

**APPENDIX C**

**BASSETT CREEK WATERSHED MANAGEMENT COMMISSION**

**DATA PRACTICES PROCEDURES**

*Adopted:* \_\_\_\_\_, 2015

**BASSETT CREEK WATERSHED MANAGEMENT COMMISSION**

**DATA PRACTICES PROCEDURES**

**INDEX**

<b>Subject</b>	<b>Page</b>
I. Introduction .....	1
II. Responsible Authority and Data Practices Compliance Official .....	1
III. General Overview of the Act.....	1
IV. Access to Public Data .....	1
A. People Entitled to Access .....	1
B. Form of Request .....	1
C. Time Limits .....	2
D. Form of Copies.....	2
E. Fees .....	2
V. Access to Data on Individuals.....	3
A People Entitled to Access .....	3
B. Form of Request. ....	4
C. Identification of Requesting Party.....	4
D. Time Limits .....	4
E. Fees .....	4
F. Summary Data .....	4
G. Juvenile Records.....	5
VI. Denial of Access .....	6
VII. Collection of Data on Individuals .....	6
VIII. Accuracy and Currency of Data.....	8
IX. Challenge to Data Accuracy .....	8
X. Policy for Ensuring the Security of Not Public Data.....	8
A. Legal Requirement .....	8
B. Data Inventory .....	9
C. Data Safeguards.....	9
D. Data Sharing with Authorized Entities or Individuals .....	10
E. Penalties for Unlawful Accessing Not Public Data .....	10

**EXHIBITS**

**Number**

Responsible Authority and Compliance Official ..... 1  
The Minnesota Government Data Practices Act: Definitions and Classifications of Data.....2  
BCWMC Copy Charge Policy ..... 3  
Consent to Release Private Data ..... 4  
BCWMC Information Disclosure Request ..... 5  
Government Data Access and Nondisclosure Agreement..... 6  
Notice to Persons Under the Age of 18..... 7  
Data Practices Advisory (Tennessee Warning) ..... 8  
Sample Contract Provision..... 9

**APPENDICES**

**Letter**

Private and Confidential Data Maintained by BCWMC ..... A

**BASSETT CREEK WATERSHED MANAGEMENT COMMISSION (“BCWMC”)  
DATA PRACTICES PROCEDURES**

**I. Introduction.**

These procedures are adopted to comply with the requirements of the Minnesota Data Practices Act (the “Act”), specifically Minnesota Statutes Sections 13.025, 13.03, subdivision 2 and 13.05 subdivisions 5 and 8.

**II. Responsible Authority and Data Practices Compliance Official.**

The person who is the responsible authority and the data practices compliance official for compliance with the Act is the Administrator. The name and contact information for the responsible authority and data practices compliance official are provided in Exhibit 1.

**III. General Overview of the Act.**

The Act regulates the handling of all government data that are created, collected, received, or released by a state entity, political subdivision, or statewide system, no matter what form the data are in, or how the data are stored or used.

The Act establishes a system of data classifications that defines, in general terms, who is legally authorized to access government data. The classification system is constructed from the definitions provided in Minnesota Statutes Section 13.02. A table that summarizes the classifications is attached as Exhibit 2.

**IV. Access to Public Data.**

All information maintained by BCWMC is public unless there is a specific statutory designation that gives it a different classification.

**A. People Entitled to Access.** Any person has the right to inspect and copy public data. The person also has the right to have an explanation of the meaning of the data. The person does not need to state his or her name or give the reason for the request, unless a statute specifically authorizes BCWMC to request such information. BCWMC may ask a person to provide identifying or clarifying information for the sole purpose of facilitating access to the data. Examples of when identifying information may be requested include, but are not limited to, obtaining a mailing address when the person has requested that copies be mailed or requesting identification when copies have been paid for by check.

**B. Form of Request.** The request for public data may be verbal or written. The responsible authority may require a verbal request to be made in writing, whenever a written request will assist the responsible authority in performing his or her duties.

**C. Time Limits.**

- **Requests.** Requests will be received and processed only during normal business hours.
- **Response to Members of the Public.** If a request is made by a member of the public and access or copies cannot be made at the time of the request, copies will be supplied within 10 working days after receiving the request, if feasible. If the copies cannot be prepared within 10 working days, the responsible authority will notify the requester of the anticipated time schedule and the reasons for the delay.
- **Response to Data Subject.** If the request is made by the data subject, the response must be immediate, if possible, or within 10 working days if an immediate response is not possible.

**D. Form of Copies.** Where public data is maintained in a computer storage medium, the responsible authority must provide copies of the public data in electronic form, upon request, if a copy can reasonably be made in that form. The responsible authority is not required to provide the data in an electronic format or program that is different from the format or program in which the responsible authority maintains the data. The responsible authority may charge a fee for the actual cost of providing the copy.

**E. Fees.**

- **No Fees Charged.** No fee may be charged for merely inspecting data. An inspection of data includes instances where the responsible authority prints copies of data, when the only method of providing for inspection is to print a copy. When copies are requested and a fee is charged for copies, no fee may be charged for time spent separating public from not public data.
- **Fees Charged.** Fees may be charged only if the requesting person asks for a copy or electronic transmittal of the data. Fees will be charged according to BCWMC's standard copying policy, attached as Exhibit 3.

