

19



City of West Allis Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number	Title	Status
-------------	-------	--------

R-2003-0257 Resolution In Committee

Resolution approving a Sole Source professional services contract with Montgomery Associates: Resources Solutions, LLC for the design of a parking lot development within the former Allis-Chalmers Utility Corridor Storm Water Project in an amount not to exceed \$25,000.

Introduced: 8/27/2003

Controlling Body: Administration & Finance Committee

COMMITTEE RECOMMENDATION

Adopt

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>9-2-03</u>	<u>L</u>	<u>K</u>	Barczak	<input checked="" type="checkbox"/>			
			Czaplewski	<input checked="" type="checkbox"/>			
		<input checked="" type="checkbox"/>	Kopplin	<input checked="" type="checkbox"/>			
			Lajsic	<input checked="" type="checkbox"/>			
			Narloek				
			Reinke	<input checked="" type="checkbox"/>			
			Sengstock				
			Trudell				
			Vitale				
			Weigel				
		TOTAL		<u>5</u>	<u>0</u>		

SIGNATURE OF COMMITTEE MEMBER (RECORDER)

[Handwritten Signature]
Chair

Vice-Chair

Member

COMMON COUNCIL ACTION

adopted

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>9-2-03</u>	<input checked="" type="checkbox"/>		Barczak	<input checked="" type="checkbox"/>			
			Czaplewski	<input checked="" type="checkbox"/>			
			Kopplin	<input checked="" type="checkbox"/>			
			Lajsic	<input checked="" type="checkbox"/>			
			Narloek	<input checked="" type="checkbox"/>			
		<input checked="" type="checkbox"/>	Reinke	<input checked="" type="checkbox"/>			
			Sengstock	<input checked="" type="checkbox"/>			
			Trudell	<input checked="" type="checkbox"/>			
			Vitale	<input checked="" type="checkbox"/>			
			Weigel	<input checked="" type="checkbox"/>			
		TOTAL		<u>10</u>	<u>0</u>		

COMMITTEES OF THE WEST ALLIS COMMON COUNCIL
2003

ADMINISTRATION AND FINANCE

Chair: Alderperson Czaplewski
V.C.: Alderperson Kopplin
Alderpersons: Barczak
Lajsic
Reinke

ADVISORY

Chair: Alderperson Reinke
V.C.: Alderperson Vitale
Alderpersons: Kopplin
Lajsic
Narlock

LICENSE AND HEALTH

Chair: Alderperson Barczak
V.C.: Alderperson Sengstock
Alderpersons: Kopplin
Trudell
Vitale

SAFETY AND DEVELOPMENT

Chair: Alderperson Lajsic
V.C.: Alderperson Weigel
Alderpersons: Czaplewski
Narlock
Reinke

PUBLIC WORKS

Chair: Alderperson Narlock
V.C.: Alderperson Trudell
Alderpersons: Sengstock
Weigel
Vitale

*C. Dev.
Chris Phinney*



City of West Allis

7525 W. Greenfield Ave.
West Allis, WI 53214

Resolution

File Number: R-2003-0257

Final Action:

9-2-03

Resolution approving a Sole Source professional services contract with Montgomery Associates: Resources Solutions, LLC for the design of a parking lot development within the former Allis-Chalmers Utility Corridor Storm Water Project in an amount not to exceed \$25,000.

WHEREAS, the Common Council has approved an application to participate in the Wisconsin Department of Commerce Brownfield Grant Program for the purpose of redeveloping property within the 6700 block of W. Washington Street, West Allis; and the Wisconsin Department of Commerce approved that grant in the amount of Three Hundred Fifty Thousand Dollars (\$350,000); and

WHEREAS, the Common Council has approved a loan to Whitnall Summit Company funded from this program in the amount of Three Hundred Thousand Dollars (\$300,000), under the Wisconsin Department of Commerce Brownfield Grant Program, for the purpose of redeveloping the property at 6737 W. Washington Street, West Allis, thereby leaving an available balance of \$50,000; and,

WHEREAS, the Common Council has also approved Resolution No. 27093 which provides for participation in the Wisconsin Non-point Source Water Pollution Abatement Program Grant Award for Municipalities for the Menomonee River Priority Watershed Project for a storm water quality improvement project as defined in that certain agreement entitled, Purchase and Development Agreement for the Utility Corridor Storm Water Project, by and between the City of West Allis and the A-C Reorganization Trust; and,

WHEREAS, the Storm Water Project will be completed by the City, in cooperation with the A-C Reorganization Trust (the "ACRT"), on property currently owned by the ACRT, said property to be transferred to the City when the Storm Water Project is completed; and,

WHEREAS, the balance of the property not utilized for a Storm Water Project is available for reuse and the anticipated reuse is currently planned for a parking lot which must be designed to establish the estimated cost and potential configuration of this planned parking lot; and

WHEREAS, the ACRT has retained Montgomery Associates: Resources Solutions, LLC for the design of the Utility Corridor Storm Water Project and, therefore, this firm currently has unique and extensive knowledge of the project and potentially available land and can, therefore, provide the most expeditious and cost-effective professional engineering services for the design of the parking lot; and,

WHEREAS, it is necessary to continue to pursue the redevelopment of the balance of the property in cooperation with the ACRT, on property currently owned by the ACRT; and

WHEREAS, it is, therefore, necessary to enter into a sole source professional services contract with Montgomery Associates: Resources Solutions, LLC for the design of a parking lot development within the former Allis-Chalmers Utility Corridor Storm Water Project.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis as follows:

1. That the proposal, hereby attached and made a part hereof, is hereby approved.
2. That the City Attorney be and is hereby authorized to make such non-substantive changes, modifications, additions and deletions to and from the various provisions of the contract, including any and all attachments, exhibits, addendums and amendments, as may be necessary and proper to correct inconsistencies, eliminate ambiguity and otherwise clarify and supplement said provisions to preserve and maintain the general intent thereof, and to prepare and deliver such other and further documents as may be reasonably necessary to complete the transactions contemplated therein.

