

MEETING DATE: September 25, 2014

TITLE: Authorization to execute a cooperative agreement with Three Rivers Park District and the City of Minnetrista for design cooperation on ravine stabilization projects within Minnetonka Regional Park.

RES. NUMBER: 14-079

PREPARED BY: Tom Dietrich

E-MAIL: Tdietrich@minnehahacreek.org **TELEPHONE:** 952-641-4518

REVIEWED BY: Administrator Counsel Program Mgr. James Wisker
 Board Committee Engineer Other

WORKSHOP ACTION:

<input type="checkbox"/> Advance to Board mtg. Consent Agenda.	<input type="checkbox"/> Advance to Board meeting for discussion prior to action.
<input type="checkbox"/> Refer to a future workshop (date): _____	<input type="checkbox"/> Refer to taskforce or committee (date): _____
<input type="checkbox"/> Return to staff for additional work.	<input type="checkbox"/> No further action requested.
<input checked="" type="checkbox"/> Other: FINAL ACTION SEPTEMBER 25, 2014	

PURPOSE or ACTION REQUESTED:

Authorization to execute a cooperative agreement with Three Rivers Park District and the City of Minnetrista for design cooperation on ravine stabilization projects within Minnetonka Regional Park.

PROJECT/PROGRAM LOCATION:

See attached location maps.

PROJECT TIMELINE:

Final Design Spring 2015

Construction 2015

PROJECT/PROGRAM COST:

Fund name and number: N/A

Current budget: N/A

Expenditures to date: N/A

Requested amount of funding: N/A

Is a budget amendment requested? N/A

Is additional staff requested? N/A

SUMMARY:

Several ravines exist, primarily on Three Rivers Park District (TRPD) property, in 292 acre Minnetonka Regional Park, with portions extending onto adjacent private property. Excessive erosion within these ravines contributes sediment and nutrient loads to Halsted Bay and Stone Lake, and has undermined sanitary infrastructure crossing TRPD property, resulting in septic seepage and exacerbating the risk of complete failure.

Both Stone Lake and Halsted Bay were listed on the Minnesota Pollution Control Agency's 2012 Impaired Waters List for excessive nutrients. The Upper Watershed Total Maximum Daily Load Study, including these lakes, was approved by the Environmental Protection Agency in June 2014.

During recent coordination meetings between Three Rivers Park District, the City of Minnetrista and the Minnehaha Creek Watershed District, TRPD outlined plans to advance a design to stabilize the ravines in question. All parties saw advantage in collaborating to jointly advance a design solution, and therefore drafted a cooperative agreement to memorialize the proposed level of interagency coordination.

The cooperative agreement effectively memorializes the intention of the parties to collaborate in the design of ravine stabilization. While TRPD has agreed to fully fund the design of this project, the City of Minnetrista and the MCWD will provide technical expertise and a proactive regulatory review, to ensure the design is advanced as efficiently as possible while meeting regulations and project goals of protecting sanitary infrastructure, reducing sediment and nutrient loads, improving riparian habitat, and demonstrating innovative stabilization and restoration techniques.

The expectation is that TRPD will construct, establish and maintain the project. While the expectation is that TRPD will fund the majority of project costs, the City will contribute funds commensurate with the benefits to city lands and utilities and with its own responsibility to limit sedimentation into surface waters. Identification and agreement on these costs will occur following design, at which time the parties will negotiate a project agreement for funding, construction and maintenance. At that time, the District may review its potential for participation through one of its grant programs. Meanwhile, a grant application for the project is proposed by the partners to be submitted for Clean Water Legacy Funding, due on September 26, 2014.

RECOMMENDATION:

This project provides an opportunity to partner, through the District's permitting program, on a collaborative design for ravine stabilization within Minnetonka Regional Park. Given the TRPD's commitment to fully fund the design, and building on the *Balanced Urban Ecology* principles of partnership and interagency coordination of natural resource management with infrastructure investment, staff is recommending the Board authorize execution of the cooperative agreement between Three Rivers Park District, the City of Minnetrista and the Minnehaha Creek Watershed District.

