

**AMENDED AND RESTATED 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 cities of Andover, Anoka and Ramsey (the "Member Cities").

Minnesota Laws of 1982, Chapter 509, now codified as Minnesota Statutes 2012, Sections 103B.201 through 103B.255 mandated that all watersheds within the seven county Metropolitan area must be governed by a watershed management organization. The watershed is authorized to organize under a joint powers agreement pursuant to Minnesota Statutes, Sections 471.59 and 103B.211. 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 district 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 the watershed. It is the belief of these three 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 three individual Member Cities.

It has been determined by the three Member Cities that they desire to proceed under a Joint Powers Agreement rather than under Minnesota Statutes, 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.255 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 City further recognizes that this is a binding contract and failure to cooperate or to carry out a Member City's responsibilities will result in a breach of this contract.

The purpose of this organization shall be to assist the three Member 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 awareness of their neighbors' 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 Management Organization will have many capital improvement projects; if it does, it is hereby expressed that the intent of this Agreement is to encourage that the solutions should be handled by agreements between the Member Cities.

It is the intent of this Agreement to subject the Member Cities 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 council members of the Member Cities the reasons and purpose for this joint and cooperative venture. The Member Cities 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 Member City hereby 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 that 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 Watershed. This agreement is made pursuant to the authority of Minnesota Statutes 2012, Sections 103B.201 through Section 103B.255 and Section 471.59.

NAME

I.

The parties hereby create and establish the Lower Rum River Watershed Management Organization.

GENERAL PURPOSE

II.

The general purpose of this agreement is to provide an organization that 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, Sections 103B.201 through 103B.255.

DEFINITIONS

III.

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

Subdivision 1. “Lower Rum River Watershed Management Organization” or “LRRWMO” means the organization created by this agreement. 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 LRRWMO, consisting of one Commissioner from each Member City or, in the absence of that Commissioner, that Member City’s Alternate Commissioner. The Board shall be the governing body of the LRRWMO.

Subdivision 3. “Council” means the governing body of a Member City.

Subdivision 4. "Member City" means a city that enters into this agreement.

Subdivision 5. "Lower Rum River Watershed" or "Watershed" means the area generally contained within a line drawn around the extremities of all terrain with surface drainage that 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, Section 473.877, Subd. 2 and as now amended by Minnesota Statutes, Chapter 103B, as such map has been amended with approval of the Board of Soil and Water Resources.

MEMBERSHIP

IV.

The Member Cities of the LRRWMO shall be the City of Andover, the City of Anoka and the City of Ramsey.

The LRRWMO may, with the ratification of the Councils of all Member Cities, 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 the Member City to be represented on the LRRWMO, so long as such Member City continues to exist as a separate political subdivision.

BOARD OF COMMISSIONERS

V.

Subdivision 1. The governing body of the LRRWMO shall be its Board. Each Member City 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" and "Alternate Commissioner", respectively.

Subdivision 2. The Council of each Member City shall determine the eligibility or qualification of its Commissioner and the terms of each Commissioner shall be as established by each individual Member City.

Subdivision 3. The term of each Commissioner and Alternate Commissioner appointed by each Member City shall be as determined by each Member City 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 Member City that appointed said Commissioner. Each Member City agrees to publish a notice of vacancies resulting from the expiration of a Commissioner's or Alternate Commissioner's term or when a vacancy exists for any reason. Publication and notice shall be in accordance with Minnesota Statutes, Section 103B.227, Subds. 1 and 2.

Subdivision 4. Each Member City 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 Member City has presented the Commissioner with charges in writing and has held a public hearing after reasonable notice to the Commissioner.

A Member City 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 Council of the Member City that appointed the Commissioner.

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

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

Subdivision 6. Commissioners shall serve without compensation from the LRRWMO, but this shall not prevent a Member City from providing compensation for its Commissioner for serving on the Board, if such compensation is authorized by such Member City and by law. LRRWMO funds may be used to reimburse a Commissioner or Alternate Commissioner for expenses incurred in performing LRRWMO business 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 as soon thereafter as it may be reasonably done, the Board 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 Board 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 Commissioners 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, Chapter 13D.

POWERS AND DUTIES OF THE BOARD
VI.

Subdivision 1. The LRRWMO, 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 Minnesota Statutes, Chapter 103B 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 by law.

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 LRRWMO staff.

