

**JOINT POWERS AGREEMENT
BETWEEN THE VERMILLION RIVER WATERSHED JOINT POWERS ORGANIZATION,
COUNTY OF DAKOTA, THE DAKOTA COUNTY SOIL AND WATER CONSERVATION DISTRICT,
THE BLACK DOG WATERSHED MANAGEMENT ORGANIZATION, THE EAGAN-INVER GROVE
HEIGHTS WATERSHED MANAGEMENT ORGANIZATION AND THE LOWER MISSISSIPPI RIVER
WATERSHED MANAGEMENT ORGANIZATION
FOR WATER CONSERVATION AND LANDSCAPING FOR CLEAN WATER MARKETING CAMPAIGN**

WHEREAS, Minn. Stat. § 471.59 authorizes local governmental units, and their instrumentalities, to jointly or cooperatively exercise any power common to the contracting parties; and

WHEREAS, the Vermillion River Watershed Joint Powers Organization (VRWJPO) is a watershed management body consisting of Dakota and Scott Counties, which is governed by the Vermillion River Watershed Joint Powers Board (VRWJPB) and is charged with carrying out the duties set forth in Minn. Stat. § 103B.211 to 103B.255 and as otherwise provided by law; and

WHEREAS, the County of Dakota (County) is a governmental and political subdivision of the State of Minnesota; and

WHEREAS, the Dakota County Soil and Water Conservation District (Dakota County SWCD) is a governmental and political subdivision of the State of Minnesota; and

WHEREAS, the Black Dog Watershed Management Organization (BDWMO) is a watershed management body consisting of Dakota County, which is governed by the Black Dog Watershed Board of Commissioners and is charged with carrying out the duties set forth in Minn. Stat. § 103B.211 to 103B.255 and as otherwise provided by law; and

WHEREAS, the Eagan-Inver Grove Heights Watershed Management Organization (E-IGHWMO) is a watershed management body consisting of Dakota County, which is governed by the Eagan-Inver Grove Heights Watershed Board of Managers and is charged with carrying out the duties set forth in Minn. Stat. § 103B.211 to 103B.255 and as otherwise provided by law; and

WHEREAS, the Lower Mississippi River Watershed Management Organization (LMRWMO) is a watershed management organization consisting of a portion of northern Dakota County, which is governed by the Lower Mississippi River Watershed Management Organization Board of Managers and is charged with carrying out the duties set forth in Minn. Stat. § 103B.211 to 103B.255 and as otherwise provided by law; and

WHEREAS, Dakota County sources over 90 percent of drinking water from groundwater aquifers; and

WHEREAS, due to increased water usage during three years of drought (2021-2023) Dakota County municipalities exceeded Department of Natural Resources water appropriation permits; and

WHEREAS, maintaining a sustainable water supply is identified as a goal in the adopted Vermillion River Watershed Management Plan; and

WHEREAS, promoting water conservation by partnering on a county-wide water supply/conservation initiative is identified in the Dakota County Groundwater Plan; and

WHEREAS, improving public awareness of water resource goals is identified in the Dakota County SWCD Comprehensive Management Plan; and

WHEREAS, coordinating with partners to distribute educational information related to water conservation is identified in the adopted Black Dog Watershed Management Plan; and

WHEREAS, collaborating with partners to raise awareness of groundwater and water conservation issues is identified in the adopted Eagan-Inver Grove Heights Watershed Management Organization Watershed Management Plan; and

WHEREAS, participating in regional groundwater planning efforts and sharing resources with Dakota County for groundwater protection is identified in the Lower Mississippi River Watershed Management Organization Watershed Management Plan; and

WHEREAS, programs and practices exist to help Dakota County transition to a more drought-tolerant landscape and to educate landowners on efficient irrigation practices; and

WHEREAS, digital algorithms exist which are placing priority on paid advertisement over traditional local government unit organic outreach; and

WHEREAS, the VRWJPO applied for and received a grant from the Minnesota Department of Health (Grant) to develop and distribute professional grade videos promoting Landscaping for Clean Water programs and ways to reduce outdoor water use by increasing irrigation efficiencies (Project); and

WHEREAS, the VRWJPB obtained two quotations for the Project and negotiated a contract with Tunheim Acquisitions, Inc. d/b/a Tunheim Partners (Tunheim) in accordance with Minn. Stat. § 471.345, subd. 4 (Tunheim Contract); and

WHEREAS, the total contract amount for the services to be provided Tunheim pursuant to the Tunheim Contract is \$95,080, of which VRWJPO shall apply all Grant funds received (up to \$50,000), leaving a balance of \$45,080 (Project Balance); and

WHEREAS, the VRWJPO, SWCD, County, BDWMO, E-IGHWMO and the LMRWMO (collectively Partners) will contribute funds towards the Project Balance in accordance with Article 6 and/or staffing in accordance with Article 5.