BE IT FURTHER RESOLVED that the Director of Development is authorized, on behalf of the City, to execute the aforesaid contract documents.

BE IT FURTHER RESOLVED that the sum of Twenty-Five Thousand Five Hundred and no/100 Dollars (\$25,000) be and is hereby appropriated from the Wisconsin Department of Commerce Brownfield Grant Program to pay the liability that will accrue to the City under the contract.

cc: Department of Development
Chris Phinney, Grant Accounts Specialist

Dev-R308\jmg\9-2-03

ADOPTED September 2, 2003
Paul M. Ziehler
Paul M. Ziehler, CAO, Clerk/Treasurer

APPROVED September 5, 2003
Jeannette Bell
Jeannette Bell, Mayor

CITY OF WEST ALLIS
DEPARTMENT OF DEVELOPMENT
AGREEMENT FOR
PROFESSIONAL SERVICES

THIS AGREEMENT is entered into by and between the CITY OF WEST ALLIS, DEPARTMENT OF DEVELOPMENT, Wisconsin, a municipal corporation (the "Department") and MONTGOMERY ASSOCIATES: RESOURCE SOLUTIONS, LLC (the "Consultant").

WITNESSETH:

WHEREAS, the Department has solicited proposals from qualified persons to furnish professional services for the additional parking area for the AC Trust Utility Corridor Water Quality Basin (the "Project"); and,


WHEREAS, Consultant has submitted a proposal to provide such services; and,

WHEREAS, the Authority has authorized the Department to enter into this Agreement with Consultant for such services and has authorized the expenditure of funds, not to exceed Twenty-five Thousand Dollars (\$25,000), to pay the liability that will accrue to the Department under this Agreement.

NOW, THEREFORE, in consideration of these premises the parties hereby mutually agree as set forth in the following pages, exhibits and schedules which are annexed hereto and made a part hereof.

IN WITNESS WHEREOF, the Department and the Consultant have executed this Agreement together with the attachments, which are made a part hereof.

CONSULTANT
MONTGOMERY ASSOCIATES:
RESOURCE SOLUTIONS, LLC

By: 

Title: Principal

Date: 15 Sept 2003

CITY OF WEST ALLIS
DEPARTMENT OF DEVELOPMENT

By: 

Title: Director

Date: 9-8-03

ATTACHMENTS:
GENERAL CONDITIONS OF AGREEMENT
SCOPE OF SERVICES
CONSULTANT'S HOURLY RATES
INSURANCE REQUIREMENTS
WORK ORDER

CITY OF WEST ALLIS
DEPARTMENT OF DEVELOPMENT
GENERAL CONDITIONS OF AGREEMENT FOR
PROFESSIONAL SERVICES

CONSULTANT: MONTGOMERY ASSOCIATES: RESOURCE SOLUTIONS, LLC

PROJECT: Parking Alternative for AC Trust Utility Corridor Water Quality Basin

1.01 BASIC SERVICES

A. Basic Services of CONSULTANT to be provided under this AGREEMENT are listed in the Scope of Services, attached hereto and made a part of this Agreement by reference.

B. Payment for Basic Services shall be made in accordance with Section 3 of this Agreement.

2.01 SERVICES REQUIRING AUTHORIZATION IN ADVANCE

A. Those services listed in the Scope of Services but not identified in Section 1 of this AGREEMENT may be requested by the DEPARTMENT to complete the work, are considered additional services. The DEPARTMENT may request CONSULTANT at a future date to perform any or all of these services by a written authorization to proceed with the Additional Service(s). The written authorization to proceed shall become an Amendment to the Agreement.

B. Payment for the Additional Service(s) shall be in accordance with Section 3 of this AGREEMENT.

3.01 BASIC SERVICES

A. DEPARTMENT shall pay CONSULTANT for Basic Services rendered under Section 1 on the basis of CONSULTANT'S Hourly Rate, plus Reimbursable Expenses and Services of Professional Associates and other Consultants as defined in this Section 3.

B. CONSULTANT estimates that the total cost required to perform Basic Services as enumerated in Section 1 will not exceed Twenty-five Thousand Dollars (\$25,000.00).

Given the assumptions which must be made, the DEPARTMENT recognizes that the CONSULTANT cannot guarantee the complete accuracy of its estimate of total cost, and, therefore waives any claim against CONSULTANT in this regard, except to the extent that any cost overrun can be attributable to fraudulent conduct, bad faith or inexcusable ignorance or incompetence.

3.02 ADDITIONAL SERVICES

DEPARTMENT shall pay CONSULTANT for Additional Services rendered under Section 2 as follows:

1. For Additional Services of CONSULTANT'S principals and employees engaged directly on the Project and rendered pursuant to Section 2, on the basis of CONSULTANT'S Hourly Rate.
2. For services and Reimbursable Expenses of independent Professional Associates and Consultants employed by CONSULTANT to render Additional services pursuant to Section 2, the amount billed to CONSULTANT therefore.

3.03 REIMBURSABLE EXPENSES

A. As used in this Agreement Reimbursable Expenses mean the actual expense incurred by CONSULTANT or its independent Professional Associates or Consultants, directly or indirectly in connection with the Project, such as expenses for: toll telephone calls and express mailings, reproduction of reports, drawings, specifications, bidding documents, laboratory tests and similar Project-related items in addition to those required under Section 1; and, if authorized in advance by the DEPARTMENT, overtime work requiring higher than regular rates.