ATTACHMENTS:

- Attachment 1 – Project location maps
- Attachment 2 – Draft cooperative agreement

RESOLUTION

RESOLUTION NUMBER: 14-079

TITLE: **Authorization to execute a cooperative agreement with Three Rivers Park District and the City of Minnetrista for design cooperation on ravine stabilization projects within Minnetonka Regional Park.**

WHEREAS, erosion within several ravines primarily within Minnetonka Regional Park, owned and operated by Three Rivers Park District, has led to exposure of sanitary sewer infrastructure and contributes sediment and nutrient loads to Halsted Bay and Stone Lake; and

WHEREAS, Stone Lake and Halsted Bay are listed as impaired and subject to the approved June 2014 Upper Watershed Total Maximum Daily Load (TMDL);

WHEREAS, the sanitary sewer infrastructure threatened by erosion is owned by the City of Minnetrista; and

WHEREAS, portions of the eroded ravine extend onto adjacent private property;

WHEREAS, Three Rivers Park District has proposed to fully fund the design of a stabilization solution for these ravines;

WHEREAS, the parties wish to collaborate and have drafted a cooperative agreement that memorializes their intent to integrate a proactive regulatory review and coordinate with the private property owner on a solution that protects sanitary infrastructure, reduces sediment and nutrient loads, improves riparian habitat, and demonstrates innovative stabilization and restoration techniques;

WHEREAS, the cooperative agreement and design process involve no commitment of District funds beyond District staff and engineer time to participate in the design process;

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby authorizes the MCWD Board President, on advice of counsel and with any further non-substantive revisions, to execute the cooperative agreement among Three Rivers Park District, the City of Minnetrista and the Minnehaha Creek Watershed District to partner on the design of a ravine stabilization solution within Minnetonka Regional Park and adjacent private property.

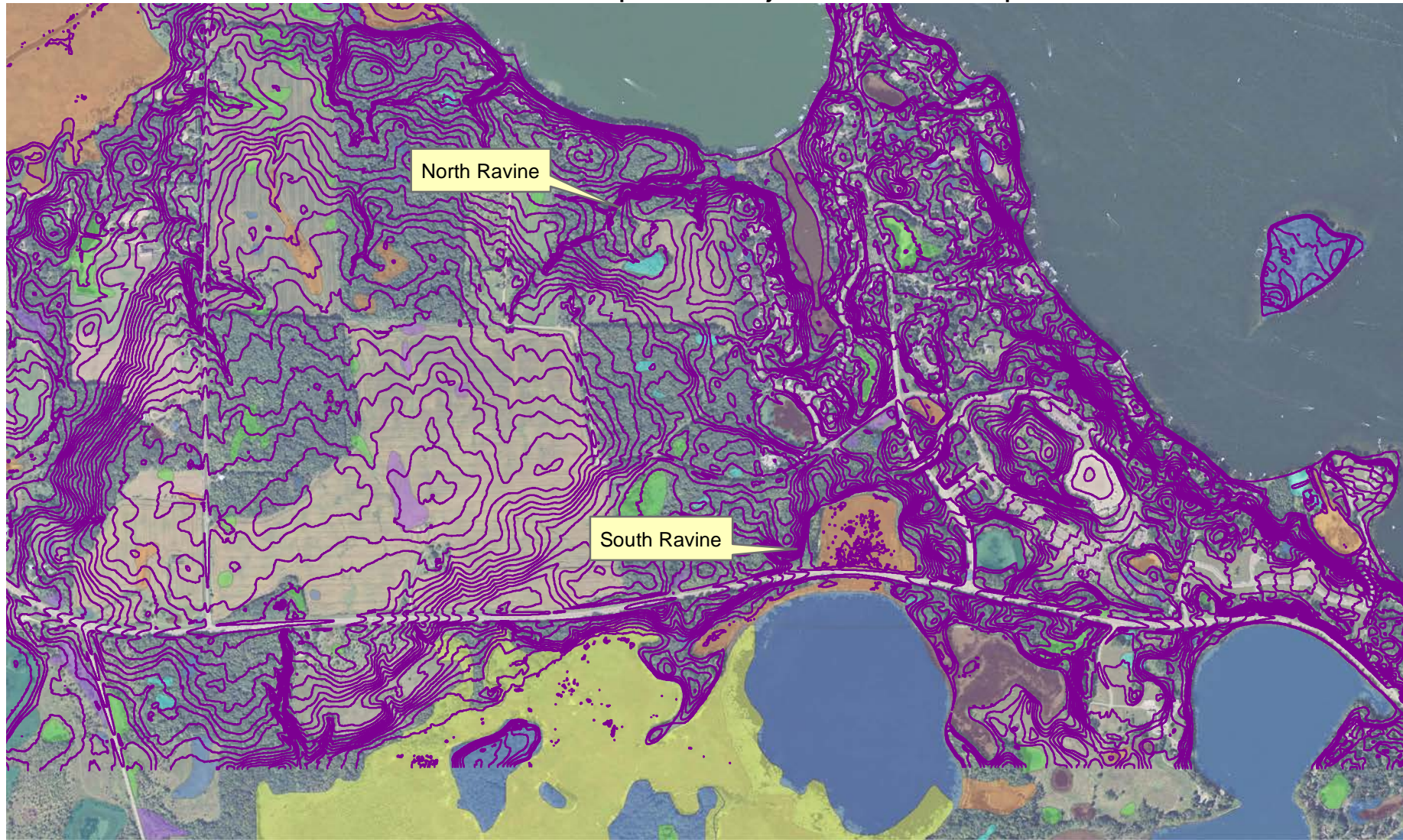
NOW THEREFORE BE IT FURTHER RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby authorizes the District Administrator to submit a Clean Water Legacy grant application for this project by the deadline of September 26, 2014.

