

MARATHON COUNTY METROPOLITAN PLANNING COMMISSION
AMENDED AGENDA

MARCH 10, 2020
2:00 P.M.

ROOM 5
212 RIVER DR., WAUSAU, WI

Marathon County Mission Statement: *Marathon County Government serves people by leading, coordinating, and providing county, regional, and statewide initiatives. It directly or in cooperation with other public and private partners provides services and creates opportunities that make Marathon County and the surrounding area a preferred place to live, work, visit, and do business. (Last updated: 12-20-05)*

Commission Purpose: *The Commission shall be concerned with studies and recommendations relating to activities including but not limited to land-use; natural resources; utilities; and transportation systems within the metropolitan planning area. (Commission Bylaws last updated: 05-2018)*

Members: *John Robinson – Chair, George Peterson – Vice Chair, Allan Opall, Betty Hoenisch, Steve Hagman, Robert Mielke, Tim Buttke, John Prah, Milton Olson, Chris Voll, Wally Sparks, Brent Jacobson, Kregg Hoehn, Ken Wickham*

AGENDA ITEMS:

1. CALL TO ORDER;
2. WELCOME AND INTRODUCTIONS;
3. PUBLIC COMMENT;

POLICY DISCUSSION AND POSSIBLE ACTION:

4. APPROVE MINUTES OF THE FEBRUARY 11, 2020 MEETING;
5. 2020-2023 TRANSPORTATION IMPROVEMENT PROGRAM AMENDMENT;
6. **TRANSPORTATION ALTERNATIVES PROGRAM (TAP) GRANT PROJECTS APPROVAL;**
7. MULTIMODAL LOCAL SUPPLEMENT (MLS) GRANT UPDATE;
8. DIG ONCE POLICY;
9. MUNICIPAL SHARED SERVICES;
10. NEXT MEETING DATE – APRIL 14, 2020;
11. ADJOURN.

Any person planning to attend this meeting who needs some type of special accommodation in order to participate should call the County Clerk's Office at 715-261-1500 or e-mail infomarathon@mail.co.marathon.wi.us one business day before the meeting.

SIGNED 
PRESIDING OFFICER OR DESIGNEE

FAXED TO: Daily Herald (848-9361) City Pages (848-5887)
Midwest Radio Group (848-3158)
CenterState Marketplace (446-2370)
FAXED BY: BI
FAX DATE/TIME: 03/06/2020 11:30 am

NOTICE POSTED AT COURTHOUSE:
By: _____
Date: _____
Time: _____

MARATHON COUNTY METROPOLITAN PLANNING COMMISSION
Minutes
February 11, 2020

Commissioners: George Peterson-Vice Chair, Gaylene Rhoden (for Opall), Michael Wodalski (for Sparks), Robert Mielke, Randy Fifrick (for Voll), Keith Donner, Tim Buttke

TAC Members: Dave Mack, Andrew Lynch, Darryl Landeau, Dave Muerette, Keith Rusch

Others Present: Brenda Iczkowski, Jared Wehner,

1. Call to Order

In the presence of a quorum, with the agenda being properly signed and posted, the meeting was called to order by Vice-Chair Peterson at 2:00 p.m. in the Room 5, 212 River Drive, Wausau, Wisconsin.

2. Welcome and Introductions

All were welcomed and introductions were made.

3. Public Comment – NONE

4. Approve Minutes December 10, 2019 meeting

Action: MOTION / SECOND BY MIELKE / FIFRICK TO APPROVE THE DECEMBER 10, 2019 MINUTES AS DISTRIBUTED. MOTION CARRIED BY VOICE VOTE, NO DISSENT.

5. Transportation Improvement Program Amendment

Discussion: In the packet is an amendment to the 2020-2023 Transportation Improvement Program for the Wausau Metropolitan Area. The County Highway WW/Second Street Railroad Crossing reconstruction project to be added to the TIP with the project taking place in 2022. The warning signals will be replaced.

Action: MOTION / SECOND BY BUTTKE / MIELKE TO APPROVE RESOLUTION 1-20 ADOPTING THE AMENDMENT TO THE 2020-2023 TRANSPORTATION IMPROVEMENT PROGRAM. MOTION CARRIED BY VOICE VOTE, NO DISSENT.

Follow Through: Staff will send the resolution to WisDOT and FHWA.

6. Discussion on Shared Services in the Metro Area

Discussion: Donner shared, the Village of Weston is looking to build a new public works facility. The Village has been in discussion with other municipalities about ways to partner and share the services and equipment in order to reduce costs for everyone. It was agreed that policy level decisions regarding shared services should continue at the MPO level while other requests may be better suited for community to community.

Action: FOR INFORMATIONAL PURPOSES ONLY.

Follow Through: NONE AT THIS TIME.

7. Status of the Arterials and Bridges (A&B)

Discussion: Lynch thanked everyone present for meeting with the MPO staff for this plan. Meeting notes are currently being compiled and a list of projects or ideas will be created. The draft plan/list will be sent to the Technical Advisory Committee to determine the focus areas. The plan is expected to be complete in June of 2020. This will help with compiling the long range transportation plan for 2021.

Action: FOR INFORMATIONAL PURPOSES ONLY.

Follow Through: NONE AT THIS TIME.

8. Discussion on Issues for Future Meetings

Discussion: Request for Wisconsin State Assembly to re-enable the RTA made by Portage County TCC.

Action: FOR INFORMATIONAL PURPOSES ONLY.

Follow Through: Staff to inform commission of future updates.

MARATHON COUNTY METROPOLITAN PLANNING COMMISSION

December 10, 2019

9. Next Meeting – March 10, 2020

Action: THIS MEETING WILL BE SCHEDULED.

Follow Through: STAFF WILL SCHEDULE THIS MEETING

10. Adjourn

Action: There being no further business to come before the members, **MOTION / SECOND BY RHODEN / FIFRICK TO ADJOURN THE MEETING OF THE MARATHON COUNTY METROPOLITAN PLANNING COMMISSION AT PM. MOTION CARRIED BY VOICE VOTE, NO DISSENT.**

Submitted by:

Dave Mack, MPO Director

Marathon County Conservation, Planning and Zoning

DM: BI

March 4, 2020

**AMENDMENT
TO THE
2020-2023
TRANSPORTATION IMPROVEMENT
PROGRAM (TIP)
FOR THE
MARATHON COUNTY METROPOLITAN PLANNING
COMMISSION/WAUSAU AREA METROPOLITAN
PLANNING ORGANIZATION (MPO)**

March 10, 2020

MARATHON COUNTY METROPOLITAN PLANNING COMMISSION

RESOLUTION # 2-20

**RESOLUTION ADOPTING THE AMENDMENT TO THE
2020-2023 TRANSPORTATION IMPROVEMENT PROGRAM
FOR THE WAUSAU METROPOLITAN AREA**

WHEREAS, the Marathon County Metropolitan Planning Commission was designated the Metropolitan Planning Organization for the Wausau Urbanized Area; and

WHEREAS, in compliance with Metropolitan Transportation Planning Regulations by the U.S. Department of Transportation, the Marathon County Metropolitan Planning Commission has developed a four-year transportation improvement program (TIP) for the Wausau Metropolitan Area; and

WHEREAS, the Transportation Improvement Program identifies transit, pedestrian/bicycle, and highway improvement projects and programs consistent with current transportation plans;

NOW, THEREFORE, BE IT RESOLVED, that the Marathon County Metropolitan Planning Commission endorses the *Long Range Transportation Plan for the Wausau Metropolitan Area* and the *Transit Development Program for the Wausau Area Transit System*, which will be continually updated and maintained as part of the urban transportation planning process;

BE IT FURTHER RESOLVED, that the Marathon County Metropolitan Planning Commission adopts *the purchase of 2 vehicles for Opportunity, Inc. and 1 vehicle for Wheels of Independence, Inc. with Federal 5310 program funds and for vehicle loans and mobility management for the Wisconsin Automotive and Truck Education Association with Federal 5307 program funds as part of the amendment to the 2020-2023 Transportation Improvement Program for the Wausau Metropolitan Area*; and

BE IT FURTHER RESOLVED, in accordance with 23 CFR 450.336, the Wausau Metropolitan Planning Organization for the Wausau, WI urbanized area hereby certifies that the metropolitan transportation planning process is addressing the major issues facing the metropolitan planning area and is being conducted in accordance with all applicable requirements of:

1. 23 U.S.C. 134 and 49 U.S.C. 5303, and this subpart;
2. Sections 174 and 176 (c) and (d) of the Clean Air Act as amended (42 U.S.C. 7504, 7506 (c) and (d)) and 40 CFR part 93;
3. Title VI of the Civil Rights Act of 1964, as amended (42 USC 2000d-1) and 49 CFR part 21;
4. 49 USC 5332, prohibiting discrimination on the basis of race, color, creed, national origin, sex, or age in employment or business opportunity;

5. Section 1101(b) of the Fixing America's Surface Transportation (FAST Act) (Pub. L. 114-357) and 49 CFR Part 26 regarding the involvement of disadvantaged business enterprises in the US DOT funded projects;
6. 23 CFR part 230, regarding the implementation of an equal employment opportunity program on Federal and Federal-aid highway construction contracts;
7. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*) and 49 CFR Parts 27, 37, and 38;
8. The Older Americans Act, as amended (42 U.S.C. 6101, prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;
9. Section 324 of title 23, U.S.C. regarding the prohibition of discrimination based on gender; and
10. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and 49 CFR 27 regarding discrimination against individuals with disabilities.

BE IT FURTHER RESOLVED, that the Marathon County Metropolitan Planning Commission certifies that the Transportation Improvement Program contains only projects that are consistent with the transportation plan for the urban area and recommends that this document be submitted to the appropriate federal and state agencies for approval.

