

elm creek Watershed Management Commission

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AGENDA Technical Advisory Committee July 10, 2019

1. Call TAC meeting to Order.
 - a. Approve agenda.*
 - b. Approve Minutes of last TAC meeting.*
2. Rush Creek SWA – update.
3. Ranchview Wetland Bank.*
4. Project Review Fees.*
5. Commission Standards.*
6. Cost Share Policy.
 - a. Letter from Medina.*
 - b. SCWM Revised Cost Share Policy.*
 - c. Existing Elm Creek Cost Share Policy.*
7. Other Business.
8. Next meeting _____.
9. Adjourn meeting of TAC.

Z:\Elm Creek\Meetings\Meetings 2019\07 TAC Meeting Agenda.docx

(over)

*in meeting packet
**available at meeting

CHAMPLIN - CORCORAN - DAYTON - MAPLE GROVE - MEDINA - PLYMOUTH - ROGERS

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Technical Advisory Committee *(beginning on page 1)* and Regular Meeting *(beginning on page 3)* Minutes - April 10, 2019

I. A meeting of the **Technical Advisory Committee (TAC)** for the Elm Creek Watershed Management Commission was convened at 10:00 a.m., Wednesday, April 10, 2019 in the Mayor's Conference Room, Maple Grove City Hall, 12800 Arbor Lakes Parkway, Maple Grove, MN.

In attendance were: Todd Tuominen, Champlin; Kevin Mattson, Corcoran; Kent Torve, Wenck Associates, Corcoran; Mark Lahtinen, Maple Grove; Shane Nelson, Hakanson-Anderson, Medina; Ben Scharenbroich, Plymouth; Andrew Simmons, Rogers; James Kujawa, Jason Swenson, and Kirsten Barta, Hennepin County Dept. of Environment and Energy (HCEE); Brian Vlach, Three Rivers Park District (TRPD); Jeff Weiss, Barr Engineering; and Judie Anderson, JASS.

Also present: Ken Guenther, Corcoran; Doug Baines, Dayton; Liz Weir, Medina; Catherine Cesnik, Plymouth; and Bruce LaMott, Diamond Lake Association and Patrick Selter, PLM Lake & Land, for item IV.

II. Motion by Simmons, second by Scharenbroich to **approve the agenda.*** *Motion carried unanimously.*

Motion by Scharenbroich, second by Simmons to **approve the minutes*** of the February 13, 2019 TAC meeting. *Motion carried unanimously.*

III. 2019 Capital Improvement Projects.

A. The following projects appear on the Capital Improvement Program spreadsheet for 2019.

| | | |
|---------|--|----------------------|
| Line 12 | no projects identified | \$50,000 |
| Line 15 | no projects identified | \$125,000 |
| Line 16 | Rush Creek Main Stem Restoration, Maple Grove* | \$25,000 |
| Line 23 | Ranchview Wetland Restoration, Maple Grove* | \$250,000 |
| Line 30 | Mill Pond Rain Gardens, Champlin* | \$100,000 |
| Line 34 | SPECIFIC PROJECT IDENTIFIED Rush Ck SWA Cost-Share/Ag BMPs* | \$20,000 |
| Line 37 | COST ADJUSTED Hickory Dr Stormwater Improvement, Medina* | \$76,823 |
| Line 39 | Downtown Regional Stormwater Pond, Corcoran* | \$10,000 |
| Line 42 | Elm Creek Stream Restoration Phase IV, Champlin* | \$150,000 |
| Line 43 | Lowell Pond Raingarden, Champlin* | \$100,000 |
| Line 47 | Mill Pond Easement, Champlin | removed |
| | | \$731,823 |

B. The Commission's Cost Share Policy states the following:

The Commission has elected to fund capital projects through an ad valorem tax levy. Under the authority provided by MN Stat 103B.251, Subd. 5, the Commission has the authority to certify for payment by the county all or part of the cost of an approved capital improvement. The Commission will pay up to 25

percent of the cost of qualifying projects. This amount will be shared by all taxpayers in the watershed, with the balance of the project cost being shared by the local government(s) participating in or benefiting from the improvement.

The Commission's maximum annual share of an approved project is up to \$250,000. The Commission's share will be funded through the ad valorem tax levy – spread across all taxpayers within the watershed. The Commission will use a maximum annual levy of \$500,000 as a working guideline.

C. Following discussion by the members, the following projects were moved forward:

| | | |
|---------|--|-----------------------|
| Line 16 | Rush Creek Main Stem Restoration, Maple Grove* | \$25,000 |
| Line 23 | Ranchview Wetland Restoration, Maple Grove* | \$125,000 |
| | <i>with the balance moved to 2020</i> | |
| Line 30 | Mill Pond Rain Gardens, Champlin* | moved to 2020 |
| Line 34 | Rush Creek SWA Cost-Share/Ag BMPs* | \$20,000 |
| Line 37 | Hickory Drive Stormwater Improvement, Medina* | \$76,823 |
| Line 39 | Downtown Regional Stormwater Pond, Corcoran* | \$26,500 |
| Line 42 | Elm Creek Stream Restoration Phase IV, Champlin* | \$150,000 |
| Line 43 | Lowell Pond Raingarden, Champlin* | <u>moved to 2020.</u> |
| | | \$423,323 |

Motion by Tuominen, second by Scharenbroich to recommend the projects listed in III.C. above to the Commission for funding at the amounts shown. *Motion carried unanimously.*

IV. Diamond Lake Curly Leaf Pondweed Treatment.* LaMott and Selter were present to provide the Commissioners with information regarding the Diamond Lake Improvement Association's proposed Fluridone treatment for control of curly leaf pondweed (CLPW) in the lake. Their presentation described the project in some detail, including funding estimates for three years (2019-2021) of treatment. The Diamond Lake Association requested funding assistance for the project. PLM Lake & Land Management Corp. would be the contractor performing the treatments, and Three Rivers Park District would be contracted to conduct the pre and post treatment vegetation surveys.

Discussion followed the presentation. Vlach indicated that the project is necessary to eventually meet the in-lake water quality goals, but the timing of the project is not necessarily ideal. The Diamond Lake TMDL indicated that watershed loading accounts for 75% of the total load, and internal load accounts for 23% of the total load. There has to be a 3400 lb. reduction in total load for the lake to meet the total phosphorus state standard. The control of curly leaf pondweed would only account for 18% to 36% of the total reduction in load that is needed to achieve in-lake phosphorus goals. Consequently, controlling curly leaf pondweed would not achieve the in-lake water quality goal by itself because the majority of the load reduction needs to come from the watershed. A sub-watershed assessment has been approved by the Commission to identify projects in the watershed to achieve the proposed watershed load reductions identified in the TMDL. The Technical Advisory Committee (TAC) would like to address the watershed issues first before investing in the curly leaf pondweed control project. The risk of doing the project now is that the lake may remain in the algal-dominated condition due to the significant amount of watershed load going to the lake. Clear water conditions are necessary for the lake to transition from the algal dominated to the plant dominated condition. It will be difficult to achieve clear water conditions without addressing the watershed loading. Vlach indicated that there is support for the project, but not until the watershed issues are addressed first.

Barta expressed willingness to work with a shoreline agricultural resident to incorporate BMPs on his land. She also indicated decreasing erosion from the road on the south side of the lake will have a beneficial effect in reducing external loading. It was also stressed that education must be a part of this project.

It was a consensus of the members that, while the TAC supports the proposed project, more information is needed and will likely be provided when the Diamond Lake Subwatershed Assessment is completed. Timing of the project is critical and, in order for the project to be sustainable, the external load in the lakeshed must be addressed prior to the treatment.

V. The date of the next TAC meeting is indeterminate. The meeting of the Technical Advisory Committee was adjourned at 11:32 a.m.

I. A regular meeting of the Elm Creek Watershed Management Commission was called to order at 11:42 a.m., Wednesday, April 10, 2019, in the Mayor's Conference Room, Maple Grove City Hall, 12800 Arbor Lakes Parkway, Maple Grove, MN, by Chairman Doug Baines Present were: Bill Walraven, Champlin; Ken Guenther, Corcoran; Doug Baines, Dayton; Joe Trainor, Maple Grove; Elizabeth Weir, Medina; Fred Moore, Plymouth; Kevin Jullie, Rogers; James Kujawa, Jason Swenson, and Kirsten Barta, Hennepin County Dept. of Environment and Energy (HCEE); Brian Vlach, Three Rivers Park District (TRPD); Jeff Weiss, Barr Engineering; and Judie Anderson, JASS.

Also present: Todd Tuominen, Champlin; Kevin Mattson and Jon Bottema, Corcoran; Mark Lahtinen, Maple Grove; Catherine Cesnik and Ben Scharenbroich, Plymouth; and Andrew Simmons, Rogers.

