



VANDEWALLE & ASSOCIATES INC.

March 18, 2022

Agreement for Comprehensive Plan Update Services

THIS AGREEMENT is made and entered into by and between the “Client” City of Manitowoc, Wisconsin, and VANDEWALLE & ASSOCIATES, INC., Madison, Wisconsin, a professional planning and design firm. For purposes of this Agreement, the “Project” is defined as providing the City of Manitowoc with Comprehensive Plan Update Services.

Article I Scope of Work

- A. VANDEWALLE & ASSOCIATES agrees to provide the following “Services” as described in Attachment Two - Manitowoc Comprehensive Plan Update Scope of Services.
- B. Additional Services, beyond those stated in Article I.A., may be provided through a “Work Order”.
- C. VANDEWALLE & ASSOCIATES agrees to provide its professional Services in accordance with generally accepted standards of its profession.

Article II Client’s Responsibilities

- A. Client agrees to provide VANDEWALLE & ASSOCIATES with all base maps, blueprints, aerial photos, studies, reports, and ordinances needed to complete these Services. VANDEWALLE & ASSOCIATES may reasonably rely on the accuracy and completeness of these items. Client agrees to provide these items and to render decisions in a timely manner so as not to delay the orderly and sequential progress of VANDEWALLE & ASSOCIATES Services.

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Shaping places, shaping change

- B. The administrative liaison between VANDEWALLE & ASSOCIATES and the Client will be Paul Braun, City Planner.
- C. Client agrees that the following individuals are approved to authorize Additional Services via a Work Order:

Adam Tegen	Community Development Director
Name	Title
Name	Title

- D. Client understands that any work product delivered in electronic form under this Agreement may require Client to use certain third-party hardware and/or software products; such as Microsoft Word and Excel, and Adobe Acrobat and Illustrator. Client shall be solely responsible for obtaining licenses to use such third-party software. VANDEWALLE & ASSOCIATES makes no warranties or representations as to the quality, capabilities, operations, performance or suitability of any third-party hardware or software including the ability to integrate with any software currently in use by the Client. Client acknowledges that the quality, capabilities, operations, performance, and suitability of any third-party hardware or software lies solely with Client and the vendor or supplier of that hardware or software.
- E. If Client makes any modifications to Deliverables, Client shall either 1) obtain the prior written consent of VANDEWALLE & ASSOCIATES; or 2) remove VANDEWALLE & ASSOCIATES name from the Deliverables. In the event that Client selects option #2, VANDEWALLE & ASSOCIATES shall not be liable or otherwise responsible for such modifications or their effect on the results of the implementation of the recommendations contained in such Deliverables.

Article III Estimated Schedule

- A. Services in this Agreement shall commence from April 1, 2022 and be in effect through April 1, 2023 unless the parties agree otherwise.
- B. VANDEWALLE & ASSOCIATES shall render its Services as expeditiously as is consistent with professional skill and care. During the course of the Project, anticipated and unanticipated events may impact the Project schedule and

VANDEWALLE & ASSOCIATES shall not be responsible for any delays caused by factors beyond its reasonable control.

Article IV Costs and Payment

- A. All work shall be completed on a time and materials basis, at the direction of the Client with the budget not to exceed \$50,410.
- B. Client acknowledges that significant changes to the Project schedule, budget or Project's scope may require Additional Services for which the parties may (but are not required to) enter into a separate Work Order (see Article I.B.).
- C. Invoice charges to the Client are divided into these two elements:
 - 1. Professional Fees.
Charged for all Services rendered at current billing rates as listed in Attachment One.
 - 2. Reimbursable Expenses at cost.
- D. VANDEWALLE & ASSOCIATES shall send Client an invoice for Professional Fees and Reimbursable Expenses once a month. Client shall pay VANDEWALLE & ASSOCIATES the amounts due under such invoice upon receipt of such invoice. A service charge of 1% per month may be charged on all amounts more than 30 days after date of invoice.

Article V Termination

- A. Either Client or VANDEWALLE & ASSOCIATES may terminate this Agreement upon seven days written notice.
- B. If terminated, Client agrees to pay VANDEWALLE & ASSOCIATES the hourly rates for all Services rendered and Reimbursable Expenses incurred, up to the date of termination.
- C. Upon not less than seven days' written notice, VANDEWALLE & ASSOCIATES may suspend the performance of its Services if Client fails to pay VANDEWALLE & ASSOCIATES in full for Services rendered or Reimbursable Expenses incurred. VANDEWALLE & ASSOCIATES shall have no liability because of such suspension of service or termination due to nonpayment.

