



Take notice that the City of Ashland Common Council will meet in person in the City Hall Council Chambers, 601 Main Street W. Ashland, WI with the availability to attend virtually, to consider and act upon the following agenda.

To join the meeting from your computer, tablet or smartphone:

<https://global.gotomeeting.com/join/500263957>

Or dial in using your phone. United States (Toll Free): 1-877-309-2073 Access Code: 500-263-957

Please contact the Clerk's office if you require accommodations to attend the meeting.

Tuesday, June 25, 2024 Ashland City Council Meeting Agenda

1. CALL TO ORDER

A. Roll Call, Moment of Silence and Pledge of Allegiance

2. APPROVAL OF AGENDA

3. APPROVAL OF MINUTES

A. June 11, 2024 City Council and Committee of the Whole Meeting Minutes

4. CITIZEN PARTICIPATION PERIOD

5. MAYOR'S REPORT

A. Announcements

B. Appointments

6. OLD BUSINESS

- A. **Approve to Accept a Bid and Award a Contract for the Lake Superior Water Intake Project to Roen Salvage Company** (*Public Works*) Roll
- B. **Approve a Resolution Authorizing the Issuance and Sale of Up to \$847,920 Water System Revenue Bonds, Series 2024, and Providing for Other Details and Covenants with Respect Thereto, and Approval of Related \$847,920 Financial Assistance Agreement** (*Public Works, Finance*) Roll
- C. **Approve a Resolution Authorizing the Issuance and Sale of Up to \$1,097,053 Sewerage System Revenue Bonds, Series 2024, and Providing for Other Details and Covenants With Respect Thereto, and Approval of Related \$2,246,582 Financial Assistance Agreement** (*Public Works, Finance*) Roll
- D. **Approve a Resolution Declaring Official Intent to Reimburse Expenditures from Proceeds of Borrowing through the State of Wisconsin Environmental**



Improvement Fund for Bipartisan Infrastructure Law (BIL) SFY2025 Lead Service Lateral Funding (*Public Works*) Roll

- E. **Approve Change Order No. 1 to Ritola, Inc for the 2024 Ore Dock Access Road Project (*Public Works*) Roll**
- F. **Consideration of Revision #1 State/Municipal Agreement (SMA) Dated June 18, 2024 for the Prentice Avenue Phase 1 Project (*Public Works*) Roll**
- G. **Consideration of Revision #1 of the State/Municipal Agreement (SMA) Dated June 18, 2024 for the Cary Street Mill and Overlay Project (*Public Works*) Roll**
- H. **Consideration of Revision #1 of the State Municipal Agreement (SMA) Dated June 18, 2024 for the Industrial Park Road Mill and Overlay Project (*Public Works*) Roll**

7. NEW BUSINESS

- A. **Consideration of a Resolution to Acknowledge Review of the 2023 Compliance Maintenance Annual Report (CMAR) of the Ashland Wastewater Utility Pursuant to the Requirements of NR 208, Wisconsin Administrative Code as Required Annually (*Public Works*) Roll**

8. ADJOURNMENT

The City of Ashland does not discriminate on the basis of sex, race, creed, color, national origin, sexual orientation, age or disability in employment or provision of services, programs or activities.

NOTE: Upon reasonable notice, the City of Ashland will accommodate the needs of disabled individuals or individuals with limited English proficiency through auxiliary aids or services. For additional information or to request this service, contact the City Clerk's Office at 715-682-7071 (not a TDD telephone number) or FAX: 715-682-7048

MEETING MINUTES
ASHLAND CITY COUNCIL
Tuesday, June 11, 2024 – 6:00 PM
Ashland City Hall Council Chambers

1. CALL TO ORDER

The Tuesday, June 11, 2024 Ashland City Council meeting was called to order by Mayor Matt MacKenzie at 6:00 p.m.

A. **Roll Call, Moment of Silence and Pledge of Allegiance**

Roll call was taken, a Moment of Silence was held, and the Pledge of Allegiance was recited.

PRESENT: Kevin Seefeldt, Sarah Jackson, Ana Tochtermann, James Gregoire, Charlie Ortman, Nancy Sztynior

ABSENT: Andy Goyke (Excused)

ALSO PRESENT: Mayor Matthew MacKenzie, City Administrator Brant Kucera, City Clerk Denise Oliphant, City Attorney Max Lindsey, Public Works Director John Butler, Planning Director Steven Wiley, Police Chief Willis Hagstrom, Fire Chief Stuart Matthias, Utility Supervisor Brian Ledin, Marina Manager Scott Stegmann, and other interested citizens.

2. APPROVAL OF AGENDA

A motion by Seefeldt and seconded by Sztynior to approve the agenda as presented, carried unanimously by voice vote.

3. APPROVAL OF MINUTES

A. **May 28, 2024 City Council and Committee of the Whole Meeting Minutes**

A motion by Jackson and seconded by Tochtermann to approve the minutes was carried unanimously by voice vote.

4. CITIZEN PARTICIPATION PERIOD

The Clerk read the Rules for Citizen Participation, and the following offered their comments to the Council:

Don Jaskowiak, 121 Willis Avenue North, requested a donation by the City to fund the 4th of July fireworks.

Zygmund Jablonski Jr, 916 6th Avenue West, spoke regarding the water intake project costs.

5. MAYOR'S REPORT

A. **Announcements**

Recent hires were introduced by their department managers, including Niles Fetter, Engineer, Madison Krzciok, Engineer, Terri Erickson, Planning Assistant, Andy Coda, Firefighter, Steven Van Hoorelbeke, Firefighter, and Derek Hall, Airport Manager. The City-wide clean up held last weekend was well attended. The water meter change-out project is nearing its end. Road work continues throughout the City including Stuntz Avenue North. The National Guard Construction Unit has been working on various areas in the community. Mac Kenzie asked to spread the word regarding the availability to vote other than on Election Day. Some visitors of City Hall have been unruly in recent weeks and Mac Kenzie plans to assist in maintaining daily civil conversations. There has been conversation regarding recreating east Main Street as an arts district.

B. **Appointments**

A motion by Seefeldt and seconded by Sztynodor to approve Tom Tolliver to the Police and Fire Commission was passed unanimously by voice vote. His term is to expire in May 2029.

6. CONSENT AGENDA

A. **Miscellaneous Minutes**

Seefeldt moved, seconded by Ortman to approve the Consent Agenda. The motion passed unanimously by voice vote.

7. OLD BUSINESS

A. **Consider a Proposal for Professional Construction ADministration Services between the City of Ashland and Long Island Engineering, LLC for the 2024 Prentice Avenue Phase 1 Reconstruction Project** *(Public Works)* Roll

A motion by Seefeldt and seconded by Tochtermann to approve the proposal in the amount of \$81,300 was passed unanimously by roll call vote.

B. **Approval of Mobile Home Park License for 2024-2025 Licensing Year** *(Clerk)* Voice

A motion by Seefeldt and seconded by Sztynodor to approve the license was passed unanimously by voice vote.

8. NEW BUSINESS

A. **Consider a Resolution to Combine Wards and Establish the Polling Place for the August 13, 2024 Partisan Primary Election** *(Clerk)* Roll

Tuesday, June 11, 2024



A motion by Ortman and seconded by Tochtermann to approve the resolution was passed unanimously by roll call vote.

File #17785

- B. **Consider Approval of License Applications for Alcohol Beverages Including New Officers/Agents, Arcade and Game, Pawn Broker, Recycling Facility/Salvage Operation, and Taxicab** *(Clerk)* Voice

A motion by Seefeldt and seconded by Jackson to approve the licenses upon contingencies is applicable, passed 5-0 by roll call vote; Sztynдор abstained.

- C. **Consider an Application for Appointment of Agent Alcohol Beverages and Tobacco and Vaping Products, for Kwik Trip #163 at 515 Ellis Avenue, and Agent Bobbi Bigboy** *(Clerk)* Voice

A motion by Seefeldt and seconded by Ortman to approve the application was passed unanimously by voice vote.

9. ADJOURNMENT

A motion by Jackson and seconded by Ortman to adjourn was passed unanimously by voice vote.

Respectfully Submitted,

Denise Oliphant,
City Clerk

MEETING MINUTES
COMMITTEE OF THE WHOLE MEETING
Tuesday, June 11, 2024 – 6:00 PM
Ashland City Hall Council Chambers

The Tuesday, June 11, 2024 City of Ashland Committee of the Whole Meeting was called to order by Council President Charlie Ortman at 6:35 p.m.

1. **Roll Call**

PRESENT: Kevin Seefeldt, Sarah Jackson, Ana Tochtermann, Jim Gregoire, Charlie Ortman, Nancy Sztynodor

EXCUSED: Andy Goyke

ALSO PRESENT: Mayor Matthew Mac Kenzie, City Administrator Brant Kucera, City Clerk Denise Oliphant, Public Works Director John Butler, Planning Director Steven Wiley, Police Chief Bill Hagstrom, Fire Chief Stuart Matthias, Marina Manager Scott Stegmann, Utility Supervisor Brian Ledin, and other interested citizens.

2. **Approval of Agenda**

A motion by Jackson and seconded by Sztynodor to approve the agenda passed unanimously by voice vote.

3. **Council President's Report**

Ortman recommended a conversation in the future regarding air B&Bs and how they negatively affect local housing.

4. **Administrator's Report**

Kucera noted there were 33 citizens who volunteered during the recent Earth Day Clean Up Challenge, including the Cub Scouts and some City staff. He also offered his appreciation to Bill Bailey of Xcel Energy for contacting the State regarding the EV charging stations in Ashland and Bayfield counties.

5. **Committee Updates**

Library Board - Jackson: The engineers will be doing a walk through the library next week in anticipation of the renovations.

Plan Commission - Tochtermann: Discussed the CUP that was approved at the last Council meeting.

Sustainability Committee - Ortman: The group plan to talk about the following in the near future: ecomunicipality, dark sky initiative, 25x25 plan, Source Water Protection plan, solar power at the Wastewater Treatment plant, rain barrels, storm water runoff and rain gardens.

No other committees offered reports.

6. **DISCUSSION ITEMS**

A. **Discussion and Possible Action to Allow the Fire Department to Apply for a Forest Fire Protection Grant** *(Fire Chief)*

Chief Matthias introduced the item and answered questions from Council. A motion by Jackson, seconded by Seefeldt to approve to submit the application was approved unanimously by voice vote.

B. **Discussion and Possible Action Regarding the Water Intake Project** *(Councilor Ortman)*

Butler introduced the item and answered questions from Council. No action was requested at this time.

C. **Discussion and Possible Action with Recommendation to Amend Chapter 922 Regarding Act 73 Class C Alcohol Beverage Licensure Changes** *(Clerk)*

Oliphant introduced the item and answered questions from Council. Council agreed to having a proposed ordinance amendment return for review at the next Committee of the Whole meeting.

D. **Discussion and Possible Action Regarding Proposed Amendments to the Harbor Commission** *(Mayor)*

Mac Kenzie explained the need review the City's Ordinance to better spell out what the Harbor Commission is expected to oversee regarding the Marina and waterfront properties. This will come back to the Committee of the Whole for further discussion.

7. **Items for Future Discussion**

Jackson - Requested to discuss the issues made known at the Artesian well.

Mac Kenzie - Requested to discuss the increased enforcement of property maintenance during the summer.

Mac Kenzie - Vehicles which are purposely loud in the City.

Ortman - Discuss the shortage of housing for the low income population.

Mac Kenzie - The potential for requiring permits for empty housing.

Mac Kenzie - Requiring retail establishments on the lower floors of buildings on Main Street.

8. **Adjournment**

Gregoire moved, seconded by Seefeldt, to adjourn. The motion carried unanimously by voice vote.

Respectfully Submitted,

Denise Oliphant,
City Clerk

Ref: 2024-161

COUNCIL AGENDA: 5.B.
(6/25/2024)

SUBJECT: Appointments

RECOMMENDATION:

DEPARTMENT OF ORIGIN: Administrator

CLEARANCES: Mayor

EXHIBITS:

1.	L Martinsen - Volunteer form (redacted)
2.	J Lewis - Volunteer Form (redacted)

**EXPENDITURES
REQUIRED:**

AMOUNT BUDGETED:

**APPROPRIATION
REQUIRED:**

**TREASURER'S
CERTIFICATE:**

COMPLIANCE WITH CHAPTER 51:

STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN:

SUMMARY STATEMENT:

The Mayor requests approval of the following appointments/reappointments:

Parks & Recreation Committee: Lauren Martinsen, term to expire April 30, 2027

Harbor Commission: Jeff Lewis, term to expire July 31, 2025

OFFER TO VOLUNTEER FORM

Mackenzie
Mayor ~~Dale Lewis~~, City of Ashland, 601 Main Street West, Ashland, WI 54806
Phone: 715-682-7071 Fax: 715-682-7048 dlewis@coawis.org

I would like to be considered a nominee for the following Committee or Committees:

Parks and Rec Committee

Brief statement of education and training:

*Bachelor's from UW- Parkside in Menasha
Masters from St. Mary's University*

Biography:

(Need a sense of who you are as an individual. Examples: general background, work history, life experiences, volunteer activities, special interests, special skills, hobbies, personality, people skills, etc.)

I am a mom of 3 kids six and under. I moved to Ashland in 2013 as my husband, James, is from here. I have taught elementary special ed in Melton and Ashland, but am currently hired as the district's Grant Writer. We love family hiking, fishing, and being outdoors.

Individual References or Referred by (include phone #):

Jo Ann Erickson

Matt Mackenzie

Contact Information:

Lauren Martinsen

Name (Print)

Phone Number

3500 City Heights Rd, Ashland

Address

Date

6/17/24

Find yourself next to the water.

ASHLAND

City of Ashland, Wisconsin

601 Main Street West Ashland, WI 54806 www.coawi.org

OFFER TO VOLUNTEER FORM

I would like to be considered a nominee for the following committee or committees:

Parks & Rec Committee

Write a brief statement of education and training:

Retired physician. Active in starting Pickleball in Ashland. Raising grandchildren.

Biography: (Need a sense of who you are as an individual. For example, general background, work history, life experiences, volunteer activities, special interests, special skills, hobbies, personality, people skills, etc.)

Retired from Practice in 2024. Previously started North Coast Community sailing in 2001. Board President was for 15 yrs. President of board for Habitat for Humanity 1998-99. Many hobbies esp. Pickleball, Golf, fishing, sailing.

Individual references/referred by (please include phone #):

Deb Lewis

Sarah Hudson

Contact information:

Jeff Lewis -

Name (Please print)

Phone #

722 Chopple Ave Ashland WI 54806

Address

[Redacted Address]

6-6-24

Email

Date

Ref: 2024-156

**COUNCIL AGENDA: 6.A.
(6/25/2024)**

SUBJECT: Approve to Accept a Bid and Award a Contract for the Lake Superior Water Intake Project to Roen Salvage Company (*Public Works*) Roll

RECOMMENDATION: Approval

DEPARTMENT OF ORIGIN: Public Works

CLEARANCES: City Administrator
City Attorney
Public Works Director
As Discussed at Committee of the Whole, June 11, 2024

EXHIBITS:

1.	New Water Intake Project, Bid Report
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EXPENDITURES REQUIRED: \$10,330,900.00 Construction Total
\$ 516,545.00 Construction Contingency (5%)
\$10,847,445.00 Project Total

AMOUNT BUDGETED: N/A

APPROPRIATION REQUIRED: \$ 1,204,877.50- Army Corps of Engineers
\$ 9,606,567.50- Fund 680 Water Utility (WI DNR Safe Drinking Water Loan FY 2025)

TREASURER'S CERTIFICATE: The Treasurer's Office has certified on June 5, 2024, that Roen Salvage Company is in compliance with the provisions of Ordinance 923.10 Ashland City Ordinances.

COMPLIANCE WITH CHAPTER 51: Section 51.26 (b) of Chapter 51, Ashland City Ordinances, permit the Mayor and/or Clerk to schedule items directly for Council action when a timely decision is needed by the City. The Mayor and/or City Clerk has chosen to direct this item directly to Council pursuant to the authority granted to them in Chapter 51, Ashland City Ordinances.

STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN: The proposed development conforms to the goals and community values identified in the City of Ashland's Comprehensive Plan.

SUMMARY STATEMENT:

Greeley & Hansen, on behalf of the City of Ashland Public Works Department, received and opened five bids on May 23, 2024 for the New Lake Superior Intake Project.

The project consists of a new 24-inch diameter, 4,500 foot length ductile iron intake pipeline, and new timber crib intake structure, a new pre-chlorination system, and other associated appurtenances.

The lowest responsible bidder was Roen Salvage Company. Located in Sturgeon Bay, WI, Roen Salvage Company specializes in marine construction and has done extensive work for the Army Corp of Engineers throughout the Great Lakes. Roen Salvage Company has also completed other drinking water intake pipelines, including at Lutsen, MN and Escanaba, MI.

The Public Works Department, along with Greeley & Hansen, recommends awarding the contract to Roen Salvage Company.

The \$1.2 million in Army Corp of Engineers funding represents the remaining grant funding available for construction following completion of the design. The \$9.6 million in Wisconsin Department of Natural Resources (WI DNR) funding includes \$1.6 in principal forgiveness, meaning the proposed loan amount is approximately \$9 million. This cost will be repaid to the WI DNR over a 30-year period, with the currently projected interest rate at 1.357 percent.

The Water Utility's financial advisor, Ehlers, has verified that the Water Utility would be able to service this debt with the proposed 44% rate increase.



May 29, 2024

Mr. John Butler, P.E.
Director of Public Works
City of Ashland
2020 6th Street
Ashland, WI 54806

Subject: New Water Intake Project, Bid Report

Dear Mr. Butler:

The proposals for the New Water Intake Project have been tabulated and reviewed. Five bidders submitted proposals. The low bidder was Roen Salvage Company. Detailed findings and the basis for the recommendations are presented in the attached Bid Report.

Roen Salvage Company has performed marine construction in the Great Lakes since their founding in 1949. Their Statement of Qualifications identifies experience in both potable water intakes as well as related marine construction and mechanical dredging work on Lake Superior and Lake Michigan in recent years. We are of the opinion that they are competent and qualified to execute construction of the subject contract.

Contingent upon the concurrence of the City's attorney that Roen Salvage Company has submitted a legal and binding proposal, we recommend that the New Water Intake Project be awarded to Roen Salvage Company in the amount of \$10,333,900.00.

Please don't hesitate to contact me at 312-578-2412 or ted.bluver@greeley-hansen.com with any inquiries on this matter.

Yours very truly,

Greeley and Hansen LLC

Ted R. Bluver, P.E.
Project Manager

TRB/trb

c: Mr. Brian Ledin, Operations Manager
Mrs. Katie Richardson, Project Director
Mrs. Juhi Tilak, Project Engineer

CITY OF ASHLAND WATER UTILITY

New Water Intake Project

City of Ashland, Wisconsin

Bid Report

Greeley and Hansen LLC

May 2024

1. General

A request for proposals for waterworks improvements was published on QuestCDN and in the Ashland Daily Press on Tuesday, April 9 and Tuesday, April 16, 2024. The improvements are comprised of a new 24-inch diameter, 4,500 linear foot ductile iron intake pipeline, a new timber crib intake structure, and a new pre-chlorination system along with other miscellaneous improvements. Five addenda were issued on April 10, April 19, April 22, May 6, and May 20, 2024. The proposals were received, opened, and read publicly at 10:00 a.m. local time on Thursday, May 23, 2024, in accordance with the Advertisement for Bids.

2. Proposals Received

Five proposals were received from the following bidders:

- Ballard Marine Construction, LLC
- Great Lakes Dock & Materials, LLC
- J.F. Brennan Company, Inc.
- Kokosing Industrial, Inc.
- Roen Salvage Company

All these bidders attended the mandatory pre-bid conference held on Thursday, April 18, 2024, at 10:00 a.m. local time and submitted their statement of qualifications not less than 5 days prior to bid opening. The bidders submitted their proposals along with the required bid security, indicated key manufacturers, and acknowledged receipt of the five addenda. The bidders, total bid price, and bid security are shown in a bid tabulation at the end of this report.

3. Irregularities

The bidders were required to submit documentation pertaining to disadvantaged business enterprises (DBEs) with their bids to demonstrate good faith efforts towards engaging DBEs on the project. Documentation of these good faith efforts are required by the Wisconsin Department of Natural Resources (WDNR) through the Safe Drinking

Water Loan Program (SDWLP), which is funding a portion of the project. Roen Salvage Company was the only bidder that submitted complete documentation in this regard. Documentation was not found in Ballard Marine Construction, LLC's bid indicating whether the DBE that submitted a proposal would be utilized on the project, the amount and percent of the total bid price utilized by the DBE, or the rationale for not utilizing the DBE. Great Lakes Dock & Materials, LLC did not submit the amount and percent of the total bid price for the DBE utilized. No documentation pertaining to DBEs was found in J.F. Brennan Company, Inc.'s bid. Kokosing Industrial, Inc. did not submit documentation pertaining to DBEs with their bid and instead submitted it separately via email during the bid opening.

Ballard Marine Construction, LLC submitted a bid unit price of \$575.00 and a bid price of \$862,500.00 for Contract Item No. 3 – Disposal of Impacted Soil in the Bid Form. However, the bid unit price in words was written as “eight hundred sixty-two thousand and five-hundred dollars” in lieu of the bid unit price entered as \$575.00. Regardless of this discrepancy, per Specification Section 00 21 13, Article 12.01.A, the Bid Worksheet Tab takes precedence over the Bid Form PDF. In the Bid Worksheet Tab, Ballard Marine Construction, LLC entered a bid unit price of \$575.00 and a bid price of \$862,500.00. Therefore, per the bid documents, Ballard Marine Construction, LLC's bid for Contract Item No. 3 is a bid unit price of \$575.00 and a bid price of \$862,500.00. No other irregularities were found.

4. Bid Review

A. Tabulation of Bids

Table 1 presents a summary of the Engineer's Cost Opinion and the bids based on the total bid price for each bidder. A bid tabulation is attached at the end of this report in Table 2. Roen Salvage Company is the apparent low bidder.

Table 1 – Bid Tabulation Summary

Bidder	Total Bid Price
Engineer's Cost Opinion	\$9,710,000
AACE Class 1 Level, Lower Bound, -10%	\$8,739,000
AACE Class 1 Level, Upper Bound, +15%	\$11,166,500
Roen Salvage Company	\$10,333,900
Kokosing Industrial, Inc.	\$10,992,310
Ballard Marine Construction, LLC	\$12,202,500
J.F. Brennan Company, Inc.	\$12,445,000
Great Lakes Dock & Materials, LLC	\$17,554,613

B. Difference Between Amounts Bid and Engineer's Cost Opinion

The Engineer's Cost Opinion was developed to an AACE Class 1 level with an expected accuracy range of -10% to +15%. The two lowest bids are within the expected accuracy range of the Engineer's Cost Opinion. The Engineer's Cost Opinion is within $\pm 6\%$ of the low bidder.

C. Difference Between Amounts Bid by the Bidders

The two lowest bids are within $\pm 6\%$ of one another. The four lowest bids are within $\pm 19\%$ of one another. These differences, particularly for the two lowest bidders, is small relative to the total bid price, which is an indication that these bidders submitted competitive bids.

5. Qualifications of Apparent Low Bidder

Roan Salvage Company, the apparent low, responsive, and responsible bidder, is a marine contractor based in Sturgeon Bay, Wisconsin with over 74 years of experience throughout the Great Lakes and Midwestern inland waterways. Their submitted experience includes marine construction, mechanical dredging, waterworks improvements, and related work, including a water intake pipeline in Lutsen, Minnesota and a water intake replacement in Escanaba, Michigan. Greeley and Hansen contacted the references provided by Roan Salvage Company. Of those that responded, including the U.S. Army Corps of Engineers, the feedback received was that Roan Salvage Company is efficient and effective and delivered under budget and ahead of schedule. Based on Greeley and Hansen's review of their statement of qualifications, we believe that Roan Salvage Company is qualified to perform the work.

6. Recommendations

Roan Salvage Company is the apparent low, responsive, and responsible bidder. Subject to the concurrence of the City's attorney that Roan Salvage Company has submitted a legal and binding proposal, we recommend that the New Water Intake Project be awarded to Roan Salvage Company in the amount of \$10,333,900.00.

Table 2 – Bid Tabulation

Contract Item				Engineer's Cost Opinion		Roen Salvage Company		Kokosing Industrial, Inc.		Ballard Marine Construction, LLC		J.F. Brennan Company, Inc.		Great Lakes Dock & Materials, LLC	
						180 E Redwood St Sturgeon Bay, WI 54235 (920) 743-6533		958 N. Huron St Cheboygan, MI 49721 (231) 627-5633		1460 John A. Papalas Dr Lincoln Park, MI 48146 (912) 438-1058		818 Bainbridge St La Crosse, WI 54603 (608) 784-7173		1800 Lakeshore Dr Muskegon, MI 49441 (231) 755-2225	
No.	Description	Unit	Quantity	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price
1	Water Intake Improvements	LS	1	\$9,440,000	\$9,440,000	\$9,835,900	\$9,835,900	\$10,520,000	\$10,520,000	\$11,199,000	\$11,199,000	\$11,973,000	\$11,973,000	\$17,035,413	\$17,035,413
2	System Integration	LS	1	\$90,000	\$90,000	\$123,000	\$123,000	\$112,310	\$112,310	\$141,000	\$141,000	\$112,000	\$112,000	\$123,200	\$123,200
3	Disposal of Impacted Soil	Tons	1,500	\$120	\$180,000	\$250	\$375,000	\$240	\$360,000	\$575	\$862,500	\$240	\$360,000	\$264	\$396,000
Total Bid Price					\$9,710,000		\$10,333,900		\$10,992,310		\$12,202,500		\$12,445,000		\$17,554,613
AACE Class 1, Lower Bound, -10%					\$8,739,000		--		--		--		--		--
AACE Class 1, Upper Bound, +15%					\$11,166,500		--		--		--		--		--
Bid Security (5% of Total Bid Price Required)					--		5% of Total Bid Price		5% of Total Bid Price		5% of Total Bid Price		5% of Total Bid Price		5% of Total Bid Price
Bid Bond Company					--		Atlantic Specialty Insurance Company		Liberty Mutual Insurance Company		Travelers Casualty and Surety Company of America		Fidelity and Deposit Company of Maryland		Atlantic Specialty Insurance Company
Acknowledgment of Addenda (Yes or No)					--		Yes		Yes		Yes		Yes		Yes
Circled Manufacturers (Yes or No)					--		Yes		Yes		Yes		Yes		Yes
Submitted DBE Documentation ¹ (Yes or No)					--		Yes		No		Yes		No		Yes

Notes: 1. Please refer to Section 3 Irregularities that discusses review of the DBE documentation.

Ref: 2024-157

COUNCIL AGENDA: 6.B.
(6/25/2024)

SUBJECT: Approve a Resolution Authorizing the Issuance and Sale of Up to \$847,920 Water System Revenue Bonds, Series 2024, and Providing for Other Details and Covenants with Respect Thereto, and Approval of Related \$847,920 Financial Assistance Agreement (*Public Works, Finance*) Roll

RECOMMENDATION: Approval

DEPARTMENT OF ORIGIN: Public Works

CLEARANCES: Finance Director
Public Works Director
Approved by Council, March 14, 2023

EXHIBITS:

1.	Proposed Resolution No. 17786
2.	State of Wisconsin Safe Drinking Water Loan Program - Financial Assistance Agreement

EXPENDITURES REQUIRED: \$0

AMOUNT BUDGETED: \$0

APPROPRIATION REQUIRED: \$0

TREASURER'S CERTIFICATE: N/A

COMPLIANCE WITH CHAPTER 51: The Mayor and/or Clerk has consented to placement of this agenda item on the Council agenda as timely action is needed.

STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN: The proposed revenue bonds conform to the goals and community values identified in the City of Ashland's Comprehensive Plan.

SUMMARY STATEMENT:

The approval of the accompanying resolution is required to obtain the financing needed to pay for the watermain portion of the 2023 MacArthur Ave Reconstruction project, previously authorized by the Council at the April 18, 2023 meeting. Work by Jake's Excavating is largely completed, with only minor concrete repairs pending.

At the March 14, 2023 meeting, the Council approved a contract with Short, Elliott, Hendrickson Inc. (SEH) that included professional services necessary to allow the project to be eligible for the Wisconsin Department of Natural Resources (WI DNR) Safe Drinking Water Loan Program (SDWLP), a funding program established to provide support for municipal drinking water projects, with priority given to low income communities. The SDWLP provides funds at reduced interest rates and allows for principal forgiveness.

Based upon the WI DNR's approval of the City's funding application last summer, the Council awarded a contract in the amount of \$1.28M to Jake's Excavating & Landscaping LLC. Costs eligible for WI DNR funding total \$847,920, with the City providing the remaining funding. The City is also pursuing funding for the New Lake Superior Intake pipeline through the SDWLP and has maximized the available principal forgiveness in a given state fiscal year through that project. Thus, no principal forgiveness is provided for the Mac Arthur Avenue Reconstruction project. However, the interest rate paid on the bonds will be at the SDWLP subsidized rate of 1.353% and the balance will be amortized over a 30-year period.

Council is asked to approve the required resolution authorizing the issuance of Water System Revenue Bonds and the accompanying Financial Assistance Agreement for the financing of the 2023 Mac Arthur Avenue Reconstruction Project.

Repayment of this debt has been included in long term financial projections informing the proposed user rate increases for the drinking water system.

RESOLUTION NO.17786

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF UP TO \$847,920 WATER SYSTEM REVENUE BONDS, SERIES 2024, AND PROVIDING FOR OTHER DETAILS AND COVENANTS WITH RESPECT THERETO

WHEREAS, the City of Ashland, Ashland and Bayfield Counties, Wisconsin (the "Municipality") owns and operates a water system (the "System") which is operated for a public purpose as a public utility by the Municipality; and

WHEREAS, the Municipality has heretofore issued its Water System Revenue Bonds, Series 2008, dated April 23, 2008 (the "2008 Bonds") pursuant to Resolution No. 16526 adopted by the Governing Body on April 15, 2008 (the "2008 Resolution"), which are payable from the income and revenues of the System; and

WHEREAS, the Municipality has heretofore issued its Water System Revenue Bonds, Series 2009, dated April 22, 2009 (the "2009 Bonds") pursuant to Resolution No. 16642 adopted by the Governing Body on March 31, 2009 (the "2009 Resolution"), which are payable from the income and revenues of the System; and

WHEREAS, the Municipality has heretofore issued its Water System Mortgage Revenue Bonds, dated December 23, 2016 (the "2016 Bonds") pursuant to Resolution No. 17318 adopted by the Governing Body on November 15, 2016 (the "2016 Resolution"), which are payable from the income and revenues of the System; and

WHEREAS, the Municipality has heretofore issued its Water System Revenue Refunding Bonds, Series 2017A, dated May 11, 2017 (the "2017 Bonds") pursuant to Resolution No. 17354 adopted by the Governing Body on April 18, 2017 (the "2017 Resolution"), which are payable from the income and revenues of the System; and

WHEREAS, the Municipality has heretofore issued its Water System Revenue Bonds, Series 2023B, dated December 28, 2023 (the "2023B Bonds") pursuant to Resolution No. 17757 adopted by the Governing Body on December 12, 2023 (the "2023B Resolution"), which are payable from the income and revenues of the System; and

WHEREAS, the 2008 Bonds, the 2009 Bonds, the 2016 Bonds, the 2017 Bonds and the 2023B Bonds shall collectively be referred to as the "Prior Bonds"; and

WHEREAS, the 2008 Resolution, the 2009 Resolution, the 2016 Resolution, the 2017 Resolution and the 2023B Resolution shall collectively be referred to as the "Prior Resolutions"; and

WHEREAS, certain improvements to the System are necessary to meet the needs of the Municipality and the residents thereof, consisting of the construction of a project (the "Project") assigned Safe Drinking Water Loan Program Project No. 4759-24 by the Department of Natural Resources, and as described in the Department of Natural Resources approval letter for the plans and specifications of the Project, or portions thereof, issued under Section 281.41, Wisconsin Statutes, assigned No. W-2023-0442 and dated May 23, 2023 by the DNR; and

WHEREAS, under the provisions of Chapter 66, Wisconsin Statutes any municipality may, by action of its governing body, provide for purchasing, acquiring, constructing, extending, adding to, improving, operating and managing a public utility from the proceeds of bonds, which bonds are to be payable only from the revenues received from any source by such utility, including all rentals and fees; and

WHEREAS, the Municipality deems it to be necessary, desirable and in its best interest to authorize and sell water system revenue bonds of the Municipality payable solely from the revenues of the System, pursuant to the provisions of Section 66.0621, Wisconsin Statutes, to pay the cost of the Project; and

WHEREAS, the Prior Resolutions permit the issuance of additional bonds on a parity with the Prior Bonds upon certain conditions, and those conditions have been met; and

WHEREAS, other than the Prior Bonds, no bonds or obligations payable from the revenues of the System are now outstanding.

NOW, THEREFORE, be it resolved by the Governing Body of the Municipality that:

Section 1. Definitions. The following terms shall have the following meanings in this Resolution unless the text expressly or by implication requires otherwise:

- (a) "Act" means Section 66.0621, Wisconsin Statutes;
- (b) "Bond Registrar" means the Municipal Treasurer which shall act as Paying Agent for the Bonds;
- (c) "Bonds" means the \$847,920 Water System Revenue Bonds, Series 2024, of the Municipality dated their date of issuance, authorized to be issued by this Resolution;
- (d) "Bond Year" means the twelve-month period ending on each May 1;
- (e) "Current Expenses" means the reasonable and necessary costs of operating, maintaining, administering and repairing the System, including salaries, wages, costs of materials and supplies, insurance and audits, but shall exclude depreciation, debt service, tax equivalents and capital expenditures;
- (f) "Debt Service Fund" means the Water System Revenue Bond and Interest Special Redemption Fund of the Municipality, which shall be the "special redemption fund" as such term is defined in the Act;
- (g) "Financial Assistance Agreement" means the Financial Assistance Agreement by and between the State of Wisconsin by the Department of Natural Resources and the Department of Administration and the Municipality pursuant to which the Bonds are to be issued and sold to the State, substantially in the form attached hereto and incorporated herein by this reference;
- (h) "Fiscal Year" means the twelve-month period ending on each December 31;

(i) "Governing Body" means the Common Council, or such other body as may hereafter be the chief legislative body of the Municipality;

(j) "Gross Earnings" means the gross earnings of the System, including earnings of the System derived from water charges imposed by the Municipality, all payments to the Municipality under any service agreements between the Municipality and any contract users of the System, and any other monies received from any source including all rentals and fees, any tax incremental district revenues or other revenues of the Municipality pursuant to Section 9 appropriated by the Governing Body to the System, and any special assessments levied and collected in connection with the Project;

(k) "Municipal Treasurer" means the Treasurer of the Municipality who shall act as Bond Registrar and Paying Agent;

(l) "Municipality" means the City of Ashland, Ashland and Bayfield Counties, Wisconsin;

(m) "Net Revenues" means the Gross Earnings of the System after deduction of Current Expenses;

(n) "Parity Bonds" means bonds payable from the revenues of the System other than the Bonds but issued on a parity and equality with the Bonds pursuant to the restrictive provisions of Section 11 of this Resolution;

(o) "Prior Bonds" means the 2008 Bonds, the 2009 Bonds, the 2016 Bonds, the 2017 Bonds and the 2023B Bonds, collectively;

(p) "Prior Resolutions" means the 2008 Resolution, the 2009 Resolution, the 2016 Resolution, the 2017 Resolution and the 2023B Resolution, collectively;

(q) "Project" means the Project described in the preamble to this Resolution. All elements of the Project are to be owned and operated by the Municipality as part of the System as described in the preamble hereto;

(r) "Record Date" means the close of business on the fifteenth day of the calendar month next preceding any principal or interest payment date;

(s) "System" means the entire water system of the Municipality specifically including that portion of the Project owned by the Municipality and including all property of every nature now or hereafter owned by the Municipality for the extraction, collection, storage, treatment, transmission, distribution, metering and discharge of industrial and potable public water, including all improvements and extensions thereto made by the Municipality while any of the Bonds and Parity Bonds remain outstanding, including all real and personal property of every nature comprising part of or used or useful in connection with such water system and including all appurtenances, contracts, leases, franchises, and other intangibles;

(t) "2008 Bonds" means the Municipality's Water System Revenue Bonds, Series 2008, dated April 23, 2008;

(u) "2008 Resolution" means Resolution No. 16526 adopted by the Governing Body on April 15, 2008 authorizing the issuance of the 2008 Bonds;

(v) "2009 Bonds" means the Municipality's Water System Revenue Bonds, Series 2009, dated April 22, 2009;

(w) "2009 Resolution" means Resolution No. 16642 adopted by the Governing Body on March 31, 2009 authorizing the issuance of the 2009 Bonds;

(x) "2016 Bonds" means the Municipality's Water System Mortgage Revenue Bonds, dated December 23, 2016;

(y) "2016 Resolution" means Resolution No. 17318 adopted by the Governing Body on November 15, 2016 authorizing the issuance of the 2016 Bonds;

(z) "2017 Bonds" means the Municipality's Water System Revenue Refunding Bonds, Series 2017A, dated May 11, 2017;

(aa) "2017 Resolution" means Resolution No. 17354 adopted by the Governing Body on April 18, 2017 authorizing the issuance of the 2017 Bonds;

(bb) "2023B Bonds" means the Municipality's Water System Revenue Bonds, Series 2023B, dated December 28, 2023; and

(cc) "2023B Resolution" means Resolution No. 17757 adopted by the Governing Body on December 12, 2023 authorizing the issuance of the 2023B Bonds.

Section 2. Authorization of the Bonds and the Financial Assistance Agreement. For the purpose of paying the cost of the Project (including legal, fiscal, engineering and other expenses), there shall be borrowed on the credit of the income and revenue of the System up to the sum of \$847,920; and fully registered revenue bonds of the Municipality are authorized to be issued in evidence thereof and sold to the State of Wisconsin Safe Drinking Water Loan Program in accordance with the terms and conditions of the Financial Assistance Agreement, which is incorporated herein by this reference and the Mayor and City Clerk of the Municipality are hereby authorized, by and on behalf of the Municipality, to execute the Financial Assistance Agreement.

Section 3. Terms of the Bonds. The Bonds shall be designated "Water System Revenue Bonds, Series 2024" (the "Bonds"); shall be dated their date of issuance; shall be numbered one and upward; shall bear interest at the rate of 1.353% per annum; shall be issued in denominations of \$0.01 or any integral multiple thereof; and shall mature on the dates and in the amounts as set forth in Exhibit B of the Financial Assistance Agreement and in the Bond form attached hereto as Exhibit A as it is from time to time adjusted by the State of Wisconsin based upon the actual draws made by the Municipality. Interest on the Bonds shall be payable commencing on November 1, 2024 and semiannually thereafter on May 1 and November 1 of each year. The Bonds shall not be subject to redemption prior to maturity except as provided in the Financial Assistance Agreement.

The schedule of maturities of the Bonds is found to be such that the amount of annual debt service payments is reasonable in accordance with prudent municipal utility practices.

Section 4. Form, Execution, Registration and Payment of the Bonds. The Bonds shall be issued as registered obligations in substantially the form attached hereto as Exhibit A and incorporated herein by this reference.

The Bonds shall be executed in the name of the Municipality by the manual signatures of the Mayor and City Clerk, and shall be sealed with its official or corporate seal, if any.

The principal of, premium, if any, and interest on the Bonds shall be paid by the Municipal Treasurer, who is hereby appointed as the Municipality's Bond Registrar.

Both the principal of and interest on the Bonds shall be payable in lawful money of the United States of America by the Bond Registrar. Payment of principal of the final maturity on the Bond will be payable upon presentation and surrender of the Bond to the Bond Registrar. Payment of principal on the Bond and each installment of interest shall be made to the registered owner of each Bond who shall appear on the registration books of the Municipality, maintained by the Bond Registrar, on the Record Date and shall be paid by electronic transfer or by check or draft of the Municipality (as directed by the registered owner) and if by check or draft, mailed to such registered owner at his or its address as it appears on such registration books or at such other address may be furnished in writing by such registered owner to the Bond Registrar.

