



Agenda

Vermillion River Watershed Joint Powers Board Meeting

March 25, 2021, 1 p.m.

Teleconference using Zoom

- | | | |
|--|-------------|---------|
| 1. Call to Order | | |
| 2. Roll Call | | |
| 3. Audience Comments on Items Not on the Agenda
(please limit audience comments to five minutes) | | |
| 4. Consent Agenda | Action | |
| a. Approval of Agenda | | Page 1 |
| b. Approval of Minutes from the February 25, 2021, Meeting | | Page 3 |
| c. Acceptance of Treasurer's Report | | Page 8 |
| d. Authorization to Amend a Joint Powers Agreement with the City of Apple Valley for the Erickson Park Stormwater Improvement Project | | Page 9 |
| e. Authorization to Execute a Grant Agreement with the Minnesota Board of Water and Soil Resources for Fiscal Year 2021 Watershed-Based Initiative Funding | | Page 12 |
| f. Authorization to Execute a Joint Powers Agreement with the City of Lakeville for the North Creek at Highview Avenue Channel Improvement Project | | Page 19 |
| g. Authorization to Execute a Joint Powers Agreement with the City of Rosemount for Anti-Icing Equipment Purchase | | Page 28 |
| h. Authorization to Execute a Joint Powers Agreement with the City of Farmington for Vermillion River Direct Drainage Stormwater Treatment Assessment | | Page 35 |
| i. Authorization to Execute a Joint Powers Agreement with the City of Hastings for Vermillion River Direct Drainage Stormwater Treatment Assessment | | Page 42 |
| 5. Approval of Expenses | Action | Page 49 |
| 6. Business Items | | |
| a. Public Hearing to Receive Comments on and Adoption of Modifications to the VRWJPO Permit Program Fee and Security Schedule | Action | Page 50 |
| b. Adopt Candidate Selection and Appointment Process for Vermillion River Watershed Planning Commission Members | Action | Page 58 |
| c. Planning for future Vermillion River Watershed Joint Powers Board meeting formats | Information | Page 62 |
| 7. Staff Reports | | |
| 8. Adjourn | Action | |



* Draft minutes from the March 10, 2021, Watershed Planning Commission Meeting are included at the end of the packet as information for the Vermillion River Watershed Joint Powers Board.

Please note, the March 25, 2021, Joint Powers Board meeting will take place **via teleconference by phone and/or the web-based application, Zoom**. In response to COVID-19, no in-person meeting will be available. We are following provisions in Minnesota Open Meeting Law addressing meetings in the case of a pandemic.

Join Zoom Meeting

<https://dakotacountymn.zoom.us/j/95534255163?pwd=dmZuc3htb05aT3JwZXNtTnNoNm1Zdz09>

Meeting ID: 955 3425 5163

Passcode: 317250

One tap mobile

+16513728299,,95534255163#,,,,*317250# US (Minnesota)

Dial by your location

+1 651 372 8299 US (Minnesota)

Meeting ID: 955 3425 5163

Passcode: 317250

Find your local number: <https://dakotacountymn.zoom.us/j/aei0sC2Ctn>

Other Information

Next Meeting Date: **April 22, 2021**, at 1 p.m.

You will be notified if the meeting is cancelled due to an anticipated lack of quorum.



Meeting Minutes

Vermillion River Watershed Joint Powers Board Meeting
February 25, 2021, 1 p.m., Teleconference using Zoom

Board Members in Attendance

Dakota County Commissioner Mike Slavik, Chair
Scott County Commissioner, Tom Wolf, Vice-Chair
Dakota County Commissioner Mary Hamann-Roland, Secretary/ Treasurer

Others in Attendance

Mark Zabel, Dakota County, Watershed Administrator
Melissa Bokman Ermer, Scott County, Watershed Co-administrator
Travis Thiel, Dakota County, Senior Watershed Specialist
Mark Ryan, Dakota County, VRWJPO Watershed Engineer
Paula Liepold, Dakota County, Public Outreach and Communications
Helen Brosnahan, Dakota County, Assistant County Attorney
Steve Mielke, Dakota County Physical Development Division Director
Georg Fischer, Dakota County Environmental Resources Department Director
Bruce Johnson, Dakota County Soil and Water Conservation District Supervisor
Brian Watson, Dakota County Soil and Water Conservation District Manager
Curt Coudron, Dakota County Soil and Water Conservation District Project Management Supervisor
John Stelzner, Dakota County Soil and Water Conservation District Resource Conservationist
Troy Kuphal, Scott County Soil and Water Conservation District Manager
Jessica Schaum, City of Apple Valley Natural Resources Coordinator
Samantha Berger, City of Apple Valley Water Resource Specialist

1. Call to Order

Meeting was called to order at 1:03 p.m.

2. Roll Call

Commissioners Slavik, Hamann-Roland, and Wolf were in attendance.

3. Audience Comments on Items Not on the Agenda

There were no comments from the audience.

4. Approval of Consent Agenda

- a. Approval of Agenda
- b. Approval of Minutes from the January 28, 2021, meeting

- c. Acceptance of Treasurer's Report
- d. Schedule a Public Hearing for Modifications to the VRWJPO Permit Program Fee and Security Schedule

Res. No. VRW 21-04: Motion by Commissioner Hamann-Roland, Second by Commissioner Wolf, and passed on a 3-0 roll call vote to approve the consent agenda.

5. Approval of Expenses

Mark Zabel presented the current expenses for approval as shown on item 5.

Res. No. VRW 21-05: Motion by Commissioner Wolf, Second by Commissioner Hamann-Roland and passed on a 3-0 roll call vote to approve the expenses totaling \$171,241.26 incurred between January 20, 2021, and February 16, 2021.

Business Items

6a. Adoption of an Amendment to the Vermillion River Watershed Management Plan Implementation Section

Mark Zabel introduced the item noting that the item was described last month for purposes of the public hearing. Nothing has changed on this item in the interim. Three comment letters were received addressing the amendment. Two from state agencies and one from Metropolitan Council. There were no negative comments or comments to the content. The comment from MPCA requested they be provided the opportunity for review if there was any further review on the project itself. Otherwise there were no comments to the project or the amendment.

Res. No. VRW 21-06: Motion by Commissioner Wolf, Second by Commissioner Hamann-Roland and passed on a 3-0 roll call vote to approve the amendment to the Vermillion River Watershed Management Plan Implementation Section.

6b. Progress Update on Wetland Restoration in Castle Rock Township

Zabel introduced the item. John Stelzner presented a similar update for the Vermillion River Watershed Planning Commission at their February 10, 2021, meeting. This wetland bank development has been a major financial undertaking for Dakota County, the Minnesota Board of Soil and Water Resources, and the Vermillion River Watershed Joint Powers Organization (VRWJPO). Upon meeting performance standards wetland bank credits will be available to the VRWJPO which will be put up for public sale. VRWJPO wetland bank policy requires that wetland impacts occurring within the watershed be replaced within the watershed and that wetland bank credits within the watershed be used if available. The policy also provides for determining the price of credits it offers for sale. Recovered funds from the sale of wetland bank credits by the VRWJPO will be held in a special fund for future wetland restorations for wetland banking resulting in a revolving fund for continued wetland restoration.

John Stelzner noted that work continues the project currently. The project is in the South Branch Vermillion River subwatershed just off Blaine Avenue. The project occurs in five phases. The first phase is restoration, construction, and seeding. The second phase is hydrologic monitoring. The third, fourth and fifth phases are vegetation establishment and performance. Each phase results in credit releases. A total of up to 105 wetland acre credits will be released at project completion if it meets all standards. Following a discussion about the work involved in each phase, Commissioner Wolf inquired about the type of herbicide used. Commissioner Hamann-Roland inquired about the optimal timeframe for seeding. Commissioner Slavik inquired about protections provided to neighboring properties.

6c. Presentation on Current Cost-Share Programs of the Dakota County Soil and Water Conservation District

Mark Zabel introduced the item. Curt Coudron presented the item. This item was also presented to the Vermillion River Watershed Planning Commission at their February meeting.

Curt Coudron described the annual Joint Powers Agreement (JPA) between the VRWJPO and Dakota County Soil and Water Conservation District (DCSWCD) which provides for the DCSWCD to implement conservation practices in partnership with landowners using cost-share provided through the VRWJPO. Cost-share programs are provided to ensure programs are carried out effectively to address targeted needs. Curt gave an overview of the DCSWCD programs from a landowner perspective and highlighted each of the programs. There are five cost-share programs offered through the DCSWCD:

- Landscaping for Clean Water (Cost-share up to \$250 per project)
- Citizen Conservation Stewards (Cost-share up to 75% of project cost, \$5,000 limit)
- Conservation Initiative Funding (Cost-share up to 75% of project cost, \$25,000 limit)
- Community Partners Funding (Cost-share up to 75% of project cost, \$50,000 limit)
- Incentive Payment Practices (Cost-share rates, per-acre incentives, and limits vary)

Curt highlighted Harvestable Covers initiative that was added this year to provide incentive payments for planting cover crops that are harvestable. Curt gave an overview of the DCSWCD programs from a landowner perspective. Curt also showed some examples of completed projects from the past year. Landowners are required to maintain the project through its expected life.

Funding provided from the VRWJPO to the DCSWCD through the JPA are applied to a Capital Improvement Program (CIP) for construction of projects and staff time for project oversight. The VRWJPO has budgeted up to \$80,000 for CIP through the DCSWCD for 2021. Funds are used for a portion of the construction costs of a project with the remaining construction costs provided by the landowner. The project is then required to be properly maintained by the landowner through the design life, which is typically 10 years.

Commissioner Slavik asked what the overall countywide budget for cost-share programs is in addition to the VRWJPO cost-share allocation of \$80,000. Curt responded that the VRWJPO funds leverage a lot of other funding to be included in cost-share. The Dakota County CIP provides \$150,000 this coming year towards cost-share funding countywide. DCSWCD also leverages Clean Water Fund grants through the Minnesota Board of Soil and Water Resources. Total cost-share across Dakota County for 2020 was approximately \$500,000. About \$125,000 to \$150,000 of that was spent in the Vermillion River watershed. Commissioner Hamann-Roland asked what the cost would have been to cleanup impacted waters if we had not pursued the CIP projects implemented through these programs and about the aggregate impact of projects completed. Calculating these costs is difficult because of the varying impacts of prevention and restoration projects occurring simultaneously. The DCSWCD maintains a database of information about completed projects along with estimated pollutant reductions for individual projects.

Staff Reports

Travis Thiel reported staff have been preparing a work plan for the Watershed Based Implementation Funding process to be eligible to receive allocated grant funds from the Minnesota Board of Water and Soil Resources. Agreements are anticipated to be presented at the March meeting to receive the grant funds and for grant projects with implementing partners. The VRWJPO's application to Conservation Corps of Minnesota for crews, made together with DCSWCD and Dakota County, was successful. The assigned crews will continue snag and debris removal in the reach of the river that was started last year.

Mark Ryan shared pictures of current work on the stream stabilization project on Middle Creek in Lakeville between Highview Avenue and future Hamburg Avenue. Contractors will return after snowmelt when the area dries enough to finish grading and final seeding. Because of favorable bids for project construction, the scope may be expanded to complete all of the original stabilization/ restoration goals this year with the current budget allocations from Lakeville and the VRWJPO.

Paula Liepold reported that the VRWJPO along with other partners is hosting a Minnesota Pollution Control Agency turf grass maintenance training workshop on Wednesday, March 17. The target audience is County employees in parks, facilities, and others that maintain city parks, cemeteries, or other turfed areas. VRWJPO has been partnering in hosting these workshops since 2013 and this is the ninth such workshop we have hosted. This workshop is financially supported through the VRWJPO and Dakota County Facilities Department Paula also reported that the Children's Water Festival (CWF) for 2020 was held virtually and the CWF for 2021 is currently planned to be held virtually as well. Commissioner Slavik inquired about the number of participants funded by the VRWJPO. Paula indicated that the change to a virtual situation did change participation both in numbers and manner of participation (e.g.at-home, in-classroom, depending on pandemic restrictions). The change to virtual also expanded participation to a statewide reach.

Mark Zabel reported that the vacant position is currently with Employee Relations and will be posted within the week as a communications position. Staff are exploring options for the appointments process for the Vermillion River Watershed Planning Commission Members and plan to provide information to the Board in March.

Commissioner Slavik recommended that we continue with a virtual meeting in March but at that meeting the format for future meetings will be discussed. Commissioner Slavik asked if Commissioners Wolf and Hamann-Roland had any objection to the recommendation and there was none. Staff will include an item for discussion of plans for future meeting format.

Adjourn

Motion by Commissioner Wolf, Second by Commissioner Hamann-Roland, and passed 3-0 roll call vote to adjourn the meeting at 2:09 p.m.

Next Meeting Date: Thursday, March 25, 2021, at 1 p.m. Teleconference using Zoom.

