



Title: Authority to Execute Joint Powers Agreement for Permitting of MNDOT Highway 12 Road Reconstruction Project

Resolution number: 25-060

Prepared by: Name: Veronica Sannes
Phone: 952-641-4580
vsannes@minnehahacreek.org

Reviewed by: Name/Title: Chuck Holtman/District Attorney

Recommended action: Authorize MCWD Administrator to execute the proposed Joint Powers Agreement with the City of Wayzata for the permitting of the Highway 12 Road Reconstruction Project

Summary:

The Minnesota Department of Transportation (MNDOT) is seeking regulatory approval associated with the road reconstruction along Highway 12 in the Cities of Orono, Minnetonka, and Wayzata ("Project"). The Project spans less than 500 feet in the City of Orono, approximately 3 miles in the City of Wayzata, and approximately 1 mile in the City of Minnetonka. Within the City of Orono, the District applies its full regulatory authority, while in the City of Wayzata, the District doesn't apply the Erosion Control, Wetland Protection, and Stormwater Management Rules. Within the City of Minnetonka, the District doesn't apply its Erosion Control, Floodplain Alteration, and Stormwater Management Rules. For the rules not administered by the District within the Cities of Wayzata and Minnetonka, the City serves as the sole regulatory authority.

In 2019, in conjunction with its approval of the City of Wayzata ("City") local water management plan and the City's desire to exercise sole regulatory authority with respect to erosion and sediment control, stormwater management, and wetland protection, the MCWD Board of Managers determined that MCWD would not apply its corresponding rules within City boundaries. The Board's determination is subject to Minnesota Statutes §103B.211, which states that MCWD may exercise its authority on City request, and also reserved MCWD regulatory authority in situations, such as work by state agencies, where the City does not have authority to regulate.

The City has requested that MCWD exercise its authority and review the Project under its Erosion and Sediment Control, Stormwater Management and Wetland Protection rules, as they may apply to the Project. The City and MCWD have drafted a Joint Powers Agreement (JPA) that outlines MCWD's power to exercise its regulatory authority over that part of the Project within the City's boundaries. On October 7th, 2025, the City Council approved the JPA.

Recommendation:

Staff recommends the MCWD Board of Managers authorize the Board President to execute the proposed Joint Powers Agreement with the City of Wayzata for permitting of the Highway 12 Road Reconstruction Project.

Supporting documents:

- Attachment 1: Joint Powers Agreement (JPA) between the City of Wayzata and MCWD



RESOLUTION

Resolution number: 25-060

Title: Authority to Execute Joint Powers Agreement for Permitting of Highway 12 Road Reconstruction Project

WHEREAS under Minnesota law and the City of Wayzata ("City") approved local water management plan, MCWD defers application of its permitting rules for erosion control, stormwater management and wetland protection within the City's municipal boundaries except where the City lacks authority to regulate a given activity or requests that MCWD exercise its authority;

WHEREAS the Minnesota Department of Transportation is seeking regulatory approval for reconstruction work along Highway 12, with a part of the project located within the City;

WHEREAS the City and MCWD have drafted a joint powers agreement that recognizes MCWD regulatory authority under the three noted rules over that part of the project within the City boundary; and

WHEREAS on October 7, 2025, the City Council approved the joint powers agreement;

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers authorizes the MCWD Board President to execute the proposed joint powers agreement, with any further non-substantive changes and on advice of counsel.

Resolution Number 25-060 was moved by Manager_____, seconded by Manager_____. Motion to adopt the resolution____ayes,____nays,____abstentions. Date: 10/09/2025.

Secretary Date: _____

Joint Powers Agreement

Between Minnehaha Creek Watershed District and the City of Wayzata

MnDOT Highway 12 Reconstruction and Repaving Project

This agreement is made by and between Minnehaha Creek Watershed District (MCWD) and the City of Wayzata ("City"), each a political subdivision of the State of Minnesota. This agreement is executed by both parties under authority of Minnesota Statutes section 471.59, which permits two or more governmental units to jointly and cooperatively exercise any power common to them.

Recitals

WHEREAS pursuant to Minnesota Statutes §§103D.341 and 103D.345, MCWD has adopted and implements rules and permitting requirements applicable to land-disturbing activity, to manage and protect water resources within its legal boundaries;

WHEREAS pursuant to Minnesota Statutes §§103B.231 and 103B.235, the City has a local water management plan (LWMP), approved by MCWD, pursuant to which the City has adopted ordinances applicable to land-disturbing activity, to protect water resources, which the MCWD Board of Managers ("Board") has found to be equally protective as MCWD rules and, on that basis, MCWD does not apply its erosion control, wetland protection and stormwater management rules within City boundaries;

WHEREAS in Resolution 19-087 approving the LWMP, however, the MCWD Board of Managers incorporated the August 6, 2009 memorandum of understanding between the parties, which provides that MCWD will continue to apply its rules to "actions by parties to whom Wayzata's ordinances do not apply," and further, Minnesota Statutes §103B.211, subdivision 1(a), provides that MCWD will apply its rules when the City authorizes it to do so;

WHEREAS the Minnesota Department of Transportation is preparing to undertake work to reconstruct and repave a section of Highway 12 that lies within the City (the "Project");

WHEREAS under Minnesota law, the City does not have the authority to apply the above-referenced ordinances to the Project, whereas MCWD does have the authority to apply its rules;

WHEREAS the parties agree that it is desirable for the Project to be subject to regulatory review, and to conditions that may arise from that review, to ensure that local water resources are protected;

THEREFORE it is mutually agreed by and between MCWD and the City as follows:

1. The City recognizes that MCWD will, and authorizes MCWD to, exercise its permitting authority over that part of the Project within City boundaries, under all MCWD rules.
2. An MCWD permit for the Project may include a condition requiring that a stormwater management facility or vegetated wetland buffer be installed, inspected and maintained for a term of years, or in perpetuity. The permit also may authorize MCWD to enter property to inspect, do work or otherwise occupy the Project site. By this JPA, MCWD authority to enforce any such permit condition or exercise any such authority is continuing.

3. Neither party to this agreement agrees to be responsible for the acts or omissions of the other within the meaning of Minnesota Statutes §471.59, subdivision 1a.

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

City of Wayzata

Andrew Mullin, Mayor

Date:

Mike Kelly, Interim City Manager

Date:

Minnehaha Creek Watershed District

Sherry White, President, Board of Managers

Date: