



LOWER MINNESOTA RIVER WATERSHED DISTRICT

Executive Summary for Action

Lower Minnesota River Watershed District Board of Managers Meeting

Wednesday, February 16, 2022

Agenda Item

Item 6. C. – Burnsville Willow Creek Ravine Stabilization

Prepared By

Linda Loomis, Administrator

Summary.

At the September 15, 2021, meeting of the LMRWD Board of Managers, the Board authorized participation in a ravine stabilization project outside the boundaries of the LMRWD in the City of Burnsville. The City of Burnsville has been working on the project and has provided a cooperative agreement for the LMRWD Board to consider. The agreement was sent to Legal Counsel for review.

The Board should make a motion to approve the agreement and authorize execution of the agreement by the President.

Attachments

Cooperative Agreement for 21-604 Willow Creek Ravine Stabilization Project
Excerpt from September 15, 2021 LMRWD Board of Managers meeting minutes

Recommended Action

Motion to approve Cooperative Agreement for 21-604 Willow Creek Ravine Stabilization Project and authorize execution

**COOPERATIVE AGREEMENT
FOR
21-604 WILLOW CREEK RAVINE STABILIZATION PROJECT**

This Agreement is made this ____ day of _____, 2022, by and between the Lower Minnesota River Watershed District, a Minnesota watershed district (hereinafter the "LMRWD"), and the City of Burnsville, a Minnesota municipal corporation (hereinafter the "City").

WITNESSETH:

WHEREAS, the LMRWD has adopted the Watershed Management Plan for the Lower Minnesota River Watershed District, 2018-2027 on October 24, 2018 (hereinafter the "Plan"), as required by Minn. Stat., § 103B and 103D and Minnesota Rules (MN Rules) 8410; and

WHEREAS, the Plan includes an Implementation Program Budget with annual funding for Cost Sharing and Water Quality Restoration; and

WHEREAS, the City presented the Willow Creek Ravine Stabilization Project (City Project 21-604) (hereinafter the "Project") to the LMRWD Board of Managers at their regular meeting on August 18, 2021 requesting a cost share from the LMRWD; and

WHEREAS, Willow Creek is a public drainageway that is located outside of the LMRWD boundary but ultimately drains to the Lower Minnesota River; and

WHEREAS, stabilizing Willow Creek is anticipated to have water quality benefits by reducing total Phosphorus by approximately 25,000 pounds per year and reducing sediment by approximately 45,000 pounds per year; and

WHEREAS, the LMRWD Board of Managers at their regular meeting on September 15, 2021 approved a \$75,000 contribution toward the Project, of which 90% shall be paid upon substantial completion and the remaining 10% after total completion; and

WHEREAS, the Burnsville City Council awarded a contract for the Project at their regular meeting on October 19, 2021 and a notice to proceed was issued on November 2, 2021 to Heselton Construction, LLC.

NOW, THEREFORE, on the basis of the premises and mutual covenants and agreements hereinafter set forth, the parties agree as follows:

1. The Project consists of improvements to Willow Creek as shown in Attachment A.

2. The City will pay the contractor and all other expenses related to the construction of the Project and will keep and maintain complete records of such costs incurred.
3. The LMRWD will reimburse the City \$75,000 for construction costs related to the Project. Ninety percent (90%) reimbursement will occur at the time of substantial completion and the remaining ten percent (10%) will occur after total completion. All costs of the Project incurred in excess of the reimbursement amount of \$75,000, including all costs incurred in excess of estimated project costs due to unforeseen conditions or any other cause, shall be borne by the City or secured by the City from other sources.
4. All City books, records, documents, and accounting procedures related to the Project are subject to examination by the LMRWD.
5. The City will secure all necessary local, state, or federal permits required for construction of the Project.
6. The Project is constructed on land owned or easements held by the City.
7. The City will have ownership of the associated improvements and will maintain them in good condition in perpetuity or until such time as they are replaced with like improvements.
8. The City will defend, indemnify, protect, and hold harmless the LMRWD and its agents, officers, and employees, from any claims arising out of the design, construction, or maintenance of the Project, including environmental claims. Nothing herein shall be deemed a waiver of the limitations of liability in Minnesota Statutes, Chapter 466.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers on behalf of the parties as of the day and date first above written.

