

**CITY OF CEDARBURG  
MEETING OF COMMON COUNCIL  
February 10, 2020 – 7:00 P.M.**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, will be held on **Monday, February 10, 2020 at 7:00 p.m.** at City Hall, W63 N645 Washington Avenue, Cedarburg, WI, in the second floor Council Chambers.

**AGENDA**

1. CALL TO ORDER - Mayor Mike O’Keefe
2. MOMENT OF SILENCE
3. PLEDGE OF ALLEGIANCE
4. ROLL CALL: Present – Common Council – Mayor Mike O’Keefe, Council Members Jack Arnett, Kristin Burkart, Rick Verhaalen, Garan Chivinski, Patricia Thome and Rod Galbraith  
  
Excused - Council Member Sherry Bublitz
5. STATEMENT OF PUBLIC NOTICE
6. APPROVAL OF MINUTES – January 27, 2020 Common Council Meeting\*
7. COMMENTS AND SUGGESTIONS FROM CITIZENS\*\* Comments from citizens on a listed agenda item will be taken when the item is addressed by the Council. At this time individuals can speak on any topic not on the agenda for up to 5 minutes, time extensions at the discretion of the Mayor. No action can be taken on items not listed except as a possible referral to committees, individuals or a future Council agenda item.
8. PRESENTATIONS
  - A. Cedarburg Fire Department, Inc. presentation of new fire truck and donation to the City
9. NEW BUSINESS
  - A. Consider approving a one-year extension for the Planned Unit Development Zoning issued for Cedarburg Trails Condominiums and consideration of amended Developer Agreement; and action thereon\*
  - B. Consider assistance of Cedarburg Police Department Officers and assets to Milwaukee Police Department to assist with Democratic National Convention; and action thereon\*
  - C. Consider Alcohol and Controlled Substance Policy (AD-22) (Personnel Committee 02/10/20); and action thereon\*
  - D. Consider revision to Section 2-4-a of the Personnel Manual re: Drug/Alcohol Testing (CDL) (Personnel Committee 02/10/20); and action thereon\*

- E. Consider request of Lime Cantina, to amend the premise description of the Class “B” Beer and “Class B” Liquor license at W62 N550 Washington Avenue to sell and serve alcohol outside during Strawberry Festival and Wine & Harvest Festival; and action thereon\*\*\*
- F. Consider approval of new Operator License applications for the period ending June 30, 2020 for Michele I. Tietz and Ethan E. Taylor; and action thereon\*\*\*
- G. Consider payment of bills dated 1/24/20 through 01/31/20, transfers for the period 01/23/20 through 02/04/20 and payroll for the period 01/12/20 through 01/25/20; and action thereon\*

10. REPORTS OF CITY OFFICERS AND DEPARTMENT HEADS

- A. Administrator’s Report\*

11. COMMUNICATIONS

- A. Comments and suggestions from citizens\*\*
- B. Comments and announcements by Council Members
- C. Mayor’s Report

12. ADJOURN TO CLOSED SESSION

It is anticipated the Common Council will adjourn to closed session pursuant to State Statute 19.85(1)(e) to deliberate or negotiate the purchasing of public properties, the investing of public funds, or conducting other specified public business whenever competitive or bargaining reasons require a closed session (more specifically, item 12B), and pursuant to State Statute 19.85(1)(g) to confer with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved (more specifically, item 12C and 12D):

- A. Approval of January 27, 2020 closed session minutes
- B. Discussion of Highway 60 Business Park
- C. Consider the holding tank replacement at city-owned property 1838 Pioneer Road
- D. Discussion of an insurance claim and rental claim

13. RECONVENE TO OPEN SESSION

14. UNFINISHED BUSINESS

- A. Consider the holding tank replacement at city-owned property 1838 Pioneer Road; and action thereon

15. NEW BUSINESS - CONTINUED

H. Consider \$26,331.42 claim from Acuity Insurance regarding an incident on November 25, 2019; and action thereon

I. Consider \$2,920.52 claim from Robert Porsche regarding an incident on November 25, 2019; and action thereon

16. ADJOURNMENT

Individual members of various boards, committees, or commissions may attend the above meeting. It is possible that such attendance may constitute a meeting of a City board, committee or commission pursuant to State ex. rel. Badke v. Greendale Village Board, 173 Wis. 2d 553, 494 NW 2d 408 (1993). This notice does not authorize attendance at either the above meeting or the Badke Meeting, but is given solely to comply with the notice requirements of the open meeting law.

\* *Information attached for Council; available through City Clerk's Office.*

\*\* *Citizen comments should be primarily one-way, from citizen to the Council. Each citizen who wishes to speak shall be accorded one opportunity at the beginning of the meeting and one opportunity at the end of the meeting. Comments should be kept brief. If the comment expressed concerns a matter of public policy, response from the Council will be limited to seeking information or acknowledging that the citizen has been understood. It is out of order for anyone to debate with a citizen addressing the Council or for the Council to take action on a matter of public policy. The Council may direct that the concern be placed on a future agenda. Citizens will be asked to state their name and address for the record and to speak from the lectern for the purposes of recording their comments.*

\*\*\* *Information available through the Clerk's Office.*

UPON REASONABLE NOTICE, EFFORTS WILL BE MADE TO  
ACCOMMODATE THE NEEDS OF INDIVIDUALS WITH DISABILITIES.  
PLEASE CONTACT THE CITY CLERK'S OFFICE AT (262) 375-7606  
E-MAIL: [cityhall@ci.cedarburg.wi.us](mailto:cityhall@ci.cedarburg.wi.us)

2/6/20 adk

**CITY OF CEDARBURG  
COMMON COUNCIL  
January 27, 2020**

**CC20200127-1  
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, January 27, 2020, at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Acting Mayor Thome called the meeting to order at 7:00 p.m.

Roll Call: Present - Council Members Sherry Bublitz, Jack Arnett, Kristin Burkart, Rick Verhaalen, Garan Chivinski, Patricia Thome

Excused - Mayor Michael O’Keefe, Council Member Rod Galbriath

Also Present - City Administrator Mikko Hilvo, City Attorney Michael Herbrand, Deputy City Clerk Amy Kletzien, Light & Water General Manager Dale Lythjohan, City Clerk Claire Woodall-Vogg, City Forester Kevin Westphal, Water Recycling Center Superintendent Hackert, Smantha Lammers of Glacierland Resource Conservation and Development Inc., Michaela Zuelke of Stantec Consulting Services Inc., Cedarburg Green Board Members John Norquist, Renee Welfel, Libby Burns, Terri Henderson, Thelma Heidel-Baker and Jeanne Mueller, interested citizens and news media

**STATEMENT OF PUBLIC NOTICE**

At Acting Mayor Thome’s request, Deputy City Clerk Kletzien verified that notice of this meeting was provided to the public by forwarding the agenda to the City’s official newspaper, the *News Graphic*, to all news media and citizens who requested copies, and by posting in accordance with the Wisconsin Open Meetings Law. Citizens present were welcomed and encouraged to provide their input during the citizen comment portion of the meeting.

Council Member Thome stated that as Acting Mayor, she would retain her right to vote as Council Member of the 6<sup>th</sup> Aldermanic District.

**APPROVAL OF MINUTES**

Motion made by Council Member Bublitz, seconded by Council Member Arnett, to approve the minutes of the January 13, 2020 meeting. Motion carried without a negative vote with Council Member Galbraith excused.

**COMMENTS AND SUGGESTIONS FROM CITIZENS** – None

**PRESENTATIONS**

**GLACIERLAND RESOURCE CONSERVATION & DEVELOPMENT COUNCIL  
PRESENTATION ON AQUATIC INVASIVE SPECIES CONTROL WORK IN OZAUKEE  
COUNTY**

Samantha Lammers of Glacierland Resource Conservation and Development Inc. (GRC&D) and Michaela Zuelke of Stantec Consulting Services Inc. explained that GRC&D received funding from the Wisconsin Department of Natural Resources to control invasive Phragmites on public and private lands across Ozaukee County. Invasive phragmites or common reed is a tall, perennial grass that aggressively colonizes and forms dense stands in freshwater wetlands. Invasive phragmites harms the environment by reducing wildlife habitats, decreasing plant diversity, and altering water levels by trapping sediments. GRC&D will partner with Ozaukee County, Ozaukee Washington Land Trust, Southeastern Wisconsin Invasive Species Consortium, Inc. and Stantec Consulting Services, Inc. to control this species for up to three years on participating parcels. Treatments will be performed by trained/certified contractors using herbicide from July-October each year. Mapping has been completed across the County, and each landowner with Phragmites will receive a letter in the mail requesting permission to access and control this species. There are five parcels/landowners that have been identified and the GRC&D is asking the City to participate by endorsing the project and sending letters to the landowners.

### **CEDARBURG GREEN 2020 FOCUS ON TREES PRESENTATION**

Cedarburg Green President John Norquist explained that Cedarburg Green was formed in 2012 to:

- Foster appreciation and support for community forestry for the benefit of Cedarburg residents and visitors
- Beautify our public streets, boulevards and parks
- Promote sustainable environmental stewardship and landscape management practices
- Raise and distribute private funds for the planting, care and maintenance of public trees and for other projects aligned with our goals and objectives.

President Norquist further explained that Cedarburg Green learned of the Rotary Club's goal of planting a tree for every member and partnered with them on a project in Westlawn Woods. Congregations made donations and over \$6,000 was raised for planting over 250 trees, culminating in a planting day that brought together over 50 people. Other events held by Cedarburg Green include: Trees of Distinction (walking tour throughout Cedarburg), Garlic Mustard Grabs, Annual Arbor Day Tree Planting at local schools, Buckthorn Pull, Neighborhood Plantings, and grant writing for various projects. The group recently received an \$11,000 Urban Forestry grant from the DNR.

Thelma Heidel-Baker, Scientist in residence at the Cedarburg School District, explained the tangible and intangible benefits of trees in terms of Social/Historic, Community, Environmental, and Economic value in detail. Adding that it requires an investment to get the desired outcome, tree management costs include planting, watering, mulching and pruning. With this investment, trees pay back with better air quality, energy, real estate value, and stormwater assistance.

Cedarburg Green Member Jeanne Mueller explained that of the 50 applicants for the DNR grant, 36 were selected to receive funding which, when matched dollar-for-dollar by the recipients, totals nearly \$2 million in awards. Out of the 20 organizations receiving regular grants, Cedarburg Green's "2020: Focus on Trees – Plant trees as if life depended on it!" program ranked in the top five – receiving an award of \$11,000.

Jeanne Mueller reviewed the planned events for 2020:

- January – Announcement of grant.

- February – Bare root tree sale and seminar with Glen Herold on How to Plant a Bare Root Tree in Your Yard.
- March – Writing contest with students in district and organizing workgroups to plant 60 trees and invite community.
- April – Tree pick up date and 50<sup>th</sup> Anniversary of Earth Day.
- May – Valuing trees in Cedarburg and planting 10 trees in all seven districts.
- June – Update on “Trees of Distinction” book and public tree walks.
- October – Common Council to plant a symbolic tree.
- December – Final celebration.

Jeanne Mueller requested \$5,000 in matching funds from the City in the form of Cedarburg Green funds, 305 volunteer hours, 90 City hours, and use of City equipment. The Cedarburg Library is participating in tree education events.

President John Norquist and Cedarburg Green were presented with a Proclamation that proclaims this year as 2020: Focus on Trees – Plant trees as if life depended on it.

### **UNFINISHED BUSINESS**

#### **CONSIDER APPLICATIONS OF SUNSHINE WINERY, W63 N631 WASHINGTON AVENUE, AND THE SHINERY NEENAH, LLC, W63 N706 WASHINGTON AVENUE, FOR A “CLASS B” FERMENTED MALT BEVERAGE AND “CLASS B” INTOXICATING LIQUOR (ON OR OFF-PREMISE CONSUMPTION) LICENSE; AND ACTION THEREON**

City Administrator Hilvo explained that the Common Council postponed this decision at the last Common Council meeting, requesting business plan information from the applicants to consider at this meeting.

Tim Schelwat of Sunshine Winery explained that he discussed their business concept at the last meeting and provided their business plan for this meeting for consideration. He asked if the Common Council had any questions.

In answer to Council Member Arnett’s question, Tim Schelwat explained that they will have a tasting bar and additional bar and want to add tables and chairs for year-round enjoyment of their product along with serving at Festivals.

City Clerk Woodall-Vogg explained that they currently have a “Class A” license for their primary business to take-away the product.

In answer to Council Member Thome’s question, Tim Schelwat explained that obtaining a “Class B” Liquor license has not been far behind in their plan. After receiving feedback, they have determined that there is a high demand to purchase a glass of wine on premise. The exact hours of their business have not been determined; however, they would extend their hours into the evening.

Troy Reissmann of The Shinery explained that they started their business five years ago. They often go to Gatlinburg, TN where the amount of moonshine stores has increased from four to twenty, due to its popularity. Their stores in Neenah and Grand Chute have grown greatly with the addition of a

“Class B” Liquor License in both locations. The Shinery offers 65 different types of moonshine and only being able to offer two “church size” samples hampers their sales. As the store will be moving into the former August Weber Haus location, Mr. Reissmann said the “Class B” license will help them maintain that location.

In answer to Council Member Arnett’s question, Troy Reissmann confirmed that his current license allows him to offer a ¾ ounce sample per adult per day. He would like to offer a flight of samples consisting of 5 shots totaling 1.5 shots of liquor. He also stated that they do not want to be bar.

In answer to Council Member Thome’s question, Troy Reissmann explained that The Shinery will not be using the existing bar at the August Weber Haus. They will have a tasting bar with chairs as a sampling area. Troy Reissmann added that they will be offering in Airbnb on the second floor.

City Attorney Herbrand explained that the Common Council has broad discretion in granting the available “Class B” license. A qualified applicant does not have a right to the license; however, the Common Council should have a rational basis for not doing so.

Council Member Arnett explained that a liquor license is essential to the success of a restaurant. The City has only one regular “Class B” license available and two Reserve “Class B” licenses, which require a one-time fee of \$10,000. The Common Council amended the current ordinance to ensure that this license is fully utilized by requiring licensees to be open minimum hours and days each month. The two businesses requesting the available license are not traditional bar/restaurants. Council Member Arnett reviewed the facts from the recent branding survey that indicated that restaurants are the top asset in the City and 65% of the activities in the City are eating at restaurants. Both uses in this instance are restricted because of a technicality in State Law and could possibly be underutilized.

Council Member Chivinski explained that this is a hard decision because both businesses have great enthusiasm for the City. Council Member Chivinski said that he will fall back on logic in his decision that an anchor restaurant would benefit more from this available license.

Council Member Bublitz explained that she did some investigation and learned that a building owner who leased to a restaurant that closed last year is having a difficult time finding a new tenant. It will be even more difficult to market the property without an available liquor license in the City.

In answer to Council Member Verhaalen’s question, City Clerk Woodall-Vogg said that there is only an initial cost of \$10,000 for a Reserve “Class B” license and the regular cost of \$500/annually is charged after this. Council Member Verhaalen explained that he is leaning towards issuing the available license to one of the applicants. He opined that the Common Council should not stand in the way of business.

Council Member Burkart agreed that to hold the license for a restaurant would hold back other businesses.

Council Member Verhaalen is hopeful there will be changes in State law, as there is a high potential.

In answer to Council Member Arnett’s question, City Clerk Woodall-Vogg explained that a business can partner with a civic or non-profit group to apply for a Temporary “Class B” license to serve wine on their behalf at festivals (allowed twice per year per applicant).

In answer to Council Member Verhaalen’s question, City Clerk Woodall-Vogg explained that the liquor license holder is the business owner, not the owner of the property, if they are different. The business owner may keep the license for the remainder of the licensing year to use at another location.

Council Member Thome expressed concern for the license not being fully utilized as intended. She asked if the current ordinance for “Class B” liquor licenses could be clarified on its uses.

City Attorney Herbrand said the ordinance could be adjusted again, possibly near renewal time.

Council Member Thome said she is inclined not to grant the available license to either business because it would not be fully utilized. Her focus is on utilization when making her decision.

Motion made by Council Member Verhaalen, seconded by Council Member Chivinski, to issue a “Class B” fermented malt beverage and “Class B” intoxicating liquor (on or off-premise consumption) license to one of the applicants. Motion failed with Council Members Verhaalen and Burkart voting aye, Council Members Bublitz, Arnett, Chivinski, and Thome voting nay and Council Member Galbraith excused.

Troy Reissmann questioned if shops were the number one attraction in the City according to the branding survey, why the Council would not choose a shop over a restaurant for the license. His sales are down 50% in Cedarburg and he is taking a gamble by moving to the former August Weber Haus location. He would like whatever benefit he can have to succeed.

Tim Schelwat agreed with Troy Reissmann. He said that he did not understand the Council’s reluctance in issuing the available license. Restaurants come and go, and Sunshine Winery is a new business opening in the heart of downtown. Mr. Schelwat appreciates having a “Class A” license; however, he would make great use of a “Class B” liquor license.

Megan Schelwat explained that they have received a lot of commentary on social media regarding their new business. People would like to be able to order a glass of wine at their store. She expressed disappointment for not issuing the license where it would make the most sense.

Council Member Thome said that she appreciated their business commitment to Cedarburg, but wants the license to be fully utilized.

Council Member Verhaalen expressed disappointment in holding back on the issuance of an available license and helping a business succeed.

**CONSIDER AMENDMENT TO OFFER RECEIVED ON A PORTION OF PARCEL NO. 13-034-14-000.00 (OUTLOT #1 CSM 2784); AND ACTION THEREON**

City Attorney Herbrand explained that there was a previous offer for a small rectangular parcel from a stormwater pond for a setback that was not signed. James Condos is now prepared to go to closing on



January 31 for the sale. There is a change in price based on Mr. James doing work on the storm water pond serving the Business Park, which is reflected in the current amendment to the offer that needs to be signed. The City is not providing any title insurance. Closing date is set for January 31, 2020. The Developer must sign the Development Agreement with the City, at or prior to closing.

Motion made by Council Member Burkart, seconded by Council Member Bublitz, to approve the amendment to offer received on a portion of parcel no. 13-034-14-000.00 (Outlot #1 CSM 2784) and authorize City Administrator Mikko Hilvo to sign the amendment and all related closing documents including the deed. Motion carried without a negative vote with Council Member Galbraith excused.

**CONSIDER APPLICATION OF LIME CANTINA, W62 N550 WASHINGTON AVENUE, FOR A CLASS “B” FERMENTED MALT BEVERAGE AND “CLASS B” INTOXICATING LIQUOR (ON OR OFF-PREMISE CONSUMPTION) LICENSE, CONTINGENT UPON PROOF OF CONTROL OF PREMISE AND THE RETURN OF LICENSES BY STONEWALL PUB; AND ACTION THEREON**

Motion made by Council Member Arnett, seconded by Council Member Bublitz, to approve application of Lime Cantina, W62 N550 Washington Avenue, for a Class “B” fermented malt beverage and “Class B” intoxicating liquor (on or off-premise consumption) license, contingent upon proof of control of premise and the return of licenses by Stonewall Pub on January 31, 2020. Motion carried without a negative vote.

**CONSIDER LICENSE APPLICATIONS; AND ACTION THEREON**

Motion made by Council Member Verhaalen, seconded by Council Member Arnett, to approve new operator license application for period ending June 30, 2020 for Rebecca Knuth. Motion carried without a negative vote with Council Member Galbraith excused.

Motion made by Council Member Burkart, seconded by Council Member Chivinski, to authorize issuance of a Festival Celebration Permit to Festivals of Cedarburg, Inc., for Winter Festival to be held on Saturday, February 15, 2020 from 8:30 a.m. to 10:00 p.m. and on Sunday, February 16, 2020 from 8:30 a.m. to 4:00 p.m. Motion carried without a negative vote with Council Member Galbraith excused.

**CONSIDER PAYMENT OF BILLS DATED 1/4/20 THROUGH 1/17/20, TRANSFERS FOR THE PERIOD 1/11/20 THROUGH 1/22/20; AND PAYROLL FOR THE PERIOD 12/29/19 THROUGH 1/11/20; AND ACTION THEREON**

Motion made by Council Member Burkart, seconded by Council Member Verhaalen, to approve payment of bills dated 1/4/20 through 1/17/20, transfers for the period 1/11/20 through 1/22/20; and payroll for the period 12/29/19 through 1/11/20. Motion carried without a negative vote with Council Member Galbraith excused.

**ADMINISTRATOR’S REPORT**

City Administrator Hilvo explained that City Clerk Woodall-Vogg is leaving her position on Friday, January 31. The City is advertising for the Clerk position until February 7, at which time a new clerk

will be hired. In the interim, retired Clerk Dianne Robertson will be administering the election on a contract basis.

**COMMENTS AND SUGGESTIONS FROM CITIZENS** - None

**COMMENTS & ANNOUNCEMENTS BY COUNCIL MEMBERS**

Council Member Kristin Burkart announced that longtime resident Joyce Barth passed away.

**MAYOR'S REPORT**

**ADJOURNMENT – CLOSED SESSION**

Motion made by Council Member Burkart, seconded by Council Member Bublitz, to adjourn to closed session at 8:32 p.m. pursuant to State Statute 19.85(1)(e) to deliberate or negotiate the purchasing of public properties, the investing of public funds, or conducting other specified public business whenever competitive or bargaining reasons require a closed session, more specifically, TID No. 3 Developer's Agreement, Highway 60 Business Park, and hotel feasibility study; and pursuant to State Statute 19.85(1)(g) to confer with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved, more specifically, holding tank replacement at city-owned property. Motion carried on a roll call vote with Council Members Bublitz, Arnett, Burkart, Verhaalen, Chivinski, and Thome voting aye and Council Member Galbraith excused.

**RECONVENE TO OPEN SESSION**

Motion made by Council Member Arnett, seconded by Council Member Bublitz, to reconvene to open session at 9:38 p.m. Motion carried unanimously on a roll call vote with Council Members Bublitz, Arnett, Burkart, Verhaalen, Chivinski, and Thome voting aye and Council Member Galbraith excused.

**NEW BUSINESS – CONTINUED**

**CONSIDER PORPOSED AMENDMENT TO THE TID NO. 3 DEVELOPER'S AGREEMENT; AND ACTION THEREON**

Motion made by Council Member Arnett, seconded by Council Member Bublitz, to approve the proposed amendment to the TID No. 3 Developer's Agreement by extending the completion date by 12 months to December 31, 2021 and the Developer to make a \$25,000 payment towards the TID expenses by December 31, 2020. Motion carried with Council Member Bublitz, Arnett, Burkart, Chivinski, and Thome voting aye, Council Member Verhaalen voting nay, and Council Member Galbraith excused.

**CONSIDER ALLOCATION OF FUNDS FOR HIGHWAY 60 BUSINESS PARK PROJECT MANAGEMENT SERVICES; AND ACTION THEREON**

Motion made by Council Member Arnett, seconded by Council Member Bublitz, to approve the services of the Concord Group for the Highway 60 Business Park Project management services in an

amount not to exceed \$5,000. Motion carried without a negative vote with Council Member Galbraith excused.

**CONSIDER THE HOLDING TANK REPLACEMENT AT CITY-OWNED PROPERTY 1838 PIONEER ROAD; AND ACTION THEREON**

This item is postponed to the next Common Council meeting.

**CONSIDER APPROVAL OF UPDATED HOTEL FEASIBILITY STUDY; AND ACTION THEREON**

Motion made by Council Member Arnett, seconded by Council Member Bublitz, to approve an updated Hotel Feasibility Study with a \$1500 reimbursement made by the City of Cedarburg after permits are taken out for building a hotel and offer to expire on December 31, 2021. Motion carried without a negative vote with Council Member Galbraith excused.

**ADJOURNMENT**

Motion made by Council Member Arnett, seconded by Council Member Burkart, to adjourn the meeting at 9:41 p.m. Motion carried without a negative vote with Council Member Galbraith excused.

Amy D. Kletzien, MMC/WCPC  
Deputy City Clerk

**CITY OF CEDARBURG**

**MEETING DATE:** February 10, 2020

**ITEM NO:** 9. A.

**TITLE:** Consider approving a one-year extension for the Planned Unit Development Zoning issued for Cedarburg Trails Condominiums and consideration of amended Developer Agreement; and action thereon

**ISSUE SUMMARY:**

Council Members are reminded that the PUD Zoning for Greg James's Cedar Trail Condominium development proposed for the 5.52acre site directly south of W68 N158 Evergreen Boulevard was approved by unanimous vote on April 29, 2019. Since receiving that approval, Mr. James has completed the detailed construction plans, the Development Agreement was created and approved by this Council and City Attorney Mike Herbrand drafted the necessary document to transfer a portion the adjacent City owned outlot to Mr. James. As a condition of approval, the public sewer and water facilities and the roadway are required to be installed and certified complete prior to construction commencement of the condominium structures.

Mr. James advises construction of these public improvements and the roadway will begin as soon as weather permits, and that building construction will follow immediately thereafter. Staff notes that **Section 13-1-69 (o) (4)** of the Zoning Code requires that if **a building permit is not issued within one (1) year of receiving the PUD zoning, the PUD district zoning for the property shall be automatically discontinued and be replaced with the zoning designation that existed prior to the PUD rezoning.** Accordingly, while Mr. James will be close to commencing building construction, he will not be able to secure a building permit prior to the April 29, 2020 one-year deadline and therefore he is requesting a one-year extension to April 29, 2021.

**STAFF RECOMMENDATION:**

Staff recommends approval subject to the conditions set forth in the attached April 29, 2019 Common Council minutes.

**ATTACHMENTS:**

- Common Council minutes from the April 29, 2019 meeting.
- Copy of the approved Cedarburg Trails Condominium Plat.
- Amended Developer Agreement

**INITIATED/REQUESTED BY:** Greg James, Condo Development, Inc.

**FOR MORE INFORMATION CONTACT:** Jonathan Censky, City Planner

13-034-14-022.00

COMMON COUNCIL  
April 29, 2019

CC20190429-2  
UNAPPROVED

**ELECTION OF COMMON COUNCIL PRESIDENT**

Council Member Arnett nominated Council Member Thome as Council President. The nomination was seconded by Council Member Burkart.

With Council Members Arnett, Burkart, Verhaalen, Chivinski, Thome and Galbraith voting for Council Member Thome and Aldermanic District 1 vacant, Council Member Thome was elected as Council President.

**ELECTION OF COMMON COUNCIL REPRESENTATIVE TO PLAN COMMISSION**

Council Member Burkart nominated Council Member Thome as Council Representative to the Plan Commission. The nomination was seconded by Council Member Arnett.

With Council Members Arnett, Burkart, Verhaalen, Chivinski, Thome, and Galbraith voting for Council Member Thome and Aldermanic District 1 vacant, Council Member Thome was elected as the Common Council Representative to the Plan Commission.

**CONSIDER RESOLUTION NO. 2019-05 TO AMEND THE COMPREHENSIVE LAND USE PLAN-2025 FOR A 5.52 ACRE PARCEL OF LAND LOCATED SOUTH OF W68 N158 EVERGREEN BLVD. FROM THE INDUSTRIAL AND MANUFACTURING CLASSIFICATION TO THE HIGH-MEDIUM DENSITY RESIDENTIAL CLASSIFICATION AND CONSIDER ORDINANCE NO. 2019-08 TO REZONE THE ABOVE PROPERTY FROM M-3 BUSINESS PARK DISTRICT TO RD-1 (PUD) TWO-FAMILY RESIDENTIAL DISTRICT/PLANNED UNIT DEVELOPMENT**



Mayor O'Keeffe opened the public hearing regarding the proposed Land Use Plan amendment and rezoning pertaining to the 5.52 acre parcel of land located south of W68 N158 Evergreen Blvd. at 7:07 p.m.

Planner Censky said that after months of meetings with the Plan Commission and a meeting with the Community Development Authority, Greg James has received a recommendation from the Plan Commission to amend the Comprehensive Land Use Plan from the Industrial and Manufacturing classification to the High-Medium classification for the vacant 5.52 acre parcel located south of W68 N158 Evergreen Blvd. The Plan Commission also recommended rezoning the site from M-3 Business Park District to Rd-1 (PUD) Two-Family Residential District and Planned Unit Development District for a two-family condominium project consisting of 13 structures, 26 units, located along a single private cul-de-sac that stretches from Evergreen Blvd. to a dead end at the Interurban Trail. The project will be restricted to seniors 55 years and older and building will be designed with this in mind.

According to the PUD Ordinance, the Plan Commission and the Common Council must acknowledge and recognize that through this zoning change they are approving the departures, listed below, from the standards of development as set forth in the City's Zoning Code, land division ordinance and other City regulations. Staff's review of these plans indicates the following departures from the standards:

11. Recommend a crowned road cross section with 24-foot asphalt pavement and 30-inch concrete curb and gutter.
12. City standard for private road is 5-inch asphalt on 9-inch crushed stone base.
13. The 5-foot wide path at the east end of cul-de-sac shall be constructed to connect with the Interurban Trail path.
14. A 24-foot gravel emergency drive, blocked by bollards, shall extend from the end of the cul-de-sac to Pioneer Road.

Council Member Thome reminded the Council this project will be constructed on a private street.

Council Member Arnett said he supports these requests because the project will add to the tax base and it is good for the City.

There being no public comment, Council Member Thome made a motion to close the public hearing at 7:14 p.m. Motion carried with Aldermanic District 1 vacant.

Motion made by Council Member Thome, seconded by Council Member Arnett, to adopt Resolution No. 2019-05 to amend the Comprehensive Land Use Plan – 2025 for a 5.52 acre parcel of land located south of W68 N158 Evergreen Blvd. from the Industrial and Manufacturing classification to the High-Medium Density Residential classification and to adopt Ordinance No. 2019-08 to rezone the above property from M-3 Business Park District to RD-1 (PUD) Two-Family Residential District/Planned Unit Development, subject to the above conditions. Motion carried with Aldermanic District 1 vacant.

**CONSIDER APPLICATIONS/CONDUCT INTERVIEWS/CONSIDER APPOINTMENT TO FILL THE 1<sup>ST</sup> DISTRICT ALDERPERSON VACANCY**

Individuals applying for the 1<sup>st</sup> District Aldermanic vacancy are Brett Krzykowski, N99W5820 Oxford Drive, Richard Bauzenberger, W56 N1176 James Circle, Sara Dunstone, N103 W6121 Susan Lane, and Sherry Bublitz, N104 W5850 Henry Court. After introductions, the candidates were interviewed by the Council and provided answers to questions submitted to them in advance of the meeting.

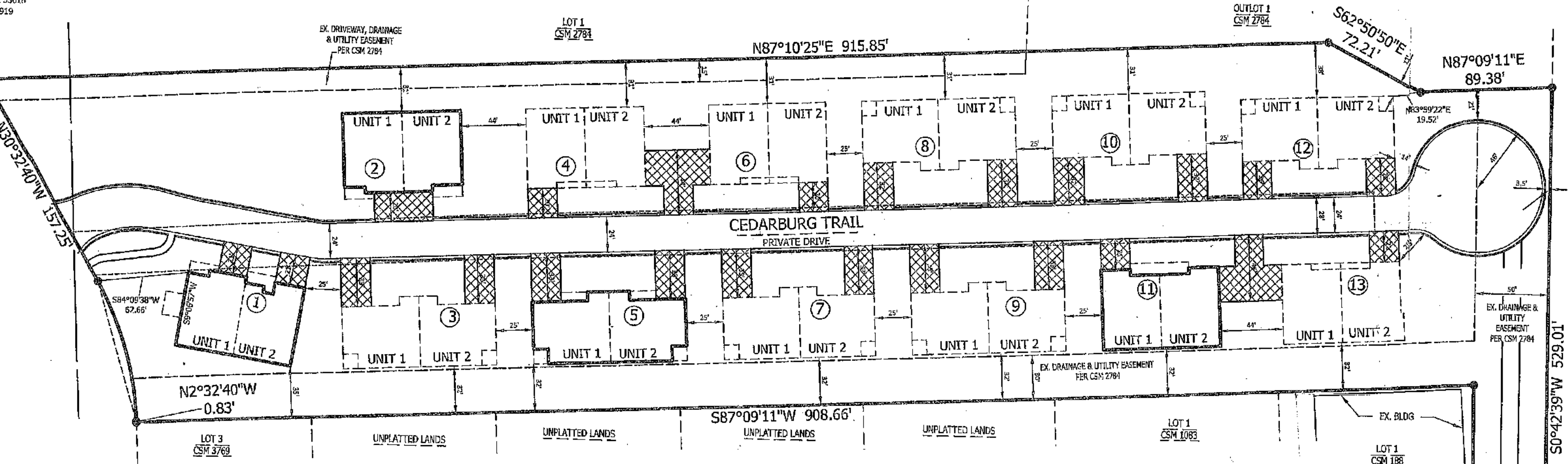
Mayor O'Keefe thanked the candidates for applying for the position. He said the constituents of District I would be proud to have any of the candidates represent them. He reminded the candidates that there are plenty of opportunities to serve on boards, committees, and commissions and that the election for this position is next April.

City Clerk McHugh said according to Policy CC-20A on filling aldermanic vacancies, each Council Member votes for one candidate. The individual receiving the least number of votes on the first ballot will no longer be considered a candidate and additional balloting continues using the same process until only one candidate receives a majority of the votes cast. A candidate must receive a majority of votes from the Council, but not less than three, to be elected. In the case of a tie vote for the final two candidates for an aldermanic position, the Mayor will break the tie. Council voting is done by paper ballot and voting results are announced. Ballots must contain the name of the person voting, as well as the name of the person voted for, so that the vote of each member can be ascertainable.

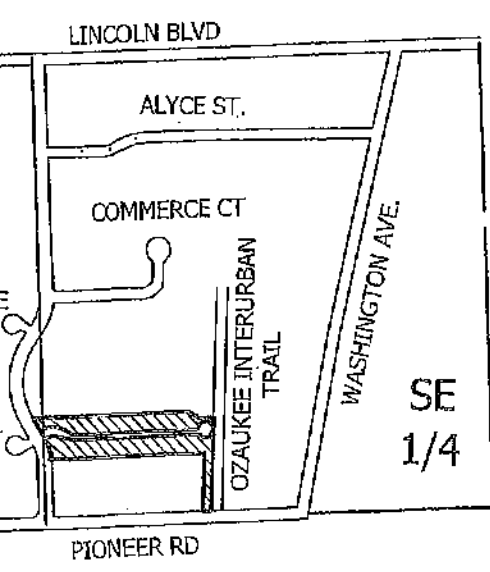
# RG TRAIL CONDOMINIUM

ALL OF LOT 1 OF CERTIFIED SURVEY MAP \_\_\_\_\_,  
 SE 1/4 OF THE SW 1/4 AND THE SW 1/4 OF THE SE 1/4  
 OF SEC. 34 T.10N., R.21E.,  
 CITY OF CEDARBURG, OZAUKEE COUNTY, WISCONSIN

BY: SURVEY FOR:  
 PLS-2082 CONDO DEVELOPMENT, INC  
 318 NORTH LAKE ROAD #101  
 OCONOMOWOC, WI. 53066  
 AVE 15301R  
 919



## LOCATION MAP



**LEGEND**

- - 1" DIA. IRON PIPE FOUND
- ▨ - DENOTES LIMITED COMMON ELEMENT

**SCALE IN FEET**

0 30 60

**SURVEYOR'S CERTIFICATE:**  
 I, Keith A. Kindred, PLS, do hereby certify I certify that I have surveyed the above described property and that this survey is an accurate representation of the exterior boundary lines and the location of the buildings and improvements constructed or to be constructed upon the property.

This plat is a correct representation of the Condominium Plat of CEDARBURG TRAIL CONDOMINIUM, consisting of \_\_\_ sheet, as proposed at the date hereof, and the identification and location of each unit and the common elements can be determined from the plat. The undersigned surveyor makes no certification as to the accuracy of the floor plans of the condominium buildings and units contained in the plat and the approximate dimensions and floor areas thereof.

RECEIVED  
 OCT -7 2019  
 CITY OF CEDARBURG

**DEVELOPMENT AGREEMENT**  
Cedarburg Trail Condominiums  
Cedarburg, Wisconsin

**THIS DEVELOPMENT AGREEMENT** (this "Agreement") is made as of the \_\_\_ day of January, 2020, by and between the CITY OF CEDARBURG, a Wisconsin municipal corporation (the "City") and Condo Development, Inc. (the "Developer").

**RECITATIONS**

0.1 The Developer owns the Property (as hereinafter defined). The tax key number of the Property is provided in Exhibit A;

0.2 The Developer desires to develop 13 side-by-side duplex condominium buildings with a total of 26 units on the Property and record a Certified Survey Map (as hereinafter defined) as provided in Exhibit B to create easements for public utilities;

0.3 The Property is conditionally zoned as a Planned Unit Development Overlay District ("PUD") and City Ordinance § 13-1-69(n)(2) requires that the Plan Commission recommend and the City Council approve a Development Agreement which shall include, without limitation:

- (a) Timetables for performance/completion of the Improvements (as hereinafter defined);
- (b) Performance requirements and standards and assurances for all Improvements and/or modifications pertaining to the PUD;
- (c) Inspection requirements;
- (d) Prohibition on any division/combination of real estate lots included within the PUD District except as otherwise provided;
- (e) Provisions for lapsing of specific plan approval and automatic reversion of the zoning status of the Property to non-PUD District status upon specific changes of circumstances or failure of the Development (as hereinafter defined) to materialize as agreed to in the Development Agreement;
- (f) Agreements, provisions and/or covenants or additional deed restrictions to be recorded against the lot(s) within the PUD District that will perpetually govern the use, maintenance and continued preservation and protection of the Development and any of its common services, common open areas and/or other facilities;



- (g) Exhibits, drawings or other attachments that depict Improvements, including but not limited to structures, fixtures and landscaping and their relative locations in the Development area as well as design and engineering details as necessary to document to a reasonable degree of specificity the type, character and nature of Improvements to be made within the Development area.

0.4 The Developer has caused engineering, planning and design services to be performed in preparation for construction of certain Improvements for the Development and will cause additional such services to be performed as the site is developed; and

0.5 The Developer intends to contract for installation of certain other site Improvements; and

0.6 The City shall cause inspections and approvals of the Improvements being dedicated to the City during installation by Developer based on the City approved civil engineering plans.

## **AGREEMENT**

**NOW, THEREFORE**, in consideration of the foregoing recitations, which are acknowledged to be true and correct, the mutual covenants, representations and warranties set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### **Article 1**

#### **Definitions**

The following terms, whenever used in this Agreement, shall have the following meanings:

1.01 "Contract Documents" means all documents now or hereafter evidencing contracts with the Developer or its contractors, sub-contractors or affiliates for construction and installment of the required Improvements set forth in the Improvement Plans and all addenda and amendments thereto.

1.02 "Improvements" means the improvements as described in § 4.02 below, to be installed for the benefit of the Development by the Developer (or by contract with the Developer, whether under the Contract Documents as described in § 1.01, or otherwise).

1.03 "Certified Survey Map" means the Certified Survey Map presented to the Cedarburg Common Council on November 11, 2019 and other pertinent authorities for final approval and recording with the Ozaukee County Register of Deeds Office. For purposes of this Agreement, the Certified Survey Map is comprised of the Development site, certain utility easements to be dedicated to the City and those public roadway areas adjacent to the Development. A true and complete copy of the Certified Survey Map is attached hereto as Exhibit "B" and is incorporated herein by reference.

1.04 "Improvement Plans" means the improvement, grading and landscape plans prepared by SEH with last revision dated September 30, 2019 submitted by the Developer as approved by the City, along with any approved amendments or supplements. A true and complete copy of the Improvement Plans is attached hereto as Exhibit "C" and is incorporated herein by reference.

