AGENDA OF THE FINANCE COMMITTEE

TUESDAY, JUNE 16, 2020, 4:30 PM

Rescheduled from June 9. 2020

Virtual Meeting

Public may join via Zoom.

AMENDED

A. Zoom Meeting Information.

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

B. Roll Call.

1. Members: Ald. Barbara Dorff, Ald. Veronica Corpus-Dax, Ald. Bill Galvin, Ald. Brian Johnson.

C. Approval of the Agenda.

D. Approval of Minutes.

1. Approval of the Finance Committee minutes from the May 26, 2020 meeting.

E. Regular Business.

1. For consideration with possible action on the updated City of Green Bay Procurement Manual.
2. A request by Ald. Wery to the Finance committee which states: Offer a pay incentive/bonus for poll workers who have worked and will work this year during the Covid-19 situation. 2) Adopt a policy for future hazard pay situations.
3. A request by Ald. Steuer to the Finance committee which states: To create an Ad-Hoc Committee to look at ways and methods to adjust downward the 2020 City of Green Bay Bonding Schedule and the potential 2021 City of Green Bay budget, with participants from the Green Bay citizenry, Green Bay Alders, and City of Green Bay staff (both administrative and union). This is truly a team effort."

4. A request by the Ad Hoc Committee on Elections for the Finance Committee to consider the purchase of electronic poll books and a DS 450 tabulator and ballot folder package.

5. A request by the Ad Hoc Committee on Elections to the Finance Committee to consider funding two to four drop boxes for absentee ballots, to be placed at locations in the City of Green Bay.

6. Consideration with possible action on the approval of the Green Bay Electronics Record Program Software License and Service Agreement between the City of Green Bay and Brown County, Wisconsin.

   The Committee may convene in closed session pursuant to Section 19.85(1)(e), Wis. Stats., for purposes of deliberating or negotiating the sale of public properties, investing of public funds or conducting other specified public business as necessary for competitive or bargaining reasons. The Committee may thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to report the results of the closed session and consider the balance of the agenda.

7. Consideration with possible action on the approval of the Distribution Agreement between the City of Green Bay and John Rousseau as sole member of Global Horizons, LLC.

   The Committee may convene in closed session pursuant to Section 19.85(1)(e), Wis. Stats., for purposes of deliberating or negotiating the sale of public properties, investing of public funds or conducting other specified public business as necessary for competitive or bargaining reasons. The Committee may thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to report the results of the closed session and consider the balance of the agenda.

F. Informational.

1. 1. 2020 Contingency Account:
   $143,700.00

2. The next Finance Committee meeting will be held on Tuesday July 14, 2020 at 4:30 PM.

G. 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 Finance 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

Finance Committee for 6-16-20

Zoom Meeting Information

Join Zoom Meeting

https://us02web.zoom.us/j/81492612072?pwd=R2VTTTNJWTJGTjNnK2hMV1lGT3JxQT09

Meeting ID: 814 9261 2072

Password: 095059

One tap mobile
+13017158592,,81492612072#,,1#,095059# US (Germantown)
+13126266799,,81492612072#,,1#,095059# 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)

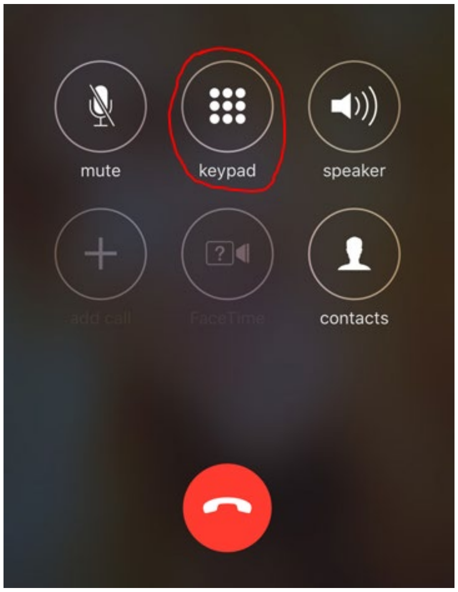
Meeting ID: 814 9261 2072
Password: 095059
Find your local number: https://us02web.zoom.us/u/keAbUKdNU

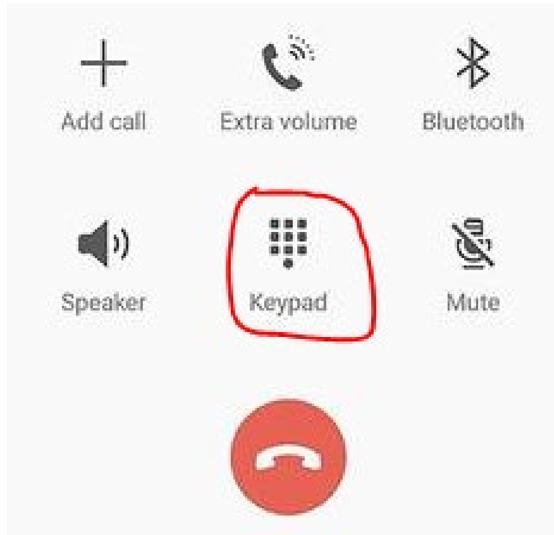
Additional Information

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

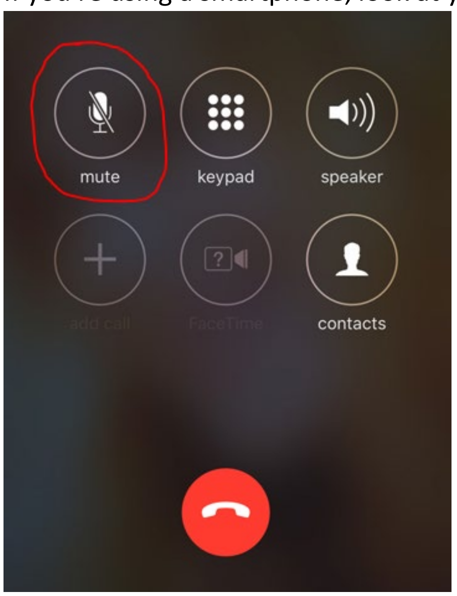
Calling into the Zoom meeting using a smartphone

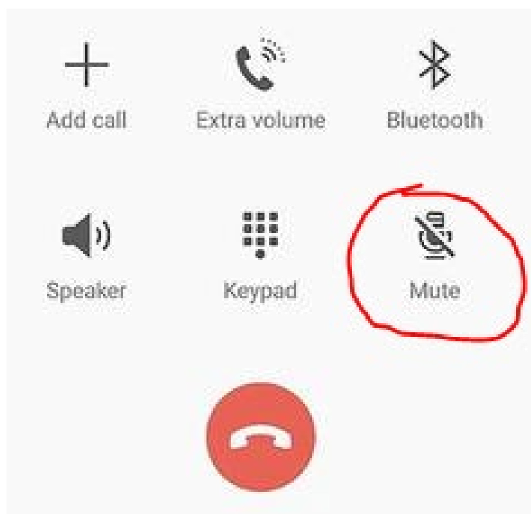
1. Dial the phone number listed at the beginning of this document.
2. When prompted, enter the Meeting ID number followed by **#**
   a. If you're using a smartphone, you can access the keypad by clicking "Keypad" on your screen





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
Finance Committee
of the City of Green Bay

MEETING DATE	PREPARED BY
June 16, 2020	

AGENDA ITEM # E.1

For consideration with possible action on the updated City of Green Bay Procurement Manual.