Section 5. Security for the Bonds. The Bonds, together with interest thereon, shall not constitute an indebtedness of the Municipality nor a charge against its general credit or taxing power. The Bonds, together with interest thereon, shall be payable only out of the Debt Service Fund hereinafter continued, and shall be a valid claim of the registered owner or owners thereof only against such Debt Service Fund and the revenues of the System pledged to such fund, on a parity with the pledge granted to the holders of the Prior Bonds. Sufficient revenues are hereby pledged to said Debt Service Fund, and shall be used for no other purpose than to pay the principal of, premium, if any, and interest on the Prior Bonds, the Bonds and any Parity Bonds as the same becomes due.

Section 6. Funds and Accounts. In accordance with the Act, for the purpose of the application and proper allocation of the revenues of the System, and to secure the payment of the principal of and interest on the Prior Bonds, the Bonds and Parity Bonds, certain funds of the System which were established by a resolution adopted on June 16, 1998 are hereby continued and shall be used solely for the following respective purposes:

- (a) Water System Revenue Fund, into which shall be deposited as received the Gross Earnings of the System, which money shall then be divided among the Operation and Maintenance Fund, the Debt Service Fund, the Depreciation Fund and the Surplus Fund in the amounts and in the manner set forth in Section 7 hereof and used for the purposes described below.
- (b) Water System Operation and Maintenance Fund, which shall be used for the payment of Current Expenses.

- (c) Water System Revenue Bond and Interest Special Redemption Fund (the "Debt Service Fund"), which shall be used for the payment of the principal of, premium, if any, and interest on the Prior Bonds, the Bonds and Parity Bonds as the same becomes due.
- (d) Water System Depreciation Fund, which shall be used to provide a proper and adequate depreciation account for the System. To the extent that the Depreciation Fund serves as a Bond Reserve Account for the 2016 Bonds, it is not pledged to the payment of principal of or interest on the 2008 Bonds, the 2009 Bonds, the 2017 Bonds, the 2023B Bonds or the Bonds and moneys in the Depreciation Fund shall under no circumstances be used to pay principal on or interest on the 2008 Bonds, the 2009 Bonds, the 2017 Bonds, the 2023B Bonds or the Bonds.
- (e) Market Reserve Account, which was created by the 2017 Resolution and shall be used to secure the payment of the principal and interest on the 2017 Bonds and the 2023B Bonds. The Market Reserve Account is not pledged to the payment of principal of or interest on the 2008 Bonds, the 2009 Bonds, the 2016 Bonds or the Bonds and moneys in the Market Reserve Account shall under no circumstances be used to pay principal of or interest on the 2008 Bonds, the 2009 Bonds, the 2016 Bonds or the Bonds.
- (f) Water System Surplus Fund, which shall first be used when necessary to meet requirements of the Operation and Maintenance Fund including the one month reserve, the Debt Service Fund, the Depreciation Fund and the Market Reserve Account. Any money then remaining in the Surplus Fund at the end of any Fiscal Year may be used only as permitted and in the order specified in Section 66.0811(2), Wisconsin Statutes. Money thereafter remaining in the Surplus Fund may be transferred to any of the funds or accounts provided by this section.

Section 7. Application of Revenues. After the delivery of the Bonds, the Gross Earnings of the System shall be deposited as collected in the Revenue Fund and shall be transferred monthly to the funds listed below in the following order of priority and in the manner set forth below:

- (a) to the Operation and Maintenance Fund, in an amount equal to the estimated Current Expenses for such month and, if not needed to remedy a deficiency in the Debt Service Fund, for the following month (after giving effect to available amounts in said Fund from prior deposits);
- (b) to the Debt Service Fund, an amount equal to one-sixth (1/6) of the next installment of interest coming due on the Prior Bonds, the Bonds and any Parity Bonds then outstanding and an amount equal to one-twelfth (1/12) of the installment of principal of the Prior Bonds, the Bonds and any Parity Bonds coming due during such Bond Year (after giving effect to available amounts in said Fund from accrued interest, any premium or any other source);

- (c) to the Depreciation Fund/Bond Reserve Account, the amount determining the Governing Body to constitute an adequate and reasonable depreciation account for the System and the amount required by the 2016 Resolution;
- (d) to the Market Reserve Account, the amount required by the resolutions authorizing the bonds secured thereby; and
- (e) to the Surplus Fund, any amount remaining in the Revenue Fund after the monthly transfers required above have been completed.

Transfers from the Revenue Fund to the Operation and Maintenance Fund, the Debt Service Fund, the Depreciation Fund/Bond Reserve Account, the Market Reserve Account and the Surplus Fund shall be made monthly not later than the tenth day of each month, and such transfer shall be applicable to monies on deposit in the Revenue Fund as of the last day of the month preceding. Any other transfers and deposits to any fund required or permitted by subsection (a) through (e) of this Section, except transfers or deposits which are required to be made immediately or annually, shall be made on or before the tenth day of the month. Any transfer or deposit required to be made at the end of any Fiscal Year shall be made within sixty (60) days after the close of such Fiscal Year. If the tenth day of any month shall fall on a day other than a business day, such transfer or deposit shall be made on the next succeeding business day.

It is the express intent and determination of the Governing Body that the amounts transferred from the Revenue Fund and deposited in the Debt Service Fund shall be sufficient in any event to pay the interest on the Prior Bonds, the Bonds and any Parity Bonds as the same accrues and the principal thereof as the same matures.

Section 8. Deposits and Investments. The Debt Service Fund shall be kept apart from monies in the other funds and accounts of the Municipality and the same shall be used for no purpose other than the prompt payment of principal of and interest on the Prior Bonds, the Bonds and any Parity Bonds as the same becomes due and payable. All monies therein shall be deposited in special and segregated accounts in a public depository selected under Chapter 34, Wisconsin Statutes and may be temporarily invested until needed in legal investments subject to the provisions of Section 66.0603(1m), Wisconsin Statutes. The other funds herein created (except the Water System SDWLP Project Fund) may be combined in a single account in a public depository selected in the manner set forth above and may be temporarily invested until needed in legal investments subject to the provisions of Section 66.0603(1m), Wisconsin Statutes.

Section 9. Service to the Municipality. The reasonable cost and value of services rendered to the Municipality by the System by furnishing water services for public purposes shall be charged against the Municipality and shall be paid in monthly installments as the service accrues, out of the current revenues of the Municipality collected or in the process of collection, exclusive of the revenues derived from the System; that is to say, out of the tax levy of the Municipality made by it to raise money to meet its necessary current expenses. The reasonable cost and value of such service to the Municipality in each year shall be equal to an amount which, together with other revenues of the System, will produce in each Fiscal Year Net

Revenues equivalent to not less than the annual principal and interest requirements on the Prior Bonds, the Bonds, any Parity Bonds and any other obligations payable from the revenues of the System then outstanding, times the greater of (i) 110% or (ii) the highest debt service coverage ratio required with respect to any obligations payable from revenues of the System then outstanding. However, such payment out of the tax levy shall be subject to (a) approval of the Public Service Commission, or successors to its function, if applicable, (b) yearly appropriations therefor, and (c) applicable levy limitations, if any; and neither this Resolution nor such payment shall be construed as constituting an obligation of the Municipality to make any such appropriation over and above the reasonable cost and value of the services rendered to the Municipality and its inhabitants or to make any subsequent payment over and above such reasonable cost and value.

Section 10. Operation of System; Municipality Covenants. It is covenanted and agreed by the Municipality with the owner or owners of the Bonds, and each of them, that the Municipality will perform all of the obligations of the Municipality as set forth in the Financial Assistance Agreement.

Section 11. Additional Bonds. The Bonds are issued on a parity with the Prior Bonds as to the pledge of revenues of the System. No bonds or obligations payable out of the revenues of the System may be issued in such manner as to enjoy priority over the Bonds. Additional obligations may be issued if the lien and pledge is junior and subordinate to that of the Bonds. Parity Bonds may be issued only under the following circumstances:

(a) Additional Parity Bonds may be issued for the purpose of completing the Project and for the purpose of financing costs of the Project which are ineligible for payment under the State of Wisconsin Safe Drinking Water Loan Program. However, such additional Parity Bonds shall be in an aggregate amount not to exceed 20% of the face amount of the Bonds; or

(b) Additional Parity Bonds may also be issued if all of the following conditions are met:

(1) The Net Revenues of the System for the Fiscal Year immediately preceding the issuance of such additional bonds must have been in an amount at least equal to the maximum annual interest and principal requirements on all bonds outstanding payable from the revenues of the System, and on the bonds then to be issued, times the greater of (i) 1.10 or (ii) the highest debt service coverage ratio to be required with respect to the Additional Parity Bonds to be issued or any other obligations payable from the revenues of the System then outstanding. Should an increase in permanent rates and charges, including those made to the Municipality, be properly ordered and made effective during the Fiscal Year immediately prior to the issuance of such additional bonds or during that part of the Fiscal Year of issuance prior to such issuance, then Net Revenues for purposes of such computation shall include such additional revenues as a registered municipal advisor, an independent certified public accountant, consulting professional engineer or the Wisconsin Public Service Commission

may calculate would have accrued during the prior Fiscal Year had the new rates been in effect during that entire immediately prior Fiscal Year.

(2) The payments required to be made into the funds enumerated in Section 6 of this Resolution must have been made in full.

(3) The additional bonds must have principal maturing on May 1 of each year and interest falling due on May 1 and November 1 of each year.

(4) The proceeds of the additional bonds must be used only for the purpose of providing extensions or improvements to the System, or to refund obligations issued for such purpose.

Section 12. Sale of Bonds. The sale of the Bonds to the State of Wisconsin Safe Drinking Water Loan Program for the purchase price of up to \$847,920 and at par, is ratified and confirmed; and the officers of the Municipality are authorized and directed to do any and all acts, including executing the Financial Assistance Agreement and the Bonds as hereinabove provided, necessary to conclude delivery of the Bonds to said purchaser, as soon after adoption of this Resolution as is convenient. The purchase price for the Bonds shall be paid upon requisition therefor as provided in the Financial Assistance Agreement, and the officers of the Municipality are authorized to prepare and submit to the State requisitions and disbursement requests in anticipation of the execution of the Financial Assistance Agreement and the issuance of the Bonds.

Section 13. Application of Bond Proceeds. The proceeds of the sale of the Bonds shall be deposited by the Municipality into a special fund designated as "Water System SDWLP Project Fund." The Water System SDWLP Project Fund shall be used solely for the purpose of paying the costs of the Project as more fully described in the preamble hereof and in the Financial Assistance Agreement. Moneys in the Water System SDWLP Project Fund shall be disbursed within three (3) business days of their receipt from the State of Wisconsin and shall not be invested in any interest-bearing account.

Section 14. Amendment to Resolution. After the issuance of any of the Bonds, no change or alteration of any kind in the provisions of this Resolution may be made until all of the Bonds have been paid in full as to both principal and interest, or discharged as herein provided, except: (a) the Municipality may, from time to time, amend this Resolution without the consent of any of the owners of the Bonds, but only to cure any ambiguity, administrative conflict, formal defect, or omission or procedural inconsistency of this Resolution; and (b) this Resolution may be amended, in any respect, with a written consent of the owners of not less than two-thirds (2/3) of the principal amount of the Bonds then outstanding, exclusive of Bonds held by the Municipality; provided, however, that no amendment shall permit any change in the pledge of revenues derived from the System or the maturity of any Bond issued hereunder, or a reduction in the rate of interest on any Bond, or in the amount of the principal obligation thereof, or in the amount of the redemption premium payable in the case of redemption thereof, or change the terms upon which the Bonds may be redeemed or make any other modification in the terms of the payment of such principal or interest without the written consent of the owner of each such Bond to which the change is applicable.

Section 15. Defeasance. When all Bonds have been discharged, all pledges, covenants and other rights granted to the owners thereof by this Resolution shall cease. The Municipality may discharge all Bonds due on any date by irrevocably depositing in escrow with a suitable bank or trust company a sum of cash and/or bonds or securities issued or guaranteed as to principal and interest of the U.S. Government, or of a commission, board or other instrumentality of the U.S. Government, maturing on the dates and bearing interest at the rates required to provide funds sufficient to pay when due the interest to accrue on each of said Bonds to its maturity or, at the Municipality's option, if said Bond is prepayable to any prior date upon which it may be called for redemption, and to pay and redeem the principal amount of each such Bond at maturity, or at the Municipality's option, if said Bond is prepayable, at its earliest redemption date, with the premium required for such redemption, if any, provided that notice of the redemption of all prepayable Bonds on such date has been duly given or provided for.

Section 16. Rebate Fund. Unless the Bonds are exempt from the rebate requirements of the Internal Revenue Code of 1986, as amended (the "Code"), the Municipality shall establish and maintain, so long as the Bonds and any Parity Bonds are outstanding, a separate account to be known as the "Rebate Fund." The sole purpose of the Rebate Fund is to provide for the payment of any rebate liability with respect to the Bonds under the relevant provisions of the Code and the Treasury Regulations promulgated thereunder (the "Regulations"). The Rebate Fund shall be maintained by the Municipality until all required rebate payments with respect to the Bonds have been made in accordance with the relevant provisions of the Code and the Regulations.

The Municipality hereby covenants and agrees that it shall pay to the United States from the Rebate Fund, at the times and in the amounts and manner required by the Code and the Regulations, the portion of the "rebate amount" (as defined in Section 1.148-3(b) of the Regulations) that is due as of each "computation date" (within the meaning of Section 1.148-3(e) of the Regulations). As of the date of this Resolution, the provisions of the Regulations specifying the required amounts of rebate installment payments and the time and manner of such payments are contained in Sections 1.148-3(f) and (g) of the Regulations, respectively. Amounts held in the Rebate Fund and the investment income therefrom are not pledged as security for the Bonds or any Parity Bonds and may only be used for the payment of any rebate liability with respect to the Bonds.

The Municipality may engage the services of accountants, attorneys or other consultants necessary to assist it in determining the rebate payments, if any, owed to the United States with respect to the Bonds. The Municipality shall maintain or cause to be maintained records of determinations of rebate liability with respect to the Bonds for each computation date until six (6) years after the retirement of the last of the Bonds. The Municipality shall make such records available to the State of Wisconsin upon reasonable request therefor.

Section 17. Resolution a Contract. The provisions of this Resolution shall constitute a contract between the Municipality and the owner or owners of the Bonds, and after issuance of any of the Bonds no change or alteration of any kind in the provisions of this Resolution may be made, except as provided in Section 14, until all of the Bonds have been paid in full as to both principal and interest. The owner or owners of any of the Bonds shall have the right in addition to all other rights, by mandamus or other suit or action in any court of competent jurisdiction, to

enforce such owner's or owners' rights against the Municipality, the Governing Body thereof, and any and all officers and agents thereof including, but without limitation, the right to require the Municipality, its Governing Body and any other authorized body, to fix and collect rates and charges fully adequate to carry out all of the provisions and agreements contained in this Resolution.

Section 18. Continuing Disclosure. The officers of the Municipality are hereby authorized and directed, if requested by the State of Wisconsin, to provide to the State of Wisconsin Safe Drinking Water Loan Program and to such other persons or entities as directed by the State of Wisconsin such ongoing disclosure regarding the Municipality's financial condition and other matters, at such times and in such manner as the Safe Drinking Water Loan Program may require, in order that securities issued by the Municipality and the State of Wisconsin satisfy rules and regulations promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended and as it may be amended from time to time, imposed on brokers and dealers of municipal securities before the brokers and dealers may buy, sell, or recommend the purchase of such securities.

Section 19. Conflicting Resolutions. All ordinances, resolutions (other than the Prior Resolutions), or orders, or parts thereof heretofore enacted, adopted or entered, in conflict with the provisions of this Resolution, are hereby repealed and this Resolution shall be in effect from and after its passage. In case of any conflict between this Resolution and the Prior Resolutions, the Prior Resolutions shall control as long as any of the respective Prior Bonds are outstanding.

Passed: June 25, 2024

Approved: June 25, 2024

Matthew MacKenzie
Mayor

ATTEST:

Denise Oliphant
City Clerk

EXHIBIT A

(Form of Municipal Obligation)

REGISTERED
NO. _____

UNITED STATES OF AMERICA
STATE OF WISCONSIN
ASHLAND AND BAYFIELD
CITY OF ASHLAND

REGISTERED
\$ _____
COUNTIES

WATER SYSTEM REVENUE BOND, SERIES 2024

Final
Maturity Date

May 1, 2054

Date of
Original Issue

_____, 20__

REGISTERED OWNER: STATE OF WISCONSIN SAFE DRINKING WATER LOAN
PROGRAM

FOR VALUE RECEIVED the City of Ashland, Ashland and Bayfield Counties, Wisconsin (the "Municipality") hereby acknowledges itself to owe and promises to pay to the registered owner shown above, or registered assigns, solely from the fund hereinafter specified, the principal sum of an amount not to exceed _____ DOLLARS (\$ _____) (but only so much as shall have been drawn hereunder, as provided below) on May 1 of each year commencing May 1, 2025 until the final maturity date written above, together with interest thereon (but only on amounts as shall have been drawn hereunder, as provided below) from the dates the amounts are drawn hereunder or the most recent payment date to which interest has been paid, at the rate of 1.353% per annum, calculated on the basis of a 360-day year made up of twelve 30-day months, such interest being payable on the first days of May and November of each year, with the first interest being payable on November 1, 2024.

The principal amount evidenced by this Bond may be drawn upon by the Municipality in accordance with the Financial Assistance Agreement entered by and between the Municipality and the State of Wisconsin by the Department of Natural Resources and the Department of Administration including capitalized interest transferred (if any). The principal amounts so drawn shall be repaid in installments on May 1 of each year commencing on May 1, 2025 in an amount equal to an amount which when amortized over the remaining term of this Bond plus current payments of interest (but only on amounts drawn hereunder) at One and 353/1000ths percent (1.353%) per annum shall result in equal annual payments of the total of principal and the semiannual payments of interest. The State of Wisconsin Department of Administration shall record such draws and corresponding principal repayment schedule on a cumulative basis in the format shown on the attached Schedule A.

Both principal and interest hereon are hereby made payable to the registered owner in lawful money of the United States of America. On the final maturity date, principal of this Bond shall be payable only upon presentation and surrender of this Bond at the office of the Municipal Treasurer. Principal hereof and interest hereon shall be payable by electronic transfer or by check or draft dated on or before the applicable payment date (as directed by the registered owner) and if by check or draft, mailed from the office of the Municipal Treasurer to the person in whose name this Bond is registered at the close of business on the fifteenth day of the calendar month next preceding such interest payment date.

This Bond shall not be redeemable prior to its maturity, except with the consent of the registered owner.

This Bond is transferable only upon the books of the Municipality kept for that purpose at the office of the Municipal Treasurer, by the registered owner in person or its duly authorized attorney, upon surrender of this Bond, together with a written instrument of transfer (which may be endorsed hereon) satisfactory to the Municipal Treasurer, duly executed by the registered owner or its duly authorized attorney. Thereupon a replacement Bond shall be issued to the transferee in exchange therefor. The Municipality may deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal or interest hereof and for all other purposes. This Bond is issuable solely as a negotiable, fully-registered bond, without coupons, and in denominations of \$0.01 or any integral multiple thereof.

This Bond is issued for the purpose of providing for the payment of the cost of constructing improvements to the Water System of the Municipality, pursuant to Article XI, Section 3, of the Wisconsin Constitution, Section 66.0621, Wisconsin Statutes, and a resolution adopted June 25, 2024, and entitled: "Resolution Authorizing the Issuance and Sale of Up to \$847,920 Water System Revenue Bonds, Series 2024, and Providing for Other Details and Covenants With Respect Thereto" and is payable only from the income and revenues of the Water System of the Municipality (the "Utility"). The Bonds are issued on a parity with the Municipality's Water System Revenue Bonds, Series 2008, dated April 23, 2008, Water System Revenue Bonds, Series 2009, dated April 22, 2009, Water System Mortgage Revenue Bonds, dated December 23, 2016, Water System Revenue Refunding Bonds, Series 2017A, dated May 11, 2017 and Water System Revenue Bonds, Series 2023B, dated December 28, 2023, as to the pledge of income and revenues of the Utility. This Bond does not constitute an indebtedness of said Municipality within the meaning of any constitutional or statutory debt limitation or provision.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen, and be performed precedent to and in the issuance of this Bond have existed, have happened and have been performed in due time, form and manner as required by law; and that sufficient of the income and revenue to be received by said Municipality from the operation of its Utility has been pledged to and will be set aside into a special fund for the payment of the principal of and interest on this Bond.

IN WITNESS WHEREOF, the Municipality has caused this Bond to be signed by the signatures of its Mayor and City Clerk, and its corporate seal to be impressed hereon, all as of the date of original issue specified above.

CITY OF ASHLAND,
WISCONSIN

(SEAL)

By: _____
Matthew MacKenzie
Mayor

By: _____
Denise Oliphant
City Clerk

COPY

(Form of Assignment)

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

(Please print or typewrite name and address, including zip code, of Assignee)

Please insert Social Security or other identifying number of Assignee

the within Bond and all rights thereunder, hereby irrevocably constituting and appointing

Attorney to transfer said Bond on the books kept for the registration thereof with full power of substitution in the premises.

Dated: _____

NOTICE: The signature of this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

Signature(s) guaranteed by

SCHEDULE A

\$847,920

CITY OF ASHLAND, WISCONSIN
WATER SYSTEM REVENUE BONDS, SERIES 2024

<u>Amount of Disburse- ment</u>	<u>Date of Disbursement</u>	<u>Series of Bonds</u>	<u>Principal Repaid</u>	<u>Principal Balance</u>

SCHEDULE A (continued)

PRINCIPAL REPAYMENT SCHEDULE

<u>Date</u>	<u>Principal Amount</u>
May 1, 2025	\$23,103.01
May 1, 2026	23,415.59
May 1, 2027	23,732.41
May 1, 2028	24,053.51
May 1, 2029	24,378.95
May 1, 2030	24,708.80
May 1, 2031	25,043.11
May 1, 2032	25,381.94
May 1, 2033	25,725.36
May 1, 2034	26,073.42
May 1, 2035	26,426.19
May 1, 2036	26,783.74
May 1, 2037	27,146.13
May 1, 2038	27,513.41
May 1, 2039	27,885.67
May 1, 2040	28,262.96
May 1, 2041	28,645.36
May 1, 2042	29,032.93
May 1, 2043	29,425.75
May 1, 2044	29,823.88
May 1, 2045	30,227.39
May 1, 2046	30,636.37
May 1, 2047	31,050.88
May 1, 2048	31,471.00
May 1, 2049	31,896.80
May 1, 2050	32,328.37
May 1, 2051	32,765.77
May 1, 2052	33,209.09
May 1, 2053	33,658.41
May 1, 2054	34,113.80

State of Wisconsin
Department of Natural Resources
Bureau of Community Financial Assistance
101 South Webster Street
PO Box 7921
Madison, Wisconsin 53707-7921

Financial Assistance Agreement
Safe Drinking Water Loan Program
Form 8700-214 rev 04/24

STATE OF WISCONSIN SAFE DRINKING WATER LOAN PROGRAM

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES
DEPARTMENT OF ADMINISTRATION

and

CITY OF ASHLAND

\$847,920

FINANCIAL ASSISTANCE AGREEMENT

Dated as of July 10, 2024

This constitutes a **Financial Assistance Agreement** under the State of Wisconsin's Safe Drinking Water Loan Program. This agreement is awarded pursuant to ss. 281.59 and 281.61, Wis. Stats. The purpose of this agreement is to award financial assistance from the Safe Drinking Water Loan Program. This agreement also discloses the terms and conditions of this award.

This agreement is only effective when signed by authorized officers of the municipality, the State of Wisconsin Department of Natural Resources, and the State of Wisconsin Department of Administration.

The Department of Natural Resources and the Department of Administration may rescind or terminate this agreement if the municipality fails to comply with the terms and conditions contained within. Any determination or certification made in this agreement by the Department of Natural Resources or the Department of Administration is made solely for the purpose of providing financial assistance under the Safe Drinking Water Loan Program.

Municipal Identification No. 02201
Safe Drinking Water Loan Program Project No. 4759-24

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EXHIBIT F	PROJECT MANAGER SUMMARY PAGE

WITNESSETH:

WHEREAS, this is a FINANCIAL ASSISTANCE AGREEMENT (the "FAA"), dated July 10, 2024, between the STATE OF WISCONSIN Safe Drinking Water Loan Program (the "SDWLP"), by the Department of Natural Resources (the "DNR") and the Department of Administration (the "DOA"), acting under authority of ss. 281.59 and 281.61, Wis. Stats., as amended (the "Statute"), and the City of Ashland, a municipality within the meaning of the Statute, duly organized and existing under the laws of the State of Wisconsin (the "Municipality"); and

WHEREAS, the United States, pursuant to the Federal Safe Drinking Water Act Amendments of 1996 (the "Act"), requires each state to establish a drinking water revolving loan fund to be administered by an instrumentality of the state before the state may receive capitalization grants for eligible projects from the United States Environmental Protection Agency (the "EPA"), or any successor which may succeed to the administration of the program established by the Act; and

WHEREAS, the State of Wisconsin, pursuant to the Statute, established the SDWLP to be used in part for purposes of the Act; and

WHEREAS, the State of Wisconsin, pursuant to s. 25.43, Wis. Stats., established a State of Wisconsin Environmental Improvement Fund which includes the SDWLP; and

WHEREAS, DNR and DOA have the joint responsibility to provide SDWLP financial assistance to municipalities for the construction of eligible drinking water projects, all as set forth in the Statute; and

WHEREAS, the Municipality submitted to DNR an application for financial assistance (the "Application") for a project (the "Project"), and DNR has approved the Application and determined the Application meets DNR criteria for Project eligibility established in applicable state statutes and regulations; and

WHEREAS, DNR determined that the Municipality and the Project are not ineligible for financial assistance under s. 281.61(2g), Wis. Stats.; and

WHEREAS, DOA determined the SDWLP will provide financial assistance to the Municipality by making a loan (the "Loan") pursuant to s. 281.59(9), Wis. Stats., for the purposes of that subsection; and

WHEREAS, the Municipality pledged the security, if any, required by DOA, and the Municipality has demonstrated to the satisfaction of DOA the financial capacity to ensure sufficient revenues to operate and maintain the Project for its useful life and to pay debt service on the obligations it issues for the Project; and

WHEREAS, the Municipality certifies to the SDWLP that it has created a dedicated source of revenue, for repayment of the Loan; and

WHEREAS, the Municipality obtained DNR approval of facility plans or engineering reports, and Plans and Specifications for the Project, subject to the provisions of applicable State environmental standards set forth in law, rules, and regulations;

NOW, THEREFORE, in consideration of the promises and of the mutual representations, covenants, and agreements herein set forth, the SDWLP and the Municipality, each binding itself, its successors, and its assigns, do mutually promise, covenant, and agree as follows:

ARTICLE I
DEFINITIONS; RULES OF INTERPRETATION

Section 1.01. Definitions The following capitalized terms as used in this FAA shall have the following meanings:

"Act" means the federal Safe Drinking Water Act, 42 U.S.C. 300f to 300j-26.

"American Iron and Steel" means the requirements for using American iron and steel as mandated under EPA's Drinking Water State Revolving Fund program.

"Application" means the written application of the Municipality dated June 29, 2023, for financial assistance under the Statute.

"Bonds" means bonds or notes issued by the State pursuant to the Program Resolution, all or a portion of the proceeds of which shall be applied to make the Loan.

"Build America, Buy America" means Title IX of the Infrastructure Investment and Jobs Act, Publ. L. No. 117-58, §§ 70901-52.

"Business Day" means any day on which State offices are open to conduct business.

"Code" means the Internal Revenue Code of 1986, as amended, and any successor provisions.

"CWFP" means the State of Wisconsin Clean Water Fund Program, established pursuant to ss. 281.58 and 281.59, Wis. Stats., and managed and administered by DNR and DOA.

"DNR" means the State of Wisconsin Department of Natural Resources and any successor entity.

"DOA" means the State of Wisconsin Department of Administration and any successor entity.

"EPA" means the United States Environmental Protection Agency or any successor entity that may succeed to the administration of the program established by the Act.

"FAA" means this Financial Assistance Agreement.

"Final Completion" means the Project construction is complete, DNR or agents thereof have certified that the Project was constructed according to DNR approved Plans and Specifications and that the facilities are operating according to design, and DNR has completed all necessary Project closeout procedures.

"Financial Assistance Agreement" means this Financial Assistance Agreement between the SDWLP by DNR, DOA, and the Municipality, as the same may be amended from time to time in accordance with Section 6.04 hereof.

"Loan" means the loan or loans made by the SDWLP to the Municipality pursuant to this FAA.

"Loan Disbursement Table" means the table with columns for inserting the following information:

- (a) amount of each disbursement,
- (b) date of each disbursement,
- (c) the series of Bonds from which each disbursement is made,
- (d) principal amounts repaid, and
- (e) outstanding principal balance.

"Municipal Obligation Counsel Opinion" means the opinion of counsel satisfactory to DOA, issued in conjunction with the Municipal Obligations, stating that:

- (a) this FAA and the performance by the Municipality of its obligations thereunder have been duly authorized by all necessary actions by the governing body of the Municipality, and this FAA has been duly executed and delivered by the Municipality;
- (b) the Municipal Obligations have been duly authorized, executed, and delivered by the Municipality and sold to the SDWLP;
- (c) each of this FAA and the Municipal Obligations constitutes a legal, valid, and binding obligation of the Municipality, enforceable against the Municipality in accordance with its respective terms (provided that enforceability thereof may be subject to bankruptcy, insolvency, reorganization, moratorium, and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that its enforcement may also be subject to the exercise of judicial discretion in appropriate cases);
- (d) the Municipal Obligations constitute special obligations of the Municipality secured as to payment of principal, interest, and redemption price by the pledged revenues as set forth therein;
- (e) interest on the Municipal Obligations is not included in gross income of the owners thereof for federal income taxation purposes under existing laws, regulations, rulings, and judicial decisions;
- (f) the Municipal Obligations are not "arbitrage bonds" within the meaning of Section 148 of the Code and the arbitrage regulations; and
- (g) the Municipal Obligations are not "private activity bonds" as defined in Section 141(a) of the Code.

"Municipal Obligation Resolution" means that action taken by the governing body of the Municipality authorizing the issuance of the Municipal Obligations.

"Municipal Obligations" means the bonds or notes issued and delivered by the Municipality to the SDWLP, a specimen copy of which is included in the Municipal Obligations transcript.

"Municipality" means the City of Ashland, a "local governmental unit" within the meaning of the Statute, duly organized and existing under the laws of the State, and any successor entity.

"Parity Obligations" means the Municipality's \$585,778 Water System Revenue Bonds, Series 2008, dated April 23, 2008; its \$417,988 Water System Revenue Bonds, Series 2009, dated April 22, 2009; its \$1,883,000 Water System Mortgage Revenue Bonds, dated December 23, 2016; its \$3,315,000 Water System Revenue Refunding Bonds, Series 2017A, dated May 11, 2017; its \$1,585,000 Water System Revenue Bonds, Series 2023B, dated December 28, 2023; and any other obligations issued on a parity with the Municipal Obligations pursuant to the restrictive provisions of Section 11 of the Municipal Obligation Resolution.

"Plans and Specifications" means the Project design plans and specifications assigned No. W-2023-0442, approved by DNR on May 23, 2023, as the same may be amended or modified from time to time in accordance with this FAA.

"Program Resolution" means the Amended and Restated Program Resolution for State of Wisconsin Environmental Improvement Fund Revenue Obligations adopted by the State of Wisconsin Building Commission, as such may from time to time be further amended or supplemented by Supplemental Resolutions in accordance with the terms and provisions of the Program Resolution.

"Progress Payments" means payments for work in place and materials or equipment that have been delivered or are stockpiled in the vicinity of the construction site. This includes payments for undelivered specifically manufactured equipment if: (1) designated in the specifications, (2) could not be readily utilized or diverted to another job, and (3) a fabrication period of more than 6 months is anticipated.

"Project" means the project assigned SDWLP Project No. 4759-24 by DNR, described in the Project Manager Summary Page (Exhibit F), and further described in the DNR approval letter(s) for the Plans and Specifications, or portions thereof, issued under s. 281.41, Wis. Stats.

"Project Costs" means the costs of the Project that are eligible for financial assistance from the SDWLP under the Statute, which are allowable costs under the Regulations, which have been incurred by the Municipality, an estimate of which is set forth in Exhibit A hereto and made a part hereof.

"Regulations" means the Act; chs. NR 108, NR 150, NR 151, NR 166, NR 809, NR 810, and NR 811, Wis. Adm. Code, the regulations of DNR; and ch. Adm. 35, Wis. Adm. Code, the regulations of DOA, adopted pursuant to and in furtherance of the Statute, as such may be adopted or amended from time to time.

"SDWLP" means the State of Wisconsin Safe Drinking Water Loan Program, established pursuant to the Statute and managed and administered by DNR and DOA.

"Servicing Fee" means any servicing fee that may be imposed by DNR and DOA pursuant to s. 281.61(5)(b), Wis. Stats., which shall cover the estimated costs of reviewing and acting upon the Application and servicing this FAA, and which the Municipality is obligated to pay as set forth in Section 3.09 hereof.

"State" means the State of Wisconsin.

"Statute" means ss. 281.59 and 281.61, Wis. Stats., as amended.

"Substantial Completion" means the date on which construction of the Project is sufficiently complete in accordance with the contract documents so that the owner can occupy and utilize the Project for its intended use.

"Supplemental Resolution" shall have the meaning set forth in the Program Resolution.

"Trustee" means the trustee appointed by the State pursuant to the Program Resolution and any successor trustee.

"User Fees" means fees charged or to be charged to users of the Project or the Water System of which the Project is a part pursuant to the Water Rates or otherwise.

"Water Diversion Permit" means a DNR permit issued to the Municipality under s. 30.18(2), Wis. Stats., to divert water from a stream or lake in Wisconsin.

"Water Rates" means a charge or system of charges levied on users of a water system for the user's proportional share of the revenue requirement of a water system which consists of operation and maintenance expenses, depreciation, taxes, and return on investment.

"Water System" means all structures, conduits, and appurtenances by means of which water is delivered to consumers, except piping and fixtures inside buildings served and service pipes from buildings to street mains.

Section 1.02. Rules of Interpretation Unless the context clearly indicates to the contrary, the following rules shall apply to the context of this FAA:

- (a) Words importing the singular number shall include the plural number and vice versa, and one gender shall include all genders.
- (b) All references herein to particular articles or sections are references to articles or sections of this FAA.
- (c) The captions and headings herein are solely for convenience of reference and shall not constitute a part of this FAA, nor shall they affect its meaning, construction, or effect.
- (d) The terms "hereby", "hereof", "hereto", "herein", "hereunder", and any similar terms as used in this FAA refer to this FAA in its entirety and not the particular article or section of this FAA in which they appear. The term "hereafter" means after and the term "heretofore" means before the date of delivery of this FAA.
- (e) All accounting terms not otherwise defined in this FAA have the meanings assigned to them in accordance with generally accepted accounting principles, and all computations provided for herein shall be made in accordance with generally accepted accounting principles.

ARTICLE II REPRESENTATIONS

Section 2.01. Representations of the SDWLP The SDWLP represents and warrants as follows:

- (a) The State is authorized to issue the Bonds in accordance with the Statute and the Program Resolution and to use the proceeds thereof to provide funds for the making of the Loan to the Municipality to undertake and complete the Project.
- (b) The SDWLP has complied with the provisions of the Statute and has full power and authority to execute and deliver this FAA, consummate the transactions contemplated hereby, and perform its obligations hereunder.
- (c) The SDWLP is not in violation of any of the provisions of the Constitution or laws of the State which would affect its powers referred to in the preceding paragraph (b).
- (d) Pursuant to the Statute, the SDWLP is authorized to execute and deliver this FAA, and to take actions and make determinations that are required of the SDWLP under the terms and conditions of this FAA.
- (e) The execution and delivery by the SDWLP of this FAA and the consummation of the transactions contemplated by this FAA shall not violate any indenture, mortgage, deed of trust, note, agreement, or other contract or instrument to which the State is a party, or by which it is bound, or, to the best of the SDWLP's knowledge, any judgment, decree, order, statute, rule, or regulation applicable to the SDWLP; all consents, approvals, authorizations, and orders of governmental or regulatory authorities that are required for the consummation of the transactions contemplated thereby have been obtained.
- (f) To the knowledge of the SDWLP, there is no action, suit, proceeding, or investigation, at law or in equity, before or by any court, public board, or body, threatened against, pending, or affecting the SDWLP, or, to the knowledge of the SDWLP, any basis therefor, wherein an unfavorable decision, ruling, or finding would adversely affect the transactions contemplated hereby or which, in any way, could adversely affect the validity of this FAA or any agreement or instrument to which the State is a party and which is used or contemplated for use in consummation of the transactions contemplated by each of the foregoing.

(g) The Project is on the DNR funding list for the 2024 state fiscal year.

Section 2.02. Representations of the Municipality The Municipality represents and warrants as of the date of this FAA, and with respect to paragraphs (n), (s), and (u), covenants throughout the term of this FAA, as follows:

(a) The Municipality possesses the legal municipal form of a city under ch. 62, Wis. Stats. The Municipality is located within the State and is a "municipality" within the meaning of the Statute, duly organized and existing under the laws of the State, and has full legal right, power, and authority to:

- (1) conduct its business and own its properties,
- (2) enter into this FAA,
- (3) adopt the Municipal Obligation Resolution,
- (4) issue and deliver the Municipal Obligations to the SDWLP as provided herein, and
- (5) carry out and consummate all transactions contemplated by each of the aforesaid documents.

(b) The Municipality is in compliance with its Water Diversion Permit (if any).

(c) With respect to the issuance of the Municipal Obligations, the Municipality has complied with the Municipal Obligation Resolution and with all applicable laws of the State.

(d) The governing body of the Municipality has duly approved the execution and delivery of this FAA and the issuance and delivery of the Municipal Obligations in the aggregate principal amount of \$847,920 and authorized the taking of any and all action as may be required on the part of the Municipality and its authorized officers to carry out, give effect to, and consummate the transactions contemplated by each of the foregoing.

(e) This FAA and the Municipal Obligations have each been duly authorized, executed, and delivered, and constitute legal, valid, and binding obligations of the Municipality, enforceable in accordance with their respective terms.

(f) To the knowledge of the Municipality, there is no action, suit, proceeding, inquiry, or investigation, at law or in equity, before or by any court, public board, or body, threatened against, pending, or affecting the Municipality, or, to the knowledge of the Municipality any basis therefor:

- (1) affecting the creation, organization, or existence of the Municipality or the title of its officers to their respective offices;
- (2) seeking to prohibit, restrain, or enjoin the execution of this FAA or the issuance or delivery of the Municipal Obligations;
- (3) in any way contesting or affecting the validity or enforceability of the Municipal Obligation Resolution, the Municipal Obligations, this FAA, or any agreement or instrument relating to any of the foregoing or used or contemplated for use in the consummation of the transactions contemplated by this FAA; or
- (4) wherein an unfavorable decision, ruling, or finding could adversely affect the transactions contemplated hereby or by the Municipal Obligation Resolution or the Municipal Obligations.

(g) The Municipality is not in any material respect in breach of or in default under any applicable law or administrative regulation of the State or the United States, any applicable judgment or decree, or any agreement or other instrument to which the Municipality is a party, or by which it or any of its properties is bound, and no event has occurred that, with the passage of time, the giving of notice, or both, could constitute such a breach or default. The execution and delivery of this FAA, the issuance and delivery of the Municipal Obligations, the adoption of the Municipal Obligation Resolution, and compliance with the respective provisions thereof shall not conflict with, or constitute a breach of or default under, any applicable law or administrative regulation of the State or of the United States, any applicable judgment or decree, or any agreement or other instrument to which the Municipality is a party, or by which it or any of its property is bound.

