



AGENDA OF THE IMPROVEMENT AND SERVICES COMMITTEE

WEDNESDAY, MAY 27, 2020, 6:00 PM

Virtual Meeting
Public may also view meeting
at www.youtube.com/cityofgreenbay

A. Zoom Meeting Information.

- I. This item contains documents which provide call in information and instructions for the Zoom Meeting.

B. Roll Call.

C. Approval of the Agenda.

D. Approval of Minutes.

E. Regular Business.

- I. Consideration with possible action on request by Green Viper LLC to enter into a Developer's Agreement for the construction of public infrastructure to support the Bradley Estates subdivision.
2. Consideration with possible action on request by Wisconsin Department of Transportation to enter into a Lift Bridge Maintenance Agreement for the Ray Nitschke (Main Street) Memorial Bridge (held at the April 8, 2020 Improvement and Services Committee meeting).
3. Consideration with possible action on request by Department of Public Works to enter into a State-Municipal Agreement with the Wisconsin Department of Transportation for the reconstruction of the Country Club Road from West Mason Street to Indian Hill Road.
4. Consideration with possible action on request by Department of Public Works to enter into a State-Municipal Agreement with the Wisconsin Department of Transportation for the construction of the Chantel Street Bridge.

5. Consideration with possible action on request by Department of Public Works to add Northeast Asphalt or MCC as a vendor for Hot Mix Asphalt under our Annual Consumables contract for periods when Brown County cannot supply material.
6. Consideration with possible action on request by the Department of Public Works to purchase a used Toolcat from the City of Two Rivers to replace a unit which is no longer drivable.
7. Report of actions taken by Department of Public Works

A. Granting of Licenses

I. Sidewalk Builder

- a. Precision Flatwork
- b. Weidner Concrete Construction LLC

F. Informational.

1. Director's Report on recent activities of the Public Works Department.
2. The next Improvement and Services Committee meeting is scheduled for June 10, 2020.

G. Public Hearings.

H. Adjournment.

- 1) THIS MEETING IS RECORDED: THE VIDEO OF THIS MEETING AND MINUTES ARE AVAILABLE ONLINE AT www.greenbaywi.gov
- 2) ACCESSIBILITY: Any person wishing to attend who requires special accommodation because of a disability, should contact the City Safety Manager at 920-448-3125 at least 48 hours before the scheduled meeting time so that arrangements can be made.
- 3) QUORUM: Please take notice that a majority or quorum of the Common Council will attend this Improvement and Services Committee meeting and will constitute a meeting of the Common Council for purposes of discussion and information gathering relative to this agenda.
- 4) REPRESENTATION: The party requesting the communication, or their representative, should be present at this meeting.

Virtual Meeting Instructions



Improvement & Services Committee for 5-27-20

Zoom Meeting Information

Join Zoom Meeting

<https://us02web.zoom.us/j/84270222984?pwd=Q2tobXRZYnhUTFVtRGdqdFIGMFdPUT09>

Meeting ID: 842 7022 2984

Password: 428582

One tap mobile

+13017158592,,84270222984#,,1#,428582# US (Germantown)

+13126266799,,84270222984#,,1#,428582# US (Chicago)

Dial by your location

+1 301 715 8592 US (Germantown)

+1 312 626 6799 US (Chicago)

+1 929 205 6099 US (New York)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

Meeting ID: 842 7022 2984

Password: 428582

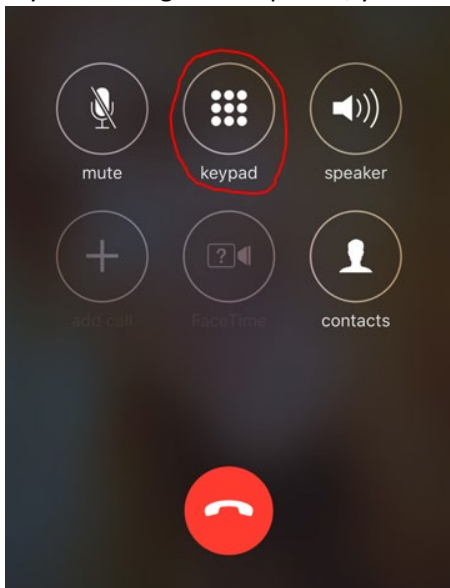
Find your local number: <https://us02web.zoom.us/j/84270222984?pwd=Q2tobXRZYnhUTFVtRGdqdFIGMFdPUT09>

Additional Information

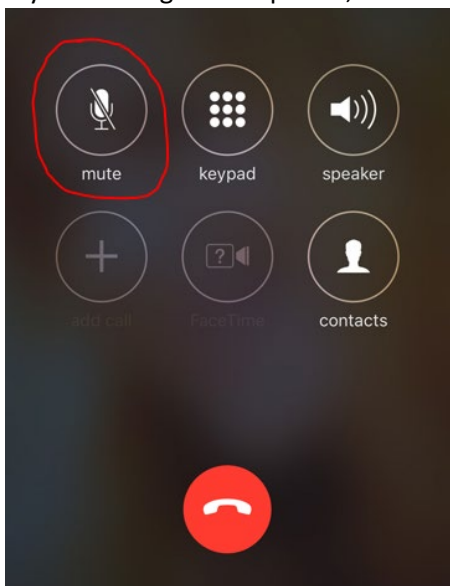
1. Wisconsin Open Meetings Law still applies
 - a. Persons interested in speaking to an item must give their name and address
 - b. Committee/Commission/Board members will still follow *Roberts Rules of Order*
2. All zoom meetings will have a password in the instructions. Please enter when prompted.
3. Please log into the Zoom meeting 10 minutes before the meeting starts to ensure proper technology is working.
 - a. If you are a Board Member, please log into [CivicClerk](#) with a computer, laptop, or tablet device.
4. Once you are in the meeting please mute yourselves.
 - a. You may unmute yourself when you are called upon to speak.
5. Waiting room
 - a. When you call in, all callers/participants will be placed in a “waiting room.”
 - b. Persons on the agenda will be admitted to the meeting, and then once the item is concluded, the host will permanently mute you from the meeting (you can still hear the meeting).
6. Using Zoom with a tablet or computer
 - a. Tablet—you will be asked to sign in. Download the app either with the Apple Store or the Play Store
 - b. Computer—you will be asked to sign in. You may download the app or click on the link to open Zoom in your browser.
7. Registering
 - a. The host may ask you to register for the meeting. A registration link will be sent to you along with the invite. You’ll receive another email confirming that you’re registered for the meeting.
 - b. If you’re using a phone, your registration will still be tied to an email.
8. Raising your hand
 - a. Committee members—you can either use CivicClerk and request to speak or you can “raise your hand” in the zoom meeting (you’d need to use a computer or tablet) to let the host know you’d like to speak. You can also un-mute yourselves and start speaking.
 - b. Persons on the agenda—you can “raise your hand” but you’d need to use a computer. You will be allowed to speak, per Wisconsin Open Meetings Rules, once the committee has “opened the floor for interested parties to speak.” Once the committee is finished with your agenda item, the host will mute you permanently, unless the committee opens the floor again.
9. What devices should I use?
 - a. Smart phone (please see more detailed instructions on page 3)
 - b. Land line
 - c. Tablet—well in advance of the meeting, please download the Zoom Meeting app before you join a meeting by using either the Apple Store or the Play Store. You will be asked to input your name, thus identifying you for the meeting. You’ll also be asked to verify your email.
 - d. Computer—well in advance of the meeting, please download the Zoom Meeting app, but you can also click on a link to open the Zoom Meeting in your browser. You will be asked to input your name, thus identifying you for the meeting.
 - e. For tablet and computer users—if you download the app you will be asked to verify your email.
10. Zoom etiquette
 - a. Muting yourselves when you’re not talking will prevent your background noise from interfering with others’ ability to listen to and participate in the meeting.
 - b. If you’re using a telephone, please identify yourself with your phone number and name before you speak. Zoom meeting hosts can see only your telephone number and will ask you to identify yourselves.
11. Closed session
 - a. Persons in the Zoom meeting will be put into a waiting room while the committee meets in Closed Session. Participants will be admitted back into the Zoom meeting once the committee reconvenes in Open Session.
 - b. Persons watching live on YouTube will see a gray screen with the City logo during closed session.
12. Persons interested in listening to the meeting can go to www.youtube.com/CityofGreenBay

Calling into the Zoom meeting using a smartphone

1. Dial the phone number listed at the beginning of this document.
2. When prompted, enter the Meeting ID number followed by #
 - a. If you're using a smartphone, you can access the keypad by clicking "Keypad" on your screen



3. Once you are in the meeting, notify the meeting host that you are in and state your name.
4. If you do not need to talk, please make sure your phone is on **Mute**
 - a. If you're using a smartphone, look at your screen and click the Mute button



- b. If you're using a computer, you should see a Mute button in the Zoom application





Report to the
Improvement and Service Committee
of the City of Green Bay

MEETING DATE

May 27, 2020

PREPARED BY

AGENDA ITEM # E.I

Consideration with possible action on request by Green Viper LLC to enter into a Developer's Agreement for the construction of public infrastructure to support the Bradley Estates subdivision.

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

- I. Bradley Estates-Draft 5_08_2020

DEVELOPER'S AGREEMENT

This Agreement is made this [REDACTED] day of [REDACTED], 2020, by and between Green Viper LLC (hereinafter the "Developer") and the City of Green Bay, a municipal corporation of the State of Wisconsin, located in Brown County, Wisconsin (hereinafter the "City").

WHEREAS, the Developer is the owner of lands within the City legally described as:

PART OF LOT 4 OF VOLUME 60, CERTIFIED SURVEY MAPS, PAGE 218, DOCUMENT NUMBER 2708135, MAP NUMBER 3549, BROWN COUNTY RECORDS, LOCATED IN PART OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 3, T23N-R21E, CITY OF GREEN BAY, BROWN COUNTY, WISCONSIN, MORE FULLY DESCRIBED AS FOLLOWS,

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 3, T23N-R21E; THENCE N00°30'32"E, 1928.02 FEET ALONG THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 3; THENCE S81°31'01"W, 243.74 FEET ALONG THE SOUTH LINE OF LOT 4 OF VOLUME 60, CERTIFIED SURVEY MAPS, PAGE 218 AND LOT 2 OF VOLUME 55, CERTIFIED SURVEY MAPS, PAGE 09 (DOC, #2428889 -MAP #7924), BROWN COUNTY RECORDS AND THE POINT OF BEGINNING; THENCE CONTINUING S81°31'01"W, 418.88 FEET ALONG THE NORTH LINE OF LOTS 63-68 OF THE RECORDED PLAT OF "MCAULIFFE HEIGHTS PHASE III" RECORDED IN VOLUME 22, PLATS, PAGE 22 (DOC. #1992633), BROWN COUNTY RECORDS; THENCE N00°28'12"E, 784.16 FEET ALONG THE WEST LINE OF SAID LOT 4, SAID LINE ALSO BEING THE EAST LINE OF THE RECORDED PLAT OF "HIGHLAND ACRES SECOND ADDITION", RECORDED IN VOLUME 20, PLATS, PAGE 60 (DOC, #1481282), BROWN COUNTY RECORDS TO THE SOUTH RIGHT-OF-WAY OF SITKA STREET; THENCE N89°26'04"E, 489.96 FEET ALONG SAID SOUTH RIGHT-OF-WAY; THENCE S00°30'32"W, 319.79 FEET ALONG THE EAST LINE OF SAID LOT 4 OF VOLUME 60, CERTIFIED SURVEY MAPS, PAGE 218; THENCE S89°29'29"E, 130.13 ALONG SAID LOT TO THE WEST RIGHT OF WAY OF ONTARIO ROAD; THENCE S00°30'32"W, 207.95 FEET ALONG SAID RIGHT OF WAY; THENCE 18.85 FEET ALONG THE ARC OF A 12 FOOT RADIUS CURVE TO THE LEFT WHOSE LONG CHORD BEARS N44°29'29"W, 16.97 FEET; THENCE N89°29'29"W, 193.41 FEET; THENCE S00°35'40"W, 212.15 FEET TO THE POINT OF BEGINNING,

WHEREAS, the City Plan Commission has recommended to the Common Council and the Common Council has approved the Brady Estates Subdivision Plat (the "Plat") on the condition that the Developer enter into an Agreement with the City relative to the manner and method by which the Plat will be developed in accordance with City ordinances and codes; and

WHEREAS, the Improvement and Services Committee has authorized, as approved by the Common Council, the City to enter into a Developer's Agreement for purposes of completing the Brady Estates Subdivision.

