

## **Funding Agreement**

### **Municipal Stormwater Best Management Practices Agreement**

This Agreement is made between the Milwaukee Metropolitan Sewerage District (District) with its principal place of business at 260 West Seeboth Street, Milwaukee, Wisconsin 53204-1446 and the Municipality (Municipality), with its city offices at Address.

WHEREAS, Wisconsin law, through Section 66.30 Stats., authorizes any municipality to enter into an intergovernmental cooperation agreement with another municipality for the furnishing of services; and

WHEREAS, the District is responsible for collecting and treating wastewater from the Municipality's locally owned collection system; and

WHEREAS, during wet weather events stormwater enters the Municipality's wastewater collection system, increasing the amount of wastewater that the District must collect and treat; and

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

WHEREAS, it has been demonstrated that installing Best Management Practices ("BMPs") for the management of stormwater such as constructed wetlands, rain gardens, green and blue roofs, bioswales, and porous pavement can be effective in managing stormwater; and

WHEREAS, the Municipality plans to install certain BMPs; and

WHEREAS, the District wishes to expedite the number of BMPs installed in its service area.

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 shall end on Date.

#### **2. District Funding**

The District shall reimburse the Municipality for \$ \_\_\_\_\_ in costs for the installation of the stormwater BMPs listed in Attachment A. The District funding shall be provided as a reimbursement upon completion of the BMP work set forth in Attachment A. Beyond the financial support for the BMP work, the District shall have no involvement in construction, maintenance or operation of the BMP. The Municipality shall identify the District as a funder in informational literature and signage.

### **3. Procedure for Payment**

Upon completion of the BMP work set forth in Attachment A, the Municipality shall submit a report conforming to the requirements set forth in Attachment A. The report shall include an itemization of all costs. Together with the report, the Municipality shall submit an invoice to the District for the amount to be reimbursed.

Reports and invoices shall be submitted to:

Tom Chapman, Project Manager  
Milwaukee Metropolitan Sewerage District  
260 West Seeboth Street  
Milwaukee, WI 53204 – 1446

No reimbursement will be provided until the project is complete and the report has been received.

### **4. Changes in BMP Work and Modifications to the Agreement**

Any changes to the BMP work must be approved by the District, in writing, in advance. The District may not reimburse for BMP work that is not included in Attachment A unless prior written approval from the District is obtained.

This Agreement may be modified only by a writing signed by both parties.

### **5. Ongoing Maintenance and Reporting Obligation**

The Municipality agrees to maintain the installed BMP projects for at least five years following completion of the BMP Work. In the event that a BMP project fails to perform as anticipated or it is otherwise not feasible for the Municipality to maintain the installed BMP project, a report shall be made to the District explaining the failure of the BMP or why it is not feasible to maintain the installed BMP.

### **6. Permits, Certificates and Licenses**

The Municipality is solely responsible for ensuring compliance with all federal, state and local laws requiring permits, certificates and licenses required to implement the BMP work.

### **7. Public Bidding**

In addition to the statutory requirements applicable to the Municipality, any work done and any purchases of materials and supplies involving an expenditure of greater than \$20,000 shall be subject to public bidding, with a contract awarded to the lowest responsible bidder complying with the invitation to bid.

### **8. Responsibility for Work, Insurance and Indemnification**

The Municipality is solely responsible for planning, design, construction and maintenance of the BMP work, including the selection and payment of consultants, contractors, and materials. The Municipality is solely responsible for ensuring compliance with Wisconsin prevailing wage law.

The District shall not provide any insurance coverage of any kind for the BMP work or the Municipality.

The Municipality shall defend, indemnify and hold harmless the District and its Commissioners, employees, and agents against any and all damages, costs, liability and expense whatsoever (including attorneys fees and related disbursements) arising from or connected with the planning, design, construction, operation or maintenance of the BMPs.

#### **9. Terminating the Agreement**

The District may terminate this Agreement at any time prior to commencement of the BMP work, as set forth in Attachment A. After the BMP work has commenced, the District may terminate the Agreement only for good cause, such as, but not limited to, breach of Agreement by the Municipality. The Municipality may terminate the Agreement at any time, but will not receive any payment from the District if the BMP work, as set forth in Attachment A, is not completed.

#### **10. Exclusive Agreement**

This is the entire Agreement between the Municipality and the District regarding reimbursement for stormwater BMP work.

#### **11. Severability**

If any part of this Agreement is held unenforceable, the rest of the Agreement will continue in effect.

#### **12. Applicable Law**

This Agreement is governed by the laws of the State of Wisconsin.

#### **13. Resolving Disputes**

If a dispute arises under this Agreement, the parties agree to first try to resolve the dispute with the help of a mutually agreed-upon mediator in Milwaukee County. Any costs and fees other than attorney fees associated with the mediation shall be shared equally by the parties. If the dispute is not resolved within 30 days after it is referred to the mediator, either party may take the matter to court.

#### **14. Notices**

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

- when delivered personally to the recipient's address as stated on this Agreement;  
or
- three days after being deposited in the United States mail, with postage prepaid to the recipient's address as stated on this Agreement.

#### **15. No Partnership**

This Agreement does not create a partnership relationship nor give the Municipality the apparent authority to make promises binding upon the District. The Municipality does not have authority to enter into contracts on the District's behalf.

**16. Assignment**

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

**17. Public Records**

The Municipality agrees to cooperate and assist the District in the production of any records in the possession of the Municipality that are subject to disclosure by the District pursuant to the State of Wisconsin's Open Records Law, §§19.31-19.39, Wis. Stats. The Municipality agrees to indemnify the District against any and all claims, demands, and causes of action resulting from the Municipality's failure to comply with this requirement.

**MILWAUKEE METROPOLITAN SEWERAGE  
DISTRICT**

**MUNICIPALITY**

By: \_\_\_\_\_  
Kevin L. Shafer, P.E.  
Executive Director

By: \_\_\_\_\_  
Name  
Mayor (or Village Manager)

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

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

Approved as to form:

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

Attachment A

**Describe the Stormwater Best Management Practices to be Installed.**

Provide detailed cost breakdown that includes a description and cost of items proposed for reimbursement by the District for purposes of determining eligibility.