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

1. (UPDATED) City of Green Bay Procurement Manual DRAFT

City of Green Bay

Purchasing Department

Procurement Manual

Revised: June 1, 2020

TABLE OF CONTENTS

1. Purchasing Department Mission

The mission of the Purchasing Department is to assist all City Departments in the effective and efficient procurement of goods and services that are consistent with quality and delivery needs at the lowest possible cost and overall best value for the City. The Purchasing Department provides leadership in procurement to ensure the City's process is fair, competitive, efficient, and conducted under strict ethical guidelines.

2. General Information

Fair and open competition is a core principle of public procurement and inspires public confidence that goods and services are procured equitably and economically. Documentation of the acts taken and effective monitoring mechanisms are important means of avoiding improprieties and establishing public confidence in the procurement process. It is the duty of all City staff to maintain the public trust by adhering to City standards of professional conduct and ethical behavior. All City personnel are responsible for maintaining the integrity of the procurement process and will be held accountable for actions taken that do not conform to the established procurement process.

3. Applicable Laws, Codes, and Ordinances

All City purchases shall be made in accordance with all Federal, State, and Local Laws, Codes and Ordinances. Purchasing authority is granted by section 66.0131 of the Wisconsin Statutes and by Section 1.76 of The City of Green Bay Code of Ordinances. Except where more restrictive by City Ordinance or defined in this manual, all procurement functions will follow the laws and guidelines set forth by the State of Wisconsin State Procurement Manual. The Procurement Manager along with designated senior staff have the authority to require more restrictive requirements over the State Procurement Manual should it be determined it is in the best interest of the City.

4. Roles and Responsibilities

The general roles and responsibilities regarding procurement are as follows:

- Procurement Manager
    - Provide oversight and leadership for procurement related policies and procedures.
    - Conduct formal competitive solicitations such as bids, proposals, quotes, etc.
    - Conduct negotiations for professional services.
    - Provide procurement information to City leadership when necessary.
    - Attend Committee or City Council meetings when necessary to discuss and advise on purchasing issues and the results of bids and proposals.
    - Delegate procurement authority to Departments when appropriate.
    - Approve sole source and single source purchases.
    - Approve requests to waive the competitive solicitation process when appropriate with written justification from Departments.
- Purchasing Staff
    - Provide procurement support to City staff.
    - Conduct formal competitive solicitations such as bids, proposals, quotes, etc.
    - Process requisitions, purchase orders, and P-Card statements via ERP system.
- Department Heads/Managers
    - Identify the needs of the Department, develop specifications, scope of work, etc.
    - Communicate Department needs to the Purchasing Department and plan appropriate procurement methods.

  - Approve Department purchases for goods within budget authority.
  - Approve Department purchases for goods and services for $25,000 or less within budget authority.
  - Seek approval from and report purchases to the City Council when appropriate.
  - Create written justifications for sole source/single source purchases or written requests to waive the competitive solicitation process for approval by the Procurement Manager.
- Department Staff
  - Identify the needs of the Department, develop specifications, scope of work, etc. Communicate those needs to the Purchasing Department.
  - Seek approval from Department Head/Manager when appropriate.
  - Review bids for compliance with specifications as needed.
  - Verify delivery of goods and services and if they meet the specifications and/or scope of work.

5. Purchasing Process Basics

The goal of all successful procurements is to get it right:

Right Goods or Services
Right Quantity
Right Time
Right Place
Right Price

The Process can be broken down into a few basic steps:

Step One - Identify the Need (Requesting Department):
This is the most critical step to a successful procurement. All needs must be identified including:

- Determine exact specifications and quantity for products.
- Right sizing for vehicles and equipment
- Does it need to be compatible with current equipment or software?
- Detailed scope of work for services.
- When the product or service is needed.
- Description of how products or services will be delivered and to where.
- Are installation, training, or future maintenance services required?
- Estimated cost and budget availability.
- Secure approvals to proceed with the purchase.

Step Two – Procurement (Requesting Department and Purchasing Department)

- Check surplus – does another Department have what is needed in surplus or the ability to provide the services?
- Work with the Purchasing Department to identify the correct procurement method – open market, cooperative purchases, quotes, bids, proposals, sole source, etc.
- Conduct the procurement, and if necessary use a competitive process.
- If necessary, work with the Purchasing Department and Law Department to negotiate and execute a contract agreement with the selected vendor.
- Place the order.

Step Three –Receiving goods or services (Requesting Department)

- Verify delivery/service dates and follow up if necessary.
- Inspect deliveries thoroughly and report any deficiencies in quality or quantity immediately.
- Receive on the purchase order (if applicable) in the ERP system.

Step Four – Payment Processing (Requesting Department/Purchasing Department/Finance Department)

- Verify that product or services have been received and are in good order.
- Match invoices with the original order and packing slips.
- Submit invoice for payment

6. Developing Specifications

Specifications establish the design, type of construction, quality, functional capability and performance level desired. Identify the need and the key factors to fulfill the need completely. Be specific, identify grade, type, or other industry standards that must be met. It is very difficult to disqualify a poor quality product if the specifications are vague or limited.

Specifications may include:

- Type of construction or materials.
  "Product shall be stainless steel" is typically not specific enough in most cases.
  "Product shall be 20 gauge 304 stainless steel" is a much better specification.
- Minimum level of performance required.
  "High capacity fan" is typically not specific enough in most cases.
  "Fan shall be 50 CFM (cubic feet per minute) minimum" is a much better specification.
- Physical characteristics, size, weight, color, shape, etc.
  "Lightweight design" is typically not specific enough in most cases.
  " Product weight shall not exceed 20 lbs." is a much better specification.
- Delivery and installation requirements. Is the City responsible for unloading the product from the vendor's truck? Does the product need to be unloaded by the vendor and set in a specific location? Is the vendor required to install the product?
- Quantity and packaging requirements. 1000 items loose in a box or 10 bundles of 100?
- Warranty requirements.
- Training requirements.
- This or equal quality. Identify a specific product (by manufacturer and part number) that meets all our needs and allow bidders to bid that product or an alternate product of equal quality.
- Scope of services. Include method of service delivery, onsite, online, phone, etc. Identify timeliness of service delivery, response time, lead time, time to complete project. Describe in detail what is required including outcomes desired.

7. Procurement Thresholds and Approval Levels

Procurement process thresholds:

- Purchases less than $5,000 may be purchased on the open market by Departments directly if the pricing is generally known to be fair. Quotes should be used when an appropriate price is unknown.
- Purchases of $5,000-$24,999 may be made only after using a competitive process determined by the Purchasing Department. Competitive processes include, but are not limited to, Simplified Bidding (See 8.1), Request for Bid (RFB), Request for Proposal (RFP), Request for Quote (RFQ), and Cooperative Purchase Contracts.

- Purchases of $25,000 or greater may only be made after using a Sealed Competitive process as determined by the Purchasing Department. Sealed processes include Request for Bid (RFB) and Request for Proposal (RFP) (see sections 8.3 and 8.4).
- If a dollar value is unknown or additional information about a product or service is needed to form a bid or proposal packet, a Request for Information (RFI) will be issued to determine scope and estimated cost.

Approval Levels:

- All purchases of $25,000 and greater must be brought to the Common Council for approval.

8. Procurement with Special Funds

In the event that a procurement is needed when the purchase will be made utilizing specified funds such as, but not limited to, grants, loans, Federal or State funds, those procurements shall be done in accordance to the rules and regulations associated with those funds. At no time shall the procurement violate any rules or stipulations attached to the funds.