A. Motion by Weir, second by Walraven to approve the **revised agenda**.** Motion carried unanimously.* Per Guenther's request, the Corcoran 2018 Stormwater Annual Report attached to the Downtown Regional Stormwater Pond description in the TAC meeting packet will be included on the May meeting agenda.

B. Motion by Walraven, second by Weir to approve the **minutes*** of the March 9, 2019, regular meeting. *Motion carried unanimously.*

C. Motion by Moore, second by Walraven to approve the April **Treasurer's Report and Claims*** totaling \$13,187.79. *Motion carried unanimously.*

II. Open Forum.

III. Action Items.

A. **Project Review 2018-005 Sundance Greens, Dayton**.*** This site consists of seven parcels totaling 310 acres. Approximately half is the Sundance Golf Course, the other half is agricultural land. The applicant is proposing a long-term, phased residential development with 665 residential units while maintaining a portion (9 of the 18 holes) of the golf course. Total new impervious area will be 71 acres. This project is being reviewed for Commission Rules D, F, and I. As part of the submittal for this project, the Sundance West and Sundance 2nd Addition phases will be reviewed for Rule E. As the site is phased in, the Commission will review each addition for consistency with Rules D, E, F and I. In their findings dated April 10, 2019, Staff recommends approval of the (1) stormwater management and floodplain plans for the Sundance Greens Preliminary Plans; and (2) grading and erosion control plans for Sundance Greens West and Sundance Greens 2nd Addition. Staff has determined the Wetland Buffer on Green 7 adjacent to wetland 3 does not meet the Commission's standard of 10' minimum. They

HENNEPIN COUNTY

MINNESOTA

DATE: July 2nd, 2019

TO: Elm Creek Watershed Management Organization

FROM: Kirsten Barta, Hennepin County Department of Environment and Energy

RE: North Fork Rush Creek Subwatershed Grant Progress

To date the following has been completed:

- Letters sent out to residents identified in the Rush Creek SWA as having livestock, erosion issues, and those residents that came to the open house and indicated interest in the project for a total of 200 letters
- 22 site visits have been completed
- 2 residents have opted to utilize resources provided by staff to complete projects on their own

In progress:

- 4 projects under staff review/cost estimate approvals for contracting
- 3 projects not being put under contract because resident is happy to pay for them on their own with staff technical assistance and further guidance
- 3 projects pending cooperation from neighbors (necessary for the project to effectively be completed)
- 5 site visits pending during week of July 8th

Upcoming:

- Follow up with residents in Rush Creek area that sent in postcards from an unrelated project
- Letters to a larger geographic area that was not specifically identified in the SWA but still on the creek and very likely with beneficial projects
- Work with Environmental Health (Hennepin) on a septic project to target failing systems in the area – MPCA approached us about this project



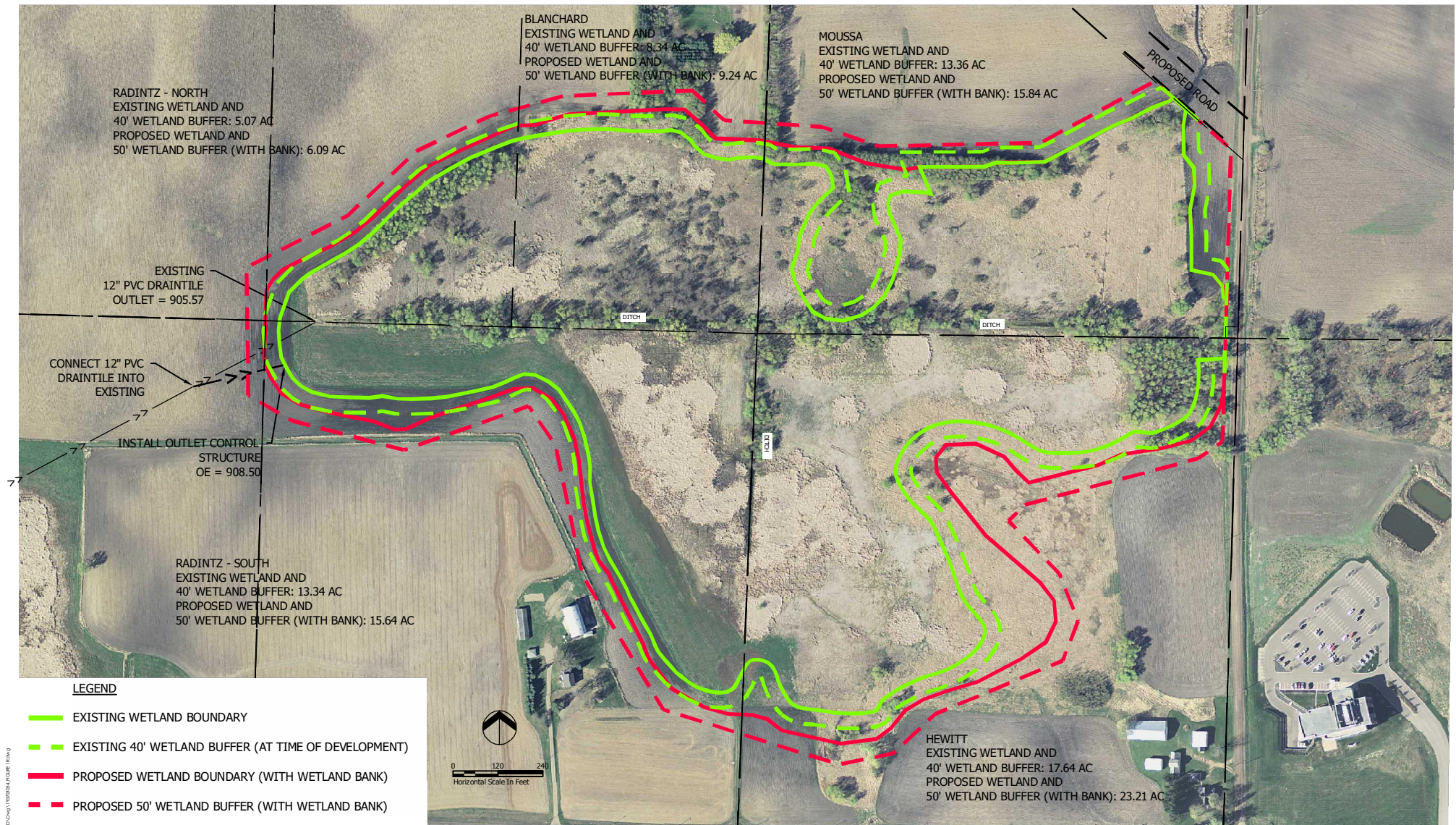
EXHIBIT A

Elm Creek Watershed Management Commission

Capital Improvement Project Submittal

(This submittal will be rated on its completeness and adherence to the goals of the Commission.
A second page may be used to provide complete responses.)

| | | | |
|------------------|---|--|--------------------------|
| City | City of Maple Grove | | |
| Contact Name | Derek Asche, Water Resources Engineer | | |
| Telephone | 763-494-6354 | | |
| Email | dasche@maplegrovern.gov | | |
| Address | 12800 Arbor Lakes Parkway, Maple Grove, MN, 55398 | | |
| Project Name | Ranchview Wetland Restoration | | |
| | 1. Is project in Member's CIP? (<input checked="" type="checkbox"/>) yes (<input type="checkbox"/>) no | | Proposed CIP Year = 2020 |
| | 2. Has a feasibility study or an engineering report (circle one) been done for this project? (<input checked="" type="checkbox"/>)yes (<input type="checkbox"/>)no | | |
| | | | Amount |
| | Total Estimated Project Cost | | \$2,500,000 |
| | Estimated Commission Share (up to 25%, not to exceed \$250,000) | | \$250,000 |
| | Other Funding Sources (name them) | | \$ |
| | City of Maple Grove | | \$2,250,000 |
| | 3. What is the scope of the project? The overall project goal is to restore the water regime and native vegetation to a 70-acre wetland which will result in wildlife habitat improvements and improved flood storage functions within the wetland. In addition, the City anticipates 36.5 acres of banked wetland credit. | | |
| | 4. What is the purpose of the project? What water resource(s) will be impacted by the project? The purpose is to restore lost groundwater recharge, flood and stormwater attenuation, vegetation diversity and integrity, natural habitat of wildlife, amphibians, and invertebrates and to provide improved aesthetic, recreational and educational opportunities within this wetland. | | |
| | 5. What is the anticipated improvement that would result from the project? (Include size of area treated and projected nutrient reduction.) 70 acres of restored wetland. | | |
| | 6. How does the project contribute to achieving the goals and programs of the Commission? Wetland restoration is listed as a strategy in the 2016 Watershed Restoration and Protection Study (WRAPS) for the Elm Creek Watershed. Further flood and stormwater attenuation will reduce downstream erosion which contributes to degraded water quality in Rush Creek. Meets ECWMC Goal D.2: Promote wetland enhancement or restoration of wetlands in the watershed. | | |
| 0/10 | 7. Does the project result from a regulatory mandate? (X) yes (<input type="checkbox"/>) no How? The Elm Creek WRAPS and the strategy's contained within, address waters not meeting state standards and which are still listed as impaired and for which a Total Maximum Daily Load study will still be performed, but facilitates a more cost-effective and comprehensive characterization of multiple water bodies and overall watershed health. | | |
| 0/10/20 | 8. Does the project address one or more TMDL requirements? (X) yes (<input type="checkbox"/>) no Which? This wetland restoration is less than 4,000 feet from Rush Creek which has TMDL's approved for DO, E.Coli, Fishes Bio-assessments, and Invertebrate Bio-assessments. Improved water quality discharges from this wetland will support improvements within Rush Creek. | | |
| 0/10/20 | 9. Does the project have an educational component? (X) yes (<input type="checkbox"/>) no Describe. This area is also part of master planning for future development including recreational trails adjacent to the restored wetland. | | |
| 0/10 | 10. Do all the LGUs responsible for sharing in the cost of the project agree to go forward with this project? (X) yes (<input type="checkbox"/>) no Identify the LGUs. City of Maple Grove | | |
| 10/20 | 11. Is the project in all the LGUs' CIPs? (X) yes (<input type="checkbox"/>) no | | |
| 1-34 | (For TAC use) | | |
| | 12. Does project improve water quality? (0-10) | 15. Promote groundwater recharge? (0-3) | |
| | 13. Prevent or correct erosion? (0-10) | 16. Protect and enhance fish and wildlife habitat? (0-3) | |
| | 14. Prevent flooding? (0-5) | 17. Improve or create water recreation facilities? (0-3) | |
| TOTAL (poss 114) | | Adopted April 11, 2012 | |



