



# LOWER MINNESOTA RIVER WATERSHED DISTRICT

## Executive Summary for Action

Lower Minnesota River Watershed District Board of Managers Meeting  
Wednesday, May 15, 2024

### **Agenda Item**

**Item 7. F. – Study Area #3**

### **Prepared By**

Linda Loomis, Administrator

### **Summary**

An update will be provided at the Board meeting. A Cooperative Agreement between the City of Eden Prairie and the LMRWD has been prepared and is attached for the Board's consideration. Legal Counsel for both the parties have reviewed the Agreement.

### **Attachments**

Cost Share and Maintenance Agreement between the Lower Minnesota River Watershed District and the City of Eden Prairie

### **Recommended Action**

Motion to approve Cost Share and Maintenance Agreement between the Lower Minnesota River Watershed District and the City of Eden Prairie and authorize execution.

**Cost Share and Maintenance Agreement between the Lower Minnesota River  
Watershed District and the City of Eden Prairie**

**Project Lead:**

(Name, address,  
telephone and  
email)

Lower Minnesota River Watershed  
District Linda Loomis, Administrator  
112 East 5th Street, #102  
Chaska, MN 55318  
763-545-4659  
naiadconsulting@gmail.com

**Project**

**Cooperator:**

(Name, address,  
telephone and  
email)

Lower Minnesota River Watershed  
District Patrick Sejkora, Water Resources  
Engineer  
8080 Mitchell Road  
Eden Prairie, MN 55344  
952-949-8360  
psejkora@edenprairie.org  
  
Hennepin

**Location**

**(County):**

This Cost Share and Maintenance Agreement (“Agreement”) is made by and among the City of Eden Prairie, a Minnesota municipal corporation (“Eden Prairie” or “City”) and the Lower Minnesota River Watershed District, a watershed district established and operating pursuant to Minnesota Statutes chapters 103B and 103D (“LMRWD”) to implement the Study Area 3 Project (“Project”) in Eden Prairie, Hennepin County, Minnesota, to stabilize a reach of approximately 1,200 linear feet of the Lower Minnesota River to reduce streambank erosion. (Eden Prairie and LMRWD are referred to collectively herein as the “Partners”).

#### Recitals

WHEREAS LMRWD has an approved water resources management plan pursuant to Minnesota Statutes section 103B.231 (the “Plan”) that has as a primary goal addressing all impairments in water resources in LMRWD’s jurisdiction and removing all LMRWD waterbodies from the State of Minnesota impaired waters list;

WHEREAS the Lower Minnesota River is listed on the Minnesota Pollution Control Agency’s 303(d) list of impaired waters for nutrients/eutrophication and turbidity;

WHEREAS the LMRWD incorporated the project in the LMRWD’s Capital Improvement Project List (2018-2027 Watershed Management Plan) in 2018;

WHEREAS the City received authorization from the MPCA to decommission Pond 35-23-A in 2022, given the pond was damaged by floods and was identified by the LMRWD as a contributing factor in the upstream bank failure;

WHEREAS the Partners find that implementing the Project will provide better bank stability connectivity the Minnesota River, which will enhance surrounding riparian habitat and, by establishing a stable river corridor, will also address the identified turbidity impairment within the Minnesota River;

WHEREAS Eden Prairie operates its stormwater-management system under the state Municipal Separate Storm Sewer System (MS4) general permit, and construction and maintenance of the Project is intended to accrue to the benefit of Eden Prairie’s fulfillment of its obligations under the permit; and

WHEREAS Eden Prairie and LMRWD are authorized by Minnesota Statutes section 471.59 to enter into this cooperative agreement for the Project.

#### I. Project Summary:

A) The Project will stabilize approximately 1,200 feet of actively eroding bluff toe on the outside bend of the Minnesota River and stabilize the meander bend to prevent further migration and erosion downstream.

B) The Project will decommission Pond 35-23-A and install a permanent armored floodplain barrier trench for the City storm sewer outfall.

C) LMRWD will undertake the Project and the City will reimburse LMRWD \$400,000 of documented Project costs.

## II. LMRWD RESPONSIBILITIES

- A) LMRWD is responsible for the design, construction and implementation, as well as construction oversight and management, of the Project, and is responsible for all costs of the Project except as reimbursed by Eden Prairie in accordance with this Agreement;
- B) The LMRWD is responsible for maintaining the Project from Station 14+50 to 23+50 in perpetuity to ensure that the stabilization objective of this Project is met. This includes the launchable toe and the riprap filled floodplain trench from Station (21+50 to 23+50). Minimum maintenance includes watering when needed during the first two years and removing all invasive and exotic species that encroach on the Project as discovered.
- C) LMRWD agrees to the terms of installation, maintenance and monitoring outlined in the approved Project proposal. Construction of the Project will be in accordance with good engineering practices and generally accepted guidelines for Best Management Practices. Acceptable guidelines include Local Water Plan Standards, Rules and Regulations, and the MPCA guidelines within its "Minnesota Stormwater Manual".
- D) LMRWD will allow City access to the Project area at all times for construction, maintenance, evaluation and monitoring of the Project during installation and after completion.
- E) LMRWD is responsible to bid, construct, and maintain the Project. The District shall secure all necessary permits for the project.
- F) LMRWD will submit to City Staff proof of Project expenditures and proof of Project completion.
- G) LMRWD Staff will monitor the Project periodically to evaluate short- and long-term performance. Data collected as a result of this monitoring effort will be made available to both the City and to the general public.

## III. CITY RESPONSIBILITIES

- A) The City is responsible for maintaining its storm sewer outfall and the Project from Station 11+00 to 14+50 in perpetuity to ensure that the stabilization objective of this Project is met. This includes the riprap-filled floodplain trench from Station 11+00 to 14+50 and any storm sewer improvements related to the Project. Minimum maintenance includes watering when needed during the first two years and removing all invasive and exotic species that encroach on the Project as discovered.
- B) The City is responsible for inspecting its storm sewer outfall in accordance with

its MS4 Inspection program.

- C) City assumes no liability for injury or damage, other than that caused by its own negligence, in the Project area.
- D) The City is financially responsible to provide to LMRWD a cost share in the amount of \$400,000.
- E) Upon LMRWD and City acceptance of the Project's completion or after Final Inspection, whichever is later, City will release 100 per cent of its cost share amount to LMRWD as described previously. Final inspection will include verification of specified items and connections.

#### IV. MISCELLANEOUS:

- A) This Agreement may only be amended by mutual consent of City and LMRWD.
- B) Nothing contained in this Agreement is intended or shall be construed in any manner as creating or establishing a partnership, joint venture, or agency relationship between parties.
- C) City and LMRWD enter this Agreement solely for the purposes of improving the ecological health and condition of the Minnesota River in Eden Prairie and downstream receiving waters. Accordingly, with respect to any and all activity undertaken pursuant to this Agreement, Eden Prairie and LMRWD each agree to hold each other harmless, and defend and indemnify the other, its officers, employees and agents from and against any and all liability, loss, claim, damage or expense (including reasonable attorney fees, costs and disbursements) that an indemnified party may incur as a result of the Project due to any negligent or willful act or omission by the indemnifying party or the indemnifying party's breach of any specific contractual duty. Notwithstanding the foregoing or any other provision of this Agreement, Eden Prairie's and LMRWD's obligations under this paragraph will survive the termination of the Agreement. Under no circumstances will the City's indemnification obligation exceed the statutory municipal limits on liability established in Minnesota Statutes Chapter 466.
- D) This Agreement shall be binding upon and inure to the benefit of City and LMRWD, and their respective successors and assigns: provided, however, that neither party may assign this Agreement without the prior written consent of the other. Any modification, alteration, amendments, deletions, or waivers of the provisions of this Agreement will be valid only when mutually agreed upon in writing by both parties.

- E) This Agreement will be effective as of the date of all signatures required below have been provided. The date of the last signature will be the date of this Agreement and will be inserted in the first paragraph on page 1.
- F) It is understood and agreed that the City's and LMRWD's liability shall be limited by the provisions of Minn. Stat. Chap. 466 and/or other applicable law.
- G) Subject to the requirements of Minnesota Statutes Section 16C.05, Subd. 5 (as may be amended), the parties agree that the County of Hennepin; the State Auditor, the Legislative Auditor or any of their duly authorized representatives at any time during normal business hours, and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt and transcribe any books, documents, papers, records, etc. which are pertinent to the accounting practices and procedures of the parties and involve transactions relating to this Agreement. Such materials shall be maintained and such access and rights shall be in force and effect during the period of the contract and for six (6) years after its termination or cancellation.
- H) The City and LMRWD each are subject to and must comply with the Minnesota Data Practices Act, Minnesota Statutes chapter 13, as it applies to data exchanged under this Agreement and all data created, collected, received, stored, used, maintained, or disseminated by the Parties under this Agreement. If a party receives a request for disclosure of non-public information of the other party, it will notify the other party and permit the other party to take the lead role in determining an appropriate response to the request.

**CITY OF EDEN PRAIRIE**

\_\_\_\_\_  
 By: Ronald A. Case, Mayor

Date: \_\_\_\_\_

\_\_\_\_\_  
 By: Rick Getschow, City Manager

Date: \_\_\_\_\_

**LOWER MINNESOTA RIVER  
 WATERSHED DISTRICT**

\_\_\_\_\_  
 By: \_\_\_\_\_, President

Date: \_\_\_\_\_

*Approved as to form & execution:*

\_\_\_\_\_  
 District counsel