

**Intergovernmental Cooperation Agreement  
between the  
Milwaukee Metropolitan Sewerage District  
and the  
City of Milwaukee  
For Improvements to Stormwater Management  
in the North 30<sup>th</sup> Street Corridor**

**1. Parties**

This Intergovernmental Cooperation Agreement (Agreement) is made between the Milwaukee Metropolitan Sewerage District (District), acting through its Executive Director, and the City of Milwaukee (City), acting through its Commissioner of Public Works. The Parties make this Agreement according to Wis. Stat. sec. 66.0301.

**2. Purpose**

The purpose of this agreement is to delegate responsibilities and establish relationships to identify infrastructure improvements to be undertaken by the District and the City so as to reduce property damage, economic losses, and unsafe conditions caused by flooding in the area around North 30<sup>th</sup> Street, between West Townsend Street and West Hampton Avenue (North 30<sup>th</sup> Street Corridor).

**3. Basis for this Agreement**

- A. Flooding has reoccurred in the North 30<sup>th</sup> Street Corridor. Damages from the July 2010 event alone exceed \$32 million. In extreme wet weather events, flood damage is likely to continue to occur without improvements to the District and City infrastructure serving the North 30<sup>th</sup> Street Corridor.
- B. The North 30<sup>th</sup> Street Corridor drains to Lincoln Creek. The District has made substantial investments to reduce the risk of flooding along Lincoln Creek north of the North 30<sup>th</sup> Street Corridor. As a result of the area's topography, historical development patterns, and the limited capacity of existing infrastructure, flooding continues to occur in areas within the Lincoln Creek watershed, but outside of the Lincoln Creek floodplain. When reducing flooding in the areas outside of the Lincoln Creek floodplain, stormwater needs to be managed to prevent increasing flooding along Lincoln Creek.
- C. In the northeastern portion of the North 30<sup>th</sup> Street Corridor, stormwater from the City's separate storm sewers flows to Lincoln Creek through a combined sewer overflow and outfall owned and operated by the District. During extreme wet weather events, Lincoln Creek submerges the outfall, reducing drainage capacity. Providing storage upstream of the combined sewer overflow and diverting stormwater away from the combined sewer

overflow has the potential to mitigate this drainage problem and reduce the risk of surface flooding.

- D. Reducing the amount of stormwater entering basements will reduce peak flows in the sanitary sewerage system, reducing the risk of overflows.
- E. Reduced flood risks and additional green infrastructure are likely to promote redevelopment within the North 30<sup>th</sup> Street Corridor.
- F. The District completed a planning level report in November 2013 that describes improvements that would reduce flood damage in the area: *30<sup>th</sup> Street Corridor Stormwater Study, North Section* Project M03062P01 (the *Study*). These improvements include detention basins and new or modified City-owned storm sewers.
- G. This Agreement describes the individual responsibilities of the District and the City. This Agreement serves as the basis for work outlined in this Agreement.
- H. Coordinated efforts will provide better results than could be achieved by the District or the City acting separately.
- I. A railroad right-of-way transects the North 30<sup>th</sup> Street Corridor from north to south. The entire recommended alternative, as described in the *Study*, includes elements on both the east and west sides of this right-of-way. The elements on the east side include, but are not limited to, two (2) detention basins and associated conveyance structures. The elements on the west side include, but are not limited to, one (1) detention basin and associated conveyance structures. This Agreement applies only to the elements on the east side. For the elements on the west side, the District will complete preliminary engineering and design elements as necessary to ensure compatibility, system functionality, and consistency for the entire recommended alternative.

#### **4. Effective Dates**

This Agreement becomes effective on its execution by both parties and terminates upon completion of construction of the detention basins and related infrastructure east of the railroad right-of-way and any reimbursement required by Section 7B, D, or K or upon termination by the City or the District under Section 16. The operation and maintenance requirements of Sections 6K and 7L survive the termination of this Agreement.

#### **5. Definitions**

- A. “District Components” consist of two stormwater basins to store approximately 23.5 acre feet of stormwater, as shown in Figure 1 and as described in the *Study*, pages 67 to 71.

