



Agenda

Vermillion River Watershed Joint Powers Board Meeting

February 24, 2022, 1 p.m., in-person and teleconference via 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 January 27, 2022, Meeting Page 3
 - c. Acceptance of Treasurer's Report Page 9
 - d. Authorization to Execute a Joint Powers Agreement with the City of Lakeville and Dakota County for Foxborough Park Sediment Reduction Project Page 11
 - e. Authorization to Execute a Joint Powers Agreement with Dakota County for the Ravenna Ravines Stabilization Project Page 25
 - f. Authorization to Execute a Grant Agreement with the Minnesota Board of Water and Soil Resources for a Clean Water Fund Grant for the Foxborough Park and Ravenna Ravines Projects Page 40
5. Approval of Expenses Action Page 46
6. Staff Reports
7. Adjourn Action

Please note, the February 24, 2022 Vermillion River Watershed Joint Powers Board meeting will take place **in-person** in Conference Room A at the Extension and Conservation Center, 4100 220th Street West, Farmington Minnesota **and via teleconference** on the web-based application, Zoom. Due to COVID 19 in our area, Dakota County requires masks to be worn inside all Dakota County facilities.

Commissioner Wolf will be attending the meeting via interactive technology from his home at 19225 Fox Field Dr., Prior Lake, MN. Commissioner Wolf intends to continue attendance via interactive technology while masks are required to be worn at the regular meeting location. Notice will be provided of his location for future meetings.



Join Zoom Meeting

<https://dakotacountymn.zoom.us/j/92547090527?pwd=VIAzYXppYXdNRzQzM01ualZyM0pJdz09>

Meeting ID: 925 4709 0527

Passcode: 135940

One tap mobile

+16513728299,,92547090527#,,,,*135940# US (Minnesota)

Dial by your location

+1 651 372 8299 US (Minnesota)

Meeting ID: 925 4709 0527

Passcode: 135940

Find your local number: <https://dakotacountymn.zoom.us/u/a8rRVLMYS>

Other Information

Next Meeting Date: **March 24, 2022**, 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

January 27, 2022, 1 p.m., In-person and Teleconference using Zoom

Board Members in Attendance

Dakota County Commissioner Mike Slavik, Chair

Scott County Commissioner Tom Wolf, Vice Chair via teleconference

Dakota County Commissioner Mary Liz Holberg, Secretary/ Treasurer

Others in Attendance

Al Full, Citizen

Bruce Johnson, Dakota County Soil and Water Conservation District, Supervisor

Brian Watson, Dakota County Soil and Water Conservation District, Manager

Wendy Wulff, Metropolitan Council Member, District 16

Rene Heflin, Metropolitan Council, Manager, Plant Engineering

Kyle Colvin, Metropolitan Council, Manager, Wastewater Planning and Community Programs

Judy Sventek, Metropolitan Council, Manager, Water Resources Planning

Heidi Hutter, Metropolitan Council, Principal Engineer, Plant Engineering

Chad Davison, Metropolitan Council, Principal Engineer. Interceptor Engineering

Mark Zabel, Dakota County, VRWJPO Administrator

Melissa Bokman-Ermer, Scott County, Watershed Co-administrator

Travis Thiel, Dakota County, VRWJPO Senior Watershed Specialist

Mark Ryan, Dakota County, VRWJPO Watershed Engineer

Brita Moore-Kutz, Dakota County, VRWJPO Communications and Outreach Specialist

Helen Brosnahan, Dakota County, Assistant County Attorney

1. Call to Order

Meeting was called to order at 1:00 p.m.

2. Election of Officers

Commissioner Holberg nominated Commissioner Slavik as chair of the VRWJPB, endorsed by Commissioner Wolf. Mark Zabel called for any other nominations three times. There were none. Motion by Commissioner Wolf to close nominations and cast a unanimous ballot for Commissioner Slavik as Chair. Second by Commissioner Holberg. The VRWJPB cast a unanimous aye to elect Commissioner Slavik as chair for 2022.

Commissioner Slavik assumed control of the meeting.

Commissioner Holberg nominated Commissioner Wolf as vice chair of the VRWJPB. Commissioner Slavik called for any other nominations three times. There were none. Motion by Commissioner Holberg to close nominations and cast a unanimous ballot for Commissioner Wolf as vice chair. Second by Commissioner Slavik. The VRWJPB cast a unanimous aye to elect Commissioner Wolf as vice chair for 2022.

Commissioner Slavik nominated Commissioner Holberg as Secretary/Treasurer of the VRWJPB, endorsed by Commissioner Wolf. Commissioner Slavik called for any other nominations three times. There were none. Motion by Commissioner Slavik to close nominations and cast a unanimous ballot for Commissioner Holberg as vice chair. Second by Commissioner Wolf. The VRWJPB cast a unanimous aye to elect Commissioner Holberg as Secretary/Treasurer for 2022.

3. Roll Call

Commissioners Slavik, Wolf, and Holberg in attendance.

4. Audience Comments on Items Not on the Agenda

Mark Ryan informed the Board that Al Full was present to seek an update on coordination on a drainage project that Empire Township is designing. Mark contacted consulting engineers working on the design on behalf of the Township and noted that the design for the project is at the 75-90% design stage. The project has been shelved for the time being as the cost estimate is in the seven-figure range, somewhat higher than earlier estimates. The VRWJPO doesn't have any next steps other than coordination with the Township as this develops. Mr. Full addressed the Board about his concern with drainage in the area around Biscayne Avenue and 190th Street and noted that drainage coming to that area does not continue to the Vermillion River. Mr. Full described his concerns with stormwater management and high water levels in the area and the pace of seeing any action or collaboration. Commissioner Slavik was interested in finding out the objections to the project, what design issues might be a problem, and cost; he will inquire with the Township.

5. Approval of Consent Agenda

- a. Approval of Agenda
- b. Approval of Minutes from the December 2, 2021, Meeting
- c. Acceptance of Treasurer's Reports
- d. Authorization to Release a Request for Qualifications for Professional Services in 2022-2023
- e. Authorization to Execute a Grant Agreement with the Minnesota Department of Natural Resources for the East Lake Habitat Improvement Project
- f. Authorization to Execute a Joint Powers Agreement with the City of Lakeville for the East Lake Habitat Improvement Project
- g. Authorization to Execute a Joint Powers Agreement with Dakota County Soil and Water Conservation District for Services in 2022

- h. Authorization to Execute a Joint Powers Agreement with Scott Soil and Water Conservation District for Services in 2022

Res. No. VRW 22-01: Motion by Commissioner Holberg, Second by Commissioner Wolf and passed on a 3-0 vote to approve the consent agenda.

6. Approval of Expenses

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

Res. No. VRW 22-02: Motion by Commissioner Wolf, Second by Commissioner Holberg and passed on a 3-0 roll call vote to approve the expenses totaling \$53,913.30 incurred between October 13, 2021 and November 12, 2021, and totaling \$55,619.86 incurred between November 13, 2021 and December 12, 2021.