NOW, THEREFORE, in consideration of the approval by the City of the Plat prior to the installation and completion of all required improvements, it is agreed as follows:

I. Installation of Improvements. Improvements include all projects identified in Section I, Subsections A through H (hereinafter “Improvements”). All Improvements shall be constructed by the Developer in accordance with design plans submitted by the Developer and approved by the Director of Public Works (hereinafter “Director”). Said plans and materials used shall comply with the current edition of the City of Green Bay Standard Specifications and Construction Standards for Public Works Construction including all supplements, unless otherwise approved by the Director. The applicable design plans shall be approved by the Director prior to commencement of construction of each Improvement. The Director, in his sole determination, may order amendments to the approved plans in the event that actual conditions of the site upon inspection require said amendments to ensure the safety, quality and durability of the Improvements. The Developer is further responsible for obtaining any and all necessary permits for the Improvements. A copy of all permits issued by agencies, other than the City, shall be submitted to the Director. The Developer may begin work on the Improvements upon conditional approval of the plat and upon Developer obtaining all necessary permits. Developer assumes the risk for any further changes to the final plat thereafter. All Improvements shall be constructed by a contractor hired by the Developer subject to the approval of the City, which approval shall not be unreasonably withheld.

A. Streets & Sidewalks.

1. The streets shall be constructed as depicted by the Developer in the conditionally approved Plat. Streets shall consist of asphalt pavement over gravel base with concrete curb and gutter on both sides of each street. The first course of asphalt shall be laid prior to the dedication of the right of way.
2. The Developer shall submit a cash payment to cover the costs of a second course of asphalt to be laid approximately two years after initial construction. The amount of the cash payment shall be determined by the Director based upon projected actual cost to complete the work. The cash payment shall be submitted prior to dedication and acceptance of the Improvements.
3. The sidewalks shall be constructed as depicted by the Developer in the Conditionally Approved Plat. Sidewalks shall consist of cast-in-place concrete panels over a gravel base. The sidewalk shall be installed by a City Concrete Sidewalk Builder Licensee.

B. Sanitary Sewer Collection.

1. The Developer shall furnish, construct and install all sanitary sewers in the Development. The location of the sanitary sewer

shall be approved by the Director prior to commencement of work.

2. The Developer shall install sanitary sewer laterals to serve each lot in the Plat. All laterals shall be installed to the lot line and shall remain under the ownership and control of the Developer or owner of lot or its successor or assign.
3. All sanitary sewer main and lateral construction shall be completed prior to the start of street construction.

C. Water Distribution.

1. The Developer shall furnish, construct and install water mains in the Development. The location of the water mains shall be approved by the Director prior to commencement of work.
2. The Developer shall install water laterals to serve each lot in the Plat. All laterals shall be installed to the lot line. Only the portion of the water lateral located between the water main and the curb stop shall be dedicated to the City. The remaining portion of the lateral shall remain under the ownership and control of the Developer or owner of lot or its successor or assign.
3. All water main and service lateral construction shall be completed prior to the start of street construction.

D. Storm Sewers and Stormwater Management Facilities.

1. The Developer shall furnish, construct and install storm sewers as needed in the Development. The location of the storm sewers shall be approved by the Director prior to commencement of work.
2. The Developer shall install any necessary stormwater service laterals to serve each lot in the Plat. All laterals shall be installed to the lot line and shall remain under the ownership and control of the Developer or owner of lot or its successor or assign.
3. All storm sewer main and lateral construction shall be completed prior to the start of construction of the street.
4. Developer shall provide storm sewer and drainage swales to manage backyard drainage within the development. The storm sewer and drainage swales for backyard drainage shall remain under the ownership and control of the Developer or owner of the lot or its successor or assign.
5. The City will treat storm water runoff from the development at a City owned and operated regional facility. The Developer shall pay a storm water management fee of \$62,100.00 in lieu of construction of a permanent storm water management facility for this development.

E. Street Lights.

The Developer shall install three (3) new WPSC owned 9,000 lumen LED street lights. Street lights shall be installed between Lots ¾, 8/9, and on the northwest corner of the intersection of Bradley Court and Gilbert Drive at Lot 7. Developer shall pay directly to Wisconsin Public Service the actual installation cost of the street lights and all lights shall be operational at the time the infrastructure dedication to the City of Green Bay.

F. Erosion Control Plan.

1. Prior to the commencement of construction, the Developer must receive approval from the City of an erosion control plan that conforms to City, state and federal laws and regulations. The Developer shall comply with the approved erosion control plan at all times or be subject to daily citations and penalties.
2. It is the Developer's responsibility to ensure permits are also received from any other state or federal agency as may be required, including under NR 216 of the Wisconsin Administrative Code.

3. In the event the Developer fails to comply with the erosion control plan and fails to take timely and corrective action with respect to correction orders, the City may take any action reasonably necessary to implement the approved erosion control plan and all costs to implement said plan shall be the responsibility of the Developer. In this event, the City may draw upon the Developer's letter of credit under Section IV, Subsection C of this Agreement to cover the costs of implementing the erosion control plan.

G. Grading Plan.

1. The Developer shall submit a Final Grading Plan for approval by the Director. All grading of the Plat and individual lots and outlots shall be graded in conformity with the approved Final Grading Plan.
2. Upon completion of the grading of the Plat, the Developer shall submit to the City a certification by a licensed surveyor that the site has been graded in accordance with the Final Grading Plan.

H. Utilities.

All utilities serving the Plat, including, but not limited to, electric power, natural gas, telephone and cable, shall be installed underground. Except as otherwise provided in this section, all utility equipment appurtenances, conduits, lines and structures shall be installed within the designated utility easements as depicted on the approved Plat.

II. Permits and Fees.

A. Park Fees and Land Dedication.

1. Developer shall be required to pay a park fee of \$XXXX.00
2. Developer shall be required to pay a street tree fee of \$XXXX.00.

B. Building Permits. The City shall not issue building permits for lots within the Plat until such time as:

1. The Developer has substantially complied with the provisions of this Agreement as determined by the Director. But in no event shall a building permit be issued unless the lot to be developed abuts substantially completed Improvements and access to said lot is through substantially completed Improvements.

2. The City may add any additional conditions it deems necessary as it relates to the Improvement as conditions to the building permit.

C. **Occupancy Permits.** The City will not issue an occupancy permit for any dwelling within the Plat until the Improvements necessary for said dwelling including sidewalk are accepted and dedicated and all fees related to the dedicated Improvements are paid. All other necessary utilities, including but not limited to telephone/fiber optic, electric and gas utilities, must also be connected and in operating condition for an occupancy permit to be issued. The second lift of asphalt street pavement need not be installed provided there is a sufficient financial guarantee under Section I, Subsection A (Streets & Sidewalks) and/or Section IV, Subsection C (Letter of Credit) of this Agreement to insure the installation of the second lift. Conditional provisions for the installation of any required sidewalk must be made if the sidewalk is not installed prior to requesting the Certificate of Occupancy. The Developer may request dedication of the Improvements in phases, however, no less than a completed street or significant portion thereof shall be dedicated. The City will not be required to accept dedication of a single Improvement (sewer main, water main, etc.) without the dedication of all other related improvements in the street. Dedications shall not be made on a lot to lot basis.

D. **Reimbursement of City Costs.**

1. The Developer shall reimburse the City for any and all costs, including wages, salaries, benefits and administrative costs, related to City review and approval of plans and design, for inspection of the Improvements, and for conversion of the Developer's as-built documentation into the City's permanent record system (GIS). The City shall invoice the Developer the actual wage and benefit costs plus a 20% administrative charge. Developer shall submit payment of this invoice within 30 days of receipt of each invoice.
2. The Developer shall pay the actual costs for inspection and testing of the Improvements and materials used therein that are performed by independent agencies.

III. Dedication of Improvements.

A. Completion Date.

1. All Improvements shall be completed by December 31, 2020 (hereinafter the "Completion Date").
2. Developer's performance hereunder shall not be subject to breach if due to force majeure, including but not limited to acts of God, weather, strikes, shortages in materials and labor.
3. In the event the Improvements are not completed by the Completion Date, except where due to force majeure, including acts of God, weather, labor strikes or severe shortages in labor or materials, the City may perform, install, replace, repair, construct or arrange for the performance, installation, replacement, repair or construction of any work or improvements not completed by the Developer in accordance with this Agreement and the City's standard specifications. Prior to proceeding with such performance, installation, replacement, repair or construction, the City shall give the Developer written notice of any deficiency in the Developer's performance and allow not less than 30 calendar days for the Developer to correct such deficiency. The Developer shall pay the City all costs associated with such performance, installation, replacement, repair or construction. The City may draw on the letter of credit or cash deposit for such costs pursuant to Section IV, Subsection C of this Agreement.

B. Inspection.

1. All Improvements and materials used in Improvements shall be inspected by the City, unless otherwise agreed to by the City.
2. Within 30 days of approval of Improvements, the Director shall report the satisfactory completion and recommend acceptance of the Developer's dedication of the Improvements to the Common Council.

C. As-Built.

1. After completion of all public improvements and prior to final acceptance of the dedication of the Improvements, the Developer shall prepare and have approved by the City as-built documents. As-built documents shall be submitted as a hard paper copy and in electronic (AutoCad) format.

2. Developer shall also provide a complete breakdown of costs for each dedicated improvement for accounting of City assets.

D. Dedication.

1. Subject to all of the other provisions of this Agreement and the exhibits hereto attached, the Developer shall, upon completion of the Improvements, unconditionally, and without charge to the City, give, grant, convey and fully dedicate the same with the exception of sanitary and storm sewer laterals and water laterals lying outside of dedicated right-of-way, to the City, its successors and assigns forever, free and clear of all encumbrances whatever; together with (without limitation because of enumeration) all land, buildings, structures, mains, conduits, pipes, lines, plant machinery, equipment, appurtenances and hereditaments which may in any way be a part of or pertain to the Improvements, together with any and all necessary easements for access thereto. The Developer's written request to dedicate the Improvements to the City shall be submitted to the Director.
2. Upon Developer meeting all of the terms of this Agreement, the City shall accept dedication of the Improvements. The City Clerk shall provide the Developer with a certified copy of the Common Council resolutions accepting Improvements hereunder which the Developer may record to evidence compliance with this Agreement.
3. Upon acceptance of the dedication of Improvements, the City shall have the right to connect, integrate or otherwise alter the Improvements as it deems necessary and without payment, notice or consent of the Developer.