Dated this 10th day of March 2020

John Robinson, Commission Chairman

Rebecca J. Frisch, Commission Secretary
Director, Marathon County
Conservation, Planning and Zoning Department

2020 - 2023 TABLE 1 AMENDMENT
TIP PROJECT LISTING (\$)
 March 10, 2020

Red text Indicates Changes

PRIMARY JURISDICTION/ PROJECT LOCATION	PROJECT DESCRIPTION	TYPE OF COST	2020				2021				2022				2023				COMMENTS FOS# & Let Date P=preservation E=expansion
			FED	STATE	LOCAL	TOTAL	FED	STATE	LOCAL	TOTAL	FED	STATE	LOCAL	TOTAL	FED	STATE	LOCAL	TOTAL	

Transit Section Amendment

M	City of Wausau	Vehicle Replacement for Opportunity, Inc. Medium Bus #1	PE ROW CONST TOTAL	\$56,800 \$56,800	\$14,200 \$14,200	\$71,000 \$71,000												5310
		373-20-026		(5310 funds)														
N	City of Wausau	Vehicle Replacement for Opportunity, Inc. Medium Bus #2	PE ROW CONST TOTAL	\$56,800 \$56,800	\$14,200 \$14,200	\$71,000 \$71,000												5310
		373-20-027		(5310 funds)														
O	City of Wausau	Vehicle Replacement for Opportunity, Inc. Minivan	PE ROW CONST TOTAL	\$32,000 \$32,000	\$8,000 \$8,000	\$40,000 \$40,000												5310
		373-20-028		(5310 funds)														
P	County of Marathon	Vehicle Loan and Mobility Management WI Automotive & Truck Education Association	PE ROW CONST TOTAL	\$50,000 \$50,000	\$46,111 \$46,111	\$24,028 \$24,028	\$120,139 \$120,139											5307
		373-20-029		(5307 funds)														

TABLE 2
Assessment of Available Funding for the 2020-2023 Transportation Improvement Program
Amended March 10, 2020

Funding Source		Programmed Expenditures				Estimated Available Funding			
Agency	Program	2020	2021	2022	2023	2020	2021	2022	2023
Federal Highway	NHPP	\$1,706,833	\$962,480	\$1,791,768	\$0	\$1,706,833	\$962,480	\$1,791,768	\$0
Administration	STBG	\$864,800	\$797,657	\$1,093,261	\$0	\$864,800	\$797,657	\$1,093,261	\$0
	HSIP	\$1,162,523	\$3,366,865	\$180,000	\$180,000	\$1,162,523	\$3,366,865	\$180,000	\$180,000
	OCR	\$0	\$0	\$144,430	\$0	\$0	\$0	\$144,430	\$0
Totals		\$3,734,156	\$5,127,002	\$3,209,459	\$180,000	\$3,734,156	\$5,127,002	\$3,209,459	\$180,000
Totals	Inflated by 1.56% Annually	\$3,734,156	\$5,206,983	\$3,309,594	\$188,424	\$3,734,156	\$5,206,983	\$3,309,594	\$188,424

Federal Transit Administration	Section 5307 -- Wausau Urbanized Area	\$1,189,588	\$1,223,082	\$1,258,719	\$1,295,406	\$1,189,588	\$1,223,082	\$1,258,719	\$1,295,406
	Section 5339	\$0	\$0	\$0	\$3,561,447	\$0	\$0	\$0	\$3,561,447
	Section 5310	\$195,600	\$0	\$0	\$0	\$195,600	\$0	\$0	\$0
	Section 5307 - Other	\$172,284	\$1,676,908	\$180,451	\$109,681	\$172,284	\$1,676,908	\$180,451	\$109,681
Totals		\$1,557,472	\$2,899,990	\$1,439,170	\$4,966,534	\$1,557,472	\$2,899,990	\$1,439,170	\$4,966,534
Totals	Inflated by 1.56% Annually	\$1,557,472	\$2,945,230	\$1,461,621	\$5,044,012	\$1,557,472	\$2,945,230	\$1,484,072	\$5,198,968

Wisconsin Employment Transportation Assistance Program (WETAP) CY2020 Federal Section 5307 (Urban) Awards

Organization	Project Types	Counties Served	Total Project Cost	Federal Share	Total Local Share
Wisconsin Automotive & Truck Education Association	Capital - Vehicle Loans and Mobility Management	Marathon	\$120,139	\$50,000	\$24,028
			\$120,139	\$50,000	\$24,028

Grantee	Grant Type	TIP	Vehicle Type	Vehicle Expand / Replace?	Federal Award	Local Match	Total Cost
ADVOCAP, Inc.	Operating Assistance	Appleton			\$ 43,070	\$ 43,070	\$ 86,140
County of Calumet	Operating Assistance	Appleton			\$ 34,110	\$ 34,110	\$ 68,220
County of Calumet	Vehicle	Appleton	Bariatric Van, Rear-load	Replacement	\$ 40,000	\$ 10,000	\$ 50,000
New Hope Center, Inc.	Mobility Management	Appleton			\$ 37,192	\$ 9,298	\$ 46,490
New Hope Center, Inc.	Operating Assistance	Appleton			\$ 44,850	\$ 44,850	\$ 89,700
New Hope Center, Inc.	Vehicle	Appleton	Medium Bus	Replacement	\$ 50,400	\$ 12,600	\$ 63,000
EC WI Regional Planning Commission	Mobility Management	Appleton; Fond du Lac; Oshkosh			\$ 58,737	\$ 14,684	\$ 73,421
County of Marquette	Vehicle	Appleton; Oshkosh	Minivan, Rear-load	Replacement	\$ 32,000	\$ 8,000	\$ 40,000
Lutheran Social Services of Wisconsin & Upper Michigan, Inc.	Mobility Management	Appleton; Oshkosh			\$ 49,506	\$ 12,376	\$ 61,882
Lutheran Social Services of Wisconsin & Upper Michigan, Inc.	Operating Assistance	Appleton; Oshkosh			\$ 28,930	\$ 28,930	\$ 57,860
Center for Independent Living - Western Wisconsin, Inc.	Mobility Management	Chippewa Falls - Eau Claire			\$ 158,388	\$ 39,597	\$ 197,985
Center for Independent Living - Western Wisconsin, Inc.	Operating Assistance	Chippewa Falls - Eau Claire			\$ 253,062	\$ 253,062	\$ 506,124
Community Living Connections, Inc.	Vehicle	Fond du Lac; Oshkosh	Minivan, Side-load	Expansion	\$ 32,800	\$ 8,200	\$ 41,000
Disabilities Services, Inc.	Operating Assistance	Fond du Lac; Oshkosh			\$ 48,150	\$ 48,150	\$ 96,300
Diverse Options, Inc.	Vehicle	Fond du Lac; Oshkosh	Bariatric Van, Side-load	Replacement	\$ 43,200	\$ 10,800	\$ 54,000
Diverse Options, Inc.	Vehicle	Fond du Lac; Oshkosh	Bariatric Van, Side-load	Replacement	\$ 43,200	\$ 10,800	\$ 54,000
Door-Tran, Inc.	Mobility Management	Green Bay			\$ 109,458	\$ 27,364	\$ 136,822
Door-Tran, Inc.	Operating Assistance	Green Bay			\$ 37,375	\$ 37,375	\$ 74,750
Aptiv, Inc.	Vehicle	Janesville; Beloit	Bariatric Van, Side-load	Replacement	\$ 43,200	\$ 10,800	\$ 54,000
Aptiv, Inc.	Vehicle	Janesville; Beloit	Minivan, Side-load	Expansion	\$ 32,800	\$ 8,200	\$ 41,000
County of Rock	Mobility Management	Janesville; Beloit			\$ 87,810	\$ 21,952	\$ 109,762
RSVP of Rock County, Inc.	Operating Assistance	Janesville; Beloit			\$ 25,250	\$ 25,250	\$ 50,500
County of Vernon	Mobility Management	La Crosse			\$ 40,180	\$ 10,045	\$ 50,225
County of Vernon	Operating Assistance	La Crosse			\$ 20,850	\$ 20,850	\$ 41,700
Vernon Area Rehabilitation Center, Inc.	Vehicle	La Crosse	Medium Bus	Replacement	\$ 50,400	\$ 12,600	\$ 63,000
Vernon Area Rehabilitation Center, Inc.	Vehicle	La Crosse	Medium Bus	Replacement	\$ 50,400	\$ 12,600	\$ 63,000
Vernon Area Rehabilitation Center, Inc.	Vehicle	La Crosse	Medium Bus	Replacement	\$ 50,400	\$ 12,600	\$ 63,000
St. Coletta of Wisconsin, Inc.	Vehicle	Madison; SEWRPC	Medium Bus	Replacement	\$ 50,400	\$ 12,600	\$ 63,000
St. Coletta of Wisconsin, Inc.	Vehicle	Madison; SEWRPC	Bariatric Van, Side-load	Replacement	\$ 43,200	\$ 10,800	\$ 54,000
County of Kenosha	Mobility Management	SEWRPC			\$ 49,757	\$ 12,439	\$ 62,196
County of Racine	Mobility Management	SEWRPC			\$ 68,434	\$ 17,108	\$ 85,542
Kenosha Achievement Ctr., Inc.	Vehicle	SEWRPC	Medium Bus	Replacement	\$ 50,400	\$ 12,600	\$ 63,000
Kenosha Achievement Ctr., Inc.	Vehicle	SEWRPC	Medium Bus	Replacement	\$ 50,400	\$ 12,600	\$ 63,000
Kenosha Achievement Ctr., Inc.	Vehicle	SEWRPC	Medium Bus	Replacement	\$ 50,400	\$ 12,600	\$ 63,000
County of Sheboygan	Operating Assistance	Sheboygan			\$ 45,400	\$ 45,400	\$ 90,800
Challenge Center, Inc.	Vehicle	Superior	Medium Bus	Replacement	\$ 50,400	\$ 12,600	\$ 63,000
Challenge Center, Inc.	Vehicle	Superior	Medium Bus	Replacement	\$ 50,400	\$ 12,600	\$ 63,000
North Country Independent Living, Inc.	Mobility Management	Superior			\$ 30,139	\$ 7,535	\$ 37,674
North Country Independent Living, Inc.	Operating Assistance	Superior			\$ 137,650	\$ 137,650	\$ 275,300
Senior Connections, Inc.	Vehicle	Superior	Minivan, Side-load	Replacement	\$ 32,800	\$ 8,200	\$ 41,000
Opportunity, Inc.	Vehicle	Wausau	Medium Bus - Honeycomb	Replacement	\$ 56,800	\$ 14,200	\$ 71,000
Opportunity, Inc.	Vehicle	Wausau	Medium Bus - Honeycomb	Replacement	\$ 56,800	\$ 14,200	\$ 71,000
Wheels of Independence, Inc.	Vehicle	Wausau	Minivan, Rear-load	Replacement	\$ 32,000	\$ 8,000	\$ 40,000
Barron Co. Developmental Svcs, Inc.	Vehicle	WisDOT (State)	Medium Bus - Honeycomb	Replacement	\$ 56,800	\$ 14,200	\$ 71,000
Black River Industries, Inc.	Vehicle	WisDOT (State)	Medium Bus	Replacement	\$ 50,400	\$ 12,600	\$ 63,000
BRIDGE for Community Life, Inc.	Vehicle	WisDOT (State)	Minivan, non-ADA	Replacement	\$ 23,200	\$ 5,800	\$ 29,000
Center for Independent Living - Western Wisconsin, Inc.	Operating Assistance	WisDOT (State)			\$ 319,379	\$ 319,379	\$ 638,758
City of Stevens Point	Mobility Management	WisDOT (State)			\$ 164,196	\$ 41,049	\$ 205,245
City of Stevens Point	Operating Assistance	WisDOT (State)			\$ 68,430	\$ 68,430	\$ 136,860
County of Adams	Vehicle	WisDOT (State)	Bariatric Van, Rear-load	Expansion	\$ 40,000	\$ 10,000	\$ 50,000

