



156 East First Street  
New Richmond, WI 54017  
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[www.newrichmondwi.gov](http://www.newrichmondwi.gov)

**November 21, 2017**

**CALL OF MEETING TO THE MEMBERS OF THE COUNCIL OF THE CITY OF NEW RICHMOND**

Notice is hereby given there will be a Special Session of the Council of the City of New Richmond on Monday, November 27, 2017 at 5:30 p.m. in the Council Chambers of the Civic Center, 156 East First Street, New Richmond, WI 54017.

**AGENDA:**

- 1. Call to Order**
- 2. Clerk's Roll Call**
- 3. Pledge of Allegiance**
- 4. Adoption of Agenda**
- 5. Public Hearing for 2018 Budget**
- 6. Approval of 2018 Budget**
- 7. Capital Improvement Plan – Next Steps**
- 8. Energy Audit**
- 9. Emerald Ash Borer Management Plan and Ordinances**
- 10. Insurance Claim Update**
- 11. Legal Service Review**
- 12. Fox Run Development Agreement**
- 13. Communications and Miscellaneous**
- 14. Adjournment**

*Fred Horne, Mayor*

cc: **The New Richmond News**  
**Northwest Communications**  
**City Website**



**TO:** Mayor Fred Horne and City Council  
**FROM:** Rae Ann Ailts, Finance Director  
**DATE:** November 17, 2017  
**RE:** Budget hearing for adoption of FY2018 budget

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### **Background**

Over the last several months, the City's proposed 2018 budget has been front and center. In August and September, department heads presented operational needs to Council. Additionally, the idea of creating a "savings" mechanism for future capital projects was discussed, as well as the corresponding impact on the levy. The months of October and November have focused on community engagement, with staff presenting the 2018 budget to residents, business owners and other stakeholders. During the community engagement process, community members were asked to prioritize capital project funds and if the levy should increase today to offset future capital costs of tomorrow.

The 2018 budget being brought forward represents the innovation and collaboration of Council, staff and the community. Together we are building a better budget.

Below is a summary of the 2018 budget drivers:

### **General Operating Budget**

#### **Revenues**

- Revenues are anticipated to remain fairly consistent from 2016 budget. With notable changes occurring in the following areas:
  - Transportation aids will increase \$54K
  - Expenditure restraint revenue will decrease by \$11K. Beginning, in 2019 the City will not receive funding from this program – this has been anticipated since 2015
  - Building and permit revenue is projected to increase \$50K based upon 2017 actual, excluding one-time revenue increases attributable to the June 2017 hail storm.

#### **Expenditures**

- 0% increase in health, dental and vision premium costs
- IT and Print Managed Services will be contracted through 3<sup>rd</sup> party
- Contracted Electrical Inspector
- Addition of: one full-time patrol officer, one full-time public works position, one part time custodial position and one limited-term seasonal airport position
- Increase in police overtime based upon historical trend and current operations
- Increase in funding to support downtown façade improvements
- Proposed wage increase for non-union staff of 3%: occurring with the following splits 1.5% at 1/1/18 and 1.5% at 7/1/18

- In collaboration with the Library Board, the library budget will remain neutral into 2018 as open positions are filled.

**Debt Levy**

- Debt service levy represents an increase of \$50,279 or 4.4% in 2018 when compared to prior year.

**Capital Levy**

- As part of the community engagement process, community members were polled to see if dollars should be levied today to support capital projects which will be addressed in the next 2-5 years. Based upon feedback 89% of community members supported an increase in the levy.

The 2018 budget incorporates \$100,000 levy for future capital projects.

**Capital Projects**

- There is \$315,000 in 2018 capital projects identified; the proposed capital projects budget will facilitate these purchases through an inter-fund loan. The following projects have been identified for 2018:
  - Fire department capital outlay and 2017 chief’s vehicle
  - Police department AC unit replacement
  - Replacement of police radios to digital
  - Two police patrol vehicles
  - Police chief’s vehicle
  - Cable TV equipment upgrades
  - IT server, firewall and switch upgrades

The 2018 proposed budget, if adopted, will result in a total City levy, including tax increment, of **7.94%**.

	<b>Adopted 2017</b>	<b>Proposed 2018</b>	<b>Dollar Diff</b>
Operating Levy	\$2,851,707	\$3,147,854	+\$296,147
Debt Service Levy	\$1,800,896	\$1,851,176	+\$50,279
Capital Levy	\$85,000	\$100,000	+\$15,000
Tax Increment Levy	\$383,035	\$428,178	+\$45,058
<b>Total City Levy</b>	<b>\$5,120,638</b>	<b>\$5,527,208</b>	<b>+\$406,570</b>

The proposed 2018 budget would result in a 2017 City mill rate of **0.008919449** or \$8.92 per \$1,000 of home value. The below table shows a historical 5 year comparison of mill rates

	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
City Mill Rate	0.008967632	0.008318323	0.008405317	0.008370601	<b>0.008919449</b>
City Mill Rate Per \$1,000 of Assessed Value	\$8.97	\$8.32	\$8.41	\$8.37	<b>\$8.92</b>

Upon adoption of the 2018 budget, staff will finalize and present to Council the 2018 budget book in December. The budget book will be available to the public on the City’s website, social media, in person at City Hall or a copy can be requested.

