

VILLAGE OF THIENSVILLE
COMMITTEE OF THE WHOLE
AGENDA

DATE: Monday, February 6, 2017

LOCATION: 250 Elm Street
Thiensville, WI

Time: 6:00 PM

I. CALL TO ORDER

II. ROLL CALL

President: Van Mobley
Trustees: Kim Beck
Ronald Heinritz (excused)
Rob Holyoke
Kenneth Kucharski David Lange
Elmer Prenzlów
Administrator: Dianne Robertson
Staff: Director of Public Works Andy LaFond
Fire Chief Brian Reiels
Police Chief Scott Nicholson
Asst. Administrator Colleen Landisch-Hansen
Clerk Amy Langlois

III. BUSINESS

A. Review Capital Expenditures List

Documents:

[CAPITAL EXPENDITURES.PDF](#)

B. Review And Recommendation Regarding Village Park Reimagined Phase II (Director Of Public Works Andy LaFond And Assistant Administrator Colleen Landisch-Hansen)

C. Review And Recommendation Regarding Resolution 2017-04 Requiring The Repair Of An At-Grade Crossing On West Freistadt Road

Documents:

[RESOLUTION 2017-04.PDF](#)

D. Review And Recommendation For Request For Concept Approval And Direction To Move Forward On Proposed Village Siren Relocation To Monopole For Both Verizon And Village Use At The Village Pump (Lift) Station

Documents:

[VERIZON.PDF](#)

E. Review And Recommendation Regarding Request From The TBA For Funding An Event Coordinator (Trustee Lange)

- F. Review And Recommendation Regarding Resolution 2017-05 A Limited Term Conservation Easement

Documents:

[RESOLUTION 2017-05.PDF](#)

- G. Review And Recommendation Regarding Appointing Police Officer Glenn Janzer And Police Officer Kaye Redeker As Fire Department Members

IV. BUSINESS FROM THE FLOOR

- A. Citizens to be Heard

Open to any citizen who wishes to speak on items not on the agenda. Please step to the podium and give your name and address for the record.

V. MISCELLANEOUS BUSINESS BY TRUSTEES AS MAY PROPERLY BE BROUGHT BEFORE THE BOARD.

- A. Inter-Governmental Committee With Mequon
- B. Use Of 101 Green Bay Road, Old Village Hall & Fire Station
- C. Acceptance/Report Of Gifts Received
 - 1. \$500 To The Thiensville Fire Department From The Junior Woman's Club Of Mequon-Thiensville
- D. Dialog With Mequon Regarding Water Utility Service
- E. Review Next Month's Meeting Date Schedule

VI. ADJOURNMENT

Amy L. Langlois
Village Clerk
February 3, 2017

Please advise the Thiensville Municipal Hall, 250 Elm Street (242-3720) at least 24 hours prior to the start of this meeting if you have disabilities and desire special accommodations.

Notice is hereby given that a quorum of the Village Board and/or Village Committees may be in attendance at this meeting to present, discuss and/or gather information about a subject over which they have decision-making responsibility, although they will not take any formal action thereto at this meeting.

VILLAGE OF THIENSVILLE
2017 CAPITAL EXPENDITURE REQUESTS
FEBRUARY 6, 2017

<u>DEPARTMENT</u>	<u>AMOUNT BUDGETED</u>	<u>AMOUNT REQUESTED</u>	<u>ITEM DESCRIPTION</u>
Public Works	\$ 7,800.00	\$ 6,250.00	Front End Loader Tires From 2016 Reserves