IV. Warranties and Guarantees.

- A. Improvement Guarantee.** The Developer guarantees all Improvements against defects which appear within a period of one year from the date of acceptance of the dedication by the City as herein provided.

1. The Developer shall televise all mainline sanitary and storm sewers two (2) months prior to the expiration of the warranty and deliver a copy of the televising report and portable external hard drive to the City. Portable external hard drive shall be manufactured by Western Digital, Seagate, Buffalo, or approved equal. The hard drive shall use USB connectivity and be compatible with USB 2.0, operate at 7,200 rpm and operate on 120 volts AC.

2. In the event of a defect or failure of any Improvement, Developer shall pay for the cost of repair and any corresponding damages resulting from the defect or failure of the Improvement.
3. If Developer fails to make the requested repairs within 30 days of written notice of the defect, the City may make the repairs and all costs associated with the repair shall be the responsibility of the Developer. The Developer may request reasonable extensions from the 30 day period. Such requests shall be made in writing to the Director.
4. Notice requirements shall not apply in emergency situations. In emergencies, the City may proceed with repairing the defect and shall submit notice of the defect and the repair to Developer within seven business days. The Developer shall be responsible for all costs associated with the repair.

B. Title Warranty.

1. The Developer warrants that the Developer is the owner of all property within the Plat, that the Developer has full right and authority to make the agreements, warranties, consents and waivers in this Agreement and that upon recording the resolution accepting dedication of the Improvements, the City shall have good, indefeasible title to all interests in property dedicated or conveyed to the City by the Plat, this Agreement or other instruments required by this Agreement.
2. Prior to recording the Plat, the Developer shall provide the City with title evidence acceptable to the City showing that the Developer has title as warranted above.
3. The Developer shall defend, indemnify and hold the City harmless from any claims, suits or damages related to the City's acquisition or ownership of interests in property including, but not limited to, claims for inverse condemnation or relocation benefits under Chapter 32 of the Wisconsin Statutes.

C. Letter of Credit.

1. The Developer shall provide to the City a perpetual irrevocable letter of credit issued pursuant to Chapter 405 of the Wisconsin Statutes in the initial amount of \$XXX,XXX.00, which shall assure the faithful performance of the Developer's obligations under this Agreement. Exhibit A is attached only to show the

calculation used to determine the amount of the letter of credit. The letter of credit shall be payable to the City and shall be conditioned upon and guarantee to the City the performance by the Developer of its obligations under this Agreement. The letter of credit shall be approved as to form by the City Attorney.

2. The amount of letter of credit may be reduced from time to time by the request of the Developer and the approval of the Director in amounts equal to the value of Improvements which have been installed, completed and accepted by the City. In no event shall the amount of the credit be reduced below the aggregate total estimated cost of the Improvements not yet installed or accepted plus a 5% retainage.
3. Upon acceptance and dedication of all Improvements and upon payment of all outstanding invoices, the City shall release the letter of credit.
4. In lieu of a letter of credit, the Developer may place on deposit with the City of Green Bay a sum equal to the value of the letter of credit. This deposit shall be with a financial institution of the City's designation. Only the City of Green Bay Finance Director or Treasurer and Public Works Director shall have access to the account. All other provisions of this section shall apply.

D. Developer's Responsibility for Work.

1. The work shall be under the charge and care of the Developer until all Improvements have been accepted by the City. The Developer is solely responsible for all safety issues arising out of the job site, including signage, barricades and any requirements to ensure the safety of all persons in or about the job site.
2. The Developer shall be responsible for all damage, bodily injury or death arising out of the work whether from maintaining an "attractive nuisance" or otherwise. Where apparent or potential hazards occur incident to its conduct of the work, the Developer shall provide other reasonable safeguards, including all proper signage and barricades of the work site. Developer's responsibility under this subsection shall terminate when all improvements have been accepted by the City.
3. The Developer shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its work, the Developer shall at all times exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed, and be in compliance with all applicable federal, state

and local statutory and regulatory requirements including Wisconsin Labor Code; and the U.S. Department of Transportation Omnibus Transportation Employee Testing Act.

Safety precautions, as applicable, shall include but not be limited to: adequate life protection and life saving equipment; adequate illumination; instructions in accident prevention for all employees, such as the use of machinery guards, safe walkways, scaffolds, ladders, bridges, gang planks, confined space procedures, trenching and shoring, fall protection, and other safety devices; equipment and wearing apparel as are necessary or lawfully required to prevent accidents, injuries, or illnesses; and adequate facilities for the proper inspection and maintenance of safety measures.

3. The obligations and responsibilities of the Developer as set forth in this Agreement may be achieved by the Developer through subsequent contracts between the Developer and qualified third parties whereby such third parties may accept and assume such obligations and responsibilities, so long as all obligations and responsibilities are met to the satisfaction of the City.

E. Insurance Requirements.

1. The Developer shall not commence work under this Agreement until it has obtained the insurance required under this section. All coverages shall be with insurance carriers licensed and admitted to do business in the State of Wisconsin. All coverages shall be with carriers acceptable to the City.

Worker's Compensation Requirements: The Developer shall cover or insure under the applicable labor laws relating to worker's compensation insurance, all of their employees in accordance with the law in the State of Wisconsin. The Developer shall provide statutory coverage for work related injuries and employer's liability insurance with limits of \$1,000,000 each accident, \$1,000,000 disease policy limit, and \$1,000,000 disease each employee.

Commercial General Liability Insurance: The Developer shall procure and maintain during the life of this Agreement, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than one million dollars (\$1,000,000) per occurrence and/or aggregate combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C)

Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent; (F) Per contract aggregate.

Motor Vehicle Liability: The Developer shall procure and maintain during the life of this Agreement, Motor Vehicle Liability Insurance, including applicable No-Fault coverages, with limits of liability of not less than one million dollars (\$1,000,000) per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles and all hired vehicles.

Professional Liability (Errors and Omissions): The Developer shall procure and maintain during the life of this agreement a minimum of \$2,000,000 each claim \$3,000,000 annual aggregate and any deductible not to exceed \$25,0000 each claim of professional liability insurance. The coverage shall continue for three (3) years after infrastructure dedication to the City.

Contractors Pollution Liability (Occurrence Basis): The Developer shall procure and maintain during the life of this agreement a limit of liability of \$1,000,000, policy must include natural resources damage, as a minimum shall include waiver of subrogation endorsement in favor of the City.

Umbrella Liability Insurance: The Developer shall procure and maintain during the life of this Agreement five million dollars (\$5,000,000) for bodily injury, personal injury and property damage in excess of coverage carried for Employer's Liability, Commercial General Liability and Motor Vehicle Liability as described above.

2. **Additional Insured:** The Developer shall name the City of Green Bay, and including all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and their board members, employees and volunteers Additional Insured on the Commercial General Liability and Vehicle Liability Policies. This coverage shall be primary to the Additional Insureds, and not contributing with any other insurance or similar protection available to the Additional Insureds, whether other available coverage is primary, contributing or excess.
3. **Cancellation Notice:** All insurances required by this Agreement shall include an endorsement stating the following: "Thirty (30) days Advance Written Notice of Cancellation or Non-Renewal

shall be sent to: City of Green Bay; Attn: Risk Management; 100 North Jefferson St.; Green Bay, WI 54301.

4. **Proof of Insurance Coverage:** The Developer shall provide to the City at the time the Agreement is returned for execution, Certificates of Insurance and/or policies, acceptable to the City. If so requested, certified copies of any or all policies shall also be furnished.
5. **Continuation of Coverage:** If any of the above coverages expire during the term of this Agreement, the Developer shall deliver renewal certificates and/or policies to the City at least 10 days prior to the expiration date.

F. Indemnification (Hold Harmless).

The Developer hereby agrees to indemnify, defend, pay on behalf of, 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, interest, attorney's fees, costs, and expenses of whatsoever kind or nature whether arising before, during or after completion of work hereunder and 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 Developer 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 officials and appointed officials, officers, employees, agents, representatives and volunteers. The obligation to indemnify, defend, pay on behalf of and hold harmless the City, its elected officials 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, or its elected and appointed officials, officers, employees, agents, representatives and volunteers.

In any and all claims against the City, its elected and appointed officials, officers, employees or authorized representatives or volunteers by an employee of the Developer, any subcontractor, or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Developer or any subcontractor under Worker's Compensation Acts, Disability Benefits Acts, or other employee benefits acts.

No provision of this Indemnification clause shall give rise to any duties not otherwise provided for by this Agreement or by operation of law. No provision of this Indemnity clause shall be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity that would otherwise exist as to the City, its elected and appointed officials, officers, employees, agents, representatives and volunteers under this or any other contract. This clause is to be read in conjunction with all other indemnity provisions contained in this Agreement. Any conflict or ambiguity arising between any indemnity provisions of this Agreement shall be construed in favor of indemnified parties except when such interpretation would violate the laws of the State of Wisconsin.

The Developer shall reimburse the City, its elected and appointed officials, officers, employees, agents, representatives and volunteers for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. The Developer's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the City, its elected and appointed officials, officers, employees or authorized representatives or volunteers.

In the event that Developer employs other persons, firms, corporations or entities (sub-contractor) as part of the work covered by this Agreement, it shall be the Developer's responsibility to require and confirm that each sub-contractor 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.

Notwithstanding any other portions of this Agreement, there is no waiver intended nor is the Developer or its insurers estopped from reliance upon the limitations and immunities normally inuring to the benefit of the additional insured (indemnified entity) including immunities contained within Wisconsin law, including but not limited to those found in Wisconsin Statute S. 893.80.

This indemnity provisions shall survive the termination or expiration of this Agreement.

- G. Personal Liability of Public Officials.** In carrying out any of the provisions of this Agreement or in exercising any power or authority granted to them thereby, provided they act within their scope of public employment, there shall be no personal liability of the City's officers, agents or employees, it being understood and agreed that in such matters they act as agents and representatives of the City.

V. **Miscellaneous Rights and Provisions.**

A. **Preservation of Assessment Rights.**

In addition to other remedies provided to the City by this Agreement, the City shall have the right, without notice or hearing, to impose special assessments on the lots in the Plat for any amount to which the City is specifically entitled by virtue of this Agreement. This provision constitutes the Developer's consent to the installation by the City of all public improvements specifically required by this Agreement and acknowledgment of special benefit and the Developer's waiver of notice and hearing on, and consent to, all special assessment proceedings as described in Sec. 66.0703(7)(b) of the Wisconsin Statutes as they apply to the Improvements to be installed pursuant to this Agreement.

B. **Remedies Not Exclusive.** The remedies provided in this section are not exclusive. The City may use any other remedies available to it under the Agreement or in law or equity in addition to, or in lieu of, the remedies provided above.

