



Title:	Approval of the Project Agreement for Cottageville Park Improvement and Maintenance
Resolution number:	23-027
Prepared by:	Michael Hayman (952) 471-8226 mhayman@minnehahacreek.org
Reviewed by:	Gabe Sherman, Planner-Project Manager; Chuck Holtman, Smith Partners (resolution)
Recommended action:	Board approval of the Project Agreement for Cottageville Park Improvement and Maintenance with the city of Hopkins. The purpose of this agreement is to set forth roles and responsibilities for design, construction and maintenance of the Gateway and Nature Play parcels and incorporate all prior maintenance obligations for Cottageville Park into one document.
Schedule:	May 2023 – approval of final design of 325 Blake Road Regional Stormwater and Greenway Project and approval of Project Agreement for Cottageville Park Improvement and Maintenance Fall 2023 – bid 325 Blake Road Regional Stormwater and Greenway Project 2024-2025 – construction of regional facility, greenway, and park improvements
Budget considerations:	Fund name and code: Cottageville Park Phase II Improvements (3146) 2023 fund budget: \$650,000 2023 projected expenditures: \$15,000 (final design and agreements) Requested amount of funding: N/A
Past Board action*:	Res # 10-058 Approval of Cooperative Agreement between MCWD and City of Hopkins Res # 14-027 Approval of Cooperative Agreement amendment, approval of BWSR grant agreement, and authorization of design contracts Res # 14-101 Approval of final design and authorization to solicit bids for Cottageville Park Phase 1 Res # 20-066 Authorization to Execute a Cooperative Agreement with the City of Hopkins for Coordinated Planning, Improvements and Development for 325 Blake Road Res # 20-067 Authorization to Release the Request for Proposals for Design Services for 325 Blake Road Stormwater Management and Site Restoration Res # 20-091 Authorization to Contract for Design Services for the 325 Blake Road Regional Stormwater and Greenway Project Res # 21-063 Acceptance of 30% Design for 325 Blake Road Restoration and Redevelopment Res # 21-075 Approval of Phase II Design Contract for 325 Blake Road Restoration and Redevelopment Res # 22-010 Approval of 60% Design for 325 Blake Road Restoration and Redevelopment

Aug. 2022	90% design review and feedback at the Operations and Programs Committee meeting
Dec. 2022	Final design status briefing at the Policy and Planning Committee meeting
Res # 23-026	Approval of Final Design for 325 Blake Road Regional Stormwater and Greenway Project

*The Resolutions listed above are specific to the Cottageville Park cooperative agreement recent design process. A full history of Board decisions related to the project is available.

Summary:

Dating back to 2010, the city of Hopkins and MCWD entered into a cooperative agreement to expand and develop Cottageville Park in a way that would improve and integrate community park amenities with the riparian system for public recreation and education purposes, while naturalizing and stabilizing the creek channel and providing regional stormwater treatment. The Cottageville Park Agreement, and subsequent amendments, defined the partnership roles and responsibilities around land acquisition, design, construction, and long-term maintenance of the constructed amenities at Cottageville Park. Further, the second amendment to the cooperative agreement, executed October 2014, defined two phases of the park improvement effort; Phase 1 consisting of the expansion of Cottageville Park on the north and east side of Minnehaha Creek, and Phase 2 consisting of future improvements on 415 Blake Road (known as the “Gateway” parcel) and three Lake Street parcels adjacent to the park (known as the “Nature Play” area).

Following construction of the Cottageville Park Stormwater Management and Park Improvement Project in 2016 (Phase 1), and pursuant to the agreement, the City maintains its own park property as well as the stormwater management facilities located on MCWD land, and MCWD maintains the native vegetation, riparian buffer zone improvements and signage on its own land.

In August 2020, MCWD and the city of Hopkins entered into a second cooperative agreement, this time for the “Coordinated Planning, Improvements and Development for 325 Blake Road,” which included design efforts for Phase 2 of the Cottageville Park improvements. Subsequently, in December 2020, MCWD contracted with HDR to provide design and engineering services to advance its stormwater and greenway project at 325 Blake Road and adjacent Cottageville Park properties in Hopkins. The design process has been phased, starting with schematic design in early 2021, and proceeding through final design and construction ready documents, scheduled to be approved by the Board of Managers and Hopkins City Council in May 2023.

The city of Hopkins has remained engaged as a key design advisor throughout the entire design effort, including involvement of the Hopkins Park Board, which has reviewed the project design on two occasions, in June 2022 and February 2023. As the parties continued working through the design and construction document effort, the discussion of ownership, investment, and long-term maintenance for the new park improvements at the Gateway and Nature Play parcels became a key consideration.

To advance the project in a timely manner as part of the overall improvements in the Minnehaha Creek Greenway and 325 Blake Road design process, the partners agreed that, if MCWD completes construction of the Phase 2 improvements on the Gateway and Nature Play sites, the city of Hopkins will accept ownership and maintenance obligations for the improvements. The exception to this transfer of maintenance is the pergola structure, decorative watershed pavement beneath the pergola, and new pedestrian bridge connecting the 325 Blake Road site to the Nature Play parcels.

As the partners began drafting a project agreement to establish defined roles and responsibilities, it became clear that much of the previous Cottageville Park agreement contained actions that have been completed. As such, the partners decided that to efficiently set forth the parties’ roles and responsibilities for the design, construction and maintenance of the Gateway and Nature Play Elements, it would be best to include all prior management and maintenance obligations, creating a single document for all the Cottageville Park improvements, past and planned.

As such, the “Project Agreement for Cottageville Park Improvement and Maintenance” (attached) explicitly incorporates all prior maintenance obligations into this Project Agreement without change, so as to consolidate all arrangements for the parties’ cooperative management of Cottageville Park into one document. This agreement will supersede the

Cottageville Park Agreement and includes the incorporation of site plans, an approved operations and maintenance plan, and perpetual cross easements for the parties to access the land to conduct inspections and maintenance activities.

At the May 11, 2023 Board meeting, staff will present the Project Agreement for Cottageville Park Improvement and Maintenance and associated documents. MCWD staff will also provide a brief project update as it relates to the final design effort.

Supporting documents (list attachments):

- Project Agreement for Cottageville Park Improvement and Maintenance (and associated exhibits)



RESOLUTION

Resolution number: 23-027

Title: Approval of the Project Agreement for Cottageville Park Improvement and Maintenance

- WHEREAS the Minnehaha Creek Watershed District (MCWD) acquired 415 Blake Road, 427-429 Blake Road, and 1303 and 1305 Lake Street, all in Hopkins, MN, in 2010 as key parcels in the expansion of Cottageville Park, and subsequently acquired 325 Blake Road, Hopkins in 2011, and 1308 and 1312 Lake Street, Hopkins in 2012 as key pieces of the Minnehaha Creek Greenway in St. Louis Park and Hopkins;
- WHEREAS in September 2010, MCWD and Hopkins entered into a cooperative agreement to design and construct the Cottageville Park Stormwater Management and Park Improvement Project (CPSMPIP);
- WHEREAS pursuant to the cooperative agreement, the First Amendment to Cooperative Agreement, executed April 10, 2014, and the Second Amendment to Cooperative Agreement, executed October 9, 2014 (together, the "Cottageville Park Agreement"), the parties constructed the CPSMPIP in 2016, consisting of park facilities, areas of native vegetation and protected buffer adjacent to Minnehaha Creek, and a subsurface iron-enhanced sand filter to manage and provide water quality treatment for both on- and off-site stormwater flows;
- WHEREAS on August 27, 2020, the MCWD Board of Managers authorized the execution of a Cooperative Agreement with the City of Hopkins for Coordinated Planning, Improvements and Development for 325 Blake Road, which included design efforts for the second phase of CPSMPIP;
- WHEREAS the parties wish to expand Cottageville Park by means of further improvements constructed on four additional parcels of land south of the present park property, with the improvements designated as the "Gateway Element" and "Nature Play Element," with the Gateway Element occupying the MCWD-owned parcel north of the intersection of Blake Road North and Lake Street NE (415 Blake Road) and the Nature Play Element occupying three contiguous parcels south of Lake Street NE and directly east of the Lake Street NE crossing of Minnehaha Creek (1308 and 1312 Lake Street and a City outlot);
- WHEREAS on August 27, 2020, the MCWD Board of Managers approved the release of a Request for Proposals for Design Services for 325 Blake Road Stormwater Management and Site Restoration, which sought landscape architecture and engineering services to complete integrated stormwater management, ecological restoration, and public open space improvements at 325 Blake Road and accompanying Gateway Element and Nature Play Element as part of Cottageville Park; and HDR, Inc. was subsequently selected and retained as the design engineer for the 325 Blake Road Regional Stormwater and Greenway Project;
- WHEREAS the MCWD Board of Managers accepted the 30% design memorandum and schematic design for 325 Blake Road Regional Stormwater and Greenway Project on September 23, 2021 upon finding that HDR had satisfactorily completed the tasks and produced the deliverables included in the contract authorized by the MCWD Board of Managers; and found that the schematic design satisfied all major project needs and accurately reflected the project goals defined in the Cooperative Agreement with the City of Hopkins for Coordinated Planning, Improvements and Development for 325 Blake Road;
- WHEREAS MCWD staff presented the schematic design to the Hopkins City Council on October 12, 2021 and the

Council expressed support for the design and design direction;

WHEREAS on February 24, 2022, the MCWD Board of Managers approved the 60% design including the production of plans; specifications; Operations, Maintenance, and Monitoring Plan; design memorandum; and opinion of probable cost;

WHEREAS on August 11, 2022, the MCWD Board of Managers, by the Operations and Programs Committee, reviewed the 90% design package, and further directed staff and HDR on the development of the final plans and specifications for the project, and on December 15, 2022, the MCWD Board of Managers received a final design briefing at its Policy and Planning Committee (PPC) meeting to gather final comments and finalize 100% design;

WHEREAS the city of Hopkins has remained engaged as a key partner and design advisor throughout the entire design effort, including the Hopkins Park Board, which has reviewed the project design on two occasions, in June 2022 and February 2023, and ultimately recommended the project for approval to Hopkins City Council;

WHEREAS the partners wish to efficiently set forth the roles and responsibilities for the design, construction and maintenance of the Gateway Element and Nature Play Element, and to incorporate these with ongoing maintenance and other provisions of the Cottageville Park Agreement that remain in effect, in order to consolidate all terms for the parties' cooperative management of Cottageville Park;

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers approves the Project Agreement for Cottageville Park Improvement and Maintenance and authorizes the Board President to execute the agreement, with any non-substantive changes on advice of counsel.