EXISTING AND PROPOSED WETLAND AREAS

CITY OF MAPLE GROVE
RANCHVIEW WETLAND BANK

FIGURE 1

elm creek Watershed Management Commission

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DATE: JULY 8, 2019
TO ELM CREEK WATERSHED MANAGEMENT COMMISSION
FROM: JIM KUJAWA
RE: HOUSEKEEPING ITEMS; FEE SCHEDULE FOR RESIDENTIAL DENSITY

The Commission's current project review fee schedule for new development separates residential reviews into two categories;

- 1) Low Density* which is described as less than 40% impervious area.
 - a. 0 to 100 acres = Area x \$50
 - b. 101 to 150 acres = \$5,000 + (Area - 100) x \$20
 - c. maximum fee = \$6,000 + application fee
- 2) High Density* which is greater than 40% impervious area.
 - a. 0 to 20 acres = Area x \$100
 - b. 21 to 100 acres = \$2,000 + (Area - 20) x \$75
 - c. 101 + acres = \$8,000 + (Area - 100) x \$20
 - d. maximum fee = \$10,000 + application fee

*Density = number of units per buildable area prior to development. Buildable area = Site Area excluding wetlands and floodplains. Rights-of-way are included in buildable area. Acreage is based on total Site Area unless noted.

Because the amount of review time and effort is essentially the same for both densities, staff recommends the Commission eliminates the Low Density designation and adopt the High Density fee for all residential subdivisions requiring a review.

JCK

Site Area =
 Buildable Area =
 Disturbed Area =
 Density =

Elm Creek Watershed Management Commission
Project Review Fee Schedule and Worksheet
 Effective July 28, 2015

Project Name

| | | | |
|---|--|--|--|
| I. No applications will be reviewed until the Commission receives a completed application form, all appropriate materials, and fees. | | | Amount Due |
| II. Application Fee | | | \$ 50.00 |
| III. Project Reviews ¹ | | | |
| A. New Development - Area is the Site Area | | | |
| 1 Residential | | | |
| a. High density ² - more than 40% impervious area ³ | | | |
| 0 to 20 acres = Area x \$100 | | | |
| 21 to 100 acres = \$2,000 + (Area - 20) x \$75 | | | |
| 101 + acres = \$8,000 + (Area - 100) x \$20 | | | |
| maximum fee = \$10,000 + application fee | | | |
| b. Low density - less than 40% impervious area | | | |
| 0 to 100 acres = Area x \$50 | | | |
| 101 to 150 acres = \$5,000 + (Area - 100) x \$20 | | | |
| maximum fee = \$6,000 + application fee | | | |
| 2 Commercial / industrial / institutional / governmental agency development project | | | |
| 0 to 40 acres = Area x \$250 | | | |
| 41 + acres = \$10,000 + (Area - 40) x \$75 | | | |
| maximum fee = \$12,250 + application fee | | | |
| B. Re-development | | | |
| 1 For Re-development use the "New Development" rates above but use Disturbed Area (in acres) instead of Site Area | | | |
| Note: If more than 50% of the site is disturbed for a Re-development project, use the New Development fee formula with Site Area | | | |
| C. Development / Re-development with mapped floodplains on site | | | |
| 1 No impact or impacts ≤ 100 cubic yards. | | | \$ 100 |
| 2 Impacts ≥ 100 cubic yards. | | | \$ 500 |
| D. Linear Projects ⁴ | | | |
| 1 1.0 - 2.0 acres new impervious surface = \$500 | | | |
| 2 Over 2.00 acres new impervious surface = \$500 + (new impervious area - 2) x \$250 | | | |
| maximum fee = \$5,000 + application fee | | | |
| E. Drainage alterations - Any culvert installation or replacement, bridge construction, stream cross-section alteration, or activity requiring a DNR Waters Permit | | | |
| 1 on Elm, Rush, North Fork Rush, or Diamond Creeks | | | \$ 500 |
| 2 on all other tributaries within the watershed | | | \$ 100 |
| F. Water appropriation permits (two years) | | | \$ 50 |
| IV Wetland Project Fees | | | |
| G. Wetland fees apply in the communities (Champlin and Corcoran) where the Commission is the LGU for the Wetland Conservation Act (WCA) and are in addition to the project fees. | | | |
| 1 Exemption certificates | | | \$ 100 |
| 2 Determinations | | | \$ 100 |
| 3 Delineation review | | | \$ 250 |
| 4 Pond Excavations | | | \$ 100 |
| 5 Wetland replacement plans <10,000 SF impact on single basins or <1/4 acre impact for private driveways | | | \$ 400 |
| 6 All other replacement plans | | | \$ 2,500 |
| 7 Replacement plan in conjunction with wetland banking | | | \$ 3,500 |
| a. All other wetland banking applications | | | \$ 3,500 |
| Additional wetland replacement plan and banking application escrows and sureties are determined on a site-specific basis. (See page 2.) | | | |
| V. Failure to make application and receive approval prior to beginning work results in doubling of fees | | | |
| | | | Total fees ¹ |
| 1 The following projects require review: Any land disturbing activity or the development or redevelopment of land as listed in Rule D. 2. (Appendix O). | | | Double Fee if V. applies ² |
| | | | Total due (Line 1 or 2) |
| 2 Density = number of units per buildable area prior to development. Buildable area = Site Area excluding wetlands and floodplains. Rights-of-way are included in buildable area. Acreage is based on total Site Area unless noted. | | | |
| 3 Impervious area includes any compacted gravel surface such as road shoulders, parking lots and storage areas. | | | |
| 4 Sidewalks and trails that do not exceed twelve feet in width, are not constructed with other improvements, and have a minimum of five feet of vegetated buffer on both sides are exempt from Stormwater Management requirements (RULE D), but has to comply with Erosion and Sediment Control requirements (RULE E). | | | |

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DATE: JULY 8, 2019
TO ELM CREEK WATERSHED MANAGEMENT COMMISSION
FROM: JIM KUJAWA
**RE: PROJECT STANDARDS-STORMWATER RUNOFF ABSTRACTION
(VOLUME) CONTROLS**

The Commission Standards for abstraction states ‘Stormwater runoff volume must be *infiltrated/abstracted* onsite in the amount equivalent to one point one inch (1.1”) of runoff generated from new impervious surface.’

ECWMC applicants and their engineers interpret ‘new impervious surface’ to mean impervious surface added by the new development. In other words, existing impervious surface areas do not need to be treated for our abstraction rule. As an example, an existing 40-acre site has 1.0 acre of impervious area on it. After it is developed, it will have eight total acres of impervious areas. Per our rules, the applicant only has to create enough abstraction volume for the seven new impervious areas.

Staff believes in the interest of water quality and quantity, all impervious surfaces should meet our abstraction requirements whenever a site is being developed or if it is a redevelopment project that disturbs greater than 50% of the site.