Article VI Dispute Resolution

VANDEWALLE & ASSOCIATES and Client agree to mediate claims or disputes arising out of or relating to the Agreement. The mediation shall be conducted by a mediation service acceptable to the parties. A demand for mediation shall be made within a reasonable time after a claim or dispute arises. In no event shall any demand for mediation be made after such claim or dispute would be barred by the applicable law.

Article VII Intellectual Property; Confidentiality

- A. Except as otherwise provided by law: upon payment in full by Client to VANDEWALLE & ASSOCIATES for Services rendered and Reimbursable Expenses incurred pursuant to this Agreement, VANDEWALLE & ASSOCIATES shall grant Client a non-transferable, non-exclusive, perpetual license to use any and all Work Product developed or produced by VANDEWALLE & ASSOCIATES pursuant to this Agreement. As used in this Agreement, "Work Product" means all inventions, processes, data, documents, drawings, records, and works of authorship, whether or not copyrightable or patentable, that are originated or prepared by VANDEWALLE & ASSOCIATES in the course of rendering the Services under this Agreement. Until Client pays VANDEWALLE & ASSOCIATES in full for Services rendered and expenses incurred pursuant to this Agreement, Client may not use any Work Product to complete the Project with others unless VANDEWALLE & ASSOCIATES is in material breach of this Agreement. Upon termination of this Agreement, by either party, Client agrees to pay in full for Services rendered and expenses incurred up to the date of termination; VANDEWALLE & ASSOCIATES shall then provide to Client all Work Product developed or produced by VANDEWALLE & ASSOCIATES, pursuant to this Agreement, up to date of termination.
- B. Except as otherwise provided by law: Client shall not communicate, publish, or otherwise disclose to a third party, other than those parties designated by Client or VANDEWALLE & ASSOCIATES as being involved in activities related to this Agreement, or authorize or induce anyone else to use, communicate, publish, or otherwise disclose, any nonpublic information pertaining to VANDEWALLE & ASSOCIATES, including, without limitation, any information relating to pricing, products, or ideas of VANDEWALLE & ASSOCIATES. Until VANDEWALLE & ASSOCIATES is paid in full by Client for Services rendered and expenses incurred pursuant to this Agreement, Client shall not

communicate, publish, or otherwise disclose to any third party, any information pertaining to or summaries of the Work Product.

Article VIII Miscellaneous Provisions

- A. Wisconsin law governs this Agreement (without regard to its conflict of law principles or rules of construction concerning the drafting hereof).
- B. This Agreement is the entire and integrated agreement between the Client and VANDEWALLE & ASSOCIATES, and supersedes all prior negotiations, statements or agreements, either written or oral, with regard to its subject matter. This Agreement may be amended only by written instrument signed by both Client and VANDEWALLE & ASSOCIATES. Neither party can assign this Agreement without the other party's prior written permission.
- C. Notwithstanding any other term in this Agreement, VANDEWALLE & ASSOCIATES shall not control or be responsible for another party's means, methods, techniques, schedules, sequences or procedures, or for construction safety or any other related programs.
- D. Client agrees to indemnify, defend and hold VANDEWALLE & ASSOCIATES, its agents and employees harmless from and against any and all claims, liabilities, suits, demands, losses, costs and expenses (including reasonable attorneys' fees) to property or persons, including injury or death, or economic losses, arising out of the Project and/or the performance or non-performance of obligations under this Agreement, except to the extent such damages or losses are directly caused by VANDEWALLE & ASSOCIATES' negligence or misconduct.
- E. In the event that any suit or action is instituted to enforce any provision in this Agreement, the prevailing party in such dispute shall be entitled to recover from the losing party all fees (including legal and accounting fees for in-house or contracted employees), costs and expenses of enforcing any right of such prevailing party under or with respect to this Agreement, including without limitation, all costs of appeals. For purposes of this provision, "prevailing party" shall include a party that dismisses an action in exchange for payment of the sum allegedly due, performance of covenants allegedly breached, or consideration substantially equal to the relief sought in the action or proceeding.
- F. VANDEWALLE & ASSOCIATES reserves the right to include representations of the Project in its promotional and professional materials.

