

## FIRST AMENDMENT TO COOPERATIVE AGREEMENT

This First Amendment to Cooperative Agreement (the “Amendment”) is made this \_\_\_ day of \_\_\_\_\_, 2019 by and between the Bassett Creek Watershed Management Commission, a joint powers watershed management organization (the “Commission”), and the city of Crystal, Minnesota, a Minnesota municipal corporation (the “City”).

WHEREAS, the Commission and the City previously entered into that certain Cooperative Agreement, dated September 21, 2017 (the “Contract”); and

WHEREAS, the Contract provided terms and conditions related to the City’s undertaking of the dredging of Winnetka Pond (the “Project”) and reimbursement by the Commission for the Project; and

WHEREAS, during construction of the Project, contaminated sediment was discovered in Winnetka Pond and due to the need for its removal, the Project costs increased and are now in excess of the \$1,000,000 that was originally anticipated; and

WHEREAS, pursuant to the City’s ability to contract for removal of the sediment and the aforementioned cost increase associated therewith, the parties wish to modify the terms of the Contract as provided in this Amendment.

NOW, THEREFORE, on the basis of the premises and mutual covenants hereinafter set forth, the parties hereby agree to the following:

I. Section 5 of the Contract is hereby amended by adding the double-underlined language and deleting the ~~stricken~~ language as follows:

5. Commission Reimbursement. The Commission shall reimburse the City for the Project in an amount not to exceed \$1,123,351.00, less any Commission expenses. Of the total amount to be reimbursed, \$9,050.00 shall come from the City’s portion of available Commission Channel Maintenance Funds and \$114,301.00 shall come from the Commission’s Closed Project Account. For the remainder, the Commission will use its best efforts to secure payment from the County in accordance with Minnesota Statutes, section 103B.251 in the amount of One Million Dollars (\$1,000,000) by tax levy in 2017 for collection in 2018. The total reimbursement will not exceed One Million Dollars (\$1,000,000), less Commission expenses.

Out-of-pocket costs related to the Project, incurred and paid by the Commission including, but not limited to, feasibility studies, publication of notices, securing County tax levy, preparation of contracts, review of engineering designs, review of proposed contract documents, grant application development, grant administration, administration of this contract, and up to a 2.5% administrative charge shall be repaid from the amount specified above from funds received in the tax settlement from Hennepin County. All such funds in excess of such expenses are available for reimbursement to the City for costs incurred by the City in the design and construction of the Project. Reimbursement to the City will be made as soon as funds are available,

provided a request for payment has been received from the City that contains such detailed information as may be requested by the Commission to substantiate costs and expenses. The City shall complete and submit with its final reimbursement request to the Commission a final report on the Project using the Commission's final reporting form and providing such other information as may be requested by the Commission.

II. Section 6 of the Contract is hereby amended by deleting the ~~stricken~~ language as follows:

6. Limits on Reimbursement. Reimbursement to the City will not exceed the amount specified above ~~from the amount received from the County for the Project~~, less any amounts retained by the Commission for Commission expenses. Reimbursement will not be increased by grants or other revenues received by the Commission for the Project. Reimbursement will not exceed the costs and expenses incurred by the City for the Project, less any amounts the City receives for the Project as grants from other sources. All costs of the Project incurred by the City in excess of such reimbursement, shall be borne by the City or secured by the City from other sources.

III. All other terms and conditions of the Contract shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this 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

By: \_\_\_\_\_  
Its Secretary

CITY OF CRYSTAL

By: \_\_\_\_\_  
Its Mayor

By: \_\_\_\_\_  
Its Manager