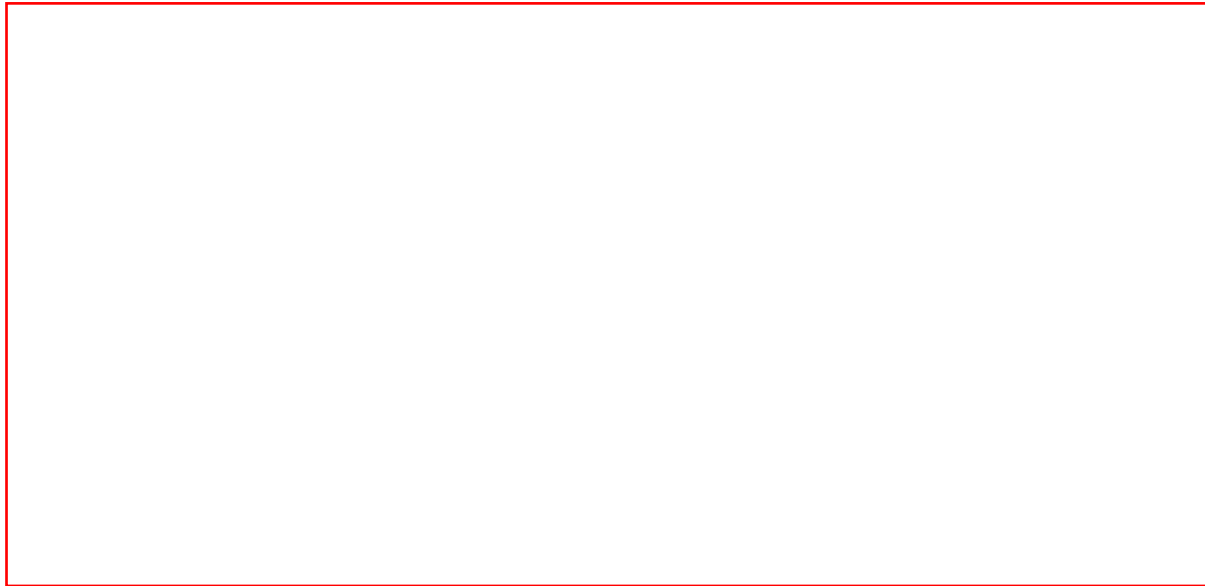


Bassett Creek Watershed Management Commission



POLICY MANUAL

2016 DRAFT



2.6 Records and Data Retention

Policy: The Commission will establish and maintain an active, continuing program for the economical and efficient management of its records as required by Minnesota Statutes 138.17, Subdivision 7.

Description: In furtherance of this policy, the Commission has adopted the attached Record Retention Schedule (Appendix B). The Record Retention Schedule provides the Commission's plan for managing its records by establishing minimum retention periods for the records based on their administrative, fiscal, legal and historic value. It lists categories of records that are maintained by the Commission, identifies how long the Commission will retain them, whether or not they have archival value, their classification under the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13 and how they are being stored.

Applicable funding: Administrator and/or Admin Services budgets

Adopted:

Citation: Minnesota Statutes 138.17, and Minnesota Statutes Chapter 13

Strategies to implement policy:

See Appendix B



3 EXTERNAL/OPERATIONAL POLICIES

3.1 Project Review Fees

Policy: The Commission will charge a fee for review of all project plans and designs triggering the Commission's Requirements for Improvements and Development Proposals, including plans and designs submitted by member cities.

Description: Review fees are charged to the applicants for review to recover costs of the program. Charges are set on the basis of the size of the project, type, and also on wetland related projects.

Applicable funding: Project review fees

Adopted:

Citation: See current fee schedule.

Strategies to implement policy: See current fee schedule.

3.2 Funding

3.2.1 General Administrative Costs

Policy: Commission administration and programmatic costs will be funded through charges to member cities based on area and taxable value.

Description: Member cities are allocated their share of administrative costs based on a formula in the Joint Powers Agreement.

Applicable funding: Annual city funds

Adopted: July 30, 2002, Amended December 18, 2014

Citation: Joint Powers Agreement, Section VIII, Subd. 3.

