



# CITY OF MANITOWOC

WISCONSIN, USA

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December 15, 2023

TO: Members of the Common Council

FROM: Eric Nycz, City Attorney

Re: 23-1083 – E-Plan Exam

## **Issue Presented**

The Public Infrastructure Committee asked that this Office review the plan and Professional Services Agreement (“Agreement”) prior to taking this proposal up at the Council level. Comments were made that this proposal appeared almost “too good to be true.” Having fully reviewed the proposal, those comments are justified. Thankfully, the proposal is simply just a good one.

## **Professional Services Agreement**

The Committee did not have the Agreement for review but, instead, the attached overview and presentations. The Agreement, as presented to staff, required a healthy amount of revision – mostly due to indemnification language that was unacceptable to the City. Eplex, LLC (“Consultant”) did not push back on any of the proposed changes and the Agreement before you has the endorsement of this Office.

## **Recommendation from the City Attorney**

By entering into the Agreement, the citizens of Manitowoc will benefit by receiving reviewed and approved construction plans on an accelerated timeline at no additional cost. Consultant is responsible for its work product and carries adequate insurance in the event it fails to meet its standard of care. City staff time is not increased yet staff has the authority to direct submissions back to the State if it proves necessary. There is very little downside, if any, to entering into this Agreement.

I will note that Chapters 6, 7 and 16 of the MMC will require some revision in January should the Council approve of the City entering into this Agreement. The changes are mostly cosmetic, and mostly necessary whether we enter into the Agreement or not (to update these areas to current state standards). This Office is already working on these changes.

Therefore, this Office recommends entering into the Agreement. Thank you for your consideration.

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