of par plus accrued interest to the redemption date. Not more than 60 days and no fewer than 30 days prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of $5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, the City will, at the request of the registered owner, issue one or more new fully registered Bonds in the name of the registered owner in the aggregate principal amount equal to the unpaid principal balance of this Bond, all of like tenor except as to number and principal amount. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Fiscal Agent, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Fiscal Agent and executed by the registered owner hereof or the owner’s attorney duly authorized in writing. Thereupon the City shall execute and the Fiscal Agent shall authenticate and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity, and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Constitution and laws of the State of Wisconsin to be done and to exist precedent to and in the issuance of this Bond, in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time and manner as so required; that all taxable property within the limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional or statutory limitation.
This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the above described Resolution until the Fiscal Agent’s Authentication Certificate hereon shall have been executed by the Fiscal Agent by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Superior, Douglas County, Wisconsin, by its governing body, has caused this Bond to be executed in its name by the signatures of the Mayor and the City Clerk and its corporate seal or a true facsimile thereof to be impressed or imprinted hereon, all as of the date of original issue specified above.

ATTEST:

(city clerk signature)
City Clerk

(mayor signature)
Mayor

(SEAL)

Date of Authentication: ______________________

FISCAL AGENT’S AUTHENTICATION CERTIFICATE

The Fiscal Agent confirms that the books reflect the ownership of this Bond registered in the name of the owner above in the principal amount and maturing on the date stated above and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

BOND TRUST SERVICES CORPORATION
Roseville, Minnesota
Fiscal Agent

By ________________________________________
Authorized Representative

BOND COUNSEL OPINION

I certify that the attached is a full, true and correct copy of the legal opinion rendered by Bond Counsel on the issuance of the Bonds, dated as of the date of original delivery of and payment for the Bonds.

(city clerk signature)
City Clerk

REGISTRATION CERTIFICATE

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Bond Trust Services Corporation of Roseville, Minnesota. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner’s attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of Bond Trust Services Corporation in the name of the registered owner last noted below.
<table>
<thead>
<tr>
<th>Date</th>
<th>Registered Owner</th>
<th>Signature of Fiscal Agent</th>
</tr>
</thead>
<tbody>
<tr>
<td>09/21</td>
<td>Cede &amp; Co. c/o The Depository Trust Company 570 Washington Blvd. Jersey City, NJ 07310 Federal Taxpayer I.D. No.: 13-2555119</td>
<td></td>
</tr>
</tbody>
</table>

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto ____________________________

(Name and Address of Assignee)

________________________________________ Social Security or other

________________________________________ Identifying Number of Assignee

the within Bond and all rights thereunder and does hereby irrevocably constitute and appoint ____________________________ attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: ____________________________

________________________________________

NOTICE: The signature of this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

________________________________________

(Bank, Trust Company, member of National Securities Exchange)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.
Section 4. Covenants, Funds, Accounts and Tax Levies.

4.01 A. Debt Service Fund. There is hereby established in the treasury of the City, if it has not already been created, a debt service fund separate and distinct from every other fund (the “Debt Service Fund”), which shall be maintained in accordance with generally accepted accounting principles. Sinking funds established for obligations previously issued by the City may be considered as separate and distinct accounts within the Debt Service Fund. There shall be maintained in the Debt Service Fund a separate account, to be designated the 2021B General Obligation Refunding Bonds Debt Service Account.

B. The 2021B General Obligation Refunding Bonds Debt Service Account. To the 2021B General Obligation Refunding Bonds Debt Service Account (the “Debt Service Account”) there is hereby pledged and irrevocably appropriated and there shall be credited: (1) any collections of all taxes levied herein for the payment of the Bonds and interest thereon; (2) all investment earnings on funds in the Debt Service Account; (3) accrued interest, if any, received upon delivery of the Bonds; (4) the rounding amount and excess premium not used to pay underwriter discount or for the Refunding of $_____; and (5) any and all other monies which are properly available and are appropriated by the City to the Debt Service Account including further deposits as may be required by Section 67.11 of Wisconsin Statutes. The amount of any surplus remaining in the Debt Service Account when the Bonds and interest thereon are paid shall be used to reduce the amount of taxes levied herein. No money shall be withdrawn from the Debt Service Account and appropriated for any purpose other than the payment of principal of and interest on the Bonds until all such principal and interest has been paid in full and canceled; provided (i) the funds to provide for each payment of principal of and interest on the Bonds prior to the scheduled receipt of taxes from the next succeeding tax collection may be invested in direct obligations of the United States of America maturing in time to make such payments when they are due; and (ii) any funds over and above the amount of such principal and interest payments on the Bonds may be used to reduce the next succeeding tax levy, or may, at the option of the City, be invested by purchasing the Bonds as permitted by and subject to Section 67.11(2)(a), Wisconsin Statutes, in interest bearing obligations of the United States of America, or in other permitted obligations under Section 67.11(2), which investments shall continue to be a part of the Debt Service Account. When all of the Bonds have been paid in full and cancelled, and all permitted investments disposed of, any money remaining in the Debt Service Account shall be deposited in the general fund of the City, unless the Common Council directs otherwise.

4.02 The Common Council covenants and agrees that the full faith and credit and resources of the City are hereby irrevocably pledged for the prompt and full payment of the principal of and interest on the Bonds as such principal and interest respectively become due, and the Common Council will levy upon all taxable property within the City and cause to be extended, assessed, and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

4.03 A. For the purpose of paying the principal of and interest on the Bonds as the same become due, the full faith, credit and resources of the City are hereby irrevocably pledged and there hereby is levied on all the taxable property in the City a direct, annual, irrepealable tax in such years and in such amounts as are sufficient to meet such principal and interest payments when due; said tax is hereby levied in the years and in the minimum amounts shown on Exhibit B hereto, which is incorporated by reference as though fully set forth herein.

B. The City shall be and continue to be without power to repeal such levy or obstruct the collection of said tax until all such payments have been made or provided for. After the issuance of the Bonds, said tax shall be, from year to year, carried into the tax rolls of the City and collected as other
taxes are collected, provided that the amount of tax carried into said tax rolls may be reduced in any year by the amount of any surplus money in the Debt Service Account created in Section 4.01B hereof.

4.04 The City authorizes the Purchaser to forward proceeds of the Bonds in the amount of $__________ allocable to the payment of issuance expenses for the Bonds to Old National Bank, located in Evansville, Indiana, on the date of closing and delivery of the Bonds (the “Closing Date”) for further distribution as directed by the City’s financial advisor, Ehlers & Associates, Inc. and as set forth in the officers’ certificate provided to the Purchaser on the Closing Date.


5.01 2011 Bonds.

A. Proceeds of the Bonds in the amount of $__________, are hereby appropriated to the 2011B Corporate Purpose Bonds Debt Service Account established for the 2011 Bonds (the “2011 Bonds Debt Service Account”), which funds and the monies previously deposited in the 2011 Bonds Debt Service Account ($__________) shall be segregated and shall constitute a separate trust fund to be used for no purpose other than to pay, prepay and redeem the 2011 Bonds maturing on and after October 1, 2021, together with interest thereon on the Redemption Date.

B. It is hereby found and determined that the proceeds of the Bonds in the amount of $__________, together with funds on deposit in the 2011 Bonds Debt Service Account in the amount of $__________, will be sufficient to pay the principal ($550,000.00) and interest ($__________) due on October 1, 2021 and to redeem and prepay the outstanding principal of the 2011 Bonds maturing on and after October 1, 2022 ($4,195,000.00) on the Redemption Date.

C. The City Clerk or the designee is hereby authorized and directed to send notice of the call for redemption to the holders of the 2011 Bonds to be redeemed, in accordance with their terms, in substantially the form of Exhibit C hereto.

D. There is hereby appropriated any balance of the monies in the 2011 Bonds Debt Service Account to the Debt Service Account after the prepayment of the 2011 Bonds.


6.01 The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to bond counsel certified copies of all proceedings and records of the City relating to the authorization and issuance of the Bonds and other affidavits and certificates as may reasonably be requested to show the facts relating to the legality and marketability of the Bonds as such facts appear from the official books and records of the officers’ custody or otherwise known to them. All of such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of facts recited therein and the actions stated therein to have been taken.

6.02 The Mayor, the City Clerk and the Finance Director are hereby authorized and directed to certify that they have examined the Official Statement prepared and circulated in connection with the issuance and sale of the Bonds and that to the best of their knowledge and belief the Official Statement is a complete and accurate representation of the facts and representations made therein as of the date of the Official Statement.
6.03 The City Clerk shall provide and keep a separate record book and shall record a full and correct statement of entry step or proceeding had or taken in the course of authorizing and issuing the Bonds.

6.04 In the event of the absence or disability of the Mayor, the City Clerk or the Finance Director, such officers of the City or members of the Common Council as in the opinion of the City's attorney may act in their behalf shall, without further act or authorization, execute and deliver the Bonds, and do all things and execute all instruments and documents required to be done or executed by such absent or disabled officers.

Section 7. Tax Covenants.

7.01 A. The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be “private activity bonds” within the meaning of Sections 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended (the “Code”).

B. The City covenants and agrees to comply with requirements under the Code necessary to establish and maintain the exclusion from gross income under Section 103 of the Code of the interest on the Bonds, including without limitation (1) requirements relating to temporary periods for investment, (2) limitation on amounts invested at a yield greater than the yield on the Bonds, and (3) the rebate of excess investment earnings to the United States if the gross proceeds of the Bonds are not expended for the purposes of the Bonds in accordance with the requirements of the six-month spending exception under Code Section 148(f)(2) and the regulations thereunder.

C. For purposes of qualifying for the six-month exception to the federal arbitrage rebate requirements of Code Section 148(f)(2), the City reasonably expects gross proceeds of the Bonds will be spent for the refunding of the 2011 Bonds (the governmental purposes for which the Bonds are issued) no later than the date which is six months from the date of closing and delivery of the Bonds and thus no rebate of arbitrage to the United States will be required.

D. In order to qualify the Bonds as “qualified tax-exempt obligations” within the meaning of Section 265(b)(3) of the code, the City hereby makes the following factual statements and representations:

(1) the Bonds are not “private activity bonds” as defined in Section 141 of the Code;

(2) the City hereby designates the Bonds as “qualified tax-exempt obligations” for purposes of Section 265(b)(3) of the Code;

(3) the reasonably anticipated amount of tax-exempt obligations (other than private activity bonds, treating qualified 501(c)(3) bonds as not being private activity bonds) which will be issued by the City (and all entities whose obligations will be aggregated with those of the City and excluding the City’s obligations which are deemed designated) during the calendar year in which the Bonds are being issued will not exceed $10,000,000; and

(4) not more than $10,000,000 of obligations issued by the City during the calendar year in which the Bonds are being issued have been designated for the purposes of Section 265(b)(3) of the Code.

E. The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this Section.
Section 8. Continuing Disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to such bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the Mayor and the City Clerk are hereby authorized and directed to execute a Continuing Disclosure Certificate substantially in the form of the Certificate currently on file in the office of the City.

Section 9. Post-Issuance Compliance Policy and Procedures. The Common Council has previously approved a Post-Issuance Debt Compliance Policy and Post-Issuance Debt Compliance Procedures which applies to qualifying obligations to provide for compliance with all applicable federal regulations for tax-exempt obligations or tax-advantaged obligations (collectively, the "Policy and Procedures"). The Common Council hereby approves the Policy and Procedures for the Bonds. The Finance Director continues to be designated to be responsible for post-issuance compliance in accordance with the Policy and Procedures.
Adopted July 20, 2021.

Attest:

Teri Kalan, City Clerk

Jim Paine, Mayor
EXHIBIT A

PORTION OF THE PRINCIPAL MATURITIES AND MANDATORY REDEMPTION PAYMENTS ALLOCATED TO THE BONDS

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<th>Date (October 1)</th>
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<th>Fire Department</th>
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</table>
EXHIBIT B

GENERAL OBLIGATION REFUNDING BONDS, SERIES 2021B
CITY OF SUPERIOR, WISCONSIN

TAX LEVY SCHEDULE

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<th>Levy Year</th>
<th>Collection Year</th>
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<tr>
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</table>
EXHIBIT C

NOTICE OF CALL FOR REDEMPTION
$6,420,000 General Obligation Corporate Purpose Bonds, Series 2011B
of the City of Superior, Wisconsin

NOTICE IS HEREBY GIVEN that, by order of the Common Council of the City of Superior, Wisconsin (the “City”), there have been called for redemption and prepayment on

October 1, 2021

all outstanding bonds of the City designated as the $6,420,000 General Obligation Corporate Purpose Bonds, Series 2011B, dated October 25, 2011, which mature on the following date:

<table>
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<tr>
<th>No.</th>
<th>Maturity Date</th>
<th>Principal Amount*</th>
<th>Interest Rate</th>
<th>CUSIP Number**</th>
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<tr>
<td>R-11</td>
<td>10/1/2022</td>
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<td>2.125%</td>
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The Bonds are being called at a price of par plus accrued interest to October 1, 2021, on which date they will cease to bear interest. Holders of the Bonds hereby called for redemption should present their Bonds for payment to Bond Trust Services Corporation, 3060 Centre Pointe Drive, Roseville, MN 55113-1105 on or before October 1, 2021. It is recommended that you mail your bond registered or certified mail to guard against loss.

Important Notice: In compliance with the Economic Growth and Tax Relief Reconciliation Act of 2001, federal backup withholding tax will be withheld at the applicable backup withholding rate in effect at the time the payment by the redeeming institutions if they are not provided with your social security number or federal employer identification number, properly certified. This requirement is fulfilled by submitting a W-9 Form, which may be obtained at a bank or other financial institution.

* Indicates full call of stated maturity.

** Neither the City nor the Fiscal Agent shall be responsible for the selection of or use of the CUSIP number, and no representation is made as to its correctness indicated in the Notice of Call for Redemption. CUSIP numbers are included solely for the convenience of the Holders.

BY ORDER OF THE COMMON COUNCIL
OF THE CITY OF SUPERIOR, WISCONSIN
Alderperson ______________ introduced the following resolution and moved its adoption:

RESOLUTION NO. ________

RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SUPERIOR, WISCONSIN APPROVING EXECUTION OF A DEVELOPMENT AGREEMENT, GRANT AGREEMENT AND LEASE AGREEMENT IN CONNECTION WITH THE FRASER SHIPYARDS, INC. PROJECT

WHEREAS, representatives of the City of Superior, Wisconsin (the "City") have been negotiating with Fraser Shipyards, Inc., a Wisconsin corporation (the "Fraser") and FSY R/E Group, LLC, a Wisconsin limited liability company ("FSY") (Fraser and FSY are collectively referred to as the "Company"), regarding improvements to the dry dock on land which is owned by FSY and leased to Fraser for the operation and maintenance of the Fraser shipyard facility, the terms of which are set forth in a proposed Development Agreement between the City and the Company, the form of which is on file in the office of the City Clerk; and

WHEREAS, at the request of Fraser, the City has applied to the Wisconsin Department of Transportation ("WisDOT") for a Harbor Assistance Program Grant for a portion of the funding for the Pump Outlet Project (as defined in the proposed Development Agreement) which is Phase I of the Dry Dock Project (as defined in the Development Agreement) and the City has received approval of a Harbor Assistance Program Grant in the maximum amount of $500,000 (the "State Grant") subject to the requirements set forth in the proposed Grant Agreement between the City and WisDOT for the Pump Outlet Project (the "Grant Agreement"), the form of which is on file in the office of the City Clerk; and

WHEREAS, pursuant to the proposed Development Agreement and Grant Agreement, the Company would lease a portion of the shipyard to be improved by the Pump Outlet Project (as defined in the proposed Development Agreement) to the City; the City would construct the Pump Outlet Project; and the City would then lease the Pump Outlet Project Property, as improved, back to FSY for the continued use and operation by Fraser, the terms of which are set forth in a proposed Lease Agreement between the City and the Company (the "Lease Agreement"), the form of which is on file in the office of the City Clerk and

WHEREAS, the City is willing to serve as a conduit and facilitator for the State Grant and the Pump Outlet Project, but the risks of the Project (as defined in the proposed Development Agreement), the State Grant and the Grant Agreement shall be borne by and shall be the responsibility of the Company; and

WHEREAS, pursuant to the requirements of Sec. 2-419 of the City Ordinance and Wisconsin Statutes, Section 985.07, the City has published a Notice to Lease Real Property.
NOW, THEREFORE, BE IT RESOLVED:

1. The Common Council hereby approves (a) the acceptance of the State Grant; (b) the construction of the Pump Outlet Project by the City; (c) the leasing of the Pump Outlet Project Property by the Company to the City; and (d) the leasing of the Pump Outlet Project Property, as improved, by the City back to FSY, all in accordance with the terms, conditions and restrictions set forth in the Development Agreement, Grant Agreement and Lease Agreement.

