

MEETING DATE: October 12, 2017

TITLE: Authorization to Convey to the City of Minnetrista Excess Flood Storage Volume Created by the Jennings Bay Wetland Restoration/Floodplain Mitigation Project

RESOLUTION NUMBER: 17-065

PREPARED BY: Tiffany Schaufler

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REVIEWED BY: Administrator Counsel Program Director:
 Board Committee Engineer Other

WORKSHOP ACTION:

<input type="checkbox"/> Advance to Board mtg. Consent Agenda.	<input type="checkbox"/> Advance to Board meeting for discussion prior to action.
<input type="checkbox"/> Refer to a future workshop (date):_____	<input type="checkbox"/> Refer to taskforce or committee (date):_____
<input type="checkbox"/> Return to staff for additional work.	<input type="checkbox"/> No further action requested.
<input checked="" type="checkbox"/> Other (specify): Not reviewed at Board Workshop. Seeking final approval on October 12, 2017.	

PURPOSE or ACTION REQUESTED:

Authorization to convey to the City of Minnetrista, for the amount of \$37,450.33, excess flood storage volume resulting from District construction of the Jennings Bay Wetland Restoration/Floodplain Mitigation Project.

PROJECT/PROGRAM LOCATION:

Jennings Bay Wetland/Floodplain Mitigation Project located on City of Minnetrista land east of the Orchard Cove development (east of County Road 110 N and Orchard Cove).

PROJECT TIMELINE:

- October-November 2016: Construction began
- June 2017: Construction substantially complete

PROJECT/PROGRAM COST:

Fund name and number: Highway 101 Causeway Reconstruction, 3149
Current budget: \$1,604,308
Expenditures to date: \$1,098,943
Requested amount of funding: \$0

PAST BOARD ACTIONS:

- October 24, 2013 – Resolution to express support for working with Hennepin County on a plan for vegetated reinforced soil slopes in the Grays Bay causeway, and direct the staff to prepare a plan in consultation with the County, along with a project budget and cost share resolution.
- December 12, 2013 – Resolution to direct staff to:
 1. Communicate its commitment to reviewing the Bushaway Road Project for compliance with all MCWD rules, recommending enhancements to the Project as submitted by Hennepin County beyond current regulatory requirements for which the MCWD would take financial responsibility;
 2. These enhancements would include the design, construction and maintenance of the Wayzata Bay Restoration Shoreline Project, to be installed after the County has completed seawall construction and with a County funding contribution equal to the cost of the riprap design presented on October 24, 2013;
 3. The MCWD enhancements also would include improvements to stormwater management facilities, and the MCWD will be responsible for enhancements to the Project beyond those presented by the County on October 24, 2013 that exceed MCWD requirements for the entire project within the City of Wayzata.
- January 23, 2014
 - Approval of MCWD Permit 13-460
 - Resolution 14-008: Authorization to executed a Cooperative Agreement with Hennepin County for CSAH 101
- October 23, 2014 – Resolution 14-088: Authorization to execute a Cooperative Agreement with the City of Minnetrista to effect a transfer of the fee title interest in 3.26 acres of land to MCWD, for purposes of floodplain mitigation to fulfill the District's regulatory obligation under permit 13-460 Bushaway Road.
- February 26, 2015 – Public Hearing for Highway 101 Causeway Reconstruction Project
- March 26, 2015 – Ordering of Highway 101 Causeway Reconstruction Project
- April 28, 2016 – Resolution 16-043: Authorization to Execute Contracts for Design and Construction Oversight for the Highway 101 Causeway Shoreline Reconstruction Project
- June 9, 2016 – Resolution 16-057: Authorization to Execute a Contract for Design and Construction Oversight for the Jennings Bay Wetland Restoration Project
- June 9, 2016 – Resolution 16-058: Authorization to enter into Contracts for the Gray's Bay Shoreline Restoration
- August 11, 2016 – Resolution 16-064: Approval of Design for the Highway 101 Causeway Reconstruction Project and Authorization to Solicit Bids
- August 25, 2016 – Resolution 16-069: Approval of Design for the Jennings Bay Wetland Restoration/ Floodplain Mitigation Project and Authorization to Solicit Bids
- September 8, 2016 – Resolution 16-075: Authorization to Award Construction Contract for the Highway 101 Causeway Shoreline Reconstruction Project
- September 22, 2016 – 16-077 Authorization to Award a Construction Contract for the Jennings Bay Wetland Restoration/ Floodplain Mitigation Project

SUMMARY:

Project Background

In June 2017 the District substantially completed the Jennings Bay Wetland Restoration/Floodplain Mitigation Project on a parcel of land connected to Lake Minnetonka and owned by the City of Minnetrista (PID 1211724220019). The Project was designed to provide flood storage compensation required through regulation for the District's Highway 101 Causeway Reconstruction Project (Permit #13-460).

In October 2014, the Board of Managers authorized execution of a cooperative agreement with the City of Minnetrista. The District's cooperative agreement granted the District the right to construct the flood storage element and maintain it indefinitely. In exchange for the land rights, the District explored including additional flood volume storage into the design of the Jennings Bay Wetland Restoration/Floodplain Mitigation Project to meet the City's requirement for the Enchanted Lane improvement and incorporated such storage into the design. The agreement stated that the City would contribute to the project cost, with the amount of its contribution determined by multiplying the City's replacement flood volume by the unit price for the volume created by the District's project. Through this agreement the City of Minnetrista is using this floodplain storage as "floodplain credit" for mitigation required for the Enchanted Lane/Tuxedo Boulevard Road Reconstruction Project (Permit #17-382).