Resolution Number 14-079 was moved by Manager _____, seconded by Manager _____.
Motion to adopt the resolution ___ ayes, ___ nays, ___ abstentions. Date: _____.

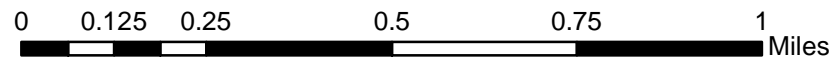
Secretary Date: _____

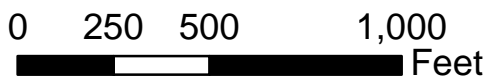
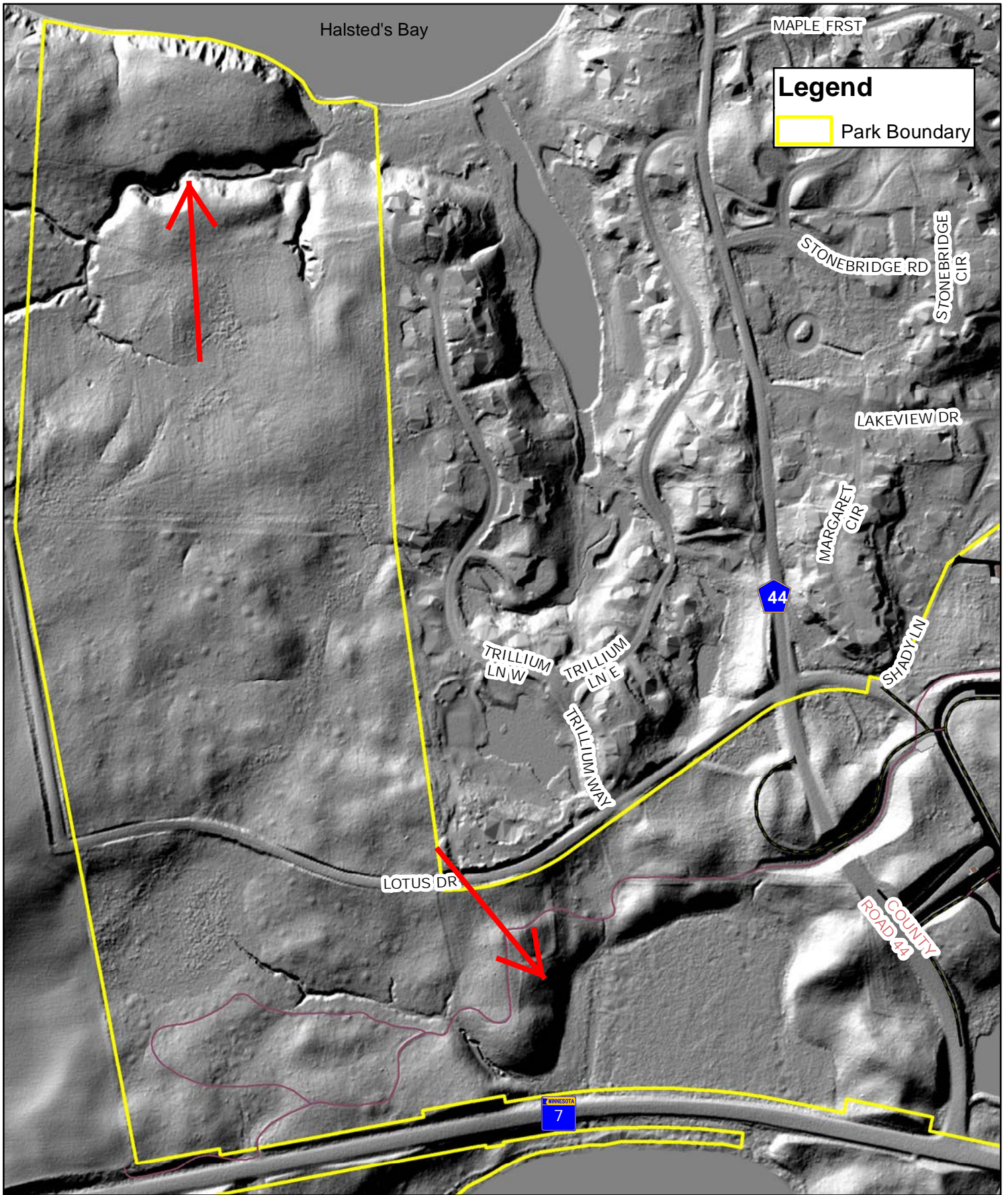
**DRAFT for discussion purposes only and subject to Board approval and the availability of funds.
Resolutions are not final until approved by the Board and signed by the Board Secretary.**

