



October 20, 2015

Ms. Kimberly Gleffe
Executive Director
River Revitalization Fund
2134 North Riverboat Road
Milwaukee, WI 53212

Dear Ms. Gleffe:

Subject: Green Infrastructure Funding Agreement M03064P18
Milwaukee River Parkway Habitat Improvement and Interpretive Access

\$ 48,100
(50%)

Enclosed is fully executed Funding Agreement M03064P18, between the Milwaukee County Department of Parks, Recreation and Culture; River Revitalization Foundation; and the Milwaukee Metropolitan Sewerage District, for your records.

Please contact me at 414-225-2151 or bpplier@mmsd.com if you have any questions.

Thank you.

Sincerely,

Breanne Plier
Project Manager

Enclosure

Handwritten red initials/signature.



Green Infrastructure Funding Agreement

Milwaukee River Parkway Habitat Improvement and Interpretive Access

M03064P18

This Agreement is between the Milwaukee Metropolitan Sewerage District (District), 260 West Seeboth Street, Milwaukee, Wisconsin 53204-1446; the Milwaukee County Department of Parks, Recreation and Culture (County), 9480 Watertown Plank Road, Wauwatosa, Wisconsin 53226; and the River Revitalization Foundation (Foundation), 2134 North Riverboat Road, Milwaukee, Wisconsin 53212.

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 Foundation and the County plan to install green infrastructure;

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 both parties and ends July 1, 2022, except for secs. 3(A)(5), 8 and 9.

2. The Project

The County and the Foundation will:

- (A) install 5,350 square feet of bioswale, 750 square feet of permeable pavers, and 24,000 square feet of native landscaping, providing a total retention capacity of 51,975 gallons, as described in the application for funding (the Project). The Project will be located in the area between Humboldt Boulevard and the Milwaukee River, south of Capitol Drive, in Milwaukee;
- (B) complete construction before July 1, 2017, and establish vegetation before July 1, 2022;
- (C) install educational signage that:
 - (1) is either designed and provided by the District or provided by the County and approved by the District,
 - (2) is in a location approved by the District, and
 - (3) identifies the District as funding the Project;
- (D) identify the District as funding the Project in any informational literature;
- (E) include all Project components described in the application for funding;
- (F) allow the District to inspect the Project and review maintenance records;
- (G) allow the District to identify the Foundation and the County, identify the location of the Project, and describe the Project in publicity regarding green infrastructure;
- (H) inform the District of any promotional events for the Project arranged by the Foundation or the County and allow the District to participate; and
- (I) 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) The Foundation will provide:

- (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 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 outreach and education strategy, including a description of events or activities completed or planned;
 - (g) an itemization of all construction costs, with supporting documentation;
 - (h) a W-9 Tax Identification Number form;
 - (i) a Small, Women, and Minority Business Enterprise Report; and
 - (j) 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 the County, contractors, consultants, and volunteers; and
 - (5) an annual maintenance report. 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. If the Foundation does not provide these reports, then the County will provide these reports.
- (B) To provide these reports, the Foundation and the County may use the U.S. mail, another delivery service, or electronic mail.
- (C) The Foundation or the County must provide the required reports, not a consultant or contractor. Reports that are late or incomplete may be a basis for rescinding this Agreement or making the County ineligible for future funding.
- (D) The Foundation and the County will send reports to:

Bre Plier, Project Manager
Milwaukee Metropolitan Sewerage District
260 West Seeboth Street
Milwaukee, WI 53204-1446
bplier@mmsd.com

4. Conservation Easement

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.

5. District Funding

- (A) The District will reimburse 50% of construction costs, up to \$48,100. The District will provide an amount up to \$45,700 after the Foundation completes construction and provides the Baseline Report and the County provides the signed Conservation Easement. The District will provide up to \$2,400 after the Foundation provides documentation showing that vegetation establishment is complete.
- (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), the Foundation will submit an invoice to the District for the amount to be reimbursed.
- (B) The District will reimburse costs only if:
 - (1) the Foundation has provided the schedule, monthly reports, and Baseline Report required by sec. 3(A);
 - (2) the Foundation completes construction before July 1, 2017;
 - (3) the District receives the initial invoice before August 1, 2017;
 - (4) the County signs the Conservation Easement; and
 - (5) the District receives the invoice and report regarding vegetation establishment before July 1, 2022.
- (C) The Foundation will submit invoices to:

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

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

The Foundation and the County 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 the Foundation or the County 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 the Foundation and the County ineligible for future District funding until the Foundation or the County corrects the maintenance problems.

9. Transfer of Countyship

The Foundation or the County will notify the District before transferring Countyship or maintenance responsibilities. The Foundation or the County will provide this notice at least 30 days in advance.

10. Procurement

- (A) The Foundation will ensure that disadvantaged business enterprises, including small, women and minority owned business enterprises, have the opportunity to compete for business opportunities on this project. The Foundation will make good faith efforts to solicit these enterprises for design, construction, or maintenance of the Project. The Foundation will keep records documenting these efforts. Additionally, the Baseline Report will indicate all spending with certified Small, Women and Minority Owned Businesses relating to the Project.
- (B) To allow the District to understand the economic impact of its spending, the Foundation will provide an economic impact report showing the total number of people and the estimated number of hours worked on design, construction, or maintenance of the green infrastructure, including the County, contractors, consultants, and volunteers.
- (C) The Foundation will make reasonable efforts to maximize the value of the District's investment in the Project, such as using a competitive procurement process to obtain multiple quotes or bids. Upon request, the Foundation will provide to the District records of the procurement process used for the Project.

11. Responsibilities of the Foundation and the County

The Foundation and the County are 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 the County.

12. Indemnification

The Foundation and the County will defend, indemnify, and hold harmless the District and its Commissioners, employees, and agents against any and 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 by either party 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 may terminate this Agreement at any time before the commencement of construction. After construction has commenced, the District may terminate the Agreement only for good cause, such as, but not limited to, breach of this Agreement by the Foundation or the County.
- (B) The Foundation or the County 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 the Foundation, the County, 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 either 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 enter into contracts on any other party's behalf.

21. Assignment

The Foundation or the County may not assign any rights or obligations under this Agreement without the District's prior written approval.

22. Public Records

The Foundation and the County will produce any records in the possession of the County that are subject to disclosure by the District pursuant to the State of Wisconsin's Open Records Law,

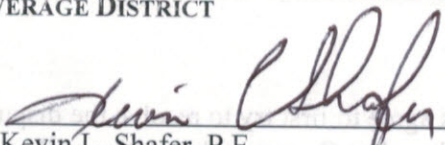
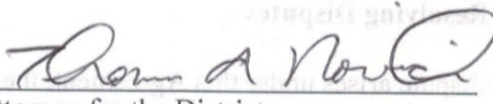
Wis. Stats. secs. 19.31 to 19.39. The Foundation and the County will indemnify the District against any and all claims, demands, and causes of action resulting from the failure to comply with this requirement.

23. Conflicts

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


MILWAUKEE METROPOLITAN SEWERAGE DISTRICT

Approved as to Form

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

Date: 10/19/15

MILWAUKEE COUNTY DEPARTMENT OF PARKS, RECREATION AND CULTURE

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

Date: 15 Sep 2015

RIVER REVITALIZATION FOUNDATION

By: 
Kimberly A. Gleffe
Executive Director

Date: 9-15-15