9. Procurement Methods

The following methods are approved competitive processes to be used in the procurement process. The Purchasing Department should be contacted to determine the best method for a particular procurement. The Procurement Manager shall have the final authority on the method of procurement to be used. Consultation with the law department will be done when necessary (as determined by the Procurement Manager) on final contract documents.

9.1 Simplified Bidding (State Procurement Manual PRO-C-8)

Simplified Bidding is a method of procurement used when the estimated cost of a transaction is $5,000-$9,999. Simplified bidding takes place when three or more qualified suppliers are solicited to submit quotes on a procurement. However, "three or more" is a minimum. The definition of "three or more" bidders is not to be used to restrict competition or to prevent qualified bidders from quoting on procurements.

Procedure:

A. The Department first determines the estimated cost of the procurement. To establish whether the simplified bidding process is appropriate or if the Purchasing Department must facilitate the solicitation. The Department will use the estimated dollar amount applicable to the entire contract duration in determining if Simplified Bidding is appropriate.

B. When the estimated cost is less than $5,000 the Department may award to the vendor judged best able to supply (“best judgment”). In choosing a vendor, the following should be considered: location of delivery point, quality of articles to be supplied, price of articles, conformity with specifications, purpose for which articles are required, and date of delivery.

C. When the estimated cost is $5,000 through $9,999, the requesting Department solicits and compares, whenever possible, a minimum of three bids from qualified bidders from any of the current sources below:

1. Price lists,
2. Quotes on file, or
3. Written quotes.

E-mail quotes from vendors are considered written documentation of a bid. Phone and verbal quotes should be confirmed in writing by the vendor. The Department must have a procedure to check the invoice against the purchase order/charged to assure proper pricing. The Department is responsible for ensuring that purchases do not exceed $9,999. If a Department feels it is in the best interest to use simplified bidding on purchases greater than $10,000 they should contact the Procurement Manager to discuss and justify this request.

D. Once all bids are obtained the Department shall review and select the lowest, qualified, responsible bidder to provide the goods and/or services. If a Purchase Order is to be issued all applicable quotes must be attached to the requisition submitted in the Enterprise Resource Planning (ERP) system by the requesting Department. If a P-card is used for the purchase, all quotes should be attached to the P-Card statement in which the purchase was made on. The Purchasing Department will conduct random audits of Simplified Bidding processes conducted by Departments. If it is found that a Department violates purchasing policies on a recurring basis, reeducation on the process may be required. In extreme circumstances purchasing authority delegation may be taken away from that Department.

E. If at any time you would like assistance from the Purchasing Department with this process and/or obtaining quotes please reach out to via email at purchasingag@greenbaywi.gov or by calling x3047.

Recordkeeping:

A. Documentation of all simplified bidding transactions is required.

1. When the cost is less than $5,000, the Department shall keep documentation related to the purchase on file in the Department office.

2. When the estimated cost is over $5,000 all quotes obtained should be attached to the P-Card transaction or the requisition submitted via the ERP system by the requesting Department. The Department must have a procedure in place to check the accuracy of the invoice.

9.2 Request for Quote (RFQ)

A Request for Quote is a competitive solicitation process in which Purchasing Department staff utilizes procurement resources to reach a broad pool of potential suppliers. Purchases of $10,000 up to $25,000 will generally, but not always, utilize this process. Purchases of $10,000 and greater require communication with the Purchasing Department. The RFQ process is meant to be an agile tool for competitive solicitation of quotes and depending upon complexity, will generally take about 1-3 weeks to complete.

Process:

- The Department shall identify the need, notify the Purchasing Department (via phone, email, or requisition), and develop detailed specifications. Purchasing can assist with the specification development if necessary.
- The Purchasing Department shall incorporate the specifications into a standard RFQ template and work with the Department to determine a schedule.
- The Purchasing Department shall conduct the RFQ process, advertise the solicitation, and open the quotes received.
- The Purchasing Department will assist Departments in reviewing quote responses and making recommendations for award. RFQs shall be awarded to the lowest responsive, responsible bidder that meets all the needs, terms, conditions and specifications.
- The Purchasing Department shall work with the Department in creating the final contract document (if necessary).

9.3 Request for Bid (RFB)

A Request for Bid is a formal solicitation that is conducted by the Purchasing Department for goods and services for $25,000 or more and that can be defined with clear specifications. The RFB process is a formal solicitation and depending upon complexity can take 3-4 weeks to complete.

Process:

- The Department shall identify the need, notify the Purchasing Department, and develop detailed specifications. Purchasing can assist with the specification development if necessary.
- The Purchasing Department shall incorporate the specifications into a standard bid template and work with the Department to schedule the bid.
- The Purchasing Department shall conduct the bid process, advertise, collect questions, work with the Department on answers/addenda, and open the bids.
- The Purchasing Department will assist Departments in reviewing bid responses and making recommendations for award. Bids shall be awarded to the lowest responsive, responsible bidder that meets all the needs, terms, conditions and specifications.
- The Purchasing Department shall assist the Department in creating the final contract document or purchase order.

9.4 Request for Proposal (RFP)

A Request for Proposal is a formal solicitation conducted by the Purchasing Department that is used for goods and/or services that are not able to be clearly defined, outcome requirements that have multiple methods to accomplish, or for projects for which the skill or quality of the Contractor needs to be weighed with the cost. RFP solicitations are weighted and scored by an evaluation team and awarded to the highest scoring proposer. RFP's are complex formal solicitations and the entire process including advertising, evaluation, and scoring can take 4-6 weeks.

Process:

- The Department shall identify the needs and notify Purchasing Department.
- Purchasing Department will work with the Department to develop proposal requirements and response requirements, a scoring matrix for each requirement and a format for submitting costs.
- Purchasing Department shall incorporate the requirements into a RFP template and work with the Department to schedule the RFP.
- Purchasing Department shall facilitate the RFP process, advertise, collect questions, work with the Department on answers/addenda, and collect the submittals.
- Purchasing Department will assist in negotiating contract price and terms with the awarded proposer.
- Purchasing Department will work with Corporation Counsel and the Department in creating the final contract document.
- Purchasing Department will report the results of the RFP process to the Department for the Department's discussion and action, if any.

9.5 Request for Information (RFI)

A Request for Information is a type of request used when information and pricing is not readily available for goods, professional services, specialized services or specific construction projects that require a higher degree of skill than usual. The Request for Information may be used to create a short list of vendors for either direct negotiation or bid requests.

9.6 Professional Services

Professional Services do not require a competitive process. Examples of professional services include but are not limited to Banking, Financial, Consulting, Legal Counsel, Medical, Architecture and Engineering, and Real Estate services. Just because a service can be labeled as a professional service does not mean bypassing the competitive process is the best approach. Please consult with the Purchasing Department if you have questions regarding obtaining professional services.

9.7 Cooperative Purchasing

The City may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of goods and services. Cooperative purchases shall be made in accordance with public procurement principles of open and equitable competition. The City may also purchase from any other government entity without the intervention of bids, Section 66.0131 (2) Wisconsin Statute.

Common cooperative purchasing contracts include:

- State of Wisconsin Cooperative Contracts
- University of Wisconsin Cooperative Contracts
- General Services Administration (GSA) Schedule 70 & 84

State of Wisconsin and UW contracts may be searched on VendorNet:
http://vendornet.state.wi.us/

GSA contracts may be searched at:
https://www.gsaadvantage.gov

9.8 Used Equipment Purchases

The purchase of used equipment from vendors when, in the discretion of that Department's respective head, the purchase of said used equipment will result in considerable savings to the City, shall be submitted to the Procurement Manager or Procurement Manager's designee for review and approval for waiving requirements of the competitive process. Respective Department head must provide written justification to Procurement Manager or Procurement Manager's designee for review and approval.