We would like to request a change to the Commission’s Appendix C, Rule D. 3. C: from ‘Stormwater runoff volume must be infiltrated/abstracted onsite in the amount equivalent to one point one inch (1.1”) of runoff generated from new impervious surface’ to; ‘Stormwater runoff volume must be infiltrated/abstracted onsite in the amount equivalent to one point one inch (1.1”) of runoff generated from all impervious surface’

JCK

- j) Whenever the Commission determines that any land disturbing activity has become a hazard to any person or endangers the property of another, adversely affects water quality or any waterbody, increases flooding, or otherwise violates these Rules, the Commission shall notify the member city where the problem occurs and the member city shall require the owner of the land upon which the land disturbing activity is located, or other person or agent in control of such land, to repair or eliminate such condition within the time period specified therein. The owner of the land upon which a land disturbing activity is located shall be responsible for the cleanup and any damages from sediment that has eroded from such land. The Commission may require the owner to submit a project review application under these Rules before undertaking any repairs or restoration.

RULE D. STORMWATER MANAGEMENT

- 1. POLICY.** It is the policy of the Commission to control excessive rates and volumes of runoff by:

- a) Requiring that peak runoff rates not exceed existing conditions or the capacity of downstream conveyance facilities or contribute to flooding or streambank erosion.
- b) Managing subwatershed discharge rates and flood storage volumes to be consistent with the goals of the Commission's water resources management plan and the local water resources management plans.
- c) Controlling runoff rates by the use of on-site or if feasible regional detention or infiltration facilities.
- d) Reviewing stormwater management structures based on the 1% (100-year) critical storm event for the drainage area.
- e) Routing runoff to water treatment ponds or other acceptable facilities before discharging into waterbodies.
- f) Promoting the use of natural resources for storing runoff and improving water quality and other amenities where appropriate.
- g) Promoting natural infiltration of runoff.

- 2. REGULATION.** No person or political subdivision shall commence a land disturbing activity or the development or redevelopment of land for the following types of projects without first submitting to and obtaining approval of a project review from the Commission or the city in which the project is located that incorporates a stormwater management plan for the activity, development or redevelopment:

- a) Plans of any land development or site development that disturbs more than 1 acre of land.
- b) Linear projects that create one acre or more of new impervious surface must meet all Commission requirements for the net new impervious surface. Sidewalks and trails that

do not exceed twelve feet (12'0") in width, are not constructed with other improvements, and have a minimum of five feet (5'0") of vegetated buffer on both sides are exempt from Commission requirements

- c) Plans of any land development or individual site development adjacent to or containing a lake, wetland, or a natural or altered watercourse as listed in the Hennepin County wetland inventory or the final inventory of Protected Waters and Wetlands for Hennepin County, as prepared by the DNR.
- d) Any culvert installation or replacement, bridge construction, stream cross-section alteration, or activity requiring a DNR Waters Permit on Elm, Rush, North Fork Rush, or Diamond Creeks or their tributaries.
- e) Plans for any land development or site development within the 1% chance (100-year) floodplain as defined by the Flood Insurance Study for the member city or the Commission's flood study.
- f) Plans of any land development or site development regardless of size, if such review is requested by a member city.
- g) Land disturbing activity that drains to more than one watershed, for that portion of the site draining into the Elm Creek Watershed.

3. CRITERIA. Stormwater management plans shall comply with the following criteria regarding runoff rate restrictions, volume control requirements, and water quality requirements.

- a) A hydrograph method based on sound hydrologic theory will be used to analyze runoff for the design or analysis of flows, volumes, water quality, and water levels.
- b) *Runoff rates* for the proposed activity shall not exceed existing runoff rates for the 2-year, 10-year, and 100-year critical storm events and rainfall distribution for the project location as set forth in NOAA Atlas 14 Volume 8, published June 2013, or its successor, using the online NOAA Precipitation Frequency Data Server or a similar data source. Applicant must document the location and event depths used. If an approved local water management plan requires more restrictive rate control, then the more restrictive rate shall govern. Runoff rates may be restricted to less than the existing rates when necessary for the public health and general welfare of the watershed.
 - i) If detention basins are used to control rate of runoff they shall be designed to provide:
 - (1) An outlet structure to control the 2-year, 10-year, and 100-year critical storm events to predevelopment runoff rates. Said outlet structure will be required to control critical storm events to less than predevelopment runoff rates if downstream facilities have insufficient capacity to handle the increased flow.
 - (2) Alternative to (1), runoff may be directed to a downstream facility within the same hydrologic subwatershed that has sufficient capacity to provide the required rate control. This means that no rate control may be required for an

individual development provided there is a regional facility designed and constructed to accommodate the flow from this property.

- (3) An identified overflow spillway sufficiently stabilized to convey a 1% (100-year) critical storm event.
 - (4) A normal water elevation above the OHW of adjacent waterbodies.
 - (5) Access for future maintenance.
 - (6) An outlet skimmer to prevent migration of floatables and oils for at least the two year storm event.
 - (7) The low floor elevation shall be at minimum two feet above the critical event 100-year elevation and at minimum one foot above the emergency overflow elevation of nearby waterbodies and stormwater ponds.
- ii) Regional detention basins may be used to manage peak flow rates and meet water quality objectives when feasible.
 - iii) Analysis of flood levels, storage volumes and flow rates for waterbodies and detention basins shall be based on the range of rainfall and snow melt duration producing the critical flood levels and discharges, whichever is most critical.
 - iv) Landlocked water basins may be provided with outlets that:
 - (1) Retain a hydrologic regime complying with floodplain and wetland alterations.
 - (2) Provide sufficient storage below the outlet run-out elevation to retain back-to-back 100-year, 24-hour rainfalls and runoff above the highest anticipated groundwater elevation and prevent damage to property adjacent to the basin.
 - (3) Do not create adverse downstream flooding or water quality conditions.
- c) Stormwater runoff volume must be *infiltrated/abstracted* onsite in the amount equivalent to one point one inch (1.1") of runoff generated from new impervious surface.
- i) Applicant must minimize the creation of new impervious surface, reduce existing impervious surfaces where possible, and minimize the amount of directly connected impervious surface.
 - ii) When using infiltration for volume reduction, runoff must be infiltrated within 48 hours. Infiltration volumes and facility sizes shall be calculated based on the measured infiltration rate determined by a double-ring infiltrometer test(s) conducted to the requirements of ASTM Standard D3385 at the proposed bottom elevation of the infiltration area. Other testing methods may be used with the approval of the Commission's Engineer. The measured infiltration rate shall be divided by the appropriate correction factor selected from the Minnesota Stormwater Manual. This site investigation must be conducted by a licensed soil scientist or engineer.

- iii) A post-construction percolation test must be performed on each infiltration practice and must demonstrate that the constructed infiltration rate meets or exceeds the design infiltration rate prior to project acceptance by the city.
- iv) Infiltration areas will be limited to the horizontal areas subject to prolonged wetting.
- v) Areas of permanent pools tend to lose infiltration capacity over time and will not be accepted as an infiltration practice.
- vi) Stormwater runoff must be pretreated to remove solids before discharging to infiltration areas to maintain the long term viability of the infiltration areas.
- vii) Design and placement of infiltration BMPs shall be done in accordance with the Minnesota Department of Health guidance "Evaluating Proposed Stormwater Infiltration Projects in Vulnerable Wellhead Protection Areas," as amended.
- viii) Constructed bioretention and infiltration practices such as rain gardens, infiltration trenches, and infiltration benches shall not be used in:
 - (1) Fueling and vehicle maintenance areas;
 - (2) Areas with less than 3 feet separation from the bottom of the infiltration system to the elevation of seasonal high groundwater;
 - (3) Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than 5 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater;
 - (4) Areas within 400 feet of a community water well, within 100 feet of a private well, or within a delineated 1-year time of travel zone in a wellhead protection area;
 - (5) Sites documented to contain contaminated soils or groundwater.
- ix) Credit towards compliance with the abstraction requirement in (c) may be achieved by:
 - (1) Meeting post construction soil quality and amendment depth requirements. Areas that will be subjected to clearing, grading, or compaction that will not be covered by impervious surface, incorporated into a drainage facility, or engineered as structural fill or slope may be included in the credit calculation if they meet post construction soil quality and amendment depth requirements. Soil amendment areas become part of the site's storm drainage system, and must be protected by a utility and drainage easement and be included in the site's utility maintenance agreement. The applicant may compute a credit of 0.5 inches over the soil amendment area and apply that toward the abstraction volume requirement.
 - (a) A minimum 8-inch depth of compost amended soil or imported topsoil shall be placed in all areas of the project site being considered for the abstraction

credit. Before the soil is placed, the subsoil must be scarified (loosened) at least 4 inches deep, with some incorporation of the amended soil into the existing subsoil to avoid stratified layers.

