

Memorandum of Understanding (MOU)
Between the
City of the Milwaukee and the
Wisconsin Department of Transportation (WisDOT) (“The Parties”)
For
The Local Streets Project
WisDOT Project ID 1060-05-07

The purpose of this memorandum of understanding (the “MOU”) is to document the agreements in principle made between the *Parties*. The Local Streets project includes the segment of W. St. Paul Avenue from 13th Street to 4th Street; W. Clybourn Street from North 6th Street to North 2nd Street, and North Plankinton Avenue to the Milwaukee River; North 2nd Street, North 3rd Street, North 4th, North 5th Street and North Plankinton Avenue from W. Clybourn Street to St. Paul Avenue, the east-west alley way between 3rd Street and 2nd Street, and portions of the east-west alley way between 4th Street and 3rd Street. Streetscape items that have been identified in the City of Milwaukee’s Downtown Master plan, at North 6th Street and West Clybourn Street, North 5th Street and West St. Paul Avenue, and North 4th Street and West St. Paul Avenue, should be incorporated into the scope of this project.

Both *Parties* agree to continue to work together and cooperate to minimize the financial impact to the Citizens of Wisconsin. The *Parties* agree to meet regularly during the project to eliminate utility impacts if possible and cost effectively relocate facilities where necessary. The *Parties* agree to freely exchange information and make the project a top priority within their respective organizations.

It is understood that this MOU is a “living” document and revisions will be made and noted as the project progresses and issues are identified and resolved. This MOU in no way supersedes, replaces, or supplements any prior agreement or negotiations entered into between the parties relating to this subject matter.

Item 1 – Timing of Notices

The *Parties* agree that notices, including, but not limited to, Forms DT1077 and DT1078, will be issued at a mutually agreed upon date set by the *Parties*. This date will be set by the *Parties* during the regularly scheduled utility coordination meetings held on the project. One DT1077 form will be issued to the City requesting information on all currently existing facilities. This information will be incorporated into the design plans. Once conflicts between the existing facilities and proposed design have been identified, a separate DT1078 notice will be issued for each City unit that has relocations and/or alterations necessitated by the proposed design. The DT1078s will be sent to the City Engineer and internally distributed. Each City unit affected will be responsible for responding to the DT1078 request by providing a work plan which will address/mitigate all identified conflicts. This information will be returned via one internally coordinated response from the City Engineer.

Item 2 – City Utility Relocation Activities

The *Parties* agree to work towards relocating as many of the utility conflicts as practical prior to and/or in coordination with the Local Streets project reconstruction activities. During the relocation process, the *Parties* agree to use their best efforts to coordinate the WisDOT contract awards with the utility relocation schedules.

City of Milwaukee will be responsible for the planning, design, construction, inspection and management of any replacement, abandonment, reconstruction of City Facilities including City of Milwaukee Water, City of Milwaukee Sewer and City of Milwaukee Cable/Conduit prior to and/or in coordination with construction of Local Streets project.

The purpose of this is to allow the WisDOT contractor to control as much as possible the schedule of all the activities that are associated with their work area.

Item 3 – WisDOT Responsibilities

The WisDOT agrees to the following, unless otherwise noted:

- Design all elements of roadway for Local Streets project excluding City traffic signals, street lighting, and signing.
- Obtain concurrence and any required permitting from the WisDNR and City of Milwaukee (no fee permits).
- Let, manage and inspect the roadway construction.
- Include non-participating items for adjusting City manholes, water boxes, and the emergency watermain replacement in West St. Paul Avenue from North 4th Street to North 5th Street.

Item 4 – City Responsibilities

The City agrees to perform the following work, including participating in 100% of the cost:

- Planning, design, construction, inspection and management of any replacement, abandonment, reconstruction of City Facilities including City of Milwaukee Water, City of Milwaukee Sewer and City of Milwaukee Cable/Conduit prior to and/or in coordination with construction of Local Streets project.
- 100% payment of non-participating work listed in Item No. 3 above.
- Timely review and comments of road plans.

Item 5 – Liability

Either Party proposing to make adjustments to facilities on roadways within the limits of the Local Streets project shall be required to request layouts of underground structures and facilities from the other Party before performing work of such a nature that may cause damage to existing underground structures of facilities. The proposing Party shall be required to take precautionary measures to avoid damage to such underground structures and facilities. The other Party shall supply the requesting Party with a complete record of the existing underground structures and facilities and any changes or revisions thereto as may take place in the future.

In the event that any person or persons make claim for injury or damage arising from the alleged malfunctioning of a facility, the *Parties* have the following mutual understandings: WisDOT acknowledges that

if the law makes its officers or employees liable, the State will indemnify its officers and employees acting within the scope of their employment as required by Wis. Stat. 895.46(1)(a). 78 OAG1 (1989). The City acknowledges that if the law makes the City responsible by reason of the insufficiency or want of repairs of any highway that the City is bound to keep in repair, the City will pay the damages in accordance with Wis. Stat. 81.15. The *Parties* agree that each is responsible for maintenance activities, as indicated on the attached table. The *Parties* agree that WisDOT shall include in all of its construction contracts a requirement that the contractor and the contractor's insurer defend, indemnify and hold harmless the State, its officers and employees, and the City and its officers and employees, from all suits, actions, or claims of any character brought against them separately or jointly as specified in 107.12 of the WisDOT Standard Specifications for Highway and Structure Construction 2003 Edition, and subsequent revision.

Item 6 – Compensation

Federal and/or State transportation fund financing will be 100% participation in the costs of the following items:

1. Design Engineering related to roadway work, excluding design of City sewer, water, and communication facilities as listed in Item No. 4.
2. Design Engineering related to LFA/AUP contracts.
3. The grading, base, pavement, and curb and gutter
4. Catch Basins and inlets for surface water drainage of the improvement, with connections to the storm sewer main
5. Construction engineering incident to inspection and supervision of actual roadway construction work.
6. Signing and pavement marking
7. Storm sewer mains necessary for the surface water drainage within the project limits
8. Replacement of sidewalks and private driveways resulting from roadway construction.
9. New installations or alteration resulting from roadway construction of City lighting, traffic signals, signs, underground lighting and signal conduits, pull boxes and bases.
10. Steel light poles (non-standard) in West St. Paul Avenue from North 8th Street to North 4th Street.

The City of Milwaukee agrees to finance entirely any repair of damages to their roads or streets caused by reason of their use in hauling materials incident to the improvement. All haul roads proposed to be used by the Contractors will be reviewed by the City of Milwaukee.

Item 7 – Contaminated Soils

The *Parties* agree that in any circumstances where environmentally impacted soil is generated from a City of Milwaukee property as a result of work by WisDOT or its contractor, WisDOT shall profile, handle and transport such waste in a manner consistent with any and all applicable federal and state statutes and regulations. WisDOT will participate in costs for profiling, handling, transporting, and disposing of environmentally impacted soils from within any public rights-of-way only as it relates to the Local Street Project Construction.

Item 8 – No Third Party Beneficiary Rights

Nothing in this MOU accords any third party beneficiary rights whatsoever on any non-party that may be enforced by any non-party to this MOU.

Dated: _____

Dated: _____

Kevin Chesnik, DTSD Administrator
Wisconsin Department of Transportation

Commissioner of Public Works
City of Milwaukee