Mark Zabel

Administrator for the Vermillion River Watershed Joint Powers Organization

Attest

Commissioner Hamann-Roland

Secretary/ Treasurer

Date



2021 Vermillion River Watershed Joint Powers Organization Treasurer's Report

February 2021 - Vermillion River Watershed Joint Powers Board Meeting

		<u>Budget Amounts</u>	<u>Expenses to Date</u>	<u>Expenses Pending</u>	<u>Account Balance</u>
I.	Administration & Operations (217002-0000)	\$ 233,500.00	\$ 14,267.82	\$ 15,606.07	\$ 203,626.11
II.	Research & Planning (217002-0130)	\$ 65,600.00	\$ 445.97	\$ 89.19	\$ 65,064.84
III.	Monitoring & Assessment (217002-0230)	\$ 160,600.00	\$ 276.31	\$ 701.15	\$ 159,622.54
IV.	Public Communications & Outreach (217002-0330)	\$ 213,550.00	\$ 7,573.09	\$ 7,947.06	\$ 198,029.85
V.	Regulation (217002-0530)	\$ 65,900.00	\$ 2,838.92	\$ 3,297.45	\$ 59,763.63
VI.	Coordination & Collaboration (217002-0531)	\$ 25,000.00	\$ 1,237.82	\$ 567.36	\$ 23,194.82
VIII.	Feasibility/Preliminary Studies (217002-0631)	\$ 150,000.00	\$ 15,377.03	\$ 14,834.50	\$ 119,788.47
X.	Capital Improvement Projects (217092-0130)	\$ 588,400.00	\$ 14,256.93	\$ 10,919.11	\$ 563,223.96
XI.	Met Council Grant (217002-0832)	\$ -	\$ -	\$ -	\$ -
XII.	CWF Grant - Alimagnet (217002-0836)	\$ -	\$ -	\$ -	\$ -
XIII.	CWF Grant - County Road 50 (217002-0837)	\$ -	\$ -	\$ -	\$ -
XIV.	CWF Grant - South Branch (217002-0838)	\$ -	\$ 39.85	\$ -	\$ (39.85)
XV.	CWF Grant - Lakeville (217002-0839)	\$ -	\$ -	\$ -	\$ -
XVI.	CWF Grant - South Creek (217002-0840)	\$ -	\$ -	\$ -	\$ -
XVII.	CWF Grant - Erickson Park St (217002-0841)	\$ 164,300.00	\$ -	\$ -	\$ 164,300.00
XVIII.	CWF Grant - Farmington Street (217002-0842)	\$ -	\$ -	\$ -	\$ -
XIX.	CWF Grant - Aronson Park Storm (217002-0843)	\$ 10,000.00	\$ -	\$ -	\$ 10,000.00
XX.	CWF Grant - Webster Wetland (217002-0844)	\$ 67,000.00	\$ -	\$ -	\$ 67,000.00
XXI.	CWF Grant - Technical Assistance (217002-0845)	\$ 19,500.00	\$ -	\$ -	\$ 19,500.00
XXII.	CWF Grant - Imminet Health T (217002-0846)	\$ 8,000.00	\$ -	\$ -	\$ 8,000.00
XXIII.	CPL Grant - South Creek at Hamburg (217002-0847)	\$ -	\$ -	\$ -	\$ -
XXIX.	FY2019 - Watershed Funding Grant (217002-0848)	\$ 12,500.00	\$ 969.81	\$ 593.05	\$ 10,937.14
XXX.	CWF Grant - Records Trail/Grade (217002-0849)	\$ -	\$ -	\$ -	\$ -
XXXI.	CWF Grant - 21st Street Ravine Outlet (217002-0850)	\$ 73,800.00	\$ -	\$ -	\$ 73,800.00
XXXII.	CWF Grant - Vermillion Falls Bio (217002-0851)	\$ 18,500.00	\$ -	\$ -	\$ 18,500.00
XXXIII.	CWF Grant - Middle Creek Restoration (217002-0852)	\$ 430,000.00	\$ 1,084.75	\$ 899.42	\$ 428,015.83
VRW JPO Revised Budget Expense TOTAL		\$ 2,306,150.00	\$ 57,283.55	\$ 55,454.36	\$ 2,192,327.34

Budget Funding Sources

Scott County Levy	\$ 33,350.00
Dakota County Levy	\$ 966,650.00
Expected 2019 Carryover (Fund Balance)	\$ 225,000.00
Special Use Permit	\$ 2,500.00
CWF Grant (BWSR)	\$ 380,000.00
2019-2021 CWF Grant 1W1P (BWSR)	\$ 263,350.00
2020-2023 CWF Grant WBIF (BWSR)	\$ 243,600.00
CPL Grant South Creek at Hamburg	\$ -
Met Council Grant	\$ -
CIP Reserve	\$ 220,000.00
CIP Reserve Grant Match	\$ 152,950.00
Investment Earnings	\$ 20,000.00
	\$ 2,507,400.00

4d. Authorization to Amend a Joint Powers Agreement with the City of Apple Valley for the Erickson Park Stormwater Improvement Project

Meeting Date: 3/25/2021
Item Type: Consent-Action
Contact: Mark Ryan
Telephone: 952-891-7596
Prepared by: Mark Ryan
Reviewed by: N/A

N/A

**PURPOSE/ACTION REQUESTED**

- Authorization to Amend a Joint Powers Agreement with the City of Apple Valley for the Erickson Park Stormwater Improvement Project

SUMMARY

The Vermillion River Watershed Joint Powers Organization (VRWJPO) staff requests an amendment to an existing Joint Powers Agreement (JPA) with the City of Apple Valley (City) for the Erickson Park stormwater improvement project. The amendment to the JPA is needed to convey additional Fiscal Year 2019-20 Watershed-Based Implementation Funding (WBIF) grant funding and VRWJPO match to the City for the completion of the project.

The Vermillion River Watershed Joint Powers Board (VRWJPB) previously authorized the JPA with the City as part of the Fiscal Year 2019-20 WBIF grant funding allocations (VRW 19-27; 6/27/2019). That JPA is provided as Attachment A. A total of \$100,000 of grant funds and \$30,000 of VRWJPO match were included in the initial agreement. In 2020, the VRWJPB approved reallocation of some of the Fiscal Year 2019-20 WBIF grant funding to different projects after one of the planned projects did not move forward (VRW 20-14; 8/27/2020). As part of that action, an additional \$14,300 of WBIF grant funding and \$20,000 of VRWJPO cash match were moved to the Erickson Park project. The amount of additional grant funding to be moved to the project has since been revised to \$14,250. The 2021 Final VRWJPO budget already reflects this increase in funding for the project.

The first amendment to the JPA is included as Attachment B. With the reallocated funds, the total maximum of funding to be provided to the City through the JPA is \$164,250. The project remains on track for construction in summer or fall 2021, and the term remains December 31, 2021. Anticipated total costs for the project are estimated at \$450,000 to \$500,000, which includes some activities that are not covered by the grant and match funding (e.g., historic pond sediment removal). The project will benefit Farquar Lake, which is impaired for nutrients, by reducing the amount of total phosphorus reaching the lake by an estimated 6.7 pounds per year.

VRWJPO staff recommend amending the JPA to the City to provide an additional \$34,250 in combined grant and VRWJPO match funds to the project.

EXPLANATION OF FISCAL/FTE IMPACT

There is no change to what has been allocated to the project in the Capital Improvement Projects portion of the 2021 Final VRWJPO budget.

Supporting Documents:

Attachment A: JPA with Apple Valley for Erickson Park Stormwater Project

Attachment B: First Amendment to JPA with Apple Valley

Previous Board Action(s):

VRW 19-27; 6/27/2019

VRW 20-14; 8/27/2020

RESOLUTION**4d. Authorization to Amend a Joint Powers Agreement with the City of Apple Valley for the Erickson Park Stormwater Improvement Project**

WHEREAS, in 2019, the Vermillion River Watershed Joint Powers Board (VRWJPB) authorized the Joint Powers Agreement (JPA) with the City of Apple Valley (City) for the Erickson Park stormwater improvement project; and

WHEREAS, the VRWJPB approved reallocation of additional funding to the project from other Watershed-Based Implementation Funding (WBIF) projects in 2020; and

WHEREAS, the project will benefit Farquar Lake by reducing the total phosphorus reaching the lake by 6.7 pounds per year.

NOW, THEREFORE, BE IT RESOLVED, that the Vermillion River Watershed Joint Powers Board authorizes its chair to amend a Joint Powers Agreement with the City of Apple Valley to provide a not to exceed total of \$164,250 for the Erickson Park stormwater improvement project; subject to approval as to form by the Dakota County Attorney's Office.

**FIRST AMENDMENT TO JOINT POWERS AGREEMENT
BETWEEN THE VERMILLION RIVER WATERSHED JOINT POWERS ORGANIZATION
AND THE CITY OF APPLE VALLEY
FOR THE ERICKSON PARK STORMWATER IMPROVEMENT PROJECT**

WHEREAS, effective August 16, 2019, the Vermillion River Joint Powers Organization and the City of Apple Valley entered into a joint powers agreement (Agreement) for cost share of the Erickson Park Stormwater Improvement Project; and

WHEREAS the parties desire to amend certain terms of the Agreement as more fully set forth below; and

WHEREAS, the Agreement provides that any amendments shall be valid only when expressed in writing and duly signed by the parties.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. To amend Section 7.2 as follows:
 - a. The Grant will reimburse the following project-related activities up to the amount listed: \$114,250 related to the construction of the Project (City eligible).
2. To amend Section 7.3 as follows:
 - a. The Grant has a match requirement to the amount of Grant monies received. The match shall be shared in the amount of up to \$50,000 by the VRWJPO and a minimum of \$50,000 by the City for a total maximum grant match amount of \$100,000 which must be expended in compliance with the Grant requirements.
3. Add Section 7.4 as follows:
 - a. The City's maximum eligible reimbursement amount is \$164,250.
4. All other terms of the Agreement between the VRWJPO and the City for the Erickson Park Stormwater Improvement Project shall remain in full force and effect unless otherwise amended or terminated in accordance with law or the terms of the Agreement.
5. In any case where this Amendment conflicts with the Agreement, this Amendment shall govern.

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

CITY OF APPLE VALLEY

By _____
Clint Hooppaw, Mayor
Date of Signature: _____

By _____
Pamela Gackstetter or successor, City Clerk
Date of Signature: _____

VERMILLION RIVER WATERSHED
JOINT POWERS ORGANIZATION

Approved as to form:

/s/ Jennifer L. Wolf 3/16/21
Assistant Dakota County Attorney/Date
KS-18-544-1
VRW Res. No. _____ - _____

By _____
Mike Slavik Chair
Date of Signature: _____

4e. Authorization to Execute a Grant Agreement with the Minnesota Board of Water and Soil Resources for Fiscal Year 2021 Watershed-Based Implementation Funding

Meeting Date: 3/25/2021
Item Type: Regular-Action
Contact: Travis Thiel
Telephone: 952-891-7546
Prepared by: Travis Thiel
Reviewed by: N/A

N/A

**PURPOSE/ACTION REQUESTED**

- Authorization to execute a grant agreement (Grant) with the Minnesota Board of Water and Soil Resources (BWSR) for fiscal year 2021 Watershed-Based Implementation Funding (WBIF)

SUMMARY

The Vermillion River Watershed Joint Powers Organization (VRWJPO) staff requests execution of a Grant with the BWSR for WBIF for projects and practices in the Vermillion River Watershed.

In 2020, the BWSR solicited prioritized projects from local stakeholders in the Vermillion River Watershed that addressed water quality improvement for WBIF grant consideration. Projects were submitted by local stakeholders, and those stakeholders reviewed and prioritized the projects and practices. The outcome was a prioritized list of projects and practices submitted to the BWSR through a formal budget request for WBIF grant funding consideration. The BWSR has approved the budget request and has provided the VRWJPO with a Grant agreement (Attachment A).

Based on the preference for fiscal agent and grantee responsibilities, the WBIF Grant does not include a comprehensive list of all projects and practices proposed in the Vermillion River Watershed, rather, it's just the projects and practices where the VRWJPO will serve as fiscal agent and grantee. The Grant will assist in paying for the following activities:

- a North Creek channel improvement project in Lakeville,
- two sediment retention basins in Ravenna Township
- anti-icing equipment for the City of Rosemount
- assessments in the Cities of Farmington and Hastings that will identify stormwater improvement projects in areas of each city that directly drain to the Vermillion River
- grant administration.

The Grant will provide \$487,181 toward the projects listed. The Grant has a 10 percent local match requirement that is being met using a combination of City and VRWJPO funding.

VRWJPO staff and the Vermillion River Watershed Planning Commission recommend executing a Grant with the BWSR for WBIF for projects and practices in the Vermillion River Watershed in an amount not to exceed \$487,181.

EXPLANATION OF FISCAL/FTE IMPACT

The VRWJPO will provide up to \$34,100 from the Capital Improvement Projects portion of the VRWJPO Budget.

Supporting Documents:

Attachment A: Grant agreement with the BWSR for FY21 WBIF

Previous Board Action(s):**RESOLUTION****6b. Authorization to Execute a Grant Agreement with the Minnesota Board of Water and Soil Resources for Fiscal Year 2021 Watershed-Based Implementation Funding**

WHEREAS, in 2020, the Minnesota Board of Water and Soil Resources (BWR) solicited prioritized projects from local stakeholders in the Vermillion River Watershed that addressed water quality improvement for Watershed-Based Implementation Funding (WBIF) grant consideration; and

WHEREAS, projects were submitted by local stakeholders, and those stakeholders reviewed and prioritized the projects and practices; and

WHEREAS, a prioritized list of projects and practices were submitted to the BWSR through a formal budget request for WBIF grant funding consideration; and

WHEREAS, the BWSR has approved the budget request and has provided the Vermillion River Watershed Joint Powers Organization (VRWJPO) with a grant agreement (Grant) totaling \$487,181 for projects and practices in the Vermillion River Watershed; and

WHEREAS, the Grant requires a minimum 10 percent local match, which will be provided using a combination of City and VRWJPO funding.

NOW, THEREFORE, BE IT RESOLVED, that the Vermillion River Watershed Joint Powers Board authorizes its chair to execute a Grant with the Board of Soil and Water Resources in an amount not to exceed \$487,181 for Watershed Based Implementation Funding for projects and practices in the Vermillion River Watershed; subject to approval as to form by the Dakota County Attorney's Office.

**FY 2021 STATE OF MINNESOTA
BOARD OF WATER and SOIL RESOURCES
WATERSHED-BASED IMPLEMENTATION FUNDING
GRANT AGREEMENT**

Vendor:	0000197289
PO#:	3000013139

This Grant Agreement is between the State of Minnesota, acting through its Board of Water and Soil Resources (Board) and **Vermillion River Watershed JPO, 4100 220th St. W., Suite 103, Farmington, MN 55024** (Grantee).

Fiscal Agent: Dakota County

This grant is for the following Grant Programs :

C21-0588	2021 Metro Vermillion Watershed - Vermillion River Watershed JPO	\$487,181
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Total Grant Awarded: \$487,181

Recitals

1. The Laws of Minnesota 2019, 1st Special Session, Chapter 2, Article 2, Section 7(a), appropriated Clean Water Funds (CWF) to the Board for the FY 2020-2021 Watershed-based Implementation Funding.
2. The Board adopted the FY 2020-2021 Clean Water Fund Watershed-based Implementation Funding Program Policy and authorized the Watershed-based Implementation Funding Program through Board Order #19-54.
3. The Board adopted Board Order #19-54 to allocate funds for the FY 2020-2021 Watershed-based Implementation Funding Program.
4. The Grantee has submitted a BWSR approved work plan for this Program which is incorporated into this Grant Agreement by reference.
5. The Grantee represents that it is duly qualified and agrees to perform all services described in this Grant Agreement to the satisfaction of the State.
6. As a condition of the grant, Grantee agrees to minimize administration costs.

