

REQUEST FOR PROPOSALS
Vermillion River Watershed
Changing Climate and Stormwater Resiliency Study



Vermillion River Watershed Joint Powers Organization

4100 220th St W #103

Farmington, MN 55024

RFP released: October 27, 2025

RFP questions due: November 3, 2025

Responses to RFP questions posted: November 7, 2025

Proposals due: by 4:30 pm CDT November 24, 2025

Anticipated Contract Start: May 4, 2026

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I. INTRODUCTION

A. General Background

Climate trends identified through national, regional and local monitoring efforts have indicated that the climate is changing. In Minnesota, changes in temperature and precipitation; snow depth and lake ice; intense storms and droughts; growing season length and more are proving that the state is becoming warmer and wetter with more damaging rains and cold weather warming. All of these trends directly or indirectly impact water resources within the Vermillion River Watershed (VRWJPO).

The VRWJPO is the largest geographic watershed in the seven County Metropolitan Area in Minnesota. The watershed encompasses 335 square miles of farmland, rural communities, suburbs, cities, parks, significant natural areas, and historical or cultural sites. Interwoven throughout these varying land uses are lakes, the Vermillion River and its tributaries, floodplains, stormwater piping, stormwater ponds and other critical stormwater infrastructure.

Minnesota cities regulated by the Minnesota Pollution Control Agency's (MPCAs) Municipal Separate Storm Sewer System (MS4) General Permit maintain mapped inventories of stormwater infrastructure within their municipal boundaries; however, many of their stormwater models do not incorporate more recent developments. To position the VRWJPO as a climate resilient watershed, the VRWJPO is seeking proposals to update the modeling systems of municipal storm sewer systems and to provide recommendations for adapting MS4 systems susceptible to flood volume impacts resultant of climate change.

B. Purpose of RFP

The VRWJPO is soliciting proposals for consulting services experienced with hydrologic and hydraulic modeling, flood vulnerability assessments, pollutant reduction modeling, and capital improvement project siting and recommendations. Services requested include: 1) Present and future climate hydrology modeling; 2) Flood risk assessment; 3) Storage project site screening; 4) Stormwater infrastructure adaptation screening; 5) Feasibility of stormwater pond smart technology; and 6) Cost-benefit analysis of project recommendations.

II. SCOPE OF SERVICES

A. Task 1: Data Compilation

The selected consultant will work with the VRWJPO and Local Government Units (LGUs) to acquire the most current modeling and applicable data within the cities of Apple Valley, Empire, Elko New Market, Farmington, Hastings, Lakeville and Rosemount. The selected consultant will acquire and compile all data needed, including, but not limited to: LGU stormwater infrastructure datasets (e.g catchment and drainage delineations, existing drainage structures and catchments); GIS data (e.g. current land use and impervious surfaces, soils, waterbody and water courses, and recent LiDAR-derived elevation data); Dakota County provided floodplain designation information from the HEC-RAS model with an effective date 12/2/2011; VRWJPO-provided 2009 and 2015 XP-SWMM models (used for intercommunity flow rate and standards); and the VRWJPO-provided 2020 PC-SWMM model (used to assess flooding and pollutant loading, identify projects to address flooding, and include preliminary design for ten high priority projects) as applicable. One virtual kick-off meeting will be included within Task 1 for the selected consultant, VRWJPO and LGUs for use in project planning. Up to four additional virtual meetings will take place individually between the selected consultant, LGUs and their consultant engineer (which holds ownership of their respective model) to discuss model sharing logistics.

Deliverables: The selected consultant will provide VRWJPO staff the agenda and meeting notes for the project kick-off meeting and additional LGU meetings. The consultant will obtain relevant data and provide VRWJPO staff a list of data obtained.

B. Task 2: Evaluation of Existing Watershed Conditions

The selected consultant will describe stormwater infrastructure and water resources within the above identified VRWJPO MS4 communities. Current hydrologic and hydraulic model outcomes relating to drainage and flooding impacts to VRWJPO stormwater infrastructure and water resources will be identified, incorporating newer stormwater assets since models were previously run. The selected consultant will also provide a comparison between newly modeled outcomes in this task to the existing County floodplain model. Modeled precipitation will

follow National Oceanic and Atmospheric Administration (NOAA) Atlas 15: Volume 1 precipitation estimates (pending release in 2026). Impacts to infrastructure and water resources resultant of varying precipitation frequencies will be presented to identify primary flooding hot spots for use in Task 3-5 project siting and priority analysis. Those impacts identified via the Atlas 15: Volume 1 precipitation estimates will be highest priority within Tasks 4-5.

Deliverables: The selected consultant will provide maps, tables and narratives of the existing drainage landscape (stormwater infrastructure and water resources) incorporating developments that have taken place on the landscape since the previous model versions, as well as the updated Atlas 15: Volume 1 temporal changes in historical precipitation observations. Maps, tables, exhibits, and supporting narratives identifying flood hazard areas within the VRWJPO MS4 communities, particularly at locations of primary concern, will be provided. The updated model and any associated dataset will also be included.

C. Task 3: Projection of Future Hydrologic Impacts

The selected consultant will use the NOAA Atlas 15: Volume 2 dataset to incorporate model-based precipitation frequency estimates projected throughout the VRWJPO MS4 communities assuming 2026 land use. Impacts to infrastructure and water resources resultant of varying precipitation frequencies will be presented to identify secondary flooding hot spots for use in Task 3-5 project siting and priority analysis. Projected land use changes will not be incorporated into the model outputs. Those impacts identified via the Atlas 15: Volume 2 precipitation estimates will be considered lower priority within Tasks 4-5. One virtual meeting between the selected consultant and VRWJPO and LGU staff to present the results of Task 2 and Task 3 modeling will take place.

Deliverables: The selected consultant will provide maps, tables and narratives of the projected drainage landscape (stormwater infrastructure and water resources) using the updated Atlas 15: Volume 2 precipitation frequency estimates. Maps, tables, exhibits, and supporting narratives identifying flood hazard areas within the designated VRWJPO MS4 communities, particularly at locations of primary concern, will be provided. The updated model and any associated dataset will also be included. The consultant will provide VRWJPO staff the agenda and meeting notes for the Task 2 and Task 3 results meeting.

D. Task 4: Project Siting, Feasibility and Volume and Pollutant Reductions

The selected consultant will use the models generated in Tasks 2 and 3 to develop and site various best management practices (BMPs) to alleviate flood volume impacts resultant of current and projected precipitation regimes. BMPs should, at minimum, include retention ponding, infiltration (e.g. infiltration basins, sand filters, iron enhanced sand filters, green infrastructure, wetland restoration), stormwater infrastructure retrofit/replacement, smart pond technology and stormwater reuse. Additional BMPs are encouraged as applicable. Applicability of BMPs should factor in: publicly vs. privately owned lands, soil suitability for proposed BMP, regulatory implications (e.g. floodplain, National Pollutant Discharge and Elimination System, Wetland Conservation Act) and contributing/adjoining land uses. Volume and pollution (total suspended solids [TSS] and total phosphorus [TP]) reductions should be associated with each project as applicable for use in a cost-benefit analysis to be conducted in Task 5. Proposed BMPs should address anticipated flood impacts identified in Task 2, those shown to get worse in Task 3 and any new impacts identified in Task 3. Concept-level engineering cost estimates to implement BMPs should also be included with each proposed BMP. One virtual meeting between the selected consultant and VRWJPO and LGU staff to present and discuss the proposed (up to 30) BMPs and associated volume and pollutant reductions will take place.

Deliverables: The selected consultant will provide feasibility narratives, locations, estimated costs to implement and volume and pollution (TSS and TP) reductions for up to 30 BMPs. Information is to be presented in maps, exhibits, tables and narratives. Proposed BMPs should be developed at a conceptual level and should not include formal engineering design. Any potential risks—such as property or easement acquisition, permitting challenges, or inter-community water conflicts—shall also be identified. The consultant will provide VRWJPO staff the agenda and meeting notes for the Task 4 results meeting.

