

**FIRST ADDENDUM
NELSON CROSSING
AGREEMENT**

This Addendum is made to that Agreement originally made between the Village of Little Chute (herein "Village") and City of Kaukauna (herein "City") originally dated February 20, 2019. The Village and City may be referred to herein individually as "party" or collectively as "parties",

Background Recitals

WHEREAS, the Village and City have agreed to amend the original referenced above by the terms and conditions of this Addendum;

NOW, THEREFORE, the parties agree as follows:

1. **Maintenance Decisions** All work shall be agreed upon in writing by both the Village and City prior to any such work commencing.
2. **Maintenance and Repair Costs/Annual Budgeting**
 - a. **Snow Removal:** It is not the intention of the City or Village to regularly remove snow from the bridge Crossing due to the weight restrictions of the bridge, the Wisconsin DNR prohibiting snow removal directly into the river, and potential damage that will occur from the equipment on the bridge. On alternating winter seasons, the Village and City will evaluate together and provide snow removal as needed, on a case-by case basis. No billing will take place between the parties for this service since shared equally. The City will start with the 2021-2022 season alternating to the Village for 2022-2023 season continuing until termination of the agreement. Snow, ice, any other debris, along with any equipment is not allowed to exceed 10,000 lbs. at any given time
 - b. **Maintenance Budget:** The parties will meet each July to review the previous year's expenses and discuss future maintenance items. The parties will each budget for 50% of the expected items but no less than 1.05 times the average of the previous five completed year expenditures or \$2,000 whichever is greater in a segregated Special Revenue Fund 224. The operating budget is further limited to a cap of \$20,000 fund balance for each the Village and City. Any major capital improvement on the bridge exceeding \$20,000 shall be approved by the Village's and the City's Capital Improvement Plan process. The Village and City agree to align any major repair to the Bridge in their respective year Capital Improvement Plan to ensure adequate funding is available. Parties agree to provide detailed billing annually in December for 50% of the labor or services incurred for work agreed upon.
3. **Bridge Utilities** All costs for electrical utilities on the bridge shall be shared and paid for equally by the Village and City at 50% each. The City shall account for these expenses with a designated account within the Special Revenue Fund 224. This expense shall be billed out once a year each December for actual costs paid between December previous year and December of billing year. The Village and City each agree to converse each July to review previous year expenses. Both the City and Village agree to budget in the segregated Special Revenue Fund for 50% of these costs at 1.05 times the previous year's expenses.

4. **Insurance Coverage, Deductibles, and Costs** Both the City and Village agree that the City has the legal authority to insure the bridge and collect payments for damages on behalf of both the Village and City. All insurance claims related to this asset should be deposited into the special revenue fund 224. Any insurance claim payment made that directly relates to the bridge shall be used solely on the bridge repair that the claim was submitted for or as agreed upon by both Village and City. Any deductible related to a claim on the bridge shall be shared and paid by the Village and City at 50%. All insurance premium costs for the bridge shall be shared and paid for equally by the Village and City at 50% The City shall invoice the Village for 50% of the premium when the new policy is issued. The City shall provide documentation of the insurance policy and premium as it relates to the bridge upon request from the Village. Both the City and Village agree to budget in the segregated Special Revenue Fund 224 for 50% of these costs at 1.05 times the previous year's expenses.

Dated this _____ day of August 2021.

VILLAGE OF LITTLE CHUTE

BY: _____
Michael Vanden Berg, Village President

BY: _____
Laurie Decker, Village Clerk

CITY OF KAUKAUNA

BY: _____
Anthony J. Penterman, Mayor

BY: _____
Sally A. Kenney, City Clerk

Original agreement
on following pages

AGREEMENT

This Agreement is between the Village of Little Chute (herein "Village") and City of Kaukauna (herein "City"). The Village and City may be referred to herein individually as "party" or collectively as "parties".

