

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement, hereinafter referred to as Agreement, is made and entered into between:

The County of Lac qui Parle, by and through the Board of Commissioners, and
The County of Lincoln, by and through the Board of Commissioners, and
The County of Lyon, by and through the Board of Commissioners, and
The County of Yellow Medicine, by and through the Board of Commissioners, and
The Lac qui Parle Soil and Water Conservation District (SWCD), by and through the Board of Supervisors,
The Lincoln SWCD, by and through the Board of Supervisors, and
The Lyon SWCD, by and through the Board of Supervisors, and
The Yellow Medicine SWCD, by and through the Board of Supervisors, and
The Yellow Medicine River Watershed District, by and through the Board of Managers, and
Area II Minnesota River Basin Projects (Area II), by and through the Board of Directors.

WHEREAS, the Counties of this Agreement are political subdivisions of the State of Minnesota with authority to carry out environmental programs and land use controls pursuant to Minnesota Statutes Chapters 375 and 394 and as otherwise provided by law; and

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

WHEREAS, the Yellow Medicine River Watershed District is a political subdivision of the State of Minnesota, with statutory authority to carry out conservation of the natural resources of the state by land use controls, flood control, and other conservation projects for the protection of the public health and welfare and the provident use of the natural resources, pursuant to Minnesota Statutes Chapter 103B, 103D and as otherwise provided by law; and

WHEREAS, Area II Minnesota River Basin Projects is a political subdivision of the State of Minnesota, with statutory authority to carry out conservation of natural resources with floodwater retention and retardation, pursuant to Minnesota Statutes Chapter 103F, Sections 171-187; § 471.59, and as otherwise provided by law; and

WHEREAS, the parties to this Agreement have a common interest and statutory authority to assure implementation of a comprehensive watershed management plan in the Yellow Medicine River Watershed, as illustrated in Attachment A, to conserve soil and water resources through the implementation of practices, programs, and regulatory controls that effectively control or prevent erosion, sedimentation, siltation and related pollution in order to preserve natural resources, ensure continued soil productivity, protect water quality, reduce damages caused by floods, preserve wildlife, protect the tax base, and protect public lands and waters; and

WHEREAS, the parties to this Agreement have set priority concerns consisting of: mitigate altered hydrology and minimize flooding; minimize the transport of sediment, excess nutrients and bacteria; and protect and preserve groundwater quantity and quality.

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

WHEREAS, pursuant to Minnesota Statutes § 103B.101, Subd. 14, the Board of Water and Soil Resources (BWSR) “may adopt resolutions, policies, or orders that allow a comprehensive plan, local water management plan, or watershed management plan, developed or amended, approved and adopted, according to chapter 103B, 103C, or 103D to serve as substitutes for one another or be replaced with a comprehensive watershed management plan,” also known as the “One Watershed, One Plan”.

WHEREAS, planning partners in this watershed area submitted a nomination to pilot the One Watershed, One Plan in the Yellow Medicine River Watershed. In June 2014, the Yellow Medicine River Watershed was selected as one of five major watersheds to pilot this program. The four-county watershed planning area includes those portions of Lac qui Parle, Lincoln, Lyon, and Yellow Medicine Counties that drain to the Yellow Medicine River, and several tributaries draining directly to the Minnesota River. The planning area is shown in Attachment A to this Agreement and encompasses over 665,073 acres. The pilot program continues to involve a broad range of stakeholders, including governments, state agencies, and community members and organizations as partners in the planning process.

WHEREAS, the parties previously entered into a formal agreement through a Memorandum of Agreement in 2014 for the purpose of planning the One Watershed One Plan for the Yellow Medicine River Watershed. The resulting plan will address the most significant threats to our water resources and the land use practices that provide the greatest environmental benefits to the watersheds.

WHEREAS, with the development of the initial Yellow Medicine One Watershed One Plan completed, the parties now enter into this Agreement so as to continue the cooperative and collaborative work of the MOA partners, with BWSR in an advisory capacity, for the continued planning and implementation of the Yellow Medicine One Watershed One Plan in the future.

WHEREAS, it is understood by all the parties to this Agreement that the Yellow Medicine One Watershed One Plan does not replace or supplant individual local land use, planning, zoning authority, but, instead, provides a framework to provide increased opportunities for cooperation and consistency on a watershed basis.

