



City of Milwaukee

City Hall
200 East Wells Street
Milwaukee, WI 53202

Meeting Agenda PUBLIC WORKS COMMITTEE

ALD. ROBERT BAUMAN, CHAIR

Ald. Joseph Dudzik, Vice-Chair

Ald. Willie Wade, Ald. Robert Donovan, and Ald. Robert Puente

Staff Assistant, Tobie Black, 286-2231

Fax: 286-3456, tblack@milwaukee.gov

**Legislative Liaison, Aaron Cadle, 286-8666,
acadle@milwaukee.gov**

Wednesday, July 14, 2010

9:00 AM

Room 301-B, City Hall

1. [100310](#) Resolution relative to approving the levying of assessments and construction of assessable public improvement projects at various locations and appropriating funds for these purposes.
Sponsors: THE CHAIR
2. [100309](#) Substitute resolution determining it necessary to make various assessable public improvements at various locations and appropriating funds for these purposes with the City engineering cost estimated to be \$124,000 for a total estimated cost of these projects being \$1,391,000.
Sponsors: THE CHAIR
3. [100311](#) Substitute resolution determining it necessary to make various nonassessable public improvements at various locations and appropriating funds for these purposes with the City engineering cost estimated to be \$30,000 for a total estimated cost of these projects being \$464,500.
Sponsors: THE CHAIR
4. [100312](#) Substitute resolution approving construction of nonassessable public improvements at various locations and appropriating funds for these purposes with the City construction cost estimated to be \$6,020,000 for a total estimated cost of these projects being \$6,544,000.
Sponsors: THE CHAIR
5. [100355](#) An ordinance relating to watercraft speed limits in the outer harbor during special events.
Sponsors: Ald. Zielinski
6. [100261](#) Substitute resolution approving a lease with the Board of Business Improvement District No. 2 for the Catalano Square property at 138 North Broadway, in the 4th Aldermanic District.
Sponsors: THE CHAIR
7. [100263](#) Substitute resolution approving a lease with the Board of Business Improvement District

No. 2 for the Erie Street Plaza, in the 4th Aldermanic District.

Sponsors: THE CHAIR

8. [090789](#) Substitute resolution to vacate a 150-foot by 50-foot public service street in the block bounded by North 76th Street, North 77th Street, West Winfield Avenue and West Mill Road, in the 2nd Aldermanic District.
- Sponsors:** THE CHAIR
9. [100378](#) Communication from the Department of Public Works relating to the existing program for the inspection of public infrastructure.
- Sponsors:** Ald. Coggs
10. [100346](#) Communication from the Infrastructure Services Division relating to a Statement of Mid-Year Review for Financial Condition of the Sewer Maintenance Fund.
- Sponsors:** THE CHAIR
11. [100377](#) Communication from the Department of Public Works relating to the removal of debris from recent storm damage.
- Sponsors:** Ald. Dudzik
12. [100314](#) Resolution amending Common Council File Number 090082, a resolution relating to an application for, acceptance and funding of a 2009 USDA Forest Service Cooperative Forestry Assistance Grant.
- Sponsors:** THE CHAIR
- May be referred to the Finance and Personal Committee.*
13. [100318](#) Resolution authorizing the City Engineer to apply for Transportation Enhancement grants.
- Sponsors:** THE CHAIR
- May be referred to the Finance and Personal Committee.*
14. [100323](#) Substitute resolution authorizing the Commissioner of Public Works to execute a Grant Agreement with the Federal Highway Administration and the Wisconsin Department of Transportation for the construction of two movable bridge projects funded by the American Recovery and Reinvestment Act of 2009.
- Sponsors:** THE CHAIR
- This item will include discussion of measures that will be taken to ensure transparency and accountability relating to the expenditure of American Recovery and Reinvestment Act funds received as a result of adoption of this file.*
15. [100328](#) Resolution directing the Commissioner of Public Works to execute a revised project agreement titled "State/Municipal Agreement" for a highway improvement project with Wisconsin Department of Transportation for the reconstruction of West Capitol Drive from North 60th Street to Mayfair Road with State/Federal Aid.
- Sponsors:** THE CHAIR
- May be referred to the Finance and Personal Committee.*

16. [100289](#) Resolution relative to application for and acceptance and expenditure of a 2011 State of Wisconsin recycling grant.
 Sponsors: THE CHAIR
17. [100207](#) An ordinance relating to the amendment of the Official Map of the City of Milwaukee.
 Sponsors: THE CHAIR
18. [090980](#) Substitute resolution granting a special privilege to Gas Lamp Square LLC for a gate swing projecting into the public right-of-way for the premises at 1017 South 2nd Street, in the 12th Aldermanic District.
 Sponsors: THE CHAIR
19. [091110](#) Resolution amending a special privilege for change of ownership to Marquette University for encroachment into the public right-of-way for an excess door swing for the premises at 1625 W. Wells Street, in the 4th Aldermanic District.
 Sponsors: THE CHAIR
 ---May be placed on file as no longer needed.

This meeting will be webcast live at www.milwaukee.gov/channel25.

Members of the Common Council and its standing committees who are not members of this committee may attend this meeting to participate or to gather information. Notice is given that this meeting may constitute a meeting of the Common Council or any of its standing committees, although they will not take any formal action at this meeting.

Upon reasonable notice, efforts will be made to accommodate the needs of persons with disabilities through sign language interpreters or auxiliary aids. For additional information or to request this service, contact the Council Services Division ADA Coordinator at 286-2998, (FAX)286-3456, (TDD)286-2025 or by writing to the Coordinator at Room 205, City Hall, 200 E. Wells Street, Milwaukee, WI 53202.

Limited parking for persons attending meetings in City Hall is available at reduced rates (5 hour limit) at the Milwaukee Center on the southwest corner of East Kilbourn and North Water Street. Parking tickets must be validated in Room 205, (City Clerk's Office) or the first floor Information Booth in City Hall.

Persons engaged in lobbying as defined in s. 305-43-4 of the Milwaukee Code of Ordinances are required to register with the City Clerk's Office License Division. Registered lobbyists appearing before a Common Council committee are required to identify themselves as such. More information is available at www.milwaukee.gov/lobby.



Legislation Details (With Text)

File #:	100310	Version:	0
Type:	Resolution	Status:	In Committee
File created:	7/7/2010	In control:	PUBLIC WORKS COMMITTEE
On agenda:		Final action:	
Effective date:			
Title:	Resolution relative to approving the levying of assessments and construction of assessable public improvement projects at various locations and appropriating funds for these purposes.		
Sponsors:	THE CHAIR		
Indexes:	PUBLIC IMPROVEMENTS		
Attachments:	Cover Letter, Official Notice Number 15, Hearing Notice List		

Date	Ver.	Action By	Action	Result	Tally
7/7/2010	0	COMMON COUNCIL	ASSIGNED TO		
7/12/2010	0	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		

Number

100310

Version

ORIGINAL

Reference

Sponsor

THE CHAIR

Title

Resolution relative to approving the levying of assessments and construction of assessable public improvement projects at various locations and appropriating funds for these purposes.

Requestor

INFRASTRUCTURE SERVICES DEPARTMENT

Drafter

MLD:dr

Report 15

06/25/10

June 25, 2010

File Number

To the Honorable, the Common Council

Dear Council Members:

The Common Council has adopted preliminary resolutions which determined it necessary and in the public interest to make various public improvements and to make special assessments therefore.

The Commissioner of Public Works is filing this report consisting of a list of projects. This report is subject to amendment at the next Public Works Committee Hearing. The plans and specifications of said improvements are on file in the City Engineer's Office.

I am herewith submitting a report regarding the above matter and recommend adoption of the amended resolution approving same.

Respectfully submitted,

Special Deputy Commissioner
of Public Works

MLD:dr
Afr 15
Report Appended

**OFFICIAL NOTICE NUMBER 15
PUBLIC HEARING ON PROPOSED IMPROVEMENTS
AND SPECIAL ASSESSMENTS**

There will be a public hearing held by the Public Works Committee of the Common Council of the City of Milwaukee concerning the following improvements and special assessments. The Commissioner of Public Works has determined these improvements are necessary and in the public interest.

The hearing will be held at the date and time shown below:

<p>WEDNESDAY</p> <p>JULY 14, 2010</p> <p>ROOM 301-B – CITY HALL</p> <p>9:00 A.M.</p>

3rd Aldermanic District

N. Terrace Ave. – E. North Ave. to E. Bellevue Pl. (ST211100110):

Asphalt pavement reconstruction, replace all curb and gutter, replace sidewalk and driveway approaches where necessary, sodding (12.0-foot width of tree border area), and grading.

5th Aldermanic District

N. 82nd St. – W. Burleigh St. to W. Lisbon Ave. (ST211100122):

Asphalt pavement resurfacing, replace curb and gutter, sidewalk and driveway approaches where necessary, sodding (24.0-foot width of tree border area), and grading.

13th Aldermanic District

Alley between W. Morgan Ave., W. Ohio Ave., W. Verona Ct., S. 22nd St., S. 24th St. and the Union Pacific Railroad Company Right of Way (Southerly east-west leg and north-south leg) (ST212030134):

Concrete alley pavement reconstruction, replace some abutting walk or driveway approaches, grading, and storm drainage facilities where necessary.

You may examine a copy of the report recommending these projects in Room 908, 841 North Broadway, Milwaukee, Wisconsin during the hours of 8:30 A.M. and 4:30 P.M., Monday through Friday, except July 2nd and July 5th, 2010.

This notice is published by authority of the Common Council of the City of Milwaukee in accordance with Section 66.0703 and any other pertinent sections of the Wisconsin Statutes and in the manner directed by Section 115-42 of the Milwaukee Code of Ordinances.

Office of the City Clerk, Milwaukee

June 29, 2010

Ronald D. Leonhardt, City Clerk

PW FILE NUMBER: 100310

[illegible]



Legislation Details (With Text)

File #: 100309 **Version:** 1

Type: Resolution **Status:** In Committee

File created: 7/7/2010 **In control:** PUBLIC WORKS COMMITTEE

On agenda: **Final action:**

Effective date:

Title: Substitute resolution determining it necessary to make various assessable public improvements at various locations and appropriating funds for these purposes with the City engineering cost estimated to be \$124,000 for a total estimated cost of these projects being \$1,391,000.

Sponsors: THE CHAIR

Indexes: PUBLIC IMPROVEMENTS

Attachments: Cover Letter, Fiscal Note, Hearing Notice List

Date	Ver.	Action By	Action	Result	Tally
7/7/2010	0	COMMON COUNCIL	ASSIGNED TO		
7/9/2010	1	CITY CLERK	DRAFT SUBMITTED		
7/12/2010	0	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		

Number

100309

Version

SUBSTITUTE 1

Sponsor

THE CHAIR

Title

Substitute resolution determining it necessary to make various assessable public improvements at various locations and appropriating funds for these purposes with the City engineering cost estimated to be \$124,000 for a total estimated cost of these projects being \$1,391,000.

Analysis

This resolution authorizes engineering studies and directs the Commissioner of Public Works to determine any benefits or damages which would result if the projects were to be constructed. After the Commissioner files his report, a Public Hearing will be held on those projects determined assessable. A resolution will be submitted after the Public Hearing authorizing construction. The City cost for engineering these projects is estimated to be \$124,000 with the total cost estimated to be \$1,391,000.

Body

Resolved, By the Common Council of the City of Milwaukee that it is necessary and in the public interest to do the following described work according to City specifications, and that such public improvements and resulting special assessments be made pursuant to Section 66.0703 and any other pertinent sections of the Wisconsin Statutes and in the manner directed by Section 115-42 of the Milwaukee Code of Ordinances:

2nd Aldermanic District

W. Winfield Ave. - N. 76th St. to W. Bender Ave. (ST211090111): Paving the roadway with asphalt. Laying a concrete curb and gutter. Laying concrete sidewalk. Doing all the necessary grading pertaining to said work. (Nonassessable Reconstruction Paving Fund -- \$11,000, Additional Funds). The total estimated cost for this project including the requested amount is \$326,000. This project is anticipated to be completed during the 2010 construction season.

4th Aldermanic District

N. Edison St. - E. State St. to E. Juneau Ave. (ST211110152): Paving the roadway with asphalt. Laying a concrete curb and gutter. Laying concrete sidewalk. Doing all the necessary grading pertaining to said work. (Nonassessable Reconstruction Paving Fund -- \$12,000). The total estimated cost for this project including the requested amount is \$140,000. This project is anticipated to be completed during the 2011 construction season.

8th Aldermanic District

S. 34th St. - W. National Ave. to W. Pierce St. (ST211120148): Paving the roadway with asphalt. Laying a concrete curb and gutter. Laying concrete sidewalk. Doing all the necessary grading pertaining to said work. (Nonassessable Reconstruction Paving Fund -- \$13,000). The total estimated cost for this project including the requested amount is \$140,000. This project is anticipated to be completed during the 2012 construction season.

S. 36th St. - W. Burnham St. to W. Mitchell St. (ST211120152): Paving the roadway with asphalt.

Laying a concrete curb and gutter. Laying concrete sidewalk. Doing all the necessary grading pertaining to said work. (Nonassessable Reconstruction Paving Fund -- \$15,000). The total estimated cost for this project including the requested amount is \$154,000. This project is anticipated to be completed during the 2012 construction season.

10th Aldermanic District

W. Dana Ct. - A point west of N. 84th St. to N. 84th St. (ST211120153): Paving the roadway with asphalt. Laying a concrete curb and gutter. Laying concrete sidewalk. Doing all the necessary grading pertaining to said work. (Nonassessable Reconstruction Paving Fund -- \$10,000). The total estimated cost for this project including the requested amount is \$42,000. This project is anticipated to be completed during the 2012 construction season.

W. St. Paul Ave. - N. 91st St. to N. 92nd St. (including N. 91st St. - W. St. Paul Ave. to W. Blue Mound Rd.) (ST211120149): Paving the roadway with asphalt. Laying a concrete curb and gutter. Laying concrete sidewalk. Doing all the necessary grading pertaining to said work. (Nonassessable Reconstruction Paving Fund -- \$12,000). The total estimated cost for this project including the requested amount is \$100,000. This project is anticipated to be completed during the 2012 construction season.

N. 91st Pl. - W. Hawthorne Ave. to W. Park Hill Ave. (ST211120150): Paving the roadway with asphalt. Laying a concrete curb and gutter. Laying concrete sidewalk. Doing all the necessary grading pertaining to said work. (Nonassessable Reconstruction Paving Fund -- \$10,000). The total estimated cost for this project including the requested amount is \$82,000. This project is anticipated to be completed during the 2012 construction season.

11th Aldermanic District

W. Fremont Pl. - S. 63rd St. to S. 67th St. (ST211120151): Paving the roadway with asphalt. Laying a concrete curb and gutter. Laying concrete sidewalk. Doing all the necessary grading pertaining to said work. (Nonassessable Reconstruction Paving Fund -- \$15,000). The total estimated cost for this project including the requested amount is \$153,000. This project is anticipated to be completed during the 2012 construction season.

12th Aldermanic District

E. Maple St. - A point east of S. Kinnickinnic Ave. to S. Kinnickinnic Ave. (ST211120146): Paving the roadway with asphalt. Laying a concrete curb and gutter. Laying concrete sidewalk. Doing all the necessary grading pertaining to said work. (Nonassessable Reconstruction Paving Fund -- \$6,000). The total estimated cost for this project including the requested amount is \$42,000. This project is anticipated to be completed during the 2012 construction season.

E. Washington St. - S. Water St. to S. 1st St. (ST211120147): Paving the roadway with asphalt. Laying a concrete curb and gutter. Laying concrete sidewalk. Doing all the necessary grading pertaining to said work. (Nonassessable Reconstruction Paving Fund -- \$20,000). The total estimated cost for this project including the requested amount is \$212,000. This project is anticipated to be completed during the 2012 construction season.

; and, be it

Further Resolved, That the abutting and adjacent properties be assessed a portion of the cost, said assessment to be recommended by the Commissioner of Public Works in his report; and, be it

Further Resolved, That all assessments and payments be made in accordance with Section 115-42 of the Milwaukee Code of Ordinances; and, be it

Further Resolved, That all City departments are authorized to do engineering, surveying, preparing of plans, and estimates of cost thereof, to be utilized in the preparation of said report of the Commissioner of Public Works; and, be it

Further Resolved, That the Department of Public Works is authorized to use the funding as specified in the above description of work; and, be it

Further Resolved, That the City Comptroller is authorized and directed to transfer such funds which are available for this purpose to the appropriate capital Project/Grant accounts.

Requestor
Infrastructure Services Division
Drafter
MLD:dr
Apr 15
07/09/10

June 25, 2010

File Number

To the Honorable, the Common Council

Dear Council Members:

Please find attached a “Title Only” resolution for determining it necessary to make various assessable public improvements to be introduced at the next Common Council Meeting. It is our intent to insert the body of the resolution in this jacket prior to the meeting of the Public Works Committee of July 14, 2010.

Respectfully submitted,

Special Deputy Commissioner
of Public Works

MLD:dr
Title only
Apr 15

CITY OF MILWAUKEE FISCAL NOTE

CC-170 (REV. 6/86)

A) DATE: July 9, 2010

FILE NUMBER: 100309

Original Fiscal Note ☐ **Substitute** ☒

SUBJECT: Substitute resolution determining it necessary to make various assessable public improvements at various locations and appropriating funds for these purposes with the City engineering cost estimated to be \$124,000 for a total estimated cost of these projects being \$1,391,000.

B) SUBMITTED BY (name/title/dept./ext.): Mary Dziejwiontkoski/Assessment Engineer/Public Works/X2460

C) CHECK ONE: ☒ ADOPTION OF THIS FILE AUTHORIZES EXPENDITURES.
☐ ADOPTION OF THIS FILE DOES NOT AUTHORIZE EXPENDITURES; FURTHER COMMON COUNCIL ACTION NEEDED.
 LIST ANTICIPATED COSTS IN SECTION G BELOW.
☐ NOT APPLICABLE/NO FISCAL IMPACT.

D) CHARGE TO: ☐ DEPARTMENTAL ACCOUNT (DA) ☐ CONTINGENT FUND (CF)
☐ CAPITAL PROJECTS FUND (CPF) ☐ SPECIAL PURPOSE ACCOUNTS (SPA)
☐ PERM. IMPROVEMENT FUNDS (PIF) ☐ GRANT & AID ACCOUNTS (G & AA)
☐ OTHER SPECIFY)

E) PURPOSE	SPECIFY TYPE/USE	ACCOUNT	EXPENDITURE	REVENUE	SAVINGS
SALARIES/WAGES:					
SUPPLIES:					
MATERIALS:					
NEW EQUIPMENT:					
EQUIPMENT REPAIR:					
OTHER Paving	ST211		\$124,000		
TOTALS:			\$124,000		

F) FOR EXPENDITURES AND REVENUES WHICH WILL OCCUR ON AN ANNUAL BASIS OVER SEVERAL YEARS CHECK THE APPROPRIATE BOX BELOW AND THEN LIST EACH ITEM AND DOLLAR AMOUNT SEPARATELY.

<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	

G) LIST ANY ANTICIPATED FUTURE COSTS THIS PROJECT WILL REQUIRE FOR COMPLETION:

--

H) LIST ANY ANTICIPATED FUTURE COSTS THIS PROJECT WILL REQUIRE FOR COMPLETION: *The total expenditure includes the cost of engineering, inspection, construction, and city forces. The total cost of this project is \$124,000.*

--

PLEASE LIST ANY COMMENTS ON REVERSE SIDE AND CHECK HERE ☐

PW FILE NUMBER: 100309

NAME	ADDRESS	DATE SENT		
Mary Dziewiontkoski	Dept. Public Works – Infra.	7/12/10		
Clark Wantoch	DPW-Infra.	X		
Ald. Davis	CC	X		
Ald. Bauman	CC	X		
Ald. Donovan	CC	X		
Ald. Murphy	CC	X		
Ald. Dudzik	CC	X		
Ald. Witkowiak	CC	X		



Legislation Details (With Text)

File #: 100311 **Version:** 1

Type: Resolution **Status:** In Committee

File created: 7/7/2010 **In control:** PUBLIC WORKS COMMITTEE

On agenda: **Final action:**

Effective date:

Title: Substitute resolution determining it necessary to make various nonassessable public improvements at various locations and appropriating funds for these purposes with the City engineering cost estimated to be \$30,000 for a total estimated cost of these projects being \$464,500.

Sponsors: THE CHAIR

Indexes: PUBLIC IMPROVEMENTS

Attachments: Cover Letter, Fiscal Note, Hearing Notice List

Date	Ver.	Action By	Action	Result	Tally
7/7/2010	0	COMMON COUNCIL	ASSIGNED TO		
7/9/2010	1	CITY CLERK	DRAFT SUBMITTED		
7/12/2010	0	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		
7/12/2010	0	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		

Number

100311

Version

SUBSTITUTE 1

Sponsor

THE CHAIR

Title

Substitute resolution determining it necessary to make various nonassessable public improvements at various locations and appropriating funds for these purposes with the City engineering cost estimated to be \$30,000 for a total estimated cost of these projects being \$464,500.

Analysis

This resolution authorizes engineering studies on projects which by City Charter are nonassessable. After design plans and estimates of costs have been prepared, a resolution authorizing construction will be submitted to the Common Council. The City cost for engineering these projects is estimated to be \$30,000 with the total cost estimated to be \$464,500.

Body

Resolved, By the Common Council of the City of Milwaukee, that it is necessary and in the public interest to do the following described improvements according to City specifications:

6th Aldermanic District

N. Fratney St. (Elimination of Railroad Crossing) - A point north of E. Nash St. (ST211100159): Paving the roadway with concrete. Laying a concrete curb and gutter. Laying concrete sidewalk. Doing all the necessary grading pertaining to said work. (Nonassessable Reconstruction Paving Fund -- \$10,000). The total estimated cost for this project including the requested amount is \$64,500. This project is anticipated to be completed during the 2010 construction season.

City of Greenfield

W. Leroy Ave. - S. 61st St. to 165 feet east of S. 68th St. (WT410101018): Relaying water main. (Nonassessable Water Fund Budget Line 5010 -- \$10,000; Nonassessable Water Fund Budget Line 6410 -- \$10,000). The total estimated cost for this project including the requested amount is \$400,000. This project is anticipated to be completed during the 2011 construction season.

;and, be it

Further Resolved, That all City Departments are authorized to perform engineering, surveys, plan preparation, and determine an estimated cost thereof; and, be it

Further Resolved, That the Department of Public Works is authorized to use the funding as specified in the above description of work; and, be it

Further Resolved, That the City Comptroller is authorized and directed to transfer such funds which are available for this purpose to the appropriate capital Project/Grant accounts.

Requestor

Infrastructure Services Division

Drafter

MLD:dr
Npr 15
07/09/10

June 25, 2010

File Number

To the Honorable, the Common Council

Dear Council Members:

Please find attached a "Title Only" resolution for determining it necessary to make various nonassessable public improvements to be introduced at the next Common Council Meeting. It is our intent to insert the body of the resolution in this jacket prior to the meeting of the Public Works Committee of July 14, 2010.

Respectfully submitted,

Special Deputy Commissioner
of Public Works

MLD:dr
Title only
Npr 15

CITY OF MILWAUKEE FISCAL NOTE

A) DATE 100311

FILE NUMBER: July 9, 2010

Original Fiscal Note ☐ Substitute ☒

SUBJECT: Substitute resolution determining it necessary to make various nonassessable public improvements at various locations and appropriating funds for these purposes with the City engineering cost estimated to be \$30,000 for a total estimated cost of these projects being \$464,500.

B) SUBMITTED BY (Name/title/dept./ext.): Mary Dziewiontkoski/Assessment Engineer/Public Work/X2460

C) CHECK ONE: ☒ ADOPTION OF THIS FILE AUTHORIZES EXPENDITURES
☐ ADOPTION OF THIS FILE DOES NOT AUTHORIZE EXPENDITURES; FURTHER COMMON COUNCIL ACTION NEEDED. LIST ANTICIPATED COSTS IN SECTION G BELOW.
☐ NOT APPLICABLE/NO FISCAL IMPACT.

D) CHARGE TO: ☐ DEPARTMENT ACCOUNT(DA) ☐ CONTINGENT FUND (CF)
☐ CAPITAL PROJECTS FUND (CPF) ☐ SPECIAL PURPOSE ACCOUNTS (SPA)
☐ PERM. IMPROVEMENT FUNDS (PIF) ☐ GRANT & AID ACCOUNTS (G & AA)
☐ OTHER (SPECIFY)

E) PURPOSE	SPECIFY TYPE/USE	ACCOUNT	EXPENDITURE	REVENUE	SAVINGS
SALARIES/WAGES:					
SUPPLIES:					
MATERIALS:					
NEW EQUIPMENT:					
	Paving ST211		\$10,000		
OTHER:	Water WT410		\$20,000		
TOTALS			\$30,000		

F) FOR EXPENDITURES AND REVENUES WHICH WILL OCCUR ON AN **ANNUAL** BASIS OVER SEVERAL YEARS CHECK THE APPROPRIATE BOX BELOW AND THEN LIST EACH ITEM AND DOLLAR AMOUNT **SEPARATELY**.

<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	

G) LIST ANY ANTICIPATED FUTURE COSTS THIS PROJECT WILL REQUIRE FOR COMPLETION:

H) COMPUTATIONS USED IN ARRIVING AT FISCAL ESTIMATE: The total expenditure includes the cost of engineering, inspection, construction, and city forces. The total cost of these projects is estimated to be \$30,000.

PLEASE LIST ANY COMMENTS ON REVERSE SIDE AND CHECK HERE ☐

PW FILE NUMBER: 100311

[illegible]



Legislation Details (With Text)

File #:	100312	Version:	1
Type:	Resolution	Status:	In Committee
File created:	7/7/2010	In control:	PUBLIC WORKS COMMITTEE
On agenda:		Final action:	
Effective date:			
Title:	Substitute resolution approving construction of nonassessable public improvements at various locations and appropriating funds for these purposes with the City construction cost estimated to be \$6,020,000 for a total estimated cost of these projects being \$6,544,000.		
Sponsors:	THE CHAIR		
Indexes:	PUBLIC IMPROVEMENTS		
Attachments:	Cover Letter, Fiscal Note, Hearing Notice List		

Date	Ver.	Action By	Action	Result	Tally
7/7/2010	0	COMMON COUNCIL	ASSIGNED TO		
7/9/2010	1	CITY CLERK	DRAFT SUBMITTED		
7/12/2010	0	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		
7/12/2010	0	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		

Number

100312

Version

SUBSTITUTE 1

Reference

091547

Sponsor

THE CHAIR

Title

Substitute resolution approving construction of nonassessable public improvements at various locations and appropriating funds for these purposes with the City construction cost estimated to be \$6,020,000 for a total estimated cost of these projects being \$6,544,000.

Analysis

This resolution directs the installation and construction of certain public improvements which have been determined to be nonassessable by the Commissioner of Public Works. The City cost of the projects approved by this resolution is estimated to be \$6,020,000. The total estimated cost of these projects is \$6,544,000.

Body

Whereas, The Common Council of the City of Milwaukee adopted preliminary resolutions determining it necessary and in the public interest to construct nonassessable improvements; and

Whereas, Plans, specifications and cost estimates have been prepared for the following described improvements:

2nd Aldermanic District

W. Leon Terr. - N. 71st St. to N. 72nd St. (SM495100056) File Number 091547: Sanitary sewer lining. (Nonassessable Sewer Maintenance Relay Fund -- \$34,000). The total estimated cost for this project including the requested amount is \$46,000. This project is anticipated to be completed during the 2010 construction season.

N. 70th St. - W. Villard Ave. to W. Leon Terr. (SM495100062) File Number 100013: Sanitary sewer lining. (Nonassessable Sewer Maintenance Relay Fund -- \$64,000). The total estimated cost for this project including the requested amount is \$76,000. This project is anticipated to be completed during the 2010 construction season.

N. 72nd St. - W. Villard Ave. to W. Leon Terr. (SM495100055) File Number 091547: Sanitary sewer lining. (Nonassessable Sewer Maintenance Relay Fund -- \$26,000). The total estimated cost for this project including the requested amount is \$38,000. This project is anticipated to be completed during the 2010 construction season.

2nd and 10th Aldermanic Districts

W. Capitol Dr. (north side) - N. 70th St. to N. 72nd St. (SM495100045) File Number 091432: Sanitary sewer relay and lining. (Nonassessable Sewer Maintenance Relay Fund -- \$58,000). The total estimated cost for this project including the requested amount is \$70,000. This project is anticipated to be completed during the 2010 construction season.

10th Aldermanic District

W. Dickinson St. - S. 66th St. to S. 68th St. (SM495100034) File Number 091548: Relaying sanitary sewer. (Nonassessable Sewer Maintenance Relay Fund -- \$434,000, Additional Funds). The total estimated cost for this project including the requested amount is \$808,000. This project is anticipated to be completed during the 2010 construction season.

W. Kearney St. - S. 68th St. to S. 71st St. (SM495100076) File Number 100013: Sanitary sewer lining. (Nonassessable Sewer Maintenance Relay Fund -- \$53,000). The total estimated cost for this project including the requested amount is \$65,000. This project is anticipated to be completed during the 2010 construction season.

S. 60th St. - W. Main St. to W. Dickinson St. (SM495100073) File Number 100013: Relay sanitary sewer. (Nonassessable Sewer Maintenance Relay Fund -- \$97,000). The total estimated cost for this project including the requested amount is \$109,000. This project is anticipated to be completed during the 2010 construction season.

11th Aldermanic District

Area bounded by W. Beloit Rd., W. Oklahoma Ave., S. 99th St., and S. 95th St. (SM495100049) File Number 091432: Sanitary sewer lining. (Nonassessable Sewer Maintenance Relay Fund -- \$423,000). The total estimated cost for this project including the requested amount is \$438,000. This project is anticipated to be completed during the 2010 construction season.

Area bounded by W. Dakota St., W. Ohio Ave., S. 74th St., and S. 68th St. (SM495100050) File Number 091432: Sanitary sewer lining. (Nonassessable Sewer Maintenance Relay Fund -- \$467,000). The total estimated cost for this project including the requested amount is \$482,000. This project is anticipated to be completed during the 2010 construction season.

13th Aldermanic District

S. 1st Pl. - W. Morgan Ave. to W. Warnimont Ave. (SM495100032) File Number 091131: Sanitary lining and storm relay. (Nonassessable Sewer Maintenance Relay Fund -- \$521,000). The total estimated cost for this project including the requested amount is \$533,000. This project is anticipated to be completed during the 2010 construction season.

14th Aldermanic District

E. Potter Ave. - S. Kinnickinnic Ave. to S. Logan Ave. (SM495100077) File Number 100013: Combined sewer lining. (Nonassessable Sewer Maintenance Relay Fund -- \$102,000). The total estimated cost for this project including the requested amount is \$114,000. This project is anticipated to be completed during the 2010 construction season.

15th Aldermanic District

Area bounded by W. Clarke St., W. Meinecke Ave., N. 20th St., and N. 26th St. (SM495100010) File Number 090971: Combined sewer lining. (Nonassessable Sewer Maintenance Relay Fund -- \$3,563,000). The total estimated cost for this project including the requested amount is \$3,575,000. This project is anticipated to be completed during the 2010 construction season.

N. 10th St. - W. North Ave. to W. Meinecke Ave. (SM495100137) File Number 100144: Relay combined sewer. (Nonassessable Sewer Maintenance Relay Fund -- \$178,000). The total estimated cost for this project including the requested amount is \$190,000. This project is anticipated to be completed during the 2010 construction season.

now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee that the Commissioner of Public Works is authorized and directed to proceed with said work; and, be it

Further Resolved, That the Department of Public Works is authorized to use the funding as specified in the above description of work; and, be it

Further Resolved, That the City Comptroller is authorized and directed to transfer such funds which are available for this purpose to the appropriate capital Project/Grant accounts.

Requestor
Infrastructure Services Division
Drafter
MLD:dr
Nfr 15
07/09/10

June 25, 2010

File Number

To the Honorable, the Common Council

Dear Council Members:

Please find attached a “Title Only” resolution for approving construction of nonassessable public improvements to be introduced at the next Common Council Meeting. It is our intent to insert the body of the resolution in this jacket prior to the meeting of the Public Works Committee of July 14, 2010.

Respectfully submitted,

Special Deputy Commissioner
of Public Works

MLD:dr
Title only
Nfr 15

CITY OF MILWAUKEE FISCAL NOTE

CC-170 (REV. 6/86)

A) DATE: July 9, 2010

FILE NUMBER: 100312

Original Fiscal Note ☐ Substitute ☒

SUBJECT: Substitute resolution approving construction of nonassessable public improvements at various locations and appropriating funds for these purposes with the City construction cost estimated to be \$6,020,000 for a total estimated cost of these projects being \$6,544,000.

B) SUBMITTED BY (name/title/dept./ext.): Mary Dziewiontkoski/Assessment Engineer/Public Works/X2460

C) CHECK ONE: ☒ ADOPTION OF THIS FILE AUTHORIZES EXPENDITURES.
☐ ADOPTION OF THIS FILE DOES NOT AUTHORIZE EXPENDITURES; FURTHER COMMON COUNCIL ACTION NEEDED.
 LIST ANTICIPATED COSTS IN SECTION G BELOW.
☐ NOT APPLICABLE/NO FISCAL IMPACT.

D) CHARGE TO: ☐ DEPARTMENTAL ACCOUNT (DA) ☐ CONTINGENT FUND (CF)
☐ CAPITAL PROJECTS FUND (CPF) ☐ SPECIAL PURPOSE ACCOUNTS (SPA)
☒ PERM. IMPROVEMENT FUNDS (PIF) ☐ GRANT & AID ACCOUNTS (G & AA)
☐ OTHER SPECIFY)

E) PURPOSE	SPECIFY TYPE/USE	ACCOUNT	EXPENDITURE	REVENUE	SAVINGS
SALARIES/WAGES:					
SUPPLIES:					
MATERIALS:					
NEW EQUIPMENT:					
EQUIPMENT REPAIR:					
OTHER Structure					
Sewer	SM495		\$6,020,000		
TOTALS:			\$6,020,000		

F) FOR EXPENDITURES AND REVENUES WHICH WILL OCCUR ON AN ANNUAL BASIS OVER SEVERAL YEARS CHECK THE APPROPRIATE BOX BELOW AND THEN LIST EACH ITEM AND DOLLAR AMOUNT SEPARATELY.

<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	

G) LIST ANY ANTICIPATED FUTURE COSTS THIS PROJECT WILL REQUIRE FOR COMPLETION:

H) LIST ANY ANTICIPATED FUTURE COSTS THIS PROJECT WILL REQUIRE FOR COMPLETION: The total expenditure includes the cost of engineering, inspection, construction, and city forces.

PLEASE LIST ANY COMMENTS ON REVERSE SIDE AND CHECK HERE ☐

PW FILE NUMBER: 100312

NAME	ADDRESS	DATE SENT		
Mary Dziewiontkoski	Dept. Public Works – Infra.	7/12/10		
Clark Wantoch	DPW-Infra.	X		
Ald. Witkowski	CC	X		
Ald. Davis	CC	X		
Ald. Murphy	CC	X		
Ald. Dudzik	CC	X		
Ald. Zielinski	CC	X		
Ald. Hines	CC	X		



Legislation Details (With Text)

File #: 100355 **Version:** 0

Type: Ordinance **Status:** In Committee

File created: 7/7/2010 **In control:** PUBLIC WORKS COMMITTEE

On agenda: **Final action:**

Effective date:

Title: An ordinance relating to watercraft speed limits in the outer harbor during special events.

Sponsors: ALD. ZIELINSKI

Indexes: BOATS, LAKEFRONT

Attachments: Fiscal Note, Hearing Notice List

Date	Ver.	Action By	Action	Result	Tally
7/7/2010	0	COMMON COUNCIL	ASSIGNED TO		
7/12/2010	0	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		
7/12/2010	0	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		

Number

100355

Version

ORIGINAL

Reference

070317

Sponsor

ALD. ZIELINSKI

Title

An ordinance relating to watercraft speed limits in the outer harbor during special events.

Sections

Analysis

Section 118-80-3-g of the Code of Ordinances authorizes the harbor master to declare and enforce a temporary speed limit of 5 miles per hour, slow no wake, in the outer harbor or portions of the outer harbor before, during and after a lakefront fireworks display or other special event for which the harbor master determines the expected volume of watercraft traffic is such that operation above the speed of 5 miles per hour, slow no wake, will be unsafe.

Common Council File Number 070317, the ordinance that created s. 118-80-3-g, included a sunset clause which provided that the ordinance would be null and void after December 31, 2010. This ordinance repeals that sunset clause, thereby making permanent the harbor master's authority to declare and enforce the temporary speed limit during and after special events.

Body

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Part 2 of Common Council File Number 070317 is repealed.

LRB

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

Attorney

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

Requestor

Drafter

LRB10322-1

JDO

07/06/2010

CITY OF MILWAUKEE FISCAL NOTE

A) DATE 07/12/10

FILE NUMBER: 100355

Original Fiscal Note ☒ Substitute ☐

SUBJECT: An ordinance relating to watercraft speed limits in the outer harbor during special events.

B) SUBMITTED BY (Name/title/dept./ext.): Tobie Black/Staff Assistant/City Clerk/X2231

C) CHECK ONE: ☐ ADOPTION OF THIS FILE AUTHORIZES EXPENDITURES
☐ ADOPTION OF THIS FILE DOES NOT AUTHORIZE EXPENDITURES; FURTHER COMMON COUNCIL ACTION NEEDED. LIST ANTICIPATED COSTS IN SECTION G BELOW.
☒ NOT APPLICABLE/NO FISCAL IMPACT.

D) CHARGE TO: ☐ DEPARTMENT ACCOUNT(DA) ☐ CONTINGENT FUND (CF)
☐ CAPITAL PROJECTS FUND (CPF) ☐ SPECIAL PURPOSE ACCOUNTS (SPA)
☐ PERM. IMPROVEMENT FUNDS (PIF) ☐ GRANT & AID ACCOUNTS (G & AA)
☐ OTHER (SPECIFY)

E) PURPOSE	SPECIFY TYPE/USE	ACCOUNT	EXPENDITURE	REVENUE	SAVINGS
SALARIES/WAGES:					
SUPPLIES:					
MATERIALS:					
NEW EQUIPMENT:					
EQUIPMENT REPAIR:					
OTHER:					
TOTALS					

F) FOR EXPENDITURES AND REVENUES WHICH WILL OCCUR ON AN **ANNUAL** BASIS OVER SEVERAL YEARS CHECK THE APPROPRIATE BOX BELOW AND THEN LIST EACH ITEM AND DOLLAR AMOUNT **SEPARATELY**.

<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	

G) LIST ANY ANTICIPATED FUTURE COSTS THIS PROJECT WILL REQUIRE FOR COMPLETION:

H) COMPUTATIONS USED IN ARRIVING AT FISCAL ESTIMATE:

PLEASE LIST ANY COMMENTS ON REVERSE SIDE AND CHECK HERE ☐

PW FILE NUMBER: 100355

[illegible]



Legislation Details (With Text)

File #: 100261 **Version:** 1

Type: Resolution **Status:** In Committee

File created: 6/15/2010 **In control:** PUBLIC WORKS COMMITTEE

On agenda: **Final action:**

Effective date:

Title: Substitute resolution approving a lease with the Board of Business Improvement District No. 2 for the Catalano Square property at 138 North Broadway, in the 4th Aldermanic District.

Sponsors: THE CHAIR

Indexes: BUSINESS IMPROVEMENT DISTRICT 02, CITY PROPERTY, LEASES

Attachments: Cover Letter, Catalano Square Park Lease - Draft, Fiscal Note, Hearing Notice List

Date	Ver.	Action By	Action	Result	Tally
6/15/2010	0	COMMON COUNCIL	ASSIGNED TO		
6/30/2010	1	CITY CLERK	DRAFT SUBMITTED		
7/12/2010	1	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		

Number

100261

Version

Substitute 1

Reference

091583

Sponsor

ALD. BAUMAN

Title

Substitute resolution approving a lease with the Board of Business Improvement District No. 2 for the Catalano Square property at 138 North Broadway, in the 4th Aldermanic District.

Analysis

This resolution authorizes a lease for a City-owned property and adjacent pedestrian mall according to conditions outlined in the Lease.

Body

Whereas, By passage of Resolution File No. 091583, the Common Council of the City of Milwaukee authorized and directed the Departments of Public Works ("DPW") and City Development ("DCD") to commence lease negotiations with the Business Improvement District ("BID") No. 2 or with the Historic Third Ward Association for the City-owned property known at Catalano Square; and

Whereas, Staff from DPW, DCD and the City Attorney's Office met with representatives of BID No. 2 and negotiated the terms of a long-term lease for Catalano Square that is comprised of the City-owned lot at 138 North Broadway and a pedestrian mall; and

Whereas, The proposed lease with BID No. 2 permits the BID to program activities in the park in consideration of it assuming maintenance responsibilities of the park as summarized in the attached Lease Report; and

Whereas, The proposed lease will facilitate greater use of and activities in the park, ensures continued public access and establishes maintenance requirements while helping to reduce municipal expenditures; and

Whereas, The City has negotiated a lease with the Board of BID No. 2, a copy of which is attached to this Common Council File; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that the lease with the Board of BID No. 2 for the property and pedestrian mall known as Catalano Square at 138 North Broadway is approved; and, be it

Further Resolved, That the Commissioner of the DCD, or designee, is authorized to execute the lease with the Board of BID No. 2 and any other necessary documents upon final approval of the lease by the Common Council; and, be it

Further Resolved, That the City Attorney's office, in cooperation with the Commissioners of DPW and DCD, is authorized to make such further minor modifications to said lease that are consistent with the intent and purpose of this resolution and which are mutually acceptable to the City Attorney and the Commissioner of DPW and DCD.

Drafter

City Atty.

dmb

6/14/10

GRANT F. LANGLEY
City Attorney

RUDOLPH M. KONRAD
LINDA ULISS BURKE
VINCENT D. MOSCHELLA
Deputy City Attorneys



THOMAS O. GARTNER
BRUCE D. SCHRIMPF
ROXANE L. CRAWFORD
SUSAN D. BICKERT
STUART S. MUKAMAL
THOMAS J. BEAMISH
MAURITA F. HOUREN
JOHN J. HEINEN
DAVID J. STANOSZ
SUSAN E. LAPPEN
JAN A. SMOKOWICZ
PATRICIA A. FRICKER
HEIDI WICK SPOERL
KURT A. BEHLING
GREGG C. HAGOPIAN
ELLEN H. TANGEN
MELANIE R. SWANK
JAY A. UNORA
DONALD L. SCHRIEFER
EDWARD M. EHRLICH
LEONARD A. TOKUS
VINCENT J. BOBOT
MIRIAM R. HORWITZ
MARYNELL REGAN
G. O'SULLIVAN-CROWLEY
KATHRYN Z. BLOCK
MEGAN T. CRUMP
ELOISA DE LEÓN
ADAM B. STEPHENS
KEVIN P. SULLIVAN
BETH CONRADSON CLEARY
THOMAS D. MILLER
HEIDI E. GALVÁN
Assistant City Attorneys

June 11, 2010

VIA: E-MAIL

Jim Owczarski, City Clerk's Office
200 East Wells Street, Room 205
Milwaukee, WI 53202

Re: Introduction of Council Files for July Council Cycle
Regarding Catalano Square and Erie Street Plaza Leases

Dear Mr. Owczarski:

I write to request your assistance with the introduction and administration of three files pertaining to the Catalano Square and Erie Street Plaza Leases. They are:

1. Resolution approving a lease with the Board of Business Improvement District No. 2 for the Catalano Square property at 138 North Broadway, in the 4th Aldermanic District. (See previous File # 091583 directing negotiations).
2. Ordinance to establish a pedestrian mall to be known as "Erie Street Plaza" in East Erie Street, adjacent to the harbor entrance, in the 4th Aldermanic District.
3. Resolution to approve a lease with the Board of Business Improvement District No. 2 for the Erie Street Plaza property located near 695 E. Erie Street, in the 4th Aldermanic District. (See previous File # 100114 directing negotiations).

The establishment of a pedestrian mall is a necessary component of the lease agreement requested by the Common Council for Erie Street Plaza, and it must precede approval of the lease, so I would ask that the various agenda items be ordered with that in mind.

The resolutions, ordinance text, and fiscal notes will follow.

Jim Owczarski
June 11, 2010
Page 2

Please send notices of Council and Committee meetings to the following:

1. Ald. Robert J. Bauman
2. Ghassan Korban; DPW
3. Elaine Miller; DCD
4. Danielle Bergner

Thank you very much. Please call if you have questions or comments.

Very truly yours,



DANIELLE M. BERGNER
Assistant City Attorney

DMB

c: Ald. Robert Bauman (via e-mail)
Ghassan Korban (via e-mail)
Elaine Miller (via e-mail)

158721

Document Number	PARK LEASE Document Title
<p>PARK LEASE</p>	
<p>Recording Area</p> <p>Name and Return Address</p> <p>Ms. Elaine Miller, Real Estate Officer City of Milwaukee 809 N. Broadway, 2nd Floor Milwaukee, WI 53202</p>	
<p>Tax Key Number:</p>	

Drafted By:
Danielle M. Bergner
Assistant City Attorney
City of Milwaukee

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EXHIBIT A: Map and Legal Description of Premises

EXHIBIT B: Insurance Requirements

EXHIBIT C: Description of Sidewalk Improvements at Milwaukee and Erie Streets

EXHIBIT D: 2010 Special Event Calendar

PARK LEASE

THIS LEASE, is made and entered into as of this ____ day of _____, 2010, (the “Effective Date”) and is by and between **THE CITY OF MILWAUKEE** (hereinafter “City”) and **THE BOARD OF BUSINESS IMPROVEMENT DISTRICT NO. 2** (hereinafter the “Board”).

RECITALS

- A. The Board is the governing body of Business Improvement District No. 2 (BID-2) created per Wis. Stat. §66.608 (1997-98), now §66.1109 (2001-02). City’s Common Council approved creation of BID-2 in Resolution File No. 870501, adopted October 6, 1987.
- B. CITY owns certain real estate and improvements located at 138 North Broadway, in Milwaukee, Wisconsin (the “Premises”), more particularly described in **Exhibit A** attached hereto, and more commonly referred to as “Catalano Square” park.
- C. The Premises also includes a pedestrian mall and its improvements under the City’s jurisdiction pursuant to Sec. 113-19, Milwaukee Code of Ordinances, described more particularly in **Exhibit A** attached hereto (the “Pedestrian Mall”).
- D. The Board wants to lease the Premises from CITY per the terms hereof, so the Board can put the Premises to use for the purposes set forth in this Lease which, the Board believes, will, among other things, promote Business Improvement District No. 2 and enhance urban green space consistent with promoting the general welfare of the CITY and its citizens; and
- E. CITY is willing to lease the Premises to the Board on the terms and conditions set forth herein.
- F. The CITY authorized CITY entry into this Lease by CITY Common Council Resolution File No. 100261, passed _____, 2010.

NOW THEREFORE, for and in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, CITY and the Board agree as follows:

- 1. **Recitals.** The recitals above are hereby agreed to.
- 2. **Leased Premises.** Subject to the terms hereof, the CITY does hereby lease to the Board the real property and improvements located at 138 North Broadway, together with the Pedestrian Mall, which is legally described on **Exhibit A**.

- A. **Recording of Lease.** In its discretion, City may record this Lease (or evidence thereof) in the Milwaukee County Register of Deeds Office; and the Board agrees to cooperate with City in that regard.
- B. **City Leases to the Board.** Subject to all the terms and conditions in this Lease, City hereby leases to the Board, and the Board hereby leases from City, on an **AS-IS, WHERE-IS BASIS**, and with all faults and defects, known or unknown, discovered or to be discovered, the real property, improvements and appurtenances located in Milwaukee and herein called the Premises.
- C. **Exclusivity/Nonexclusivity.** The Premises are being leased to the Board on a non-exclusive basis subject to the Board's limited rights as specified in ¶¶ 7 and 8 of this Lease.
3. **Term.** The term of this Lease (the "Term") shall be 25 years, commencing on July 1, 2010 (the "Commencement Date") and terminating on June 30, 2025, unless sooner terminated as herein provided.
4. **Termination of Lease.** Upon the expiration or earlier termination of this Lease, the Board shall peaceably and quietly deliver, yield up, and surrender possession of the Premises to City. The Board shall remove from the Premises upon expiration or termination, and be responsible for, all personal property situated thereon, and leave the Premises in a broom-clean condition. Any property not so removed shall, at City's option, either become the sole property of City or be stored on-site or off-site at the Board's expense.
5. **Termination for Convenience.** Notwithstanding anything to the contrary contained herein (including, but not limited to, any provision in the "condemnation" section below), City may, in its sole discretion, and without cause, and for any reason, including no reason, terminate this Lease at any time upon one year's advance written notice to the Board. This ¶5 is a material provision without which, City would not have entered into this Lease.
6. **Rent/Additional Consideration.** The Board shall pay an annual rental of One Dollar (\$1), payable on the first day of the Term, without demand therefor and without setoff or deduction. Rent shall be payable to the City of Milwaukee, and shall be tendered to the Commissioner of the Department of City Development ("Commissioner") at the notice address for the Commissioner set forth below. As additional consideration for the City's lease of the Premises to the Board, the Board further agrees it shall assume responsibility for routine maintenance of the landscaped, paved areas adjacent to the Milwaukee Street and Erie Street intersection pursuant to ¶16 of this Lease, and for the Erie Street Plaza, pursuant to a lease agreement for that property.
7. **Use; Including Provisions Relating to Recreational Activities Under §895.52.** Subject to shared use with the general public for a park open to the public, the Board shall have the right to use and occupy the Premises solely for the operation of:

- (1) “recreational activities:” (a) as defined in Wis. Stat. §895.52(1)(g) (as the same may be amended from time to time); and (b) that are consistent with activities generally associated with other public parks in Milwaukee County and other open green space in the City; and (c) that are in compliance with federal, state, and local law, regulations, and ordinances (herein called “Recreational Activities”).
- (2) activities that are controlled and supervised by the Board (herein called “Board-Controlled Activities”). The Board-Controlled Activities may include activities that are not “recreational activities” as defined in Wis. Stat. §895.52(1)(g) and may include exclusive use of a portion of the Premises by the Board for a temporary period.
- (3) use of the Pedestrian Mall shall be limited to pedestrian-friendly users, and to emergency, maintenance and utility related transportation vehicles.

Board uses of the Premises (including the Board-Controlled Activities) must, in any event, be lawful and in compliance with all applicable federal, state, and local laws, regulations, and ordinances (including laws, regulations or ordinances requiring permits and/or licenses), and must be conducted so as not to unreasonably interfere with neighbors. No other uses may be permitted without City’s prior written consent.

8. **Board Permitting Rights for the Park.** To promote the orderly use and enjoyment of the Premises by the general public, the Board may, in its discretion, adopt a permit system whereby members of the general public apply to the Board for a permit to exclusively use a designated area of the Premises, for a temporary, specified period, for a lawful “Recreational Activity” or “Board-Controlled Activity” as allowed in section 7 above. Any use for which the Board issues a permit (while temporarily exclusive) must otherwise be in compliance with this Lease, including the provisions in section 7 above. If the Board does elect to engage in such permitting, then:

- A. The Board shall not charge for the issuance of permits any amount beyond an amount sufficient to cover The Board’s reasonable expenses associated with the Board’s permitting process and with the issuance of the particular permit;
- B. the permit shall only allow the permittee the right to exclusively use a designated portion of the Premises for a temporary period (in all cases, less than 72 hours, and for periods longer than 12 hours, the Board shall notify the Commissioner of the Department of Public Works of said event in advance), and the Board may not allow anything that is unlawful or concerning which the Board has no authority;
- C. the permit may only allow use for a “Recreational Activity” or a “Board-Controlled Activity” as defined in Section 7 above;

- D. The Board's permit process shall provide written notice to applicants advising applicants and permittees: (i) that use is limited to "Recreational Activities" and "Board-Controlled Activities" as defined in Section 7; (ii) that they must comply with all federal, state, and local laws, regulations, and ordinances; (iii) that the Board may not authorize applicants or permittees to possess or consume alcoholic beverages on the Premises; and (iv) that they may not store, use, discharge, or dispose of any hazardous or toxic substances, pollutants, or contaminants on any part of the Premises; and
- E. The Board may require permit applicants and/or recipients: (i) to sign waivers and releases; (ii) to assume financial and legal responsibility for their and their guests' acts, omissions, damages, etc.; and/or (iii) to provide evidence of insurance that the Board may specify – in which case any waiver or release or acceptance of responsibility or insurance that the Board requires shall also expressly run to the City's benefit and protect and cover City to the same extent as the Board.

9. **Compliance with Laws and Regulations; Environmental; Nondiscrimination.**

- A. The Board shall, at its sole cost and expense, comply with any and all laws, statutes, ordinances and regulations, federal, state, county, or municipal, now or hereafter enforced, or applicable to its respective existence at, or use, occupancy, or improvement (including repair or maintenance) of, any part of the Premises.
- B. The Board shall not store, use, discharge or dispose of any hazardous or toxic substances, pollutants or contaminants ("Contaminants") on any part of the Premises other than conventional household items such as cleaning materials which must nonetheless be stored, used, discharged, and disposed of in strict compliance with all applicable federal, state, and local laws, rules, and regulations.
- C. The Board is leasing the Premises on an "**AS IS, WHERE IS**" basis.
- D. The Board shall be responsible (i) for remediating any Contaminants or environmental pollution on any part of the Premises caused by the Board or its permittees, and (ii) for repairing any damage (environmental, physical, structural, or otherwise) to the Premises caused by the Board or its permittees.
- E. The Board must obtain City's prior written approval before conducting any environmental testing or investigation on or at any part of the Premises.
- F. The Board shall not, with respect to its use and occupancy of the Premises, and the Board-Controlled Activities thereat, and with respect to its issuance of permits for the Premises to members of the public, discriminate against any person on the basis of race, sex, sexual orientation, creed, national origin or identity, color, religion, marital status, age, or handicap.

10. **Recreational Immunity Under §895.52.**

- A. City and the Board intend on each of City and THE BOARD being protected by Wis. Stat. §895.52 (and any successor statute thereto) to the greatest extent possible.
- B. The Board may not charge any admission fee for spectators at any event on the Premises unless the event is a Board-Controlled Activity.
- C. The Board agrees to comply with any duty it may have under Wis. Stat. §101.11.

11. **Insurance.** The Board shall obtain and maintain in place during the entire Term, at its expense (as additional rent hereunder), insurance as described in strict compliance herewith:

- A. **General Liability, Property, and Other Coverage.** General liability insurance that protects exposures associated with the operations of the Board and its use of the Premises and its maintenance operations at the Milwaukee/Erie Street intersection pursuant to ¶ 16 of this Lease - including, but not limited to: liability for Board-Controlled Activities at the Premises; contractual liability protection for the risks assumed by the Board in this Lease; and property insurance for Board-owned property. The Board shall also obtain and maintain in place during the entire Term: workers compensation insurance, employers liability insurance, and other insurance coverage in the types and amounts set forth in **Exhibit B** attached hereto.
- B. **Policies.** All policies shall be endorsed to protect City and the Board as their interests may appear. All policies shall be obtained by the Board under valid and enforceable standard form policies issued by responsible insurance companies licensed to do business in the State of Wisconsin. Certificates and actual policies evidencing insurance coverage shall be provided to City. The insurance company shall be required to provide City with 60-day written notice of any cancellation, non-renewal, or material change in the coverage required or provided hereunder.
- C. **City Must Be Named As Additional Insured On All Contractor and Subcontractor Policies.** The Board shall require, and any contractor or subcontractor providing work or materials to the Premises shall provide, the minimum types and limits of insurance set forth on **Exhibit B** and shall name the City of Milwaukee as additional insured on said policies.

12. **Indemnification; Waiver of Subrogation.** In addition to any liability the Board may have to City as a result of the Board breach of any of its duties hereunder, notwithstanding anything to the contrary contained herein, the Board also agrees to indemnify and save City harmless from and against any and all loss or claims, or damage

or injury to persons (including death), property, or business, sustained in or about, or to, the Premises, and resulting from or attributable to:

- A. the intentional or negligent acts or omissions of the Board, its officers, directors, employees, agents, or contractors. Providing, however, that – subject to subparagraph B below - the City is not hereby imposing any contractual liability on the Board to indemnify City for any loss, claim, damage, or injury caused or suffered by members of the public engaged in public use of the Premises, or by persons who are members of the public at events for which the Board has issued a permit under section 7 of this Agreement; and/or
- B. a Board-Controlled Activity (including, but not limited to, activities that only involve the Board, its officers, directors, employees, agents or contractors).

City hereby waives, however, any and all rights of recovery against the Board for any loss or damage to the extent, and only to the extent, City actually receives payment from the Board's insurer toward the particular loss or damage. If the amount City collects from the Board's insurer is less than the total loss or damage to City, then City's waiver shall only be a partial one.

- 13. **The Board's Annual Report to Commissioner.** On or before each July 31 during the Term of this Lease, the Board shall provide a written report to the Commissioner concerning the Board's use and activities at the Premises during the preceding 12-month period ending on the March 31 prior to that July 31 deadline. That Report shall identify and explain the Board-Controlled Activities during the preceding year, and also, with respect to section 7 above, identify all permits issued, to whom, for what area, and for what purpose, and permit fee (if any) charged. The Report shall also contain a report as to revenues and expenses associated with the Premises for the Report Year.
- 14. **Public Records.** The Board acknowledges that the City is bound by the Wisconsin Public Records Law, and as such, all of the terms of this Agreement are subject to and conditioned on the provisions of Wis. Stat. § 19.21, et seq. The Board further acknowledges that it is obligated to assist the City in retaining and producing records that are subject to the Wisconsin Public Records Law, and that the failure to do so shall constitute a material breach of this Agreement, and that the Board must defend and hold the City harmless from liability under that law. Except as otherwise authorized under Wisconsin's Public Records Law, Board records regarding this Agreement and administration of the Lease shall be retained for 7 years.
- 15. **Possible Restrictions/Encumbrances.**
 - A. **No Title Report.** City is, as indicated, leasing the Premises to the Board on an "AS IS, WHERE IS" basis (except as otherwise provided herein). City has not obtained or provided to the Board any title insurance commitment or title insurance policy with respect to the Premises. If the Board wants such, it can

acquire such on its own at its expense. City calls to the Board's attention, and the Board is aware of, and agrees to comply with, the following:

- i. License Agreement by and between the City and Friends of Hank Aaron State Trail, Inc. dated May 28, 2010 providing for the placement of a lighted car stop shelter on the Premises.
 - ii. Permission granted to the Board for the placement of sculptures on the Premises pursuant to the terms of Common Council File No. 030620.
 - iii. Special events already permitted on the Premises for the 2010 calendar year, as specified on **Exhibit D**.
- B. **Other.** City retains the right to devote portions of the Premises to uses for utilities and other easements necessary for public welfare and convenience, as determined by the Commissioner.

16. Maintenance of Premises; Maintenance of Landscaping Improvements at Milwaukee and Erie Streets; Notice of Damage.

- A. **Maintenance of Premises by the Board.** The Board shall be responsible, at its expense, for all routine or non-routine, capital or non-capital, repair, husbandry and maintenance of the Premises and improvements thereat, including the fountain and surrounding Pedestrian Mall improvements. The foregoing includes, but is not limited to, the Board being responsible for, at its expense:
- (1) Picking up and removing litter, trash, and rubbish at the Premises on a routine basis so as to keep the same clean and litter-free.
 - (2) Removing snow and ice from the entire width of sidewalks along the perimeter of the Premises, and from walkways at the Premises in accordance with Milwaukee Code of Ordinances §§116-8 and 116-16.
 - (3) Promptly removing graffiti from the Premises and improvements thereat.
 - (4) Mowing the grass, including grass between the curb and sidewalk, on a regular basis.
 - (5) Removing weeds and pruning trees, bushes, and vegetation at the Premises, and fertilizing, on an as-needed basis. City agrees, however, that it will perform a one-time pruning at the Premises either before or after the Effective Date of this Lease. All pruning thereafter shall be the Board's responsibility.
 - (6) Repairing and restoring any damage to the Premises or improvements thereat, as practicable and within a reasonable time.

- (7) Electrical and plumbing repairs and maintenance work typically associated with reasonable husbandry.
- (8) Properly preparing structures and fixtures for winterization, weather and change of seasons.
- (9) Keeping the Premises, structures and fixtures in good and clean condition.

B. **Maintenance of Sidewalk Improvements at Milwaukee and Erie Streets by the Board.** As additional consideration for the City's granting of this Lease, the Board shall also be responsible for routine maintenance of the landscaping located adjacent to the intersection of Milwaukee and Erie Streets, as described on **Exhibit C**, attached hereto (the "Sidewalk Area"). The foregoing includes the Board being responsible for, at its expense:

- (1) Picking up litter, trash, and rubbish at the Sidewalk Area on a routine basis so as to keep the same clean and litter-free.
- (2) Removing weeds and pruning trees and shrubs located upon the Sidewalk Area on an as-needed basis.
- (3) Mowing the grass, including grass between the curb and sidewalk, on a regular basis.
- (4) Removing snow and ice from the entire width of the Sidewalk Area, in accordance with Milwaukee Code of Ordinances §§116-8 and 116-16.

C. **Notice of Damage/Repair to City.** The Board shall provide prior written notice to City of any repair or maintenance work required of the Board above that is estimated to cost over \$10,000 or that may materially affect the structure or appearance of any structure at the Premises and obtain City's prior written approval before undertaking any such repair or maintenance work.

- 17. **Special Trash Pick-Up Provisions.** The Board shall be solely responsible for all trash and litter pick-up and removal from the Premises. City shall bear no expense or obligation associated with trash removal from the Premises.
- 18. **Improvements by the Board.** With the exception of maintenance and repair work required of the Board under the "maintenance" section above, the Board shall not make any alterations or additions to the Premises without City's prior written consent and without first having obtained all other necessary approvals and permits. (See ¶ 32 regarding approval by City).
- 19. **Leasehold Mortgages; Construction Liens.** The Board has no right to mortgage, pledge as collateral, or hypothecate its interest in this Lease, or in any part of the

Premises, or in any buildings, improvements, or fixtures at the Premises. The Board shall take all actions and precautions required to ensure that the Premises do not become attached by, or with, any lien, including, but not limited to, any construction lien, or lien of or by any laborer, contractor, subcontractor, materialman, or supplier (including any lien under Subch. I of Wis. Stat. Ch. 779) relating directly or indirectly to any work that the Board (or anyone claiming by, through, or under the Board) may perform or have done at the Premises. The Board shall indemnify, defend, and hold harmless City and the Premises of, from, and against, any such lien which may attach, or be asserted against, the Premises, together with all costs in connection therewith.

20. **Utilities; Police and Fire Protection.** The Board is responsible for all utility costs associated with use of the Premises during the Term of this Lease including sewer, water, and electricity. City shall provide police and fire protection to the Premises to the same extent and on the same basis it provides same to other citizens of the City.

21. **Property Taxes, Assessments, Fees and Charges.**

- A. In that the Premises are owned by City, the Premises are property-tax exempt under Wis. Stat. §70.11(2). See, especially, last sentence of §70.11(2), “[l]easing the property exempt under this subsection, regardless of the lessee and the use of the leasehold income, does not render that property taxable.” If the Premises subsequently become, under state law, in the City Assessor’s opinion, subject to general property taxes during the Term hereof, however, the Board shall be responsible for, and timely pay, such taxes, with the understanding that the Board may dispute such by following the procedure set forth in Wis. Stat. § 74.35(2m).
- B. Unless otherwise entitled to lawful exemption, the Board shall pay all taxes, assessments, charges, and fees levied or assessed upon the Premises or its own personal property and its own trade fixtures on, or at, the Premises.
- C. The Board shall pay any special charge, special assessment, special tax, or fee that may be levied against the Premises at any time during the Term. Said charges, assessments, taxes and fees expressly include those both known and unknown as of the effective date of this Lease.

22. **City Entry Rights.** City has the right, without notice, to enter the Premises at any time. And, notwithstanding the foregoing, City (and its contractors) shall have the right to be on the Premises at any time without notice to inspect, maintain, repair, replace or reconstruct any City utilities or improvements now or hereafter at the Premises. City’s entry, in any event, shall be conducted in such a way so as to minimize interference or disruption of the Board’s (or anyone claiming by, through, or under the Board) lawful use and occupancy of the Premises. In addition to the foregoing, City also expressly retains (and does not waive) all rights available to it at law to enter and inspect the Premises (or any part thereof) (including, but not limited to, all legal rights of City’s building inspectors, health inspectors, fire inspectors, electrical inspectors, assessors, fire and police personnel, etc. to enter and inspect).

23. **City Audit Rights.** The Board shall keep accurate and complete books, records, and accounts with respect: (i) to the Board's finances; (ii) to the Premises (and the parts thereof), and the Lease (iii) to use and occupancy of and events at the Premises; and (iv) to maintenance and repair undertaken by the Board with respect to the Premises. Those books, records and accounts shall be made available to City for its review and inspection upon City's request. The Board shall provide to City, at the Board's expense, and upon City's demand, copies of any:

- (a) of the aforementioned books, records and accounts;
- (b) agreement, permit, or license with respect to special events at or use of the Premises (or any part thereof);
- (c) invoices or contracts relating to the Board repair or maintenance work;
- (d) articles of incorporation or bylaws of the Board (or any amendment to the same);
- (e) Insurance policy the Board has or had in place hereunder.

City has the right to have an auditor (whether an employee of City's Comptroller Office or an independent auditor) review and audit any of the above.

24. **Defaults and Remedies.** The Board shall be in default hereunder:

- A. if the Board fails to perform any of its covenants or duties under this Lease and such failure is not cured by the Board (i) with all due dispatch after written notice from City to the Board if the failure jeopardizes health, safety or welfare and poses a substantial immediate threat of danger or injury; and (ii) in all other cases, within 30 days after written notice from City to the Board (or if such failure is not of a type that can reasonably be corrected within 30 days, then if the Board fails to commence promptly and proceed with due diligence to correct such failure);
- B. if the Board is adjudged bankrupt, or if the Board files a petition or answer seeking bankruptcy, insolvency status, or reorganization of the Board under federal or state bankruptcy or insolvency law, or if the Board consents to the appointment of a receiver to administer the Board or its affairs, or if the Board dissolves or institutes any proceeding for dissolution or termination;
- C. if the Board makes any sublease, assignment, transfer, hypothecation, conveyance, or other disposition of its interest in the Premises (or any part thereof) without City's prior written consent;

In the event of any default by the Board hereunder, the Board hereby authorizes and empowers City to exercise any right or remedy available to City under Wisconsin law, or in equity, or hereunder, including, without limitation, (i) the right to terminate this Lease or take possession of the Premises (or any part of it) without terminating this Lease, (ii) the right to have a receiver appointed by the Court to manage the Premises (or parts of it), (iii) the right to evict the Board and anyone claiming by, through, or under the Board, from the Premises (or parts of it), (iv) the right, if City evicts or removes the Board (or

anyone claiming by, through, or under the Board) from the Premises (or any part of it), to store personal property of the Board (or anyone claiming by, through, or under the Board) in a storage facility or public warehouse at the sole cost of the Board.

25. Condemnation or Damage of Premises.

A. **Condemnation or Damage That Terminates Lease.** If the Premises (or a significant part thereof) are at any time during the Term condemned by any public authority with the power of eminent domain (or are voluntarily transferred in lieu of, or under threat of, condemnation), or if the Premises are damaged by fire or some other cause so as to render - in City's reasonable opinion (which shall be reached by City within 100 days of the condemnation, transfer, or damage, and after consultation with the Board) – all or any significant portion of the Premises untenable or unfit for the continued use and purpose of the Board, and for the carrying out of the Board's operations and use at the Premises, this Lease shall be deemed terminated as of the date of the condemnation or transfer or loss. In such event, the proceeds from any condemnation award or insurance shall be payable to City, providing, however, that the Board shall be entitled to any award or insurance directly relating to the Board's personal property (including the Board's trade fixtures and moveable equipment), to the Board's leasehold interest, and/or to any tenant-relocation award or benefit that the condemning authority or insurer may award or pay to the Board.

C. **Waiver; Participation.** In the event of any condemnation or damage pursuant to subpara. A. above, the Board waives any claim for damage or compensation from City. The Board shall have the right, to the extent of its tenant-interest, or insurable interest, as the case may be, to participate in any condemnation proceedings or the settlement of any insurance claim.

26. **No Beneficial Interest.** No provision herein calling for sharing in insurance or condemnation proceeds, and no other provision of this Lease, shall constitute, or be deemed to be evidence of: The Board having any beneficial ownership of the Premises (or any part thereof, or in any land, fixtures, improvements, or buildings thereat); or any partnership or agency relationship between the Board and City. The sole relationship hereunder between the Board and City is merely that of tenant (the Board) and landlord (City).

27. **Right to Assign and Sublet.** The Board may NOT assign this Lease or sublet any portion of the Premises without City's prior written consent, providing, however, that, subject to the terms and conditions of this Lease, the Board may use the Premises for Board-Controlled Activities and the Board, under ¶7, may issue permits.

28. **Fixtures and Personal Property on Premises.** Subject to the terms hereof, the Board may install and affix to the Premises such trade fixtures, moveable equipment and personal property as the Board may deem desirable, which shall remain the Board's sole property. The Board shall have the right at any time during the Term of this Lease, to

remove or change, at the Board's sole expense, any of its trade fixtures, moveable equipment and personal property at the Premises, providing, however, that (with the exception of temporary repairs, maintenance, upgrades and replacements) the Board shall not remove any such item that would compromise any structure or utility at, constituting, or serving any structure on the Premises (including, but not limited to, any HVAC, plumbing or electrical system), and providing further that, in all cases, the Board shall, at its expense, promptly repair any damage caused by or attributable to any removal or change by the Board of its trade fixtures, equipment or personal property.

29. **Waiver.** No delay, waiver, omission or forbearance on the part of either party to exercise any right, option, duty or power arising out of any breach or default by the other party of any of the terms, provisions or covenants contained herein, shall be deemed a waiver by that party of such right, option, or power, as against the other party for any subsequent breach or default by that party.
30. **Governing Law.** This Lease shall be construed according to the laws of the State of Wisconsin.
31. **Notices.** Any notice required or permitted under this Lease may be personally served or given and shall be deemed sufficiently given or served if sent by United States mail, with postage prepaid thereon, to the respective addresses set forth below, or if sent by fax or e-mail to the respective fax number or e-mail address set forth below. Either party may by like notice at any time, and from time to time, designate a different address, fax, or e-mail to which notices shall be sent. Notices given in accordance with these provisions shall be deemed given and received (a) when personally served, or (b) if faxed or e-mailed during business days when City Hall is open for business during business hours (8:30 a.m.- 4:30 p.m.), when faxed or e-mailed, or (c) if mailed, three days after the postmark on such notice, in accordance with this section.

