

MEETING DATE: October 27, 2016

TITLE: Authorization to Execute a Cooperative Agreement between the City of Victoria and Minnehaha Creek Watershed District

RESOLUTION NUMBER: 16-078

PREPARED BY: Anna Brown

E-MAIL: abrown@minnehahacreek.org

TELEPHONE: 952-641-4522

REVIEWED BY: Administrator Counsel Program Mgr. (Name): _____
 Board Committee Engineer Other

WORKSHOP ACTION:

<input type="checkbox"/> Advance to Board mtg. Consent Agenda.	<input type="checkbox"/> Advance to Board meeting for discussion prior to action.
<input type="checkbox"/> Refer to a future workshop (date): _____	<input type="checkbox"/> Refer to taskforce or committee (date): _____
<input type="checkbox"/> Return to staff for additional work.	<input type="checkbox"/> No further action requested.
<input checked="" type="checkbox"/> Other (specify): Approval at October 27 Board Meeting	

PURPOSE or ACTION REQUESTED:

Approval of cooperative agreement between the City of Victoria and the District

PROJECT/PROGRAM LOCATION:

Salter Park in the City of Victoria

PROJECT TIMELINE:

- December 2016 – BWSR Clean Water Grants awarded
- November 1, 2017 – Facility construction deadline

PROJECT/PROGRAM COST:

Requested amount of funding: \$0

PAST BOARD ACTIONS:

- May 22, 2003 – Permit 02-507 approving Stormwater Management permit for City of Victoria's stormwater management system
- July 28, 2016 – Resolution 16-062 authorizing staff to apply for grant funding through BWSR Clean Water Fund
- October 13, 2016 – Planning and Policy Committee move to recommend approval of the cooperative agreement between Victoria and the District

SUMMARY:

Staff seeks approval of an agreement between the District and City of Victoria concerning the City's upgrade of an existing regional facility to meet district rules for rate, volume and phosphorus treatment for 22 acres of downtown Victoria. The agreement as outlined will constitute a regional stormwater management plan pursuant to section 7 of the District's stormwater management rule.

In 2003 the District approved a regional stormwater plan to provide rate and phosphorus control for up to 9.9 acres of hard surface within a 22-acre catchment of downtown Victoria that drains into E. Auburn Lake, a waterbody impaired for nutrients. At the time of the plan development, District rules required that redevelopment projects result in no net increase in the peak runoff rate for the 1-, 10-, and 100- year design storms and provide 50% phosphorus removal. The regional stormwater plan met these rules through the construction of two detention ponds in Salter Park west of downtown. A total of 8.8 acres of hard surface has been built within the catchment.

In 2011, the District's stormwater rules were revised to include volume control, requiring abstraction for the first inch of rainfall from a site's impervious surfaces, or filtration equivalent to the first two inches where abstraction is not feasible, and increased the phosphorus removal requirement. As such, the regional facilities no longer would provide for compliance with District phosphorus or volume control requirements for the 22-acre catchment, if that catchment were redeveloped under current rules.

The City and District have coordinated to evaluate the feasibility of retrofitting the existing facilities to provide the level of capacity to meet the current District rules for rate, phosphorus, and volume control for the catchment. The proposed retrofit will incorporate filtration benches into both of the existing ponds and provide some modification to the facility footprint to meet standard design specification for these filtration retrofits. The facilities will be designed for up to 9.3 acres of downtown impervious surface, based on the City's evaluation of current build-out scenario of the downtown, allowing for all anticipated future development and redevelopment to meet District rules through the use of these expanded facilities. Further, the outflow from Church Lake would be directed to the regional facility for additional water quality benefit before discharging into E. Auburn Lake.

Under this agreement, the City is fully responsible for the design and construction of the project while the District is providing technical review and support. The District has applied for Clean Water Grant funds through the Board of Water and Soil Resources (BWSR). Should the grant be awarded to the District, the District will serve as the fiscal agent, disbursing the funds to the City to complete construction, and the City will indemnify the District in the event that the City does not fulfill the grant requirements. The City will assume all project costs if the grant is not awarded.

Under the agreement, the facilities would be operational by November 1, 2017. Under the District's stormwater management rule, facilities must be operational concurrent with the creation or replacement of impervious surface for which they are providing treatment. In the event that redevelopment occurs within the catchment area of the regional stormwater facilities before this completion date, those properties would not fall within the required treatment scope as outlined above. The District's variance rules do allow for exceptions when the proposal will achieve a greater natural resource benefit than would be achieved through regulation alone. The District engineer has reviewed the water quality benefits of this regional retrofit and estimates a benefit beyond regulatory compliance that substantially outweighs the temporary decrement of treatment for any redevelopment project constructed before November 1, 2017. The agreement, as a regional stormwater

management plan, therefore would stipulate that the exception criterion has been met for those properties permitted for redevelopment in advance of Project completion.

The present permit approval authority delegated to the administrator requires that requests under the exception criterion come before the Board. Because in approving the agreement, the Board would be finding that the exception criterion for any such applications is met, the attached resolution also would stipulate that these applications would not need to come to the board, unless some other element of the application caused it to fall outside of the administrator's delegation.

On October 27th, 2016, staff will provide a presentation outlining the project, agreement, and natural resource benefit therein.

