

Minnehaha Creek Watershed District

REQUEST FOR BOARD ACTION

MEETING DATE: October 25, 2018

TITLE: Authorization to Execute a Cooperative Agreement with the City of Edina for Pamela Park Maintenance

RESOLUTION NUMBER: 18-110

PREPARED BY: Janna Jonely

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TELEPHONE: 952-641-4523

REVIEWED BY: Administrator Counsel Program Mgr.: Tiffany Schaufler
 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 (specify): Final action requested at October 25, 2018 Board Meeting.	

PURPOSE or ACTION REQUESTED:

Authorization to execute a cooperative agreement with the City of Edina for maintenance within Pamela Park, including but not limited to stormwater pond dredging of Pamela Park Cell 1, outfall wall repair, and vegetation management.

PROJECT/PROGRAM LOCATION: Pamela Park, Edina

PROJECT TIMELINE:

October 2018: Approval and execution of cooperative agreement
December 2018 – February 2019: Pamela Park Pond Cell 1 dredging & outfall repair work
2019: Develop vegetation management plan

PAST BOARD ACTIONS:

July 27, 2000, Board of Managers Meeting, Approval of Pamela Park Water Quality Improvement Project Cooperative Agreement

RES 14-056, July 31, 2014, Authorization to execute Memorandum of Understanding (MOU) with the City of Edina

RES 18-023, March 22, 2018, Authorization to Award Contract for 2018 Stormwater Pond Sediment Surveys

June 28, 2018, Board discussion and direction to draft a cooperative agreement with Edina for maintenance of facilities within Pamela Park

RES 18-065, July 12, 2018, Authorization to Contract with Wenck for 2018/2019 Stormwater Pond Maintenance Engineering Services; Authorization to Solicit Bids

**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.**

SUMMARY:Pamela Park Water Quality Improvement Project

In September of 2000, the District executed a cooperative agreement with the City of Edina for the Pamela Park Water Quality Improvement Project. That project resulted in a variety of water quality features including the construction of three stormwater ponds north of Pamela Lake (see Exhibit A located within the attachment). The terms of the agreement state that the first maintenance dredging of these stormwater ponds is the responsibility of the City of Edina, while all subsequent dredging work would be the responsibility of the District.

In 2014, the District and City of Edina executed a Memorandum of Understanding (MOU) in which the District and the City expressed a “mutual commitment to integrating their work and aligning resources to make wise investments in infrastructure and to protect and improve natural systems in order to develop vibrant, healthy communities”.

In May 2018, stormwater pond sediment surveys identified the need to maintain Pamela Park Pond Cell 1 due to accumulated sediment and associated diminished wet volume. Based on this survey result, the District recommended dredging of Pamela Park Pond Cell 1 to the City of Edina. The City responded by requesting that the District consider the formation of a partnership whereby the City of Edina would fully fund the District’s design and construction oversight of the Pamela Park Cell 1 maintenance.

The proposed partnership presented an immediate opportunity to comprehensively address broader maintenance needs within the Pamela Park Water Quality Improvement Project as a whole. Current needs include reconstruction and repair of a failing outfall, and establishing a comprehensive vegetation management plan for Pamela Park consistent with MCWD goals and standards.

In total, the proposed partnership builds on existing partnerships with the City of Edina to perform necessary stormwater facility maintenance work, while developing a comprehensive plan for ongoing maintenance and operations and reinvesting in a site that is linked to more recent and planned work at Reach 14 streambank improvements and Arden Park.

At the June 28, 2018 Board Meeting, the Board directed staff to pursue this partnership opportunity with the City of Edina through the drafting of a cooperative agreement.

The proposed 2018 Pamela Park Maintenance Project cooperative agreement outlines three components which include the dredging of Pamela Park Pond Cell 1, repairing the outfall wall adjacent to stormwater outfall (OUT36) which outlets to Pamela Park Pond Cell 1, and finally, requires the development of a vegetation management plan for the entirety of Pamela Park.

The cooperative agreement further details that Edina shall reimburse MCWD for the dredging and outfall wall repair work in Edina, including sediment testing, development of plans and specifications, construction costs for the dredging and outfall wall repair, preparation of a vegetation plan, and construction oversight for the outfall wall repair, and dredging. This reimbursement would also include documented MCWD staff, consultant and legal costs associated with these tasks.

Lastly, the cooperative agreement clarifies and outlines the District’s and the City of Edina’s responsibilities for future stormwater pond dredging and vegetation maintenance at Pamela Park as a whole. The District will be responsible for future periodic pond dredging of Pamela Park Cell 1, and the City will be responsible for the first pond dredging of Cells 2 and 3 as well as vegetation maintenance and all other maintenance of the property. The 2000 cooperative agreement between the District and Edina would cease to be in effect, and all park management going forward would be governed by the new agreement.

The Edina City Council approved the Pamela Park Maintenance Project cooperative agreement at its October 16, 2018 meeting.

