



Wauwatosa, WI

Board of Public Works

Meeting Agenda - Final

7725 W. North Avenue
Wauwatosa, WI 53213

Monday, May 15, 2023

8:30 AM

Zoom Only:
<https://us02web.zoom.us/j/89415047159>,
Meeting ID: 894 1504 7159

Regular Meeting

VIRTUAL MEETING INFORMATION

Members of the public may observe and participate in the meeting in-person or via Zoom at the link above. To access the Zoom meeting via phone, call 1-312-626-6799 and enter the Meeting ID.

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES

1. Approval of Minutes from May 1, 2023 Regular Meeting [23-1032](#)

NEW BUSINESS

1. Memo from the City Attorney requesting approval of a Relocation Order and Acquisition Plat for the Public Right of Way associated with the development of the Staybridge Suites at 1401 North Mayfair Road [23-1021](#)
Recommendation to Common Council
2. Recommendation to award the bid for Contract 23-07/Project 1023 - N 115th St Improvements [23-1035](#)
Recommendation to Common Council
3. Partial Payments [23-1038](#)
4. Final Payment [23-1036](#)
5. Project Updates [23-1040](#)

ADJOURNMENT

NOTICE TO PERSONS WITH A DISABILITY

Persons with a disability who need assistance to participate in this meeting should call the City Clerk's office at (414) 479-8917 or send an email to tclerk@wauwatosa.net, with as much advance notice as possible.



Wauwatosa, WI

7725 W. North Avenue
Wauwatosa, WI 53213

Staff Report

File #: 23-1021

Agenda Date: 5/15/2023

Agenda #: 1.

Memo from the City Attorney requesting approval of a Relocation Order and Acquisition Plat for the Public Right of Way associated with the development of the Staybridge Suites at 1401 North Mayfair Road

Submitted by:

Alan Kesner

Department:

City Attorney

A. Issue

Shall the City issue a Relocation Order and Acquisition Plat in order to acquire land located adjacent to 1401 North Mayfair Road, as part of an uncontested eminent domain proceeding, for purposes of necessary right-of-way construction related to the new Staybridge Suites to be built at that address?

B. Background/Options

In conjunction with the approved redevelopment of the parcel at 1401 North Mayfair Road into a Staybridge Suites, the Engineering Services Division required that the developer dedicate a piece of land located off the end of the paved roadway in order to provide a cul-de-sac on the public street. However, the City was reluctant to accept the dedication of the land, due to potential environmental liability should issues be identified at the site. The City would be shielded from potential liability under Wisconsin law if the property is obtained via eminent domain. Therefore, the developer has agreed to allow the city to take the necessary land through an uncontested eminent domain proceeding, and subsequently to construct the cul-de-sac and dedicate the improvements to the City.

Attached is a proposed Relocation Order with an attached Acquisition Plat which would begin the eminent domain proceeding. Following approval and issuance of the Relocation Order by the Common Council, the city may accept the uncontested transfer of the land while remaining protected from liability. The developer, by a separate agreement, has waived his right to seek an appraisal for the land, and has agreed to not contest the taking of the property for purposes of the public street construction. The land being taken consists of 6,813 square feet, or about 0.156 acres, as identified in the attached Eminent Domain Agreement and proposed Relocation Order.

Development of the property has been subject to numerous delays in the past, and the council extended the deadline for beginning development to the end of March this year. The Developer did meet the necessary conditions by that time and began construction before the deadline, so it is now moving forward. This land transfer is part of the effort to facilitate construction of the project.

C. Fiscal Impact

There is no cost to the City for this acquisition, and the development of the hotel will bring in additional property tax revenue as well as hotel taxes for the use of the Tourism Commission. Specific amount have not yet been projected.

D. Recommendation

It is recommended that the Common Council approve the Relocation Order and Acquisition Plat in order that the acquisition of additional public right-of-way at 1401 North Mayfair Road may proceed.

Recommendation to Common Council

EMINENT DOMAIN AGREEMENT

THIS EMINENT DOMAIN AGREEMENT (this “*Agreement*”) is entered into as of the date last written below (the “*Effective Date*”) by and between **SLINGER CHEESE, LLC** (“*Slinger Cheese*”) and the **CITY OF WAUWATOSA** (the “*City*”).