County of Columbia	Vehicle	WisDOT (State)	Minivan, Side-load	Replacement	\$ 32,800	\$ 8,200	\$ 41,000
County of Dodge	Vehicle	WisDOT (State)	Minivan, Side-load	Replacement	\$ 32,800	\$ 8,200	\$ 41,000
County of Jefferson	Mobility Management	WisDOT (State)			\$ 80,000	\$ 20,000	\$ 100,000
County of Langlade	Vehicle	WisDOT (State)	Medium Bus - Honeycomb	Replacement	\$ 56,800	\$ 14,200	\$ 71,000
County of Manitowoc	Mobility Management	WisDOT (State)			\$ 100,500	\$ 25,125	\$ 125,625
County of Richland	Operating Assistance	WisDOT (State)			\$ 16,730	\$ 16,730	\$ 33,460
County of Rusk	Mobility Management	WisDOT (State)			\$ 49,800	\$ 12,450	\$ 62,250
County of Sauk	Operating Assistance	WisDOT (State)			\$ 42,220	\$ 42,220	\$ 84,440
County of Sawyer / Lac Courte Oreilles Transit Commission	Mobility Management	WisDOT (State)			\$ 161,568	\$ 40,392	\$ 201,960
East Shore Industries, Inc.	Vehicle	WisDOT (State)	Medium Bus - Honeycomb	Replacement	\$ 56,800	\$ 14,200	\$ 71,000
Green Valley Enterprises, Inc.	Vehicle	WisDOT (State)	Medium Bus - Honeycomb	Replacement	\$ 56,800	\$ 14,200	\$ 71,000
Highline Corp.	Operating Assistance	WisDOT (State)			\$ 5,000	\$ 5,000	\$ 10,000
NEWCAP, Inc.	Mobility Management	WisDOT (State)			\$ 93,057	\$ 23,264	\$ 116,321
NEWCAP, Inc.	Operating Assistance	WisDOT (State)			\$ 9,075	\$ 9,075	\$ 18,150
Northwoods, Inc.	Vehicle	WisDOT (State)	Minibus, Dual Axle	Replacement	\$ 46,400	\$ 11,600	\$ 58,000
Southwest Wisconsin Community Action Program, Inc.	Mobility Management	WisDOT (State)			\$ 229,569	\$ 57,392	\$ 286,961
Southwest Wisconsin Community Action Program, Inc.	Operating Assistance	WisDOT (State)			\$ 200,600	\$ 200,600	\$ 401,200
SW WI Regional Planning Commission	Mobility Management	WisDOT (State)			\$ 60,800	\$ 15,200	\$ 76,000
Tomahawk Area Interfaith Volunteers	Operating Assistance	WisDOT (State)			\$ 22,100	\$ 22,100	\$ 44,200
Ventures Unlimited, Inc.	Vehicle	WisDOT (State)	Medium Bus	Replacement	\$ 50,400	\$ 12,600	\$ 63,000
VIP Services, Inc.	Vehicle	WisDOT (State)	Bariatric Van, Rear-load	Replacement	\$ 40,000	\$ 10,000	\$ 50,000



March 10, 2020

David Meurett
Wisconsin Rapids Office
1681 Second Ave. South
Wisconsin Rapids, WI 54495-4768

**2020-2024 TRANSPORTATION ALTERNATIVES PROGRAM (TAP) GRANT APPLICATIONS -
WAUSAU MPO**

On March 10, 2020, the Marathon County Metropolitan Planning Commission (Wausau MPO) met to discuss and ranking of the Transportation Alternatives Program (TAP) grant applications it received for the 2020-2024 grant period. The MPO staff received only one application for this grant cycle and reviewed it using the MPO adopted criteria and point scoring system for compliance. The Marathon County Metropolitan Planning Commission approved the rank order of the applications as follows:

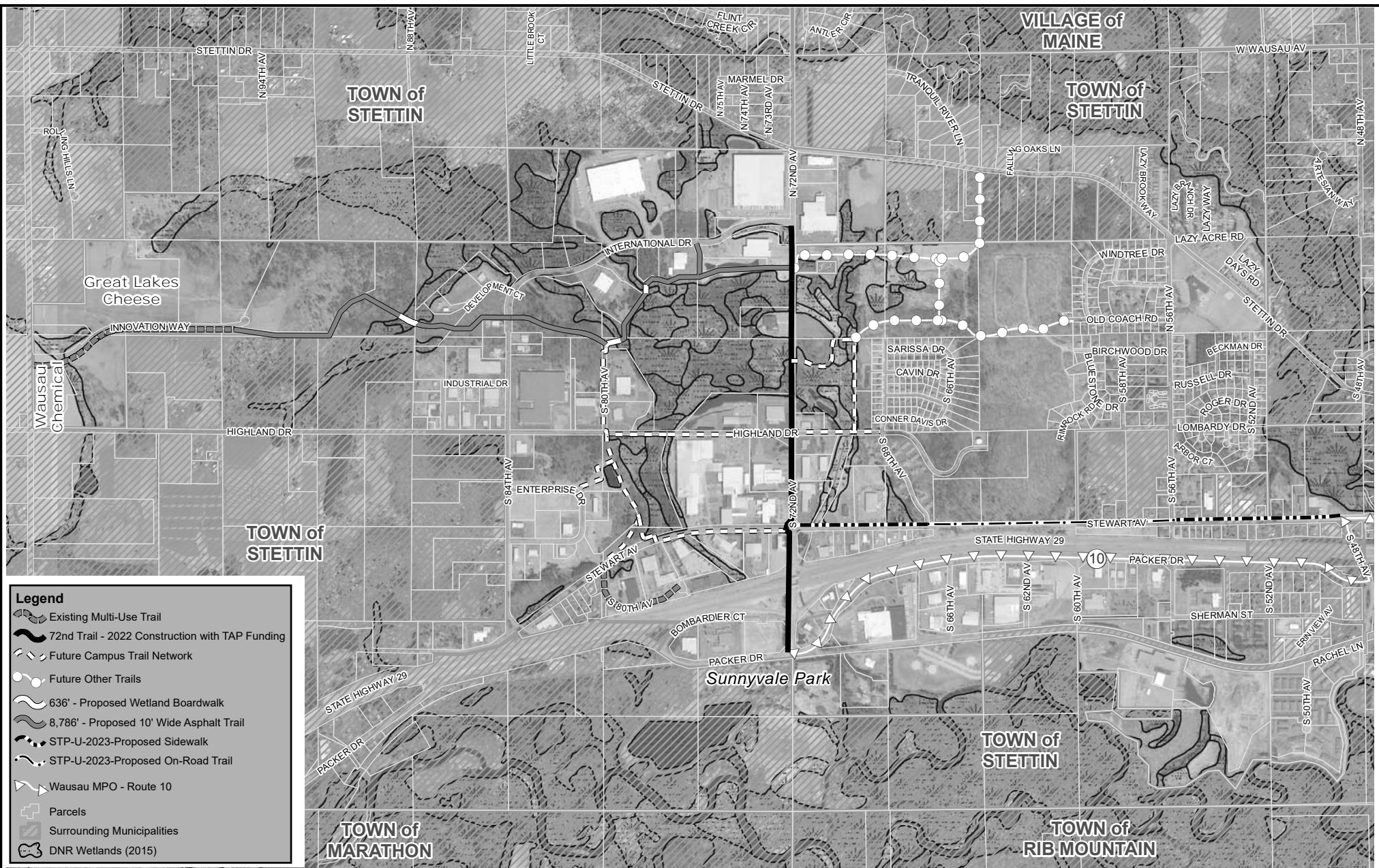
1. Business Campus Trail – East/West Connector - City of Wausau.

The community understands that the TAP funds available for this period will at capped at the amounts set and will be defined and identified in the project agreement with the WisDOT.

Thank you for your consideration of this project for Transportation Alternatives Program funds. If you need any additional information or have comments, please let me know.

David Mack
Wausau MPO Director

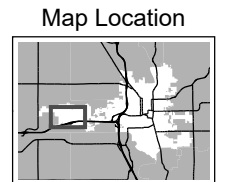
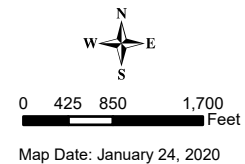
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WAUSAU BUSINESS CAMPUS TRAIL

CITY OF WAUSAU

Marathon County, Wisconsin





Multimodal Local Supplement Awards

County	Project Sponsor	Project Name	Modal Type	Award Recommendation
Ashland	Town of Morse	West Lake Drive	Road	\$472,797.30
Ashland	Tribal Government of Bad River Band of Lake Superior Tribe of Chippewa Indians	Northern Lights Trail	Bridge	\$500,000.00
Ashland	City of Ashland	Waterfront Access Road	Road	\$565,728.11
Barron	Town of Turtle Lake	10 1/2 Avenue	Road	\$224,140.94
Barron	County of Barron	County Highway U	Road	\$350,353.50
Barron	Town of Rice Lake	23rd Street	Road	\$331,728.60
Bayfield	Town of Port Wing	Kinney Valley Road Bridge	Bridge	\$262,665.17
Bayfield	County of Bayfield	County Highway J	Road	\$940,348.65
Brown	Town of Rockland	Midway Road	Road	\$381,197.90
Brown	County of Brown	County Highway M	Multimodal: Road, Bike/Ped, Railroad	\$1,000,000.00
Buffalo	Town of Modena	Myren Road	Road	\$150,594.70
Burnett	Town of Roosevelt	Odden Road	Road	\$96,807.87
Burnett	Town of Wood River	North Williams Road	Bridge	\$276,673.98
Calumet	Town of Rantoul	Irish Road	Road	\$266,167.37
Calumet	Town of Stockbridge	Long Road	Road	\$258,112.31
Calumet	County of Calumet	County Highway N	Multimodal: Road, Bike/Ped	\$1,000,000.00
Chippewa	City of Stanley	W 8th Avenue Bridge	Multimodal: Road, Bridge, Bike/Ped	\$351,301.50
Chippewa	Town of Anson	105th Avenue	Road	\$472,222.94
Clark	Town of Thorp	Koser Avenue	Road	\$220,638.74
Clark	County of Clark	County Highway K Bridge	Bridge	\$276,500.00
Clark	Town of Pine Valley	River Avenue	Road	\$188,432.49
Columbia	Town of Caledonia	Cascade Mountain Road Bridge	Bridge	\$119,074.88
Columbia	Town of Leeds	Hopkins Road	Road	\$257,995.33
Columbia	City of Lodi	Sauk Street	Multimodal: Road, Bike/Ped	\$500,000.00
Columbia	County of Columbia	County Highway V	Road	\$1,000,000.00
Dane	Town of Deerfield	Oak Park Road	Road	\$218,887.64
Dane	County of Dane	County Highway G	Road	\$1,000,000.00