E. Task 5: Cost-Benefit Analysis and Recommendations

The selected consultant will use the items developed in Tasks 1-4 to conduct a cost-benefit analysis of the up to 30 BMPs identified in Task 4. Priority projects will be determined through assessment of projected date of flooding impacts, extent of flooding impact, overall cost, flood volume reduction, TSS and TP reductions and land ownership.

Deliverables: The selected consultant will provide the final cost-benefit analysis associated with proposed implementation of the up to 30 identified BMPs.

F. Task 6: Final Report

The selected consultant will compile maps, exhibits, tables and narratives of items produced during Tasks 1-5 into a VRWJPO Changing Climate and Stormwater Resiliency Study. One round of revisions will be incorporated.

Deliverable: The selected consultant will compile all deliverables associated with Tasks 1-5 into a VRWJPO Changing Climate and Stormwater Resiliency Study.

G. Project Timeline

The consultant will provide editable Microsoft Word, Microsoft Excel, Adobe PDF, and all necessary data sets to transfer stormwater model features to VRWJPO, including:

Deliverable	Deadline – Can propose alternate timeline
Task 1: Project kick-off meeting, including development of agenda in advance of meeting	May 4, 2026
Task 1: Meeting minutes summarizing discussion of project kick-off meeting	Within seven calendar days of meeting
Task 1: Meetings with LGU staff and their consulting engineer regarding logistics of sharing previously completed city models	May 11 - June 15, 2026
Task 1: Meeting minutes from LGU staff meetings and list of data compiled	Within seven calendar days of each meeting
Task 2: Draft maps of flooding impacts incorporating Atlas 15: Volume 1 data	September 16, 2026
Task 3: Draft maps of projected flooding impacts incorporating Atlas 15: Volume 2 data	December 22, 2026
Task 3: Meeting with VRWJPO and LGUs to present the results of Task 2 and Task 3 modeling	January 7, 2027
Task 3: Meeting minutes summarizing Tasks 2 and 3 results meeting	Within seven calendar days of meeting
Task 4: Tables and maps of up to 30 proposed BMPs to address flooding impacts realized using data from Tasks 2 and 3	February 11, 2027
Task 4: Meeting with VRWJPO and LGUs to present up to 30 proposed BMPs	February 18, 2027
Task 4: Meeting minutes summarizing Task 4 results meeting	Within seven calendar days of meeting
Task 5: Cost-benefit analysis of up to 30 proposed BMPs including their costs, pollutant (TSS and TP) and volume reductions and priority ranking	March 15, 2027
Task 5: Draft VRWJPO Changing Climate and Stormwater Resiliency Study with one round of revisions allowed	April 22, 2027
Task 6: Final VRWJPO Changing Climate and Stormwater Resiliency Study	June 7, 2027

III. TIMELINE FOR PROPOSALS

A. Proposal Contact Information

Kelly Perrine

Vermillion River Watershed Joint Powers Organization

4100 220th St. W., #103

Farmington, MN 55024

kelly.perrine@co.dakota.mn.us

Phone: 952-891-7002

B. Anticipated Schedule of Events

RFP released: October 27, 2025

RFP questions due: November 3, 2025

Responses to RFP questions posted: November 7, 2025

Proposals due: by 4:30 pm CDT November 24, 2025

Anticipated Contract Start: May 15, 2026

C. RFP Release

This RFP was issued October 27, 2025. The VRWJPO reserves the right to amend this RFP at any time. Changes to the RFP, if any, will be posted on the VRWJPO website accessed via the following link:

<https://www.vermillionriverwatershed.org/requests-bids-proposals/>

D. RFP Questions and VRWJPO Responses

All questions regarding this RFP must be submitted by email to kelly.perrine@co.dakota.mn.us by November 3, 2025 no later than 4:30 PM CST. The VRWJPO will post responses to all questions and any addenda to this RFP on the VRWJPO website no later than November 7, 2025 no later than 4:30 PM CST. These responses, together with the questions, will be available at the following links:

<https://www.vermillionriverwatershed.org/requests-bids-proposals/>

IV. GENERAL PROPOSAL REQUIREMENTS

A. General Instructions

1. All proposals by corporations shall bear the official seal of the corporation, if applicable, along with the signature of a duly authorized officer of the corporation.
2. All proposals and attachments should be in electronic Adobe .pdf format, no longer than twenty (20) pages in length (exclusive of the Letter of Transmittal, Attachments D & E and resumes) and must be submitted to: kelly.perrine@co.dakota.mn.us.
3. In the case of a variance between written words and figures, the amount(s) stated in written words shall govern. In case of unit price difference from extended figure the unit prices shall govern.
4. The VRWJPO reserves the right to accept or reject any or all proposals, to waive any defects or to advertise for new proposals where the acceptance, rejections, waiving or advertising of such would be in the best interests of VRWJPO.
5. No proposal received after the due date and time will be considered and will be returned to the proposer unopened.
6. All proposals shall be held firm for 180 days from the proposal due date.
7. The VRWJPO is not responsible for locating or securing any information that is not identified in the proposal and reasonably available to the VRWJPO. To ensure that sufficient information is available, the proposer must furnish as part of the proposal all descriptive material necessary for VRWJPO to determine whether the proposal meets the requirements of the RFP.
8. The successful proposer will be required to execute a contract and return it to VRWJPO within 15 days after the contract forms have been mailed to the successful proposer.

9. The VRWJPO may make such investigations as it deems necessary to determine the ability of the proposer to furnish the equipment and services outlined herein, and the proposer shall furnish to VRWJPO all such information and data for this purpose as VRWJPO may request. VRWJPO reserves the right to reject any proposal if the evidence submitted by, or investigation, of such proposer fails to satisfy VRWJPO that such proposer is properly qualified to carry out the obligations of the contract.
10. After proposals have been received and opened, VRWJPO may schedule interviews and demonstrations with any or all proposers as a part of the evaluation process to determine the most appropriate proposer to whom the contract should be awarded.
11. The VRWPO shall send a written notice of award to the successful proposer.

B. Proposal Costs

The VRWPO is not responsible for any costs incurred by the proposer to prepare or submit a proposal, participate in proposer demonstrations or for any other cost to the proposer associated with responding to the RFP.

C. Ownership of Proposals

All proposals timely submitted become the property of VRWJPO upon submission, and the proposals will not be returned to the proposers. By submitting a proposal, the proposer agrees that VRWJPO may copy the proposal for purposes of facilitating the evaluation or to respond to requests for public data. The proposer consents to such copying by submitting a proposal and warrants that such copying will not violate the rights of any third party, including copyrights.

D. Public Records and Requests for Confidentiality

Pursuant to Minnesota Government Data Practices Act, Minn. Stat. § 13.591, the names of all entities that submitted a timely proposal to VRWJPO will be public once the proposals have been opened. All other information contained in the proposals remains private until VRWJPO has completed negotiating a contract with the selected proposer. After a contract has been negotiated, all information in all of the proposals is public, except "trade secret" information as defined at Minn. Stat. § 13.37.

Public Data Requests can be submitted on Dakota County's website:

<https://www.co.dakota.mn.us/Government/DataPractices/Pages/default.aspx>

Requests for release of information held by Dakota County are subject to the provisions of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13. Proposers are encouraged to familiarize themselves with these provisions before submitting a proposal.

All information submitted by a proposer eventually will be treated as public information by Dakota County unless the proposer properly requests, and Dakota County agrees, that information be treated as private or confidential. A proposer making such a request must include the name, address and telephone number of the individual authorized by the proposer to answer inquiries by Dakota County concerning the request. Dakota County reserves the right to make the final determination of whether the data identified in such a request is private or confidential within the meaning of the Minnesota Government Data Practices Act. A proposer's failure to request private or confidential treatment of information will be deemed by Dakota County as a waiver by the proposer of any private or confidential treatment of information included in the proposal.