1.05 "Financial Guarantee" means one or more letters of credit or development bonds issued in conformity with the terms and conditions of this Agreement in the amount determined by the "Schedule of Values for Financial Guarantees" with respect to the Property.

1.06 "Property" means all the real property as described on Exhibit "A".

1.07 "Development" means the 13 side-by-side condominium buildings with a total of 26 units to be constructed on the Property.

## **Article 2**

### **Term**

The term of this Agreement shall commence upon due execution hereof by or on behalf of all parties.

## **Article 3**

### **Developer's Representations and Warranties**

The Developer represents and warrants that:

3.01 Good Title. The Developer owns all of the Property free and clear of all liens and encumbrances other than encumbrances shown on the title policy for the Property and mortgages for the purpose of developing the Property, and that it has retained sufficient rights in and to the balance of the Property so as to make all provisions of this Agreement valid and enforceable against the Developer and all successors in interest.

3.02 Contract Documents. The Developer has examined the Contract Documents, is familiar with the specifications set forth therein, and has determined that they are adequate and sufficient for the Developer's purposes.

3.04 Authority. The Developer has received all required approvals to enter into this Agreement and the signatures below shall bind the Developer.

## **Article 4**

### **Duties of the Developer**

4.01 Storm Water Pond Maintenance. This development will utilize the Cedarburg Business Park pond to treat and store site storm water runoff. Developer agrees to enlarge and alter the pond to accommodate site drainage per the approved Improvement Plans. Upon completion of the enlargement and final restoration by Developer, the City will accept perpetual maintenance responsibilities for the enlarged pond.

4.02 Construction Duties of the Developer. The Developer shall construct and install the Improvements in a single phase and pay all costs therefor, pursuant to the applicable Contract Documents and Improvement Plans, as follows:

- (a) Site Grading. Grade the site pursuant to the Improvement Plans and § 14-1-73(c) of the City of Cedarburg Zoning Code approved by the City Engineer. The City acknowledges that a portion of the site (up to 1 acre in size) may be used for storing topsoil and/or fill during construction and may remain ungraded until completion of construction of all of the units in the Development. Prior to the installation of all underground utilities, Developer shall certify to the City that the grading has been completed in compliance with the aforementioned Improvement Plans. In the event that the actual grade is not in compliance, Developer shall pay all costs associated with relaying the underground electrical services.
- (b) Sanitary Sewerage Systems. Developer agrees to pay for and install all onsite sanitary sewerage facilities including all sewer mains and service laterals necessary to serve the Development as depicted in the Improvement Plans. All sanitary sewer mains shall be dedicated to the City.
- (c) Water Supply Facilities. Developer agrees to pay for and install all onsite water supply facilities including all water mains, service laterals and appurtenances necessary to serve the Development as depicted in the Improvement Plans as approved by the City. All water mains shall be dedicated to the City.
- (d) Storm Water Drainage Facilities. Developer agrees to pay for and install all onsite storm water drainage facilities pursuant to § 14-2 necessary to serve the Development as depicted in the Improvement Plans as approved by the City. All on-site storm sewer and grass swales shall be private and shall be maintained by the Developer and subsequent property owners in perpetuity.
- (e) Private Utilities. Developer shall file preliminary plans and Developer agrees to pay for and install private underground gas mains, electric distribution lines, cable television and telephone cables, pursuant to § 14-1-59.
- (f) Record Drawings. Prepare record drawings for those portions of the above work that are being dedicated to the City, pursuant to § 14-1-52(e). Developer shall prepare such drawings for work completed during each phase of the Development. Provide full sized prints on 4 mil mylar as well as an electronic version in Auto Cad.
- (g) Curb and Gutter. Developer agrees to pay for and install concrete curb and gutter along the private road as shown on the Improvement Plans and pursuant to § 14-1-54.
- (h) Sidewalks and Walking Paths. Developer agrees to pay for and install 5-foot wide concrete sidewalk along the Evergreen Boulevard frontage, and as shown on the Improvement Plans and as approved by the City Engineer, pursuant to § 14-1-67. Developer shall also construct a paved private sidewalk connection from the private road cul-de-sac to the Interurban Trail. All sidewalks installed for public use shall

be located in the public road right-of-way and be dedicated to the City. The Developer and subsequent property owners shall be responsible for the clearing of snow, ice or other materials that might limit the public use of the sidewalks.

- (i) Intersection Improvements. Developer agrees to pay for and install a fully improved "T" intersection with Evergreen Boulevard to include concrete curb and gutter and sidewalk as required by the City. Such improvements shall be dedicated to the City.
- (j) Street Lighting. Street lighting within the site shall be private lighting maintained by the Developer as approved by the Plan Commission.
- (k) Street Signs. The Developer agrees to pay for, and the City agrees to install street identification signs for the intersection with Evergreen Boulevard pursuant to § 14-1-61 and any traffic control signage as required by the City Engineer. Intersection traffic control signage shall be dedicated to the City.
- (l) Landscaping Other Than Street Trees. Developer shall pay for and install landscape features as shown in the Improvement Plans.
- (m) Street Trees. Developer shall pay for street trees along the frontage on the east side of Evergreen Boulevard, as shown on the Improvements Plans and pursuant to § 14-1-62. The City Forester will select the tree species and contract out the tree planting as part of the annual street tree program. The City Forester will plant the trees after the sidewalk and curb and gutter are installed, and the parkway turf is established. All such trees shall be dedicated to the City.
- (n) Erosion Control. Developer shall pay for, install and maintain erosion control using best management practices and pursuant to § 14-1-63, Chapter 14-2, and Chapter 15-2. Developer must comply with all applicable DNR permits, the City's Erosion Control Permit, and the Storm Water Management Permit.

4.03 Time for Completion. Each of the items in § 4.02 above shall be completed on the dates specified in this Agreement. ~~Pursuant to § 13-1-69(e)(2)(4)~~ Subject to an extension granted by the City Council, if a building permit is not issued for the first condominium unit in the Development within one (1) year of receiving the PUD zoning, the PUD district zoning for the Property shall be automatically discontinued and replaced with the zoning designation that existed prior to the PUD rezoning.

4.04 Impact and Connection Fees. Subject to the provisions of any State of Wisconsin law, prior to issuance of any building permit for a condominium building and payable at the time of building permit application, the following impact and connection fees will be due for condominium unit:

WWTF Reserve Capacity Fee	\$ 688.04 per unit
Library Building Fee	\$ 892.88 per unit
Police Station Fee	\$ 1,021.45 per unit
Park Facilities Fee	\$ 1,219.39 per unit
Water Supply Facilities Fee	\$ 2,007.82 per unit
Sanitary Sewer Connection Fee	\$ 1,477.58 per unit

The fees set forth above are based on the City's rates for 2020.

All of the above impact and connection fees are subject to an annual adjustment pursuant to § 3-6-9 of the Code of Ordinances.

4.05 Developer Payments.

- (a) Parkland Dedication and Fee in Lieu of Parkland Dedication. Developer shall pay a fee-in-lieu of Parkland Dedication for the Development in the amount of \$904.91 per condominium unit. The fee for each unit is due at the time of Building permit issuance for such unit.
- (b) City Street Trees. The Developer shall pay the City of Cedarburg for furnishing and planting 4 street trees at \$300.00 each for a total of \$1,200.00. The City Forestry Department will hold these funds in a segregated street tree account and will purchase and plant street trees when the roadway improvements are completed. This charge is due in full upon issuance of the first Building permit.
- (c) Other Improvement Costs. Developer is responsible to pay for all reasonable engineering, administrative and legal fees associated with the Development, during the installation of public utilities, including the cost of construction inspection, materials testing, preparation of as-built drawings, and other fees associated therewith.
- (d) Account Statements. Developer shall review and approve all engineering, inspection, and attorney draw requests received by the City and pertaining to the Improvements. The City shall provide copies of each such request with supporting documentation to the Developer.
- (e) Recording Fees. Developer shall pay to the Register of Deeds for Ozaukee County all recording fees due for the recording of the Certified Survey Map, and any separate dedication instruments and grants of easements as are directly attributable to the Development.

4.06 Property Manager. The Developer shall act as or shall retain a property manager who will be responsible for the maintenance of the private roadway and all common elements.

4.07 Financial Guarantee. Developer shall provide an irrevocable letter of credit or an approved development bond to the City, which shall not expire prior to fourteen (14) months following the completion of all Improvements being dedicated to the City shown on the Improvement Plans, for the estimated costs of the installation of all such Improvements including: erosion control, enlargement of the storm water pond, surface lift of asphalt pavement, public utilities, sidewalks, inspection and engineering fees. The Developer may apply for a reduction of the Financial Guarantee pursuant to § 14-1-51 of the Cedarburg Zoning Code Regulations. The City shall be authorized from time to time to draw against the Financial Guarantee for costs incurred and due the City pursuant to this Agreement if the Developer has not made payments or not completed required work in a timely manner as determined by the City Engineer.

The amount of the Financial Guarantee shall be based on the Bids/Estimates for the Improvements as set forth in the Schedule of Values in § 4.08 of this Agreement.

4.08 Schedule of Values for Financial Guarantee. Developer shall provide the Financial Guarantee which shall be dated no later than seven (7) days prior to the commencement of construction of the Improvements, in the amounts set for in § 4.06 and the Schedule of Values attached hereto. The Financial Guarantee shall be sufficient to cover the estimated costs to complete the Improvements for the Development that are being dedicated to the City based on § 4.02 and the Schedule of Values for the Development which include, but are not limited to, the required sewer and water main extensions and street signs.

[SCHEDULE OF VALUES FOR FINANCIAL GUARANTEE ON NEXT PAGE]

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK]

**SCHEDULE OF VALUES FOR FINANCIAL GUARANTEE**

**Item**

	<b>ESTIMATED COST</b>
Enlargement of storm water pond	\$ 30,000
Erosion control	\$ 5,000
Sanitary Sewer	\$105,000
Water Main	\$ 96,000
Asphalt Pavement surface layer	\$ 20,000
Evergreen Boulevard Concrete Sidewalk	\$ 10,000
Street Signs	\$ 1,500
Legal Fees (City)	\$ 2,000
Inspection Fees (including but not limited to City Administration fees)	<u>\$ 10,000</u>
<b>Sub Total of Construction and Related Costs (Rounded)</b>	<b>\$279,500</b>
Add 20% additional Contingency	<b>\$55,900</b>
<p>THE SCHEDULE OF VALUES FOR EACH LINE ITEM IS BASED ON ESTIMATES. ACTUAL LINE ITEM COSTS MAY VARY. THE TOTAL FINANCIAL GUARANTEE IS AVAILABLE TO THE CITY FOR COMPLETION OF EACH LINE ITEM. THE CITY IS NOT ACTING IN A FIDUCIARY CAPACITY AS TO THE FINANCIAL GUARANTEE.</p>	

**TOTAL OF FINANCIAL GUARANTEE: \$335,400**

4.09 Completion Schedule. Developer shall complete the Improvements being dedicated to the City no later than October 31, 2020.

4.10 Quality of Work.

- (a) All work performed under the provisions of this Agreement shall be done in a workmanlike manner in accordance with prevailing standards in the construction industry and all Improvements being dedicated to the City shall be done in accordance with established standards and specifications of the City as directed by the City Engineer.
- (b) The City shall have the right during the course of construction of Improvements being dedicated to the City under this Agreement to direct the Developer to issue contract change orders to be paid by Developer, and to amend the plans and specifications, but only to the extent required to assure that construction will conform to City standards and specifications. All contract change orders proposed by Developer involving public rights of way or easements shall be approved by the City.

**Article 5**

**Indemnification**

5.01 Indemnification Agreement.

- (a) In addition to, and not to the exclusion or prejudice of, any other provision of this Agreement, the Developer shall indemnify and hold harmless the City, its officers, agents and employees, and shall defend the same, from and against any and all liability, claims, loss, damages, interest, action, suits, judgments, costs, expenses, reasonable attorneys' fees and the like, to whomsoever owed and by whomsoever and whenever brought or obtained, which may in any manner result from the work performed or the responsibilities of the Developer under this Agreement, expressly including, though not limited to, negligence and the breach of any duty whether imposed by statutes, ordinances, regulations, order, decree or law of any other sort or by contract, on the part of the Developer or its officers, employees, agents or independent contractors, in carrying out the work and in supervising and safeguarding the same in any respect whatever, and including claims arising under any federal, state or local law, including Worker's Compensation laws and including negligence and the breach of any duty whether imposed by statutes, ordinances, regulations, order, decree or law of any other sort or by contract, on the part of the Developer or its officers, employees, agents or independent contractors, in carrying out the work and in supervising and safeguarding the same in any respect.
- (b) If a claim is made against the City related to work performed by the Developer or the responsibilities of the Developer under this Agreement, the City agrees that it shall, within ten (10) days of its notice thereof, notify the Developer and any liability insurance carrier, which has been designated by the Developer. The Developer shall thereafter provide full cooperation in defense of the claim. The Developer shall, at the option of the City, defend any claim on behalf of the City in



which case the Developer or its insurer is authorized to act on behalf of the City in responding to any claim to the extent of this indemnity. Such authorization includes the right to investigate, negotiate, settle and litigate any such claim and control of the defense thereof subject to the approval of the City.

5.02 Extent of Damages. In every case, but not as a limitation on the liability of the Developer to the City, where judgment is recovered against the City on any such claim as provided in this Article 5, if notice has been given to Developer under § 5.01 above, any judgment thereon shall be conclusive upon the Developer as to the amount of damages and as to its liability therein; provided, however, notwithstanding anything to the contrary contained herein, the City shall reserve and maintain all of its rights and remedies to pursue recovery of all legal and equitable remedies.

5.03 Limitations as to Financial Guarantee. It is expressly understood and agreed by the City, unless specifically directed and authorized by the Developer, that the Financial Guarantee as required of the Developer pursuant to § 4.07 above, is not subject to any draw by the City, or any other party or person, to pay for any, or all, claims for personal injury and property damage arising from the construction or installation of such Improvements, but that the Financial Guarantee is exclusively limited to the payment for the Improvements not provided for by the Developer pursuant to the terms hereof, and for no other purposes.

## **Article 6**

### **Compliance**

6.01 Compliance With Law and Regulations. The Developer shall, in the performance of this Agreement, comply with, and give all stipulations and representations required by all applicable federal, state and local laws, ordinances and regulations. The Developer shall also require such compliance, stipulations and representations with respect to any contract entered into by Developer with others pertaining to the work covered by this Agreement.

6.02 Public Records Law The Developer understands that the City is bound by the Wisconsin Public Records Law, Wis. Stat. Sec.19.21, *et. Seq.*, Pursuant to Wis. Stat. Sec. 19.36(3), City may be obligated to produce, to a third party, the records of Developer that are “produced or collected” by Developer under this Agreement (“Records”). Developer is further directed to Wis. Stat. Sec. 19.21, *et. Seq.*, for the statutory definition of Records subject to disclosure under this paragraph, and Developer acknowledges that it has read and understands that definition. Irrespective of any other term of this Agreement, Developer is (1) obligated to retain Records for seven years from the date of the Record’s creation, and (2) produce such Records to City if, in City’s determination, City is required to produce the Records to a third party in response to a public records request. Developer’s failure to retain and produce Records as required by this paragraph shall constitute a material breach of this Agreement, and Developer must defend and hold the City harmless from liability due to such breach.

## Article 7

### Conditions and Waivers

Except as otherwise provided in this Agreement, the City shall have no duty to issue building permits for construction of buildings within the Development unless and until all the following have occurred:

7.01 Improvements. Construction of the Improvements for the Development are completed pursuant to § 4.02, and the sanitary sewer and water main Improvements are dedicated and accepted by the City, in accordance with the schedule specified in Section 4.09.

7.02 Impact Fees. The Developer has paid the fees referenced in 4.05 (a) and (b) for the condominium units for which the building permit is requested and all impact and connection fees for the issuance of a building permit for such condominium unit.

7.03 Grading Complete. The Developer has completed the work required on the Improvement Plans to rough grade, which shall accommodate proper and positive surface water drainage substantially in accordance with the Improvement Plans.

## Article 8

### Additional Terms

8.01 Time is of Essence. The times of performance of the terms and requirements of this Agreement and of the satisfaction and waiver of the conditions hereof are essential to the whole of this Agreement.

8.02 Dedication. Subject to the applicable provisions of the City Ordinances, as amended, upon the final approvals of the Common Council and recording of the Certified Survey Map, the public utility easements dedicated therein by the Developer may be accepted by the City. Additionally, the Developer shall, without charge to the City, upon completion of all of the Improvements being dedicated to the City pursuant to § 4.02, unconditionally give, grant, convey, and fully dedicate the same to the City, and its successors and assigns forever, free and clear of all encumbrances whatsoever, including, without limitation, any and all structures, mains, conduits, pipes, lines, equipment, and appurtenances pertaining to such Improvements. After such Dedication, the City shall be solely responsible for the maintenance, repair and replacement of such Improvements and have the right to connect or integrate other Improvements or public facilities to the Improvements hereunder as the City decides, without payment or award to, or consent required of, the Developer.

8.03 No Waiver: Remedies. No failure on the part of either party to exercise, and no delay in exercising any right, power, or remedy under this Agreement or the Contract Documents shall operate as a waiver thereof; nor shall any single or partial exercise of any right under this Agreement or the Contract Documents preclude any other or further exercise thereof or the exercise of any other right. The remedies provided herein are cumulative and not exclusive of any remedies provided by law.

8.04 Notices. All notices and other communications provided for under this Agreement shall be in writing (including telefax communications) and mailed (certified), sent by facsimile, or personally delivered:

If to the City, as follows:

Thomas Wiza  
Director of Engineering and Development  
Cedarburg City Hall  
W63 N645 Washington Avenue  
Cedarburg, WI 53012  
Fax: (262) 387-2051

With a copy to:

Attorney Michael Herbrand  
Houseman and Feind, LLP  
Attorneys at Law  
1650 9<sup>th</sup> Avenue  
Grafton, WI 53024  
Fax: (262) 377-6080

If to Developer, as follows:

With a copy to:

or, as to each party, at such other address as shall be designated by such party in a written notice to the other party in accordance herewith. Delivery of all such notices and communications shall be deemed complete, (a) if mailed, when deposited in the mail for certified mail, return receipt requested, postage prepaid, or (b) if sent by facsimile, when confirmed as being received by the party to whom faxed or delivered, or (c) when personally delivered.

8.05 Force Majeure. The obligations of either of the parties hereunder shall be suspended to the extent that it is hindered or prevented from complying therewith because of labor disturbances, including strikes and lockouts, acts of God, fires, storms, accidents, or any cause whatsoever beyond the control of the parties.

8.06 Amendments. No amendment, modification, termination, or waiver of any provision of this Agreement, nor consent to any departure from this Agreement shall in any event be effective unless the same shall be in writing and signed by both parties, and it shall be effective only in the specific instance and for the specific purpose for which given.

8.07 Assignment. This Agreement, and the interests hereunder, shall not be assigned except with the prior, written consent of the City.

8.08 Survival. All of the terms, conditions, and provisions of this Agreement, including but not limited to, all indemnification provisions, shall survive the completion of this Agreement.

8.09 Severability of Provisions. Any provision of this Agreement which is prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement.

8.10 Headings. Article and Section headings in this Agreement are included for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.



CEDARBURG TRAIL CONDOMINIUMS  
CONDO DEVELOPMENT, INC.

by: \_\_\_\_\_  
Gregory James, President

STATE OF WISCONSIN     )  
                                          ) ss  
COUNTY OF MILWAUKEE)

Personally came before me this \_\_\_\_ day of January, 2020, the above-named Gregory James, to me known to be the person who executed the foregoing instrument and acknowledged the same on behalf of Condo Development, Inc. by its authority.

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission: \_\_\_\_\_

Drafted by:  
City of Cedarburg

After recording, please return to:  
Claire Woodall-Vogg, City Clerk  
City of Cedarburg  
P.O. Box 49  
Cedarburg, WI 53012-0049

## EXHIBIT A

### Legal Description of Property

#### Parcel 1:

Lot 2 of Certified Survey Map No. 2784, recorded March 17, 1995 in Volume 20 of Certified Survey Maps, Pages 66 to 68, as Document No. 535066, being a redivision of part of Lot 2 of Certified Survey Map No. 2361 recorded in Volume 17 of Certified Survey Maps, Pages 225 to 229, located in the Southeast  $\frac{1}{4}$  and the Southwest  $\frac{1}{4}$  of Section 34, Town 10 North, Range 21 East, in the City of Cedarburg, County of Ozaukee, State of Wisconsin.

Tax Key No. 13-034-14-022.00

#### Parcel 2:

Part of Outlot 1 of Certified Survey Map 2784, located in the SE  $\frac{1}{4}$  and the SW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 34, Township 10 North, Range 21 East, City of Cedarburg, Ozaukee County, Wisconsin, more fully described as follows:

Commencing at the South  $\frac{1}{4}$  corner of Section 34; thence N.  $02^{\circ} 32' 40''$  W., along the West line of the SE  $\frac{1}{4}$ , a distance of 33.00 feet; thence N.  $87^{\circ} 09' 11''$  E., 40.00 feet, to the intersection of the Northerly right-of-way line of Pioneer Road and the Easterly right-of-way line of Evergreen Boulevard, thence N.  $02^{\circ} 32' 40''$  W. 334.92 feet to the Southwest corner of Lot 2 of Certified Survey Map No. 2784. Thence continuing along the Easterly right-of-way of Evergreen Boulevard, N.  $02^{\circ} 32' 40''$  W. 0.83 feet; thence 100.18 feet along the arc of a curve to the left with a radius of 205.00 feet, whose chord bears N.  $16^{\circ} 32' 40''$  W. 99.19 feet; thence N.  $30^{\circ} 32' 40''$  W. 157.25 feet; thence N.  $87^{\circ} 10' 25''$  E., along the South line of Lot 1 of Certified Survey Map No. 2784, a distance of 915.85 feet to the point of beginning; thence S.  $62^{\circ} 50' 50''$  E. 72.21 feet; thence S.  $87^{\circ} 09' 11''$  W., 271 feet; thence N.  $0^{\circ} 42' 39''$  E. 36.06 feet; thence N.  $87^{\circ} 10' 25''$  E., 206.55 feet to the point of beginning.

Tax Key No. PT. 13-034-14-000.01

The above described Parcels to be known as:

Lot 1, Certified Survey Map No. \_\_\_\_\_, being all of Lot 2 and part of Outlot 1 of Certified Survey Map No. 2784, located in the Southeast  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  and the Southwest  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of Section 34, Township 10 North, Range 21 East, recorded in the Office of the Register of Deeds for Ozaukee County on \_\_\_\_\_, in the City of Cedarburg, Ozaukee County, Wisconsin.

**EXHIBIT B**

Certified Survey Map

[To be inserted]

**EXHIBIT C**

Improvements Plans, including Landscape Plans, Completed by

[To be inserted]



**CITY OF CEDARBURG**

**MEETING DATE:** February 10, 2020

**ITEM NO:** 9 B..

**TITLE:** Consider assistance of Cedarburg Police Department Officers and assets to Milwaukee Police Department to assist with Democratic National Convention; and action thereon

**ISSUE SUMMARY:** The Milwaukee Police Department has sent out a wide area request for assistance for law enforcement agencies to provide law enforcement officers to assist their agency during the Democratic National Convention. Milwaukee has indicated that for any officers sent, all wages, benefits and mileage will be reimbursed as well as insurance protection. If you approve to send resources only officers who are off will be sent and protection staffing for our city will not be reduced. Our City Attorney has reviewed the documents related to this request and does not have any concerns.

**BOARD, COMMISSION OR COMMITTEE RECOMMENDATION:** None

**BUDGETARY IMPACT:** All costs should be reimbursed.

**ATTACHMENTS:** Documents from Milwaukee Police Department related to this request.

**INITIATED/REQUESTED BY:** Chief Thomas J. Frank

**FOR MORE INFORMATION CONTACT:** Chief Thomas J. Frank (375-7620)

Intergovernmental Agreement for Law Enforcement Services for the 2020  
Democratic National Convention in Milwaukee, Wisconsin

[Agency Name]

**This Intergovernmental Agreement** for Law Enforcement Services for the 2020 Democratic National Convention in Milwaukee, Wisconsin is made as \_\_\_\_\_, 20\_\_\_\_, (the “Effective Date”) by and between the City of Milwaukee, Wisconsin (“City”) and \_\_\_\_\_ (the “Agency”) for the provision of law enforcement services to facilitate the safe and secure completion of scheduled Convention events and the protection of Convention delegates, dignitaries, media and the general public.

**1. Definitions.**

“Agreement” means this Intergovernmental Agreement for Law Enforcement Services for the 2020 Democratic National Convention in Milwaukee, Wisconsin, and all of its exhibits, attachments, and schedules.

“Agency” is defined in the introductory paragraph of this Agreement.

“Agency Commanding Officer” means the member of Agency Personnel designated by Agency to receive assignments from the City MPD Commanding Officer, to coordinate Agency Personnel in such a manner as to carry out those assignments, and to receive and respond to such administrative requests as City MPD deem necessary to fulfill the requirements of the Security Plan and fulfill the requirements of the federal security grant under which Agency will serve as a subrecipient. Agency Commanding Officer(s) shall be identified as such in Exhibit A.

“Agency Personnel” means all of the employees of Agency that Agency agrees to supply to City for the purposes of fulfilling Agency’s obligations under this Agreement. “Agency Personnel” includes, but is not limited to, Agency’s LEOs.

“Agency Emergency Event” means a court order preventing Agency from fulfilling its obligations under this Agreement or a public emergency in Agency’s jurisdiction of such magnitude that even after incurring reasonable overtime expenses, Agency cannot adequately provide for the safety of the public without the services of some or all of the Agency Personnel.

“City” is defined in the introductory paragraph of this Agreement. “City” includes City MPD.

“City MPD” means the City of Milwaukee Police Department, a department of the City.

“City MPD Commanding Officer” means any of the following City MPD chain of command: Chief of Police Alfonso Morales, Asst. Chief Michael Brunson, or their designees. The City may amend this list of individuals at any time by providing notice to the Agency In Writing.

“City MPD Policies” means City MPD’s Code of Conduct and standard operating procedures, along with those state and local laws regulating police services in the State of Wisconsin and the City of Milwaukee, as may be amended from time to time. City MPD’s Code of Conduct and standard operating procedures are available online at <https://city.milwaukee.gov/Directory/police/About-MPD/Code-of-Conduct.htm#.XMhwordKiUk>.

“Convention” means the 2020 Democratic National Convention scheduled to take place from July 13 to 16, 2020, for which the City has been selected as the host city.

“Convention Facilities” means any venue, hotel, office, event space, public space or any other location, indoors or outdoors, within the Metropolitan Area that is designated in the Security Plan as a location where Convention events are occurring, Convention attendees are staying or where Convention-related security services are required during the Convention Security Period pursuant to the Security Plan.

“Convention Security Period” means the time period set forth in the Security Plan during which Agency’s law enforcement services are required to supplement the City’s law enforcement services. The exact dates of the Convention Security Period will be mutually agreed upon by the Parties after completion of the Security Plan. For planning purposes at the time the Agreement is executed, the Convention Security Period may reasonably be expected to extend from approximately July 10, 2020 through July 20, 2020.

“DNC” means the DNC Services Corp., a District of Columbia nonprofit corporation, or an entity affiliated with DNC Services Corp.

“Effective Date” is defined in the introductory paragraph of this Agreement.

“Host Committee” means The Good Land Committee, Inc., a Wisconsin non-stock, nonprofit corporation.

“In Writing” means a written document signed by the City MPD Commanding Officer(s) utilizing forms attached hereto as Exhibit D. PDF signatures are acceptable. E-mail authorizations are “In Writing” only if the email originates from the official City email account (@milwaukee.gov) of one of the individuals specified in this paragraph. Text messages, Facebook messages, and similar social media messaging messages are not “In Writing” and should not be used for official purposes.

“LEO” means a law enforcement officer employed by the Agency who is licensed or certified as a law enforcement officer according to the state and local laws of the Agency.

“Metropolitan Area” means the City of Milwaukee metropolitan area, which encompasses those surrounding municipalities containing Convention Facilities and events and as may be further defined in the Security Plan. “Metropolitan Area” may include locations outside of what is traditionally thought of as metropolitan Milwaukee.

“Party” means either the City or Agency, individually.

“Parties” means the City and Agency, collectively.

“Security Plan” means the security plan developed by the City in cooperation with the USDHS and its subsidiary agencies and divisions, including, but not limited to, the USSS, and in cooperation with other appropriate federal, state and local law enforcement and emergency services agencies, and in consultation with the DNC and the Host Committee for the provision of police, fire, security, bomb disposal and emergency and rescue services in and around the Convention Facilities and at all official Convention-related meetings and activities in the Metropolitan Area.

“USDHS” means the United States Department of Homeland Security.

“USSS” means the United States Secret Service.

## **2. Authority.**

2.1. Statutory Authority. Wisconsin Statutes § 66.0313 provides that any Wisconsin law enforcement agency may assist a requesting Wisconsin law enforcement agency with their law enforcement efforts within the requesting agency's jurisdiction. Such mutual assistance may include, but is not limited to, the use of specialized equipment, facilities and trained personnel. Wisconsin Statutes § 66.0303 allows a Wisconsin law enforcement agency to enter into a mutual aid agreement with a law enforcement agency of another state subject to certain statutory limitations, including the approval of the Attorney General of the State of Wisconsin. If Agency is located in a state other than Wisconsin, Agency Personnel may not act with any arrest or other police authority in Wisconsin, pursuant to Wis. Stat. 175.46.

2.2. Authority to Execute. Each Party represents that it, and the person(s) signing on its behalf, possesses the legal authority, pursuant to appropriate statute, ordinance, resolution, or other official action of the Party's governing body or code, to enter into this Agreement and to validly and legally bind the Party to all terms herein.

## **3. Background.**

3.1. The City has been designated as the host city of the Convention by the DNC, to be held July 13 to 16, 2020 at the Fiserv Forum and many surrounding venues throughout the Metropolitan Area.

3.2. The Convention has been classified by the federal government as a National Special Security Event, for which the USSS is the authorized lead agency for the design and implementation of the Security Plan.

3.3. The City, through its City MPD, is responsible for coordinating local law enforcement efforts in compliance with the Security Plan. In this role, the City seeks to promote the safety and welfare of all Convention participants and members of the public, while enabling individuals to exercise their constitutional rights.

3.4. The City seeks to procure the assistance of additional law enforcement personnel to provide services required by the Security Plan during the Convention Security Period.

3.5. Agency provides law enforcement services to [REDACTED], Wisconsin under the police powers and law enforcement authority granted under applicable state law.

3.6. At the request of the City, Agency will provide the services of the Agency Personnel identified in Exhibit A of this Agreement to assist the City in meeting the requirements of the Security Plan for the duration of the Convention Security Period. Exhibit A may be amended from time to time upon mutual written consent of the Agency Commanding Officer and City MPD Commanding Officer.

#### **4. Organizational Structure.**

4.1. Unified Law Enforcement Command. At all times during any joint training session prior to the Convention, and at all times during the Convention Security Period, Agency Personnel shall be subject to the structure of supervision, command and control coordinated by the City MPD through a unified law enforcement command structure, irrespective of the rank or job title normally held by any member of Agency Personnel within the Agency.

4.2. City MPD is the Lead Local Law Enforcement Agency. City MPD is the lead local law enforcement agency for purposes of Convention security and law enforcement. City MPD Commanding Officer, or his/her designee, will communicate the specific assignments for Agency Personnel to the Agency Commanding Officer. Agency shall be provided with briefings from City MPD as necessary, or upon request of Agency.

4.3. City MPD Policies to Apply. Agency Personnel performing services under the Agreement will abide by applicable City MPD Policies. City MPD will identify the

relevant City MPD Policies within the training materials City MPD will provide to Agency on or before April 1, 2020. Agency shall disseminate those City MPD Policies to Agency Personnel, and shall train Agency Personnel on those City MPD Policies before the Convention Security Period. In the event of a conflict between relevant Agency policies and City MPD Policies, Agency will instruct its Agency Personnel to follow City MPD Policies with respect to the services provided by Agency hereunder.

## **5. Agency Responsibilities.**

5.1. Agency Personnel to Participate in Training. Upon reasonable advance written notification from City MPD, Agency Personnel shall participate in Convention training activities (whether in person or online) that are coordinated by City MPD, and in conformance with the deadlines specified by City MPD. City MPD shall make reasonable efforts to coordinate the training schedule with Agency, recognizing that City MPD will need to accommodate the schedules of many different agencies.

5.2. Services Limited. Services provided by Agency Personnel shall be limited to assignments in which Agency Personnel are already experienced or trained and for which they are licensed or certified to do in accordance with state and local laws of Agency. Assignment of duties to Agency Personnel shall be determined solely by City MPD and may comprise all aspects of law enforcement including, but not limited to traffic control, security detail and crowd control.

5.3. Agency to Provide Services. Agency shall assign Agency Personnel to complete those assignments provided to Agency by City MPD Commanding Officer in accordance with Section 4.2. Should Agency object to any specific assignment, Agency shall make such objection known immediately after receipt of the assignment to the City MPD Commanding Officer who shall reasonably attempt to accommodate Agency; provided that the decision of City MPD Commanding Officer and the requirements of the Security Plan shall control. Any refusal to accept an assignment may result in Agency not being reimbursed for personnel costs under Section 7 of this Agreement.

5.4. Agency Personnel "On Duty." If required by the assignments provided to Agency by the City MPD Commanding Officer, Agency Personnel shall be placed in an "on duty" status in which Agency Personnel are physically near specified Convention Facilities or a Convention-related event location within the Metropolitan Area, so as to be able to physically report in a timely manner to his or her assigned duty post, and be prepared to undertake the specific assignment. City MPD presently expects to provide a tactical operating and briefing manual to Agency Personnel as they arrive in the City, which Agency Personnel shall comply with at all times while functioning under the terms of this Agreement.

5.5. Agency Personnel to Participate in After Action Activities. At the request of the City (including but not limited to City MPD, the City Comptroller, and the City Attorney), Agency shall reasonably provide information, participate in debriefings, complete surveys, respond to information requests required for insurance or audit purposes, and reasonably aid the City in the prosecution or defense of any civil or criminal proceedings related to Agency's performance under this Agreement or any matter in which Agency Personnel is identified by City MPD as a witness. Such assistance shall include the provision, by Agency, of personnel or other records in criminal and/or civil proceedings as reasonably requested by City.

5.6. [Intentionally left blank.]

5.7. Agency Personnel Names to be Sent to City MPD. Agency will provide to City MPD a list of all Agency Personnel that Agency intends to provide under this Agreement at least two months before the first scheduled training session, presently scheduled for April 1, 2020. The list shall be provided in the following format attached as Exhibit A. An electronic version of this spreadsheet will be made available upon request.

5.8. LEO Criteria. Each of the LEOs provided by Agency shall meet the following criteria:

5.8.1. Each LEO must be duly licensed or certified as a law enforcement officer or equivalent by the State of Wisconsin or by the authority of the state in which the Agency is located. Statutory certification requirements for Agency LEOs shall be forwarded to the City MPD with the list of all Agency Personnel required by Section 5.7.

5.8.2. Each LEO, by reason of experience, training and physical fitness must be qualified and capable of performing the duties required of an active duty licensed or certified police officer assigned to an event of the Convention's size and scope.

5.8.3. Each LEO participating in crowd control or management assignments as part of the Major Incident Response Team, as determined by City MPD, must have completed Mobile Field Force training or its equivalent and will complete other training as required by City MPD or USSS based upon the LEO's Convention assignment.

5.8.4. Each LEO must have been employed as a licensed or certified police officer for a minimum of two years by the Agency.

5.8.5. Each LEO must be an officer in good standing with the Agency. The Agency shall promptly notify the City MPD in the event that any LEO is no longer an officer in good standing with the Agency and the Agency shall remove that LEO from the list of Agency Personnel.

5.8.6. No LEO may have (i) been sued in an individual capacity in the last three years and adjudicated as liable for violations of the first amendment of the U.S. Constitution, or (ii) have any sustained complaints for the use of excessive, unreasonable or unnecessary force within the last five years.

5.9. Agency Personnel Equipment.

5.9.1. Each LEO shall be equipped by Agency at Agency's own expense, with a seasonally appropriate patrol uniform and equipment, including but not limited to: service belts, service weapon, radio, and a personal soft ballistic body armor as required to be worn by the LEO while on duty for the Agency. Agency shall not bring to the Convention Facilities any chemical or other non-lethal munitions except as provided by City MPD unless authorized by City MPD.

5.9.2. A complete, sanctioned, equipment list will be provided to Agency as part of the preparatory materials provided by City MPD no later than April 1, 2020. Any equipment, gear, service weapons or munitions that are not included on the equipment list may not be used by Agency Personnel during the Convention unless (a) Agency notifies City MPD in writing no later than June 1, 2020, and (b) City MPD consents In Writing to the use of the requested additional equipment.

5.9.3. Agency Personnel may not bring or utilize any demo equipment provided at low or no cost to Agency by a supplier seeking to demonstrate new equipment to the Agency or other agencies.

5.10. City MPD Can Decline Agency Personnel. At any time during the term of this Agreement, City MPD has the sole discretion to decline assignment or deployment of any Agency Personnel at any time without cause or explanation. In the event that City MPD declines assignment or deployment of Agency Personnel due to no fault of Agency or Agency Personnel, City MPD shall reimburse Agency for any costs already incurred pursuant to the terms and limitations of Section 7 of this Agreement.

5.11. Agency Judgment and Priority. Agency has entered this Agreement in good faith and intends to provide those Agency Personnel set forth herein to assist City with implementation of the Security Plan during the Convention Security Period. However, the Parties recognize that resource availability requires Agency to exercise its best judgment in prioritizing and responding to the public safety needs of its own jurisdiction. That prioritization decision belongs solely to Agency and Agency may



recall its Agency Personnel in accordance with the termination procedures set forth in Section 14 of this Agreement.

5.12. Agency Responsible for Costs. Agency shall be responsible for all costs associated with providing Agency Personnel that are not explicitly assumed by City in this Agreement and/or authorized In Writing. Nothing in this Section shall prohibit City MPD Commanding Officers from agreeing In Writing to the assignment of specific costs borne of unforeseen circumstances during the Convention Security Period.

**6. City Responsibilities.** In addition to its lead local law enforcement responsibilities for the Convention, the City will provide all of the following:

6.1. Event Training. City agrees that it will provide training for Agency Personnel as determined necessary by City MPD and USSS. Training will include the provision of preparatory materials and training according to the schedule described in Section 4.3.

6.2. Transportation and Food. Agency Personnel will commute to and from the City on the days they are assigned to provide services for the Convention. The commute will be to a location designated by the City MPD Commanding Officer based upon Agency Personnel's assignment each day. City will provide food for Agency Personnel while on duty. City MPD will provide food location assignments to Agency Personnel prior to the Convention Security Period. City will not provide lodging to Agency Personnel due to Agency's proximity to the Metropolitan Area.

6.3. Procuring Insurance. City is in the process of procuring a law enforcement liability insurance policy to cover certain liabilities of the Parties associated with the Convention. Said insurance policy will include coverage for the Agency and the Agency Personnel supplied to City for the purpose of fulfilling Agency's obligations under this Agreement for the Convention. Certificates of insurance shall be provided to Agency prior to the Convention Security Period. In the event that the policy cannot be procured before the Convention Security Period, City will notify Agency in writing.