RESOLUTION

RESOLUTION NUMBER: 16-078

TITLE: **Authorization to Execute a Cooperative Agreement between the City of Victoria and Minnehaha Creek Watershed District**

WHEREAS, the Six Mile Subwatershed has been adopted as a priority focal geography by the District Board of Managers; and

WHEREAS, on 03/26/15, the District and City of Victoria executed a memorandum of understanding (MOU) outlining each agencies desire for increased coordination in the areas of Planning, Assessing Specific Water Management Issues, and Regulatory Coordination and Support; and

WHEREAS, East Auburn Lake is impaired for excess nutrients, and has an approved Total Maximum Daily Load (TMDL) delineating required load reductions; and

WHEREAS, Downtown Victoria has two existing regional detention ponds that were designed under District's previous stormwater rule to provide rate, volume and water quality compliance for development within a defined 22-acre catchment, but these ponds are insufficient for development and redevelopment that should occur within the catchment to meet current District rules for rate, volume, and phosphorus control; and

WHEREAS, the City of Victoria would like to retrofit the existing regional facilities so that they have the capacity to provide compliance for new and redeveloped hard surface within the catchment to meet current District stormwater rules under the City's present buildout scenario; and

WHEREAS, the District and City have coordinated to identify a cost effective option to retrofit the existing facilities to meet District stormwater rules while providing natural resource benefit beyond that which could be achieved through regulation alone; and

WHEREAS, the District and City have developed a cooperative agreement wherein the City will assume all design and construction responsibilities, with oversight and technical support from the District;

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers authorizes the Board to execute the cooperative agreement between the District and City of Victoria for the enhancement of two stormwater detention basins for regional stormwater management, with any further non-substantive changes and on advice of counsel;

BE IT FURTHER RESOLVED that the agreement constitutes a regional stormwater management plan under Section 7 of the District's stormwater management rule;

BE IT FINALLY RESOLVED that the Board finds that under the agreement, the exception criterion under the District variance rule is satisfied as concerns the delay in stormwater treatment for any development or redevelopment within the catchment that occurs before the facility retrofit is operational, and therefore the authority to make the finding of exception hereby is delegated to the District administrator.

Resolution Number 16-078 was moved by Manager _____, seconded by Manager _____.
Motion to adopt the resolution ___ ayes, ___ nays, ___ abstentions. Date: _____.

Secretary Date: _____

DRAFT PROJECT AGREEMENT
City of Victoria and Minnehaha Creek Watershed District

CITY of VICTORIA BASIN ENHANCEMENT PROJECT

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

Recitals

A. The City owns and maintains two linked stormwater basins located in Salter Park, west of downtown, to provide stormwater retention and water quality treatment for a catchment of about 22 acres within the downtown area that flows ultimately to East Auburn Lake, an impaired water. The City constructed the basins pursuant to a 2003 Downtown Redevelopment plan.

B. Pursuant to Minnesota Statutes §103B.231, the District has adopted, and implements, a watershed management plan. Pursuant to Minnesota Statutes §103D.341, the District has adopted, and implements, permitting rules including a rule requiring facilities to provide permanent water quality treatment of stormwater runoff resulting from development and redevelopment.

C. Not all impervious surface within the Project catchment was constructed subject to District stormwater management requirements and the basins do not provide sufficient treatment capacity for that total surface to meet the standards of the present District stormwater management rule. Further, the City anticipates redevelopment of properties within the catchment in the short and longer term. Accordingly, the City wishes to expand and enhance the treatment capacity of the basins both to improve the level of treatment of present development and to assist future redevelopment in meeting the water quality requirements of the District’s stormwater management rules.

D. The District engineer has performed conceptual design work to identify cost-effective options to improve water quality treatment for the catchment. The District engineer has concluded that a cost-effective option is to install a filtration bench in the upgradient basin and an iron-enhanced filtration bench in the downgradient basin, and to direct the outflow from Church Lake, south of the downgradient basin, to that basin for additional water quality benefit for East Auburn Lake and further downstream for Halsted Bay of Lake Minnetonka (the “Project”).

THEREFORE the City and the District agree as follows:

ARTICLE 1 - DESIGN

1.01 The City will retain an engineering consultant to perform remaining feasibility work as it considers warranted, which may include soil analysis, review of utility plans and locations, and updated hydrologic/hydraulic modeling to determine relevant water elevations. The

District will provide to the City all feasibility and concept work that it and its consultants have produced to date, and facilitate the City consultant's use of District models subject to the District's standard licensing terms. Any materials or models provided are for the information of the City's consultant only; neither the District nor its engineer makes any representation or warranty as to accuracy, completeness or fitness for a particular purpose.

1.02 The City, through its consultant, will prepare the Project design and obtain applicable permits, including a District permit as required. At the City's request, the District will consult with the City during design preparation. The District will efficiently review and act on a permit application submitted by the City under its applicable rules and will not charge a permit fee. The City will provide the 90 percent design to the District for review and concurrence, and will prepare final plans consistent therewith. During construction, the City will notify the District of any change from the final plans before it is approved by the City, except for field changes, of which the District may be notified promptly after approval. The District may account for any plan changes in determining capacities under paragraph 6.01, below.

1.03 It is not expected that any additional easement or other land rights will be needed to construct and maintain the Project. However, to the extent any such rights must be acquired, the City will be responsible to do so at its cost.

1.04 The District and City will cooperate to develop planting specifications and specifications for information signage, for incorporation into the design plans. If City construction cost is not defrayed by grant funding, the City may elect, in lieu of the planting specifications, to proceed with more simple plans to provide for vegetation coverage and soil stability.

ARTICLE 2 - FUNDING

2.01 In cooperation with the City, the District has applied for a State of Minnesota Clean Water Fund (CWF) grant through the Minnesota Board of Water and Soil Resources (BWSR). If a grant is awarded, the District will serve formally as grantee and will receive and disburse funds to the City. As a prerequisite to the District's signing the grant agreement, the City and the District will enter into a subsidiary agreement under which, the City and District anticipate:

(a) the City and District will cooperate to determine which grant agreement obligations the City may assume directly;

(b) the City will assume responsibility to ensure that all grant agreement obligations are met, except for obligations regarding the management and disbursement of funds that will remain with the District; and

(c) the City will indemnify the District, and hold it harmless, regarding any loss of grant funds or other costs or damages incurred either as a result of grant agreement non-compliance or pursuant to the terms of the grant agreement, except for loss, cost or damages that result from the negligent or willful act of the District with respect to its obligations regarding the management and disbursement of funds.

2.02 If a CWF grant is awarded, the City and District will establish a schedule for the City to document expenses and be disbursed grant funds by the District. The schedule will account for the requirements of the City's construction contract and the terms of grant fund availability under the grant agreement.

2.03 The City will bear the cost of Project construction. The City's cost will be defrayed by any grant funds awarded for the Project. The City may use stormwater charges or any other means within its authority, as it chooses, to finance and fund the Project.

