

# **ACT 46, SB-270 – Trans 220 Update**

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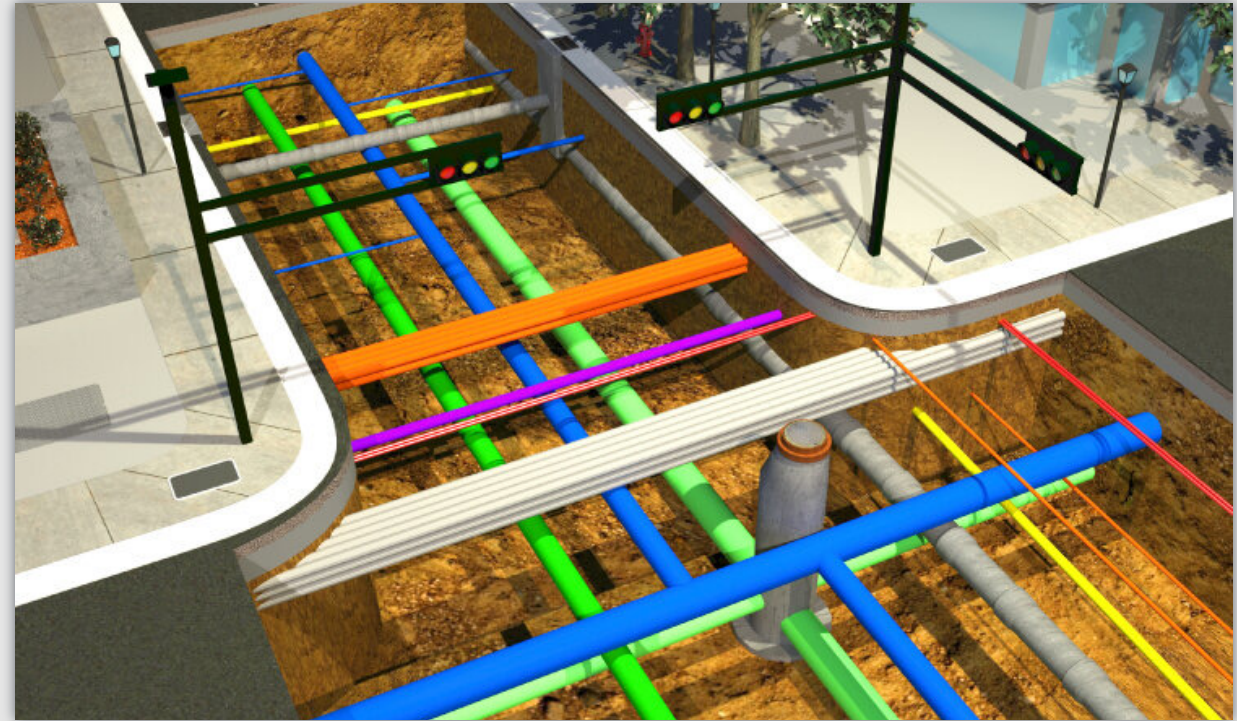
WTBA Contractor-Engineer Conference  
Wisconsin Dells, WI

**January 18<sup>th</sup>, 2024**

# ACT 46, SB-270 – Trans 220 Update

## • 2023 WISCONSIN ACT 46

- Act 46 establishes a process for compensating costs a contractor incurred as a result of a utility relocation delay and addresses responsibility for these costs.
- Under the act, a contractor that incurs costs as a result of a utility relocation delay may file a damages claim with DOT, which must notify the owner of the receipt of the claim.
- If DOT determines that a utility relocation delay occurred, DOT must compensate the contractor for the costs incurred as a result of the delay and may not impose liquidated damages for work required by the contract that is not completed within the contract time or within extra time allowed by the department as a result of the utility relocation delay.



# ACT 46, SB-270 – Trans 220 Update (cont.)

- Remove language in 108.10.2 for excusable – non-compensable delays
  - Revise 108.10.2.1(3) to remove former paragraph 6, “Delays caused by non-completion of work by utilities or other third parties, if the contract does not specify a number of days or a completion date for that utility or third-party work.”
- Revise language in 108.10.3 for excusable – compensable delays
  - Revise 108.10.3(2) item 5, “The non-completion of work that utilities or other third parties perform, if that work is not completed as specified in the contract.”



# ACT 46, SB-270 – Trans 220 Update (cont.)

- Key Definition – 84.063.
  - “Utility relocation delay” means a change in operations of a contractor or the rescheduling of work by a contractor that is caused by the uncompleted relocation or adjustment of a utility facility located in the right-of-way, regardless of whether the relocation or adjustment of the utility facility is identified in a plan under sub. (3).
  - The amount of compensation is calculated and paid in accordance with DOT’s standard specification for compensable delays.



# ACT 46, SB-270 – Trans 220 Update (cont.)

- 84.063 - A change in operations of a contractor:
  - Work by contractor must be done differently.
  - Contractor notification must follow specifications – section 104.3
  - Contractor must provide Engineer documentation and justification on the altered work. Work must be trackable and justifiable.
  - Follow process in 104.2 – revisions to the contract and 109.4 – price adjustments for contract revisions.



# ACT 46, SB-270 – Trans 220 Update (cont.)

- 84.063 - Rescheduling of work by a contractor:
  - Work is stopped or delayed.
  - Contractor notification must follow specifications – section 104.3
  - Follow specification section 109.4.7 – price adjustments for delay costs.



# ACT 46, SB-270 – Trans 220 Update (cont.)

- Important Dates:
  - ACT 46 was enacted on 12/6/2023.
  - Effective with WisDOT January 9<sup>th</sup>, 2024 lettings (ASP-6).



ANY QUESTIONS?