Resolution Number 23-027 was moved by Manager _____, seconded by Manager _____. Motion to adopt the resolution ___ ayes, ___ nays, ___ abstentions. Date: May 11, 2023.

Secretary Date: _____

**Project Agreement for
Cottageville Park Improvement and Maintenance**

City of Hopkins & Minnehaha Creek Watershed District

This Project Agreement for Cottageville Park Improvement and Maintenance (“Project Agreement”) is made between the Minnehaha Creek Watershed District (“MCWD”), a watershed district and political subdivision with powers at Minnesota Statutes Chapters 103B and 103D, and the City of Hopkins (“Hopkins”), a home rule charter city of the State of Minnesota (together, the “parties”).

Recitals

WHEREAS, on September 10, 2010, MCWD and Hopkins entered into a cooperative agreement to design and construct the Cottageville Park Stormwater Management and Park Improvement Project (“CPSMPIP”). Pursuant to the cooperative agreement, the First Amendment to Cooperative Agreement, executed April 10, 2014, and the Second Amendment to Cooperative Agreement, executed October 9, 2014 (together, the “Cottageville Park Agreement”), the parties constructed the CPSMPIP in 2016, consisting of park facilities, areas of native vegetation and protected buffer adjacent to Minnehaha Creek, and a subsurface iron-enhanced sand filter to manage and provide water quality treatment for both on- and off-site stormwater flows.

WHEREAS, as depicted on the site sketch incorporated and attached as **Exhibit A** hereto, the CPSMPIP occupies six parcels of land east of Blake Road North, northeast of Minnehaha Creek, and northwest of Lake Street NE. Three parcels are owned by Hopkins and three parcels are owned by MCWD. The parties wish to expand Cottageville Park by means of further improvements constructed on four additional parcels of land south of the present park property.

WHEREAS, the improvements are designated as the “Gateway Element” and “Nature Play Element” (together, the “Gateway and Nature Play Elements”). As depicted on **Exhibit A**, the Gateway Element will occupy the MCWD-owned parcel north of the intersection of Blake Road North and Lake Street NE. The Nature Play Element will occupy three contiguous parcels south of Lake Street NE and directly east of the Lake Street NE crossing of Minnehaha Creek.

WHEREAS, the purpose of this Project Agreement is to set forth the parties’ roles and responsibilities for the design, construction and maintenance of the Gateway and Nature Play Elements. In addition, the Cottageville Park Agreement sets forth terms for land acquisition, design, construction and maintenance of the CPSMPIP. Much of that agreement concerns actions that have been completed, but the parties intend to maintain in effect terms regarding ongoing management and maintenance (the “Prior Maintenance Obligations”). The parties have explicitly incorporated those Prior Maintenance Obligations into this Project Agreement without change, so as to consolidate all arrangements for the parties’ cooperative management of Cottageville Park into one document.

THEREFORE, the parties hereby enter into this Project Agreement, and concur that it is legally binding.

Terms

A. Cottageville Park Agreement and CPSMPIP Maintenance

1. This Project Agreement supersedes the Cottageville Park Agreement, which is no longer in effect. All Prior Maintenance Obligations are incorporated into this Project Agreement.
2. Each party retains its CPSMPIP inspection, maintenance and replacement obligations as set forth in Section D, below.
3. Hopkins may undertake further recreational, park or other improvements on its real property within the CPSMPIP, except within those areas of native vegetation or buffer zone subject to MCWD maintenance. Hopkins will inform MCWD of intended improvements, and consult with MCWD as to any such improvements that may have an impact on water resources. Any improvements will be subject to MCWD permit requirements, as applicable, without permit review costs, fee or financial assurance.
4. The parties will collaborate with respect to signage and other public information within the CPSMPIP. Each party retains the right to install and maintain signage or otherwise engage in any public informational effort with respect to its property, but will consult with the other party. Any public materials will acknowledge the cooperation of the parties in improving and maintaining Cottageville Park.
5. Under the Cottageville Park Agreement, the MCWD Board of Managers determined the pollutant load reduction resulting from the CPSMPIP. On the basis of relative contributions to the costs of stormwater management improvements as reviewed by the parties, the MCWD received credit for 68 percent, and Hopkins received credit for 32 percent, of the pollutant load reduction for the purpose of meeting load allocations in MCWD's watershed plan as well as any other water quality-related purpose. This allocation, and any remaining credits, are affirmed.

B. Design: Gateway and Nature Play Elements

1. The consulting designer retained by MCWD has prepared a 100 percent design for the Gateway and Nature Play Elements, titled "325 Blake Road Regional Stormwater and Greenway Project" (March 2023). The Nature Play Element includes a pedestrian bridge from the easternmost Nature Play parcel over Minnehaha Creek to the south. The MCWD Board of Managers approved the design on May 11, 2023 and the Hopkins City Council provided concurrence on May 16, 2023. The Hopkins Park Board provided concurrence on 90 percent design on February 27, 2023, with which the 100 percent design is consistent.
2. The final design will include signage, and other public information content, design, size, materials and location, which may be further adjusted during the construction period. Signage and other public information will be subject to the Hopkins City Engineer's approval referenced above, not to be unreasonably withheld.
3. Each party may install and maintain public art on the property that it owns. The Gateway Element will be designed to allow for the installation of public art in the future, possibly through the PLACES initiative. If both Hopkins and the MCWD agree that public art is desirable at this location, the parties will work together to identify the process, budget, and maintenance responsibilities of the public art.

Any other public art installation, temporary or permanent, will be approved by both Hopkins and MCWD by amendment to this Project Agreement.

4. Hopkins will coordinate with MCWD with respect to any permits or approvals that Hopkins requires and timely process MCWD applications without permit review costs, fee or financial assurance, and will timely communicate any local requirements regarding traffic, disturbance or occupation of public ways; subsurface utilities or structures on Hopkins real property; and any other matters. Hopkins, in its capacity as property owner, will cooperate with respect to any permits or approvals required by other units of government, however MCWD will bear all associated fees. Hopkins will allow for ingress/egress and occupation of its real property as necessary or convenient for the MCWD contractor to construct the Gateway and Nature Play Elements on the combined parcels.

5. The MCWD design contract will provide that the design warranty, and the hold harmless and indemnification terms associated with it, will run to the benefit of both MCWD and Hopkins.

C. Construction: Gateway and Nature Play Elements

1. MCWD will solicit bids for construction and select a contractor in accordance with applicable law. MCWD will share the bid tabulation with Hopkins and the parties will consult before the MCWD Board of Managers decides on bid alternates, if any, and awards a contract. On the basis of excessive bids or other circumstances contrary to price or schedule expectations, the MCWD Board of Managers, in its discretion and after the parties' consultation, may reject all bids or take any other lawful action with respect to the solicitation.

2. The construction contract will include the following provisions:

- a. That contractor's warranties, hold harmless, and indemnification terms will run to the benefit of both MCWD and Hopkins.
- b. The contractor must name Hopkins as an additional insured for commercial general liability (ongoing and completed operations), automobile liability, and any associated umbrella or excess policy up to \$2 million per event/annual aggregate, with such coverage being primary and non-contributory.
- c. The contractor must obtain and conform to all applicable Hopkins approvals and requirements.

3. MCWD, through its consulting designer, will oversee construction. MCWD will timely notify Hopkins of construction meetings, which Hopkins may attend.

4. MCWD may issue change orders and work change directives, subject to Hopkins' City Engineer's concurrence in any change that may materially affect the layout of the Gateway Element or Nature Play Element, the design or maintenance of a specific feature, or its durability. For such a change, MCWD will notify the Hopkins City Engineer and provide the Hopkins City Engineer at least three full business days to review and respond. If a proposed change order or work change directive requires MCWD Board of Managers approval, MCWD will notify the Hopkins City Engineer at least two business days before board consideration. Hopkins may have additional time, if its concurrence requires specific engineering review. In such a case, the Hopkins City Engineer will exercise good faith and diligence to respond as quickly as possible in recognition of the need to avoid contract delay. Change order and work change directive

concurrence may also be exercised by the City Manager on behalf of Hopkins. Any contract delay cost resulting from Hopkins' contract change review will be shared equally by the parties.

5. MCWD will give the Hopkins City Engineer a notice of substantial completion and notice of completion. Within 15 days of each receipt of notice, the Hopkins City Engineer will concur, or will advise MCWD specifically of its concern regarding the work or its deviation from the approved design. If the work deviates from the contract or approved design, the parties will consult promptly and in good faith to resolve the matter.

6. Before the Gateway Element or Nature Play Element is opened to public use, MCWD will deliver the designer's certification of completion and record drawings to the Hopkins City Engineer. On delivery of the certification and record drawings: (a) Ownership of the improvements encompassed by the Gateway and Nature Play Elements will vest in Hopkins; and (b) Hopkins will hold harmless and release MCWD from all claims with respect to the design and construction of the Gateway and Nature Play Elements, and assume the obligation to defend and indemnify MCWD with respect to all liabilities, damages and costs resulting from any third-party claim arising from the design, construction or use of the Gateway or Nature Play Element, except as set forth in paragraph F below.