2.04 Notwithstanding paragraph 2.03, the City and District will share evenly the contract cost to design, produce and install informational signage and any other external costs associated with public information efforts under Article 4, below.

2.05 The City will bear the cost of Project monitoring and maintenance, including signage maintenance, as may be required by this Agreement or any permit for the Project, including any District permit, and will bear the cost of its actions prompted by monitoring under paragraphs 5.02 and 5.03, below. The District will bear the cost of any performance monitoring it elects to perform beyond the monitoring to which the City is obligated.

2.06 Each party will bear its own internal and administrative costs for any task it performs under this Agreement.

ARTICLE 3 - CONSTRUCTION

3.01 The City will retain one or more contractors to construct the Project. Construction will be under the oversight of the City and of a registered professional engineer on behalf of the City. The City will conduct the procurement process and select the contractor(s) in accordance with its own prerogative, but will include in the contract such reasonable technical specifications as the District requests and, to the extent allowed by law, reasonable contractor experience requirements requested by the District, so that the contractor(s) chosen have the experience and competence to properly construct the specialized elements of the Project.

3.02 Within seven days of opening bids for the construction contract, the City will submit to the District project representative an abstract of bids. The District may comment on the proposed award but the City will retain its prerogative to select the contractor.

3.03 The basins being retrofitted may be drawn down as necessary during construction of the Project, but the basins and their appurtenances will remain functional during the work so as to provide treatment for existing impervious surface that is using the basins for stormwater management compliance under District permits.

3.04 In awarding and administering the construction contract and performing construction, the City will comply and cause its contractor to comply with all federal, state and local laws, and all applicable ordinances and regulations.

3.05 The Project will be substantially complete, and in accordance with the design as approved by the District or thereafter modified under paragraph 1.02, above, by October 13, 2017. The City's engineer will certify the Project as complete by November 1, 2017. The District will confirm completion within 15 days of receiving the City engineer's certification. The City may extend a contract completion date for unavoidable delays encountered in performance, with written concurrence of the appropriate City official and subject to the terms of any District permits issued under paragraph 6.04, below.

3.06 During and following construction, the District has the right to observe construction and inspect the Project, and will do so within 10 calendar days of written notice of substantial completion. The City engineer or its consulting engineer will certify completion and supply a copy of signed as-built drawings to the District. The District must confirm completion as a prerequisite for regulatory credit for the Project under paragraph 6.01, below.

ARTICLE 4 - PUBLIC INFORMATION

4.01 The City and District will cooperate to define and implement a signage plan for the Project and other public information efforts, both during construction and with respect to the completed project.

ARTICLE 5 - MAINTENANCE

5.01 The City will maintain the Project in accordance with the terms of the Programmatic Maintenance Agreement between the parties dated January 29, 2014, Attachment A hereto, incorporated herein, and additional maintenance terms particular to the Project as set forth in Attachment B hereto, incorporated herein. This maintenance obligation will extend for five years from the date of this Agreement, and will renew automatically for successive five-year terms unless and until terminated or otherwise modified by the written agreement of the parties.

5.02 The City will conduct performance monitoring as set forth in Attachment C hereto, incorporated herein, and will coordinate with the District on further details as to the implementation of the monitoring program. If monitoring fails to meet the performance standard stated in Attachment C, the City, in consultation with the District, will perform reasonable investigation to determine the cause of the failure and take feasible actions to meet the performance standard or otherwise improve performance. A feasible action is one that is technically attainable at a cost not grossly disproportionate to the performance benefit it is capable of achieving.

5.03 If the cause of a failure to meet the performance standard, or reasonable steps to correct performance, cannot be identified, the City and District will cooperate to determine what, if anything, the CWF grant agreement requires, and the City will be responsible to take such steps.

5.04 The City and District will cooperate to determine actions, responsibilities and funding allocation for any appropriate Project modifications to improve performance beyond what the grant agreement requires. The District, in its discretion and within its legal authority, may

fund any costs it assumes by means within its authority, including stormwater charges or another mechanism that draws revenue from the affected geographic area.

ARTICLE 6 - PROJECT USE for REGULATORY COMPLIANCE

6.01 On the basis of as-builts and technical specifications, the City will quantify the phosphorus, rate and volume control capacities of the Project for District concurrence. A record of the capacities as determined will be maintained by each party.

6.02 At any time, the City may reserve any remaining phosphorus control capacity for Total Maximum Daily Load or anti-degradation compliance, prospective City projects, or any other purpose. The parties will memorialize this decision in writing, and the dedicated capacity no longer will be available under paragraph 6.03, below.

6.03 This Agreement constitutes a regional stormwater management plan pursuant to section 7 of the District's stormwater management rule, with the following stipulations:

- a. The Project may be used as a regional facility for any creation or replacement of hard surface within the catchment as delineated on Attachment D hereto, incorporated herein.
- b. Except as further provided herein, use of the regional facility will serve to meet phosphorus, rate and volume control requirements under the District's stormwater rule for all development and redevelopment within the defined catchment, up to a total of 9.3 acres of existing and new hard surface. The City and District will maintain and share an accounting of the use of Project capacity.
- c. If the District stormwater rule is revised at any future time to impose a stricter phosphorus, rate or volume control requirement, at the time of any permitting within the catchment the District will convert this stricter standard into an acreage equivalent for deduction from the 9.3-acre capacity.
- d. Individual project sites must incorporate Best Management Practices on the site in accordance with paragraph 7(c) of the rule, as amended.
- e. Any applicant seeking to use Project capacity will be required to document that the City has authorized use of the Project and that the Project is in maintained condition.
- f. The District stormwater management rule requires that stormwater management facilities be operational concurrent with the creation or replacement of impervious surface for which they are to provide treatment. The District variance rules also allow for the District Board of Managers ("Board") to grant an exception to any rule requirement if the applicant proposes an alternative means of compliance that the Board finds will achieve a greater degree of water resource protection than would strict compliance with the requirement. In approving this Agreement as a regional stormwater management plan, the Board finds that the exception provision is

satisfied for any application to create or replace impervious surface that comes before the Board proposing to use the Project for compliance purposes, but where the Project will not be operational concurrent with the proposed work, provided the Project is completed within the deadlines set forth in this Agreement. The rationale for the exception is that the Project will provide for enhanced treatment for the catchment in advance of full redevelopment and further will provide treatment for Church Lake outlet flows, which the District engineer has determined together will substantially exceed the loss of treatment during the time between redevelopment and when the Project becomes operational.