C. **Law to be Observed.** The Developer shall at all times observe and comply with all federal, state and local laws, regulations and ordinances which are in effect or which may be placed in effect which may affect the conduct of the work to be accomplished under this Agreement. The Developer shall indemnify and save harmless, the City and all its agents, officers and employees against any claim or liability arising from or based on the violation of any such law, ordinance, regulation or order, whether by itself or its agents, employees or contractors. The Developer shall procure all permits and licenses and pay all charges and fees and give all notices necessary and incident to the lawful prosecution of the work to be completed under this Agreement.

D. **Amendments.** The City and the Developer may, by mutual written consent, amend this Developer's Agreement.

E. **Binding Effect.** The Developer warrants that it is the owner of all property within the Plat and has full right and authority to make this Agreement. This Agreement and the grants, warranties, obligations, consents and waivers contained herein shall run with the land and be binding upon the Developer, its successors and assigns including all individual lot owners within the Plat.

F. **Survey Monuments.** The Developer has certified that all survey or other monuments required by statute or ordinance have been properly placed and installed. Any monuments disturbed during construction of improvements shall be restored and certified by a Professional Land Surveyor.

G. **Zoning.** The City does not guarantee or warrant that the lands subject to this Agreement will not at some later date be rezoned, nor does the City agree to rezone the lands into a different zoning district. Any rezoning that may take place shall not void this Agreement.

H. **Indemnification for Environmental Contamination.** The Developer shall indemnify, defend and hold the City, its officers, employees and agents harmless from any claims, judgments, damages, penalties, fines, costs or loss (including reasonable fees for attorneys, consultants and experts) that arise as a result of the presence or suspected presence in or on the real property dedicated or conveyed to the City by, under, pursuant to or in connection with the Plat or this Agreement (including, but not limited to, street right-of-way and park land) of any toxic or hazardous substances (as defined by Federal and State law) arising from any activity of the Developer occurring prior to the acceptance of all improvements, except if such toxic or hazardous substances were directly caused by the City, its officers, agents or employees. Without limiting the generality of the foregoing, the indemnification by the Developer shall include costs incurred in connection with any site investigation or any remedial, removal or restoration work required by any local, state or federal agencies because of the presence or suspected presence of toxic or hazardous substances on or under the real property, whether in the soil, groundwater, air or any other receptor.

The City shall immediately notify the Developer of the discovery of any contamination or of any facts or circumstances that reasonably indicate that such contamination may exist in or on the real property. The City also agrees that following notification to the Developer that contamination may exist, the City shall make all reasonable accommodations to allow the Developer to examine the real property and conduct such clean-up operations as may be required by appropriate local, state or federal agencies to comply with applicable laws.

I. **Restrictive Covenants.** Developer shall record the following restrictive covenants for each lot within the development:

1. All lot grading and building construction activities shall conform to the intent of the approved "Final" Grading Plan.
2. All lot improvements, including, but not limited to, driveways, retaining walls, drainage swales, landscaping berms, patios, decks, swimming pools and accessory structures, shall be completed in a manner in accordance with the approved "Final" Grading Plan and Stormwater Management Plan, and shall not adversely affect adjoining lots.

3. Preservation of Private Easements. All private drainage easements shown on the Plat shall be preserved and maintained by property owners in accordance with the approved Grading Plan and Stormwater Management Plan. The foregoing covenants are binding upon the Developer and the owners of all lots within the Plat and may be enforced by the City, the Developer or any owner of a lot within the Plat.
4. Each lot owner shall grade the property abutting a street to conform to the adopted sidewalk grade elevation and maintain said elevation for future sidewalks.

J. Public Easements. All easements dedicated to and accepted by the City or the public on the Plat or by this Agreement grant the City the right to construct, install, maintain, inspect, repair and replace the designated improvements in, on, over or under such easements. Lots within the Plat shall not be used in a manner which interferes with the City's easement rights. The City's only obligation to restore the property after any use by the City of its easements shall be to grade the soil, replace topsoil and plant grass seed.

K. Soil Compaction Certification. The Developer shall obtain certification of the soil compaction from a qualified soils engineer and approval of the compaction shall be obtained from the Director for those portions of lots that are substantially filled prior to issuance of building permits.

IN WITNESS WHEREOF, the Developer has caused this Agreement to be signed this _____ day of _____, 2020.

GREEN VIPER LLC

By: _____
Daniel Schmidt, President

CITY OF GREEN BAY

By: _____
Eric Genrich, Mayor

By: _____
Kris A. Teske, Clerk



Report to the
Improvement and Service Committee
of the City of Green Bay

MEETING DATE

May 27, 2020

PREPARED BY

AGENDA ITEM # E.2

Consideration with possible action on request by Wisconsin Department of Transportation to enter into a Lift Bridge Maintenance Agreement for the Ray Nitschke (Main Street) Memorial Bridge (held at the April 8, 2020 Improvement and Services Committee meeting).

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

- I. Lift Bridge Maintenance Agreement - 2020 COGB-FINAL-05.19.20

Routine Bridge Maintenance and Operation Agreement

Wisconsin Department of Transportation

Fiscal Year 2020

City of Green Bay

This Agreement is made by and between the State of Wisconsin Department of Transportation, a Wisconsin state agency, (the “Department”) and City of Green Bay, a Wisconsin municipal body corporate, (the “City”), collectively referred to as the Parties in accordance with Wis. Stat. §§ 84.07(1), (2) and 83.015.

WHEREAS, the City owns a movable bridge identified as City Structure B-05-0311, also known as Ray Nitschke Memorial (Main Street) Bridge; and

WHEREAS, the Department owns movable bridges B-05-0134 Mason St. Bridge and B-05-0269 Walnut St. Bridge; and

WHEREAS, pursuant to a prior agreement, the City has operated the above described movable bridges on behalf of itself and the Department; and

WHEREAS, the Parties desire to transfer certain operational duties of City Structure B-05-0311, B-05-0134 Mason St. Bridge and B-05-0269 Walnut St. Bridge from the City to the Department.

NOW THEREFORE, upon the mutual promises contained herein, and upon such other consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. The Department requires the City to perform the Services described in Section 2 and allow the B-05-0311 Bridge Access as described in Section 4, and the City agrees to perform the Services and allow the B-05-0311 Bridge Access. It is understood that the Services and B-05-0311 Bridge Access authorized under this Agreement shall be accomplished in compliance with state and federal law, and under the general direction of the Department.

2. The City agrees to provide labor, equipment, and authorized materials needed to perform traffic control operations for routine maintenance activities of the following movable bridges located on the State Trunk System in the City:

B-05-0134 Mason St. Bridge

B-05-0269 Walnut St. Bridge

(the “Services”). The total estimated City costs of the Services is: \$20,000. Charge ID: 0005-05-25.

3. Payment for Services will be made to the City based on actual labor, including fringe benefit costs, and equipment. Itemized invoices for the Services shall be submitted monthly, within one-month of the period which the work was performed, as required by Wis. Stat. § 84.07(2). Invoices shall be emailed to Jason Lahm at jason.lahm@dot.wi.gov. The Department will make payments after the Department verifies the invoices are in accordance with this Agreement. All payments are subject to audit by the Department.

4. The City agrees to allow Department staff and Department contracted staff to access and enter the City Structure B-05-0311 and to operate the lift bridge structure, and perform required activities needed to operate the lift bridge structure. No costs shall be incurred by the City for Department directed operations or activities on the City Structure B-05-0311. The Department will notify the City in writing or by phone prior to

any required B-05-0311 Bridge Access. The Department and Department contracted staff will describe to the City the purpose of the required B-05-0311 Bridge Access.

5. The Parties agree that any and all other prior agreements with respect to operations of City Structure B-05-0311, B-05-0134 Mason St. Bridge and B-05-0269 Walnut St. Bridge are hereby rescinded and terminated.

6. Insurance Coverage. The State of Wisconsin Department of Transportation will not issue individualized evidence of insurance. The State, its agencies, and departments are self insured. The State's Self-Funded Liability and Property Programs are self-maintained comprehensive programs of commercial insurance that meets the laws of the State of Wisconsin. Insurance requirements are met by self- insurance rather than purchasing insurance in a commercial insurance market.

The Department is granted sovereign immunity and is therefore immunized against liability and suit by all parties. Sovereign immunity cannot be waived and no provision or term in this agreement shall be construed to limit, affect, or waive sovereign immunity. The Department cannot waive subrogation or liability or provide indemnification in any manner. Wis. Stat. sec. 895. 46 provides for the payment of certain negligence claims against WisDOT employees and agents.

7. Each Party shall be responsible for the consequences of its own acts, errors, or omissions and those of its employees, officers, officials, agents, boards, committees, commissions, agencies, and representatives and shall be responsible for any losses, claims, and liabilities which are attributable to such acts, errors, or omissions, including providing its own defense, except as provided herein. In situations including joint liability, each Party shall be responsible for the consequences of its own acts, errors, or omissions and those of its employees, officers, officials, agents, boards, commissions, committees, agencies, and representatives. It is not the intent of the Parties to waive any statutory protections or impose liability beyond that imposed by state statutes. The obligations of the Parties under this paragraph shall survive the expiration or termination of this Agreement. Either Party may enforce the terms of this Agreement by any legal means.

8. Either party may, with 90-day written notice, unilaterally terminate this Agreement, effective if given/served prior to July 1st, 2020. Should the Department be given due and sufficient notice of the termination of this Agreement by the City, the Department agrees to fulfill all the contractual duties and responsibilities of the City prior to termination of this Agreement.

Any written notice of termination shall be served upon the following representatives by certified mail, return receipt requested:

On Behalf of City of Green Bay:
Steve Grenier
City of Green Bay – Director of Public Works
100 N. Jefferson St. Room 300
Green Bay, WI 54303

On Behalf of the Department:
Chris Blazek
Wisconsin Department of Transportation - Northeast Region
944 Vanderperren Way
Green Bay, WI 54304

9. In connection with the Services provided under this Agreement, the Parties agree not to discriminate against any employee or applicant for employment because of sex, age, race, religion, color, handicap, physical condition, developmental disability as defined in Wis. Stat. § 51.01(5), sexual orientation, or national origin. This Section 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. The Parties shall post in a conspicuous place, available for employees and applicants for employment, notices setting forth this Section.

10. This Agreement will be construed and interpreted in accordance with the laws of the State of Wisconsin, notwithstanding any conflicts of laws provisions.

11. Neither Party may assign its rights or delegate its obligations under this Agreement without the prior written consent of the other Party.

12. If any provision of this Agreement or the application thereof to any persons or circumstances shall, to any extent, be invalid or unenforceable, then the remainder of this Agreement or the application of such provision, or portion thereof, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

13. This Agreement constitutes the Parties' complete agreement and may only be modified, amended, or added after the date of this Agreement by a written instrument executed by both Parties, except as otherwise provided herein.

14. This Agreement may be executed in several counterparts, and the signatures on this Contract may be transmitted electronically. Electronic signatures will be deemed to constitute original signatures and counterparts to this Agreement containing the signatures (whether original or electronic) of all the parties will be deemed to constitute a single, enforceable Contract.

IN WITNESS WHEREOF, the Parties, by their authorized officer or representatives, have caused this Agreement to be executed as of the date both Parties have signed below.