Dane	Town of Montrose	Remy Road Bridge	Bridge	\$187,750.26
Dane	Town of Sun Prairie	Town Hall Road	Road	\$186,416.62
Dane	Town of Cross Plains	Airport Road	Road	\$1,000,000.00
Dane	City of Middleton	Parmenter	Road	\$1,000,000.00
Dodge	County of Dodge	County Highway DJ	Road	\$373,694.30
Dodge	City of Beaver Dam	South Spring Street	Multimodal: Road, Bike/Ped	\$500,000.00
Dodge	City of Horicon	E Lake Street	Road	\$200,000.00
Door	Town of Brussels	Cemetery Road	Road	\$142,889.85
Door	County of Door	County Road J Bridge	Multimodal: Road, Bridge	\$450,100.00
Door	City of Sturgeon Bay	S Neenah Avenue	Road	\$200,000.00
Door	Village of Egg Harbor	Church Street	Multimodal: Road, Bike/Ped	\$1,000,000.00
Douglas	Town of Wascott	Lawler Bridge	Bridge	\$273,171.78
Douglas	County of Douglas	County Highway Z	Road	\$1,000,000.00
Dunn	County of Dunn	County Highway B	Road	\$1,000,000.00
Eau Claire	County of Eau Claire	County Highway TT	Road	\$770,000.00
Fond du Lac	County of Fond du Lac	County Highway VV	Multimodal: Road, Bike/Ped, Transit	\$1,000,000.00
Fond du Lac	Town of Metomen	Dixon Road	Road	\$284,715.73
Fond du Lac	Town of Calumet	Kiel, Town Hall & St Paul Roads	Road	\$828,445.94
Forest	Town of Wabeno	Rummels Road	Road	\$194,643.65
Grant	Town of Beetown	Diamond Grove Road	Road	\$458,963.60
Grant	Village of Cassville	Jack Oak Road Trail	Bike/Ped	\$635,376.00
Grant	Town of Hazel Green	Jefferson Road	Multimodal: Road, Bridge	\$230,444.91
Grant	Town of Platteville	N Second Street	Multimodal: Road, Bike/Ped	\$665,418.43
Green	Town of Jordan	N Loop Road	Road	\$119,228.27
Green	Town of Sylvester	Rechsteiner Road	Road	\$177,038.43
Iowa	Town of Wyoming	Sneed Creek Road	Road	\$65,764.07
Jackson	Town of North Bend	West Indies Road	Road	\$427,096.37
Jefferson	Town of Palmyra	Little Prairie Road	Road	\$630,396.41
Jefferson	City of Fort Atkinson	Multi-road	Road	\$387,776.16
Jefferson	Town of Lake Mills	Crossman Road	Road	\$435,400.79
Jefferson	County of Jefferson	County Highway N	Road	\$1,000,000.00

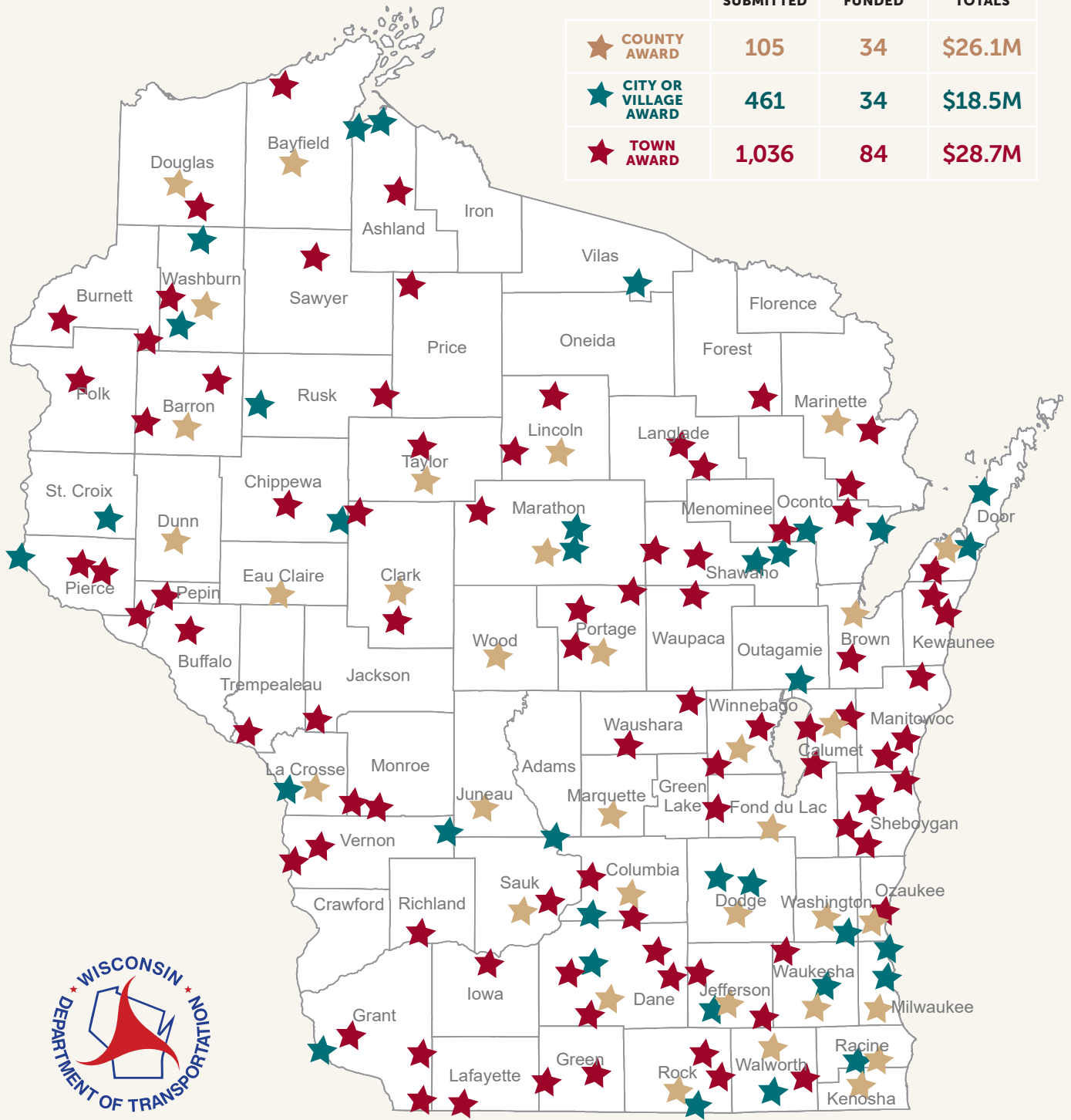
Juneau	County of Juneau	County Highway O	Road	\$1,000,000.00
Kenosha	County of Kenosha	County Highway S	Road	\$1,000,000.00
Kewaunee	Town of Lincoln	Cedar Road to County Road S	Road	\$63,625.21
Kewaunee	Town of Pierce	Eighth Road	Road	\$106,107.62
La Crosse	City of La Crosse	Palace & Larson Street	Multimodal: Road, Bike/Ped	\$1,000,000.00
La Crosse	County of La Crosse	County Highway YY, I, T Bridges	Bridge	\$314,997.20
Lafayette	Town of White Oak Springs	Blackhawk Road Bridge	Bridge	\$51,832.59
Langlade	Town of Evergreen	Grudgeville Road	Road	\$182,814.96
Langlade	Town of Price	Hill Road	Road	\$99,812.76
Lincoln	Town of Bradley	Tannery Road	Road	\$449,433.41
Lincoln	County of Lincoln	County Highway Q	Road	\$560,000.00
Lincoln	Town of Corning	Devil Creek Bridge	Bridge	\$213,109.01
Manitowoc	Town of Newton	Newton Road	Road	\$257,061.65
Manitowoc	Town of Meeme	Pioneer Road	Bridge	\$229,044.03
Manitowoc	Town of Gibson	Twin Bridge Road	Bridge	\$290,038.38
Marathon	Town of Johnson	County Road A	Road	\$259,653.27
Marathon	Village of Rothschild	Birch Street	Multimodal: Road, Bike/Ped	\$400,000.00
Marathon	City of Schofield	Ross Avenue	Road	\$361,119.73
Marathon	County of Marathon	County Highway WW	Road	\$1,000,000.00
Marinette	Town of Middle Inlet	Moonshine Hill Road	Road	\$261,334.33
Marinette	Town of Pound	Belgium Road	Road	\$390,845.77
Marinette	County of Marinette	County Highway W	Road	\$612,972.50
Marquette	County of Marquette	County Highway D	Multimodal: Road, Bike/Ped	\$1,000,000.00
Milwaukee	County of Milwaukee	MCTS Bus	Transit	\$1,000,000.00
Milwaukee	Village of Fox Point	Santa Monica Boulevard	Road	\$200,000.00
Milwaukee	City of Milwaukee	Port South Shore Cruise Dock	Harbor	\$201,530.50
Monroe	Town of Jefferson	Ogden Road	Road	\$938,590.20
Monroe	Town of Portland	Oakland Road	Bridge	\$327,263.29
Oconto	Town of Lena	Goatsville Road	Road	\$435,369.97
Oconto	City of Oconto	Harbor Improvements	Multimodal: Road, Harbor	\$1,000,000.00
Oconto	Town of Underhill	Red Banks Road	Road	\$217,136.54

Oconto	City of Gillett	Washington Street	Bridge	\$300,000.00
Outagamie	Village of Kimberly	Creekview Lane/Railroad Street	Road	\$1,000,000.00
Ozaukee	Town of Grafton	Cedar Sauk Road	Road	\$293,659.66
Ozaukee	County of Ozaukee	Ozaukee Interurban Trail	Bike/Ped	\$668,493.00
Pepin	Town of Frankfort	Swede Ramble Lane	Bridge	\$168,105.71
Pepin	Town of Durand	Brunner Road & Kee's Lane	Road	\$712,123.80
Pierce	Town of El Paso	450th Avenue	Road	\$1,000,000.00
Pierce	Town of Ellsworth	610th Avenue	Road	\$325,984.99
Pierce	City of Prescott	Front Street	Multimodal: Road, Bike/Ped	\$600,000.00
Polk	Town of Milltown	220th Avenue	Road	\$343,605.27
Portage	Town of Plover	Taft Avenue	Road	\$525,680.56
Portage	County of Portage	County Highway R	Road	\$1,000,000.00
Portage	Town of Hull	Country Club Drive	Road	\$323,866.85
Portage	Town of Alban	Hamilton Road	Road	\$226,592.49
Price	Town of Lake	Agenda Road	Road	\$1,000,000.00
Racine	County of Racine	County Highway Y	Road	\$837,663.09
Racine	Village of Union Grove	Industrial Park	Multimodal: Road, Bike/Ped	\$1,000,000.00
Richland	Town of Eagle	Town Hall Drive	Road	\$773,986.70
Rock	Town of Harmony	MH Townline Road	Road	\$582,416.23
Rock	Town of Bradford	Creek Road 1	Road	\$601,611.80
Rock	City of Beloit	Park Avenue	Multimodal: Road, Bike/Ped	\$400,000.00
Rock	County of Rock	County Highway A	Road	\$1,000,000.00
Rusk	Village of Weyerhaeuser	Railway Avenue	Road	\$150,000.00
Rusk	Town of Hawkins	Midway Road	Road	\$94,559.46
Sauk	County of Sauk	County Highway A	Road	\$515,018.68
Sauk	Town of Sumpter	Swiss Valley Road	Road	\$541,273.15
Sauk	City of Wisconsin Dells	US Highway 12/State Highway 16	Road	\$500,000.00
Sawyer	Town of Round Lake	Twin Lake Road 6 Bridge	Bridge	\$160,681.04
Shawano	Village of Cecil	James Street Bridge	Bridge	\$250,000.00
Shawano	Town of Seneca	County Road D	Multimodal: Road, Bridge	\$790,096.83
Shawano	City of Shawano	Wolf River Trail	Bike/Ped	\$250,000.00

