

## MEMORANDUM OF AGREEMENT

This agreement (Agreement) is made and entered into by and between:

The Counties of Benton, Meeker, Stearns, Sherburne, and Wright by and through their respective County Board of Commissioners, and

The Benton, Meeker, Mille Lacs, Stearns, Sherburne, and Wright Soil and Water Conservation Districts, by and through their respective Soil and Water Conservation District Board of Supervisors, and

The Clearwater River Watershed District, by and through their respective Board of Managers,

Collectively referred to as the “Parties.”

**WHEREAS**, the Counties of this Agreement are political subdivisions of the State of Minnesota, with authority to carry out environmental programs and land use controls, pursuant to Minnesota Statutes Chapter 375 and as otherwise provided by law; and

**WHEREAS**, the Soil and Water Conservation Districts (SWCDs) of this Agreement are political subdivisions of the State of Minnesota, with statutory authority to carry out erosion control and other soil and water conservation programs, pursuant to Minnesota Statutes Chapter 103C and as otherwise provided by law; and

**WHEREAS**, the Watershed Districts of this Agreement are political subdivisions of the State of Minnesota, with statutory authority to carry out conservation of the natural resources of the state by land use controls, flood control, and other conservation projects for the protection of the public health and welfare and the provident use of the natural resources, pursuant to Minnesota Statutes Chapters 103B, 103D and as otherwise provided by law; and

**WHEREAS**, the parties to this Agreement have a common interest and statutory authority to prepare, adopt, and assure implementation of a comprehensive watershed management plan in the Mississippi River St. Cloud Watershed to protect and enhance soil and water resources through the implementation of projects, practices, programs and regulatory controls that protect and improve water quality in order to preserve natural resources and habitat, ensure continued soil productivity, enhance public beneficial use of water resources and protect tax base; and

**WHEREAS**, with matters that relate to coordination of water management authorities pursuant to Minnesota Statutes Chapters 103B, 103C, and 103D with public drainage systems pursuant to Minnesota Statutes Chapter 103E, this Agreement does not change the rights or obligations of the public drainage system authorities.

**WHEREAS**, the Parties have formed this Agreement for the specific goal of developing a plan pursuant to Minnesota Statutes § 103B.801, Comprehensive Watershed Management Planning, also known as *One Watershed, One Plan*.

**NOW, THEREFORE**, the Parties hereto agree as follows:

1. **Purpose:** The Parties to this Agreement recognize the importance of partnerships to plan and implement protection and restoration efforts for the Mississippi River St. Cloud Watershed (Attachment A). The purpose of this Agreement is to collectively develop and adopt, as local government units, a coordinated watershed management plan for implementation per the provisions of the Plan. Parties signing this agreement will be collectively referred to as the Mississippi River St. Cloud Watershed Collaborative.
2. **Term:** This Agreement is effective upon signature of all Parties in consideration of the Board of Water and Soil Resources (BWSR) Operating Procedures for One Watershed, One Plan (version 2.1, March 24, 2021); and will remain in effect until 1-year after the term of the BWSR One Watershed, One Plan Planning Grant Agreement, unless the Agreement is terminated earlier by agreement of the required parties, or if earlier terminated by law.
3. **Adding Additional Parties:** Other political subdivisions within the Mississippi River St. Cloud Watershed may become a party to the Agreement by indicating its qualifications and intent in a resolution adopted by its governing board. to become a Party to this agreement, said governing board must execute the current version of this agreement.
4. **Withdrawal of Parties:** A party desiring to leave the membership of this Agreement shall indicate its intent in writing to the Parties in the form of a governing board resolution. Notice must be made at least 30 days in advance of leaving the Agreement. If one of the required parties withdraws from this agreement, it does not make this MOA null and void. If the remaining Parties determine an adverse impact will occur, the remaining Parties will hold discussions with BWSR regarding reallocation of duties, funds, and responsibilities of the project as a whole.
5. **General Provisions:**
  - a. **Funding:** Individual parties will not be required to contribute funds to this collaboration except as stated below. The expectation is that the BWSR grant will fully fund developing a *One Watershed, One Plan* plan pursuant to Minnesota Statutes § 103B.801.

At any time, the Fiscal Agent may advise the other Parties that, in the judgment of the Fiscal Agent, a consultant is not performing in accordance with the contract and will inform the Parties more specifically. Each Party will instruct its counsel as to its preferred course of action, and the Fiscal Agent will proceed in accordance with the position of a majority of Parties represented on the Policy Committee, as coordinated by counsel. The Parties, by reimbursing the Fiscal Agent at reasonable intervals, will share equally the cost that is unreimbursed by grant funds incurred to obtain performance by the consultant or a new consultant, and/or to resolve the matter through legal process, as the Parties have determined the course of action. Each Party will bear its internal costs incurred under this paragraph.

- b. **Division of Resources Upon Withdrawal or Termination:** A withdrawing Party shall not be entitled to a refund of property or monies contributed under this Agreement prior to the effective date of withdrawal.