D. Cottageville Park Maintenance

1. MCWD has the following inspection, maintenance and replacement obligations:

a. MCWD will maintain native vegetation and buffer zone improvements, as generally demarcated on the Maintenance Site Plan attached as **Exhibit B** hereto and incorporated herein, within the property encompassed by the Cottageville Park Agreement and the Gateway and Nature Play Elements (all together, "Cottageville Park").

b. MCWD will retain ownership of, and be responsible to inspect and maintain the structural integrity of, the pedestrian bridge associated with the Nature Play Element. MCWD is responsible for any repair or replacement of the bridge should it become necessary.

c. If necessary due to structural condition or breakage, MCWD will repair or replace: (i) the watershed map engraving to be installed as a part of the Gateway Element; and (ii) Cottageville Park signage mutually installed. Each party will be responsible to repair or replace signage that it chooses to install unilaterally pursuant to paragraph A.4, above.

d. MCWD is responsible for capital replacement of improvements on that real property encompassed by the Cottageville Park Agreement that the MCWD owns.

2. Hopkins has the following inspection, maintenance and replacement obligations:

a. Hopkins is responsible for day-to-day inspection and maintenance of Cottageville Park, including but not limited to sanitation, inspection for and addressing hazards resulting from events such as severe weather, and public safety. Hopkins will prioritize inspection and maintenance consistent with the parties' shared recognition that the site is locally and regionally visible.

b. Hopkins is responsible for inspecting and maintaining signage and other public information, except for the watershed map referenced in paragraph D.1.c above. Hopkins promptly will

notify MCWD if signage or public information may require replacement due to structural concerns. Each party is responsible for maintaining any public art installation pursuant to paragraph B.3 above.

c. Hopkins is responsible for inspecting and maintaining the subsurface stormwater management system installed as a part of the CPSMPIP in accordance with the operation and maintenance (O&M) plan attached as **Exhibit C** and incorporated herein, and applicable requirements of its NPDES municipal stormwater system (MS4) permit. The parties will act promptly to execute and file for recording the perpetual easement attached hereto as **Exhibit D**, and incorporated herein, with any non-material changes, to afford Hopkins the rights necessary to perform its inspection and maintenance obligations on and beneath MCWD real property.

d. With the exception of those responsibilities allocated to MCWD under subsection D.1, above, Hopkins is responsible for inspection and capital replacement of all Cottageville Park improvements.

3. When construction of the Gateway and Nature Play Elements is complete, each party will deliver to the other an easement for filing in county land records affording the other party all rights necessary for it to meet its inspection, maintenance and replacement obligations under this Section D ("Easements"). The Easements may contain reasonable conditions to protect water resources, native vegetation, buffer areas and existing improvements.

4. The parties will collaborate with respect to adjustments to signage and other public information within the Gateway and Nature Play Elements. Any public materials, including but not limited to signage, will acknowledge the collaboration of the parties in improving and maintaining Cottageville Park and meet any grant agreement requirements for grantor acknowledgement.

5. If the MCWD Board of Managers finds that Hopkins is not meeting an obligation under paragraph D.2.c, above, MCWD will advise Hopkins in writing and the parties will meet promptly and in good faith to review the concern. Thereafter, if MCWD affirms the deficiency in writing and Hopkins fails to cure the deficiency within 30 days after notice or such other time as the parties may agree, MCWD may assume responsibility for the maintenance, with reimbursement by Hopkins for contract costs incurred. If MCWD does not exercise this right, Hopkins' maintenance responsibility and its responsibility for maintenance costs will remain undiminished.

6. If, during the period that this Project Agreement is in effect, either party becomes concerned that, due to poor design or durability, a feature of the Cottageville Park improvements may merit alteration that deviates materially from the design, it will notify the other party, and the parties will consult in good faith to seek concurrence on an adjustment. The parties must agree to any such alteration in writing.

7. Responsibilities under this section D extend for a minimum of 20 years, unless terminated early by agreement of the parties, from the date that the MCWD designer has certified completion of the Gateway and Nature Play Elements. At any time thereafter, either party may notify the other, in writing, of an intent to terminate this Project Agreement as to the Gateway and Nature Play Elements, and the date at which termination will take effect, which must be at least one year after notice. On notice, the parties will consult and consider a mutual course of action, which may include extending the present use

of the real property and the Project Agreement, repurposing the real property by means of a revised agreement, or pursuing separate courses. If the parties do not agree on a course of action, then on the date of termination each party will assume ownership of all improvements encompassing the Gateway and Nature Play Elements on the real property that it owns, and as to each other, all responsibility for the design and condition of those improvements, and each party may repurpose its real property as it chooses.

8. The parties will perform all responsibilities set forth in this section D in accordance with the O&M plan attached hereto as **Exhibit C**.

E. Allocation of Costs

1. MCWD will bear the costs to design and construct the Gateway and Nature Play Elements.
2. Except as explicitly stated in this Project Agreement, each party will bear all other costs it incurs to fulfill its inspection, maintenance, repair, replacement, and other obligations under this Project Agreement.
3. Each party will bear its own administrative costs to implement this Project Agreement.

F. Additional Terms

1. This Project Agreement coordinates the independent activities of the parties to achieve the combined set of municipal and watershed goals. The Project Agreement is not a joint powers agreement. The governing body of each party will retain its authority to direct the activities for which that party is responsible. Neither party is responsible for the acts or omissions of the other within the meaning of Minnesota Statutes 471.59, subdivision 1a(a).
2. Except as explicitly stated in this Project Agreement, only contractual remedies are available for the failure of a party to fulfill the terms of this Project Agreement.
3. Hopkins will hold the MCWD, its board members and employees harmless, and indemnify them, from any and all actions, costs (including reasonable attorney fees), damages and liabilities to the degree they are the result of any action or inaction by Hopkins or its contractor that is the basis for the liability of Hopkins or its contractor in law or equity, including but not limited to ordinary negligence. MCWD will hold Hopkins, its council members and employees, harmless, and indemnify them, from any and all actions, costs (including reasonable attorney fees), damages and liabilities to the degree they are the result of any action or inaction by MCWD or its contractor that is the basis for the liability of MCWD or its contractor in law or equity, including but not limited to ordinary negligence. Notwithstanding the foregoing or any other term of this Project Agreement, neither MCWD nor Hopkins waives immunity in tort. This Project Agreement creates no right in and waives no immunity, defense or liability limit with respect to any third party.
4. Except as explicitly stated in this Project Agreement, the Parties do not intend to confer on any third party any rights under this Agreement.
5. Any notices permitted or required by this Project Agreement shall be deemed given when in writing, explicitly referenced to this Project Agreement, and received by the following representative of the receiving party:

Josh Wolf, Project and Land Program Manager
Minnehaha Creek Watershed District
15320 Minnetonka Boulevard
Minnetonka, MN 55345
952-641-4588
jwolf@minnehahacreek.org

PeggySue Imihy Bean, Special Projects and Initiatives Manager
City of Hopkins
1010 1st Street South
Hopkins, MN 55343
952-548-6344
pimihy@hopkinsmn.com

A party may change its representative by written notice to the other party.

6. Data provided, produced or obtained under this Project Agreement shall be administered in accordance with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13. The parties will immediately report to each other any requests from third parties for information relating to this Project Agreement. The parties agree to promptly respond to inquiries from each other concerning data requests.

7. This Project Agreement shall be governed by and construed in accordance with the laws of Minnesota. Any disputes, controversies, or claims arising under this Project Agreement shall be heard in the state or federal courts of Minnesota.

8. This Project Agreement may not be assigned by either party without the written consent of the other party.

9. The parties agree not to discriminate in providing products and services under this Project Agreement on the basis of race, color, sex, creed, national origin, disability, age, sexual orientation, status with regard to public assistance, or religion.

10. The provisions of this Project Agreement are severable and, if any portion of this Project Agreement is for any reason held by a court of competent jurisdiction to be contrary to law, such decision will not affect the remaining provisions of the Project Agreement.

11. Any waiver by either party of a breach of any provision of this Project Agreement will not affect, in any respect, the validity of the remainder of this Project Agreement.

12. The parties will comply with applicable federal, state, and local laws, statutes, rules, ordinances, and regulations in effect as of the date of this Project Agreement.

13. Notwithstanding any other provision to the contrary, this Project Agreement may be terminated by mutual written agreement at any time.

14. Each of the parties recognizes and acknowledges that a breach by it of any covenants contained in this Project Agreement will cause the other party to sustain damages for which it would not have an adequate remedy at law for money damages, and therefore each of the parties agrees that in the event

of any such breach the aggrieved party shall be entitled to the remedy of specific performance of such covenants and agreements and injunctive and other equitable relief to which it may be entitled, at law or in equity.

15. This Project Agreement shall constitute the entire agreement between the parties. This Project Agreement supersedes any other written or oral agreements between the parties. This Project Agreement may only be modified in writing signed by the parties.