2. The forms of Development Agreement, Grant Agreement and Lease Agreement, as presented to the Common Council, are hereby approved with such insubstantial changes as are necessary in the opinion of the Mayor and the City Clerk, without further act or authorization. The Mayor and the City Clerk are authorized and directed in the name and on behalf of the City to execute the Development Agreement, the Grant Agreement and the Lease Agreement and such other documents, instruments or certificates as are deemed necessary or desirable by counsel for the City to complete the transaction.

3. The Common Council hereby authorizes and directs the Mayor and the City Clerk to carry out the other obligations of the City contained in the Development Agreement, the Grant Agreement and the Lease Agreement.

Adopted: July 20, 2021.

Mayor

Attest:

City Clerk

The motion of the adoption of the foregoing Resolution was duly seconded by Alderperson and, upon vote being taken, the following voted in favor thereof:

the following voted against the same:

the following were absent:

whereupon, said Resolution was declared duly passed and adopted, and approved and signed by the Mayor and attested by the City Clerk.
DEVELOPMENT AGREEMENT

AMONG

CITY OF SUPERIOR

AND

FSY R/E GROUP, LLC

AND

FRASER SHipyARDS, INC.

DATED AS OF __________, 2021

(PUMP OUTLET PROJECT)

Drafted by:

Fryberger, Buchanan, Smith
& Frederick, P.A.
302 West Superior Street, Suite 700
Duluth, Minnesota 55802
M:\DOCS\08493000325\ACM181759.DOC
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DEVELOPMENT AGREEMENT

This Development Agreement (the “Agreement”) is made and entered into as of this _______ day of _____________, 2021, by and among the CITY OF SUPERIOR, a Wisconsin municipal corporation (the “City”), FSY R/E GROUP, LLC, a Wisconsin limited liability company ("FSY") and FRASER SHIPYARDS, INC., a Wisconsin corporation (“Fraser”) (FSY and Fraser are collectively referred to as the “Company”).

RECITALS

WHEREAS, FSY owns the land and improvements thereto, including the dry docks and dock walls, used for the operation of the Fraser shipyard; and

WHEREAS, FSY leases the land and improvements thereto to Fraser, which operates and maintains the Fraser shipyard facility in the City of Superior, Wisconsin (the “Facility”); and

WHEREAS, the Company has proposed constructing a Dry Dock Project, as hereinafter defined, as part of the Facility.

WHEREAS, at the request of Fraser, the City has applied to the Wisconsin Department of Transportation (the “State” or “WisDOT”) for a Harbor Assistance Program Grant for a portion of the funding for Phase I of the Dry Dock Project, as hereinafter defined; and

WHEREAS, the City has received approval of a Harbor Assistance Program Grant in the maximum amount of $500,000 (the “State Grant”) subject to the requirements set forth in the Grant Agreement between the City and WisDOT for the Pump Outlet Project, as hereinafter defined, as the same may be from time to time amended (the “Grant Agreement”); and

WHEREAS, to qualify for the State Grant, the portion of the Facility to be improved by the Pump Outlet Project will be leased to the City and leased back to FSY for continued use and operation by Fraser; and

WHEREAS, the Pump Outlet Project is being constructed at the request of and for the benefit of the Company; and

WHEREAS, the City is willing to serve as a conduit and facilitator for the State Grant and the Pump Outlet Project, but all risks of the Pump Outlet Project, the State Grant and the Grant Agreement shall be borne by and shall be the responsibility of the Company and not the City; and

WHEREAS, FSY, Fraser and the City desire to set out their respective duties and responsibilities in carrying out the Pump Outlet Project and satisfying the requirements of the Grant Agreement; and

WHEREAS, the Company is considering adding the Add Alternates (as hereinafter defined) to be included in the Project.
NOW, THEREFORE, in consideration of the promises and mutual obligations of the parties contained herein, each of them does hereby represent, covenant, and agree with the other as follows:

Section 1. Definitions, Exhibits, Rules of Interpretation.

1.01 Definitions. In this Development Agreement, the following terms have the following respective meanings unless the context thereof clearly requires otherwise:

"Add Alternates" means add alternates including either or both of (i) service relocation for the Pump Outlet Project and/or (ii) lighting for the Pump Outlet Project.

"Agreement" means this Development Agreement by and among the City, FSY and Fraser, as the same may be from time to time amended.

"BCPL Lease" means the Submerged Land Lease, dated as of October 1, 2010, between the State of Wisconsin, acting through the Board of Commissioners of Public Lands and FSY.

"Certificate of Completion" means the certification, in the form of the Certificate attached as Exhibit F hereto, provided to the Company pursuant to Section 5.03 of this Agreement, upon satisfactory completion of the Pump Outlet Project.

"City" means the City of Superior, a Wisconsin municipal corporation.

"Closing" means the consummation of the transaction contemplated by this Agreement, which shall occur on the Closing Date.

"Closing Date" means the date upon which the City, FSY and Fraser enter into the Lease and Fraser executes and delivers the guaranty of the Lease and the parties hereto enter into such other agreements and documents, all as provided in Sections 4.01 and 4.02 herein, which date shall be ____________, 2021, or such other date which is mutually agreed to by the parties hereto.

"Company" means collectively FSY and Fraser.

"Company Contributions" means (i) the initial amount of $256,400, to fund a portion of the Project Costs for the Pump Outlet Project, from the Company for deposit with the City into the Project Fund as described in Section 6.01 hereof, (ii) the initial amount of 100% of the Project Costs for the Add Alternates, if any, and (iii) such additional deposits from the Company as described in Sections 6.01 and 7.05 E.

"Construction Plans" means the construction plans and specifications for all construction work to be performed by the City on the Pump Outlet Project and the Add Alternates, if any, pursuant to this Agreement.
“Dry Dock Project” means construction of an additional dry dock at the Facility to accommodate larger ships.

“Facility” means the shipyard facility located at 1 Clough Avenue in the City of Superior, Wisconsin, and on the property depicted on Exhibit A-3 hereto.

“Fraser” means Fraser Shipyards, Inc., a Wisconsin corporation, or its successors or permitted assigns under this Agreement.

“FSY” means FSY R/E Group, LLC, a Wisconsin limited liability company, or its successors or permitted assigns under this Agreement.

“Grant Agreement” means the form of Grant Agreement between the City and the WisDOT attached hereto as Exhibit E, as executed and amended from time to time.

“Lease” means the Lease Agreement among the City, FSY and Fraser substantially in the form set forth as Exhibit D hereto.

“Phase I of the Dry Dock Project” means the parts of the Dry Dock Project consisting of:

(a) Electrical System repairs and service - Plan Section 1.2.1
(b) Dry Dock #2 Pump outlet rerouting – Plan Section 1.2.2
(c) Pump house removal and grouting – Plan Section 1.2.3
(d) Geotechnical Investigation – Plan Section 1.2.4
(e) Cultural Resource Evaluation – Plan Section 1.2.5

“Project” means the Pump Outlet Project and the selected Add Alternates, if any.

“Project Costs” means the costs related to the construction of the Pump Outlet Project and any Add Alternates, and all out-of-pocket expenses of the City for the Project, including, but not limited to attorneys’ fees and expenses, but do not include the costs and expenses of the Project Engineer.

“Project Engineer” means Barr Engineering Co., as the design engineer and the inspecting engineer for the Project.

“Project Fund” means the fund created by the City’s Finance Department to account for the funding for and expenditures of the Project Costs.

“Pump Outlet Project” means the Dry Dock #2 pump outlet rerouting described in Plan Section 1.2.2 as described in Phase I of the Dry Dock Project plans and to be constructed on the Pump Outlet Project Property.
"Pump Outlet Project Property" means the real property described in Exhibit A-1 and depicted on Exhibit A-2 to this Agreement.

"Schedule" means the schedule for the elements of the Project contemplated by this Agreement, as set forth on Exhibit C hereto.

"Sources and Uses Budget" means the Sources and Uses Budget in the form of Exhibit B hereto, as updated from time to time as required in Section 6.01 herein.

"State" or "WisDOT" means the State of Wisconsin, Department of Transportation.

"State Grant" is an amount up to $500,000 in funds by the State under the terms and conditions of the Grant Agreement.

"State Grant Agreement Requirements" means the obligations, conditions and requirements imposed by the State with regard to the construction, operation and maintenance of the Pump Outlet Project pursuant to the Grant Agreement.

"Termination Date" means (i) the date three years after the completion date set forth in the Certificate of Completion; or (ii) the date this Agreement terminates pursuant to Section 9.02 hereof.

"Unavoidable Delays" means delays, outside the control of the party claiming their occurrence, which are the direct result of strikes, other labor troubles, unusually severe or prolonged bad weather, acts of God, fire, pandemic or other casualty to the improvements being constructed, litigation commenced by third parties which, by injunction or other similar judicial action, directly results in delays, or acts of any federal, state or local government (other than the City) which directly results in delays.

1.02 Exhibits. The following exhibits are attached to and by reference made a part of this Agreement:

Exhibit A-1 Legal Description of Pump Outlet Project Property
Exhibit A-2 Depiction of Pump Outlet Project Property
Exhibit A-3 Depiction of Property on Which the Facility is Located
Exhibit B Sources and Uses Budget
Exhibit C Schedule
Exhibit D Form of Lease
Exhibit E Form of Grant Agreement
Exhibit F Form of Certificate of Completion

1.03 Rules of Interpretation.

A. This Agreement shall be interpreted in accordance with and governed by the laws of Wisconsin.
B. The words herein and hereof and words of similar import, without reference to any particular section or subdivision, refer to this Agreement as a whole rather than any particular section or subdivision hereof.

C. References herein to a particular section or subdivision hereof are to the section or subdivision of this instrument as originally executed.

D. Any titles of the several parts, articles and sections of this Agreement are inserted for convenience and reference only and shall be disregarded in construing or interpreting any of its provisions.

E. In the event that any provision or clause of this Agreement conflicts with applicable law, such conflict shall not affect other provisions of this Agreement, which can be given effect without the conflicting provisions, and to this end the provision of this Agreement, are declared to be severable.

Section 2. Representations and Warranties.

2.01 Representations by the City. The City represents and warrants that:

A. The City is a public body, corporate and politic, organized under the laws of Wisconsin.

B. The City has the power to enter into this Agreement and carry out its obligations hereunder pursuant to the powers granted to it by the Wisconsin Constitution and laws.

2.02 Representations by the Company.

A. FSY represents and warrants that FSY is a Wisconsin limited liability company, has the power to enter into this Agreement and to perform its obligations hereunder, and has duly authorized the execution, delivery, and performance of this Agreement by proper corporate action.

B. Fraser represents and warrants that Fraser is a Wisconsin corporation, has the power to enter into this Agreement and to perform its obligations hereunder, and has duly authorized the execution, delivery and performance of this Agreement by proper corporate action.

C. FSY has entered into the BCPL Lease pursuant to which FSY was granted the right and privilege to fill that part of the St. Louis River described in the BCPL Lease, which included a portion of the Pump Outlet Project Property. FSY certifies that the BCPL Lease is in full force and effect and that the BCPL Lease term will not expire before a date 25 years after completion of the Pump Outlet Project. Such date is presently expected to be October 30, 2047.
D. The Company will cause the Project Engineer, in a timely manner, to complete the Construction Plans, will obtain or cause to be obtained all required permits, licenses and approvals, and will meet or cause to be met, in a timely manner, all requirements of all applicable local, state and federal laws and regulations which must be obtained or met before the Project may be lawfully constructed. The Company will also cause the Project Engineer to provide inspection services in connection with construction of the Project. The Company shall pay all costs of the Project Engineer from the Company funds and not out of funds set out in the Sources and Uses Budget.

E. Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented or limited by, or in conflict with or will result in a breach of, the terms, conditions or provisions of any restriction of the Company, or any indebtedness, agreement or instrument of whatever nature to which the Company, is now a party or by which it is bound, or will constitute a default under any of the foregoing.

F. Attached as Exhibit B hereto is the Company’s best estimate of the Sources and Uses Budget of funds to finance the Project as of the date of this Agreement.

G. The Company represents and agrees that the City’s obligations hereunder are to cooperate and facilitate the Pump Outlet Project and to attempt to obtain the State Grant to pay a portion of the Project Costs. In the event costs of the Project exceed the budget, State Grant funds are not obtained or must be returned, construction of the Pump Outlet Project is defective or in any other way the Project does not go as planned, such resulting costs, inconveniences and delays shall be assumed by the Company, and shall not be the responsibility of the City.

H. The Company understands and agrees that upon execution of the Grant Agreement, the City will be obligated to proceed with the Pump Outlet Project and related obligations. The Company hereby agrees, without contingency or condition, to proceed with the Pump Outlet Project, and agrees to pay for and be responsible for its obligations under this Agreement and the State Grant Agreement Requirements upon execution of this Agreement.

Section 3. Preparation for the Project.

3.01 Pump Outlet Project Property. The Company shall obtain, at its cost, a certified survey map of the Pump Outlet Project Property and provide a copy to the City.

3.02 State Grant. At the request of the Company, the City has applied for the State Grant. The Company hereby acknowledges that it participated in and approves of the form and content of such application. The Company approves the form and content of the Grant Agreement in the form set forth as Exhibit E hereto and the Sources and Uses Budget set forth therein and herein. The Company hereby agrees that it will assume and it will perform, or cause to be performed, all the State Grant Agreement Requirements imposed upon the City, including, but not limited to: (i) causing and assuring that the Project Engineer satisfies each and all of the requirements imposed by Wisconsin and federal laws on the Project due to the State Grant; (ii)
provide documentation required by the State for the City to obtain reimbursement of eligible Project Costs from the State; (iii) operate the Pump Outlet Project in compliance with the requirements of the Grant Agreement; and (iv) pay the City for any costs and expenses incurred by the City in connection with the Project.

3.03 Project Engineer; Preparation of Construction Plans. Fraser has retained the Project Engineer to perform design and inspection work for the Pump Outlet Project and the Add Alternates, if any. Fraser shall arrange for the City to be a third party beneficiary of its contract with the Project Engineer for purposes of the Project. The Project Engineer shall treat the City, as well as the Company, as the "Owner" for purposes of designing and inspecting the Project. The Company shall provide the City, through the Project Engineer, the Construction Plans. The Construction Plans shall conform to all the State Grant Agreement Requirements. The Project Engineer shall, after coordinating such process with the City’s Planning and Port Director, assist the City in publicly bidding the construction contracts in accordance with Wisconsin law. The Company shall obtain or cause to be obtained all licenses and permits needed for the Project. The Project Engineer shall monitor the Project to satisfy that all State Grant Agreement Requirements in connection with the construction of the Project and shall perform all inspections, monitoring and reporting under the Grant Agreement. All costs of the Project Engineer shall be paid by the Company and such costs are not included in the Sources and Uses Budget.

3.04 Conditions Precedent to City’s Obligation to Execute Grant Agreement. The City’s obligation to execute and deliver the Grant Agreement to WisDOT is subject to the Company providing the City with its initial Company Contribution for deposit in the Project Fund, pursuant to Section 6.01 hereof.

3.05 Conditions Precedent to City’s Obligations to Enter into the Lease and to Construct the Project. The City’s obligations to enter into the Lease and to construct the Pump Outlet Project are subject to satisfaction of the following conditions on or before the Closing Date:

A. The City shall have entered into the Grant Agreement.

B. The Company and the City shall have agreed upon whether to proceed with either of the Add Alternates and upon an updated Sources and Uses Budget for the Project.

C. The Company shall have provided the City with any additional Company Contribution for deposit in the Project Fund, pursuant to Section 6.01 hereof.

D. Monies on deposit in the Project Fund from the Company Contribution together with the State Grant, shall be sufficient to pay the Project Costs for the Project based on the updated Sources and Uses Budget.

E. The Company shall be in material compliance with all the terms and provisions of this Agreement.
Section 4. Transfer of the Pump Outlet Project Property; Lease of the Pump Outlet Project Property and Pump Outlet Project

4.01 Transfer of the Pump Outlet Project Property. On the Closing Date; (i) FSY, Fraser and the City shall enter into the Lease, as hereinafter provided, pursuant to which (a) FSY and Fraser shall lease the Pump Outlet Project Property to the City, (b) the City will lease back the Pump Outlet Project Property and the Pump Outlet Project to FSY, and (c) Fraser shall execute the guaranty of the Lease; and (ii) the Company and the City shall execute and deliver to one another a memorandum of the Lease, which memorandum shall be in form proper for recording with the Register of Deeds for Douglas County, Wisconsin.

