

**AGREEMENT BETWEEN THE CITY OF MADISON AND THE MADISON
METROPOLITAN SEWERAGE DISTRICT FOR THE REHABILITATION OF
SANITARY AND STORM SEWER**

THIS AGREEMENT, entered into by and between the City of Madison, a Wisconsin municipal corporation (hereinafter referred to as “MADISON”), and the Madison Metropolitan Sewerage District (hereinafter referred to as “MMSD”), is effective as of the date by which both Parties have signed hereunder.

WITNESSETH:

WHEREAS, MADISON and MMSD (hereinafter collectively referred to as the “Parties” and individually as “Party”) have determined the need for rehabilitation, by use of cured in place pipe liner, of large diameter sanitary sewer interceptors belonging to MMSD and MADISON along Regent Street, S. Blair Street, Railroad Street, S. Blount Street, E. Washington Avenue, and large diameter storm sewer along the Tenney Park Locks (hereinafter referred to as the “PROJECT”), which public works improvements will benefit MADISON and MMSD; and,

WHEREAS, Section 66.0301 of the Wisconsin Statutes, authorizes cities, villages, towns, counties, metropolitan sewerage districts and other specified public agencies to enter into agreements for the joint exercise of any power or duty required or authorized by law; and,

WHEREAS, it is in both Parties’ interests to enter into a cost sharing agreement relating to the PROJECT; and,

WHEREAS, this Agreement describes a cooperative effort between MMSD and MADISON for the purpose of constructing public works improvements; and,

WHEREAS, to maximize economies of scale and efficiencies, and to receive the most competitive bids possible, MMSD and MADISON believe it is beneficial to combine the work under a common contract.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the Parties agree as follows:

1. The combined contract will be organized as a MMSD construction contract using MMSD’s normal advertising, bidding, and contracting procedure.
2. The contract will be a single prime contract that will include two “subprojects” (MMSD sanitary sewer interceptor liner work and MADISON sanitary and storm sewer liner work).
3. MADISON work includes approximately 8,000 lineal feet of 24-inch and 30-inch sewer

located primarily in East Washington Avenue and 300 lineal feet of 24-inch storm sewer located along the Tenney Park Locks and MMSD work includes approximately 5,000 lineal feet of 24-inch sewer located primarily in Regent Street.

4. MADISON and MMSD shall each pay for their respective shares of the construction and design work allocated to their subproject. If the bid amount allocated to a subproject so exceeds a Party's engineer's opinion of probable cost and the Party is unable to proceed or recommend an award, then the Parties shall work together in good faith to reach a negotiated resolution and/or the Parties may reject all bids.
5. The construction contract will be awarded to the overall lowest responsive and responsible bidder for the combined MADISON and MMSD work. Bids received will not be evaluated based on each individual subproject, and it is possible that one subproject will be lower on a bid where the overall project bid is higher. However, the evaluation and award shall be made based on the overall project bid rather than individual subproject bids.
6. MMSD and MADISON will provide design, details, plans, specifications, special conditions, bid items, quantities and all other information necessary for their respective subproject.
7. MMSD and MADISON will monitor their respective subproject and will provide all necessary construction administration, field inspection, quantity verification, field surveying, engineering, change order negotiation/approval, technical interpretations, shop drawing review, public relations, etc., associated with their respective subproject, all at no cost to the other Party.
8. MMSD and MADISON will obtain all necessary permits and approvals associated with their respective work.
9. Payment. MMSD shall process all contractor pay requests. MMSD shall submit a copy of each contractor pay request to MADISON for verification of amounts to be paid on behalf of MADISON. MMSD will issue the contractor payment checks and will invoice MADISON for MADISON's share of each payment. MADISON shall pay such invoices to MMSD within 30 days.
10. Liability. Each Party shall be responsible for its own acts, errors or omissions and for the acts, errors or omissions of its employees, officers, officials, agents, boards, committees and commissions, and shall be responsible for any losses, claims, and liabilities that are attributable to such acts, errors, or omissions including providing its own defense, arising out of this Agreement. In situations involving joint liability, each Party shall only be responsible for such losses, claims, and liabilities that are attributable to its own acts, errors, or omissions and the acts, errors or omissions of its employees, officers, officials, agents, boards, committees and commissions. It is not the intent of either Party to waive, limit or otherwise modify the protections and limitations of liability found in Wis. Stat. §893.80 or any other protections available to the Parties by law or by insurance coverage,

and both Parties hereby preserve any and all said rights to the full extent of the law. This paragraph shall survive the termination or expiration of this Agreement.

11. Nondiscrimination. In the performance of the services under this Agreement, the Parties agree not to discriminate against any employee or applicant because of race, religion, marital status, age, color, sex, handicap, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, gender identity, political beliefs, or student status. The Parties further agree not to discriminate against any subcontractor or person who offers to subcontract on this contract because of race, religion, color, age, disability, sex, sexual orientation, gender identity or national origin.

12. Notice. Any notice or offer or demand required to be sent hereunder shall be sent by United States mail at the Parties' respective addresses set forth below. Each notice shall be deemed to have been received on the date of postmark, if sent by certified mail, postage prepaid, addressed to:

<u>Name</u>	<u>Address</u>
City of Madison	City Engineer 210 MLK Jr. Blvd., Room 115 Madison, WI 53703
Madison Metropolitan Sewerage District	Michael Mucha Chief Engineer & Director 1610 Moorland Rd. Madison, WI 53713

13. Final Agreement. This Agreement entered into by the Parties on this date constitute the entire agreement of the Parties with respect to the subject matter hereof, and may only be modified or supplemented by an additional writing between the Parties. This Agreement shall be governed by, construed, interpreted, and enforced in accordance with the laws of the State of Wisconsin. The invalidity of any provision of this Agreement shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Agreement.

14. Construction. The Parties acknowledge that this Agreement is the product of negotiations between the Parties and that, prior to the execution hereof, each Party has had full and adequate opportunity to have this Agreement reviewed by, and to obtain the advice of, its own legal counsel with respect hereto. Nothing in this Agreement shall be construed more strictly for or against, any Party because that Party's attorney drafted this Agreement or any part hereof.

15. Miscellaneous.

- a. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same Agreement.
- b. All addenda and exhibits attached to this Agreement shall be considered part of this Agreement and the terms and conditions in such addenda and exhibits shall be binding upon all Parties.
- c. This Agreement is intended to benefit the Parties hereto and their respective officials and shall not be construed to create any right or benefit on behalf of any person, firm, corporation or other entity not a Party hereto.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their proper officers on the day and year written below.

FOR THE CITY OF MADISON

Paul Soglin, Mayor

Date

Maribeth Witzel-Behl, City Clerk

Date

Countersigned:

David P. Schmiedicke, Finance Director

Date

Approved as to form:

Michael P. May, City Attorney

Date

FOR THE MADISON METROPOLITAN SEWERAGE DISTRICT

Michael Mucha, Chief Engineer & Director

Date

Bruce Borelli, Director of Engineering

Date