

**Amendment One to the Intergovernmental Cooperation Agreement between the
Milwaukee Metropolitan Sewerage District and the City of Milwaukee for Western
Milwaukee Phase 2B**

This Amendment One (Amendment) is made to the Intergovernmental Cooperation Agreement between the Milwaukee Metropolitan Sewerage District (District) and the City of Milwaukee (City) for Western Milwaukee Phase 2B, effective as of May 4, 2021, (Agreement). This Amendment is effective upon execution by the District and the City.

WHEREAS, the District and the City entered the Agreement to establish responsibilities for design, construction, ownership, long-term maintenance, and cost sharing for various elements associated with the District's Western Milwaukee Phase 2B project (Project) located in the City of Milwaukee;

WHEREAS, the District awarded contracts W20028D01 and W20028C01 to carry out its obligations under the Agreement, and the District's consultant and contractor have begun work on the Project;

WHEREAS, within the construction footprint of the Project near North 46th Street and West State Street, an approximately 20-foot length of riverbank wall on City property along the Menomonee River failed in 2023;

WHEREAS, the District and the City desire to work cooperatively according to Wis. Stat. § 66.0301 to repair the riverbank failure as quickly and efficiently as possible by avoiding overlapping work and duplicating effort and expense;

NOW, THEREFORE, the District and the City agree to amend the Agreement to incorporate the riverbank reconstruction into the Project as outlined below.

The District and the City add to **Section 12, Miscellaneous Items, Subsection D**, to incorporate the riverbank reconstruction work as follows:

D. Riverbank Reconstruction.

- i. Design.
 - a. The City will provide riverbank reconstruction design documents for the District's and its consultant's review and comment. The District will return any comments within 10 calendar days. The City will coordinate its final design document schedule with the District to avoid Project construction delays.
 - b. Upon approval by the City, the District, and the District's consultant and contractor, the District will incorporate the design as a change order to W20028C01 as part of the Project.
 - c. The City will timely obtain and pay for any permits required for the riverbank reconstruction work to meet the Project construction schedule. The City will

provide an electronic copy of the permits to the District.

- d. The City will not assess any fees against the District or its contractor for the riverbank reconstruction work.
 - e. The City will review all submittals related to the riverbank repair within the timeframe required under the W20028C01 contract.
- ii. Construction.
- a. The District will direct its contractor to reconstruct the riverbank according to the approved design incorporated into W20028C01 and will manage the riverbank reconstruction work as part of the Project.
 - b. The District shall solicit City review and approval of the contract change order cost 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 the 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. If a resolution can not be reached, the City reserves the right to terminate this amendment, by providing written notice. The notice will indicate the effective date of termination and the reason for termination.
 - c. The District will solicit and the City will review and provide any comments on changes as quickly as possible and in no event later than 10 calendar days after receipt.
 - d. The District will allow authorized City staff access to oversee and inspect the riverbank reconstruction work.
- iii. Costs.
- a. After the District receives invoices from its contractor and consultant for the riverbank reconstruction work, the District will invoice the City for the cost of the riverbank reconstruction work, and the City will reimburse the District for the cost within 30 calendar days.
- iv. Riverbank Wall Ownership.
- a. The City will continue to own its land adjacent to the riverbank failure and will own the newly installed retaining wall infrastructure.

SIGNATURES ON NEXT PAGE

**MILWAUKEE METROPOLITAN
SEWERAGE DISTRICT**

CITY OF MILWAUKEE

By: _____
Kevin L. Shafer, P.E.
Executive Director

By: _____
Jerrel Kruschke, P.E.
Commissioner of Public Works

Date: _____

Date: _____

Approved as to form

Countersigned

Attorney for the District

Comptroller

Approved as to form

Attorney for the City