RECITALS

- A. Slinger Cheese is the owner of certain property located at 1441 N. Mayfair Road, Wauwatosa, WI (the “*Property*”).
- B. Slinger Cheese desires to develop and construct a hotel (Staybridge Suites) and restaurant building on the Property and, through its agents, applied for a Planned Unit Development.
- C. On October 15, 2019, the City Common Council adopted Resolution R-19-166 approving Planned Unit Development final plans for the Property, subject to certain conditions.
- D. As a condition to the Planned Unit Development final plans approval, the City is requiring Slinger Cheese to dedicate a cul-de-sac right of way (“*Cul-de-sac*”) legally described on Exhibit A attached hereto and incorporated by reference, facilitate and not contest the condemnation process, pay the City’s costs as part of the condemnation process, and waive all payments to which it would otherwise be entitled under Chapter 32 of the Wisconsin Statutes prior to issuing building permits, unless such timing is waived by the City Attorney.
- E. Slinger Cheese has agreed to dedicate the Cul-de-sac and deliver possession of the Cul-de-sac to the City to satisfy the City’s condition of approval on an “AS-IS, WHERE IS” basis, and agrees not to contest the condemnation process and to waive its right to compensation pursuant to the agreements and covenants set forth below.

AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Recitals. The recitals above are true and accurate and are incorporated by reference into this Agreement.

2. Waiver of Appraisal and Compensation. Having been fully informed of the right to have the Property appraised and to receive just compensation based upon an appraisal, Slinger Cheese acknowledges and states that the decision to dedicate the Property and waive its rights to an appraisal and just compensation was made without any undue influence or coercive action of any nature, and that the rights to an appraisal and to just compensation are hereby waived.

3. Waiver of Rights Under Ch. 32, Wis. Stats. Slinger Cheese, being represented and advised by counsel, does hereby confirm and acknowledge that it hereby waives all possible further or additional claims against the City for the dedication of the Cul-de-sac, for rights pursuant to sec. 32.05(8), Wis. Stats., and for relocation and related benefits, including, but not limited to, the following: (a) any right to a certificate of compensation or to appeal for additional compensation pursuant to sec. 32.05(2a), Wis. Stats.; (b) any rights pursuant to sec. 32.05(8), Wis. Stats.; (c) any right to relocation and related benefits pursuant to sec. 32.185 et. seq., Wis. Stats., and Wis. Admin. Code Adm 92; and (d) any other rights under Chapter 32, Wis. Stats. or Wis. Admin. Code Adm 92 relating to this dedication.

4. Dedication and Transfer of Cul-de-sac. Slinger Cheese will dedicate the Cul-de-sac to the public for road purposes and transfer title of the Cul-de-sac to the City within a reasonable time of the Effective Date and upon the City providing all necessary transfer of title documents to Slinger Cheese.

5. Entire Agreement. This Agreement contains the complete understanding and agreement of the parties hereto with respect to all matters referred to herein, and all prior representations, negotiations, and understandings are superseded hereby.

6. Counterparts. To facilitate execution, this Agreement may be executed in as many counterparts as may be required. It shall not be necessary that the signatures on behalf of all parties appear on each counterpart hereof. A signed copy of this Agreement delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement. All counterparts hereof shall collectively constitute a single agreement.

[Signatures Appear on the Following Pages]

IN WITNESS WHEREOF, the parties have executed this Eminent Domain Agreement as of the day and year set forth above.

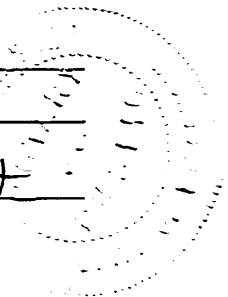
SLINGER CHEESE, LLC

By: Ajit S. Wadia
Name: AJIT S. WADIA
Title: member

STATE OF WISCONSIN)
)SS.
COUNTY OF MILWAUKEE)

Personally came before me this 29 day of March, 2023, the above-named Ajit Wadia, to me known to be the member of Slinger Cheese, LLC, and to me known to be the person who executed the foregoing instrument and acknowledged the same.

Alan Kesner
Print name: Alan Kesner
Notary Public, State of Wisconsin.
My Commission: 15 permanent



IN WITNESS WHEREOF, the parties have executed this Eminent Domain Agreement as of the day and year set forth above.

CITY OF WAUWATOSA

By: _____
Name: Dennis McBride
Title: Mayor

ATTEST:

By: _____
Name: Steven Braatz
Title: City Clerk

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS
COUNTY OF MILWAUKEE)

Personally came before me this ____ day of _____, 2023, the above-named Dennis McBride and Steven Braatz, to me known to be the Mayor and City Clerk, respectively, of the City of Wauwatosa, and to me known to be the persons who executed the foregoing instrument and acknowledged the same.

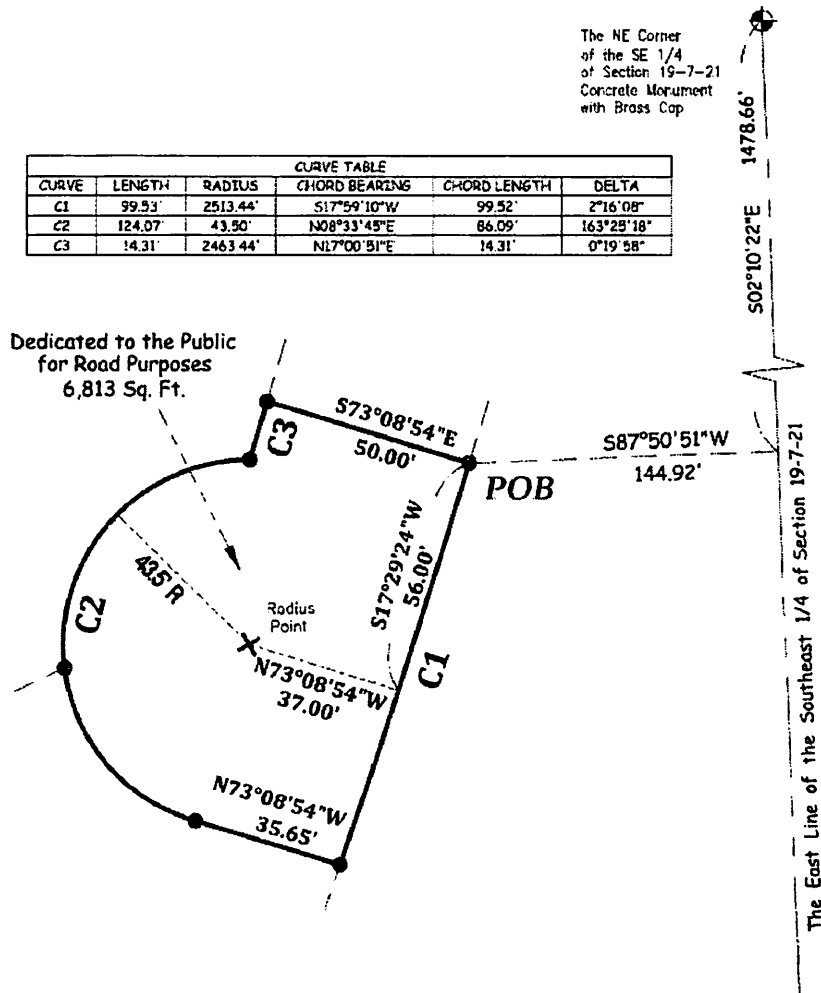
Printed Name: _____
Notary Public
Milwaukee County, Wisconsin
My Commission expires: _____

EXHIBIT A

Legal Description of Cul-de-Sac

Being a part of Lot 1 of Certified Survey Map No. 9077, recorded as Document No. 10820006 on October 16, 2018 at the Milwaukee County Register of Deeds, being part of the Northeast 1/4 and the Southeast 1/4 of the Southeast 1/4 of Section 19, Town 7 North, Range 21 East, in the City of Wauwatosa, Milwaukee County, Wisconsin, bounded and described as follows: Commencing at the Northeast corner of the Southeast 1/4 of Section 19; thence South 02° 10' 22" East along the East line of said Southeast 1/4, 1478.66 feet; thence South 87° 50' 51" West, 144.92 feet to the point of beginning of the lands to be described; thence 99.53 feet along an arc of a curve which has a center point to the West, a radius of 2513.44 feet and a chord 99.52 feet long that bears South 17° 59' 10" West; thence North 73° 08' 54" West, 35.65 feet; thence 124.07 feet along an arc of a curve which has a center point to the East, a radius of 43.50 feet and a chord 86.09 feet long that bears North 08° 33' 45" East; thence 14.31 feet along an arc of a curve which has a center point to the West, a radius of 2463.44 feet and a chord 14.31 feet long that bears North 17° 00' 51" East; thence South 73° 08' 54" East, 50.00 feet to the point of beginning.

Contains 6,813 square feet of land.



