

**Intergovernmental Cooperation Agreement
between the
Milwaukee Metropolitan Sewerage District
and
Ozaukee County
For the Little Menomonee River Corridor Ecosystem Restoration Project**

1. Parties

This Intergovernmental Cooperation Agreement (Agreement) is between the Milwaukee Metropolitan Sewerage District (District), acting through its Executive Director, and Ozaukee County (County), acting through its County Board Chairperson.

2. Purpose

The purpose of this Agreement is to codify responsibilities for the Little Menomonee Corridor Ecosystem Restoration Project.

3. Basis for this Agreement

(A) Portions of the Little Menomonee River and Little Menomonee Creek (LMR) are located in the City of Mequon in Ozaukee County.

(B) Approximately 3.77 miles of mainstem channel on the Little Menomonee River and Little Menomonee Creek between County Line Road and Freistadt Road was constructed through dredging and artificial straightening of historic wetlands and stream corridors, resulting in an incised channel hydrologically disconnected from adjacent riparian floodplain and wetland areas, which provide high quality habitat for spawning northern pike and other aquatic and terrestrial species.

(C) The County Planning and Parks Department and its partners have developed and are refining a GIS-based fish and wildlife habitat decision support tool and an ecological prioritization GIS tool (Tool) to prioritize habitat improvement and restoration activities for maximum benefit. Tool outputs, coordination with the WDNR Area of Concern program, discussions with the Mequon Preservation Partners and discussions with local fish and wildlife experts identified that projects on degraded portions of the Little Menomonee River and Little Menomonee Creek in the City of Mequon would provide significant benefits for multiple aquatic and terrestrial species as well as water quality improvements.

(D) The District owns several publicly-accessible parcels along the LMR under the Greenseams® Program. Among these parcels, the property located at 9104 Mequon Road, Mequon, WI 53097 (Parcel ID 140201500100) and shown in Exhibit B, was identified by the Tool as a high priority for restoration and is proposed as the County's first site for large scale, holistic restoration along the corridor. In addition, parcels 140291200500 and 140290900200 were also identified as high priorities for restoration and will be the County's subsequent restoration sites. Finally, parcels 140301201400, 140321100200, 140321100300, 140210700600 were identified by the Tool for additional investigation. The parties anticipate executing an ICA

to perform restoration activities in the future – after plans and specs have been approved by District - on Parcels 140291200500, 140290900200, 140301201400, 140321100200, 140321100300, and 140210700600.

(E) The County Planning and Parks Department will work with the District and multiple partners including the U.S. Fish and Wildlife Service, Wisconsin Wetlands Association, and the Southeastern Wisconsin Regional Planning Commission, and the Wisconsin Department of Natural Resources on project planning, engineering and design, and outreach activities in conjunction with the Ozaukee County Highway Department on construction and restoration activities to significantly reduce overall project costs.

(F) The primary goal of the project is to restore function and value for fish and aquatic habitat on the Little Menomonee River and Creek in the City of Mequon through a combination of culvert replacement/remediation, in-stream grade controls, stream (re)meandering, restoration of hydrologically and ecologically functional floodplains, bank and in-stream structure restoration, wetland enhancements, invasive vegetation control, native vegetation planting and restoration, and water quality monitoring.

(G) The project will be designed to integrate with the objectives of the MMSD Greenseams® Program, in that it will provide additional flood storage capacity in the upper Milwaukee River Basin. The project integrates stormwater quality management, flood management, ecological habitat connectivity, and targeted avian, mammalian, herptile, and fish habitat enhancement.

(H) The County has secured federal, state, and local non-profit organization funding to fund project activities.

4. Effective Dates

This Agreement becomes effective upon signing by both parties and terminates on December 31, 2025 unless extended in writing by both parties.