Proposed Project Location Map



Legend





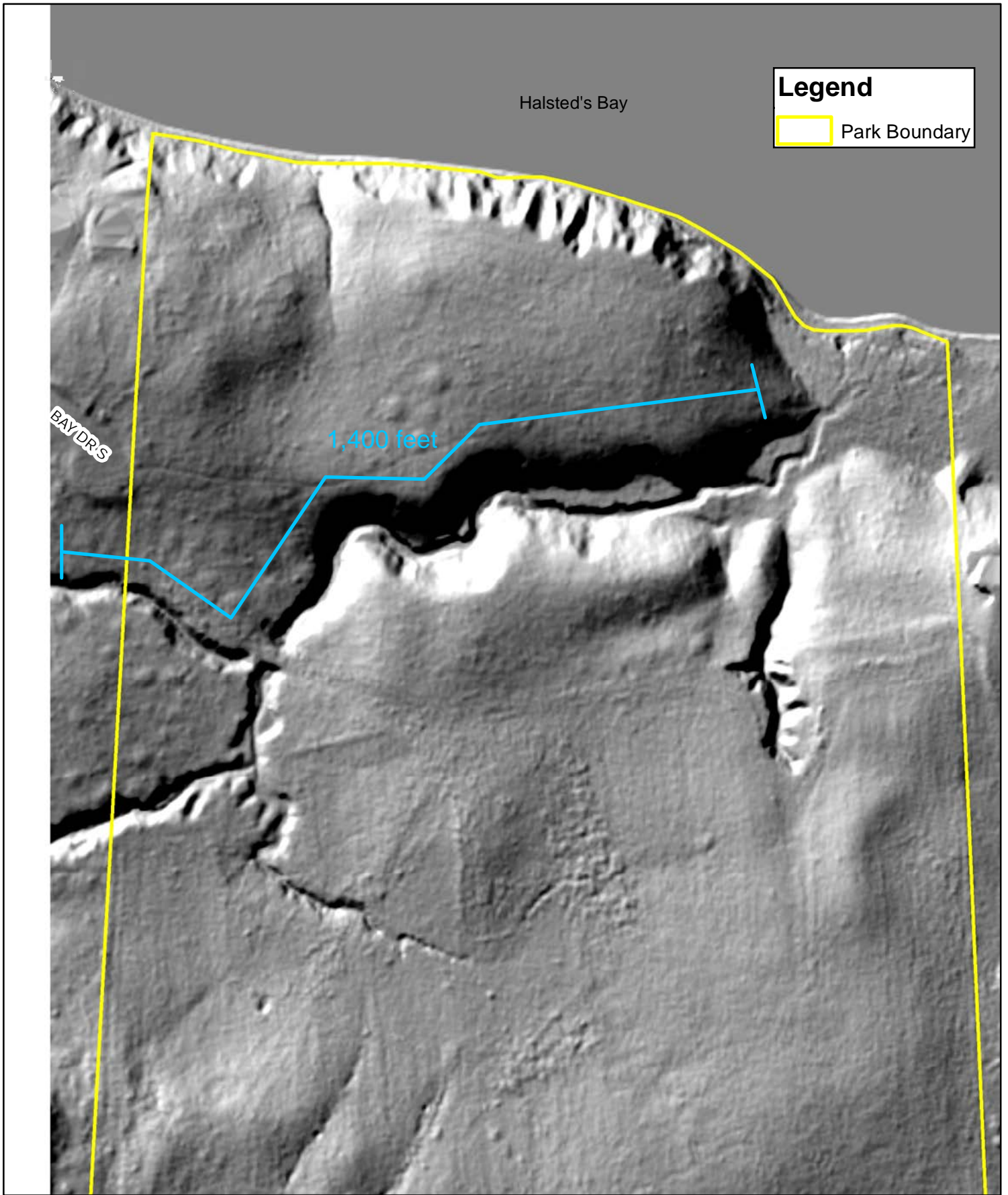
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Department of: NRM
 Created by: DPC
 Map Created: 9/19/2014

