

**AGREEMENT BETWEEN THE CITY OF MILWAUKEE AND THE MILWAUKEE
METROPOLITAN SEWERAGE DISTRICT CONCERNING THE KINNICKINNIC
RIVER FLOOD MANAGEMENT PROJECT -
S. 6TH STREET to S. 16TH STREET REACH**

GH 7-1-2019, CAO 260644

The City of Milwaukee, a municipal corporation, , hereafter “**City**,” and the Milwaukee Metropolitan Sewerage District, a municipal body corporate, organized and operating pursuant to Wis. Stat. 220.21 et. seq. , hereafter “**District**,” enter into this Agreement, pursuant to Wis. Stat. 66.0301, effective as of _____, 2019, for the purpose of establishing their respective duties and responsibilities with relation to the improvement of the Kinnickinnic River (“**River**”) within the South 6th to South 16th Street reach so as to manage the risk of flood damage:

WHEREAS, the River is within the corporate boundary of the City, and currently has over 300 residential structures within the one percent annual probability floodplain; and

WHEREAS, the District is undertaking the Kinnickinnic River Flood Management Project (“**Project**”) to expand the River Channel and replace the existing concrete-lined channel to a more naturalized stream design; and

WHEREAS, the District has acquired numerous residential structures between South 6th and South 16th Streets and has removed the structures and has performed certain improvements related to street and alley vacations; and

WHEREAS, the District’s Project work will involve removal and replacement of City-owned vehicle and pedestrian bridges to accommodate the expanded River Channel,;and relocation of various City-owned facilities, including sewer, lighting, and water facilities; and

WHEREAS, the City desires to cooperate with the District, on the terms and conditions herein, to facilitate implementation of the Project.

NOW, THEREFORE, in light of the above and foregoing declarations, the City and the District enter into this Agreement setting forth their respective duties necessary to implement the Project.

I. BRIDGE RECONSTRUCTION

A. **City Bridges.** The following City-owned bridges will be removed and reconstructed during the Project:

1. S. 8th Street Pedestrian Bridge
2. S. 9th Place Vehicle Bridge
3. S. 11th Street Pedestrian Bridge
4. S. 13th Street Vehicle Bridge
5. S. 15th Street Pedestrian Bridge
6. S. 16th Street Vehicle Bridge

B. **District Contracting for Bridge Work.** The District will contract for the design and construction of the bridges needed to obtain the flood flow capacity. The District will use a qualifications based selection process for the design with a City representative on the selection panel. The District will use sealed bid process to select a construction contractor. In the event the District hires a third party construction manager/inspection staff, such manager will not be an employee of the design firm. At that time, the District would use a qualifications based selection process for the construction manager/inspection staff with a City representative on the selection panel.

In the event, the City has resources available to design all or a portion of the bridges, the City may (but is not required to) perform such design work and if the City does that work, the City will be compensated for the costs of its staff time, adjusted by the percentages set forth below.

C. **Paying for Bridge Work.** The District will fund the following percentage of design and construction costs for each bridge (with District having determined such after MMSD consideration of MMSD Commission Policy 1-01-15 and the City's calculation of the remaining useful life of each bridge):

1. S. 8th Street Pedestrian Bridge – 77% District, City 23%
2. S. 9th Place Vehicle Bridge – 68% District, City 32%
3. S. 11th Street Pedestrian Bridge – 72% District, City 28%
4. S. 13th Street Vehicle Bridge – 66% District, City 34%
5. S. 15th Street Pedestrian Bridge – 71% District, City 29%
6. S. 16th Street Vehicle Bridge – 65% District, City 35%

D. **Cost Components, District Invoices to City for City's Share.** The design and construction costs include the design contract costs, permit fees, construction contract costs, construction oversight/management costs as well as other costs necessary for completing the design and construction of each bridge structure and bridge approach reconstruction necessary for each new bridge structure. The bridge approach reconstruction is estimated to extend 50 feet from the end of each new bridge structure. The District shall invoice the City for the City's share of the design and construction costs quarterly. City shall pay the District within 30 days of receipt of the invoice.