WISCONSIN DEPARTMENT OF TRANSPORTATION

By: _____

Title: _____

Date: _____

CITY OF GREEN BAY

By: _____
Erich Genrich - Mayor

Date: _____

By: _____
Kris A. Teske - Clerk

Date: _____



Report to the
Improvement and Service Committee
of the City of Green Bay

MEETING DATE

May 27, 2020

PREPARED BY

AGENDA ITEM # E.3

Consideration with possible action on request by Department of Public Works to enter into a State-Municipal Agreement with the Wisconsin Department of Transportation for the reconstruction of the Country Club Road from West Mason Street to Indian Hill Road.

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

- I. 4987 02 74_75 C Green Bay Country Club Road ORG 05-20



**STATE/MUNICIPAL AGREEMENT
FOR A STATE- LET URBANIZED
AREA STP-URBAN PROJECT**

**Program Name: URBANIZED AREA
STP-URBAN**

Population Group: over 200,000

Sub-program #: 206

Cycle: 2020-2025

Date: MAY 14, 2020

I.D.: 4987-02-74_75

Road Name: COUNTRY CLUB ROAD

Limits: WEST MASON STREET FRONTAGE
ROAD – INDIAN HILL ROAD

County: BROWN

Roadway Length: 0.75 MILES

Functional Classification: COLLECTOR

Project Sponsor: CITY OF GREEN BAY

The signatory, City of Green Bay, hereinafter called the Municipality, through its undersigned duly authorized officers or officials, hereby requests the State of Wisconsin Department of Transportation, hereinafter called the State, to initiate and effect the highway or street improvement hereinafter described.

The authority for the Municipality to enter into this agreement with the State is provided by Sections 86.25(1), (2), and (3) and Section 66.0301 of the Statutes.

NEEDS AND ESTIMATE SUMMARY:

All components of the project must be defined in the environmental document if any portion of the project is federally funded. The Municipality agrees to complete all participating and any non-participating work included in this improvement consistent with the environmental document. No work on final engineering and design may occur prior to approval of the environmental document.

Existing Facility - Describe and give reason for request: **The existing facility is a 2-lane concrete roadway with an overall total pavement width of 40-feet. The roadway has an urban cross section with 8-foot shoulders and curb and gutter. The last improvement was in 1985. The pavement has significant cracking and deteriorated joints to a width beyond typical joint repair maintenance. The existing municipal utilities under the pavement are also in need of repair or replacement. The pavement rating is 4. There are no existing sidewalks. Northeast Wisconsin Technical College is located at the south end of the project limits.**

Proposed Improvement - Nature of work: **The proposed project is to reconstruct Country Club Road with an urban cross section varying from 48 to 52-feet wide. Proposed roadway to include bike lanes, curb and gutter, storm sewer, street lighting pavement marking, signing and sidewalks. Turn lanes will be evaluated at multiple locations to accommodate turning movements into the technical college and other businesses. There will be moderate grading. Real estate acquisition will be in the form of fee and temporary limited easements.**

Describe non-participating work included in the project and other work necessary to completely finish the project that will be undertaken independently by the Municipality. Please note that non-participating components of a project/contract are considered part of the overall project and will be subject to applicable federal requirements: **Sanitary sewer and water main adjustments.**

The Municipality agrees to the following 2020-2025 Urbanized Area project funding conditions:

Project construction costs are funded with up to 80% federal funding up to a funding limit of \$4,047,552. The Municipality agrees to provide the remaining 20% and any funds in excess of the \$4,047,552 federal/state

funding limit. **Design and real estate acquisition is 100% locally funded and the responsibility of the Municipality.** Non-participating costs are 100% the responsibility of the Municipality. Any work performed by the Municipality prior to federal authorization is not eligible for federal funding. The Municipality will be notified by the State that the project is authorized and available for charging.

This project is currently scheduled in State Fiscal Year 2025. **In accordance with the State's sunset policy for Urbanized Area STP-Urban projects, the subject 2020-2025 Urbanized Area STP-Urban improvement must be constructed and in final acceptance within six years from the start of State Fiscal Year 2021, or by June 30, 2026.** Extensions may be available upon approval of a written request by or on behalf of the Municipality to State. The written request shall explain the reasons for project implementation delay and revised timeline for project completion.

The dollar amounts shown in the Summary of Costs Table below are estimates. The final Municipal share is dependent on the final federal participation, and actual costs will be used in the final division of cost for billing and reimbursement. In no event shall federal or State funding exceed the estimate of \$4,047,552 in the Summary of Costs Table, unless such increase is approved in writing by the State through the State's Change Management Policy prior to the Municipality incurring the increased costs.

SUMMARY OF COSTS					
PHASE	Total Est. Cost	Federal Funds	%	Municipal Funds	%
ID 4987-02-74					
State Review	\$22,200	\$0	0%	\$22,200	100%
ID 4987-02-75					
Participating Construction	\$4,497,000	\$3,597,600	80% *	\$899,400	20% + BAL
Non-Participating Construction	\$20,000	\$0	0% *	\$20,000	100%
State Review	\$562,440	\$449,952	80% *	\$112,488	20% + BAL
Total Est. Cost Distribution	\$5,101,640	\$4,047,552	N/A	\$1,054,088	N/A

*Design ID# 4232-00-00 federal funding is limited to **\$0**.

*Construction ID# 4232-00-71 federal funding is limited to **\$4,047,552**.

This request is subject to the terms and conditions that follow (pages 3 – 7) and is made by the undersigned under proper authority to make such request for the designated Municipality and upon signature by the State and delivery to the Municipality shall constitute agreement between the Municipality and the State. No term or provision of neither the State/Municipal Agreement nor any of its attachments may be changed, waived or terminated orally but only by an instrument in writing executed by both parties to the State/Municipal Agreement.

Signatures certify the content has not been altered by the municipality.
Signed for and in behalf of: **City of Green Bay** (please sign in blue ink.)

Name	Title	Date
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Signed for and in behalf of the State:

Name	Title	Date
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GENERAL TERMS AND CONDITIONS:

1. All projects must be in an approved Transportation Improvement Program (TIP) or State Transportation Improvement Program (STIP) prior to requesting authorization.
2. Work prior to federal authorization is ineligible for federal funding.
3. The Municipality, throughout the entire project, commits to comply with and promote all applicable federal and state laws and regulations that include, but are not limited to, the following:
 - a. Environmental requirements, including but not limited to those set forth in the 23 U.S.C. 139 and National Environmental Policy Act (42 U.S.C. 4321 et seq.)
 - b. Equal protection guaranteed under the U.S. Constitution, WI Constitution, Title VI of the Civil Rights Act and Wis. Stat. 16.765. The municipality agrees to comply with and promote applicable Federal and State laws, Executive Orders, regulations, and implementing requirements intended to provide for the fair and equitable treatment of individuals and the fair and equitable delivery of services to the public. In addition the Municipality agrees not to engage in any illegal discrimination in violation of applicable Federal or State laws and regulations. This includes but is not limited to Title VI of the Civil Rights Act of 1964 which provides that "no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." The Municipality agrees that public funds, which are collected in a nondiscriminatory manner, should not be used in ways that subsidize, promote, or perpetuate illegal discrimination based on prohibited factors such as race, color, national origin, sex, age, physical or mental disability, sexual orientation, or retaliation.
 - c. Prevailing wage requirements, including but not limited to 23 U.S.C 113.
 - d. Buy America Provision and its equivalent state statutes, set forth in 23 U.S.C. 313 and Wis. Stat. 16.754.
 - e. Competitive bidding and confidentiality requirements set forth in 23 U.S.C 112 and Wis. Stat. 84.06. This includes the sharing of financial data prior to the conclusion of the competitive bid period.
 - f. All applicable Disadvantaged Business Enterprise (DBE) requirements that the State specifies.
 - g. Federal statutes that govern the Surface Transportation Program (STP), including but not limited to 23 U.S.C. 133.
 - h. General requirements for administering federal and state aid set forth in Wis. Stat. 84.03.

STATE RESPONSIBILITIES AND REQUIREMENTS:

4. Funding of each project phase is subject to inclusion in Wisconsin's approved 2020-2025 Urbanized Area STP-Urban program. Federal funding will be limited to participation in the costs of the following items, as applicable to the project:
 - a. The grading, base, pavement, and curb and gutter, sidewalk, and replacement of disturbed driveways in kind.
 - b. The substructure, superstructure, grading, base, pavement, and other related bridge and approach items.
 - c. Storm sewer mains necessary for the surface water drainage.
 - d. Catch basins and inlets for surface water drainage of the improvement, with connections to the storm sewer main.
 - e. Construction engineering incident to inspection and supervision of actual construction work (except for inspection, staking, and testing of sanitary sewer and water main).

- f. Signing and pavement marking.
 - g. New installations or alteration of street lighting and traffic signals or devices.
 - h. Landscaping.
 - i. State review services for construction.
5. The work will be administered by the State and may include items not eligible for federal participation.
6. As the work progresses, the State will bill the Municipality for work completed which is not chargeable to federal funds. Upon completion of the project, a final audit will be made to determine the final division of costs subject to project funding limits in the Summary of Costs Table. If reviews or audits show any of the work to be ineligible for federal funding, the Municipality will be responsible for any withdrawn costs associated with the ineligible work.

MUNICIPAL RESPONSIBILITIES AND REQUIREMENTS:

7. Work necessary to complete the 2020-2025 Urbanized Area STP-Urban improvement project to be financed entirely by the Municipality or other utility or facility owner includes the items listed below.
- a. New installations of or alteration of sanitary sewers and connections, water, gas, electric, telephone, telegraph, fire or police alarm facilities, parking meters, and similar utilities.
 - b. Damages to abutting property after project completion due to change in street or sidewalk widths, grades or drainage.
 - c. Detour routes and haul roads. The municipality is responsible for determining the detour route.
 - d. Conditioning, if required and maintenance of detour routes.
 - e. Repair of damages to roads or streets caused by reason of their use in hauling materials incident to the improvement.
 - f. All work related to underground storage tanks and contaminated soils.
 - g. Street and bridge width in excess of standards, in accordance with the current *WisDOT Facilities Development Manual*.
 - h. Real estate for the improvement
 - i. Preliminary engineering and design
 - j. State review services for design.
 - k. Other 100% Municipality funded items: Sanitary sewer and watermain adjustments.
8. The construction of the subject improvement will be in accordance with the appropriate standards unless an exception to standards is granted by State prior to construction. The entire cost of the construction project, not constructed to standards, will be the responsibility of the Municipality unless such exception is granted.
9. Work to be performed by the Municipality without federal funding participation necessary to ensure a complete improvement acceptable to the Federal Highway Administration and/or the State may be done in a manner at the election of the Municipality but must be coordinated with all other work undertaken during construction.
10. The Municipality is responsible for financing administrative expenses related to Municipal project responsibilities.