- G. All Services performed pursuant to the Agreement are performed on an "as is" basis, and VANDEWALLE & ASSOCIATES hereby disclaims all warranties, express or implied, including, but not limited to, fitness for a particular purpose and non-infringement. In no event shall VANDEWALLE & ASSOCIATES be liable to Client or any third party for any losses, lost profits, lost data, consequential, special, incidental, or punitive damages, delays, or interruptions arising out of or related to this Agreement regardless of the basis of the claim. VANDEWALLE & ASSOCIATES' aggregate liability (including attorneys' fees) to Client and Client's exclusive remedy, if any, shall not exceed the lesser of the (i) amount of fees actually paid to VANDEWALLE & ASSOCIATES by Client with regard to the Services or the Work Order for which liability has been asserted, or (ii) amount of fees actually paid to VANDEWALLE & ASSOCIATES by Client in the previous two months prior to the claim being made.

IN WITNESS WHEREOF, the parties hereto entered into this Agreement as of the latest date noted, below.

City of Manitowoc

By:



Signature of Authorized Representative

3-21-2022

Date

Adam Tegen
Printed Name

Community Development Director
Title

VANDEWALLE & ASSOCIATES

By:



Nonna Anderson, Business Manager

Date

ATTACHMENT ONE
FEE SCHEDULE

	<u>Hourly Rates</u>
Company President	\$220 to \$250
Principal	\$185 to \$220
Associate	\$100 to \$150
Assistant	\$85 to \$95
Cartographer	\$95 to \$110
Communications Specialist	\$65 to \$120
Project Assistant	\$40 to \$65

ATTACHMENT TWO
CITY OF MANITOWOC COMPREHENSIVE PLAN UPDATE
SCOPE OF SERVICES

Work Element One: Project Management, Plan Evaluation and Existing Conditions Analysis

Task 1.1: Monthly Progress Meetings with City Staff

VANDEWALLE & ASSOCIATES will facilitate monthly virtual meetings with City Staff to discuss progress, report on findings, review draft documents, and receive direction.

Task 1.2: Monthly Progress Reports

VANDEWALLE & ASSOCIATES will prepare monthly Progress Reports for City Staff to share with the Plan Commission that summarize work conducted over the preceding month and that to be undertaken over the coming month. The reports also may include discussion questions to be discussed at the monthly Plan Commission meetings where additional thoughts and direction are needed.

Task 1.3: Base Mapping

VANDEWALLE & ASSOCIATES will coordinate with the various City departments and outside agencies to collect updated background mapping data including transportation, land uses, natural resources, and community facilities.

Task 1.4: Update Data and Projections

VANDEWALLE & ASSOCIATES will collect and update all required data sets and rerun population, housing, and land use projections to be used in the Plan. Primary sources will be the 2020 US Census, DOA population projections, ArcGIS Business Analyst, the most recent ACS, the 2021 Housing Study & Needs Assessment, and current zoning map, among others.

Task 1.5: Project Update Materials for Website or Social Media

Throughout the project, V&A will produce various summary materials at key milestones of the project that the City can distribute via its website or social media accounts. This information will keep interested community members informed and updated throughout the process.

Task 1.6: TIF Check (complimentary)

Scott Harrington, VANDEWALLE & ASSOCIATES' in-house TIF expert, will review the current Tax Incremental Financing Districts in the City and provide recommendations for TIF management and optimization. This includes a review of district finances, identification of priority development sites and public improvement needs, plus suggested strategies for

leveraging existing TIF Districts for maximum impact. The findings and recommendations from this task will be incorporated into the draft Plan. This task is provided free of charge.

Task 1.7: Review and Revise Public Participation Plan

Plan VANDEWALLE & ASSOCIATES will review the City's Public Participation Plan and recommend changes as needed. If amended, the revised Public Participation Plan will be adopted by the Plan Commission and City Council. Council meeting to adopt the Public Participation Plan will be attended by City staff.

Task 1.8: Community Site Visit

Members of the VANDEWALLE & ASSOCIATES project team will conduct an all-day community site visit consisting of the following:

- **City Tour:** Members of the VANDEWALLE & ASSOCIATES project team will participate in a tour of the community with City staff to enhance our familiarity with the City including recent and ongoing development projects and visits to the areas of focus as identified in the City's RFP.
- **Department Head Meeting:** VANDEWALLE & ASSOCIATES will facilitate a virtual meeting with City department heads to discuss successes and challenges in implementing the 2009 Comprehensive Plan and solicit ideas on key issues to be addressed in the updated Plan.
- **Plan Commission Kick-off Meeting:** VANDEWALLE & ASSOCIATES will facilitate a Kickoff Meeting with the Plan Commission to approve the Public Participation Plan, review the project schedule and process, discuss successes and challenges in implementing the 2009 Comprehensive Plan, identify key areas of change, and to gather other input necessary to guide the development of the updated Plan.

