

AGREEMENT FOR USE OF DRYING BEDS FOR DREDGE MATERIALS

Between the Madison Metropolitan Sewerage District and the City of Madison

This Agreement is entered into by and between the Madison Metropolitan Sewerage District, a metropolitan sewerage district organized under Chapter 200 of the Wisconsin Statutes (“MMSD”), and the City of Madison, a Wisconsin municipal corporation (“the City”), and is effective as of the date by which both parties have signed hereunder.

RECITALS

- A. MMSD’s wastewater treatment facility (the “Facility”) is located at 1610 Moorland Road in Madison, Wisconsin.
- B. At the Facility, and as shown on the map attached as Exhibit A to this Agreement, there is a two-acre trough with a paved floor and sidewalls (the “Drying Bed”).
- C. The Drying Bed contains drains along the east side that allow water to drain into process tanks at the treatment plant.
- D. MMSD uses the Drying Bed to dewater materials removed from MMSD interceptors during cleaning operations.
- E. The City conducts certain dredging projects and/or contracts with outside service providers for certain dredging projects including but not limited to the dredging of ponds, greenways, and lakes. For the purposes of this agreement the spoils from these dredging operations shall be considered “Dredge Materials”.
- F. The City desires to use the Drying Bed for dewatering and/or temporary storage of Dredge Materials.
- G. The City wishes to obtain MMSD’s authorization to use the Drying Bed for such dewatering and temporary storage, on all the terms and conditions set forth in this Agreement.
- H. MMSD wishes to accommodate the City’s request for authorization to use the Drying Bed for the purposes described in this Agreement, pursuant to the terms and conditions set forth in this Agreement.
- I. Section 66.0301 of the Wisconsin Statutes authorizes MMSD and the City to contract for the receipt or furnishing of services, or the joint exercise of any power or duty required or authorized by law.

AGREEMENT

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, MMSD and the City agree as follows:

1. **Authorization for Storage.** MMSD authorizes the City to place Dredge Materials in the Drying Bed subject to all additional terms and conditions specifically called out in this Agreement.
2. **Request for Storage.** The City must contact MMSD a minimum of one month prior to advertisement for a project that would generate any Dredge Materials. This is required to ensure there shall be sufficient space available for the placement of Dredge Materials at the Drying Bed. During this initial coordination, the City will provide approximate quantity of Dredge Materials, results from any analytical samples collected from the Dredge Materials, and a proposed timeframe of hauling activities. At this time, MMSD will approve or reject the storage of Dredge Materials. If approved, the City will contact MMSD at least one week in advance of the date on which the City or its contractor proposes to begin placement of Dredge Materials at the Drying Bed.
3. **Storage Time Limitations.** Dredge Materials must be removed from the Drying Bed within twenty eight (28) days of the first date of placement or by a day agreed upon by MMSD and the City. MMSD may request removal of Dredge Materials pursuant to Section 9 of this Agreement.
4. **No Disposal.** The placement of Dredge Materials at the Drying Bed is not intended to provide for the disposal of such Dredge Materials and such placement shall not be construed as disposal of those Dredge Materials.
5. **Samples Required.** In accordance with Section 2 above, the City and/or its contractor shall collect a core sample from any Dredge Materials proposed to be placed at the Drying Bed. The City shall arrange for the core sample to be analyzed for phosphorus, chlorides, and any other constituent as specified by MMSD at its sole discretion. All samples must be taken in accordance with methods specified by MMSD.
6. **No Hazardous Waste.** No Dredge Materials that contain hazardous substances in quantities sufficient to constitute a hazardous waste may be placed at the Drying Bed.
7. **No Interference.** The City shall not place any Dredge Materials at the Drying Bed that cause or contribute to a plant upset, interference with wastewater treatment processes or equipment, or a violation of MMSD's WPDES permit.
8. **Right to Refuse Storage.** MMSD retains the right to refuse the placement of Dredge Materials at the Drying Bed for any reason, including but not limited to lack of sufficient space at the Drying Bed and/or based on the results of the core sampling analysis of Dredge Materials. Refusal of Dredge Materials will be determined at the planning phase,

as discussed in Section 2. If approval of Dredge Materials is granted during the planning phase discussed in Section 2, MMSD will not revoke this approval, provided the City adheres to the originally proposed quantity, composition, and schedule. If changes are made to the schedule of Dredge Materials placement, composition of Dredge Materials, or quantity of Dredge Materials, the City will renegotiate approval for hauling and placement with MMSD.