**Recommendation**

Staff recommends adoption of a total City Levy in the amount of \$5,527,208 for FY2018 as outlined in the attached 2017 general fund budget document.



TO: Mayor Fred Horne and City Council Members

FROM: Mike Darrow, City Administrator

DATE: November 16, 2017

RE: Capital Improvement Plan and Next Steps

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## Background

Over the last several months, the Mayor, City Council and staff have begun the process of examining future capital improvement needs within the City of New Richmond. During this time, the City Council has developed general themes related to these items. The intent of that exercise was to categorize each capital improvement to a general theme, and prioritize using the established ranking system. Below are the general themes we identified:

- **Economic development** - How will this project positively impact and/or promote economic development within the City of New Richmond?
- **Preserving the Past** - How, if any, will this project act to preserve the rich history of our community?
- **Engaging the Present** - Does this project have current momentum and will it positively impact existing stakeholders, community members and/or services within the City of New Richmond?
- **Ensuring the Future** - How does this project ensure that the future is enhanced? Will it provide better quality service, reduce future costs, and/or provide an additional service to the community?
- **Fiscal Responsibility** - Is this project cost effective? Will it provide a return on investment in the years to come?

- **Public / Private Partnerships** - Does this project offer an opportunity for additional partnerships which could minimize costs?
- **Health, safety and general welfare** - Does this project ensure that our community will remain safe? Will it in any way improve the overall health of the community? Will this project provide enhancements to the general welfare through recreation, etc.?

During our next work session, each Council member will be given their “official” CIP binder. Within the binder, there will be individual score cards for each of the projects, with these themes as well as all of the projects that have been presented to date. We will review the binders, discuss the intended use of the score cards, and discuss next steps in this important project.

### **Recommendation**

No action needed during this meeting.



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## MEMORANDUM

**TO:** Mayor Horne & City Council

**FROM:** Noah Wiedenfeld, Management Analyst

**DATE:** November 17, 2017

**SUBJECT:** Facility Energy Assessment

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### **BACKGROUND**

Earlier this spring, the City of New Richmond received a \$10,000 grant from the Wisconsin Office of Energy Innovation to have a team of technical experts from CESA 10 Facilities Management Department perform an energy audit of the following buildings: Civic Center, Electric Shop, Fire Hall, Library, Parks Shop, Police Department, Street Shop, Wastewater Treatment Plant, and Water Shop. Staff from CESA 10 performed a walk-through of these facilities earlier this summer, reviewed electrical and natural gas consumption records, and produced draft and final reports that have been reviewed with City staff. The final report identifies possible facility improvement measures, along with their estimated cost, energy savings, and simple payback. Examples of improvement measures identified include weather stripping, upgrades to LED lighting, and hot water heater upgrades. City staff intend to apply for an implementation grant in early 2018 that would cover 50% of the project cost to implement some of these energy efficiency improvements, and there are additional Focus on Energy rebates that could further reduce costs.

### **ACTION REQUESTED**

No formal action is requested from the City Council. Staff will provide a short recap of the improvement measures identified, and will make electronic versions of the final 100+ page report available to City Council members in the near future.



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## MEMORANDUM

**TO:** Mayor Horne & City Council

**FROM:** Noah Wiedenfeld, Management Analyst

**DATE:** November 17, 2017

**SUBJECT:** Emerald Ash Borer Management Plan & Ordinances

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### **BACKGROUND**

The City of New Richmond's urban forestry project funded by the Wisconsin DNR includes the following components that must be completed before the end of 2017:

- Emerald Ash Borer Management Plan
- Bare root stock for the gravel bed nursery
- Training for the Department of Public Works
- Purchase of personal protective equipment (PPE)
- Tree inventory
- Revisions to City tree ordinances
- Community resource guide and materials for private property owners

### **ACTION REQUESTED**

City staff will provide an update on the various project components. Following review and revisions from the Wisconsin DNR, staff intend to bring the proposed EAB Management Plan and ordinances to the December City Council meeting. No formal action is needed at this time.