The responsible authority may charge an additional fee if the copies have commercial value and are a substantial and discrete portion of a formula, compilation, program, process, or system developed with significant expenditure of public funds. This additional fee must relate to the actual development costs of the information. The responsible authority may also charge a fee for remote access to data where the data or the access is enhanced at the request of the person seeking access.

**V. Access to Data on Individuals.**

Information about individual people is classified by law as public, private, or confidential. A list of the private and confidential information maintained by BCWMC is contained in Appendix A. The form used to collect private and confidential information is contained in Exhibit 8.

**A. People Entitled to Access.**

- Public information about an individual may be shown or given to anyone for any reason.
- Private information about an individual may be shown or given to:
  - The individual data subject (as limited by an applicable statute or federal law), but BCWMC is not obligated to provide access to the individual data subject more frequently than only once every six months, unless a dispute or legal action pursuant to the Act is pending or unless additional data on the individual has been collected or created.
  - A person or entity that has been given access by the express written consent of the individual data subject. This consent must be on the form attached as Exhibit 4, or on a reasonably similar form.
  - Entities and agencies as determined by the responsible authority that are authorized by statute, including Minnesota Statutes Section 13.05, subdivision 4, or federal law, to gain access to that specific data.
  - The BCWMC Administrator, BCWMC Commissioners, and outside agents under contract with BCWMC (e.g., insurance adjusters, engineers or attorneys) whose work assignments reasonably require access. The responsible authority is authorized to determine whose work assignments or responsibilities require access to data.
- Confidential information may not be given to the public or the individual subject of the data, but may be shown or given to:
  - People who are authorized access by statute, including Minnesota Statutes Section 13.05, or federal law to gain access to that specific data.
  - The BCWMC Administrator, BCWMC Commissioners, and outside agents under contract with BCWMC (e.g., insurance adjusters, engineers or attorneys) whose work assignments reasonably require access. The responsible authority is authorized to determine whose work assignments or responsibilities require access to data.

**B. Form of Request.** Any individual may request verbally or in writing as to whether BCWMC has stored data about that individual and whether the data is classified as public, private, or confidential.

All requests to see or copy private or confidential information must be in writing. An Information Disclosure Request, attached as [Exhibit 5](#), must be completed to document who requests and who receives this information. The responsible authority must complete the relevant portions of the form. The responsible authority may waive the use of this form if there is other documentation of the requesting party's identity, the information requested, and BCWMC's response.

**C. Identification of Requesting Party.** The responsible authority must verify the identity of the requesting party as a person entitled to access. Verification can be through personal knowledge, presentation of written identification, comparison of the data subject's signature on a consent form with the person's signature in BCWMC's records, or other reasonable means.

**D. Time Limits.**

- **Requests.** Requests will be received and processed only during normal business hours.
- **Response.** The response must be immediate, if possible, or within 10 working days, if an immediate response is not possible. If the request is made by someone other than the data subject and access or copies cannot be made at the time of the request, copies must be supplied as soon as reasonably possible.

**E. Fees.** Fees may be charged in accordance with BCWMC's Copy Charge Policy ([Exhibit 3](#)).

**F. Summary Data.** Summary data means statistical records and reports derived from data on individuals but that do not identify an individual by name or any other characteristic that could uniquely identify an individual. Summary data derived from private or confidential data is public.

In lieu of creating new data in the form of a report or other summary document, summary data may be prepared by "blacking out" personal identifiers, cutting out portions of the records that contain personal identifiers, programming computers to delete personal identifiers, or other reasonable means. If this method is feasible and the requestor consents, BCWMC will utilize this method to prepare summary data in lieu of creating new data in the form of a report or other summary document.

A request for summary data must be in writing and the requesting party must pay for the cost of preparation. The responsible authority must notify the requesting party about the estimated costs and collect those costs before preparing or supplying the summary data. This should be done within 10 days after receiving the request. If the summary data cannot be prepared within 10 days, the responsible authority must notify the requester of the anticipated time schedule and the reasons for the delay.

The responsible authority may ask an outside agency or person, including the person requesting the summary data, to prepare the summary data if (1) the specific purpose is given in writing, (2) the agency or person signs a nondisclosure agreement that meets the requirements of Minnesota Rules, Part 1205.0700, subpart 5, and (3) the responsible authority determines that access by the outside agency or person will not compromise the privacy of the private or confidential data. The responsible authority may use the form attached as Exhibit 6.

**G. Juvenile Records.** The following applies to private (not confidential) data about people under the age of 18.

- **Parental Access.** In addition to the people listed above who may have access to private data, a parent may have access to private information about a juvenile data subject. “Parent” means the parent or guardian of a juvenile data subject, or individual acting as a parent or guardian in the absence of a parent or guardian. The parent is presumed to have this right unless the responsible authority has been given evidence that there is a state law, court order, or other legally binding document that prohibits this right.
- **Notice to Juvenile.** Before requesting private data from juveniles, the responsible authority must notify the juveniles that they may request that the information not be given to their parent(s). This notice should be substantially in the form attached as Exhibit 7.
- **Denial of Parental Access.** The responsible authority may deny parental access to private data when the juvenile requests this denial and the responsible authority determines that withholding the data would be in the best interest of the juvenile. The request from the juvenile must be in writing stating the reasons for the request. In determining the best interest of the juvenile, the responsible authority will consider:
  - Whether the juvenile is of sufficient age and maturity to explain the reasons and understand the consequences of denying parental access,
  - Whether denying parental access may protect the juvenile from physical or emotional harm,
  - Whether there is reasonable grounds to support the juvenile’s reasons for denying parental access, and
  - Whether the data concerns medical, dental, or other health services provided under Minnesota Statutes Sections 144.341 to 144.347. If so, the data may be released only if failure to inform the parent would seriously jeopardize the health of the minor.