Task 1.9: Focus Group Meetings (Virtual)

VANDEWALLE & ASSOCIATES will facilitate up to six virtual Focus Group Interviews with key stakeholders and experts in the community. Each Focus Group will consist of 6-8 participants with interest and expertise in topics such as development trends, community needs, the key growth areas of focus, infrastructure, intergovernmental relations. The ultimate participants and topics will be determined in consultation with City staff and Plan Commission. All feedback will be used to guide the development of the Redline Draft Plan.

Work Element One Deliverables

- Monthly progress reports
- Updated base maps (to be included in initial Draft in Task 3.3)
- Updated data (to be included in initial Draft in Task 3.1)
- Materials for posting on City website and social media (project description, schedule, public events/meeting, draft documents)

- TIF Check summary report (to be included in initial Draft in Task 3.1)
- Revised public participation plan (if needed)
- Invitations, agendas and summaries for department head and focus group meetings
- Meeting materials/presentations for Plan Commission meeting

Work Element Two: Review Vision and Prepare Strategic Framework

Task 2.1: Public Visioning and Priority Issues Workshop

VANDEWALLE & ASSOCIATES will facilitate an in-person, interactive Public Visioning and Priority Issues Workshop to gather feedback from the entire community on the vision for the future, what makes the City unique, and the key issues to be addressed over the next 10+ years.

Task 2.2: Online Public Visioning and Priority Issues

VANDEWALLE & ASSOCIATES will prepare materials similar to those used in Task 2.1. that can be posted on the City's website. This would include an electronic survey and/or questionnaire as well as an online map-based survey to gather feedback from the entire community on geographical components of the Comprehensive Plan such as future growth areas, redevelopment opportunities, bike routes/trails, sidewalks, roads, crossings, parks, etc.

Task 2.3: Prepare Vision and Framework

VANDEWALLE & ASSOCIATES will prepare an attractive and compelling one-page Vision and Framework graphic that concisely communicates the City's future and the priority issues for the next 10 years. The graphic will be incorporated into the plan and be a centerpiece of the Executive Summary. It also can be used as a standalone piece in various hardcopy and electronic forms.

Work Element Two Deliverables

- Public meeting flyer and press release, presentation materials, input forms and mechanisms, outcome summary
- Online Public Visioning electronic survey and/or questionnaire, online map-based survey, outcome summary
- Vision & Strategic Framework Graphic

Work Element Three: Draft Plan Update Preparation

Task 3.1: Prepare Draft Text Changes (Redline Draft)

VANDEWALLE & ASSOCIATES will prepare a Redline (track changes) Comprehensive Plan with appropriate updates to all text from the 2009 Comprehensive Plan including the Key Growth Areas of Focus and all components necessary to meet State of Wisconsin planning standards. The draft will be provided in digital form for staff review and comment. City

project staff shall be responsible for obtaining and compiling comments from all other City Staff and departments. Comments also will be discussed with staff in one or more extended monthly calls with VANDEWALLE & ASSOCIATES.

Task 3.2: Prepare Key Growth Area of Focus Summary (1 area)

VANDEWALLE & ASSOCIATES will create more detailed descriptions of one geographic area of focus consisting of a two-page summary with additional graphics that can be used as separate marketing and communication piece to attract interest and investment the area of focus. The draft summary will be prepared concurrently with all of the draft plans as described in Work Elements Three and Four. The Key Growth Areas of Focus summary will be prepared in a similar format to the Executive Summary so they can be used separately or together. Additional areas of focus could be added as a separate Work Order.

Task 3.3: Prepare Draft Map Changes

VANDEWALLE & ASSOCIATES will prepare updated Plan Maps based on the versions in the 2009 Comprehensive Plan. The updates will be provided in digital form for staff review and comment. City project staff shall be responsible for obtaining and compiling comments from all other City Staff and departments. Comments also will be discussed with staff in one or more extended monthly calls with V&A.

Task 3.4: Prepare Plan Commission Draft #1

VANDEWALLE & ASSOCIATES will make City staff's suggested changes to the Redline Draft and Draft Map Changes and produce a "clean" version of the Plan (Plan Commission Draft #1). To encourage greater use of the Plan document, it may be reformatted and reduced in length using techniques such as including the existing conditions and detailed data in technical appendices and including graphics, charts and tables to quickly communicate primary findings and recommendations. The draft will be provided in digital form for staff to transmit to the Plan Commission and make available to the public in either electronic or hard copy.