NOW, THEREFORE, in consideration of the mutual promises and benefits that the Partners shall derive from this Agreement, the Partners hereby enter into this Agreement for the purposes stated herein.

ARTICLE 1 PURPOSE

This Agreement defines the Project responsibilities and Project cost-sharing obligations of the Partners.

ARTICLE 2 PARTIES

The parties to this Agreement are the VRWJPO, the County of Dakota, by and through its Environmental Resources Department (County), SWCD, BDWMO, E-IGHWMO and the LMRWMO.

ARTICLE 3 TERM

This Agreement is effective upon the date of the signatures of the parties to this Agreement and shall remain in effect until April 30, 2026, or until completion by all parties of their respective obligations under this Agreement, whichever occurs first, unless earlier terminated by law or according to the provisions of this Agreement.

ARTICLE 4 COOPERATION

The Partners agree to cooperate and use their reasonable efforts to ensure prompt implementation of the various provisions of this Agreement and to, in good faith, undertake resolution of any dispute in an equitable and timely manner.

ARTICLE 5 MARKETING CAMPAIGN DEVELOPMENT

The County shall contribute staffing in collaboration with the VRWJPO for the administration, coordination and overseeing of the development of marketing campaign materials associated with the Project. The County, by and through its Environmental Resources Department in collaboration with the VRWJPO, shall regularly confer with the Partners regarding material content. The VRWJPO will administer the Tunheim Contract and act as the paying agent for all payments thereunder.

ARTICLE 6 PAYMENT

6.1 The Partners shall make the following contributions towards the Project Balance in accordance with the following payment schedule in consideration for the benefit provided by the Project's professional grade videos promoting Landscaping for Clean Water programs and ways to reduce outdoor water use by increasing irrigation efficiencies, and use of the materials provided by the Project:

- 6.1.1 The County, by and through its Environmental Resources Department, shall contribute \$10,000 in 2024 towards the Project Balance.
- 6.1.2 The SWCD shall contribute \$7,500 in 2024 towards the Project Balance.
- 6.1.3 The BDWMO shall contribute \$7,500 in 2024 towards the Project Balance.
- 6.1.4 The E-IGHWMO shall contribute \$7,500 in 2025 towards the Project Balance.
- 6.1.5 The LMRWMO shall contribute \$7,500 in 2025 towards the Project Balance.
- 6.1.6 The VRWJPO shall contribute \$10,000 in 2024 or 2025 towards the Project Balance.

6.2 The SWCD, County, BDWMO, E-IGHWMO and the LMRWMO shall make their contribution payments made payable to the VRWJPO with thirty-five (35) days or receipt of an invoice from the VRWJPO in the years identified in Section 6.1. Upon request, VRWJPO shall provide the Partners with all itemized Project receipts and invoices.

6.3 Partners reserve the right to be repaid for any overpayment of their contribution.

6.4 The Partners contribution obligations shall be subject to Article 11.

ARTICLE 7 OBLIGATIONS

7.1 AUTHORIZED PURPOSE. The funds provided under the terms of this Agreement may only be used by the VRWJPO for the payment of costs directly related to the Project.

7.2 CONTENT AND MARKETING REQUIREMENTS. The Project shall be carried out according to the objectives outlined in the Tunheim Contract. The Partners and VRWJPO shall approve any modifications to the scope of the Project.

7.3 MATERIALS FAILURES. Any failure of Tunheim to adhere to Project responsibilities outlined within the Tunheim Contract shall be addressed in the Tunheim Contract.

7.4 OWNERSHIP OF MATERIALS. "Materials" is defined as videos, works, drawings, products, audio, media content, other recorded materials, and all other materials in whatever form conceived, created or otherwise arising out of the performance of the Tunheim Contract. The VRWJPO shall own rights, title and interest in all of the materials conceived, created or otherwise arising out of the performance of the Tunheim Contract.

7.5 COMPLIANCE WITH LAWS/STANDARDS. The VRWJPO and Partners shall abide by all federal, state, or local laws, statutes, ordinances, rules, and regulations in completing the Project, including following all requirements outlined within the Minnesota Department of Health Grant Agreement.