- (b) Soil amendment may be achieved by either mixing 2 inches of approved compost into the 8 inches of soil depth, or by mixing a custom-calculated amount of compost to achieve 8 inches of uncompacted soil depth with a minimum organic content of five percent.
 - (c) The amended areas must pass a 12-inch probe test during the site final inspection, in accordance with the Commission's testing procedure. Once amended, soil areas must be protected from recompaction.
- (2) Preserving undisturbed forest or grassland conservation areas. Conservation areas must remain undisturbed during construction and must be protected by a permanent conservation easement prescribing allowable uses and activities on the parcel and preventing future development. A long-term vegetation management plan describing methods of maintaining the conservation area in a natural vegetative condition must be submitted with the stormwater management plan. The applicant may compute a credit of 0.5 inches over the conservation area and apply that toward the abstraction volume requirement.
- (3) Providing wetland buffers in excess of minimum requirements. Areas eligible for credit must meet all wetland buffer requirements, must be monumented and shown on the construction plans. The applicant may compute a credit of 0.5 inches over the excess buffer area and apply that toward the abstraction volume requirement.
- (4) Disconnecting impervious surface by redirecting runoff across a pervious surface or into an engineered bioinfiltration facility. Impervious disconnection must be designed to prevent any reconnection of runoff with the storm drain system. The applicant may subtract the disconnected impervious surface area from the total impervious surface area used to compute the required abstraction volume.
- x) Alternative to (c), runoff may be directed to a downstream facility within the same hydrologic subwatershed that has sufficient capacity to provide the required volume management. This means that no volume management may be required for an individual development provided there is a regional facility designed and constructed to accommodate the volume from this property.
- d) Where infiltration is not advisable or infeasible due to site conditions, *biofiltration* must be provided for that part of the abstraction volume that is not abstracted by other BMPs. Where biofiltration is infeasible, at a minimum filtration through a medium that incorporates organic material, iron fillings, or other material to reduce soluble phosphorus must be provided.
- e) There shall be *no net increase in total phosphorus (TP) or total suspended solids (TSS)* from pre-development land cover to post-development land cover. Pre-development land cover is defined as the predominant land cover over the previous 10 years. The TP

and TSS export coefficients to be used to calculate predevelopment and post-development land use loadings are set forth in Commission project review guidance.

- i) Full infiltration of one point one (1.1) inches of runoff from all impervious surface will satisfy (e).
- ii) If it is not feasible to achieve the full 1.1 inch infiltration requirement, a combination of BMPs may be used to achieve the no-net-increase requirement.
- iii) If permanent sedimentation and water quality ponds are used they shall be designed to the Wet Pond Design Standards set forth on Appendix A to these Rules and provide:
 - (1) Water quality features consistent with NURP criteria and best management practices.
 - (2) A permanent wet pool with dead storage of at least the runoff from a 2.5-inch storm event.
- iv) Alternative to (e), runoff may be directed to a downstream facility within the same hydrologic subwatershed that has sufficient capacity to provide the required treatment. This means that no treatment may be required for an individual development provided there is a regional facility designed and constructed to accommodate the flow from this property.

4. WAIVERS.

- a) The Commission may waive the on-site runoff rate, volume and water quality control design criteria as noted above, if a municipality has an off-site stormwater facility that provides equivalent control and treatment of runoff that conforms to Commission standards.
- b) The design criteria for infiltration may be waived for sites with total impervious surface of less than one acre if infiltration BMPs have been incorporated to the maximum extent possible.

5. EXHIBITS. The following exhibits shall accompany the project review application (one set full size, one set reduced to a maximum size of 11" x 17", and one electronic set in pdf format). All plans must be signed by a licensed professional engineer registered in Minnesota.

- a) Property lines and delineation of lands under ownership of the applicant.
- b) Delineation of the subwatershed contributing runoff from off-site, proposed and existing subwatersheds on-site, emergency overflows and watercourses.
- c) Proposed and existing stormwater facilities location, alignment and elevation.
- d) Delineation of existing on-site wetland, marsh, shoreland and floodplain areas.

- e) Where infiltration or filtration is used as a stormwater management practice, identification, description, results of double-ring infiltrometer tests, and permeability and approximate delineation of site soils and seasonal high groundwater elevation in both existing and proposed as-developed condition.
- f) Existing and proposed ordinary high and 1% chance (100-year) water elevations on-site.
- g) Existing and proposed site contour elevations at 2-foot intervals, referenced to NAVD (1988 datum). If NAVD 1988 is not used, applicant must specify the datum used and the appropriate conversion factor.
- h) Construction plans and specifications of all proposed stormwater management facilities, including design details for outlet controls.
- i) Runoff volume and rate analysis for the 2-year, 10-year, and 100-year critical storm events, existing and proposed.
- j) Pre-construction and post-construction annual runoff volume (ac-ft), annual total phosphorus (lbs/yr), and annual total suspended solids (lb/yr).
- k) All hydrologic, water quality and hydraulic computations made in designing the proposed stormwater management facilities.
- l) A narrative describing the pre-and post-construction drainage conditions and the post-construction BMPs incorporated in the plans.
- m) Applications requesting a soil management credit must include a Soil Management Plan (SMP) that shall include an 11" x 17" or larger site map indicating areas where soils will be amended, and calculations for soil volumes to be stockpiled and amounts and specifications of amendment or topsoil to be imported to achieve specified minimum organic matter content.
- n) Delineation of any ponding, flowage or drainage easements, or other property interests, to be dedicated for stormwater management purposes.

6. MAINTENANCE. All stormwater management structures and facilities shall be maintained in perpetuity to assure that the structures and facilities function as originally designed. The owner of any water quality treatment device if not a governmental unit shall provide to the member city, in a form acceptable to the Commission, a recordable agreement detailing an operations and maintenance plan that assures that the structure(s) will be operated and maintained as designed.

7. EASEMENTS. The member city shall obtain from the applicant, in form acceptable to the Commission, recordable temporary and perpetual easements for ponding, flowage and drainage purposes over hydrologic features such as waterbodies, wetlands, buffers, floodplain, and stormwater basins and other permanent BMPs. The easements shall include the right of reasonable access for inspection, monitoring, maintenance and enforcement purposes.

8. **COVENANTS.** The Commission may require as a condition of project review approval that the member city shall require that the land be subjected to restrictive covenants or a conservation easement, in form acceptable to the Commission, to prevent the future expansion of impervious surface and the loss of infiltration capacity.

RULE E. EROSION AND SEDIMENT CONTROL

1. **POLICY.** It is the policy of the Commission to control runoff and erosion and to retain or control sediment on land during land disturbing activities by requiring the preparation and implementation of erosion and sediment control plans.
2. **REGULATION.** No person or political subdivision shall commence a land disturbing activity or the development or redevelopment of land for which a project review is required under Rule D without first submitting to and obtaining approval of a project review from the Commission that incorporates an erosion and sediment control plan for the activity, development or redevelopment.
3. **CRITERIA.** Erosion and sediment control plans shall comply with the following criteria:
 - a) Erosion and sediment control measures shall be consistent with best management practices as demonstrated in the most current version of the MPCA manual "Protecting Water Quality in Urban Areas," and shall be sufficient to retain sediment on-site.
 - b) Erosion and sediment controls shall meet the standards for the General Permit Authorization to Discharge Storm Water Associated with Construction Activity Under the National Pollutant Discharge Elimination System/State Disposal System Permit Program Permit MN R100001 (NPDES General Construction Permit) issued by the Minnesota Pollution Control Agency, except where more specific requirements are required.
 - c) All erosion and sediment controls shall be installed before commencing the land disturbing activity, and shall not be removed until completion.
 - d) The activity shall be phased when possible to minimize disturbed areas subject to erosion at any one time.
4. **EXHIBITS.** The following exhibits shall accompany the project review application (one set full size, one set reduced to a maximum size of 11" x 17", and one electronic set in pdf format). Erosion and sediment control plans must be prepared by a qualified professional.
 - a) An existing and proposed topographic map showing contours on and adjacent to the land, property lines, all hydrologic features, the proposed land disturbing activities, and the locations of all runoff, erosion and sediment controls and soil stabilization measures.
 - b) Plans and specifications for all proposed runoff, erosion and sediment controls, and temporary and permanent soil stabilization measures.



CITY OFFICE

2052 County Road 24, Medina, MN 55340-9790

ADMINISTRATION | PLANNING & ZONING | PUBLIC WORKS

p: 763-473-4643 f: 763-473-9359

e: city@ci.medina.mn.us

PUBLIC SAFETY

p: 763-473-9209 f: 763-473-8858

May 13, 2019

Dear Judie,

The City of Medina apologizes for commenting after the public hearing on the recommendation for the Elm Creek Watershed Management Commission to move forward with the Minor Plan Amendment Plan to spend \$75,000 in cost share for the purchase of an enhanced street sweeper.

The ECWMC member cities' fees, grant money and Ad Valorem taxes have traditionally been spent on water quality improvement projects, rather than on equipment that would typically be within a city's CIP budget item.