After the effective date of termination of this Agreement, the Policy Committee shall exist for the limited purpose of discharging any outstanding debts, settlement of affairs and disposition of surplus property and monies, if any. Any surplus monies or property will be returned to the Parties in proportion to contributions of the Parties after the purposes of the Agreement have been completed.

- c. **Compliance with Laws/Standards:** The Parties agree to abide by all federal, state, and local laws; statutes, ordinances, rules, and regulations now in effect or hereafter adopted pertaining to this Agreement or to the facilities, programs, and staff for which the Agreement is responsible.
- d. **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 or limited by law and shall not be responsible for the acts of any other party, its officers, employees, or agents. The provisions of the Municipal Tort Claims Act, Minnesota Statute Chapter 466 and other applicable laws govern liability of the Parties. To the full extent permitted by law, actions by the Parties, their respective officers, employees, and agents pursuant to this Agreement are intended to be and shall be construed as a “cooperative activity.” It is the intent of the Parties that they shall be deemed a “single governmental unit” for the purposes of liability, as set forth in Minnesota Statutes § 471.59, subd. 1a(b). For purposes of Minnesota Statutes § 471.59, subd. 1a(a), no party agrees to be responsible for the acts or omissions of another party, and it is the intent of each party that this Agreement does not create any liability or exposure of one party for the acts or omissions of any other party.
- e. **Records Retention and Data Practices:** The Parties agree that the records created pursuant to the terms of this Agreement will be retained by the fiscal agent in a manner that meets its records retention schedule that has been reviewed and approved by the State in accordance with Minnesota Statutes § 138.17. The Parties further agree that each will manage its records prepared or maintained in furtherance of the agreement in accordance with the Minnesota Government Data Practices Act. At the time this agreement expires, copies of all records will be turned over to the project fiscal agent Benton Soil and Water Conservation District for continued retention.
- f. **Timeliness:** The Parties agree to perform obligations under this Agreement in a timely manner and keep each other informed about any delays that may occur.
- g. **Extension:** The Parties may extend the termination date of this Agreement upon agreement by all Parties.
- h. **Entire Agreement:** This Agreement, including any and all attachments referenced herein, contains the entire understanding and agreement of the Parties and there have been no other

promises, representations, agreements, warranties, or undertakings by any of the Parties, either oral or written, of any character or nature.

- i. **Amendments:** This Agreement may be altered, amended, or modified only by an instrument in writing executed by the Parties to this Agreement and by no other means.
- j. This is a collaborative effort by the Parties and as such, no employees shall be hired as part of this project.
- k. **Open Meeting Law:** The Policy Committee shall comply with the Minnesota Open Meeting law as set forth in Minnesota Statute Chapter 13D.
- l. **Contracts:** The fiscal agent will enter into agreements on behalf of the collaborative.

## 6. Administration:

- a. **Establishment of Committees for Development of the Plan.** Each party will designate one representative, who must be an elected or appointed member of its governing board, to a Policy Committee for development of the watershed-based plan and may appoint one or more technical representatives to the Technical Advisory Committee for development of the plan in consideration of the BWSR Operating Procedures for One Watershed, One Plan.

### i. The Policy Committee (PC)

- 1. Policy Committee will meet as needed to decide on the content of the plan, serve as a liaison to their respective boards, and act on behalf of their Board. Each representative shall have one vote during the planning process. A representative may only represent one party.
- 2. Each governing board may choose one alternate to serve on the Policy Committee as needed in the absence of the designated member.
- 3. The TAC shall vet the TAC's issues prior to presenting the issues before the Policy Committee.
- 4. Matters subject to voting will be identified on the Policy Committee agenda seventy-two (72) hours in advance and not permitted to be added to the agenda at the meeting unless all committee members (or alternates) are present. Alternates may request all non-agenda items be tabled until the committee member is available.

### ii. The Technical Advisory Committee (TAC)

- 1. TAC is responsible for guiding the major elements of the project, working with consultants on plan content, making plan recommendation to the Policy Committee, evaluating technical information, and ensuring integration of the Citizen Advisory Committee. TAC will meet monthly or as needed.

2. TAC will consist of LGU technical representatives (12 entities), state agency representatives (5 entities), USFWS, non-profit organizations, and USDA-NRCS representatives for a total of approximately 21 members.
3. TAC will make decisions by vote of a simple majority of the parties present at the meeting.
4. Matters subject to voting will be identified on the TAC agenda seventy-two (72) hours in advance and not permitted to be added to the agenda at the meeting unless all committee members are present.
5. The TAC shall vet all issues prior to presenting the TAC's issues before the Policy Committee.