[Signature page to follow]

DRAFT

THE CITY OF HOPKINS:

**THE MINNEHAHA CREEK WATERSHED
DISTRICT:**

By: _____

By: _____

Its: Mayor

Its: _____

Date: _____

Date: _____

By: _____

By: _____

Its: City Manager

Its: _____

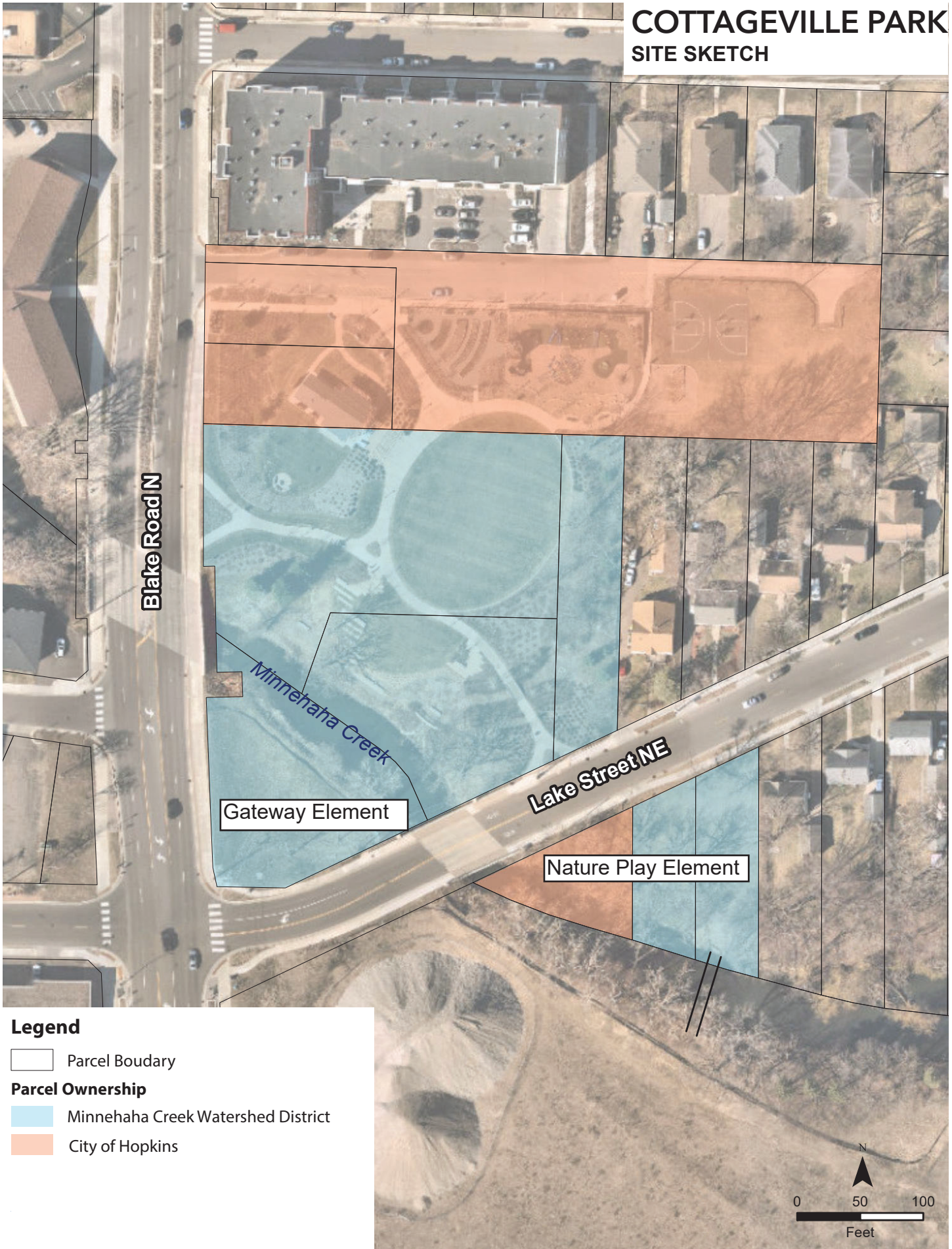
Date: _____

Date: _____

DRAFT

Exhibit A

COTTAGEVILLE PARK SITE SKETCH



Legend

 Parcel Boundary

Parcel Ownership

 Minnehaha Creek Watershed District


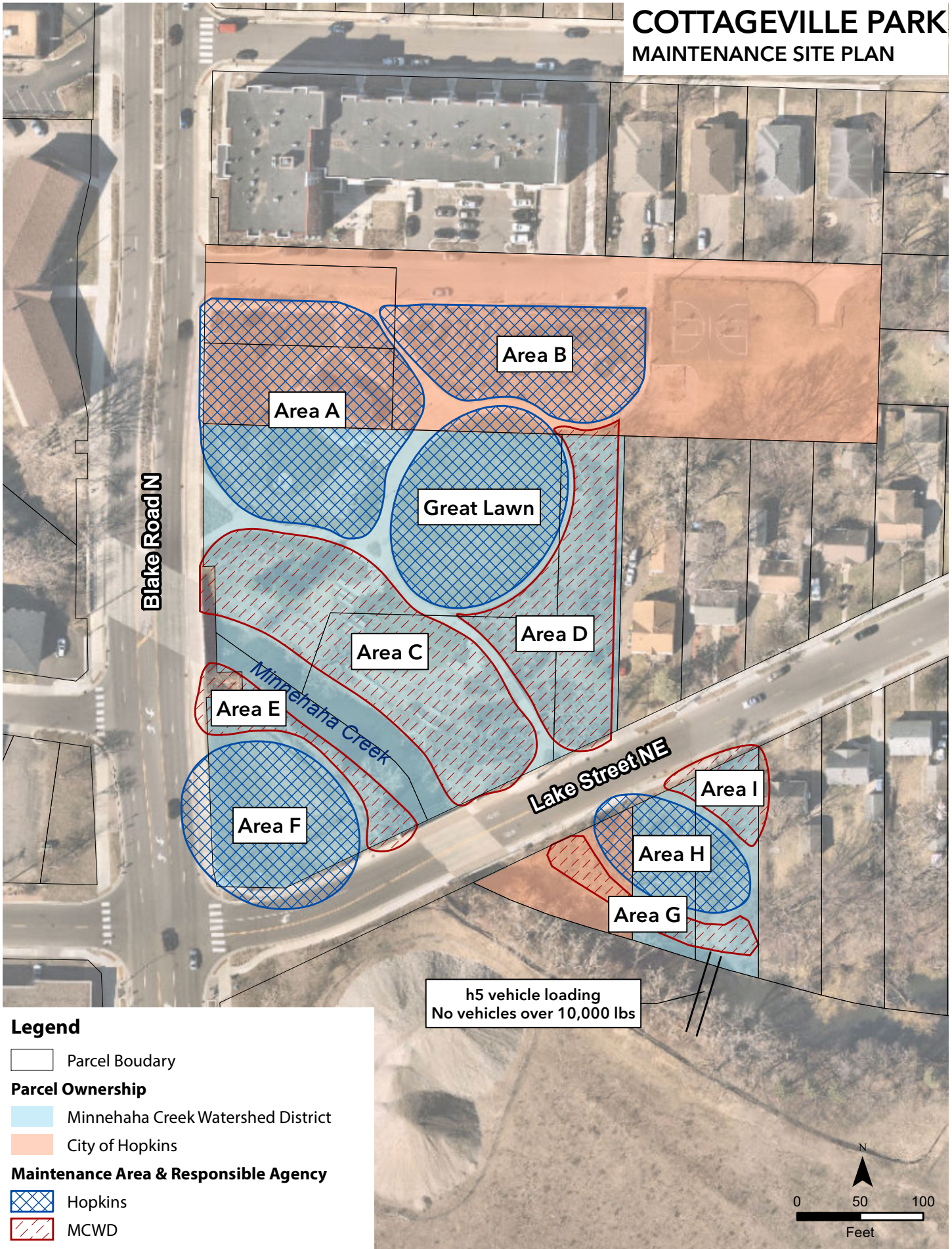
 City of Hopkins



Exhibit B

COTTAGEVILLE PARK MAINTENANCE SITE PLAN





Cottageville Park Restoration Project Operations and Maintenance Plan

April 2023

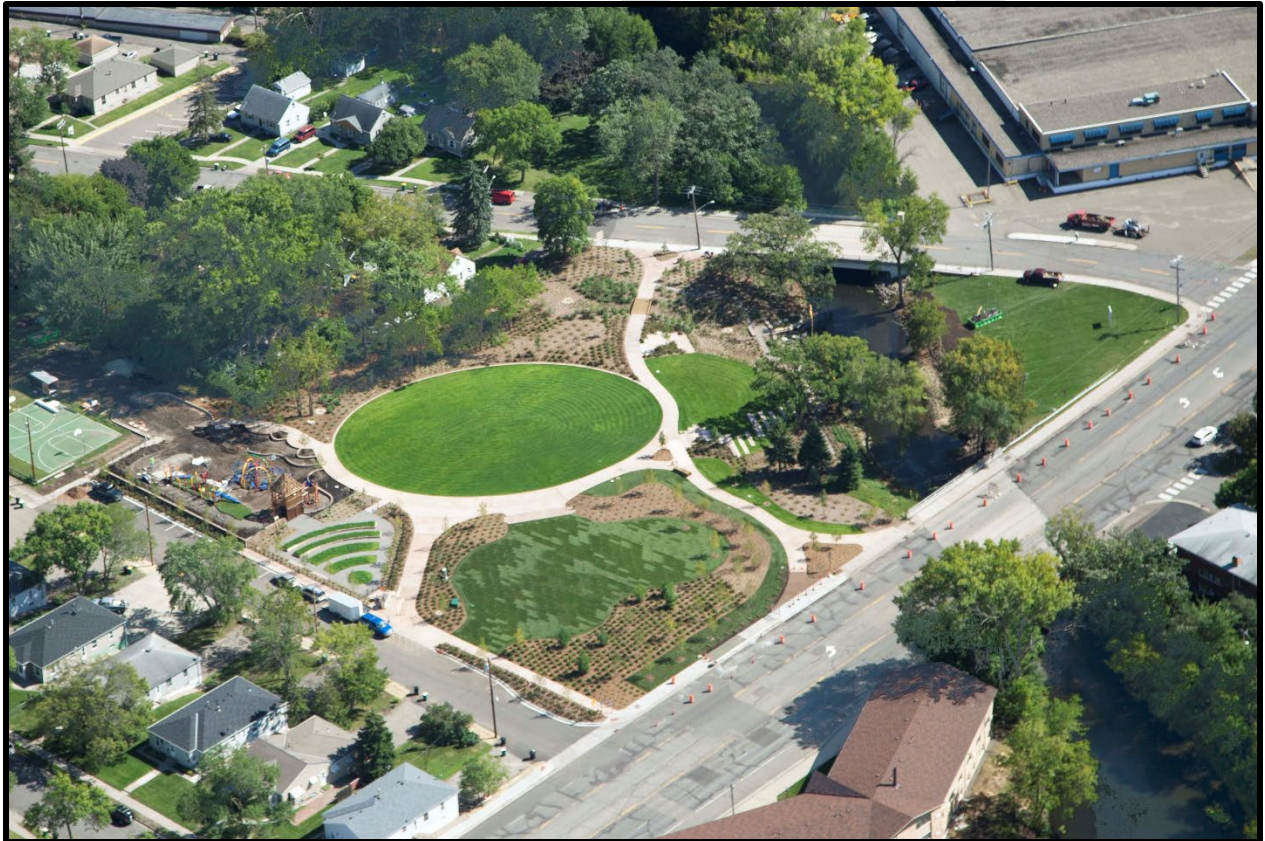


Photo Courtesy of Erdahl Photos

EXECUTIVE SUMMARY

Constructed in 2015 through a partnership between the Minnehaha Creek Watershed District (MCWD or District) and the City of Hopkins, the Cottageville Park project transformed a formerly hidden park into a community amenity that created nearly 5 acres of new park space which includes a new play area, community garden, trails, seating, lighting, educational signage, and a pavilion. The park lies on adjacent tracts of land owned by MCWD and the City of Hopkins. This project is part of the Minnehaha Creek Greenway, which is a stretch of more than 109 acres of continuous green space constructed or planned for construction along Minnehaha Creek in Hopkins and St. Louis Park.

