



NINE MILE CREEK WATERSHED DISTRICT

GOVERNANCE MANUAL

~~November 21, 2012~~
Amended October 18, 2017

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Nine Mile Creek Watershed District

Policy Manual – Introduction

The Nine Mile Creek Watershed District is a special purpose unit of government established under Minnesota Statutes chapters 103B and 103D. The Nine Mile Creek Watershed District is governed by a five-member Board of Managers appointed to staggered terms by the Hennepin County Board of Commissioners. In 2005, the Nine Mile Creek Watershed District hired an administrator to oversee and direct day-to-day activities and to carry out the Water Management Plan.

Existing policies were updated and are incorporated herein, along with newly drafted policies, to create the **Nine Mile Creek Watershed District Governance Manual**, which was adopted by the Board on November 21, 2012. The manual includes this overview and the general administrative policies below, along with the specific policy and protocol documents that were revised or drafted to fulfill specific statutory or internal management purposes.

The manual establishes clear written policies, procedures and instructions for the management of District activities and accounts, complete recordkeeping and records management, and separation of duties among District staff and contractors. The manual also should help to ensure that similar transactions are treated consistently, that accounting principles used are appropriate and proper, and that records and reports are produced in forms desired by the managers and state review entities, including the Legislature, the Office of the State Auditor and the Board of Water and Soil Resources.

The manual consists of this document, along with the following policies and protocols adopted by the District:

- **Bylaws** (adopted August 1960; amendments adopted November 21, 2012), including the District Conflict of Interest Policy and fulfilling the requirement of Minnesota Statutes section 103D.315, subdivision 11.
- **Policies and Procedures for Public Access to Documents** (adopted October 2007, amendments adopted November 21, 2012) fulfills requirements of the state Data Practices Act applicable to the District. The following auxiliary documents fulfill specific requirements of the Data Practices Act, as noted:
 - Index of private and confidential data and records, presently incorporated into the District's Records Retention Schedule (Minn. Stat. § 13.025, subd. 1).
 - Procedures to ensure accuracy and security of data on individuals (Minn. Stat. § 13.05, subd. 5) and to notify data subjects of their rights under the DPA (Minn. Stat. § 13.025, subd. 3).
 - Tennesen notices and consent forms, created when needed and tailored for specific circumstances where private or confidential data is collected from individuals, such as new employees, or distributed (Minn. Stat. § 13.04, subd. 2). (The manual includes the District's basic template.)
- **Records Retention Schedule** allows the District to efficiently manage and, when appropriate, archive its files, and fulfills the requirement of section 138.17, subdivision 7, as well and the Data Practices Act requirement that the District maintain a list of private and confidential data on individuals maintained by the

District (section 13.05, subdivision 1). The schedule also includes indication of whether the District stores information electronically or in hard copy form, in compliance with the Uniform Electronic Transactions Act, Minnesota Statutes section 325L.17.

- **Policy for Management of Permit Fees, Financial Assurances and Abandoned Property** provides protocols to manage assurances collected by the District from permittees and ensures that funds submitted are managed in accordance with the state unclaimed property law (chapter 345 generally and section 345.38 specifically), accompanied by an:
 - Escrow agreement template, for escrow of funds submitted by permittees in fulfillment of the financial performance-assurance requirements in the District rules.
- **Public Purposes Expenditures Policy** includes protocols and requirements to ensure that the District complies with the requirement in the state constitution (Article X, section 1) that expenditures by government bodies must serve a public purpose;
- **Internal Controls and Procedures for Financial Management** provides terms for the management and administration of District finances.

The manual will be annually reviewed and updated as necessary. The manual will be submitted within 60 days of adoption to the Office of the State Auditor in compliance with Minnesota Statutes section 6.756, as will any revisions and additional policies when adopted.

District staff and contractors are expected to conduct District business in accordance with the manual and to alert the Board of Managers to improvements and additions needed.

Nine Mile Creek Watershed District
General Governance Policies

Adopted June 22, 2011; adopted as amended November 21, 2012

The following general governance policies help ensure sound administration of District business and continued focus of District resources on protection and improvement of the water resources in the Nine Mile Creek watershed.

I. Contracting

- a. The Board of Managers delegates to the administrator the authority to approve work-change directives and change orders for District projects that will result in a change in the cost of a project of \$10,000 or less.
- b. The administrator may require a District contractor to secure additional or replacement payment and/or performance bonds to cover any increased price of a District project resulting from a change order approved by the administrator.
- c. A change order approved by the administrator will be presented to the Board of Managers at its next meeting.

II. Per diems

- a. Managers may receive a per diem for participation in a meeting of the Board of Managers and for other necessary duties. An activity must be authorized or requested by the Board of Managers or requested by the administrator to be considered a necessary duty for purposes of this policy.
- b. Managers will prepare claim forms for per diem and expenses in duplicate. The original will be submitted to the treasurer to be processed and approved in the same manner as other claims against the District. A claim for an expense must be submitted within 60 days of the date the expense was incurred. The manager will retain a copy for his or her personal records.
- c. A manager may receive only one per diem per day of service to the District.
- d. The District will establish the per diem rate by resolution. In the absence of such action by the Board, the per diem rate will be as specified in Minnesota Statutes section 103D.315, subdivision 8.

III. Records management and retention

- a. The District will make and preserve all records necessary to ensure the availability of a full and accurate accounting of the District's official activities, in fulfillment of Minnesota Statutes sections 15.17, subdivision 1, and 138.17.
- b. The District will adopt and maintain a records retention schedule, to be approved by the State Archives Office, governing the retention and/or disposal of records created by the District.
- c. In keeping with the direction of the Uniform Electronic Transactions Act, the District has determined that it will create and retain its records in electronic form to the greatest extent possible. The District's records retention schedule includes indication of records that may be retained in hard copy form, but District policy is to retain all records in electronic form. This policy is prospective as of November 2012, and the District does not intend to convert historic records from hard copy to electronic form.

- d. The administrator is the responsible authority for purposes of District compliance with the Data Practices Act, Minnesota Statutes chapter 13.
- e. The administrator is the data practices compliance official for purposes of District compliance with the Data Practices Act.

IV. Delegated authority

- a. No employee of the District may exercise authority beyond that which is allocated to the administrator by the District bylaws and policies that constitute the Governance Manual.
- b. Authority delegated to the administrator may not be delegated to other employees or contractors of the District.
- c. Duties assigned to the administrator may be delegated to other employees or contractors by the administrator, however the administrator will remain responsible to the Board of Managers for the proper execution of all delegated duties.
- d. The administrator may not commit funds of the District without the approval of the Board of Managers.

V. Managers' authority

- a. No manager may speak on behalf of the District unless authorized to do so by the Board of Managers.
- b. No individual manager may provide direction, instructions or authorization to the administrator unless specifically authorized to do so by the Board of Managers.

Schedule of Regular Activities

The District will observe the following schedule of required activities to ensure continued compliance with laws and regulations:

- The District conducts its annual business meeting in January. At that meeting the Board of Managers:
 - Approves a schedule of regular meetings of the Board of Managers and Citizens Advisory Committee for the ensuing year.
 - Reviews insurance needs and current coverage.
 - Authorizes, biennially, the solicitation of engineering, legal, auditing, accounting and other professional services proposals, per Minnesota Statutes section 103B.227, subdivision 5.
 - Names:
 - a District depository bank(s),
 - a permit security depository for bonds and letters of credit
 - a permit security depository for cash escrows,
 - and an official newspaper for publication of notices.
 - Names individuals to serve on the District's Citizens Advisory Committee, in compliance with Minnesota Statutes section 103D.331.
 - Reviews the District's fee and permit security schedules and directs the administrator to prepare revisions as warranted for adoption by resolution.
 - Reviews and, as necessary, directs the preparation of updates to its Governance Manual.
- The District annually publishes a newsletter or other watershed-wide communication that explains the District's programs, lists the members of the Board of Managers and notes District contact information, per Minnesota Statutes section 103B.227, subdivision 4. The District will maintain this information on its website as well.
- The District annually audits its accounts and expenditures, per Minnesota Statutes section 103D.335, subd. 1.
- The District annually submits to the Board of Water and Soil Resources a financial, activity and audit report each year by May 1 (within 120 days of the end of the District's fiscal year), per Minnesota Statutes section 103B.231, subdivision 14, and Minnesota Rules 8410.0150, subpart 1, and submits to the Office of the State Auditor an audit report by May 1 each year (within 120 days of the end of the District fiscal year), per Minnesota Rules 8410.0150, subpart 1.
- The District administrator annually prepares, in July, a report to the board on the status of fund balances in relation to the Fund Balance Policy
- The administrator, as the Data Practices Act responsible authority, reviews in July each year the District's DPA policy and associated protocols to ensure harmony with current law, in accordance with Minnesota Statutes section 13.05, subd. 1.
- The administrator annually assesses in July each year whether the District has abandoned property and returns abandoned property, if any, in accordance with the schedule in the Policy for Management of Permit Fees, Permit Securities and Abandoned Property.