Relocation Order

RELOCATION ORDER OF THE CITY OF WAUWATOSA, MILWAUKEE COUNTY, WISCONSIN, by its Common Council and for its Relocation Order hereby resolves as follows:

1. That this Resolution is a Relocation Order in accordance with Wisconsin Statutes, Subsection 32.05(1), for the purpose of the within-described public improvement project and it is also a determination of necessity for that project in accordance with Wisconsin Statutes, Subsection 32.07(2);
2. That the City of Wauwatosa hereby determines that it is necessary and a public purpose to improve the roadway facilities in this area of the City;
3. That the legal description of said properties necessary for the improvement of roadway facilities labeled as Exhibit A, which are attached to this Relocation Order and incorporated herein;
4. That the area of land required to carry out said improvements to roadway facilities being constructed by Ajit Walia in conjunction with the Staybridge Suites being constructed at 1401 N. Mayfair Road consists of a parcel totaling approximately 6,813 square feet of land as set forth in the parcel map which is attached to this Relocation Order as Exhibit B and is incorporated herein;

Approved by the City of Wauwatosa Common Council this 16th day of May 2023.

I hereby certify that on this 16th day of May, 2023, that the within Relocation Order was adopted by a vote of ____ ayes and ____ nays by the Common Council for the City of Wauwatosa, Wisconsin.

Dennis McBride, Mayor

Attest:

Steven Braatz, City Clerk

EXHIBIT A

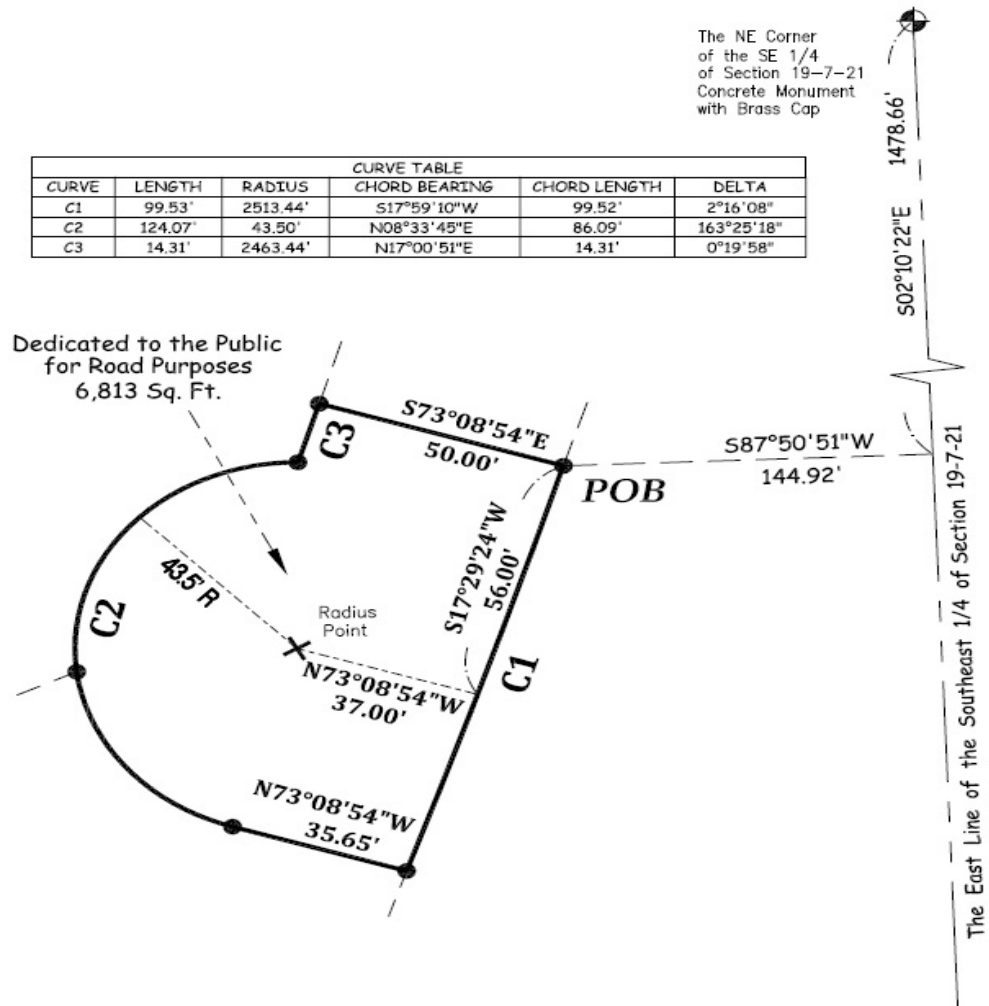
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Contains 6,813 square feet of land.