The space below the park features an underground filtration system which treats polluted stormwater runoff from 22 acres of land area that previously flowed untreated into Minnehaha Creek. This stormwater system keeps approximately 26 pounds of phosphorus and 2.8 tons of sediment from entering Minnehaha Creek annually. The park also features native plantings throughout the park and along the 400 feet of Minnehaha Creek frontage, which reduces erosion during high flow events, filters stormwater, and improves habitat for fish and wildlife.

In 2021 and 2022, MCWD designed improvements for the remaining parcels slated to become part of Cottageville Park. These improvements include the Gateway to Greenway on the parcel across Minnehaha Creek from the existing park (designated as Phase II), and the Nature Play area on the parcels located across Lake St from the existing park (designated as Phase III). The Nature Play area includes nature-based play equipment, an extension of the Minnehaha Creek Greenway trail, and a pedestrian bridge that connects Cottageville Park to the 325 Blake Rd restoration and redevelopment across Minnehaha Creek. The Gateway to Greenway features a pergola and native plantings.

To ensure that maintenance roles and responsibilities for Cottageville Park are clearly communicated between the project partners, this Operations and Maintenance (O&M) plan has been prepared as a cooperative effort by MCWD and the City of Hopkins. To fulfill the conditions of the Project Agreement for Cottageville Park Improvement and Maintenance (“Project Agreement”), and to further the mutual goals of the District and the City, this O&M plan outlines specific roles and responsibilities to maintain the Cottageville Park project.

This O&M Plan is organized into the following sections:

- I. Introduction
- II. Site Boundaries and Key Areas of Inspection and Maintenance
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- IV. Site Protection and Safety
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I. Introduction

A Cooperative Agreement between MCWD and the City of Hopkins (Hopkins) was executed on September 10, 2010, and was amended twice. It described roles and responsibilities to design,

construct and maintain the Cottageville Park Stormwater Management and Park Improvement Project (Project). The Cooperative Agreement stated that the City of Hopkins would maintain the vegetation and stormwater management facilities in accordance with a facility and vegetation management plan approved by MCWD. In 2023, the superseding Project Agreement was executed by the parties to update and establish the terms for ongoing Project maintenance, incorporating construction and maintenance of the Gateway to Greenway and Nature Play parcels and improvements with ongoing Project maintenance terms from the Cooperative Agreement. This O&M plan was drafted to implement the Project Agreement and is attached to and incorporated into it.

Under the Project Agreement, MCWD may inspect the facilities and vegetation to confirm that Hopkins' maintenance is meeting the requirements of this O&M Plan. If MCWD finds that the maintenance is not meeting the requirements, MCWD may provide Hopkins a written notification describing the deficiency, and Hopkins has 30 days (or another agreed upon timeframe) to correct the issues. If corrections are not promptly made, MCWD may perform maintenance and be reimbursed by Hopkins for its costs.

The Project Agreement also states generally that MCWD and Hopkins together will design, install and maintain project signage and that the sign materials will acknowledge the shared participation of the parties in the project.

This O&M plan lists specific maintenance needs, frequency of maintenance activities, the responsible party, and any coordination that the maintenance involves. All maintenance and other activities will reasonably minimize impact to the surrounding natural environment and to any prior-constructed improvements. Each party is responsible for any damage its activity causes to the facilities owned by the other party.

Under this O&M plan, each party will perform certain inspection, maintenance and replacement activities on the real property of the other party. The parties have conveyed cross-easements to allow for this work to occur. The easement is an exhibit to the Project Agreement. Each party will perform all work under this plan in accordance with the easement terms.

Regular inspections and indicated maintenance of project facilities will reduce the risk of safety hazards, support facility longevity, and allow for timely work to maintain the integrity of the facilities and the project as a whole. Documentation of inspection and maintenance work is important for proper facility management, and also to protect the parties in the event of an injury or other occurrence that may prompt a liability claim. Annually, the City of Hopkins and MCWD will share their respective inspection, monitoring and maintenance records for the activities identified in Table 2 (City of Hopkins and MCWD Stormwater System Inspections, Operations, and Maintenance Tasks), including any follow-up maintenance that was required.

II. Site Boundaries and Key Areas of Inspection and Maintenance

Attachment A, Maintenance Site Plan, details property boundaries, the project area subject to this Maintenance Plan, and key areas of inspection and maintenance identified in Tables 1-4.

III. Project Elements Requiring Maintenance

Tables 1-4 specify the facilities that require routine inspection and maintenance, potential issues with those facilities, frequency at which inspection and/or maintenance is to occur, and the party responsible for inspection and/or maintenance. The inspection frequency for items listed below is based on a consideration of potential hazards, public use patterns, the benefits of early identification of maintenance and repair needs, and staff/contractor costs. The attached Maintenance Site Plan (Attachment A) identifies location(s) of indicated facilities. Each responsible party will seek to inform the other promptly of observed maintenance needs and, at times other than those indicated in the tables, respond to information received about site conditions.

Maintenance activities in Tables 1-4 with more detailed descriptions or instructions are listed below.

Table 1: City of Hopkins Cottageville Park Inspection, Operations, and Maintenance Tasks

All Park Areas – Areas A, B, C, D, E, F, G, H, I & Great Lawn			
Facility to be Maintained or Inspected; Maintenance Activity	Description	Frequency	Comments/ Responsible Party
Pavilion	Inspect bathrooms General maintenance	Daily: in season Weekly	Hopkins inspects and maintains
Trash receptacles maintenance	Removal of trash from receptacles	Weekly	Hopkins maintains
Litter and debris removal	Remove trash, debris, and litter from site areas, and accessible site components. No structure entry anticipated. Sweep ground and surfaces clear of sediment, litter, and organic debris – bagging and removing as necessary. Excessive organic debris should be removed when it is near drainage structures, in vegetated areas that may impede the proper growth of desirable vegetation, or otherwise impacts site function. Woody debris should be removed when it is accumulated in an area that inhibits site function or poses an aesthetic or	Weekly or as required	Hopkins maintains

	safety issue, or may be relocated when it is found in a vegetated area. Sweep loose aggregate / mulch onto proper surface.		
Mulched natural surface trails	Litter & debris removal, flow path clearing, weed control, groundcover refreshing	Weekly: litter & debris removal. Monthly: flow path clearing. Monthly during growing season: weed control. Seasonally: groundcover refreshing	Hopkins inspects and maintains
Turf maintenance	Mowing, weed treatment, fertilization, and adjustment of irrigation	As needed throughout growing season	Hopkins maintains
Trail Mowing	Mow a 3-foot-wide strip along pedestrian areas. String trimming permitted in difficult to reach areas.	Monthly during growing season	Hopkins maintains
Irrigation system use and maintenance	Irrigation system will need spring “start-up” and fall “shut-down” as well as periodic adjustments throughout the growing season; Hopkins to consider a soil moisture sensor to automatically adjust irrigation. Repair leaking irrigation or damaged emitters.	Spring: start-up. Growing season: adjustment and maintenance. Fall: Blow out irrigation lines and winterize system	Hopkins operates, inspects, and maintains. Contact irrigation contractor for repairs if necessary. MCWD to contact Hopkins if irrigation levels are not appropriate for landscape plantings.
Removal of trees/limbs capable of falling	Evaluation/ removal of unhealthy or dead trees and limbs	Twice annually in spring and fall and after major storms	Hopkins inspects and maintains. Where the work involves specimen oaks along the streambank, absent immediate hazard, Hopkins will contact the MCWD before tree or limb removal.
Benches maintenance	Materials can degrade over time; benches may be vandalized	Twice annually in spring and fall	Hopkins inspects and maintains
Drinking fountain maintenance	Drinking fountain will need periodic inspection for repair needs related to regular use; will need to be winterized annually	Twice annually in spring and fall	Hopkins inspects and maintains
Bicycle rack maintenance	Racks will need periodic inspection for repair needs related to regular use	Twice annually in spring and fall	Hopkins inspects and maintains

