



**STATE/MUNICIPAL AGREEMENT
FOR A STAGE 2 LOCAL ARRA 2010
CONSTRUCTION SEASON
IMPROVEMENT PROJECT**

**LOCALLY FUNDED DESIGN OF
PROJECT NOT CURRENTLY IN
AN APPROVED TIP**

Program Name: **STP-Urban**

Sub-program #: **206**

Date: **July 17, 2009**

I.D.: **4992-00-47/48**

Location: **Tayco St.**

Roadway Length/Bridge ID: **0.74 miles**

Limits: **Tayco St./Third St. to Ninth St.**

Functional Classification: **Collector**

Community & County: **City of Menasha,
Winnebago County**

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

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

NEEDS AND ESTIMATE SUMMARY:

All components of the project must be defined in the environmental document if any portion of the project is federally funded. The Municipality agrees to complete all participating and any non-participating work included in this improvement consistent with the environmental document.

Existing Facility - Describe and give reason for request: ***The existing pavement is in fair to poor condition and is in need of replacement. Pavement surface transverse and longitudinal cracking with isolated areas of base failure. This section of roadway was last surfaced in 1990 and has a current pavement rating of 4-5.***

Proposed Improvement - Nature of work: ***2-lane urban pavement replacement***

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

The Municipality agrees to the following Stage 2 local ARRA 2010 construction season project funding conditions:

Due to the fact that this project is currently not in an approved TIP, the State oversight of the local design must initially be 100% locally funded until the project is authorized by FHWA. Once authorized, the state oversight costs will be 100% ARRA funded to the capped amount (see table below). Oversight costs that exceed the capped ARRA amount will be 100% locally funded.

Approved 100% ARRA funding cap is based on:

- 100% locally funded design;
- State oversight of local design (1.5% of approved construction amount for projects over \$1M, and 2% of approved construction amount for projects \$1M or less); and
- WisDOT initial construction estimate, plus an additional 23%.

No scope changes or substitutions are allowed on ARRA projects. The State, not the Municipality, will determine the need for, and must approve, all contract change orders.

With WisDOT approval, all eligible construction costs above the 100% ARRA cap will be funded 80% federal and 20% local from the appropriate State subprogram. WisDOT reserves the right to limit the use of 80% federal and 20% local funding. Entitlement balances will not be impacted.

Any work performed by the Municipality prior to federal authorization is not eligible for federal funding. The Municipality will be notified by the State that the project is authorized and available for charging.

PHASE	ESTIMATED COST				
	Total Est. Cost	Federal Funds	%	Municipal Funds	%
State Oversight	\$7,700	\$7,700	Max		Balance
Construction	\$385,000	\$385,000	Max		N/A
Additional 23%	\$88,550	\$88,550	Max		N/A
Subtotal	\$481,250	\$481,250	Max		N/A
Non-Participating (if appl.)	\$3,000		0%	\$3,000	100%
Total Est. Cost Distribution	\$484,250	\$481,250	Max	\$3,000	N/A

This request is subject to the terms and conditions that follow (pages 3-5) and is made by the undersigned under proper authority to make such request for the designated Municipality and upon signature by the State shall constitute agreement between the Municipality and the State.

Signed for and in behalf of: City of Menasha Municipality		
Name	Title	Date
Signed for and in behalf of the State:		
Mary P. Forlenza - Local Transportation Programs & Finance Chief		Date

TERMS AND CONDITIONS:

1. The initiation and accomplishment of the improvement will be subject to the applicable Federal and State regulations. The Municipality commits to understanding all key applicable federal and state requirements that are included but not limited to the following:
 - a. All projects must be in an approved TIP (if applicable) or an approved STIP prior to requesting authorization.
 - b. To ensure Wisconsin does not lose ARRA funding, all construction projects must be authorized by February 1, 2010.
 - c. ARRA-funded State oversight of design projects must be followed by an ARRA-funded construction project that is authorized no later than February 1, 2010.
 - d. No scope changes or substitutions are allowed on ARRA projects. The State, not the Municipality, will determine the need for and must approve all contract change orders.
 - e. The municipality will provide any information necessary to meet ARRA reporting requirements, including, but not limited to: project information and local employment information.
 - f. All NEPA requirements will be met.
 - g. All DBE regulations will be met.
 - h. All competitive bidding procedures will be met.
 - i. All Buy America provisions will be met.
 - j. Davis-Bacon wage rates will apply to all projects, regardless of location, as well as the applicable Wisconsin wage rates.
 - k. The municipality agrees to comply with and promote applicable Federal and State laws, Executive Orders, regulations, and implementing requirements intended to provide for the fair and equitable treatment of individuals and the fair and equitable delivery of services to the public. In addition the Municipality agrees not to engage in any illegal discrimination in violation of applicable Federal or State laws and regulations. This includes but is not limited to Title VI of the Civil Rights Act of 1964 which provides that "no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." The Municipality agrees that public funds, which are collected in a nondiscriminatory manner, should not be used in ways that subsidize, promote, or perpetuate illegal discrimination based on prohibited factors such as race, color, national origin, sex, age, physical or mental disability, sexual orientation, or retaliation.
 - l. Projects must be completed and final acceptance provided by WisDOT no later than December 31, 2012, so that the State can ensure all billings have been processed by the ARRA deadline of September 30, 2015.
2. The Municipality will pay to the State all costs incurred by the State in connection with the improvement that exceed Federal/State financing commitments or are ineligible for Federal/State financing. In order to guarantee the Municipality's foregoing agreements to pay the State, the Municipality, through its above duly authorized officers or officials, agrees and authorizes the State to set off and withhold the required reimbursement amount as determined by the State from any moneys otherwise due and payable by the State to the Municipality.

3. Funding of construction is subject to inclusion in Wisconsin's approved ARRA program. Federal aid and/or State transportation fund financing will be limited to participation in the costs of the following items as specified in the estimate summary:
 - a. The grading, base, pavement, and curb and gutter.
 - b. Catch basins and inlets for surface water drainage of the improvement, with connections to the storm sewer main.
 - c. Construction engineering incident to inspection and supervision of actual construction work.
 - d. Signing and pavement marking, including detour routes. Detour routes and haul roads are not eligible on local projects.
 - e. Other eligible bridge items:
 - f. Other eligible Transportation Enhancement items:

Note: The following items may be included in paragraph 3 as eligible for state/federal participation or included in paragraph 4 as entirely financed by the Municipality or other utility/facility owner (not the State):

- a. Storm sewer mains necessary for the surface water drainage.
 - b. Construction or replacement of sidewalks and surfacing of private driveways.
 - c. New installations or alterations of street lighting and traffic signals or devices.
 - d. Management consultant and state review services.
4. Work necessary to complete the improvement to be financed entirely by the Municipality or other utility or facility owner includes the following items:
 - a. New installations of or alteration of sanitary sewers and connections, water, gas, electric, telephone, telegraph, fire or police alarm facilities, parking meters, and similar utilities.
 - b. Damages to abutting property due to change in street or sidewalk widths, grades or drainage.
 - c. Conditioning, if required and maintenance of detour routes.
 - d. Repair of damages to roads or streets caused by reason of their use in hauling materials incident to the improvement.
 - e. Bridge width in excess of standards.
 - f. Other:
 5. As the work progresses, the Municipality will be billed for work completed which is not chargeable to Federal/State funds. Upon completion of the project, a final audit will be made to determine the final division of costs. The use of ARRA funds will also subject the Municipality to heightened audit and oversight by federal Inspectors General, the Recovery Accountability and Transparency Board, and will prohibit Municipal reprisals against employees who make disclosures regarding mismanagement or waste of ARRA funds. If reviews or audits show any of the work to be ineligible for Federal funding, the Municipality will be responsible for any withdrawn costs associated with the ineligible work.

6. If the Municipality should withdraw the project, it will reimburse the State for any costs incurred by the State on behalf of the project.
7. The work will be administered by the State and may include items not eligible for Federal/State participation.
8. The Municipality will at its own cost and expense:
 - a. Meet any and all ARRA local reporting requirements.
 - b. Maintain all portions of the project that lie within its jurisdiction for such maintenance through statutory requirements in a manner satisfactory to the State, and will make ample provision for such maintenance each year.
 - c. Assume general responsibility for all public information and public relations for the project and to make fitting announcement to the press and such outlets as would generally alert the affected property owners and the community of the nature, extent, and timing of the project and arrangements for handling traffic within and around the projects.
 - d. Provide complete plans, specifications, relocation orders, real estate plats, and estimates.
 - e. Use the *WisDOT Utility Accommodation Policy* unless it adopts a policy, which has equal or more restrictive controls.

9. Basis for local participation:

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100% Municipal costs for non-participating items.