

Applicant: Carter Schulze; City of Eden Prairie  
Consultant: Bob Leba; SRF Consulting Group, Inc.  
Project: West 62<sup>nd</sup> Street Improvements  
Location: Southeast quadrant of T.H. 62 and Shady Oak Road: Eden Prairie  
Rule(s): 3,4,5  
Reviewer: BCO

**General Background & Comments**

The project proposes the improvements of West 62<sup>nd</sup> Street located in the southeast quadrant of the intersection of Shady Oak Road and T.H. 62 in Eden Prairie. West 62<sup>nd</sup> Street is along the northern boundary of the United Health Group (UHG) campus. (The roadway improvement was initially planned as part of the UHG site development project, District Permit #2011-65.) The city's goal is to provide improved access to the UHG campus to the south and the South West Light Rail Transit City West Station.

The proposed roadway improvements will permanently impact 1,786 square feet of wetland along the northern edge of wetland CWN-1-22-C (City of Eden Prairie Identification). Because the roadway was planned for construction within the established right-of-way but as part of the UHG project, permanent and temporary wetland impacts proposed, required replacement and a request for a buffer variance were applied for and received approval, NMCWD Permit #2011-65. This approval has since expired.

The District's wetland buffer Rule 3.4 applies because roadway reconstruction is adjacent to City of Eden Prairie wetland CWN-1-22-C and CWN-1-22-A. Both wetlands have been determined to be a medium value wetland from completed MnRAM's approved by the District on July 12, 2011. The wetland boundary determinations were completed and approved on January 19, 2011. The District is the Local Governmental Unit (LGU) responsible for administering the Wetland Conservation Act (WCA) in Eden Prairie. A medium value wetland as defined by Rule 3.4.1b requires a minimum 20-foot and 40-foot average buffer width. The required minimum and average buffer are provided for wetland CWN-1-22-A.

The City is proposing a retaining wall, approximately 197-feet in length, be constructed along the northern edge of wetland CWN-1-22-C at the limits of the roadway right-of-way to reduce wetland impacts but also result in a zero (0) buffer width for the wall length. A vertical elevation difference of approximately 10 feet over a horizontal distance of 11 feet (1:1 slope) exists between the proposed roadway and the wetland boundary. The wall eliminates wetland filling that would be necessary to reduce the steepness of the embankment slope and wetland buffer on City right-of-way. Reducing buffer width for minimizing wetland impacts has been recommended by the Technical Evaluation Panel (TEP).

The attached wetland buffers figure provides a schematic of the proposal. Permit #2011-65 required a total buffer area of 43,205 square feet for wetland CWN-1-22-C. The current in-place buffer provided, based on the UHG 5-year monitoring report, is 46,314 square feet. The retaining wall construction will decrease both permanent wetland impacts and the resultant buffer area by 1,786 square feet. Overall, the total buffer area provided for Wetland CWN-1-22-C will be 44,528 square feet (46,314 – 1,786) – an overall increase of 1,323 square feet in buffer area from the District's 2011 approval. Permanent wetland impacts are to be reduced by 749 square feet from the approved 2,535 square feet (2011) to 1,786 square feet. The city is requesting approval of a variance from compliance with the minimum 20-foot buffer required for the wetland, subsection 3.4.1b of the District rules. As previously stated, the required minimum and average buffer are provided for wetland CWN-1-22-A.

The District's requirements for both storm water management and erosion and sediment control apply to the project because more than 50 cubic yards of material will be disturbed and 5000 square feet or more of surface area is altered, Rules 4.2.1a and b and 5.2.1a and b.

The roadway reconstruction qualifies as a linear project as defined in the District rules. The proposed new or additional impervious area resulting from the reconstruction is less than 1 acre (0.4 acres), in accordance with Rule 4.2.4 the criteria of section 4.3.1 (Stormwater management) do not apply.

#### Exhibits

1. Permit Application dated July 21, 2020.
2. Project narrative and plans prepared by SRF dated September, 2020.
3. Sections of the 2011 UHG submittal applicable to the proposed project.
4. Notice of Wetland Application dated September 9, 2020.
5. Wetland application found at: [https://srfconsultinggroup-my.sharepoint.com/:b:/g/personal/nzappetillo\\_srfconsulting\\_com/Ea5gk57ZGFZOrLkKrOCeyacBmmCgRLGDoAMaUHeqGOiQxg?e=ufOWWP](https://srfconsultinggroup-my.sharepoint.com/:b:/g/personal/nzappetillo_srfconsulting_com/Ea5gk57ZGFZOrLkKrOCeyacBmmCgRLGDoAMaUHeqGOiQxg?e=ufOWWP)
6. The entire project submittal can be found at: [https://srfconsultinggroup-my.sharepoint.com/:b:/g/personal/nzappetillo\\_srfconsulting\\_com/EYI8ZBZDBYhIsVSj\\_afKtMkBhh4Gle8hC7wDuKzAfYwzow?e=OI0uBq](https://srfconsultinggroup-my.sharepoint.com/:b:/g/personal/nzappetillo_srfconsulting_com/EYI8ZBZDBYhIsVSj_afKtMkBhh4Gle8hC7wDuKzAfYwzow?e=OI0uBq)

### **3.0 Wetlands Management**

The roadway improvements will result in 1,786 square feet of permanent wetland impacts within wetland CWN-1-22-C and temporary impacts of 1,307 square feet for vegetation removal. Temporary impacts of 103 square feet for vegetation removal is proposed for wetland CWN-1-22-A. A WCA Notice of Application, dated September 9, 2020, was sent to the required regulatory agencies for review and comment. The comment period ends September 30, 2020. To date, no comments have been received. The 2011 MnRAMs have identified both wetlands CWN-1-22-C and CWN-1-22-A as medium value wetlands requiring a 20-foot minimum and 40-foot average buffer. Both the minimum and average buffer widths are currently provided for Wetland CWN-1-22-A. The wetland boundaries were field reviewed by the NMCWD engineer on August 11, 2020 to confirm the 2011 boundary determinations remained accurate.

Wetland credits, 2.5 acres, from an approved BWSR wetland bank were purchased and withdrawn by UHG for the anticipated wetland impacts associated with the UHG development project including the reconstruction of West 62<sup>nd</sup> Street. The permanent wetland impacts proposed for the roadway reconstruction are 1,786 square feet (0.041 acres) with the construction of 197 lineal feet of retaining wall along the northern limits of wetland CWN-1-22-C. Zero (0) wetland buffer will be provided for the distance of the wall along wetland CWN-1-22-C. A retaining wall will also allow for a 10-foot wide walkway along the roadway to be constructed.

Since sufficient area is not available for a providing a functional and compliant minimum buffer in this location unless fill, resulting in additional wetland impacts, is placed in the wetland, the City is requesting a variance for the minimum buffer width of wetland CWN-1-22-C (Rule 3.4.1b). This is further discussed in the Rule 10 paragraphs. (The District's previous evaluation of the variance request included a recommendation from the Technical Evaluation Panel (TEP) to approve the variance rather than creating additional wetland impacts for compliance with the buffer rule.)

**4.0 Storm Water Management**

The roadway reconstruction is a linear project under the NMCWD rules. The project as previously stated will increase the impervious area by 0.4 acres. For a linear project that results in less than 1.0 acre of new or additional impervious area, the criteria of section 4.3.1 (Stormwater management) will not apply (4.2.3).

**5.0 Erosion and Sediment Control**

The requirements of Rule 5 are applicable since land-disturbing activities will involve excavation of more than 50 cubic yards of material and will disturb 5,000 square feet of more of surface area or vegetation, Rules 5.2.1a and b. Erosion control measures include silt fence and inlet protection. The project contact is Bob Leba, SRF Consulting Group.

