

**RESOLUTION NO. 22-056**

**Riley-Purgatory-Bluff Creek Watershed District  
Board of Managers**

**Authorizing change order no. 1 for Sunram contract and  
amendment to the agreement with Bearpath Golf and Country Club for the  
Middle Riley Creek Stabilization Project**

Manager Crafton offered the following resolution and moved its adoption, seconded by Manager Pedersen:

**WHEREAS** at its April 1, 2020, meeting, the Riley-Purgatory-Bluff Creek Watershed District Board of Managers ordered the Middle Riley Creek Stabilization Project, an effort to stabilize and restore an 815-foot portion of the creek that winds through the Bearpath Golf and Country Club property in Eden Prairie to provide an ecologically diverse reach with significantly mitigated potential for erosion to improve water quality by reducing sediment and phosphorus loading to the creek and downstream waterbodies and improving in-stream habitat for aquatic organisms (the Project);

**WHEREAS** at its August 4, 2021, meeting, the RPBCWD Board of Managers authorized the RPBCWD president to enter a cooperative agreement with Bearpath Golf and Country Club to provide the necessary property-use authorization, cost-sharing, permitting and related terms for cooperative construction of the Project in conjunction with improvements to the golf course to be constructed by Bearpath, and the cooperative agreement was fully executed September 30, 2021;

**WHEREAS** at its August 4, 2021, meeting, the RPBCWD Board of Managers awarded the contract for the construction of the Project to Sunram Construction. All conditions of the award were fulfilled and the contract for the work was duly entered 8/22/2021;

**WHEREAS** notice to proceed with construction was issued to Sunram on 10/5/2021, and work on the Project has successfully proceeded toward substantial completion, accomplishing in the RPBCWD engineer's opinion the intended purposes and results;

**WHEREAS** in the course of construction, Bearpath and RPBCWD staff have agreed to shift responsibility for construction or implementation of certain elements of the Project from RPBCWD's contractor to Bearpath, and the RPBCWD engineer has prepared a change order for the Sunram contract to effect this shift in responsibility for certain elements of the Project and to extend the dates for substantial completion and final complete to facilitate the changes, and the change order is attached to and incorporated into this resolution as Exhibit A;

**WHEREAS** RPBCWD legal counsel has drafted an amendment to cooperative agreement between Bearpath and RPBCWD to effect the shift in responsibility for completion of work as specified in Exhibit A and accordingly adjust responsibility for reimbursement of costs for such elements between Bearpath and RPBCWD, and the draft amendment to the cooperative agreement is attached to and incorporated into this resolution as Exhibit B; and

**WHEREAS** RPBCWD staff, engineer and legal counsel recommend approval of the change order and authorization of the president to enter the amendment to the cooperative agreement as sensible and effective steps toward completing the Project in fulfillment of its intended purposes and functions.

**NOW THEREFORE BE IT RESOLVED** that the RPBCWD Board of Managers approves the change order attached as Exhibit A;

**NOW THEREFORE BE IT FURTHER RESOLVED** that the RPBCWD Board of Managers authorizes the RPBCWD president, on advice of counsel, to execute the attached amendment to the cooperative agreement with Bearpath Golf and Country Club attached as Exhibit B with such nonsubstantive changes as may be necessary to finalize the agreement for the Middle Riley Creek Stabilization Project.

The question was on the adoption of the resolution and there were 4 yeas, 0 nays, and 1 abstention as follows:

|                 | <u>Yea</u> | <u>Nay</u> | <u>Abstain</u> | <u>Absent</u> |
|-----------------|------------|------------|----------------|---------------|
| <b>CRAFTON</b>  | X          |            |                |               |
| <b>DUEVEL</b>   |            |            | X              |               |
| <b>KOCH</b>     | X          |            |                |               |
| <b>PEDERSEN</b> | X          |            |                |               |
| <b>ZIEGLER</b>  | X          |            |                |               |

Upon vote, the president declared the resolution adopted.

July 13, 2022

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I, Dorothy Pedersen, secretary of the Riley-Purgatory-Bluff Creek Watershed District, hereby certify that I have compared the above resolution with the original thereof as the same appears of record and on file with RPBCWD and find the same to be a true and correct transcription thereof.

IN TESTIMONY WHEREOF, I set my hand this 14th day of July, 2022.

  
Dorothy Pedersen, Secretary