



STAFF REPORT

DATE: October 2, 2018
CONSENT
ITEM #: 6

AGENDA ITEM: East Metro Water Resource Education Program (EMWREP) – Renew 2019-2021 Shared Water Resource Education Program Agreement

SUBMITTED BY: Jack Griffin, City Engineer

REVIEWED BY: Kristina Handt, City Administrator
Rob Weldon, Public Works Director
Chad Isakson, Assistant City Engineer

ISSUE BEFORE COUNCIL: Should the City Council renew the 2019-2021 Shared Water Resource Education Program Agreement with East Metro Water Resource Education Program (EMWREP)?

BACKGROUND, PROPOSAL DETAILS/ANALYSIS: The East Metro Water Resource Education Program (EMWREP) was formed in 2006 to develop and implement a shared education program about the impacts of non-point source pollution on local lakes, rivers, streams, wetlands and groundwater resources and to engage people in projects that will help to protect and improve water quality in the region. In addition to educating the public, EMWREP also provides training for city, county and watershed staff and local elected officials.

EMWREP is a partnership of 25 local units of government located in the east metro area including Brown's Creek, Carnelian-Marine-St Croix, Comfort-Lake Forest Lake, Rice Creek, Ramsey-Washington Metro, South Washington, and Valley Branch Watershed Districts, Middle St. Croix Watershed Management Organization, the cities of Cottage Grove, Dellwood, Grant, Forest Lake, Hugo, Lake Elmo, Newport, Oak Park Heights, Oakdale, Stillwater, St. Paul Park, Willernie, and Woodbury, West Lakeland Township, Washington County and the Washington Conservation District.

Partnership with EMWREP substantially meets Lake Elmo's education and outreach permit requirements as a Municipal Separate Storm Sewer System (MS4) City. Each year, the EMWREP coordinator prepares an annual report on program activities and provides outreach data and statistics for partners' MS4 Permit reports.

FISCAL IMPACT: \$2,700.00. Increased from \$2,500 for the 2016-2018 Agreement. The EMWREP contribution is funded through the Surface Water-Storm Water Enterprise Fund (603).

RECOMMENDATION: Staff is recommending that the City Council approve, *as part of the Consent Agenda*, the 2019-2021 Agreement with Washington County Conservation District to participate in the East Metro Water Resource Education Program (EMWREP) with an annual contribution amount of \$2,700. If removed from the consent agenda, the recommended motion for the action is as follows:

“Move to approve the 2019-2021 Agreement with Washington County Conservation District to participate in the East Metro Water Resource Education Program with an annual contribution amount of \$2,700.”

ATTACHMENTS:

1. 2019-2021 EMWREP Agreement with Washington County Conservation District.

**AGREEMENT BETWEEN
WASHINGTON CONSERVATION DISTRICT
AND MEMBERS OF THE 2019-2021
EAST METRO WATER RESOURCE EDUCATION PROGRAM**

A. PARTIES

This Agreement is made and entered into by Washington Conservation District, hereinafter referred to as HOST, and members of the East Metro Water Resource Education Program, hereinafter referred to individually as a PARTNER. A PARTNER is defined as an entity that executes this agreement, and this Agreement provides for the withdrawal or addition of PARTNERS to the East Metro Water Resource Education Program. Eligible PARTNERS include watershed organizations and municipalities partially or wholly within Washington County.

B. PURPOSE

WHEREAS, the PARTNER and the HOST have a common objective of educating the citizens of the Twin Cities east metro area about water resource, stormwater, and groundwater management in order to improve water quality; and

WHEREAS, the PARTNER has identified a need for education assistance; and

WHEREAS, 8 watershed organizations in Washington County have education components in their respective watershed management plans; and

WHEREAS, 25 communities, including multiple watersheds and the County, in Washington County are required to obtain a Municipal Separate Storm Sewer System (MS4) Permit from the Minnesota Pollution Control Agency (MPCA), which requires nonpoint source pollution education; and

WHEREAS, the PARTNER agrees it is in its best interest to define its respective responsibilities and obligations; and

WHEREAS, the PARTNER agrees that collaborative efforts are needed to more effectively and efficiently deliver water resource education and meet MS4 permit education requirements; and

WHEREAS, the PARTNER requests assistance from the HOST to implement the policies specified in MINN. STAT. §§ 103A.206; and

WHEREAS, the HOST is authorized to enter agreements to provide such assistance pursuant to MINN. STAT. §§ 103C.331, SUBD. 3 and 7.