11. The Municipality will include in all contracts executed by them a provision obligating the contractor 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 Wis. Stat. 51.01 (5), sexual orientation as defined in Wis. Stat. 111.32 (13m), or national origin.
12. The Municipality will pay to the State all costs incurred by the State in connection with the improvement that exceed federal financing commitments or are ineligible for federal financing. To guarantee the Municipality's foregoing agreements to pay the State, the Municipality, through its above duly authorized officers or officials, agrees and authorizes the State to set off and withhold the required reimbursement amount as determined by the State from any moneys otherwise due and payable by the State to the Municipality.
13. **In accordance with the State's sunset policy for Urbanized Area STP-Urban projects, the subject 2020-2025 Urbanized Area STP-Urban improvement must be constructed and in final acceptance within six years from the start of State Fiscal Year 2021, or by June 30, 2026.** Extensions may be available upon approval of a written request by or on behalf of the Municipality to State. The written request shall explain the reasons for project implementation delay and revised timeline for project completion.
14. If the Municipality should withdraw the project, it will reimburse the State for any costs incurred by the State on behalf of the project.
15. The Municipality will at its own cost and expense:
 - a. Maintain all portions of the project that lie within its jurisdiction (to include, but not limited to, cleaning storm sewers, removing debris from sumps or inlets, and regular maintenance of the catch basins, curb and gutter, sidewalks and parking lanes [including snow and ice removal]) for such maintenance in a manner consistent with reasonable industry standards, and will make ample provision for such maintenance each year.
 - b. Regulate [or prohibit] parking at all times in the vicinity of the proposed improvements during construction.
 - c. Regulate [or prohibit] all parking at locations where and when the pavement area usually occupied by parked vehicles will be needed to carry active traffic in the street.
 - d. Assume general responsibility for all public information and public relations for the project and to make fitting announcement to the press and such outlets as would generally alert the affected property owners and the community of the nature, extent, and timing of the project and arrangements for handling traffic within and around the project.
 - e. Provide complete plans, specifications, and estimates to State upon request.
 - f. Provide relocation orders and real estate plats to State upon request.
 - g. Use the *WisDOT Utility Accommodation Policy* unless it adopts a policy, which has equal or more restrictive controls.
 - h. Provide maintenance and energy for lighting.
 - i. Provide proper care and maintenance of all landscaping elements of the project including replacement of any plant materials damaged by disease, drought, vandalism or other cause.
16. It is further agreed by the Municipality that:
 - a. The Municipality assumes full responsibility for the design, installation, testing and operation of any sanitary sewer and water main infrastructure within the improvement project and relieves the state and all of its employees from liability for all suits, actions, or claims resulting from the sanitary sewer and water main construction under this agreement.
 - b. The Municipality assumes full responsibility for the plans and special provisions provided by their designer or anyone hired, contracted or otherwise engaged by the Municipality. The Municipality is responsible for any expense or cost resulting from any error or omission in such plans or special

provisions. The Municipality will reimburse State if State incurs any cost or expense in order to correct or otherwise remedy such error or omission or consequences of such error or omission.

- c. The Municipality will be 100% responsible for all costs associated with utility issues involving the contractor, including costs related to utility delays.
- d. All signs and traffic control devices and other protective structures erected on or in connection with the project including such of these as are installed at the sole cost and expense of the Municipality or by others, will be in conformity with such *Manual of Uniform Traffic Control Devices* as may be adopted by the American Association of State Highway and Transportation Officials, approved by the State, and concurred with by the Federal Highway Administration.
- e. The right-of-way available or provided for the project will be held and maintained inviolate for public highway or street purposes. Those signs prohibited under federal aid highway regulations, posters, billboards, roadside stands, or other private installations prohibited by Federal or State highway regulations will not be permitted within the right-of-way limits of the project. The Municipality, within its jurisdictional limits, will remove or cause to be removed from the right-of-way of the project all private installations of whatever nature which may be or cause an obstruction or interfere with the free flow of traffic, or which may be or cause a hazard to traffic, or which impair the usefulness of the project and all other encroachments which may be required to be removed by the State at its own election or at the request of the Federal Highway Administration, and that no such installations will be permitted to be erected or maintained in the future.
- f. The Municipality is responsible for any damage caused by legally hauled loads, including permitted oversize and overweight loads. The contractor is responsible for any damage caused to haul roads if they do not obey size and weight laws, use properly equipped and maintained vehicles, and do not prevent spilling of materials onto the haul road (*WisDOT Standard Specifications* 618.1, 108.7, 107.8). The local maintaining authority can impose special or seasonal weight limitations as defined in Wis. Stat. 349.16, but this should not be used for the sole purpose of preventing hauling on the road.

The bid item 618.0100 Maintenance and Repair of Haul Roads (project) is ineligible for federal funding on local program projects as per the State/Municipal Agreement. The repair of damages as a result of hauling materials for the project is the responsibility of the Municipality as specified in the State/Municipal Agreement Terms and Conditions under Municipal Responsibilities and Requirements.

LEGAL RELATIONSHIPS:

- 17. The State shall not be liable to the Municipality for damages or delays resulting from work by third parties. The State also shall be exempt from liability to the Municipality for damages or delays resulting from injunctions or other restraining orders obtained by third parties.
- 18. The State will not be liable to any third party for injuries or damages resulting from work under or for the Project. The Municipality and the Municipality's surety shall indemnify and save harmless the State, its officers and employees, from all suits, actions or claims of any character brought because of any injuries or damages received or sustained by any person, persons or property on account of the operations of the Municipality and its sureties; or on account of or in consequence of any neglect in safeguarding the work; or because of any act or omission, neglect or misconduct of the Municipality or its sureties; or because of any claims or amounts recovered for any infringement by the Municipality and its sureties of patent, trademark or copyright; or from any claims or amounts arising or recovered under the Worker's Compensation Act, relating to the employees of the Municipality and its sureties; or any other law, ordinance, order or decree relating to the Municipality's operations.
- 19. Contract modification: This State/Municipal Agreement can only modified by written instruments duly executed by both parties. No term or provision of either this State/Municipal Agreement or any of its attachments may be changed, waived or terminated orally.

20. Binding effects: All terms of this State/Municipal Agreement shall be binding upon and inure to the benefits of the legal representatives, successors and executors. No rights under this State/Municipal Agreement may be transferred to a third party. This State/Municipal Agreement creates no third-party enforcement rights.
21. Choice of law and forum: This State/Municipal Agreement shall be interpreted and enforced in accordance with the laws of the State of Wisconsin. The Parties hereby expressly agree that the terms contained herein and in any deed executed pursuant to this State/Municipal Agreement are enforceable by an action in the Circuit Court of Dane County, Wisconsin.

PROJECT FUNDING CONDITIONS

22. Non-appropriation of funds: With respect to any payment required to be made by the State under this State/Municipal Agreement, the parties acknowledge the State's authority to make such payment is contingent upon appropriation of funds and required legislative approval sufficient for such purpose by the Legislature. If such funds are not so appropriated, either the Municipality or the State may terminate this State/Municipal Agreement after providing written notice not less than thirty (30) days before termination.
23. Maintenance of Records: During the term of performance of this State/Municipal Agreement, and for a period not less than three years from the date of final payment to the Municipality, records and accounts pertaining to the performance of this State/Municipal Agreement are to be kept available for inspection and audit by representatives of the Department. The Department reserves the right to audit and inspect such records and accounts at any time. The Municipality shall provide appropriate accommodations for such audit and inspection.

In the event that any litigation, claim or audit is initiated prior to the expiration of said records maintenance period, the records shall be retained until such litigation, claim or audit involving the records is complete.

24. The Municipality agrees to the following 2020-2025 Urbanized Area STP-Urban project funding conditions:
- a. ID 4987-02-74: Design is funded 100% by the Municipality. This phase includes plan development and state review. The work includes project review, approval of required reports and documents and processing the final Plan, Specification & Estimate (PS&E) document for award of the contract. Costs for this phase include an estimated amount for state review activities, to be funded 100% by the Municipality.
 - b. Real estate is funded 100% by the Municipality. Real estate acquisition is 100% the responsibility of the Municipality.
 - c. ID 4987-02-75: Construction:
 - i. Costs for roadway reconstruction are funded with 80% federal funding when the municipality agrees to provide the remaining 20%.
 - ii. Non-participating costs for sanitary sewer and watermain adjustments are funded 100% by the Municipality. Costs include construction delivery.
 - iii. Costs for this phase include an estimated amount for state review activities, to be funded 80% with federal funding and 20% by the Municipality.

[End of Document]



Report to the
Improvement and Service Committee
of the City of Green Bay

MEETING DATE

May 27, 2020

PREPARED BY

AGENDA ITEM # E.4

Consideration with possible action on request by Department of Public Works to enter into a State-Municipal Agreement with the Wisconsin Department of Transportation for the construction of the Chantel Street Bridge.

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

- I. 4987 02 77_78 C Green Bay Chantel Street Bridge ORG 05-20



**STATE/MUNICIPAL AGREEMENT
FOR A STATE- LET LOCAL
BRIDGE PROJECT**

Program Name: Local Bridge

Sub-program #: 205

Cycle: 2020-2025

Date: MAY 19, 2020

I.D.: 4987-02-77/78

Road Name: CHANTEL STREET

Bridge ID: P-05-0719

**Location: BEAVER DAM CREEK BRIDGE AND
APPROACHES**

Limits: 7TH STREET – 9TH STREET

County: BROWN

Project Length: 125 FT

Facility Owner: CITY OF GREEN BAY

Project Sponsor: CITY OF GREEN BAY

Construction scheduled for State Fiscal Year: 2023

The signatory, City of Green Bay, hereinafter called the Municipality, through its undersigned duly authorized officers or officials, hereby requests the State of Wisconsin Department of Transportation, hereinafter called the State, to initiate and effect the highway, street or local bridge improvement hereinafter described.

The authority for the Municipality to enter into this agreement with the State is provided by Sections 86.25(1), (2), and (3) and Section 66.0301 of the Statutes.

NEEDS AND ESTIMATE SUMMARY:

All components of the project must be defined in the environmental document if any portion of the project is federally funded. The Municipality agrees to complete all participating and any non-participating work included in this improvement consistent with the environmental document. No work on final engineering and design may occur prior to approval of the environmental document.

Funding is limited to the minimum eligible project scope necessary for a safe and effective facility per WisDOT Performance-Based Practical Design policy. The funding for the project for both structure and approach is limited to:

- replacement or rehabilitation of the existing facility,
- or, meeting minimum bridge standards as outlined in the WisDOT Facilities Development Manual (FDM) or applicable TRANS code,
- or, an approved justification based on engineering principles that exceed either Performance-Based Practical Design or the FDM.

The Municipality may elect to construct alternative designs but approved Local Bridge Improvement Assistance Program (s84.18(2)(e)) funding will be limited to a maximum of 80 percent of the cost of the minimum eligible scope of the project.

TABLE A

	Existing Facility – Current structure and condition	Proposed Improvement – Approved scope	Notes:
Type of facility	Bridge		
Bridge ID	P-05-0719		
Structure passes over	Beaver Dam Creek		
Clear bridge width	40 FT	40 FT	
Bridge length	24 FT	25 FT	
Total length of approach work		100 FT	
Number of spans	1	1	
Special safety issues	No		
Sidewalk	No	Yes	
Sidewalk along approach	Yes	Yes	
Bicycle / pedestrian improvements required		Yes	
Improvement type as indicated on project application		Replacement – existing alignment	
Acquisition of right-of-way		Yes	Minimal anticipated, less than 0.5 acre of fee and temporary limited easements.
Approach width and type	40 FT	40 FT wide, Concrete	
Approach shoulder width and type		Curb and Gutter	
Bridge rail		Yes	
Beam guard		Yes	

Non-participating work, additional notes:

Describe non-participating work included in the project and other work necessary to completely finish the project that will be undertaken independently by the Municipality. Please note that non-participating components of a project/contract are considered part of the overall project and will be subject to applicable federal requirements:

A municipality may elect to design a bridge or elements that exceed the current Performance-Based Practical Design policy, or that exceed minimum bridge standards as outlined in the WisDOT Facilities Development Manual (FDM) or applicable TRANS code, or are not justified as necessary based on current engineering principles. All costs for these features will be paid for 100% by the Municipality.