5. County Responsibilities

The County will, for all District-owned parcels reference above (unless otherwise noted):

(A) develop engineering and design plans in conjunction with the District and other partners;

(B) conduct education and outreach activities in conjunction with engineering and design plan development;

(C) secure applicable federal, state, and local permits and regulatory approvals with District authorization;

(D) assist in securing and managing federal, state, and local non-profit organization grants and comply with all grant related requirements for construction, restoration, and environmental monitoring activities;

(E) complete construction management activities, including private contractor selection through a public bidding process and or local force account (Ozaukee County Highway Department) coordination as it relates to the property located at 9104 Mequon Road, in accordance with 99% complete design plans dated June 20, 2019 (Attachment A), the Design Report dated June 20, 2019 (Attachment B), and the District and WDNR-approved hydraulic HECRAS model (Attachment C);

(F) notify the District in advance of construction and restoration work, a minimum of 48 hours prior to beginning construction, as it relates to the property located at 9104 Mequon Road;

(G) comply with all applicable federal, state, and local permit conditions, as it relates to the property located at 9104 Mequon Road;

(H) coordinate with the District on construction observation, as it relates to the property located at 9104 Mequon Road;

(I) conduct applicable grant-related environmental monitoring activities prior to and following construction and restoration activities;

(J) collect and store environmental monitoring data and share data with the District, as requested;

(K) maintain County-sponsored site improvements during site establishment, including but not limited to soil stabilization, establishing prairie and wetland plantings, native woody species, and invasive species control for a period of a minimum of 3 years after the vegetation is established and for a period of a minimum of 5 years after significant completion of construction activities;

(L) to the extent required by any applicable law or ordinance: address the control and abatement of invasive species, ensure that the project performance and water quality monitoring is addressed and ensure that the project does not compromise the river in perpetuity;

(M) accept a quitclaim deed of the Subject Property from the District and grant the District a conservation easement over the parcels.

6. District Responsibilities

District will:

(A) review and approve engineering and design plans;

(B) allow the County and its contractors to access the sites to complete inventory and data collection to complete engineering and design plans and environmental monitoring;

(C) allow the County and its contractors to access the 9104 Mequon Road site to construct the engineering and design plans;

(D) support County efforts to secure federal, state, and local non-profit organization grant funding to implement project activities.

(E) quitclaim the subject property to the County and accept a conservation easement from the County over the Subject Property.

7. Modifying and Amending Agreement

Any modification or amendment to this Agreement must be in writing and signed by both Parties.

8. Severability

If a court finds any part of this Agreement unenforceable, the remainder of this Agreement continues in effect provided that the essential purpose for this Agreement can still be accomplished.

9. Applicable Law

The laws of the State of Wisconsin apply to this Agreement.

10. Resolving Disputes

If a dispute arises under this Agreement, then the Parties will try to resolve it with the help of a mutually acceptable mediator in Milwaukee or Ozaukee County. The Parties will equally share any costs and fees associated with the mediation, other than attorney fees. If the dispute is not resolved within 30 days after the Parties refer it to a mediator, then either Party may take the matter to court. Venue in any action brought under this Contract is proper only in the Circuit Court for either Milwaukee or Ozaukee County.

11. Notices

A. The District will provide written notices to:

Andrew T. Struck, Director
Planning and Parks Department
Ozaukee County
121 West Main Street
Port Washington, Wisconsin 53074
astruck@co.ozaukee.wi.us
262-238-8275

B. Ozaukee County will provide written notices to:

Stephen McCarthy, Landscape Architect
Milwaukee Metropolitan Sewerage District
260 West Seeboth Street
Milwaukee, Wisconsin 53204-1446
smccarthy@mmsd.com
414-225-2100

12. Termination

This agreement will terminate at the end of the agreement period, unless an extension of the agreement is executed by both parties. To terminate this Agreement prior to the end of the agreement period, a Party shall provide 30 days prior written notice to the other Party. The notice shall indicate the effective date of termination and the reasons for termination.

13. Independence of the Parties

This Agreement does not create a partnership. Neither Party may enter into contracts on behalf of the other Party.

14. Authority of Signatories

Each person signing this agreement certifies that the person is properly authorized by the Party's governing body to execute this Agreement.

15. Indemnification

The District and Ozaukee County will be liable for their own negligent acts, errors, and omissions.

16. Third Parties

This Agreement is made for the benefit of the Parties and is not intended to benefit any third party or be enforceable by any third party.