NOW, THEREFORE, the PARTNER agrees as follows:

C. TERM OF CONTRACT

The term of this agreement shall be from January 1, 2019 to December 31, 2021 unless extended or terminated earlier as provided herein.

D. MEMBERSHIP STRUCTURE

In accordance to the program goals of collaboration and partnership, entities may become a PARTNER by signing the Signature Page at the end of this Agreement. A new PARTNER shall apply to the HOST and sign a separate contract and its signature page shall be attached to the original document. The HOST will coordinate with each PARTNER, update the project budget, and distribute it to each PARTNER.

Each PARTNER will assign a member to the Steering Committee of the East Metro Water Resource Education Program. This Committee will assist the Shared Water Resource Educator and HOST to prepare the Annual Workplan, Annual Budget, and Annual Report. A Membership Summary will be included in the Annual Report prepared by the HOST.

E. SCOPE OF SERVICES

The HOST will perform for the PARTNER the services and furnish and deliver work products generally described in Exhibit A, attached and made part of this agreement. Services for a specific PARTNER will be defined in the Annual Workplan developed as described in Exhibit A. PARTNER-specific services will constitute approximately 15% of the total Annual Workplan. Eighty-five (85) percent of the total Annual Workplan will be committed to shared, multi-jurisdictional benefit educational activities.

F. COST

In full consideration for services under this agreement, the PARTNER shall provide its portion of the annual costs to the HOST in accordance with the executed Signature Page at the end of this Agreement. The total annual budget for the program is as shown in Exhibit B with contributions outlined in Paragraph G. If all PARTNER contributions total less than the Total Budget, educational material expenses not otherwise paid for will not be incurred. PARTNER's annual contribution may be increased from the amount stated in the Signature Page at the end of the Agreement only with approval of PARTNER's governing body.

In the case that overall contributions of funding from all of the PARTNERS exceeds the budget in Exhibit B by less than 20%, the excess contributions will be used to fund additional educational materials or support staff. Once the revised overall funding contribution from all of the PARTNERS exceeds the budget in Exhibit B by 20%, the PARTNERS have the option of having their proportional amount of the excess budget refunded or can direct the funds to be used for EMWREP activities.

G. FUNDING STRUCTURE

Each PARTNER is suggested to contribute annually in accordance with the following funding structure:

County: \$12,800/year
Small Watershed Districts (Taxable Market Value < \$1 Billion): \$12,800/year
Medium Watershed Districts (TMV \$1-5 Billion): \$19,300/year
Large Watershed Districts (TMV >\$5 Billion): \$25,000/year
Watershed Management Organizations: \$6,300/year
Large MS4 Cities: \$2,700/year (Population > 5,000)
Small MS4 Cities: \$700/year (Population < 5,000)

In-kind matches from existing educational staff from within partner organizations are also encouraged. The WCD shall provide \$12,800 of in-kind match to the program per year. As shown in Exhibit B, PARTNER contributions will be reviewed and adjusted on an annual basis, as needed.

H. PAYMENTS

1. The services in Exhibit A provided by the HOST will be billed in accordance to Exhibit B. Invoices will be sent on a quarterly basis and will summarize the work performed. Invoices are payable within 60 days.
2. Office supplies, in-house reproduction expenses, and transportation are included in the overhead noted above. Out source reproduction, special bulk mailings and other direct costs beyond the actual current budget as established in accordance with the Annual Workplan (the combined

contributions of each PARTNER) noted in Paragraph F are to be reimbursed at actual cost with prior approval from the PARTNERS.

I. EQUAL EMPLOYMENT OPPORTUNITY- CIVIL RIGHTS

During the performance of this Agreement, the HOST agrees to the following: No person shall, on the grounds of race, color, religion, age, sex, disability, marital status, public assistance, criminal record, creed or national origin, be excluded from full employment rights in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of and all applicable federal and state laws against discrimination including the Civil Rights Act of 1964.

J. STANDARDS

The HOST shall comply with all applicable Federal and State statutes and regulations as well as local ordinances now in effect or hereafter adopted. Failure to meet the requirements of the above may be cause for cancellation of this contract effective the date of receipt of the Notice of Cancellation.