**7. Payment Terms.**

7.1. Costs Covered. City shall cover the following costs, provided such costs are, in City's sole discretion, (1) actual, necessary, and pre-approved by the City either through assignments, as set forth herein, or otherwise In Writing utilizing Exhibit D, and (2) properly supported by itemized receipts to be and/or payroll records submitted along with the form attached hereto as Exhibit B, and supported by all of the documentation set forth in Exhibit C. Upon the City receiving the federal grant described in Section 7.4, below, Exhibit B may be updated to match the then-current federal regulations for the federal grant. The City expects to be awarded the federal grant in early 2020. Any costs

incurred by Agency prior to receiving pre-approval pursuant to subsection (1) of this Section 7.1, are incurred at Agency's own risk.

7.1.1. *Payment for Agency Personnel Time.* Payment for actual time worked and, if authorized by the U.S. Department of Justice and approved In Writing, actual time in training for each Agency Personnel whose services are actually utilized (including "on duty status" set forth in Section 5.4, or an auxiliary status) by the City MPD during the Convention Security Period, at the rate(s) provided by Agency in the Agency Personnel list required by Section 5.7. Agency Personnel are considered to be working when they are physically located at the Convention Facility to which they are assigned between the time that they check in with a City MPD Commanding Officer or designee and the time that they check out with a City MPD Commanding Officer or designee at the end of their shift. Agency Personnel are not considered to be working while located at their place of lodging or home or while traveling to or from their place of lodging or home to the Convention Facilities to which they are assigned, unless Agency Personnel are covered by a collective bargaining agreement or employment contract that requires them to be paid for such time (Agency shall provide City with a copy of such agreement or contract). The rates of Agency Personnel shall not exceed the costs of the individual Agency Personnel's normal salary and benefits, and the hours worked shall not exceed the hours set forth in the relevant training materials or Convention Security Period assignment unless pre-approved In Writing.

7.1.2. *Approved Expenses.* City shall reimburse reasonable and documented transportation and various additional expenses of Agency Personnel during such time that they are actually providing services under this Agreement during the Convention Security Period. City will estimate and itemize allowable expenses and categories of expenses at least two months before the Convention Security Period, and provide that estimate to Agency. Transportation expenses will be estimated using the current federal GSA mileage reimbursement rates. Agency will have six weeks after receiving the estimate to contest the not-to-exceed. The City shall not unreasonably deny Agency's requests; however, the decision of the City MPD Commanding Officer shall control. Agency shall not be reimbursed in excess of the not-to-exceed amount, nor shall Agency be reimbursed for expenses from categories of spending that are not set forth on City's not-to-exceed estimate (i.e. personal entertainment, additional food or transportation beyond that provided or authorized In Writing by City.)

7.2. Withhold Payment. In the event Agency fails to comply with any terms or conditions of this Agreement or to provide in any manner the work or services as agreed to herein, City may withhold any available payment until the City is satisfied that

corrective action has been taken or completed. City may withhold payment for any Agency Personnel refusing to perform the work assigned by City MPD pursuant to Section 5.3 of this Agreement. This right is in addition to and not in lieu of the City's right of termination.

7.3. Failure of City to Obtain Security Grant. Irrespective of any other term of this Agreement, should City fail to be awarded a federal security grant sufficient to cover the costs of all of City's security obligations under the Security Plan, Agency shall have no obligation to provide the services described in this Agreement and City shall not be obligated to remit the funds described in this Agreement to Agency unless reimbursed for such costs by the Host Committee, the DNC or any other entity.

7.4. Federal Grant Requirements. Agency shall be reimbursed for allowable expenses as a subrecipient of a federal grant expected to be awarded to the City. As such, Agency shall comply with all applicable requirements set forth in the DOJ Grants Financial Guide ([https://ojp.gov/financialguide/doj/pdfs/DOJ\\_FinancialGuide.pdf](https://ojp.gov/financialguide/doj/pdfs/DOJ_FinancialGuide.pdf)), as set forth in 2 C.F.R. Part 200, and any additional requirements set forth in the grant agreement itself between the federal government and the City, a copy of which will be made available to Agency upon request after the grant is actually awarded. Agency and City affirmatively acknowledge that the federal grant funds will not be used to supplant local and/or state funds. In order to provide adequate documentation of the costs of Agency Personnel expected to be reimbursed by City, Agency should create a separate rate code within its payroll system to be used to accurately track work of Agency Personnel under this Agreement.

## **8. Law Enforcement Procedures.**

8.1. No Police Authority. Unless Agency is from a municipality located in the State of Wisconsin, Agency Personnel may not act with the arrest or other police authority of a law enforcement officer of any Wisconsin law enforcement agency pursuant to Wis. Stat. 175.46. Except as provided in this Section 8.1, the services to be provided by Agency Personnel shall be limited to security detail in accordance with the procedures and assignments that shall be provided by City MPD.

8.2. Activities. Law enforcement methods employed by the LEOs shall conform to the lawful commands of the City MPD Commanding Officer or his/her designee, City MPD Policies, City of Milwaukee Municipal Code of Ordinances, Wisconsin law, the United States Constitution, and other applicable law.

8.3. Conformance to Security Plan. All functions and duties to be performed by Agency Personnel under this Agreement shall conform to the Security Plan.

**9. Term.** The term of the Agreement shall begin on the Effective Date and shall end upon the completion of all obligations under this Agreement inclusive of participation in criminal and/or civil trials.

**10. Consideration.** Consideration for this Agreement shall be the exchange of monetary reimbursement for the services of Agency Personnel, the enhanced public safety and improved law enforcement activity in the Metropolitan Area for the Convention Security Period, and the professional growth and development of City MPD and Agency Personnel through the City and the Agency's training and cooperative efforts to provide a safe and secure Convention.

**11. Independent Contractor.**

11.1. Independent Relationship. This Agreement is not intended to and will not constitute, create, give rise to, or otherwise recognize a joint venture, partnership, corporation or other formal business association or organization of any kind between the Parties. The rights and obligations of the Parties under this Agreement will be only those expressly set forth in this Agreement. Agency will perform under this Agreement as an independent contractor to the City and not as a representative, employee, agent, or partner of the City. Nothing in the paragraph shall be construed to invalidate a Business Associate Agreement executed between the City and Agency, if required by Section 13.3 of this Agreement.

11.2. Agency Personnel Remain Employees of Agency. Except to the extent covered by reimbursement by City compensation for Agency Personnel specifically set forth in this Agreement, Agency acknowledges and affirms that Agency remains fully responsible for any and all obligations as the employer of its Agency Personnel, including among other things: responsibility for the payments of: (i) earnings; (ii) overtime earnings; (iii) withholdings; (iv) insurance coverage; (v) workers' compensation; (vi) death benefits; (vii) medical and legal indemnity where lawful and appropriate; and (viii) all other requirements by law, regulations, ordinance or contract. Agency Personnel remain employees of Agency. Agency shall be responsible for the payment of any compensation or death benefits to Agency Personnel who are injured or killed while providing services to City under the terms of this Agreement. City is not obligated to reimburse Agency for those expenses.

11.3. Discipline / Probable Cause Matters. City shall refer disciplinary matters involving Agency Personnel to Agency. Based on the judgment of City, if a particular matter represents probable cause for the issuance of a criminal complaint, then such matter shall be referred directly to the Milwaukee Police Department or an external law enforcement agency, as appropriate, for investigation with appropriate notice to Agency.

**12. Liability.**

12.1. Limited Indemnification. The City shall indemnify Agency for Agency's liability to third parties incurred while Agency Personnel are acting within the scope of their employment with Agency to fulfill the terms of this Agreement; provided, however, that City's liability to Agency shall cease upon the exhaustion of the limits of the law enforcement liability insurance policy the City obtains pursuant to Section 6.3 of this Agreement. The policy may be exhausted by claims attributed to City's officers, or the officers of any jurisdiction lending assistance for the Convention pursuant to an agreement with City similar to this Agreement.

12.2. No Waiver. Irrespective of any term of this Agreement, nothing contained in this Agreement shall waive or amend, nor be construed to waive or amend any privilege, defense, limitation of liability, or immunity that either Party, their respective officials, agents, or employees may have under any applicable federal, state, local, or common law.

### **13. Records.**

13.1. Agency to Comply. Agency shall comply with all applicable local, state, and federal laws and requirements pertaining to maintenance and disclosure of personal information (name, age, phone number, address, social security number, etc.) belonging to members of the public and criminal justice records.

13.2. Security Information. Agency shall comply with all privilege requirements and procedures set forth by the USDHS, USSS or other governmental entity. If Agency has custody of a record provided by City which contains details of security arrangements or investigations, Agency shall, as soon as practical and without delay, notify City of any request to disclose such record and shall follow the requirements of Section 13.5, below, prior to disclosure. For purposes of this Paragraph, the term "record" shall be broadly construed and shall include, but not be limited to, all documents, paper, electronic files, and other things containing information, irrespective of the form of that record or data, *i.e.* electronic, hard copy, voice recording, photograph, etc., unless such form is specified by law.

13.3. Protected Health Care Information. Agency will comply with all applicable state and federal medical privacy laws, including but not limited to HIPAA and Sections 51.30, 146.816 and 146.82 of the Wisconsin Statutes, when applicable.

13.4. Wisconsin Public Records Law. Both Parties understand that City is bound by the Wisconsin Public Records Law, and as such, all of the terms of this Agreement are subject to and conditioned on the provisions of Wis. Stat. sec. 19.21 *et seq.* Agency acknowledges that it is obligated to assist the City in retaining and producing records that are subject to the Wisconsin Public Records Law, including but not limited to those records produced or collected by Agency under this Agreement

pursuant to Wis. Stat. sec. 19.36(3) and that the failure to do so shall constitute a material breach of this Agreement. The Parties further agree and acknowledge that because of the federal grant described in Section 7.4 of this Agreement, 2 CFR 200.333 shall establish the minimum record retention requirements to be followed by Agency. Agency certifies that it will comply with the record retention requirements in 2 CFR § 200.333. Agency further certifies that it will retain all records as required by 2 CFR § 200.333 for a period of three years after it receives City notice that the City has submitted final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed. Nothing in this Section 13.4 should be construed as prohibiting the Agency from retaining records for longer than 2 CFR § 200.333 requires.

13.5. Notice of Request for Disclosure. Agency will provide notice to City of any request for the disclosure of information associated with or generated as a result of the work performed under this Agreement at least ten business days before such information is disclosed and shall confer with the City and, if City deems appropriate, the USSS before deciding whether the Wisconsin Public Records Law requires Agency to release the requested records. Nothing in this paragraph shall supersede any other term of this Section 13, and in the event of a direct conflict between this paragraph and any other paragraph and of this Section, this paragraph shall not control.

13.6. City Access to Agency's Records. Agency agrees that any duly authorized representative of the City, including the City Attorney and the City Comptroller or other financial representative, or a federal grant auditor, will have access to, and the right to, examine any directly pertinent records, documents, paper, and data of the Agency, involving transactions related to this Agreement until the expiration of the records retention period described in Section 13.4, above.

#### **14. Early Termination.**

14.1. Termination by City. City may terminate this Agreement at any time and for any reason. Should City terminate this Agreement without cause, City shall pay Agency for any costs actually and already incurred pursuant to Section 7. City may terminate this Agreement without payment of costs if Agency fails to comply with or perform any material term, condition or obligation contained in this Agreement and either such breach cannot be cured, or, if such breach may be cured, Agency fails to cure such default within seven calendar days after the City or City MPD provides Agency with notice of such failure.

14.2. Termination by Agency.

14.2.1. Agency may terminate this Agreement prior to March 1, 2020, upon a determination that it must do so to meet its own staffing needs. Upon such

termination, Agency shall fully refund to City all costs, funds, or other payments that the City may have paid to Agency pursuant to this Agreement.

14.2.2. Agency may terminate this Agreement after March 1, 2020, only upon the occurrence of an Agency Emergency Event. Upon such termination, Agency shall fully refund to City all costs, funds, or other payments that the City may have paid to Agency pursuant to this Agreement.

14.2.3. Agency may terminate this Agreement without payment of costs described in subsec. 14.2.2 if City fails to comply with or perform any material term, condition or obligation contained in this Agreement and either such breach cannot be cured, or, if such breach may be cured, City fails to cure such default within 7 calendar days after the Agency provides City with notice of such failure.

14.3. Parties Contract in Good Faith. The Parties shall act in good faith to provide as much advance written notice of termination under this Section to the other Party that is reasonable under the circumstances.

14.4. Consequential Damages. Neither Party shall be entitled to recover any penalties, consequential damages or attorneys' fees related to an event of termination hereunder.

**15. Governing Law.** This Agreement, and all questions arising in connection herewith shall be governed by and construed in accordance with the internal laws of the State of Wisconsin. Venue for any action arising out of or in any way related to this Agreement shall be exclusively in Milwaukee County for matters arising under state law and in federal district court in the Eastern District of Wisconsin for matters arising under federal jurisdiction.

**16. Notices.** All notices required under this Agreement shall be provided to:

To the City: Alfonso Morales  
Chief of Police  
749 West State Street  
Milwaukee, WI 53233  
*MPDChief@milwaukee.gov*  
Via email and paper copy sent via U.S. Mail

With courtesy copies which shall not constitute notice to:

Deputy City Attorney Mary Schanning  
City Hall, Room 800  
200 East Wells Street  
Milwaukee, WI 53202  
*mschan@milwaukee.gov*

and

Nicholas DeSiato  
Chief of Staff  
Milwaukee Police Department  
749 West State Street  
Milwaukee, WI 53233  
*nidesi@milwaukee.gov*

To Agency: [Agency to populate information]

## **17. Additional Provisions.**

17.1. Further Assurances. The Parties shall perform such acts, execute and deliver such instruments and documents, and do all such other things as may be reasonably necessary to accomplish the terms of this Agreement.

17.2. No Waiver. Any failure of a Party to assert any right under this Agreement, including but not limited to acceptance of partial performance or continued performances after a breach, shall not constitute a waiver or a termination of that right, this Agreement, or any of this Agreement's provisions.

17.3. Subcontracting. Neither Party shall subcontract for any of the work contemplated under this Agreement without obtaining the prior written approval of the other Party.

17.4. No Third Party Beneficiary. No provision in this Agreement is intended to create, or shall create, any rights with respect to the subject matter of this Agreement in any third party, including but not limited to members of the general public.

17.5. Headings. The captions and headings of paragraphs and sections in this Agreement are for convenience of reference only, and shall not be construed as defining or limiting the terms and provisions in this Agreement.

17.6. Severability. If any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction in any jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remainder of this Agreement in that jurisdiction or the validity or enforceability of any provision of this Agreement in any other jurisdiction.



17.7. Survival. The terms of this Agreement and any exhibits and attachments that by reasonable implications contemplate continued performance, rights, or compliance beyond expiration or termination of the Agreement survive the Agreement and will continue to be enforceable.

17.8. Counterparts. This Agreement may be executed in multiple parts. Signatures to this Agreement transmitted by facsimile or by electronic mail shall be valid and effective to bind the Party so signing.

17.9. Nondiscrimination. It is the City's policy not to discriminate against any qualified employee or qualified applicant for employment because of an individual's sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation, gender identity or expression, victimhood of domestic abuse or sexual assault, past or present membership in the military service, HIV status, domestic partnership, genetic identity, homelessness, familial status, or an individual's affiliation or perceived affiliation with any of these categories, pursuant to Milwaukee Code of Ordinances Section 109-9. The Parties will comply with all requirements imposed by or pursuant to the regulations of the appropriate federal agency effectuating Title VI of the Civil Rights Act of 1964. The Parties agree to comply with all applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. 12101, *et seq.*

***SIGNATURES APPEAR ON THE FOLLOWING PAGE(S)***

The Parties have executed this Agreement as on the dates set forth below.

**CITY OF MILWAUKEE**

\_\_\_\_\_  
Alfonso Morales, Chief of Police  
Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Martin Matson, City Comptroller  
Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Authorizing Resolution: 191192

Approved as to Form and Execution:

\_\_\_\_\_  
Office of the City Attorney  
Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**[AGENCY NAME]**

By: \_\_\_\_\_  
**(Signature)**

Its: \_\_\_\_\_  
**(Title)**

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

1077-2018-1850:XXXXXX



**Exhibit B**

(Electronic version available from Captain Derrick Harris, [धारri@milwaukee.gov](mailto:धारri@milwaukee.gov))

**Exhibit C**

(Electronic version available from Captain Derrick Harris, [dharris@milwaukee.gov](mailto:dharris@milwaukee.gov))

## Exhibit D

### Additional Expenditure Authorization Form - “In Writing”

Directions for Use of This Form: Use this form to obtain approval for additional expenditures “In Writing,” pursuant to your Agency’s Intergovernmental Agreement for Law Enforcement Services for the 2020 Democratic National Convention in Milwaukee, Wisconsin “Agreement.” Please note that your agency will not be reimbursed for any expenditures that were not expressly agreed to in the expense estimate provided pursuant to Section 7.1.2 of the Agreement unless you have both (1) obtained a valid signature on this form before making the expenditure, and (2) provide the City with the supporting documentation necessary for reimbursement described in Exhibit B of the Agreement.

<b>Agency Information</b>	
Agency:	
Agency Personnel Completing Form:	
Date:	
<b>Additional Expenditure Information</b>	
Expenditure Requested:	
Reimbursable Cost:	
Vendor:	
Description/Purpose:	
Additional Memo (optional):	
<b>City of Milwaukee Commanding Officer Approval Information</b>	
Name:	
Rank:	
Date:	
Signature:	
Memo (optional):	





EXHIBIT C

2020 Democratic National Convention  
DNC Reimbursement Request Form



Assisting Agency:

Prepared By:	Contact Phone's #:	Signature:
Approved By:	Contact Phone's #:	Signature:

Personnel Costs																		
	Number of Personnel	Total Regular Hours	Total Overtime Hours	Total Regular Cost	Total Overtime Cost	Total Regular and Overtime Cost												
				\$ -	\$ -	\$ -												
<p>Three sets of documentation are required:</p> <p>a. Outside Agency Tracking Form. These forms were signed off on by the personnel during the event and in the possession of the City of Milwaukee (City). If you are in possession of any of these timesheets, please provide them to the City as soon as possible.</p> <p>b. Daily work records/work logs, time and attendance records, payroll registers. This includes whatever your typical system is to track payroll. This will be submitted as part of the reimbursement package. These records will be reconciled against the timesheets in order to approve final reimbursement. For this reason, these records should show information such as hourly rates, number of hours worked, total amount of personnel expense, etc.</p> <p>c. Final payroll costs submitted with reimbursement request (Reimbursement of Personnel Costs Worksheet – Outside Agencies and Reimbursement Request Form).</p>						<table border="1"> <tr><td>Pension Rate</td><td>0.00%</td></tr> <tr><td>FICA Rate</td><td>0.00%</td></tr> <tr><td>Medicare Rate</td><td>0.00%</td></tr> <tr><td>Other Benefits Rate</td><td>0.00%</td></tr> <tr><td>Total Fringe</td><td>\$ -</td></tr> <tr><td>Total Wages</td><td>\$ -</td></tr> </table>	Pension Rate	0.00%	FICA Rate	0.00%	Medicare Rate	0.00%	Other Benefits Rate	0.00%	Total Fringe	\$ -	Total Wages	\$ -
Pension Rate	0.00%																	
FICA Rate	0.00%																	
Medicare Rate	0.00%																	
Other Benefits Rate	0.00%																	
Total Fringe	\$ -																	
Total Wages	\$ -																	

Food Per Diem Costs (Travel Days only)				
Meals: Travel days will be paid at 75% as stipulated by federal regulations. <a href="https://www.gsa.gov/travel/plan-book/per-diem-rates">https://www.gsa.gov/travel/plan-book/per-diem-rates</a>	Number of Officers	Number of Days (Combine To and From - Prorated)	Federal Per Diem Food Rate (Travel Days)	Total Cost
Note: Travel day meal per diems will not be reimbursed for outside agencies that are within 100 miles of Milwaukee.			\$ 49.50	\$ -

Transportation Costs (Travel Days only)				
Airfare: Receipt from airline or travel agent indicating name of traveler, dates of travel and total cost of ticket; receipt from airline indicating name of traveler, dates and cost of any baggage fees assessed; and boarding passes.	Number of Officers	Number of Tickets	Average Airfare Price (Per Round Trip)	Total Cost
			\$ -	\$ -
Auto reimbursement: Google map showing vehicle route to and from Milwaukee. Mileage reimbursed at federally approved rates: <a href="https://www.gsa.gov/travel/plan-book/transportation-airfare-pov-etc/private-owned-vehicle-pov-mileage-reimbursement-rates">https://www.gsa.gov/travel/plan-book/transportation-airfare-pov-etc/private-owned-vehicle-pov-mileage-reimbursement-rates</a> a. Motorcycles - \$0.XX/mile - This includes fuel. b. Private Vehicles - \$0.XX/mile - This includes fuel. c. Gov't Owned Vehicles - \$0.XX/mile - This includes fuel.	Number of Vehicles	Total Miles (Combine to and from)	Mileage Rate	Total Cost
			\$ -	\$ -
Bus/Vehicle Rentals: Contract cost of rental vehicles or buses; highway and bridge toll fees.	Number of Buses/Rented Vehicles		Cost Per Bus/Rented Vehicle	Total Cost
			\$ -	\$ -

Additional Requested Costs (Not Listed Above)		
Additional Expenses: Please provide a detailed description and total cost for any additional expenses not listed specifically on this form where reimbursement is being requested. Please be aware of any applicable federal per diem rates related to your request.	Description of Additional Cost	Amount of Total Cost
Please provide any supporting documentation and/or calculations that will help facilitate the review of your request. Example: If your trip to and from Milwaukee will require overnight lodging, please provide the number of officers who required this accommodation and the invoice for the total cost of the lodging.		\$ -
NOTE: Any reimbursement under this section must be preapproved in writing by the City and such preapproval shall be attached to this form.		\$ -

Total Request for Reimbursement		
All expenses incurred as described in the Intergovernmental Agreement and Estimate Cost Forms (ECF) are eligible for reimbursement. The costs initially provided were estimates and require documentation for final approval and reimbursement.	Safety	\$ -
Note: Credit card statements are not considered a valid document for the purposes of reimbursement.	Per Diem	-
	Transportation	-
	Additional Expenses	-
	<b>Total Cost</b>	<b>\$ -</b>

Please feel free to contact the following City of Milwaukee Personnel with any questions you may have:

Rhonda Kersch 414-286-8538  
Dennis Vaccarino 414-286-8552 Andrea Fowler 414-286-5563



**CITY OF CEDARBURG**

**MEETING DATE:** February 10, 2020

**ITEM NO:** 9. C&D.

**TITLE:** Consider Alcohol and Controlled Substance Policy (AD-22) and Revision to Section 2-4-a of the Personnel Manual re: Drug/Alcohol Testing (CDL).

**ISSUE SUMMARY:** In December 2019 we received a notification from CVMIC about a new Federal mandate for CDL drivers. It requires all CDL drivers to be listed in the Federal clearinghouse database. This is in addition to the State of Wisconsin driver's license reporting database we monitor for all employees. The new policy requires that all employees who have a CDL need to be registered with the clearinghouse. Prior to the City requesting them to register on the site we are required to develop an alcohol and controlled substance policy and need to update our personnel manual to reflect the changes. Both of these policies are included in your packet and have been reviewed by the City Attorney.

**BOARD, COMMISSION OR COMMITTEE RECOMMENDATION:** None

**BUDGETARY IMPACT:** None

**ATTACHMENTS:** AD-22 Policy, Revised section of the personnel manual, Clearinghouse Fact Sheet

**INITIATED/REQUESTED BY:** Mikko Hilvo, City Administrator

**FOR MORE INFORMATION CONTACT:** Mikko Hilvo, City Administrator



## **CITY OF CEDARBURG – ALCOHOL AND CONTROLLED SUBSTANCE POLICY FOR CDL DRIVERS**

### **I. PURPOSE**

The Federal Motor Carrier Safety Administration (FMCSA) has issued federal regulations (49 CFR Parts 40 and 382) implementing the provisions of the federal Omnibus Transportation Employee Testing Act of 1991 which requires alcohol and controlled substance testing of drivers who are required to have a commercial driver's license (CDL). These regulations include detailed procedures for urine drug testing and breath alcohol testing of employees involved in safety-sensitive functions. The purpose of this policy is to establish an alcohol and controlled substances testing program to help prevent accidents, injuries, and property damage resulting from the misuse of alcohol and the use of controlled substances by drivers of commercial motor vehicles. Consequently, the City of Cedarburg has established the following alcohol misuse prevention program and anti-drug program as well as subsequent enforcement of violations for its employees conducting safety-sensitive functions.

### **II. POLICY**

The City of Cedarburg recognizes that the use and/or abuse of alcohol or controlled substances by drivers of our commercial motor vehicles present a serious threat to the safety and health of the driver and the general public. It is the policy of the City of Cedarburg that its drivers should be free of drugs and alcohol at all times while performing any work for the organization, or while on any City of Cedarburg property. In order to further the goal of obtaining a drug-free and alcohol-free environment, and to be in full compliance with the DOT-regulated testing requirements of 49 CFR Parts 40 and 382, the City of Cedarburg has implemented a drug and alcohol testing program which is designed to help reduce and prevent vehicle accidents and injuries to the organization's employees and the public, to discourage substance use and alcohol abuse, and to reduce absenteeism, accidents, health care costs, and other drug and alcohol-related problems.

### **III. DEFINITIONS**

For the purposes of this policy, the following definitions will apply:

**Alcohol** means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low weight alcohols including methyl and isopropyl alcohol.

**Alcohol Use** means the consumption of any beverage, mixture or preparation, including medications, containing alcohol.

**Breath Alcohol Technician (BAT)** means an individual certified as trained to operate an Evidential Breath Testing Device (EBT) and proficient in breath testing procedures.

**Canceled Test** means, in controlled substance testing, that a test that has been declared invalid by the MRO. A canceled test is neither positive nor negative.

**Collection Site** means a place where individuals present themselves for the purpose of providing body fluids or tissue samples to be analyzed for controlled substances, or to provide a breath sample to be analyzed for alcohol concentration.

**Commercial Motor Vehicle (CMV)** means a motor vehicle or combination of motor vehicles used in commerce to transport property or passengers if the motor vehicle:

1. Has a gross combination weight rating of 26,001 or more pounds inclusive of the towed unit with a gross vehicle weight of 10,000 pounds; or
2. Has a gross vehicle weight of 26,001 more pounds, or
3. Is designed to transport 16 or more passengers inclusive of the driver; or
4. Is of any size and is used in the transportation of materials found to be hazardous for the purpose of the Hazardous Materials Transportation Act and which require the vehicle to display a placard.

**Controlled Substance** under DOT rule means marijuana, cocaine, opioids, amphetamines, and phencyclidine (PCP) or other substances later defined by DOT as controlled substances.

**Designated Employer Representative (DER)** is an individual identified by the employer as able to receive communications and test results from service agents and is authorized to immediately remove employees from safety-sensitive functions and make decisions in the testing and evaluation processes. The DER must be an employee of the City of Cedarburg.

**Evidential Breath Testing Device (EBT)** is a device designed to measure alcohol concentration from breath samples which has been approved by the National Highway Traffic Safety Administration.

**Laboratory** means a laboratory for conducting drug testing that is approved by the Department of Health and Human Services.

**Medical Review Officer (MRO)** means a licensed doctor of medicine or osteopathy with the knowledge of drug abuse disorders that is retained by the organization to conduct and analyze drug tests in accordance with DOT rules.

**Safety-Sensitive Function** means the following on duty functions:

1. All time waiting to be dispatched;
2. All time inspecting, servicing or conditioning any commercial motor vehicle;
3. All driving time, i.e. all time spent at the driving controls of a commercial motor vehicle in operation;
4. All time, other than driving time, in or upon any commercial motor vehicle;
5. All time loading or unloading a vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;
6. All time repairing, obtaining assistance or remaining in attendance upon a disabled vehicle.

**Performing (a safety-sensitive function)** means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform a safety-sensitive function.

**Substance Abuse Professional (SAP)** is a licensed physician (medical doctor or doctor of osteopathy) or a licensed or certified psychologist, social worker, employee assistance professional or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

#### **IV. POLICY COVERAGE**

This policy applies to every employee ("driver") who performs "safety sensitive functions" in association with the operation of a commercial motor vehicle in commerce in any state, and is subject to the commercial driver's license requirements of part 383 of this subchapter.

Drivers are also governed by the City of Cedarburg's Non-DOT Drug and Alcohol Use Policy as presented in the Personnel Manual.

### **Condition of Employment**

All drivers subject to this policy are required to submit to DOT drug and alcohol testing and therefore, it is a condition of employment

## **V. PROHIBITED CONDUCT**

Federal Regulations prohibit City of Cedarburg's drivers from engaging in the following conduct:

1. Using or possessing alcohol while on duty. **Note:** Federal regulations include medications containing alcohol in the substances banned from use or possession in the workplace. Therefore, drivers should not report for duty while using or possessing medication if such medication contains any measurable amount of alcohol;
2. Using alcohol within eight (8) hours following an accident, unless the employee has already undergone DOT-regulated post-accident drug and alcohol testing or is not required to undergo post-accident drug or alcohol testing;
3. Reporting for duty or remaining on duty while having an alcohol concentration of 0.04 or greater;
4. Consuming any amount of alcohol within four (4) hours before reporting for duty;
5. Using controlled substances while on duty, unless the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle;
6. Reporting for duty or remaining on duty if the employee tests positive for controlled substances or has adulterated or substituted a specimen for controlled substances; or
7. Refusing to submit to any alcohol or drug testing required by this policy.

### **Refusal to Test**

Refusal to test, in addition to #7 Above, includes:

- Failing to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, after being directed to do so. This includes the failure of an employee to appear for a test when called.
- Failing to remain at the testing site until the testing process is complete (except in a pre-employment testing situation when an applicant leaves the testing site before the testing process commences);
- Failing to provide a urine specimen for any drug test;
- Failing to provide an adequate amount of saliva or breath for any alcohol test;
- Failing to permit a directly observed or monitored collection in a drug test;
- Failing to provide a sufficient amount of urine for the drug test or sufficient breath specimen when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- Failing or declines to take an additional drug test the employer or collector has directed the driver to take;
- Failing to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process or as directed by the employer associated with a shy bladder or insufficient breath sample. In the case of a pre-employment drug test, the employee is deemed to have

refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment. If there was no contingent offer of employment, the MRO will cancel the test;

- Failing to sign the certification at Step 2 of the alcohol testing form;
- Failing to cooperate with any part of the drug and/or alcohol testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector);
- For an observed collection, failing to follow the observer's instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process;
- Possessing or wearing a prosthetic or other device that could be used to interfere with the collection process;
- Admitting to the organization, collector or MRO that he/she has adulterated or substituted the specimen;
- Providing a specimen that the MRO has determined to have been tampered with, verified adulterated or substituted;
- Failing to comply with any follow-up testing plan/criteria.

## **VI. CONSEQUENCES**

### **Removal from Position**

1. Any driver who engages in prohibited conduct, or otherwise violates the DOT/FMCSA regulations will immediately be removed from his/her covered position, including the operation of a commercial motor vehicle and the performance of any safety sensitive duties.
2. The driver shall not return to or assume any DOT covered position with this organization until and unless he/she completes the Substance Abuse Professional evaluation, referral, and education/ treatment process detailed in Subpart O of 49 CFR Part 40.
3. A driver with an alcohol test result equal to or greater than 0.020 but less than 0.040, will immediately be removed from his/her position for a mandatory period of twenty-four (24) hours. When a reasonable suspicion drug and/or alcohol test cannot be administered and the employee's behavior or appearance suggests alcohol misuse or use of a controlled substance, he/she will immediately be removed from his/her position for a mandatory period of twenty-four (24) hours.

### **Disciplinary Action**

In addition to above, any employee who violates any of the rules set forth in this policy is subject to discipline, up to and including termination.

## **VII. EFFECTS, SIGNS & SYMPTOMS**

### **Intervention**

A safe and productive drug-free workplace is achieved through cooperation and shared responsibility. If substance abuse is contributing to an employee's poor performance, ignoring or avoiding it will not help the situation. An employee's use or misuse of alcohol or controlled substances may be the root of the performance problem; however, substance abuse on the part of someone close to the employee also

could be the source. Inevitably, the abuse of alcohol or other controlled substances leads to costly and potentially dangerous consequences unless action is taken to confront the issue.

### **Impact on Health, Work, & Personal Life**

The impact of an individual's substance use and/or abuse extends beyond them. Impaired employees endanger themselves, fellow workers, and the general traveling public. Employees with alcohol are less productive and more likely to injure themselves or other persons in an accident. Alcohol abusing employees increase the costs related to lost productivity, absenteeism, loss of trained personnel, theft, and treatment and deference programs.

The struggle for answers about alcohol and drug problems can be difficult. Without expert assessment and diagnosis, it can entail an exhausting search without easy resolution. But confidential diagnosis and assistance can be helpful at any point along the continuum, and it is better to seek and get such help sooner rather than later.

## **VIII. REQUIRED TESTS**

Refusal to submit to a required test will result in removal of that driver from his or her assignment(s) which, in turn, may result in discipline up to and including termination. City of Cedarburg will test drivers in the following situations:

### **1. Pre-Employment Testing**

Any individual not currently employed by the City of Cedarburg who is applying for a safety-sensitive position shall be required to undergo pre-employment controlled substance testing after a conditional offer of employment has been extended.

Prior to the first time an existing employee performs safety-sensitive functions for the organization (i.e. new position, promotion, job transfer, etc.); the employee shall be required to undergo testing for controlled substances. A positive result will result in a disqualification from further consideration for the vacancy or eligibility list. Any applicant or existing employee who refuses to undergo such alcohol or drug testing will be disqualified from further consideration for employment in that safety-sensitive position.

Per §382.701 and effective January 6, 2020 City of Cedarburg will obtain driver consent and subsequently conduct a pre-employment full query of the Drug and Alcohol Clearinghouse to obtain information about whether the driver has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of §382.211; or that an employer has reported actual knowledge, as defined at §382.107, that the driver used alcohol on duty in violation of §382.205, used alcohol before duty in violation of §382.207, used alcohol following an accident in violation of §382.209, or used a controlled substance, in violation of §382.213. **Please note: Until January 6, 2023, City of Cedarburg will conduct both electronic queries in the Clearinghouse and manual offline inquiries to previous employers for pre-employment driver investigations (as was previously required).**

City of Cedarburg will not allow a driver to perform any safety-sensitive function if the results of a Clearinghouse query demonstrate that the driver has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of §382.211; or that an employer has reported actual knowledge, as defined at §382.107, that the driver used alcohol on duty in violation of §382.205, used alcohol before duty in violation of §382.207, used alcohol following an accident in violation of §382.209, or used a controlled substance in violation of §382.213, except where a query of the Clearinghouse demonstrates:

1. That the driver has successfully completed the SAP evaluation, referral, and education/treatment process set forth in part 40, subpart O, achieves a negative return-to-duty test result; and completes the follow-up testing plan prescribed by the SAP.
2. That, if the driver has not completed all follow-up tests as prescribed by the SAP in accordance with §40.307 and specified in the SAP report required by §40.311, the driver has completed the SAP evaluation, referral, and education/treatment process set forth in part 40, subpart O, and achieves a negative return-to-duty test result, and the City of Cedarburg assumes the responsibility for managing the follow-up testing process associated with the testing violation.

## **2. Post-Accident Testing**

As soon as practicable following an accident involving a commercial motor vehicle, the City of Cedarburg shall test the driver for alcohol and controlled substances in the following situations:

- a. The accident involves a human fatality, each surviving driver is subject to testing whether they were at fault or not;
- b. The driver has received a citation and the accident involved bodily injury requiring immediate medical attention from the accident scene; and/or
- c. The driver has received a citation and the accident involved disabling damage causing vehicle or vehicles to be towed from the scene of the accident.

### **Testing Timeframes**

The alcohol breath test should be administered within 2 hours, but must be administered no later than 8 hours following the accident, and the drug test must be administered within 32 hours of the accident. If the alcohol test is not administered within 2 hours of the accident, or a drug test within 32 hours of the accident, the supervisor will complete a report explaining the reasons for the delay in conducting the test.

### **Driver Obligations**

A driver who is subject to post-accident testing shall remain readily available and may not take any action to interfere with the testing or the results of the testing.

The driver shall notify his/her immediate supervisor as soon as possible if they are involved in an accident. After the initial call to the employer, the driver is required to remain in contact with his/her supervisor with any subsequent information pertinent to the accident, including contact by any law enforcement agency, issuance of a citation, etc.

The driver shall allow law enforcement to conduct their investigation. It is possible for a federal, state, or local law enforcement official to direct an employee, who is in the course of conducting City of Cedarburg business, to submit to drug and/or alcohol testing. In this case, the employee shall provide the results of that testing to the employer as soon as they become available. These results may be used in lieu of or in addition to post-accident testing outlined in this section.

## **3. Random Testing**

Drivers are subject to unannounced DOT/FMCSA random drug and alcohol testing. Testing percentages are established annually by the FMCSA. The random selection process ensures that each driver has an equal chance of being selected and tested. Some drivers may be tested more than once each year; some may not be tested at all depending on the random selection. However, once a driver has been notified of his/her selection for testing, they must immediately report for testing. Failure to show for a test within a reasonable time from the time of notification or interfering with the testing process is considered a refusal to test. An employee shall only be tested for alcohol during, just before or just after the performance of safety sensitive functions.

## **4. Reasonable Suspicion Testing**

An employee is required to submit to an alcohol or controlled substance test upon a trained (*in accordance with this policy and Section 382.603 requirements*) supervisor's reasonable suspicion to

believe that the employee is in violation of this policy. The determination of reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. The observations may include indications of the chronic and withdrawal effects of controlled substances. The supervisor who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the employee.

Under DOT regulations, alcohol testing is only authorized if observations are made during, just preceding or just after the period of the work day that the employee is required to be in compliance (during, just before or after the employee has performed safety-sensitive functions). However, City of Cedarburg policy requires that reasonable suspicion alcohol testing shall be performed at any time during an employee's work day.

Under DOT regulations, the employee will not be permitted to perform safety sensitive functions until: (1) an alcohol test is administered and the alcohol concentration measures less than 0.02; or (2) 24 hours have elapsed following the determination that there was reasonable suspicion to test the employee. However, City of Cedarburg policy requires that an employee will not be returned to work until confirmed test results are obtained.

If an alcohol test is not administered within two (2) hours following the reasonable suspicion determination, the supervisor must prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test is not administered within eight (8) hours following the reasonable suspicion determination, the supervisor must cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test. In addition, the driver will be out of service for 24 hours.

The supervisor who made the observations shall provide a report that contains the observations leading to an alcohol or controlled substances reasonable suspicion test within 24 hours of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier.

Procedure for reasonable suspicion testing.

1. Upon the employee's removal from the job site, the supervisor should contact the Department Head. If contact cannot be made at that time, the supervisor should proceed to the next step of this procedure and make contact with the City Administrator as soon thereafter as possible.
2. The supervisor is to then take the employee to the collection site for drug and/or alcohol testing, and must remain at the site until the test is completed.
3. If the alcohol test is conducted more than two (2) hours, but less than eight (8) hours, after the supervisor makes the reasonable suspicion determination, the supervisor will complete a report explaining the reason for the delay in conducting the test. If the alcohol test is not conducted within eight (8) hours after the supervisor makes such reasonable suspicion determination, or if the drug test is not conducted within twenty-four (24) hours after such determination, the supervisor will complete a report explaining the reasons why the test was not conducted.
4. Once the drug and/or alcohol test has been completed the supervisor is to make arrangements for the employee to be taken home. The employee will not be permitted to drive their own car home at that time. The employee may have a family member or a friend pick them up or the supervisor may take the employee home.
5. The employee is to be advised not to report to work. The City of Cedarburg will contact the employee once the test results are known (this normally takes 24-48 hours) and a decision has been made as to the employee's status.
6. The results of the drug and/or alcohol test will be sent directly to the Department Head and City Administrator. When the results are obtained, the employee's supervisor and department head will meet with the City Administrator to determine the appropriate course of action to be taken.
7. This is a confidential process. Test results will be held strictly confidential and are not to be discussed or shared with anyone who does not need to know. Likewise, a supervisor must not



discuss the suspected reason for a referral or termination with anyone who does not need to know.

