

RCWD BOARD OF MANAGERS REGULAR MEETING AGENDA

Wednesday, October 9, 2019, 9:00 a.m.

Shoreview City Hall Council Chambers
4600 North Victoria Street, Shoreview, Minnesota

Agenda

CALL TO ORDER

ROLL CALL

SETTING OF THE AGENDA

APPROVAL OF MINUTES: SEPTEMBER 25, 2019 REGULAR MEETING.

CONSENT AGENDA

The following items will be acted upon without discussion in accordance with the staff recommendation and associated documentation unless a Manager or another interested person requests opportunity for discussion:

Table of Contents-Permit Applications Requiring Board Action

No.	Applicant	Location	Plan Type	Recommendation
19-082	2720 Fairview MKT LLC	Roseville	Final Site Drainage Plan	CAPROC 8 items

It was moved by Manager _____ and seconded by Manager _____, to approve the consent agenda as outlined in the above Table of Contents in accordance with RCWD District Engineer’s Findings and Recommendations, dated October 3, 2019.

OPEN MIKE

Any RCWD resident may address the Board in his or her individual capacity, for up to three minutes, on any matter not on the agenda. Speakers are requested to come to the podium, state their name and address for the record. Additional comments may be solicited and accepted in writing. Generally, the Board of Managers will not take official action on items discussed at this time, but may refer the matter to staff for a future report or direct that the matter be scheduled on an upcoming agenda.

ITEMS REQUIRING BOARD ACTION

1. Consider Intergovernmental Agreement with City of Forest Lake. (Nick Tomczik)
2. Consider Check Register dated October 9, 2019, in the amount of \$160,875.33 prepared by Redpath and Company.

ITEMS FOR DISCUSSION AND INFORMATION

1. District Engineer Update and Timeline.
2. Manager’s Update.

4325 Pheasant Ridge Drive NE #611 | Blaine, MN 55449 | T: 763-398-3070 | F: 763-398-3088 | www.ricecreek.org

**APPROVAL OF MINUTES: SEPTEMBER 25, 2019 REGULAR
MEETING.**

DRAFT

For Consideration of Approval at the October 9, 2019 Board Meeting.
Use these minutes only for reference until that time.

REGULAR MEETING OF THE RCWD BOARD OF MANAGERS

Wednesday, September 25, 2019

Shoreview City Hall Council Chambers
4600 North Victoria Street, Shoreview, Minnesota

Minutes

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CALL TO ORDER

President Patricia Preiner called the meeting to order, a quorum being present, at 9:00 a.m.

ROLL CALL

Present: President Patricia Preiner, 1st Vice-Pres. Barbara Haake, 2nd Vice-Pres. John Waller, and Treasurer Steven Wagamon.

Absent: Secretary Michael Bradley (with prior notice).

Staff Present: Interim District Administrator Nick Tomczik, Project Manager Kyle Axtell, District Technician Lauren Sampedro, Office Manager Theresa Stasica.

Consultants: District Engineer Chris Otterness from Houston Engineering, Inc. (HEI); District Attorney Louis Smith from Smith Partners.

Visitors:

President Preiner stated that the first action of the Board was to nominate an Acting Secretary for the meeting.

Motion by Manager Waller, seconded by Manager Wagamon, to nominate Manager Haake to serve as Acting Secretary. Motion carried 4-0.

SETTING OF THE AGENDA

Interim District Administrator Nick Tomczik asked to add an informational item under Items for Discussion as #2, to discuss Resolution 09-05 an internal policy on rule and permit enforcement.

Motion by Manager Haake, seconded by Manager Wagamon, to approve the agenda as revised. Motion carried 4-0.

31

32 **READING OF THE MINUTES AND THEIR APPROVAL**

33 **Minutes of the September 9, 2019 Workshop. Motion by *Manager Wagamon, seconded by Manager***
34 ***Waller, to approve the minutes as presented. Motion carried 4-0.***

35

36 **Minutes of the September 11, 2019 Board of Managers Meeting. Motion by *Manager Wagamon,***
37 ***seconded by Manager Haake, to approve the minutes as presented. Motion carried 4-0.***

38

39 **CONSENT AGENDA**

40 The following items will be acted upon without discussion in accordance with the staff recommendation and
41 associated documentation unless a Manager or another interested person requests opportunity for discussion:

42 **Table of Contents-Permit Applications Requiring Board Action**

43 No.	44 Applicant	45 Location	46 Plan Type	47 Recommendation
48 19-076	49 Barole Trucking	50 Roseville	51 Final Site Drainage Plan	52 CAPROC 6 items

45

46 Manager Haake stated that for years, Jones Lake has been a disaster and the people in that area are
47 always very worried. She stated that she knows that the District staff does a really good job and she trusts
48 them on this issue.

49

50 Interim District Administrator Tomczik stated that he appreciates Manager Haake bringing up Jones Lake.
51 He explained that the district’s rate control rule requires stormwater be held on site for a longer period of
52 time and let out slower to help reduce the flooding implications downstream; such as Jones Lake. He
53 noted that this outcome is able to be accomplished because of the District rule.

54

55 District Engineer Otterness stated that the District is working with the City of Roseville, St. Anthony and
56 New Brighton to evaluate projects in that corridor, including Jones Lake.

57

58 ***It was moved by Manager Haake seconded by Manager Wagamon, to approve the Consent Agenda***
59 ***item for permit 19-076 as outlined in the above Table of Contents in accordance with RCWD District***
60 ***Engineer’s Findings and Recommendations dated September 18, 2019. Motion carried 4-0.***

61

62 **PERMIT APPLICATIONS REQUIRING BOARD ACTION**

63 No.	64 Applicant	65 Location	66 Plan Type	67 Recommendation
68 19-086	69 Ken Zarling and Linda Menke	Shoreview	Final Site Drainage Plan	VARIANCE REQUEST & CAPROC 2 items

66

67 Interim Administrator Tomczik stated Ken Zarling, as one of the project applicants, has submitted a
68 written request for a variance from Rice Creek Watershed District (RCWD) Rule E.3(g), which requires
69 structures built within the 100-year floodplain to maintain a minimum of two feet of freeboard between

70 the lowest floor and the 100-year flood elevation. He stated that the project proposes to replace an
71 existing 10-foot x 16-foot detached boathouse/shed with a new 22-foot x 26-foot 2-car garage on a single-
72 family residence located at 5480 Lake Avenue, Shoreview MN. The property is approximately 1.14 acres,
73 of which 572± square feet will be disturbed. Impervious surface area will increase by 550± square feet.
74 The site drains west under Lexington Avenue to the Main Trunk of Ramsey County Ditch (RCD) 1 and then
75 to Rice Creek and ultimately to Long Lake, which is considered the Resource of Concern. He reiterated
76 that the District Rule E.3(g) requires structures built within the 100-year floodplain to maintain a
77 minimum of two feet of freeboard between the lowest floor and the 100-year flood elevation.

78
79 Manager Haake confirmed that the location in question is the gray area on the map and not right on
80 Turtle Lake.

81
82 Interim District Administrator Tomczik affirmed that is correct and is the landscape-based scale and is
83 based on Lidar radar, which is remote sensing for elevation and not definitively tied to the ground. He
84 noted that there is flooding that occurs from the back side in conjunction with the large wetland to the
85 west.

86
87 District Engineer Otterness stated that Turtle Lake is landlocked and for a 100-year event will overflow out
88 to the northwest and into the basin east of Lexington, which is why this basin has such a large, extensive
89 floodplain. He explained that it is only when the flow equalizes under Lexington Avenue that the water
90 level will finally start to go down in the area.

91
92 Interim District Administrator Tomczik stated the site is hydraulically connected to the floodplain
93 downstream of Turtle Lake, with a regulatory elevation of 891.7 (NAVD 88). The project proposes to
94 construct the garage at approximately elevation 890, which is 0.4 feet above the existing elevation and
95 1.7 feet below 100-year flood elevation. District Rule E.3(g), requires 2 feet of freeboard above the 100-
96 year flood elevation. The applicant has requested a variance from RCWD Rule E.3(g) for the lack of
97 freeboard. The proposed application is compliant with all other RCWD Rules.

98
99 Interim Administrator Tomczik stated the District Engineer evaluated the variance request by applying the
100 “practical difficulties” test set forth in the District’s variance rule. This standard is applied through the
101 Board of Managers’ consideration and weighing of the following criteria:

102 (a) How substantial the variation is in relation to District Rule requirement(s);

103 (b) the effect the variance would have on government services;

104 (c) whether the variance will affect a substantial change in the character of the watershed resources
105 or will be a substantial detriment to neighboring properties;

106 (d) whether the practical difficulty can be alleviated by a feasible method other than a variance
107 (economic considerations play a role in the analysis under this factor);

108 (e) how the practical difficulty occurred, including whether the landowner created the need for the
109 variance; and

110 (f) whether in light of all of the above factors, allowing the variance will serve the interests of justice.

111
112 Interim Administrator Tomczik stated ultimately, the Board determines whether consideration of the
113 above criteria supports approval of a variance. The Board may exercise discretion in analyzing the
114 applicant’s compliance with the variance criteria – both generally and with regard to application of the
115 individual variance (and other rule) criteria. The Board also may require input from legal counsel.
116 Nothing in the presented variance memorandum should be construed as rendering a legal opinion.

117
118 Interim Administrator Tomczik informed the Board that he would reiterate the above criteria and District
119 Engineer Otterness would reply with the District Engineer’s response.

120
121 Interim Administrator Tomczik asked per practical difficulties criterion (a), how substantial the variation is
122 in relation to the RCWD Rule requirement(s).

123
124 District Engineer Otterness replied: the applicant is proposing to construct the garage at approximately
125 elevation 890, which is 0.4 feet above the existing grade, but 1.7 feet below 100-year flood elevation.
126 District Rule E.3(g), requires 2 feet of freeboard above the 100-year flood elevation. The proposed garage
127 elevation is set at or slightly above the 50-year rainfall event.