VILLAGE OF THIENSVILLE
2017 CAPITAL PROJECT EXPENDITURE REPORT
FEBRUARY 6, 2017

<u>ITEM BUDGETED</u>	<u>AMOUNT BUDGETED</u>	<u>AMOUNT IN RESERVES</u>	<u>TOTAL AMOUNT AVAILABLE</u>	<u>ACTUAL EXPENSE</u>	<u>DIFFERENCE</u>
<u>ADMINISTRATION</u>					
Replace Fire Dept Garage Door & Springs	\$ -	\$ -	\$ -	\$ 5,196.25	\$ (5,196.25)
Data Room Upgrade	\$ 5,000.00	\$ -	\$ 5,000.00	\$ -	\$ 5,000.00
Village Board iPad Upgrade	\$ 5,000.00	\$ -	\$ 5,000.00	\$ -	\$ 5,000.00
Front Office Computers/Laptops/Printer	\$ 8,500.00	\$ -	\$ 8,500.00	\$ -	\$ 8,500.00
	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ 18,500.00	\$ -	\$ 18,500.00	\$ 5,196.25	\$ 13,303.75
<u>POLICE DEPARTMENT</u>					
1 Squad Replacement (Year 2 of 2)	\$ 22,000.00	\$ -	\$ 22,000.00	\$ -	\$ 22,000.00
Body Camera Video Docking Station	\$ 3,000.00	\$ -	\$ 3,000.00	\$ 3,000.00	\$ -
7 Handguns & Lights	\$ 5,250.00	\$ -	\$ 5,250.00	\$ 5,250.00	\$ -
7 Rifles, Sites, Lights, Suppressors	\$ 12,670.00	\$ -	\$ 12,670.00	\$ 12,670.00	\$ -
7 Gas Masks	\$ 1,800.00	\$ -	\$ 1,800.00	\$ -	\$ 1,800.00
7 Goggles for Ballistic Helmets	\$ 400.00	\$ -	\$ 400.00	\$ -	\$ 400.00
P25 Radio	\$ 4,500.00	\$ -	\$ 4,500.00	\$ -	\$ 4,500.00
	\$ 49,620.00	\$ -	\$ 49,620.00	\$ 20,920.00	\$ 28,700.00
<u>FIRE DEPARTMENT</u>					
Fire Department Tires	\$ 2,500.00	\$ 8,790.92	\$ 11,290.92	\$ -	\$ 11,290.92
Hose Replacement Program	\$ 5,000.00	\$ 712.00	\$ 5,712.00	\$ -	\$ 5,712.00
Equipment Replacement Fund	\$ 50,000.00	\$ 102,955.69	\$ 152,955.69	\$ -	\$ 152,955.69
Toughbook Replacement for EMS	\$ 4,000.00	\$ -	\$ 4,000.00	\$ -	\$ 4,000.00
Replace Truck #563	\$ -	\$ -	\$ -	\$ -	\$ -
Pager Replacement	\$ 5,000.00	\$ -	\$ 5,000.00	\$ -	\$ 5,000.00
Turnout Gear	\$ 10,000.00	\$ -	\$ 10,000.00	\$ -	\$ 10,000.00
Station Exhaust Modification	\$ 16,000.00	\$ -	\$ 16,000.00	\$ -	\$ 16,000.00
	\$ 92,500.00	\$ 112,458.61	\$ 204,958.61	\$ -	\$ 204,958.61
<u>PUBLIC WORKS DEPARTMENT</u>					
Vehicle Replacement Fund	\$ 20,000.00	\$ 50,118.35	\$ 70,118.35	\$ -	\$ 70,118.35
Front End Loader Tires	\$ -	\$ 7,800.00	\$ 7,800.00	\$ 6,250.00	\$ 1,550.00
Emerald Ash Borer Program	\$ 9,000.00	\$ 1,770.00	\$ 10,770.00	\$ -	\$ 10,770.00
Utility Trailer	\$ 5,800.00	\$ -	\$ 5,800.00	\$ -	\$ 5,800.00
Downtown Wayfinding Signs	\$ -	\$ -	\$ -	\$ -	\$ -
Brush Chipper	\$ 30,000.00	\$ -	\$ 30,000.00	\$ -	\$ 30,000.00
Pressure Washer	\$ 8,000.00	\$ -	\$ 8,000.00	\$ -	\$ 8,000.00
Radio Replacement	\$ 6,500.00	\$ -	\$ 6,500.00	\$ -	\$ 6,500.00
Sidewalk Replacement	\$ -	\$ 8,000.00	\$ 8,000.00	\$ -	\$ 8,000.00
Public Works Bldg Improvement-Architectural	\$ 81,863.00	\$ -	\$ 81,863.00	\$ -	\$ 81,863.00
	\$ 161,163.00	\$ 67,688.35	\$ 228,851.35	\$ 6,250.00	\$ 222,601.35
<u>DPW PARK DEPARTMENT</u>					
Bleachers	\$ 20,000.00	\$ -	\$ 20,000.00	\$ -	\$ 20,000.00
Annual Pigeon Creek Maintenance	\$ 5,000.00	\$ 5,000.00	\$ 10,000.00	\$ -	\$ 10,000.00
Annual Fishladder Maintenance	\$ 1,000.00	\$ 758.35	\$ 1,758.35	\$ -	\$ 1,758.35
Tennis Court Light Replacement	\$ 8,000.00	\$ -	\$ 8,000.00	\$ -	\$ 8,000.00
Geese Control	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ 34,000.00	\$ 5,758.35	\$ 39,758.35	\$ -	\$ 39,758.35
<u>UNCLASSIFIED IMPROVEMENT FUND</u>					
Water Main on Main Street	\$ -	\$ -	\$ -	\$ -	\$ -
Assessment Revaluation	\$ 5,840.00	\$ -	\$ 5,840.00	\$ -	\$ 5,840.00
Entryway Feature	\$ -	\$ -	\$ -	\$ -	\$ -
Old Village Hall Upper Floor Study	\$ 30,000.00	\$ -	\$ 30,000.00	\$ -	\$ 30,000.00
Downtown Improvements	\$ -	\$ -	\$ -	\$ -	\$ -
Profile & Concrete Replace, Main Street	\$ -	\$ 178,029.05	\$ 178,029.05	\$ -	\$ 178,029.05
Camera Upgrade Park/Police/DPW	\$ 30,000.00	\$ -	\$ 30,000.00	\$ -	\$ 30,000.00
Remediation DPW Yard	\$ 10,000.00	\$ -	\$ 10,000.00	\$ -	\$ 10,000.00
Thiensville Business Association Event	\$ -	\$ -	\$ -	\$ -	\$ -
Molyneux Park/Sign/Landscaping	\$ 20,000.00	\$ -	\$ 20,000.00	\$ -	\$ 20,000.00
Village Park Improvement Plan	\$ 100,000.00	\$ 34,220.73	\$ 134,220.73	\$ 39.24	\$ 134,181.49
Buntrock Lot Improve. & Trail Shade Structure	\$ -	\$ -	\$ -	\$ -	\$ -
Freistadt Road/Pedestrian Path	\$ 270,000.00	\$ -	\$ 270,000.00	\$ -	\$ 270,000.00
Spring Street Connection to Bike Path	\$ 15,000.00	\$ -	\$ 15,000.00	\$ -	\$ 15,000.00
Madero/Riverview to Freistadt Ditching	\$ 134,000.00	\$ -	\$ 134,000.00	\$ -	\$ 134,000.00
Storm Sewer Improvement Madero/Riverview/Lu	\$ 50,000.00	\$ -	\$ 50,000.00	\$ -	\$ 50,000.00
Sunny/Storm Sewer Replacement	\$ -	\$ -	\$ -	\$ -	\$ -
TBA Event	\$ -	\$ -	\$ -	\$ -	\$ -
CONTINGENCY	\$ 43,961.00	\$ -	\$ 43,961.00	\$ -	\$ 43,961.00
	\$ 708,801.00	\$ 212,249.78	\$ 921,050.78	\$ 39.24	\$ 921,011.54
TOTALS	\$ 1,064,584.00	\$ 398,155.09	\$ 1,462,739.09	\$ 32,405.49	\$ 1,430,333.60

RESOLUTION 2017-04

VILLAGE OF THIENSVILLE
RESOLUTION REQUIRING THE REPAIR OF AN AT-GRADE CROSSING

WHEREAS, West Freistadt Road, a public street in the Village of Thiensville crosses the tracks of the Canadian National Railway at-grade, and

WHEREAS, Section 86.12 of the Wisconsin statutes requires railroads to maintain public at-grade crossings are in good condition and repair for public travel, and

WHEREAS, the West Freistadt Road crossing is not in good condition and repair for public travel, and

WHEREAS, the Village of Thiensville hereby requires that the Canadian National Railway pave, plank, repair, change or otherwise improve the crossing, as the needs require, and

NOW, THEREFORE, BE IT RESOLVED, that the Village of Thiensville hereby directs the Village of Thiensville staff to serve a copy of this Resolution upon the Canadian National Railway requiring the railroad to repair the rail-highway crossing West Freistadt Road with the tracks of the Canadian National Railway in the Village of Thiensville, Ozaukee County.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that in the event that the Canadian National Railway fails to repair the rail-highway crossing within 30 days after service of the Resolution, the Village of Thiensville hereby directs the Village of Thiensville staff to take all necessary steps to petition the Office of the Commissioner of Railroads for an investigation and order for the repair of the rail-highway crossing of West Freistadt Road with the tracks of the Canadian National Railway in the Village of Thiensville, Ozaukee County.

PASSED AND ADOPTED by the Village Board of the Village of Thiensville, County of Ozaukee, State of Wisconsin on this 20th day of February, 2017.

