



**Title:** Approving Programmatic Maintenance Agreement with the City of Minneapolis

**Resolution number:** 24-009

**Prepared by:** Name: Trey Jonas  
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**Reviewed by:** Name/Title: Chuck Holtman/District Attorney

**Recommended action:** Approval

**Summary:**

The Minnehaha Creek Watershed District (MCWD or District) requires applicants to record maintenance declarations for projects that require long-term maintenance and monitoring of permanent features or Best Management Practices (BMPs) to ensure continued compliance with MCWD rule standards. In lieu of a recorded declaration, a public permittee may fulfill this requirement by executing a maintenance agreement with the District. Where the public entity requires District permits from time to time, it is efficient for the entity and the District to enter into a programmatic maintenance agreement that establishes standard maintenance terms. The agreement then is simply referenced in and incorporated into subsequent permits, rather than executing agreements on a project by project basis. The District has programmatic maintenance agreements in place with several cities and road authorities.

The City of Minneapolis frequently plans and constructs projects that are regulated by MCWD Rules, and that therefore require long-term maintenance aligning with MCWD standards. The City also is subject to maintenance and reporting requirements under the City’s Municipal Separate Storm Sewer System (MS4) permit from the Minnesota Pollution Control Agency. The proposed programmatic maintenance agreement with the City of Minneapolis will memorialize terms of maintenance as required by the MCWD Stormwater Management, Waterbody Crossings & Structures, and Wetland Protection rules. The terms of the programmatic agreement are substantially the same as those in existing District programmatic agreements.

**Supporting documents (list attachments):**

Programmatic Maintenance Agreement – City of Minneapolis



**RESOLUTION**

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- WHEREAS, pursuant to Minnesota Statutes § 103D.345, the MCWD has adopted and implements the Stormwater Management Rule, Wetland Protection Rule and the Waterbody Crossings & Structures Rule;
- WHEREAS, under the Stormwater Management Rule, certain land development activity triggers the requirement that the landowner record a declaration establishing the landowner’s perpetual obligation to inspect and maintain stormwater-management facilities;
- WHEREAS, under the Waterbody Crossings & Structures Rule, certain land development activity requires the landowner to record a declaration establishing the landowner’s perpetual obligation to inspect and maintain waterbody crossings and structures to ensure that the hydraulic and navigational capacity of the associated waterbody are maintained in accordance with approved plans;
- WHEREAS, under the Wetland Protection Rule, certain land development activity triggers the requirement that the landowner record a declaration establishing the landowner’s perpetual obligation to protect undisturbed buffer adjacent to wetland;
- WHEREAS, in each case, a public landowner, as an alternative to a recorded instrument, may meet the maintenance requirement by documenting its obligations in an unrecorded written agreement with the MCWD;
- WHEREAS, the City of Minneapolis from time to time is subject to stormwater management, wetland buffer and waterbody crossings and structures maintenance requirements pursuant to the terms of an MCWD permit; and
- WHEREAS, the parties concur that it is clearer and procedurally more efficient for the MCWD and The city of Minneapolis to agree at this time on standard requirements for stormwater management, wetland buffer protection, and waterbody crossings and structures maintenance, so that this agreement may be incorporated into future permits as applicable.

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby authorizes the Board President, on advice of counsel, to execute a programmatic maintenance agreement with the City of Minneapolis

BE IT RESOLVED that the Board approves the Programmatic Maintenance Agreement (PMA) with the City of Minneapolis and authorizes the Administrator to sign the PMA, with any non-substantive changes and on advice of counsel

Resolution Number 24-009 was moved by Manager \_\_\_\_\_, seconded by Manager \_\_\_\_\_.  
 Motion to adopt the resolution \_\_\_ ayes, \_\_\_ nays, \_\_\_ abstentions. Date: 1/25/2024

\_\_\_\_\_  
 Secretary Date: \_\_\_\_\_

**PROGRAMMATIC MAINTENANCE AGREEMENT**  
**Stormwater Management Facilities and Waterbody Crossings & Structures**  
**Between the Minnehaha Creek Watershed District**  
**and the City of Minneapolis**

This programmatic maintenance agreement is made by and between the Minnehaha Creek Watershed District, a watershed district with purposes and powers set forth at Minnesota Statutes chapters 103B and 103D (MCWD), and the City of Minneapolis, a Minnesota municipal corporation and political subdivision of the State of Minnesota (CITY).