- B. “City Components” consist of stormwater conveyance systems to convey stormwater to, between, and out of the basins constructed by the District, as shown in Figure 1 and as described in the *Study*, pages 67 to 71.

## 6. District Responsibilities

The District will:

- A. contract for completion of preliminary engineering; final design, including bid documents; and construction of District components.
- B. procure a consultant or consultants to perform preliminary engineering, final design engineering, and engineering services during construction (ESDC);
- C. for the preliminary engineering phase, request that consultants provide proposals that include both District Components and City Components and the costs for each;
- D. for final design and ESDC, request that consultants provide proposals that include both District Components and City Components, if the City has requested that City Components be combined with District Components;
- E. acquire all real estate interests, as necessary to construct District Components. The District anticipates the acquisition of ten (10) parcels located on 30<sup>th</sup> Street. The City owns two (2) of these parcels. The City may acquire one (1) additional parcel during the 2014 calendar year by in-rem tax foreclosure pursuant to Wis. Stat. sec. 75.521. Any transfer of real estate from the City to the District is subject to approval by the Common Council of the City of Milwaukee;
- F. deconstruct or demolish structures, as necessary to construct District Components;
- G. pay for the relocation of City utilities within the construction footprint of District Components;
- H. manage contaminated soil, groundwater, or other hazardous materials, as necessary to construct District Components;
- I. perform all resident inspection and resident engineering for District Components. If requested by the City, then the District will perform resident inspection and resident engineering for City Components;
- J. before invoicing the City, give the City an opportunity to review all proposed invoices; and
- K. own, operate, and maintain District Components to the point of connection with City Components.

## 7. City Responsibilities

The City will:

- A. for preliminary engineering, designate one individual to participate on the District's consultant selection committee;
- B. reimburse the District for costs reasonably associated with preliminary engineering consultant work related to City Components. The City may withhold payment for services not reasonably associated with City Components;
- C. upon completion of preliminary engineering, notify the District regarding whether the City will utilize the District's consultant for final design and ESDC for City Components;
- D. if the City utilizes the District's consultant for final design and ESDC, then:
  - i. reimburse the District for work related to City Components; and
  - ii. indicate whether the bid documents for the City Components should be part of the District's bid documents and in accordance with District standards or should stand alone and be prepared according to City standards.
- E. if the City does not utilize the District's consultant for final design and ESDC, then:
  - i. complete final design and provide ESDC for the City Components; and
  - II. coordinate plans, specifications, and schedules with the District;
- F. relocate utilities, sewer infrastructure, and streets, as necessary for the City Components;
- G. waive cost assessment to the District for:
  - i. unrealized useful life for relocated City utilities, sewer infrastructure, and streets; and
  - ii. fees and assessments related to vacation of streets and utilities;
- H. provide real estate interests in any property owned by the City, as needed to complete construction of District components. These interests may include permanent easements, temporary easements for construction, rights of entry, or other real estate interests, which will be determined as design is completed. The City will provide these real estate interests at no cost to the District;
- I. utilize green infrastructure to the maximum extent practical in stormwater conveyance facilities and street construction, in consultation with the District;

- J. at no cost to the District, provide the District and the District's contractors with any permits or easements necessary to perform the District's work;
- K. if the District is performing resident inspection or resident engineering for City Components, then reimburse the District for the reasonable costs for these services. The City may withhold payment for services not reasonably associated with City Components; and
- L. own, operate, and maintain the City Components.