Authorized Representative

The State's Authorized Representative is Marcey Westrick, Clean Water Coordinator, BWSR, 520 Lafayette Road North, Saint Paul, MN 55155, 651-284-4153, or his/her successor, and has the responsibility to monitor the Grantee's performance and the authority to accept the services and performance provided under this Grant Agreement.

The Grantee's Authorized Representative is:

**Mike Slavik, Chair
Vermillion River Watershed Joint Powers Organization
1590 Highway 55
Hastings, MN 55033-2343
(651) 438-4427**

If the Grantee's Authorized Representative changes at any time during this Grant Agreement, the Grantee must immediately notify the Board.

Grant Agreement

1. Terms of the Grant Agreement.

- 1.1. **Effective date:** The date the Board obtains all required signatures under Minn. Stat. § 16B.98, Subd. 5. **The State will notify the Grantee when this Grant Agreement has been executed. The Grantee must not begin work under this Grant Agreement until it is executed.**
- 1.2. **Expiration date:** **December 31, 2023**, or until all obligations have been satisfactorily fulfilled, whichever comes first.

- 1.3. **Survival of Terms:** The following clauses survive the expiration date or cancellation of this Grant Agreement: 7. Liability; 8. State Audits; 9. Government Data Practices; 11. Publicity and Endorsement; 12. Governing Law, Jurisdiction, and Venue; 14. Data Disclosure; and 19. Intellectual Property Rights.

2. **Grantee's Duties.**

The Grantee will comply with required grants management policies and procedures set forth through Minn. Stat § 16B.97, Subd. 4(a)(1). The Grantee is responsible for the specific duties for the Program as follows:

- 2.1. **Implementation:** The Grantee will implement their work plan, which is incorporated into this Grant Agreement by reference.
- 2.2. **Reporting:** All data and information provided in a Grantee's report shall be considered public.
- 2.2.1. The Grantee will submit an annual progress report to the Board by February 1 of each year on the status of Program implementation by the Grantee. Information provided must conform to the requirements and formats set by the Board. All individual grants over \$500,000 will also require a reporting expenditure by June 30 of each year.
- 2.2.2. The Grantee will prominently display on its website the Clean Water Legacy Logo and a link to the Legislative Coordinating Commission website.
- 2.2.3. Final Progress Report: The Grantee will submit a final progress report to the Board by February 1, 2024 or within 30 days of completion of the project, whichever occurs sooner. Information provided must conform to the requirements and formats set by the Board.
- 2.3. **Match:** The Grantee will ensure any local match requirement will be provided as stated in Grantee's approved work plan.

3. **Time.**

The Grantee must comply with all the time requirements described in this Grant Agreement. In the performance of this Grant Agreement, time is of the essence.

4. **Terms of Payment.**

- 4.1. Grant funds will be distributed in three installments: 1) The first payment of 50% will be distributed after the execution of the Grant Agreement. 2) The second payment of 40% will be distributed after the first payment of 50% has been expended and reporting requirements have been met. An eLINK Interim Financial Report that summarizes expenditures of the first 50% must be signed by the Grantee and approved by BWSR. Selected grantees may be required at this point to submit documentation of the expenditures reported on the Interim Financial Report for verification. 3) The third payment of 10% will be distributed after the grant has been fully expended and reporting requirements are met. The final, 10% payment must be requested within 30 days of the expiration date of the Grant Agreement. An eLINK Final Financial Report that summarizes final expenditures for the grant must be signed by the Grantee and approved by BWSR.
- 4.2. All costs must be incurred within the grant period.
- 4.3. All incurred costs must be paid before the amount of unspent funds is determined. Unspent grant funds must be returned within 30 days of the expiration date of the Grant Agreement.
- 4.4. The obligation of the State under this Grant Agreement will not exceed the amount listed above.
- 4.5. This grant includes an advance payment of 50 % of the grant's total amount. Advance payments allow the grantee to have adequate operating capital for start-up costs, ensure their financial commitment to landowners and contractors, and to better schedule work into the future.

5. **Conditions of Payment.**

- 5.1. All services provided by the Grantee under this Grant Agreement must be performed to the State's satisfaction, as set forth in this Grant Agreement and in the BWSR approved work plan for this program. Compliance will be determined at the sole discretion of the State's Authorized Representative and in accordance with all applicable federal, State, and local laws, policies, ordinances, rules, FY 2020-2021 Clean Water Fund Watershed-based Implementation Funding Program Policy, and regulations. The Grantee will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal, State or local law.
- 5.2. Minnesota Statutes §103C.401 (2018) establishes BWSR's obligation to assure Program compliance. If the noncompliance is severe, or if work under the Grant Agreement is found by BWSR to be unsatisfactory or performed in violation of federal, State, or local law, BWSR has the authority to require the repayment of grant funds or withhold payment on grants from other programs.

6. **Assignment, Amendments, and Waiver**

- 6.1. **Assignment.** The Grantee may neither assign nor transfer any rights or obligations under this Grant Agreement without the prior consent of the State and a fully executed Assignment Agreement, executed and approved by the same parties who executed and approved this Grant Agreement, or their successors in office.

- 6.2. **Amendments.** Any amendments to this Grant Agreement must be in writing and will not be effective until it has been approved and executed by the same parties who approved and executed the original Grant Agreement, or their successors in office. Amendments must be executed prior to the expiration of the original Grant Agreement or any amendments thereto.
- 6.3. **Waiver.** If the State fails to enforce any provision of this Grant Agreement, that failure does not waive the provision or its right to enforce it.

7. **Liability.**

The Grantee must indemnify, save, and hold the State, its agents, and employees harmless from any claims or causes of action, including attorney's fees incurred by the State, arising from the performance of this Grant Agreement by the Grantee or the Grantee's agents or employees. This clause will not be construed to bar any legal remedies the Grantee may have for the State's failure to fulfill its obligations under this Grant Agreement.

8. **State Audits.**

Under Minn. Stat. § 16B.98, Subd. 8, the Grantee's books, records, documents, and accounting procedures and practices of the Grantee or other party relevant to this Grant Agreement or transaction are subject to examination by the Board and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this Grant Agreement, receipt and approval of all final reports, or the required period of time to satisfy all State and program retention requirements, whichever is later.

- 8.1. The books, records, documents, accounting procedures and practices of the Grantee and its designated local units of government and contractors relevant to this grant, may be examined at any time by the Board or Board's designee and are subject to verification. The Grantee or delegated local unit of government will maintain records relating to the receipt and expenditure of grant funds.

9. **Government Data Practices.**

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

10. **Workers' Compensation.**

The Grantee certifies that it is in compliance with Minn. Stat. § 176.181, Subd. 2, pertaining to workers' compensation insurance coverage. The Grantee's employees and agents will not be considered State employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees and any claims made by any third party as a consequence of any act or omission on the part of these employees are in no way the State's obligation or responsibility.

11. **Publicity and Endorsement.**

- 11.1. **Publicity.** Any publicity regarding the subject matter of this Grant Agreement must identify the Board as the sponsoring agency. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Grantee individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Grant Agreement.

- 11.2. **Endorsement.** The Grantee must not claim that the State endorses its products or services

12. **Governing Law, Jurisdiction, and Venue.**

Minnesota law, without regard to its choice-of-law provisions, governs this Grant Agreement. Venue for all legal proceedings out of this Grant Agreement, or its breach, must be in the appropriate State or federal court with competent jurisdiction in Ramsey County, Minnesota.

13. **Termination.**

- 13.1. The State may cancel this Grant Agreement at any time, with or without cause, upon 30 days' written notice to the Grantee. Upon termination, the Grantee will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.
- 13.2. In the event of a lawsuit, an appropriation from a Clean Water Fund is canceled to the extent that a court determines that the appropriation unconstitutionally substitutes for a traditional source of funding.
- 13.3. The State may immediately terminate this Grant Agreement if the State finds that there has been a failure to comply with the provisions of this Grant Agreement, that reasonable progress has not been made or that the purposes for which the funds were granted have not been or will not be fulfilled. The State may take action to protect the interests of the State of

Minnesota, including the refusal to disburse additional funds and requiring the return of all or part of the funds already disbursed.

14. Data Disclosure.

Under Minn. Stat. § 270C.65, Subd. 3, and other applicable law, the Grantee consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and State tax agencies and State personnel involved in the payment of State obligations. These identification numbers may be used in the enforcement of federal and State tax laws which could result in action requiring the Grantee to file State tax returns and pay delinquent State tax liabilities, if any.

15. Prevailing Wage.

It is the responsibility of the Grantee or contractor to pay prevailing wage for projects that include construction work of \$25,000 or more, prevailing wage rules apply per Minn. Stat. §§ 177.41 through 177.44. All laborers and mechanics employed by grant recipients and subcontractors funded in whole or in part with these State funds shall be paid wages at a rate not less than those prevailing on projects of a character similar in the locality. Bid requests must state the project is subject to prevailing wage.

16. Municipal Contracting Law.

Per Minn. Stat. § 471.345, grantees that are municipalities as defined in Subd. 1 of this statute must follow the Uniform Municipal Contracting Law. Supporting documentation of the bidding process utilized to contract services must be included in the Grantee's financial records, including support documentation justifying a single/sole source bid, if applicable.

17. Constitutional Compliance.

It is the responsibility of the Grantee to comply with requirements of the Minnesota Constitution regarding the use of Clean Water Funds to supplement traditional sources of funding.

18. Signage.

It is the responsibility of the Grantee to comply with requirements for project signage as provided in Minnesota Laws 2010, Chapter 361, Article 3, Section 5(b) for Clean Water Fund projects.

19. Intellectual Property Rights.

The State owns all rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in the Works and Documents *created and paid for under this grant*. Works means all inventions, improvements, discoveries, (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, and disks conceived, reduced to practice, created or originated by the Grantee, its employees, agents, and subcontractors, either individually or jointly with others in the performance of this grant. Work includes "Documents." Documents are the originals of any databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks, or other materials, whether in tangible or electronic forms, prepared by the Grantee, its employees, agents or subcontractors, in the performance of this grant. The Documents will be the exclusive property of the State and all such Documents must be immediately returned to the State by the Grantee upon completion or cancellation of this grant at the State's request. To the extent possible, those Works eligible for copyright protection under the United State Copyright Act will be deemed to be "works made for hire." The Grantee assigns all right, title, and interest it may have in the Works and the Documents to the State. The Grantee must, at the request of the State, execute all papers and perform all other acts necessary to transfer or record the State's ownership interest in the Works and Documents.

IN WITNESS WHEREOF, the parties have caused this Grant Agreement to be duly executed intending to be bound thereby.

Approved:

Vermillion River Watershed JPO

Board of Water and Soil Resources

By: _____
 (print)

By: _____

 (signature)

Title: _____

Title: _____

Date: _____

Date: _____

Approved as to form:

/s/ Helen R. Brosnahan 3/4/21
Assistant Dakota County Attorney/Date
KS-21-81

4f. Authorization to Execute a Joint Powers Agreement with the City of Lakeville for the North Creek at Highview Avenue Channel Improvement Project

Meeting Date: 3/25/2021
Item Type: Regular-Action
Contact: Travis Thiel
Telephone: 952-891-7546
Prepared by: Travis Thiel
Reviewed by: N/A

N/A

**PURPOSE/ACTION REQUESTED**

- Authorization to execute a Joint Powers Agreement with the City of Lakeville for the North Creek at Highview Avenue Channel Improvement Project

SUMMARY

The Vermillion River Watershed Joint Powers Organization (VRWJPO) staff requests execution of a Joint Powers Agreement (JPA) with the City of Lakeville (City) to convey Watershed-Based Implementation Funding (WBIF) grant and VRWJPO local match to the City for a channel improvement project on North Creek at Highview Avenue.

In 2020, the City and VRWJPO staff evaluated significant erosion in a reach of North Creek from Highview Avenue downstream to Cedar Avenue. This reach of North Creek has significant bank erosion and channel downcutting. The City hired a consulting engineer to develop a conceptual plan and cost estimate for restoration. This conceptual plan including a cost estimate was the basis for a VRWJPO application to the Minnesota Board of Water and Soil Resources (BWSR) for a \$337,500 WBIF grant. The WBIF grant will be awarded to the VRWJPO in early 2021.

The WBIF grant requires a minimum 10 percent local match, which will be provided by the VRWJPO and City. The City proposes to provide up to \$18,750 in cash match and the VRWJPO will provide up to \$18,750 in cash match toward the project. The project is estimated to cost \$375,000 and is planned to be constructed in 2021 and 2022. The project is estimated to reduce total suspended solids by 147 tons per year and total phosphorus by 89 pounds per year.

VRWJPO staff recommend executing a JPA with the City for the North Creek at Highview Avenue Channel Improvement Project in an amount not to exceed \$356,250.

EXPLANATION OF FISCAL/FTE IMPACT

The VRWJPO will provide up to \$18,750 from the Capital Improvement Projects portion of the VRWJPO Budget.

Supporting Documents:

Attachment A: JPA with Lakeville for North Creek at Highview Channel Improvement Project

Previous Board Action(s):**RESOLUTION****6c. Authorization to Execute a Joint Powers Agreement with the City of Lakeville for the North Creek at Highview Avenue Channel Improvement Project**

WHEREAS, in 2020, the City of Lakeville (City) and the Vermillion River Watershed Joint Powers Organization (VRWJPO) evaluated significant erosion in a reach of North Creek from Highview Avenue downstream to Cedar Avenue; and

WHEREAS, the VRWJPO applied for and was awarded a \$337,500 Watershed-Based Implementation Funding (WBIF) grant for financial assistance with a restoration project; and

WHEREAS, the WBIF grant requires a minimum 10 percent local match, which will be provided by the VRWJPO and City; and

WHEREAS, the City proposes to provide up to \$18,750 in cash match toward the project and the VRWJPO will provide up to \$18,750 toward the project; and

WHEREAS, the project is planned to be constructed in 2021 and 2022; and

WHEREAS, the project is estimated to reduce total suspended solids and total phosphorus by 147 tons per year and total phosphorus by 89 pounds per year.

NOW, THEREFORE, BE IT RESOLVED, that the Vermillion River Watershed Joint Powers Board authorizes its chair to execute a Joint Powers Agreement with the City of Lakeville in an amount not to exceed \$356,250 for the North Creek at Highview Channel Improvement Project; subject to approval as to form by the Dakota County Attorney's Office.