**10.0 Variances and Exceptions**

A variance request from compliance with Rule 3.4.1b (attached in the project narrative) has been prepared by the City of Eden Prairie to address Rules 10.1-10.4. The variance request is for compliance for the 20-foot minimum buffer required along the northern boundary of wetland CWN-1-22-C. The city argues that the width and slope of the buffer area as proposed in 2011 would not provide a practical nor functional buffer for stormwater management, wildlife access/habitat or erosion control. As previously stated, a 1:1 slope will exist between the roadway and the wetland boundary should a wall not be constructed or additional fill, increasing wetland impacts, for a more manageable slope. Replacement of this "potential buffer area" with a retaining wall will provide a stable embankment slope and reduce wetland impacts that would be necessary for creating buffer. The engineer recommends approval of the variance request by the city.

**11.0 Fees**

Because the property owner is a public entity, no fees are charged.

Rules 2.0-6.0 ..... \$0

## **12.0 Sureties**

Because the property owner is a public entity, the District's financial assurance requirements do not apply.

Sureties for the project are: \$0

## **Findings**

1. The proposed project includes the information necessary, plan sheets and erosion control plan for review.
2. Rules 4 and 5 are met.
3. A variance from section 3.4.1b of the District rules is required by the Board of Managers.

## **Recommendation**

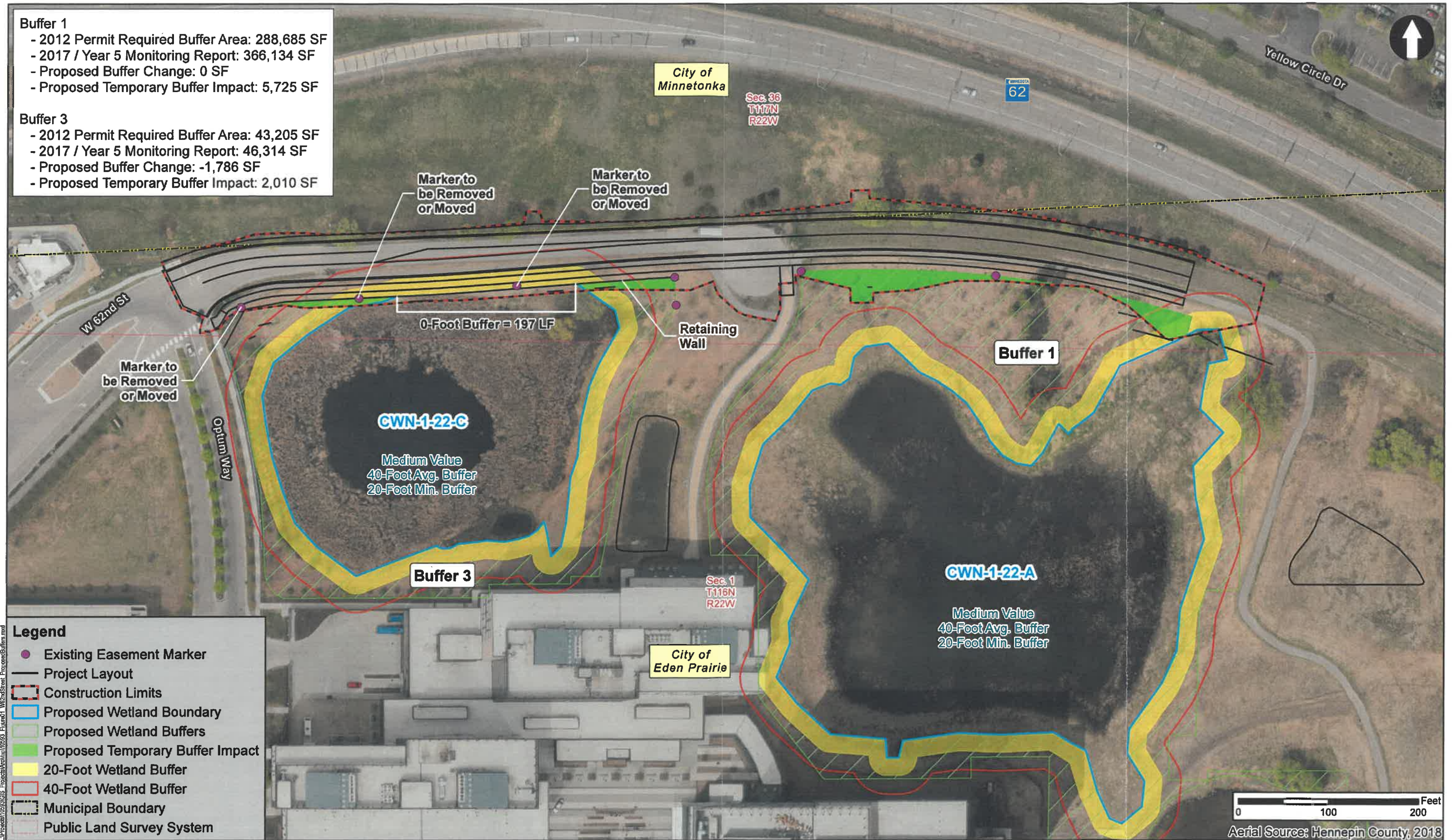
Approval, contingent upon:

1. General Conditions
2. For any amendments to the previously executed wetland maintenance agreements provided by UHG, per Rule 3.4.7 a written agreement provided to the District stating the City's responsibility for the maintenance wetland buffer located within City right-of-way will be required.

By accepting the permit, when issued, the applicant agrees to the following stipulations:

1. As appropriate, existing buffer markers should be relocated along city right-of-way in accordance with Rule 3.4.5.





**Proposed Wetland Buffers**

West 62nd Street Improvements  
 City of Eden Prairie

**Figure 1**



# West 62<sup>nd</sup> Street Extension

## *Nine Mile Creek Watershed District Permit Application Narrative*

**City of Eden Prairie**



September 2020

SRF No. 020 10593

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## Background

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SRF Consulting Group, Inc. was retained by the City of Eden Prairie complete the final design of the extension of West 62<sup>nd</sup> Street. The extension will provide improved access to the future Southwest LRT station and UHG campus expansion. See Figure 1 for a project location map.

This project will have the following land changes:

New Impervious = 0.4 acres

Disturbed Area = 2.2 acres

The project is part of a phased implementation. The Southwest LRT project will construct the last segment of West 62<sup>nd</sup> Street to the east which will also include a new park and ride at the LRT station (City West Station).

For reference, the Southwest LRT land use changes are shown below:

SWLRT New Impervious = 37.9 acres

SWLRT Disturbed Area = 485.6 acres



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# Nine Mile Creek Watershed District Rules

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The following summarizes the Rules that apply to the West 62<sup>nd</sup> Street project in accordance with the Nine Mile Creek Watershed District Rules last amended on April 10<sup>th</sup>, 2018. Rules not listed below do not apply.

## Rule 3.0 Wetland Management

The current West 62<sup>nd</sup> Street Improvement Project was initially planned for construction in 2012/2013, at the same time as the United Health Group (UHG) Site Development Project located immediately south of existing West 62<sup>nd</sup> Street. A Level 2 wetland delineation for the UHG and West 62<sup>nd</sup> Street project areas mapped two wetlands south of the roadway: CWN-1-22-C and CWN-1-22-A.

The West 62<sup>nd</sup> Street Improvement Project was expected to permanently impact 2,535 square feet of the north edge of CWN-1-22-C and would not allow adequate space to meet NMCWD's 20-foot minimum buffer requirement without placing additional fill in the wetland. The City of Eden Prairie requested that UHG include the 2,535 square feet of permanent wetland impacts, wetland replacement and a request for a buffer variance at CWN-1-22-C in their Minnesota Wetland Conservation Act (WCA) and NMCWD permit applications because the roadway would serve the new UHG site.