The responsible authority may also deny parental access without a request from the juvenile under Minnesota Statutes Section 144.335, or under any other state or federal statute that allows or requires denial of parental access and that provides standards for denying parental access.

## **VI. Denial of Access.**

If the responsible authority determines that the law does not permit the requesting party to have access to the requested data, the responsible authority must inform the requesting party orally at the time of the request or in writing as soon after that as possible. The responsible authority must give the specific legal authority, including statutory section, temporary classification or specific provision of federal law upon which the determination is made for withholding the data. Upon request, the responsible authority must place an oral denial in writing and cite the specific statutory section, temporary classification or specific provision of federal law upon which the denial was based.

## **VII. Collection of Data on Individuals.**

The collection and storage of information about individuals will be limited to that necessary for the administration and management of programs specifically authorized by the state legislature, BCWMC or the federal government.

### ➤ **Tennessee Warning: When Required**

When BCWMC requests an individual to provide private or confidential data about him/herself, BCWMC will give that individual a notice – sometimes called a Tennessee warning. The Tennessee warning is given at the time the data is collected. It must be given whenever all four of the following conditions are met:

- BCWMC requests data;
- The data is requested from an individual;
- The data requested is classified as private or confidential; and
- The data requested is about the individual from whom the data is being requested.

### ➤ **Tennessee Warning: When it is *Not* Required**

A Tennessee warning is not required to be given by a law enforcement officer who is investigating a crime. In addition, a Tennessee warning is not required if:

- The data subject is not an individual (e.g., the data subject is a corporation or partnership);

- The data subject offers information that has not been requested by BCWMC;
- The information requested from the individual is about someone else;
- BCWMC receives information about the subject from someone else; or
- The information requested from the subject is classified as public data.

➤ **Contents of a Tennessean Warning**

A Tennessean warning must inform the individual data subject of the following:

- The purpose and intended use of the requested data (why the data are requested and how BCWMC will use the data);
- Whether the individual may refuse or is legally required to supply the requested data;
- Any known consequences from supplying or refusing to supply the requested data; and
- The identity of other persons or entities authorized by state or federal law to receive the data.

A Tennessean warning may be on a separate form or may be incorporated into the form that requests the private or confidential data. See attached [Exhibit 8](#) for an example of a Tennessean warning.

**Collection of Data on Individuals through the Use of BCWMC's Computer**

When an individual gains access to government information or services through BCWMC's computer, BCWMC may create, collect, or maintain electronic access data or use its computer to install a cookie on an individual's computer. BCWMC must inform individuals gaining access to its computer of the creation, collection, or maintenance of electronic access data or BCWMC's use of cookies before requiring the individual to provide any data about the individual to BCWMC. As part of that notice, BCWMC must inform the individual how the data will be used and disseminated. Notwithstanding an individual's refusal to accept a cookie on its computer, BCWMC must allow the individual to gain access to data or information, transfer data or information, or use government services by means of its computer.

**VIII. Accuracy and Currency of Data.**

The responsible authority should periodically review forms used to collect data on individuals to delete items that are not necessary and to clarify items that may be ambiguous. All records must be disposed of according to BCWMC's records retention schedule.

**IX. Challenge to Data Accuracy.**

An individual who is the subject of public or private data may contest the accuracy or completeness of that data maintained by BCWMC of which he or she is the subject. "Accurate" means the data are reasonably correct and free from error. "Complete" means the data describe all of the subject's transactions with BCWMC in a reasonable way.

To challenge the accuracy or completeness of data, the individual must notify BCWMC's responsible authority in writing describing the nature of the disagreement. The statement should describe why or how the data are inaccurate or incomplete and should also state what the individual wants BCWMC to do to make the data accurate or complete. Within 30 days, the responsible authority must respond and either (1) correct the data found to be inaccurate or incomplete and attempt to notify past recipients of inaccurate or incomplete data, including recipients named by the individual, or (2) notify the individual that the authority believes the data to be correct. Data in dispute shall be disclosed only if the individual's statement of disagreement is included with the disclosed data. The responsible authority should provide the data subject with a written statement that informs the data subject of the right to appeal and should also provide a copy of Minnesota Rules Part 1205.1600.

An individual who is dissatisfied with the responsible authority's action may appeal to the Commissioner of the Minnesota Department of Administration, using the contested case procedures under Minnesota Statutes Chapter 14. The responsible authority will correct, complete or destroy any data if so ordered by the Commissioner.

**X. Policy for Ensuring the Security of Not Public Data****A. Legal Requirement.**

The adoption of this Section by BCWMC satisfies the requirement in Minnesota Statutes Section 13.05, subdivision 5 to establish procedures ensuring appropriate access to not public data. BCWMC currently does not have any employees. In the event that BCWMC hires employees, it will incorporate employee access to not public data in BCWMC's Data Inventory (see [Appendix A](#)), in the individual employee's position description, or both. Also, in that event, BCWMC's

policy will also limit access to not public data to employees whose work assignment reasonable requires access.