V. SPECIFIC PROPOSAL REQUIREMENTS

A. Letter of Transmittal

The letter is to transmit the proposal and must identify all materials and enclosures being forwarded collectively as a response to this RFP. Please include, at a minimum, the following:

1. Identification of the offering firm(s), including name, address and telephone number of each firm;
2. Name, title, address, telephone number, and e-mail address of contact person during period of proposal evaluation;
3. Signature of a person authorized to bind the offering firm to the terms of the proposal.

B. Proposal Contents

1. Personnel. Table of specific personnel who will work on project Tasks, including the respective personnel hourly rates and total cost.
2. Variations. Based on expertise from previous climate resilience study, hydrologic and hydraulic modeling, pollutant reduction and project siting efforts, describe and justify any recommended variations from the proposed Project Tasks.
3. Methodology. Describe data to be compiled, modeling to take place, and prioritization methods for VRWJPO consideration. Describe final reporting format to succinctly summarize technical results for VRWJPO and LGU staff use.
4. Detailed Project Schedule. Include a detailed timeline for Tasks 1 – 6.
5. Value added. Describe the value added by the firm.
6. Experience and References. Identify and describe at least two stormwater centric climate resilience studies undertaken by the Contractor within the last three years. For each project, provide the client's name, address, and telephone number for a contact person currently available who is familiar with the firm's performance on each project listed.
7. Resources. Provide a detailed, itemized budget and identify the approximate hours and costs by each personnel member for meeting each Task requirement.
8. Project team. Provide the name(s) and title(s) of the team member(s). Attach concise resumes for the project manager as well as any key personnel as appropriate.
9. Additional information. Include any additional information as appropriate.

C. Conflict of interest

The Consultant must identify any potential conflict of interest it may have with this proposal.

D. Exceptions and Deviations

Any exceptions to the requirements in this RFP must be included in the proposal submitted by the Contractor.

Segregate such exceptions as a separate element of the proposal under the heading "Exceptions and Deviations."

VI. PROPOSAL EVALUATION CRITERIA

The award shall be based on, but not limited to, the following factors:

- Project understanding
- Proposed approach: identified methods, timeline for implementation, and ability to satisfy all requirements of the RFP
- Ability to effectively procure and manage complex datasets
- Ability to oversee and coordinate hydrologic and hydraulic modeling conversions working with MS4 permittee's historically completed models
- Ability to incorporate temporal changes in historical precipitation observations into storm sewer infrastructure models
- Ability to incorporate precipitation frequency estimates and apply these estimates to land use and storm sewer infrastructure when released
- Ability to utilize modeling for volume attenuation and pollution reduction project siting
- Ability to oversee cost-benefit analyses for project prioritization for future VRWJPO and partner implementation
- Project team organization and expertise of key personnel
- Experience, qualifications, and track record of successfully implementing projects similar size and scope
- Experience working with stakeholder groups

- Performance on similar projects: based on performance of team members and the consulting firm with successful delivery of recent similar projects
- Best Value Cost Proposal

ATTACHMENT A: STANDARD ASSURANCES

1. **NON-DISCRIMINATION.** During the performance of this Contract, the Contractor shall not unlawfully discriminate against any employee or applicant for employment because the person is a member of a protected class under, and as defined by, federal law or Minnesota state law including, but not limited to, race, color, creed, religion, sex, gender, gender identity, pregnancy, national origin, disability, sexual orientation, age, familial status, marital status, veteran's status, or public assistance status. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without unlawful discrimination. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices which set forth the provisions of this nondiscrimination clause.

The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, sex, national origin, disability, sexual orientation, age, marital status, veteran's status, or public assistance status.

No funds received under this Contract shall be used to provide religious or sectarian training or services.

The Contractor shall comply with any applicable federal or state law regarding non-discrimination. The following list includes, but is not meant to limit, laws which may be applicable:

A. The Equal Employment Opportunity Act of 1972, as amended, 42 U.S.C. § 2000e *et seq.* which prohibits discrimination in employment because of race, color, religion, sex, or national origin.

B. Equal Employment Opportunity-Executive Order No.11246, 30 FR 12319, signed September 24, 1965, as amended, which is incorporated herein by reference, and prohibits discrimination by U.S. Government contractors and subcontractors because of race, color, religion, sex, or national origin.

C. The Rehabilitation Act of 1973, as amended, 29 U.S.C. § 701 *et seq.* and 45 C.F.R. 84.3 (J) and (K) implementing Sec. 504 of the Act which prohibits discrimination against qualified handicapped persons in the access to or participation in federally-funded services or employment.

D. The Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621 *et seq.* as amended, and Minn. Stat. § 181.81, which generally prohibit discrimination because of age.

E. The Equal Pay Act of 1963, as amended, 29 U.S.C. § 206(d), which provides that an employer may not discriminate on the basis of sex by paying employees of different sexes differently for the same work.

F. Minn. Stat. Ch. 363A, as amended, which generally prohibits discrimination because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, or age.

G. Minn. Stat. § 181.59 which prohibits discrimination against any person by reason of race, creed, or color in any state or political subdivision contract for materials, supplies, or construction. Violation of this section is a misdemeanor and any second or subsequent violation of these terms may be cause for forfeiture of all sums due under the Contract.

H. Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 through 12213, 47 U.S.C. §§ 225, 611, with regulations at 29 C.F.R. § 1630, which prohibits discrimination against qualified individuals on the basis of a disability in term, condition, or privilege of employment.

I. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, *et seq.* and including 45 CFR Part 80, prohibits recipients, including their contractors and subcontractors, of federal financial assistance from discriminating on the basis of race, color or national origin which includes not discriminating against those persons with limited English proficiency.

J. The Pregnancy Discrimination Act of 1978, which amended Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.* which prohibits discrimination on the basis of pregnancy, childbirth, or related medical conditions.

K. Equal Protection of the Laws for Faith-based and Community Organizations-Executive Order No. 13279, signed December 12, 2002 and as amended May 3, 2018. Prohibits discrimination against grant seeking organizations on the basis of religion in the administration or distribution of federal financial assistance under social service programs, including grants and loans.

L. Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212, with regulations at 41 C.F.R. Part 60-250, which prohibits discrimination in employment against protected veterans.

2. **DATA PRIVACY.** For purposes of this Contract, all data created, collected, received, stored, used, maintained, or disseminated by Contractor in the performance of this Contract are subject to the requirements of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, ("MGDPA") and the Minnesota Rules implementing the MGDPA. Contractor must comply with the MGDPA as if it were a governmental entity. The remedies in Minn. Stat. § 13.08 apply to the Contractor. Contractor does not have a duty to provide access to public data to a data requestor if the public data are available from the County, except as required by the terms of this Contract. If Contractor is a subrecipient of federal grant funds under this Contract, it will comply with the federal requirements for the safeguarding of protected personally identifiable information ("Protected PII") as required in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200, and the County Protected PII procedures, which are available upon request. Additionally, Contractor must comply with any other applicable laws on data privacy. All subcontracts shall contain the same or similar data practices compliance requirements.

3. **RECORDS DISCLOSURE/RETENTION.** Contractor's bonds, records, documents, papers, accounting procedures and practices, and other evidences relevant to this Contract are subject to the examination, duplication, transcription, and audit by the County and either the Legislative or State Auditor, pursuant to Minn. Stat. § 16C.05, subd. 5. Such evidences are also subject to review by the Comptroller General of the United States, or a duly authorized representative, if federal funds are used for any work under this Contract. The Contractor agrees to maintain such evidences for a period of six (6) years from the date services or payment were last provided or made or longer if any audit in progress requires a longer retention period.

4. **WORKER HEALTH, SAFETY AND TRAINING.** Contractor shall be solely responsible for the health and safety of its employees in connection with the work performed under this Contract. Contractor shall make arrangements to ensure the health and safety of all subcontractors and other persons who may perform work in connection with this Contract. Contractor shall ensure all personnel of Contractor and subcontractors are properly trained and supervised and, when applicable, duly licensed or certified appropriate to the tasks engaged in under this Contract. Each Contractor shall comply with federal, state, and local occupational safety and health standards, regulations, and rules promulgated pursuant to the Occupational Health and Safety Act which are applicable to the work to be performed by Contractor.

