



Title:	Approval of City Agreement and Easement for East Auburn Wetland Restoration Project	
Resolution number:	25-038	
Prepared by:	Rachel Baker, Planner-Project Manager Phone: (952) 641-4522 rbaker@minnehahacreek.org	
Reviewed by:	Michael Hayman, Project Planning Director	
Recommended action:	The Board of Managers approves the City Agreement and Easement for the East Auburn Wetland Restoration Project	
Schedule:	April 2025 – Final design completed and bid set prepared Summer 2025 – bid solicitation and construction contracting Fall 2025 – notice of award for construction Winter 2025-2026 – construction of weir and boardwalk	
Budget considerations:	Fund name and code: East Auburn Wetland Restoration (3160) Fund budget: \$550,000 Expenditures to date: \$78,516	
Past Board action:	Res # 25-024	Approval of 90 Percent Design Plans for the East Auburn Wetland Restoration Project and Authorization to Solicit Bids
	Res # 24-063	Authorization to amend the design contract for the East Auburn Wetland Restoration Project
	Res # 24-032	Authorization of contract execution for design of East Auburn Wetland Restoration Project in the Six Mile Creek – Halsted Bay Subwatershed
	Res # 24-015	Ordering of the East Auburn Wetland Restoration Project and Authorization to Release a Request for Proposals for Design and Engineering Services
	Res # 22-085	Authorization to Award Contract for East Auburn Wetlands Feasibility Study
	Res # 22-063	Authorization to release a Request for Proposals for the East Auburn Wetlands feasibility study.

Summary:

The 2017 Watershed Management Plan (WMP) for the Minnehaha Creek Watershed District (MCWD) states that the main cause of impairments in East Auburn Lake is phosphorus being exported from nearby wetlands and entering the lake. The WMP also identifies the wetland systems between Wassermann Lake and East Auburn Lake (East Auburn Wetland or wetland) as a potential restoration opportunity to address nutrient export to downstream East Auburn Lake.

In early 2023, MCWD contracted with Moore Engineering to complete a feasibility study that identified opportunities to address phosphorus export from the East Auburn Wetland. The feasibility report identified hydrologic restoration of the wetland through the installation of an outlet control structure (sheet pile weir) as the most cost-effective and feasible opportunity to reduce nutrient export from the wetland system by approximately 50% to East Auburn Lake while restoring the wetland to a more natural hydrologic condition.

At the January 25, 2024 meeting, the Board received an update from staff on the outcomes of the feasibility study and staff's recent coordination to initiate project design with the City of Victoria (City), which owns the land on which the project will occur. The Board was informed that the City supports the District's project goals and wishes to facilitate project development and implementation, and potentially integrate trail improvements (boardwalk reconstruction) along with the proposed outlet control structure.

On May 9, 2024, following a competitive request for proposal process, MCWD selected Moore Engineering as the consultant for the design of the outlet control structure, and a potential new boardwalk, in consideration of the water quality benefits to downstream East Auburn Lake.

Project design commenced in June 2024. The Board received 30% and 60% updates on the project in August 2024 and February 2025. Throughout the design process, project staff coordinated with the permitting team to obtain all necessary permits (MCWD, DNR, and WCA).

On March 25, 2025, MCWD and the City hosted a public meeting at Victoria City Hall, which had been noticed to all residents within 1,000 feet of the project, to provide information on the restoration project and gather feedback from interested residents within proximity of the Project. The meeting was well attended and included participation from the City Engineer; there seemed to be overall support of the project.

At the April 10, 2025 Board of Managers meeting, staff gave a presentation outlining 90% design plans of both the weir and the boardwalk. The Board approved the 90% design plans and authorized the District Administer to solicit construction bids in the summer of 2025, with condition that a City agreement and easement be executed prior to seeking bids.

MCWD staff and legal counsel coordinated the drafting of an agreement (Attachment 1) and easement (Attachment 2) between MCWD and the City. The agreement and easement establish: 1) a temporary easement to construct the weir and boardwalk, 2) a permanent flowage easement, and 3) a permanent easement to inspect, operate, maintain, repair, reconstruct, and remove the weir components. Furthermore, the agreement specifies that the City will own and maintain the boardwalk once completed, and MCWD will own and maintain the weir.

In accordance with the agreement, the City will reimburse MCWD for the cost of constructing the boardwalk by paying 20% of the cost at project completion in 2026, and the remaining amount in equal annual payments thereafter for the next four years.

MCWD legal counsel led the drafting of both documents, in close coordination with City legal counsel. The City is scheduled to review and approve both documents at its June 23, 2025 City Council meeting.

Staff recommend that the Board of Managers approve the City Agreement and Easement for the East Auburn Wetland Restoration Project at its June 26, 2025 Board meeting.