Shawano	Town of Wittenberg	Robin Road Bridge	Bridge	\$365,485.99
Sheboygan	Town of Sherman	Indian Mound Road	Road	\$277,856.32
Sheboygan	Town of Plymouth	Willow Road Bridge	Bridge	\$297,687.19
Sheboygan	Town of Mitchell	Hickory Grove Road	Road	\$298,910.86
Sheboygan	Town of Mosel	Playbird Road 1	Road	\$390,306.43
St. Croix	Village of Woodville	Best Road	Road	\$600,000.00
Taylor	Town of Molitor	Keyes Avenue 2	Road	\$236,748.87
Taylor	County of Taylor	County Highway O	Road	\$192,500.00
Trempealeau	Town of Trempealeau	Sonsalla Bridge	Bridge	\$275,967.93
Vernon	Town of Genoa	Hickory Ridge Road	Road	\$55,325.69
Vernon	Town of Harmony	Dudley Hill Road	Bridge	\$51,132.15
Vernon	City of Hillsboro	Elm Avenue	Multimodal: Road, Bike/Ped	\$400,000.00
Vilas	City of Eagle River	Pleasure Island Road	Road	\$750,000.00
Walworth	Village of Williams Bay	Theatre Road Trail	Bike/Ped	\$300,000.00
Walworth	County of Walworth	County Highway ES, County Highway G & Local Streets	Multimodal: Road, Bike/Ped	\$1,000,000.00
Walworth	Town of Lyons	Sheridan Springs Road	Road	\$245,154.16
Washburn	City of Shell Lake	3rd Avenue	Road	\$200,000.00
Washburn	Village of Minong	Business 53	Road	\$750,000.00
Washburn	Town of Evergreen	Dock Lake Road	Road	\$211,533.02
Washburn	County of Washburn	County Highway D	Road	\$287,975.10
Washington	County of Washington	Pioneer Road	Road	\$1,000,000.00
Washington	Village of Germantown	Holy Hill Road	Multimodal: Road, Bike/Ped	\$1,000,000.00
Waukesha	Town of Oconomowoc	Lang Road	Road	\$337,332.12
Waukesha	County of Waukesha	County Highway YY	Multimodal: Road, Bridge, Bike/Ped	\$630,000.00
Waukesha	City of Waukesha	Prairie Avenue	Road	\$1,000,000.00
Waupaca	Town of Dupont	Kretchmer & Jannusch Roads	Road	\$176,651.08
Waushara	Town of Bloomfield	Aspen Avenue	Multimodal: Road, Bridge	\$674,493.68
Waushara	Town of Dakota	Czech Court	Bridge	\$250,477.50
Winnebago	Town of Oshkosh	Vinland Street	Road	\$481,179.33
Winnebago	County of Winnebago	County Highway CB & JJ Intersection	Road	\$652,360.70
Winnebago	Town of Nepeuskun	Grams Road	Road	\$335,017.87
Wood	County of Wood	County Highway X	Road	\$649,690.28

Multimodal Local Supplement (MLS) grant awards

	PROJECTS SUBMITTED	PROJECTS FUNDED	GRANT TOTALS
★ COUNTY AWARD	105	34	\$26.1M
★ CITY OR VILLAGE AWARD	461	34	\$18.5M
★ TOWN AWARD	1,036	84	\$28.7M





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Dig Once Policy Development

Background

In accordance with the Marathon County Strategic Plan, the Wausau Area MPO has been examining development of a Dig Once Policy. Dig Once Policies seek to reduce the cost of high-speed internet infrastructure and reduce costly disturbance to public right of ways.

Potential Example Dig Once Policies from Other Jurisdictions

The Wausau MPO has examined a variety of policies from other jurisdictions, from the City of Eau Claire's simple dig once policy, which prohibits work in the right of way for a period of time after road improvements, to more complex policies requiring coordination between utility providers prior to working in the public right of way.

After hearing concerns about the feasibility of the County or MPO coordinating communication between multiple utility providers, I located the West Virginia Dig Once policy that requires organizations seeking permits to work in the right of way to actively solicit other utilities to co-locate as part of the permitting process. The State of West Virginia Dig Once Policy is available through this link:

<https://broadband.wv.gov/assets/files/pdfs/news/Dig-Once-Policy-Guide-October-2018.pdf>

New Road Construction

In addition to establishment of a dig once policy for disturbance on existing roads, to further facilitate deployment of high-speed internet infrastructure local governments can require high-speed infrastructure improvements with construction of new roads. This is a relatively easy addition to a jurisdiction's municipal code. UW-Madison Extension could facilitate development of model language that could be included in a municipal code. The City of Poulsbo, WA code contains language that can easily be used as a template:

<https://www.codepublishing.com/WA/Poulsbo/html/Poulsbo12/Poulsbo1202.html>

Summary

In summary, a dig once policy that mandates communication with other providers and requires broadband infrastructure placement with new road construction would improve the broadband environment, while not being overly burdensome.

Chapter 12.02 CONSTRUCTION AND DEVELOPMENT STANDARDS*

Sections:

12.02.010 Construction and development standards.

12.02.015 Conduit standards.

12.02.020 Compliance.

12.02.030 Stormwater design manual adoption.

* Prior ordinance history: Ords. 84-34, 88-01, 89-21, 90-11 and 90-17.

12.02.010 Construction and development standards.

A. The city engineer shall administratively adopt design and construction standards that shall apply to all new construction or reconstruction. At a minimum, the city engineer shall adopt the latest edition of the following:

1. City of Poulsbo Standards and Specifications, published by the city of Poulsbo;
2. Recommended Guidelines for Subdivision Streets, published by the Institute of Traffic Engineers;
3. Criteria for Sewage Works Design, published by the Washington State Department of Ecology;
4. The Low Impact Development Guidance Manual, a Practical Guide to LID Implementation in Kitsap County, published by the Kitsap Home Builders Foundation;
5. Design Manual, published by the Washington State Department of Transportation;
6. Standard Specifications for Road, Bridge, and Municipal Construction, published by the Washington State Department of Transportation;
7. Standard Specifications for Municipal Public Works Construction, published by the American Public Works Association;
8. AWWA Standards, published by the American Water Works Association.

B. The city engineer's adoption and amendment of a list of applicable design and construction standards shall be in writing and shall be filed in the office of the city engineer. All such design and construction standards shall be either professionally or nationally recognized or shall have been previously adopted by the city of Poulsbo. The city engineer shall amend the list of standards adopted as needed to reflect the issuance of updated standards and to ensure that the standards used by the city of Poulsbo are the most current and the best suited to serve the public interest.

C. In the case of any conflict between the standards adopted by the city engineer pursuant to subsection A of this section, the more restrictive standard shall apply as determined by the city engineer.

D. All construction and reconstruction shall comply with the standards identified in subsection A of this section, unless variations or exemption to these requirements have been specifically approved by the city

council. Variations or exemptions shall be granted only if the council finds that the variation or exemption results in a development which substantially complies with the purposes of the city's adopted development standards and poses no significant risk to the public health, safety and welfare.

E. The standards that are identified in this section are not to be construed as limiting the authority of the city of Poulsbo and its officials granted by any other ordinance, statutory provision or other law. The city of Poulsbo and its officials retain the authority to apply any design or construction standards not adopted by the city engineer if otherwise authorized to do so. (Ord. 2010-04 § 1, 2010; Ord. 96-08 § 1, 1996)

12.02.015 Conduit standards.

A. Legislative Findings. The Poulsbo city council finds that:

1. Demand for access to high-speed telecommunications services is growing. In order to fill such demand, telecommunications service providers install telecommunication lines in public rights-of-way.
2. In other jurisdictions, the demand for access and the number of telecommunications service providers has sometimes resulted in multiple, serial excavations within the public rights-of-way. Each such excavation can and does result in traffic disruption, a weakening of pavement integrity, and a shortening of the useful life of paved surfaces.
3. The city of Poulsbo has not experienced a high demand for use of the public rights-of-way by telecommunications service providers, but in order to responsibly manage its public rights-of-way the city should anticipate such demand in the future and plan accordingly.
4. Requiring that conduit be installed in newly constructed public streets and rights-of-way in order to accommodate the anticipated future demand for access to telecommunications services will assist the city in responsibly managing its public rights-of-way by:
 - a. Reducing or eliminating the need for excavation within public streets and rights-of-way when telecommunications service providers seek to locate underground telecommunications facilities within such streets and rights-of-way in the future;
 - b. Reduce or eliminate the traffic disruption that occurs whenever excavation occurs within streets and public rights-of-way;
 - c. Reduce or eliminate the loss of pavement integrity and diminishment of the useful life of pavement that occurs whenever paved streets and rights-of-way are cut and excavated within; and
 - d. Meet the needs and desires of the public for access to high-speed telecommunications services and the needs and desires of telecommunications service providers to locate within the public streets and rights-of-way.
5. In residential areas, anticipated demand for the reasonable future can likely be met by the capacity provided by two telecommunication lines. In non-residential areas, anticipated demand is higher, but can likely be met for the reasonable future by the capacity provided by four telecommunication lines. Requiring the installation of conduit and other facilities necessary to support these lines will allow anticipated needs to be met while allowing the city to responsibly manage its rights-of-way.

B. Intent. The intent of this section is to provide for the construction of infrastructure sufficient to allow telecommunications service providers desiring to deploy communication lines in the future to do so by pulling the same through the conduit and appurtenances installed pursuant to this section and without excavating within the right-of-way. This section is not intended to require telecommunications service providers to install additional ducts or conduit pursuant the provisions of RCW [35.99.070](#), but is intended to require those

constructing public streets, including the city and private developers, to provide and install such conduit and appurtenances as may be necessary to accommodate future telecommunications needs within public streets and rights-of-way without further excavation or disturbance.

C. Requirements—Adoption of Standards. Whenever any new public street is constructed, whether by the city as a public works project or by a private party in conjunction with development, the following shall be required:

1. In all new local access public streets serving or abutting residential development, a conduit of a sufficient diameter and containing interducts of sufficient number and diameter to accommodate a minimum of two telecommunication lines shall be installed by the party constructing the street.
2. In all new collector or arterial public streets serving or abutting residential development, and in all new public streets serving or abutting nonresidential development, a conduit of a sufficient diameter and containing interducts of sufficient number and diameter to accommodate a minimum of four telecommunication lines shall be installed by the party constructing the street.
3. In addition to installing conduit, the party constructing the street will be required to install such vaults and other appurtenances as may be necessary to accommodate installation and connection of telecommunication lines within the conduit.
4. All construction and installation shall be accomplished according to construction standards adopted by the city engineer. The construction standards shall be adopted with due consideration given to existing and anticipated technologies and industry standards. The construction standards shall specify the minimum diameter of the conduit and interducts and the minimum number of interducts to meet the requirements of this section.
5. All conduit and appurtenances installed by private parties pursuant to this section shall be conveyed and dedicated to the city with the dedication and conveyance of the public street and/or right-of-way.
6. Any and all installation costs shall be the responsibility of the party constructing the public street.