The Jennings Bay Wetland Restoration/Floodplain Mitigation Project created 1,364 cubic yards (cy) of floodplain storage on Lake Minnetonka. As a result of the District's Highway 101 Causeway Reconstruction Project, 614 cy of that flood storage was dedicated to fulfil permit requirements for permit #13-460. The remaining flood storage available for floodplain credit mitigation is 750 cy.

Under Permit #17-382, the City of Minnetrista proposes to fill 499.5 cubic yards of flood storage as part of the Enchanted Lane/Tuxedo Boulevard Road Reconstruction Project. The table below provides an accounting of available floodplain storage as of October 6, 2017. The City has requested to purchase the remaining floodplain storage of an estimated 250.5 cubic yards to use in conjunction with future City of Minnetrista projects requiring flood storage mitigation in order to fulfil the District's Floodplain Alteration rule on Lake Minnetonka.

Project	Flood Storage	
Jennings Bay Wetland Restoration	1364 cy	
(13-460) CR 101 Causeway Shoreline Reconstruction Project	(-614 cy)	
	750 cy	
(17-382) Enchanted Lane/Tuxedo Boulevard	(-499.5 cy)	
	250.5 cy	Subtotal
	250.5 cy	Total Credits Remaining for the City of Minnetrista

City of Minnetrista Payment

The District's cooperative agreement with the City of Minnetrista identified that the City would bear the incremental construction costs (excavation, hauling, and vegetation) associated with creating the additional flood volume within the Jennings Bay Wetland Restoration/Floodplain Mitigation Project. The incremental cost to create the entire 750 cy of additional floodplain volume that would be made available to the City is calculated to be \$37,450.33.

The District invoiced the City of Minnetrista for the construction costs to create the additional 750 cy of floodplain volume. Separately during construction of this project, the City-approved access road to the site became buckled and broken as the contractor was hauling excavated material off-site. The City was concerned about the road's future utility and the ability to access its lift station at the end of the access road and requested the road be replaced. The road was replaced in spring 2017 and the District, City and contractor entered into an agreement for the cost to be shared equally among the City, the contractor, and the District. The District's and District's contractor obligation toward the replacement cost is \$3,000 each for a total of \$6,000 (the District will deduct \$3,000 from the final pay application to District's contractor). This \$6,000 would be deducted from the \$37,450.33 the City would owe to the District, bringing the net amount owed to the District to \$31,450.33.

The City of Minnetrista has already provided payment to the District in the amount of \$31,450.33 for its allocation of costs towards the 750 cy of floodplain created as part of the Jennings Bay Wetland Restoration/Floodplain Mitigation Project net of the road replacement agreement, however, the cooperative agreement specified the flood volume transaction only for that volume required for the Enchanted Lane/Tuxedo Boulevard project and District staff has concluded that under the existing District governance policies, the Board of Manager's concurrence in the transaction of the remaining flood storage volume is required.

RESOLUTION

RESOLUTION NUMBER: 17-065

TITLE: **Authorization to Convey to the City of Minnetrista Excess Flood Storage Volume Created by the Jennings Bay Wetland/Floodplain Mitigation Project**

- WHEREAS, the Minnehaha Creek Watershed District (MCWD) has adopted a watershed management plan (WMP) in accordance with Minnesota Statutes §103B.231; and
- WHEREAS, in January 2014 the District issued Permit 13-460 to Hennepin County (“County”) and the District, as co-applicants, for the linear reconstruction of CSAH 101 between Minnetonka Boulevard and Wayzata Boulevard; and
- WHEREAS, the shoreline work constituted floodplain fill and therefore Permit 13-460 required that the District provide compensatory flood volume storage on Lake Minnetonka; and
- WHEREAS, District staff, working with City of Minnetrista staff, identified a 3.26-acre parcel of degraded floodplain wetland riparian to the northwestern corner of Jennings Bay, that the City of Minnetrista owns as tax-forfeit conservation property, for the creation of flood volume storage to meet the District’s obligation; and
- WHEREAS, District and City executed a cooperative agreement giving the District the right to construct and perpetually maintain the work on the City parcel, and allocating to the City, at unit price, a portion of the created flood storage volume to meet the City’s requirement under District Rules to provide replacement flood storage for fill resulting from its Enchanted Lane road improvement; and
- WHEREAS, the as-built for the Jennings Bay Wetland Restoration/Floodplain Mitigation Project show the project created 1,364 cubic yards of floodplain storage; and
- WHEREAS, the District’s Highway 101 Causeway Reconstruction Project required 614 cubic yards of floodplain mitigation to fulfill requirements for permit #13-460, therefore the remaining flood storage available for floodplain credit mitigation for the City of Minnerista is 750 cubic yards; and
- WHEREAS, the City has offered to purchase from the District, at unit price, the remaining excess flood storage volume from the Jennings Bay Wetland Restoration/Floodplain Mitigation Project to be available for its compliance obligations related to future projects; and
- WHEREAS, the cost to create the additional 750 cubic yards of floodplain fill within the Jennings Bay Wetland Restoration/Floodplain Mitigation Project, on unit price basis, is \$37,450.33.

NOW, THEREFORE, BE IT RESOLVED, that the Minnehaha Creek Watershed District Board of Managers concurs in conveying the entire 750 cubic yards of excess flood storage volume from the Jennings Bay Wetland Restoration/Floodplain Mitigation Project to the City for a payment of \$37,450.33 and authorizes and ratifies that transaction.

Resolution Number 17-065 was moved by Manager _____, seconded by Manager _____.
Motion to adopt the resolution ___ ayes, ___ nays, ___ abstentions. Date: _____.

Secretary

Date: _____