

November 16, 2021

**MEMORANDUM OF AGREEMENT
BETWEEN
LE SUEUR COUNTY
AND
LE SUEUR COUNTY SOIL AND WATER CONSERVATION DISTRICT**

I. PURPOSE

This Memorandum of Agreement (MOA) is entered between the Le Sueur County (LSC) and Le Sueur County Soil and Water Conservation District (SWCD).

The general purpose of this agreement is to provide for an organization through which the Parties may jointly and cooperatively carry out and exercise the powers common to each of the Parties in a way that best utilizes the public funds, resources and technical expertise that the Parties have to offer to one another.

II. PROVISION OF MUTUAL AID

COMPLIANCE WITH LAWS/STANDARDS

The County and the SWCD agree to abide by all Federal, State or local laws; statutes, ordinances, rules and regulations now in effect or hereafter adopted pertaining to this Agreement or to the facilities, programs and staff for which Agreement is responsible.

EMPLOYEE STATUS

The SWCD, its employees or agents, in implementing the terms of this Agreement are not employees of the County. The County, its employees or agents, in implementing the terms of this Agreement are not employees of the SWCD.

RECORDS RETENTION

The Parties agree that records created pursuant to the terms of this Agreement will be retained in a manner that meets or exceeds the County's records retention policy and is consistent with applicable law. Drainage proceedings and records shall be maintained by the County Auditor-Treasurer's Office according to Minnesota Statutes, Section § 103E.101 Subdivision 3.

III. SCOPE OF SERVICES

To better clarify if the County or the SWCD is the provider or recipient of services from the other, services provided by the County to the SWCD will be designated as Appendix 1 - 3 and services provided by the SWCD to the County will be designated as Appendix A, B and C. If there is a conflict in the terms of this Agreement and any of Appendixes attached to this Agreement, the terms of this Agreement shall govern.

THE COUNTY SERVICES TO THE SWCD

Appendix 1 Scope of Services

County Provision of Telephone, Network Technology and Data Services to the SWCD

Appendix 2 Scope of Services

County Levy Obligations to the SWCD

Appendix 3 Scope of Services

Miscellaneous Services with the SWCD

THE SWCD SERVICES TO THE COUNTY

In accordance with Minnesota Statutes, Section § 471.59, other applicable law, the terms of this Agreement and, if applicable, grant requirements, the SWCD will provide to the County services described in Appendix A through Appendix C, which are attached hereto and incorporated herein:

Appendix A Scope of Services

SWCD Provision of Drainage Inspector and Staff Support

Appendix B Scope of Services

SWCD Provision of Wetland Conservation Act (WCA) Services to the County

Appendix C Scope of Services

SWCD Provision of SWCD Provision of Le Sueur County Buffer Enforcement Ordinance

The County and the SWCD have a common interest in the implementation of the above referenced programs, which are anticipated to be ongoing programs where the SWCD will be providing services to the County. Services provided shall be in accordance with the scope of services set out in Appendix A through Appendix C. Professional services provided under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the SWCD's profession currently practicing under similar conditions.

IV. REPRESENTATION BY THE LE SUEUR COUNTY ATTORNEY'S OFFICE

The County Attorney has statutory obligations to represent the County and the County Board, pursuant to Minnesota Statutes, Chapter 388, as well as, legal obligations imposed by various provisions of state statutes. One such obligation is for the Le Sueur County Attorney to be the attorney for the SWCD, and that the SWCD Board may call upon the County Attorney for necessary legal counsel, advice and services (Minnesota Statutes, Section 103C.321, Subdivision 4). In the event there is a conflict of interest determined by the County Attorney in representing the interests of both the County and the SWCD, the County Attorney will so inform the Authorized Representative of the Parties. In the event the County Attorney determines a conflict exists, the conflict of interest procedures of the Le Sueur County Attorney will be followed. The Parties agree that there is no conflict of interest for the County Attorney's Office to represent both the County and the SWCD in preparation and execution of this Agreement. Requests for legal services made by the SWCD Board will be handled on the same priority basis as that of the County.

APPENDIX 1
SCOPE OF SERVICES
COUNTY PROVISION OF TELEPHONE, NETWORK TECHNOLOGY
AND DATA SERVICES TO THE SWCD

TERM

Notwithstanding the signatures of the Parties to the Agreement to which this Appendix is attached and incorporated, services provided to the SWCD by the County as of November 16, 2021 are subject to the terms provided herein.