Attachments:

- Project Agreement for East Auburn Wetland Restoration
- Easement for East Auburn Wetland Restoration



RESOLUTION

Resolution number: 25-038

Title: Approval of City Agreement and Easement for East Auburn Wetland Restoration Project

- WHEREAS the Minnehaha Creek Watershed District (MCWD) has developed a plan for the Six Mile Creek-Halsted Bay Subwatershed (SMCHB) that identifies implementation strategies to achieve MCWD's goals of protecting and improving water quality, water quantity, ecological integrity, and thriving communities through land use and water integration;
- WHEREAS the MCWD Watershed Management Plan (WMP) identifies the wetlands between Wassermann Lake and East Auburn Lake as the location of a capital investment to reduce watershed nutrient loading to improve water clarity and create a more abundant and diverse aquatic vegetation community in East Auburn Lake;
- WHEREAS in 2021 and 2022, MCWD staff conducted a refined water quality sampling, hydrology, and vegetation analysis in the wetland system between Wassermann Lake and East Auburn Lake to identify specific areas within the wetland responsible for the majority of the phosphorus export;
- WHEREAS between December 2022 and October 2023, Moore Engineering conducted a feasibility study for the East Auburn Wetland; in October 2023, Moore Engineering delivered its final report to MCWD, assessing seven alternative approaches to nutrient reduction in the Cell 1 Wetland, and identified hydrologic restoration of the wetland through the installation of an outlet control structure as the most feasible and cost-effective opportunity to reduce nutrient export to East Auburn Lake;
- WHEREAS on January 25, 2024, the MCWD Board of Managers (the "Board") reviewed the feasibility report and directed staff to continue partnership discussions with the City of Victoria (the "City") to effectively advance the project;
- WHEREAS on February 26, 2024, the City Council adopted a resolution of support that expressed the City's support for the East Auburn Wetland Restoration project; authorized the MCWD to access city land within the project area to perform surveys and investigations for the purpose of project design; and authorized city staff to work with MCWD staff to develop project agreements, easements or other documents necessary for the District to construct and maintain the project on city land, and bring such documents forward for consideration by the City Council;
- WHEREAS on March 14, 2024, the Board, after public hearing, ordered the East Auburn Wetland Restoration Project, including boardwalk reconstruction adjacent to the weir (the "Project") and on May 9, 2024, the Board authorized execution of a contract for design and engineering services for the Project with Moore Engineering;
- WHEREAS on August 22, 2024, the Board reviewed the 30% design memorandum and plan sets for the Project and provided feedback and direction to staff for continued design work;
- WHEREAS on February 27, 2025, the Board reviewed the 60% design memorandum and plan set for the Project;

WHEREAS on March 25, 2025, MCWD and the City hosted a public meeting at Victoria City Hall, which had been noticed to all residents within 1,000 feet of the project, to provide information on the restoration project and gather feedback from interested residents within proximity of the Project;

WHEREAS on April 10, 2025, the Board approved a final design memorandum, 90 percent design plans, and technical specifications containing design details for a sheetpile weir to be constructed in the wetland that will reduce nutrient loading and hydrologically restore the wetland as identified in the feasibility study, and a boardwalk refurbishment conforming to City specifications;

WHEREAS the MCWD coordinated the drafting of an agreement and easement between MCWD and the City. The agreement and easement establish: 1) a temporary easement to construct the weir and boardwalk, 2) a permanent flowage easement, and 3) a permanent easement to inspect, operate, maintain, repair, reconstruct, and remove the weir components. Furthermore, the agreement specifies that the City will own and maintain the boardwalk once completed, and MCWD will own and maintain the weir;

WHEREAS in accordance with the agreement, the City will reimburse MCWD for the cost of constructing the boardwalk by paying 20% of the cost at project completion in 2026, and the remaining amount in equal annual payments thereafter for the next four years;

WHEREAS at its June 23, 2025, City Council meeting, the City approved the project agreement and easement;

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers approves the Project Agreement and Easement for the East Auburn Wetland Restoration Project and authorizes the Administrator to execute the Project Agreement, and the Board President to execute the Easement, with any non-substantive changes on advice of counsel.

Resolution Number 25-038 was moved by Manager _____, seconded by Manager _____. Motion to adopt the resolution ___ ayes, ___ nays, ___ abstentions. Date: June 26, 2025.

Secretary Date: _____

**Project Agreement for
East Auburn Wetland Restoration**

City of Victoria & Minnehaha Creek Watershed District

This Project Agreement (“Agreement”) is made between the Minnehaha Creek Watershed District (MCWD), a watershed district and political subdivision with powers at Minnesota Statutes Chapters 103B and 103D, and the City of Victoria (“City”), a statutory city and political subdivision of the State of Minnesota (together, the “parties”).

Recitals

A. MCWD Resolution 14-047 identifies the Six Mile Creek Halsted Bay (SMCHB) subwatershed as a priority focus area. Pursuant to this designation, MCWD has worked with public partners within the SMCHB subwatershed to integrate natural resource improvements with other public investments including parks and recreation, growth and development, and infrastructure investment, to both improve water resource outcomes and achieve local planning priorities.

B. On March 26, 2015, the City and MCWD entered into a memorandum of understanding to work together to develop the SMCHB subwatershed implementation plan in the MCWD 2018-2027 Watershed Management Plan (WMP), and the City’s corresponding local water management plan.