**TO:** Mayor Fred Horne and City Council  
**FROM:** Rae Ann Ailts, Finance Director  
**DATE:** November 17, 2017  
**RE:** 2017 Hail Damage – Insurance Update

**Background**

In June 2017, the City of New Richmond sustained damage to municipal buildings and vehicles due to a hail storm. The City’s insurance company was notified of the damage and the claims process was initiated. In mid-October, the City received a preliminary insurance claim report outlining estimated replacement costs for damage sustained. The table below provides a summary of the report:

Property	Replacement Cost Value	Actual Cash Value
<b>Municipal Buildings</b>	\$493,094	\$364,165
<b>Vehicles</b>	\$43,347	\$43,347
<b>Total</b>	<b>\$536,441</b>	<b>\$407,512</b>

**Analysis**

Staff conducted an internal review of the preliminary insurance report by evaluating and categorizing the damage sustained to buildings. The damaged property was placed into the following categories:

**Cosmetic** = Structural integrity and useful life is not impacted, damage is not visibly noticeable.

**Cosmetic/repair** = Structural integrity and useful life is not impacted, damage is visibly noticeable. Repairs are recommended.

**Repair** = Structural integrity and useful life is impacted. Repairs are recommended

Based upon this review, the following costs and/or cash values were calculated:

	City	Utility	Total
<b>Cosmetic</b>	\$58,488	\$40,831	\$99,319
<b>Cosmetic/repair</b>		\$22,093	\$22,093
<b>Repair</b>	\$380,703	\$4,384	\$385,087

Property identified as needing to be repaired will receive recommended repairs over the next several months. Vehicles sustaining damage will be repaired as operations allow, as funds were received in late October to begin vehicle repairs. Additionally, staff is obtaining quotes to repair municipal buildings to ensure any discrepancies in replacement cost value will be addressed prior to accepting the preliminary insurance report funding. Due to the estimated repair cost of certain buildings, an RFP will be required, while those repairs which do not require an RFP will be awarded based upon cost and quality. At this time, we anticipate the majority of repairs will not occur until 2018 due to contractor availability and weather.

As part of the staff review, there were a number of buildings identified to have only cosmetic damage. The cosmetic damage does not impact the safety, function, or life expectancy of the building, as such; those insurance dollars, attributed to the damage, could be utilized to support other initiatives.

Earlier this year, we discussed establishing a sustainability account, where dollars saved through green tier initiatives today, would be invested in a specific account to be utilized for future projects as specified by today's Council. Utilizing a portion of the \$99,319 in insurance proceeds to establish a sustainability account, will reduce future costs associated with particular projects. Staff proposes allocating \$30K in insurance proceeds to establish the sustainability account.

Additionally, the energy audit conducted by CESA identified several projects which would continue to improve energy efficiencies throughout our municipal buildings. There will be grant funding available for the projects identified by the CESA energy audit in which the City intends to submit an application for. The grant requires a 50% match from the City, if awarded. Like the sustainability account, a portion of the \$99K in insurance proceeds could be used to fund the City's matching requirement. Staff proposes directing \$25K of insurance proceeds as the City's matching funds for this grant.

### **Recommendation**

No formal action is requested at this. We will address any questions or further comments during the work session and will anticipate request of formal action in December.



**TO:** Mayor Fred Horne and City Council  
**FROM:** Mike Darrow, City Administrator  
**DATE:** November 16, 2017  
**RE:** Legal Counsel Contracts

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## **Background**

The City utilizes three legal firms to represent the various legal needs of the City. They include:

- Eckberg Lammers: General legal and bond council (Nick Vivian)
- Williamson and Siler: City's prosecution attorney for municipal court matters (Kristina Williamson)
- Boardman and Clark: Labor and human resources council (Steve Zack)

Each of these firms have provided the City with comprehensive legal services when called upon. In determining whether to enter into a three-year contract with each of these firms, we evaluated the following:

- Overall experience - Over the past several years, Nick, Kristina and Steve have provided excellent service related to general legal issues, prosecution matters as well as labor and human resource issues within the City of New Richmond. What has been extremely important, particularly given the complexity of some legal matters, is their ability to properly break down issues into tangible and understandable parts. As a part of this contract review, we asked those who have the most contact with each of the three of these firms to provide an overview of their work. Based upon that feedback, we feel that their overall experience is deserving of an additional three year contract.
- Accessibility - The ability to quickly return phone calls or respond to pressing matters is an expectation of the services we need to provide as a City. While we know that the need for qualified attorneys will continue to grow, our expectation is that our consultants, service providers and attorneys meet the same general expectations of accessibility as our staff. That expectation will continue if this three-year agreement is approved.

- Working knowledge of our community and professional opinions - Without question, each of these attorneys has not only an understanding of our community and the law, but also an understanding of our ordinances and City Code. We have been pleased with the work and opinions that they have provided as well as the general support that they provide as part of their opinions.
- Financial management - Within each of these contracts, each firm has submitted general cost estimates and proposed fees for the next three years. We believe that these figures are in line with past costs as well as future projections. We would also add, that each of these attorneys are aware of cost constraints that may arise from time to time or from case to case, and have been up open front about those costs.