E. **Collaboration; Bridge Plans & Specs.** District shall collaborate with the City throughout the development of the bridge design and include the City in meetings with the design team at key milestones throughout the project. The District shall provide the City with 50%, 90% , and 100% complete Plans and Specifications for bridge construction, and the City shall have the opportunity to provide comment on the designs. The City shall complete such review and provide any comments within 30 days of receipt of the plans and specifications from the

District for each bridge. The 30-day review time is not tracked concurrently between multiple submittals for separate bridge locations.

- F. **Permits.** District shall prepare all documents and applications needed to obtain necessary permits and regulatory reviews and approvals. The City shall assist the District with these submittals and participate discussions with regulatory agencies.
- G. **Oversight; Records; Inspection.** District shall provide construction oversight for the bridge construction and shall provide any and all records to the City upon request. The City shall have the opportunity to inspect the bridge construction at any time.
- H. **Change Orders.** District shall solicit City review and approval of any proposed contract change orders to the design or construction contracts prior to approving. The City shall review as quickly as possible but shall have up to (but no more than) 10 working days to review and approve any such change order. The City's failure to respond by the 10 working day deadline shall be deemed approval by the City. If the City provides notice of disapproval or otherwise conditions or qualifies its approval, then the City, District and the contractor shall meet to resolve the issue.
- I. **Substantial Completion; City Ownership & Maintenance of Bridges.** District shall conduct a substantial completion inspection of each bridge structure with the contractor and the City. The City shall accept ownership of each bridge structure, and acceptance of a Quit Claim Deed from District to City for each structure, following City's approval of the substantial completion of each structure. After acceptance of the Quit Claim Deeds, they shall be recorded at City's expense and City shall be responsible for all bridge maintenance. The District shall oversee the completion of any remaining punch list items within a reasonable time period following substantial completion.
- J. **As-Builts; Manuals.** District shall provide the City with as-built plans and operations & maintenance (O&M) manuals within 30 days of the substantial completion date of each bridge structure.
- K. **District Ownership & Maintenance of River Channel.** The District will continue to own and maintain the expanded River Channel.

II. CITY-OWNED COMBINED SEWER MODIFICATIONS

- A. **City Sewers.** The following City-Owned Combined Sewers will be modified:
 - 1. A 66" combined sewer from S. 8th Street along the south bank of the River to S. 12th street will be abandoned, and a new replacement sewer will be

constructed approximately 50 feet south to the planned top of slope of the new River Channel (see **Exhibit A**).

2. Combined sewer segments tributary to the 66” combined sewer (described above) located in S. 9th Street, S. 9th Place, S. 10th Street, and S. 11th Street will be abandoned south of the existing 66” combined sewer location, and will be reconnected to the new 66” combined sewer (see **Exhibit A**).
- B. **City Contracting for Sewer Work.** The City shall design and contract for the construction of these modifications according to its policies and practices. The City shall also provide all construction management services. These modifications will take place by 9/1/2021, contingent on the District making the real estate available by 9/1/2020. The District will share with the City the existing topographic survey of the project site and the proposed top of slope by September 1, 2019.
- C. **Paying for Sewer Work.** The District shall compensate the City for the City staff time associated with the design of these modifications and construction oversight and pay all of the costs of the construction contract to complete these modifications (with District having determined that after consideration of the District’s Commission Policy 1-41.06).
- D. **City’s Invoices to District; District Cap.** The District shall reimburse the City for these costs on a monthly basis, within 30 days of an invoice and customary supporting documentation. The District will reimburse the City up to an amount not-to-exceed **\$2,400,000** for this work.
- E. **Collaboration; Sewer Plans & Specs.** City shall collaborate with the District throughout the development of the combined sewer design and include the District in meetings with the design team at key milestones throughout the project. City shall provide the District with 50%, 90% and 100% complete Plans and Specifications for the modifications, and the District shall have the opportunity to provide comment on the designs.
- F. **Change Orders.** City shall solicit District review and approval of any proposed contract change orders to the design or construction contracts prior to approving. The District shall review as quickly as possible but shall have up to (but no more than) 10 working days to review and approve any such change order. The District’s failure to respond by the 10 working day deadline shall be deemed approval by the District. If the District provides notice of disapproval or otherwise conditions or qualifies its approval, then the City, District and the contractor shall meet to resolve the issue.