Lake Minnetonka Regional Park Digital Elevation Model



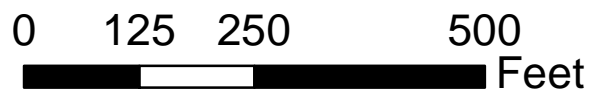


Halsted's Bay

Legend
[Yellow Box] Park Boundary

BAYDRS

1,400 feet

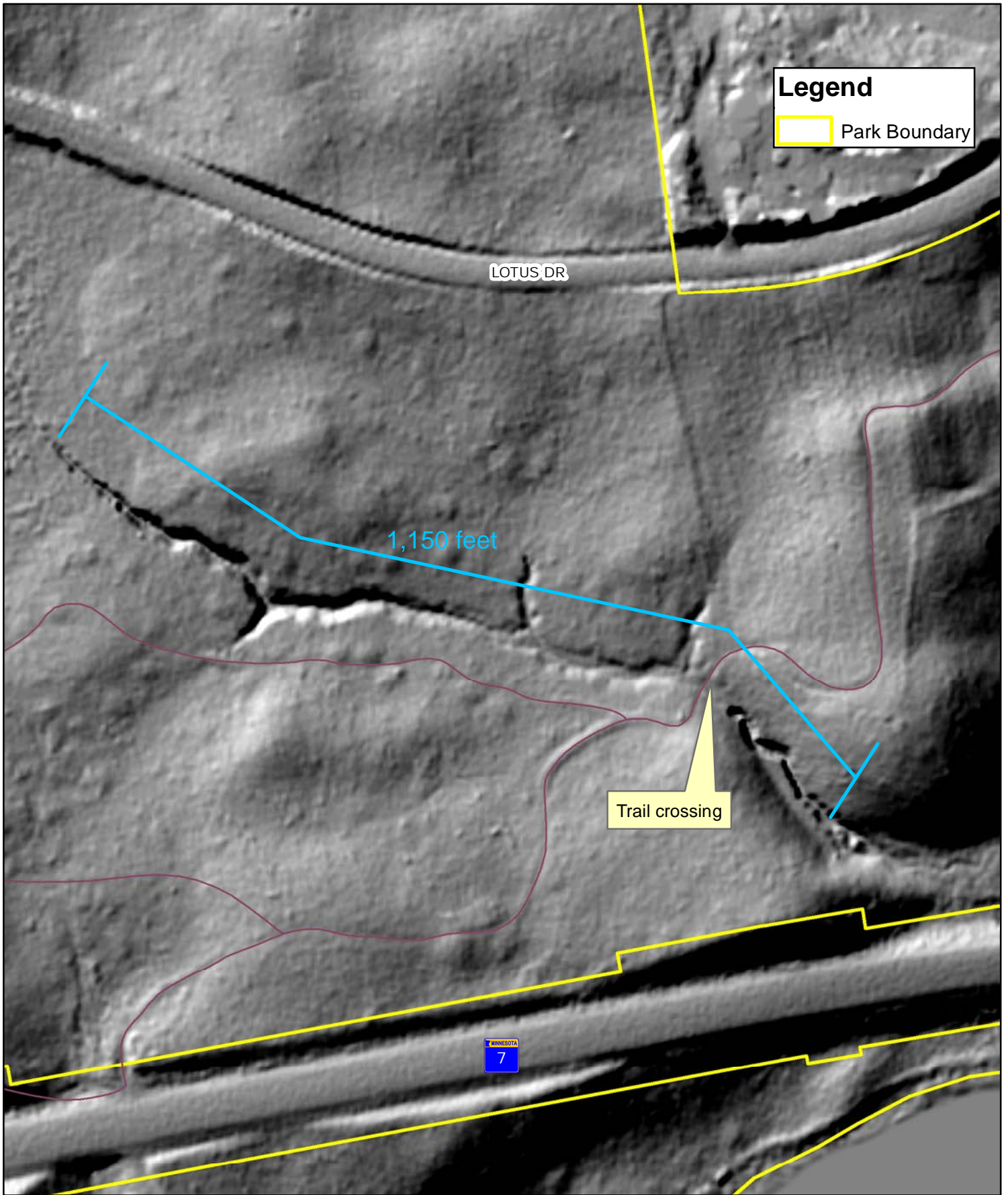


Department of: NRM
Created by: DPC
Map Created: 9/19/2014

Lake Minnetonka Regional Park Northern Stream Channel

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Lake Minnetonka Regional Park Southern Stream Channel



Department of: NRM
Created by: DPC
Map Created: 9/19/2014

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COOPERATIVE AGREEMENT

**Minnehaha Creek Watershed District, Three Rivers Park District,
and the City of Minnetrista**

Lake Minnetonka Regional Park Ravine Stabilization

The parties to this Agreement are the Minnehaha Creek Watershed District (MCWD), a political subdivision of the State of Minnesota with powers as provided at Minnesota Statutes chapters 103B and 103D, the Three Rivers Park District (TRPD), a body corporate and a political subdivision of the State of Minnesota with powers pursuant to Minnesota Statutes chapter 398 (TRPD), and the City of Minnetrista, ("City") a political subdivision of the State of Minnesota (together, "Parties"). The purpose of this Agreement is to provide for the design of structural, bioengineering and vegetative improvements to stabilize eroding drainage channels in Lake Minnetonka Regional Park and adjacent private property within the City of Minnetrista ("Project").

Recitals

1. Lake Minnetonka Regional Park is a substantially undeveloped 292-acre park adjacent to Lake Minnetonka with a diversity of significant natural resource features.
2. The TRPD owns and manages the park, which contains several channels that convey runoff from adjacent agricultural and developed areas to Lake Minnetonka and Stone Lake.
3. These channels have eroded significantly over the past 10 years, resulting in a significant sediment load to Lake Minnetonka and Stone Lake. The erosion also has undermined a City sanitary sewer pipe crossing the TRPD property, resulting in leakage of septic discharge toward Lake Minnetonka.
4. The TRPD, the City and the MCWD wish to collaborate in the TRPD's construction of the Project in order to stabilize these channels to convey existing and future storm water flow, reduce sediment discharge into Lake Minnetonka, protect City of Minnetrista sanitary sewer infrastructure, improve riparian habitat, and demonstrate innovative channel stabilization and restoration techniques.
5. The City and the MCWD each have regulatory authority over the Project. The Parties wish to collaborate in the design process so that design criteria required by City ordinance and MCWD rules are incorporated in advance of formal permit review.