### **Recommendation**

Because this is a work session discussion, no formal action is being requested at this time. We intend to address any questions or comments the City Council has during the work session and anticipate a formal approval of these contracts on December 11, 2017.



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## MEMORANDUM

**TO:** Mayor and City Council  
**FROM:** Jeremiah Wendt, Director of Public Works  
**DATE:** November 17, 2017  
**SUBJECT:** Fox Run Development Agreement

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### Background

GMTZ LLC, which owns the remaining platted parcels in the Fox Run subdivision, would like to continue construction of homes in this area in 2017, but has developed nearly all of the parcels which are currently served by City-accepted streets and utilities. In order to allow for continued development, street improvements and cul-de-sacs are required by City ordinance.

The City's Development Review Committee discussed this issue, and recommended the drafting of a development agreement to outline the requirements for the developer to obtain building permits and certificates of occupancy on the parcels in question. The following issues were to be highlighted in the development agreement:

- A cul-de-sac is to be constructed on Otter Way.
- A trail easement is to be granted.
- A trail stub is to be constructed between Lots 25 and 26 to provide future access to the parkland in Fox Run.
- Building permits could be issued before the cul-de-sac is paved, if the developer provided a letter of credit equal to 125% of the estimated cost of the required improvements.
- Certificates of Occupancy could not be issued until the improvements were fully completed.

Based on these conditions, the attached development agreement was drafted. City staff has reviewed the developer's cost estimate for the street improvements, and concurs with the estimate of \$29,221. The City has requested a letter of credit from the developer for 125% of this amount (\$36,526.25).

### Recommendation

Staff recommends approval of the attached "Development Agreement – Fox Run Second Addition".

**DEVELOPMENT AGREEMENT  
FOX RUN – SECOND ADDITION  
CITY OF NEW RICHMOND**

**THIS DEVELOPMENT AGREEMENT** (the “Agreement”) is made and entered into this \_\_\_\_ day of November, 2017, by and between the **CITY OF NEW RICHMOND**, a municipal corporation organized under the laws of the State of Wisconsin (“City”) and **GMTZ, LLC**, a limited liability company under the laws of the State of Wisconsin (“Developer”).

**RECITALS**

**WHEREAS**, Developer is the owner of certain land located within the City which has previously been developed as Fox Run – First Addition; and

**WHEREAS**, in 2004, the City granted approval for Fox Run – Second Addition which consists of the parcels legally described on the attached **Exhibit A** (“Development”); and

**WHEREAS**, Developer desires to commence with the development of Fox Run – Second Addition and is required to construct certain public infrastructure as required by the City; and

**WHEREAS**, the City will allow for the commencement of development of Fox Run – Second Addition on the condition that the Developer enter into this Agreement stipulating the conditions for the installation of street, other public improvements as well as the development of on-site improvements, all in accordance with the terms and conditions as stated herein; and

**WHEREAS**, the Developer shall develop the Development in conformance with the plans reviewed and approved by the City subject to such changes and modifications as provided in this Agreement.

**NOW, THEREFORE**, in consideration of the premises and of the mutual promises and conditions hereinafter contained, it is hereby agreed as follows:

**AGREEMENT**

1. City Approval. The City has approved the Plat Map attached as **Exhibit B** for the following property:

Lots 17 – 28 and 48 – 60, Fox Run Second Addition, all located in the Northeast Quarter of the Southwest Quarter, Northwest Quarter of the Southwest Quarter, Southeast Quarter of the Southwest Quarter of the of the Southwest Quarter of Section 32, Township 31 North, Range 17 West, City of New Richmond, St. Croix County Wisconsin.

2. Conditions of Development Approval. The City hereby approves the Development on the following conditions: (i) Developer enter into this Agreement in accordance with Wisconsin Statute §236.13, (ii) Developer shall submit a security deposit in the amount of \$35,276.25 to the City, and (ii) the Development Agreement be recorded with the St. Croix County Register of Deeds

within thirty (30) days of execution of the Agreement. The Developer shall cooperate with the City in recording the Agreement and all required additional deeds and documents and providing assurance that the Agreement and all required documents have been properly and timely recorded.

3. Right to Proceed. Within the Development, the Developer may not grade or otherwise disturb the earth, construct streets, utilities, public or private improvements, or any buildings or structures until all the following conditions have been satisfied: (i) this Agreement has been fully executed by both parties and filed with the City Clerk, and all conditions contained in the Agreement have been met; (ii) the necessary security has been received by the City; (iii) this Agreement has been recorded with the St. Croix County Register of Deeds; (iv) the Developer has designated a project manager for the Development; (v) the Developer has initiated and attended a pre-construction meeting with the Director of Public Works; or until such time as approval to commence earlier construction is specifically approved by the City, and (vi) Developer has fully complied with all conditions set forth by City staff.

