

COUNTY OF MILWAUKEE
Inter-Office Communication

Date: December 29, 2021

To: Marcelia Nicholson, Chairwoman, Milwaukee County Board of Supervisors

From: Guy Smith, Executive Director, Milwaukee County Parks

Subject: From the Executive Director of Milwaukee of County Parks, requesting authorization to enter into a Project Partnership Agreement with the Department of the Army and the Milwaukee Metropolitan Sewerage District and an Intergovernmental Cooperative Agreement and Permanent Easement with the Milwaukee Metropolitan Sewerage District for a habitat restoration project of the Honey Creek

File Type: Action Report

REQUEST

The Executive Director of Milwaukee of County Parks respectfully requests authorization to enter into a Project Partnership Agreement with the Department of the Army and the Milwaukee Metropolitan Sewerage District and an Intergovernmental Cooperative Agreement and Permanent Easement with the Milwaukee Metropolitan Sewerage District for a habitat restoration project of the Honey Creek

POLICY

§ 59.17(2)(b)3., Wis. Stats., states that the “county board may continue to exercise the authority under s. 59.52(6) with regard to land that is zoned as a park...”. In the law of property, authority over “land” includes authority over all rights appurtenant to the land.

§ 59.52(31)(c), Wis. Stats., states that “Any single contract, or group of contracts between the same parties which generally relate to the same transaction, with a value or aggregate value of more than \$300,000, to which a county is a party and which satisfies any other statutory requirements, may take effect only if it is approved by a vote of the board.”

Wisconsin State Statutes:	§ 59.17(2)(b)3., § 59.52(31)(c)
Milwaukee County Code of General Ordinances:	
Specific Adopted Budget:	
Specific Adopted Budget Amendment:	
Specific Adopted Capital Project:	

BACKGROUND

This is a request to enter into agreements with the Department of the Army and Milwaukee Metropolitan Sewerage District to conduct a project to improve the Honey Creek through concrete removal and habitat restoration.

The Honey Creek is tributary to the Menomonee River, which generally flows from south to north, joining the Menomonee River west of North 70th Street in the City of Wauwatosa, and runs along the Honey Creek Parkway. Both the County and the Milwaukee Metropolitan Sewerage District (MMSD) constructed concrete channels in the Honey Creek approximately fifty years ago. The total length of concrete channel is 6,700 feet, with 5,560 feet constructed by the District and 1,140 feet constructed by the County. The concrete channel is structurally deficient and causes dangerously high flow velocities at flood stages and these high velocities destabilize the banks and cause erosion where the concrete channel is not present. The concrete channel also provides minimal habitat for fish and wildlife.

MMSD is undertaking a comprehensive program to address flood risks and improve habitat within the Menomonee River watershed, pursuant to its authority under Wis. Stat. sec. 200.35(8). At MMSD's request, the Department of the Army, as represented by its U.S. Army Corps of Engineers (USACE), prepared a Honey Creek Aquatic Restoration Study Draft Integrated Feasibility Report and Environmental Assessment (2021) and this report evaluated options for restoring fish and wildlife habitat and provided a recommended plan.

This plan to improve the Honey Creek has a total estimated cost of Fourteen Million Three Hundred and Thirty-Two dollars (\$14,332,000) and USACE is offering to provide 65% of the project costs, with one or more non-Federal Sponsors providing the remaining funding, as outlined in the Project Partnership Agreement (PPA), which lays out the roles and responsibilities of USACE and the non-Federal Sponsors, i.e., MMSD and the County.

The PPA states that the non-Federal sponsors are jointly and severally responsible for the non-Federal sponsor project costs, projected to be Four Million Five Hundred Fifty-One Thousand dollars (\$4,551,000), and it is not possible to modify this provision in the PPA. Additionally, the USACE requires the non-Federal sponsors to have its Chief Financial Officers sign a Self-Certification of Financial Capability for Agreements.

MMSD is willing to make all payments required by the PPA as indicated in the Intergovernmental Cooperative Agreement (ICA), which outlines the responsibilities of MMSD and the County in relation to the PPA.

Parks, in consultation with the Office of Corporation Counsel and the Office of the Comptroller, determined that MMSD's commitment in the ICA to "make all payments required by the Project Partnership Agreement for the non-Federal share of project costs" provides sufficient protection for the County related to the funding commitment in the PPA.

The County's main responsibilities under the two agreements will be to provide access for the project, cooperate on the project, provide input throughout the project, provide in-kind staff support as needed, grant a permanent easement to MMSD at no cost so that MMSD can

preserve the habitat and flood management features, and continue the County's usual maintenance of the area after the project is complete.