- Annually on or before September 15 the District adopts a budget for the next year and decide on the total amount of funding necessary to be raised from ad valorem tax levies to meet the budget.

**BYLAWS OF THE
NINE MILE CREEK WATERSHED DISTRICT**

Adopted August 1960, amended November 21, 2012

These bylaws establish rules governing the conduct and procedure of the Nine Mile Creek Watershed District (District) Board of Managers (Board).

- I. **Office.** The District will maintain its principal place of business and its official records in an office located within the watershed, presently 7710 Computer Avenue, Suite 135, Edina, MN 55435. The Board may change the location of its principal place of business in accordance with Minnesota Statutes section 103D.321, subdivision 2.¹

- II. **Board of Managers.** The Board shall consist five managers appointed by the commissioners of Hennepin County. Managers serve three-year terms. Terms of office begin September 30 of the year of appointment, unless the county delays appointment of a manager. A manager shall serve until his or her replacement is appointed.
 - a. *Vacancy.* Any manager who is unable to fulfill his or her term shall notify the Hennepin County Commission to allow the commission to appoint a replacement in a timely manner.

 - b. *Compensation.* The Board may elect to compensate its members for attending meetings and performing other duties necessary for the proper management of the District and reimburse managers for expenses incurred in the performance of official duties. Compensation will be in accordance with Minnesota Statutes section 103D.315, subdivision 8, and policy established by the Board.

¹ *References to statutes.* All references in these bylaws to statutes are to the section or sections as they may be amended.

- c. *Bonding.* Before a manager assumes his or her duties, the District will obtain and file a bond for the manager, at District expense, in accordance with Minnesota Statutes section 103D.315, subdivision 2.
- d. *Insurance.* The Board, at District expense, will provide insurance for the managers for liability protection on such terms and in such amounts as the Board determines.
- e. *Attendance.* Managers are expected to attend meetings of the Board of Managers. A manager's failure to attend three consecutive meetings may be reported, at the Board's discretion, to the Hennepin County Commission.

III. **Officers.** The Board annually, at its January meeting, will elect from among its members the following officers: president, vice president, secretary and treasurer. No manager may hold more than one office at a time. If any officer cannot complete his or her term of office, the Board immediately will elect from among its members an individual to complete the unexpired term. An officer's term as officer continues until a successor is elected or the officer resigns. The Board, by action at an official meeting, may appoint a manager as an officer *pro tem* in the event an officer is absent or unable to act, and action by that officer is required.

- a. *President.* The president will:
 - i. preside at all meetings as chair of the Board.
 - ii. sign and deliver in the name of the District contracts, deeds, correspondence or other instruments pertaining to the business of the District;
 - iii. be a signatory to the District accounts;

- iv. be a signatory to District documents if the treasurer or secretary is absent or disabled, to the same extent as the treasurer or secretary.
- b. *Vice President.* The vice president will:
 - i. preside at meetings as chair in the absence of the president;
 - ii. be a signatory to the District accounts;
 - iii. be a signatory to District instrument and accounts if the president is absent or disabled, to the same extent as the president.
- c. *Secretary.* The secretary will:
 - i. be a signatory to resolutions and other documents certifying and memorializing the proceedings of the District;
 - ii. maintain the records of the District;
 - iii. give the required public and Board notice of all meetings in accordance with Minnesota Statutes chapter 13D;
 - iv. ensure that minutes of all Board meetings are recorded and made available in a timely manner to the Board and maintain a file of all approved minutes;
 - v. keep a record book noting therein the proceedings at all meetings.
- d. *Treasurer.* The treasurer will:
 - i. be a signatory to the District accounts and financial records;
 - ii. present a report at the monthly meeting of the Board of Managers that includes a current check register and tracks each of the watershed district's funds and account balances;

- iii. provide such other records as are necessary to inform the Board the financial condition of the District.

IV. **Committees.** All standing and special committees will be appointed by majority vote of the managers. Committees may include persons who are not managers, but no member of a committee other than a manager may offer a motion or vote on a matter put before the Board. It shall be the duty of a committee to act promptly and faithfully in all matters referred to it and to make reports as directed on the date established by the chair or Board. A complete and accurate copy shall be made by the secretary and filed and recorded in the office of the Board.

- a. *Citizens Advisory Committee.* There is established, in accordance with Minnesota Statutes section 103D.331, a citizens advisory committee to the Board of Managers. The committee shall be known as the Citizens Advisory Committee (CAC). The CAC shall advise the Board of Managers on water-related community concerns and issues and assist with the development and implementation of the education and outreach activities of the District. The CAC shall meet according to a schedule set by the Board of Managers and at such other times as may be determined by a majority of the members. All meetings of the CAC are open to the public.
- b. *Technical Advisory Committee.* There is established, in accordance with Minnesota Statutes section 103D.337, a technical advisory committee (TAC) to the Board of Managers. The TAC consists of representatives of affected statutory and home rule charter cities, counties, and soil and water conservation districts, as well as other governmental entities with jurisdiction in the Nine Mile Creek

watershed. The TAC is convened as necessary and appropriate to advise the Board of Managers on regulatory and other technical matters.

- c. The Board of Managers may not delegate supervision of the District administrator or any District employee to a committee.

V. **Meetings.** The Board shall annually set a schedule of regular meetings. Adjourned and special sessions may be held at such times as the Board deems proper.

- a. Special meetings and emergency meetings may be called by the chair or any manager. Notice of a special meeting or emergency meeting will be made by the secretary in accordance with the Open Meeting Law, Minnesota Statutes chapter 13D.
- b. All meetings of the Board shall be open to the public, except that a meeting or portion of a meeting may be closed in accordance with the Open Meeting Law.
- c. No public hearing convened by the Board will be closed before the time specified for the hearing in the notice.
- d. At all meetings of the Board, the majority of the members appointed shall constitute a quorum to do business, but a minority may adjourn from day to day.
- e. *Conduct of meetings.* At the time appointed for a meeting, the members shall be called to order by the president as chair, and in his or her absence, the temporary chair. Upon appearance of a quorum, the Board shall proceed to do business in accordance with the agenda, as may be amended, approved by the Board.
- i. The chair shall preserve order and decide questions of order, subject to an appeal by any member. The chair may make motions, second motions, or speak on any questions, provided, however, that in order to do so, upon

demand of any one Board member, he shall vacate the chair and designate a temporary chairman. The chair shall be entitled to vote in the same manner as other members of the Board.

- ii. Every member before speaking shall address the chair and shall not proceed until recognized by the chair. A member called to order shall immediately suspend his remarks until the point of order is decided by the chair.
- iii. Any person may address the Board on a matter properly before the Board. The chair may limit the time allowed for a manager or other person addressing the Board to speak.
- iv. Any person may request that a matter be heard by the Board, and the Board will consider such request and determine whether and, if approved, when to take up the matter or to defer the matter pending receipt of additional information thereon and to direct the administrator to obtain such information.
- f. *Appeal of a chair ruling.* A manager may appeal to the Board from a ruling of the chair. If the appeal is seconded, the manager may speak once solely on the question involved and the chair may explain his or her ruling, but no other manager will participate in the discussion. The appeal will be sustained if it is approved by a majority of the managers present, exclusive of the chair.
- g. *Amendment of meeting rules.* These rules may not be repealed, altered or amended except by majority vote of all members of the Board and upon notice given at a preceding meeting. In all points not covered by these rules, the conduct of a

meeting of the Board shall be governed by *Robert's Rules of Order Newly Revised* (10th Edition). *Robert's Rules* may be temporarily suspended by consent of a majority of the managers.