Please direct all questions regarding this Section to the responsible authority.

**B. Data Inventory.**

Under the requirement in Minnesota Statutes Section 13.025, subdivision 1, BCWMC has prepared a Data Inventory which identifies and describes all not public data on individuals maintained by BCWMC. In the event that it hires employees, BCWMC will modify its Data Inventory to represent the employees who have access to not public data in order to comply with the requirement set forth in Minnesota Statutes Section 13.05, subdivision 5.

**C. Data Safeguards.**

- Not public data will be stored by BCWMC in files or databases that are not readily accessible to individuals who do not have authorized access and will be secured during hours when the office is closed.
- Not public data must be kept only in the BCWMC office, except when necessary for BCWMC business.
- BCWMC will assign appropriate security roles to its staff and implement password protections for not public electronic data.
- In the event that BCWMC hires employees, only those BCWMC employees whose job responsibilities require them to have access will be allowed access to BCWMC files and records that contain not public data. In addition, BCWMC will ensure that employee position descriptions will contain provisions identifying any not public data accessible to the employee when a work assignment reasonably requires access. BCWMC will also ensure that if a BCWMC employee does not have a work assignment allowing access to the not public data, that the not public data are secure. BCWMC will also instruct its employees to:
  - Release or disclose not public data only to those persons, within and outside of BCWMC, who are authorized by law to have access to the data,
  - Not leave not public data where unauthorized individuals might see it,
  - Password protect their computers and lock their computers before leaving work stations,
  - Secure not public data within locked work spaces and in locked file cabinets, and

- Shred not public documents before disposing of them.
- In the event that BCWMC hires employees and in the event of a temporary duty assigned to a BCWMC employee, the employee may access certain not public data for as long as the work is assigned to the employee.

**D. Data Sharing with Authorized Entities or Individuals**

- When a contract with an outside party requires access to not public data, the contracting party will be required to use and disseminate the information consistent with the Act. BCWMC must include in a written contract the language contained in Exhibit 9 or substantially similar language.
- The responsible authority and BCWMC's attorney may have access to all not public data maintained by BCWMC if necessary for specified duties. Any access to not public data will be strictly limited to the data necessary to complete the work assignment.
- State or federal law may authorize the sharing of not public data in specific circumstances. Not public data may be shared with another entity if a federal or state law allows it or mandates it. Individuals will have notice of any sharing in applicable Tennessee warnings or BCWMC will obtain the individual's informed consent. Any sharing of not public data will be strictly limited to the data necessary or required to comply with the applicable law.

**E. Penalties for Unlawfully Accessing Not Public Data.**

In the event that it hires employees, BCWMC will utilize the penalties for unlawful access by its employees to not public data as provided for in Minnesota Statutes Section 13.09, if necessary. Penalties include suspension, dismissal, or referring the matter to the appropriate prosecutorial authority who may pursue a criminal misdemeanor charge.

**Exhibit 1**

**RESPONSIBLE AUTHORITY AND COMPLIANCE OFFICIAL**

**Responsible Authority and Compliance Official**

Laura Jester, Administrator  
Keystone Waters, LLC  
16145 Hillcrest Lane  
Eden Prairie, MN 55346

**Records**

All records

## Exhibit 2

### THE MINNESOTA GOVERNMENT DATA PRACTICES ACT: DEFINITIONS AND CLASSIFICATIONS OF DATA

The Minnesota Government Data Practices Act (MGDPA) establishes a system of data classifications that define, in general terms, who is legally authorized to access government data. This classification system is constructed from the definitions provided in Minnesota Statutes Section 13.02. See also Minnesota Rules Part 1205.0200.

**GOVERNMENT DATA**  
 All data collected, created, received, maintained or disseminated by any government entity regardless of its physical form, storage media, or conditions of use.  
 MINN. STAT. §13.02, SUBD. 7

DATA CATEGORY	CLASSIFICATION	MEANING OF CLASSIFICATION
DATA ON INDIVIDUALS * <small>MINN. STAT. 13.02, SUBD. 5</small>	PUBLIC <small>MINN. STAT. 13.02, SUBD. 15</small>	AVAILABLE TO ANYONE FOR ANY REASON
DATA NOT ON INDIVIDUALS <small>MINN. STAT. 13.02, SUBD. 4</small>	PUBLIC <small>MINN. STAT. 13.02, SUBD. 14</small>	
DATA ON INDIVIDUALS	PRIVATE <small>MINN. STAT. 13.02, SUBD. 2</small>	AVAILABLE TO: <ul style="list-style-type: none"> <li>• DATA SUBJECT</li> <li>• BCWMC STAFF AND OFFICIALS WITH A BUSINESS NEED TO KNOW</li> <li>• THOSE AUTHORIZED BY DATA SUBJECT</li> </ul>
DATA NOT ON INDIVIDUALS	NONPUBLIC  <small>MINN. STAT. 13.02, SUBD. 9</small>	
DATA ON INDIVIDUALS	CONFIDENTIAL <small>MINN. STAT. 13.02, SUBD. 3</small>	AVAILABLE TO: <ul style="list-style-type: none"> <li>• THOSE WHOSE WORK REQUIRES ACCESS</li> <li>• ENTITIES AUTHORIZED LAW</li> </ul> <b>NOT AVAILABLE TO DATA SUBJECT OR THE PUBLIC</b>
DATA NOT ON INDIVIDUALS	PROTECTED NONPUBLIC  <small>MINN. STAT. 13.02, SUBD. 13</small>	

\* “Individual” means a living human being as defined by Minnesota Statutes Section 13.02, subdivision 8. It does not mean any type of entity created by law, such as a corporation.