C. The WMP prescribes an implementation plan for MCWD work within the SMCHB subwatershed, focusing on reducing nutrient loading to surface waters and enhancing ecologic integrity of water resources and the riparian environment. The plan identifies the East Auburn Wetland Restoration as a capital project to reduce nutrient loading to East Auburn Lake, provide hydrologic and vegetative wetland restoration, enhance habitat, and enhance aesthetic value associated with Carver Park reserve.

D. In 2019, the City adopted its 2040 land use plan, setting forth the City’s vision for expansion into the western growth area and, in consultation with MCWD, incorporating the Victoria Chain of Lakes Greenway Policy and Implementation Plan.

E. Since 2015, the City and MCWD have collaborated on initiatives including:

- System-wide habitat restoration through carp management, supported by a Lessard-Sams Outdoor Heritage Council grant.
- Enhancing treatment capacity of ponds near downtown Victoria to reduce phosphorus loading to East Auburn Lake, supported by a Clean Water Fund grant.
- Alum treatments of Wassermann West pond and Wassermann Lake, supported by a Clean Water Fund grant.
- Developing Wassermann Lake Preserve, with related water quality improvements.

F. The City and MCWD wish to continue their collaboration by partnering in the East Auburn Wetland Restoration and associated boardwalk improvement (the “Project”). The MCWD engineering design consultant has performed feasibility work and prepared 90 percent design plans for a weir and associated work within the wetland complex between Lake Wassermann and

East Auburn Lake to manage water level, so as to reduce transport of internal nutrient load downgradient to East Auburn Lake (the “Weir”).

G. Weir location and surface water area to be managed all lie on real property owned by the City. The City wishes to facilitate the project by granting a right of access to MCWD to build and maintain the Weir. In addition, the public trail section over the wetland adjacent to the Weir location, consisting of a boardwalk on helical piers, its connection on each side to the trail, and appurtenances (the “Boardwalk”), needs to be refurbished. There are economies in having the work done in conjunction with the Weir installation.

THEREFORE, the parties enter into this Agreement, intending to be legally bound.

DESIGN

1. MCWD has retained Moore Engineering (“Moore”) as prime design engineer for the Project, consisting of the Weir and Boardwalk. Moore has prepared 90 percent design plans, which the City accepts. Moore will prepare a final design conforming to the 90 percent design.

2. The MCWD represents that its design contract with Moore specifies that all duties of care, warranties and indemnifications with respect to the Boardwalk run not only to MCWD but also to the City. Further, pursuant to the design contract, Moore has warranted that the 90 percent Boardwalk design is, and the final design will be, ADA-compliant, and that dimensionally and structurally, the Boardwalk will support a Utility Task Vehicle (UTV) and associated snow removal equipment for the City’s snow removal activities. Based on the foregoing provisions in the design contract, and subject to paragraph 13 below, the City and MCWD waive any and all claims against the other in relation to Moore’s Boardwalk design.

3. In completing design and contract procurement phases, the City will timely specify all further City requirements for Project permits and approvals. The City will coordinate with MCWD with respect to any permits or approvals that it requires and timely process MCWD applications without permit review costs or fees, which are hereby waived. The City will timely communicate any local requirements regarding traffic; disturbance or occupation of public ways; subsurface utilities or structures on City real property and right-of-way; and any other matters within City authority that bear on construction management. The City, in its capacity as property owner, will cooperate with respect to any permits or approvals required by other units of government, however MCWD will bear all associated fees and costs.

4. The parties will establish an easement granting the MCWD a right of access to City-owned property as needed to accomplish the Project. The easement will include: a temporary easement to construct the Weir and Boardwalk; a permanent flowage easement,; and a permanent easement to inspect, operate, maintain, repair, reconstruct and remove the Weir improvements. The easement will allow MCWD to install and maintain project signage if it so chooses.

5. The easement is attached to this Agreement. The City will execute the easement in conjunction with execution of this Agreement, before the Project is published for bids.

CONSTRUCTION

6. The bid form prepared in relation to letting the contract for the Project will be unit price, structured to distinguish Boardwalk costs from other Project costs, and will require the Boardwalk to be bid as an add alternate.

7. MCWD will specify in the construction contract for the Project that with respect to the Boardwalk, the rights and obligations of Owner under the contract, and the rights and obligations of obligee under the performance bond, may be assigned to the City. MCWD will ensure that the construction contract requires the following:

a. For the Boardwalk, Contractor's warranty, hold harmless, and indemnification terms will run to the benefit of both MCWD and the City.

b. Contractor must name the City as an additional insured for commercial general liability (ongoing and completed operations), auto liability, and any associated umbrella or excess policy up to \$2 million per event/annual aggregate, with such coverage being primary and non-contributory.

c. Contractor will procure builder's risk coverage for the Boardwalk, if available as a standard lines policy.

d. Contractor must obtain and conform to all applicable City approvals and requirements, and conform to local load requirements and easement terms.

8. MCWD will solicit bids to construct the Project, and conduct the bid process in accordance with legal requirements and its judgment. MCWD will consult with the City with respect to any questions or other matters that arise during the bid-letting process concerning the Boardwalk. MCWD will share the bid tabulation with the City. The City will advise MCWD in writing of its decision whether to proceed with the Boardwalk work. MCWD will award the contract for the Project accordingly or, within its legal authority, elect not to do so.