- G. **City Ownership & Maintenance of Sewers.** At all times, the City will own the combined sewers and will be responsible for all maintenance.

**III. COMBINED SEWER, INTERCEPTING STRUCTURE &
METROPOLITAN INTERCEPTING SEWER (MIS) MODIFICATIONS IN
S. 7th STREET AND S. 8th STREET**

- A. **New MIS Work.** The following work will be completed to modify the existing combined sewers and construct new MIS sewers in 7th Street and 8th Street, to allow the River Channel to be lowered in this location:
1. The twin 8” combined sewer siphon in S. 7th Street currently flowing from north to south will be abandoned. See **Exhibit B**.
 2. Flow from that twin 8” combined sewer siphon will be rerouted into an 18” combined sewer on the north side of the River.
 3. The 18” combined sewer on the north side of the River will be disconnected from a District manhole, and reconnected to a City-owned combined sewer in S. 8th Street.
 4. A new intercepting structure will be placed in S. 8th Street on the north side of the River, above the existing 8’ x 5’ combined sewer.
 5. A new MIS will be constructed beneath the River at S. 8th Street to connect the new intercepting structure to the District’s existing MIS at S. 6th Street and W. Cleveland Avenue.
- B. **District Contracting and Paying for MIS Work.** The District will contract, and pay, for the design and construction of these modifications. The District will use a qualifications based selection process for the design. The District will use sealed bid process to select a construction contractor.
- C. **Collaboration; MIS Plans & Specs.** District shall collaborate with the City throughout the development of the sewer design and include the City in meetings with the design team at key milestones throughout the project. District shall provide the City with 50%, 90% and 100% complete Plans and Specifications for the combined sewer construction, and the City shall have the opportunity to provide comment on the designs.
- D. **Permits.** District will obtain any necessary permits from the City for this work, but the City shall waive any permit fees.
- E. **Oversight; Records; Inspection.** District shall provide construction oversight for the modifications and shall provide any and all records to the City upon request. The City shall have the opportunity to inspect the combined sewer construction at any time.

- F. **As-Builts.** District shall provide the City with as-built plans for the combined sewers upon the completion of the work.
- G. **City Ownership.** Upon completion of construction, the City will own the combined sewers and will have all maintenance responsibilities, and District shall provide City with a Quit Claim Deed for the combined sewers, which City shall record at its expense.
- H. **District Ownership.** The District will own and maintain the intercepting structure and the new MIS in the vicinity of S. 8th Street.
- I. **Possible Separation.** If, during the design process, the City elects (in its discretion) to have certain combined sewers in the Project area separated, City shall notify District of such, and the District will accommodate the separation and include the necessary storm sewer outfalls in the Project design and construction, with costs to be paid for by the City. The City shall perform the design of the sewer separation and shall submit this design to the District early in the Project design so that the District does not incur additional design costs to modify completed portions of the Project design. The District shall inform the City of the date the City is required to submit storm sewer outfall designs. The City shall pay the District for all design rework costs if the sewer separation design is submitted after this date.
- J. **Change Orders.** District shall solicit City review and approval of any proposed contract change orders to the design or construction contracts prior to approving. The City shall review as quickly as possible but shall have up to (but no more than) 10 working days to review and approve any such change order. The City's failure to respond by the 10 working day deadline shall be deemed approval by the City. If the City provides notice of disapproval or otherwise conditions or qualifies its approval, then the City, District and the contractor shall meet to resolve the issue.