128
129 Interim Administrator Tomczik asked per practical difficulties criterion (b) the effect the variance would
130 have on government services.

131
132 District Engineer Otterness replied: issuance of a variance for the 5480 Lake Avenue project is not
133 expected to increase the cost or difficulty of providing governmental services. The City of Shoreview has
134 already reviewed and issued a conditional use permit for this project, which does not allow the structure
135 to be used for any business purposes.

136
137 Interim Administrator Tomczik asked per criterion (c), which sets the criteria for consideration of whether
138 the variance will effect a substantial change in the character of resources within the watershed, the
139 District Engineer used three criteria to assess substantial change: 1) water quality, defined the quantity of
140 pollutants such as phosphorus and suspended sediment leaving the site and the potential for degrading
141 water quality downstream; 2) the presence of and potential impact to special and impaired waterbodies
142 as defined by various laws including the Minnesota Pollution Control Agency stormwater program,
143 whether a water body is impaired and related designations including Wild and Scenic or Outstanding
144 Natural Resource Value designations; and 3) flooding, the potential for flood damages or other adverse
145 hydrologic impacts.

146

147 Interim Administrator Tomczik continued: In assessing whether a substantial change in the character of
148 the watershed resources may occur, we considered, not exclusively but as a measure of impact, the
149 presence of and potential impact to the following:

- 150 • a 303(d) listed water body (i.e., an impaired water);
- 151 • a high quality or non-degraded wetland;
- 152 • a federally listed threatened or endangered species or state threatened, endangered or species of
153 special concern and their critical habitat;
- 154 • a Scientific and Natural Area as defined by the Minnesota Department of Natural Resources;
- 155 • resources protected from degradation as identified within 7050.0180 Non-degradation for
156 Outstanding Resource Value Waters; and
- 157 • Other generally sensitive resources.

158 District Engineer Otterness replied: The project is proposing a total of 8.8 cubic yards (CY) of fill within
159 the floodplain to raise the garage approximately 0.4-feet above the existing grade. This 8.8 CY of fill will
160 not change the 100-year flood elevation, thus per Rule E.3(e) floodplain mitigation of less than 10 cubic
161 yards does not require mitigation. Non-compliance with the freeboard requirements of Rule E.3(g) is
162 not expected to affect above mentioned watershed resource criteria. The project is currently compliant
163 with all other District Rules except for Rule E.3(g).

164
165 District Engineer Otterness stated: Per criterion (c) and whether issuing the variance has a negative
166 effect to the neighboring properties, we considered whether the granting variance will:

- 167 • cause or contribute to a change in the 100-year floodplain elevation immediately downstream or
168 upstream of the project site
- 169 • increase the frequency or magnitude of flood damages to adjacent properties; or
- 170 • increase hardship downstream from peak flow and flood duration.

171 Non-compliance with the freeboard requirements of Rule E.3(g) is not expected to have a negative effect
172 on neighboring properties and is allowable by RCWD Rules. Additional fill may impact drainage between
173 the properties.

174
175 Interim Administrator Tomczik asked: Per criterion (d), an assessment of whether the practical difficulty
176 can be alleviated by a feasible method other than a variance (economic considerations play a role in the
177 analysis under this factor) is necessary.

178
179 District Engineer Otterness replied: The plan proposes to use screw pilings and a floating concrete slab
180 which would place a total of 8.8 CY of fill in the floodplain to raise the garage approximately 0.4 feet
181 above the existing grade, and 1.7 feet below the 100-year flood elevation. The proposed plan causes
182 minimal land disturbance and does not propose the removal of any trees. The applicant's plan also
183 assumes the proposed garage structure will be inundated with water by 1.7 feet during the 100-year
184 flood.

185

186 District Engineer Otterness stated two alternative design options were considered to meet the freeboard
187 requirements of Rule E.3(g). The first used the same proposed location but raised the garage 3.7 feet up
188 to meet the required 2 feet of separation through the placement of fill. This would result in an
189 infeasible driveway slope of approximately 45% (3.7 feet of rise in 3.5 feet) due to the narrow lot and the
190 setback requirements of the city. Additionally, the applicant has indicated this option would place more
191 than 10 cubic yards of fill in the floodplain and that the it would be infeasible to mitigate on the property.

192

193 District Engineer Otterness stated the second alternative option would be to rotate the garage to face
194 south. This would allow for a more reasonable drive slope; however, it would require the placement of
195 additional fill in the floodplain that the applicant would not be able to mitigate as required by District rule
196 E3(e).

197

198 District Engineer Otterness stated due to the existing elevation of the property and the adjacent
199 floodplain, the majority of the property is below the 100-year flood elevation. As such, the applicant has
200 indicated that it would be infeasible to provide floodplain mitigation on the property. The District
201 Engineer concurs with this statement. As such, the applicant has raised the garage to the highest extent
202 possible while keeping flood plain impacts to a minimum and below the mitigation threshold. By
203 requesting the variance on freeboard requirement, the applicants have assumed the risk on their own
204 structure, rather than potential risk to their neighbors due to the increase in fill.

205

206 President Preiner asked how the District could control letting people know. She gave the example of a
207 landowner moving away and a new homeowner coming in that now has a garage under water.

208

209 Interim District Administrator Tomczik stated that if this approved by the Board, one of the proposed
210 conditions will be that it is recorded on the property that this structure is built below the 100-year flood
211 elevation.

212

213 Manager Waller asked how the District verifies that this has actually been recorded on the property.

214

215 Interim District Administrator Tomczik stated that it will be a condition and staff will look for a copy of the
216 recorded document before a permit is issued to begin the work.

217

218 Manager Haake asked if the existing garage has ever had any water in it.

219

220 Interim District Administrator Tomczik stated that the applicant indicated in their application that in the
221 years that they have been at this property there has never been a flooding incident.

222

223 District Engineer Otterness stated that he has heard numerous times throughout his career that a
224 structure has never flooded, and then shortly thereafter the structure has flooded. He stated that it is

225 frequently the case that a landowner has not experienced a 100-year event despite having resided at the
226 location for a substantial length of time.

227

228 Interim District Administrator Tomczik stated that he had been trying to find the exact language used in
229 the application about whether there had been flooding in the structure before and was unable to find it,
230 and asked the Board to take his recollection accordingly. He explained that the 100-year event has at 1%
231 change of occurrence every year and the elevation the structure is proposed to be built at is actually
232 slightly above the 50-year event, so there is a 2% probability that it will flood in any given year.

233

234 Interim Administrator Tomczik asked: Per criterion (e), we considered how the practical difficulty
235 occurred, including whether the landowner created the need for the variance requires consideration.

236

237 District Engineer Otterness replied: The District Engineer finds that the current landowner did not create
238 the circumstances which hinder the ability to build the garage above the floodplain elevation. The need
239 for variance is created by the applicant's desire to place a new garage on a property, and the applicant is
240 unable to do so without impacting available volume in the floodplain. Per the discussion above, the
241 applicant has indicated that the proposed project design is the most desirable and is willing to accept the
242 increase in potential risk of flooding to their own proposed garage, thus has requested variance from the
243 freeboard requirement of Rule E.3(g).

244

245 Interim Administrator Tomczik asked: In consideration of criterion (f), some determination of whether in
246 light of all of the above factors, allowing the variance will serve the interests of justice is necessary.

247

248 District Engineer Otterness replied: This criterion lies largely in the Board's domain as it involves
249 judgments of a non-technical nature. One criterion for assessing this portion of the practical difficulties
250 standard is the ability or inability of other permit applicants with similar site conditions to comply with the
251 District's freeboard requirements of Rule E.3(g). Other applicants have had the ability to feasibly meet
252 these requirements onsite, and the practical difficulties provided by the applicant are not unique to the
253 site and are shared by many of the surrounding properties at the northwest corner of Turtle Lake.
254 Another consideration is the relationship of the existing rule to the public interest. The intent of Rule
255 E.3(g) is not to protect a downstream resource, but rather to decrease the risk of damage to the
256 landowner's property. In this case, the applicant has demonstrated acceptance of the inherent
257 increased flood risk. With this in mind, if the Board decides to grant the variance request, it is our
258 recommendation that the applicant record on the property that the proposed garage was built with a
259 freeboard of 1.7 feet below the regulatory 100-year flood elevation which is non-compliant with RCWD
260 standard freeboard regulations.