- h. *Resolutions.* A resolution will be presented in writing at a meeting or the preparation of a resolution reflecting Board action may be delegated to staff. The material terms of a resolution must be stated in the motion to adopt. Each resolution and rule passed by the Board will be signed by the secretary and filed in the official actions of the District maintained at the District office. Proof of publication of a rule will be attached to and filed with the rule.
- i. *Minutes.* Minutes of all meetings of the Board of Managers shall be recorded, reviewed by the Board, adopted as may be amended and kept at the District offices. Minutes of the meeting shall be kept by the secretary, and, when signed, will constitute an official record of the Board proceedings. All written communications addressed to the Board, other materials included in a Board meeting packet, and all documents and materials submitted to the record in the course of a Board meeting will be filed in the District office with the minutes of the meeting.
- j. *Voting.* When the chair puts a question to the Board, every manager present shall vote, unless for special reasons the Board shall excuse him or her. Any member may request that the yeas and nays be recorded on any motion voted on by the Board or a committee, and such request will be granted by the chair of the Board or committee. The manner of voting on any business coming before the Board may be by voice vote. Any affirmative or negative vote by any member shall be

entered in the minutes on his or her request. Affirmative and negative votes shall be recorded on any motion at the request of one manager and the results entered in the minutes.

VI. **Conflict of Interest.** The Nine Mile Creek Watershed District Board of Managers seeks to operate in accordance with high ethical standards and wishes to establish clear guidelines for the ethical conduct of District business. Ensuring that conflicts of interest do not affect District 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 Board of Managers adopts the following conflict of interest policies:

- a. *Disclosure of conflicts.* A manager who has a personal financial interest, or other private interest or relationship that limits the manager'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. The manager affected will deliver the statement to the president of the Board of Managers prior to the Board's consideration of or taking action on the matter. If a potential conflict arises and a manager does not have sufficient time to prepare a written statement, the manager must orally inform the Board prior to discussion of the matter.
- b. *Abstention.* A manager 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 manager's financial interests or those of an associated business or family member, unless the effect on the manager is no

more than on any other member of the manager's business classification, profession or occupation. Managers 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 manager limits the manager's ability objectively to consider, deliberate or vote. The manager's nonparticipation in the matter will be recorded in the minutes.

- VII. **Financial Practices.** All expenditures and accounting will be made in accordance with the Internal Controls and Procedures for Financial Management, adopted November 21, 2012, as may be amended.
- VIII. **Bylaws.** These bylaws are adopted to facilitate the transaction of Board business. They should not be permitted to divert or hinder the express intent and desire of the Board. Informal compliance and substantial performance shall be sufficient under the foregoing rules in the absence of an objection seasonably taken. An objections will be deemed not seasonably taken as to any procedural matters provided for herein if a manager present at the meeting fails to object and request compliance with these rules during the meeting. To be seasonably taken by an absent member, an objection must be taken at the next regular meeting of the Board.
- a. Any provision of these bylaws may be suspended temporarily by a majority vote of the Board, except a provision that preserves the right of an absent manager.
 - b. These bylaws may be amended by a majority of the Board of Managers on 30 days written notice of the proposed change(s), unless such notice is waived by all managers. Notice of any amendment is to be contained in the notice of the

meeting at which the proposed amendment is to be considered. An amendment to these bylaws must be approved by a four-fifths majority of the Board.

- c. Interpretation of the bylaws and any amendment thereto shall rest with the Board of Managers. The bylaws are to be interpreted as consistent with the watershed district implementing laws, Minnesota Statutes chapters 103B and 103D, and other governing laws. In the event of a conflict, the governing laws control.
- d. These bylaws shall be reviewed by the Board at least once every five years.
- e. These bylaws govern internal conduct of the business of the Nine Mile Creek Watershed District and neither create nor elucidate any right in a manager or any third party.

Adopted as amended by the Board of Managers of the Nine Mile Creek Watershed District
this 21^d day of November 2012.

Date:

Jodi Peterson, Secretary

Nine Mile Creek Watershed District
Policies and Procedures for Public Access to Documents

Adopted as amended November 21, 2012

Public access to the data of public bodies is governed by the Data Practices Act (DPA), Minnesota Statutes, Chapter 13. 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. The Nine Mile Creek Watershed District (District) 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 District 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.

This policy is adopted pursuant to sections 13.025, subdivision 2, and 13.03, subdivision 2 of the DPA, which state that every public body shall establish procedures to implement the DPA. In addition, the District has adopted and maintains a Records Retention Schedule, which is an index of the records and data maintained by the District and describes private or confidential data on individuals collected by the District, in compliance with section 13.025, subdivision 1. This policy also is accompanied by a set of procedures to ensure that data on individuals are accurate and complete and to safeguard the data's security, consistent with section 13.05, subdivision 5, as well as a document setting forth the rights of data subjects under the DPA and procedures to guarantee the rights of data subjects in compliance with section 13.025, subdivision 3.

Procedure for Review of District Documents

All requests to inspect or receive copies of District data, and all other inquiries regarding the DPA, must be in writing and sent by U.S. Mail, addressed to the "Data Practices Compliance Official," at the following address:

Nine Mile Creek Watershed District
7710 Computer Avenue
Suite 135
Edina, MN 55435

The District Administrator is designated as the Data Practices Compliance Official and Responsible Authority.

Requests to inspect or obtain copies of District data must be in writing to ensure that the District's response is timely and complete. In the case of an individual who wishes to inspect District data, the Data Practices Compliance Official will help to ensure that documents of interest have been gathered, that documents to be withheld from inspection pursuant to the DPA have been segregated, and that someone is available to assist the requesting individual. The District will provide requested data for inspection at the District office, or other location to be specified by the Data Practices Compliance Official. District files may not be removed.

The DPA requires that individuals be permitted to inspect or copy data within a reasonable time of a request. The District will attempt to respond to requests as quickly as possible. The response time will vary depending on the breadth of the request and the completeness and accuracy of the request.

If the District determines that certain data cannot be made available for inspection or copying, it will inform the individual of the classification of the data in question under the DPA and of the legal basis for denial of access.

The District may provide requested copies of data immediately or may advise that the copies will be provided as soon as reasonably possible thereafter. The ability to provide copies immediately depends on the number of copies requested, the availability of copying equipment, staff workload and the need to deliver the data elsewhere for copies to be made (e.g., oversized documents, tapes, electronic data).

Costs

There is no cost to inspect documents. If document copies are requested, the requesting individual will be charged 25 cents per page for up to 100 standard-sized black-and-white printed copies, except that there is no charge for delivery by email of less than 100 pages or the equivalent (as determined by the District) of data. Standard charges will apply for re-delivery of data in the event of failure of email delivery resulting from incapacity of the recipient's email system. Copies of documents will not be certified as true and correct copies unless certification is specifically requested. The fee for certification is \$1 per document.

With respect to oversized copies, tapes, electronic data, photographs, slides and other unusual formats, the requesting individual will be responsible for the actual cost incurred by the District to make the copy itself or to use a vendor, except that there is no charge for electronic delivery of less than 100 pages of data or the equivalent (as determined by the District).

An individual requesting copies or the electronic transmittal of more than 100 pages of data is responsible to pay the District the actual cost, including the cost of staff time, to search for and retrieve data and to make, certify, compile and transmit copies. Staff costs will be assessed based upon established hourly rates.

If an individual so asks, before copies are made the District will advise of the approximate number of pages of documents responsive to a request or the likely cost of responding to a request. Payment may be made by check. The District may require payment in advance.

When an individual asks for a copy of data that have commercial value and were developed with a significant expenditure of public funds by the District, the District may charge a reasonable fee that relates to the actual cost of developing the data. As a condition of making certain commercially valuable data available, the District may require execution of a license agreement defining allowed use or further distribution.

Nine Mile Creek Watershed District
Protection of Private and Confidential Data on Individuals

The Nine Mile Creek Watershed District (District) establishes the following to protect and ensure the accuracy of not-public data on individuals (i.e., private and confidential data).

Accuracy and Currency of Data

Employees of the District are requested, and given appropriate forms, to annually provide updated personal information for the District as necessary for District recordkeeping, tax, insurance, emergency notification and other personnel purposes. Other individuals who provide private or confidential information (e.g., managers) are also encouraged to provide updated information when appropriate.

Data Safeguards

Private and confidential information is stored in secure files and databases that are not accessible to individuals who do not have authorized access. Private and confidential data on individuals is accessed only by individuals who are both authorized and have a need to access such information for District purposes. (An individual who is the subject of data classified as private may access such data for any reason.)

The District administrator, as Responsible Authority, reviews forms used by the District to collect data on individuals and ensures that the District collects private or confidential data only as necessary for authorized District purposes.

Only managers and employees of the District whose work for the District requires that they have access to private or confidential data may access files and records containing such information. Employees' and managers' access is further governed by the following requirements:

- Private or confidential data may be released only to persons authorized by law to access such data;
- Private or confidential data must be secured at all times and not left in a location where they may be accessed by unauthorized persons;
- Private or confidential data must be shredded before it is disposed of.