Item 5 of Plymouth's CIP Project Submittal form notes the effectiveness of vacuum sweeping as a Best Management Practice for preventing significant amounts of phosphorous, 65 pounds per sweep, nitrogen 435 pounds per sweep and chloride 11 pounds per sweep, from draining into waterways; such reductions of load are much to be desired. However, Medina needs more information before agreeing to this cost share and the City has the following questions:

- a) Upon what studies are the above figures based?
- b) Will Plymouth own one enhanced street sweeper to sweep the entire city?
- c) With this in mind, how frequently can the City of Plymouth hope to sweep its streets?
- d) Some 10 percent of Plymouth lies within the Elm Creek Watershed. Are the amounts that other Plymouth watershed are asked to contribute to the enhanced sweeper pro-rated for the curb-miles within their watersheds?
- e) Does this cost share support equipment that augments a regular street sweeper, or a vacuum-designed of sweeper?

The City of Medina is interested in enhanced street sweeping if it proves to be an effective tool in reducing pollution load into waterways. At this time, we need more information before the city of Medina can support the requested ECWMC cost share.

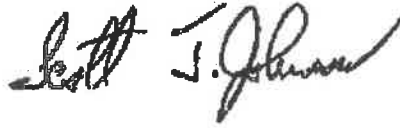
We look forward to learning more,

Yours Sincerely

Sincerely,

A handwritten signature in cursive script, appearing to read "Elizabeth Weir".

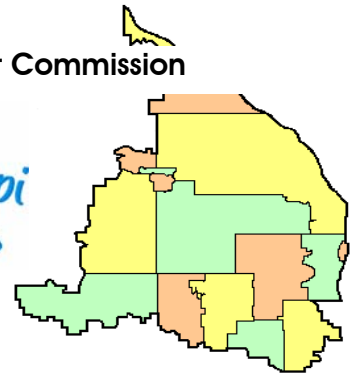
Elizabeth Weir
Elm Creek Commissioner

A handwritten signature in cursive script, appearing to read "Scott J. Johnson".

Scott Johnson
City Administrator



3235 Fernbrook Lane N • Plymouth, MN 55447
Tel: 763.553.1144 • Fax: 763.553.9326
Email: judie@jass.biz • Website: www.shinglecreek.org



Shingle Creek and West Mississippi Watershed Management Commissions Cost Share Policy for Capital Improvements DRAFT 6/25/19

The Shingle Creek and West Mississippi Watershed Management Commissions share the cost of watershed-priority capital improvements and demonstration projects through the Commissions' Capital Improvements Program (CIP). High-priority watershed capital improvements are those activities that go above and beyond general or routine city management activities to provide a significant improvement to the water resources in the watershed. This Cost Share Policy establishes the basis for and amount of Commission contribution to qualifying projects.

Capital Improvements

High priority activities that result in Wasteload Allocation reductions toward a TMDL, help solve a regional flooding problem, or are otherwise determined by the Technical Advisory Committee (TAC) and Commissions to be high priority are eligible to receive up to 25 percent of the final improvement cost in Commission cost-share, funded by the county ad valorem tax levied on all property in the watershed. The balance of the improvement cost, less any grant or other funds received, must be funded by the local government(s) participating in or benefiting from the improvement. *The Commissions' minimum share is \$50,000. There is no maximum share; the maximum is limited by the amount the Commission is willing/able to certify as a levy.*

Eligible improvements include both structural and nonstructural activities. Routine maintenance or localized improvements are not eligible for cost share. Thus, a local street flooding issue is not of watershed priority, but a local flooding issue that creates significant erosion and sedimentation impacting a downstream resource may be a watershed priority. Capital equipment that has been demonstrated to reduce loading of TMDL pollutants such as TP, TSS, or chloride, may be eligible if: 1) the equipment is new or an upgrade and not simply a replacement of existing equipment; 2) the equipment is to allow the member city to undertake a new or expanded load-reducing activity; and 3) use of the equipment for this load reductions must be supported by academic or governmental research. Examples of equipment purchase that may be eligible include equipment to begin or expand pre-wetting or anti-icing, or adding or upgrading to a regenerative air street sweeper. Only the incremental cost of such an upgrade would be eligible for cost share.

The Commissions have developed a set of criteria by which proposed activities may be scored, with only those that pass screening questions advancing to a prioritization stage by the Technical Advisory Committee (TAC). Prioritization will be based on cost effectiveness, amount of improvement achieved, and regional significance.

Activities of Watershed-Wide Benefit

The capital cost of activities addressing TMDL Load Allocation reductions and projects of watershed-side benefit may be funded 100 percent by the ad valorem tax levy. These types of activities include but are limited to:

- Lake Internal Load Reduction Actions
 - Alum treatments
 - Rough fish management
 - With Hennepin County and DNR concurrence, initial, whole-lake invasive aquatic vegetation management treatments performed for water quality, excluding those for recreation, aesthetics, or navigation
- Stream Internal Load Reduction Activities
 - Channel narrowing or creation of a low-flow channel to reduce sediment oxygen demand
 - Projects to increase DO at wetland outlets
- Non-TMDL Parameters (actions required by TMDLs not associated with a pollutant for which a numerical reduction of improvement can be specified)
 - Restoration or enhancement of in-stream habitat
 - Increases in channel roughness to enhance DO
 - Removal or bypass of barriers to connectivity
 - Streambank restoration below the top of the bank
- Other Watershed Benefiting Improvements as Recommended by the TAC

Guidelines

1. Capital improvements must be for water quality or ecological integrity improvement, and must be for improvement above and beyond what would be required to meet Commission rules or common practice. Only the cost of “upsizing” a BMP above and beyond is eligible.
2. Preexisting routine maintenance activities are not eligible.
3. The effectiveness of any proposed nonstructural improvements must be supported by literature or academic/practitioner experience and documentation.
4. The applicant must agree to document the effectiveness of any proposed nonstructural improvements and report those results to the Commissions for at least five years.
5. The standard Commission/Member Cooperative Agreement will be executed prior to BMP implementation. This Agreement will specify the type and adequacy of effectiveness reporting.

Elm Creek Watershed Management Commission

Cost Share Policy

To facilitate implementation of improvement projects within the watershed, the Elm Creek Watershed Management Commission's Joint Powers Agreement (JPA) and Section V of its Second Generation Watershed Management Plan provide for a Capital Improvement Program (CIP). The JPA also describes how the costs of capital projects shall be allocated.

The Management Plan proposes to share the cost of high-priority watershed capital improvements and demonstration projects through the CIP. High-priority watershed capital improvements are those activities that go above and beyond general city management activities and are intended to provide a significant improvement to the water resources in the watershed. To be considered for inclusion in the CIP, projects must be identified in a Commission-adopted management plan, approved TMDL, or member local stormwater plan or CIP.

In order to identify projects for inclusion on its Capital Improvement Program, the Elm Creek Watershed Management Commission will accept city proposals for cost-share projects until March 15 of every year. Following that date, the Commission's Technical Advisory Committee will review and score the submittals and make a recommendation regarding additions and revisions to the Commission's existing CIP at their regular May meeting.

The Commission has developed a set of criteria by which proposed projects will be scored, with those projects scoring a certain minimum number of points on the submittal form screening questions advancing to a prioritization stage. (Refer to the Commission's Capital Improvement Program Standards and Guidelines.)

Prior to consideration for funding, a feasibility study or engineering report must be written for the proposed project. The city acting as the lead agency for a proposed project will be responsible for the development of and the costs associated with the feasibility study/engineering report.

The Commission has elected to fund capital projects through an ad valorem tax levy. Under the authority provided by MN Stat 103B.251, Subd. 5, the Commission has the authority to certify for payment by the county all or part of the cost of an approved capital improvement. The Commission will pay up to 25 percent of the cost of qualifying projects. This amount will be shared by all taxpayers in the watershed, with the balance of the project cost being shared by the local government(s) participating in or benefiting from the improvement.

- a. The Commission's maximum annual share of an approved project is up to \$250,000.
 - 1) The Commission's share will be funded through the ad valorem tax levy – spread across all taxpayers within the watershed.
 - 2) The Commission will use a maximum annual levy of \$500,000 as a working guideline.
- b. The cities' share will be a minimum of 75% of the cost of the project. The basis of this apportionment will likely be unique to each project. The 75% share will be apportioned to the cities in the following manner or in some other manner acceptable to them. For example,
 - 1) The area directly benefiting from the project will be apportioned 25% of the cost of the project. This will be apportioned to cities based on the proportion of lake or stream frontage.

- 2) 50% of the cost of the project will be apportioned based on contributing/benefiting area.
- c. The cities will each decide the funding mechanism that is best suited to them for payment of their share, for example through special assessments, storm drainage utility, general tax levy, or watershed management taxing district.
- d. Funding from grant sources may also be used to help pay the costs of the capital projects.