9. MCWD will manage the construction contract and Moore will provide construction observation. MCWD will advise the City of regular pre-construction and construction meetings, which the City may attend.

10. Notwithstanding paragraph 9, the City has a right to accept or reject any Boardwalk change order materially changing contract price, design, materials or maintenance requirements. For such a change, MCWD will notify the City Engineer and provide the City Engineer at least three full business days to review and respond. The City may have additional time, if its concurrence requires specific engineering review. In such a case, the City will notify MCWD of the additional time needed and the City Engineer will exercise good faith and diligence to respond as quickly as possible in recognition of the need to avoid contract delay. The City Manager is authorized to decide on change order and work change concurrence on behalf of the City. The City Manager may delegate all or any part of this authority to the City Engineer. Any contract delay cost resulting from the City's contract change review will be shared equally by the parties.

11. Subject to paragraph 13, the City holds MCWD harmless and indemnifies it as to: (a) its acts as contract manager for the Project, except as an act may be grossly negligent or willful, and (b) construction work and defects.

12. MCWD will give the City notice of substantial completion, and notice of completion, of the Boardwalk. Within 15 days of each receipt of notice, the City Engineer will concur, or will advise MCWD specifically of its concern regarding the work and of any asserted deviation from the approved design. If the City and MCWD concur that the work appears to deviate from the contract or approved design, they will consult promptly and in good faith to resolve the matter.

13. After acceptance of completion as provided in paragraph 12, but before the Boardwalk is opened to public use, MCWD will deliver Moore's certification of completion and record drawings to the City Engineer. Upon delivery of the certification and record drawings: (a) ownership of the Boardwalk will vest in the City; and (b) the City's obligations to hold harmless and release MCWD from all claims with respect to the design and construction of the Boardwalk, and to defend and indemnify MCWD with respect to all liabilities, damages and costs resulting from any third-party claim arising from the design, construction or use of the Boardwalk, will become effective.

13a. If the construction contract is terminated before Boardwalk completion, the date of termination will constitute "final acceptance" for the purpose of the City's reimbursement of contract cost under paragraph 20, below. Before the contract is terminated, MCWD and the City will consult. At the City's request, as to the Boardwalk, MCWD will assign Owner's rights and responsibilities under the contract, and obligee's rights and responsibilities under the performance bond, to the City, and the terms of paragraph 13, above, will take effect.

MAINTENANCE

14. The City will own the Boardwalk, and maintain it according to its own prerogatives.

15. MCWD will own the Weir, and maintain it according to its own prerogatives.

16. Subject to MCWD's ongoing rights under the easement, the City will retain the property owner's rights, obligations, liabilities and prerogatives associated with managing the real property on which the Project is situated. As between MCWD and the City, the City will be responsible for day-to-day inspection and maintenance of the Boardwalk and the real property, including but not limited to sanitation, inspection for and addressing hazards resulting from events such as severe weather, and public safety. The City's responsibility under the preceding sentence does not extend to the Weir.

COSTS

17. MCWD will bear the cost of the Moore design contract.

18. The City will bear the construction contract cost for the Boardwalk. MCWD will bear the construction contract cost for the Weir, and for mobilization and any other lump-sum Project cost. The City will reimburse the MCWD for the cost of constructing the Boardwalk as provided in paragraph 20 below.

19. The parties, individually or together, may seek other sources of funding for their share of Project cost, provided they do not impose obligations on the Project in conflict with the approved design or the terms of this Agreement.

20. MCWD will be responsible for contractor payment. On final acceptance, MCWD promptly will transmit to the City an accounting of City cost. The City will pay 20 percent of its share of cost within 30 days of receiving the accounting, or by May 31, 2026, whichever later, and the remaining amount in equal payments on or before the four succeeding anniversaries of the first payment date.

21. Each party will bear its own administrative cost and other cost incurred in fulfilling its responsibilities or exercising its prerogatives under this Agreement.

MISCELLANEOUS

22. This Agreement coordinates the independent activities of the parties to achieve a combined set of municipal and watershed goals. Each party retains its authority to direct the activities for which it is responsible. Neither party is responsible for the acts or omissions of the other. Notwithstanding any other term of this Agreement, neither MCWD nor the City waives limitations on or immunities from liability under applicable law including Minnesota Statutes, Ch. 466. This Agreement creates no right in, and waives no immunity, defense or liability limit with respect to, any third party.

23. The terms of this paragraph apply except as to matters covered by paragraphs 2, 11, 13 and 13a above. MCWD will hold the City, its council members and employees, harmless, and defend and indemnify them, from any and all actions, costs, damages and liabilities to the degree they are the result of any action or inaction by MCWD that is the basis for the liability of MCWD in law or equity, including but not limited to ordinary negligence. The City will hold the MCWD, its board members and employees harmless, and defend and indemnify them, from any and all actions, costs, damages and liabilities to the degree they are the result of any action or inaction by the City that is the basis for the liability of the City in law or equity, including but not limited to ordinary negligence.