To City:

Commissioner of Dept. of City Development
City of Milwaukee
809 North Broadway, Second Floor
Milwaukee, WI 53202
Phone: (414) 286-5800
Fax: (414) 286-5467

Copy to:

Danielle M. Bergner
City Attorney's Office
800 City Hall
200 East Wells Street
Milwaukee, WI 53202
Phone: (414) 286-2620

Fax: (414) 286-8550

To THE BOARD:

Board of Business Improvement District No. 2
c/o President, Historic Third Ward Association, Inc.
Phone: (414) 273-1173
Fax: (414) 273-2205

32. **Commissioner.** Unless otherwise provided for herein, all submissions to City, and all approvals or consents required to be obtained from City, hereunder, as landlord, shall, respectively, be submitted to, or obtained from, as the case may be, City's Commissioner of the Department of Public Works and City's Commissioner of the Department of City Development, or their respective designees.
33. **Severability of Provisions.** If any of the terms or provisions contained herein shall be declared to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions and conditions of this Lease, or the application of such to persons or circumstances other than those to which it is declared invalid or unenforceable, shall not be affected thereby, and shall remain in full force and effect and shall be valid and enforceable to the fullest extent permitted by law.
34. **Captions.** The captions in this Lease are for convenience and reference, and in no way define or limit the scope or intent of the various provisions, terms, or conditions hereof.
35. **Entire Agreement.** This Lease constitutes the entire agreement between the parties hereto and may not be amended or altered in any manner except in writing signed by both parties.
36. **Signage; Brochures.** Any signage at the Premises must first be approved by each of the Board and City. The Board also agrees to include on any of its brochures or pamphlets advertising or concerning the Board's operations or programs at the Premises evidence of City ownership of the Premises.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first above written.

BOARD:
BOARD OF BUSINESS IMPROVEMENT
DISTRICT NO. 2

By: _____
Ronald S. San Felippo
Chair

CITY:
CITY OF MILWAUKEE

By: _____
Elaine M. Miller,
Special Deputy Commissioner
Signed per MCO § 304-49-9

BOARD NOTARIES

STATE OF WISCONSIN)
)ss.
COUNTY OF MILWAUKEE)

Personally came before me this ____ day of _____, 2010, the above named Ronald S. San Felippo, Chair of the Board of Business Improvement District No. 2, to me known to be such person who executed the foregoing instrument and acknowledged the same in such capacity.

Notary Public, State of Wisconsin
My Commission: _____

**Milwaukee City Attorney
Approval and Authentication**

Danielle M. Bergner, as a member in good standing of the State Bar of Wisconsin, hereby approves the signatures of the Milwaukee representatives above, and also authenticates the signatures of each of the above Milwaukee representatives/signatories per Wis. Stat. § 706.06 so this document may be recorded per Wis. Stat. § 706.05 (2)(b).

By: _____
DANIELLE M. BERGNER
Assistant City Attorney
State Bar No. 1049359

Date: _____

EXHIBIT A

Description of The Premises

PLAT OF MILWAUKEE IN SECS (28-29-33)-7-22 BLOCK 117 LOT 11 & LOT 1 EXC ST & VAC ALLEY & LOTS 11-12 & 13 EXC ST OF BLK 156

Tax Key Number 392-1732-000

Together With the North Broadway Pedestrian Mall described as:

Commencing at the intersection of the south line of East Menomonee Street and west line of North Broadway; thence southerly, along the west line of North Broadway to its point of intersection with the northeasterly line of East Erie Street; thence southeasterly, along the extension of the northeasterly line of East Erie Street to its point of intersection with the southwesterly extension of the present northwesterly line of North Young Street; thence northeasterly, along said extension of North Young Street, to its point of intersection with the east line of North Broadway; thence northerly, along said east line, to the point of intersection of said east line and the south line of East Menomonee Street; thence westerly, to the point of commencement.

Exhibit B

Insurance Requirements

Insurance certificates must be sent for inspection and approval prior to the tenant's occupancy of the Premises and prior to any work being performed at the Premises by contractors or subcontractors of the tenant. Certificates should be sent to: Manager of Real Estate Services, City of Milwaukee, 809 North Broadway, Milwaukee, WI 53202-3617 or by facsimile to (414) 286-0395.

TYPE OF INSURANCE

LIMITS

Worker's Compensation

Statutory limits

Employers Liability

Bodily Injury by Accident
Bodily Injury by Disease

Each Accident: \$100,000
Each Employee: \$100,000
Policy Limit: \$500,000

Public Liability

A Comprehensive General or Commercial General
Policy Insuring Tenant's Use of the Premises that provides:

- Premises/Operations Protection
- Products/Completed Operations Protection
- Independent Contractor Protection (owners, contractors protective coverage)
- Contractual Liability Coverage
- Non-owned Automobile Liability Coverage
- Bodily Injury/Property Damage

NOTE: If claims made coverage is provided, the policy must be amended so all protected occurrences are covered regardless of when the claim is made.

Each Occurrence: \$1,000,000
General Aggregate: \$2,000,000
Products/Comp. Operations
aggregate: \$2,000,000

**THE CITY OF MILWAUKEE MUST BE NAMED AS ADDITIONAL INSURED PARTY
ON THE BOARD'S POLICY AND ANY CONTRACTOR OR SUBCONTRACTOR
POLICIES OF INSURANCE.**

EXHIBIT C

Description of Sidewalk Area

(See attached)

DRAFT

EXHIBIT D

Schedule of Events – 2010

<u>Permittee</u>	<u>Date</u>	<u>Type of Event</u>
Skylight Opera Theatre	08/03/10	Skylight Cabaret in the Ward
	08/10/10	
	08/17/10	
	08/24/10	
	08/31/10	
Ms. Leia Chicoine	08/21/10	Wedding
Skylight Opera Theatre	09/01/10	Fundraiser/Open House
MIAD	11/02/10	MIAD Homeless Awareness Night
	11/03/10	

CITY OF MILWAUKEE FISCAL NOTE

A) DATE July 14, 2010FILE NUMBER: 100261Original Fiscal Note ☒ Substitute ☐SUBJECT: Resolution approving a lease with the Board of Business Improvement District No. 2 for the Catalano Square property at 138 North Broadway, in the 4th Aldermanic District.B) SUBMITTED BY (Name/title/dept./ext.): Rocky Marcoux, Commissioner

- C) CHECK ONE: ☐ ADOPTION OF THIS FILE AUTHORIZES EXPENDITURES
☐ ADOPTION OF THIS FILE DOES NOT AUTHORIZE EXPENDITURES; FURTHER COMMON COUNCIL ACTION NEEDED. LIST ANTICIPATED COSTS IN SECTION G BELOW.
☐ NOT APPLICABLE/NO FISCAL IMPACT.

- D) CHARGE TO: ☐ DEPARTMENT ACCOUNT(DA) ☐ CONTINGENT FUND (CF)
☐ CAPITAL PROJECTS FUND (CPF) ☐ SPECIAL PURPOSE ACCOUNTS (SPA)
☐ PERM. IMPROVEMENT FUNDS (PIF) ☐ GRANT & AID ACCOUNTS (G & AA)
☐ OTHER (SPECIFY)

E) PURPOSE	SPECIFY TYPE/USE	ACCOUNT	EXPENDITURE	REVENUE	SAVINGS
SALARIES/WAGES:					
SUPPLIES:					
MATERIALS:					
NEW EQUIPMENT:					
EQUIPMENT REPAIR:					
OTHER:	Lease	Tax Deficit Fund		\$1.00/year	
TOTALS				\$1.00/year	

F) FOR EXPENDITURES AND REVENUES WHICH WILL OCCUR ON AN **ANNUAL** BASIS OVER SEVERAL YEARS CHECK THE APPROPRIATE BOX BELOW AND THEN LIST EACH ITEM AND DOLLAR AMOUNT **SEPARATELY**.

<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	

G) LIST ANY ANTICIPATED FUTURE COSTS THIS PROJECT WILL REQUIRE FOR COMPLETION:

H) COMPUTATIONS USED IN ARRIVING AT FISCAL ESTIMATE:

PLEASE LIST ANY COMMENTS ON REVERSE SIDE AND CHECK HERE ☐

PW FILE NUMBER: 100261

[illegible]



Legislation Details (With Text)

File #: 100263 **Version:** 1

Type: Resolution **Status:** In Committee

File created: 6/15/2010 **In control:** PUBLIC WORKS COMMITTEE

On agenda: **Final action:**

Effective date:

Title: Substitute resolution approving a lease with the Board of Business Improvement District No. 2 for the Erie Street Plaza, in the 4th Aldermanic District.

Sponsors: THE CHAIR

Indexes: BUSINESS IMPROVEMENT DISTRICT 02, CITY PROPERTY, LEASES

Attachments: Cover Letter, Erie Street Plaza Lease- Draft, Erie Street Pedestrian Mall Map, Fiscal Note, Hearing Notice List

Date	Ver.	Action By	Action	Result	Tally
6/15/2010	0	COMMON COUNCIL	ASSIGNED TO		
6/30/2010	1	CITY CLERK	DRAFT SUBMITTED		
7/12/2010	1	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		

Number

100263

Version

Substitute 1

Reference

100114

Sponsor

ALD. BAUMAN

Title

Substitute resolution approving a lease with the Board of Business Improvement District No. 2 for the Erie Street Plaza, in the 4th Aldermanic District.

Analysis

This resolution authorizes a lease for a City pedestrian mall according to conditions outlined in the Lease.

Body

Whereas, By passage of Resolution File No. 100114, the Common Council of the City of Milwaukee authorized and directed the Departments of Public Works ("DPW") and City Development ("DCD") to commence lease negotiations with the Business Improvement District ("BID") No. 2 or with the Historic Third Ward Association for Erie Street Plaza that is currently under development at the south end of East Erie Street and adjacent the Milwaukee Harbor entrance; and

Whereas, Staff from DPW, DCD and the City Attorney's Office met with representatives of BID No. 2 and negotiated the terms of a long-term lease for the Erie Street Plaza; and

Whereas, The proposed lease with BID No. 2 permits the BID to program activities in the plaza in consideration of it assuming maintenance responsibilities of the plaza as summarized in the attached Lease Report; and

Whereas, The proposed lease will facilitate use of and activities in the plaza, ensures public access and establishes maintenance requirements while helping to reduce municipal expenditures; and

Whereas, The City has negotiated a lease with the Board of BID No. 2, a copy of which is attached to this Common Council File; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that the lease with the Board of BID No. 2 for Erie Street Plaza is approved; and, be it

Further Resolved, That the Commissioner of the DCD, or designee, is authorized to execute the lease with the Board of BID No. 2 and any other necessary documents upon final approval of the lease by the Common Council; and, be it

Further Resolved, That the City Attorney's office, in cooperation with the Commissioners of DPW and DCD, is authorized to make such further minor modifications to said lease that are consistent with the intent and purpose of this resolution and which are mutually acceptable to the City Attorney and the Commissioner of DPW and DCD.

Drafter

City Atty.

dmb

6/14/10

GRANT F. LANGLEY
City Attorney

RUDOLPH M. KONRAD
LINDA ULISS BURKE
VINCENT D. MOSCHELLA
Deputy City Attorneys



THOMAS O. GARTNER
BRUCE D. SCHRIMPF
ROXANE L. CRAWFORD
SUSAN D. BICKERT
STUART S. MUKAMAL
THOMAS J. BEAMISH
MAURITA F. HOUREN
JOHN J. HEINEN
DAVID J. STANOSZ
SUSAN E. LAPPEN
JAN A. SMOKOWICZ
PATRICIA A. FRICKER
HEIDI WICK SPOERL
KURT A. BEHLING
GREGG C. HAGOPIAN
ELLEN H. TANGEN
MELANIE R. SWANK
JAY A. UNORA
DONALD L. SCHRIEFER
EDWARD M. EHRLICH
LEONARD A. TOKUS
VINCENT J. BOBOT
MIRIAM R. HORWITZ
MARYNELL REGAN
G. O'SULLIVAN-CROWLEY
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Assistant City Attorneys

June 11, 2010

VIA: E-MAIL

Jim Owczarski, City Clerk's Office
200 East Wells Street, Room 205
Milwaukee, WI 53202

Re: Introduction of Council Files for July Council Cycle
Regarding Catalano Square and Erie Street Plaza Leases

Dear Mr. Owczarski:

I write to request your assistance with the introduction and administration of three files pertaining to the Catalano Square and Erie Street Plaza Leases. They are:

1. Resolution approving a lease with the Board of Business Improvement District No. 2 for the Catalano Square property at 138 North Broadway, in the 4th Aldermanic District. (See previous File # 091583 directing negotiations).
2. Ordinance to establish a pedestrian mall to be known as "Erie Street Plaza" in East Erie Street, adjacent to the harbor entrance, in the 4th Aldermanic District.
3. Resolution to approve a lease with the Board of Business Improvement District No. 2 for the Erie Street Plaza property located near 695 E. Erie Street, in the 4th Aldermanic District. (See previous File # 100114 directing negotiations).

The establishment of a pedestrian mall is a necessary component of the lease agreement requested by the Common Council for Erie Street Plaza, and it must precede approval of the lease, so I would ask that the various agenda items be ordered with that in mind.

The resolutions, ordinance text, and fiscal notes will follow.

Jim Owczarski
June 11, 2010
Page 2

Please send notices of Council and Committee meetings to the following:

1. Ald. Robert J. Bauman
2. Ghassan Korban; DPW
3. Elaine Miller; DCD
4. Danielle Bergner

Thank you very much. Please call if you have questions or comments.

Very truly yours,



DANIELLE M. BERGNER
Assistant City Attorney

DMB

c: Ald. Robert Bauman (via e-mail)
Ghassan Korban (via e-mail)
Elaine Miller (via e-mail)

158721

Document Number	ERIE STREET PLAZA LEASE Document Title
ERIE STREET PLAZA LEASE	
Recording Area	
Name and Return Address Ms. Elaine Miller, Real Estate Officer City of Milwaukee 809 N. Broadway, 2 nd Floor Milwaukee, WI 53202	
Tax Key Number: 	

Drafted By:
Danielle M. Bergner
Assistant City Attorney
City of Milwaukee

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EXHIBIT A: Map and Legal Description of Premises

EXHIBIT B: Insurance Requirements

EXHIBIT C: Description of Sidewalk Improvements at Milwaukee and Erie Streets

ERIE STREET PLAZA LEASE

THIS LEASE, is made and entered into as of this ____ day of _____, 2010, (the “Effective Date”) and is by and between **THE CITY OF MILWAUKEE** (hereinafter “City”) and **THE BOARD OF BUSINESS IMPROVEMENT DISTRICT NO. 2** (hereinafter the “Board”).

RECITALS

- A. The Board is the governing body of Business Improvement District No. 2 (BID-2) created per Wis. Stat. §66.608 (1997-98), now §66.1109 (2001-02). City’s Common Council approved creation of BID-2 in Resolution File No. 870501, adopted October 6, 1987.
- B. CITY owns certain real estate and improvements located in Milwaukee, Wisconsin (the “Premises”), more particularly described in **Exhibit A** attached hereto, and more commonly referred to as “Erie Street Plaza.”
- C. The Premises is comprised of a pedestrian mall and its improvements under the City’s jurisdiction pursuant to Sec. 113-20, Milwaukee Code of Ordinances.
- D. The Board wants to lease the Premises from CITY per the terms hereof, so the Board can put the Premises to use for the purposes set forth in this Lease which, the Board believes, will, among other things, promote Business Improvement District No. 2 and enhance urban green space consistent with promoting the general welfare of the CITY and its citizens; and
- E. CITY is willing to lease the Premises to the Board on the terms and conditions set forth herein.
- F. The CITY authorized CITY entry into this Lease by CITY Common Council Resolution File No. 100263, passed _____, 2010.

NOW THEREFORE, for and in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, CITY and the Board agree as follows:

- 1. **Recitals**. The recitals above are hereby agreed to.
- 2. **Leased Premises**. Subject to the terms hereof, the CITY does hereby lease the Premises, which is legally described on **Exhibit A**, to the Board.

- A. **Recording of Lease.** In its discretion, City may record this Lease (or evidence thereof) in the Milwaukee County Register of Deeds Office; and the Board agrees to cooperate with City in that regard.
- B. **City Leases to the Board.** Subject to all the terms and conditions in this Lease, City hereby leases to the Board, and the Board hereby leases from City, on an **AS-IS, WHERE-IS BASIS**, and with all faults and defects, known or unknown, discovered or to be discovered, the real property, improvements and appurtenances located in Milwaukee and herein called the Premises.
- C. **Exclusivity/Nonexclusivity.** The Premises are being leased to the Board on a non-exclusive basis subject to the Board's limited rights as specified in ¶¶ 7 and 8 of this Lease.
3. **Term.** The term of this Lease (the "Term") shall be 25 years, commencing on July 1, 2010 (the "Commencement Date") and terminating on June 30, 2025, unless sooner terminated as herein provided.
4. **Termination of Lease.** Upon the expiration or earlier termination of this Lease, the Board shall peaceably and quietly deliver, yield up, and surrender possession of the Premises to City. The Board shall remove from the Premises upon expiration or termination, and be responsible for, all personal property situated thereon, and leave the Premises in a broom-clean condition. Any property not so removed shall, at City's option, either become the sole property of City or be stored on-site or off-site at the Board's expense.
5. **Termination for Convenience.** Notwithstanding anything to the contrary contained herein (including, but not limited to, any provision in the "condemnation" section below), City may, in its sole discretion, and without cause, and for any reason, including no reason, terminate this Lease at any time upon one year's advance written notice to the Board. This ¶5 is a material provision without which, City would not have entered into this Lease.
6. **Rent/Additional Consideration.** The Board shall pay an annual rental of One Dollar (\$1), payable on the first day of the Term, without demand therefor and without setoff or deduction. Rent shall be payable to the City of Milwaukee, and shall be tendered to the Commissioner of the Department of City Development ("Commissioner") at the notice address for the Commissioner set forth below. As additional consideration for the City's lease of the Premises to the Board, the Board further agrees it shall assume responsibility for routine maintenance of the landscaped areas adjacent to the Milwaukee Street and Erie Street intersection pursuant to ¶16 of this Lease, and for the Catalano Square park, pursuant to a lease agreement for that property.
7. **Use; Including Provisions Relating to Recreational Activities Under §895.52.** Subject to shared use with the general public for a pedestrian mall open to the public, the Board shall have the right to use and occupy the Premises solely for the operation of:

- (1) “recreational activities:” (a) as defined in Wis. Stat. §895.52(1)(g) (as the same may be amended from time to time); and (b) that are consistent with activities generally associated with other pedestrian malls in Milwaukee County and other open green space in the City; and (c) that are in compliance with federal, state, and local law, regulations, and ordinances (herein called “Recreational Activities”).
- (2) activities that are controlled and supervised by the Board (herein called “Board-Controlled Activities”). The Board-Controlled Activities may include activities that are not “recreational activities” as defined in Wis. Stat. §895.52(1)(g) and may include exclusive use of a portion of the Premises by the Board for a temporary period (not to exceed 12 hours).
- (3) use of the Premises shall be limited to pedestrian users and to emergency, maintenance and utility related transportation vehicles.
- (4) the Riverwalk improvements adjacent to the Premises shall remain open to the public at all times and may not be closed for exclusive use by the Board or its permittees.

Board uses of the Premises (including the Board-Controlled Activities) must, in any event, be lawful and in compliance with all applicable federal, state, and local laws, regulations, and ordinances (including laws, regulations or ordinances requiring permits and/or licenses), and must be conducted so as not to unreasonably interfere with neighbors. No other uses may be permitted without City’s prior written consent.

8. **Board Permitting Rights for the Plaza.** To promote the orderly use and enjoyment of the Premises by the general public, the Board may, in its discretion, adopt a permit system whereby members of the general public apply to the Board for a permit to exclusively use a designated area of the Premises, for a temporary, specified period, for a lawful “Recreational Activity” or “Board-Controlled Activity” as allowed in section 7 above. Any use for which the Board issues a permit (while temporarily exclusive) must otherwise be in compliance with this Lease, including the provisions in section 7 above. If the Board does elect to engage in such permitting, then:

- A. The Board shall not charge for the issuance of permits any amount beyond an amount sufficient to cover The Board’s reasonable expenses associated with the Board’s permitting process and with the issuance of the particular permit;
- B. the permit shall only allow the permittee the right to exclusively use a designated portion of the Premises for a temporary period (in all cases, less than 72 hours, and for periods longer than 12 hours, the Board shall notify the Commissioner of the Department of Public Works of said event in advance), and the Board may not allow anything that is unlawful or concerning which the Board has no authority;

- C. the permit may only allow use for a “Recreational Activity” or a “Board-Controlled Activity” as defined in Section 7 above;
- D. the Riverwalk improvements adjacent to the Premises must remain open to the public at all times.
- E. The Board’s permit process shall provide written notice to applicants advising applicants and permittees: (i) that use is limited to “Recreational Activities” and “Board-Controlled Activities” as defined in Section 7; (ii) that they must comply with all federal, state, and local laws, regulations, and ordinances; (iii) that the Board may not authorize applicants or permittees to possess or consume alcoholic beverages on the Premises; and (iv) that they may not store, use, discharge, or dispose of any hazardous or toxic substances, pollutants, or contaminants on any part of the Premises; and
- F. The Board may require permit applicants and/or recipients: (i) to sign waivers and releases; (ii) to assume financial and legal responsibility for their and their guests’ acts, omissions, damages, etc.; and/or (iii) to provide evidence of insurance that the Board may specify – in which case any waiver or release or acceptance of responsibility or insurance that the Board requires shall also expressly run to the City’s benefit and protect and cover City to the same extent as the Board.

9. **Compliance with Laws and Regulations; Environmental; Nondiscrimination.**

- A. The Board shall, at its sole cost and expense, comply with any and all laws, statutes, ordinances and regulations, federal, state, county, or municipal, now or hereafter enforced, or applicable to its respective existence at, or use, occupancy, or improvement (including repair or maintenance) of, any part of the Premises.
- B. The Board shall not store, use, discharge or dispose of any hazardous or toxic substances, pollutants or contaminants (“Contaminants”) on any part of the Premises other than conventional household items such as cleaning materials which must nonetheless be stored, used, discharged, and disposed of in strict compliance with all applicable federal, state, and local laws, rules, and regulations.
- C. The Board is leasing the Premises on an “**AS IS, WHERE IS**” basis.
- D. The Board shall be responsible (i) for remediating any Contaminants or environmental pollution on any part of the Premises caused by the Board or its permittees, and (ii) for repairing any damage (environmental, physical, structural, or otherwise) to the Premises caused by the Board or its permittees.
- E. The Board must obtain City’s prior written approval before conducting any environmental testing or investigation on or at any part of the Premises.

- F. The Board shall not, with respect to its use and occupancy of the Premises, and the Board-Controlled Activities thereat, and with respect to its issuance of permits for the Premises to members of the public, discriminate against any person on the basis of race, sex, sexual orientation, creed, national origin or identity, color, religion, marital status, age, or handicap.

10. Recreational Immunity Under §895.52.

- A. City and the Board intend on each of City and THE BOARD being protected by Wis. Stat. §895.52 (and any successor statute thereto) to the greatest extent possible.
- B. The Board may not charge any admission fee for spectators at any event on the Premises unless the event is a Board-Controlled Activity.
- C. The Board agrees to comply with any duty it may have under Wis. Stat. §101.11.

11. Insurance. The Board shall obtain and maintain in place during the entire Term, at its expense (as additional rent hereunder), insurance as described in strict compliance herewith:

- A. **General Liability, Property, and Other Coverage.** General liability insurance that protects exposures associated with the operations of the Board and its use of the Premises and its maintenance operations at the Milwaukee/Erie Street intersection pursuant to ¶ 16 of this Lease - including, but not limited to: liability for Board-Controlled Activities at the Premises; contractual liability protection for the risks assumed by the Board in this Lease; and property insurance for Board-owned property. The Board shall also obtain and maintain in place during the entire Term: workers compensation insurance, employers liability insurance, and other insurance coverage in the types and amounts set forth in **Exhibit B** attached hereto.
- B. **Policies.** All policies shall be endorsed to protect City and the Board as their interests may appear. All policies shall be obtained by the Board under valid and enforceable standard form policies issued by responsible insurance companies licensed to do business in the State of Wisconsin. Certificates and actual policies evidencing insurance coverage shall be provided to City. The insurance company shall be required to provide City with 60-day written notice of any cancellation, non-renewal, or material change in the coverage required or provided hereunder.
- C. **City Must Be Named As Additional Insured On All Contractor and Subcontractor Policies.** The Board shall require, and any contractor or subcontractor providing work or materials to the Premises shall provide, the minimum types and limits of insurance set forth on **Exhibit B** and shall name the City of Milwaukee as additional insured on said policies.

12. **Indemnification; Waiver of Subrogation.** In addition to any liability the Board may have to City as a result of the Board breach of any of its duties hereunder, notwithstanding anything to the contrary contained herein, the Board also agrees to indemnify and save City harmless from and against any and all loss or claims, or damage or injury to persons (including death), property, or business, sustained in or about, or to, the Premises, and resulting from or attributable to:
- A. the intentional or negligent acts or omissions of the Board, its officers, directors, employees, agents, or contractors. Providing, however, that – subject to subparagraph B below - the City is not hereby imposing any contractual liability on the Board to indemnify City for any loss, claim, damage, or injury caused or suffered by members of the public engaged in public use of the Premises, or by persons who are members of the public at events for which the Board has issued a permit under section 7 of this Agreement; and/or
 - B. a Board-Controlled Activity (including, but not limited to, activities that only involve the Board, its officers, directors, employees, agents or contractors).
- City hereby waives, however, any and all rights of recovery against the Board for any loss or damage to the extent, and only to the extent, City actually receives payment from the Board's insurer toward the particular loss or damage. If the amount City collects from the Board's insurer is less than the total loss or damage to City, then City's waiver shall only be a partial one.
13. **The Board's Annual Report to Commissioner.** On or before each July 31 during the Term of this Lease, the Board shall provide a written report to the Commissioner concerning the Board's use and activities at the Premises during the preceding 12-month period ending on the March 31 prior to that July 31 deadline. That Report shall identify and explain the Board-Controlled Activities during the preceding year, and also, with respect to section 7 above, identify all permits issued, to whom, for what area, and for what purpose, and permit fee (if any) charged. The Report shall also contain a report as to revenues and expenses associated with the Premises for the Report Year.
14. **Public Records.** The Board acknowledges that the City is bound by the Wisconsin Public Records Law, and as such, all of the terms of this Agreement are subject to and conditioned on the provisions of Wis. Stat. § 19.21, et seq. The Board further acknowledges that it is obligated to assist the City in retaining and producing records that are subject to the Wisconsin Public Records Law, and that the failure to do so shall constitute a material breach of this Agreement, and that the Board must defend and hold the City harmless from liability under that law. Except as otherwise authorized under Wisconsin's Public Records Law, Board records regarding this Agreement and administration of the Lease shall be retained for 7 years.
15. **Possible Restrictions/Encumbrances.**

- A. **No Title Report.** City is, as indicated, leasing the Premises to the Board on an “AS IS, WHERE IS” basis (except as otherwise provided herein). City has not obtained or provided to the Board any title insurance commitment or title insurance policy with respect to the Premises. If the Board wants such, it can acquire such on its own at its expense.
- B. **Other.** City retains the right to devote portions of the Premises to uses for utilities and other easements necessary for public welfare and convenience, as determined by the Commissioner.

16. Maintenance of Premises; Maintenance of Landscaping Improvements at Milwaukee and Erie Streets; Notice of Damage.

- A. **Maintenance of Premises by the Board.** The Board shall be responsible, at its expense, for all routine or non-routine, capital or non-capital, repair, husbandry and maintenance of the Premises and improvements thereat. The foregoing includes, but is not limited to, the Board being responsible for, at its expense:
- (1) Picking up and removing litter, trash, and rubbish at the Premises on a routine basis so as to keep the same clean and litter-free.
 - (2) Removing snow and ice from the entire width of sidewalks and Riverwalk improvements along the perimeter of the Premises, and from walkways at the Premises in accordance with Milwaukee Code of Ordinances §§116-8 and 116-16.
 - (3) Promptly removing graffiti from the Premises and improvements thereat.
 - (4) Mowing the grass, including grass between the curb and sidewalk, on a regular basis.
 - (5) Removing weeds and pruning trees, bushes, and vegetation at the Premises, and fertilizing, on an as-needed basis. **Note:** CITY will care for the newly planted trees during the first year of this Lease.
 - (6) Repairing and restoring any damage to the Premises or improvements thereat, as practicable and within a reasonable time.
 - (7) Electrical and plumbing repairs and maintenance work typically associated with reasonable husbandry.
 - (8) Properly preparing structures and fixtures for winterization, weather and change of seasons.
 - (9) Keeping the Premises, structures and fixtures in good and clean condition.

- B. **Maintenance of Sidewalk Improvements at Milwaukee and Erie Streets by the Board.** As additional consideration for the City's granting of this Lease, the Board shall also be responsible for routine maintenance of the landscaping located adjacent to the intersection of Milwaukee and Erie Streets, as described on **Exhibit C**, attached hereto (the "Sidewalk Area"). The foregoing includes the Board being responsible for, at its expense:
- (1) Picking up litter, trash, and rubbish at the Sidewalk Area on a routine basis so as to keep the same clean and litter-free.
 - (2) Removing weeds and pruning trees and shrubs located upon the Sidewalk Area on an as-needed basis.
 - (3) Mowing the grass, including grass between the curb and sidewalk, on a regular basis.
 - (4) Removing snow and ice from the entire width of the Sidewalk Area, in accordance with Milwaukee Code of Ordinances §§116-8 and 116-16.
- C. **Notice of Damage/Repair to City.** The Board shall provide prior written notice to City of any repair or maintenance work required of the Board above that is estimated to cost over \$10,000 or that may materially affect the structure or appearance of any structure at the Premises and obtain City's prior written approval before undertaking any such repair or maintenance work.
17. **Special Trash Pick-Up Provisions.** The Board shall be solely responsible for all trash and litter pick-up and removal from the Premises. City shall bear no expense or obligation associated with trash removal from the Premises.
18. **Improvements by the Board.** With the exception of maintenance and repair work required of the Board under the "maintenance" section above, the Board shall not make any alterations or additions to the Premises without City's prior written consent and without first having obtained all other necessary approvals and permits. (See ¶ 32 regarding approval by City).
19. **Leasehold Mortgages; Construction Liens.** The Board has no right to mortgage, pledge as collateral, or hypothecate its interest in this Lease, or in any part of the Premises, or in any buildings, improvements, or fixtures at the Premises. The Board shall take all actions and precautions required to ensure that the Premises do not become attached by, or with, any lien, including, but not limited to, any construction lien, or lien of or by any laborer, contractor, subcontractor, materialman, or supplier (including any lien under Subch. I of Wis. Stat. Ch. 779) relating directly or indirectly to any work that the Board (or anyone claiming by, through, or under the Board) may perform or have done at the Premises. The Board shall indemnify, defend, and hold harmless City and the Premises of, from, and against, any such lien which may attach, or be asserted against, the Premises, together with all costs in connection therewith.

20. **Utilities; Police and Fire Protection.** The Board is responsible for all utility costs associated with use of the Premises during the Term of this Lease including sewer, water, and electricity for the lighting on the Premises. City shall provide police and fire protection to the Premises to the same extent and on the same basis it provides same to other citizens of the City.
21. **Property Taxes, Assessments, Fees and Charges.**
- A. In that the Premises are owned by City, the Premises are property-tax exempt under Wis. Stat. §70.11(2). See, especially, last sentence of §70.11(2), “[l]easing the property exempt under this subsection, regardless of the lessee and the use of the leasehold income, does not render that property taxable.” If the Premises subsequently become, under state law, in the City Assessor’s opinion, subject to general property taxes during the Term hereof, however, the Board shall be responsible for, and timely pay, such taxes, with the understanding that the Board may dispute such by following the procedure set forth in Wis. Stat. § 74.35(2m).
 - B. Unless otherwise entitled to lawful exemption, the Board shall pay all taxes, assessments, charges, and fees levied or assessed upon the Premises or its own personal property and its own trade fixtures on, or at, the Premises.
 - C. The Board shall pay any special charge, special assessment, special tax, or fee that may be levied against the Premises at any time during the Term. Said charges, assessments, taxes and fees expressly include those both known and unknown as of the effective date of this Lease.
22. **City Entry Rights.** City has the right, without notice, to enter the Premises at any time. And, notwithstanding the foregoing, City (and its contractors) shall have the right to be on the Premises at any time without notice to inspect, maintain, repair, replace or reconstruct any City utilities or improvements now or hereafter at the Premises. City’s entry, in any event, shall be conducted in such a way so as to minimize interference or disruption of the Board’s (or anyone claiming by, through, or under the Board) lawful use and occupancy of the Premises. In addition to the foregoing, City also expressly retains (and does not waive) all rights available to it at law to enter and inspect the Premises (or any part thereof) (including, but not limited to, all legal rights of City’s building inspectors, health inspectors, fire inspectors, electrical inspectors, assessors, fire and police personnel, etc. to enter and inspect).
23. **City Audit Rights.** The Board shall keep accurate and complete books, records, and accounts with respect: (i) to the Board’s finances; (ii) to the Premises (and the parts thereof), and the Lease (iii) to use and occupancy of and events at the Premises; and (iv) to maintenance and repair undertaken by the Board with respect to the Premises. Those books, records and accounts shall be made available to City for its review and inspection upon City’s request. The Board shall provide to City, at the Board’s expense, and upon City’s demand, copies of any:

- (a) of the aforementioned books, records and accounts;
- (b) agreement, permit, or license with respect to special events at or use of the Premises (or any part thereof);
- (c) invoices or contracts relating to the Board repair or maintenance work;
- (d) articles of incorporation or bylaws of the Board (or any amendment to the same);
- (e) Insurance policy the Board has or had in place hereunder.

City has the right to have an auditor (whether an employee of City's Comptroller Office or an independent auditor) review and audit any of the above.

24. Defaults and Remedies. The Board shall be in default hereunder:

- A. if the Board fails to perform any of its covenants or duties under this Lease and such failure is not cured by the Board (i) with all due dispatch after written notice from City to the Board if the failure jeopardizes health, safety or welfare and poses a substantial immediate threat of danger or injury; and (ii) in all other cases, within 30 days after written notice from City to the Board (or if such failure is not of a type that can reasonably be corrected within 30 days, then if the Board fails to commence promptly and proceed with due diligence to correct such failure);
- B. if the Board is adjudged bankrupt, or if the Board files a petition or answer seeking bankruptcy, insolvency status, or reorganization of the Board under federal or state bankruptcy or insolvency law, or if the Board consents to the appointment of a receiver to administer the Board or its affairs, or if the Board dissolves or institutes any proceeding for dissolution or termination;
- C. if the Board makes any sublease, assignment, transfer, hypothecation, conveyance, or other disposition of its interest in the Premises (or any part thereof) without City's prior written consent;

In the event of any default by the Board hereunder, the Board hereby authorizes and empowers City to exercise any right or remedy available to City under Wisconsin law, or in equity, or hereunder, including, without limitation, (i) the right to terminate this Lease or take possession of the Premises (or any part of it) without terminating this Lease, (ii) the right to have a receiver appointed by the Court to manage the Premises (or parts of it), (iii) the right to evict the Board and anyone claiming by, through, or under the Board, from the Premises (or parts of it), (iv) the right, if City evicts or removes the Board (or anyone claiming by, through, or under the Board) from the Premises (or any part of it), to store personal property of the Board (or anyone claiming by, through, or under the Board) in a storage facility or public warehouse at the sole cost of the Board.