SCOPE OF SERVICES

1. The County agrees to provide the following services
 - a. Office Telephones
 - b. Computers
 - c. Computer software
 - d. Firewall and remote services
 - e. Email
 - f. Access to network server
 - g. Copiers
 - h. Internet service
 - i. Technical services

2. The County will directly invoice the SWCD for the following
 - a. Any special requests or miscellaneous purchases that are outside of normal county operating procedure
 - b. Major infrastructure projects that may consume large amount of IT staff time

3. The County will directly pay vendors for following services and provide a quarterly invoice to SWCD, in which the SWCD will reimburse county for expenses incurred.
 - a. Office telephones
 - b. Computers
 - c. Computer software
 - d. Firewall and remote services
 - e. Email
 - f. Access to network server
 - g. Copier service
 - h. Internet service

**APPENDIX 2
SCOPE OF SERVICES
COUNTY LEVY TO THE SWCD**

TERM

Notwithstanding the signatures of the Parties to the Agreement to which this Appendix is attached and incorporated, services provided to the SWCD by the County as of November 16, 2021 are subject to the terms provided herein.

SCOPE OF SERVICES

A. County Obligations

1. The County retains its discretion to determine the level of funding it shall provide to the SWCD, or not, pursuant to Minnesota Statutes, Section §103C.331, Subdivision 16.

B. SWCD Obligations

1. Budget

- a. *Operating Budget* The SWCD shall review and develop with staff and recommend to the County Board an annual operating and program-related budget.
 - i. SWCD will present proposed budget to County Commissioners during summer work sessions.
 - j. SWCD will provide budget updates as requested by county.

PAYMENT TERMS

The County agrees to provide the SWCD Levy Obligations for the following year in April at a rate of 75% and in October at 25%.

APPENDIX 3
SCOPE OF SERVICES
MISCELLANEOUS SERVICES TO THE SWCD

TERM

Notwithstanding the signatures of the Parties to the Agreement to which this Appendix is attached and incorporated, services provided to the SWCD by the County as of November 16, 2021 are subject to the terms provided herein.

SCOPE OF SERVICES

1. The County agrees to provide incidental snow removal on sidewalks and walkways during normal business hours. Morning snow removal will be performed by separate contractor.
2. The County agrees to provide the SWCD with use of facilities when available.
3. The County agrees to work with the SWCD on Aggregate Tax Projects when projects are presented to the County Board.
4. The County agrees to allow SWCD to participate as subcontract of cell phone service plan, with provider billing SWCD directly for all costs.

APPENDIX A
SCOPE OF SERVICES
SWCD PROVISION OF DRAINAGE INSPECTOR AND STAFF SUPPORT

TERM

Notwithstanding the signatures of the Parties to the Agreement to which this Appendix is attached and incorporated, services provided to the SWCD by the County as of November 16, 2021 are subject to the terms provided herein.

PURPOSE OF SERVICE

For the SWCD to assist and/or provide the County services for a Drainage Inspector or support in accordance with Minnesota Statutes, Chapter 103E.

SCOPE OF SERVICES

A. County's Obligation

The County Ditch Manager shall provide administrative service to the SWCD including, but not limited to; petitions, bonds, appeals, determination and redetermination of drainage benefits, notification to landowners, newspaper publications, drainage proceedings, construction records, schedule and attend public hearings and informal meetings, maintain property owner's report, drainage system accounting (e.g., drainage assessments, enforcement of assessments, drainage lien statement, payment for damages, payments to contractors and other drainage related expenditures), and provide support as needed.

B. SWCD's Obligation

1. The SWCD staff shall attend public hearings, informal meetings, pre-construction conferences or workshops when drainage will be discussed.
2. Provide guidance and solutions to the Drainage Authority and landowners on drainage issues and projects related to open ditch or tile, or both, to drain property, including laterals, improvements, and improvements of outlets, established and constructed by a drainage authority.
3. Present annually a report on drainage projects and activities previous, unresolved and potential to the Le Sueur County Drainage Authority
4. Provide assistance to landowners, and other resource professionals to promote and install best management practices for drainage projects to protect natural resources.
5. Coordinate direct communication to the landowners, County Drainage Authority, Joint Drainage Authority, County Auditor-Treasurer's Office, County Highway Department, Appointed Engineer, Minnesota Department of Natural Resources, Minnesota Board of Water and Soil Resources, Minnesota Pollution Control Agency, Minnesota Department of Agriculture, United State Fish and Wildlife, United States Army Corps of Engineers and other agencies on drainage projects.