**JOINT POWERS AGREEMENT FOR
THE NORTH CREEK AT HIGHVIEW AVENUE STREAM RESTORATION PROJECT
BETWEEN THE VERMILLION RIVER WATERSHED JOINT POWERS ORGANIZATION
AND
THE CITY OF LAKEVILLE
CITY PROJECT 20-62**

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

WHEREAS, the Vermillion River Watershed Joint Powers Organization is a watershed management body consisting of Dakota and Scott Counties (VRWJPO) 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 City of Lakeville (City) is a governmental and political subdivision of the State of Minnesota; and

WHEREAS, North Creek is a tributary to the Vermillion River; and

WHEREAS, the Vermillion River is identified on the EPA's 303d Impaired Waters List for macroinvertebrates and fish due to stressors affecting their health; and

WHEREAS, North Creek has significant erosion that is contributing sediment to downstream reaches of North Creek and the Vermillion River; and

WHEREAS, sediment was identified as the primary stressor to the biological communities in the Vermillion River Watershed Restoration and Protection Strategy (WRAPS) report; and

WHEREAS, restoration strategies were identified in the WRAPS report to identify and implement sediment reduction BMPs on public lands in the North Creek subwatershed; and

WHEREAS, reducing the sediment load in North Creek through channel restoration and improved connection of the channel to its floodplain (Project) will address the stressors affecting North Creek and the Vermillion River and remove the Vermillion River from the impaired waters list; and

WHEREAS, the estimated Project cost is \$375,000; and

WHEREAS, the VRWJPO was awarded a \$487,181 Watershed-Based Initiative Funding (Grant) from the Minnesota Board of Water and Soil Resources (BWSR); and

WHEREAS, the Project is proposing to use \$337,500 of the total BWSR Grant; and

WHEREAS, the Grant has a minimum match requirement equal to 10% of the amount of Grant monies received, either in the form of cash or in-kind services; and

WHEREAS, both the VRWJPO and City have included cash matches of at least 10% of the Grant amount used for Project costs in their Capital Improvement Plans and will jointly participate in the design and construction and related activities after applying Grant monies; and

WHEREAS, the VRWJPO, and as a result of this Joint Powers Agreement, the City will follow all applicable BWSR Grant policies and requirements that are relevant to each party.

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

ARTICLE 1 PURPOSE

The purpose of this Agreement is to define the Project responsibilities and Project cost-sharing obligations of the VRWJPO and the City.

ARTICLE 2 PARTIES

The parties to this Agreement are the VRWJPO and the City.

ARTICLE 3 TERM

This Agreement shall be effective the date of the signatures of the parties to this Agreement and shall remain in effect until December 31, 2023, or until completion by the 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 VRWJPO and City 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 TECHNICAL AND QUALITY ASSURANCE

The VRWJPO and City will provide technical and quality assurance for the Project. Any engineer providing technical or quality assurance for the Project must be a licensed Professional Engineer in the State of Minnesota. The Project will be designed using appropriate practice standards for design, construction, operation, and maintenance. Appropriate practice standards from the United States Department of Agriculture's Natural Resources Conservation Service Field Office Technical Guide, Minnesota Stormwater Manual, or other scientifically appropriate and applicable standards can be used. Vegetative practices must follow the BWSR Board adopted Native Vegetation Establishment and Enhancement Guidelines. The Engineer providing technical and quality assurance will certify that the Project was installed or constructed in accordance with the applicable plans and specifications, including approved modifications, prior to authorization for payment by the VRWJPO. An as-built plan set will be provided to the VRWJPO by the Engineer immediately following Project completion as part of the required Project certification.

ARTICLE 6 PROJECT PLANS AND SPECIFICATIONS

The City is the lead agency for design and construction administration of this Project, effective upon execution of this Agreement by both parties. The VRWJPO and City shall approve the plans and specifications (Project Plans) prior to advertising for bids.

ARTICLE 7 PAYMENT

7.1 The City will administer the contracts and act as the paying agent for all payments to the contractor(s).

7.2 The Grant will reimburse project-related activities up to \$337,500 related to the engineering, permitting, bidding and construction of the Project (City eligible).

7.3 The Grant has a match requirement to the amount of monies received. The match shall be shared in the amount of up to \$18,750 in cash match by the VRWJPO and up to \$18,750 of cash match by the City up to a total maximum Grant match amount of \$37,500 and expended prior to release of Grant monies.

7.4 The City's maximum eligible reimbursement is up to \$356,250 when accounting for the Grant and VRWJPO cash match.

7.5 No payment shall be made prior to approval of the Project Plans by both the VRWJPO and City.

7.6 The VRWJPO shall pay the City for engineering and construction costs on a reimbursement basis. Under the terms of the Grant, the VRWJPO will receive funds in the following disbursements: (a) 50% after execution of the Grant; (b) 40% after the first 50% has been expended and Grant reporting requirements are met; and (c) 10% after final Grant requirements are met. The VRWJPO will make progress payments to the City, if requested, on a reimbursement basis, contingent upon the VRWJPO's receipt of adequate Grant disbursements to make City requested payments. Ten percent (10%) of the Agreement maximum shall be withheld until the VRWJPO has verified that the Project has been installed in accordance with this Agreement and the Project Plans. All requests for payment shall be supported by itemized Project receipts and invoices determined by the VRWJPO to be practical and reasonable for completion of the Project.

7.7 The VRWJPO may refuse to pay claims not specifically authorized by this Agreement. Payment of a claim shall not preclude the VRWJPO from questioning the propriety of the claim. The VRWJPO reserves the right to be repaid for any overpayment or disallowed claim.

7.8 All services provided by the VRWJPO under the BWSR Grant Agreement, attached and incorporated herein as Exhibit 2, and services provided by the City to the VRWJPO through this Joint Powers Agreement must be performed to the State's satisfaction, as set forth in Exhibit 2 and in the BWSR approved work plan.,

ARTICLE 8 CITY OBLIGATIONS

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

8.2 CONSTRUCTION REQUIREMENTS. The Project shall be constructed in accordance with the Project Plans. The VRWJPO and City shall approve any modifications to the Project Plans.

8.3 CONSTRUCTION AND DESIGN FAILURES. Any failure related to construction or design of the Project shall be addressed in the contracts with the construction firm or professional services firm.

8.4 RIGHT-OF-ENTRY. The City hereby permits the VRWJPO, its employees, duly authorized representatives and agents to enter upon and have rights of ingress and egress over and access at reasonable times to the real property where the Project will be located for the purpose of inspecting the construction of the Project.

8.5 OPERATION AND MAINTENANCE. The City shall be responsible for on-going maintenance of the Project or will request shared responsibility with the VRWJPO for on-going maintenance of the Project upon completion for a minimum of 10 years unless necessitated by a failure due to Acts of God or Force majeure. On an annual basis, the VRWJPO and City will have within their collective Capital Improvement Plans 20 percent of the final project construction cost for repairs or project maintenance to ensure acceptable performance for 10 years from the time of project completion. Operation and Maintenance will follow the schedule, procedures, and actions identified in the Operation and Maintenance Plan (Exhibit 1).

8.6 COMPLIANCE WITH LAWS/STANDARDS. The City shall abide by all federal, state, or local laws, statutes, ordinances, rules, and regulations in constructing the Project, including obtaining all necessary permits to construct the Project.

8.7 PUBLICITY. The City hereby permits the VRWJPO to take and disclose photographs of the Project for use in publications or promotional material or on its website to highlight the VRWJPO's programs. The City shall appropriately acknowledge the funding provided by the VRWJPO, the State of Minnesota, and the Clean Water, Land, and Legacy Amendment 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 9 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 party, its officers, employees or agents. The provisions of the Municipal Tort Claims Act, Minn. Stat. Ch. 466 and other applicable laws govern liability of the VRWJPO and the City. Each party warrants that they are able to 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 either 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 10 AUTHORIZED REPRESENTATIVES AND LIAISONS

10.1 AUTHORIZED REPRESENTATIVES. The following named persons are designated the authorized representatives of the parties for purposes of 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 provided to the following named persons and addresses unless otherwise stated in this Agreement, or an amendment of this Agreement:

TO THE VRWJPO: Mike Slavik or successor, Chair
Vermillion River Watershed Joint Powers Organization
14955 Galaxie Avenue
Apple Valley, MN 55124
Telephone: (952) 891-7030

TO THE CITY: Justin Miller, City Administrator, or successor
City of Lakeville
20195 Holyoke Avenue
Lakeville, MN 55044
Telephone: (952) 985-4400

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

10.2 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 the VRWJPO and the City. The VRWJPO and the City 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: Travis Thiel
Telephone: (952) 891-7546
Email: travis.thiel@co.dakota.mn.us

City Liaison: McKenzie Cafferty
Environmental Resources Manager
Telephone: (952) 985-4520
Email: mcafferty@lakevillemn.gov

ARTICLE 11 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 VRWJPO and the City.

ARTICLE 12 TERMINATION

12.1 IN GENERAL. Either party may terminate this Agreement for cause by giving seven days' written notice or without cause by giving 30 days' written notice, of its intent to terminate, to the other party. 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. This Agreement may also be terminated by the City in the event of a default by the VRWJPO. Notice of Termination shall be made by certified mail or personal delivery to the authorized representative of the other party. 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.

12.2 TERMINATION BY VRWJPO FOR LACK OF FUNDING. Notwithstanding any provision of this Agreement to the contrary, the VRWJPO may immediately terminate this Agreement 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. The VRWJPO is not obligated to pay for any services that are provided after written notice of termination for lack of funding. The VRWJPO will not be assessed any penalty or damages if the Agreement is terminated due to lack of funding. The VRWJPO will pay for expenses incurred by the City up to Notice of Termination of work on the Project.

ARTICLE 13 MINNESOTA LAW TO GOVERN

This Agreement shall be governed by and construed in accordance with 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 14 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 15 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 either party.

ARTICLE 16 GOVERNMENT DATA PRACTICES

The City and the VRWJPO 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 either the City or the VRWJPO.

ARTICLE 17 SURVIVABILITY

The provisions of articles 8.3 (Construction and Design Failures), 8.5 (Operation and Maintenance), 9 (Indemnification) and 16 (Government Data Practices) survive the expiration or termination of this Agreement.

ARTICLE 18 DEFAULT: FORCE MAJEURE

Neither party shall be liable to the other party for any loss or damage resulting from a delay or failure to perform due to unforeseeable acts or events outside the defaulting party's reasonable control, providing the defaulting party gives notice to the other party as soon as possible. Acts and events may include acts of God, acts of terrorism, war fire, flood epidemic, acts of civil or military authority, and natural disasters.

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

CITY OF LAKEVILLE

By _____
Douglas P. Anderson or successor, Mayor
Date of Signature: _____

By _____
Char Friedges, City Clerk
Date of Signature: _____

APPROVED AS TO FORM:

Assistant Dakota County Attorney
Date of Signature: _____
VRW Res. No. _____
KS-21-75

**VERMILLION RIVER WATERSHED
JOINT POWERS ORGANIZATION**

By _____
Mike Slavik or successor, Chair
Date of Signature: _____

DRAFT

4g. Authorization to Execute a Joint Powers Agreement with the City of Rosemount for Anti-Icing Equipment Purchase

Meeting Date: 3/25/2021
Item Type: Regular-Action
Contact: Travis Thiel
Telephone: 952-891-7546
Prepared by: Travis Thiel
Reviewed by: N/A

N/A

**PURPOSE/ACTION REQUESTED**

- Authorization to execute a Joint Powers Agreement with the City of Rosemount for anti-icing equipment purchase

SUMMARY

The Vermillion River Watershed Joint Powers Organization (VRWJPO) staff requests execution of a Joint Powers Agreement (JPA) with the City of Rosemount (City) to convey Watershed-Based Implementation Funding (WBIF) grant to the City for the purchase of anti-icing equipment.

In 2020, the Minnesota Board of Water and Soil Resources (BWSR) solicited prioritized projects from local stakeholders in the Vermillion River Watershed that addressed water quality improvement for WBIF grant consideration. The City proposed the purchase of a liquid brine sprayer and associated accessories using WBIF grant funding and local match. BWSR accepted a proposal for the equipment purchase and other projects.

The City is planning to purchase the equipment in 2021 for use in future winter street maintenance activities. Use of liquid brine has been found to be an effective method at reducing the amount of chloride applied to roads to improve winter driving safety. The project would reduce the amount of chloride in City surface waters and would protect the City's drinking water from contamination. The equipment is estimated to cost \$20,000. The WBIF grant would provide \$15,000. The WBIF grant requires a minimum 10 percent local match, and the City would contribute \$5,000 in local match. The WBIF grant will be awarded to the VRWJPO in early 2021, where the VRWJPO would then pass through funds to the City via reimbursement for the purchase.

VRWJPO staff recommend executing a JPA with the City for the anti-icing equipment purchase in an amount not to exceed \$15,000.

EXPLANATION OF FISCAL/FTE IMPACT

No fiscal impact to the VRWJPO budget.

Supporting Documents:

Attachment A: JPA with Rosemount for Anti-Icing Equipment Purchase

Previous Board Action(s):**RESOLUTION****6d. Authorization to Execute a Joint Powers Agreement with the City of Rosemount for Anti-Icing Equipment Purchase**

WHEREAS, in 2020, the Minnesota Board of Water and Soil Resources (BWR) solicited prioritized projects from local stakeholders in the Vermillion River Watershed that addressed water quality improvement for Watershed-Based Implementation Funding (WBIF) grant consideration; and

WHEREAS, the City of Rosemount (City) proposed the purchase of a liquid brine sprayer and associated accessories using WBIF grant funding and local match; and

WHEREAS, the WBIF grant requires a minimum 10 percent local match, which will be provided by the City; and

WHEREAS, the BWSR accepted the proposal for equipment purchase and other projects; and

WHEREAS, use of liquid brine has been found to be an effective method at reducing the amount of chloride applied to roads to improve winter driving safety; and

WHEREAS, the project would reduce the amount of chloride in City surface waters and would protect the City's drinking water from contamination; and

WHEREAS, the purchase of the equipment is planned for 2021; and

WHEREAS, the estimated cost to purchase the equipment is \$20,000; and

WHEREAS, the WBIF grant would provide up to \$15,000 and the City would provide up to \$5,000 in local match.

NOW, THEREFORE, BE IT RESOLVED, that the Vermillion River Watershed Joint Powers Board authorizes its chair to execute a Joint Powers Agreement with the City of Rosemount in an amount not to exceed \$15,000 for the anti-icing equipment purchase; subject to approval as to form by the Dakota County Attorney's Office.

