

**INTERGOVERNMENTAL COOPERATION AGREEMENT  
BETWEEN THE CITY OF MILWAUKEE  
AND THE  
MILWAUKEE METROPOLITAN  
SEWERAGE DISTRICT**

This Intergovernmental Cooperation Agreement ("ICA") entered into as of the last date written below, by and between the Milwaukee Metropolitan Sewerage District ("District"), a special purpose governmental entity, authorized and existing under the laws of the State of Wisconsin, and the City of Milwaukee (the "City") acting through its Department of Public Works ("DPW"), a municipal corporation, authorized and existing under the laws of the State of Wisconsin.

WHEREAS, Section 66.0301, Stats., authorizes any municipality to enter into an Intergovernmental Cooperation Agreement with another municipality for the furnishing of services;

WHEREAS, the District is authorized by statute to project, plan, design, construct, maintain, and operate a sewerage system for the collection, transmission, and disposal of all sewage and drainage of the sewerage service area including, either as an integrated or as a separate feature of the system, the collection, transmission and disposal of storm water and groundwater;

WHEREAS, the City is authorized to construct, maintain, and operate a municipal sewerage conveyance system;

WHEREAS, the District in furtherance of its functions relating to the operation of a sewerage system undertook a cleaning project in sewers located near North Humboldt Avenue near East Capitol Drive and discovered polychlorinated biphenyls ("PCBs") in sewers in that location;

WHEREAS, the District has also discovered PCBs in City owned sewers connected to the District's Metropolitan Intercepting Sewers (MIS) near North Humboldt and East Capitol;

WHEREAS, it is necessary to remove the PCB contamination located in both the District and the City owned sewers;

WHEREAS, the City and the District have determined that it will be in the best interests of both entities if the District includes work to remove PCBs from the City owned sewers in the District's environmental consulting and sewer cleaning contracts; and

WHEREAS, The City and the District have each determined to enter into this ICA, and their authorizing resolutions are Number \_\_\_\_\_ and Number 08-114-11 respectively.

NOW, THEREFORE IT IS AGREED TO BETWEEN THE PARTIES, that for consideration of the mutual promises made by the parties to this Agreement:

- a. The District's environmental consultant will prepare one Remediation Plan for the District and the City, as a joint submittal to the United States Environmental Protection Agency ("U.S. EPA") for review. Laboratory results will be broken out separately to differentiate the District's sewer section and the City's sewer section. DPW shall have the opportunity to review and approve the Remediation Plan prior to its submission to the U.S. EPA. The District and the City understand that there is no guarantee that the U.S. EPA will approve the Remediation Plan as submitted. In the event that the Remediation Plan is not approved as submitted, the District will take comments from U.S. EPA and will submit a revised Remediation Plan for approval.
- b. Assuming that the District is able to obtain U.S. EPA approval for the Remediation Plan, the District's environmental consultant will prepare plans and specifications to be used by a contractor in removing PCBs and cleaning both the District owned sewer and the City owned sewer. DPW shall have the opportunity to review and approve such plans and specifications prior to commencement of removal and cleaning activities.
- c. Prior to commencement of removal and cleaning activities, DPW shall be provided with a cost estimate for removal and cleaning activities on the City-owned sewers, and DPW shall indicate its acceptance or disapproval within ten (10) days. If DPW, in its sole discretion, determines that such costs are excessive, it shall notify the District of its disapproval and may terminate its participation in this ICA.
- d. The District's environmental consultant shall prepare all required submissions to the Wisconsin Department of Natural Resources and U.S. EPA. Such submissions may require signature or certification by both the District and DPW, and each entity agrees to provide such signatures or certifications in a timely fashion after approving the contents of such reports and certifications.
- e. The District will invoice the City periodically, but not more often than monthly, for progress payments made to the District's consultants and contractors for PCB removal and cleaning work on the City owned sewers and for that portion of environmental consulting, design engineering, resident engineering, resident inspection, and project management services associated with the City sewers. When feasible, the District will invoice the City for the actual cost of services provided to the City. When it is not feasible to precisely delineate between work done for the District and the City, the District will invoice the City for a pro rata share based on linear feet of sewers.
- f. The City warrants that it has the necessary easements to allow access to the City owned sewers. The City agrees to allow the District to access its sewers as necessary to perform the PCB remediation at no cost. The City agrees to waive all potential City permit fees associated with remediation of either the City sewers or the District sewers under this ICA.

