

36



City of West Allis Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

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

R-2005-0099 Resolution In Committee

Resolution authorizing and directing the City Engineer to enter into a State/Municipal Agreement for a Transportation Enhancement Project with the Wisconsin Department of Transportation for the Engineering, Right-of-Way Acquisition and Construction Cost for the Cross Town Connector Bike and Pedestrian Trail.

Introduced: 3/15/2005

Controlling Body: Public Works Committee

COMMITTEE RECOMMENDATION ADOPT

| ACTION DATE: | MOVER | SECONDER | | AYE | NO | PRESENT | EXCUSED |
|----------------|-------|----------|------------|-----------|----------|---------|---------|
| <u>3-15-05</u> | | | Barczak | | | | |
| | | | Czaplewski | | | | |
| | | | Dobrowski | ✓ | | | |
| | | | Kopplin | ✓ | | | |
| | | | Lajsic | | | | |
| | | | Narlock | ✓ | | | |
| | | | Reinke | | | | |
| | | ✓ | | Sengstock | ✓ | | |
| | | | | Vitale | ✓ | | |
| | | | Weigel | | | | |
| | | | TOTAL | <u>5</u> | <u>-</u> | | |

SIGNATURE OF COMMITTEE MEMBER

Paul H. ... _____ _____
 Chair Vice-Chair Member

COMMON COUNCIL ACTION ADOPT

| ACTION DATE: | MOVER | SECONDER | | AYE | NO | PRESENT | EXCUSED |
|--------------------|-------|----------|------------|-----------|----------|---------|---------|
| <u>MAR 15 2005</u> | | | Barczak | ✓ | | | |
| | | | Czaplewski | ✓ | | | |
| | | | Dobrowski | ✓ | | | |
| | | | Kopplin | ✓ | | | |
| | | | Lajsic | ✓ | | | |
| | | ✓ | | Narlock | ✓ | | |
| | | | | Reinke | ✓ | | |
| | | | | Sengstock | ✓ | | |
| | | | ✓ | Vitale | ✓ | | |
| | | | Weigel | ✓ | | | |
| | | | TOTAL | <u>10</u> | <u>-</u> | | |



City of West Allis

7525 W. Greenfield Ave.
West Allis, WI 53214

Resolution

File Number: R-2005-0099

Final Action:

MAR 15 2005

Resolution authorizing and directing the City Engineer to enter into a State/Municipal Agreement for a Transportation Enhancement Project with the Wisconsin Department of Transportation for the Engineering, Right-of-Way Acquisition and Construction Cost for the Cross Town Connector Bike and Pedestrian Trail.

WHEREAS, bicycling and pedestrian modes of travel play an important role in moving people in Wisconsin's metropolitan areas and represent a key alternative means of transportation; and,

WHEREAS, the Milwaukee Metropolitan area moves into the 21 Century, it is likely that even more people will be utilizing alternative means of transportation such as bicycling and pedestrian travel for commuting, utilitarian, social, recreational or exercise purposes; and,

WHEREAS, the Development Department applied for and the Wisconsin Department Of Transportation has notified the City that this project has been selected for inclusion in the Statewide Multi-Modal Improvement Program; and,

WHEREAS, the project includes the reconstruction, right-of-way acquisition and development of 12,400 feet (2.3 miles) of WE Energies right-of-way as well as various on and off-street improvements to create an east-west bicycle and pedestrian trail that will extend 5 miles across the entire City and connect/intersect other existing state and county bikeways and trails. This project is most simply described as the implementation of Southeastern Wisconsin Regional Planning Commission's (SEWRPC) Regional Bicycle Plan: 2010. The Cross Town Connector Trail will pass by several schools, some of the City's largest employers, several City buildings and gathering places, and five of the City's eight Tax Incremental Districts. The trail will allow for a safer regional connection by linking the Glacial Drumlin State Trail, the Waukesha County New Berlin Recreational Trail, and Milwaukee County's Oak Leaf and Hank Aaron State Trails. This project will effectively link Waukesha County, and points west, to Milwaukee County and the Lakefront. This project will provide an attractive and safe alternative connection between Milwaukee and Waukesha Counties by serving as an excellent corridor for recreational use and those commuting to work, school, baseball games, and other events.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the City Engineer be and is hereby authorized and directed to enter into an agreement with the Wisconsin Department of Transportation for the Project (State ID 2995-07-00,50,70), a copy of the State/Municipal Agreement is attached hereto and by reference made a part hereof.