Business Items

7a. Presentation on the Replacement of the Hastings Wastewater Treatment Plant

Commissioner Slavik introduced the presentation. Mark Zabel introduced Council Member Wulff who introduced Metropolitan Council staff: Rene Heflin, Kyle Colvin, Judy Sventek, Heidi Hutter, and Chad Davison. Kyle Colvin gave an overview of the Metropolitan Council wastewater services in the seven-county metropolitan area. Rene Heflin described the Hastings wastewater treatment system and the need for upgrade/replacement. Heidi Hutter described the main elements driving the need for upgrade: population growth in the service area, expected future environmental regulations, and the existing facility nearing its effective service life. Heidi also described some of the specifics of plant design and management. Judy Sventek described site elements around stormwater, landscape, and environmental management. Chad Davison described the management of biosolids and haul road plans. Chad also described the collection system, lift station, decommissioning of the existing plant, and development of the outfall line to the Mississippi River.

Mark Zabel mentioned that a member of the Vermillion River Watershed Planning Commission had asked about the possibility of reuse of the plant effluent discharge in agricultural irrigation applications in the area to the southwest of the City of Hastings. Heidi responded that the Metropolitan Council facilities have not identified any external use opportunities but do have a practice standard of trying to maximize effluent reuse on facility property to the extent practicable. Mark Zabel asked if the Metropolitan Council might be interested in partnering to pursue an innovative project like this if an outside source of funding were accessed to support it. Council Member Wulf and staff expressed interest in partnering and commented that during the design process they could include considerations for reuse designs.

Commissioner Slavik thanked Council Member Wulf and staff for their presentation.

7b. Model Ordinance Update for Implementation of the Vermillion River Watershed Joint Powers Organization Standards

Commissioner Slavik introduced the item. Mark Ryan described the development and need for an updated ordinance to match the updated VRWJPO Standards. This model ordinance is based on the previous ordinance developed in 2010 for the Dakota County Rural Collaborative. This model incorporates changes to the VRWJPO Standards since 2010 and has been developed now due to the completion of comprehensive planning and related ordinance updates.

Commissioner Slavik noted that there is a Township Officer's Meeting scheduled for March 19 and that the VRWJPO should plan to be on the agenda for that meeting. He also asked staff to note in any correspondence with communities regarding the model ordinance that staff intend to be at the meeting.

Staff Reports**Helen Brosnahan**

Helen reported that this will be her last meeting as Counsel. She has been appointed as Judge on the District Court in Washington County. Commissioner Slavik congratulated Helen on her appointment and thanked her for her service to the VRWJPO and Dakota County.

Travis Thiel

Travis reported he and Mark Ryan have been working on grant reporting which is due February 1. Staff reviewed the AUAR update for the Fischer Gravel Pit in Apple Valley and provided comment. Commissioner Holberg asked if goldfish had been tracked in 2021. Travis responded that the VRWJPO did not continue that activity in 2021.

Brita Moore-Kutz

Brita mentioned that the VRWJPO is working with Tuhura Communications to develop six interpretive signs to be installed at sites where projects have been completed or are near completion; Middle Creek at Highview Avenue in Lakeville, Iron Enhanced Sand Filter near Alimagnet Lake in Apple Valley, Erickson Stormwater Improvement in Apple Valley, Iron Enhanced Sand Filter at Jaguar Avenue and Hwy 50 in Lakeville, Stormwater Improvement near Vermillion Falls Park in Hastings, and Stormwater Re-use Project at Aaronson Park in Lakeville.

Mark Ryan

Mark reported he and Travis commented on the Hampton Wastewater Treatment Plant permit renewal. The VRWJPO hosted its first "convene" meeting for identifying and prioritizing projects for the current round of Watershed-Based Implementation Funds. Mark Zabel added that Mark Ryan and Travis have recently been successful in two grant awards for projects with a total project cost between the two of approximately \$1.4 million through Clean Water Fund Competitive Grant funding.

Mark Zabel

Mark noted that it the time for annual performance reviews for the previous year and work planning for the upcoming year. Commissioner Holberg asked where the Clean Water Fund

project in Lakeville is located. Travis mentioned it is in Foxborough Park. Mark Zabel described it as a dry basin in the park that will capture and treat local stormwater and should also help with some of the flooding issues at Cedar Avenue.

Adjourn

Motion by Commissioner Holberg, second by Commissioner Wolf and passed on a 3-0 vote to adjourn the meeting at 2:13 p.m.

Next Meeting Date: Thursday, February 24, 2022, at 1 p.m. in Conference Room A at the Dakota County Extension and Conservation Center, 4100 220th Street West, Farmington, MN.

Mark Zabel

Administrator for the Vermillion River Watershed Joint Powers Organization

Attest

Commissioner

Secretary/ Treasurer

Date



2021 Vermillion River Watershed Joint Powers Organization Treasurer's Report

February 2022 - Vermillion River Watershed Joint Powers Board Meeting

		<u>Budget Amounts</u>	<u>Expenses to Date</u>	<u>Expenses Pending</u>	<u>Account Balance</u>	<u>Budget Funding Sources</u>	
I.	Administration & Operations (217002-0000)	\$ 240,500.00	\$ 171,567.05	\$ 2,991.16	\$ 65,941.79	Scott County Levy	\$ 33,350.00
II.	Research & Planning (217002-0130)	\$ 65,600.00	\$ 35,566.32	\$ -	\$ 30,033.68	Dakota County Levy	\$ 966,650.00
III.	Monitoring & Assessment (217002-0230)	\$ 157,400.00	\$ 76,106.67	\$ 24,855.79	\$ 56,437.54	Expected 2019 Carryover (Fund Balance)	\$ 336,000.00
IV.	Public Communications & Outreach (217002-0330)	\$ 192,450.00	\$ 144,448.89	\$ 672.20	\$ 47,328.91	Special Use Permit	\$ 2,500.00
V.	Regulation (217002-0530)	\$ 65,900.00	\$ 35,004.62	\$ -	\$ 30,895.38	CWF Grant (BWSR)	\$ 370,000.00
VI.	Coordination & Collaboration (217002-0531)	\$ 45,600.00	\$ 20,175.47	\$ -	\$ 25,424.53	2019-2021 CWF Grant 1W1P (BWSR)	\$ 218,100.00
VII.	Feasibility/Preliminary Studies (217002-0631)	\$ 240,000.00	\$ 111,855.88	\$ 12,960.00	\$ 115,184.12	2020-2023 CWF Grant WBIF (BWSR)	\$ 243,600.00
VIII.	Capital Improvement Projects (217092-0130)	\$ 296,300.00	\$ 78,757.67	\$ 55,696.40	\$ 161,845.93	Met Council Grant	\$ -
VIX.	CWF Grant - South Branch (217002-0838)	\$ -	\$ 39.85	\$ -	\$ (39.85)	CIP Reserve	\$ 205,900.00
X.	CWF Grant - Erickson Park St (217002-0841)	\$ 164,300.00	\$ 164,250.00	\$ -	\$ 50.00	CIP Reserve Grant Match	\$ 101,800.00
XI.	CWF Grant - Aronson Park Storm (217002-0843)	\$ 10,000.00	\$ 10,000.00	\$ -	\$ -	Investment Earnings	\$ 20,000.00
XII.	CWF Grant - Webster Wetland (217002-0844)	\$ 67,000.00	\$ 64,585.98	\$ -	\$ 2,414.02	Total	\$ 2,497,900.00
XIII.	CWF Grant - Technical Assistance (217002-0845)	\$ 19,500.00	\$ -	\$ -	\$ 19,500.00		
XIV.	CWF Grant - Imminet Health T (217002-0846)	\$ 8,000.00	\$ -	\$ -	\$ 8,000.00		
XV.	CPL Grant - South Creek at Hamburg (217002-0847)	\$ -	\$ 1,607.29	\$ -	\$ (1,607.29)		
XVI.	FY2019 - Watershed Funding Grant (217002-0848)	\$ 23,700.00	\$ 7,737.85	\$ -	\$ 15,962.15		
XXXIII.	CWF Grant - Middle Creek Restoration (217002-0852)	\$ 420,000.00	\$ 423,648.30	\$ -	\$ (3,648.30)		
XXXIV.	Irrigation and Audit (217002-0431)	\$ 10,000.00	\$ 10,687.50	\$ -	\$ (687.50)		
XXXV.	WBIF Grant (BWSR) 2020-2023 North Creek Stabilization (217002-0853)	\$ 187,500.00	\$ -	\$ -	\$ 187,500.00		
XXXVI.	WBIF Grant 2020-2023 Farmington Direct Drainage (217002-0854)	\$ 16,630.00	\$ -	\$ -	\$ 16,630.00		
XXXVII.	WBIF Grant (BWSR) 2020-2023 Hastings Direct Drainage (217002-0855)	\$ 16,630.00	\$ -	\$ -	\$ 16,630.00		
XXXVIII.	WBIF Grant (BWSR) 2020-2023 Ravenna Basins Restoration (217002-0856)	\$ 35,500.00	\$ -	\$ -	\$ 35,500.00		
XXXIV.	WBIF Grant (BWSR) 2020-2023 Rosemount Anti-Icing (217002-0857)	\$ 15,000.00	\$ 15,000.00	\$ -	\$ -		
VRW JPO Revised Budget Expense TOTAL		\$ 2,297,510.00	\$ 1,371,039.34	\$ 97,175.55	\$ 829,295.11		