9.9 Sole Source/Single Source Purchasing

"Sole Source Purchasing" is a procurement process initiated with a specific vendor without competition who has a unique product or service. The product or service has to be truly unique in design or service method, not just a preferred brand or service provider. Purchases that are considered "sole source" must be approved by the Procurement Manager prior to purchase.

"Single Source Purchasing" is a procurement process initiated with a specific vendor without completion who has a product or service that is offered by other vendors, but the specific product/service offered by the vendor is desired (ex. purchasing a specific product that matches other already purchased products for parts and maintenance compatibility.) Purchases that are considered "single source" must be approved by the Procurement Manager prior to purchase.

The "No Substitute" form must be completed and submitted to the Procurement Manager for approval of these purchases.

10. Public and Legal Notices (State Procurement Manual PRO-C-6)

The following defines notice types and when they are required to be used:

1. "Legal Notice" means an advertisement of procurement in the Green Bay Press Gazette
2. "Public Notice" means a posting of a procurement to the official designated website. Posts to Wisconsin VendorNet will automatically create a public notice. Posting to the DemandStar website shall also be part of public notice.

Any Request for Bid or Request for Proposal where the estimated cost is to be more than $50,000 (greater than $5,000 for public construction projects) shall be advertised with both Legal and Public notices. Two (2) legal notice insertion into the Green Bay Press Gazette shall occur. All RFB's and RFP's, regardless of estimated value, shall be advertised publically on the DemandStar platform and the State of Wisconsin VendorNet site.

11. Information Technology (IT) Purchases

All requisitions and purchases for information technology (IT) equipment or software must have prior approval from the Director of IT. If a RFB or RFP is issued, the Director of IT shall provide input about the compatibility and other issues related to the software or equipment prior to an award being made. This is to ensure the compatibility of the requested equipment and software with existing systems and also ensure the new technology does not pose risks to cybersecurity of City systems. The Director of IT may waive the compatibility requirement.

12. Emergency Purchases

An "emergency situation" is a situation which:

1. Threatens the public health, safety, or welfare; and all of the following conditions exist: was unforeseen; calls for immediate action; and cannot be responded to using established procurement methods; or
2. Exists as the result of activation of the Emergency Operations Center or a State of Emergency being declared by the Mayor of the City of Green Bay or the Governor of the State of Wisconsin.

The existence of an emergency situation does not preclude the use of the competitive bidding process in its entirety. Department Heads and purchasing staff will obtain such competition as is practical under the emergency requirements of the situation.

If an emergency occurs, all purchases shall be made in accordance with section ESF 7 of the City of Green Bay Emergency Operations Plan.

13. Tied Bids

Tied bids exist when the total costs of two or more responses to a request for bid are identical. Cost totals can be carried out to two decimal points to break a tie. Tied bids do not apply to requests for proposals. If the final scores of two or more proposals are identical, the best and final offer process shall be used to break the tie.

If a tied bid occurs, award may be made to the bidder offering the best additional economic benefits to the City such as discounts for early payment, volume discounts, more advantageous contract term, etc.

If all economic benefits are equal, the Procurement Manager or designee and one witness may conduct and document one of the following processes to complete the award:

- If only two vendors are tied, flip a coin: Assign "heads" to the vendor whose company name is alphabetically first and "tails" to the other vendor. Flip the coin allowing the coin to come to rest on the floor. If "heads" is up, the vendor whose company name is alphabetically first wins. If "tails" is up, the other vendor wins.
- If more than two vendors are tied, draw lots: Assign similar sized pieces of paper for each tied vendor and conduct a blind draw to select one awarded vendor.

The process used and results shall be documented on the bid tabulation.

14. Surplus

Departments with surplus items of value shall contact Purchasing Department to determine the best method of redistribution, sale or disposal. Purchasing staff will provide the proper paperwork for the Department to complete, if necessary. Methods of sale include, but are not limited to:

- Online Auction
- Direct Sales
- Trade-in (if requiring new equipment)

15. Waiver of Competitive Process

The Procurement Manager may waive the competitive process requirement, if multiple bids, quotations or proposals are not obtainable, for professional services not conducive to competition, or in cases of immediate need for goods and services due to unforeseen circumstances. The Procurement Manager will require written justification from Departments as to the circumstances requiring the waiver.

16. Appeals Process

Notices of intent to protest and protests must be made in writing. Protestors should make their protests as specific as possible and should identify Wisconsin Statutes or City of Green Bay ordinance provisions that are alleged to have been violated.

The written notice of protest must be filed with the Procurement Manager, Green Bay, WI, 100 North Jefferson St. Room 101, Green Bay, WI 54301, and received no later than 72 business hours after the intent to award notice is issued.

The Procurement Manager shall inform the Finance Director and conduct an investigation regarding each protest and may request information from Departments or the Law Department when necessary. The Procurement Manager may also create an evaluation team to review the merits of the protest, depending on the complexity of the project.

Report to the
Finance Committee
of the City of Green Bay

MEETING DATE	PREPARED BY
June 16, 2020	

AGENDA ITEM # E.2

A request by Ald. Wery to the Finance committee which states: Offer a pay incentive/bonus for poll workers who have worked and will work this year during the Covid-19 situation. 2) Adopt a policy for future hazard pay situations.

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

1. ALD. WERY COMMUNICATION

Kala Lardinois

From:	Kris Teske
Sent:	Monday, June 01, 2020 8:03 AM
To:	Vanessa Chavez; Diana Ellenbecker; Kala Lardinois; Deanna Debruler
Cc:	District Eight
Subject:	FW: Communication
Follow Up Flag:	Follow up
Flag Status:	Flagged

Please see Ald. Wery's communication below.

Thank you,

Kris Teske, WCMC
Green Bay City Clerk
100 N. Jefferson St., Rm 106
Green Bay, WI 54301
920-448-3014

From: Chris Wery [mailto:chriswery@att.net]
Sent: Friday, May 29, 2020 12:01 PM
To: Kris Teske <Kris.Teske@greenbaywi.gov>; Susan Smith <sksmith@smithlegaladvisors.com>; District One <District.1@greenbaywi.gov>
Subject: Communication

To: Finance
Re: 1) Offer a pay incentive/bonus for poll workers who have worked and will work this year during the Covid-19 situation. 2) Adopt a policy for future hazard pay situations.

Respectfully Submitted,

Alderman Chris Wery
920-490-9282
chriswery@att.net
Facebook: Alderman Chris Wery, District 8 City of Green Bay

Report to the
Finance Committee of the City of Green Bay

MEETING DATE	PREPARED BY
June 16, 2020	

AGENDA ITEM # E.3

A request by Ald. Steuer to the Finance committee which states: To create an Ad-Hoc Committee to look at ways and methods to adjust downward the 2020 City of Green Bay Bonding Schedule and the potential 2021 City of Green Bay budget, with participants from the Green Bay citizenry, Green Bay Alders, and City of Green Bay staff (both administrative and union). This is truly a team effort."

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

1. ALD. STEUER COMMUNICATION

Kala Lardinois

From: Jaime Fuge
Sent: Thursday, June 04, 2020 7:55 AM
To: Diana Ellenbecker; Kala Lardinois
Subject: FW: communication

Follow Up Flag: Follow up
Flag Status: Flagged

Good Morning,

Below is the late communication from the meeting Tuesday.

