

Bassett Creek Watershed Management Commission



POLICY MANUAL

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References (not included)

- A. Bassett Creek Watershed Management Commission Watershed Management Plan, September 2015
- B. Local Cooperation Agreement Between the Department of the Army and City of Minneapolis
- C. Mississippi WMO Joint and Cooperative Agreement for Boundary Change
- D. BCWMC Bylaws
- E. BCWMC Joint Powers Agreement

1 INTRODUCTION

This Policy Manual is meant to facilitate consistent implementation of current governance and operational policies of the Bassett Creek Watershed Management Commission, and to clearly document policies and procedures for new BCWMC Commissioners and Technical Advisory Committee members. This document is the result of the Board's request for a manual that collects those policies in one place.

The foundation documents for the BCWMC are:

- Minnesota Statute 103B.201
- 1993 BCWMC Joint Powers Agreement
- 2001 revised BCWMC Bylaws
- the 2015 BCWMC Watershed Management Plan

This manual will be reviewed annually and updated as necessary and will be submitted to the Office of the State Auditor in compliance with Minnesota Statutes section 6.756, as will any revisions when adopted.

2 INTERNAL GOVERNANCE POLICIES

2.1 Board Member Interaction with Commission Consultants

Policy: All consultants to the Commission will work under the direction of the Administrator except for legal counsel and auditors who have a professional responsibility to the BCWMC. Consistent with this professional responsibility, Commissioners will endeavor to keep the Administrator and/or Commission Chair informed of conversations and other written communication with consultants as appropriate to facilitate the coordination of Commission activities.

Description: In order for the Commission to function as a cooperative entity and avoid contradictory assignments, it is necessary for the Administrator and/or Commission Chair to be kept informed of communications with consultants.

Applicable funding: Not applicable

Adopted:

Citation:

Strategies to implement policy:

1. In order to comply with Open Meeting law requirements, Commissioners will route communications with other Board members through the Administrator.
2. Commissioners will bring suggestions, requests and recommendation for consultant assignments and preparation of work products to the Commission for approval and assignment.

3. Individual Commissioners are encouraged to seek information and explanations, especially on upcoming agenda items, from consultants, but will exercise judgment to ensure such requests are reasonable in scope and number, and that substantial costs are not incurred in complying with such requests.
4. Individual Commissioners may not request the preparation of work product or substantial expenditures of time/effort by consultants to the Commission without authorization. The Chair, at her/his discretion, may request preparation of work product when necessary to expediently pursue the Commission's business, subject to the policies in this manual.
5. The Commission administrator must be made aware of upcoming requests for work product and studies from Commission consultants.

2.2 Guidelines for Consultant Services

Policy: Commission will establish clear guidelines which will allow the Commission and consultants to share the same expectations of duties and responsibilities.

Description: It is in the nature of the duties and responsibilities of the Bassett Creek Watershed Management Commission that the Commission's consultants (administrator, recording secretary, attorney, engineer, etc.) are sometimes called on to do work or provide services on behalf of the Commission when there is not an opportunity to secure prior authorization for the work by the Commission. These guidelines are intended to provide guidance to consultants in those situations.

Applicable funding: Not applicable

Adopted: May 2010

Citation: BCWMC Memo (Draft resolution, Item 4H, BCWMC Board agenda, April 15, 2010)

Strategies to implement policy:

1. When reasonably practicable, consultants will secure prior approval of the Commission for providing services to the Commission.
2. No prior authorization by the Commission is needed in the following circumstances:
 - a) Work or services included in the budget (if the budget for that item has not been exceeded).
 - b) Project reviews in response to applications received by the Commission.
 - c) Routine telephone calls or requests for information from Commissioners, member cities, government agencies, or citizens.
 - d) Responding to requests for information or assistance from member cities when services will not exceed \$2,000.
3. If the work or services ordered do not fall within the exceptions listed in strategy 2, above, the consultant will contact the Administrator for authorization to proceed. If the consultant is unable to contact the Administrator, the consultant may contact the Chair.

The Chair may give advice to the consultant as to whether to proceed with such work. The Chair may convene a meeting of the Executive Committee if, in the judgment of the Chair, such a meeting is warranted to decide whether to authorize the work.

4. The consultant may contact the Administrator for authorization to proceed at any time the consultant is in doubt about whether to proceed.
5. Budget exceedances must be approved by the Commission if they fall outside a \$2,000 limit.

2.3 Administrator Policies

Policy: The Administrator works at the direction of the Commission to assist the Board.

Description: The guide for the relevant policies pertaining to the Administrator will be governed by the contract between the Administrator and the Commission, as well as the Work Plan.

Applicable funding: Annual budget amount

Adopted: April 2010

Citation: BCWMC Administrator's contract

Strategies to implement policy: See contract with BCWMC Administrator and Roles and Responsibilities Document in Appendix A

2.4 Cities Responsibilities

Policy: The BCWMC has been a successful organization due to its leadership and the cooperation of the nine member cities. Cities have responsibilities to the BCWMC, as set by either the policies stated in the BCWMC Watershed Management Plan (WMP), the joint powers agreement, or BCWMC board actions.

Description: A key means by which the Commission works with cities is by working cooperatively to identify water quality improvement and flood control projects within the watershed.

Applicable funding: Administrative fund

Adopted: 2004, Updated November 16, 2016

Citation: BCWMC Watershed Management Plan

Strategies to implement policy: See 2015 Watershed Management Plan sections 5.2.1 (City Responsibilities) and Section 4.0 (Policies) and Roles & Responsibilities Document

2.5 Committee Responsibilities

Policy: Committees will be assigned clear guidelines by the Commission to help with the efficient operation of the Commission.

Description: The Bassett Creek Watershed Management Commission has several committees with separate responsibilities. Examples include the Education, Administrative Services, and Budget Committees. These guidelines are intended to provide guidance to

Commissioners.

Applicable funding: Some committee work includes making recommendations on Commission spending.

Adopted: July 2001, Amended November 16, 2016

Citation: BCWMC Bylaws, Article VI, Section 3, Roles and Responsibilities Document (Appendix A)

Strategies to implement policy:

1. Commissioners are encouraged to serve on BCWMC committees to deepen their awareness and knowledge of Commission issues.
2. Committee membership may include persons who are not members of the Commission.
3. Commission may assign additional tasks to committees specific to their duties.

2.6 Records and Data Retention

Policy: The Commission will establish and maintain an active, continuing program for the economical and efficient management of its records as required by Minnesota Statutes 138.17, Subdivision 7.

Description: In furtherance of this policy, the Commission has adopted the attached Record Retention Schedule (Appendix B). The Record Retention Schedule provides the Commission's plan for managing its records by establishing minimum retention periods for the records based on their administrative, fiscal, legal and historic value. It lists categories of records that are maintained by the Commission, identifies how long the Commission will retain them, whether or not they have archival value, their classification under the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13 and how they are being stored.

Applicable funding: Administrator and/or Admin Services budgets

Adopted:

Citation: Minnesota Statutes 138.17, and Minnesota Statutes Chapter 13

Strategies to implement policy:

See Appendix B

2.7 Policies and Procedures for Public Access to Documents

Policy: BCWMC data will be available to the public as per the Data Practices Act (DPA), Minnesota Statutes, Chapter 13 and as outlined in the BCWMC Data Practices Procedures (Attachment C)

Description: This policy is adopted pursuant to Section 13.03, subdivision 2 of the DPA, which states that every public body shall establish procedures to implement the DPA. The DPA states that data of public bodies are to be available to the public unless specifically exempted under the law in cases where individual privacy would be violated or where other

valid concerns outweigh the interest in public availability. In addition, the Commission has adopted and maintains a Records Retention Schedule, which is an index of the records and data maintained by the Commission. The Commission recognizes the public interest in open access to its data as well as the public interest that requires that certain types of data not be publicly available. It is the intent of the Commission to comply fully with the DPA and, where the DPA allows for the exercise of judgment, to exercise that judgment consistent with the public interests underlying the law.