B. The Reimbursable Expenses for Basic Services are as set forth in the Consultant's Hourly Rates attached hereto and made a part of this Agreement.

3.04 HOURLY RATES.

As used in this Agreement hourly rates used as a basis for payment mean salaries and wages (basic and incentive) paid to all CONSULTANT'S personnel engaged directly on the Project, including but not limited to other technical and business personnel as set forth in the Consultant's Hourly Rates.

3.05 TIME OF PAYMENT

A. CONSULTANT shall submit monthly statements on or before the twentieth of the month for Basic and Additional Services rendered and for Reimbursable Expenses incurred. The DEPARTMENT shall make prompt payment on or before the twentieth of the month following the date of the CONSULTANT monthly statement.

4.01 COMMENCEMENT OF WORK

A. CONSULTANT shall commence the work to be performed under this Agreement upon receipt of a written Work Order or verbal authorization to proceed from the DEPARTMENT. Each Work Order or verbal authorization shall define by task(s) the scope of services to be performed. Verbal authorizations shall be followed up with written Work Orders.

B. Additional services shall be commenced at within the time agreed to between the CONSULTANT and the DEPARTMENT at the time such services are authorized.

C. The DEPARTMENT shall not be liable to CONSULTANT and/or any of its independent Professional Associates and Consultants and/or subcontractors for claims or damages or monetary claims of any nature caused by or arising out of delays from any cause whatsoever, including but not limited to any time which may be specified for the notice to proceed under this Agreement. The sole remedy against the DEPARTMENT for delays shall be the allowance to claimant of additional time for completion of work, the amount thereof to be reasonable as determined by the DEPARTMENT.

4.02 COMPLETION OF WORK

A. CONSULTANT shall complete the work to be performed under this Agreement within the time specified in the Scope of Services, or if none is specified, then within a reasonable time for the type of work involved.

B. Additional services shall be completed within the time agreed to between the CONSULTANT and the DEPARTMENT at the time such services are authorized.

5.01 APPLICABLE LAW

This AGREEMENT shall be governed by the laws of the State of Wisconsin. The CONSULTANT shall at all times comply with all federal, state and local laws, ordinances and regulations in effect during the period of this AGREEMENT.

6.01 APPROVALS OR INSPECTIONS

None of the approvals or inspections performed by the DEPARTMENT shall be construed or implied to relieve the CONSULTANT from any duty or responsibility it has for its professional performance, unless the DEPARTMENT formally assumes such responsibility through a letter from the DEPARTMENT expressly stating that the responsibility has been assumed.

7.01 DISPUTE RESOLUTION

In the event a dispute arises under this agreement, which is not resolvable through informal means, the parties agree to submit the dispute to the following resolution mechanism prior to pursuing other available legal remedies. Upon receipt of a written request by either party to utilize this provision each party shall have five working days to notify the other as to the name and address of the person designated to hear the dispute for that party. Upon designation of the dispute resolution representatives, those persons shall have ten working days to appoint a mutually acceptable third person to hear the dispute, and to agree on a time and location to hear the matter in dispute. The representatives shall jointly determine the procedure to be used for gathering information and hearing the dispute. Binding mediation or arbitration shall not be chosen as a dispute resolution method.

8.01 ASSIGNMENT

Neither this AGREEMENT nor any right or duty, in whole or in part, of the CONSULTANT under this AGREEMENT may be assigned, delegated or subcontracted without the written consent of the DEPARTMENT.

Nothing under this AGREEMENT shall be construed to give any rights or benefits in this AGREEMENT to anyone other than the DEPARTMENT and the CONSULTANT, and all duties and responsibilities undertaken pursuant to this AGREEMENT will be for the sole and exclusive benefit of the DEPARTMENT and the CONSULTANT and not for the benefit of any of any other party.

9.01 CANCELLATION; TERMINATION

A. The DEPARTMENT reserves the right to cancel this AGREEMENT in whole or in part, without penalty, due to non-appropriation of funds or for failure of the CONSULTANT to comply with terms, conditions, or specifications of this AGREEMENT.

B. The DEPARTMENT may terminate this AGREEMENT for any reason at any time upon not less than 10 days' written notice to the CONSULTANT.

C. In the event of termination the DEPARTMENT shall pay the CONSULTANT for that portion of the work satisfactorily performed prior to the date of termination.

D. If this AGREEMENT is cancelled or terminated by the DEPARTMENT for reasons other than the failure of the CONSULTANT to comply with terms, conditions or specifications of this AGREEMENT, the CONSULTANT shall also be entitled to reasonable cancellation or termination costs relating to costs incurred by the CONSULTANT for commitments, which had become firm prior to the cancellation or termination.

E. Upon cancellation or termination under PARAGRAPH A. or B., above, the CONSULTANT shall promptly discontinue all affected work (unless the notice of termination directs otherwise), and deliver or otherwise make available to the DEPARTMENT all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the CONSULTANT in performing this AGREEMENT, whether completed or in progress.

F. If any undisputed invoice shall not be paid within the payment terms of this AGREEMENT, CONSULTANT shall have the right, after giving seven (7) days written notice, to suspend all Services on the project until all accounts have been paid. If any overdue invoice shall not be paid within forty-five (45) calendar days after the date of the invoice, CONSULTANT shall have the right to terminate this AGREEMENT.

