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## MEMORANDUM

**To:** Mayor and City Council  
City of Park Ridge

**CC:** Wayne Zingsheim, Director of Public Works  
Joe Gilmore, City Manager

**From:** Adam B. Simon

**Subject:** Review of an Intergovernmental Agreement with MWRD for a “Green Parking Lot”

**Date:** May 9, 2019

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The City has been awarded a grant by the Metropolitan Water Reclamation District of Greater Chicago (“MWRD”) under the Green Infrastructure Program Plan for the purpose of constructing, operating and maintaining a permeable paver parking lot and rain gardens (collectively, the “Green Infrastructure”) at the Central Parking Lot. A condition of receiving the grant is the approval of an intergovernmental agreement which sets forth the terms and conditions for the City accepting the money (the “Agreement”). This memo presents a summary of the terms of the agreement which should be given special consideration by the City Council. A complete copy of my comments is attached as a redline draft of the agreement.

**Stormwater IGA:** The Agreement refers to a “Stormwater IGA” entered into between the parties on October 6, 2009. I have not been presented with a copy of this agreement to understand what commitments the City has previously made to MWRD.

**Performance of the Green Infrastructure** The Agreement expresses that the Green Infrastructure shall cause the *retention* of 192,760 gallons of storm water. Based on the preliminary design of the Green Infrastructure, all of the storm water captured will still be released into the City’s combined sewer system and transported to the wastewater treatment plant. This is normally characterized as *detention* instead of retention. The City needs to confirm whether the design of the Green Infrastructure meets the requirements for the grant.

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- Floating Grant Amount      The amount of the grant is subject to MWRD's confirmation that the Green Infrastructure will meet the performance goal of retaining 192,760 gallons of storm water (the "Design Goal"). In the event MWRD finds, in its discretion, that the Green Infrastructure fails to meet the Design Goal, it can reduce the amount of the grant. The current agreement places no parameters on the MWRD's exercise of discretion or the manner of calculating the reduced value of the grant. I recommend clarifying this provision to ensure any reduction to the grant value is proportionate to the amount the City misses the Design Goal.
- Long-Term Maintenance Obligations      The grant requires the City to perpetually maintain the Green Infrastructure and provide annual, engineer-stamped reports to MWRD that describe the condition of the Green Infrastructure and the maintenance, repair and replacement work performed during the preceding year. The City's failure to maintain the Green Infrastructure in perpetuity can result in MWRD demanding a refund of the grant amount and MWRD performing the work and charging the City for its costs.
- No Redevelopment      As a consequence of the long-term maintenance obligations, the parcel where the Green Infrastructure is being installed may never be redeveloped for a different purpose. Even if part of the property is redeveloped for another purpose, it will affect the Design Goal, which could result in the MWRD demanding partial reimbursement of the grant.
- Procurement Issues      The use of the grant money is expressly subject to complying with MWRD's purchasing laws, including state law and local procurement policies. Each of the issues raised below may result in greater expense to the City for soliciting and awarding contracts and constructing the project. Even if the City shifts responsibility for compliance to its general contractor, the additional administrative costs will be passed through to the City.

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- The City is unfamiliar with the MWRD Purchasing Act, 70 ILCS 2605/11.1-11.24;
- The Green Infrastructure project is covered by MWRDGC's Multi-Project Labor Agreement for Cook County, which limits the eligible contractors who can perform work or provide materials;
- The Green Infrastructure project is subject to a variety of affirmative action requirements that further limit the eligible contractors who can perform work or provide materials.
  - 20% of the grant amount must pay for contracts awarded to Minority-Owned Businesses;
  - 10% of the grant must pay for contracts awarded to Women-Owned Businesses;
  - 10% of the grant must pay for contracts awarded to Small Businesses; and
  - 3% of the grant must pay for contracts awarded to Veteran's-Owned Businesses.
- The City, or its designee, must submit an affirmative action Utilization Plan to MWRD to verify how it will comply with the foregoing contract award requirements.
- The City, or its designee, must submit to MWRD every 30 days from the start of construction written evidence demonstrating payment to the affirmative action contractors to prove compliance with the affirmative action obligations.

Limited Appropriations

The grant is only based on the current year's appropriation approved by the MWRD's Board. The agreement expressly disclaims any promise to re-appropriate any amounts which have not been disbursed after the expiration of the fiscal year.

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