**Recitals and Statement of Purpose**

WHEREAS pursuant to Minnesota Statutes § 103D.341, the MCWD has adopted and implements the Stormwater Management Rule and the Waterbody Crossings & Structures Rule;

WHEREAS under the Stormwater Management Rule, certain land development activity triggers the requirement that the landowner record a declaration establishing the landowner's perpetual obligation to inspect and maintain stormwater-management facilities;

WHEREAS, under the Waterbody Crossings & Structures Rule, certain land development activity requires the landowner to record a declaration establishing the landowner's perpetual obligation to inspect and maintain waterbody crossings and structures to ensure that the hydraulic and navigational capacity of the associated waterbody are maintained in accordance with approved plans;

WHEREAS in each case, a public landowner, as an alternative to a recorded instrument, may meet the maintenance requirement by documenting its obligations in an unrecorded written agreement with the MCWD;

WHEREAS CITY, through its Public Works Department, from time to time is subject to stormwater management and waterbody crossings and structures maintenance requirements pursuant to the terms of an MCWD permit; and

WHEREAS the parties concur that it is clearer and procedurally more efficient for the MCWD and CITY, through its Public Works Department, to agree at this time on standard requirements for stormwater management and waterbody crossings and structures maintenance, so that this agreement may be incorporated into future permits as applicable.

THEREFORE, MCWD and CITY agree as follows:

1. **WATERBODY CROSSINGS & STRUCTURES.** CITY, through its Public Works Department and at its cost, will maintain waterbody crossings and structures in accordance with the attached "City of Minneapolis Stormwater Management Program 6.1- Operations and Maintenance" (Exhibit A).
2. **STORMWATER FACILITIES.** CITY, through its Public Works Department and at its cost, will maintain stormwater facilities in accordance with the attached "City of Minneapolis Stormwater Management Program 6.1- Operations and Maintenance" (Exhibit A).
3. An MCWD permit for a specific project may contain additional maintenance conditions in accordance with MCWD rules, as they may be amended from time to time.
4. If CITY conveys into private ownership a fee interest in any property that has become subject to this agreement, it must require as a condition of sale, and enforce: (a) that the purchaser record a

declaration on the property incorporating the maintenance requirements of this agreement; and (b) that recordation occur either before any other encumbrance is recorded on the property or, if after, only as accompanied by a subordination and consent executed by the encumbrance holder ensuring that the declaration will run with the land in perpetuity. If CITY conveys into public ownership a fee interest in any property that has become subject to this agreement, it must require as a condition of the purchase and sale agreement that the purchaser accept an assignment of all obligations vested under this agreement.

5. CITY, through its Public Works Department, may enter into contracts with third parties for the performance of its responsibilities under this agreement. CITY, through its Public Works Department, may arrange with another governmental unit for performance of its responsibilities under this agreement, with prior or concurrent written notice to MCWD. Such agreements notwithstanding, CITY will remain liable to MCWD for compliance with the terms and requirements of any permit that explicitly applies this agreement.
6. This agreement may be amended only in a writing signed by the parties.
7. This agreement is in force for five years from the date on which it has been fully executed and will renew automatically for five-year terms unless terminated. Either party may terminate the agreement on 30 days' written notice to the other. Any obligations vested in CITY through incorporation into an issued permit before the effective date of termination will survive expiration and remain ongoing obligations of CITY as provided in the permit.
8. The recitals above are incorporated into and made a part of this agreement.
9. The individuals below by their execution represent that they have the authority to enter into this agreement on behalf of the respective parties and to bind the parties to the terms herein.

IN WITNESS WHEREOF, the parties hereto have executed this agreement.

**MINNEHAHA CREEK WATERSHED DISTRICT**

*APPROVED AS TO FORM and EXECUTION*

By \_\_\_\_\_  
Its Attorney

Date: \_\_\_\_\_

By \_\_\_\_\_  
Its Administrator

Date: \_\_\_\_\_

**CITY OF MINNEAPOLIS**

*APPROVED AS TO FORM*

By: \_\_\_\_\_  
**Assistant City Attorney**

By: \_\_\_\_\_  
**Department Head (or Designee) Authorized to Sign this Contract and/or  
Responsible for Administering and Monitoring Contract**

By: \_\_\_\_\_  
**Finance Officer or Designee/Purchasing Agent**

## SMP 6.1 – Operations and Maintenance

(MS4 Permit References: I.D.3.d, III.C.6.e, III.c.6.f, III.C.6.k, III.C.8.b, III.C.8.d, III.c.8.e, III.C.8.f, IV.D.6)

The stormwater management objective of this program is to minimize the discharge of pollutants through proper and cost-effective operational management and maintenance of the MS4 storm drain conveyance and treatment system. General operations and maintenance efforts include operations, inspections, cleaning, repairs, rehabilitation, and reconstruction.