**JOINT POWERS AGREEMENT
BETWEEN THE VERMILLION RIVER WATERSHED JOINT POWERS ORGANIZATION
AND
THE CITY OF ROSEMOUNT
FOR ANTI-ICING STREET MAINTANENCE EQUIPMENT**

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

WHEREAS, the Vermillion River Watershed Joint Powers Organization is a watershed management body consisting of Dakota and Scott Counties (VRWJPO) 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 City of Rosemount (City) is a governmental and political subdivision of the State of Minnesota; and

WHEREAS, winter street maintenance requires a balance of chloride use to maintain public safety while simultaneously minimizing the impact to water resources; and

WHEREAS, chloride can permanently pollute water resources, and appropriately managing the use of chloride is a significant concern in Minnesota because it does not break down in the environment, resulting in accumulation in water resources; and

WHEREAS, the City is transitioning to an anti-icing strategy using technology that more effectively manages the amount of chloride applied to City streets, reducing the risk of chloride contamination in surface water and groundwater; and

WHEREAS, the VRWJPO Watershed Management Plan has a goal to protect and restore groundwater quality and Dakota County' Groundwater Plan has a strategy to prevent groundwater contamination from chloride; and

WHEREAS, the City's purchase of the anti-icing equipment (Equipment) will directly address the goals of the VRWJPO Watershed Management Plan; and

WHEREAS, the VRWJPO applied for and was awarded Watershed-Based Initiative Funding (WBIF) from the Minnesota Board of Water and Soil Resources to pay for a portion of the Equipment; and

WHEREAS, the VRWJPO will pass through grant funding to the City to partially pay for the Equipment; and

WHEREAS, the Grant has a match requirement equal to 10% of the amount of Grant monies received; and

WHEREAS, the City has included this Equipment in its budgets and will provide the costs of the required match.

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

**ARTICLE 1
PARTIES**

The parties to this Agreement are the VRWJPO and the City.

ARTICLE 2 PURPOSE

The purpose of this Agreement is to define responsibilities and cost-sharing obligations of the parties.

ARTICLE 3 TERM

This Agreement shall be effective the date of the signatures of the parties to this Agreement and shall remain in effect until December 31, 2023, or until completion by the 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 parties agree to cooperate and use 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 PARTIES OBLIGATIONS

5.1 The funds provided under the terms of this Agreement may only be used for the payment of costs directly related to the purchase of the Equipment.

5.2 The City will act as the paying agent for all purchases of the Equipment.

5.3 The City hereby permits the VRWJPO, its employees, duly authorized representatives and agents to inspect the Equipment at reasonable times given advance notice of such a request.

5.4 The parties shall abide by all federal, state, and local laws, statutes, ordinances, rules, and regulations in performing the purchase of the Equipment.

5.5 The parties may take and disclose photographs of Equipment for use in publications or promotional material or on its website to highlight the VRWJPO's or the City's programs. Each party shall appropriately acknowledge the funding provided by the other party in any promotional materials, signage, reports, publications, notices, and presentations related to the Equipment. This section shall survive the expiration or termination of this Agreement.

5.6 Upon completion of the Equipment purchase, the City shall be responsible for the operation and on-going maintenance of the Equipment for a minimum of 10 years unless the City is prevented from performing this obligation due to acts of God or force majeure events outside of the City's control. This section survives the term of this Agreement.

ARTICLE 6 PAYMENT

6.1 The Grant will reimburse Equipment purchases up to \$15,000.

6.2 The Grant has a match requirement to the amount of monies received. The match will be provided by the City up to a total maximum Grant match amount of \$5,000.

6.3 The VRWJPO shall pay the City on a one-time basis in an amount not to exceed \$15,000 for costs directly related to the purchase of the Equipment. Upon completion of the purchase, the City shall submit all

documentation related to the Equipment purchase and an invoice to the VRWJPO for costs directly related to the Equipment. The VRWJPO shall remit payment to the City within 45 days of receipt of an invoice.

6.4 The VRWJPO may refuse to pay any claims not specifically authorized by this Agreement.

**ARTICLE 7
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 party, its officers, employees or agents. The provisions of the Municipal Tort Claims Act, Minn. Stat. ch. 466 and other applicable laws govern liability of the VRWJPO and the City. This section shall survive the expiration or termination of this Agreement.

**ARTICLE 8
AUTHORIZED REPRESENTATIVES AND LIAISONS**

8.1 AUTHORIZED REPRESENTATIVES. The following named persons are designated the authorized representatives of the parties for purposes of 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 provided to the following named persons and addresses unless otherwise stated in this Agreement, or in a modification of this Agreement:

TO THE VRWJPO:	Mike Slavik or successor, Chair Vermillion River Watershed Joint Powers Organization 14955 Galaxie Avenue Apple Valley, MN 55124 Telephone: (952) 891-7030
TO THE CITY:	Logan Martin, City Administrator City of Rosemount 2875 145 th St. W. Rosemount, MN 55068 Telephone: (651) 322-2006

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

8.2 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 the VRWJPO and the City. The VRWJPO and the City 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:	Travis Thiel Telephone: (952) 891-7546 Email: travis.thiel@co.dakota.mn.us
CITY Liaison:	Jane Byron Storm Water Specialist Telephone: (651) 322-2075 Email: jane.byron@ci.rosemount.mn.us

ARTICLE 9 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, and signed by the Authorized Representatives of the VRWJPO and the City.

ARTICLE 10 TERMINATION

Either party may terminate this Agreement for cause by giving seven days' written notice of its intent to terminate the Agreement to the other party. 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. Either party may terminate this Agreement for any reason by giving 30 days' written notice, of its intent to terminate, to the other party. Either party may immediately terminate this Agreement in the event of a violation of any of the terms of this Agreement. Notice of Termination shall be made by certified mail or personal delivery to the authorized representative of the other party. 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.

ARTICLE 11 MINNESOTA LAW TO GOVERN

This Agreement shall be governed by and construed in accordance with 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 12 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 13 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 either party.

ARTICLE 14 GOVERNMENT DATA PRACTICES

The VRWJPO and the City 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 either the VRWJPO or the City.

ARTICLE 15 DEFAULT: FORCE MAJEURE

No party shall be liable to any other party for any loss or damage resulting from a delay or failure to perform due to unforeseeable acts or events outside the defaulting party's reasonable control, providing the defaulting party

gives notice to the other party as soon as possible. Acts and events may include acts of terrorism, war, fire, flood, epidemic, acts of civil or military authority, and natural disasters.

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

CITY OF ROSEMOUNT

By _____
Bill Droste, Mayor
Date of Signature: _____

By _____
Erin Fasbender, City Clerk
Date of Signature _____

**VERMILLION RIVER WATERSHED
JOINT POWERS ORGANIZATION**

By _____
Mike Slavik or successor, Chair
Date of Signature: _____

APPROVED AS TO FORM:

/s/Helen R. Brosnahan _____
Assistant Dakota County Attorney
Date of Signature:
VRW Res. No. _____
KS-21-76

4h. Authorization to Execute a Joint Powers Agreement with the City of Farmington for Vermillion River Direct Drainage Stormwater Treatment Assessment

Meeting Date: 3/25/2021
Item Type: Regular-Action
Contact: Mark Ryan
Telephone: 952-891-7596
Prepared by: Mark Ryan
Reviewed by: N/A

N/A

**PURPOSE/ACTION REQUESTED**

- Authorization to execute a Joint Powers Agreement with the City of Farmington for Vermillion River direct drainage stormwater treatment assessment

SUMMARY

The Vermillion River Watershed Joint Powers Organization (VRWJPO) staff requests execution of a Joint Powers Agreement (JPA) with the City of Farmington (City) to convey Watershed-Based Implementation Funding (WBIF) grant funding to the City for the completion of an assessment for stormwater treatment of areas that drain directly to the Vermillion River.

In 2020, the Minnesota Board of Water and Soil Resources (BWSR) solicited prioritized projects from local stakeholders in the Vermillion River Watershed that addressed water quality improvement for WBIF grant consideration. The VRWJPO proposed completion of a direct drainage assessment for areas currently draining to the Vermillion River without stormwater treatment. At the same time, the City proposed a study looking at stormwater projects for the upcoming Pine Street and Spruce Street reconstruction projects. With limited WBIF dollars, the group of local stakeholders recommended the direct drainage assessment with the caveat that it first considers the Pine Street and Spruce Street drainage areas. The primary pollutant addressed by the study will be total suspended solids (TSS)/turbidity, and turbidity has been identified as a primary stressor affecting the fish and macroinvertebrate communities in the reach of the Vermillion River in Farmington, which is an impaired water due to the poor fish and macroinvertebrate indices of biological integrity (IBI).

The City will contract with a consultant to complete the work and involve the VRWJPO in the review process. The goal of the study is to map out all areas draining directly to the river and provide pollutant loading information for those areas. Then, concept level designs will be developed for between two and five of these areas, with preference given first to any drainage areas that overlap with the Pine Street and Spruce Street reconstruction projects. The VRWJPO will pass through the grant funding and convey the required match funding (a minimum of 10 percent of the grant funds allocated to the study) to the City through this JPA. The City would like to complete the study in 2021 to be able to use potential stormwater design concepts in the upcoming street reconstruction design phase.

VRWJPO staff recommend executing a JPA with the City to complete the direct drainage assessment in an amount not to exceed \$30,000.

EXPLANATION OF FISCAL/FTE IMPACT

The VRWJPO will provide up to \$3,329 from the Capital Improvement Projects portion of the VRWJPO Budget.

Supporting Documents:

Attachment A: JPA with Farmington for Direct Drainage Stormwater Treatment Assessment

Previous Board Action(s):**RESOLUTION****6d. Authorization to Execute a Joint Powers Agreement with the City of Farmington for Vermillion River Direct Drainage Stormwater Treatment Assessment**

WHEREAS, in 2020, the Minnesota Board of Water and Soil Resources (BWSR) solicited prioritized projects from local stakeholders in the Vermillion River Watershed that addressed water quality improvement for Watershed Based Implementation Funding (WBIF) grant consideration; and

WHEREAS, the Vermillion River Watershed Joint Powers Organization (VRWJPO) and City of Farmington proposed studies for drainage areas in the City draining directly to the Vermillion River; and

WHEREAS, the group of local stakeholders recommended for WBIF funding the direct drainage assessment with considerations for the Pine Street and Spruce Street reconstruction projects; and

WHEREAS, the WBIF grant requires a minimum 10 percent local match, to be provided by the VRWJPO; and

WHEREAS, the City will contract a consultant to complete the work and involve the VRWJPO in the review process; and

WHEREAS, the completion of the assessment is planned for 2021; and

WHEREAS, the WBIF grant would provide up to \$26,671 and the VRWJPO would provide up to \$3,329 in local match.

NOW, THEREFORE, BE IT RESOLVED, that the Vermillion River Watershed Joint Powers Board authorizes its chair to execute a Joint Powers Agreement with the City of Farmington in an amount not to exceed \$30,000 for the Vermillion River direct drainage stormwater treatment assessment; subject to approval as to form by the Dakota County Attorney's Office.

**JOINT POWERS AGREEMENT
BETWEEN THE VERMILLION RIVER WATERSHED JOINT POWERS ORGANIZATION
AND
THE CITY OF FARMINGTON
FOR VERMILLION RIVER DIRECT DRAINAGE STORMWATER TREATMENT ASSESSMENT**

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

WHEREAS, the Vermillion River Watershed Joint Powers Organization is a watershed management body consisting of Dakota and Scott Counties (VRWJPO) 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 City of Farmington (City) is a governmental and political subdivision of the State of Minnesota; and

WHEREAS, portions of the City directly drain to the Vermillion River without stormwater treatment; and

WHEREAS, the Minnesota Pollution Control Agency (MPCA) has identified the portion of the Vermillion River in the City as an impaired water due to poor fish and macroinvertebrate indices of biotic integrities (IBI); and

WHEREAS, a study was conducted to identify the stressors affecting the fish and macroinvertebrate communities, which identified turbidity as the primary stressor and with poor habitat, low dissolved oxygen, and too warm of water temperatures to be the secondary stressors; and

WHEREAS, stormwater treatment projects within the City without stormwater treatment would reduce the identified stressors; and

WHEREAS, the VRWJPO applied for and was awarded Watershed-Based Initiative Funding (WBIF) from the Minnesota Board of Water and Soil Resources to pay for a portion of a Project that would identify potential stormwater treatment projects (Project); and

WHEREAS, the City and VRWJPO have agreed to have the City contract with a consultant to complete the Project; and

WHEREAS, the VRWJPO will pass through grant funding to the City to pay for a portion of the Project costs; and

WHEREAS, the Grant has a match requirement equal to 10% of the amount of Grant monies received; and

WHEREAS, the VRWJPO has included this Project and the 10% match requirement for this Grant in its budget.

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

ARTICLE 1 PARTIES

The parties to this Agreement are the VRWJPO and the City.

ARTICLE 2 PURPOSE

The purpose of this Agreement is to define Project responsibilities and cost-sharing obligations of the parties.

ARTICLE 3 TERM

This Agreement shall be effective the date of the signatures of the parties to this Agreement and shall remain in effect until December 31, 2023, or until completion by the 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 parties agree to cooperate and use 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 PARTIES OBLIGATIONS

5.1 The funds provided under the terms of this Agreement may only be used for the payment of costs directly related to the completion of the Project.

5.2 The City shall hire any necessary contractors to complete the Project. The City will administer any contracts for completion of the Project and act as the paying agent for all payments to the contractors. The City shall require the contractor to obtain and maintain adequate insurance consistent with the City and VRWJPO contract policies for the Project.

5.3 The parties shall abide by all federal, state, and local laws, statutes, ordinances, rules, and regulations in performing the Project.

5.4 The parties may take and disclose photographs of Project sites for use in publications or promotional material or on its website to highlight the VRWJPO's or the City's programs. Each party shall appropriately acknowledge the funding provided by the other party 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 6 PAYMENT

6.1 The Grant will reimburse project-related activities up to \$26,671.

6.2 The Grant has a 10% match requirement to the amount of monies received. The VRWJPO will provide match up to \$3,329.

6.3 The VRWJPO shall pay the City on a reimbursement basis in an amount not to exceed \$30,000 for costs directly related to the completion of the Project. The City has the option to wait until project completion and submit an invoice to the VRWJPO for costs directly related to the Project; in the alternative the City may request 50-percent cost reimbursement upon expending 50-percent of the Project cost and the remaining 50% upon

completion of the project. The City shall submit an invoice to the VRWJPO for reimbursement of costs directly related to the Project. The VRWJPO shall remit payment to the City within 45 days of receipt of an invoice.

