



South Washington County Schools

Keith Jacobus, Ph.D., Superintendent

District Service Center

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ADMINISTRATIVE REPORT

TO: Members of the School Board
Keith Jacobus, Superintendent

FROM: Dan Pyan, Director of Finance and Operations 425-6260

DATE: November 13, 2019

TOPIC/PURPOSE OF REPORT: Approve MOU with South Washington Watershed District

REFERENCE TO POLICY/STRATEGIC PLAN: Policy 701, 702

RECOMMENDED BOARD ACTION: Approval

DATE FOR BOARD ACTION: November 21, 2019

REPORT

Please approve the attached Memorandum of Understanding between South Washington Watershed District and South Washington County School District.

The District is required to make stormwater related site improvements at Valley Crossing Elementary. This agreement states that the Watershed District will implement redevelopment at the site to meet SWWD rate control and runoff standards.

The cost to the District will be \$66,300.

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE SOUTH WASHINGTON SCHOOL DISTRICT AND
SOUTH WASHINGTON WATERSHED DISTRICT**

THIS AGREEMENT, by and between the South Washington Watershed District, a political subdivision of the State of Minnesota, herein after referred to as the "SWWD", and the South Washington County School District, a political subdivision of the State of Minnesota, hereinafter referred to as the "District 833."

WHEREAS, the District 833 is required to make stormwater related site improvements, as part of the District 833's redevelopment at Valley Crossing elementary school, located at 9900 Park Crossing, Woodbury, MN 55125 (hereinafter the "School Site") ; and

WHEREAS, any increase in impervious cover as a result of the planned redevelopment of the school site would be nominal; and

WHEREAS, SWWD has interest in promoting turf conversion and increase in tree canopy to improve water quality of stormwater runoff;

NOW THEREFORE, District 833 and SWWD agree to the following:

1. This Memorandum of Understanding ("MOU") is designed to address the undertakings and obligations of both parties to this agreement.
2. The District 833 will pay \$8500 per impervious acre on the site, post development, to SWWD in lieu of providing traditional Stormwater treatment for runoff volume and water quality. Total fee is \$66,300 (7.8 acres).
3. Implementation of the 2019 redevelopment will meet SWWD rate control standards which require the District 833 to maintain stormwater runoff rates for Atlas 14 2, 10, and 100 year events.
4. SWWD waives enforcement of remaining stormwater runoff standards, including total phosphorus loading limits.
5. The District 833 will work with SWWD staff to design and implement a campus greening project on the school site.
6. The campus greening projects will be implemented at the school sites by SWWD, its employees, and contractors using funds provided by District 833 under item 2.
7. The District 833 grants to the SWWD and its employees and contractors access to the School Site to collect survey and soil data and implement the campus greening projects. All work will be coordinated with the District 833 staff and not interfere with school activities.
8. SWWD will establish and maintain campus greening project areas for a minimum of 5 years. Once fully established, as agreed to by both SWWD and District 833 staff, District 833 will assume maintenance responsibility for the completed projects.
9. SWWD contractors shall not commence work under this agreement until it has obtained, at its own cost and expense, all insurance required herein. All insurance coverage is subject to approval of the SWWD and shall be maintained by the contractor until final completion of the work.

a. Workers' Compensation

- 1) State: Minnesota – Statutory
- 2) Employer's Liability with minimum limits of:
 - Bodily Injury by Accident: \$100,000 each Accident
 - Bodily Injury by Disease: \$100,000 each Employee
 - Bodily Injury by Disease: \$500,000 policy limit
- 3) Benefits required by union labor contracts: as applicable

b. Commercial General Liability

Including Premises, Operations, Products, Completed Operations, Advertising, and Personal Injury Liability, with the following minimum limits of liability:

- \$2,000,000 Aggregate
- \$2,000,000 Products & Completed Operations Aggregate
- \$1,000,000 Personal Injury & Advertising Injury
- \$1,500,000 Occurrence
- \$ 100,000 Fire Damage Limit
- \$ 5,000 Medical Expense

c. Commercial Auto Liability

Automobile Liability should include Hired and Non-Owned.

Minimum limits of liability shall be:

If split limits: \$1,500,000 each person / \$1,500,000 each occurrence for Bodily Injury
 \$1,500,000 each occurrence for Property Damage

If combined single limit: \$1,500,000 per occurrence.

The SWWD shall also obtain certificates of insurance from the contractor naming the SWWD and District 833 as additional insureds.

10. Independent Contractor

Nothing contained in this Agreement is intended or should be construed as creating the relationship of co-partners of joint ventures with the District 833. No tenure or any rights or benefits, including Workers' Compensation, Unemployment Insurance, medical care, sick leave, vacation leave, severance pay, PERA, or other benefits available to District 833 employees, shall accrue to SWWD or employees of SWWD performing services under this Agreement.

11. Indemnification

To the limit on governmental liability for a single governmental unit as specified in Minnesota Statutes, Section 466.04, Subdivision 1, SWWD agrees it will defend, indemnify and hold harmless the District 833, its officers and employees against any and all liability, loss, costs, damages and expenses which the District 833, its officers or employees may hereafter sustain, incur, or be required to pay arising out of the SWWD's performance or failure to adequately perform its obligations pursuant to this Agreement.

12. Data practices

All data collected, created, received, maintained, or disseminated for any purposes by the

activities of Contractor or its subcontractors because of this contract is governed by the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as amended, the Minnesota Rules implementing such act now in force or as adopted, as well as federal regulations on data privacy and compliance with the requirements of such statutes and regulations being imposed as a term of this contract.

Trade Secrets: Assuming that the material that the organization would supply is not just proprietary, but also constitutes a trade secret under the Uniform Trade Secrets Act definition, it could be protected under Minn. Stat. Section 13.37 subd. 1(b) and subd. 2. The MGDPA definition of "trade secret information" tracks the language of the UTSA, and thus includes "government data, including a formula, pattern, compilation, program, device, method, technique or process (1) that was supplied by the affected individual or organization, (2) that is the subject of efforts by the individual or organization that are reasonable under the circumstances to maintain its secrecy, and (3) that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use." If it meets this definition, then subd. 2 makes it nonpublic data with regard to data not on individuals, and private data with regard to data on individuals. Beyond the protections of this provision, it would be difficult for a District 833 to keep a promise of confidentiality.

13. Merger and Modification

It is understood and agreed that the entire Agreement between the parties is contained here and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter. All items referred to in this Agreement are incorporated or attached and are deemed to be part of this Agreement. Any material alterations, variations, modifications, or waivers of provisions of this Agreement shall be valid only when they have been reduced to writing as an amendment and signed by the parties.

14. Default and Cancellation

If the SWWD fails to perform any of the provisions of this Agreement or so fails to administer the work as to endanger the performance of the Agreement, this shall constitute default. Unless the SWWD's default is executed, the District 833 may, upon written notice, immediately cancel this Agreement in its entirety.

This Agreement may be cancelled with or without cause by either party upon thirty (30) days written notice.

15. Nondiscrimination

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

SWWD has signed this Agreement and the District 833 having duly approved this Agreement pursuant to such approval and the proper District 833 officials having signed this Agreement, the parties hereto agree to be bound by the provisions herein set forth.

I concur with this Memorandum of Understanding.

SOUTH WASHINGTON COUNTY SCHOOL
DISTRICT

Tracy Brunette
Board Chair

Date

SHARON VAN LEER
Clerk

Date

SOUTH WASHINGTON WATERSHED
DISTRICT

Don Pereira
Board President

Date

MATT MOORE
Administrator

Date