Except as specifically stated in this Agreement, District rules and regulatory procedures will apply as of the time an application is considered.

6.04 If at a future time the City is exercising sole authority for stormwater management permitting pursuant to District approval of the City's local water plan under Minnesota Statutes §103B.235, as amended, the parties will cooperate so that the District may confirm that permitting accords with the terms of this section 6.

ARTICLE 7 - GENERAL

7.01 Each party is responsible for its own employees for any claims arising under the Workers Compensation Act. Each party is responsible for its own acts, omissions and the results thereof to the extent authorized by law and will not be responsible for the acts and omissions of the other party or the results thereof. Minnesota Statutes chapter 466 and other applicable law govern liability of the City and the District. This Agreement creates no rights in and waives no immunity, defense or liability limit with respect to any third party or the other party to this Agreement. Only contractual remedies are available for the failure of a party to fulfill the terms of this Agreement.

7.02 The District's role under this Agreement is solely to support the City's implementation of innovative stormwater management approaches and the City's investment in the Project by establishing terms under which the Project may be used to comply with District regulatory requirements. The District has no authority to select, or role in selecting, the design, means, method or manner of performing any part of the Project or the person or firm who will perform the work. Any District approval or concurrence in plans and specifications or any other aspect of Project construction is solely for the District's own accounting of its funds spent hereunder and its tracking of Project outcomes for regulatory purposes.

7.03 Each notification required by this Agreement must be made to the project representative. The project representatives of the parties are:

Anna Brown, Planner - Project Manager
Minnehaha Creek Watershed District
15320 Minnehaha Boulevard
Minnetonka, MN 55345
(952) 471-0590

Cara Geheren, President/Sr. Municipal Engineer
Focus Engineering, Inc.
PO Box 22166
Eagan, MN 55122
(651) 300-4261

Contact information will be kept current. Either contact may be changed by a party by written notification to the other party.

7.04 An amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the parties. A party to this Agreement may not assign or transfer any right or obligation hereunder without an assignment agreement executed by the parties and the assignee.

7.05 A party's failure to enforce a provision of this Agreement does not waive the provision or that party's right to enforce it subsequently.

7.06 The above Recitals are incorporated into this Agreement.

7.07 This Agreement is effective when executed by both parties and expires five years thereafter. Paragraphs 2.05, 5.01-5.04, 6.02-6.04 and 7.01-7.02 will survive expiration.

7.08 This Agreement is entered pursuant to, and shall be governed by, Minnesota law.

IN TESTIMONY WHEREOF the parties have executed this Agreement by their authorized officers.

CITY OF VICTORIA

By _____
Its Mayor

Date:

By _____
Its City Manager

Date:

Approved for form and execution:

MCWD Counsel

MINNEHAHA CREEK WATERSHED DISTRICT

By _____
Its President

Date:

ATTACHMENT A

City of Victoria Programmatic Maintenance Agreement

DRAFT

PROGRAMMATIC MAINTENANCE AGREEMENT
Stormwater Management Facilities, Waterbody Crossings & Structures, Wetland Buffers and
Shoreline & Streambank Stabilizations

Between the Minnehaha Creek Watershed District
and the City of Victoria

This Maintenance Agreement (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 Victoria, an incorporated municipality and political subdivision of the State of Minnesota (CITY).

Recitals and Statement of Purpose

WHEREAS pursuant to Minnesota Statutes § 103D.345, the MCWD has adopted and implements the Stormwater Management Rule, Wetland Protection Rule, the Waterbody Crossings & Structures Rule and the Shoreline & Streambank Stabilization 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 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 from time to time is subject to stormwater management, wetland buffer, waterbody crossings and structures and shoreline & streambank stabilization 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 to agree at this time on standard requirements for stormwater management, wetland buffer protection, waterbody crossings and structures maintenance and shoreline & streambank stabilizations, so that this Agreement may be incorporated into future permits as applicable.

THEREFORE IT IS AGREED as follows:

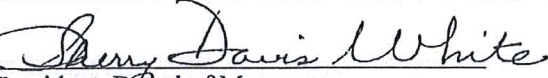
1. All features requiring maintenance under an MCWD permit shall be maintained in perpetuity in accordance with Attachment A, Maintenance Plan & Schedule.
2. MCWD permits for specific projects may contain additional maintenance conditions in accordance with MCWD rules, as they may be amended from time to time.
3. CITY will submit a copy of the Storm Water Pollution Prevention Plan annual report prepared under its Municipal Separate Storm Sewer System permit to the MCWD each year.
4. If CITY conveys into private ownership a fee interest in any property that has become subject to this Agreement, it shall 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 shall require as a condition of the purchase and sale agreement that the purchaser accept an assignment of all obligations vested under this Agreement.


5. This Agreement may be amended only in a writing signed by the parties.
6. 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.
7. The recitals are incorporated as a part of this Agreement.

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

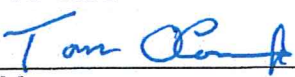
MINNEHAHA CREEK WATERSHED DISTRICT


By:  Date: 1-29-14
President, Board of Managers

APPROVED AS TO FORM and EXECUTION

By:  ~~Date:~~
Its Attorney

CITY OF CITY

By:  Date:
Its Mayor

By:  Date:
Its Administrator

APPROVED AS TO FORM and EXECUTION

By: _____ Date:
City Attorney

ATTACHMENT A

MAINTENANCE PLAN & SCHEDULE

1. WETLAND BUFFER AREAS

- a. Buffer vegetation will not be cultivated, cropped, pastured, mowed, fertilized, subject to the placement of mulch or yard waste, or otherwise disturbed, except for periodic cutting or burning that promotes the health of the buffer, actions to address disease or invasive species, mowing for purposes of public safety, temporary disturbance for placement or repair of buried utilities, or other actions to maintain or improve buffer quality, Pesticides and herbicides may be used in accordance with Minnesota Department of Agriculture rules and guidelines. No new structure or hard surface will be placed within a buffer, except that construction of a trail or path of no more than 4 feet in width to provide riparian access through the buffer is acceptable. No fill, debris or other material will be excavated from or placed within a buffer.
- b. Permanent wetland buffer monuments will be maintained in the locations shown on the approved site plan. Language shall indicate the purpose of the buffer, restrictions, and the name and phone number of the Minnehaha Creek Watershed District.