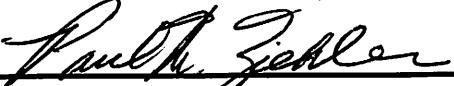
BE IT FURTHER RESOLVED that the total estimated project cost is \$737,125 of which up to \$589,700 was approved for funding by the Wisconsin Department of Transportation (80%

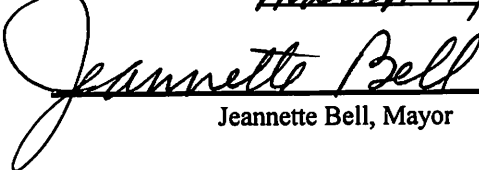
federal/state share with the remaining 20% local share to be funded by Tax Incremental Financing and/or Community Development Block Grant (CDBG) funds. Prior to the reimbursement period, the carrying costs will be funded by the City's Cash Reserves.)

BE IT FURTHER RESOLVED that the City Engineer will forward a certified copy of this Resolution, together with the executed Project Agreement, to the office of the Wisconsin Department of Transportation.

cc: Department of Development
Engineering Department

Dev-R-381\bjb\3-15-05

ADOPTED March 15, 2005

Paul M. Ziehler, City Admin. Officer, Clerk/Treas.

APPROVED March 17, 2005

Jeannette Bell, Mayor

RECEIVED

APR 13 2005

State of Wisconsin

CORRESPONDENCE/MEMORANDUM

CITY OF WEST ALLIS
ENGINEERING DEPT

PROJECT AGREEMENT ACCEPTANCE

DATE: March 31, 2005

SUBJECT: Project Agreement: 2995-07-00/50,70

West Allis cross-town connector bike and pedestrian trail
Western city limit at S.124th Street to eastern limit at S. 56th Street along portions of WE
Energies right of way and W. Lapham Street
City of West Allis, Milwaukee County

The Attached Agreement Is Recommended For Approval:

PROGRAM: Local Enhancement

CONCEPTS COVERED by this AGREEMENT: PE, Construct a bike/ped trail across the city,

Railroad crossing

ESTIMATED COST: \$737,125

PARTICIPATION: 80% STP to a limit of \$589,700; City is responsible for the remaining costs.

EXECUTED BY: City of West Allis

DATE: 3-17-05

LETTING DATE: 7/06

Notes: CY2004 (FYs2005-07)

Approved / ~~Not Approved~~



Director, Bureau of Transit and Local Roads

4/5/05

Date

MPF

Federal/State/Project Sponsor Transportation Enhancements (TE) Program Project Agreement

Project ID: 2995-07-00, 50, 70 **County:** Milwaukee **Municipality:** West Allis

Project Name: West Allis Cross-Town Connector Bike and Pedestrian Trail

Limits (if applicable): Western City limit at S. 124th St to eastern limit at S. 56th St along portions of WE Energies right of way and W Lapham St.

The signatory Project Sponsor, through its undersigned duly authorized officers or officials, and WisDOT enter into this agreement to accomplish the described project.

The authority for the Project Sponsor and WisDOT to enter into this agreement is provided by the Section 86.25 of the Wisconsin State Statutes.

The payment period for each project phase (e.g., design, real estate, construction) shall begin with written authorization by WisDOT to the Project Sponsor.

Needs and Estimate Summary: Approved for funding in the Local Enhancement Program

Description of the project: Design and construct a 5 mile Bike/Ped Trail across the City of West Allis.

| PHASE | ESTIMATED COST | | | | | |
|--------------------------------|--------------------|-------------------------|------------|--------------------|------------|--|
| | Total Est. Cost | Federal/ State Funds | % | Municipal Funds | % | |
| Preliminary Engineering: | \$ 109,225 | \$ 87,380 | 80% | \$ 21,845 | 20% | |
| Real Estate Acquisition: | N/A | | | | | |
| Railroad Crossing | \$ 50,000 | \$ 40,000 | 80% | \$ 10,000 | 20% | |
| Construction: | \$ 577,900 | \$ 462,320 | 80% | \$ 115,580 | 20% | |
| | | \$ - | | \$ - | | |
| Total Cost Distribution | \$ 737,125 | \$ 589,700 * | 80% | \$ 147,425 | 20% | |


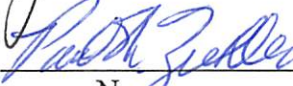
*Maximum Federal Share

This request is subject to the terms and conditions that follow (see pages 3-6) and is made by the undersigned under proper authority to make such request for the designated Project Sponsor and upon acceptance by WisDOT shall constitute agreement between the Project Sponsor, WisDOT and the Federal Government.

This project is subject to a DBE goal assessment of 27% of the construction cost or \$169,533. A Discretionary DBE goal is assigned to the Design cost.

