



**STATE/MUNICIPAL AGREEMENT
FOR A STAGE 2 LOCAL ARRA 2010
CONSTRUCTION SEASON
IMPROVEMENT PROJECT**

LOCALLY FUNDED DESIGN

Program Name: **206**

Sub-program #: **STP Urban**

Date: **July 7, 2009**

I.D.: **5992-08-19/80/40/41**

Location: **CTH MS**

Roadway Length: **0.8 miles**

Limits: **City of Madison, University Avenue**

Segoe Road to Shorewood Boulevard

Functional Classification: **Principal Arterial**

Community & County: **City of Madison/Village of
Shorewood Hills/Dane County**

The signatory City of Madison, hereinafter called the Municipality, through its undersigned duly authorized officers or officials, hereby requests the State of Wisconsin Department of Transportation, hereinafter called the State, to initiate and effect the highway or street improvement hereinafter described.

The authority for the Municipality to enter into this agreement with the State is provided by Section 86.25(1), (2), and (3) of the Statutes.

NEEDS AND ESTIMATE SUMMARY:

All components of the project must be defined in the environmental document if any portion of the project is federally funded. The Municipality agrees to complete all participating and any non-participating work included in this improvement consistent with the environmental document.

Existing Facility - Describe and give reason for request: University Avenue is an urban street and the concrete pavement constructed in 1972 is in poor condition.

Proposed Improvement - Nature of work: It is proposed to replace the existing pavement, curb and gutter, sidewalk, storm sewer, street lighting and traffic signals, as necessary.

Describe non-participating work included in the project and other work necessary to completely finish the project that will be undertaken independently by the Municipality. Please note that non-participating components of a project/contract are considered part of the overall project and will be subject to applicable Federal requirements, including ARRA reporting requirements: Water main construction under ID 5992-08-40 and sanitary sewer construction under ID 5992-08-41.

The Municipality agrees to the following Stage 2 local ARRA 2010 construction season project funding conditions:

Approved 100% ARRA funding cap is based on:

- 100% locally funded design;
- State oversight of local design (1.5% of approved construction amount for projects over \$1M, and 2% of approved construction amount for projects \$1M or less); and
- WisDOT initial construction estimate, plus an additional 23%.

No scope changes or substitutions are allowed on ARRA projects. The State, not the Municipality, will determine the need for, and must approve, all contract change orders.

With WisDOT approval, all eligible construction costs above the 100% ARRA cap will be funded 80% federal and 20% local from the appropriate State subprogram. WisDOT reserves the right to limit the use of 80% federal and 20% local funding. Entitlement balances will not be impacted.

Any work performed by the Municipality prior to federal authorization is not eligible for federal funding. The Municipality will be notified by the State that the project is authorized and available for charging.

SUMMARY FUNDING TABLE

<u>PHASE</u>	<u>ESTIMATED COST</u>				
	Total Est. Cost	Federal Funds	%	Municipal Funds	%
State Oversight (ID 5992-08-19)	<u>\$41,400</u>	<u>\$41,400</u>	Max	<u>\$0</u>	Balance
Construction (ID 5992-08-80)	<u>\$2,760,000</u>	<u>\$2,760,000</u>	Max	<u>\$0</u>	N/A
Additional 23%	<u>\$634,800</u>	<u>\$634,800</u>	Max	<u>\$0</u>	N/A
Subtotal	<u>\$3,394,800</u>	<u>\$3,394,800</u>	Max	<u>\$0</u>	N/A
Non-Participating Water Main (ID 5992-08-40)	<u>\$680,000</u>	<u>\$0</u>	0%	<u>\$680,000</u>	100%
Non-Participating Sanitary Sewer (ID 5992-08-41)	<u>\$260,000</u>	<u>\$0</u>	0%	<u>\$260,000</u>	100%
Total Est. Cost Distribution	<u>\$4,376,200</u>	<u>\$3,436,200</u>	Max	<u>\$940,000</u>	N/A

The Municipality assumes full responsibility for the design, installation, testing, and operation of the sanitary sewer and water main and relieves the State and all of its employees from liability for all suits, actions, or claims resulting from the sanitary sewer and water main construction under this agreement.

This request is subject to the terms and conditions that follow (pages 4-6) and is made by the undersigned under proper authority to make such request for the designated Municipality and upon signature by the State shall constitute agreement between the Municipality and the State.

Witness:

Signed for and in behalf of City of Madison:

Dave Cieslewicz, Mayor Date

Maribeth Witzel-Behl, Date
City Clerk

Approved As To Form:

Countersigned:

Michael May, City Attorney Date

Dean Brassler, City Comptroller Date

Eric Veum, City Risk Manager Date

Signed for and in behalf of the State:

Mary P. Forlenza – Local Transportation Programs & Finance Chief Date

TERMS AND CONDITIONS:

1. The initiation and accomplishment of the improvement will be subject to the applicable Federal and State regulations. The Municipality commits to understanding all key applicable federal and state requirements that are included but not limited to the following:
 - a. All projects must be in an approved TIP (if applicable) or an approved STIP prior to requesting authorization.
 - b. To ensure Wisconsin does not lose ARRA funding, all construction projects must be authorized by February 1, 2010.
 - c. ARRA-funded State oversight of design projects must be followed by an ARRA-funded construction project that is authorized no later than February 1, 2010.
 - d. No scope changes or substitutions are allowed on ARRA projects. The State, not the Municipality, will determine the need for and must approve all contract change orders.
 - e. The Municipality will provide any information necessary to meet ARRA reporting requirements, including, but not limited to: project information and local employment information.
 - f. All NEPA requirements will be met.
 - g. All DBE regulations will be met.
 - h. All competitive bidding procedures will be met.
 - i. All Buy America provisions will be met.
 - j. Davis-Bacon wage rates will apply to all projects, regardless of location, as well as the applicable Wisconsin wage rates.
 - k. The Municipality agrees to comply with and promote applicable Federal and State laws, Executive Orders, regulations, and implementing requirements intended to provide for the fair and equitable treatment of individuals and the fair and equitable delivery of services to the public. In addition the Municipality agrees not to engage in any illegal discrimination in violation of applicable Federal or State laws and regulations. This includes but is not limited to Title VI of the Civil Rights Act of 1964 which provides that "no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." The Municipality agrees that public funds, which are collected in a nondiscriminatory manner, should not be used in ways that subsidize, promote, or perpetuate illegal discrimination based on prohibited factors such as race, color, national origin, sex, age, physical or mental disability, sexual orientation, or retaliation.
 - l. Projects must be completed and final acceptance provided by WisDOT no later than December 31, 2012, so that the State can ensure all billings have been processed by the ARRA deadline of September 30, 2015.
2. The Municipality will pay to the State all costs incurred by the State in connection with the improvement that exceed Federal/State financing commitments or are ineligible for Federal/State financing. In order to guarantee the Municipality's foregoing agreements to pay the State, the Municipality, through its above duly authorized officers or officials, agrees and authorizes the State to set off and withhold the required reimbursement amount as determined by the State from any moneys otherwise due and payable by the State to the Municipality.

3. Funding of construction is subject to inclusion in Wisconsin's approved ARRA program. Federal aid and/or State transportation fund financing will be limited to participation in the costs of the following items as specified in the estimate summary:
 - a. The grading, base, pavement, curb and gutter, construction or replacement of sidewalks, and replacement of private driveways in kind.
 - b. Catch basins and inlets for surface water drainage of the improvement, with connections to the storm sewer main.
 - c. Storm sewer mains necessary for the surface water drainage.
 - d. New installations or alterations of street lighting and traffic signals or devices.
 - e. Landscaping.
 - f. Construction engineering incident to inspection and supervision of actual construction work, except for inspection, staking, and testing of sanitary sewer and water main.
 - g. Signing and pavement marking, including detour routes.
 - h. Management consultant and state review services.
4. Work necessary to complete the improvement to be financed entirely by the Municipality or other utility or facility owner includes the following items:
 - a. New installations of or alteration of sanitary sewers and connections, water, gas, electric, telephone, telegraph, fire or police alarm facilities, parking meters, and similar utilities.
 - b. Damages to abutting property due to change in street or sidewalk widths, grades or drainage.
 - c. Conditioning, if required and maintenance of detour routes.
 - d. Repair of damages to roads or streets caused by reason of their use in hauling materials incident to the improvement.
 - e. Bridge width in excess of standards.
 - f. Real estate for the improvement.
 - g. Construction inspection, staking, and materials testing and acceptance for construction of sanitary sewer and water main.
 - h. Hazardous materials investigations related to sanitary sewer and water main construction and subsequent coordination with the Wisconsin Department of Natural Resources.
5. As the work progresses, the Municipality will be billed for work completed which is not chargeable to Federal/State funds. Upon completion of the project, a final audit will be made to determine the final division of costs. The use of ARRA funds will also subject the Municipality to heightened audit and oversight by federal Inspectors General, the Recovery Accountability and Transparency Board, and will prohibit Municipal reprisals against employees who make disclosures regarding mismanagement or waste of ARRA funds. If reviews or audits show any of the work to be ineligible for Federal funding, the Municipality will be responsible for any withdrawn costs associated with the ineligible work.
6. If the Municipality should withdraw the project, it will reimburse the State for any costs incurred by the State on behalf of the project.
7. The work will be administered by the State and may include items not eligible for Federal/State participation.

8. The Municipality will at its own cost and expense:

- a. Meet any and all ARRA local reporting requirements.
- b. Maintain all portions of the project that lie within its jurisdiction for such maintenance through statutory requirements in a manner satisfactory to the State, and will make ample provision for such maintenance each year.
- c. Assume general responsibility for all public information and public relations for the project and to make fitting announcement to the press and such outlets as would generally alert the affected property owners and the community of the nature, extend, and timing of the project and arrangements for handling traffic within and around the projects.
- d. Provide complete plans, specifications, relocation orders, real estate plats, and estimates.
- e. Use the *WisDOT Utility Accommodation Policy* unless it adopts a policy, which has equal or more restrictive controls.
- f. Coordinate with the responsible party regarding remediation including locating a suitable local site for storage of contaminated soils from the sanitary sewer and water main excavation which cannot be replaced in the project trenches or roadway excavations and coordinate with the responsible party regarding the disposal of such soils.
- g. Coordinate with the Wisconsin Department of Natural Resources regarding the discharge into sanitary sewers of contaminated groundwater originating from dewatering of trench excavations for sanitary sewer and water main.

9. Basis for local participation:

Approved 100% ARRA funding cap is based on:

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100% Municipal costs for non-participating costs for water main and sanitary sewer construction under ID 5992-08-40 and ID 5992-08-41.