D. Use by Telecommunications Service Providers. Whenever conduit installed or to be installed under this section is available or will become available within a newly constructed public streets or right-of-way upon dedication, all telecommunications service providers thereafter locating telecommunication lines within such street or right-of-way shall be required to locate their communication lines within such conduit unless it can be demonstrated to the reasonable satisfaction of the city engineer that such location is not technologically feasible or reasonably practicable. Conduit capacity shall be allocated to telecommunications service providers on a first-come, first-served basis; provided, that the city may reserve capacity within such conduits for its own use; and provided further, that the city engineer may adopt additional rules for conduit allocation in order to ensure that all telecommunications service providers have reasonable access to the city's rights-of-way and that no barriers to entry or competition result from the allocation of conduit space.

E. Fees. The city reserves the right to charge reasonable fees for the use of conduit installed pursuant to this section, to the extent consistent with and as limited by federal and state laws and regulations. Any such fees shall be established by resolution or ordinance. (Ord. 2003-25 § 1, 2003)

12.02.020 Compliance.

All new construction or reconstruction shall comply with these standards, unless a variation or exemption to these requirements is specifically recommended in writing by the responsible city official and approved by the city council. Construction of or other adequate provision for such infrastructures, such as agreement to participate in an LID, is a prerequisite to the development, construction or reconstruction of any property,

whether by building permit, subdivision or other form of development approval. (Ord. 93-32 § 1, 1993: Ord. 91-01 § 2 (part), 1991)

12.02.030 Stormwater design manual adoption.

The city of Poulsbo hereby adopts the following stormwater design and guidance manuals for all new development, redevelopment and construction projects within the city of Poulsbo subject to the minimum requirements, technical thresholds and definitions contained within the manuals as adopted in this section:

- A. The Stormwater Management Manual for Western Washington (SWMMWW) published by Department of Ecology, and as amended in 2014.
 - B. Low Impact Development: Technical Guidance Manual for Puget Sound, December 2012.
 - C. The Washington State Department of Transportation Highway Runoff Manual, as determined by the Washington State Department of Ecology to be equivalent to the 2014 Department of Ecology Stormwater Management Manual for Western Washington, may be used when required by state or federal funding requirements. (Ord. 2016-20 § 2 (Att. A (part)), 2016: Ord. 2010-02 § 1 (part), 2010)
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The Poulsbo Municipal Code is current through Ordinance 2020-02, passed January 22, 2020.

Disclaimer: The City Clerk's Office has the official version of the Poulsbo Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: <http://www.cityofpoulsbo.com/>

City Telephone: (360) 779-3901

[Code Publishing Company](#)

WEST VIRGINIA DIVISION OF HIGHWAYS GUIDANCE ON IMPLEMENTING THE DIG ONCE POLICY

OCTOBER 4, 2018

The West Virginia Legislature has found that it is in the public interest to accommodate telecommunications facilities on West Virginia Division of Highways (Division) right-of-way when the use of the right-of-way does not adversely affect the safety of the traveling public; impair the highway or its aesthetic quality; or conflict with any federal, state, or local laws, rules, regulations, or policies. Also, the Legislature has found that a broadband connection is an essential part of developing the state and local economies, enhancing the transportation system and creating a safer and more secure environment for the citizens of West Virginia. As such, instituting a “dig once” policy encourages telecommunications carriers (carrier) to coordinate the installation of broadband conduits to minimize costs to the carriers and to minimize disruption and inconvenience to the traveling public.

Guidelines have been developed by the Division and the West Virginia Broadband Enhancement Council (Council) to assist in the submission, processing and enforcement of a carrier’s desire to install, extend, expand, or upgrade its existing longitudinal underground fiber optic network or wireless telecommunications facility within the Division’s rights-of-way (R/W). As depicted in the legislation, the following definitions are to be enforced throughout these guidelines, unless otherwise noted:

- (1) “Broadband conduit” or “conduit” means a conduit, innerduct or microduct for fiber optic cables that support facilities for broadband service.
- (2) “Broadband service” has the same meaning as defined in W. Va. Code §-31G-1-2.
- (3) “Council” means the Broadband Enhancement Council.
- (4) “Division” means the Division of Highways.
- (5) “Longitudinal access” means access to or the use of any part of a right-of-way that extends generally parallel to the traveled right-of-way.
- (6) “Permit” means an encroachment permit issued by the Commissioner of the Division of Highways under the authority of this Code, and pursuant to the “*Accommodation of Utilities On Highway Right Of Way and Adjustment and Relocation Of Utility Facilities On Highway Projects Policy*”, or equivalent policy, as currently enforced by the Division that specifies the requirements and conditions for performing work in a right-of-way.
- (7) “Right-of-way” means land, property, or any interest therein acquired or controlled by the Division for transportation facilities or other transportation purposes or specifically acquired for utility accommodation.

WEST VIRGINIA DIVISION OF HIGHWAYS GUIDANCE ON IMPLEMENTING THE DIG ONCE POLICY

OCTOBER 4, 2018

- (8) “Telecommunications carrier” means a telecommunications carrier:
- (A) As determined by the Public Service Commission of West Virginia; or
 - (B) That meets the definition of telecommunications carrier with respect to the Federal Communications Commission, as contained in 47 U.S.C. §-153.
- (9) “Telecommunications facility” means any cable, line, fiber, wire, conduit, innerduct, access manhole, handhole, tower, hut, pedestal, pole, box, transmitting equipment, receiving equipment, power equipment or other equipment, system or device that is used to transmit, receive, produce or distribute a signal for telecommunications purposes via wireline, electronic or optical means.
- (10) “Utility facility” or “Utility” has the meaning ascribed to it in W. Va. Code §-17-2A-17a.
- (11) “Wireless access” means access to and use of a right-of-way for the purpose of constructing, installing, maintaining, using, or operating telecommunications facilities for wireless telecommunications

These guidelines are applicable to all underground technologies (trench and trenchless, such as, but not limited to, directional drilling and microtrenching) for longitudinal installations, extensions, expansions or upgrades (including crossings) within the Division’s R/W. For this guideline, the mention of “trench” is to include all trenchless technologies. Aerial installations may be included as part of an application for underground installations; however, aerial installations are not subject to the Dig Once provisions.

1. A carrier shall submit, to the Division’s respective District, a Permit Application for the longitudinal Installation, Extension, Expansion or Upgrade of underground fiber optic network, or wireless access within the Division’s R/W. A list of the Division’s Districts and their respective contact information can be found on the Division’s website at <https://transportation.wv.gov/highways/districts/Pages/default.aspx> . At a minimum, the following information shall be required:
 - A. A complete Application (MM-109) with Contact Information (Name, Mailing Address, Phone Number, Email Address) for the carrier’s representative authorized to process agreements on behalf of the carrier.
 - B. Plan View (.pdf, .kmz, or .dgn format), Profile View, Cross Sections (if applicable) which indicate the proposed underground fiber optic installation, extension, expansion or upgrade.

WEST VIRGINIA DIVISION OF HIGHWAYS GUIDANCE ON IMPLEMENTING THE DIG ONCE POLICY

OCTOBER 4, 2018

- C. Details, such as but not limited to, Description of Work including the type and length of work within the Division's R/W, a Location Map, Temporary Traffic Control Plan, Trench Repair Details (as applicable), Conduit size and type, Number of Innerducts.
 - D. Coordinates of the begin and end points, for each segment, for the installation of the underground fiber optic network.
 - E. Inspection Fees and Bond, as applicable.
 - F. Completed Submission Checklist. A copy of the checklist is attached (See Appendix A).
2. Upon submission of the Permit Application to the Division, the carrier will notify the Council of the Application, by email at the following address WVBroadbandCouncil@wv.gov. The carrier shall include a complete copy of the Permit Application in its notification email to the Council, including the MM-109 Application and all of the information listed in Section 1 above. Upon receipt of the notification, the Council will provide the applicant carrier with a list of other carriers to notify of the proposed project. See Appendix B for an example notification to the Council and other carriers. The other carriers will have 30 calendar days, beginning on the date of the email notification to the other carriers, to notify the applicant carrier if they wish to share the applicant carrier's trench. This requirement extends to all underground construction technologies. The carrier shall also meet the following conditions for a permit:
- A. The applicant carrier will be required to place, at its sole expense, a Class II legal advertisement, in accordance with W. Va. Code §-17-2E-5 and W. Va. Code §-59-3-2(a), in a form and content approved by the Division, in the local project area newspaper, in the Charleston newspaper, on industry and the Division's websites (the Division's web address is <https://transportation.wv.gov/highways/engineering/DigOnce/Pages/Forms.aspx>), and in other pertinent media, announcing the general scope of the proposed installation within the R/W and providing other carriers the opportunity to timely express an interest in installing additional telecommunication facilities during the initial installation. The legal advertisement is to run at least two (2) consecutive weeks, and the applicant carrier is to notify the Division of any interest of other parties received. An example of the legal advertisement with approved format and content is attached (See Appendix C).
 - B. If one or more carriers express interest in participating in the project, an agreement between the carriers will be executed by those entities, outlining the responsibilities and financial obligations of each, with respect to the installation within the R/W. A

WEST VIRGINIA DIVISION OF HIGHWAYS GUIDANCE ON IMPLEMENTING THE DIG ONCE POLICY

OCTOBER 4, 2018

copy of the executed agreement shall be provided to the Division prior to the issuance of a permit to begin the installation.

- i. The Applicant Carrier is responsible for resolving, in good faith, all disputes between any carriers that responded timely to the advertisement and that wish to install facilities within the same portion of the rights-of-way. Any dispute that is not resolved by the carriers shall be adjudicated by the Public Service Commission of West Virginia.
 - ii. If two or more carriers are required or authorized to share a single trench, each carrier in the trench must share the cost and benefits of the trench in a fair, reasonable, competitively neutral, and nondiscriminatory manner. This requirement extends to all underground construction technologies.
3. At the conclusion of the 30-day public notification period and after the negotiations with other carriers, if applicable, the applicant carrier will submit to the respective District copies and proof of all notifications, including those to the Council and the other carriers, a copy of any executed agreement with other carrier(s), and a copy of a notarized Dig Once affidavit (See Appendix D for sample affidavit) along with an updated Submission Checklist. The applicant carrier will also submit a copy of the Dig Once affidavit to the Council.
4. The responsible District or Districts shall review the application for completeness and accuracy.
5. Before the issuance of a permit for the construction or installation of a telecommunications facility within the Division's R/W, a carrier must enter into an agreement with the Division consistent with the requirements of the law and this guidance. An example of the agreement is attached (See Appendix E).
 - A. The Division shall:
 - i. Enter into an agreement with the applicant carrier that is competitively neutral and nondiscriminatory as to other carriers. The agreement shall be approved by the Commissioner of Highways in order to be effective. When applicable, the applicant carrier shall compensate the Division for access to a R/W for the construction, installation, and maintenance of telecommunication facilities, and the use of spare conduit or related facilities of the Division as part of any longitudinal access or wireless access granted to a R/W pursuant to the law. The compensation must be, without limitation:
 1. At fair market value (as determined at the time of the application);

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2. Competitively neutral;
 3. Nondiscriminatory;
 4. Open to public inspection;
 5. Calculated based on the geographic region of this state, taking into account the population and the impact on other R/W users in the region; and once calculated, set at an amount that encourages the deployment of digital infrastructure within this State;
 6. Paid in monetary compensation or with in-kind compensation, or a combination of monetary compensation and in-kind compensation; and
 7. Paid in a lump-sum payment or in annual installments, as agreed to by the carrier and the Division. Payments in annual installments will be subject to fair market value recalculations every 5 years.
- ii. The agreement shall:
 - a. Specify the terms and conditions for renegotiation of the agreement;
 - b. Set forth the maintenance requirements for each telecommunications facility;
 - c. Be nonexclusive; and
 - d. Be for a term of not more than 30 years.
- B. The Division may consider adjustments for areas, the Division, in conjunction with the Council, determines are underserved or unserved areas of the state. The value to such areas for economic development, enhancing the transportation system, expanding opportunities for digital learning, and telemedicine may be considered in determining value.
- C. For the purpose of determining the amount of compensation a carrier must pay the Division for the use of spare conduit or excess conduit or related facilities of the Division as part of any longitudinal access or wireless access granted to a R/W, the Division shall:
- i. Conduct an analysis once every five years, in accordance with the rules, policies, and guidelines of the Division, to determine the fair market value of a R/W to which access has been granted pursuant to this section; and
 - ii. If compensation is paid in-kind, determine the fair market value of the in-kind compensation based on the incremental costs for the installation of conduit and related facilities.