NMCWD issued a WCA Notice of Decision to approve UHG's proposed wetland impacts and mitigation on 11/16/2011. The decision included approval of the 2,535 square feet of impacts and 5,704 square feet of wetland replacement (2.25:1 ratio) for the West 62<sup>nd</sup> Street Improvement Project. NMCWD also issued a permit with a variance for the buffer width not being met on CWN-1-22-C (Wetland A) for the West 62<sup>nd</sup> Street Improvement Project. UHG constructed their Site Development Project in 2012/2013, but the adjacent roadway improvement project was postponed until now. The WCA Notice of Decision and previous NMCWD Permit are included in Appendix A and B.

### Rule 3.3 (Replacement):

The proposed project would temporarily impact 1,262 square feet of CWN-1-22-C and 103 square feet of CWN-1-22-A. Impacted areas will be restored to preproject contours and reseeded with a native seed mix. Because the temporarily impacted wetland areas will be restored to preproject conditions upon project completion, no mitigation is proposed.

The proposed project would permanently impact 1,786 square feet of CWN-1-22-C. The impacts would be within the footprint of the previously approved and mitigated 2,535 square feet of permanent impact that was included in UHG's previous applications for wetland impacts and replacement. A copy of the WCA Joint Application Form is included in Appendix A.

In 2012, UHG withdrew wetland credits in the amount of 2.50 acres to offset the impacts from the construction of their Optum Campus. These credits were withdrawn from Account #1175 in Scott County, owned by the German Settlement Wetland Bank, LLC. A copy of the Minnesota Board of Water & Soil Resources (BWSR) Notice of Withdrawal of Wetland Credits from the Minnesota Wetland Bank is included in Appendix A. Included in this total 2.50 acres of wetland credit purchase were the impacts associated with the West 62nd Street Improvement Project. At the time, the project was designed to 95% completion, however, the West 62nd Street Improvement Project was not constructed in 2012.

In 2020, SRF was hired by the City of Eden Prairie to complete the bid documents for the West 62nd Street Improvement Project. During wetland permitting discussions with Nine Mile Creek Watershed District (NMCWD), they requested that a written agreement between UHG and the City be completed which allows the City to use the wetland credits UHG created and purchased to replace the wetland impacts associated with the West 62nd Street Improvement Project. SRF created a wetland credit transfer form and this was approved and authorized by UHG and the City. This form was sent to the Minnesota Board of Water and Soil Resource (BWSR) to formally transfer the credits from UHG to City. Tim Smith, with BWSR, received this application and discovered that no credits remained in UHG's Account #1175. After further consultation with Mr. Smith, the conclusion was made that in 2012, UHG purchased and applied all the credits, which included the impacts associated with the West 62nd Street Improvement Project. This meant the transaction was over, and that no credits remained in the bank for when this impact was to actually occur. There was no action needed by BWSR, and the fee associated with the wetland credit transfer form was refunded. SRF informed Mr. Smith that final design of the West 62nd Street Improvement Project resulted in less impacts than what was mitigated for in 2012. With this being the case, no further action by the City was needed from BWSR.

With the wetland credit transfer form not being needed, the City added language to a UHG construction easement agreement that also memorializes the City's usage of these previous purchased and applied wetland credits. The language from this agreement reads, "UHG agrees to the City's West 62nd Street project and that the credits that were previously purchased by UHG and applied for this project are to now be used by the City for construction of the project."

Rule 3.4 (Wetland Buffers):

Previously, UHG requested a buffer variance for the north edge of CWN-1-22-C since the proposed improvements to West 62nd Street would not allow adequate space to meet the 20-foot minimum buffer requirement without placing additional fill in the wetland. A 9-foot buffer was proposed along the north edge of CWN-1-22-C instead. NMCWD reviewed the buffer variance request with members of the Technical Evaluation Panel (TEP) and later issued a permit that included a buffer variance for the north edge of CWN-1-22-C (Wetland A).

The West 62nd Street Improvement Project has since been revised to include a retaining wall along the south edge of the project, between the proposed trail and CWN-1-22-C instead of a slope down to the wetland. The retaining wall would reduce the amount of wetland fill; however, it would result in 197 linear feet of wetland edge with no buffer (area where the retaining wall would intersect the

wetland) and a loss of 1,786 square feet of buffer area. See Figure 1, Proposed Wetland Buffers in Appendix A.

## **Rule 4.0 Stormwater Management**

### Rule 4.2 (Regulation):

Less than one acre of new impervious surface is being created with this linear project. However, this project is part of a phased linear project whereas the east segment of West 62<sup>nd</sup> Street will be constructed as part of the Southwest LRT station project which will create over 1 acre of new impervious.

Stormwater from this segment of West 62<sup>nd</sup> Street will be treated in an existing stormwater pond (Pond 900) constructed when the UHG site was developed. Relevant sections of the Stormwater Management Plan, "Shady Oak Road Property" by Westwood Professional Services, Inc., dated November 4, 2011, is included in Appendix B for reference. The drainage area that includes the West 62<sup>nd</sup> Street project is contained in HydroCAD subcatchments 1800 and 1810 and accounts for 1.46 acres and 0.49 acres of impervious surface, respectively. This West 62<sup>nd</sup> Street project will propose 1.25 and 0.24 acres of impervious be treated in Pond 900 which is less than the anticipated impervious surface. Therefore, this project's stormwater treatment requirement is met by the existing pond constructed on the UHG site. A copy of the permit approval letter from Nine Mile Creek Watershed District dated November 21, 2011, is included in Appendix B.

## **Rule 5.0 Erosion and Sediment Control**

### Rule 5.2 (Regulation):

This project will disturb 2.2 acres of surface area. This is over the 5,000 square feet of surface area disturbance and will trigger an erosion and sediment control permit.

### Rule 5.3 (Regulation):

Erosion Control and Turf Establishment plans have been created to satisfy the watershed requirements. Storm sewer and culvert inlet protection along with erosion control blanket has been proposed to satisfy temporary conditions. Permanent conditions included seeding the disturbed area. At the existing storm sewer outfall, rip rap was installed in the UHG project to prevent erosion of the stable soils.

An NPDES Construction Stormwater Permit will be required and obtained prior to construction.



## Rule 10.0 Variances and Exceptions

The following demonstrates why a variance from the wetland buffer rule is justified based on NMCWD requirements in Rule 10.1:

*10.1.1. That because of unique conditions inherent to the subject property, which do not apply generally to other land or structures in the District, undue hardship on the applicant, not mere inconvenience, will result from strict application of the rule;*

The project involves widening and extending an existing public roadway on existing public right-of-way. The roadway will meet city design standards by providing a through-street connection to the future Southwest LRT station project and a multi-use trail, which will benefit the public.

Strict application of the NMCWD buffer rule (maintaining a minimum 20-foot buffer) could only be accomplished by placing additional fill in Wetland CWN-1-22-C, removing the multi-use trail, or shifting the roadway and trail alignments. Shifting the roadway and trail alignments would require additional right-of-way acquisition from MnDOT (TH 62 right-of-way) and impacts to two wetlands north of West 62<sup>nd</sup> Street (DOT-EP-21 and DOT-EP-22 in the Southwest LRT wetland delineation).

*10.1.2. That the hardship was not created by the landowner, the landowner's agent or representative, or a contractor, and is unique to the property. Economic hardship alone may not serve as grounds for issuing a variance if any reasonable use of the property exists under the terms of the District rules;*

The need for the variance is driven by the location of the existing right-of-way and the existing roadway in comparison to the wetlands. The City of Eden Prairie has sought to use the existing right-of-way available to widen and extend West 62<sup>nd</sup> Street to the future Southwest LRT station project and meet design standards while minimizing direct wetland impacts and minimizing impacts to the wetland buffer.

