



LOWER MINNESOTA RIVER WATERSHED DISTRICT

Executive Summary for Action

Lower Minnesota River Watershed District Board of Managers Meeting

Wednesday, February 21, 2018

Agenda Item

Item 6. C. - 2018 Legislative Action

Prepared By

Linda Loomis, Administrator

Summary

Lisa Frenette has started work on behalf of the LMRWD. The Contract is not yet finalized, but probably will be by the meeting. All the issues raised by the Managers at the January meeting have been addressed. She is working to set up meetings with LMRWD legislators and I will be preparing a one page handout for legislators.

She has received questions from Representative Dan Fabian about the LMRWD's Plan Amendment. Apparently some residents have contacted him as he is the chairman of the Environment and Natural Resources Policy and Finance Committee. Apparently the complaint that was registered is that the District did not provide opportunities for public input before the 60-day comment period. I have filled Lisa in on the process and what has transpired with the public information meetings. She has passed our information along to Representative Fabian. Managers will be updated at the Board meeting if information is available.

Attachments

Current version of agreement between LMRWD and Frenette Legislative Advisors

Recommended Action

No action recommended

**CONSULTING AGREEMENT BETWEEN
THE LOWER MN RIVER WATERSHED DISTRICT
and FRENETTE LEGISLATIVE ADVISORS**

This Agreement is entered into between Frenette Legislative Advisors (FLA) and the Lower MN River Watershed District (LMRWD). In consideration of the mutual terms and conditions set forth herein, including the obligations of mutual consideration, the sufficiency of which is hereby acknowledged, LMRWD and FLA agree as follows:

1. Scope of Work

FLA will perform the LMRWD legislative support services related to the function and interests of the LMRWD. These services may include but are not limited to:

- a) toward securing state financial resources for the LMRWD navigational channel maintenance and operation responsibilities and obligations related to the MN River 9 foot channel;
- b) promoting legislation aimed at reducing sedimentation and erosion in the Minnesota River Valley; developing governmental structures or programs to implement coordinated projects to reduce sedimentation and erosion in the Minnesota River; and establishing basin-wide initiatives to fund grade stabilization and other practices to reduce sedimentation and erosion in the Minnesota River; and
- c) consulting with the LMRWD between legislative sessions to develop legislative and policy priorities to be implemented in subsequent years.

Additional services may be added to this scope of work by amendment to this contract and may include additional compensation as determined by the parties.

2. Independent Contractor

FLA is an independent contractor under this Agreement. FLA shall select the means, method and manner of performing the Services. Nothing in this Agreement is intended or should be construed to make FLA the agent, representative or employee of the LMRWD. Personnel performing the Services on behalf of FLA or a subcontractor shall not be considered employees of the LMRWD and shall not be entitled to any compensation, rights or benefits of any kind from the LMRWD.

FLA confirms and acknowledges it is not entitled to any employment benefits of any kind in association with the Services rendered under this Agreement, including health insurance, retirement benefits, paid vacation or sick leave.

FLA acknowledges that it is obligated to comply with all state and federal tax requirements, and is responsible for reporting and paying all income and self-employment tax with respect to income derived from his performance of the Services under this Consulting Agreement.

3. Subcontract and Assignment

Contractor shall not assign, subcontract or transfer any obligation or interest in this Agreement or any of the Services without LMRWD's written consent. Written consent to any subcontracting, assignment or transfer shall not relieve FLA from his responsibility to perform any part of the Services, nor in any respect its warranty, insurance, indemnification, duty to defend or agreement to hold harmless with

respect to the Services. FLA shall incorporate this Agreement as an exhibit to any assignment, subcontract or transfer agreement.

4. Warranty and Indemnification

FLA warrants that it will perform the Services in accordance with usual standards of professional care. FLA shall defend and hold harmless the LMRWD up to the amount of compensation that FLA has received.

5. Payment for Services

The LMRWD shall represent the LMRWD on legislative issues for 2018. LMRWD agrees compensate FLA in the amount of \$20,000 for services beginning January 1, 2018 through December 31, 2018, payable in five equal monthly payments of \$3,333.33 beginning January 1, 2018 through ~~June~~ May 30, 2018, and a ~~sixth~~ payment of \$3,333.35 to be paid in November, 2018.

Payment will be made within 30 days of receipt of invoice. ~~We respectfully request that these be paid within 30 days of receipt of invoice. Consistent with our its ethical obligations, we reserve the right to~~ FLA may withdraw if our statements are not paid for non-payment.

6. Termination

The Agreement shall remain in force from January 1, 2018 through December 31, 2018.

The LMRWD may terminate this Agreement at its convenience, by a written termination notice by certified mail, stating specifically what prior authorized or additional services it required FLA to complete. FLA shall receive full compensation for all authorized work performed prior to the receipt of notice of termination. In the event of early termination of this Agreement, all amounts become due and payable on June 1, 2018.

FLA may terminate this Agreement by providing sixty (60) days written notice to the LMRWD. FLA will perform the Services until the expiration of the 60-day notice period. FLA will not be compensated for any Services beyond this 60-day notice period.

7. Waiver

The failure of either party to insist on the strict performance by the other party of any provision or obligation under this Agreement, or to exercise any option, remedy or right herein, shall not waive or relinquish such party's rights in the future to insist upon strict performance of any provision, condition or obligation, all of which shall remain in full force and affect. The waiver of either party on one or more occasion of any provision or obligation of this Agreement shall not be construed as a waiver of any subsequent breach of the same provision or obligation, and the consent or approval by either party to or of any act by the other requiring consent or approval shall not render unnecessary such party's consent or approval to any subsequent similar act by the other.

Notwithstanding any other term of this Agreement, the LMRWD waives no immunities in tort. This Agreement creates no rights in and waives no immunities with respect to any third party.

8. Insurance

At all times during the term of this Agreement, FLA shall have and keep in force the following insurance coverage:

A. Automobile liability: For any personal vehicle used in performing the Services, combined single limit each occurrence coverage for bodily injury and property damage covering all owned and non-owned vehicles, \$1 million.

B. General liability: \$1 million each occurrence and aggregate, covering completed operations and contractual liability.

9. Compliance with Laws

FLA shall comply with the laws and requirements of all federal, state, local and other governmental units in connection with performing the Services, and shall procure all licenses, permits and other rights necessary to perform the Services. FLA will not commence work until it has completed the necessary registration as a lobbyist under state law.

FLA hereby acknowledges that all of the data it creates, collects, receives, stores, uses, maintains, or disseminates in performing the Services may be subject to the requirements of the Government Data Practices Act of Minnesota Statutes Ch. 13, and that FLA must comply with those requirements as if it were a covered government entity.

10. Continuation of Obligation

It is understood and agreed that document retention requirements shall survive the completion of the Services and the term of this Agreement as required by law.

11. Choice of Law, Venue and Jurisdiction

This Agreement shall be construed under and governed by the laws of the State of Minnesota.

12. Whole Agreement

The entire agreement between the two parties is contained herein and this Agreement supersedes all oral agreements and negotiations relating to the subject matter hereof. Any modification of this Agreement shall be valid only when reduced to writing as an amendment to this Agreement and signed by the parties hereto.

IN WITNESS WHEREOF, intending to be legally bound, the parties hereto execute and deliver this Agreement.

Frenette Legislative Advisors

**LOWER MINNESOTA RIVER
WATERSHED DISTRICT**

Lisa Ann Frenette

By

Its _____

Date: _____

Date: _____