Terms

THEREFORE the Parties commit to the following, intending to be legally bound:

1. Design

a. Attachment A, incorporated herein, is a site plan identifying the ravine locations that the Project will address. The TRPD will retain a consultant to design the Project. The consultant's scope of work will provide for the collaborative process set forth in section 2 below.

b. To perform its work under this section 1, the TRPD and its designer will need to enter private property adjacent to the TRPD property. The parties will work together to communicate with and seek the cooperation of the property owner with respect to entry for design as well as the future rights necessary to perform and maintain the work.

2. Design Collaboration

a. The representatives for each party identified at section 7 below will coordinate so that the Parties collaborate in the design process. This process includes a kickoff meeting with the TRPD designer and subsequent meetings or other structured shared review at conceptual, preliminary and 90 percent design. In particular, but not exclusively, the TRPD and its designer will coordinate closely with the City with respect to the manner in which the design addresses the City's need to protect its sanitary sewer infrastructure.

b. The City and the MCWD will include the participation of regulatory program staff during the design process. Neither party makes a representation of Project permit approval in advance of formal permit review. However, the mutual goal is that regulatory considerations be included in the design process so that favorable permit decisions can be reasonably expected.

c. The TRPD will bear the cost to retain the designer. Each party otherwise will bear its own costs for its participation under this section.

3. Construction and Maintenance Agreement

a. At the time that the TRPD designer has completed feasibility review and is able to estimate project cost with reasonable accuracy, the Parties will negotiate a project agreement for construction and maintenance. The expectation is that the TRPD will construct, establish and maintain the Project. The expectation further is that the TRPD will fund the majority of Project cost, while the City will contribute funds commensurate with the benefits to city lands and utilities and with its own responsibility to limit sedimentation into its surface waters.

b. The MCWD operates programs such as its Shoreline/Streambank Stabilization Grant Program that also may be a source of Project funding. The MCWD will assist in aligning the Project with the funding criteria for District grant programs, though no funding commitment is made until a formal application is reviewed. The Parties also will collaborate to explore and secure outside funding for Project construction.

c. The project agreement may incorporate final plans or may specify a process for establishing final plans approved by the Parties, as is deemed preferable. The agreement also will provide for cooperation among the parties in securing the necessary rights to perform and maintain the work on the adjacent private property. It is envisioned that the agreement also will incorporate a maintenance plan approved by the Parties for TRPD implementation.

d. This Agreement establishes the good faith intentions of the Parties but is not legally binding as concerns the Parties' roles and responsibilities for Project construction. The subsequent project agreement would establish such legally binding roles and responsibilities.

4. Independent Relationship

No employee, representative, contractor or consultant of a party to this Agreement acts in any respect as the agent or representative of another party. No party agrees to be responsible for the acts or omissions of another within the meaning of Minnesota Statutes §471.59, subdivision 1a.

5. Effective Date and Termination

a. This Agreement is effective on the date that it is fully executed by the Parties and will remain in force for three years thereafter unless earlier terminated by mutual agreement of the Parties.

b. A party may terminate this Agreement on 30 days' written notice to the other parties if it determines that a party is not fulfilling its obligations under this Agreement. Before exercising its right of termination, it will inform and seek to convene the Parties in good faith to address its concerns.

6. Compliance with Laws

Each party will comply with the laws and requirements of all federal, state, local and other governmental units in performing its responsibilities under this Agreement.

7. Party Representatives

The following representatives will be points of contact for any informal or formal matters under this Agreement. A party may change its representative or its representative's contact information by notifying the other parties in writing:

TRPD:

Email address:

CITY:

MCWD:

Minnehaha Creek Watershed District
15320 Minnetonka Boulevard
Minnetonka MN 55345

Email address:

8. Good Faith

In exercising its rights and fulfilling its responsibilities under this Agreement, and wherever this Agreement provides for an exercise of discretion, each party will do so in good faith and consistent with shared goals and interests in the Project.

9. Recitals

The above recitals are incorporated as a part of this Agreement.

IN WITNESS WHEREOF, the Parties hereto execute and deliver this Agreement.

THREE RIVERS PARK DISTRICT

By: _____ Date:
Its _____

MINNEHAHA CREEK WATERSHED DISTRICT

By: _____ Date:
President, Board of Managers

APPROVED AS TO FORM and EXECUTION

By _____
Its Attorney

CITY of MINNETRISTA

By: _____ Date:
Its _____

DRAFT