2022 Vermillion River Watershed Joint Powers Organization Treasurer's Report

February 2022 - Vermillion River Watershed Joint Powers Board Meeting

		<u>Budget Amounts</u>	<u>Expenses to Date</u>	<u>Expenses Pending</u>	<u>Account Balance</u>	<u>Budget Funding Sources</u>	
I.	Administration & Operations (217002-0000)	\$ 240,500.00	\$ -	\$ 14,444.83	\$ 226,055.17	Scott County Levy	\$ 33,350.00
II.	Research & Planning (217002-0130)	\$ 65,600.00	\$ -	\$ 93.85	\$ 65,506.15	Dakota County Levy	\$ 966,650.00
III.	Monitoring & Assessment (217002-0230)	\$ 157,400.00	\$ -	\$ 6,465.18	\$ 150,934.82	Expected 2019 Carryover (Fund Balance)	\$ 336,000.00
IV.	Public Communications & Outreach (217002-0330)	\$ 192,450.00	\$ -	\$ 9,685.76	\$ 182,764.24	Special Use Permit	\$ 2,500.00
V.	Regulation (217002-0530)	\$ 65,900.00	\$ -	\$ 2,133.13	\$ 63,766.87	CWF Grant (BWSR)	\$ 370,000.00
VI.	Coordination & Collaboration (217002-0531)	\$ 45,600.00	\$ -	\$ 2,692.52	\$ 42,907.48	2019-2021 CWF Grant 1W1P (BWSR)	\$ 218,100.00
VII.	Feasibility/Preliminary Studies (217002-0631)	\$ 240,000.00	\$ -	\$ 6,533.58	\$ 233,466.42	2020-2023 CWF Grant WBIF (BWSR)	\$ 243,600.00
VIII.	Capital Improvement Projects (217092-0130)	\$ 296,300.00	\$ -	\$ 1,715.85	\$ 294,584.15	Met Council Grant	\$ -
VIX.	CWF Grant - South Branch (217002-0838)	\$ -	\$ -	\$ -	\$ -	CIP Reserve	\$ 205,900.00
X.	CWF Grant - Erickson Park St (217002-0841)	\$ 164,300.00	\$ -	\$ -	\$ 164,300.00	CIP Reserve Grant Match	\$ 101,800.00
XI.	CWF Grant - Aronson Park Storm (217002-0843)	\$ 10,000.00	\$ -	\$ -	\$ 10,000.00	Investment Earnings	\$ 20,000.00
XII.	CWF Grant - Webster Wetland (217002-0844)	\$ 67,000.00	\$ -	\$ -	\$ 67,000.00	Total	\$ 2,497,900.00
XIII.	CWF Grant - Technical Assistance (217002-0845)	\$ 19,500.00	\$ -	\$ -	\$ 19,500.00		
XIV.	CWF Grant - Imminet Health T (217002-0846)	\$ 8,000.00	\$ -	\$ -	\$ 8,000.00		
XV.	CPL Grant - South Creek at Hamburg (217002-0847)	\$ -	\$ -	\$ -	\$ -		
XVI.	FY2019 - Watershed Funding Grant (217002-0848)	\$ 23,700.00	\$ -	\$ 1,465.96	\$ 22,234.04		
XXXIII.	CWF Grant - Middle Creek Restoration (217002-0852)	\$ 420,000.00	\$ -	\$ 81.06	\$ 419,918.94		
XXXIV.	Irrigation and Audit (217002-0431)	\$ 10,000.00	\$ -	\$ 27,275.00	\$ (17,275.00)		
XXXV.	WBIF Grant (BWSR) 2020-2023 North Creek Stabilization (217002-0853)	\$ 187,500.00	\$ -	\$ -	\$ 187,500.00		
XXXVI.	WBIF Grant 2020-2023 Farmington Direct Drainage (217002-0854)	\$ 16,630.00	\$ -	\$ -	\$ 16,630.00		
XXXVII.	WBIF Grant (BWSR) 2020-2023 Hastings Direct Drainage (217002-0855)	\$ 16,630.00	\$ -	\$ -	\$ 16,630.00		
XXXVIII.	WBIF Grant (BWSR) 2020-2023 Ravenna Basins Restoration (217002-0856)	\$ 35,500.00	\$ -	\$ -	\$ 35,500.00		
XXXIV.	WBIF Grant (BWSR) 2020-2023 Rosemount Anti-Icing (217002-0857)	\$ 15,000.00	\$ -	\$ -	\$ 15,000.00		
VRW JPO Revised Budget Expense TOTAL		<u>\$ 2,297,510.00</u>	<u>\$ -</u>	<u>\$ 72,586.72</u>	<u>\$ 2,224,923.28</u>		

4d. Authorization to Execute a Joint Powers Agreement with the City of Lakeville and Dakota County for the Foxborough Park Sediment Reduction Project

Meeting Date: 2/24/2022

Item Type: Consent-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 and Dakota County for the Foxborough Park sediment reduction 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) and Dakota County (County) for the Foxborough Park sediment reduction project (Project).

