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September 16th, 2019

Via electronic mail (Melissa.LaBuda@Phila.gov)

Ms. Melissa LaBuda
Deputy Water Commissioner, CFO
Philadelphia Water Department
1101 Market Street
Philadelphia, PA 19107

Re: Comments to the Philadelphia Water Department on potential stormwater rate mitigation approaches impacting the SMIP and GARP programs being explored for the 2020 rate proceeding.

Dear Ms. LaBuda,

We are writing in response to your request for comments on potential rate mitigation approaches the Philadelphia Water Department (PWD) is exploring in advance of its 2020 rate proceeding. We represent Philadelphia area organizations who support the *Green City, Clean Waters* plan and continue to advance its goals and champion its success. We appreciate PWD's attention to the impacts of its stormwater fee on Philadelphians and understand the need to address an upcoming shift to residential customers bearing the financial burden of stormwater management while commercial properties continue to generate stormwater runoff in the city. We believe it is essential to ensure that all residents of Philadelphia have affordable access to clean, safe water and sewer services.

In undertaking its obligations, however, the City must comply with the Clean Water Act, Consent Orders & Agreements with the Pennsylvania Department of Environmental Protection (DEP) and the Environmental Protection Agency (EPA), and the resulting *Green City, Clean Waters* program. All of these obligations require sufficient and stable funding sources. A primary source of funding to fulfill these obligations is a stormwater fee assessed to all properties in Philadelphia—commercial, industrial, residential, etc. As nonresidential properties are developed and retrofitted and take advantage of fee reducing practices, residential customers will eventually take on a larger share of the financial burden of the stormwater fee. PWD's stormwater incentive programs known as SMIP and GARP are an important tool for increasing the city's greened acres and changes to the programs may impact the future success of *Green City, Clean Waters*. To this end, we offer the following comments in response to potential rate structure changes currently being presented by PWD to stakeholders in preparation for the upcoming rate hearing cycle.

1. PWD’s stormwater grant programs are important to cost effectively incentivize private property’s contribution to the success of *Green City, Clean Waters*.

From its beginning, *Green City, Clean Waters* contemplated the necessity of private development and investment in the success of the program.¹ As far back as 2006, Philadelphia acknowledged the opportunity that redevelopment on private property had to address impacts from stormwater. PWD’s stormwater regulations shift a major portion of the cost of compliance away from PWD and its ratepayers and onto private property developers and owners. Just as developers must meet building code requirements for the design and construction of their projects, and factor those costs into their development budgets, so too must they meet PWD’s stormwater management requirements as a cost of doing business.

Early in the implementation of *Green City, Clean Waters*, PWD realized that investing directly in green stormwater infrastructure retrofits on already-developed private properties provided cost-savings to ratepayers, as compared to investing only in green stormwater infrastructure on public property. This is because many of the most cost-effective areas to site green stormwater infrastructure projects remain on privately owned land. PWD launched the Stormwater Management Incentive Program (SMIP) in 2011 to provide a rebate to non-residential property owners for the construction of stormwater retrofit projects on privately owned property. The resulting greened acres are counted towards PWD’s compliance requirements within *Green City, Clean Waters*.

Despite the successes of SMIP, PWD initially saw limited participation in the program from the large industrial and commercial properties where the return on investment would be most beneficial.² To incentivize implementation of green stormwater infrastructure on these large industrial and commercial properties, PWD developed the Greened Acre Retrofit Program (GARP) in 2014.³ GARP provides grant funding to companies or contractors to construct stormwater projects across multiple properties in Philadelphia’s combined sewer area. This model reduces the administrative burden on the property owners, encourages growth in the private sector, and produces cost effective stormwater management for which the city can take credit towards its *Green City, Clean Waters* goals. GARP has been profiled as a model of innovation for securing cost-effective green infrastructure.⁴ In fact, other cities are now looking to the GARP approach for inspiration to help them meet green infrastructure targets under their own CSO enforcement orders.⁵ In the first eight years of *Green City, Clean Waters*, SMIP and GARP resulted in 579 greened acres managed.⁶

¹ *Green City, Clean Waters*, at 1-2 (describing PWD’s vision as including “[r]equirements and incentives for green stormwater infrastructure to manage runoff at the source on private land”)

² *Id.*

³ *Id.*

⁴ See, NRDC, *Wanted: Green Acres – How Philadelphia’s Greened Acre Retrofit Program is catalyzing low-cost green infrastructure retrofits on private property* (2015), available at <https://www.nrdc.org/sites/default/files/philadelphia-green-infrastructure-retrofits-IB.pdf>.