7.6 PUBLICITY. VRWJPO grants the Partners a royalty-free irrevocable, non-exclusive, non-transferable, non-assignable, perpetual license on all work or materials created pursuant to Tunheim Contract. The Partners may prepare, copy, use, and distribute these works on materials and create derivative works or materials for the benefit of each Partner for use in publications, promotional material or on their websites. The only restriction on the Partners' use of works or materials and derivative works or materials related to this Agreement are those specifically stated in this section. The Partners shall appropriately acknowledge the funding provided by the Partners and the Grant in any promotional materials, signage, reports, publications, notices, and presentations related to the Project. This section shall survive the expiration or termination of this Agreement.

ARTICLE 8 INDEMNIFICATION

Each party to this Agreement shall be liable for the acts of its officers, employees or agents and the results thereof to the extent authorized by law and shall not be responsible for the acts of the other parties, or officers, employees or agents or the other parties. The provisions of the Municipal Tort Claims Act, Minn. Stat. Ch. 466 and other applicable laws govern liability of the Partners. Each party warrants that it can comply with the aforementioned indemnity requirements through an insurance or self-insurance program and that each has minimum coverage consistent with liability limits contained in Minn. Stat. Ch. 466. In the event of any claims or actions filed against any party, nothing in this Agreement shall be construed to allow a claimant to obtain separate judgments or separate liability caps from the individual parties. This section shall survive the expiration or termination of this Agreement.

ARTICLE 9 AUTHORIZED REPRESENTATIVES AND LIAISONS

9.1 AUTHORIZED REPRESENTATIVES. The following named persons are designated the authorized representatives of the parties for this Agreement. These persons have authority to bind the party they represent and to consent to modifications, except that the authorized representative shall have only the authority specifically or generally granted by their respective governing boards. Notice required to be provided pursuant to this Agreement shall be made to the following named persons and addresses unless otherwise stated in this Agreement, or an amendment of this Agreement:

TO THE VRWJPO: Mike Slavik, Chair, or successor
Vermillion River Watershed Joint Powers Organization
4100 220th St. W #103
Farmington, MN 55024
Telephone: (651) 438-4427
mike.slavik@co.dakota.mn.us

TO THE COUNTY: Georg Fischer, or successor
Physical Development Division Director
14955 Galaxie Avenue
Apple Valley, MN 55124-8579
Telephone: (952) 891-7007
georg.fischer@co.dakota.mn.us

TO THE SWCD: Kevin Chamberlain, Chair, or successor
Dakota County Soil and Water Conservation District
4100 220th St. W
Farmington, MN 55024
Telephone: (651) 480-7777
swcd@co.dakota.mn.us

TO THE BDWMO: Curt Enestvedt, Chair, or successor
Black Dog Watershed Management Organization
13713 Frontier Court
Burnsville, MN 55337
Telephone: (952) 895-4531
Email: daryl.jacobson@burnsvillemn.gov

TO THE E-IGHWMO: Monica Foss, Chair, or successor
Eagan-Inver Grove Heights Watershed Management
Organization
3830 Pilot Knob Road
Eagan, MN 55122
Telephone: (651) 688-0171
fossme@gmail.com

TO THE LMRWMO: Sharon Lencowski, Chair, or successor
Lower Mississippi River Watershed Management Organization
4100 220th St W
Farmington, MN 55024
Telephone: (651) 480-7784
joe.barten@co.dakota.mn.us

In addition, regarding termination of this Agreement by the shall be provided to the Office of the Dakota County Attorney, Civil Division, 1560 Highway 55, Hastings, MN 55033.

9.2 LIAISONS. To assist the parties in the day-to-day performance of this Agreement and to ensure compliance and provide ongoing consultation, a liaison shall be designated by each Partner. The Partners shall keep each other continually informed, in writing, of any change in the designated liaison. At the time of execution of this Agreement, the following persons are the designated liaisons:

VRWJPO Liaison: Kelly Perrine
Senior Watershed Specialist
Telephone: (952) 891-7002
Email: kelly.perrine@co.dakota.mn.us

County Liaison: Valerie Neppl
Groundwater Protection Unit Supervisor
Telephone: (952) 891-7019
Email: valerie.neppl@co.dakota.mn.us

SWCD Liaison: Lindsey Albright
Water Resources Specialist
Telephone: (651) 480-7783
Email: lindsey.albright@co.dakota.mn.us