Electrical utility and lighting (poles and fixtures) maintenance	Utilities will need periodic inspection for repair needs related to regular use; replacement of lighting components will be required	Twice annually in spring and fall	Hopkins inspects and maintains
Interpretive signage	Develop, locate, and maintain informational and interpretive signs	Twice annually in spring and fall	MCWD and Hopkins jointly maintain
Wayfinding/directional signage	Develop, locate, and maintain wayfinding and directional signs	Twice annually in spring and fall	MCWD and Hopkins jointly maintain
Erosion on path edges/slopes	Unstable slopes adjacent to path erodes	Annually in spring; as needed after storm events	Hopkins inspects and maintains
Debris on paths	Leaves, sticks, dirt accumulate on trail	Annually in spring	Hopkins inspects and maintains with blower/sweeper
Settling around storm pipes under concrete trail	Trail settles on either side of storm pipe causing uneven trail	Annually in spring	Hopkins inspects and maintains
Concrete paths, steppers, and pavers	Freeze/thaw or tree roots cause concrete to heave	Annually in spring	Hopkins inspects and maintains
Timber walk sections maintenance	Timbers can degrade over time	Annually in spring	Hopkins inspects and maintains
Steel edging maintenance	May become damaged from turf mowing and snow removal	Annually in spring	Hopkins inspects and maintains
Timber walk abutments	Frost and water cause path and timber walk abutment to become askew	Annually in spring	Hopkins inspects and maintains
Furnishing Refreshing	Remove and sand jagged surfaces and protrusions. Oil wooden benches and surfaces based on aesthetic desired. Power wash solid stone and wood surfaces. Remove graffiti and repaint. Replace and restore loose aggregate areas.	Annually in spring	Hopkins inspects and maintains
Aggregate Refreshing	Replace and restore loose aggregate areas.	Annually in spring	Hopkins inspects and maintains
Pruning	Prune woody vegetation within 5 feet of pedestrian areas for proper structure, removal of dead limbs, and provide 14-foot vertical clearance.	Annually in late Fall	Hopkins inspects and maintains
Snow removal	Snow and ice accumulation during the winter months, including pedestrian bridge	As needed throughout winter season	Hopkins inspects and maintains

Inspect for bee/wasp nests	Railings, timber walks, and benches may be locations for bee/wasp nests	As needed	Hopkins inspects and maintains
Graffiti control	Remove graffiti, re-paint surfaces	As needed	Hopkins inspects and maintains
Wildlife control	Wildlife abatement	As needed	Hopkins addresses on as-needed basis
Minor Concrete/Masonry Repair	Repair spalling, cracking, or displaced/loose concrete or masonry site components. Repair damage with parging, patching, or replacement of missing components. Major repairs may need to be professionally contracted.	As needed	Hopkins inspects and maintains
Metal Structure Repair	Paint chips, flaking, or corrosion. On painted metal structures, remove excess rust through mechanical means (wire brush or sanding), and apply touch-up paint to cover chips. On galvanized steel structures, remove excess rust through mechanical means (wire brush or sanding), and apply cold galvanize to the affected area.	As needed	Hopkins inspects and maintains

Playground & Community Garden – Area B

Facility to be Maintained or Inspected	Description	Frequency	Comments/ Responsible Party
Playground Area	Equipment safety inspection General maintenance	Monthly Weekly	Hopkins inspects and maintains
Community garden fence maintenance	Fence will need periodic inspection for repair needs related to regular use	Twice annually in spring and fall	Hopkins inspects and maintains

Gateway – Area F

Facility to be Maintained or Inspected	Description	Frequency	Comments/ Responsible Party
Gateway Pergola	Litter & debris removal, wipe down surfaces, and furnishing refreshing.	Weekly: litter & debris removal. Monthly: wipe down surfaces. Seasonally: furnishing refreshing	Hopkins inspects and maintains
Decorative concrete	Litter & debris removal, flow path clearing, weed control,	Weekly: litter & debris removal. Monthly: flow path clearing.	Hopkins inspects and conducts weekly, monthly, and seasonal

	groundcover refreshing, minor concrete repair	Monthly during growing season: weed control. Seasonally: groundcover refreshing. As needed based on inspection: minor concrete repair	maintenance. MCWD repairs and replaces damaged portions.
Wooden benches	Litter & debris removal, wipe down surfaces, furnishing refreshing. Replace broken or carved (vandalized) slats. Minor split or checked slats should be sanded to reduce the chance of splinters. Follow the manufacturer's recommendation on finishing bench tops with oil depending on desired aesthetic.	Weekly: litter & debris removal. Monthly: wipe down surfaces. Seasonally: furnishing refreshing and winterization	Hopkins inspects and maintains
Swing benches	Litter & debris removal, wipe down surfaces, furnishing refreshing	Weekly: litter & debris removal. Monthly: wipe down surfaces. Seasonally: furnishing refreshing and winterization	Hopkins inspects and maintains
Interpretive features	TBD	TBD	TBD
Picnic tables	Litter & debris removal, wipe down surfaces, furnishing refreshing	Weekly: litter & debris removal. Monthly: wipe down. Seasonally: furnishing refreshing and winterization	Hopkins inspects and maintains
Natural stone seat wall and step units	Stone block seating and stone step units. Litter & debris removal, flow path clearing, groundcover & furnishing refreshing, minor concrete/masonry repair, stain removal through power washing with hot water.	Weekly: litter & debris removal. Monthly: flow path clearing. Seasonally: groundcover & furnishing refreshing. As needed based on inspection: minor concrete/masonry repair, stain removal	Hopkins inspects and maintains
Nature Play – Area H			
Facility to be Maintained or Inspected	Description	Frequency	Comments/ Responsible Party
Nature Play Area play equipment and surfacing	Consists of engineered wood fiber, synthetic turf mounds, precast acorns, nature-based	Weekly: litter & debris removal. Monthly: flow path clearing and	Hopkins inspects and maintains

	<p>play features. Litter & debris removal, flow path clearing, wipe down surfaces, groundcover & furnishing refreshing. When engineered wood fiber depth is inconsistent, rake to consistent depth, supplementing with additional fiber as needed to maintain a 9-inch depth within a six-foot fall radius around play structures. When loose hardware, sharp edges, or split wood is present, loose fasteners should be tightened and sharp edges should be sanded. Power wash acorns if staining occurs, and contact precast supplier for patching material and instructions for any chipping.</p>	<p>wipe down surfaces. Seasonally: groundcover & furnishing refreshing</p>	
Nature Play Area wood post barrier fence	<p>If wood splits or checking, degraded rope, or loose hardware is present, tighten loose fasteners, sand sharp edges created by wood checks, and tighten or replace rope as needed.</p>	<p>Inspect twice annually or as needed</p>	<p>Hopkins inspects and maintains</p>
Crushed aggregate surfacing	<p>Litter & debris removal, flow path clearing, weed control, groundcover refreshing when settled or bare areas of crushed aggregate are present through filling low areas with material specified in construction drawings and compacting in place.</p>	<p>Weekly: litter & debris removal. Monthly: flow path clearing. Monthly during growing season: weed control. Seasonally: groundcover refreshing</p>	<p>Hopkins inspects and maintains</p>
Mulched natural surface trails	<p>Litter & debris removal, flow path clearing, weed control, groundcover refreshing</p>	<p>Weekly: litter & debris removal. Monthly: flow path clearing. Monthly during growing season: weed control. Seasonally: groundcover refreshing</p>	<p>Hopkins inspects and maintains</p>
Wooden benches	<p>Litter & debris removal, wipe down surfaces, furnishing refreshing. Replace broken or carved (vandalized) slats. Minor</p>	<p>Weekly: litter & debris removal. Monthly: wipe down surfaces. Seasonally: furnishing</p>	<p>Hopkins inspects and maintains</p>

	split or checked slats should be sanded to reduce the chance of splinters. Follow the manufacturer’s recommendation on finishing bench tops with oil depending on desired aesthetic.	refreshing and winterization	
Picnic tables	Litter & debris removal, wipe down surfaces, furnishing refreshing	Weekly: litter & debris removal. Monthly: wipe down. Seasonally: furnishing refreshing and winterization	Hopkins inspects and maintains
Pedestrian Bridge	Litter & debris removal, wipe down surfaces, and furnishing refreshing. Check for chipped paint, loose guardrail cables, and erosion around bridge abutments. On galvanized steel structures, remove excess rust through mechanical means (wire brush or sanding), and apply cold galvanize to the affected area. If guardrail cables are loose, first attempt to tighten cable at turnbuckle. If unsuccessful contact manufacturer for replacement cable and installation instructions. Erosion around bridge abutments should be corrected to prevent undermining of foundations.	Weekly: litter & debris removal. Monthly: wipe down surfaces. Seasonally: winterization; snow removal; furnishing refreshing Inspect twice annually or as needed.	Hopkins conducts weekly maintenance and snow and ice removal. MCWD inspects and maintains bridge structure and components for structural integrity and long-term condition.

Table 2: City of Hopkins and MCWD Stormwater System Inspection, Operations, and Maintenance Tasks

Stormwater System – Areas C, D & Great Lawn			
Maintenance or Inspection Activity	Description	Frequency	Comments/Responsible Party
Drainage Structure Clearing	Clear structures and grates to facilitate proper function of drainage structures	Monthly	Hopkins inspects and maintains
Flow Path Clearing	Remove obstructions and debris to promote proper overland flow	Monthly	Hopkins inspects and maintains

Storm sewer and Filtration system monitoring	MCWD monitors for performance: samples stormwater at system inlet and system outlet to determine phosphorous removal concentrations	Monitor April through October, after precipitation events	MCWD performs stormwater sampling and monitoring
Stormwater facilities, sewer pipes and pre-treatment system	Remove sediment, trash, and debris. Cleanout storm sewer pipes and manholes 1, 2, 3, and 5 which contain baffled sumps. Sediment removal requires a vacuum truck which will be located only on Hopkins property. Hoses will be utilized as necessary on MCWD property.	Inspect and clean annually in late summer or fall	Hopkins inspects and maintains
Replace filter media	Remove and replace filter media with fresh sand, iron filings (5%) and coarse aggregate	Replacement occurs when MCWD stormwater monitoring data indicate filter media is not removing phosphorous per project design (typically each 6-8 years)	Hopkins performs system maintenance to remove and replace filter media
Maintenance Records	Documentation of inspections, data, and maintenance activities performed	As actions are performed	MCWD and Hopkins document actions for activities indicated in this table and provide inspection and maintenance information as requested

Table 3: City of Hopkins Vegetation Management Inspection, Operations, and Maintenance Tasks and Responsibilities