9. **Right to Require Removal.** MMSD retains the right to require removal of Dredge Materials from the Drying Bed at any time and for any reason. In the event of a removal request for previously approved Dredge Materials, the placement of Dredge Materials shall cease within the same business day. The City shall be allowed twenty-one (21) days for dewatering and removal of Dredge Materials placed prior to the removal order, or said materials shall be fully removed by a date mutually agreed upon by MMSD and the City. If the Dredge Materials are not removed by the removal date, MMSD is entitled to liquidated damages in the amount of one hundred (100) dollars per business day that the Dredge Materials are not removed beyond the Removal Date.
10. **Payment of Costs.** MMSD may require payment of a reasonable cost for placement of Dredge Materials at the Drying Bed, which cost shall be determined by MMSD. If MMSD requires such payment, MMSD will provide the City with notice of the cost of placement at the time it approves the request as discussed in Section 2.
11. **Entire Agreement.** This Agreement sets forth the entire understanding of the parties and no prior oral representations or understandings between the parties related to the subject matter of this Agreement shall be of any force or effect. This agreement may only be amended by a writing signed and acknowledged by the City and MMSD.
12. **Governing Law.** This Agreement shall be construed and enforced in accordance with the internal laws of the State of Wisconsin.
13. **Notices.** Any notice herein required to be given shall be in writing and delivered in person, by mail, by facsimile, or by email as follows:

If to MMSD:

Eric Dundee
Director of Wastewater Operations and Reliability
Madison Metropolitan Sewerage District
1610 Moorland Road
Madison, WI 53713-3398
ericd@madsewer.org

If to the City:

Greg Fries
Assistant City Engineer
City of Madison
210 Martin Luther King Jr. Blvd.
City-County Building Room 115
Madison, WI 53703
gfries@cityofmadison.com.

14. **Non-Discrimination.** In the performance of the obligations under this Agreement, the parties agree to abide by their own respective affirmative action plans and in doing so agree not to discriminate, in violation of any state or federal law, 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, in violation of any state or federal law, against any subcontractor or person who offers to subcontract on this Agreement because of race, religion, color, age, disability, sex, sexual orientation, gender identity or national origin.
15. **Liability.** Each party shall be responsible for the consequences of its own acts, errors, or omissions and those of its employees, boards, commissions, agencies, officers, and representatives and shall be responsible for any losses, claims, and liabilities which are attributable to such acts, errors, or omissions including providing its own defense. In situations including joint liability, each party shall be responsible for the consequences of its own acts, errors, or omissions and those of its employees, agents, boards, commissions, agencies, officers and representatives. It is not the intent of the Parties to impose liability beyond that imposed by state statutes.
16. **Execution in Counterparts.** This Agreement may be executed in counterparts, but such counterparts, taken together, shall constitute one Agreement.
17. **Construction of Agreement.** Both parties have been represented by legal counsel and have had the opportunity to consider the provisions set forth herein. This Agreement shall be construed without consideration as to who may have served as the drafting party.

MADISON METROPOLITAN SEWERAGE DISTRICT

By: DW Michael Mueck

Date: 8-20-18

THE CITY OF MADISON

Paul Soglin, Mayor

Date

Maribeth Witzel-Behl, City Clerk

Date

Countersigned:

Approved as to form:

David P. Schmiedicke, Finance Director

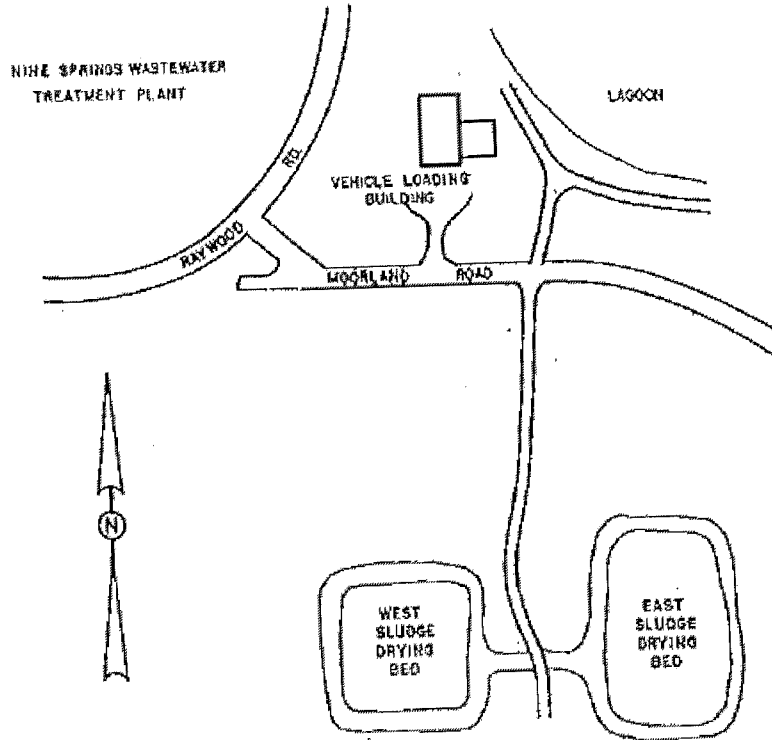
Date

Michael P. May, City Attorney

Date

Execution of this Agreement by the City of Madison is authorized by Resolution Enactment No. RES __-_____, ID No. _____, adopted by the Common Council of the City of Madison on _____, 20__.

EXHIBIT A



LOCATION MAP