



Public Works Agenda Item

Meeting Date:	April 8, 2025
Agenda Item:	Liquidated Damages
Staff Contact (name, email, phone):	Brad Marquardt, bmarguardt@whitewater-wi.gov , 262-473-0139

BACKGROUND

(Enter the who, what when, where, why)

In 2024, the City had three street reconstruction projects under construction at the same time. Completion dates were as follows:

- Fremont Street: August 30, 2024
- Ann Street/Fremont Street: September 27, 2024
- Forest Avenue: August 30, 2024 (60 calendar days from start of project)

The intention for inspection services from Strand was to have one inspector on site overseeing all three projects with the intention of bringing in an extra person during specific times of the projects to help.

Fremont Street was substantially complete by the middle of September. Ann/Fremont was paved on October 7th and determined to be substantially complete. The contractor for the Forest Avenue project did not start until the week of August 26. Substantial completion did not occur until November 15.

Staff is considering liquidated damages associated with the extra inspection costs the City accrued from Strand for having an inspector onsite to solely oversee the Forest Avenue project. It should be noted the contractor did run into unanticipated rock excavation for sanitary sewer, water and storm sewer installation; however, if the contractor would have started in time to complete the project by August 30, the additional time for the rock excavation would have been relatively close to the October 7 paving of the Ann Street/Fremont Street project.

PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

N/A

FINANCIAL IMPACT

(If none, state N/A)

According to the contract, liquidated damages of \$1,200/day can be imposed on the project for each day that expires after the substantial completion date. For Forest Avenue, this would equate to 77 days or \$92,400. If October 7th was used, it would equate to 39 days or \$46,800. If staff was to use only the costs associated with inspection after October 7th, it would equate to \$29,001.95 (133.25 hours in October, 75.25 hours in November, all at \$130.19/hour, plus \$1,857.33 in related expenses).

STAFF RECOMMENDATION

Staff believes there should be liquidated damages imposed due to the contractor not starting the project until the week it was supposed to be completed. Staff is looking for direction from the Committee if they believe liquidated damages should be imposed and how much. If so, staff will work with the City Attorney to impose such damages.

ATTACHMENT(S) INCLUDED

(If none, state N/A)

1. Contract Times – Liquidated Damages