4.02 Lease of the Pump Outlet Project Property and Pump Outlet Project. On the Closing Date, the City shall lease the Pump Outlet Project Property and the Pump Outlet Project to be constructed thereon to FSY under the Lease substantially in the form set forth as Exhibit D hereto. The lease of the Pump Outlet Project Property and the use of the Pump Outlet Project Property and the Pump Outlet Project shall be subject to all of the conditions, covenants, restrictions and limitations imposed by this Agreement, the Lease, and the Grant Agreement, including the State Grant Agreement Requirements. The City’s contractors shall be permitted to occupy the Pump Outlet Project Property to complete construction of the Pump Outlet Project. The Company shall take the Pump Outlet Project Property “as is” and the City makes no warranty as to the condition of the Pump Outlet Project Property or the Pump Outlet Project or their suitability for the purposes of the Company.

4.03 Consideration for Transfer. The transfer of the Pump Outlet Project Property from the Company to the City pursuant to the Lease shall be for other than monetary consideration.

4.04 Title. The Company shall not voluntarily encumber title, or fail to take any actions necessary to prevent an involuntary encumbrance of title, to the Pump Outlet Project Property before the Closing Date. The City may obtain a title insurance policy on the Pump Outlet Project Property at the Company’s expense.

4.05 Real Estate Costs. Unless otherwise mutually agreed to by the City and the Company, the Closing shall be made at the Government Center in Superior, Wisconsin. The memorandum of Lease shall be promptly recorded in the office of the Douglas County Register of Deeds. The Company shall pay all costs for such recording.

4.06 Temporary Construction License. The Company hereby grants to the City, the City’s contractors and WisDOT, a license to enter upon the property depicted on Exhibit A-3, together with a license to access such property from the existing road connecting Clough Avenue and the Facility, for the purpose of designing, constructing and inspecting the Pump Outlet Project. The Company may, considering their operational needs and security concerns, limit points and time of access. Such restrictions shall be included in the Construction Plans. The locations of any staging areas for construction materials and construction equipment and the
procedures used to secure those areas, shall be determined by mutual agreement of the City and the Company and shall be included in the Construction Plans.

Section 5. Construction of the Pump Outlet Project and Add Alternates.

5.01 Construction Plans. Prior to advertising for bids for the construction contracts for the Project, the Company and/or the Project Engineer shall provide for review and consent by the City’s Planning and Port Director, the final plans and specifications of the Construction Plans. Prior to award of the construction contracts for the Project by the City’s Common Council, the Company and/or the Project Engineer shall provide to the City the items set out in Section 3.05. Subject to satisfying all such conditions, the City agrees that it will enter into the construction contracts for the Project in conformance with the approved Construction Plans and the State Grant Agreement Requirements.

If the Company desires that the City make any change to the final Construction Plans, the Company and/or the Project Engineer shall submit the proposed change to the City for its consent, and if such consent is granted, the Company shall provide written approval for such a change order to the City, together with sufficient money to be deposited in the Project Fund, to pay for such change order.

5.02 Completion of Construction of Project. The City’s contractors shall be responsible for completing the Project in accordance with the Schedule set forth on Exhibit C, subject to Unavoidable Delays. The City agrees to cooperate with the Company and the Project Engineer to assist in keeping the Project on the Schedule, but the City shall have no liability to the Company if the Project is delayed. All work with respect to the Pump Outlet Project to be constructed or provided hereunder shall be in conformity with the approved Construction Plans and the State Grant Agreement Requirements.

The City agrees that it will not take any deliberate action to cause delay in the construction of the Project. In the event the Project is not completed in conformity with the approved Construction Plans, the State Grant Agreement Requirements and the Schedule within the period specified in this Section, the Company shall nevertheless complete the Project in conformity with the approved Construction Plans and the State Grant Agreement Requirements at the Company’s own cost and expense. All claims, costs and expenses resulting from disputes with contractors with respect to the Project (including, but not limited to, disputes which result in mechanics’ or materialmen’s liens, or the like, being asserted, filed, or recorded against the Pump Outlet Project Property, or any other property of the Company) shall be borne by the Company. Without limiting the scope of the preceding sentence, the Company shall be responsible for satisfying and obtaining the release of any mechanics’ or materialmen’s liens, or the like, asserted, filed, or recorded against the Pump Outlet Project Property, or any other property of the Company in connection with the Project. All recoveries, if any, in connection with such disputes shall be deposited in the Project Fund.

5.03 Certificate of Completion. Upon receipt of the Project Engineer’s certificate of final completion and WisDOT’s completion letter evidencing completion of the Project in
accordance with the provisions of this Agreement, the City will furnish the Company with a Certificate of Completion, in substantially the form set forth in Exhibit F attached hereto. Such Certificate of Completion shall be a conclusive determination of satisfaction and termination of the agreements and covenants in this Agreement with respect to the obligations to construct the Project.

5.04 Pump Outlet Project, Add Alternates.

A. The Pump Outlet Project shall consist of (i) trench construction; and (ii) pump lines rerouting. The Project Costs shall be paid by the City from the Project Fund, at the times and upon receipt of the documents required under this Agreement and the Grant Agreement. The Company shall provide the City all additional funds necessary to pay any Project Costs in excess of the amounts received from the State Grant.

B. The Company has requested that the City include in the bids specification for the Project two add alternates, one for Service Relocation and a second for Lighting, each in connection with Pump Outlet Project (the “Add Alternates”). The Company may elect to add or not add either or both Add Alternates prior to the award of this construction contracts. The Company agrees to provide the City 100% of the costs of an Add Alternates if the Company proceeds with either or both of the Add Alternates.

C. The City shall have no liability to the Company or a third party resulting from any defect in the construction of the Pump Outlet Project or the Add Alternates or the completion of the Pump Outlet Project or the Add Alternates if the amount described in Section 5.04A or B. above is insufficient therefor. The Company shall maintain the Pump Outlet Project after completion of construction, pursuant to the Lease. The Company waives any claim or demand and agrees not to prosecute any claim against the City for design or construction defects of the Pump Outlet Project or the Add Alternates. Further, the Company agrees to indemnify, defend, and hold harmless the City, its officers, employees, and agent, from any an all claims or causes of action resulting from any alleged defect in the design or construction of the Pump Outlet Project or the Add Alternates. Nothing in this Agreement shall be construed as releasing the Project Engineer, the Company, or the City’s contractors for any liability they (or any of them) may have to the Company or the City for any actual or alleged defect in the design or construction of the Pump Outlet Project or the Add Alternates. At the request of Fraser, the City agrees to assign to Fraser any claim for construction defects to the Pump Outlet Project and the Add Alternates.

Section 6. Flow of Funds.

6.01 Project Fund. The City shall establish and maintain a Project Fund for the purpose of accounting for payment of the Project Costs. The City shall deposit into the Project Fund: (i) proceeds of the State Grant; and (ii) the Company Contributions. Prior to the date of execution of the Grant Agreement by the City, the Company shall have provided to the City for deposit into the Project Fund an amount equal to $256,400. Additional funds, in the amount of 100% of the costs of an Add Alternates shall also be deposited in the Project Fund. The City
shall from time to time update the Sources and Uses Budget based on change orders and revised estimates of Project Costs. As the Sources and Uses Budget for the Project Costs change due to change orders, quantities in excess of estimates under the construction contract or additional costs incurred by the City from time to time, and if the amount in the Project Fund (including the unpaid balance of the State Grant) is insufficient to complete construction of the Pump Outlet Project and any Add Alternates and pay the City’s costs for the Project, the Company shall fund, on demand from the City, the additional Company Contributions as necessary to keep the Project budget in balance.

Notwithstanding the above paragraph and other sections to this Agreement in which the Company Contributions require a cash deposit upon execution of the Grant Agreement, the Company may provide a standby letter of credit to be delivered to the City in the amount of the Company Contributions (or such lesser amount as the Company may choose so long as the total of the letter of credit and the cash deposit in the Project Fund equals the Company Contributions). The letter of credit shall secure payments of the Project Costs which are the responsibility of the Company. The terms and provisions of the letter of credit and the payment provisions for Project Costs by the Company to the City shall be acceptable to the City.

Following completion of the construction of the Project pursuant to the terms of this Agreement, the balance, if any, of funds deposited into the Project Fund by the Company remaining after payment of all Project Costs will be returned to the Company.

Section 7. Payment Procedure.

7.01 Payment Requests. The City shall disburse the monies from the Project Fund for the Project Costs for construction contracts upon receipt of payment requests from the contractors, in accordance with the construction contracts, as required by the State Grant and as required by the City’s purchasing procedures, and which are approved by the Project Engineer, on a form authorized by the City which sets forth the following:

A. The amount of work completed, the retainage and the amount to be disbursed.

B. The address to which such monies are to be forwarded.

C. A brief description of the purpose of the payment, including sufficient detail to establish whether such cost is a cost for the Pump Outlet Project and is eligible to be reimbursed from the State Grant.

D. A statement as to whether the payment request is a request for final disbursement.

A copy of the payment request shall be submitted to the Company.

7.02 Attachments to Payment Requests. Each payment request shall contain the following as attachments, in form and substance satisfactory to the City:
A. Bills, receipts, invoices, employee time sheets, payroll register or other documents acceptable to the City and the Project Engineer evidencing the amount, purposes and prevailing wage compliance for which the disbursement is requested;

B. Mechanics and material lien waivers, as required by the City; and

C. Certification of each contractor requesting payment to the effect that the amounts requested to be disbursed were properly incurred.

7.03 Additional Documentation. The Company shall require the Project Engineer to agree to submit to the City such additional documentation as the City may reasonably request to evidence the design and proper expenditure of the monies for the purposes of completion of the construction of the Project in accordance with the Grant Agreement.

7.04 Initial Payment from the Project Fund. Prior to the initial payment from the Project Fund, the City shall have received:

A. A sworn construction statement of the Project Engineer disclosing the total Project Costs for all the construction of the Project pursuant to the construction contracts, and setting forth the names and addresses of all contractors and subcontractors (which includes material suppliers) for each of the construction contracts, a description of the work and materials to be furnished by such contractors, subcontractors and suppliers, the amounts of any construction contracts, and amounts, if any, paid to date thereon, and, if any, the balances due thereon; and

B. Each payment and performance bond and insurance certificate required by the construction contracts.

7.05 Each Payment from the Project Fund. Prior to each payment from the Project Fund under a construction contract, the Project Engineer shall deliver to the City a payment request complying with Sections 7.01 and 7.02 of this Agreement and:

A. A sworn construction statement of the Project Engineer containing the information called for in Section 7.04 revised as of the date of the payment request and setting forth:

   (i) The names and addresses of all additional contractors, subcontractors and material suppliers with whom construction contracts have been made and the additional information with respect to such contractors, subcontractors and material suppliers called for in Section 7.04; and

   (ii) The amount due on all construction contracts.

B. A certificate by the Project Engineer to the effect that the work has been completed and materials are in place as indicated in the payment request.
C. Statements, partial or final lien waivers, affidavits, supporting waivers, and releases of liens, if necessary pertaining to prior payment requests, in form and content satisfactory to the City.

D. Payroll records to establish compliance with wage and benefit determinations.

E. At the request of the City, the Company shall make any additional contribution to the Project Fund that the City determines to be necessary to provide for sufficient funds to pay for the Project Costs of completing those portions of the Project yet to be completed from time to time to the extent such costs exceed the sum of the Project Fund.

7.06 Books and Records. The City shall, during construction of the Pump Outlet Project and for three years after WisDOT acceptance of the final closeout under the Grant Agreement, keep and maintain true and accurate books and records in sufficient detail to reflect the payments made by the City from the Project Fund. The Company may at any reasonable time and from time to time examine all books and records of the City pertaining to the disbursements made to or by the City and may make extracts therefrom and copies thereof.

7.07 Payment of Other Costs of the Project. The City shall disburse monies from the Project Fund for the City’s out-of-pocket expenses for the Project based on a bill, invoice or other document acceptable to the City, evidencing the amount and purpose for which the payment is requested.

Section 8. Indemnification. The Company, jointly and severally, agrees to indemnify and save harmless the City and each of its officers, agents and employees from and against any and all costs, charges and expenses and claims, losses, judgments and liabilities incurred by it or them (including attorneys’ fees and expenses), to the extent it or they are acting in good faith to carry out the transactions contemplated by this Agreement, the Grant Agreement, the Lease and each of the construction contracts for the Pump Outlet Project and shall include but not be limited to, the City’s indemnification obligations and other payment obligations under the Grant Agreement. The Company’s obligations under this Section shall survive and extend beyond the Termination Date of this Agreement.

Section 9. Events of Default.

9.01 Events of Default Defined. The following shall be “Events of Default” under this Agreement and the term “Event of Default” shall mean, whenever it is used in this Agreement, any one or more failures by a party to substantially observe or perform any covenant, condition, obligation or agreement on its part to be observed or performed under this Agreement.

9.02 City’s Remedies on Default. Whenever any Event of Default by the Company referred to in Section 9.01 of this Agreement occurs, the City, as specified below, may take any one or more of the following actions after provision of thirty (30) days’ written notice to the Company of the Event of Default by the City, but only if the Event of Default has not been cured
within said thirty (30) days or if the Event of Default cannot be cured within thirty (30) days, the Company does not provide assurances to the City reasonably satisfactory to the City that the Event of Default will be cured as soon as reasonably possible:

A. The City may suspend its performance under the Agreement until it receives assurances from the Company, deemed adequate by the City, that the Company will cure its default and continue its performance under the Agreement.

B. If the Event of Default occurs prior to the closing of the transaction contemplated by this Agreement, the City may, at its option, cancel and rescind the Agreement by giving notice of such cancellation and rescission to the Company.

C. The City may take whatever action, including legal or administrative action, which may appear necessary or desirable to the City to collect any payments due under this Agreement or the Lease, or to enforce performance and observance of any obligation, agreement, or covenant of the Company under this Agreement, the Lease or the Grant Agreement.

9.03 No Remedy Exclusive. No remedy herein conferred upon or reserved to the City is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

9.04 Company’s Remedies on Default. Whenever any Event of Default by the City referred to in Section 9.01 of this Agreement occurs, the Company may seek specific performance of this Agreement in a court of law after provision of thirty (30) days’ written notice to the City of the Event of Default by the Company, but only if the Event of Default has not been cured within said thirty (30) days or if the Event of Default cannot be cured within thirty (30) days, the City does not provide assurances to the Company reasonably satisfactory to the Company that the Event of Default will be cured as soon as reasonably possible.

9.05 No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Agreement should be breached by any party and thereafter waived by any other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

Section 10. Additional Provisions.

10.01 Notices and Demands. Except as otherwise expressly provided in this Agreement, notices, demands or other communications under this Agreement by one party to the others shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally; and
A. In the case of the City, is addressed or delivered personally to:

City of Superior
1316 North 14th Street
Superior, Wisconsin 54880
Attn: City Clerk

B. In the case of Fraser, is addressed to:

Fraser Shipyards, Inc.
1 Clough Avenue
Superior, Wisconsin 54880
Attn: Director of Operations

C. In the case of FSY, is addressed to:

FSY R/E Group, LLC
1 Clough Avenue
Superior, Wisconsin 54880
Attn: Director of Operations

or, at such other addresses as a party may, from time to time, designate in writing and forward to the other as provided in this Section.

10.02 Counterparts. This Agreement is executed in any number of counterparts, each of which shall constitute one and the same instrument.

10.03 Amendments. This Agreement may not be effectively amended, changed, modified, altered or terminated, except upon the written agreement of the City and the Company.

10.04 Assignment. This Agreement may not be assigned by any party hereto without the consent of the other parties.

10.05 Waiver of Acquisition and Relocation Procedures. The City’s acquisition of the Pump Outlet Project Property could be subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601, et seq. The Company has reviewed such Act and the implementing regulations and each party hereby waives all procedures, benefits and assistance to which such party may be eligible as a result of the City’s acquisition of the Pump Outlet Project Property.

10.06 City Officials Conflict. No official, officer or employee of the City during his or her tenure or for one (1) year thereafter, shall have any interest, direct or indirect, in this Agreement or in the proceeds thereof except as permitted under s.946.15(2), Wis. Stats.
10.07 **Nondiscrimination.** In connection with the performance of its work under the Grant Agreement, the Company agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s.51.01(5), Wis. Stats., sexual orientation or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In connection with the performance of its work under the Grant Agreement and except with respect to sexual orientation, the Company further agrees to take affirmative action to ensure equal employment opportunities. In connection with the performance of its work under the Grant Agreement, the Company agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by WisDOT setting forth the provisions of this nondiscrimination clause.
IN WITNESS WHEREOF, the City has caused this Agreement to be duly executed in its name and behalf, and FSY and Fraser have caused this Agreement to be executed in their names and behalf, on or as of the date first above written.

CITY OF SUPERIOR

By
Jim Paine, Mayor

By
Terri Kalan, City Clerk
FSY R/E GROUP, LLC

By ____________________________
Its ____________________________

FRASER SHIPYARDS, INC.