The Catalogue of Federal Domestic Assistance (CFDA) number for this project is 20.205 – Highway Planning and Construction.

Signed for and in behalf of the Project Sponsor(s):

| | | |
|--|--------------------------------------|------------------|
|  | <i>City Engineer</i> | <i>3/16/2005</i> |
| Name <i>Michael Lewis</i> | Title | Date |
|  | <i>Mayor</i> | <i>3-17-05</i> |
| Name | Title | Date |
|  | <i>City Adm. Off. / Clerk Treas.</i> | <i>3/17/05</i> |
| Name | Title | Date |

Terms and Conditions:

1. The initiation and accomplishment of the improvement will be subject to the applicable State and Federal laws, rules, and regulations, as referenced in the document *A Sponsor's Guide to Non-Traditional Transportation Project Implementation*.
2. The construction of the enhancement will be in accordance with the appropriate standards unless an exception to standards is granted by the Federal Government or WisDOT prior to construction. The entire cost of the construction project, not constructed to standards, will be the responsibility of the project sponsor unless such exception is granted.
3. The project sponsor will assume all responsibility for complying with germane environmental requirements for the enhancement.
4. Where applicable, all contracts will be let by competitive bid and awarded to the lowest responsible bidder. All contracts for design related services shall be awarded and administered in accordance with the requirements of 23 CFR 172 and procedures published in the Wisconsin Department of Transportation Facilities Development Manual (FDM), Chapter 8, Consulting Services.
5. The work eligible for Federal and State participation will be administered by the Project Sponsor and/or WisDOT. The authority for the Federal Government and the State to delegate this responsibility is described in ISTEA of 1991, P.L. 102-240, as amended by the Transportation Equity Act for the 21st Century (TEA-21).
6. The Project Sponsor will assume all responsibility for complying with the applicable Disadvantaged Business Enterprise (DBE) goal assigned to this project. The DBE goal is waived if the Project Sponsor constructs the project with its own permanent staff and if the project is not subcontracted out.
7. The maximum participation of Federal financing will be limited to 80% of the actual eligible project cost or the Total Cost Distribution of Enhancements Funds, as shown on page 1 of this agreement, whichever is less.
8. The Project Sponsor will assume all responsibility for retaining a complete project file that includes not only construction documentation but also copies of letting documents, all local and WisDOT submittals and approvals contained in these instructions and other pertinent documents to support project procurement, development, implementation and cost and any other item required by 49 CFR part 18 and submitting such information, upon request, in order to receive reimbursement. The Project Sponsor will keep all project records and have them available for inspection by representatives of the Federal Government and WisDOT and will furnish copies thereof when requested.

9. **Federal Single Audits of the Project Sponsor:**
 - a) The Project Sponsor shall have a single organization audit performed by a qualified independent auditor if required to do so under Federal law and regulations. (See federal Office of Management and Budget (OMB) Circular No. A-133.)
 - b) This audit shall be performed in accordance with federal OMB Circular No. A-133 and State single audit guidelines issued by the Wisconsin Department of Administration (DOA).
 - c) The Project Sponsor will keep records of costs of construction, inspection tests and maintenance done by it to enable the federal government and the state to review the amount and nature of the expenditure for those purposes. Such accounting records and any other related records shall be retained for three years from the date of final payment. If any litigation, claim, or audits are started before the expiration of the three year period, the records shall be retained until all litigations, claims or audit findings involving the records have been resolved.
10. **State Disbursements:**
 - a) Payment by WisDOT to the Project Sponsor shall be made on a quarterly basis upon presentation of vouchers for expenditures incurred during prior quarterly periods of the project duration subject to the allowable maximum payment, as referenced above in Section 7.
 - b) A final adjustment of state payments will be made upon completion of WisDOT's audit of the project. If WisDOT's audit establishes that WisDOT paid more than its share of the eligible project costs, the Project sponsor shall refund to WisDOT upon demand a sum equal to the overpayment.
11. The Project Sponsor will maintain, at its own costs and expense, all portions of the project that lie within its jurisdiction.
12. In connection with the performance of work under this Project Agreement, the Project Sponsor agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as define in S. 51.01(5), sexual orientation or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Except with respect to sexual orientation, the Project Sponsor further agrees to take affirmative action to ensure equal employment opportunities. The Project Sponsor agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the employment officer setting forth the provisions of the nondiscrimination

clause.