### Tasks

#### Entire Storm Drain System

- Schedule and perform major repairs, rehabilitation, or reconstruction considering budget, staff availability, and other work.
- Continue implementation of asset management system for the purpose of inspection, maintenance, and prioritization of the enhancement to the condition and effectiveness of existing infrastructure.
- For major rehabilitation or reconstruction projects, look for opportunities to include SMPs to improve water quality. Refer to SMP 5.3 and SMP 6.6.
- Utilize 311 Call Center as hotline for reporting maintenance concerns that need to be inspected and addressed by Public Works Operations staff.
- Track and follow-up on 311 Call Center or other complaints/notices regarding storm drains.
- Establish agreements on responsibilities for those SMPs with responsibilities by more than one entity (City, MPRB, watershed organization, Hennepin County, etc.) for surface water systems operation and maintenance where none currently exist. Prioritize and schedule major structural repair or maintenance work based on impact of condition to receiving waterbody, available personnel, budget funding, and coordination with other essential operations.
- Retain records for compliance with MS4 Permit.
  - Dates and description of finding of all inspections.
  - Adjustments to inspection frequency.
  - Description of maintenance conducted.
- Handling and Disposal of Stored and Stockpiles Dredged or Other Removed Materials:
  - During MS4 cleaning, storage, and disposal operations, apply sediment control measures to prevent removed materials from re-entering the storm drain system. Refer to SMP 6.3.

#### Hydraulic Conveyance System

- Storm Drains
  - Inspect, clean, and repair storm drains in a manner that maintains hydraulic capacity and structural integrity.
  - Perform condition assessment of storm drain system using NASSCO-developed PACP inspection procedures.
  - Based on condition assessment, develop and document storm drain inspection, assessment, and maintenance activities. When cleaning, capture and properly dispose of removed materials.
  - Limit infiltration of seepage, such as from sanitary sewer system, pipe bedding, or groundwater.
- Storm Tunnels
  - Inspect, clean, and repair storm tunnels in a manner that maintains hydraulic capacity and structural integrity.

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- Continue targeted inspection and assessment program.
- Limit infiltration of seepage, such as from sanitary sewer system, sandstone bedrock, or groundwater.
- Catch Basins
  - Inspect, as needed, to ensure catch basins are operational so as not to restrict flow and cause localized flood damage.
  - Prioritize observed or reported plugging or damages for repair and/or cleaning. Also prioritize repair on impact to the traveling public.
  - When cleaning, capture and properly dispose of removed materials.
  - Develop routes and schedules for conducting inspections of all catch basins for necessary maintenance.
- Manholes
  - Inspect, as needed, to ensure manholes are operational so as not to restrict flow and cause localized flood damage.
  - Check pipe inverts, benches, safety condition of steps and walls, address condition of castings and rings, and address structural defects, as needed. Examples are cracked, deteriorated, and spalled areas.
- Outfalls
  - Operate outfalls in a condition that conserves and stabilizes shorelines, streambanks, and steep slopes from damaging erosion.
  - Inspect outfalls on a 5-year schedule where 20 percent of the outfalls are inspected each year. Evaluate the structural integrity, proper function and maintenance needs. Determine if any significant erosion has occurred, make minor repairs, and inspect for sediment deltas. Coordinate with IDDE inspections described in SMP 3.3.
  - If inspections show an increase in significant erosion or substantial structural damage, then inspection frequency will be increased to at least annually until the problem can be corrected.
  - If suspicious flows or unusual odors, stains, or deposits are observed, work with Regulatory Services Department for further investigation and resolution. Refer to SMP 3.3.
  - If major structural repair or maintenance work is identified, prioritize and schedule based on impact of condition to receiving waterbody, available personnel, budget funding, and coordination with other essential operators.
- Pump Stations
  - Inspect, on a regular basis, for routine operational checks and condition assessment.
  - Perform inspection, maintenance, and repairs in conjunction with routine items completed as recommended by manufacturer and/or based on developed asset management procedures.
  - Assess cost and benefit for repairs, upgrades, and installing backup generators for existing pump stations, and identify workplan for identified repairs, upgrades, or backup generators.
- Level Control Weirs and Bulkheads
  - Inspect, repair, and maintain to facilitate proper operational working order, in coordination with MPRB, where applicable.
  - Conduct inspection of non-inventoried weirs and bulkheads if discovered during routine maintenance. Update GIS system if required. Refer to SMP 3.7.

*Structural Stormwater Management Practices*

- All Structural Stormwater Management Practices

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- Conduct annual inspections of all structural stormwater management practices to determine structural integrity, proper function, and maintenance needs. Annual inspection schedule should be adjusted if either of these conditions apply:
  - Greater frequency of inspection is required if multiple complaints are received.
  - Greater frequency of inspection is required if maintenance patterns indicate a need for additional inspection.
  - Two-year cycle of inspection is allowed if first two-years of inspection conclude that maintenance or sediment removal is not required.
- Use inspection findings to determine whether repair, replacement, or maintenance measures are necessary to ensure the structural integrity, proper function, and treatment effectiveness of structural stormwater management practices.
  - Complete maintenance as soon as possible.
  - Repair, replacement, or maintenance that must be delayed must be prioritized and the following must be implemented:
    - Preventative maintenance.
    - Dewater and dispose of solids, floatables, dredgings, or other pollutants. Comply with all applicable statutes and rules when disposing materials.
- Maintain documentation of all structural stormwater management inspections. Documentation to include:
  - Dates and descriptions of findings.
  - Adjustments to frequency of inspections.
  - Descriptions of maintenance conducted as a result of inspection findings.
- Inspections and maintenance of all structural stormwater management practices should be completed per manufacturer's recommended practices or any operations and maintenance manuals developed by the City.
- Open Ditch/Vegetated Channels
  - As open ditch/vegetated channels are identified and inventoried, periodically inspect and maintain to control and remediate erosion.
- Grit Chambers
  - Perform cleaning to provide capacity for future sedimentation and to prevent re-suspension and washout. When cleaning, capture and properly dispose of removed materials. Record date of inspection and amount of materials removed. Inspect and clean twice per year, unless patterns of maintenance have become apparent such that frequency should be adjusted, as follows: if a frequent need for sediment removal has been established (according to recorded maintenance patterns), increase inspection and cleaning to maximize pollutant removal by preventing carryout, washout, or re-suspension of pollutants from the structures; if an infrequent need for maintenance or sediment removal has been established, the frequency may be reduced. Use pellets provided by the Metropolitan Mosquito Control District for grit chamber mosquito control.
- Stormwater Retention Ponds and Detention Basins, Stormwater Wetlands
  - Inspect stormwater ponds on a 5-year schedule where 20 percent of the ponds are inspected each year. Evaluate the structural integrity, proper function and maintenance needs.



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- If inspections show an increase in significant erosion or substantial structural damage or if the pond or forebay is reaching 50 percent of design capacity, then inspection frequency will be increased to at least annually until the problem can be corrected.
- Maintain documentation of inspection and maintenance as required for all structural stormwater management practices. Additional documentation for ponds to include:
  - Sediment excavation and removal activities, including unique ID for each stormwater pond, volume of sediment removed, location of final disposal of sediment.
- Maintain facilities for volume and functionality. When volume of sediment is approaching 50 percent of the capacity of the pond, or there is less than 3 feet of water at the inlet half of the pond, schedule for sediment removal to ensure design capacity of the system is maintained and to minimize discharge of sediment leaving the basin.
- Stormwater Retention Pond Dredging process will follow all applicable MPCA guidance.
- Infiltration Structural Stormwater Management Practices
  - Maintain infiltration devices for infiltration capacity and functionality. Inspect and maintain any vegetation. Visually inspect for surface ponding or sedimentation deposits that may require replacement of media.

**New Tasks to be Implemented**

TASK	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5
Develop written procedures and schedule to assess the TSS and TP treatment effectiveness of all City and MPRB owned stormwater ponds. Refer to SMP 7.1.				X	X
Develop and implement stormwater management practices for MS4 discharges that may affect Source Water Protection Areas as defined in the Permit. Refer to SMP 5.5.				X	X

**Measurable Goals**

- All structural stormwater management practices are inspected a minimum of one time each year.
- All outfalls are inspected at least one time during the 5-year period of the MS4 Permit.
- All stormwater ponds are inspected at least one time during the 5-year period of the MS4 Permit.
- All inspection, maintenance, and repair activities for the MS4 system are documented.

**Annual Reporting**

- Description of stormwater management practices implemented in Source Water Protection Areas. Refer to SMP 5.5.
- Description of stormwater outfall inspection findings and maintenance or improvements performed. Refer to SMP 3.3 for reporting on illicit flows observed during outfall inspections.
- Results of structural stormwater management practice inspections, assessments, maintenance, and repair activities. Specific information to include:
  - Date.
  - Estimate of sediment storage capacity and percent of capacity remaining.
  - Date of completed maintenance and/or repairs.
  - Dates and quantity of material removed.

**Participating Departments**

- Public Works – Surface Water & Sewers Division

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- Finance and Property Services Department
- Minneapolis Park and Recreation Board
- Health Department – Environmental Services