

MEETING DATE: October 22, 2015

TITLE: Authorization to Amend Cooperative the Agreement with Gateway Knollwood, LLC

RESOLUTION NUMBER: 15-092

PREPARED BY: James Wisker

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REVIEWED BY: Administrator Counsel Program Mgr. (Name): _____
 Board Committee Engineer Other

WORKSHOP ACTION:

<input type="checkbox"/> Advance to Board mtg. Consent Agenda.	<input type="checkbox"/> Advance to Board meeting for discussion prior to action.
<input type="checkbox"/> Refer to a future workshop (date): _____	<input type="checkbox"/> Refer to taskforce or committee (date): _____
<input type="checkbox"/> Return to staff for additional work.	<input type="checkbox"/> No further action requested.
<input checked="" type="checkbox"/> Other (specify): <u>For final approval October 22, 2015</u>	

PURPOSE or ACTION REQUESTED:

Authorization to amend the Cooperative Agreement with Gateway Knollwood, LLC to extend the partnership planning deadline to October 1, 2016 between the City and Gateway to finalize exploration of regional treatment opportunities.

PROJECT/PROGRAM LOCATION:

Knollwood Mall, St. Louis Park

PROJECT TIMELINE:

October 2015	Amend cooperative agreement for collaborative project exploration
October 2016	Sunset date for potential regional treatment agreement
March 2017	Construction contracts awarded for onsite treatment at Knollwood if regional opportunity is not feasible
October 2017	Substantial completion of onsite treatment at Knollwood if initiated

PAST BOARD ACTIONS:

April 11, 2013	Board Action	Authorization to distribute a letter of support for partnership with Rouse Properties
May 9, 2013	13-062	Authorization to execute contracts for Knollwood area feasibility planning
October 24, 2013	13-105	Authorization to execute a cooperative agreement with Rouse Properties

SUMMARY:

In October 2013, after consideration of a permit application, and following nearly a year of collaborative planning related to the proposed redevelopment at Knollwood Mall with the City of St. Louis Park ("City") and Knollwood Mall, LLC ("Knollwood"), the Board authorized execution of a cooperative agreement with Knollwood to further investigate regional stormwater treatment opportunities.

On February 24, 2014, the District and Knollwood signed the cooperative agreement. At that time, the District, the City and Knollwood developed a framework that would allow the proposed redevelopment to move forward while exploring the possibility of a partnership to manage stormwater on a larger area-wide basis. Under that framework, implementation of the designed and approved on-site stormwater management plan would be permitted to be delayed, providing time to explore further regional treatment.

The agreement stated that Knollwood, the District and the City would enter into a further agreement for a collaborative regional facility by October 1, 2015, and if that were not achieved, Knollwood would award a contract for construction of on-site BMPs by March 1, 2017; complete substantial construction by October 1, 2017; and maintain a financial assurance irrevocable until October 1, 2017.

The cooperative agreement provided that if Knollwood were to convey the property, it would require as a term of conveyance that the buyer accept an assignment of the cooperative agreement and assume all rights and responsibilities thereunder. In January 2015 Knollwood conveyed the property to Gateway Knollwood LLC ("Gateway"), and on January 13, 2015, a formal assignment of the cooperative agreement to Gateway was executed.

Although the October 1, 2015 date for entering into an agreement for a collaborative regional project has passed, Gateway, the District and the City have not completed their exploration and mutually wish to extend this date. Gateway represents that a reasonable extension of this date will not complicate Gateway's compliance with the above dates for the construction of on-site BMPs in the event a collaborative project does not occur.

Staff recommends that the Board authorize execution of an amendment to the cooperative agreement to extend the date for a collaborative regional project agreement, provided that this does not extend the dates specified in the cooperative agreement for Gateway to award a contract for on-site BMPs, substantially complete BMP construction, and maintain a financial assurance.

RESOLUTION

RESOLUTION NUMBER: 15-092

TITLE: **Authorization to Amend Cooperative Agreement with Gateway Knollwood, LLC**

WHEREAS in 2013, Knollwood Mall, LLC (“Knollwood”), applied to the District for a permit for the purpose of redevelopment activity on the site of the Knollwood Mall, 8332 State Highway No. 7, St. Louis Park, which discharges directly to Minnehaha Creek;

WHEREAS the District’s stormwater rule required that Knollwood install Best Management Practices (BMPs) to address the potential water resource impacts associated with the proposed activity, to control peak flow and limit pollutant generation on and discharge from the site;

WHEREAS Knollwood requested an exception under the District’s variance rule allowing it to delay construction of on-site BMPs, for reasons including the possibility of a project in collaboration with the District and the City of St. Louis Park (“City”) that would provide water resource protection in excess of that of the proposed BMPs alone, potentially including management and treatment of regional stormwater not generated on the Knollwood site and presently discharged directly to Minnehaha Creek, as well as potential restoration of Minnehaha Creek streambank and floodplain and additional flood storage capacity along the creek;

WHEREAS in allowing a delay, the District would incur temporal losses in water resource protection as the result of site discharges until the BMPs or alternative, equivalent stormwater management facilities are operative;

WHEREAS the Board approved the exception requested by Knollwood on the condition that Knollwood establish a legal commitment to an exploratory process and accept stipulated binding deadlines for BMP construction in the event a collaborative project is not pursued;

WHEREAS on February 24, 2014, the District and Knollwood signed a cooperative agreement providing that Knollwood, the District and the City would enter into a further agreement for a collaborative regional facility by October 1, 2015, and if that were not achieved, Knollwood would award a contract for construction of on-site BMPs by March 1, 2017; complete substantial construction by October 1, 2017; and maintain a financial assurance irrevocable until October 1, 2017;

WHEREAS the cooperative agreement provided that if Knollwood were to convey the property, it would require as a term of conveyance that the buyer accept an assignment of the cooperative agreement and assume all rights and responsibilities thereunder;

WHEREAS Knollwood thereafter conveyed the property to Gateway Knollwood LLC (“Gateway”), and on January 13, 2015, a formal assignment of the cooperative agreement to Gateway was executed;

WHEREAS the October 1, 2015 date for entering into an agreement for a collaborative regional project has passed, however Gateway, the District and the City have not completed their consideration and mutually wish to extend this date;

WHEREAS Gateway represents that a reasonable extension of this date will not complicate Gateway's compliance with the above dates for the construction of on-site BMPs in the event a collaborative project does not occur;

THEREFORE BE IT RESOLVED that the Board President is authorized to sign an amendment to the cooperative agreement to extend the date for a collaborative regional project agreement, provided that this does not extend the dates specified in the cooperative agreement for Gateway to award a contract for on-site BMPs, substantially complete BMP construction, and maintain a financial assurance.

Resolution Number 15-092 was moved by Manager _____, seconded by Manager _____.
Motion to adopt the resolution ___ ayes, ___ nays, ___ abstentions. Date: _____.

Secretary Date: _____