Applicable funding: Administrator and/or Admin Services Budgets

Adopted:

Citation: BCWMC Data Practices Procedures (Attachment C)

Strategies to implement policy: Follow Data Practices Procedures Document (Attachment C).

2.8 Public Purposes Expenditures

Policy: The Bassett Creek Watershed Management Commission policy is to spend public money only for Commission purposes. To that end, the Commission has adopted a policy regarding expenditures for travel, training, etc.

Description: Minnesota law mandates that governmental entities make expenditures only for public purposes and only as authorized to accomplish the purposes for which the entity was created. The BCWMC establishes the following policy and protocols to ensure that BCWMC expenditures serve clear, documented watershed purposes. The BCWMC will be responsible for the implementation of this policy and associated protocols.

Applicable funding: Not applicable

Adopted:

Citation:

Strategies to implement policy:

1. **Travel.** The BCWMC may pay reasonable and necessary expenses for travel, lodging, meals and appropriate incidental expenses related to the performance of official BCWMC functions. Expenditures must be approved in advance by the Commission and must be directly related to the performance of BCWMC functions. Expenses of BCWMC consultants shall be paid according to contracts.

A Commissioner will be reimbursed for mileage expenses incurred when using their personal vehicle to conduct BCWMC business. Mileage will not be reimbursed for travel to and from BCWMC regular, special, or committee meetings. Mileage will be reimbursed at the tax-deductible mileage rate set by the federal Internal Revenue Service. Mileage expenses need not be approved in advance, but mileage expenses will be reimbursed only when accompanied by documentation of the date, number of miles traveled, purpose and destination(s).

2. **Staff and Commissioner training.** The BCWMC may pay reasonable registration, tuition, travel and incidental expenses (including lodging and meals) for education,

development and training when expenditures are directly related to the performance of duties. Expenditures must be approved in advance by the Commission.

3. **Food and beverages.** The BCWMC may pay for food and beverages when necessary to ensure meaningful, efficient and effective participation of staff, Commissioners/staff or the public in activities, events and functions directly related to BCWMC purposes. Circumstances under which BCWMC expenditures for food and beverages will be allowed include:
 - a. Food and/or beverages provided as part of a structured agenda of a conference, workshop, work session, outreach meeting, seminar, when the topic or subject of which relates to the official business of the BCWMC and the majority of the participants are not BCWMC staff or Commissioners/staff;
 - b. Food and/or beverages may be provided as part of a formal meeting primarily for BCWMC staff or Commissioners/staff where food and/or beverages are necessary to facilitate the conduct of the meeting, to ensure continuity and support the participation of staff, Commissioners/staff and other participants. Examples of potential qualifying events include:
 - i. An extended planning or operational analysis meeting;
 - ii. An extended meeting of department Commissioners/staff, with or without BCWMC Commissioners/staff, to develop long-term strategic plans;
 - iii. A structured training session for staff generally; or
 - iv. Official meetings of the BCWMC Commission, a committee, task force or advisory group.
 - c. Food and/or beverages may be provided for occasional staff recognition and appreciation events and activities, when approved by the Commission in accordance with a BCWMC staff recognition and appreciation policy and budget.
 - d. The BCWMC may pay for food and/or beverage expenses incurred in connection with a meeting or event attended by staff and/or Commissioners/staff, the primary purpose of which is to discuss, negotiate or evaluate a plan, program, project or other endeavor directly related to BCWMC purposes.
 - e. BCWMC meetings and training sessions will be scheduled to avoid the need to provide food whenever possible.
 - f. The BCWMC will not pay for alcoholic beverages under any circumstances.

4. **Outreach and stakeholder involvement.** The BCWMC may pay for community and stakeholder outreach and involvement programs to ensure the efficient and effective conduct of BCWMC programs, projects and meetings conducted to gather public and intergovernmental input and participation in BCWMC planning, research, rulemaking and program or project design.

5. **Membership, donations.** BCWMC funds may be expended for membership in professional organizations if the organization is an association of a civic, educational or governmental nature and its activities are directly related to BCWMC purposes or the improvement of BCWMC operations. BCWMC funds may not be donated to any professional, technical or charitable organization, person or private institution. The BCWMC may contract for services rendered by such organizations.
6. **Protocols.** The following protocols are established to ensure compliance with above policies:
 - a. All invoices or reimbursement requests must include or be accompanied by a copy of the Administrator’s written approval and must include itemized receipts or other appropriate documentation of expenses incurred. Documentation also must include the date the expense(s) were incurred, location, purpose, participating or attending individuals and relevant affiliation, explanation of the need for food and/or beverage for the meeting, event or activity, and any other relevant information.
 - b. Copies of all documentation specified herein will be recorded and maintained in accordance with the BCWMC records retention policy.
7. **Miscellaneous.**
 - e. The BCWMC administrator will secure an approval described above for expenses he or she will incur from the Chair of the Commission, except that the Administrator may approve expenses for BCWMC-conducted programs, events, and activities.

2.9 Investment and Depository of Funds

Policy: The Commission adopts the following guidelines regarding investment of Commission funds.

Description: It is the responsibility of the Commission to invest Commission funds in order to attain a market rate of return while preserving and protecting the capital of the overall portfolio and to ensure compliance with statutory requirements applicable to the Commission’s designation a depository financial institution. Investments will be made in compliance with statutory constraints and in safe, low-risk instruments.

Applicable funding: Operating budget

Adopted:

Citation: Minnesota Statute Chapter 118A

Strategies to implement policy:

1. **Scope.** This policy applies to all financial assets of the Commission including but not limited to:
 - General Fund
 - Construction Fund
2. **Designation of Depository and Collateralization.** The Commission annually will designate a financial institution or institutions in the State of Minnesota as the

depository of Commission funds. In the event the Commission does not designate a depository in any particular year, the last-designated depository will continue in that capacity. Each depository will furnish collateral, as necessary, in the manner and to the extent required by Minnesota Statutes section 118A.03, as it may be amended, and other applicable law. Collateral will be held in safekeeping in compliance with Section 118A.03, as it may be amended.

3. **Delegation of Authority.** Minnesota Statutes section 118A.02 provides that the governing body may authorize the treasurer or chief financial officer to make investments of funds under Sections 118A.01 to 118A.06 or other applicable law. The Commission authorizes the Treasurer or Deputy Treasurer to invest Commission funds pursuant to this policy and state law for the Bassett Creek Watershed Management Commission.

The Treasurer or Deputy Treasurer shall assure compliance with this policy and further develop and maintain adequate controls, procedures, and methods assuring security and accurate accounting on a day-to-day basis.

4. **Objectives.** At all times, the Commission's investments shall be made and maintained in accordance with Minnesota Statutes Chapter 118A as it may be amended. The primary objectives of the Commission investment activities shall be in the following order of priority:

- i. Security

Security of principal is the foremost objective of the investment portfolio. Preserving capital and protecting investment principal shall be the primary objective of each investment transaction.

- ii. Liquidity

The investment portfolio shall remain sufficiently liquid to meet projected disbursement requirements.

- iii. Return on Investment

The investment portfolio shall be designed to manage the funds to maximize returns consistent with items A and B above and within the requirements set forth in this policy.

5. **Prudence.** The "prudent person" standard shall be applied in managing Commission investments. All investment transactions shall be made in good faith with the degree of judgment and care, under the circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of their own affairs, in accordance with this policy.
6. **Eligible Investments.** All investments will be considered eligible if they are made in accordance with Minnesota Statutes Section 118A.04.
7. **Investment Restrictions.** In addition to statutory prohibitions, investments specifically prohibited are derivative products, structured notes, inverse index bonds, repurchase agreements not authorized by statute, and other exotic products.