In 2021, VRWJPO staff applied for a Clean Water Fund grant for a stormwater treatment project at Foxborough Park in Lakeville that will reduce the amount of sediment loading to North Creek. North Creek is an impaired water and sediment reduction projects will address the impairment. VRWJPO staff were notified that the application was being awarded funding for the project.

The project is estimated to cost \$436,500 and the grant will provide up to \$346,500 in project funding. The grant requires a minimum 25-percent local match, which will be provided by the City, VRWJPO, and the County. The City proposes to provide up to \$30,000 in cash match, the County will provide up to \$30,000 in cash match, and the VRWJPO will provide \$30,000 in cash match and will provide in-kind grant administration. The City will oversee and administer the design and construction of the project. The City's maximum potential reimbursement is \$406,500. The project would be implemented in 2022 or 2023 and will result in a reduction in sediment loading to North Creek by an estimated 18.4 tons per year and will reduce phosphorus loading by an estimated 31.8 pounds per year.

VRWJPO staff recommend executing a JPA with the City and County for the Foxborough Park sediment reduction project in an amount not to exceed \$406,500.

EXPLANATION OF FISCAL/FTE IMPACT

The VRWJPO will receive up to \$346,500 of Clean Water Fund Grant funding from the Minnesota Board of Water and Soil Resources. The VRWJPO will receive up to \$30,000 of County funding as local cash match to the project. The VRWJPO will provide up to \$30,000 from the VRWJPO's Capital Improvement Project portion of the VRWJPO Budget as local cash match to the project, and the VRWJPO will also provide in-kind staff time for grant oversight and administration. The VRWJPO will convey up to a total of \$406,500 as grant and cash support for the project to the City on a reimbursement basis.

Supporting Documents:

Attachment A: JPA with Lakeville and County for Foxborough Park
Sediment Reduction Project

Previous Board Action(s):**RESOLUTION****4d. Authorization to Execute a Joint Powers Agreement with the City of Lakeville and Dakota County
for the Foxborough Park Sediment Reduction Project**

WHEREAS, in 2021, the Vermillion River Watershed Joint Powers Organization (VRWJPO) applied for a Clean Water Fund grant funding for a stormwater improvement project in Foxborough Park in Lakeville; and

WHEREAS, Foxborough Park is directly adjacent to North Creek and stormwater runoff from the City and County drains through Foxborough Park and into North Creek; and

WHEREAS, North Creek is an impaired water and the project will reduce sediment loading to North Creek and help to address the impairment; and

WHEREAS, the total estimate cost for the project is \$436,500; and

WHEREAS, the grant will provide up to \$346,500 in grant funding for the project; and

WHEREAS, the grant requires a minimum 25-percent local match; and

WHEREAS, the City, County, and VRWJPO will each provide up to \$30,000 in local match toward the project for a total of up to \$90,000; and

WHEREAS, the VRWJPO will provide in-kind grant administration; and

WHEREAS, the project is estimated to reduce sediment loading by 18.4 tons per year and phosphorus loading by 31.8 pounds per year; and

WHEREAS, the project activities are planned to be implemented in 2022 or 2023; and

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 and Dakota County in an amount not to exceed \$406,500 for the Foxborough Park sediment reduction project; subject to approval as to form by the Dakota County Attorney's Office.

**JOINT POWERS AGREEMENT FOR
THE FOXBOROUGH PARK TSS REDUCTION PROJECT
BETWEEN THE VERMILLION RIVER WATERSHED JOINT POWERS ORGANIZATION,
THE CITY OF LAKEVILLE, AND DAKOTA COUNTY
CITY PROJECT 23-59**

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

WHEREAS, Foxborough Park in Lakeville is located directly adjacent to North Creek, a tributary to the Vermillion River; and

WHEREAS, North Creek and the Vermillion River are identified on the EPA's 303d Impaired Waters List for total suspended solids (TSS); and

WHEREAS, stormwater outfalls contribute sediment loading to downstream reaches of North Creek and the Vermillion River; and

WHEREAS, a stormwater outfall near Foxborough Park was identified as a high sediment loading source to this section of North Creek; 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 stormwater treatment before being discharged to North Creek (Project) will address the TSS impairment affecting North Creek and the Vermillion River; and

WHEREAS, the estimated Project cost is \$436,500; and

WHEREAS, the VRWJPO was awarded a \$346,500 Clean Water Fund grant (Grant) from the Minnesota Board of Water and Soil Resources (BWSR); and

WHEREAS, the Grant has a minimum match requirement equal to 25% of the amount of Grant monies awarded, either in the form of cash or in-kind services; and

WHEREAS, the VRWJPO, City, and County have included cash matches totaling at least 25% of the Grant amount used for Project costs in their Capital Improvement Plans and will jointly participate in the design, construction, and related activities after applying Grant monies; and

WHEREAS, the VRWJPO, and because of this Joint Powers Agreement, the City, and County will follow all applicable BWSR Grant policies and requirements relevant to each party.

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

ARTICLE 1 PURPOSE

This Agreement defines the Project responsibilities and Project cost-sharing obligations of the VRWJPO, City, and County.

ARTICLE 2 PARTIES

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

ARTICLE 3 TERM

This Agreement is effective upon the date of the signatures of the parties to this Agreement and shall remain in effect until December 31, 2024, 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, City, and County 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, City, and County 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 consistent with the applicable plans and specifications, including approved modifications, prior to authorization for payment by the VRWJPO or County. 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 all parties. The VRWJPO, City, and County 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 \$346,500 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 \$30,000 in cash match by the VRWJPO, up to \$30,000 in cash match by the County, and up to \$30,000 in cash match by the City, for a total maximum Grant match amount of up to \$90,000 and expended prior to release of Grant monies.

7.4 The City's maximum eligible reimbursement is up to \$406,500 when accounting for the Grant, VRWJPO cash match, and County cash match.

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

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 according to 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 The County shall pay the City for engineering and construction costs on a reimbursement basis. Upon presentation of an itemized claim, the County shall reimburse the City for its share of the costs incurred under this Agreement within 35 days from the presentation of the claim.

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

7.10 All services provided by the VRWJPO under the BWSR Grant Agreement, attached and incorporated herein as Exhibit A, and services provided by the City and the County to the VRWJPO through this Joint Powers Agreement must be performed to the State's satisfaction, as set forth in Exhibit A 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 according to the Project Plans. The VRWJPO, City, and County 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 and County, 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 to inspect 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 25 years unless a failure occurs from an Act of God or Force Majeure occurs such that it is cost prohibitive to repair or maintain.

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 and County to take and disclose photographs of the Project for use in publications or promotional material or on their websites to highlight the VRWJPO's programs. The City, County, and VRWJPO shall appropriately acknowledge the funding provided by the VRWJPO, County, City, 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 parties, or officers, employees or agents or the other parties. The provisions of the Municipal Tort Claims Act, Minn. Stat. Ch. 466 and other applicable laws govern liability of the VRWJPO, City, and the County. Each party warrants that it is can comply with the aforementioned indemnity requirements through an insurance or self-insurance program and that each has minimum coverage consistent with liability limits contained in Minn. Stat. Ch. 466. In the event of any claims or actions filed against any party, nothing in this Agreement shall be construed to allow a claimant to obtain separate judgments or separate liability caps from the individual parties. This section shall survive the expiration or termination of this Agreement.