Strategies to implement policy:

1. Each year the Commission adopts a budget in accordance with the joint powers agreement between the member cities. The budget is adopted before July 1, and cities may comment on or object to the budget before August 1. The Commission adopts a budget after adjustments as necessary at the August meeting.
2. The general administrative costs are assessed among the member cities on the basis of a formula set in the joint powers agreement, which is 50% based on the net tax capacity of property within the watershed and 50% on the basis of land area within the boundaries of each city.
3. Invoices to the Commission will be reviewed by the BCWMC Administrator who will provide a written recommendation to pay or not to pay.
4. The Commission will keep approximately 50% of its annual operating expenses as an Administrative Fund balance for the following purposes:

1. To provide appropriate cash flow to pay for Commission projects and programs
2. To fund projects or programs that arise unexpectedly

3.2.2 Capital Improvement Program Funding

Policy: The County will levy an ad valorem watershed-wide tax for capital projects of greater than \$25,000.

Description: This process provides transparent oversight of Board decisions by elected representatives of member cities and Hennepin County. The BCWMC has been implementing its capital improvement program (CIP) since 2004. As called for in the BCWMC's approved watershed management plan, the BCWMC funds its water quality improvement projects using an ad valorem tax levy administered by Hennepin County (MN Statutes 103B.251). Although the BCWMC provides the funding, the member cities are responsible for constructing the CIP projects.

Applicable funding: Hennepin County ad valorem tax levy throughout the Bassett Creek watershed.

Adopted: 2004, Amended December 18, 2014

Citation: Joint Powers Agreement, Section VII, Method of Proceeding, Subd. 5 and MN Statute 103B.251.

Strategies to Implement Policy:

1. The Commission will strive to levy amounts that are relatively stable from year to year.
2. ~~Each year in December, the BCWMC member cities are contacted and asked if there are any recommended changes to the BCWMC CIP.~~
3. In addition to its 10-year CIP as outlined in its Watershed Management Plan, the BCWMC maintains a "working version" of its CIP that covers a 5-year period. Early in the year, the BCWMC reviews its working CIP with recommendations from the TAC to consider whether new projects should be added to the CIP or whether project implementation dates and funding sources should be changed, as necessitated by changing priorities, funding availability, partnering opportunities, or other factors.
4. The BCWMC and TAC will consider the criteria for eligible CIP projects identified the Watershed Management Plan (Policy 110).
5. ~~In January of every year, the BCWMC's Technical Advisory Committee (made up of city technical staff) reviews the projects in the BCWMC CIP and discusses any recommendations received from the member cities as a result of the December solicitation. The TAC makes a recommendation to the Commission regarding the CIP.~~
6. ~~Also in January, the Commission reviews and takes action the TAC's CIP recommendation.~~

~~7.5. After ordering the project, the BCWMC certifies to Hennepin County the tax levy that is needed for the following year.~~

~~8.6. The procedures set forth in the joint powers agreement are similar to those followed by cities in the case of capital projects paid for by special assessments under Minnesota Statutes, Chapter 429. As in the case of 429 improvement projects, the process begins with the preparation of a feasibility report on the proposed project.~~

~~9.7. Following receipt of the feasibility report, the Commission would hold a hearing on the proposed project, giving at least 45 days notice to the clerk of each member city.~~

~~8. Following the hearing, the Commission could order the project by a 2/3 vote of its members. That order would designate the cities responsible to construct the project, direct the preparation of plans and specifications, and specify the percentage of project costs that are to be paid by each member certifies to Hennepin County the tax levy that is needed for the following year to implement the upcoming CIP project.~~

~~9. The Commission will enter an agreement with the responsible city to design and construct the project.~~

~~10. The Commission may apply for grant funding for the implementation of CIP projects.~~

~~11. Cities may contribute to the costs of CIP projects in order to expand the scope of the CIP project and/or for the ability to take partial credit for pollutant removals achieved by the CIP project with the following guidance:~~

- ~~a) If cities know that they plan to request regulatory credit from a particular future CIP project, that information should be presented during the development of the 5-year CIP list.~~
- ~~b) The city should demonstrate an explicit reason and need for the request to take pollutant removal credit such as plans for a future project or development in the same area.~~
- ~~c) The city should demonstrate that other mechanisms (including innovative and emerging technologies) for stormwater management in the area are not possible, are considerably less practical, or are considerably more costly than collaborating on the CIP project.~~
- ~~d) The city should contribute to the total cost of the project in at least the same ratio as the city's stormwater management needs to the total stormwater management provided by the CIP project, and the cooperative agreement entered into for the project must identify the amount of stormwater management capacity for regulatory credit the city may use for the design and construction of the project.~~
- ~~e) The city project for which pollutant removal credit is being sought must be located within the same BCWMC subwatershed as the CIP project.~~