By ____________________________
Its ____________________________
EXHIBIT A-1
TO THE DEVELOPMENT AGREEMENT

LEGAL DESCRIPTION OF THE PUMP OUTLET PROJECT PROPERTY

Lot 1 of Certified Survey Map _____, located in part of Government Lots 1 and 2 in Section 11, Township 49 North, Range 14 West, City of Superior, Douglas County, Wisconsin, such Certified Survey Map _____, filed for record in the office of the Douglas County Register of Deeds on ____________, 2021, in Volume ___ of Certified Survey Maps, pages ____-____.
ATTACHMENT A-2
TO THE DEVELOPMENT AGREEMENT
DEPICTION OF PUMP OUTLET PROJECT PROPERTY
EXHIBIT B
TO THE DEVELOPMENT AGREEMENT

SOURCES AND USES BUDGET

Pump Outlet Project

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**Estimated Costs of Add Alternates**

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**EXHIBIT C**
**TO THE DEVELOPMENT AGREEMENT**

**SCHEDULE**

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<td>Parties execute Lease</td>
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<td>Award construction contracts</td>
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<td>Commencement of Construction of the Project</td>
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<tr>
<td>Completion of Project</td>
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LEASE AGREEMENT
(PHASE IV)

among the

CITY OF SUPERIOR

and

FSY R/E GROUP, LLC

and

FRASER SHIPYARDS, INC.

(PUMP OUTLET PROJECT)

Drafted by:

Fryberger, Buchanan, Smith &
Frederick, P.A.
302 West Superior Street, Suite 700
Duluth, Minnesota 55802
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LEASE AGREEMENT  
(PHASE IV)

THIS LEASE AGREEMENT (this “Lease”) is made and entered into this ___ day of ____________, 2021, by and among the CITY OF SUPERIOR, a Wisconsin municipal corporation (the “City”), FSY R/E GROUP, LLC, a Wisconsin limited liability company (“FSY”) and FRASER SHIPYARDS, INC., a Wisconsin corporation (“Fraser”).

WITNESSETH

WHEREAS, FSY owns the land and improvements thereto, including the dry docks and dock walls, used for the operation of the Fraser shipyard; and

WHEREAS, FSY leases the land and improvements thereto to Fraser, which operates and maintains the Fraser shipyard facility in the City of Superior, Wisconsin (the “Facility”); and

WHEREAS, the dry dock for the Facility is in need of rehabilitation and reconstruction for the purpose of increasing the transportation efficiency of the Port of Superior; and

WHEREAS, at the request of Fraser, the City has applied to the Wisconsin Department of Transportation (the “WisDOT”) for a Harbor Assistance Program Grant for a portion of the funding for the Project (as hereinafter defined); and

WHEREAS, the City has received approval of a Harbor Assistance Program Grant (the “State Grant”) subject to the requirements set forth in the Grant Agreement between the City and WisDOT for the Project, as the same may be from time to time amended (the “Grant Agreement”); and

WHEREAS, the City, FSY and Fraser have entered into a Development Agreement dated as of ____________, 2021 (the “Development Agreement”) pursuant to which the Pump Outlet Project, as hereinafter defined, will be made to improve the Facility; and

WHEREAS, the Company, as hereinafter defined, and the City will provide in the Lease for a portion of the Facility, such portion is legally described on Attachment A-1 hereto and depicted on Attachment A-2 hereto (the “Pump Outlet Project Property”) to be leased to the City; and

WHEREAS, the Company has requested that the Pump Outlet Project Property, as improved by the Project, be leased back to FSY and FSY will continue to lease the Facility, including the Pump Outlet Project Property, as improved, to Fraser.

NOW, THEREFORE, in joint and mutual exercise of their powers, and consideration of mutual covenants herein contained, the parties recite and agree as follows:
Section 1. Definitions, Attachment, Rules of Interpretation.

1.01 Definitions. In this Lease, the following terms have the following respective meanings unless the context thereof clearly require otherwise:

“Add Alternates” means add alternates including either or both of (i) service relocation for the Pump Outlet Project and/or (ii) lighting for the Pump Outlet Project.

“BCPL Lease” means the Submerged Land Lease, dated as of October 1, 2010, between the State of Wisconsin, acting through the Board of Commissioners of Public Lands and FSY.

“City” means the City of Superior, a Wisconsin municipal corporation.

“Company” means, collectively, FSY and Fraser.

“Development Agreement” means the Development Agreement by and among the City, FSY and Fraser regarding the Project, dated as of ______________, 2021.

“Dry Dock Project” means construction of an additional dry dock at the Facility to accommodate larger ships.

“Expiration Date” as specified in Section 4 of this Lease.

“Facility” means the shipyard facility located in the City of Superior, Wisconsin, on property depicted on Attachment A-3 hereto.

“Fraser” means the Fraser Shipyards, Inc., a Wisconsin corporation, or its successors or permitted assigns under this Lease.

“FSY” means FSY R/E Group, LLC, a Wisconsin limited liability company, or its successors or permitted assigns under the Lease.

“Grant Agreement” means the Grant Agreement between the City and WisDOT regarding the Pump Outlet Project Property, the Pump Outlet Project and the State Grant, as amended from time to time, a copy of which is on file in the office of the City Clerk of the City.

“Leased Premises” means the Leased Premises as defined in Section 3 hereof.

“Phase I of the Dry Dock Project” means the past of the Dry Dock Project consisting of:

(a) Electrical System repairs and service - Plan Section 1.2.1
(b) Dry Dock # 2 Pump outlet rerouting – Plan Section 1.2.2
(c) Pump house removal and grouting – Plan Section 1.2.3
(d) Geotechnical Investigation – Plan Section 1.2.4
(e) Cultural Resource Evaluation – Plan Section 1.2.5
"Project" means the Pump Outlet Project and the selected Add Alternates, if any.

"Pump Outlet Project" means the Dry Dock #2 pump outlet rerouting described in Plan Section 1.2.2 as described in Phase I of the Dry Dock Project plans and to be constructed on the Pump Outlet Project Property, pursuant to the Development Agreement.

"Pump Outlet Project Property" means the real property described on Attachment A-1 hereto.

"State" or "WisDOT" means the State of Wisconsin, Department of Transportation.

"State Grant" is an amount up to $500,000 in funds by the State under the terms and conditions of the Grant Agreement.

"State Grant Agreement Requirements" means the obligations, conditions and requirements imposed by the State with regard to the construction, operation and maintenance of the Pump Outlet Project pursuant to the Grant Agreement.

"Term of Lease" or "Lease Term" as specified in Section 4 of this Lease.

1.02 Attachments. The following attachments are attached to and by reference made a part of this Lease:

Attachment A-1 Legal Description of Pump Outlet Project Property
Attachment A-2 Depiction of Pump Outlet Project Property
Attachment A-3 Depiction of Property on Which the Facility is Located

1.03 Rules of Interpretation.

A. This Lease shall be interpreted in accordance with and governed by the laws of the State of Wisconsin.

B. The words herein and hereof and words of similar import, without reference to any particular section or subdivision, refer to this Lease as a whole rather than any particular section or subdivision hereof.

C. References herein to a particular section or subdivision hereof are to the section or subdivision of this instrument as originally executed.

D. Any titles of the several parts, articles and sections of this Lease are inserted for convenience and reference only and shall be disregarded in construing or interpreting any of its provisions.

E. In the event that any provision or clause of this Lease conflicts with applicable law, such conflict shall not affect other provisions of this Lease which can be given effect
without the conflicting provisions, and to this end, the provisions of this Lease are declared to be severable.

Section 2. **Representations, Warranties and Covenants.**

2.01 **Representations and Warranties of FSY.** FSY represents and warrants that:

A. FSY is a Wisconsin limited liability company and in good standing and qualified to do business in the State of Wisconsin.

B. FSY has power to enter into this Lease and to perform its obligations hereunder, and has duly authorized the execution, delivery, and performance of this Lease by proper corporate action.

2.02 **Representations and Warranties of Fraser.** Fraser represents and warrants that:

A. Fraser is a Wisconsin corporation and in good standing and qualified to do business in Wisconsin.

B. Fraser has the power to enter into this Lease and to perform its obligations hereunder and has duly authorized the execution, delivery and performance of this Lease by proper corporate action.

2.03 **Representations and Warranties of the City.** The City represents and warrants that:

A. The City is a public body, corporate and politic, organized under the Laws of the State of Wisconsin.

B. The City has the power to enter into this Lease and carry out its obligations hereunder pursuant to the powers granted to it by the Wisconsin Constitution and laws.

2.04 **BCPL Lease Covenant.**

A. FSY has entered into the BCPL Lease pursuant to which FSY was granted the right and privilege to fill that part of the St. Louis River described in the BCPL Lease, which included a portion of the Pump Outlet Project Property. FSY certifies that the BCPL Lease is in full force and that the BCPL Lease term will not expire before a date 25 years after completion of the Pump Outlet Project. Such date is presently expected to be October 30, 2046.

B. The BCPL Lease contemplates the continued occupancy of the Pump Outlet Project Property by Fraser.

Section 3. **Grant and Acceptance.**
3.01 **Lease from FSY and Fraser to City.** FSY and Fraser hereby lease to the City and the City hereby accepts the Pump Outlet Project Property, including the improvements heretofore constructed thereon, for the rental amount of One Dollar ($1.00) and other good and valuable consideration as hereinafter set forth for the entire Term of the Lease.

3.02 **Lease from City to FSY.** The City hereby leases to FSY and FSY hereby accepts, subject to the terms and conditions herein set forth, the Pump Outlet Project Property, including the improvements heretofore constructed thereon and the Pump Outlet Project hereafter to be constructed thereon (collectively, the “Leased Premises”), for the rental amount of One Dollar and other good and valuable consideration as hereinafter set forth for the entire Term of Lease.

**Section 4. Term of Lease.** The Term of Lease shall commence on ______, 2021, and shall end on a date 25 years after completion of the Pump Outlet Project (the “Expiration Date”), unless terminated earlier as provided in this Lease. The date of completion of the Pump Outlet Project shall be evidenced by the Certificate of Completion of Construction issued pursuant to the Development Agreement.

**Section 5. Use of Leased Premises.**

5.01 **Use of Leased Premises.** FSY shall sublease the Leased Premises to Fraser, which shall be used as part of the Facility. The Facility shall be used solely as a commercial transportation facility, as defined in Section Trans. 28.02(1), Wis. Admin. Code. FSY agrees that the Dry Dock Project, once completed, together with reasonable access thereto, available for use by the public as a commercial transportation facility, so long as such activity is consistent with the design capabilities of the Dry Dock Project. Such use of the Dry Dock Project shall be subject to: (i) appropriate wharfage and dockage fees which shall not exceed the dock operator’s costs; and (ii) limitation on use as may be necessary to ensure compliance with state and federal laws and regulations (including specifically, but not limited to, laws and regulations pertaining to homeland security and the security of facilities engaged in ship repair and ship building activities). The Leased Premises may not be used for recreational purposes. FSY agrees that the Pump Outlet Project shall be used in a manner consistent with and in full compliance of the Grant Agreement, the State Grant Agreement Requirements, and applicable state and federal laws and regulations. Any sublease of the Leased Premises shall contain these restrictions on use of the Leased Premises.

5.02 **Limitation on Use of Leased Premises.** Except for the uses set forth in Section 5.01, the Leased Premises shall not be used for any other purpose without the express written consent of the City and WisDOT.

**Section 6. Maintenance; Taxes; Insurance and Other Matters.**

6.01 **Maintenance and Modification of Leased Premises by FSY.** From and after the completion of the Pump Outlet Project, FSY shall, at its own expense, maintain, preserve and keep the Leased Premises, including the Pump Outlet Project, in good repair, working order and condition and shall from time to time make all repairs, replacements and improvements
necessary to keep the Leased Premises, including the Project, in such condition. The City shall have no responsibility for such maintenance or for any of the repairs, replacements or improvements to the Leased Premises. In addition, FSY shall, at its own expense, have the right to remodel, modify and improve the Leased Premises, so long as the Project is operated and maintained for the use set forth in Section 5.01 hereof. No structural alterations or additions to the Leased Premises shall be made by FSY without the prior written approval of the City. All such additions, modifications and improvements shall thereafter comprise part of the Leased Premises and shall be subject to the provisions of this Lease. Such additions, modifications and improvements shall not in any way damage the Leased Premises or the Project, nor cause them to be used for purposes other than those authorized by Section 5.01 hereof. FSY will not permit any mechanics or other liens to be filed or if filed to remain against the Leased Premises for any labor or materials furnished in connection with any remodeling, additions, modifications, improvements, repairs, renewals or replacements made by FSY pursuant to this Section.

6.02 Payment in Lieu of Taxes, Personal Property Taxes, Other Governmental Charges and Utility Charges.

A. In addition to the other taxes under Section 6.02B and in the event the Facility is taxed as general property under Wisconsin Statutes (Chapter 70 as of the date of this Lease) and the Pump Outlet Project Property is exempt from property tax, FSY shall pay to the City a payment in lieu of real estate taxes on the Pump Outlet Project Property. For the purpose of determining the amount of the payment in lieu of real estate taxes, if any, FSY and the City agree that the assessor shall be directed to value the Facility and Pump Outlet Project Property, as improved, as a single integrated facility and that the assessor shall make a reasonable allocation of value of the integrated facility among the various tax parcels, including the tax parcel for the Pump Outlet Project Property. The payment in lieu of real estate taxes shall be determined in the same manner and shall be subject to the same objection and appeal procedures as are set forth by Wisconsin law for the payment, objection and appeal of real estate taxes on taxable real estate. Such payment in lieu of taxes shall be payable at the times real estate taxes are payable under Wisconsin law. FSY shall promptly pay all special assessments and charges levied against the Leased Premises during the Term of Lease, provided, however, that FSY may object or appeal to such special assessments and charges under the procedure set forth by Wisconsin law. FSY shall also promptly pay all property taxes on the improvements and/or personal property located on the Pump Outlet Project Property, provided, however, that FSY may object or appeal such taxes under the procedure set forth by Wisconsin law. FSY shall pay its costs of any objections to or appeals of payments in lieu of real estate taxes, special assessments and charges, or property taxes.

B. FSY shall also pay when due all gas, water, electricity, heat, power, telephone, sewer, garbage collection and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Leased Premises, if any. FSY shall also pay all property and excise tax and governmental charges of any kind whatsoever which may at any time be lawfully assessed and levied against or with respect to the Leased Premises or any part thereof and which become due during the term of this Lease with respect thereto; and all special assessments and charges lawfully made by any governmental body for public improvements that may be secured
by a lien on the Project; provided that with respect to special assessments or other governmental charges that may be lawfully paid in installments over a period of years, FSY may be obligated to pay only such installments as are required to be paid during the term of the Lease as and when the same become due.

6.03 Liability Insurance. From and after the date of commencement of this Lease, FSY agrees to procure and maintain continuously in effect with respect to the lease of the Leased Premises, insurance against liability for injuries to or death of any person or damage to or loss of property arising out of or in any way relating to the maintenance, use or operation of the Leased Premises or any part thereof. The amount of the liability insurance to be maintained shall be the amount maintained by similar operations to that of the Facility and shall be to the reasonable satisfaction of the City. The City shall be named an additional insured and shall provide a certificate of insurance evidencing such coverage to the City.

6.04 [Intentionally Omitted].

6.05 Workers’ Compensation Insurance. If required by state law, FSY shall carry workers’ compensation insurance covering all employees on or about the Leased Premises and upon request, shall furnish to the City a certificate evidencing such coverage throughout the term of the Lease.

6.06 Other Insurance and Requirements for All Insurance. All insurance required by this Section may be carried under a separate policy or a rider or endorsement and shall be taken out and maintained with responsible insurance companies organized under the laws of one of the United States and qualified to do business in the State of Wisconsin; shall contain a provision that the insurer shall not cancel or revise the coverage thereunder without giving written notice to both FSY and the City at least thirty (30) days before the cancellation or revision becomes effective.

6.07 Liens. From and after the date of this Lease, FSY shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Leased Premises. Except as expressly provided in this Section, FSY shall promptly, at its own expense, take such action as may be necessary to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim if the same shall arise at any time during the Term of Lease.