WHEREAS, it is understood by all parties to this Agreement, along with the state agencies that cooperated in developing the plan, that the mission of the Yellow Medicine One Watershed One Plan is to work together with citizens to restore and protect the water resources of the Yellow Medicine River Watershed.

NOW, THEREFORE, the parties hereto agree as follows:

1. **Purpose:** The parties to this Agreement recognize the importance of partnerships to implement protection and restoration efforts for the Yellow Medicine River Watershed and to share services to more effectively perform and manage those resources. Parties signing this agreement will be collectively referred to as the Yellow Medicine One Watershed One Plan Partnership.

The parties working together for the purpose of planning the Yellow Medicine One Watershed One Plan, under the 2014 Memorandum of Agreement of the parties, now establish through this Agreement, the process for the continued planning and the implementation of the Plan as they continue to recognize the importance of planning and implementing protection and restoration efforts for the Yellow Medicine River Watershed on a cooperative and collaborative basis together under this Agreement pursuant of the authority contained in Minnesota Statutes § 471.59.

This Agreement does not establish a joint powers entity but sets the terms and provisions by which the parties “*may jointly or cooperatively exercise any power common to the contracting parties or any similar powers, including those which are the same except for the territorial limits within which they may be exercised.*” Minnesota Statutes § 471.59. This Agreement does not include a financial obligation, but rather an ability to share resources when desired.

2. **Term:** This Agreement is effective upon signature of all parties in consideration of the BWSR Participation Requirements for One Watershed, One Plan, notwithstanding the dates of the signatures of the parties; the term of this Agreement shall be from January 1, 2018 through December 31, 2026, unless earlier terminated by law or according to the provisions of this Agreement.
3. **Adding Additional Parties:** A qualifying party within the Yellow Medicine One Watershed One Plan boundary that is responsible for water planning and resource management according to Minnesota Statutes desiring to become an added member of this Agreement shall indicate its intent by adoption of a governing board resolution. The party agrees to abide by the terms and conditions of the Agreement; including but not limited to the bylaws, policies and procedures adopted by the Policy Committee.
4. **Procedure for Parties to Leave Membership of the Agreement:** A party desiring to leave the membership of this Agreement shall indicate its intent in writing to the Policy Committee in the form of an official board resolution. Notice must be made 90 days in advance of leaving the Yellow Medicine One Watershed One Plan Partnership. A party that leaves the membership of the Agreement remains obligated to complying with the terms of any grants the Yellow Medicine One Watershed One Plan has at the time of the party’s notice to leave membership and is obligated until the grant has ended.
5. **General Provisions:**
 - a. **Compliance with Laws/Standards:** The parties agree to abide by all Federal, State or local laws; statutes, ordinances, rules and regulations now in effect or hereafter adopted pertaining to this Agreement or to the facilities, programs and staff for which the Agreement is responsible.
 - b. **Indemnification:** Each party to this Agreement shall be liable for the acts of its officers, employees or agents and the results thereof to the extent authorized or limited by law and shall not be responsible for the acts of the other party, its officers, employees or agents. The provisions of the Municipal Tort Claims Act, Minnesota Statutes Chapter 466 and other applicable laws govern liability of the parties. To the full extent permitted by law, actions by the parties, their respective officers, employees and agents, pursuant to this Agreement are intended to be and shall be construed as a “cooperative activity” and it is the intent of the parties that they shall

be deemed a “single governmental unit” for the purpose of liability, as set forth in Minnesota Statutes § 471.59, Subd. 1a (a), provided further that for purposes of that statute it is the intent of each party that this Agreement does not create any liability or exposure of one party for the acts or omissions of the other party.