4. Development Plans. The Development shall be developed in accordance with the plans on file at the office of the City Clerk, the standards adopted by the New Richmond City Council and the conditions stated below. If the plans vary from the written terms of this Agreement, the written terms shall control. The plans include:

- Plan A            Site and Utility Plan for FOX RUN SECOND ADDITION prepared by Auth Consulting as finally approved by the Director of Public Works and City Planner dated November 9, 2017.
  
- Plan B            Grading Plan for FOX RUN SECOND ADDITION prepared by Auth Consulting and as finally approved by the Director of Public Works and City Planner dated November 9, 2017.

5. Public Improvements. The Developer shall install and pay for the following public improvements: (i) Cul-de Sac Street – Otter Way; (ii) Curb and Gutter; and (iii) 8’ paved trail between Lots 25 and 26.

Improvements shall be installed in accordance with City standards, Sections 117-23 through 117-25 of the City Code, and the above-referenced plans that have been furnished to the City and first approved by the Director of Public Works and City Planner. The Developer shall obtain all necessary permits before proceeding with construction. The City shall provide adequate field inspection personnel to assure acceptable quality control, which will allow certification of the construction work. The City may, when reasonably required to do so, and at the Developer’s expense, have one (1) or more City inspectors and a qualified engineer inspect the work. Within thirty (30) days after the completion of the improvements and before all retained security is released, the Developer shall supply the City with a complete set of reproducible “as constructed” and an electronic file of the “as constructed” plans in AutoCAD.DWG file or a .DXF file, all prepared in accordance with City standards. Before the security for the completion of utilities is fully released, iron monuments shall be installed in accordance with Wisconsin law. The Developer’s surveyor shall submit a written

notice to the City certifying that the monuments are installed following site grading, utility and street construction.

6. Contractors/Subcontractors. City Council members, City employees, and City Plan Commission members, and corporations, partnerships and other entities in which such individuals have greater than a twenty five percent (25%) ownership interest or in which they are an officer or director may not act as contractors or subcontractors for the public improvements identified in Paragraph 5.

7. Permits. The Developer shall obtain or require its contractors and subcontractors to obtain all necessary permits from the City of New Richmond, County of St. Croix and the State of Wisconsin.

8. Time of Performance. The Developer shall install all listed improvements by December 31, 2018. The Developer may request an extension of time from the City to be submitted in writing to the City Clerk. Said extension shall be conditioned upon updating the security posted by Developer to reflect cost increases and the extended completion date. Final wear course placement outside of the above time frame must have the written approval of the Director of Public Works. The City may impose additional conditions on the extension necessary to ensure performance.

9. Right of Entry. The Developer hereby grants to the City, its agents, employees, officers and contractors an irrevocable right of entry to enter the Development to perform any and all work and inspections necessary or deemed appropriate by the City during the installation of improvements by Developer or the City, or to make any necessary corrective actions necessary by the City. Except in emergency situations, as defined by the City, the City shall give the developer fifteen (15) business days' notice stating the deficiencies and necessary corrections prior to making any corrective action. Said right of entry shall continue until the City finally accepts the improvements and any applicable warranty period has expired.

10. Erosion Control. Prior to initiating site grading, and before any utility construction is commenced or further building permits are issued, an erosion control plan shall be implemented by the Developer and inspected and approved by the City. If the Director of Public Works determines that it would be unreasonable to require full implementation of the erosion control plan prior to utility construction or issuance of certain building permits, he shall state in writing what construction may occur and what particular building permits can be issued prior to full implementation. The City may impose additional erosion control requirements if, in the opinion of the Director of Public Works, additional erosion control requirements would be beneficial. All areas disturbed by the excavation and backfilling operations shall be reseeded forthwith after the completion of the work in that area.

If the Developer does not comply with the erosion control plan and schedule or any supplementary instructions, the City may, with reasonable notice, take action as it deems appropriate.

11. Clean Up. The Developer shall promptly clean any and all dirt and debris from streets and construction sites in accordance with the City Code resulting from construction work by the Developer, its agents or assigns.

12. Ownership of Improvements. Upon acceptance by the City Council of the work and construction required by this Agreement, improvements lying within public easements and public right-of-ways shall become City property without further notice or action.