The Elm Creek Watershed Management Commission may consider Commission- or City-generated requests to undertake subwatershed assessments (SWAs). Primarily, SWAs will be completed in rural areas suspected of being high-nutrient loading and will be specific enough to identify potential load-reducing projects. SWAs will be

- a. Identified in areas outside of the Municipal Urban Service Area (MUSA).
- b. Supported by the City in which the SWA is located.
- c. Undertaken at the discretion of the Commission.
- d. Funded by a \$15,000 maximum cap (grant or Commission funding) and a 20% match by the City requesting the SWA.

Contract No: _____

COOPERATIVE AGREEMENT

THIS AGREEMENT made and entered into by and between the COUNTY OF HENNEPIN, STATE OF MINNESOTA, (COUNTY), A-2300 Government Center, Minneapolis, Minnesota 55487, on behalf of the Hennepin County Environment and Energy Department, 701 Fourth Avenue South, Suite 700, Minneapolis, Minnesota 55415-1600, (DEPARTMENT) and the Elm Creek Watershed Management Commission, a joint-powers board organized under the Laws of the State of Minnesota, 3235 Fernbrook Lane, Plymouth, Minnesota, 55447, (COMMISSION).

RECITALS:

WHEREAS, the COMMISSION and the COUNTY, wish to protect natural resources within the Elm Creek watershed in Hennepin County, and

WHEREAS, the COMMISSION and the COUNTY benefit from a cooperative effort to protect these resources, and

WHEREAS, the COMMISSION wishes to retain the DEPARTMENT to provide technical services related to conservation promotion and education, technical assistance, monitoring, inventory and assessment and administrative services as set forth in the attached Exhibits, and

WHEREAS, the COMMISSION wishes to contribute to the volunteer monitoring programs and educational services performed by the DEPARTMENT in the Elm Creek watershed, and

NOW, THEREFORE, in consideration of the mutual undertakings and agreements hereinafter set forth, the COUNTY, on behalf of the DEPARTMENT, and the COMMISSION agree as follows:

1. **TERM AND COST OF THE AGREEMENT**

The DEPARTMENT agrees to furnish technical services set forth in the attached Exhibits to the COMMISSION commencing January 1, 2019 and terminating December 31, 2019.

The DEPARTMENT, in collaboration with the COMMISSION, will designate qualified staff to serve as technical advisors to the COMMISSION. Other DEPARTMENT personnel will be called upon as appropriate to the nature of the work.

In full consideration for services under this Agreement, the DEPARTMENT shall charge the COMMISSION for actual wages and personnel costs as set forth in Section 2. Costs for services for activities detailed in the attached Exhibits include:

Exhibit A: Technical Services: Not-to-exceed \$195,285.08

Exhibit B: Volunteer Monitoring/Educational Programs: Not-to-exceed \$7,000.00

Total 2019 Technical Service Agreement: Not-to-exceed \$202,285.08

Any additional costs for extended work load after the “not-to-exceed” limit has been reached, special studies, or capital projects, must be set forth in a written amendment to this Agreement and will be billed on an hourly basis set forth in Section 2.

2. **BILLING RATES AND PAYMENT FOR SERVICES**

- a) Services in Exhibit A are billed on an hourly basis at the rate of \$ 59.44 to \$74.12 per hour, based on personnel and task, except where exceptions are noted in Exhibit A.

| | |
|--|------------------|
| Professional Engineer, Water Resources | \$74.12 per hour |
| Sr. Environmentalist, Water Resources | \$65.40 per hour |
| Environmentalist | \$59.44 per hour |

b) Payment for services shall be made directly to the DEPARTMENT after completion of the services upon the presentation of a claim in the manner provided by law governing the COUNTY'S payment of claims and/or invoices. The DEPARTMENT shall submit an invoice for services provided in Exhibit A on a quarterly basis, while services in Exhibit B will be billed on an annual lump sum basis in December. Payment shall be made within thirty-five (35) days from receipt of the invoice.

- i. Any capital equipment or material expenses purchased as part of this Agreement shall be pre-approved by the COMMISSION, be billed as they are accrued, and shall be the property of the COMMISSION.

3. EQUAL EMPLOYMENT OPPORTUNITY- CIVIL RIGHTS

During the performance of this Agreement, the COUNTY agrees to the following:

No person shall, on the grounds of race, color, religion, age, sex, disability, marital status, public assistance, criminal record, creed or national origin, be excluded from full employment rights in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of and all applicable federal and state laws against discrimination including the Civil Rights Act of 1964.

4. STANDARDS

The COUNTY shall comply with all applicable Federal and State statutes and regulations as well as local ordinances now in effect or hereafter adopted. Failure to meet the requirements of the above may be cause for cancellation of this contract effective the date of receipt of the Notice of Cancellation.

5. INDEPENDENT CONTRACTOR

It is mutually understood that the DEPARTMENT acts as an independent contractor. The DEPARTMENT shall select the means, method, and manner of performing the services herein. DEPARTMENT employees shall not be considered to be either temporary or permanent employees of the COMMISSION.

6. INDEMNIFICATION

The COUNTY and the COMMISSION mutually agree, to the fullest extent permitted by law, to indemnify and hold each other harmless for any and all damages, liability or cost (including reasonable attorneys' fees and costs of defense) arising from their own negligent acts, errors or omissions in the performance of their services under this agreement, to the extent each party is responsible for such damages and losses on a comparative basis of fault. Parties agree to provide proof of contractual liability insurance upon request. This paragraph does not diminish, with respect to any third party, any defense, immunity or liability limit that the COUNTY or the COMMISSION may enjoy under law.

7. DATA PRACTICES

All data collected, created, received, maintained, or disseminated, or used for any purpose in the course of the COUNTY's performance of the Agreement is governed by the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13 (MGDPA) and all other applicable state and federal laws, rules, regulations and orders relating to data privacy or confidentiality, which may include the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and/or the Health Information Technology for Economic and Clinical Health Act (HITECH), adopted as part of the American Recovery and Reinvestment Act of 2009. The COUNTY agrees to abide by these statutes, rules and regulations and as they may be amended.

18. MERGER AND MODIFICATION

- a) The entire Agreement between the parties is contained herein and supersedes all oral agreements and negotiations between the parties relating to the subject matter. All items that are referenced or that are attached are incorporated and made a part of this Agreement. If there is any conflict between the terms of this Agreement and referenced or attached items, the terms of this Agreement shall prevail.
- b) Any alterations, variations, modifications, or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing as an amendment to this Agreement signed by the parties. The express substantive legal terms contained in this Agreement including but not limited to the License, Payment Terms, Warranties, Indemnification and Insurance, Merger and Modification, Default and Cancellation/Termination or Minnesota Law Governs may not be altered, varied, modified or waived by any change order, implementation plan, scope or work, development specification or other development process or document.

9. DEFAULT AND CANCELLATION

Either the COUNTY or the COMMISSION may terminate this Agreement with or without cause by giving the other party forty-five (45) days written notice prior to the effective date of such termination. If the COMMISSION terminates this Agreement, it may specify work to be performed by the COUNTY before termination is effective and shall pay the COUNTY for services performed by the COUNTY up to the time specified for termination. If the COUNTY terminates the Agreement, it will not be compensated for part completion of a task except to the extent part completion has value to the COMMISSION.

10. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

All property of the COMMISSION used, acquired or created in the performance of work under this Agreement, including documents and records of any kind, shall remain the property of the COMMISSION. The COMMISSION shall have the sole right to use, sell, license, publish, or otherwise disseminate any product developed in whole or in part during the performance of work under this Agreement.

11. CONTRACT ADMINISTRATION

In order to coordinate the services of the DEPARTMENT with the activities of the COMMISSION so as to accomplish the purposes of this Agreement, Karen Galles, Supervisor, Land and Water Unit, or his/her successor, shall manage this Agreement on behalf of the Department and serve as liaison between the COUNTY and the COMMISSION. COMMISSION

will designate in writing to the DEPARTMENT the name and telephone number of the person responsible for managing this contract on behalf of the COMMISSION.

12. AMENDMENTS TO AGREEMENT

This Agreement may be amended as agreed to by the COMMISSION and COUNTY in the form of an agreement amendment executed by both parties.

13. NOTICES

Any notice or demand which must be given or made by a party hereto under the terms of this Agreement or any statute or ordinance shall be in writing, and shall be sent registered or certified mail. Notices to the COUNTY shall be sent to the County Administrator with a copy to the originating Department at the address given in the opening paragraph of the Agreement. Notice to the COMMISSION shall be sent to the address stated in the opening paragraph of the Agreement.

14. MINNESOTA LAWS GOVERN

The Laws of the State of Minnesota shall govern all questions and interpretations concerning the validity and construction of this Agreement and the legal relations between the herein parties and their performance. The appropriate venue and jurisdiction for any litigation hereunder will be those courts located within the County of Hennepin, State of Minnesota. Litigation, however, in the federal courts involving the herein parties will be in the appropriate federal court within the State of Minnesota. If any provision of this Agreement is held invalid, illegal or unenforceable, the remaining provisions will not be affected.