25. Condemnation or Damage of Premises.

- A. **Condemnation or Damage That Terminates Lease.** If the Premises (or a significant part thereof) are at any time during the Term condemned by any public

authority with the power of eminent domain (or are voluntarily transferred in lieu of, or under threat of, condemnation), or if the Premises are damaged by fire or some other cause so as to render - in City's reasonable opinion (which shall be reached by City within 100 days of the condemnation, transfer, or damage, and after consultation with the Board) – all or any significant portion of the Premises untenable or unfit for the continued use and purpose of the Board, and for the carrying out of the Board's operations and use at the Premises, this Lease shall be deemed terminated as of the date of the condemnation or transfer or loss. In such event, the proceeds from any condemnation award or insurance shall be payable to City, providing, however, that the Board shall be entitled to any award or insurance directly relating to the Board's personal property (including the Board's trade fixtures and moveable equipment), to the Board's leasehold interest, and/or to any tenant-relocation award or benefit that the condemning authority or insurer may award or pay to the Board.

- C. **Waiver; Participation.** In the event of any condemnation or damage pursuant to subpara. A. above, the Board waives any claim for damage or compensation from City. The Board shall have the right, to the extent of its tenant-interest, or insurable interest, as the case may be, to participate in any condemnation proceedings or the settlement of any insurance claim.
26. **No Beneficial Interest.** No provision herein calling for sharing in insurance or condemnation proceeds, and no other provision of this Lease, shall constitute, or be deemed to be evidence of: The Board having any beneficial ownership of the Premises (or any part thereof, or in any land, fixtures, improvements, or buildings thereat); or any partnership or agency relationship between the Board and City. The sole relationship hereunder between the Board and City is merely that of tenant (the Board) and landlord (City).
27. **Right to Assign and Sublet.** The Board may NOT assign this Lease or sublet any portion of the Premises without City's prior written consent, providing, however, that, subject to the terms and conditions of this Lease, the Board may use the Premises for Board-Controlled Activities and the Board, under ¶7, may issue permits.
28. **Fixtures and Personal Property on Premises.** The Board shall not install or affix to the premises any trade fixtures without the approval of CITY. Subject to the terms hereof, the Board may place moveable equipment and personal property at the Premises as the Board may deem desirable, which shall remain the Board's sole property. The Board shall have the right at any time during the Term of this Lease, to remove or change, at the Board's sole expense, any of its moveable equipment and personal property at the Premises, providing, however, that (with the exception of temporary repairs, maintenance, upgrades and replacements) the Board shall not remove any such item that would compromise any structure or utility at, constituting, or serving any structure on the Premises (including, but not limited to, any HVAC, plumbing or electrical system), and providing further that, in all cases, the Board shall, at its expense, promptly repair any

damage caused by or attributable to any removal or change by the Board of its trade fixtures, equipment or personal property.

29. **Waiver.** No delay, waiver, omission or forbearance on the part of either party to exercise any right, option, duty or power arising out of any breach or default by the other party of any of the terms, provisions or covenants contained herein, shall be deemed a waiver by that party of such right, option, or power, as against the other party for any subsequent breach or default by that party.
30. **Governing Law.** This Lease shall be construed according to the laws of the State of Wisconsin.
31. **Notices.** Any notice required or permitted under this Lease may be personally served or given and shall be deemed sufficiently given or served if sent by United States mail, with postage prepaid thereon, to the respective addresses set forth below, or if sent by fax or e-mail to the respective fax number or e-mail address set forth below. Either party may by like notice at any time, and from time to time, designate a different address, fax, or e-mail to which notices shall be sent. Notices given in accordance with these provisions shall be deemed given and received (a) when personally served, or (b) if faxed or e-mailed during business days when City Hall is open for business during business hours (8:30 a.m.- 4:30 p.m.), when faxed or e-mailed, or (c) if mailed, three days after the postmark on such notice, in accordance with this section.

To City:

Commissioner of Dept. of City Development
City of Milwaukee
809 North Broadway, Second Floor
Milwaukee, WI 53202
Phone: (414) 286-5800
Fax: (414) 286-5467

Copy to:

Danielle M. Bergner
City Attorney's Office
800 City Hall
200 East Wells Street
Milwaukee, WI 53202
Phone: (414) 286-2620
Fax: (414) 286-8550

To THE BOARD:

Board of Business Improvement District No. 2
c/o President, Historic Third Ward Association, Inc.
Phone: (414) 273-1173
Fax: (414) 273-2205

32. **Commissioner.** Unless otherwise provided for herein, all submissions to City, and all approvals or consents required to be obtained from City, hereunder, as landlord, shall, respectively, be submitted to, or obtained from, as the case may be, City's Commissioner of the Department of Public Works and City's Commissioner of the Department of City Development, or their respective designees.
33. **Severability of Provisions.** If any of the terms or provisions contained herein shall be declared to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions and conditions of this Lease, or the application of such to persons or circumstances other than those to which it is declared invalid or unenforceable, shall not be affected thereby, and shall remain in full force and effect and shall be valid and enforceable to the fullest extent permitted by law.
34. **Captions.** The captions in this Lease are for convenience and reference, and in no way define or limit the scope or intent of the various provisions, terms, or conditions hereof.
35. **Entire Agreement.** This Lease constitutes the entire agreement between the parties hereto and may not be amended or altered in any manner except in writing signed by both parties.
36. **Signage; Brochures.** Any signage at the Premises must first be approved by each of the Board and City. The Board also agrees to include on any of its brochures or pamphlets advertising or concerning the Board's operations or programs at the Premises evidence of City ownership of the Premises.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first above written.

BOARD:
BOARD OF BUSINESS IMPROVEMENT
DISTRICT NO. 2

CITY:
CITY OF MILWAUKEE

By: _____
Ronald S. San Felippo
Chair

By: _____
Elaine M. Miller,
Special Deputy Commissioner

Signed per MCO § 304-49-9

BOARD NOTARIES

STATE OF WISCONSIN)
)ss.
COUNTY OF MILWAUKEE)

Personally came before me this ____ day of _____, 2010, the above named Ronald S. San Felippo, Chair of the Board of Business Improvement District No. 2, to me known to be such person who executed the foregoing instrument and acknowledged the same in such capacity.

Notary Public, State of Wisconsin
My Commission: _____

**Milwaukee City Attorney
Approval and Authentication**

Danielle M. Bergner, as a member in good standing of the State Bar of Wisconsin, hereby approves the signatures of the Milwaukee representatives above, and also authenticates the signatures of each of the above Milwaukee representatives/signatories per Wis. Stat. § 706.06 so this document may be recorded per Wis. Stat. § 706.05 (2)(b).

By: _____
DANIELLE M. BERGNER

Assistant City Attorney
State Bar No. 1049359

Date: _____

1050-2010-1510:158679

DRAFT

EXHIBIT A

Description of The Premises

Description of a portion of East Erie Street at the harbor entrance to be designated as Pedestrian Mall, in the 4th Aldermanic District of the City of Milwaukee.

That part of East Erie Street in the Northwest 1/4 of Section 33, Township 7 North, Range 22 East described as follows: Commencing at the southeast corner of Lot 3 of Certified Survey Map No. 7370; thence South $33^{\circ}19'02''$ East, along the southeasterly extension of the easterly line of Lot 3 aforesaid, 21.67 feet to a point lying 20.00 feet southeasterly of, as measured normal to, the southerly line of Lot 3, said point being the point of beginning of the land to be described; thence South $34^{\circ}16'47''$ West, parallel to said southerly line, 110.57 feet to a point in the westerly line of said Certified Survey Map, said westerly line also being the established dock line of the east bank of the Milwaukee River; thence South $33^{\circ}18'29''$ East, along said westerly line and said established dock line, 11.45 feet to a point; thence South $67^{\circ}20'57''$ East, along said westerly line and said established dock line, 47.50 feet to a point in the southerly line of said Certified Survey Map; thence North $85^{\circ}48'29''$ East, along said southerly line, 86.59 feet to a point in the southeasterly extension of the easterly line of Lot 3; thence North $33^{\circ}19'02''$ West, along said southeasterly extension, 135.09 feet to the point of beginning.

The above described parcel contains 8,420 square feet or 0.1933 acres of land.

Exhibit B

Insurance Requirements

Insurance certificates must be sent for inspection and approval prior to the tenant's occupancy of the Premises and prior to any work being performed at the Premises by contractors or subcontractors of the tenant. Certificates should be sent to: Manager of Real Estate Services, City of Milwaukee, 809 North Broadway, Milwaukee, WI 53202-3617 or by facsimile to (414) 286-0395.

TYPE OF INSURANCE

LIMITS

Worker's Compensation

Statutory limits

Employers Liability

Bodily Injury by Accident
Bodily Injury by Disease

Each Accident: \$100,000
Each Employee: \$100,000
Policy Limit: \$500,000

Public Liability

A Comprehensive General or Commercial General
Policy Insuring Tenant's Use of the Premises that provides:

- Premises/Operations Protection
- Products/Completed Operations Protection
- Independent Contractor Protection (owners, contractors protective coverage)
- Contractual Liability Coverage
- Non-owned Automobile Liability Coverage
- Bodily Injury/Property Damage

NOTE: If claims made coverage is provided, the policy must be amended so all protected occurrences are covered regardless of when the claim is made.

Each Occurrence: \$1,000,000
General Aggregate: \$2,000,000
Products/Comp. Operations
aggregate: \$2,000,000

**THE CITY OF MILWAUKEE MUST BE NAMED AS ADDITIONAL INSURED PARTY
ON THE BOARD'S POLICY AND ANY CONTRACTOR OR SUBCONTRACTOR
POLICIES OF INSURANCE.**

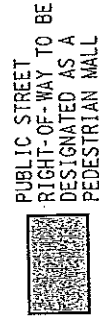
EXHIBIT C

Description of Sidewalk Area

(See attached)

DRAFT

429



MILWAUKEE, WISCONSIN

APPROVED BY:

CENTRAL DRAFTING & RECORDS MANAGER

CITY ENGINEER

CITY OF MILWAUKEE FISCAL NOTE

A) DATE July 12, 2010FILE NUMBER: 100263Original Fiscal Note ☒ Substitute ☐SUBJECT: Resolution approving a lease with the Board of Business Improvement District No. 2 for the Erie Street Plaza, in the 4th Aldermanic District.B) SUBMITTED BY (Name/title/dept./ext.): Rocky Marcoux, Commissioner

- C) CHECK ONE: ☐ ADOPTION OF THIS FILE AUTHORIZES EXPENDITURES
☐ ADOPTION OF THIS FILE DOES NOT AUTHORIZE EXPENDITURES; FURTHER COMMON COUNCIL ACTION NEEDED. LIST ANTICIPATED COSTS IN SECTION G BELOW.
☐ NOT APPLICABLE/NO FISCAL IMPACT.

- D) CHARGE TO: ☐ DEPARTMENT ACCOUNT(DA) ☐ CONTINGENT FUND (CF)
☐ CAPITAL PROJECTS FUND (CPF) ☐ SPECIAL PURPOSE ACCOUNTS (SPA)
☐ PERM. IMPROVEMENT FUNDS (PIF) ☐ GRANT & AID ACCOUNTS (G & AA)
☐ OTHER (SPECIFY)

E) PURPOSE	SPECIFY TYPE/USE	ACCOUNT	EXPENDITURE	REVENUE	SAVINGS
SALARIES/WAGES:					
SUPPLIES:					
MATERIALS:					
NEW EQUIPMENT:					
EQUIPMENT REPAIR:					
OTHER:	Lease	TID # 56		\$1.00/year	
TOTALS				\$1.00/year	

F) FOR EXPENDITURES AND REVENUES WHICH WILL OCCUR ON AN **ANNUAL** BASIS OVER SEVERAL YEARS CHECK THE APPROPRIATE BOX BELOW AND THEN LIST EACH ITEM AND DOLLAR AMOUNT **SEPARATELY**.

<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	

G) LIST ANY ANTICIPATED FUTURE COSTS THIS PROJECT WILL REQUIRE FOR COMPLETION:

H) COMPUTATIONS USED IN ARRIVING AT FISCAL ESTIMATE:

PLEASE LIST ANY COMMENTS ON REVERSE SIDE AND CHECK HERE ☐

PW FILE NUMBER: 100263

[illegible]



Legislation Details (With Text)

File #: 090789 **Version:** 1

Type: Resolution **Status:** In Committee

File created: 10/13/2009 **In control:** PUBLIC WORKS COMMITTEE

On agenda: **Final action:**

Effective date:

Title: Substitute resolution to vacate a 150-foot by 50-foot public service street in the block bounded by North 76th Street, North 77th Street, West Winfield Avenue and West Mill Road, in the 2nd Aldermanic District.

Sponsors: THE CHAIR

Indexes: STREET VACATIONS

Attachments: Fiscal Note, Exhibit A, Hearing Notice List

Date	Ver.	Action By	Action	Result	Tally
10/13/2009	0	COMMON COUNCIL	ASSIGNED TO		
10/15/2009	0	PUBLIC WORKS COMMITTEE	REFERRED TO		
7/9/2010	1	CITY CLERK	DRAFT SUBMITTED		
7/12/2010	0	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		

Number
090789
Version
SUBSTITUTE 1
Reference

Sponsor
THE CHAIR

Title

Substitute resolution to vacate a 150-foot by 50-foot public service street in the block bounded by North 76th Street, North 77th Street, West Winfield Avenue and West Mill Road, in the 2nd Aldermanic District.

Analysis

This substitute resolution vacates the above right-of-way in accordance with vacation proceedings under power granted to the City of Milwaukee by Section 62.73, Wisconsin Statutes, and Section 308-28, Milwaukee Code of Ordinances. This vacation was requested by the County of Milwaukee and O'Reilly Auto Parts for combination of the above land with existing land for development of the site for commercial use.

Body

Whereas, It is proposed that a 150-foot by 50-foot public service street in the block bounded by North 76th Street, North 77th Street, West Winfield Avenue and West Mill Road be vacated pursuant to the provisions of Section 62.73, Wisconsin Statutes; and

Whereas, The Department of Public Works has been authorized and directed to prepare a coordinated report estimating all costs and benefit assessments that will be incurred with said vacation; and

Whereas, That as provided by Section 62.73, Wisconsin Statutes, a lis pendens must be filed with the Milwaukee County Register of Deeds; and

Whereas, Said vacation has been reviewed in accordance with Section 308-28, Milwaukee Code of Ordinances; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that said right-of-way as indicated by Exhibit A and bound and described by:

All that part of the public service street in the Northeast 1/4 of Section 28, Township 8 North, Range 21 East, described as follows: Commencing at the northeast corner of Parcel A in Block 45 of Menomonee River Hills South Addition, a recorded subdivision, in said 1/4 Section; thence Easterly, along the northerly line of said subdivision, 50.01 feet to a point in the southerly extension of the present west line of North 76th Street; thence Southerly, along said west line extended, 30.09 feet to a point in the easterly extension of the north line of West Winfield Avenue; thence Westerly, along said north line extended, 50.01 feet to a point in the southeast corner of said Parcel A; thence Northerly, along the east line of said Parcel A, 30.09 feet to the point of commencement is vacated; and, be it

Further Resolved, That a notice of pendency of said vacation has been recorded at the Milwaukee County Register of Deeds and the Commissioner of the Department of City Development may request a release of the lis pendens without Common Council action if said vacation is not approved; and, be it

Further Resolved, That the Commissioner of Public Works and/or the City Engineer are authorized to implement the actions listed in the coordinated report relating to said vacation and when a money deposit is required, it must be deposited prior to implementing said actions; and, be it

Further Resolved, That as provided by Section 62.73, Wisconsin Statutes, said vacation shall not terminate the easements and rights incidental thereto acquired by or belonging

to any county, town, village or city, or to any utility or person in any underground structures, improvements or services, as enumerated or otherwise existing in said description of land above described, both easements and rights and all rights of entrance, maintenance, construction and repair with reference thereto shall continue as if said right-of-way had not been vacated.

Drafter

DCD:VLK:ear

07/09/10



Department of City Development

City Plan Commission
Historic Preservation Commission
Neighborhood Improvement
Development Corporation
Redevelopment Authority

Rocky Marcoux
Commissioner

Martha L. Brown
Deputy Commissioner

July 12, 2010

To the Honorable Common Council
Public Works Committee
City of Milwaukee

Dear Committee Members:

File No. 090789 vacates a 150 foot by 50 foot public service street in the block bounded by North 76th Street, North 77th Street, West Winfield Avenue and West Mill Road, in the 2nd Aldermanic District. This vacation is requested by the County of Milwaukee and O'Reilly Auto Parts so that the land proposed to be vacated can be combined with existing land for development of the site for commercial use.

The Department of Public Works Coordinated Report contains no stated objections to the proposed vacation. At the request of the Commissioner of Public Works, the petitioner has provided:

Equity in street tree	\$1,200.00
-----------------------	------------

Since the proposed vacation is not in conflict with City plans, the City Plan Commission at its regular meeting on July 12, 2010, recommended approval of the subject file.

Sincerely,

Rocky Marcoux

Executive Secretary
City Plan Commission of Milwaukee

cc: Ald. Joe Davis

CITY OF MILWAUKEE FISCAL NOTE

A) DATE 10/13/09

FILE NUMBER: _____

Original Fiscal Note ☒ Substitute ☐

SUBJECT: Resolution to vacate a 150-foot by 50-foot public service street in the block bounded by North 76th Street, North 77th Street, West Winfield Avenue and West Mill Road, in the 2nd Aldermanic District.

B) SUBMITTED BY (Name/title/dept./ext.): Rocky Marcoux, Commissioner, DCD

C) CHECK ONE: ☐ ADOPTION OF THIS FILE AUTHORIZES EXPENDITURES

☐ ADOPTION OF THIS FILE DOES NOT AUTHORIZE EXPENDITURES; FURTHER COMMON COUNCIL ACTION NEEDED. LIST ANTICIPATED COSTS IN SECTION G BELOW.

☒ NOT APPLICABLE/NO FISCAL IMPACT.

D) CHARGE TO: ☐ DEPARTMENT ACCOUNT(DA) ☐ CONTINGENT FUND (CF)

☐ CAPITAL PROJECTS FUND (CPF) ☐ SPECIAL PURPOSE ACCOUNTS (SPA)

☐ PERM. IMPROVEMENT FUNDS (PIF) ☐ GRANT & AID ACCOUNTS (G & AA)

☐ OTHER (SPECIFY)

E) PURPOSE	SPECIFY TYPE/USE	ACCOUNT	EXPENDITURE	REVENUE	SAVINGS
SALARIES/WAGES:					
SUPPLIES:					
MATERIALS:					
NEW EQUIPMENT:					
EQUIPMENT REPAIR:					
OTHER:					
TOTALS					

F) FOR EXPENDITURES AND REVENUES WHICH WILL OCCUR ON AN **ANNUAL** BASIS OVER SEVERAL YEARS CHECK THE APPROPRIATE BOX BELOW AND THEN LIST EACH ITEM AND DOLLAR AMOUNT **SEPARATELY**.

<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	

G) LIST ANY ANTICIPATED FUTURE COSTS THIS PROJECT WILL REQUIRE FOR COMPLETION:

H) COMPUTATIONS USED IN ARRIVING AT FISCAL ESTIMATE:

PLEASE LIST ANY COMMENTS ON REVERSE SIDE AND CHECK HERE ☐

(R.O.W. VARIES)

SEC. LINE

W. Mill

Rd.

55

58

58 65

92.98

34.25

99.50

9.78

67

60

St.

SEC. LINE

(R.O.W. VARIES)

LANDS

TAX KEY NO.
153-9981-111

(MILWAUKEE COUNTY)

(MILWAUKEE COUNTY)

234.98

184.97

50.01

PUBLIC SERVICE
STREET

30.09

30.09

45

MENOMONEE RIVER HILLS SOUTH ADDN.

TAX KEY NO.
153-0170-000

184.97

PARCEL A

50.01

60

W. Winfield

Ave.

(60' R.O.W.)

PORTION OF PUBLIC
STREET PROPOSED
TO BE VACATED

EXHIBIT "A"

FILE NO. 090789

INFRASTRUCTURE SERVICES DIVISION

MILWAUKEE, WISCONSIN

ASSIGNED TO: W.E. FUCHS

CH'K'D. BY: W.E. FUCHS

DRAWN BY: W.E.F.

DATE: DEC. 29, 2009

PROJECT/GRANT NO.: WK52337287

SCALE: 1" = 40'

APPROVED BY:

Marcia Cornell

CENTRAL DRAFTING & RECORDS MANAGER

CIVIL ENGINEER

PW FILE NUMBER: 090789

[illegible]



Legislation Details (With Text)

File #: 100378 **Version:** 0

Type: Communication-Report **Status:** In Committee

File created: 7/7/2010 **In control:** PUBLIC WORKS COMMITTEE

On agenda: **Final action:**

Effective date:

Title: Communication from the Department of Public Works relating to the existing program for the inspection of public infrastructure.

Sponsors: ALD. COGGS

Indexes: DEPARTMENT OF PUBLIC WORKS, PUBLIC IMPROVEMENTS, REPORTS AND STUDIES

Attachments: Hearing Notice List

Date	Ver.	Action By	Action	Result	Tally
7/7/2010	0	COMMON COUNCIL	ASSIGNED TO		
7/12/2010	0	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		
7/12/2010	0	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		

Number

100378

Version

ORIGINAL

Reference

Sponsor

ALD. COGGS

Title

Communication from the Department of Public Works relating to the existing program for the inspection of public infrastructure.

Requestor

Drafter

cc-cc

tb

7/12/10

PW FILE NUMBER: 100378

[illegible]



Legislation Details (With Text)

File #: 100346 **Version:** 0

Type: Communication-Report **Status:** In Committee

File created: 7/7/2010 **In control:** PUBLIC WORKS COMMITTEE

On agenda: **Final action:**

Effective date:

Title: Communication from the Infrastructure Services Division relating to a Statement of Mid-Year Review for Financial Condition of the Sewer Maintenance Fund.

Sponsors: THE CHAIR

Indexes: INFRASTRUCTURES SERVICES DIVISION, REPORTS AND STUDIES, SEWERS

Attachments: Report, Hearing Notice List

Date	Ver.	Action By	Action	Result	Tally
7/7/2010	0	COMMON COUNCIL	ASSIGNED TO		
7/12/2010	0	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		

Number

100346

Version

Original

Reference

Sponsor

The Chair

Title

Communication from the Infrastructure Services Division relating to a Statement of Mid-Year Review for Financial Condition of the Sewer Maintenance Fund.

Drafter

ISD

MJ

7/1/10



CITY OF MILWAUKEE

2010 JUL -1 AM 11:43

RONALD D. LEONHARDT
CITY CLERK

Department of Public Works
Infrastructure Services Division

Jeffrey J. Mantes
Commissioner of Public Works

Preston D. Cole
Director of Operations

Jeffrey S. Polenske
City Engineer

June 28, 2010

To the Honorable, the Common Council

Subject: Review of the Financial Condition of
the Sewerage System

Dear Council Members:

The Department of Public Works is submitting a "Statement of Mid-Year Review for Financial Condition" of the Sewer Maintenance Fund as required by the Sewerage System Revenue Bonds Master Resolution Article VIII, section 8.02 adopted August 2001, and the second lien resolution, section 11, adopted by the City of Milwaukee on June 20, 2006.

The analysis covers the current year 2010 and the cost to continue budget for 2011. The data for the current year covers actual revenue and actual expenditures through May, plus an estimate for revenue and expenditures through the end of the current year. The 2011 cost to continue budget was used for the projected year 2011.

The estimated debt service coverage of 6.96 for 2010 and 6.90 for 2011 exceeds the minimum requirement of 1.20 for the senior bonds. The estimated debt service coverage of 3.21 for 2010 and 2.70 for 2011 exceeds the requirement of 1.20 for second lien debt.

If you have any questions regarding this report, please do not hesitate to contact Ms. Marjorie Washington-Jones at 286-2407.

Very truly yours,

Jeffrey S. Polenske, P.E.
City Engineer

Jeffrey J. Mantes
Commissioner of Public Works

(AM) MJ:amh

c: Mr. W. Martin Morics
Mr. Mark Nicolini
Mr. Martin Aquino
Ms. Shirley Kruge

SEWER MAINTENANCE FUND
STATEMENT OF MIDYEAR REVIEW **OF** FINANCIAL CONDITION
CURRENT YEAR 2010
PROJECTED YEAR 2011
AS OF JUNE 30, 2010

	2010 ^(A)	2011 ^(E)
Operating Revenues:		
Sewer Maintenance Fees ^(B)	\$ 27,174,618	\$ 26,489,820
Stormwater Fees ^(B)	22,390,378	22,338,884
Sewer Maint-Non City Service ^(C)	184,162	182,395
Interest Income	160,577	159,037
Sewer User Penalties 10%	554,546	549,226
Water Sales Penalties	<u>855,602</u>	<u>847,394</u>
Total Revenues	\$ 51,319,883	\$ 50,566,756
Operating Expenditures:		
Contractual Expenses	\$ 7,653,501	\$ 7,796,000
Salaries and Wages	5,182,955 ^(D)	4,905,082
Employee Benefits	2,846,330	2,729,439
Equipment	<u>25,000</u>	<u>30,400</u>
Total Expenses	\$ 15,707,786	\$ 15,460,921
Net Revenues Available for Senior Debt Service	\$ 35,612,097	\$ 35,105,835
Senior Bonds Maximum Annual Debt Service ^(F)	\$ 5,114,165	\$ 5,090,840
Senior Bonds Debt Service Coverage ^(G)	6.96	6.90
Senior Bonds Minimum Required Coverage ^(H)	1.20	1.20
Pass Senior Bonds Debt Service Coverage Test	yes	yes
Second Lien Revenues ^(I)	35,612,097	35,105,835
Second Lien Debt Service ^(J)	11,090,561	13,000,000
Second Lien Debt Service Coverage ^(K)	3.21	2.70
Second Lien Revenue Requirement ^(L)	1.20	1.20
Pass Second Lien Rate Covenant	yes	yes

Department Of Public Works
Notes to the Statement of Midyear Review OF Financial Condition

(A) Current year 2010

Revenue data includes five months of actual revenue (January – May 2010) and estimated revenue through year-end. Operating Expenditures data includes five months of actual expenses (January – May 2010) and estimated expenses through year-end. Projections are based on current year trends and historical trends.

(B) Operating Revenues – Sewer Maintenance Fee and Storm Water Fee

The 2010 Sewer Fee is calculated at the current rate of \$1.1600 per CcF (hundred cubic feet) of sanitary sewer consumption, which is based on the amount of metered tap water. The 2010 Storm Water Fee is based on the amount of impervious surface (areas that do not allow storm water to penetrate into the soil). Each residential property is assumed to be 1 ERU (Equivalent Residential Unit) of 1,610 sq ft. Non-residential properties are assigned ERUs by dividing their actual impervious surface areas by 1,610 sq ft. Each ERU is charged \$14.00. The 2011 Sewer Maintenance Fee revenue reflects the current rate of \$1.1600 per CCF of sanitary sewer consumption. The 2011 Storm Water Fee reflects the current rate of \$14.00 per quarter per ERU.

(C) Operating Revenue - Sewer Maintenance-Non City Service

This revenue is for cleaning sewer systems, structures, drainage channels and culverts for city and outside agencies. Maintenance and repair services are included.

(D) Salaries and Wages 2010

Salaries and Fringes are actual cost through pay period 11. The 2010 projection assumes current spending levels through year-end. Employee benefits include an estimate for other post employment benefits. No cost of living increase was included in the calculation. The number of authorized positions will remain the same for the year.

(E) Budget Year 2011

The expense data for 2011 is based on the fund's 2011 cost to continue budget. The 2011 figures are subject to change in the final adopted budget by the Common Council and Mayor in November 2010. The current Salary and Wage Rate Schedule was used for determining the amounts to be included in the 2011 budget request. The number of authorized positions will remain the same as 2010.

(F) Senior Bonds Maximum Annual Debt Service

Includes bonds issued in 2001 and 2003. Assumes future bonds are issued on a subordinated basis.

(G) Debt Service Coverage

Net Revenues Available for Debt Service divided by Maximum Annual Debt Service.

(H) Senior Bonds Minimum Required Coverage

Required by the Master Resolution, section 8.02, adopted by the CITY on August 2, 2001.

(I) Second Lien Revenues

Net Revenues Available for Senior Debt Service less Debt Service on Senior Bonds. Senior Bonds Maximum Annual Debt Service is used as a proxy for Debt Service on Senior Bonds.

(J) Second Lien Debt Service

Debt Service payable in the Fiscal Year includes debt issued through June 1, 2009. For 2010, assumes \$35 million of Second Lien Debt issued in 2009.

(K) Second Lien Debt Service Coverage

Second Lien Revenues divided by Second Lien Debt Service.

(L) Second Lien Revenue Requirement

Required by the Second Lien Resolution, Section 11, adopted by the City on June 20, 2006.

PW FILE NUMBER: 100346

[illegible]



Legislation Details (With Text)

File #: 100377 **Version:** 0

Type: Communication **Status:** In Committee

File created: 7/7/2010 **In control:** PUBLIC WORKS COMMITTEE

On agenda: **Final action:**

Effective date:

Title: Communication from the Department of Public Works relating to the removal of debris from recent storm damage.

Sponsors: ALD. DUDZIK

Indexes: DEPARTMENT OF PUBLIC WORKS, REPORTS AND STUDIES, SOLID WASTE DISPOSAL

Attachments: Hearing Notice List

Date	Ver.	Action By	Action	Result	Tally
7/7/2010	0	COMMON COUNCIL	ASSIGNED TO		
7/12/2010	0	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		

Number

100377

Version

ORIGINAL

Reference

Sponsor

Title

Communication from the Department of Public Works relating to the removal of debris from recent storm damage.

Requestor

Drafter

CC-CC

tb

7/9/10

PW FILE NUMBER: 100377

[illegible]



Legislation Details (With Text)

File #: 100314 **Version:** 0

Type: Resolution **Status:** In Committee

File created: 7/7/2010 **In control:** PUBLIC WORKS COMMITTEE

On agenda: **Final action:**

Effective date:

Title: Resolution amending Common Council File Number 090082, a resolution relating to an application for, acceptance and funding of a 2009 USDA Forest Service Cooperative Forestry Assistance Grant.

Sponsors: THE CHAIR

Indexes: BUREAU OF FORESTRY, FEDERAL GRANTS, JOBS

Attachments: Fiscal Note, Hearing Notice List

Date	Ver.	Action By	Action	Result	Tally
7/7/2010	0	COMMON COUNCIL	ASSIGNED TO		
7/12/2010	0	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		
7/12/2010	0	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		

Number

100314

Version

ORIGINAL

Reference

090082

Sponsor

THE CHAIR

Title

Resolution amending Common Council File Number 090082, a resolution relating to an application for, acceptance and funding of a 2009 USDA Forest Service Cooperative Forestry Assistance Grant.

Analysis

Common Council File Number 090082, adopted on May 27, 2009, authorized the Department of Public Works - Operations Division (Forestry Section) to apply for, accept and fund a 2009 Cooperative Forestry Assistance Grant titled "Strengthening Diversity in Urban Forestry Service Delivery", a project to recruit, train, and assist with placing low-income Milwaukee residents in the urban forestry profession. The grant provided \$201,600 for the project, with additional funding provided by a \$148,910 in-kind contribution by the City, and a \$100,000 third-party contribution from the Milwaukee Area Workforce Investment Board, for a total project cost of \$450,510. Since the adoption of Common Council File Number 090082, the Milwaukee Area Workforce Investment Board has increased its third-party contribution by \$300,000, for a total contribution of \$400,000, which increases the total project costs to \$750,510. This resolution amends Common Council File Number 090082 to reflect the increased contribution by the Milwaukee Area Workforce Investment Board.

Body

Whereas, Common Council File Number 090082, adopted on May 27, 2009, authorized the Department of Public Works - Operations Division (Forestry Section) to apply for, accept and fund a 2009 Cooperative Forestry Assistance Grant titled "Strengthening Diversity in Urban Forestry Service Delivery", a project to recruit, train, and assist with placing low-income Milwaukee residents in the urban forestry profession; and

Whereas, The 2009 Cooperative Forestry Assistance Grant provided \$201,600 in funding for the Strengthening Diversity in Urban Forestry Service Delivery program, with additional funding to be provided by a \$148,910 in-kind contribution by the City, and a \$100,000 third-party contribution from the Milwaukee Area Workforce Investment Board, for a total project cost of \$450,510, and

Whereas, Since the adoption of Common Council File Number 090082, the Milwaukee Area Workforce Investment Board has increased its third-party contribution by \$300,000, for a total contribution of \$400,000; now, therefore be it

Resolved, By the Common Council of the City of Milwaukee, that Common Council Resolution Number 090082 is amended by deleting the 4th "Where as" clause and inserting in lieu thereof the following:

" Whereas, The implementation of this project will cost \$750,510, of which \$201,600 (27%) will be provided by the grantor and \$148,910 (20%) will be provided in-kind by the City and \$400,000 (53%) will be provided by a third party contribution from the Milwaukee Area Workforce Investment Board; now, therefore, be it"

Requestor

DPW Forestry Section

Drafter

LRB10307-2

JWC

6/28/10

CITY OF MILWAUKEE FISCAL NOTE

A) DATE July 12, 2010FILE NUMBER: 100314Original Fiscal Note ☒ Substitute ☐SUBJECT: Resolution amending Common Council File #090082, a resolution relating to application, acceptance and funding of a 2009 USDA Forest Service Cooperative Forestry Assistance GrantB) SUBMITTED BY (Name/title/dept./ext.): Kimberly Kujoth, Environmental Policy Analyst, DPW-Environmental Services, x5453

C) CHECK ONE: ☒ ADOPTION OF THIS FILE AUTHORIZES EXPENDITURES
☐ ADOPTION OF THIS FILE DOES NOT AUTHORIZE EXPENDITURES; FURTHER COMMON COUNCIL ACTION NEEDED. LIST ANTICIPATED COSTS IN SECTION G BELOW.
☐ NOT APPLICABLE/NO FISCAL IMPACT.

D) CHARGE TO: ☐ DEPARTMENT ACCOUNT(DA) ☐ CONTINGENT FUND (CF)
☐ CAPITAL PROJECTS FUND (CPF) ☐ SPECIAL PURPOSE ACCOUNTS (SPA)
☐ PERM. IMPROVEMENT FUNDS (PIF) ☒ GRANT & AID ACCOUNTS (G & AA)
☐ OTHER (SPECIFY)

E) PURPOSE	SPECIFY TYPE/USE	ACCOUNT	EXPENDITURE	REVENUE	SAVINGS
SALARIES/WAGES:	Technical Services Supervisor		\$10,200		
	Urban Forestry Crew Leader		\$28,208		
	Urban Forestry Specialists			\$400,000	
SUPPLIES:					
NEW EQUIPMENT:					
EQUIPMENT REPAIR:					
OTHER:	Contractual – Trainee Wages			\$201,600	
	Fringe Benefit (48.49%)		\$73,734		
	Indirect		\$36,768		
TOTALS			\$148,910	\$601,600	

F) FOR EXPENDITURES AND REVENUES WHICH WILL OCCUR ON AN **ANNUAL** BASIS OVER SEVERAL YEARS CHECK THE APPROPRIATE BOX BELOW AND THEN LIST EACH ITEM AND DOLLAR AMOUNT **SEPARATELY**.