~~10-12. Capital Improvement Program projects will be constructed by the city assigned responsibility for the project. Eligible project expenses incurred by the city will be reimbursed by the Commission after submittal of appropriate documentation. Project costs eligible for reimbursement are listed in Table 5-1 of the Watershed Management Plan.~~

~~10. The Commission may use one of several means to determine the amount to be paid by each member city:~~

- ~~a. First, the funding may be provided on the basis of a negotiated settlement among member cities.~~
- ~~b. Second, the cost may be provided by member cities on the same basis as the administrative formula.~~
- ~~c. Third, the Commission may modify the “50/50” formula by a 2/3 vote if it determines that any member community receives a direct benefit from the capital improvement that can be defined as lateral as well as a trunk benefit (which our legal counsel assumes would generally be a concept applied to water quantity rather than water quality projects), or if the Commission determines that the project provides direct benefit to one or more cities that is so disproportionate as to require in a sense of fairness a modification to the 50/50 formula. Any city aggrieved by the determination of the cost allocation may appeal the decision and have it submitted to arbitration.~~

~~11. Following the issuance of the order for the improvement, each city will be given at least 90 days to determine the method it will use to raise its share of the project cost. After 90 days has elapsed, or notice has been received, by the Commission from each city that it has made such a determination, the Commission may order the advertisement for bids for the project.~~

~~The project will be constructed by the city assigned responsibility for the project. Other cities will pay, or contract for the payment of, its share of the cost. Payment is to be made by member cities within 30 days of statements from the engineer certifying that the work has been done.~~

3.3 Administrative Expense Charges to Capital Improvement Projects

Policy: The Commission will recover administrative costs not to exceed a 2.5% margin of the cost for CIP projects.

Description: This policy sets in place the method to compensate the Commission for administrative expenses associated with CIP projects.

Applicable funding: Not applicable

Adopted: August 18, 2005, Amended December 18, 2014

Strategies to Implement Policies:

1. 2.5% is included in the CIP project levy to reimburse the Commission for administrative expenses.
2. Up to 2.5% of the total project cost is transferred from the CIP account to the Administrative

3.4 Capital Improvement Program Closed Project Account Policy

Policy: Funds remaining in the CIP construction account from completed projects may be used to reduce future tax levies for future CIP projects.

Description: The Commission established the CIP Closed Project Account (the “Account”). This Account will receive remaining funds from completed project accounts.

Applicable funding: CIP Closed Project Account

Adopted: October 20, 2005, Amended March 19, 2009, Amended December 18, 2014

Citation: Policy statement by Commission

Strategies to Implement Policy:

1. Upon completion of CIP projects funded in whole or in part by a County tax levy and after reimbursement of Commission expenses and administrative charges and final payment to the City with responsibility for construction of the project, the construction account for that project will be closed and remaining funds will be transferred to the Closed Project Account.
2. As a general guiding principle, the Account will be used for expenses incurred for other projects in the Commission’s CIP that are proposed to be funded with a County tax levy. Such expenses include:
 - a. The administrative and construction costs of CIP projects. Monies from the Account may be used to reduce or eliminate a tax levy for capital projects in the CIP by transferring monies to the construction accounts for those projects.
 - b. Reimbursement to the Commission’s General Fund of expenses or administrative fees incurred in connection with a project if the tax settlement for that project is not sufficient to cover such expenses.
 - c. Reimbursement to cities that construct projects for administrative or construction costs if tax settlements received from the County are not sufficient to cover such costs. These costs might include cost overruns on projects, change orders, corrective follow-up work or repairs, or other unforeseen project costs.
 - d. Prepayment of project costs to the Commission or to cities for project costs that are incurred before receipt of tax settlement from the County for that project.
 - e. Partial funding of TMDL study costs if the Commission has sufficient information to determine with reasonable assurance that the TMDL study will identify, plan, design, or redesign capital projects to be funded with a County tax levy.
3. The Commission does not intend to accumulate unreasonable balances in the Account. Because the Account could be used to fund projects in advance of receipt of tax settlement from the County, and because a number of larger projects in the CIP have total costs, or annual project costs, of approximately \$250,000, the Commission finds that an accumulation of funds between \$250,000 and \$500,000 is reasonable. Money will not be accumulated to an amount in excess of \$500,000 unless a specific use for such funds has been identified. The Account balances may be kept within this amount by expending funds for any of the purposes identified in this policy.

4. Each year the Commission will consider the status of the Account prior to certification to Hennepin County of requests for tax levies for capital projects.
5. If project costs exceed projections, cities responsible for construction may request additional funds.