IV. WATER MAIN LOCATIONS

- A. **City Water Mains.** The following water mains will be modified, relocated, or abandoned to accommodate the lowered River Channel. See **Exhibit C**.
1. 6"/8" at S. 7th Street
 2. 6"/8" at S. 8th Street
 3. 6"/8" at S. 9th Street
 4. 8" at S. 9th Place
 5. 6" at S. 10th Street
 6. 6"/8" at S. 11th Street
 7. 6" at S. 12th Street

8. 6" & 12" at S. 13th Street
9. 6" at S. 14th Street
10. 6" & 42" at S. 15th Street
11. 6" at S. 15th Place
12. 12" at S. 16th Street

- B. **District Contracting for Water Main Work.** The District will contract, and pay, for the design and construction of these water main modifications. The District will use a qualifications based selection process for the design. The District will use sealed bid process to select a construction contractor. The District's funding of the water main relocations was determined after District consideration of the District's Commission Policy 1-41.06).
- C. **Collaboration; Water Main Plans & Specs.** District shall collaborate with the City throughout the development of the water main design and include the City in meetings with the design team at key milestones throughout the project. District shall provide the City with 50%, 90% and 100% complete Plans and Specifications for water main work, and the City shall have the opportunity to provide comment on the designs. The City shall complete such review and provide any comments within 15 business days of receipt of the plans and specifications from the District for each watermain and within 30 business days of receipt of the plans and specifications for the 42" water main modification. The review time is not tracked concurrently between multiple submittals for separate water main locations.
- D. **Permits.** District will obtain any necessary permits from the City for this work, but the City shall waive any permit fees.
- E. **Oversight; Records; Inspection.** District shall provide construction oversight for the relocations and shall provide any and all records to the City upon request. The City shall also provide inspection of the water main construction..
- F. **Lead.** District shall construct the water mains and comply with all required measures to mitigate against lead exposure to the public per applicable City of Milwaukee ordinances.
- G. **Change Orders.** District shall solicit City review and approval of any proposed contract change orders to the design or construction contracts prior to approving. The City shall review as quickly as possible but shall have up to (but no more than) 10 working days to review and approve any such change order. The City's failure to respond by the 10 working day deadline shall be deemed approval by the City. If the City provides notice of disapproval or otherwise conditions or qualifies its approval, then the City, District and the contractor shall meet to resolve the issue.

- H. **Substantial Completion; City Ownership & Maintenance of Water Mains; Abandonment.** District shall conduct a substantial completion inspection of each water main modification with the contractor and the City. The District shall provide the City with acceptance test results for each water main at the substantial completion inspection. The City shall accept ownership of the water mains and acceptance of Quit Claim Deeds from the District for the water mains following the City's substantial completion approval of each structure. After acceptance of the Quit Claim Deeds, they shall be recorded at City's expense and City shall be responsible for water main maintenance. The District shall oversee the completion of any remaining punch list items within a reasonable time period following substantial completion. For existing water mains that City and District determine are to be abandoned, City will provide a Quit Claim Deed to District for the any such abandoned water main which deed District shall record at its expense.
- I. **As-Built; Manuals.** District shall provide the City with as-built plans and operations & maintenance (O&M) manuals within 30 days of the substantial completion date of each water main modification.

V. PARTIAL STREET AND ALLEY VACATIONS WITHIN THE AREA BOUNDED BY S. 6TH STREET, S. 13TH STREET, W. HARRISON AVENUE AND W. CLEVELAND AVENUE

- A. **Public Right-of-Way Vacation; District Vacation Petition.** The Project will require vacation of public right-of-way ("ROW") within the area bounded by S. 6th Street, S. 13th Street, W. Harrison Avenue and W. Cleveland Ave. See **Exhibits A-C**, areas labeled "Street/Alley Vacation in Process." The District, at its expense, shall petition the City under MCO 308-28 for the requisite vacation of ROW required for the Project.
- B. **Modifications to the Combined Sewer, Storm Sewer and Water Mains.** Notwithstanding subsection A above requiring the District to pay for the ROW vacation petition, certain expenses associated with the modification to combined sewer, storm sewer and water main that will be required as part of the ROW vacation are addressed in Articles II – IV above.
- C. **Street Lighting Modification.** Also notwithstanding subsection A above requiring the District to pay for the ROW vacation petition, the City will make modifications to the street lighting system and associated electrical infrastructure within the ROW areas to be vacated as follows.
1. **City Design & Work.** The City shall design and construct temporary modifications according to its policies and practices. The City will complete these temporary modifications within eight months following City recording of the City Common Council resolution approving vacation

(MCO 308-28-8). Final work will be completed to coincide with completion by MMSD of the Project.