8. **Safekeeping.** Commission investments, contracts and agreements will be held in safekeeping in compliance with Minnesota Statutes Section 118A.06. In addition, before accepting any investment of Commission funds and annually thereafter, the supervising officer of the financial institution serving as a broker for the Commission shall submit a certification stating that the officer has reviewed the Commission Investment and Depository Policy and incorporated statement of investment restrictions, as well as applicable state law, and agrees to act in a manner consistent with the policy and law. The Commission will annually will provide the policy, as it may be amended. The certification shall also require the supervising officer to disclose potential conflicts of interest or risk to public funds that might arise out of business transactions between the firm and the Commission. All financial institutions shall agree to undertake reasonable efforts to preclude imprudent transactions involving the Commission funds.
9. **Conflict of Interest.** Any Commissioner or staff member involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program or which could impair his/her ability to make impartial investment decisions.
10. **Internal Controls and Reporting.** Internal controls are designed to prevent loss of public funds due to fraud, error, misrepresentation, unanticipated market changes, or imprudent actions. Before the Commission invests any surplus funds, competitive quotations shall be obtained. If a specific maturity date is required, either for cash flow purposes or for conformance to maturity guidelines, quotations will be requested for instruments that meet the maturity requirement. The Commission will accept the quotation that provides the highest rate of return within the maturity required and within the limits of this policy.

The Commission Treasurer or Deputy Treasurer shall be limited to investing funds for up to a maximum term of seven years. The Commission administrator shall request approval from the Commission to authorize investment of funds for terms exceeding seven years.

Monthly, the Commission Treasurer or Deputy Treasurer shall provide an investments report to the Commission. Investments shall be audited and reported with financial statement annually. It shall be the practice of the Commission to review and amend the investment policy from time to time as needed.

2.10 Required Scheduled Activities

Policy: The Commission will carry out the following tasks annually:

- Financial audit
- Selection of official newspaper
- Selection of BCWMC officers
- Depository bank identification
- Set operating budget and cities assessments
- Consultant solicitation (biennial)

Description: These tasks are required by the BCWMC Joint Powers Agreement.

Applicable funding: Not applicable

Adopted:

Citation: BCWMC Joint Powers Agreement

2.11 Code of Ethics/Conflict of Interest

Policy: The Bassett Creek Watershed Management Commission seeks to operate in accordance with high ethical standards and wishes to establish clear guidelines for the ethical conduct of Commission business.

Description: Ensuring that conflicts of interest do not affect Commission proceedings is an essential element of maintaining high ethical standards. Therefore, to supplement and specify its commitment to compliance with the Ethics in Government Act, Minnesota Statutes section 10A.07, the Commission has adopted a conflict of interest policy.

Applicable funding: Not applicable

Adopted:

Citation:

Strategies to implement policy:

1. **Disclosure of conflicts.** A Commissioner who has a personal financial interest, or other private interest or relationship that limits the Commissioner's ability objectively to consider, deliberate or vote, in a matter scheduled to come before the board must prepare a written statement describing the matter requiring action and the nature of the potential conflict, and deliver the statement to the Chair of the Board of Commissioners prior to the board's consideration of or taking action on the matter. If a potential conflict arises and a Commissioner does not have sufficient time to prepare a written statement, the Commissioner must orally inform the board prior to discussion of the matter.
2. **Abstention.** A Commissioner must abstain from chairing any meeting, participating in any vote, offering any motion, or participating in any discussion on any matter that may substantially affect the Commissioner's financial interests or those of an associated business or family member, unless the effect on the Commissioner is no more than on any other member of the Commissioner's business classification, profession or occupation. Commissioners must also abstain from chairing any meeting, participating in any discussion, offering any motion, or voting on any matter in which a private interest or relationship of the Commissioner limits the Commissioner's ability objectively to consider, deliberate or vote. The Commissioner's nonparticipation in the matter will be recorded in the minutes.

3 EXTERNAL/OPERATIONAL POLICIES

3.1 Project Review Fees

Policy: The Commission will charge a fee for review of all project plans and designs triggering the Commission's Requirements for Improvements and Development Proposals, including plans and designs submitted by member cities.

Description: Review fees are charged to the applicants for review to recover costs of the program. Charges are set on the basis of the size of the project, type, and also on wetland related projects.

Applicable funding: Project review fees

Adopted:

Citation: See current fee schedule.

Strategies to implement policy: See current fee schedule.

3.2 Funding

3.2.1 General Administrative Costs

Policy: Commission administration and programmatic costs will be funded through charges to member cities based on area and taxable value.

Description: Member cities are allocated their share of administrative costs based on a formula in the Joint Powers Agreement.

Applicable funding: Annual city funds

Adopted: July 30, 2002, Amended December 18, 2014

Citation: Joint Powers Agreement, Section VIII, Subd. 3.

Strategies to implement policy:

1. Each year the Commission adopts a budget in accordance with the joint powers agreement between the member cities. The budget is adopted before July 1, and cities may comment on or object to the budget before August 1. The Commission adopts a budget after adjustments as necessary at the August meeting.
2. The general administrative costs are assessed among the member cities on the basis of a formula set in the joint powers agreement, which is 50% based on the net tax capacity of property within the watershed and 50% on the basis of land area within the boundaries of each city.
3. Invoices to the Commission will be reviewed by the BCWMC Administrator who will provide a written recommendation to pay or not to pay.
4. The Commission will keep approximately 50% of its annual operating expenses as an Administrative Fund balance for the following purposes:

1. To provide appropriate cash flow to pay for Commission projects and programs
2. To fund projects or programs that arise unexpectedly

3.2.2 Capital Improvement Program Funding

Policy: The County will levy an ad valorem watershed-wide tax for capital projects of greater than \$25,000.

Description: This process provides transparent oversight of Board decisions by elected representatives of member cities and Hennepin County. The BCWMC has been implementing its capital improvement program (CIP) since 2004. As called for in the BCWMC's approved watershed management plan, the BCWMC funds its water quality improvement projects using an ad valorem tax levy administered by Hennepin County (MN Statutes 103B.251). Although the BCWMC provides the funding, the member cities are responsible for constructing the CIP projects.

Applicable funding: Hennepin County ad valorem tax levy throughout the Bassett Creek watershed.

Adopted: 2004, Amended December 18, 2014

Citation: Joint Powers Agreement, Section VII, Method of Proceeding, Subd. 5 and MN Statute 103B.251.

Strategies to Implement Policy:

1. The Commission will strive to levy amounts that are relatively stable from year to year.
2. In addition to its 10-year CIP as outlined in its Watershed Management Plan, the BCWMC maintains a "working version" of its CIP that covers a 5-year period. Early in the year, the BCWMC reviews its working CIP with recommendations from the TAC to consider whether new projects should be added to the CIP or whether project implementation dates and funding sources should be changed, as necessitated by changing priorities, funding availability, partnering opportunities, or other factors.
3. The BCWMC and TAC will consider the criteria for eligible CIP projects identified the Watershed Management Plan (Policy 110).
4. The procedures set forth in the joint powers agreement are similar to those followed by cities in the case of capital projects paid for by special assessments under Minnesota Statutes, Chapter 429. As in the case of 429 improvement projects, the process begins with the preparation of a feasibility report on the proposed project.
5. Following receipt of the feasibility report, the Commission would hold a hearing on the proposed project, giving at least 45 days notice to the clerk of each member city.
6. Following the hearing, the Commission could order the project by a 2/3 vote of its members. That order would designate the cities responsible to construct the project,

direct the preparation of plans and specifications, and certifies to Hennepin County the tax levy that is needed for the following year to implement the upcoming CIP project.

