

**INTERGOVERNMENTAL AGREEMENT RELATING TO HAYWOOD DRIVE
SANITARY SEWER IMPROVEMENTS**

Between the City of Madison and the Madison Metropolitan Sewerage District.

THIS AGREEMENT is entered into by and between the City of Madison, a Municipal Corporation in Dane County, hereinafter referred to as the "City", and the Madison Metropolitan Sewerage District, a metropolitan sewerage district organized under Chapter 200 of the Wisconsin Statutes, hereinafter referred to as "MMSD", and is effective as of the date by which both parties have signed hereunder.

WITNESSETH:

WHEREAS, this Agreement describes cooperative efforts by MMSD and the City for the purpose of constructing public works improvements on Haywood Drive between S. Park Street and N. Wingra Drive, and between S. Park Street and W. Shore Drive, which public works improvements will benefit MMSD and the City; and,

WHEREAS, MMSD plans to replace most of the MMSD Southwest Interceptor between W. Shore Drive and N. Wingra Drive; and,

WHEREAS, the City intends to construct improvements to the infrastructure along Haywood Drive, including, but not limited to, resurfacing, and the installation of sanitary sewer main, sanitary laterals, and storm sewer; and,

WHEREAS, section 66.0301, Wisconsin Statutes, allows municipalities, including MMSD and the City, to contract with one another for the receipt or furnishing of services or the joint exercise of any power or duty required or authorized by law, and the sharing of expenses arising therefrom; and,

WHEREAS, the parties desire to formalize arrangements for the sharing of construction costs and other related issues associated with the forthcoming Haywood Drive sanitary sewer improvement projects, pursuant to section 66.0301, Stats.

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, MMSD and the City agree as follows:

- 1) MMSD's Southwest Interceptor sanitary sewer replacement project and the City's utility and roadway project will be separate projects. These projects will have separate contractors, be separately bid, and will be separately managed by the respective agencies.
- 2) MMSD's new manholes and new 36" diameter Southwest Interceptor will replace the old manholes and old 24" diameter cast iron Southwest Interceptor. Once the new interceptor and manholes are installed, the old interceptor and manholes can be abandoned. However, an existing City sanitary main serving properties on Haywood Drive connects to the old MMSD interceptor and therefore the old MMSD interceptor cannot be

abandoned until the new City sanitary facilities are connected to the new MMSD interceptor. Once these connections are made, the City shall abandon the old MMSD interceptor and manholes set forth in this section:

- a. The five (5) MMSD manholes to be abandoned are referenced in MMSD's records as MH02-114, MH02-113, MH02-111, MH02-110A, MH02-110. Manhole MH02-112 is a partial abandonment to be undertaken and paid for by the City and is therefore excluded from this agreement.
 - b. The sections of 24" diameter cast iron interceptor to be abandoned are those that connect the following manholes, from upstream (southwest) to downstream (northeast): MH02-115 to MH02-114, MH02-114 and MH02-113, MH02-113 to MH02-112, MH02-112 to MH02-111, MH02-111 to MH02-110A, MH02-110A to MH02-110, and MH02-110 to MH02-606. The old sections of interceptor pipe will be abandoned with slurry. Based on a computation of the internal volume of these pipes, an estimated 163.6 C.Y. of slurry will be required to abandon the old 24" diameter interceptor.
 - c. Estimates quantities and contract bid unit prices are as follows:

Bid Item 20335-Abandon Sewer Pipe with Slurry; 163.6 CY; \$270.00/CY;
\$44,172
Bid Item 90071 Abandon Sewer Access Structure; 5 structures; \$2,600/structure;
\$13,000
 - d. The abandonment work will be completed by the City's project contractor and the City will pay the contractor for the work. Following completion of the work and confirmation that the abandonment was done pursuant to project specifications, MMSD will reimburse the City for the manhole abandonment and 24" diameter interceptor sewer abandonments. The final costs will be determined by the contract bid prices plus or minus any changes made during construction. Payment shall be made by MMSD to the City within thirty (30) days of final invoicing to MMSD by the City.
- 3) The City wishes to connect nine (9) sanitary sewer laterals directly to MMSD's 36" diameter Southwest Interceptor as part of their improvements. This will allow the City to abandon parallel local sanitary sewers within the project limits. MMSD shall allow these direct connections to be made subject to the following conditions:
- a. The City shall be responsible for future locating of all sanitary sewer laterals that are connected directly to MMSD's Southwest Interceptor within the project limits.
 - b. The City shall be responsible for ongoing maintenance and repair of the lateral connections to MMSD's interceptor sewer.

- c. Sewer lateral connection to MMSD sewer will be made with a permit in accordance with all MMSD connection permit criteria. Lateral connections will be inspected by MMSD.
- 4) In an effort to maintain the integrity of MMSD's Southwest Interceptor, construction will be appropriately coordinated between MMSD and the City. MMSD will construct the new 36" diameter Southwest Interceptor sanitary sewer and backfill the trench, prior to the City making any connections to the interceptor. This will allow new laterals to be connected to the new interceptor at the time the old laterals are abandoned and will minimize the impact of City excavation on the new MMSD interceptor.
- 5) 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.
- 6) Joint Preparation. Each Party and its counsel have participated fully in the review and revision of this Agreement and acknowledge that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.
- 7) No Waiver. No failure to exercise, and no delay in exercising, any right, power or remedy hereunder on the part of the City or MMSD shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No express waiver shall affect any event or default other than the event or default specified in such waiver, and any such waiver, to be effective, must be in writing and shall be operative only for the time and to the extent expressly provided by the City or MMSD therein. A waiver of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition.
- 8) Governing Law. This Agreement shall be construed and enforced in accordance with the internal laws of the State of Wisconsin.
- 9) 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:

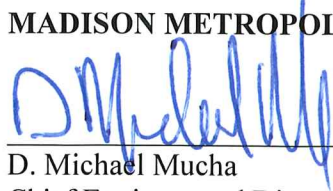
If to MMSD: Michael Mucha
Chief Engineer and Director
Madison Metropolitan Sewerage District
1610 Moorland Road
Madison, WI 53713-3398
michaelm@madsewer.org

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

- 10) Non-Discrimination. In the performance of the services under this Agreement, the parties both 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 Agreement because of race, religion, color, age, disability, sex, sexual orientation, gender identity or national origin.
- 11) 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. This paragraph shall survive the termination or expiration of this agreement.
- 12) Entire Agreement. The entire agreement of the Parties is contained herein and this Agreement supersedes any and all oral contracts and negotiations between the Parties.
- 13) Counterparts; Electronic Delivery. This Agreement may be signed in counterparts, each of which shall be taken together as a whole to comprise a single document. Signatures on this Contract may be exchanged between the parties by facsimile, electronic scanned copy (.pdf) or similar technology and shall be as valid as original. Executed copies or counterparts of this Contract may be delivered by facsimile or email and upon receipt will be deemed original and binding upon the parties hereto, whether or not a hard copy is also delivered. Copies of this Contract, fully executed, shall be as valid as an original.

IN WITNESS WHEREOF, the City and MMSD have executed this agreement effective as of the date when all parties hereto have affixed their respective signatures.

MADISON METROPOLITAN SEWERAGE DISTRICT



D. Michael Mucha
Chief Engineer and Director

4.12.19

Date

CITY OF MADISON

Satya Rhodes-Conway, 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

Eric Veum, Risk Manager

Date

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