



LOWER MINNESOTA RIVER WATERSHED DISTRICT

Executive Summary for Action

Lower Minnesota River Watershed District Board of Managers Meeting
Wednesday, August 18, 2021

Agenda Item

Item 4. H. - Authorize amendment to Intergovernmental Agreement Between the Metropolitan Council and the Lower Minnesota River Watershed District for water quality monitoring in Ike's Creek

Prepared By

Linda Loomis, Administrator

Summary

In February 2021, the Board authorized execution of the Intergovernmental Agreement Between the Metropolitan Council and the Lower Minnesota River Watershed District. The purpose of the agreement was to have the Metropolitan Council conduct water quality monitoring of Ike's Creek, a trout water located in Bloomington. The intent was to have the agreement in place so that Chloride levels in the Creek could be monitored during the winter months and continue through the summer. The Metropolitan Council could not begin monitoring until the agreement was signed, so very few samples were collected during the winter months.

The LMRWD and US Fish & Wildlife Service, the property owner of the parcel where Ike's Creek is located, would like to extend the agreement to collect additional warm weather samples and throughout the winter 2021/2022 season. The Metropolitan Council has agreed to continue collecting and testing samples, however, they would like the contract extended.

An amendment to the agreement is attached, along with the original agreement. LMRWD legal counsel has reviewed the amendment and it has been sent to the Metropolitan Council for approval.

Attachments

Amendment to Intergovernmental Agreement Between the Metropolitan Council and the Lower Minnesota River Watershed District

Intergovernmental Agreement Between the Metropolitan Council and the Lower Minnesota River Watershed District

Recommended Action

Motion to authorize execution of Amendment

**AMENDMENT TO INTERGOVERNMENTAL AGREEMENT BETWEEN
THE METROPOLITAN COUNCIL AND
THE LOWER MINNESOTA WATERSHED DISTRICT**

THIS AMENDMENT is made and entered into by and between the Metropolitan Council (“Council”) and the Lower Minnesota Watershed District (“District”), each acting by and through its duly authorized officers.

THE ABOVE NAMED PARTIES hereby agree to amend the agreement entered into by the Council and the District to undertake a professional water chemistry monitoring program to characterize chloride pollution in Ike's Creek. The Parties now wish to extend the agreement for a period of one year.

The following section of the agreement are hereby amended as follows:

Section II - 2.03 Council Responsibilities. The Council agrees that it will:

- a. provide all sampling equipment, collect all samples according to the sampling schedule, measure temperature and specific conductance of the sample and deliver all samples to Council Laboratory Services for analysis,
- b. analyze all samples for chloride, calcium, magnesium, hardness, sulfate, alkalinity,
- c. store, review and validate data and publish validated data on EIMS website,
- d. collect final sample on or about 6/29/2022, and
- e. provide reviewed and validated data on or about 9/30/2022.

Section IV. - 4.01 Period of Performance. - The services of the Council will commence on 01/19/2021 and will terminate on 9/30/2022, or following work completion and payment, whichever occurs first.

All other terms and conditions of the agreement will remain in force for the extension of the agreement.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their duly authorized representatives on the dates set forth below. This agreement is effective upon final execution by, and delivery to, both parties.

METROPOLITAN COUNCIL

**LOWER MINNESOTA WATERSHED
DISTRICT**

Signed: _____

Signed: _____

Name: _____

Name: _____

Its: _____

Its: _____

Date: _____

Date: _____

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE METROPOLITAN COUNCIL AND
THE LOWER MINNESOTA WATERSHED DISTRICT**

THIS AGREEMENT is made and entered into by and between the Metropolitan Council (“Council”) and the Lower Minnesota Watershed District (“District”), each acting by and through its duly authorized officers.

THE ABOVE-NAMED PARTIES hereby agree as follows:

I. GENERAL SCOPE OF AGREEMENT

The Council and the District agree to undertake a professional water chemistry monitoring program to characterize chloride pollution in Ike’s Creek, including sample collection, laboratory analysis and data review and validation. The Council will collect water samples and analyze samples for chloride, temperature, specific conductance, calcium, magnesium, hardness, sulfate, and alkalinity. The Council will review the analytical data for validity and provide the reviewed data to the District.