7. The Commission will enter an agreement with the responsible city to design and construct the project.
8. The Commission may apply for grant funding for the implementation of CIP projects.
9. Cities may contribute to the costs of CIP projects in order to expand the scope of the CIP project and/or for the ability to take partial credit for pollutant removals achieved by the CIP project with the following guidance:
 - a) If cities know that they plan to request regulatory credit from a particular future CIP project, that information should be presented during the development of the 5-year CIP list.
 - b) The city should demonstrate an explicit reason and need for the request to take pollutant removal credit such as plans for a future project or development in the same area.
 - c) The city should demonstrate that other mechanisms (including innovative and emerging technologies) for stormwater management in the area are not possible, are considerably less practical, or are considerably costlier than collaborating on the CIP project.
 - d) The city should contribute to the total cost of the project in at least the same ratio as the city's stormwater management needs to the total stormwater management provided by the CIP project, and the cooperative agreement entered into for the project must identify the amount of stormwater management capacity for regulatory credit the city may use for the design and construction of the project.
 - e) The city project for which pollutant removal credit is being sought must be located within the same BCWMC subwatershed as the CIP project.
10. Capital Improvement Program projects will be constructed by the city assigned responsibility for the project. Eligible project expenses incurred by the city will be reimbursed by the Commission after submittal of appropriate documentation. Project costs eligible for reimbursement are listed in Table 5-1 of the Watershed Management Plan.
11. The Commission may use one of several means to determine the amount to be paid by each member city.
 - a. First, the funding may be provided on the basis of a negotiated settlement among member cities.
 - b. Second, the cost may be provided by member cities on the same basis as the administrative formula.
 - c. Third, the Commission may modify the "50/50" formula by a 2/3 vote if it determines that any member community receives a direct benefit from the capital improvement that can be defined as lateral as well as a trunk benefit (which our legal counsel assumes would generally be a concept applied to water quantity rather than water quality projects), or if the Commission determines that the project provides direct

benefit to one or more cities that is so disproportionate as to require in a sense of fairness a modification to the 50/50 formula. Any city aggrieved by the determination of the cost allocation may appeal the decision and have it submitted to arbitration.

12. Following the issuance of the order for the improvement, each city will be given at least 90 days to determine the method it will use to raise its share of the project cost. After 90 days has elapsed, or notice has been received, by the Commission from each city that it has made such a determination, the Commission may order the advertisement for bids for the project.

The project will be constructed by the city assigned responsibility for the project. Other cities will pay, or contract for the payment of, its share of the cost. Payment is to be made by member cities within 30 days of statements from the engineer certifying that the work has been done.

3.3 Administrative Expense Charges to Capital Improvement Projects

Policy: The Commission will recover administrative costs not to exceed a 2.5% margin of the cost for CIP projects.

Description: This policy sets in place the method to compensate the Commission for administrative expenses associated with CIP projects.

Applicable funding: Not applicable

Adopted: August 18, 2005, Amended December 18, 2014

Strategies to Implement Policies:

1. 2.5% is included in the CIP project levy to reimburse the Commission for administrative expenses.
2. Up to 2.5% of the total project cost is transferred from the CIP account to the Administrative Account

3.4 Capital Improvement Program Closed Project Account Policy

Policy: Funds remaining in the CIP construction account from completed projects may be used to reduce future tax levies for future CIP projects.

Description: The Commission established the CIP Closed Project Account (the “Account”). This Account will receive remaining funds from completed project accounts.

Applicable funding: CIP Closed Project Account

Adopted: October 20, 2005, Amended March 19, 2009, Amended December 18, 2014

Citation: Policy statement by Commission

Strategies to Implement Policy:

1. Upon completion of CIP projects funded in whole or in part by a County tax levy and after reimbursement of Commission expenses and administrative charges and final payment to the City with responsibility for construction of the project, the construction

account for that project will be closed and remaining funds will be transferred to the Closed Project Account.

2. As a general guiding principle, the Account will be used for expenses incurred for other projects in the Commission's CIP that are proposed to be funded with a County tax levy. Such expenses include:
 - a. The administrative and construction costs of CIP projects. Monies from the Account may be used to reduce or eliminate a tax levy for capital projects in the CIP by transferring monies to the construction accounts for those projects.
 - b. Reimbursement to the Commission's General Fund of expenses or administrative fees incurred in connection with a project if the tax settlement for that project is not sufficient to cover such expenses.
 - c. Reimbursement to cities that construct projects for administrative or construction costs if tax settlements received from the County are not sufficient to cover such costs. These costs might include cost overruns on projects, change orders, corrective follow-up work or repairs, or other unforeseen project costs.
 - d. Prepayment of project costs to the Commission or to cities for project costs that are incurred before receipt of tax settlement from the County for that project.
 - e. Partial funding of TMDL study costs if the Commission has sufficient information to determine with reasonable assurance that the TMDL study will identify, plan, design, or redesign capital projects to be funded with a County tax levy.
3. The Commission does not intend to accumulate unreasonable balances in the Account. Because the Account could be used to fund projects in advance of receipt of tax settlement from the County, and because a number of larger projects in the CIP have total costs, or annual project costs, of approximately \$250,000, the Commission finds that an accumulation of funds between \$250,000 and \$500,000 is reasonable. Money will not be accumulated to an amount in excess of \$500,000 unless a specific use for such funds has been identified. The Account balances may be kept within this amount by expending funds for any of the purposes identified in this policy.
4. Each year the Commission will consider the status of the Account prior to certification to Hennepin County of requests for tax levies for capital projects.
5. If project costs exceed projections, cities responsible for construction may request additional funds.

3.5 Creek and Streambank Maintenance, Repair and Channel Sediment Removal Fund (Channel Maintenance Fund)

Policy: The BCWMC will maintain a Channel Maintenance Fund through its annual assessment to help finance minor stream maintenance, repair, stabilization, restoration, and

restoration project and/or portions of larger stream restoration projects. (2015 BCWMC Watershed Plan Policy 57)

Policy: The Channel Maintenance Fund may also be used to finance the BCWMC’s share of maintenance projects that have a regional benefit, or to partially fund smaller, localized projects that cities wish to undertake. (2015 BCWMC Watershed Plan Policy 58)

Policy: The member cities are responsible for funding maintenance and repairs that are primarily aesthetic improvements. (2015 BCWMC Watershed Plan Policy 62)

Description: The BCWMC established the Creek and Streambank Maintenance, Repair, and Sediment Removal Fund (Channel Maintenance Fund) through its annual assessment to cities in 2004. This fund is used to finance minor stream maintenance, repair, restoration, or sediment removal projects or to help fund portions of larger projects. The BCWMC established this policy and fund to realize benefits including reduced potential for flooding, water quality improvement, and mitigating water quality impairments along the BCWMC Trunk System. Member cities contribute through the annual assessment.

Applicable funding: Streambank Maintenance, Repair, and Sediment Removal Fund

Adopted: January 2004, amended December 2015

Citation: 2015 BCWMC Watershed Management Plan; TAC memos 11/13/03 & 11/5/15

Strategies to Implement Policy:

1. Funds will be used for projects only along the BCWMC Trunk System as identified in the 2015 Watershed Management Plan, Table 2-9 and Figures 2.14 and 2.15.
2. Funds may be used to support creek bank maintenance projects that have regional benefit, or to partially fund relatively low-cost projects that cities wish to undertake.
3. Funds may be used for maintenance and repairs needed to restore and maintain designed flow rate. The designed flow rate is the flow for the regulatory flood levels used to set the Bassett Creek Flood Profiles Table 2.9 of the 2015 BCWMC Watershed Management Plan.
4. Funds may be used on a portion of a project that provides watershed benefits, including reduced potential for flooding, mitigation of water quality impairment, or minimizing the potential for water quality impairment.
5. Funds may be used to repair a previously constructed BCWMC Capital Improvement Project, but, except as noted in item 3 above, may not be used for regular and on-going maintenance of such projects including vegetation management.
6. Funds may be used for localized and permitted sediment removal projects along the BCWMC Trunk System.
7. The portion of the fund each member city is eligible to receive is based on the percentage of the BCWMC Trunk System that is located in each city.

