



## Green Infrastructure Funding Agreement W96001P25

### **Greenprint for Milwaukee Shoreline Phase 1**

This Agreement is between the Milwaukee Metropolitan Sewerage District (District), 260 West Seeboth Street, Milwaukee, Wisconsin 53204-1446; Milwaukee County War Memorial Inc. (War Memorial), 750 North Lincoln Memorial Drive, Milwaukee, Wisconsin 53202, and Milwaukee County, Department of Parks, Recreation and Culture (Milwaukee County), 9480 Watertown Plank Road, Wauwatosa, Wisconsin 53226.

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, Milwaukee County plans to install green infrastructure on land used by the War Memorial.

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 District, Milwaukee County, and the War Memorial and ends December 31, 2019, 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**

(A) Milwaukee County will:

- (1) install 87120 square feet of native landscaping; 20,250 square feet of porous pavement; and 7,600 square feet of bioswale, providing a retention capacity of 152,598 gallons (Project). The location of the Project is 750 North Lincoln Memorial Drive, Milwaukee;
- (2) complete construction before December 31, 2019;
- (3) install educational signage that:
  - (a) is either:
    - i. designed and provided by the District or
    - ii. provided by Milwaukee County or the War Memorial and approved by the District,
  - (b) is in a location approved by the District, and
  - (c) identifies the District as funding the Project, by name, logo, or both;

(B) Milwaukee County and the War Memorial will:

- (1) identify the District as funding the Project in any printed matter, web sites, and any other informational materials regarding the Project;
- (2) install all Project components described in the application for funding;
- (3) allow the District to inspect the Project and review maintenance records;
- (4) allow the District to identify Milwaukee County and the War Memorial describe the Project in publicity regarding green infrastructure;
- (5) inform the District of any promotional events for the Project arranged by Milwaukee County or the War Memorial and allow the District to participate; and

- (6) 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 War Memorial 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 10<sup>th</sup> 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 Milwaukee County War Memorial, contractors, consultants, and volunteers; and

(B) To provide the reports required by par. (A)(1) to (4), the War Memorial may use the U.S. mail, another delivery service, or electronic mail. The War Memorial will send reports to:

Lisa Sasso, Project Manager  
Milwaukee Metropolitan Sewerage District  
260 West Seeboth Street  
Milwaukee, Wisconsin 53204-1446  
lsasso@mmsd.com

- (C) The War Memorial will provide annual maintenance reports. These reports 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 twenty calendar years following the completion of construction. The War Memorial will use the form available from <http://www.freshcoast740.com/gi-om> and submit the form to [greeninfrastructure@mmsd.com](mailto:greeninfrastructure@mmsd.com).
- (D) The War Memorial must provide the required reports, not a consultant or contractor.
- (E) Reports that are late or incomplete may be a basis for rescinding this Agreement or making the War Memorial ineligible for future funding.

#### **4. Conservation Easement**

- (A) After the completion of construction, Milwaukee 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 twenty years. The District will draft and record the conservation easement.
- (B) The War Memorial will be responsible for all green infrastructure maintenance during the term of the Conservation Easement.

#### **5. District Funding**

- (A) The District will reimburse green roof construction costs at a rate of \$1.80 per square feet of native landscaping, \$7.00 per square feet of porous pavement, and \$9.00 per square feet of bioswale, up to an amount not to exceed \$366,966.
- (B) Beyond financial support for the Project, the District will not be involved in design, construction, maintenance, or operation.

#### **6. Procedure for Payment**

- (A) Along with or after the Baseline Report required by sec. 3(A)(4), Milwaukee County will submit an invoice to the District for the amount to be reimbursed.
- (B) The District will provide reimbursement only if:
  - (1) the War Memorial provides the schedule, monthly reports, and Baseline Report required by sec. 3(A);
  - (2) Milwaukee County completes construction before December 31, 2019;
  - (3) the District receives the invoice before December 31, 2019; and

(4) Milwaukee County executes the Conservation Easement after the completion of construction.

(E) Milwaukee County or the War Memorial will submit invoices to:

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

## **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 War Memorial will operate and maintain the Project for at least twenty years. If the Project fails to perform as anticipated or if maintaining the Project is not feasible, then the War Memorial 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 War Memorial ineligible for future District funding until the War Memorial corrects the maintenance problems.

## **9. Transfer of Ownership**

The War Memorial or Milwaukee County will notify the District before transferring Ownership or maintenance responsibilities. The District must receive this notice at least 30 days in advance.

## **10. Procurement**

Milwaukee County will select professional service providers according to the ordinances and policies of Milwaukee County. Milwaukee County will procure all non-professional services, such as construction, sewer inspection, and post-construction restoration, according to State of Wisconsin statutes and regulations and the ordinances and policies of Milwaukee County. Whenever work valued over \$25,000 is procured without the use of a public sealed bidding process, the District may request and Milwaukee County must provide an opinion from a licensed attorney representing Milwaukee County explaining why the procurement complies with State of Wisconsin law and the ordinances of Milwaukee County.

## **11. Responsibilities of Milwaukee County and the War Memorial**

Milwaukee County and the War Memorial are 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) insurance. The District will not provide any insurance coverage of any kind for the Project, Milwaukee County, or the War Memorial.

## **12. Indemnification**

The War Memorial and Milwaukee County will defend, indemnify, and hold harmless the District and the District's Commissioners, employees, and agents against any 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, including, but not limited to, breach of this Agreement by the War Memorial or Milwaukee County.
- (B) The War Memorial or Milwaukee 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 among Milwaukee County, the War Memorial, 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 mediation session, then either party may take the matter to court.

## **19. Notices**

All notices and other communications related to 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**

Neither Milwaukee County nor the War Memorial may not assign any rights or obligations under this Agreement without the District's prior written approval.

## **22. Public Records**

Milwaukee County and the War Memorial will produce any records in the possession of the War Memorial or Milwaukee 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 War Memorial and Milwaukee County will indemnify the District against any claims, demands, and causes of action resulting from the failure to comply with this requirement.

## **23. Conflicts**

If Milwaukee County or the War Memorial identify 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 the War Memorial or Milwaukee County did not disclose this relationship in the

application for funding, then Milwaukee County or the War Memorial 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.  
Executive Director

\_\_\_\_\_  
Attorney for the District

Date: \_\_\_\_\_

**MILWAUKEE COUNTY WAR MEMORIAL, INC.**

By: \_\_\_\_\_  
David Drent  
Executive Director

Date: \_\_\_\_\_

**MILWAUKEE COUNTY DEPARTMENT OF PARKS, RECREATION AND CULTURE**

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

Date: \_\_\_\_\_