

AGREEMENT REGARDING IMPROVEMENT OF 124TH STREET

THIS AGREEMENT made by and between the **CITY OF WEST ALLIS**, a municipal corporation with principal offices at 7525 West Greenfield Avenue, West Allis, Wisconsin ("West Allis") and the **CITY OF NEW BERLIN**, a municipal corporation with principal offices at 3805 South Casper Drive, New Berlin, Wisconsin ("New Berlin").

RECITALS:

WHEREAS, the center line of South 124th Street from West Lincoln Avenue to West Oklahoma/National Avenue is part of the jurisdictional boundary between West Allis and New Berlin; and,

WHEREAS, it is in the public interest that South 124th Street be improved; and,

WHEREAS, West Allis and New Berlin have agreed to cooperate in making the aforesaid improvements.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, the parties agree as follows:

1. **Plans and Specifications.** West Allis will prepare plans and specifications for the improvement of South 124th Street (the "Project"). See attached Exhibit "A" for plan narrative.
2. **Storm Sewer Installation.** West Allis will prepare plans and specifications for any storm sewer work needed on the New Berlin side of South 124th Street. Upon approval, the total not to exceed cost of the construction (including the cost of preparing plans and specifications) of the storm sewer will be added to the Project at the sole cost and expense of New Berlin. New Berlin, also at its sole cost and

expense, will be responsible for the inspection, staking, as-built, etc. pertaining to said storm sewer construction.

3. **Commencement of the Project.** The Project will proceed only after the Common Councils of West Allis and New Berlin conduct a Public Hearing for the Project and approve the Project.

4. **Public Bids.** West Allis shall publicly bid and be the contracting party responsible for engineering and inspection for all construction to be done pursuant to the contract; except, however, New Berlin shall designate a contact person to handle questions from West Allis and make decisions relative to the Project. In addition, this person shall handle notification of New Berlin residents, complaints and calls regarding the construction. Complaints/questions that cannot be handled by New Berlin may be forwarded to West Allis.

5. **Payment.**

A. Prior to the award of any contract for the Project, West Allis will certify to New Berlin the amount estimated as New Berlin's share of the contract costs as herein provided. As any such costs become due under the contract, West Allis shall send a bill to New Berlin for its proportionate share of any such costs as described in 5.B. below. The bill shall be paid in full by New Berlin to West Allis upon approval of the Common Council by check within thirty (30) business days of the receipt of the bill. A five percent (5%) penalty plus interest at the rate of 1.5% per month shall be applied to any amount not paid when due until the same has been paid in full but not more than the maximum penalty for municipal contract payments. Upon completion of construction and acceptance of the work

under any such contract, West Allis will make a final audit to determine the final divisions of costs based on bid prices and "as-built" quantities used in construction. A final bill or refund, as the case may be, for any such contract shall be sent by West Allis to New Berlin.

B. New Berlin's share of Project costs for the improvements made to South 124th Street from West Lincoln Avenue to West Oklahoma/National Avenue as follows:

- (1) One-half (1/2) of the cost of "pavement" improvements including the realignment of the pavement, pulverization and shaping of the existing base course, lowering of the subgrade, subgrade stabilization, excavation and grading, extra stone base and bituminous concrete pavement and asphalt, crushed stone shoulder and restoration and 100% of the cost of any storm sewer installed at New Berlin's request. New Berlin's share is estimated to be about Eight Hundred Sixty-Five Thousand Three Hundred Seventy-Five 00/100 Dollars (\$865,375.00).
- (2) Fifteen percent (15%) as payment for engineering and inspection which amount is included in the estimate under (1) above.

6. **Right of Entry.** New Berlin grants to West Allis, its agents, contractors and employees, a temporary right of entry on South 124th Street right-of-way for the Project including the right to operate necessary equipment thereon, the right to store excavation and construction materials and the

right of ingress and egress, as long as required for completion of the Project.

7. **Repair and Maintenance.** Upon completion and acceptance of the Project improvements, the improvements shall be repaired and maintained in accordance with City of West Allis Resolution No. 14549 and City of New Berlin concurrence relating to the allocation of maintenance of the common boundaries between the cities.
8. **No Other Agreements.** West Allis and New Berlin acknowledge that this Agreement involves the major repair and reconstruction of pavement on South 124th Street and shall proceed in accordance with this Agreement, notwithstanding any contrary provisions in any previous agreements.
9. **Termination.** It is expressly understood that no liability whatsoever shall accrue to West Allis for delay in the awarding or completion of contracts for the Project. In the event that the Project is delayed beyond the 2018 construction season, this Agreement shall be re-evaluated. If both parties are agreed that the project should be terminated, this agreement shall become null and void and the parties shall have no further obligations thereunder.

(SIGNATURES ON NEXT PAGE)

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this

_____ day of _____, 2017.

Witness:

CITY OF NEW BERLIN

(SEAL)

By: _____

David Ament, Mayor

(SEAL)

By: _____

Daniel Green, City Clerk

Countersigned at New Berlin this ____ day of _____, 2017, and I hereby certify that provision has been made to pay the liability that will accrue under this contract by the City of New Berlin.

Witness:

Ralph Chipman, Finance Director

Approved as to form this _____ day of _____, 2017.

City Attorney

(SIGNATURES CONTINUED ON NEXT PAGE)

Witness:

CITY OF WEST ALLIS

(SEAL)

By: _____
Dan Devine, Mayor

(SEAL)

By: _____
Monica Schultz, City Clerk

Countersigned at West Allis this ____ day of _____, 2017, and I hereby certify that provision has been made to pay the liability that will accrue under this contract by the City of West Allis.

Witness:

Peggy Steeno
Director of Finance/Comptroller

Approved as to form this ____ day of _____, 2017.

Scott Post, City Attorney

Exhibit "A"

Project Plan Narrative

The plans will provide for an asphalt pavement consisting of four and one-half (4½) inches of bituminous concrete binder and one and one-half (1½) inches of bituminous concrete wearing surface constructed upon an eight (8) inch crushed stone base. The roadway from W. Lincoln Avenue to W. Oklahoma/National Ave. will consist of one 12-foot wide driving lane in each direction plus a 5-foot wide asphalt shoulder with a 1-foot wide stone shoulder. West Allis will notify New Berlin prior to the placement of the permanent pavement to verify the integrity and location of New Berlin's utilities. Adjustments of manholes and water valves shall be done as part of the construction contract.