Data on Decedents is governed by Minnesota Statutes Section 13.10. Public data will remain public. Private data will be accessible to the representative of the decedent and BCWMC staff with a business need to know. Confidential data will not be accessible to the representative of decedent or the public, but accessible only to BCWMC staff and officials with a business need to know. Private and confidential data on decedents become public data 10 years after the death of the data subject *and* 30 years have elapsed from the creation of the data.

**Exhibit 3**  
**BCWMC COPY CHARGE POLICY**

<b>Regular Photocopy Charge</b> (if 100 or fewer pages of black and white letter or legal size paper copies are requested)	<b>\$ .25 per page</b>
---	------------------------

<b>Special Copy Charge</b> (Charged in all other circumstances, including requests to provide data electronically or by facsimile)	<b>Actual Cost*</b>
---	---------------------

\*the “actual cost” means the cost of any materials (paper, copier ink, staples, CDs/DVDs, video/ audio tapes, etc.), any special costs associated with making copies from computerized data, such as writing or modifying a computer program to format data, any mailing costs and any vehicle costs directly involved in transporting data to the appropriate facility when necessary to provide copies. In addition, “actual cost” also includes BCWMC staff time spent making and certifying and compiling the copies (when requested by the data subject). For requests by anyone other than the data subject, the “actual cost” also includes BCWMC staff time spent retrieving the data to be copied, sorting and labeling documents (if this is necessary to identify what is to be copied), removing staples or paper clips, taking documents to the copier for copying as well as making and certifying and compiling the copies. Labor costs are never charged for separating public from not public data.

<b>Document Charge</b> (Charged for certain frequently requested documents, such as maps, etc.)	<b>Fee as established in BCWMC fee schedule</b>
---	---

**Exhibit 4**

**CONSENT TO RELEASE PRIVATE DATA**

I, \_\_\_\_\_, authorize the Bassett Creek Watershed Management Commission  
(print name)

“BCWMC”) to release the following private data about me:

\_\_\_\_\_  
\_\_\_\_\_

to the following person(s) or entity(ies):

\_\_\_\_\_  
\_\_\_\_\_

The person(s) or entity(ies) receiving the private data may use it only for the following purpose or purposes:

\_\_\_\_\_  
\_\_\_\_\_

This authorization is dated \_\_\_\_\_ and expires on \_\_\_\_\_

**I understand that my records are protected under state privacy regulations and cannot be disclosed without my written consent unless otherwise provided for by law. I also understand that I may cancel this consent at any time prior to the information being released and that in any event this consent expires automatically 90 days after signing. By signing this document, I give my full and voluntary consent to BCWMC to release the above-listed data to the persons identified in this release, and I waive any and all claims against BCWMC for the disclosure of private data about me in accordance with this document.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature of parent or guardian  
(if data subject is under 18 years of age)

**IDENTITY VERIFIED BY:**

- Witness:** x \_\_\_\_\_
- Identification:** Driver’s License, State ID, Passport, other: \_\_\_\_\_
- Comparison with signature on file**
- Other:** \_\_\_\_\_

**Responsible Authority:** \_\_\_\_\_



**Exhibit 6**

**GOVERNMENT DATA ACCESS AND NONDISCLOSURE AGREEMENT**

**1. AUTHORIZATION.** The Bassett Creek Watershed Management Commission (“BCWMC”) hereby authorizes \_\_\_\_\_ (the “Authorized Party”) access to the following government data:

---

---

**2. PURPOSE.** Access to this government data is limited to the objective of creating summary data for the following purpose:

---

---

**3. COST.** (Check which applies):

The Authorized Party is the person who requested the summary data and agrees to bear BCWMC’s costs associated with the preparation of the data, which has been determined to be \$\_\_\_\_\_. The Authorized Party agrees to pay the actual BCWMC costs, regardless of whether those costs exceed the estimate.

The Authorized Party has been requested by BCWMC to prepare summary data and will be paid in accordance with attached Exhibit A.

**4. SECURITY.** The Authorized Party agrees that it and any employees or agents under its control must protect the privacy interests of individual data subjects in accordance with the terms of this Agreement.

The Authorized Party agrees to remove all unique personal identifiers that could be used to identify any individual from data classified by state or federal law as not public that is obtained from BCWMC records and incorporated into reports, summaries, compilations, articles, or any document or series of documents.

Data contained in files, records, microfilm, or other storage media maintained by BCWMC are BCWMC’s property and are not to leave BCWMC’s custody. The Authorized Party agrees not to make reproductions of any data or remove any data from the site where it is provided, if the data can in any way identify an individual.

No data that is not public and that is irrelevant to the purpose stated above will ever be disclosed or communicated to anyone by any means.

The Authorized Party warrants that the following named individual(s) will be the only person(s) to participate in the collection of the data described above: \_\_\_\_\_

---

**5. LIABILITY FOR DISCLOSURE.** The Authorized Party is liable for any unlawful use or disclosure of government data collected, used or maintained in the exercise of this Agreement and classified as not public under state or federal law. The Authorized Party understands that it may be subject to civil or criminal penalties under those laws.

