

Memorandum of Understanding (MOU)
Between the
City of Milwaukee and the
Wisconsin Department of Transportation (WisDOT) ("The Parties")
For
The Marquette Interchange Project

The purpose of this memorandum of understanding (the "MOU") is to document the agreements in principle made between the Parties. The Marquette Interchange project means all highways, including ramps and shoulders, encompassing I 43, I 94 and I 794 in Milwaukee County within the area bordered by 25th Street to the west, North Avenue to the north, the southern end of the Burnham Canal to the south, and the Milwaukee River to the east.

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, issues are identified and resolved.

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. It is anticipated that separate 1078 notices will be issued for each City of Milwaukee Departments work within the Project.

Item 2 – Placement of Utilities on Bridges

The WisDOT agrees to allow existing facilities to be reconstructed onto the new structures in accordance with the "Agreement for Payment for Relocation or Replacement of Municipal Utility Facilities Located on Public Held Land Required by Freeway Construction" herein referred as the Municipal Agreement, for the following locations:

Walnut Street (communications)	Highland Avenue (communications)
Winnebago Street (communications)	State Street (communications)
Wells Street (communications)	Wisconsin Avenue (communications)
16th Street (communications)	25 th Street (communications)
Tory Hill (communications & water)	

The City will provide detailed information at each bridge crossing including operating pressures, weights, location and type of facilities it would like to place on the bridge. The

Parties will mutually agree on the location and details (hangers, etc.) for each facility crossing to be placed on a new bridge.

Item 3 – CITY UTILITY RELOCATION ACTIVITIES

The Parties agree to work towards relocating as many of the utility conflicts as practical prior to the Marquette interchange 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. The WisDOT agrees to allow The City, in accordance with the Municipal Agreement, to include mutually agreed upon relocation activities in the WisDOT interchange reconstruction contracts. The design and construction activities will be accomplished according to the attached Utility Design and Construction Table.

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

Item 4. Liability

Either Party proposing to make adjustments to facilities on roadways within the limits shown in the attached table, shall be required to request layouts of underground structures and facilities from the other Party before performing work on such a nature that may cause damage to existing underground structures or 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 revision 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 OAG 1 (1989). The City acknowledges that if the law makes the City responsible by reason of the insufficiency or want of repairs of any highway which 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 Supplemental Specifications for Highway and Structure Construction 2001 Edition.

Item 5 – Compensation

The Parties agree to use three Municipal Agreements to provide compensation to The City of Milwaukee for utilities. The three entities shall be the City of Milwaukee Water, City of Milwaukee Sewer and City of Milwaukee Cable/Conduit ~~(lighting)~~. The municipal agreement shall be DT1575 "Agreement for Payment for Relocation or Replacement of Municipal Utility Facilities Located on Public Held Land Required by Freeway Construction". (Attached)

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

1. The grading, base, pavement, and curb and gutter.
2. Catch Basins and inlets for surface water drainage of the improvement, with connections to the storm sewer main.
3. Construction engineering incident to inspection and supervision of actual roadway construction work.
4. Signing and pavement marking.
5. Storm sewer mains necessary for the surface water drainage within the project limits.
6. Replacement of sidewalks and private driveways resulting from roadway construction
7. New installations or alteration resulting from roadway construction of standard City street lighting and traffic signals or devices
8. Real Estate for the improvement
9. Engineering and state review services
10. Construction Traffic Mitigation

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. In addition, bridge widths in excess of standards have been requested at the following locations and the City of Milwaukee will participate at a rate shown in the following table for these improvements.

Improvement	Total Cost	City Share	City Amount
Winnebago Street Bridge Widening & Sidewalk	\$342,434	25%	\$85,608
Wisconsin Avenue Bridge Widening	\$269,305	100%	\$269,305
Fond-du-Lac new sidewalk	\$184,322	25%	\$46,080
Total	\$796,061		\$400,993

The City will also reconstruct at State cost, under a separate City construction contract, the portion of 11th Street between Highland and Juneau Avenues at an estimated cost of \$67,000.

Item 6 - Contaminated Soils

The Parties agree that in any circumstance 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.