EXHIBIT B

CURVE TABLE					
CURVE	LENGTH	RADIUS	CHORD BEARING	CHORD LENGTH	DELTA
C1	99.53'	2513.44'	S17°59'10"W	99.52'	2°16'08"
C2	124.07'	43.50'	N08°33'45"E	86.09'	163°25'18"
C3	14.31'	2463.44'	N17°00'51"E	14.31'	0°19'58"





Wauwatosa, WI

7725 W. North Avenue
Wauwatosa, WI 53213

Staff Report

File #: 23-1035

Agenda Date: 5/15/2023

Agenda #: 2.

Recommendation to award the bid for Contract 23-07/Project 1023 - N 115th St Improvements

Submitted by:

Maggie Anderson

Department:

Engineering Division

Issue: Award of Contract 23-07 / Project 1023, N. 115th St Improvements

Background & Discussion: The project will include relay/upsizing storm sewer, rehabilitation of sanitary sewers and water main, spot repair of curb and gutter, asphalt repaving and street light replacement. A reconstructed intersection at 115th and Potter will include ADA ramps at all corners. Storm sewer will be extended down Potter Road to N. 116th Street.

We have examined the bids submitted for Contract 23-07 / Project 1023, N. 115th St Improvements on Wednesday May 10, 2023. The bid received is as follows;

Stark Pavement Corp. - \$1,619,104.01

Strategic Plan: Well maintained infrastructure.

Fiscal Impact: This project is included in the 2023 Capital Improvement Plan.

Recommendations: We recommend the award be made to Stark Pavement Corp at and for their bid price of \$1,619,104.01 this being the lowest and best bid.

Recommendation to Common Council

1. Resolution awarding the bid for Contract 23-07/Project 1023 – N 115th St Improvements, to Stark Pavement Corp in the amount of \$1,619,104.01.

RESOLUTION 1

WHEREAS, the Board of Public Works of the City of Wauwatosa reports that pursuant to the official notice, published as required by law, for proposals for N 115th St Improvements under Contract 23-07/Project 1023; and

WHEREAS, bids and proposals were received until 11:01 o'clock in the morning, Wednesday May 10, 2023, and therefore publicly opened; and

WHEREAS, that said bids and proposals are returned herewith, and the bids received are as follows:

Stark Pavement Corp	\$1,619,104.01
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WHEREAS, the lowest bid received is from Stark Pavement Corp. in the amount of \$1,619,104.01 and

WHEREAS the Board of Public Works recommends that the proper City Officials be authorized to enter into a contract for doing said work of improvement;

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Wauwatosa, that the proper City Officials be and they are hereby authorized and directed to enter into a contract with Stark Pavement Corp for the work of N. 115th St Improvements at and for their bid price of \$1,619,104.01 this being the lowest and best bid.

BE IT FURTHER RESOLVED that the surety deposits, if any, be returned to the unsuccessful bidders.



Wauwatosa, WI

7725 W. North Avenue
Wauwatosa, WI 53213

Staff Report

File #: 23-1038

Agenda Date: 5/15/2023

Agenda #: 3.

Partial Payments

BE IT RESOLVED, By the Board of Public Works of the City of Wauwatosa, Wisconsin that the proper City Officers be and they are hereby authorized and directed to issue City orders in favor of the contractor listed below in the amount listed in the column headed "Amount" as partial payment for work completed pursuant to the terms of the contract noted.

Contractor: WI Dept of Transportation

Payment No.: 14

Contract/Project No.: 21-47/1112

Amount: \$24,998.02

Contractor: WI Dept of Transportation

Payment No.: 26

Contract/Project No.: 21-48/1112

Amount: \$302,070.91



Wauwatosa, WI

7725 W. North Avenue
Wauwatosa, WI 53213

Staff Report

File #: 23-1036

Agenda Date: 5/15/2023

Agenda #: 4.

Final Payment

Board of Public Works Resolution authorizing proper City officers to draw and sign a City order in the sum of \$20,839.75 as the final payment under Contract 22-60/Project 6203

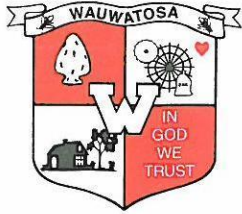
WHEREAS, the Board of Public Works has accepted the work of the City Garage Floor Drain Reconstruction and work incidental thereto in the City of Wauwatosa under Contract 22-60/Project 6203 and the same is ready for final payment.