6.4 The VRWJPO may refuse to pay any claims not specifically authorized by this Agreement.

ARTICLE 7 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 party, its officers, employees or agents. The provisions of the Municipal Tort Claims Act, Minn. Stat. ch. 466 and other applicable laws govern liability of the VRWJPO and the City. This section shall survive the expiration or termination of this Agreement.

ARTICLE 8 AUTHORIZED REPRESENTATIVES AND LIAISONS

8.1 AUTHORIZED REPRESENTATIVES. The following named persons are designated the authorized representatives of the parties for purposes of 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 provided to the following named persons and addresses unless otherwise stated in this Agreement, or in a modification of this Agreement:

TO THE VRWJPO: Mike Slavik or successor, Chair
Vermillion River Watershed Joint Powers Organization
14955 Galaxie Avenue
Apple Valley, MN 55124
Telephone: (952) 891-7030

TO THE CITY: David McKnight, City Administrator or successor
City of Farmington
430 3rd St.
Farmington, MN 55024
Telephone: (651) 280-6801

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

8.2 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 the VRWJPO and the City. The VRWJPO and the City 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: Mark Ryan
Telephone: (952) 891-7596
Email: mark.ryan@co.dakota.mn.us

CITY Liaison: Katy Gehler
Public Works Directory/City Engineer
Telephone: (651) 280-6841
Email: KGehler@farmingtonmn.gov

ARTICLE 9 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, and signed by the Authorized Representatives of the VRWJPO and the City.

ARTICLE 10 TERMINATION

Either party may terminate this Agreement for cause by giving seven days' written notice of its intent to terminate the Agreement to the other party. 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. Either party may terminate this Agreement for any reason by giving 30 days' written notice, of its intent to terminate, to the other party. Either party may immediately terminate this Agreement in the event of a violation of any of the terms of this Agreement. Notice of Termination shall be made by certified mail or personal delivery to the authorized representative of the other party. 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.

ARTICLE 11 MINNESOTA LAW TO GOVERN

This Agreement shall be governed by and construed in accordance with 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 12 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 13 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 either party.

ARTICLE 14 GOVERNMENT DATA PRACTICES

The VRWJPO and the City 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 either the VRWJPO or the City.

ARTICLE 15 DEFAULT: FORCE MAJEURE

No party shall be liable to any other party for any loss or damage resulting from a delay or failure to perform due to unforeseeable acts or events outside the defaulting party's reasonable control, providing the defaulting party gives notice to the other party as soon as possible. Acts and events may include acts of terrorism, war, fire, flood, epidemic, acts of civil or military authority, and natural disasters.

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

CITY OF FARMINGTON

By _____
David McKnight, City Administrator
Date of Signature: _____

APPROVED AS TO FORM:

/s/ _____
Assistant Dakota County Attorney
Date of Signature: _____
VRW Res. No. _____
KS-21-72

**VERMILLION RIVER WATERSHED
JOINT POWERS ORGANIZATION**

By _____
Mike Slavik or successor, Chair
Date of Signature: _____

DRAFT

4i. Authorization to Execute a Joint Powers Agreement with the City of Hastings for Vermillion River Direct Drainage Stormwater Treatment Assessment

Meeting Date: 3/25/2021
Item Type: Regular-Action
Contact: Mark Ryan
Telephone: 952-891-7596
Prepared by: Mark Ryan
Reviewed by: N/A

N/A

**PURPOSE/ACTION REQUESTED**

- Authorization to execute a Joint Powers Agreement with the City of Hastings for Vermillion River direct drainage stormwater treatment assessment

SUMMARY

The Vermillion River Watershed Joint Powers Organization (VRWJPO) staff requests execution of a Joint Powers Agreement (JPA) with the City of Hastings (City) to convey Watershed-Based Implementation Funding (WBIF) grant funding to the City for the completion of an assessment for stormwater treatment of areas that drain directly to the Vermillion River.

In 2020, the Minnesota Board of Water and Soil Resources (BWSR) solicited prioritized projects from local stakeholders in the Vermillion River Watershed that addressed water quality improvement for WBIF grant consideration. The VRWJPO proposed completion of a direct drainage assessment for areas currently draining to the Vermillion River without stormwater treatment in the cities of Hastings and Farmington. The group of local stakeholders recommended the direct drainage assessment to be funded through WBIF. The primary pollutant addressed by the study will be total suspended solids (TSS)/turbidity, and turbidity has been identified as a primary stressor affecting fish in the reach of the Vermillion River upstream of the Vermillion Falls (the reach is impaired for fish index of biotic integrity). The reach of the river below the falls is also impaired for turbidity.

The City will contract with a consultant to complete the work and involve the VRWJPO in the review process. The goal of the study is to map all areas draining directly to the river and provide pollutant loading information for those areas. Then, concept level designs will be developed for between two and five of these areas. The VRWJPO will pass through the grant funding and convey the required match funding (a minimum of 10 percent of the grant funds allocated to the study) to the City through this JPA. The City would like to complete the study in 2022 for funding and programmatic reasons which is acceptable given the grant agreement timeline.

VRWJPO staff recommend executing a JPA with the City to complete the direct drainage assessment in an amount not to exceed \$30,000.

EXPLANATION OF FISCAL/FTE IMPACT

The VRWJPO will provide up to \$3,329 from the Capital Improvement Projects portion of the VRWJPO Budget.

Supporting Documents:

Attachment A: JPA with Hastings for Direct Drainage Stormwater Treatment Assessment

Previous Board Action(s):**RESOLUTION****6f. Authorization to Execute a Joint Powers Agreement with the City of Hastings for Vermillion River Direct Drainage Stormwater Treatment Assessment**

WHEREAS, in 2020, the Minnesota Board of Water and Soil Resources (BWSR) solicited prioritized projects from local stakeholders in the Vermillion River Watershed that addressed water quality improvement for Watershed Based Implementation Funding (WBIF) grant consideration; and

WHEREAS, the Vermillion River Watershed Joint Powers Organization (VRWJPO) proposed a study of drainage areas in the cities of Hastings and Farmington draining directly to the Vermillion River; and

WHEREAS, the group of local stakeholders recommended for WBIF funding the direct drainage assessment; and

WHEREAS, the WBIF grant requires a minimum 10 percent local match, to be provided by the VRWJPO; and

WHEREAS, the City will contract a consultant to complete the work and involve the VRWJPO in the review process; and

WHEREAS, the completion of the assessment is planned for 2022; and

WHEREAS, the WBIF grant would provide up to \$26,671 and the VRWJPO would provide up to \$3,329 in local match.

NOW, THEREFORE, BE IT RESOLVED, that the Vermillion River Watershed Joint Powers Board authorizes its chair to execute a Joint Powers Agreement with the City of Hastings in an amount not to exceed \$30,000 for the Vermillion River direct drainage stormwater treatment assessment; subject to approval as to form by the Dakota County Attorney's Office.

**JOINT POWERS AGREEMENT
BETWEEN THE VERMILLION RIVER WATERSHED JOINT POWERS ORGANIZATION
AND
THE CITY OF HASTINGS
FOR VERMILLION RIVER DIRECT DRAINAGE STORMWATER TREATMENT ASSESSMENT**

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

WHEREAS, the Vermillion River Watershed Joint Powers Organization is a watershed management body consisting of Dakota and Scott Counties (VRWJPO) 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 City of Hastings (City) is a governmental and political subdivision of the State of Minnesota; and

WHEREAS, portions of the City directly drain to the Vermillion River without stormwater treatment; and

WHEREAS, the Minnesota Pollution Control Agency (MPCA) has identified the portion of the Vermillion River in the City upstream of the Vermillion Falls as an impaired water due to a poor fish index of biotic integrity (IBI) and the portion downstream as an impaired water due to turbidity; and

WHEREAS, a study was conducted to identify the stressors affecting the fish community, which identified turbidity as the primary stressor and poor habitat to be the secondary stressor; and

WHEREAS, stormwater treatment projects in areas of the City without stormwater treatment would reduce the identified stressors; and

WHEREAS, the VRWJPO applied for and was awarded Watershed-Based Initiative Funding (WBIF) from the Minnesota Board of Water and Soil Resources to pay for a portion of a project that would identify potential stormwater treatment projects (Project); and

WHEREAS, the City and VRWJPO have agreed to have the City contract with a consultant to complete the Project; and

WHEREAS, the VRWJPO will pass through grant funding to the City to pay for a portion of the Project costs; and

WHEREAS, the Grant has a match requirement equal to 10% of the amount of Grant monies received; and

WHEREAS, the VRWJPO has included this Project and the 10% match requirement for this Grant in its budget.

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

ARTICLE 1 PARTIES

The parties to this Agreement are the VRWJPO and the City.

ARTICLE 2 PURPOSE

The purpose of this Agreement is to define Project responsibilities and cost-sharing obligations of the parties.

ARTICLE 3 TERM

This Agreement shall be effective the date of the signatures of the parties to this Agreement and shall remain in effect until December 31, 2023, or until completion by the 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 parties agree to cooperate and use 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 PARTIES OBLIGATIONS

5.1 The funds provided under the terms of this Agreement may only be used for the payment of costs directly related to the completion of the Project.

5.2 The City shall hire any necessary contractors to complete the Project. The City will administer any contracts for completion of the Project and act as the paying agent for all payments to the contractors. The City shall require the contractor to obtain and maintain adequate insurance consistent with the City and VRWJPO contract policies for the Project.

5.3 The parties shall abide by all federal, state, and local laws, statutes, ordinances, rules, and regulations in performing the Project.

5.4 The parties may take and disclose photographs of Project sites for use in publications or promotional material or on its website to highlight the VRWJPO's or the City's programs. Each party shall appropriately acknowledge the funding provided by the other party 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 6 PAYMENT

6.1 The Grant will reimburse project-related activities up to \$26,671.

6.2 The Grant has a 10% match requirement to the amount of monies received. The VRWJPO will provide match up to \$3,329.

6.3 The VRWJPO shall pay the City on a reimbursement basis in an amount not to exceed \$30,000 for costs directly related to the completion of the Project. The City has the option to wait until project completion and submit an invoice to the VRWJPO for costs directly related to the Project; in the alternative the City may request 50-percent cost reimbursement upon expending 50-percent of the Project cost and the remaining 50% upon

completion of the project. The City shall submit an invoice to the VRWJPO for reimbursement of costs directly related to the Project. The VRWJPO shall remit payment to the City within 45 days of receipt of an invoice.

6.4 The VRWJPO may refuse to pay any claims not specifically authorized by this Agreement.

ARTICLE 7 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 party, its officers, employees or agents. The provisions of the Municipal Tort Claims Act, Minn. Stat. ch. 466 and other applicable laws govern liability of the VRWJPO and the City. This section shall survive the expiration or termination of this Agreement.

ARTICLE 8 AUTHORIZED REPRESENTATIVES AND LIAISONS

8.1 AUTHORIZED REPRESENTATIVES. The following named persons are designated the authorized representatives of the parties for purposes of 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 provided to the following named persons and addresses unless otherwise stated in this Agreement, or in a modification of this Agreement:

TO THE VRWJPO: Mike Slavik or successor, Chair
Vermillion River Watershed Joint Powers Organization
14955 Galaxie Avenue
Apple Valley, MN 55124
Telephone: (952) 891-7030

TO THE CITY: Mary Fasbender, Mayor or successor
City of Hastings
101 4th Street East
Hastings, MN 55033
Telephone: (651) 480-2350

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

8.2 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 the VRWJPO and the City. The VRWJPO and the City 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: Mark Ryan, P.E.
Telephone: (952) 891-7596
Email: mark.ryan@co.dakota.mn.us

CITY Liaison: John Caven, P.E.
Assistant City Engineer
Telephone: (651) 480-2369
Email: JCaven@hastingsmn.gov

ARTICLE 9 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, and signed by the Authorized Representatives of the VRWJPO and the City.

ARTICLE 10 TERMINATION

Either party may terminate this Agreement for cause by giving seven days' written notice of its intent to terminate the Agreement to the other party. 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. Either party may terminate this Agreement for any reason by giving 30 days' written notice, of its intent to terminate, to the other party. Either party may immediately terminate this Agreement in the event of a violation of any of the terms of this Agreement. Notice of Termination shall be made by certified mail or personal delivery to the authorized representative of the other party. 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.

ARTICLE 11 MINNESOTA LAW TO GOVERN

This Agreement shall be governed by and construed in accordance with 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 12 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 13 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 either party.

ARTICLE 14 GOVERNMENT DATA PRACTICES

The VRWJPO and the City 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 either the VRWJPO or the City.

ARTICLE 15 DEFAULT: FORCE MAJEURE

No party shall be liable to any other party for any loss or damage resulting from a delay or failure to perform due to unforeseeable acts or events outside the defaulting party's reasonable control, providing the defaulting party gives notice to the other party as soon as possible. Acts and events may include acts of terrorism, war, fire, flood, epidemic, acts of civil or military authority, and natural disasters.

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

CITY OF HASTINGS

By _____
Mary Fasbender, Mayor
Date of Signature: _____

By _____
Erica Henderson, City Clerk
Date of Signature: _____

**VERMILLION RIVER WATERSHED
JOINT POWERS ORGANIZATION**

By _____
Mike Slavik or successor, Chair
Date of Signature: _____

APPROVED AS TO FORM:

/s/ _____
Assistant Dakota County Attorney
Date of Signature: _____
VRW Res. No. _____
KS-21-XX



Vermillion River Watershed Joint Powers Organization

4100 220th St. W., Suite 103, Farmington, MN 55024

Date: March 25, 2021
To: Vermillion River Watershed Joint Powers Board
From: Staff
Subject: Joint Powers Organization Expenses

Agenda Item 5
March 2021

Expenses from the invoices submitted between January 20, 2021 and February 16, 2021 totalled \$171,241.26

The invoices submitted between February 17, 2021 and March 12, 2021 are listed below:

<u>Invoice</u>	<u>Vendor</u>		<u>Amount</u>
February 2021	Dakota County Staff Time	\$	33,814.66
January 2021	DC Legal	\$	753.89
IN26877	Scott County	\$	1,678.87
21-10800-10a	144Design	\$	95.00
20-10800-19b	144Design	\$	95.00
30887	City of Lakeville	\$	10,000.00
30738	City of Lakeville	\$	3,000.00
13916.00-4	SRF	\$	6,016.94
Total expense as approved on March 25, 2021		\$	55,454.36

Action Requested: Approve all above expenses as presented on March 25, 2021

6a. Public Hearing to Receive Comments on and Adoption of Modifications to the VRWJPO Permit Program Fee and Security Schedule

Meeting Date: 3/25/2021
Item Type: Regular-Action
Contact: Mark Ryan
Telephone: 952-891-7596
Prepared by: Mark Ryan
Reviewed by: N/A

N/A

**PURPOSE/ACTION REQUESTED**

- Public hearing to receive comments on and adoption of modifications to the VRWJPO permit program fee and security schedule

SUMMARY

The Vermillion River Watershed Joint Powers Organization (VRWJPO) administers a permit program for its Rules only in municipalities that have chosen not to implement VRWJPO Standards through local ordinances. Since 2017, the VRWJPO has implemented a permit program in Eureka Township after the Township chose to not implement the VRWJPO Standards. A Permit Program Fee and Security Schedule for staff rates, application fees, permit activity escrow amounts, and project securities was last updated through approval by the Vermillion River Watershed Joint Powers Board (VRWJPB) in February 2018 (VRW 18-11). The more stringent requirement for reviewing the fees and securities is in Section 12.03 of the VRWJPO Rules and states that the security amounts shall be reviewed and set “at least once every three years.” A public hearing is required to allow public comment on these fees. Public notice has been made for the public hearing in the Dakota County newspaper of record.