II. SPECIFIC SCOPE OF SERVICES

2.01 Monitoring Program. The District and the Council agree to partner in a study to characterize chloride pollution in Ike’s Creek.

a. General Purposes of Program

The Council will collect water samples from two locations on Ike’s Creek and analyze samples for chloride, temperature, specific conductance, calcium, magnesium, hardness, sulfate, and alkalinity. The Council will review the analytical data for validity and provide the reviewed data to the District.

b. Specific Lake/Stream/River and Location Involved:

Lake/River/Stream	County	Monitoring Location
Ike’s Creek	Hennepin	Site A Upstream
Ike’s Creek	Hennepin	Site B Downstream

c. Monitoring Program Plan

The Council will collect approximately 42 samples between the commencement of this agreement through June 29, 2021, including bi-weekly (once every two weeks) routine grab samples and Thaw-Event Samples (“Thaw-Even Samples” are samples collected after two days with daily temperatures above 32 degrees Fahrenheit) as conditions permit. The parties understand that the actual number of Thaw-Event Samples is contingent on weather.

The Council will analyze samples for temperature and specific conductance in situ and chloride, calcium, magnesium, hardness, sulfate and alkalinity in the laboratory.

The Council will review and validate the data, publish the data on Environmental Information Management System (“EIMS”) website and provide a spreadsheet of final data to the District.

- d. Program Costs
 - i. Labor. Council Water Resources staff labor will be billed at Council’s cost for the services in this Section II with a not to exceed amount of \$5,040.00 for sample collection and delivery and not to exceed \$1,200.00 for data review and validation.
 - ii. Samples. All samples will be analyzed by Council Laboratory Services for \$55.00 per sample.

Analyte	Analysis Code	Cost per Analysis
Chloride	CL-AV	\$15.75
Ca, Mg, Hardness	HARD-OESV	\$12.00
Sulfate	SO4-ICV	\$13.50
Alkalinity	ALK-AV	\$13.50

Total program costs will not exceed \$8,460.00 for labor and sample analysis for services expressly stated this Section II. The parties by written amendment, signed by authorized representatives, may amend this agreement to add or change services.

2.02 District Responsibilities. The District agrees that it will:

- a. provide online orientation to Council Water Resources staff before sampling begins to address questions of creek access and monitoring locations,
- b. provide in-person orientation to Council Water Resources primary sampling crew to address questions of creek access and monitoring locations, and
- c. provide letters or other written agreement granting permission for site access from City of Bloomington, US Fish and Wildlife Service and additional parties as needed for the Council to perform its obligations under this Agreement.

2.03 Council Responsibilities. The Council agrees that it will:

- a. provide all sampling equipment, collect all samples according to the sampling schedule, measure temperature and specific conductance of the sample and deliver all samples to Council Laboratory Services for analysis,
- b. analyze all samples for chloride, calcium, magnesium, hardness, sulfate, alkalinity,
- c. store, review and validate data and publish validated data on EIMS website,
- d. collect final sample on or about 6/29/2021, and
- e. provide reviewed and validated data on or about 9/30/2021.

III. COMPENSATION; METHOD OF PAYMENT

3.01 Payment to Council. For all labor performed and reimbursable expenses incurred by the Council under this agreement during the Period of Performance, the District agrees to pay the Council for services provided at the rates listed in Section II., subsection 2.01.

3.02 Payment Schedule. Payment of the total amount owing to the Council by the District shall be made within 30 days of the date of the invoice. The District will be invoiced quarterly.

Invoices are to be sent to:

Attention: Linda Loomis
Department: Lower Minnesota River Watershed District Naiad Consulting, LLC
Email: naiadconsulting@gmail.com
Phone: 763-568-9522 Cell
763-545-4659 Home/Office

IV. GENERAL CONDITIONS

4.01 Period of Performance. The services of the Council will commence on 01/19/2021, and will terminate on 9/30/2021, or following work completion and payment, whichever occurs first.

4.02 Amendments. The terms of this agreement may be changed only by mutual agreement of the parties. Such changes will be effective only on the execution of written amendment(s) signed by duly authorized officers of the parties to this agreement.

4.03 District Personnel. Linda Loomis, or such other person as may be designated in writing by the District, will serve as the District's representative and will assume primary responsibility for coordinating all services with the Council.