City	Percent of Trunk System
Minneapolis	8.23
Golden Valley	48.99
Plymouth	26.42
New Hope	7.31
Crystal	9.05
Total	100

8. Funds may be used to pay for the project design, development of bid documents, and construction of the project.
9. The city will enter into an agreement with the BCWMC for use of the funds.
10. Funds will be dispersed by the BCWMC after an approved reimbursement request and appropriate documentation from the city.
11. Cities may use the funds as a “cost share” with private landowners at the amount/percentage the city deems appropriate, or can use the funds to finance entire projects.
12. A cost share amount from the city will not be required by the BCWMC (although funds may not be adequate to finance entire projects).
13. The balance of unallocated accumulated funds for each city will be reviewed by the Commission once every three years to ensure that total funding accumulated is not unreasonably high.

3.6 Dispute Resolution

Policy: The Commission will provide a process for solving potential disputes that allows the organization to focus on its goals.

Description: If watershed management disputes should arise between the BCWMC member cities, these disputes may be referred to the BCWMC for resolution. Although the BCWMC’s joint powers agreement does not specifically give the BCWMC the power to decide such disputes, the BCWMC will hear the disputes and endeavor to reach a mutually agreeable solution whenever possible. Under the joint powers agreement, the BCWMC’s findings and recommendations would not be binding unless the parties to the dispute wish to make a prior agreement to that effect.

Applicable funding: Administrative funds

Adopted: 2004

Citation: 2015 Watershed Management Plan 5.1.1.5

Strategies to Implement Policy:

1. The BCWMC will mediate inter-community disputes relating to watershed management problems within the Bassett Creek watershed.

2. Disputes will be referred to a committee of three BCWMC members or alternate members from member communities who are not parties to the dispute. Members will be appointed by the BCWMC chair or vice-chair, which will also appoint one of the three members as the chair of the committee.
3. The committee chair will call a meeting where each party to the dispute will be allowed to present its suggestions to resolve the dispute.
4. The committee may consult with the members of the BCWMC staff and will prepare findings and recommendations to resolve the dispute.
5. The committee’s recommendation will be presented to the full BCWMC, which may accept, reject, or amend the recommendation before forwarding the findings and recommendations to the parties of the dispute.

3.7 Use of Investment Income

Policy: 100% of the income from BCWMC long-term investments (e.g., 4M and 4MP funds) will be categorized as “unrestricted” funds and will be posted to a Special Projects Fund within the BCWMC Operating Budget (similar to the Flood Control Long Term Maintenance Fund or Channel Maintenance Fund). Use of the Special Projects Fund will require approval by the Commission prior to the expenditure. Use of the Special Projects Fund will be prioritized toward studies or planning to help target capital improvement projects or BCWMC programs (e.g., subwatershed analyses). In limited and extenuating circumstances, the Special Projects Fund may be used for other purposes (e.g., closing budget gaps in regular BCWMC programs) but only with thorough evaluation, review by the TAC, a recommendation from the Budget Committee, and approval by a majority of members at a Commission meeting.

Applicable funding: Investment income

Adopted: December 21, 2023

Citation: December 21, 2023 Commission meeting minutes

3.8 Use of Requests for Proposals from Consulting Firms

Policy: The BCWMC will use consultants to perform the majority of its work. Requests for proposals from consultants will follow the guidelines below.

Applicable funding: Annual operating budget and CIP funds

Adopted:

Citation: Meeting minutes – October 20, 2016

Guidelines:

A. Primary engineering consultant:

The BCWMC contracts with a consulting firm for day-to-day engineering services (the “Commission Engineer.” The contract with the Commission Engineer will be reviewed every 2 years. The following tasks will only be performed by the Commission Engineer:

- Flood Control Project inspections
- Development reviews as required by Watershed Plan or at the request of member cities
- Capital Improvement Program (CIP) project reviews (50% plans, 90% plans, final plans)
- XP-SWMM model maintenance and updates
- P8 model maintenance and updates
- Watershed-wide total maximum daily load study (TMDL)
- Local water management plan reviews- except when Commission Engineer develops the local water management plan for the city.

For the purposes of developing the annual budget the Commission Engineer will provide the budget committee with a simple, one page or less, proposal for each of the above tasks that includes an itemized list of tasks with estimated costs.

B. Engineering consulting services not listed in Section A above.

At the direction of the Commission, the BCWMC may contract with firms other than the Commission Engineer for the following services:

- Routine lake monitoring
- Routine stream monitoring
- Watershed Outlet Monitoring Program (WOMP) sample collection & equipment maintenance
- WOMP flow analysis and data analysis
- Specific studies (e.g. localized TMDLs, CIP effectiveness monitoring AIS pathways analysis, subwatershed analysis, resource management plans, etc.)

At the direction of the BCWMC, contracts for these services may be multi-year, as appropriate. The criteria for selecting a consultant may be based on a variety of factors, such as, but not limited to:

- Special skills of a particular consultant
- Type of project
- Commission's past experience with a particular firm, and
- Estimated Project Cost

For RFP administration, the BCWMC Administrator will:

- Draft the RFP in cooperation with the BCWMC Technical Advisory Committee (TAC)
- Allow the TAC to review the RFP and refine the RFP before distribution
- Allow the TAC to review the responses to the RFP and make recommendations to the BCWMC to consider at their monthly meeting.
- Forward all responses to the RFP and the TAC's recommendation to the BCWMC for final consideration and approval.



Bassett Creek Watershed Management Commission

Roles and Responsibilities Consultants, Commissioners, Technical Advisory Committee, and other Commission Committees

June 2013; updated August 2023

ADMINISTRATOR

1. Implements the strategic direction as set by the Commission.
2. Responds to direction from the Commission.
3. Acts as the primary point of contact and maintains direct communication with Commissioners, TAC members, member cities, consultants, state and local agencies, the public, the media, and other partners (e.g. Met Council, West Metro Water Alliance, Hennepin County, park districts, Metro Blooms, Minnesota Watersheds, etc.).
4. Coordinates logistics, prepares agendas and materials, writes minutes, and attends meetings of the Commission, Technical Advisory Committee, and other Commission Committees.
5. Represents the Commission at various meetings and through correspondence with partners, Minnesota Watersheds, and outside interests or groups.
6. Provides primary coordination during the development of the Watershed Management Plan, policy manuals, Education and Outreach Plan, and other organizational documents.
7. Updates and follows the policy manual in coordination with the Commission, and the Commission engineer, legal counsel, deputy treasurer, and recording secretary,.
8. Coordinates the work of Commission legal counsel, deputy treasurer, and recording secretary as necessary.
9. Communicates the work of the Commission to commissioners, partners, and the public (with assistance, as needed, from Commission engineer and others) including maintaining an updated website, giving interviews and presentations, submitting press releases, tabling at events, etc.
10. Coordinates and oversees work of the Commission Engineer, consultants, contracts and agreements; assists with performance reviews, and reviews all invoices to the Commission.
11. With input from commissioners, the TAC and Commission Engineer develops annual CIP for Commission consideration and keeps CIP "fact sheets" updated.
12. Tracks status of Commission budget, including CIP project budgets and the closed project account, assists with annual financial audit, and coordinates this work with the Deputy Treasurer or contracted accountants.
13. Coordinates administrative tasks related to shepherding capital projects through various processes or through actual project implementation including Plan amendments, Hennepin County approval process, BWSR approval process, permitting, contracting, outreach with community members, etc.

14. Tracks status and reports progress on implementation of CIP projects including reviewing expenses or reimbursement requests; taking or collecting photos before, during, and after construction; assisting with preparation of final report; and keeping project webpage updated.
15. Identifies opportunities and helps to secure grant funding and develop partnerships to accomplish Commission goals, in coordination with Commission Engineer.
16. Tracks progress and implementation of Commission programs and activities including objectives, schedules and budgets in coordination with Commission Engineer.
17. Leads the development of annual budget (in coordination with Budget Committee), annual report, and annual work plan; communicates with Hennepin County regarding maximum and actual annual levy amounts.
18. Prepares annual report and annual plan; maintains website; appropriately notices all public meetings; maintains official records of commissioner appointments; maintains official records, follows records retention schedule and data practices act.