ARTICLE 10 AUTHORIZED REPRESENTATIVES AND LIAISONS

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

TO THE VRWJPO: Mike Slavik or successor, Chair
Vermillion River Watershed Joint Powers Organization
14955 Galaxie Avenue
Apple Valley, MN 55124
Telephone: (952) 891-7030
mike.slavik@co.dakota.mn.us

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

TO THE COUNTY: Steven C. Mielke, Director
Physical Development Division
Western Service Center
14955 Galaxie Avenue
Apple Valley, MN 55124
Telephone: (952) 891-7007
Steven.mielke@co.dakota.mn.us

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

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, City, and the County. The VRWJPO, City, and the County 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

County Liaison Mike Behan
Telephone: (952) 891-7539
Email: Michael.behan@co.dakota.mn.us

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, City, and County.

ARTICLE 12 TERMINATION

12.1 IN GENERAL. Any 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 parties. Such notice to terminate for cause shall specify the circumstances warranting termination of the Agreement. Cause shall mean a material breach of this Agreement and any supplemental agreements or amendments thereto. This Agreement may also be terminated by the City or County 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 parties. 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 OR COUNTY FOR LACK OF FUNDING. Notwithstanding any provision of this Agreement to the contrary, either the VRWJPO or the County may immediately terminate this Agreement if it does not obtain funding from the Minnesota Legislature, Minnesota Agencies, or other funding sources, or if it's funding cannot be continued at a level sufficient to allow payment of the amounts due under this Agreement. Neither the VRWJPO nor the County is obligated to pay for any services that are provided after written notice of termination for lack of funding. Neither the VRWJPO nor the County will be assessed any penalty or damages if the Agreement is terminated due to lack of funding. The party terminating under this provision for lack of funding will pay for expenses incurred by the City up to Notice of Termination for work on the Project.

ARTICLE 13 MINNESOTA LAW TO GOVERN

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

ARTICLE 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 any party.

ARTICLE 16 GOVERNMENT DATA PRACTICES

The City, County, 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, County, 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

No party shall be liable to the other parties 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 parties as soon as possible. Acts and events may include acts of God, acts of terrorism, war fire, flood epidemic, pandemic, 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:

/s/ Helen R. Brosnahan 1/25/22
Assistant Dakota County Attorney/Date
KS-22-20
VRW Res. No. _____

**VERMILLION RIVER WATERSHED
JOINT POWERS ORGANIZATION**

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

Approved as to form:

Assistant Dakota County Attorney/Date
Dakota County Board Res. No. _____.

DAKOTA COUNTY

By _____
Steven Mielke, Director
Physical Development Division
Date of Signature: _____



**FY 2022 STATE OF MINNESOTA
BOARD OF WATER and SOIL RESOURCES
CLEAN WATER FUND COMPETITIVE GRANTS PROGRAM
GRANT AGREEMENT**

Vendor:	0000197289
PO#:	3000014363

This Grant Agreement is between the State of Minnesota, acting through its Board of Water and Soil Resources (Board) and **Vermillion River Watershed JPO, 1431 Erickson Drive Hastings Minnesota 55033** (Grantee).

Fiscal Agent: Dakota County

<i>This grant is for the following Grant Programs:</i>		
C22-2087	FY22 CWF Ravenna Trail Ravine Stabilization	\$495,000
C22-3434	FY22 CWF North Creek Foxborough Park TSS Reduction Project	\$346,500

Total Grant Awarded: \$841,500

Recitals

1. The Laws of Minnesota 2019, 1st Special Session, Chapter 2, Article 2, Sec. 7(b), appropriated Clean Water Funds (CWF) to the Board for the FY22 Clean Water Fund Projects & Practices Grants.
2. The Laws of Minnesota 2021, 1st Special Session, Chapter 1, Article 2, Sec. 6(b) & (j), appropriated Clean Water Funds (CWF) to the Board for the FY22 Clean Water Fund Projects & Practices Grants.
3. The Board adopted the FY22 Clean Water Fund Competitive Grant Policy and authorized the FY22 Clean Water Fund Competitive Grants Program through Board Order #21-16.
4. The Board adopted Board Order #21-54 to allocate funds for the FY22 Clean Water Fund Competitive Grants Program.
5. The Grantee has submitted a Board approved work plan for this Program, which is incorporated into this Grant Agreement by reference.
6. The Grantee represents that it is duly qualified and agrees to perform all services described in this Grant Agreement to the satisfaction of the Board.
7. As a condition of the grant, Grantee agrees to minimize administration costs.

Authorized Representative

The State's Authorized Representative is Marcey Westrick, Central Region Manager, BWSR, 520 Lafayette Road North, Saint Paul, MN 55155, 651-284-4153, or 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:

**TITLE
ADDRESS
CITY
TELEPHONE NUMBER**

If the Grantee's Authorized Representative changes at any time during this Grant Agreement, the Grantees 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 Board 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, 2024**, 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, 2025 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 the Board. 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 the Board.
- 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 Board's satisfaction, as set forth in this Grant Agreement and in the Board 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, FY21 Clean Water Fund Competitive Grant Policy, and regulations. The Grantee will not receive payment for work found by the Board to be unsatisfactory or performed in violation of federal, State or local law.
- 5.2. Minnesota Statutes §103C.401 (2018) establishes the Board's obligation to assure program compliance. If the noncompliance is severe, or if work under the Grant Agreement is found by the Board to be unsatisfactory or performed in violation of federal, State, or local law, the Board 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 Board 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 Board 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 Board 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 Board may immediately terminate this Grant Agreement if the Board 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 Board 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)

 (signature)

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

4e. Authorization to Execute a Joint Powers Agreement with Dakota County for the Ravenna Trail Ravine Stabilization Project

Meeting Date: 2/24/2022

Item Type: Consent-Action

Contact: Mark Ryan

Telephone: 952-891-7546

Prepared by: Mark Ryan

Reviewed by: N/A

**PURPOSE/ACTION REQUESTED**

- Authorization to execute a Joint Powers Agreement with Dakota County for the Ravenna Trail Ravine Stabilization project

SUMMARY

The Vermillion River Watershed Joint Powers Organization (VRWJPO) staff requests execution of a Joint Powers Agreement (JPA) with Dakota County (County) for the Ravenna Trail Ravine Stabilization project (Project).

In 2021, VRWJPO staff applied for a Clean Water Fund grant for a ravine stabilization project along Ravenna Trail (County Road 54) in Ravenna Township that will address erosion and sediment discharge to the adjacent lower reach of the Vermillion River. This reach of the Vermillion River is impaired for turbidity, and ravine stabilization and similar projects will help address the impairment. VRWJPO staff were notified in December that the application is being awarded funding for the project.

The project has an estimated total project cost of \$695,000 for design and construction, and the grant will provide up to \$495,000 in funding. The grant requires a minimum 25-percent local match, which will be provided by the VRWJPO and the County. The County will provide up to \$150,000 in cash match through the Environmental Resources and Transportation departments and will administer design and construction of the project. The VRWJPO will provide \$50,000 in cash match and will provide in-kind grant administration and project management assistance as well as pass through grant funds. The County's maximum potential reimbursement is \$545,000. The project will likely be implemented in 2023 and must be completed by the anticipated grant termination date of December 31, 2024. Estimated pollutant load reductions to the Vermillion River by completing this project include a total suspended solids reduction of 130 tons per year and a total phosphorus reduction of 78 pounds per year.