Subdivision 3. It may contract for space and for material and supplies to carry on its activities either with a Member City 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 overall 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 LRRWMO 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 LRRWMO 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 City or Member Cities 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 LRRWMO in reviewing, ordering, or authorizing these projects will use the best management practices required to meet state and federal statutes and regulations. The LRRWMO will also consider the ability of the Member Cities to fund the enforcement of local controls and any ordered capital improvements. The LRRWMO shall incorporate financial review and anticipated sources of revenue as a part of the overall management plan and as a part of local water management plans.

Subdivision 9. It may order any Member City or Member Cities 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 LRRWMO in reviewing, ordering, or authorizing these projects will use the best management practices required to meet state and federal statutes and regulations. The LRRWMO will also consider the ability of the Member Cities to fund the enforcement of local controls and any ordered capital improvements. The LRRWMO shall incorporate financial review and anticipated sources of revenue as a part of the overall 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 LRRWMO.

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 LRRWMO. The LRRWMO shall be liable for actual damages resulting therefrom but every person who claims damages shall serve the Chair or Secretary of the Board with a Notice of Claim as required by Minnesota Statutes, Section 466.05.

Subdivision 14. It shall provide any Member City with technical data or any other information of which the LRRWMO has knowledge that will assist the Member City 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 Member Cities 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 LRRWMO funds for litigation shall be only upon a favorable vote of a majority of the eligible votes of the then existing Commissioners.

Subdivision 16. It may accumulate reserve funds for the purposes herein mentioned and may invest funds of the LRRWMO 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 Member Cities, Anoka County and from any other source approved by a majority of its Commissioners.

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 LRRWMO and shall make and file a report to its Member Cities 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 LRRWMO projects and work within the Watershed;

Copies of said report shall be transmitted to the Clerk of each Member City.

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

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

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.255.

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 Minnesota Statutes, Chapter 103G.

Subdivision 25. Each Member City reserves the right to conduct separate or concurrent studies on any matter under study by the LRRWMO.

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

Subdivision 27. Where the LRRWMO is authorized or requested to review and make recommendations on any matter, the LRRWMO shall act on such matter within sixty (60) days of receipt of the matter referred. Failure of the LRRWMO to act within sixty (60) days shall constitute approval of the matter referred, unless the LRRWMO requests and receives from the

referring unit of government an extension of time to act on the matter referred. Where the LRRWMO makes recommendation of any matter to a Member City, the Council of a Member City not acting in accordance with such recommendation shall submit a written statement of its reasons for doing otherwise to the LRRWMO within ten (10) days of its decision to act contrary to the LRRWMO's recommendation. The LRRWMO shall review the written statement and if determined insufficient by the LRRWMO, 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 overall 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 that will channel or divert additional waters to subdistrict and subtrunks that cross municipal boundaries shall be commenced by any Member City prior to approval of the Board of the design of an adequate outlet or of adequate storage facilities.

Subdivision 4. Ordering Improvements. 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 that involve construction by, or assessment against, any Member City 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 person a report advising it in a preliminary way as to whether the proposed improvement is feasible and 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 Member Cities.

The Board shall then hold a public hearing on the proposed improvement after mailed notice to the Clerk of each Member City. The Board 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 City. The Board may adjourn said hearing to obtain further information, may continue said hearing pending action of the Member Cities or may take such other action as it deems necessary to carry out the purposes of the LRRWMO.

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 Commissioners. (In all cases other than for a capital improvement project, a majority vote of all eligible Commissioners shall be sufficient to order the work.) The order shall describe the improvement, shall allocate in percentages the cost between the Member Cities, shall designate the engineers to prepare plans and specifications, and shall designate the Member City that will contract for the improvement in accordance with Subdivision 7 of this Article. In determining how costs of a capital improvement shall be allocated among Member Cities, the Board shall consider whether the improvement benefits one or more subwatersheds rather than the Lower Rum River Watershed as a whole.

After the Board has ordered an improvement it shall forward to all Member Cities 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 City 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 that said Member City will utilize to pay its proportionate share of the costs of the improvement. Each Member City shall ascertain within a period of 90 days the method it shall use to pay its proportionate share of the costs.

