



South Washington County Schools

Keith Jacobus, Ph.D., Superintendent

District Service Center

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Cottage Grove, MN 55016

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ADMINISTRATIVE REPORT

TO: Members of the School Board
Keith Jacobus, Superintendent

FROM: Michael T. Vogel, Interim Director of Facilities and Construction
Management

DATE: July 13, 2017

TOPIC/PURPOSE OF REPORT: Memorandum of Understanding – South Washington Watershed
District & South Washington County Schools

RECOMMENDED BOARD ACTION: Approve

DATE FOR BOARD ACTION: July 20, 2017

REPORT

The school district is required to make site improvements to address storm water management each time it engages in a project that disturbs the soils on its properties. The school district reconstructed a parking lot at Middleton Elementary in 2015, is constructing an addition at Lake Middle School in 2017 and intends to reconstruct parking lots at Lake Middle School in 2018. Rather than submit a unique storm water management plan for each of these projects the Watershed and City have proposed that the school district agree to incorporate its storm water requirements into a Greenway Corridor Landscape Plan to fulfill its obligations for storm water management for the three projects collectively. .

The attached MOU spells out the terms and conditions under which the Watershed would contract for the construction of the improvements as well as the school district's financial and ongoing maintenance requirements. Also attached is a draft of the landscape plan for the shared Lake Middle and Middleton elementary site. The plan has been reviewed with the school staff, the district's grounds department and the district's Civil Engineering firm and administration recommends approval of the MOU. Funding for the improvements has been included in the District's 2017-18 Operating Capital budget.

Proposed Pedestrian Trail

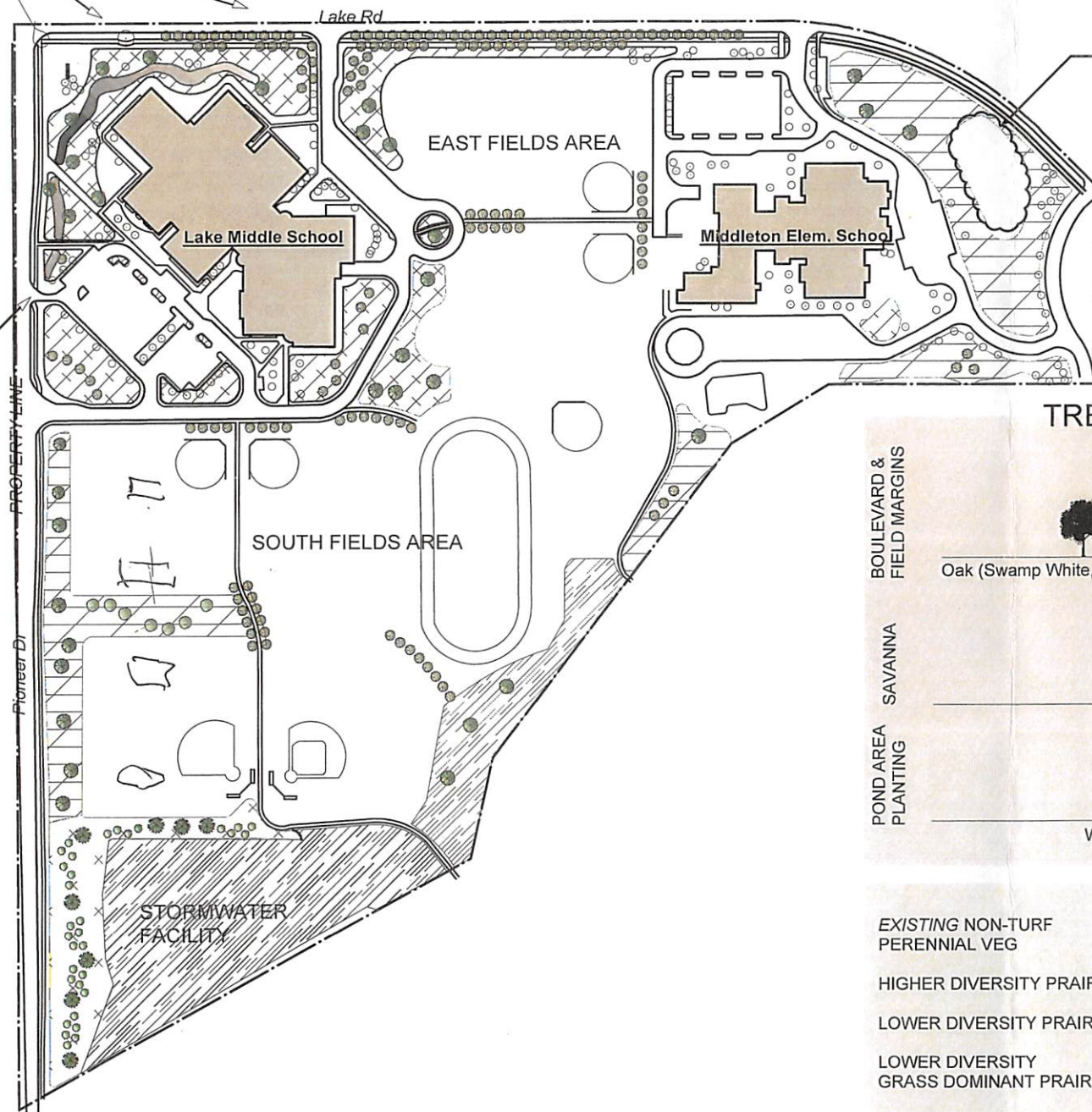
School Building:
> minimum 30 ft clear zone from building edge