LOWER MINNESOTA RIVER
WATERSHED DISTRICT

CITY OF BURNSVILLE

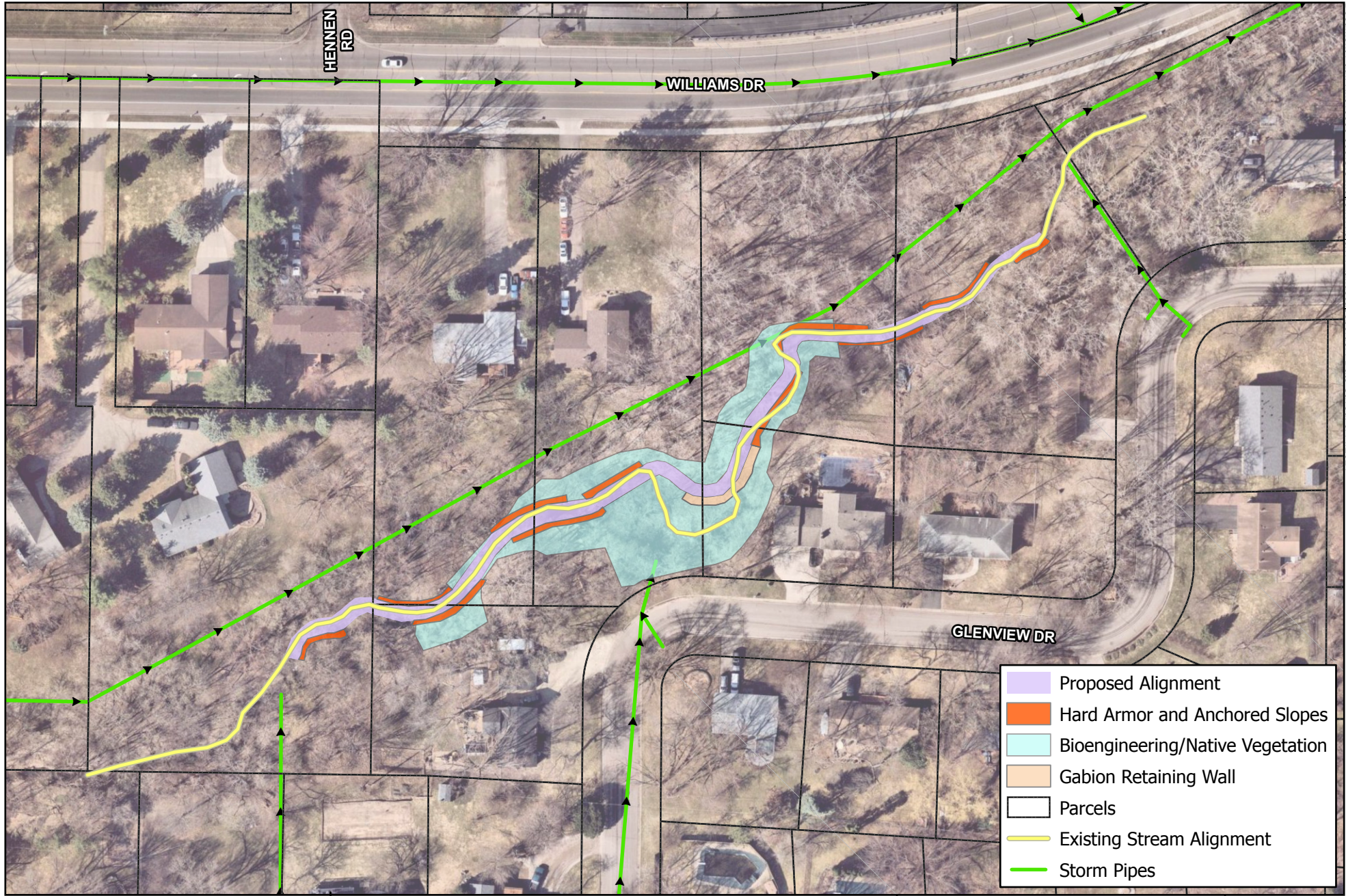
By: _____
Its President

By: _____
Its Mayor

And by: _____
Its Administrator

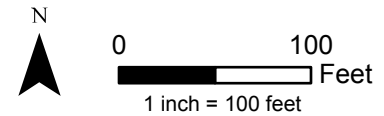
And by: _____
Its Manager

Attachment A
Construction Plans (or Exhibit)



Stream Restoration Exhibit

Burnsville 2021 Slope Stability Project
City of Burnsville



Manager Mraz asked if staff feels an additional meeting would be needed again next summer. Ms. Schall-Young noted that one of the reasons the LMRWD has seen so many permit reviews is that several cities do not yet have the municipal approval the LMRWD grants to cities. The LMRWD is looking to approve all the cities before next summer, so the workload will be reduced.

Manager Mraz made a motion to adjust the meeting schedule. The motion was seconded by President Hartmann. Upon a vote being taken the motion carried unanimously.

6. OLD BUSINESS

A. I-35W Frontage Trail Cost Share – Burnsville

Administrator Loomis noted at the previous meeting the Jen Desrude, Public Works Director for Burnsville, requested funding on two projects: the I-35W Trail project and the Willow Creek stabilization. Young Environmental scored the projects and the trail project did not score very high and the ravine stabilization project scored quite a bit higher. Staff continued to work with the City to find a number appropriate for the District's participation. Staff recommends the District does not participate in the I-35W Trail project. Staff recommends \$75,000 from the District to the Willow Creek stabilization project seems appropriate if the Board decides to participate.

Manager Raby thinks if they fund the project, they should fund it in phases.

Ms. Schall-Young suggested when the construction is substantially complete, the District would give them 90% and when it is fully restored they would get the remaining 10%.

Manager Raby made a motion to approve the \$75,000 contribution with 90% paid upon substantial completion and 10% after total completion. The motion was seconded by President Hartmann. Upon a vote being taken the motion carried unanimously.

B. Cost Share Application - S. Mueller, 10745 Lyndale Bluffs Trail

No new information to report other than what was reported in the Executive Summary.

C. City of Carver Levee

No new information to report other than what was reported in the Executive Summary.

D. Remote meeting participation

Administrator Loomis met with facilities and IT people at the County to discuss the District's needs for meetings and tying into their system. They now have the capacity to bring people into meetings remotely. She noted the County will be upgrading their system and there will be discussions on what is appropriate for the LMRWD to contribute to the cost of upgrades.

Manager Raby asked if he should use his own computer to join a Board meeting from a remote location? Administrator Loomis noted that is a decision that is up to the Board. Manager Raby said he is fine using his own equipment unless some special equipment is required. He would prefer not to take a LMRWD owned computer away for the months he is gone.

President Hartmann asked about the bandwidth when participating from a remote location. Administrator Loomis agreed that could be an issue. She noted that you can plug a laptop directly into the internet router using an ethernet cable to improve connectivity. Manager Raby asked if he would need to meet in a public location when in a remote location. Administrator Loomis said that is a requirement of the open meeting laws.

Manager Raby noted the Board approved funding for equipment necessary to allow Managers to participate from a remote location. Managers Raby and Amundson said they both plan to attend the October Board meeting from a remote location.