

**MEMORANDUM OF AGREEMENT BETWEEN DC WATER AND THE
GOVERNMENT OF THE DISTRICT OF COLUMBIA
REGARDING
JOB OPPORTUNITIES FOR DISTRICT RESIDENTS AND CONTRACTING
OPPORTUNITIES FOR DISTRICT BUSINESSES FOR DESIGNING,
CONSTRUCTING, INSPECTING AND MAINTAINING GREEN INFRASTRUCTURE**

THIS MEMORANDUM OF AGREEMENT (MOA) is entered into and is effective on this 20th day of May 2015 (Effective Date) by and between the DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY, an independent authority of the District of Columbia, (DC Water) and the Government of the District of Columbia, acting by and through the EXECUTIVE OFFICE OF THE MAYOR (EOM) of the District of Columbia (District) (DC Water and EOM, together, the Parties).

RECITALS

WHEREAS, DC Water is implementing the Long Term Control Plan (LTCP) to control combined sewer overflows (CSOs) pursuant to the Consent Decree entered March 23, 2005 in Consolidated Civil Action No. 1:00CV00183TFH by the United States District Court for the District of Columbia (the Decree); and,

WHEREAS, DC Water, the District of Columbia government, the U.S. Environmental Protection Agency (EPA), and the U.S. Department of Justice have agreed to modify the Decree, in order to incorporate green infrastructure (GI) as part of the CSO controls in the CSO 027, 028, 029 and 049 sewersheds comprising approximately four-point-five (4.5) square miles (Modified Decree); and

WHEREAS, GI constructed, inspected, and maintained pursuant to the Modified Decree presents opportunities to create additional sustainable, living wage green jobs and green job training for residents of the District of Columbia (District Residents) and substantial, long-term contracting opportunities for District businesses;

WHEREAS, the Parties agree that the green jobs opportunities presented by the Modified Decree will be enhanced and maximized if they work together by coordinating their respective efforts;

WHEREAS, the goals and objectives of DC Water include the enhancement of opportunities for economic development in the District and Metropolitan Washington area and the facilitation of efficient and economical operation of sewage collection, disposal, and treatment systems in the District and surrounding jurisdictions and the reduction of pollution in local waterways;

WHEREAS, DC Water is currently implementing an employment program titled “DC Water Works” with the goal of enhancing District Resident employment opportunities on DC Water-funded projects. DC Water is committed to continue and expand the success of this program;

WHEREAS, development of GI will enhance both the District's and DC Water's ability to fulfill their general goals and purposes, particularly the modernization of their systems and services, the encouragement of conservation, and enhancement of economic development in the District; and

WHEREAS, development of a workforce local to the District that is skilled in GI development, construction and maintenance will enhance the District and DC Water's ability to fulfill its general purposes, particularly the efficient and economic provision of services, the modernization of its systems and services, the encouragement of conservation, the enhancement of economic development in the District, and the reduction of pollution in local waterways to the benefit of the District and surrounding jurisdictions.

NOW THEREFORE, the Parties agree to the terms of this MOA with the objective of coordinating their respective efforts to enhance and maximize creation of additional green jobs and green job training for District Residents.

1. INCORPORATION OF RECITALS

The Recitals above and any exhibits attached hereto are incorporated herein by reference.

2. GREEN JOBS GOAL

The District and DC Water have established a goal that at least fifty-one percent (51%) of new jobs (New Jobs) created by contracts or procurements entered into by DC Water with third party employers (Employers) to implement GI required by the Modified Decree are filled by District residents. New Jobs mean both union and non-union job openings, including vacancies created as a result of internal promotions, terminations or other separations, and expansions of the Employer's workforce. DC Water agrees to utilize reasonable best efforts to meet this goal. Such best efforts shall include actions detailed in subsequent sections of this MOA and such additional actions as may be mutually agreed by the District and DC Water from time to time.

3. DC WATER WORKS

DC Water agrees to apply its DC Water Works program to all GI required by the Modified Decree, including contracts and procurements related to professional services, construction, inspection or maintenance, with a contract value exceeding either two hundred and fifty thousand dollars (\$250,000) or the contract value used as a threshold for the DC Water Works program for other contracts of DC Water, whichever is lower. The program establishes a DC Water-wide goal of fifty-one percent (51%) of District Residents new hires and thirty-five percent (35%) of total apprentice hours targeted to be performed by District Residents. Under the program, new hire opportunities are defined as both union and non-union jobs created as a result of the contract and include all Employer's job openings and vacancies created for the Contract as a result of internal promotions, terminations, and expansions of the Employer's workforce. To ensure compliance, DC Water Works requires weekly, monthly and quarterly collection of employment statistics from project contractors.