10.01 DISCLOSURE

If a city official (as defined under section 3.02(1) of the Revised Municipal Code of the City of West Allis), a member of official's immediate family, or any organization in which a city official or a member of the official's immediate family owns or controls a ten percent (10%) interest, is a part to this AGREEMENT, and if this AGREEMENT involves payment of more than three thousand dollars (\$3,000) within a twelve (12) month period, this AGREEMENT is voidable by the City unless appropriate disclosure is made according to section 3.05 of the Revised Municipal Code, before signing the AGREEMENT. Disclosures shall be made to the Ethics Board of the City of West Allis, 7525 West Greenfield Avenue, West Allis, Wisconsin 53214 (Telephone 414-302-8200).

11.01 ENTIRE AGREEMENT; AMENDMENTS

This AGREEMENT, together with the specifications in the proposal and referenced parts and attachments, shall constitute the entire agreement between the parties and previous communications or agreements pertaining to the subject matter of this AGREEMENT are hereby superseded. Any contractual revisions including cost adjustments and time extensions may be made only by a written amendment to this AGREEMENT, signed by both parties prior to the ending date of this AGREEMENT.

12.01 FORCE MAJEURE

A. The CONSULTANT shall cause all of its work to be performed within the time limits set forth in this AGREEMENT or Work Orders unless performance is delayed by events that constitute a force majeure. For purposes of this AGREEMENT, a "force majeure" is an event which is not foreseeable, is beyond the control of the CONSULTANT and delays performance of any obligations required by this AGREEMENT, including, but not limited to, delays caused by the DEPARTMENT, delays in obtaining property access or delays in obtaining any necessary permit or license after a complete application is made.

B. The CONSULTANT shall notify the DEPARTMENT in writing no later than five (5) calendar days after the discovery of any event, which the CONSULTANT contends is a force majeure. Such notification shall describe the anticipated length of the delay, the cause or causes of the delay, the measures taken and to be taken by the CONSULTANT to minimize the delay, and the timetable by which these measures will be implemented. The CONSULTANT shall have the burden of demonstrating that the event is a force majeure. The DEPARTMENT shall promptly provide the CONSULTANT with a written decision as to whether and why the event does or does not constitute a force majeure after receiving notification from the CONSULTANT. If the CONSULTANT does not agree with the findings of the DEPARTMENT, then a conference with the DEPARTMENT'S Director will be arranged with the CONSULTANT to resolve the force majeure issue.

C. If the DEPARTMENT agrees that a delay is attributable to a force majeure, the time period for a performance under this AGREEMENT shall be extended for a reasonable time period attributable to the event constituting a force majeure.

13.01 INDEMNIFICATION; LIABILITY

A. The CONSULTANT agrees to defend, indemnify and hold harmless the DEPARTMENT and its agents, officers, directors, and employees from and against those claims, suits, damages, or losses incurred by DEPARTMENT, to the extent such claims, suits, damages or losses are caused by negligent acts or willful misconduct of CONSULTANT or its agents, officers, directors or employees. This agreement to indemnify, defend, and hold harmless shall not extend to any claims, suits, damages, or losses caused by the acts, omissions, or conduct of DEPARTMENT or any other person.

B. DEPARTMENT agrees to indemnify, defend and hold harmless CONSULTANT and its subcontractors, consultants, agents, directors, and employees from and against all claims, suits, damages, and losses, including, but not limited to, those claims, suits, damages, or losses caused or arising out of, relating to, or based upon the acts, omissions, or other conduct of DEPARTMENT.

14.01 INDEPENDENT CONTRACTOR

The DEPARTMENT agrees that the CONSULTANT shall have sole control of the method, hours worked, and time and manner of any performance under this AGREEMENT other than as specifically provided herein. The DEPARTMENT reserves the right only to inspect the job site or premises for the purpose of insuring that the performance is progressing or has been completed in compliance with the AGREEMENT. The DEPARTMENT takes no responsibility for supervision or direction of the performance of the AGREEMENT to be performed by the CONSULTANT or the CONSULTANT'S employees or agents. The DEPARTMENT further agrees that it will exercise no control over the selection and dismissal of the CONSULTANT'S employees or agents.

15.01 REPORT AND DOCUMENTATION REQUIREMENTS

A. The CONSULTANT'S invoices will be reduced by the sums set forth below for each week that the CONSULTANT fails to submit a report or document required under this AGREEMENT'S time schedule unless the DEPARTMENT determines that such delay is attributable to a force majeure as defined in SECTION 8., above. These reductions shall accrue in the amount of 5% of the Work Order for the first week and 10% of the Work Order for each week thereafter, for each report or document, which is overdue.

B. Assessment of reductions under this SECTION does not preclude the DEPARTMENT from pursuing any other remedies or sanctions because of the CONSULTANT'S failure to comply with any of the terms of this AGREEMENT, including a suit to enforce the terms of this AGREEMENT.

C. With respect to any individual failure to submit a report or document required under this AGREEMENT'S time schedule, the DEPARTMENT may at its sole discretion, in whole or in part, waive its right to penalties otherwise due under this SECTION.

16.01 NO WAIVER OF CONDITIONS

The failure of either party to insist on strict performance of this AGREEMENT does not constitute a waiver of any of the provisions of this AGREEMENT or a waiver of any default of the other party.

17.01 OWNERSHIP OF DOCUMENTS

A. Upon completion of the services provided for in this AGREEMENT, or upon payment for services as provided for in SECTION 5., all reports, specifications, charts, sketches, drawings and other documents, whether finished or not, shall become the property of the DEPARTMENT.