Signatures on Next Page

**MILWAUKEE METROPOLITAN
SEWERAGE DISTRICT**

Approved as to Form

By: _____
Kevin L. Shafer, P.E. Attorney for the District
Executive Director

Date: _____

OZAUKEE COUNTY

Approved as to Form

By: _____
Lee Schlenvogt Rhonda Gordon
County Board Chairperson Ozaukee County Corporation Counsel

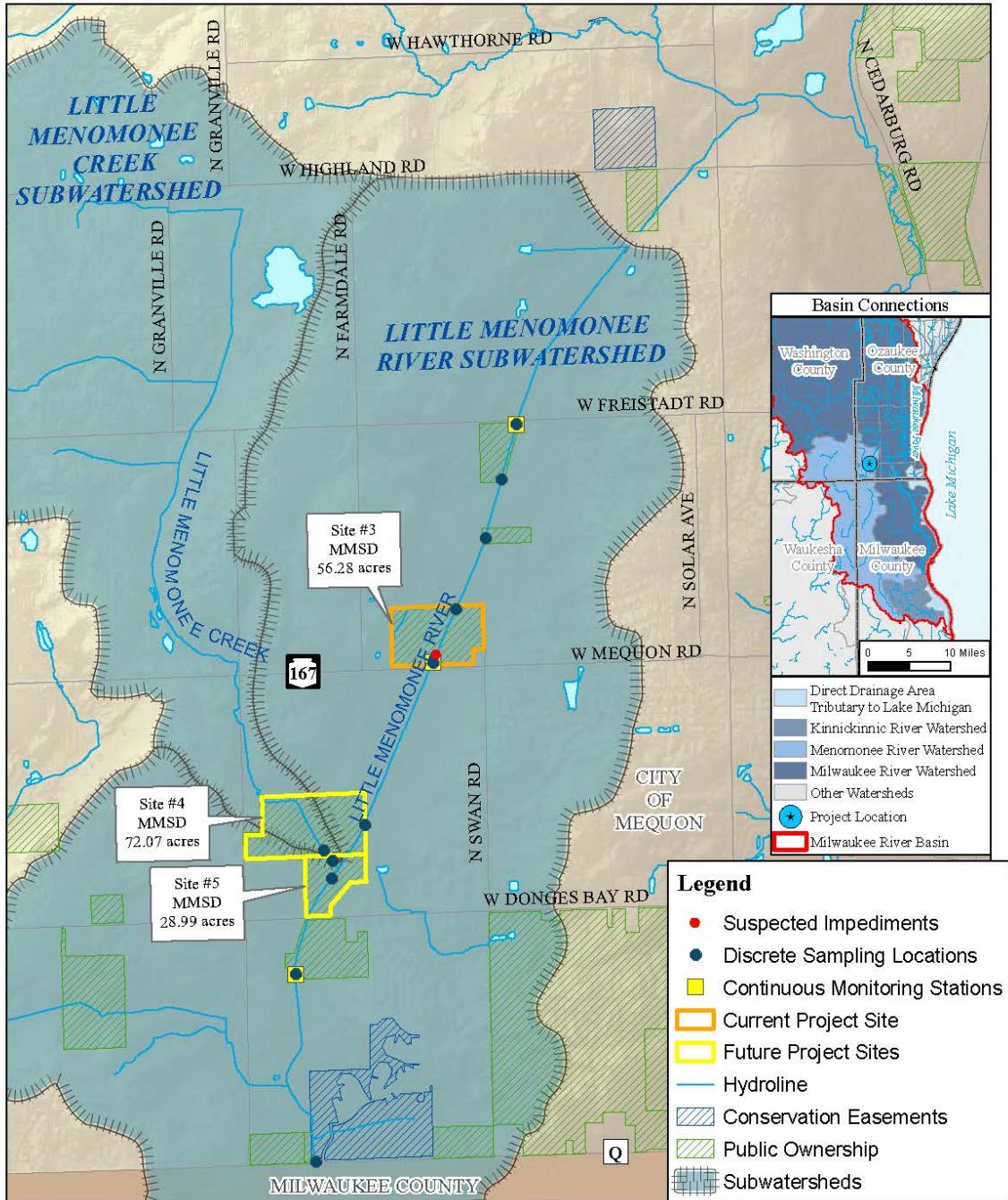
Date: _____

By: _____
Jason Dzwinel
County Administrator

Date: _____

Exhibit A

Little Menomonee Corridor Ecosystem Restoration: Stream and Wetland Habitat Construction



0 1,875 3,750 7,500 Feet



Map Produced By: Ozaukee County
Planning and Parks Department
09/24/18

EXHIBIT B- Map of the Subject Property