261

262 ***It was moved by Manager Haake, and seconded by Manager Wagamon, to Approve the Variance***
263 ***request for variance application 19-086 as outlined in accordance with RCWD District Engineer's***
264 ***Variance Technical memorandum dated September 18, 2019. Motion carried 4-0.***

265

266 ***It was moved by Manager Haake, and seconded by Manager Waller, to CAPROC permit 19-086 as***
267 ***outlined in accordance with RCWD District Engineer’s Findings and Recommendations dated September***
268 ***18, 2019. Motion carried 4-0.***
269

270 **OPEN MIKE – LIMIT 12 MINUTES.** *Any RCWD resident may address the Board in his or her individual*
271 *capacity, for up to three minutes, on any matter not on the agenda. Speakers are requested to come to*
272 *the podium, state their name and address for the record. Additional comments may be solicited and*
273 *accepted in writing. Generally, the Board of Managers will not take official action on items discussed at*
274 *this time, but may refer the matter to staff for a future report or direct that the matter be scheduled on an*
275 *upcoming agenda.*

276 There were no comments by the public.
277

278 **ITEMS REQUIRING BOARD ACTION**

279 **1. Consider City of Columbus Local Water Management Plan.**

280 District Technician Lauren Sampedro stated that the City of Columbus submitted their revised local
281 water plan on September 16, 2019 which sufficiently addresses comments from the RCWD and the
282 Met. Council and is consistent with the District’s 2010 Watershed Management Plan. She
283 explained that Columbus has identified a few water resources issues including water quality and
284 water quantity issues. She noted that Columbus drains to several impaired waters within the
285 District boundary. She stated that there is existing flooding at ACD 10-22-32 (north of Pine Street)
286 and existing and future drainage issues in the ACD15/Freeway District. To help improve water
287 quality, the City of Columbus will participate in the District’s water quality efforts and encourage
288 BMPs that will help improve the impaired waters. She stated that the City of Columbus will also
289 implement and enforce its zoning and subdivision ordinances to assist in the protection and
290 improvement of these water resources. She stated that to address the water quantity issues, the
291 City of Columbus will evaluate regional stormwater treatment opportunities for ACD 10-22-32 and
292 ACD 15/Freeway District areas with the District. She noted that Columbus recently partnered
293 with the District on a regional stormwater management plan for the ACD15/Freeway District area
294 in order to evaluate potential stormwater projects, which is expected to be completed this year.
295 Staff finds that the City of Columbus’ local water plan is consistent with District and State
296 requirements and recommends approval.
297

298 ***Motion by Manager Wagamon, seconded by Manager Haake, to adopt Resolution 2019-27:***
299 ***Approve Columbus Local Water Management Plan.***
300

301 **THEREFORE BE IT RESOLVED,** that the RCWD Board of Managers hereby approves the City of
302 Columbus’ local water management plan, as submitted on September 16, 2019;
303

304 **ROLL CALL:**

305 ***Manager Waller – Aye***

306 ***Manager Haake – Aye***

307 **Manager Bradley – Absent**
308 **Manager Wagamon – Aye**
309 **President Preiner – Aye**
310 **Motion carried 4-0-1.**

311
312 **2. Consider Final Payment Rachel Contracting, Inc. for Hansen Park Project.**

313 President Preiner stated that she wanted to commend Project Manager Kyle Axtell for the speech
314 he gave at Hansen Park. She stated that she thought he did a great job and thanked him for all
315 the effort he put into getting this project completed.

316
317 Manager Waller stated that he felt it was a very nice celebration on September 24, 2019. He
318 stated that it was nice to walk across the pile and not see any obstruction to any of the views. He
319 stated that it was also nice to see the sand filter system functioning. He stated that there were a
320 lot of people in the park enjoying it and commended Project Manager Axtell for a job well done.

321
322 Project Manager Axtell stated that this was the most challenging project he has worked on in his
323 career but was happy to be involved in it. He stated that for the Board’s consideration today is
324 the final payment to Rachel Contracting. He stated that this pay request covers all the remaining
325 work, including Change Order #7 and the release of all retainage held on the contract. He stated
326 that the “keys” have been handed to the City of New Brighton’s public works department for
327 maintenance and management of their portions of the project. He stated that the total
328 construction cost for this project was just a hair over \$2.9 million, which was slightly over the
329 original contract and explained that there were significant weather issues and delays. He stated
330 that the representatives from Rachel Contracting and Houston Engineering that were on site
331 managing the project being flexible and handling the changes on a day-to-day basis during
332 construction was critical. He stated that if there had been a less flexible contractor working on
333 this project, it would have been a nightmare. He stated that Rachel Contracting and the City of
334 New Brighton staff were also outstanding. He noted that the overall project costs came in below
335 the original estimate that was provided to the Board by several thousands of dollars. He stated
336 that the overall public impression of the project has been overwhelmingly positive. He stated that
337 there was one issue at the end of the project when one of the subcontractors accidentally seeded
338 two of the iron enhanced sand filter beds. He stated that he has a notarized agreement from the
339 subcontractor’s owner that if there is additional weeding or plant management removal that
340 needs to be done, that they will help with that for the next two years. Staff recommends final
341 payment to Rachel Contracting in the amount of \$106,875.33.

342
343 Manager Haake complimented the City of New Brighton staff and Council for the ceremony that
344 was held yesterday. She asked how the two sand filters that had been seeded would be handled to
345 make sure nothing was taking hold.

346

347 Project Manager Axtell stated that this was frustrating because they had already gotten some
 348 natural weed growth on the sand filter beds. He stated that he and several other staff members
 349 have spent a lot of time weeding those beds which was a lot of work. He noted that they had
 350 just finished weeding and it was looking good when he discovered the seed and mulch over the
 351 two sand filter beds. He stated that he plans to keep an eye on it and if they see growth
 352 occurring in either of those two beds, they may let it grow a bit so it is easier to pull and will get
 353 the contractor back out there to take care of it.

354
 355 ***Motion by Manager Haake, seconded by Manager Waller, to approve Rachel Contracting, Inc.'s***
 356 ***pay requests as submitted and certified by the District Engineer and directs staff to issue a***
 357 ***payment in the amount of \$106,875.33. Motion carried 4-0.***

358
 359 **3. Consider Check Register dated September 25, 2019, in the amount of \$356,184.68 prepared by**
 360 **Redpath and Company.**

361
 362 ***Motion by Manager Wagamon, seconded by Manager Haake, to approve check register dated***
 363 ***September 25, 2019, in the amount of \$356,184.68, prepared by Redpath and Company.***
 364 ***Motion carried 4-0.***

365

366 **ITEMS FOR DISCUSSION AND INFORMATION**

367 **1. Staff Reports.**

368 Office Manager Stasica explained that she was filling in for Beth Carreño. She explained that she
 369 had distributed a memo from her regarding the District Administrator interview schedule and
 370 questions. She stated that there are two possible dates that have been identified for interviews:
 371 October 3, 2019 and October 4, 2019. She asked that the Board get back to Ms. Carreño on
 372 which date will work best for the Board and noted that Ms. Carreño plans to schedule the
 373 interviews all on the same day.

374

375 **2. Discussion of Resolution 09-05 – Internal Policy on Rule Enforcement.**

376 Interim District Administrator Tomczik stated that he wanted the Board to discuss resolution 09-05
 377 because there has been discussion around sending letters when there has been a violation. He
 378 read aloud from the policy that states, "The Board of Managers may amend this policy or make
 379 exceptions to it as it deems appropriate." He stated that the policy outlines different scenarios
 380 that may come up and reviewed the policy statement for when there is a CAPROC that has had
 381 work started without the permit and noted that if there has been no response within 10 days, staff
 382 will issue a Compliance Order letter. He stated that he wants to make sure that the Board and
 383 staff are aligned. He stated that currently staff is sending the typical 10-day letter, which in most
 384 cases resolves the issue. If the issue is not resolved, staff is proposing to send a second letter
 385 that will be from the the District Administrator or district counsel to support enforcement of the
 386 rule and permit to the situation. He noted that if this effort should not yield the desired outcome
 387 then the issue would move into the Compliance Hearing which is a bit more labor and time

388 intensive for staff. He explained that he is looking for general consensus from the Board that this
389 an acceptable way to move forward in this situation.

390
391 Manager Haake stated that her understanding is that a letter goes out with a time limit of 10 days
392 and then an additional letter goes out with a little more force, written on an attorney's letterhead
393 from either the District Attorney or the District Administrator. She asked what Interim District
394 Administrator Tomczik was specifically asking for the Board to consider.

395
396 Interim District Administrator Tomczik stated that he is asking for Board consensus that after the
397 first 10-day letter, staff would like to insert a second letter from the District Administrator or
398 district counsel that will have an enforcement position and moving into a Compliance Hearing.
399 He noted that the first letter comes from the inspector.

400
401 Manager Haake asked if they were given another 10 days in the second letter to comply.

402
403 Interim District Administrator Tomczik stated that it would depend on the situation, but would
404 likely contain a deadline for compliance and if it warrants it, would set a date for a compliance
405 hearing for the next fold of enforcement. He explained that the second letter will obviously
406 provide some time for the party to respond. He stated that the intent of the second letter is to
407 show an elevated position from the District of the need to come into compliance and that
408 continued non-compliance will result in a hearing before the Board.

409
410 President Preiner asked if that new procedure should be written in the policy for rule
411 enforcement.

412
413 Interim District Administrator Tomczik stated that the intent was for staff to be transparent and
414 make sure the Board was aware of the additional letter within the process. He stated that
415 recently, staff has sent letters after consulting with the board instead of coming to the Board for
416 the Compliance Hearing process.

417
418 Manager Haake stated that she thinks it is a great idea and supports including the second letter in
419 the policy.

420
421 Manager Waller asked if the second letter would be sent without going to the District Attorney's
422 office.