VRWJPO staff recommend executing a JPA with the County for the Ravenna Trail Ravine Stabilization project in an amount not to exceed \$545,000.

EXPLANATION OF FISCAL/FTE IMPACT

The VRWJPO will receive up to \$495,000 of Clean Water Fund Grant funding from the Minnesota Board of Water and Soil Resources. The VRWJPO will provide up to \$50,000 from the VRWJPO's Capital Improvement Project portion of the VRWJPO Budget as local cash match, and the VRWJPO will also provide in-kind staff time for grant oversight and administration. The VRWJPO will convey up to a total of \$545,000 as grant and cash support for the project to the County on a reimbursement basis.

Supporting Documents:

Attachment A: JPA with County for Ravenna Trail Ravine Stabilization Project

Previous Board Action(s):**RESOLUTION****4e. Authorization to Execute a Joint Powers Agreement with Dakota County for the Ravenna Trail Ravine Stabilization Project**

WHEREAS, in 2021, the Vermillion River Watershed Joint Powers Organization (VRWJPO) applied for a Clean Water Fund grant funding for a ravine stabilization project along Ravenna Trail in Ravenna Township; and

WHEREAS, erosion of the ravines produces sediment discharges directly to the adjacent lower reach of the Vermillion River; and

WHEREAS, this reach of the Vermillion River is impaired for turbidity, and the project will reduce sediment loading to the Vermillion River and help to address the impairment; and

WHEREAS, the total estimate cost for the project is \$695,000; and

WHEREAS, the grant will provide up to \$495,000 in grant funding for the project; and

WHEREAS, the grant requires a minimum 25-percent local match; and

WHEREAS, the County will provide up to \$150,000 in local match toward the project and the VRWJPO will provide \$50,000 in local match; and

WHEREAS, the VRWJPO will provide in-kind grant administration and the County will administer design and construction; and

WHEREAS, the project is estimated to reduce sediment loading by 130 tons per year and phosphorus loading by 78 pounds per year to the Vermillion River; and

WHEREAS, the project activities are planned to be implemented in 2023; and

NOW, THEREFORE, BE IT RESOLVED, that the Vermillion River Watershed Joint Powers Board authorizes its chair to execute a Joint Powers Agreement with Dakota County in an amount not to exceed \$545,000 for the Ravenna Trail Ravine Stabilization project; subject to approval as to form by the Dakota County Attorney's Office.

**JOINT POWERS AGREEMENT FOR
THE RAVENNA TRAIL RAVINE STABILIZATION PROJECT
BETWEEN THE VERMILLION RIVER WATERSHED JOINT POWERS ORGANIZATION AND
DAKOTA COUNTY**

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

WHEREAS, significantly eroded ravines are present along Ravenna Trail (County Road 54) in Ravenna Township that drain directly to the Vermillion River; and

WHEREAS, the Vermillion River reach in this area is identified on the EPA's 303d Impaired Waters List for turbidity; and

WHEREAS, the continued erosion of these ravines contributes sediment loading directly to the Vermillion River; and

WHEREAS, the Vermillion River Watershed Management Plan identifies optimizing funding to target projects with the potential for urgent impacts to natural resources; and

WHEREAS, the Dakota County Soil and Water Conservation District Comprehensive Plan seeks to address highly erodible soils in high priority areas of concern that include the Ravenna Trail ravines; and

WHEREAS, the estimated Project cost for stabilization of the ravines is \$695,000; and

WHEREAS, the VRWJPO was awarded a \$495,000 Clean Water Fund grant (Grant) from the Minnesota Board of Water and Soil Resources (BWSR); and

WHEREAS, the Grant has a minimum match requirement equal to 25% of the amount of Grant monies awarded, either in the form of cash or in-kind services; and

WHEREAS, the VRWJPO and Dakota County have included cash matches totaling at least 25% 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 the County will comply with all applicable BWSR Grant policies and requirements relevant to each party.

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

**ARTICLE 1
PURPOSE**

This Agreement will define the Project responsibilities and cost-sharing obligations of the VRWJPO and the County.

ARTICLE 2 PARTIES

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

ARTICLE 3 TERM

This Agreement is effective the date of the signatures of the parties to this Agreement and shall remain in effect until December 31, 2024, 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 County 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 County 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 according to the applicable plans and specifications, including approved modifications, prior to authorization for payment by the VRWJPO or County. 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 County, through the Environmental Resources Department, is the lead agency for design and construction administration of this Project. The VRWJPO and County shall approve the plans and specifications (Project Plans) prior to advertising for bids. County approval consists of approval by representatives of both the Environmental Resources and Transportation Departments.

ARTICLE 7 PAYMENT

- 7.1** The County 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 \$495,000 for engineering, permitting, and constructing the Project (County eligible).
- 7.3** The Grant has a match requirement to the amount of monies received. The match shall be shared in an amount up to \$50,000 in cash match by the VRWJPO and up to \$150,000 cash match by the County, for a total maximum Grant match amount of up to \$200,000 and expended prior to release of Grant monies.

- 7.4 The County's maximum eligible reimbursement is up to \$545,000 when accounting for the Grant and VRWJPO cash match.
- 7.5 No payment shall be made prior to approval of the Project Plans by the VRWJPO and County.
- 7.6 The VRWJPO shall pay the County 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 County, if requested, on a reimbursement basis, contingent upon the VRWJPO's receipt of adequate Grant disbursements to make County requested payments. Ten percent (10%) of the Agreement maximum shall be withheld until the VRWJPO has verified that the Project has been installed according to 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 A, and services provided by the County to the VRWJPO through this Joint Powers Agreement must be performed to the State's satisfaction, as set forth in Exhibit A and in the BWSR approved work plan.

ARTICLE 8 COUNTY OBLIGATIONS

- 8.1 Authorized Purpose. The funds provided under this Agreement may only be used by the County 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 County 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 County 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 County 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 a failure occurs from an Act of God or Force Majeure such that it is cost prohibitive to repair or maintain.
- 8.6 Compliance with Laws/Standards. The County 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 County hereby permits the VRWJPO to take, use, and disclose photographs of the Project for publications or promotional material or on its website to highlight the VRWJPO's programs. The County and VRWJPO shall appropriately acknowledge the funding provided by the VRWJPO, County, 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 County. Each party warrants that they can comply with the aforementioned indemnity requirements through an insurance or self-insurance program and that each has minimum coverage consistent with liability limits contained in Minn. Stat. Ch. 466. In the event of any claims or actions filed against 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.

