

DEPARTMENT OF COMMERCE FINANCIAL ASSISTANCE  
CONTACTS AND INSTRUCTIONS

A. AWARD NUMBER AND PROJECT DESCRIPTION

This Award Number 06-01-05479, supports the work described in the Recipient's application for Public Works Assistance received by EDA on March 16, 2009, as amended. Where the terms of this award and the application differ, the terms of the award shall prevail.

B. AWARD CONTACTS

1. The Recipient Contact's name, address and telephone number are:

Whitewater Community Development Authority  
312 West Whitewater Street  
Whitewater, Wisconsin 53190-0178  
Ms. Mary S. Nimm  
(262) 473-0525

City of Whitewater  
312 West Whitewater Street  
Whitewater, Wisconsin 53190-0178  
Ms. Mary S. Nimm  
(262) 473-0525

University of Wisconsin - Whitewater  
Research and Sponsored Programs, 2237 Anderson Library  
800 West Main Street  
Whitewater, Wisconsin 53190-0178  
Ms. Mary S. Nimm  
(262) 473-0525

2. The Federal Program Officer is responsible for the programmatic, technical and/or scientific aspects of this award. The Federal Program Officer's name, address and telephone number are:

Jack Price, Area Director, Northern Tier Team  
Economic Development Administration  
Chicago Regional Office  
111 North Canal Street, Suite 855  
Chicago, Illinois 60606-7208  
(312) 353-1919, Ext. 159

3. The Grants Officer is responsible for all administrative aspects of this award and is authorized to award, amend, suspend, and terminate financial assistance awards. Grants Officer's name, address, and telephone number are:

C. Robert Sawyer, Regional Director  
Economic Development Administration  
Chicago Regional Office  
111 North Canal Street, Suite 855  
Chicago, Illinois 60606-7208  
(312) 353-7706, Ext. 121

4. The Economic Development Specialist is responsible for administrative coordination and liaison with the Recipient. This individual receives appropriate material from the Federal Program Officer and/or the Recipient for administrative processing. The Economic Development Specialist's name, and telephone number are:

Wayne Schroeder  
(312) 353-8580, Ext. 147

C. REFUND CHECKS

The Recipient shall submit all refund checks to the Department of Commerce (DoC) accounting office. Please contact the Economic Development Specialist identified above for specific details on how to process a refund check.

Form ED-508  
(Rev. 4-94)

U. S. DEPARTMENT OF COMMERCE  
Economic Development Administration  
PUBLIC WORKS PROJECT COST CLASSIFICATIONS/  
ECONOMIC ADJUSTMENT ASSISTANCE CONSTRUCTION COMPONENTS

Attachment No. 1

EDA AWARD No. 06-01-05479

State Wisconsin

COUNTY Walworth

<u>COST CLASSIFICATION</u>	<u>PROPOSED</u>	<u>APPROVED</u>
Administration and legal expenses	\$ 502,000	\$ 40,000
Land, structures, rights-of-way, appraisals, etc.		
Relocation expenses and payments		100
Architectural and engineering fees	516,147	623,103
Other architectural and engineering fees	454,155	53,929
Project inspection fees	454,360	146,059
Site Work	2,792,063	
Demolition and removal		
Construction	4,339,530	9,598,589
Equipment	319,000	85,120
Miscellaneous		25,000
Contingencies	331,852	479,828
<b>TOTAL PROJECT COSTS</b>	<b>\$ 9,709,107</b>	<b>\$ 11,051,728</b>

Remarks:

1. Admin & legal expenses reduced by removing non-construction costs
2. Relocation expenses and payments line established for costs incidental to transfer of title
3. Architectural and engineering fees, Other architectural and engineering fees, and project inspection fees adjusted per revised estimates.
4. Site work reclassified to construction per revised cost estimates.
5. Construction cost per revised cost estimates.
6. Miscellaneous line added for cost of LEED Certification.
7. Contingencies adjusted per revised cost estimates, reduced by \$100 for cost incidental to transfer of title.
8. Green Building related costs of \$442,260 included in construction line item, and \$51,800 in Other architectural and engineering fees.