423
424 Interim District Administrator Tomczik stated that he feels it could be either way, but he
425 recommends that it is either the District Administrator or the District Attorney, depending on the
426 circumstances. He stated that there are two situations that he will share a bit more on later in
427 the agenda. He stated that one of them is regarding the applicability of the Districts regulation,

428 which staff felt it best for the letter to come from the District Attorney and the other is regarding
429 application of the rule on the site, and that letter will come with the District Administrator.
430

431 Manager Waller stated that if the District is going to start inserting the second letter on a regular
432 basis, he would have no problem inserting that into the official rule. He stated that he does feel
433 that the second letter should come from the District Administrator prior to going to the District
434 Attorney's office.
435

436 President Preiner stated that she thinks that decision should be the District Administrator's call.
437

438 Manger Haake stated that she agreed and would be comfortable with the District Administrator
439 deciding which one would be more effective.
440

441 Manager Wagamon stated that he agreed that this decision can be made by the District
442 Administrator.
443

444 Manager Waller stated that he feels the legal compliance issues happen after the second letter.
445 He stated that he feels the second letter is strike two and if there still isn't compliance then it is
446 strike three, your out, and the District Attorney steps in with legal action.
447

448 President Preiner, Manager Wagamon and Manager Haake reiterated their opinion that the
449 decision on who the second letter should come from should be made by the District Administrator.
450

451 Interim District Administrator Tomczik stated that consensus of the Board will be sufficient and
452 reiterated that he just wanted to be transparent about staff intended actions. He stated that he
453 understands Manager Waller's viewpoint and asked District Attorney Smith if he had a distinction
454 to share where it may make sense for the letter to come from legal counsel rather than the District
455 Administrator. He noted that the desired outcome is that the second letter gets some action and
456 compliance with the District rules.
457

458 District Attorney Smith stated that as a backdrop, the District's policy on enforcement of rule, how
459 the permit program, and variances are really modeling best practices, so the Board should have
460 confidence that the way they are operating is really sound. He stated that when there are rule
461 violations, what he is looking for is the use of prosecutorial discretion and what the Interim District
462 Administrator is bringing to the Board is making sure the Board is comfortable with how that
463 discretion is being exercised. He stated that it is also to make sure the Board is engaged in the
464 appropriate way to guide these enforcement actions. He explained that the Board wants to
465 balance the oversight and parameters on how the discretion is exercised, but also leave it to the
466 District Administrator to be able to make judgements about what is appropriate in different
467 circumstances. He stated that the violations can vary quite widely from a serious problem such
468 as disregarding the District's jurisdiction and posing a threat to the water resources to more

469 administrative compliance and paperwork violations. He stated that the Board should look to
470 the District Administrator to make judgements along the way to see when it is time to engage legal
471 counsel, hold a hearing, or when it is time to go to court. He stated that the polices give the
472 District Administrator some guidance and steps to take, but also discretion. He stated that, in
473 general, he thinks that there are some applicants who will wait a long time to bring something into
474 compliance and it is a notice from an attorney that makes them realize that they will start to spend
475 more money on non-compliance than compliance and it is time to comply. He stated that in
476 general, the practice has been to avoid the involvement of legal counsel as much as possible and
477 he thinks leaving this with the discretion of the District Administrator is a sound approach.

478
479 Manager Haake stated that she feels it should be left at the discretion of the District Administrator
480 as long as there are sidewalls of what staff can do. She stated that she would like it to state and
481 acknowledge that it will be up to the District Administrator to decide if the letter needs to be from
482 the District Attorney or the District Administrator.

483
484 Interim District Administrator Tomczik stated that the resolution already has the discretionary
485 statement about staff being able to use their judgement. He stated that staff will amend the
486 resolution to show the insertion of the second letter in the process and bring it back for Board
487 approval.

488
489 Interim District Administrator Tomczik stated that there are two sites that are concerning to staff
490 where the inspector has engaged the developer or landowner. He stated that in the first instance,
491 it is the developer's belief that they do not need a permit and our inspector has told them
492 otherwise and defined why. He stated that information was communicated weeks ago and the
493 District has yet to receive any additional permit application information. He stated that staff
494 would like to send a letter and say definitively that a permit is needed. He stated that this
495 situation is from a development at 213 Park Avenue in Mahtomedi associated with District File 19-
496 155R.

497
498 Interim District Administrator Tomczik stated that the second site relates to 34 Dellwood Road in
499 Dellwood. He stated that there is an ongoing issue with a concrete wash out where the inspector
500 has identified that just dumping the concrete waste on the ground is not consistent with the
501 regulation and contamination can infiltrate or direct surface runoff to White Bear Lake. He
502 stated that this is an ongoing issue and the letter sent will ask them to complete the work in
503 October 2019. He said when it is inspected at that time, and when noncompliant staff would like
504 to bring this to the Board for a compliance hearing.

505
506 Interim District Administrator Tomczik stated that the Board has discussed CSAH 12 in the past.
507 A number of landowners in the area have expressed concern about the current condition. He
508 stated that the Washington Conservation District has been engaged by the County to assist them
509 in best management practice on the site. He stated that the inspector stated that things are

510 better and the discharges have not been happening. He noted that some of the event was under
511 4 inches of rain. He stated that the District has contacted the landowners and have been
512 discussing the District's role in this situation.

513
514 Interim District Administrator Tomczik stated that Washington County has contacted the District
515 regarding the 2020 Watershed Management Organization budget presentation to the Washington
516 County Board of Commissioners which will take place on October 15, 2019 after the 9:00 a.m.
517 regular meeting; so roughly at around 10:00 a.m. He stated that staff has submitted the District's
518 budget and a slide with the activities in the area, issues in the area, and how the District is doing in
519 our portion of Washington County.

520
521 President Preiner stated that in past years that meeting has been posted because some of the
522 members wanted to attend.

523
524 **3. October Calendar.**
525 Interim District Administrator Tomczik noted that the JD3 landowner meeting will be held on
526 October 8, 2019 at 6:30 p.m.

527
528 **4. Managers Update.**
529 Manager Wagamon stated that regarding the variance issue that the Board discussed today, he
530 would like to schedule a discussion about variances at an upcoming workshop. He stated that
531 the request today seemed to be a perfect example of one that possibly could have been taken
532 care of by the District Administrator without coming to the Board.

533
534 President Preiner clarified that he would like to take a look at what trips the threshold for coming
535 to the Board versus being taken care of by staff.

536
537 Manager Haake stated that she believes that variance requests always come before the governing
538 body, whether it be a Board or a City Council.

539
540 President Preiner stated that this can be brought to a workshop for further discussion and asked
541 District Attorney Smith to be prepared to give a little insight onto whether a variance always needs
542 to come before the Board or if there are situations where it can be handled at the staff level.

543
544 District Attorney Smith stated that variances usually do go before the governing body, such as the
545 Board, but there could be a rule revision that may create a situation where a variance wouldn't be
546 necessary.

547
548 President Preiner asked that this be added to a future workshop agenda.

549

550 Manager Waller stated that the water is flowing rapidly out of White Bear Lake and coming out of
551 both pipes with large dead carp laying nearby. He noted that he had attended the legislative
552 subcommittee meeting this month. He stated that Representative Torkelson made a comment
553 that he thought was really important which was, "It is not just a question of stormwater on the
554 land that we are receiving, but we are actually having more rain, so we have to make sure that the
555 stormwater infrastructure works so they can handle more rain." He explained that much of the
556 stormwater infrastructure was designed 100 years ago and was designed before internal
557 combustion engines and it's not really designed for the capacity that it is facing. He stated that
558 on the front page of the Minneapolis Star Tribune newspaper there was a large article about the
559 problems with stormwater here in the metro area and particularly focused on the Little Canada
560 area. He stated that one of the things included in the article was a graph that showed records
561 going back to 1895 and also stated that the average rainfall between 1895 and present time has
562 increased in inch. He stated that he also had a resident contact him and report on Wood Lake
563 located in Mounds View.

564
565 Manager Haake explained that Wood Lake is now called Spring Lake.

566
567 Manager Waller stated that the resident stated that the lake is in disastrous condition and has
568 been used as a stormwater pond. He stated that she explained that they are running a pipe into it
569 and it needs some attention.

570
571 Manager Haake stated that this may be a different lake than she was thinking because those are
572 common names.

573
574 Interim District Administrator Tomczik noted that the District revised its rules to utilize what is
575 called Atlas 14 which is a capture of the more recent rain events and has recently been updated.

576
577 District Engineer Otterness stated that the previous rainfall standard that the District and the rest
578 of the engineering and scientific world in Minnesota used was called TP40 which was developed in
579 the 1960s to determine anticipated rainfalls especially for large magnitude events. He stated
580 that in more recent years, Atlas 14 came out which prompted the District to use more modern
581 standards in evaluating permits and projects. He stated that changing from using TP40 to Atlas 14
582 has effectively changed the 100-year rainfall being used for hydrologic analysis in the District from
583 5.9 inches, up to a range across the District between 7 and 7.4 inches for rainfall. He stated that
584 there is no crystal ball to be able to see what will happen in the future because there is a lot of
585 variability but the best information the District has at this time is the Atlas 14 rainfall information.

586
587
588 **ADJOURNMENT**

589 ***Motion by Manager Waller, seconded by Manager Wagamon, to adjourn the meeting at 10:10 a.m.***
590 ***Motion carried 4-0.***

CONSENT AGENDA

The following items will be acted upon without discussion in accordance with the staff recommendation and associated documentation unless a Manager or another interested person requests opportunity for discussion:

Table of Contents-Permit Applications Requiring Board Action

No.	Applicant	Location	Plan Type	Recommendation
19-082	2720 Fairview MKT LLC	Roseville	Final Site Drainage Plan	CAPROC 8 items

It was moved by Manager _____ and seconded by Manager _____, to approve the consent agenda as outlined in the above Table of Contents in accordance with RCWD District Engineer's Findings and Recommendations, dated October 3, 2019.

