



# LOWER MINNESOTA RIVER WATERSHED DISTRICT

## Executive Summary for Action

Lower Minnesota River Watershed District Board of Managers Meeting

Wednesday, December 15, 2021

### **Agenda Item**

#### **Item 8. G. - 2022 Legislative Action**

#### **Prepared By**

Linda Loomis, Administrator

#### **Summary**

Lisa Frenette, Frenette Legislative Advisors (FLA), legislative liaison for the LMRWD has been in touch with Representative Hansen, chair of the House Environment and Natural Resources Committee and Senator Ingebrigtsen, chair of the Senate Environment and Natural Resources Committee to talk to them about using the funds appropriated to the LMRWD for dredge management for sediment reduction projects. The LMRWD also want to talk to them (and other legislators) about additional projects in the district, such as Area #3 in Eden Prairie, the Carver Levee improvements and the Shakopee River bank stabilization.

The LMRWD has retained the services of FLA since late 2017. At the time the LMRWD retained FLA the LMRWD agreed to pay an annual fee for legislative services. There was some back and forth regarding an agreement, but it was never executed. An agreement is attached that will just formalize the relationship between the LMRWD and FLA. The agreement has a one-year term and an annual fee of \$20,000 (which is what has been paid since 2017) to be paid in monthly installments. Some minor changes have been made to the agreement since it was reviewed by legal counsel.

#### **Attachments**

CONSULTING AGREEMENT BETWEEN THE LOWER MINNESOTA RIVER WATERSHED DISTRICT AND FRENETTE LEGISLATIVE ADVISORS

#### **Recommended Action**

Motion to approve Agreement between the LMRWD and FLA and authorize execution

**CONSULTING AGREEMENT BETWEEN  
THE LOWER MINNESOTA RIVER WATERSHED DISTRICT  
AND FRENETTE LEGISLATIVE ADVISORS**

This Agreement is entered into between Frenette Legislative Advisors (FLA) and the Lower Minnesota River Watershed District (LMRWD). In consideration of the mutual terms and conditions set forth herein, including the obligations of mutual consideration, the sufficiency of which is hereby acknowledged, LMRWD and FLA agree as follows:

1. Scope of Work

FLA will perform the LMRWD legislative support services related to the function and interests of the LMRWD. These services may include but are not limited to:

- a) seeking state financial resources for the LMRWD navigational channel maintenance and operation responsibilities and obligations related to the MN River 9-foot channel;
- b) promoting legislation aimed at reducing sedimentation and erosion in the Minnesota River Valley; developing governmental structures or programs to implement coordinated projects to reduce sedimentation and erosion in the Minnesota River; and establishing basin-wide initiatives to fund grade stabilization and other practices to reduce sedimentation and erosion in the Minnesota River; and
- c) consulting with the LMRWD between legislative sessions to develop legislative and policy priorities to be implemented in subsequent years.

Additional services may be added to this scope of work by amendment to this contract and may include additional compensation as determined by the parties.

2. Independent Contractor

FLA is an independent contractor under this Agreement. FLA shall select the means, method and manner of performing the Services. Nothing in this Agreement is intended or should be construed to make FLA the agent, representative or employee of the LMRWD. Personnel performing the Services on behalf of FLA or a subcontractor shall not be considered employees of the LMRWD and shall not be entitled to any compensation, rights or benefits of any kind from the LMRWD.

FLA confirms and acknowledges it is not entitled to any employment benefits of any kind in association with the Services rendered under this Agreement, including health insurance, retirement benefits, paid vacation or sick leave.

FLA acknowledges that it is obligated to comply with all state and federal tax requirements and is responsible for reporting and paying all income and self-employment tax with respect to income derived from his performance of the Services under this Consulting Agreement.

3. Subcontract and Assignment

Contractor shall not assign, subcontract or transfer any obligation or interest in this Agreement or any of the Services without LMRWD's written consent. Written consent to any subcontracting, assignment or transfer shall not relieve FLA from his responsibility to perform any part of the Services, nor in any respect its warranty, insurance, indemnification, duty to defend or agreement to hold harmless with respect to the

Services. FLA shall incorporate this Agreement as an exhibit to any assignment, subcontract or transfer agreement.