VRWJPO staff reviewed the existing permit fee schedule and observed the application of these fees through permitting in Eureka Township. Based on the review, staff propose the modifications to the VRWJPO Permit Program Fee and Security Schedule shown in Attachments A and B (clean and mark-up versions) and summarized as follows:

- The hourly rate of the watershed staff performing reviews and inspections has been adjusted to accurately reflect expenses related to staff time and equipment and is a reasonable billing rate in comparison with other permitting programs (\$100/hour to \$90/hour)
- Additional escrow categories have been added to allow more flexibility to VRWJPO staff to “right-size” escrow amounts for the highly variable types of projects
- Removal of security requirements for projects like single family homes that may barely exceed one acre in size of disturbance
- Security amounts have been reduced slightly, and a maximum security amount is now listed

Staff recommend adopting the modifications proposed in the drafts of the VRWJPO Permit Program Fee and Security Schedule as provided with this item.

EXPLANATION OF FISCAL/FTE IMPACT

There is a slight reduction in the hourly rate proposed, but this is to better match the staff rates and vehicle charges. While less money comes in with lower escrow amounts, the full amounts have not been used in permitting since 2017, and the reduction is meant to match escrow amounts to the activities.

Supporting Documents:

Attachment A: Proposed Modifications to VRWJPO Permit Program Fee and Security Schedule

Attachment B: Proposed Modifications to VRWJPO Permit Program Fee and Security Schedule (Mark-up Version)

Previous Board Action(s):

VRW 18-11; 2/22/2018

RESOLUTION**6a. Public Hearing to Receive Comments on and Adoption of Modifications to the VRWJPO Permit Program Fee and Security Schedule**

WHEREAS, the Vermillion River Watershed Joint Powers Organization (VRWJPO) operates a permit program in municipalities that do not implement the VRWJPO Standards through local ordinances; and

WHEREAS, the VRWJPO Rules state that the permit fees and security amounts be reviewed at least once every three years; and

WHEREAS, VRWJPO staff have reviewed the existing permit fee and security schedule and have outlined modifications to the schedule to better match fees and escrow amounts to the variety of projects permitted.

NOW, THEREFORE, BE IT RESOLVED, that the Vermillion River Watershed Joint Powers Board (VRWJPB) adopts proposed modifications to the VRWJPO Permit Program Fee and Security Schedule.



Vermillion River Watershed Joint Powers Organization

4100 220th Street West, Suite 103, Farmington, MN 55024, 952.891.7000, Fax 952.891.7588

**Vermillion River Watershed Joint Powers Organization (VRWJPO)
Permit Program Fee and Security Schedule**

Proposed 2/25/2021

TIER ONE:

1. Land disturbing activities less than 1 acre in size- but triggering one or more of the criteria for Erosion and Sediment Control requirements listed under Section 7.2.B of the VRWJPO Standards, or
2. Land disturbing activities for a grading project, residential/agricultural accessory building, or an individual single-family residence that disturbs between 1 and 5 acres of land but does not trigger any section of the Standards except for Erosion and Sediment Control requirements.

Permit Application Fee: \$10 (one-time fee to process permit application)

Field Inspection Fees: To be held in escrow according to the escrow account requirements stated below in the following amounts:

- (1) \$450 for land disturbing activities less than 1 acre in size with lower potential for adverse water quality impacts (determination of potential impacts at the discretion of VRWJPO staff).
- (2) \$675 for land disturbing activities less than 1 acre in size higher potential for adverse water quality impacts (determination of potential impacts is at the discretion of VRWJPO staff).
- (3) \$900 for grading project, residential/agricultural accessory building, or an individual single-family residence that disturbs between 1 and 5 acres of land but does not trigger any section of the VRWJPO Standards except for Erosion and Sediment Control Requirements.

Security: No security required.

TIER TWO:

1. Land disturbing activities more than 1 acre in size that do not meet the criteria described in Tier One above, or
2. Creation of more than 1 acre of new impervious surface, or
3. Drainage alterations, or
4. Floodplain alterations

Permit Application Fee: \$10 (one-time fee to process permit application)

Field Inspection Fee: To be held in escrow according to the escrow account requirements stated below in the following amounts:

- (1) \$1,800 for land disturbance sites between 1 and 5 acres that do not meet the criteria described in Tier One above and do not result in 1 acre or more of new impervious surface, drainage alterations, or floodplain alterations.
- (2) \$2,700 for land disturbance sites greater than 1 acre that create 1 or more acre of new impervious surfaces, drainage alterations, or floodplain alterations.

Security: Security in the form of cash, performance bond, or an irrevocable renewable letter of credit is required prior to the issuance of a permit. The amount of required security is as follows depending on the type of project:

A. Projects or land disturbing activities disturbing less than ~~35~~ acres of land AND creating less than 1 acre of new impervious surfaces:

- (1) \$500 per acre of disturbance for land draining to waters other than DNR designated trout streams.
- (2) \$1,000 per acre of disturbance for land draining to DNR designated trout streams.

B. Projects or land disturbing activities disturbing ~~35~~ acres or more of land AND/OR creating 1 acre or more of new impervious surfaces:

- (1) \$2,500 per acre of disturbance for land draining to waters other than DNR designated trout streams (to a maximum of \$100,000).
- (2) \$4,000 per acre of disturbance for land draining to DNR designated trout streams (to a maximum of \$160,000).

Escrow Account Requirements for Field Inspection Fees (Tier One and Tier Two):

An applicant for a permit in tier one or tier two must pay the required amount that shall be placed into escrow at the time the applicant submits the project application. By signing the application form, the applicant enters into an escrow agreement. The permit applicant must pay the actual costs incurred by the VRWJPO for field inspection, administering of corrective actions, and other activities related to the review and oversight of permitted activities. The VRWJPO may also use escrow dollars for costs it incurred for site review and engineering services during the development of permitted activities. Actual costs include all VRWJPO staff time and any outside consultant costs and printing, copying and mailing costs. VRWJPO staff time shall be charged at a rate of \$90 per hour.

If at any time the actual costs should exceed the escrowed amount, the applicant shall remit additional funds into the escrow fund when requested by the VRWJPO. If the applicant fails to replenish the escrow as requested, the VRWJPO may revoke the permit or withhold the certificate of completion until such time as the escrow is replenished. Any remaining funds in the escrow at the conclusion of the project shall be refundable to the applicant when all actual costs are paid and the administration of the escrow has been completed.



Vermillion River Watershed Joint Powers Organization

4100 220th Street West, Suite 103, Farmington, MN 55024, 952.891.7000, Fax 952.891.7588

**Vermillion River Watershed Joint Powers Organization (VRWJPO)
Permit Program Fee and Security Schedule**

Approved 2/22/2018 Proposed 2/25/2021

TIER ONE:

1. Land disturbing activities less than 1 acre in size- but triggering one or more of the criteria for Erosion and Sediment Control requirements listed under Section 7.2.B of the VRWJPO Standards, or
2. Land disturbing activities for a grading project, residential/agricultural accessory building, or an individual single-family residence that disturbs between 1 and 5 acres of land but does not trigger any section of the Standards except for Erosion and Sediment Control requirements.

Permit Application Fee: \$10 (one-time fee to process permit application)

Field Inspection Fees: To be held in escrow according to the escrow account requirements stated below in the following amounts:

- (1) ~~\$500~~ \$450 for ~~accessory structures~~ land disturbing activities less than 1 acre in size with lower potential for adverse water quality impacts (determination of potential impacts at the discretion of VRWJPO staff).
- (2) ~~\$1,000~~ \$675 for land disturbing activities less than 1 acre in size ~~principal structures and accessory structure with higher potential for adverse water quality impacts (determination of potential impacts is at the discretion of VRWJPO staff).~~
- (3) \$900 for grading project, residential/agricultural accessory building, or an individual single-family residence that disturbs between 1 and 5 acres of land but does not trigger any section of the VRWJPO Standards except for Erosion and Sediment Control Requirements.

Security: No security required.

TIER TWO:

1. Land disturbing activities more than 1 acre in size that do not meet the criteria described in Tier One above, or
2. Creation of more than 1 acre of new impervious surface, or
3. Drainage alterations, or
4. Floodplain alterations

Permit Application Fee: \$10 (one-time fee to process permit application)

Field Inspection Fee: ~~\$2,000~~ To be held in escrow according to the escrow account requirements stated below in the following amounts:-

- (1) \$1,800 for land disturbance sites between 1 and 5 acres that do not meet the criteria described in Tier One above and do not result in 1 acre or more of new impervious surface, drainage alterations, or floodplain alterations.
- (2) \$2,700 for land disturbance sites greater than 1 acre that create 1 or more acre of new impervious surfaces, drainage alterations, or floodplain alterations.

Security:

Security in the form of cash, performance bond, or an irrevocable renewable letter of credit is required prior to the issuance of a permit. The amount of required security is as follows depending on the type of project:

- A. Projects or land disturbing activities disturbing less than ~~35~~ 5 acres of land AND creating less than 1 acre of new impervious surfaces:

- (1) \$500 per acre of disturbance for land draining to waters other than DNR designated trout streams.
- (2) \$1,000 per acre of disturbance for land draining to DNR designated trout streams.

- B. Projects or land disturbing activities disturbing ~~35~~ 5 acres or more of land AND/OR creating 1 acre or more of new impervious surfaces:

- (1) ~~\$3,000~~ \$2,500 per acre of disturbance for land draining to waters other than DNR designated trout streams (to a maximum of \$100,000).
- (2) ~~\$54,000~~ per acre of disturbance for land draining to DNR designated trout streams (to a maximum of \$160,000).

Escrow Account Requirements for Field Inspection Fees (Tier One and Tier Two):

An applicant for a permit in tier one or tier two must pay the required amount that shall be placed into escrow at the time the applicant submits the project application. By signing the application form, the applicant enters into an escrow agreement. The permit applicant must pay the actual costs incurred by the VRWJPO for field inspection, administering of corrective actions, and other activities related to the review and oversight of permitted activities. The VRWJPO may also use escrow dollars for costs it incurred for site review and engineering services during the development of permitted activities. Actual costs include all VRWJPO staff time and any outside consultant costs and printing, copying and mailing costs. VRWJPO staff time shall be charged at a rate of \$100.90 per hour.

If at any time the actual costs should exceed the escrowed amount, the applicant shall remit additional funds into the escrow fund when requested by the VRWJPO. If the applicant fails to replenish the escrow as requested, the VRWJPO may revoke the permit or withhold the certificate of completion until such time as the escrow is replenished. Any remaining funds in the escrow at the conclusion of the project shall be refundable to the applicant when all actual costs are paid and the administration of the escrow has been completed.

6g. Adopt Candidate Selection and Appointment Process for Vermillion River Watershed Planning Commission Members

Meeting Date: 3/25/2021
Item Type: Regular-Action
Contact: Mark Zabel
Telephone: 952-891-7011
Prepared by: Mark Zabel
Reviewed by: N/A

N/A

**PURPOSE/ACTION REQUESTED**

- Adopt Candidate Selection and Appointment Process for Vermillion River Watershed Planning Commission Members

SUMMARY

The Vermillion River Watershed Joint Powers Organization (VRWJPO) maintains a nine-member Watershed Planning Commission (WPC), which acts in an advisory capacity to the Vermillion River Watershed Joint Powers Board (VRWJPB). Members of the WPC are appointed by the VRWJPB, serve three-year terms, and are eligible to be reappointed to a consecutive second three-year term. To be eligible to serve as members of the WPC, applicants must reside within the Vermillion River Watershed. To appoint members of the WPC, the VRWJPB must use an open appointments process, as provided in the Joint Powers Agreement establishing the VRWJPB and VRWJPO.

VRWJPO staff modified existing procedures based on discussions with the VRWJPB and review of other appointing procedures. The resulting procedures for appointing members of the WPC (Attachment A) reflects establishment of procedures for notification of vacancies to the public, recruitment of candidate applicants, evaluation of applications received, and notification of applicants on status of appointments after VRWJPB action.

RECOMMENDATION

Adopt the candidate selection and appointment process for the Vermillion River Watershed Planning Commission members to ensure a consistent, transparent, and effective means of recruiting and appointing members of the Vermillion River Watershed Planning Commission by the Vermillion River Watershed Joint Powers Board. (See Attachment A.)

EXPLANATION OF FISCAL/FTE IMPACT

None.

Supporting Documents:

Attachment A: Candidate Selection and Appointment Process for Vermillion River Watershed Planning Commission Members

Previous Board Action(s):**RESOLUTION****6g. Adopt Candidate Selection and Appointment Process for Vermillion River Watershed Planning Commission Members**

WHEREAS, the VRWJPB requested staff review current procedures for appointment of Vermillion River Watershed Planning Commission (WPC) members, and

WHEREAS, the VRWJPO staff refined procedures for public notification of WPC vacancies, recruitment of candidate applicants, evaluation of applications received, and notification of applicants on status of appointments after VRWJPB action.

NOW, THEREFORE, BE IT RESOLVED, that the Vermillion River Watershed Joint Powers Board hereby adopts the candidate selection and appointment process for the Vermillion River Watershed Planning Commission members as provided in Attachment A: Candidate Selection and Appointment Process for Vermillion River Watershed Planning Commission Members.