BDWMO Liaison: Daryl Jacobson
Natural Resources Manager
Telephone: (952) 895-4531
Email: daryl.jacobson@burnsvillemn.gov

E-IGHWMO Liaison: Ashley Gallagher
Senior Resource Conservationist
Telephone: (651) 480-7781
Email: Ashley.gallagher@co.dakota.mn.us

LMRWMO Liaison: Joe Barten
Senior Resource Conservationist
Telephone: (651) 480-7784
Email: joe.barten@co.dakota.mn.us

ARTICLE 10 MODIFICATIONS

Any alterations, variations, modifications, or waivers of the provisions of this Agreement shall only be valid when they have been reduced to writing, approved by the parties' respective Boards, or as delegated by the parties' respective Boards, and signed by the Authorized Representatives, or delegated authority, of the Partners.

ARTICLE 11 TERMINATION

11.1 IN GENERAL. Any party may terminate this Agreement for cause by giving seven days' written notice or pursuant to Section 11.2 by giving 30 days' written notice, of its intent to terminate, to the other parties. Such notice to terminate for cause shall specify the circumstances warranting termination of the Agreement. Cause shall mean a material breach of this Agreement and any supplemental agreements or amendments thereto. Termination of this Agreement shall not discharge any liability, responsibility or right of any party, which arises from the performance of or failure to adequately perform the terms of this Agreement prior to the effective date of termination.

11.2 TERMINATION FOR LACK OF FUNDING. Notwithstanding any provision of this Agreement to the contrary, any Partner may immediately terminate their obligations and right to the benefits of this Agreement by providing written notice to the other Partners if it does not obtain funding from the Minnesota Legislature, Minnesota Agencies, or other funding sources, or if its funding cannot be continued at a level sufficient to allow payment of the amounts due under this Agreement. A terminating Partner shall remain obligated to pay for any invoices received prior to VRWJPO's receipt of written notice of termination for lack of funding. The remaining Partners shall determine by majority vote whether to continue this Agreement upon receipt of termination pursuant to this Section 11.2.

ARTICLE 12 MINNESOTA LAW TO GOVERN

This Agreement shall be governed by and construed under the substantive and procedural laws of the State of Minnesota, without giving effect to the principles of conflict of laws. All proceedings related to this Agreement shall be venued in the County of Dakota, State of Minnesota. This section shall survive the expiration or termination of this Agreement.

**ARTICLE 13
MERGER**

This Agreement is the final expression of the agreement of the parties and the complete and exclusive statement of the terms agreed upon and shall supersede all prior negotiations, understandings, or agreements.

**ARTICLE 14
SEVERABILITY**

The provisions of this Agreement shall be deemed severable. If any part of this Agreement is rendered void, invalid, or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement unless the part or parts that are void, invalid or otherwise unenforceable shall substantially impair the value of the entire Agreement with respect to any party.

**ARTICLE 15
GOVERNMENT DATA PRACTICES**

The VRWJPO and Partners must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data provided, created, collected, received, stored, used, maintained, or disseminated under this Agreement. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data referred to in this clause by the VRWJPO and any of the Partners.

**ARTICLE 16
SURVIVABILITY**

The provisions of articles 8 (Indemnification) and 15 (Government Data Practices) survive the expiration or termination of this Agreement.

[Signatures on the following page]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) indicated below.

**VERMILLION RIVER WATERSHED
JOINT POWERS ORGANIZATION**

By: _____
Mike Slavik or successor, Chair

Date of Signature: _____

DAKOTA COUNTY

By: _____
Georg T. Fischer, Director
Physical Development Division

Date of Signature: _____

**DAKOTA COUNTY SOIL AND WATER
CONSERVATION DISTRICT**

By: _____
Kevin Chamberlain or successor, Chair

Date of Signature: _____

**BLACK DOG WATERSHED
MANAGEMENT ORGANIZATION**

By: _____
Curt Enestvedt or successor, Chair

Date of Signature: _____

**EAGAN-INVER GROVE HEIGHTS
WATERSHED MANAGEMENT ORGANIZATION**

By: _____
Monica Foss or successor, Chair

Date of Signature: _____

**LOWER MISSISSIPPI RIVER WATERSHED
MANAGEMENT ORGANIZATION**

By: _____
Sharon Lencowski or successor, Chair

Date of Signature: _____

Approved as to form:

/s/ Brian J. Wisdorf 6/13/2024
Assistant Dakota County Attorney/Date
KS-24-284
VRW Res. No. 24-24