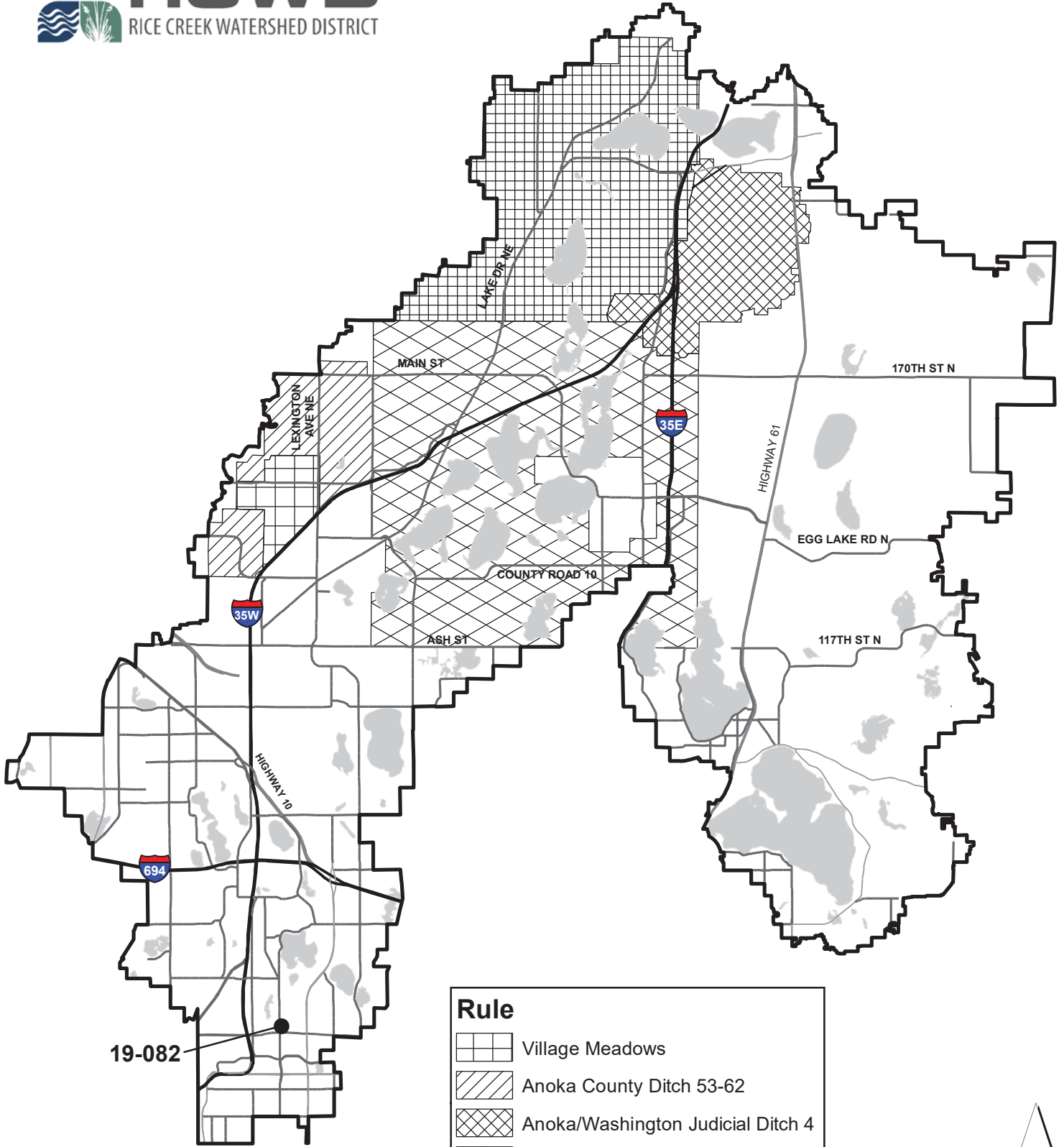
**RICE CREEK WATERSHED DISTRICT
CONSENT AGENDA**






October 9, 2019

It was moved by _____ and seconded by _____ to Approve, Conditionally Approve Pending Receipt Of Changes, or Deny, the Permit Application noted in the following Table of Contents, in accordance with the District Engineer’s Findings and Recommendations, as contained in the Engineer’s Findings and Recommendations, as contained in the Engineer’s Report dated October 3, 2019.

TABLE OF CONTENTS

<u>Permit Application Number</u>	<u>Applicant</u>	Page	Recommendation
Permit Location Map		20	
19-082	2720 Fairview MKT, LLC/ 2720 Fairview Partners, LLC	21	CAPROC



Rule	
	Village Meadows
	Anoka County Ditch 53-62
	Anoka/Washington Judicial Ditch 4
	Lino Lakes CWPMP
	Columbus CWPMP





WORKING DOCUMENT: This Engineer's report is a draft or working document of RCWD staff and does not necessarily reflect action by the RCWD Board of Managers.

Permit Application Number:

19-082

Permit Applicant Name:

Tareen Dermatology & Roseville Apartments

Applicant/Landowners:

2720 Fairview MKT LLC
Attn: Jim Lavalley
2416 Edgcumbe Road
St. Paul, MN 55116
Ph: 612-751-1919
lavalleyjim@comcast.net

Permit Contact:

Civil Site Group
Attn: David Knaeble
4931 W. 35th Street Suite 200
St. Louis Park, MN 55416
Ph: 763-234-7523
dknaeble@civilsitegroup.com

2720 Fairview Partners, LLC
Attn: Paul Keenan
1710 W. Lake St. Suite 200
Minneapolis, MN 55408
Ph: 612-314-4325
pkeenan@reuterwalton.com

Project Name: Tareen Dermatology & Roseville Apartments

Purpose: FSD – Final Site Drainage; Redevelopment of an existing commercial office building into two new 40,000 SF commercial office building and 117 +/- unit multifamily residential building.

Site Size: 5.79± acre parcel / 5.22 ± acres of disturbed area; existing and proposed impervious areas are 3.66± acres and 3.68± acres, respectively

Location: 2720 Fairview Ave North, Roseville

T-R-S: SE ¼, Section 4, T29N, R23W

District Rule: C, D, I

Recommendation: CAPROC

It is recommended that this Permit Application be given Conditional Approval Pending Receipt of Changes (CAPROC) and outstanding items related to the following items.

Rule D – Erosion and Sediment Control

1. Submit the following information per Rule D.4:

- (c) Name, address and phone number of party responsible for maintenance of all erosion and sediment control measures.
- (h) Provide documentation that an NPDES Permit has been applied for and submitted to the Minnesota Pollution Control Agency (MPCA).

Rule I – Drainage Systems

2. Applicant must not place any new trees within the public drainage system right-of-way.

3. Applicant must provide a drainage system maintenance easement from the east property line to a minimum of 25-foot from top of bank west of the ditch specifying and encompassing a District right of maintenance access for the public drainage system. The easement document must indemnify the District for any added cost of maintenance due to the existence of applicant's improvements within the easement area, and hold the District harmless for any damage to the improvements caused by maintenance within the easement. In addition, the easement will provide for the applicant to bear the cost of off-site disposal of dredged spoils from maintenance.

Administrative

4. Send one final, signed 11x17 sized plan set to the District, and e-mail a full-sized pdf copy to both the District and the District Engineer. Include a list of changes that have been made since approval by the RCWD Board. Applicant must label EOF on final plans.
5. The applicant must submit a Draft Declaration for Maintenance of Stormwater Management Facilities acceptable to the District for proposed onsite stormwater management and pretreatment features.
6. The applicant must provide an attested copy of any and all signed and notarized legal document(s) from the County Recorder. Applicant may wish to contact the County Recorder to determine recordation requirements prior to recordation.
7. The applicant must submit a cash surety of \$17,700 along with an original executed escrow agreement acceptable to the District. If the applicant desires an original copy for their records, then two original signed escrow agreements should be submitted. The applicant must provide the first \$5000 in the form of a check and has the option of providing the remainder of the surety amount in the form of a check or a Performance Bond or Letter of Credit. The surety is based on \$3,000 for 5.22 acres of disturbance and \$14,700 for 29,406 CF of storm water treatment.
8. The applicant or contractor must provide a construction schedule for the underground system (or communicate when the schedule will be provided). See Stipulation 3.

Stipulations: The permit will be issued with the following stipulations as conditions of the permit. By accepting the permit, applicant agrees to these stipulations:

1. Provide an as-built survey of all stormwater BMPs (ponds, rain gardens, trenches, swales, etc.) is to be submitted to the District for verification of compliance with the approved plans before return of the surety.
2. Provide an as-built survey of the invert elevations of culverts on RCD 4 to verify location and elevation with the approved plans.
3. RCWD inspector must be notified prior to installation of underground system.

Exhibits:

1. Revised plan set containing 21 sheets dated and received 9-26-2019.
2. Plan sheet showing proposed ditch easement dated 9-10-2019 and received 8-12-2019.
3. Permit application dated and received 8-12-2019.
4. Revised permit application with new landowner, dated and received 9-13-2019
5. Revised Stormwater Calculations (Rev. 2), dated and received 9-26-2019, containing narrative, drainage maps, HydroCAD report for the 2-year, 10-year, and 100-year rainfall events for proposed and existing conditions. Original calculations were dated 6-14-2019 and received 8-12-2019, rev 1 dated 9-10-2019 and received 9-11-2019.

6. Geotechnical report dated 1-16-2019 and received 8-12-2019.
7. Easement Agreement submitted and received 9-19-2019.

Findings:

1. Description – The applicant is proposing to demolish the existing building and parking lot to construct two new buildings, including multi-family living and amenities, and corresponding parking and driving areas on a 5.79± acre parcel in Roseville. Existing and proposed impervious areas are 3.66± acres and 3.68± acres, respectively. The project will disturb 5.3± acres overall. The majority of the site drains east directly to Ramsey County Ditch (RCD 4). The remainder drains west to the storm sewer in Fairview Avenue which discharges to RCD 4 and to Little Johanna, the Resource of Concern. The applicant has submitted a \$3,750 application fee, which corresponds to 3.68± acres of new/redeveloped impervious surface and 5.22± acres of land disturbance. The applicant is not charged for Rule I since the work is only occurring within the public drainage system right-of-way and not altering the channel profile.
2. Stormwater – The applicant is proposing the BMP as described below for the project:

Proposed BMP Description	Location	Pretreatment	Volume provided	EOF
Subsurface Filtration System	Central Property	Isolator Row	29,550± cubic feet below the outlet	916.68 (to be verified)

Soils on site are primarily fill and clay sands (HSG D) soils. Thus, infiltration is not considered feasible and filtration is acceptable to meet the water quality requirement. Per Rule C.6(c)(1), the Water Quality requirement is 2.2-inches over the new/reconstructed area (3.68± acres) for a total requirement of 29,406± cubic feet. Adequate pre-treatment has been provided. Drawdown is expected within 72-hours using an appropriate rate of 0.8 inches per hour. 18-inches of sand has been provided above the drain tile. The seasonal high-water table is estimated at elevation 905.5, which provides adequate separation. The applicant has treated 92% of the project area. Additional TSS removal is not practicable. The applicant has met all the Water Quality requirements of Rule C.6 and the design criteria of Rule C.9(c).