- g. The City agrees to pay the District within 30 days of receipt of an invoice from the District. The total value of services invoiced to the City shall not exceed \$40,000 unless otherwise agreed to in writing by the parties and countersigned by the City Comptroller. The District shall keep DPW informed regarding projected costs.
- h. The City shall not provide any insurance coverage of any kind for the District or the District's employees or contract personnel. The District will require its consultants or contractors to carry insurance for worker's compensation, automotive liability, general liability and, for professional services, professional liability or the District will provide such insurance through its Owner Controlled Insurance Program. The District will require its contractors and consultants to add the City as an additional insured.
- i. The District represents that it will perform its services under this Agreement in conformance with the care and skill ordinarily exercised by reputable members of the professional community practicing under similar conditions at the same time and in the same or similar locality.

The District makes no other warranties of any kind, expressed or implied by the furnishing of any oral or written reports to the City.

- j. Either party may terminate this agreement, without cause, by written notice to the other party. In the event of such termination the City shall only be responsible for the payment of services rendered by the District up to the date of termination.
- k. All notices and submissions under this ICA shall be provided to:

for the District:

Greg Olson, P.E., Project Manager  
Milwaukee Metropolitan Sewerage District  
260 West Seeboth Street  
Milwaukee, Wisconsin 53204  
(414)225-2236;

for the City:

Jeffrey S. Polenske, P.E., City Engineer  
841 North Broadway, Room 701  
Milwaukee, Wisconsin 53202.

- l. The City will hold the District harmless and defend the District against any claims arising from the City's negligent acts and omissions relating to the subject of this ICA. The District will hold the City harmless and defend the City against any claims arising from the District's negligent acts and omissions relating to the subject of this ICA.

- m. Conflict of Interest: No officer, employee or agent of the City who exercises any functions or responsibilities in connection with the carrying out of any services or requirements to which this Contract pertains, shall have any personal interest, direct or indirect in this Contract.

No member of the governing body of the locality and no other public official of such locality who exercises any functions or responsibilities in the review or approval of the carrying out of this Contract, shall have any personal interest, direct or indirect, in this Contract.

In addition, the District will obtain a covenant from its Contractor that no person described above who presently exercises any functions or responsibilities in connection with the Contract has any personal financial interest, direct or indirect, in this Contract. The Contractor shall further covenant that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Contractor shall further covenant that in the performance of this Contract no person having any conflicting interest shall be employed. An interest on the part of the Contractor or its employees must be disclosed to the city. Provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the statutory requirement that maximum opportunity be provided for employment of and participation by residents of the area.

- n. Discrimination Prohibited: The District shall, and shall cause its Contractor to, comply with the City's prohibition on discrimination as stated below:

In all hiring or employment made possible by or resulting from this Contract there (1) will not be any discrimination against any qualified employee or qualified applicant for employment because of sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation, gender identity or expression, past or present membership in the military service, familial status, or based upon affiliation with, or perceived affiliation with any of these protected categories (Section 109-9 of the Milwaukee Code of Ordinances) and (2) affirmative action will be taken to ensure that applicants are employed and that employees are treated during employment without regard to their sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status or sexual orientation or familial status.

This requirement shall apply to but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. There shall be posted in conspicuous places available to employees and applicants for employment, notices required or to be provided by federal or state agencies involved setting forth the

provisions of the clause. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status or sexual orientation or familial status.

No person in the United States shall, on the ground of sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status or sexual orientation or familial status, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Contract. The City and each employer will comply with all requirements imposed by or pursuant to the regulations of the appropriate federal agency effectuating Title VI of the Civil Rights Act of 1964.

The Contractor will cause the foregoing provisions to be inserted in all subcontracts, if any, for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

Contractor agrees that they will comply with all applicable requirements of the Americans with Disability Act of 1990, 42 U.S.C. 12101, et seq.

- o. The City and the District agree to work cooperatively to develop a public information program to inform the public regarding the remediation.
- p. This is the entire Agreement between the City and the District.
- q. This Agreement will end no later than 31 December 2010 or whenever the PCB removal and cleaning work is completed, whichever is later.

**SIGNATURES:**

City of Milwaukee Department of Public Works

Milwaukee Metropolitan Sewerage District

By: \_\_\_\_\_  
Jeffrey Mantes  
Commissioner

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

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

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

By: \_\_\_\_\_  
W. Martin Morics  
Comptroller, City of Milwaukee  
Date: \_\_\_\_\_

Approved as to form  
by: \_\_\_\_\_  
Attorney for the  
District