Name: Linda Loomis
Title: Administrator, Lower Minnesota River Watershed District
Naiad Consulting, LLC
Party: Lower Minnesota Watershed District
Address: 6677 Olson Memorial Highway Golden Valley, MN 55427
Email: naiadconsulting@gmail.com
Phone: 763-568-9522 Cell
763-545-4659 Home/Office

4.04 Council's Contract Manager. The Council's Contract Manager for purposes of administration of this agreement is Casandra Champion, Program Manager, or such other person as may be designated in writing by the Council's Regional Administrator. The Council's Contract Manager will be responsible for coordinating services under this agreement. However, nothing in this agreement will be deemed to authorize the Contract Manager to execute amendments to this agreement on behalf of the Council.

Name: Casandra Champion
Title: Principal Environmental Scientist
Party: Metropolitan Council Environmental Services

Address: 2400 Childs Rd Saint Paul, MN 55106
Email: Casandra.champion@metc.state.mn.us
Phone: 651-602-8745

4.05 Equal Employment Opportunity; Affirmative Action. The Council and the District agree to comply with all applicable laws relating to nondiscrimination and affirmative action. In particular, the Council and the District agree not to discriminate against any employee, applicant for employment, or participant in this study because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local commission, disability, sexual orientation, or age; and further agree to take action to assure that applicants and employees are treated equally with respect to all aspects of employment, including rates of pay, selection for training, and other forms of compensation.

4.06 Liability. Each party to this agreement shall be liable for the acts and omissions of itself and its officers, employees, and agents, to the extent authorized by law. Neither party shall be liable for the acts or omissions of the other party or the other party's officers, employees or agents. Nothing in this agreement shall be deemed to be a waiver by either party of any applicable immunities or limits of liability including, without limitation, Minnesota Statutes, sections 3.736 (State Tort Claims) and chapter 466 (Municipal Tort Claims).

4.07 Copyright. No reports or documents produced in whole or in part under this agreement will be the subject of an application for copyright by or on behalf of the Council or District.

4.08 Termination of Agreement. The Council and the District will both have the right to terminate this agreement at any time and for any reason by submitting written notice of the intention to do so to the other party at least thirty (30) days prior to the specified effective date of such termination. In the event of such termination, the Council will invoice and be paid for products and/or services rendered and/or in process before the effective date of termination.

4.09 Force Majeure. The Council and the District agree that the District shall not be liable for any delay or inability to perform this agreement, directly or indirectly caused by, or resulting from, strikes, labor troubles, accidents, fire, flood, breakdowns, war, riot, civil commotion, lack of material, delays of transportation, acts of God or other cause beyond reasonable control of Council and the District.

4.10 Audits. Pursuant to Minn. Stat. Section 16C.05, Subd. 5, the books, records, documents, and accounting procedures and practices relative to this agreement shall be subject to examination, including by the parties, legislative auditor and/or state auditor. Complete and accurate records of the work performed pursuant to this agreement shall be kept for a minimum of six (6) years following termination of this agreement for such auditing purposes. The retention period shall be automatically extended during the course of any administrative or judicial action regarding matters to which the records are relevant. The retention period shall be automatically extended until the administrative or judicial action is finally completed or until the authorized agent of the District notifies Provider in writing that the records need no longer be kept.

4.11 Relationship of Parties and Their Employees. Nothing contained in this agreement is intended, or should be construed, to create the relationship of co-partners or a joint venture between the Council and the District. No tenure or any employment rights including worker's compensation, unemployment insurance, medical care, sick leave, vacation leave, severance pay, retirement, or other benefits available to the employees of one of the parties, including indemnification for third party personal injury/property damage claims, shall accrue to employees of the other party solely by the fact that an employee performs services under this agreement.

4.12 Applicable Law; Compliance with Law. The laws of the state of Minnesota shall govern this agreement. In the performance of its obligations pursuant to this agreement, the parties agree to comply with all applicable provisions of federal, state, and local laws, regulations, and directives, and agrees that the most recent of such provisions will govern this contract at any particular time, including but not limited to Minnesota Statutes Chapter 13.

4.13 Severability. If any part of this agreement is rendered void, invalid or unenforceable such rendering shall not affect the remainder of this agreement unless it shall substantially impair the value of the entire agreement with respect to either party. The parties agree to substitute for the invalid provision a valid provision that most closely approximates the intent of the invalid provision.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their duly authorized representatives on the dates set forth below. This agreement is effective upon final execution by, and delivery to, both parties.