13. Streets. The Developer agrees to maintain the streets in this Development until the base course bituminous surfacing has been accepted by the City. Should the City be required to grade the street prior to paving, the cost of such grading shall be paid by the Developer and drawn from the Developer's letter of credit. Should snow plowing be necessary prior to street paving, the Developer shall be responsible for such plowing as may be required by the City's Streets Supervisor. If, upon the Developer's request, the City agrees to plow the street prior to acceptance, such work will be done upon agreement that the Developer will hold harmless and indemnify the City from any and all liability claims related to such work and pay all costs associated with that work. Any plowing undertaken by the City will constitute no acceptance or evidence of acceptance of the street(s) in question. Upon final completion of streets and acceptance by the City as a City street rather than a private drive, the Developer shall guarantee to the City for a period of one (1) year that the streets have been constructed to City standards. The warranty period shall not commence until such time as street construction is completed and the streets are accepted as City streets by the City. The one (1) year warranty set forth above commences ~~upon the date on which the City accepts the streets by~~ resolution.

14. Trail Dedication. Concurrent with the execution of this Agreement, Developer shall grant to the City a perpetual easement for public pedestrian and bicycle use and the construction of pedestrian trails over Lots 25 and 26 of Block 7 of the Development. The location of the trail easement shall be jointly agreed upon by Developer and the City and shall be memorialized by a Trail Easement Agreement prepared by the City Attorney. The easement granted by the Developer shall be not less than 20 feet in width and shall provide trail access from Otter Way to the northeast.

15. Security for Completion of Public Improvements. To ensure compliance with the terms of this Agreement, and construction of all public improvements, the Developer shall furnish the City with a cash escrow or Irrevocable Standby Letter of Credit with automatic renewal provisions in the amount of 125% of the estimated cost of the public improvements. Developer has submitted a total bid of \$29,221.00 for the completion of the public improvements. Developer's bid is attached as **Exhibit C**. Accordingly, Developer shall submit an Irrevocable Standby Letter of Credit in favor of the City in the form attached as **Exhibit D** in an amount of not less than \$32,143.10 (the "Security").

The Irrevocable Letter of Credit shall be issued by a banking institution in good standing as determined by the City and approved by the City Administrator. The City shall have the ability to draw on the security at a bank or branch bank located within fifty (50) miles of the City Hall. The

Security shall be for a term ending December 31, 2018 and shall contain an automatic renewal provision. The City may draw down the Security for any violation of the terms of this Agreement, or upon receiving notice of the pending expiration of the Security. It shall be the responsibility of the Developer to inform the City, in writing, at least thirty (30) days prior to expiration of the Security of the impending expiration and the status of the project relative to the Security and this Agreement. If, for whatever reason, the Security lapses prior to complete compliance with this Agreement (other than during any warranty period), the Developer shall immediately provide the City with an extension of the Security or an irrevocable letter of credit of the same amount upon notification of the expiration. If the required improvements are not completed at least thirty (30) days prior to the expiration of the Security, the City may also draw down the Security. If the Security is drawn down, the proceeds shall be used to cure any default.

Upon receipt of proof satisfactory to the City that work has been completed and financial obligations to the City have been satisfied, with City approval, the Security may be reduced from time to time upon the approval of the Public Works Director.

Notwithstanding the posting of Warranty Security (defined below), the Security shall not be reduced below ten percent (10%) of the posted Security until all improvements have been completed, all financial obligations to the City satisfied (which includes posting of Warranty Security), and the required "as built" plans have been received by the City. The intent of this Agreement is that the City shall have access to sufficient security, either Security or Warranty Security, to complete the project and ensure warranty on all public improvements at all times.

The Security shall be submitted to the City prior to execution of the Agreement. All administrative and legal fees related to plan review, drafting of this Agreement and any other necessary items shall be paid to the City prior to execution of this Agreement.

16. Warranty. The Developer warrants all work required to be performed by it against poor material and faulty workmanship for a period of one (1) year after its completion and acceptance by the City. The amount of posted warranty security for public improvements to be posted by the Developer shall be in the amount of \$4,383.15 ("Warranty Security"). The amount has been determined by the Director of Public Works and is based upon the costs of the raw materials and labor which would be necessary to correct the most common deficiencies in such public improvements.

17. Claims. The Developer shall pay any subcontractor within ten (10) days of the Developer's receipt of payment by the City for undisputed services provided by the subcontractor. In the event that the City receives claims from labor, materialmen, or others that perform work required by this Agreement, and the sums due them have not been paid, and the laborers, materialmen or others are seeking payment from the City, the Developer hereby authorizes the City to commence an interpleader action pursuant to Wisconsin law, to draw upon the Security and Warranty Security in an amount up to one hundred twenty-five percent (125%) of the claim(s) and deposit the funds in compliance with Wisconsin law, and upon such deposit, the Developer shall release, discharge, and dismiss the City from any further proceedings as it pertains to the letters of credit deposited with the Circuit Court, except that the Court shall retain jurisdiction to determine attorney fees pursuant to this Agreement. In the event that the Developer desires to make a cash deposit instead of drawing down the letter of credit if a claim is made as stated above, Developer shall immediately notify the City of

this intent at the time the claim is made and shall deliver one hundred twenty-five percent (125%) of the claim to the City within ten (10) days of such notice in the form of cash or certified check.