U.S. DEPARTMENT OF COMMERCE  
Economic Development Administration

Special Award Conditions of Financial Assistance Award  
for Public Works and Development Facilities  
and Economic Adjustment Assistance Construction Components  
under Section 201 and 209 of the  
Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 *et seq.*), as amended,  
including the comprehensive amendments made by the  
Economic Development Administration Reauthorization Act of 2004 (P.L. 108-373)

Award Number: 06-01-05479

Recipient: Whitewater Community Development Authority  
Address: 312 West Whitewater Street  
Whitewater, Wisconsin 53190-0178

Recipient: City of Whitewater  
Address: 312 West Whitewater Street  
Whitewater, Wisconsin 53190-0178

Recipient: University of Wisconsin - Whitewater  
Address: Research and Sponsored Programs, 2237 Anderson Library  
800 West Main Street  
Whitewater, Wisconsin 53190-0178

1. **PROJECT DESCRIPTION AND SCOPE:** For purposes of this grant award, the Recipient acknowledges the following as the Project Description and Scope:

This investment will provide water, sewer, storm sewer and street improvements to serve the 125 acre Whitewater University Technology Park, a multi-use trail through the Park, extension of Starin Road to improve access between the University Campus and the Technology Park, and construction of a 37,200 square foot Innovation Center, which will serve as a training center and incubator. Both the Technology Park and the Innovation Center will be owned and operated by the Whitewater Community Development Authority. The design of the two story building will incorporate green design features leading to LEED certification.

2. **PROJECT DEVELOPMENT TIME SCHEDULE:** The Recipient agrees to the following Project development time schedule:

Time allowed from the date of approval of grant award for:

Start of Construction ----- 9 months  
Construction Period -----12 months

Project Closeout - All Project closeout documents including final financial information and any required program reports shall be submitted to the Government not more than ninety days after the date the Recipient accepts the completed Project from the Contractor(s).

The Recipient shall pursue diligently the development of the Project so as to ensure completion of the Project and submission of closeout documents within this time schedule. The Recipient shall submit a detailed Project timeline at the construction management conference (CMC) or at such other time specified by the Government. The Project timeline, in such form and substance determined by the Government in accordance with information provided in the application for this Award, shall provide a specific time frame for the conduct of all activities in sufficient detail to ensure that construction will commence at or before the allowable time specified hereinabove. The Project timeline must be approved by EDA and agreed to by the Recipient at the CMC or at such alternate time as determined by EDA. Moreover, the Recipient shall notify the Government in writing of any event which could delay substantially the achievement of the Project within prescribed time limits. The Recipient further acknowledges that failure to meet the development time schedule may result in the Government's taking action to terminate the Award in accordance with the regulations set forth at 15 CFR 24.43 (53 Fed. Reg. 8048-9, 8102, March 11, 1988).

3. **GOALS FOR WOMEN AND MINORITIES IN CONSTRUCTION:** Department of Labor requirements set forth in 41 CFR 60-4 establish goals and timetables for participation of minorities and women in the construction industry. These regulations apply to all Federally assisted construction contracts in excess of \$10,000. The Recipient shall comply with these regulations and shall obtain compliance with 41 CFR 60-4 from contractors and subcontractors employed in the completion of this Project by including such notices, clauses and provisions in the Solicitations for Offers or Bids as required by 41 CFR 60-4. The goal for the participation of women in each trade area shall be as follows:

From April 1, 1981, until further notice: 6.9 percent.

All changes to this goal, as published in the Federal Register in accordance with the Office of Federal Contract Compliance Programs regulations at 41 CFR 60-4.6, or any other successor regulations, shall hereafter be incorporated by reference into these Special Conditions.

The goal for the participation of minorities in the trade area shall be as follows until further notice: 7.0 percent.