Van A. Mobley, Village President

Amy L. Langlois, Village Clerk

Verizon Wireless-Main Carrier
Parallel Infrastructure-co-developer for Verizon
CO/ agent Ronald Zechel
544 E. Odgen Ave STE700#305
Milwaukee, WI 53202

January 31, 2016

Village of Thiensville
Village Board, Planning Division
250 Elm Street
Thiensville, WI 53092

Re: Request for concept approval and direction to move forward on proposed Village Siren rebuild to monopole for both Verizon and Village use at the Village Pump(lift) station. Tax ID of 12-050-06-09-002.

Dear Planning, Zoning, and Board members;

Introduction to Applicant

Verizon Wireless services over 107 million customers in 175 markets.

Location of Proposed Facility and current use of Property

The village has an existing warning siren mounted on current 60' pole at the village pump house on N. Main St. That property as defined on survey has just the siren pole and pump house and abutting the Wisconsin Electric ROW to the West.

Summary of proposed use and equipment per plans provided

The Verizon proposal (Parallel Infrastructure is Verizon's chosen co-developer) per plans attached and as initially discussed with Village would be to replace and rebuild the existing pole to a new 105' monopole that would support proposed Verizon antenna equipment along with the relocated village siren. The proposed new monopole would have the ability to hold 1-2 additional carriers per typical co-location rules. Verizon would need adjacent ground space as proposed and a proposed compound surrounded by fencing would be proposed of approximately 52' x 44 or 2267SF to house Verizon and additional carriers.

The proposed use is for an unmanned wireless communications facility operating at 24 hours per day, 7 days a week.

The construction and operation of the proposed wireless communications facility:

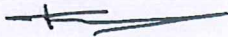
- a.) will not interfere or impact current existing use of the property

- b.) will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
- c.) will not require any changes to existing topography or drainage

Explanation as to why the applicant chose this proposed co-location

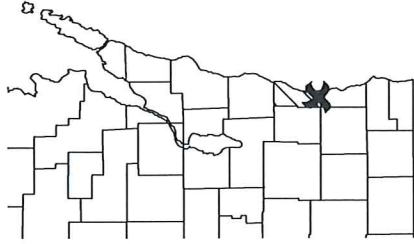
The Verizon Wireless proposal is being submitted to increase capacity at this limited search area (Verizon target was on the corner of N. Main and Riverview to effectively work with their system) and with no other available structures the rebuild of this pole would be the logical choice with the Village receiving monthly revenue via lease with still use of the siren. The Village Recycling Center was looked at but deemed too far North. If the conceptual plan is deemed workable Verizon will submit a full working set with survey for review, variance, and zoning approvals as needed along with lease draft for Village attorney review. I can be reached at mobile/business number (414)588-6012 at all times or e-mail of rmsi@intaccess.com for any questions on this proposal.

Sincerely;

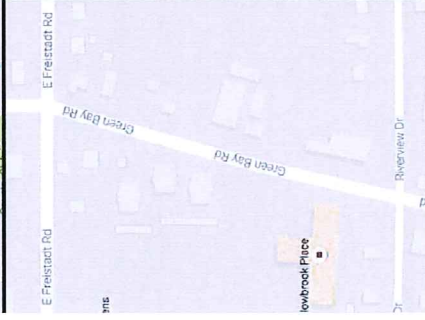
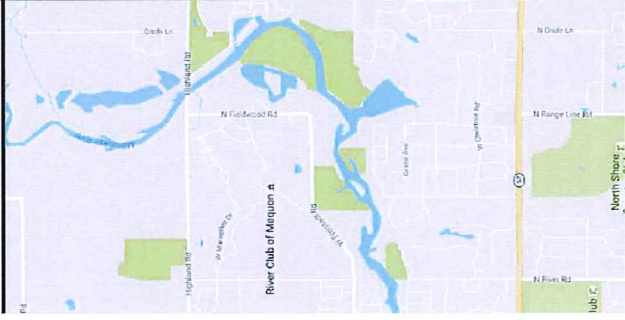


Ronald Zechel
Agent for
Verizon Wireless

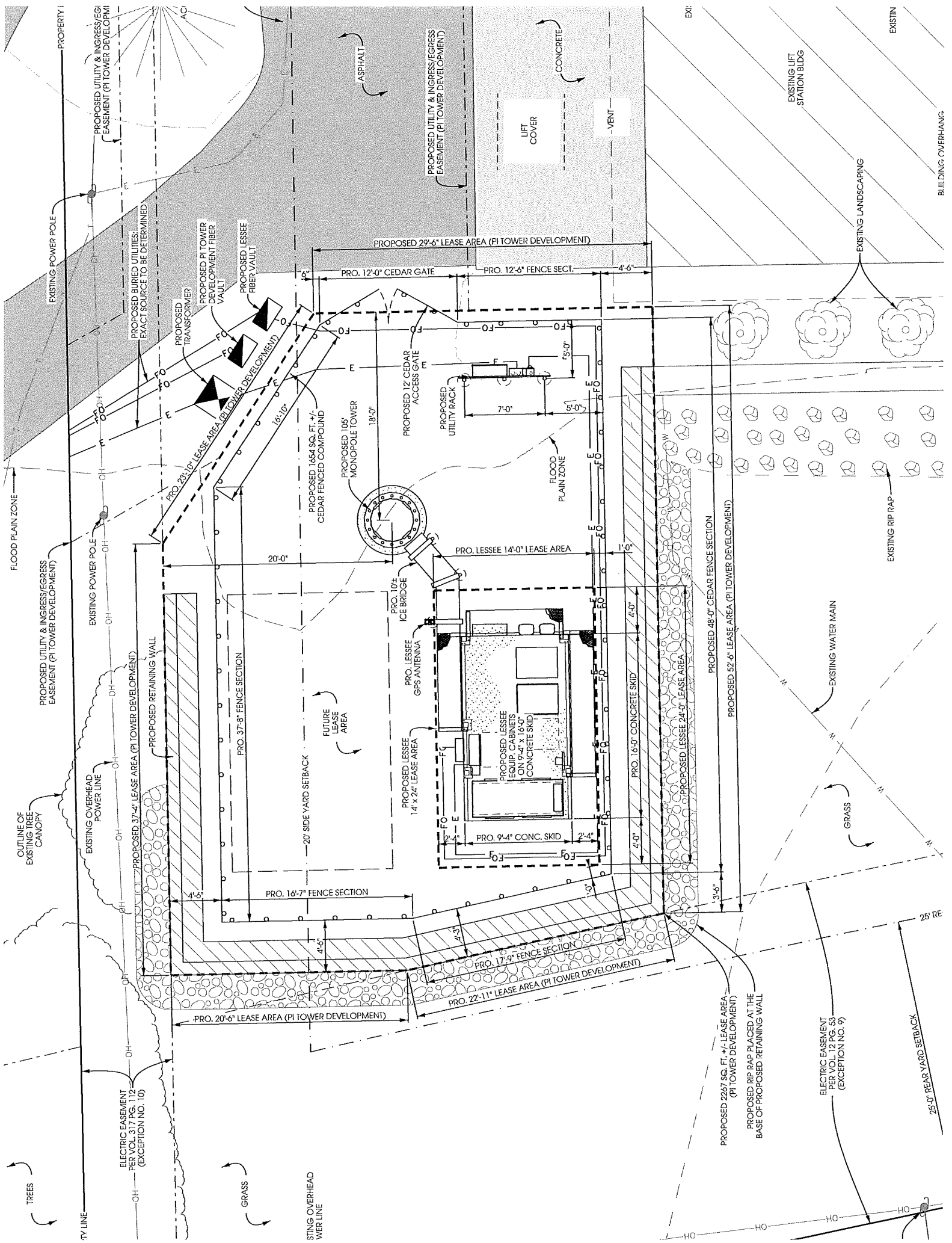
THIENSVILLE [418740]
THIENSVILLE, WISCONSIN
LEASE EXHIBIT DRAWINGS
105' MONOPOLE TOWER

