Federal/State/Project Sponsor
Transportation
CMAQ Program
Project Agreement

Date: March 18, 2004
Project ID: 1693-32-00/70 **County:** Milwaukee **Municipality:** City of Milwaukee
Project Name: SouthPoint Streetscape Project (Non-Hwy)
Limits (if applicable): NA

The signatory Project Sponsor, through its undersigned duly authorized officers or officials, and WisDOT enter into this agreement to accomplish the described project.

The authority for the Project Sponsor and WisDOT to enter into this agreement is provided by the Section 86.25 of the Wisconsin State Statutes.

The payment period for each project phase (e.g., design, real estate, construction) shall begin with written authorization by WisDOT to the Project Sponsor.

Needs and Estimate Summary:
Description of the project:

Installation of streetscape amenities along Greenfield Avenue.

Estimated Cost					
	Total Estimated Cost	**CMAQ Funds**	**%**	**Project Sponsor Funds**	**%**
Design *	**$120,000.00**	$96,000.00	**80%**	$24,000.00	**20%**
Construction	**$655,000.00**	$524,000.00	**80%**	$131,000.00	**20%**
Total Cost Distribution	**$775,000.00**	**$620,000.00**		**$155,000.00**	
Federal participation shall be limited to the lesser of 80% of actual project costs or	**$620,000.00**				

* The $5,000 requested for Real Estate was added into the Design costs. Real Estate will be 100% locally funded.

This request is subject to the terms and conditions that follow (see pages 2-5) and is made by the undersigned under proper authority to make such request for the designated Project Sponsor and upon acceptance by WisDOT shall constitute agreement between the Project Sponsor, WisDOT and the Federal Government.

This project is subject to a DBE goal assessment of 22% of the total project cost.

Signed for and on behalf of the City of Milwaukee:		
Signature	Title	Date
Name (Written Clearly)		

Terms and Conditions:

1. The initiation and accomplishment of the improvement will be subject to the applicable State and Federal laws, rules, and regulations, as referenced in the document *A Local Sponsor's Guide to Non-Traditional Transportation Project Implementation*.

2. The construction of the CMAQ project will be in accordance with the appropriate standards unless an exception to standards is granted by the Federal Government or WisDOT prior to construction. The entire cost of the construction project, not constructed to standards, will be the responsibility of the project sponsor unless such exception is granted.

3. The project sponsor will assume all responsibility for complying with germane environmental requirements for the CMAQ project.

4. Where applicable, all contracts will be let by competitive bid and awarded to the lowest responsible bidder.

5. The work eligible for Federal and State participation will be administered by the Project Sponsor and/or WisDOT. The authority for the Federal Government and the State to delegate this responsibility is described in ISTEA of 1991, P.L. 102-240, as amended by the Transportation Equity Act for the 21st Century (TEA-21).

6. The Project Sponsor will assume all responsibility for complying with the applicable Disadvantaged Business Enterprise (DBE) goal assigned to this project. The DBE goal is waived if the Project Sponsor constructs the project with its own permanent staff and if the project is not subcontracted out.

7. The maximum participation of Federal financing will be limited to 80% of the actual eligible project cost or the Total Cost Distribution of CMAQ Funds, as shown on page 1 of this agreement, whichever is less.

8. The Project Sponsor will assume all responsibility for retaining a complete project file that includes not only construction documentation but also copies of letting documents, all local and WisDOT submittals and approvals contained in these instructions and other pertinent documents to support project procurement, development, implementation and cost and any other item required by 49 CFR part 18 and submitting such information, upon request, in order to receive reimbursement. The Project Sponsor will keep all project records and have them available for inspection by representatives of the Federal Government and WisDOT and will furnish copies thereof when requested.

9. Federal Single Audits of the Project Sponsor:
   a) The Project Sponsor shall have a single organization audit performed by a qualified independent auditor if required to do so under Federal law and regulations. (See Federal Circular No. A-128, Section 4.)

b) This audit shall be performed in accordance with Federal Circular A-128 issued by the Federal Office of Management and Budget (OMB) and State single audit guidelines issued by the Wisconsin Department of Administration (DOA).

c) The Project Sponsor will keep records of costs of construction, inspection tests and maintenance done by it to enable the federal government and the state to review the amount and nature of the expenditure for those purposes. Such accounting records and any other related records shall be subject to an audit as directed by the Department within eight years.