- c. **Employee Status:** The parties agree that the respective employees or agents of each party shall remain the employees or agents of each individual respective party.
 - d. **Data Practices and Records Retention:** The parties agree that each respective party will be responsible for complying with Minnesota Government Data Practices Act (Minnesota Statutes, Chapter 13) and the Official Records Act (Minnesota Statutes § 15.17) for the data collected, created, received, maintained, disseminated or stored by each respective party pursuant to the terms of this agreement.
 - e. **Timeliness:** The parties agree to perform obligations under this Agreement in a timely manner and keep each other informed about any delays that may occur.
 - f. **Termination:** The parties anticipate that this Agreement will remain in full force and effect until canceled by all parties or until December 31, 2026, unless otherwise terminated in accordance with law or other provisions of this Agreement. The parties acknowledge their respective and applicable obligations, if any, under Minnesota Statutes § 471.59, Subd. 5 after the purpose of the Agreement has been completed.
6. **Structure:** To carry out the coordinated planning, development, and implementation of the Yellow Medicine One Watershed One Plan, the parties agree to continue the structure established under the Memorandum of Agreement, which includes the Policy Committee, the Advisory Committee, and the Plan Work Group.
- a. **The Policy Committee.** The parties agree that the Policy Committee established under the Memorandum of Agreement for the purpose of developing the Yellow Medicine One Watershed One Plan shall continue to operate cooperatively and collaboratively, but not as a separate entity, for the purpose of continued planning of, review of, advising on, and coordinating of the implementation of the Yellow Medicine One Watershed One Plan. Membership on the Policy Committee shall remain as each party’s designated representative. That individual who serves as their respective party’s designated representative must be an elected or appointed member of that party’s governing board. The governing boards may choose alternates to serve on the Policy Committee from their boards as needed. The Policy Committee will meet quarterly or as needed.
 - i. **Authority of Policy Committee Members:** Each representative on the Policy Committee shall have one vote, and, subject to the authority delegated by their respective governing body, shall have the authority to act on behalf of the party they represent in the following matters: apply for and enter into grant agreements which the Policy Committee has voted to consider and are relevant to the implementation of the Yellow Medicine One Watershed One Plan; interim report review and approval, approve payments under Yellow Medicine One Watershed One Plan grant(s), professional contracts, and voting on the recommended plan to be submitted to local

review and comment process. The Policy Committee will follow the bylaws adopted by the Policy Committee and will have the power to modify the bylaws.

ii. Policy Committee Duties:

a) Annual Work Plan: The Policy Committee shall guide development and approve an annual work plan and associated budget consisting of an itemized statement of the Yellow Medicine One Watershed One Plan revenues and expenses for the ensuing calendar years which shall be presented to the respective governing boards that are represented on the Policy Committee. The work plan will detail the activities to be undertaken by the parties to this Agreement for that calendar year.

b) Individual Members Duties: Each Policy Committee member will serve as a liaison to their respective governing boards and keep their governing boards regularly informed on the work of the Yellow Medicine One Watershed One Plan.

b. **The Advisory Committee.** The parties agree that the Advisory Committee shall continue to provide technical support on the plan implementation to the Policy Committee, including identification of priorities. The Advisory Committee will remain as consisting of the local Plan Work Group, stakeholders, the state's main water agencies, and/or plan review agencies. The Technical Advisory Committee will meet at the biennial summit and more often as needed.

c. **The Plan Work Group.** It shall consist of local staff (water planners, watershed district, Area II and SWCDs) for the purposes of logistical and day-to-day decision-making in the implementation process. The Plan Work Group will meet quarterly or as needed.

7. **Fiscal Agent:** The Yellow Medicine River Watershed District (YMRWD) will act as the fiscal agent for the purposes of this Agreement. In the event that YMRWD is unable to fulfill its obligations as Fiscal Agent, the Lincoln SWCD will serve in this capacity. The Fiscal Agent agrees to:

- a. Accept all responsibilities associated with grant agreements applied for and received for the implementation of in the name of the Yellow Medicine One Watershed One Plan Partnership.
- b. Perform financial transactions as part of contract administration.
- c. Pursuant to Minnesota Statutes § 471.59, Subd. 3, provide for strict accountability of all funds and report of all receipts and disbursements and annually provide a full and complete audit report.
- d. Provide the Policy Committee with Treasurer's Reports including such records as necessary to describe the financial condition of the grant agreements.
- e. The Scope of Services provided to the Yellow Medicine One Watershed One Plan Partnership is outlined in Attachment B to this document.
- f. Time and expenses shall be reimbursed quarterly upon submittal of detailed time tracking and expense reports.