Goals for minority participation shall be as prescribed by Appendix B-80, Federal Register, Volume 45, No. 194, October 3, 1980, or subsequent publications. The Recipient shall

include the "Standard Federal Equal Opportunity Construction Contract Specifications" (or cause them to be included, if appropriate) in all Federally assisted contracts and subcontracts of this Project. The goals and timetables for minority and female participation may not be less than those published pursuant to 41 CFR 60-4.6.

4. **LOCAL SHARE:** In affirming this Award, the Recipient certifies that the non-federal share of Project costs is committed and is available as needed for the Project, that the non-federal share is from sources which can be used as match for the EDA Project, and that the non-federal share will not affect ownership of, or title to, the Project facilities. The Recipient further acknowledges that, prior to award of any construction contracts, it will be required to provide evidence satisfactory to the Government that all funds necessary to complete the Project are available.
5. **IMPLEMENTATION SCHEDULE:** In keeping with the need for prudent grant administration, the time permitted for full disbursement of the grant funds may not extend beyond five years from the date of award.
6. **EVIDENCE OF TITLE:** For purposes of Standard Term and Condition M.3.a., evidence of title to the property necessary for this Project shall be provided to EDA prior to advertising for bids for this Project. Such evidence must include evidence of title to the 125 acres being developed under this award.
7. **USEFUL LIFE:** The useful life of this Project for purposes including, but not limited to, establishing a first priority unsubordinated lien required by paragraph M.3.b. of the Standard Terms and Conditions, is hereby determined to be 20 years from the date of Project completion.
8. **PERFORMANCE MEASURES:** The Recipient agrees to report on program performance measures and program outcomes in such form and at such intervals as may be prescribed by EDA in compliance with the Government Performance and Results Act of 1993 (GPRA). Performance measures and reporting requirements that apply to program activities funded by this investment will be provided in a separate GPRA information collection document. EDA will advise Recipients in writing within a reasonable period prior to the time of submission of the reports, and in the event that there are any modifications in the performance measures.
9. **REAFFIRMATION OF APPLICATION:** Recipient(s) acknowledges that Recipient's application for this Award may have been submitted to the Government and signed by Recipient(s), or by an authorized representative of Recipient, electronically. Regardless of the means by which Recipient(s) submitted its application to the Government or whether Recipient or an authorized representative of Recipient submitted its application to the Government, Recipient(s) hereby reaffirms and states that a) all data in said application and documents submitted with the application are true and correct as of the date of this Award

and were true and correct as of the date of said submission; b) said application was as of the date of this Award and as of the date of said application duly authorized as required by local law by the governing body of the Recipient(s); and c) Recipient(s) confirms that it will comply with the Assurances and Certifications submitted with or attached to said application. The term application includes all documentation and any information provided to the Government as part of, and in furtherance to, the request for funding, including submissions made in response to information requested by the Government after submission of the initial application.

10. **ENVIRONMENTAL:** Prior to awarding of construction contracts for the EDA Project, the Recipient shall provide evidence satisfactory to the Government that it has obtained a Section 404 permit for this Project from the U.S. Army Corps of Engineers or that none is required. The Recipient shall comply with any conditions of said permit.
11. **LIEN ON MACHINERY AND EQUIPMENT:** The use and disposition of the machinery and equipment acquired in whole or in part with the funds made available through this Financial Assistance Award shall be in accordance with the Property Management Standards set forth in 15 CFR Part 24 or 15 CFR Part 14, as applicable.

Prior to disbursement of funds by EDA, the Recipient shall grant to EDA a first priority security interest in the machinery and equipment acquired in whole or in part with funds made available through this Award. This first priority security interest must be perfected in accordance with local law. The Government will, in its sole discretion determine whether the security interest which has been granted to the Government is satisfactory, and it may require an opinion of counsel for the Recipient to substantiate that the security interest has been properly recorded and a valid security interest has been created. The Recipient must maintain EDA's security interest in accordance with local law for the useful life of the machinery and equipment.