4. DC RESIDENT OUTREACH

a. Job Notices

DC Water will, through the use of its DC Water Opportunity Center, collect information on all employment opportunities created as a result of the GI required by the Modified Decree. Opportunities will be posted on the DC Water Works website and disseminated to its approximately sixty (60) partner associations and organizations, including the District of Columbia Department of Employment Services (DOES). DC Water will also post the opportunities at each of its three (3) Satellite Job Centers located in Southeast and Northwest Washington, DC. Individuals interested in applying for any of these jobs will be able to submit an application online, or visit the job centers and complete an application in person.

b. Job Fairs

DC Water will co-sponsor with its contractors at minimum two (2) job fairs annually for GI opportunities targeted at District Residents.

5. GI CERTIFICATION STANDARDS

a. Scope:

DC Water agrees to select and fund the development by a third party of standards for certification of GI workers for construction, inspection and maintenance, standards for certification of training programs for candidates to obtain these certifications, including the program described in Section 6 of this MOA, and training materials for use in training programs in the District. The third party shall be a national, regional, or local organization with expertise in green infrastructure. The third party may also develop a process for certifying third party trainers and develop processes and procedures for tracking and maintaining an updated list of certified constructors and certified inspectors/maintainers in the United States.

b. DC Water shall:

- i. Fund the third party in an amount not less than a total of six hundred thousand dollars (\$600,000), with such funding to be provided during calendar years 2015, 2016 and 2017.
- ii. Designate a point of contact to serve on an advisory committee for development of the program. The point of contact will also serve as coordinator for interactions with the third party organization including identifying and selecting the third party organization, reviewing and providing comments on draft materials.

c. The District shall:

- i. Designate a point of contact from the District Department of the Environment to serve on an advisory committee for development of the standards and training materials.
- ii. Review and comment on submittals prepared by the third party organization including the content of the proposed standards and training materials.

6. DISTRICT JOB TRAINING PROGRAMS

a. Scope:

DC Water agrees to fund third-party job training and job placement assistance programs for GI construction, inspection, and maintenance for District Residents. The programs shall include the opportunity for participating District Residents to receive GI certification.

b. DC Water shall:

- i. Issue competitive procurement(s) to select third-party organization(s) to develop and operate job training and job placement assistance programs for GI construction, inspection, and maintenance, and include in the procurements requirements to: maximize participation by District Residents; pay stipends to trainees; fund testing and certification fees for those proceeding to obtaining certification; requirements for the third-party organizations to present their plan to maximize training graduation rates and job placement rates with a goal of achieving an eighty percent (80%) graduation rate and a fifty percent (50%) job placement rate.
- ii. Provide the draft procurement(s) to the Department of Employment Services and allow an opportunity to review and comment,
- iii. Award a contract to the selected third party organization(s) with a duration of not less than five (5) years.
- iv. Fund the training and placement programs at an amount not less than two hundred and fifty thousand (\$250,000) per year for five (5) years from the effective date of this MOA.
- v. Manage the contract. In the event of non-performance or default of the third-party organization, DC Water may, after an opportunity for review and comment by the District, terminate the contract.
- vi. Require the training programs to use the relevant standards and materials developed pursuant to section 5, adapted as necessary, after those standards and materials have been finalized.

c. Coordination with District Organizations

In conjunction with the training programs identified in Section 6.b, DC Water will partner with at least three District-based community organizations with an objective of creating a pathway for District Residents to enter into the training programs. DC Water will:

- i. Solicit input from the organizations on the best way to identify, screen and prepare candidates for the GI training programs. Work with each organization to develop criteria and approaches to screening candidates. Provide this information to the selected Third Party Trainers.
- ii. Work with the organizations to identify soft skills training opportunities
- iii. Work with the organizations to put in place public outreach targeted to unemployed and underemployed District residents to present strategies for obtaining the necessary soft skills training, entering the GI training program and obtaining jobs for GI.

7. USE OF FACILITIES FOR TRAINING

- a. Scope:

The Parties agree to allow third-party certification and training organizations use of existing GI facilities to train staff for construction and inspection/maintenance. The parties may establish limitations regarding use of the properties including but not limited to insurance requirements, limitation on hours of use, avoidance of conflict with existing operations, rules of conduct and other items.
- b. DC Water shall:
 - i. Allow the use of at least three (3) sites for training and certification for the duration of this MOA.
- c. The District shall:
 - i. Allow the use of at least three (3) sites for training and certification for the duration of this MOA.