24. Only contractual remedies are available for the failure of a party to fulfill the terms of this Agreement. The parties waive objection to specific performance, injunction and other applicable forms of equitable relief on the ground that an adequate legal remedy is available.

25. Any public materials, including but not limited to Project physical signage, will acknowledge the collaboration of the parties in the Project and meet any grant requirements for grantor acknowledgement.

26. Each party will conform to all applicable federal, state, and local provisions of law applicable to the Project.

27. A notice permitted or required by this Agreement may be given by delivery, mail or electronic mail transmission to the following project representatives, or their successors as either party may notify the other in accordance with this provision:

MCWD

Michael Hayman-Director of Project Planning
(952)-471-8226
MHayman@minnehahacreek.org

City of Victoria

Cara Geheren-City Engineer
(651)-300-4261
cara.geheren@bolton-menk.com

28. A party may not assign this Agreement, in whole or part, without the written consent of the other party.

29. A waiver by either party of a breach of any term of this Agreement is not a waiver of another breach of that term or any other term of the Agreement.

30. This Agreement is to be governed by and construed in accordance with Minnesota law. Any claim under this Agreement must be venued in Carver County.

CITY of VICTORIA

By: _____

Date:

Debra McMillan, Mayor

By: _____

Dana Hardie, City Manager

MINNEHAHA CREEK WATERSHED DISTRICT

By: _____

Date:

James Wisker, District Administrator

EASEMENT

Legal description of burdened property:
Outlot A, Watermark South Addition, Carver County
Outlot A, Watermark South 2nd Addition, Carver County
Outlot C, Ambergate, Carver County

This Easement is entered into between the City of Victoria, a statutory city and political subdivision of the State of Minnesota ("Grantor"), and the Minnehaha Creek Watershed District, a public body with powers set forth at Minnesota Statutes Chapters 103B and 103D ("Grantee").

A. Grantor owns in fee simple certain real property located in Carver County, Minnesota, as legally described in Attachment A hereto (the "Burdened Property").

B. The Burdened Property comprises three parcels containing wetland and through which Six Mile Creek flows from Wassermann Lake to East Auburn Lake.

C. Pursuant to a separate executed agreement between Grantor and Grantee ("Agreement"), Grantor has committed to convey this Easement so that Grantee can construct a weir, a section of non-motorized trail boardwalk, and appurtenances for purposes of water quality and habitat improvement and public recreation.

THEREFORE, for the payment of one dollar and other good and valuable consideration, and the mutual terms set forth herein, the receipt and sufficiency of which hereby are acknowledged, Grantor conveys to Grantee and Grantee accepts the Easement on the Burdened Property, subject to terms specifically set forth herein.

1. Easement Description. The Easement encompasses a Weir Easement to construct, inspect, operate, maintain, repair, reconstruct and remove the weir improvements; a Flowage Easement; a temporary Construction Easement to construct the trail boardwalk, and an Access Route, each as delineated and labeled on the site plan at Attachment B hereto. These Easements collectively are referred to herein as the "Easement Area."

2. Weir Easement. Grantor conveys to Grantee the right to engage in the activities listed below within the Weir Easement. The rights conveyed to Grantee hereunder may be exercised by authorized representatives, agents, contractors and subcontractors of Grantee.

a. Land Alteration. Grantee may construct the weir in accordance with the Agreement; may modify lands by excavation, dredging, grading, and shaping to construct the weir; and thereafter may inspect, maintain, repair, replace and remove the weir. Grantee owns all right, title and interest in any spoils, soil and vegetative material removed, but will deposit the material in an upland location on the Burdened Property at Grantor's request on reasonable terms arranged with Grantor.

b. Structures, Rock, Fill, Bioengineered Elements. Grantee may install, maintain, repair, remove and replace fabricated structures, rock, fill and bioengineered elements to control water level, stabilize the bed and banks of wetlands and surface waters, and manage flows.

c. Vegetation and Nutrient Management. Grantee may remove surface vegetation, brush and volunteer trees. Grantee may plant vegetation for stabilization, water quality, habitat and aesthetic purposes, and may manage the vegetation through means including but not limited to replanting and reseeding, mowing, weeding, and use of approved herbicides.

d. Associated Rights. For the purposes authorized in this section 2, Grantee may enter for site inspection, investigation and testing; stage equipment and stockpile materials; and place and maintain erosion control and similar construction-phase site measures.

e. Signage. Grantee may install and maintain signage presenting public information regarding the weir and habitat improvements it constructs under this Easement.

After completing initial construction of the weir, except in the case of emergency, Grantee will give Grantor seven days' written notice before engaging in land disturbance under this section 2.

3. Flowage Easement. Grantee may direct and redirect surface water flows; flood or drain lands, wholly or partly; and otherwise manage surface flows within and through the Flowage Easement. This does not include the right to increase flood elevation on, or drain or redirect surface flows on or across, any lands outside of the Flowage Easement, including the remainder of the Burdened Property, for precipitation events at or below the 24-hour, 100-year event.