4. Warranty and Indemnification

Contractor warrants that she will perform the Services in accordance with usual standards of professional care. Contractor shall indemnify, defend and hold harmless the LMRWD, its officers, board members, employees and agents from any and all actions, costs, damages and liability of any nature to the degree they are the result of any professional negligence or other action or inaction of Contractor or her subcontractor or assignee that form the basis for the Contractor or her subcontractor's or assignee's, liability in law or equity.

The LMRWD shall indemnify, defend and hold harmless Contractor and her agents from any and all actions, costs, damages and liabilities of any nature to the degree that they are the result of any action or inaction by the LMRWD that is the basis for the LMRWD's liability in law or equity.

5. Payment for Services

The LMRWD shall represent the LMRWD on legislative issues for 2022. LMRWD agrees compensate FLA in the amount of \$20,000 for services beginning January 1, 2022, through December 31, 2022, payable in monthly installments of \$1,666.67 beginning January 1, 2022, through December 31, 2022

Payment will be made within 30 days of receipt of invoice. Consistent with its ethical obligations, FLA may withdraw for non-payment.

6. Termination

The Agreement shall remain in force from January 1, 2022, through December 31, 2022.

The LMRWD may terminate this Agreement at its convenience, by a written termination providing sixty (60) days notice by certified mail, stating specifically what prior authorized or additional services is required for FLA to complete. FLA shall receive full compensation for all authorized work performed prior to the receipt of notice of termination. In the event of termination of this Agreement on or after May 1, 2022, FLA shall receive full compensation for services under this agreement. The remainder of the \$20,000 payment for services not previously paid shall become due and payable on June 1, 2022 or 30 days after receipt of notice of termination.

7. Waiver

The failure of either party to insist on the strict performance by the other party of any provision or obligation under this Agreement, or to exercise any option, remedy or right herein, shall not waive or relinquish such party's rights in the future to insist upon strict performance of any provision, condition or obligation, all of which shall remain in full force and affect. The waiver of either party on one or more occasion of any provision or obligation of this Agreement shall not be construed as a waiver of any subsequent breach of the same provision or obligation, and the consent or approval by either party to or of any act by the other requiring consent or approval shall not render unnecessary such party's consent or approval to any subsequent similar act by the other.

Notwithstanding any other term of this Agreement, the LMRWD waives no immunities in tort. This Agreement creates no rights in and waives no immunities with respect to any third party.

8. Insurance

At all times during the term of this Agreement, FLA shall have and keep in force the following insurance coverage:

A. Automobile liability: For any personal vehicle used in performing the Services, combined single limit each occurrence coverage for bodily injury and property damage covering all owned and non-owned vehicles, \$1 million.

B. General liability: \$1 million each occurrence and aggregate, covering completed operations and contractual liability.

9. Compliance with Laws

FLA shall comply with the laws and requirements of all federal, state, local and other governmental units in connection with performing the Services, and shall procure all licenses, permits and other rights necessary to perform the Services. FLA will not commence work until it has completed the necessary registration as a lobbyist under state law.

FLA hereby acknowledges that all of the data it creates, collects, receives, stores, uses, maintains, or disseminates in performing the Services may be subject to the requirements of the Government Data Practices Act of Minnesota Statutes Ch. 13, and that FLA must comply with those requirements as if it were a covered government entity.

10. Continuation of Obligation

It is understood and agreed that document retention requirements shall survive the completion of the Services and the term of this Agreement as required by law.

11. Choice of Law, Venue and Jurisdiction

This Agreement shall be construed under and governed by the laws of the State of Minnesota.

12. Whole Agreement

The entire agreement between the two parties is contained herein and this Agreement supersedes all oral agreements and negotiations relating to the subject matter hereof. Any modification of this Agreement shall be valid only when reduced to writing as an amendment to this Agreement and signed by the parties hereto.

**IN WITNESS WHEREOF**, intending to be legally bound, the parties hereto execute and deliver this Agreement.

**Frenette Legislative Advisors**

**LOWER MINNESOTA RIVER  
WATERSHED DISTRICT**

\_\_\_\_\_  
Lisa Ann Frenette

\_\_\_\_\_  
By

Its \_\_\_\_\_

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

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