Primary Trails, Streets and School Road Entrances:
> 16 ft wide tree boulevard from curb to proposed (by others) trail;

VIEW 3

VIEW 2

VIEW 1



STORMWATER FACILITY Opportunities TBD

EAST FIELDS AREA

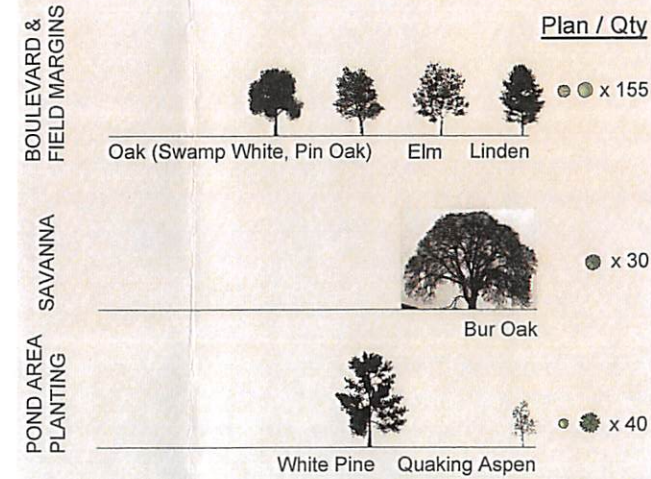
Lake Middle School

Middleton Elem. School

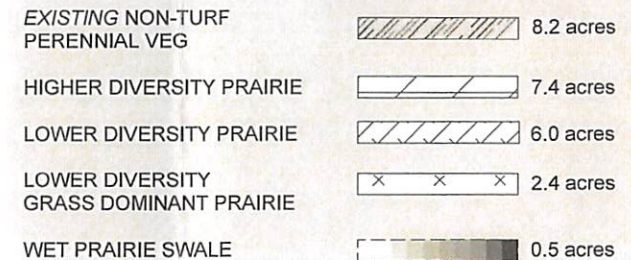
SOUTH FIELDS AREA

STORMWATER FACILITY

TREE TYPE AND FORM



GROUNDCOVER



**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 site improvements, as part of the District 833's redevelopment agreement with the City of Woodbury (the "City", at Lake Middle school located at 3133 Pioneer Drive, Woodbury, Minnesota and Middleton Elementary located at 9105 Lake Drive, Woodbury (hereinafter the "School Sites") ; and

WHEREAS, the SWWD has adopted a Greenway Plan that provides for ecological, recreational and watershed connections; and

WHEREAS, SWWD has identified the School Sites as priorities within the Central Corridor Greenway, located within the SWWD Greenway Plan; and

WHEREAS, SWWD has developed a landscape plan for the School Sites that fulfills District 833's site improvement requirements that District 833 must install under the requirements imposed by the City as well as SWWD's Greenway Plan objectives.

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 SWWD will undertake bidding to enter into a contract between the SWWD and the responsible bidder perform the landscaping plan on Exhibit A (the "Landscape plan").
3. The District 833 grants to the SWWD and its employees and contractors access to the School Sites to install the Landscape Plan including converting identified turfgrass areas to native plantings (prairie, shrub and tree), educational elements (signage, outdoor classrooms, etc.), and related site preparation including tillage equipment, herbicide application, erosion control, and prescribed burning).
4. The SWWD will provide all design, bidding and construction administration, and on-site construction observation during Landscape Plan installation.
5. The District 833 will provide funding for the Landscape Plan up to \$150,000 for the labor materials, installation and establishment period maintenance costs associated with the Landscape Plan. The District 833 funding shall be paid to the SWWD and progress payments as the Landscape Plan is installed.
6. SWWD will inspect and coordinate any required establishment maintenance reasonably required resulting from construction and installation of the Landscape Plan before the Landscape Plan is accepted by the District 833.
7. Upon completion and acceptance of the Plan by District 833, District 833 shall maintain the Landscape Plan, following a maintenance plan as part of regular facilities maintenance of the School Sites according to Exhibit B.
8. Contractor Bonds. The SWWD shall obtain payment and performance bonds from the contractor to perform the construction and installation of the Landscape Plan.

9. The Contractor 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 or 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. Records – Availability and Retention

The SWWD agrees that the District 833 or any of their duly authorized representatives at any time during normal business hours and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., which are pertinent to the accounting practices and procedures of the SWWD and invoice transactions relating to this Agreement.

SWWD agrees to maintain these records for a period of six (6) years from the date of termination of this Agreement.

14. 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.

15. 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.

16. 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

SOUTH WASHINGTON WATERSHED
DISTRICT

KATHLEEN MCELWEE-STEVENSON
Board Chair

JACK LAVOLD
Board President

Date

7-11-17

Date

SHARON VAN LEER
Clerk

MATT MOORE
Administrator

Date

7/12/17

Date