ATTACHMENT: Pamela Park Maintenance Project Cooperative Agreement

RESOLUTION

RESOLUTION NUMBER: 18-110

TITLE: Authorization to Execute a Cooperative Agreement with the City of Edina for Pamela Park Maintenance

WHEREAS, in 2000 the District and City of Edina executed a cooperative agreement for the Pamela Park Water Quality Improvement Project; and

WHEREAS, in 2014 the District and City of Edina entered into a Memorandum of Understanding in which the District and City expressed a mutual commitment to integrating their work and aligning resources to make wise investments in infrastructure and to protect and improve natural systems in order to develop vibrant, healthy communities; and

WHEREAS, based on a history of partnership, the District and City of Edina wish to reaffirm a mutual recognition of the potential value added through formalizing agency coordination for the maintenance of Pamela Park; and

WHEREAS, at the June 28, 2018 Board Meeting, the Board of Managers directed staff to pursue a formal partnership with the City of Edina for the maintenance of Pamela Park; and

WHEREAS, District and City of Edina staff have developed a cooperative agreement under which both parties agree to work together in partnership to maintain the Pamela Park water quality features and associated vegetation management; and

WHEREAS, on October 16, 2018, the Edina City Council considered and authorized execution of the Pamela Park Maintenance Project cooperative agreement.

NOW, THEREFORE, BE IT RESOLVED, that the Minnehaha Creek Watershed District Board of Managers hereby authorizes the Board President, on the advice of legal counsel and with any further non-material changes, to execute the cooperative agreement with the City of Edina for Pamela Park maintenance.

Resolution Number 18-110 was moved by Manager _____, seconded by Manager _____.
Motion to adopt the resolution ___ ayes, ___ nays, ___ abstentions. Date: _____.

Secretary Date: _____

**COOPERATIVE AGREEMENT
BETWEEN THE CITY OF EDINA AND
MINNEHAHA CREEK WATERSHED DISTRICT**

PAMELA PARK MAINTENANCE PROJECT

THIS COOPERATIVE AGREEMENT is made _____, 2018 by and between the **City of Edina**, a Minnesota municipal corporation (“Edina”) and the **Minnehaha Creek Watershed District**, a watershed district created pursuant to Minnesota Statutes Chapters 103B and 103D (“MCWD”).

WHEREAS, Edina and the MCWD have entered into a Memorandum of Understanding that includes integrated capital improvements in the Minnehaha Creek Watershed District; and

WHEREAS, Edina and MCWD executed a Pamela Park Water Quality Improvement Project cooperative agreement in 2000 that defines construction, operation, and maintenance of water quality features at Pamela Park; and

WHEREAS, Edina and MCWD have together identified a need for maintenance of stormwater facilities in Pamela Park.

NOW, THEREFORE, in consideration of their mutual undertakings, the parties agree as follows:

1. PROJECT. The Project will involve three separate components:

- 1) “Dredging” - dredging of Pamela Park Pond Cell 1; and
- 2) “Outfall Wall Repair” - repair of retaining wall adjacent to stormwater outfall OUT36 which outlets to Pamela Park Pond Cell 1; and
- 3) “Vegetation Management Plan” - development of a vegetation management plan for Pamela Park.

2. DESIGN AND CONSTRUCTION OF THE PROJECT. Edina shall provide the MCWD 30% CAD design plans and specification for the Outfall Wall Repair and obtain all necessary permits for the Outfall Wall Repair. MCWD shall prepare the plans and specifications for the Dredging, complete the plans and specifications for the Outfall Wall Repair, and obtain all necessary permits. The Outfall Wall Repair and Dredging plans and specifications are subject to the approval of the Edina Engineering Director. If the plans and specification for both the Outfall Wall Repair and Dredging are not approved by Edina, the Outfall Wall Repair and Dredging shall not proceed. MCWD shall administer the contract and provide construction observation for the Outfall Wall Repair and Dredging. Edina and MCWD will cooperatively draft and review a Vegetation Management Plan. The Vegetation Management Plan will establish the current conditions, identify restoration and management activities to increase the native plant community, and make recommendations for maintaining and expanding natural areas. The Vegetation Management Plan will also include a signage strategy. The approved Vegetation Management Plan will be implemented by Edina. Exhibit A shows the approximate existing conditions for Pamela Park vegetation and the water quality cells.

3. BIDDING, AWARD OF CONTRACT AND PREPARATION OF CONTRACT DOCUMENTS. MCWD will prepare all bid and construction contract documents. MCWD intends to bid the Outfall Wall Repair and Dredging components together in one bid package. MCWD will advertise for and receive bids for the Outfall Wall Repair and Dredging. The governing bodies of both parties must approve the bid before a contract may be awarded. If both parties approve the bid, MCWD will award the contract. If the bid is not approved by Edina, the project shall not proceed.

4. CONTRACT ADMINISTRATION. MCWD will supervise project construction and make payments to the contractor. MCWD will invoice Edina for its share of project costs, as defined under section 6, below, and Edina will pay MCWD within thirty (30) days of receipt of an invoice.

5. CHANGE ORDERS. Change orders to the Construction Contract must be approved in advance by both parties. Edina approval may be exercised by the Edina Engineering Director. If Edina does not approve a change order, it will give instructions as to the completion of the work.