*10.1.3. That the activity for which the variance is sought will not materially adversely affect water resources, flood levels, drainage or the general welfare in the District; and*

Decreasing the buffer along the northern edge of Wetland CWN-1-22-C will not materially adversely affect water resources, flood levels, or the general welfare in the District.

The previous UHG project constructed a buffer around Wetland CWN-1-22-C that was greater than the equivalent of a 40-foot average buffer around the entire wetland. Proposed buffer loss from the West 62<sup>nd</sup> Street Improvement Project would not result in less buffer area around Wetland CWN-1-22-C than what was required by NMCWD in the 2012 permit issued to UHG. See Figure 1, Proposed Wetland Buffers in Appendix A.

In both the existing and proposed condition, stormwater from this segment of West 62<sup>nd</sup> Street will be treated in an existing stormwater pond (Pond 900) constructed when the UHG site was developed. The existing pond is adequately sized to accommodate this project's stormwater

treatment requirement. None of the proposed impervious area will drain to the buffer. The buffer area will be planted with a native seed mix.

*10.1.4. That there is no feasible and prudent alternative to the proposed activity requiring a variance.*

The City of Eden Prairie is proposing widening and extending a roadway in existing right-of-way in a developed area. Moving the proposed roadway and trail alignments farther away from the wetlands to meet the buffer rule would require purchase of additional right-of-way and impacts to two wetlands north of West 62<sup>nd</sup> Street. Alternatively, meeting the buffer rule while maintaining the existing alignment would result in impacts to Wetland CWN-1-22-C.

# Appendices

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## **Appendix A - Rule 3.0 Wetland Management**

WCA Notice of Decision for UHG Project

WCA Joint Application Form

BWSR Notice of Withdrawal of Wetland Credits from the Minnesota Wetland Bank

Proposed Wetland Buffers Figure (Figure 1)

## **Appendix B - Rule 4.0 Stormwater Management**

West 62<sup>nd</sup> Street Drainage Overview Map (Figure 2)

Nine Mile Creek Approved Permit 2011-65 for UHG Site

UHG Stormwater Management Plan (Partial)

## **Appendix C - Rule 5.0 Erosion and Sediment Control (Construction Plans)**

100% Construction Plan Set – West 62<sup>nd</sup> Street

SWPPP - See pages 41-43

Erosion Control and Turf Establishment – See pages 46-47

## Appendix A

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# Minnesota Wetland Conservation Act

## Notice of Decision

Local Government Unit (LGU) <b>Nine Mile Creek Watershed District</b>	Address 7710 Computer Avenue, Suite 135 Edina, MN 55435
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### 1. PROJECT INFORMATION

Applicant Name <b>United Health Group</b>	Project Name <b>Shady Oak Road Project</b>	Date of Application <b>8/22/11</b>	Application Number
<input checked="" type="checkbox"/> Attach site locator map.			

Type of Decision:

<input type="checkbox"/> Wetland Boundary or Type	<input type="checkbox"/> No-Loss	<input type="checkbox"/> Exemption	<input checked="" type="checkbox"/> Sequencing
<input checked="" type="checkbox"/> Replacement Plan	<input type="checkbox"/> Banking Plan		

Technical Evaluation Panel Findings and Recommendation (if any):

Approve
  Approve with conditions
 Deny

Summary (or attach): The United Health Group Shady Oak Road project involves the construction of their proposed office building campus at Highway 62 and Shady Oak Road in Eden Prairie, Minnesota (NW Section 1, Township 116N, Range 22W).

Summary of Wetland Delineation and MNRAM Assessments:

On October 29, 2010 the TEP conducted a site review of 2007 Pinnacle wetland delineations, which were re-staked by Westwood in October 2010. The TEP requested modification of wetland boundaries in four areas. On November 30, 2010, wetland boundary revisions and MNRAM analyses were submitted. An updated wetland delineation figure with edits to the wetland IDs and additional MNRAM data were provided on December 10, 2010. Edits to the additional MNRAM data were provided on January 3, 2011. The wetland boundaries were approved by the NMCWD Board on January 19, 2011 with the condition that the MNRAM analysis be re-assessed within the growing season. An updated MNRAM was conducted on June 1, 2011 and submitted on June 8, 2011. On July 7, 2011, the TEP recommended that the NMCWD Board approve the updated MNRAMs.

Wetland Permit Application Summary:

The wetland permit application was submitted on August 22, 2011.

The Notice of Application was sent to the TEP on August 23, 2011. Comments on the permit application were requested by September 15, 2011.

The TEP met on August 31, 2011 to discuss the wetland permit application.

A draft summary of the TEP meeting was sent for TEP review on September 8, 2011.

Comments on the meeting summary were received by the TEP on September 9, 2011.

The meeting summary was updated based on TEP comments and sent to Westwood on September 9, 2011. The meeting summary included a list of additional information that was requested by the TEP.

On September 14, 2011, UHG submitted responses to TEP comments as a partial submittal to provide the TEP requested additional information.

On October 5, 2011, UHG submitted the remaining additional information requested by the TEP including a hydrogeologic assessment of the site prepared by Braun Intertec and a Protection Wall Plan

sheet prepared by Westwood. Comments from the TEP were requested by October 31, 2011.

The TEP met on October 18, 2011 to discuss the updated information. During this meeting, additional review and documentation of sequencing discussions was requested along with further evaluation of hydrology effects, recalculation of wetland credits, and clarification of other issues.

On November 4, 2011, a TEP Findings of Fact form was provided, which summarized issues brought up during the October 18th meeting and other comments received within the formal review period.

On November 8, 2011, responses to TEP comments was provided.

Below is the final summary of wetland impacts and mitigation credits:

Total wetland area delineated on UHG Shady Oak Rd site: 13.57 ac.

Total wetland impact proposed: 1.53 ac.

Required Replacement at 2.25:1 ratio: 3.44 ac.

Proposed on site wetland creation total area: 0.94 ac.

Proposed on site wetland creation credit (75% of created areas): 0.71 ac.

Proposed upland buffer credit (maximum 25% of created wetland areas): 0.24 ac.

Total on site credit: 0.94 ac.

Total wetland bank credits to purchase: 2.50 ac.

The final submittal provides a reduction of wetland impacts from the previous version, but requires a buffer variance for two areas, which do not meet the minimum 20 ft. buffer width requirement. These areas are:

- The northern edge of Wetland A (CWN-1-22-C)
- The northern edge of Wetland B (CWN-1-22-D)

The 50 ft. average buffer width requirement is met for all wetlands.

The November 8, 2011 responses to the previous TEP FOF and TEP meeting requests for additional review and documentaion of sequencing discussions are adequate and show that wetland impacts were avoided and minimized to the greatest extent practicable. The additional information requested was also provided in the November 8, 2011 submittal.

A TEP FOF form was submitted to the NMCWD Board on November 16, 2011 recommending approval of the wetland permit application.

## 2. LOCAL GOVERNMENT UNIT DECISION

Date of Decision: 11/16/11

Approved

Approved with conditions (include below)

Denied

LGU Findings and Conclusions (attach additional sheets as necessary):

**For Replacement Plans using credits from the State Wetland Bank:**

Bank Account # 1179	Bank Service Area 9	County Scott	Credits Approved for Withdrawal (sq. ft. or nearest .01 acre) 2.50 ac.
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**Replacement Plan Approval Conditions.** In addition to any conditions specified by the LGU, the approval of a Wetland Replacement Plan is conditional upon the following:

- Financial Assurance:** For project-specific replacement that is not in-advance, a financial assurance specified by the LGU must be submitted to the LGU in accordance with MN Rule 8420.0522, Subp. 9 (List amount and type in LGU Findings).
- Deed Recording:** For project-specific replacement, evidence must be provided to the LGU that the BWSR "Declaration of Restrictions and Covenants" and "Consent to Replacement Wetland" forms have been filed with the county recorder's office in which the replacement wetland is located.
- Credit Withdrawal:** For replacement consisting of wetland bank credits, confirmation that BWSR has withdrawn the credits from the state wetland bank as specified in the approved replacement plan.