B. CONSULTANT shall retain one copy of all documents for its file. Any documents generated by CONSULTANT used by the DEPARTMENT beyond the intended purpose shall be at the sole risk of the DEPARTMENT, unless otherwise agreed upon by CONSULTANT in writing. To the fullest extent permitted by law, DEPARTMENT shall indemnify, defend and hold harmless CONSULTANT, its subcontractors, consultants, officers, directors, employees and agents, for any loss or damages arising out of the unauthorized use of such documents by the DEPARTMENT.

18.01. PERIOD OF AGREEMENT

This AGREEMENT shall commence upon its signing by both parties and shall follow the schedule developed herein, during which period all performance as described in this AGREEMENT shall be fully completed to the satisfaction of the DEPARTMENT.

19.01 RELEASE OF INFORMATION

The CONSULTANT may not issue press releases or provide information to any third party regarding the Project without the prior written approval of the DEPARTMENT, except as required by Federal or State regulations, or court order.

20.01 SAFETY

The CONSULTANT shall initiate, maintain and provide supervision of safety precautions and programs for CONSULTANT'S own employees, and shall require its subcontractors or subconsultants to comply with state and local safety laws and regulations in connection with its services. However, the CONSULTANT is not responsible for the elimination or abatement of safety hazards created or otherwise resulting from work at the project site carried on by other persons or firms directly employed by the DEPARTMENT as separate consultants or contractors.

The DEPARTMENT agrees to require any such separate consultants or contractors to comply with federal, state and local safety laws and regulations and to comply with all reasonable requests and directions of the CONSULTANT for the elimination or abatement of any safety hazards at the project site.

21.01 SITE ACCESS; DATA

A. Unless the Scope of Work provides otherwise, the DEPARTMENT shall obtain or provide reasonable access for the CONSULTANT to the project site when necessary and at any reasonable time requested.

B. The DEPARTMENT shall attempt to provide the CONSULTANT with all relevant data and information in its possession regarding the project site. However, in providing such data and information, the DEPARTMENT or the CONSULTANT assumes no responsibility for its accuracy, reliability or completeness.

22.01 STANDARD OF PERFORMANCE

The CONSULTANT'S services shall be performed with the usual thoroughness, skill and competence of the consulting profession, in accordance with the standard for professional services prevailing at the time those services are rendered.

23.01 SURVIVAL

These General Terms and Conditions shall survive the completion of the services under this AGREEMENT and the termination of this AGREEMENT for any cause.

24.01 SUCCESSORS AND ASSIGNS

The DEPARTMENT and the CONSULTANT each bind themselves, their partners, successors, assigns and legal representatives to the other party to this AGREEMENT and to the partners, successors, assigns and legal representatives of the other party with respect to all covenants of this AGREEMENT.

25.01 TITLES

The headings or titles of SECTIONS of this AGREEMENT are used for convenience and ease of reference and are not intended to limit the scope or intent of the SECTIONS.

26.01 ACCESS TO RECORDS

A. The CONSULTANT and subcontractors to the CONSULTANT if any, agree to maintain for inspection by the DEPARTMENT all books, documents, papers, accounting records and other evidence pertaining to all costs incurred under this AGREEMENT and to make such materials available at their respective offices at all reasonable times during the life of the

AGREEMENT and for three (3) years from the date of final payment under the AGREEMENT, and to furnish copies thereof if requested.

B. If more than a nominal number of copies are requested, the additional copies shall be furnished at the expense of the DEPARTMENT.

27.01 ERRORS AND OMISSIONS

The CONSULTANT shall be responsible for the accuracy of the work performed by the CONSULTANT under the AGREEMENT, and shall promptly make necessary revisions or corrections resulting from its negligent acts, errors or omissions without additional compensation.

28.01 CONFLICT OF INTEREST

A. The CONSULTANT warrants it has no public or private interest, and shall not knowingly acquire directly or indirectly any such interest, which would conflict in any manner with the performance of the work under the AGREEMENT.

B. The CONSULTANT shall not employ any person employed by the DEPARTMENT for any work included under the provisions of the AGREEMENT.

June 27, 2003

Mr. John Stibal
City of West Allis
7525 West Greenfield Ave.
West Allis, Wisconsin 53214-4688

Re: Proposal for Professional Services

VIA: HAND DELIVERY

Dear John:

Thanks for the opportunity to provide you with a proposal for developing plans and specifications for a parking alternative for the AC Trust Utility Corridor Water Quality Basin. This letter describes the proposed scope of work, fees, and schedule for the project. The services described in this proposal will be performed according to the terms and conditions of the attached Services Agreement.

INTRODUCTION

This proposal provides a brief description of the anticipated activities and fees associated with including additional parking area into the ACRT utility corridor stormwater basin design. As we have discussed, the ACRT design team is prepared to incorporate additional parking into the Basin Project, so long as it does not compromise the ability to obtain DNR funding for the project, and that the City of West Allis provide 100% of the design and construction costs associated with the additional parking. The most straightforward way to identify these costs is to have a separate design fee identified for the parking design work, and to bid the additional parking as an additive alternate to the Basin project.

Please note that we will develop the parking layout to meet the best interests of the City, but that it may also impact the ACRT, especially with respect to the placement of parking over the stabilized sediment in the southeast portion of the basin, and in encroachment of the basin that could be viewed by DNR as an access / maintenance limitation. We will need to recognize that maintenance of adequate remediation performance and continued eligibility for DNR stormwater funding will be driving criteria in the parking design.