The Authorized Party agrees to defend, indemnify, and hold BCWMC, its officials and staff harmless from any liability, claims, damages, costs, judgments, or expenses, including reasonable attorneys' fees, resulting directly or indirectly from an act or omission of the Authorized Party, its agents, employees, officers or assignees under this Agreement and against all loss by reason of the Authorized Party's failure to fully perform in any respect all obligations under this Agreement.

**6. INSURANCE.** In order to protect itself as well as BCWMC, the Authorized Party agrees at all times during the term of this Agreement to maintain insurance covering the Authorized Party's activities under this Agreement. The insurance will cover \$1,500,000 per claimant for personal injuries and/or damages and \$1,500,000 per occurrence. The policy must cover the indemnification obligation specified above.

**7. ACCESS PERIOD.** The Authorized Party may have access to the information described above from \_\_\_\_\_ to \_\_\_\_\_.

**8. SURVEY RESULTS.** (Check which applies):

If the Authorized Party is the requester, a copy of all reports, summaries, compilations, articles, publications or any document or series of documents that are created from the information provided under this Agreement must be made available to BCWMC in its entirety.

If the Authorized Party is a contractor of BCWMC, all copies of reports, summaries, compilations, articles, publications or any document or series of documents that are created from the information provided under this Agreement must be provided to BCWMC. The Authorized Party may retain one copy for its own records but may not disclose it without BCWMC permission, except in defense of claims brought against it.

AUTHORIZED PARTY: \_\_\_\_\_

By: \_\_\_\_\_

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

Title (if applicable): \_\_\_\_\_

BASSETT CREEK WATERSHED  
MANAGEMENT COMMISSION

By: \_\_\_\_\_

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

Its: \_\_\_\_\_

**Exhibit 7**

**NOTICE TO PERSONS UNDER THE AGE OF 18**

Some of the information you are asked to provide is classified as private under state law. You have the right to request that some or all of the information not be given to one or both of your parents/legal guardians. Please complete the form below if you wish to have information withheld.

Your request does not automatically mean that the information will be withheld. State law requires the Basset Creek Watershed Management Commission (“BCWMC”) to determine if honoring the request would be in your best interest. BCWMC is required to consider:

- Whether you are of sufficient age and maturity to explain the reasons and understand the consequences,
- Whether denying access may protect you from physical or emotional harm,
- Whether there is reasonable grounds to support your reasons, and
- Whether the data concerns medical, dental, or other health services provided under Minnesota Statutes Sections 144.341 to 144.347. If so, the data may be released only if failure to inform the parent would seriously jeopardize your health.

NOTICE GIVEN TO: \_\_\_\_\_ DATE: \_\_\_\_\_

By: \_\_\_\_\_ (name) \_\_\_\_\_ (title)

**REQUEST TO WITHHOLD INFORMATION**

I request that the following information: \_\_\_\_\_

\_\_\_\_\_

Be withheld from: \_\_\_\_\_

For these reasons: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_ Print Name: \_\_\_\_\_ Signature: \_\_\_\_\_

**Exhibit 8**

**DATA PRACTICES ADVISORY  
(Tennessee Warning)**

Some or all of the information that you are asked to provide on the attached form is classified by state law as either private or confidential. Private data is information that generally cannot be given to the public but can be given to the subject of the data. Confidential data is information that generally cannot be given to either the public or the subject of the data.

Our purpose and intended use of this information is: \_\_\_\_\_  
\_\_\_\_\_.

You  are /  are not legally required to provide this information.

If you refuse to supply the information, the following may happen: \_\_\_\_\_  
\_\_\_\_\_.

Other persons or entities who are authorized by law to receive this information are:  
\_\_\_\_\_  
\_\_\_\_\_.

## **Exhibit 9**

### **SAMPLE CONTRACT PROVISION**

Data Practices Compliance. This contract is governed by Minnesota Statutes Section 13.05, subdivisions 6 and 11, the provisions of which are incorporated by reference into this contract. The Bassett Creek Watershed Management Commission (“BCWMC”) agrees to give the CONTRACTOR access to data collected or maintained by BCWMC as necessary to perform CONTRACTOR’S obligations under this contract. CONTRACTOR agrees to maintain all data created, collected, received, stored, used, maintained or disseminated by CONTRACTOR consistent with the requirements of the Minnesota Government Data Practices Act, Minnesota Statutes Sections 13.02, et seq. (the “Act”). CONTRACTOR will not release or disclose the contents of data classified as not public to any person except at the written direction of BCWMC. CONTRACTOR agrees to defend and indemnify BCWMC from any claim, liability, damage or loss asserted against BCWMC as a result of CONTRACTOR’S failure to comply with the requirements of this paragraph; provided that CONTRACTOR shall have no duty to defend or indemnify where CONTRACTOR has acted in conformance with BCWMC’s written directions.

## APPENDIX A

### PRIVATE AND CONFIDENTIAL DATA MAINTAINED BY BCWMC

---

The list of data types is divided into the following categories: **General and Personnel**. The categories are provided only for convenience in locating types of data; inclusion in any particular category is not intended to indicate an exclusive location for that data type.