2. SHORELINE & STREAMBANK STABILIZATIONS

- a. The project area will be inspected at least annually and any erosion or structural problems observed will be corrected within 30 days of inspection to establish and maintain a naturalized, ecologically healthy [shoreline/streambank] that is structurally stable and resistant to erosion. [Shoreline/Streambank] plantings will be replaced and seeded areas will be reseeded as necessary in the spring and fall of each year in accordance with the approved plan to maintain the ecological health and function of the shoreline. Removal of invasive species will occur on an ongoing basis. Weeds will be hand pulled or spot treated with aquatic formulations of herbicide according to instructions on the herbicide label. All planted and seeded areas will be maintained in perpetuity free from mowing or other vegetative disturbance, fertilizer application, yard or other waste disposal, the placement of structures or any other alteration that impedes the function of the shoreline in protecting water quality, shading the riparian edge, moderating flow into any adjacent wetland or waterbody, or providing wildlife habitat.

3. WATERBODY CROSSINGS & STRUCTURES

- a. Crossings and structures in contact with the bed or bank of a waterbody will be inspected at least once a year and maintained in good repair in perpetuity to ensure continuing adequate hydraulic and navigational capacity is retained in accordance with approved plans, to ensure no net increase in the flood stage beyond that achieved by the approved plans, to prevent adverse effects on water quality, changes to the existing flowline/gradient and increased scour, erosion or sedimentation, and to minimize the potential for obstruction of the waterbody.

4. STORMWATER FACILITIES

- a. **Stormwater retention and treatment basin(s).** Stormwater retention and treatment basin(s) must be inspected at least once a year to determine if the basin's retention and treatment characteristics are adequate and continue to perform per design. Culverts and outfall structures must be inspected at least annually and kept clear of any obstructions or sediment accumulation. Sediment accumulation must be measured by a method accurate to within one vertical foot. A storage treatment basin will be considered inadequate if sediment has decreased the wet storage volume by 50 percent of its original design volume. Based on this inspection, if the stormwater basin(s) is identified for sediment cleanout, the basin(s) will be restored to its original design contours and vegetation in disturbed areas restored within one year of the inspection date.
- b. **Raingardens, infiltration basins and filtration basins.** Raingardens, infiltration basins and filtration basins will be inspected annually to ensure continued live storage capacity at or above the design volume. Invasive vegetation, excess sediment and debris will be removed as needed and healthy plant growth will be maintained to ensure that the facilities continue to perform per design.
- c. **Vegetated swales.** Vegetated swales will remain free from mowing or other vegetative disturbance, fertilizer application, yard or other waste disposal, the placement of structures or any other alteration that impedes the function of the vegetated swale.
- d. **Pervious pavement.** Pervious pavement will be inspected after at least one major storm per year and otherwise annually to ensure continuing performance per design. Surface openings will be vacuumed in dry weather to remove dry, encrusted sediment as necessary. Broken units that impair the structural integrity of the surface will be replaced. If water stands for an extended period of time, the base materials will be removed and replaced.
- e. **Underground storage facilities.** Underground storage facilities will be inspected at least annually to ensure continuing performance per design. Capacity will be considered inadequate if sediment has decreased the storage volume by 50 percent of the original design volume. Accumulated debris and sediment will be

removed, and inlet and outlet structures will be kept clear of any flow impediments.

- f. **Grit chambers, sump catch basins and sump manholes.** Grit chambers, sump catch basins and sump manholes will be inspected in the spring, summer and fall of each year. All sediment and debris will be removed as needed such that the stormwater facilities operate as designed and permitted.
- g. **Proprietary stormwater facilities.** Proprietary stormwater facilities will be inspected at least annually and maintained as specified or recommended by the manufacturer and/or installer
- h. **Reporting.** The Declarant will submit to the MCWD annually a brief written report that describes stormwater facility maintenance activities performed under this declaration, including dates, locations of inspections and the maintenance activities performed.

ATTACHMENT B

Additional Maintenance Terms

The project will periodically require maintenance to retain treatment effectiveness. Occasional removal of accumulated particulate in pond bottoms is necessary to maintain Pool dead volumes needed to effectively settle particles. This normally requires a survey of pond bottom elevations on a 2 to 5 year cycle. When the pool dead volume has diminished to near 50% of the original volume, the accumulated sediment should be removed. The removed sediment should be managed in accordance with current MPCA guidance for storm water ponds.

The project could also require periodic replacement of clogged filter material (sand) and also clogged or depleted iron filter media (sand and iron filings). Annual inspections should be made to assess the degree of clogging of sand filter material. In addition, a composite sample or several discreet samples of the sand-iron media should be collected when the estimated half-life of the iron bonding capacity has been reached. The sample(s) should be analyzed to determine actual remaining bonding capacity and replacement of the sand-iron media should be scheduled on the basis of testing results to maintain continuous treatment effectiveness.

ATTACHMENT C

Monitoring Terms

Sample and measure flow at three locations using standard stream monitoring protocol three times each year during spring and summer. Locations should include:

- Church Lake outflow at culvert under 81st Street
- The outlet of the filtration bench
- The outlet of the iron-enhanced filtration bench

Testing should include:

- Total Suspended Solids (TSS)
- Total Phosphorus (TP)
- Ortho-phosphorus (Ortho-P)





A brief annual report should be written of analytical results and measured flows. Laboratory reports should be attached or made available to MCWD.