8. **Day-to-Day Contact:** The Yellow Medicine River Watershed District (YMRWD) will handle this function and continue thereafter until and unless the Policy Committee appoints a different Day-to-Day Contact. The party that is the Day-to-Day Contact agrees to provide the following to the Yellow Medicine One Watershed One Plan for the purposes of this Agreement:

- a. Handle all day-to-day administrative responsibilities associated with the ongoing planning and implementation of the Yellow Medicine One Watershed One Plan.
- b. Be the day-to-day contact for any grant agreements the Yellow Medicine One Watershed One Plan may receive.
- c. Be responsible for BWSR and other grant reporting requirements (eLINK).
- d. Assist the Policy Committee with the administrative details to oversee future planning and implementation of the watershed-based plan.
- e. Maintain information on a Yellow Medicine One Watershed One Plan information website and perform other duties to keep the Policy Committee, the Advisory Committee, and the Plan Work Group informed.
- f. Time and expenses shall be reimbursed quarterly upon submittal of detailed time tracking and expense reports.

[Remainder of this page intentionally left blank]

9. **Authorized Representatives:** The following persons will be the primary contacts for all matters concerning this Agreement:

Lac qui Parle County and Lac qui Parle SWCD

Chessa Frahm or successor, County Water Planner/ District Manager
122 8th Avenue S, Suite 1
Madison, MN 56256
Email: chessa.frahm@mn.nacdnet.net
Telephone: (320) 598-7321 ext 3

Lincoln County and Lincoln SWCD

Dale Sterzinger or successor, County Water Planner/District Manager
200 S. County Hwy 5, Suite 2
Ivanhoe, MN 56142
Email: dale.sterzinger@mndistrict.org
Telephone: (507) 694-1630 ext 3

Lyon County and Lyon SWCD

John Biren or successor, County Water Planner/District Administrator
1424 E. College Drive, Suite 600
Marshall, MN 56258
Email: johnbiren@co.lyon.mn.us
Telephone: (507) 537-0396 ext 3

Yellow Medicine County

Jolene Johnson or successor, County Water Planner
1000 10th Avenue, Suite 2
Clarkfield, MN 56223
Email: Jolene.johnson@co.ym.mn.gov
Telephone: (320) 669-7524

Yellow Medicine SWCD

Kurt Johnson or successor, District Manager
1000 10th Avenue, Suite 3
Clarkfield, MN 56223
Email: kurt.johnson@mn.nacdnet.net
Telephone: (320) 669-4442 ext 3

Yellow Medicine River Watershed District

Emily Javens or successor, District Administrator
122 N. Jefferson
Minneota MN 56264
Email: admin@ymrwd.org
Telephone: (507) 872-6720

Area II Minnesota River Basin Projects

Kerry Netzke or successor, Executive Director
1424 E. College Drive, Suite 300
Marshall MN 56258
Email: area2@starpoint.net
Telephone: (507) 537-6369

IN TESTIMONY WHEREOF the parties have duly executed this agreement by their duly authorized officers.

PARTNER: LAC QUI PARLE COUNTY

APPROVED:

BY: DeRon Brehmes 11-7-17
Board Chair Date

ATTEST: Janet Sj Co. Auditor 11-7-17
(Name) (Title) Date

APPROVED AS TO FORM (use if necessary)

BY: [Signature] 11-7-17
County Attorney Richard Siler Date

IN TESTIMONY WHEREOF the parties have duly executed this agreement by their duly authorized officers.

PARTNER: LAC QUI PARLE SOIL AND WATER CONSERVATION DISTRICT

APPROVED:

BY: Ed Redenmacher 11/9/2017
Board Chair Date

BY: Chris Johnson 11/9/2017
District Manager Date

IN TESTIMONY WHEREOF the parties have duly executed this agreement by their duly authorized officers.

PARTNER: LINCOLN COUNTY

APPROVED:

BY: Richard J. Hams 10/17/17
Board Chair Date

ATTEST: Deb Verby Auditor 10/17/17
(Name) (Title) Date

APPROVED AS TO FORM *(use if necessary)*

BY: _____
County Attorney Date

IN TESTIMONY WHEREOF the parties have duly executed this agreement by their duly authorized officers.

PARTNER: LINCOLN SOIL AND WATER CONSERVATION DISTRICT

APPROVED:

BY: John Boulton 10-18-17
Board Chair Date

BY: Dale Stenzinger 10-18-17
District Manager Date

IN TESTIMONY WHEREOF the parties have duly executed this agreement by their duly authorized officers.

PARTNER: LYON COUNTY

APPROVED:

BY: Paul Graupman Nov. 21, 2017
Board Chair Date

ATTEST Tom Stankly, Administrator Nov 21, 2017
(Name) (Title) Date

~~APPROVED AS TO FORM (use if necessary)~~

BY: _____
County Attorney Date

IN TESTIMONY WHEREOF the parties have duly executed this agreement by their duly authorized officers.