(h) The Municipal Obligations constitute validly-issued legally-binding special obligations of the Municipality secured as set forth therein.

(i) The resolutions of the Municipality accepting the Loan and the Municipal Obligation Resolution have been duly adopted by the Municipality and remain in full force and effect as of the date hereof.

(j) The Municipality has full legal right and authority, and all necessary permits, licenses, easements, and approvals (other than such permits, licenses, easements, or approvals that are not by their nature obtainable prior to Substantial Completion of the Project) required as of the date hereof to own the Project, carry on its activities relating thereto, undertake and complete the Project, and carry out and consummate all transactions contemplated by this FAA.

(k) The Municipality represents that it has not made any commitment or taken any action that shall result in a valid claim for any finders' or similar fees or commitments in respect to the issuance and sale of the Municipal Obligations and the making of the Loan under this FAA.

(l) The Project is eligible under s. 281.61(2), Wis. Stats., for financing from the SDWLP, and the Project Costs are equal to or in excess of the principal amount of the Municipal Obligations. The Project has satisfied the requirements of the State Environmental Review Procedures contained in the Regulations. Portions of the Project that are ineligible for financing from the SDWLP are listed within the Project Manager Summary Page attached hereto as Exhibit F. The Municipality intends the Project to be eligible under the Statute throughout the term of this FAA.

(m) All amounts shown in Exhibit A of this FAA are costs of a Project eligible for financial assistance from the SDWLP under the Statute. All proceeds of any borrowing of the Municipality that have been spent and which are being refinanced with the proceeds of the Loan made hereunder have been spent on eligible Project Costs. All Project Costs are reasonable, necessary, and allocable by the Municipality to the Project under generally accepted accounting principles. None of the proceeds of the Bonds shall be used directly or indirectly by the Municipality as working capital or to finance inventory, as opposed to capital improvements.

(n) The Project is and shall remain in compliance with all applicable federal, state, and local laws and ordinances (including rules and regulations) relating to zoning, building, safety, and environmental quality. The Municipality has complied with and completed all requirements of DNR necessary to commence construction of the Project prior to the date hereof. The Municipality intends to proceed with due diligence to complete the Project pursuant to Section 4.04 hereof.

(o) The Municipality does not intend to lease the Project or enter into a long-term contract for operation of the Project except as set forth in Exhibit D.

(p) The Municipality shall not take or omit to take any action which action or omission shall in any way cause the proceeds of the Bonds to be applied in a manner contrary to that provided in the Program Resolution.

(q) The Municipality has not taken and shall not take any action, and presently knows of no action that any other person, firm, or corporation has taken or intends to take, that would cause interest on the Municipal Obligations to be includable in the gross income of the owners of the Municipal Obligations for federal income tax purposes. The representations, certifications, and statements of reasonable expectation made by the Municipality as referenced in the Municipal Obligation Counsel Opinion and No Arbitrage Certificate are hereby incorporated by this reference as though fully set forth herein.

(r) Other than (1) "preliminary expenditures" as used in Treas. Regs. 26 CFR 1.150-2 in an amount not exceeding 20% of the principal amount of the Municipal Obligations, or (2) an amount not exceeding the lesser of \$100,000 or 5% of the principal amount of the Municipal Obligations, all of the proceeds of the Bonds loaned to the Municipality (other than refunding proceeds, if any) shall be used for Project Costs paid by the Municipality subsequent to a date which is 60 days prior to the date on which the Municipality adopted a reimbursement resolution pursuant to Treas. Regs. 26 CFR 1.150-2 stating its intent to reimburse other funds of the Municipality used to finance the Project, or subsequent to the issuance date of the Municipal Obligations.

(s) The Municipality represents that it has satisfied and shall continue to satisfy all the applicable requirements in ss. 281.61(3), (4), (5), and (8m), Wis. Stats., and ch. NR 166, Wis. Adm. Code.

(t) The Municipality has adopted a rate, charge, or assessment schedule that will generate annually sufficient revenue to pay the principal of and interest on the Municipal Obligations.

(u) The Municipality is in substantial compliance and shall remain in substantial compliance with all applicable conditions, requirements, and terms of financial assistance previously awarded through any federal construction grants program, the SDWLP or the CWFP.

(v) The Municipality has met all terms and conditions contained within and received DNR approval for the Municipality's Plans and Specifications for the Project described in the definitions hereof.

(w) The Municipality represents that it submitted to DNR a bid tabulation for the Project with a recommendation to DNR for review and concurrence. The actual Substantial Completion date of the Project was October 1, 2023.

(x) The Municipality acknowledges that ss. 281.59(11)(b) and 70.60, Wis. Stats., and the Program Resolution provide that, if the Municipality fails to repay the Loan when due, the State shall recover amounts due the SDWLP by adding a special charge to the amount of taxes apportioned to and levied upon the county in which the Municipality is located.

Further, in the event that the Municipality would become eligible to receive State payments, s. 281.59(11)(b), Wis. Stats., and the Program Resolution provide that, if the Municipality fails to repay the Loan when due, the State shall recover amounts due the SDWLP by deducting those amounts from any State payments due the Municipality.

(y) The Municipality acknowledges that the State reserves the right upon default by the Municipality hereunder to have a receiver appointed to collect User Fees from the operation of the Municipality's Water System or, in the case of a joint utility system, to bill the users of the Municipality's Water System directly.

(z) The representations of the Municipality in the Application are true and correct as of the date of this FAA and are incorporated herein by reference as if fully set forth in this place.

(aa) There has been no material adverse change in the financial condition or operation of the Municipality or the Project since the submission date of the Application.

(bb) The Municipality submitted a water rate application to the Public Service Commission. This water rate application is for Water Rates that shall generate sufficient revenues, together with other funds available to the Municipality, to pay all costs of operating and maintaining the facilities of the Municipality's entire Water System, in accordance with this FAA. The Municipality implemented the Water Rates upon the Wisconsin Public Service Commission's approval of the rate order.

ARTICLE III LOAN PROVISIONS

Section 3.01. Loan Clauses

(a) Subject to the conditions and in accordance with the terms of this FAA, the SDWLP hereby agrees to make the Loan and the Municipality agrees to accept the Loan. As evidence of the Loan made to the Municipality, the Municipality hereby agrees to sell to the SDWLP Municipal Obligations in the aggregate principal amount of \$847,920. The SDWLP shall pay for the Municipal Obligations in lawful money of the United States, which shall be disbursed as provided in this FAA.

(b) Prior to disbursement, Loan proceeds shall be held by the SDWLP or by the Trustee for the account of the SDWLP. Earnings on undisbursed Loan proceeds shall be for the account of the SDWLP. Loan proceeds shall be disbursed only upon submission by the Municipality of disbursement requests and approval thereof as set forth in Section 3.05 hereof.

(c) The Loan shall bear interest at the rate of one and 353/1000ths percent (1.353%) per annum, and interest shall accrue and be payable only on Loan proceeds actually disbursed from the date of disbursement until the date such amounts are repaid.

(d) The Department of Administration shall maintain a Loan Disbursement Table on its website <http://eif.doa.wi.gov/start.asp> [eif.doa.wi.gov]. DOA shall make entries as each disbursement is made and as each principal amount is repaid; the SDWLP and the Municipality agree that such entries shall be mutually binding.

(e) Upon Final Completion of the Project, DOA may request that the Municipality issue substitute Municipal Obligations in the aggregate principal amount equal to the outstanding principal balance of the Loan.

(f) The Municipality shall deliver, or cause to be delivered, a Municipal Obligation Counsel Opinion to the SDWLP concurrently with the delivery of the Municipal Obligations.

Section 3.02. Loan Amortization Principal and interest payments on the Loan (and on the Municipal Obligations evidencing the Loan) shall be due on the dates set forth in Exhibit B of this FAA. The payment amounts shown on Exhibit B are for informational purposes only and assume the full amount of the Loan is disbursed to the Municipality on July 10, 2024. It is understood that the actual amount of the Municipality's Loan payments shall be based on the actual dates and amounts of Loan disbursements for the Project. Notwithstanding the foregoing or anything in the Municipal Obligations, the Loan shall be for no longer than thirty (30) years from the date of this FAA and shall mature and be fully amortized not later

than thirty (30) years after the original issue date of the Municipal Obligations. Repayment of principal on the Loan shall begin not later than twelve (12) months after the expected or actual Substantial Completion date of the Project

Section 3.03. Type of Municipal Obligation and Security The Municipality's obligation to meet annual debt service requirements shall be a revenue obligation evidenced by issuance of revenue bonds pursuant to s. 66.0621, Wis. Stats. The security for the Municipality's obligation shall be a pledge of revenues to be derived from the Municipality's Water System, and the Municipality shall agree that, if revenues from the Water System are insufficient to meet annual debt service requirements, the Municipality shall purchase water services in amounts sufficient to meet annual debt service requirements as provided in and set forth in Section 9 of the Municipal Obligation Resolution. The annual revenues net of all current expenses shall be equal to not less than the annual principal and interest requirements on the Municipal Obligations, any Parity Obligations, and any other debt obligations payable from the revenues of the Water System then outstanding, times the greater of (i) 110 percent or (ii) the highest debt service coverage ratio required with respect to any Parity Obligations, or any other debt obligations payable from the revenues of the Water System then outstanding. As of the date of this FAA, the required debt service coverage ratio is 125 percent; however, this percentage is subject to change as outlined in the prior sentence. The Loan is also secured as provided in Section 3.07 hereof.

Section 3.04. Sale and Redemption of Municipal Obligations

- (a) Municipal Obligations may not be prepaid without the prior written consent of the SDWLP. The SDWLP has sole discretion to withhold such consent.
- (b) The Municipality shall pay all costs and expenses of the SDWLP in effecting the redemption of the Bonds to be redeemed with the proceeds of the prepayment of the Municipal Obligations. Such costs and expenses may include any prepayment premium applicable to the SDWLP and any investment losses incurred or sustained by the SDWLP resulting directly or indirectly from any such prepayment.
- (c) Subject to subsection (a), the Municipality may prepay the Loan with any settlements received from any third party relating to the design or construction of the Project.
- (d) Prepayments of the Municipal Obligations shall be applied pro rata to all maturities of the Municipal Obligations.

Section 3.05. Disbursement of Loan Proceeds

- (a) Each disbursement request shall be delivered to DNR. Each request must contain invoices or other evidence acceptable to DNR and DOA that Project Costs for which disbursement of Loan proceeds is requested have been incurred by the Municipality.
- (b) The SDWLP, through its agents or Trustee, plans to make disbursements of Loan proceeds on a semimonthly basis upon approval of each disbursement request by DNR and DOA. Such approval by DNR and DOA may require adjustment and corrections to the disbursement request submitted by the Municipality. The Municipality shall be notified whenever such an adjustment or correction is made by DNR or DOA.
- (c) Disbursements made to the Municipality are subject to pre- and post-payment adjustments by DNR or DOA.
 - (1) If the Loan proceeds are not yet fully disbursed, and SDWLP funds were previously disbursed for costs not eligible for SDWLP funding or not eligible under this FAA, the SDWLP shall make necessary adjustments to future disbursements.

(2) If the Loan proceeds are fully disbursed, including disbursements for any costs not eligible for SDWLP funding or not eligible under this FAA, the Municipality agrees to repay to the SDWLP an amount equal to the non-eligible costs within 60 days of notification by DNR or DOA. The SDWLP shall then apply the amount it receives as a Loan prepayment.

(d) The SDWLP or its agent shall disburse Loan proceeds only to the Municipality's account by electronic transfer of funds. The Municipality hereby covenants that it shall take actions and provide information necessary to facilitate these transfers.

(e) Disbursement beyond ninety-five percent (95%) of the principal amount of the Loan, unless otherwise agreed to by DNR and DOA pursuant to a written request from the Municipality, may be withheld until:

(1) DNR is satisfied that the Project has been completed in accordance with the Plans and Specifications, and DNR has approved all change orders relating to the Project;

(2) the Municipality certifies to DNR its acceptance of the Project from its contractors;

(3) the Municipality certifies in writing to DNR its compliance with applicable Federal requirements (certification must be as prescribed on Exhibit C); and

(4) DNR certifies in writing to DOA the Municipality's compliance with all applicable requirements of this FAA.

(f) Treas. Regs. 26 CFR § 1.148-6(d)(1)(iii) applies to project expenditures; it states, in part, "An issuer must account for the allocation of proceeds to expenditures not later than 18 months after the later of the date the expenditure is paid or the date the project, if any, that is financed by the issue is placed in service".

Section 3.06. Remedies

(a) If the Municipality:

(1) or any authorized representative is not complying with federal or state laws, regulations, or requirements relating to the Project, and following due notice by DNR the Project is not brought into compliance within a reasonable period of time; or

(2) is not complying with or is in violation of any provision set forth in this FAA; or

(3) is not in compliance with the Statute or the Regulations;

then DNR may, until the Project is brought into compliance or the FAA non-compliance is cured to the satisfaction of DNR or DOA, impose one (1) or more of the following sanctions:

(i) Progress payments or disbursements otherwise due the Municipality of up to 20% may be withheld.

(ii) Project work may be suspended.

(iii) DNR may request a court of appropriate jurisdiction to enter an injunction or afford other equitable or judicial relief as the court finds appropriate.

(iv) Other administrative remedies may be pursued.

(b) If the Municipality fails to make any payment when due on the Municipal Obligations or fails to observe or perform any other covenant, condition, or agreement on its part under this FAA for a period of thirty (30) days after written notice is given to the Municipality by DNR, specifying the default and requesting that it be remedied, the SDWLP is provided remedies by law and this FAA. These remedies include, but are not limited to, the following rights:

(1) Pursuant to s. 281.59(11)(b), Wis. Stats., DOA shall place on file a certified statement of all amounts due the SDWLP under this FAA. DOA may collect all amounts due the SDWLP by deducting those amounts from any State payments due the Municipality, or adding a special charge to the amount of taxes apportioned to and levied upon the county in which the Municipality is located under s. 70.60, Wis. Stats.

(2) The SDWLP may, without giving bond to the Municipality or anyone claiming under it, have a receiver appointed for the SDWLP's benefit of the Project and the Municipality's Water System and of the earnings, income, rents, issues, and profits thereof, with such powers as the court making such appointment shall confer. The Municipality hereby irrevocably consents to such appointment.

(3) In the case of a joint utility system, the SDWLP may bill the users of the Municipality's system directly.

(4) The SDWLP may declare the principal amount of the Municipal Obligations immediately due and payable.

(5) The SDWLP may enforce any right or obligation under this FAA, including the right to seek specific performance or mandamus, whether such action is at law or in equity.

(6) The SDWLP may increase the interest rate set forth in Section 3.01 hereof to the market interest rate as defined in the Statute and Regulations.

Section 3.07. Security for the Loan In accordance with the terms of the Municipal Obligation Resolution:

(a) as security for the Loan hereunder, the Municipality hereby pledges the revenue to be derived from the Municipality's Water Rates (which is a dedicated source of revenue); and

(b) other than as already pledged to the outstanding Parity Obligations the Municipality shall not pledge the revenues, except as provided in Section 11 of the Municipal Obligation Resolution, to be derived from the Municipality's Water Rates or other revenues pledged under Section 3.07(a) above, to any person other than the SDWLP, unless the revenues pledged to such other person meet the highest debt coverage ratio then applicable to the Municipality

Section 3.08. Effective Date and Term This FAA shall become effective upon its execution and delivery by the parties hereto, shall remain in full force and effect from such date, and shall expire on such date as the Municipal Obligations shall be discharged and satisfied in accordance with the provisions thereof.

Section 3.09. Other Amounts Payable The Municipality hereby expressly agrees to pay to the SDWLP:

(a) such Servicing Fee as the SDWLP may impose pursuant to s. 281.61(5)(b), Wis. Stats., which shall be payable in semiannual installments on each interest payment date; such a Servicing Fee shall be imposed upon the Municipality after approval of a future Biennial Finance Plan by the State of Wisconsin Building Commission which contains a Servicing Fee requirement, schedule, and amount; and

(b) the Municipality's allocable share of the Fees and Charges as such costs are incurred. Allocable share shall mean the proportionate share of the Fees and Charges based on the outstanding principal of the Loan.

Amounts paid by the Municipality pursuant to this Section 3.09 shall be deposited in the Equity Fund established pursuant to the Program Resolution.

ARTICLE IV CONSTRUCTION OF THE PROJECT

Section 4.01. Insurance The Municipality agrees to maintain property and liability insurance for the Water System and Project that is reasonable in amount and coverage and that is consistent with prudent municipal insurance practices for the term of the Loan. The Municipality agrees to provide written evidence of insurance coverage to the SDWLP upon request at any time during the term of the Loan.

In the event the Water System or Project is damaged or destroyed, the Municipality agrees to use the proceeds from its insurance coverage either to repay the Loan or to repair or replace the Water System.

Section 4.02. Construction of the Project

(a) The Municipality shall construct the Project, or cause it to be constructed, to Final Completion in accordance with the Application and the Plans and Specifications. The Municipality shall proceed with the acquisition and construction of the Project in conformity with law and with all applicable requirements of governmental authorities having jurisdiction with respect thereto, subject to such modifications of Plans and Specifications that alter the cost of the Project, use of space, Project scope, or functional layout, as may be previously approved by DNR.

(b) During construction of the Project, if the Municipality replaces a lead service line in the Water System that results in creation of a partial lead service line due to the private portion of the service line also containing lead, or containing galvanized iron or galvanized steel, the SDWLP shall not provide funding for the public lead service line replacement until the private side of the service line has also been replaced.

(c) If a lead service line, including both the public portion and the private portion of the line, cannot be replaced in its entirety all at one time, the Municipality shall supply water filters to any affected homes to minimize any harmful effects. The Municipality shall attempt to replace a service line in its entirety within 45 days of the start of construction on the lead service line. In no case shall the full replacement period exceed 180 days.

Section 4.03. Performance Bonds The Municipality shall provide, or cause to be provided, performance bonds assuring the performance of the work to be performed under all construction contracts entered into with respect to the Project. All performance bonds required hereunder shall be issued by independent surety companies authorized to transact business in the State.

Section 4.04. Completion of the Project

(a) The Municipality agrees that it shall undertake and complete the Project for the purposes and in the manner set forth in this FAA and in accordance with all federal, state, and local laws, ordinances, and regulations applicable thereto. The Municipality shall, with all practical dispatch and in a sound and economical manner, complete or cause to be completed the acquisition and construction of the Project and do all other acts necessary and possible to entitle it to receive User Fees with respect to the Project at the earliest practicable time. The Municipality shall

obtain all necessary approvals from any and all governmental agencies prior to construction which are requisite to the Final Completion of the Project.

(b) The Municipality shall notify DNR of the Substantial Completion of the Project. The Municipality shall cause to be prepared as-built plans for the Project at or prior to completion thereof.

(c) The Municipality shall take and institute such proceedings as shall be necessary to cause and require all contractors and material suppliers to complete their contracts diligently and in accordance with the terms of the contracts including, without limitation, the correcting of defective work.

(d) Upon Final Completion of the Project in accordance with the Plans and Specifications, the Municipality shall:

(1) certify to DNR its acceptance of the Project from its contractors, subject to claims against contractors and third parties;

(2) complete and deliver to DNR the completed Utilization of Disadvantaged Business Enterprises (DBE) form attached hereto as Exhibit E of this FAA;

(3) prepare and deliver to DNR the completed Federal Requirements Compliance Certification attached hereto as Exhibit C of this FAA;

(4) certify compliance with Section 4.02 of this FAA; and

(5) obtain all required permits and authorizations from appropriate authorities, if required, for operation and use of the Project.

Section 4.05. Payment of Additional Project Costs

(a) In the event of revised eligibility determinations, cost overruns, and amendments exceeding the Loan amount, the SDWLP may allocate additional financial assistance to the Project. The allocation of additional financial assistance may be in the form of a loan at less than the market interest rate, which is established pursuant to the Statute and Regulations. The allocation of additional financial assistance shall depend upon availability of funds, pursuant to the Statute and the Regulations.

(b) In the event Loan proceeds are not sufficient to pay the costs of the Project in full, the Municipality shall nonetheless complete the Project and pay that portion of the Project Costs as may be in excess of available Loan proceeds, and shall not be entitled to any reimbursement therefor from the SDWLP, or the owners of any Bonds, except from the proceeds of additional financing which may be provided by the SDWLP pursuant to an amendment to this FAA or through a separate financial assistance agreement.

Section 4.06. No Warranty Regarding Condition, Suitability, or Cost of Project Neither the SDWLP, DOA, DNR, nor the Trustee makes any warranty, either express or implied, as to the Project or its condition, or that it shall be suitable for the Municipality's purposes or needs, or that the proceeds of the Loan shall be sufficient to pay the costs of the Project. Review or approval of engineering reports, facilities plans, Plans and Specifications, or other documents, or the inspection of Project construction by DNR, does not relieve the Municipality of its responsibility to properly plan, design, build, and effectively operate and maintain the Project as required by laws, regulations, permits, and good management practices. DNR or its representatives are not responsible for increased costs resulting from defects in the Plans and Specifications or other Project documents. Nothing in this section prohibits a Municipality from requiring

more assurances, guarantees, or indemnity or other contractual requirements from any party performing Project work.

ARTICLE V COVENANTS

Section 5.01. Application of Loan Proceeds The Municipality shall apply the proceeds of the Loan solely to Project Costs.

Section 5.02. Operation and Maintenance

(a) After completion of the Project, the Municipality shall:

- (1) at all times operate the Project or otherwise cause the Project to be operated properly and in a sound and economical manner, including proper training of personnel;
- (2) maintain, preserve, and keep the Project or cause the Project to be maintained, preserved, and kept in good repair, working order, and condition; and
- (3) periodically make, or cause to be made, all necessary and proper repairs, replacements, and renewals so that at all times the operation of the Project may be properly conducted in a manner that is consistent with the Project performance standards contained in the Application and the requirements of the Water Diversion Permit (if any).

(b) So long as the Loan is outstanding, the Municipality shall not, without the approval of DNR, discontinue operation of, sell, or otherwise dispose of the Water System or Project, except for portions of the Water System sold or otherwise disposed of in the course of ordinary repair and replacement of parts.

Section 5.03. Compliance with Law At all times during construction of the Project and operation of the Water System, the Municipality shall comply with all applicable federal, state, and local laws, ordinances, rules, regulations, permits, and approvals, and with this FAA, including, without limitation, the Statute, the Regulations, and the Water Diversion Permit (if any).

Section 5.04. Public Ownership The Municipality shall at all times retain ownership of the Project and the Water System of which it is a part.

Section 5.05. Establishment of Project Accounts; Audits

- (a) The Municipality shall maintain Project accounts in accordance with generally accepted accounting principles (GAAP), including standards relating to the reporting of infrastructure assets and directions issued by the SDWLP. Without any request the Municipality shall furnish to DOA as soon as available, and in any event within one hundred eighty (180) days after the close of each fiscal year, a copy of the audit report for such year and accompanying GAAP-based financial statements for such period, as examined and reported by independent certified public accountants of recognized standing selected by the Municipality and reasonably satisfactory to DOA, whose reports shall indicate that the accompanying financial statements have been prepared in conformity with GAAP and include standards relating to the reporting of infrastructure assets.
- (b) The Municipality shall maintain a separate account that reflects the receipt and expenditure of all SDWLP funds for the Project. All Loan proceeds shall be credited promptly upon receipt thereof and shall be reimbursement for or expended only for Project Costs. The Municipality shall: permit

any authorized representative of DNR or DOA, or agents thereof, the right to review or audit all records relating to the Project or the Loan; produce, or cause to be produced, all records relating to any work performed under the terms of this FAA for examination at such times as may be designated by any of them; permit extracts and copies of the Project records to be made by any of them; and fulfill information requests by any of them.

Section 5.06. Records The Municipality shall retain all files, books, documents, and records relating to construction of the Project for at least three years following the date of Final Completion of the Project, or for longer periods if necessary due to any appeal, dispute, or litigation. All other files and records relating to the Project shall be retained so long as this FAA remains in effect. As-built plans for the Project shall be retained for the useful life of the Project.

Section 5.07. Project Areas The Municipality shall permit representatives of DNR access to the Project and related records at all reasonable times, include provisions in all contracts permitting such access during construction and operation of the Water System, and allow extracts and copies of Project records to be made by DNR representatives.

Section 5.08. Engineering Inspection The Municipality shall provide competent and adequate inspection of all Project construction under the direction of a professional engineer licensed in the State. The Municipality shall direct such engineer to inspect work necessary for the construction of the Project and to determine whether such work has been performed in accordance with the Plans and Specifications. Any such work not in accordance with the Plans and Specifications shall be remedied unless such noncompliance is waived by DNR.

Section 5.09. Tax Covenants

(a) The Municipality covenants and agrees that it shall not take any action, or omit to take any action, which action or omission would result in the loss of the exclusion of the interest on any Municipal Obligations now or hereafter issued from gross income for purposes of federal income taxation as that status is governed by Section 103(a) of the Code or any successor provision.

(b) The Municipality shall not take any action, or omit to take any action, which action or omission would cause its Municipal Obligations to be "private activity bonds" within the meaning of Section 141(a) of the Code or any successor provision.

(c) The Municipality shall not directly or indirectly use, or permit the use of, any proceeds of the Bonds (or amounts replaced with such proceeds) or any other funds, or take any action, or omit to take any action, which use or action or omission would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148(a) of the Code or any successor provision. The Municipality hereby further covenants to ensure that all amounts actually received by such Municipality from the SDWLP are advanced within three Business Days to the entity submitting the invoice (or to reimburse the Municipality) to which each amount relates, and that all amounts actually received by such Municipality from the SDWLP shall not be invested in any interest-bearing account.

(d) The Municipality shall not use (directly or indirectly) the proceeds of the Bonds in any manner that would constitute an "advance refunding" within the meaning of Section 149(d)(2) of the Code or any successor provision. Without limiting the foregoing, any proceeds of the Bonds used to repay interim or other prior financing of Project Costs shall be applied within three (3) Business Days of receipt of the proceeds to the payment of principal of such financing.

Section 5.10. User Fee Covenant

(a) The Municipality hereby certifies that it has adopted and shall charge User Fees with respect to the Project in accordance with applicable laws and the Statute and in amounts such that revenues of the Municipality with respect to the Project shall be sufficient, together with other funds available to the Municipality for such purposes, to pay all costs of operating and maintaining the Project in accordance with this FAA and to pay all amounts due under this FAA and the Municipal Obligations.

(b) The Municipality covenants that it shall adopt and shall adequately maintain for the design life of the Project a system of User Fees with respect to the Project. The Municipality covenants that it shall, from time to time, revise and charge User Fees with respect to the Project such that the revenues and funds described in paragraph (a) shall be sufficient to pay the costs described in paragraph (a).

Section 5.11. Notice of Impaired System The Municipality shall promptly notify DNR and DOA in the case of: any material damage to or destruction of the Project or any part thereof; any actual or threatened proceedings for the purpose of taking or otherwise affecting by condemnation, eminent domain, or otherwise, all or a part of the Water System; or any action, suit, or proceeding at law or in equity, or by or before any governmental instrumentality or agency, or any other event which may impair the ability of the Municipality to construct the Project, operate the Water System, or set and collect User Fees as set forth in Section 5.10.

Section 5.12. Hold Harmless The Municipality shall save, keep harmless, and defend DNR and DOA, and all their officers, employees, and agents, against any and all liability, claims, and costs of whatever kind and nature for injury to or death of any person or persons and for loss or damage to any property occurring in connection with or in any way incident to or arising out of the construction, occupancy, use, service, operation, or performance of work in connection with the Project, the Water System, or acts or omissions of the Municipality's employees, agents, or representatives.

Section 5.13. Nondiscrimination Covenant

(a) In connection with the Project, the Municipality agrees to comply with fair employment practices pursuant to subchapter II of ch. 111, Wis. Stats. This provision shall include, but is not 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 Municipality agrees to post in conspicuous places, available for employees and applicants for employment, notices setting forth the provision of the nondiscrimination clause.

(b) The Municipality shall incorporate the following provision into all Project contracts which have yet to be executed: "In connection with the performance of work under this contract, the contractor agrees not to discriminate against any employee or applicant because of age, race, religion, color, handicap, sex, physical condition, developmental disability, or national origin. The contractor further agrees to comply with fair employment practices pursuant to subchapter II of ch. 111, Wis. Stats. This provision 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 contractor further agrees to take affirmative action to ensure equal employment opportunities for persons with disabilities. The contractor agrees to post in conspicuous places, available for employees and applicants for employment, notices setting forth the provisions of the nondiscrimination clause."

Section 5.14. Employees The Municipality or its employees or agents are not employees or agents of the DNR or DOA for any purpose including worker's compensation.

Section 5.15. Adequate Funds The Municipality shall have sufficient funds available to repay the Loan. The Municipality shall have sufficient funds available when construction of the Project is completed to ensure effective operation and maintenance of the Project for purposes constructed.

Section 5.16. Management The Municipality shall provide and maintain competent and adequate management, supervision, and inspection at the construction site to ensure that the completed work conforms with the Plans and Specifications. The Municipality shall furnish progress reports and such other information as DNR may require.

Section 5.17. Reimbursement Any disbursement made under the Loan to the Municipality in excess of the amount determined by final audit to be due the Municipality shall be reimbursed to DOA within 60 days after DNR or DOA provides a notice stating the amount of excess funds disbursed.

Section 5.18. Unpaid User Fees The Municipality shall, to the fullest extent permitted by law, take all actions necessary to certify any unpaid User Fees to the county treasurer in order that such unpaid User Fees shall be added as a special charge to the property tax bill of the user.

Section 5.19. Rebates The Municipality agrees to pay to the SDWLP any refunds, rebates, credits, or other amounts received for Project Costs for which disbursement of funds has already been made by the SDWLP. The SDWLP shall then apply the amount it receives as a Loan prepayment.

Section 5.20. Maintenance of Legal Existence

(a) Except as provided in par. (b), the Municipality shall maintain its legal existence and shall not dissolve or otherwise dispose of all or substantially all of its assets and shall not consolidate with or merge into another legal entity.

(b) A Municipality may consolidate with or merge into any other legal entity, dissolve or otherwise dispose of all of its assets or substantially all of its assets, or transfer all or substantially all of its assets to another legal entity (and thereafter be released of all further obligation under this FAA and the Municipal Obligations) if:

(1) the resulting, surviving, or transferee legal entity is a legal entity established and duly existing under the laws of Wisconsin;

(2) such resulting, surviving, or transferee legal entity is eligible to receive financial assistance under the Statute;

(3) such resulting, surviving, or transferee legal entity expressly assumes in writing all of the obligations of the Municipality contained in this FAA and the Municipal Obligations and any other documents the SDWLP deems reasonably necessary to protect its environmental and credit interests; and

(4) the SDWLP consents in writing to such transaction, which consent may be withheld in the absolute discretion of the SDWLP.

Section 5.21. Wage Rate Requirements The Municipality represents that it shall comply with Section 1450(e) of the Act (42 USC 300j-9(e)), which requires that all laborers and mechanics employed by contractors and subcontractors funded directly by, or assisted in whole or in part with, funding under the Loan shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor (DOL) in accordance with subchapter IV of chapter 31 of title 40, United States Code.

Section 5.22. American Iron and Steel The Municipality agrees to comply with requirements for use of American Iron and Steel contained in Public Law 115-141 for products used in the Project that are made primarily of iron and/or steel.

Section 5.23. Federal Single Audit At the time of signing of this FAA, the funds awarded to the Municipality for this Project are not considered to be subject to federal single audit requirements, but such consideration may change subsequent to this FAA if any changes are made to federal single audit requirements applicable to municipalities. If the Municipality is required to submit a Federal Single Audit, without any request the Municipality shall furnish to DOA, at doaeif@wisconsin.gov as soon as available, and in any event within 30 days after completion, the Federal Single Audit. Notification must include acknowledgement of any SRF findings and/or resolution to prior year findings.

ARTICLE VI MISCELLANEOUS

Section 6.01. Notices All notices, certificates, or other communications hereunder shall be sufficiently given, and shall be deemed given, when hand delivered or mailed by registered or certified mail, postage prepaid, return receipt requested to the addresses set forth below:

- (a) DEPARTMENT OF ADMINISTRATION
OFFICE OF CAPITAL FINANCE
SAFE DRINKING WATER LOAN PROGRAM
101 EAST WILSON STREET 10TH FLOOR
MADISON WI 53702-0004
OR
PO BOX 7864
MADISON WI 53707-7864
- (b) DEPARTMENT OF NATURAL RESOURCES
BUREAU OF COMMUNITY FINANCIAL ASSISTANCE
101 SOUTH WEBSTER STREET CF/2
MADISON WI 53702-0005
OR
PO BOX 7921
MADISON WI 53707-7921
- (c) US BANK CORP TRUST
MATTHEW HAMILTON EP-MN-WS3T
60 LIVINGSTON AVENUE
ST PAUL MN 55101-2292
- (d) CITY OF ASHLAND
601 MAIN STREET WEST
ASHLAND WI 54806

Any of the foregoing parties may designate any further or different addresses to which subsequent notices, certificates, or other communications shall be sent, by notice in writing given to the others. Any notice herein shall be delivered simultaneously to DNR and DOA.

Section 6.02. Binding Effect This FAA shall be for the benefit of, and shall be binding upon, the SDWLP and the Municipality and their respective successors and assigns.

Section 6.03. Severability In the event any provision of this FAA shall be held illegal, invalid, or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable, or otherwise affect any other provision hereof.

Section 6.04. Amendments, Supplements, and Modifications This FAA may be amended, supplemented, or modified to provide for additional loans for the Project by the SDWLP to the Municipality or for other purposes. All amendments, supplements, and modifications shall be in writing between the SDWLP (by DNR and DOA acting under authority of the Statute) and the Municipality.

Section 6.05. Execution in Counterparts This FAA may be executed in several counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

Section 6.06. Applicable Law This FAA shall be governed by and construed in accordance with the laws of the State, including the Statute.

Section 6.07. Benefit of Financial Assistance Agreement This FAA is executed, among other reasons, to induce the purchase of the Municipal Obligations. Accordingly, all duties, covenants, obligations, and agreements of the Municipality herein contained are hereby declared to be for the benefit of, and are enforceable by, the SDWLP, the Trustee, or their authorized agents.

Section 6.08. Further Assurances The Municipality shall, at the request of DNR and DOA, authorize, execute, acknowledge, and deliver such further resolutions, conveyances, transfers, assurances, financing statements, and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning, and confirming the rights, security interests, and agreements granted or intended to be granted by this FAA and the Municipal Obligations.

Section 6.09. Assignment of Municipal Obligations The Municipality hereby agrees that the Municipal Obligations may be sold, transferred, pledged, or hypothecated to any third party without the consent of the Municipality.

Section 6.10. Covenant by Municipality as to Compliance with Program Resolution The Municipality covenants and agrees that it shall comply with the provisions of the Program Resolution with respect to the Municipality and that the Trustee and the owners of the Bonds shall have the power and authority provided in the Program Resolution. The Municipality further agrees to aid in the furnishing to DNR, DOA, or the Trustee of opinions that may be required under the Program Resolution.

Section 6.11. Termination This FAA may be terminated in whole or in part pursuant to one or more of the following:

(a) The SDWLP and the Municipality may enter into an agreement to terminate this FAA at any time. The termination agreement shall establish the effective date of termination of this FAA, the basis for settlement of termination costs, and the amount and date of payment of any sums due either party.

(b) If the Municipality wishes to unilaterally terminate all or any part of the Project work for which financial assistance has been awarded, the Municipality shall promptly give written notice to DNR. If the SDWLP determines that there is a reasonable basis for the requested termination, the SDWLP may enter into a termination agreement, including provisions for FAA termination costs, effective with the date of cessation of the Project work by the Municipality. If the SDWLP determines that the Municipality has ceased work on the Project without reasonable basis, the SDWLP may unilaterally terminate financial assistance or rescind this FAA.

Section 6.12. Rescission The SDWLP may rescind this FAA prior to the first disbursement of any funds hereunder if it determines that:

- (a) there has been substantial non-performance of the Project work by the recipient without justification under the circumstances;
- (b) there is substantial evidence this FAA was obtained by fraud;
- (c) there is substantial evidence of gross abuse or corrupt practices in the administration of the Project;
- (d) the Municipality has failed to comply with the covenants contained in this FAA; or
- (e) any of the representations of the Municipality contained in this FAA were false in any material respect.

IN WITNESS WHEREOF, the SDWLP and the Municipality have caused this FAA to be executed and delivered, as of the date and year first written above.