13. **Responsibility for Damage and Tort Claims:** The Project Sponsor and the Project Sponsor's surety shall indemnify and save harmless the State, its officers and employees, from all suits, actions or claims of any character brought because of any injuries or damages received or sustained by any person, persons or property on account of the operations of the Project Sponsor; or on account of or in consequence of any neglect in safeguarding the work; or because of any act or omission, neglect or misconduct of the Project Sponsor; or because of any claims or amounts recovered for any infringement by the Project Sponsor of patent, trademark or copyright; or from any claims or amounts arising or recovered under the Worker's Compensation Act, relating to the Project Sponsor's employees; or any other law, ordinance, order or decree relating to the Project Sponsor's operations. So much of the money due the Project Sponsor under and by virtue of the contract as shall be considered necessary by the Department for such purposes, may be retained for the use of the State; or, in case no money or insufficient money is retained, the Project Sponsor's surety may be held until such suit or suits, action or actions, claim or claims for injuries or damages as aforesaid shall have been settled and suitable evidence to that effect furnished to the Department; except that money due the Project Sponsor will not be withheld when the Project Sponsor produces satisfactory evidence that the Project Sponsor is adequately protected by public liability and property damage insurance. The Project Sponsor also shall comply with all of the above requirements indemnifying and saving harmless the county, town, or municipality in which the improvement is made and each of them separately or jointly and officers and employees.

The State shall not be liable to the Project Sponsor for damages or delays resulting from work by third parties. The State also shall be exempt from liability to the Project Sponsor for damages or delays resulting from injunctions or other restraining orders obtained by third parties except where the damage or delay is a direct result of an injunction or restraining order obtained by a citizen's action alleging violations of 42 U.S.C. 4331 - 4332, 23 U.S.C. 138 or Public Law 91-646.

It shall be the Project Sponsor's responsibility to see that all of the contract operations incident to the completion of the contract are covered by public liability and property damage liability insurance so the general public or any representative of the contracting authority may have recourse against a responsible party for injuries or damages sustained as a result of the contract operations. This requirement shall apply with equal force, whether the work is performed by the Project Sponsor, by a subcontractor or by anyone directly or indirectly employed by either of them.

- a) The word, "surety" in the above paragraphs refers to the issuer of a payment and performance bond under section 779.14 Wis. Stats. (1997 - 98).

- b) Nothing in this section should be construed as a waiver of any statutory defenses that may be available to any governmental party.
14. No term or provision of the Project Agreement nor any of its attachments may be changed, waived or terminated orally but only by an instrument in writing signed by both parties to the Project Agreement.
 15. The project must be completed within three years from the acceptance date of the Project Agreement by WisDOT central office. Extensions are available upon approval of a written request by the Project Sponsor to WisDOT. The written request shall explain the reasons for project implementation delay and revised timeline for project completion.
 16. The Project Sponsor, also known as the primary participant, as that term is defined in 49 CFR Part 29, certifies to the best of its knowledge and belief, that it and its principals, as that term is defined in 49 CFR Part 29:
 - a) Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded by any State of Wisconsin or Federal department or agency;
 - b) Have not, within a three year period preceding this agreement, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or Local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated above;
 - d) Have not within a three-year period preceding this agreement had one or more public transactions (Federal, State or local) terminated for cause or default; and
 - e) That all grantees or contractors, also known as lower tier participant as that term is used in 49 CFR Part 29, have certified in writing that neither they or their principals are presently debarred, suspended, proposed for debarment have been declared ineligible, or have voluntarily been excluded from participation in this or any other Federal, state or local transaction by any Federal, State or local department, agency or official.

Revised by WisDOT: October 2004

2995-07-00, 50, 70

Federal/State/Project Sponsor Transportation Enhancements (TE) Program Project Agreement

Project ID: 2995-07-00, 50, 70 **County:** Milwaukee **Municipality:** West Allis

Project Name: West Allis Cross-Town Connector Bike and Pedestrian Trail

Limits (if applicable): Western City limit at S. 124th St to eastern limit at S. 56th St along portions of WE Energies right of way and W Lapham St.

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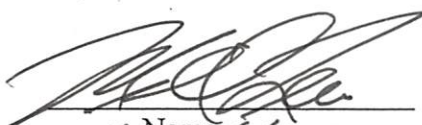
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The Catalogue of Federal Domestic Assistance (CFDA) number for this project is 20.205 – Highway Planning and Construction.