4. Temporary Boardwalk Construction Easement. Grantor conveys to Grantee the right to engage in the activities listed below within that portion of the Easement Area delineated for boardwalk construction purposes. The rights conveyed to Grantee hereunder may be exercised by authorized representatives, agents, contractors and subcontractors of Grantee.

a. Land Alteration. Grantee shall construct the boardwalk in accordance with the Agreement, and may modify lands by excavation, dredging, grading, and shaping for purposes of constructing the boardwalk.

b. Associated Rights. For the purposes authorized in this section 4, Grantee may enter for site inspection, investigation and testing; stage equipment and stockpile materials; and place and maintain erosion control and similar construction-phase site measures.

This temporary boardwalk construction easement terminates when Grantee has completed construction and Grantor has accepted the boardwalk.

5. Access Route. Grantee may cross the Burdened Property within the Access Route depicted in Attachment B on foot, by motorized vehicle or with equipment to reach the Easement Area. Grantee will restrict its vehicle and equipment travel to paved surface, to the extent feasible. If the Access Route is not passable, Grantee may deviate from the Access Route sufficiently for reasonable passage. Grantee will restore or repair any damage to the Burdened Property caused by its passage under this section 5.

6. Grantor's Limitations within Easement Area. Grantor reserves all rights and privileges associated with ownership of the Burdened Property, subject to the following constraints within the Easement Area. For the purposes of this section 6, "Grantor" includes all those acting under authority, direction or permission of Grantor.

a. Prohibited Uses. Grantor will not perform an act that would materially impair or interfere with Grantee's ability to exercise its rights under this Easement.

b. Non-Disturbance. Grantor will not disturb or alter the weir or associated improvements maintained by Grantee under this Easement provided that, upon acceptance, Grantor is solely responsible to maintain, repair or improve the boardwalk. Grantor will not take an action that impairs Grantee's ability to manage water level or flow rate within and through the Burdened Property by means of the weir and associated appurtenances.

Grantor will inform its employees and contractors performing work on the Burdened Property of this Easement and the constraints that it imposes.

7. Regulatory Authorities Not Affected. This Easement does not replace or diminish the regulatory authority of any federal, state or local public body, including Grantor or Grantee, as it may apply to the Burdened Property or any activity on it.

8. Ownership, Insurance. Grantor reserves the right to sell, transfer, lease or encumber all or part of the Burdened Property subject to this Easement. Except as specifically provided in this Easement, Grantor retains all rights and financial obligations, and bears all costs and liabilities, accruing from the fee ownership of the Burdened Property. Each party remains solely responsible to maintain liability and other insurance for its own use of and authority over the Burdened Property.

9. Waiver. A decision by a party not to exercise its rights of enforcement in the event of a breach of a term of this Easement is not a waiver of such term, any subsequent breach of the same or any other term, or any of the party's rights under this Easement. The delay or failure to discover a breach or to exercise a right of enforcement as to such breach does not impair or waive a party's rights of enforcement, all of which shall be cumulative and not exclusive.

10. Acts Beyond Party's Control. A party will not exercise its right of enforcement against the other party for injury or alteration to the Burdened Property or the improvements thereon resulting from: (a) a cause beyond the reasonable control of that party, including without limitation fire, flood, a precipitation event with a statistical recurrence interval of 100 years or more, storm, and earth movement resulting from natural forces or the act of a third party; or (b) any prudent action taken by the party under emergency conditions to prevent, abate or mitigate significant injury or alteration resulting from such a cause.

11. Notices. Any notice or other communication that a party must give to the other will be in writing and delivered electronically or to the following address, or other address as the party designates by written notice to the other:

Administrator
Minnehaha Creek Watershed District
15320 Minnehaha Boulevard
Minnetonka, MN 55345
[email address]

City Manager
City of Victoria
1670 Stieger Lake Lane
Victoria, MN 55386

[email address]

12. Miscellaneous. The parties may amend this Easement only by a duly executed writing. This Easement and all terms herein bind and benefit the parties and their respective personal representatives, heirs, successors, assigns and all others who exercise any right by or through them and run in perpetuity with the Burdened Property. Grantee bears the cost of duly recording or registering this Easement at the Carver County Office of Property Records.

13. Recitations and Attachments Incorporated. All recitations, and Attachments A and B, are a part of this agreement.

IN WITNESS WHEREOF, intending to be legally bound, the parties hereto execute and deliver this Easement.

MINNEHAHA CREEK WATERSHED DISTRICT

By: _____
Its: President

**STATE OF MINNESOTA
COUNTY OF HENNEPIN**

The foregoing instrument was acknowledged before me this ____ day of _____, 2025, by Sherry Davis White as President of the Minnehaha Creek Watershed District.

Notary Public

CITY of VICTORIA

By: _____
Its: Mayor

By: _____
Its: City Manager

**STATE OF MINNESOTA
COUNTY OF CARVER**

The foregoing instrument was acknowledged before me this ____ day of _____, 2025, by Debra McMillan and Dana Hardie, as the Mayor and City Manager, respectively, of the City of Victoria, Minnesota.