<input checked="" type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	Cooperative Forestry Assistance Grant
<input checked="" type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	Milwaukee Area Workforce Investment Board – Third Party Contribution
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	

G) LIST ANY ANTICIPATED FUTURE COSTS THIS PROJECT WILL REQUIRE FOR COMPLETION:

This increases the third-party contribution from the Milwaukee Area Workforce Investment Board from \$100,000 to \$400,000 for Strengthening Diversity in Urban Forestry Service Delivery. The USDA Forest Service Cooperative Forestry Assistance Grant award of \$201,600 and in-kind contribution of \$148,910 remain the same.

H) COMPUTATIONS USED IN ARRIVING AT FISCAL ESTIMATE:

Department estimates

PLEASE LIST ANY COMMENTS ON REVERSE SIDE AND CHECK HERE ☐

PW FILE NUMBER: 100314

[illegible]



Legislation Details (With Text)

File #:	100318	Version:	0
Type:	Resolution	Status:	In Committee
File created:	7/7/2010	In control:	PUBLIC WORKS COMMITTEE
On agenda:		Final action:	
Effective date:			
Title:	Resolution authorizing the City Engineer to apply for Transportation Enhancement grants.		
Sponsors:	THE CHAIR		
Indexes:	CITY ENGINEER, STATE GRANTS, STREET IMPROVEMENTS, WISCONSIN DEPARTMENT OF TRANSPORTATION		
Attachments:	Cover Letter, Fiscal Note, Hearing Notice List		

Date	Ver.	Action By	Action	Result	Tally
7/7/2010	0	COMMON COUNCIL	ASSIGNED TO		
7/12/2010	0	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		

Number

100318

Version

ORIGINAL

Reference

Sponsor

THE CHAIR

Title

Resolution authorizing the City Engineer to apply for Transportation Enhancement grants.

Analysis

The Wisconsin Department of Transportation is soliciting applications for funding under the Transportation Enhancements Program. Successful grant applications will be funded 80 percent by the grant program.

Body

Whereas, Wisconsin Department of Transportation is soliciting applications for funding under the Transportation Enhancements Program; and

Whereas, The Transportation Enhancements Program funds projects that generally involve bicycle and pedestrian facilities, the restoration of historic transportation structures, streetscaping and landscaping projects; and

Whereas, The Department of Public Works intends to submit applications for the projects described in the attached exhibit; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee that the City Engineer is authorized to submit applications for the Transportation Enhancements Program for the projects described in the attached exhibit; and, be it

Further Resolved, That any successful grant projects will be brought to the Common Council for approval to enter into Project Agreements and authorizing funding.

Requestor

Department of Public Works

Drafter

Infrastructure Services Division

MDL:sdp

June 28, 2010

July 12, 2010

To the Honorable, the Common Council

Subject: Resolution Regarding Applications for
Transportation Enhancement Program

Dear Council Members:

The Wisconsin Department of Transportation is soliciting applications for funds under the Transportation Enhancements Program. The program funds projects that generally involve bicycle and pedestrian facilities, the restoration of historic transportation structures, streetscaping and landscaping projects.

The Department of Public Works intends to submit applications for projects described in the exhibit in the attached resolution.

The successful grant applications are expected to be announced in the fall. All projects will be funded 80 percent by the grant. We have, therefore, prepared the attached resolution authorizing the Department of Public Works to apply for these grants. Do not hesitate to contact me if you have any questions.

Very truly yours,

Jeffrey S. Polenske, P.E.
City Engineer

Jeffrey J. Mantes
Commissioner of Public Works

MDL:sdp

Attachment

Resolution File Number 100318

EXHIBIT

1. City of Milwaukee Pedestrian Plan

City-wide

Plan at the request of the Mayor's Bicycle & Pedestrian Task Force

2. Beer Line Bicycle Trail Extension

6th Aldermanic District

Over former Wisconsin southern Railroad land between Keefe and Capitol.

3. Century City Streetscape Enhancements

7th Aldermanic District

Century City fronts some of the most visible and highly trafficked streets in the 30th Street Industrial Corridor. Most of the RACM-owned portion of the site is also the most aesthetically challenged, specifically along 27th Street and Hopkins Avenue. With the addition of Talgo, it is important that the public "face" of Century City reads as the type of world-class business destination that Talgo's corporate image projects.

The intersection of 27th and Hopkins is a primary focal point of The Corridor's Streetscaping Plan, identified in the attached map as Zone 2. The plan proposes the addition of trees and other streetscape amenities that enhance landscape of Century City.

4. Airport Gateway Signage and Bridge Gateway Enhancements

13th Aldermanic District

Airport Gateway Business Improvement District- Layton Ave. bridge enhancements to create gateway to airport and commercial district identification signage.

5. Historic 41 Markers and Bike/Ped Improvements

13th Aldermanic District

6. Kilbourn Avenue Streetscape

4th Aldermanic District

Implement the Kilbourn Avenue segment (Water to 6th Street) of the downtown streetscape plan prepared by Skidmore, Owens & Merrill.

7. Layton Boulevard Streetscape Enhancements

8th Aldermanic District

Install harp lights and other streetscape amenities in S. Layton Boulevard between Lincoln and National.

8. Midtown Streetscape Enhancements

2nd Aldermanic District

Streetscape improvements in West Fond du Lac Avenue between Capitol and 60th Street.

CITY OF MILWAUKEE FISCAL NOTE

A) DATE June 28, 2010

FILE NUMBER: _____

Original Fiscal Note ☒ Substitute ☐

SUBJECT: Resoluton authorizing the City Engineer to apply for Transportation Enhancement grants

B) SUBMITTED BY (Name/title/dept./ext.): Jeffrey S. Polenske, PE / City Engineer / Infrastructure Services Division / extension 2400

- C) CHECK ONE: ☐ ADOPTION OF THIS FILE AUTHORIZES EXPENDITURES
☐ ADOPTION OF THIS FILE DOES NOT AUTHORIZE EXPENDITURES; FURTHER COMMON COUNCIL ACTION NEEDED. LIST ANTICIPATED COSTS IN SECTION G BELOW.
☒ NOT APPLICABLE/NO FISCAL IMPACT.

- D) CHARGE TO: ☐ DEPARTMENT ACCOUNT(DA) ☐ CONTINGENT FUND (CF)
☐ CAPITAL PROJECTS FUND (CPF) ☐ SPECIAL PURPOSE ACCOUNTS (SPA)
☐ PERM. IMPROVEMENT FUNDS (PIF) ☐ GRANT & AID ACCOUNTS (G & AA)
☐ OTHER (SPECIFY)

E) PURPOSE	SPECIFY TYPE/USE	ACCOUNT	EXPENDITURE	REVENUE	SAVINGS
SALARIES/WAGES:					
SUPPLIES:					
MATERIALS:					
NEW EQUIPMENT:					
EQUIPMENT REPAIR:					
OTHER:					
TOTALS					

- F) FOR EXPENDITURES AND REVENUES WHICH WILL OCCUR ON AN **ANNUAL** BASIS OVER SEVERAL YEARS CHECK THE APPROPRIATE BOX BELOW AND THEN LIST EACH ITEM AND DOLLAR AMOUNT **SEPARATELY**.

<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	

- G) LIST ANY ANTICIPATED FUTURE COSTS THIS PROJECT WILL REQUIRE FOR COMPLETION:

- H) COMPUTATIONS USED IN ARRIVING AT FISCAL ESTIMATE:

PLEASE LIST ANY COMMENTS ON REVERSE SIDE AND CHECK HERE ☐

PW FILE NUMBER: 100318

[illegible]



Legislation Details (With Text)

File #: 100323 **Version:** 1

Type: Resolution **Status:** In Committee

File created: 7/7/2010 **In control:** PUBLIC WORKS COMMITTEE

On agenda: **Final action:**

Effective date:

Title: Substitute resolution authorizing the Commissioner of Public Works to execute a Grant Agreement with the Federal Highway Administration and the Wisconsin Department of Transportation for the construction of two movable bridge projects funded by the American Recovery and Reinvestment Act of 2009.

Sponsors: THE CHAIR

Indexes: AGREEMENTS, AMERICAN RECOVERY AND REINVESTMENT ACT, BRIDGES, WISCONSIN DEPARTMENT OF TRANSPORTATION

Attachments: Cover Letter, Grant Letter 7-7-10, Grant Agreement, Term Sheet, Fiscal Note, Hearing Notice List

Date	Ver.	Action By	Action	Result	Tally
7/7/2010	0	COMMON COUNCIL	ASSIGNED TO		
7/12/2010	1	CITY CLERK	DRAFT SUBMITTED		
7/12/2010	0	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		

Number
100323
Version
SUBSTITUTE 1
Reference

Sponsor
THE CHAIR
Title

Substitute resolution authorizing the Commissioner of Public Works to execute a Grant Agreement with the Federal Highway Administration and the Wisconsin Department of Transportation for the construction of two movable bridge projects funded by the American Recovery and Reinvestment Act of 2009.

Analysis

This resolution authorizes the Commissioner of Public Works to execute a Grant Agreement with the Wisconsin Department of Transportation (WisDOT) and the Federal Highway Administration (FHWA) for construction funding towards the rehabilitation of the Wisconsin Ave. Vertical Lift Bridge and the reconstruction of the Juneau Ave. Bridge, both over the Milwaukee River. The American Recovery and Reinvestment Act of 2009 (ARRA), Transportation Investment Generating Economic Recovery (TIGER) Discretionary Grant Program, is funding a grant in the amount of \$21,500,000 towards the construction of these two bridge projects.

Body

Whereas, The United States Congress passed and President Obama signed into law the American Recovery and Reinvestment Act of 2009; and

Whereas, The ARRA program included a supplemental grant program titled Transportation Investment Generating Economic Recovery (TIGER) which solicited projects through a nationwide selection process; and

Whereas, The City of Milwaukee applied for and received a grant in the amount of \$21,500,000 for the rehabilitation of the Wisconsin Ave. Vertical Lift Bridge and the reconstruction of the Juneau Ave. Bridge, both over the Milwaukee River.

Whereas, The appropriation of the TIGER grant will be administered by the FHWA; and

Whereas, The WisDOT has agreed to administer the project on behalf of the City of Milwaukee for the disbursement of the federal grant funds and to allow the projects to be reviewed through the traditional WisDOT delivery process; and

Whereas, The City of Milwaukee, WisDOT, and FHWA entered into a “Conditional and Preliminary Term Sheet on the TIGER Grant Program” in April of 2010 which details each parties’ mutual understanding of the projects terms, conditions, funding, and schedule, a copy of which is attached to the Common Council file; and

Whereas, Upon successful completion and receipt of all required National Environmental Policy act (NEPA) approvals, the City of Milwaukee, WisDOT, and FHWA will enter into the TIGER Grant Agreement which will commit the federal grant funds to the project; and

Whereas, Conditions of the TIGER Grant require the NEPA approvals be obtained by September of 2010 and the construction funding be obligated by September of 2011 therefore necessitating an accelerated project delivery; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that the Commissioner of Public Works is authorized to execute a Grant Agreement with the Federal Highway Administration and the Wisconsin Department of Transportation for the construction of two movable bridge projects funded by the American Recovery and Reinvestment Act of 2009, a copy of which is attached to the Common Council File and referenced herein; and, be it

Further Resolved, That minor changes to the TIGER Grant Agreement which do not change its intent are hereby approved.

Requestor

Department of Public Works

Drafter

Infrastructure Services Division

CSL: ns

July 7, 2010

June 28, 2010

To the Honorable, the Common Council

Dear Council Members:

This “Title Only” resolution authorizing the Commissioner of Public Works to execute a Grant Agreement with the Federal Highway Administration and the Wisconsin Department of Transportation for the construction of two movable bridge projects funded by the American Recovery and Reinvestment Act of 2009.

Very truly yours,

Jeffrey S. Polenske, P.E.
City Engineer

CSL:amh

July 7, 2010

To the Public Works Committee

Subject: TIGER Grant Agreement
Wisconsin and Juneau Avenue Bridges
File No. 100323

Dear Honorable Members:

Please find the attached resolution to fill file No. 100323, authorizing the Commissioner of Public Works to execute a Grant Agreement with the Federal Highway Administration and the Wisconsin Department of Transportation for construction funding towards the rehabilitation of the Wisconsin Avenue Vertical Lift Bridge and the reconstruction of the Juneau Avenue Bridge, both over the Milwaukee River. The American Recovery and Reinvestment Act of 2009 (ARRA), Transportation Investment Generating Economic Recovery (TIGER) Discretionary Grant Program, is funding a grant in the amount of \$21,500,000 towards the construction of these two bridge projects.

We have prepared and recommend adoption of the attached resolution, authorizing the Commissioner of Public Works to execute a Grant Agreement with the Federal Highway Administration and the Wisconsin Department of Transportation for construction funding for these two bridges. We have also included a copy of the proposed TIGER Grant Agreement.

Very truly yours,

Jeffrey S. Polenske, P.E.
City Engineer

Jeffrey J. Mantes
Commissioner of Public Works

CSL: ns

Attachments

bc: Lois Gresl

**THIS DOCUMENT IS A PRELIMINARY DRAFT, STILL
UNDER REVIEW BY U.S. DOT. FURTHER CHANGES IN
GRANT REQUIREMENTS MAY BE MADE BY U.S.
DOT/FHWA.**

**THIS DOCUMENT HAS BEEN REVISED FOR PROJECTS
ADMINISTERED BY THE FHWA.**

**UNITED STATES OF AMERICA
U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, DC 20590**

**GRANT AGREEMENT
UNDER THE
AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009
TRANSPORTATION INVESTMENTS GENERATING ECONOMIC
RECOVERY (TIGER) DISCRETIONARY GRANT PROGRAM**

[GRANTEE NAME]

[PROJECT NAME]

FHWA TIGER Grant No.

TABLE OF CONTENTS

Grant Agreement

Section 1	Legislative Authority
Section 2	General Terms and Conditions
Section 3	Applicable Federal Laws and Regulations
Section 4	Grantee and Project Conditions
Section 5	Reimbursement of Project Costs
Section 6	Reporting
Section 7	Special Grant Requirements
Section 8	Assurances
Section 9	Termination, Modification and Expiration
Section 10	Award and Execution of Grant Agreement

Attachments

Attachment A	Statement of Work
Attachment B	Grant Assurances
Attachment C	Recovery Act Requirements and Contract Clauses
Attachment D	Monthly Project Progress Reports: Format and Content
Attachment E	Project Budget
Attachment F	Project Schedule
Attachment G	Technical Application
Attachment H	Milestone/Deliverable Schedule

**GRANT AGREEMENT BETWEEN THE
U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY
ADMINISTRATION AND [GRANTEE], UNDER THE AMERICAN RECOVERY
AND REINVESTMENT ACT OF 2009,
SUPPLEMENTAL DISCRETIONARY GRANTS FOR A NATIONAL SURFACE
TRANSPORTATION SYSTEM,
HEREINAFTER REFERRED TO AS THE
“TIGER DISCRETIONARY GRANT PROGRAM”**

WHEREAS, [Grantee], hereinafter referred to as “Grantee,” or “Recipient,” has applied for a grant to [insert project description] (hereinafter referred to as the “Project”), under the TIGER Discretionary Grant Program authorized by the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (hereinafter referred to as the “Recovery Act”); WHEREAS, the U.S. Department of Transportation (DOT), (hereinafter referred to as the “Government”), acting for the United States, received and reviewed over 1,400 applications for grants under the TIGER Discretionary Grant Program; WHEREAS, DOT selected 51 projects to receive TIGER Discretionary Grants because of the benefits that these projects are expected to provide; WHEREAS, the project was selected for funding based on [insert description of project benefits]; THEREFORE, DOT awards this grant in the amount of _____ Million Dollars (\$_____) to be administered by the Federal Highway Administration (“FHWA”), to assist in the Grantee’s efforts to construct the Project, in accordance with the terms and conditions of this grant agreement (hereinafter referred to as the “Grant Agreement”).

SECTION 1. LEGISLATIVE AUTHORITY

Title XII of the Recovery Act provides that “...the Secretary of Transportation shall distribute funds provided...as discretionary grants to be awarded to State and local governments or transit agencies on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area, or a region.” The Act also provides that “...projects eligible for funding provided under this heading shall include, but not be limited to, highway or bridge projects eligible under title 23, United States Code, including interstate rehabilitation, improvements to the rural collector road system, the reconstruction of overpasses and interchanges, bridge replacements, seismic retrofit projects for bridges, and road realignments; public transportation projects eligible under chapter 53 of title 49, United States Code, including investments in projects participating in the New Starts or Small Starts programs that will expedite the completion of those projects and their entry into revenue service; passenger and freight rail transportation projects; and port infrastructure investments, including projects that connect ports to other modes of transportation and improve the efficiency of freight movement.”

Further, the Recovery Act provides that the authority to award a grant under the TIGER Discretionary Grant Program and perform oversight may be transferred from the Secretary of Transportation to the Administrators of the Federal Highway Administration, the Federal Transit Administration, the Federal Railroad Administration and the Maritime Administration.

SECTION 2. GENERAL TERMS AND CONDITIONS

- a) The maximum obligation of the Government payable under this award, hereinafter referred to as the “Grant,” shall be _____ Million Dollars (\$____), subject to all the terms and conditions in this Grant Agreement. **[FOR PROJECTS ALSO UTILIZING TITLE 23 FUNDING, ADD:]** and of all other Federal grant awards funding the Project.
- b) Payment of the Grant will be made pursuant to and in accordance with 49 CFR Parts 18 and 19 (to the extent that a non-governmental grantee receives grant funding), and the provisions of such regulations and procedures as the Government may prescribe. Final determination of Grant expenditures may be based upon a final review of the total amount of agreed project costs and settlement will be made for adjustments to the Grant amount in accordance with applicable government-wide cost principles 2 CFR 225 (State and Local Governments); 2 CFR 215 (Higher Education Institutions); and 2 CFR 230 (Non-Profit Organizations). **[FOR PROJECTS ALSO UTILIZING TITLE 23 FUNDING, ADD:]** If there are any differences between the requirements of 49 CFR Parts 18 and 19 and title 23 of the United States Code and Code of Federal Regulations, the title 23 requirements will take precedence.
- c) The Grantee agrees to carry out and complete the Project without undue delays and in accordance with the terms hereof, including the Project Schedule attached as Attachment F, and such regulations and procedures as the Government may prescribe.
- d) The Grantee has submitted a request for Federal assistance, hereinafter referred to as the “Technical Application,” attached as Attachment G, and the Government is relying upon the Grantee’s assurances, certifications, and other representations made in the Technical Application, or any other related documents submitted to the Government; and, in its submissions, the Grantee has demonstrated justification for the Project, and has demonstrated the financial and technical feasibility of the Project, including the ability to start construction quickly upon receipt of the Grant; to expend Grant funds once construction starts; and to receive all necessary environmental, state and local planning, and legislative approvals necessary for the Project to proceed in accordance with the Project Schedule.
- e) The Government has determined that the Project should receive a Grant based on a review of the Project’s potential to rapidly create jobs and economic activity; to provide lasting, long-term economic benefits for the transportation system; and to provide other outcomes, as specified in the June 17, 2009, Federal Register Notice, “Notice of Funding Availability for Supplemental Discretionary Grants for Capital Investments in Surface Transportation Infrastructure Under the American Recovery and Reinvestment Act” (Docket No. OST-2009-0115).
- f) The Grantee will be monitored periodically by the Government, both programmatically and financially, to ensure that the Project goals, objectives,

performance requirements, timelines, milestone completion, budgets, and other related program criteria are being met. Monitoring will be accomplished through a combination of office-based reviews and onsite monitoring visits. Monitoring will involve the review and analysis of the financial, programmatic, performance and administrative issues relative to each program and will identify areas where technical assistance and other support may be needed. The Grantee is responsible for monitoring award activities, to include sub-awards, to provide reasonable assurance that the Federal award is administered in compliance with applicable requirements. Responsibilities include the accounting of receipts and expenditures, cash management, maintaining adequate financial records, and refunding disallowed expenditures. (For further information, please see Attachment B).

- g) The Grantee agrees to take all steps, including initiating litigation, if necessary, to recover Federal funds if the Government determines, after consultation with the Grantee, that such funds have been spent fraudulently, wastefully, or in violation of Federal laws, or misused in any manner in undertaking the Project. For the purposes of this Grant Agreement, the term “Federal funds” means funds however used or disbursed by the Grantee that were originally paid pursuant to this Grant Agreement.
- h) The Grantee agrees to retain all documents relevant to the Grant award for a period of three years from completion of the Project and receipt of final reimbursement from the Government. The Grantee agrees to furnish the Government, upon request, all documents and records pertaining to the determination of the Grant amount or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Grantee, in court or otherwise, involving the recovery of such Grant amount shall be approved in advance by the Government.
- i) The Government is subject to the Freedom of Information Act (FOIA). The Grantee should therefore be aware that all applications and related materials submitted by the Grantee related to this Grant Agreement will become agency records and thus are subject to FOIA and to public release through individual FOIA requests. ARRA also mandates broad public dissemination of information related to the expenditure of funds through reporting requirements and website postings that are addressed in other sections of this Grant Agreement. President Obama’s March 20, 2009 Memorandum for the Heads of Executive Departments and Agencies on Ensuring Responsible Spending of Recovery Act Funds mandates the strongest possible efforts to ensure public transparency and accountability of Recovery Act expenditures.
- j) The Government shall not be responsible or liable for any damage to property or any injury to persons that may arise from, or be incident to, performance or compliance with this Grant Agreement.
- k) **[USE THIS LANGUAGE FOR PROJECTS THAT ARE BEING ADMINISTERED BY THE STATE DOT, EVEN IF NOT THE GRANTEE]** The Grantee agrees to comply with 49 CFR Part 26 – Participation by Disadvantaged

Business Enterprises in Department of Transportation Programs -- as a condition of receiving grant funding

- l) In accordance with OMB Recovery Act Guidance, (available at http://www.whitehouse.gov/omb/recovery_default/), and in the answers to Frequently Asked Questions (available at http://www.whitehouse.gov/omb/recovery_faqs), the Grantee may recoup costs in the amount of up to 0.5% of the grant amount for administering the Grant. Information about which administrative costs are reimbursable under this program is available in 2 CFR Part 225 (OMB Circular A-87), "Cost Principles for State and Local Governments" [located at: <http://www.whitehouse.gov/omb/circulars/a087/a087-all.html>], and in Recovery Act specific guidance in OMB Memorandum M-09-18, Payments to State Grantees for Administrative Costs of Recovery Act Activities (May 11, 2009). The costs for reporting performance measures required pursuant to subsection m below are permitted as part of the up to 0.5% in administrative costs.
- m) Subject to Paperwork Reduction Act approval, as necessary, and mutual agreement by the parties to a performance measurement plan, Grantee agrees to collect the data necessary to track and report on the performance measures to be identified in a future agreement.
- n) The Government encourages the Grantee **[ADD THE FOLLOWIN IF APPLICABLE:** and the State Department of Transportation acting as the limited agent on behalf of the Grantee,] to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies that bar text messaging while driving company-owned or –rented vehicles, or government-owned, leased, or rented vehicles or privately-owned vehicles when on official government business or when performing any work for or on behalf of the Government. See Executive Order 13513 "Federal Leadership on Reducing Text Messaging While Driving", Oct. 1, 2009 (available at <http://edocket.access.gpo.gov/2009/E9-24203.htm>) and DOT Order 3902.1 "Text Messaging While Driving", Dec. 30, 2009 (available at <http://dotnet.gov.gov>), as implemented by Financial Assistance Policy Letter (No. FAP-2010-01, Feb. 2, 2010). This includes, but is not limited to, the Grantee **[ADD THE FOLLOWIN IF APPLICABLE** andthe State Department of Transportation acting as the limited agent on behalf of the Grantee]:
 - 1) considering new rules and programs or re-evaluating existing programs to prohibit text messaging while driving;
 - 2) conducting education, awareness, and other outreach for employees about the safety risks associated with texting while driving.
 - 3) encouraging voluntary compliance with the agency's text messaging policy while off duty.

The Grantee is encouraged to insert the substance of this clause in all assistance awards.

SECTION 3. APPLICABLE FEDERAL LAWS AND REGULATIONS

In addition to any other Federal requirements that apply, including specific and/or additional Buy American and Davis Bacon Act Prevailing Wage requirements or other specific requirements that apply under Title 23 or Title 49 of the United States Code, performance under this Grant Agreement shall be governed by and in compliance with the following requirements as applicable to the type of organization of the Recipient and any applicable sub-recipients:

- a) The “Uniform Administrative Requirements for Grants and Grant Agreements to State and Local Governments” (49 CFR 18), located at: <http://www.dot.gov/ost/m60/grant/49cfr18.htm>, DOT’s procurement standards for grants, will apply to the extent that the Grantee procures property and services in carrying out the approved grant project. **[FOR PROJECTS ALSO UTILIZING TITLE 23 FUNDING, ADD:]** If there are any differences between the DOT procurement standards and the FHWA procurement standards, the FHWA standards will take precedence.
- b) Section 902 of the Recovery Act, requiring that each contract awarded using Recovery Act funds must include a provision that provides the U.S. Comptroller General and his representatives with the authority to: 1) examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and 2) to interview any office or employee of the contractor or any of its subcontractors, or of any State or local government agency administering the contract, regarding such transactions.
- c) Section 1515 of the Recovery Act, authorizing the DOT Office of the Inspector General to: 1) examine any records of the contractor or Grantee, any of its subcontractors or subgrantees, or any State or local agency administering such contract, that pertain to, and involve transactions relating to, the contract, subcontract, grant or subgrant; and 2) interview any officer or employee of the contractor, Grantee, subgrantee, or agency regarding such transactions.
- d) **[USE THIS LANGUAGE ONLY FOR PROJECTS UTILIZING TIGER FUNDS AND NOT TITLE 23 OR OTHER ARRA FUNDING]** Section 1605 of the Recovery Act (Buy American Requirements (regulations at 2 CFR Part 176.140)) to the extent that the Grantee uses Grant funds for construction, alteration, maintenance, or repair of a public building or public work that utilizes iron, steel, and/or manufactured goods that are not covered under international agreements. See Attachment B, Recovery Act Requirements and Contract Clauses, for requirements and more information on Section 1605 compliance.

[USE THIS LANGUAGE ONLY FOR PROJECTS THAT HAVE BOTH TIGER FUNDS AND TITLE 23 OR OTHER ARRA FUNDS.] The Buy America provision under 23 U.S. C. § 313 and 23 CFR § 635.410.

- e) Section 1606 of the Recovery Act (Davis-Bacon Act Wage Rate Requirements (regulations at 2 CFR Part 176.190)) to the extent that the Grantee uses Grant funds for construction, alteration, maintenance, or repair work. See Attachment C, Recovery Act Requirements and Contract Clauses, for requirements and more information on Section 1606 compliance.
- f) Section 1604 of the Recovery Act, which prohibits the Grantee from expending funds under this Grant Agreement on any casino, or other gambling establishment, aquarium, zoo, golf course, or swimming pool.
- g) Sections 1201, 1511, and 1607 of the Recovery Act, requiring certifications (existing certifications will remain valid unless an update is needed). Note that the Section 1511 certification requirement pertains to particular infrastructure investments. All Certifications, once executed, should have been submitted to the Secretary of Transportation, c/o Joel Szabat, Deputy Assistant Secretary for Transportation Policy, at TigerTeam.Leads@dot.gov. Certifications may be submitted via e-mail as electronic, scanned copies, with original signed versions to follow to be submitted via U.S. mail. As required by the Recovery Act, certifications under Section 1511 shall be immediately posted on a website and linked to the website Recovery.gov. No funds may be obligated until such posting is made. Section 1553 of the Recovery Act, which requires the Grantee to provide Whistleblower protections. As a non-Federal employer, the Grantee is required to post a notice of the rights and remedies provided under this section. The whistleblower program requirements and poster are available at the following web site: <http://www.recovery.gov/?q=content/whistleblower-information>.
- h) Section 1554 of the Recovery Act, which requires the Grantee to award contracts as fixed-price contracts to the maximum extent possible through the use of competitive procedures. In the rare circumstances where the Grantee does not award fixed-price contracts and does not use competitive procedures, the Grantee shall publicly and electronically post a summary of such contracts.
- i) The Single Audit Act Amendments of 1996 and the Office of Management and Budget's (OMB) Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations" (Single Audit Information requirements for Recipients of Recovery Act Funds (regulations at 2 CFR Part 176.210)), which govern the tracking and documentation of all Recovery Act expenditures. This includes compliance with Federal regulations requiring conduct of a federally-approved audit of any expenditure of funds of \$500,000 or more in a year in Federal awards. See Attachment B, Recovery Act Requirements and Contract Clauses, for requirements and more information on Single Audit Information compliance.
- j) The "New Restrictions On Lobbying," (49 CFR Part 20 [located at: <http://www.dot.gov/ost/m60/grant/49cfr20.htm>]).

- k) The “Cost Principles for State and Local Governments” 2 CFR Part 225 (OMB Circular A-87), or other applicable cost principles, depending upon the grantee [located at: <http://www.whitehouse.gov/omb/circulars/a087/a087-all.html>].
- l) OMB Circular A-102, “Grants and Grant Agreements With State and Local Governments” or other applicable requirements, depending upon the grantee [located at: <http://www.whitehouse.gov/omb/circulars/a102/a102.html>]
- m) Any other applicable Federal regulation or statute including each of the laws, regulations, executive orders, policies, guidelines, and requirements identified in Attachment B, Grant Assurances.

SECTION 4. GRANTEE AND PROJECT CONDITIONS

- a) Grantee: _____, as the Grantee under the TIGER Discretionary Grant Program, agrees to administer the Grant according to the conditions set forth in this Grant Agreement.

Dun and Bradstreet Data Universal Numbering System (DUNS) No. of the Grantee:

First-Tier Sub-Grantees or Sub-Recipients (if applicable – to be reported if/when identified): _____

DUNS No. of First-Tier Sub-Grantee or Sub-Recipient (if applicable – to be reported if/when identified): _____

- b) Notices:

Notices required by this Agreement should be addressed as follows:

As to the Government:

[Note: All agreements should identify a contact in OST and at the modal administration]

Name of Division Office Official Designated as Official Contact

Title

Agency

Mailing Address

Phone Number

Email Address

and

Ed Strocko

TIGER Discretionary Program Modal Coordinator

Federal Highway Administration
1200 New Jersey Ave. SE, E84-440
Washington DC 20590
(202) 366- 2997
Ed.Strocko@dot.gov

and

Robert Mariner
United States Department of Transportation
Office of the Secretary
1200 New Jersey Avenue, SE, W84-244
Washington, DC 20590
(202) 366-8914
Robert.Mariner@dot.gov

As to the Grantee:

Name of Agency Official Designated as Official Contact
Title
Agency
Mailing Address
Phone Number
Email Address

c) Project Description and Milestones:

- 1) Project Description: **[Provide a brief summary of the scope of the project, including, as applicable, type of project, project location (State, city, county, metropolitan area,) length, areas served, major procurements associated with project scope, description of connections with existing transportation facilities and infrastructure. This description should highlight any of the information in the Application that needs to be updated or amended.]** See Statement of Work (Attachment A).

- 2) State and Local Planning:

Planning Program Date: **[Provide date that project was included in the relevant State, metropolitan, or local planning documents, or N/A if not applicable)]**

- 3) Environmental Process:

Environmental Approval Type: **[Indicate type of document (Record of Decision, Finding of No Significant Impact, or Categorical Exclusion).]**

Lead Agency: _____

DOT Agency (if not Lead Agency): _____

Date of Environmental Approval: _____

Title of the Environmental Document: _____

4) Project Schedule (See Project Schedule, Attachment F):

Planned or Actual Construction Start Date: _____

Planned Project Completion Date: _____

d) Project Funding (See Project Budget, Attachment E):

1) TIGER Discretionary Grant Program Funding:

The total not-to-exceed amount of Federal funding that is provided under this Grant Agreement is _____ Million Dollars (\$ _____) for the entire period of performance. The Government's liability to make payments to the Grantee under this Grant Agreement is limited to those funds obligated under this Grant Agreement as indicated above and any subsequent amendments.

2) Local Financial Commitment (if any):

- A. The Grantee hereby commits and certifies that it will provide funds (and ensure the availability of other sources of funding, such as local/private funding or in-kind contributions) in an amount sufficient, together with the Federal contribution (acknowledging the limitations as set forth in this Grant Agreement), to assure timely and full payment of the project costs as necessary to complete the Project.
- B. The Grantee agrees to notify the Government within 14 calendar days of any change in circumstances or commitments that adversely affect the Grantee's plan to fund the project costs necessary to complete the Project as set forth in the Grantee's Technical Application. In its notification, the Grantee shall advise the Government of what actions it has taken or plans to take to ensure adequate funding resources and shall reaffirm its commitment to the Government as set forth in Paragraph (A) of this Section 4(d)(2). The Government is not responsible for any funding shortfalls regarding the non-TIGER Discretionary Grant amount share. The TIGER Discretionary Grant Amount will remain unchanged (See Section 9 of this Grant Agreement regarding termination).

3) Grant Funds and Sources of Project Funds:

TIGER Discretionary Grant Amount:	\$ _____
Federal Other Share (if any):	\$ _____
State Share (if any):	\$ _____
Local Share (if any):	\$ _____
Other Share (if any):	\$ _____
Total Project Cost:	\$ _____

SECTION 5. REIMBURSEMENT OF PROJECT COSTS

**[FOR FHWA - THE FOLLOWING LANGUAGE SHOULD BE USED FOR
STATE-ADMINISTERED PROJECTS THROUGH THE DIVISIONS]**

- a) The Grantee will be reimbursed in accordance with the terms of a Project agreement or E-76 for the Project that incorporates this Grant Agreement by reference.
- b) The Grantee shall have entered into obligations for services and goods associated with the Project prior to seeking reimbursement from the Government. Reimbursement will only be made for expenses incurred after execution of a project agreement.
- c) The Grantee shall ensure that the funds provided by the Government are not misappropriated or misdirected to any other account, need, project, line-item, or the like.
- d) Any Federal funds not expended in conjunction with the Project will remain the property of the Government.
- e) Financial Management System: By signing this Grant Agreement, the Grantee verifies that it has, or will implement, a financial management system adequate for monitoring the accumulation of costs and that it complies with the financial management system requirements of 49 CFR Part 18 and Title 23. The Grantee's failure to comply with these requirements may result in Grant Agreement termination.
- f) Allowability of Costs: Determination of allowable costs will be made in accordance with the applicable Federal cost principles, e.g., OMB Circular A-87. Disallowed costs are those charges determined to not be allowed in accordance with the applicable Federal cost principles or other conditions contained in this Grant Agreement.