To Finance/Mayor's Office
From Alder Steuer
"To create an Ad-Hoc Committee to look at ways and methods to adjust downward the 2020 City of Green Bay Bonding Schedule and the potential 2021 City of Green Bay budget, with participants from the Green Bay citizenry, Green Bay Alders, and City of Green Bay staff (both administrative and union). This is truly a team effort."

Take care.

Thank you,
Jaime

From: Kris Teske
Sent: Wednesday, June 3, 2020 5:42 PM
To: Jaime Fuge <Jaime.Fuge@greenbaywi.gov>
Subject: FW: communication

Kris Teske, WCMC
Green Bay City Clerk
100 N. Jefferson St., Rm 106
Green Bay, WI 54301
920-448-3014

From: District Ten
Sent: Wednesday, June 3, 2020 5:36 PM
To: Kris Teske <Kris.Teske@greenbaywi.gov>
Subject: communication

Hello Kris,
Here is my communication from yesterday's Council Meeting.

To Finance/Mayor's Office
From Alder Steuer
"To create an Ad-Hoc Committee to look at ways and methods to adjust downward the 2020 City of Green Bay Bonding Schedule and the potential 2021 City of Green Bay budget, with participants from the Green Bay citizenry, Green Bay Alders, and City of Green Bay staff (both administrative and union). This is truly a team effort."

Take care.

Report to the
Finance Committee
of the City of Green Bay

MEETING DATE	PREPARED BY
June 16, 2020	

AGENDA ITEM # E.4

A request by the Ad Hoc Committee on Elections for the Finance Committee to consider the purchase of electronic poll books and a DS 450 tabulator and ballot folder package.

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

1. Brown County DS450 Quote 5-22-20 Revised
2. 2020-06-16 Election Equipment for Finance

Maintaining voter confidence. Enhancing the voter experience.

Purchase Proposal Quote

Submitted by Election Systems & Software

Purchase Solution Includes:

Quantity	Item Description	Price
	Tabulation Hardware	
	Model DS450 High Speed Digital Image Scanner:	
1	Model DS450 (Includes Scanner, Steel Table/Cart, Start-up Kit, Dust Cover, Reports Printer, Audit Printer, Battery Backup, Two (2) USB Cables, and Two (2) Standard 8GB Memory Devices)	$51,450.00
1	Ballot Joggers	$950.00
1	Standard 8GB Memory Device (Additional)	$210.00
	Election Services	
1	Implementation Services (Does not include Coding, Voice Files or Ballots)	$1,700.00
X	DS450 Training	
1	Election On-Site Support	$4,675.00
X	Equipment Installation	$1,925.00
X	1 Year Hardware and Software Warranty	Included
	Shipping & Other	
X	Shipping and Handling	$750.00
	Total Purchase Solution	**$61,660.00**
	Annual Post-Warranty License and Maintenance and Support Fees (Fees are Based Upon a 1-Year Customer Commitment to Subscribe to the Following Services)	
	Annual Post-Warranty Hardware Maintenance and Support Fees:	
1	HMA DS450 - Extended Warranty with Biennial Maintenance	$1,895.00
	Annual Post-Warranty Firmware License and Maintenance and Support Fees:	
1	Firmware License - DS450	$1,575.00
	Total Annual Post-Warranty License and Maintenance and Support Fees	**$3,470.00**

Footnotes:

1. This quote is an estimate and is subject to final review and approval by both ES&S and the Customer.
2. Rates valid for 60 days and thereafter may change.
3. Any applicable (City & State) sales taxes have not been included in pricing and are the responsibility of the customer.
4. The quantity of service days reflects a reasonable estimate for implementation and selected ongoing election services. Quantities may change depending on specific Customer needs.

Equipment for Election 2020

PPE for poll workers	amount needed	$/item	total	
surgical gowns				
hair nets				
face shields				
gloves				
hand sanitizer		$ 199.96		for 4-one gallon containers
cough guards (portable)	56	$ 99.00	$ 5,544.00	each ward has an 8 foot table and each table has two guards
	94	$ 189.00	$ 17,766.00	
masks for voters				
pens				
santizing wipes				
paper towels				
santizing spray				

poll worker training	# of attendees	$/class	total
course			
course			
course			

Election Equipment

		cost/item	total	
DS 450		$ 61,000		
Ballot folder and envelope opener	2	$ 4,299.00	$ 8,598.00	3/polling location
Electronic poll books				

Package 1 – Badger Book with Integrated Column Printer • $1826.00 per Badger Book station •
$228.00 per polling place (router, thermal receipt paper, and USB Device)

Package 2 – Badger Book with Stand-Alone Printer • $1853.00 per Badger Book station •
$193.00 per polling place (router, thermal receipt paper, and USB Device)

Polling locations

	cost/location	total
current loc.		
new locations		

Staff

election techs		
DPW		

Report to the
Finance Committee
of the City of Green Bay

MEETING DATE	PREPARED BY
June 16, 2020	

AGENDA ITEM # E.5

A request by the Ad Hoc Committee on Elections to the Finance Committee to consider funding two to four drop boxes for absentee ballots, to be placed at locations in the City of Green Bay.

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

None

Report to the
Finance Committee
of the City of Green Bay

MEETING DATE	PREPARED BY
June 16, 2020	

AGENDA ITEM # E.6

Consideration with possible action on the approval of the Green Bay Electronics Record Program Software License and Service Agreement between the City of Green Bay and Brown County, Wisconsin.

The Committee may convene in closed session pursuant to Section 19.85(1)(e), Wis. Stats., for purposes of deliberating or negotiating the sale of public properties, investing of public funds or conducting other specified public business as necessary for competitive or bargaining reasons. The Committee may thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to report the results of the closed session and consider the balance of the agenda.

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

1. FINAL - GB-Brown County GERP License Agreement

GREEN BAY ELECTRONICS RECORD PROGRAM SOFTWARE
LICENSE AND SERVICE AGREEMENT

This Software License and Service Agreement ("Agreement") is entered into this ___ day of _____________, 2020 ("Effective Date") by and between the City of Green Bay, WI, a Wisconsin municipal corporation (hereinafter, "Licensor"), and Brown County, WI, a body corporate pursuant to Wis. Stat. § 59.01 (hereinafter, "Licensee"), collectively referred to as the Parties.

RECITALS

WHEREAS, Licensor has the authority to license the proprietary electronic records program known as the Green Bay Electronic Records Program ("GERP"); and

WHEREAS, Licensee desires to obtain a personal, nontransferable, non-exclusive limited right and license to use GERP and related documentation and services for Licensee's own internal business purposes only; and

WHEREAS, Licensor is willing to grant such a license on the terms and subject to the conditions of this Agreement;

NOW, THEREFORE, in consideration for the fees to be paid by Licensee hereunder, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree:

AGREEMENT

1. **Definitions.** As used in this Agreement, the following terms shall have the following definitions:

   A. *Authorized Users*. Licensee and its employees, all municipalities within Brown County, excluding the City of Green Bay and the Village of Ashwaubenon, and their respective employees, and no other persons or entities unless agreed to in writing by the Licensor.

   B. *Documentation*. All user/operation manuals and other materials or information describing GERP, as hereinafter defined, its performance characteristics, technical features, and other relevant information reasonably required for use of GERP, including all physical media upon which the materials or information are provided.