When a contract with an outside entity requires access to private or confidential information retained by the District, the contracting entity is required by the terms of its agreement with the District to use and disseminate such information in a manner consistent with the DPA and the District's Policies and Procedures for Public Access to Documents. District agreements include language for the purposes substantially similar to that shown in Exhibit A to this protocol.

EXHIBIT A
Agreement DPA Terms

XX. Data Practices; Confidentiality

If CONSULTANT receives a request for data pursuant to the Data Practices Act, Minnesota Statutes chapter 13 (DPA), that may encompass data (as that term is defined in the DPA) CONSULTANT possesses or has created as a result of this agreement, it will inform the NMCWD immediately and transmit a copy of the request. If the request is addressed to the NMCWD, CONSULTANT will not provide any information or documents, but will direct the inquiry to the NMCWD. If the request is addressed to CONSULTANT, CONSULTANT will be responsible to determine whether it is legally required to respond to the request and otherwise what its legal obligations are, but will notify and consult with the NMCWD and its legal counsel before replying. Nothing in the preceding sentence supersedes CONSULTANT's obligations under this agreement with respect to protection of NMCWD data, property rights in data or confidentiality. Nothing in this section constitutes a determination that CONSULTANT is performing a governmental function within the meaning of Minnesota Statutes section 13.05, subdivision 11, or otherwise expands the applicability of the DPA beyond its scope under governing law.

CONSULTANT agrees that it will not disclose and will hold in confidence any and all proprietary materials owned or possessed by the NMCWD and so denominated by the NMCWD. CONSULTANT will not use any such materials for any purpose other than performance of the Services without NMCWD written consent. This restriction does not apply to materials already possessed by CONSULTANT or that CONSULTANT received on a non-confidential basis from the NMCWD or another party. Consistent with the terms of this section 11 regarding use and protection of confidential and proprietary information, CONSULTANT retains a nonexclusive license to use the materials and may publish or use the materials in its professional activities. Any CONSULTANT warranty under this agreement does not extend to any party other than the NMCWD or to any use of the materials by the NMCWD other than for the purpose(s) for which CONSULTANT is compensated under this agreement.

Nine Mile Creek Watershed District

Private and Confidential Data – Rights of Data Subjects

In accordance with the Minnesota Data Practices Act, Minnesota Statutes chapter 13 (DPA), the following protocols and information are established by the Nine Mile Watershed District (District). This information is provided to you, as the subject of private or confidential data collected by the District to explain how (1) the District assures that all data on individuals collected by the District are accurate, complete and current for the purposes for which they were collected, and (2) to explain the security safeguards in place for District records containing data on individuals.

Rights to Access Government Data

Minnesota law gives you, as the subject of private or confidential data collected by the District, and all members of the public the right to see data collected and maintained by the District, unless state or federal law classifies the data as not public. In addition, the DPA gives you and all members of the public the right to have access to or, if you wish, to copy any public data for any reason, as long as the data are not classified as not-public or copyrighted.

You have the right to:

- be informed, upon request, as to whether you are a subject of District data and how that data is classified;
- know what the District's procedures are for requesting government data;
- inspect any public data that the District collects and maintains at no charge;
- see public data that the District collects and maintains without telling the District who you are or why you want the data;
- have public data that the District collects and maintains explained to you;
- obtain copies of any public District data at a reasonable cost to you;
- be informed by the District in writing as to why you cannot see or have copies of not-public District data, including reference to the specific law that makes the data not-public;
- receive a response from the District to a data request in a reasonable time.
- contest the accuracy and completeness of public or private data the District has on you and appeal a determination by the District as to whether the data are accurate and complete;
- to ask the District, if you are under 18 years old, to withhold information about you from your parents or guardian;
- consent or revoke consent to the release of information the District has on you;
- release all, part or none of the private data the District has on you.

Security of Private and Confidential Data

State law protects your privacy rights with regard to the information the District collects, uses and disseminates about you. The data the District collects about you may be classified as:

- Public – anyone can see the information;
- Private – only you and authorized District staff can see the information;
- Confidential – only authorized District staff can see the information.

When the District asks to you provide data about yourself that are private, the District will give you a notice called a Tennessee warning notice. This notice determines what the District can do with the data collected from you and the circumstances under which the District can release the data. The District will ask for your written permission before using private data about you in a way that is different from what is stated in the Tennessee notice you receive. The District also will ask for your written permission before releasing private data about you to someone other than those identified in the notice.

State law requires that the District protect private and confidential data about you. The District has established appropriate safeguards to ensure that your data are not inadvertently released or wrongfully accessed. The District disposes of private, confidential and other not-public data in accordance with its Records Retention Schedule, adopted November 21, 2012. Printed data are disposed of by shredding or other method sufficient to prevent the data from being ascertainable. Electronic data are destroyed or erased from media in a manner that prevents the data from accessed or read. Data-storage systems in District computers are erased in the process of recycling.

Nine Mile Creek Watershed District
Data Practices Advisory / Tennesen Warning

Some or all of the information you are being asked to provide on the attached form is classified by state law as either private or confidential data. 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.

The Nine Mile Creek Watershed District's purpose and intended use of the information is:

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

Your failure or refusal to supply the information will result in:

Other persons or entities who are authorized to receive the information include:

**Nine Mile Creek Watershed District
Records Retention Schedule**

Adopted November 21, 2012

All District records are created and retained in electronic forms, except that record series shaded below may be created and/or retained in hard copy form.

Administration

<i>Name – Description</i>	<i>Retention, Archiving Instructions</i>	<i>Classification</i>	<i>State Statutory Reference</i>
Advisory and technical committees – agendas, minutes, reports, related documents	Retain 10 years, then may be transferred to state archives	Public	
Affidavits of publication a. General notices, including project public hearings b. Rules	a. Retain 6 yrs b. Retain permanently	a. Public b. Public	
Agenda, board meetings and workshops	Retain 10 years, then may be transferred to state archives	Public	
Agreements and contracts, not otherwise scheduled herein	Retain 10 yrs after paid and audited	Public	
Annual reports	Retain 10 yrs, then transfer to state archives	Public	
Attorneys’ opinions a. Opinions of District attorney and correspondence relating thereto b. Official interpretation regarding questions of legal rights or liabilities affecting District	a. Retain permanently or transfer to state archives when no longer needed b. Retain 10 yrs, then transfer to state archives	a. Public b. Public/Private-nonpublic	a. b. 13.393 13.39
Authority to dispose of records	Retain permanently	Public	

Bids and Quotations a. Accepted, noncapital projects b. Rejected, noncapital projects	a. Retain 10 yrs after completion of project b. Retain 6 yrs	a. Public/nonpublic b. Public/protected nonpublic until all bids opened	a. 13.37 b.
Budgets – record copy	Retain permanently or transfer to state archives	Public	
Consultant Contracts	Retain 10 yrs	Public	
Correspondence a. Constituents b. Municipalities/State Agencies c. Engineer d. Financial e. Transitory, such as electronic mail not in one of the above categories	a. Retain 6 yrs, then archive if documents historical b. Retain 6 years, then archive if historical c. Retain 10 yrs, then transfer to state archives d. Retain 5 yrs then transfer to state archives e. Retain until read	Private/public	13.37; 13.44
Drafts, duplicates, notes and other documents that have not become part of an official transaction, not otherwise scheduled herein	Retain 2 yrs	Public	
Governance a. Bylaws b. Policies	a. Retain permanently b. Retained only until superseded	a. Public b. Public	
Historical data and photographs	Retain permanently or transfer to state archives	Public	
Inventories – equipment supplies, etc.	Retain 10 yrs	Public	
Lawsuits a. General b. Civil Lawsuits c. Criminal Lawsuits d. Attorneys' opinions, attorneys' briefs, testimony,	a. Retain 10 yrs after settlement or resolution by court, administrative order and then transfer to state archives	a. Public/private b. c. d. Public/private/	a. 13.30, 13.39 b.