Drainage Area	2-year (cfs)		10-year (cfs)		100-year (cfs)	
	Existing	Proposed	Existing	Proposed	Existing	Proposed
West (PR1 and 5)	4.2	0.7	6.7	1.3	12.3	2.8
RCD 4 (PR2/BMP & 3 4)	14.1	3.1	23.7	6.8	45.5	28.9
Totals	18.3	3.8	30.4	8.1	57.8	31.7
80% of existing	14.6		24.3		46.2	

The project is located within the Flood Management Zone. The submitted information indicates that the project does not increase peak runoff rates in compliance with District Rule C.7.

The applicant has complied with the freeboard requirements of Rule C.9(g).

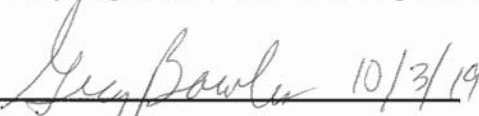
The Main Trunk of Ramsey County Ditch (RCD) 4 lies along the eastern edge of the property. Rule C.10(b) requires that the applicant convey to the District an easement for maintenance access that has a width that, at a minimum, extends at least 16.5 feet from the top of bank. The engineer's judgment in the present case is that an easement that extends 25 feet from the top of bank is necessary. The applicant seeks to construct certain improvements within the easement area, including play area, parking area with curb and gutter, and a subsurface storm sewer outlet pipe.

The engineer finds that these improvements, if constructed per approved plan, will not compromise the stability or function of the ditch. However, they may obstruct, or be damaged by, the District's operation within the easement area for RCD 4 maintenance. The engineer recommends that if the District permits the applicant to construct and maintain the improvements within the maintenance easement, it require that the applicant hold the District harmless for any damage that it causes to the improvements, and indemnify the District for any excess cost that the District incurs to work around those improvements. The applicant has indicated that it concurs with those conditions.

The applicant also has expressed the preference that spoils from ditch maintenance not be disposed of within the right of way along the ditch. The applicant has agreed to bear the cost to transport and dispose of the spoils in another lawful location. The engineer recommends that this be stated in the easement as well.

3. Wetlands – There are no wetlands located within the project area.
4. Floodplain – The site is not in a regulatory floodplain.
5. Erosion Control – Proposed erosion control methods include silt fence, rock construction entrances, inlet protection and rip rap. A NPDES permit is required for the project. The SWPPP is located on plan sheets SW1.0-SW1.5. The information listed under the Rule D – Erosion and Sediment Control section above must be submitted. Otherwise, the project complies with RCWD Rule D requirements.
6. Bridges and Culvert Crossing/Drainage Systems – The Main Trunk of RCD 4 runs along the east side of the property. The applicant is proposing work within the public drainage system right-of-way which includes a storm sewer outlet pipe, curb, gutter, parking, and a play area. The right-of way encompasses the area from the east property line to 25-foot from top of bank west of the ditch. The connection and proposed project features will not alter the profile of the ditch, and therefore the project is compliant with Rule I.
7. Documenting Easements and Maintenance Obligations – Applicant must meet the easement and maintenance obligations per requirements 3, 6 and 7. Applicant must provide a draft maintenance declaration for approval, and a receipt showing recordation of the approved maintenance declaration. Roseville does not require easements on private stormwater management facilities.
8. Previous Permit Information – No previous permit information was found for this site.

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Registered Professional Engineer under the laws of the state of Minnesota.

 10/3/19


Greg Bowles, MN Reg. No 41929

 10-3-19

Katherine MacDonald, MN Reg. No 44590



Legend

-  Project Location
-  Public Ditch - Open Channel
-  Public Ditch - Stormsewer



ITEMS REQUIRING BOARD ACTION

1. Consider Intergovernmental Agreement with City of Forest Lake.
(Nick Tomczik)

Motion by _____, to authorize the President to enter Rice Creek Watershed District into an agreement with the City of Forest Lake to undertake a Regional Planning Study (JD4 & JD2 Drainage Areas), with any non-substantial modification as reviewed by District Counsel.

**AGREEMENT BETWEEN THE
RICE CREEK WATERSHED DISTRICT AND THE
CITY OF FOREST LAKE**

Regional Planning Study (JD4 & JD2 Drainage Areas)

THIS AGREEMENT is made and entered into by and between the Rice Creek Watershed District ("District") and the City of Forest Lake ("City") . The parties agree as follows:

1. SCOPE OF AGREEMENT

- 1.01 The District and the City agree to undertake a regional drainage planning study for a part of the City that drains to Judicial Ditch (JD) 4 and JD 2 ("Study"). The purpose of the Study is to establish the present hydraulic and hydrologic characteristics of the Study area and to prepare for sound management of altered hydrology resulting from the City's anticipated development within the area.
- 1.02 The District is not obligated to further project funding or participation beyond the scope of this Agreement, though Study outputs and recommendations may be incorporated into the District's watershed management plan or other District work elements at the District's discretion.
- 1.03 The Study may produce work product relevant to future District activity, including but not limited to the District's evaluation of future permit applications within the Study area, evaluation of a comprehensive stormwater management plan proposed by the City, or exercise of its authority and responsibilities as drainage authority for JD 4 and JD 2. In all such cases the District will give appropriate weight to this work product, but will retain full judgment and discretion to make technical findings and otherwise exercise decision making authority with respect to the specific matter before it.

2. SPECIFIC SCOPE OF SERVICES

2.01 The City will undertake the Study to support the efficient implementation of regional stormwater management infrastructure, with participation and technical support from the District. The City will retain Bolton & Menk ("Consultant") to perform the work described in the September 4, 2019 proposal that is Attachment A to this Agreement. The scope of work will be completed by December 31, 2020.

2.02 The District will:

- a. On City or Consultant request, provide to Consultant reports, surveys, data and models for the Study area in its possession, pursuant to standard District licensing requirements as applicable.
- b. Participate in all meetings associated with the Study.
- c. Make staff available to advise the Study team and to review Consultant's draft work product.

- d. Reimburse the City for 50 percent of the contract cost associated with the completion of the Study, not to exceed \$31,650, subject to District approval of the final report, not to be unreasonably withheld.

2.03 The City will:

- a. Contract for the necessary professional services to support the Study and the completion of work identified in Attachment A. The contract will identify the District as a beneficiary of the contract with respect to contractor duty of care and indemnification obligations, and will reserve ownership rights in work product to the City and District.
- b. Participate in all meetings associated with the Study.
- c. Make staff available to advise the Study team and to review Consultant's draft work product.
- d. Bear the cost to complete the Study beyond the District contribution stated in paragraph 2.02.d, above.

3. REIMBURSEMENT

3.01 On the District's acceptance of the final report, and within 30 days of receipt of an invoice and supporting documentation of eligible costs incurred, the District will reimburse the City in accordance with paragraph 2.02.d, above.

4. GENERAL CONDITIONS

4.01 This Agreement is effective when fully executed by the parties and expires on the parties' fulfillment of their obligations hereunder.

4.02 The terms of this Agreement may be changed only by execution of a written amendment signed by a duly authorized representative of each party.

4.03 District Personnel. Nick Tomczik, or such other person as may be designated in writing by the District, will serve as the District's representative to coordinate work with the City and Consultant under this Agreement.

4.04 City Personnel. Patrick Casey, or such other person as may be designated in writing by the City, will serve as the City's representative to coordinate work with the District and Consultant under this Agreement.

4.05 The City and the District will comply with applicable laws relating to nondiscrimination and affirmative action. In particular, the City and the District will not discriminate against any employee, applicant for employment, or participant in the Study because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local commission, disability, sexual orientation, or age; and further will act to ensure that applicants and employees are treated equally with respect to all aspects of employment, including rates of pay, selection for training, and other forms of compensation.

4.06 No employee, representative or contractor of a party to this Agreement acts in any respect as the agent or representative of the other party. The Agreement is not a joint powers agreement, and neither party agrees to be responsible for the acts or omissions of the other party within the meaning of Minnesota Statutes §471.59, subdivision 1a. Nothing in this Agreement waives or limits any immunity, defense or liability limitation enjoyed by either party under law.

4.07 Neither party will assert a copyright or other intellectual property right with respect to any report or other work product produced under this Agreement. The City and District each may use and distribute the work products of the Study without restriction.

4.08 The City and the District each may terminate this Agreement at any time and for any reason by submitting written notice of the intention to do so to the other party. A party that terminates without cause before Consultant's completion of work remains responsible for its full funding obligation under this Agreement.

IN WITNESS WHEREOF, the parties by their duly authorized representatives execute this Agreement, intending it to be legally binding.