   C. *Licensed Products*. The Software and the Documentation.

   D. *Software*. That certain proprietary computer software known as GERP, in machine readable, object code form, and any modules, bug fixes, modifications, enhancements and other GERP software provided to and licensed hereunder by the Licensor to the Licensee during the Term.

2. **Software License.**

   A. *License Grant*. Subject to the terms of this Agreement, Licensor hereby grants to Licensee, and Licensee accepts, a limited, non-transferable and non-exclusive perpetual license to use the Software solely for Licensee's own internal business purposes and solely by the Authorized Users defined herein or such Authorized Users agreed to in writing by the Parties during the Term.

   B. *Warranty of Ownership*. Licensor warrants to Licensee, and no other person or entity, that it has the right to enter into this Agreement.

C. *Licensor Retains Title*. Licensee acknowledges that Licensor retains title to the Software, and all copyrights, trade secrets and other intellectual property rights licensed to Licensee, even if Licensee's suggestions are incorporated into subsequent versions of the Software. The Licensed Products constitute a trade secret and are confidential to Licensor.

D. *No Ownership Rights*. Other than the limited right of use of the Licensed Products described in this Agreement, Licensee shall neither have nor acquire any right, title or interest in or to any of the Licensed Products or in any intellectual or proprietary rights represented thereby.

E. *License Restrictions*. Licensee agrees that it will not modify, decompile, disassemble, translate, or reverse engineer the Software, in whole or in part. Except as expressly stated, this Agreement does not include any rights to use, disclose, sublicense, or otherwise transfer the Licensed Products or other proprietary information of Licensor. The Licensed Products shall not be used to process data except for Licensee's internal purposes.

F. *Limitation of Licensing*. Licensor agrees that it will not enter into any licensing agreement for use of the Licensed Products with any municipality located within Brown County other than the Village of Ashwaubenon.

G. *Sublicensing.* Licensee is prohibited from granting a sublicense to use the Software to any third party, except that Licensee may require any Authorized User identified under this Agreement to pay to Licensee its proportionate share of the cost of the license to use the Software. An Authorized User's proportionate share of the cost of the license shall be determined based on its proportionate share of Licensee's total call volume during the preceding four years. Licensor shall be exclusively entitled to any amounts Licensee receives from any Authorized User in excess of said User's proportionate share of the cost of the license.

H. *Breach*. Licensee shall immediately notify Licensor in writing of any actual or suspected breach of this Agreement, including, without limitation, its terms limiting use.

3. **Delivery and Installation of the Software.** Licensor shall coordinate with Licensee to deliver and install the Software on Licensee's computer network. Licensee shall make available to Licensor all facilities and networks that are required for the delivery and installation of the Software.

4. **Annual Maintenance and Support.** Licensor shall provide Annual Maintenance and Support for the Software to enable the Licensee to utilize the Software as a functioning electronic record program. Annual Maintenance and Support shall include technical support, upgrades, enhancements, modifications, training, bug fixes and error resolutions.

5. **Term and Termination.**

A. *Term*. This Agreement shall run for a term of fifteen (15) years ("Term"), beginning on June 1, 2020, and expiring on May 31, 2035. During the Term, this Agreement may be terminated upon written agreement by both Parties or as indicated in section (B). At the end of the Term, this Agreement shall automatically renew unless written notice is given by either Party.

B. *Termination*.

(i) *Material Breach*. Either Party may terminate this Agreement if the other Party commits a material breach hereof by giving fifteen (15) days' notice to the breaching Party. A material breach shall be defined as a breach of any of the obligations, terms, conditions and covenants of this

Agreement which materially and substantially affects the Parties' performance under the Agreement and has a material adverse effect. If the breaching Party fails to correct the breach within ten (10) days, the Agreement is terminated. Either Party may immediately terminate this Agreement if the other Party fails to comply with any statutory requirement within this Agreement. Either Party may enforce the terms of this Agreement by any legal means.

(ii) *Termination upon Notice*. Either Party may terminate this Agreement for any reason upon thirty (30) days' written notice to the other Party.

C. *Effect of Termination*. Licensee shall cease use of the Licensed Products upon termination of this Agreement and shall provide a written certification to Licensor of removal of all copies of the Software from its system and destruction of all copies of Licensed Products except those required for archival purposes. Termination of this Agreement shall not relieve Licensee of its obligation to pay any fees nor result in the refund of any fees paid.

6. **Fees and Payment.** Licensee shall pay to Licensor annually the amount of Ninety-Five Thousand Dollars ($95,000.00) ("Annual Payment"). The Annual Payment shall be for the purchase of the license and annual maintenance as provided in this section. The Annual Payment shall be paid in full no later than June 1st of each year of this Agreement, with the first Annual Payment due upon execution of this Agreement.

A. *License Purchase Price*. The license purchase price shall be Three Hundred and Fifty Thousand Dollars ($350,000.00) ("Purchase Price"). The Parties agree that Forty Thousand Dollars ($40,000.00) of the Annual Payment shall be applied toward the Purchase Price annually until the Purchase Price is paid in full. Following receipt of the entire Purchase Price, Licensor shall grant Licensee a perpetual, non-exclusive license for the Licensed Products.

B. *Maintenance Fee*. The remainder of the Annual Payment shall be the Maintenance Fee. The Parties agree that upon payment in full of the Purchase Price, the entirety of the Annual Payment shall be a Maintenance Fee. Upon automatic renewal of this Agreement at the end of the Term, the Annual Maintenance and Support Fee shall increase five percent (5%) annually, not to exceed fifteen thousand dollars ($15,000.00) annually, unless agreed to by both Parties in writing.

C. *Payments*. All payments (i) shall be made by bank check or Licensee's check or wire transfer of immediately available funds and (ii) shall be due and payable to Licensor in U.S. Dollars, at Licensor's address as stated below, or such other place(s) as Licensor may from time to time designate in writing. All payments shall be made without offset or deduction of any nature whatsoever and are nonrefundable except as expressly stated in this Agreement.

7. **Warranty.**

A. Licensor warrants that: (i) it has the right to license the Software, and that there are no pending liens, claims, or encumbrances against the Software; (ii) there has been no violation of copyright or patent rights in connection with the Licensed Products; and (iii) services provided under this Agreement will be performed in a professional and workmanlike manner, and bug fixes, modifications and enhancements provided will perform in accordance with the City's standard specifications. **EXCEPT FOR THE WARRANTIES STATED ABOVE, LICENSOR MAKES NO OTHER WARRANTIES, WRITTEN OR ORAL, WHETHER EXPRESS OR IMPLIED. LICENSOR EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT.**

B. The Licensed Products are of a complex nature resulting in operations that may be interrupted or errors that may be encountered. Licensor's sole obligation and Licensee's sole remedy under this warranty is for Licensor, at its option, to provide such services, bug fixes, or other modifications it deems appropriate, provide a functional equivalent, or reperform services, if: (i) Licensor receives proper notice of any claimed Software defect during the warranty period, or a claim of defective services or Software within thirty (30) business days of the related occurrence. Proper notice includes copies of the data, reports and written procedures documenting the claim; (ii) the Licensee is otherwise in compliance with this Agreement and using the current version of the Software in accordance with Licensor standard specifications; and (iii) Licensor is able to reproduce any claimed defect. Should Licensor determine in its sole judgment after reasonable effort that a covered defect cannot be remedied, Licensor may elect to terminate this Agreement as to the affected Software and refund the paid, unused License Fees as to the affected Software only upon return of the Software and certification that the Software is no longer in use by Licensee.