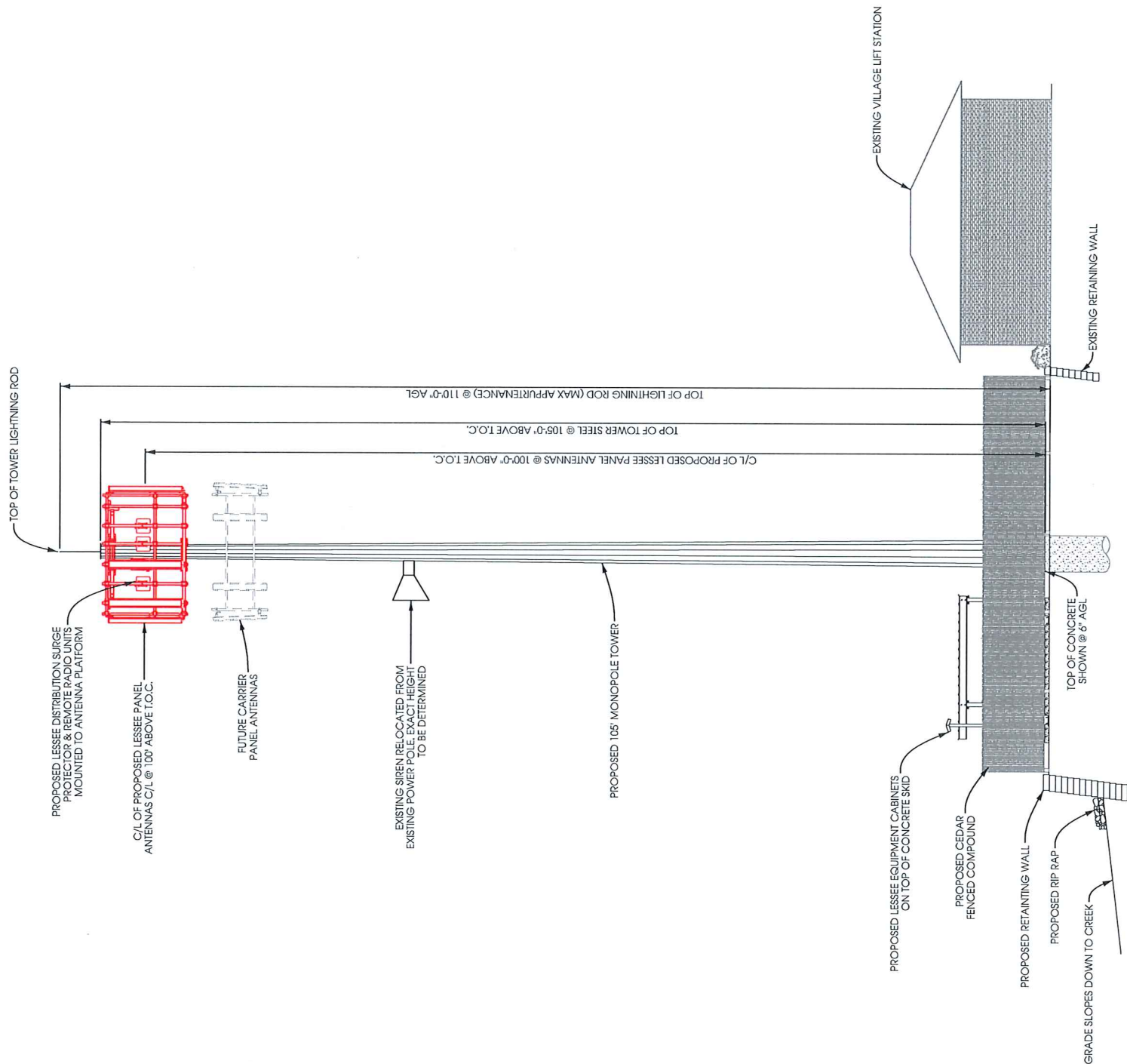


ON MAPS		SHEET INDEX		DIRECTORY	PROJECT INFO	SC









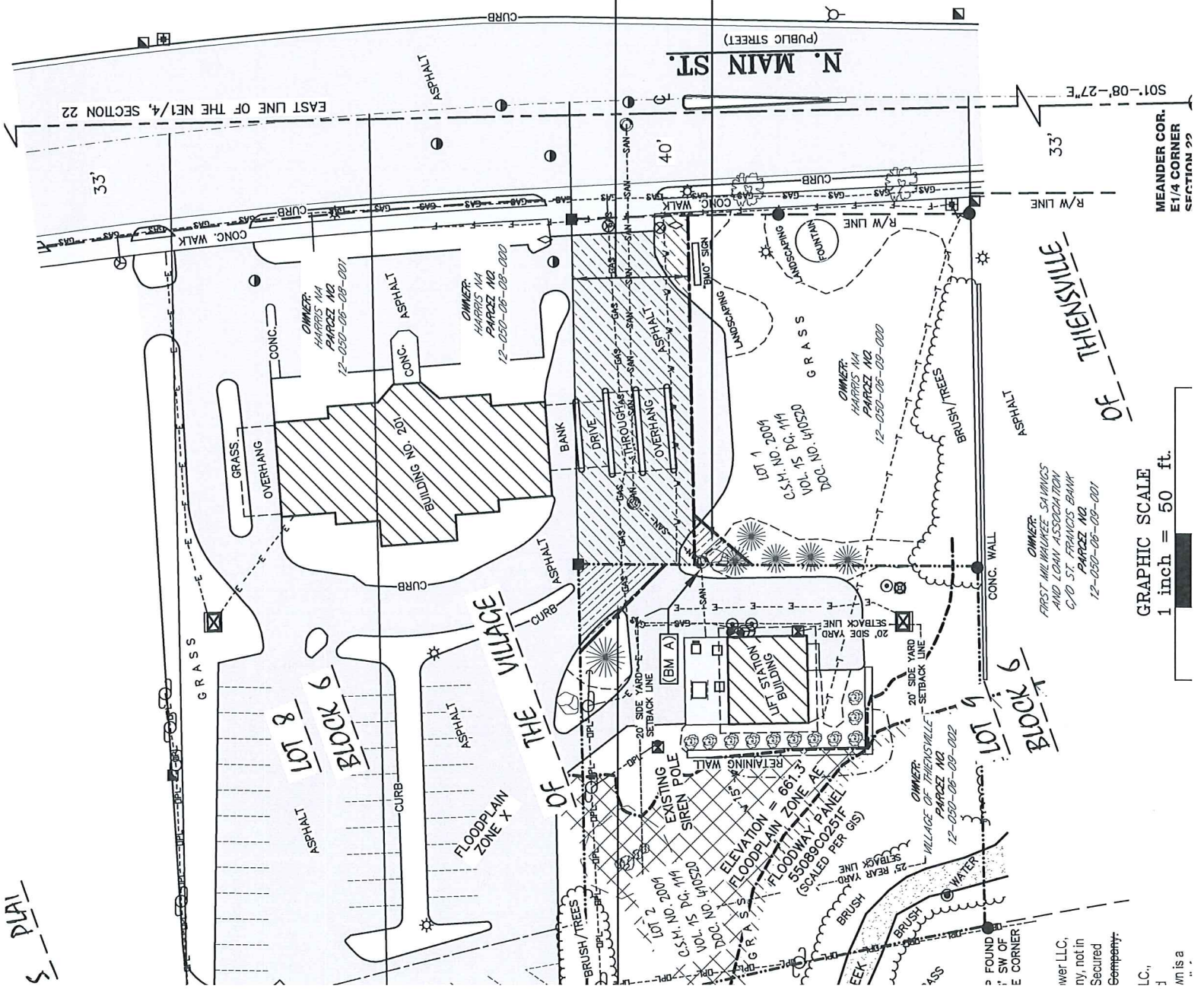


BENCHMARK INFORMATION

SITE BENCHMARK: (BM A)
 SET CHISELED SQUARE ON WEST
 EDGE OF RIM OF SANITARY MANHOLE
 ELEVATION: 663.72'

-LEGEND-

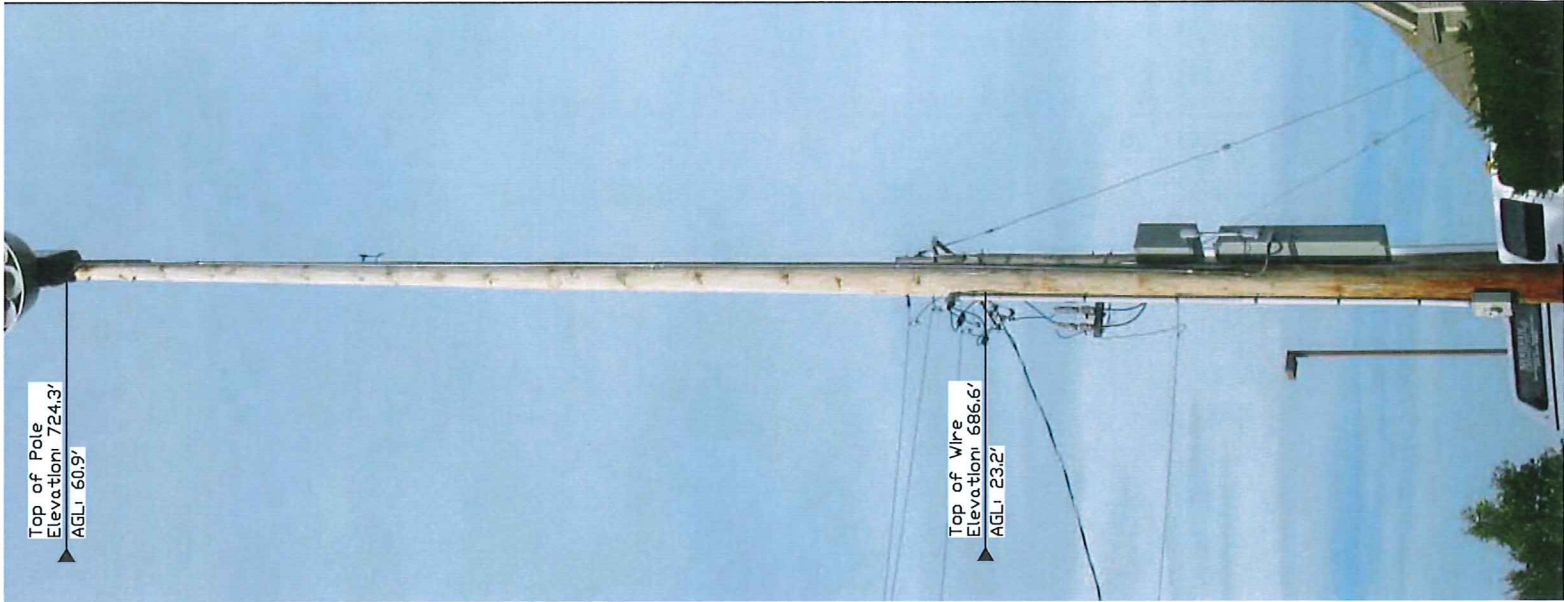
- = 1" X 18" IRON PIPE SET
- = 1" IRON PIPE FOUND
- = OZAUKEE CO. PLSS COR.
- () = RECORDED INFORMATION
- = MAG NAIL FOUND
- ⬢ = EXISTING ROCK
- ⊗ = ELECTRIC METER
- ⊕ = TELEPHONE PEDESTAL
- ⊙ = WELL HEAD
- ⊗ = WATER VALVE
- ⊕ = FIRE HYDRANT
- ⊗ = SANITARY SEWER
- ⊕ = UNKNOWN MANHOLE
- ⊗ = GAS VALVE
- ⊕ = GAS METER
- ⊗ = WATER LEVEL POST
- ⊕ = CONCRETE POST
- ⊗ = FIBER OPTIC VAULT
- ⊕ = ELECTRIC TRANSFORMER
- ⊗ = LIGHT POLE
- ⊕ = EXISTING POWER POLE
- ⊗ = EXISTING GUY ANCHOR
- ⊕ = DOOR
- ⊗ = TRAFFIC SIGN
- ⊕ = CONIFEROUS TREE
- ⊗ = ARBORVITAE BUSH
- ⊕ = CEDAR TREE
- SAN--- = BURIED SANITARY SEWER
- T--- = BURIED TELEPHONE
- E--- = BURIED ELECTRIC
- F--- = OVERHEAD ELECTRIC