ATTACHMENT D

Regional Stormwater Catchment Area

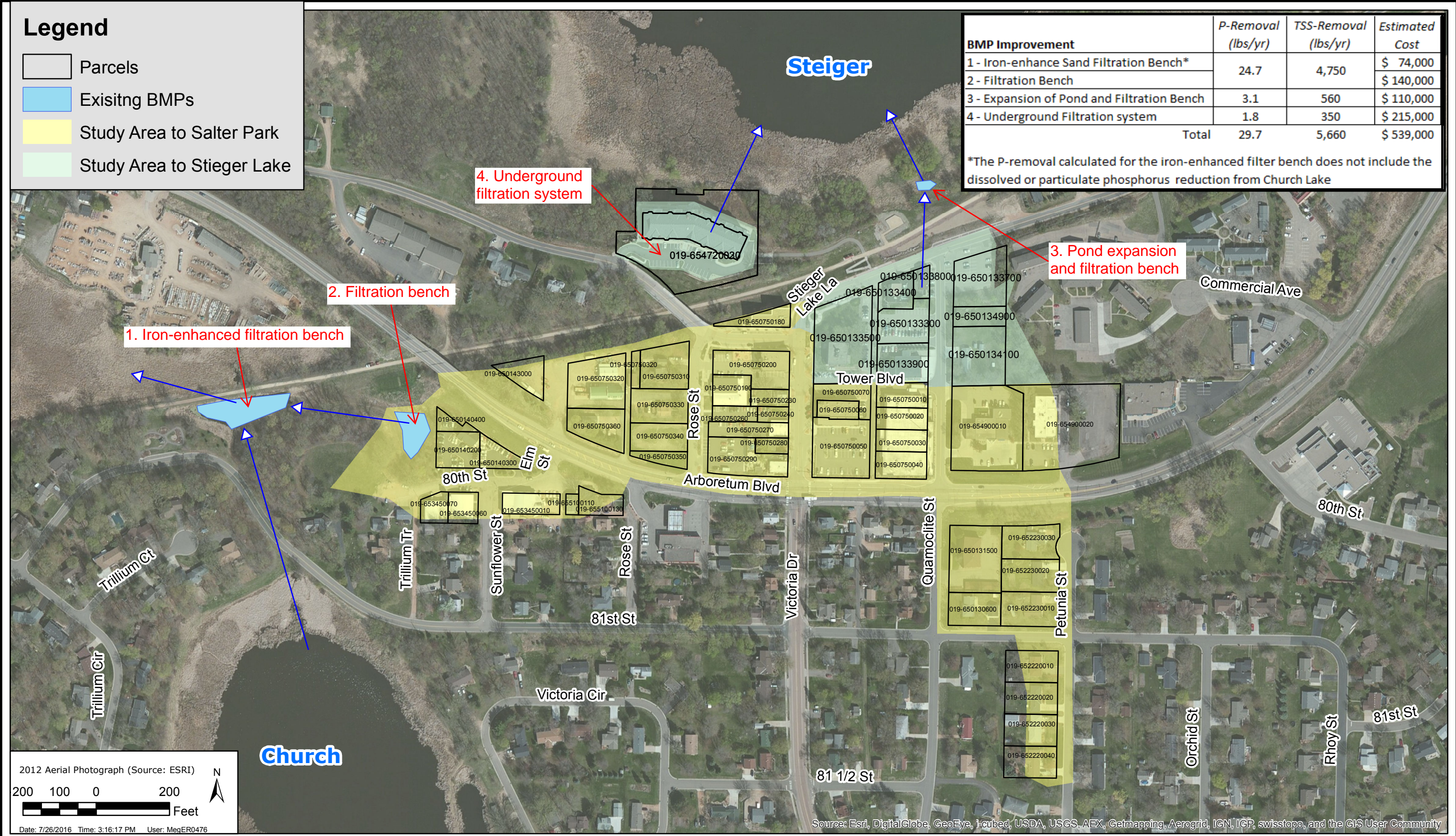
DRAFT

Legend

-  Parcels
-  Existing BMPs
-  Study Area to Salter Park
-  Study Area to Steiger Lake

BMP Improvement	P-Removal (lbs/yr)	TSS-Removal (lbs/yr)	Estimated Cost
1 - Iron-enhance Sand Filtration Bench*	24.7	4,750	\$ 74,000
2 - Filtration Bench			\$ 140,000
3 - Expansion of Pond and Filtration Bench	3.1	560	\$ 110,000
4 - Underground Filtration system	1.8	350	\$ 215,000
Total	29.7	5,660	\$ 539,000

*The P-removal calculated for the iron-enhanced filter bench does not include the dissolved or particulate phosphorus reduction from Church Lake



2012 Aerial Photograph (Source: ESRI)

200 100 0 200 Feet

Date: 7/26/2016 Time: 3:16:17 PM User: MeqER0476

Source: Esri, DigitalGlobe, GeoEye, I-cubed, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

MINNEHAHA CREEK WATERSHED DISTRICT
Downtown Victoria Study Area Map



Responsive partner. Exceptional outcomes.

JUL 2016
Figure 1

To: Anna Brown, *Planner - Project Manager*, Minnehaha Creek Watershed District

From: Erik Megow, Wenck Associates, Inc.
Chris Meehan, Wenck Associates, Inc.

CC: James Wisker, Minnehaha Creek Watershed District

Date: September 8, 2016

Subject: Downtown Victoria Stormwater Update

Background/Purpose

In 2003 the District approved a regional stormwater plan to provide rate and phosphorus control for up to 9.9 acres of hard surface within a 22-acre catchment of downtown Victoria that drains into E. Auburn Lake, a waterbody impaired for nutrients. At the time of the plan development, District rules required that redevelopment projects result in no net increase in the peak runoff rate for the 1-, 10-, and 100- year design storms and provide 50% phosphorus removal. The regional stormwater plan met these rules through the construction of two detention ponds in Salter Park west of downtown. A total of 8.8 acres of hard surface has been built within the catchment.

In 2011, the District's stormwater rules were revised to include volume control, requiring abstraction for the first inch of rainfall from a site's impervious surfaces, or filtration equivalent to the first two inches where abstraction is not feasible, and increased the phosphorus removal requirement. As such, the regional facilities no longer would provide for compliance with District phosphorus or volume control requirements for the 22-acre catchment, if that catchment were redeveloped under current rules.