8. MENTOR/INTERNSHIP PROGRAM

- a. Scope:

DC Water agrees to require contractors performing construction, inspection or maintenance work on GI facilities required by the Modified Decree to operate a mentor/internship program for District Residents.
- b. DC Water shall:
 - i. Develop draft specifications for the mentor/internship program within one hundred and twenty (120) days of execution of this MOA.
 - ii. Provide the draft specifications to the District for review and comment and work with the District to finalize the specifications within one hundred and eighty (180) days of the effective date of this MOA.
 - iii. Utilize the specifications, adapted as necessary for the project, for contracts and procurements with a contract value exceeding two hundred thousand dollars (\$200,000) where those procurements are advertised after the guide specifications are finalized.
 - iv. Revise specifications, after providing an opportunity to the District for review and comment, as necessary based on experience gained.
- c. The District shall review and comment on the draft specifications within thirty (30) days of receipt from DC Water and work with DC Water to finalize the specifications within one hundred and eighty (180) days of the effective date of this MOA.

9. USE OF GI CERTIFIED DISTRICT RESIDENTS

- a. Scope:

DC Water agrees to require contractors performing construction, inspection or maintenance work on GI facilities required by the Modified Decree to utilize District

residents that are certified under the certification standards established under Section 5 of this MOA (GI Certified District Residents).

b. DC Water shall:

- i. Identify GI job classifications subject to the certification requirement
- ii. For procurements with a contract value exceeding two hundred and fifty thousand dollars (\$250,000), require contractors to certify and submit documentation demonstrating that GI Certified District Residents are employed in eligible GI job classifications at least at the following percentages:

Years after Establishment of GI Certification Program	Minimum % of Person-Hours Performed by GI Certified District Residents in Eligible GI Job Classifications	
	Construction	Inspection and Maintenance
1	10%	10%
2	20%	20%
3	30%	30%
4	40%	40%
After 4	51%	51%

- iii. Develop waiver criteria that can be applied on a case by case basis in the event that the minimum percentages cannot be met for reasons such as but not limited to the lack of availability of certified District Residents.
- iv. Require contractors to submit reports tracking progress against criteria with each invoice.

10. DISTRICT RESIDENT HIRING PREFERENCE

DC Water shall:

- a. When short-listing qualified professional services and contractors to provide services with a value of more than two hundred thousand dollars (\$200,000) for GI required by the Modified Decree, use criteria that includes District Resident hiring as an evaluation factor when short-listing firms.
- b. In best value competitive procurements for contractors providing services with a value of more than two hundred thousand dollars (\$200,000) for GI required by the Modified Decree, use criteria that includes District Resident hiring as an evaluation factor when selecting firms.

11. USE OF GI CERTIFIED INDIVIDUALS GENERALLY

DC Water shall encourage contractors performing construction, inspection or maintenance work on GI facilities required by the Modified Decree to utilize other available individuals that are certified under Section 5 of this MOA for available GI jobs.

12. WAGES

Consistent with the requirements of the U.S. Department of Labor:

- i. All laborers and operators for construction projects shall be paid at least at the prevailing wages in accordance with the Davis Bacon wage provisions.
- ii. All laborers for service projects shall be paid at least the prevailing wages in accordance with the Service Contract Act wage provisions.

13. UTILIZATION OF CERTIFIED BUSINESS ENTERPRISE AND MINORITY AND WOMEN BUSINESS ENTERPRISE FAIR SHARE OBJECTIVES

- a. DC Water's procurements for implementation of the GI required by the Modified Decree may be funded in part by a grant from the U.S. Environmental Protection Agency. Accordingly, such procurements will be subject to all pertinent Federal requirements. In accordance with these requirements, a Fair Share Objective for Minority and Women Business Enterprises participation of twenty-eight percent (28%) and four percent (4%) for professional services and thirty-two percent (32%) and six percent (6%) for construction, respectively, will be required, unless changed to match current Federal requirements.
- b. For contracts and procurement funded by non-federal funds, DC Water shall utilize best efforts to maximize CBE participation with a goal that at least fifty percent (50%) of the dollar amount of the contract or procurement is contracted with or procured from CBEs. In furtherance of this goal, DC Water shall develop and use criteria that includes CBE utilization as an evaluation factor when shortlisting and selecting firms for professional services and when selecting contractors in best value procurements with a contract value of more than two hundred thousand dollars (\$200,000) to implement GI required by the Modified Decree.
- c. DC Water shall allocate its federal and non-federal funds to implement GI required by the Decree with a goal of minimizing costs to District ratepayers while maximizing the dollar amount of contracts and procurements funded with non-federal funds.