#### **GENERAL**

##### **Applications for Election or Appointment**

CLASSIFICATION(S): Private / Public

GOVERNING STATUTE: Minn. Stat. § 13.601, subd. 3

DESCRIPTION OF DATA: Data on applicants collected by BCWMC from the applicant's application is private, except the following is public: name, city of residence, education and training, employment history, volunteer work, awards and honors, and prior government service or experience. Once appointed, the following is public: residential address and either telephone number or email where the appointee may be reached, or both at the request of the appointee; any data required to be provided or that are voluntarily provided in an application for appointment to a multimember agency as defined in Minnesota Statutes Section 15.0597, subdivision 1, and veteran status.

##### **Appraisal Data**

CLASSIFICATION(S): Confidential / Protected Nonpublic / Public

GOVERNING STATUTE: Minn. Stat. § 13.44, subd. 3

DESCRIPTION OF DATA: Appraisals made for the purpose of selling or acquiring land through purchase or condemnation. This data may also become public at the discretion of BCWMC, determined by majority vote of the entity's governing body.

##### **Audit Data (provided by State Auditor)**

CLASSIFICATION(S): Protected Nonpublic / Confidential

GOVERNING STATUTE: Minn. Stat. § 6.715, subd. 5

DESCRIPTION OF DATA: Data relating to an audit, examination or investigation performed by the state auditor. Data provided by the state auditor for purpose of review and verification must be protected from unlawful disclosure.

##### **Award Data**

CLASSIFICATION(S): Private / Nonpublic

GOVERNING STATUTE: Minn. Stat. § 13.48

DESCRIPTION OF DATA: Financial data on business entities submitted to BCWMC for the purpose of presenting awards to business entities for achievements in business development or performance.

##### **BCWMC Attorney Records**

CLASSIFICATION(S): Confidential

GOVERNING STATUTE: Minn. Stat. § 13.393

**DESCRIPTION OF DATA:** The use, collection, storage, and dissemination of data by the BCWMC attorney is governed by statutes, rules, and professional standards concerning discovery, production of documents, introduction of evidence, and professional responsibility. Data that is the subject of attorney-client privilege is confidential. Data that is the subject of the “work product” privilege is confidential.

### **Business Data**

**CLASSIFICATION(S):** Private/Nonpublic/Public

**GOVERNING STATUTE:** Minn. Stat. § 13.591

**DESCRIPTION OF DATA:** Data submitted to BCWMC by a business requesting financial assistance or a benefit financed by public funds are private or nonpublic data. The data becomes public when public financial assistance is provided or the business receives a benefit from BCWMC, except that business plans, income and expense projections not related to the financial assistance provided, customer lists, income tax returns, and design, market, and feasibility studies not paid for with public funds remain private or nonpublic.

### **Civil Investigative Data**

**CLASSIFICATION(S):** Confidential / Protected Nonpublic/ Not public / Public

**GOVERNING STATUTE:** Minn. Stat. § 13.39

**DESCRIPTION OF DATA:** Data collected as part of an active investigation undertaken to commence or defend pending civil litigation, or that are retained in anticipation of pending civil litigation, with the exception of disputes where the sole issue or dispute is a government entity's timeliness in responding to a data request.

### **Community Dispute Resolution Center Data**

**CLASSIFICATION(S):** Private/Public

**GOVERNING STATUTE:** Minn. Stat. § 13.88

**DESCRIPTION OF DATA:** Data relating to a case in a community dispute resolution program.

### **Computer Access Data**

**CLASSIFICATION(S):** Private/Nonpublic

**GOVERNING STATUTE:** Minn. Stat. § 13.15

**DESCRIPTION OF DATA:** Data created, collected, or maintained about a person's access to BCWMC's computer for the purpose of: (1) gaining access to data or information; (2) transferring data or information; or (3) using government services.

### **Elected Officials Correspondence**

**CLASSIFICATION(S):** Private / Public

**GOVERNING STATUTE:** Minn. Stat. § 13.601, subd. 2

**DESCRIPTION OF DATA:** Correspondence between individuals and elected officials is private data on individuals, but may be made public by either the sender or the recipient.

### **Federal Contracts Data**

**CLASSIFICATION(S):** Private/Nonpublic

**GOVERNING STATUTE:** Minn. Stat. § 13.35

**DESCRIPTION OF DATA:** All data collected and maintained by BCWMC when required to do so by a federal agency as part of its contract with BCWMC.

### **Financial Disclosure Statements**

CLASSIFICATION(S): Public

GOVERNING STATUTE: Minn. Stat. § 13.601, subd. 1.

DESCRIPTION OF DATA: Financial disclosure statements of elected or appointed officials that, by requirement of BCWMC, are filed with BCWMC, are public data on individuals.

### **Grants**

CLASSIFICATION(S): Nonpublic / Private

GOVERNING STATUTE: Minn. Stat. § 13.599

DESCRIPTION OF DATA: Data created by a state agency providing grants and persons/agencies that apply for or receive grants.

### **Internal Auditing Data**

CLASSIFICATION(S): Confidential/Private/Protected Nonpublic/Public

GOVERNING STATUTE: Minn. Stat. § 13.392

DESCRIPTION OF DATA: Data, notes, and preliminary drafts of reports created, collected and maintained by the internal audit offices of BCWMC or by person performing audits for BCWMC and relating to an audit or investigation; data on an individual supplying information for an audit or investigation, under specified circumstances.

### **Internal Competitive Response**

CLASSIFICATION(S): Private/Nonpublic

GOVERNING STATUTE: Minn. Stat. §§ 13.591, subd. 5, 13.37.