depositions, correspondence, etc	<ul style="list-style-type: none"> b. Retain 20 years after last activity c. Retain 2 years after last activity d. Retain 10 yrs, then archive 	and non-public	<ul style="list-style-type: none"> c. d. 13.393, 13.39
Leases	Retain 10 yrs after expiration of lease	Public	
Levy (tax) files – tax levies, related correspondence	Retain 5 yrs then transfer to state archives	Public	
Membership association documents (MAWD, Metro MAWD, etc.)	Retain 3 yrs	Public	
Minutes – Board meetings and workshops	Retain permanently	Public	
Newsletters, press releases generated by the District	Retain 10 yrs	Public	
Notices – official District meetings	Retain 6 yrs	Public	
Public hearings records	Retain 6 yrs or until recorded in minutes, do not archive	Public	
Recordings <ul style="list-style-type: none"> a. Board meetings and workshops – audio recordings, closed meetings b. Board meetings and workshops – open 	<ul style="list-style-type: none"> a. Tapes and other recordings may be discarded 3 yrs after meeting; 8 yrs or until purchase or sale is completed or abandoned for real estate negotiations. b. Tapes and other recordings may be reused or discarded 1 yr after formal approval of written minutes by board 	<ul style="list-style-type: none"> a. Nonpublic/public b. Public 	<ul style="list-style-type: none"> a. 13D.05, subd. 3; 13.37
Technical Information <ul style="list-style-type: none"> a. Printed material regarding the District b. Printed material not regarding the District 	<ul style="list-style-type: none"> a. Retain 10 yrs, then transfer to state archives b. Discard when no longer needed 	<ul style="list-style-type: none"> a. Public b. Public 	

Real Estate

<i>Name – Description</i>	<i>Retention, Archiving Instructions</i>	<i>Classification</i>	<i>State Statutory Reference</i>
Deeds	Retained until property is sold, then transfer to new owner; maintain copy permanently	Public	
Ditch records	Retain permanently	Public	
Easements a. Originals b. Temporary easements	a. Retained permanently and do not archive b. Discard after project completion or when no longer needed, whichever is later	a. Public b. Public	
Hazardous materials reports – phase I and II reports, leaking underground storage tank reports	Retain permanently	Public	
Property records (well records, building inspections, etc.)	Retain 20 yrs after sale of property	Public	
Property surveys	Retain permanently	Public	
Transaction records	Retain 10 yrs after sale of property	Public/ Confidential/ Protected Non-public	13.44; 13.585

Bonds

<i>Name – Description</i>	<i>Retention, Archiving Instructions</i>	<i>Classification</i>	<i>State Statutory Reference</i>
Contractor license bonds, certificates of insurance, etc.	Retain 6 yrs after completion of contract	Public	
Fidelity bonds – managers	Retain 6 yrs after completion of service by manager	Public	
Performance and payment bonds	Retain 6 yrs after completion of contract	Public	
Permit financial assurances – bonds, letters of credit	Retain 6 yrs after permit closure ²	Public	

² Retain copy if original returned to provider.

Financial/Accounting

<i>Name – Description</i>	<i>Retention, Archiving Instructions</i>	<i>Classification</i>	<i>State Statutory Reference</i>
Assessment rolls – copies of assessment rolls received from county auditor	Retained 6 yrs after final payment	Public	
Audit reports	Retain permanently	Public	
Billing statements	Retain 6 yrs	Public	
Bank statements – slips, bonds and reconciliations	Retain 6 yrs	Public	
Budget expenditure reports	Retain permanently	Public	
Checks – paid and returned a. Accounts payable b. Payroll	a. Retain 6 yrs b. Retain 6 yrs	a. Public b. Public/private	
Receipt registers	Retain permanently, and not archived	Public	
Deposit slips	Retain 6 yrs	Public	
General ledger – general, month-end	Retain permanently and do not archive	Public	
Investment documents – amounts invested and interest earned	Retain 4 yrs after maturity	Public	
Payroll	Retain permanently	Public/private	13.43
Pension and retirement plan	Retain permanently	Public or private	
Purged accounts	Retain 6 yrs (irrespective of audit)	Public	
Receipts and receipt books	Retain 6 yrs and do not archive	Public	
Staffing lists	Retain 6 yrs	Public	
Time sheets	Retain 6 yrs	Public/Private	13.43
W-2 statements	Retain 6 yrs	Public/Private	13.43
W-4 statements	Retain until replaced		
Workers' compensation reports	Retain 20 years	Public/Private	176.231
1099 statements	Retain 6 yrs	Public/Private	13.43

Insurance

<i>Name – Description</i>	<i>Retention, Archiving Instructions</i>	<i>Classification</i>	<i>State Statutory Reference</i>
Insurance – automobile, fire or other perils, property, public officials, general liability, umbrella liability	Retain 6 yrs after expiration	Public	
Workers’ compensation a. Claim register b. Policies	a. Retain permanently b. Retain 6 yrs after expiration	a. Public b. Public	a. 176.231

Permits

<i>Name – Description</i>	<i>Retention, Archiving Instructions</i>	<i>Classification</i>	<i>State Statutory Reference</i>
Applications – permits	Retain 10 yrs, then transfer to state archives	Public	
Correspondence – relating to permits	Retain 10 yrs, then transfer to state archives	Public	
Engineer’s reports	Retain 10 yrs, then transfer to state archives	Public	
Inspectors’ reports – includes reports, inspectors’ documents relating to permit inspections	Retain 10 yrs, then transfer to state archives	Public	
Permit financial assurances – bonds, letters of credit	Retain 6 yrs after permit closure	Public	
Permits	Retain permanently	Public	
Plans	Retain permanently	Public	

Personnel

<i>Name – Description</i>	<i>Retention, Archiving Instructions</i>	<i>Classification</i>	<i>State Statutory Reference</i>
Affidavit of publication for job opening	Retain 2 yrs	Public	13.43
Affirmative action files	Retain permanently	Public/Private	13.39, 13.43
Applications for employment – not hired	Retain 1 yr	Public	
Personnel policies and procedures, administrative policies	Retain permanently	Public	
Employment contracts	Retain 5 yrs after expiration	Public	
Equal employment opportunity reports, summary date	Retain 3 yrs	Public	
Examination file – completed examinations	Retain 2 yrs	Private	13.43
Employee medical records	Retain 5 yrs after separation from District	Public/private	13.43
Family Medical Leave Act documents	Retain 3 yrs in medical file, not in employee personnel file	Private	13.43
Grievance file	Retain 5 yrs after separation, not in employee personnel file	Public/private	13.43
Job descriptions	Retain until superseded	Public	
Personnel files – applications, accident reports, background check results, citations, personal history, employee references, attendance, disciplinary actions, performance evaluations, letters of appointments or promotion, termination or resignation	Retain 5 yrs after separation	Public/private	13.43
Payroll record – master copy	Retain permanently	Public/private	13.43
Unemployment claims, compensation	Retain 6 yrs	Public/private	13.43
Background check results – not hired	Retain 30 days	Nonpublic	13.87

Projects

<i>Name – Description</i>	<i>Retention, Archiving Instructions</i>	<i>Classification</i>	<i>State Statutory Reference</i>
Board documents – resolutions, findings, conclusions	Retain 10 yrs, then transfer to archives	Public	
Contracts a. Petitioned projects b. Nonpetitioned projects	a. Retain permanently b. Retain 10 yrs, then transfer to state archives	Public	
Correspondence	Retain 10 yrs, then transfer to state archives	Public	
Engineer’s reports and related documents	Retain 10 yrs, then transfer to state archives	Public	
Petitions (for projects)	Retain 10 years, then transfer to state archives	Public	
Property surveys	Retain permanently	Public	
Public hearing documents – non-petitioned projects	Retain 10 yrs, then transfer to state archives	Public	
Public hearing documents – petitioned projects a. notices, written testimony, audio b. Related public hearing documents	a. Retain 6 yrs or until recorded in minutes; do not archive b. Retain 10 years and do not archive	a. Public b. Public	

Programs

<i>Name – Description</i>	<i>Retention, Archiving Instructions</i>	<i>Classification</i>	<i>State Statutory Reference</i>
Water quality, lake elevation, stream-flow a. Field notes and raw data b. Final reports	a. Retain until final report completed b. Retain permanently or transfer to state archives	Public	
Public opinion surveys	Retain permanently or transfer to state archives	Public	
Plans a. Watershed management plans b. Local water management plans c. Program plans and work plans – approved by Board	a. Retain permanently or transfer to state archives b. Retain until updated c. Retain 6 yrs and do not archive	a. Public b. Public c. Public	
Rules – District approved	Retain permanently	Public	

Nine Mile Creek Watershed District

Policy for Management of Permit Fees, Financial Assurances and Abandoned Property

Adopted November 21, 2012

As provided by state law, the Nine Mile Creek Watershed District (District) receives fees from applicants to reimburse the District for the costs of processing and administering permits required by the District rules. The District also receives bonds, letters of credit and cash deposits (checks) as financial assurances to secure the performance of permittees in compliance with permit terms and conditions. To ensure that such assets are managed in accordance with sound financial practices and state law governing local government financial practices and management of abandoned property, the District establishes the following policy and protocols for the management of financial instruments, permit fees, and cash escrows.