GRAPHIC SCALE
 1 inch = 50 ft.

wer LLC,
 ny, not in
 Secured
 Company:
 LC,
 d
 wn is a

[illegible]



EXISTING SIREN POLE

LATITUDE: 43°-14'-01.92"

CERTIFICATION:

I, CRAIG A. KEACH, PLS, A WISCONSIN PROFESSIONAL LAND SURVEYOR, LICENSE NO. S-2333, HEREBY CERTIFY TO PI TOWER DEVELOPMENT LLC, A DELAWARE LIMITED LIABILITY COMPANY; PI TOWERS LLC, A DELAWARE LIMITED LIABILITY COMPANY; DEUTSCHE BANK NATIONAL TRUST COMPANY, NOT IN ITS INDIVIDUAL CAPACITY, BUT SOLELY AS INDENTURE TRUSTEE FOR THE BENEFIT OF THE SECURED PARTIES, ITS SUCCESSORS AND/OR ASSIGNS AND FIDELITY NATIONAL TITLE INSURANCE COMPANY THE FOLLOWING:

THIS SURVEYOR HAS RECEIVED AND REVIEWED THAT CERTAIN TITLE COMMITMENT NO. 22436127 ISSUED BY FIDELITY NATIONAL TITLE INSURANCE COMPANY WITH AN EFFECTIVE DATE OF FEBRUARY 18, 2016 WHICH PROPOSES TO INSURE THE LANDS DESCRIBED UNDER ITS SCHEDULE A

RESOLUTION 2017-05

VILLAGE OF THIENSVILLE
A RESOLUTION FOR A LIMITED TERM CONSERVATION EASEMENT

WHEREAS, the Village of Thiensville placed a pedestrian bridge over Pigeon Creek between glaze, llc and the Thiensville Health Alliance Building who granted the Village an easement; and

WHEREAS, the Village of Thiensville is the sole owner of this easement between 136 North Main Street and 120 North Main Street, Thiensville, Wisconsin; and

WHEREAS, a Limited Term Conservation Easement for Green Infrastructure is granted by the Village of Thiensville to the Milwaukee Metropolitan Sewerage District (MMSD) due to the property's conservation value; and

WHEREAS, this Limited Term Conservation Easement applies to areas of the property that have conservation value and are designed to capture and hold stormwater in place to reduce the quantity and improve the quality of runoff (Green Infrastructure); and

WHEREAS, the creation of conservation easements protects the natural, scenic and open space values of real property, assure its availability for agriculture, forestry, recreation or open space uses; protect natural resources; maintain or enhance air and water quality; and preserve archaeological sites; and

WHEREAS, this Limited Term Conservation Easement would qualify for MMSD funding.

NOW, THEREFORE BE IT RESOLVED that the Village Board hereby approves the foregoing Limited Term Conservation Easement.

PASSED AND ADOPTED by the Village Board of the Village of Thiensville, County of Ozaukee, State of Wisconsin on the 20th day of February, 2017.

Van A. Mobley, Village President

Amy L. Langlois, Village Clerk

LIMITED TERM CONSERVATION EASEMENT

This LIMITED TERM CONSERVATION EASEMENT FOR GREEN INFRASTRUCTURE is granted on the 15th day of February 2017 by the Village of Thiensville (Landowner) to the Milwaukee Metropolitan Sewerage District, a special-purpose municipal corporation established under Wis. Stat. § 200.21 *et seq.* (Easement Holder).

RECITALS

A. Property. The Landowner is the sole owner of property located in Ozaukee County, Wisconsin, which is described in Exhibit A and depicted on a map shown in Exhibit B (the Property). The property is at 120 North Main Street, Thiensville, Wisconsin 53092.

This Limited Term Conservation Easement applies only to certain areas of the Property that have conservation value. These areas contain infrastructure designed to capture and hold stormwater in place to reduce the quantity and improve the quality of runoff (Green Infrastructure). Exhibit C shows the areas within the property that are subject to this Limited Term Conservation Easement.

B. Conservation Values. In its present state, the Property has conservation value because it has 1,310 square feet of porous pavers. This Green Infrastructure provides a total retention capacity of 3,390 gallons.

C. Baseline Documentation. The condition of the Property and specifically the Green Infrastructure is further documented in an inventory of relevant features, characteristics, and Conservation Values (Baseline Report), which is on file at the office of the Easement Holder and incorporated into this Conservation Easement by reference. This Baseline Report consists of reports, maps, photographs, and other documentation that both parties agree provides an accurate representation of the condition of the Property at the time of the conveyance of this Easement and which is intended to serve as an objective, but not exclusive, baseline for monitoring compliance with the terms of this Easement.

Recording Area

Name and Return Address:

Milwaukee Metropolitan
Sewerage District
Attention: Delbert Dettmann
260 West Seeboth Street
Milwaukee, Wisconsin 53204

Part of Tax Key Number:

120500308000

- D. Public Policies.** The preservation of the Conservation Values of the Property will serve the public policy set forth in Section 700.40 of the Wisconsin Statutes, which provides for the creation and conveyance of conservation easements to protect the natural, scenic and open space values of real property; assure its availability for agriculture, forestry, recreation or open space uses; protect natural resources; maintain or enhance air and water quality; and preserve archaeological sites.
- E. Qualified Organization.** The Easement Holder is qualified to hold conservation easements under Section 700.40(1)(b) because it is a governmental body empowered to hold an interest in real property under the laws of the State of Wisconsin.
- F. Conservation Intent.** The Landowner and Easement Holder share the common purpose of preserving the Conservation Values for a period of ten years. The Landowner intends to place restrictions on the use of the Property to protect those Conservation Values. In addition, the Landowner intends to convey to the Easement Holder and the Easement Holder agrees to accept the right to monitor and enforce these restrictions.
- G. Funding Provided by Easement Holder.** The Easement Holder has provided funding to the Landowner for the installation of the Green Infrastructure. The Landowner acknowledges the receipt and sufficiency of this funding.

GRANT OF CONSERVATION EASEMENT

In consideration of the facts recited above, the mutual covenants contained in this Easement, the funding provided by the Easement Holder, and the provisions of Section 700.40 of the Wisconsin Statutes, the Landowner voluntarily conveys to the Easement Holder a Conservation Easement (the Easement) for a period of ten years on the Property. This Easement consists of the following terms, rights and restrictions:

- 1. Purpose.** The purpose of this Easement is to require the Landowner to keep, preserve, and maintain the Green Infrastructure installed on the Property, which consists of 1,310 square feet of porous pavers, which provides a total retention capacity of 3,930 gallons.
- 2. Effective Dates.** This Easement becomes effective on February 15, 2017, and terminates on February 14, 2027.
- 3. Recording of Easement.** The Easement Holder will record this Easement at the Easement Holder's expense.
- 4. Operation and Maintenance.** The Landowner will operate and maintain the Green Infrastructure so that it remains functional for the entire term of this Easement. The Landowner is solely responsible for operation, maintenance, and evaluating performance.