**Wetlands may not be impacted until all applicable conditions have been met!**

**LGU Authorized Signature:**

Signing and mailing of this completed form to the appropriate recipients in accordance with 8420.0255, Subp. 5 provides notice that a decision was made by the LGU under the Wetland Conservation Act as specified above. If additional details on the decision exist, they have been provided to the landowner and are available from the LGU upon request.		
Name <i>LuAnn Tolliver</i>	Title <i>President: Nine Mile Creek W.D.</i>	
Signature <i>LuAnn B. Tolliver</i>	Date <i>12/21/11</i>	Phone Number and E-mail <i>952-835-2078</i>

**THIS DECISION ONLY APPLIES TO THE MINNESOTA WETLAND CONSERVATION ACT.** Additional approvals or permits from local, state, and federal agencies may be required. Check with all appropriate authorities before commencing work in or near wetlands.

Applicants proceed at their own risk if work authorized by this decision is started before the time period for appeal (30 days) has expired. If this decision is reversed or revised under appeal, the applicant may be responsible for restoring or replacing all wetland impacts.

This decision is valid for three years from the date of decision unless a longer period is advised by the TEP and specified in this notice of decision.

**3. APPEAL OF THIS DECISION**

Pursuant to MN Rule 8420.0905, any appeal of this decision can only be commenced by mailing a petition for appeal, including applicable fee, within thirty (30) calendar days of the date of the mailing of this Notice to the following as indicated:

Check one:

<input type="checkbox"/> Appeal of an LGU staff decision. Send petition and \$_____ fee (if applicable) to:	<input type="checkbox"/> Appeal of LGU governing body decision. Send petition and \$500 filing fee to: Executive Director Minnesota Board of Water and Soil Resources 520 Lafayette Road North St. Paul, MN 55155
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#### 4. LIST OF ADDRESSEES

- SWCD TEP member: **Stacey Lijewski, Hennepin Conservation District**
- BWSR TEP member: **Lynda Peterson**
- LGU member (if different than LGU Contact): **Leslie Stovring, City of Eden Prairie**
- DNR TEP member: **Melissa Doperalski**
- DNR Regional Office (if different than DNR TEP member)
- WD or WMO (if applicable): **Kevin Bigalke**
- Applicant and Landowner (if different) **David Weetman, Westwood**
- Members of the public who requested notice:
- Corps of Engineers Project Manager
- BWSR Wetland Bank Coordinator (wetland bank plan decisions only)

#### 5. MAILING INFORMATION

- For a list of BWSR TEP representatives: [www.bwsr.state.mn.us/aboutbwsr/workareas/WCA\\_areas.pdf](http://www.bwsr.state.mn.us/aboutbwsr/workareas/WCA_areas.pdf)
- For a list of DNR TEP representatives: [www.bwsr.state.mn.us/wetlands/wca/DNR\\_TEP\\_contacts.pdf](http://www.bwsr.state.mn.us/wetlands/wca/DNR_TEP_contacts.pdf)
- Department of Natural Resources Regional Offices:

<u>NW Region:</u> Reg. Env. Assess. Ecol. Div. Ecol. Resources 2115 Birchmont Beach Rd. NE Bemidji, MN 56601	<u>NE Region:</u> Reg. Env. Assess. Ecol. Div. Ecol. Resources 1201 E. Hwy. 2 Grand Rapids, MN 55744	<u>Central Region:</u> Reg. Env. Assess. Ecol. Div. Ecol. Resources 1200 Warner Road St. Paul, MN 55106	<u>Southern Region:</u> Reg. Env. Assess. Ecol. Div. Ecol. Resources 261 Hwy. 15 South New Ulm, MN 56073
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For a map of DNR Administrative Regions, see: [http://files.dnr.state.mn.us/aboutdnr/dnr\\_regions.pdf](http://files.dnr.state.mn.us/aboutdnr/dnr_regions.pdf)

- For a list of Corps of Project Managers: [www.mvp.usace.army.mil/regulatory/default.asp?pageid=687](http://www.mvp.usace.army.mil/regulatory/default.asp?pageid=687) or send to:

US Army Corps of Engineers  
St. Paul District, ATTN: OP-R  
180 Fifth St. East, Suite 700  
St. Paul, MN 55101-1678

- For Wetland Bank Plan applications, also send a copy of the application to:  
Minnesota Board of Water and Soil Resources  
Wetland Bank Coordinator  
520 Lafayette Road North  
St. Paul, MN 55155

#### 6. ATTACHMENTS

In addition to the site locator map, list any other attachments:





# Joint Application Form for Activities Affecting Water Resources in Minnesota

## PART ONE: Applicant Information

If the Applicant is an entity (company, government entity, partnership, etc.) an authorized contact person must be identified on the Application. If the Applicant is using an agent (consultant, lawyer, or other third party) and has authorized them to act on their behalf, the agent's contact information must also be provided.

<b>Applicant/Landowner Name:</b>	City of Eden Prairie Public Works Department
<b>Mailing Address:</b>	8080 Mitchell Road, Eden Prairie, MN 55344
<b>Phone:</b>	N/A – see below
<b>E-mail Address:</b>	N/A – see below

<b>Authorized Contact</b> (do not complete if same as above):	Carter Schulze, PE, Assistant City Engineer, City of Eden Prairie Public Works Department
<b>Mailing Address:</b>	8080 Mitchell Road, Eden Prairie, MN 55344
<b>Phone:</b>	(952) 949-8339
<b>E-mail Address:</b>	cschulze@edenprairie.org

<b>Agent Name (if applicable):</b>	Nicole Zappetillo, Associate / Wetland Scientist, SRF Consulting Group, Inc.
<b>Mailing Address:</b>	One Carlson Parkway North, Suite 150, Minneapolis, MN 55447-4443
<b>Phone:</b>	(763) 452-4824
<b>E-mail Address:</b>	nzappetillo@srfconsulting.com

## PART TWO: Site Location Information

<b>County:</b>	Hennepin
<b>City:</b>	Eden Prairie
<b>Parcel ID and/or Address:</b>	West 62 <sup>nd</sup> Street (east of Optum Way)
<b>Legal Description (Section, Township, Range):</b>	Sec. 36, T117N, R22W
<b>Lat/Long (decimal degrees):</b>	44.892096 N / -93.415906 W
<b>Approximate size of site (acres) or if a linear project, length (feet):</b>	1,125 feet
<b>Attach a map showing the location of the site in relation to local streets, roads, highways. See Appendix A.</b>	

If you know that your proposal will require an individual Permit from the U.S. Army Corps of Engineers, you must provide the names and addresses of all property owners adjacent to the project site. This information may be provided by attaching a list to your application or by using block 25 of the Application for Department of the Army permit which can be obtained at:

[http://www.mvp.usace.army.mil/Portals/57/docs/regulatory/RegulatoryDocs/engform\\_4345\\_2012oct.pdf](http://www.mvp.usace.army.mil/Portals/57/docs/regulatory/RegulatoryDocs/engform_4345_2012oct.pdf)

Not applicable.

## **PART THREE: General Project/Site Information**

If this Joint Application is related to a delineation approval, exemption determination, jurisdictional determination, or other correspondence submitted *prior to* this application then describe that here and provide the Corps of Engineers project number.

