

Resolution No. 23-04

**Brown's Creek Watershed District
Board of Managers**

**Ordering the Brown's Creek Restoration Project and authorizing work in support of
the project by the engineer and administrator**

Manager _____ offered the following resolution and moved its adoption,
seconded by Manager _____:

Whereas Brown's Creek Watershed District has an approved and adopted watershed resources management plan in fulfillment of Minnesota Statutes section 103B.231 including policies committing BCWD to the improvement of the water quality and ecological integrity of Brown's Creek and its tributaries, including maintaining a viable cold-water fishery and maintaining the hydrology and geomorphology of Brown's Creek and its tributaries required for stream equilibrium and health, and the capital improvements program in the plan includes creek-restoration projects addressing impairments of Brown's Creek for turbidity and fish-bioassessments identified in the Brown's Creek Total Maximum Daily Load Plan (2012) and the Brown's Creek Thermal Study (2016), including improvement of reaches categorized as having degraded stream channel geomorphology by addressing lack of buffer, stream width, overhanging banks, and profile and alignment;

Whereas at its November 2022 meeting, the BCWD Board of Managers directed BCWD staff and the engineer to assess the feasibility of the capital improvements in the plan to address the impairments and restore water quality and habitat in Brown's Creek, and staff and the engineer conducted necessary surveys and worked with the Department of Natural Resources and the City of Stillwater to develop a conceptual design for restoration of 2,000 feet of the creek from McKusick Road just upstream of Brown's Creek Park to just downstream of the Brown's Creek State Trail in Stillwater, and the concept includes:

- reconnection of cutoff meanders, pattern adjustments to increase stream sinuosity, and grade control to reconnect the floodplain adjacent to the creek;
- reconnect the floodplain removal of invasive species from the bank and upstream areas along the reach;
- bank shaping and selective tree thinning to promote herbaceous understory growth;
- restoration of fish habitat with rock riffles and pools to increase spawning opportunities and provide stable refuge for macroinvertebrates;
- improved access to the creek from Brown's Creek State Trail.

(The work described here is collectively referred to hereafter as "the Project.")

Whereas at its July 2023 regular meeting, the BCWD Board of Managers authorized and directed the BCWD engineer to complete an environmental assessment worksheet for the Project pursuant to Minnesota Statutes chapter 116D for presentation to the managers, sitting as the Responsible Governmental Unit as agreed to by representatives of the Department of Natural Resources pursuant to Minnesota Rules 4410.4300, subpart 27A, to make a determination on whether the Project has the potential to have significant negative environmental effects pursuant to Minnesota Statutes section 116D.04, subdivision 2a;

Whereas the Project would be undertaken on parcels owned or controlled by Washington County, the City of Stillwater, the State of Minnesota and the Beltram H. Van Tassel Trust, and BCWD staff have secured preliminary agreement from such property owners to facilitate construction and implementation of the Project;

Whereas the estimated cost of the Project, including engineering, design, planning, permitting, construction and construction oversight, is \$534,500, which will be funded through a watershed-wide ad valorem levy of \$213,800 as authorized by Minnesota Statutes chapter 103B.241 and a federal water-quality grant administered by the Minnesota Pollution Control Agency of \$320,700;

Whereas after presentation of the concept for and assessment of the feasibility of the Project at its July 2023 meeting, the BCWD Board of Managers held a duly noticed public hearing on the Project pursuant to Minnesota Statutes section 103B.251, subdivision 3, at the September 13, 2023, regular meeting of the managers, at which interested members of the public were provided with the opportunity to comment on the Project, and [no] comments were offered; and

Whereas in consideration of the above-cited record in the matter, the board of managers finds that the Project will be conducive to public benefit and promote the general welfare, and represents a cost-effective contribution to the implementation of the watershed plan and the fulfillment of BCWD's powers and purposes under Minnesota Statutes chapters 103B and 103D.

Now, therefore, be it resolved that the Brown's Creek Watershed District Board of Managers hereby orders the Project, and directs that BCWD's costs thereof be funded through a watershed-wide levy, except as offset by grant funding received;

Be it further resolved that the BCWD Board of Managers directs the administrator to prepare agreements for the access and use of the property necessary for the successful implementation of the Project with fee title owners of such property and to present drafts of such agreements to the board for approval and authorization to execute on behalf of BCWD;

Be it further resolved that the BCWD Board of Managers approves the task order for the BCWD engineer to complete the design and construction documents, including final plans and specifications and all other documentation necessary to procure bids for

implementation of the Project, and to provide implementation oversight for the Project and authorizes the task order for a total cost not to exceed \$75,338;

Be it further resolved that the BCWD Board of Managers directs the administrator to utilize the final plans and specifications to obtain bids for construction and implementation of the Project in accordance with applicable public-procurement law and to timely present bids received to the managers for approval.

The question was on the adoption of the resolution and there were ___ yeas and ___ nays as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Eckles	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Johnson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LeRoux	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Wirth	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Upon vote, the president declared the resolution adopted September 13, 2023.

Chuck LeRoux, Secretary

* * * * *

I, Chuck LeRoux, secretary of the Brown's Creek Watershed District, do hereby certify that I have compared the above resolution with the original thereof as the same appears of record and on file with BCWD and find the same to be a true and correct transcription thereof.

IN TESTIMONY WHEREOF, I set my hand this _____ day of _____, 2023.

Chuck LeRoux, Secretary