RICE CREEK WATERSHED DISTRICT

Date _____

By _____

Patricia Preiner, President

CITY of FOREST LAKE

Date _____

By _____

Name _____

Its _____



September 4, 2019

Patrick Casey
City Administrator
City of Forest Lake
1408 Lake Street South
Forest Lake, MN 55025

Nicholas Tomczik
Administrator, Rice Creek Watershed District
4325 Pheasant Ridge Drive NE #61
Blaine, MN 55449-4539

RE: Judicial Ditch 4 Regional Drainage Planning
Rice Creek Watershed District and City of Forest Lake

Dear Mr. Casey & Mr. Tomczik:

Bolton & Menk, Inc. is pleased to present this proposal for professional services to prepare a feasibility study and preliminary engineering to analyze regional stormwater management in the Judicial Ditch (JD) 4 watershed. Active development in the Headwaters and Tanners Brook Golf Course areas and anticipated near and long-term development along the Trunk Highway 61 and Fenway Avenue corridors necessitates a more comprehensive watershed analysis to understand the current drainage issues and prioritize flood mitigation options after development. The Rice Creek Watershed District (RCWD) and City of Forest Lake understand that, without critical infrastructure and regional drainage planning, the area could develop without detailed consideration for existing tile and ditch capacity; extent of surface flooding impacts; and flow restrictions downstream of City Limits. The scope described herein will:

- Understand the City's ultimate responsibility with the public drainage system, identify critical benefitting landowners and how they may be affected by future development, and the City's intention to transfer the public drainage system to their authority as development occurs.
- Analyze the existing drainage conditions of the Main Branch, Branch 3 and Branch 4 of JD 4 including critical storm sewer drainage, open ditch capacity, wetlands and other low topographic areas, and overland flow routing.
- Develop regional flood mitigation solutions to restrict the ultimate outflow rate to match the capacity of JD4 and avoid downstream impacts.
- Summarize anticipated solutions and develop guidelines to help property owners understand how regional flood solutions fit into the landscape and provide developers with a better understanding of the area required to effectively manage regional drainage.

Thank you for your consideration of this exciting project. If you have any questions, please contact me at your convenience by phone at 651-724-0404 or timothy.olson@bolton-menk.com.

Sincerely,

Bolton & Menk, Inc.

Timothy J. Olson, PE, CFM
Water Resources Project Manager

Project Understanding

We have prepared the following scope of services to develop a feasibility study and preliminary engineering to analyze regional stormwater management in the Judicial Ditch (JD) 4 watershed. This will include coordination of comprehensive hydraulic modeling utilizing efforts already complete by RCWD and the City of Forest Lake. Proposed flood mitigation and water quality solutions will be developed based on the City's anticipated active development and future land use scenarios. At a minimum, preliminary regional solutions will meet the current stormwater management regulation defined by RCWD. The following Scope of Services and associated Fees will result in a feasibility study that can be incorporated into local planning documents and align future projects with development in the region.

Current development scenarios in the Main Branch and Branch 3 of JD4 necessitate a more detailed analysis in preparation for more immediate development. However, Branch 4 and the JD2 headwaters (discharging through the southern border of Forest Lake) may benefit from high level analysis including identification of regional flow rates and critical capacities of roadway crossings, identification of regional low areas and wetlands, and potential surface storage volumes required to meet flood storage requirements under future land use scenarios.

The final study will be a standalone, subwatershed assessment and will also be incorporated into the City's 2040 Comprehensive Plan and 2018 Local Water Plan as a plan amendment. The City has submitted its Comprehensive Plan and Local Water Plan for approval to meet Met Council and RCWD requirements.

Public Drainage System, Future Development and Transference of Authority

The Headwaters Development area, and other critical development corridors along Fenway Ave and Hwy 61, are primarily drained by the public drainage system (JD4 and JD2). Active development in the first phases of the Headwaters Development north of Headwaters Parkway has already seen alterations of JD4 and transference of authority to the City of Forest Lake. As development continues, systematic transference of the judicial ditch will be necessary for the City to maintain the regional drainage system.

A primary goal of this planning study is to identify critical discharge rates and the ultimate drainage limitations that must be monitored as development occurs. Ideally, development would occur from upstream to downstream and individual segments of the judicial ditch would be transferred to the City as land is developed. However, a plan must be in place if tracts of land are developed in the middle, or end, of the public drainage system.

It is understood that public drainage system is currently sized to accommodate agricultural land use. Under fully developed conditions, the surface storage requirements may be massive to maintain the current rates of discharge. This study will:

- Identify the drainage limitations.
- Understand the storage requirements to meet the limitations.
- Propose alterations to the public drainage system utilizing a phased development approach.
- Propose methods for preserving benefiting landowner rights as development occurs.
- Determine procedures for consolidating, dividing, abandoning and transferring all or portions of the drainage system (103E.801 – 103E.812).

Scope of Services

Task 1: Project Communication

Subtask 1.1: Kickoff Meeting

A kick-off meeting with RCWD, City of Forest Lake Staff, and Bolton & Menk team members will be scheduled immediately after Notice-to-Proceed. The goals of the meeting are to:

- Understand project limits and constraints.
- Brainstorm potential land use and drainage scenarios to be analyzed.
- Establish communication protocols associated with various project aspects.
- Formulate a mutually acceptable milestone schedule.

Subtask 1.2: Project Update Meetings

We anticipate one additional coordination meeting to present the preliminary feasibility study and engineering analysis. We will maintain consistent contact with RCWD and the City of Forest Lake and provide updates as necessary through the project.

Task 2: Topographic and Boundary Survey

Light detection and ranging (LiDAR) surface topography and City as-built construction plans will be utilized where possible to develop the existing conditions. However, we anticipate needing some additional survey to inventory critical storm sewer infrastructure and other key topographic features not otherwise evident in the LiDAR surface. This includes storm sewer infrastructure inventory.

Task 3: Existing Conditions Hydraulic Modeling

Subtask 3.1: Review Extents of Current Modeling

RCWD has completed regional modeling of the JD4 and JD2 watershed area within Forest Lake. The City has also completed more detailed modeling in isolated areas throughout the Headwaters Development Tanners Brook Golf Course Areas. These modeling efforts will be reviewed to eliminate redundancies and merged into a single model. Both models were complete in Autodesk's Storm and Sanitary Analysis (SSA). Any coordinate system adjustments required to ensure the models merge effectively will also be resolved.

Subtask 3.2: Identify and Incorporate Additional Modeling Detail

Bolton & Menk will identify critical topographic features that may not be included in the current modeling effort and incorporate them as surface storage features and overland flow routes. We will also incorporate as-built and survey information where needed to ensure that the current conditions are effectively analyzed.

Task 4: Proposed Conditions Hydraulic Modeling

Subtask 4.1: Develop Proposed Flood Mitigation and Water Quality Solutions

The City of Forest Lake has reviewed construction plans in the Headwaters Area, developed construction plans and constructed Headwaters Parkway between TH 61 and Fenway Avenue, and has developed

future land use scenarios throughout the region for the 2040 Comprehensive Plan. The City will utilize its intrinsic knowledge of the region to develop future drainage scenarios that meet the following goals.

- Effectively balance development scenarios and impervious surface construction with the topographic landscape to utilize low areas for drainage management.
- Understand the capacity of the ditch and storm sewer infrastructure systems to limit the ultimate outflow as development occurs.
- Identify critical property needs for proposed ponding areas and storm sewer infrastructure.
- Develop project phasing strategies that guide property owners and developers to build specific projects as needed. In other words, infrastructure must be constructed as required along a critical path.
- Develop flood mitigation and water quality solutions that may include regional ponding at the end of the system with larger storm sewer trunk lines upstream, intermittent regional ponds to control drainage higher in the watershed, preservation of wetlands for flood control, or green way corridors along the current overland flow routes. Additional scenarios may require additional fee; we will identify future needs as a project development team and incorporate additional fee as needed to meet the goals of all stakeholders.

Refer to the attached exhibits displaying the three main branches to JD4 and the headwaters of JD2. Development is expected to occur in the same respective order and the detail of the flood mitigation solutions developed will follow that priority. We will develop up to four (4) flood mitigation options for the Main Branch and Branch 3, up to two (2) flood mitigation options for Branch 4 and one high level assessment of the JD2 headwaters. All analyses will be limited to the Forest Lake corporate limits.

Subtask 4.2: Develop Exhibits/Renderings of Proposed Flood Mitigation Solutions

Based on the flood mitigation scenarios developed in the above task, we will develop exhibits that show the following.

- Current extents of flooding for the 10-year, 50-year and 100-year rainfall events.
- Locations of proposed flood mitigation and water quality solutions.
- Size of critical storm sewer infrastructure.
- Anticipated property/easement needs.

Task 5: Feasibility Report and Preliminary Cost Estimate

Subtask 5.1: Develop Feasibility Report

The data, methods, assumptions, and recommendations will be compiled in a feasibility report. The report will summarize the potential flood mitigation and regional drainage options. We will also discuss the proposed phasing based on logical development scenarios. A draft report will be presented to the Rice Creek Watershed District and City of Forest Lake for review. We will incorporate any final comments and present a final report to the District.

Subtask 5.2: Develop Public Drainage System Impacts and 103E Requirements

The feasibility report will include an understanding of the 103E Public Drainage Rules and the specific agreements and transfers of ownership that will be required as development occurs. The process will be similar to the portion of JD4 that has already been transferred to the City. Additional phasing considerations will also be explained in the report and approved by RCWD.

Subtask 5.3: Develop Preliminary Cost Estimates

Based on preliminary engineering analyses, we will assemble opinions of probable cost for each option for capital improvement planning purposes and for alignment with future funding programs.

Estimated Project Fees

The following is a cost proposal for the scope of work described. The proposal is intended to be **hourly not-to-exceed** for the scope of work outlined in this proposal. If the scope changes as project requirements are learned, we welcome an opportunity to alter the cost of services.

