



Bassett Creek Watershed Management Commission

MEMO

To: BCWMC Commissioners and Alternate Commissioners
From: Laura Jester, Administrator
Date: October 12, 2023

RE: Consider Amending the Cooperative Agreement for the Bryn Mawr Meadows Water Quality Improvement Project

In April 2020, the Commission entered a grant agreement with the MN Board of Water and Soil Resources for a \$400,000 Clean Water Fund grant for the Bryn Mawr Meadows Water Quality Improvement Project with an original expiration date of December 31, 2022. Last year, the grant expiration date was extended to December 31, 2023. No more grant extensions are available. All grant requirements must be satisfied by the end of this year. Although \$100,000 in grant funding and \$84,000 in matching funds have been spent to date, construction expenses of \$400,000 should be paid by the end of the year (to cover eligible grant expenses + required matching funds) or the Commission will forfeit the remaining grant funds of \$300,000.

Construction of the project is complete and vegetation establishment at the site is underway. Through a [cooperative agreement](#) approved in March 2022 with the City of Minneapolis and the Minneapolis Park and Recreation Board (MPRB), the MPRB constructed the project and Minneapolis performed some storm sewer and street reconstruction work. These entities can be reimbursed by the BCWMC with CIP and grant funds for the construction costs with appropriate documentation as per the agreement.

No reimbursement requests have yet been submitted by MPRB nor the city. As per the cooperative agreement, no BCWMC funds will be reimbursed before a maintenance agreement between the MPRB and the City is fully executed. While work is underway to develop an operation and maintenance plan and subsequent maintenance agreement, an agreement will not be executed by the end of this year.

However, as stated above, construction funds totaling \$400,000 must be spent by the end of the year in order to collect the remaining grant funds before the grant expires.

The Commission Attorney and I recommend a simple amendment to the cooperative agreement with the MPRB and City allowing reimbursement of \$400,000 prior to full execution of a maintenance agreement. The remaining project funds (likely totaling around \$1M) would not be eligible for reimbursement to the MPRB or the City until the maintenance agreement is fully executed. We will bring potential amendment language to the meeting.

Attached here now.

FIRST AMENDMENT TO COOPERATIVE AGREEMENT

This First Amendment to Cooperative Agreement (“**First Amendment**”) is entered into this ____ day of _____, 2023, by and among the Bassett Creek Watershed Management Commission, a joint powers watershed management organization, the Minneapolis Park and Recreation Board, a body corporate and politic under the laws of Minnesota, and the City of Minneapolis, a Minnesota municipal corporation.

RECITALS

- A. The parties hereto entered into a Cooperative Agreement, dated _____, 2022 (“**Cooperative Agreement**”), which contains terms and conditions related to the Bryn Mawr Meadows Water Quality Improvement Project BC-5 (the “**Project**”).
- B. The parties wish to amend only paragraph 10.b of the Cooperative Agreement for the limited purpose of authorizing up to \$400,000 of Commission reimbursement prior to the execution of the Maintenance Agreement, as that term is defined in the Cooperative Agreement, so that the parties can take advantage of a Clean Water Fund grant that is available for the Project.

AGREEMENT

Section 1. Paragraph 10.b of the Cooperative Agreement is hereby amended by adding the double-underlined language as follows:

- b. The Park Board and the City shall enter into an easement and maintenance agreement (“Maintenance Agreement”) with one another, which shall require the City and the Park Board to perform all ongoing maintenance of Project components following construction consistent with their ownership outlined in paragraph 8a above. The Maintenance Agreement shall authorize and require the City to perform, at its own cost, such maintenance as may be required to sustain the proper functioning of the Project components that it owns for their useful life. The Maintenance Agreement shall require the Park Board to allow access by permanent easement to the City-owned components previously mentioned for City maintenance activities. The Maintenance Agreement shall be fully executed by the parties and recorded against the Park property prior to the Commission’s approval of any reimbursement request contemplated herein, except that up to \$400,000 shall be available for Commission reimbursement prior to the execution and recordation of said Maintenance Agreement, provided, however, that all other conditions herein are duly satisfied. In the event that the Park Board and City fail to finalize such a Maintenance Agreement, then the Park Board shall be solely responsible for performing all ongoing maintenance of the Project components within the Park property, at its own cost, and the City shall be solely responsible for performing all ongoing maintenance of the Project components within the City right-of-way, at its own cost.

Section 2. Except for the amended language expressly provided above, all other terms and conditions of the Cooperative Agreement shall remain in full force and effect.

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

**BASSETT CREEK WATERSHED
MANAGEMENT COMMISSION:**

By: _____
Its Chair

And by: _____
Its Secretary

Date: _____

MINNEAPOLIS PARK AND RECREATION BOARD:

By: _____
Its President

And by: _____
Its Secretary

Date: _____

Approved as to Form by:

Signature: _____
Park Board Attorney

CITY OF MINNEAPOLIS:

Approved as to Form by:

Signature: _____
Assistant City Attorney

Signature: _____
**Department Head (or Designee) Authorized to Sign this
Contract and/or Responsible for Administering and
Monitoring Contract**

Signature: _____
Finance Officer or Designee/Purchasing Agent

Date: _____