



Green Infrastructure Funding Agreement W96001P11

Alice's Garden Urban Farm Rainwater Harvesting

This Agreement is between the Milwaukee Metropolitan Sewerage District (District), 260 West Seeboth Street, Milwaukee, Wisconsin 53204-1446; Alice's Garden Urban Farm, 3617 North 48th Street, Milwaukee, Wisconsin 53205; and Milwaukee County, Department of Parks, Recreation and Culture (County), 9480 Watertown Plank Road, Wauwatosa, Wisconsin 53226.

WHEREAS, the County owns land within Johnsons Park at 2136 North 21st Street; and

WHEREAS, the District is responsible for collecting and treating wastewater from local sewerage systems; and

WHEREAS, during wet weather events, stormwater enters local sewerage systems, increasing the volume of wastewater that the District must convey and treat; and

WHEREAS, during wet weather events, stormwater directly enters surface waters, increasing pollution levels in those waterways and increasing the risk of flooding; and

WHEREAS, green infrastructure, such as constructed wetlands, rain gardens, green and blue roofs, bioswales, and porous pavement, reduces the volume of stormwater in the sewerage system and the amount of pollutants discharged to surface waters; and

WHEREAS, the District's wastewater discharge permit requires the construction of new green infrastructure retention capacity; and

WHEREAS, the District wants to promote the installation of green infrastructure; and

WHEREAS, the Fund for Lake Michigan (Fund) wants to promote the installation of green infrastructure in parks, playgrounds, schools, and open spaces; and

WHEREAS, the County wants to promote the installation of green infrastructure in parks by cooperating organizations; and

WHEREAS, Alice's Garden Urban Farm plans to install green infrastructure in Johnsons Park; and

WHEREAS, both the District and the Fund intend to support the green infrastructure installed by Alice's Garden Urban Farm.

Now, therefore, for the consideration of the mutual promises made by the parties to this Agreement, the parties agree as follows.

1. Date of Agreement

This Agreement becomes effective immediately upon signature by the parties and ends December 31, 2018, except for the annual maintenance reports required by sec. 3(A)(5), the operation and maintenance requirements of sec. 8, and the transfer of ownership notification requirement of sec. 9.

2. The Project

Alice's Garden Urban Farm will:

- (A) install 2,000 square feet of bioswale and one 9,000-gallon cistern, providing a retention capacity of 24,000 gallons (Project). The Project is located at 2136 North 21st Street, Milwaukee;
- (B) complete construction before November 1, 2018;
- (C) install educational signage that:
 - (1) is either designed and provided by the District or provided by Alice's Garden Urban Farm and approved by the District and the County,
 - (2) is in a location approved by the District and the County, and
 - (3) identifies the District and the Fund as funding the Project, by name, logo, or both;
- (D) obtain a Right of Entry Permit from the County before the commencement of any construction or maintenance activities;
- (E) before the start of any bidding, installation, construction, or renovation of the premises, including any subsequent alternations or renovations to the Project, provide detailed construction plans and specifications and the names of proposed contractors to the Milwaukee County Parks Department and the Architecture and Engineering Section of the Milwaukee County Department of Administrative Services. Submittals will include, but will not be limited to: design drawings, which must comply with Parks Planning and Maintenance Standards; shop drawings containing product information, materials, and products; a

description of the scope of work to be performed; and a description of the means by which the work will be performed;

- (F) before commencing any alternations, additions, or improvements, obtain and comply with all necessary permits and licenses from the appropriate governmental authorities;
- (G) commence construction **only** after receiving approval from County Parks Planning, County Parks Maintenance, and the Architecture and Engineering Section of the Department of Administrative Services have approved plans and specifications. Alice's Garden Urban Farm will construct the Project as approved.
- (H) identify the District and the Fund as funding the Project in any printed matter, web sites, and any other informational materials regarding the Project;
- (I) install all Project components described in the application for funding;
- (J) allow the District and the County to inspect the Project and review maintenance records;
- (K) allow the District to identify Alice's Garden Urban Farm and describe the Project in publicity regarding green infrastructure;
- (L) inform the District of any promotional events for the Project arranged by Alice's Garden Urban Farm and allow the District to participate; and
- (M) allow the District to access the Project at reasonable times for promotional events arranged by the District, after notice from the District.