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- F. The value of in-kind compensation, or a combination of money and in-kind compensation, must be equal to or greater than the amount of monetary compensation that the Division would charge if the compensation were paid solely with money.
 - G. If the Division plans to use the trench, it shall pay its proportional share unless it is utilizing the trench as in-kind payment for use of the right-of-way.
6. Unless specifically provided for in an agreement entered into pursuant to W. Va. Code §-17-2E-3(a), the Division may not grant a property interest in a R/W pursuant to the law or this guidance.
 7. The notarized signature of the District Engineer/Manager or his or her designee must be affixed to the agreement prior to sending the agreement to the applicant carrier.
 8. If acceptable, the applicant carrier will Sign and have the agreement Notarize and return to the District Utility Supervisor along with the first Agreement payment. The District Utility Supervisor will process the first payment per the Division's accounts receivable policies. A copy of the Agreement will be retained at the District; the original Agreement will be sent to the Division's Right-of-Way Division.
 9. The District shall issue a permit granting access under the law and this guidance; provided, that the Division complied with all applicable federal regulations with respect to approval of an agreement, including but not limited to 23 C.F.R. §-710.403 and 23 C.F.R. §-710.405.
 - A. The District will scan and add the Agreement and Permit to ProjectWise.
 - B. The District will send a copy of Agreement and Permit to the Division's Engineering Division/Utilities to the Council.
 10. The carrier will coordinate its work with the District.
 - A. The carrier will contact the District Utility Supervisor a minimum of 48 hours prior to construction.
 - B. The District will inspect the work performed by the carrier within the Division's R/W.
 - C. The District will release Bond per permit requirements.
 11. Relocations or modifications of existing telecommunication facilities in the Division's R/W are not subject to the provisions of the Dig Once law, nor shall the provisions apply to aerial telecommunications facilities or associated apparatus or equipment in a R/W. The relocation of telecommunications facilities within the Division's R/W shall be in accordance with the provisions of W.Va. Code §-17-4-17b.

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12. The Division, in its sole discretion, may deny any longitudinal access or wireless access if such access would compromise the safe, efficient, and convenient use of any road, route, highway, or interstate in this state for the traveling public.

13. Any longitudinal access or wireless access to a R/W granted by the Division does not abrogate, limit, supersede, or otherwise affect access granted or authorized pursuant to the Division's rules, policies, and guidelines related to "*Accommodation of Utilities On Highway Right Of Way and Adjustment and Relocation Of Utility Facilities On Highway Projects Policy*".

APPENDIX A

Utility Dig Once Application Submission Checklist

Project Name: _____

Project Location (Route, County): _____

Submission Date: _____

1. Permit Application for underground fiber installation within WVDOH R/W in adherence to the Dig Once policy submitted by Applicant Carrier.
 - a. Application (Submitted to WVDOH’s respective District and Broadband Enhancement Council)
 - MM109
 - Applicant Carrier’s Contact Information (Responsible Employee’s Name, Mailing Address, Phone Number, Email Address).
 - Plan View (.pdf, .kmz, or .dgn format), Profile View, Cross Sections (if applicable).
 - Description of Work (including, but not limited to, type and length of work within WVDOH R/W), Location Map, Temporary Traffic Control Plan, Trench Repair Details, Conduit Size and Type, Number of Innerducts, etc.
 - Coordinates of begin and end points for each segment.
 - Inspection Fees and Bond (if applicable).
 - b. Notifications by Applicant Carrier
 - Broadband Enhancement Council and other carriers on record (copies to Council by email)
 - Legal Advertisements (Must comply with W. Va. Code §-17-2E-5 and W. Va. Code §-59-3-2(a))
 - Local Project Area Newspaper
 - Charleston Newspaper
 - Industry Website
 - WVDOH Website
 - Other Pertinent Media
2. Post announcement submission to District by Applicant Carrier (except where noted)
 - Agreement with other carriers, if applicable
 - Copies/receipts of all Notifications
 - Notarized Dig Once Compliance Affidavit
3. Finalize Application
 - Process WVDOH Agreement
 - Issue Permit
 - Send Copy of Approved Permit to Council
 - Applicant Carrier to inform WVDOH a minimum of 48 hours prior to commencing work

APPENDIX B

Notification to Broadband Enhancement Council and Other Carriers on Record

DATE:

TO: Other Carriers (Email List Provided by Broadband Enhancement Council)

FROM: Applicant Carrier Company Name and Address

RE: Notification of Permit Application Pursuant to WV Dig Once Policy, W. Va. Code §-17-2E-1 *et seq.*

In compliance with West Virginia Code §-17-2E-5(b), <Applicant Carrier> provides notification of the following project:

- 1. Location: Include county, city, route number or street location.**
- 2. DOH District Office: District Number, Address, Phone, Contact.**
- 3. Project Description: Include description and map of project area.**
- 4. Project Details: Include technology, coordinates, linear feet, map, type and size of conduit, method of installation, depth and other applicable information.**

As required by the Dig Once Policy § 17-2E-5(b), other carriers have 30 days from the date of email notification to notify <Applicant Carrier> if they wish to share the trench.

If you have any questions concerning this notification, please contact me at: <Applicant Carrier Representative's contact information, title, signature line, including name, address, telephone number, email address>.

cc: WVBroadbandCouncil@wv.gov.

APPENDIX C
Dig Once Legal Advertisement Template

(ad to be run in local newspaper(s) and others in accordance with W. Va. Code §-17-2E-5)

<Applicant Company> will be constructing approximately <length> of longitudinal underground fiber optic network or wireless telecommunications facilities using West Virginia Department of Transportation (WVDOT) rights-of-way along <Road Name > at <Closest Town>, WV. This placement will specifically be along <Route Number>. <Applicant Company> will make fair and reasonable accommodations to share construction costs with other telecommunications providers if such providers elect to place underground facilities along these same rights-of-way during construction. Other providers also will be required to obtain from the WVDOT approval of appropriate plans and obtain permit for occupancy of WVDOT rights-of-way regarding the installation. Construction is anticipated to begin in <Construction Start Date> and be completed in <Construction End Date>. Interested parties should contact <Applicant's Responsible Employee> with <Applicant Company> at <Phone Number> or <Email Address> no later than <Date> (must give 30 days per W. Va. Code §-17-2E-5). Providers timely responding to this notice will coordinate with <Applicant Company/Responsible Employee>, and with WVDOT as appropriate, to address trench sharing and costs and issues pertaining to the installation.

**[INCLUDE WITH AD A LOCATION MAP CLEARLY IDENTIFYING
ROUTE(S)/INSTALLATION AREA]**

APPENDIX D

DIG ONCE COMPLIANCE AFFIDAVIT

STATE OF WEST VIRGINIA,

COUNTY OF _____, to-wit:

[AFFIANT], upon being first duly sworn, deposes and says:

1. I am currently employed by [COMPANY] as the [TITLE]. As part of my duties in this position, I am responsible for reviewing and submitting the installation permit applications with the West Virginia Department of Transportation, Division of Highways (the “Division”) for placing underground fiber within the Division’s right-of-way.

2. As the [TITLE], I have express authority to represent [COMPANY].

3. [COMPANY] is a telecommunications carrier, as defined in W.Va. Code §-17-2E-2(8).

4. On or about [DATE], [COMPANY] filed the installation permit application with the Division.

5. On or about [DATE], [COMPANY] completed or has otherwise fully satisfied the applicable public notice and competitor agreement requirements found in W. Va. Code §-17-2E-5.

6. Following the notice discussed in paragraph 5 above, one of the following applies:
[] [COMPANY] did not receive any notifications from competing telecommunications carrier(s) expressing interest in participating in the installation project.

[] [COMPANY] was notified by competing telecommunications carrier(s) of their express interest in participating in the installation project and [COMPANY] and the other telecommunications carriers have entered into a written agreement outlining the responsibilities and financial obligations of each, with respect to the installation within the Division’s right-of-way. A copy of the executed agreement has been provided to the Division.

And further this Affiant saith not.

[AFFIANT]

Taken, subscribed, and sworn to before me, the undersigned Notary Public, this _____
day of _____, 20_____.

My commission expires on _____.

NOTARY PUBLIC

[SEAL]

APPENDIX E

Telecommunications Agreement

PM Number: _____

Permit Number: _____

THIS TELECOMMUNICATIONS AGREEMENT, made effective the _____ day of _____, 20____, between the WEST VIRGINIA DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS, (the “Division”), and _____, a _____ (“Carrier”).

WHEREAS, Division is the owner of certain land, property, or other interests in real property used for transportation purposes (the “Right-of-Way”);

WHEREAS, Carrier desires to install underground telecommunications facilities within a section of the Right-of-Way, as more fully described below, which will not interfere with the purpose and use for which Division acquired the same and Division is agreeable to permit Carrier to utilize a section of the Right-of-Way on the terms and conditions herein; and,

WHEREAS, Division has the authority to enter into a Telecommunications Agreement by the provisions of W. Va. Code §-17-2A-17a and W. Va. Code §-17-2E-3.

NOW, THEREFORE, WITNESSETH:

That for and in consideration of One Dollar (\$1.00) and subject to the terms and conditions herein contained, Division does hereby permit Carrier the right to use a portion of that certain tract or parcel of land for underground telecommunications facility installation as depicted on the plat attached hereto as Exhibit A and made a part hereof, hereinafter referred to as “Installation Route.” Division expressly reserves the right to occupy the Installation Route jointly with the Carrier and the right to permit other telecommunications carriers to do so as well.