DESCRIPTION OF DATA: A bid or proposal to provide government goods or services that is prepared by the staff of a government entity in competition with bids or proposals solicited by the same government entity from the private sector or a different government entity from the private sector are classified as private or nonpublic until completion of the selection process or completion of the evaluation process at which time the data are public with the exception of trade secret data as defined and classified in Minnesota Statutes Section 13.37.

### **Judicial Data**

CLASSIFICATION(S): Confidential/Private/Protected Nonpublic/Public

GOVERNING STATUTE: Minn. Stat. § 13.03, subd. 4(e)

DESCRIPTION OF DATA: Judicial branch data disseminated to BCWMC has the same classification in the hands of BCWMC as it had in the hands of judicial branch entity providing it. If the data have a specific classification in state statute or federal law, BCWMC must maintain the data according to that specific classification.

### **Personal Contact and Online Account Information**

CLASSIFICATION(S): Private

GOVERNING STATUTE: Minn. Stat. §§ 13.356, 13.04, subd. 2.

DESCRIPTION OF DATA: Data on an individual collected, maintained, or received by BCWMC for notification purposes or as part of a subscription list for BCWMC's electronic periodic publications as requested by the individual. This data includes telephone numbers, e-mail addresses, internet user names and passwords, Internet protocol addresses, and any other similar data related to the individual's online account or access procedures. This data may only

be used for the specific purpose for which the individual provided the data. This data also does not include data submitted for purposes of making a public comment.

**Personnel and Employment Data**

CLASSIFICATION(S): Private/Public

GOVERNING STATUTE: Minn. Stat. § 13.43.

DESCRIPTION OF DATA: Data on individuals collected because the individual is or was an employee of or an applicant for employment by, performs services on a voluntary basis for, or acts as an independent contractor with a government entity.

**Pleadings**

CLASSIFICATION(S): Public

GOVERNING STATUTE: Minn. Stat. § 13.03, subd. 12

DESCRIPTION OF DATA: Pleadings in a lawsuit by or against BCWMC.

**Property Complaint Data**

CLASSIFICATION(S): Confidential

GOVERNING STATUTE: Minn. Stat. § 13.44, subd. 1

DESCRIPTION OF DATA: Data that identifies individuals who register complaints concerning violations of state laws or local ordinances concerning the use of real property.

**Requests for Proposals**

CLASSIFICATION(S): Private/Nonpublic/Not public/Public

GOVERNING STATUTE: Minn. Stat. §§ 13.591, subd. 3(b), 13.37.

DESCRIPTION OF DATA: Data submitted by a business to BCWMC in response to a request for proposals is not public data until the responses are opened. Once the responses are opened, the name of the responder is public. All other data in a response to a request for proposal are private or nonpublic data until completion of the evaluation process. After completion of the evaluation process, all remaining data submitted by responders are public with the exception of trade secret data as classified in Minnesota Statutes Section 13.37. If all responses to a request for proposals are rejected prior to completion of the evaluation process, all data, other than that made public at the response opening, remain private or nonpublic until a resolicitation of the requests for proposal results in the completion of the evaluation process or a determination is made to abandon the purchase. If rejection occurs after the completion of the evaluation process, the data remains public. If resolicitation of the proposals does not occur within one year of the proposal opening data, the remaining data become public.

**Sealed Bids**

CLASSIFICATION(S): Private / Nonpublic

GOVERNING STATUTE: Minn. Stat. § 13.37, subd. 2

DESCRIPTION OF DATA: Sealed bids, including the number of bids received, prior to opening.

**Security Information**

CLASSIFICATION(S): Private / Nonpublic

GOVERNING STATUTE: Minn. Stat. § 13.37

DESCRIPTION OF DATA: Data that, if the responsible authority determines that if disclosed, would be likely to substantially jeopardize the security of information possessions, individuals or property against theft, tampering, improper use, attempted escape, illegal disclosure, trespass, or

physical injury. If BCWMC denies a data request based on a determination that the data are security information, upon request, BCWMC must provide a short description explaining the necessity for the classification.

### **Security Service Data**

CLASSIFICATION(S): Nonpublic/Private/Public

GOVERNING STATUTE: Minn. Stat. §§ 13.861, 13.37 and 13.82, subd. 2, 3 and 6.

DESCRIPTION OF DATA: Data collected, created, or maintained by a security service for the purpose of providing security services to a political subdivision.

### **Social Security Numbers**

CLASSIFICATION(S): Private

GOVERNING STATUTE: Minn. Stat. § 13.355

DESCRIPTION OF DATA: Social security numbers of individuals, whether in whole or in part.

### **Social Security Numbers on Mailings**

CLASSIFICATION(S): Private

GOVERNING STATUTE: Minn. Stat. § 13.355, subd. 3

DESCRIPTION OF DATA: BCWMC may not mail, deliver, or cause to be mailed or delivered an item that displays a Social Security number on the outside of the item or visible without opening the item.

### **Trade Secret Information**

CLASSIFICATION(S): Private/Nonpublic

GOVERNING STATUTE: Minn. Stat. § 13.37

DESCRIPTION OF DATA: Data, including a formula, pattern, compilation, program, device, method, technique or process: (1) that was supplied by the affected individual or organization; (2) that is the subject of efforts by the individual or organization that are reasonable under the circumstances to maintain its secrecy; and (3) that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.