8. Once the test has been completed and the employee has been taken home, the supervisor must submit a written report to the Department Head and Administrator outlining in detail what happened and what behavior was observed that led the supervisor to believe the employee was under the influence of alcohol and/or drugs. This report is to be done within 24 hours of testing.

#### **5. Return-to-Duty/Follow-up Testing**

The requirements for return-to-duty testing must be performed in compliance with the Substance Abuse Professional process detailed in Subpart O of 49 CFR Part 40. In summary, the driver shall not return to a driver position, with City of Cedarburg unless and until he/she completes all requirements of Subpart O. Once those requirements have been met, the driver must complete and receive negative test results associated with return-to-duty testing. The alcohol test must be .000.

The requirements for follow up testing must be performed in compliance with the Substance Abuse Professional process detailed in Subpart O of 49 CFR Part 40. In summary, once the driver returns to his/her position, they will be subject to a follow up testing plan as prescribed by the Substance Abuse Professional. Follow up testing includes, but is not limited to, a minimum of six unannounced follow up tests in the first twelve months of returning to his/her position. Additional testing may occur for up to forty-eight months following the initial first twelve-month period.

### **IX. DRUG AND ALCOHOL CLEARINGHOUSE QUERIES**

In addition to the required pre-employment Clearinghouse full query, and effective January 6, 2020, City of Cedarburg will also conduct a query of the Clearinghouse at least once per year for information for all employees subject to controlled substance and alcohol testing as defined in 49 CFR Part 382 to determine whether information exists in the Clearinghouse about those employees.

To conduct the annual query referenced above, City of Cedarburg will obtain the individual driver's consent and may conduct a "limited" query to satisfy the annual query requirement. The limited query will tell the City of Cedarburg whether there is information about the individual driver in the Clearinghouse but will not release that information to the City of Cedarburg. The individual driver may give consent to conduct limited queries that is effective for more than one year.

If the limited query shows that information exists in the Clearinghouse about the individual driver, the City of Cedarburg must conduct a full query, within 24 hours of conducting the limited query. If the City of Cedarburg fails to conduct a full query within 24 hours, the City of Cedarburg must not allow the driver to continue to perform any safety-sensitive function until the City of Cedarburg conducts the full query and the results confirm that the driver's Clearinghouse record contains no prohibitions as defined §382.701 (d).

### **X. REPORTING TO THE CLEARINGHOUSE**

City of Cedarburg must report the following information about a driver to the Clearinghouse by the close of the third business day following the date on which they obtained that information:

- (i) An alcohol confirmation test result with an alcohol concentration of 0.04 or greater;
- (ii) A negative return-to-duty test result;
- (iii) A refusal to take an alcohol test pursuant to 49 CFR 40.261;
- (iv) A refusal to test determination made in accordance with 49 CFR 40.191(a)(1) through (4), (a)(6), (a)(8) through (11), or (d)(1), but in the case of a refusal to test under (a)(11), the employer may report only those admissions made to the specimen collector; and

(v) A report that the driver has successfully completed all follow-up tests as prescribed in the SAP report in accordance with §§40.307, 40.309, and 40.311 of the drug and alcohol regulations.

**The information required to be reported under section must include, as applicable:**

- (i) Reason for the test;
- (ii) Driver's name, date of birth, and CDL number and State of issuance;
- (iii) Employer name, address, and USDOT number;
- (iv) Date of the test;
- (v) Date the result was reported; and
- (vi) Test result. The test result must be one of the following:
  - (A) Negative (only required for return-to-duty tests administered in accordance with §382.309);
  - (B) Positive; or
  - (C) Refusal to take a test.

**For each report of a violation of 49 CFR 40.261(a)(1) [refusal to test for alcohol] or 40.191(a)(1) [refusal to test for controlled substances], the employer must report the following information:**

- (i) Documentation, including, but not limited to, electronic mail or other contemporaneous record of the time and date the driver was notified to appear at a testing site; and the time, date and testing site location at which the employee was directed to appear, or an affidavit providing evidence of such notification;
- (ii) Documentation, including, but not limited to, electronic mail or other correspondence, or an affidavit, indicating the date the employee was terminated or resigned (if applicable);
- (iii) Documentation, including, but not limited to, electronic mail or other correspondence, or an affidavit, showing that the C/TPA reporting the violation was designated as a service agent for an employer who employs himself/herself as a driver pursuant to §382.705 (b)(6) of this section when the reported refusal occurred (if applicable); and
- (iv) Documentation, including a certificate of service or other evidence, showing that the employer provided the employee with all documentation reported under §382.705 (b)(3).

**Employers must report the following violations by the close of the third business day following the date on which the employer obtains actual knowledge, as defined at §382.107, of:**

- (i) On-duty alcohol use pursuant to §382.205;
- (ii) Pre-duty alcohol use pursuant to §382.207;
- (iii) Alcohol use following an accident pursuant to §382.209; and
- (iv) Controlled substance use pursuant to §382.213.

**For each violation in which the employer obtains actual knowledge, as defined at §382.107, the employer must report the following information:**

- (i) Driver's name, date of birth, CDL number and State of issuance;

- (ii) Employer name, address, and USDOT number, if applicable;
- (iii) Date the employer obtained actual knowledge of the violation;
- (iv) Witnesses to the violation, if any, including contact information;
- (v) Description of the violation;
- (vi) Evidence supporting each fact alleged in the description of the violation required under paragraph §382.705 (b)(4) of this section, which may include, but is not limited to, affidavits, photographs, video or audio recordings, employee statements (other than admissions pursuant to §382.121), correspondence, or other documentation; and
- (vii) A certificate of service or other evidence showing that the employer provided the employee with all information reported under paragraph §382.705 (b)(4) of this section.

**Reporting Entities and Circumstances**

<b>Reporting entity</b>	<b>When information will be reported to clearinghouse</b>
Prospective/Current Employer of CDL Driver	<ul style="list-style-type: none"> <li>—An alcohol confirmation test with a concentration of 0.04 or higher.</li> <li>—Refusal to test (alcohol) as specified in 49 CFR 40.261.</li> </ul>
	<ul style="list-style-type: none"> <li>—Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191.</li> </ul>
	<ul style="list-style-type: none"> <li>—Actual knowledge, as defined in 49 CFR 382.107, that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance.</li> </ul>
	<ul style="list-style-type: none"> <li>—Negative return-to-duty test results (drug and alcohol testing, as applicable)</li> </ul>
	<ul style="list-style-type: none"> <li>—Completion of follow-up testing.</li> </ul>
Service Agent acting on behalf of Current Employer of CDL Driver	<ul style="list-style-type: none"> <li>—An alcohol confirmation test with a concentration of 0.04 or higher.</li> <li>—Refusal to test (alcohol) as specified in 49 CFR 40.261.</li> </ul>
	<ul style="list-style-type: none"> <li>—Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191.</li> </ul>
	<ul style="list-style-type: none"> <li>—Actual knowledge, as defined in 49 CFR 382.107, that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance.</li> </ul>
	<ul style="list-style-type: none"> <li>—Negative return-to-duty test results (drug and alcohol testing, as applicable)</li> </ul>
	<ul style="list-style-type: none"> <li>—Completion of follow-up testing.</li> </ul>
MRO	<ul style="list-style-type: none"> <li>—Verified positive, adulterated, or substituted drug test result.</li> </ul>
	<ul style="list-style-type: none"> <li>—Refusal to test (drug) requiring a determination by the MRO as specified in 49 CFR 40.191.</li> </ul>
SAP	<ul style="list-style-type: none"> <li>—Identification of driver and date the initial assessment was initiated.</li> </ul>
	<ul style="list-style-type: none"> <li>—Successful completion of treatment and/or education and the determination of eligibility for return-to-duty testing.</li> </ul>

## **XI. DRIVER CONSENT AND ACCESS TO THE CLEARINGHOUSE**

The City of Cedarburg cannot query the Clearinghouse to determine whether a record exists for any particular driver without first obtaining driver consent. The City of Cedarburg must retain the consent for 3 years from the date of the last query. Written consent for limited queries can be obtained by using the "General Consent for Limited Queries of the FMCSA-Drug and Alcohol Clearinghouse Form" which is attached to this policy.

Before the City of Cedarburg may access information contained in the driver's Clearinghouse record, the driver must submit electronic consent through the Clearinghouse granting the City of Cedarburg access to the following specific records:

- (1) A verified positive, adulterated, or substituted controlled substances test result;
- (2) An alcohol confirmation test with a concentration of 0.04 or higher;
- (3) A refusal to submit to a test in violation of §382.211;
- (4) An employer's report of actual knowledge, as defined at §382.107, of:
  - (i) On duty alcohol use pursuant to §382.205;
  - (ii) Pre-duty alcohol use pursuant to §382.207;
  - (iii) Alcohol use following an accident pursuant to §382.209; and
  - (iv) Controlled substance use pursuant to §382.213;
- (5) A SAP report of the successful completion of the return-to-duty process;
- (6) A negative return-to-duty test; and
- (7) An employer's report of completion of follow-up testing.

**The City of Cedarburg cannot permit a driver to perform a safety-sensitive function if the driver refuses to grant the consent required by the paragraphs of this section.**

A driver granting consent must provide consent electronically to the Agency through the Clearinghouse prior to release of information to an employer in accordance with §382.701(a)(2) or (b)(3).

A driver may review information in the Clearinghouse about himself or herself, except as otherwise restricted by law or regulation. A driver must register with the Clearinghouse before accessing his or her information.

## **XII. CLEARINGHOUSE RECORDKEEPING**

The City of Cedarburg must retain for 3 years a record of each query and all information received in response to each query made. As of January 6, 2023, an employer who maintains a valid registration with the Clearinghouse fulfills this requirement.

## **XIII. SELF ADMISSION**

The City of Cedarburg strives to maintain a safe and drug free work environment. Alcohol and drug use on the job poses a serious threat to the safety of our employees and the general public. However, the organization also understands the addictive nature of alcohol and certain drugs. The organization greatly values and cares about all employees, and will make every effort to assist any employee who comes forward and admits the need for help or treatment. To this end, the City of Cedarburg has created a qualified self-admission program as detailed in its Non-DOT policy which complies with the DOT regulations by incorporating the following required elements:

- The City of Cedarburg will not take any adverse action (loss of seniority, position, title, etc.) against any employee who makes a voluntary admission of having an alcohol or drug problem.
- In the event of a voluntary self-admission, the organization is required to remove the employee from performing, and the employee will be prohibited from performing, or continuing to perform, any safety sensitive functions.
- Self-admitting employees will be given the opportunity to seek treatment (at the employee's expense). The organization shall ensure that the employee is provided sufficient opportunity to seek evaluation, education or treatment to establish control over his or her drug or alcohol problem;
- In order to be permitted to resume performing safety sensitive functions for the City of Cedarburg:
  - The organization must be satisfied with and approve the employee's treatment option/program.
  - The employee must successfully complete the treatment program, and provide documentation/certification of completion (as determined by a drug and alcohol abuse evaluation expert, i.e., employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor).

Further, the City of Cedarburg must ensure that:

- Prior to the employee participating in a safety sensitive function, the employee shall undergo a return-to-duty test (at the employee's expense) with a result indicating an alcohol concentration of less than 0.02; and/or
- A return-to-duty controlled substance (at the employee's expense) test with a verified negative test result for controlled substances use; and
- The organization may incorporate employee monitoring and include non-DOT follow-up testing (at the employee's own expense).

Employees who admit to alcohol misuse or controlled substances use, are subject to the above procedures, but will not be subject to the referral, evaluation and treatment requirements set forth in 49 CFR Part 40, Subpart O, provided that:

- The driver does not self-identify in order to avoid testing under the requirements of this policy;
- The driver does not make the admission of alcohol misuse or controlled substances use prior to performing a safety-sensitive function (i.e., prior to reporting for duty); and
- The driver does not perform a safety-sensitive function until the City of Cedarburg is satisfied that the employee has been evaluated and has successfully completed education or treatment requirements in accordance with the self-identification program guidelines.

#### **XIV. TESTING PROCEDURES**

Drug testing establishes the presence of a drug or drugs at or above the minimum cut-off concentration levels. The drugs for which tests are conducted include, but are not limited to, marijuana (THC), cocaine, amphetamines, phencyclidine (PCP), and opioids. The cut-off concentration levels for these substances are consistent with those defined in 49 CFR Part 40.

Alcohol testing determines the presence of alcohol based on alcohol concentration levels. Alcohol concentration (or content) means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test. Alcohol use means the drinking or swallowing of any beverage, liquid mixture or preparation (including any medication), containing alcohol.

Before the testing process can begin, the employee must present a valid photo ID (such as a driver's license, state issued identification card, employer ID, etc.).

## **Alcohol Testing**

### **Initial Testing**

An alcohol testing form (ATF) is used to document the alcohol testing process. The Breath Alcohol Technician (BAT) will conduct an initial breath test and if the result is 0.020 or greater, a confirmation test is required. The collector completes Step 1 and the employee is required to sign Step 2 in order for the test to proceed. The employee provides an adequate amount of breath so the device can analyze it and provide the result. The BAT and employee observe the test results, which are then recorded on the ATF. If the test result is less than .020, the result is considered negative. The collector completes Step 3 and the collection process is complete.

### **Confirmation Testing**

A 15-minute wait period will be observed prior to the confirmation test being administered. The wait period allows an opportunity for any accumulation of residual mouth alcohol to dissipate and will prevent an artificially high reading. The confirmation test result is administered following an air blank on the testing device. Once the results are received, they must electronically print on ATF.

Confirmation test result equal to or less than 0.019 is considered negative; no further action is required. Confirmation test result equal to or greater than .020 but less than .040 requires the employee to immediately be removed from his/her position for a minimum of 24 hours or until their next regularly scheduled shift. An alcohol test result equal to or greater than 0.040 is considered a positive test result. The employee is directed to read and sign Step 4; if the employee refuses to sign Step 4, it will have no bearing on the result, but will be documented on the ATF.

The confirmation test results are those the organization will rely on when determining further action, if any.

### **DOT Drug Testing**

The drug testing processes and protocols are compliant with those mandated by 49 CFR Part 40. The collector utilizes a custody and control form to document the collection process. The collector will provide a brief summary regarding the steps to complete the collection process. The driver is provided privacy to provide his/her specimen, immediately returns the specimen to the collector, and observes the temperature along with the collector. The collector splits the specimen into bottles A & B, seals each container and dates the label. The employee initials each label. The paperwork and specimens are sent to a laboratory certified by the U.S. Department of Health and Human Services.

### **Laboratory**

The laboratory is certified by the U.S. Department of Health and Human Services and utilizes approved techniques and equipment to analyze the specimen. The laboratory conducts validity testing to determine if the specimen is consistent with normal human urine and to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted. Drug testing establishes the presence of a drug or drugs at or above the minimum cut-off concentration levels.

For initial drug testing, an immunoassay technique is used. If the presence of drugs is detected at or above the minimum cut-off concentration levels, a confirmation test is required. For confirmation testing, a second analytical procedure is conducted by gas chromatography/ mass spectrometry (GC/MS) technology. The procedure is used to further support a validity test result and/or identify and quantify the presence of a specific drug or drug metabolite at or above the minimum thresholds.

All test results are reported to the Medical Review Officer.

### **Medical Review Officer (MRO)**

The MRO serves as an independent, impartial gatekeeper regarding the accuracy and integrity of the drug testing program. As a safeguard to quality and accuracy, the MRO reviews each test for accuracy.

When the laboratory reports non-negative results (i.e., confirmed positive, adulterated, substituted, or invalid drug test result), the MRO conducts a verification process with the employee. During this process, he/she will obtain information to determine if an alternative medical explanation for the test result exists.

If the MRO determines that a legitimate medical use exists, the drug test result is reported as negative to the employer. However, even if there is a legitimate medical explanation and verifies a test negative, the MRO has a responsibility to raise fitness-for-duty considerations with the employer.

When no legitimate medical reason is established, the MRO will report the applicable result to the employer.

## **XV. CONTROLLED SUBSTANCES/ OTC/ PRESCRIPTION MEDICATIONS**

Before performing any work-related duties, employees must notify their supervisor if they are taking any legally prescribed medication, therapeutic drug (to include the use of CBD Oils), or any non-prescription (over-the-counter) drug especially if it contains any measurable amount of alcohol or if it carries a warning label that indicates the employee's mental functioning, motor skills, or judgment may be adversely affected by the use of this medication. It is the responsibility of the employee to inform their physician of the type of safety-sensitive function that they perform in order that the physician may determine if the prescribed substance could interfere with the safe and effective performance of their duties or operation of the City of Cedarburg vehicle and other equipment. However, as required by the Federal Regulations, any employee who uses or possesses medication containing alcohol or any substance which would cause a positive test while on duty or who tests positive for alcohol or controlled substance(s) will be removed from his or her position, and subject to the provisions of this policy, even though the reason for the positive test is the fact that the employee's prescription medication contains alcohol or a controlled substance.

A legally prescribed drug is one in which the employee has a prescription or other written approval from a physician for the use of the drug in the course of medical treatment. The prescription must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization. The misuse or abuse of legal drugs while performing City of Cedarburg business or on City of Cedarburg property is prohibited by this policy.

### Special Note for Rx Opioids:

Historically, the DOT's regulation required the MRO to report your medication use/medical information to a third party (e.g. your employer, health care provider responsible for your medical qualifications, etc.), if the MRO determines in his/her reasonable medical judgement that you may be medically unqualified according to DOT Agency regulations, or if your continued performance is likely to pose a significant safety risk. The MRO may report this information even if the MRO verifies your drug test result as 'negative'.

As of **January 1, 2018**, prior to the MRO reporting your information to a third party you will have up to five days to ensure your prescribing physician contacts the MRO. Under DOT rule, **the driver is responsible for facilitating the contact between the MRO and the prescribing physician**. The prescribing physician should be willing to state to the MRO that you can safely perform your safety-sensitive functions while taking the medication(s), or consider changing your medication to one that does not make you "medically unqualified" and/or does not pose a significant safety risk.

If the MRO and prescribing physician cannot agree on a resolution regarding the prescription and conclude the driver must remain "medically unqualified" the City of Cedarburg will either place the driver on administrative leave, offer modified duty not to include performance of any safety sensitive functions, and/or evaluate if the driver qualifies under FMLA as appropriate. During this time, as the driver is unable to perform safety sensitive functions and likely unable to perform all the essential functions of their job, an

ADA interactive process may begin, as required, to help determine reasonable accommodations (if any) for the driver.

#### **XVI. CONFIDENTIALITY OF RECORDS**

Procedures used for drug and alcohol testing follow the requirements of 49 CFR Part 40 to protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver. The City of Cedarburg will strictly adhere to all standards of confidentiality to ensure drivers testing records and results will be released only to those authorized by the FMCSA rules to receive such information.

#### **XVII. EMPLOYEE EDUCATION**

As required by Federal Regulations, supervisors of CDL holders will be required to attend two hours of drug and alcohol education. One hour will cover alcohol misuse and the other hour will cover controlled substances use. The training shall cover the physical, behavioral, speech, and work performance indicators of probable alcohol misuse and use of controlled substances. Documentation of this training will be maintained by Human Resources and will be available for review.

For regulated employees who possess a CDL, the City of Cedarburg will also provide each employee with a copy of this policy relating to drug and alcohol use. This policy provides basic information concerning the effects of alcohol and controlled substances use on a person's health, work, and personal life; signs and symptoms of an alcohol or controlled substance problem; and available methods of intervening when an alcohol or controlled substance problem is suspected, including confrontation, referral to any employee assistance program and/or referral to management (see below).

#### **XVIII. CERTIFICATE OF RECEIPT**

The City of Cedarburg shall ensure that each driver is required to sign a statement certifying that he or she has received a copy of this policy and materials. The organization shall maintain the original of the signed certificate and may provide a copy of the certificate to the driver.



## WHAT ARE THE AFFECTS OF ALCOHOL AND DRUGS ON THE BODY

### **ALCOHOL**

A central nervous system depressant, alcohol is the most widely abused drug. About half of all auto accident fatalities in this country are related to alcohol abuse.

#### **How Much is Too Much?**

Consider that a 12-ounce beer, a 5-ounce glass of wine, and a 1.5 ounce shot of liquor contain about the same amount of alcohol. For the average to larger person (170#) and petite to small person (125#) the following approximate BACs can be expected:

	<u>170# person</u>	<u>125# person</u>
1 drink in 1 hour	.015%	.025%
2 drinks in 1 hour	.04%	.075%
7 drinks in 1 hour	.10%	.175%

#### **The Removal of Alcohol From The Body**

- ▲ Blood alcohol concentrations in the average person usually decrease at the rate of .012 to .02% per hour
- ▲ For a given person, the rate of elimination is nearly constant regardless of the % of alcohol in the body
- ▲ Coffee, cold showers, and exercise do not quicken sobriety.

**To demonstrate this, here is a chart that shows what happens when a person goes to bed intoxicated with a blood alcohol level of .250**

<u>Time</u>	<u>Activity</u>	<u>Blood Alcohol</u>
1:00 AM	Goes to Bed	.250
5:00 AM	Get Up for Work	.190
7:00 AM	Reports for Work	.160
8:00 AM	Still Legally Intoxicated	.145
9:00 AM	Driving Erratically	.140
11:00 AM	Still Legally Intoxicated – car	.100
3:00 PM	Quitting Time – Still Intoxicated CDL	.040

Alcohol first acts on those parts of the brain that affect self-control and other learned behaviors. Low self-control often leads to the aggressive behavior associated with some people who drink. In large doses, alcohol can dull sensation and impair muscular coordination, memory and judgment. Taken in larger quantities over a long period of time, alcohol can damage the liver and heart and cause permanent brain damage. On the average, heavy drinkers shorten their life span by about 10 years.

#### **Other Effects:**

- \* greatly impaired driving ability
- \* reduced coordination and reflex action
- \* impaired vision and judgment
- \* impaired vision and judgment
- \* inability to divide attention
- \* overindulgence (hangover) can cause
- \* headaches/unclear thinking
- \* nausea/unsettled digestion
- \* dehydration/aching muscles

### **1. MARIJUANA**

Marijuana is also called grass, pot, weed, Mary Jane, herb, joint, reefer, among other street names. Marijuana may impair or reduce short-term memory and comprehension, alter sense of time, and reduce ability to perform tasks requiring concentrations and coordination, such as driving.

**NOTE:** While alcohol dissipates in a matter of hours, marijuana stays in the body for four weeks or more!

**Other Effects:**

- ▲ driving impaired for at least 4-6 hours after smoking 1 joint
- ▲ restlessness, inability to concentrate
- ▲ increased pulse rate and blood pressure
- ▲ altered sense of identity
- ▲ impaired memory, dulling of attention
- ▲ hallucinations, fantasies and paranoia
- ▲ reduction or temporary loss of fertility

**2. COCAINE**

Cocaine is a stimulant drug, which increases heart rate and blood pressure. As a powder, it is inhaled, ingested, or injected. It is often called "snow", "blow", "nose candy", and "white". Cocaine is also used as a free-base cocaine known as "crack" or "rock", which is smoked.

The most dangerous effects of crack is that it can cause vomiting, rapid heart rate, tremors, and convulsive movements. All of this muscle activity increases the demand for oxygen, which can result in a cocaine-induced heart attack. Since the heat regulating center in the brain is also disrupted, dangerously high body temperatures can occur. With high doses, brain functioning, breathing and heart beat are depressed – leading to death.

**Other Effects:**

- ▲ a rush of pleasurable sensation
- ▲ heightened, but momentary feeling of confidence, strength and endurance
- ▲ paranoia, mood swings, anxiety
- ▲ irritation of the nostrils and nasal membrane
- ▲ reduced sense of humor
- ▲ compulsive behavior such as teeth grinding or repeated hand washing

**3. AMPHETAMINES:**

Amphetamines can cause increased heart and respiratory rates, and promote a feeling of alertness and an increase in speech and general physical activity. It is often called "speed", "uppers", "pep pills", "black beauties", "bennies", and "hearts".

**NOTE:** People with a history of sustained low-dose use often become dependent and believe they need the drug to get by. These users frequently keep taking amphetamines to avoid the "down" mood or crash they experience when the 'high' wears off.

Even small infrequent doses can produce toxic effects in some people. Restlessness, anxiety, moody swings, panic, heart beat disturbances, paranoid thoughts, hallucinations, convulsions, and coma have been reported. Long-term users often have acne resembling measles, trouble with their teeth, gums and nails, and dry, dull hair. Heavy, frequent doses can produce brain damage resulting in speech disturbances.

**Other Effects:**

- \* loss of appetite
- \* exaggerated reflexes
- \* distorted thinking
- \* irritability, anxiety, apprehension
- \* increased heart rate
- \* short term insomnia
- \* difficulty focusing eyes
- \* increased blood pressure
- \* perspiration, headaches, dizziness

**4. OPIOIDS**

Opioids, including heroin, morphine, and codeine are narcotics used to relieve pain and induce sleep. Common street names include, "junk", "smack", "brown sugar", "Harry" or "big H".

**NOTE:** Heroin accounts for 90% of the narcotic abuse in this country

Sometimes narcotics found in medicines are abused. This includes pain relievers containing opium and cough syrups containing codeine. Heroin is illegal, and cannot even be obtained with a physician's prescription.

**Other Effects:**

- \* short-lived state of euphoria
- \* impaired driving ability
- \* drowsiness followed by sleep
- \* constipation
- \* decreased physical activity
- \* reduced vision
- \* change in sleep habits
- \* possible death

**5. PHENCYCLIDINE (PCP):**

Also called angel dust, rocket fuel, super kools, and killer weed, it was developed as a surgical anesthetic in the late 50's. Later, due to unusual side effects in humans, it was restricted to use as a veterinary anesthetic and tranquilizer. Today, it has no lawful use and is no longer legally manufactured.

**NOTE:** PCP is a very dangerous drug. It can produce violent and bizarre behavior even in people not otherwise prone to such behavior. More people die from accidents caused by erratic behavior produced by the drug than from the drug's direct effect on the body.

PCP scrambles the brain's internal stimuli and alters how users see and deal with their environment. Routine activities like driving and walking become very difficult.

**Other Effects:**

- \* impaired driving ability
- \* perspiration
- \* Incomplete verbal responses
- \* thick, slurred speech
- \* drowsiness
- \* repetitive speech patterns
- \* blank stare
- \* involuntary eye movement

Additional information about the City of Cedarburg' Drug & Alcohol Program is available from:

**Designated Employer Representative (DER): City Administrator**

**Name: Mikko Hilvo      Phone: (262) 375-7917**

**EMPLOYEE ACKNOWLEDGEMENT FORM**

Detach and return this page to the City of Cedarburg's Designated Employee Representative, safety Manager or other identified City of Cedarburg manager.

I acknowledge that I have received City of Cedarburg's Drug and Alcohol Testing Policy and that this policy has been reviewed with me in a training session conducted by the City of Cedarburg. I understand that the terms described in this policy may be altered, amended, or changed by City of Cedarburg, at any time or in order to comply with changes or revisions to federal law, with or without prior notice.

PRINTED NAME \_\_\_\_\_

SIGNATURE \_\_\_\_\_

DATE \_\_\_\_\_

# **General Consent for Limited Queries of the Federal Motor Carrier Safety Administration (FMCSA)**

## **Drug and Alcohol Clearinghouse**

I, \_\_\_\_\_, hereby provide consent to City of Cedarburg to conduct annual limited queries of the FMCSA Commercial Driver's License Drug and Alcohol Clearinghouse to determine whether drug or alcohol violation information about me exists in the Clearinghouse, for the duration of my employment with City of Cedarburg.

I understand that if the limited query conducted by City of Cedarburg indicates that drug or alcohol violation information about me exists in the Clearinghouse, FMCSA will not disclose that information to City of Cedarburg without first obtaining additional specific consent from me.

I further understand that if I refuse to provide consent for City of Cedarburg to conduct a limited query of the Clearinghouse, City of Cedarburg must prohibit me from performing safety-sensitive functions, including driving a commercial motor vehicle, as required by FMCSA's drug and alcohol program regulations.

---

Employee Signature

Date

# DRUG & ALCOHOL CLEARINGHOUSE

GET NEWS AND UPDATES AT:  
<https://clearinghouse.fmcsa.dot.gov>

Coming  
January 6, 2020

## What is the FMCSA Commercial Driver's License Drug and Alcohol Clearinghouse?

The Clearinghouse is a secure online database that will give employers, FMCSA, State Driver Licensing Agencies, and State law enforcement personnel real-time information about CDL driver drug and alcohol program violations, thereby enhancing safety on our Nation's roadways. An act of Congress directed the Secretary of Transportation to establish the Clearinghouse.

The Clearinghouse contains information about drivers with commercial driver's licenses (CDL drivers) who are covered by FMCSA's drug and alcohol program. This also includes drivers with commercial learner's permits (CLPs).

For more information on drivers affected by the Clearinghouse, see other side.



### When must I use the Clearinghouse?

JAN  
2020

**JANUARY 6, 2020:** Authorized users will be required to complete the actions described in the Clearinghouse final rule. At this time, employers will be required to conduct both electronic queries and traditional manual inquiries with previous employers to meet the three-year timeframe, required by FMCSA's drug and alcohol use testing program, for checking CDL driver violation histories. Drivers may also view their own records for information recorded on or after January 6, 2020.

**JANUARY 6, 2023:** Once three years of violation data are stored in the Clearinghouse, employers are no longer required to also request information from the driver's previous FMCSA-regulated employers under 391.23(e); an employer's query of the Clearinghouse will satisfy that requirement.



### How will the Clearinghouse improve highway safety?

- ✓ Make it easier for employers to meet their pre-employment investigation and reporting obligations.
- ✓ Make it more difficult for drivers to conceal their drug and alcohol program violations from current or prospective employers.
- ✓ Provide roadside inspectors and other enforcement personnel with the means to ensure that drivers receive required evaluation and treatment before performing safety-sensitive functions, such as driving a commercial motor vehicle (CMV).
- ✓ Make it easier for FMCSA to determine employer compliance with testing, investigation, and reporting requirements.

## What information will the Clearinghouse contain?



The Clearinghouse will contain information on all CDL driver drug and alcohol program violations. These violations include:

- Report for duty/remain on duty for safety-sensitive function with alcohol concentration of 0.04 or greater or while using any drug specified in the regulations (Part 40), other than those prescribed by a licensed medical practitioner
- Alcohol use while performing, or within four hours of performing, a safety-sensitive function
- Alcohol use within eight hours of an accident, or until post-accident test, whichever occurs first
- Test positive for use of specified drugs
- Refusing to submit to a required alcohol or drug test

## How will I use the Clearinghouse?

### EMPLOYERS

Report drug and alcohol violations and check that no current or prospective employee is prohibited from performing safety-sensitive functions, such as operating a CMV, due to a drug and alcohol program violation for which a driver has not successfully completed a Return-To-Duty (RTD) process.

### CDL DRIVERS

View own record, provide consent to current or prospective employers to access details about any drug and alcohol program violations, and select a Substance Abuse Professional, if needed.

### MEDICAL REVIEW OFFICERS

Report verified positive drug test results and test refusals.

### SUBSTANCE ABUSE PROFESSIONALS

Report RTD initial assessment and eligibility status for RTD testing.

### CONSORTIUM/THIRD-PARTY ADMINISTRATORS

On behalf of an employer, report drug and alcohol program violations and perform driver queries as required.

### STATE DRIVER LICENSING AGENCIES

Query the Clearinghouse prior to completing licensing transactions.



## What types of drivers and employers will the Clearinghouse affect?



All CDL drivers who operate CMVs on public roads, and their employers and service agents. This includes, but is not limited to:

- Interstate and intrastate motor carriers, including passenger carriers
- School bus drivers
- Construction equipment operators
- Limousine drivers
- Municipal vehicle drivers (e.g., waste management vehicles)
- Federal and other organizations that employ drivers subject to FMCSA drug and alcohol use testing regulations (e.g., Department of Defense, municipalities, school districts)



**CITY OF CEDARBURG**  
**PERSONNEL MANUAL**

**ADOPTED 06-09-2014**  
**Revised 03-09-2015**  
**Revised 08-31-2015**  
**Revised 01-28-19**



## Personnel Manual

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## SECTION 1

### Introduction

#### SECTION 1-1 PERSONNEL OBJECTIVES AND ADMINISTRATION.

- (a) **Applicability:** The personnel policies and guidelines in the City of Cedarburg Personnel Manual shall be applicable to all City employees, including Library and Police Department employees. This manual does not apply if a Collective Bargaining or individual Employment Agreement covers a policy or procedure. It does not apply to employees of Cedarburg Light & Water.
- (b) **Additional Rights Not Conferred.** None of the benefits or policies in this Personnel Manual are intended by reason of their publication to confer any rights or privileges or to entitle a City employee to be or to remain employed by the City. The Personnel Manual is subject to unilateral change by the City.
- (c) **At-Will Employment.** The purpose of this policy is to address the employment relationship, which, is at will. The City retains the right to terminate an employee's employment at any time with or without reason or notice. Nothing contained in any City policy, handbook, rule, document, communication or practice is intended to be, create, imply or guarantee that employment or any City benefit will be provided for any period of time. The promise of certain benefits now and in the future does not change the employment-at-will relationship. Compensation figures provided in annual or monthly terms to employees are stated as such for convenience or to aid in salary comparison, and are not intended to create an employment contract for a specific period of time.

Employment-at-will may only be altered as expressly stated in a collective bargaining or a written employment agreement.

#### SECTION 1-2 AUTHORITY.

- (a) **Policy Approval.** The authority to approve the Personnel Manual or to make changes to it is vested in the Mayor and Common Council. It is the responsibility of City personnel to recommend changes to the Mayor and Common Council, through the City Administrator and Personnel Committee, for approval.
- (b) **Administration.** The overall authority and responsibility for the general day to-day administration of the personnel program is with the City Administrator for employees excluding Library and Light & Water employees and the Chief of Police and Fire Chief for employees under their respective jurisdiction.
- (c) The City Council and Mayor retain all of its common law, statutory and inherent rights to manage its employees and to determine the general business practices and policies of the City.

#### SECTION 1-3 DEFINITIONS.

In this Chapter the following definitions shall apply:

- (a) **City.** The City of Cedarburg, Wisconsin.
- (b) **Collective Bargaining Agreement.** A written and signed contract, between the City and a labor organization, pertaining to the mutual obligations of the City pursuant to Wis. Stat. 111.70 and the represented employees concerning wages, hours and conditions of employment as defined by Wisconsin law.
- (c) **Continuous Service.** Uninterrupted employment as a regular or part-time employee of the City.
- (d) **Department.** An established and recognized City division which is organized and structured to accomplish a particular type of assigned municipal service.
- (e) **Department Head.** An employee who is responsible for the operation of a City department and includes:
  - (1) City Assessor;
  - (2) Chief of Police;
  - (3) Fire Chief;
  - (4) Director of Engineering and Public Works;
  - (5) City Clerk;
  - (6) City Treasurer;
  - (7) Parks and Recreation Director;
  - (8) Library Director; and
  - (9) Light and Water Utility Manager.
- (f) **Employee.** An individual who is engaged to provide services as directed by the City for wages or salary. Department heads are employees of the City.
- (g) **Fulltime Employee.** An employee in a regular position whose normal assigned schedule of hours totals two thousand eighty (2,080) or more per year.
- (h) **Labor Organization.** An employee organization formally recognized as representing the employees, pursuant to §111.70 et. seq. of the Wisconsin Statutes.
- (i) **Part-time Employee.** An employee whose normally assigned schedule of hours totals one thousand five hundred sixty (1,560) hours per year or more but less than two thousand eighty (2,080) hours per year.
- (j) **Regular Employee.** An employee who is scheduled to work throughout the year and who occupies a full or part-time position established by the Common Council.
- (k) **Temporary and Seasonal Employee.** An employee who is hired only for a limited period of time and whose normal assigned schedule of hours totals less than twelve hundred (1,200) hours per year.

## SECTION 2

### Employment Practices (Recruitment/Selection/Placement)

#### SECTION 2-1 EQUAL EMPLOYMENT OPPORTUNITIES.

It is the personnel policy of the City to maximize worker resources by selecting the best-qualified person for each job performed. The same principles apply to the hiring of any person with a disability, unless the disability cannot be reasonably accommodated. All personnel the City has hired and promoted in the past, and those to be hired and promoted in the future have been and will continue to be selected from all applicants on the basis of qualifications. These include such factors as ability, aptitude, enthusiasm, experience, education and a willingness to work and serve. Moreover, since the City's objective is to select from all sources of qualified workers, it will administer this policy in such a manner as not to discriminate against any person, employee, or job applicant for employment because of race, color, religion, sex, age, national origin, ancestry, handicap, marital status, sexual orientation, veteran status or arrest and conviction record (except where circumstances relate to employment) or any other characteristic protected by state or federal law. It is the responsibility of each employee and supervisor to give this nondiscrimination policy full support through example and leadership.

#### SECTION 2-2 IMMIGRATION LAW COMPLIANCE.

- (a) **Compliance.** The City complies with the Immigration Reform and Control Act of 1986. As such, the City needs to verify employment eligibility for anyone hired after November 6, 1986 and have that person complete a one-page form (I-9) for retention by the City. Before commencing work, newly hired employees must also complete the form if they did not previously file an I-9 with the City, if their previous I-9 is more than three years old, or if their previous I-9 is no longer valid.
- (b) **Sworn Personnel.** United States citizenship is required of all sworn personnel in the Police Department. An applicant for a sworn police position must be a legal citizen of the United States at the time of appointment to a sworn position.

#### SECTION 2-3 LICENSES AND CERTIFICATIONS.

- (a) Applicants for a position requiring a license and/or certification must present proof of same prior to the first assigned starting date.
- (b) Persons operating a City vehicle or equipment must possess an appropriate and valid operator's license and submit that license as proof. Those positions requiring special certification by an agency of the state must submit proof of satisfactory completion, with certification to professionally practice in the State of Wisconsin.
- (c) Various other certifications may be requested as proof of completed education at a recognized institution or university. The City reserves the right to obtain necessary information regarding academic achievement transcripts, educational files, health records, or prior employment records of any applicant.

**SECTION 2-4-a DRUG/ALCOHOL TESTING (CDL).**

The City of Cedarburg must comply with the Omnibus Transportation Employee Testing Act. The Act applies to public employees who drive commercial motor vehicles (CMV) and are required to hold commercial drivers' licenses (CDLs). This includes employees from the City, Department of Public Works, Light and Water, and Wastewater Treatment Plant employees. The City is required to conduct alcohol and drug testing of drivers engaged in safety-sensitive positions and maintain records related to the administration and results of the drug and alcohol testing programs.

Per §382.701 and effective January 6, 2020 City of Cedarburg will obtain driver consent and subsequently conduct a pre-employment full query and annual limited or full query of the Drug and Alcohol Clearinghouse to obtain information about whether the driver has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of §382.211; or that an employer has reported actual knowledge, as defined at §382.107, that the driver used alcohol on duty in violation of §382.205, used alcohol before duty in violation of §382.207, used alcohol following an accident in violation of §382.209, or used a controlled substance, in violation of §382.213. Please note: Until January 6, 2023, City of Cedarburg will conduct both electronic queries in the Clearinghouse and manual offline inquiries to previous employers for pre-employment driver investigations (as was previously required).

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Cedarburg will enforce the following policy:

- (a) **Prohibited Alcohol and Drug - Related Conduct.** An employee may not:
  - (1) Report to work or remain on duty to perform safety-sensitive functions while having an alcohol concentration of 0.04 or higher;
  - (2) Be on duty or operate a CMV while in possession of alcohol (including possession of medicines containing alcohol unless the packaging seal is unbroken);
  - (3) Use alcohol while performing safety sensitive functions;
  - (4) Use alcohol within four hours prior to performing any safety-sensitive functions;
  - (5) When required to take a post-accident alcohol test, use alcohol within eight hours following the accident or prior to undergoing a post-accident alcohol test, whichever comes first;
  - (6) Possess or use drugs on duty, unless prescribed by a physician who has advised the employee that the medication does not adversely affect the employee's ability to perform safety sensitive functions;
  - (7) Perform safety sensitive functions with any amount of drugs in the employee's system; and
  - (8) Refuse to submit to or cooperate in any drug or alcohol testing.
- (b) **Knowledge of employee under the influence.** An employee who has knowledge of another employee who has consumed or is under the influence of an intoxicating beverage or drugs must take all reasonable steps to prevent the employee from performing safety-sensitive functions.
- (c) **Five (5) types of testing are required by the Act:** pre-employment; random; reasonable suspicion; post-accident; return-to-duty and follow-up testing.

(1) Pre-employment Testing - Pre-employment testing for alcohol and drugs is required before a driver may drive a commercial motor vehicle or perform other safety-sensitive functions.

~~(1)~~

(2) Post-Accident Testing - Post-accident testing is conducted as soon as practicable after an accident.

(3) Random Testing - Annually, the number of random alcohol tests given must be at least 25% of the total number of employees subject to testing and random drug testing be given at a rate of at least 50% of the total number of employees subject to testing. For the City of Cedarburg, employees holding CDLs from Cedarburg Light and Water, the Wastewater Treatment Plant employees, and Department of Public Works employees will consist of the total number of employees subject to testing.

(4) Reasonable Suspicion Testing - An employer must require an employee to submit to an alcohol or drug test when the employer has a reasonable suspicion that an employee has violated prohibitions against the misuse of alcohol or use of illegal drugs.

(5) Return to Duty/Follow-Up Testing - An employee may not return to duty requiring the performance of a safety-sensitive function until the employee has successfully passed a return-to-duty alcohol and/or other drug test.

(d) **Consequences of Failing Drug or Alcohol Testing** - If an employee tests positive for drugs, has a 0.04% BAC alcohol test, or refuses to submit to testing, the employee will be immediately removed from duty. Subsequent disciplinary action will be taken against the employee.

(e) Employees who hold a CDL should view administrative directive AD-22 for full disclosure of policies and procedures.

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#### SECTION 2-4 -b DRUG/ALCOHOL TESTING (NON CDL).

**Testing for employees who do not hold a CDL.** All Employees may be subject to drug and alcohol testing pre-employment, post-accident or upon reasonable suspicion.

#### SECTION 2-5 RECRUITMENT.

(a) **Non Sworn Personnel.** As vacancies occur in positions, efforts will be made to fill them by promotion of qualified current employees. The position will be posted in appropriate locations so that all employees desiring to apply will be aware of the vacancy. Each interested employee must file a statement of interest in the vacant position and a formal application.

(b) **Sworn Personnel.** Recruitment for positions with the Police or Fire Department shall be pursuant to the rules of procedure of the Police and Fire Commission.

(c) **Filling Vacancies.** Common Council authorization is required to fill any vacant full-time and regular part-time positions (excluding Library personnel) that were not approved within the previous twelve (12) months.

#### SECTION 2-6 SUBMISSION OF APPLICATIONS.

(a) All applications for employment shall be submitted on-line.

(b) Any information given to the City during the application and hiring process, which is false,

deceptive or fraudulent in any manner, will subject the applicant to disqualification. If the candidate has been hired, the employee will be subject to immediate dismissal.

#### **SECTION 2-7 BACKGROUND INVESTIGATIONS.**

- (a) After an applicant receives conditional offer of employment, the City shall have a routine background check made by the Police Department for employees. This will be done before hiring, and such report shall be filed with the City Administrator. The personal background and criminal or civil forfeiture data will be evaluated in relation to the applicant's ability to perform the duties and responsibilities of the specific position. An investigative credit report may be required- at the discretion of management.
- (b) All applicants shall be checked for verification as to their employment and educational backgrounds.
- (c) A background investigation may be completed on volunteers and temporary employees as considered appropriate and depending on the duties.

#### **SECTION 2-8 EMPLOYEE ORIENTATION.**

A new employee's supervisor shall be responsible for the orientation of each new employee and shall, on the first day of employment or as soon thereafter as possible during the first pay period, meet with new employees and advise them of all general conditions of employment.

#### **SECTION 2-9 INTRODUCTORY PERIOD.**

All newly hired employees shall be on a six (6) month introductory period from the date of hire. Such introductory period may be extended at the option of the City Administrator for one (1) additional six (6) month period, provided that the employee is so notified prior to the expiration of the initial six (6) month introductory period. During the introductory period a new employee may be terminated by the City without regard to cause and without recourse to the grievance procedure. The use of a probationary period should not be construed as changing the nature of employment from being an at-will employee.

#### **SECTION 2-10 HIRING RELATIVES.**

- (a) This Section governs the proposed hiring of individuals for fulltime or part-time work as City employees who are members of the immediate family of current City employees or elected officials. Immediate family includes an employee's parent, spouse, designated partner, sister or brother, children and -in -law and step relations of the same categories.
- (b) No City official or employee shall be involved in any way in the recommendation or decision to hire, evaluate, compensate or promote another person when that person is a member of the employee's immediate family. No City official or employee shall supervise another employee who is a member of his or her immediate family.
- (c) In all cases, including temporary and seasonal employment City officials and employees are required to comply with Wisconsin Statutes 19.59: "No local public official may use his or her public position or office to obtain financial gain or anything of substantial value for the



private benefit of himself or herself or his or her immediate family or organization with which he or she is associated.”

- (d) This Section does not apply to nonelected officials who are asked to accept appointment as members of a City board, commission or committee; nonelected officials, however, will be expected to disqualify themselves from participation in matters under consideration which may affect the hiring, retention, classification or compensation of their relatives if currently employed or being considered for employment by the City.
- (e) The City Administrator with the approval of the Personnel Committee may waive this Section whenever its literal application would be adverse to the City’s best interest. If the waiver is agreed to by the Personnel Committee, the City Administrator shall set forth in writing as a matter of public record an explanation of the finding that the waiver is in the City’s interest. This section may be waived by the Director of Engineering and Public Works as to the employment of temporary, seasonal workers.
- (f) Nothing in this Section prohibits a City official or employee from making general policy decisions concerning salaries, salary-related benefits when the action does not result in preferential or favored treatment of a member of the employee’s immediate family nor has a relationship by affinity.

**SECTION 2-11 RESIDENCY.**

The Chief of Police is required to live in the City no further than fifteen (15) miles of the City’s borders within one year of appointment to the position. There is no residency requirement for all other employees.

**SECTION 2-12 ETHICS CODE.**

- (a) **DECLARATION OF POLICY.**  
The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in proper channels of the governmental structure; that public office is not to be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, there is established in this Chapter a code of ethics for all City of Cedarburg officials and employees whether elected or appointed, paid or unpaid, including members of Council as well as boards, committees and commissions of the City (City agencies). The purpose of this Ethics Code is to establish guidelines for ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the City of Cedarburg and by directing disclosure by such officials and employees of private financial or other interests in matters affecting the City. State ethics codes and conflict of interest law also apply to officials and employees.
- (b) **RESPONSIBILITY OF PUBLIC OFFICE.**  
Public officials and employees are agents of public purpose and hold office for the benefit

of the public. They are bound to uphold the Constitution of the United States and the Constitution of this State and carry out impartially the laws of the nation, state and municipality, to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their prime concern.

(c) **DEDICATED SERVICE.**

- (1) Officials and employees should adhere to the rules of work, ethical requirements, professionalism and performance established as the standard for their positions by the appropriate authority.
- (2) Officials and employees should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.

(d) **FAIR AND EQUAL TREATMENT.**

- (1) **Use of Public Property.** No official or employee shall request or permit the unauthorized use of City owned vehicles, equipment, materials or property for personal convenience or profit.
- (2) **Fundraising.** With the exception of fundraising for purposes of raising money for City departmental programming, equipment, or capital projects, which may occur subject to Council approval and all provisions of the City Code and the State Statutes, the following shall be prohibited:
  - (1) No official or employee shall request or permit the use of city resources, city time or city equipment for the purpose of fundraising.
  - (2) No official or employee shall use his or her position, authority or influence, whether possessed or anticipated, to represent themselves as a city official or employee for private or public fundraising.
- (3) **Obligations to Citizens.** No official or employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

(e) **CONFLICT OF INTEREST.**

- (1) **Financial and Personal Interest Prohibited.** No official or employee, whether paid or unpaid, shall engage in any business or transaction or shall act in regard to financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of official duties in the public interest contrary to the provisions of this Chapter or which would tend to impair independence of or action in the performance of official duties.
- (2) **Definitions.**
  - (a) Financial Interest. Any interest which shall yield, directly or indirectly, a monetary or other material benefit to the officer or employee or to any person employing or retaining the services of the officer or employee.

- (b) Personal Interest. Any interest arising from blood or marriage relationships or from close business or political associations, whether or not any financial interest is involved.
- (c) Person. Any individual or legal entity.

(3) **Specific Conflicts Enumerated.**

- (a) Incompatible Employment. No official or employee shall engage in or accept private employment or render service for private interest when such employment or service is incompatible with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties, unless otherwise permitted by law.
- (b) Disclosure of Confidential Information. No official or employee shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the City, nor shall such information be used to advance the financial or other private interests of the official or employee or others.
- (c) Gifts and Favors.
  1. No public official or employee may use his or her public office to "obtain financial gain" or "anything of value" for the private benefit of himself or herself, for his or her immediate family, or for an organization with which he or she is associated.
  2. No person may directly or indirectly offer or give "anything of value" to a local public official or employee if it could reasonably be expected to affect that official's vote, official action or judgment, or if it could be construed as a reward for any official action or inaction on the part of the local public official or employee. No local public official or employee may accept "anything of value" tendered under such circumstances. "Anything of value" is defined as "money or property, favor, service, payment, advance, forbearance, loan or promise of future employment". Legal campaign contributions are exempt from the definitions. An official or employee is not to accept hospitality if, after consideration of the surrounding circumstances, it could reasonably be concluded that such hospitality would not be extended were it not for the fact that the guest, or a member of the guest's immediate family, was a City official or employee. This includes any discount on the price of admission, parking, or use of a box at a stadium that is tax exempt from general property taxes. Participation in celebrations, grand openings, open houses, informational meetings and similar events are excluded from this prohibition. This paragraph further shall not be construed to prevent candidates for elective office from accepting hospitality from citizens for the purpose of supporting the candidate's campaign.
  3. No local public official or employee may take any official action that affects a matter in which the public official or employee, a member of his or her immediate family, or an organization with which the official or employee is associated has a substantial financial interest.
  4. No local public official or employee may use his or her office or position in any way that produces or assists in producing a substantial benefit, either directly or indirectly, for the official or employee, any members of his or

her immediate family, or an organization with which the official or employee is associated.

(d) **Representing Private Interests Before City Agencies or Courts.** No officer or employee shall appear on behalf of any private person (other than him or herself, his or her spouse or minor children) before any City agency. However, members of the Common Council may appear before City agencies on behalf of constituents in the course of their duties as representatives of the electorate or in the performance of public or civic obligations.

(4) **Contracts with the City.** No City officer or employee who, in his capacity as such officer or employee, participates in the making of a contract in which he has a private pecuniary interest, direct or indirect, or performs in regard to that contract with some function requiring the exercise of discretion on his part shall enter into any contract with the City unless it is within the confines of Sec. 946.13

(5) **Disclosure of Interest in Legislation.**

(a) Any member of the Common Council who has a financial interest or personal interest in any proposed legislation before the Common Council shall disclose on the records of the Common Council or the Ethics Board created by this Chapter the nature and extent of such interest.

(b) Any other official or employee who has a financial interest or personal interest in any proposed legislative action of the Common Council or who serves on a board or committee, shall disclose the nature and extent of such interest.

(c) If there is a conflict of interest for any official or employee, he or she must refrain from participating in any way including discussion, deliberations or action on the item.

f. **ADVISORY OPINION.**

Any questions as to the interpretation of any provisions of this Code of Ethics Chapter shall be referred to the City Attorney. The fact that a person seeks an advisory opinion from the City Attorney and abides by the material facts as stated is evidence of intent to comply with the Ethics Code.

g. **SANCTIONS.**

A determination that an official's or employee's actions constitute improper conduct under the provisions of this Chapter may constitute a cause of suspension, removal from office or employment or other action permitted by law.

h. **DISTRIBUTION OF ETHICS CODE.**

(1) The City Clerk shall cause a copy of this Code of Ethics to be distributed to every public official and employee of the City of Cedarburg within thirty (30) days after enactment of this Chapter. Each public official and employee elected, appointed or engaged thereafter shall be furnished a copy before entering upon his duties.

- (2) Each public official, the Mayor, the Chairman of each Board, Commission or Committee and, through the City Administrator, the Head of each Department shall, between May 1 and May 31 each year, review the provisions of this Code with his fellow Council, Board, Commission, Committee members or subordinates as the case may be and certify to the City Clerk by June 15 that such annual review had been undertaken. A copy of this Ethics Code Chapter shall be continuously posted on each department bulletin board wherever situated.

### SECTION 3

#### Conditions of Employment

#### SECTION 3-1 WORKING HOURS - NONSWORN EMPLOYEES.

- (a) **Working Hours.**
  - (1) The standard workday for full-time employees is eight (8) hours, which all employees are expected to work in full. The standard workweek for employees is forty (40) hours. Employees shall receive an unpaid lunch break; not less than thirty (30) minutes in length, which may be adjusted as necessary and as determined by the employee's supervisor in compliance Fair Labor Standards Act and Wisconsin Wage & Hour Law.
  - (2) As far as practical, work hours and days shall conform to the established hours of City business. However, the City has the right to establish rotative, staggered or shortened work periods, multiple shift or part-time hours as needed.
  - (3) A paid fifteen (15) minute break is granted each workday for non-exempt full-time and regular part-time employees.
- (b) **Overtime/Premium Pay.** City employees may be asked to work outside the standard work day or work week. Employees shall be paid time-and-one-half their regular rate of pay for all hours worked in excess of forty (40) hour work week, or receive compensatory time off as permitted by this Section and the Fair Labor Standards Act and Wisconsin Wage & Hour Law. Hours worked includes vacation, holiday pay, compensatory time, sick time, and floating holidays. Double time will be paid on unscheduled officially observed holidays only as listed in this Manual and unscheduled Sunday hours. One hour of straight time will be paid for each day a Wastewater Treatment Plant employee is assigned to on-call duty. This provision shall not apply to employees who are in administrative, executive or other classes of work exempt from the provisions of the Fair Labor Standards Act and Wisconsin Wage & Hour Law.
- (c) **Exempt Employees.**

The City Administrator, department heads and certain other officers are deemed to be

executive, administrative or professional employees who meet the qualifications for exemption under the Fair Labor Standards Act and Wisconsin Wage & Hour Law, and such employees shall be paid on a salary basis without regard to the number of hours worked. Exempt employees are generally expected to conform to the normal business hours of their department, and are afforded flexibility in the application of their time to the responsibility involved in managing their department. Such flexibility is not intended to allow for:

- (1) Taking absence for illness without charge to said leave; or
  - (2) Pay for overtime hours worked.
- (d) **Meetings.** City employees may be required to attend regular or special meetings of the Common Council and applicable meetings of other City committees, boards and commissions.

### **SECTION 3-2 COMPENSATORY TIME OFF; APPLICABILITY OF FAIR LABOR STANDARDS ACT**

- (a) **Definitions.** "Compensatory time" and "compensatory time off" are defined as hours when an employee is not working and which are paid for at the employee's regular rate of pay. These hours are not counted as hours worked in the week in which they are paid.
- (b) **Non-exempt Employees.** Such employees shall be eligible for pay or compensatory time off at the rate of one and one-half (1-1/2) hours for each hour of authorized overtime work in accordance with the requirements of the Fair Labor Standards Act and Wisconsin Wage & Hour Law. With the permission of the department head, compensatory time accumulation of up to a maximum of forty (40) hours per calendar year shall be permitted. Overtime shall be paid for all hours worked in excess of regularly scheduled hours only when such work has been authorized by the employee's department head or the employee's immediate supervisor.
- (c) **Compensatory Time Off.**
- (1) Non-exempt employees may take compensatory time off in lieu of immediate overtime pay in cash, at a rate of not less than one and one half hours for each hour of overtime worked pursuant to an agreement between the employee's supervisor and employee before performance of the work.
  - (2) The maximum compensatory time, which may be accrued by an affected employee at any one time, shall be forty (40) hours. An employee who has accrued the maximum number of compensatory hours shall be paid overtime compensation in cash for any additional overtime hours of work.
  - (3) An employee shall be permitted to use accrued compensatory time within a reasonable period after it is requested if to do so would not unduly disrupt the operations of the City. The City may direct that compensatory time off be taken or that the compensatory time balance be paid out.
  - (4) Payment for accrued compensatory time upon termination of employment shall be calculated at the regular rate of pay at the time of termination.
- (d) **Employees Holding Multiple Jobs.**
- (1) City employees may at their own option agree to work for a separate or independent employer in such activities, provided the permission of the City Administrator, or as

appropriate the Police Chief or Library Director, is first secured.

- (2) City employees may with the approval of the City, substitute during scheduled hours for other employees employed in the same capacity.

(e) **Volunteers.**

Individuals who volunteer their services to the City and receive no compensation, are excluded from the definition of "employee" and are thus excluded from the requirements of the Fair Labor Standards Act and Wisconsin Wage & Hour Law. Expenses, reasonable benefits, nominal fees, or a combination of these may be paid as authorized by the Common Council; however, an employee of the City may not volunteer to do the City services of the same type the employee is employed to perform.

### **SECTION 3-3 RECORD KEEPING OF HOURS.**

It shall be the responsibility of the department head to assure proper recording of hours worked. Before records of time worked are submitted to the City Treasurer's Office for payment of wages, they are to be reviewed, approved, and signed by the department head.

### **SECTION 3-4 ABSENCES.**

Employees are expected to work their assigned hours. Any absences must be approved by the employee's supervisor or be permissible pursuant to the terms of other policies, i.e., sick leave, FMLA, vacation, etc. Absences will be paid if the employee is eligible under the particular policy. Simply because time off is allowed under policies does not mean that excessive absences are permissible. The City reserves the right to review individual cases when absences are unauthorized, excessive or when abuse occurs.

- (a) If an employee will be absent from work, it is the employee's responsibility to contact the department head with the reason for the absence. This must be done as soon as possible before the beginning of the regular work shift. Absence, which is without proper notice or without permission, is considered "unauthorized." Such absence in excess of two (2) consecutive workdays is considered as a resignation of employment.
- (b) Anticipated absences shall be reported to the employee's department head or immediate supervisor in advance. Three (3) days of unauthorized absence in a three (3) month period will be grounds for dismissal. Employees with excessive absences or tardiness may be subject to disciplinary action or discharge. See section 5-6.

### **SECTION 3-5 ACCIDENT POLICY.**

(a) **On-the-Job Injuries.**

(1) Reporting.

- a. Employees injured on the job shall report the injury immediately to their supervisor, if physically able to do so.
- b. The employee's immediate supervisor or a department head will arrange for first aid treatment or for a doctor's care, if necessary.
- c. All accidents, however minor, are to be reported as soon as possible by the injured employee or the supervisor to the City Treasurer's Office.

- d. The City Treasurer's Office will make a record of the injury.
- (2) Release for Work After Injury. In all cases of injury requiring the services of a physician, it is the responsibility of the employee to obtain from the physician a release authorizing the return to work. The release shall indicate the date upon which the employee may return to work.

#### SECTION 4

##### Employee Benefits

#### SECTION 4-1 HOLIDAYS.

- (a) (1) The following days shall be paid holidays for full time employees:
- |                    |                        |
|--------------------|------------------------|
| New Year's Eve Day | Thanksgiving Day       |
| New Year's Day     | Day after Thanksgiving |
| Memorial Day       | Christmas Eve Day      |
| Independence Day   | Christmas Day          |
| Labor Day          | Two Floating Holidays  |
- (2) In the event a holiday (except Christmas Day, and New Year's Day) falls on Saturday, the immediate preceding Friday shall be recognized as the holiday. In the event a holiday (except Christmas Eve and New Year's Eve) falls on Sunday, the immediate following Monday shall be recognized as the holiday. When Christmas Eve and New Year's Eve fall on a Friday or Saturday, and Christmas Day and New Year's Day on a Saturday or Sunday, the days of celebration are the preceding Friday and the following Monday. When Christmas Eve and New Year's Eve fall on a Sunday, the day of celebration is the following Tuesday. Unless specifically provided otherwise in this Article, the holidays listed above shall be observed on the day established by State Statutes.
- (3) New full-time and regular part-time non-exempt employees shall be ineligible for holiday pay for any holiday which occurs during their first six (6) months of continuous service. Upon successfully completing this period, they shall be paid for any holiday designated in Subsection (a) that occurred during this six (6) month period.
- (4) If any of the above named holidays fall during an employee's vacation, such employee shall be granted another day off at a time mutually agreed upon between the employee and his supervisor.
- (5) In the event that a paid holiday falls within a period when an employee is on sick leave, it shall be charged as a paid holiday, and not deducted from the employee's sick leave.
- (6) Employees who work less than 8 hours per day shall be paid on a pro-rata basis at



their regular straight time rate not to exceed eight (8) hours pay for each holiday.

- (b) Employees scheduled to work on these holidays shall receive pay at time and one-half their normal wage for hours worked. Employees called in to work on these holidays shall receive double their normal wage for each hour they work.
- (c)
  - (1) New personnel classified regular full-time, who begin employment with the City prior to July 1 of the year, shall be entitled to two (2) floating holidays. New full-time personnel, who begin employment with the City on July 1 and after, up until October 1, shall be entitled to use one floating holiday (8 hours). New full-time personnel who begin employment on October 1 and after shall not be entitled to any floating holidays for that calendar year.
  - (2) Employees terminated from their employment with the City are not eligible to receive pay for unused floating holidays.
  - (3) Employees who do not use their entitled floating holidays in the given calendar year will not receive additional compensation or additional time off as a carry-over into the next year.
- (d) When scheduled to work on a paid holiday, if the employee is unable to report to work, he shall not be eligible for the holiday compensation. Under no circumstances will an employee be compensated with both holiday pay and sick leave pay when the employee is unable to report to work on a scheduled holiday.
- (e) The City will endeavor to make reasonable accommodations for an employee's holiday time off due to the observance of conscientious religious beliefs. Department heads must be consulted at least three (3) days in advance of such a religious observance in order to insure that the employee's duties are covered. If eligible, an employee must use a floating holiday or vacation time. Otherwise, if eligible, any such day shall be without pay.

#### **SECTION 4-2 PAID VACATION.**

- (a)
  - (1) The City believes that adequate time must be provided to employees annually for rest and relaxation. For this reason, all employees are encouraged to take their full allotment of vacation days each year. Only with prior written approval from the City Administrator may an employee carry over vacation time from one vacation year to the next. Any vacation allowance that has been approved for carryover must be used within ninety (90) days or it will be forfeited unless an extension beyond (90) days is approved by the Personnel Committee based on the individual circumstances of the request. Only if the City Administrator determines that it was through the request of the City that vacation time was not used, will payment in lieu of vacation be made.
  - (2) Continuous service shall include all the time an employee has been in continuous employment status in a regular position. Regular part-time employees who subsequently assume full-time duties will be given credit for their total hours of service to the date of full-time employment. Such hours will be converted to years of service (using 2,080 hours as an equivalent of one year of full-time service) and the employee placed into the vacation schedule listed in subsection (b) accordingly. The employee's anniversary date will then be adjusted to be the date that the employee had worked a cumulative total of 2080 hours. The continuous service of an employee

otherwise eligible for a vacation shall not be considered interrupted if the employee was on an approved leave of absence, or was promoted or transferred to another position. Continuous service shall not accrue during any period of layoff or unpaid leave of absence in excess of thirty (30) days, nor any unpaid leave of absence caused by injury or illness in excess of forty five (45) days.

- (3) Vacation pay shall be paid at the rate of eight (8) hours per day at the employee's regular straight time rate.
- (b) Vacation time shall be accrued annually on the anniversary date of employment according to the following schedule. The year in which the vacation can be taken is the twelve (12) month period beginning with the employee's anniversary date.

<u>Years of Continuous Employment</u>	<u>Annual Vacation Time Accrued</u>
1 year	10 working days
5 years	15 working days
12 years	20 working days
20 years	25 working days

- (c) At the discretion of the City Administrator, new employees may receive credit for service time with prior employers for advanced placement on the vacation accrual schedule in the following situations:
  - (1) The service time was with another public employer under a public employee retirement system; or
  - (2) Service time with a non-profit or private employer that is directly applicable to an employee's present job duties and such previous experience is necessary for the effective fulfillment of an employee's job responsibilities with the City of Cedarburg.
 In order to consider and affect such service credit, the City Administrator must receive a letter from the employee's prior employer verifying employment dates, status, and job classification(s).
- (d) Vacations shall be taken in not less than four (4) hour increments unless otherwise approved by the City Administrator.
- (e) Upon termination, a regular fulltime or part-time employee shall receive compensation for all unused and accrued vacation allowances earned at the employee's current rate of pay; (except in situations outlined in (f) below). Upon retirement, all unused and accrued vacation time will be paid to the employee's Health Reimbursement Account (HRA). The City of Cedarburg adopted the HRA plan provided by North Shore Bank on January 28, 2019. Members of Veteran's Groups with full health insurance benefits are not eligible to participate in the HRA program.
- (f) An employee terminated for misconduct, or who leaves with less than two-(2) weeks notice, shall not be entitled to accrued vacation. In order to receive accrued vacation pay, the two-(2) weeks prior to resignation must be time worked. Time worked shall not include vacation, holiday, injury, sick leave or medical leave of absence.
- (g) Vacations of one week or more must be requested one month in advance. Vacations of less than a week, but more than two days, must be scheduled at least two (2) weeks in advance. Vacations of two (2) or less days must be requested at least forty-eight (48) hours in advance. All vacations are subject to approval by the immediate supervisor or the City Administrator.

- (h) In the event of the employee's death, compensation for all unused vacation allowance shall be paid to his/her beneficiary.
- (i) Time lost due to sickness or accident originating because of work for the City shall be considered as time worked for the purpose of determining eligibility for vacation as long as the employee has earned some wages from the employer in the vacation year.
- (j) Regular part-time employees beginning employment with the City on or after January 1, 2014, working 1,560 hours or more per year, upon completing one year's service with the City, shall be entitled to vacation with pay, computed on a pro-rated basis based on 2080 hours divided by the previous year's hours and multiplied times the amounts as designated in Section 4-2(b). In determining length of service for regular part-time employees, only the period of unbroken continuous service may be considered. Any layoff or unpaid leave of absence, which exceeds sixty (60) calendar days, will be considered as a break in service. Any part-time employee that was hired prior to January 1, 2014 will continue to have no minimum set hours required to earn vacation with pay.

**SECTION 4-3 INSURANCE AND RETIREMENT BENEFITS.**

- (a) **Insurance Program.** The City maintains a comprehensive insurance program, which provides health, dental, and life coverage for the benefit and protection of all eligible employees. Complete details of these insurance benefits are provided in the insurance benefits booklets. Information on each of these insurance plans, including eligibility and co-payment requirements, may be obtained from the City Treasurer's Office.
- (b) **Retirement Fund.** Eligibility requirements and pension benefits shall be as provided by Wisconsin Statutes and the rules and regulations of the Wisconsin Retirement Fund.
- (c) **Group Health Insurance.**
  - (1) Coverage. The City will maintain a group health and dental insurance contract to provide protection for the City's full time and regular part-time employees and eligible dependents. For new employees, coverage becomes effective on the first of the month following the date of hire.
  - (2) Premium Contributions.
    - a. The City shall pay the premium for regular fulltime employees from the date of employment, in amounts determined annually by the Common Council.
    - b. Regular part-time employees shall be eligible to participate in the health insurance coverage provided by the City under the terms established by the City, provided however, that the employee pay one-half (1/2) of the monthly premium.
    - c. Upon retirement, fulltime employees may continue to maintain their group health insurance coverage until eligible for Medicare, consistent with the terms of the plan and provided the employee requests continuation in writing to the City Treasurer, pays the full premium costs, remits the full premium one (1) month in advance and makes continual required payments thereafter. The City shall pay the full premium for the month in which the employee retires, regardless of the number of days worked in that month.
  - (3) Payment in Lieu of Insurance Coverage. Any full-time employee who elects not to participate in the group health insurance program shall receive payment in lieu of health benefit coverage in amounts determined by the Common Council.

- (d) **Worker's Compensation.** Employees shall be covered by workers' compensation for duty-related injuries. The City shall pay for employees eligible for workers' compensation payments, the regular net take home pay. Payments from the City to the employee in this event will equal an amount necessary to provide the employee with the same amount as his or her net salary for the particular pay period, after taking into account the amount of workers' compensation for the particular pay period (this payment will be referred to as "supplemental temporary payment.") Any City employee receiving a check for a workers' compensation claim regarding loss of salary shall immediately provide the City Treasurer with true and correct copies of all relevant information pertaining to the workers' compensation check(s). The City Treasurer then will pay to the employee an amount required to provide the employee with the same amount as his or her net salary for the particular pay period, taking into account amounts previously received by the employee as workers' compensation for the same pay period. Employees shall be regarded as eligible for workers' compensation payment from the first day of any disability, notwithstanding the provisions of Section 102.43, of the Wisconsin Statutes. The supplemental temporary payment made by the City shall not exceed eighteen (18) consecutive months. Injuries which are sustained on the job and reoccur after the employee has returned to work shall be entitled to another eighteen-(18) consecutive month time frame. Employees eligible for workers' compensation payment shall not have any such time off deducted from sick leave provided; however, employees who are still on workers' compensation after the above referenced eighteen (18) month consecutive time frame may use sick leave at their option to supplement the workers' compensation pay to provide a regular net paycheck.
- (e) **Group Life Insurance.** Regular fulltime and part-time employees shall be eligible to participate in the group life insurance plan for public employees established under Section 40.20, Wis. Stats.

#### **SECTION 4-4 SICK LEAVE.**

- (a) **Eligibility.**
- (1) Paid sick leave is provided to regular full-time employees who are sick or injured and unable to work.
  - (2) Regular full-time employees shall earn twelve (12) days of sick leave in each calendar year, as set forth below. Each employee shall accrue sick leave at a rate of eight (8) hours per month. New employees shall be ineligible to use paid sick leave during their first six (6) months of employment; however, upon completion of this period, new employees shall be credited with sick leave based upon their initial date of employment with the City.
  - (3) With the exception of compensable illness and injuries, sick leave shall cover all absences from duty on account of bona fide illnesses (including doctor appointments connected with such illness and emergency dentist appointments) of the employee and sickness in the immediate family of the employee or immediate family of spouse. "Immediate family" shall be defined as a: husband, wife, child, sister, brother, parent, grandparents, mother-in-law, father-in-law, brother-in-law, sister-in-law, or other relatives living in the same household.
- (b) **Maximum Accumulation.**

- (1) Unused sick leave shall be cumulative on the basis of twelve (12) days for each calendar year and may be carried into successive years not to exceed one hundred twenty (120) days.
  - (2) All employees who have reached their maximum allotment of one-hundred-twenty (120) sick days shall be compensated thirty percent (30%) of any sick days accumulated over one-hundred-twenty (120). Part-time employees would receive a maximum payout of up to 500 hours. This compensation shall be paid in the first paycheck of the following year, at the previous year's rate.
  - (3) Upon death of an employee, fifty percent (50%) of unused sick leave will be paid to the employee's beneficiary. Upon retirement, fifty percent (50%) plus the FICA percentage of unused sick leave will be paid to the employee's Health Reimbursement Account (HRA). The City of Cedarburg adopted the HRA plan provided by North Shore Bank on January 28, 2019. Members of Veteran's Groups with full insurance health benefits are not eligible to participate in the HRA program.
  - (4) The use of sick leave for purposes other than obtaining medical treatment or remaining home on medical advice and for medical or other reasons outlined in this section is an abuse of sick leave policy and grounds for termination.
- (c) **Regular Part Time Employees.**
- (1) Regular part-time employees beginning employment with the City on or after January 1, 2014 working 1,560 or more hours per year, shall be entitled to absences with pay on regularly scheduled workdays due to sickness or injury. New regular part-time employees shall be ineligible to use paid sick leave during their first six (6) months of service; however, upon completion of this period, new employees shall be credited with sick leave based on their initial date of hire on a pro-rata basis. Thereafter, employees will earn sick leave on a pro-rata basis per (a)(2). Total sick leave accumulation may not exceed five hundred (500) hours. Any part-time employee that was hired prior to January 1, 2014 will continue to have no minimum set hours required to earn paid sick leave.
  - (2) Regular part-time employees, who have reached the maximum allotment of five hundred (500) hours of accumulated sick leave, shall be compensated twenty-five percent (25%) of any sick days accumulated over five hundred (500) hours. This compensation shall be paid in the first paycheck of the following year at the previous year's rate.
  - (3) Payment for sick leave will be computed on the basis of the employee's hours of work scheduled on the day absent.
  - (4) Any employee off work on sick leave shall, whenever possible, notify his supervisor of his intent to return to work on the day prior to returning.
- (d) **Extension.** In the event of sick leave usage, at the discretion of the City Administrator or Department Head, the employee may be required upon request to furnish, at the employee's expense, a certificate of illness signed by a licensed physician.
- (e) **Preventative Medicine.** Another use of sick leave shall include any form of preventative medicine or treatment which requires the employee to take time off during normal working hours to see his doctor, receive hospital or clinical services, dental care, or any other similar medical attention. Such usage must be requested and approved prior to leaving the work station.

#### SECTION 4-5 FAMILY AND MEDICAL LEAVE

- (a) **Employee Eligibility:** A City of Cedarburg employee is covered by the Federal Family and Medical Leave Act (FMLA) if that person has been employed for at least 12 months, and has worked for the City at least 1,250 hours during the previous 12 months. An employee is covered by Wisconsin's FMLA (WFMLA) if that person has worked 1,000 hours during the previous 52 week period.
- (b) **Reasons for Leave:** Eligible employees are entitled to 12 weeks of unpaid leave each calendar year for: the birth of a child and to care for the newborn child (leave must be concluded within 12 months following birth); or the placement of a child with the employee for adoption or foster care (leave must be concluded with 12 months following placement); or to care for the employee's child, spouse, or parent (but not parent -in-law) with a serious health condition; or for the employee's own serious health condition that renders the employee unable to perform the functions of his/her position.

Eligible employees whose spouse, son, daughter or parent is on covered active duty or call to covered active duty status may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service-member during a single 12-month period. A covered service member is:

- (1) A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or
  - (2) A veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.
- (c) **A serious health condition is:** A physical or mental illness, injury, impairment or condition involving inpatient care, or outpatient care that requires continuing treatment or supervision by a health care provider.
  - (d) **Notice of Need for Leave:** Employees are required to give their supervisor as much notice as possible of the need to take FMLA leave (30 days is required for scheduled leave requests). Failure to provide timely notice as required may result in an employee's request for leave being denied until at least 30 days after the date notice is provided.
  - (e) **Substitution of Paid Leave for Unpaid FMLA Leave:** Under Wisconsin law, an employee may choose to substitute any paid leave, including sick leave, for up to **six weeks** of FMLA leave for the birth or adoption of a child. Thereafter, under Federal law, the employee may choose or the employer may require staff members to substitute vacation, personal holiday,

legal holiday, or compensatory time for FMLA leave. Under Wisconsin law, the employee may choose to substitute any paid leave, including sick leave, for up to **two weeks** of unpaid FMLA medical leave. Thereafter, under Federal law, the employee may choose or the employer may require employees to substitute paid leave for unpaid FMLA medical leave. Under no circumstances will employees be entitled to FMLA leave in excess of the authorized 12 weeks as a result of the substitution of paid leave. Any leave, paid or unpaid, that is designated as leave under FMLA will count against the employee's FMLA entitlement. Employees should check with City's Payroll Officer in case of disagreement as to whether leave should be designated as FMLA leave.

- (f) **Intermittent leave or leave on a reduced work schedule:** Under Federal law, leave for medical purposes must be given only when there is a medical need for such leave which can best be accommodated through an intermittent or reduced leave schedule and the leave is being used for the employee's own serious health condition, or to care for a family member with a serious health condition. Family leave on an intermittent basis must be consistent with family leave requirements. Under Wisconsin law, intermittent leave is permitted for all family and medical leaves in increments equal to the shortest increment permitted by employer for any other non-emergency leave.

Questions regarding the duration of any requested intermittent leave should be addressed to the City's Payroll Officer.

(g) **Benefit Continuation:**

- (1) **Group Health Insurance:** For employees on paid leave (e.g., annual leave or sick leave) under FMLA, group health insurance will continue as with any paid leave. For leave without pay under FMLA, the employee's insurance will continue as if the employee had been continuously employed. Employees will be advised of their individual eligibility for continuation of group health insurance under FMLA. Employees are required to pay the employee portion of health insurance premiums, if applicable, during unpaid leave under FMLA. Coverage will be terminated for employees who do not pay their portion of the cost of coverage. In the event an employee's coverage is terminated due to non-payment while on leave, the employee may re-enroll upon return to work in whatever coverage was in effect prior to taking leave under FMLA. Coverage will be effective the first day the employee returns from leave under FMLA.

In the event an employee does not return to work for reasons other than the continuation, recurrence, or onset of a serious health condition which would entitle the employee to leave under FMLA, or other circumstances beyond the employee's control, the City will collect from the individual the employer portion of premium payments incurred during the leave.

- (2) **Benefits Accrued Prior to Leave:** Employees will not accumulate sick leave during leave without pay under FMLA. Sick leave or personal holidays which are not substituted for FMLA leave will be available to the employee upon return from leave.

- (3) **Continuous Service:** Employees will continue to accrue continuous service for seniority purposes while on leave under FMLA. The time an employee is on FMLA leave (either paid or unpaid) will be treated as continuous service for purposes of vesting and eligibility to participate in the retirement plan. However, the time an employee is on unpaid FMLA leave will not be counted as creditable service for purposes of calculating retirement annuities.
- (h) **Return from FMLA Leave:** When returning from leave taken under FMLA, an employee will be returned to the same or equivalent position. If state law or a collective bargaining agreement governs an employee's return to work, those provisions shall be applied. Employees will be required to provide a fitness-for-duty certification signed by the employee's health care provider before returning to work from FMLA leave taken for the employee's own serious health condition. Failure to provide a fitness-for-duty certification upon request may result in denial of reinstatement until the required certification is provided.
- (i) **FMLA and Other Leave Benefit Provisions:** FMLA entitlement is coordinated with the provisions of the Wisconsin Family and Medical Leave Act (WFMLA), as well as leave benefits provided by the City or the applicable collective bargaining agreement. Leave qualifying under both laws will be counted against the employee's entitlement under both the federal and state laws, as well as towards the employee's entitlement under administrative rule or the applicable collective bargaining agreement.

Questions regarding the Family and Medical Leave Act should be referred to the City's Payroll Officer.