14. CBE TRAINING PROGRAMS

- a. Scope:
DC Water agrees to fund third-party programs for CBEs and businesses eligible for certification as CBEs (CBE-eligible businesses) to increase their capacity to engage in GI design, construction, inspection, and/or maintenance (capacity-building programs). The programs shall include the opportunity for participating CBEs and CBE-eligible businesses to receive GI certifications, to the extent relevant certifications exist.
- a. DC Water shall:
 - i. Issue competitive procurement(s) to select third-party organization(s) to develop and operate the capacity-building programs.
 - ii. Provide the draft procurement(s) to the Department of Small and Local Business Development and allow an opportunity to review and comment,
 - iii. Award a contract to the selected third party organization(s) with a duration of not less than five (5) years.

- iv. Fund the capacity-building programs at an amount not less than two hundred and fifty thousand (\$250,000) per year for five (5) years from the effective date of this MOA.
- v. Manage the contract. In the event of non-performance or default of the contractor, DC Water may, after an opportunity for District review and comment, terminate the contract.

15. CBE OUTREACH

- a. DC Water will continue and enhance its outreach to the community to ensure local Certified Business Enterprise (CBE) firms certified by the Department of Small and Local Business Development (DSLBD) are aware of and have bona fide opportunities to bid on DC Water projects.
- b. Contracting Notices
DC Water will collect information on all contracting and procurement opportunities created as a result of the GI required by the Modified Decree with a value exceeding two hundred thousand dollars (\$200,000). Opportunities will be posted on the DC Water website and disseminated to relevant associations and organizations, including Department of Small and Local Business Development to ensure that CBEs have bona fide opportunities to bid on GI contracting and procurement opportunities.
- c. Contracting Fairs
DC Water will co-sponsor with its contractors at minimum two (2) contracting and procurement fairs annually for GI opportunities targeted at CBEs and CBE-eligible businesses.

16. REPORTING

- a. Scope:
DC Water shall report on progress on a bi-annual basis. For the period January through June of each year, reports shall be issued by August 30 of the same year. For the period July through December of each year, reports shall be issued by February 28 of the following calendar year. Each report shall provide detailed information on DC Water's progress tracked against the requirements of this MOA.
- b. DC Water shall:
 - i. Develop a report format and allow an opportunity for DSLBD, DOES, and DDOE to review and comment.
 - ii. Compile and distribute to DSLBD, DOES, DDOE, and the DC MOA Coordinator a report presenting DC Water progress tracked against the requirements of this MOA.

17. MOA COORDINATORS

The Parties agree that the appointment of senior staff members of the District and DC Water as GI MOA Coordinators is important to maximizing DC Water's achievement in meeting the objectives of this MOA. The District GI MOA Coordinator will be the District's principal point of contact with DC Water, and the DC Water GI MOA Coordinator will be

DC Water's principal point of contact with District. In addition to communicating with each other regularly to coordinate and facilitate implementation, the project coordinators will meet regularly in person or by phone to ensure the obligations in this MOA are achieved.

18. RELIEF FROM MOA PROVISIONS

The Parties believe that the provisions of this MOA are not inconsistent with achieving the requirements in the Modified Decree. If DC Water determines that compliance with any goal, objective, commitment, or requirement of this MOA will prevent DC Water from complying with one or more requirements in the Modified Decree, then it shall so notify the District at least ninety (90) days before the deadline for compliance with such requirement or requirements. Such notification shall identify the affected goal, objective, commitment, or requirement of this MOA and the requirement or requirements of the Modified Decree and contain an explanation of the need for such relief. The parties agree to allow thirty (30) days to meet to discuss the matter to seek a resolution. If, at the conclusion of the thirty day period, DC Water determines in its sole discretion that compliance with such goal, objective, commitment, or requirement of this MOA will prevent DC Water from complying with one or more requirements in the Modified Decree, then DC Water shall be relieved of the relevant goal, objective, commitment, or requirement. If DC Water is relieved of any goal, objective, or requirement of this MOA pursuant to this section, the parties agree to make a good faith effort to modify the requirements of this MOA to the extent needed to achieve its overall goals.

19. DURATION OF MOA

The period of this MOA shall be from the effective date through the date on which DC Water certified it has placed in operation all construction required by the Modified Decree, including GI and non-GI elements, unless terminated in writing by the mutual agreement of the Parties prior to the expiration. Without limiting the duration of this MOA, it is the belief of the Parties that, pursuant to this provision, this MOA will be effective through 2030.