C. *Further Limitations*. The limited warranties provided in this Section 7, as limited by other provisions of this Agreement, are non-transferable by Licensee except as set forth below and shall immediately become void in the event of any unauthorized use, modification, or repair of the Licensed Products or any part thereof, or upon breach by Licensee of any provision of this Agreement.

8. Indemnification.

A. Licensor hereby agrees to indemnify Licensee against any damages finally awarded against Licensee in connection with a claim that the Licensed Products directly infringe a United States copyright or patent or other intellectual property rights, provided that: (i) Licensee notifies Licensor in writing within 30 days of the claim; (ii) Licensor has sole control of the defense and all related settlement negotiations; and (iii) Licensee provides Licensor with the required assistance, information and authority. Licensor shall have no liability for any claim of infringement arising from: (a) any unauthorized use, alteration or modification of the Software including use of the Software in conjunction with products not provided by Licensor; or (b) use of a superseded or altered release of the Software if the infringement would have been avoided by the use of a current unaltered release of the Licensed Products.

B. If the Licensed Products are held or are believed by Licensor to infringe, Licensor shall have the option, at its expense, to: (i) modify the Licensed Products to be non-infringing; or (ii) obtain for Licensee a license to continue using the Licensed Products. If it is not commercially reasonable to perform either of the above options, then Licensor may terminate the license for the infringing Licensed Products and refund any unused License Fees or Annual Maintenance and Support fees paid for the affected Licensed Products. Licensee shall discontinue use of the Software.

9. Limitation of Liability.

To the extent a claim arises under warranty, the remedy stated in Section 7 applies. To the extent a claim arises under indemnification, the remedy stated in Section 8 applies. AS TO ALL OTHER CLAIMS, LICENSEE ACKNOWLEDGES THAT POTENTIAL DAMAGES IN ANY PROCEEDING WOULD BE DIFFICULT TO MEASURE WITH CERTAINTY AND THE PARTIES EXPRESSLY AGREE THAT AS A FAIR ASSESSMENT OF POTENTIAL DAMAGES, LICENSOR'S LIABILITY UNDER THIS AGREEMENT, REGARDLESS OF FORM OF ACTION, PROCEEDING OR THEORY OF RECOVERY, SHALL NOT EXCEED THE PURCHASE PRICE OR FEES ACTUALLY PAID TO LICENSOR WHICH ARE DIRECTLY RELATED TO THE CLAIM. REGARDLESS OF THE FORM OF ACTION, PROCEEDING, OR THEORY OF

RECOVERY, LICENSOR SHALL NOT BE LIABLE IN ANY MANNER FOR ANY LOST PROFITS, LOST SAVINGS OR OTHER SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING, WITHOUT LIMITATION, ANY SUCH DAMAGES ASSESSED AGAINST OR PAID BY LICENSEE TO ANY THIRD PARTY, ARISING OUT OF THE USE, INABILITY TO USE, QUALITY OR PERFORMANCE OF THE LICENSED PRODUCTS PROVIDED, EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10. General.

A. *Injunctive Relief*. Licensee's breach of any obligation under this Agreement regarding the use, duplication, modification, transfer or confidentiality of the Licensed Products shall entitle Licensor to injunctive, specific performance and/or other equitable relief, all without need of bond or undertaking of any nature, Licensee specifically acknowledging that Licensor's remedies at law under such circumstances would be inadequate.

B. *Assignment*. This Agreement shall not be assignable by either Party, and neither Party may delegate its duties hereunder without the prior written consent of the other Party. Any attempt by a Party to assign any of its rights or delegate any of its duties hereunder without the prior written consent of the other Party shall be null and void and shall result in immediate termination of this Agreement under its terms and conditions.

C. *No Third-Party Beneficiaries*. Unless explicitly provided for elsewhere in this Agreement, no person other than the Parties themselves has any rights or remedies under this Agreement.

D. *Governing Law and Venue*. This Agreement is governed by the laws of the State of Wisconsin. Venue lies in the state and federal courts located in Brown County, WI.

E. *Severability*. If any provision of this Agreement or the application thereof to any persons or circumstances shall, to any extent, be invalid or unenforceable, the remainder of the 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.

F. *Waiver*. Failure to require performance of any provision or waiver of a breach of a provision does not waive a Party's right to subsequently require full and proper performance of that provision.

G. *Entire Agreement*. This Agreement represents the Parties' entire agreement on this subject matter and may only be modified, amended, or added to after the date of this Agreement by a written instrument executed by both Parties, except as otherwise provided herein.

H. *Notices*. Any and all notices which either Party may give hereunder shall be in writing and delivered by registered or certified mail, return receipt requested, or by personal delivery, or by first class mail postage prepaid. In the case of first class mail, postage prepaid, delivery shall be deemed to have been accomplished two (2) days after deposit of the notice in the mail. Until written notice is delivered to the other Party of a change in address, the addresses set forth below shall be presumed to be current:

If to: LICENSOR
City of Green Bay Clerk
100 N. Jefferson St., Room 106
Green Bay, WI 54301

If to: LICENSEE
Brown County Clerk
305 E. Walnut St.
P.O. Box 23600
Green Bay, WI 54305

I. *No Agency*. Nothing in this Agreement is intended nor may be construed to create between Licensor and Licensee either an employer/employee, joint venture, or any other similar relationship. No agent, employee or representative of either Party shall be deemed to be an agent, employee or representative of the other Party. Neither Party shall have the authority to act for or on behalf of the other Party to bind the other Party without the express written approval of the other Party.

J. *Compliance with all Applicable Laws*. At all times, Licensee will adhere to all applicable state, federal and local laws and regulations in the conduct of its business, installation and use of the Software and maintain the proper insurances as are customary in the business. Furthermore, both Parties will comply with Wisconsin's Open Records Law (Chapter 19, Wis. Stats.) as required.

K. *Force Majeure*. Except for the payment of any amounts due, performance under this Agreement will be suspended for force majeure upon written notice and may be terminated if such event continues for more than 30 days.

L. *Survival*. Sections 2(C) and (D), 5(C), and 7 through 10, inclusive, shall survive any termination or expiration of this Agreement.

M. *Counterparts*. This Agreement may be executed in several counterparts, and the signatures hereon 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 Agreement.

N. *No Discrimination*. During the term of this Agreement, the Parties, and the employees, representatives, agents and/or volunteers thereof, shall not discriminate against any person based on race, color, creed, religion, sex, national origin, age, ancestry, disability, sexual orientation, gender identity, gender non-conformity, gender expression, transgender status, pregnancy, or marital or parental status.

Signature Page to Follow

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the last date listed below.

CITY OF GREEN BAY, Licensor

Dated: _______________, 2020

By___________________________________
Eric Genrich, Mayor

By___________________________________
Kris A. Teske, Clerk

BROWN COUNTY, Licensee

Dated: _______________, 2020

By___________________________________
Troy Streckenbach, County Executive

By___________________________________
Sandy Juno, County Clerk

Report to the
Finance Committee
of the City of Green Bay

MEETING DATE	PREPARED BY
June 16, 2020	

AGENDA ITEM # E.7

Consideration with possible action on the approval of the Distribution Agreement between the City of Green Bay and John Rousseau as sole member of Global Horizons, LLC.

The Committee may convene in closed session pursuant to Section 19.85(1)(e), Wis. Stats., for purposes of deliberating or negotiating the sale of public properties, investing of public funds or conducting other specified public business as necessary for competitive or bargaining reasons. The Committee may thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to report the results of the closed session and consider the balance of the agenda.

