

COOPERATIVE AGREEMENT
(Sochacki Park Water Quality Improvement Project BC-14)

This Cooperative Agreement (“**Agreement**”) is made as of this ____ day of _____, 2024 by and between the Bassett Creek Watershed Management Commission, a joint powers watershed management organization (“**Commission**”), the Three Rivers Park District, a body corporate and politic and a political subdivision of the State of Minnesota (“**Park District**”), and the City of Robbinsdale, a Minnesota municipal corporation (“**City**”). The Commission, the Park District, and the City may hereinafter be referred to individually as a “party” or collectively as the “parties.”

RECITALS

- A. The Commission adopted the Bassett Creek Watershed Management Commission Watershed Management Plan on September 17, 2015 (“**Plan**”), a watershed management plan within the meaning of Minnesota Statutes, section 103B.231.
- B. The Plan includes a capital improvement program (CIP) that lists a number of capital improvements including the Sochacki Park Water Quality Improvement Project BC-14 (“**Project**”). The Project is located in the cities of Robbinsdale and Golden Valley and primarily within Sochacki Park, which is owned by the City and operated by the Park District in cooperation with the two cities under a joint powers agreement. The portion of the Project not located in Sochacki Park is located in South Halifax Park, which is owned and operated by the City.
- C. The Project will be designed and constructed by the Park District as described in the feasibility report prepared by Barr Engineering Co. entitled *Sochacki Park Water Quality Improvement Project Feasibility Study*, dated September 2023 (“**Feasibility Report**”), which is fully incorporated herein by reference. More specifically, the Project will consist of all work identified in Table 7-1 of the Feasibility Report except for the alum treatment of Grimes, North and South Rice Ponds.
- D. The estimated planning level opinion of cost of the Project, including design, permitting, and construction, is \$1,903,000.
- E. The Plan specifies that the Project will be partially funded by the Commission in an amount not to exceed \$600,000.
- F. On September 21, 2023, the Commission adopted a resolution ordering the Project and directing that it be constructed by the Park District.
- G. In accordance with the Plan, the first half of the Commission’s Project costs (\$300,000) were certified to Hennepin County for levy throughout the watershed in 2023 for collection and settlement in 2024, and the Commission intends to certify the second half of its Project costs (\$300,000) to Hennepin County for levy throughout the watershed in 2024 for collection and settlement in 2025, all pursuant to Minnesota Statutes, section 103B.251.

- H. The Park District is willing to construct the Project in accordance with the terms and conditions hereinafter set forth, and the Commission is willing to reimburse the Park District for such construction in accordance with the terms and condition hereinafter set forth.

AGREEMENT

In consideration of the mutual covenants and agreements hereinafter set forth, and intending to be legally bound, the parties hereby agree as follows:

1. Project. The Project will consist of the following work and improvements, which are described more specifically in the Feasibility Report: completing a phase II environmental site assessment, revegetating and controlling upland soil erosion; street sweeping in untreated subwatersheds; clearing inlet/outlet debris, removing sediment deltas, and stabilizing erosion; conducting pond water level drawdowns; dredging and expanding existing SR-4 pond and stabilizing outlet channel; constructing a permeable filtration system at GR-6, constructing a stormwater pond at NR-1, and constructing a stormwater pond at SR-3. The Project will not include alum treatment of the ponds referenced in the Feasibility Study.
2. Condition of Commission Funding. A condition precedent of the Commission's obligations under this Agreement is that the Park District receives or commits funding from other sources as needed to fully fund all elements contained within the above-described Project scope, including all costs not being reimbursed by the Commission under this Agreement. The Park District shall provide such documentation to the Commission as may reasonably be deemed necessary to demonstrate that such additional funding has been secured before the Commission will take any actions in furtherance of this Agreement or make any reimbursement payments.
3. Design and Plans. The Park District will design the Project and prepare all necessary plans and specifications for construction of the Project. The 50% and 90% plans and specifications shall be submitted to the Commission for its review and formal approval in accordance with the Commission's CIP project review process. Once approved by the Commission, any changes to the 90% plans and specifications must be submitted to the Commission for subsequent review and approval. However, minor change orders may be approved by the Park District without requiring additional approvals by the Commission. For purposes of this paragraph, "minor change orders" shall mean those changes to the Commission-approved plans that do not materially change either the effectiveness of the Project to meet its intended purposes, the aesthetics, form, or function of the Project, or the environmental impacts of the Project. For the avoidance of doubt, any changes to the Commission-approved 90% plans and specifications that are not considered minor changes require Commission review and approval.
4. Contract Administration. The Park District will advertise for bids and award contracts in accordance with all requirements of applicable law. The Park District will award the contract and supervise and administer the construction of the Project to ensure that it is completed in accordance with the Commission-approved plans and specifications. The contract may only be awarded to a responsible contractor in accordance with Minnesota Statutes, section 16C.285 and

the Park District will require the contractor to provide all payment and performance bonds required under law. The Park District will further require the contractor to name the Commission as an additional insured on all liability policies required by the Park District and the Commission shall be given the same notification of cancellation or non-renewal as is given to the Park District. The Park District will also require the contractor to defend, indemnify, protect and hold harmless the Commission and its agents, officers, and employees, from all claims or actions arising from negligent acts, errors or omissions of the contractor. The Park District will supervise the work of the contractor throughout construction, provided, however, that the Commission may observe and review the work of the Project until it is completed. The Park District will pay the contractor and all other expenses related to the construction of the Project and keep and maintain complete records of all costs incurred. The Park District will also display a sign at the construction site stating that the Project is paid for in part by the taxpayers of the Bassett Creek Watershed.