PROPOSED SCOPE OF WORK

We anticipate that additional parking will be provided using concrete block retaining wall sections on two or three sides of the stormwater basin, most likely the South and West sides of the Basin. Design issues that will be of particular importance will include:

- Maintenance of the required basin storage volume for water quality and extreme flood storage;

- Careful attention to the consolidation specifications for the stabilized sediment to be placed in the southeastern portion of the basin, which may possibly include adjustments to the sediment stabilization design;
- Careful discussions with the parking area design group, to make sure that the most efficient use of space is obtained; and
- Maintenance of adequate access for safety and long-term basin maintenance.

The anticipated scope of work will include the following:

1. Initial design, expected to include two or three iterations in parking area layout, including hydrologic and hydraulic model analyses, evaluation of sediment stabilization specifications, two meetings with the City and other interested parties, and preliminary layout of storm sewers for the paved areas;
2. Creation of additional specifications sections for concrete block retaining walls, compacted backfill associated with the retaining walls, specifications for compacted fill to be placed above stabilized sediment, railings, safety features, and parking barriers;
3. The additional drawings are expected to include parking area plans, fill and retaining wall cross sections, and associated details;
4. Bid administration activities will include additional questions, review of retaining walls system designs for general acceptability, and review of submitted bids and tabulation of the responses to the additive addendum to the main project;
5. Construction contract administration items will include review of specific shop drawings of those regarding the retaining wall sections and any other system specifications used in the project; and
6. Construction-time activities will include inspection of retaining wall construction for specified soil compaction, material placement, and alignment, inspection of paving materials, and inspection of associated railings and fencing.

FEEs, ASSUMPTIONS AND CONDITIONS

We anticipate that fees for the activities described above will range from \$18,000 to \$25,000. The main reason for the variability in the estimated fee is that the layout of the parking area has not yet been determined, and therefore the potential impacts on the stabilized sediment placement area cannot be evaluated. When the initial design is complete, we will be able to provide a better estimate of the fees required for completion of the parking area work.

CONTRACT AND SCHEDULE

Work by MARS on this project will be conducted according to the terms and conditions described in the attached Services Agreement. Actual fees billed will be based on the level of effort required, at an hourly billing rate of \$100 per hour for Principal and \$65 per hour for Principal. Reimbursable expenses will be billed at cost plus 10%. Subcontracted professional services, if any, will be billed at cost. The estimated fee listed above will not be exceeded without prior discussion and authorization.

We would be happy to discuss any aspect of implementation of this work. We have considered how parking could be incorporated in the project on a preliminary basis, but need the direction on how and whether to proceed with this work. As always, we're willing to meet to discuss the project, and how to proceed.

Receipt of a signed copy of the Services Agreement will be authorization for MARS to proceed with the work described in this proposal.

Thanks for the opportunity to provide this proposal. Please contact me at 608-839-4422 with any questions.

Montgomery Associates: *Resource Solutions, LLC*



Robert J Montgomery, PE
Principal

~~Enclosure: Services Agreement (2 copies - please return one signed copy)~~

Copy: Ned Witte

FEE SCHEDULE**MONTGOMERY ASSOCIATES: RESOURCE SOLUTIONS, LLC**

**For work on
Analysis and Design of Added Parking for AC Trust Stormwater Basin Site**

Professional Services

Principal:	\$95/ hour
Senior engineer:	\$85/ hour
Staff Engineer:	\$65 / hour
Technician:	\$55/ hour
Support staff	\$40 / hour

Reimbursable Expenses

Vehicle use:	\$0.36 / mile
All other reimbursable expenses:	Cost + 10%

Invoicing

Monthly invoicing, with detail provided on professional services fees

Backup for subcontracted services fees provided with invoice; subconsultant services billed at cost plus 5%

Backup for reimbursable expenses provided if charges exceed \$500.

Scope, payment and contract terms as defined in the proposal and Professional Services Agreement

Address for all correspondence:

Montgomery Associates: Resource Solutions, LLC
119 South Main Street, Suite B
Cottage Grove, WI 53527

608-839-4422 telephone; 628-839-3322 fax

**DEPARTMENT OF DEVELOPMENT
OF THE CITY OF WEST ALLIS**

INSURANCE REQUIREMENTS FOR CONSULTANTS

A. INSURANCE REQUIRED.

Consultants shall purchase and maintain for the duration of the contract as required by the Authority or by Law, insurance indemnifying against claims, suits, personal injury, bodily injury to persons, or damage to property which arises from, or in connection with the performance of the work hereunder by the Consultant. Some contracts may require Completed Operations, Professional Liability or other insurance beyond the contract term.

Any deductibles or self-insured retentions shall be identified to the Authority; those which exceed \$10,000 must be declared to and approved by the Authority. Authority may require a review of the latest audited financial statements of the Consultant. At the option of the Authority, neither the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Authority or the City of West Allis, their officers, employees, agents and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defenses expenses.

All required insurance under this Contract is to be placed with insurers with a Best's rating of no less than A-VII. Said carriers to be admitted status with the State of Wisconsin, unless otherwise approved in advance by the Authority. Authority reserves the right to approve non-admitted carriers with a Best's rating of no less than AX.

Work shall not be commenced under the Contract until all insurance required under this paragraph has been obtained and evidence thereof in the form of certificates, with original endorsements effecting coverage, are filed with and approved by the Authority. The Authority reserves the right to require complete, certified copies of all required insurance policies at any time.

The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms approved by the Authority. For Workers' Compensation-related risks, only forms approved by the Insurance Commissioner are to be used.

Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages shall be subject to all of the insurance requirements that are applicable to the Consultant. No subcontractor shall be permitted to commence work until all required coverages have been obtained and certificates and endorsements thereof are filed with the Authority.

If any part of a loss is not covered because of the application of a deductible or retention, said loss shall be born by the general Consultant and not the Authority. Failure to maintain the required insurance may result in termination of this Contract at the option of the Authority.