2. **District Reimbursement; District Cap.** The District shall compensate the City for the City staff time and City cost associated with the design and construction of these modifications (with District having determined such after consideration of the District's Commission Policy 1-41.06), and the District shall make a payment deposit with the City to pay for these costs at such time as deposits are due in conjunction with the street and alley vacation procedure under MCO 308-28. The total deposit will be jointly determined by City (by its DPW Commissioner) and the District at the time of finalization of the ROW vacation report required by MCO 308-28. Currently, District and City estimate the District's maximum cap payment amount, as of the date hereof, at **\$513,500**.
3. **City Ownership & Maintenance of Street Lighting System.** At all times, the City will own the street lighting system and associated electrical infrastructure and will be responsible for all maintenance.

D. **Paving Work.** After recording of the vacation resolution (MCO 308-28-8), the District shall remove the existing pavement, walk, curb and gutter within the vacated ROW, and shall install, at its expense, new pavement, walk, curb and gutter, and turnarounds along the limits of the street and alley vacation area as part of the Project.

1. **District Contracting for Paving Work.** The District will contract for the design and construction of these pavement, walk, curb and gutter, and turnaround improvements. The District will use a qualifications-based selection process for the design. The District will use a sealed-bid process to select a construction contractor. The District's funding of these pavement, walk, curb and gutter, and turnaround improvements was determined after District consideration of the District's Commission Policy 1-41.06.
2. **Collaboration; Plans & Specs.** District shall collaborate with the City throughout the development of the pavement, walk, curb and gutter, and turnaround design and include the City in meetings with the design team at key milestones throughout the project. District shall provide the City with 50%, 90% and 100% complete Plans and Specifications for the work, and the City shall have the opportunity to provide comment on the designs. The design shall conform to the City's standard specifications for curbs, gutters, walks and pavement.
3. **Permits.** District will obtain any necessary permits from the City for this work, but the City shall waive any permit fees.

4. **Oversight; Records; Inspection.** District shall provide construction oversight and shall provide any and all records to the City upon request. City may inspect at any time.
 5. **Change Orders.** District shall solicit City review and approval of any proposed contract change orders to the design or construction contracts prior to approving. The City shall review as quickly as possible but shall have up to (but no more than) 10 working days to review and approve any such change order. The City's failure to respond by the 10 working day deadline shall be deemed approval by the City. If the City provides notice of disapproval or otherwise conditions or qualifies its approval, then the City, District and the contractor shall meet to resolve the issue.
 6. **Substantial Completion; City Ownership & Maintenance.** District shall conduct a substantial completion inspection with the contractor and the City. The City shall accept ownership of the new pavement, walk, curb and gutter, and turnarounds following City's substantial completion approval of each structure and following City's acceptance of a Quit Claim Deed for these facilities from District (which deed shall be recorded at City's expense), whereupon City shall own these facilities and be responsible for maintenance. The District shall oversee the completion of any remaining punch list items within a reasonable time period following substantial completion.
 7. **As-Builts; Manuals.** District shall provide the City with as-built plans and operations & maintenance (O&M) manuals within 30 days of the substantial completion date.
- E. **Benefit Assessment.** The City shall not charge the District for the Benefit Assessment for the properties in the ROW vacation area.

VI. MAINTENANCE ACCESS AND RECREATIONAL TRAIL

A. **District Design & Construction of Access Paths.** District will design and construct, at District's expense, an access path for maintenance purposes on both sides of the River Channel between S. 6th and S. 16th Streets at locations to be agreed upon by District and City. If the City desires (in its discretion) enhancements to allow this maintenance access path to be used for recreational purposes (e.g. pavement, signage), costs associated with those enhancements will be the City's responsibility.

B. **Collaboration; Plans & Specs.** District will collaborate with the City during the District's design of the access paths (maintenance access trails) to accommodate the design of recreational trails and any enhancements. The District shall provide the City

with 50%, 90% and 100% complete Plans and Specifications for trail, access path, and enhancement construction, and the City shall have the opportunity to provide comment on the designs.