5. **PROHIBITED TELECOMMUNICATIONS EQUIPMENT/SERVICES.** If Contractor is a subrecipient of federal grant funds under this Contract, Contractor certifies that, consistent with Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232 (Aug. 13, 2018) (the "Act"), and 2 CFR § 200.216, Contractor will not use funding covered by this Contract to procure or obtain, or to extend, renew, or enter into any contract to procure or obtain, any equipment, system, or service that uses "covered telecommunications equipment or services" (as that term is defined in Section 889 of the Act) as a substantial or essential component of any system or as critical technology as part of any system. Contractor will include this certification as a flow down clause in any agreement related to this Contract.

6. **CONTRACTOR GOOD STANDING.** If Contractor is not an individual, Contractor must be registered to do business in Minnesota with the Office of the Minnesota Secretary of State and shall maintain an active/in good standing status with the Office of the Minnesota Secretary of State, and shall notify County of any changes in status within five calendar days of such change. Business entities formed under the laws of a jurisdiction other than Minnesota must maintain a certificate of authority (foreign corporations, limited liability companies, limited partnerships, and limited liability limited partnerships), or a statement of foreign qualification (foreign limited liability partnerships), or a statement of partnership authority (general partnerships). See Minn. Stat. §§ 303.03 (corporations); 322C.0802 (limited liability companies); 321.0902 and 321.0907 (foreign limited partnership); 321.0102(7) (foreign limited liability limited partnerships); 323A.1102(a) (foreign limited liability partnership); 321.0902 and 321.0907 (foreign general partnerships).

7. **CONTRACTOR DEBARMENT, SUSPENSION, AND RESPONSIBILITY CERTIFICATION.** Federal Regulation 45 CFR 92.35 prohibits the State/Agency from purchasing goods or services with federal money from vendors who have been suspended or debarred by the federal government. Similarly, Minn. Stat. § 16C.03, subd. 2 provides the Commissioner of Administration with the authority to debar and suspend vendors who seek to contract with the State/Agency. Vendors may be suspended or debarred when it is determined, through a duly authorized hearing process, that they have abused the public trust in a serious manner.

By signing this Contract, the Contractor certifies that it and its principals* and employees:

A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from transacting business by or with any federal, state, or local governmental department or agency; and

B. Have not within a three (3) year period preceding this Contract: 1) been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract; 2) violated any federal or state antitrust statutes; or 3) committed embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and

C. Are not presently indicted or otherwise criminally or civilly charged by a governmental entity for: 1) commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction; 2) violating any federal or state antitrust statutes; or 3) committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and

D. Are not aware of any information and possess no knowledge that any subcontractor(s) that will perform work pursuant to this Contract are in violation of any of the certifications set forth above; and

E. Shall immediately give written notice to the Authorized Representative should Contractor come under investigation for allegations of fraud or a criminal offense in connection with obtaining, or performing a public (federal, state, or local government) transaction; violating any federal or state antitrust statutes; or committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

*“Principals” for the purposes of this certification means officers; directors; owners; partners; and persons having primary management or supervisory responsibilities within a business entity (e.g. general manager; plant manager; head of a subsidiary, division, or business segment and similar positions).

8. **PREVAILING WAGES.** Contractor shall pay wages to its employees at a rate not less than those established by the Minnesota Department of Labor & Industry for commercial construction projects. In accordance with Minn. Stat. § 471.345, subd. 7 and Dakota County Board Resolution No. 95-55.

9. **BOND FOR G/HVACR CONTRACTORS.** In accordance with Minn. Stat. § 326B.197, if Contractor will be performing any work having to do with gas, heating, ventilation, cooling, air conditioning, fuel burning or refrigeration, the Contractor must give bond to the State of Minnesota for the benefit of persons suffering financial loss by reason of Contractor’s failure to comply with the requirements of the State Mechanical Code.

Directions for Online Access to Excluded Providers

To ensure compliance with this regulation, identification of excluded entities and individuals can be found on the Office of Inspector General (OIG) website at https://oig.hhs.gov/exclusions/exclusions_list.asp

ATTACHMENT B: INSURANCE TERMS

Contractor agrees to provide and maintain at all times during the term of this Contract such insurance coverages as are indicated herein and to otherwise comply with the provisions that follow. Such policy(ies) of insurance shall apply to the extent of, but not as a limitation upon or in satisfaction of, the Contract indemnity provisions. The provisions of this section shall also apply to all Subcontractors, Sub-subcontractors, and Independent Contractors engaged by Contractor with respect to this Contract, and Contractor shall be entirely responsible for securing the compliance of all such persons or parties with these provisions.

APPLICABLE SECTIONS ARE CHECKED

☒ 1. Workers Compensation.

Workers' Compensation insurance in compliance with all applicable statutes including an All States or Universal Endorsement where applicable. Such policy shall include Employer's Liability coverage in an amount no less than \$500,000. If Contractor is not required by Statute to carry Workers' Compensation Insurance, Contractor agrees: (1) to provide VRWJPO with evidence documenting the specific provision under Minn. Stat. § 176.041 which excludes Contractor from the requirement of obtaining Workers' Compensation Insurance; (2) to provide prior notice to VRWJPO of any change in Contractor's exemption status under Minn. Stat. § 176.041; and (3) to defend, hold harmless and indemnify VRWJPO from and against any and all claims and losses brought by Contractor or any subcontractor or other person claiming through Contractor for Workers' Compensation or Employers' Liability benefits for damages arising out of any injury or illness resulting from performance of work under this Contract. If any such change requires Contractor to obtain Workers' Compensation Insurance, Contractor agrees to promptly provide VRWJPO with evidence of such insurance coverage.

☒ 2. General Liability.

"Commercial General Liability Insurance" coverage, providing coverage on an "occurrence" basis. Policy shall include, but not be limited to, coverage for Bodily Injury, Property Damage, Personal Injury, Contractual Liability (applying to this Contract), Independent Contractors, "XC&U" and Products-Completed Operations liability (if applicable). An Insurance Services Office "Comprehensive General Liability" policy which includes a Broad Form Endorsement GL 0404 (Insurance Services Office designation) shall be considered to be an acceptable equivalent policy form. Claims-made coverage is acceptable.

A total combined general liability policy limit of at least \$2,000,000 per occurrence and aggregate, applying to liability for Bodily Injury, Personal Injury, and Property Damage, which total limit may be satisfied by the limit afforded under its Commercial General Liability policy, or equivalent policy, or by such policy in combination with the limits afforded by an Umbrella or Excess Liability policy (or policies); provided, that the coverage afforded under any such Umbrella or Excess Liability policy is at least as broad as that afforded by the underlying Commercial General Liability policy (or equivalent underlying policy). Coverage under such policy may be subject to a deductible, not to exceed \$25,000 per occurrence. Contractor agrees to maintain such insurance for at least one (1) year from Contract termination.

☒ Such policy(ies) shall name VRWJPO, its officers, employees and agents as Additional Insureds thereunder.

☒ 3. Professional Liability

Professional Liability (errors and omissions) insurance with respect to its professional activities to be performed under this Contract. This amount of insurance shall be at least \$2,000,000 per occurrence and aggregate. Coverage under such policy may be subject to a deductible, not to exceed \$25,000 per occurrence. Contractor agrees to maintain such insurance for at least one (1) year from Contract termination.

Contractor therefore agrees that it will not seek or voluntarily accept any such change in its Professional Liability insurance coverage if such impairment of VRWJPO's protection could result; and further, that it will exercise its rights under any "Extended Reporting Period" ("tail coverage").

☒ 4. Automobile Liability.

Business Automobile Liability insurance covering liability for Bodily Injury and Property Damage arising out of the ownership, use, maintenance, or operation of all owned, non-owned and hired automobiles and other motor vehicles utilized by Contractor in connection with its performance under this Contract. Such policy shall provide total liability limits for combined Bodily Injury and/or Property Damage in the amount of at least \$2,000,000 per accident

☒ Such policy, shall include VRWJPO, its officers, employees and agents as Additional Insureds thereunder.