**[FOR FHWA - THE FOLLOWING LANGUAGE SHOULD BE USED FOR
LOCALLY ADMINISTERED PROJECTS THROUGH HAAM]**

Pursuant to 49 CFR 18.21(d), the Grantee may request reimbursement of costs incurred in the performance hereof as are allowable under the applicable cost provisions [see 49 CFR Part 18] not-to-exceed the funds currently available as stated in this Grant Agreement. The Grantee shall submit an electronic copy of SF 270, no more frequently than monthly, to _____.

a) Reimbursement:

- 1) Requests for Reimbursement: When requesting reimbursement of costs incurred, the Recipient shall submit supporting cost detail with the SF 270 to clearly document costs incurred. Cost detail includes a detailed breakout of all costs incurred including direct labor, indirect costs, other direct costs, travel, etc.... The **[Agreement Specialist]** and the **[AO]** reserve the right to withhold processing requests for reimbursement until sufficient detail is received. In addition, reimbursement will not be made without **[AOTR]** review and approval to ensure that progress on the Agreement is sufficient to substantiate payment. After **[AOTR]** approval, the **[Agreement Specialist]** will certify and forward the request for reimbursement to the payment office. [Note: Standard Forms may be located at <http://fhwa.dot.gov/aaa/hamhome.htm>]
- 2) Requests for reimbursement and required supporting documents should be sent via e-mail to the following e-mail address: **[Insert]** Include the request for reimbursement and supporting documents as an attached PDF document. Include in the e-mail subject line the following:

**[Requests for Reimbursement #
Agreement Number
Name of your Company/Organization
Attention: (Agreement Specialist's name)]**

[Example: Invoice No. 1 of Grant Agreement No. DTFH61-08-H-00001 ABC Corporation, Attention: John Doe]

Note: If the request for reimbursement and supporting documents exceed 8 MB, as an e-mail attachment, the recipient must select one of two non-electronic submission options presented below:

- Requests for reimbursement may be submitted via regular U.S. Postal Service to the following P.O. Box address: **[Insert address]**
- Requests for reimbursement submitted via an overnight service must use the following physical address because delivery services other than the U.S. Postal Service will not deliver to the P.O. Box address noted above: **[Insert address]**

[NOTE: All three requests for reimbursement submission options described above (e-mail, U.S. Postal Service or overnight service) result in the delivery of the request for reimbursement to the same finance office in Oklahoma City, OK.]

- b) The Grantee shall have entered into obligations for services and goods associated with the Project prior to seeking reimbursement from the Government.
- c) To seek reimbursement from the Government, the Grantee shall submit documentary evidence of all obligations associated with the Project set forth in paragraph (b), above, and included in the total Project costs set forth in paragraph (a), above (those to be covered by the local and/or state contribution, as well as those covered by the Federal contribution) on a **[weekly/ monthly basis]**. The Government will reimburse the Grantee on a monthly basis for all valid obligation documentation (TIGER Discretionary Grant share of total project costs set forth in paragraph (a), above). All reimbursement requests to the Government shall include sufficient documentation to justify reimbursement of the Grantee, including invoices and proof of payment of an invoice.
- d) The Grantee shall ensure that the funds provided by the Government are not misappropriated or misdirected to any other account, need, project, line-item, or the like.
- e) Any Federal funds not expended in conjunction with the Project will remain the property of the Government.
- f) Financial Management System: By signing this agreement, the Grantee verifies that it has, or will implement, a financial management system adequate for monitoring the accumulation of costs and that it complies with the financial management system requirements of 49 CFR Part 18. The Grantee's failure to comply with these requirements may result in agreement termination.
- g) Allowability of Costs: Determination of allowable costs will be made in accordance with the applicable Federal cost principles, e.g., OMB Circular A-87. Disallowed costs are those charges determined to not be allowed in accordance with the applicable Federal cost principles or other conditions contained in this Agreement.

SECTION 6. REPORTING

- a) Recovery Act Reporting:

Reporting requirements under Section 1201(c)(2) of the Recovery Act, "General Provision – Department of Transportation" apply. Project reports, including information as set forth in subparagraph (2), below, shall therefore be reported to the Government in accordance with the statutory timeframes. Due to the unique timeframe for TIGER Discretionary Grant awards, Grantees should submit the

first of such reports on the 20th of the month following the execution date of this Grant Agreement and on each subsequent due date thereafter. Grantees shall submit their data using the Recovery Act Data System (RADS). The RADS guidance, which includes guidance on Section 1201(c) reporting, is located at: <http://www.fhwa.dot.gov/economicrecovery/guidancelist.htm>.

- 1) Project reports for Section 1201(c) should include the amount of Grant Funds appropriated, allocated, obligated, and outlayed under the appropriation; the number of projects put out to bid under the appropriation and the amount of Grant Funds associated with these contracts; the number contracts awarded under the appropriation and the amount of Grant Funds associated with these contracts; the number of projects for which work has begun under these contracts and the associated amount of Grant Funds; the number of projects for which work has been completed and the associated amount of Grant Funds; and the number of direct, on-project jobs created or sustained by the Grant Funds for projects under the appropriation and, to the extent possible, number of direct on-project job hours (the Department calculates the number of indirect and induced jobs).
- 2) In accordance with the Recovery Act and OMB Guidance, dated June 22, 2009 (http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-21.pdf), this Grant award requires the Grantee to complete projects or activities which are funded under the Recovery Act and to report on use of Recovery Act funds provided through this award to <http://www.FederalReporting.gov>. Information from these reports will be made available to the public. Such reporting responsibility may be delegated from the Grantee/ Recipient to the Sub-grantee/ Sub-recipient or vendor, in order to ensure that the necessary information is provided to the Grantee/ Recipient, who is ultimately responsible for reporting the required elements.

The reports are due no later than ten calendar days after each calendar quarter in which the recipient receives the assistance award funded in whole or in part by the Recovery Act.

Grantees/ Recipients and their Subgrantees/ first-tier recipients (to the extent that they have been delegated direct reporting responsibility) must maintain current registrations in the Central Contractor Registration (<http://www.ccr.gov>) at all times during which they have active Federal awards funded with Recovery Act funds. A DUNS Number (<http://www.dnb.com>) is one of the requirements for registration in the Central Contractor Registration.

The Grantees/Recipients shall report the information described in section 1512(c) of the Recovery Act using the reporting instructions and data elements that will be provided online at <http://www.FederalReporting.gov>

and ensure that any information that is pre-filled is corrected or updated as needed.

Projects administered by the FHWA shall comply with the reporting instructions and data elements in the Recovery Act Data System (RADS) guidance and any updates to that guidance. The RADS guidance is available online at: <http://www.fhwa.dot.gov/economicrecovery/guidancelist.htm>.

- 3) In accordance with Section 1609 of the Recovery Act, the Grantee shall submit quarterly reports, as necessary, describing the status of the Project with respect to the National Environmental Policy Act (NEPA) review. A report shall be submitted to RADS by July 5, 2010, and every 90 days thereafter following the execution of this Grant Agreement. Due to the unique timeframe for TIGER Discretionary Grant awards, Grantees should submit the first of such reports on the first due date following the execution date of this Grant Agreement and on each subsequent due date thereafter.
- 4) In accordance with the purposes of the Recovery Act, the Grantee may be required to submit additional information in response to requests from DOT, OMB, the Congressional Budget Office, the Government Accountability Office, or the Department of Transportation's Inspector General. The Government will inform Grantees if and when such additional reports are required.

b) Project Reports:

- 1) Consistent with the purposes of the TIGER Discretionary Grant Program, to ensure accountability and transparency in Government spending, the Grantee shall submit monthly progress reports in RADS or other system designated by the Government, as set forth in Attachment D: Monthly Project Progress Reports, Format and Content, to the Government on a monthly basis, beginning on the 20th of the first full month following the execution of the Grant Agreement, and on the 20th of each month thereafter until completion of the Project. The initial report shall include a detailed description, and, where appropriate, drawings, of the items funded. Addresses for submittal of reports and documents: The Grantee shall submit all required reports and documents to the Government electronically, referencing the Grant Agreement number, at the following addresses: Ed.Strocko@dot.gov.
- 2) Annual Budget Review and Program Plan: The Grantee shall submit an Annual Budget Review and Program Plan to the Government via e-mail 60 days prior to the end of each Grant Agreement year. The Annual Budget Review and Program Plan shall provide a detailed schedule of activities, estimate of specific performance objectives, include forecasted expenditures, and schedule of milestones for the upcoming Grant Agreement year. If there are no proposed deviations from the Approved Project Budget, attached hereto

as Attachment E, the Annual Budget Review shall contain a statement stating such. The Recipient will meet with DOT to discuss the Annual Budget Review and Program Plan. If there is an actual or projected project cost increase, the annual submittal should include a written plan for providing additional sources of funding to cover the project budget shortfall or supporting documentation of committed funds to cover the cost increase.

To the extent the annual budget update deviates from the approved project budget by more than 10 percent, then work proposed under the Annual Budget Review and Program Plan shall not commence until written approval from the Government is received.

- c) Milestones/Deliverables Schedule: Attachment H is incorporated herein.

Closeout Process: Closeout occurs when all required project work and all administrative procedures described in 49 CFR part 18 (or part 19 or Title 23 as applicable) are completed, and the Government notifies the Grantee and forwards the final Federal assistance payment, or when the Government acknowledges Grantee's remittance of the proper refund. Within 90 days of the Project completion date or termination by the Government, the Grantee must submit a final Financial Status Report (XF-269), a certification or summary of project expenses, and third party audit reports.

SECTION 7. SPECIAL GRANT REQUIREMENTS

[This is a section for special modal requirements that can be modified with each individual grant agreement. On a project by project basis, OST and each of the modal administrations should consider whether they need to add a special requirement here. An Example is "Railroad Agreements administered by FRA: As a condition of receiving a grant, Grantees must have written agreements with railroads for any projects that use railroad rights-of-way."]

- a) **[FOR PROJECTS ALSO UTILIZING TITLE 23 FUNDING, ADD:]** The Grantee agrees to comply with applicable terms and conditions set forth in Title 23, United States Code, Highways, the regulations issued pursuant thereto, and the policies and procedures promulgated by the FHWA relative to the project.

[IF THERE ARE NO SPECIAL GRANT REQUIREMENTS, ADD:]

- a) There are no special grant requirements for this Project.

SECTION 8. ASSURANCES

The Grantee shall execute the attached assurances and certifications (See Attachment B) in conjunction with execution of this Grant Agreement and shall comply with those assurances and certifications.

SECTION 9. TERMINATION, MODIFICATION AND EXPIRATION

- a) Subject to terms set forth in this Grant Agreement, the Government reserves the right to terminate this Grant Agreement and all of its obligations associated with this Grant Agreement, unless otherwise agreed between the Grantee and the Government, if any of the following occurs:
- 1) The Grantee fails to obtain or provide any non-TIGER Discretionary Grant contribution or alternatives approved by the Government as provided in this Grant Agreement and in accordance with the Project Schedule;
 - 2) The Grantee fails to begin construction before _____; *(Insert deadline agreed to between DOT and Grantee)*
 - 3) The Grantee fails to begin expenditure of Grant funds by _____; *(Insert deadline agreed to between DOT and Grantee)*
 - 4) The Grantee does not meet the conditions and obligations specified under this Grant Agreement including a material failure to comply with the Project Schedule which is beyond the reasonable control of the Grantee; or
 - 5) The Government determines that termination is in the public interest.
- b) Funds available under this Grant Agreement must be obligated on or before September 30, 2011, but once obligated, are available for liquidation and adjustment through September 30, 2016, the "Grant Termination Date." Unless otherwise specified, this Grant Agreement shall terminate on the Grant Termination Date.
- c) Either party (Government or the Grantee) may seek to amend or modify this Grant Agreement prior to the Grant Termination Date by written notice (formal letter) to the other party and in accordance with 49 CFR parts 18.43 and 18.44. The Grant Agreement will be amended or modified only on mutual written agreement by both parties.

SECTION 10. AWARD AND EXECUTION OF GRANT AGREEMENT

There are four (4) identical counterparts of this Grant Agreement in typewritten hard copy; each counterpart is to be fully signed in writing by the parties and each counterpart is deemed to be an original having identical legal effect. When signed and dated by the authorized official of the Government, this instrument will constitute an Award. Upon full Execution of this Grant Agreement by the Grantee, the effective date will be the date the Government awarded funding under this Grant Agreement as set forth below.

EXECUTION BY Government

The Government executes this Grant Agreement in accordance with Public Law 111-5, and in accordance with the above conditions and assurances.

Executed this _____ day of _____, 2010.

Signature of Government's Authorized Representative

Title

DRAFT

EXECUTION BY Grantee

The Grantee agrees to accomplish each element of the project in compliance with the terms and conditions contained herein. **[ADD THE FOLLOWING LANGUAGE FOR PROJECTS WHERE THE GRANTEE IS A LOCAL PUBLIC AGENCY, BUT THE STATE WILL BE CARRYING OUT THE PROJECT ON BEHALF OF THE GRANTEE]** The Grantee hereby authorizes the State/Commonwealth of _____ to act as its limited agent for the sole purpose to receive and distribute grant funds disbursed by the Government in accordance with the terms and conditions of this agreement.

Executed this _____ day of _____, 2010.

Grantee _____

(SEAL)

Signature of Grantee's Designated Official Representative

Title

**[USE THE FOLLOWING LANGUAGE IF THE STATE IS ADMINISTERING
THE PROJECT ON BEHALF OF THE LOCAL GOVERNMENT GRANTEE]**

EXECUTION BY State Department of Transportation

By signature below the State Department of Transportation (SDOT) acknowledges that it will be acting as a limited agent for the Grantee to assist in the receipt and disbursement of the federal grant funds obligated by this agreement. The SDOT acknowledges the fiduciary duty owed to the parties to this agreement and will promptly disburse the Federal grant funds to the Grantee at Grantee's direction and instructions. Further, the SDOT will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the duties it assumes under this Grant Agreement in compliance with the terms and conditions contained herein.

Executed this _____ day of _____, 2010.

State Department of Transportation _____

(SEAL)

Signature of State Department of Transportation Designated Official Representative

Title

ATTACHMENT A: STATEMENT OF WORK

DRAFT

ATTACHMENT B: GRANT ASSURANCES

**OFFICE OF THE SECRETARY
DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION**

TITLE VI ASSURANCE

(Implementing Title VI of the Civil Rights Act of 1964, as amended)

**ASSURANCE CONCERNING NONDISCRIMINATION IN FEDERALLY-
ASSISTED PROGRAMS
AND ACTIVITIES RECEIVING OR BENEFITING FROM
FEDERAL FINANCIAL ASSISTANCE**

(Implementing the Rehabilitation Act of 1973, as amended, and the Americans With Disabilities Act, as amended)

49 CFR Parts 21, 25, 27, 37 and 38

(the Grantee) HEREBY AGREES THAT,

- I. As a condition to receiving any Federal financial assistance from the Department of Transportation, it will comply: with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d--42 U.S.C. 2000d-4; all requirements imposed by or pursuant to: Title 49, Code of Federal Regulations, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act of 1964; and other pertinent directives so that no person in the United States shall, on the grounds of race, color, national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Grantee receives Federal financial assistance from the Department of Transportation. This assurance is required by Title 49, Code of Federal Regulations, Section 21.7(a).
- II. As a condition to receiving any Federal financial assistance from the Department of Transportation, it will comply with: Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 through 1683, and 1685 through 1687, and U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 CFR part 25, which prohibit discrimination on the basis of sex.

- III. As a condition to receiving any Federal financial assistance from the Department of Transportation, it will comply with: the Age Discrimination Act of 1975, as amended (42 USC 6101 et seq.), the Drug Abuse Office and Treatment Act of 1972, as amended (21 USC 1101 et seq.), the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended (42 USC 4541 et seq.); and any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance was made; and the requirements of any other nondiscrimination statute(s) which may apply to the Grantee.
- IV. As a condition to receiving any Federal financial assistance from the Department of Transportation, it will comply with: section 504 of the Rehabilitation Act of 1973, as amended, (29 USC 794); and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Part 27, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance; and Part 37, Transportation Services for Individuals With Disabilities; and Part 38, Americans With Disabilities Act – Accessibility Specifications for Transportation Vehicles; and other pertinent directives so that no otherwise qualified person with a disability, be excluded from participation in, be denied the benefits of, be discriminated against by reason of such handicap, or otherwise be subjected to discrimination under any program for which the Grantee receives Federal financial assistance from the Department of Transportation. This assurance is required by Title 49, Code of Federal Regulations, Section 27.9.
- The Grantee will promptly take any measures necessary to effectuate this Grant Agreement. The Grantee further agrees that it shall take reasonable actions to guarantee that it, its contractors and subcontractors subject to the Department of Transportation regulations cited above, transferees, and successors in interest will comply with all requirements imposed or pursuant to the statutes and Department of Transportation regulations cited above, other pertinent directives, and the above assurances.
 - These assurances obligate the Grantee for the period during which Federal financial assistance is extended. The Grantee agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the statutes and Department of Transportation regulations cited above, other pertinent directives, and the above assurances.
 - These assurances are given for the purpose of obtaining Federal grant assistance under the TIGER Discretionary Grant Program and are binding on the Grantee, contractors, subcontractors, transferees, successors in interest, and all other participants receiving Federal grant assistance in the TIGER Discretionary Grant

Program. The person or persons whose signatures appear below are authorized to sign this Grant Agreement on behalf of the Grantee.

- In addition to these assurances, the Grantee agrees to file: a summary of all complaints filed against it within the past year that allege violation(s) by the Recipient of Title VI of the Civil Rights Act of 1964, as amended, section 504 of the Rehabilitation Act of 1973, as amended; or a statement that there have been no complaints filed against it. The summary should include the date the complaint was filed, the nature of the complaint, the status or outcome of the complaint (*i.e.*, whether it is still pending or how it was resolved).

Date

Legal Name of Grantee

By: _____
Signature of Authorized Official

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY**

DISCLOSURE OF LOBBYING ACTIVITIES

Certification for Contracts, Grants, Loans,
and Grant Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any grant agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or grant agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or grant agreement, the undersigned shall complete and submit Standard Form-LLL (Rev. 7-97), "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and grant agreements) and that all subgrantees shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature

Date

Title

Grantee

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY**

**CERTIFICATION REGARDING DRUG-FREE WORKPLACE
REQUIREMENTS
IN THE PERFORMANCE OF THE TIGER DISCRETIONARY GRANT
PROGRAM**

A. The Grantee certifies that it will, or will continue, to provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Grantee's workplace, and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an ongoing drug-free awareness program to inform employees about--
 - (1) The dangers of drug abuse in the workplace;
 - (2) The Grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of work supported by the grant award be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment supported by the grant award, the employee will--
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of conviction. Employers of convicted employees must provide notice, including position title, to the Department. Notice shall include the order number of the grant award;
- (f) Taking one of the following actions, within 30 days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted--
 - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended, or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

B. The Grantee *may*, but is not required to, insert in the space provided below the site for the performance of work done in connection with the specific grant.

Places of Performance (street address, city, county, state, zip code). For the provision of services pursuant to the grant award, workplaces include outstations, maintenance sites, headquarters office locations, training sites and any other worksites where work is performed that is supported by the grant award.

Check [] if there are workplaces on file that are not identified here.

Grantee Signature

Date

TIGER DISCRETIONARY GRANT PROGRAM

GRANT ASSURANCES

Certification. The Grantee hereby assures and certifies, with respect to this grant, that it will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this project including but not limited to the following:

General Federal Legislation

- a. Davis-Bacon Act - 40 U.S.C. 3141, et seq.
- b. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- c. Hatch Act - 5 U.S.C. 1501, et seq.
- d. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title - 42 U.S.C. 4601, et seq.
- e. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470f
- f. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469a through 469c.
- g. Native American Graves Protection and Repatriation Act - 25 U.S.C. 3001, et seq.
- h. Clean Air Act, P.L. 90-148, as amended
- i. Section 404 of the Clean Water Act, as amended 33 U.S.C. 1251, et seq.
- j. Section 7 of the Endangered Species Act, P.L. 93-205, as amended.
- k. Coastal Zone Management Act, P.L. 92-583, as amended.
- l. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a
- m. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- n. American Indian Religious Freedom Act, P.L. 95-341, as amended
- o. Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. 1101, et seq.
- p. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, P.L. 91-616, as amended - 42 U.S.C. 4541, et seq.
- q. Sections 523 and 527 of the Public Health Service Act of 1912, as amended, 42U.S.C. 290dd through 290dd-2
- r. Architectural Barriers Act of 1968 - 42 U.S.C. 4151, et seq.
- s. Power Plant and Industrial Fuel Use Act of 1978, P.L. 100-42 - Section 403 - 42 U.S.C.8373
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 3701, et seq.
- u. Copeland Anti-kickback Act, as amended - 18 U.S.C. 874 and 40 U.S.C. 3145
- v. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. 1271, et seq.
- x. Federal Water Pollution Control Act, as amended - 33 U.S.C. 1251-1376
- y. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.
- z. Americans with Disabilities Act of 1990 - 42 U.S.C. 12101, et seq.
- aa. Title IX of the Education Amendments of 1972, as amended - 20 U.S.C. 1681 through 1683, and 1685 through 1687
- bb. Section 504 of the Rehabilitation Act of 1973, as amended - 29 U.S.C. 794
- cc. American Recovery and Reinvestment Act of 2009 – P.L. 111-5
- dd. Title VI of the Civil Rights Act of 1964 - 42 U.S.C. 2000d *et seq.*
- ee. Title IX of the Federal Property and Administrative Services Act of 1949 - 40 U.S.C. 541, et seq.

- ff. Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions – 31 U.S.C. 1352
- gg. Freedom of Information Act - 5 U.S.C. 552, as amended
- hh. Magnuson-Stevens Fishery Conservation and Management Act – 16 U.S.C. 1855
- ii. Farmlands Protection Policy Act of 1981 – 7 U.S.C. 4201
- jj. Noise Control Act of 1972 – 42 U.S.C. 4901, et seq.
- kk. Fish and Wildlife Coordination Act of 1956 – 16 U.S.C. 661
- ll. Section 9 of the Rivers and Harbors Act and General Bridge Act of 1946 - 33 U.S.C. 401
- mm. Section 4(f) of the Department of Transportation Act of 1966, 49 U.S.C. 303 and 23 U.S.C. 138
- nn. Resource Conservation and Recovery Act of 1976 (RCRA), as amended -- 42 U.S.C. 6901, et seq.
- oo. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended -- 42 U.S.C. 9601-9657
- pp. Safe Drinking Water Act -- 42 U.S.C. 300F-300J-6
- qq. Wilderness Act -- 16 U.S.C. 1131-1136
- rr. Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 -- 42 U.S.C. 6901, et seq.
- ss. Migratory Bird Treaty Act 16 U.S.C. 760c-760g

Executive Orders

- a. Executive Order 11246 - Equal Employment Opportunity
- b. Executive Order 11990 - Protection of Wetlands
- c. Executive Order 11988 – Floodplain Management
- d. Executive Order 12372 - Intergovernmental Review of Federal Programs
- e. Executive Order 12549 – Debarment and Suspension
- f. Executive Order 12898 – Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- g. Executive Order 13166 – Improving Access to Services for Persons With Limited English Proficiency

General Federal Regulations

- a. Interim Final Guidance on Buy American – 74 FR 18449 (April 23, 2009), 2 CFR Part 176
- b. Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations – 2 CFR Part 215
- c. Cost Principles for State and Local Governments – 2 CFR Part 225
- d. Non-procurement Suspension and Debarment – 2 CFR Part 1200
- e. Investigative and Enforcement Procedures - 14 CFR Part 13
- f. Procedures for predetermination of wage rates - 29 CFR Part 1
- g. Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States - 29 CFR Part 3
- h. Labor standards provisions applicable to contracts governing federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act) - 29 CFR

Part 5

- i. Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements) - 41 CFR Parts 60, et seq.
- j. Contractor Qualifications - 48 CFR Part 9
- k. Uniform administrative requirements for grants and cooperative agreements to state and local governments - 49 CFR Part 18
- l. New Restrictions on Lobbying – 49 CFR Part 20
- m. Nondiscrimination in Federally Assisted Programs of the Department of Transportation –Effectuation of Title VI of the Civil Rights Act of 1964 – 49 CFR Part 21
- n. Uniform relocation assistance and real property acquisition for Federal and Federally assisted programs - 49 CFR Part 24
- o. Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance - 49 CFR Part 25
- p. Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs – 49 CFR Part 26
- q. Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance - 49 CFR Part 27
- r. Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation – 49 CFR Part 28
- s. Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors - 49 CFR Part 30
- t. Governmentwide Requirements for Drug-Free Workplace (Financial Assistance) – 49 CFR Part 32
- u. DOT's implementing ADA regulations, including the ADA Accessibility Guidelines in Part 37, Appendix A - 49 CFR Parts 37 and 38
- v. Procedures for Transportation Workplace Drug and Alcohol Testing Programs – 49 CFR Part 40

Office of Management and Budget Circulars

- a. A-87 – Cost Principles Applicable to Grants and Contracts with State and Local Governments
- b. A-102 – Grants and Grant Agreements with State and Local Governments
- c. A-133 - Audits of States, Local Governments, and Non-Profit Organizations
- d. Any other applicable OMB Circular based upon the specific TIGER Grant Recipient

Highway Federal Legislation

- a. Brooks Act (for FHWA projects, this replaces Title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541, et seq).) - 40 U.S.C. 1101-1104
- b. Highway Design and Construction Standards, 23 U.S.C. 109
- c. Planning, 23 U.S.C. 134 and 135 (except for projects that are not regionally significant that do not receive funding under Title 23 or Chapter 53 of Title 49)
- d. Tolls, 23 U.S.C. 301 (to the extent the recipient wishes to toll an existing free facility that has received Title 23 funds in the past)

- e. Size, Weight, and Length Limitations - 23 U.S.C. 127, 49 U.S.C. 31101 et seq.

Highway Federal Regulations

- a. Planning 23 – CFR Part 450 (except for projects that are not regionally significant that do not receive funding under Title 23 or Chapter 53 of Title 49)
- b. National Highway System Design Standards – 23 CFR Part 625
- c. Manual on Uniform Traffic Control Devices – 23 CFR Part 655
- d. Environmental Impact and Related Procedures – 23 CFR Part 771
- e. Procedures for Abatement of Highway Traffic and Construction Noise -- 23 CFR Part 772
- f. Procedures Implementing Section 4(f) of the Department of Transportation Act – 23 CFR Part 774
- g. Permitting Requirements under the National Pollutant Discharge Elimination System – 40 CFR Part 122

Specific assurances required to be included in grant agreements by any of the above laws, regulations, or circulars are hereby incorporated by reference into the Grant Agreement.

Responsibility and Authority of the Grantee.

1. The Grantee has the legal authority to apply for the grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

2. Funds Availability. It has sufficient funds available for that portion of the project costs that are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under the Grant Agreement that it will own or control.

3. Preserving Rights and Powers.

It will not take or permit any action that would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in the Grant Agreement without the written approval of the DOT, and will act promptly to acquire, extinguish, or modify any outstanding rights or claims of right of others that would interfere with such performance by the Grantee. The Grantee agrees that this will be done in a manner acceptable to the DOT.

4. Accounting System, Audit, and Record Keeping Requirements.

a. The Grantee agrees to keep all project accounts and records that fully disclose the amount and disposition by the Grantee of the proceeds of the grant, the total cost of the project in connection with which the grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984, as amended (31 USC 7501-7507).

b. The Grantee agrees to make available to the DOT and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the Grantee that are pertinent to the grant. The DOT may require that a Grantee conduct an appropriate audit. In any case in which an independent audit is made of the accounts of a Grantee relating to the disposition of the proceeds of a grant or relating to the project in connection with which the grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

5. Minimum Wage Rates. It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this Grant Agreement that involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 3141, et seq.), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

In addition, in order to incorporate the provisions of Section 1606 of the Recovery Act, which applies Davis-Bacon Act prevailing wage requirements to projects funded directly by or assisted in whole or in part by and through the Federal Government using laborers and mechanics, the Grantee agrees to insert the clauses found in 29 CFR 5.5(a) provided in Attachment B of this Grant Agreement in all Grantee contracts and grants using funds obligated to carry out this Grant Agreement.

6. Engineering and Design Services. It will award each contract or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under the Brooks Act (40 U.S.C. 1101-1104) or an equivalent qualifications-based requirement prescribed for or by the Grantee as approved by the Secretary.

7. Foreign Market Restrictions. It will not allow funds provided under this grant to be used to fund any project that uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

8. Relocation and Real Property Acquisition. (1) It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B. (2) It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24. (3) It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

Grantee

Signature of Authorized Grantee Official

Date

DRAFT

OFFICE OF THE SECRETARY OF TRANSPORTATION

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS -- PRIMARY COVERED TRANSACTIONS

2 CFR Part 1200, 49 CFR Part 32

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. See Nonprocurement Suspension and Debarment (2 CFR Part 1200) and Government wide Requirements for Drug-Free Workplace Grants (49 CFR Part 32).
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
6. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

**Certification Regarding Debarment, Suspension, and Other Responsibility Matters -
- Primary Covered Transactions**

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal 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 in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Name

Title

Date

OFFICE OF THE SECRETARY OF TRANSPORTATION
CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY AND VOLUNTARY EXCLUSION -- LOWER TIER COVERED
TRANSACTIONS

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Name

Title

Affiliation

Date

ATTACHMENT C

RECOVERY ACT REQUIREMENTS AND CONTRACT CLAUSES

DAVIS-BACON WAGE RATE REQUIREMENTS AND CONTRACT CLAUSES

- a) Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.
- b) Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).
- c) Federal agencies providing grants, grant agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).
- d) For additional guidance on the wage rate requirements of section 1606, contact your awarding agency. Recipients of grants, grant agreements and loans should direct their initial inquiries concerning the application of Davis-Bacon requirements to a particular federally assisted project to the Federal agency funding the project. The Secretary of Labor retains final coverage authority under Reorganization Plan Number 14.

[USE THIS LANGUAGE ONLY FOR PROJECTS UTILIZING TIGER FUNDS AND NOT TITLE 23 OR OTHER ARRA FUNDING. IF YOUR PROJECT IS FOLLOWING THE TITLE 23 BUY AMERICA PROVISION DELETE THE LANGUAGE BELOW.]

BUY AMERICAN REQUIREMENTS AND CONTRACT CLAUSES

a) Definitions. As used in this award term and condition—

(1) Manufactured good means a good brought to the construction site for incorporation into the building or work that has been—

(i) Processed into a specific form and shape; or

(ii) Combined with other raw material to create a material that has different properties than

the properties of the individual raw materials.

(2) Public building and public work means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

(3) Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) Domestic preference.

(1) This award term and condition implements Section 1605 of the American Recovery and Reinvestment Act of 2009 (Recovery Act) (Pub. L. 111–5), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States except as provided in paragraph (b)(3) and (b)(4) of this section and condition.

(2) This requirement does not apply to the material listed by the Federal Government as follows:

None

(3) The award official may add other iron, steel, and/or manufactured goods to the list in paragraph (b)(2) of this section and condition if the Federal Government determines that—

(i) The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;

(ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) Request for determination of inapplicability of Section 1605 of the Recovery Act.

(1)(i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(3) of this section shall include adequate information for Federal Government evaluation of the request, including—

(A) A description of the foreign and domestic iron, steel, and/or manufactured goods;

(B) Unit of measure;

(C) Quantity;

(D) Cost;

(E) Time of delivery or availability;

(F) Location of the project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(3) of this section.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this section.

(iii) The cost of iron, steel, and/or manufactured goods material shall include all delivery costs to the construction site and any applicable duty.

(iv) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.

(2) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds by at least the differential established in 2 CFR 176.110(a).

(3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods is noncompliant with section 1605 of the American Recovery and Reinvestment Act.

(d) Data. To permit evaluation of requests under paragraph (b) of this section based on unreasonable cost, the Recipient shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Items Cost Comparison

Description	Unit of measure	Quantity	Cost (dollars)*
<i>Item 1:</i>			
Foreign steel, iron, or manufactured good	_____		
Domestic steel, iron, or manufactured good	_____		
<i>Item 2:</i>			

Foreign steel, iron, or manufactured good	_____		
Domestic steel, iron, or manufactured good	_____		

[List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]

[Include other applicable supporting information.]

[*Include all delivery costs to the construction site.]

SINGLE AUDIT INFORMATION FOR RECIPIENTS OF RECOVERY ACT FUNDS REQUIREMENTS

(a) To maximize the transparency and accountability of funds authorized under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) (Recovery Act) as required by Congress and in accordance with 2 CFR 215.21 “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations” and OMB Circular A–102 “Grants and Cooperative Agreements with State and Local Governments.” Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of Recovery Act funds. OMB Circular A–102 is available at <http://www.whitehouse.gov/omb/circulars/a102/a102.html>.

(b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A–133, “Audits of States, Local Governments, and Non-Profit Organizations,” recipients agree to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF–SAC) required by OMB Circular A–133. OMB Circular A–133 is available at <http://www.whitehouse.gov/omb/circulars/a133/a133.html>. This shall be accomplished by identifying expenditures for Federal awards made under the Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF–SAC by CFDA number, and inclusion of the prefix “ARRA–” in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF–SAC.

(c) Recipients agree to separately identify to each subrecipient, and document at the time of subaward and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. When a recipient awards Recovery Act funds for an existing program, the information furnished to subrecipients shall distinguish the subawards of incremental Recovery Act funds from regular subawards under the existing program.

(d) Recipients agree to require their subrecipients to include on their SEFA information to specifically identify Recovery Act funding similar to the requirements for the recipient SEFA described above. This information is needed to allow the recipient to properly monitor subrecipient expenditure of ARRA funds as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

ATTACHMENT D
MONTHLY PROGRESS REPORTS
FORMAT AND CONTENT

The Paperwork Reduction Act approval is still pending. At this time, Attachment D is included for informational purposes. Grantees are requested to retain data for potential future reporting to ensure that DOT records are complete (assuming clearance is granted).

The purpose of the monthly progress reports is to ensure that the project budget and schedule will be maintained to the maximum extent possible, that the project will be completed with the highest degree of quality, and that compliance with Federal regulations will be met.

The Grantee should develop a project reporting and tracking system to collect, assess and maintain project status information and data that is timely, independent, and accurate. This system should provide current information on project prosecution, progress, changes, and issues. This information should be used to identify trends and forecast project performance and to identify and proactively address challenges to eliminate major project surprises.

The need to continuously and accurately report cost increases; schedule changes; deficient quality items; and the causes, impacts, and proposed measures to mitigate these issues is paramount to effectively managing, administering, and protecting the public investment in the project. Any apparent reporting deficiencies or questionable data should be completely resolved. Ultimately, the Grantee and the Government must be fully aware of the complete status of the project, and therefore be in a position to take appropriate action if necessary.

A monthly cost, schedule, and status report will be produced by the Grantee, and a quarterly status meeting will be held with the Grantee, the Government and other applicable agencies in attendance **[Note: the frequency and details of meetings are subjects for discussion with the modal administrations. The intent is for these meetings to include the TDG Oversight Team, appropriate staff from the modal administration, and Grantee]**. The quarterly status meetings should discuss the project costs, schedules, quality issues, compliance with Federal requirements, and other status items in sufficient enough detail to allow all involved parties to be fully aware of the significant status issues and actions planned to mitigate any adverse impacts. In addition, significant issues occurring between status meetings must be communicated immediately without waiting for the next regularly scheduled meeting, with any highly significant or sensitive issues elevated immediately to the executive leadership.

The following is the required format for the monthly status reports. At the discretion of the Government, modifications or additions can be made in order to produce a monthly reporting format that will most effectively serve both the Grantee and the Government. It is recognized that some projects will have a more extensive monthly status than others.

In the case of smaller projects, the content of the monthly reports will be streamlined and project status meetings will be held on a less-frequent basis.