6.08 Assumption of Risk; Indemnification. As between FSY and the City, FSY assumes all risks and liabilities, whether or not covered by insurance, for loss or damage to the Leased Premises and for injury to or death of any person or damage to any property, whether such injury or death be with respect to agents or employees of FSY or a third party, and whether such property damage be to the Leased Premises, FSY’s property or the property of others which is proximately caused by the conduct of FSY, its officers, employees and agents. FSY hereby assumes responsibility for and agrees to indemnify and save harmless the City and each of its officers, agents and employees from and against all liabilities, obligations, losses, damages, penalties, claims, actions, costs and expenses (including reasonable attorneys’ fees) and
including all obligations under the Grant Agreement of whatever kind and nature, imposed on, incurred by or asserted against the City, its officers, agents or employees, that in any way relates to or arises out of a claim, suit, proceeding or judgment arising from or based in whole or in part upon:

A. any injury to or death of any person or damage to property in or upon the Leased Premises or growing out of or connected with the use, non-use, condition, or occupancy of the Leased Premises or a part thereof;

B. violation by FSY of any agreement or condition of this Lease, the Grant Agreement or the Development Agreement, or any other agreement entered into as part of this transaction;

C. violation of any law, ordinance, or regulation by FSY affecting the Pump Outlet Project or the Leased Premises, or a part thereof, or the ownership, occupancy or use thereof; and

D. any other act relating to the leasing, occupancy or operation of the Leased Premises or any document executed in furtherance thereof.

The provisions of this Section 6.08 shall survive the expiration or termination of this Lease only to the extent the indemnification sought by the City pertains to an event occurring prior to the expiration or termination of the Lease.

**Section 7. Damage; Destruction; Condemnation; Use of Net Proceeds.**

7.01 Damage, Destruction and Condemnation. If (i) the Leased Premises or any portion thereof is destroyed by fire or other casualty or (ii) title to or the temporary use of the Leased Premises or any part thereof or the interest of FSY or the City in the Leased Premises or any part thereof, shall be taken under the exercise of any power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, FSY shall have the rights specified in this Section with respect to the net proceeds of any insurance or condemnation award and shall either: (a) apply such net proceeds to the prompt repair, restoration, modification or improvement of the Leased Premises; or (b) shall exercise its option to terminate this Lease and distribute the net proceeds as follows: (1) to the extent required by the State pursuant to the Grant Agreement, reimburse the State Grant to the State; and (2) retain the remaining net proceeds for FSY.

7.02 Cooperation between Parties. The City shall fully cooperate with FSY at the expense of FSY in filing any proof of loss with respect to any insurance policy covering the casualties described in Section 7.01 hereof and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Leased Premises or any part thereof and will, to the extent it may lawfully do so, permit FSY to litigate in any proceedings resulting therefrom in the name of and on behalf of the City.

**Section 8. Assignment, Subletting, Mortgaging, Selling and Option.**
8.01 Assignment and Subletting by FSY. This Lease, or any interest therein, may not be assigned or subleased by FSY or Fraser without the prior written consent of the City, which consent shall not be unreasonably withheld. Consent to the sublease of the Leased Premises to Fraser is hereby approved by the City.

8.02 Restriction on Mortgage or Sale of Leased Premises. Neither FSY, Fraser nor the City shall mortgage, sell, assign, transfer or convey its interest in the Leased Premises or any portion thereof during the term of this Lease without the prior written consent of the other party or WisDOT.

8.03 Option. The City hereby grants to FSY the option to purchase the City’s interest in the Leased Premises for $1.00 on the day following the Expiration Date. FSY shall notify the City not more than six months nor less than sixty days prior to the Expiration Date of its election to exercise its option to purchase hereunder. If FSY exercises its option to purchase, the City shall deliver a quit claim deed in form proper for recordation to FSY on the day following the Expiration Date. All costs of closing the transfer of the Pump Outlet Project Property shall be borne by FSY.

Section 9. Events of Default and Remedies.

9.01 Events of Default Defined. The following shall be “events of default” under this Lease and the terms “events of default” and “default” shall mean, whenever they are used in this Lease, any one or more of the following events:

A. Failure by FSY to observe and perform any covenant, condition or agreement on its part to be observed or performed for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to FSY by the City, unless the City shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the City will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by FSY within the applicable period and diligently pursued until the default is corrected.

B. The filing by FSY or Fraser of a voluntary petition in bankruptcy, or failure by FSY or Fraser promptly to lift any execution, garnishment or attachment of such consequence as would impair the ability of FSY or Fraser to carry on its operations at the Leased Premises, or adjudication of FSY or Fraser as a bankrupt, or assignment by FSY or Fraser for the benefit of creditors, or the entry by FSY or Fraser into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to FSY or Fraser in any proceedings instituted under the provisions of the federal bankruptcy code, as amended, or under any similar acts which may hereafter be enacted.

C. Failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed for a period of thirty (30) days after written notice
specifying such failure and requesting that it be remedied has been given to the City by FSY, unless FSY shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, FSY will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by FSY within the applicable period and diligently pursued until the default is corrected.

9.02 Remedies on Default. Whenever any event of default referred to in Section 9.01 A. or B. hereof shall have happened and be continuing with respect to the Leased Premises, the City shall have the right, at its option and without any further demand or notice, to take one or any combination of the following remedial steps:

A. terminate this Lease; or

B. with or without terminating this Lease, re-enter and take possession of the Leased Premises and exclude FSY from using it; provided, however, that if this Lease has not been terminated, the City shall return possession of the Leased Premises to FSY when the event of default is cured; or

C. take whatever action at law or in equity may appear necessary or desirable to enforce performance and observance of any obligation, agreement or covenant of FSY under this Lease.

Whenever any event of default referred to in Section 9.01 C. hereof shall have happened and be continuing with respect to the Lease, FSY shall have the right, at its option and without further demand or notice to take whatever action at law or in equity may appear necessary or desirable to enforce performance and observance of any obligation, agreement or covenant of the City under this Lease.

9.03 Return of Leased Premises. Upon the expiration or termination of this Lease, FSY shall deliver possession of the Leased Premises to the City in good condition, repair, and working order. All fixtures and improvements to the Leased Premises shall remain part of the real property and shall remain in place upon surrender to the City of the Leased Premises on expiration or termination of this Lease.

9.04 Delay; Notice. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle any party to exercise any remedy reserved to it in this Lease it shall not be necessary to give any notice, other than such notice as may be required in this Lease.

9.05 No Remedy Exclusive. No remedy herein conferred upon or reserved to the City or FSY is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or now or hereafter existing at law or in
equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

9.06 No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Lease should be breached by a party hereto and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

9.07 Force Majeure. The provisions of Section 9.01 and Section 9.02 are subject to the following limitation: if by reason of force majeure FSY or the City is unable in whole or in part to carry out its obligations under this Lease with respect to the Leased Premises, the City or FSY shall not be deemed in default during the continuance of such inability or during any other delays which are a direct consequence of the force majeure inability, and the time for compliance with such obligations shall be extended to cover such delays. The term “force majeure” as used herein shall mean, without limitation, the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or any of its departments, agencies or officials, or any civil or military authority; insurrections; riots; landslides; earthquakes; fires; storms; droughts; floods; explosions; breakage or accident to machinery, transmission pipes or canals; or any other cause or event not reasonably within the control of the City or FSY and not resulting from its negligence. The City and FSY agree, however, to remedy with all reasonable dispatch the cause or causes preventing them from carrying out their obligations under this Lease; provided that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the City or FSY and they shall not be required to make settlement of strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is in their judgment unfavorable to them.

Section 10. Administrative Provisions.

10.01 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given on the earlier of (i) delivery or (ii) three days following deposit in the United States mail in certified or registered form with postage fully prepaid:

A. In the case of FSY, is addressed or delivered personally to:

FSY R/E Group, LLC
1 Clough Avenue
Superior, Wisconsin 54880
Attn: Director of Operations

B. In the case of Fraser, is addressed or delivered personally to:

Fraser Shipyards, Inc.
1 Clough Avenue  
Superior, Wisconsin 54880  
Attn: Director of Operations

C. In the case of the City, is addressed to or delivered personally to:

City of Superior  
1316 North 14th Street  
Superior, Wisconsin 54880  
Attention: City Clerk

The City, FSY and Fraser, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

10.02 Binding Effect. This Lease shall inure to the benefit of and shall be binding upon the City, FSY and Fraser and their respective successors and permitted assigns.

10.03 Severability. In the event any provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

10.04 Amendments, Changes and Modifications. This Lease may be amended or any of its terms modified only by written amendment authorized and executed by the City, FSY and Fraser.

10.05 Further Assurances and Corrective Instruments. FSY, Fraser and the City agree that they will, if necessary, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Leased Premises hereby leased or intended so to be or for carrying out the expressed intention of this Lease or for effectuating the option to purchase pursuant to Section 8.03.

10.06 Execution in Counterparts. This Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

10.07 Applicable Law. This Lease shall be governed by and construed in accordance with the laws of the State of Wisconsin.

10.08 Captions. The captions or headings in this Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Lease.

10.09 Quiet Enjoyment. As long as the Company performs all of the covenants and conditions of this Lease, it shall have peaceful and quiet enjoyment of the Leased Premises for the term.
10.10 **City and WisDOT Access to Leased Premises.** FSY and Fraser agree that the City and WisDOT, and their representatives, may enter the Leased Premises through the property depicted on Exhibit A-3 for the purpose of verifying compliance with the terms of this Lease and the Grant Agreement. Such access shall be during normal business hours, upon reasonable advance notice (by telephone or otherwise) to Fraser.

10.11 **No Joint Enterprise.** The relationship between the City, FSY and Fraser under this Lease shall be solely that of landlord and tenant. No joint enterprise or partnership shall be inferred from any of the provisions of this Lease.

10.12 **Memorandum of Lease.** The parties agree that this Lease shall not be recorded with the Register of Deeds, but a Memorandum of Lease shall be executed by the parties on the date of this Lease and such memorandum shall be recorded in the Office of the Register of Deeds for Douglas County, Wisconsin.

10.13 **City Officials Conflict.** No official, officer or employee of the City of Superior during his or her tenure or for one (1) year thereafter, shall have any interest, direct or indirect, in this Lease or in the proceeds thereof except as permitted under s.946.13(2), Wis. Stats.

[remainder of page left blank intentionally]
IN WITNESS WHEREOF, the City has caused this Lease to be executed in its corporate name by its duly authorized officers; and FSY and Fraser have caused this Lease to be executed in their name by its duly authorized officers, as of the date first above written.

CITY OF SUPERIOR

By __________________________
Mayor

By __________________________
City Clerk

Signature page to Lease Agreement between the City of Superior, FSY R/E Group, LLC and Fraser Shipyards, Inc., dated as of _____________, 2021.
FSY R/E GROUP, LLC

By __________________________
Its __________________________

Signature page to Lease Agreement between the City of Superior, FSY R/E Group, LLC and Fraser Shipyards, Inc., dated as of _______________, 2021.
FRASER SHIPYARDS, INC.

By ______________________
Its ______________________

GUARANTY

Fraser Shipyards, Inc. hereby guarantees the payment and performance of all of FSY R/E Group, LLC’s obligations contained in the foregoing Lease Agreement.

Dated ________________, 2021

FRASER SHIPYARDS, INC.

By ______________________
Its ______________________

Signature page to Lease Agreement between the City of Superior, FSY R/E Group, LLC and Fraser Shipyards, Inc., dated as of ________________, 2021.
ATTACHMENT A-1
TO THE LEASE AGREEMENT

LEGAL DESCRIPTION OF THE DOCK WALL PROPERTY

Lot 1 of Certified Survey Map ____, located in part of Government Lots 1 and 2 in Section 11, Township 49 North, Range 14 West, City of Superior, Douglas County, Wisconsin, such Certified Survey Map ____, filed for record in the office of the Douglas County Register of Deeds on ____________, 2021, in Volume __ of Certified Survey Maps, pages ____-____.
EXHIBIT E
TO THE DEVELOPMENT AGREEMENT

Form of Grant Agreement
EXHIBIT F
TO THE DEVELOPMENT AGREEMENT

FORM OF
CERTIFICATE OF COMPLETION OF CONSTRUCTION

WHEREAS, by a Development Agreement (the “Agreement”) dated as of ________, 2021, entered into by and among the City of Superior (the “City”), FSY R/E Group, LLC (“FSY”) and Fraser Shipyards, Inc. (“Fraser”) (FSY and Fraser are collectively referred to as the “Company”), the parties have developed the real property (the “Pump Outlet Project Property”) described on the attached Exhibit A, by construction or causing to be constructed, the improvements thereon (the “Project”) according to the terms and conditions of the Agreement;

WHEREAS, pursuant to the Agreement, promptly after the completion of the construction of the Project on the Pump Outlet Project Property, the City shall furnish a Certificate of Completion pertaining to the Project;

WHEREAS, the issuance by the City of the Certificate of Completion shall be conclusive evidence that the construction of the Project have been completed on the Pump Outlet Project Property in accordance with the terms of the Agreement; and

WHEREAS, the City has determined that the work of construction of the Pump Outlet Project on the Pump Outlet Project Property as required by the Agreement has been satisfactorily completed.

NOW, THEREFORE, be it resolved:

1. As provided in the Agreement, it is hereby agreed that construction of the Project on the Pump Outlet Project Property have been fully and satisfactorily performed and completed, and that such construction work is in full compliance with the terms, provisions, and conditions established in the Agreement as of ______________, 20__.

2. The Agreement is therefore of no further force and effect with respect to the Project, and all rights duties, obligations, and liabilities of the City and the Company thereunder regarding the construction of the Project shall cease to exist. Any continuing and existing rights, duties, obligations, and liabilities provided in the Agreement shall continue to remain in force and effect.
IN WITNESS WHEREOF, the City has executed this Certificate of Completion as of this _____ day of ____________, 20___.

CITY OF SUPERIOR

By __________________________
Its Mayor

By __________________________
Its City Clerk

ACCEPTED BY:

FSY R/E GROUP, LLC

By __________________________
Its __________________________

FRASER SHIPYARDS, INC.

By __________________________
Its __________________________
GRANT AGREEMENT

Identification Number: 0495-20-07 SEG Funding

Wisconsin Harbor Assistance Program

By and Between

City of Superior – Port of Superior, Douglas County, WI

and

The Wisconsin Department of Transportation

Dated the _______ of ________________________, 2021
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INTRODUCTION

THIS GRANT AGREEMENT ("Agreement") is made and entered into this____day of
____________, 2021 by and between City of Superior (hereinafter called City) and the
Wisconsin Department of Transportation ("WisDOT").

WITNESSETH

WHEREAS, City seeks to complete a project to re-route the pump outlet and upgrade
the existing electrical components to enable continued use of Dry Dock #2, in the City of
Superior on property owned by FSY R/E Group, LLC and leased by Fraser Shipyards Inc.; and

WHEREAS, maintenance of commercial harbor activity in Superior, Wisconsin is an
integral part of the CITY’s Three-Year Harbor Development Statement of Intentions; and

WHEREAS, CITY has applied to WisDOT for a Harbor Assistance Program ("HAP")
grant under Section 85.095, Wis. Stats., for reimbursement of funds anticipated to be expended
for the work described herein.

WHEREAS, the Department acknowledges the CITY shall be acting as an agent for the
Company under a separate agreement and any required statement or resolution by the CITY or
its authorized representative(s), Attachment C, which is attached hereto and incorporated herein.
This AGREEMENT is contingent upon the City of Superior and the Company entering into a
Development Agreement and related lease agreement regarding this project.

NOW, THEREFORE, the parties do hereby mutually agree that WisDOT shall provide
financial assistance and CITY shall accept financial assistance in accordance with all applicable
statutes and administrative rules, and with the following terms and conditions:

ARTICLE 1.0 DEFINITIONS

"Agreement" means this grant agreement between CITY and WisDOT.

"Approved Project" means performance of the work described in Section 2.1 of this Agreement.

"CITY" means City of Superior, Wisconsin. CITY may assign requirements in this Agreement to
the Company provided CITY enters into a development agreement and related lease agreement
with the Company which includes equivalent requirements. Such development agreement and
related lease agreement shall be Attached to this Agreement and incorporated in this Agreement
for reference as Attachment D..

"COMPANY" means collectively, FSY R/E Group, LLC and Fraser Shipyards Inc.

"Project Location" means the structure and real property located at the structure and real
property located at 1 Clough Avenue, Superior, WI 54880 and more specifically described in the
certified survey map made part of this Agreement by reference as Attachment A.
“Secretary” means the Secretary of the Wisconsin Department of Transportation.

“WisDOT” means the Wisconsin Department of Transportation.

ARTICLE 2.0 APPROVED PROJECT

Section 2.1 Project Description

The Approved Project consists of the following elements:

(a) A project to re-route the pump outlet and upgrade the existing electrical components to enable continued use of Dry Dock #2, in the City of Superior on property owned by FSY R/E Group, LLC and leased by Fraser Shipyards Inc.; and

Fraser Shipyard Inc. has elected to retain Barr Engineering Co. as the project engineer and to pay for the engineering costs for preliminary design, final design and project supervision, thus such costs and the grant administration will not be eligible costs of the Approved Project.

Section 2.2 Scope of Work

CITY shall perform the following Approved Project work:

(a) Prepare final Approved Project plans and specifications to WisDOT’s satisfaction for the letting of competitive bids for the completion of project elements above.