Signed for and in behalf of the Project Sponsor(s):

| | | |
|--|---|--------------------------|
|  Name Michael Lewis | <u>City Engineer</u> Title | <u>3/16/2005</u> Date |
| <u>Jeannette Bell</u> Name | <u>Mayor</u> Title | <u>3-17-05</u> Date |
| <u>Paul M. Zeller</u> Name | <u>City Adm. Off / Clerk T. Room</u> Title | <u>3/17/05</u> Date |

Terms and Conditions:

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10. **State Disbursements:**
 - a) Payment by WisDOT to the Project Sponsor shall be made on a quarterly basis upon presentation of vouchers for expenditures incurred during prior quarterly periods of the project duration subject to the allowable maximum payment, as referenced above in Section 7.
 - b) A final adjustment of state payments will be made upon completion of WisDOT's audit of the project. If WisDOT's audit establishes that WisDOT paid more than its share of the eligible project costs, the Project sponsor shall refund to WisDOT upon demand a sum equal to the overpayment.
11. The Project Sponsor will maintain, at its own costs and expense, all portions of the project that lie within its jurisdiction.
12. In connection with the performance of work under this Project Agreement, the Project Sponsor agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as define in S. 51.01(5), sexual orientation or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Except with respect to sexual orientation, the Project Sponsor further agrees to take affirmative action to ensure equal employment opportunities. The Project Sponsor agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the employment officer setting forth the provisions of the nondiscrimination

clause.

13. **Responsibility for Damage and Tort Claims:** The Project Sponsor and the Project Sponsor's surety shall indemnify and save harmless the State, its officers and employees, from all suits, actions or claims of any character brought because of any injuries or damages received or sustained by any person, persons or property on account of the operations of the Project Sponsor; or on account of or in consequence of any neglect in safeguarding the work; or because of any act or omission, neglect or misconduct of the Project Sponsor; or because of any claims or amounts recovered for any infringement by the Project Sponsor of patent, trademark or copyright; or from any claims or amounts arising or recovered under the Worker's Compensation Act, relating to the Project Sponsor's employees; or any other law, ordinance, order or decree relating to the Project Sponsor's operations. So much of the money due the Project Sponsor under and by virtue of the contract as shall be considered necessary by the Department for such purposes, may be retained for the use of the State; or, in case no money or insufficient money is retained, the Project Sponsor's surety may be held until such suit or suits, action or actions, claim or claims for injuries or damages as aforesaid shall have been settled and suitable evidence to that effect furnished to the Department; except that money due the Project Sponsor will not be withheld when the Project Sponsor produces satisfactory evidence that the Project Sponsor is adequately protected by public liability and property damage insurance. The Project Sponsor also shall comply with all of the above requirements indemnifying and saving harmless the county, town, or municipality in which the improvement is made and each of them separately or jointly and officers and employees.

The State shall not be liable to the Project Sponsor for damages or delays resulting from work by third parties. The State also shall be exempt from liability to the Project Sponsor for damages or delays resulting from injunctions or other restraining orders obtained by third parties except where the damage or delay is a direct result of an injunction or restraining order obtained by a citizen's action alleging violations of 42 U.S.C. 4331 - 4332, 23 U.S.C. 138 or Public Law 91-646.

It shall be the Project Sponsor's responsibility to see that all of the contract operations incident to the completion of the contract are covered by public liability and property damage liability insurance so the general public or any representative of the contracting authority may have recourse against a responsible party for injuries or damages sustained as a result of the contract operations This requirement shall apply with equal force, whether the work is performed by the Project Sponsor, by a subcontractor or by anyone directly or indirectly employed by either of them.

- a) The word, "surety" in the above paragraphs refers to the issuer of a payment and performance bond under section 779.14 Wis. Stats. (1997 - 98).

- b) Nothing in this section should be construed as a waiver of any statutory defenses that may be available to any governmental party.
14. No term or provision of the Project Agreement nor any of its attachments may be changed, waived or terminated orally but only by an instrument in writing signed by both parties to the Project Agreement.
 15. The project must be completed within three years from the acceptance date of the Project Agreement by WisDOT central office. Extensions are available upon approval of a written request by the Project Sponsor to WisDOT. The written request shall explain the reasons for project implementation delay and revised timeline for project completion.
 16. The Project Sponsor, also known as the primary participant, as that term is defined in 49 CFR Part 29, certifies to the best of its knowledge and belief, that it and its principals, as that term is defined in 49 CFR Part 29:
 - a) Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded by any State of Wisconsin or Federal department or agency;
 - b) Have not, within a three year period preceding this agreement, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or Local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated above;
 - d) Have not within a three-year period preceding this agreement had one or more public transactions (Federal, State or local) terminated for cause or default; and
 - e) That all grantees or contractors, also known as lower tier participant as that term is used in 49 CFR Part 29, have certified in writing that neither they or their principals are presently debarred, suspended, proposed for debarment have been declared ineligible, or have voluntarily been excluded from participation in this or any other Federal, state or local transaction by any Federal, State or local department, agency or official.

Revised by WisDOT: October 2004

2995-07-00, 50, 70