18. Intentionally Omitted.

19. Responsibility for Costs.

- A. Except as otherwise specified herein, the Developer shall pay all costs incurred by it or the City in conjunction with the development of the Development, including, but not limited to, legal, planning, engineering, and inspection expenses incurred in connection with development of said Development, the preparation of this Agreement, and all costs and expenses incurred by the City in monitoring and inspecting development of the Development.
- B. The Developer shall hold the City and its officers and employees harmless from claims made by itself and third parties for damages sustained or costs incurred resulting from the Development. The Developer shall indemnify the City and its officers and employees for all costs, damages or expenses which the City may pay or incur in consequence of such claims, including attorney's fees.
- C. The Developer shall reimburse the City for costs incurred in the enforcement of this Agreement, including engineering fees, attorney's fees, and costs and disbursements.
- D. The Developer shall pay in full all bills submitted to it by the City for obligations incurred under this Agreement within thirty (30) days after receipt. If the bills are not paid on time, the City may halt all Development work and construction, including but not limited to the issuance of building permits for lots which the Developers may or may not have sold, until all bills are paid in full. Claims not paid within thirty (30) days shall accrue interest at the rate of twelve percent (12%) per year.

20. Developer's Default. In the event of default by the Developer as to any of the work to be performed by it under this Agreement, the City may, at its option, perform the work and draw down the Security to pay for any work undertaken, provided the Developer is first given notice of the work in default, not less than seven (7) days in advance. This notice provision does not apply if the work performed by the City or its contractors is of an emergency nature, as determined at the sole discretion of the City. Should such emergency work be required, the City will make all reasonable efforts to notify the Developer as soon as possible. When the City does any such work, the City may,

in addition to its other remedies, assess the cost in whole or in part pursuant to any applicable statutes or ordinances.

21. **Miscellaneous.**

- A. The Developer represents to the City that the Development complies with all city, county, state, and federal laws and regulations, including but not limited to, subdivision ordinances, zoning ordinances, and environmental regulations except where specifically excluded by this agreement. If the City determines that the Development does not comply, the City may, at its option, refuse to allow construction or development work in the Development until the Developer meets compliance requirements. Upon the City's demand, the Developer shall cease work until there is compliance.
- B. Third parties shall have no recourse against the City under this Agreement.
- C. Breach of any of the terms of this Agreement by the Developer shall be grounds for denial or revocation of building permits.
- D. If any portion, section, subsection, sentence, clause, paragraph or phrase of this Agreement is for any reason held invalid, such decision shall not affect the validity of the remaining portion of this Agreement.
- E. If building permits are issued by the City prior to the completion and acceptance of public improvements, the Developer shall assume all liability for the costs resulting in any delay in completion of public improvements and damage to any public improvements caused by the City, the Developer, its contractors, subcontractors, materialmen, employees, agents, or third parties. No one may occupy a building for which a building permit is issued on either a temporary or permanent basis until the streets needed for access have been paved with a bituminous surface, unless a specific exception is approved by the City.
- F. The action or inaction of the City shall not constitute a waiver or amendment to the provisions of this Agreement. To be binding, amendments or waivers shall be in writing, signed by the parties and approved by written resolution of the City Council. The City's failure to promptly take legal action to enforce this Agreement shall not be a waiver or release.
- G. This Agreement shall run with the land, shall be recorded against the title to the Development and all properties therein established by the Certified Survey Map, and shall be binding on all parties having any right, title or interests in the land and their heirs, successors, and assigns.
- H. The Developer shall take out and maintain until one (1) year after the City has accepted the public improvements, public liability and property damage

insurance covering personal injury, including death, and any claims for property damage which may arise out of the Developer's work or the work of their subcontractors or by one directly or indirectly employed by any of them. Limits for bodily injury and death shall not be less than \$500,000.00 for one person and \$1,000,000.00 for each occurrence; limits for property damage shall be not less than \$200,000.00 for each occurrence. The City shall be named as an additional named insured on said policy, and the Developer shall file a copy of the insurance coverage with the City prior to the City issuing further building permits.

