



Item 5D.
BCWMC 1-19-17

Bassett Creek Watershed Management Commission

MEMO

To: BCWMC Commissioners
From: Laura Jester, Administrator
Date: January 11, 2017

RE: Item 5D. Structure of Agreement for Contributing Capital Improvement Funds to Agora Development, Plymouth

At the meeting in December, the Commission took the following action with regard to contributing funds to the Agora Development on the site of the old Four Seasons Mall.

Conditional approval to provide up to \$830,000 from the Four Seasons Mall Water Quality Project CIP budget as a financial contribution towards Alternative 4, which will provide stormwater treatment above and beyond the BCWMC's requirements at the Agora development (old Four Seasons Mall site) in Plymouth, based on the following conditions:

- a) Prior to the BCWMC formalizing a financial commitment, the developer must provide final drawings (i.e. final construction plans for the entire project including the wetland restoration) and supporting information (final pollutant removals and other information to confirm pollutant removal estimates) to the BCWMC Engineer for review and Commission approval. BCWMC's final financial commitment will be based on the final pollutant removal estimates.
- b) The BCWMC will enter into an agreement with the City of Plymouth for construction and funding of the project. Concurrently, the developer will need to enter into an agreement with the City of Plymouth regarding construction of the project and allowing construction of the wetland restoration portion of the project.
- c) The BCWMC must obtain BWSR approval to substitute this new CIP project for the original Four Seasons Mall Area Water Quality Project.
- d) The developer must obtain all required local, state, and federal permits for the project.
- e) The developer must submit the application, fee, drawings and supporting information for the Agora redevelopment site to the BCWMC Engineer for separate review as part of the BCWMC project review program.
- f) The final plans submitted to the Commission include a chloride management plan for the Agora site.
- g) The developer and City work with the Commission to develop education opportunities on the Agora site.

Since the December meeting, BCWMC staff and city staff have been working to determine the best way for the Commission to cooperate with the city and the developer (Rock Hill Management) and to ultimately contribute CIP funding to the project.

RECOMMENDATION: Although the Commission’s action indicates the Commission should enter into an agreement with the City, BCWMC staff and city staff recommend that the Commission enter into an agreement directly with Rock Hill Management to gain efficiencies in communication and information transfer.

This table presents a comparison of the different approaches.

Agreement with City	Agreement with Rock Hill Management (RHM)
Current practice to implement CIP projects.	New approach; could feel risky. Agreement could be structured similar to grant agreements between WMOs/WDs and private entities.
City to determine how to work with RHM to fulfill requirements of agreement.	Eliminates City as the “middle man” between BCWMC and RHM, more efficient process.
City responsible for ensuring long term maintenance of BMPs.	City would have development agreement with RHM for long term maintenance of BMPs.
City would request reimbursement of CIP funds from BCWMC; must gather documentation of expenses from RHM.	RHM would request reimbursement of CIP funds directly from BCWMC. [Could build reimbursement request timeline and documentation requirements into agreement]
City would provide monthly updates on project implementation to BCWMC; must gather information from RHM.	RHM would provide monthly updates on project implementation to directly BCWMC. [Could build reporting requirements into agreement]
City typically performs construction inspections but would request the Commission Engineer to perform inspections for this project.	BCWMC would perform construction inspections.

Troy Gilchrist (BCWMC Legal Counsel) reviewed the BCWMC Joint Powers Agreement and State law; and I reviewed the Watershed Plan and consulted the County (due to use of CIP funding) regarding the ability to contract directly with RHM to implement the project. In no instances, did we find rules or regulations that wouldn’t allow the Commission to enter into an agreement with RHM for project implementation.