CITY OF ASHLAND

By: _____
Matthew MacKenzie
Mayor

Attest: _____
Denise Oliphant
City Clerk

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION

By: _____
Authorized Officer

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By: _____
Authorized Officer

EXHIBIT A

PROJECT BUDGET SHEET

CITY OF ASHLAND
SDWLP Project No. 4759-24

	Total Project Costs	Ineligible Costs Paid by Internal Funds	SDWLP Total Award Amount for this Project
Force Account	0.00	0.00	0.00
Interim Financing	0.00	0.00	0.00
Preliminary Engineering	118,800.00	0.00	118,800.00
Land or Easement Acquisition	0.00	0.00	0.00
Engineering/Construction Mgmt.	158,750.00	0.00	158,750.00
Construction/Equipment	1,315,590.50	786,996.23	528,594.27
Contingency	13,215.50	-0.23	13,215.73
Miscellaneous Costs	17,060.00	0.00	17,060.00
SDWLP Closing Costs	11,500.00	0.00	11,500.00
TOTAL	\$1,634,916.00	\$786,996.00	\$847,920.00

City of Ashland, Wisconsin

Exhibit B

Project # 4759-24 Safe Drinking Water Loan Program

Loan Closing Date:

July 10, 2024

Payment Date	Principal Payment	Interest Rate	Interest Payment	Principal & Interest	Bond Year Debt Service	Calendar Year Debt Service
1-Nov-24	0.00	1.353%	3,537.31	3,537.31	0.00	3,537.31
1-May-25	23,103.01	1.353%	5,736.18	28,839.19	32,376.50	0.00
1-Nov-25	0.00	1.353%	5,579.89	5,579.89	0.00	34,419.08
1-May-26	23,415.59	1.353%	5,579.89	28,995.48	34,575.37	0.00
1-Nov-26	0.00	1.353%	5,421.48	5,421.48	0.00	34,416.96
1-May-27	23,732.41	1.353%	5,421.48	29,153.89	34,575.37	0.00
1-Nov-27	0.00	1.353%	5,260.93	5,260.93	0.00	34,414.82
1-May-28	24,053.51	1.353%	5,260.93	29,314.44	34,575.37	0.00
1-Nov-28	0.00	1.353%	5,098.21	5,098.21	0.00	34,412.65
1-May-29	24,378.95	1.353%	5,098.21	29,477.16	34,575.37	0.00
1-Nov-29	0.00	1.353%	4,933.29	4,933.29	0.00	34,410.45
1-May-30	24,708.80	1.353%	4,933.29	29,642.09	34,575.38	0.00
1-Nov-30	0.00	1.353%	4,766.13	4,766.13	0.00	34,408.22
1-May-31	25,043.11	1.353%	4,766.13	29,809.24	34,575.37	0.00
1-Nov-31	0.00	1.353%	4,596.71	4,596.71	0.00	34,405.95
1-May-32	25,381.94	1.353%	4,596.71	29,978.65	34,575.36	0.00
1-Nov-32	0.00	1.353%	4,425.00	4,425.00	0.00	34,403.65
1-May-33	25,725.36	1.353%	4,425.00	30,150.36	34,575.36	0.00
1-Nov-33	0.00	1.353%	4,250.97	4,250.97	0.00	34,401.33
1-May-34	26,073.42	1.353%	4,250.97	30,324.39	34,575.36	0.00
1-Nov-34	0.00	1.353%	4,074.59	4,074.59	0.00	34,398.98
1-May-35	26,426.19	1.353%	4,074.59	30,500.78	34,575.37	0.00
1-Nov-35	0.00	1.353%	3,895.81	3,895.81	0.00	34,396.59
1-May-36	26,783.74	1.353%	3,895.81	30,679.55	34,575.36	0.00
1-Nov-36	0.00	1.353%	3,714.62	3,714.62	0.00	34,394.17
1-May-37	27,146.13	1.353%	3,714.62	30,860.75	34,575.37	0.00
1-Nov-37	0.00	1.353%	3,530.98	3,530.98	0.00	34,391.73
1-May-38	27,513.41	1.353%	3,530.98	31,044.39	34,575.37	0.00
1-Nov-38	0.00	1.353%	3,344.85	3,344.85	0.00	34,389.24
1-May-39	27,885.67	1.353%	3,344.85	31,230.52	34,575.37	0.00
1-Nov-39	0.00	1.353%	3,156.20	3,156.20	0.00	34,386.72
1-May-40	28,262.96	1.353%	3,156.20	31,419.16	34,575.36	0.00
1-Nov-40	0.00	1.353%	2,965.00	2,965.00	0.00	34,384.16
1-May-41	28,645.36	1.353%	2,965.00	31,610.36	34,575.36	0.00
1-Nov-41	0.00	1.353%	2,771.22	2,771.22	0.00	34,381.58
1-May-42	29,032.93	1.353%	2,771.22	31,804.15	34,575.37	0.00
1-Nov-42	0.00	1.353%	2,574.81	2,574.81	0.00	34,378.96
1-May-43	29,425.75	1.353%	2,574.81	32,000.56	34,575.37	0.00
1-Nov-43	0.00	1.353%	2,375.74	2,375.74	0.00	34,376.30
1-May-44	29,823.88	1.353%	2,375.74	32,199.62	34,575.36	0.00
1-Nov-44	0.00	1.353%	2,173.99	2,173.99	0.00	34,373.61
1-May-45	30,227.39	1.353%	2,173.99	32,401.38	34,575.37	0.00
1-Nov-45	0.00	1.353%	1,969.50	1,969.50	0.00	34,370.88
1-May-46	30,636.37	1.353%	1,969.50	32,605.87	34,575.37	0.00
1-Nov-46	0.00	1.353%	1,762.24	1,762.24	0.00	34,368.11
1-May-47	31,050.88	1.353%	1,762.24	32,813.12	34,575.36	0.00
1-Nov-47	0.00	1.353%	1,552.18	1,552.18	0.00	34,365.30
1-May-48	31,471.00	1.353%	1,552.18	33,023.18	34,575.36	0.00
1-Nov-48	0.00	1.353%	1,339.28	1,339.28	0.00	34,362.46
1-May-49	31,896.80	1.353%	1,339.28	33,236.08	34,575.36	0.00
1-Nov-49	0.00	1.353%	1,123.50	1,123.50	0.00	34,359.58
1-May-50	32,328.37	1.353%	1,123.50	33,451.87	34,575.37	0.00
1-Nov-50	0.00	1.353%	904.80	904.80	0.00	34,356.67
1-May-51	32,765.77	1.353%	904.80	33,670.57	34,575.37	0.00
1-Nov-51	0.00	1.353%	683.14	683.14	0.00	34,353.71
1-May-52	33,209.09	1.353%	683.14	33,892.23	34,575.37	0.00
1-Nov-52	0.00	1.353%	458.48	458.48	0.00	34,350.71
1-May-53	33,658.41	1.353%	458.48	34,116.89	34,575.37	0.00
1-Nov-53	0.00	1.353%	230.78	230.78	0.00	34,347.67
1-May-54	34,113.80	1.353%	230.78	34,344.58	34,575.36	34,344.58

Totals	847,920.00		187,142.13	1,035,062.13	1,035,062.13	1,035,062.13
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Net Interest Rate	1.3530%
Bond Years	13,831.6435
Average Life	16.3124

The above schedule assumes full disbursement of the loan on the loan closing date.
30-May-24 Wisconsin Department of Administration

Loan Payment Schedule Comments

Please review the preceding loan payment schedule. It shows the dates of your first interest and principal payments. The preceding loan payment schedule assumes you draw all the loan funds on the loan closing date. Borrowers often draw loan funds over time. Interest only accrues on the funds disbursed and only after the date of each disbursement.

You can view your payment schedule based on disbursements to date at <http://eif.doa.wi.gov/>. Select Loan Payment Schedule on the lower half of the page. You can also request loan payment information from doaeif@wisconsin.gov.

You can generate additional reports at <http://eif.doa.wi.gov/>.

<u>Available Report</u>	<u>Information Provided</u>
Auditor Verification Report	Information commonly requested by municipal auditors. Available for completed calendar years.
Loan Account History	Loan disbursements, principal payments, and loan balance.
Loan Payment Schedule	Future principal and interest payments for disbursements.
Payment History	Past principal and interest payments.
Disbursement History	Past loan and grant disbursements.

Use the Output to Excel button at the bottom of the page to create your report in Microsoft Excel. Find details on generating reports at <http://eif.doa.wi.gov/siteDescr.htm>.

The Environmental Improvement Fund sends invoices semi-annually. You will receive an invoice approximately 45 days prior to the due date. If you have multiple loans, we will send a single invoice showing the payment amount for each loan.

May 1: principal and interest payments due
November 1: interest payments due

For more information about your payment schedule, please email doaeif@wisconsin.gov. The first available staff will respond to your inquiry.

EXHIBIT C

FEDERAL REQUIREMENTS COMPLIANCE CERTIFICATION

[Prepare on Municipal Letterhead at Project Completion and Closeout]

The undersigned officials of the City of Ashland (the "Municipality") hereby certify that, for all expenditures made for construction of DNR Project No. 4759-24 (the "Project"), the Municipality has met the prevailing wage rate requirements of the Davis-Bacon Act.

The Municipality further certifies that, after taking into account any national or project-specific waivers approved by the U.S. Environmental Protection Agency, DNR Project No. 4759-24 has met the requirements for Build America, Buy America of the Infrastructure Investment and Jobs Act, Public Law No. 117-58, §§ 70901-52, and the use of American Iron and Steel mandated under EPA's Drinking Water State Revolving Fund program.

The above certification is determined, after due and diligent investigation, to be true and accurate to the best of my knowledge.

By: _____
[Name of Municipal Official or
Authorized Representative]
[Title]

Dated as of: _____

Attest: _____
[Name of Clerk or Secretary]
[Title]

Dated as of: _____

EXHIBIT D

OPERATING CONTRACTS

As of the date of this FAA, the Municipality does not have any contracts with private entities or other governmental units to operate its Water System.

EXHIBIT E

UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE)

Notice: This form is authorized by ss. 281.58, 281.59, and 281.61, Wis. Stats. Submittal of a completed form to the Department is mandatory prior to receiving a final disbursement. Dollar amounts listed on the form should only include amounts paid under the Financial Assistance Agreement. Information collected on this form will be used for administrative purposes and may be provided to requesters to the extent required by Wisconsin's Public Records Law [ss. 19.31–19.39, Wis. Stats.].

Municipality
City of Ashland

Project Number
4759-24

Project Description
Replace Watermains on McArthur Avenue

Are any DBEs expected to be utilized on the project? If yes, list below. Yes ☐ No ☐				Enter at Project Closeout	
DBE Firm	Indicate DBE Type	Construction or Non-construction*	Contract Estimate (\$)	Actual Amount Paid to the DBE (\$)	Certifying Agency or List
SAMPLE: ABC Engineering, LLC.	X MBE ☐ WBE ☐ Other	Non-construction	10,000	9,950	WisDOT
	☐ MBE ☐ WBE ☐ Other				
	☐ MBE ☐ WBE ☐ Other				
	☐ MBE ☐ WBE ☐ Other				
	☐ MBE ☐ WBE ☐ Other				
	☐ MBE ☐ WBE ☐ Other				
	☐ MBE ☐ WBE ☐ Other				
	☐ MBE ☐ WBE ☐ Other				
	☐ MBE ☐ WBE ☐ Other				
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	☐ MBE ☐ WBE ☐ Other				
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	☐ MBE ☐ WBE ☐ Other				
	☐ MBE ☐ WBE ☐ Other				
	☐ MBE ☐ WBE ☐ Other				
	☐ MBE ☐ WBE ☐ Other				
	☐ MBE ☐ WBE ☐ Other				
	☐ MBE ☐ WBE ☐ Other				
	☐ MBE ☐ WBE ☐ Other				
	☐ MBE ☐ WBE ☐ Other				
	☐ MBE ☐ WBE ☐ Other				

* Construction costs include but are not limited to paving, excavation, HVAC, plumbing, electrical, carpentry, trucking, and equipment. Non-construction costs include but are not limited to professional services, engineering, land acquisition, and supplies.

I hereby certify that, to the best of my knowledge and belief, the information provided on this form is accurate and correct.

Signature of Municipal Representative		Date Signed
Name of Person Completing This Form	Email Address	Phone Number

EXHIBIT F

PROJECT MANAGER SUMMARY PAGE

CITY OF ASHLAND
SDWLP Project No. 4759-24

1. **Project Description:** The Project includes replacement of watermain and public service lines, some of which are lead, along MacArthur Avenue and 8th Street West. Eighteen public lead service lines were replaced. Private lead service line replacements were added to the construction contract via change order 3, and will be funded through a separate agreement, project number 4759-28.
2. **Ineligible Costs:** Costs to replace the storm sewer are ineligible on the Jake's Excavating construction contract. A corresponding portion of roadway costs and sidewalk costs are also ineligible.

A November 3, 2023, letter from the Municipality applied liquidated damages to the Jake's Excavating construction contract. Like other shared costs, those were prorated according to the percent of SDW eligible costs. The total of all ineligible costs is \$786,996.

3. **Other Funding Sources:** The ineligible costs will be paid by internal municipal funds. The private lead service line replacements will be funded through project #4759-28.
4. **Miscellaneous Costs:** As shown in the Project Budget Sheet (Exhibit A), SDWLP funding in the amount of \$17,060.00 is included in the Miscellaneous category for:
 - ◆ Legal fees - \$1,060
 - ◆ Financial advisor costs - \$16,000
5. **Contingency Allowance:** The contingency allowance of \$13,215.73 is five percent of the amount of uncompleted eligible construction work. The Municipality must obtain CME approval of change orders prior to requesting reimbursement.
6. **DBE Good Faith Effort:** The Municipality made a good faith effort to solicit DBE participation for the Project by publishing an advertisement that encouraged DBEs to apply. The prime contractor also made a good faith effort to solicit DBEs by contacting DBEs directly. No DBEs are expected to be utilized on the Project.
7. **Green Project Reserve:** No GPR elements were identified during the review of this Project.
8. **American Iron and Steel:** This Project is subject to the use of American Iron and Steel (AIS) requirements mandated under EPA's Drinking Water State Revolving Fund program.
9. **Environmental Review:** Based on an Environmental Assessment, the Project will result in a Categorical Exclusion. A construction site storm water permit may be required if the contiguous project area exceeds 1 acre.
10. **Loan Term:** The Project has a documented average useful life of 30 years or greater, and therefore is eligible for a 30-year Loan term. The Municipality has elected the 30-year Loan term.

Ref: 2024-158

COUNCIL AGENDA: 6.C.
(6/25/2024)

SUBJECT: Approve a Resolution Authorizing the Issuance and Sale of Up to \$1,097,053 Sewerage System Revenue Bonds, Series 2024, and Providing for Other Details and Covenants With Respect Thereto, and Approval of Related \$2,246,582 Financial Assistance Agreement (*Public Works, Finance*) Roll

RECOMMENDATION: Approval

DEPARTMENT OF ORIGIN: Public Works

CLEARANCES: Finance Director
Public Works Director
Approved by Council, August 9, 2023

EXHIBITS:

1.	Proposed Resolution No. 17787
2.	State of Wisconsin Clean Water Fund Program - Financial Assistance Agreement with Principal Forgiveness

EXPENDITURES REQUIRED: \$0

AMOUNT BUDGETED: \$0

APPROPRIATION REQUIRED: \$0

TREASURER'S CERTIFICATE: N/A

COMPLIANCE WITH CHAPTER 51: The Mayor and/or Clerk has consented to placement of this agenda item on the Council agenda as timely action is needed.

STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN: The proposed revenue bonds conform to the goals and community values identified in the City of Ashland's Comprehensive Plan.

SUMMARY STATEMENT:

The approval of the accompanying resolution is required to obtain the financing needed to pay for the 2023 Sanitary Sewer Repair Project and 2023 Sanitary Sewer Replacement Project, with both projects previously authorized by the Council at the August 29, 2023 meeting. Work by Jake's Excavating & Landscaping LLC on the Sanitary Sewer Replacement Project is substantially complete while work by Visu-Sewer, Inc. on the 2023 Sanitary Sewer Repair Project will be completed in the summer of 2024.

At the March 14, 2023 meeting, Council approved a contract with Short, Elliott, Hendrickson, Inc. (SEH) that included professional services necessary to allow the project to be eligible for the Wisconsin Department of Natural Resources (WI DNR) Clean Water Loan Program (CWLP), a funding program established to provide support for municipal wastewater projects, with priority given to low income communities. The CWLP provides funds at reduced interest rates and allows for principal forgiveness.

Based upon the WI DNR's approval of the City's funding application last summer, the Council awarded a contract in the amount of \$1,101,445.65 to Visu-Sewer, Inc. and \$593,129.25 to Jake's Excavating & Landscaping, LLC. Subsequent change orders for additional work and fees for SEH's services related to project design, construction management, and CWLP administration services have resulted in a total project budget of \$2,246,582. The City has received principal forgiveness on \$1,149,529 in project costs, leaving the remaining \$1,097,053 to be financed via the sale of revenue bonds. The interest rate paid on the bonds will be at the CWLP subsidized rate of 0.97% and the balance will be amortized over a 30-year period.

Council is asked to approve the required resolution authorizing the issuance of Sewerage System Revenue Bonds and the accompanying Financial Assistance Agreement for the financing of the 2023 Sanitary Sewer Collection System Repair and 2023 Sanitary Sewer System Replacement Projects.

Repayment of this debt will not require a rate increase in the Wastewater Utility. However, staff is currently projecting long term needs to evaluate the need for future rate increases to fund additional projects and operations.

RESOLUTION NO.17787

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF UP TO \$1,097,053 SEWERAGE SYSTEM REVENUE BONDS, SERIES 2024, AND PROVIDING FOR OTHER DETAILS AND COVENANTS WITH RESPECT THERETO

WHEREAS, the City of Ashland, Ashland and Bayfield Counties, Wisconsin (the "Municipality") owns and operates a sewerage system (the "System") which is operated for a public purpose as a public utility by the Municipality; and

WHEREAS, pursuant to Resolution No. 17143 adopted by the Governing Body on December 9, 2014 (the "2014 Resolution"), the Municipality has heretofore issued its Sewerage System Revenue Bonds, Series 2014, dated December 23, 2014 (the "2014 Bonds") which are payable from the income and revenues of the System; and

WHEREAS, pursuant to Resolution No. 17317 adopted by the Governing Body on November 15, 2016 (the "2016 Resolution"), the Municipality has heretofore issued its Sewerage System Revenue Bonds, Series 2016, dated December 14, 2016 (the "2016 Bonds") which are payable from the income and revenues of the System; and

WHEREAS, pursuant to Resolution No. 17453 adopted by the Governing Body on July 31, 2018 (the "2018 Resolution"), the Municipality has heretofore issued its Sewerage System Mortgage Revenue Bonds, dated August 10, 2018 (the "2018 Bonds") which are payable from the income and revenues of the System; and

WHEREAS, pursuant to Resolution No. 17670 adopted by the Governing Body on February 8, 2022 (the "2022 Resolution"), the Municipality has heretofore issued its Sewerage System Revenue Bonds, Series 2022, dated February 23, 2022 (the "2022 Bonds"), which are payable from the income and revenues of the System; and

WHEREAS, pursuant to Resolution No. 17699 adopted by the Governing Body on October 11, 2022 (the "2022B Resolution"), the Municipality has heretofore issued its Sewerage System Revenue Bonds, Series 2022B, dated October 26, 2022 (the "2022B Bonds"), which are payable from the income and revenues of the System; and

WHEREAS, the 2014 Bonds, the 2016 Bonds, the 2018 Bonds, the 2022 Bonds and the 2022B Bonds shall collectively be referred to as the "Prior Bonds"; and

WHEREAS, the 2014 Resolution, the 2016 Resolution, the 2018 Resolution, the 2022 Resolution and the 2022B Resolution shall collectively be referred to as the "Prior Resolutions"; and

WHEREAS, certain improvements to the System are necessary to meet the needs of the Municipality and the residents thereof, consisting of the construction of a project (the "Project") assigned Clean Water Fund Program Project No. 4525-21 by the Department of Natural Resources, and as described in the Department of Natural Resources approval letter for the plans and specifications of the Project, or portions thereof, issued under Section 281.41, Wisconsin Statutes, assigned No. S-2023-0675 and dated September 26, 2023 by the DNR; and

WHEREAS, under the provisions of Chapter 66, Wisconsin Statutes any municipality may, by action of its governing body, provide for purchasing, acquiring, constructing, extending, adding to, improving, operating and managing a public utility from the proceeds of bonds, which bonds are to be payable only from the revenues received from any source by such utility, including all rentals and fees; and

WHEREAS, the Municipality deems it to be necessary, desirable and in its best interest to authorize and sell sewerage system revenue bonds of the Municipality payable solely from the revenues of the System, pursuant to the provisions of Section 66.0621, Wisconsin Statutes, to pay the cost of the Project; and

WHEREAS, the Prior Resolutions permit the issuance of additional bonds on a parity with the Prior Bonds upon certain conditions, and those conditions have been met; and

WHEREAS, other than the Prior Bonds, no bonds or obligations payable from the revenues of the System are now outstanding.

NOW, THEREFORE, be it resolved by the Governing Body of the Municipality that:

Section 1. Definitions. The following terms shall have the following meanings in this Resolution unless the text expressly or by implication requires otherwise:

- (a) "Act" means Section 66.0621, Wisconsin Statutes;
- (b) "Bond Registrar" means the Municipal Treasurer which shall act as Paying Agent for the Bonds;
- (c) "Bonds" means the \$1,097,053 Sewerage System Revenue Bonds, Series 2024, of the Municipality dated their date of issuance, authorized to be issued by this Resolution;
- (d) "Bond Year" means the twelve-month period ending on each May 1;
- (e) "Current Expenses" means the reasonable and necessary costs of operating, maintaining, administering and repairing the System, including salaries, wages, costs of materials and supplies, insurance and audits, but shall exclude depreciation, debt service, tax equivalents and capital expenditures;
- (f) "Debt Service Fund" means the Debt Service Fund of the Municipality, which shall be the "special redemption fund" as such term is defined in the Act;
- (g) "Financial Assistance Agreement" means the Financial Assistance Agreement by and between the State of Wisconsin by the Department of Natural Resources and the Department of Administration and the Municipality pursuant to which the Bonds are to be issued and sold to the State, substantially in the form attached hereto and incorporated herein by this reference;
- (h) "Fiscal Year" means the twelve-month period ending on each December 31;

(i) "Governing Body" means the Common Council, or such other body as may hereafter be the chief legislative body of the Municipality;

(j) "Gross Earnings" means the gross earnings of the System, including earnings of the System derived from sewerage charges imposed by the Municipality, all payments to the Municipality under any wastewater treatment service agreements between the Municipality and any contract users of the System, and any other monies received from any source including all rentals and fees, any tax incremental district revenues or other revenues of the Municipality pursuant to Section 9 appropriated by the Governing Body to the System, and any special assessments levied and collected in connection with the Project;

(k) "Municipal Treasurer" means the Treasurer of the Municipality who shall act as Bond Registrar and Paying Agent;

(l) "Municipality" means the City of Ashland, Ashland and Bayfield Counties, Wisconsin;

(m) "Net Revenues" means the Gross Earnings of the System after deduction of Current Expenses;

(n) "Parity Bonds" means bonds payable from the revenues of the System other than the Bonds but issued on a parity and equality with the Bonds pursuant to the restrictive provisions of Section 11 of this Resolution;

(o) "Prior Bonds" means the 2014 Bonds, the 2016 Bonds, the 2018 Bonds, the 2022 Bonds and the 2022B Bonds, collectively;

(p) "Prior Resolutions" means the 2014 Resolution, the 2016 Resolution, the 2018 Resolution, the 2022 Resolution and the 2022B Resolution, collectively;

(q) "Project" means the Project described in the preamble to this Resolution. All elements of the Project are to be owned and operated by the Municipality as part of the System as described in the preamble hereto;

(r) "Record Date" means the close of business on the fifteenth day of the calendar month next preceding any principal or interest payment date;

(s) "System" means the entire sewerage system of the Municipality specifically including that portion of the Project owned by the Municipality and including all property of every nature now or hereafter owned by the Municipality for the collection, transmission, treatment and disposal of domestic and industrial sewerage and waste, including all improvements and extensions thereto made by the Municipality while any of the Bonds and Parity Bonds remain outstanding, including all real and personal property of every nature comprising part of or used or useful in connection with such sewerage system and including all appurtenances, contracts, leases, franchises, and other intangibles;

(t) "2014 Bonds" means the Municipality's Sewerage System Revenue Bonds, Series 2014, dated December 23, 2014;

(u) "2014 Resolution" means Resolution No. 17143 adopted by the Governing Body on December 9, 2014 authorizing the issuance of the 2014 Bonds;

(v) "2016 Bonds" means the Municipality's Sewerage System Revenue Bonds, Series 2016, dated December 14, 2016;

(w) "2016 Resolution" means Resolution No. 17317 adopted by the Governing Body on November 15, 2016 authorizing the issuance of the 2016 Bonds;

(x) "2018 Bonds" means the Municipality's Sewerage System Mortgage Revenue Bonds, dated August 10, 2018;

(y) "2018 Resolution" means Resolution No. 17453 adopted by the Governing Body on July 31, 2018 authorizing the issuance of the 2018 Bonds;

(z) "2022 Bonds" means the Municipality's Sewerage System Revenue Bonds, Series 2022, dated February 23, 2022;

(aa) "2022 Resolution" means Resolution No. 17670 adopted by the Governing Body on February 8, 2022 authorizing the issuance of the 2022 Bonds;

(bb) "2022B Bonds" means the Municipality's Sewerage System Revenue Bonds, Series 2022B, dated October 26, 2022; and

(cc) "2022B Resolution" means Resolution No. 17699 adopted by the Governing Body on October 11, 2022 authorizing the issuance of the 2022B Bonds.

Section 2. Authorization of the Bonds and the Financial Assistance Agreement. For the purpose of paying the cost of the Project (including legal, fiscal, engineering and other expenses), there shall be borrowed on the credit of the income and revenue of the System up to the sum of \$1,097,053; and fully registered revenue bonds of the Municipality are authorized to be issued in evidence thereof and sold to the State of Wisconsin Clean Water Fund Program in accordance with the terms and conditions of the Financial Assistance Agreement, which is incorporated herein by this reference and the Mayor and City Clerk of the Municipality are hereby authorized, by and on behalf of the Municipality, to execute the Financial Assistance Agreement.

Section 3. Terms of the Bonds. The Bonds shall be designated "Sewerage System Revenue Bonds, Series 2024" (the "Bonds"); shall be dated their date of issuance; shall be numbered one and upward; shall bear interest at the rate of 1.353% per annum; shall be issued in denominations of \$0.01 or any integral multiple thereof; and shall mature on the dates and in the amounts as set forth in Exhibit B of the Financial Assistance Agreement and in the Bond form attached hereto as Exhibit A as it is from time to time adjusted by the State of Wisconsin based upon the actual draws made by the Municipality. Interest on the Bonds shall be payable commencing on November 1, 2024 and semiannually thereafter on May 1 and November 1 of each year. The Bonds shall not be subject to redemption prior to maturity except as provided in the Financial Assistance Agreement.

The schedule of maturities of the Bonds is found to be such that the amount of annual debt service payments is reasonable in accordance with prudent municipal utility practices.

Section 4. Form, Execution, Registration and Payment of the Bonds. The Bonds shall be issued as registered obligations in substantially the form attached hereto as Exhibit A and incorporated herein by this reference.

The Bonds shall be executed in the name of the Municipality by the manual signatures of the Mayor and City Clerk, and shall be sealed with its official or corporate seal, if any.

The principal of, premium, if any, and interest on the Bonds shall be paid by the Municipal Treasurer, who is hereby appointed as the Municipality's Bond Registrar.

Both the principal of and interest on the Bonds shall be payable in lawful money of the United States of America by the Bond Registrar. Payment of principal of the final maturity on the Bond will be payable upon presentation and surrender of the Bond to the Bond Registrar. Payment of principal on the Bond and each installment of interest shall be made to the registered owner of each Bond who shall appear on the registration books of the Municipality, maintained by the Bond Registrar, on the Record Date and shall be paid by electronic transfer or by check or draft of the Municipality (as directed by the registered owner) and if by check or draft, mailed to such registered owner at his or its address as it appears on such registration books or at such other address may be furnished in writing by such registered owner to the Bond Registrar.

Section 5. Security for the Bonds. The Bonds, together with interest thereon, shall not constitute an indebtedness of the Municipality nor a charge against its general credit or taxing power. The Bonds, together with interest thereon, shall be payable only out of the Debt Service Fund hereinafter continued, and shall be a valid claim of the registered owner or owners thereof only against such Debt Service Fund and the revenues of the System pledged to such fund, on a parity with the pledge granted to the holders of the Prior Bonds. Sufficient revenues are hereby pledged to said Debt Service Fund, and shall be used for no other purpose than to pay the principal of, premium, if any, and interest on the Prior Bonds, the Bonds and any Parity Bonds as the same becomes due.

Section 6. Funds and Accounts. In accordance with the Act, for the purpose of the application and proper allocation of the revenues of the System, and to secure the payment of the principal of and interest on the Prior Bonds, the Bonds and Parity Bonds, certain funds of the System which were created and established by a resolution adopted on September 29, 1998, continued by the Prior Resolutions and are hereby continued and shall be used solely for the following respective purposes:

- (a) Revenue Fund, into which shall be deposited as received the Gross Earnings of the System, which money shall then be divided among the Operation and Maintenance Fund, the Debt Service Fund, the Reserve Account and the Surplus Fund in the amounts and in the manner set forth in Section 7 hereof and used for the purposes described below.

- (b) Operation and Maintenance Fund, which shall be used for the payment of Current Expenses.
- (c) Debt Service Fund, which shall be used for the payment of the principal of, premium, if any, and interest on the Prior Bonds, the Bonds and Parity Bonds as the same becomes due.
- (d) Reserve Account, established by the 2018 Resolution for the 2018 Bonds (the "Reserve Account"). The Reserve Account is not pledged to the payment of the principal of or interest on the Bonds, the 2014 Bonds, the 2016 Bonds, the 2022 Bonds or the 2022B Bonds and monies on deposit therein shall under no circumstances be used for that purpose.
- (e) Surplus Fund, which shall first be used whenever necessary to pay principal of, premium, if any, or interest on the Prior Bonds, the Bonds and Parity Bonds when the Debt Service Fund, including the Reserve Account shall be insufficient for such purpose, and thereafter shall be disbursed as follows: (i) at any time, to remedy any deficiency in any of the Funds provided in this Section 6 hereof; and (ii) money thereafter remaining in the Surplus Fund at the end of any Fiscal Year may be transferred to any of the funds or accounts created herein or to reimburse the general fund of the Municipality for advances made by the Municipality to the System.

Section 7. Application of Revenues. After the delivery of the Bonds, the Gross Earnings of the System shall be deposited as collected in the Revenue Fund and shall be transferred monthly to the funds listed below in the following order of priority and in the manner set forth below:

- (a) to the Operation and Maintenance Fund, in an amount equal to the estimated Current Expenses for such month and for the following month (after giving effect to available amounts in said Fund from prior deposits);
- (b) to the Debt Service Fund, an amount equal to one-sixth (1/6) of the next installment of interest coming due on the Prior Bonds, the Bonds and any Parity Bonds then outstanding and an amount equal to one-twelfth (1/12) of the installment of principal of the Prior Bonds, the Bonds and any Parity Bonds coming due during such Bond Year (after giving effect to available amounts in said Fund from accrued interest, any premium or any other source);
- (c) to the Reserve Account, any amount required by the 2018 Resolution or a future resolution authorizing the issuance of Parity Bonds to fund the Reserve Account; and
- (d) to the Surplus Fund, any amount remaining in the Revenue Fund after the monthly transfers required above have been completed.

Transfers from the Revenue Fund to the Operation and Maintenance Fund, the Debt Service Fund, the Reserve Account and the Surplus Fund shall be made monthly not later than

the tenth day of each month, and such transfer shall be applicable to monies on deposit in the Revenue Fund as of the last day of the month preceding. Any other transfers and deposits to any fund required or permitted by subsection (a) through (d) of this Section, except transfers or deposits which are required to be made immediately or annually, shall be made on or before the tenth day of the month. Any transfer or deposit required to be made at the end of any Fiscal Year shall be made within sixty (60) days after the close of such Fiscal Year. If the tenth day of any month shall fall on a day other than a business day, such transfer or deposit shall be made on the next succeeding business day.

It is the express intent and determination of the Governing Body that the amounts transferred from the Revenue Fund and deposited in the Debt Service Fund shall be sufficient in any event to pay the interest on the Prior Bonds, the Bonds and any Parity Bonds as the same accrues and the principal thereof as the same matures, and the amounts deposited in the Reserve Account shall be sufficient to fund the Reserve Account for the 2018 Bonds and any Parity Bonds secured thereby.

Section 8. Deposits and Investments. The Debt Service Fund shall be kept apart from monies in the other funds and accounts of the Municipality and the same shall be used for no purpose other than the prompt payment of principal of and interest on the Prior Bonds, the Bonds and any Parity Bonds as the same becomes due and payable. All monies therein shall be deposited in special and segregated accounts in a public depository selected under Chapter 34, Wisconsin Statutes and may be temporarily invested until needed in legal investments subject to the provisions of Section 66.0603(1m), Wisconsin Statutes. The other funds herein created (except the Sewerage System CWFP Project Fund) may be combined in a single account in a public depository selected in the manner set forth above and may be temporarily invested until needed in legal investments subject to the provisions of Section 66.0603(1m), Wisconsin Statutes.

Section 9. Service to the Municipality. The reasonable cost and value of services rendered to the Municipality by the System by furnishing sewerage services for public purposes shall be charged against the Municipality and shall be paid in monthly installments as the service accrues, out of the current revenues of the Municipality collected or in the process of collection, exclusive of the revenues derived from the System; that is to say, out of the tax levy of the Municipality made by it to raise money to meet its necessary current expenses. The reasonable cost and value of such service to the Municipality in each year shall be equal to an amount which, together with other revenues of the System, will produce in each Fiscal Year Net Revenues equivalent to not less than the annual principal and interest requirements on the Prior Bonds, the Bonds, any Parity Bonds and any other obligations payable from the revenues of the System then outstanding, times the greater of (i) 110% or (ii) the highest debt service coverage ratio required with respect to any obligations payable from revenues of the System then outstanding. However, such payment out of the tax levy shall be subject to (a) approval of the Public Service Commission, or successors to its function, if applicable, (b) yearly appropriations therefor, and (c) applicable levy limitations, if any; and neither this Resolution nor such payment shall be construed as constituting an obligation of the Municipality to make any such appropriation over and above the reasonable cost and value of the services rendered to the Municipality and its inhabitants or to make any subsequent payment over and above such reasonable cost and value.

Section 10. Operation of System; Municipality Covenants. It is covenanted and agreed by the Municipality with the owner or owners of the Bonds, and each of them, that the Municipality will perform all of the obligations of the Municipality as set forth in the Financial Assistance Agreement.

Section 11. Additional Bonds. The Bonds are issued on a parity with the Prior Bonds as to the pledge of revenues of the System. No bonds or obligations payable out of the revenues of the System may be issued in such manner as to enjoy priority over the Bonds. Additional obligations may be issued if the lien and pledge is junior and subordinate to that of the Bonds. Parity Bonds may be issued only under the following circumstances:

(a) Additional Parity Bonds may be issued for the purpose of completing the Project and for the purpose of financing costs of the Project which are ineligible for payment under the State of Wisconsin Clean Water Fund Program. However, such additional Parity Bonds shall be in an aggregate amount not to exceed 20% of the face amount of the Bonds; or

(b) Additional Parity Bonds may also be issued if all of the following conditions are met:

(1) The Net Revenues of the System for the Fiscal Year immediately preceding the issuance of such additional bonds must have been in an amount at least equal to the maximum annual interest and principal requirements on all bonds outstanding payable from the revenues of the System, and on the bonds then to be issued, times the greater of (i) 1.10 or (ii) the highest debt service coverage ratio to be required with respect to the Additional Parity Bonds to be issued or any other obligations payable from the revenues of the System then outstanding. Should an increase in permanent rates and charges, including those made to the Municipality, be properly ordered and made effective during the Fiscal Year immediately prior to the issuance of such additional bonds or during that part of the Fiscal Year of issuance prior to such issuance, then Net Revenues for purposes of such computation shall include such additional revenues as a registered municipal advisor, an independent certified public accountant, consulting professional engineer or the Wisconsin Public Service Commission may calculate would have accrued during the prior Fiscal Year had the new rates been in effect during that entire immediately prior Fiscal Year.

(2) The payments required to be made into the funds enumerated in Section 6 of this Resolution must have been made in full.

(3) The additional bonds must have principal maturing on May 1 of each year and interest falling due on May 1 and November 1 of each year.

(4) The proceeds of the additional bonds must be used only for the purpose of providing extensions or improvements to the System, or to refund obligations issued for such purpose.

Section 12. Sale of Bonds. The sale of the Bonds to the State of Wisconsin Clean Water Fund Program for the purchase price of up to \$1,097,053 and at par, is ratified and confirmed; and the officers of the Municipality are authorized and directed to do any and all acts, including executing the Financial Assistance Agreement and the Bonds as hereinabove provided, necessary to conclude delivery of the Bonds to said purchaser, as soon after adoption of this Resolution as is convenient. The purchase price for the Bonds shall be paid upon requisition therefor as provided in the Financial Assistance Agreement, and the officers of the Municipality are authorized to prepare and submit to the State requisitions and disbursement requests in anticipation of the execution of the Financial Assistance Agreement and the issuance of the Bonds.

Section 13. Application of Bond Proceeds. The proceeds of the sale of the Bonds shall be deposited by the Municipality into a special fund designated as "Sewerage System CWFP Project Fund." The Sewerage System CWFP Project Fund shall be used solely for the purpose of paying the costs of the Project as more fully described in the preamble hereof and in the Financial Assistance Agreement. Moneys in the Sewerage System CWFP Project Fund shall be disbursed within three (3) business days of their receipt from the State of Wisconsin and shall not be invested in any interest-bearing account.

Section 14. Amendment to Resolution. After the issuance of any of the Bonds, no change or alteration of any kind in the provisions of this Resolution may be made until all of the Bonds have been paid in full as to both principal and interest, or discharged as herein provided, except: (a) the Municipality may, from time to time, amend this Resolution without the consent of any of the owners of the Bonds, but only to cure any ambiguity, administrative conflict, formal defect, or omission or procedural inconsistency of this Resolution; and (b) this Resolution may be amended, in any respect, with a written consent of the owners of not less than two-thirds (2/3) of the principal amount of the Bonds then outstanding, exclusive of Bonds held by the Municipality; provided, however, that no amendment shall permit any change in the pledge of revenues derived from the System or the maturity of any Bond issued hereunder, or a reduction in the rate of interest on any Bond, or in the amount of the principal obligation thereof, or in the amount of the redemption premium payable in the case of redemption thereof, or change the terms upon which the Bonds may be redeemed or make any other modification in the terms of the payment of such principal or interest without the written consent of the owner of each such Bond to which the change is applicable.

Section 15. Defeasance. When all Bonds have been discharged, all pledges, covenants and other rights granted to the owners thereof by this Resolution shall cease. The Municipality may discharge all Bonds due on any date by irrevocably depositing in escrow with a suitable bank or trust company a sum of cash and/or bonds or securities issued or guaranteed as to principal and interest of the U.S. Government, or of a commission, board or other instrumentality of the U.S. Government, maturing on the dates and bearing interest at the rates required to provide funds sufficient to pay when due the interest to accrue on each of said Bonds to its maturity or, at the Municipality's option, if said Bond is prepayable to any prior date upon which it may be called for redemption, and to pay and redeem the principal amount of each such Bond at maturity, or at the Municipality's option, if said Bond is prepayable, at its earliest redemption date, with the premium required for such redemption, if any, provided that notice of the redemption of all prepayable Bonds on such date has been duly given or provided for.

Section 16. Rebate Fund. Unless the Bonds are exempt from the rebate requirements of the Internal Revenue Code of 1986, as amended (the "Code"), the Municipality shall establish and maintain, so long as the Bonds and any Parity Bonds are outstanding, a separate account to be known as the "Rebate Fund." The sole purpose of the Rebate Fund is to provide for the payment of any rebate liability with respect to the Bonds under the relevant provisions of the Code and the Treasury Regulations promulgated thereunder (the "Regulations"). The Rebate Fund shall be maintained by the Municipality until all required rebate payments with respect to the Bonds have been made in accordance with the relevant provisions of the Code and the Regulations.

The Municipality hereby covenants and agrees that it shall pay to the United States from the Rebate Fund, at the times and in the amounts and manner required by the Code and the Regulations, the portion of the "rebate amount" (as defined in Section 1.148-3(b) of the Regulations) that is due as of each "computation date" (within the meaning of Section 1.148-3(e) of the Regulations). As of the date of this Resolution, the provisions of the Regulations specifying the required amounts of rebate installment payments and the time and manner of such payments are contained in Sections 1.148-3(f) and (g) of the Regulations, respectively. Amounts held in the Rebate Fund and the investment income therefrom are not pledged as security for the Bonds or any Parity Bonds and may only be used for the payment of any rebate liability with respect to the Bonds.

The Municipality may engage the services of accountants, attorneys or other consultants necessary to assist it in determining the rebate payments, if any, owed to the United States with respect to the Bonds. The Municipality shall maintain or cause to be maintained records of determinations of rebate liability with respect to the Bonds for each computation date until six (6) years after the retirement of the last of the Bonds. The Municipality shall make such records available to the State of Wisconsin upon reasonable request therefor.

Section 17. Resolution a Contract. The provisions of this Resolution shall constitute a contract between the Municipality and the owner or owners of the Bonds, and after issuance of any of the Bonds no change or alteration of any kind in the provisions of this Resolution may be made, except as provided in Section 14, until all of the Bonds have been paid in full as to both principal and interest. The owner or owners of any of the Bonds shall have the right in addition to all other rights, by mandamus or other suit or action in any court of competent jurisdiction, to enforce such owner's or owners' rights against the Municipality, the Governing Body thereof, and any and all officers and agents thereof including, but without limitation, the right to require the Municipality, its Governing Body and any other authorized body, to fix and collect rates and charges fully adequate to carry out all of the provisions and agreements contained in this Resolution.

Section 18. Continuing Disclosure. The officers of the Municipality are hereby authorized and directed, if requested by the State of Wisconsin, to provide to the State of Wisconsin Clean Water Fund Program and to such other persons or entities as directed by the State of Wisconsin such ongoing disclosure regarding the Municipality's financial condition and other matters, at such times and in such manner as the Clean Water Fund Program may require, in order that securities issued by the Municipality and the State of Wisconsin satisfy rules and regulations promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended and as it may be amended from time to time, imposed on brokers and dealers of municipal securities before the brokers and dealers may buy, sell, or recommend the purchase of such securities.