Please note that the initial monthly progress report should include a detailed description, and where appropriate, drawings, of the items funded.

1. Executive Summary. The executive summary should be a clear and concise summary of the current status of the project, including any major issues that have an impact on the project's scope, budget, schedule, quality, or safety. It may be done in a bulleted format. The following summary information is an example of items that should be covered in the executive summary section:

- Current total project cost (forecast) vs. latest budget vs. baseline budget. Include an explanation of the reasons for any deviations from the approved budget.
- Current overall project completion percentage vs. latest plan percentage.
- Any delays or exposures to milestone and final completion dates. Include an explanation of the reasons for the delays and exposures.
- A summary of the projected and actual dates for notices to proceed for significant contracts, start of construction, start of expenditure of TIGER Discretionary Grant funds, and project completion date. Include an explanation of the reasons for any discrepancies from the corresponding project milestone dates included in the Grant Agreement.
- Any Federal obligations and/or TIFIA disbursements occurring during the month versus planned obligations or disbursements.
- Any significant contracts advertised, awarded, or completed.
- Any significant scope of work changes.
- Any significant items identified as having deficient quality.
- Any significant safety issues.
- Any significant Federal issues such as environmental compliance, Buy America/Buy American (whichever is applicable), Davis Bacon Act Prevailing Wage requirements, etc.

2. Project Activities and Deliverables. The purpose of this section is to: (1) highlight the project activities and deliverables occurring during the previous month (reporting period), and (2) define the activities and deliverables planned for the next two reporting periods. Activities and deliverables to be reported on should include meetings, audits and other reviews, design packages submitted, advertisements, awards, construction

submittals, construction completion milestones, submittals related to Recovery Act requirements, media or Congressional inquiries, value engineering/constructability reviews, and other items of significance. The two-month “look ahead schedule” will enable the Government to accommodate any activities requiring input or assistance.

3. Action Items/Outstanding Issues. This section should draw attention to, and track the progress of, highly significant or sensitive issues requiring action and direction in order to resolve. In general, issues and administrative requirements that could have a significant or adverse impact to the project’s scope, budget, schedule, quality, safety, and/or compliance with Federal requirements should be included. Status, responsible person(s), and due dates should be included for each action item/outstanding issue. Action items requiring action or direction should be included in the quarterly status meeting agenda. The action items/outstanding issues may be dropped from this section upon full implementation of the remedial action, and upon no further monitoring anticipated.

4. Project Schedule. An updated master program schedule reflecting the current status of the program activities should be included in this section. A Gantt (bar) type chart is probably the most appropriate for monthly reporting purposes, with the ultimate format to be agreed upon between the Grantee and the Government. It is imperative that the master program schedule be integrated, i.e., the individual contract milestones tied to each other, such that any delays occurring in one activity will be reflected throughout the entire program schedule, with a realistic completion date being reported.

Narratives, tables, and/or graphs should accompany the updated master program schedule, basically detailing the current schedule status, delays and potential exposures, and recovery efforts. The following information should also be included:

- Current overall project completion percentage vs. latest plan percentage.
- Completion percentages vs. latest plan percentages for major activities such as right-of-way, major or critical design contracts, major or critical construction contracts, and significant force accounts or task orders. A schedule status description should also be included for each of these major or critical elements.
- Any delays or potential exposures to milestone and final completion dates. The delays and exposures should be quantified, and overall schedule impacts assessed. The reasons for the delays and exposures should be explained, and initiatives being analyzed or implemented in order to recover the schedule should be detailed.

5. Project Cost. An updated cost spreadsheet reflecting the current forecasted cost vs. the latest approved budget vs. the baseline budget should be included in this section. One way to track project cost is to show: (1) Baseline Budget, (2) Latest Approved Budget, (3) Current Forecasted Cost Estimate, (4) Expenditures or Commitments To Date, and (5) Variance between Current Forecasted Cost and Latest Approved Budget. Line items

should include all significant cost centers, such as prior costs, right-of-way, preliminary engineering, environmental mitigation, general engineering consultant, section design contracts, construction administration, utilities, construction packages, force accounts/task orders, wrap-up insurance, construction contingencies, management contingencies, and other contingencies. The line items can be broken-up in enough detail such that specific areas of cost change can be sufficiently tracked and future improvements made to the overall cost estimating methodology. A Program Total line should be included at the bottom of the spreadsheet.

Narratives, tables, and/or graphs should accompany the updated cost spreadsheet, basically detailing the current cost status, reasons for cost deviations, impacts of cost overruns, and efforts to mitigate cost overruns. The following information should be provided:

- Reasons for each line item deviation from the approved budget, impacts resulting from the deviations, and initiatives being analyzed or implemented in order to recover any cost overruns.
- Transfer of costs to and from contingency line items, and reasons supporting the transfers.
- Speculative cost changes that potentially may develop in the future, a quantified dollar range for each potential cost change, and the current status of the speculative change. Also, a comparison analysis to the available contingency amounts should be included, showing that reasonable and sufficient amounts of contingency remain to keep the project within the latest approved budget.
- Detailed cost breakdown of the general engineering consultant (GEC) services (if applicable), including such line items as contract amounts, task orders issued (amounts), balance remaining for tasks, and accrued (billable) costs.
- Federal obligations and/or TIFIA disbursements for the project, compared to planned obligations and disbursements.

6. Project Funding Status. The purpose of this section is to provide a status report on the non-TIGER Discretionary Grant funds necessary to complete the project. This report section should include a status update of any legislative approvals or other actions necessary to provide the non-TIGER Discretionary Grant funds to the project. Such approvals might include legislative authority to charge user fees or set toll rates, or the commitment of local funding revenues to the project. In the event that there is an anticipated or actual project cost increase, the project funding status section should include a report on the anticipated or actual source of funds to cover the cost increase and any significant issues identified with obtaining additional funding.

7. Project Quality. The purpose of this section is to: (1) summarize the Quality Assurance/Quality Control activities during the previous month (reporting period), and

(2) highlight any significant items identified as being deficient in quality. Deficient items noted should be accompanied by reasons and specifics concerning the deficiencies, and corrective actions taken or planned. In addition, the agency or firm responsible for the corrective action should be documented. Planned corrective actions should then be included as Action Items/Outstanding Issues.

8. Other Status Reports. The Grantee and the Government may agree that other reports may be beneficial in ensuring that project status issues are fully and openly communicated. Such reports may include the public relations plan, value engineering and constructability review plan, environmental compliance report, and/or compliance with the Buy America/Buy American (whichever is applicable) requirements.

DRAFT

ATTACHMENT E
PROJECT BUDGET

DRAFT

ATTACHMENT F
PROJECT SCHEDULE

DRAFT

ATTACHMENT G
TECHNICAL APPLICATION

DRAFT

ATTACHMENT H
MILESTONE/DELIVERABLE SCHEDULE

DRAFT

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION**

**CONDITIONAL AND PRELIMINARY TERM SHEET ON THE TRANSPORTATION
INVESTMENT GENERATING ECONOMIC RECOVERY (TIGER) GRANTS
PROGRAM.**

This Conditional and Preliminary Term Sheet reflects the selection of the City of Milwaukee to receive a grant under the provisions of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, Supplemental Discretionary Grants for a National Surface Transportation System, hereinafter referred to as the Transportation Investment Generating Economic Recovery (TIGER) Grants Program.

The purpose of this Conditional and Preliminary Term Sheet is to set out the parties' mutual understanding regarding the material terms and conditions to be included in the Grant Agreement under American Recovery and Reinvestment Act of 2009 Transportation Investments Generating Economic Recovery (TIGER) Discretionary Grants Program (TIGER Grant Agreement), which will be negotiated between the U.S. Department of Transportation, Federal Highway Administration (Government), and the City of Milwaukee. This Conditional and Preliminary Term Sheet is not a commitment of the Government to provide funding for the Project. The commitment of the Government to provide funding to the Project will only occur with the final execution and acceptance of the Tiger Grant Agreement

The Project Sponsor, in anticipation of a grant award under the TIGER Grants Program, understands and acknowledges that it will be required to administer any and all TIGER Grant funds pursuant to the terms and conditions to be set forth in the final Tiger Grant Agreement. This Conditional and Preliminary Term Sheet memorializes the agreement on the following issues: the Project's Scope of Work; the Project's Budget, including identification of all funds necessary to complete the proposed Project; the Project's Milestone Completion Schedule, including dates for the completion of all major milestones relating to the Project, including completion and receipt of all required National Environmental Policy Act (NEPA) approvals, application for and anticipated receipt of all necessary federal, state, and local permits and approvals, any necessary approval by a local transportation planning organization, and inclusion in the required Transportation Improvement Program (TIP)/State Transportation Improvement Program (STIP). The agreed upon terms specific to the Project are listed under the Material Terms and Conditions section of this Conditional and Preliminary Term Sheet. The Project Sponsor understands and recognizes that the execution of this Conditional and Preliminary Term Sheet in no way commits the Government to any decision required under the applicable provisions of NEPA. The Government's decision on the Project will be issued in full compliance with its NEPA regulations, 23 CFR Part 771, and those of the Council on Environmental Quality, 40 CFR Part 1500, and all other applicable Federal, state or local laws and regulations.

The Project Sponsor further understands and acknowledges that this Conditional and Preliminary Term Sheet is intended to assist the parties in developing and finalizing the Tiger Grant Agreement. This Conditional and Preliminary Term Sheet reflects material terms and conditions for the Project, as that Project is defined in the Project Sponsor's Application. The Application, dated September 15, 2009, and titled "Park East Corridor Lift Bridges", is incorporated herein by reference. This Conditional and Preliminary Term Sheet reflects negotiated provisions on many of the project's material terms and conditions, including the Project's scope, assurance/confirmation that all required funding has been obtained and committed, and the timeline for completion of the Project. The following information is provided and agreed to by the parties and will be incorporated into the final Tiger Grant Agreement.

The Government reserves the right to terminate and void this Conditional and Preliminary Term Sheet if the Project Sponsor does not adhere to the Project Milestone Completion Schedule specified below or if the Government determines, in its sole discretion, that termination is in the public interest.

The terms and conditions outlined in this Conditional and Preliminary Term Sheet are effective upon execution by both the Project Sponsor and the Government.

MATERIAL TERMS AND CONDITIONS PRECEDENT TO EXECUTION OF
TIGER GRANT AGREEMENT:

PARK EAST CORRIDOR LIFT BRIDGES:

- A. Wisconsin Avenue Bridge over Milwaukee River
- B. Juneau Avenue Bridge over Milwaukee River

WISCONSIN AVENUE BRIDGE OVER MILWAUKEE RIVER

I. PROJECT SCOPE OF WORK

An extensive rehabilitation is required for the bridge due to age, low sufficiency rating, and severe deterioration. The work includes major replacement of the lift span structural steel; major rehabilitation of the hydraulic, mechanical and electrical systems; painting of the entire structure, and concrete repairs to the substructure and superstructure.

II. WisDOT ROLE

The Wisconsin Department of Transportation (WisDOT) will oversee the design and construction for this project according to the terms specified in the project budget table. WisDOT will administer these project funds the same as Wisconsin has administered all American Recovery and Reinvestment Act (ARRA) projects. A detailed state municipal agreement will be executed at a later date.

III. PROJECT BUDGET

	Total Estimated Cost	Local Bridge Program	%	TIGER Grant	%	Municipal Funds	%
Design ⁽¹⁾	\$1,000,000	\$800,000	80.0%	\$0	0.0%	\$200,000	20.0%
State Design Oversight ⁽¹⁾	\$200,000	\$160,000	80.0%	\$0	0.0%	\$40,000	20.0%
Construction ⁽²⁾	\$10,290,000	\$0	0.0%	\$7,500,000	LIMIT	\$2,790,000	BALANCE
State Construction Oversight ⁽³⁾	\$210,000	\$0	0.0%	\$0	0.0%	\$210,000	100.0%
Total Cost Distribution	\$11,700,000	\$960,000		\$7,500,000		\$3,240,000	

⁽¹⁾ Design & State Design Oversight already funded in Local Bridge Program (80% fed/20% local)

⁽²⁾ Construction - TIGER & Municipal Funds

⁽³⁾ State Construction Oversight (2% of Construction) - 100% Municipal Funds

IV. PROJECT MILESTONE COMPLETION SCHEDULE

Planning – Included on STIP/TIP	March 25, 2010
Planning – NEPA Complete	October 4, 2010
PS&E Complete & Submitted	May 1, 2011
ROW Complete	June 28, 2011
Construction – Advertisement	July 5, 2011
Construction – Project Letting	August 9, 2011
Construction – Notice to Proceed/Actual Start	October 3, 2011
Construction – Open to Traffic/Completion	November 19, 2012

JUNEAU AVENUE BRIDGE OVER MILWAUKEE RIVER

I. PROJECT SCOPE OF WORK

A complete replacement of the existing bridge with a new bridge is needed due to age, severe deterioration, and an extremely low sufficiency rating of 2. The replacement of the existing bascule bridge with a vertical lift bridge has been determined to be the most economical and appropriate approach for this bridge.

II. WisDOT ROLE

The Wisconsin Department of Transportation (WisDOT) will oversee the design and construction for this project according to the terms specified in the project budget table. WisDOT will administer these project funds the same as Wisconsin has administered all American Recovery and Reinvestment Act (ARRA) projects. A detailed state municipal agreement will be executed at a later date.

III. PROJECT BUDGET

	Total Estimated Cost	Local Bridge Program	%	TIGER Grant	%	Municipal Funds	%
Design ⁽¹⁾	\$1,475,000	\$0	0.0%	\$0	0.0%	\$1,475,000	100.0%
State Design Oversight ⁽¹⁾	\$150,000	\$0	0.0%	\$0	0.0%	\$150,000	100.0%
Construction ⁽²⁾	\$16,650,000	\$1,320,000	LIMIT	\$14,000,000	LIMIT	\$1,330,000	BALANCE
State Construction Oversight ⁽³⁾	\$350,000	\$0	0.0%	\$0	0.0%	\$350,000	100.0%
Total Cost Distribution	\$18,625,000	\$1,320,000		\$14,000,000		\$3,305,000	

⁽¹⁾ Design & State Design Oversight 100% Municipal Funds

⁽²⁾ Local Bridge Program will pay a limit of \$1,320,000 in 80% fed funds (\$1,650,000 total) from Villard Ave. toward Construction - balance TIGER & Municipal Funds

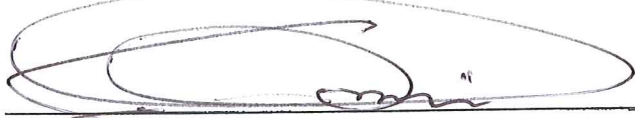
⁽³⁾ State Construction Oversight (slightly over 2% of construction) 100% Municipal Funds

IV. PROJECT MILESTONE COMPLETION SCHEDULE

Planning – Included on STIP/TIP	March 25, 2010
Historical Determination of Eligibility	May 17, 2010
Planning – NEPA Complete	November 15, 2010
PS&E Complete & Submitted	May 1, 2011
ROW Complete	August 2, 2011
Construction – Advertisement	August 9, 2011
Construction – Project Letting	September 13, 2011
Construction – Notice to Proceed/Actual Start	November 14, 2011
Construction – Open to Traffic/Completion	September 16, 2013

EXECUTION BY THE GOVERNMENT

Executed this 28 day of April, 2010.



Signature of Government's Authorized Representative

WISCONSIN DIVISION ADMINISTRATOR

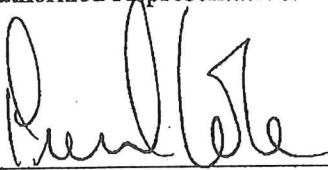
Title

EXECUTION BY THE PROJECT SPONSOR

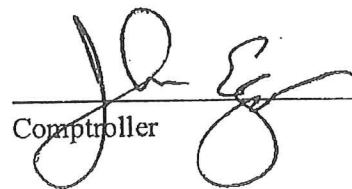
Executed this 22 day of April, 2010.

City of Milwaukee: Project Sponsor

Signature of Project Sponsor's
Authorized Representative:


for Commissioner of Public Works

Signature of Project Sponsor's
Authorized Representative:


Comptroller *ejw*

[USE THE FOLLOWING LANGUAGE IF THE STATE IS ADMINISTERING THE
PROJECT ON BEHALF OF THE LOCAL GOVERNMENT GRANTEE]

EXECUTION BY State Department of Transportation

Executed this 28th day of April, 2010.



Signature of State Department of Transportation Designated
Official Representative

Deputy Secretary, Wisconsin Department of Transportation

Title

CITY OF MILWAUKEE FISCAL NOTE

CC-170 (REV. 6/86)
Ref: GEN\FISCALNT.MST

A) DATE: July 7, 2010

FILE NUMBER: 100323

Original Fiscal Note ☒ Substitute ☐

SUBJECT: Resolution authorizing the Commissioner of Public Works to execute a Grant Agreement with the Federal Highway Administration and the Wisconsin Department of Transportation for the construction of two movable bridge projects funded by the American Recovery and Reinvestment Act of 2009

B) SUBMITTED BY (NAME/TITLE/DEPT./EXT.): Jeffrey S. Polenske, City Engineer, DPW, ext. 2400

C) CHECK ONE: ☐ ADOPTION OF THIS FILE AUTHORIZES EXPENDITURES.
☐ ADOPTION OF THIS FILE DOES NOT AUTHORIZE EXPENDITURES; FURTHER COMMON COUNCIL ACTION NEEDED.
☐ LIST ANTICIPATED COSTS IN SECTION G BELOW.
☒ NOT APPLICABLE/NO FISCAL IMPACT.

D) CHARGE TO: ☐ DEPARTMENTAL ACCOUNT (DA) ☐ CONTINGENT FUND (CF)
☐ CAPITAL PROJECTS FUND (CPF) ☐ SPECIAL PURPOSE ACCOUNTS (SPA)
☐ PERM. IMPROVEMENT FUNDS (PIF) ☐ GRANT & AID ACCOUNTS (G & AA)
☐ OTHER (SPECIFY)

E) PURPOSE	SPECIFY TYPE/USE	ACCOUNT	EXPENDITURE	REVENUE	SAVINGS
SALARIES/WAGES:					
SUPPLIES:					
MATERIALS:					
NEW EQUIPMENT:					
EQUIPMENT REPAIR:					
OTHER:					
TOTALS:					

F) FOR EXPENDITURES AND REVENUES WHICH WILL OCCUR ON AN ANNUAL BASIS OVER SEVERAL YEARS CHECK THE APPROPRIATE BOX BELOW AND THEN LIST EACH ITEM AND DOLLAR AMOUNT SEPARATELY.

<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	

G) LIST ANY ANTICIPATED FUTURE COSTS THIS PROJECT WILL REQUIRE FOR COMPLETION:

Construction funds will be requested in a future resolution.

H) COMPUTATIONS USED IN ARRIVING AT FISCAL ESTIMATE:

PLEASE LIST ANY COMMENTS ON REVERSE SIDE AND CHECK HERE ☐

PW FILE NUMBER: 100323

[illegible]



Legislation Details (With Text)

File #: 100328 **Version:** 0

Type: Resolution **Status:** In Committee

File created: 7/7/2010 **In control:** PUBLIC WORKS COMMITTEE

On agenda: **Final action:**

Effective date:

Title: Resolution directing the Commissioner of Public Works to execute a revised project agreement titled "State/Municipal Agreement" for a highway improvement project with Wisconsin Department of Transportation for the reconstruction of West Capitol Drive from North 60th Street to Mayfair Road with State/Federal Aid.

Sponsors: THE CHAIR

Indexes: AGREEMENTS, HIGHWAYS, STATE GRANTS, STREET IMPROVEMENTS, WISCONSIN DEPARTMENT OF TRANSPORTATION

Attachments: Cover Letter, Agreement, Comptroller's Certification, Fiscal Note, Hearing Notice List

Date	Ver.	Action By	Action	Result	Tally
7/7/2010	0	COMMON COUNCIL	ASSIGNED TO		
7/12/2010	0	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		

Number

100328

Version

ORIGINAL

Reference

Sponsor

THE CHAIR

Title

Resolution directing the Commissioner of Public Works to execute a revised project agreement titled "State/Municipal Agreement" for a highway improvement project with Wisconsin Department of Transportation for the reconstruction of West Capitol Drive from North 60th Street to Mayfair Road with State/Federal Aid.

Analysis

This resolution directs the Commissioner of Public Works to execute a revised project agreement with the Wisconsin Department of Transportation (WisDOT) for the programming and reconstruction of West Capitol Drive (STH 190) from North 60th Street to West Mayfair Road with State/Federal Aid under the State Trunk Highway program. The revised agreement splits preliminary engineering into two phases. Phase I is from North 60th Street to North 84th Street to be constructed in 2012 and Phase II is from North 84th Street to Mayfair Road to be constructed in 2013. The estimated total cost of the project is \$22,450,500, of which the City's share is \$1,692,250 and the grantor's share is \$20,758,250. The estimated preliminary engineering cost is \$3,009,000 of which the City's share is \$752,250 and the grantor's share is \$2,256,750.

Body

Whereas, The Common Council of the City of Milwaukee adopted resolution file numbers 041289 and 061548 on February 11, 2005 and April 25, 2007, respectively, directing the Commissioner of Public Works to execute a State/Municipal Agreement with Wisconsin Department of Transportation (WisDOT) for the programming and construction of West Capitol Drive from North 60th Street to West Mayfair Road; and

Whereas, The Department of Public Works (DPW) requested and the WisDOT agreed to break preliminary engineering of the roadway project into two phases. Phase I going from North 60th Street to North 84th Street scheduled for construction in 2012 and Phase II from North 84th Street to West Mayfair Road scheduled for construction in 2013; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that the Commissioner of Public Works is hereby authorized to execute the revised project agreement for the preliminary engineering of West Capitol Drive from North 60th Street to West Mayfair Road with State/Federal Aid under the WisDOT State Trunk Highway Program in two phases, a copy of which is attached to Common Council File 100328 and is incorporated by reference as though set forth in full; and, be it

Further Resolved, That the Commissioner of Public Works is hereby authorized and directed to undertake or engage a consultant to undertake preliminary engineering for the improvement of the aforementioned projects and to reimburse the WisDOT for preliminary engineering costs they incur for the improvement; and, be it

Further Resolved, That the Commissioner of Public Works is hereby authorized and directed to enter into an agreement with the WisDOT pertaining to the cost participation for the installation and/or modification of traffic control facilities in conjunction with the improvements of the aforementioned projects; and, be it

Further Resolved, That the Commissioner of Public Works is hereby authorized and directed to install the traffic control facilities necessary in conjunction with the aforementioned project, following the execution of the traffic control agreement, the cost of which will be included in future resolutions; and, be it

Further Resolved, That the Commissioner of Pubic Works is hereby authorized and directed to negotiate and enter into cost-sharing agreements with the City of Wauwatosa for the West Capitol Drive Street project; and, be it

Further Resolved, That the City Comptroller is hereby authorized to create within the Capital Improvement Fund, Grant and Aid Projects, the necessary Project/Grant Chartfield Values for preliminary engineering for the projects (Expenditures) and transfer to any of these accounts the amount required under the grant agreement and City Accounting Policy but not to exceed a 10 percent increase of the total amounts reserved for the grantor's share and local share or \$5,000, whichever is greater, as follows:

Infrastructure Services Division:
State I.D. 2025-11-00
West Capitol Drive (STH 190)
Mayfair Road to North 60th Street

City Non-Assessable Paving
ST320070501
Fund 0333
(\$720,000)

Grantor Reimbursable Cash Paving
ST320070501
Fund 0333
(\$1,800,000)

Grantor Non-Reimbursable Paving
(\$360,000)

Infrastructure Services Division
State I.D. 2025-11-00
West Capitol Drive (STH 190)
North 84th Street to North 60th Street

City of Milwaukee Non-Assessable Paving
ST320100000
Fund 0333
\$282,000

Grantor Reimbursable Cash Paving
SP032100100
Fund 0306
\$705,000

Grantor Non-Reimbursable Paving
\$141,000

Construction is scheduled for 2012

Previously authorized for preliminary engineering: \$2,880,000
Current estimated cost of total project including this resolution: \$22,450,500
Original estimated cost of the total project (Resolution #061548): \$19,065,000

Infrastructure Services Division
State I.D. 2025-11-01
West Capitol Drive (STH 190)
Mayfair Road to North 84th Street

City of Milwaukee Non-Assessable Paving
ST320100000
Fund 0333
\$470,250

Grantor Reimbursable Cash Paving
SP032100100
Fund 0306
\$1,175,625

Grantor Non-Reimbursable Paving
\$235,125

Construction is scheduled for 2013.

Previously authorized for preliminary engineering: \$0
Current estimated cost of total project including this resolution: \$22,450,500
Original estimated cost of the total project (Resolution #061548): \$19,065,000

; and, be it

Further Resolved, That the City Engineer is hereby authorized and directed to approve and make periodic payments to the WisDOT upon receipt of invoices for the City of Milwaukee's share of costs on the projects.

Requestor

Department of Public Works

Drafter

Infrastructure Services Division

LCG:amh

June 29, 2010

Reso W Captl (STH 190) M-Fai Rd - N 60 062910.rtf

June 29, 2010

To the Honorable, the Common Council

Subject: West Capitol Drive (STH 190)
Mayfair Road (STH 190) to
North 60th Street

Dear Council Members:

The Common Council of the City of Milwaukee adopted Resolution File Number 041289 February 11, 2005 directing the Commissioner of Public Works to execute the State/Municipal Agreement with Wisconsin Department of Transportation (WisDOT) under the State Trunk Highway program for the programming and construction of West Capitol Drive (STH 190) from Mayfair Road (STH 190) to North 60th Street with state/federal aid.

The City of Milwaukee requested and the WisDOT agreed to split the preliminary engineering of the subject project into two phases: Phase I is from North 60th Street to North 84th Street to be constructed in 2012 and Phase II is from North 84th Street to Mayfair Road (STH 190) to be constructed in 2013. City of Milwaukee participating costs on this project are 25 percent and the WisDOT share is 75 percent. The attached revised agreement reflects the split in preliminary engineering of this roadway, the cost of which was set up in a prior resolution.

We recommend adoption of the attached resolution directing the Commissioner of Public Works to execute the revised State/Municipal Agreement (attached).

Very truly yours,

Jeffrey S. Polenske, P.E.
City Engineer

Jeffrey J. Mantes
Commissioner of Public Works

LCG:amh

Attachment

STATE/MUNICIPAL AGREEMENT
FOR A
HIGHWAY IMPROVEMENT PROJECT
REVISES April 26, 2010 AGREEMENT

DATE: June 24, 2010
PROJECT DESIGN ID: 2025-11-00/01
PROJECT CONSTRUCTION ID: 2025-11-70/71/90/91
HIGHWAY: West Capitol Dr (STH 190) LENGTH: 2.85 miles
LIMITS: Mayfair Road (STH 100) to North 60th Street
COUNTY: Milwaukee

The signatory city, village, town or county, hereinafter called the Municipality, through its undersigned duly authorized officers or officials, hereby requests the State of Wisconsin Department of Transportation, hereinafter called the State, to initiate and effect the highway or street improvement hereinafter described.

The authority for the Municipality to enter into this agreement with the State is provided by Section 86.25(1), (2), and (3) of the Statutes.

NEEDS AND ESTIMATE SUMMARY:

Existing Facility - Describe and give reason for request: Improvement.

Proposed Improvement - Nature of work: As determined by project scoping.

Describe non-participating work included in the project and other work necessary to finish the project completely which will be undertaken independently by the municipality: A nominal amount is included to cover items in paragraph 4 (to be adjusted in the final plan).

PHASE	ESTIMATED COST					
	Total Est. Cost	Federal/ State Funds		Municipal % Funds		%
Preliminary Engineering:						
Plan Development						
2025-11-00	\$ 1,128,000	\$ 846,000	75%	\$ 282,000		25%
2025-11-01	\$ 1,881,000	\$ 1,410,750	75%	\$ 470,250		25%
Real Estate Acquisition:						
Acquisition	\$ 100,000	\$ 100,000	100%	\$ -		0%
Compensable Utilities	\$ 20,000	\$ 20,000	100%	\$ -		0%
Construction:						
2025-11-70/90						
84th St - 60th St	\$ 3,125,000	\$ 3,125,000	100%	\$ -		0%
pavement for parking **	\$ 5,800,000	\$ 5,370,800	92.6%	\$ 429,200		7.4%
Traffic Control Devices	\$ 550,000	\$ 550,000	100%	\$ -		0%
2025-11-71/91						
Mayfair Rd - 84th St	\$ 3,125,000	\$ 3,125,000	100%	\$ -		0%
pavement for parking **	\$ 5,800,000	\$ 5,324,400	91.8%	\$ 475,600		8.2%
Traffic Control Devices	\$ 245,500	\$ 245,500	100%	\$ -		0%
CSS*						
New Sidewalk	\$ 600,000	\$ 600,000	MAX	\$ -		BAL
	\$ 51,000	\$ 40,800	80%	\$ 10,200		20%
Non-Participating	\$ 25,000	\$ -	0%	\$ 25,000		100%
Total Cost Distribution	\$ 22,450,500	\$ 20,758,250		\$ 1,692,250		

*Community Sensitive Solutions (CSS) - maximum State/Federal funds \$600,000, any amount that exceeds the maximum is to be funded with 100% Municipal funds

** Participation for parking is an estimate, the actual percent will be calculated when final plans are complete.

This request is subject to the terms and conditions that follow (pages 2 and 3) and is made by the undersigned under proper authority to make such request for the designated Municipality and upon acceptance by the State shall constitute agreement between the Municipality and the State.

Signed for and in behalf of the City of Milwaukee.

_____ Name	_____ Title	_____ Date
---------------	----------------	---------------

_____ Name	_____ Title	_____ Date
---------------	----------------	---------------

TERMS AND CONDITIONS:

1. The initiation and accomplishment of the improvement will be subject to the applicable Federal and State regulations.
2. The Municipality will pay to the State all costs incurred by the State in connection with the improvement which exceeds Federal/State financing commitments or are ineligible for Federal/State financing. The Municipality's concurrence is required before award of the contract for the improvement when the contracts exceed 5% of the estimate. The Municipality must also concur with contract modifications to contracts awarded by the State over \$25,000.00, unless the authorized representative of the State determines that a prompt change order is needed to preserve the work in progress, prevent extraordinary damage avoid unreasonable & costly delay, or other extraordinary condition of necessity, safety or emergency exists. The authorized representative of the State shall provide notice of the prompt change order to the Municipality or its authorized representative as soon as practicable thereafter and the Municipality shall pay its share of the prompt change order cost.
3. Funding of each project phase (preliminary engineering, real estate, construction, and other) is subject to inclusion in an approved program. Federal aid and/or State transportation fund financing will be limited to participation in the costs of the following items as specified in the estimate summary:
 - (a) The grading, base, pavement, and curb and gutter.
 - (b) Catch basins and inlets for surface water drainage of the improvement, with connections to the storm sewer main.
 - (c) Construction engineering incident to inspection and supervision of actual construction work.
 - (d) Signing and pavement marking, including detour routes.
 - (e) Storm sewer mains necessary for the surface water drainage.
 - (f) Construction of new sidewalks and driveways, replacement of sidewalks and private driveways resulting from roadway construction.
 - (g) New installations or alteration resulting from roadway construction of standard State street lighting and traffic signals or devices.
 - (h) Real Estate for the improvement.
 - (i) Preliminary engineering and state review services.
4. Work necessary to complete the improvement to be financed entirely by the Municipality or other utility or facility owner includes the following items:
 - (a) New installations of or alteration of sanitary sewers and connections, water, gas, electric, telephone, telegraph, fire or police alarm facilities, parking meters, and similar utilities.
 - (b) Damages to abutting property due to change in street or sidewalk widths, grades or drainage.
 - (c) Conditioning, if required and maintenance of detour routes.
 - (d) Repair of damages to roads or streets caused by reason of their use in hauling materials incident to the improvement.
 - (e) Bridge width in excess of standards.
5. As the work progresses, the Municipality will be billed for work completed which is not chargeable to Federal/State funds.

Upon completion of the project, a final audit will be made to determine the final division of costs.

6. If the Municipality should withdraw the project, it shall reimburse the State for any costs incurred by the State in behalf of the project.
7. The work will be administered by the State and may include items not eligible for Federal/State participation.
8. The Municipality shall at its own cost and expense:
 - (a) Maintain all portions of the project that lie within its jurisdiction for such maintenance through statutory requirements, in a manner satisfactory to the State and shall make ample provision for such maintenance each year.
 - (b) Maintenance of sidewalks and landscaping features along the project.
 - (c) Maintenance of lighting systems, to include energy.
 - (d) Maintenance of all features outside the travel lanes when additional pavement width is added at the request of the Municipality, with the exception of turn lanes.
 - (e) Prohibit angle parking.
 - (f) Regulate or prohibit all parking at locations where and when the pavement area usually occupied by parked vehicles will be needed to carry active traffic in the street.
 - (g) Assume general responsibility for all public information and public relations for the project and to make fitting announcement to the press and such outlets as would generally alert the affected property owners and the community of the nature, extent, and timing of the project and arrangements for handling traffic within an around the projects.
 - (h) Provide complete plans, specifications, relocation order, real estate plat, estimates, appraisals, and acquiring the parcels.
 - (i) Use the WisDOT Utility Accommodation Policy unless it adopts a policy, which has equal or more restrictive controls.

9. Basis for local participation:

Funding for preliminary engineering – for connecting highways is 25% Municipal

Funding for construction of standard roadway items – 100% State

Funding for parking lanes – 100% Municipal and is calculated as a percentage of parking area compared to the total area of pavement. Parking percentage applies only to pavement items.

Funding for CSS (Community Sensitive Solutions) – 100% State, maximum amount \$600,000. Costs about this maximum are 100% Municipal. The funding is to be used for enhancement features along the project limits. CSS funds have been inflated to 2013 dollars.

Funding for real estate required for standard roadway construction, 100% State.

Funding for compensable utilities required for standard roadway construction, 100% State.

**Capital Grant Resolution Certification from the
Comptroller's Office**

The Comptroller's Office has reviewed Common Council
Resolution File No. _____ for preliminary engineering for
West Capitol Dr (STH 190) from Mayfair Road to North 60th St
(Grantor Share \$96,750; City Share \$32,250) and approved the
resolution as to:

- ☒ Sufficiency of funds
- ☒ Funding sources (per estimated **grant funding agreement**)
- ☒ Sufficiency of reporting for purposes of internal auditing

The following deficiencies were noted:

The resolution should be corrected and returned to the
Comptroller's Office for review.

Signature: *C. W. Smith*

Date: 6/29/10

CITY OF MILWAUKEE FISCAL NOTE

A) DATE June 29, 2010

FILE NUMBER: _____

Original Fiscal Note ☒ Substitute ☐

SUBJECT: Resolution authorizing and directing the Commissioner of Public Works to execute a Revised Project Agreement between the City of Milwaukee and the Wisconsin Department of Transportation to split roadway preliminary engineering into two phases: West Capitol Drive (STH 190), North 60th Street to North 84th Street and West Capitol Drive (STH 190) North 84th Street to Mayfair Road (STH 100).

B) SUBMITTED BY (Name/title/dept./ext.): Jeffrey S. Polenske, PE / City Engineer / Infrastructure Services Division / extension 2400

C) CHECK ONE: ☐ ADOPTION OF THIS FILE AUTHORIZES EXPENDITURES
☐ ADOPTION OF THIS FILE DOES NOT AUTHORIZE EXPENDITURES; FURTHER COMMON COUNCIL ACTION NEEDED. LIST ANTICIPATED COSTS IN SECTION G BELOW.
☒ NOT APPLICABLE/NO FISCAL IMPACT.