(b) Complete the construction in accordance with plans and specifications prepared under task 2.2(a) above which plans and specifications will be made part of this Agreement by reference as Attachment B.

(c) Perform or provide for the performance of scheduled and as-needed special technical inspections of all contractors' work to assure contract, plans and specification compliance, and issue orders or arrange for remedial action as may be necessary to complete the Approved Project.

Section 2.3 Grant Amount

(a) WisDOT grants to CITY an amount equal to a maximum of $500,000 or an amount equal to 80 percent of eligible costs (described in Section 3.3), whichever is the lesser, for completion of the Approved Project work as set forth in Section 2.2, Scope of Work, and in Attachment B.

(b) CITY agrees to pay an amount which is no less than 20 percent of eligible costs as described in Section 3.3. CITY shall provide 100 percent of payment for any additional costs exceeding the amount granted by WisDOT herein (additional monies) that may be required to complete the scope of work under this Agreement according to the plans and specifications in Attachment B. If CITY fails on or before December 31, 2022 to complete to WisDOT’s satisfaction
any Approved Project element as set forth in Section 2.1 and any work as set forth in Section 2.2 and in Attachment B for which grant funds are expended, WisDOT's obligation to advance funds under this grant Agreement shall cease. CITY, however, shall thereafter complete the Approved Project at no additional expense to WisDOT as required under this Agreement.

(c) In the event actual costs for all work for the Approved Project as set forth in Section 2.2, Scope of Work, and in Attachment B total less than the estimated costs for that work for the entire Approved Project as set forth in Section 2.4(b), CITY is not authorized to increase the scope of work or add any new work elements to the Approved Project for the purpose of utilizing surplus grant funds created by the difference between actual costs and the grant amount provided in this Agreement. CITY shall notify WisDOT when changes are made to the estimated budget line amounts set forth in Section 2.4(b).

(d) CITY hereby declares that it shall obtain its share of eligible costs (match), as specifically listed in Section 2.4(b), on or before August 1, 2021. In the event the CITY, for whatever reason, does not obtain all or any portion of the match and additional monies by the aforementioned date, the CITY remains obligated to provide match and additional monies for payment of eligible Approved Project costs as approved by WisDOT. In the event the CITY terminates this grant Agreement, it remains obligated to provide match and additional monies as may be accrued prior to termination.

Section 2.4 Project Budget

(a) WisDOT grant funds shall not comprise more than 80 percent of any progress payment, but may, due to payment of retainage amounts, exceed 80 percent of the last payment. Reimbursement of eligible costs for the Approved Project shall be on an actual cost basis as documented by sealed bids and time records, up to the maximum amount of 80 percent of eligible costs incurred by CITY under the terms of this Agreement, but in no event greater than $500,000.

(b) The estimated budget line items are:

<table>
<thead>
<tr>
<th>Item</th>
<th>HAP Share</th>
<th>Local Share</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mobilization and demolition</td>
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<td>$ 36,917.44</td>
<td>$115,000.00</td>
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<tr>
<td>Site improvements and restoration</td>
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<td>$ 3,980.66</td>
<td>$12,400.00</td>
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<tr>
<td>Pipe supports, grouting, demolition</td>
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<td>$53,000.00</td>
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<tr>
<td>Pipe and fittings</td>
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<td>Rain water pump</td>
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<td>$73,000.00</td>
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<tr>
<td>Mixer/heater</td>
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<td>$ 6,099.40</td>
<td>$19,000.00</td>
</tr>
<tr>
<td>Electrical for pumping</td>
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<td>$ 13,803.91</td>
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<td>Crane use</td>
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<td>$ 8,025.53</td>
<td>$25,000.00</td>
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<td><strong>TOTAL</strong></td>
<td><strong>$500,000.00</strong></td>
<td><strong>$236,400.00</strong></td>
<td><strong>$736,400.00</strong></td>
</tr>
</tbody>
</table>
Section 2.5 Project Monitoring and Inspection

(a) CITY shall provide for qualified on-site inspection of the Approved Project work progress and quality by assignment of a COMPANY-selected, CITY-approved and WisDOT-approved engineer who will act as the project engineer.

(b) The project engineer shall have overall responsibility for the management of the engineering, construction and administration of the Approved Project including inspection, preparation of daily diaries and reports, and approval of change orders and contractors' invoices for submittal to CITY.

(c) The project engineer shall be specifically qualified in construction inspection and project management and have general knowledge of marine construction and specific experience in the design and construction of shipyard dry dock projects. The project engineer shall provide for the daily monitoring of the Approved Project to assure compliance with this Agreement. The project engineer shall maintain accurate records, including photographs, indicating the quantity of work performed and materials used. These records shall show whether the work performed is in compliance with each applicable item of Attachment B. If work is unsatisfactory, the project engineer shall order corrective action. All costs of corrective action shall be paid by CITY and are not eligible for reimbursement under this Agreement. The project engineer shall report any instance of non-compliance with the terms of this Agreement or its Attachment B or any questionable work to CITY and shall immediately send a copy of the report directly to WisDOT. CITY itself shall assure that all reports of non-compliance are promptly provided to WisDOT.

(d) The project engineer shall maintain a daily project diary and sign the diary at the end of each day. The diary shall be used to record progress of work, compliance with the plans and specifications as set forth in Attachment B, and any unusual events.

(e) WisDOT or its designee may conduct inspections of the project site, project diaries, books, reports and other documents, as frequently as deemed necessary by WisDOT. CITY shall ensure direct access to the project site and documents to any WisDOT inspector or designee at any reasonable time subject to reasonable security measures.

ARTICLE 3.0 GRANT PAYMENT REQUIREMENTS AND PROCESS

Section 3.1 Payment Schedule

(a) Invoices for payment shall be submitted to WisDOT no more frequently than monthly and no less frequently than quarterly other than for the single payment at the end of the Approved Project. No payments of any amount shall be made by WisDOT for eligible project costs incurred prior to CITY's compliance with all applicable conditions and requirements of this grant Agreement including those set forth under Sections 2.2(a), 2.3(b), 3.3(a)(b)(c), 4.1, 4.3, 10.2(a) and (b), 11.4(c) and Article 5.0 of this Agreement.
(b) Should any element of cost billed on the invoice be questioned by WisDOT as to its eligibility under this Agreement, WisDOT may except that cost item until questions concerning the cost item are resolved to the satisfaction of WisDOT. WisDOT shall pay any unquestioned cost reimbursement elements less any allowable retainage according to schedule except that WisDOT shall pay no amounts unless all monthly performance reports required under Section 4.3(a) of this Agreement have been submitted to and accepted by WisDOT.

(c) Until final acceptance by WisDOT of all the work on the Approved Project and until delivery of lien waivers from all contractors, subcontractors, material providers and suppliers involved with the Approved Project, WisDOT shall withhold payment of the final grant amount. The withheld amount shall be paid only upon replacement or correction to WisDOT's reasonable satisfaction of any and all deficiencies in work or project management cited by WisDOT in its final inspection of the Approved Project and only after receipt by WisDOT of all the required lien waivers.

Section 3.2 Payment Process

(a) CITY shall submit each invoice to WisDOT, Railroads and Harbors Section, P.O. Box 7913, Madison, Wisconsin, 53707-7913, Attention: Harbors and Waterways Program, for reimbursement of Approved Project eligible costs incurred during the prior invoice period. With CITY's invoice to WisDOT, CITY shall attach copies of all invoices for eligible Approved Project costs incurred by CITY during the invoice period.

(b) WisDOT shall pay to CITY, subject to final Approved Project audit by WisDOT, an amount equal to 80 percent of the amount appropriately invoiced in accordance with this Agreement for Approved Project eligible costs, except that WisDOT shall withhold from each payment as a completion retainage an amount equal to 10 percent of WisDOT's share of the invoiced amounts until 50 percent of the work under each work task has been completed. After 50 percent Approved Project completion, WisDOT shall thereafter pay an amount equal to the full 80 percent of each amount invoiced for Approved Project eligible costs, unless the Approved Project is not proceeding satisfactorily pursuant to the plans and specifications and to the schedules prepared under Section 4.1; but amounts previously withheld by WisDOT shall not be paid to CITY until final acceptance by WisDOT of all the work. At 50 percent Approved Project completion or any time thereafter, if the progress of work is not satisfactory pursuant to the plans and specifications and to the schedules prepared under Section 4.1, additional completion retainage amounts may be withheld by WisDOT, but in no event shall the amount withheld by WisDOT exceed 10 percent of the WisDOT grant share of the invoiced amounts for the work satisfactorily completed pursuant to the plans and specifications for each work task.

(c) CITY shall pay, as local matching funds, at least an amount equal to 20 percent of the invoiced amount. CITY shall provide 100 percent of payment for additional costs exceeding the grant amount under this Agreement.

Section 3.3 Eligible Costs

(a) Costs, subject to the maximum grant amount allowable under this Agreement, incurred by CITY in the completion of any work under Section 2.2(b), are eligible for reimbursement by WisDOT except:
(1) If incurred prior to the effective date of this Agreement, unless incurring of costs is approved in writing by WisDOT;

(2) If CITY fails to secure all necessary permits, licenses and authorizations, and fails to deliver signed copies thereof to WisDOT;

(3) If CITY fails to submit to WisDOT a copy of its or its contractor's general liability, worker's compensation, comprehensive business vehicle and other applicable insurance policies satisfactory to WisDOT, as required under Section 10.2(a) and (b);

(4) If CITY fails to secure WisDOT written approval of the contracts let for work for the Approved Project;

(5) If CITY fails to provide evidence to WisDOT that any and all contractors have obtained a performance and payment surety bond as required under Section 11.4(c); or

(6) If CITY fails to meet all applicable requirements in this Agreement or under applicable law.

(b) CITY shall, whenever available and consistent with the other provisions of this Agreement, take cash and trade discounts, tax exemptions, or other credits in connection with goods and services purchased or used on the Approved Project. CITY shall impose this requirement on any contractor or subcontractor when payment is based on costs incurred.

(c) If WisDOT or a federal or other state agency having jurisdiction determines that any material or work is deficient for whatever reason, CITY shall require the replacement of whatever materials or the correction of whatever work is necessary to cure the deficiency. CITY shall not use any WisDOT grant funds as provided for in this Agreement or CITY matching funds to pay for the replacement or correction required.

(d) All materials delivered to CITY or its contractors or subcontractors for use in performing the work set forth in the Scope of Work in Section 2.2 shall be appropriately accounted for upon delivery and protected from theft or damage by CITY at its expense. Replacement of damaged or stolen material is not an eligible cost under this Agreement. Damage to or theft of material is not an acceptable reason for non-performance of CITY's obligations under this Agreement. If WisDOT agrees, damage or theft may be an acceptable reason for an extension of the completion dates under this Agreement. Any extension of completion date shall be requested by CITY and be approved by WisDOT in writing before it becomes effective.

Section 3.4 Financial Management, Audit and Records

(a) CITY shall maintain, whether in the form of contracts, subcontracts or other documents, the following until the expiration of three (3) years after the date of WisDOT acceptance of the final close out accounting which shall include:

10
(1) Records that identify the sources and applications of all funds for the
Approved Project and that contain information pertaining to grant awards, draw downs,
obligations, unobligated balances, assets, liabilities, outlays and income;

(2) Original invoices, employee time sheets and all other supporting source
documents;

(3) Bid documents, contracts, subcontracts and all documentation underlying the
preparation of the Approved Project financial reports and the grant budget; and

(4) All accounting documents of CITY pertaining to the Approved Project. (These
accounting documents shall be clearly identified and readily accessible to WisDOT and
its designees. CITY shall also impose this requirement upon each of its contractors and
ensure that it is imposed on each subcontractor.)

(b) The Secretary of WisDOT and any duly authorized representatives shall have access,
for the purpose of audit and examination, to any books, documents, papers, and records of the
recipients of funds under this Agreement which in the opinion of the Secretary or designee may
be related or pertinent to the Approved Project for which CITY has received or is or may be
entitled to receive assistance under this Agreement. CITY shall impose this requirement on each
of its contractors and ensure that it is imposed on each subcontractor.

(c) All costs charged to the Approved Project through this Agreement shall be supported
by documents evidencing in detail the nature and propriety of the charges. All accounting and
other documents pertaining to the Approved Project shall be clearly identified and readily
accessible to WisDOT representatives or designees.

(d) CITY shall establish a separate account showing receipts and disbursements of all
funds provided under this Agreement. This system of accounts shall permit the clear
differentiation of charges to the Approved Project from expenditures made by CITY for non-
project work. Contractors and subcontractors shall be required to maintain accounts that
differentiate receipts and disbursements in a similar manner.

(e) WisDOT may conduct and prepare a final Approved Project audit of the use of
WisDOT provided funds under this Agreement. CITY shall fully cooperate with WisDOT and its
representatives in the conducting and preparing of such a final Approved Project audit and shall
also require its contractors and subcontractors to do so. All payments to CITY shall be subject to
a claim for refund by WisDOT based upon the final Approved Project audit.

(f) CITY shall have a single, organization-wide financial and compliance audit performed
by a qualified independent auditor if required to do so under federal law and regulations.

(g) The audit specified in Section 3.4(f) shall be performed in accordance with federal
Uniform Guidance (2 C.F.R. 200 Subpart F) issued by the U.S. Office of Management and
Budget and State of Wisconsin single audit guidelines issued by the Wisconsin Department of
Administration. State programs will be included in the scope of the single organization-wide financial and compliance audit.

ARTICLE 4.0 REPORTING

Section 4.1 Work Task Scheduling

Prior to starting the work described in Section 2.2(b), CITY shall provide WisDOT with a schedule of anticipated work progress by month for each Approved Project work item. The schedule shall follow a format acceptable to WisDOT. The schedule shall be updated monthly to show anticipated work to be done both during the next month and during the following months through Approved Project completion. The updated schedule shall be submitted to WisDOT with the monthly performance report required by Section 4.3(a).

Section 4.2 Immediate Reporting

CITY shall report to WisDOT immediately in writing whenever there is any condition under federal, state or local law or there is any other circumstance that may significantly affect:

(a) CITY's ability to pursue any aspect of the Approved Project in accordance with the provisions of this Agreement, or

(b) CITY's continuing eligibility for financial assistance under this Agreement.

Section 4.3 Routine Reporting

(a) If during any month, a contractor or subcontractor has performed work on the Approved Project, CITY shall file a monthly performance report with the next invoice for payment from WisDOT. The report shall include the following information:

(1) The total accumulated Approved Project costs incurred to the end of the month and the estimated costs remaining to complete the Approved Project;

(2) Unit costs of materials, labor and equipment charged to the Approved Project for the period covered by the report;

(3) The percentage of completion of each work item of the Approved Project and the estimated date of completion of each work item;

(4) A narrative describing all work completed during the past month;
(5) A narrative description of any difficulties or delays encountered, including an explanation of any cost overruns or higher than budgeted unit costs and any corrective action taken or to be taken to address the difficulties, or delays, or cost overruns;

(6) An explanation of any anticipated difficulties or delays until the end of the Approved Project and the action to be taken in an effort to avoid such difficulties or delays; and

(7) Any additional narrative necessary to explain any major change that has been made during the past month to the monthly schedule of anticipated work progress.

(b) All financial reports shall be prepared on the same basis as CITY’s accounting records unless WisDOT shall direct otherwise in writing. All records and reports shall be kept in accord with generally accepted accounting principles.

ARTICLE 5.0 PERMITS AND LICENSES

CITY shall obtain all necessary valid permits, licenses and authorizations required for the completion of the Approved Project. Costs associated with the acquisition of permits, licenses and authorizations are not eligible for reimbursement under this Grant Agreement. No payment of grant funds for eligible costs incurred for performance of any work shall be made by WisDOT prior to CITY’s having secured all necessary permits, licenses, and other authorizations and having delivered executed copies of each to WisDOT. CITY shall file with WisDOT one (1) executed copy of each required permit, license or other authorization upon execution of this Agreement or within thirty (30) business days following the acquisition of the permit, license, or other authorization documents by the CITY. Failure to obtain and deliver to WisDOT all necessary permits, licenses or other authorizations on or before August 1, 2021 shall terminate this Agreement under the terms of Article 8.0 herein. If at some date after August 1, 2021 it is determined by a court of competent jurisdiction that a permit, license, or authorization other than those submitted to WisDOT under this Article is necessary to complete the Approved Project, CITY shall, within 180 days from the date of notice to CITY by WisDOT, either obtain such permit, license or authorization or return to WisDOT all amounts paid by WisDOT under the terms of this Agreement.

Permits and licenses referred to in the above paragraph are “major” permits and licenses required for authorization of the Approved Project. Minor permits and licenses required during the course of the work, and normally only issued to the contractor at the time of the work, will not be an eligible cost and will be obtained as the Approved Project work progresses.