If the LRRWMO proposes to utilize Anoka County's bonding authority as set forth in Minnesota Statutes, Section 103B.251, or if the LRRWMO 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. Any Member City being aggrieved by the determination of the Board as to the allocation of the costs of said improvement shall have 30 days after the Board resolution ordering the improvement to appeal said determination. Failure of a Member City to appeal the determination of the Board within such 30-day period shall be deemed to be consent to and agreement with the cost allocation in the Board's resolution. An appeal shall be in writing and shall be addressed to the Board asking for arbitration. The determination of the Member City'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, one to be appointed by the appealing Member City, 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 of arbitration. The third person selected shall not be a resident of any Member City 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 LRRWMO and the appealing Member City. Arbitration shall be conducted in accordance with the Uniform Arbitration Act, Minnesota Statutes, Chapter 572B. Arbitration shall be non-binding unless the LRRWMO and the appealing Member City agree to binding arbitration. If the parties agree to binding arbitration the decision of the board of arbitration shall be final and the parties to the arbitration will be deemed to have consented to

and agreed with the decision. If these parties do not agree to binding arbitration, any party that does not agree with and consent to the decision of the board of arbitration must notify the Board in writing within 30 days of receipt of the decision of the board of arbitration that it does not consent to or agree with the decision. Failure to so notify the Board shall be deemed consent to and agreement with the decision of the board of arbitration. Unless the parties agree with the decision of the board of arbitration, capital improvements can only be funded in accordance with Minnesota Statutes, Section 103B.251, or secured from other sources.

Subdivision 6. 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 City that 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 Member City.

Subdivision 7. Contracts for Improvements. All contracts that 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 Cities shall be responsible for the costs, shall be let in accordance with the provisions of Minnesota Statutes, Section 429.041 of the Minnesota Statutes. The bidding and contracting of said work shall be let by any one of the Member Cities, as ordered by the Board, 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 LRRWMO 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 Minnesota Statutes, Chapter 429 or under the provisions of any City charter. This section shall not preclude the LRRWMO from proceeding under Minnesota Statutes, Section 103B.251.

Subdivision 8. Contracts with Other Governmental Bodies. The LRRWMO 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 Commissioners.

Subdivision 9. Supervision. All improvement contracts awarded under the provisions of Subdivision 7 of this Article shall be supervised by the Member City awarding said contract or said Member City may contract or appoint any qualified staff member or members of the LRRWMO to carry out said supervision, but each Member City agrees that the staff of the LRRWMO shall be authorized to observe and review the work in progress and the Member Cities agree to cooperate with the LRRWMO staff in accomplishing the purposes of the LRRWMO. Representatives of the LRRWMO 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 the LRRWMO shall report, advise and recommend to the Board on

the progress of said work.

Subdivision 10. Land Acquisition. The LRRWMO shall not have the power of eminent domain. The Member Cities agree that any and all easements or interests in land that are necessary will be negotiated or condemned in accordance with Minnesota Statutes, Chapter 117 by the Member City wherein said lands are located, and each Member City agrees to acquire the necessary easements or right-of-way or partial or complete interest in land upon order of the Board 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 City determines it is in the best interests of that Member City 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 City may take into consideration the land use for which said additional lands are being acquired and may credit the acquiring Member City for said land acquisition to the extent that it benefits the other Member Cities. 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 City refuses to negotiate or condemn lands as ordered by the Board, any other Member City may negotiate or condemn outside its corporate limits in accordance with Minnesota Statutes, Chapter 117. All Member Cities 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 City within the Lower Rum River Watershed except upon order of the Board.

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

Subdivision 11. Pollution Control and Water Quality. The LRRWMO 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 Cities 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 City 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 City to abate this nuisance and each Member City 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 LRRWMO shall have power and authority to review the Member Cities' 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 LRRWMO funds may be expended by the Board in accordance with this agreement and in accordance with the procedures as established by law and as may be determined by the Board. The Board shall designate one or more national or state bank or trust companies, authorized by Minnesota Statutes, Chapters 118 and 427 to receive deposits of public moneys and to act as depositories for the LRRWMO funds. In no event shall there be a disbursement of LRRWMO 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 LRRWMO shall pay the premium on said bond.

