

Resolution no. 26-04

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

Concurring in the City of Stillwater's sole exercise of regulatory authority for erosion and sediment control for single-family home development and redevelopment

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

Whereas Brown's Creek Watershed District, a governmental subdivision with powers set forth in Minnesota Statutes chapters 103B and 103D, is authorized to act to achieve the purposes set forth in those chapters for the protection, conservation and beneficial use of the water resources of the Brown's Creek watershed;

Whereas Brown's Creek Watershed District has an approved and adopted watershed management plan in fulfillment of Minnesota Statutes section 103B.231, and has submitted a complete final updated plan to the state Board of Water and Soil Resources for approval;

Whereas in accordance with its adopted watershed plan and Minnesota Statutes section 103D.341 and 103D.345, BCWD has adopted rules and implements a permitting program to protect water resources and mitigate risk of and damage from flooding in the watershed;

Whereas the City of Stillwater has developed and adopted (as part of its comprehensive land-use plan) a local water-management plan in accordance with Minnesota Statutes section 103B.235, after BCWD conditionally approved Stillwater's local water plan on January 10, 2018, by adoption of Resolution 18-04, premised on Stillwater's concurrence in BCWD's continued exercise of regulatory authority over the use of development of land within the territorial limits of the City of Stillwater within BCWD's jurisdiction pursuant to Minnesota Statutes section 103B.211, subdivision 1(a)(3)(iii), and by action of its city council on [DATE], Stillwater so acted, and BCWD has accordingly exercised regulatory authority to the full extent of the applicability of its rules within Stillwater;

Whereas Stillwater and BCWD have closely collaborated on implementation of their respective regulatory programs to protect water resources and mitigate risk of and damage from flooding in the portion of the city within BCWD jurisdiction;

Whereas sections 5.4.5 and 5.7.2 of BCWD's 2027-2036 watershed management plan recognizes that Minnesota Statutes 103B.211, subdivision 1(a)(3) provides that where a municipality has adopted and is implementing an ordinance or ordinances that achieve the relevant standards in the BCWD rules, the city and watershed may choose

to enter into a memorandum of understanding providing for the exercise sole regulatory authority with regard to water-resources protection or flood-risk mitigation;

Whereas the BCWD engineer has reviewed the City of Stillwater's regulatory program and, as detailed in the memo attached to an incorporated into this resolution as a term hereof, and found that with regard to erosion and sediment-control practices for single-family home construction and reconstruction projects, Stillwater's regulatory program provides resource protection as effective as BCWD's;

Whereas Stillwater agrees that BCWD should continue to exercise its regulatory authority with respect to all land-disturbing activities that trigger BCWD regulatory requirements; and

Whereas the parties wish to memorialize their understanding in a memorandum of understand as provided subsection 5.7.2 of the 2027-2036.

Now, therefore, be it resolved that the BCWD Board of Managers authorizes the president, with advice of counsel, to enter into a memorandum of understanding acknowledging that Stillwater will exercise sole regulatory authority over single-family home projects triggering only the BCWD Erosion and Sediment Control Rule within the portion of Stillwater within the Brown's Creek Watershed District's jurisdiction, substantially in the form attached hereto and incorporated herein as Exhibit B.

	Yea	Nay	Abstain	Absent
Brod	☐	☐	☐	☐
Eckles	☐	☐	☐	☐
LeRoux	☐	☐	☐	☐
Mattson	☐	☐	☐	☐
Wirth	☐	☐	☐	☐

Upon vote, the president declared the resolution adopted.

Dated: August 12, 2026.

* * * * *

I, Luke Mattson, secretary of 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 on _____, 2026.

Luke Mattson, Secretary

Exhibit A
Staff/Engineer Memo

DRAFT

Project Name | BCWD Permit Program**Date** | 8/6/2026**To / Contact info** | BCWD Board of Managers**Cc / Contact info** | Karen Kill, BCWD Administrator**From / Contact info** | Paul Nation, PE | EOR**Regarding** | MOU for Stillwater to take over erosion control permitting of single-family homes

BCWD Rule 3.0 requires landowners to secure a permit from BCWD when undertaking grading, filling, or other land-altering activities which involve movement of more than 50 cubic yards of earth or removal of vegetative cover on 5,000 square feet or more of land. Applicants for an erosion control permit must submit an erosion control plan prepared by a qualified individual that demonstrates how sediment will be retained on site during construction and how the site will be restored after construction. The BCWD engineer typically inspects these sites 1-2 times per month and after rainfall events of 0.5" or more to confirm erosion control practices are maintained in good condition. Inspections occur more often on sites that are not well maintained.

Karen Kill, BCWD Administrator, discussed Stillwater's permitting program and inspection routine with Dillon McClung, the city's engineering technician and primary erosion control inspector. Dillon confirmed the following elements of their regulatory program.

- Erosion control permits are required for sites that disturb 50 or more cubic yards of earth and for all new single-family homes.
- An erosion control plan must be provided for city review outlining the practices that will be used to prevent movement of sediment off the site.
- Staff conduct weekly inspections.
- Stillwater requires a cash escrow that is returned after as-builts are submitted and final stabilization has been verified.

Based on these findings, the BCWD engineer agrees that, with regard to erosion control permitting for single-family home construction, Stillwater's regulatory program provides resource protection as effective as BCWD's.

Exhibit B
Draft Memorandum of Understanding

DRAFT