This agreement is subject to the following terms and conditions:

1. Purpose – The Installation Route shall be used solely for the installation and operation of telecommunication facilities, as defined by W. Va. Code §-17-2E-2(9).
2. Term – This Telecommunications Agreement is for a term of _____ (____) years [may not be less than five (5) nor more than thirty (30) years] commencing on the date above. Nothing contained herein prevents the Division from immediately removing any installation which creates a hazard to public safety or impedes the use, construction, or maintenance of any roadway. It is expressly understood that this Telecommunications Agreement does not grant a property interest in the Right-of-Way to Carrier.
3. Fair Market Value – Beginning June 8, 2018, Division will evaluate and establish the fair market value of the use of the Right-of-Way every five (5) years, based upon then-existing market conditions; provided, however, that the Legislature may sooner establish fair market value by statute, and such legislative action establish fair market value for the purposes of this Agreement.

4. Use of the Installation Route - Carrier shall use the Installation Route in compliance will all applicable laws, rules and regulations. Carrier shall not do or permit any act to be done, or create any situation by failure or refusal to act, that:
 - a. does or may impair the value of the Installation Route in whole or in part;
 - b. creates an unreasonable risk of harm to third persons or premises on or off the Installation Route; or
 - c. constitutes a public or private nuisance or waste to the Installation Route.

5. No Warranty – The Division makes no warranties, either express or implied, as to any matter whatsoever, including, without limitation, the condition of the Installation Route or its fitness for any purpose, including the intended purposes of the Carrier hereunder.

6. Risk of Loss – The Carrier shall bear the entire risk of loss and damage to its facilities located within the Installation Route from any cause whatsoever. No loss or damage to the Installation Route or any part thereof shall impair or lessen any obligation of the Carrier under this Telecommunications Agreement which shall continue in full force and effect. In the event of loss or damage to the Installation Route as a result of action or inaction on the part of the Carrier, the Carrier shall restore the Installation Route to the same condition that existed before the loss or damage to the satisfaction of the Division.

7. Compensation – The Carrier shall pay to the Division the sum of One Dollar (\$1.00) for the first five (5) years of the term hereof, but thereafter, the annual compensation will be adjusted to the then Fair Market Value as described in Paragraph 3 herein. Such payments shall be remitted, in advance, to Finance Division, West Virginia Department of Transportation, Division of Highways, State Capitol Complex, Building 5, 1900 Kanawha Boulevard East, Charleston, West Virginia 25305-0430, upon receipt of invoice.

8. In-kind Compensation – Only Telecommunications Carriers, as defined in W.Va. Code §-17-2E-2, may provide in-kind compensation for a Telecommunications Agreement. The in-kind compensation to be made by a Carrier under this Telecommunications Agreement in a manner detailed below. [If no in-kind compensation is offered, please leave this section blank or mark “N/A.”]

9. Arrearage – Any Telecommunications Agreement, with compensation payments more than thirty (30) days in arrears, shall be considered an obstruction by Division under W. Va. Code §-17-16-1, *et seq.*

10. Dig Once Compliance Affidavit – On or prior to the date of this agreement, Carrier must complete and submit a Dig Once Compliance Affidavit to Division.

11. Conditions and Restrictions – Carrier understands and agrees that the Installation Route is subject to the following covenants and restrictions:
 - a. No flammable, volatile or explosive substances, hazardous materials, lumber, wood products or other material, which does or may constitute a fire or other hazard or cause damage to third persons or property on or off the Installation

Route or cause contamination of property on or off the Installation Route may be used, manufactured, stored or held thereon. The foregoing notwithstanding, it is understood and agreed that certain utility providers, such as natural gas utilities, will transport materials or substances via their facilities located within the Installation Route which are flammable or explosive, but such use of the Installation Route is not intended to be prohibited by this provision.

- b. No signs, including advertising poster or devices, shall be permitted on the Installation Route.
- c. No hazardous or objectionable smoke, fumes, vapor or odors shall be discharged from the Installation Route.
- d. The Carrier accepts this agreement subject to any and all easements and encumbrances, including without limitation, existing utility lines, whether or not visible upon the ground.

12. Improvements – Carrier may improve the Installation Route by _____

_____.

13. Relocation – It is understood and agreed between the parties hereto that, upon termination of this agreement, Carrier is not eligible for relocation monies and is not a “displaced person” as defined in the Uniform Relocation Assistance and Real Property Acquisition Policies Act, 49 CFR 24.2(a)(9). Carrier’s installation, within the Installation Route, shall be relocated, adjusted or removed by the Carrier, at no cost to the Division, when required for highway improvements, unless the provisions of W. Va. Code §-17-4-17b or §-17-4-17d apply.

14. Indemnification – To the fullest extent permitted by law, Carrier at all times does, and shall, assume all risks of damage to its property, and the property of others, and injury or death to all persons (including, but not limited to, any employee or agent of Carrier or sub-lessee) resulting directly, or indirectly or otherwise by (a) the actions of omissions of Carrier, its contractors or sub-lessee, or their respective agent and employees, (b) by any condition of the property, (c) by any failure of Carrier, its contractors or sub-lessee, or their respective agents and employees, to comply with any applicable law, rule, regulation or order of any governmental authority, or to comply with any provision of this Telecommunications Agreement, or (d) by any other cause related to Carrier’s performance hereunder. Carrier at all times hereby fully assumes the risk of and shall defend, indemnify and hold harmless the Division, its officers, employees and agents (the Division and such persons collectively "Division’s Indemnified Persons"), and shall reimburse Division’s Indemnified Persons for, from and against each and every demand, claim, suit, loss (which shall include any diminution in value), liability, damage, cost and expense (including, without limitation, interest, fines, penalties, and investigation, and any and all reasonable fees, disbursements and expenses of attorneys, accountants and other professional advisors) (collectively, "Losses") imposed on, incurred by or asserted against the Division’s Indemnified Persons, (individually or jointly) directly or indirectly, relating to, resulting from, or arising out of Carrier’s work and services, or other activities performed hereunder. These covenants of indemnity shall survive cancellation, termination, or expiration of this Telecommunications Agreement, Carrier hereby acknowledges that the allocation of risk set forth in this provision of the Agreement is a part of the consideration to be provided to Division by Carrier for performance of this Agreement.

15. Insurance - Carrier shall be required to furnish evidence of having at least the minimum amounts of insurance required under Section 103.6 of the "West Virginia Division of Highways, Standard Specifications, Roads and Bridges, as Adopted 2017," and supplements thereto, and include the West Virginia Division of Highways as an additional insured on all policies of insurance required, except for worker's compensation. Any insurance required to be carried shall be primary, and not excess to any other insurance. Carrier shall require all sub-lessees to furnish evidence of having at least the minimum amounts of insurance required under Section 103.6 of the "West Virginia Division of Highways, Standard Specifications, Roads and Bridges, as Adopted 2017," and supplements thereto, and include West Virginia Division of Highways as an additional insured on all policies of insurance required, except for worker's compensation. Any insurance required to be carried shall be primary, and not excess to any other insurance.
16. Assignment – This agreement may not be transferred, assigned or sublet, in whole or in part.
17. Possession – The Carrier shall have a non-exclusive right to locate certain facilities within the Installation Route, subject to the rights of the Division reserved herein, and shall have sole responsibility for maintenance, operation and use of its facilities.
18. Nondiscrimination – The Carrier, as a part of the consideration hereof, does hereby covenant and agree that: (1) no person, on the grounds of race, religion, color, sex, national origin, or disability shall be excluded from participation in, be denied the benefits of or be otherwise subjected to discrimination in the use of the Installation Route or facilities thereof; (2) that in connection with the construction of any improvements on said lands and the furnishing of services thereon, no discrimination shall be practiced in the selection and retention of first-tier subcontractors, and by first-tier subcontractors in the selection and retention of second-tier subcontractors; (3) that such discrimination shall not be practiced against the public in accommodations constructed or operated within the area of said Telecommunications Agreement; and (4) that the Carrier shall use the Installation Route in compliance with all other requirements imposed by the Department of Transportation pursuant to Title 49, Code of Federal Regulations, Part 21, and as said regulations may be amended. That, in the event of breach of any of the above nondiscrimination covenants, if the Division has given the Carrier thirty (30) days written notice of an alleged breach and the Carrier has failed either to cure the breach or to take appropriate steps to prevent reoccurrence, the Division shall have the right to terminate this agreement and to reenter and repossess the Installation Route area and hold the same as if said agreement had never been made or issued.
19. Inspection and Maintenance – The Division reserves to itself the right to enter upon the Installation Route at any time and without notice for purposes of inspection and determination of compliance with the terms hereof, and for any necessary maintenance, repair, construction or reconstruction of its adjacent highway facilities. Division, in the conducting of such maintenance, repair, construction or reconstruction, shall have, to the extent reasonably necessary, the right to cause the interruption or suspension of the Carrier's operations on said Installation Route and may damage or alter the Carrier's improvements thereon, with no liability to the Division.
20. Termination – The Division reserves the right to terminate this agreement at any time and for any reason or for no reason without liability to the Carrier by giving the Carrier a written notice of termination thirty (30) days before the effective date of the termination.

21. Surrender of Installation Route – At the termination or expiration of this Telecommunications Agreement, Carrier shall surrender the Installation Route to Division in as good a condition as when received by Carrier. Carrier shall also remove all Carrier’s fixtures, facilities, and equipment and repair any damage to the Installation Route occasioned by Carrier’s use.

22. Entire Agreement – This Telecommunications Agreement, as governed by applicable statutes and regulations, constitutes the entire understanding and agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous agreements or understandings, inducements or conditions, express or implied, written or oral, between the parties.

23. Time – Time is of the essence in the performance of this Telecommunications Agreement.

24. Governing Law – This Agreement shall be governed by and construed in accordance with the laws of the State of West Virginia, without regard to its choice of law principles.

25. Amendment and Waivers – Any term or provision of this Telecommunications Agreement may be amended, and the observance of any term of this Telecommunications Agreement may be waived, only by a writing signed by the party to be bound. The waiver by a party of any breach or default in performance shall not be deemed to constitute a waiver of any other or succeeding breach or default. The failure of any party to enforce any of the provisions hereof shall not be construed to be a waiver of the right of such party thereafter to enforce such provisions.

DIVISION:

WEST VIRGINIA DEPARTMENT OF
TRANSPORTATION, DIVISION OF
HIGHWAYS

By:_____

DISTRICT _____ ENGINEER/MANAGER

CARRIER:

By:_____

Its:_____

STATE OF WEST VIRGINIA,

COUNTY OF _____, TO-WIT:

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, District _____, Engineer/Manager.

My commission expires: _____

NOTARY PUBLIC

STATE OF WEST VIRGINIA;

COUNTY OF _____, TO-WIT:

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, on behalf of _____, a _____.

My commission expires: _____

NOTARY PUBLIC

First Payment received and Telecommunications Agreement Delivered on _____
(this date is the effective date of the Telecommunications Agreement)

_____, Utility Supervisor
District _____

This instrument was prepared by:
West Virginia Department of Transportation,
Division of Highways
1900 Kanawha Blvd., E.
Charleston, West Virginia 26305-0430