

RESOLUTION NO. 2018-94

RESOLUTION AUTHORIZING THE VILLAGE OF CALEDONIA TO ENTER INTO AN AGREEMENT WITH THE CITY OF RACINE PURSUANT TO SECTION 66.0301, WIS. STAT., FOR THE RECONSTRUCTION OF THREE MILE ROAD

WHEREAS, per an agreement entered into between the Village of Caledonia and the City of Racine dated September 23, 2011 a portion of Three Mile Road was reconstructed.

WHEREAS, the Village of Caledonia and the City of Racine are prepared to reconstruct the balance of Three Mile Road from approximately 480 feet west of LaSalle Street continuing west to Douglas Avenue and the terms and provisions governing such reconstruction including the payment of costs related thereto is set forth in an agreement entitled "Three Mile Road Agreement" attached hereto as **Exhibit A** (the "2018 Three Mile Road Agreement") and incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED by the Caledonia Village Board that the 2018 Three Mile Road Agreement is hereby authorized and approved, and the Village President and Village Clerk are authorized to execute said agreement and Village staff are authorized to take all such actions necessary in furtherance of said agreement.

Adopted by the Village Board of the Village of Caledonia, Racine County, Wisconsin, this 15th day of October, 2018.

VILLAGE OF CALEDONIA

By: James R. Dobbs
James R. Dobbs
Village President

Attest: Karie L. Torkilsen
Karie L. Torkilsen
Village Clerk

THREE MILE ROAD AGREEMENT

This Agreement is made this 15th day of October, 2018 by and between the CITY OF RACINE, WISCONSIN (“City”) and the VILLAGE OF CALEDONIA, WISCONSIN (“Village”), singularly called a “Party” and jointly called the "Parties" herein (“the Agreement”).

RECITALS

WHEREAS, the Parties desire to reconstruct a portion of Three Mile Road (“the Project”), that portion being approximately from 480 feet west of LaSalle Street, west 2,568 feet (the “Project Area”); and

WHEREAS, the Parties shall pay their pro-rata share of the reconstruction costs based on each Party’s front footage of right-of-way within the Project Area, however, the Village shall pay 15% of the administrative fees; and

WHEREAS, Wis. Stat. § 66.0301 grants authority to the parties to enter into an inter-governmental cooperation agreement for the receipt or furnishing of services; and

WHEREAS, by City Resolution 0250-18 of August 6, 2018, the City authorized and directed the Mayor and City Clerk to enter into a municipal agreement with the Village for the Project.

AGREEMENT

NOW, THEREFORE, in consideration of the above recitals which are hereby incorporated into this Agreement, along with the mutual covenants contained herein, the Parties agree as follows:

1. RELATIONSHIP TO OTHER AGREEMENTS: From and after the date on which this Agreement takes effect, this Agreement must be read together and construed in accordance with all provisions contained in any previous Agreement between the City and the Village relating to cost sharing for infrastructure projects. This Agreement does not supersede and must be read together with the Racine Area Intergovernmental Sanitary Sewer Service, Revenue Sharing, Cooperation and Settlement Agreement (“Racine Sewer Agreement”) executed by the Village and the City and dated April 25, 2002. Further, this agreement completes the balance of the 2012 project between the parties from North Main Street to 480 feet west of LaSalle Street.

2. CONTRACT ADMINISTRATION: The City shall assume responsibility for the bidding procedures and the award of the contract for the Project to the lowest responsible bidder. The City shall also be responsible for the administration of the contract during the period of road construction. The Village, however, shall reserve the right to inspect the construction work and shall be permitted access to the construction site at all reasonable times for this purpose. Any changes requested by the Village shall be incorporated into the Project upon the

mutual agreement of the Parties. Any change order or modification in the Project that results in a cost change greater than ten thousand (\$10,000.) dollars, either individually or cumulatively, shall be approved by the Village Engineer before implemented.

3. DESIGN:

- A. Pavement. The pavement type used shall be 9” doweled Portland Cement Concrete Pavement with separate curb and gutter in the area of joint City and Village right of way.
- B. Typical Section. The typical section between LaSalle Street and Douglas Avenue shall be a four-lane, undivided, 52-foot wide flange to flange pavement with separate 18-inch curb and gutter.
- C. The Project shall be designed and constructed in accordance with the Memorandum of Understanding (Revised), with attachments, dated July 23, 2018, from City of Racine City Engineer/Assistant Commissioner of Public Works to Village of Caledonia Village Engineer, which is incorporated herein by reference.

4. PAYMENT:

A. CITY AGREES:

- 1) To pay for all Project costs within the City limits;
- 2) To apportion the Project costs based on a pro-rata share of the costs of the Project based upon the City limits;
- 3) To fund its costs from assessments to abutting property owners and Revenue Sharing funds the City received from the Village under the Racine Sewer Agreement;
- 4) To provide to the Village invoices specifying the materials provided and/or services performed, including for reconstruction, labor, vehicle and equipment use; and
- 5) To provide to the Village invoices for design engineering, contract, and construction management services equal to no greater than 15% of the Village’s pro rata share of Project costs;
- 6) To provide to the Village sufficient documentation to support the invoices made under this Agreement.