K. DATA PRIVACY

All data collected, created, received, maintained, or disseminated, or used for any purpose in the course of the HOST's performance of the Agreement is governed by the Minnesota Government Data Practices Act, Minnesota 1984, Section 13.01, et seq. or any other applicable state statutes and state rules adopted to implement the Act, as well as state statutes and federal regulations on data privacy. The HOST agrees to abide by these statutes, rules and regulations and as they may be amended.

L. AUDITS, REPORTS, AND MONITORING PROCEDURES

The HOST will:

1. Maintain records that reflect all revenues, cost incurred and services provided in the performance of the Agreement.
2. Agree that the County, the State Auditor, or legislative authority, or any of their duly authorized representatives at any time during normal business hours, and as often as they may deem reasonably necessary, shall have access to the rights to examine audit, excerpt, and transcribe any books, documents, papers, records, etc., and accounting procedures and practices of the HOST which are relevant to the contract. The annual audit conducted for the Washington Conservation District that includes EMWREP activities.

M. INDEMNITY

No party to this Agreement agrees to be responsible for the acts or omissions of another, its agents, officials, contractors or employees within the meaning of Minnesota Statutes section 471.59, subdivision 1a. Each PARTNER and HOST will hold harmless, defend and indemnify all other parties to this Agreement, their officers, board members, employees and agents for any and all damage, liability, cost or claim (including reasonable attorneys' fees) to the extent it is the result of its negligent act or of another action or inaction that is the basis for its liability in law or equity. The PARTNER agrees to provide proof of contractual liability insurance upon request. This paragraph does not constitute a waiver or otherwise diminish, any statutory or common law defense, immunity or limit on liability any PARTNER or HOST may enjoy as against any third party.

N. INDEPENDENT CONTRACTOR

It is agreed that nothing herein contained is intended or should be construed in any manner as creating or establishing the relationship of co-partners between the parties hereto or as constituting the HOST as the agent, representative, or employee of PARTNER organization for any purpose or in any manner whatsoever. The HOST is to be and shall remain an independent contractor with respect to all services performed under this Agreement.

The HOST represents that it has, or will secure at its own expense, all personnel required in performing services under this Agreement. Any and all personnel of the HOST or other person, while engaged in the performance of any work or services required by the HOST under this Agreement, shall have no contractual relationship with the PARTNER and shall not be considered employees of the PARTNER.

O. MODIFICATIONS

Any material alteration or variation shall be reduced to writing as an amendment and signed by the parties. Any alteration, modification, or variation deemed not to be material by written agreement of the HOST and the PARTNER shall not require written approval. Contract extensions will be handled as a material alteration.

P. MERGER

It is understood and agreed that the entire agreement of the parties is contained here, except as modified during the term of the Agreement by a writing under Paragraph O above concerning a non-material change, and that this contract supersedes oral agreements and negotiations between the parties relating to this subject matter. All items referred to in this contract are incorporated or attached and deemed to be part of the contract.

Q. TERMINATION

This Agreement will commence when executed by HOST and all PARTNERS and will continue until terminated. The Agreement will commence with respect to each additional PARTNER on that PARTNER'S execution of a signature page acceding to the terms of the Agreement. This Agreement will terminate immediately upon completion of the activities enumerated herein and the program duration expires. Any party to this Agreement may withdraw participation on an agreement-year basis with 60 days written notice to HOST prior to the annual anniversary date of the Agreement, with the actual termination date falling on the anniversary date. Pro-rated contributions will be returned to the terminated or terminating PARTNER. The HOST will promptly notify all PARTNERS of any PARTNER's termination. Termination by any one PARTNER will not constitute the termination of this Agreement. If HOST determines that PARTNER termination has resulted in inadequate funds to deliver the work products generally described in Exhibit A, the HOST will terminate the Agreement effective the anniversary date unless adequate funds can be procured. Termination by the HOST will constitute termination of this Agreement in whole and pro-rated contributions will be returned to each PARTNER.

R. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

All property of the HOST or a PARTNER used, acquired or created in the performance of work under this Agreement, including documents and records of any kind, shall remain the property of the HOST and the PARTNER providing the property. The HOST and PARTNERS shall jointly own and each party has the individual right to use, sell, license, publish, or otherwise disseminate any product developed in whole or in part during the performance of work under this Agreement. Durable goods purchased by the HOST, such as office equipment and computers, shall remain the property of the HOST.