Section 19. Conflicting Resolutions. All ordinances, resolutions (other than the Prior Resolutions), or orders, or parts thereof heretofore enacted, adopted or entered, in conflict with the provisions of this Resolution, are hereby repealed and this Resolution shall be in effect from and after its passage. In case of any conflict between this Resolution and the Prior Resolutions, the Prior Resolutions shall control as long as any of the respective Prior Bonds are outstanding.

Passed: June 25, 2024

Approved: June 25, 2024

Matthew MacKenzie
Mayor

Attest:

Denise Oliphant
City Clerk

EXHIBIT A

(Form of Municipal Obligation)

REGISTERED
NO. _____

UNITED STATES OF AMERICA
STATE OF WISCONSIN
ASHLAND AND BAYFIELD
CITY OF ASHLAND

REGISTERED
\$ _____
COUNTIES

SEWERAGE SYSTEM REVENUE BOND, SERIES 2024

Final
Maturity Date

May 1, 2054

Date of
Original Issue

_____, 20__

REGISTERED OWNER: STATE OF WISCONSIN CLEAN WATER FUND PROGRAM

FOR VALUE RECEIVED the City of Ashland, Ashland and Bayfield Counties, Wisconsin (the "Municipality") hereby acknowledges itself to owe and promises to pay to the registered owner shown above, or registered assigns, solely from the fund hereinafter specified, the principal sum of an amount not to exceed _____ DOLLARS (\$ _____) (but only so much as shall have been drawn hereunder, as provided below) on May 1 of each year commencing May 1, 2025 until the final maturity date written above, together with interest thereon (but only on amounts as shall have been drawn hereunder, as provided below) from the dates the amounts are drawn hereunder or the most recent payment date to which interest has been paid, at the rate of 1.353% per annum, calculated on the basis of a 360-day year made up of twelve 30-day months, such interest being payable on the first days of May and November of each year, with the first interest being payable on November 1, 2024.

The principal amount evidenced by this Bond may be drawn upon by the Municipality in accordance with the Financial Assistance Agreement entered by and between the Municipality and the State of Wisconsin by the Department of Natural Resources and the Department of Administration including capitalized interest transferred (if any). The principal amounts so drawn shall be repaid in installments on May 1 of each year commencing on May 1, 2025 in an amount equal to an amount which when amortized over the remaining term of this Bond plus current payments of interest (but only on amounts drawn hereunder) at One and 353/1000ths percent (1.353%) per annum shall result in equal annual payments of the total of principal and the semiannual payments of interest. The State of Wisconsin Department of Administration shall record such draws and corresponding principal repayment schedule on a cumulative basis in the format shown on the attached Schedule A.

Both principal and interest hereon are hereby made payable to the registered owner in lawful money of the United States of America. On the final maturity date, principal of this Bond shall be payable only upon presentation and surrender of this Bond at the office of the Municipal Treasurer. Principal hereof and interest hereon shall be payable by electronic transfer or by check or draft dated on or before the applicable payment date (as directed by the registered owner) and if by check or draft, mailed from the office of the Municipal Treasurer to the person in whose name this Bond is registered at the close of business on the fifteenth day of the calendar month next preceding such interest payment date.

This Bond shall not be redeemable prior to its maturity, except with the consent of the registered owner.

This Bond is transferable only upon the books of the Municipality kept for that purpose at the office of the Municipal Treasurer, by the registered owner in person or its duly authorized attorney, upon surrender of this Bond, together with a written instrument of transfer (which may be endorsed hereon) satisfactory to the Municipal Treasurer, duly executed by the registered owner or its duly authorized attorney. Thereupon a replacement Bond shall be issued to the transferee in exchange therefor. The Municipality may deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal or interest hereof and for all other purposes. This Bond is issuable solely as a negotiable, fully-registered bond, without coupons, and in denominations of \$0.01 or any integral multiple thereof.

This Bond is issued for the purpose of providing for the payment of the cost of constructing improvements to the Sewerage System of the Municipality, pursuant to Article XI, Section 3, of the Wisconsin Constitution, Section 66.0621, Wisconsin Statutes, and a resolution adopted June 25, 2024, and entitled: "Resolution Authorizing the Issuance and Sale of Up to \$1,097,053 Sewerage System Revenue Bonds, Series 2024, and Providing for Other Details and Covenants With Respect Thereto" and is payable only from the income and revenues of the Sewerage System of the Municipality (the "Utility"). The Bonds are issued on a parity with the Municipality's Sewerage System Revenue Bonds, Series 2014, dated December 23, 2014, Sewerage System Revenue Bonds, Series 2016, dated December 14, 2016, Sewerage System Mortgage Revenue Bonds, dated August 10, 2018, Sewerage System Revenue Bonds, Series 2022, dated February 23, 2022 and Sewerage System Revenue Bonds, Series 2022B, dated October 26, 2022, as to the pledge of income and revenues of the Utility. This Bond does not constitute an indebtedness of said Municipality within the meaning of any constitutional or statutory debt limitation or provision.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen, and be performed precedent to and in the issuance of this Bond have existed, have happened and have been performed in due time, form and manner as required by law; and that sufficient of the income and revenue to be received by said Municipality from the operation of its Utility has been pledged to and will be set aside into a special fund for the payment of the principal of and interest on this Bond.

IN WITNESS WHEREOF, the Municipality has caused this Bond to be signed by the signatures of its Mayor and City Clerk, and its corporate seal to be impressed hereon, all as of the date of original issue specified above.

CITY OF ASHLAND,
WISCONSIN

(SEAL)

By: _____
Matthew MacKenzie
Mayor

By: _____
Denise Oliphant
City Clerk

COPY

(Form of Assignment)

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

(Please print or typewrite name and address, including zip code, of Assignee)

Please insert Social Security or other identifying number of Assignee

the within Bond and all rights thereunder, hereby irrevocably constituting and appointing

Attorney to transfer said Bond on the books kept for the registration thereof with full power of substitution in the premises.

Dated: _____

NOTICE: The signature of this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

Signature(s) guaranteed by

SCHEDULE A

\$1,097,053

CITY OF ASHLAND, WISCONSIN
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2024

<u>Amount of Disburse- ment</u>	<u>Date of Disbursement</u>	<u>Series of Bonds</u>	<u>Principal Repaid</u>	<u>Principal Balance</u>

SCHEDULE A (continued)

PRINCIPAL REPAYMENT SCHEDULE

<u>Date</u>	<u>Principal Amount</u>
May 1, 2025	\$29,891.06
May 1, 2026	30,295.48
May 1, 2027	30,705.38
May 1, 2028	31,120.83
May 1, 2029	31,541.89
May 1, 2030	31,968.65
May 1, 2031	32,401.19
May 1, 2032	32,839.58
May 1, 2033	33,283.90
May 1, 2034	33,734.23
May 1, 2035	34,190.65
May 1, 2036	34,653.25
May 1, 2037	35,122.11
May 1, 2038	35,597.31
May 1, 2039	36,078.94
May 1, 2040	36,567.09
May 1, 2041	37,061.84
May 1, 2042	37,563.29
May 1, 2043	38,071.52
May 1, 2044	38,586.63
May 1, 2045	39,108.71
May 1, 2046	39,637.85
May 1, 2047	40,174.15
May 1, 2048	40,717.70
May 1, 2049	41,268.61
May 1, 2050	41,826.98
May 1, 2051	42,392.89
May 1, 2052	42,966.47
May 1, 2053	43,547.81
May 1, 2054	44,137.01

State of Wisconsin
Department of Natural Resources
Bureau of Community Financial Assistance
101 South Webster Street, 2nd Floor
PO Box 7921
Madison, Wisconsin 53707-7921

Financial Assistance Agreement
Clean Water Fund Program
Form 8700-214A rev 04/24

STATE OF WISCONSIN CLEAN WATER FUND PROGRAM
FINANCIAL ASSISTANCE AGREEMENT WITH PRINCIPAL FORGIVENESS

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES
DEPARTMENT OF ADMINISTRATION

and

CITY OF ASHLAND

\$2,246,582 With up to \$1,149,529 PRINCIPAL FORGIVENESS

FINANCIAL ASSISTANCE AGREEMENT

Dated as of July 10, 2024

This constitutes a **Financial Assistance Agreement** under the State of Wisconsin's Clean Water Fund Program. This agreement is awarded pursuant to ss. 281.58 and 281.59, Wis. Stats. The purpose of this agreement is to award financial assistance from the Clean Water Fund Program. This agreement also discloses the terms and conditions of this award.

This agreement is only effective when signed by authorized officers of the municipality, the State of Wisconsin Department of Natural Resources, and the State of Wisconsin Department of Administration.

The Department of Natural Resources and the Department of Administration may rescind or terminate this agreement if the municipality fails to comply with the terms and conditions contained within. Any determination or certification made in this agreement by the Department of Natural Resources or the Department of Administration is made solely for the purpose of providing financial assistance under the Clean Water Fund Program.

Municipal Identification No. 02201
Clean Water Fund Program Project No. 4525-21

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WITNESSETH:

WHEREAS, this is a FINANCIAL ASSISTANCE AGREEMENT (the "FAA"), dated July 10, 2024, between the STATE OF WISCONSIN Clean Water Fund Program (the "CWFP"), by the Department of Natural Resources (the "DNR") and the Department of Administration (the "DOA"), acting under authority of ss. 281.58 and 281.59, Wis. Stats., as amended (the "Statute"), and the City of Ashland, a municipality within the meaning of the Statute, duly organized and existing under the laws of the State of Wisconsin (the "Municipality"); and

WHEREAS, the United States, pursuant to the Federal Water Quality Act of 1987 (the "Water Quality Act"), requires each state to establish a water pollution control revolving fund to be administered by an instrumentality of the state before the state may receive capitalization grants for eligible projects from the United States Environmental Protection Agency (the "EPA"), or any successor which may succeed to the administration of the program established by Title VI of the Water Quality Act; and

WHEREAS, the State of Wisconsin, pursuant to the Statute, established the CWFP to be used in part for purposes of the Water Quality Act; and

WHEREAS, the State of Wisconsin, pursuant to s. 25.43, Wis. Stats., established a State of Wisconsin Environmental Improvement Fund which includes the CWFP; and

WHEREAS, DNR and DOA have the joint responsibility to provide CWFP financial assistance to municipalities for the construction of eligible wastewater pollution abatement projects, all as set forth in the Statute; and

WHEREAS, the Municipality submitted to DNR an application for financial assistance (the "Application") for a project (the "Project"), and DNR has approved the Application and determined the Application meets the criteria for Project eligibility based on water quality and public health requirements established in applicable state statutes and regulations; and

WHEREAS, DNR determined that the Municipality and the Project are eligible for financial assistance pursuant to s. 281.58(7)(b), Wis. Stats.; and

WHEREAS, DOA determined the CWFP will provide financial assistance to the Municipality by making a loan (the "Loan") under s. 281.59(9), Wis. Stats., for the purposes of that subsection, and providing principal forgiveness; and

WHEREAS, the Municipality pledged the security, if any, required by DOA, and the Municipality demonstrated to the satisfaction of DOA the financial capacity to ensure sufficient revenues to operate and maintain the Project for its useful life and to pay debt service on the obligations it issues for the Project; and

WHEREAS, the Municipality certifies to the CWFP that it has created a dedicated source of revenue, which may constitute taxes levied by the Municipality for repayment of the Municipal Obligations; and

WHEREAS, the Municipality obtained DNR approval of facility plans or engineering reports and plans and specifications for the Project, subject to the provisions of applicable State environmental standards set forth in law, rules, and regulations;

NOW, THEREFORE, in consideration of the promises and of the mutual representations, covenants, and agreements herein set forth, the CWFP and the Municipality, each binding itself, its successors, and its assigns, do mutually promise, covenant, and agree as follows:

ARTICLE I
DEFINITIONS; RULES OF INTERPRETATION

Section 1.01. Definitions The following capitalized terms as used in this FAA shall have the following meanings:

"Act" means the Federal Water Pollution Control Act, 33 U.S. Code §§1250 et seq., as amended.

"American Iron and Steel" means the requirements contained in section 608 of the Act.

"Application" means the written application of the Municipality dated September 29, 2023, for financial assistance under the Statute.

"Bonds" means bonds or notes issued by the State pursuant to the Program Resolution, all or a portion of the proceeds of which shall be applied to make the Loan.

"Build America, Buy America" means Title IX of the Infrastructure Investment and Jobs Act, Publ. L. No. 117-58, §§ 70901-52.

"Business Day" means any day on which State offices are open to conduct business.

"Code" means the Internal Revenue Code of 1986, as amended, and any successor provisions.

"CWFP" means the State of Wisconsin Clean Water Fund Program, established pursuant to the Statute, and managed and administered by DNR and DOA.

"DNR" means the State of Wisconsin Department of Natural Resources and any successor entity.

"DOA" means the State of Wisconsin Department of Administration and any successor entity.

"EPA" means the United States Environmental Protection Agency or any successor entity that may succeed to the administration of the program established by Title VI of the Water Quality Act.

"FAA" means this Financial Assistance Agreement.

"Fees and Charges" means the costs and expenses of DNR and DOA in administering the CWFP.

"Final Completion" means the Project construction is complete, DNR or agents thereof have certified that the Project was constructed according to DNR approved Plans and Specifications and that the facilities are operating according to design, and DNR has completed all necessary Project closeout procedures.

"Financial Assistance" means any proceeds provided under this Financial Assistance Agreement in the form of a Loan of which part of the Loan principal will be forgiven.

"Financial Assistance Agreement" means this Financial Assistance Agreement between the CWFP by DNR, DOA, and the Municipality, as the same may be amended from time to time in accordance with Section 6.04 hereof.

"Loan" means the loan or loans made by the CWFP to the Municipality of which a portion of the principal will be forgiven pursuant to this FAA.

"Loan Disbursement Table" means the table with columns for inserting the following information for the portion of the Loan which is to be repaid with interest:

- (a) amount of each disbursement,
- (b) date of each disbursement,
- (c) the series of Bonds from which each disbursement is made,

- (d) principal amounts repaid, and
- (e) outstanding principal balance.

"Municipal Obligation Counsel Opinion" means the opinion of counsel satisfactory to DOA, issued in conjunction with the Municipal Obligations, stating that:

- (a) this FAA and the performance by the Municipality of its obligations thereunder have been duly authorized by all necessary actions by the governing body of the Municipality, and this FAA has been duly executed and delivered by the Municipality;
- (b) the Municipal Obligations have been duly authorized, executed, and delivered by the Municipality and sold to the CWFP;
- (c) each of this FAA and the Municipal Obligations constitutes a legal, valid, and binding obligation of the Municipality, enforceable against the Municipality in accordance with its respective terms (provided that enforceability thereof may be subject to bankruptcy, insolvency, reorganization, moratorium, and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that its enforcement may also be subject to the exercise of judicial discretion in appropriate cases);
- (d) the Municipal Obligations constitute special obligations of the Municipality secured as to payment of principal, interest, and redemption price by the pledged revenues as set forth therein;
- (e) interest on the Municipal Obligations is not included in gross income of the owners thereof for federal income taxation purposes under existing laws, regulations, rulings, and judicial decisions;
- (f) the Municipal Obligations are not "arbitrage bonds" within the meaning of Section 148 of the Code and the arbitrage regulations; and
- (g) the Municipal Obligations are not "private activity bonds" as defined in Section 141(a) of the Code.

"Municipal Obligation Resolution" means that action taken by the governing body of the Municipality authorizing the issuance of the Municipal Obligations.

"Municipal Obligations" means the bonds or notes issued and delivered by the Municipality to the CWFP, a specimen copy of which is included in the Municipal Obligations transcript in exchange for the portion of the Loan which is not subject to Principal Forgiveness.

"Municipality" means the City of Ashland, a "municipality" within the meaning of the Statute, duly organized and existing under the laws of the State, and any successor entity.

"Parallel Cost Percentage" means the proportion of Project Costs eligible for below-market-rate financing relative to the total Project Costs eligible for CWFP financing.

"Parity Obligations" means the Municipality's \$592,610 Sewerage System Revenue Bonds, Series 2014, dated December 23, 2014; its \$274,826 Sewerage System Revenue Bonds, Series 2016, dated December 14, 2016; its \$960,000 Sewerage System Mortgage Revenue Bonds, dated August 10, 2018; its \$623,081 Sewerage System Revenue Bonds, Series 2022, dated February 23, 2022; its \$1,716,132 Sewerage System Revenue Bonds, Series 2022B, dated October 26, 2022; and any other obligations issued on a parity with the Municipal Obligations pursuant to the restrictive provisions of Section 11 of the Municipal Obligation Resolution.

"Plans and Specifications" means the Project design plans and specifications assigned No. S-2023-0675, approved by DNR on September 26, 2023, as the same may be amended or modified from time to time in accordance with this FAA.

"Principal Forgiveness" means Financial Assistance received in the form of forgiveness of Loan principal pursuant to the Act, Regulations, and this FAA of which no repayment thereof shall be required except as may be required pursuant to the Act, Statute, Regulations, or this FAA. The total amount of principal forgiveness available for this Project as of the date of this FAA is \$1,149,529. The applicable percentage of general principal forgiveness for this Project, as shown on the Final Funding List, is 55%.

"Program Resolution" means the Amended and Restated Program Resolution for State of Wisconsin Environmental Improvement Fund Revenue Obligations adopted by the State of Wisconsin Building Commission, as such may from time to time be further amended or supplemented by Supplemental Resolutions in accordance with the terms and provisions of the Program Resolution.

"Progress Payments" means payments for work in place and materials or equipment that have been delivered or are stockpiled in the vicinity of the construction site. This includes payments for undelivered, specifically manufactured equipment if: (1) designated in the specifications, (2) could not be readily utilized or diverted to another job, and (3) a fabrication period of more than 6 months is anticipated.

"Project" means the project assigned CWWP Project No. 4525-21 by DNR, described in the Project Manager Summary Page (Exhibit F), and further described in the DNR approval letter for the Plans and Specifications, or portions thereof, issued under s. 281.41, Wis. Stats.

"Project Costs" means the costs of the Project that are eligible for financial assistance from the CWWP under the Statute, which are allowable costs under the Regulations, which have been incurred by the Municipality, an estimate of which is set forth in Exhibit A hereto and made a part hereof.

"Regulations" means the Act; chs. NR 108, NR 110, NR 150, NR 151, NR 162, and NR 216, Wis. Adm. Code, the regulations of DNR; and ch. Adm. 35, Wis. Adm. Code, the regulations of DOA, adopted pursuant to and in furtherance of the Act, as such may be adopted or amended from time to time.

"SDWLP" means the State of Wisconsin Safe Drinking Water Loan Program, established pursuant to ss. 281.59 and 281.61, Wis. Stats.

"Servicing Fee" means any servicing fee that may be imposed by DNR and DOA pursuant to s. 281.58(9)(d), Wis. Stats., which shall cover the estimated costs of reviewing and acting upon the Application and servicing this FAA, and which the Municipality is obligated to pay as set forth in Section 3.04 hereof.

"Sewer Use Ordinance" means the ordinance (or other legislative enactments) meeting the requirements of the Regulations and enacted and enforced in each jurisdiction served by the Project.

"Sewerage System" means the entire sewerage system of the Municipality, specifically including that portion of the Project owned by the Municipality and including all property of every nature now or hereafter owned by the Municipality for the collection, transmission, treatment, and disposal of domestic and industrial sewerage and waste.

"State" means the State of Wisconsin.

"Statute" means ss. 281.58 and 281.59, Wis. Stats., as amended.

"Substantial Completion" means the date on which construction of the Project is sufficiently complete in accordance with the contract documents so that the owner can occupy and utilize the Project for its intended use.

"Supplemental Resolution" shall have the meaning set forth in the Program Resolution.

"Trustee" means the trustee appointed by the State pursuant to the Program Resolution and any successor trustee.

"User Charge System" means a system of charges meeting the requirements of s. NR 162.07, Wis. Adm. Code.

"User Fees" means fees charged or to be charged to users of the Project or the Sewerage System of which the Project is a part pursuant to a User Charge System or otherwise.

"Water Quality Act" means the federal Water Quality Act of 1987, as amended.

"WPDES Permit" means a Wisconsin Pollutant Discharge Elimination System permit issued under ch. 283, Wis. Stats.

Section 1.02. Rules of Interpretation Unless the context clearly indicates to the contrary, the following rules shall apply to the context of this FAA:

- (a) Words importing the singular number shall include the plural number and vice versa, and one gender shall include all genders.
- (b) All references herein to particular articles or sections are references to articles or sections of this FAA.
- (c) The captions and headings herein are solely for convenience of reference and shall not constitute a part of this FAA, nor shall they affect its meaning, construction, or effect.
- (d) The terms "hereby", "hereof", "hereto", "herein", "hereunder", and any similar terms as used in this FAA refer to this FAA in its entirety and not the particular article or section of this FAA in which they appear. The term "hereafter" means after and the term "heretofore" means before the date of delivery of this FAA.
- (e) All accounting terms not otherwise defined in this FAA have the meanings assigned to them in accordance with generally accepted accounting principles, and all computations provided for herein shall be made in accordance with generally accepted accounting principles.

ARTICLE II REPRESENTATIONS

Section 2.01. Representations of the CWFP The CWFP represents and warrants as follows:

- (a) The State is authorized to issue the Bonds in accordance with the Statute and the Program Resolution and to use the proceeds thereof to provide funds for the Financial Assistance provided to the Municipality to undertake and complete the Project.
- (b) The CWFP has complied with the provisions of the Statute and has full power and authority to execute and deliver this FAA, consummate the transactions contemplated hereby, and perform its obligations hereunder.
- (c) The CWFP is not in violation of any of the provisions of the Constitution or laws of the State which would affect its powers referred to in the preceding paragraph (b).
- (d) Pursuant to the Statute, the CWFP is authorized to execute and deliver this FAA and to take actions and make determinations that are required of the CWFP under the terms and conditions of this FAA.
- (e) The execution and delivery by the CWFP of this FAA and the consummation of the transactions contemplated by this FAA shall not violate any indenture, mortgage, deed of trust, note, agreement, or other contract or instrument to which the State is a party, or by which it is bound, or, to the best of the CWFP's knowledge, any judgment, decree, order, statute, rule, or regulation applicable to the

CWFP; all consents, approvals, authorizations, and orders of governmental or regulatory authorities that are required for the consummation of the transactions contemplated thereby have been obtained.

(f) To the knowledge of the CWFP, there is no action, suit, proceeding, or investigation at law or in equity, before or by any court, public board, or body, threatened against, pending, or affecting the CWFP, or, to the knowledge of the CWFP, any basis therefor, wherein an unfavorable decision, ruling, or finding would adversely affect the transactions contemplated hereby or which, in any way, could adversely affect the validity of this FAA or any agreement or instrument to which the State is a party and which is used or contemplated for use in consummation of the transactions contemplated by each of the foregoing.

Section 2.02. Representations of the Municipality The Municipality represents, and warrants as of the date of this FAA, and with respect to paragraphs (n), (s), and (u), covenants throughout the term of this FAA, as follows:

(a) The Municipality possesses the legal municipal form of a city under ch. 62, Wis. Stats. The Municipality is located within the State and is a "municipality" within the meaning of the Statute, duly organized and existing under the laws of the State, and has full legal right, power, and authority to:

- (1) conduct its business and own its properties,
- (2) enter into this FAA,
- (3) adopt the Municipal Obligation Resolution,
- (4) issue and deliver the Municipal Obligations to the CWFP as provided herein, and
- (5) carry out and consummate all transactions contemplated by each of the aforesaid documents.

(b) The Municipality's Project is a project that is necessary to prevent the applicant from significantly exceeding an effluent limitation contained in its WPDES Permit (compliance maintenance).

(c) With respect to the issuance of the Municipal Obligations, the Municipality has complied with the Municipal Obligation Resolution and with all applicable laws of the State.

(d) The governing body of the Municipality has duly approved the execution and delivery of this FAA and the issuance and delivery of the Municipal Obligations in the aggregate principal amount of \$1,097,053 and authorized the taking of any and all action as may be required on the part of the Municipality and its authorized officers to carry out, give effect to, and consummate the transactions contemplated by each of the foregoing.

(e) This FAA and the Municipal Obligations have each been duly authorized, executed, and delivered, and constitute legal, valid, and binding obligations of the Municipality, enforceable in accordance with their respective terms.

(f) To the knowledge of the Municipality, there is no action, suit, proceeding, inquiry, or investigation, at law or in equity, before or by any court, public board, or body, threatened against, pending, or affecting the Municipality, or, to the knowledge of the Municipality, any basis therefor:

- (1) affecting the creation, organization, or existence of the Municipality or the title of its officers to their respective offices;
- (2) seeking to prohibit, restrain, or enjoin the execution of this FAA or the issuance or delivery of the Municipal Obligations;
- (3) in any way contesting or affecting the validity or enforceability of the Municipal Obligation Resolution, the Municipal Obligations, this FAA, or any agreement or instrument

relating to any of the foregoing or used or contemplated for use in the consummation of the transactions contemplated by this FAA; or

(4) wherein an unfavorable decision, ruling, or finding could adversely affect the transactions contemplated hereby or by the Municipal Obligation Resolution or the Municipal Obligations.

(g) The Municipality is not in any material respect in breach of or in default under any applicable law or administrative regulation of the State or the United States, any applicable judgment or decree, or any agreement or other instrument to which the Municipality is a party, or by which it or any of its properties is bound, and no event has occurred that, with the passage of time, the giving of notice, or both, could constitute such a breach or default. The execution and delivery of this FAA, the issuance and delivery of the Municipal Obligations, the adoption of the Municipal Obligation Resolution, and compliance with the respective provisions thereof shall not conflict with, or constitute a breach of or default under, any applicable law or administrative regulation of the State or of the United States, any applicable judgment or decree, or any agreement or other instrument to which the Municipality is a party, or by which it or any of its property is bound.

(h) The Municipal Obligations constitute validly-issued legally-binding special obligations of the Municipality secured as set forth therein.

(i) The resolutions of the Municipality accepting the Financial Assistance and the Municipal Obligation Resolution have been duly adopted by the Municipality and remain in full force and effect as of the date hereof.

(j) The Municipality has full legal right and authority, and all necessary permits, licenses, easements, and approvals (other than such permits, licenses, easements, or approvals that are not by their nature obtainable prior to Substantial Completion of the Project) required as of the date hereof to own the Project, carry on its activities relating thereto, undertake and complete the Project, and carry out and consummate all transactions contemplated by this FAA.

(k) The Municipality represents that it has not made any commitment or taken any action that shall result in a valid claim for any finders' or similar fees or commitments in respect to the issuance and sale of the Municipal Obligations and the making of the Loan under this FAA.

(l) The Project is eligible under s. 281.58(7), Wis. Stats., for financing from the CWFP, and the Project Costs are equal to or in excess of the principal amount of the Municipal Obligations. The Project has satisfied the requirements of the State Environmental Review Procedures (SERP) contained in the Regulations. Portions of the Project that are ineligible for financing from the CWFP are listed within the Project Manager Summary Page attached hereto as Exhibit F. The Municipality intends the Project to be eligible under the Statute throughout the term of this FAA.

(m) All amounts shown in Exhibit A of this FAA are costs of a Project eligible for financial assistance from the CWFP under the Statute. All proceeds of any borrowing of the Municipality that have been spent and are being refinanced with the proceeds of the Financial Assistance made hereunder have been spent on eligible Project Costs. All Project Costs are reasonable, necessary, and allocable by the Municipality to the Project under generally accepted accounting principles. None of the proceeds of the Financial Assistance shall be used directly or indirectly by the Municipality as working capital or to finance inventory, as opposed to capital improvements.

(n) The Project is and shall remain in compliance with all applicable federal, state, and local laws and ordinances (including rules and regulations) relating to zoning, building, safety, and environmental quality. The Municipality has complied with and completed all requirements of DNR necessary to commence construction of the Project prior to the date hereof. The Municipality intends to proceed with due diligence to complete the Project pursuant to Section 4.04 hereof.

(o) The Municipality does not intend to lease the Project or enter into a long-term contract for operation of the Project except as set forth in Exhibit D.

(p) The Municipality shall not take or omit to take any action which action or omission shall in any way cause the proceeds of the Bonds to be applied in a manner contrary to that provided in the Program Resolution.

(q) The Municipality has not taken and shall not take any action, and presently knows of no action that any other person, firm, or corporation has taken or intends to take, that would cause interest on the Municipal Obligations to be includable in the gross income of the owners of the Municipal Obligations for federal income tax purposes. The representations, certifications, and statements of reasonable expectation made by the Municipality as referenced in the Municipal Obligation Counsel Opinion and No Arbitrage Certificate are hereby incorporated by this reference as though fully set forth herein.

(r) Other than (1) "preliminary expenditures" as used in Treas. Regs. 26 CFR 1.150-2 in an amount not exceeding 20% of the principal amount of the Municipal Obligations, or (2) an amount not exceeding the lesser of \$100,000 or 5% of the principal amount of the Municipal Obligations, all of the proceeds of the Bonds loaned to the Municipality (other than refunding proceeds, if any) shall be used for Project Costs paid by the Municipality subsequent to a date which is 60 days prior to the date on which the Municipality adopted a reimbursement resolution pursuant to Treas. Regs. 26 CFR 1.150-2 stating its intent to reimburse other funds of the Municipality used to finance the Project, or subsequent to the issuance date of the Municipal Obligations.

(s) The Municipality represents that it has satisfied and shall continue to satisfy all the applicable requirements in s. 281.58, Wis. Stats., and ch. NR 162, Wis. Adm. Code.

(t) The Municipality has adopted a rate, charge, or assessment schedule that will generate annually sufficient revenue to pay the principal of and interest on the Municipal Obligations.

(u) The Municipality is in substantial compliance and shall remain in substantial compliance with all applicable conditions, requirements, and terms of any financial assistance previously awarded through the federal construction grants program, the Wisconsin Fund construction grants program, the CWFP, or the SDWLP.

(v) The Municipality has met all terms and conditions contained within and received DNR approval for the Municipality's Plans and Specifications for the Project described in the definitions hereof.

(w) The Municipality represents that it submitted to DNR a bid tabulation for the Project with a recommendation to DNR for review and concurrence. The expected Substantial Completion date of the Project is August 22, 2024.

(x) The Municipality acknowledges that s. 281.59(11)(b), Wis. Stats., and the Program Resolution provide that, if the Municipality fails to repay the Loan when due, the State shall recover amounts due the CWFP by deducting those amounts from any State payments due the Municipality. State aids information is available on: the Wisconsin Department of Revenue's website at <https://www.revenue.wi.gov/Pages/Report/Shared-Revenue-Estimates.aspx>, and the Wisconsin Department of Transportation's website at <https://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/highway/gta.aspx>.

The Municipality acknowledges that s. 70.60, Wis. Stats., and the Program Resolution provide that, if the Municipality fails to repay the Loan when due, the State shall recover amounts due the CWFP by adding a special charge to the amount of taxes apportioned to and levied upon the county in which the Municipality is located.

(y) The Municipality acknowledges that the State reserves the right upon default by the Municipality hereunder to have a receiver appointed to collect User Fees from the operation of the Municipality's

Sewerage System or, in the case of a joint utility system, to bill the users of the Municipality's Sewerage System directly.

(z) The representations of the Municipality in the Application are true and correct as of the date of this FAA and are incorporated herein by reference as if fully set forth in this place.

(aa) There has been no material adverse change in the financial condition or operation of the Municipality or the Project since the submission date of the Application.

(bb) The Municipality acknowledges that it is eligible to receive Financial Assistance in the form of a Loan of \$2,246,582 with Principal Forgiveness of \$1,149,529 for payment of Project Costs.

ARTICLE III LOAN PROVISIONS

Section 3.01. Loan Clauses

(a) Subject to the conditions and in accordance with the terms of this FAA, the CWFP hereby agrees to make the Loan and the Municipality agrees to accept the Loan. As evidence of the portion of the Loan made to the Municipality remaining subsequent to the Principal Forgiveness, the Municipality hereby agrees to sell to the CWFP Municipal Obligations in the aggregate principal amount of \$1,097,053. The CWFP shall pay for the Municipal Obligations in lawful money of the United States, which shall be disbursed as provided in this FAA.

(b) Prior to disbursement, Loan proceeds shall be held by the CWFP or by the Trustee for the account of the CWFP. Earnings on undisbursed Loan proceeds shall be for the account of the CWFP. Loan proceeds shall be disbursed only upon submission by the Municipality of disbursement requests and approval thereof as set forth in Section 3.06 hereof.

(c) The Loan shall bear interest at the rate of one and 353/1000ths percent (1.353%) per annum, and interest shall accrue and be payable only on Loan principal amounts actually disbursed on the Municipal Obligations, from the date of disbursement until the date such amounts are repaid or forgiven.

(d) Disbursements of Financial Assistance shall generally be made: first, in the form of a Loan disbursement on the Municipal Obligations, which must be at least 5% of the Municipal Obligation amount or an excess of \$50,000, whichever is less; second, in the form of Loan disbursements that include the applicable percentage of Principal Forgiveness up to \$1,149,529; and third, if the Principal Forgiveness cap has been reached, in the form of Loan disbursements on the Municipal Obligations. Principal Forgiveness will be applied at the time of Loan disbursement.

(e) The Department of Administration shall maintain a Loan Disbursement Table on its website <http://eif.doa.wi.gov/start.asp> [eif.doa.wi.gov]. DOA shall make entries as each disbursement is made and as each principal amount is repaid; the CWFP and the Municipality agree that such entries shall be mutually binding.

(f) Upon Final Completion of the Project, DOA may request that the Municipality issue substitute Municipal Obligations in the aggregate principal amount equal to the outstanding principal balance of the Municipal Obligations.

(g) The Municipality shall deliver, or cause to be delivered, a Municipal Obligation Counsel Opinion to the CWFP concurrently with the delivery of the Municipal Obligations.

Section 3.02. Municipal Obligations Amortization Principal and interest payments on the Municipal Obligations shall be due on the dates set forth in Exhibit B of this FAA. The payment amounts shown on

Exhibit B are for informational purposes only and assume the full amount of the Municipal Obligations is disbursed and that the full amount of Principal Forgiveness available is applied to the Loan on July 10, 2024. It is understood that the actual amounts of the Municipality's Municipal Obligations payments shall be based on the actual dates and amounts of disbursements on the Municipal Obligations. Notwithstanding the foregoing or anything in the Municipal Obligations, the Municipal Obligations shall be for no longer than thirty (30) years from the date of this FAA and shall mature and be fully amortized not later than thirty (30) years after the original issue date of the Municipal Obligations. Repayment of principal on the Municipal Obligations shall begin not later than twelve (12) months after the expected or actual Substantial Completion date of the Project.

Section 3.03. Type of Municipal Obligation and Security The Municipality's obligation to meet annual debt service requirements on the Municipal Obligations shall be a revenue obligation evidenced by issuance of revenue bonds pursuant to s. 66.0621, Wis. Stats. The security for the Municipality's obligation shall be a pledge of revenues to be derived from the Municipality's Sewerage System, and the Municipality shall agree that, if revenues from the Sewerage System are insufficient to meet annual debt service requirements, the Municipality shall purchase sewerage services in amounts sufficient to meet annual debt service requirements as provided in and set forth in Section 9 of the Municipal Obligation Resolution. The annual revenues net of all current expenses shall be equal to not less than the annual principal and interest requirements on the Municipal Obligations, any Parity Obligations, and any other debt obligations payable from the revenues of the Sewerage System then outstanding, times the greater of (i) 110 percent or (ii) the highest debt service coverage ratio required with respect to any Parity Obligations, or any other debt obligations payable from the revenues of the Sewerage System then outstanding. As of the date of this FAA, the required debt service coverage ratio is 110 percent; however, this percentage is subject to change as outlined in the prior sentence. The Municipal Obligations are also secured as provided in Section 3.08 hereof.

Section 3.04. Other Amounts Payable The Municipality hereby expressly agrees to pay to the CWFP:

- (a) such Servicing Fee as the CWFP may impose pursuant to s. 281.58(9)(d), Wis. Stats., which shall be payable in semiannual installments on each interest payment date; such a Servicing Fee shall be imposed upon the Municipality after approval of a future Biennial Finance Plan by the State of Wisconsin Building Commission which contains a Servicing Fee requirement, schedule, and amount; and
- (b) the Municipality's allocable share of the Fees and Charges as such costs are incurred. Allocable share shall mean the proportionate share of the Fees and Charges based on the outstanding principal of the Loan.

Amounts paid by the Municipality pursuant to this Section 3.04 shall be deposited in the Equity Fund established pursuant to the Program Resolution.

Section 3.05. Sale and Redemption of Municipal Obligations

- (a) Municipal Obligations may not be prepaid without the prior written consent of the CWFP. The CWFP has sole discretion to withhold such consent.
- (b) The Municipality shall pay all costs and expenses of the CWFP in effecting the redemption of the Bonds to be redeemed with the proceeds of the prepayment of the Municipal Obligations. Such costs and expenses may include any prepayment premium applicable to the CWFP and any investment losses incurred or sustained by the CWFP resulting directly or indirectly from any such prepayment.
- (c) Subject to subsection (a), the Municipality may prepay the Municipal Obligations with any settlements received from any third party relating to the design or construction of the Project.
- (d) Prepayments of the Municipal Obligations shall be applied pro rata to all maturities of the Municipal Obligations.

Section 3.06. Disbursement of Financial Assistance

- (a) Under this FAA, Financial Assistance shall be drawn in the order specified in Section 3.01(d) of this document.
- (b) Each disbursement request shall be delivered to DNR. Each request must contain invoices or other evidence acceptable to DNR and DOA that Project Costs for which disbursement of Financial Assistance is requested have been incurred by the Municipality.
- (c) The CWFP, through its agents or Trustee, plans to make disbursements of Financial Assistance on a semimonthly basis upon approval of each disbursement request by DNR and DOA. Such approval by DNR and DOA may require adjustment and corrections to the disbursement request submitted by the Municipality. The Municipality shall be notified whenever such an adjustment or correction is made by DNR or DOA.
- (d) Disbursements made to the Municipality are subject to pre- and post-payment adjustments by DNR or DOA.
 - (1) If the Financial Assistance is not yet fully disbursed, and CWFP funds were previously disbursed for costs not eligible for CWFP funding or not eligible under this FAA, the CWFP shall make necessary adjustments to future disbursements.
 - (2) If the Financial Assistance is fully disbursed, including disbursements for any costs not eligible for CWFP funding or not eligible under this FAA, the Municipality agrees to repay to the CWFP an amount equal to the non-eligible costs within 60 days of notification by DNR or DOA. The CWFP shall then apply the amount it receives as a Loan prepayment or as a recovery of a Loan disbursement with Principal Forgiveness (if there is no outstanding Loan principal balance available to which the recovery may be applied).
- (e) The CWFP or its agent shall disburse Financial Assistance only to the Municipality's account by electronic transfer of funds. The Municipality hereby covenants that it shall take actions and provide information necessary to facilitate these transfers.
- (f) Disbursement beyond ninety-five percent (95%) of the Financial Assistance, unless otherwise agreed to by DNR and DOA pursuant to a written request from the Municipality, may be withheld until:
 - (1) DNR is satisfied that the Project has been completed in accordance with the Plans and Specifications, DNR has approved all change orders relating to the Project, and DNR has determined that the Project is in compliance with the Municipality's WPDES Permit;
 - (2) the Municipality certifies to DNR its acceptance of the Project from its contractors;
 - (3) the Municipality certifies in writing to DNR its compliance with applicable federal requirements (certification must be as prescribed on Exhibit C); and
 - (4) DNR certifies in writing to DOA the Municipality's compliance with all applicable requirements of this FAA.
- (g) Treas. Regs. 26 CFR § 1.148-6(d)(1)(iii) applies to project expenditures. It states, in part, "An issuer must account for the allocation of proceeds to expenditures not later than 18 months after the later of the date the expenditure is paid or the date the project, if any, that is financed by the issue is placed in service".