ARTICLE 10 AUTHORIZED REPRESENTATIVES AND LIAISONS

10.1 Authorized Representatives. The following named persons are designated the authorized representatives of the parties for this Agreement. These persons have authority to bind the party they represent and to consent to modifications, except that the authorized representative shall have only the authority specifically or generally granted by their respective governing boards. Notice required to be provided pursuant to this Agreement shall be 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
mike.slavik@co.dakota.mn.us

TO THE COUNTY: Steven C. Mielke, Director
Physical Development Division
Western Service Center
14955 Galaxie Avenue
Apple Valley, MN 55124
Telephone: (952) 891-7007
Steven.mielke@co.dakota.mn.us

In addition, notification to the VRWJPO regarding termination of this Agreement by the County 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 each appropriate department of the County. The VRWJPO and the County 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
Senior Watershed Specialist
Telephone: (952) 891-7546
Email: travis.thiel@co.dakota.mn.us

County Transportation
Department Liaison:

Todd Howard
Assistant County Engineer
Telephone: (952) 891-7906
Email: todd.howard@co.dakota.mn.us

County Environmental
Resources Department
Liaison:

Mark Ryan
Water Resources Engineer
Telephone: (952) 891-7596
Email: mark.ryan@co.dakota.mn.us

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 County.

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 County 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, either the VRWJPO or the County may immediately terminate this Agreement if it does not obtain funding from the Minnesota Legislature, Minnesota Agencies, or other funding sources, or if it's funding cannot be continued at a level sufficient to allow payment of the amounts due under this Agreement. Neither the VRWJPO nor the County is obligated to pay for any services that are provided after written notice of termination for lack of funding. Neither the VRWJPO nor the County will be assessed any penalty or damages if the Agreement is terminated due to lack of funding. The party terminating under this provision for lack of funding will pay for expenses incurred by the County 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 County, 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 County 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**

No party shall be liable to the other parties 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, pandemic, 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.

Approved as to form:

/s/ Helen R. Brosnahan 2/2/22
Assistant County Attorney/Date
KS-22-40
VRW Res. No. _____

**VERMILLION RIVER WATERSHED
JOINT POWERS ORGANIZATION**

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

Approved as to form: :

Assistant Dakota County Attorney/Date
County Board Res. No. _____

DAKOTA COUNTY

By _____
Steven Mielke, Physical Development Division
Director
Date of Signature: _____



**FY 2022 STATE OF MINNESOTA
BOARD OF WATER and SOIL RESOURCES
CLEAN WATER FUND COMPETITIVE GRANTS PROGRAM
GRANT AGREEMENT**

Vendor:	0000197289
PO#:	3000014363

This Grant Agreement is between the State of Minnesota, acting through its Board of Water and Soil Resources (Board) and **Vermillion River Watershed JPO, 1431 Erickson Drive Hastings Minnesota 55033** (Grantee).

Fiscal Agent: Dakota County

<i>This grant is for the following Grant Programs:</i>		
C22-2087	FY22 CWF Ravenna Trail Ravine Stabilization	\$495,000
C22-3434	FY22 CWF North Creek Foxborough Park TSS Reduction Project	\$346,500

Total Grant Awarded: \$841,500

Recitals

1. The Laws of Minnesota 2019, 1st Special Session, Chapter 2, Article 2, Sec. 7(b), appropriated Clean Water Funds (CWF) to the Board for the FY22 Clean Water Fund Projects & Practices Grants.
2. The Laws of Minnesota 2021, 1st Special Session, Chapter 1, Article 2, Sec. 6(b) & (j), appropriated Clean Water Funds (CWF) to the Board for the FY22 Clean Water Fund Projects & Practices Grants.
3. The Board adopted the FY22 Clean Water Fund Competitive Grant Policy and authorized the FY22 Clean Water Fund Competitive Grants Program through Board Order #21-16.
4. The Board adopted Board Order #21-54 to allocate funds for the FY22 Clean Water Fund Competitive Grants Program.
5. The Grantee has submitted a Board approved work plan for this Program, which is incorporated into this Grant Agreement by reference.
6. The Grantee represents that it is duly qualified and agrees to perform all services described in this Grant Agreement to the satisfaction of the Board.
7. As a condition of the grant, Grantee agrees to minimize administration costs.

Authorized Representative

The State's Authorized Representative is Marcey Westrick, Central Region Manager, BWSR, 520 Lafayette Road North, Saint Paul, MN 55155, 651-284-4153, or 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 Grantees 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 Board 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, 2024**, 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, 2025 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 the Board. 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 the Board.
- 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 Board's satisfaction, as set forth in this Grant Agreement and in the Board 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, FY21 Clean Water Fund Competitive Grant Policy, and regulations. The Grantee will not receive payment for work found by the Board to be unsatisfactory or performed in violation of federal, State or local law.
- 5.2. Minnesota Statutes §103C.401 (2018) establishes the Board's obligation to assure program compliance. If the noncompliance is severe, or if work under the Grant Agreement is found by the Board to be unsatisfactory or performed in violation of federal, State, or local law, the Board 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 Board 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 Board 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 Board 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 Board may immediately terminate this Grant Agreement if the Board 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 Board 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 States 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)

(signature)

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

Approved as to form:

/s/ G. Paul Beaumaster 2/11/22
Assistant Dakota County Attorney/Date
KS-22-97

4f. Authorization to Execute a Grant Agreement with the Minnesota Board of Water and Soil Resources for the Foxborough Park Sediment Reduction Project and Ravenna Trail Ravine Stabilization Project

Meeting Date: 2/24/2022

Item Type: Consent-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 with the Minnesota Board of Water and Soil Resources (BWSR) for the Foxborough Park sediment reduction project and the Ravenna Trail ravine stabilization project

SUMMARY

The Vermillion River Watershed Joint Powers Organization (VRWJPO) staff requests execution of a Grant Agreement (Grant) with the BWSR for the Foxborough Park sediment reduction project and Ravenna Trail ravine stabilization project (Projects).

In 2021, VRWJPO staff applied for a Clean Water Fund grant for a two water resources improvement projects; one at Foxborough Park in Lakeville that will reduce the amount of sediment loading to North Creek, and the other in Ravenna Township where a ravine will be stabilized adjacent to Ravenna Trail that will reduce sediment loading to the Lower Vermillion River. North Creek and the Lower Vermillion River are impaired waters, and sediment reduction projects will address these impairments.

The Foxborough Park project is estimated to cost \$436,500 and the grant will provide up to \$346,500 in project funding. The Ravenna Trail project is estimated to cost \$695,000 and the grant will provide up to \$495,000 in project funding. The Grant requires a minimum 25-percent local match, which will be provided by the City (for Foxborough only), VRWJPO, and the County. The VRWJPO will provide up to a \$80,000 in cash match for the Projects and will provide in-kind Grant administration. The Projects would be implemented in 2022 or 2023. The Foxborough Park project will result in a reduction in sediment loading to North Creek by an estimated 18.4 tons per year and will reduce phosphorus loading by an estimated 31.8 pounds per year. The Ravenna Trail project will result in a reduction in sediment loading to the Lower Vermillion River by an estimated 130 tons per year and will reduce phosphorus loading by an estimated 78 pounds per year.

VRWJPO staff recommend executing a Grant with the BWSR for County for the Projects in an amount not to exceed \$841,500.