6. COST REIMBURSEMENT. Edina shall reimburse MCWD for the Dredging and Outfall Wall Repair work in Edina, including sediment testing, development of plans and specifications, construction costs for the Dredging and Outfall Wall Repair, preparation of a vegetation plan, and construction oversight for the Outfall Wall Repair and Dredging. This will include documented MCWD staff, consultant and legal costs associated with these tasks.

7. PROJECT OWNERSHIP/EASEMENT. Edina owns or will acquire all easements necessary for the Project, and will own the Project upon receiving the certification of completion. Edina shall afford all means of access to and on the land as are necessary and convenient for construction and the MCWD's performance of its responsibilities for subsequent sediment removal as described in the 2000 Pamela Park Water Quality Improvement Project Cooperative Agreement.

8. FUTURE MAINTENANCE RESPONSIBILITIES. As described in the 2000 Pamela Park Water Quality Improvement Project Cooperative Agreement, Edina shall bear the cost of the first sediment removal. The dredging under this Agreement will remove sediment from Pamela Park Pond Cell 1. Pamela Park Pond Cell 2 and Cell 3 will continue to be evaluated independently for sediment accumulation by the MCWD. Edina shall bear future costs for the first sediment removal from Pamela Park Pond Cell 2, and for the first sediment removal from Pamela Park Pond Cell 3, each to be performed independently when it has lost 50% of its wet volume design. MCWD shall bear the costs of any sediment removals beyond the first sediment removal for Cell 1, 2, and 3. Edina shall also be responsible for the vegetation management within Pamela Park, both before and after approval of a Vegetation Management Plan.

The MCWD shall prepare an operation and maintenance plan for the Pamela Park Cells 1-5 and present it to Edina for a period of no less than thirty (30) days for review and comment and thereafter shall prepare a final plan and transmit it to Edina. Other than the dredging

responsibilities described above, Edina shall be responsible for operation and maintenance according to the operation and maintenance plan and shall bear the costs of all such activities.

9. INDEPENDENT RELATIONSHIP. Each party is responsible for its own acts and omissions and the results thereof to the extent authorized by law. Minnesota Statutes Chapter 466 and other applicable law govern the parties' liability. To the full extent permitted by law, this Agreement is intended to be and shall be construed as a "cooperative activity" and it is the intent of the parties that they shall be deemed a "single governmental unit" for the purposes of liability, all as set forth in Minnesota Statutes, Section 471.59, Subd. 1a (a); provided further that for purposes of that statute, each party to this Agreement expressly declines responsibility for the acts or omissions of the other party. In addition to the foregoing, nothing herein shall be construed to waive or limit any immunity from, or limitation on, liability available to either party, whether set forth in Minnesota Statutes, Chapter 466 or otherwise.

10. SCHEDULE. MCWD intends to advertise and receive bids for the Dredging and Outfall Wall Repair in October 2018. The Outfall Wall Repair and the Dredging work are intended to occur between December 2018 and February 2019. These times are for planning purposes and do not establish a legal commitment.

11. HOLD HARMLESS. In design and construction contracts, MCWD will provide for all duties of care, warranties, indemnification obligations and insurance requirements to run to the benefit of Edina in the same manner as to the benefit of MCWD. Edina holds MCWD harmless and will indemnify it with respect to claims, liabilities, damages and costs arising out of the design or construction of the Outfall Wall Repair and Dredging work, except to the extent resulting from the negligent or willful act of the MCWD, or its representative or agent, other than its designer or construction contractor, or a subcontractor to either.

12. AMENDMENTS. This Agreement, as it may be amended in writing, constitutes the entire agreement between the parties. Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original agreement or their successors in office.

13. WAIVERS. The waiver by Edina or MCWD of any breach or failure to comply with any provision of this Agreement by the other party will not be construed as nor will it constitute a continuing waiver of such provision or a waiver of any other breach of or failure to comply with any other provision of this Agreement.

14. TERMINATION OF PRIOR AGREEMENT. This Agreement supersedes and replaces the Pamela Park Water Quality Improvement Project cooperative agreement entered into by the parties in 2000.

15. NOTICES. Any notice, demand or communication under this Agreement by either party to the other will be deemed to be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid to:

Administrator, Minnehaha Creek Watershed District
15320 Minnetonka Boulevard
Minnetonka, MN 55345
Re: Pamela Park Maintenance Project, Edina

Manager, City of Edina
4801 W 50th Street
Edina, MN 55424

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed intending to be bound thereby.

CITY OF EDINA

By: _____
James Hovland, Mayor

By: _____
Scott Neal, City Manager







MINNEHAHA CREEK WATERSHED DISTRICT

By: _____

Title: _____

Exhibit A



-  Stormwater Outfall
-  Stormwater Gravity Main
-  Waterbodies
-  Mowed Turf
-  Open Space
-  Wooded Area

Approximate existing vegetation.

Stormwater infrastructure outside of cooperative agreement scope excluded from map for simplicity.



October 2018