Item 7 - Streets to be Discontinued

The use of the following streets for vehicular and pedestrian traffic shall be discontinued due to the construction of the Marquette Interchange.

Juneau Avenue between 11th Street and 12th Street.
11th Street between Wells and Tory Hill
11th Street for a half block north of Highland Avenue (vehicular use only)
Hinman Street between Clybourn and St. Paul Avenue
10th Street between Michigan and St. Paul Avenue
Hibernia between Tory Hill and St. Paul Avenue
8th Street south of St. Paul Avenue

Item 8 - New Streets to be Constructed and Transferred to the City of Milwaukee

The following streets shall be constructed by WisDOT during the reconstruction of the Marquette Interchange and transferred to the City of Milwaukee.

11th Street between State Street and Highland Avenue
11th Street between Wells and Tory Hill

Item 9 - Local Streets with Freeway Retaining Wall TieBacks Placed Under them

The following streets shall have freeway retaining wall tiebacks placed under them. The City of Milwaukee agrees to not vacate the streets without concurrence from WisDOT. WisDOT agrees to provide to the City of Milwaukee copies of the as-built construction drawings.

12th Street between Winnebago Street and Highland Avenue
11th Street between Highland Avenue and Juneau Avenue
11th Street between State Street and Wells Street.
10th Street between Wells Street and Michigan Avenue
Clybourn Street between 25th Street and 13th Street.

Item 10 - 11th Street Realignment

11th Street will be realigned between Wells Street and Tory Hill. The realignment shall take the street over I-43, east of Marquette University's Carpenter Tower. A new intersection will be constructed on the Wisconsin Avenue Bridge over I-43.

Item 11 – Staging Areas During Construction

It is WisDOT's intent to use the existing Park East Freeway Right of Way between I-43 and 6th Street as a construction staging area.

Item 12 - 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: _____

Gary Whited
Wisconsin Department of Transportation

Mariano Schifalacqua
City of Milwaukee

**Marquette Interchange
Maintenance Agreement Table**

Roadway	City of Milwaukee	DOT	Other	Remarks
I-43 (North Ave. - National Ave.) I-94/794 (26th - Water St.) Roadway & Ramp O&M Freeway Bridges O&M Freeway Retaining Walls O&M Lighting O&M Lighting Energy Storm Sewer O&M		X X X X X X		
Walnut Street (10th - 12th St.) Roadway/ Sidewalk O&M Bridge O&M Deck Drain Maintenance Lighting / Signal O&M Lighting / Signal Energy Aesthetic Maintenance Storm Sewer O&M	X X X X X X	 X 		To be Assigned to local interest group
Fond du Lac Avenue (8th - 13th St.) Roadway/ Sidewalk O&M Bridge O&M Deck Drain Maintenance Lighting / Signal O&M Underdeck Lighting O&M Lighting / Signal Energy Aesthetic Maintenance Storm Sewer O&M	X X X X X X	 X X X 		Ramp Terminals by DOT To be Assigned to local interest group
Winnebago St. (10th - 12th St.) Roadway/ Sidewalk O&M Bridge O&M Deck Drain Maintenance Lighting / Signal O&M Lighting / Signal Energy Aesthetic Maintenance Storm Sewer O&M	X X X X X X	 X X 		To be Assigned to local interest group

Juneau Avenue (Cul de sac) Roadway/ Sidewalk O&M Lighting / Signal O&M Lighting / Signal Energy Aesthetic Maintenance Storm Sewer O&M	X X X X X			To be Assigned to local interest group
Highland Avenue (10th - 12th St.) Roadway/ Sidewalk O&M Bridge O&M Deck Drain Maintenance Lighting / Signal O&M Lighting / Signal Energy Aesthetic Maintenance Storm Sewer O&M	X X X X X X	X		Ramp Terminals By DOT To be Assigned to local interest group
State Street (9th - 12th St.) Roadway/ Sidewalk O&M Bridge O&M Deck Drain Maintenance Lighting / Signal O&M Lighting / Signal Energy Aesthetic Maintenance Storm Sewer O&M	X X X X X X	X		To be Assigned to local interest group
Wells Avenue (10th - 11th St.) Roadway/ Sidewalk O&M Bridge O&M Deck Drain Maintenance Lighting / Signal O&M Lighting / Signal Energy Aesthetic Maintenance Storm Sewer O&M	X X X X X X	X		To be Assigned to local interest group
Wisconsin Avenue (10th - 12th St.) Roadway/ Sidewalk O&M Bridge O&M Deck Drain Maintenance Lighting / Signal O&M Lighting / Signal Energy Aesthetic Maintenance Storm Sewer O&M	X X X X X X	X		Ramp Terminal by DOT To be Assigned to local interest group