3. Reports

- (A) Alice's Garden Urban Farm will provide to the District:
 - (1) a Project schedule within 30 days after this Agreement becomes effective;
 - (2) monthly progress reports, describing the actions initiated and completed since the preceding report, until the completion of construction. These reports are due before the 10th day of each month, starting with the month after submission of the Project schedule;
 - (3) detailed plans and specifications before construction, if the District determines that reviewing these plans and specifications is necessary to ensure the intended retention capacity;
 - (4) a Baseline Report, using forms provided or approved by the District. This report is due after the conclusion of construction. This report will include:
 - (a) a site drawing, showing the completed green infrastructure;

- (b) design specifications for all green infrastructure, including rainwater capture capacity (maximum per storm) and other information regarding runoff rate reduction or pollutant capture;
- (c) a legal description of the property where the Project is located;
- (d) photographs of the completed Project;
- (e) a maintenance plan;
- (f) an itemization of all design, construction, and education and outreach costs, with supporting documentation;
- (g) a W-9 Tax Identification Number form;
- (h) a Small, Women's, and Minority Business Enterprise Report; and
- (i) an Economic Impact Report, showing the total number of people and the estimated number of hours worked on design and construction of the Project by Alice's Garden Urban Farm, contractors, consultants, and volunteers; and

(5) annual maintenance reports. This report will summarize Project performance and maintenance activities during the preceding twelve months. This report is due December 31 of each year. The District must receive these reports for the **ten calendar years** following the completion of construction.

(B) To provide these reports, Alice's Garden Urban Farm may use the U.S. mail, another delivery service, or electronic mail. Alice's Garden Urban Farm will send reports to:

Karen Nenahlo, Project Manager
 Milwaukee Metropolitan Sewerage District
 260 West Seeboth Street
 Milwaukee, Wisconsin 53204-1446
 knenahlo@mmsd.com

(C) Alice's Garden Urban Farm must provide the required reports, not a consultant or contractor.

(D) Reports that are late or incomplete may be a basis for rescinding this Agreement or making Alice's Garden Urban Farm ineligible for future funding.

4. Conservation Easement

(1) After the completion of construction, the County will execute a conservation easement in favor of the District. The extent of the conservation easement will be limited to the Project. The duration of the conservation easement will be ten years. The District will draft and record the conservation easement.

(2) Alice's Garden Urban Farm will be responsible for all green infrastructure maintenance responsibilities established by the conservation easement.

5. District Funding

(A) The District will reimburse Project costs, up to \$33,375.

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(B) Beyond financial support for the Project, the District will have no involvement in design, construction, maintenance, or operation.

6. Procedure for Payment

(A) Along with or after the Baseline Report required by sec. 3(A)(4), Alice's Garden Urban Farm will submit an invoice to the District for the amount to be reimbursed.

(B) The District will provide reimbursement only if:

(1) Alice's Garden Urban Farm provides the schedule, monthly reports, and Baseline Report required by sec. 3(A);

(2) Alice's Garden Urban Farm completes construction before November 1, 2018;

(3) the District receives the invoice before December 1, 2018; and

(4) the County executes the conservation easement after the completion of construction.

(C) Alice's Garden Urban Farm will submit invoices to:

Milwaukee Metropolitan Sewerage District
Accounts Payable Department
260 West Seeboth Street
Milwaukee, WI 53204-1446
Project Manager: Karen Nenahlo

7. Project Changes

The District will not pay for work not described in the application for funding, unless the District provides prior written approval. Any changes to the Project that decrease the capacity to retain stormwater must be approved by the District, in writing, before implementing the change.

8. Operation and Maintenance

Alice's Garden Urban Farm will operate and maintain the Project for at least ten years. If the Project fails to perform as anticipated or if maintaining the Project is not feasible, then Alice's Garden Urban Farm will provide a report to the District explaining the failure of the Project or why maintenance is not feasible. Failure to maintain the Project will make Alice's Garden Urban Farm ineligible for future District funding until Alice's Garden Urban Farm corrects the maintenance problems.

9. Transfer of Ownership

Alice's Garden Urban Farm will notify the District before transferring ownership or maintenance responsibilities. Alice's Garden Urban Farm will provide this notice at least 30 days in advance.