Candidate Selection and Appointment Process for Vermillion River Watershed Planning Commission Members

Introduction

The Joint Powers Agreement (JPA) establishing the Vermillion River Watershed Joint Powers Organization (VRWJPO) established governance of the organization through the Vermillion River Watershed Joint Powers Board (VRWJPB), a three-member Joint Powers Board made up of two County Commissioners from Dakota County and one County Commissioner from Scott County. The JPA also establishes a citizen advisory committee called the Watershed Planning Commission (WPC) and that the VRWJPB make appointment to the WPC following an open appointments process. The JPA also specifies the number, distribution, and terms of WPC members as follows:

“Membership. The WPC shall consist of nine members who are residents of the Vermillion River Watershed. One shall be from Scott County and eight shall be from Dakota County. WPC members shall be appointed to three-year staggered terms. WPC members must be and remain residents of the watershed and the County from which they were appointed. WPC members are limited to serving two consecutive terms.”

Recruitment

Prospective applicants for membership to the WPC may apply through their respective County of residence or to the VRWJPO Administrator at any time. Applications through the County of residence will be forwarded to the Administrator upon receipt. The Administrator will collect and retain eligible applications (see Vetting below) until such time as a vacancy occurs for which the applicant is eligible. The applicant pool will include applications of those unsuccessful in appointment to a previously open seat who express interest in appointment to a current vacancy, applications submitted between the most recent appointment and notice of the current vacancy, and applications received after notice of the current vacancy during the minimum recruitment period.

Upon vacancy of a seat on the WPC, the VRWJPO will recruit applicants for at least thirty days or until at least one eligible application is received. Recruitment will occur through the following means:

1. Publication of notice of the opening in the newspaper of record for the applicable County for the vacancy.
2. Notice of the vacancy posted on the VRWJPO website and the website of the applicable County.
3. Notice provided through social media platforms used by the VRWJPO at the time of the vacancy.
4. Notice provided to VRWJPB members, WPC members, and partners of the VRWJPO for potential recruitment of applicants.
5. Notice in the next issue of the VRWJPO newsletter if no eligible application is received before the time of publication.

The minimum recruitment period of thirty days will begin when notice of the vacancy is published in the newspaper of record for the applicable County.

Vetting

Upon receipt of an application to serve on the WPC, the Administrator will review the application to determine eligibility. Eligibility is determined based upon residency in the Vermillion River Watershed. Eligible applications will be retained for consideration for applicable vacancies on the WPC.

Evaluation

At the conclusion of the recruitment period, if more than one application is received, the Administrator will forward eligible applications to the evaluation panel for consideration. The evaluation panel is comprised of the current VRWJPB Chair, the current WPC Chair, and the Administrator. The review panel shall meet no sooner than six days after distribution of the eligible applications to determine which applicant(s) to recommend to the VRWJPB for appointment to the WPC. The evaluation panel may choose to interview candidates as part of the evaluation process. Interviews of select candidates will be scheduled after the evaluation panel meeting at the earliest dates and times convenient to panel members and candidate applicants for additional evaluation as needed.

Appointment

Once the Review Panel has determined which applicant(s) to recommend to the VRWJPB, the Administrator shall prepare a Request for Board Action presenting the recommended applications for its consideration for appointment.

Post-Appointment Notification

Upon action by the VRWJPB to appoint members to the WPC, the Administrator will immediately inform the successful applicants of their appointments. Those applicants not selected for appointment will also be notified. Applications submitted by unsuccessful candidates will be held on file for consideration for future vacancies unless a candidate notifies the Administrator of their withdrawal from consideration for future vacancies.

6h. Planning for Future Vermillion River Watershed Joint Powers Board Meeting Formats

Meeting Date: 3/25/2021
Item Type: Regular-Information
Contact: Mark Zabel
Telephone: 952-891-7011
Prepared by: Mark Zabel
Reviewed by: N/A

N/A

**PURPOSE/ACTION REQUESTED**

- Planning for future Vermillion River Watershed Joint Powers Board meeting formats.

SUMMARY

The Vermillion River Watershed Joint Powers Board (VRWJPB) adjusted its meeting format to virtual meetings via teleconference as a response to the COVID-19 pandemic outbreak following Minnesota Department of Health guidance beginning approximately one year ago. With the progress on administration of vaccinations and the general reductions in infections and hospitalizations due to COVID-19 in Minnesota and Dakota County, the VRWJPB is considering how to safely accommodate changes to future meeting formats to allow for hybrid and/or in person meetings to begin. The VRWJPB will discuss potential options and timing for these changes to meeting formats.

RECOMMENDATION

None.

EXPLANATION OF FISCAL/FTE IMPACT

Information only.



Minutes

Vermillion River Watershed Planning Commission Meeting

March 10, 2021 – 4:00 p.m.

Zoom Videoconference

WPC Members in Attendance

Mark Henry Chuck Clanton
Josh Borton Carolyn Miller
Ken Betzold James Kotz
Andy Riesgraf Steve Hamrick

Staff in Attendance

Mark Zabel, VRWJPO
Mark Ryan, VRWJPO
Travis Thiel, VRWJPO

Others in Attendance

Curt Coudron, Dakota County SWCD

1. Call to Order

The meeting was called to order by Commissioner Henry at 4:02 p.m. Member Wotzka was absent.

2. Roll Call

3. Audience Comments on Items Not on the Agenda

None

4. Approval of Agenda

Chair Henry asked for any changes to the agenda. Upon hearing none, Chair Henry called for a motion to approve the agenda as provided in the packet.

Motion by Commissioner Miller, second by Commissioner Betzold, to approve the agenda. The agenda was unanimously approved by a 8-0 roll call.

5. Approval of Minutes

Chair Henry requested any additions, deletions, or edits to the agenda. Upon hearing none Chair Henry called for a motion to approve the minutes of the February 10, 2021 meeting of the WPC.

Motion by Commissioner Clanton, second by Commissioner Borton, to approve the minutes of the February 10, 2021, meeting, as distributed. The minutes were unanimously approved by a 8-0 roll call vote.

6. Business Items

a. Recommendation to Execute a Grant Agreement with the Minnesota Board of Water and Soil Resources for Fiscal Year 2021 Watershed-Based Initiative Funding

Chair Henry introduced the Item. Travis Thiel described the purpose of the request to approve the execution of a grant agreement from the Minnesota Board of Soil and Water Resources (BWSR) for Watershed Based Initiative Funding (WBIF). Currently \$487,181 is proposed to come to the VRWJPO from the WBIF grant. There were 11 total projects approved for funding through the WBIF. The VRWJPO is receiving funding only for those projects where we are the grantee and fiscal agent. Dakota County SWCD, Scott SWCD and the City of Apple Valley are receiving grants directly and acting as their own fiscal agents for projects they are implementing.

Motion by Commissioner Clanton, second by Commissioner Kotz, recommending execution of a grant agreement with the Minnesota Board of Water and Soil Resources for fiscal year 2021 Watershed-Based Initiative Funding was unanimously approved by a 8-0 roll call vote.

b. Recommendation to Adopt Modifications to the VRWJPO Permit Program Fee and Security Schedule

Chair Henry introduced the item. Mark Ryan described the permitting program and the need for and use of the fees collected and the security schedule. The VRWJPO provides watershed permits but only in those communities who have chosen not to implement the VRWJPO Standards through their local ordinances. Most cities and townships within the watershed incorporate the VRWJPO standards through their ordinances so if there is a building development or other activity requiring a permit the VRWJPO doesn't issue a separate permit for the activity. If there are design challenges or if it meets certain size criteria we might provide comment on it, but we don't issue our own VRWJPO permit. However, the VRWJPO has implemented a permitting program in one community (Eureka Township) since 2017.

In 2018, the VRWJPO updated the permitting fee document to align with needs from a permitting standpoint. Based on experience with the permitting program over the past few years, the proposed modifications adjust the fees that are charged. There is a \$10 application fee charged with all permits. In addition, money is collected into escrow that is then used to pay for staff to do site inspections, address complaints, or to address inadequacies associated with standards. The current proposal reduces the \$100 per hour fee to \$90 per hour to better align with current staff costs and experience with travel times and rates to sites. The proposal also provides for some additional escrow categories to address different levels of risk associated with different levels of development activities. This is basically an adjustment that keeps us up to date with needs for the permitting program and ensures that adequate but fair escrow amounts are collected.

Travis and others on the call noted that a Tornado Warning was issued for much of the Dakota, Scott, Rice and Goodhue Counties area at this time.

Commissioner Miller asked if this was a preliminary approval and if there was a later public hearing. Mark Ryan responded that this action will be a recommendation to the Vermillion River Watershed Joint Powers Board and there will be a public hearing for this item at the next Vermillion River Watershed Joint Powers Board meeting on March 25th. Commissioner Clanton asked if the public hearing was an

automatic requirement or if it had a specific trigger of interest, like 25 people requesting there be a public hearing. Zabel responded that the VRWJPO is required to hold a public hearing but that doing so isn't really an additional burden other than the cost to publish a notice in the County newspaper of record. All meetings of the Vermillion River Watershed Joint Powers Board are public meetings and so having an associated public hearing is not a problem. Chair Henry asked if the Vermillion River Watershed Joint Powers Board meetings are now in person or if they are virtual. Zabel answered that they are still in virtual mode. The Vermillion River Watershed Joint Powers Board will be discussing future meeting formats at its next meeting on March 25th. Changes to meeting formats will be noticed with the posting of future meeting packets and materials.

Motion by Commissioner Miller, second by Commissioner Betzold, recommending to adopt modifications to the Vermillion River Watershed Joint Powers Organization Permit Program Fee and Security Schedule was unanimously approved by a 8-0 roll call vote.

7. Updates

a. Chairperson's Report

Chair Henry commented that he had a conversation with Mark Ryan about the possibility for a project for nitrate reduction within the Dakota County Fairgrounds easement area. Mark Ryan mentioned that he and Travis Thiel had visited the area Wednesday March 3rd. There may be potential to do something there. The existing channel does seem to be providing hydrologic connection to the surrounding wetland area, though there is some potential to modify the wetland hydrology there. Doing so would promote more area as wetland whereas much of the existing restoration is oriented more toward prairie. One of the first questions would be the delineation of what portions of the easement area landscape should be wetland and what portion prairie. Chair Henry commented that he would like some input from VRWJPO and DCSWCD staff as to potential restoration and management efforts. There are some funds available for restoration. There is some expectation that part of the area would remain in existing reed canary grass and sedges as that is what will grow in anyway.

Chair Henry asked about the potential to redistribute spoil piles in the easement area (spoil piles were placed as part of wetland/ditch excavation many years ago). The amount of funds may not be there to deal with this. Chair Henry's primary interest in the potential for nitrate treatment and benefits to the system. Travis mentioned that this is something we can look at but there are issues that would need to be considered in the process. Vegetation changes would be one, another would be the potential for changes to the delineated floodplain and the potential need for a revision to the floodplain associated with a project, which could involve a filing of a Letter of Map Revision with FEMA (which can be an involved and costly process). Travis offered that he and others will continue looking into these issues and keep Chair Henry and members informed of possibilities for this site.

Commissioner Clanton asked how much is known about concentrations of nitrate in water coming into and leaving the easement area. Travis indicated that there has been sampling in the area in the past and Mark Ryan indicated that previous sampling indicated concentrations of up to twice the water quality standard. Commissioner Clanton asked if this is something that could be included in future agendas. Commissioner Clanton went on to ask if removal of vegetation through a harvest of some type might be feasible as a means of removing nutrients. Chair Henry mentioned that the County and Fair Board have been considering some alternative uses to assist in management of the site as prairie. Harvesting may be an option. Chair Henry commented that input from resource professionals are welcomed. Commissioner Clanton asked whether this might be good project for students seeking a capstone

project, especially for those involved in sustainable design programs. Chair Henry indicated being open to that. Chair Henry went on to state that the Fair Board is looking for how to best meet their commitment to manage the area as a natural area and prairie. Commissioner Miller requested that staff provide a presentation on the process for how projects come to the VRWJPO and are considered and prioritized at an upcoming meeting.

Commissioner Clanton reported on a recent meeting (February 23rd) of the Local Advisory Team (LAT) for the Minnesota Department of Agriculture to assist with addressing nitrate issues in the Hastings Drinking Water Supply Management Area (DWSMA). The LAT has been meeting occasionally over the last two years. The recent meeting was held to review draft Best Management Practices (BMPs) for farmers to use in order to reduce nitrate levels in the groundwater. The purpose of the development of the BMPs is to promote practices that have the potential to reduce the nitrate levels in groundwater. If the nitrate levels in groundwater in the DWSMA are not reduced over time, farmers could be required to use the BMPs or further actions to address the nitrate levels could be implemented. Commissioner Clanton commented that his opinion is that most farmers in the area already incorporate most of these BMPs in their operations. Travis Thiel asked if the LAT discussions were only focused on BMP development or did they also address Alternative Management Techniques (AMTs). AMTs are more stringent practices that can be implemented by farmers if BMPs are not found to be effective at reducing nitrate concentrations in groundwater. Clanton indicated that AMTs were included. Clanton said they address nitrogen fertilizer and he thinks farmers in the area are there already. Zabel indicated that this issue is something that may be worth having on the agenda at a future meeting as an information item where we could have staff from the Dakota County Groundwater Unit organize some information in regard to the nitrate in groundwater issue for the DWSMA. Perhaps some people from MDA could be included to talk about what the LAT is trying to accomplish in general and what the MDA's charge is in this, to give a full picture for us.

b. Staff Updates

Curt Coudron noted that the cost share policy presented at the last meeting has been approved by the Dakota County SWCD Board and so the Harvestable Cover cost share program is now in place. Curt also reported that the Dakota County SWCD will be receiving some Watershed Based Implementation Funds for projects and a subwatershed analysis being implemented by the SWCD.

Mark Zabel reported that he and Chuck Clanton have been invited to participate in a Board of Water and Soil Resources training on citizen advisory committees as presenters. Zabel also reported that the vacant position was posted on February 26th and closes Friday (March 12th). There were 47 applicants as of March 3rd. Hopefully we may be able to make an offer, if all goes well, by the end of the month. Zabel will be on the call for the Township Officer's meeting just to monitor the call, we have not been asked to present.

8. Adjourn

Motion by Commissioner Miller, second by Commissioner Kotz, to adjourn the meeting at 4:57 p.m. The motion passed on a 7-0 roll-call vote.