ARTICLE 6.0 OWNERSHIP OF PROJECT LOCATION

Section 6.1 Transfer of Ownership or Lease Interest

(a) Without WisDOT’s and CITY’s prior written consent, which consent shall not be withheld unreasonably, the Company shall not sell, give, or convey in any manner whatsoever, its ownership or lease interest of facilities built as part of the Approved Project within 25 years from the date of completion of the Approved Project. Transfer of ownership or lease interest by any means by property
owner shall require WisDOT and CITY having the right of first refusal to the property interest being transferred.

(b) WisDOT’s prior written consent will not be unreasonably withheld if the party acquiring property owner’s interest accepts all terms and conditions of this AGREEMENT.

ARTICLE 7.0 TERMINATION

In the event CITY fails to perform any of its obligations under this Agreement, WisDOT may, at its option, give thirty (30) days written notice thereof to CITY. Upon failure of CITY to correct the breach within thirty (30) days following written notice, WisDOT shall have the right, at its option, to terminate this Agreement by giving written notice by certified mail to CITY. Notwithstanding the foregoing, if the default for which notice is given is not capable of being cured within thirty (30) days following written notice and if CITY has taken reasonable steps to initiate a cure of said default within the thirty (30) day period, then at the sole discretion of the WisDOT, communicated to CITY in writing, CITY may have a reasonable period to cure the default. WisDOT’s exercise of the right to terminate shall not impair any other rights of action or claims by WisDOT under this Agreement or under the law against CITY. This Agreement may be terminated by mutual agreement of the parties at any time. If this Agreement is terminated for any reason whatsoever, CITY shall take, at its sole cost and expense, any and all appropriate action to permanently maintain the Project Location in a condition that poses no threat or hazard to navigation or the public and that complies with all applicable laws and regulations and with any conditions set forth in the permits, licenses and authorizations secured by CITY under this Agreement. CITY shall bear all expenses of termination if this Agreement is terminated at the request of CITY, or if a CITY contractor or a CITY contractor’s subcontractor, defaults on any term or provision of this Agreement.

Subject to the provisions of Title 11 of the United States Code regarding Federal Bankruptcy, CITY shall be considered in default of this Agreement upon the date of filing for such bankruptcy protection. WisDOT reserves its rights under this Agreement and pursuant to applicable law to pursue available remedies in the event of such default.

WisDOT reserves the right to terminate this Agreement in whole or in part without penalty due to non-appropriation of funds.

ARTICLE 8.0 CONTRACT PERIOD

This Agreement shall be in effect upon the date set forth on page one of this Agreement and shall continue in effect for twenty-five (25) years from the completion of the Approved Project work or until terminated under Article 7.0. The Approved Project work shall be completed in accordance with this grant Agreement before December 31, 2022. If it is not so completed by December 31, 2022, CITY shall repay all the grant funds advanced to it as required under Section Trans. 28.08(5)(a), Wis. Admin. Code. If the Approved Project is not operated and adequately maintained for the purpose of transferring commercial waterborne cargoes, or if the Approved Project is converted to a use inconsistent with the purposes of WisDOT’s Harbor Assistance Program as provided for under Wis. Stats. sec. 85.095 and Wis. Admin Code. Chapter Trans 28, or if the Approved Project is inconsistent with the terms of this Agreement during the
twenty-five (25) year period set forth above, or if this Agreement is cancelled or terminated for any reason whatsoever, WisDOT shall require full repayment of all funds advanced to CITY under this Agreement, and CITY shall promptly pay all such funds to WisDOT upon demand by WisDOT.

ARTICLE 9.0 REPRESENTATIONS AND WARRANTS

Section 9.1 WisDOT

WisDOT represents and warrants that it has the power and authority to enter into this Agreement under Section 85.095, Wis. Stats.

Section 9.2 CITY

CITY represents and warrants that it has the power and authority to enter into this Agreement, that it is duly licensed to conduct business in the State of Wisconsin, and that, by entering into this Agreement, it does not violate any statute, rule or regulation nor violate any order, writ, injunction or decree of any court, administrative agency or other governmental body.

ARTICLE 10.0 LIABILITY AND INSURANCE

Section 10.1 Hold Harmless

(a) CITY shall save and hold WisDOT, its officers, employees and agents, harmless from and against all liability, damage, loss, claims, demands and actions of any nature whatsoever which arise out of or are connected with, or are claimed to arise out of or be connected with, any act, omission or operation of CITY, its officers, employees or agents, its contractors, or its contractors' agents, servants, subcontractors or employees, or which arise out of or are connected with, or are claimed to arise out of or be connected with, any act, omission or operation which happens, or is alleged to have happened, in or about a place where such act, omission or operation is performed or should be performed or in the vicinity thereof(1) while a CITY contractor or subcontractor is performing its work on the Approved Project, or (2) during the period this Agreement between WisDOT and CITY is in effect, or (3) while any of CITY's contractor's or subcontractor's property, equipment, or personnel, are in or about such place or the vicinity thereof by reason of or as a result of the performance of CITY's contractor's or subcontractor's operations including, without limiting the applicability of the foregoing the following: all liabilities, damages, losses, claims, demands and actions on account of personal injury, death or property loss to WisDOT, its officers, employees, agents, contractors, subcontractors or frequenters, or to any other person or legal entity whether based upon, or claimed to be based upon, contract or tort or having its basis in worker's compensation under federal or state statutes or having any other code or statutory basis or based upon administrative rules or other provisions or other liability of WisDOT, CITY, or any other persons, and whether or not caused or claimed to have been caused by the negligence or other breach of duty by WisDOT, its officers, employees, agents, contractors, subcontractors or frequenters, CITY, its officers, employees, agents, contractors, subcontractors or frequenters, or any other person or legal entity. Without limiting the applicability of the foregoing, the liability, damage, loss, claims, demands and actions indemnified against shall include all liability, damage, loss, claims, demands and actions for trade-mark, copyright or patent infringement, for unfair competition or
infringement of any so-called “intangible” property right, for defamation, false arrest, malicious prosecution or any other infringement of personal or property rights of any kind whatsoever. CITY shall cause its contractors to, at its or their own expense, investigate all such claims and demands, attend to their settlement or other disposition, defend all actions based thereon and pay all charges of attorneys and all other costs and expenses of any kind arising from any such liability, damage, loss, claim, demand or action identified in this section.

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

Nothing in this Agreement shall be deemed a waiver of WisDOT or the State of Wisconsin’s Sovereign Immunity.

Section 10.2 Insurance

(a) During the entire construction of the Approved Project and covering all claims arising out of any action or inactions connected in any way to the Approved Project or to any work on the Approved Project, regardless of when first asserted, the CITY or its contractors shall maintain, at its or their own cost and expense, a comprehensive general liability insurance policy, with per occurrence limits of not less than $2,000,000, providing that WisDOT and its officers, employees and agents are named as additional insureds under the policy or policies. CITY shall cause to be furnished to WisDOT evidence satisfactory to WisDOT of the comprehensive general liability policy providing coverage satisfactory to WisDOT. In the event of suspended coverage, any modification in terms of this coverage or insurance cancellation, both the insurance carrier and CITY shall provide WisDOT with written notification of such suspension, modification or cancellation no less than ten (10) days prior to the suspension, modification, or cancellation. If, upon receipt of such notice, CITY shall desire to continue this Agreement in effect, CITY or its contractors shall purchase, at its own cost and expense, such insurance as WisDOT shall deem necessary in its reasonable judgment. Failure to have and to maintain the requisite insurance coverage in full accord with this section is grounds for the immediate termination of this Agreement by WisDOT. Such termination, however, shall not impair any other right of action of WisDOT against CITY under this Agreement or as otherwise provided by law.

(b) During the entire construction of the Approved Project and covering all claims arising out of any actions or inactions connected in any way to the Approved Project or to any work on the Approved Project, regardless of when first asserted, CITY and its contractors, as appropriate shall also maintain, at its or their own cost and expense, the types and amounts of insurance coverage shown below:

<table>
<thead>
<tr>
<th>KIND OF INSURANCE</th>
<th>MINIMUM OF LIABILITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Worker’s Compensation (Including Employer’s Liability)</td>
<td>Statutory ($500,000)</td>
</tr>
</tbody>
</table>
(c) CITY shall cause to be furnished to WisDOT evidence satisfactory to WisDOT of the worker’s compensation, comprehensive business vehicle and all other applicable policies providing coverage satisfactory to WisDOT. In the event of suspended coverage, any modification in terms of this coverage or insurance cancellation, both the insurance carrier and CITY shall provide WisDOT with written notification of such suspension, modification or cancellation no less than ten (10) days prior to the suspension, modification, or cancellation. If, upon receipt of such notice, CITY shall desire to continue this Agreement in effect, CITY or its contractors shall purchase, at its own cost and expense, such insurance as WisDOT shall deem necessary in its reasonable judgment. Failure to have and to maintain the requisite insurance coverage in full accord with this section is grounds for the immediate termination of this Agreement by WisDOT. Such termination, however, shall not impair any other right of action of WisDOT against CITY under this Agreement or as otherwise provided by law.

ARTICLE 11.0 GENERAL PROVISIONS

Section 11.1 Notice

Any notice required or permitted under this Agreement shall be personally served in writing upon the other party by the party giving notice or shall be served by certified mail, return receipt requested, to the following addresses:

<table>
<thead>
<tr>
<th>Chief of Railroads and Harbors Section</th>
<th>Jason Serek – Planning, Economic Development &amp; Port Director</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wisconsin Department of Transportation</td>
<td>City of Superior</td>
</tr>
<tr>
<td>P.O. Box 7913</td>
<td>1316 North 14th Street</td>
</tr>
<tr>
<td>Madison, WI 53707-7913</td>
<td>Superior, WI 54880</td>
</tr>
</tbody>
</table>

Section 11.2 Designation of Officials

The WisDOT officials authorized to execute any changes in the terms, conditions, or amounts herein on behalf of WisDOT are the Secretary or Deputy Secretary of WisDOT or the Administrator of the Division of Transportation Infrastructure Management of WisDOT or designee. The CITY official authorized to execute any changes in the terms, conditions, or amounts herein on behalf of CITY is Jason Serek – Planning, Economic Development & Port Director.
Section 11.3 Choice of Law

This Agreement shall be interpreted in accordance with the statutes and laws of the United States of America and of the State of Wisconsin. Any legal action requiring court intervention concerning this Agreement shall be brought within a court of competent jurisdiction within the State of Wisconsin.

Section 11.4 Contracts

(a) WisDOT has the right to review the contracting and procurement system of CITY, and CITY shall assure that WisDOT has the right to review the contracting and procurement system of each contractor. The purchasing and contracting procedures of CITY and its contractors to obtain goods and services for use in connection with the Approved Project are subject to review by WisDOT upon reasonable notice. CITY's contracting procedures shall comply with Section 30.32, Wis. Stats.

(b) CITY shall provide for WisDOT review and written approval of all contracts to be paid in whole or in part with funds provided under this Agreement. CITY shall obtain WisDOT written approval prior to executing any contract pertaining in any way to the Approved Project. Failure to obtain prior written approval from WisDOT for a contract shall result in no reimbursement with grant funds for costs incurred under that contract.

(c) CITY shall require each successful bidder, at the time a written contract between CITY and the contractor is signed, to submit to CITY a good and sufficient surety bond for the full amount of the contract. The surety bond shall be conditioned upon the faithful performance of the contract and upon the payment of all claims for labor performed and materials furnished under the contract. CITY shall immediately upon signing a contract submit to WisDOT evidence that a good and sufficient surety bond is in effect. All contracts and surety bonds shall comply with all applicable provisions of Sections 30.32 and 779.14, Wis. Stats. WisDOT shall not pay CITY any amount due under a construction contract related to the Approved Project until WisDOT has received satisfactory evidence that a good and sufficient bond complying with Sections 30.32 and 779.14, Wis. Stats., is in effect for at least the amount of that contract.

Section 11.5 Status of CITY's Contractor

Any contractor or subcontractor with CITY, whether acting through its officers, directors, employees, agents or representatives or otherwise, is an independent contractor and in no way shall be deemed an affiliate, partner, joint venturer, or associated in any manner whatsoever with WisDOT under this Agreement.

Section 11.6 Assignment

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. CITY's rights hereunder shall not, however, be assignable whether by way of assignment, sublease, license or otherwise, directly or indirectly, without WisDOT's prior written consent.
Section 11.7 Severability

If any term, covenant, condition or provision (or part thereof) of this Agreement, or the application thereof to any party or circumstance, shall at any time or to any extent be held invalid or unenforceable, the remainder of this Agreement or the application of such term, covenant, condition or provision (or remainder thereof) to parties or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby, and each term, covenant, condition and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

Section 11.8 Amendment

No term or provision of this Agreement or any of its attachments may be changed, waived, or terminated orally but only by an instrument in writing signed by both parties to this Agreement.

Section 11.9 Force Majeure

The parties hereto shall be excused from the scheduled performance of their respective obligations hereunder occasioned by an event beyond their respective control (not due to their own fault, actions, or inactions), which shall include, without limitation: acts of God; strikes or other labor troubles; explosions, fires, vandalism, or malicious mischief; health emergencies such as an epidemic or pandemic, or other causes beyond the reasonable control of the parties. Such excuse shall remain, however, only so long as the event excusing performance shall continue and shall not excuse continued non-performance thereafter.

Section 11.10 Disabled

CITY agrees that no otherwise qualified disabled individual in the United States, as defined in Section 706(8) of Title 29 U.S.C, or as specifically provided for in subchapter II of Section 111, Wis. Stats., or in Title I of the Americans With Disabilities Act of 1990, 42 U.S.C. 12111, et seq., shall, solely by reason of disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving benefits by way of this Agreement.

Section 11.11 Environmental Protection

(a) CITY agrees that facilities or equipment shall not be acquired, constructed, or improved as a part of this Approved Project unless such facilities or equipment are designed and equipped to limit water and air pollution in accordance with all applicable state and federal standards, statutes, and regulations.

(b) CITY agrees to conduct all aspects of the Approved Project in compliance with all the requirements of Section 114 of the Clean Air Act, 42 U.S.C 7414, and of Section 308 of the Federal Water Pollution Control Act, 33 U.S.C 1318, and of all applicable regulations issued under those Acts.
(c) CITY agrees that the environmental impact of the Approved Project has been assessed in accordance with the requirements of the Wisconsin Environmental Policy Act, Section 1.11, Wis. Stats.

(d) CITY agrees to include, or cause to be included, the criteria and requirements contained in this section in any contract or subcontract under which any of the financial obligations incurred are to be paid from funds provided under this Agreement.

(e) No publicly-owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, state, or local significance as determined by the federal, state, or local officials having jurisdiction thereof, or any land from an historic site of national, state or local significance as so determined by such officials, may be used for this Approved Project without the prior written concurrence of the Secretary of the Wisconsin Department of Natural Resources, the State Historical Preservation Officer, and required federal authorities.

Section 11.12 Prohibited Interests in the Proceeds of Approved Project

(a) Neither CITY nor any of its contractors shall enter into any contract, subcontract, or agreement in connection with the Approved Project or any property included or planned to be included in the Approved Project in which any official, officer or employee of the CITY during his or her tenure or for one year thereafter has any interest, direct or indirect, except as permitted under Section 946.13(2), Wis. Stats.

(b) CITY shall insert in all agreements entered into by it in connection with the Approved Project, and shall require its contractors to insert in each of their subcontracts, the following provision:

“No official, officer or employee of the (Insert entity) during his or her tenure or for one (1) year thereafter, shall have any interest, direct or indirect, in this contract or in the proceeds thereof except as permitted under Section 946.13(2), Wis. Stats.”

(c) No member of or delegate to the U.S. Congress or to the Wisconsin State Legislature shall share any benefit that may arise from this Agreement.

Section 11.13 Nondiscrimination

(a) In connection with the performance of work under this Agreement, CITY agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in Section 51.01(5), Wis. Stats., sexual orientation or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, CITY further agrees to take affirmative action to ensure equal employment opportunities. CITY agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by WisDOT setting forth the provisions of this nondiscrimination clause.
(b) Pursuant to Section 16.765, Wis. Stats., CITY shall insert into all agreements entered into by it in connection with the Approved Project, and shall require its contractors to insert in each of their subcontracts, the provision in paragraph (a), of this section, except that the word "CITY" shall be stricken and replaced by the word "contractor" and the word "WisDOT" shall be stricken and replaced by "CITY."

(c) CITY shall comply with the following laws, policies, regulations, and pertinent directions as may be applicable and will require its contractors and subcontractors through contractual agreement to similarly comply:


(2) Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 et seq.

(3) Subchapter II of Section 111, Wis. Stats.


Section 11.14 Assurances

(a) CITY assures WisDOT that funds received under this Agreement will be used solely for the purposes for which the assistance is granted and in conformance with any limitations on any allowable expenditures set forth under the federal or state laws applicable to the funds granted.