CLIENT: RCWD and City of Forest Lake							
PROJECT: Judicial Ditch 4 Regional Drainage Planning							
TASK NO.	WORK TASK DESCRIPTION	Project Engineer	Design Engineer	Survey	Landscape Architect	Total Hours	Total Cost
1.0	Communication, Meetings and Project Management	10	8	0	0	18	\$2,400
2.0	Topographic Boundary Survey	2	0	24	0	26	\$3,500
3.0	Existing Conditions Hydraulic Modeling	15	32	0	0	47	\$6,100
4.0	Proposed Conditions Hydraulic Modeling	34	196	0	30	230	\$33,200
5.0	Feasibility Report and Preliminary Cost Estimate	50	90	0	0	140	\$18,100
TOTAL HOURS		111	326	24	30	461	
TOTAL FEE						\$63,300	

ITEMS REQUIRING BOARD ACTION

2. Consider Check Register dated October 9, 2019, in the amount of \$160,875.33 prepared by Redpath and Company.

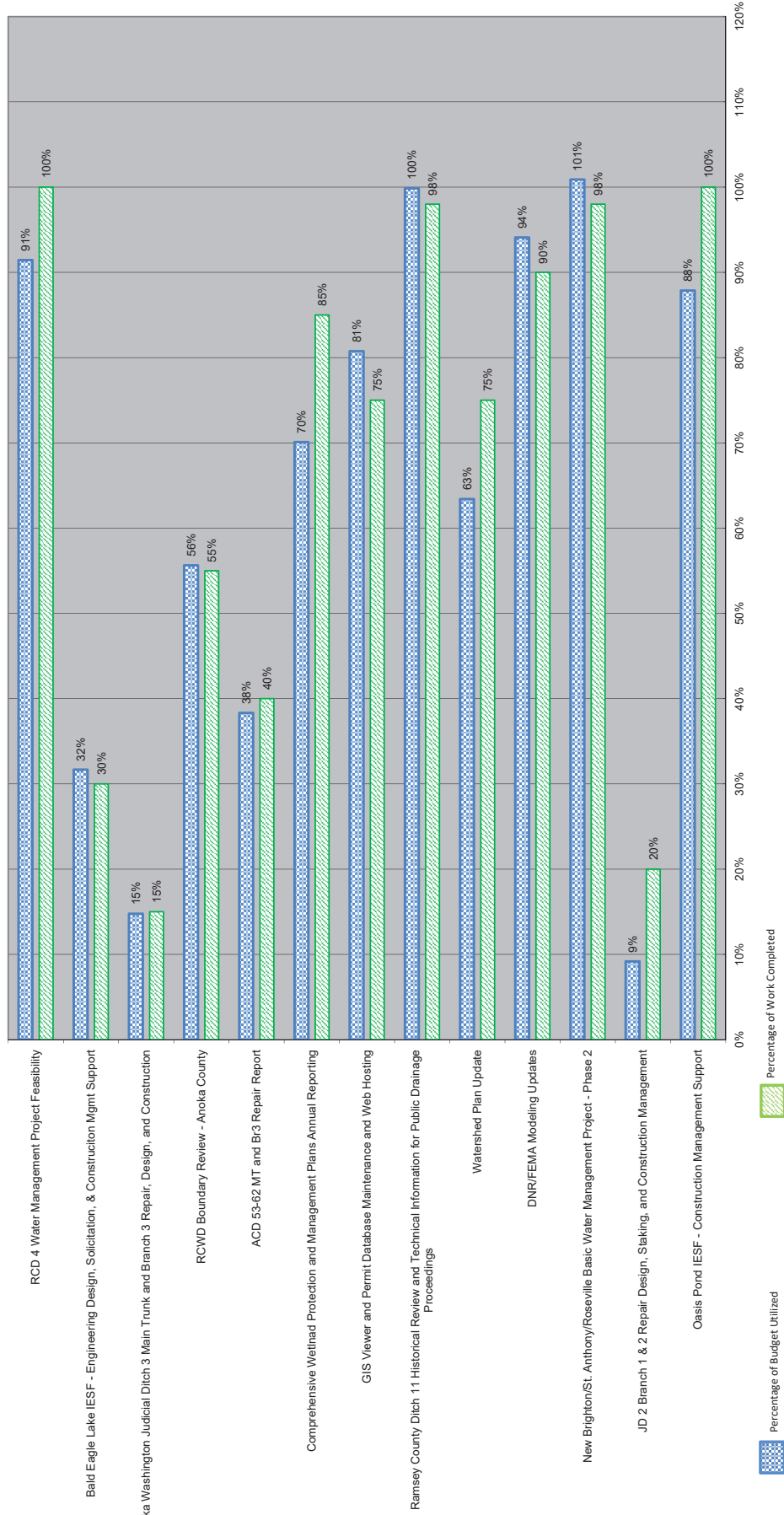
Rice Creek Watershed District
Check Register
September 26, 2019 - October 9, 2019
To Be Approved at the October 9, 2019 Board Meeting

Check #	Date	Payee	Description	Amount	
23302	09/25/19	Rachel Contracting, Inc.	Payments 17 & 18/Construction	\$106,875.33	Issued 9/25/19
23303	10/09/19	Comcast	Telecommunications	400.68	
23304	10/09/19	Dell Marketing, L.P.	Equipment -Computers	10,872.94	
23305	10/09/19	Uline	Equipment	2,897.00	
23306	10/09/19	United Parcel Services	Postage	62.28	
23307	10/09/19	U.S. Bank Equipment Finance	Equipment Lease	249.98	
Dir.Dep.	10/15/19	October 15th Direct Deposits (estimate)	October 15th Direct Deposits (estimate)	23,243.90	
EFT	10/01/19	Xcel Energy	Telecommunications	62.17	
EFT	10/01/19	Xcel Energy	Telecommunications	12.16	
EFT	10/15/19	Internal Revenue Service (estimate)	10/15 Federal Withholding (estimate)	8,511.41	
EFT	10/15/19	Minnesota Revenue (estimate)	10/15 State Withholding (estimate)	1,631.00	
EFT	10/15/19	Empower Retirement	10/15 Deferred Compensation	795.00	
EFT	10/15/19	Empower Retirement	10/15 Roth IRA	165.00	
EFT	10/15/19	PERA (estimate)	10/15 PERA (estimate)	4,787.30	
Total				\$160,566.15	

ITEMS FOR DISCUSSION AND INFORMATION

1. District Engineer Update and Timeline.

District Engineer
 Monthly Progress Report (Actual & Estimated Progress)
 Through September 2019





District Engineer - Monthly Project Report September 2019
Rice Creek Watershed District



Date Prepared: 1-Oct-19
Prepared by: G. Monson & C. Otterness

Project Name	Estimated Budget	Cost to Date	Remaining Budget	Project Complete / Transfer Funds?	Estimated Progress Based on Work Completed	Percentage of Budget Utilized	Within Budget? (Y/N)	District Billed for Change in Services? (Y/N)	Initial Target Completion Date	Revised Target Completion Date	Items of Interest / Concern
Oasis Pond IESF - Construction Management Support	\$45,340	\$39,838	\$5,502	Y	100%	88%	Y	N/A	30-Sep-18	N/A	Project is complete
JD 2 Branch 1 & 2 Repair Design, Staking, and Construction Management	\$43,700	\$4,011	\$39,689	N	20%	9%	Y	N/A	31-Dec-18	N/A	District staff is continuing to contract for project components. Construction will likely begin in fall, 2019.
New Brighton/St. Anthony/Roseville Basic Water Management Project - Phase 2	\$131,500	\$132,667	(\$1,167)	N	98%	101%	Y	N	1-May-19	N/A	The Phase 2 report has been completed and will be presented at the October Board Workshop.
DNR/FEMA Modeling Updates	\$222,460	\$209,309	\$13,151	N	90%	94%	Y	N/A	1-Apr-20	N/A	HEI has delivered the initial modeling to the DNR for review. Next steps include response to DNR comments and determination of floodways.
Watershed Plan Update	\$180,700	\$114,582	\$66,118	N	75%	63%	Y	N/A	31-May-20	N/A	The draft WMP has been distributed for 60-day review.
Ramsey County Ditch 11 Historical Review and Technical Information for Public Drainage Proceedings	\$21,100	\$21,070	\$30	N	98%	100%	Y	N/A	31-Dec-19	N/A	The report has been presented to the Board. A public meeting will be held in the fall.
GIS Viewer and Permit Database Maintenance and Web Hosting	\$21,500	\$17,360	\$4,140	N	75%	81%	Y	N/A	31-Dec-19	N/A	HEI completes miscellaneous updates to the GIS viewers and permit database on an as-requested or as-needed basis.
Comprehensive Wetland Protection and Management Plans Annual Reporting	\$17,150	\$12,020	\$5,130	N	85%	70%	Y	N/A	31-Dec-19	N/A	HEI has completed a draft of the annual report.
ACD 53-62 MT and Br3 Repair Report	\$48,400	\$18,548	\$29,852	N	40%	38%	Y	N/A	30-Jun-20	N/A	HEI has prepared plans of the existing conditions and draft repair alternatives. A meeting will be held soon to discuss repair alternatives with the City of Circle Pines.
RCWD Boundary Review - Anoka County	\$38,000	\$21,142	\$16,858	N	55%	56%	Y	N/A	31-Dec-19	N/A	A draft hydrologic boundary and District boundary have been determined. A draft boundary report has been completed and is currently under internal review.
Anoka Washington Judicial Ditch 3 Main Trunk and Branch 3 Repair, Design, and Construction	\$218,500	\$32,263	\$186,237	N	15%	15%	Y	N/A	31-Dec-19	N/A	HEI has completed draft plans. The District will be hosting meetings with the City of Hugo and adjacent landowners in October.
Bald Eagle Lake IESF - Engineering Design, Solicitation, & Construction Mgmt Support	\$95,600	\$30,269	\$65,331	N	30%	32%	Y	N/A	31-Dec-19	N/A	HEI has completed a wetland delineation report. Design and plan development is continuing.
RCD 4 Water Management Project Feasibility	\$19,500	\$17,831	\$1,669	Y	100%	91%	Y	N/A	30-Sep-19	N/A	The feasibility memo is complete, and will be presented to the Board at the October Board Workshop.

Values in red are either potential budget concerns or changes in schedule.

The "overage" for those projects shown as "over budget" is not billed to the District. The cost to date column reflects HEI's actual internal cost. Projects are considered within budget if ± 5%.