D) CHARGE TO: ☐ DEPARTMENT ACCOUNT(DA) ☐ CONTINGENT FUND (CF)
☐ CAPITAL PROJECTS FUND (CPF) ☐ SPECIAL PURPOSE ACCOUNTS (SPA)
☐ PERM. IMPROVEMENT FUNDS (PIF) ☐ GRANT & AID ACCOUNTS (G & AA)
☐ OTHER (SPECIFY)

E) PURPOSE	SPECIFY TYPE/USE	ACCOUNT	EXPENDITURE	REVENUE	SAVINGS
SALARIES/WAGES:					
SUPPLIES:					
MATERIALS:					
NEW EQUIPMENT:					
EQUIPMENT REPAIR:					
OTHER:	City of Milwaukee Non-Assessable Paving	ST320100000 Fund 0333	\$32,250	\$0	
	Grantor Reimbursable Paving	SP032100100	80,625	80,625	
	Grantor Non-Reimbursable (contributed capital)		16,125	16,125	
TOTALS			\$129,000	\$96,750	

F) FOR EXPENDITURES AND REVENUES WHICH WILL OCCUR ON AN **ANNUAL** BASIS OVER SEVERAL YEARS CHECK THE APPROPRIATE BOX BELOW AND THEN LIST EACH ITEM AND DOLLAR AMOUNT **SEPARATELY**.

<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	Expenditures: \$129,000
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	Revenue: \$96,750
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	

G) LIST ANY ANTICIPATED FUTURE COSTS THIS PROJECT WILL REQUIRE FOR COMPLETION:

H) COMPUTATIONS USED IN ARRIVING AT FISCAL ESTIMATE:

PLEASE LIST ANY COMMENTS ON REVERSE SIDE AND CHECK HERE ☐

PW FILE NUMBER: 100328

[illegible]



Legislation Details (With Text)

File #: 100289 **Version:** 0

Type: Resolution **Status:** In Committee

File created: 7/7/2010 **In control:** PUBLIC WORKS COMMITTEE

On agenda: **Final action:**

Effective date:

Title: Resolution relative to application for and acceptance and expenditure of a 2011 State of Wisconsin recycling grant.

Sponsors: THE CHAIR

Indexes: RECYCLING, STATE GRANTS

Attachments: Fiscal Note, Fiscal Analysis, Hearing Notice List

Date	Ver.	Action By	Action	Result	Tally
7/7/2010	0	COMMON COUNCIL	ASSIGNED TO		
7/12/2010	0	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		
7/12/2010	0	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		

Number

100289

Version

ORIGINAL

Reference

Sponsor

THE CHAIR

Title

Resolution relative to application for and acceptance and expenditure of a 2011 State of Wisconsin recycling grant.

Analysis

This resolution authorizes the Commissioner of Public Works to apply for, accept and expend, a 2011 State of Wisconsin Basic Recycling Grant. This grant, in the amount of \$3,461,000, will be used to fund continuation of the City's recycling program.

Body

Whereas, The City of Milwaukee appears to be eligible for 2011 Basic Recycling Grant funds from the Wisconsin Department of Natural Resources for continuation of the City's recycling program; and

Whereas, The operation of this grant-supported recycling and yard waste program from January 1, 2011, through December 31, 2011, will cost an estimated \$12,200,000, of which \$8,739,000 (72%) will be provided by the City and \$3,461,000 (28%) will be provided by the grantor; and

Whereas, The City of Milwaukee hereby requests financial assistance under s. 287.23, Wis. Stats., Chapters NR 542, 544 and 549, Wis. Admin. Code, for the purpose of planning, constructing or operating a recycling program with one or more components specified in s. 287.11(2)(a) to (h), Wis. Stats.; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, That the Commissioner of Public Works is authorized to act on behalf of the City of Milwaukee to submit an application for and accept financial assistance from the Wisconsin Department of Natural Resources under s. 287.23, Wis. Stats., Chapters NR 542, 544 and 549, Wis. Admin. Code, sign necessary documents, and submit a final report without further Common Council approval, unless the terms of the grant change in a manner described in s. 304-81 of the Milwaukee Code of Ordinances; and, be it

Further Resolved, That the City Comptroller is authorized to:

1. Encumber in the parent accounts of the 2011 Special Revenue Accounts-Grant and Aid Projects the following amounts for the project entitled Basic Recycling Grant:

Project/Grant	GR5400111000
Fund	0150

Org	9990
Program	0001
Budget Year	0000
Sub Class	R999
Account	000600
Project	Grantor Share
Amount	\$3,461,000

2. Create a Special Revenue Fund-Grant and Aid Projects and the necessary expenditure and revenue accounts, appropriate to these accounts the amounts required under the Grant Agreement, and transfer the corresponding offsetting estimated revenue; and

3. Establish the necessary Grant and Aid performance sub measures; and, be it

Further Resolved, That these funds are appropriated to the Commissioner of Public Works, who is authorized to:

1. Make expenditures from these funds for specified purposes, as indicated in the program budget.
2. Transfer funds within the project budget as long as the amount expended for each specific purpose does not exceed the amount authorized by the budget by 10% or more.
3. Make expenditures from the 2011 project budget for specific items of equipment, as indicated in the program budget; and
4. Enter into subcontracts and leases as detailed in the project budget.

Requestor

Department of Public Works

Drafter

Recycling Specialist, Rick Meyers

RJM

06/24/10

CITY OF MILWAUKEE FISCAL NOTE

A) DATE 6/24/2010

FILE NUMBER: 100289

Original Fiscal Note ☒ Substitute ☐

SUBJECT: Resolution relative to application, acceptance and expenditure of the 2011 Wisconsin Basic Recycling Grant

B) SUBMITTED BY (Name/title/dept./ext.): Rick Meyers, Recycling Specialist, DPW, 2334

- C) CHECK ONE: ☒ ADOPTION OF THIS FILE AUTHORIZES EXPENDITURES
☐ ADOPTION OF THIS FILE DOES NOT AUTHORIZE EXPENDITURES; FURTHER COMMON COUNCIL ACTION NEEDED. LIST ANTICIPATED COSTS IN SECTION G BELOW.
☐ NOT APPLICABLE/NO FISCAL IMPACT.

- D) CHARGE TO: ☐ DEPARTMENT ACCOUNT(DA) ☐ CONTINGENT FUND (CF)
☐ CAPITAL PROJECTS FUND (CPF) ☐ SPECIAL PURPOSE ACCOUNTS (SPA)
☐ PERM. IMPROVEMENT FUNDS (PIF) ☒ GRANT & AID ACCOUNTS (G & AA)
☐ OTHER (SPECIFY)

E) PURPOSE	SPECIFY TYPE/USE	ACCOUNT	EXPENDITURE	REVENUE	SAVINGS
SALARIES/WAGES:					
SUPPLIES:					
MATERIALS:					
NEW EQUIPMENT:					
EQUIPMENT REPAIR:					
OTHER:	Basic Recycling Grant		3,461,000	3,461,000	
TOTALS			3,461,000	3,461,000	

- F) FOR EXPENDITURES AND REVENUES WHICH WILL OCCUR ON AN **ANNUAL** BASIS OVER SEVERAL YEARS CHECK THE APPROPRIATE BOX BELOW AND THEN LIST EACH ITEM AND DOLLAR AMOUNT **SEPARATELY**.

<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	

- G) LIST ANY ANTICIPATED FUTURE COSTS THIS PROJECT WILL REQUIRE FOR COMPLETION:

- H) COMPUTATIONS USED IN ARRIVING AT FISCAL ESTIMATE:

PLEASE LIST ANY COMMENTS ON REVERSE SIDE AND CHECK HERE ☐

LRB RESEARCH & ANALYSIS

JULY 14, 2010 AGENDA

ITEM 13, FILE 100289

PUBLIC WORKS COMMITTEE

JAMES CARROLL

Resolution # 100289 is a resolution relative to application for, acceptance and expenditure of 2011 State of Wisconsin recycling grants.

BACKGROUND & DISCUSSION

1. The Department of Public Works (DPW) annually submits a resolution to authorize DPW to apply for, accept and expend the Basic Recycling Grant from the Wisconsin Department of Natural Resources.
2. DPW currently has 31 cart routes and 3 weekly bin routes servicing approximately 190,000 residences. The department annually collects approximately 25,000 tons of curbside recyclables, 30,000 tons of yard trimmings and 4,000 tons of other recyclable items collected at self-help stations.
3. The 2010-11 bi-annual State of Wisconsin Budget provides \$32,098,100 to fund the State's recycling grant program for 2011.
4. DPW estimates the City will receive \$3,461,000 for the City's 2011 recycling program. The total cost of the City's 2009 recycling activities (recycling, composting, and waste reduction) is estimated to be \$12,200,000, with the City providing \$8,739,000 and the balance (\$3,461,000) provided by the State's recycling grant.
5. There are 34 Operations Driver Worker positions supported by this grant.

FISCAL IMPACT

The resolution authorizes the application, acceptance and expenditure of \$3,461,000 for the 2010 State of Wisconsin's Basic Recycling Grant.

Cc:

Wanda Booker
Rick Meyers
W. Martin Morics

Prepared by:
Jim Carroll, X8679
LRB Research & Analysis
July 12, 2010

PW FILE NUMBER: 100289

[illegible]



Legislation Details (With Text)

File #: 100207 **Version:** 0

Type: Ordinance **Status:** In Committee

File created: 6/15/2010 **In control:** CITY PLAN COMMISSION

On agenda: **Final action:**

Effective date:

Title: An ordinance relating to the amendment of the Official Map of the City of Milwaukee.

Sponsors: THE CHAIR

Indexes: CITY MAP

Attachments: Cover Letter, Hearing Notice List

Date	Ver.	Action By	Action	Result	Tally
6/15/2010	0	COMMON COUNCIL	ASSIGNED TO		
6/17/2010	0	PUBLIC WORKS COMMITTEE	REFERRED TO		
7/12/2010	0	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		

Number

100207

Version

ORIGINAL

Reference

Sponsor

THE CHAIR

Title

An ordinance relating to the amendment of the Official Map of the City of Milwaukee.

Section

113-32.0111

Analysis

The adoption of this ordinance will update the Official Map of the City of Milwaukee.

Body

Whereas, The Mayor and Common Council of the City of Milwaukee do ordain as follows:

There is hereby added to the City of Milwaukee Code a new section to read as follows:

Section 113-32.0111 the Official Map, as mentioned and provided for in Section 113-32, is hereby amended so as to include the following additions as shown in the report on file in the City Clerk's office.

3RD ALDERMANIC DISTRICT

S.E. 1/4 Sec. 9, T.7N., R.22E.

Official Map Atlas Page 315

1. East Locust Street (north side) between North Dousman Street and the Milwaukee River. The vacation of a portion of excess street right-of-way.

S.W. 1/4 Sec. 21, T.7N., R.22E.

Official Map Atlas Page 360

1. North Milwaukee Street from North Water Street to the Milwaukee River. The addition of a 54-foot wide right-of-way easement for street purposes.

2. East Pleasant Street from North Water Street to the Milwaukee River. The realignment of a variable width right-of-way easement for street purposes.

S.E. 1/4 Sec. 20, T.7N., R.22E.

Official Map Atlas Page 361

1. North Broadway from North Water Street to the Milwaukee River. The addition of a 43.58-foot wide right-of-way easement for street purposes.

2. North Milwaukee Street from North Water Street to the Milwaukee River. The addition of a 54-foot wide right-of-way easement for street purposes.

5TH ALDERMANIC DISTRICT

N.E. 1/4 Sec. 30, T.8N., R.21E.

Official Map Atlas Page 149

1. West Bender Road from a point west of North 107th Street to a point west of North 110th Street. The addition of proposed street right-of-way for future development.

2. North 110th Street between West Bender Road and West Mill Road. The addition of a 60-foot wide proposed street right-of-way for future development.

N.E. 1/4 Sec. 4, T.7N., R.21E.

Official Map Atlas Page 224

1. Alley in the block bounded by West Appleton Avenue, West Beckett Avenue, West Courtland Avenue and West Hampton Avenue. The vacation of the west leg of the east-west 20-foot wide alley.

6TH ALDERMANIC DISTRICT

N.E. 1/4 Sec. 8, T.7N., R.22E.

Official Map Atlas Page 273

1. Alley in the block bounded by East Keefe Avenue, East Nash Street, North Palmer Street and North 1st Street. The opening of a northerly east-west 20-foot wide alley and alley cut-off.

S.W. 1/4 Sec. 8, T.7N., R.22E.

Official Map Atlas Page 283

1. West Keefe Avenue (south side) between North Dr. Martin Luther King, Jr. Drive and North Port Washington Avenue. The vacation of excess street right-of-way.

N.E. 1/4 Sec. 20, T.7N., R.22E.

Official Map Atlas Page 353

1. Alley in the block bounded by East Garfield Avenue, East North Avenue, North Palmer Street and North 1st Street. The vacation of a southerly portion of the north-south 20-foot wide alley.

7TH ALDERMANIC DISTRICT

N.W. 1/4 Sec. 1, T.7N., R.21E.

Official Map Atlas Page 229

1. Portions of streets and alleys in the area bounded by northerly West Congress Street, southerly West Congress Street, North Sherman Boulevard and North 35th Street including portions of northerly and southerly West Congress Street, North 36th Street, North 38th Street, North 39th Street, North 40th Street, North 41st Street and North 42nd Street. The vacation of excess unimproved street right-of-way along Lincoln Creek.

N.E. 1/4 Sec. 1, T.7N., R.21E.

Official Map Atlas Page 230

1. West Glendale Avenue between North 35th Street and the east line of the Soo Line Railroad Company right-of-way. The vacation of unimproved street right-of-way.

S.W. 1/4 Sec. 1, T.7N., R.21E.

Official Map Atlas Page 247

1. Portions of streets and alleys in the area bounded by northerly West Congress Street, southerly West Congress Street, North Sherman Boulevard and North 35th Street including portions of northerly and southerly West Congress Street, North 36th Street, North 38th Street, North 39th Street, North 40th Street, North 41st Street, North 42nd Place and North 42nd Street. The vacation of excess unimproved street right-of-way along Lincoln Creek.

9TH ALDERMANIC DISTRICT

S.E. 1/4 Sec. 15, T.8N., R.21E.

Official Map Atlas Page 105

1. North 60th Street (west side) from West Good Hope Road north to a point. The deletion of proposed street right-of-way no longer required for future development.

S.W. 1/4 Sec. 15, T.8N., R.21E.

Official Map Atlas Page 106

1. West Calumet Road (south side) from the east 1/4 section line west to a point east of North 73rd Street. The deletion of proposed street right-of-way no longer required for future development.

10TH ALDERMANIC DISTRICT

S.W. 1/4 Sec. 14, T.7N., R.21E.

Official Map Atlas Page 329

1. Alley in the block bounded by West Meinecke Avenue, West North Avenue, North 53rd Street and North 54th Street. The vacation of the westerly half of the east-west 18-foot wide alley.

11TH ALDERMANIC DISTRICT

S.E. 1/4 Sec. 14, T.6N., R.21E.

Official Map Atlas Page 555

1. Alley in the block bounded by West Howard Avenue, West Tripoli Avenue, South 43rd Street and South 45th Street. The vacation of a variable width unimproved alley right-of-way.

12TH ALDERMANIC DISTRICT

S.E. 1/4 Sec. 32, T.7N., R.22E.

Official Map Atlas Page 431

1. Pedestrian and Bicycle Way between East Greenfield Avenue and East Washington Street. The opening of a variable width Pedestrian and Bicycle Way over portions of the former railroad right-of-way.

S.W. 1/4 Sec. 32, T.7N., R.22E.

Official Map Atlas Page 432

1. Alley in the block bounded by West Washington Street, South 9th Street and the North-South Freeway. The vacation of the remaining portion of an east-west 20-foot wide alley.

N. E. 1/4 Sec. 5, T.6N., R.22E.
Official Map Atlas Page 462

1. Pedestrian and Bicycle Way between East Greenfield Avenue and South Kinnickinnic Avenue. The opening of a variable width Pedestrian and Bicycle Way over portions of the former railroad right-of-way.

S.E. 1/4 Sec. 5, T.6N., R.22E.
Official Map Atlas Page 467

1. Pedestrian and Bicycle Way between South Kinnickinnic Avenue and the Kinnickinnic River. The opening of a variable width Pedestrian and Bicycle Way over portions of the former railroad right-of-way.

13TH ALDERMANIC DISTRICT
N.E. 1/4 Sec. 20, T.6N., R.22E.
Official Map Atlas Page 580

1. West Bolivar Avenue at South 6th Street. The vacation of a portion of street right-of-way for the realignment of West Bolivar Avenue in conjunction with the North-South Freeway project.

S.E. 1/4 Sec. 20, T.6N., R.22E.
Official Map Atlas Page 595

1. West Bolivar Avenue at South 6th Street. The vacation of a portion of street right-of-way for the realignment of West Bolivar Avenue in conjunction with the North-South Freeway project.

S.E. 1/4 Sec. 19, T.6N., R.22E.
Official Map Atlas Page 597

1. West Whitaker Avenue from the west line of the North-South Freeway west to a point. The vacation of a portion of street right-of-way in conjunction with the North-South Freeway project.

2. South 15th Place from the east line of the North-South Freeway south to a point. The vacation of a portion of street right-of-way in conjunction with the North-South Freeway project.

N.E. 1/4 Sec. 30, T.6N., R.22E.
Official Map Atlas Page 624

1. South 16th Street (west side) between West Halsey Avenue extended and West Vogel Avenue. The vacation of a portion of street right-of-way in conjunction with the North-South Freeway project.

14TH ALDERMANIC DISTRICT
N.E. 1/4 Sec. 8, T.6N., R.22E.
Official Map Atlas Page 498

1. Pedestrian and Bicycle Way between East Lincoln Avenue and South Chase Avenue also from South Chase Avenue southerly to the south 1/4 section line. The opening of a variable width Pedestrian and Bicycle Way over portions of the former railroad right-of-way.

N.W. 1/4 Sec. 10, T.6N., R.22E.
Official Map Atlas Page 501

1. East Iron Street (north side) from South Shore Drive easterly to its terminus. The vacation of excess street right-of-way.

S.E. 1/4 Sec. 8, T.6N., R.22E.
Official Map Atlas Page 506

1. Pedestrian and Bicycle Way between the north 1/4 section line and South 6th Street. The opening of a variable width Pedestrian and Bicycle Way over portions of the former railroad right-of-way.

Requestor
Department of Public Works
Drafter
Infrastructure Services
MGC:slm
June 1, 2010
Attachments

June 1, 2010

To the Honorable, the Common Council

Subject: Amendments to the Official Map of the City of Milwaukee.

Dear Council Members:

The attached ordinance creates Section 113-32.0111 of the Milwaukee Code of Ordinances relating to the amendment of the Official Map of the City of Milwaukee on Atlas pages 105, 106, 149, 224, 229, 230, 247, 273, 283, 315, 329, 353, 360, 361, 431, 432, 462, 467, 498, 501, 506, 555, 580, 595, 597 and 624, in the 3rd, 5th, 6th, 7th, 9th, 10th, 11th, 12th, 13th, and 14th Aldermanic Districts.

The changes shown on these Atlas pages represent the addition of right-of-way easements for street purposes, the vacation of street rights-of-way, the opening and vacation of alley rights-of-way, the opening of right-of-way for pedestrian and bicycle way and the addition and deletion of proposed street rights-of-way.

No fiscal note is required per Section 50-4.2(3)(c) of the Milwaukee Code of Ordinances.

Very truly yours,

Jeffrey Polenske, P.E.
City Engineer

Jeffrey J. Mantes
Commissioner of Public Works

MGC:slm
Attachments



Department of City Development

City Plan Commission
Historic Preservation Commission
Neighborhood Improvement
Development Corporation
Redevelopment Authority

Rocky Marcoux
Commissioner

Martha L. Brown
Deputy Commissioner

July 12, 2010

To the Honorable Members of the
Public Works Committee
City of Milwaukee
City Hall – Room 205

Dear Committee Members:

File No. 100207 relates to the amendment of the Official Map of the City of Milwaukee.

The adoption of this file will update the Official Map of the City of Milwaukee.

Since the proposed amended Official Map is not in conflict with City plans, the City Plan Commission at its regular meeting on July 12, 2010, recommended approval of the subject file.

Sincerely,

Rocky Marcoux
Executive Secretary
City Plan Commission of Milwaukee

PW FILE NUMBER: 100207

[illegible]



Legislation Details (With Text)

File #: 090980 **Version:** 1

Type: Resolution **Status:** In Committee

File created: 12/1/2009 **In control:** PUBLIC WORKS COMMITTEE

On agenda: **Final action:**

Effective date:

Title: Substitute resolution granting a special privilege to Gas Lamp Square LLC for a gate swing projecting into the public right-of-way for the premises at 1017 South 2nd Street, in the 12th Aldermanic District.

Sponsors: THE CHAIR

Indexes: SPECIAL PRIVILEGE PERMITS

Attachments: Special Privilege Petition and Drawing, Public Works Letter, Fiscal Note, Hearing Notice List

Date	Ver.	Action By	Action	Result	Tally
12/1/2009	0	COMMON COUNCIL	ASSIGNED TO		
7/12/2010	0	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		
7/12/2010	0	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		

Number

090980

Version

SUBSTITUTE 1

Reference

Sponsor

THE CHAIR

Title

Substitute resolution granting a special privilege to Gas Lamp Square LLC for a gate swing projecting into the public right-of-way for the premises at 1017 South 2nd Street, in the 12th Aldermanic District.

Analysis

This resolution grants a special privilege to Gas Lamp Square LLC for a gate swing projecting into the public right-of-way for the premises at 1017 South 2nd Street.

Body

Whereas, Gas Lamp Square LLC requested permission to construct and maintain door swings projecting into the public right-of-way; and

Whereas, The Milwaukee Code of Ordinances has been amended such that door swings may now project into the public right-of-way; and

Whereas, A site visit revealed the presence of a fence gate, that when opened, projects into the public right-of-way; and

Whereas, Said gate swing may only legally encroach into the public right-of-way by granting of a special privilege resolution adopted by the Common Council; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee that Gas Lamp Square LLC, 413 North 2nd Street, Milwaukee, Wisconsin 53203, is hereby granted the following special privilege:

To construct and maintain a gate swing, that when fully open, projects 6 feet 11 inches into the west sidewalk area of South 2nd Street. Said gate is centered approximately 85 feet south of the southline of West Mineral Street.

Said above-mentioned gate shall be used, kept and maintained to the satisfaction of the Commissioners of Public Works and Department of Neighborhood Services.

Said gate shall be maintained or removed from the public right-of-way, at such future time as they are no longer needed, to the satisfaction of the Commissioners of Public Works and Department of Neighborhood Services.

; and, be it

Further Resolved, That this special privilege is granted only on condition that by acceptance of this special privilege the grantee, Gas Lamp Square LLC, shall:

1. Become primarily liable for damages to persons or property by reason of the granting of this special privilege.
2. File with the City Clerk a certificate of insurance indicating applicant holds a public liability policy in the sum of at least \$25,000 covering bodily injury to any one person and \$50,000 covering bodily injury to more than one person in any one accident and \$10,000 covering property damage to any own owner on the area or areas included within the special privilege and naming the City of Milwaukee as an insured. Both bond and insurance policy shall provide that they shall not be cancelled until after at least thirty days' notice in writing to the City Clerk.
3. Pay to the City Treasurer an annual fee, which has an initial amount of \$126.23. The subsequent annual fee is subject to change pursuant to the annual fee schedule in effect at the time of annual billing.

4. Whenever this special privilege is discontinued for any reason whatsoever, including public necessity whenever so ordered by resolution adopted by the Common Council not only remove all construction work executed pursuant to this special privilege, but shall also restore to its former condition and to the approval of the Commissioner of Public Works and curb, pavement or other public improvement which was removed, changed or disturbed by reason of the granting of this special privilege. Such grantee shall be entitled to no damages due to the alteration and/or removal for such purposes.

5. Waive the right to contest in any manner the validity of Section 66.0425 of the Wisconsin Statutes (1999), or the amount of the annual fixed fee, payable on or before July 1st of each year.

6. Put this special privilege into use within one year after approval by the Common Council of the City of Milwaukee; failing to do so in the time specified, the Commissioner of Neighborhood Services shall have the authority to seek, by resolution, revocation of said special privilege.

Requestor

Department of Public Works

Drafter

Infrastructure Services Division

MDL:ns

June 22, 2010

090980



PETITION FOR A SPECIAL PRIVILEGE

ccl-246 (1/09)

SP 2494

☒ **New application \$250.00 Fee**

☐ **Amendment to add items to Special Privilege # _____ (\$125.00 Fee)**

☐ **Amendment to remove items from Special Privilege # _____ (No fee)**

☐ **Amendment for change of ownership for Special Privilege # _____ (No fee)**

- File petition with the City Clerk License Division, City Hall, 200 E. Wells Street, Room 105, Milwaukee, WI 53202, telephone (414) 286-2238. www.milwaukee.gov/license
- Fee must be submitted with petition. Checks should be made payable to the City of Milwaukee.
- Petition must be submitted in duplicate.

To the Honorable, The Common Council of the City of Milwaukee:

The Licensee Gas Lamp Square, LLC
(Name of Individual, Partners, Corporation or LLC)

being the owners of the following property known by street address as 1017 S 2nd St
(Street Address and Zip Code)

in the 12th Aldermanic District respectfully petition the Common Council of the City of Milwaukee according to the provisions of Section 66.0425 of the Wisconsin Statutes, that the following privilege be granted:

Description of Special Privilege: Excess door swing

Of which a plan or sketch is herewith submitted. Petitioner agrees to comply with all laws and all ordinances of the City of Milwaukee, to abide by any order or resolution of the Common Council affecting this privilege, to be primarily liable for damages to person or property by reason of the granting of such privilege, pay annual compensation as provided by law in the sum to be fixed by the proper city officers, and to file and keep current throughout the existence of the privilege, a certificate of insurance indicating applicant holds a public liability policy in at least the sums of \$25,000.00/\$50,000.00 bodily injury, and \$10,000.00 property damage, insuring the city against any liability that might arise by reason of the privilege.

Petitioner further agrees to remove said privilege whenever public necessity so requires when so ordered upon resolution adopted by the Common Council or other legislative body.

Should this special privilege be discontinued for any reason whatsoever, petitioner agrees to remove all construction work executed pursuant to this special privilege, to restore to its former condition and to the approval of the Commissioner of Public Works, any curb, pavement, or other public improvement which was removed, changed or disturbed by reason of the granting of this special privilege. Petitioner further agrees not to contest the validity of Section 66.0425 of the Wisconsin Statutes, or the legality of this special privilege in any way.

Name (Please Print): RONALD SAN FELIPPO member
(Individual, Partner, or Agent if corporation or LLC as shown above)

Signature: [Signature]
(Individual, Partner, or Agent if corporation or LLC)

Corporation or LLC Name: Gas Lamp Square, LLC
(If applicable, as shown above)

(OVER)

Mailing Address (If different than property address above): 413 N. 2nd St, Suite 100

City: Milwaukee State: WI Zip: 53203

Telephone: 414-273-5638 E-Mail: threebridges@wi.rr.com

Architect/Engineer/Contractor (If Applicable)

Name: Koz-i-tec-ture David J. Koscielniak AIA ALA

Address: 12310 West Waterford Avenue

City: Greenfield State: WI Zip: 53228

Telephone: 414-203-8489 E-Mail: dkoscielniak@wi.rr.com

Retail / Commercial
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Up to 6,000 sq. feet
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Existing Entrance

New Entrance
to Be Added



June 22, 2010

To the Public Works Committee

Subject: Common Council Resolution File Number 090980

Dear Honorable Members:

Returned herewith is Common Council Resolution File Number 090980, being a resolution to grant a special privilege to Gas Lamp Square LLC for a gate swing projecting into the public right-of-way for the premises at 1017 South 2nd Street.

Gas Lamp Square LLC requested permission to construct and maintain door swings projecting into the public right-of-way; however the Milwaukee Code of Ordinances was subsequently amended such that door swings are now permitted to project into the public right-of-way. During a site visit, a gate that, when open, projects 6 feet 11 inches into the west, 8-foot wide sidewalk area of South 2nd Street was observed. The gate is centered approximately 85 feet south of the southline of West Mineral Street.

We are not aware that the presence of said gate swing will have an adverse effect on the general use of the public right-of-way. We have, therefore, prepared the attached special privilege resolution, which, if adopted, will allow said gate swing to project into the public right-of-way.

Very truly yours,

Jeffrey S. Polenske, P.E.
City Engineer

Jeffrey J. Mantes
Commissioner of Public Works

Art Dahlberg, Commissioner
Department of Neighborhood Services

MDL: ns

Attachments
c: Alderman James Witkowiak

CITY OF MILWAUKEE FISCAL NOTE

A) DATE June 22, 2010FILE NUMBER: 090980Original Fiscal Note ☒ Substitute ☐

SUBJECT: Substitute resolution granting a special privilege to Gas Lamp Square LLC for a gate swing projecting into the public right-of-way for the premises at 1017 South 2nd Street.

B) SUBMITTED BY (Name/title/dept./ext.): **JEFFREY S. POLENSKE, P.E./CITY ENGINEER/INFRASTRUCTURE SERVICES DIVISION/2400**

C) CHECK ONE: ☒ ADOPTION OF THIS FILE AUTHORIZES EXPENDITURES
☐ ADOPTION OF THIS FILE DOES NOT AUTHORIZE EXPENDITURES; FURTHER COMMON COUNCIL ACTION NEEDED. LIST ANTICIPATED COSTS IN SECTION G BELOW.
☐ NOT APPLICABLE/NO FISCAL IMPACT.

D) CHARGE TO: ☒ DEPARTMENT ACCOUNT(DA) ☐ CONTINGENT FUND (CF)
☐ CAPITAL PROJECTS FUND (CPF) ☐ SPECIAL PURPOSE ACCOUNTS (SPA)
☐ PERM. IMPROVEMENT FUNDS (PIF) ☐ GRANT & AID ACCOUNTS (G & AA)
☐ OTHER (SPECIFY)

E) PURPOSE	SPECIFY TYPE/USE	ACCOUNT	EXPENDITURE	REVENUE	SAVINGS
SALARIES/WAGES:	Annual billing/initial Inspection		\$2.77/4.04		
SUPPLIES:					
MATERIALS:					
NEW EQUIPMENT:					
EQUIPMENT REPAIR:					
OTHER:			\$2.77/4.04	\$126.23	
TOTALS				\$126.23	

F) FOR EXPENDITURES AND REVENUES WHICH WILL OCCUR ON AN **ANNUAL** BASIS OVER SEVERAL YEARS CHECK THE APPROPRIATE BOX BELOW AND THEN LIST EACH ITEM AND DOLLAR AMOUNT **SEPARATELY**.

<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	Annual Fee (Income) \$126.23
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	Annual Cost Billing - \$2.77/4.04
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	

G) LIST ANY ANTICIPATED FUTURE COSTS THIS PROJECT WILL REQUIRE FOR COMPLETION:

Annual billing/initial Inspection

H) COMPUTATIONS USED IN ARRIVING AT FISCAL ESTIMATE:

Special Privilege Committee Fee Schedule

PLEASE LIST ANY COMMENTS ON REVERSE SIDE AND CHECK HERE ☐

PW FILE NUMBER: 090980

[illegible]



Legislation Details (With Text)

File #: 091110 **Version:** 0

Type: Resolution **Status:** In Committee

File created: 12/22/2009 **In control:** PUBLIC WORKS COMMITTEE

On agenda: **Final action:**

Effective date:

Title: Resolution amending a special privilege for change of ownership to Marquette University for encroachment into the public right-of-way for an excess door swing for the premises at 1625 W. Wells Street, in the 4th Aldermanic District.

Sponsors: THE CHAIR

Indexes: SPECIAL PRIVILEGE PERMITS

Attachments: Special Privilege Petition

Date	Ver.	Action By	Action	Result	Tally
12/22/2009	0	COMMON COUNCIL	ASSIGNED TO		
7/12/2010	0	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		

Number

091110

Version

ORIGINAL

Reference

991160

Sponsor

THE CHAIR

Title

Resolution amending a special privilege for change of ownership to Marquette University for encroachment into the public right-of-way for an excess door swing for the premises at 1625 W. Wells Street, in the 4th Aldermanic District.

Drafter

CC-CC

dkf

12/8/09

spec-priv



PETITION FOR A SPECIAL PRIVILEGE

ccl-246 (6/09)

SP 2496

- ☐ New application \$250.00 Fee
- ☐ Amendment to add items to Special Privilege # _____ (\$125.00 Fee)
- ☐ Amendment to remove items from Special Privilege # _____ (No fee)
- ☒ Amendment for change of ownership for Special Privilege # 1884 (No fee)

- File petition with the City Clerk License Division, City Hall, 200 E. Wells Street, Room 105, Milwaukee, WI 53202, telephone (414) 286-2238. www.milwaukee.gov/license
- Fee must be submitted with petition. Checks should be made payable to the City of Milwaukee.
- Petition must be submitted in duplicate.

To the Honorable, The Common Council of the City of Milwaukee:

The Licensee Marquette University
(Name of Individual, Partners, Corporation or LLC)

being the owners of the following property known by street address as 1625 W Wells St
(Street Address and Zip Code)

in the 4th Aldermanic District respectfully petition the Common Council of the City of Milwaukee according to the provisions of Section 66.0425 of the Wisconsin Statutes, that the following privilege be granted:

Description of Special Privilege: Change of ownership for CCF 991160 for an excess door swing

Of which a plan or sketch is herewith submitted. Petitioner agrees to comply with all laws and all ordinances of the City of Milwaukee, to abide by any order or resolution of the Common Council affecting this privilege, to be primarily liable for damages to person or property by reason of the granting of such privilege, pay annual compensation as provided by law in the sum to be fixed by the proper city officers, and to file and keep current throughout the existence of the privilege, a certificate of insurance indicating applicant holds a public liability policy in at least the sums of \$25,000.00/\$50,000.00 bodily injury, and \$10,000.00 property damage, insuring the city against any liability that might arise by reason of the privilege.

Petitioner further agrees to remove said privilege whenever public necessity so requires when so ordered upon resolution adopted by the Common Council or other legislative body.

Should this special privilege be discontinued for any reason whatsoever, petitioner agrees to remove all construction work executed pursuant to this special privilege, to restore to its former condition and to the approval of the Commissioner of Public Works, any curb, pavement, or other public improvement which was removed, changed or disturbed by reason of the granting of this special privilege. Petitioner further agrees not to contest the validity of Section 66.0425 of the Wisconsin Statutes, or the legality of this special privilege in any way.

Name (Please Print): Ronald L. Ripley, Agent
(Individual, Partner, or Agent if corporation or LLC as shown above)

Signature: Ronald L. Ripley
(Individual, Partner, or Agent if corporation or LLC)

Corporation or LLC Name: Marquette University
(If applicable, as shown above)
(OVER)

Mailing Address (If different than property address above): Facilities Services, Marquette University, PO Box 1881

City: Milwaukee State: WI Zip: 53207-1927

Telephone: 288-1656 E-Mail: ronald.ripley@marquette.edu

Architect/Engineer/Contractor (If Applicable)

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ E-Mail: _____