10. State Disbursements:

a) Payment by WisDOT to the Project Sponsor shall be made on a quarterly basis upon presentation of vouchers for expenditures incurred during prior quarterly periods of the project duration subject to the allowable maximum payment, as referenced above in Section 7.

b) A final adjustment of state payments will be made upon completion of WisDOT's audit of the project. If WisDOT's audit establishes that WisDOT paid more than its share of the eligible project costs, the Project sponsor shall refund to WisDOT upon demand a sum equal to the overpayment.

11. The Project Sponsor will maintain, at its own costs and expense, all portions of the project that lie within its jurisdiction.

12. In connection with the performance of work under this Project Agreement, the Project Sponsor agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as define in S. 51.01(5), sexual orientation 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 Project Sponsor further agrees to take affirmative action to ensure equal employment opportunities. The Project Sponsor agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the employment officer setting forth the provisions of the nondiscrimination clause.

13. Responsibility for Damage and Tort Claims: The Project Sponsor and the Project Sponsor's surety shall indemnify and save harmless the State, its officers and employees, from all suits, actions or claims of any character brought because of any injuries or damages received or sustained by any person, persons or property on account of the operations of the Project Sponsor; or on account of or in consequence of any neglect in safeguarding the work; or because of any act or omission, neglect or misconduct of the Project Sponsor; or because of any claims or amounts recovered for any infringement by the Project Sponsor of patent, trademark or copyright; or from any claims or amounts arising or recovered under

the Worker's Compensation Act, relating to the Project Sponsor's employees; or any other law, ordinance, order or decree relating to the Project Sponsor's operations. So much of the money due the Project Sponsor under and by virtue of the contract as shall be considered necessary by the Department for such purposes, may be retained for the use of the State; or, in case no money or insufficient money is retained, the Project Sponsor's surety may be held until such suit or suits, action or actions, claim or claims for injuries or damages as aforesaid shall have been settled and suitable evidence to that effect furnished to the Department; except that money due the Project Sponsor will not be withheld when the Project Sponsor produces satisfactory evidence that the Project Sponsor is adequately protected by public liability and property damage insurance. The Project Sponsor also shall comply with all of the above requirements indemnifying and saving harmless the county, town, or municipality in which the improvement is made and each of them separately or jointly and officers and employees.

The State shall not be liable to the Project Sponsor for damages or delays resulting from work by third parties. The State also shall be exempt from liability to the Project Sponsor for damages or delays resulting from injunctions or other restraining orders obtained by third parties except where the damage or delay is a direct result of an injunction or restraining order obtained by a citizen's action alleging violations of 42 U.S.C. 4331 - 4332, 23 U.S.C. 138 or Public Law 91-646.

It shall be the Project Sponsor's responsibility to see that all of the contract operations incident to the completion of the contract are covered by public liability and property damage liability insurance so the general public or any representative of the contracting authority may have recourse against a responsible party for injuries or damages sustained as a result of the contract operations This requirement shall apply with equal force, whether the work is performed by the Project Sponsor, by a subcontractor or by anyone directly or indirectly employed by either of them.

a) The word, "surety" in the above paragraphs refers to the issuer of a payment and performance bond under section 779.14 Wis. Stats. (1997 - 98).

b) Nothing in this section should be construed as a waiver of any statutory defenses that may be available to any governmental party.

14. No term or provision of the Project Agreement nor any of its attachments may be changed, waived or terminated orally but only by an instrument in writing signed by both parties to the Project Agreement.

15. The project must be completed within three years from the acceptance date of the Project Agreement by WisDOT central office. Extensions are available upon approval of a written request by the Project Sponsor to WisDOT. The written request shall explain the reasons for project implementation delay and revised timeline for project completion.

16. The Project Sponsor, also known as the primary participant, as that term is defined in 49 CFR Part 29, certifies to the best of its knowledge and belief, that it and its principals, as that term is defined in 49 CFR Part 29:

a) Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded by any State of Wisconsin or Federal department or agency;

b) Have not, within a three year period preceding this agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated above;

d) Have not within a three-year period preceding this agreement had one or more public transactions (Federal, State or local) terminated for cause or default; and

e) That all grantees or contractors, also known as lower tier participant as that term is used in 49 CFR Part 29, have certified in writing that neither they or their principals are presently debarred, suspended, proposed for debarment have been declared ineligible, or have voluntarily been excluded from participation in this or any other Federal, state or local transaction by any Federal, State or local department, agency or official.