☐ 5. Network Security and Privacy Liability.

Network security and privacy liability insurance, including first-party costs, for any breach that compromises data obtained while providing services under this Agreement. This insurance should to cover claims which may arise from failure of Contractor's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data including but not limited to confidential or private information, transmission of a computer virus or denial of service. The required limit shall not be less than \$2,000,000 per occurrence with a \$4,000,000 aggregate limit. Claims made coverage is acceptable. Such insurance shall name VRWJPO, its officials, employees, volunteers and agents as additional insureds. The policy shall provide an extended reporting period of not less than thirty-six (36) months from the expiration date of the policy, if the policy is not renewed.

☒ 6. Evidence of Insurance.

Contractor shall promptly provide VRWJPO with a Certificate of Insurance prior to commencement of any work. At least 10 days prior to termination of any such coverage, Contractor shall provide VRWJPO with evidence that such coverage will be renewed or replaced upon termination with insurance that complies with these provisions.

☒ 7. Insurer: Policies.

All policies of insurance shall be issued by financially responsible insurers licensed to do business in the State of Minnesota by a n insurer with a current A.M. Best Company rating of at least A:VII.

☒ 8. Release and Waiver.

Contractor agrees to rely entirely upon its own property insurance for recovery with respect to any damage, loss or injury to the property interests of Contractor. Contractor hereby releases VRWJPO, its officers, employees, agents, and others acting on their behalf, from all claims, and all liability or responsibility to Contractor, and to anyone claiming through or under Contractor, by way of subrogation or otherwise, for any loss of or damage to Contractor's business or property caused by fire or other peril or event, even if such fire or other peril or event was caused in whole or in part by the negligence or other act or omission of VRWJPO or other party who is to be released by the terms here of, or by anyone for whom such party may be responsible.

Contractor agrees to effect such revision of any property insurance policy as may be necessary in order to permit the release and waiver of subrogation agreed to herein. Contractor shall, upon the request of VRWJPO, promptly provide a Certificate of Insurance, or other form of evidence as may be reasonably requested by VRWJPO, evidencing that the full waiver of subrogation privilege contemplated by this provision is present; and/or, if so requested by VRWJPO, Contractor shall provide a full and complete copy of the pertinent property insurance policy(ies).

Revised: 11/23

ATTACHMENT C: SAMPLE CONTRACT

VRWJPO Contract #DCA

SAMPLE

CONTRACT BETWEEN THE VERMILLION RIVER WATERSHED JOINT POWERS ORGANIZATION AND [CONTRACTOR] FOR [SERVICE]

This Contract (Contract) is made and entered into between the Vermillion River Watershed Joint Powers Organization, a political subdivision of the State of Minnesota, by and through its Environmental Resources Department (VRWJPO) and _____, MN _____ (Contractor). Contractor and VRWJPO are collectively referred to herein as the “parties” and individually as “party.”

WHEREAS, the VRWJPO requires services for [concise description of services], as identified in the VRWJPO 's Request for Choose an item. (“ Choose an item.”), dated [date of RFP/RFQ], attached and incorporated as Exhibit 1; and

WHEREAS, the Contractor represents, covenants, and warrants it can and will perform the services according to the provisions of this Contract and Contractor’s Choose an item. dated _____ (“Contractor’s Proposal”), attached and incorporated as Exhibit 2; and

NOW, THEREFORE, the parties agree as follows:

1. TERM

This Contract is effective and enforceable [on of the date the last party executes this Contract or a specific/future date] (“Effective Date”) and expires on [expiration date] or the date on which all Services have been satisfactorily performed and final payment is made, whichever occurs first, unless earlier terminated by law or according to the provisions of this Contract.

2. CONTRACTOR'S OBLIGATIONS

- 2.1. General Description. Contractor shall provide the services generally described in the Choose an item. and Contractor’s Proposal (collectively, “Services”).
- 2.2. Conformance to Specifications. Contractor represents, covenants, and warrants it can and will perform the Services in a timely manner according to this Contract.
- 2.3. Substantial Completion. Contractor agrees to substantially complete the work, labor, or services under this Contract on or before [insert date].
- 2.4. Standard of Care. In the performance of the Services, Contractor shall use the care and skill a reasonable practitioner in Contractor’s profession would use in the same or similar circumstances.
- 2.5. Ability to Perform. Contractor shall maintain staff, facilities, and equipment necessary to perform under this Contract. Contractor shall promptly provide Notice to the VRWJPO when it knows or suspects it may be unable to perform under this Contract. The VRWJPO shall determine whether such inability requires amendment or termination of this Contract. No Notice of Default is required to terminate under this section.
- 2.6. Changes in Policy or Staff. The VRWJPO may terminate this Contract by providing 10 calendar days’ Notice if the Contractor makes or proposes significant changes in policies or staffing.
- 2.7. Successors and Assigns. In the event that the Contractor is subject to a voluntary or involuntary dissolution, merger, sale, transfer, reorganization, acquisition, or winding down of the Contractor’s business, to continue Services under the Contract the Contractor must receive written consent from the VRWJPO permitting the Contractor to assign, bind, benefit, and/or ensure the Contractor’s successor, legal representatives, trustees assume all rights, duties, liabilities, obligations, and provisions of the Contract.

3. PAYMENT

- 3.1. Total Cost. VRWJPO will pay Contractor a total amount not to exceed [Maximum Amount] and [cents]/100 Dollars (\$[Dollar Amount]) (“Contract Maximum”). The Contract Maximum is not subject to any express or implied condition precedent. The VRWJPO is not required to pay for any minimum amount of any Services.

- 3.2. Compensation. The VRWJPO shall pay for purchased Services in the fixed amounts set out in the Contractor's Proposal.
- 3.3. Time of Payment. The VRWJPO shall pay Contractor within 35 calendar days after the date on which Contractor's invoice is received. If the invoice is incorrect, defective, or otherwise improper, the VRWJPO will notify Contractor within 10 calendar days after the date on which the invoice is received. The VRWJPO will pay Contractor within 35 calendar days after the date on which the corrected invoice is received.
- 3.4. Interest on Late Payments. This provision is required by Minn. Stat. § 471.425. The VRWJPO shall pay interest of 1 ½ percent per month or any part of a month to the Contractor on any undisputed amount that is not paid on time. The minimum monthly interest penalty payment for an unpaid balance of \$100 or more is \$10. For unpaid balances of less than \$100, the VRWJPO shall pay the actual interest penalty due the Contractor.
- 3.5. Late Request for Payments. The VRWJPO may refuse to pay invoices received or postmarked more than 90 calendar days after the date that the invoiced Services were performed.
- 3.6. Payment for Unauthorized Claims.
- A. Payment does not prevent the VRWJPO from disputing the claim. Payment of a claim is not a waiver, admission, release, ratification, satisfaction, accord, or account stated by the County.
 - B. The VRWJPO is not responsible for any interest, fee, or penalty if it withholds payment for failure to comply with any provision of this Contract or during the pendency of an audit or inspection.
 - C. If the VRWJPO requires an audit or inspection, the VRWJPO does not have to pay any invoices until the audit or inspection is complete. Upon completion of the audit or inspection, the VRWJPO will pay the Contractor pursuant to the time period for payment after receipt of an invoice.
 - D. The VRWJPO may offset any overpayment or disallowance of claim by reducing future payments.