ENGINEER

1. Responds to direction from the Commission and Administrator.
2. Reviews development plans and reports to Commission and member cities on compliance of the plans with regards to Commission review standards, requirements, policies and procedures.
3. Performs erosion control inspections of Commission-approved projects, as needed.
4. Performs inspections of the Commission's flood control project and prepares report with recommendations.
5. Performs inspections of the Commission's CIP projects, as needed or directed and prepares report with recommendations.
6. Develops and writes the Watershed Management Plan in cooperation with the Administrator at the direction of the Commission and with input from the TAC, watershed residents, state agencies, and partners; and assists the Administrator with coordinating certain aspects of Watershed Management Plan development.
7. Represents the Commission on a technical level at various meetings and through correspondence with partners and others as directed by the Commission or Administrator.
8. Provides technical recommendations to the Commission on projects, plans, and monitoring programs.
9. Coordinates and performs (as directed) science-based decisions on water monitoring activities, feasibility studies, project designs and other projects or programs as directed by the Commission.
10. Coordinates with the TAC, helps set TAC meeting agendas, provides meeting materials as needed, and assists Administrator with preparation of TAC memo to Commission.
11. Provides meeting agenda items and meeting materials to the Administrator.
12. Identifies opportunities and helps to secure grant funding and develop partnerships to accomplish Commission goals.

13. Reviews member cities' local water management plans for conformity with Commission plan, as directed by the Commission.
14. Assists Commission with reporting on TMDL implementation progress (including water quality modeling).
15. Maintains and updates the Commission's watershed-wide hydrologic and hydraulic (XP SWMM) model and water quality (P8) model for use in floodplain management and to assess impacts of water quality best management practices.
16. Apprises the Commission of technical innovations in stormwater management and proposed policy/rule/statute changes that could affect the Commission.
17. Stores development/project review files and technical data.

DEPUTY TREASURER

1. Takes direction from the Commission Treasurer and Commission
2. Advises the Commission on financial practices, investments, and depositories
3. Maintains access to Commission accounts including checking and investment accounts
4. Assists with the transfer of funds between accounts in order to maintain appropriate balances in checking account and investment funds
5. Assists with maintaining appropriate collateral on all accounts
6. Assists with developing and implementing the Commission's fiscal policies
7. Assists with and review the annual financial audit
8. Maintains signatory authority for checking account; signs monthly checks as needed

LEGAL COUNSEL

1. Responds to direction from the Commission and Administrator.
2. Reviews or prepares contracts and agreements; makes recommendations to the Commission.
3. Advises the Commission on pertinent legal matters.
4. Represents the Commission in lawsuits or other matters, as necessary.
5. Develops resolutions for Commission action, as requested.
6. Provides meeting agenda items and/or meeting materials to the Administrator.

TECHNICAL ADVISORY COMMITTEE

1. Responds to requests for input from the Commission and Administrator.
2. Acts as a forum for the exchange of ideas between the member cities, presentation of city activities, and one source of ideas for projects, programs, etc. This may help avoid duplication among cities on watershed-wide activities.
3. Acts as a vehicle for communication from member cities to the Commission

4. Provides technical advice and local knowledge to Commission; offers recommended alternatives and solutions.
5. Discusses possible CIP projects and project budgets each year for Commission consideration.
6. Recommends projects to be funded through the Commission's channel maintenance fund for Commission consideration.
7. Reviews recommendations from flood control project and CIP project inspections.
8. Performs other duties as assigned by the Commission.

COMMISSIONER

1. Provides overall direction for the Commission; monitors and controls its function.
2. Establishes policies of the Commission.
3. Directs the development and implementation of the Watershed Management Plan.
4. Adheres to the bylaws and Joint Powers Agreement of the Commission including provisions regarding the appointment of Commissioners.
5. Directs the work of the Administrator, engineer, and legal counsel.
6. Recruits, supervises, retains, evaluates and compensates all consultants to carry out the work of the Commission.
7. Attends Commission meetings or arranges for alternate commissioner to attend if unable to attend and communicates this to the Chair and Administrator.
8. Participates in Committees, as assigned.
9. Takes action each year to set the annual operating budget, set the annual levy amount, review and approve the annual activity report; review and accept the annual financial audit.
10. Conducts regular performance reviews of contractors.
11. Reviews and approves invoices.
12. Makes decisions using sound science pertaining to flooding and water quality for entire watershed.

ALTERNATE COMMISSIONER

1. Attends meetings (most importantly if the primary Commissioner is not able to attend) and engages in all discussions of the Commission.
2. Performs duties of the primary Commissioner (as noted above) when the primary Commissioner is not in attendance at a meeting including making motions, seconding motions, and voting on motions. Motioning and voting is performed by the Alternate Commissioner only when the primary Commissioner is not present.
3. Participates in committees, as assigned.
4. Adheres to the bylaws and Joint Powers Agreement of the Commission including provisions regarding the appointment of Commissioners.

5. Makes decisions using sound science pertaining to flooding and water quality for entire watershed.

ADMINISTRATIVE SERVICES COMMITTEE – meets quarterly or as needed

1. Makes recommendations on overall administration, processes, and administrative details of the Commission.
2. Provides feedback to the Administrator on performance; provides direction for improvement or changes to tasks or priorities.

BUDGET COMMITTEE – meets during budget development; approximately April - June

1. Develops annual draft operating budget in coordination with the Administrator for consideration by the Commission.
2. Assists with developing the “budget detail” to fully describe budget line items.

EDUCATION COMMITTEE – meets as needed

1. Develops and refines the Education and Outreach Plan of the Commission.
2. Assists with carrying out the tasks outlined in the Education and Outreach Plan, in coordination with the Administrator.
3. Represents the Commission at various events and recruits volunteers to assist at events.
4. Makes recommendations to the Budget Committee for annual expenditures in education and outreach tasks.
5. Attends meetings of the West Metro Watershed Alliance and other education-related organizations as needed or directed; and assists the Administrator with coordinating events, publications, and programs that involve and benefit the Commission.

PLAN STEERING COMMITTEE – meets monthly or as scheduled

1. Guides the development of the 2025 Watershed Management Plan (Plan) acknowledging climate change science impacts.
2. Guides the work of the Administrator and Engineer on tasks related to the development of the Plan.
3. Tracks the budget and schedule of the Plan development; recommends adjustments as necessary.
4. Assists with implementing the public input process of the Plan development.

Discusses and reviews sections of the draft Plan; recommends changes and/or submission to the Commission for review.

SECTION	TITLE & DESCRIPTION	RETENTION/STATUTE	ARCHIVAL VALUE?*	DATA CLASS	STORAGE MEDIA ¹
ADMINISTRATION	Annual Reports Including annual work plan for following year.	Retain permanently	Yes	Public Minn. Stat. § 13.03	Electronic
ADMINISTRATION	Bid, Quotations and Request for Proposals and Supporting Papers - Not Accepted Rejected by the Commission	Retain 6 years	No	Public/Protected Non-public until all bids are opened Minn. Stat. § 13.37 Minn. Stat. § 13.59	Electronic
ADMINISTRATION	Bid, Quotations and Request for Proposals – Accepted Accepted by the Commission	Retain 10 years after completion of project	No	Public/Non-public Minn. Stat. § 13.37, subd. 2 Minn. Stat. § 13.59	Electronic
ADMINISTRATION	Organization Bylaws	Retain permanently	Yes	Public Minn. Stat. § 13.03	Electronic
ADMINISTRATION	Organization Policies and Procedures Documents the policies and procedures of the Commission	Retained until superseded	No	Public Minn. Stat. § 13.03	Electronic
ADMINISTRATION	Contracts and Agreements (not otherwise scheduled herein)	Retain 10 years after paid and audited	No	Public Minn. Stat. § 13.03	Electronic

