APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):

JUN 29 2018

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: 2012-01051-MMJ; BLRT Extension Project, Non-WoUS AJD

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: MN
County/parish/borough: Hennepin
City: Brooklyn Park, Robbinsdale, Crystal, Golden Valley, Minneapolis
Center coordinates of site (lat/long in degree decimal format): Lat. 45.03327° N, Long. -93.36697° W.
Universal Transverse Mercator: X:471056.834769562, Y:4986746.75493675
Name of nearest waterbody: Shingle Creek and Bassett Creek
Name of watershed or Hydrologic Unit Code (HUC): Upper Mississippi Region; HUC 8: 07010206
☐ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
☐ Office (Desk) Determination. Date: 7/01/2016
☐ Field Determination. Date(s): Delineation review field dates: 6/29/2015 & 7/23/2015, and JD review field date: 4/19/2016

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.
There are no “navigable waters of the U.S.” within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.
There are no “waters of the U.S.” within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

1. Waters of the U.S.: N/A

2. Non-regulated waters/wetlands (check if applicable):¹
☐ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
Explain: This JD is for fourteen aquatic resources (Wetlands 10, 14-17, 26, 27, 29, 30, 37, 41, 42, 49 & W30 pond) located within the BLRT project corridor. There were a total of fifty-three wetlands delineated within the BLRT project corridor. The applicant has requested an approved jurisdictional determination (AJD) for twenty-seven wetlands identified within the project corridor. We have determined that fourteen of these waterbodies (Wetlands 10, 14-17, 26, 27, 29, 30, 37, 41, 42, 49 & W30 pond) are not waters of the U.S. because they are storm water features that were constructed in upland areas. The Corps made this determination pursuant to the preamble to the 1986 Corps CWA Regulations (33 CFR Parts 320-330), which in summary states that the Corps generally does not consider artificial lakes or ponds created in dry land used as settling basins to be jurisdictional under the CWA. This determination was made based on information gathered during numerous site visits, and by reviewing and concuring with the jurisdictional assertions that were included in a report provided by the applicant titled "Technical Memorandum: Jurisdictional Issues Associated With Delineated Basins", dated March 15, 2016. This memo provided historic aerial imagery, wetland and soils mapping data, and a general description of construction activities associated with each of the basins listed above. The fourteen wetlands discussed in this AJD are identified as non-waters of the U.S. (non-WOUS) on the attached table labeled 2012-01051-MMJ BLRT AJD, Table 1. The full wetland delineation for the project corridor, and the technical memo referenced above, is available in the Corps administrative record.

¹ Supporting documentation is presented in Section III.F.
SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs: N/A

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY): N/A

C. SIGNIFICANT NEXUS DETERMINATION: N/A

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY): N/A

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY): N/A

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):
   - [ ] If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
   - [ ] Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
   - [x] Prior to the Jan 2001 Supreme Court decision in “SWANCC,” the review area would have been regulated based solely on the “Migratory Bird Rule” (MBR).
   - [ ] Waters do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction. Explain:
   - [ ] Other (explain, if not covered above):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):
   - [ ] Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
   - [ ] Lakes/ponds: acres.
   - [ ] Other non-wetland waters: acres. List type of aquatic resource:
   - [x] Wetlands: (See attached table) acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction (check all that apply):
   - [ ] Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
   - [ ] Lakes/ponds: acres.
   - [ ] Other non-wetland waters: acres. List type of aquatic resource:
   - [ ] Wetlands: acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply) - checked items shall be included in case file and, where checked and requested, appropriately reference sources below:
   - [x] Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: SEH & HDR
   - [x] Data sheets prepared/submitted by or on behalf of the applicant/consultant.
   - [x] Office concurs with data sheets/delineation report.
   - [x] Office does not concur with data sheets/delineation report.
   - [ ] Data sheets prepared by the Corps:
   - [ ] Corps navigable waters’ study:
   - [x] U.S. Geological Survey Hydrologic Atlas:
   - [x] USGS NHD data.
   - [ ] USGS 8 and 12 digit HUC maps.
   - [x] U.S. Geological Survey map(s). Cite scale & quad name: 1:24k MN-numerous
   - [ ] USDA Natural Resources Conservation Service Soil Survey. Cite: Hennepin Co.
   - [x] National wetlands inventory map(s). Cite name: Updated NWI
   - [ ] State/Local wetland inventory map(s):
   - [ ] FEMA/FIRM maps:
   - [ ] 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
   - [x] Photographs: [x] Aerial (Name & Date): FSA 1991-2015 & Google Earth imagery or [ ] Other (Name & Date):
   - [ ] Previous determination(s). File no. and date of response letter:
   - [ ] Applicable/supporting case law:
   - [ ] Applicable/supporting scientific literature:
   - [ ] Other information (please specify):
B. ADDITIONAL COMMENTS TO SUPPORT JD: The wetlands described above are not jurisdictional under the Clean Water Act because they are storm water features constructed in upland areas.
Figure - Wetlands

Page 13

METRO Blue Line Extension

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Figure - Wetlands

Page 18

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