METROPOLITAN COUNCIL

LOWER MINNESOTA WATERSHED DISTRICT

Signed: *Daniel Henely*
Daniel Henely (Mar 19, 2021 16:24 CDT)
Name: Daniel Henely
Its: Assistant Manager Water Resources
Date: Mar 19, 2021

Signed: *Jesse J Hartmann*
Name: JESSE J HARTMANN
Its: President
Date: 3-15-21



Permit #: 32590-21-01

(Refuge Name)
General Activity
Special Use Permit
(For Official Use Only)

Permit Term:

From: 1/21/2021 To: 12/30/2021

Permittee Name/Business: Metropolitan Council
Permit Activity Type: General - Access
Permit Activity Type (Other/Not Listed): [Activity Type - Other]
Permit Status: Approved

If approved, provide special conditions (if any) in the text box below.
If denied, provide justification below.

Permit is for Metropolitan Council to access the Bass Ponds and Ike's Creek on Minnesota Valley National Wildlife Refuge to conduct water quality sampling. 1. Permittee to provide their own insurance. 2. Parking to be in parking lots only. 3. Gate access code should be requested thru Refuge Biologist. 4. Report shall be provided to Refuge Biologist at the conclusion of the project. 5. Sampling may occur following orientation with the Refuge Biologist.

- 1. Are there additional special conditions attached to the permit? Yes No N/A
- 2. Are other licenses/permits required, and have they been verified? Yes No N/A
- 3. Are insurance and/or certification(s) required, and have they been verified? Yes No N/A
- 4. Record of Payments: Full Partial Exempt
- 5. Is a surely bond or security deposit required? Yes No N/A

This permit is issued by the U.S. Fish and Wildlife Service and accepted by the applicant signed below, subject to the terms, covenants, obligations, and reservations, expressed or implied therein, and to the notice, conditions, and requirements included or attached. A copy of this permit should be kept on-hand so that it may be shown at any time to any refuge staff.

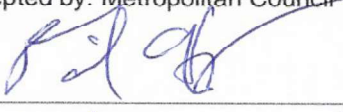
Permit approved/issued by:

Signature: SARENA SELBO
Digitally signed by SARENA SELBO
Date: 2021.02.02 17:53:28 -06'00'

Title: _____

Date: _____

Permit accepted by: Metropolitan Council

Signature:  _____

Title: Asst. Manager Water Resources

Date: 1/28/2021



January 21, 2021

Cassandra Champion, Principal Environmental Scientist
Metropolitan Council
2400 Childs Road
St. Paul, MN 55106
Sent via email to <cassandra.champion@metc.state.mn.us>

Dear Ms. Champion:

The City of Bloomington understands the US Fish and Wildlife Service (USFWS) desires to conduct water quality sampling for chloride on an unnamed stream, commonly referred to as Ike's Creek, within City of Bloomington property located at 2401 East Old Shakopee Road, Bloomington, Minnesota and as depicted on the attached Exhibit A.

The USFWS intends to obtain assistance in collecting water quality samples for chloride from the Metropolitan Council and the Lower Minnesota River Watershed District. This letter serves as the City of Bloomington's acknowledgement of the proposed water quality sampling activity and therefore grants access to the USFWS, Metropolitan Council and the Lower Minnesota River Watershed District to the above mentioned city owned property for the purposes of collecting water quality samples on Ike's Creek.

For any questions please feel free to contact me at 952.563.4557 or bgruidl@bloomingtonmn.gov.

Sincerely,

Bryan Gruidl

Bryan Gruidl
Water Resources Manager

CC:

Via email to: Vicki Sherry, US Fish and Wildlife Services <vicki_sherry@fws.gov>

Via email to: Linda Loomis, Lower Minnesota River Watershed District <naiadconsulting@gmail.com>





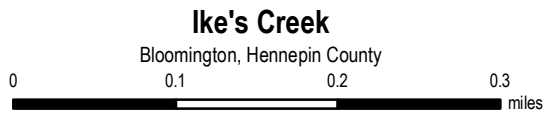
U.S. Fish & Wildlife Service

Minnesota Valley National Wildlife Refuge

Long Meadow Lake Unit



-  Refuge Boundary
-  City of Bloomington Property
2401 E. Old Shakopee Rd.



MATT MILLETT • 10/23/2020 • SOURCES: FWS, MNGEO, HENNEPIN COUNTY
HENNEPIN COUNTY COORDINATE SYSTEM (NAD 83)

Boundaries shown are approximate