C. ADA; Bike Fed. The District, in consultation with the City, shall ensure that the recreational enhancements of the trails (and that paths to be used by the public) shall comply with the accessibility requirements of the Americans with Disabilities Act and use design guidance from the Wisconsin Bicycle Facility Design Handbook as published by the Wisconsin Department of Transportation.

D. District Invoices for Enhancements. The District shall invoice the City quarterly for the City's share of the construction costs of the recreational enhancements (if any) . City shall pay the District within 30 days of receipt of the invoice(s).

E. Oversight; Records; Inspection. District shall provide construction oversight for this construction and shall provide any and all records to the City upon request. The City shall have the opportunity to inspect the trail and improvement construction at any time.

F. Change Orders. District shall solicit City review and approval of any proposed contract change orders to the design or construction contracts prior to approving. The City shall review as quickly as possible but shall have up to (but no more than) 10 working days to review and approve any such change order. The City's failure to respond by the 10 working day deadline shall be deemed approval by the City. If the City provides notice of disapproval or otherwise conditions or qualifies its approval, then the City, District and the contractor shall meet to resolve the issue.

G. Substantial Completion; City Ownership & Maintenance of Enhancements. District shall conduct a substantial completion inspection of each trail segment with the contractor and the City. The City shall accept ownership of the recreational enhancements of each trail segment following City's approval of substantial completion of each segment and City acceptance of a Quit Claim Deed for enhancements (which deed City shall record at its expense), and City shall be responsible for maintenance of enhancements after City ownership. The District shall oversee the completion of any remaining punch list items within a reasonable time period following substantial completion.

H. As-Builts; Manuals. District shall provide the City with as-built plans and operations & maintenance (O&M) manuals within 30 days of the substantial completion date of each trail enhancement.

I. District Ownership & Maintenance of Trails. The District will own and maintain the maintenance access trails.

VII. GREEN INFRASTRUCTURE

District will evaluate green infrastructure installation at each of City of Milwaukee's storm sewer outfall locations within the Project limits, including those the City proposes to install as part of the City's sewer separation plan. Examples of green infrastructure may include bioswales or regenerative stormwater conveyance (e.g. tiered wetland or bioswale).

- A. **Contracting for Work.** District will contract, and pay, for the design and construction of the green infrastructure.
- B. **Collaboration; Plans & Specs.** District shall collaborate with the City throughout the development of the green infrastructure design and include the City in meetings with the design team at key milestones throughout the project. The District will provide the City with 50%, 90% and 100% complete Plans and Specifications of the green infrastructure to ensure the design shall not impact the conveyance capacity of the storm sewer.
- C. **District Ownership & Maintenance.** District shall own and maintain the green infrastructure located on District-owned property.

VIII. REAL ESTATE

District will provide easements and/or deeds as required to the City at no cost for all City-owned or maintained assets impacted by this Agreement including but not limited to bridges, combined sewers, storm sewers, water mains, fiber optic cable, street lighting, recreational amenities within 90 days from completion of the construction or relocation of the asset, or as otherwise required by this Agreement, in form and substance meeting City's and District's approval.

IX. PUBLIC INVOLVEMENT

District and the City will coordinate to perform mutually acceptable public outreach efforts throughout the design and construction phases of the Project to provide information about the Project and obtain public feedback on various aspects of the Project design.

X. NOTICES; GENERAL REVIEW

The District will provide notices to City hereunder to:

Samir Amin, City Engineer
City - DPW – Infrastructure Services Division
841 N. Broadway, Room 701
Milwaukee, WI 53202
(414) 286-2400

The City will provide notices to District hereunder to:

Patrick Elliott, Senior Project Manager
Milwaukee Metropolitan Sewerage District
260 West Seeboth Street
Milwaukee, Wisconsin 53204-1446
pelliot@mmmsd.com
(414) 225-2168

To the extent not otherwise specified or provided for in this Agreement, where a party's review and approval is needed hereunder, that party shall endeavor to act promptly and to provide the review and comments and/or approval within 30 days of receipt of the request and supporting documentation from the other party.

XI. MODIFYING THIS AGREEMENT

Any modification or amendment to this Agreement must be in writing and signed by both Parties.