## **8. Coordination of Design, Construction, and Maintenance**

- A. At the conclusion of preliminary engineering, the District and the City will determine their respective points of responsibility, including where each Party's ownership begins and ends. The District will be responsible for internal conditions within the basins, such as structural integrity and vegetation maintenance. The City will be responsible for the sewers that convey stormwater to, between, and out of the basins, including the inlet and outlet structures for these sewers at the basins. When plans and specifications are essentially (90%) complete, the District and the City will review the initial points of responsibility and adjust them, if necessary.
- B. The Parties will coordinate design and construction. The Parties will harmonize their design schedules, design specifications, and construction schedules.
- C. The Parties will regularly update each other regarding the progress of their respective work.
- D. The Parties will contact each other through the persons identified in Section 14.
- E. Each Party will update the other and share reports, plans, specifications, schedules, or any other information related to planning, design, and construction of the project in a timely manner as information becomes available and according to milestones and review targets established in the consultant's scope of work.
- F. Upon completion of construction, each Party will provide the other Party with:
  - i. as-built plans and specifications in an electronic format acceptable to the other Party and
  - ii. maintenance plans.
- G. The District will lead the development and implementation of local public stakeholder involvement programs. The District will do this work in cooperation with the City. If the City receives comments from local stakeholders, then the City will share these comments

with the District. The District will arrange public involvement for stakeholders, with support from the City.

- H. The District and the City will review design and construction cost estimate revisions as the information becomes available and will inform each other regarding how this information relates to the ability of each Party to budget and schedule the work.
- I. If a party determines that it will not have sufficient funding to fulfill its responsibilities under this Agreement, then the party will notify the other party. After this notice, the parties will collaborate to determine whether to suspend, modify, or terminate this Agreement.

## **9. Funding**

Each Party is responsible for funding respective Components that it designs, constructs, operates, and maintains under this Agreement, except as indicated in any future modifications to this Agreement. If the City or the District is unable to fund its obligations under this Agreement, then the City and the District will collaborate to determine whether to suspend, modify, or terminate this Agreement.

## **10. Modifying this Agreement**

The Parties may modify this Agreement only by a written amendment signed by both Parties.

## **11. Severability**

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

## **12. Applicable Law**

The laws of the State of Wisconsin apply to this Agreement.

## **13. Resolving Disputes**

If a dispute arises under this Agreement, then the Parties will try to resolve it with the help of a mutually acceptable mediator in Milwaukee County. The Parties will equally share any costs and fees associated with the mediation, other than attorney fees. If the dispute is not resolved within 30 days after the Parties refer it to a mediator, then either Party may take the matter to court. Venue in any action brought under this Contract is proper only in either the Circuit Court for Milwaukee County or the United States District Court for the Eastern District of Wisconsin.

## **14. Notices**

A. The District will send notices to:

Tim Thur, Chief Sewer Design Manager  
City of Milwaukee, Department of Public Works  
841 North Broadway, Room 501  
Milwaukee, Wisconsin 53202  
414-286-2463  
timothy.thur@milwaukee.gov

B. The City will send notices to:

Jerome Fogel, Senior Project Manager  
Milwaukee Metropolitan Sewerage District  
260 West Seeboth Street  
Milwaukee, Wisconsin 53204-1446  
414-225-2161  
jfogel@mmsd.com

## **15. Conflict of Interest**

No officer, employee, or agent of the District or the City who has any responsibility for implementing this Agreement may have any interest in any consultant, contractor, or vendor providing services to the District or the City under this Agreement.

## **16. Termination**

Either Party may terminate this Agreement at any time. To terminate this Agreement, a Party will provide written notice to the other Party. This notice will indicate the effective date of termination and the reasons for termination.

## **17. Independence of the Parties**

This Agreement does not create a partnership. Neither Party may enter into contracts on behalf of the other Party.

## **18. Authority of Signatories**

Each person signing this agreement certifies that the person is properly authorized by the Party's governing body to execute this Agreement.

**19. Indemnification**

The City and the District will be liable for their own negligent acts, errors, and omissions. If litigation requires one Party to respond for the acts, errors, or omissions of the other Party, then the City and the District will hold each other harmless for any losses, damages, costs, or expenses, including, but not limited to, reasonable attorney's fees and litigation expenses

**MILWAUKEE METROPOLITAN  
SEWERAGE DISTRICT**

**CITY OF MILWAUKEE**

By: \_\_\_\_\_  
Kevin L. Shafer, P.E.  
Executive Director

By: \_\_\_\_\_  
Ghassan Korban  
Commissioner of Public Works

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to form

Countersigned

\_\_\_\_\_  
Attorney for the District

\_\_\_\_\_  
Comptroller

Approved as to form

\_\_\_\_\_  
Attorney for the City



Figure 1