12. **ARCHITECT/ENGINEER AGREEMENT:** Prior to the disbursement of funds by EDA, the Recipient shall submit to the Government for approval an Architect/Engineer agreement that meets the requirements of Department of Commerce Regulations at 15 CFR 24.36 or 15 CFR 14, as applicable. The fees for basic Architect/Engineer services shall be a lump sum or an agreed maximum and no part of the fees for other services shall be based upon a cost-plus-a-percentage-of-cost or a cost using a multiplier.
13. **EDA PROJECT SIGN:** The Recipient must erect and maintain in good condition and repair, a sign or signs, in accordance with EDA's specifications. Prior to on-site construction, a reproducible photograph of the sign must be submitted to EDA along with evidence that the sign is located at the project site.
14. **GLOBAL CLIMATE CHANGE MITIGATION INCENTIVE FUND-LEED Green Building:** Before the final disbursement of Global Climate Change Mitigation Incentive

Fund financial assistance by the Government, the Recipient shall submit to the Government evidence of final Leadership in Energy and Environmental Design (LEED) certification from the United States Green Building Council ("USGBC") and invoices from design and construction service providers clearly delineating costs related to obtaining LEED certification. Reimbursement also may be made for the cost of obtaining LEED certification by USGBC. The Recipient shall be reimbursed for actual costs incurred not to exceed the amount approved for LEED certification in the originally approved budget or amended investment budget.

15. **LEAD ENTITY AGREEMENT:** Prior to the initiation of any Project activities, the Recipient shall submit an agreement, satisfactory to the Government, that one Recipient has been designated the lead agent to act with full legal authority to bind the other Recipient and to act as official representative of the Recipients in connection with all actions necessary to complete the Project.

16. **INDIVIDUAL BACKGROUND SCREENING:**

1. **Name Check Requirement; Exemptions.** An individual background screening will be performed by the OIG on key individuals of organizational units associated with the application at the beginning of the Award and at three year intervals thereafter for the life of the Award unless (a) the proposed Award amount is \$100,000 or less; (b) applicants are accredited colleges and universities; (c) applicants are units of a State or local government; (d) applicants are economic development districts designated by EDA, including those entities whose designations are pending, and councils of governments; or (e) the key individual(s) is/are elected officials of State and local governments who are serving in capacities other than their elected capacities when applying for assistance. In addition, if there is a change in the status of the organization and/or key individuals, or the program officer, OIG, or Grants Officer believes there is good reason to conduct a review sooner, a background screening may be required more frequently. Individual background screenings are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges (e.g., fraud, theft, perjury), or other matters which significantly reflect on the applicant's business integrity, responsibility, or financial integrity. Key individuals of non-exempt organizations associated with this Award shall complete Form CD-346, "Applicant for Funding Assistance." An original signature is required. The form is to be submitted to the Grants Specialist named in the Award document within 30 days of receipt of this Award.

2. **Results of Individual Background Screening.** EDA reserves the right to take any of the actions described in section H.3. if any of the following occurs as a result of the individual background screening:

- a. A key individual fails to submit the required Form CD-346, "Applicant for Funding Assistance," within 30 days of receipt of this Award;

- b. A key individual makes a false statement or omits a material fact on the Form CD-346; or
- c. The individual background screening reveals significant adverse findings that reflect on the business integrity or responsibility of the Recipient and/or key individual.

3. Action(s) Taken as a Result of Individual Background Screening. If any situation noted in H.2. occurs, the Department, at its discretion, may take one or more of the following actions:

- a. Consider suspension/termination of an Award immediately for cause;
- b. Require the removal of any key individual from association with management and/or implementation of the Award and require Grants Officer approval of personnel replacements;
- c. Require the Recipient to make other changes as appropriate; and/or
- d. Designate the Recipient as high risk and amend the Award to assign special award conditions, as appropriate, including making changes with respect to the method of payment and/or financial reporting requirements.