Subdivision 2. Each Member City 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 overall 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 City 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 City 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. In all cases in which capital improvements are to be paid in whole or in part by Member Cities, each Member City agrees to contribute to said fund its agreed-upon proportionate share of the engineering, legal and administrative costs as determined in accordance with Article VII, Subdivisions 4 and 5 as the amount to be assessed against each Member City as a cost of the improvement. The Board shall submit in writing a statement to each Member City, setting forth in detail the expenses incurred by the LRRWMO for each project. Each Member City further agrees to pay to or contract with the Member City awarding said contract for the improvement, its agreed-upon proportionate share of the cost of the improvement in accordance with the determination of the Board under Article VII, Subdivisions 4 and 5. The Member City awarding the contract shall submit in writing copies of the engineer's certificate authorizing payment during construction and the Member City being billed agrees to pay its proportionate share of said improvement costs within 30 days after receipt of the statement. The Member City awarding the contract shall advise other contributing Member Cities of the tentative time schedule of the work and the estimated times when the contributions shall be necessary.

- (b) The LRRWMO 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 Commissioners and remitted to the County on or before the date prescribed by law each year. If it is determined to levy for maintenance, the LRRWMO shall be required to follow the hearing process established by Minnesota Statutes, Sections 103D.915 and 103D.921. Mailed notice shall be sent to the Clerk of each Member City 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 Commissioners.

The secretary of the Board shall certify the budget on or before July 1 to the Clerk of each Member City together with a statement of the proportion of the budget to be provided by each Member City.

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

Each Member City agrees to provide the funds required by the budget and said determination shall be conclusive if no Member City enters objections in writing on or before August 1. If no objections are submitted to the Board, each Member City 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 Commissioners.

The schedule of payments by the Member Cities 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 Commissioners may adopt a supplemental budget requiring additional payments by the Member Cities within 60 days of its adoption but in no event shall the budget require any Member City 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 City's corporate boundaries in any one calendar year.

Member Cities' 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 LRRWMO shall be as set forth in Article VIII, Subdivision 2. Costs of capital projects to be paid by Member Cities will be determined in accordance with Articles VII, Subdivisions 4 and 5 and paid in accordance with Article VIII, Subdivision 3.

MISCELLANEOUS PROVISIONS

IX.

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

Subdivision 2. The LRRWMO 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 Member City wherein said lands are located.

Subdivision 3. The LRRWMO 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 City wherein said lands are located. The LRRWMO shall have the power to require any Member City to contribute the costs allocated or assessed according to the other provisions of this agreement.

Subdivision 4. Each Member City 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. Permits may be granted by the Board for a Member City to proceed with the construction or reconstruction of improvements within the Member City's 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 Member Cities.

Subdivision 5. Any Member City that is more than 60 days in default in contributing its share to the general fund shall have the vote of its Commissioner suspended pending the payment of its proportionate share.

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

Any Member City whose vote is under suspension shall not be considered as an eligible Member City as such membership affects the number of votes required to proceed on any matter under consideration by the Board.

Subdivision 6. Enforcement. Member Cities 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 City to act under a court order.

DURATION

X.

Subdivision 1. Each Member City agrees to be bound by the terms of this agreement until January 1, 2025, and it may be continued thereafter at the option of the Member Cities.

Subdivision 2. This agreement may be terminated prior to January 1, 2025, by the unanimous consent of the Member Cities or if for any reason the LRRWMO is reduced to less than three Member Cities. If the agreement is to be terminated, a notice of the intent to dissolve the LRRWMO 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 City may petition the Board to dissolve the agreement. Upon 30 days' notice in writing to the Clerk of each Member City 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 Commissioners, the Board may by Resolution recommend that the LRRWMO be dissolved. Said Resolution shall be submitted to each Member City and if ratified by two-thirds of the Councils of all Member Cities within 60 days, said Board shall dissolve the LRRWMO allowing a reasonable time to complete work in progress and to dispose of personal property owned by the LRRWMO.

DISSOLUTION

XI.

Upon dissolution of the LRRWMO, all property of the LRRWMO shall be sold and the proceeds thereof, together with monies on hand, shall be distributed to the eligible Member Cities. Such distribution of LRRWMO assets shall be made in proportion to the total contribution to the LRRWMO 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 three Member Cities, 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 Member Cities in writing of its effective date. The effective date of the new amended Joint Powers Agreement shall be when approved by all the Member 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 2, 2014

By: 

Attest: 

Approved by the City Council

CITY OF ANOKA

Dated: July 7, 2014

By: 

Attest: 

Approved by the City Council

August 26, 2014

CITY OF RAMSEY

By: Saul Ho

Attest: Clark M. Hilling