B. GENERAL ENDORSEMENTS.

The protection afforded by the required insurance policies under this Contract shall include, but shall not be limited to, the following:

1. Occurrence Based Policies. All required Liability insurance under this Contract shall be written on an "occurrence" form, except separately approved Professional Liability Policies.
2. Representation of Coverage Adequacy. By requiring insurance for this Contract, the Authority does not represent or warrant that coverage and limits will be adequate to protect the Consultant, subcontractor, their agents or any project engineer.
3. Cross-Liability Coverage. If the Consultant's liability policies do not contain the standard ISO separation of insureds provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.
4. Cancellation. The policy shall not be suspended, voided, canceled, reduced in coverage or in limits except after at least thirty (30) days prior written notice has been given to the Authority.
5. Additional Insureds. The Authority and the City of West Allis, their officers (elected and appointed), employees, agents and volunteers must be named as additional insureds as their interests may appear on the Consultant's liability insurance policies which insures the Authority up to the required limits. Additional insured status shall be endorsed onto the respective insurance policy by the appropriate ISO Endorsement Form approved by the Authority and executed by duly authorized agents of said carrier.
6. Primary Insurance. Consultant's insurance shall provide primary insurance to the Authority, to the exclusion of any other insurance or self-insurance programs the Authority may carry. Any insurance or self-insurance maintained by the Authority shall be excess of the Consultant's insurance and shall not contribute to it.
7. Waiver of Subrogation. Consultant waives all rights against the Authority and the City of West Allis, their officers, employees, agents and volunteers for recovery of damages to the extent these damages are covered by the insurance the Consultant is required to carry pursuant to this Contract.

8. Reporting. Failure to comply with any insurance policy reporting provisions shall not affect coverage provided to the Authority.
9. Cross Liability. The required insurance coverages shall apply separately to each insured against whom claim is made or suit brought, except with respect to the limits of the insurer's liability.
10. Indemnification. The policies shall contain an acknowledgement by the underwriters that the Consultant shall indemnify and save harmless the Authority and the City of West Allis against any and all claims resulting from the wrongful or negligent acts or omissions of the Consultant or other parties acting on its behalf under the Contract; and that the hold harmless assumption on the part of the Consultant shall include all reasonable costs necessary to defend a lawsuit including actual reasonable attorney fees.

C. **MINIMUM LIMITS AND OTHER PROVISIONS.**

1. WORKER'S COMPENSATION INSURANCE.

Workers Compensation Insurance:

Wisconsin statutory limits for all employees of the bidder to whom the award is made.

All subcontractors and materialmen shall furnish to the Consultant and the Authority certificates of similar insurance for all of their respective employees, unless such employees are covered by the protection afforded by the Consultant.

2. GENERAL LIABILITY INSURANCE.

a. Coverage. Coverages must include, but are not limited to the following:

"Occurrence" Coverage Form must be as broad as 1988 "Commercial General Liability" (form CG 00 01) and include the following:

Premises and Operations

Products and Completed Operations, applicable for at least one year following acceptance of the work

Personal Injury with Employment Exclusion deleted

Unlicensed Mobile Equipment

Explosion, Collapse and Underground Hazard Coverages

Blanket Contractual (Independent Consultant's Protective)

Broad Form Property Damage

Contingent Coverage for Subcontractors

Care, Custody and Control Coverages for City Owned or Purchased
Materials at the Work Site

b. **Minimum Limits of Liability:**

Per Occurrence Limit: \$1,000,000

Policy Aggregate: \$2,000,000

Personal Injury Limit: \$1,000,000

Fire Damage Limit: \$ 50,000

Medical Expense Limit: \$ 5,000

3. **BUSINESS AUTOMOBILE LIABILITY INSURANCE.**

a. Coverage. Coverage must be as broad as CA 00 01 Ed. 1992) -
Occurrence Form Code No. 1, "any auto".

Comprehensive Coverage for all Owned, Non-Owned or Hired Motor
Vehicles driven by the employees of the Consultant or Subcontractors,
including vehicles and equipment owned by the Authority if used
exclusively for the project.

Uninsured or Underinsured Motorists Liability Coverage at full policy
limits.

Transportation by insured vehicles of pollutants, or toxic wastes (as
determined by the EPA) shall require a minimum of the Pollution Liability
Endorsement (CA9948) and/or the Motor Carrier Act Endorsement
(MCA90) to address damages and clean-up costs.

b. **Minimum Limits of Liability:**

Minimum Limits are the same as specifications for General Liability
Insurance.

4. **PROFESSIONAL LIABILITY/ERRORS AND OMISSIONS COVERAGE**

a. Coverage. Standard form; coverage provided on a claims-made basis with at least one year extended reporting period; to include all liability assumed by the Consultant for the Project.

b. Minimum Limits of Liability:

Minimum \$1 Million (project specific).

H/Insurance Instr-Consultants
Revised

**CITY OF WEST ALLIS
DEPARTMENT OF DEVELOPMENT
WORK ORDER**

TO: **MONTGOMERY ASSOCIATES: RESOURCE SOLUTIONS, LLC**

DATE: **August 4, 2003**

PROJECT: **AC Trust Utility Corridor Water Quality Basin**

SUBJECT: **Additional Parking Area**

In accordance with the Agreement for Professional Services dated as of _____ (the "Agreement"), you are directed to proceed with work on the Project as outlined below:

Work: See attached Scope of Services dated June 27, 2003.

Estimate: \$ 25,000.00

Schedule: Work to commence immediately. To be completed as part of the Basic Services under the Agreement.