Section 3.07. Remedies

(a) If the Municipality:

- (1) or any authorized representative is not complying with federal or state laws, regulations, or requirements relating to the Project, and following due notice by DNR the Project is not brought into compliance within a reasonable period of time; or
- (2) is not complying with or is in violation of any provision set forth in this FAA; or
- (3) is not in compliance with the Statute or the Regulations;

then DNR may, until the Project is brought into compliance or the FAA non-compliance is cured to the satisfaction of DNR or DOA, impose one (1) or more of the following sanctions:

- (i) Progress payments or disbursements otherwise due the Municipality of up to 20% may be withheld.
- (ii) Project work may be suspended.
- (iii) DNR may request a court of appropriate jurisdiction to enter an injunction or afford other equitable or judicial relief as the court finds appropriate.
- (iv) Other administrative remedies may be pursued.

(b) If the Municipality fails to make any payment when due on the Municipal Obligations or fails to observe or perform any other covenant, condition, or agreement on its part under this FAA for a period of thirty (30) days after written notice is given to the Municipality by DNR, specifying the default and requesting that it be remedied, the CWFP is provided remedies by law and this FAA. These remedies include, but are not limited to, the following rights:

- (1) Pursuant to s. 281.59(11)(b), Wis. Stats., DOA shall place on file a certified statement of all amounts due the CWFP under this FAA. DOA may collect all amounts due the CWFP by deducting those amounts from any State payments due the Municipality or adding a special charge to the amount of taxes apportioned to and levied upon the county in which the Municipality is located under s. 70.60, Wis. Stats.
- (2) Pursuant to s. NR 162.18(1), Wis. Adm. Code, if the Loan has not been fully disbursed, DNR may: declare the unpaid Loan balance due and immediately payable; increase the interest rate on the unpaid balance of the Loan to the market interest rate in effect on the date this FAA was executed; or immediately terminate this FAA and disburse no additional funds.
- (3) The CWFP may, without giving bond to the Municipality or anyone claiming under it, have a receiver appointed for the CWFP's benefit of the Project and the Municipality's Sewerage System and of the earnings, income, rents, issues, and profits thereof, with such powers as the court making such appointment shall confer. The Municipality hereby irrevocably consents to such appointment.
- (4) In the case of a joint utility system, the CWFP may bill the users of the Municipality's system directly.
- (5) The CWFP may enforce any right or obligation under this FAA, including the right to seek specific performance or mandamus, whether such action is at law or in equity.

Section 3.08. Security for the Municipal Obligations In accordance with the terms of the Municipal Obligation Resolution:

(a) as security for the Municipal Obligations, the Municipality hereby pledges the revenue to be derived from the Municipality's Sewerage System (which is a dedicated source of revenue); and

(b) other than as already pledged to the outstanding Parity Obligations the Municipality shall not pledge the revenues, except as provided in Section 11 of the Municipal Obligation Resolution, to be derived from the Municipality's User Charge System or other revenues pledged under Section 3.08(a) above, to any person other than the CWFP, unless the revenues pledged to such other person meet the highest debt coverage ratio then applicable to the Municipality.

Section 3.09. Effective Date and Term This FAA shall become effective upon its execution and delivery by the parties hereto, shall remain in full force and effect from such date, and shall expire on such date as the Municipal Obligations shall be discharged and satisfied in accordance with the provisions thereof.

ARTICLE IV CONSTRUCTION OF THE PROJECT

Section 4.01. Insurance The Municipality agrees to maintain property and liability insurance for the Sewerage System and Project that is reasonable in amount and coverage and that is consistent with prudent municipal insurance practices for the term of this FAA. The Municipality agrees to provide written evidence of insurance coverage to the CWFP upon request at any time during the term of this FAA.

In the event the Sewerage System or Project is damaged or destroyed, the Municipality agrees to use the proceeds from its insurance coverage either to repay the Financial Assistance or to repair or replace the Sewerage System.

Section 4.02. Construction of the Project The Municipality shall construct the Project, or cause it to be constructed, to Final Completion in accordance with the Application and the Plans and Specifications. The Municipality shall proceed with the acquisition and construction of the Project in conformity with law and with all applicable requirements of governmental authorities having jurisdiction with respect thereto, subject to such modifications of Plans and Specifications that alter the cost of the Project, use of space, Project scope, or functional layout, as may be previously approved by DNR.

Section 4.03. Performance Bonds The Municipality shall provide, or cause to be provided, performance bonds assuring the performance of the work to be performed under all construction contracts entered into with respect to the Project. All performance bonds required hereunder shall be issued by independent surety companies authorized to transact business in the State.

Section 4.04. Completion of the Project

(a) The Municipality agrees that it shall undertake and complete the Project for the purposes and in the manner set forth in this FAA and in accordance with all federal, state, and local laws, ordinances, and regulations applicable thereto. The Municipality shall, with all practical dispatch and in a sound and economical manner, complete or cause to be completed the acquisition and construction of the Project and do all other acts necessary and possible to entitle it to receive User Fees with respect to the Project at the earliest practicable time. The Municipality shall obtain all necessary approvals from any and all governmental agencies prior to construction which are requisite to the Final Completion of the Project.

(b) The Municipality shall notify DNR of the Substantial Completion of the Project. The Municipality shall cause to be prepared as-built plans for the Project at or prior to completion thereof.

(c) The Municipality shall take and institute such proceedings as shall be necessary to cause and require all contractors and material suppliers to complete their contracts diligently and in accordance with the terms of the contracts including, without limitation, the correcting of defective work.

(d) Upon Final Completion of the Project in accordance with the Plans and Specifications, the Municipality shall:

- (1) certify to DNR its acceptance of the Project from its contractors, subject to claims against contractors and third parties;
- (2) complete and deliver to DNR the completed Utilization of Disadvantaged Business Enterprises (DBE) form attached hereto as Exhibit E of this FAA;
- (3) prepare and deliver to DNR the completed Federal Requirements Compliance Certification attached hereto as Exhibit C of this FAA;
- (4) obtain all required permits and authorizations from appropriate authorities for operation and use of the Project; and
- (5) submit to DNR a completed Operation and Maintenance Manual Certification Checklist form to be provided by DNR or obtained from DNR's website.

Section 4.05. Payment of Additional Project Costs

(a) In the event of revised eligibility determinations, cost overruns, and amendments exceeding the Financial Assistance amount, the CWFP may allocate additional financial assistance to the Project. The allocation of additional financial assistance may be in the form of a loan at less than the market interest rate, which is established pursuant to the Statute and Regulations. The allocation of additional financial assistance shall depend upon availability of funds, pursuant to the Statute and the Regulations.

(b) In the event this Financial Assistance is not sufficient to pay the costs of the Project in full, the Municipality shall nonetheless complete the Project and pay that portion of the Project Costs as may be in excess of available Financial Assistance and shall not be entitled to any reimbursement therefore from the CWFP, or the owners of any Bonds, except from the proceeds of additional financing which may be provided by the CWFP pursuant to an amendment of this FAA or through a separate financial assistance agreement.

Section 4.06. No Warranty Regarding Condition, Suitability, or Cost of Project Neither the CWFP, DOA, DNR, nor the Trustee makes any warranty, either express or implied, as to the Project or its condition, or that it shall be suitable for the Municipality's purposes or needs, or that the Financial Assistance shall be sufficient to pay the costs of the Project. Review or approval of engineering reports, facilities plans, Plans and Specifications, or other documents, or the inspection of Project construction by DNR, does not relieve the Municipality of its responsibility to properly plan, design, build, and effectively operate and maintain the Project as required by laws, regulations, permits, and good management practices. DNR or its representatives are not responsible for increased costs resulting from defects in the Plans and Specifications or other Project documents. Nothing in this section prohibits a Municipality from requiring more assurances, guarantees, or indemnity or other contractual requirements from any party performing Project work.

ARTICLE V
COVENANTS

Section 5.01. Application of Financial Assistance The Municipality shall apply the proceeds of the Financial Assistance solely to Project Costs.

Section 5.02. Operation and Maintenance: Equipment Replacement Fund

(a) After completion of the Project, the Municipality shall:

- (1) at all times operate the Project or otherwise cause the Project to be operated properly and in a sound and economical manner, including proper training of personnel;
- (2) maintain, preserve, and keep the Project or cause the Project to be maintained, preserved, and kept in good repair, working order, and condition; and
- (3) periodically make, or cause to be made, all necessary and proper repairs, replacements, and renewals so that at all times the operation of the Project may be properly conducted in a manner that is consistent with the requirements of the WPDES Permit.

(b) So long as the Loan is outstanding, the Municipality shall not, without the approval of DNR, discontinue operation of, sell, or otherwise dispose of the Sewerage System or Project, except for portions of the Sewerage System sold or otherwise disposed of in the course of ordinary repair and replacement of parts.

(c) The Municipality shall establish an equipment replacement fund according to s. NR 162.07, Wis. Adm. Code, and maintain the equipment replacement fund as a separate fund of the Municipality. All User Fees or other revenues specifically collected for the equipment replacement fund shall be deposited into the equipment replacement fund and used for replacement and major repair of equipment necessary for the operation of the Sewerage System, or for unexpected, unbudgeted costs incurred for continuing effective operations of the Sewerage System. Annual deposits shall be made to the equipment replacement fund in amounts sufficient to meet the equipment replacement itemized schedule developed by the Municipality or the percentage schedule option. The Project Manager Summary Page (Exhibit F) shall specify the required annual deposit or required minimum balance/percentage.

Section 5.03. Compliance with Law At all times during construction of the Project and operation of the Sewerage System, the Municipality shall comply with all applicable federal, state, and local laws, ordinances, rules, regulations, permits, and approvals, and with this FAA, including, without limitation, the Statute, the Regulations, and the WPDES Permit.

Section 5.04. Public Ownership The Municipality shall at all times retain ownership of the Project and the Sewerage System of which it is a part.

Section 5.05. Establishment of Project Accounts; Audits

(a) The Municipality shall maintain Project accounts in accordance with generally accepted accounting principles (GAAP), including standards relating to the reporting of infrastructure assets and directions issued by the CWFP. Without any request the Municipality shall furnish to DOA as soon as available, and in any event within one hundred eighty (180) days after the close of each fiscal year, a copy of the audit report for such year and accompanying GAAP-based financial statements for such period, as examined and reported by independent certified public accountants of recognized standing selected by the Municipality and reasonably satisfactory to DOA, whose reports shall indicate that the accompanying financial statements have been prepared in conformity with GAAP and include standards relating to the reporting of infrastructure assets.

(b) The Municipality shall maintain a separate account that reflects the receipt and expenditure of all CWFP funds for the Project. All Financial Assistance shall be credited promptly upon receipt thereof and shall be reimbursement for or expended only for Project Costs. The Municipality shall: permit any authorized representative of DNR or DOA, or agents thereof, the right to review or audit all records relating to the Project or the Financial Assistance; produce, or cause to be produced, all records relating to any work performed under the terms of this FAA for examination at such times as may be designated by any of them; permit extracts and copies of the Project records to be made by any of them; and fulfill information requests by any of them.

Section 5.06. Records The Municipality shall retain all files, books, documents, and records relating to construction of the Project for at least three years following the date of Final Completion of the Project, or for longer periods if necessary due to any appeal, dispute, or litigation. All other files and records relating to the Project shall be retained so long as this FAA remains in effect. As-built plans for the Project shall be retained for the useful life of the Project.

Section 5.07. Project Areas The Municipality shall permit representatives of DNR access to the Project and related records at all reasonable times, include provisions in all contracts permitting such access during construction and operation of the Sewerage System, and allow extracts and copies of Project records to be made by DNR representatives.

Section 5.08. Engineering Inspection The Municipality shall provide competent and adequate inspection of all Project construction under the direction of a professional engineer licensed by the State. The Municipality shall direct such engineer to inspect work necessary for the construction of the Project and to determine whether such work has been performed in accordance with the Plans and Specifications. Any such work not in accordance with the Plans and Specifications shall be remedied unless such noncompliance is waived by DNR.

Section 5.09. Tax Covenants

- (a) The Municipality covenants and agrees that it shall not take any action, or omit to take any action, which action or omission would result in the loss of the exclusion of the interest on any Municipal Obligations now or hereafter issued from gross income for purposes of federal income taxation as that status is governed by Section 103(a) of the Code or any successor provision.
- (b) The Municipality shall not take any action, or omit to take any action, which action or omission would cause its Municipal Obligations to be "private activity bonds" within the meaning of Section 141(a) of the Code or any successor provision.
- (c) The Municipality shall not directly or indirectly use, or permit the use of, any proceeds of the Bonds (or amounts replaced with such proceeds) or any other funds, or take any action, or omit to take any action, which use or action or omission would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148(a) of the Code or any successor provision. The Municipality hereby further covenants to ensure that all amounts actually received by such Municipality from the CWFP are advanced within three Business Days to the entity submitting the invoice (or to reimburse the Municipality) to which each amount relates, and that all amounts actually received by such Municipality from the CWFP shall not be invested in any interest-bearing account.
- (d) The Municipality shall not use (directly or indirectly) the proceeds of the Bonds in any manner that would constitute an "advance refunding" within the meaning of Section 149(d)(2) of the Code or any successor provision. Without limiting the foregoing, any proceeds of the Bonds used to repay interim or other prior financing of Project Costs shall be applied within three (3) Business Days of receipt of the proceeds to the payment of principal of such financing.

Section 5.10. User Fee Covenant

- (a) The Municipality hereby certifies that it has adopted and shall charge User Fees with respect to the Project in accordance with applicable laws and the Statute and in amounts such that revenues of the Municipality with respect to the Project shall be sufficient, together with other funds available to the Municipality for such purposes, to pay all costs of operating and maintaining the Project in accordance with this FAA, and to pay all amounts due under this FAA and the Municipal Obligations.
- (b) The Municipality covenants that it shall adopt and shall adequately maintain for the design life of the Project a system of User Fees with respect to the Project in accordance with s. NR 162.07, Wis. Adm. Code. The Municipality covenants that it shall review the User Charge System at least every

two years and shall revise and charge User Fees with respect to the Project such that the revenues and funds described in paragraph (a) shall be sufficient to pay the costs described in paragraph (a).

Section 5.11. Notice of Impaired System The Municipality shall promptly notify DNR and DOA in the case of: any material damage to or destruction of the Project or any part thereof; any actual or threatened proceedings for the purpose of taking or otherwise affecting by condemnation, eminent domain, or otherwise, all or a part of the Sewerage System; any action, suit, or proceeding at law or in equity, or by or before any governmental instrumentality or agency, or any other event which may impair the ability of the Municipality to construct the Project or operate the Sewerage System or set and collect User Fees as set forth in Section 5.10.

Section 5.12. Hold Harmless The Municipality shall save, keep harmless, and defend DNR, DOA, and all their officers, employees, and agents, against any and all liability, claims, and costs of whatever kind and nature for injury to or death of any person or persons, and for loss or damage to any property occurring in connection with or in any way incident to or arising out of the construction, occupancy, use, service, operation, or performance of work in connection with the Project, the Sewerage System, or acts or omissions of the Municipality's employees, agents, or representatives.

Section 5.13. Nondiscrimination Covenant

(a) In connection with the Project, the Municipality agrees to comply with fair employment practices pursuant to subchapter II of ch. 111, Wis. Stats. This provision shall include, but is not 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 Municipality agrees to post in conspicuous places, available for employees and applicants for employment, notices setting forth the provision of the nondiscrimination clause.

(b) The Municipality shall incorporate the following provision into all Project contracts which have yet to be executed: "In connection with the performance of work under this contract, the contractor agrees not to discriminate against any employee or applicant because of age, race, religion, color, handicap, sex, physical condition, developmental disability, or national origin. The contractor further agrees to comply with fair employment practices pursuant to subchapter II of ch. 111, Wis. Stats. This provision 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 contractor further agrees to take affirmative action to ensure equal employment opportunities for persons with disabilities. The contractor agrees to post in conspicuous places, available for employees and applicants for employment, notices setting forth the provisions of the nondiscrimination clause."

Section 5.14. Employees The Municipality or its employees or agents are not employees or agents of the DNR or DOA for any purpose, including worker's compensation.

Section 5.15. Adequate Funds The Municipality shall have sufficient funds available to repay the Municipal Obligations. The Municipality shall have sufficient funds available when construction of the Project is completed to ensure effective operation and maintenance of the Project for purposes constructed.

Section 5.16. Management The Municipality shall provide and maintain competent and adequate management, supervision, and inspection at the construction site to ensure that the completed work conforms with the Plans and Specifications. The Municipality shall furnish progress reports and such other information as DNR may require.

Section 5.17. Reimbursement Any disbursement of Financial Assistance to the Municipality in excess of the amount determined by final audit to be due the Municipality shall be reimbursed to DOA within 60 days after DNR or DOA provides a notice stating the amount of excess funds disbursed.

Section 5.18. Unpaid User Fees The Municipality shall, to the fullest extent permitted by law, take all actions necessary to certify any unpaid User Fees to the county treasurer in order that such unpaid User Fees will be added as a special charge to the property tax bill of the user.

Section 5.19. Sewer Use Ordinance The Municipality shall comply with the provisions of the Sewer Use Ordinance, as certified in the Application. The Municipality covenants that it shall comply with and enforce all provisions of the Sewer Use Ordinance, as established pursuant to the Statute and Regulations.

Section 5.20. Rebates The Municipality agrees to pay to the CWFP any refunds, rebates, credits, or other amounts received for Project Costs for which disbursement of funds has already been made by the CWFP. The CWFP shall then apply the amount it receives as a Loan prepayment or as a recovery of a Loan disbursement with Principal Forgiveness (if there is no outstanding Loan principal balance for the Project).

Section 5.21. Maintenance of Legal Existence

(a) Except as provided in par. (b), the Municipality shall maintain its legal existence and shall not dissolve or otherwise dispose of all or substantially all of its assets and shall not consolidate with or merge into another legal entity.

(b) A Municipality may consolidate with or merge into any other legal entity, dissolve or otherwise dispose of all of its assets or substantially all of its assets, or transfer all or substantially all of its assets to another legal entity (and thereafter be released of all further obligation under this FAA and the Municipal Obligations) if:

(1) the resulting, surviving, or transferee legal entity is a legal entity established and duly existing under the laws of Wisconsin;

(2) such resulting, surviving, or transferee legal entity is eligible to receive financial assistance under the Statute;

(3) such resulting, surviving, or transferee legal entity expressly assumes in writing all of the obligations of the Municipality contained in this FAA and the Municipal Obligations and any other documents the CWFP deems reasonably necessary to protect its environmental and credit interests; and

(4) the CWFP shall have consented in writing to such transaction, which consent may be withheld in the absolute discretion of the CWFP.

Section 5.22. Wage Rate Requirements The Municipality represents that it shall comply with Section 513 of the Federal Water Pollution Control Act (33 USC 1372), which requires that all laborers and mechanics employed by contractors and subcontractors funded directly by or assisted in whole or in part with funding under the Loan shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor (DOL) in accordance with subchapter IV of chapter 31 of title 40, United States Code.

Section 5.23. American Iron and Steel The Municipality agrees to comply with the requirements for use of American Iron and Steel contained in section 608 of the Act for products used in the Project which are made primarily of iron and/or steel.

Section 5.24 Federal Single Audit At the time of signing of this FAA, the funds awarded to the Municipality for this Project are not considered to be subject to federal single audit requirements, but such consideration may change subsequent to this FAA if any changes are made to federal single audit requirements applicable to municipalities. If the Municipality is required to submit a Federal Single Audit, without any request the Municipality shall furnish to DOA, at doaeif@wisconsin.gov as soon as available, and in any event within 30 days after completion, the Federal Single Audit. Notification must include acknowledgement of any SRF findings and/or resolution to prior year findings.

Section 5.25. Bipartisan Infrastructure Law Signage The Municipality agrees to comply with all signage requirements as described in the Implementing the BIL Signage Requirement Packet (available at <https://dnr.wisconsin.gov/sites/default/files/topic/Aid/loans/BILsignageReqPacket.pdf>).

ARTICLE VI MISCELLANEOUS

Section 6.01. Notices All notices, certificates, or other communications hereunder shall be sufficiently given, and shall be deemed given, when hand delivered or mailed by registered or certified mail, postage prepaid, return receipt requested to the addresses set forth below:

- (a) DEPARTMENT OF ADMINISTRATION
OFFICE OF CAPITAL FINANCE
CLEAN WATER FUND PROGRAM
101 EAST WILSON STREET 10TH FLOOR
MADISON WI 53702-0004
OR
PO BOX 7864
MADISON WI 53707-7864
- (b) DEPARTMENT OF NATURAL RESOURCES
BUREAU OF COMMUNITY FINANCIAL ASSISTANCE
101 SOUTH WEBSTER STREET CF/2
MADISON WI 53702-0005
OR
PO BOX 7921
MADISON WI 53707-7921
- (c) US BANK CORP TRUST
MATTHEW HAMILTON EP-MN-WS3T
60 LIVINGSTON AVENUE
ST PAUL MN 55101-2292
- (d) CITY OF ASHLAND
601 MAIN STREET WEST
ASHLAND WI 54806

Any of the foregoing parties may designate any further or different addresses to which subsequent notices, certificates, or other communications shall be sent, by notice in writing given to the others. Any notice herein shall be delivered simultaneously to DNR and DOA.

Section 6.02. Binding Effect This FAA shall be for the benefit of, and shall be binding upon, the CWFP and the Municipality and their respective successors and assigns.

Section 6.03. Severability In the event any provision of this FAA shall be held illegal, invalid, or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable, or otherwise affect any other provision hereof.

Section 6.04. Amendments, Supplements, and Modifications This FAA may be amended, supplemented, or modified to provide for additional financial assistance for the Project by the CWFP to the Municipality or for other purposes. All amendments, supplements, and modifications shall be in writing between the CWFP (by DNR and DOA acting under authority of the Statute) and the Municipality.

Section 6.05. Execution in Counterparts This FAA may be executed in several counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

Section 6.06. Applicable Law This FAA shall be governed by and construed in accordance with the laws of the State, including the Statute.

Section 6.07. Benefit of Financial Assistance Agreement This FAA is executed, among other reasons, to induce the purchase of the Municipal Obligations. Accordingly, all duties, covenants, obligations, and agreements of the Municipality herein contained are hereby declared to be for the benefit of, and are enforceable by, the CWFP, the Trustee, or their authorized agents.

Section 6.08. Further Assurances The Municipality shall, at the request of DNR and DOA, authorize, execute, acknowledge, and deliver such further resolutions, conveyances, transfers, assurances, financing statements, and other instruments as may be necessary or desirable for: better assuring, conveying, and providing Principal Forgiveness; and assigning, and confirming the rights, security interests, and agreements concerning Principal Forgiveness or intended to be Principal Forgiveness provided by this FAA and relating to the Municipal Obligations.

Section 6.09. Assignment of Municipal Obligations The Municipality hereby agrees that the Municipal Obligations may be sold, transferred, pledged, or hypothecated to any third party without the consent of the Municipality.

Section 6.10. Covenant by Municipality as to Compliance with Program Resolution The Municipality covenants and agrees that it shall comply with the provisions of the Program Resolution with respect to the Municipality and that the Trustee and the owners of the Bonds shall have the power and authority provided in the Program Resolution. The Municipality further agrees to aid in the furnishing to DNR, DOA, or the Trustee of opinions that may be required under the Program Resolution.

Section 6.11. Termination This FAA may be terminated in whole or in part pursuant to one or more of the following:

- (a) The CWFP and the Municipality may enter into an agreement to terminate this FAA at any time. The termination agreement shall establish the effective date of termination of this FAA, the basis for settlement of termination costs, and the amount and date of payment of any sums due either party.
- (b) If the Municipality wishes to unilaterally terminate all or any part of the Project work for which Financial Assistance has been awarded, the Municipality shall promptly give written notice to DNR. If the CWFP determines that there is a reasonable basis for the requested termination, the CWFP may enter into a termination agreement, including provisions for FAA termination costs, effective with the date of cessation of the Project work by the Municipality. If the CWFP determines that the Municipality has ceased work on the Project without reasonable basis, the CWFP may unilaterally terminate Financial Assistance or rescind this FAA.

Section 6.12. Rescission The CWFP may rescind this FAA prior to the first disbursement of any funds hereunder if it determines that:

- (a) there has been substantial non-performance of the Project work by the recipient without justification under the circumstances;
- (b) there is substantial evidence this FAA was obtained by fraud;
- (c) there is substantial evidence of gross abuse or corrupt practices in the administration of the Project;
- (d) the Municipality has failed to comply with the covenants contained in this FAA; or
- (e) any of the representations of the Municipality contained in this FAA were false in any material respect.

IN WITNESS WHEREOF, the CWFP and the Municipality have caused this FAA to be executed and delivered, as of the date and year first written above.

CITY OF ASHLAND

By: _____
Matthew MacKenzie
Mayor

Attest: _____
Denise Oliphant
City Clerk

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION

By: _____
Authorized Officer

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By: _____
Authorized Officer

EXHIBIT A
PROJECT BUDGET SHEET

CITY OF ASHLAND
CWFP Project No. 4525-21

	Total Project Costs	Ineligible Costs Paid by Internal Funds	CWFP Total Award Amount for this Project
Force Account	0.00	0.00	0.00
Interim Financing	0.00	0.00	0.00
Preliminary Engineering	98,800.00	0.00	98,800.00
Land or Easement Acquisition	0.00	0.00	0.00
Engineering/Construction Mgmt.	230,000.00	0.00	230,000.00
Construction/Equipment	1,640,663.15	40,614.00	1,600,049.15
Contingency	302,732.85	0.00	302,732.85
Miscellaneous Costs	3,000.00	0.00	3,000.00
Closing Costs	12,000.00	0.00	12,000.00
TOTAL	\$2,287,196.00	\$40,614.00	\$2,246,582.00
Principal Forgiveness Amount (A)			\$1,149,529.00
Net CWF Loan Amount			\$1,097,053.00

A = General Principal Forgiveness is calculated up to 55% of the total "CWFP Total Award Amount for this Project". The actual amount of Principal Forgiveness awarded is less than 55%, given that \$1,149,529 is the amount allocated on the CWFP Funding List.

City of Ashland , Wisconsin
Exhibit B

Project 4525-21 Clean Water Fund Program

Loan Closing Date:

July 10, 2024

Payment Date	Principal Payment	Interest Rate	Interest Payment	Principal & Interest	Bond Year Debt Service	Calendar Year Debt Service
1-Nov-24	0.00	1.353%	4,576.63	4,576.63	0.00	4,576.63
1-May-25	29,891.06	1.353%	7,421.56	37,312.62	41,889.25	0.00
1-Nov-25	0.00	1.353%	7,219.35	7,219.35	0.00	44,531.97
1-May-26	30,295.48	1.353%	7,219.35	37,514.83	44,734.18	0.00
1-Nov-26	0.00	1.353%	7,014.40	7,014.40	0.00	44,529.23
1-May-27	30,705.38	1.353%	7,014.40	37,719.78	44,734.18	0.00
1-Nov-27	0.00	1.353%	6,806.68	6,806.68	0.00	44,526.46
1-May-28	31,120.83	1.353%	6,806.68	37,927.51	44,734.19	0.00
1-Nov-28	0.00	1.353%	6,596.15	6,596.15	0.00	44,523.66
1-May-29	31,541.89	1.353%	6,596.15	38,138.04	44,734.19	0.00
1-Nov-29	0.00	1.353%	6,382.77	6,382.77	0.00	44,520.81
1-May-30	31,968.65	1.353%	6,382.77	38,351.42	44,734.19	0.00
1-Nov-30	0.00	1.353%	6,166.50	6,166.50	0.00	44,517.92
1-May-31	32,401.19	1.353%	6,166.50	38,567.69	44,734.19	0.00
1-Nov-31	0.00	1.353%	5,947.30	5,947.30	0.00	44,514.99
1-May-32	32,839.58	1.353%	5,947.30	38,786.88	44,734.18	0.00
1-Nov-32	0.00	1.353%	5,725.14	5,725.14	0.00	44,512.02
1-May-33	33,283.90	1.353%	5,725.14	39,009.04	44,734.18	0.00
1-Nov-33	0.00	1.353%	5,499.98	5,499.98	0.00	44,509.02
1-May-34	33,734.23	1.353%	5,499.98	39,234.21	44,734.19	0.00
1-Nov-34	0.00	1.353%	5,271.77	5,271.77	0.00	44,505.98
1-May-35	34,190.65	1.353%	5,271.77	39,462.42	44,734.19	0.00
1-Nov-35	0.00	1.353%	5,040.47	5,040.47	0.00	44,502.89
1-May-36	34,653.25	1.353%	5,040.47	39,693.72	44,734.19	0.00
1-Nov-36	0.00	1.353%	4,806.04	4,806.04	0.00	44,499.76
1-May-37	35,122.11	1.353%	4,806.04	39,928.15	44,734.19	0.00
1-Nov-37	0.00	1.353%	4,568.44	4,568.44	0.00	44,496.59
1-May-38	35,597.31	1.353%	4,568.44	40,165.75	44,734.19	0.00
1-Nov-38	0.00	1.353%	4,327.62	4,327.62	0.00	44,493.37
1-May-39	36,078.94	1.353%	4,327.62	40,406.56	44,734.18	0.00
1-Nov-39	0.00	1.353%	4,083.55	4,083.55	0.00	44,490.11
1-May-40	36,567.09	1.353%	4,083.55	40,650.64	44,734.19	0.00
1-Nov-40	0.00	1.353%	3,836.17	3,836.17	0.00	44,486.81
1-May-41	37,061.84	1.353%	3,836.17	40,898.01	44,734.18	0.00
1-Nov-41	0.00	1.353%	3,585.45	3,585.45	0.00	44,483.46
1-May-42	37,563.29	1.353%	3,585.45	41,148.74	44,734.19	0.00
1-Nov-42	0.00	1.353%	3,331.33	3,331.33	0.00	44,480.07
1-May-43	38,071.52	1.353%	3,331.33	41,402.85	44,734.18	0.00
1-Nov-43	0.00	1.353%	3,073.78	3,073.78	0.00	44,476.63
1-May-44	38,586.63	1.353%	3,073.78	41,660.41	44,734.19	0.00
1-Nov-44	0.00	1.353%	2,812.74	2,812.74	0.00	44,473.15
1-May-45	39,108.71	1.353%	2,812.74	41,921.45	44,734.19	0.00
1-Nov-45	0.00	1.353%	2,548.17	2,548.17	0.00	44,469.62
1-May-46	39,637.85	1.353%	2,548.17	42,186.02	44,734.19	0.00
1-Nov-46	0.00	1.353%	2,280.02	2,280.02	0.00	44,466.04
1-May-47	40,174.15	1.353%	2,280.02	42,454.17	44,734.19	0.00
1-Nov-47	0.00	1.353%	2,008.24	2,008.24	0.00	44,462.41
1-May-48	40,717.70	1.353%	2,008.24	42,725.94	44,734.18	0.00
1-Nov-48	0.00	1.353%	1,732.79	1,732.79	0.00	44,458.73
1-May-49	41,268.61	1.353%	1,732.79	43,001.40	44,734.19	0.00
1-Nov-49	0.00	1.353%	1,453.60	1,453.60	0.00	44,455.00
1-May-50	41,826.98	1.353%	1,453.60	43,280.58	44,734.18	0.00
1-Nov-50	0.00	1.353%	1,170.64	1,170.64	0.00	44,451.22
1-May-51	42,392.89	1.353%	1,170.64	43,563.53	44,734.17	0.00
1-Nov-51	0.00	1.353%	883.86	883.86	0.00	44,447.39
1-May-52	42,966.47	1.353%	883.86	43,850.33	44,734.19	0.00
1-Nov-52	0.00	1.353%	593.19	593.19	0.00	44,443.52
1-May-53	43,547.81	1.353%	593.19	44,141.00	44,734.19	0.00
1-Nov-53	0.00	1.353%	298.59	298.59	0.00	44,439.59
1-May-54	44,137.01	1.353%	298.59	44,435.60	44,734.19	44,435.60
Totals	1,097,053.00		242,127.65	1,339,180.65	1,339,180.65	1,339,180.65

Net Interest Rate 1.3530%
 Bond Years 17,895.6104
 Average Life 16.3124

The above schedule assumes full disbursement of the loan on the loan closing date.
 29-May-24 Wisconsin Department of Administration

Loan Payment Schedule Comments

Please review the preceding loan payment schedule. It shows the dates of your first interest and principal payments. The preceding loan payment schedule assumes you draw all the loan funds on the loan closing date. Borrowers often draw loan funds over time. Interest only accrues on the funds disbursed and only after the date of each disbursement.

You can view your payment schedule based on disbursements to date at <http://eif.doa.wi.gov/>. Select Loan Payment Schedule on the lower half of the page. You can also request loan payment information from doaeif@wisconsin.gov.

You can generate additional reports at <http://eif.doa.wi.gov/>.

<u>Available Report</u>	<u>Information Provided</u>
Auditor Verification Report	Information commonly requested by municipal auditors. Available for completed calendar years.
Loan Account History	Loan disbursements, principal payments, and loan balance.
Loan Payment Schedule	Future principal and interest payments for disbursements.
Payment History	Past principal and interest payments.
Disbursement History	Past loan and grant disbursements.

Use the Output to Excel button at the bottom of the page to create your report in Microsoft Excel. Find details on generating reports at <http://eif.doa.wi.gov/siteDescr.htm>.

The Environmental Improvement Fund sends invoices semi-annually. You will receive an invoice approximately 45 days prior to the due date. If you have multiple loans, we will send a single invoice showing the payment amount for each loan.

May 1: principal and interest payments due
November 1: interest payments due

For more information about your payment schedule, please email doaeif@wisconsin.gov. The first available staff will respond to your inquiry.

EXHIBIT C

FEDERAL REQUIREMENTS COMPLIANCE CERTIFICATION

[Prepare on Municipal Letterhead at Project Completion and Closeout]

The undersigned officials of the City of Ashland (the "Municipality") hereby certify that, for all expenditures made for construction of DNR Project No. 4525-21 (the "Project"), the Municipality has met the prevailing wage rate requirements of the Davis-Bacon Act.

The Municipality further certifies that, after taking into account any national or project-specific waivers approved by the U.S. Environmental Protection Agency, DNR Project No. 4525-21 has met the requirements for Build America, Buy America of the Infrastructure Investment and Jobs Act, Public Law No. 117-58, §§ 70901-52, and the use of American Iron and Steel contained in section 608 of the Federal Water Pollution Control Act, as amended.

The above certification is determined, after due and diligent investigation, to be true and accurate to the best of my knowledge.

By: _____
[Name of Municipal Official or
Authorized Representative]
[Title]

Dated as of: _____

Attest: _____
[Name of Clerk or Secretary]
[Title]

Dated as of: _____

EXHIBIT D

OPERATING CONTRACTS

As of the date of this FAA, the Municipality does not have any contracts with private entities or other governmental units to operate its Sewerage System.

EXHIBIT E

UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE)

Notice: This form is authorized by ss. 281.58, 281.59, and 281.61, Wis. Stats. Submittal of a completed form to the Department is mandatory prior to receiving a final disbursement. Dollar amounts listed on the form should only include amounts paid under the Financial Assistance Agreement. Information collected on this form will be used for administrative purposes and may be provided to requesters to the extent required by Wisconsin's Public Records Law [ss. 19.31–19.39, Wis. Stats.].

Municipality City of Ashland	Project Number 4525-21
Project Description Rehab Sanitary Sewer - Districts 4, 5, 9, 10, 11, 12, & 13	

[illegible]

* Construction costs include but are not limited to paving, excavation, HVAC, plumbing, electrical, carpentry, trucking, and equipment. Non-construction costs include but are not limited to professional services, engineering, land acquisition, and supplies.

I hereby certify that, to the best of my knowledge and belief, the information provided on this form is accurate and correct.

Signature of Municipal Representative		Date Signed
Name of Person Completing This Form	Email Address	Phone Number

EXHIBIT F

PROJECT MANAGER SUMMARY PAGE

CITY OF ASHLAND
CWFP Project No. 4525-21

1. **Project Description:** The Project consists of sanitary sewer collection system repairs and replacements at various locations in Districts 4, 5, 9, 10, 11, 12, and 13. The repairs include cure-in-place pipe lining of sanitary sewers, and the replacements include excavation of sanitary sewer pipe, manholes, and services. The sanitary sewer repairs were bid out separately from the sanitary sewer replacements, and separate construction contracts were executed.
2. **Ineligible Costs:** A total of \$40,614 of costs related to replacing existing storm sewer are ineligible on the Jake's Excavating construction contract.
3. **Other Funding Sources:** The ineligible costs will be paid by internal municipal funds.
4. **Miscellaneous Costs:** As shown in the Project Budget Sheet (Exhibit A), CWFP funding in the amount of \$3,000 is included in the Miscellaneous category to cover legal expenses related to the statement on land ownership.
5. **Contingency Allowance:** The contingency allowance of \$302,732.85 is five percent of the amount of uncompleted construction work adjusted for CME reviewed change orders. The Municipality must obtain CME approval of change orders prior to requesting reimbursement.

Visu-Sewer base contingency—uncompleted construction x 5%	55,072.28
Visu-Sewer Work Change Directive No. 1	228,789.40
Jake's Excavating base contingency—uncompleted construction x 5%	12,465.09
Jake's Excavating Change Order No. 1	6,405.00
Rounding for other budget sections	1.08
Total Contingency Allowance (sum of above rows, rounded)	302,732.85

6. **Equipment Replacement Fund:** The Municipality shall establish an equipment replacement fund according to s. NR 162.07, Wis. Adm. Code, and maintain the equipment replacement fund as a separate fund of the Municipality. Annual deposits shall be made to the equipment replacement fund in amounts sufficient to meet the equipment replacement schedule developed by the Municipality. Based on review of the equipment replacement fund information in the CWFP application, the annual deposit is estimated at \$178,455.
7. **DBE Good Faith Effort:** The Municipality made a good faith effort to solicit DBE participation for the Project by publishing advertisements that encouraged DBEs to apply. The prime contractors, Jake's Excavating and Visu-Sewer, also made good faith efforts to solicit DBEs by contacting DBEs directly. No DBEs are expected to be utilized on the Project.
8. **Green Project Reserve:** No GPR elements were identified during the review of this Project.
9. **American Iron and Steel:** This Project is subject to the use of American Iron and Steel (AIS) requirements of section 608 of the Act.
10. **Principal Forgiveness:** The Municipality is eligible to receive general Principal Forgiveness for this Project in an amount of up to 55% of the total eligible Project Costs, as indicated on the State Fiscal Year 2024 CWFP Funding List. The CWFP awards \$1,149,529 in general Principal Forgiveness for the Project through this FAA. The CWFP will process all disbursements at a rate of 51.2% Principal Forgiveness (\$1,149,529 total Principal Forgiveness/\$2,246,582 total FAA amount), up to the maximum of \$1,149,529.

11. Loan Term: The Project has a documented average useful life of 30 years or greater, and therefore is eligible for a 30-year Loan term. The Municipality has elected the 30-year Loan term.

Ref: 2024-159

COUNCIL AGENDA: 6.D.
(6/25/2024)

SUBJECT: Approve a Resolution Declaring Official Intent to Reimburse Expenditures from Proceeds of Borrowing through the State of Wisconsin Environmental Improvement Fund for Bipartisan Infrastructure Law (BIL) SFY2025 Lead Service Lateral Funding (*Public Works*) Roll

RECOMMENDATION: Approval

DEPARTMENT OF ORIGIN: Public Works

CLEARANCES: City Administrator
Public Works Director

EXHIBITS:

1.	Proposed Resolution No. 17788
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EXPENDITURES REQUIRED: N/A

AMOUNT BUDGETED: N/A

APPROPRIATION REQUIRED: N/A

TREASURER'S CERTIFICATE: NA

COMPLIANCE WITH CHAPTER 51: The Mayor and/or Clerk has consented to placement of this agenda item on the Council agenda as timely action is needed.

STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN: The proposed construction conforms to the goals and community values identified in the City of Ashland's Comprehensive Plan.

SUMMARY STATEMENT:

At the April 16, 2024 Committee of the Whole meeting, the Public Works Director explained the Department's approach to private lead service lateral (LSL) replacement in 2024. Specifically, the Wisconsin Department of Natural Resources (WI DNR) has made many changes to the program due to implementation of funds from the Bipartisan Infrastructure Law (BIL). Uncertainty regarding these changes resulted in confusion with regard to procurement and financing of the 2024 LSL replacement work.

Per WI DNR staff, it is possible that principal forgiveness will not be available to the City at 100% of construction costs in the future. The funding provided by the WI DNR may only be provided at 50% of construction costs. In response, staff is only completing minimal LSL replacement work and working to apply for WI DNR funding for LSL replacement projects two to three years in advance, as opposed to applying concurrent with construction. Receipt of funding in advance will allow staff to communicate costs and financial assistance terms (ten years payback, low interest) to property owners ahead of construction, with staff proposing to levy property assessments for any costs above WI DNR funding levels.

This work will be primarily administered by the recently hired Civil Engineer in Utilities. Staff estimates there are approximately 350 private LSLs connected to the water system. Regulations from the Environmental Protection Agency (EPA) are requiring that these LSLs be replaced by 2034.

Projects currently being planned for future funding are Prentice Avenue Phase 1 Reconstruction (2024), Ore Dock Access Road (2024), Ellis Avenue Reconstruction (2025) and Chapple Avenue Reconstruction (2025).

Staff recently approved a professional services agreement with Short, Elliott, Hendrickson Inc. (SEH) for grant administration services related to the above-described projects. SEH is assisting the City with pursuit of funding for the watermain replacement portion of the project through the WI DNR's Safe Drinking Water Loan Program (SDWLP) for each project.

The Ore Dock Access Road project includes watermain replacement that requires the replacement of three private LSLs. The Prentice Avenue Phase 1 Reconstruction Project includes water replacement that requires the replacement of six private LSLs. The replacement of private LSLs associated with watermain replacement is mandatory per Chapter 705, Ashland City Ordinances.

Impacted property owners have been notified of the need for private LSL replacement and the possibility of being levied an assessment for up to 50% of the costs. The cost per property was estimated to be \$6,000, with property owners responsible for up to \$3,000.

Council is asked to adopt the attached resolution to ensure that it will be possible to reimburse municipal funds from the future SDWLP to support municipal investments required for private LSL replacement associated with the 2024 work.

RESOLUTION No. 17788

RESOLUTION DECLARING OFFICIAL INTENT TO REIMBURSE EXPENDITURES FROM PROCEEDS OF BORROWING THROUGH THE STATE OF WISCONSIN ENVIRONMENTAL IMPROVEMENT FUND FOR BIPARTISIAN INFRASTRUCTURE LAW (BIL) SFY2025 SDW-LEAD SERVICE LATERAL FUNDING

WHEREAS, the City of Ashland, Ashland and Bayfield Counties, Wisconsin (the “Municipality”) intends to file an application for state financial assistance for lead service line replacements, WDNR Project Number 4759-29, (referred to as the “Project”), under the Wisconsin Environmental Improvement Fund; and

WHEREAS, the City of Ashland expects to finance the Project on a long-term basis by issuing tax-exempt bonds or promissory notes (the “Bonds”); and

WHEREAS, because the Bonds will not be issued prior to of June 2024, the City of Ashland City Council must provide interim financing to cover costs of the Project incurred prior to receipt of the proceeds of the Bonds; and

WHEREAS, it is necessary, desirable, and in the best interests of the City of Ashland to advance moneys from its funds on hand on an interim basis to pay the costs of the Project until the Bonds are issued.

BE IT THEREFORE RESOLVED by the City of Ashland City Council that:

Section 1) Expenditure of Funds. The City of Ashland City Council shall make expenditures as needed as needed from its funds on hand to pay the costs of the Project until Bond proceeds become available.

Section 2) Declaration of Official Intent. The City of Ashland City Council hereby officially declares its intent under Treas. Regs. Section 1.150-2 to reimburse said expenditures with proceeds of the Bonds, the principal amount of which is not expended to exceed an estimated amount of \$1,000,000 for lead service line replacements; and

Section 3) Unavailability of Long-Term Funds. No funds for payment of the Project from sources other than the Bonds are, or are reasonably expected to be, reserved, allocated on a long term basis, or otherwise set aside by the Municipality pursuant to its budget or financial policies.

Section 4) Public Availability of Official Intent Resolution. This Resolution shall be made available for public inspection at the City Clerk’s office within 30 days after its approval in compliance with applicable State law governing the availability of records of official acts including Subchapter II of Chapter 19, and shall remain available for public inspection until the Bonds are issued.

Section 5) Effective Date. This Resolution shall be effective upon its adoption and approval.

Adopted and recorded this 25th day of June, 2024

City of Ashland, Ashland and Bayfield Counties, Wisconsin

APPROVED: June 25, 2024

Matthew MacKenzie, Mayor

ATTEST:

Denise Oliphant, City Clerk

Ref: 2024-160

COUNCIL AGENDA: 6.E.
(6/25/2024)

SUBJECT: Approve Change Order No. 1 to Ritola, Inc for the 2024 Ore Dock Access Road Project (*Public Works*) Roll

RECOMMENDATION: Approval

DEPARTMENT OF ORIGIN: Public Works

CLEARANCES: City Administrator
Public Works Director
Approved by Council, March 12, 2024

EXHIBITS:

1.	Change Order No 1 (for sig)
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EXPENDITURES REQUIRED: \$1,757,662.75 Approved Project Cost
\$ 34,534.64 Change Order No. 1
\$1,792,197.39 Revised Project Cost

AMOUNT BUDGETED:	\$ 1,365,000.00	Fund 470 Street Improvements (Ore Dock Access Road)
	\$ 200,000.00	Fund 470 Street Improvements (Pedestrian Trail Access)
	\$ 530,588.03	Fund 680 Water Utility (WI DNR SDW Loan FY2025) *
	\$ 237,260.10	Fund 690 Wastewater Utility (WI DNR CW Loan FY2025)
	\$ 17,267.32	Fund 680 Water Utility (WI DNR SDW Principal Forgiveness) **
	\$ 17,267.32	Fund 680 Water Utility Financial Assistance Program

* WI DNR funds administered as a loan for watermain and public side WSL replacement

** WI DNR funds administered as principal forgiveness for private side WSL replacement

APPROPRIATION REQUIRED: N/A

TREASURER'S CERTIFICATE: N/A

COMPLIANCE WITH CHAPTER 51: The Mayor and/or Clerk has consented to placement of this agenda item on the Council agenda as timely action is needed.

STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN: The proposed construction conforms to the goals and community values identified in the City of Ashland's Comprehensive Plan.

SUMMARY STATEMENT:

At the March 12, 2024 meeting, the Council approved entering into an agreement with Ritola Inc for the Ore Dock Access Road Project, which consists of various infrastructure improvements, including the connection of Stuntz Avenue to US Highway 2, and construction of an avenue with a median and shared use path (ie trail) to the Ore Dock. In addition, the project will construct a pedestrian connection from Water Street to the Ore Dock that meets Americans with Disability (ADA) requirements. Replacement of sanitary sewer and an aged water main that crosses Bay City Creek are also included.

The scope of work for both streets includes replacement of the public side of water service laterals (WSLs) for 9 properties. Watermain replacement and associated public-side WSL replacement are being funded by the Wisconsin Department of Natural Resources (WI DNR) Safe Drinking Water Loan Program (SDWLP).

The project is currently under construction with substantial completion (utilities and base layer of pavement) scheduled for October 15, 2023. The surface layers of pavement will be constructed prior to July 1, 2025 to allow for settlement and provide a smoother roadway surface.

The City has negotiated pricing from Ritola to complete the replacement of private-side WSLs for an estimated 7 properties throughout the City. City records indicate that these properties have lead WSLs on the private side and the City has confirmed Ritola will subcontract for the work to ensure that the private-side WSL replacement is completed in accordance with WI State Statutes and/or administrative code which requires that specific elements of the work be completed by a licensed plumber.

The cost of this work is estimated to be \$34,534 and is presented in Change Order No. 1. For an estimated 7 properties, this is \$4,933.43 per property. Actual costs per property are expected to vary, and these costs are not to exceed amounts. City staff independently prepared a cost

estimate for the work and has verified that these costs are reasonable. In addition, the City Attorney's office has verified that executing a change order for this work is in the best interest of the City in terms of managing the procurement process.

At the April 18, 2023 Committee of the Whole meeting, the Public Works Director explained to Council that changes to the WI DNR funding following approval of the Bipartisan Infrastructure Law (BIL) have resulted in the reduction of WI DNR funding available for lead WSL replacement. City staff is pursuing WI DNR provided funding for private side replacement at 100% of the cost but the City is not assured of receiving this funding. At this time, City staff is assuming that WI DNR funding will be provided for 50% of the construction cost. Affected property owners will be charged for the remaining portion of the cost, which is estimated to be \$2,466.72.

The Public Service Commission (PSC) requires that the Water Utility administers property owner payment of the remaining portion of the cost through a PSC-approved financial assistance program. Typically, these financial assistance programs consist of a loan to the property owner repaid with interest over a specified period of time. The specific repayment period allowed by the PSC is unknown but is expected to be less than the ten-year repayment period offered by the City for special assessments.

City staff expects to take steps to develop the financial assistance program later this summer.

On February 9, 2021 Council approved an amendment to City Ordinance 705 for modifications mandating the replacement of eligible lead service lines in coordination with municipal projects, or as a result of notice of the presence of lead in private water lines. The reason for this amendment to the ordinance was, per the WI DNR, the disturbance of the existing lead WSL and change in material type can result in increased lead levels in the drinking water in situations where the public side WSL is lead free but the private side WSL is lead.

The changes to the WI DNR funding and PSC requirements for financial assistance have been difficult changes to navigate at the City staff level. With construction ongoing, it is important to approve the proposed Change Order No. 1 in order to ensure that the replacement of the public side of WSLs does not include connections to lead on the private side of WSLs.

T Public Works Director is requesting that the Council increase the total approved project expenses from \$1,757,662.75 to \$1,792,197.39 to allow for private-side lead WSL replacement in coordination with the municipal project that is replacing public-side lead WSL.

☐ Owner ☐ Engineer
☐ Contractor ☐ Funding Agency

**SECTION 00 63 63
CHANGE ORDER**

Change Order No. 1

Date of Issuance: June 25, 2024	Effective Date: June 25, 2024
Owner: City of Ashland	Owner's Contract No.: 470201903
Contractor: Ritola, Inc	Contractor's Project No.:
Engineer: Cedar Corporation	Engineer's Project No.: A2920-0020
Project: Ore Dock Access Road	Contract Name:

The Contract is modified as follows upon execution of this Change Order: Private Lead Service Lateral Replacement

Description: See attached supporting information

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES <i>[note changes in Milestones if applicable]</i>
Original Contract Price: \$ <u>1,757,662.75</u>	Original Contract Times: Substantial Completion: <u>October 15, 2024</u> Ready for Final Payment: <u>July 1, 2025</u> days or dates
[Increase] [Decrease] from previously approved Change Order No. \$ <u>0</u>	[Increase] [Decrease] from previously approved Change Order No. Substantial Completion: <u>N/A</u> Ready for Final Payment: <u>N/A</u> Days
Contract Price prior to this Change Order: \$ <u>1,757,662.75</u>	Contract Times prior to this Change Order: Substantial Completion: <u>October 15, 2024</u> Ready for Final Payment: : <u>July 1, 2025</u> days or dates
[Increase] [Decrease] of this Change Order: \$ <u>34,534.64</u>	[Increase] [Decrease] of this Change Order: Substantial Completion: <u>N/A</u> Ready for Final Payment: <u>N/A</u> days or dates
Contract Price incorporating this Change Order: \$ <u>1,792,197.39</u>	Contract Times with all approved Change Orders: Substantial Completion: <u>October 15, 2024</u> Ready for Final Payment: <u>July 1, 2025</u> days or dates

RECOMMENDED:		ACCEPTED:		ACCEPTED:	
By: _____	By: _____	By: _____	By: _____	By: _____	By: _____
Engineer (if required)	Owner (Authorized Signature)	Contractor (Authorized Signature)			
Title: <u>Project Manager</u>	Title _____	Title _____			
Date: _____	Date _____	Date _____			

Approved by Funding Agency (if applicable)

By: _____ Date: _____
Title: _____



Ritola Inc
61426 Storck Rd
Mason, WI 54856
Phone: (715)-278-0324
Email: estimating@ritolainc.com

Proposal

24-085

Date: 6/14/24

Proposal submitted to:
City of Ashland

Project:
Prentice Avenue and Ore Dock Road Water improvements

We hereby submit Specifications and a Proposal for:

Lead Service Lateral Replacements

The following Items to be included:

Item Description	Qty	Unit	Unit Price	Extended Price
Private Water Service -1" Open Cut Tubing HDPE	90	LF	\$78.00	\$7,020.00
Private Water Service -1" Pulled Tubing HDPE	290	LF	\$68.00	\$19,720.00
Private Water Service -- Building Penetration	7	EA	\$200.00	\$1,400.00
Private Water Service -- Reconnect Water Inside Building	7	EA	\$225.00	\$1,575.00
Restoration of Yard	7	EA	\$313.52	\$2,194.64
Installation of Electrical Grounding System	7	EA	\$375.00	\$2,625.00
Concrete Restoration 4"	282	SF	\$30.67	\$8,648.10

This work will be excluded from scope of private LSL work, concrete restoration will be completed via capital projects

Terms: LATE CHARGE on balances past due (30 days) a fixed amount of 1.5% per month on unpaid balance for annual percentage rate of 18%.

We hereby propose to furnish materials and labor in accordance with the above specifications for the sum of:

~~Forty three thousand one hundred eighty two dollars and 74/100~~

Thirty four thousand five hundred thirty four dollars and 64/100 ~~\$43,182.74~~ 34,534.64

All work to be completed as specified and in a workmanlike manner according to standard practices. Any alteration or deviation from the above specifications involving extra cost will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Ritola Inc. has General Liability Insurance and our workers are covered by Workman's Compensation Insurance.

Proposal submitted by:

JB JB

Authorized
Signature

This proposal may be withdrawn by us if not accepted within 30 days

Acceptance of Proposal The above price(s), specifications and conditions are satisfactory and are hereby accepted. You are authorizing us to do the work. Warranty as stated in terms and conditions. Payment will be made as outlined above.

Signature of acceptance _____ Date: _____

Ref: 2024-162

COUNCIL AGENDA: 6.F.
(6/25/2024)

SUBJECT: Consideration of Revision #1 State/Municipal Agreement (SMA) Dated June 18, 2024 for the Prentice Avenue Phase 1 Project (*Public Works*) Roll

RECOMMENDATION: Approval

DEPARTMENT OF ORIGIN: Public Works

CLEARANCES: Public Works Director

EXHIBITS:

1.	Revision #1 State/Municipal Agreement - Prentice Avenue
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EXPENDITURES	\$ 1,236,478.00	WI DOT Surface Transportation Program
REQUIRED:	\$ 309,119.00	Fund 470 Streets, Sidewalk, Stormwater
	\$ 1,545,597.00	Project Total

AMOUNT BUDGETED:	\$ 1,236,478.00	WI DOT Surface Transportation Program
	\$ 400,800.00	Fund 470 Streets, Sidewalk, Stormwater

APPROPRIATION REQUIRED: N/A

TREASURER'S CERTIFICATE: N/A

COMPLIANCE WITH CHAPTER 51: Section 51.26 (b) of Chapter 51, Ashland City Ordinances, permit the Mayor and/or Clerk to schedule items directly for Council action when a timely decision is needed by the City. The Mayor and/or City Clerk has chosen to direct this item directly to Council pursuant to the authority granted to them in Chapter 51, Ashland City Ordinances.

STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN: N/A

SUMMARY STATEMENT:

At the September 8, 2020 meeting, Council approved entering into a State Municipal Agreement (SMA) with the Wisconsin Department of Transportation (WI DOT) for the Prentice Avenue Phase 1 Reconstruction Project. The project is being funded 80% by the WI DOT and 20% by the City.

The project is being administered by the WI DOT and bids were opened in May 2024. Bids received were higher than estimated costs. The WI DOT is providing an increase in funding, requiring the revision to the SMA. The City's share of construction costs remains within the amount budgeted.

The Public Works Department recommends approval of Revision #1 of the SMA for Prentice Avenue Reconstruction in order to utilize the grant funding and allow the project to be scheduled for 2024 construction.

 REVISION #1 STATE/MUNICIPAL AGREEMENT FOR A STATE- LET STP-URBAN PROJECT Program Name: STP-Urban Population Group: 5,000-20,000 Sub-program #: 206 Cycle: 2020-2025 <i>This agreement supersedes the agreement signed by the Municipality on September 8, 2020 and signed by the State on November 11, 2020.</i>	Revision #1 Date: June 18, 2024 Date: June 22, 2020 I.D.: 8895-00-13/14 Road Name: C Ashland, Prentice Avenue Limits: 11th Street E to 6th Street E County: Ashland Roadway Length: 0.34 miles Functional Classification: Collector Project Sponsor: City of Ashland Construction Schedule: State Fiscal Year 2024
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The signatory, **City of Ashland**, 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 two-lane urban cross section with 10 FT lane width. Pavement is asphalt and is poor condition. Shoulders are combination, with a portion from 10th to 11th Street two-foot gravel and the portion from 6th to 10th Street curb and gutter. The facility was last improved in 1979. There are sidewalks but no existing bicycle/pedestrian accommodations. Existing lighting is standard. The road surface has a PASER rating of 2 – 3 with surface deficiencies including alligator cracking, block cracking and patches in poor condition. The existing concrete curbs have asphalt overlay pavement covering 70% of the curb face, reducing carrying capacity of storm water. The existing 6-inch water main running the full length of the project is 133 years old, installed in 1886. Storm sewer pipes and structures are believed to be circa 1960 installation.**

Proposed Improvement - Nature of work: **The proposed improvement will reconstruct 1,795 feet of urban roadway. The project will construct an urban typical section with a street width of 36 feet from face of curb to face of curb. Grading will be moderate. The project will include 3,800 feet of 5-foot sidewalk, 4,000 feet of curb and gutter and permanent signing. Storm sewer work will include an estimated 400 feet of 12-inch diameter lateral and 1,815 feet of 15-inch diameter trunk lines. No additional right-of-way is required.**

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: **Water main utility work will be undertaken independently and will be 100% locally funded. A nominal amount is included for any necessary maintenance or repair of haul roads.**

The Municipality agrees to the following 2020-2025 STP-Urban Program project funding conditions:

Project ID 8895-00-13 design costs are funded with up to 80% federal funding up to a funding limit of \$172,042.00. The Municipality agrees to provide the remaining 20% and any funds in excess of the \$172,042.00 federal funding limit. **Project ID 8895-00-14 construction costs are funded with up to 80% federal funding up to a funding limit of \$1,236,478.00. The Municipality agrees to provide the remaining 20% and any funds in excess of the \$1,236,478.00 federal funding limit.** 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 2024. **In accordance with the State's sunset policy for STP-Urban projects, the subject 2020-2025 STP-Urban 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.

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 funding exceed the estimate of **\$1,408,520** 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. Project Cost	Federal / State Funds	%	Municipal Funds	%
ID 8895-00-13*					
Design	\$ 202,053	\$ 161,642	80%	\$ 32,328	20% + BAL
State Review	\$ 13,000	\$ 10,400	80%	\$ 2,600	20% + BAL
<i>Project total</i>	\$ 215,053	\$ 172,042	MAX	\$ 34,928	
ID 8895-00-14**					
Participating Construction	\$ 1,356,538	\$ 1,085,230	80%	\$ 271,308	20% + BAL
Construction Engineering	\$ 179,059	\$ 143,248	80%	\$ 35,812	20% + BAL
Non-Participating Construction	\$ 390,465	\$ -	0%	\$ 390,465	100%
State Review	\$ 10,000	\$ 8,000	80%	\$ 2,000	20% + BAL
<i>Project total</i>	\$ 1,936,062	\$ 1,236,478	MAX	\$ 699,584	
Total Est. Cost Distribution	\$ 2,151,115	\$ 1,408,520	MAX	\$ 734,513	

*Design ID 8895-00-13 federal/state funding is limited to \$172,042.00.

**Construction ID 8895-00-14 federal/state funding is limited to \$1,236,478.

This request is subject to the terms and conditions that follow 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 on behalf of: City of Ashland		
Name	Title	Date
Signed for and on behalf of the State :		
Name	Title	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 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 aids 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 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. Preliminary engineering and design.
 - j. Construction oversight and state review services.
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 that 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 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 STP-Urban 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, in accordance with the current WisDOT Facilities Development Manual (FDM).
 - h. Real estate for the improvement.
 - i. Other 100% Municipality funded items: Any water main utility work.
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/state financing commitments 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.
 13. **In accordance with the State's sunset policy for STP-Urban Program projects, the subject 2020-2025 STP-Urban 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.
 14. If the Municipality should withdraw the project, it will reimburse the State for any costs incurred 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 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 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 in 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 the contractor does not obey size and weight laws, use properly equipped and maintained vehicles, and does 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 be 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 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.

24. The Municipality agrees to the following 2020-2025 STP-Urban Program project funding conditions:
 - a. ID 8895-00-13: Design is funded with 80% federal/state funding up to a funding limit of **\$172,042** when the Municipality agrees to provide the remaining 20% and any funds in excess of the **\$172,042** federal/state funding limit. This phase includes plan development, management consultant review, 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 federal/state funding and 20% by the Municipality.

b. ID 8895-00-14: Construction:

- i. Costs for roadway construction are funded with 80% federal/state funding up to a funding limit of **\$1,236,478** when the Municipality agrees to provide the remaining 20%, and any funds in excess of the **\$1,236,478** federal/state funding limit.
- ii. Non-participating costs for any repair or maintenance of haul roads and any other non-participating costs 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]

Ref: 2024-163

**COUNCIL AGENDA:
6.G. (6/25/2024)**

SUBJECT: **Consideration of Revision #1 of the State/Municipal Agreement (SMA)
Dated June 18, 2024 for the Cary Street Mill and Overlay Project (*Public Works*) Roll**

RECOMMENDATION: Approval

DEPARTMENT OF ORIGIN: Public Works

CLEARANCES: Public Works Director

EXHIBITS:

1.	Revision #1 State/Municipal Agreement - Cary Street
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EXPENDITURES REQUIRED:	\$ 206,529.00	WI DOT Surface Transportation Program
	\$ 51,632.00	Fund 470 Streets, Sidewalk, Stormwater
	\$ 258,161.00	Project Total

AMOUNT BUDGETED:	\$ 206,529.00	WI DOT Surface Transportation Program
	\$ 37,636.00	Fund 470 Streets, Sidewalk, Stormwater

APPROPRIATION REQUIRED:	\$ 13,996.00	Fund 470 Streets, Sidewalk, Stormwater Fund Balance
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**TREASURER'S
CERTIFICATE:** N/A

COMPLIANCE WITH CHAPTER 51: Section 51.26 (b) of Chapter 51, Ashland City Ordinances, permit the Mayor and/or Clerk to schedule items directly for Council action when a timely decision is needed by the City. The Mayor and/or City Clerk has chosen to direct this item directly to Council pursuant to the authority granted to them in Chapter 51, Ashland City Ordinances.

STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN: N/A

SUMMARY STATEMENT:

At the January 10, 2023 meeting, the Council approved entering into a State/Municipal Agreement (SMA) with the Wisconsin Department of Transportation (WI DOT) for the Cary Street Mill and Overlay project. The project is being funded with 80% by the WI DOT and 20% by the City.

The project is being administered by the WI DOT and bids were opened in May 2024. Bids received were higher than estimated costs. The WI DOT is providing a \$57,985 increase in funding, requiring revision to the SMA. The City's share of construction costs will increase by \$13,996. These funds are available in fund balance.

The Public Works Department recommends approval of the SMA in order to utilize the grant funding and allow the project to be scheduled for 2024 construction.

 REVISION #1 STATE/MUNICIPAL AGREEMENT FOR A STATE- LET STP-URBAN PROJECT Program Name: STP-Urban Population Group: 5,000-20,000 Sub-program #: 206 Cycle: 2023-2026 <i>This agreement supersedes the agreement signed by the Municipality on January 12, 2023 and signed by the State on January 13, 2024.</i>	Revision #1 Date: 6/18/2024 Date: 12/18/2022 I.D.: 8995-00-21/22 Road Name: Cary Street Limits: 16th Ave. E. to 19th Ave. E. County: Ashland Roadway Length: 0.3 mi Functional Classification: Collector Project Sponsor: City of Ashland State Fiscal Year of Construction: 2024 State Fiscal Year of Design: 2023
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The signatory, City of Ashland, 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: **This roadway segment passes through a residential neighborhood and is important for local public transit including 20+ BART busses per day. The existing facility is a two-lane urban cross-section with a Paser Value ranging from 5 to 7. It is exhibiting surface raveling, transverse cracking, potholes and settlement. Excessive block cracking and secondary cracking are indicative of inadequate surface and has resulted in the City incurring extensive maintenance costs on this segment. The roadway was reconstructed in 2007 with underlying utilities replaced. Pavement width is 33' with curb and gutter. There is currently sidewalk on one side of the street with no bicycle accommodations. It is important to resurface this segment to maintain an adequate level of service and reduce maintenance costs.**

Proposed Improvement - Nature of work: **The proposed improvement is a resurfacing with a 2" mill and placement of a 2.25" layer of hot mix asphalt. Manhole castings, valve boxes and inlet protection will be reset. Pavement width will not change. Project length would be 0.3 miles. No right-of-way is expected to be acquired for this project.**

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: **Non-participating work includes haul road repairs and adjustments or reconstruction of municipal utility water valve boxes and manholes.**

The Municipality agrees to the following **2023-2026 STP-Urban** project funding conditions:

Project ID 8995-00-21 design costs are funded with up to 80% federal funding up to a funding limit of \$52,000. The Municipality agrees to provide the remaining 20% and any funds in excess of the \$52,000 federal funding limit. Project ID 8995-00-22 construction costs are funded with up to 80% federal funding up to a funding limit of **\$206,530**. The Municipality agrees to provide the remaining 20% and any funds in excess of the **\$206,530** federal funding limit. 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 **2024**. Sunset date: **June 30, 2029**.

Sunset Date is determined based on the date a project is scheduled to be authorized. Sunset date is calculated as six years from the beginning of the state fiscal year (SFY) in which a project is initially scheduled.

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 funding exceed the estimate of **\$258,530** 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. Project Cost	Federal / State Funds	%	Municipal Funds	%
ID 8995-00-21*					
Design	\$ 50,000	\$ 40,000	80%	\$ 8,000	20% + BAL
State Review	\$ 15,000	\$ 12,000	80%	\$ 3,000	20% + BAL
<i>Project total</i>	\$ 65,000	\$ 52,000	MAX	\$ 11,000	
ID 8995-00-22**					
Participating Construction	\$ 193,163	\$ 154,530	80%	\$ 38,633	20% + BAL
Construction Engineering	\$ 50,000	\$ 40,000	80%	\$ 10,000	20% + BAL
Non-Participating Construction	\$ 5,539	\$ -	0%	\$ 5,539	100%
State Review	\$ 15,000	\$ 12,000	80%	\$ 3,000	20% + BAL
<i>Project total</i>	\$ 263,702	\$ 206,530	MAX	\$ 57,171	
Total Est. Cost Distribution	\$ 328,702	\$ 258,530	MAX	\$ 68,171	

*Design ID **8995-00-21** federal/state funding is limited to **\$52,000**

Construction ID **8995-00-22 federal/state funding is limited to **\$206,530**.

This request is subject to the terms and conditions that follow 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 on behalf of: **City of Ashland**

Name

Title

Date

Signed for and on behalf of the State:

Name

Title

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 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 aids 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 **2023-2026 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. Preliminary engineering and design.
 - j. Management consultant and state review services.
- 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 that 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 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 **2023-2026 STP-Urban 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, in accordance with the current WisDOT Facilities Development Manual (FDM).
 - h. Real estate for the improvement.
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/state financing commitments 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.
 13. In accordance with the State's sunset policy for Local Bridge Program projects, the subject FFY 2023-2026 STP Program improvement must be constructed and in final acceptance within six years from the beginning of the state fiscal year (SFY) in which a project is initially scheduled. 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 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 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 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 in 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 the contractor does not obey size and weight laws, use properly equipped and maintained vehicles, and does 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 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.

24. The Municipality agrees to the following **2023-2026 STP-Urban program** project funding conditions:

- a. **ID 8995-00-21:** Design is funded with 80% federal funding up to a funding limit of **\$52,000**, when the Municipality agrees to provide the remaining 20% [and any funds in excess of the **\$52,000** federal funding limit. This phase includes plan development, management consultant review, 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 federal funding and 20% by the Municipality.

b. ID 8995-00-22: Construction:

- i. Costs for participating construction items are funded with 80% federal funding up to a funding limit of **\$206,530**, when the Municipality agrees to provide the remaining 100%, and any funds in excess of the **\$206,530** federal funding limit.
- ii. Non-participating costs for construction items are funded 100% by the Municipality. Costs include construction delivery. **Non-participating work includes haul road repairs and adjustments or reconstruction of municipal utility water valve boxes and manholes.**
- 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]

Ref: 2024-164

**COUNCIL AGENDA:
6.H. (6/25/2024)**

SUBJECT: **Consideration of Revision #1 of the State Municipal Agreement (SMA)
Dated June 18, 2024 for the Industrial Park Road Mill and Overlay
Project (*Public Works*) Roll**

RECOMMENDATION: Approval

**DEPARTMENT OF
ORIGIN:** Public Works

CLEARANCES: Public Works Director

EXHIBITS:

1.	Revision #1 State/Municipal Agreement - Industrial Park Road
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**EXPENDITURES
REQUIRED:** \$ 447,326.00 WI DOT Surface Transportation Program
 \$ 132,018.00 Fund 470 Streets, Sidewalk, Stormwater
 \$ 579,344.00 Project Total

AMOUNT BUDGETED: \$ 447,326.00 WI DOT Surface Transportation Program
 \$ 81,225.00 Fund 470 Streets, Sidewalk, Stormwater

**APPROPRIATION
REQUIRED:** \$ 50,793.00 Fund 470 Streets, Sidewalk, Stormwater Fund
 Balance

**TREASURER'S
CERTIFICATE:** N/A

COMPLIANCE WITH CHAPTER 51: Section 51.26 (b) of Chapter 51, Ashland City Ordinances, permit the Mayor and/or Clerk to schedule items directly for Council action when a timely decision is needed by the City. The Mayor and/or City Clerk has chosen to direct this item directly to Council pursuant to the authority granted to them in Chapter 51, Ashland City Ordinances.

STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN: N/A

SUMMARY STATEMENT:

At the January 10, 2023 meeting, the Council approved entering into a State Municipal Agreement (SMA) with the Wisconsin Department of Transportation (WI DOT) for the Cary Street Mill and Overlay project. The project is being funded 80% by the WI DOT and 20% by the City.

The project is being administered by the WI DOT and bids were opened in May 2024. Bids received were higher than estimated costs. The WI DOT is providing a \$124,430 increase in funding, requiring revision to the SMA. The City's share of construction costs will increase by \$50,793. These funds are available in fund balance.

The Public Works Department recommends approval of the SMA in order to utilize the grant funding and allow the project to be scheduled for 2024 construction.

 REVISION #1 STATE/MUNICIPAL AGREEMENT FOR A STATE- LET STP-URBAN PROJECT Program Name: STP-Urban Population Group: 5,000-20,000 Sub-program #: 206 Cycle: 2023-2026 <i>This agreement supersedes the agreement signed by the Municipality on January 12, 2023 and signed by the State on January 13, 2023.</i>	Revision #1 Date: June 18, 2024 Date: 12/18/2022 I.D.: 8995-00-23/24 Road Name: Industrial Park Road Limits: Toll Road to USH 2 County: Ashland Roadway Length: 0.55 mi Functional Classification: Collector Project Sponsor: City of Ashland State Fiscal Year of Construction: 2024 State Fiscal Year of Design: 2023
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The signatory, **City of Ashland**, 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: **This roadway segment is a heavy industrial road that accesses the City Industrial Park. The existing facility is a two-lane rural cross-section with a Paser Value of 4. The road surface is experiencing raveling and stress cracks that can no longer be effectively sealed. The roadway was last resurfaced in 1997. Traveled way width is 24' with 6' gravel shoulders and no curb and gutter. There are currently no sidewalks or bicycle accommodations. It is important to the economy of the city to resurface this segment to allow continued use by heavy industrial traffic.**

Proposed Improvement - Nature of work: **The proposed improvement is a pavement replacement with the existing asphalt being pulverized and relayed, application of base aggregate and application of two layers of hot mix asphalt totaling 5". Manhole covers and water valves will be reset. The traveled way width will not change. Project length would be 0.3 miles. No right-of-way is expected to be acquired for this project.**

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: **Non-participating work includes haul road repairs and adjustments or reconstruction of municipal utility sewer and water manholes.**

The Municipality agrees to the following **2023-2026 STP-Urban** project funding conditions:

Project ID **8995-00-23** design costs are funded with up to 80% federal funding up to a funding limit of **\$86,724.56**. The Municipality agrees to provide the remaining 20% and any funds in excess of the **\$86,724.56** federal funding limit. Project ID **8995-00-24** construction costs are funded with up to 80% federal funding up to a funding limit of **\$447,326.62**. The Municipality agrees to provide the remaining 20% and any funds in excess of the **\$447,326.62** federal funding limit. 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 **2024**. Sunset date: **June 30, 2029**.

Sunset Date is determined based on the date a project is scheduled to be authorized. Sunset date is calculated as six years from the beginning of the state fiscal year (SFY) in which a project is initially scheduled.

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 funding exceed the estimate of **\$534,051.18** 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. Project Cost	Federal / State Funds	%	Municipal Funds	%
ID 8995-00-23*					
Design	\$ 93,405.70	\$ 74,724.56	80%	\$ 14,944.91	20% + BAL
State Review	\$ 15,000.00	\$ 12,000.00	80%	\$ 3,000.00	20% + BAL
<i>Project total</i>	\$ 108,405.70	\$ 86,724.56	MAX	\$ 17,944.91	
ID 8995-00-24**					
Participating Construction	\$ 479,158.27	\$ 383,326.62	80%	\$ 95,831.65	20% + BAL
Construction Engineering	\$ 65,000.00	\$ 52,000.00	80%	\$ 13,000.00	20% + BAL
Non-Participating Construction	\$ 20,187.28	\$ -	0%	\$ 20,187.28	100%
State Review	\$ 15,000.00	\$ 12,000.00	80%	\$ 3,000.00	20% + BAL
<i>Project total</i>	\$ 579,345.55	\$ 447,326.62	MAX	\$ 132,018.93	
Total Est. Cost Distribution	\$ 687,751.25	\$ 534,051.18	MAX	\$ 149,963.85	

*Design ID **8995-00-23** federal/state funding is limited to **\$86,724.56**.

Construction ID **8995-00-24 federal/state funding is limited to **\$447,326.62**

This request is subject to the terms and conditions that follow 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 on behalf of: **City of Ashland**

Name

Title

Date

Signed for and on behalf of the State:

Name

Title

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 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 aids 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 **2023-2026 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. Preliminary engineering and design.
 - j. Management consultant and state review services.
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 that 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 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 **2023-2026 STP-Urban 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, in accordance with the current WisDOT Facilities Development Manual (FDM).
 - h. Real estate for the improvement.
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/state financing commitments 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.
 13. In accordance with the State's sunset policy for Local Bridge Program projects, the subject FFY 2023-2026 STP Program improvement must be constructed and in final acceptance within six years from the beginning of the state fiscal year (SFY) in which a project is initially scheduled. 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 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 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 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 in 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 the contractor does not obey size and weight laws, use properly equipped and maintained vehicles, and does 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 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.

24. The Municipality agrees to the following **2023-2026 STP-Urban program** project funding conditions:
 - a. **ID 8995-00-23:** Design is funded with 80% federal funding up to a funding limit of **\$86,724.56**, when the Municipality agrees to provide the remaining 20% [and any funds in excess of the **\$86,724.56** federal funding limit. This phase includes plan development, management consultant review, 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 federal funding and 20% by the Municipality.

b. ID 8995-00-24: Construction:

- i. Costs for participating construction items are funded with 80% federal funding up to a funding limit of **\$447,326.62**, when the Municipality agrees to provide the remaining 100%, and any funds in excess of the **\$447,326.62** federal funding limit.
- ii. Non-participating costs for non-participating construction items are funded 100% by the Municipality. Costs include construction delivery. **Non-participating work includes haul road repairs and adjustments or reconstruction of municipal utility sewer and water manholes.**
- 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]

Ref: 2023-130

COUNCIL AGENDA: 7.A.
(6/25/2024)

SUBJECT: Consideration of a Resolution to Acknowledge Review of the 2023 Compliance Maintenance Annual Report (CMAR) of the Ashland Wastewater Utility Pursuant to the Requirements of NR 208, Wisconsin Administrative Code as Required Annually (*Public Works*) Roll

RECOMMENDATION: Approval

DEPARTMENT OF ORIGIN: Public Works

CLEARANCES: Public Works Director
Utility Operations Manager

EXHIBITS:

1.	Proposed Resolution No. 17789
2.	2023 CMAR

EXPENDITURES REQUIRED: N/A

AMOUNT BUDGETED: N/A

APPROPRIATION REQUIRED: N/A

TREASURER'S CERTIFICATE: N/A

COMPLIANCE WITH CHAPTER 51: The Mayor and/or Clerk has consented to placement of this agenda item on the Council agenda as timely action is needed.

STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN: The proposed action conforms to the goals and community values identified in the City of Ashland's Comprehensive Plan.

SUMMARY STATEMENT:

Annually, since 1987, Chapter NR 208 of the Wisconsin Administrative Code requires publicly and privately owned domestic wastewater plants to complete a self-evaluation of the operations of their treatment works called the Compliance Maintenance Annual Report (CMAR). The purpose of the program is to prevent water quality degradation and prevent violations of Wisconsin Pollutant Discharge Elimination System (WPDES) permits. The CMAR describes wastewater management activities and performance of the treatment works during the previous calendar year.

The CMAR scores various aspects of the wastewater system in accordance with the requirements of NR 208. The report is scored on what the Wisconsin Department of Natural Resources (WI DNR) refers to as a sectional scoring system that provides a grade for each aspect of the operation of the utility including collection, staffing, preventative maintenance, capacity, and plant loadings of the wastewater system. In addition, the report scores the financial position of the system and the certification of the operators.

The point score is then turned into an applicable grade. A response action is tied to the applicable grade of each section. The grades of the individual sections of the Utility's 2023 CMAR are summarized on page 1 of the report. The following table from NR 208 provides a translation of the scores:

Score	Grade	Grade Points	Grade Meaning	Response Range
91-100	A	4	Good	Voluntary
81-90	B	3	Satisfactory	Voluntary
71-80	C	2	Marginal	Recommendation
61-70	D	1	Poor	Action
<61	F	0	Fail	Action

The cumulative sum of these scores is compared to the WI DNR scoring system to show if the Wastewater Utility should be considering and/or planning for treatment upgrades or adjustments in the operation of the utility.

The score has been modified by the introduction of a Capacity, Management, Operations, and Maintenance (CMOM), which is a planning initiative instituted by the WDNR in order to assist municipalities in the identification and incorporation of widely-accepted wastewater industry practices to:

- Better manage, operate, and maintain collection systems
- Investigate capacity constrained areas of the collection system
- Respond to sanitary sewer overflow (SSO) events.