**CONTRACT BETWEEN
WASHINGTON CONSERVATION DISTRICT
AND MEMBERS OF THE
EAST METRO WATER RESOURCE EDUCATION PROGRAM**

HOST: **Washington Conservation District**

PARTNER: **City of Lake Elmo**

Annual Contribution Amount: **\$2,700**

Contract start date: **January 1, 2019**

IN TESTIMONY WHEREOF the parties have duly executed this agreement by their duly authorized officers.

APPROVED:

PARTNER

HOST

BY: _____

BY: _____

Board Chair

Date

Title

BY: _____

BY: _____

WCD Manager

Date

Title

Approval as to form and execution:

Date

EXHIBIT A

SCOPE OF SERVICES EAST METRO WATER RESOURCE EDUCATION PROGRAM

HOST responsibilities:

1. Hire, employ and supervise the Water Resource Educator/s that will successfully serve the education needs as prescribed herein.
2. Obtain financial reimbursement from each PARTNER as prescribed in this agreement.
3. Work in good faith to achieve the goals identified in this agreement.
4. Maintain a strict accounting of all financial transactions.
5. Develop and disseminate annual summaries of accomplishments and budgetary analysis to partners of the East Metro Water Resource Education Program.
6. Provide office space, office furniture, computer, transportation, and phone. Equipment purchased by the HOST will remain the property of the HOST following the term of this agreement.

PARTNER responsibilities:

1. Provide a single representative to the Steering Committee of the East Metro Water Resource Education Program. This person shall actively participate in the Steering Committee and assist in employee selection, Annual Workplan Development, and other tasks as needed.
2. Provide funds for the East Metro Water Resource Education Program described herein.
3. Provide appropriate and timely feedback to the HOST manager regarding the performance of the Water Resource Educator/s.
4. Share equipment, staff, and educational resources to facilitate Education Program planning and implementation.
5. As initiated by the HOST, discuss the progress of the Water Resource Educator/s and agree to take any action that is appropriate to ensure the successful fulfillment of project objectives.
6. Work with the Water Resource Educator/s to ensure that services are being used to address high priorities at the local level.

Water Resource Educator/s responsibilities:

1. Prepare, coordinate, and revise East Metro Water Resource Education Program Plan annually with the Steering Committee of the East Metro Water Resource Education Program.
2. Review and advise watershed district PARTNERS annually on educational aspects of their watershed district plans.
3. Develop annual plan of work with the Steering Committee of the East Metro Water Resource Education Program. Workplan will reference Washington County MS4 education programs and watershed district PARTNERS education plans.
4. Implement annual work plan, including planning, implementing, evaluating, and reporting on such anticipated activities as presentations, workshops, in-field training, demonstration projects, and published materials.
5. Pursue grants and other funding sources to enhance the East Metro Water Resource Education Program.
6. Coordinate with "Watershed Partners" and other entities conducting water resource education efforts to minimize overlap and maximize effectiveness.
7. Maintain educational information for web-based East Metro Water Resource Education Program.
8. Presents papers as appropriate at professional meetings within Minnesota.
9. Prepare annual education report (which meets MS4 requirements) and conduct shared MS4 annual meetings for participating East Metro Water Resource Education Program members

**EXHIBIT B
BUDGET**

Shared Water Resource Education Program - Washington Conservation District Annual Budget

| Staff Support and Overhead Expenses | Materials | Total |
|--|------------------|---------------------|
| \$144,200 | \$10,000 | \$154,200.00 |

MEMBERSHIP STRUCTURE AND FUNDING CONTRIBUTIONS*

* PARTNER contributions will be reviewed and adjusted on an annual basis, as needed and in accordance with the terms of the Agreement.

| PARTNER | Annual Contribution |
|-------------------|----------------------------|
| SWWD | \$25,000 |
| VBWD | \$19,300 |
| BCWD | \$19,300 |
| CLFLWD | \$19,300 |
| CMSCWD | \$12,700 |
| RWMWD | \$12,700 |
| RCWD | \$3,000 |
| Washington County | \$12,800 |
| MSCWMO | \$6,300 |
| Cottage Grove | \$2,700 |
| Forest Lake | \$2,700 |
| Lake Elmo | \$2,700 |
| Hugo | \$2,700 |
| Oakdale | \$2,700 |
| Stillwater | \$2,700 |
| Woodbury | \$2,700 |
| Dellwood | \$700 |
| Grant | \$700 |
| Newport | \$700 |
| Oak Park Heights | \$700 |
| St. Paul Park | \$700 |
| West Lakeland | \$700 |
| Willernie | \$700 |
| TOTAL | \$154,200.00 |