Notary Public

Prepared by Smith Partners PLLP
250 South Marquette Avenue, Suite 250
Minneapolis, MN 55401
612-344-1400

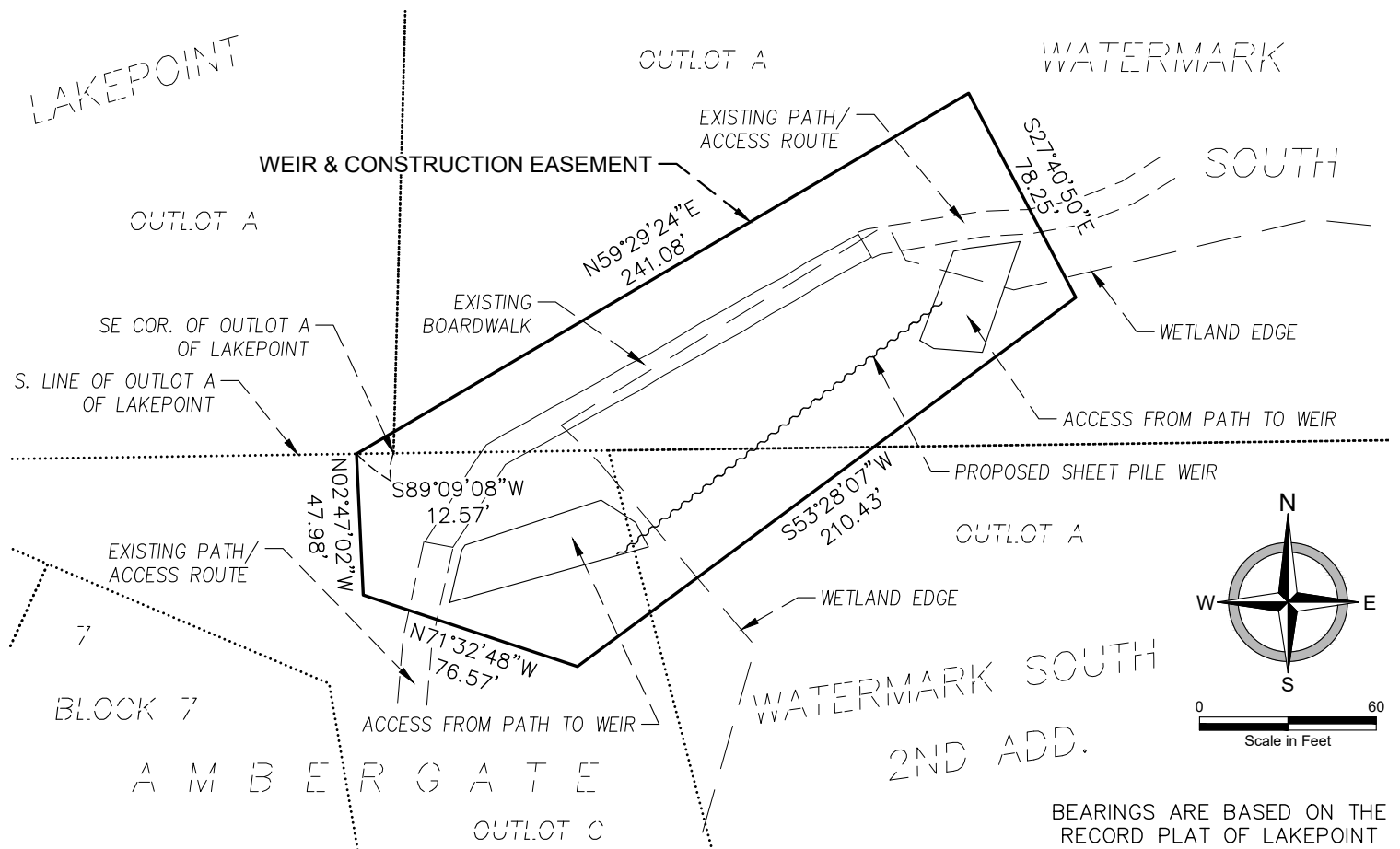
ATTACHMENT A

LEGAL DESCRIPTION: BURDENED PROPERTY

ATTACHMENT B

SITE PLAN and EASEMENT AREAS

ATTACHMENT B1 - WEIR & CONSTRUCTION EASEMENT



WEIR EASEMENT & CONSTRUCTION EASEMENT DESCRIPTION

That part of Outlot A of LAKEPOINT, that part of Outlot A of WATERMARK SOUTH, that part of Outlot A of WATERMARK SOUTH 2ND ADDITION, and that part of Outlot C of AMBERGATE, according to the recorded plats thereof, Carver County, Minnesota, described as follows:

Commencing at the southeast corner of said Outlot A of LAKEPOINT; thence South 89 degrees 09 minutes 08 seconds West on a record bearing along the south line of said Outlot A of LAKEPOINT a distance of 12.57 feet to the point of beginning; thence North 59 degrees 29 minutes 24 seconds East a distance of 241.08 feet; thence South 27 degrees 40 minutes 50 seconds East a distance of 78.25 feet; thence South 53 degrees 28 minutes 07 seconds West a distance of 210.43 feet; thence North 71 degrees 32 minutes 48 seconds West a distance of 76.57 feet; thence North 02 degrees 47 minutes 02 seconds West a distance of 47.98 feet to the point of beginning.