**Project Description:** Describe the project that is being proposed, the project purpose and need, and schedule for implementation and completion. The project description must fully describe the nature and scope of the proposed activity including a description of all project elements that effect aquatic resources (wetland, lake, tributary, etc.) and must also include plans and cross section or profile drawings showing the location, character, and dimensions of all proposed activities and aquatic resource impacts.

### **Coordination Prior to this Application**

- In 2007, Pinnacle Engineering completed a Level 2 wetland delineation for the property located south of West 62<sup>nd</sup> Street and east of Shady Oak Road.
- In October 2010, UnitedHealth Group (UHG) hired Westwood Professional Services (Westwood) to review the previous delineation, obtain an updated WCA decision on the wetland boundaries, and complete wetland permitting for upcoming development of their 71-acre property.
- Westwood re-staked the wetland delineation lines and held a site review with the City of Eden Prairie and the U.S. Army Corps of Engineers (USACE) on 10/29/2010. During the site review, it was requested that Westwood investigate four additional areas. Westwood reviewed the additional areas and modified the wetland boundaries using the Level 2 routine determination method.
- Westwood submitted a formal request for approval of the delineated wetland boundaries to the Nine Mile Creek Watershed District (NMCWD), the City of Eden Prairie, and USACE on 11/30/2010.
- NMCWD issued a Minnesota Wetland Conservation Act (WCA) Notice of Decision (NOD) to approve the updated wetland boundaries on 1/19/2011. See Appendix B.
- Westwood submitted a Wetland Permits Application for the UHG property to NMCWD, USACE, the Minnesota Department of Natural Resources (DNR), and the City of Eden Prairie on 8/22/2011.
  - The application proposed 0.81 acre (ac.) (35,299 square feet [SF]) of permanent wetland fill impacts, which would be replaced at a 2.25:1 ratio to satisfy NMCWD requirements.
  - The original application did not include impacts to Wetland A (CWN-1-22-C) along the south side of West 62<sup>nd</sup> Street.
- An onsite Technical Evaluation Panel (TEP) meeting was held on 8/31/2011 to review the proposed wetland impacts and replacement.
  - Comments from the TEP and the City of Eden Prairie requested several changes, including the addition of permanent fill impacts to CWN-1-22-C to accommodate upgrades to West 62<sup>nd</sup> Street.
- Westwood submitted a Summary of Adjustments to Site Plans and TEP Comment Response Memorandum to NMCWD on 9/14/2011.
  - The revised application proposed 1.68 ac. (73,020 SF) of permanent wetland fill impacts, 40,974 SF of onsite wetland replacement credits, 10,244 SF feet of onsite upland buffer credits, and 113,078 SF of offsite wetland replacement credits (2.25:1 replacement ratio).
  - The proposed impacts included 0.15 ac. (6,501 SF) of permanent fill impacts to CWN-1-22-C.
- NMCWD approved the proposed sequencing and replacement plan on 11/16/2011 and issued a signed WCA NOD on 12/21/2011. See Appendix B.

- Additional coordination occurred between Westwood, NMCWD, the City of Eden Prairie and the TEP during the two months after the revised application was submitted in mid-September, which resulted in reduced wetland impacts. The NOD approved 1.53 ac. (66,665 SF) of wetland impacts (a decrease of 0.15 ac. / 6,355 SF). See the revised **Wetland Alteration Plan** figure dated 2/21/2012 in **Appendix B**.
- The approved impacts included 0.06 ac. (2,535 SF) of impacts to CWN-1-22-C for upgrades to West 62<sup>nd</sup> Street.
- 3.44 ac. of wetland replacement was required (1.53 ac. of impact at a 2.25:1 ratio):
  - 0.705 ac. (30,730 SF) of wetland creation credits, resulting from the creation of 0.94 ac. (40,974 SF) of onsite wetland replacement (75% of created areas)
  - 0.235 ac. (10,244 SF) of upland buffer credits, resulting from the creation of 1.44 ac. (62,687 SF) of onsite upland buffer replacement (maximum of 25% of created wetland areas allowed)
  - 2.50 ac. (109,022 SF) of offsite wetland replacement credits from Bank 1179
- The NOD also approved buffer variances for CWN-1-22-C and CWN-1-22-D.
- The 2.50 ac. of offsite wetland replacement credits were purchased from Bank 1175 (previously planned for Bank 1179), and the deduction was confirmed by the Minnesota Board of Water and Soil Resources (BWSR) on 4/24/2012. See the **Notice of Withdrawal of Wetland Credits from the Minnesota Wetland Bank** in **Appendix C**.
- The UHG project and onsite wetland and buffer replacement was constructed in 2012-2013, and a trail was constructed along the south side of West 62<sup>nd</sup> Street in 2014.
- Monitoring for the onsite wetland replacement areas was completed in 2017 and NMCWD certified that monitoring was completed as required on 2/21/2018. See the **Shady Oak Road Wetland Monitoring Report: Year 5** and the **Minnesota Wetland Conservation Act Certificate of Compliance Wetland Replacement and/or Banking Plan** in **Appendix C**.
- The 0.06 ac. (2,535 SF) of permitted and mitigated fill impacts to CWN-1-22-C that were planned to result from upgrades to West 62<sup>nd</sup> Street have not yet occurred.
- The City of Eden Prairie hired SRF Consulting Group (SRF) to complete final design and permitting efforts for the upgrades to West 62<sup>nd</sup> Street that were originally proposed for construction around the same time as the UHG project.
- Initial coordination between SRF, the City of Eden Prairie and NMCWD occurred in summer 2020 to assemble information about the UHG project and the previously permitted impacts and mitigation.
- An onsite field review was attended by Nicole Zappetillo of SRF, Leslie Stovring from the City of Eden Prairie and Karen Wold of Barr Engineering (on behalf of NMCWD) on 8/17/2020. During the review, Nicole walked the northern edge of the previously approved CWN-1-22-C boundary with Karen and Leslie to determine if the wetland has changed from the previous delineation. Karen and Leslie agreed that the wetland boundary has not changed enough to warrant an updated wetland delineation. **Appendix D** contains a figure depicting the wetland boundary, easement boundary marker locations and photo locations, as well as a photo log from the field review. **Attachment A** requests an updated wetland boundary and type determination for the north edge of CWN-1-22-C.

### **Proposed Project**

The proposed project would construct improvements to and an extension of West 62<sup>nd</sup> Street. The extension would provide improved access to the future Southwest Light Rail Transit (LRT) station and UHG campus expansion.

This project would be part of a phased implementation. The Southwest LRT project would construct the last segment of West 62<sup>nd</sup> Street to the east which would also include a new park and ride at the LRT station (City West Station).

### **Project Purpose and Need**

The purpose of the proposed project is to facilitate a roadway connection to the future Southwest Light Rail Transit (LRT) station and park and ride, as well as the adjacent UHG campus expansion.

The project is needed to provide for future access/system linkage between the existing roadway network and the future Southwest LRT station. West 62<sup>nd</sup> Street currently ends in a cul-de-sac along the north edge of the UHG property. The Southwest LRT station site is bounded by the UHG property to the west, Trunk Highway 62 (TH 62) and associated right-of-way to the northeast, and a mix of forest and wetlands to the south. TH 62 is a controlled-access highway; therefore, access to the Southwest LRT station would need to be provided via the local road network.

### **Description of Aquatic Resource Impacts**

The proposed project would result in 0.03 acre of temporary wetland impacts and 0.04 acre of permanent wetland impacts. See Figure 3 in Appendix A.

Temporary impacts to CWN 1-22-A would result from construction disturbance adjacent to an existing culvert end.

Temporary impacts to CWN-1-22-C would result from construction disturbance to construct the retaining wall along the south side of the relocated trail.