20. AUTHORITY FOR MOA

The authority to enter into this MOA includes the following:

- a. D.C. Official Code § 1-301.01(k).
- b. With respect to DC Water, D.C. Official Code §34-2202.03(10).
- c. With respect to EOM, D.C. Official Code § 1-204.22.

21. FUNDING PROVISIONS

- a. Each Party shall bear its own costs under this MOA.
- b. Anti-Deficiency Considerations: the Parties acknowledge and agree that the Parties' respective agreements to fulfill financial obligations of any kind pursuant to any and all provisions of this MOA, or any subsequent agreement entered into by the parties pursuant to this MOA, are and shall remain subject to the provisions of: (1) the federal

Anti-Deficiency Act, 31 U.S.C. §§1341, 1342, 1349, 1351; (2) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01-355.08; (3) D.C. Official Code § 47-105; and (4) D.C. Official Code § 1-204.46, as the foregoing statutes may be amended from time to time, regardless of whether a particular obligation has been expressly so conditioned.

22. ENTIRE AGREEMENT/MODIFICATIONS AND AMENDMENTS

Except as otherwise specifically provided herein, this MOA constitutes the entire agreement between the Parties with respect to the subject matter hereof. No amendment, change or modification of this MOA shall be valid unless in writing, stating that it amends or modifies this MOA, and signed by the Parties.

23. NOTICE

All notices required to be given pursuant to this MOA must be in writing and shall be deemed to have been given as of the date such notice is (i) delivered to the party intended, (ii) delivered to the designated address of the party intended, (iii) transmitted to the then designated email address of the party intended (provided the original of such notice is delivered on the same day to a nationally recognized overnight courier for delivery to the then designated address of the party intended on the next business day), (iv) rejected at the then designated address of the party intended, provided such notice was sent prepaid or (v) sent by nationally recognized overnight courier or by the United States Certified Mail, return receipt requested, postage prepaid and addressed to the then designated address of the party intended. The initial addresses of the parties shall be:

To the District: City Administrator
Office of the City Administrator
1350 Pennsylvania Avenue, NW
Suite 513
Washington, DC 20004
Attn: Rashad M. Young, or successor

To DC Water: Director, DC Clean Rivers Project
5000 Overlook Ave, SW
Washington, DC 20032
Attn: Carlton M. Ray, or successor

24. GOVERNING LAW

This MOA shall be governed and construed in accordance with the laws of the District of Columbia.

25. SEVERABILITY

If any provision of this MOA is found to be illegal, invalid or unenforceable, the remainder of this MOA shall not be affected.

26. DISPUTES

The General Manager of DC Water and the City Administrator, or their authorized representatives, shall resolve the dispute. The General Manager of DC Water and the City Administrator shall have the option to mutually agree to a neutral third party to resolve any disputes which may arise under this MOA.

27. COUNTERPARTS

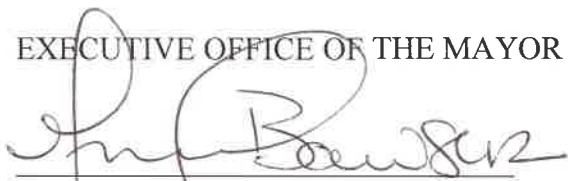
This MOA may be executed in counterparts, each separately and together constituting the same document. Execution of this MOA by facsimile shall be sufficient for all purposes.

SIGNATURES ON FOLLOWING PAGE.

SIGNATURES

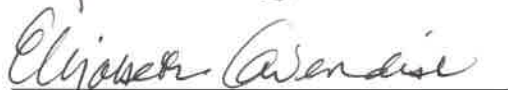
IN WITNESS WHEREOF, the Parties hereto have executed this MOA as follows:

EXECUTIVE OFFICE OF THE MAYOR



Muriel E. Bowser
Mayor

May 20, 2015
Date



Elizabeth Cavendish
General Counsel, for legal sufficiency

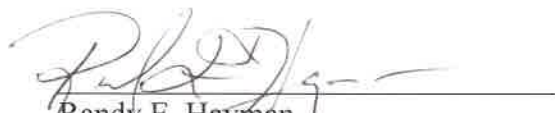
May 20, 2015
Date

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY



George S. Hawkins
General Manager

May 20, 2015
Date



Randy E. Hayman
General Counsel, for legal sufficiency

May 20, 2015
Date