For a comparison of Federal and Wisconsin Family and Medical Leave laws please visit the following website:

[http://dwd.wisconsin.gov/er/family\\_and\\_medical\\_leave/publication\\_erd\\_9680\\_p.htm](http://dwd.wisconsin.gov/er/family_and_medical_leave/publication_erd_9680_p.htm)

Application form for Family/Medical Leave: <http://oser.state.wi.us/docview.asp?docid=1199>

#### **SECTION 4-6 GENERAL LEAVE.**

Unpaid leaves of absences for reasons not specifically addressed in this handbook may be granted on case-by-cases basis at the discretion of the City Administrator and if leave is for over one month, approved by the Common Council.

#### **SECTION 4-7 JURY DUTY; COURT APPEARANCES.**

The City realizes the civic responsibility an employee has when summoned to serve as a juror. A copy of the jury summons must be submitted to the Department Head to be placed in the employee's file.

- (a) Any employee required to serve jury duty will be paid regular wages and shall turn over to the City Treasurer any monies, excluding mileage allowance, received as a result of such jury duty. An employee must give the City Administrator a copy of the Jury Summons. Any time



an employee's attendance is not required for purposes of jury duty or witness service during the employee's regularly scheduled work hours, the employee must return to work as soon as circumstances will reasonably allow.

- (b) Pursuant to Sec. 103.87, Wis. Stats., employers may not discharge an employee for being absent from work in order to appear in court pursuant to a subpoena to testify in a criminal case. If a case involves the employer, the employee will be paid regular wages.

#### **SECTION 4-8 RETURN TO WORK**

Credit toward health benefits will be earned if an employee is on leave under the Family and Medical Leave Act, Jury Duty or Military Duty.

Returning to work earlier than the scheduled termination of leave date must be arranged between the department head and the employee.

If, upon expiration of the approved leave of absence, the employee does not return to work, the employee will be considered as having resigned from the City.

#### **SECTION 4-9 BEREAVEMENT LEAVE.**

- (a) Employees are eligible for paid bereavement leave in the event of death in the immediate family.
- (b) Employees may take up to three (3) working days of paid bereavement leave with pay for the death of a father, mother, guardian, stepfather, stepmother, spouse, sister, brother, child, or grandchild.
- (c) Employees may take one (1) day of paid bereavement leave with pay for the death of a father-in-law, sister-in-law, brother-in-law, mother-in-law, son-in-law, daughter-in-law, grandparent, aunt, uncle or any other relative in the employee's household.
- (d) The funeral leaves provided for in this Section shall apply only to days that the employee is regularly scheduled to work and shall not apply to overtime hours or to days when the employee is on vacation, off for a holiday, on sick leave, military leave or on any other type of paid or unpaid leave of absence.
- (e) Additional time off without pay may be allowed to employees by the employee's department head when necessary to arrange for or attend the funeral of more remote members of the family listed in Subsection (b) and (c) Employees may substitute vacation leave or floating holiday(s) for unpaid leave.
- (f) Pay for paid bereavement leave shall be computed on a pro-rata basis at the regular hourly rate to a maximum of eight (8) hours for one day.

#### **SECTION 4-10 MILITARY LEAVE.**

- (a) **Reserve Guard Training.** This type of leave applies to any full-time or regular part-time employee who requests time off to participate in the U.S. Armed Forces Reserves or National Guard training. The City will compensate the employee for the difference between his/her normal pay and the reserve pay during the period of the leave, if the duration of the

leave is two weeks or less. A Department Head should submit the employee profile to the Payroll Officer if the leave is extended beyond two weeks. At the conclusion of the leave period, the employee will return to his/her original position.

- (b) **Active Duty.** This period of leave applies specifically to a period of time away from work for the reason of active military duty and should be granted to all employees, except those of temporary status. An active duty leave is considered an unpaid leave. It directly applies to any individual who enlists in the Armed Forces; is inducted into the Armed Forces under the Military Selective Service Act; or to any member of the Reserve component of the Armed Forces who voluntarily enters into active duty. It is not to be used for time off to determine physical fitness, or training, as these would be covered under the Reserve/Guard Training Section. The actual duration of this type of leave will vary. Re-enlistment for active duty beyond the period required by law will cancel the military leave.

- (1) **Active Duty Differential Pay**

- (a) An active duty leave shall be compensated with a pay differential. The difference between the employee's military pay and city salary will be paid to the employee if the military pay is lower.

- (b) **Represented Employees.** For any City employee represented by a labor organization, the provisions in this section apply until the expiration date of existing collective bargaining agreements. Beginning on the date of the next negotiated agreement, the terms apply only if included in the collective bargaining agreement. If there is no existing agreement, the provisions apply only if provided by the terms of the represented employee's collective bargaining agreement.

- (c) To be entitled to reemployment rights as established by the Universal Military Training and Service Act and other applicable federal laws, the employee must:

- (1) Satisfactorily complete the period of active duty.

- (2) Be qualified to perform the duties of his/her original position. If he/she becomes disabled during military service, and cannot perform the duties of the previous job, the City will attempt to place the employee in a comparable position that he/she is able to perform.

- (3) Make a timely application for reemployment after release. (Within 90 days after completion of service, or 31 days after completion of three months' initial active duty.)

#### **SECTION 4-11 PAYMENT OF COMPENSATION.**

- (a) **Compensation.** Salaries and pay ranges shall be as set forth in the annual compensation ordinances as adopted by the Common Council.

- (b) **Pay Day.** The City shall pay wages every other Friday. Should a normally scheduled payday fall on a holiday, payment will be made on the day preceding. Employees should notify their immediate supervisor and the Payroll Officer if they believe there are errors in their paychecks.

#### **SECTION 4-12 TRANSPORTATION.**

- (a) **Purpose and General Policy.**

- (1) The purpose of this policy is to set forth the policies governing travel expenses and to describe certain procedural matters concerning travel authorization, documentation and accounting. This regulation is applicable for all travel expenses incurred on behalf of the City by employees, elected officials, and Board and Commission members.
  - (2) There is no objection to a spouse and/or other family members traveling on an official trip, but no expenses attributable to them will be reimbursed by the City.
  - (3) The City Administrator has the discretion to approve travel requests and advance of funds estimated, provided that adequate funds are available in the approved budget.
  - (4) A travel advance, in an amount not to exceed the budgeted provision for the trip, may also be requested from the City Administrator. If the travel advance is for a conference or a training program, a descriptive brochure or announcement must accompany the travel advance request. Registration and tuition fees for unbudgeted, but professional meetings and conferences may be authorized and reimbursed at the discretion of the Common Council.
- (b) **City Vehicles.**
- (1) All City vehicles are pool vehicles. While a City vehicle may have a primary user, the vehicle is available for use by other employees who need a car to conduct City business.
  - (2) City vehicles should be used for business when available. It is the policy of the City to reimburse for mileage only in situations where a municipal vehicle is not available. Under no circumstances will reimbursement be made for mileage associated with commuting, even if a use of a City vehicle would otherwise be permitted.
  - (3) Employees using City equipment are expected to conduct themselves with the highest degree of safety, concern for citizens and professionalism. Fines or forfeitures incurred by an employee while operating a City vehicle due to traffic or parking violations shall be the responsibility of the employee and all fines, forfeitures or monies shall be paid by the employee.
  - (4) Commuting to and from work in a City vehicle. With the exception of the Police Chief and the City Administrator, employees may not use a City vehicle for commuting purposes except for the following purposes:
    - (a) An evening, City related meeting;
    - (b) Travel to a conference or training session that requires leaving from your residence;
    - (c) Being on-call where there is a reasonable expectation that you would be called back to work that evening.
    - (d) Any other purpose must be authorized on a case-by-case basis by the City Administrator.
  - (5) **Tax Reporting.** Use of a City vehicle for commuting purposes generally is considered taxable income as it is personal use. Therefore, it must be documented on forms provided by the City Treasurer's Office. A log of such personal mileage and date of the commuting must be recorded and submitted monthly to the Treasurer's Office for year end placement on the employee's W-2 form.
  - (6) **Miscellaneous.** Gasoline, repairs and other expenses attributable to the vehicle are reimbursable and paid receipts must be submitted. Tolls, parking and garage charges are also reimbursable, but care should be exercised to select a parking facility that charges economical rates. Receipts must be submitted for reimbursement.

- (c) **Private Vehicles.**
  - (1) Private vehicles may be used for travel on City business when City vehicles are not available. Reimbursement shall be limited to the current Internal Revenue Service mileage reimbursement amount plus tolls, parking and garage charges. When two or more people travel in the same vehicle, reimbursement shall be paid to the owner of the vehicle. The employee will be responsible to track their mileage.
  - (2) Since the City assumes no responsibility when private vehicles are used beyond making a mileage reimbursement allowance, it is the employee's responsibility to protect against damage to his/her vehicle and legal liability in such form and amount as the employee deems adequate. In particular, the employee should consult with the insurance carrier and consider carrying liability insurance in such form and amount as the employee deems adequate to avoid a potential situation which could be a financial burden to the employee.
  - (3) Employees should not drive to meetings and conferences when the travel time enroute to the destination requires more than one day, unless the employee is utilizing holiday or vacation time. In such instances, no reimbursement will be made for any lodging, meals, or other expense incurred enroute, except as allowed in Subsection (c)(1) above.
- (d) **Commercial Transportation.** Commercial carrier fares shall be limited to "coach" or "economy" fares when such services are the most feasible and are approved by the City Administrator. Travel to and from train stations and airports may be by bus, hotel limousine, taxi, or private vehicle (for which mileage will be paid), whichever is less costly. When possible, travel arrangements should be made by the City and billed directly to the City. Receipts for transportation costs are required if reimbursement is requested.
- (e) **Meals Allowance.** When authorized functions away from the City include meals, reasonable expenses for meals will be paid according to City Policy CC-17 and as approved by the City Administrator.
- (f) **Lodging.**
  - (1) Lodging should be secured at moderate rates. Receipts are required. Reimbursement shall be limited to the minimum number of nights required to conduct the assigned City business
  - (2) If a spouse and/or other family member travels on an official trip, reimbursement shall be limited to the single rate for the room occupied.
  - (3) No lodging expense shall be reimbursed for one (1) day meetings or conferences held within reasonable driving distance of the City unless prior approval is obtained from the City Administrator.
- (g) **Receipts.** Receipts, to be filed with the City Administrator within one week of the expense, are required for the following expenses in order to receive reimbursement:
  - (1) Fuel, repairs and expenses for City vehicles.
  - (2) Tolls, parking and garage charges.
  - (3) Lodging, if previously authorized by the City Administrator.
  - (4) Registration and tuition fees, if previously authorized.
  - (5) Meals.
  - (6) Extraordinary expenses not covered by these regulations.

**SECTION 4-13 LONGEVITY BONUS.**

- (a) Regular full-time employees shall be entitled to an annual longevity bonus on the basis of sixty three dollars (\$63.00) for each complete calendar year of continuous service to be payable the first pay date of December. Regular full-time employees hired after December 31, 2010 will first be eligible for the longevity benefit after ten (10) years of service.
- (b) Regular part-time employees shall be entitled to an annual longevity bonus on the basis of one-half of the amount allocated in (a) above for each complete calendar year of continuous service, to be payable the first pay date in December. Regular part-time employees hired after December 31, 2010 will first be eligible for the longevity benefit after ten (10) years of service.
- (c) Continuous service shall not include any period of unpaid leaves of absence, except as required by law, i.e. FMLA, military, disability, workers' comp, etc.
- (d) In the event such employee retires during the year, such employee shall receive the above longevity bonus pro-rated on the basis of the number of months of the current year worked up to the date of retirement.

**SECTION 4-14 UNIFORM/CLOTHING ALLOWANCE.**

The Chief of Police and the Lieutenant of the Police Department shall be entitled to an annual uniform allowance in such amount as authorized by the Common Council.

**SECTION 4-15 TEMPORARY EMPLOYEE BENEFITS.**

Temporary and seasonal employees receive wages but no additional benefits from the City.

**SECTION 4-16 EMPLOYEE ASSISTANCE PROGRAM (EAP)**

In an effort to assist City employees in maintaining healthy levels of emotional and physical well being, and to limit the effect of personal problems on job performance, the City sponsors an Employee Assistance Program (EAP). The EAP is designed to provide short-term counseling and referral services to employees, their spouses and dependent children who may be experiencing physical, emotional, financial, drug, alcohol, marital, legal or family problems.

The EAP will provide confidential assessment, short-term counseling, and referral at no cost to the employee or immediate family member with a resource through which they can address personal or work related issues. The intent is to ensure that employees have access to assistance when they need it, and hopefully prior to problems appearing in the workplace. However, when problems do appear at work, the EAP helps supervisors, managers, and employees engage constructively to support employees as they address problems, seek and receive counseling or treatment, and return to work. Participation in the program does not jeopardize an employee's job security, promotional opportunities, or reputation.

- (a) **Services (as agreed upon in the EAP Services and Fees Agreement)**  
The following services may be confidentially utilized by employees and/or family members living in the same household:
  - (1) Seven days a week, 24 hour telephone access to professional counselors for assessment, consultation, referral, and crisis management.
  - (2) Professional assessment of issues related to mental health, substance abuse, the work

environment and other stressors.

- (3) Face-to-face short term, focused counseling for individuals, couples and families.
- (4) Referral for treatment and support.
- (5) Education, including: internet based, on-site presentations, and written materials on a variety of emotional, family, work and living skills.
- (6) Work/life balance services; child and eldercare resources, legal consultation, mediation services, adoption information and financial consultation.

(b) **Utilization of the EAP program**

Utilization of the program is voluntary and occurs off-site at the offices of Aurora Health Care or their affiliate. Employees may use up to six counseling sessions through the EAP program per problem or issue. For employees who would like to utilize more than 6 counseling sessions, the EAP counselor will facilitate a referral to another appropriate counselor, given the situation. Ongoing counseling or other services utilized by an employee or family member will be their responsibility.

(c) **Referral**

The City encourages the utilization of the EAP program through informal or self-referral by employees or their family members. Employees will receive contact information and an informative brochure about the EAP program upon hire and periodically throughout the City's contract with the provider. Employees and family members are encouraged to contact the Payroll Officer if they do not have this information to confidentially obtain the telephone number of the provider. An employee's job security or future career advancement will not be jeopardized as a result of their participation in the Employee Assistance Program

(d) **Procedure**

(1) *Appointments*

Appointments with an EAP counselor can be made by contacting Aurora Health Care at 800-236-3231 to schedule an appointment. Efforts will be made to see clients within the same day or 48 hours depending on the issue. The EAP has 24 hour telephone services as well as the ability to intervene with crisis situations at any hour.

(2) *Confidentiality*

The EAP is a confidential service. No information regarding a client will be shared without a signed consent form. All records and discussion of personal problems are handled in a confidential manner, as are medical records. These records are kept by the Aurora Employee Assistance Program and do not become a part of the employee's personnel file.

(3) *Work Performance*

(i) *Informal Referrals*

If it appears that poor performance is or may be due to personal problems or impairment, the supervisor may informally refer the employee to EAP as part of a performance improvement plan. The referral to the EAP does not lessen the expectation that work performance must be improved.

(ii) *Formal Referrals*

A formal referral may be initiated as an alternative to discipline or as part of a last chance agreement where the employee is agreeing to assessment, referral and subsequent treatment as a method to retain their job with the City. Formal referrals and last chance agreements must be coordinated through the City Administrator's Office and/or the City Attorney's office.

It is appropriate and encouraged that supervisors consult with an EAP counselor regarding employee concerns. The counselor must maintain employee confidentiality and will typically maintain a neutral position with respect to workplace conflict.

(e) **Other Services**

The EAP provider, in addition to counseling, assessment and referral services offers the following services:

- (1) Training (i.e. harassment, workplace violence, substance abuse).
- (2) Education on the EAP website and written materials on a range of issues.
- (3) Onsite crisis support.
- (4) Risk management consultation related to troubled employees and their impact on the workplace.
- (5) Consultation on work-site policies and programs that affect employee health and well being and on employee needs when planning major workplace changes.

## SECTION 5

### Discipline, Rules and Employee Communications Procedures

#### SECTION 5-1 POLITICAL ACTIVITIES BY CITY EMPLOYEES.

- (a) **Interference With Duties.** City employees shall not engage in political activities to such an extent that their participation distracts from the performance of their employment duties. No City employees, during the hours that they are on duty, may engage in political activities. City employees engaged in political activities while off duty should clearly act as private individuals and not convey the impression that they are acting in their official capacity as City employees.
- (b) **Contributions.** An employee may voluntarily contribute money or services to a candidate, campaign, party, group or cause. Solicitation of contributions of money or services during working hours is prohibited.
- (c) **Campaign Work.** An off duty employee may voluntarily circulate nomination papers, petitions, distribute campaign literature, type, stuff envelopes and perform other clerical services, telephone and convey voters to the polls, and participate in a political convention, meeting, rally, demonstration, or parade. Campaign work of the nature listed under this heading is prohibited during working hours and is further prohibited off duty by any employee in a City uniform or wearing a City badge. Use of City property for campaign work is prohibited. The use of campaign or political paraphernalia on City owned vehicles, equipment, buildings, or other City property is prohibited.

#### SECTION 5-2 OUTSIDE EMPLOYMENT.

- (a) **Approval Required.** A full-time or regular part-time employee wishing to hold an outside job shall notify in writing the City Administrator or appropriate Department Head (Police Chief, Library Director) before accepting the position.
- (b) **City as a Primary Employer.** The City is the primary employer of full-time employees and at no time can outside employment activities impair the efficiency and ability of the employee to perform the duties of the job effectively, or present a conflict of interest to the City. Upon reviewing the situation, the City Administrator or appropriate Department Head may revoke the outside employment approval on a permanent or temporary basis depending on the circumstances.
- (c) **Full Disclosure Required.** An employee is required to fully disclose the outside employment including the employer's name and address, the nature of work to be performed and the hours per week that the employee will engage in outside employment.

#### SECTION 5-3 WORK PLACE VIOLENCE.

It is the City's policy to promote a safe environment. The City is committed to working with its employees to maintain a work environment free from violence, threats of violence, harassment, intimidation, and other disruptive behavior.

- (a) **Reports of Incidents.** Violence, threats, harassment, intimidation, and other disruptive



behavior in our workplace will not be tolerated. All reports of incidents will be taken seriously and will be dealt with appropriately. Such behavior can include oral or written statements, gestures, or expressions that communicate a direct or indirect threat of physical harm. Individuals who commit such acts may be removed from the premises and may be subject to disciplinary action, criminal penalties, or both.

- (b) **Appropriate Action.** The City needs the cooperation of all employees to implement this policy effectively and maintain a safe working environment. Do not ignore violent, threatening, harassing, intimidating, or other disruptive behavior. If you observe or experience such behavior by anyone on City property, or while on City business, report it immediately to a supervisor or manager. Supervisors and managers who receive such reports should seek advice from the City Administrator regarding investigating the incident and initiating appropriate action. **Threats or assaults that require immediate attention by security or police should be reported to the police at 911.**

The City supports all efforts made by supervisors and managers in dealing with violent, threatening, harassing, intimidating or other disruptive behavior in our workplace and will monitor whether this policy is being implemented effectively.

#### **SEC. 5-4 ELECTRONIC COMMUNICATIONS**

The Internet, electronic mail, and telecommunication access are resources made available to City employees to communicate with each other, other governmental entities, vendors/suppliers and individuals for the benefit of the City. The use of electronic communication systems such as computer, cell phones, pagers, email, voice mail, facsimile machines, etc., by employees is a privilege to be used in a responsible manner, and not in any way that is illegal or destructive to others. Improper usage can result in revocation of use, and discipline, up to and including discharge. No user of the City of Cedarburg's electronic communications may, without authorization, destroy, alter, dismantle, disfigure or disable information.

All employees should be aware that the City reserves the right to monitor and review the use of all City owned electronic devices and use of the City's network. Employees have no expectation of privacy concerning the use of City owned electronic devices or networks. The City's Internet, email communications and telecommunications resources are not private. The City reserves the right to access an employee's activities on its electronic communication systems at all times and without notice.

- (a) **Telephones and Cell Phones**

Employees shall observe the rules of telephone courtesy in receiving or placing calls. Employees are permitted to use City telephones and cell phones, smartphones, electronic note pads, any wireless, Bluetooth or similar devices for personal reasons, but are to limit such use to instances of necessity. Toll calls for personal reasons may be made at the employee's expense. Voice mail messages should be listened to and responded to in a timely manner.

Use of personal cell phones and texting are not permitted, except for emergencies.

Employees are prohibited from using cell phones while operating vehicles on the City's behalf. Driver use of a cell phone is allowed only when parked or in the event of an

- emergency situation, unless using a hands free system, e.g. Bluetooth.
- (b) **Software.** – Computer systems are the sole property of the City and are to be used for business purposes. Only software approved and purchased by the City is allowed on the City’s computers. No employee shall install or reinstall game software, or any personally owned software on any city-owned computer. Employees are prohibited from copying software purchased by the City for their own personal use. Video and computer games may not be used during working hours.
  - (c) **E-mail** is a tool that allows employees to communicate via the computer. Employees should ensure proper and professional use, compliance with the Public Records Act and compliance with records management practices. E-Mail should be used for City business only and personal use should be limited. Appropriate precautions should be taken to detect viruses and prevent its contamination. Confidential, chain letter and sensitive issues should not be communicated via email. Email should not be used to make discriminatory or harassing statements, vulgarities or obscenities. An employee’s email may be monitored.
  - (d) **Internet Use** – Internet services are provided by the City of Cedarburg to support open communications and exchange of information and the opportunity for collaborative government-related work. Each individual is responsible for complying with all applicable state and federal laws and all City policies and standards when accessing the Internet. Internet access via City resources must not be used for illegal purposes. No one may use the resources of the Internet for personal gain or to support or advocate for non-City related business purposes. Inappropriate use may result in loss of access privileges and/or disciplinary action. All Internet uses must be consistent with the City of Cedarburg’s Code of Ethics. The safety and security of the City’s network and resources must be considered at all times when using the Internet. Individual users must be aware of, and at all times, attempt to prevent potential City liability in their use of the Internet. Personal use shall be limited to non-business hours or breaks and shall not be excessive. Downloading and/or transmitting copyrighted, licensed, fraudulent, harassing, obscene, and sexually explicit or hate messages or material and software for personal use are strictly prohibited.
  - (e) Electronic personnel/personal information or data (i.e. driver’s license numbers on voter registrations, payroll information) cannot be used for knowingly transmitting, retrieving, storing or copying to another form of media or device for use outside of the City’s electronic communication equipment.

#### **SECTION 5-5 PERSONAL MAIL.**

Employees shall not use the addresses of City Municipal Buildings or offices for receipt of personal mail and other deliveries nor shall they use City postage machines, mailing labels, stationery, and outgoing mail.

#### **SECTION 5-6 ABSENTEEISM AND TARDINESS.**

- (a) **Notice of Absence/Tardiness.** If an employee is unable to report to work at the scheduled time, he/she shall notify or cause the notification of their immediate supervisor by telephone a minimum of one (1) hour before the scheduled work time. If an employee is going to be late for work, he/she shall notify the immediate supervisor at least 30 minutes before the scheduled work day.

- (b) **Failure to Provide Proper Notification.** Any employee who fails to provide the foregoing notification in case of absence shall not be compensated for that day unless the employee can show that circumstances beyond his control affected the ability to provide the proper notification.
- (c) The City may investigate the use of sick leave. A doctor's certificate may be required after three (3) consecutive days of absence. Employees shall not receive sick leave benefits for any day that the employee abuses sick leave benefits. In addition abuse of sick leave, excessive absences or tardiness may result in discipline up to and including termination.
- (d) Supervisors, shall ensure that an absence/tardiness report is completed which includes the date absent or tardy and reasons given by the employee.
- (e) **Inclement Weather Absences.**
  - (1) When weather conditions make it impossible for any employee to get to work, the employee's immediate supervisor shall be contacted by telephone to request permission to be excused from work. In such case, the employee may use accrued vacation leave, floating holiday or compensatory time, or may be granted leave without pay for the time lost. At the discretion of the supervisor, the time lost from work may be made up during the current or next pay period on an hour for hour basis at the employee's regular rate of pay (not overtime).
  - (2) Any employee who reports to work late during inclement weather conditions, after an earnest effort to arrive on time, may, at the discretion and scheduling of their supervisor, be allowed to make up the time lost at their regular rate of pay during the current or next pay period.
  - (3) In case of hazardous weather conditions such as a blizzard, where the health and safety of employees are threatened, the City Administrator may direct that all nonessential employees either not report for work or leave work early. The hours lost by leaving work early may be made up or charged against accrued leave, as provided.
- (f) **Sick Leave Use**
  - (1) Regular attendance is an essential job function and is necessary to maintaining quality City services to the public. The City understands that employees will occasionally be ill or will qualify for an extended leave due to serious illness. Sometimes, however, in addition to the above requirements excessive absenteeism or tardiness needs to be addressed.
  - (2) When a supervisor discovers a pattern of absenteeism or tardiness behavior that requires intervention the supervisor will discuss the matter with his/her immediate supervisor to determine the intervention or disciplinary plan.
  - (3) The following criteria provide guidelines to supervisors for recognizing potential patterns of sick time use that would require intervention. These criteria are not expected to address every situation, but are intended to address most situations of sick time use and give supervisors the tools for intervention. : Flagrant/Obvious Abuse will immediately trigger the disciplinary process. (Examples of Flagrant/Obvious Abuse may include calling in sick and then being observed on the golf course or at a football game during normal work hours; Calling in Sick after previously being denied the day off; Sick time taken that is attached, adjacent or connected to other previously approved discretionary time off; (Example: Work Work VAC SK Work); Sick time used on First or Last day of work week )

## SECTION 5-7 NON-HARASSMENT.

The City is committed to ensuring a productive work environment that is free of harassment and other forms of discrimination. The City will not tolerate any form of unwelcome harassing behavior by elected officials, coworkers, supervisors, customers, citizens, vendors, volunteers or agents. Employees should promptly report any incidents in accordance with the procedure outlined below.

- (a) **Definition.** Each employee has a responsibility to keep the workplace free of any form of harassing behavior. No form of race, national origin, religion, disability, pregnancy, age, arrest and conviction record, military status, marital status, sex or sexual orientation harassment will be tolerated. The City expects the full cooperation of every elected official, administrator, department head, supervisor and employee in making this policy effective.
- (b) **Examples** of behavior in violation of this policy include, but are not limited to:
  - (1) Verbal harassment such as indecent or belittling comments, jokes or references, and offensive personal references; and/or
  - (2) Unwanted physical contact of any kind, obstructing or blocking movement, or any physical interference with normal work or movement; and/or
  - (3) The display in the workplace of derogatory gestures, posters, cartoons, drawings, or calendars; and/or
  - (4) Demeaning, insulting, intimidating or suggestive written or e-mail transmitted messages; and/or
  - (5) Threatening adverse employment actions if sexual favors are not granted or promising preferential treatment in return of sexual favors.

Because of the inherent ability or perception of elected officials, administrators, department heads and supervisors to affect tenure, promotions and the terms and conditions of employment of their subordinates, any sexual advances, requests for sexual favors and other verbal and physical conduct of a sexual nature between these individuals and their subordinates should be avoided.

- (c) **Complaint Procedure.** Any person who feels that he or she has been subject to or witnessed unwelcome behavior should report this conduct **immediately** to his or her supervisor, city administrator, or department head at once. If the complaint involves your immediate supervisor, you should report directly to the city administrator or a department head. Every effort will be made to ensure confidentiality.
- (d) An employee should utilize the City's internal reporting procedure first. However, if after utilizing the complaint procedure, the complainant does not feel the complaint has been adequately addressed, the employee may file a complaint with either or both of the following:
  - State of Wisconsin Equal Rights Agency  
201 East Washington Avenue  
Madison, WI 53703  
Phone: (608) 266-6860
  
  - Equal Employment Opportunity Commission  
201 Martin Luther King Boulevard  
Madison, WI 53703  
Phone: (608) 266-4910
- (e) **Responsibility.** Department Heads, administrators and supervisors are responsible for being able to recognize incidents of harassment and to take appropriate action, including notification

to the City Administrator or a department head. Management is expected to inform their employees that harassment in any form will not be tolerated and that employees have the right to submit allegations of harassment to their supervisor, administrator or a department head. Management is expected to handle all reports of notification of harassment on a respectful and confidential basis. Employees are responsible for promptly informing the city administrator or a department head of any occurrences of harassment.

- (f) **Investigative Procedure.** When an individual submits a complaint, he or she may be asked to provide information regarding the incident(s), including the identity of the harasser, the date(s) of the incident, the conduct giving rise to the complaint, and witnesses, if any, to the alleged conduct. All complaints will be investigated promptly and in as impartial and confidential a manner as possible. The complaint and investigation will be thoroughly documented and only those who need to know about such a complaint will be advised of its existence. Employees are required to cooperate in any investigation. A timely resolution of each complaint will be reached and in all cases, the employee submitting the claim will be advised as to the outcome of the investigation.
- (g) **Disciplinary Procedure.** If it is determined that the person charged has violated the Non-Harassment Policy, such person will be subject to appropriate disciplinary action, up to and including termination of employment. Action will be determined at the City's sole discretion. The City reserves the right in each case to differentiate between violations and situations on whatever basis it considers appropriate and to take such action as it believes to be in the best interests of the parties and the City based on all the facts and circumstances of the case.
- (h) **Retaliation.** Retaliation in any form against an employee who exercises the right to make a complaint is strictly prohibited, and will in itself constitute a basis for disciplinary action, regardless of whether the retaliation is or is not carried out. Any employee, in the judgment of the City, who knowingly or maliciously makes a false allegation of harassment, may be subject to discipline.

#### **SECTION 5-8 USE OF CITY, EQUIPMENT, SUPPLIES, TOOLS AND UNIFORMS.**

- (a) City equipment, supplies, tools and uniforms shall not be used for private or unauthorized purposes.
- (b) Employees shall be responsible for the proper care and use of City equipment, supplies, tools and uniforms; and shall promptly report to their department head all accidents, breakdowns or the malfunction of any equipment so that the repairs may be made.

#### **SECTION 5-9 MISCONDUCT-UNACCEPTABLE PERFORMANCE/DISCIPLINARY PROCEDURES POLICY.**

- (a) The continued employment of City employees is contingent upon acceptable conduct, satisfactory job performance and compliance with the rules and regulations set forth by the City Administrator and the Personnel Manual. Failure to display acceptable job performance or the violation of the rules and regulations shall normally be cause for disciplinary action including reprimands, suspension without pay, or dismissal. The decision to discipline and the form it takes is a management right reserved by the City.
- (b) **Conduct Guidelines.** It is the City's policy to place as few restraints and restrictions on an employee's conduct as are possible. However, there must be certain guidelines for the

protection of all employees, the City, and its residents. The following conduct guidelines are not exclusive.

- (1) Maintain honesty at all times.
  - (2) Maintain regular and on time attendance consistent with the City Policies.
  - (3) Report accurate information on employment application, timesheets, timecards and all other records. Falsifying documents is sufficient cause for termination.
  - (4) Observe scheduled start times and lunch hours. Tardiness or absenteeism must be avoided whenever possible.
  - (5) Never report to work under the influence of drugs or alcohol. Use or possession of intoxicating beverages without permission or use or possession of illegal drugs on City property are prohibited.
  - (6) Avoid using profane, obscene or abusive language while on City property.
  - (7) Treat clients and coworkers with dignity and respect.
  - (8) Follow job instructions by carrying out assignments accurately and completely when requested by an authorized person.
  - (9) Respect equipment and co-workers' valuables and possessions. Stealing or unauthorized use of City's equipment or possessions is prohibited.
  - (10) Comply with ethics code.
  - (11) Observe safety procedures.
  - (12) Perform job with care and consideration of safety of others.
  - (13) Insubordination, defined as an employee's failure or refusal to recognize or submit to the authority of a supervisor, or open defiance of authority or resistance to control (i.e., refusing to obey instructions), is strictly prohibited. Insubordination may result in discipline, up to and including discharge.
- (c) The City reserves the right to impose whatever discipline is appropriate based on the situation. In addition, violation of the following rules shall also be considered misconduct and shall be considered cause for disciplinary action including dismissal depending on the severity of the violation.
- (1) All employees shall observe all City ordinances and shall exercise reasonable care when driving any City vehicles.
  - (2) All employees shall be courteous at all times in dealing with the public. Employees should, when necessary, listen carefully to complaints and refer them to the proper individual for action.
  - (3) Any employee involved in an accident involving City vehicles shall immediately notify the Police Department. Vehicles should not be moved until Police arrive.

(d) **Disciplinary Procedures Policy.**

The City of Cedarburg's policy is to administer discipline fairly and consistently, and to clearly communicate to management, supervisors and employees the elements of disciplinary action definitions and processes for discipline. The focal point of this policy is to correct employee misconduct or inappropriate behavior, and eliminate future occurrences of misconduct.

Administration and enforcement of discipline are subject to the general requirements of federal and state law, and discipline must be imposed without motivation that is discriminatory. Therefore, it is the supervisor's responsibility, along with guidance provided by the City Administrator or City Attorney to apply discipline fairly and consistently.

#### **SECTION 5-10 DRESS CODE.**

Employee dress should be neat in appearance and in a manner consistent with the City's professional atmosphere; keeping in mind the impression made on citizens, visitors and other employees.

Employees are expected to be neat, clean, professionally attired and well groomed at all times. Nails should be neatly trimmed and only fingernail polish that is in keeping with business dress should be worn. Pierced parts of the body, other than ears, may not be used to display jewelry at the workplace. Tattoos should be covered at the workplace.

#### **SECTION 5-11 SMOKING.**

In keeping with the City's intent to provide a safe and health work environment, smoking inside City facilities and vehicles are not permitted at any time. The City is dedicated to providing a healthy, comfortable and productive work environment for ALL employees.

In order to protect all of our employees, the City has instituted a smoke free work environment. Smoking and the use of tobacco products is banned in all City offices including break-rooms, vehicles, offices, building entrances, landings and restrooms. Employees and customers are expected to honor the smoke free policy at all times.

#### **SECTION 5-12 GAMBLING PROHIBITED**

- (a) **Definition.** Gambling is the wagering of money or other valuables on the outcome of events.
- (b) **Policy.** Gambling constitutes a threat to the City's security, and gambling can interfere with an employee's productivity and morale. Any gambling on the part of City employees, while on duty, is strictly prohibited. Gambling includes placing, accepting, recording or registering bets, or otherwise carrying on a game of chance for money, property, or any other item of value. This prohibition includes all gambling operations, even if and where such activities do not constitute illegal activity. This includes, but is not limited to, card and dice games, sport pools and Internet gambling. Employees involved in gambling while at work will be subject to discipline, up to and including discharge.

#### **SECTION 5-13 EMPLOYEE RECORDS.**

- (a) **Personnel Files.** The City Clerk, under the general supervision of the City Administrator, shall maintain confidential personnel folders for all City employees, including those employees represented by a labor organization and covered by a written labor agreement, and keep on file therein all information pertaining to employment or service records of such employees and officials, such folders and records therein to be kept in locked file and to be retained after termination of employment or service.
- (b) **Medical Records.** All medical records will be kept in locked file separate from personnel records. Such records are subject to statutory confidentiality requirements.
- (c) **Access by Others to an Employee's Personnel File.**

- (1) Only the City Administrator, City Treasurer, Deputy Treasurer/Payroll Officer, Mayor, City Attorney, the employee's department head and members of the Common Council acting on official City business are permitted to have access to personnel records of City employees. Elected officials should consult with legal counsel before reviewing files because of their due process responsibilities.
- (2) Employment information will not be released without the authorization of the individual concerned, except for the following:
  - a. "Directory" information, which consists of verification of employment or past employment; dates of employment; position held; or, location of employment.
  - b. When required as part of an established statutory reporting procedure.
  - c. To protect the legal interests of the City when the actions of an individual appear to violate the conditions of employment or threaten physical injury to members of the public, to other employees, or to City property.
  - d. In response to a court order, administrative summons, search warrant, or subpoena.
  - e. When requested as part of an appropriate governmental inquiry into the City's employment practices.
- (3) With the exception of Subsections (c)(1) and (2), the City Administrator or City Clerk shall reveal no information to others, without the employee's signature on a release. This applies to requests for information from anyone or any organization, including other government agencies.

#### **SECTION 5-14 SEARCH POLICY.**

In support of the City's commitment to the protection of all employees, operations and the public, the City may conduct searches to the extent considered appropriate to ensure the safe and efficient operation of the City's facilities. Entry onto City property, including parking areas, is deemed consent to an inspection of person, vehicle, personal effects and electronic devices and equipment at any time while entering, on, or leaving the property. Inspections will be conducted at the discretion of the City.

The City reserves the right to search any person entering onto its property or off site while employed, or while performing services for the City. The City also reserves the right to search property, equipment and storage areas including, but not limited to, clothing, personal effects, vehicles, buildings, rooms, facilities, offices, parking lots, desks, drawers, devices, cabinets, lunch boxes or bags, parcels, electronic devices and equipment. Any items that you do not want to have inspected should not be brought to work.

#### **SECTION 5-15 ALCOHOL AND DRUGS.**

Possession, selling, using or being under the influence of drugs or alcohol on City property and while on City business is prohibited.

Any employee violating this rule will be immediately terminated or subject to other disciplinary action which the City Administrator, in his or her sole discretion, deems appropriate based on each incident.



Any employee who refuses alcohol or drug screening pursuant to this policy shall be subject to termination.

- (a) **Unfit Condition.** If an employee is observed in an unfit condition, in terms of not being able to perform work safely or in a productive manner, a supervisor shall immediately report the observation to the department head or City Administrator. If deemed appropriate, a City representative and a witness shall initiate the search procedure and, if appropriate, escort the employee to an off-site medical facility for alcohol/drug screening which will subsequently be analyzed by a certified testing laboratory.
- (b) **Incident on Duty.** When an employee becomes involved in an incident affecting person or property while performing services for the City, a supervisor shall immediately report the incident to the department head or City Administrator. If deemed appropriate, a City representative and a witness shall initiate the search procedure and, if appropriate, escort the employee to an off-site medical facility for alcohol/drug screening using a test kit which will subsequently be analyzed by a certified testing laboratory.
- (c) **Reasonable Suspicion.** Screening may also be conducted when it is believed or suspected that an employee's job performance including, but not limited to, productivity, deteriorating performance, safety or attendance is related to an alcohol or drug-related problem. Prior to any action under this provision, the employee's supervisor should immediately report the observation or suspicion to the department head or City Administrator. If deemed appropriate, a City representative and a witness shall initiate the search procedure and, if appropriate, escort the employee to an off-site medical facility for alcohol/drug screening using a test kit which will subsequently be analyzed by a certified testing laboratory.
- (d) **Searches Related to Drugs/Alcohol.** Conditions under which searches will be considered include when an employee is found to be in "Unfit Condition," when an employee is involved in an "Incident on Duty," or if the City has a "Reasonable Suspicion" that alcohol or drugs may be possessed by an employee in violation of the City's policy. Searches may include lockers, vehicles, personal effects from pockets, handbags, etc. (See Sec. 2-6-82).

## SECTION 5-16 GRIEVANCE PROCEDURES.

- (a) **Definitions.**
  - (1) A "Grievance" is a complaint an employee may have about workplace safety, discipline and termination. This policy applies to all employees covered under Section 66.0509, Wis. Stats., other than police employees subject to Section 62.13(5), Wis. Stats. An employee may appeal any level of discipline under this grievance procedure.