The City and District have coordinated to evaluate the feasibility of retrofitting the existing facilities to provide the level of capacity to meet the current District rules for rate, phosphorus, and volume control for the catchment.

Current Conditions

The Downtown Redevelopment plan for the City of Victoria, prepared by TKDA Engineering in 2003, was designed to meet previous MCWD Stormwater Requirements. The design provided rate and water quality control for portions of the downtown draining to Steiger Lake and Salter Park. The plan provided two water quality basins at the Salter Park location to provide rate control for the 1-, 10-, and 100-year storm events and water quality equivalent to removing 50% of the phosphorus load. The phosphorus reduction and rate control to Steiger Lake was accomplished by re-directing a portion of the watershed to the Salter Park ponds and using Stormceptor type BMPs at the outfalls.

Stormwater Requirement Review

Since the 2003 plan was developed, the MCWD Stormwater Rules have been updated to include additional guidelines for water quality and volume control. Table 1 lists the MCWD stormwater requirements that were met in 2003 and the revised requirements from 2011.

Table 1. MCWD Stormwater Requirements for Redevelopment

<i>Standard</i>	<i>2003 Requirements</i>	<i>Post-2011* Requirements</i>
Rate Control	No net increase in the peak runoff rate for the 1-, 10-, and 100-year design storms.	
Water Quality (Phosphorus Control)	50% Phosphorus Removal	Phosphorus control in an amount equivalent to that which would be achieved through required volume control.
Volume Control	None	Provide abstraction of the first one inch of rainfall from the site's impervious surface.

*The current MCWD Stormwater Management Rules went into effect on June 1, 2011

From review of Table 1 and the 2003 stormwater redevelopment plan, the current stormwater BMPs for Downtown Victoria do not meet MCWD's current standards for water quality and volume control. To meet these requirements, abstraction of the first one inch of rainfall from the site's impervious surface must be incorporated into existing or new BMPs to bring the area into conformance with the current MCWD stormwater requirements.

Proposed Conditions

To bring the parcels within the downtown area up to the current MCWD Stormwater Standards, the three outfalls at Salter Park (1) and Steiger Lake will need to include BMPs with infiltration or filtration practices. Without soil data and seasonally high groundwater data, the BMPs proposed in this analysis were sized to utilize filtration practices and sized to treat the first 2 inches from the parcels' impervious surface. To meet the MCWD volume control rules, filtration practices receive a 50% volume abstraction credit; therefore, 2 inches of filtration volume from the parcels' impervious surface were required. By meeting the Volume Control requirement, the BMPs will also provide the phosphorus removal required to meet MCWD's Water Quality standard and the Downtown area will in conformance with MCWD's stormwater rules.

To meet the rules, four BMPs were sized and proposed to treat the three outfall locations. Figure 1 (attached) shows the four proposed filtration BMPs. The four proposed BMPs include:

1. A new iron-enhanced filtration bench in an existing stormwater pond, designed to treat stormwater directed to the west to Salter Park. This iron-enhanced filtration bench will also treat water discharged from Church Lake.
2. A second filtration bench in another existing stormwater pond, designed to treat stormwater directed to the west to Salter Park.
3. A Pond expansion near the new Victoria Bandshell sized to filter stormwater directed to Steiger Lake.
4. An Underground Filtration system designed to filter runoff directed to the Steiger Lake.

To size the filtration practices, a parcel-by-parcel analysis was performed to determine the impervious surface from the parcels directed to each BMP. The impervious surface was calculated based on a combination of aerial image review and land use. Many commercial areas were designated as 80% impervious and many residential areas within the study area were designated as 35%. From there, many parcels were adjusted upward 5-20%. A full table of the impervious assumptions is listed in Appendix A. Table 2 lists the calculated impervious surface directed to each BMP from the parcels, the required filtration volume for the parcels, and filtration volume provided by each BMP.

Table 2. Proposed BMPs and Treatment Volumes

BMP	Parcel Impervious Surface (ac)	Required Treatment/Filtration Volume (ac-ft)	Provided Treatment/Filtration Volume (ac-ft)	Receiving Waterbody
1. Iron-filtration Bench	9.30	1.55	Total: 1.55 BMP 1: 0.32 BMP 2: 1.23	Six Mile Creek
2. Filtration Bench				
3. Pond expansion and filtration bench	3.25	0.54	0.55	Steiger Lake
4. Underground Filtration system	1.32	0.28	0.28	

As shown in Table 2, the four proposed BMPs will provide the required filtration volume to meet the current MCWD stormwater rules.

Analysis and Design Limitations

The proposed BMPs were designed based on LiDAR contours from the DNR with knowledge of existing stormwater infrastructure and invert elevations. Based on available information, the proposed BMPs will operate in the known available footprints and contours. Table 3 lists the proposed BMP footprints, the depth of the BMP, the estimated elevations of the BMPs, and abstraction/filtration provided by each BMP.

Table 3. Proposed BMP Design Parameters

Proposed BMP	Depth/Elevations	Footprint	Filtration Volume
1. Iron-filtration Bench	The filtration bench will filter 1.0 ft of runoff between the 944.5 and 945.5 elevations	The bench was designed to have a footprint of ~5,500 sf to draw down the filtration volume within 48hrs*	With some additional shaping of the contours between 944.5 and 945.5 and excavation, the bench will be able to treat the first 0.29 ac-ft.
2. Filtration Bench	The filtration bench will filter 5.0 ft of runoff between the 960.0 and 965.0 elevations	The bench was designed to have a footprint of ~8,500 sf to draw down the filtration volume within 48hrs.	With some additional shaping of the contours between 960.0 and 970.0 and excavation, the bench will be able to treat the first 1.20 ac-ft.
3. Pond expansion and filtration bench	The expanded pond excavation and filtration bench will filter 3.0 ft of runoff between the 957 and 960 elevations	The filtration bench portion of the BMP was designed to have a footprint of ~8,000 sf to draw down the filtration volume within 48hrs.	With some additional shaping of the contours between 960 and 957 and excavation, the bench will be able to treat the first 0.55 ac-ft.
4. Underground Filtration system	With no room on the property or between the property and Steiger Lake for a basin, the Underground Filtration system was designed to have a treatment depth of 3 ft and a footprint of 4,000 sf. The underground system will probably need to be located beneath the parking lot.		The underground system was sized to filter 0.28 ac-ft of runoff.

