

**JOINT AND COOPERATIVE AGREEMENT FOR THE ESTABLISHMENT OF  
THE LOWER RUM RIVER WATERSHED MANAGEMENT ORGANIZATION TO  
PLAN, CONTROL AND PROVIDE FOR THE DEVELOPMENT OF THE LOWER  
RUM RIVER WATERSHED**

**PREFACE**

The Lower Rum River Watershed lying East of the Mississippi River is a watershed that is basically a direct tributary to the Mississippi River. It encompasses all or parts of the following cities:

**Andover, Anoka, Coon Rapids, Ramsey**

Minnesota Laws of 1982, Chapter 509, mandated that all watersheds within the seven county Metropolitan area must be governed by a watershed management organization and as is now codified as Minnesota Statutes 1992, Sections 103B.201 through 103B.251. The Watershed is authorized to organize under a joint powers agreement pursuant to Minnesota Statutes, Section 471.59 and Section 103B.211 or if such an organization is not created, Anoka County shall petition for the establishment of a watershed district under Minnesota Statutes, Chapter 103D. All the cities in the Lower Rum River Watershed expressed a desire in 1985 to create a joint powers group rather than a watershed and now desire to adopt an amended joint powers agreement to establish a Watershed Management Organization which will comply with the current law for management of this watershed. It is the belief of these four cities that a joint powers group will provide more efficient planning and administration of the Lower Rum River Watershed if the watershed is managed under a joint powers agreement. The goal is to leave as much control as possible with the four individual member cities.

It has been determined by the four cities involved in the watershed that they desire to proceed under a Joint Powers Agreement rather than under Chapter 103D as a watershed district. Each party to this agreement has been fully advised that the Watershed Management Organization being created shall have the powers and responsibilities set forth in the Metropolitan Surface Water Management Act, Minnesota Statutes Sections 103B.201 through 103B.251 and as amended by this Agreement. It is further understood and agreed that it is the intent of this agreement to assign to the watershed management organization, which has operated since 1985, the additional powers and duties assigned by the Minnesota legislature. The management of water resources is a rapidly changing field and new laws and regulations are being adopted and amended frequently and it should not be necessary to amend this agreement every time the legislature enacts a new law.

Each member further recognizes that this is a binding contract and failure to cooperate or to carry out a member's responsibilities will result in a breach of this contract.

The purpose of this organization shall be to assist the four member Lower Rum Watershed cities to preserve and use natural water storage and retention systems to:

1. Protect and preserve natural surface and groundwater storage and retention systems;
2. Minimize public capital expenditures needed to correct flooding and water quality problems;
3. Identify and plan for means to effectively protect and improve surface water and groundwater quality;
4. Establish more uniform local policies and official controls for surface water and groundwater management;
5. Prevent erosion of soil into surface water systems;
6. Promote groundwater recharge;
7. Protect and enhance fish and wildlife habitat and water recreational facilities;
8. Secure other benefits associated with the proper management of surface and groundwater; and
9. Promote and encourage cooperation among member cities in coordinating local surface water and groundwater plans and to be aware of their neighbor's problems and to protect the public health, safety, and general welfare.

The Lower Rum River Watershed waters flow through many sub-watersheds directly to the Rum River and the Mississippi River. It is not anticipated that the Lower Rum River Watershed will have many capital improvement projects; if they do, it is hereby expressed that the intent of this Agreement is to encourage that the solutions should be handled by agreements between the Cities involved.

It is the intent of this Agreement to subject all four cities in the Lower Rum River Watershed to a common set of policies and to comply in all respects with the provisions of the Metropolitan Surface Water Management Act.

The purpose of this Preface is to clarify and establish for any court of review or any arbitrator or for the elected successors to the representatives who have entered into this agreement the reasons and purpose for this joint and cooperative venture. The parties to this Agreement realize that the success or failure of the Lower Rum River Watershed Organization created by this Agreement is dependent upon the sincere desire of each member City to cooperate in the exercise of a joint power to solve joint problems. Each party here by agrees to be bound by this agreement and pledges its cooperation.

## JOINT AND COOPERATIVE AGREEMENT

The parties to this Agreement are governmental units of the State of Minnesota, all of which have lands which drain surface water within the Lower Rum River Watershed and all of which have power and responsibility to construct, reconstruct, extend and maintain storm water management facilities to improve water quality, to promote groundwater recharge, and to protect, promote and preserve water resources within the Watersheds. This agreement is made pursuant to the authority conferred upon the parties by Minnesota Statutes 1992, Sections 103B.201 to and including Section 103B.251 and Section 471.59.

### NAME

#### I.

The parties hereto create and establish the Lower Rum River Watershed Management Commission.

### GENERAL PURPOSE

#### II.

The general purpose of this agreement is to provide an organization which can investigate, study, plan and control the construction of facilities to drain or pond storm waters, to alleviate damage by flood waters; to improve the creek channels for drainage; to assist in planning for land use; to repair, improve, relocate, modify, consolidate or abandon, in whole or in part, drainage systems within the watershed area; to do whatever is necessary to assist in water conservation and the abatement of surface water and groundwater contamination and water pollution and the improvement of water quality; to promote ground water recharge; and to protect and enhance fish and wildlife habitat and water recreational facilities. In addition to the aforesated purposes, the organization hereby created shall serve as the Watershed Management Organization for the Lower Rum River Watershed and shall carry out all of the duties and responsibilities outlined in Minnesota Statutes, Section 103B.201 through 103B.251, both inclusive.

### DEFINITIONS

#### III.

For the purposes of this Agreement, the terms used herein shall have the meanings as defined in this article.

Subdivision 1. "Commission" means the organization created by this agreement, the full name of which is "Lower Rum River Watershed Management Commission." It shall be a public agency of its members and a watershed management organization as defined in Minnesota Statutes, Section 103B.211.

Subdivision 2. "Board" means the Board of commissioners of the Commission, consisting of one commissioner or one alternate commissioner from each of the governmental units which is a party to this agreement and which shall be the governing body of the Commission.

Subdivision 3. "Council" means the governing body of a governmental unit which is a member of this Commission.

Subdivision 4. "Governmental Unit" means any city, county, or town.

Subdivision 5. "Member" means a governmental unit which enters into this agreement.

Subdivision 6. "Lower Rum River Watershed" means the area generally contained within a line drawn around the extremities of all terrain whose surface drainage is tributary to the Lower Rum River and the Mississippi River and within the mapped areas delineated on the map filed with the Board of Water and Soil Resources originally filed pursuant to Minnesota Statutes, 473.877, Subd. 2 and as now amended by Minnesota Statutes, Chapter 103B.

## **MEMBERSHIP**

### **IV.**

The membership of the Commission shall consist of all of the following governmental units:

City of Andover

City of Anoka

City of Coon Rapids

City of Ramsey

The Commission may, with the ratification of the governing bodies of all voting members of the Organization, invite other units of government within the Rum River Watershed to become parties to this Agreement, and in all respects thenceforth enjoy the full rights, duties, and obligations of this Agreement.

No change in governmental boundaries, structure or organizational status shall affect the eligibility of any governmental unit listed above to be represented on the Commission, so long as such governmental unit continues to exist as a separate political subdivision.

## **BOARD OF COMMISSIONERS**

### **V.**

Subdivision 1. The governing body of the Commission shall be its Board. Each member shall be entitled to appoint one representative on the board, and one alternate who may sit when the representative is not in attendance and said representative or alternate representative shall be called a "Commissioner".

Subdivision 2. The council of each member shall determine the eligibility or qualification of its representative on the Commission and the terms of each Commissioner shall be as established by each individual member.

Subdivision 3. The term of each Commissioner and Alternate Commissioner appointed by each member shall be as determined by each individual member and until their successors are selected and qualify.

Any vacancy shall be filled for the unexpired term of any Commissioner by the council of the governmental unit of the member who appointed said Commissioner. The Commission shall notify the Board of Water and Soil Resources of member appointments and vacancies within 30 days after the Commission is notified by a member. Each member agrees to publish a notice of

vacancies resulting from the expiration of a Commissioner or Alternate Commissioner's terms or where a vacancy exists for any reason. Publication and notice shall be in accordance with Minnesota Statutes, Section 103B.227, Subds. 1 and 2, as they now exist or as subsequently amended.

Subdivision 4. The council of each member agrees that its representative commissioner will not be removed from the Board prior to the expiration of the Commissioner's term, unless said Commissioner consents in writing or unless said council has presented the Commissioner with charges in writing and has held a public hearing after reasonable notice to the Commissioner.

A member may remove a Commissioner or an Alternate Commissioner for just cause or for violation of a Code of Ethics of the Commission or a member City, or for malfeasance, nonfeasance, or misfeasance. Said hearing shall be held by the Member City Council who appointed the Commissioner.

A Commissioner who is an elected official of a Member City who is not reelected may be removed by the appointing Member City at the Member's discretion. Any decision by a Member to remove a Commissioner may be appealed to the Board of Water and Soil Resources. A certified copy of the Council's Resolution removing said Commissioner shall be filed with the Secretary of the Board of Commissioners and shall show compliance with the terms of this section.

Subdivision 5. Each member shall within 30 days of appointment file with the Secretary of the Board of Commissioners a record of the appointment of its Commissioner and its Alternate Commissioner. The Commission shall notify the Board of Water and Soil Resources of member appointments and vacancies within 30 days after receiving notice from the member. Members shall fill all vacancies within 90 days after the vacancy occurs.

Subdivision 6. Commissioners shall serve without compensation from the Commission, but this shall not prevent a governmental unit from providing compensation for its Commissioner for serving on the board, if such compensation is authorized by such governmental unit and by law. Commission funds may be used to reimburse a Commissioner or Alternate Commissioner for expenses incurred in performing Commission business and if authorized by the Board.

Subdivision 7. At the first meeting of the Board and in February of each year thereafter, the Board shall elect from its Commissioners a Chair, a Vice Chair, a Secretary, a Treasurer, and such other officers as it deems necessary to conduct its meetings and affairs. At the organizational meeting or a soon there after as it may be reasonably done, the Commission shall adopt rules and regulations governing its meetings. Such rules and regulations may be amended from time to time at either a regular or a special meeting of the Commission provided that a ten day prior notice of the proposed amendment has been furnished to each person to whom notice of the Board meetings is required to be sent; a majority vote of all eligible votes of the then existing members of the Commission shall be sufficient to adopt any proposed amendment to such rules and regulations.

The Board shall notify each member City of the location and time of regular and special

meetings called or established by the Board. A meeting shall be held at least annually, and all meetings shall be called and open to the public pursuant to Minnesota Statutes, Section 471.705 or as amended.

## POWERS AND DUTIES OF THE BOARD

### VI.

Subdivision 1. The Commission, acting by its duly appointed Board of Commissioners, shall as it relates to flood control, water quality, ground water recharge and water conservation or in the construction of facilities and other duties as set forth in Chapter 103B, Minnesota Laws of 1992 and in Rules and Regulations of the Board of Water and Soil Resources, have the powers and duties set out in this article and as prescribed bylaw.

Subdivision 2. It may employ such persons or contract with consultants as it deems necessary to accomplish its duties and powers, and any such persons or consultants shall be considered Commission staff.

Subdivision 3. It may contract for space and for material and supplies to carry on its activities either with a member or elsewhere.

Subdivision 4. It may acquire necessary personal property to carry out its powers and its duties.

Subdivision 5. It shall develop an overall plan containing a capital improvement program within a reasonable time after qualifying, and said plan shall meet all of the requirements as established in Minnesota Statutes, Chapter 103B. Said over all plan shall establish a comprehensive goal for the development of the Lower Rum River Watershed and shall establish a proposed procedure for accomplishing the purposes of the organization as set forth in Article II.

Subdivision 6. It shall make necessary surveys or utilize other reliable surveys and data and develop projects to accomplish the purposes for which the Commission is organized.

Subdivision 7. It may cooperate or contract with the State of Minnesota or any subdivision thereof or federal agency or private or public organization to accomplish the purposes for which it is organized.

Subdivision 8. It may, if necessary to implement the plan, order any member governmental unit or units to construct, clean, repair, alter, abandon, consolidate, reclaim or change the course or terminus of any ditch, drain, storm sewer, or water course, natural or artificial, within the Lower Rum River Watershed.

The member cities further understand and agree that the Commission in reviewing, ordering, or authorizing these projects will use the best management practices required to meet state and federal statutes and regulations. The Commission will also consider the ability of the member cities to fund the enforcement of local controls and any ordered capital improvements. The Commission shall incorporate financial review and anticipated sources of revenue as apart of the over all management plan and as a part of local water management plans.

Subdivision 9. It may order any member governmental unit or units to acquire, operate,

construct or maintain dams, dikes, reservoirs and appurtenant works or other improvements necessary to implement the overall plan.

The member cities further understand and agree that the Commission in reviewing, ordering, or authorizing these projects will use the best management practices required to meet state and federal statutes and regulations. The Commission will also consider the ability of the member cities to fund the enforcement of local controls and any ordered capital improvements. The Commission shall incorporate financial review and anticipated sources of revenue as apart of the over all management plan and as a part of local water management plans.

Subdivision 10. It shall regulate, conserve and control the use of storm and surface water and groundwater within the Watershed necessary to implement the overall plan.

Subdivision 11. It shall contract for or purchase such insurance as the Board deems necessary for the protection of the Commission.

Subdivision 12. It may establish and maintain devices for acquiring and recording hydrological and water quality data within the Watershed.

Subdivision 13. It may enter upon lands, in a lawful manner, within or without the watershed to make surveys and investigations to accomplish the purposes of the Commission. The Commission shall be liable for actual damages resulting there from but every person who claims damages shall serve the Chair or Secretary of the Board of Commissioners with a Notice of Claim as required by Chapter 466.05 of the Minnesota Statutes.

Subdivision 14. It shall provide any member governmental unit with technical data or any other information of which the Commission has knowledge which will assist the governmental unit in preparing land use classifications or local water management plans within the watershed.

Subdivision 15. It may provide legal and technical assistance in connection with litigation or other proceedings between one or more of its members and any other political subdivision, commission, Board or agency relating to the planning or construction of facilities to drain or pond storm waters or relating to water quality within the Watershed. The use of commission funds for litigation shall be only upon a favorable vote of a majority of the eligible votes of the then existing members of the Commission.

Subdivision 16. It may accumulate reserve funds for the purposes herein mentioned and may invest funds of the Commission not currently needed for its operations, in the manner and subject to the laws of Minnesota applicable to statutory cities.

Subdivision 17. It may collect monies, subject to the provisions of this agreement, from its members, Anoka County and from any other source approved by a majority of its board.

Subdivision 18. It may accept gifts, apply for and use grants or loans of money or other property from the United States, the State of Minnesota, a unit of government or other governmental unit or organization, or any person or entity for the purposes described herein; may enter into any reasonable agreement required in connection therewith; may comply with any laws or regulations applicable thereto; and may hold, use, and dispose of such money or property in

accordance with the terms of the gift, grant, loan or agreement relating thereto.

Subdivision 19. It may make contracts, incur expenses and make expenditures necessary and incidental to the effectuation of these purposes and powers and may disburse therefor in the manner hereinafter provided.

Subdivision 20. It shall cause to be made an annual audit by a certified public accountant or the state auditor of the books and accounts of the commission and shall make and file a report to its members at least once each year including the following information:

- a. the approved budget;
- b. a reporting of revenues;
- c. a reporting of expenditures;
- d. a financial audit report or section that includes a balance sheet, a classification of revenues and expenditures, an analysis of changes in final balances, and any additional statements considered necessary for full financial disclosure; and
- e. the status of all commission projects and work within the watershed;

Copies of said report shall be transmitted to the clerk of each member governmental unit.

Subdivision 21. Its books, reports and records shall be available for and open to inspection by its members at all reasonable times.

Subdivision 22. It may recommend changes in this agreement to its members.

Subdivision 23. It may exercise all other powers necessary and incidental to the implementation of the purposes and powers set forth herein and as outlined and authorized by Minnesota Statutes, Sections 103B.201 through 103B.251.

Subdivision 24. It shall cooperate with the State of Minnesota, the Commissioner of Natural Resources and the Director of the Division of Waters, Soils and Minerals of the Department of Natural Resources in complying with the requirements of Chapter 103G of the Minnesota Statutes.

Subdivision 25. Each member reserves the right to conduct separate or concurrent studies on any matter under study by the Commission.

Subdivision 26. It shall establish a procedure for establishing citizen or technical advisory committees and to provide other means of public participation.

Subdivision 27. Where the Commission is authorized or requested to review and make recommendations on any matter, the Commission shall act on such matter within sixty (60) days of receipt of the matter referred. Failure of the Commission to act within sixty (60) days shall constitute approval of the matter referred, unless the Commission requests and receives from the referring unit of government an extension of time to act on the matter referred. Where the Commission makes recommendation of any matter to a party, the governing body of a party not acting in accordance with such recommendation shall submit a written statement of its reasons for doing otherwise to the Commission within ten (10) days of its decision to act contrary to the Commission's recommendation. The Commission shall review the written statement and if

determined insufficient by the Commission, request written clarification within an additional ten (10) days.

## METHOD OF PROCEEDING

### VII.

Subdivision 1. The procedures to be followed by the Board in carrying out the powers and duties set forth in Article VI, Subdivisions 5, 6, 7, 8, 9, and 10, shall be as set forth in this article.

Subdivision 2. The Board has previously prepared the over all plan as required in Article VI, Subdivision 5. This plan shall be updated as required by state law. The Board shall proceed to implement said plan, and this implementation may be ordered by stages.

Subdivision 3. No project which will channel or divert additional waters to subdistrict and subtrunks which cross municipal boundaries shall be commenced by any member governmental unit prior to approval of the Board of the design of an adequate outlet or of adequate storage facilities.

Subdivision 4. All construction, reconstruction, extension or maintenance of outlets for the various subdistrict and subtrunks, including outlets, lift stations, dams, reservoirs, or other appurtenances of a surface water or storm sewer system which involve construction by or assessment against any member governmental unit or against privately or publicly owned land within the watershed shall follow the statutory procedures outlined in Chapter 429 of the Minnesota Statutes except as herein modified.

The Board shall secure from its engineers or some other competent persona report advising it in a preliminary way as to whether the proposed improvement is feasible and as to whether it shall best be made as proposed or in connection with some other improvement and the estimated cost of the improvement as recommended and the proposed allocation of costs between members.

The Commission shall have authority to separate the watershed into subtrunks or subdistricts if the capital improvement project and costs only benefit a subtrunk or subdistrict area. If the Commission determines that a capital improvement and capital cost benefits only a subtrunk or subdistrict area it may so designate that said area shall be responsible for said costs and may allocate the costs to said area or areas rather than to the entire watershed.

The Board shall then hold a public hearing on the proposed improvement after mailed notice to the clerk of each member governmental unit within the Watershed. The Commission shall not be required to mail or publish notice except by said notice to the clerk. Said notice shall be mailed not less than 45 days before the hearing, shall state the time and place of the hearing, the general nature of the improvement, the estimated total cost and the estimated cost to each member governmental unit. The Board may adjourn said hearing to obtain further information, may continue said hearing pending action of the member governmental units or may take such other action as it deems necessary to carry out the purposes of this Commission.

To order the improvement, in accordance with the powers and duties established in Article VI, Subdivisions 7, 8 and 9, a resolution setting forth the order for a capital improvement project

shall require a favorable vote by two-thirds of all eligible votes of the then existing Board of the Commission. (In all cases other than for a capital improvement project, a majority vote of all eligible members of the Board shall be sufficient to order the work.) The order shall describe the improvement, shall allocate in percentages the cost allocation between the member governmental units, shall designate the engineers to prepare plans and specifications, and shall designate the member who will contract for the improvement in accordance with Subdivision 7 of this Article.

After the Board has ordered an improvement it shall forward to all member governmental units an estimated time schedule for the construction of said improvement. The Board shall allow an adequate amount of time, and in no event less than 45 days, for each member governmental unit to conduct hearings, in accordance with the provisions of the aforesaid Chapter 429, or the charter requirements of any city, or to ascertain the method of financing which said member governmental unit utilize to pay its proportionate share of the costs of the improvement. Each member governmental unit shall ascertain within a period of 90 days the method it shall use to pay its proportionate share of the costs.

If the Commission proposes to utilize Anoka County's bonding authority as set forth in Minnesota Statutes, Section 103B.251, or if the Commission proposes to certify all or any part of a capital improvement to Anoka County for payment, then and in that event all proceedings shall be carried out in accordance with the provisions set forth in said Section 103B.251.

Subdivision 5. The Board shall not order and no engineer shall be authorized by the Board to prepare plans and specifications before the Board has adopted a resolution ordering the improvement. The Board may order the advertising for bids upon receipt of notice from each member governmental unit who will be assessed that it has completed its hearing or determined its method of payment or upon expiration of 90 days after the mailing of the preliminary report to the members.

Subdivision 6. Any member governmental unit being aggrieved by the determination of the Board as to the allocation of the costs of said improvement shall have 30 days after the commission resolution ordering the improvement to appeal said determination. Said appeal shall be in writing and shall be addressed to the Board asking for arbitration. The determination of the member's appeal shall be referred to a Board of Arbitration. The Board of Arbitration shall consist of three persons; one to be appointed by the Board of Commissioners, one to be appointed by the appealing member governmental unit, and the third to be appointed by the two so selected. In the event the two persons so selected do not appoint the third person within 15 days after their appointment, then the Chief Judge of the District Court of Anoka County shall have jurisdiction to appoint, upon application of either or both of the two earlier selected, the third person to the board. The third person selected shall not be a resident of any member governmental unit and if appointed by the Chief Judge said person shall be a registered professional engineer. The arbitrators' expenses and fees, together with the other expenses, not including counsel fees, incurred in the conduct of the arbitration shall be divided equally between the Commission and the appealing member.

Arbitration shall be conducted in accordance with the Uniform Arbitration Act, Chapter 572 of the Minnesota Statutes.

Subdivision 7. Contracts for Improvements. All contracts which are to be let as a result of the board's order to construct, repair, alter, reclaim or change the course or terminus of any ditch, drain, storm sewer, watercourse, or to acquire, operate, construct or maintain dams, dikes, reservoirs or their appurtenances or to carry out any of the other provisions of the plan as authorized by Minnesota Statutes, and for which two or more member governmental units shall be responsible for the costs, shall be let in accordance with the provisions of Section 429.041 of the Minnesota Statutes. The bidding and contracting of said work shall be let by any one of the member governmental units, as ordered by the Board of Commissioners, after compliance with the statutes. All contracts and bidding procedures shall comply with all the requirements of law applicable to contracts let by a statutory city in the State of Minnesota.

The Commission shall not have the authority to contract in its own name for any improvement work for which a special assessment will be levied against any private or public property under the provisions of Chapter 429 or under the provisions of any City charter. This section shall not preclude the Commission from proceeding under Minnesota Statutes, Section 103B.251.

Subdivision 8. Contracts with Other Governmental Bodies. The Commission may exercise the powers set forth in Article VI, Subdivision 7, but said contracts for a capital improvement shall require a favorable vote of two-thirds majority of the eligible votes of the then existing members of the Commission.

Subdivision 9. Supervision. All improvement contracts awarded under the provisions of Subdivision 7 of this Article shall be supervised by the member governmental unit awarding said contract or said member governmental unit may contract or appoint any qualified staff member or members of the Commission to carry out said supervision, but each member agrees that the staff of this Commission shall be authorized to observe and review the work in progress and the members agree to cooperate with the Commission staff in accomplishing the purposes of this Commission. Representatives of the Commission shall have the right to enter upon the place or places where the improvement work is in progress for the purpose of making reasonable tests and inspections. The staff of this Commission shall report, advise and recommend to the Board on the progress of said work.

Subdivision 10. Land Acquisition. The Commission shall not have the power of eminent domain. The member governmental units agree that any and all easements or interest in land which are necessary will be negotiated or condemned in accordance with Chapter 117 of the Minnesota Statutes by the unit wherein said lands are located, and each member agrees to acquire the necessary easements or right-of-way or partial or complete interest in land upon order of the Board of Commissioners to accomplish the purposes of this agreement. All reasonable costs of said acquisition shall be considered as a cost of the improvement. If a member governmental unit

determines it is in the best interests of that member to acquire additional lands, in conjunction with the taking of lands for storm and surface drainage or storage, for some other purposes, the costs of said acquisition will not be included in the improvement costs of the ordered project. The Board in determining the amount of the improvement costs to be assessed to each member governmental unit may take into consideration the land use for which said additional lands are being acquired and may credit the acquiring municipality for said land acquisition to the extent that it benefits the other members of this agreement. Any credits may be applied to the cost allocation of the improvement project under construction or the Board if feasible and necessary may defer said credits to a future project.

If any member unit refuses to negotiate or condemn lands as ordered by the Board, any other member may negotiate or condemn outside its corporate limits in accordance with the aforesaid Chapter 117. All members agree that they will not condemn or negotiate for land acquisition to pond or drain storm and surface waters within the corporate boundaries of another member within the Lower Rum River Watershed except upon order of the Board of this Commission.

The Commission shall have authority to establish land acquisition policies as a part of the overall plan.

**Subdivision 11. Pollution Control and Water Quality.** The Commission shall have the authority and responsibility to protect and improve water quality in the Watershed as this is one of the main purposes set forth in the Surface Water Management Act. All member governmental units agree that they will refuse to allow the drainage of sanitary sewage or industrial wastes onto any lands or into any water course or storm sewer draining into the Rum River or Mississippi River. The Board may investigate on its own initiative and shall investigate upon petition of any member all complaints relating to pollution of surface water or ground water draining to or affecting the Rum River or the Mississippi River or their tributaries. Upon a finding that the creek or surface waters or groundwater are being polluted, the Board shall order the member governmental unit to abate this nuisance and each member agrees that it will take all reasonable action available to it under the law to alleviate the pollution and to assist in protecting and improving the water quality of surface water and groundwater in the Watershed.

**Subdivision 12. Local Water Management Plans.** The Commission shall have power and authority to review the members' local water management plans, capital improvements relating to surface water management programs and official controls required by Minnesota Statutes Section 103B.235 and/or by rules promulgated and adopted by the Board of Water and Soil Resources.

## **FINANCES**

### **VIII.**

**Subdivision 1.** The Commission funds may be expended by the Board in accordance with this agreement and in accordance with the procedures as established by law and in the manner as may be determined by the Board. The Board shall designate one or more national or state bank or

trust companies, authorized by Chapters 118 and 427 of the Minnesota Statutes to receive deposits of public moneys and to act as depositories for the Commission funds. In no event shall there be a disbursement of Commission funds without the signature of at least two Board members, one of whom shall be the Treasurer or Authorized Deputy Treasurer. The Treasurer shall be required to file with the Secretary of the Board a bond in the sum of at least \$10,000 or such higher amount as shall be determined by the Board. The Commission shall pay the premium on said bond.

Subdivision 2. Each member agrees to contribute each year to a general fund, said fund to be used for general administration purposes including, but not limited to: salaries, rent, supplies, development of an over all plan, engineering and legal expenses, insurance, and bonds, and to purchase and maintain devices to measure hydrological and water quality data. Said funds may also be used for normal maintenance of the facilities, but any extraordinary maintenance or repair expense shall be treated as an improvement cost and processed in accordance with Subdivision 5 of this Article. The annual contribution by each member shall be based fifty percent (50%) on the net tax capacity of all property within the Watershed and fifty percent (50%) on the basis of the total area of each member within the boundaries of the Watershed each year to the total area in the Lower Rum River Watershed governed by this Agreement.

Subdivision 3.

- (a) An improvement fund shall be established for each improvement project instituted under Article VII, Subdivision 4. Each member agrees to contribute to said fund its proportionate share of the engineering, legal and administrative costs as determined by the Commission as the amount to be assessed against each member as a cost of the improvement. The Board shall submit in writing a statement to each member, setting forth in detail the expenses incurred by the Commission for each project. Each member further agrees to pay to or contract with the member governmental unit awarding said contract for the improvement, its proportionate share of the cost of the improvement in accordance with the determination of the Board under Article VII, Subdivision 4. The member awarding the contract shall submit in writing copies of the engineer's certificate authorizing payment during construction and the member being billed agrees to pay its proportionate share of said improvement costs within 30 days after receipt of the statement. The member awarding the contract shall advise other contributing members of the tentative time schedule of the work and the estimated times when the contributions shall be necessary.
- (b) Notwithstanding the provisions of paragraph (a) of this subdivision, the Commission may by a vote of 2/3rds of all eligible votes of the then existing members of the Commission decide to proceed to fund all or any part of the cost of a capital improvement contained in the capital improvement program of the plan pursuant to the authority and subject to the provisions set forth in Minnesota Statutes, Section 103B.251. It is expressed as a goal of this Agreement that cost sharing of capital

improvement costs be assigned and agreed to by members pursuant to Article VIII, Subdivision 5, Subsections 1 and 2 of this Agreement. Without such agreement, all improvements will be constructed pursuant to Minnesota Statutes, Section 103B.251. The Commission and Anoka County may establish a maintenance fund to be used for normal and routine maintenance of an improvement constructed in whole or in part with money provided by Anoka County pursuant to Minnesota Statutes, Section 103B.251. The levy and collection of an ad valorem tax levy for maintenance shall be by Anoka County based upon a tax levy resolution adopted by a majority vote of all eligible members of the Commission and remitted to the County on or before the date prescribed by law each year. If it is determined to levy for maintenance, the Commission shall be required to follow the hearing process established by Minnesota Statutes, Sections 103D.915 and 103D.921 and acts a mandatory thereof and in addition thereto. Mailed notice shall be sent to the Clerk of each member municipality at least 30 days prior to the hearing.

Subdivision 4. On or before July 1 of each year, the Board shall adopt a detailed budget for the ensuing year and decide upon the total amount necessary for the general fund. Budget approval shall require a favorable vote by a majority of all eligible votes of the then existing members of the Board.

The secretary of the Board shall certify the budget on or before July 1 to the clerk of each member governmental unit together with a statement of the proportion of the budget to be provided by each member.

The Council of each member agrees to review the budget, and the Board shall upon notice from any member received prior to August 1, hear objections to the budget, and may, upon notice to all members and after a hearing, modify or amend the budget, and then give notice to the members of any and all modifications or amendments.

Each member agrees to provide the funds required by the budget and said determination shall be conclusive if no member enters objections in writing on or before August 1. If no objections are submitted to the Board, each member agrees to provide the funds approved by the Board, after the Board has conducted the aforementioned hearing. Modifications or amendments to the original budget require a favorable vote by a majority of all eligible voters of then existing members of the Board.

The schedule of payments by the members shall be determined by the Board in such a manner as to provide for an orderly collection of the funds needed.

Upon notice and hearing, the Board by a favorable vote of a majority of all eligible votes of then existing members may adopt a supplemental budget requiring additional payments by the members within 60 days of its adoption but in no event shall the budget require any member to contribute in excess of one half of one percent of the net tax capacity of all taxable property within the watershed and within the member's corporate boundaries in any one calendar year.

Members' attention is drawn to Minnesota Statutes, Section 103B.245, which authorizes a Watershed Management Tax District to be created within each member City to pay the costs of planning and for the purpose of paying capital costs and/or normal and routine maintenance of facilities.

Subdivision 5. Cost Allocation. General costs of operating the Commission shall be as set forth in Article VIII, Subdivision 2. The Commission shall apportion costs of any capital improvements to the respective members based upon a negotiated agreement to be arrived at by members who have lands in the subdistrict. In the event a negotiation cannot be reached, the distribution of costs will be determined through the arbitration process described in Article VII Subd. 6.

## MISCELLANEOUS PROVISIONS

### IX.

Subdivision 1. The Commission shall not have the power to issue certificates, warrants or bonds.

Subdivision 2. The Commission shall not have the power of eminent domain and shall not own any interest in real property. All interests in lands shall be held in the name of the corporate member wherein said lands are located.

Subdivision 3. The Commission shall not have the power to levy a special assessment upon any privately or publicly owned land. All such assessments shall be levied by the member wherein said lands are located. It shall have the power to require any member to contribute the costs allocated or assessed according to the other provisions of this agreement.

Subdivision 4. Each member agrees that it will not directly or indirectly collect or divert any additional surface water to the Lower Rum River or the Mississippi River or their tributaries from any subdistrict or subtrunk without a permit from the Board of Commissioners. Permits may be granted by the Board for a member to proceed with the construction or reconstruction of improvements within the individual corporate members' boundaries and at its sole cost upon a finding:

- (1) that there is an adequate outlet;
- (2) that said construction is in conformance with the overall plan;
- (3) that the construction will not adversely affect other members of this agreement.

Subdivision 5. Any member who is more than 60 days in default in contributing its share to the general fund shall have the vote of its Board member suspended pending the payment of its proportionate share.

Any member who is more than 60 days in default in contributing its proportionate share of the cost of any improvement to the contracting member shall upon application of the contracting member have the vote of its Board member suspended, pending the payment of its proportionate share.

Any Board member whose vote is under suspension shall not be considered as an eligible

member as such membership affects the number of votes required to proceed on any matter under consideration by the Board.

Subdivision 6. Enforcement. Members agree to be bound by the determination of the Commission and to agree to use their best efforts to carry out directives from the Commission; failure to respond may result in a legal action by the Commission to require the member to act under a court order.

## DURATION

### X.

Subdivision 1. Each member agrees to be bound by the terms of this agreement until January 1, 2005, and it may be continued thereafter at the option of the parties.

Subdivision 2. This agreement may be terminated prior to January 1, 2005, by the unanimous consent of the members or if for any reason the Commission is reduced to less than three members. If the agreement is to be terminated, a notice of the intent to dissolve the Commission shall be sent to the Board of Water and Soil Resources and to Anoka County at least 90 days prior to the date of dissolution.

Subdivision 3. In addition to the manner provided in Subdivision 2 for termination, any member may petition the Board to dissolve the agreement. Upon 30 days notice in writing to the clerk of each member governmental unit and the Board of Water and Soil Resources and Anoka County, the Board shall hold a hearing and upon a favorable vote by a majority of all eligible votes of then existing Boardmembers, the Board may by Resolution recommend that the Commission be dissolved. Said Resolution shall be submitted to each member governmental unit and if ratified by three-fourths of the councils of all eligible members within 60 days, said Board shall dissolve the Commission allowing a reasonable time to complete work in progress and to dispose of personal property owned by the Commission.

## DISSOLUTION

### XI.

Upon dissolution of the Commission, all property of the Commission shall be sold and the proceeds thereof, together with monies on hand, shall be distributed to the eligible members of the Commission. Such distribution of Commission assets shall be made in proportion to the total contribution to the Commission as required by the last annual budget.

## EFFECTIVE DATE

### XII.

This agreement shall be in full force and effect upon the filing of a certified copy of the resolution approving said agreement by all four members for the Lower Rum River Watershed area to be governed by this Agreement. Said resolution shall be filed with the City Manager of the City of Anoka, who shall notify all members in writing of its effective date. The effective date of the new amended Joint Powers Agreement shall be when approved by all the Cities and when the Mayor and other authorized City representatives have executed the amended agreement.

IN WITNESS WHEREOF, the undersigned governmental units, by action of their governing bodies, have caused this agreement to be executed in accordance with the authority of Minnesota Statutes, Sections 103B.211 and 471.59.