1. **Permit fee payments.** The District will accept, process and maintain permit fees in accordance with District rules and the following protocols.
 - a. The District will not accept cash in payment of permit fees.
 - b. Checks received by the District in payment of permit fees will be deposited within 10 business days of receipt.
2. **Financial assurance deposits.** The District will catalogue and maintain financial assurances and cash escrows in accordance with the following protocols:
 - a. Financial assurance instruments (bonds, letters of credit and checks) received by the District to secure performance of permit conditions will be logged in the Financial Assurance Log created for such purposes, then copied. A copy will be filed at the District offices. The Financial Assurance Log will include, at a minimum, the following information:
 - i. Permit number for which the financial assurance instrument is provided;
 - ii. Name of the permittee/escrow provider;
 - iii. Name, for bonds and letters of credit, of the surety;
 - iv. Amount(s) of the financial assurances provided;
 - v. Expiration date, if any, of the financial assurance;
 - vi. Location of the financial assurance instrument or deposit.
 - b. Original bonds and letters of credit will be deposited for safekeeping at a location to be designated annually by the District Board of Managers.
 - c. Submittal of checks to satisfy financial assurance requirements is disfavored by the District. But when, in the judgment of the District administrator, it is not reasonable to require a permit applicant to obtain a bond or letter of credit, the applicant may submit a check for deposit by the District to serve as the permit financial assurance. In such circumstances, the permittee/escrow provider will be required as a condition of permit issuance, transfer or renewal to enter into a cash escrow agreement with the District that specifies the terms and conditions under which the District accepts and holds the escrow, as well as the circumstances under which the District may use the escrowed funds.
 - i. The District, with the advice of counsel, will maintain a cash escrow agreement template for use by permittees/escrow providers.

- ii. The District will accept only certified checks or other bank drafts in payment of cash escrows.
 - iii. Permit approval may be revoked for failure to comply with this requirement.
 - d. No check will be accepted by the District to serve as a financial assurance to secure performance of permit conditions until District staff has verified receipt of an associated executed escrow agreement, specifying the required deposit amount and permit to be secured by the escrow. The check must be in the amount specified in the associated escrow agreement and must bear the number of the District permit(s) to be secured.
 - e. Checks received by the District as financial assurances will be deposited within 10 business days of receipt in an account designated by the administrator exclusively for permit escrows. The account will be at a board-designated depository institution.
3. **Maintenance of valid financial assurances.** To ensure that the District has the capacity to assure compliance with its rules and protect the District’s water resources in the event of noncompliance with permit conditions and/or rules, District staff will follow the protocols below to ensure that financial assurances of permit performance remain valid and enforceable:
- a. District compliance with the protocols in this section will be the responsibility of the District administrator.
 - b. The administrator will maintain the Financial Assurance Log.
 - c. The administrator will review the Financial Assurance Log monthly to ensure the continuing validity of financial assurances provided for active permits by identifying bonds and letters of credit that will expire within the ensuing 90 days.
 - d. The administrator will determine – in the course of his or her monthly review of the Financial Assurance Log – whether replacement of the financial assurance is needed for a particular project, and, if so, alert the permittee to the need to provide a replacement instrument at least 60 days prior to the expiration of the existing instrument.
 - e. If deemed necessary in response to a permittee’s unwillingness or inability to provide a replacement financial assurance, the administrator will contact counsel at least 30 days prior to the expiration of the financial assurance to initiate procedures to draw on the existing financial assurance.
 - i. The administrator will ensure that proper authorization for a financial assurance draw is secured in a timely manner, with a priority on the protection of District water resources.
4. **Return of financial permit assurances.** Financial assurance instruments will be returned in accordance with applicable District rules, including sections 5.5 and 12.4.
- a. The administrator will monthly designate financial assurances that may be returned in whole or in part to the surety (with notice to the principal/permittee) and, upon receipt of required documentation, take the steps necessary to return such instruments and/or funds.
 - b. The administrator will maintain record of returned financial assurances in the Financial Assurance Log and retain a copy of original financial assurance documents in compliance with the District records retention schedule.

5. **Abandoned property procedures.** State law imposes requirements applicable to any intangible asset in the District's possession that remains unclaimed for three years or more after the asset is no longer needed for District purposes (e.g., three years after a permitted project is completed and the associated financial assurance becomes eligible for release in accordance with District rules). To ensure compliance with abandoned-property requirements, the District establishes the following protocols.
- a. The District will annually assess whether cash escrows remain on deposit after completion of the applicable permitted work and attempt to return them. For cash escrows that have been in the District's possession for three years or more, unclaimed by the owner, staff will commence unclaimed property return procedures as follows.
 - i. By July 1 of each year, District staff will take reasonable steps to notify owners by mail of unclaimed property. A letter should be sent to all known addresses on file for the owner, notifying owner of the amount still held by the District and describing steps necessary to claim the property. Staff need not send such a letter if documentation in the District's possession indicates that the address(es) it has for the owner are inaccurate.
 - ii. If the owner cannot be found, the assets are deemed legally abandoned and the District will remit them to the state Commissioner of Commerce, along with the report required by Minnesota Statutes section 345.41, as may be amended, containing information on the identity of the owner of the unclaimed assets in the District's possession, a description of the assets, the date the assets became payable or returnable to the owner and any other information that may be required by the commissioner. Formatting and filing of the report will be in compliance with Department of Commerce guidance.
 - iii. By October 31 each year, the required report, verified by the administrator, should be filed with the commissioner and all assets unclaimed as of the preceding June 30 should be remitted to the commissioner.
 - iv. The District may deduct a service charge from the unclaimed assets remitted to cover costs of attempting to locate an owner and, if necessary, reporting and paying the unclaimed funds to the commissioner only if the escrow provider has agreed to the deduction of such charges.

ESCROW AGREEMENT

Between the Nine Mile Creek Watershed District and []

This Agreement is made by and between the Nine Mile Creek Watershed District, a watershed district under Minnesota Statutes Chapters 103B and 103D (NMCWD), and [], a [] (“Permittee”), to establish a cash escrow in fulfillment of financial assurance requirements under NMCWD Permit XX-XXX.

Recitals

A. Pursuant to Minnesota Statutes section 103D.345, the NMCWD has adopted and implements permitting rules governing development and other activity within the boundaries of the NMCWD that may have an impact on water resources.

B. NMCWD rules require as a condition of permit approval that a permittee provide and maintain a financial assurance in the form of a bond, letter of credit or cash escrow for the purpose of covering costs the NMCWD may incur in monitoring and inspecting activity under the permit and in responding to violations of NMCWD statutes, rules, permits and orders.

C. This Agreement documents that Permittee has submitted a cash escrow to fulfill a financial assurance obligation under Permit XXXX-XX and specifies the conditions and procedures under which the NMCWD will hold and may draw on the escrow.

Permittee and the NMCWD, in executing this Agreement, concur that it is legally binding.

Agreement

1. Permittee has submitted a cash escrow in the amount of \$XX,XXX. The NMCWD will hold the escrow in an escrow account where it may be commingled with escrow funds held by the NMCWD on behalf of parties other than Permittee. The NMCWD need not hold the funds in an interest-bearing account and Permittee will not be entitled to interest on the escrow. If the escrow amount is not credited promptly to the NMCWD account because the financial institution on which the instrument is drawn refuses to honor the draft, the NMCWD may declare this Agreement null and void by written notice to Permittee.

2. Additional escrow funds will be submitted by Permittee, and unused funds will be released to Permittee, in accordance with the NMCWD Rules and duly adopted resolutions and policies of the NMCWD Board of Managers.