The CMOM approach helps municipal wastewater utility operators provide a high level of service to customers and improve compliance with applicable regulations. CMOM can help utilities optimize use of human and material resources by shifting maintenance activities from “reactive” to “predictive”—often leading to cost savings through avoided overtime, emergency construction costs, increased insurance premiums, and the possibility of lawsuits. CMOM information and documentation can also help improve communications with the public, other municipal works and regional planning organizations, and regulators.

In CMOM planning, the utility selects performance goal targets, and designs CMOM activities to meet the goals. The CMOM planning framework covers operation and maintenance (O&M) planning, capacity assessment and assurance, capital improvement planning, and financial management planning. Information collection and management practices are used to track how well each CMOM activity is meeting the performance goals, and whether overall system efficiency is improving. On an ongoing basis, activities are reviewed and adjusted to better meet the performance goals. As the CMOM program progresses, performance goals can change. For instance, an initial goal may be to develop a geographic information system (GIS) of the system. Once the GIS is complete, a new goal might be to use the GIS to track emergency calls and use the information to improve maintenance planning.

The City received a poor rating on Financial Management, with this rating being due to the fact that the Utility has not reviewed user charges or updated the equipment replacement fund in the last 3 years. Staff time in this regard has been focused on major drinking water projects and the associated financial management of the water system. Staff anticipates being able to shift this focus to wastewater in 2025.

NR 208 requires that the City adopt a resolution that states the Council has reviewed the CMAR and identifies actions that the City will take to address the concerns arising in this year’s self-evaluation. The resolution acknowledges that the Council has reviewed the CMAR and that the City continues to investigate I&I issues of the Utility along with the need for upgrades at the City’s wastewater treatment plant (WWTP).

It is recommended that the Council approve the accompanying resolution.

RESOLUTION NO. 17789

**RESOLUTION TO ACKNOWLEDGE REVIEW OF THE 2023 COMPLIANCE
MAINTENANCE ANNUAL REPORT (CMAR) OF THE ASHLAND WASTEWATER
UTILITY PURSUANT TO THE REQUIREMENTS OF NR 208, WISCONSIN
ADMINISTRATIVE CODE**

WHEREAS, it is a requirement of NR 208, Wisconsin Administrative Code, to file an annual self-evaluation of the operation of the City's Wastewater Utility to the Wisconsin Department of Natural Resources; and,

WHEREAS, this annual self-evaluation is known as a Compliance Maintenance Annual Report (CMAR); and

WHEREAS, it is a requirement of NR 208 for the governing body of the City of Ashland to acknowledge it has reviewed the CMAR.

NOW THEREFORE BE IT RESOLVED that the Common Council for the City of Ashland informs the Wisconsin Department of Natural Resources that it has reviewed the 2023 CMAR;

AND BE IT FURTHER RESOLVED that the following actions will be undertaken by the Common Council for the City of Ashland:

1. Continued review of the Utility's infiltration and inflow issues.
2. Support of necessary capital improvements, specifically upgrades at the wastewater treatment plant.

PASSED: June 25, 2024

Councilperson

ATTEST:

Denise Oliphant, City Clerk

Matthew MacKenzie, Mayor

APPROVED AS TO FORM

Tyler W. Wickman, City Attorney

Compliance Maintenance Annual Report

Ashland Sewage Utility

Last Updated: Reporting For:
6/20/2024 **2023**

Influent Flow and Loading

1. Monthly Average Flows and BOD Loadings

1.1 Verify the following monthly flows and BOD loadings to your facility.

Influent No. 701	Influent Monthly Average Flow, MGD	x	Influent Monthly Average BOD Concentration mg/L	x	8.34	=	Influent Monthly Average BOD Loading, lbs/day
January	0.6996	x	188	x	8.34	=	1,095
February	0.6990	x	168	x	8.34	=	978
March	0.6949	x	121	x	8.34	=	701
April	3.4308	x	26	x	8.34	=	752
May	1.3178	x	136	x	8.34	=	1,499
June	0.6772	x	245	x	8.34	=	1,385
July	0.7871	x	201	x	8.34	=	1,321
August	0.6448	x	188	x	8.34	=	1,013
September	1.0417	x	137	x	8.34	=	1,188
October	0.9577	x	170	x	8.34	=	1,359
November	0.7815	x	174	x	8.34	=	1,135
December	1.2208	x	170	x	8.34	=	1,734

2. Maximum Monthly Design Flow and Design BOD Loading

2.1 Verify the design flow and loading for your facility.

Design	Design Factor	x	%	=	% of Design
Max Month Design Flow, MGD	3.2	x	90	=	2.88
		x	100	=	3.2
Design BOD, lbs/day	3500	x	90	=	3150
		x	100	=	3500

2.2 Verify the number of times the flow and BOD exceeded 90% or 100% of design, points earned, and score:

	Months of Influent	Number of times flow was greater than 90% of	Number of times flow was greater than 100% of	Number of times BOD was greater than 90% of design	Number of times BOD was greater than 100% of design
January	1	0	0	0	0
February	1	0	0	0	0
March	1	0	0	0	0
April	1	1	1	0	0
May	1	0	0	0	0
June	1	0	0	0	0
July	1	0	0	0	0
August	1	0	0	0	0
September	1	0	0	0	0
October	1	0	0	0	0
November	1	0	0	0	0
December	1	0	0	0	0
Points per each		2	1	3	2
Exceedances		1	1	0	0
Points		2	1	0	0
Total Number of Points					3

3

Compliance Maintenance Annual Report

Ashland Sewage Utility

Last Updated: Reporting For:

6/20/2024

2023

3. Flow Meter

3.1 Was the influent flow meter calibrated in the last year?

- ☒ Yes Enter last calibration date (MM/DD/YYYY)

2023-06-01

☐ No

If No, please explain:

4. Sewer Use Ordinance

4.1 Did your community have a sewer use ordinance that limited or prohibited the discharge of excessive conventional pollutants ((C)BOD, SS, or pH) or toxic substances to the sewer from industries, commercial users, hauled waste, or residences?

☒ Yes

☐ No

If No, please explain:

4.2 Was it necessary to enforce the ordinance?

☐ Yes

☒ No

If Yes, please explain:

5. Septage Receiving

5.1 Did you have requests to receive septage at your facility?

Septic Tanks

Holding Tanks

Grease Traps

☒ Yes

☒ Yes

☐ Yes

☐ No

☐ No

☒ No

5.2 Did you receive septage at your facility? If yes, indicate volume in gallons.

Septic Tanks

☒ Yes

22,503

gallons

☐ No

Holding Tanks

☒ Yes

4,996,986

gallons

☐ No

Grease Traps

☐ Yes

gallons

☒ No

5.2.1 If yes to any of the above, please explain if plant performance is affected when receiving any of these wastes.

There was no adverse affects to plant operations from receiving this waste.

6. Pretreatment

6.1 Did your facility experience operational problems, permit violations, biosolids quality concerns, or hazardous situations in the sewer system or treatment plant that were attributable to commercial or industrial discharges in the last year?

☐ Yes

☒ No

If yes, describe the situation and your community's response.

6.2 Did your facility accept hauled industrial wastes, landfill leachate, etc.?

Compliance Maintenance Annual Report

Ashland Sewage Utility

Last Updated: Reporting For:
6/20/2024 2023

● Yes ○ No If yes, describe the types of wastes received and any procedures or other restrictions that were in place to protect the facility from the discharge of hauled industrial wastes. Our facility accepts leachate from Xcel Energy's fly ash and slag landfill, the capped City Landfill and the Ft. James Paper Mill Landfill. Our Lab monitors BOD, pH, TSS Temperature and conductivity on leachate entering the system.	
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Total Points Generated	3
Score (100 - Total Points Generated)	97
Section Grade	A

Compliance Maintenance Annual Report

Ashland Sewage Utility

Last Updated: Reporting For:
6/20/2024 **2023**

Effluent Quality and Plant Performance (BOD/CBOD)

1. Effluent (C)BOD Results

1.1 Verify the following monthly average effluent values, exceedances, and points for BOD or CBOD

Outfall No. 001	Monthly Average Limit (mg/L)	90% of Permit Limit > 10 (mg/L)	Effluent Monthly Average (mg/L)	Months of Discharge with a Limit	Permit Limit Exceedance	90% Permit Limit Exceedance
January	30	27	5	1	0	0
February	30	27	6	1	0	0
March	30	27	5	1	0	0
April	30	27	7	1	0	0
May	30	27	5	1	0	0
June	30	27	7	1	0	0
July	30	27	6	1	0	0
August	30	27	6	1	0	0
September	30	27	5	1	0	0
October	30	27	5	1	0	0
November	30	27	4	1	0	0
December	30	27	5	1	0	0

* Equals limit if limit is ≤ 10

Months of discharge/yr	12		
Points per each exceedance with 12 months of discharge		7	3
Exceedances		0	0
Points		0	0
Total number of points			0

NOTE: For systems that discharge intermittently to state waters, the points per monthly exceedance for this section shall be based upon a multiplication factor of 12 months divided by the number of months of discharge. Example: For a wastewater facility discharging only 6 months of the year, the multiplication factor is $12/6 = 2.0$

1.2 If any violations occurred, what action was taken to regain compliance?

2. Flow Meter Calibration

2.1 Was the effluent flow meter calibrated in the last year?

- ☒ Yes Enter last calibration date (MM/DD/YYYY)

2023-06-01

☐ No

If No, please explain:

3. Treatment Problems

3.1 What problems, if any, were experienced over the last year that threatened treatment?

There were no problems that threatened the treatment process.

4. Other Monitoring and Limits

4.1 At any time in the past year was there an exceedance of a permit limit for any other pollutants such as chlorides, pH, residual chlorine, fecal coliform, or metals?

☐ Yes

☒ No

Compliance Maintenance Annual Report

Ashland Sewage Utility

Last Updated: Reporting For:
6/20/2024 2023

If Yes, please explain: 4.2 At any time in the past year was there a failure of an effluent acute or chronic whole effluent toxicity (WET) test? ☐ Yes ☒ No If Yes, please explain: 4.3 If the biomonitoring (WET) test did not pass, were steps taken to identify and/or reduce source(s) of toxicity? ☐ Yes ☐ No ☒ N/A Please explain unless not applicable:	
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Total Points Generated	0
Score (100 - Total Points Generated)	100
Section Grade	A

Compliance Maintenance Annual Report

Ashland Sewage Utility

Last Updated: Reporting For:
6/20/2024 2023

Effluent Quality and Plant Performance (Total Suspended Solids)

1. Effluent Total Suspended Solids Results

1.1 Verify the following monthly average effluent values, exceedances, and points for TSS:

Outfall No. 001	Monthly Average Limit (mg/L)	90% of Permit Limit >10 (mg/L)	Effluent Monthly Average (mg/L)	Months of Discharge with a Limit	Permit Limit Exceedance	90% Permit Limit Exceedance
January	30	27	7	1	0	0
February	30	27	8	1	0	0
March	30	27	7	1	0	0
April	30	27	9	1	0	0
May	30	27	6	1	0	0
June	30	27	6	1	0	0
July	30	27	8	1	0	0
August	30	27	6	1	0	0
September	30	27	5	1	0	0
October	30	27	6	1	0	0
November	30	27	5	1	0	0
December	30	27	6	1	0	0
* Equals limit if limit is <= 10						
Months of Discharge/yr				12		
Points per each exceedance with 12 months of discharge:					7	3
Exceedances					0	0
Points					0	0
Total Number of Points						0
NOTE: For systems that discharge intermittently to state waters, the points per monthly exceedance for this section shall be based upon a multiplication factor of 12 months divided by the number of months of discharge. Example: For a wastewater facility discharging only 6 months of the year, the multiplication factor is 12/6 = 2.0						
1.2 If any violations occurred, what action was taken to regain compliance?						

Total Points Generated	0
Score (100 - Total Points Generated)	100
Section Grade	A

Compliance Maintenance Annual Report

Ashland Sewage Utility

Last Updated: Reporting For:
6/20/2024 2023

Effluent Quality and Plant Performance (Phosphorus)

1. Effluent Phosphorus Results

1.1 Verify the following monthly average effluent values, exceedances, and points for Phosphorus

Outfall No. 001	Monthly Average phosphorus Limit (mg/L)	Effluent Monthly Average phosphorus (mg/L)	Months of Discharge with a Limit	Permit Limit Exceedance
January	1	0.334	1	0
February	1	0.388	1	0
March	1	0.410	1	0
April	1	0.330	1	0
May	1	0.312	1	0
June	1	0.253	1	0
July	1	0.270	1	0
August	1	0.218	1	0
September	1	0.323	1	0
October	1	0.504	1	0
November	1	0.393	1	0
December	1	0.373	1	0
Months of Discharge/yr			12	
Points per each exceedance with 12 months of discharge:				10
Exceedances				0
Total Number of Points				0

NOTE: For systems that discharge intermittently to waters of the state, the points per monthly exceedance for this section shall be based upon a multiplication factor of 12 months divided by the number of months of discharge.

Example: For a wastewater facility discharging only 6 months of the year, the multiplication factor is $12/6 = 2.0$

1.2 If any violations occurred, what action was taken to regain compliance?

0

Total Points Generated	0
Score (100 - Total Points Generated)	100
Section Grade	A

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Biosolids Quality and Management

1. Biosolids Use/Disposal

1.1 How did you use or dispose of your biosolids? (Check all that apply)

- ☒ Land applied under your permit
- ☐ Publicly Distributed Exceptional Quality Biosolids
- ☐ Hauled to another permitted facility
- ☐ Landfilled
- ☐ Incinerated
- ☐ Other

NOTE: If you did not remove biosolids from your system, please describe your system type such as lagoons, reed beds, recirculating sand filters, etc.

1.1.1 If you checked Other, please describe:

2. Land Application Site

2.1 Last Year's Approved and Active Land Application Sites

2.1.1 How many acres did you have?

139.9 acres

2.1.2 How many acres did you use?

17.4 acres

2.2 If you did not have enough acres for your land application needs, what action was taken?

2.3 Did you overapply nitrogen on any of your approved land application sites you used last year?

o Yes (30 points)

● No

2.4 Have all the sites you used last year for land application been soil tested in the previous 4 years?

● Yes

o No (10 points)

o N/A

0

3. Biosolids Metals

Number of biosolids outfalls in your WPDES permit:

3.1 For each outfall tested, verify the biosolids metal quality values for your facility during the last calendar year.

Outfall No. 002 - Belt Filter Press Cake

Parameter	80% of Limit	H.Q. Limit	Ceiling Limit	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	80% Value	High Quality	Ceiling
Arsenic		41	75						8.89								0	0
Cadmium		39	85						<.66								0	0
Copper		1500	4300						240								0	0
Lead		300	840						30.8								0	0
Mercury		17	57						.5								0	0
Molybdenum	60		75						3.86							0		0
Nickel	336		420						13.2							0		0
Selenium	80		100						.62							0		0
Zinc		2800	7500						419								0	0

3.1.1 Number of times any of the metals exceeded the high quality limits OR 80% of the limit for molybdenum, nickel, or selenium = 0

Exceedence Points

● 0 (0 Points)

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○ 1-2 (10 Points) ○ > 2 (15 Points) 3.1.2 If you exceeded the high quality limits, did you cumulatively track the metals loading at each land application site? (check applicable box) ○ Yes ○ No (10 points) ● N/A - Did not exceed limits or no HQ limit applies (0 points) ○ N/A - Did not land apply biosolids until limit was met (0 points) 3.1.3 Number of times any of the metals exceeded the ceiling limits = 0 Exceedence Points ● 0 (0 Points) ○ 1 (10 Points) ○ > 1 (15 Points) 3.1.4 Were biosolids land applied which exceeded the ceiling limit? ○ Yes (20 Points) ● No (0 Points) 3.1.5 If any metal limit (high quality or ceiling) was exceeded at any time, what action was taken? Has the source of the metals been identified?	0																				
4. Pathogen Control (per outfall): 4.1 Verify the following information. If any information is incorrect, use the Report Issue button under the Options header in the left-side menu. <table border="1"><tr><td>Outfall Number:</td><td></td></tr><tr><td>Biosolids Class:</td><td></td></tr><tr><td>Bacteria Type and Limit:</td><td></td></tr><tr><td>Sample Dates:</td><td>-</td></tr><tr><td>Density:</td><td></td></tr><tr><td>Sample Concentration Amount:</td><td></td></tr><tr><td>Requirement Met:</td><td>No</td></tr><tr><td>Land Applied:</td><td>No</td></tr><tr><td>Process:</td><td></td></tr><tr><td>Process Description:</td><td></td></tr></table> 4.2 If exceeded Class B limit or did not meet the process criteria at the time of land application. 4.2.1 Was the limit exceeded or the process criteria not met at the time of land application? ○ Yes (40 Points) ● No If yes, what action was taken?	Outfall Number:		Biosolids Class:		Bacteria Type and Limit:		Sample Dates:	-	Density:		Sample Concentration Amount:		Requirement Met:	No	Land Applied:	No	Process:		Process Description:		0
Outfall Number:																					
Biosolids Class:																					
Bacteria Type and Limit:																					
Sample Dates:	-																				
Density:																					
Sample Concentration Amount:																					
Requirement Met:	No																				
Land Applied:	No																				
Process:																					
Process Description:																					
5. Vector Attraction Reduction (per outfall): 5.1 Verify the following information. If any of the information is incorrect, use the Report Issue button under the Options header in the left-side menu.																					

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Outfall Number:	002	0
Method Date:	08/08/2023	
Option Used To Satisfy Requirement:	Volatile Solids Reduction	
Requirement Met:	Yes	
Land Applied:	Yes	
Limit (if applicable):	>=38	
Results (if applicable):	47.9	
5.2 Was the limit exceeded or the process criteria not met at the time of land application? ☐ Yes (40 Points) ☒ No If yes, what action was taken?		
6. Biosolids Storage 6.1 How many days of actual, current biosolids storage capacity did your wastewater treatment facility have either on-site or off-site? ☒ >= 180 days (0 Points) ☐ 150 - 179 days (10 Points) ☐ 120 - 149 days (20 Points) ☐ 90 - 119 days (30 Points) ☐ < 90 days (40 Points) ☐ N/A (0 Points) 6.2 If you checked N/A above, explain why.		
7. Issues 7.1 Describe any outstanding biosolids issues with treatment, use or overall management:		

Total Points Generated	0
Score (100 - Total Points Generated)	100
Section Grade	A

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Staffing and Preventative Maintenance (All Treatment Plants)

1. Plant Staffing 1.1 Was your wastewater treatment plant adequately staffed last year? ● Yes ○ No If No, please explain: Could use more help/staff for: 1.2 Did your wastewater staff have adequate time to properly operate and maintain the plant and fulfill all wastewater management tasks including recordkeeping? ● Yes ○ No If No, please explain:	
2. Preventative Maintenance 2.1 Did your plant have a documented AND implemented plan for preventative maintenance on major equipment items? ● Yes (Continue with question 2) ☐☐ ○ No (40 points)☐☐ If No, please explain, then go to question 3: 2.2 Did this preventative maintenance program depict frequency of intervals, types of lubrication, and other tasks necessary for each piece of equipment? ● Yes ○ No (10 points) 2.3 Were these preventative maintenance tasks, as well as major equipment repairs, recorded and filed so future maintenance problems can be assessed properly? ● Yes ○ Paper file system ○ Computer system ● Both paper and computer system ○ No (10 points)	0
3. O&M Manual 3.1 Does your plant have a detailed O&M and Manufacturer Equipment Manuals that can be used as a reference when needed? ● Yes ○ No	
4. Overall Maintenance /Repairs 4.1 Rate the overall maintenance of your wastewater plant. ○ Excellent ● Very good ○ Good ○ Fair ○ Poor Describe your rating:	

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We now have a full staff, which has allowed us to take on maintenance tasks that had previously been deferred. We will continue to improve as our new operators gain knowledge through training and experience.

Total Points Generated	0
Score (100 - Total Points Generated)	100
Section Grade	A

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Operator Certification and Education

1. Operator-In-Charge

1.1 Did you have a designated operator-in-charge during the report year?

- Yes (0 points)
- No (20 points)

Name:

BRIAN L LEDIN

Certification No:

34526

0

2. Certification Requirements

2.1 In accordance with Chapter NR 114.56 and 114.57, Wisconsin Administrative Code, what level and subclass(es) were required for the operator-in-charge (OIC) to operate the wastewater treatment plant and what level and subclass(es) were held by the operator-in-charge?

Sub Class	SubClass Description	WWTP	OIC		
		Advanced	OIT	Basic	Advanced
A1	Suspended Growth Processes	X			X
A2	Attached Growth Processes				
A3	Recirculating Media Filters				
A4	Ponds, Lagoons and Natural				
A5	Anaerobic Treatment Of Liquid				
B	Solids Separation	X			X
C	Biological Solids/Sludges	X			X
P	Total Phosphorus	X			X
N	Total Nitrogen				
D	Disinfection	X			X
L	Laboratory	X			X
U	Unique Treatment Systems				
SS	Sanitary Sewage Collection	X	NA	NA	X

0

2.2 Was the operator-in-charge certified at the appropriate level and subclass(es) to operate this plant? (Note: Certification in subclass SS is required 5 years after permit reissuance.)

- Yes (0 points)
- No (20 points)

2.3 For wastewater treatment facilities with a registered or certified laboratory, is at least one operator that works in the laboratory certified at the basic level in the laboratory (L) subclass?

- Yes
- No
- N/A – Wastewater treatment facility does not have a registered or certified laboratory

2.4 For wastewater treatment facilities that own and operate a sanitary sewage collection system, has at least one operator been designated the OIC for sanitary sewage collection system and certified at the basic level in the sanitary sewage collection system (SS) subclass?

- Yes
- No
- N/A – Owner of the Wastewater treatment facility does not own and operate a sanitary sewage collection system

3. Succession Planning

3.1 In the event of the loss of your designated operator-in-charge, did you have a contingency plan to ensure the continued proper operation and maintenance of the plant that includes one or more of the following options (check all that apply)?

- ☒ One or more additional certified operators on staff

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☐ An arrangement with another certified operator ☐ An arrangement with another community with a certified operator ☐ An operator on staff who has an operator-in-training certificate for your plant and is expected to be certified within one year ☐ A consultant to serve as your certified operator ☐ None of the above (20 points) If "None of the above" is selected, please explain:	0
4. Continuing Education Credits 4.1 If you had a designated operator-in-charge, was the operator-in-charge earning Continuing Education Credits at the following rates? OIT and Basic Certification: ☐ Averaging 6 or more CECs per year. ☐ Averaging less than 6 CECs per year. Advanced Certification: ☒ Averaging 8 or more CECs per year. ☐ Averaging less than 8 CECs per year.	

Total Points Generated	0
Score (100 - Total Points Generated)	100
Section Grade	A

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Financial Management

1. Provider of Financial Information		
Name:	Julie Vaillancourt	
Telephone:	(715) 682-7190	(XXX) XXX-XXXX
E-Mail Address (optional):		
2. Treatment Works Operating Revenues		
2.1 Are User Charges or other revenues sufficient to cover O&M expenses for your wastewater treatment plant AND/OR collection system ?		
● Yes (0 points) ☐		
○ No (40 points)		
If No, please explain:		
2.2 When was the User Charge System or other revenue source(s) last reviewed and/or revised?		
Year: 2017		
○ 0-2 years ago (0 points) ☐		
● 3 or more years ago (20 points) ☐		
○ N/A (private facility)		
2.3 Did you have a special account (e.g., CWFP required segregated Replacement Fund, etc.) or financial resources available for repairing or replacing equipment for your wastewater treatment plant and/or collection system?		
● Yes (0 points)		
○ No (40 points)		
REPLACEMENT FUNDS [PUBLIC MUNICIPAL FACILITIES SHALL COMPLETE QUESTION 3]		
3. Equipment Replacement Funds		
3.1 When was the Equipment Replacement Fund last reviewed and/or revised?		
Year: 2019		
○ 1-2 years ago (0 points) ☐		
● 3 or more years ago (20 points) ☐		
○ N/A		
If N/A, please explain:		
3.2 Equipment Replacement Fund Activity		
3.2.1 Ending Balance Reported on Last Year's CMAR		\$ 1,893,042.32
3.2.2 Adjustments - if necessary (e.g. earned interest, audit correction, withdrawal of excess funds, increase making up previous shortfall, etc.)		\$ 0.00
3.2.3 Adjusted January 1st Beginning Balance		\$ 1,893,042.32
3.2.4 Additions to Fund (e.g. portion of User Fee, earned interest, etc.)		\$ 197,259.79
		+

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3.2.5 Subtractions from Fund (e.g., equipment replacement, major repairs - use description box 3.2.6.1 below*) -

\$ 499,115.75

3.2.6 Ending Balance as of December 31st for CMAR Reporting Year

\$ 1,591,186.36

All Sources: This ending balance should include all Equipment Replacement Funds whether held in a bank account(s), certificate(s) of deposit, etc.

3.2.6.1 Indicate adjustments, equipment purchases, and/or major repairs from 3.2.5 above.

Front End Loader, Pumps, SCADA Upgrades, Truck, Clarifier Rebuild, Step-Screen Major Repairs

3.3 What amount should be in your Replacement Fund? \$ 1,591,186.36

20

Please note: If you had a CFWP loan, this amount was originally based on the Financial Assistance Agreement (FAA) and should be regularly updated as needed. Further calculation instructions and an example can be found by clicking the SectionInstructions link under Info header in the left-side menu.

3.3.1 Is the December 31 Ending Balance in your Replacement Fund above, (#3.2.6) equal to, or greater than the amount that should be in it (#3.3)?

● Yes

○ No

If No, please explain.

4. Future Planning

4.1 During the next ten years, will you be involved in formal planning for upgrading, rehabilitating, or new construction of your treatment facility or collection system?

● Yes - If Yes, please provide major project information, if not already listed below. ☐ ☐

○ No

Project #	Project Description	Estimated Cost	Approximate Construction Year
1	I&I Sanitary Sewer CIPP	\$250,000	2026
2	Seal/Repair Retention Basin	\$928,000	2027
3	New Sludge Handling Equipment	\$500,000	2027
4	Sludge Storage Tank Improvements	\$100,000	2025
5	Activated Sludge Piping and Valving	\$250,000	2027
6	Main Lift Station Pump Upgrades	\$500,000	202
7	Annual Capital Plan for Infrastructure-Sanitary Sewer Replacment	\$500,000	2024
8	I&I Sewer Maintenance and Repairs	\$100,000	2024
9	Waste Water Treatment Plant Addition for More Administrative Space	\$250,000	2027
10	Pre-Treatment Upgrades and Additional Step Screen	\$500,000	2026
11	Turner Rd Lift Station Replacement	\$300,000	2025

5. Financial Management General Comments

ENERGY EFFICIENCY AND USE

6. Collection System

6.1 Energy Usage

6.1.1 Enter the monthly energy usage from the different energy sources:

COLLECTION SYSTEM PUMPAGE: Total Power Consumed

Number of Municipally Owned Pump/Lift Stations: 11

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	Electricity Consumed (kWh)	Natural Gas Consumed (therms)
January	26,004	1,855
February	26,533	1,836
March	27,996	1,572
April	73,091	1,287
May	36,151	933
June	20,436	258
July	23,933	21
August	20,016	30
September	22,461	106
October	24,777	123
November	23,548	309
December	23,991	932
Total	348,937	9,262
Average	29,078	772

6.1.2 Comments:

6.2 Energy Related Processes and Equipment

6.2.1 Indicate equipment and practices utilized at your pump/lift stations (Check all that apply):

- ☒ Comminution or Screening
- ☐ Extended Shaft Pumps
- ☒ Flow Metering and Recording
- ☐ Pneumatic Pumping
- ☒ SCADA System
- ☒ Self-Priming Pumps
- ☒ Submersible Pumps
- ☒ Variable Speed Drives
- ☐ Other:

6.2.2 Comments:

6.3 Has an Energy Study been performed for your pump/lift stations?

● No

○ Yes

Year:

By Whom:

Describe and Comment:

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6.4 Future Energy Related Equipment

6.4.1 What energy efficient equipment or practices do you have planned for the future for your pump/lift stations?

7. Treatment Facility

7.1 Energy Usage

7.1.1 Enter the monthly energy usage from the different energy sources:

TREATMENT PLANT: Total Power Consumed/Month

	Electricity Consumed (kWh)	Total Influent Flow (MG)	Electricity Consumed/ Flow (kWh/MG)	Total Influent BOD (1000 lbs)	Electricity Consumed/ Total Influent BOD (kWh/1000lbs)	Natural Gas Consumed (therms)
January	82,673	21.69	3,812	33.95	2,435	7,901
February	69,963	19.57	3,575	27.38	2,555	7,202
March	81,236	21.54	3,771	21.73	3,738	5,566
April	89,172	102.92	866	22.56	3,953	4,229
May	88,412	40.85	2,164	46.47	1,903	3,213
June	69,648	20.32	3,428	41.55	1,676	1,252
July	72,938	24.40	2,989	40.95	1,781	464
August	69,500	19.99	3,477	31.40	2,213	351
September	71,675	31.25	2,294	35.64	2,011	491
October	67,017	29.69	2,257	42.13	1,591	1,419
November	70,879	23.45	3,023	34.05	2,082	3,617
December	85,109	37.84	2,249	53.75	1,583	5,908
Total	918,222	393.51		431.56		41,613
Average	76,519	32.79	2,825	35.96	2,293	3,468

7.1.2 Comments:

7.2 Energy Related Processes and Equipment

7.2.1 Indicate equipment and practices utilized at your treatment facility (Check all that apply):

- ☒ Aerobic Digestion
- ☐ Anaerobic Digestion
- ☐ Biological Phosphorus Removal
- ☐ Coarse Bubble Diffusers
- ☒ Dissolved O2 Monitoring and Aeration Control
- ☒ Effluent Pumping
- ☒ Fine Bubble Diffusers
- ☐ Influent Pumping
- ☒ Mechanical Sludge Processing
- ☐ Nitrification
- ☒ SCADA System
- ☒ UV Disinfection
- ☒ Variable Speed Drives
- ☐ Other:

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7.2.2 Comments:

7.3 Future Energy Related Equipment

7.3.1 What energy efficient equipment or practices do you have planned for the future for your treatment facility?

Plant upgrade project planned for 2025-2027 that will include a new airline and blowers for the digester, new sludge handling equipment to replace the aging belt press, and a possible solar electric feild.

8. Biogas Generation

8.1 Do you generate/produce biogas at your facility?

☒ No

☐ Yes

If Yes, how is the biogas used (Check all that apply):

☐ Flared Off

☐ Building Heat

☐ Process Heat

☐ Generate Electricity

☐ Other:

9. Energy Efficiency Study

9.1 Has an Energy Study been performed for your treatment facility?

☒ No

☐ Yes

☐ Entire facility

Year:

By Whom:

Describe and Comment:

☐ Part of the facility

Year:

By Whom:

Describe and Comment:

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Total Points Generated	40
Score (100 - Total Points Generated)	60
Section Grade	F

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Sanitary Sewer Collection Systems

1. Capacity, Management, Operation, and Maintenance (CMOM) Program

1.1 Do you have a CMOM program that is being implemented?

- ☒ Yes
- ☐ No

If No, explain:

1.2 Do you have a CMOM program that contains all the applicable components and items according to Wisc. Adm Code NR 210.23 (4)?

- ☒ Yes
- ☐ No (30 points)
- ☐ N/A

If No or N/A, explain:

1.3 Does your CMOM program contain the following components and items? (check the components and items that apply)

☒ Goals [NR 210.23 (4)(a)]

Describe the major goals you had for your collection system last year:

Regular, preventative jetting (>20% of system/year)
Televising and rating of pipes and manhole structures
Continuing with replacement and CIPP projects

Did you accomplish them?

- ☒ Yes
- ☐ No

If No, explain:

☒ Organization [NR 210.23 (4) (b)] ☐ ☐

Does this chapter of your CMOM include:

- ☒ Organizational structure and positions (eg. organizational chart and position descriptions)
- ☒ Internal and external lines of communication responsibilities
- ☒ Person(s) responsible for reporting overflow events to the department and the public

☒ Legal Authority [NR 210.23 (4) (c)]

What is the legally binding document that regulates the use of your sewer system?

Sanitary Sewer User Ordinance 711

If you have a Sewer Use Ordinance or other similar document, when was it last reviewed and revised? (MM/DD/YYYY)

2023-07-25

Does your sewer use ordinance or other legally binding document address the following:

- ☒ Private property inflow and infiltration
- ☒ New sewer and building sewer design, construction, installation, testing and inspection
- ☐ Rehabilitated sewer and lift station installation, testing and inspection
- ☐ Sewage flows satellite system and large private users are monitored and controlled, as necessary
- ☒ Fat, oil and grease control
- ☒ Enforcement procedures for sewer use non-compliance

☒ Operation and Maintenance [NR 210.23 (4) (d)]

Does your operation and maintenance program and equipment include the following:

- ☒ Equipment and replacement part inventories
- ☒ Up-to-date sewer system map

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- ☒ A management system (computer database and/or file system) for collection system information for O&M activities, investigation and rehabilitation
- ☒ A description of routine operation and maintenance activities (see question 2 below)
- ☒ Capacity assessment program
- ☒ Basement back assessment and correction
- ☒ Regular O&M training

- ☒ Design and Performance Provisions [NR 210.23 (4) (e)] ☐ ☐

What standards and procedures are established for the design, construction, and inspection of the sewer collection system, including building sewers and interceptor sewers on private property?

- ☒ State Plumbing Code, DNR NR 110 Standards and/or local Municipal Code Requirements
- ☒ Construction, Inspection, and Testing
- ☐ Others:

- ☒ Overflow Emergency Response Plan [NR 210.23 (4) (f)] ☐ ☐

Does your emergency response capability include:

- ☒ Responsible personnel communication procedures
- ☐ Response order, timing and clean-up
- ☒ Public notification protocols
- ☐ Training
- ☒ Emergency operation protocols and implementation procedures

- ☒ Annual Self-Auditing of your CMOM Program [NR 210.23 (5)] ☐ ☐

- ☒ Special Studies Last Year (check only those that apply):

- ☒ Infiltration/Inflow (I/I) Analysis
- ☒ Sewer System Evaluation Survey (SSES)
- ☐ Sewer Evaluation and Capacity Management Plan (SECAP)
- ☒ Lift Station Evaluation Report
- ☐ Others:

0

2. Operation and Maintenance

2.1 Did your sanitary sewer collection system maintenance program include the following maintenance activities? Complete all that apply and indicate the amount maintained.

Cleaning	21.3	% of system/year
Root removal	0.52	% of system/year
Flow monitoring	58	% of system/year
Smoke testing	0	% of system/year
Sewer line televising	5.5	% of system/year
Manhole inspections	9.5	% of system/year
Lift station O&M	0	# per L.S./year
Manhole rehabilitation	0	% of manholes rehabbed
Mainline rehabilitation	0.6	% of sewer lines rehabbed
Private sewer inspections	0	% of system/year

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Private sewer I/I removal % of private services

River or water crossings % of pipe crossings evaluated or maintained

Please include additional comments about your sanitary sewer collection system below:

3. Performance Indicators

3.1 Provide the following collection system and flow information for the past year.

35.59	Total actual amount of precipitation last year in inches
30.36	Annual average precipitation (for your location)
53.6	Miles of sanitary sewer
11	Number of lift stations
0	Number of lift station failures
0	Number of sewer pipe failures
34	Number of basement backup occurrences
34	Number of complaints
1.078	Average daily flow in MGD (if available)
	Peak monthly flow in MGD (if available)
	Peak hourly flow in MGD (if available)

3.2 Performance ratios for the past year:

0.00	Lift station failures (failures/year)
0.00	Sewer pipe failures (pipe failures/sewer mile/yr)
0.06	Sanitary sewer overflows (number/sewer mile/yr)
0.63	Basement backups (number/sewer mile)
0.63	Complaints (number/sewer mile)
0.0	Peaking factor ratio (Peak Monthly:Annual Daily Avg)
0.0	Peaking factor ratio (Peak Hourly:Annual Daily Avg)

4. Overflows

LIST OF SANITARY SEWER (SSO) AND TREATMENT FACILITY (TFO) OVERFLOWS REPORTED **

	Date	Location	Cause	Estimated Volume
0	4/10/2023 10:37:00 PM - 4/17/2023 7:45:00 AM	1901 Knight Rd	Snowmelt, Flooding	18,059,000
1	4/20/2023 5:00:00 PM - 4/20/2023 7:00:00 PM	North 6th Ave W	Rain, Snowmelt	75,000
2	4/20/2023 7:07:00 AM - 4/23/2023 6:55:00 AM	1901 Knight Rd	Rain, Snowmelt	16,121,000

** If there were any SSOs or TFOs that are not listed above, please contact the DNR and stop work on this section until corrected.

What actions were taken, or are underway, to reduce or eliminate SSO or TFO occurrences in the future?

the TFO's and SSO that occurred in 2023 were a result of excessive snowfall during the winter of '22/'23 combined with a warm period in April 2023. We are continuing to improve our collection system through CIPP and replacement projects in an effort to reduce I/I.

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5. Infiltration / Inflow (I/I) 5.1 Was infiltration/inflow (I/I) significant in your community last year? ● Yes ○ No If Yes, please describe: We have an aging system with ongoing I/I, however we are continuing to line or replace sewer mains. 5.2 Has infiltration/inflow and resultant high flows affected performance or created problems in your collection system, lift stations, or treatment plant at any time in the past year? ● Yes ○ No If Yes, please describe: The overflows experienced in 2023 were a result of excessive precipitation and I/I within our collection system. 5.3 Explain any infiltration/inflow (I/I) changes this year from previous years: We should have some reduction in I/I as a result of the bad sections of sewer main replaced during the year. 5.4 What is being done to address infiltration/inflow in your collection system? We are continuing to improve the system through sewer replacement and CIPP lining projects.	
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Total Points Generated	0
Score (100 - Total Points Generated)	100
Section Grade	A

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Grading Summary

WPDES No: 0030767

SECTIONS	LETTER GRADE	GRADE POINTS	WEIGHTING FACTORS	SECTION POINTS
Influent	A	4	3	12
BOD/CBOD	A	4	10	40
TSS	A	4	5	20
Phosphorus	A	4	3	12
Biosolids	A	4	5	20
Staffing/PM	A	4	1	4
OpCert	A	4	1	4
Financial	F	0	1	0
Collection	A	4	3	12
TOTALS			32	124
GRADE POINT AVERAGE (GPA) = 3.88				

Notes:
A = Voluntary Range (Response Optional)
B = Voluntary Range (Response Optional)
C = Recommendation Range (Response Required)
D = Action Range (Response Required)
F = Action Range (Response Required)

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Resolution or Owner's Statement

Name of Governing
Body or Owner:

City of Ashland

Date of Resolution or
Action Taken:

Resolution Number:

Date of Submittal:

ACTIONS SET FORTH BY THE GOVERNING BODY OR OWNER RELATING TO SPECIFIC CMAR SECTIONS (Optional for grade A or B. Required for grade C, D, or F):

Influent Flow and Loadings: Grade = A

Effluent Quality: BOD: Grade = A

Effluent Quality: TSS: Grade = A

Effluent Quality: Phosphorus: Grade = A

Biosolids Quality and Management: Grade = A

Staffing: Grade = A

Operator Certification: Grade = A

Financial Management: Grade = F

We will continue to work on updating our equipment replacement fund.
Staff is also examining options to increase non metered revenue and will develop a plan to assess meter revenue in order to support necessary treatment plant upgrades.

Collection Systems: Grade = A

(Regardless of grade, response required for Collection Systems if SSOs were reported)

We have an aging collection system that we have continued to improve through CIPP lining and replacement projects, in an effort to reduce I/I.
The overflows experienced in 2023 were a result of excessive snow pack and an unseasonably warm period in early spring.

ACTIONS SET FORTH BY THE GOVERNING BODY OR OWNER RELATING TO THE OVERALL GRADE POINT AVERAGE AND ANY GENERAL COMMENTS

(Optional for G.P.A. greater than or equal to 3.00, required for G.P.A. less than 3.00)

G.P.A. = 3.88