### **iii. The Citizen Advisory Committee (CAC)**

1. CAC is responsible for advising and assisting both the PC and the TAC with its duties. The CAC will interact with the TAC on specific plan development elements, such as: identifying priority resource concerns, establishing measurable goals, and drafting implementation schedules. The CAC provides: recommendations to the TAC and/or PC about plan contents, feedback on watershed considerations from each member's unique perspective and a public input mechanism.
2. CAC may meet approximately 6 times throughout the Mississippi River St. Cloud One Watershed One Plan planning phase.
3. CAC members may consist of but not limited to; county highway and zoning staff, county water resource advisory committees, community water suppliers, municipalities, local non-profit groups organized around water, tribal nations, tribal communities, or tribal people, lake or river associations, citizen-based environmental groups, sporting organizations, and farm organizations/agricultural groups.
4. Approximately 12-25 members. The Boards of the Parties will recommend potential members to the PC and the PC will decide on the CAC's membership. CAC can meet as a whole, or selected individuals or smaller focus groups may be called upon to give input on specific priority resource concerns.

### **iv. The Steering Committee**

1. Steering Committee is responsible for logistical organization (not policy) of the planning process and associated meetings (e.g., setting agendas, coordinating meeting logistics, distilling feedback from various committees and provide specific direction to plan consultant(s)). It is comprised of the fiscal agent, employed, or contracted staff from the Parties, as well as BWSR staff acting as

advisors. Planning consultant(s) may also sit on this committee. The Steering Committee will meet monthly or as needed.

- b. **Submittal of the Plan.** The Policy Committee will recommend the plan to the Parties of this agreement. The Policy Committee will be responsible for initiating a formal review process for the watershed-based plan conforming to Minnesota Statutes Chapters 103B and 103D, including public hearings. Upon completion of local review and comment, and approval of the plan for submittal by each party, the Policy Committee will submit the watershed-based plan jointly to BWSR for review and approval.
  - c. **Adoption of the Plan.** The Parties agree that adoption and implementation of the plan begins within 120 days of receiving notice of state approval. Each party upon approval of the plan will provide notice of plan adoption pursuant to Minnesota Statutes Chapters 103B and 103D.
7. **Fiscal Agent:** Benton SWCD will act as the fiscal agent for the purposes of this Agreement and agrees to:
- a. The Fiscal Agent will receive recommendations from the Policy Committee before entering into a consultant contract.
  - b. As the Fiscal Agent is the named party under the grant agreement:
    - i. Serve as grantee, accept all fiscal responsibilities, and decision making associated with the BWSR grant agreement for developing a watershed-based plan.
    - ii. The fiscal agent, as grantee and as contracting party to consultant contracts, has final discretion with respect to selection of the consultant and management of those consultant agreements.
  - c. This grant of authority to the Fiscal Agent will not extend to the plan developed for the Mississippi River St. Cloud Watershed.
  - d. Perform financial transactions as part of grant agreement and contract implementation.
  - e. Annually provide a full and complete audit report.
  - f. Provide the Policy Committee with the records necessary to describe the financial condition of the BWSR grant agreement.
  - g. Retain fiscal records consistent with the agent's records retention schedule until termination of the agreement (at that time, records will be retained by Benton SWCD per its adopted record retention schedule).
8. **Grant Administration:** Benton SWCD will act as the grant administrator for the purposes of this Agreement and agrees to provide the following services:
- a. Accept all day-to-day responsibilities associated with the implementation of the BWSR grant agreement for developing a watershed-based plan, including being the primary BWSR contact for

the *One Watershed, One Plan* Grant Agreement and being responsible for BWSR reporting requirements associated with the grant agreement.

- b. Provide the Policy Committee with the records necessary to describe the planning condition of the BWSR grant agreement.
9. **Project Coordination:** Sherburne SWCD staff will coordinate, schedule, send notifications, prepare agendas for committees, and perform related tasks to keep the project moving as scheduled. Staff will act as the point of contact with consultants for the partnership.
10. **Outreach Coordinator:** Clearwater River Watershed District staff will act as Outreach Coordinator. Outreach Coordinator will maintain a website (houses meeting notes, agenda, notices, other docs.), develop outreach materials, engage the CAC, and coordinate any public meetings.
11. **Authorized Representatives:** The following persons will be the primary contacts for all matters concerning this Agreement:

Sherburne SWCD  
Francine Larson or successor  
District Manager  
425 Jackson Ave NW Elk River, MN 55330  
Telephone: 763-220-3434

Benton SWCD  
Gerry Maciej or successor  
District Manager  
14 2nd Ave W.  
Foley, MN 56329  
Telephone: (320) 968-5300 Ext 3

12. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

**[Remainder of page left blank]**

13. **IN TESTIMONY WHEREOF** the Parties have duly executed this agreement by their duly authorized officers.

PARTY: Wright County

APPROVED: July 26,2022

BY: \_\_\_\_\_  
Board Chair Date

BY: \_\_\_\_\_  
Administrator Date

**APPROVED AS TO FORM**

BY: \_\_\_\_\_  
Attorney



# Mississippi-Saint Cloud One Watershed One Plan



- Planning Boundary
- Clearwater River Watershed District
- County Boundaries
- Cities

- Named Lakes
- Large Rivers
- Streams