B. VILLAGE AGREES:

- 1) To pay for Project costs apportioned to the Village in an amount representing its pro rata share of the Project costs for which it agreed to pay in full pursuant to the Racine Sewer Agreement; and
- 2) That any amount due by the Village under this Agreement shall not exceed \$742,000, unless approved by the Village Board.
- 3) To pay to the City within forty-five (45) days after the date of invoice therefor the amounts invoiced for the materials and services provided and in accordance with this Agreement.

C. THE PARTIES AGREE:

- 1) In the event the Village disputes an invoice it shall provide written notice to the City within 20 days following receipt of the invoice. Within 20 days following written notice of the dispute, representatives of the Parties shall meet to attempt to informally resolve the dispute.
- 2) In the event the dispute cannot be resolved the Parties shall arbitrate the dispute pursuant to Chapter 788 Wis. Stats. In the event the Parties cannot agree upon the selection of a single arbitrator each side shall select an arbitrator and those individual selected shall select an independent or "third" arbitrator. Each side shall pay its arbitrator and the Parties shall split the costs of the third arbitrator. The arbitration shall take place within 60 days following the selection of the third arbitrator. Both Parties agree to expedite pre-arbitration discovery including, but not limited to, depositions, document requests and interrogatories.

5. HOLD HARMLESS: The Parties agree to hold harmless, indemnify and defend one another, their departments, officers, agents and employees for any and all costs, damages, expenses or liability of any type whatsoever for bodily injuries, death or property damage arising out of their negligent or intentional acts or failure to act as required by this Agreement, except to the extent that such liability results from the other's negligent or intentional acts or failure to act.

6. TERMINATION:

A. Default. That in the event of default by either Party of a material requirement herein, the other Party may provide written notice of intent to terminate the Agreement for cause within ten days, and in the event that the default cited is not cured within such time the Agreement may be terminated forthwith by the non-defaulting Party. Notice of such termination shall be provided to the Clerk of the defaulting Party by personal service or registered mail.

B. Completion. This Agreement shall terminate upon the completion of the Project as determined upon final inspection by the City and the Village.

7. WAIVER: Nothing in the Agreement constitutes a waiver by either the Village or the City of any of the provisions of Section 893.80, Wis. Stats., any other municipal liability protection laws, whether statutory or common law, or any insurance policy limitations, nor does it constitute an agreement to pay any form or type of damages not otherwise payable.

8. PARTIES TO THE AGREEMENT: This Agreement is solely for the benefit of the Parties hereto and is not for the benefit of third parties.

9. NOTICES: All notices required by or relating to this Agreement shall be in writing. Each notice shall specifically refer to this Agreement by name (Three Mile Road Agreement). Each notice shall be effective upon delivery (in case of personal service) or three days after mailing (in case of certified or registered mail). Notices under this Agreement shall be mailed to:

City of Racine:

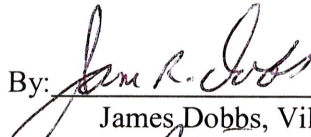
Tara Coolidge, Assistant City Clerk
730 Washington Avenue
Racine WI 53403


Village of Caledonia:

Karie Torkilsen, Village Clerk
6922 Nicholson Road
Caledonia, WI 53108

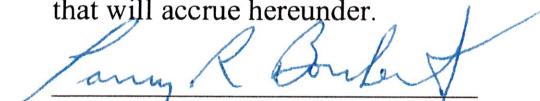
This Agreement is made as of the date first stated above.

VILLAGE OF CALEDONIA

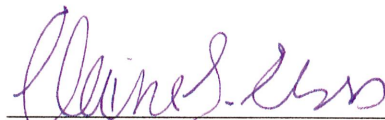
By: 
James Dobbs, Village President

Attest: 
Karie Torkilsen, Village Clerk

Provisions have been made to pay the liability that will accrue hereunder.



Larry Borchert, Finance Director

APPROVED AS TO FORM:



Elaine Sutton Ekes
of Pruitt, Ekes & Geary, S.C.
Village Attorneys

CITY OF RACINE

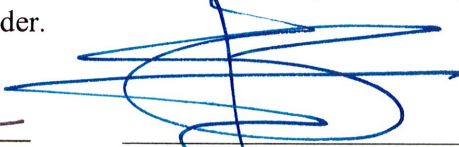
By: 
Cory Mason, Mayor

ATTEST: 
Tara Coolidge, Assistant City Clerk

Provisions have been made to pay the liability that will accrue hereunder.


David L. Brown, Finance Director

APPROVED AS TO FORM:


Scott R. Letteney, City Attorney