5. Commission Reimbursement. 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 Three Hundred Thousand Dollars (\$300,000) by tax levy in 2023 for collection in 2024 and another Three Hundred Thousand Dollars (\$300,000) by tax levy in 2024 for collection in 2025. The total reimbursement paid by the Commission to the Park District for the Project may not exceed the total amount levied and collected in such years, anticipated to be Six Hundred Thousand Dollars (\$600,000), less out-of-pocket expenses incurred and paid by the Commission related to the Project. Such out-of-pocket expenses include, but are not limited to, Commission costs for publication of notices, securing County tax levy dollars, preparation of contracts, review of engineering design, 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 of tax settlement received by the Commission from Hennepin County. All such levied funds in excess of the Commission's out-of-pocket expenses are available for reimbursement to the Park District for costs incurred by the Park District in the design and construction of the Project. Reimbursement to the Park District will be made as soon as funds are available, provided that (i) a request for payment has been received from the Park District that contains such detailed information as may be requested by the Commission to substantiate costs and expenses; and (ii) all other conditions contained in this Agreement are duly satisfied by the Park District. The Park District 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.
6. Limits on Reimbursement. For the avoidance of doubt, reimbursement to the Park District will not exceed the amount specified in section 5 above, i.e. the total tax levy amount received from the County for the Project, less any amounts retained by the Commission for its out-of-pocket 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 Park District for the Project, less any amounts the Park District receives for the Project as grants or contributions from other sources. All costs of the Project incurred by the Park District in excess of such reimbursement shall be borne by the Park District or secured by the Park District from other sources.

7. Audit. All Park District books, records, documents, and accounting procedures related to the Project are subject to examination by the Commission and either the State Auditor or the Legislative Auditor for at least six years after completion of the Project.
8. Environmental Review and Remediation. The Park District will perform all necessary investigations of site contamination and secure all necessary local, state, or federal permits required for the construction of the Project and will not proceed with the Project until any required environmental review and remediation of site contamination is completed or a plan for remediation is approved by appropriate regulatory agencies.
9. Ongoing Maintenance. Upon completion of the Project, the Park District and the City will be jointly and severally responsible for all ongoing maintenance of Project-related improvements and BMPs to the extent required to sustain proper functioning for their useful life. It is contemplated that final maintenance obligations will be memorialized via separate agreement between the Park District and the City, and nothing herein precludes the Park District and the City from delegating such maintenance duties in any manner they deem mutually acceptable.
10. Data Practices. The Park District shall retain and make available data related to the award of contracts and construction of the Project in accordance with the Minnesota Government Data Practices Act.
11. Indemnification. Each party agrees that it will be responsible for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of the other parties and the results thereof. Furthermore, each party shall indemnify, defend and hold harmless the other parties against all claims, losses, damage, liability, suits, judgments, costs and expenses, including reasonable attorneys' fees, resulting from the alleged negligent actions or inactions of the indemnifying party, its officers, employees, or agents. Any party seeking to be indemnified, defended, and held harmless as required herein shall provide timely notice to the indemnifying party when a claim is brought. The party undertaking the defense shall retain all rights and defenses available to the party or parties indemnified and no immunities are hereby waived that are otherwise available to the parties under law. Nothing in this Agreement shall constitute or be construed as a waiver of any exemptions or limitations on liability available to the parties under Minnesota Statutes, chapter 466 or any other law.
12. Term. This Agreement shall be in effect as of the date first written above and shall terminate once the Project is completed and the Commission has completed its reimbursement payments to the Park District as provided herein. Notwithstanding the foregoing, the ongoing maintenance obligations contained in section 9 and the indemnification provisions contained in section 11 shall survive termination.
13. Entire Agreement. The above recitals and the exhibits attached hereto are incorporated in and made part of this Agreement. This Agreement contains the entire understanding between the parties regarding this matter and no amendments or other modifications of its terms are valid unless reduced to writing and signed by both parties.

14. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement 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

And by: _____
Its Secretary

Date: _____

THREE RIVERS PARK DISTRICT

By: _____
Its Chair

And by: _____
Its Superintendent/Secretary

Date: _____

CITY OF ROBBINSDALE

By: _____
Its Mayor

And by: _____
Its City Manager

Date: _____