Background Recitals

WHEREAS, the Village and City are entering into this Agreement as an Intergovernmental Agreement authorized by § 66.0301 Wisconsin Statutes; and

WHEREAS, the purpose of the Agreement is to establish terms and conditions for the joint ownership, construction, and maintenance of a multi-modal pedestrian bridge (herein "Bridge") to cross the Fox River and connect the Village trail system with the City trail system; and

WHEREAS, the parties anticipate receiving a substantial portion of the initial construction cost in the form of grant funds and to fund the balance of initial construction cost, and future maintenance cost, from their respective municipal budgets;

NOW, THEREFORE, the parties agree to the following terms and conditions:

1. **Grant Funds**. The parties anticipate receiving grant funds from Fox Cities Greenways, 501(c)(3) entity for a minimum of 80% of the total design and construction cost of the Bridge, and possibly other grant or charitable sources, but if a minimum of 80% of the costs are not received by the parties in this manner, the Termination provision in paragraph 9 below shall apply.
2. **Grant Fund Segregated Accounts**. All grants and contributions received for purposes of the Bridge shall be deposited in one or more segregated accounts to be exclusively used for the Bridge by the Village and City in accordance with the terms of this Agreement unless this Agreement is terminated as set forth below in paragraph 8. All grant funds received for this purpose are deemed jointly owned by the Village and City regardless of which segregated account the funds are maintained in.
3. **Budgeting for Construction**. The City and Village will each budget and pay for up to a maximum of 10% each for the total design and construction cost of the Bridge based upon the condition that at least 80% of such design and construction cost are received by grants or other contributions.
4. **Joint Ownership**. The Bridge will be jointly owned equally by the Village and City, an undivided 50% each, as tenants in common.
5. **Kaukauna/Fiscal Agent**. In recognition that bond financing is a probable requirement for the economic feasibility of the Bridge project, it is agreed that City of Kaukauna

will act as the fiscal agent for all reasonable and necessary purposes associated with bond financing, and statutory compliance therewith.

6. **Maintenance Decisions**. All decisions with regard to the maintenance, repair, or replacement of the Bridge or its components ("Work"), including but not limited to the nature, scope, timing, and cost of such Work shall be determined by mutual agreement between the Village and City. If such repairs are necessary and the City and Village cannot agree on the necessary details to perform the Work, the matters in issue will be submitted to GRAEF Engineering (GRAEF-USA Inc.), Green Bay, Wisconsin, (or a mutually-agreed upon engineering firm) whose decision shall be deemed a final arbitrated decision binding on both parties.
7. **Maintenance and Repair Costs / Annual Budgeting**. All costs for repair, maintenance, and/or replacement associated with the Bridge for labor and materials shall be shared and paid for equally by both the Village and City at 50% each. The Village and City each agree that they will annually budget \$2,000 for purposes of Bridge maintenance and repairs as part of their annual budgeting process for purposes of covering either current or future maintenance and repair costs which budgeted funds shall be maintained in segregated accounts and used solely for purposes of this Agreement. If these budgeted funds or reserves are insufficient or deemed to high the municipalities agree to increase or decrease their budgets as necessary.
8. **Repair and Maintenance Contracts**. Any contracts with third party contractors for maintenance or repair of the Bridge shall be entered into jointly by the Village and the City with such third party contractors, unless the parties agree to alternative arrangements for purposes of expediency or their mutual convenience on a case by case basis.
9. **Termination**. If the parties are unable to receive sufficient grant funds for at least 80% of the design and construction cost of the Bridge, this Agreement shall be terminated. However, the grant funds will be retained in one or more segregated accounts for 12 months to determine if alternative mutually acceptable financial arrangements can be made to proceed with Bridge construction pursuant to a mutually agreed amendment to this Agreement. If no such arrangements and corresponding amendment can be made, then the grant funds shall be divided equally between the Village and City and used for such other lawful purposes as determined in the independent discretion of each party.
10. **Amendments**. This Agreement may be amended in writing at any time upon mutual written agreement between the Village and City.
11. **Complete Agreement**. This constitutes the complete agreement between the parties and there have been no other oral representations, warranties, or agreements upon which either party has relied, unless in writing and signed by the party to be bound.

12. **Persons Bound.** This Agreement is binding on the parties hereto and their respective heirs, successors, and assigns.
13. **Signatures.** Copy signatures transmitted by fax, email or other electronic transmission and counterpart signature pages are deemed as binding and valid as originals for purposes of this document.

Dated this 20 day of February, 2019.

VILLAGE OF LITTLE CHUTE

BY: Michael R. Vanden Berg
Michael Vanden Berg, Village President

BY: James Ferlon
James Ferlon, Village Administrator

CITY OF KAUKAUNA

By: Anthony J. Penterman
Anthony J. Penterman, Mayor

By: Sally A. Kenney
Sally A. Kenney, City Clerk/Treasurer