- (2) "Workplace Safety": means any alleged violation of any standard established under state law or rule or federal law or regulation relating to workplace safety, including the City of Cedarburg Safety Manual.
  - (3) "Discipline": means any employment action that results in disciplinary suspension without pay, disciplinary reduction in pay or other benefits, disciplinary demotions and terminations. The term "discipline" does not include verbal notices or reminders, written reprimands, performance evaluations, documentation of employee acts and/or omissions in an employment file, non-disciplinary job reassignments, non-disciplinary adjustments to compensation or benefits or actions taken to address job performance for non-disciplinary reasons.
  - (4) "Termination": means a discharge from employment for rule violations, poor performance, acts detrimental to the employer or other acts of misconduct. The term "termination" does not include: a voluntary quit, completion of seasonal employment, completion of temporary assignment, completion of contract, layoff or failure to be recalled from layoff at the expiration of the recall period; retirement, job abandonment ("no call, no show" or other failure to report to work); or termination of employment due to inability to perform the job, medical condition, lack of qualification or license, or any other cessation of employment not involving involuntary termination.
  - (5) "Hearing Officer": means the impartial hearing officer required pursuant to s. 66.0509(1m)(d)2, Wis. Stat. The City will provide a hearing officer who shall not be an employee, official or agent of the City.
  - (6) "Employee": does not include employees covered under a collective bargaining agreement, elected officials, statutory political appointees; temporary, seasonal, part-time employees or independent contractors.
- (b) **Procedure.** The Parties agree in writing to waive a step or extend time limits within the procedure.
- (1) Step One. The employee should meet with their direct supervisor in an effort to resolve any questions, problems and misunderstandings that have arisen.
  - (2) Step Two. If resolution does not occur at Step One, the employee shall notify his department head in writing within ten (10) working days following the day the employee first became aware of the particular problem or complaint. The employee shall be specific that they want to enter a grievance. If such grievance is not presented within the specified time period, it shall then be deemed waived. Within ten (10) working days after receiving the grievance, the department head shall investigate the complaint and meet with the employee. Within ten (10) working days after the meeting between the employee and the department head, the department head shall provide a written response.
  - (3) Step Three. Where an employee does not have an immediate supervisor, or does not agree with the Department Head's decision, the grievance shall be submitted in writing to the City Administrator. Within ten (10) working days after receiving the grievance, the City Administrator shall investigate the complaint and meet with the employee. Within ten (10) working days after the meeting between the employee and the City Administrator, the City Administrator shall provide a written response. Step Three does not apply to Light and Water employees or Library employees.
  - (4) Step Four. The employee may request an appeal to a Hearing Officer by filing a

written request with the City Clerk within 10 days of receiving the written response. The City Clerk shall notify the Mayor, City Administrator, City Attorney and employee's Department Head about the filing of the request for a hearing as soon as practicable. The City Administrator will work with the hearing officer, department head and grievant to schedule a mutually agreeable hearing date. Any expense incurred by an employee in investigating, preparing, or presenting a grievance shall be the sole responsibility of the employee. Each party (employee and employer) shall bear its own costs for witnesses and all other out-of-pocket expenses, including possible attorney fees. The fees of the impartial hearing officer shall be divided equally between the parties.

- (5) Step Five The decision of the impartial hearing officer shall be made within 30 days and be final unless either party files with the City Clerk a request for the decision to be reviewed by the Final Appeal Board no later than five (5) working days of the date of the decision issued under Step 4 above. For Library Employees the final appeal shall be to the Library Board and for Light and Water Employees the final appeal shall be to the Light and Water Commission. For all other employees the Final Appeal Board is the Common Council. The Final Appeal Board shall review the matter as soon as practicable and in accordance with procedures for public participation. The Final Appeal Board shall examine any records produced at the hearing before the hearing officer and determine whether a rational basis exists for the hearing officer's written decision. The Final Appeal Board shall not conduct a de novo hearing. A simple majority vote of the Final Appeal Board membership shall decide the appeal and shall be final. The Final Appeal Board may sustain, deny or modify the recommendation of the impartial hearing officer. The decision must be made within 45 days and shall be final and binding. A copy of the Decision shall be provided to the employee and filed with the City Clerk.

#### **SECTION 5-17 AMERICANS WITH DISABILITIES ACT (ADA), TITLE 1.**

This policy outlines the provisions of the Americans with Disabilities Act (ADA) of 1990 and The Americans with Disabilities Act (ADA) Amendments Act of 2008 and the rights and obligations of employees and the City under federal and state law.

- (a) In accordance with the Americans with Disabilities Act of 1990 and The Americans With Disabilities Act (ADA) Amendments Act of 2008, the Rehabilitation Act of 1973, the ADA Amendments Act of 2008 and the Wisconsin Fair Employment Act, the City of Cedarburg prohibits discrimination against qualified individuals with disabilities in all employment practices, including: job application procedures, hiring, firing, advancement, compensation, training, and other terms, conditions, and privileges of employment. The City of Cedarburg is committed to providing accommodations for eligible employees, citizens and/or applicants with documented disabilities.
  - (1) Application Process. In accordance with the law, all applicants for City positions must have accessibility to all steps in the selection process and are protected from disability related questions that could potentially screen them out of the application process. Applicants may not be asked questions that are likely to elicit information about a disability, including whether an applicant has a particular disability. Inquiries regarding an applicant's medical or worker's compensation history may also

not be asked. However, applicants may be asked questions concerning their ability to perform the essential functions of a job. An applicant may not be asked to describe or demonstrate how they would perform the job functions, unless all applicants are asked to do this or if the disability is obvious or the applicant discloses a hidden disability. Reasonable accommodation will be provided to qualified applicants during the selection process to ensure that all applicants have accessibility to all phases of the process. Accommodations may include making an interview room accessible, or supplying an interpreter or reader.

- (2) Pre-Employment. Pre-offer physicals are prohibited by the City, as are inquiries regarding the existence of an applicant's disability or the nature and severity of the disability. After an offer of employment has been extended, it may be conditioned on the results of a medical examination, as long as all individuals in the same job category have to undergo a medical exam. The information received during medical examinations will remain confidential. However, a supervisor may be told of a candidate's necessary restrictions and/or accommodations. If the existence of a disability is revealed during the medical exam, the offer of employment may not be withdrawn unless:

- (i) the reason is job related and consistent with business necessity and no reasonable accommodation can be made;
- (ii) the disability poses a *direct threat* to the health and safety of the applicant, other employees or the general public, and which cannot be eliminated by reasonable accommodation.

- (3) Reasonable Accommodation. The City is committed to making reasonable accommodation in job duties, the work environment, and the application process to enable a qualified individual with a disability to enjoy equal employment opportunities, as long as such accommodations do not constitute an undue hardship on the City.

- (4) Complaint Procedure. If an employee believes they have been discriminated against in employment on the basis of disability, an internal complaint may be filed through the City's harassment complaint procedure, or a formal complaint may be filed with the Wisconsin Equal Rights Division of the Department of Workforce Development and/or the federal Equal Employment Opportunity Commission.

(b) **Procedure**

- (1) Requests for Accommodation

An employee who believes they need a reasonable accommodation to perform their job should make that request through their direct supervisor or the City Administrator or his or her designee. The City will work with the employee to determine if their disability can be reasonably accommodated.

When a request for accommodation is received by a supervisor or when it is apparent that a reasonable accommodation may enable an individual with a disability to perform the essential functions of the position or participate in the employment process, the employee should be directed to submit a "**Reasonable Accommodation Request Form**" with appropriate supporting documentation to their direct supervisor or City Administrator for consideration.

All requests for accommodation shall be responded to in a timely fashion, after the supervisor has engaged in the “interactive process” with the employee requesting accommodation. Supervisors are encouraged to request assistance from the Human Resources Department [or other department or ADA Coordinator] or other outside sources, as necessary.

The City reviews all requests for accommodation on a case by case basis and may provide a reasonable accommodation that allows the qualified individual with a disability to achieve the same level of job performance as other similarly skilled employees. The City is not obligated to provide an accommodation that causes an undue hardship on the City.

(2) Documentation of Request for Accommodation

Documentation of the request for accommodation and the response (provided on the “*Response to Accommodation Request Form*”) by the supervisor and/or City Administrator should be forwarded to the Clerk’s Office and shall be kept in a confidential file (separate from personnel and/or medical files).

(c) **Definitions**

- (1) “Disability” as defined under the Americans with Disabilities Act of 1990 (42 U.S.C. sec. 12101): A qualified individual who has a physical or mental impairment that substantially limits one or more major life activities (and includes times when the impairment is episodic or in remission); a person who has a record of such impairment; a person who is regarded or perceived to have an impairment; or has a known association or relationship with an individual with a disability.
- (2) Disability” as defined under the Wisconsin Fair Employment Act (Section 111.32): A physical or mental impairment which makes achievement unusually difficult or limits the capacity to work; has a record of such an impairment; or is perceived as having such an impairment.
- (3) Direct Threat To Safety: A significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation.
- (4) Essential Job Functions: Those activities of a job that are the core to performing the position that cannot be modified. A function is essential if: the job exists to accomplish the function, only a limited number of employees can perform the function, the function is highly specialized and an employee is hired for his/her expertise in the area. Other factors that may be considered in determining whether a function is essential are: the amount of time an employee spends performing the function, the consequences if the employee were not required to perform the function, the terms of applicable collective bargaining agreements, the work experience of previous employees who held the job, and the work experience of employees in similar jobs.
- (5) Interactive Process: The process by which an agent of the employer and individual requesting accommodation engage in, to discuss physical or mental abilities and limitations as they relate to the job’s essential functions and to determine possible job accommodations.
- (6) Major Life Activities: Caring for one’s self, performing manual tasks, walking, sitting, standing, seeing, hearing, eating, breathing, speaking, sleeping,

reproducing, working, learning, thinking, concentrating and interacting with others, as well as major bodily functions (i.e. endocrine, neurological, reproductive).

- (7) **Qualified Individual with A Disability:** A person who meets legitimate skill, experience, education, or other requirements of an employment position that s/he holds or seeks, and who can perform the “essential” functions of the position with or without reasonable accommodation.
  - (8) **Reasonable Accommodation:** Any modification or adjustment to a job or the work environment that will enable a “qualified” applicant or employee with a disability to participate in the application process or to perform essential job functions. Examples of reasonable accommodation include: making facilities readily accessible, job restructuring, modifying work schedules, implementing flexible leave policies, reassignment to a vacant position, acquiring or modifying equipment or devices, adjusting or modifying tests, training material or policies, and providing qualified readers or interpreters.
  - (9) **Undue Hardship:** An action that is excessively costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the business.
- (d) **The Wisconsin Fair Employment Act.** Under the WFEA, “individual with a disability” is defined as an individual who has a physical or mental impairment which makes achievement unusually difficult or limits the capacity to work. The first prong involving an “impairment which makes achievement unusually difficult” is similar to the “substantially impairs one or more major life activities” criterion under the ADA. The second prong “limits the capacity to work” refers to the particular job in question. Obligations under the WFEA may be broader than those under the ADA, and the City will comply with both laws.



Signature:	Date:

**AMERICANS WITH DISABILITIES ACT (ADA) - RESPONSE TO ACCOMMODATION REQUEST**

Date:	Department:	
1. Accommodation Requested By:		
2. Is this individual covered by ADA?	YES	NO
3. Was the requested accommodation approved?	YES	NO
If yes, the following accommodations and/or modifications will be implemented:		



Approximate cost of accommodation and/or modification: \$	
If the accommodation is denied, list the reasons for the denial*:	
* The Department must consult with the Personnel Director [or ADA Coordinator] prior to a denial of any accommodation request.	
4. Date of action:	
5. Response by individual requesting accommodation:	
Signature:	Date:

## SECTION 5-18 AMERICANS WITH DISABILITIES ACT (ADA), TITLE II.

Title II of the American's with Disabilities Act (ADA) prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities. Therefore, this policy outlines the provisions of Title II of the ADA, and the rights and obligations of citizens and the City under federal and state law.

It is the policy of the City of Cedarburg to ensure that all citizens have an equal opportunity to participate in and receive the benefits of the services, programs, or activities of the City. This will be done in the most integrated setting appropriate to the needs of the qualified individual with a disability. Only where it is absolutely necessary will the City provide services, programs, or activities separately to persons with disabilities. No qualified individual with a disability shall, on the basis of said disability, be screened out of a service, program or activity. Nor, shall any individual be excluded from participation in or denied the benefits of said services, programs or activities, because of their disability.

The City is required to ensure all programs and activities are accessible, but are not required to make each and every facility accessible, as long as all programs are accessible (see "*Transition Plans*"). There are several means by which the City can make its programs readily accessible to and usable by disabled individuals, including:

- Redesigning equipment;
- Reassigning services or programs to alternative, accessible buildings;
- Assigning aides to beneficiaries;
- Providing auxiliary aids;
- Making home visits; or
- Altering existing facilities or building new facilities

The City is required to reasonably modify City-wide policies, practices or procedures to avoid discrimination. However, modifications may not be required where a particular modification would fundamentally alter the nature of the service, program or activity.

- (a) **Reasonable Accommodation.** If a reasonable accommodation is necessary to participate in the services provided by the City, please contact your immediate supervisor or the City Administrator. Every attempt will be made to accommodate the request.
- (1) **Due Process.** The following procedure is intended to protect the rights of interested individuals to meet appropriate due process standards and to assure that the City complies with the Americans with Disabilities Act (ADA) and the implementation regulations.
- (2) **Complaint Procedure.** If anyone utilizing the City's facilities, programs, services or activities believes they have been discriminated against on the basis of a disability in connection with access to any City facility or programs, services or activities, they have the right to file a complaint. Complaints should be addressed to the City Administrator (262-375-7606), who has been designated to coordinate ADA compliance efforts.
- (i) A complaint should be filed in writing, contain the address of the person filing it, and briefly describe the alleged violation.

- (ii) A complaint should be filed within 30 days.
  - (iii) An investigation, as appropriate, shall follow a complaint filing. The investigation shall be conducted by City Administrator, and afford all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint.
  - (iv) A written response to the complaint, and a description of the resolution, if any, shall be issued by City Administrator and a copy forwarded to the complainant no later than 30 days after its filing.
  - (v) The Clerk's Office maintains the files and records of all ADA complaints filed with the City.
  - (vi) The complainant can request a reconsideration of the case in instances where they are dissatisfied with the resolution. The request for reconsideration should be made within 60 days the City Administrator.
  - (vii) The right of an individual to a prompt and equitable resolution of the filed with the City shall not be impaired by the individual's pursuit of other remedies such as the filing of an ADA complaint with the responsible federal department or agency.
- (b) **Self Evaluation.** The City is required to conduct a *self-evaluation*, which includes a comprehensive review of current policies and practices (formal written policies and procedures and actual operating practices). Any policy or practice that does not comply with the requirements of Title II must be identified and modified to bring the policy or practice into compliance. Individuals must be provided the opportunity to submit comments pertaining to the City's effort.
- (c) **Transition Plan.** When structural modifications to facilities are necessary in order to make a program, service, or activity accessible to people with disabilities, are required to develop a facility transition plan which must include:
- The physical barriers which limit access to and use of the programs, services, and activities for people with disabilities, including communications features which are structural in nature;
  - A detailed description of how the City plans to make the facilities accessible;
  - The schedule for barrier removal;
  - A yearly schedule, if the transition plan is more than one year long; and
  - The name of the individual who is responsible for implementing the transition plan;

The City is required to maintain in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities. This includes locked accessible doors, elevators, accessible routes which are obstructed by parked cars or furniture, and complaint signage which is obstructed from.

## **SECTION 6**

### Separation of Employment

#### **SECTION 6-1 RESIGNATION/RETIREMENT.**

- (a) An employee shall file a written letter of resignation to his supervisor and the City Administrator stating the reason(s) and the effective date of the resignation. Employees shall provide written notice a minimum of ten (10) working days prior to their termination date. Employees shall provide written notice a minimum of twenty (20) working days prior to their retirement. Retirement is defined as being qualified for the Wisconsin Retirement System. Failure to provide the required number of days will result in a forfeiture of the sick leave payout.
- (b) The workdays required for proper notice shall exclude vacation and holidays and any other paid time off. Failure to provide the proper notice of resignation as identified in this section shall cause the employee's personnel record to indicate that the employee did not leave the City in good standing. The City retains the right to waive the resignation notice requirement if it is in the best interest of the City to do so. If sufficient notice is not given, the employee will not be entitled to accrued vacation pay as wages.

#### **SECTION 6-2 JOB ABANDONMENT**

Employees who fail to report to work or contact their supervisor for three (3) consecutive work days or employees who fail to return from approved leaves of absence (i.e., FMLA, worker's compensation, unpaid leave of absence) on a specified return date without prior notice to their supervisor shall be considered to have abandoned their job without notice. Supervisors shall notify the Payroll Officer at the expiration of the third (3rd) work day and initiate the paper work to terminate the employee. Employees who abandon their jobs are ineligible to receive accrued benefits and are ineligible for rehire.

#### **SECTION 6-3 DISPOSITION OF THE FINAL PAYCHECK.**

- (a) The final paycheck for employees who have retired, resigned or been dismissed shall be computed and the final earnings directly deposited to the employee's last known depository. The check detail will be mailed to the employee at the address of record, or if the employee prefers, ready to be picked up in the City Treasurer's Office only on the regular scheduled pay day following the termination date. The final paycheck shall also include payments for accrued wages.
- (b) All deductions for amounts owed by the employee to the City have been computed and deducted from the final paycheck.

#### **SECTION 6-4 FINAL COMPENSATION UPON DEATH OF AN EMPLOYEE.**

If an employee dies, the City may pay all wages due the employee to his or her spouse, children, parent, brother, sister or creditors (in that order of priority) after at least five (5) days have passed after death and before probate proceedings have commenced. In any case, the wages become due and

payable upon death, and if the employee's spouse, children or dependent demands them before the employer has voluntarily made payment, the City shall pay them to that person. In either case, payment constitutes a full discharge of the employer's obligation. The amount of wages due includes unused vacation allowances.

#### **SECTION 6-5 PROCEDURE OF DEPARTURE**

(a) The Department Head shall notify the Payroll Officer immediately when they know an employee has resigned or plans to retire. The Department Head will conduct the check-out and return of property, utilizing the Exit Interview Form. The form should be forwarded to the Payroll Officer. The departing employee will be given a copy of the Exit Interview Form and informed that a COBRA notice will be sent directly to them from the City's third party administrator.

(1) Return of Property.

All items which have been issued to an employee during the course of employment remain the property of the City. At the time of an employee's separation, whether voluntary or involuntary, all City documents and other items of City property in the employee's possession (i.e. cell phones, identification cards, uniforms, keys, key cards, credit card or procurement cards, tools and equipment) must be returned on or before the employee's last of work. It will be supervisor's responsibility to ensure that all City property is returned.

(2) Exit Interview.

An exit interview will be conducted by the Payroll Officer for all separations of employment for regular and part-time employees. This interview is intended to be beneficial for both the City and the departing employee. During the interview, an exit questionnaire form will be provided to the employee by the Payroll Officer to be completed by the employee, and the employee will have the opportunity to ask questions, discuss any areas of concern, and receive answers to specific questions. It is the intention of the City to obtain information that will help in recruitment and retention efforts.

The Payroll Officer will provide all completed exit interview questionnaires to the City Administrator, or to the Mayor if deemed necessary. The Payroll Officer will verify that the department check out process has occurred, ensure the exit questionnaire is completed, process any benefit payout information, and distribute the required information to the departing employee.

**The City reserves the right to change, add, delete or suspend any of its policies and procedures stated herein, in whole or in part, at any time, with or without notice.**

**CITY OF CEDARBURG**

**MEETING DATE:** February 10, 2020

**ITEM NO:** 9. E.

**TITLE:** Consider request of Lime Cantina, to amend the premise description of the Class “B” Beer and “Class B” Liquor license at W62 N550 Washington Avenue to sell and serve alcohol outside during Strawberry Festival and Wine & Harvest Festival; and action thereon\*\*\*

**ISSUE SUMMARY:** The owners of Lime Cantina are seeking permission to alter the liquor license premise description to be able to sell and serve alcohol on the street in front of the business during Strawberry Festival and Wine and Harvest Festival.

**STAFF RECOMMENDATION:** N/A

**BOARD, COMMISSION OR COMMITTEE RECOMMENDATION:** N/A

**BUDGETARY IMPACT:** N/A

**ATTACHMENTS:** N/A

**INITIATED/REQUESTED BY:** Michele Tietz

**FOR MORE INFORMATION CONTACT:** Amy Kletzien, Deputy City Clerk

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<b>111300 PWSB Checking</b>					
Paid Chk# 034022 1/24/2020 ADP, LLC.					
G 100-212000	ACCOUNTS PAYABLE		\$425.60	549659553	PAYROLL PROCESSING
G 100-212000	ACCOUNTS PAYABLE		\$475.20	549660257	PAYROLL PROCESSING
G 100-212000	ACCOUNTS PAYABLE		\$1,183.41	549660343	PAYROLL PROCESSING
Total ADP, LLC.			\$2,084.21		
Paid Chk# 034023 1/24/2020 AURORA HEALTH CARE					
G 100-212000	ACCOUNTS PAYABLE		\$48.00	758342	PARKS-DRUG SCREEN
Total AURORA HEALTH CARE			\$48.00		
Paid Chk# 034024 1/24/2020 BAKER & TAYLOR AUDIOBOOK PRE					
G 260-212000	ACCOUNTS PAYABLE		(\$36.00)	0003195608	LIBR-PUBLICATIONS
G 260-212000	ACCOUNTS PAYABLE		\$224.31	2034955378	LIBR-PUBLICATIONS
G 260-212000	ACCOUNTS PAYABLE		\$79.08	2034976685	LIBR-PUBLICATIONS
G 260-212000	ACCOUNTS PAYABLE		\$22.51	2034993587	LIBR-PUBLICATIONS
G 260-212000	ACCOUNTS PAYABLE		\$14.26	2035019472	LIBR-PUBLICATIONS
Total BAKER & TAYLOR AUDIOBOOK PRE			\$304.16		
Paid Chk# 034025 1/24/2020 BAKER & TAYLOR AV VIDMASS					
G 260-212000	ACCOUNTS PAYABLE		\$172.86	H41127160	LIBR-PUBLICATIONS
G 260-212000	ACCOUNTS PAYABLE		\$20.03	H42300210	LIBR-PUBLICATIONS
G 260-212000	ACCOUNTS PAYABLE		\$48.82	H4268850	LIBR-PUBLICATIONS
Total BAKER & TAYLOR AV VIDMASS			\$241.71		
Paid Chk# 034026 1/24/2020 BAKER & TAYLOR BOOKS					
G 260-212000	ACCOUNTS PAYABLE		\$30.00	2035010738	LIBR-FRIENDS DONATION
G 260-212000	ACCOUNTS PAYABLE		\$404.14	2035010738	LIBR-PUBLICATIONS
G 260-212000	ACCOUNTS PAYABLE		\$50.00	2035026849	LIBR-FRIENDS DONATION
G 260-212000	ACCOUNTS PAYABLE		\$243.72	2035026849	LIBR-PUBLICATIONS
Total BAKER & TAYLOR BOOKS			\$727.86		
Paid Chk# 034027 1/24/2020 BROOKS TRACTOR					
G 100-212000	ACCOUNTS PAYABLE		\$182.16	M42662	DPW-MAINTENANCE HYDRAULIC OIL
Total BROOKS TRACTOR			\$182.16		
Paid Chk# 034028 1/24/2020 CEDARBURG FIRE DEPARTMENT					
G 100-212000	ACCOUNTS PAYABLE		\$153.42	2019-1227	PD-SUPPLIES
Total CEDARBURG FIRE DEPARTMENT			\$153.42		
Paid Chk# 034029 1/24/2020 CEDARBURG LIGHT & WATER					
G 601-212000	ACCOUNTS PAYABLE		\$12,362.16	7621	CWRC-SEWERAGE BILLING JAN 2020
G 601-212000	ACCOUNTS PAYABLE		\$29.76	7622	CWRC-HYDRANT METERS NOV & DEC 2019
G 100-212000	ACCOUNTS PAYABLE		\$84.80	CK REQ	2017 DELINQ UTILITIES-A. WISTH PD ON TAX ROLL.
Total CEDARBURG LIGHT & WATER			\$12,476.72		
Paid Chk# 034030 1/24/2020 CHEMINDUSTRIAL SYSTEMS INC					
G 100-212000	ACCOUNTS PAYABLE		\$125.31	5556	DPW-MAINTENANCE PARTS

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<b>Total</b>		<b>CHEMININDUSTRIAL SYSTEMS INC</b>	<b>\$125.31</b>		
Paid Chk#	034031	1/24/2020	<b>CINTAS CORPORATION</b>		
G 100-212000	ACCOUNTS PAYABLE		\$144.65	4040383418	DPW-OPERATING
<b>Total</b>		<b>CINTAS CORPORATION</b>	<b>\$144.65</b>		
Paid Chk#	034032	1/24/2020	<b>COMPLETE OFFICE OF WISCONSIN</b>		
G 100-212000	ACCOUNTS PAYABLE		\$115.33	561385	TREAS-OFFICE SUPPLIES
<b>Total</b>		<b>COMPLETE OFFICE OF WISCONSIN</b>	<b>\$115.33</b>		
Paid Chk#	034033	1/24/2020	<b>EMBURY, LTD.</b>		
G 260-212000	ACCOUNTS PAYABLE		\$800.00	126021	LIBR-REPAIR
<b>Total</b>		<b>EMBURY, LTD.</b>	<b>\$800.00</b>		
Paid Chk#	034034	1/24/2020	<b>GALLS LLC</b>		
G 100-212000	ACCOUNTS PAYABLE		\$1,112.27	014568325	PD-UNIFORMS
<b>Total</b>		<b>GALLS LLC</b>	<b>\$1,112.27</b>		
Paid Chk#	034035	1/24/2020	<b>HARTFORD POLICE DEPT</b>		
G 100-212000	ACCOUNTS PAYABLE		\$60.00	CK REQ	PD-TRAINING
G 100-212000	ACCOUNTS PAYABLE		\$60.00	CK REQ	PD-TRAINING
G 100-212000	ACCOUNTS PAYABLE		\$60.00	CK REQ	PD-TRAINING
<b>Total</b>		<b>HARTFORD POLICE DEPT</b>	<b>\$180.00</b>		
Paid Chk#	034036	1/24/2020	<b>IBS OF SOUTHEASTERN WISCONSIN</b>		
G 100-212000	ACCOUNTS PAYABLE		\$239.90	100680545	DPW-MAINTENANCE PARTS
<b>Total</b>		<b>IBS OF SOUTHEASTERN WISCONSIN</b>	<b>\$239.90</b>		
Paid Chk#	034037	1/24/2020	<b>JAMES IMAGING SYSTEMS, INC.</b>		
G 100-212000	ACCOUNTS PAYABLE		\$403.38	1522593	TECH-COPIER PROPERTY TAX
G 100-212000	ACCOUNTS PAYABLE		\$239.71	26259931	TECH-DECEMBER 2019 COPIER
G 100-212000	ACCOUNTS PAYABLE		\$239.71	26259931	TECH-DECEMBER 2019 COPIER
G 100-212000	ACCOUNTS PAYABLE		\$207.78	26259931	PARKS-DECEMBER 2019 COPIER
<b>Total</b>		<b>JAMES IMAGING SYSTEMS, INC.</b>	<b>\$1,090.58</b>		
Paid Chk#	034038	1/24/2020	<b>JANI-KING OF MILWAUKEE/ROYAL F</b>		
G 260-212000	ACCOUNTS PAYABLE		\$914.94	MIL01200642	LIBR-MAINTENANCE
G 260-212000	ACCOUNTS PAYABLE		\$914.94	MIL05190001	LIBR-MAINTENANCE
G 260-212000	ACCOUNTS PAYABLE		\$914.94	MIL06190002	LIBR-MAINTENANCE
G 260-212000	ACCOUNTS PAYABLE		\$914.94	MIL07190003	LIBR-MAINTENANCE
G 260-212000	ACCOUNTS PAYABLE		\$914.94	MIL08190004	LIBR-MAINTENANCE
G 260-212000	ACCOUNTS PAYABLE		\$914.94	MIL09190005	LIBR-MAINTENANCE
G 260-212000	ACCOUNTS PAYABLE		\$914.94	MIL10190006	LIBR-MAINTENANCE
G 260-212000	ACCOUNTS PAYABLE		\$914.94	MIL1190007	LIBR-MAINTENANCE
G 260-212000	ACCOUNTS PAYABLE		\$914.94	MIL12190008	LIBR-MAINTENANCE
<b>Total</b>		<b>JANI-KING OF MILWAUKEE/ROYAL F</b>	<b>\$8,234.46</b>		
Paid Chk#	034039	1/24/2020	<b>JONES, MIKE</b>		
G 220-212000	ACCOUNTS PAYABLE		\$260.00	CK REQ	REC-POMS/DANCE REFUND



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<b>Total JONES, MIKE</b>			<b>\$260.00</b>		
Paid Chk#	034040	1/24/2020	<b>KRANSTOVER, MICHAEL</b>		
G 100-212000	ACCOUNTS PAYABLE		\$40.00	CK REQ	REFUND APPLIANCE PICKUP
<b>Total KRANSTOVER, MICHAEL</b>			<b>\$40.00</b>		
Paid Chk#	034041	1/24/2020	<b>LETTERS &amp; SIGNS</b>		
G 100-212000	ACCOUNTS PAYABLE		\$1,642.00	4162	DPW-SIGNS
G 601-212000	ACCOUNTS PAYABLE		\$185.00	4185	CWRC-MAINTENANCE
<b>Total LETTERS &amp; SIGNS</b>			<b>\$1,827.00</b>		
Paid Chk#	034042	1/24/2020	<b>MONARCH LIBRARY SYSTEM</b>		
G 260-212000	ACCOUNTS PAYABLE		\$16.14	414888	LIBR-SHARED SERVICES OCT-DEC 2019
<b>Total MONARCH LIBRARY SYSTEM</b>			<b>\$16.14</b>		
Paid Chk#	034043	1/24/2020	<b>NAPA AUTO PARTS</b>		
G 100-212000	ACCOUNTS PAYABLE		\$82.05	5269-050492	DPW-MAINTENANCE PARTS
G 100-212000	ACCOUNTS PAYABLE		\$19.93	5269-050760	DPW-MAINTENANCE PARTS
G 100-212000	ACCOUNTS PAYABLE		\$22.53	5269-051697	DPW-MAINTENANCE PARTS
<b>Total NAPA AUTO PARTS</b>			<b>\$124.51</b>		
Paid Chk#	034044	1/24/2020	<b>OFFICE COPYING EQUIPMENT, LLC</b>		
G 100-212000	ACCOUNTS PAYABLE		\$11.19	AR104496	TECH-COPIERS TONER
<b>Total OFFICE COPYING EQUIPMENT, LLC</b>			<b>\$11.19</b>		
Paid Chk#	034045	1/24/2020	<b>OFFICE DEPOT</b>		
G 100-212000	ACCOUNTS PAYABLE		\$120.14	423101273001	PARKS-OFFICE SUPPLIES
G 100-212000	ACCOUNTS PAYABLE		\$18.18	423147580001	PARKS-OFFICE SUPPLIES
G 260-212000	ACCOUNTS PAYABLE		\$205.07	425106210001	LIBR-OFFICE SUPPLIES
G 100-212000	ACCOUNTS PAYABLE		\$16.48	425735816001	ENG-OFFICE SUPPLIES
G 100-212000	ACCOUNTS PAYABLE		\$14.41	425735816001	ASSESSOR-OFFICE SUPPLIES
G 100-212000	ACCOUNTS PAYABLE		\$25.99	425735816001	BI-OFFICE SUPPLIES
G 100-212000	ACCOUNTS PAYABLE		\$93.96	425918534001	TREAS-OFFICE SUPPLIES
G 100-212000	ACCOUNTS PAYABLE		\$21.96	426443194001	ENG-OFFICE SUPPLIES
G 100-212000	ACCOUNTS PAYABLE		\$32.82	426443194001	TREAS-OFFICE SUPPLIES
G 100-212000	ACCOUNTS PAYABLE		\$6.99	426443636001	ENG-OFFICE SUPPLIES
<b>Total OFFICE DEPOT</b>			<b>\$556.00</b>		
Paid Chk#	034046	1/24/2020	<b>OLIVER FIONTAR LLC</b>		
G 350-212000	ACCOUNTS PAYABLE		\$4,915.00	565	TIF #4 - DRAW #28
G 350-212000	ACCOUNTS PAYABLE		\$13,132.50	565	TIF #4 - DRAW #28
G 350-212000	ACCOUNTS PAYABLE		\$12,015.81	568	TIF #4 - DRAW #28
<b>Total OLIVER FIONTAR LLC</b>			<b>\$30,063.31</b>		
Paid Chk#	034047	1/24/2020	<b>OLSEN S PIGGLY WIGGLY</b>		
G 100-212000	ACCOUNTS PAYABLE		\$62.49	38492	DPW-TRAINING
<b>Total OLSEN S PIGGLY WIGGLY</b>			<b>\$62.49</b>		
Paid Chk#	034048	1/24/2020	<b>OUTDOOR LIGHTING CONST. CO., I</b>		

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G 100-212000	ACCOUNTS PAYABLE		\$1,137.43	8649	TRAFFIC SIGNAL REPAIR
<b>Total</b>		<b>OUTDOOR LIGHTING CONST. CO., I</b>	<b>\$1,137.43</b>		
<b>Paid Chk# 034049 1/24/2020 PENFLEX, INC.</b>					
G 100-212000	ACCOUNTS PAYABLE		\$1,000.00	19-0815	FD-RETIREMENT ADMINISTRATION
<b>Total</b>		<b>PENFLEX, INC.</b>	<b>\$1,000.00</b>		
<b>Paid Chk# 034050 1/24/2020 QUALITY STATE OIL CO.,INC.</b>					
G 100-212000	ACCOUNTS PAYABLE		\$500.00	2862292	DPW-MAINTENANCE PARTS
<b>Total</b>		<b>QUALITY STATE OIL CO.,INC.</b>	<b>\$500.00</b>		
<b>Paid Chk# 034051 1/24/2020 RECOGNITION SPECIALISTS, INC.</b>					
G 100-212000	ACCOUNTS PAYABLE		\$20.00	34203	PARKS-OFFICE SUPPLIES
G 100-212000	ACCOUNTS PAYABLE		\$10.00	34203	ADMIN-OFFICE SUPPLIES
G 100-212000	ACCOUNTS PAYABLE		\$10.00	34203	TREAS-OFFICE SUPPLIES
<b>Total</b>		<b>RECOGNITION SPECIALISTS, INC.</b>	<b>\$40.00</b>		
<b>Paid Chk# 034052 1/24/2020 RMC IMAGING INC</b>					
G 260-212000	ACCOUNTS PAYABLE		\$845.00	2255	LIBR-MAINTENANCE SUPPORT 2/15/20-2/15/21
<b>Total</b>		<b>RMC IMAGING INC</b>	<b>\$845.00</b>		
<b>Paid Chk# 034053 1/24/2020 RUEKERT &amp; MIELKE</b>					
G 400-212000	ACCOUNTS PAYABLE		\$699.28	130625	MMWQC-STORMWATER
<b>Total</b>		<b>RUEKERT &amp; MIELKE</b>	<b>\$699.28</b>		
<b>Paid Chk# 034054 1/24/2020 SCHLUMP, JOHN</b>					
G 100-212000	ACCOUNTS PAYABLE		\$824.32	CK REQ	OVERPAYMENT OF TAXES 2019
<b>Total</b>		<b>SCHLUMP, JOHN</b>	<b>\$824.32</b>		
<b>Paid Chk# 034055 1/24/2020 SCHWAAB,INC</b>					
G 100-212000	ACCOUNTS PAYABLE		\$19.25	4609379	CLERKS-OFFICE SUPPLIES
G 100-212000	ACCOUNTS PAYABLE		\$67.25	C075444	CLERKS-OFFICE SUPPLIES
<b>Total</b>		<b>SCHWAAB,INC</b>	<b>\$86.50</b>		
<b>Paid Chk# 034056 1/24/2020 SHARP ELECTRONICS CORPORATION</b>					
G 100-212000	ACCOUNTS PAYABLE		\$345.24	SH360123	TECH-COPIERS
<b>Total</b>		<b>SHARP ELECTRONICS CORPORATION</b>	<b>\$345.24</b>		
<b>Paid Chk# 034057 1/24/2020 STAPLES BUSINESS ADVANTAGE</b>					
G 100-212000	ACCOUNTS PAYABLE		\$5.95	8057000931	ASSESSOR-OFFICE SUPPLIES
G 100-212000	ACCOUNTS PAYABLE		\$6.78	8057000931	BI-OFFICE SUPPLIES
G 100-212000	ACCOUNTS PAYABLE		\$94.14	8057000931	ELECTIONS-OFFICE SUPPLIES
G 100-212000	ACCOUNTS PAYABLE		\$275.78	8057000931	CLERK-OFFICE SUPPLIES
<b>Total</b>		<b>STAPLES BUSINESS ADVANTAGE</b>	<b>\$382.65</b>		
<b>Paid Chk# 034058 1/24/2020 TIMM, CATHY-CHAMBER</b>					
G 100-212000	ACCOUNTS PAYABLE		\$200.00	CK REQ	30 YEAR SERVICE AWARD
<b>Total</b>		<b>TIMM, CATHY-CHAMBER</b>	<b>\$200.00</b>		

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Paid Chk#	034059	1/24/2020	UNIFIRST CORPORATION		
G 100-212000	ACCOUNTS PAYABLE		\$57.61	096 1110886	DPW-OPERATING
G 601-212000	ACCOUNTS PAYABLE		\$58.57	096 1110892	CWRC-JANITORIAL
<b>Total UNIFIRST CORPORATION</b>			\$116.18		
Paid Chk#	034080	1/24/2020	VALU RITE CORPORATION		
G 100-212000	ACCOUNTS PAYABLE		\$866.66	CK REQ	ASSESSORS-REVALUATION
G 100-212000	ACCOUNTS PAYABLE		\$1,125.00	CK REQ	ASSESSORS-COMM MAINTENANCE
<b>Total VALU RITE CORPORATION</b>			\$1,991.66		
Paid Chk#	034061	1/24/2020	VALUE LINE PUBLISHING		
G 260-212000	ACCOUNTS PAYABLE		\$1,795.00	ER-37502-19	LIBR-SUBSCRIPTION- RENEWAL 1/14/20-1/13/21
<b>Total VALUE LINE PUBLISHING</b>			\$1,795.00		
Paid Chk#	034062	1/24/2020	WASTE MANAGEMENT OF WISCONSIN		
G 100-212000	ACCOUNTS PAYABLE		\$35,524.26	6446466-2275-	COMPLEX-RUBBISH & RECYCLING-DEC 2019
G 100-212000	ACCOUNTS PAYABLE		\$17,154.72	6446466-2275-	COMPLEX-RUBBISH & RECYCLING-DEC 2019
<b>Total WASTE MANAGEMENT OF WISCONSIN</b>			\$52,678.98		
Paid Chk#	034063	1/24/2020	WISCONSIN DEPT. OF REVENUE9302		
G 100-212000	ACCOUNTS PAYABLE		\$1,474.49	CK REQ	ASSESSOR-MUNI FEE ASSESSMENT OF MANUFACTURING PROPERTY
<b>Total WISCONSIN DEPT. OF REVENUE9302</b>			\$1,474.49		
Paid Chk#	034084	1/24/2020	ZARNOTH BRUSH WORKS INC		
G 100-212000	ACCOUNTS PAYABLE		\$1,191.30	0178501-IN	DPW-STREET SWEEPING
<b>Total ZARNOTH BRUSH WORKS INC</b>			\$1,191.30		
Paid Chk#	034065	1/28/2020	UBS FINANCIAL SERVICES		
G 100-212000	ACCOUNTS PAYABLE		\$17,440.80	2019 CONTRI	FD RETIREMENT 2019
<b>Total UBS FINANCIAL SERVICES</b>			\$17,440.80		
Paid Chk#	034066	1/31/2020	WE ENERGIES-PO BOX 90001		
G 100-212000	ACCOUNTS PAYABLE		\$181.49	045	BOY SCOUT HOUSE
G 100-212000	ACCOUNTS PAYABLE		\$652.65	082	FD
G 601-212000	ACCOUNTS PAYABLE		\$12.77	176	SEWER - DORCHESTER #4
G 100-212000	ACCOUNTS PAYABLE		\$159.87	213	GIRL SCOUT HOUSE
G 601-212000	ACCOUNTS PAYABLE		\$15.45	229	SEWER - EVERGREEN #7
G 601-212000	ACCOUNTS PAYABLE		\$170.98	296	SEWER - PARK LANE CWRC
G 240-212000	ACCOUNTS PAYABLE		\$29.75	384	POOL
G 601-212000	ACCOUNTS PAYABLE		\$426.20	423	SEWER - PARK LANE CONTROL BLDG
G 100-212000	ACCOUNTS PAYABLE		\$1,095.27	425	GYM
G 260-212000	ACCOUNTS PAYABLE		\$776.00	477	LIBRARY
G 100-212000	ACCOUNTS PAYABLE		\$56.52	495	DPW - ELECTRIC
G 100-212000	ACCOUNTS PAYABLE		\$111.04	522	EM
G 100-212000	ACCOUNTS PAYABLE		\$877.57	610	PD
G 100-212000	ACCOUNTS PAYABLE		\$1,136.02	666	LINCOLN BLDG
G 601-212000	ACCOUNTS PAYABLE		\$13.49	804	SEWER - KENZIE #11
G 601-212000	ACCOUNTS PAYABLE		\$12.77	866	SEWER - KEUP #10