4. COMPLIANCE WITH LAWS/STANDARDS

- 4.1. General. Contractor shall abide by all Federal, State or local laws, statutes, ordinances, rules, and regulations now in effect or hereafter adopted pertaining to this Contract or to the facilities, programs, and staff for which Contractor is responsible. This includes, but is not limited to, all Standard Assurances, which are attached and incorporated as Exhibit Attachment Any violation of this section is a material breach of this Contract. No Notice of Default is required to terminate under this section.
- 4.2. Minnesota Law to Govern. The laws of Minnesota govern all matters related to this Contract, without giving effect to the principles of conflict of law. Venue and jurisdiction for any litigation related to this Contract must be in those courts located within VRWJPO, State of Minnesota or U.S. District Court, District of Minnesota.
- 4.3. Licenses. At its own expense, Contractor shall procure and maintain all licenses, certifications, registrations, permits, or other rights required to perform the Services under this Contract. Contractor shall furnish copies of the above to the VRWJPO upon request. Contractor shall provide Notice to the VRWJPO of any changes in the above within 5 calendar days of the change. Any violation of this section is a material breach of this Contract. No Notice of Default is required to terminate under this section.
- 4.4. Diversity and Inclusion; Prohibited Acts. It is the policy of the VRWJPO to respect culture and reduce bias in the workplace and service delivery. The County's commitment to inclusion, diversity, and equity requires that the Contractor uphold respectful regard for cultural differences and recognition of individual protected-class status as defined under law.

The Contractor, its managers, officers and employees shall abstain from discrimination, harassment and retaliatory actions in the performance of this Contract. If the VRWJPO receives a report of non-compliance with this provision, it will share the report with Contractor, conduct an appropriate investigation as warranted by the nature of alleged behavior, and notify Contractor of the findings of the investigation and any required remedial actions by the Contractor. The Contractor shall inform the VRWJPO of compliance with any required remedial actions within the time period provided by the County. If the behavior persists, the VRWJPO may terminate the Contract in accordance with section 12, Termination. The Contractor shall have policies that prohibit retaliation for reporting that is not in compliance with this provision.

5. INDEPENDENT CONTRACTOR STATUS

Contractor is an independent contractor. Nothing in this Contract is intended to create an employer and employee relationship between the VRWJPO and the Contractor. Contractor is not entitled to receive any of the benefits received by VRWJPO employees and is not eligible for workers' or unemployment compensation benefits. Contractor also acknowledges and agrees that no withholding or deduction for State or Federal income taxes, FICA, FUTA, or otherwise, will be made from the payments due Contractor, and that it is Contractor's sole obligation to comply with the applicable provisions of all State and Federal tax laws.

6. NOTICES

6.1. Each Notice must be signed by the Authorized Representative. Notices may be signed electronically. Unless otherwise stated in a specific section of this Contract, any notice or demand, (collectively, "Notice") must be in writing and provided to the Authorized Representative by at least one of the following:

- A. Personal delivery, which is deemed to have been provided upon receipt as indicated by the date on the signed affidavit; or
- B. Registered or Certified Mail, in each case, return receipt requested and postage prepaid, which is deemed to have been provided upon receipt as indicated by the date on the signed receipt, certification, or affidavit; or
- C. Nationally or internationally recognized overnight courier, with tracking service with all fees and costs prepaid, which is deemed to have been provided upon receipt as indicated by the date on the signed receipt, certification, or affidavit; or
- D. Except for Notices of Termination and Notices of Default, email, which is deemed to have been provided upon receipt as indicated by the date on a report generated by the outgoing email server indicating that the email was successfully sent, passed, or transmitted to the email server of the Authorized Representative's email address, or upon receiving an email confirming delivery to the Authorized Representative's email address.

6.2. If the Authorized Representative rejects or otherwise refuses to accept the Notice, or if the Notice cannot be provided because of a change in contact information for which no Notice was provided, then the Notice is effective upon rejection, refusal, or inability to deliver.

7. INDEMNIFICATION

7.1. General. To the greatest extent allowed by law, in the performance of or failure to perform this Contract, Contractor shall indemnify, defend (in the case of third-party claims, with counsel satisfactory to County), and hold harmless the County, its officers, agents, and employees, from and against any actual or alleged loss, litigation cost (including, but not limited to, reasonable attorney fees and costs and expenses of defense), costs, settlement, judgment, demands, damage, liability, lien, debt, injury, harm, fees, fines, penalties, interest, expenditure, diminution in value, disbursement, action, claim, proceeding, or dispute of any sort (collectively "Losses"), whether or not involving a third party, which are attributable to Contractor's, or Contractor's agents', independent contractors', employees', or delegates', actual or alleged:

- A. Intentional, willful, or negligent acts or omissions; or
- B. Actions or omissions that give rise to strict liability; or
- C. Negligent or intentional misrepresentation, breach of warranty, covenant, contract, or subcontract

whether or not well-founded in fact or in law, known or unknown, foreseen or unforeseen, fixed or contingent and howsoever originating or existing, and whether or not based upon statute, common law, or equity. This indemnity provision survives expiration or termination of this Contract.

The Contractor's duty to defend the VRWJPO is not contingent upon a finding of liability or wrongdoing on the part of the Contractor. Rather, the Contractor's duty to defend the VRWJPO arises whenever an allegation is made—whether in a formal lawsuit or otherwise—that the VRWJPO is liable to a third party as a result of the conduct of the Contractor. The duty to defend includes, but is not limited to, the Contractor retaining and paying directly legal counsel for the VRWJPO chosen solely and exclusively by the VRWJPO in the County's sole discretion.

7.2. Limitations. The indemnification, defense, and hold harmless obligations of this section do not apply to the extent that liability is the direct or proximate result of the negligence or fault of the VRWJPO or any third party for whom the Contractor is not legally liable. This limitation is not a waiver on the part of the VRWJPO of any immunity or limits on liability under Minn. Stat. Ch. 466, or other applicable State or Federal law.

7.3. Notice. The parties shall promptly provide Notice in writing and in reasonable detail of:

- A. Any demand, action, suit, or proceeding against the party providing Notice; or
- B. Any event or fact that may give rise to indemnification under section 7.1 by Contractor.

7.4. Control of Defense and Settlement. Contractor shall promptly provide Notice to the VRWJPO of any proposed settlement, and Contractor may not, without County's prior written consent (which the VRWJPO will not unreasonably withhold, condition, or delay), settle such claim or consent to entry of any third-party judgment. Nothing in this section precludes Contractor from allowing VRWJPO to undertake control of the defense.

8. INSURANCE

Contractor shall maintain policies of insurance as set forth in Exhibit Attachment , and pay all retentions and deductibles under such policies of insurance. Any violation of this section is a material breach of this Contract. This section survives expiration or termination of this Contract. No Notice of Default is required to terminate under this section.

9. SUBCONTRACTING

- 9.1. Subcontracting Generally Prohibited. Contractor shall not assign or delegate any interest, right, duty, or obligation related to this Contract without the County's prior written consent. The VRWJPO may void any purported assignment, delegation, or subcontract in violation of this section.
- 9.2. Permitted Subcontracting. Contractor may subcontract with the subcontractors identified in Contractor's Proposal or as permitted by the VRWJPO in writing, subject to the following:
- A. Contractor shall be responsible for the performance of its subcontractors.
 - B. All subcontractors shall comply with the provisions of this Contract.
 - C. Contractor remains responsible for performing Services under and complying with this Contract, regardless of any subcontract.
- 9.3. Notice to County. Contractor shall provide Notice to the VRWJPO of any complaint, demand, action, proceeding, filing, lien, suit, or claim that Contractor has not paid or failed to timely pay any subcontractor. Notice must be provided no later than 10 calendar days after the date on which the Contractor first receives the complaint, demand, action, proceeding, filing, lien, suit, or claim.
- 9.4. Payment of Subcontractors. This provision is required by Minn. Stat. § 471.425. Contractor shall pay the subcontractor within 10 calendar days after the date on which the Contractor receives payment from the VRWJPO for undisputed Services performed by the subcontractor. Contractor agrees to pay interest of 1½ percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of \$100 or more is \$10. For unpaid balances of less than \$100, the Contractor shall pay the actual interest penalty due the subcontractor.
- 9.5. A violation of any part of this section is a material breach of contract.