3. Escrow funds will become the sole property of the NMCWD, and Permittee agrees to the relinquishment of all legal and equitable interest therein, as follows:

- a. The NMCWD may invoice Permittee for permit review, compliance monitoring, and other eligible costs in accordance with duly established NMCWD procedures.
 - b. If after notice and opportunity to be heard the NMCWD finds violation of a NMCWD rule, permit or order, the NMCWD may give written notice to Permittee. The notice will describe the violation and the action required to correct it. If within twenty (20) days of notice delivery the violation has not been corrected and arrangements acceptable to the NMCWD have not been made, the NMCWD may without further notice take steps it deems reasonably necessary to correct the violation, and may have access to the property during reasonable times for that purpose. Provided, that the NMCWD will give 24 hours' notice before entry and exercise due care to avoid unnecessary disturbance or damage to the property. If the NMCWD finds that entry is required to address an occurring or imminent threat to water resources, it may enter and correct without prior hearing or opportunity to cure, but only to the extent reasonably necessary to address the threat.
 - c. The NMCWD may invoice Permittee for reasonable costs incurred for activity under paragraph 3b. If payment is not made within 30 days, the NMCWD may transfer funds from the escrow account into NMCWD accounts and credit Permittee accordingly.
4. Permittee represents unconditionally that all escrow funds submitted hereunder are funds of Permittee. All obligations of the NMCWD under this Agreement in holding and using the escrow funds are to Permittee only. Nothing in this Agreement creates any right in any third party as against the NMCWD or in any way waives or abridges any immunity, defense or liability limit of the NMCWD. Permittee will not assign or purport to assign any interest in the escrow funds or this Agreement to any third party.
5. Nothing in this Agreement affects Permittee's legal right, if any, to appeal a finding of violation or to seek a legal determination of the purposes to which the NMCWD may use the escrow funds.
6. The Permittee agrees that, should the escrow funds submitted hereunder remain unclaimed by the Permittee or his successor in interest so as to become "abandoned property" as that term is defined in Minnesota Law, the District may assess a service charge from the unclaimed assets to cover costs of attempting to locate the Permittee or his successor in interest and, if necessary, reporting and paying the unclaimed funds as required by law.
7. This Agreement is effective on the signature of the parties and terminates when the District releases the escrow or declares the Agreement null and void under paragraph 1, above. The Agreement may be amended only in a writing signed by the parties. An increase or decrease in the amount of escrow funds held by the NMCWD for permit XX-XX does not constitute an amendment to this Agreement.

8. Notice to Permittee under this Agreement is effective when sent by certified mail to Permittee's address as stated in the permit application or such other address as Permittee subsequently has provided to the NMCWD in writing. The law of the State of Minnesota will govern any legal proceeding concerning this Agreement. Venue for any such proceeding will be in the county where the real property that is the subject of this Agreement is located. The recitals are incorporated as a part of this Agreement.

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

NINE MILE CREEK WATERSHED DISTRICT

By _____ Date:
Administrator

PERMITTEE

By: _____ Date:
[print name here]

This instrument was acknowledged before me on ____ (date) by ____ (name(s) of person(s)) as ____ (type of authority, e.g. officer, trustee, etc.) of ____ (name of party on behalf of whom the instrument was executed).

Nine Mile Creek Watershed District Public Purposes Expenditures Policy

Adopted November 21, 2012

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 Nine Mile Creek Watershed District (District) establishes the following policy and protocols to ensure that District expenditures serve clear, documented watershed district purposes. The District administrator will be responsible for the implementation of this policy and associated protocols.

1. **Travel.** The District may pay reasonable and necessary expenses for travel, lodging, meals and appropriate incidental expenses related to the performance of official District functions. Expenditures must be approved in advance by the administrator (for employees) or Board of Managers (for managers and the administrator) and must be directly related to the performance of District functions.
 - a. An employee or manager will be reimbursed for mileage expenses incurred when using the employee's or manager's personal vehicle to conduct District business. 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). Mileage for employee commuting to and from the District offices will not be reimbursed.
2. **Employee and manager training.** The District 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 administrator (for employees) or Board (for managers and the administrator).
3. **Safety and health programs.** The District may pay for safety and health programs that promote healthier and more productive employees and reduce costs to watershed taxpayers, including costs associated with workers' compensation and disability benefits claims, insurance premiums and lost time resulting from employee absences.
4. **Manager and employee recognition and appreciation.** The District may pay for programs that recognize managers and employees for significant contributions to the District's performance and demonstrated commitment to the District's effective and efficient fulfillment of its purposes in accordance with an annual plan and budget for such events, approved by the Board. The District may pay for occasional manager and employee appreciation events or activities conducted in accordance with an annual plan and budget for such events, approved by the Board. No expenditure for manager or employee recognition will be made under

this policy unless and until the structure, purposes and criteria for recognition are approved by the Board.

- a. The District will not pay employees direct non-salary payments (i.e., bonuses) except as conditioned on achievement of performance goals specified in a written employment agreement.
5. **Food and beverages.** The District may pay for food and beverages when necessary to ensure meaningful, efficient and effective participation of employees, managers or the public in activities, events and functions directly related to District purposes. Circumstances under which District 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 or seminar, when the topic or subject of which relates to the official business of the District and the majority of the participants are not District employees or managers;
 - b. Food and/or beverages may be provided as part of a workshop or formal meeting primarily for District employees or managers where food and/or beverages are necessary to facilitate the conduct of the meeting, to ensure continuity and support the participation of employees, managers and other participants. Examples of potential qualifying events include:
 - i. An extended planning or operational analysis meeting;
 - ii. An extended meeting to develop long-term strategic plans;
 - iii. A structured training session for employees generally; or
 - iv. Official meetings of the District Board, a committee, task force or advisory group.
 - c. Food and/or beverages may be provided for occasional employee or manager recognition and appreciation events and activities, when approved by the Board in accordance with a District employee recognition and appreciation plan and budget.
 - d. The District may pay for food and/or beverage expenses incurred in connection with a meeting or event attended by employees and/or managers, the primary purpose of which is to discuss, negotiate or evaluate a plan, program, project or other endeavor directly related to District purposes.
 - e. District meetings, workshops and training sessions will be scheduled to avoid the need to provide food whenever possible.
6. **Outreach and stakeholder involvement.** The District may pay for community and stakeholder outreach and involvement programs to ensure that efficient and effective District programs, projects and meetings are conducted to gather public and intergovernmental input and participation in District planning, research, rulemaking and program or project design.
7. **Membership, donations.** The District may pay for membership in the Minnesota Association of Watershed Districts in accordance with Minnesota Statutes section 103D.335, subdivision 20. District funds may be expended for membership in other professional organizations if the organization is an association of a civic, educational or governmental nature and its activities are directly related to District

- purposes or the improvement of District operations. District funds may not be donated to any professional, technical or charitable organization, person or private institution. The District may contract for services rendered by such organizations.
8. **Protocols.** The following protocols are established to ensure compliance with above policies:
 - a. For employees other than the administrator, the written approval of the administrator must be secured prior to an event or activity to qualify as a District expenditure.
 - b. 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.
 - c. Copies of all documentation specified herein will be recorded and maintained in accordance with the District records retention policy.
 - d. Expenses of less than \$25 for a particular event or meeting need not be approved in advance, but documentation must be submitted and the expense approved at a regular meeting of the Board of Managers within 45 days of the date the expense was incurred.
 9. **Use of District property**
 - a. District property, including but not limited to computers, phones, fax machines and other office equipment, will be used exclusively for District business, except for incidental personal use by District staff that does not interfere with or impede the conduct of District business to any substantial degree.
 - b. District property must be used for only its intended purposes.
 - c. The administrator may not dispose of any District property with a value of more than \$1,000 without prior authorization of the Board of Managers.
 10. **Miscellaneous.**
 - a. The District administrator will secure an approval described above for expenses he or she will incur from the president of the Board of Managers, except that the administrator may approve or pay expenses for District-conducted programs, events and activities.
 - b. The District will not pay for alcoholic beverages under any circumstances.

Nine Mile Creek Watershed District
Fund Balance Policy

Adopted November 21, 2012

I. Purpose

The policy establishes specific guidelines the Nine Mile Creek Watershed District will use to maintain an adequate level of fund balance to provide for cash flow requirements and contingency needs because major revenue, most notably half of the District's annual levy, is received in the second half of the District's fiscal year.

The policy also establishes specific guidelines the District will use to classify fund balances into categories based primarily on the extent to which the District is legally required to expend funds only for certain specific purposes.

II. Classification of Fund Balances, Procedures

1. Nonspendable

- This category includes fund balance that cannot be spent because it is either (i) not in spendable form or (ii) is legally or contractually required to be maintained intact. Examples include inventories and prepaid amounts.

2. Restricted

- Fund balance is classified as restricted when constraints placed on those resources are either (i) externally imposed by creditors, grantors, contributors, or laws or regulations of other governments or (ii) imposed by law through constitutional provisions or enabling legislation.

3. Committed

- Fund balance that can only be used for specific purposes pursuant to constraints imposed by formal action of the District Board of Managers. The committed amounts cannot be used for any other purpose unless the District removes or changes the specified use by taking the same type of action it employed to commit those amounts.
- The District Board of Managers will annually or as deemed necessary commit specific revenue sources for specified purposes by resolution. This formal action must occur prior to the end of the reporting period, but the amount to be subject to the constraint may be determined in the subsequent period.