None identified at this time.

The Municipality agrees to the following 2020-2025 Local Bridge Program project funding conditions:

Project Design costs are funded with up to 80% state/federal funding up to a funding limit of \$120,928. The Municipality agrees to provide the remaining 20% and any funds in excess of the \$120,928 state/federal funding limit. **Any real estate, railroad, or utility costs are 100% locally funded.**

Project Construction costs are funded with up to 80% state/federal funding up to a funding limit of \$466,480. The Municipality agrees to provide the remaining 20% and any funds in excess of the \$466,480 state/federal funding limit. **Any real estate, railroad, or utility costs are 100% locally funded.**

Non-participating costs are 100% the responsibility of the Municipality. Any work performed by the Municipality prior to federal authorization is not eligible for federal funding. The Municipality will be notified by the State that the project is authorized and available for charging.

This project is currently scheduled in State Fiscal Year **2023**. **In accordance with the State's sunset policy for Local Bridge Program projects, the subject 2020-2025 Local Bridge Program improvement must be constructed and in final acceptance within six years from the start of State Fiscal Year 2021, or by June 30, 2026.** Extensions may be available upon approval of a written request by or on behalf of the Municipality to State per WisDOT Change Management policy. The written request shall explain the reasons for project implementation delay and revised timeline for project completion.

The dollar amounts shown in the Summary of Costs Table below are estimates. The final Municipal share is dependent on the final federal/state participation, and actual costs will be used in the final division of cost for billing and reimbursement.

In no event shall federal or State funding exceed the estimate in the Summary of Costs table, unless such increase is approved in writing by the State through the State's Change Management policy prior to the Municipality incurring the increased costs.

Additional funds will not be approved for projects where increased costs are due to changes outside of the project scope that were identified in the original application or the most recent State Municipal Agreement (SMA) (whichever is most current). Exceptions to this policy will be allowed when the change is necessary based on safety, conformance with applicable minimum federal and state standards, projected traffic needs, or other factors as determined by WisDOT.

**TABLE B
SUMMARY OF COSTS**

PHASE	Total Est. Project Cost	Federal / State Funds	%	Municipal Funds	%
ID 4987-02-77					
Design	\$ 137,000	\$ 109,600	80%	\$ 27,400	20% + BAL
State Review	\$ 14,160	\$ 11,328	80%	\$ 5,640	20% + BAL
<i>Project total</i>	\$ 151,160	\$ 120,928		\$ 30,232	
ID 4987-02-78					
Participating Construction	\$ 489,200	\$ 391,360	80%	\$ 97,840	20% + BAL
Construction Engineering	\$ 78,300	\$ 62,640	80%	\$ 15,660	20% + BAL
Non-Participating Construction	\$ 0	\$ 0	0%	\$ 0	100%
State Review	\$ 15,600	\$ 12,480	80%	\$3,120	20% + BAL
<i>Project total</i>	\$583,100	\$ 466,480		\$ 116,620	
Total Est. Cost Distribution	\$ 734,260	\$ 587,408		\$ 146,852	
*Design ID 4987-02-77 federal/state funding is limited to \$ 120,928.					
*Construction ID 4987-02-78 federal/state funding is limited to \$ 466,480.					

This request is subject to the terms and conditions that follow (pages 4 – 9) and is made by the undersigned under proper authority to make such request for the designated Municipality and upon signature by the State and delivery to the Municipality shall constitute agreement between the Municipality and the State. No term or provision of neither the State/Municipal Agreement nor any of its attachments may be changed, waived or terminated orally but only by an instrument in writing executed by both parties to the State/Municipal Agreement.

Signed for and in behalf of: City of Green Bay (please sign in blue ink.)	
Name (print)	Title
Signature	Date
Signed for and in behalf of the State (please sign in blue ink.)	
Name (print)	Title
Signature	Date

GENERAL TERMS AND CONDITIONS:

1. All projects must be in an approved Transportation Improvement Program (TIP) or State Transportation Improvement Program (STIP) prior to requesting authorization.
2. Work prior to federal authorization is ineligible for federal or state funding.
3. The Municipality, throughout the entire project, commits to comply with and promote all applicable federal and state laws and regulations that include, but are not limited to, the following:
 - a. Environmental requirements, including but not limited to those set forth in the 23 U.S.C. 139 and National Environmental Policy Act (42 U.S.C. 4321 et seq.)
 - b. Equal protection guaranteed under the U.S. Constitution, WI Constitution, Title VI of the Civil Rights Act and Wis. Stat. 16.765. The municipality agrees to comply with and promote applicable federal and state laws, executive orders, regulations, and implementing requirements intended to provide for the fair and equitable treatment of individuals and the fair and equitable delivery of services to the public. In addition, the Municipality agrees not to engage in any illegal discrimination in violation of applicable federal or state laws and regulations. This includes but is not limited to Title VI of the Civil Rights Act of 1964 which provides that “no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.” The Municipality agrees that public funds, which are collected in a nondiscriminatory manner, should not be used in ways that subsidize, promote, or perpetuate illegal discrimination based on prohibited factors such as race, color, national origin, sex, age, physical or mental disability, sexual orientation, or retaliation.
 - c. Prevailing wage requirements, including but not limited to 23 U.S.C 113.
 - d. Buy America Provision and its equivalent state statutes, set forth in 23 U.S.C. 313 and Wis. Stat. 16.754.
 - e. Competitive bidding and confidentiality requirements set forth in 23 U.S.C 112 and Wis. Stat. 84.06. This includes the sharing of financial data prior to the conclusion of the competitive bid period.
 - f. All applicable Disadvantaged Business Enterprise (DBE) requirements that the State specifies.
 - g. Federal statutes that govern the Highway Bridge Replacement and Rehabilitation Program, including but not limited to 23 U.S.C. 144.

- h. State statutes that govern the Local Bridge Program, including but not limited to Wis. Stat. 84.18.
- i. Bridge approaches funding policy. The Federal Highway Administration (FHWA) and Wis. Stat. 84.18(2)(e) limit bridge approach costs to only those approach costs that are necessary to render the bridge serviceable (to reach the attainable touchdown points using current standards). On a program level, FHWA has determined that, on average, bridge approach costs should amount to no more than 10% of the cost for constructing the bridge, and the municipality should be prepared to offer a justification of costs for any bridge project where the approach costs exceed that percentage.
- j. State administrative rule that implements Local Bridge Program: Ch. Trans 213.

STATE RESPONSIBILITIES AND REQUIREMENTS:

4. Funding of each project phase is subject to inclusion in Wisconsin's approved 2018-2022 Local Bridge Program. Federal/state financing will be limited to participation in the costs of the following items, as applicable to the project:
 - a. The grading, base, pavement, and curb and gutter, sidewalk, and replacement of disturbed driveways in kind.
 - b. The substructure, superstructure, grading, base, pavement, and other related bridge and approach items.
 - c. Storm sewer mains necessary for the surface water drainage.
 - d. Catch basins and inlets for surface water drainage of the improvement, with connections to the storm sewer main.
 - e. Construction engineering incident to inspection and supervision of actual construction work (except for inspection, staking, and testing of sanitary sewer and water main).
 - f. Signing and pavement marking.
 - g. New installations or alteration of street lighting and traffic signals or devices.
 - h. Landscaping.
 - i. Preliminary engineering and design.
 - j. State review services.
5. State is authorized by Wis. Stat. 84.18(6) to exercise whole supervision and control over the construction of the project. The work will be administered by the State and may include items not eligible for federal/state participation.
6. As the work progresses, the State will bill the Municipality for work completed which is not chargeable to federal/state funds. Upon completion of the project, a final audit will be made to determine the final division of costs subject to project funding limits in the Summary of Costs Table. If reviews or audits show any of the work to be ineligible for federal/state funding, the Municipality will be responsible for any withdrawn costs associated with the ineligible work.

MUNICIPAL RESPONSIBILITIES AND REQUIREMENTS:

7. Work necessary to complete the 2020-2025 Local Bridge Program improvement project to be financed entirely by the Municipality or other utility or facility owner includes the items listed below.

- a. New installations of or alteration of sanitary sewers and connections, water, gas, electric, telephone, telegraph, fire or police alarm facilities, parking meters, and similar utilities.
 - b. Damages to abutting property after project completion due to change in street or sidewalk widths, grades or drainage.
 - c. Detour routes and haul roads. The municipality is responsible for determining the detour route.
 - d. Conditioning, if required and maintenance of detour routes.
 - e. Repair of damages to roads or streets caused by reason of their use in hauling materials incident to the improvement.
 - f. All work related to underground storage tanks and contaminated soils.
 - g. Street and bridge width in excess of standards.
 - h. Real estate for the improvement.
 - i. Other 100% Municipality funded items: None identified at this time
8. This line intentionally left blank.
9. FHWA limits bridge approach costs to only those approach costs that are necessary to render the bridge serviceable (to reach the attainable touchdown points using current standards). On a program level, FHWA has determined that, on average, bridge approach costs should amount to no more than 10% of the cost for constructing the bridge, and the Municipality should be prepared to offer a justification of costs for any bridge project where the approach costs exceed that percentage.
10. The construction of the subject improvement will be in accordance with the appropriate standards unless an exception to standards is granted by State prior to construction. The entire cost of the construction project, not constructed to standards, will be the responsibility of the Municipality unless such exception is granted.
11. Work to be performed by the Municipality without federal/state funding participation, necessary to ensure a complete improvement acceptable to the Federal Highway Administration and/or the State may be done in a manner at the election of the Municipality but must be coordinated with all other work undertaken during construction.
12. The Municipality is responsible for financing administrative expenses related to Municipal project responsibilities.
13. The Municipality will include in all contracts executed by them a provision obligating the contractor 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 Wis. Stat. 51.01 (5), sexual orientation as defined in Wis. Stat. 111.32 (13m), or national origin.
14. The Municipality will pay to the State all costs incurred by the State in connection with the improvement that exceed federal/state financing limits or are ineligible for federal/state financing. To guarantee the Municipality's foregoing agreements to pay the State, the Municipality, through its above duly authorized officers or officials, agrees and authorizes the State to set off and withhold the required reimbursement amount as determined by the State from any moneys otherwise due and payable by the State to the Municipality.
- 15. In accordance with the State's sunset policy for Local Bridge Program projects, the subject 2020-2025 Local Bridge Program improvement must be constructed and in final acceptance within six years from the start of State Fiscal Year 2021, or by June 30, 2026** Extensions may be available upon approval of a written request by or on behalf of the Municipality to State. The written request shall explain the reasons for project implementation delay and revised timeline for project completion.