6. Seek quotes from contractors for drainage repairs and maintenance, schedule contractors, inspect and oversee project details for accuracy of repair. Projects over \$15,000 require bids.
7. Coordinate and/or perform tree spraying and weed control on drainage systems and buffers strips.
8. Maintain detailed records of pertinent project activities, including, but not limited to, inspection reports, the contractor's daily operations, quantities of material received or used, survey and inspection notes, material test results, elevations and/or locations of project installations.
9. Enforcement of buffer strips and compliance work under Minnesota Statute, Section 103E.021, Subdivision 4, and 103E.705.
10. Complete the annual reporting requirements on the ditch buffer strips according to Minnesota Statute, Section § 103E.067.
11. Perform various types of inspections for compliance with Minnesota Statute, Chapter 103E, including requirement of open drainage ditches shall be inspected at a minimum of every five years.
12. Work with Ditch Consultants to prepare plans, proposals and maps of future construction or repair projects.
13. Ensure projects meet all Federal, State and local design and construction standards, guidelines and permits.
14. SWCD will provide the County with a Ditch Inspector Budget Annually.
15. SWCD will provide updated billable rates to the County Board for support staff in January of each year for services.
16. SWCD will continue to search for Grants that benefit the Ditch Systems.
17. SWCD will work with FEMA when appropriate events take place to inventory Ditch System damages which may be eligible for FEMA assistance.
18. SWCD shall provide separate drainage management budget, which outlines budget request to pay for ditch specialist position. These budget expenses are traditionally paid for via State Riparian Aid and ditch assessment funds.
19. In conjunction with SWCD budget presentation, SWCD shall present updated professional services contract that outlines yearly billable rates.

PAYMENT TERMS

The SWCD agrees to provide the County services provided in this Appendix based on terms mutually agreed upon. Payments to the SWCD shall be made on a quarterly basis, or upon receipt, through presentation of invoice from the SWCD to the County Auditor-Treasurer Office.

APPENDIX B
SCOPE OF SERVICES
SWCD PROVISION OF WETLAND CONSERVATION ACT (WCA)
SERVICES TO THE COUNTY

TERM

Notwithstanding the signatures of the Parties to the Agreement to which this Appendix is attached and incorporated, services provided to the County by the SWCD as of November 16, 2021 are subject to the terms provided herein.

WETLAND CONSERVATION ACT

Wetland protection and replacement is required under the Wetland Conservation Act (WCA) at Minnesota Statutes, Sections §§ 103G.222 through 103G.2375. Cities, counties, watershed management organizations, soil and water conservation SWCDs and townships as local government units (LGUs) are required to implement the act locally. In addition, various capital improvement and transportation projects of the County are subject to the requirements of the WCA.

PURPOSE OF SERVICES

Both the County and the SWCD have statutory responsibilities for implementation of the WCA and an interest in assisting cities and townships within the County to comply with the requirements of the WCA. The purpose of this Appendix is for the County and SWCD to set out the obligations of each to meet WCA requirements within Le Sueur County.

SCOPE OF SERVICES AND PAYMENT TERMS

A. County Obligation.

1. The County agrees to:
 - a. Continue to seek funding for WCA activities through the state grant process, which includes submitting grant applications, including identification or contribution of matching funds or in-kind match required for grant, to the state and accepting grant funding from the state for WCA purposes.
 - b. If available and time permits, seek additional grant funding for WCA activities through other state, federal or other sources.
 - c. Provide a Technical Evaluation Panel (TEP) member who has knowledge in wetlands and has the ability to become wetland delineator certified.

B. SWCD Obligations

1. The SWCD agrees to provide the following services with regard to wetland management and conservation implementation in Le Sueur County:

a. Upon the written request of Le Sueur County, a city, a township or a resident, wetland assistance services as required under the WCA and Minnesota Rules, Chapter 8420, including but not limited to:

i. Services for wetland activities associated with applications and wetland projects regulated under the Minnesota Wetland Conservation Act (WCA) that are forwarded to the SWCD.

ii. Determination by the SWCD, if requested, whether the area in question is a wetland in accordance with the WCA.

iii. If the SWCD determines the area is a wetland, and if requested, the SWCD will ascertain the type and approximate size, but not the official delineation of the wetland.

iv. Based upon the exemptions listed under current WCA Rule, and if requested, recommend certification of a wetland as exempt or non-exempt from the WCA to the appropriate public authority.