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SECTION	TITLE & DESCRIPTION	RETENTION/STATUTE	ARCHIVAL VALUE?*	DATA CLASS	STORAGE MEDIA ¹
ADMINISTRATION	<p>Correspondence</p> <p>a. General</p> <p>b. Historical – correspondence to from Commissioners and Administrator. Official correspondence that documents important events or major functions of the office. Usually deals with a specific topic, issue, organization or individual.</p> <p>c. Messages – Transitory messages, email, social media, or phone messages of short term interest which are considered incidental and non-vital correspondence. Note: messages which relate to transactions of Commission business should be retained in accordance with applicable retention schedule.</p>	<p>a. Retain 3 years</p> <p>b. Retain permanently</p> <p>c. Retain until read</p>	<p>a. No</p> <p>b. Yes</p> <p>c. No</p>	<p>a. Public - Minn. Stat. § 13.03</p> <p>b. Public/Private - Minn. Stat. § 13.601</p> <p>c. Public</p>	Electronic

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SECTION	TITLE & DESCRIPTION	RETENTION/STATUTE	ARCHIVAL VALUE?*	DATA CLASS	STORAGE MEDIA ¹
ADMINISTRATION	Minutes – Commission and Various Committees a. Typed minutes b. Audio recordings	a. Retain permanently b. Open meetings: retain for 1 year after approval of minutes by commission or committee; Closed meetings: retain for 3 years for labor negotiations, 4 years for security info, 8 years for purchase or sale of real property	a. Yes b. No	a. Public b. Public/Non-Public - Minn. Stat. §§ 13D.05, 13.37	Electronic/Audio
ADMINISTRATION	Grants Miscellaneous grant programs and stipulations.	Consult grant issuing agency. Typically 3 years after audit (State grants) and 6 years after audit (federal grants).	No	Public, unless otherwise required by other government agency Minn. Stat. § 13.35	Electronic
ADMINISTRATION	Agenda Packets Commission and various committees that are Commission approved or appointed	Retain permanently	Yes	Public Minn. Stat. § 13.03	Electronic
ADMINISTRATION	Affidavits of Publication	a. Retain 6 years	a. No	a. Public – Minn. Stat. § 13.03	Electronic

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SECTION	TITLE & DESCRIPTION	RETENTION/STATUTE	ARCHIVAL VALUE?*	DATA CLASS	STORAGE MEDIA ¹
	<ul style="list-style-type: none"> a. General notices, including public hearings b. Rules 	b. Retain permanently	b. Yes	b. Public - Minn. Stat. § 13.03	
ADMINISTRATION	Notice of Meetings – Commission and Committees Commission-generated	Retain 6 years	No	Public Minn. Stat. § 13.03	Electronic
ADMINISTRATION	Attorney <ul style="list-style-type: none"> a. Correspondence and reports related the legal review of Commission functions such as rules, insurance, contracts and grants, claims for damages. b. Official opinions regarding questions of legal rights or liabilities affecting Commission. 	<ul style="list-style-type: none"> a. Retain 6 years b. Retain 10 years 	<ul style="list-style-type: none"> a. Yes b. No 	<ul style="list-style-type: none"> a. Public - Minn. Stat. § 13.03 b. Public/Private/ Non-Public - Minn. Stat. § § 13.393, 13.39 	Paper/Electronic
ADMINISTRATION	Drafts, duplicates, notes or other documents that have not become part of an official transaction, not otherwise scheduled herein.	Retain 2 years then discard	No	Public Minn. Stat. § 13.03	Paper/Electronic

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SECTION	TITLE & DESCRIPTION	RETENTION/STATUTE	ARCHIVAL VALUE?*	DATA CLASS	STORAGE MEDIA ¹
ADMINISTRATION	Historical Information and Photographs	Retain permanently	Yes	Public Minn. Stat. § 13.03	Paper/Electronic
ADMINISTRATION	Inventories and Equipment Lists	Retain until superseded	No	Public Minn. Stat. § 13.03	Electronic
ADMINISTRATION	Leases	Retain 10 years after paid and audited	No	Public Minn. Stat. § 13.03	Electronic
ADMINISTRATION	Lawsuits a. Property Lawsuits b. Civil Litigation c. Criminal Litigation	a. Retain 10 years after either filing with County or last court activity b. Retain 10 years after last court activity c. Retain 2 years after last court activity	a. Yes b. No c. No	Public/Private/Confidential/Protected Non-Public Minn. Stat. § 13.03, 13.39, 13.393, 13.82	Paper/Electronic
ADMINISTRATION	Newsletters	Retain permanently	Yes	Public Minn. Stat. § 13.03	Electronic
ADMINISTRATION	Press Releases	Retain 1 year	No	Public Minn. Stat. § 13.03	Electronic
ADMINISTRATION	Public Opinion Surveys	Retain permanently	Yes	Public Minn. Stat. § 13.03	Electronic
ADMINISTRATION	Commission meeting materials not otherwise included herein	Retain 10 years then discard	No	Public Minn. Stat. § 13.03	Electronic
BONDS	Appearance Bonds	Retain 6 years after completion of contract	No	Public Minn. Stat. § 13.03	Electronic

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SECTION	TITLE & DESCRIPTION	RETENTION/STATUTE	ARCHIVAL VALUE?*	DATA CLASS	STORAGE MEDIA ¹
BONDS	Contractor License Bonds, Certificates of Insurance, etc.	Retain 6 years after completion of contract	No	Public Minn. Stat. § 13.03	Electronic
BONDS	Fidelity Bonds – managers	Retain 6 years after completion of service by manager	No	Public Minn. Stat. § 13.03	Electronic
BONDS	Performance and Payment Bonds	Retain 6 years after completion of contract	No	Public Minn. Stat. § 13.03	Electronic
BONDS	Permit Bonds	Retain 6 years after permit closure; retain copy if original returned to provider	No	Public Minn. Stat. § 13.03	Electronic
FINANCE	Budget – Annual	Retain permanently; transfer copy to State Archives after 10 years	Yes	Public Minn. Stat. § 13.03	Electronic
FINANCE	Budget Workpapers/Reports Annual budgeting documents, meeting minutes, monthly reports, breakdown of accounts, etc.	Retain 2 years	No	Public Minn. Stat. § 13.03	Electronic
FINANCE	Assessment Rolls Copies of assessment rolls received from county auditor	Retain 6 years after final payment of assessment	No	Public Minn. Stat. § 13.03	Electronic
FINANCE	Audit Reports	Retain 7 years	No	Public Minn. Stat. § 13.03	Electronic
FINANCE	Billing Statements	Retain 4 years	No	Public Minn. Stat. § 13.03	Electronic

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SECTION	TITLE & DESCRIPTION	RETENTION/STATUTE	ARCHIVAL VALUE?*	DATA CLASS	STORAGE MEDIA ¹
FINANCE	Bank Statements Deposit slips, deposit books and reconciliations	Retain 6 years	No	Public Minn. Stat. § 13.03	Electronic
FINANCE	Budget Reports	Retain 2 years	No	Public Minn. Stat. § 13.03	Electronic
FINANCE	Checks a. Checks (Canceled and Voided) Accounts Payable - paid and returned checks b. Checks (Accounts Receivable) - Checks received from customers submitted electronically to financial institution c. Checks –(Canceled and Voided) Payroll – paid and returned checks d. Checks (NSF) Bad Checks and Bad Check Lists e. Checks (Duplicate) – alphabetical order of checks issued	a. Retain 6 years b. Retain 7 days c. Retain 6 years d. Retain 6 years e. Retain 4 years	No	a. Public - Minn. Stat. § 13.03 b. Public/Private - Minn. Stat. § 13.37 c. Public/Private - Minn. Stat. § 13.43 d. Public - Minn. Stat. § 13.03 e. Public - Minn. Stat. § 13.03	Electronic