16. If the Municipality should withdraw the project, it will reimburse the State for any costs incurred by the State on behalf of the project.
17. The Municipality will at its own cost and expense:
- a. Maintain all portions of the project that lie within its jurisdiction (to include, but not limited to, cleaning storm sewers, removing debris from sumps or inlets, and regular maintenance of the catch basins, curb and gutter, sidewalks and parking lanes [including snow and ice removal]) for such maintenance in a manner consistent with reasonable industry standards, and will make ample provision for such maintenance each year.
 - b. Regulate [or prohibit] parking at all times in the vicinity of the proposed improvements during their construction.
 - c. Regulate [or prohibit] all parking at locations where and when the pavement area usually occupied by parked vehicles will be needed to carry active traffic in the street.
 - d. Assume general responsibility for all public information and public relations for the project and to make fitting announcement to the press and such outlets as would generally alert the affected property owners and the community of the nature, extent, and timing of the project and arrangements for handling traffic within and around the projects.
 - e. Provide complete plans, specifications, and estimates to State upon request.
 - f. Provide relocation orders and real estate plats to State upon request.
 - g. Use the *WisDOT Utility Accommodation Policy*, unless it adopts a policy that has equal or more restrictive controls.
 - h. Provide maintenance and energy for lighting.
 - i. Provide proper care and maintenance of all landscaping elements of the project including replacement of any plant materials damaged by disease, drought, vandalism or other cause.
18. It is further agreed by the Municipality that:
- a. The Municipality assumes full responsibility for the design, installation, testing and operation of any sanitary sewer and water main infrastructure within the improvement project and relieves the state and all of its employees from liability for all suits, actions, or claims resulting from the sanitary sewer and water main construction under this agreement.
 - b. The Municipality assumes full responsibility for the plans and special provisions provided by their designer or anyone hired, contracted or otherwise engaged by the Municipality. The Municipality is responsible for any expense or cost resulting from any error or omission in such plans or special provisions. The Municipality will reimburse State if State incurs any cost or expense in order to correct or otherwise remedy such error or omission or consequences of such error or omission.
 - c. The Municipality will be 100% responsible for all costs associated with utility issues involving the contractor, including costs related to utility delays.
 - d. All signs and traffic control devices and other protective structures erected on or in connection with the project including such of these as are installed at the sole cost and expense of the Municipality or by others, will be in conformity with such *Manual of Uniform Traffic Control Devices* as may be adopted by the American Association of State Highway and Transportation Officials, approved by the State, and concurred with by the FHWA.
 - e. The right-of-way available or provided for the project will be held and maintained inviolate for public highway or street purposes. Those signs prohibited under federal highway regulations, posters, billboards, roadside stands, or other private installations prohibited by federal or State highway regulations will not be permitted within the right-of-way limits of the project. The Municipality, within

its jurisdictional limits, will remove or cause to be removed from the right-of-way of the project all private installations of whatever nature which may be or cause an obstruction or interfere with the free flow of traffic, or which may be or cause a hazard to traffic, or which impair the usefulness of the project and all other encroachments which may be required to be removed by the State at its own election or at the request of the FHWA, and that now such installations will be permitted to be erected or maintained in the future.

- f. The Municipality is responsible for any damage caused by legally hauled loads, including permitted Oversize and Overweight loads. The contractor is responsible for any damage caused to haul roads if they do not obey size and weight laws, use properly equipped and maintained vehicles, and do not prevent spilling of materials onto the haul road (*WisDOT Standard Specifications* 618.1, 108.7, 107.8). The local maintaining authority can impose special or seasonal weight limitations as defined in Wis. Stat. 349.16, but this should not be used for the sole purpose of preventing hauling on the road.

The bid item 618.0100 Maintenance and Repair of Haul Roads (project) is ineligible for federal funding on local program projects as per the State/Municipal Agreement. The repair of damages as a result of hauling materials for the project is the responsibility of the Municipality as specified in the State/Municipal Agreement Terms and Conditions under "Municipal Responsibilities and Requirements."

LEGAL RELATIONSHIPS:

19. The State shall not be liable to the Municipality for damages or delays resulting from work by third parties. The State also shall be exempt from liability to the Municipality for damages or delays resulting from injunctions or other restraining orders obtained by third parties.
20. The State will not be liable to any third party for injuries or damages resulting from work under or for the Project. The Municipality and the Municipality's surety shall indemnify and save harmless the State, its officers and employees, from all suits, actions or claims of any character brought because of any injuries or damages received or sustained by any person, persons or property on account of the operations of the Municipality and its sureties; or on account of or in consequence of any neglect in safeguarding the work; or because of any act or omission, neglect or misconduct of the Municipality or its sureties; or because of any claims or amounts recovered for any infringement by the Municipality and its sureties of patent, trademark or copyright; or from any claims or amounts arising or recovered under the Worker's Compensation Act, relating to the employees of the Municipality and its sureties; or any other law, ordinance, order or decree relating to the Municipality's operations.
21. Contract modification: This State/Municipal Agreement can only be modified by written instruments duly executed by both parties. No term or provision of neither this State/Municipal Agreement nor any of its attachments may be changed, waived or terminated orally.
22. Binding effects: All terms of this State/Municipal Agreement shall be binding upon and inure to the benefits of the legal representatives, successors and executors. No rights under this State/Municipal Agreement may be transferred to a third party. This State/Municipal Agreement creates no third-party enforcement rights.
23. Choice of law and forum: This State/Municipal Agreement shall be interpreted and enforced in accordance with the laws of the State of Wisconsin. The parties hereby expressly agree that the terms contained herein and in any deed executed pursuant to this State/Municipal Agreement are enforceable by an action in the Circuit Court of Dane County, Wisconsin.

PROJECT FUNDING CONDITIONS

24. Non-appropriation of funds: With respect to any payment required to be made by the State under this State/Municipal Agreement, the parties acknowledge the State's authority to make such payment is contingent upon appropriation of funds and required legislative approval sufficient for such purpose by the Legislature. If such funds are not so appropriated, either the Municipality or the State may terminate this State/Municipal Agreement after providing written notice not less than thirty (30) days before termination.

25. Maintenance of records: During the term of performance of this State/Municipal Agreement, and for a period not less than three years from the date of final payment to the Municipality, records and accounts pertaining to the performance of this State/Municipal Agreement are to be kept available for inspection and audit by representatives of the State. The State reserves the right to audit and inspect such records and accounts at any time. The Municipality shall provide appropriate accommodations for such audit and inspection.

In the event that any litigation, claim or audit is initiated prior to the expiration of said records maintenance period, the records shall be retained until such litigation, claim or audit involving the records is complete.

26. The Municipality agrees to the following 2020-2025 Local Bridge Program project funding conditions:

- a. **ID 4987-02-77:** Design is funded with 80% state/federal funding up to a funding limit of \$ 120,928, where applicable when the Municipality agrees to provide the remaining 20% and any funds in excess of the \$ 120,928 state/federal funding limit. This phase includes plan development and state review. The work includes project review, approval of required reports and documents and processing the final Plan, Specification & Estimate (PS&E) document for award of the contract. Costs for this phase include an estimated amount for state review activities, to be funded 80% with state/federal funding and 20% by the Municipality.
- b. Real estate acquisition is 100% the responsibility of the Municipality.
- c. Any railroad items are 100% the responsibility of the Municipality.
- d. Utility items are 100% the responsibility of the Municipality.
- e. **ID 4987-02-78:** Construction
 - i. Costs for construction, engineering, and state review are funded with 80% state/federal funding up to a funding limit of \$466,480, when the Municipality agrees to provide the remaining 20%, and any funds in excess of the \$466,480 state/federal funding limit.
 - ii. Non-participating costs for are funded 100% by the Municipality. Costs include construction delivery.



Report to the
Improvement and Service Committee
of the City of Green Bay

MEETING DATE

May 27, 2020

PREPARED BY

AGENDA ITEM # E.5

Consideration with possible action on request by Department of Public Works to add Northeast Asphalt or MCC as a vendor for Hot Mix Asphalt under our Annual Consumables contract for periods when Brown County cannot supply material.

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

- I. 4-29-2020 IS Agenda Report



CITY OF GREEN BAY - PURCHASING DIVISION

TO: I & S Committee
FR: Calvin Winters, Procurement Manager
DT: April 29, 2020
RE: Purchasing Report
Cc: Steve Grenier, Jamie Destiche

Report of the Purchasing Manager:

1. Purchase of Dewatering Hoses and Pipes for new pump purchased in April 2020. RFQ #3250 was issued for this and 3 responses were received. All responses received did not meet the stated specifications as required for aluminum piping. A vendor who was able to meet specifications was sourced for a cost of \$33,361. A "No Substitute" request was submitted and approved by the Director of Public Works and the Procurement Manager (See attached).
2. Awarding Edison Park Pickleball Courts project base bid and alternate to Poblocki Paving Corporation, West Allis, WI. RFQ #3245 was issued through the Purchasing Department and one response was received. The department is recommending that the base bid and alternate are awarded for the sum of \$78,557.80.

3. Request approval to purchase annual street maintenance consumables as needed for the 2020 season and for annual budgeted expenditures from 2021-2025, from the contracted vendors as noted below.

CONSUMABLES FOR DPW ANNUAL STREET MAINTENANCE - Request approval of 2020 purchases, plus pre-approval of annual budgeted expenditures for 2021-2025:				2020 Budget (includes):		
High Performance Cold Patch	101503 Operations Division	Northeast Asphalt or MCC - TBD	Market Price est. \$118 per ton	\$10,500	As needed for six years	3/25/2020 I & S Committee pushed this back to Steve Grenier & Purchasing to work with Brown County to buy this product from them. NOTE: Per Paul Fontecchio to Calvin on 4/2/2020 at 2:09pm - they do not produce High Performance Cold Patch. They buy that commercially as well.
Asphalt-Hot Mix	101503 Operations Division	Brown County or Northeast Asphalt	Market Price est. \$58 per ton	\$91,200	As needed for six years	NOTE: 3/25/2020 I & S Committee pushed this back to Steve Grenier & Purchasing to work with Brown County to buy this product from them. Brown County will sell us their MT3 and MT4 product at \$49.50 per ton. Northeast Asphalt will sell us their Grade 4 (9.5mm) product at \$56.25/ton and their 4LT (12.5mm) product at \$58.75/ton.

Cold Patch and Hot Mix: These products are petroleum based and pricing is subject to market fluctuations. Local vendors are contracted for logistical reasons. Pricing is compared annually to alternative suppliers, but transportation costs are prohibitive.



Report to the
Improvement and Service Committee
of the City of Green Bay

MEETING DATE

May 27, 2020

PREPARED BY

AGENDA ITEM # E.6

Consideration with possible action on request by the Department of Public Works to purchase a used Toolcat from the City of Two Rivers to replace a unit which is no longer drivable.

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

None



Report to the
Improvement and Service Committee
of the City of Green Bay

MEETING DATE

May 27, 2020

PREPARED BY

AGENDA ITEM # E.7

Report of actions taken by Department of Public Works

A. Granting of Licenses

I. Sidewalk Builder

- a. Precision Flatwork
- b. Weidner Concrete Construction LLC

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

None



Report to the
Improvement and Service Committee
of the City of Green Bay

MEETING DATE

May 27, 2020

PREPARED BY

AGENDA ITEM # F.I

Director's Report on recent activities of the Public Works Department.

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

None



Report to the
Improvement and Service Committee
of the City of Green Bay

MEETING DATE

May 27, 2020

PREPARED BY

AGENDA ITEM # F.2

The next Improvement and Services Committee meeting is scheduled for June 10, 2020.

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

None