Tory Hill/Michigan (9th - 13th St.) Roadway/ Sidewalk O&M Bridge O&M Deck Drain Maintenance Lighting / Signal O&M Underdeck Lighting O&M Lighting / Signal Energy Aesthetic Maintenance Storm Sewer O&M	X X X X X X X	X		Bridge over Ramp Ramp Terminals by DOT To be Assigned to local interest group
11th Street (Juneau - Highland) Roadway/ Sidewalk O&M Lighting / Signal O&M Lighting / Signal Energy Aesthetic Maintenance Storm Sewer O&M	X X X X X			To be Assigned to local interest group
11th Street (Highland - Tory Hill) Roadway/ Sidewalk O&M Bridge O&M Deck Drain Maintenance Lighting / Signal O&M Underdeck Lighting O&M Lighting / Signal Energy Aesthetic Maintenance Storm Sewer O&M	X X X X X X X	X X		Connects to Wisconsin Ave For I-43 To be Assigned to local interest group
10th Street (State St. - Tory Hill) Roadway/ Sidewalk O&M Retaining Wall O&M Lighting / Signal O&M Lighting / Signal Energy Aesthetic Maintenance Storm Sewer O&M	X X X X X	X		To be Assigned to local interest group

16th Street (Clybourn - St. Paul) Roadway/ Sidewalk O&M Bridge O&M Deck Drain Maintenance Lighting / Signal O&M Lighting / Signal Energy Aesthetic Maintenance Storm Sewer O&M	X X X X X X X				To be Assigned to local interest group
13th Street (Clybourn - St. Paul) Roadway/ Sidewalk O&M Lighting / Signal O&M Underdeck Lighting O&M Lighting / Signal Energy Aesthetic Maintenance Storm Sewer O&M	X X X X X X				Ramp Terminal by DOT To be Assigned to local interest group
6th Street (Clybourn - St. Paul) Roadway/ Sidewalk O&M Lighting / Signal O&M Underdeck Lighting O&M Lighting / Signal Energy Aesthetic Maintenance Storm Sewer O&M	X X X X X X				6th & Kilbourn by DOT To be Assigned to local interest group
5th Street (Clybourn - St. Paul) Roadway/ Sidewalk O&M Lighting / Signal O&M Underdeck Lighting O&M Lighting / Signal Energy Aesthetic Maintenance Storm Sewer O&M	X X X X X X				To be Assigned to local interest group
4th Street (Clybourn - St. Paul) Roadway/ Sidewalk O&M Lighting / Signal O&M Underdeck Lighting O&M Lighting / Signal Energy Aesthetic Maintenance Storm Sewer O&M	X X X X X X				To be Assigned to local interest group

3rd Street (Clybourn - St. Paul) Roadway/ Sidewalk O&M Lighting / Signal O&M Underdeck Lighting O&M Lighting / Signal Energy Aesthetic Maintenance Storm Sewer O&M	X X X X X X			To be Assigned to local interest group
2nd Street (Clybourn - St. Paul) Roadway/ Sidewalk O&M Lighting / Signal O&M Underdeck Lighting O&M Lighting / Signal Energy Aesthetic Maintenance Storm Sewer O&M	X X X X X X			Clybourn & 2nd by DOT To be Assigned to local interest group
Plankington Ave (Clybourn - St. Paul) Roadway/ Sidewalk O&M Lighting / Signal O&M Underdeck Lighting O&M Lighting / Signal Energy Aesthetic Maintenance Storm Sewer O&M	X X X X X X			Plankington & St. Paul by DOT To be Assigned to local interest group
Clybourn St. (13th - 26th St.) Roadway/ Sidewalk O&M Lighting / Signal O&M Lighting / Signal Energy Aesthetic Maintenance Storm Sewer O&M	X X X X X			Ramp Terminals by DOT To be Assigned to local interest group
Clybourn St. (James Lovell - 5th St.) Roadway/ Sidewalk O&M Lighting / Signal O&M Lighting / Signal Energy Aesthetic Maintenance Storm Sewer O&M	X X X X X			James Lovell & Clybourn by DOT To be Assigned to local interest group