XII. SEVERABILITY

If a court finds any part of this Agreement unenforceable, then the remainder of this Agreement continues in effect.

XIII. AUTHORITY OF SIGNATORIES; COUNTERPARTS; HEADINGS.

Each person signing this Agreement certifies that the person is properly authorized by the Party's governing body to execute this Agreement. This Agreement may be signed in one or more counterparts which, when taken together, shall constitute one and the same document. Facsimile or email-provided signatures shall be accepted as originals. Headings used herein are for convenience only.

XIV. INDEMNIFICATION

To the fullest extent permitted by law, the District shall indemnify the City for, and hold it harmless from all liability, claims and demands on account of personal injuries, property damage and loss of any kind whatsoever, including workers' compensation claims, which arise out of or are in any manner connected to the work performed by the District hereunder, based on any injury, damage or loss being caused by any wrongful, intentional, or negligent acts or omissions of the District, its agents, or employees.

To the fullest extent permitted by law, the City shall indemnify the District for, and hold it harmless from all liability, claims and demands on account of personal injuries, property damage and loss of any kind whatsoever, including workers' compensation claims, which arise out of or are in any manner connected to the street lighting and associated electrical work performed by

the City hereunder, based on any injury, damage or loss being caused by any wrongful, intentional, or negligent acts or omissions of the City, its agents, or employees.

Nothing herein waives or compromises the parties' respective rights under Wis. Stat. 893.80.

XV. INSURANCE

The District is a special purpose municipal entity with the authority to levy taxes, and as such, is self-insured for general liability and workers' compensation under Wis. Stat. 102, 893.80 and 895.46(1). The District shall ensure that all contractors performing work on its behalf under this Agreement provide proof of insurance for Comprehensive General Liability, Worker's Compensation, Motor Vehicle Liability, Contractor's Pollution Liability, Umbrella/Excess Liability and Builder's Risk; the District shall ensure that the City is added as an additional insured whenever the District is added as an additional insured.

Likewise, the City shall ensure that all contractors performing work on its behalf under this Agreement provide proof of insurance for Comprehensive General Liability, Worker's Compensation, Motor Vehicle Liability, Contractor's Pollution Liability, Umbrella/Excess Liability and Builder's Risk; the City shall ensure that the District is added as an additional insured whenever the City is added as an additional insured.

XVI. CITY CONTINGENCY FOR CITY FUNDING & CONTRACTING

Notwithstanding anything to the contrary contained herein, City's duties hereunder requiring City expenditure of City funds and/or requiring City expense hereunder (including, but not limited to, City paying for a percentage of bridge work as per I.D., City contracting for sewer work as per II.B., City paying for possible separation of sewers as per III.I., City paying for street lighting modification as per V.C. above [if not covered by District's deposit per V.C.2.], and City paying for enhancements per VI. above), and City's duties hereunder requiring City entry into contracts for City sewer work (II.B.) and City entering into any other contracts with third parties for any other City work required under this Agreement, are contingent upon approval of a duly passed and adopted City of Milwaukee Common Council resolution authorizing such expenditure and/or expense and/or contracting as the case may be. The City shall provide written notice to the District within 30 days after each such resolution authorizing the expenditures listed above has been adopted by the Milwaukee Common Council.

IN WITNESS WHEREOF, District and City have caused this Agreement to be executed by their duly authorized signatories as of the date first written above.

CITY: CITY OF MILWAUKEE By: _____ Jeff Polenske, DPW Commissioner	DISTRICT: MILWAUKEE METROPOLITAN SEWERAGE DISTRICT By: _____ Kevin L. Shafer, P.E., Executive Director
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James R. Owczarski, City Clerk

COUNTERSIGNED:

Martin Matson, Comptroller

Common Council Res. # _____

CITY ATTORNEY APPROVAL

The undersigned hereby approves the signatures of the City representatives above per MCO 304-21.

By: _____
Gregg Hagopian, Asst. City Attorney
State Bar No. 1007373

Date: _____

**Approved by MMSD Division of
Legal Services**

By: _____
Susan Anthony, Director of Legal
Services,
State Bar No. 1017288