Related File No's:	
Associated File No's (Including Transfer Packets):	
Previous Action Date(s):	

ALIGNMENT TO STRATEGIC PLAN

Describe how the item aligns to the objectives in the [strategic plan](#):

- 1C: Increase the number of County contracts awarded to minority and women-owned businesses
- 2C: Apply a racial equity lens to all decisions
- 2A: Determine what, where, and how we deliver services to advance health equity
- 2B: Break down silos across County government to maximize access to and quality of services offered
- 3A: Invest "upstream" to address root causes of health disparities
- 3B: Enhance the County's fiscal health and sustainability

1C: The construction for this project will include Targeted Business Enterprises.

2A: By leveraging other funding sources for this project Parks is able to improve the environment while conserving resources to continue advancing health equity across the county.

2C: The Honey Creek Parkway is a major component in the bicycle connector routes between county areas north and south of I-94. Participating in the removal of concrete channels and naturalization of Honey Creek's bank will greatly benefit recreational use of the trail and an opportunity for residents south of I-94 around Wisconsin State Fair Park access to safe fishing and other water recreation.

3A: One root cause of health disparities is environmental. This project addresses the health of the community's waterways.

3B: Leveraging federal and MMSD dollars to reduce flood risks, improve water quality, and address habitat restoration improves the fiscal health and sustainability of the County.

FISCAL EFFECT

No increase of expenditures. Existing staff time will be utilized.

TERMS

Project Partnership Agreement (PPA)

- Federal Government will contribute 65% of construction costs and County and MMSD are responsible for contributing 35% of construction costs, approximately \$4.5 million, which MMSD is agreeing to provide in the ICA
- Provide access to the project area at no cost to the Federal Government
- Allow Federal Government to enter as necessary
- The County's Comptroller will sign the Self Certification letter required by the Federal Government

Intergovernmental Cooperation Agreement (ICA)

- MMSD will make all payments required by the PPA
- MMSD will restore staging areas to preconstruction condition or better if not restored by USACE
- MMSD will manage all non-turf areas to achieve USACE habitat goals and will maintain the floodplain channel consisted (consistent?) with USACE in perpetuity
- County will grant MMSD a permanent easement so that MMSD may carry out its responsibilities in relation to the PPA
- County will issue Right of Entry permits at no cost to USACE and MMSD
- County will cooperate with USACE and MMSD for design, construction, and reports to WDNR, if any

Permanent Easement to MMSD

- County grants MMSD a permanent easement so that MMSD may carry out its responsibilities under the ICA and PPA at no cost to the County.

VIRTUAL MEETING INVITES

Erica Goblet

Therese Gripentrog

Mark Mittag, MMSD Senior Project Manager, mmittag@mmsd.com

Jennifer Wright, MMSD Watercourse Section Manager, jwright@mmsd.com

PREPARED BY:

Erica Goblet, Parks Contracts Manager

APPROVED BY:

Guy Smith, Parks Executive Director

ATTACHMENTS:

Resolution

Fiscal Note

Draft Project Partnership Agreement with MMSD and Dept. of Army

Draft Intergovernmental Cooperation Agreement with MMSD

Draft Honey Creek Permanent Easement

Non-Federal Sponsors Self Certification

Project Map

cc: David Crowley, County Executive
Mary Jo Meyers, Chief of Staff, County Executive's Office
Sheldon Wasserman, Parks, Energy & Environment Chair, Supervisor District 3
Steven Shea, Parks, Energy & Environment Committee Vice-Chair, Supervisor District 8
Felesia Martin, Parks, Energy & Environment Committee Member, Supervisor District 7
Sylvia Ortiz-Velez, Parks, Energy & Environment Committee Member, Supervisor District 12
Liz Sumner, Parks, Energy & Environment Committee Member, Supervisor District 1
Kelly Bablitch, Chief of Staff, Milwaukee County Board of Supervisors
Janelle M. Jensen, Legislative Services Division Manager, Office of the County Clerk
Aaron Hertzberg, Director, Department of Administrative Services
Joseph Lamers, Fiscal & Budget Director, DAS
Vince Masterson, Fiscal & Strategic Asset Coordinator, DAS
Pamela Bryant, Capital Finance Manager, Comptroller's Office
Justin Rodriguez, Capital Finance Analyst, Comptroller's Office
Kelsey Evans, Committee Coordinator, Office of the County Clerk
Ciara Miller, Research & Policy Analyst, Office of the Comptroller
Anthony Rux, Budget & Management Analyst, DAS-PSB