Pavilion and Playground – Areas A & B			
Maintenance or Inspection Activity	Description	Frequency	Comments/Responsible Party
Landscape vegetation management within the pavilion area (Area A) and playground area (Area B)	Weed treatment (herbicide application, spot mowing or hand weeding), plant replacement, pruning, and monitoring	Weed treatment 3 times during growing season at minimum; plant replacement and pruning once	Hopkins inspects and maintains

		annually or as needed	
Hardwood mulch maintenance within the pavilion area (Area A) and playground area (Area B)	Replace shredded hardwood mulch throughout Area A and Area B	Once annually in spring	Hopkins has shredded hardwood mulch for park use. Hopkins installs in spring as necessary (approx. every other year)
Re-Planting	Replant bare areas (missing more than approximately 30 square feet of vegetation) with native plantings based on the original planting plan	As needed based on inspection	Hopkins inspects and maintains
Gateway & Nature Play – Areas F & H			
Facility to be Maintained or Inspected; Maintenance Activity	Description	Frequency	Comments/ Responsible Party
Landscape vegetation within the Gateway and Nature Play areas	These areas are highly visible to the public and maintenance activities are performed more frequently. Shrub and tree pruning, refresh mulch, weeding, cutting back previous seasonal growth, trunk protection. Review snow removal plan & storage areas with MCWD maintenance staff. Bare areas should be replanted/reseeded based on the original planting plan.	Monthly June through September: weeding. Annually: Shrub and tree pruning, refresh mulch. Annually in late May: Cut back previous season seedheads & grasses (cut perennials back to 4-6", cut grasses back to top of clump mass). Prune flopping/ drooping material for aesthetics (leaf litter in beds may be used as protective mulch over winter). Late October: Install trunk protection on trees as needed to prevent damage from wildlife	Hopkins inspects and maintains
Re-Planting	Replant bare areas (missing more than approximately 30 square feet of vegetation) with native plantings based on the original planting plan	As needed based on inspection	Hopkins inspects and maintains

Table 4: MCWD Vegetation Management Inspection, Operations, and Maintenance Tasks and Responsibilities

Streambank and Landscape Area to the southeast of the Great Lawn - Areas C & D			
Maintenance or Inspection Activity; Maintenance Activity	Description	Frequency	Comments/Responsible Party
Landscape vegetation management within the area adjacent to the creek (Area C) and areas south and east of the oval lawn (Area D) including trees; does not include turf	Weed treatment (herbicide application, spot mowing, or hand weeding), plant replacement, pruning, and monitoring	Weed treatment 3 times during growing season at minimum; plant replacement and pruning once annually or as needed	MCWD inspects and maintains
Streambank/floodplain vegetation management and erosion control prevention	Weed treatment (herbicide application or hand weeding), plant replacement, pruning, application of erosion control practices	Weed treatment 3 times during growing season at minimum; plant replacement and pruning once annually or as needed; determine need for erosion control once annually	MCWD inspects and maintains
Hardwood mulch maintenance within the area adjacent to the creek (Area C) and areas south and east of the oval lawn (Area D) including trees	Replace shredded hardwood mulch throughout Area C and Area D	Once annually in spring	Hopkins has shredded hardwood mulch for park use. MCWD Contractor installs in spring as necessary (approx. every other year)
Pruning	Prune woody vegetation within 5 feet of pedestrian areas for proper structure, removal of dead limbs, and provide 14-foot vertical clearance	Annually in late Fall	MCWD inspects and maintains
Planting & Mulching	Replant bare areas (missing more than approximately 30 square feet of vegetation) with native plantings based on the original planting plan. Refresh shredded hardwood mulch approximately every 2-3 years in plant beds.	As needed based on inspection	MCWD inspects and maintains
Gateway & Nature Play – Areas E, G, & I			

Maintenance or Inspection Activity; Maintenance Activity	Description	Frequency	Comments/Responsible Party
Landscape vegetation within the Gateway and Nature Play areas	Weeding, shrub and tree pruning, trunk protection. Bare areas should be replanted/reseeded based on the original planting plan.	Monthly during the first three years from June through September: weeding. Every two to five years: Shrub and tree pruning. Late October: Install trunk protection on trees as needed to prevent damage from wildlife. As needed: to ensure a safe, functional, and clean site	MCWD inspects and maintains
Rain Gardens	Rain gardens at Gateway and Nature Play consist of vegetated areas, drainage structures, and subdrains. Litter & debris removal, drainage structure and flow path clearing, weed control, pruning, winterization, drainage structure maintenance, pipe maintenance, erosion repair, minor concrete/masonry repair, planting and mulching.	Weekly: litter & debris removal. Monthly: drainage structure and flow path clearing. Monthly during growing season: weed control. Seasonally: pruning and winterization. As needed based on inspection: Drainage structure, pipe, erosion, minor concrete/masonry maintenance and repair. Planting and mulching.	MCWD inspects and maintains

IV. Site Protection and Safety

The City of Hopkins is responsible to maintain the entire park, including the pedestrian bridge, on a day-to-day basis for purposes of sanitation, snow and ice management, and public safety.

The City of Hopkins will set ordinances and other terms for public use of the park. The City will prohibit the operation of motorized vehicles within the park, except as required under the Americans with

Disabilities Act or other legal requirements. The City's use of motorized vehicles or equipment on MCWD property will be in accordance with the easement referenced in section I, above.

MCWD will coordinate with the City of Hopkins to designate location names for various areas of Cottageville Park to aid emergency personnel in locating park users in need of assistance.

Hopkins will trim vegetation to maintain adequate sight lines and visibility for crime prevention purposes, except that MCWD will be responsible for native vegetation management as set forth in the Project Agreement. The City of Hopkins and MCWD will coordinate to identify areas that require open sight lines, and the City and MCWD each will prune and trim within its area of management as indicated in Tables 1-4, above.

The City of Hopkins regulates the removal of graffiti by City ordinance (City Code Section 405). Certain areas of the park are problem areas for litter. Large garbage bins are located at the park entrances, near the playground, and at the Nature Play area and are maintained by the City of Hopkins.

V. Conclusion

The City of Hopkins and MCWD accept perpetual maintenance responsibility for the project elements detailed within this Operations and Maintenance Plan but will work to coordinate specific maintenance tasks determined to be necessary. The parties will work together in good faith to protect the condition of the facilities as a whole.

This Operation & Maintenance Plan sets forth the maintenance responsibilities as provided for in the Project Agreement.

IN WITNESS WHEREOF, the parties execute this Operations & Maintenance Plan by their authorized officers.

CITY OF HOPKINS

By _____ Date: _____

Its City Manager

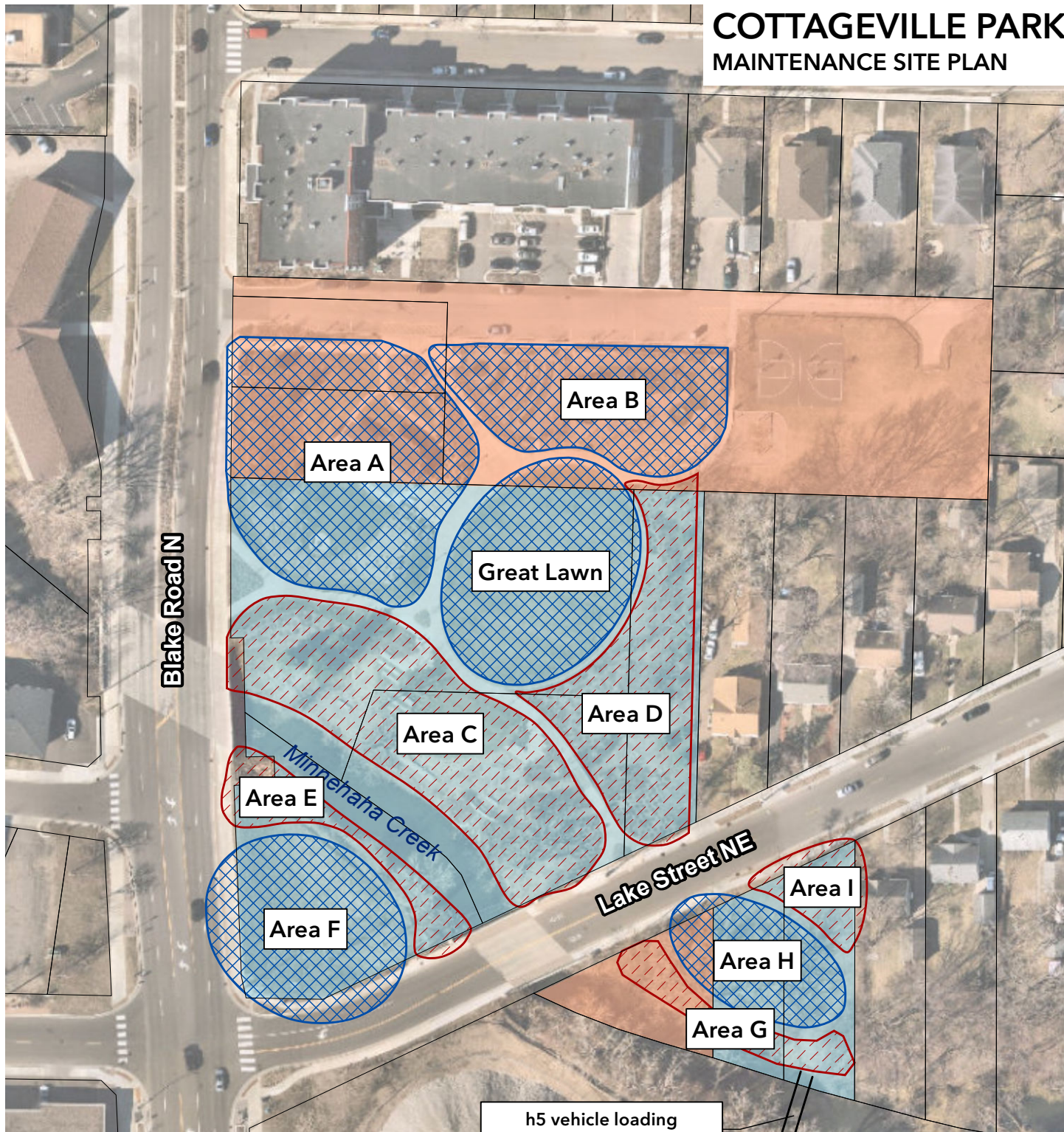
MINNEHAHA CREEK WATERSHED DISTRICT

By _____ Date: _____

Its Administrator

DRAFT

COTTAGEVILLE PARK MAINTENANCE SITE PLAN



Legend

Parcel Boudary

Parcel Ownership

Minnehaha Creek Watershed District

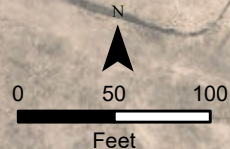
City of Hopkins

Maintenance Area & Responsible Agency

Hopkins

MCWD

h5 vehicle loading
No vehicles over 10,000 lbs



EASEMENT

On the Property of the Minnehaha Creek Watershed District Hennepin County, Minnesota

Legal description of Burdened Property:

See Attachment A

THIS EASEMENT is entered into between the Minnehaha Creek Watershed District, a special-purpose governmental body with authorities specified at Minnesota Statutes Chapters 103B and 103D (“Grantor”), and the City of Hopkins, a home rule charter city of the State of Minnesota (“Grantee”) (together, the “Parties”).