This Work Order, including any attachments, is incorporated into the Agreement. All work defined in this Work Order and payment therefor shall be performed in accordance with the terms and conditions of the Agreement, unless otherwise modified herein. Any modification(s) of this Work Order is subject to approval and acceptance pursuant to the Agreement.

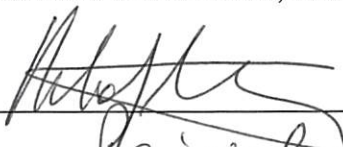
Issued:

Received and Approved:

DEPARTMENT OF DEVELOPMENT

MONTGOMERY ASSOCIATES:
RESOURCE SOLUTIONS, LLC

By: 

By: 

Title: Director

Title: Principal

Date: 9-8-03

Date: 15 Sept 2003

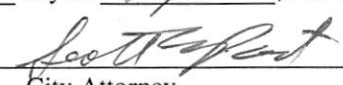
ATTACHMENTS:

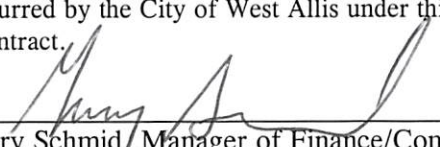
Scope of Services

COMPTROLLER'S CERTIFICATE

Countersigned this 8th day of Sept, 2003 and I certify that the necessary funds have been provided to pay the liability that may be incurred by the City of West Allis under this Contract.

Approved as to form this
8 day of Sept, 2003.


City Attorney


Gary Schmid / Manager of Finance/Comptroller

RESOLUTION NO. 27093

Resolution approving Purchase and Development Agreement for Utility Corridor Storm Water Project by and between the City of West Allis and the A-C Reorganization Trust and authorizing various activities in connection therewith

By Public Works and Safety and Development Committee

WHEREAS, the Common Council has approved an application to participate in the Wisconsin Non-point Source Water Pollution Abatement Program Grant Award for Municipalities for the Menomonee River Priority Watershed Project (the "State Grant"), for a storm water quality improvement project (the "Storm Water Project"), as defined in that certain agreement entitled Purchase and Development Agreement for the Utility Corridor Storm Water Project by and between the City of West Allis and the A-C Reorganization Trust; and,

WHEREAS, the Storm Water Project will be completed by the City, in cooperation with the A-C Reorganization Trust (the "ACRT"), on property currently owned by the ACRT, said property to be transferred to the City when the Storm Water Project is completed; and

WHEREAS, for purposes of the State Grant, it is necessary that the City and the ACRT enter into a Purchase and Development Agreement for the Utility Corridor Storm Water Project governing the relationship of the parties and the terms of their agreement with respect to the Storm Water Project; and,

WHEREAS, the Department of Development has recommended to the Common Council that the Purchase and Development Agreement for the Utility Corridor Storm Water Project be approved.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the Purchase and Development Agreement for the Utility Corridor Storm Water Project, a copy of which is attached hereto and incorporated herein by reference, be and is hereby approved and the Department of Development, by its Director, be and is hereby authorized and directed to execute and deliver the Purchase and Development Agreement for the Utility Corridor Storm Water Project on behalf of the City.

BE IT FURTHER RESOLVED that the cost of the Storm Water Project, which is eligible for funding under the State Grant, is currently estimated at One Million Ninety-Six Thousand Dollars (\$1,096,000). Pursuant to the State Grant, the WDNR will provide Five Hundred Eighteen Thousand Dollars (\$518,000) for the Storm Water Project's funding and, upon approval of this resolution, the ACRT will provide for all other costs of the Storm Water Project, currently estimated at approximately Five Hundred Seventy-Eight Thousand Dollars (\$578,000), as well as other expenses identified in the Purchase and Development Agreement for the Storm Water Project, in additional matching funds and other Project costs, including the costs to complete the environmental remediation of the property referred to as the VPLE Parcel and the costs to relocate the Whitnall Summit Substation, as such terms are defined in the Purchase and Development Agreement for the Utility Corridor Storm Water Project. The total present estimated cost of the Storm Water Project, the remediation of the VPLE Parcel and the

Reviewed by the City Attorney's Office
this 2 day of May, 2002
Scott G. [Signature]

relocation of the Whitnall Summit Substation is One Million Nine Hundred Forty-Three Thousand Dollars (\$1,943,000).

BE IT FURTHER RESOLVED that the Department of Development, by its Director or his designee, be and is hereby authorized and directed pursuant to the Purchase and Development Agreement for the Utility Corridor Storm Water Project to select and, in consultation with the ACRT, to enter into, on behalf of the City, a contract for professional engineering inspection services for the development and construction of the Storm Water Project and such other professional services as may be necessary (e.g. legal counsel and environmental consulting services), subject to ACRT's obligation to reimburse the City for the City's costs associated therewith, as set forth in greater detail in the Purchase and Development Agreement for the Utility Corridor Storm Water Project.

BE IT FURTHER RESOLVED that further approval shall be obtained by the Common Council prior to the City assuming title to the portion of the ACRT property known as the "PCB Acre".

BE IT FURTHER RESOLVED that the Director of Development be and is hereby authorized to make such technical changes and additions in the Purchase and Development Agreement for the Utility Corridor Storm Water Project and to execute and deliver such other documents and instruments as may be reasonably necessary and required to perfect and complete the transaction specifically contemplated therein; all such changes to be subject to the prior approval of the City Attorney.

ADOPTED: May 21, 2002

Paul H. Zeller
Acting City Clerk/Treasurer

APPROVED: May 24, 2002

Jeannette Bell
Mayor

cc: Dept. of Development
Dept. of Engineering
Dept. of Public works