*The drawdown rates for the filtration practices were calculated using an infiltration rate of 1.63in/hr

The last part of the analysis estimated the total phosphorus and TSS removals of the proposed BMPs and the estimated cost of the BMPs. This analysis was done using the simple method as outlined in the Minnesota Stormwater Manual and construction costs based on the size of the BMPs and the amount of excavation needed for each BMP. The results of this analysis are listed in Table 4.

Table 4. Proposed Stormwater Treatment (Removals) and Cost

Proposed BMP	TSS and Phos. Loads from Parcels (lbs/yr)	Existing Removals		Proposed Removals		Estimated Cost*
		Phos. (lbs/yr)	TSS (lbs/yr)	Phos. (lbs/yr)	TSS (lbs/yr)	
1. Iron-filtration Bench	Phos. – 29.7 TSS – 5,401	17.8	4,321	25.3	4,861	\$75,000
2. Filtration Bench						\$142,000
3. Pond expansion and filtration bench	Phos. – 5.7 TSS – 418	0.6	206	3.1	570	\$110,000
4. Underground Filtration system	Phos. – 2.3 TSS – 1,031	0.0	0.0	1.8	350	\$215,000

*Cost does not include Operation and Maintenance

For final design, the following analyses will be needed to confirm the feasibility of the outlined BMPs:

1. Soil analysis to determine whether the soils are suitable for each BMP.
2. Review of utility plans to confirm there would be no interference.
3. An updated hydrologic and hydraulic model to determine the new high water levels for each basin.
4. Final confirmation of proposed site designs and drainage routes

Gap Analysis

The proposed BMPs would bring the parcels downtown Victoria area up to the current MCWD Stormwater Standards, however, these BMPs will not be going on-line until 2017 at the earliest. Until they go online, the downtown Victoria parcels will continue to be in conformance with the District’s phosphorus and rate control requirements as laid out in the 2003 Plan. The existing BMPs were designed to provide rate and phosphorus control for an increase in impervious surface. Based on review of the current impervious surface calculations and the impervious surface coverage outlined in the 2003 Plan, it is estimated that the existing BMPs have a capacity for an additional 0.6 acres of impervious surface. Table 5 outlines the amount of existing impervious surface, the impervious surface planned for in 2003, and the allowable increase of impervious surface within the downtown area before the proposed BMPs go on-line.

Table 5. Impervious Surface Gap Analysis

Existing Impervious Surface	9.30 acres
Planned Imp. Surface (2003)	9.90 acres
Allowable Increase in Imp. Surface	0.60 acres

Appendix A: Impervious surface Calculations per Parcel

PID	Owner (Tax Name)	Parcel Areas (ac)	% Imp.	Impervious Area (ac)
019-650130600	MARK ALLEN MYKLEBUST	0.29	34%	0.10
019-650131500	SCHUSTER INVESTMENTS	0.60	69%	0.41
019-650140200	BAVARIA LAND CO LLC	0.27	92%	0.25
019-650140300	BAVARIA LAND CO LLC	0.17	90%	0.15
019-650140400	BAVARIA LAND CO LLC	0.08	51%	0.04
019-650143000	Maurice Leuthner Rev Trust	0.21	57%	0.12
019-650750010	Victoria City Center	1.36	97%	1.31
019-650750020				
019-650750030				
019-650750040				
019-650750050	Clocktower Building LLC	0.09	100%	0.09
019-650750060				
019-650750070	VICTORIA CITY	0.21	100%	0.21
019-650750180	1772 VICTORIA LLC	0.16	74%	0.12
019-650750190	VICTORIA CITY	0.20	100%	0.20
091-650750201	Notermann Building LLC	0.32	95%	0.30
091-650750202	Mainstreet Building LLC	0.07	100%	0.07
091-650750231	City of Victoria	0.02	100%	0.02
091-650750232	Mainstreet Building LLC	0.17	100%	0.17
019-650750260	City of Victoria	0.12	100%	0.12
019-650750270	Bavaria Land Company	0.21	95%	0.20
019-650750280	Dent Properties LLP	0.09	78%	0.07
019-650750290	RICKY C PLOCHER &	0.43	92%	0.40
019-650750310	MAURICE L & KAY E LEUTHNER	0.36	98%	0.35
019-650750320	Maurice Leuthner Rev Trust	0.75	95%	0.71
019-650750330	MAURICE L & KAY E LEUTHNER	0.33	98%	0.32
019-650750340	Victoria Property LLC	0.27	98%	0.26
019-650750350	Victoria Property LLC	0.11	95%	0.10
019-650750360	RICHARD W & PEGGY ANN LEUTHNER	0.33	95%	0.31
019-652220010	MICHAEL J & SHANNON SCHLEICHER	0.28	24%	0.07
019-652220020	PETER R & DIANNE E MEUWISSEN	0.28	29%	0.08
019-652220030	TODD A & DEEANN M TRIETHART	0.28	38%	0.11
019-652220040	KENNETH J SCHMIEG	0.28	29%	0.08
019-652230010	GARY A & BARBARA J SIVERHUS	0.34	28%	0.10
019-652230020	JEAN M & ELIZABETH A KRAUTH	0.32	22%	0.07
019-652230030	CHARLES V WIHREN &	0.32	28%	0.09
019-653450010	VAW PROPERTIES LLC	0.20	100%	0.20
019-653450060	ROLAND R & DONNA MAE OLSON	0.16	83%	0.13
019-653450070	ROLAND R & DONNA MAE OLSON	0.13	74%	0.10

019-654900010	VICTORIA STATE BANK	1.03	68%	0.70
019-654900020	JHL PROPERTIES LLC	1.37	75%	1.03
019-655100110	Swig and Hunt Properties LLC	0.04	100%	0.04
019-655100130	Todd Realty LLC	0.17	50%	0.09