St. Paul (James Lovell - 5th St.) Roadway/ Sidewalk O&M Lighting / Signal O&M Lighting / Signal Energy Aesthetic Maintenance Storm Sewer O&M	X X X X X			Ramp Terminal by DOT To be Assigned to local interest group
St. Paul (Milwaukee River - 2nd St.) Roadway/ Sidewalk O&M Lighting / Signal O&M Lighting / Signal Energy Aesthetic Maintenance Storm Sewer O&M	X X X X X			Ramp Terminal by DOT To be Assigned to local interest group
River Walk (Clybourn - St. Paul) Sidewalk O&M Underdeck Lighting O&M Lighting Energy Aesthetic Maintenance	X X X X			To be Assigned to Riverwalk Assoc. To be Assigned to Riverwalk Assoc. To be Assigned to Riverwalk Assoc. To be Assigned to Riverwalk Assoc.

**AGREEMENT FOR PAYMENT
For Relocation or Replacement of Municipal Utility Facilities
Located on Public Held Land Required by Freeway Construction**

Wisconsin Department of Transportation
DT1575 8/2003 (Replaces ED871) s.84.295(4m) Wis. Stats.

Municipal Utility Name
Project Description

This Agreement is made and entered into by and between the Wisconsin Department of Transportation, designated as the "DEPARTMENT", and the above-identified municipal utility, designated as the "MUNICIPAL UTILITY", for the payment for the relocation or replacement of certain municipal utility facilities on publicly held lands as required by the construction of the freeway project identified above.

For and in consideration of the acceptable relocation or replacement of the MUNICIPAL UTILITY facilities presently located on publicly held lands which must be modified to accommodate the construction of the above-identified freeway, the DEPARTMENT will pay an amount equal to 90% of the net cost incurred by the MUNICIPAL UTILITY for the actual removal, relocation, alteration or other rearrangement of the MUNICIPAL UTILITY facilities situated on the lands required to restore equivalent function as necessary and in kind, if feasible, of the affected segment of the MUNICIPAL UTILITY facility.

The work covered by this Agreement is set forth and made a part of the attached Exhibit. The Exhibit consists of a statement of the work and a proposed schedule for its accomplishment and coordination, if necessary, with the companion highway work, an estimate of costs, plans and special provisions, if any.

The work shall be performed under normal MUNICIPAL UTILITY practices and the costs computed and determined in accordance with the work order accounting procedure prescribed or approved for the MUNICIPAL UTILITY by the regulatory agency having jurisdiction, including applicable provisions of the Code of Federal Regulations 23, Part 645, Subpart A - Utility Relocations, Adjustments, and Reimbursement.

It is further understood that:

1. All salvage shall be credited to the project in the manner prescribed under the MUNICIPAL UTILITY's accounting procedure for work undertaken at the expense and volition of the MUNICIPAL UTILITY. When recovered materials are to be disposed of by sale as scrap, the MUNICIPAL UTILITY shall either have filed with the DEPARTMENT an acceptable statement outlining the MUNICIPAL UTILITY's current standard practice and procedure for disposal of such material or shall give written notice to the DEPARTMENT of the location and time said recovered materials will be available for inspection.

2. A credit shall be given representative of the amount of depreciation accrual, if any, assignable to the facilities subject to replacement. Such credit shall be calculated in accordance with s.645.117(h)(2) of the Code of Federal Regulations, Title 23. The amount of the credit shall be based upon the original installed cost, the age of the facility and the applicable depreciation rates, but may also consider the average service lives certified by the regulatory agency having jurisdiction and the expected remaining service lives of the existing materials.
3. Work under this Agreement shall not start until the MUNICIPAL UTILITY has received written notice from the DEPARTMENT to proceed with the work. The MUNICIPAL UTILITY shall give prior notice to the appropriate DEPARTMENT District Transportation Office when it proposes to commence its construction operations and shall give similar notification when operations are resumed subsequent to suspension of operations. Any significant change in the extent or scope of the work under this Agreement must be covered by a written change order or any extra work order. **It is expressly understood and agreed that any work done by the MUNICIPAL UTILITY prior to authorization by the DEPARTMENT shall be at the MUNICIPAL UTILITY's sole expense.**

The MUNICIPAL UTILITY shall not subcontract any portion of the work included under this Agreement without the prior approval of the DEPARTMENT except for work of relatively minor cost or nature. Any existing continuing contract, under which the MUNICIPAL UTILITY now has certain work regularly performed, will be considered to conform to the requirements of this section, provided the contract is submitted for the District Director's prior approval.

The MUNICIPAL UTILITY shall keep and make available to the DEPARTMENT detailed payrolls for office and field personnel, equipment use records, materials used, and salvage records including the condition and disposition of the removed and salvaged materials, as well as payments to any MUNICIPAL UTILITY subcontractor if the work is performed in that manner.

The MUNICIPAL UTILITY agrees to maintain all records of costs incurred that are covered by this Agreement for a period of 3 years from the date of final payment for inspection by the DEPARTMENT and the Federal Highway Administration.

4. Upon completion of the work contemplated under this Agreement, the MUNICIPAL UTILITY will submit invoices to the DEPARTMENT setting forth the actual and related indirect cost in substantially the same detail and order indicated in the estimate attached to this Agreement. Each copy of such invoice shall identify the location where the supporting records for the costs included in the billing may be reviewed as well as the name of the MUNICIPAL UTILITY custodian of such records.

The MUNICIPAL UTILITY agrees to permit audit of said invoices by the DEPARTMENT and by the Federal Highway Administration, if necessary, and to offer prompt support for any item cited for review or be deemed to concur in the item's deletion or correction. The supportable net amount of the invoice verified by audit as being in compliance with the provisions of this Agreement shall be paid by the DEPARTMENT and will be accepted as full compensation for the agreed upon work including all damages, costs and expenses incurred by the MUNICIPAL UTILITY and arising from or necessitated by the work.

5. In connection with the performance of work under this contract, the MUNICIPAL UTILITY agrees not to discriminate against any employe or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s.51.01(5) Wisconsin Statutes, sexual orientation as defined in s.111.32(13m) Wisconsin Statutes or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including

apprenticeship. Except with respect to sexual orientation, the MUNICIPAL UTILITY further agrees to take affirmative action to ensure equal employment opportunities. The MUNICIPAL UTILITY agrees to post in conspicuous places, available for employes and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the nondiscrimination clause.

6. The execution of this Agreement by the DEPARTMENT shall not relieve the MUNICIPAL UTILITY from compliance with applicable Federal and State laws, Wisconsin Administrative Codes, and local laws or ordinances which may affect the performance of the work covered, and shall not be construed to supersede any other governmental agency requirements for plan approval or authority to undertake the utility alteration work.

This Agreement does not supplant any permit required under sections 84.08, 86.07(2), or 86.16, Wisconsin Statutes. No MUNICIPAL UTILITY work affecting highway lands shall be undertaken without any required separate permit, which may be processed and approved concurrently with this Agreement.

In accordance with section 84.295(4m)(d), Wisconsin Statutes, any entry upon or occupation of freeway right of way under this Agreement by a Metropolitan Sewerage District acting under section 66.24(5)(b), Wisconsin Statutes, shall be done in a manner acceptable to the DEPARTMENT.

7. The Agreement is not binding upon the parties until this document has been fully executed by the MUNICIPAL UTILITY and the DEPARTMENT.

The parties have caused this Agreement to be executed by their proper officers and representatives on the date shown.

Wisconsin Department of Transportation

	(Municipal Utility)
_____	_____
(Contract Manager)	(Signature)
(Date)	(Date)
_____	_____
(Governor of Wisconsin)	(Title)
(Date)	(Signature)
	(Date)

	(Title)
	(Signature)
	(Date)

	(Title)