3 Creek and Streambank Maintenance, Repair and Channel Sediment Removal Fund (Channel Maintenance Fund)

Policy: The BCWMC will maintain a Channel Maintenance Fund through its annual assessment to help finance minor stream maintenance, repair, stabilization, restoration, and restoration project and/or portions of larger stream restoration projects. (2015 BCWMC Watershed Plan Policy 57)

Policy: The Channel Maintenance Fund may also be used to finance the BCWMC's share of maintenance projects that have a regional benefit, or to partially fund smaller, localized projects that cities wish to undertake. (2015 BCWMC Watershed Plan Policy 58)

Policy: The member cities are responsible for funding maintenance and repairs that are primarily aesthetic improvements. (2015 BCWMC Watershed Plan Policy 62)

Description: The BCWMC established the Creek and Streambank Maintenance, Repair, and Sediment Removal Fund (Channel Maintenance Fund) through its annual assessment to cities in 2004. This fund is used to finance minor stream maintenance, repair, restoration, or sediment removal projects or to help fund portions of larger projects. The BCWMC established this policy and fund to realize benefits including reduced potential for flooding, water quality improvement, and mitigating water quality impairments along the BCWMC Trunk System. Member cities contribute through the annual assessment.

Applicable funding: Streambank Maintenance, Repair, and Sediment Removal Fund

Adopted: January 2004, amended December 2015

Citation: 2015 BCWMC Watershed Management Plan; TAC memos 11/13/03 & 11/5/15

Strategies to Implement Policy:

- 1. Funds will be used for projects only along the BCWMC Trunk System as identified in the 2015 Watershed Management Plan, Table 2-9 and Figures 2.14 and 2.15.**
- 2. Funds may be used to support creek bank maintenance projects that have regional benefit, or to partially fund relatively low-cost projects that cities wish to undertake.**
- 3. Funds may be used for maintenance and repairs needed to restore and maintain designed flow rate. The designed flow rate is the flow for the regulatory flood levels used to set the Bassett Creek Flood Profiles Table 2.9 of the 2015 BCWMC Watershed Management Plan.**
- 4. Funds may be used on a portion of a project that provides watershed benefits, including reduced potential for flooding, mitigation of water quality impairment, or minimizing the potential for water quality impairment.**
- 5. Funds may be used to repair a previously constructed BCWMC Capital Improvement Project, but, except as noted in item 3 above, may not be used for regular and on-going maintenance of such projects including vegetation management.**

6. Funds may be used for localized and permitted sediment removal projects along the BCWMC Trunk System.
7. The portion of the fund each member city is eligible to receive is based on the percentage of the BCWMC Trunk System that is located in each city.

<u>City</u>	<u>Percent of Trunk System</u>
<u>Minneapolis</u>	<u>8.23</u>
<u>Golden Valley</u>	<u>48.99</u>
<u>Plymouth</u>	<u>26.42</u>
<u>New Hope</u>	<u>7.31</u>
<u>Crystal</u>	<u>9.05</u>
<u>Total</u>	<u>100</u>

8. Funds may be used to pay for the project design, development of bid documents, and construction of the project.
9. The city will enter into an agreement with the BCWMC for use of the funds (Attachment 1).
10. Funds will be dispersed by the BCWMC after an approved reimbursement request and appropriate documentation from the city.
11. Cities may use the funds as a “cost share” with private landowners at the amount/percentage the city deems appropriate, or can use the funds to finance entire projects.
12. A cost share amount from the city will not be required by the BCWMC (although funds may not be adequate to finance entire projects).
13. The balance of unallocated accumulated funds for each city will be reviewed by the Commission once every three years to ensure that total funding accumulated is not unreasonably high.

Policy: ~~The BCWMC will contribute to the cost of maintain and repair of the banks and bed of and the removal of sediment from the creek.~~

Description: ~~The BCWMC has established and maintains a Creek and Streambank Trunk System Maintenance, Repair, and Sediment Removal Fund through an annual assessment. This fund will be used to finance stream maintenance, repair, and restoration projects. This is part of the BCWMC’s annual water quality and flood control program. The BCWMC established this policy and fund to realize benefits including reduced potential for flooding, water quality improvement, and mitigating water quality impairments. Member cities contribute through the annual assessment.~~

Applicable funding: ~~Streambank Trunk System Maintenance, Repair, and Sediment Removal Fund~~

Adopted: ~~November 13, 2003~~

Citation: ~~See TAC memos (17 pages, 11/13/03)~~

Strategies to Implement Policy:

- ~~1. Fund will be used to support creek bank maintenance projects that have regional benefit, or to partially fund relatively low-cost localized projects that cities wish to undertake.~~
 - ~~2. Finance maintenance and repairs needed to restore and maintain designed flow rate. The designed flow rate is the flow for the regulatory flood levels used to set the Bassett Creek Flood Profiles Table 5.3 of the 2004 BCWMC Watershed Management Plan.~~
 - ~~3. Based on an assessment of benefits to be realized, finance restoration of a damaged creek or streambank structures, and take steps to prevent imminent structural damage.~~
 - ~~4. Finance a portion of a project that provides watershed benefits, including reduced potential for flooding, mitigation of water quality impairment, or minimizing the potential for water quality impairment.~~
 - ~~5. Member cities will complete and update inventories of significant erosion and sedimentation areas along the Bassett Creek trunk system and will share this information with the BCWMC. The BCWMC will allocate funds from this fund only for those areas identified in a completed inventory.~~
 - ~~6. Member cities are responsible for funding maintenance and repairs that are primarily aesthetic improvements.~~
- 7.14. The portion of the fund each member city is eligible to receive is based on the percentage of the trunk system that is located in each city.

~~3.2—External Costs of Capital Improvement Projects~~

~~Policy:~~ The Commission does not fund site preparation or property acquisition for Commission CIP projects, except for wetland preservation or replacement/mitigation costs.

~~Description:~~ This policy explains what external costs of CIP projects the Commission will fund.

~~Applicable funding:~~ CIP funding

~~Adopted:~~ March 6, 2008

~~Citation:~~ Memo from Charlie LeFevre, Kennedy and Graven, P.A. and Len Kremer, Barr Engineering, dated April 29, 2008.

~~Strategies to Implement Policy:~~

- ~~1. The BCWMC will pay the expenses associated with wetland mitigation on CIP projects.~~
- ~~2. Each member city is required to acquire the necessary easements or right of way or interest in land to facilitate construction of BCWMC CIP projects.~~

~~3.3—Administration of BCWMC Water Quality Management Standards~~

Policy: ~~The BCWMC will work closely with its nine member cities to assign responsibility for management of water resource issues, seeking to efficiently and effectively use the cities' and the Commission's planning and implementation resources.~~

Description: ~~In an effort to enhance past and current initiatives, the BCWMC will assist citizens and cities with the management of water resources, in the following areas:~~

- ~~Partner with member communities in the management of surface and groundwater for the benefit of citizens within the watershed and region.~~
- ~~Work with citizens, citizen advisory groups and member communities to establish goals and prioritize and implement initiatives that will preserve and improve water resources within the watershed.~~
- ~~Collect, develop, and distribute information regarding surface water and groundwater in the watershed to assist citizens and member cities in the preparation of local plans for the management of water resources.~~

Applicable funding: ~~General fund and CIP fund~~

Adopted: ~~2004~~

Citation: ~~See Watershed Management Plan, page 12-1~~

Strategies to Implement Policy: ~~See WMP~~

3.4 **Public Involvement**

Policy: ~~The Commission operates in a manner that fosters and encourages public involvement in its decision-making and planning.~~

Description: ~~The BCWMC and the member cities have used various methods to educate/inform the public about BCWMC activities and water resource related topics.~~

Applicable funding: ~~Education and Outreach Committee budget~~

Adopted: ~~2004~~

Citation: ~~See Watershed Management Plan, page 10-1 and Commission Letter to Hennepin County sent during 2009 Legislative session~~

Strategies to Implement Policy:

~~BCWMC's public involvement policies focus on three main efforts:~~

1. ~~BCWMC tries to raise awareness of the watershed's existence and the role that the BCWMC plays in protecting water quality and preserving the watershed's health and aesthetics.~~
2. ~~Public involvement—Enable the target audiences to have confidence in the BCWMC's expertise and participate in a meaningful way in the planning process and ongoing projects conducted by the BCWMC.~~
3. ~~Changing behaviors—Raise awareness of the impact that individuals, businesses and organizations have upon water quality and motivate these audiences to change personal/corporate behavior that has a negative impact on water quality and the watershed.~~

3.5—Review of Improvements, Development Proposals, and Other Agency Permits

Policy: ~~Commission will review and comment on water resource impacts from development and redevelopment projects in the watershed, as well as on compliance with Commission policy.~~