⁵ New York City Department of Environmental Protection, 2017 Green Infrastructure Annual Report, p. 44 (2018) (Discussing “Private Incentive Retrofit Program”), http://www.nyc.gov/html/dep/pdf/green_infrastructure/gi_annual_report_2018.pdf; NRDC, *Catalyzing Green Infrastructure on Private Property: Recommendations for a Green, Equitable, and Sustainable New York City* (2017), available at <https://www.nrdc.org/sites/default/files/catalyzing-green-infrastructure-on-private-property.pdf>.

⁶ PWD Data, 8.1.2019 Greened Acre Progress Update

Despite the success of these programs, it is our understanding that PWD is exploring reducing the funding of these programs by half. We find this sudden proposal concerning because no alternative modifications to the SMIP/GARP programs were offered, and therefore we conclude, not properly explored, and this potential mitigation approach did not acknowledge or address the myriad of possible impacts to *Green City, Clean Waters*.

a. PWD should provide a suite of alternatives of potential rate mitigation approaches to SMIP and GARP.

As presented to stakeholders, PWD offered only one alteration to SMIP/GARP—a 50% reduction of funding to the programs.⁷ A reduction of the funding available for SMIP/GARP will have a significant impact on the ability of private developers to implement green stormwater infrastructure towards the city’s greened acres requirement. This is offered at a time when the programs have become particularly streamlined and initial kinks have been worked out, making it more effective and efficient at achieving greened acres towards the city’s target. Even with the significant contribution these programs make towards the city’s greened acres target, the only option presented to stakeholders was halving the current SMIP/GARP budget. PWD did not present any alternative scenarios investigated, for example reducing funding by a more modest amount, or staging SMIP/GARP funding reductions over time. If PWD does plan to move forward with proposing adjustments to the SMIP/GARP programs, PWD should investigate, and present for public consideration various options.

b. Potential impacts of any adjustment to the SMIP/GARP programs to PWD’s ability to comply with *Green City, Clean Waters* should be considered.

There is no doubt that SMIP and GARP funding has allowed PWD to cost effectively reach its *Green City, Clean Waters* targets.⁸ Adjustments to these programs will have significant impacts on PWD’s ability to reach its compliance targets moving forward. Yet presentations of this potential rate mitigation approach did not include any discussion of these impacts or how such impacts might be mitigated. As noted above, implementation of green stormwater infrastructure on private property was always essential to the success of *Green City Clean Waters*. Disincentivizing this investment will require the city to undertake significantly more public green stormwater projects. SMIP and GARP were initially proposed as a way to lower the costs of green infrastructure projects.⁹ Such a shift in responsibilities will only cost the rate payer more—the precise circumstance PWD articulates it is seeking to avoid with this proposed approach. Therefore, any proposed adjustments to these programs should be accompanied with thorough analysis of potential impacts and explanation of how PWD

⁷ Two other potential mitigation approaches were offered—aligning credit criteria with stormwater regulations of managing 1.5-inch of runoff and specifying and enrollment window for applying for credit following completion of development. For the purposes of this letter, we are focused on the approach impacting SMIP/GARP.

⁸ *Green City, Clean Waters*, Evaluation and Adaptation Plan, 2016 (hereinafter 2016 EAP), at 4-2, available at http://phillywatersheds.org/doc/Year5_EAPBody_website.pdf.

⁹ See, NRDC, *Wanted: Green Acres – How Philadelphia’s Greened Acre Retrofit Program is catalyzing low-cost green infrastructure retrofits on private property* (2015), available at <https://www.nrdc.org/sites/default/files/philadelphia-green-infrastructure-retrofits-IB.pdf>.

expects to meet its compliance targets under each scenario. Without this information, appropriate evaluation of any proposal is impossible.

The success of *Green City, Clean Waters* depends on the use of private property for development of greened acres. By encouraging stormwater management on private property, Philadelphia's SMIP and GARP programs have a significant impact on the city's ability to comply with the Clean Water Act. Yet, without presenting thorough options, analysis, or resulting impacts, a potential mitigation approach inexplicably proposes reducing these programs' budgets by half. Therefore, we request PWD continue funding the SMIP and GARP programs at the current rate.

Thank you for your consideration of these comments.

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