Permanent impacts to CWN-1-22-C would result from widening the existing West 62<sup>nd</sup> Street roadway, shifting the existing trail along the south side of West 62<sup>nd</sup> Street to the south, and constructing a retaining wall along the south side of the trail. The proposed permanent impacts to CWN-1-22-C would not exceed the impact area or footprint that was approved in 2011 for UHG's development project, shown in the revised **Wetland Alteration Plan** in Appendix B. As noted above, this impact was included to accommodate upgrades to West 62<sup>nd</sup> Street, which were delayed and are now in final design.

### **Aquatic Resource Impact Mitigation**

The proposed project would utilize 5,704 square feet of the onsite and offsite wetland mitigation that was created and acquired by UHG to replace the permanent wetland impacts associated with their development project and proposed upgrades to West 62<sup>nd</sup> Street at a 2.25:1 ratio. The **Coordination Prior to this Application** section above describes the onsite and offsite wetland replacement that was proposed by UHG, and Appendix C contains confirmation that the offsite wetland credits were deducted from the wetland bank ledger as well as certification that the onsite wetland credits were constructed and mitigated in accordance with the Wetland Replacement Plan.

UHG has signed an agreement to allow the City of Eden Prairie to use 5,704 square feet of wetland credit previously created and/or purchased by UHG for the purpose of replacing the impacts to CWN-1-22-C that were planned to result from upgrades to West 62<sup>nd</sup> Street. See Appendix E. No additional mitigation is proposed.

### **Section 404 of the Clean Water Act**

The proposed project is eligible for the Section 404 Transportation Regional General Permit (RGP) (Category 2, Modification – Linear Transportation):

- The proposed impacts are required for crossing a water of the US associated with the expansion, modification, improvement or minor realignment of an existing linear transportation project (e.g., roads, highways, attached frontage roads, railways, trails, airport runways, and taxiways).
- A pre-construction notification (PCN) is not required for the proposed work because it does not exceed the PCN thresholds listed in the Transportation RGP (e.g., does not exceed 0.1 acre of loss of waters of the US, does not exceed 0.5 acre of temporary impacts to waters of the US, does not exceed 500 linear feet of stream impacts).
- The project will comply with the general conditions of the Section 404 Transportation RGP.

### **Schedule for Implementation and Completion**

Construction is scheduled to begin in fall 2020 and is expected to be complete by the end of 2021.

## PART FOUR: Aquatic Resource Impact<sup>1</sup> Summary

If your proposed project involves a direct or indirect impact to an aquatic resource (wetland, lake, tributary, etc.) identify each impact in the table below. Include all anticipated impacts, including those expected to be temporary. Attach an overhead view map, aerial photo, and/or drawing showing all of the aquatic resources in the project area and the location(s) of the proposed impacts. Label each aquatic resource on the map with a reference number or letter and identify the impacts in the following table.

Aquatic Resource ID (as noted on overhead view)	Aquatic Resource Type (wetland, lake, tributary etc.)	Type of Impact (fill, excavate, drain, or remove vegetation)	Duration of Impact Permanent (P) or Temporary (T) <sup>1</sup>	Size of Impact <sup>2</sup>	Overall Size of Aquatic Resource <sup>3</sup>	Existing Plant Community Type(s) in Impact Area <sup>4</sup>	County, Major Watershed #, and Bank Service Area # of Impact Area <sup>5</sup>
CWN-1-22-A	Wetland	Remove Vegetation	T (90)	103 SF	N/A	Type 3	Hennepin WS 33 BSA 7
CWN-1-22-C	Wetland	Remove Vegetation	T (90)	0.03 AC	N/A	Type 2/3	Hennepin WS 33 BSA 7
CWN-1-22-C	Wetland	Fill	P	0.04 AC	N/A	Type 2/3	Hennepin WS 33 BSA 7

<sup>1</sup> If impacts are temporary; enter the duration of the impacts in days next to the "T". For example, a project with a temporary access fill that would be removed after 220 days would be entered "T (220)".

<sup>2</sup> Impacts less than 0.01 acre should be reported in square feet. Impacts 0.01 acre or greater should be reported as acres and rounded to the nearest 0.01 acre. Tributary impacts must be reported in linear feet of impact and an area of impact by indicating first the linear feet of impact along the flowline of the stream followed by the area impact in parentheses). For example, a project that impacts 50 feet of a stream that is 6 feet wide would be reported as 50 ft (300 square feet).

<sup>3</sup> This is generally only applicable if you are applying for a de minimis exemption under MN Rules 8420.0420 Subp. 8, otherwise enter "N/A".

<sup>4</sup> Use *Wetland Plants and Plant Community Types of Minnesota and Wisconsin* 3<sup>rd</sup> Ed. as modified in MN Rules 8420.0405 Subp. 2.

<sup>5</sup> Refer to Major Watershed and Bank Service Area maps in MN Rules 8420.0522 Subp. 7.

If any of the above identified impacts have already occurred, identify which impacts they are and the circumstances associated with each: Not applicable.

<sup>1</sup> The term "impact" as used in this joint application form is a generic term used for disclosure purposes to identify activities that may require approval from one or more regulatory agencies. For purposes of this form it is not meant to indicate whether or not those activities may require mitigation/replacement.



## PART FIVE: Applicant Signature

Check here if you are requesting a pre-application consultation with the Corps and LGU based on the information you have provided. Regulatory entities will not initiate a formal application review if this box is checked.

By signature below, I attest that the information in this application is complete and accurate. I further attest that I possess the authority to undertake the work described herein.

Signature: Carter Schulze Date: 9/4/20

I hereby authorize Nicole Zappetillo of SRF Consulting Group to act on my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this application.

## Attachment A

# Request for Delineation Review, Wetland Type Determination, or Jurisdictional Determination

By submission of the enclosed wetland delineation report, I am requesting that the U.S. Army Corps of Engineers, St. Paul District (Corps) and/or the Wetland Conservation Act Local Government Unit (LGU) provide me with the following (check all that apply):

**Wetland Type Confirmation**

**Delineation Concurrence.** Concurrence with a delineation is a written notification from the Corps and a decision from the LGU concurring, not concurring, or commenting on the boundaries of the aquatic resources delineated on the property. Delineation concurrences are generally valid for five years unless site conditions change. Under this request alone, the Corps will not address the jurisdictional status of the aquatic resources on the property, only the boundaries of the resources within the review area (including wetlands, tributaries, lakes, etc.).

**Preliminary Jurisdictional Determination.** A preliminary jurisdictional determination (PJD) is a non-binding written indication from the Corps that waters, including wetlands, identified on a parcel may be waters of the United States. For purposes of computation of impacts and compensatory mitigation requirements, a permit decision made on the basis of a PJD will treat all waters and wetlands in the review area as if they are jurisdictional waters of the U.S. PJDs are advisory in nature and may not be appealed.

**Approved Jurisdictional Determination.** An approved jurisdictional determination (AJD) is an official Corps determination that jurisdictional waters of the United States are either present or absent on the property. AJDs can generally be relied upon by the affected party for five years. An AJD may be appealed through the Corps administrative appeal process.

In order for the Corps and LGU to process your request, the wetland delineation must be prepared in accordance with the 1987 Corps of Engineers Wetland Delineation Manual, any approved Regional Supplements to the 1987 Manual, and the *Guidelines for Submitting Wetland Delineations in Minnesota* (2013).

[www.mvp.usace.army.mil/Missions/Regulatory/DelineationJDGuidance.aspx](http://www.mvp.usace.army.mil/Missions/Regulatory/DelineationJDGuidance.aspx)

## Attachment B

### Supporting Information for Applications Involving Exemptions, No Loss Determinations, and Activities Not Requiring Mitigation

Complete this part *if* you maintain that the identified aquatic resource impacts in Part Four do not require wetland replacement/compensatory mitigation OR *if* you are seeking verification that the proposed water resource impacts are either exempt from replacement or are not under CWA/WCA jurisdiction.