COUNTY ADMINISTRATOR AUTHORIZATION

Reviewed by the County Attorney's
Office

COUNTY OF HENNEPIN
STATE OF MINNESOTA

Assistant County Attorney

By: _____
David J. Hough, County Administrator

By: _____
Assistant County Administrator - Public Works

Date: _____

Recommended for Approval

By: _____
Director, Environment and Energy Department

Date: _____

ELM CREEK WATERSHED MANAGEMENT COMMISSION

The COMMISSION certifies that the person who executed this Agreement is authorized to do so on behalf of the COMMISSION as required by applicable articles, bylaws, resolutions or ordinances.*

Printed Name: _____

Signed: _____

Title: _____

Date: _____

* COMMISSION shall submit applicable documentation (articles, bylaws, resolutions or ordinances) that confirms the signatory's delegation of authority. This documentation shall be submitted at the time COMMISSION returns the Agreement to the County. Documentation is not required for a sole proprietorship.

EXHIBIT A

2019 WATERSHED GENERAL TECHNICAL ASSISTANCE

TASKS

The Hennepin County Environment and Energy Department (DEPARTMENT) will provide Elm Creek Watershed Management Commission (COMMISSION) with a variety of technical assistances in support of its Watershed Management Plan and the Elm Creek TMDL.

Services are delivered on a time and materials basis, with a not-to-exceed amount of listed in Section 1 of this Agreement, except as may be authorized via separate work order or agreement amendment approved prior by both parties.

1. Meeting attendance

As requested by the COMMISSION, DEPARTMENT staff will attend regular Board and technical advisory committee (TAC) meetings and advise the COMMISSION regarding other technical issues that may come before the COMMISSION.

Estimated Effort:

A Water Resources Engineer and Senior Environmentalist will attend each Board and TAC meeting. Environmentalist will attend meetings as necessary. Assuming 12 Board meetings and 4 TAC meetings.

| | Estimated Hours | Estimated Cost |
|--------------------------|-----------------|----------------|
| Water Resources Engineer | 48 | \$3,557.76 |
| Senior Environmentalist | 48 | \$3,139.20 |
| Environmentalist | 24 | \$1,368.72 |

2. Site plan reviews

Per the request of the COMMISSION, DEPARTMENT staff will provide applicants with information regarding COMMISSION requirements, will oversee the work of COMMISSION engineering consultants, and collaborate with engineering consultants to review site development plans for compliance with Elm Creek watershed, state and federal requirements for erosion and sediment control, stormwater management, wetlands and floodplain protection. Prepare and present recommendations regarding plan approvals for the COMMISSION.

Estimated Effort:

| | Estimated Hours | Estimated Cost |
|--------------------------|-----------------|----------------|
| Water Resources Engineer | 400 | \$29,648.00 |
| Senior Environmentalist | 1000 | \$65,400.00 |

3. Wetland Conservation Act Assistance

Although the COMMISSION is no longer serving as the Wetland Conservation Act local government unit for its members, there will still be instances where it is in the COMMISSION'S best interest to send a representative to participate in the administration and enforcement of the Wetland Conservation Act. In these instances, DEPARTMENT staff will represent the COMMISSION'S interests and provide information and interpretation of the COMMISSION'S rules as they relate to the Wetland Conservation Act. Under no circumstances, will DEPARTMENT staff representing the COMMISSION take the place of LGU staff or consultants.

Estimated Effort:

| | Estimated Hours | Estimated Cost |
|-------------------------|-----------------|----------------|
| Senior Environmentalist | 120 | \$7,848.00 |

4. Respond to Inquiries from the public and conservation promotion

Due to the high priority nature of this work to the DEPARTMENT'S goals, DEPARTMENT agrees to request reimbursement for the following services at 50% the rate of other tasks. See agreement Section 2.

A. General outreach and assistance: At the request of the COMMISSION and/or as prompted by public inquiry, DEPARTMENT staff will reach out to landowners within the Elm Creek watershed to develop high priority water quality BMP projects, and respond to inquiries from the public to provide conservation program information, technical assistance, and information regarding COMMISSION requirements.

Estimated Effort:

| | Estimated Hours (COMMISSION) | Estimated Cost (COMMISSION) | Estimated Cost (DEPARTMENT) |
|------------------|---------------------------------|--------------------------------|--------------------------------|
| Environmentalist | 160 | \$4,755.20 | \$4,755.20 |

5. Rush Creek Subwatershed Project Implementation

As partners in the Rush Creek SWA Implementation Projects and Practices grant application, COMMISSION will contribute to cost sharing landowner BMP projects identified in the Rush Creek SWA and initiated under the grant program. Cost of this cost share contribution will be set for 2019 by the COMMISSION'S TAC. Total 2019 cost share contribution will be tracked by the DEPARTMENT and reported to the COMMISSION quarterly. Cost share contributions for 2019 will be invoiced to the COMMISSION and reimbursed to the DEPARTMENT in the first quarter of 2020.

6. Elm Creek Floodplain Mapping

As directed by the COMMISSION, DEPARTMENT staff will fulfill the obligations of an agreement with the Minnesota DNR to complete updated hydrologic and hydraulic analyses of the watershed in the service of creating and updated floodplain map.

Estimated Effort:

| | Estimated Hours | Estimated Cost |
|--------------------------|-----------------|----------------|
| Senior Environmentalist | 100 | 6,540.00 |
| Water Resources Engineer | 985 | 73,008.20 |

TOTAL ESTIMATED EFFORT

| | Estimated Hours | COMMISSION NTE |
|--------------------------------|-----------------|-------------------|
| Activity 1: Meeting attendance | 120 | \$8,065.68 |
| Activity 2: Site plan reviews | 1400 | \$95,048.00 |
| | | |

| | | |
|--|--------------|---------------------|
| Activity 3: Wetland Conservation Act Assistance (non-LGU) | 120 | \$7,848.00 |
| | | |
| Activity 4: Respond to public inquiries and conservation promotion | 160 | \$4,755.20 |
| | | |
| Activity 5: Rush Creek Subwatershed Project Implementation | N/A | N/A |
| | | |
| Activity 6: Elm Creek Floodplain Mapping | 1085 | 79,548.20 |
| Total (estimated) | 2,885 | \$195,285.08 |

EXHIBIT B

2019 VOLUNTEER MONITORING PROGRAMS AND EDUCATIONAL SERVICES

TASKS

The Hennepin County Environment and Energy Department (DEPARTMENT) will provide Elm Creek Watershed Management Commission (COMMISSION) with a variety of volunteer monitoring and environmental education and outreach oversight in support of its Watershed Management Plan and the Elm Creek TMDL.

Services are delivered on a time and materials basis, with a not-to-exceed amount listed in Section 1 of this Agreement, except as may be authorized via separate work order or agreement amendment approved prior by both parties.

1. Coordination of volunteer monitoring programs

The DEPARTMENT staff will coordinate the following volunteer water quality monitoring programs in the Elm Creek Watershed: River Watch; Wetland Health Evaluation Program (WHEP);

2. Volunteer Outreach

The DEPARTMENT staff, in collaboration with COMMISSION, will work to find school groups and/or adult volunteers to monitor up to three (3) designated stream sites for the River Watch program.

In addition, DEPARTMENT staff, in collaboration with COMMISSION, will work to find a team of adult volunteers to monitor up to four (4) designated wetland sites within the Elm Creek Watershed.

3. Volunteer monitor training and oversight

As part of the volunteer programs, DEPARTMENT staff will coordinate and offer training for each programs' monitoring and provide continual assistance in sample collection and identification.

4. Data quality assurance

The DEPARTMENT staff will provide all quality assurance checks on invertebrate and vegetative data for the Wetland Health Evaluation Program (WHEP), and all quality assurance checks on field and invertebrate data for the River Watch.

5. Reporting

Following the year's monitoring and compilation of collected data, DEPARTMENT will prepare an annual report of monitoring results and to COMMISSION.

6. Costs

- a) ***River Watch Program:*** The COMMISSION shall pay the DEPARTMENT \$1,000.00 per River Watch site for stream monitoring up to three (3) sites as part of the 2019 River Watch Program for data and educational services. Fees will be used to cover all training, equipment and transportation for the students to and from the site, Quality Assurance/Quality Control, reporting and presentations as requested. The total amount of work authorized by this Agreement for stream monitoring and educational services associated with the River Watch Program shall not-exceed three thousand dollars (\$3,000.00).

- b) ***Wetland Health Evaluation Program:*** The COMMISSION shall pay \$1,000.00 per monitored wetland site and \$1,000.00 per quality assurance re-check in 2019 for data and educational services related to the WHEP. The total amount of work authorized by this Agreement for wetland monitoring and educational services associated with the WHEP shall not-exceed four thousand dollars (\$4,000.00).

In 2019 the total for providing a variety of volunteer monitoring and environmental education and outreach oversight shall not-exceed seven thousand dollars (\$7,000).