PARTNER: LYON SOIL AND WATER CONSERVATION DISTRICT

APPROVED:

BY: Mark's Mankelbwaick Nov. 21, 2017
Board Chair Date

BY: John Beun November 21, 2017
District Manager Date

IN TESTIMONY WHEREOF the parties have duly executed this agreement by their duly authorized officers.

PARTNER: YELLOW MEDICINE COUNTY

APPROVED:

BY: [Signature] 9/26/17
Board Chair Date

ATTEST: [Signature] 9-27-17
(Name) (Title) Date
County Administrator

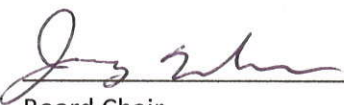
APPROVED AS TO FORM *(use if necessary)*

BY: [Signature] 9-27-17
County Attorney Date

IN TESTIMONY WHEREOF the parties have duly executed this agreement by their duly authorized officers.

PARTNER: **YELLOW MEDICINE SOIL AND WATER CONSERVATION DISTRICT**

APPROVED:

BY:  10-26-17
Board Chair Date

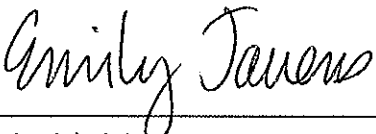
BY:  10/26/17
District Manager Date

IN TESTIMONY WHEREOF the parties have duly executed this agreement by their duly authorized officers.

PARTNER: YELLOW MEDICINE RIVER WATERSHED DISTRICT

APPROVED:

BY:  10/9/17
Board Chair Date

BY:  10/9/2017
District Administrator Date

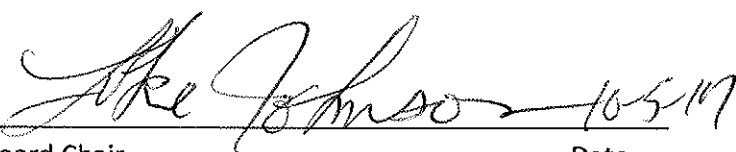
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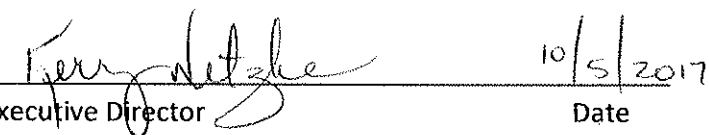
BY: _____
Attorney Date

IN TESTIMONY WHEREOF the parties have duly executed this agreement by their duly authorized officers.