5. Additional Reserved Rights of the Landowner. The Landowner retains all rights associated with ownership of the Property, including the right to use the Property, and invite others to use the Property, in any manner that is not expressly restricted or prohibited by the Easement or inconsistent with the purpose of the Easement. However, the Landowner may not exercise these rights in a manner that would adversely impact the Conservation Values of the Property.

The Landowner expressly reserves the right to sell, give, bequeath, mortgage, lease, or otherwise encumber or convey the Property, provided that:

5.1 The encumbrance or conveyance is subject to the terms of this Easement.

5.2 The Landowner incorporates the terms of this Easement by reference in any subsequent deed or other legal instrument by which the Landowner transfers any interest in all or part of the Property.

5.3 The Landowner notifies the Easement Holder of any conveyance in writing within fifteen days after the conveyance and provides the Easement Holder with the name and address of the recipient of the conveyance and a copy of the legal instrument transferring rights.

5.4 Failure of the Landowner to perform any act required in Subparagraphs 5.2 and 5.3 does not impair the validity of this Easement or limit its enforceability in any way.

6. Easement Holders Rights and Remedies. To accomplish the purpose of this Easement, the Landowner expressly conveys to the Easement Holder the following rights and remedies:

6.1 Preserve Conservation Values. The Easement Holder has the right to preserve and protect the Conservation Values of the Property.

6.2 Prevent Inconsistent Uses. The Easement Holder has the right to prevent any activity or use of the Property that is inconsistent with the purpose of this Easement and to require the restoration of areas or features of the Property that are damaged by any inconsistent activity or use, pursuant to the remedies set forth below.

6.3 Enter the Property. The Easement Holder has the right to enter the Property to: inspect it and monitor compliance with the terms of this Easement; obtain evidence for use in seeking judicial or other enforcement of the Easement; and otherwise exercise its rights under the Easement. The Easement Holder will: provide prior notice to the Landowner before entering the Property, comply with all of the Landowner's safety rules, and avoid unreasonable disruption of the Landowner's activities.

7. Remedies for Violations. The Easement Holder has the right to enforce the terms of this Easement and prevent or remedy violations through appropriate legal proceedings.

- 7.1 Notice of Problems. If the Easement Holder identifies problems with the Green Infrastructure, then the Easement Holder will initially attempt to resolve the problems collaboratively. The Easement Holder will notify the Landowner of the problems and request remedial action within a reasonable time.
- 7.2 Notice of Violation and Corrective Action. If the Easement Holder determines that a violation of the terms of this Easement has occurred or is threatened, the Easement Holder will give written notice of the violation or threatened violation and allow at least thirty (30) days to correct the violation. If the Landowner fails to respond, then the Easement Holder may initiate judicial action. The requirement for an initial notice of violation does not apply if, in the discretion of the Easement Holder, immediate judicial action is necessary to prevent or mitigate significant damage to the Property or if good faith efforts to notify the Landowner are unsuccessful.
- 7.3 Remedies. When enforcing this Easement, the Remedies available to the Easement Holder include: temporary or permanent injunctive relief for any violation or threatened violation of the Easement, the right to require restoration of the Green Infrastructure to its condition at the time of the conveyance of this Easement, specific performance or declaratory relief, and recovery of damages resulting from a violation of the Easement or injury to any of the Conservation Values of the Property.
- 7.4 Enforcement Delays. A delay or prior failure of the Easement Holder to discover a violation or initiate enforcement proceedings does not waive or forfeit the right to take any action necessary to assure compliance with the terms of this Easement.
- 7.5 Waiver of Certain Defenses. The Landowner hereby waives any defense of laches, such as failure by the Easement Holder to enforce any term of the Easement, or estoppel, such as a contradictory statement or action on the part of the Easement Holder.
- 7.6 Acts Beyond Landowner's Control. The Easement Holder may not bring any action against the Landowner for any injury or change in the Property resulting from causes beyond Landowner's control, including, but not limited to, natural disasters such as fire, flood, storm, natural earth movement and natural deterioration, or prudent actions taken by the Landowner under emergency conditions to prevent or mitigate damage from these causes, provided that the Landowner notifies the Easement Holder of any occurrence that has adversely impacted or interfered with the purpose of this Easement.

8. General Provisions.

- 8.1 Amendment. The Landowner and Easement Holder may amend this Easement in a written instrument executed by both parties and recorded in the Office of the Register of Deeds for the county in which the Property is located, provided that no amendment shall be allowed if, in the judgment of the Easement Holder, it:

- a. diminishes the Conservation Values of the Property,
- b. is inconsistent with the purpose of the Easement,
- c. affects the duration of the Easement, or
- d. affects the validity of the Easement under Section 700.40 of the Wisconsin Statutes.

8.2 Assignment. The Easement Holder may convey, assign or transfer its interests in this Easement to a unit of federal, state or local government or to an organization that is (a) qualified within the meaning of Section 170(h)(3) of the Internal Revenue Code and in the related regulations or any successor provisions then applicable, and (b) qualified to hold conservation easements under Section 700.40 of the Wisconsin Statutes. As a condition of any assignment or transfer, any future holder of this Easement is required to carry out its purpose for the remainder of its term. The Easement Holder will notify the Landowner of any assignment at least thirty (30) days before the date of such assignment. However, failure to give such notice does not affect the validity of assignment or limit its enforceability in any way.

8.3 Captions. The captions in this Easement have been inserted solely for convenience of reference and are not part of the Easement and have no effect on construction or interpretation.

8.4 Controlling Law and Liberal Construction. The laws of the State of Wisconsin govern the interpretation and performance of this Easement. Ambiguities in this Easement shall be construed in a manner that best effectuates the purpose of the Easement and protection of the Conservation Values of the Property.

8.5 Counterparts. The Landowner and Easement Holder may execute this Easement in two or more counterparts, which shall, in the aggregate, be signed by both parties. Each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

8.6 Entire Agreement. This instrument sets forth the entire agreement of the Landowner and Easement Holder with respect to this Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein.

8.7 Extinguishment. This Easement may be terminated or extinguished prior to the expiration of its term, whether in whole or in part, only through judicial proceedings in a court of competent jurisdiction. Furthermore, the Easement may be extinguished only under the following circumstances: (a) all or part of the Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, or (b) the Landowner and Easement Holder agree that a subsequent,

unexpected change in the condition of or surrounding the Property makes accomplishing the purpose of the Easement impossible.