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G 601-212000	ACCOUNTS PAYABLE		\$38.12	928	SEWER - GARFIELD #9
G 601-212000	ACCOUNTS PAYABLE		\$53.57	943	SEWER - HIGHLAND #8
G 100-212000	ACCOUNTS PAYABLE		\$930.07	952	CH
G 100-212000	ACCOUNTS PAYABLE		\$1,130.21	957	DPW FACILITY
G 100-212000	ACCOUNTS PAYABLE		\$976.38	971	FD
G 240-212000	ACCOUNTS PAYABLE		\$11.55	991	POOL
G 100-212000	ACCOUNTS PAYABLE		\$34.42	994	PD
<b>Total WE ENERGIES-PO BOX 90001</b>			<b>\$8,902.16</b>		
<hr/>					
Paid Chk#	034067	1/31/2020	<b>A LYNEIS ELECTRIC LLC</b>		
G 100-212000	ACCOUNTS PAYABLE		\$333.90	5832	PD-MAINTENANCE
<b>Total A LYNEIS ELECTRIC LLC</b>			<b>\$333.90</b>		
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Paid Chk#	034068	1/31/2020	<b>AT&amp;T LONG DISTANCE</b>		
G 100-212000	ACCOUNTS PAYABLE		\$180.54	836841746	L&W-LONG DISTANCE
G 100-212000	ACCOUNTS PAYABLE		\$3.05	836841746	PD-LONG DISTANCE
G 260-212000	ACCOUNTS PAYABLE		\$68.56	836841746	LIBR-LONG DISTANCE
<b>Total AT&amp;T LONG DISTANCE</b>			<b>\$252.15</b>		
<hr/>					
Paid Chk#	034069	1/31/2020	<b>AT&amp;T MOBILITY</b>		
G 100-212000	ACCOUNTS PAYABLE		\$993.05	287289051101	PD-WIRELESS
G 100-212000	ACCOUNTS PAYABLE		\$130.02	287293794226	EM-WIRELESS
<b>Total AT&amp;T MOBILITY</b>			<b>\$1,123.07</b>		
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Paid Chk#	034070	1/31/2020	<b>AT&amp;TPO BOX 5080</b>		
G 100-212000	ACCOUNTS PAYABLE		\$66.78	262375760301	CH-TELEPHONE
G 100-212000	ACCOUNTS PAYABLE		\$50.97	262375760301	FD-TELEPHONE
G 601-212000	ACCOUNTS PAYABLE		\$66.98	262375760301	CWRC-TELEPHONE
G 260-212000	ACCOUNTS PAYABLE		\$252.05	262375760301	LIBR-TELEPHONE
G 100-212000	ACCOUNTS PAYABLE		\$50.89	262375760301	DPW-TELEPHONE
G 100-212000	ACCOUNTS PAYABLE		\$88.15	262375762401	PD-TELEPHONE
<b>Total AT&amp;TPO BOX 5080</b>			<b>\$575.82</b>		
<hr/>					
Paid Chk#	034071	1/31/2020	<b>AUTOMATIC ENTRANCES OF WI.,INC</b>		
G 260-212000	ACCOUNTS PAYABLE		\$12.00	1992186	LIBR-MAINTENANCE
<b>Total AUTOMATIC ENTRANCES OF WI.,INC</b>			<b>\$12.00</b>		
<hr/>					
Paid Chk#	034072	1/31/2020	<b>AXON ENTERPRISE INC</b>		
G 400-212000	ACCOUNTS PAYABLE		\$34,965.96	SI-1635488	PD-VIDEO EQUIPMENT
<b>Total AXON ENTERPRISE INC</b>			<b>\$34,965.96</b>		
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Paid Chk#	034073	1/31/2020	<b>BAKER &amp; TAYLOR AUDIOBOOK PRE</b>		
G 260-212000	ACCOUNTS PAYABLE		\$294.94	2034877459	LIBR-PUBICATIONS
<b>Total BAKER &amp; TAYLOR AUDIOBOOK PRE</b>			<b>\$294.94</b>		
<hr/>					
Paid Chk#	034074	1/31/2020	<b>BAKER &amp; TAYLOR AV VIDMASS</b>		
G 260-212000	ACCOUNTS PAYABLE		\$286.20	H41395480	LIBR-PUBLICATIONS
G 260-212000	ACCOUNTS PAYABLE		\$17.13	H41410840	LIBR-PUBLICATIONS
G 260-212000	ACCOUNTS PAYABLE		\$37.95	H41608530	LIBR-PUBLICATIONS

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G 260-212000	ACCOUNTS PAYABLE		\$48.73	H41732350	LIBR-PUBLICATIONS
G 260-212000	ACCOUNTS PAYABLE		\$327.06	H42126880	LIBR-PUBLICATIONS
G 260-212000	ACCOUNTS PAYABLE		\$25.10	H42326760	LIBR-PUBLICATIONS
<b>Total BAKER &amp; TAYLOR AV VIDMASS</b>			<b>\$740.17</b>		
<b>Paid Chk# 034075 1/31/2020 BAKER &amp; TAYLOR BOOKS</b>					
G 260-212000	ACCOUNTS PAYABLE		\$469.80	2034983928	LIBR-PUBLICATIONS
G 260-212000	ACCOUNTS PAYABLE		\$471.30	2034983929	LIBR-PUBLICATIONS
G 260-212000	ACCOUNTS PAYABLE		\$148.07	2034983930	LIBR-PUBLICATIONS
G 260-212000	ACCOUNTS PAYABLE		\$371.64	2034988066	LIBR-PUBLICATIONS
G 260-212000	ACCOUNTS PAYABLE		\$363.98	2035001356	LIBR-PUBLICATIONS
G 260-212000	ACCOUNTS PAYABLE		\$439.97	2035044155	LIBR-PUBLICATIONS
G 260-212000	ACCOUNTS PAYABLE		\$275.94	2037986198	LIBR-PUBLICATIONS
<b>Total BAKER &amp; TAYLOR BOOKS</b>			<b>\$2,540.70</b>		
<b>Paid Chk# 034076 1/31/2020 BAKER TILLY VIRCHOW KRAUSE LLP</b>					
G 100-212000	ACCOUNTS PAYABLE		\$4,400.00	BT1537122	2019 AUDIT
<b>Total BAKER TILLY VIRCHOW KRAUSE LLP</b>			<b>\$4,400.00</b>		
<b>Paid Chk# 034077 1/31/2020 BIBLIOTHECA, LLC</b>					
G 260-212000	ACCOUNTS PAYABLE		\$6,086.53	INV-US28880	LIBR-MAINTENANCE
<b>Total BIBLIOTHECA, LLC</b>			<b>\$6,086.53</b>		
<b>Paid Chk# 034078 1/31/2020 BLOCH APPLIANCE SERVICE CO.</b>					
G 260-212000	ACCOUNTS PAYABLE		\$68.95	59906	LIBR-REPAIR
<b>Total BLOCH APPLIANCE SERVICE CO.</b>			<b>\$68.95</b>		
<b>Paid Chk# 034079 1/31/2020 BOEHLKE BOTTLED GAS CORP.</b>					
G 221-212000	ACCOUNTS PAYABLE		\$611.55	U0017586	DPW-FUEL INVENTORY
<b>Total BOEHLKE BOTTLED GAS CORP.</b>			<b>\$611.55</b>		
<b>Paid Chk# 034080 1/31/2020 CEDARBURG JUNIOR CHEER</b>					
G 220-212000	ACCOUNTS PAYABLE		\$2,000.00	2103	REC-CONTRACTED SERVICES
<b>Total CEDARBURG JUNIOR CHEER</b>			<b>\$2,000.00</b>		
<b>Paid Chk# 034081 1/31/2020 CEDARBURG LIGHT &amp; WATER</b>					
G 100-212000	ACCOUNTS PAYABLE		\$2,007.82	CK REQ	WTR IMPACT FEE-HOMES BY TOWNE W49N8022 TANAGER COURT
G 100-212000	ACCOUNTS PAYABLE		\$2,007.82	CK REQ	WTR IMPACT FEE-CORNERSTONE DEVELOPMENT N119W5848 JAMES CIRCLE
<b>Total CEDARBURG LIGHT &amp; WATER</b>			<b>\$4,015.64</b>		
<b>Paid Chk# 034082 1/31/2020 CEDARBURG VETERINARY CLINIC</b>					
G 100-212000	ACCOUNTS PAYABLE		\$25.85	360606	PD-K-9
<b>Total CEDARBURG VETERINARY CLINIC</b>			<b>\$25.85</b>		
<b>Paid Chk# 034083 1/31/2020 CINTAS CORPORATION</b>					
G 100-212000	ACCOUNTS PAYABLE		\$144.65	4041053038	DPW-OPERATING
G 260-212000	ACCOUNTS PAYABLE		\$36.56	4041380940	LIBR-MAINTENANCE

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<b>Total CINTAS CORPORATION</b>			<b>\$181.21</b>		
Paid Chk#	034084	1/31/2020	<b>COMPLETE OFFICE OF WISCONSIN</b>		
G 100-212000	ACCOUNTS PAYABLE		\$24.31	554261	PD-OFFICE SUPPLIES
G 100-212000	ACCOUNTS PAYABLE		\$23.95	555626	PD-OFFICE SUPPLIES
<b>Total COMPLETE OFFICE OF WISCONSIN</b>			<b>\$48.26</b>		
Paid Chk#	034085	1/31/2020	<b>CONLEY MEDIA, LLC</b>		
G 100-212000	ACCOUNTS PAYABLE		\$49.32	265190120	ELECTIONS NOTICES
G 100-212000	ACCOUNTS PAYABLE		\$100.87	265190120	LEGAL NOTICES
<b>Total CONLEY MEDIA, LLC</b>			<b>\$150.19</b>		
Paid Chk#	034086	1/31/2020	<b>CUMMINS SALES &amp; SERVICE</b>		
G 100-212000	ACCOUNTS PAYABLE		\$599.25	F6-46308	PD-REPAIR & MAINTENANCE
<b>Total CUMMINS SALES &amp; SERVICE</b>			<b>\$599.25</b>		
Paid Chk#	034087	1/31/2020	<b>DEMCO</b>		
G 260-212000	ACCOUNTS PAYABLE		\$145.26	6753307	LIBR-OFFICE SUPPLIES
G 260-212000	ACCOUNTS PAYABLE		\$99.71	6755088	LIBR-OFFICE SUPPLIES
<b>Total DEMCO</b>			<b>\$244.97</b>		
Paid Chk#	034088	1/31/2020	<b>EDT BOOSTER CLUB</b>		
G 220-212000	ACCOUNTS PAYABLE		\$1,650.00	CK REQ	REC-DANCE COMPETITION
<b>Total EDT BOOSTER CLUB</b>			<b>\$1,650.00</b>		
Paid Chk#	034089	1/31/2020	<b>EGELHOFF LAWMOWER SERVICE</b>		
G 100-212000	ACCOUNTS PAYABLE		\$187.95	264689	PARKS-EQUIPMENT-HELMETS
G 100-212000	ACCOUNTS PAYABLE		\$839.20	264731	PARKS-EQUIPMENT
G 100-212000	ACCOUNTS PAYABLE		\$487.88	264763	PARKS-EQUIPMENT-CHAIN SAW
G 100-212000	ACCOUNTS PAYABLE		\$1.50	264764	PARKS-EQUIPMENT
<b>Total EGELHOFF LAWMOWER SERVICE</b>			<b>\$1,516.53</b>		
Paid Chk#	034090	1/31/2020	<b>EMR, LLC</b>		
G 700-212000	ACCOUNTS PAYABLE		\$2,194.53	09496	CLAIM SQUAD #10
<b>Total EMR, LLC</b>			<b>\$2,194.53</b>		
Paid Chk#	034091	1/31/2020	<b>ESRI, INC.</b>		
G 100-212000	ACCOUNTS PAYABLE		\$1,400.00	25935258	PARKS-MEMBERSHIP ARCGIS DESKTOP & ONLINE CREATOR
G 100-212000	ACCOUNTS PAYABLE		\$1,700.00	93762414	ENG-GIS MAPPING
G 601-212000	ACCOUNTS PAYABLE		\$1,000.00	93762414	CWRC-ARCGIS LICENSE
<b>Total ESRI, INC.</b>			<b>\$4,100.00</b>		
Paid Chk#	034092	1/31/2020	<b>FACTORY MOTOR PARTS CO.</b>		
G 100-212000	ACCOUNTS PAYABLE		\$13.62	45-602808	DPW-MAINTENANCE PARTS
<b>Total FACTORY MOTOR PARTS CO.</b>			<b>\$13.62</b>		
Paid Chk#	034093	1/31/2020	<b>FASTENAL COMPANY</b>		
G 100-212000	ACCOUNTS PAYABLE		\$96.60	WISAU115119	DPW-MAINTENANCE PARTS

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G 100-212000	ACCOUNTS PAYABLE		\$137.07	WISAU115281	DPW-MAINTENANCE PARTS
	<b>Total FASTENAL COMPANY</b>		<b>\$233.67</b>		
<b>Paid Chk# 034094 1/31/2020 GALLS, LLC-DBA LARK UNIFORMS</b>					
G 100-212000	ACCOUNTS PAYABLE		\$74.99	014654665	PD-UNIFORMS
G 100-212000	ACCOUNTS PAYABLE		\$62.99	014664808	PD-UNIFORMS
G 100-212000	ACCOUNTS PAYABLE		\$31.70	014676947	PD-UNIFORMS
G 100-212000	ACCOUNTS PAYABLE		\$9.12	014679630	PD-UNIFORMS
G 100-212000	ACCOUNTS PAYABLE		\$7.99	014679631	PD-UNIFORMS
G 100-212000	ACCOUNTS PAYABLE		\$22.83	014650351	PD-UNIFORMS
	<b>Total GALLS, LLC-DBA LARK UNIFORMS</b>		<b>\$209.62</b>		
<b>Paid Chk# 034095 1/31/2020 IBS OF SOUTHEASTERN WISCONSIN</b>					
G 100-212000	ACCOUNTS PAYABLE		\$132.95	100680615	DPW-MAINTENANCE PARTS
G 100-212000	ACCOUNTS PAYABLE		\$132.95	100680617	DPW-MAINTENANCE PARTS
	<b>Total IBS OF SOUTHEASTERN WISCONSIN</b>		<b>\$265.90</b>		
<b>Paid Chk# 034096 1/31/2020 JAMES IMAGING REF #QT1522593</b>					
G 100-212000	ACCOUNTS PAYABLE		\$403.38	CK REQ	2019 PROPERTY TAXES
	<b>Total JAMES IMAGING REF #QT1522593</b>		<b>\$403.38</b>		
<b>Paid Chk# 034097 1/31/2020 JAMES IMAGING SYSTEMS, INC.</b>					
G 100-212000	ACCOUNTS PAYABLE		\$239.71	26259931	TECH-DECEMBER 2019 COPIER
G 100-212000	ACCOUNTS PAYABLE		\$239.71	26259931	TECH-DECEMBER 2019 COPIER
G 100-212000	ACCOUNTS PAYABLE		\$207.78	26259931	TECH-DECEMBER 2019 COPIER
	<b>Total JAMES IMAGING SYSTEMS, INC.</b>		<b>\$687.20</b>		
<b>Paid Chk# 034098 1/31/2020 JANI-KING OF MILWAUKEE/ROYAL F</b>					
G 100-212000	ACCOUNTS PAYABLE		\$375.36	MIL02200478	DPW-OPERATING
	<b>Total JANI-KING OF MILWAUKEE/ROYAL F</b>		<b>\$375.36</b>		
<b>Paid Chk# 034099 1/31/2020 JOHNSON CONTROLS371967</b>					
G 100-212000	ACCOUNTS PAYABLE		\$291.58	3714100	COMPLEX-QUARTERLY BILLING 2/1/20-4/30/20
	<b>Total JOHNSON CONTROLS371967</b>		<b>\$291.58</b>		
<b>Paid Chk# 034100 1/31/2020 KEMIRA WATER SOLUTIONS, INC.</b>					
G 601-212000	ACCOUNTS PAYABLE		\$3,336.72	9017661388	CWRC-COAGULANTS
	<b>Total KEMIRA WATER SOLUTIONS, INC.</b>		<b>\$3,336.72</b>		
<b>Paid Chk# 034101 1/31/2020 LAROSA LANDSCAPE COMPANY</b>					
G 260-212000	ACCOUNTS PAYABLE		\$320.00	0005660-IN	LIBR-MAINTENANCE
G 260-212000	ACCOUNTS PAYABLE		\$463.56	0005733-IN	LIBR-MAINTENANCE
	<b>Total LAROSA LANDSCAPE COMPANY</b>		<b>\$783.56</b>		
<b>Paid Chk# 034102 1/31/2020 LIGHTHOUSE SAFETY LLC</b>					
G 601-212000	ACCOUNTS PAYABLE		\$3,827.87	20190991	CWRC-MAINTENANCE
	<b>Total LIGHTHOUSE SAFETY LLC</b>		<b>\$3,827.87</b>		
<b>Paid Chk# 034103 1/31/2020 MID-STATE EQUIPMENT</b>					

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G 100-212000	ACCOUNTS PAYABLE		\$775.47	H47182	DPW-MAINTENANCE PARTS
G 100-212000	ACCOUNTS PAYABLE		\$75.58	H47183	DPW-MAINTENANCE PARTS
	<b>Total MID-STATE EQUIPMENT</b>		<b>\$851.05</b>		
Paid Chk# 034104 1/31/2020 MSDSONLINE, INC					
G 100-212000	ACCOUNTS PAYABLE		\$1,700.00	RS087482	SOFTWARE RENEWAL
	<b>Total MSDSONLINE, INC</b>		<b>\$1,700.00</b>		
Paid Chk# 034105 1/31/2020 NAPA AUTO PARTS					
G 100-212000	ACCOUNTS PAYABLE		(\$111.11)	5269-050605	DPW-MAINTENANCE PARTS
G 100-212000	ACCOUNTS PAYABLE		\$41.84	5269-052191	DPW-MAINTENANCE PARTS
G 100-212000	ACCOUNTS PAYABLE		\$50.56	5269-052898	DPW-MAINTENANCE PARTS
G 100-212000	ACCOUNTS PAYABLE		\$61.29	5269-053013	DPW-MAINTENANCE PARTS
G 100-212000	ACCOUNTS PAYABLE		\$27.99	5269-053069	DPW-MAINTENANCE PARTS
	<b>Total NAPA AUTO PARTS</b>		<b>\$70.57</b>		
Paid Chk# 034106 1/31/2020 NASSCO, INC.					
G 260-212000	ACCOUNTS PAYABLE		\$167.83	S2567704.001	LIBR-OPERATING SUPPLIES
	<b>Total NASSCO, INC.</b>		<b>\$167.83</b>		
Paid Chk# 034107 1/31/2020 NEENAH FOUNDRY CO.					
G 100-212000	ACCOUNTS PAYABLE		\$2,304.00	355488	DPW-STORM REPAIR & MAINTENANCE
	<b>Total NEENAH FOUNDRY CO.</b>		<b>\$2,304.00</b>		
Paid Chk# 034108 1/31/2020 NEWSBANK					
G 260-212000	ACCOUNTS PAYABLE		\$3,026.00	RTRN930274	LIBR-PUBLICATIONS
	<b>Total NEWSBANK</b>		<b>\$3,026.00</b>		
Paid Chk# 034109 1/31/2020 OFFICE DEPOT					
G 260-212000	ACCOUNTS PAYABLE		\$83.06	429755234001	LIBR-OFFICE SUPPLIES
G 260-212000	ACCOUNTS PAYABLE		\$12.38	429763473001	LIBR-OFFICE SUPPLIES
G 100-212000	ACCOUNTS PAYABLE		\$227.29	432053015001	PD-OFFICE SUPPLIES
	<b>Total OFFICE DEPOT</b>		<b>\$322.73</b>		
Paid Chk# 034110 1/31/2020 OLSEN S PIGGLY WIGGLY					
G 260-212000	ACCOUNTS PAYABLE		\$20.31	38449	LIBR-STEAM SNOW PROGRAM
G 260-212000	ACCOUNTS PAYABLE		\$10.69	38494	LIBR-PROGRAMS - BOOKCLUB & MOVIE EVENT
G 100-212000	ACCOUNTS PAYABLE		\$68.69	38616	EE MEETING
	<b>Total OLSEN S PIGGLY WIGGLY</b>		<b>\$99.69</b>		
Paid Chk# 034111 1/31/2020 ONTECH SYSTEMS, INC					
G 601-212000	ACCOUNTS PAYABLE		\$13,840.00	45796	CWRC-COMPUTERS
G 100-212000	ACCOUNTS PAYABLE		\$135.00	45922	PARKS-REPAIR & MAINTENANCE
G 601-212000	ACCOUNTS PAYABLE		\$1,620.00	45923	CWRC-COMPUTERS
	<b>Total ONTECH SYSTEMS, INC</b>		<b>\$15,595.00</b>		
Paid Chk# 034112 1/31/2020 OZAUKEE COUNTY TOURISM COUNCIL					
G 100-212000	ACCOUNTS PAYABLE		\$125.00	CK REQ	OZCTC PARTNERSHIP RENEWAL



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<b>tal OZAUKEE COUNTY TOURISM COUNCIL</b>			<b>\$125.00</b>		
Paid Chk#	034113	1/31/2020	<b>OZAUKEE COUNTY TREASURER</b>		
G 100-212000	ACCOUNTS PAYABLE		\$29,566.87	CK REQ	BALANCE OF 2018 REAL ESTATE TAXES & INT & PENALTY PATTERSON MEDICAL
<b>Total OZAUKEE COUNTY TREASURER</b>			<b>\$29,566.87</b>		
Paid Chk#	034114	1/31/2020	<b>PACE ANALYTICAL SERVICES, INC.</b>		
G 601-212000	ACCOUNTS PAYABLE		\$358.00	2040078685	CWRC-LAB SUPPLIES
<b>Total PACE ANALYTICAL SERVICES, INC.</b>			<b>\$358.00</b>		
Paid Chk#	034115	1/31/2020	<b>PITNEY BOWES GLOBAL FINANCIAL</b>		
G 100-212000	ACCOUNTS PAYABLE		\$282.60	1014514970	POSTAGE METER SUPPLIES
<b>Total PITNEY BOWES GLOBAL FINANCIAL</b>			<b>\$282.60</b>		
Paid Chk#	034116	1/31/2020	<b>QUALITY STATE OIL CO.,INC.</b>		
G 221-212000	ACCOUNTS PAYABLE		\$5,037.03	1777833	DPW-FUEL INVENTORY
G 221-212000	ACCOUNTS PAYABLE		\$2,109.42	1777833	DPW-FUEL INVENTORY
<b>Total QUALITY STATE OIL CO.,INC.</b>			<b>\$7,146.45</b>		
Paid Chk#	034117	1/31/2020	<b>RECOGNITION SPECIALISTS, INC.</b>		
G 100-212000	ACCOUNTS PAYABLE		\$10.00	34213	OFFICE SUPPLIES
<b>Total RECOGNITION SPECIALISTS, INC.</b>			<b>\$10.00</b>		
Paid Chk#	034118	1/31/2020	<b>RICOH USA, INC</b>		
G 100-212000	ACCOUNTS PAYABLE		\$991.08	9028075144	PD-COPIERS
<b>Total RICOH USA, INC</b>			<b>\$991.08</b>		
Paid Chk#	034119	1/31/2020	<b>RITTERTECH</b>		
G 100-212000	ACCOUNTS PAYABLE		\$158.51	725894-001	DPW-MAINTENANCE PARTS
<b>Total RITTERTECH</b>			<b>\$158.51</b>		
Paid Chk#	034120	1/31/2020	<b>SAM S CLUB DIRECT</b>		
G 220-212000	ACCOUNTS PAYABLE		\$130.08	5861	REC-OTHER EXPENSES
<b>Total SAM S CLUB DIRECT</b>			<b>\$130.08</b>		
Paid Chk#	034121	1/31/2020	<b>SCHLITZ AUDUBON NATURE CENTER</b>		
G 100-212000	ACCOUNTS PAYABLE		\$250.00	1252	SRCTR-SPECIAL EVENTS
<b>Total SCHLITZ AUDUBON NATURE CENTER</b>			<b>\$250.00</b>		
Paid Chk#	034122	1/31/2020	<b>SCHOESSOW, KURT</b>		
G 100-212000	ACCOUNTS PAYABLE		\$13.47	336	DPW-MAINTENANCE PARTS
<b>Total SCHOESSOW, KURT</b>			<b>\$13.47</b>		
Paid Chk#	034123	1/31/2020	<b>SHEFFIELD, MARY</b>		
G 100-212000	ACCOUNTS PAYABLE		\$2,343.50	CK REQ	ED-JANUARY 2020
<b>Total SHEFFIELD, MARY</b>			<b>\$2,343.50</b>		
Paid Chk#	034124	1/31/2020	<b>SIRCHIE FINGER PRINT LAB.</b>		

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G 100-212000	ACCOUNTS PAYABLE	\$137.00	0429337-IN	PD-SUPPLIES
<b>Total SIRCHIE FINGER PRINT LAB.</b>		<b>\$137.00</b>		

Paid Chk# 034125 1/31/2020 SOUTHSIDE TIRE CO., INC.

G 100-212000	ACCOUNTS PAYABLE	\$220.66	850875	DPW-MAINTENANCE PARTS
<b>Total SOUTHSIDE TIRE CO., INC.</b>		<b>\$220.66</b>		

Paid Chk# 034126 1/31/2020 STREICHER S POLICE EQUIPMENT

G 100-212000	ACCOUNTS PAYABLE	\$119.99	I1408885	PD-UNIFORMS
G 100-212000	ACCOUNTS PAYABLE	\$3.99	I1408887	PD-UNIFORMS
G 100-212000	ACCOUNTS PAYABLE	\$85.00	I1408929	PD-UNIFORMS
G 100-212000	ACCOUNTS PAYABLE	\$67.98	I1409261	PD-UNIFORMS
<b>Total STREICHER S POLICE EQUIPMENT</b>		<b>\$276.96</b>		

Paid Chk# 034127 1/31/2020 SUNSET LAW ENFORCEMENT

G 100-212000	ACCOUNTS PAYABLE	\$8,528.20	0003405-IN	PD-EQUIPMENT
<b>Total SUNSET LAW ENFORCEMENT</b>		<b>\$8,528.20</b>		

Paid Chk# 034128 1/31/2020 TEREK SERVICES

G 100-212000	ACCOUNTS PAYABLE	\$2,949.78	90993338	PARKS-REPAIR & MAINTENANCE
<b>Total TEREK SERVICES</b>		<b>\$2,949.78</b>		

Paid Chk# 034129 1/31/2020 TIME WARNER CABLE-PO BOX 4639

G 100-212000	ACCOUNTS PAYABLE	\$8.85	3301	DPW-ADAPTERS
G 100-212000	ACCOUNTS PAYABLE	\$168.90	3501	INTERNET-CEDAR CREEK
G 100-212000	ACCOUNTS PAYABLE	\$37.80	4601	CLERK-PHONE
G 601-212000	ACCOUNTS PAYABLE	\$60.51	4601	CWRC-PHONE
G 100-212000	ACCOUNTS PAYABLE	\$22.69	4601	EG-PHONE
G 100-212000	ACCOUNTS PAYABLE	\$15.13	4601	FD-PHONE
G 220-212000	ACCOUNTS PAYABLE	\$30.25	4601	REC-PHONE
G 100-212000	ACCOUNTS PAYABLE	\$30.25	4601	DPW-PHONE
G 100-212000	ACCOUNTS PAYABLE	\$15.13	4601	PLAN-PHONE
G 240-212000	ACCOUNTS PAYABLE	\$37.82	4601	POOL-PHONE
G 100-212000	ACCOUNTS PAYABLE	\$22.69	4601	ENG-PHONE
G 100-212000	ACCOUNTS PAYABLE	\$15.13	4601	SRCTR-PHONE
G 100-212000	ACCOUNTS PAYABLE	\$15.13	4601	BI-PHONE
G 100-212000	ACCOUNTS PAYABLE	\$22.69	4601	TREAS-PHONE
G 100-212000	ACCOUNTS PAYABLE	\$7.56	4601	ADMIN-PHONE
G 100-212000	ACCOUNTS PAYABLE	\$7.56	4601	MAYOR-PHONE
G 100-212000	ACCOUNTS PAYABLE	\$68.07	4601	CH-PHONE
G 100-212000	ACCOUNTS PAYABLE	\$15.13	4601	ASSESSOR-PHONE
G 100-212000	ACCOUNTS PAYABLE	\$1,026.50	6601	CH-INTERNET
G 100-212000	ACCOUNTS PAYABLE	\$117.48	707258501012	PARKS-INTERNET
G 100-212000	ACCOUNTS PAYABLE	\$117.48	707258501012	DPW-INTERNET
G 240-212000	ACCOUNTS PAYABLE	\$134.98	7801	POOL-INTERNET
<b>Total TIME WARNER CABLE-PO BOX 4639</b>		<b>\$1,997.73</b>		

Paid Chk# 034130 1/31/2020 TMS INTERNATIONAL LLC

G 100-212000	ACCOUNTS PAYABLE	\$2,009.98	10202937	DPW-STREET REPAIR & MAINTENANCE
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G 100-212000	ACCOUNTS PAYABLE	\$557.42	10203512	DPW-STREET REPAIR & MAINTENANCE
	<b>Total TMS INTERNATIONAL LLC</b>	<b>\$2,567.40</b>		
<b>Paid Chk# 034131 1/31/2020 U. S. CELLULAR-DEPT 0205</b>				
G 100-212000	ACCOUNTS PAYABLE	\$15.14	0351340471	DPW-TABLET
G 100-212000	ACCOUNTS PAYABLE	\$15.14	0351340471	PARKS-TABLET
G 100-212000	ACCOUNTS PAYABLE	(\$18.06)	0351340471	EM-TELCON
G 601-212000	ACCOUNTS PAYABLE	\$25.64	0351340471	CWRC-HIGHLAND LIFT
G 601-212000	ACCOUNTS PAYABLE	\$15.14	0351340471	CWRC-TABLET
G 100-212000	ACCOUNTS PAYABLE	\$45.64	0351340471	BI-TELCON
G 601-212000	ACCOUNTS PAYABLE	\$6.68	0351340471	CWRC-HESS
G 100-212000	ACCOUNTS PAYABLE	\$15.14	0351340471	PARKS-TABLET
G 100-212000	ACCOUNTS PAYABLE	\$15.14	0351340471	PARKS-TABLET
G 601-212000	ACCOUNTS PAYABLE	\$15.14	0351340471	CWRC-TABLET
G 100-212000	ACCOUNTS PAYABLE	\$15.14	0351340471	PARKS-TABLET
G 601-212000	ACCOUNTS PAYABLE	\$40.64	0351340471	CWRC-HACKET
G 100-212000	ACCOUNTS PAYABLE	(\$18.06)	0351340471	EM-TELCON
G 601-212000	ACCOUNTS PAYABLE	\$40.56	0351340471	CWRC-TELECON
G 100-212000	ACCOUNTS PAYABLE	\$15.14	0351340471	DPW-IPAD
G 100-212000	ACCOUNTS PAYABLE	\$6.76	0351340471	ENG-TELCON
G 100-212000	ACCOUNTS PAYABLE	\$40.64	0351340471	DPW-HINTZ
G 100-212000	ACCOUNTS PAYABLE	\$16.76	0351340471	CH-BUNTROCK
G 100-212000	ACCOUNTS PAYABLE	\$85.64	0351340471	ENG-WIESER
G 100-212000	ACCOUNTS PAYABLE	(\$0.45)	0351340471	EM-TELCON
G 100-212000	ACCOUNTS PAYABLE	\$7.28	0351340471	SRCTR-TELCOM
G 100-212000	ACCOUNTS PAYABLE	\$40.64	0351340471	PARKS-CELL
G 100-212000	ACCOUNTS PAYABLE	(\$9.03)	0351340471	EM-TABLET
	<b>Total U. S. CELLULAR-DEPT 0205</b>	<b>\$432.40</b>		
<b>Paid Chk# 034132 1/31/2020 UNIFIRST CORPORATION</b>				
G 601-212000	ACCOUNTS PAYABLE	\$76.85	096 1111983	CWRC-SAFETY
G 100-212000	ACCOUNTS PAYABLE	\$51.57	096 1111985	DPW-OPERATING
	<b>Total UNIFIRST CORPORATION</b>	<b>\$128.42</b>		
<b>Paid Chk# 034133 1/31/2020 WIL-KIL PEST CONTROL</b>				
G 100-212000	ACCOUNTS PAYABLE	\$46.00	3820960	COMPLEX-MAINTENANCE SRCTR
	<b>Total WIL-KIL PEST CONTROL</b>	<b>\$46.00</b>		
<b>Paid Chk# 034134 1/31/2020 WISCONSIN HUMANE SOCIETY</b>				
G 100-212000	ACCOUNTS PAYABLE	\$60.00	1630	PD-STRAY FEES-DECEMBER 2019
	<b>Total WISCONSIN HUMANE SOCIETY</b>	<b>\$60.00</b>		
<b>Paid Chk# 034135 1/31/2020 WISCONSIN LAW ENFORCEMENT</b>				
G 100-212000	ACCOUNTS PAYABLE	\$40.00	4	PD-MAINTENANCE
	<b>Total WISCONSIN LAW ENFORCEMENT</b>	<b>\$40.00</b>		
	<b>111300 PWSB Checking</b>	<b>\$314,930.00</b>		

CITY OF CEDARBURG

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**\*Check Detail Register©**

DECEMBER 2019 to FEBRUARY 2020

Check Amt Invoice Comment

**Fund Summary**

**111300 PWSB Checking**

100 GENERAL FUND	\$168,860.26
220 RECREATION PROGRAMS FUND	\$4,070.33
221 FUEL SYSTEM - WASH BAY	\$7,758.00
240 SWIMMING POOL FUND	\$214.10
260 LIBRARY FUND	\$28,394.66
350 TIF DISTRICT FUND #4	\$30,063.31
400 CAPITAL IMPROVEMENTS FUND	\$35,865.24
601 WATER RECYCLING CENTER	\$37,709.57
700 RISK MANAGEMENT FUND	\$2,194.53
	<hr/>
	\$314,930.00

**CITY OF CEDARBURG**  
**TRANSFER LIST**  
**\*1/23/2020-2/4/2020**

<b>Date</b>	<b>Amount</b>	<b>Transfer to</b>
<b>PWSB CHECKING ACCOUNT</b>		
1/29/2020	\$200,000.00	PWSB Payroll
1/30/2020	\$9,666.54	Health Savings Accounts-contributions for 1/12/2020-1/25/2020
1/30/2020	\$1,990.17	ICMA-contributions for 1/12/2020-1/25/2020
1/30/2020	\$4,111.68	North Shore Bank-contributions for 1/12/2020-1/25/2020
1/30/2020	\$1,330.58	State of Wisconsin-child support
1/30/2020	\$80,217.91	WRS-December remittance
2/4/2020	\$3,018.93	Light & Water-January charges
	<u>\$300,335.81</u>	
<b>PWSB PAYROLL CHECKING ACCOUNT</b>		
1/31/2020	\$143,091.41	Payroll for 1/12/2020-1/25/2020
1/31/2020	\$59,672.92	Payroll taxes for 1/12/2020-1/25/2020
	<u>\$202,764.33</u>	



City of Cedarburg

# City Administrator's Report

February 6, 2020

## Department News

*The following information is provided to keep the Common Council and staff informed on some of the activities and events of the City. Points of clarification may be addressed during the City Administrator's Report portion of the agenda; however, if discussion of any of these items is necessary, placement on a future Council agenda should be directed.*

**Engineering & Public Works** — Director Wiza is working on the annual Stormwater report and upcoming developments.

Assistant Engineer Wieser is working on the design for the 2020 Street & Utility Project. The project will go out for bid on February 18 and bids will be opened on March 3.

The Public Works crew has been working on pothole filling and tree work. The ice rink should reopen this week in Cedar Creek Park. The Public Works facility took delivery of 400 tons of salt.

**Library**— The Friends of the Library will be holding a book sale at the Library during Winter Festival.

The Library is creating a maker space that will be funded by the Friends of the Library.

**Parks, Recreation & Forestry**— Registration is currently open for flag football. The program is partnering with the Dawgs and high school players will be assistant coaches. Games will be held on Saturday and practices will be held on Wednesdays.

Behling Field will be getting a new scoreboard, auto locks will be installed on the Cedar Creek restrooms, and the Department is getting quotes for epoxy flooring for the park restroom facilities.

**Treasurer**—The total property taxes collected to-date is \$27 million, with \$21 million or 77% collected as of January 31, 2020. The Department is preparing for their audit the first week in March.

**Senior Center**—Director Suppiger is working on the March/April Newsletter and lining up sponsors for the 2020 Senior Games.

**Water Recycling Center**— Superintendent Hackert attended the Midwest Water and Wastewater Expo on Tuesday and Wednesday.

A bar screen replacement began this week and will be completed today. The crew began cleaning lines on the east side of Washington Avenue this week.

**Police**—Interviews will take place next week for 16 applicants for the patrol officer position. Interviews will take place for the Detective/Juvenile Officer position.

**Clerk**—Dianne Robertson is serving as Election Administrator for the February 18 Spring Primary election.

**Administrator**— I am working with CVMIC on an ADA transition plan involving creation of an ADA compliance team and adoption of an updated ADA ordinance in 2020, an ADA compliance study in 2021, and implementation of the plan beginning in 2022.

The deadline to apply for the City Clerk's position is Friday, February 7.

Respectfully submitted,

Mikko Hilvo  
City Administrator

## 2020 PERMIT SUMMARY BY MONTH

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL
Single Family	2												2
Assessory Building	1												1
Addition/Alteration	17												17
Commercial Additions/Alterati	1												1
Razing	1												1
Heat/Vent	18												18
Signs	3												3
Plumbing	32												32
Electrical	41												41
Occupancy	6												6
TOTAL VALUE TO CITY	1,738,991												1,738,991
INSPECTIONS													
JOE JACOBS	5												5
MICHAEL BAIER	187												189