Approved by the City Council

CITY OF ANDOVER

September 5 1995 By J. E. McKelvey  
Attest Sitina Bell

Approved by the City Council

CITY OF ANOKA

July 24 1995 By Pete R. Bely Mayor  
Attest Mark Nagel

Approved by the City Council

CITY OF COON RAPIDS

August 15, 1995 By William L. Thompson  
Attest Robert L. Suehla

Approved by the City Council

CITY OF RAMSEY

June 27, 1995 By [Signature]  
Attest [Signature]

AMENDMENT TO JOINT AND COOPERATIVE AGREEMENT FOR THE  
ESTABLISHMENT OF THE LOWER RUM RIVER WATERSHED MANAGEMENT  
ORGANIZATION TO PLAN, CONTROL AND PROVIDE FOR THE DEVELOPMENT OF  
THE LOWER RUM RIVER WATERSHED

THIS AMENDMENT is made and entered into as of the date of execution by all of the cities of Andover, Anoka, Coon Rapids and Ramsey, Minnesota (hereinafter collectively referred to as the "Parties").

WITNESSETH:

WHEREAS, the Parties have entered into a Joint Powers Agreement, effective September 5, 1995, entitled the JOINT AND COOPERATIVE AGREEMENT FOR THE ESTABLISHMENT OF THE LOWER RUM RIVER WATERSHED MANAGEMENT ORGANIZATION TO PLAN, CONTROL AND PROVIDE FOR THE DEVELOPMENT OF THE LOWER RUM RIVER WATERSHED (the "Joint Powers Agreement"); and

WHEREAS, the Joint Powers Agreement established the Lower Rum River Watershed Management Commission (the "Commission"), a watershed management organization pursuant to and in accordance with the Metropolitan Surface Water Management Act, Minn. Stat. § 103B.201, et.seq., and Minn. Stat. § 471.59; and

WHEREAS, the Joint Powers Agreement expired by its terms on January 1, 2005; and

WHEREAS, the Commission has continued to act and exercise its powers and duties as a watershed management organization, notwithstanding the expiration of the Joint Powers Agreement; and

WHEREAS, the Parties have indicated an intent that the Commission continue to act as a watershed management organization for the Lower Rum River Watershed and to continue to do so in the future; and

WHEREAS, the Parties have ratified the acts of the Commission from January 1, 2005 to the effective date of this Amendment.

NOW, THEREFORE, on the basis of the premises and mutual covenants and agreements hereinafter set forth, the Parties agree as follows:

1. The Commission shall continue in existence effective January 1, 2005 until the termination of the Commission in accordance with the terms of the Joint Powers Agreement.
2. All acts of the Commission from January 1, 2005 to the effective date of the Amendment to the Joint Powers Agreement are approved, confirmed and ratified in all respects by the Parties, acting through their City Councils.

3. Article X, Subdivision 1 is amended to read as follows:

Subdivision 1. Each member agrees to be bound by the terms of this agreement until January 1, 2015, and it may be continued thereafter at the option of the Parties.

4. Article X, Subdivision 2 of the Joint Powers Agreement is amended to read as follows:

Subdivision 2. This agreement may be terminated prior to January 1, 2015, by the unanimous consent of the members or if for any reason the Commission is reduced to less than three members. If the agreement is to be terminated, a notice of the intent to dissolve the Commission shall be sent to the Board of Water and Soil Resources and to Anoka County at least 90 days prior to the date of dissolution.

5. Except as modified herein, the Joint Powers Agreement shall remain in full force and effect.

6. This Agreement shall be effective upon ratification by the City Councils of all of the Parties and the execution of this Agreement by all Parties. Upon receipt of certified copies of resolutions approving the Amendment to this Agreement and executed copies of the Amendment by all of the Parties, the Secretary of the Commission shall supply to the City Clerk of each of the Parties a copy of the resolutions and of the signed agreement.

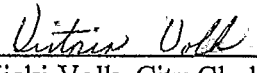
7. This Amendment may be executed in several counterparts, each of which, when assembled to include an original signature for each of the Parties, will constitute a complete and fully executed original.

IN WITNESS WHEREOF, the undersigned, as duly authorized by action of their City Council, have caused this Agreement to be executed in accordance with the Authority of Minn. Stats. §§ 103B.211 and 471.59.

CITY OF ANDOVER

Dated: 11-6-07

By:   
Mike Gamache, Mayor

And by:   
Vicki Volk, City Clerk

Dated: October 15, 2007

CITY OF ANOKA

By: *Bjorn Skogquist*  
Bjorn Skogquist, Mayor

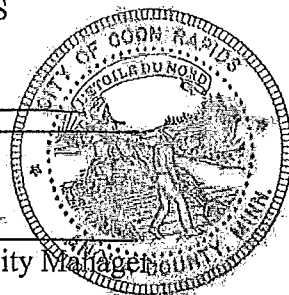
And by: *Tim Czuikshank*  
Tim Czuikshank, City Manager

Dated: October 2, 2007

CITY OF COON RAPIDS

By: *Tim Howe*  
Tim Howe, Mayor

And by: *Matthew Fulton*  
Matthew Fulton, City Manager



Dated: October 24, 2007

CITY OF RAMSEY

By: *Tom Gamec*  
Tom Gamec, Mayor

And by: *Jo Thieling*  
Jo Thieling, City Clerk