8.8 Joint Obligation. The obligations imposed by this Easement upon the Landowner are joint and several.

8.9 Ownership Responsibilities, Costs and Liabilities. The Landowner retains all responsibilities and will bear all costs and liabilities related to the ownership of the Property, including, but not limited to, the following:

- a. *Operation, upkeep, and maintenance*. The Landowner is responsible for the operation, upkeep, and maintenance of the Property.
- b. *Control*. In the absence of a judicial decree, nothing in this Easement establishes any right or ability in the Easement Holder to:
 - (i) exercise physical or managerial control over the day-to-day operations of the Property;
 - (ii) become involved in the management decisions of the Landowner regarding the generation, handling or disposal of hazardous substances; or
 - (iii) otherwise become an operator of the Property within the meaning of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), or similar laws imposing legal liability on the owner or operator of real property.
- c. *Permits*. The Landowner remains solely responsible for obtaining applicable government permits and approvals for any construction or other activity or use permitted by this Easement, and all such construction, other activity, or use shall be undertaken in accordance with applicable federal, state and local laws, regulations and requirements.
- d. *Indemnification*. The Landowner releases and will hold harmless, indemnify, and defend the Easement Holder and its members, directors, officers, employees, agents and contractors and the heirs, personal representatives, successors and assigns of each of them (collectively "Indemnified Parties") from and against any and all liabilities, penalties, fines, charges, costs, losses, damages, expenses, causes of action, claims, demands, judgments or administrative actions, including, without limitation, reasonable attorneys' fees, arising from or in any way connected with:

- (i) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due solely to the negligence of any of the Indemnified Parties;
- (ii) the violation or alleged violation of, or other failure to comply with, any state, federal or local law, regulation, including without limitation, CERCLA, by any person other than the Indemnified Parties, in any way affecting, involving or related to the Property;
- (iii) the presence or release in, on, from, or about the Property, at any time of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, unless caused solely by any of the Indemnified Parties.

e. *Taxes.* Before delinquency, the Landowner shall pay all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively "Taxes"), including any taxes imposed upon or incurred as a result of this Easement, and shall furnish the Easement Holder with satisfactory evidence of payment upon request.

8.10 Recording. The Easement Holder shall record this Easement in the Office of the Register of Deeds for the county in which the Property is located, and may re-record it or any other document necessary to protect its rights under this Easement.

8.11 Severability. If any provision or specific application of this Easement is found to be invalid by a court of competent jurisdiction, then the remaining provisions or specific applications of this Easement shall remain valid and binding.

8.12 Successors. This Easement is binding upon, and inures to the benefit of, the Landowner and Easement Holder and their respective personal representatives, heirs, successors and assigns, and shall continue as a servitude running with the Property for the term of the Easement.

8.13 Terms. The terms "Landowner" and "Easement Holder," wherever used in this Easement, and any pronouns used in their place, mean either masculine or feminine, singular or plural, and include Landowner's and Easement Holder's respective personal representatives, heirs, successors, and assigns.

8.14 Warranties and Representations. The Landowner warrants and represents that:

- a. The Landowner and the Property comply with all federal, state and local laws, regulations, and requirements applicable to the Property and its use;

- b. No civil or criminal proceedings or investigations are pending or threatened that would in any way affect, involve, or relate to the Property. No facts or circumstances exist that the Landowner might reasonably expect to form the basis for any proceedings, investigations, notices, claims, demands or orders; and
- c. The person signing this Easement has authority to grant this Conservation Easement to the Easement Holder.

GRANT OF INTEREST TO EASEMENT HOLDER

As the Village Administrator of the Village of Thiensville, I execute the foregoing Limited Term Conservation Easement and acknowledge the same on this _____ day of _____, 20____.

By: _____
Dianne Robertson
Village Administrator

STATE OF WISCONSIN
OZAUKEE COUNTY

On this _____ day of _____, 20____, the person known as _____ came before me and executed the foregoing instrument and acknowledged the same.

Signature of Notary Public

Notary Public, State of _____

My Commission expires _____.

ACCEPTANCE OF EASEMENT HOLDER'S INTEREST

The foregoing Limited Term Conservation Easement is accepted by the Milwaukee Metropolitan Sewerage District on this _____ day of _____, 20____.

By: _____
Kevin L. Shafer, P.E.
Executive Director

Approved as to Form: _____
Attorney for the District

STATE OF WISCONSIN

MILWAUKEE COUNTY

On this _____ day of _____, 20____, the person known as
_____ came before me and executed the foregoing
instrument and acknowledged the same.

Signature of Notary Public
Notary Public, State of _____

My Commission is expires _____.

Thomas A. Nowicki, Staff Attorney, Milwaukee Metropolitan Sewerage District, drafted this conservation easement.

ATTACHMENTS

EXHIBIT A Description of the Property
EXHIBIT B Conservation Easement Boundary Description
EXHIBIT C Map Showing the Conservation Easement Area

EXHIBIT A

DESCRIPTION OF THE PROPERTY

Legal Description: Being part of Lot 8 of Block 3 of the Assessor's Plat of the Village of Thiensville, located in part of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 23, Township 9 North, Range 21 East

Tax Key: 120500308000

Address: 120 North Main Street, Thiensville, Wisconsin 53154

EXHIBIT B
CONSERVATION EASEMENT BOUNDARY DESCRIPTION

Being part of Lot 8 of Block 3 of the Assessor's Plat of the Village of Thiensville, recorded in the Ozaukee County Register of Deeds office on August 13, 1938 in Volume D of Plats on Pages 36-38 inclusive, located in the Southwest one-quarter of the Northwest one-quarter of Section 23, Township 9 North, Range 21 East, Ozaukee County, Wisconsin, bounded and described as follows:

BEGINNING at the Southwest corner of Lot 1 of Certified Survey Map 1992, recorded in the Ozaukee County Register of Deeds office on October 7, 1988 as Document No. 408706; thence bearing North 87°07'16" East along the south line of said Lot 1 a distance of 115.95 feet to a point on the center of Pigeon Creek prior to the 2009 more or less construction; thence bearing South 06°31'50" West along said center a distance of 27.07 feet; thence bearing North 89°18'42" West a distance of 27.94 feet; thence bearing North 00°41'18" East a distance of 20.00 feet; thence bearing South 87°07'16" West a distance of 85.11 feet to a point on the east line of the North Main Street right-of-way; thence bearing North 00°13'16" West along said east line a distance of 5.01 feet to the POINT OF BEGINNING, containing 1,186 square feet more or less of land.

EXHIBIT C MAP SHOWING THE CONSERVATION EASEMENT AREA