RECITALS

A. Grantor owns the Burdened Property in fee, which is adjacent to a parcel owned by Grantee in fee. The Parties partnered to design and construct public park improvements on the two adjacent parcels. As a part of these improvements, the Parties constructed a stormwater management facility to treat stormwater runoff from the contributing developed subwatershed (“Facility”). The Facility consists of four sump/baffle manholes, an underground pipe gallery, a chamber containing an iron-enhanced sand filter medium, tile to collect and convey stormwater passing through the chamber, an outlet structure with stone veneer discharging into Minnehaha Creek, and associated appurtenances. The Facility is located in part under each of the twoparcels.

B. By agreement of the Parties, Grantor is responsible to maintain native vegetation, creek buffer zone improvements and signage on the Burdened Property, and Grantee is responsible to: (1) provide day-to-day maintenance of the remainder of the public space on the Burdened Property, including but not limited to sanitation, inspection for and addressing hazards resulting from events such as severe weather, and public safety; and (2) maintain the Facility.

C. Grantor conveys this Easement to Grantee so as to allow Grantee to fulfill its maintenance obligations on and under the Burdened Property as described in Recital B, and set forth more fully in one or more agreements between the Parties.

TERMS

1. Grantee may enter on and beneath the Burdened Property on foot and may use hand-operated motorized and non-motorized equipment, and self-propelled mowing equipment, to perform inspection and maintenance activities described at Recital B, above. Grantee may operate other small self-propelled motorized equipment to facilitate maintenance activity but will restrict such equipment to paved areas. When a vacuum truck or similar vehicle is used to maintain elements of the Facility, it may be operated on the Burdened Property, but will be restricted to paved areas.
2. Notwithstanding section 1, Grantee may occupy the Burdened Property in a more extensive manner as necessary or convenient to remove and replace iron-sand medium and otherwise to perform unscheduled maintenance or repair work of a more substantial nature. In this case, the Parties will consult in advance and determine reasonable terms for Grantee's occupation that avoid damage or interference of use unacceptable to Grantor. Notwithstanding the previous sentence, if Grantee determines it must occupy the Burdened Property immediately to prevent injury, environmental harm or material property damage, it will take reasonable steps to notify Grantor before entering the Burdened Property and, in any event, will notify Grantor by the next businessday.
3. In exercising its easement rights, Grantee will avoid damage to any tree or root system, native vegetation, improvements and signage, and will avoid actions that foster erosion of the creek bank. Grantee will remove all trash and debris and will repair any damage to soils, vegetation, paved or installed surfaces or other surface or subsurface improvements resulting from its activity on the Burdened Property.
4. In exercising its easement rights, Grantee is acting on its own behalf and not in any respect as agent or representative of Grantor. Grantor and Grantee each remains solely responsible to maintain liability and other insurance as each deems appropriate for its actions on and authority over the Burdened Property.
5. The above recitals are incorporated into this Easement as terms hereof. The Parties may amend this Easement only by a duly executed writing. This Easement will run with the land in perpetuity and bind and benefit the parties and their respective representatives, heirs, successors, assigns and all others who exercise any right by or through them. Grantee, at its cost, may file and refile this Easement in the Hennepin County land records.

MINNEHAHA CREEK WATERSHED DISTRICT, Grantor

Sherry Davis White, President

Date:

STATE OF MINNESOTA
COUNTY OF HENNEPIN

This instrument was acknowledged before me this ___ day of _____, 2023, by Sherry Davis White as President of the Minnehaha Creek Watershed District.

Notary Public

ACCEPTED:

CITY of HOPKINS, Grantee

By: Patrick Hanlon, Mayor

Date:

STATE OF MINNESOTA
COUNTY OF HENNEPIN

This instrument was acknowledged before me this ___ day of _____, 2023, by Patrick Hanlon, as Mayor, City of Hopkins.

Notary Public

By: Amy Domeier, Clerk

Date:

STATE OF MINNESOTA
COUNTY OF HENNEPIN

This instrument was acknowledged before me this ____ day of _____, 2023, by Amy Domeier as Clerk, City of Hopkins.

Notary Public

This document prepared by:
Smith Partners P.L.L.P.
400 Second Avenue South, Suite 1200
Minneapolis MN 55401

Attachment A

LEGAL DESCRIPTION

Parcel 1 (415 Blake Road):

That part of Lot 70, Auditor's Subdivision Number 239, Hennepin County, Minnesota, lying Southwesterly of Minnehaha Creek, except that portion conveyed to Hennepin County for highway purposes.

Parcel 2 (1303 Lake):

That part of Lot 70, Auditor's Subdivision Number 239, Hennepin County, Minnesota, bounded by a line described as follows: Beginning at the Northeast corner of said Lot 70; thence West to the Northwest corner of said Lot 70; thence South along the West line of said Lot 70 a distance of 240 feet; thence East parallel with the North line of said Lot 70 a distance of 335.6 feet; thence South parallel with the East line of said Lot 70 a distance of 175 feet to the actual point of beginning of the land to be described; thence deflecting to the right at an angle of 108 degrees a distance of 180 feet; thence deflecting to the left at an angle of 90 degrees a distance of 103 feet more or less to the center line of Minnehaha Creek; thence Southeasterly along the center line of said creek to its intersection with the Northerly line of Lake Street; thence Northeasterly along the Northerly line of Lake Street a distance of 100 feet more or less to its intersection with a line drawn parallel with and 250 feet Westerly from the East line of said Lot 70; thence Northerly along said parallel line to the point of beginning,

EXCEPTING therefrom that part of Lot 70, Auditor's Subdivision Number 239, described as follows: Commencing at a point in the West line of said Lot, distant 240 feet South of the Northwest corner thereof; thence East parallel with the North line of said lot, 335.6 feet; thence South parallel with the East line of said lot a distance of 146.5 feet; thence at a right angle West 87.71 feet to the actual point of beginning of the tract of land to be described; thence continuing West along the last described course 92.3 feet; thence Northeasterly deflecting to the right 108 degrees a distance of 28.52 feet; thence at a right angle Southeasterly 87.78 feet to the actual point of beginning.

ALSO:

That part of Lot 70, Auditor's Subdivision Number 239, described as follows: Commencing at a point in the West line of said lot, distant 240 feet South of the Northwest corner thereof; thence East parallel with the North line of said lot, 335.6 feet; thence South parallel with the East line of said lot a distance of 175 feet to the actual point of beginning of the tract of land to be described; thence North along the last described course 28.5 feet; thence at a right angle West 87.71 feet; thence Southeasterly 92.22 feet to the actual point of beginning.

Parcel 3 (1305 Lake):

All that part of Lot 70, Auditor's¹ Subdivision Number 239, Hennepin County, Minnesota,

described as follows: Beginning at the Northeast corner of said Lot; thence West along the North line thereof a distance of 590.6 feet, more or less, to the Northwest corner of said lot, said point being on the West line of the Northeast 1/4 of the Northeast 1/4 of Section 19, Township 117, Range 21, West of the Fifth Principal Meridian; thence South along the West line of said Lot 70, a distance of 240.0 feet; thence East parallel to the North line of said Lot 70, 335.6 feet to the actual point of beginning of the land to be described; thence continuing East on last described line 50 feet; thence South parallel to the East line of said Lot 70, 236.6 feet to the Northerly line of Lake Street, said point being 225.2 feet Southwesterly from its intersection with the East line of said Lot 70; thence Southwesterly along the Northerly line of Lake Street 56.3 feet; thence North parallel to the East line of said Lot 70, 262.2 feet more or less, to the actual point of beginning.

(Abstract Property)

Parcel 4 (427 Blake)

Real property in the County of Hennepin, State of Minnesota, described as follows:

That part of Lot 70, Auditor's Subdivision Number 239, Hennepin County, Minnesota, described as beginning at a point in the West line of said Lot 70 distant 240 feet South of the Northwest corner thereof; thence East parallel to the North line of said Lot 70, 335.6 feet; thence South parallel to the East line of said Lot 70, 146.50; thence deflecting to the right at an angle of 90 degrees for a distance of 180.01 feet; thence deflecting to the left at an angle of 72 degrees to the center line of Minnehaha Creek; thence Northwesterly along the center line of said Creek to the West line of said Lot 70; thence North along the West line of said Lot 70 to the point of beginning; except the West 33 feet and except that part designated and delineated as Parcel 30B, Hennepin County Right of Way Map No. 2.

Together with an easement over a ten (10) foot strip of land running from the South line of the above described tract to the Northerly line of Lake Street, the East line of said strip being the Southerly extension of the East line of the above described tract.

(Abstract Property)