EXPLANATION OF FISCAL/FTE IMPACT

The VRWJPO will receive up to \$841,500 of Clean Water Fund funding from the Minnesota Board of Water and Soil Resources. The Dakota County Environmental Resources Capital Improvement Program and Transportation Department will each contribute up to \$30,000 in funding as local cash match for the

Foxborough Park project. The Dakota County Environmental Resources Capital Improvement Program will contribute up to \$100,000 in funding and the Transportation Department will contribute up to \$50,000 in funding as local cash match for the Ravenna Trail project. The VRWJPO will provide up to \$30,000 for the Foxborough Park project and \$50,000 for the Ravenna Trail project from the VRWJPO's Capital Improvement Project portion of the VRWJPO Budget as local cash match. The VRWJPO will also provide in-kind staff time for grant oversight and administration.

Supporting Documents:

Attachment A: Grant Agreement with BWSR for Foxborough Park
Sediment Reduction Project and Ravenna Trail Ravine Stabilization
Project

Previous Board Action(s):**RESOLUTION**

**4f. Authorization to Execute a Grant Agreement with the Minnesota Board of Water and Soil
Resources for the Foxborough Park Sediment Reduction Project and Ravenna Trail Ravine Stabilization
Project**

WHEREAS, in 2021, the Vermillion River Watershed Joint Powers Organization (VRWJPO) applied for a Clean Water Fund grant funding for a stormwater improvement project in Foxborough Park in Lakeville and a ravine stabilization project in Ravenna Township (Projects); and

WHEREAS, Foxborough Park is directly adjacent to North Creek and stormwater runoff from the City and County drains through Foxborough Park and into North Creek; and

WHEREAS, A ravine directly adjacent to Ravenna Trail is eroding and contributing sediment to the Lower Vermillion River; and

WHEREAS, North Creek and the Lower Vermillion River are both impaired waters and the Projects will reduce sediment loading to North Creek and the Lower Vermillion River and help to address these impairments; and

WHEREAS, the total estimate cost for the Projects is \$1,131,500; and

WHEREAS, the grant will provide up to \$841,500 in grant funding for the Projects; and

WHEREAS, the grant requires a minimum 25-percent local match; and

WHEREAS, the City (for Foxborough only), County, and VRWJPO will contribute a total of \$290,000 in local match; and

WHEREAS, the VRWJPO will provide in-kind grant administration; and

WHEREAS, the Projects are estimated to reduce sediment loading by 148.4 tons per year and phosphorus loading by 109.8 pounds per year; and

WHEREAS, the project activities are planned to be implemented in 2022 or 2023; and

NOW, THEREFORE, BE IT RESOLVED, that the Vermillion River Watershed Joint Powers Board authorizes its chair to execute a Grant Agreement with the Minnesota Board of Water and Soil Resources in an amount not to exceed \$841,500 for the Foxborough Park sediment reduction project and Ravenna Trail ravine stabilization project; subject to approval as to form by the Dakota County Attorney's Office.

**FY 2022 STATE OF MINNESOTA
BOARD OF WATER and SOIL RESOURCES
CLEAN WATER FUND COMPETITIVE GRANTS PROGRAM
GRANT AGREEMENT**

Vendor:	0000197289
PO#:	3000014363

This Grant Agreement is between the State of Minnesota, acting through its Board of Water and Soil Resources (Board) and **Vermillion River Watershed JPO, 1431 Erickson Drive Hastings Minnesota 55033** (Grantee).

Fiscal Agent: Dakota County

<i>This grant is for the following Grant Programs:</i>		
C22-2087	FY22 CWF Ravenna Trail Ravine Stabilization	\$495,000
C22-3434	FY22 CWF North Creek Foxborough Park TSS Reduction Project	\$346,500

Total Grant Awarded: \$841,500

Recitals

1. The Laws of Minnesota 2019, 1st Special Session, Chapter 2, Article 2, Sec. 7(b), appropriated Clean Water Funds (CWF) to the Board for the FY22 Clean Water Fund Projects & Practices Grants.
2. The Laws of Minnesota 2021, 1st Special Session, Chapter 1, Article 2, Sec. 6(b) & (j), appropriated Clean Water Funds (CWF) to the Board for the FY22 Clean Water Fund Projects & Practices Grants.
3. The Board adopted the FY22 Clean Water Fund Competitive Grant Policy and authorized the FY22 Clean Water Fund Competitive Grants Program through Board Order #21-16.
4. The Board adopted Board Order #21-54 to allocate funds for the FY22 Clean Water Fund Competitive Grants Program.
5. The Grantee has submitted a Board approved work plan for this Program, which is incorporated into this Grant Agreement by reference.
6. The Grantee represents that it is duly qualified and agrees to perform all services described in this Grant Agreement to the satisfaction of the Board.
7. As a condition of the grant, Grantee agrees to minimize administration costs.

Authorized Representative

The State's Authorized Representative is Marcey Westrick, Central Region Manager, BWSR, 520 Lafayette Road North, Saint Paul, MN 55155, 651-284-4153, or 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 Grantees 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 Board 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, 2024**, 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, 2025 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 the Board. 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 the Board.
- 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 Board's satisfaction, as set forth in this Grant Agreement and in the Board 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, FY21 Clean Water Fund Competitive Grant Policy, and regulations. The Grantee will not receive payment for work found by the Board to be unsatisfactory or performed in violation of federal, State or local law.
- 5.2. Minnesota Statutes §103C.401 (2018) establishes the Board's obligation to assure program compliance. If the noncompliance is severe, or if work under the Grant Agreement is found by the Board to be unsatisfactory or performed in violation of federal, State, or local law, the Board 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 Board 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 Board 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 Board 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 Board may immediately terminate this Grant Agreement if the Board 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 Board 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)

(signature)

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

Approved as to form:

/s/ G. Paul Beaumaster 2/11/22
Assistant Dakota County Attorney/Date
KS-22-97



Vermillion River Watershed Joint Powers Organization

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

Date: February 24, 2022
To: Vermillion River Watershed Joint Powers Board
From: Staff
Subject: Joint Powers Organization Expenses

Agenda Item 5
February 24, 2022

Expenses from the invoices submitted between December 14, 2021 and January 14, 2022 totalled \$55,619.86

The invoices submitted between January 15, 2022 and February 15, 2022 are listed below:

<u>Invoice</u>	<u>Vendor</u>		<u>Amount</u>
Oct Nov	VRW Per Diems	\$	105.00
21-4011	144Design	\$	95.00
December	December Legal Fees	\$	548.28
IN27838	Scott County - NOV	\$	1,132.02
IN27966	Scott County - DEC	\$	1,205.86
9071678719	P0080516: Grainger Hi Vis	\$	13.47
3161	Dakota County Soil and Water Conservation District	\$	84,839.67
2021-220	Scott County Soil and Water Conservation District	\$	9,236.25
	DC Staff Time	\$	40,022.47
231487	MN DNR	\$	4,850.00
22-147007	144Design	\$	95.00
I151426731	Conserva Irrigation	\$	8,300.00
I151426732	Conserva Irrigation	\$	6,200.00
I151426733	Conserva Irrigation	\$	1,775.00
I151426734	Conserva Irrigation	\$	1,550.00
I151426735	Conserva Irrigation	\$	1,250.00
I151426736	Conserva Irrigation	\$	6,050.00
I151426737	Conserva Irrigation	\$	2,150.00
1879646	Stantec	\$	344.25
Total expense as approved on February 24, 2022		\$	169,762.27

Action Requested: Approve all above expenses as presented on February 24, 2022