Task 3.5: Meeting to Review Plan Commission Draft #1

VANDEWALLE & ASSOCIATES will facilitate an in-person Plan Commission meeting to review and gather input on Draft #1.

Task 3.6: Prepare Plan Commission Draft #2

VANDEWALLE & ASSOCIATES will make the appropriate changes to Plan Commission Draft #1 based on Commission feedback to produce Draft #2. The changes to the draft will be discussed with City Staff prior to completion and provided in digital form for staff to transmit to the Plan Commission and make available to the public in either electronic or hard copy.

Task 3.7: Prepare Draft Executive Summary

VANDEWALLE & ASSOCIATES will prepare a Draft Executive Summary consistent with the contents of Plan Commission Draft #2 of the full Comprehensive Plan. The Executive

Summary will be a full-color, highly engaging piece that includes the Vision & Framework and key outcomes from the Plan elements. The draft Executive Summary will be reviewed with City Staff prior to completion and provided in digital form for staff to transmit to the Plan Commission and make available to the public in either electronic or hard copy.

Task 3.8: Public Open House to Review Plan Commission Draft #2

VANDEWALLE & ASSOCIATES will organize and facilitate a Public Open House to gather feedback on Plan Commission Draft #2 and the Draft Executive Summary. This will be drop-in format where participants can review outcomes of the Plan at their own pace and based on their own interests. Methods for providing input will include some combination of comment forms, survey with real time results, sticky notes, and one-on-one and small group conversations with VANDEWALLE & ASSOCIATES project team members and City staff and officials. The Open House will take place immediately prior to the Plan Commission meeting on Draft #2 (Task 3.10).

Task 3.9: Online Public Review and Comment on Plan Commission Draft #2

VANDEWALLE & ASSOCIATES will provide a modified virtual option with a plan summary recording and virtual Idea Council comment forum to provide the public an opportunity to review and comment on Draft #2 at their leisure.

Task 3.10: Meeting to Review Plan Commission Draft #2

VANDEWALLE & ASSOCIATES will facilitate an in-person Plan Commission meeting to review and gather input on Plan Commission Draft #2 and the Draft Executive Summary. At the conclusion of the meeting, the Plan Commission will be asked to consider scheduling a formal public hearing for Plan adoption

Work Element Three Deliverables

- Draft documents
- Draft maps
- Draft Executive Summary
- Draft Area of Focus Summary (1)
- Meeting materials/presentations for Plan Commission meeting
- Public meeting flyer and press release, presentation materials, input forms and mechanisms, outcome summary

Work Element Four: Plan Adoption

VANDEWALLE & ASSOCIATES will incorporate all input received in Work Element Three to prepare a draft Plan for consideration at a formal public hearing and a final Plan document and Executive Summary. Further, VANDEWALLE & ASSOCIATES will coordinate all required notices as specified by state statutes.

Task 4.1: Prepare Adoption Draft Plan

VANDEWALLE & ASSOCIATES will make the appropriate changes to Plan Commission Draft #2 and Executive Summary based on direction from the Commission and public feedback to produce the Adoption Draft Plan. The changes to the draft will be reviewed with City Staff before being completed and provided in digital form for staff to transmit to the Plan Commission and make available to the public in either electronic or hard copy.

Task 4.2: Mail Minimum 30-Day Public Hearing Notice

VANDEWALLE & ASSOCIATES will prepare and send mailings to all neighboring and regional jurisdictions notifying them of the Public Hearing and the Adoption Draft Plan, per state requirements.

Task 4.3: Joint Plan Commission and City Council Public Hearing and Plan Commission Recommendation

VANDEWALLE & ASSOCIATES will facilitate an in-person Joint Plan Commission and City Council Public Hearing to gather public feedback on the Adoption Draft and seek a formal recommendation from the Plan Commission. At this meeting, the Plan Commission would recommend the Plan to the City Council, and the Council could consider adopting the Plan.

Task 4.4: Prepare Final Plan and Executive Summary

VANDEWALLE & ASSOCIATES will finalize the Plan and Executive Summary as adopted by the Plan Commission and City Council and review each with City Staff prior to completion. Ten hardcopies of both documents will be provided along with electronic files of all associated text, maps and graphics.

Task 4.5: Mail Adoption Notice

VANDEWALLE & ASSOCIATES will prepare and send mailings to all neighboring and regional jurisdictions notifying them of the Plan adoption per state requirements.

Work Element Four Deliverables

- Draft and final plan documents
- Draft and final maps
- Draft and final Executive Summary
- Draft and final Area of Focus Summary
- Required notices to agencies and neighboring jurisdictions