- The Board of Managers may remove a constraint on specified use of committed resources by resolution.

4. Assigned

- Amounts for which a specified purpose has been stated, but are neither restricted nor committed. Assigned fund balance in the General Fund includes amounts that are intended to be used for specific purposes.
- In adopting this policy, the District managers delegate the authority to assign and remove assignments of fund balance amounts for specified purposes to the District administrator.

5. Unassigned

- A residual classification for the General Fund that includes amounts that have not been assigned to other funds and that have not been restricted, committed, or assigned to specific purposes within the General Fund. The General Fund should be the only fund that reports a positive unassigned fund balance amount. The District has established a minimum fund balance policy consisting of the following three components:
 - i. *Working capital.* The District will maintain an unassigned fund balance in the General Fund of an amount not less than 50 percent of the next year's budgeted expenditures of the General Fund. This will assist in maintaining an adequate level of fund balance to provide for cash flow requirements and contingency needs because major revenues, including property taxes and other government aids are received in the second half of the District's fiscal year.
 - ii. *Emergency reserve.* Beyond the working capital reserve in the first half of the year, the District will maintain additional funds to provide for emergencies. At the end of each fiscal year, the District will establish an emergency reserve for unforeseen expenditures equal to 5 percent of the next year's budget.
 - iii. *Budget stabilization.* To buffer budget volatility, the District will maintain a fund balance to help manage fluctuations in the operating budget. At all times the District will maintain a balanced budget, and the carryover balance at the end of the year will be maintain at 5 to 7 percent of the next year's budget. These funds could be used to cover, for example, one-time expenditures to avoid future budget increases, offset shortfalls in revenue, fund unanticipated operative expenses.

A negative residual amount may not be reported for restricted, committed, or assigned fund balances in the General Fund.

III. Monitoring and Reporting

The District administrator will annually prepare a report on the status of fund balances in relation to this policy and present the report to the District managers in conjunction with the development of the annual budget.

When both restricted and unrestricted resources are available for use, it is the District's general policy to first use restricted resources, then use unrestricted resources as needed. When committed, assigned or unassigned resources are available for use, it is the District's general policy to use resources in the following order; 1) committed 2) assigned and 3) unassigned.

Nine Mile Creek Watershed District
Internal Controls and Procedures for Financial Management

Adopted November 21, 2012

This policy is adopted to provide the Nine Mile Creek Watershed District (District) with written internal controls and procedures for financial management. Adherence to this policy and procedures will ensure that the District's finances are managed in accordance with generally accepted accounting principles and best practices, and will minimize District administrative costs.

- I. **Annual budget.** The administrator annually develops a proposed budget for presentation to the Board of Managers for review. After adjustments as directed by the Board, the District schedules and issues appropriate notice for a public hearing on the proposed budget. Following the public hearing but before September 15 each year, the Board of Managers adopts the annual budget and certifies it to the Hennepin County auditor.
 - a. Amounts in any approved budget category may not be reallocated or exceeded by more than 10 percent of the total program/project amount without approval of the Board of Managers.
 - b. Actual expenditures may not materially deviate from the amount in an approved budget category.
- II. **Annual financial statements.** Annual financial statements are approved by the Board of Managers, then submitted to the Board of Water and Soil Resources and the Office of the State Auditor within 120 days of the end of each fiscal year.
 - a. In preparation for the annual audit of the District finances, the administrator prepares the following documents:
 - i. Copies of approved budgets and all budget amendments;
 - ii. Detailed general ledger (through year-end);
 - iii. Bank reconciliation and bank statements;
 - iv. Copies of disbursements and receipts;
 - v. Copy of tax (levy) settlements from Hennepin County;
 - vi. Copy of certification levy;
 - vii. Listing of accounts payable and copies of signed checks;
 - viii. Grant and other funding agreements;
 - ix. List of capital assets, showing all deletions and additions;
 - x. Copies of invoices;
 - xi. Approved minutes.
 - b. The administrator annually presents the draft audit for approval to the Board of Managers at a monthly meeting.
- III. **Monthly financial management protocols.**
 - a. The District contracts with a certified public accountant to manage the checking accounts and investment funds of the District.
 - b. The administrator receives monthly bills and invoices at the District office.

- c. The administrator reviews the bills and recommends payment; the accountant prepares checks pursuant to these recommendations to pay the monthly bills.
 - d. The accountant also prepares a monthly treasurer's report that includes a current check register and tracks each of the District's funds and account balances.
 - e. The administrator reviews the treasurer's report and distributes the report to the Board of Managers for the review prior to the Board's monthly meeting.
 - f. At the monthly Board meeting, the treasurer presents the treasurer's report. The Board of Managers receives and discusses, as necessary, the treasurer's report, then authorizes payment of the monthly bills as presented in the check register.
 - g. Following Board authorization to pay the bills, the administrator mails payment to vendors as authorized.
- IV. **Spending Authority.** All expenditures by the District must be approved in advance by the Board, except that the Board by resolution may delegate to the administrator the authority to bind the District, with or without countersignature, to a purchase of goods or services, or to enter into a contract for same, when the cost thereof does not exceed \$5,000 or under other specified conditions.
- a. On October 18, 2017 the Board adopted Resolution 17-06, which authorizes the administrator the authority to expend up to \$5,000 on a single purchase without prior Board approval and affirms that authority in adopting this policy and between \$5,001 - \$10,000 with written concurrence from the Board president.
 - b. The administrator may not purchase any real estate or easements on real estate without prior authorization for the Board of Managers.
- V. **Banking**
- a. The District maintains a current signature card at the depository bank.
 - b. The administrator and treasurer may transfer funds between District accounts and may deposit funds into District accounts.
 - c. Cash withdrawals from District accounts are prohibited.
 - d. The administrator is authorized to invest District funds in certificates of deposit at the depository bank.
 - e. All deposits to District accounts must be made intact, and the District's bank is instructed not to return cash from a deposit to a District account.
- VI. **Checking**
- a. The administrator is not an authorized signatory of District checks.
 - b. All checks, drafts or other orders for the payment of money, notes or other evidence of indebtedness issued in the name of the District shall not be valid unless signed by two managers, except that a check, draft or other order for payment of less than \$100 is valid with one manager's signature.
- VII. **Credit card use.** The administrator is authorized to incur charges to the District credit card, with a maximum single charge of \$1,000 and allowable billing-period maximum charges totaling \$5,000.

- a. A receipt must be obtained for all District credit card purchases. Credit card purchases for which a detailed receipt is not provided must be reimbursed by the individual making the purchase.

VIII. Reporting

- a. All expenditures and investments, receipts and disbursements made must be compiled for presentation to the Board of Managers by the treasurer in a timely manner.
- b. The annual audit will be filed with the Board of Water and Soil Resources and the Office of the State Auditor within 120 days of the end of the District's fiscal year (January 1 – December 31).
- c. The administrator and treasurer will regularly review relevant records and documents for any of the following, and report to the treasurer (for the administrator) or the Board of Managers (for the treasurer) any of the following if found:
 - i. Unusual or unexplained discrepancy between actual performance and anticipated results (costs in a general expense categories well beyond the budgeted amount);
 - ii. Receipts that do not match deposit slips;
 - iii. Disbursements to unknown and/or unapproved vendors;
 - iv. A single signature on a check or pre-signed blank checks;
 - v. Gaps in receipt or check numbers;
 - vi. Late financial reports;
 - vii. Disregard of internal control policies and procedures.

IX. Depositories and collateralization. In accordance with state law, the District names an official depository or depositories at its January meeting each year (depository bank(s)). In the event the Board of Managers does not designate a depository in any particular year, the last-designated depository will continue in that capacity. Each depository bank provides the District with a proof of collateralization in accordance with state law (Minnesota Statutes section 118.03) for an amount equal to the amount on deposit at the close of the depository bank's banking day beyond the amount covered by federal insurance, if any. The collateral provided by each depository bank will be maintained in an account in the trust department of a bank or other financial institution not owned or controlled by the same (depository) bank or in a restricted account at a federal reserve bank.

X. Financial Assurances and Abandoned Property. See District Policy for Management of Financial Assurances and Abandoned Property, adopted November 21, 2012.

XI. Miscellaneous

- a. The District will not maintain a petty cash fund.
- b. The District will not accept cash (currency) in payment of permit fees or financial assurances.
- c. The District will not cash personal or third-party checks.
- d. The administrator must not fail to insure District property against theft and casualty loss.