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SECTION	TITLE & DESCRIPTION	RETENTION/STATUTE	ARCHIVAL VALUE?*	DATA CLASS	STORAGE MEDIA ¹
FINANCE	Receipts and Receipt Books Records documenting cash received by the Commission	Retain 6 years	No	Public Minn. Stat. § 13.03	Electronic
FINANCE	Accounts Payable and Accounts Receivable Ledgers and Journals Records of all accounts of monies owed to other parties by the Commission and monies owed to the Commission.	Retain 6 years	No	Public Minn. Stat. § 13.03	Electronic
FINANCE	Investment Documents Record of investments made by the Commission.	Retain 4 years after maturity	No	Public Minn. Stat. § 13.03	Electronic
FINANCE	Invoices Record of payments and requests for payment of accounts paid by or to the Commission.	Retain 6 years	No	Public Minn. Stat. § 13.03	Electronic
FINANCE	Payroll ² History Card	Retain permanently	No	Public/Private Minn. Stat. § 13.43	Electronic
FINANCE	Pension and Retirement Reports ²	Retain 10 years	No	Public/Private Minn. Stat. § 13.43	Electronic
FINANCE	Purged Accounts	Retain 6 years (irrespective of audit)	No	Public Minn. Stat. § 13.03	Electronic
FINANCIAL	Staffing Lists ²	Retain 6 years	No	Public Minn. Stat. § 13.03	Electronic

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SECTION	TITLE & DESCRIPTION	RETENTION/STATUTE	ARCHIVAL VALUE?*	DATA CLASS	STORAGE MEDIA ¹
FINANCE	Time Sheets ² Originals	Retain 6 years	No	Public/Private Minn. Stat. § 13.43	Electronic
FINANCE	W-2 Statements – Employers Copy	Retain 6 years	No	Public/Private Minn. Stat. § 13.43	Electronic
FINANCE	W-4 Form – Originals	Retain until replaced	No	Public/Private Minn. Stat. § 13.43	Electronic
FINANCE	Workers' Compensation Claims ² Injury reports and correspondence dealing with injuries. If infectious disease, retain 30 years per HRS 04400	Retain 20 years	No	Private Minn. Stat. § 176.231	Electronic
FINANCIAL	1099 Miscellaneous Income	Retain 6 years	No	Public/Private Minn. Stat. § 13.43	Electronic
INSURANCE	Policies Includes, but is not limited to, auto, life, property, public officials, general liability, umbrella liability.	Retain 6 years after expiration	No	Public Minn. Stat. § 13.03	Electronic
INSURANCE	Workers' Compensation Claim Register ²	Retain permanently	No	Public Minn. Stat. § 176.231	Electronic
PERMITS	Applications and Correspondence	Retain 10 years, then transfer to State Archives	Yes	Public Minn. Stat. § 13.03	Electronic
PERMITS	Engineer's Reports	Retain 10 years, then transfer to State Archives	Yes	Public Minn. Stat. § 13.03	Electronic

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SECTION	TITLE & DESCRIPTION	RETENTION/STATUTE	ARCHIVAL VALUE?*	DATA CLASS	STORAGE MEDIA ¹
PERMITS	Inspectors' Reports Includes reports, inspectors' documents relating to permit inspections	Retain 10 years, then transfer to State Archives	Yes	Public Minn. Stat. § 13.03	Electronic
PERMITS	Permit Financial Assurances Bonds, Letters of Credit, Letters of Reduction, etc.	Retain 6 years after permit closure	No	Public Minn. Stat. § 13.03	Electronic
PERMITS	Permits	Retain permanently	No	Public Minn. Stat. § 13.03	Electronic
PERMITS	Plans	Retain permanently	No	Public Minn. Stat. § 13.03	Electronic
TECHNICAL	Water Quality and Quantity Monitoring Raw data, lab reports, QA/QC data	Retain 30 years	No	Public Minn. Stat. § 13.03	Paper Field Notes/Electronic
TECHNICAL	Water Monitoring Reports Annual, cumulative from project	Retain permanently	No	Public Minn. Stat. § 13.03	Electronic
CIP	Feasibility Studies/Reports, Commission Project Designs and Final Reports	Retain through expected life of project (typically 30 years), then transfer to State Archives	Yes	Public Minn. Stat. § 13.03	Electronic
CIP	Contracts For Capital Improvements	Retain permanently	Yes	Public Minn. Stat. § 13.03	Electronic

BCWMC Records Retention Schedule
 Adopted December 15, 2016

SECTION	TITLE & DESCRIPTION	RETENTION/STATUTE	ARCHIVAL VALUE?*	DATA CLASS	STORAGE MEDIA ¹
CIP	Project Records	Retain 5 years, unless project is a major capital improvement, then retain permanently	Yes	Public Minn. Stat. § 13.03	Electronic
CIP	Property Surveys	Retain permanently	Yes	Public Minn. Stat. § 13.03	Electronic
PLANNING	a. Watershed Management Plan Document, Amendments and Records b. Plan development documents, meeting minutes, official comments and responses on draft plan, etc.	a. Retain permanently b. Retain until superseded	No	Public Minn. Stat. § 13.03	Electronic
PLANNING	Documents pertaining to amendments to Watershed Plan including official comments and responses on draft amendment	Retain permanently	Yes	Public Minn. Stat. § 13.03	Electronic
RECORDS MGMT	Authority to Dispose of Records State Form (PR-1) Used to approve destruction of records not on an approved retention schedule	Retain permanently	Yes	Public Minn. Stat. § 13.03	Electronic

BCWMC Records Retention Schedule
 Adopted December 15, 2016

SECTION	TITLE & DESCRIPTION	RETENTION/STATUTE	ARCHIVAL VALUE?*	DATA CLASS	STORAGE MEDIA ¹
RECORDS MGMT	Records Inventories List of specific types of records generated by BCWMC. Used for generating retention schedules	Retain until superseded	No	Public Minn. Stat. § 13.03	Electronic
RECORDS MGMT	Records Retention Schedules List of specific types of records maintained by an agency and the period of time that each type should be retained.	Retain until superseded.	No	Public Minn. Stat. § 13.03	Electronic
RECORDS MGMT	Records Transfer/Transmittal List Documentation that tracks and verifies the transfer of records.	Retain 1 year or until the records are removed/destroyed	No	Public Minn. Stat. § 13.03	Electronic

* If a particular record series has archival value, it should ultimately be transferred to the State Archives when it no longer needs to be retained in the BCWMC.

¹ Storage media may currently be paper and documents previously transferred to State Archives were paper. The BCWMC is working to digitize all historical files for retention and transfer purposes.

² The BCWMC currently uses contractors and consultants to complete its work. These provisions would only be used if the BCWMC were to hire actual staff.

APPENDIX C

BASSETT CREEK WATERSHED MANAGEMENT COMMISSION

DATA PRACTICES PROCEDURES

Adopted: May 21, 2020

BASSETT CREEK WATERSHED MANAGEMENT COMMISSION

DATA PRACTICES PROCEDURES

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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 subdivision 5.

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. The responsible authority may, but is not required to, waive the actual costs associated with responding to a request for the electronic transmittal of less than 100 pages of data if the data is readily available in an electronic format. 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, Alternate 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, Alternate 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.

Pursuant to Minnesota Statutes Section 13.05, subdivision 7, 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 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"> • DATA SUBJECT • BCWMC STAFF AND OFFICIALS WITH A BUSINESS NEED TO KNOW • THOSE AUTHORIZED BY DATA SUBJECT
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"> • THOSE WHOSE WORK REQUIRES ACCESS • ENTITIES AUTHORIZED LAW NOT AVAILABLE TO DATA SUBJECT OR THE PUBLIC
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

Regular Photocopy Charge (if 100 or fewer pages of black and white letter or legal size paper copies are requested)	\$.25 per page
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Special Copy Charge (Charged in all other circumstances, including requests to provide data electronically or by facsimile)	Actual Cost*
---	---------------------

*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.

Document Charge (Charged for certain frequently requested documents, such as maps, etc.)	Copy of Current Watershed Management Plan	\$20.00
--	--	----------------

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.