



**MINNEHAHA CREEK**  
WATERSHED DISTRICT  
QUALITY OF WATER, QUALITY OF LIFE

**Meeting:** Board of Managers  
**Meeting date:** 10/22/2020  
**Agenda Item #:** 11.1  
**Request for Board Action**

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**Title:** Authorization to Extend Engagement of Construction Litigation Counsel

**Resolution number:** 20-081

**Prepared by:** Name: Michael Hayman  
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**Reviewed by:** Name/Title: Chuck Holtman, Legal Counsel

**Recommended action:** Resolution 20-081 is presented for MCWD Board of Managers consideration on the basis of a memorandum that has been provided separately to the Board.

**Schedule:** Not applicable

**Budget considerations:** Fund name and code: Project Maintenance and Land Management, 2003  
Requested amount of funding: \$35,000

**Past Board action:** Res # 20-041 Authorization for Limited Engagement of Construction Litigation Counsel

**Summary:**

Resolution 20-081 is presented for MCWD Board of Managers consideration on the basis of a memorandum that has been provided separately to the Board.



**RESOLUTION**

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**Resolution number:** 20-081

**Title:** Authorization to Extend Engagement of Construction Litigation Counsel

WHEREAS the Minnehaha Creek Watershed District (MCWD) engages in regional capital improvement projects as described in its Water Resources Management Plan and in 2013-2014 constructed the Minnehaha Preserve project ("Project") on the Minnehaha Greenway in St. Louis Park;

WHEREAS the MCWD's recent inspection and maintenance experience indicates that certain wood materials used to construct the boardwalk may have been inadequate in specification, treatment or handling, and that the MCWD may incur a substantial cost to repair or replace such materials;

WHEREAS to ensure the Project retains its full integrity and availability as a public amenity, and to properly manage public funds allocated to Project maintenance, it is important that the MCWD, without delay, determine its approach to the replacement of inadequate materials and consider whether firms involved in Project design, material supply or construction may be responsible for replacement costs;

WHEREAS in April 2020 the MCWD Board of Managers found that the MCWD would benefit from engagement of construction litigation counsel to assist it in determining its course of action, and in taking the necessary steps to keep MCWD legal claims from becoming barred by the passage of time, and retained Thomas Radio, of the Felhaber Larson firm, for his knowledge and experience in construction litigation, in a limited engagement for construction litigation exploration;

WHEREAS MCWD continues to work toward resolution of the matter and for that purpose requires an extension to the litigation counsel engagement;

THEREFORE BE IT RESOLVED the MCWD Board of Managers authorizes the continuation of work toward resolution of the matter and for that purpose is extending the retention of litigation counsel for total fees and expenses in an amount not-to-exceed \$35,000.

Resolution Number 20-081 was moved by Manager \_\_\_\_\_, seconded by Manager \_\_\_\_\_. Motion to adopt the resolution \_\_\_ ayes, \_\_\_ nays, \_\_\_ abstentions. Date: 10/22/2020

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Secretary Date: October 22, 2020