The above-described easement contains 0.50 acres and is subject to all easements, restrictions, reservations, and rights-of-way of record, if any.

CERTIFICATION

I hereby certify that this survey, specification, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Aaron Skattum, Minnesota License No. 54139

Date signed: June 13, 2025

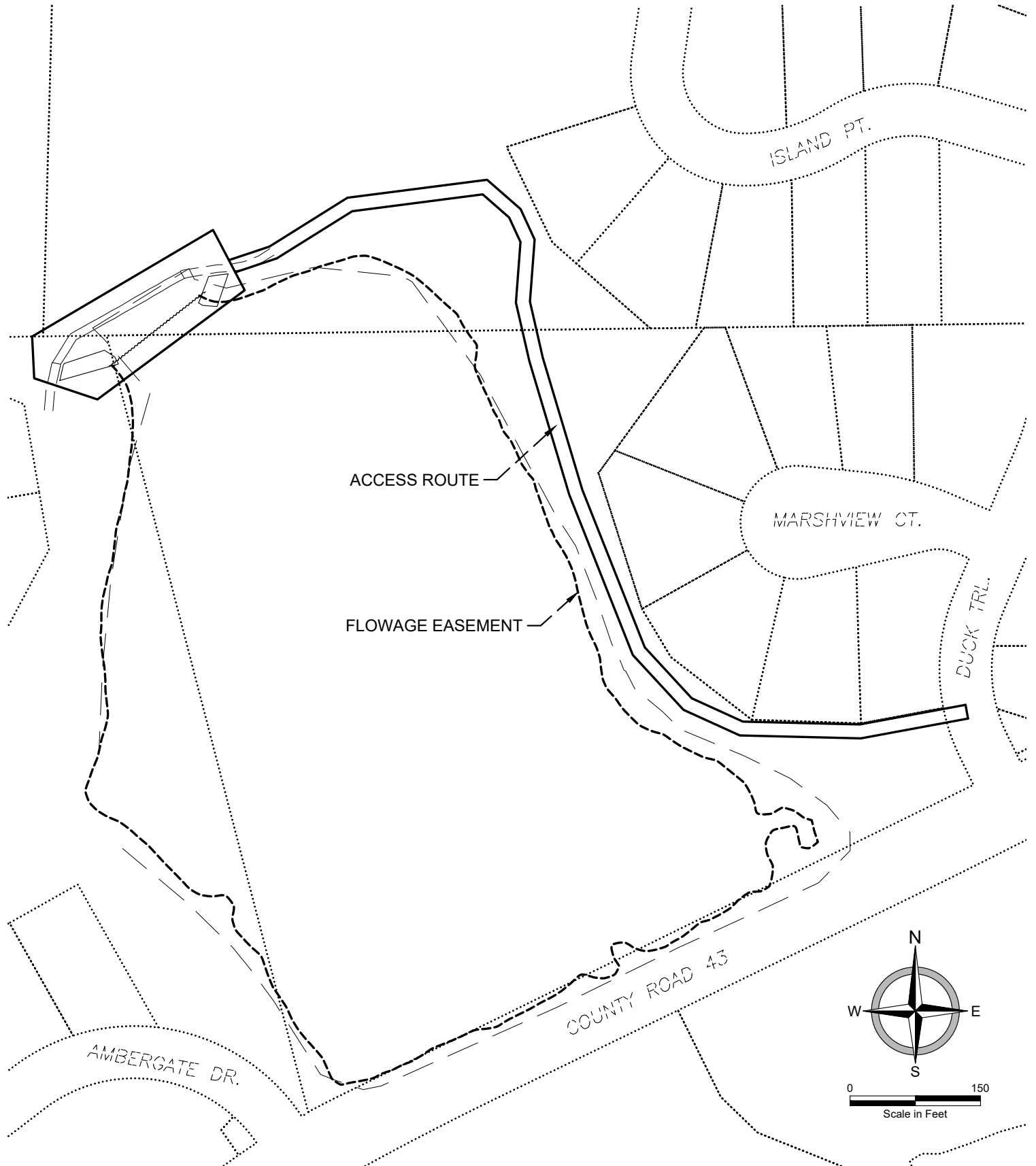
SHEET 1 OF 2

MINNEHAHA CREEK WATERSHED DISTRICT
15320 MINNETONKA BOULEVARD
MINNETONKA, MN 55345

PROJECT No.	24026
DATE:	06.09.25
REVISED:	-
DRAFTER:	AJS
REVIEWER:	CDH



ATTACHMENT B2 - FLOWAGE EASEMENT AND ACCESS ROUTE



SHEET 2 OF 2

MINNEHAHA CREEK WATERSHED DISTRICT
15320 MINNETONKA BOULEVARD
MINNETONKA, MN 55345

PROJECT No.	24026
DATE:	06.09.25
REVISED:	-
DRAFTER:	AJS
REVIEWER:	CDH