PARTNER: AREA II MINNESOTA RIVER BASIN PROJECTS

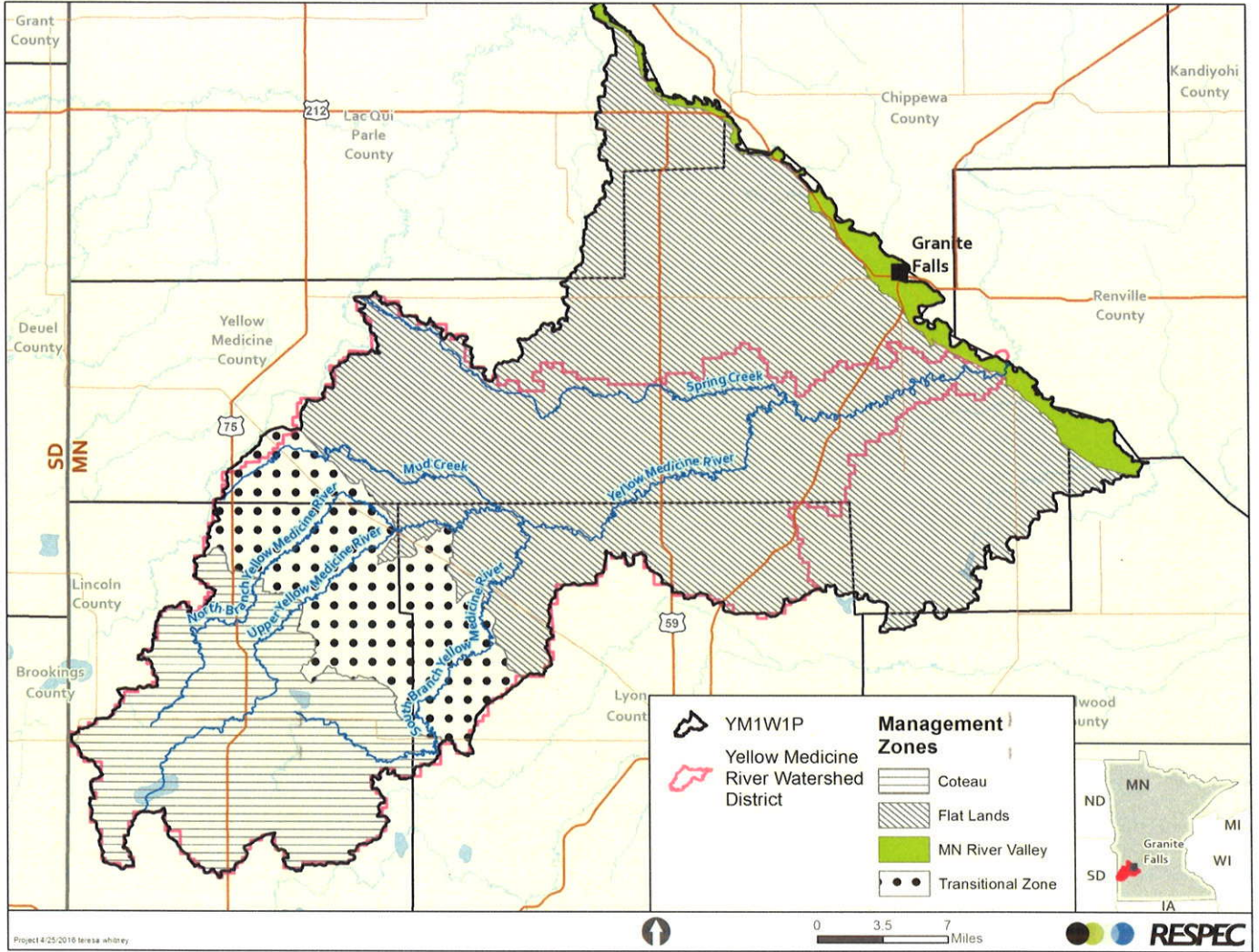
APPROVED:

BY: 
Board Chair Date

BY: 
Executive Director Date

Attachment A

Yellow Medicine One Watershed One Plan
Boundary Map



Attachment B

Scope of Services Provided by the Fiscal Agent

YMRWD will have the following duties:

1. Coordination of Plan Work Group (PWG) meetings, including:
 - a. Provide advance notice of meetings, at least one per year
 - b. Prepare and distribute the agenda and related materials
 - c. Prepare and distribute PWG meeting minutes
 - d. Maintain all records and documentation of the PWG
 - e. Develop a two-year implementation plan for the Biennial Summit
 - f. Develop a Biennial Budget Request (BBR) as required by BWSR
 - g. Conduct a five-year evaluation to determine if a Plan update is necessary
2. Coordination of Policy Committee meetings, including:
 - a. Provide advance notice of meetings
 - b. Prepare and distribute the agenda and related materials
 - c. Prepare and distribute Policy Committee meeting minutes
 - d. Maintain all records and documentation of the Policy Committee
 - e. Provide public notices for publication when required
 - f. Gather public comments from public hearing
 - g. Develop Plan Amendments if updating of the Plan is necessary
3. Coordination of Advisory Committee meetings, including:
 - a. Provide advance notice of meetings
 - b. Prepare and distribute the agenda and related materials
 - c. Prepare and distribute minutes
 - d. Maintain all records and documentation of the committees
4. Coordination of Biennial Summits, including:
 - a. Provide advance notice of meetings, at least one every other year
 - b. With assistance from PWG and direction by the Policy Committee:
 - 1) Report on progress
 - 2) Evaluate accomplishments
 - 3) Develop recommendations for change
5. Administration of grants for the purposes of plan implementation, including:
 - a. Execute the grant agreement, work plan and other necessary documents
 - b. Account for grant funds and prompt payment of bills incurred
 - c. Complete annual eLINK reporting and/or reporting required by other grants
 - d. Present an annual audit of grant funds and their usage

- e. Maintain all financial records and accounting consistent with the Fiscal Agent's records retention schedule until the termination of this Agreement. At that time, the fiscal records will be turned over to the Day-to-Day Contact.