2. Wetland management and coordination services to County Departments, upon written request, for Le Sueur County wetland programs through the following

a. Serve as primary liaison between citizens, LGU's, County and other officials dealing with the WCA.

b. Provide oversight and local coordination of the state wetland-banking program.

c. Inform County staff of activities of other agencies, new rules and procedures, and wetland activities within Le Sueur County.

d. Provide wetland determinations and delineations for the County for routine County projects, or as otherwise agreed by the SWCD and the County Authorized Representatives, located within the County when appropriate.

e. Review replacement and mitigation plans as requested by County Departments on projects impacting wetlands regulated under the WCA.

NOTICE

The SWCD agrees to give the County reasonable notice of the date on which the SWCD can no longer provide the County with services under this Appendix to allow the County sufficient time to arrange for such services. In turn, the County agrees to give the SWCD reasonable notice of its intent to no longer use SWCD services under this Appendix. The Parties will give each other ninety (90) days written notice of any substantial changes to the provision services under this Appendix.

APPENDIX C
SCOPE OF SERVICES
SWCD PROVISION OF LE SUEUR COUNTY BUFFER ENFORCEMENT ORDINANCE
PURSUANT TO STATUTES SECTION 103F.48

TERM

Notwithstanding the signatures of the Parties to the Agreement to which this Appendix is attached and incorporated, services provided to the County by the SWCD as of November 16, 2021 are subject to the terms provided herein.

BUFFER ENFORCEMENT ORDINANCE

Le Sueur County adopted enforcement administration of the Buffer Enforcement law that establishes vegetative buffers on public waters/streams and along county ditches. The law can be found in 103F.48 MN Statutes. The Law establishes buffers for Public Waters need to be in place on or before November 1, 2017, and buffers for County Drainage Systems need to be in place on or before November 1, 2018. The law requires DNR Public Waters to have a 50' average width (30' minimum width) continuous buffer and Drainage Systems to have a minimum 16.5' width continuous buffer.

PURPOSE OF SERVICES

Both the County and the SWCD have statutory responsibilities for implementation of the Buffer Ordinance and comply with the requirements of the ordinance. The purpose of this Appendix is for the County and SWCD to set out the obligations of each to meet the Ordinance requirements within Le Sueur County.

SCOPE OF SERVICES

A. County Obligation

1. The County agrees to administer and implement the Le Sueur County Buffer Enforcement Ordinance.
2. The County Board will oversee enforcement of non-compliant sites, including corrective action notices, plans, and penalties.

B. SWCD Obligation

1. The SWCD will provide a Ditch Inspector staff for all day to day buffer needs.
2. The SWCD will inspect all ditches annually for compliance.

3. The SWCD will provide a list of non-compliant sites to the County annually.
4. The SWCD will assist the County with Corrective Action Notices and Corrective Action Plans as needed.
5. The SWCD will provide technical assistance for property owners of non-compliant sites.
6. The SWCD will make a determination as to when a non-compliant site achieves compliance.

PAYMENT TERMS

The SWCD agrees to provide the County services provided in this Appendix based on terms mutually agreed upon. The County will continue to support 50% of the Ditch Specialist position through the Riparian Protection Aid annually. Payments to the SWCD shall be made on a quarterly basis, or upon receipt, through presentation of invoice from the SWCD to the County Auditor-Treasurer Office.

IN WITNESS WHEREOF, the parties hereto have made and executed the Memorandum of Agreement as of the date & year first above written, intending to be bound thereby.

Le Sueur County

Le Sueur County

Name

Name

County Chair

County Administrator

Date


Date

Le Sueur County

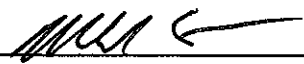
Le Sueur County

Soil & Water Conservation District


Soil & Water Conservation District



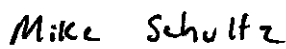
Name




Name




SWCD Chair



SWCD District Manager



Date



Date