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

1. FINAL GB-Rousseau GERP Agreement

DISTRIBUTION AGREEMENT

This Distribution Agreement (hereinafter, "Agreement") is entered into this ___ day of ____________, 2020 ("Effective Date"), by and between the City of Green Bay, a Wisconsin municipal corporation (hereinafter, "City"), and John Rousseau, sole member of Global Horizons, LLC (hereinafter, "Author"), collectively referred to as the Parties.

RECITALS

WHEREAS, the Parties entered into an Agreement for Services Between John Rousseau and the City of Green Bay (hereinafter, "Original Agreement") on December 13, 2006, pursuant to which both Parties agreed to share an equal interest in the Green Bay Electronic Records Program ("GERP") for a period of twenty five (25) years; and

WHEREAS, the Parties entered into an addendum to the Original Agreement, titled "GERP Agreement," on July 23, 2014 (hereinafter, "2014 Addendum"), which established the terms for distribution of proceeds between the parties based on the sale of GERP licenses to other municipalities pursuant to the Original Agreement; and

WHEREAS, the City desires to sell a non-exclusive GERP license to Brown County, Wisconsin ("County"); and

WHEREAS, the Parties desire to enter into this Agreement in order to establish the terms for distribution of proceeds between the Parties based on the sale of a GERP license to the County pursuant to the Original Agreement; and

WHEREAS, this Agreement shall serve as a second addendum to the Original Agreement;

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, and the promises and agreements hereinafter contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Author and City agree:

1. **Distribution of Proceeds.** Author shall be entitled to an amount equal to fifty percent (50%) of the license purchase price actually received by the City for the sale of the GERP license to the County, which agreement will be entered into coterminously with this Agreement. The City agrees to structure its agreement with the County ("GERP License Agreement") so that the purchase price shall be Three Hundred and Fifty Thousand Dollars ($350,000.00) ("Purchase Price"), payable at a rate of Forty Thousand Dollars ($40,000.00) annually for eight (8) years, with the remainder of the Purchase Price paid in full in year nine (9) from the date of execution of the GERP License Agreement with the County. All payments received shall be split equally between the Parties, and the City shall pay Author fifty percent (50%) of the proceeds received within thirty (30) days of receipt. For example, if the City receives $40,000.00 from the County on January 1, 2020, the City shall pay $20,000.00 to Author no later than January 31, 2020.

a. **Clawback Rights.** Notwithstanding any other provision in this Agreement to the contrary, in the event that the City is required to indemnify the County under the GERP License Agreement in connection with a claim that the GERP software and/or supporting documentation which Author was directly involved in developing and/or writing directly infringes a United States copyright or patent or other intellectual property rights, the City shall be entitled to recover from Author all damages resulting from such claim. This remedy is in addition to, and not in lieu of, any of the other remedies available to the City under this Agreement.

2. **Installation and Maintenance.** The Parties acknowledge and agree that in addition to sale of the GERP license to the County pursuant to the GERP License Agreement, the City shall also provide installation and maintenance services to the County for additional consideration as part of the GERP License Agreement. The City shall have sole responsibility for installation and maintenance of the GERP software for the County. The Parties agree therefore that any and all installation and maintenance payments received by the City pursuant to the GERP License Agreement with the County shall be the sole property of the City and shall not be subject to the distribution of payments provided herein. Author shall be provided with a draft of the GERP License Agreement for review and approval as to the sale of the license, before provision to the County for execution. Author agrees that his review and approval as to the sale of the license shall not be unreasonably delayed or withheld. Author acknowledges and agrees that the GERP License Agreement between the City and County may be structured such that (a) the County will make payments to the City for fifteen (15) consecutive years, (b) the City will provide installation and maintenance services to the County for the duration of the GERP License Agreement, (c) the total amount received by the City under the GERP License Agreement will exceed the Purchase Price, and (d) all amounts received in excess of the Purchase Price are owed solely to the City as consideration for installation and maintenance of GERP. Author further acknowledges that but-for payment of the Purchase Price in full during the first nine years of the GERP License Agreement as provided for herein, the City would have received a larger payment for installation and maintenance purposes during the initial nine years, and that the City is therefore seeing no additional consideration for the sale of the license to the County beyond its equal fifty percent (50%) share.

3. **Grant of License.** The City shall have the sole and final authority to grant a non-exclusive license to Brown County upon payment of the Purchase Price as provided for herein, and no further action shall be required by Author in order for such license to be granted.

4. **Term.** Nothing herein shall be construed as extending or reducing either the term of the Original Agreement, or Author's interest in GERP beyond the time frame set forth therein.

5. **Entire Agreement.** This Agreement constitutes the Parties' complete agreement with respect to the sale of a non-exclusive GERP license to the County, and may only be amended by a written instrument executed by both Parties.

6. **Termination.** In the event that the GERP License Agreement between the City and the County is terminated for any reason or by any party, this Agreement shall automatically terminate and neither party shall have any liability to the other party beyond distribution of proceeds actually received prior to termination of the GERP License Agreement, or proceeds

actually received after termination of such Agreement resulting from a delayed payment, collection action, or otherwise. The GERP License Agreement shall require by its terms that written notice be given to Author at least thirty (30) days prior to any termination.

7. **Controlling Law.** This Agreement will be construed and interpreted in accordance with the laws of the State of Wisconsin, notwithstanding any conflicts of laws provisions. Venue shall be proper in Brown County, Wisconsin.

8. **Assignment.** Neither party may assign its rights or delegate its obligations under this Agreement without the prior written consent of the other Party. This Agreement is binding upon, and inures to the benefit of, the Parties and their heirs and permitted successors. For the avoidance of doubt, in the event of the death of Author, the Author's fifty percent (50%) proportionate share of the payments of the Purchase Price shall be payable by the City to Author's estate or personal representative.

9. **Compliance with Open Records Laws.** The City shall comply with Wisconsin Statutes Chapter 19, Subchapter II, pertaining to Wisconsin Open Records Law, as is required.

10. **Severability.** 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.

11. **No Agency.** Nothing in this Agreement is intended nor may be construed to create between Author and the City either an employer/employee, joint venture, landlord/tenant, or any other similar relationship. No agent, employee or representative of either Party shall be deemed to be an agent, employee or representative of the other Party. Neither Party shall have the authority to act for or on behalf of the other Party to bind the other Party without the express written approval of the other Party.

12. **Third Party Beneficiaries**. There are no third party beneficiaries to this Agreement, and no person other than the Parties themselves has any rights or remedies under this Agreement.

13. **Counterparts.** This Agreement may be executed in several counterparts, and the signatures hereon may be transmitted electronically. Electronic signatures will 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 Agreement.

14. **Authority to Execute.** The Parties have given due authority to the individuals who have signed this Agreement to execute this Agreement on behalf of Author and the City respectively, and, when signed, this Agreement shall constitute the binding obligation each of the Parties hereto.

15. **No Discrimination.** During the term of this Agreement, the Parties, and the employees, representatives, agents and/or volunteers thereof, shall not discriminate against any

person based on race, color, creed, religion, sex, national origin, age, ancestry, disability, sexual orientation, gender identity, gender non-conformity, gender expression, transgender status, pregnancy, or marital or parental status.

Signature Page to Follow

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the last date listed below.

GLOBAL HORIZONS, LLC

Dated: _______________, 2020

By___________________________________
John Rousseau, Sole Member

CITY OF GREEN BAY

Dated: _______________, 2020

By___________________________________
Eric Genrich, Mayor

By___________________________________
Kris A. Teske, Clerk