- I. Each right, power or remedy herein conferred upon the City is cumulative and in addition to every other right, power or remedy, express or implied, now or hereafter arising, available to City, at law or in equity, or under any other agreement, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the City and shall not be a waiver of the right to exercise at any time thereafter any other right, power or remedy.
- J. The Developer shall pay for all local costs related to drainage improvements required to complete the construction according to the plans and conditions that are a part of this Agreement.
- K. Should Development proceed at a pace slower than anticipated, and for that reason, specific terms of this Agreement become onerous or unduly burdensome to the Developers, upon Developer's application, the City will enter into negotiations regarding those specific terms and shall not unreasonably withhold consent to appropriate changes in the terms of this Agreement.
- L. The Developer shall be responsible for all on site drainage as well as for any affects that their actions may have on adjoining properties.
- M. Within 120 days of the date of this Agreement, Outlot 1, as depicted on the Certified Survey Map, shall be deeded to the homeowners association for the Development to ensure upkeep and maintenance.

22. **Notices.** Required notices to the Developer shall be in writing, and shall be either hand delivered to the Developer, their employees or agents, or mailed to the Developer by registered mail at the following address: 316 Kamloops Place, River Falls, WI 54022. Notice to the City shall be in writing and shall be either hand delivered to the City Clerk at the following address: City of New Richmond, City Hall, 156 East First Street, New Richmond, Wisconsin 54017, Attention: City Clerk.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.  
SIGNATURE PAGE FOLLOWS.

**CITY :**

**CITY OF NEW RICHMOND**

\_\_\_\_\_  
By: Fred Horne  
Its: Mayor

\_\_\_\_\_  
By: Tanya Batchelor  
Its: City Clerk

STATE OF WISCONSIN    )  
                                  ) ss.  
COUNTY OF ST. CROIX    )

\_\_\_\_\_  
The foregoing instrument was acknowledged before me this \_\_\_\_ day of November, 2017, by Fred Horne, Mayor and by Tanya Batchelor, City Clerk, of the City of New Richmond, a Wisconsin municipal corporation, on behalf of the City and pursuant to the authority of the City Council.

\_\_\_\_\_  
Notary Public

**DEVELOPER :**

**GMTZ, LLC,**  
a Wisconsin limited liability company

\_\_\_\_\_  
By:

Its:

STATE OF WISCONSIN    )  
  ) ss.  
COUNTY OF ST. CROIX    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of November, 2017,  
by \_\_\_\_\_, the President of GMTZ, LLC, a Wisconsin limited liability company, with  
authority and on behalf of the company.

\_\_\_\_\_  
Notary Public

**DRAFTED BY:**  
Nicholas J. Vivian  
ECKBERG LAMMERS, P.C.  
430 Second Street  
Hudson, Wisconsin 54016

**EXHIBIT A**  
**LEGAL DESCRIPTION**

Lots 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, Block 7 and Lots 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, and 60, Block 4, Fox Run Second Addition, City of New Richmond, St. Croix County Wisconsin.

PIDS:

261-1296-07-017	261-1296-04-048
261-1296-07-018	261-1296-04-049
261-1296-07-019	261-1296-04-050
261-1296-07-019	261-1296-04-051
261-1296-07-020	261-1296-04-050
261-1296-07-021	261-1296-04-052
261-1296-07-022	261-1296-04-053
261-1296-07-023	261-1296-04-054
261-1296-07-024	261-1296-04-055
261-1296-07-025	261-1296-04-056
261-1296-07-026	261-1296-04-057
261-1296-07-027	261-1296-04-058
261-1296-07-028	261-1296-04-059
	261-1296-04-060



**EXHIBIT C**  
**DEVELOPERS BID FOR PUBLIC IMPROVEMENTS**

**Cost Estimate**  
**Fox Run 2nd Addition Temporary Cul-de-sac**  
**ACA JOB # 5266-008**  
**11/1/2017**

Auth Consulting & Associates  
 2920 Endow Street, 101  
 Hudson, VT 54016  
 (715) 851-5277  
 authconsulting.com



<b>OTTER WAY</b>					
<b>No.</b>	<b>Description</b>	<b>Unit</b>	<b>Quantity</b>	<b>Unit Cost</b>	<b>Total Cost</b>
1	SAWCUT PAVEMENT	L.F.	33	\$3.00	\$99.00
2	RAISE SANITARY MANHOLE CASTING	EA.	2	\$200.00	\$400.00
3	30" CONCRETE CURB & GUTTER	L.F.	28	\$14.00	\$392.00
4	2" AGGREGATE BASE MATERIAL (TOP DRESS EX. GRAVEL IN CUL-DE-SAC)	C.Y.	25	\$30.00	\$750.00
5	6" AGGREGATE BASE MATERIAL	C.Y.	80	\$25.00	\$2,000.00
6	GRADING/RESTORATION/EROSION CONTROL	L.S.	1	\$5,000.00	\$5,000.00
7	2.5" BITUMINOUS PAVEMENT	S.Y.	1715	\$12.00	\$20,580.00
<b>TOTAL ESTIMATED CONSTRUCTION COST =</b>					<b>\$29,221.00</b>