10. Procurement

- (A) For all expenditures over \$500, Alice's Garden Urban Farm will solicit at least three quotes. Alice's Garden Urban Farm will provide these quotes to the District upon request.
- (B) For all expenditures estimated to cost \$20,000 or more, Alice's Garden Urban Farm will use a sealed competitive bidding process. Alice's Garden Urban Farm will provide these bids to the District upon request. The District will assist with the public bidding process, upon request.
- (C) Alice's Garden Urban Farm will give disadvantaged business enterprises an opportunity to compete for work on this Project by soliciting quotes or bids from those businesses to the maximum extent possible. Disadvantaged businesses include small businesses and businesses owned by women, minorities, or veterans. The District's procurement office will provide a list of these businesses, upon request.

11. Responsibilities of Alice's Garden Urban Farm

Alice's Garden Urban Farm is solely responsible for:

- (A) planning, designing, constructing and maintaining the Project, including selecting and paying consultants, contractors, and suppliers;
- (B) the safety of employees, contractors, and guests to the Project;
- (C) compliance with all federal, state, and local laws and any permits, certificates, or licenses required to complete the Project;
- (D) compliance with Wisconsin prevailing wage law; and
- (E) insurance. The District will not provide any insurance coverage of any kind for the Project or Alice's Garden Urban Farm.

12. Indemnification

Alice's Garden Urban Farm will defend, indemnify, and hold harmless the District's and the County's elected officials, Commissioners, officers, employees, and agents against all damages, costs, liability and expense whatsoever, including attorney's fees and related disbursements, arising from or connected with the planning, design, construction, operation, or maintenance of the Project. Nothing in this Agreement is a waiver of the opportunity and right to rely upon the process, limitations, and immunities set forth in Wis. Stats., sec. 893.80.

13. Modifying this Agreement

Any modification to this Agreement must be in writing and signed by all parties.

14. Terminating this Agreement

- (A) The District or the County may terminate this Agreement at any time before the commencement of construction. After construction has commenced, the District or the County may terminate this Agreement only for good cause, including, but not limited to, breach of this Agreement or the lease agreement with the County by Alice's Garden Urban Farm.
- (B) Alice's Garden Urban Farm may terminate this Agreement at any time, but will not receive any payment from the District if the Project is incomplete.

15. Exclusive Agreement

This Agreement is the entire agreement between Alice's Garden Urban Farm and the District regarding reimbursement for the Project.

16. Severability

If a court holds any part of this Agreement unenforceable, then the rest of the Agreement will continue in effect.

17. Applicable Law

The laws of the State of Wisconsin govern this Agreement.

18. Resolving Disputes

If a dispute arises under this Agreement, then the parties agree to first try to resolve the dispute with the help of a mutually agreed-upon mediator in Milwaukee County. The parties will equally share any costs and fees associated with the mediation, other than attorney fees. If the dispute is not resolved within 30 days after the parties refer it to the mediator, then any party may take the matter to court.

19. Notices

All notices and other communications in connection with this Agreement will be in writing and will be considered given as follows:

- (A) when delivered personally to the recipient's address as stated on this Agreement; or

(B) three days after being deposited in the United States mail, with postage prepaid to the recipient's address as stated on this Agreement.

20. Independence of the Parties

This Agreement does not authorize any party to make promises binding upon any other party or to contract on the other party's behalf.

21. Assignment

Alice's Garden Urban Farm may not assign any rights or obligations under this Agreement without the District's prior written approval.

22. Public Records

Alice's Garden Urban Farm will produce any records in the possession of Alice's Garden Urban Farm that are subject to disclosure by the District pursuant to the State of Wisconsin's Open Records Law, Wis. Stats. secs. 19.31 to 19.39. Alice's Garden Urban Farm will indemnify the District against any and all claims, demands, and causes of action resulting from the failure to comply with this requirement.

23. Conflicts

If Alice's Garden Urban Farm identifies a relationship with the District, or the District's Commissioners or staff that could provide an advantage or cause a conflict of interest and if Alice's Garden Urban Farm did not disclose this relationship in the application for funding, then Alice's Garden Urban Farm will notify the District within five (5) days of identifying it.

Signatures on Next Page

**MILWAUKEE METROPOLITAN
SEWERAGE DISTRICT**

Approved as to Form

By: _____
Kevin L. Shafer, P.E. Attorney for the District
Executive Director

Date: _____

ALICE'S GARDEN URBAN FARM

By: _____
Venice Williams
Executive Director

Date: _____

MILWAUKEE COUNTY

By: _____
John Dargle, Jr., CPRP
Director of Parks, Recreation and Culture

Date: _____