(b) CITY hereby accepts all attendant responsibilities and liabilities associated with its use of WisDOT grant funds as provided for in this Agreement including, if applicable, liability for accidents and responsibility for erection and maintenance of fencing and other safety and protective devices.

Section 11.15 Entire Agreement

This Agreement and the attachments hereto contain the entire agreement of the parties and supersede any and all prior agreements or oral understandings between the parties

ARTICLE 12.0 SIGNATURES
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers.

For GRANTEE

By: ____________________________

______________________________

Title: __________________________

Date: __________________________

Witness: ________________________

Title: __________________________

For WisDOT

By: ____________________________

Lisa Stern, P.E.

Title: Chief of Railroads and Harbors

Date: __________________________

Witness: ________________________

Title: __________________________
ATTACHMENT A – Certified Survey Map of Approved Project Area

(To be supplied at a later date)
ATTACHMENT B – Plans and Specifications for Construction of the Approved Project

(To be supplied at a later date)
ATTACHMENT C – City of Superior – City Council Resolution for HAP Grant Application at Fraser Shipyards Facility, Port of Superior
ATTACHMENT D – Draft Development Agreement among the City of Superior, FSY R/E Group, LLC and Fraser Shipyards, Inc.
MEMORANDUM

To: Honorable Mayor Jim Paine and Members of the Common Council

From: Jason Serck, Economic Development, Planning and Port Director

Re: Resolution to Submit the C Reiss Dock Rehabilitation Project
For Harbor Assistance Grant Funding from the Wisconsin Department of Transportation

INTRODUCTION: Attached is a resolution that officially submits to the Wisconsin Department of Transportation’s Division of Waterways Harbor Assistance Program (HAP) a grant application for the C Reiss Dock Rehabilitation Project.

C. Reiss Coal Company, LLC, intends to move their operations from the Duluth Seaway Port, MN, to the Port of Superior. C. Reiss owns a harbor in Port of Superior that was formerly owned and operated by Berwind Coal Company but has been unused for approximately 30 years. Substantial improvements are needed to the dock and the site. The total project includes dock wall repair, dredging, railroad track and switches, stormwater improvements, and new building construction and is estimated at $17,347,000. The project will bring five new jobs to Superior, WI; but the real benefit will be the increase in the tax base to the city and the state.

In order to accomplish this and make the dock operational here are the main projects that would need to be completed:

- Dock wall-2,035ft of sheet pile dock wall
- Dredging slip to -depth of 27’
- Rail construction to allow for storage of 50 cars
- Storm water treatment and storage
- Rail scale
- Truck scale
- Office building
- Shop
- Ship loader
- Storage pad grading and asphalting
- Water cannon system and pump
- Roadways and truck equipment access

C Reiss is requesting the City of Superior submit a WisDOT Harbor Assistance Grant Application for a grant amount of $1,500,000. If awarded, it is anticipated that WisDOT will grant $3,000,000, ($1,500,000 awarded in 2020), C Reiss will contribute $3,963,000 and the U.S. Department of Transportation and other Federal sources will contribute $10,384,000 to aid in financing the project.

RECOMMENDATION: Please approve the attached resolution.

____________________________________
Mayor Jim Paine
RESOLUTION

RESOLUTION INTRODUCED BY THE COMMON COUNCIL OF THE CITY OF SUPERIOR, WISCONSIN, AUTHORIZING THE FILING OF AN APPLICATION WITH THE WISCONSIN DEPARTMENT OF TRANSPORTATION, FOR A GRANT UNDER THE HARBOR ASSISTANCE PROGRAM.

WHEREAS, the City of Superior is requesting assistance from the Wisconsin Department of Transportation Harbors and Waterways Program for a Harbor Assistance Grant, and

WHEREAS, the City of Superior is requesting to submit an application for the C Reiss Dock Rehabilitation Project;

WHEREAS, it is the goal of the City of Superior to facilitate port development and maritime commerce;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Superior, Wisconsin that:

1. Mayor Jim Paine and Economic Development, Port and Planning Director Jason Serck are authorized to execute and file an application on behalf of the City of Superior, Wisconsin with the Wisconsin Department of Transportation to aid in financing of the C Reiss Dock Rehabilitation Project pursuant to the Harbor Assistance Program.

2. Mayor Jim Paine and Economic Development, Port and Planning Director Jason Serck are authorized representatives for the City of Superior to sign forms and claims related to the project.

3. The City of Superior accepts responsibility for the operation and maintenance of the proposed project after completion.

4. The project is consistent with the 2017 Port Land Use Plan established by the Metropolitan Interstate Council (MIC) and the Superior Comprehensive Plan.

5. The project is consistent with the three-year Harbor Development Statement of Intentions 2019 - 2022.

6. Mayor Jim Paine and Port and Economic Development, Planning Director Jason Serck are authorized to furnish such additional information as the U. S. Department of Transportation may require in connection with the application of the project.
7. The City of Superior agrees to facilitate payment up to $3,963,000 of the project totaling $17,347,000 of which the State of Wisconsin will pay $3,000,000 ($1,500,000 already allocated in 2020) and the U.S. Department of Transportation and other Federal sources will pay $10,384,000 for the C Reiss Dock Rehabilitation Project.

Passed and adopted this 20th day of July, 2021.

__________________________________________
Mayor Jim Paine

Attest:

__________________________________________
Terri Kalan, City Clerk
1. Harbor Name
Superior

2. Primary Contact
Jason Serck
715.395.7335

3. Applicant Agency Name and Address
City of Superior
1316 North 14th Street
Superior, WI 54880

4. Project Type (Check Appropriate Type)
☒ Maintenance dredging and disposal which is the responsibility of the local government and which is outside a U.S. Army Corps of Engineers project area.
☐ Maintenance dredging and disposal within a Corps project area.
☐ Dock wall repair or maintenance.
☐ New project development of publicly owned facilities limited to dredging, dredge disposal and dock walls.
☐ Maintenance of other publicly owned harbor facilities.
☐ New project of other public harbor facilities.

5. Anticipated Project Dates
Start Date Dec-21 Complete Work Dec-22

6. Cost Apportionment: Submit narrative or other support documentation concerning the timing of available non-grant financing and any known or expected prerequisites for, or limitations on, that financing, i.e., bond issue, budget appropriation, bank loan approval, referendum, other grant, etc.

<table>
<thead>
<tr>
<th>AMOUNT</th>
<th>% of TOTAL</th>
<th>SOURCE OF FUNDS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed grant amount</td>
<td>$1,500,000</td>
<td>8.65 % 2021 Harbor Assist. Program</td>
</tr>
<tr>
<td>Applicant’s share of costs</td>
<td>$3,963,000</td>
<td>22.85 % C Reiss, Terminal Operator</td>
</tr>
<tr>
<td>Amounts from federal sources</td>
<td>$10,384,000</td>
<td>59.86 % EPA Legacy Act, PIDP-pending</td>
</tr>
<tr>
<td>Other</td>
<td>$1,500,000</td>
<td>8.65 % 2020 Harbor Assist. Program</td>
</tr>
<tr>
<td>Total estimated project cost</td>
<td>$17,347,000</td>
<td>100 %</td>
</tr>
</tbody>
</table>

7. Resolution From Eligible Applicant
Is a resolution, officially adopted by the eligible applicant containing the assurances and information specified under TRANS 28.09 (2)(a), attached to this application? ☒ YES ☐ NO

8. Certification
To the best of my knowledge and belief, the information submitted here is true and correct and this document has been authorized for submittal by the governing agency.

X ____________________________________________ (Authorized Signature and Title) ____________________________ (Date)

9. Project Summary - This is to be a brief overall summary with greater detail, including a scope of services and anticipated work schedule, provided in a supporting narrative.

C. Reiss Coal Company, LLC, intends to move their operations from the Duluth Seaway Port, MN, to the Port of Superior. C. Reiss owns a harbor in Port of Superior that was formerly owned and operated by Berwind Coal Company but has been unused for approximately 30 years. Substantial improvements are needed to the dock and the site. The total project includes dock wall repair, dredging, railroad track and switches, stormwater improvements, roads, utilities, and new building construction and is estimated at $17,347,000. The project will bring five new jobs to Superior, WI; but the most significant benefit will be the increase in the tax base to the city and the state. Greater detail on the project is included in the supporting narrative as instructed.

NOTE: REVIEW PART 6.0 of APPLICATION GUIDELINES and INSTRUCTIONS WHEN COMPLETING THIS FORM
10. Urgency of Project

Provide supporting documentation for each item checked.

☑️ Harbor depth is now, or within 18 months of application date will be, less than the required navigation depth if dredging is not accomplished.
☒ A dock wall has deteriorated to the extent that the terminal facility is not, or within 18 months will not be, useable.
☒ A publicly-owned dredge disposal facility has deteriorated to the extent that polluted material may re-enter Lakes Michigan or Superior or the Mississippi River within 18 months.
☐ Other - Please provide a full description of the cause and extent of the urgency in an attached narrative.

11. Project Feasibility

Submit narrative and other documentation in support of these responses.

YES ☑️ NO ☐

1. The project is economically feasible (economic analyses, benefit/cost analyses, pro formas, etc.).
2. The project is environmentally feasible (draft or final environmental assessments).
3. The project is feasible from an engineering perspective (preliminary plans and drawings used for estimating).

12. Permits and Licenses

Identify the permits and the respective issuing agency required to accomplish the project - Include permits issued by all levels of government.

<table>
<thead>
<tr>
<th>* PERMIT OR LICENSE</th>
<th>ISSUING AGENCY</th>
<th>IN FORCE</th>
<th>TO BE OBTAINED</th>
<th>START DATE</th>
<th>EXPIRATION DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assured Wetland Delineation</td>
<td>Wisconsin DNR</td>
<td>Yes</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* For items still to be obtained, describe below or on a separate sheet, the current status of applicant’s efforts to obtain them, the required work or action still outstanding and the estimated date they will be obtained. Provide copies of permits and licenses already obtained.

- DNR Submerged Land Lease – Approved by the DNR, lease being negotiated between C. Reiss and the State of Wisconsin, expected completion by fall 2020
- Army Corps of Engineers/DNR Wetland and Waterway – Complete and attached
- City of Superior Special Area Management Plan Wetland Fill Permit & Endangered Species Survey – June 2020 – Complete and attached
- Endangered Resources / Cultural Resources Screening – Complete and attached
- Stormwater Pond (NR 216) Permit – To be obtained prior to construction, by December 2020
13. Cost Summary. Submit narrative or other support documents describing the basis for the estimated costs described in question 4 and any special circumstances affecting these cost estimates.

A. Estimated Project Costs: Add or strike from this list as appropriate to the project. If more than one contractor is to be used, identify each contractor separately as Contractor A, Contractor B, etc.

NOTE: Costs of obtaining permits and licenses, preparation of application materials, including conceptual designs, and economic and environmental data, ARE NOT ELIGIBLE for reimbursement with grant funds.

<table>
<thead>
<tr>
<th>ITEM</th>
<th>(1) DREDGING</th>
<th>(2) DOCKWALL</th>
<th>(3) OTHER IMPROVEMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disposal site acquisition</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Disposal costs</td>
<td>$240,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bid preparation and advertising</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Final Engineering</td>
<td></td>
<td>$536,000</td>
<td></td>
</tr>
<tr>
<td>Direct Supervision of Contractor</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contractor A</td>
<td>$1,440,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B</td>
<td></td>
<td>$6,313,000</td>
<td></td>
</tr>
<tr>
<td>C</td>
<td></td>
<td></td>
<td>$8,818,000</td>
</tr>
<tr>
<td>D</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>E</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Force Account Work</td>
<td></td>
<td></td>
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</table>

<table>
<thead>
<tr>
<th></th>
<th>SUBTOTAL</th>
<th></th>
<th>TOTAL ESTIMATED PROJECT COST (Columns 1 + 2 + 3)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$1,640,000</td>
<td>$6,313,000</td>
<td>$17,347,000</td>
</tr>
</tbody>
</table>

B. Other Development Costs: Submit narrative or other support documentation describing the basis for the estimates cited, i.e., appraisals, local assessment, design cost, etc.

- Estimated market value of land and existing facilities necessary for success of the project. $1,050,600
- Estimated cost of additional site development and facilities necessary for success of the project. $NA, all included in above
- Sources for additional site development funds: NA

14. Estimated Annual Revenues and Costs: Submit narrative or other support documentation describing the basis for revenue and operating cost estimates. Five year project of applicant’s revenue/cost.

<table>
<thead>
<tr>
<th></th>
<th>First Full Year of Operation</th>
<th>Second Full Year</th>
<th>Third Full Year</th>
<th>Fourth Full Year</th>
<th>Fifth Full Year</th>
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</thead>
<tbody>
<tr>
<td>Applicant’s projected</td>
<td>$25,000,000</td>
<td>$26,200,000</td>
<td>$27,500,000</td>
<td>$28,900,000</td>
<td>$30,400,000</td>
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<td>operating revenues</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Applicant’s projected</td>
<td>$650,000</td>
<td>$669,900</td>
<td>$690,000</td>
<td>$710,000</td>
<td>$730,000</td>
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<td>operating and regular</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>maintenance costs</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
15. Jobs: Submit narrative or other support documentation describing the basis for and the method used to calculate the estimates given below.
   A. Estimated Jobs in Port County Gained With Project. Construction jobs should be excluded.

<table>
<thead>
<tr>
<th>OCCUPATION</th>
<th>NO. OF JOBS</th>
<th>START DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operations Manager</td>
<td>1</td>
<td>4/1/2022</td>
</tr>
<tr>
<td>Office Supervisor</td>
<td>1</td>
<td>4/1/2022</td>
</tr>
<tr>
<td>Foreman</td>
<td>1</td>
<td>4/1/2022</td>
</tr>
<tr>
<td>Operations Technician</td>
<td>2</td>
<td>4/1/2022</td>
</tr>
</tbody>
</table>

   B. Estimated Jobs in Port County Lost Without Project. Construction jobs should be excluded.

<table>
<thead>
<tr>
<th>OCCUPATION</th>
<th>NO. OF JOBS</th>
<th>START DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operations Manager</td>
<td>1</td>
<td>4/1/2022</td>
</tr>
<tr>
<td>Office Supervisor</td>
<td>1</td>
<td>4/1/2022</td>
</tr>
<tr>
<td>Foreman</td>
<td>1</td>
<td>4/1/2022</td>
</tr>
<tr>
<td>Operations Technician</td>
<td>2</td>
<td>4/1/2022</td>
</tr>
</tbody>
</table>

16. Tonnage Using Calendar Year 2020: For expected future tonnage, see application guidelines.

<table>
<thead>
<tr>
<th>COMMODITY</th>
<th>TONNAGE</th>
<th>COMMUNITY, STATE ORIGIN</th>
<th>COMMUNITY, STATE DESTINATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coal</td>
<td>25,000</td>
<td>Pike County, KY</td>
<td>Evel, MN</td>
</tr>
<tr>
<td>Salt</td>
<td>100,000</td>
<td>Godrich, ON</td>
<td>Douglas Co, WI</td>
</tr>
<tr>
<td>Stone</td>
<td>70,000</td>
<td>Bay City, MI</td>
<td>Crookston, MN</td>
</tr>
<tr>
<td>Stone</td>
<td>110,000</td>
<td>Bay City, MI</td>
<td>Drayton, ND</td>
</tr>
<tr>
<td>Stone</td>
<td>70,000</td>
<td>Bay City, MI</td>
<td>Moorhead, MN</td>
</tr>
<tr>
<td>Stone</td>
<td>90,000</td>
<td>Bay City, MI</td>
<td>East Grand Forks, MN</td>
</tr>
<tr>
<td>Stone</td>
<td>110,000</td>
<td>Bay City, MI</td>
<td>Hillsboro, ND</td>
</tr>
<tr>
<td>Stone</td>
<td>50,000</td>
<td>Bay City, MI</td>
<td>multiple cities in Carlton Co, MN &amp; Douglas Co, WI</td>
</tr>
</tbody>
</table>

17. List of Attachments and Support Documents: List in this space, the title or other identification for each of the documents and supporting statements set forth under blocks 9 through 16.

   Blocks 6, 9, 13-15 Supplemental Narratives
   Block 6 Letter of Commitment from C. Reiss Coal Company
   Block 7 City Resolution, City of Superior, WI
   Block 9.C. Benefit-Cost Analysis (BCA)
   Block 9.E. Statement of ownership – Property deed
   Block 10 Evaluation Report
   Block 11 Dockwall, Dredging Plans
   Block 12 Site Improvements Plans
   Block 12 Permits Secured
   Block 13 Dockwall, Dredging Estimate of Probable Costs
   Block 13.A. Site Improvements Estimate of Probable Costs
   Block 13.A. Valuation of property as is