10. FORCE MAJEURE

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

11. DEFAULT

- 11.1. Notice of Default. Unless otherwise stated in a specific section of this Contract, no event or circumstance constitutes a default giving rise to the right to terminate for cause unless and until a Notice of Default is provided to the defaulting party, specifying the particular event or circumstance, series of events or circumstances, or failure constituting the default and cure period, if any.
- 11.2. Cure Period. The party providing the Notice of Default has the option, but is not required, to give the other party an opportunity to cure the specified default. If an opportunity to cure is given, it must be specifically described in the Notice of Default, including any period in which to comply.
- 11.3. Withholding Payment. Notwithstanding any other provision of this Contract, the VRWJPO may, after giving Notice of Default, withhold, without penalty or interest, any payment which becomes due after Notice of Default is provided until the specified default is excused or cured, or the Contract is terminated.

12. TERMINATION

- 12.1. Termination Without Cause. Either party may terminate this Contract without cause by providing 30 calendar days' Notice of Termination to the other party.
- 12.2. Termination for Cause or Material Breach. Either party may terminate this Contract for cause by providing 7 calendar days' Notice of Termination to the other party, unless a different procedure or effective date is stated within the specific section of this Contract under which the default occurs. In addition to other specifically stated provisions of this Contract or as otherwise stated in

law, events or circumstances constituting default and giving rise to the right to terminate for cause, unless waived, include but are not limited to:

- A. Making material misrepresentations either in the attached exhibits or in any other material provision or condition relied upon in the making of this Contract;
- B. Failure to perform Services or provide payment within the time specified in this Contract;
- C. Failure to perform any other material provision of this Contract;
- D. Failure to diligently and timely perform Services so as to endanger performance of the provisions of this Contract;
- E. The voluntary or involuntary dissolution, insolvency, merger, sale, transfer, reorganization, acquisition or winding down of the Contractor's business.

12.3. Termination by VRWJPO – Lack of Funding. The VRWJPO may immediately terminate this Contract for lack of funding. A lack of funding occurs when funds appropriated for this Contract as of the Effective Date from a non-VRWJPO source are unavailable or are not appropriated by the VRWJPO Board. The VRWJPO has sole discretion to determine if there is a lack of funding. The VRWJPO is not obligated to pay for any Services that are performed after providing Notice of Termination for lack of funding. The VRWJPO is not subject to any penalty or damages for termination due to lack of funding. No Notice of Default is required to terminate under this section.

12.4. Notice of Termination. The Notice of Termination must state the intent to terminate the Contract and specify the events or circumstances and relevant Contract provision warranting termination of the Contract and whether the termination is for cause.

12.5. Duties of Contractor upon Termination. Upon the VRWJPO providing of the Notice of Termination, and except as otherwise stated, Contractor shall:

- A. Discontinue performance under this Contract on the date and to the extent specified in the Notice of Termination.
- B. Complete performance of any work that is not discontinued by the Notice of Termination.
- C. Cooperate with VRWJPO with any transition of Services.
- D. Cancel all orders and subcontracts to the extent that they relate to the performance of this Contract.
- E. Return all VRWJPO property in its possession within 7 calendar days after the date on which the Contractor receives the Notice of Termination to the extent that it relates to the performance of this Contract that is discontinued by the Notice of Termination.
- F. Submit an invoice for Services satisfactorily performed prior to the effective date of termination within 35 calendar days of said date.
- G. Maintain all records relating to the performance of the Contract as may be directed by the VRWJPO in the Notice of Termination or required by law or this Contract.

12.6. Duties of VRWJPO upon Termination of the Contract for Cause or Without Cause. Upon delivery of the Notice of Termination, and except as otherwise provided, the VRWJPO shall make final payment to Contractor in accordance with section 3.3 of this Contract for Services satisfactorily performed.

12.7. Effect of Termination for Cause or without Cause.

- A. Termination of this Contract does not discharge any liability, responsibility, or right of any party that arises from the performance of, or failure to adequately, perform the provisions of this Contract prior to the effective date of termination. Termination shall not discharge any obligation which, by its nature, would survive after the date of termination, including by way of illustration only and not limitation, the requirements set forth in [Exhibit 3 [Exhibit 1 Attachment] (Standard Assurances) and the indemnity provisions of section 7.
- B. The VRWJPO shall not be liable for any Services performed after Notice of Termination, except as stated above or as authorized by the VRWJPO in writing.

13. CONTRACT RIGHTS AND REMEDIES

13.1. Rights Cumulative. All remedies under this Contract or by law are cumulative and may be exercised concurrently or separately. The exercise of any one remedy does not preclude exercise of any other remedies.

- 13.2. Waiver. Any waiver is only valid when reduced to writing, specifically identified as a waiver, and signed by the waiving party's Authorized Representative. A waiver is not an amendment to the Contract. The County's failure to enforce any provision of this Contract does not waive the provision or the County's right to enforce it.

14. AUTHORIZED REPRESENTATIVE

- 14.1. The Authorized Representatives of the respective parties for purposes of this Contract are as follows:

To Contractor:

[Name]

[Title]

[Street]

[City, State Zip]

Telephone: [Telephone Number]

[Email Address]

To the County:

[Name]

[Title]

[Department]

[Street]

[City, State Zip]

Telephone: [Telephone Number]

[Email Address]

- 14.2. The Authorized Representative, or his or her successor, has authority to bind the party he or she represents and sign this Contract. The County's Authorized Representative shall have only the authority granted by the VRWJPO Board. The parties shall promptly provide Notice to each other when an Authorized Representative's successor is appointed. The Authorized Representative's successor shall thereafter be the Authorized Representative for purposes of this Contract.

- 14.3. In addition, Notices regarding breach or termination shall also be provided to:

VRWJPO Attorney's Office

Civil Division

1560 Highway 55

Hastings, Minnesota 55033.

15. LIAISON

- 15.1. The Liaisons of the respective parties for purposes of this Contract are as follows:

Contractor Liaison: [Name]

Telephone: [Telephone Number]

Email Address: [Email Address]

VRWJPO Liaison: [Name]

Telephone: [Telephone Number]

Email Address: [Email Address]

- 15.2. The Liaison, or his or her successor, has authority to assist the parties in the day-to-day performance of this Contract, ensure compliance, and provide ongoing consultation related to the performance of this Contract. The parties shall promptly provide Notice to each other when a Liaison's successor is appointed. The Liaison's successor shall thereafter be the Liaison for purposes of this Contract.

16. Ownership of Work Product

As the County's contractor for hire, the VRWJPO shall own in perpetuity, solely and exclusively, all rights of every kind and character, in all proceeds, works, drawings, products, plans, and all other materials created by Contractor pursuant to this Contract (collectively referred to as "Works"), and the VRWJPO shall be deemed the author thereof for all purposes. Such Works are deemed "works for hire," as defined in the U.S. Copyright Act, 17 U.S.C. § 101. Contractor shall, upon the request of the County, execute all papers and perform all other acts necessary to assist the VRWJPO to obtain and register copyrights on such Works. If, for any reason, any of the Works do not constitute a "work made for hire," Contractor hereby irrevocably assigns to the County, in each case without additional consideration, all right, title, and interest throughout the universe in and to the works, including all copyrights therein.

17. AMENDMENTS

Any amendments to this Contract are only valid when reduced to writing, specifically identified as an amendment, and signed by both parties' Authorized Representative.

18. SEVERABILITY

The provisions of this Contract are severable. If any provision of this Contract is void, invalid, or unenforceable, it will not affect the validity and enforceability of the remainder of this Contract unless the void, invalid, or unenforceable provision substantially impairs the value of the entire Contract with respect to either party.

19. MERGER

19.1. Final Agreement. This Contract is the final expression of the agreement of the parties. This Contract is the complete and exclusive statement of the provisions agreed to by the parties. This Contract supersedes all prior negotiations, understandings, or agreements. There are no representations, warranties, or provisions, either oral or written, not contained herein.

