

Attachment B

COOPERATIVE AGREEMENT FOR PROJECT 2021-01 ELM ROAD AREA/EVEREST LANE STREAM RESTORATION

This Agreement is made as of this _____ day of _____, 2022, by and between the Elm Creek Watershed Management Commission, a joint powers watershed management organization (hereinafter the “Commission”), and the City of Maple Grove, a Minnesota municipal corporation (hereinafter the “City”).

WITNESSETH:

WHEREAS, the Commission has adopted the Elm Creek Watershed Management Plan as amended on June 9, 2021 (the “Plan”), a watershed management plan within the meaning of Minn. Stat., § 103B.231; and

WHEREAS, the Plan includes a capital improvement program (“CIP”) that lists a number of water quality project capital improvements; and

WHEREAS, the water quality projects identified in the CIP include the **Elm Road Area/Everest Lane Stream Restoration** more fully described in Attachment One to this Agreement, which is hereby made a part hereof (the “Project”); and

WHEREAS, the Plan specifies that projects in the CIP will be partially funded by a County tax levy under Minn. Stat., § 103B.251; and

WHEREAS, on September 8, 2021, the Commission adopted a resolution ordering the Project, directing that it be constructed by the City and that the Commission’s share of the Project costs be certified to Hennepin County for payment in accordance with Minn. Stat., § 103B.251; and

WHEREAS, it is expected that Hennepin County will levy taxes throughout the watershed for the Project, for collection and settlement in 2022; and

WHEREAS, the City is willing to construct the Project on the terms and conditions hereinafter set forth;

NOW, THEREFORE, ON THE BASIS OF THE PREMISES AND MUTUAL COVENANTS AND AGREEMENTS HEREINAFTER SET FORTH, THE PARTIES AGREE AS FOLLOWS:

1. The Project will consist of improvements in the City as more fully described in Attachment One.
2. The City will design the Project and prepare plans and specifications for construction of the Project. Plans and specifications are subject to approval by the Commission’s consulting engineer and the City of Maple Grove City Engineer.
3. The City will advertise for bids and award contracts in accordance with the requirements of law. The City will award the contract and supervise and administer the construction of the Project to assure that it is completed in accordance with plans and specifications. The City will require the contractor to provide all payment and performance bonds required by law. The City will require that the Commission be named as additional insured on all liability policies

required by the City of the contractor. The City will require that the contractor defend, indemnify, protect and hold harmless the Commission and the City, their agents, officers, and

employees, from all claims or actions arising from performance of the work of the Project conducted by the contractor. The City will supervise the work of the contractor. However, the Commission may observe and review the work of the Project until it is completed.

4. The City will pay the contractor and all other expenses related to the construction of the Project and keep and maintain complete records of such costs incurred.
5. The Commission will secure payment from the County in accordance with Minn. Stat., § 103B.251 in the amount of one hundred twenty-five thousand dollars (\$125,000). It is understood that tax settlement from the County is not expected to occur until 2022.

Out-of-pocket costs related to the Project, incurred and paid by the Commission for publication of notices, securing County tax levy, preparation of contracts, review of proposed contract documents and administration of this contract shall be repaid from funds received in the tax settlement from Hennepin County. Amounts received from the County, up to \$125,000, less reimbursement to the Commission 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 on completion of the project and submittal of as-builts. Reimbursement to the City will be made as soon as funds are available provided a request for payment has been received from the City providing such detailed information as may be requested by the Commission to substantiate costs and expenses.


6. Reimbursement to the City will not exceed the amount received from the County, up to \$125,000, for the Project less any amounts retained by the Commission for Commission expenses. All costs of the Project incurred by the City in excess of such reimbursement, including all costs incurred in excess of estimated project costs due to unforeseen conditions or any other cause, shall be borne by the City or secured by the City from other sources.
7. All City books, records, documents, and accounting procedures related to the Project are subject to examination by the Commission.
8. The City will secure all necessary local, state, or federal permits required for the construction of the Project.
9. The project will be constructed on land owned or easements held by the City.
10. The City will have ownership of the associated improvements and will maintain them in good operating condition in perpetuity or until such time as they are replaced with like improvements.
11. The City will defend, indemnify, protect and hold harmless the Commission and its agents, officers, and employees, from any claims arising out of the design, construction, or maintenance of the Project, including environmental claims. Nothing herein shall be deemed a waiver of the limitations of liability in Minnesota Statutes, Chapter 466.

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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.

ELM CREEK WATERSHED
MANAGEMENT COMMISSION

By 
Doug Baines, Its Chair

And by 
Judie A. Anderson, Its Administrator

CITY OF MAPLE GROVE

By _____
Its Mayor

And by _____
Its City Clerk

ATTACHMENT ONE