NOW, THEREFORE, BE IT RESOLVED by the Board of Public Works of the City of Wauwatosa, Wisconsin as follows:

Section 1. That the work of the City Garage Floor Drain Reconstruction under Contract 22-60/Project 6203 is hereby accepted.

Section 2. That the proper City officers be and they are hereby authorized and directed to draw and sign a City order in the sum of \$20,839.75 as the final payment under said contract, upon receipt of waivers of lien and for labor and materials furnished under said contract.

By: Board of Public Works



CITY OF WAUWATOSA
ENGINEERING SERVICES DIVISION
7725 WEST NORTH AVENUE
WAUWATOSA, WI 53213
Telephone: (414) 479-8927
www.wauwatosa.net

William T. Wehrley, P.E.

City Engineer
wwehrley@wauwatosa.net

05/10/2023

Board of Public Works
City of Wauwatosa
Wauwatosa, Wisconsin

RE: Contract 22-60 / Project 6203
City Garage Floor Drain Reconstruction – Final Payment

Dear Board Members:

Zenith Tech, Inc. has completed the work of the City Garage Floor Drain Reconstruction and work incidental thereto under Contract 20-60 / Project 6203. The work took place within the DPW Garage at 11100 W. Walnut Road.

The total amount due the contractor is \$673,213.13. The contract award amount was \$642,628.54. The final amount due the contractor is \$20,883.40. There were five Change Orders on the contract. Change Orders #1 - #5 were previously submitted and approved by the Financial Affairs Committee as part of a Level 3 Fund Transfer & resolved by Common Council on 12/06/2022 as resolution R-22-214.

I hereby certify that the work on Contract 20-60 / Project 6203 was completed in a manner satisfactory to the City of Wauwatosa and recommend acceptance of the same by the Board of Public Works.

Sincerely,

Nick Deming, PE
Construction Manager

Enclosure(s):
20-60 Final Pay Application
Resolution R-22-214

City of Wauwatosa
Periodical Estimate For Partial Payment

[illegible]

CITY OF WAUWATOSA
Resolution

R-22-214

By: Financial Affairs Committee

Resolution authorizing a Level 3 Fund Transfer and approving Change Orders #1-5 for Contract 22-60, Project 6203 City Garage Floor Reconstruction Project

WHEREAS, a Level 3 Fund Transfer is needed to complete work for Contract #22-60 due to changes in plans and field conditions;


WHEREAS, \$190,000 is needed to fund the projected costs and \$150,000 would be funded from project 6216 and \$40,000 from the DOT easement fund;

NOW THEREFORE BE IT RESOLVED THAT the Level 3 Fund Transfer be awarded to cover the costs of Change Orders #1-5 as more thoroughly described in the Memorandum from the Construction Manager dated November 22, 2022, and as detailed in the Financial Affairs Committee on November 29, 2022.

Passed and Dated December 6, 2022

Adopted: December 6, 2022


Clerk

Approved December 7, 2022

Mayor



Wauwatosa, WI

7725 W. North Avenue
Wauwatosa, WI 53213

Staff Report

File #: 23-1040

Agenda Date: 5/15/2023

Agenda #: 5.

Project Updates

Submitted by:

Nicholas Deming

Department:

Engineering Division

21-47/48 Zoo Interchange North Leg (WisDOT Project)

- Work and lane closures continue at the freeway overpasses at North Avenue and Mayfair Road to accommodate work overhead on the freeway structures.
- Night work is anticipated for a deck pour the week of May 15th over Mayfair Road.

22-05 - 103rd St. Storm Sewer Relay

- The contractor is continuing to install 5x6 box culvert on 103rd. They should be close to reaching the end of 103rd and turning toward the easement late the week of May 8th.
- They will continue box culvert installation and look to tie in to the existing structure late the week of May 15th.
- Once complete with the box culvert, work will shift to install the catch basins and laterals.

22-08 - N 68th St.

- The contractor is working on the punch list.
- Street lighting work is being coordinated with WE Energies for the cabinet replacement around 66th & Cedar.

Project 1107 - North Avenue Reconstruction

- The contractor is continuing work on the water main with one crew working on mainline and a second crew working to stub out tie ins on cross streets.
- A 3rd crew is intended to be onsite for a couple weeks continuing work on sewer.
- The contractor is aiming to start grading shortly after Memorial Day pending how upcoming work progresses and any weather impacts.

23-19 - 2023 Sidewalk Program

- Work is starting on May 15th.