19.2. Exhibits. The following Exhibits and addenda (delete if no addenda), including all attachments, are incorporated and made a part of this Contract:

Exhibit 1 – County's Request for Choose an item. dated Enter Date

Exhibit 2 - Contractor's Response to Request for Choose an item. dated [Enter Date]

Exhibit 3 – Standard Assurance

Exhibit 4 – Insurance Terms

19.3. By signing this Contract, Contractor acknowledges receipt of all the above Exhibits and addenda, including all attachments. If there is a conflict between any provision of any Exhibit and any provision in the body of this Contract, the body of this Contract will prevail. To the extent reasonably possible, the Exhibits will be construed and constructed to supplement, rather than conflict with, the body of this Contract. If there is a conflict between any provision of an Exhibit and another Exhibit, the following is the order of precedence: Exhibit 1, Exhibit 2.

20. CONFIDENTIALITY

20.1. "Protected Data" has the same meaning as Not Public Data as defined in Minn. Stat. § 13.02, subd. 8a. Trade Secret Data as defined in Minn. Stat. § 13.37, subd. 1(b) shall be identified by Contractor to VRWJPO and included in the definition of Protected Data.

20.2. For purposes of this Contract, all data created, collected, received, stored, used, maintained, or disseminated by Contractor in the performance of this Contract is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minn. Stat. Chapter 13 and its implementing rules, as well as any other applicable State or Federal laws on data privacy or security. Contractor must comply with, and is subject to, the provisions, remedies, and requirements of the MGDPA as if it were a governmental entity.

20.3. Contractor acknowledges that the VRWJPO may transmit Protected Data to Contractor in connection with Contractor's performance of this Contract. Contractor shall not, at any time, directly or indirectly reveal, report, publish, duplicate, or otherwise disclose Protected Data to any third party in any way whatsoever, unless required or allowed by law. Contractor agrees to implement such procedures as are necessary to assure protection and security of Protected Data and to furnish the VRWJPO with a copy of said procedures upon request.

20.4. Each party shall provide the other party with prompt Notice of a breach of the security of data as defined in Minn. Stat. § 13.055, subd. 1(a) or suspected breach of the security of data and shall assist in remedying such breach. Providing or accepting assistance does not constitute waiver of any claim or cause of action for breach of contract.

20.5. Contractor shall cooperate with the VRWJPO in responding to all requests for data. Contractor does not have a duty to provide access to public data if the public data are available from the County, except as required by the provisions of this Contract. The parties shall promptly notify each other when any third party requests Protected Data related to this Contract or the Services. Contractor shall ensure that all subcontracts contain the same or similar data practices compliance requirements. All provisions of this Section apply to any subcontract or subcontractor.

20.6. This section survives expiration or termination of this Contract.

21. ELECTRONIC SIGNATURES

Each party agrees that the electronic signatures of the parties included in this Contract are intended to authenticate this writing and to have the same force and effect as wet ink signatures.

22. CONTRACT INTERPRETATION AND CONSTRUCTION

This Contract was fully reviewed and negotiated by the parties. Any ambiguity, inconsistency, or question of interpretation or construction in this Contract shall not be resolved strictly against the party that drafted the Contract. It is the intent of the parties that every section (including any subsection), clause, term, provision, condition, and all other language used in this Contract shall be construed and construed so as to give its natural and ordinary meaning and effect.

23. WAGE WITHHOLDING TAX

Pursuant to Minn. Stat. § 270C.66, VRWJPO shall make final payment to Contractor only upon satisfactory showing that Contractor and any subcontractors have complied with the provisions of Minn. Stat. § 290.92 with respect to withholding taxes, penalties, or interest arising from this Contract. A certificate by the Minnesota Commissioner of Revenue (Minnesota Department of Revenue Form IC-134, entitled "Withholding Affidavit for Contractors") satisfies this requirement with respect to the Contractor or subcontractor.

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

**VERMILLION RIVER WATERSHED JOINT POWERS
ORGANIZATION**

CONTRACTOR

*(I represent and warrant that I am authorized by law to
execute this contract and legally bind the Contractor.)*

By: **SAMPLE**

[Name, Title]

[Department]

By: **SAMPLE**

Signature

Date of Signature: **SAMPLE**

SAMPLE

Title

Date of Signature: **SAMPLE**

Contract Number: DCA

APPROVED AS TO FORM:

Assistant County Attorney/Date

KS-

VRWJPO Board Resolution:

ATTACHMENT D: NON-COLLUSION AND CONFLICT OF INTEREST STATEMENT

Please print or type (in ink)

CONTRACTOR NAME: _____ FEDERAL TAX ID NUMBER: _____

Company Address: _____

City: _____ State: _____ Zip Code: _____

Contact Person: _____ Title: _____

Phone Number: _____ Fax Number: _____ email: _____

In signing this bid, proposal or quote, Contractor certifies that it has not, either directly or indirectly, entered into any agreement or participated in any collusion or otherwise taken any action in restraint of the competition; that no attempt has been made to induce any other person or firm to submit or not to submit a bid, proposal or quote; that this bid, proposal or quote has been independently arrived at without collusion with any other party submitting a bid, proposal or quote, competitor or potential competitor, that this bid, proposal or quote has not been knowingly disclosed prior to the opening of the bids, proposals or quotes to any bid, proposal or quote competitor; that the above statement is accurate under penalty or perjury.

Contractor also certifies that to the best of its knowledge none of its owners, directors, officers or principals (collectively, "Corporate Executive") are closely related to any County employee who has or may appear to have any control over the award, management, or evaluation of the contract. A Contractor's Corporate Executive is closely related when any of the following circumstances exist:

1. A Corporate Executive and any County employee who has or appears to have any control over the award, management or evaluation of the contract are related by blood, marriage or adoption; or
2. A Corporate Executive and any County employee who has or appears to have any control over the award, management or evaluation of the contract are current or former business partners, co-workers, or have otherwise previously worked closely together in the private or public sector; or
3. A Corporate Executive and any County employee who has or appears to have any control over the award, management or evaluation of the contract share a personal relationship that is beyond that of a mere acquaintance, including but not limited to friendship or family friendship.

If one or more of the above circumstances exist, Contractor must disclose such circumstance(s) to Dakota County in writing. Failure to disclose such circumstances invalidates the Contract.

Contractor will comply with all terms, conditions, specifications required by the party submitting a bid, proposal or quote in this Request for Bid, Proposal or Quote and all terms of our bid, proposal or quote response.

Authorized Signature

Title

Date

You are advised that according to Dakota County Board Resolution 18-485 and Policy 2751, if there is a question as to whether there may be an appearance of a conflict of interest, the contract shall be presented to the County Board for approval, regardless of the amount of the contract. Whether a conflict of interest or the appearance of a conflict of interest exists is a determination made by Dakota County.

Submit this form as part of the Bid, Proposal or Quote response.

V.7 Revised: MMH (06-19)

ATTACHMENT E: TRADE SECRET FORM

Trade Secret Information Form

The following form must be provided by Responder to assist the County in making appropriate determinations about the release of data provided in Responder's bid or proposal.

All responders must select one of the following boxes:

- ☐ My bid/proposal **does not** contain "trade secret information", as defined in Minn. Stat. § 13.37, Subd. 1(b). I understand that my entire bid/proposal will become public record in accordance with Minn. Stat. § 13.591.
- ☐ My bid/proposal **does** contain "trade secret information" because it contains data that:
1. (a) is a formula, pattern, compilation, program, device, method, technique or process; **AND**
(b) is the subject of efforts by myself or my organization that are reasonable under the circumstances to maintain its secrecy; **AND**
(c) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.
 2. I have submitted one paper and one digital copy of my bid or proposal from which the confidential trade secret information has been excised. The confidential trade secret information has been excised in such a way as to allow the public to determine the general nature of the information removed while retaining as much of the document as possible **AND** I am attaching an explanation justifying the trade secret designation.

Please note that failure to attach an explanation may result in a determination that the data does not meet the statutory trade secret definition. All data for which trade secret status is not justified will become public in accordance with Minn. Stat. § 13.591.

Submit this form as part of the Bid or Proposal response

Revised: 6/28/2018

Authorized Signature

Title

Date