Identify the specific exemption or no-loss provision for which you believe your project or site qualifies:

MN Administrative Rules, 8420.0415.H: a temporary impact that is rectified by repairing, rehabilitating, or restoring the affected wetland. No-loss under this item only applies if all of the following conditions are met:

- (1) the physical characteristics of the affected wetland, including ground elevations, contours, inlet dimensions, outlet dimensions, substrate, plant communities, and hydrologic regime, are restored to preproject conditions sufficient to ensure that all preproject functions are restored;
- (2) the activity is completed and the physical characteristics of the wetland are restored within six months of the start of the activity, unless an extension is granted by the local government unit after consultation with the technical evaluation panel;
- (3) the landowner provides sufficient financial assurance acceptable to the local government unit to cover the estimated cost to restore the wetland to preproject conditions. The local government unit must return any remaining financial assurance to the landowner upon a determination by the local government unit that the conditions in this item have been met by the landowner; and
- (4) a no-loss has not been approved under this item for a particular site within a wetland within the previous ten years, except that repairs to the original project may be allowed under the no-loss if the local government unit determines the request to be necessary and reasonable.

Provide a detailed explanation of how your project or site qualifies for the above. Be specific and provide and refer to attachments and exhibits that support your contention. Applicants should refer to rules (e.g. WCA rules), guidance documents (e.g. BWSR guidance, Corps guidance letters/public notices), and permit conditions (e.g. Corps General Permit conditions) to determine the necessary information to support the application. Applicants are strongly encouraged to contact the WCA LGU and Corps Project Manager prior to submitting an application if they are unsure of what type of information to provide:

Temporary impacts to CWN-1-22-A are located at the east end of the project adjacent to an existing culvert end (see Figure 3 in Appendix A and Sheet 26 in Appendix F [approx. Sta. 117+00]). Impacts would result from temporary construction disturbance.

Temporary impacts to CWN-1-22-C are located along the south side of the proposed retaining wall adjacent to / through the wetland (see Figure 3 in Appendix A and Sheet 27 in Appendix F). Impacts would result from temporary construction disturbance.

The proposed work will be completed in a way that will minimize impacts to the wetlands. During construction, redundant erosion control will be installed around the areas of disturbance within and adjacent to the wetlands.

The physical characteristics of the temporarily impacted areas will be restored to preproject conditions within three months of the start of activities resulting in temporary impacts. Upon completion of the activities resulting in temporary impacts, any temporary fill will be removed and the impacted areas will be graded to restore ground elevations to preproject conditions. The existing wetland soils are expected to provide a seed source for wetland vegetation. Disturbed upland areas along the new trail will receive salt tolerant sod and other disturbed upland areas will be seeded with seed mixture 25-141 (Mesic General Roadside). The Construction/Soils Notes, Storm Water Pollution Prevention Plan (SWPPP) narrative, and Erosion Control and Turf Establishment Plans are provided in Appendix F.

## **Attachment C**

### **Avoidance and Minimization**

**Project Purpose, Need, and Requirements.** Clearly state the purpose of your project and need for your project. Also include a description of any specific requirements of the project as they relate to project location, project footprint, water management, and any other applicable requirements. Attach an overhead plan sheet showing all relevant features of the project (buildings, roads, etc.), aquatic resource features (impact areas noted) and construction details (grading plans, storm water management plans, etc.), referencing these as necessary:

The project Purpose and Need are provided in Part Three above.

Overhead plan sheets showing all relevant features of the project, aquatic resource features, and construction details are provided in Appendix A and Appendix F.

**Avoidance.** Both the CWA and the WCA require that impacts to aquatic resources be avoided if practicable alternatives exist. Clearly describe all on-site measures considered to avoid impacts to aquatic resources and discuss at least two project alternatives that avoid all impacts to aquatic resources on the site. These alternatives may include alternative site plans, alternate sites, and/or not doing the project. Alternatives should be feasible and prudent (see MN Rules 8420.0520 Subp. 2 C). Applicants are encouraged to attach drawings and plans to support their analysis:

#### **No Build Alternative**

The No Build Alternative includes maintaining West 62<sup>nd</sup> Street in its current condition. The roadway would not be extended to facilitate a roadway connection to the future Southwest Light Rail Transit (LRT) station and park and ride or the adjacent UHG campus expansion. This alternative was rejected from further consideration because it would not address the purpose and need for the project.

#### **Shift Roadway North**

Another alternative would include shifting the expansion of West 62<sup>nd</sup> Street to the north to avoid impacts to CWN-1-22-C. This alternative was rejected from further consideration for two reasons: 1) it would result in impacts to two wetlands located in the adjacent TH 62 right of way (see Wetlands DOT-EP-21 and DOT-EP-22 on Figure LPA-4 in the Southwest Light Rail Transit METRO Green Line Extension WCA NOD in Appendix G), and 2) it would require the City of Eden Prairie to acquire a portion of the TH 62 right-of-way to the north from the Minnesota Department of Transportation (MnDOT).

**Minimization.** Both the CWA and the WCA require that all unavoidable impacts to aquatic resources be minimized to the greatest extent practicable. Discuss all features of the proposed project that have been modified to minimize the impacts to water resources (see MN Rules 8420.0520 Subp. 4):

The proposed project would minimize wetland impacts by constructing a retaining wall along the south side of the project adjacent to and through CWN-1-22-C. This prevents the need to extend the side slope further south into the wetland.

**Off-Site Alternatives.** An off-site alternatives analysis is not required for all permit applications. If you know that your proposal will require an individual permit (standard permit or letter of permission) from the U.S. Army Corps of Engineers, you may be required to provide an off-site alternatives analysis. The alternatives analysis is not required for a complete application but must be provided during the review process in order for the Corps to complete the evaluation of your application and reach a final decision. Applicants with questions about when an off-site alternatives analysis is required should contact their Corps Project Manager.

This project is not anticipated to require an Individual Section 404 Permit from USACE.

## **Additional Information**

### **Special Considerations**

The project did not require an environmental review; therefore Section 7, Natural Heritage Information System, and State Historic Preservation Office review requests were not completed for the project. However, since CWN-1-22-C is located between a large office complex development (UHG) and a controlled-access highway (TH 62) and work within the wetland would be limited to an area parallel to existing roadway and trail facilities, the project is not anticipated to impact: endangered and threatened species (Subp. 2); rare natural communities (Subp. 3); special fish and wildlife resources (Subp. 4); archaeological, historic, or cultural resource sites (Subp. 5); or groundwater quality (Subp. 6).

There are no outstanding resource value waters or trout waters within the project area (Subp. 7).

CWN-1-22-C is not known to be used for education or research purposes (Subp. 8).

The Minnesota Pollution Control Agency's "What's in My Neighborhood?" online tool labels two sites adjacent to the project. One site is inactive and was related to construction stormwater activities for the UHG development project. The other site is active and is related to hazardous waste activities associated with an urgent care facility located in the UHG office complex. The UHG office complex would not be impacted by the proposed project; therefore, there are no known potential hazardous waste materials or contaminants located within the project area (Subp. 9).

The proposed project is consistent with other plans. The upgrade and extension of West 62<sup>nd</sup> Street was included in UHG's site development plan and has been accounted for in Southwest LRT's City West station design (Subp. 10).

### **Other local, state, and federal permits and approvals required for the project**

- Section 404 Transportation RGP (non-reporting)
- City of Eden Prairie Grading Permit
- Nine Mile Creek Watershed District Permit
- National Pollutant Discharge Elimination System Permit

## **APPENDICES**



## Appendix A

### Figures

- Figure 1: State Location Map
- Figure 2: Project Area Map
- Figure 3: Aquatic Resource Impacts