Description: ~~Cooperation between the BCWMC, the member municipalities, and concerned citizens is important to effectively facilitate the management of the watershed's water resources. Consistent with BCWMC policies and the joint powers agreement, the BCWMC desires to be informed of improvements or land development proposals that may affect the water and related resources of the watershed.~~

Applicable funding: ~~General fund~~

Adopted: ~~2004~~

Citation: ~~See Watershed Management Plan, page 12-2 and Requirements for Improvement and Development Proposals on BCWMC website.~~

Strategies to Implement Policy:

- ~~1. Commission will annually review its thresholds initiating review and adjust them as necessary to address our goals.~~
- ~~2. The BCWMC will review city water resource management plans for consistency with BCWMC goals and intercommunity consistency.~~

3.63.5 Dispute Resolution

Policy: The Commission will provide a process for solving potential disputes that allows the organization to focus on its goals.

Description: If watershed management disputes should arise between the BCWMC member cities, these disputes may be referred to the BCWMC for resolution. Although the BCWMC's joint powers agreement does not specifically give the BCWMC the power to decide such disputes, the BCWMC will hear the disputes and endeavor to reach a mutually agreeable solution whenever possible. Under the joint powers agreement, the BCWMC's findings and recommendations would not be binding unless the parties to the dispute wish to make a prior agreement to that effect.

Applicable funding: Administrative funds

Adopted: 2004

Citation: ~~See Watershed Management Plan, page (see WMP, pg. 12-3)~~2015 Watershed Management Plan 5.1.1.5

Strategies to Implement Policy:

1. The BCWMC will mediate inter-community disputes relating to watershed management problems within the Bassett Creek watershed.
2. Disputes will be referred to a committee of three BCWMC members or alternate members from member communities who are not parties to the dispute. Members will

be appointed by the BCWMC chair or vice-chair, which will also appoint one of the three members as the chair of the committee.

3. The committee chair will call a meeting where each party to the dispute will be allowed to present its suggestions to resolve the dispute.
4. The committee may consult with the members of the BCWMC staff and will prepare findings and recommendations to resolve the dispute.
5. The committee's recommendation will be presented to the full BCWMC, which may accept, reject, or amend the recommendation before forwarding the findings and recommendations to the parties of the dispute.

3.73.6 Use of Requests for Proposals from Consulting Firms

Policy: The BCWMC will use consultants to perform the majority of its work. Requests for proposals from consultants will follow the guidelines below.

Applicable funding: Annual operating budget and CIP funds

Adopted:

Citation: Meeting minutes – October 20, 2016

Guidelines:

A. Primary engineering consultant:

The BCWMC contracts with a consulting firm for day-to-day engineering services (the "Commission Engineer." The contract with the Commission Engineer will be reviewed every 2 years. The following tasks will only be performed by the Commission Engineer:

- Flood Control Project inspections
- Development reviews as required by Watershed Plan or at the request of member cities
- Capital Improvement Program (CIP) project reviews (50% plans, 90% plans, final plans)
- XP-SWMM model maintenance and updates
- P8 model maintenance and updates
- Watershed-wide total maximum daily load study (TMDL)
- Local water management plan reviews- except when Commission Engineer develops the local water management plan for the city.

For the purposes of developing the annual budget the Commission Engineer will provide the budget committee with a simple, one page or less, proposal for each of the above tasks that includes an itemized list of tasks with estimated costs.

B. Engineering consulting services not listed in section A. above.

At the direction of the Commission, the BCWMC may contract with firms other than the Commission Engineer for the following services:

- Routine lake monitoring
- Routine stream monitoring
- Watershed Outlet Monitoring Program (WOMP) sample collection & equipment maintenance
- WOMP flow analysis and data analysis
- Specific studies (e.g. localized TMDLs, CIP effectiveness monitoring AIS pathways analysis, subwatershed analysis, resource management plans, etc.)

At the direction of the BCWMC, contracts for these services may be multi-year, as appropriate. The criteria for selecting a consultant may be based on a variety of factors, such as, but not limited to:

- Special skills of a particular consultant
- Type of project
- Commission's past experience with a particular firm, and
- Estimated Project Cost

For RFP administration, the BCWMC Administrator will:

- Draft the RFP in cooperation with the BCWMC Technical Advisory Committee (TAC)
- Allow the TAC to review the RFP and refine the RFP before distribution
- Allow the TAC to review the responses to the RFP and make recommendations to the BCWMC to consider at their monthly meeting.
- Forward all responses to the RFP and the TAC's recommendation to the BCWMC for final consideration and approval.