

**LAC QUI PARLE-YELLOW BANK RIVER WATERSHED
JOINT POWERS COLLABORATION**

THIS AGREEMENT is made and entered into this ___ day of _____, 2022 (the “Effective Date”), by and between Lac qui Parle, Lincoln, and Yellow Medicine Counties (the “Counties”); and Lac qui Parle, Lincoln, and Yellow Medicine County Soil and Water Conservation Districts (the “Conservation Districts”); Area II Minnesota River Basin Projects (Area II) and the Lac qui Parle-Yellow Bank River Watershed District (the “Watershed District”), all Minnesota political subdivisions, collectively referred to herein as the Parties.

RECITALS

WHEREAS, the Counties have the statutory authority to carry out environmental programs and land use controls pursuant to Minn. Stat. Ch. 375, and as otherwise provided by law; and

WHEREAS, the Conservation Districts have the statutory authority to carry out erosion control and other soil and water conservation programs pursuant to Minn. Stat. Ch. 103C, and as otherwise provided by law; and

WHEREAS, the Watershed District has the 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 Minn. Stat. Chs. 103B, 103D, and 103F 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.171-103F.187 and as otherwise provided by law; and

WHEREAS, the Parties have a common interest and/or statutory authority to implement the Lac qui Parle – Yellow Bank Comprehensive Watershed Management Plan (the “Plan”) to conserve soil and water resources through the implementation of practices, programs, and regulatory controls that effectively control or prevent erosion, sedimentation, and siltation in order to reduce damages cause by floods, protect the tax base, protect water quality, preserve and conserve natural resources, and ensure continued soil productivity; and

WHEREAS, the Parties adopted the Plan and intend on working together to implement the priorities and goals of the Plan; and

WHEREAS, with matters that relate to coordination of water management authorities pursuant to Minn. Stat. Chs. 103B, 103C, and 103D, and public drainage systems pursuant to Minn. Stat. Ch. 103E, this Agreement does not change the rights or obligations of public drainage system authorities; and

WHEREAS, pursuant to Minn. Stat. § 103B.101, subd. 14, the Minnesota 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;” and

WHEREAS, it is understood by the Parties that the Plan does not replace or supplant local land use, planning, and/or zoning authorities – but, instead, provides a framework to provide increased opportunities for cooperation and consistency on a watershed basis, and to allow local governments units (LGUs) to cooperatively work together to implement projects and practices consistent with the Plan with the highest return

on investment for improving water quality/quantity issues on a watershed basis; and

WHEREAS, the Parties have formed this Agreement for the specific purpose of implementing the Plan pursuant to authority granted under Minn. Stat. § 103B.801.

NOW, THEREFORE, the Parties agree that the above recitals are true and correct, and in consideration of the foregoing recitals and mutual covenants, promises, and agreements under this Agreement, the Parties hereby agree as follows:

AGREEMENT

- 1. Purpose.** The purpose of this Agreement is to collectively implement, as local government units (LGUs), the Plan while providing assurances that decision-making, spanning political boundaries, is supported by a written commitment from participants. The Parties are authorized to enter into this Agreement pursuant to Minn. Stat. § 471.59 and recognize the importance of partnerships to implement protection and restoration efforts for the Lac qui Parle-Yellow Bank River Watershed Planning Areas on a cooperative and collaborative basis.
- 2. Relationship of the Parties.** This Agreement does not establish a joint powers entity; rather it 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.” Minn. Stat. § 471.59. This Agreement does not include a financial obligation, but rather an ability to share resources and grant funds.
- 3. Term.** This Agreement commences on the Effective Date and expires upon expiration of the Plan, which has an initial term of ten (10) years, unless terminated sooner as provided under this Agreement. If the term of the Plan is extended by the Parties, this Agreement shall extend equivalent to any subsequent term of the Plan, unless terminated sooner as provided under this Agreement.
- 4. Adding Parties.** A qualifying party within the Lac qui Parle and Yellow Bank Watersheds, that is responsible for water planning and resource management according to state law, desiring to become a member of this Agreement shall indicate its intent to join by having its governing body adopt a resolution of intent and filing it with the Policy Committee for consideration. The signed resolution shall be mailed to the existing Policy Committee to initiate consideration by the Policy Committee to join the Plan. Upon approval, the joining party automatically agrees to abide by the terms and conditions of this Agreement; including, but not limited to, the rules, policies, and operating guidelines adopted by the Policy Committee.
- 5. Withdrawal of Parties.** A party desiring to withdraw membership from the Plan shall indicate its intent, in writing, to the Policy Committee in the form of a resolution adopted by its governing body. Written notice must be made at least thirty (30) days in advance of withdrawing from the Plan. Any party that withdraws from the Plan remains obligated to comply with the terms of any grants that party has at the time of the party’s notice to withdraw, and is obligated to participate until the grant expires or closes-out.
- 6. Committees.** Committees are established to carry out the coordinated implementation of the Plan. The Parties agree to establish a Policy Committee and a Steering Committee in accordance with this Agreement and the Plan.
 - a. Policy Committee.** The Parties agree to establish the Policy Committee for the purpose of implementing the priorities and goals of the Plan. The Policy Committee will operate cooperatively and collaboratively, but not as a separate entity or governing body. The Parties agree to appoint one (1) representative, either an elected official or an appointed official (e.g. manager of the Watershed District) of the respective party, to serve on the Policy Committee. Each party’s

governing body may choose to appoint an alternate, either an elected or appointed official of the respective party, to serve on the Policy Committee in the event the appointed representative is unavailable. Each party will have one (1) vote regardless of whether they choose to appoint an alternate.

- i. Authority. The Policy Committee will make recommendations to the Fiscal Agent and to individual governing bodies with respect to grant agreements and amendments, interim reports, project related payments, professional contracts, work plans, budgets, and activities. Each representative is responsible for providing timely and accurate information to their respective governing bodies when actions are required by individual governing bodies of the Parties, and shall act only as directed by their respective governing bodies. The Policy Committee will meet as needed, but no less than annually, to decide on the implementation of the Plan.
 - ii. Operating Guidelines. The Policy Committee will establish operating guidelines to describe the functions and operations of the committees. Once established, the committees will follow the adopted operating guidelines. The Policy Committee may amend the operating guidelines as desired.
 - iii. Work Plan and Budget. The Policy Committee shall review and approve an annual work plan and budget consisting of an itemized statement of the revenues and expenses of the Plan for the ensuing calendar year which shall be presented to the respective governing bodies that are represented on the Policy Committee.
 - iv. Liaison. Representatives of the Policy Committee serve as liaisons to their respective governing bodies.
 - v. Primary Roles and Functions. The Policy Committee has the following primary roles and functions as provided in the Plan:
 1. Receive information regarding Plan implementation funds.
 2. Approve work plans, annually.
 3. Approve fiscal reports, annually.
 4. Review and confirm Steering Committee priority issue recommendations, annually.
 5. Direct the Steering Committee on addressing emerging issues.
 6. Approve Plan amendments for amendments not initiated and approved through statutory proceedings.
 7. Approve joint grant applications, if needed.
 8. Inform the Parties on Plan progress.
 9. Any additional roles and functions deemed appropriate by a majority of the Parties' governing bodies.
- b. **Steering Committee**. The Steering Committee will consist of one (1) staff member from each of the Parties or their alternate. The Steering Committee will provide support and make recommendations on implementing the Plan, including identification of priorities.
- i. Primary Roles and Functions. The Steering Committee has the following primary roles and functions as provided in the Plan:
 1. Review the status of available implementation funds determined by individual Plan participants.

2. Recommend the use of watershed-based implementation funds to the Policy Committee.
3. Research opportunities for collaborative grants.
4. Review and recommend annual fiscal reports.
5. Review and recommend annual reports submitted to BWSR.
6. Review and confirm priority issues, annually.
7. Evaluate and recommend response to emerging issues.
8. Prepare Plan amendments as directed by the Policy Committee.
9. Implement the Action Tables provided under the Plan.
10. Develop work plans, annually.
11. Convene implementation meetings with Plan review authorities, as needed.
12. Form subcommittees, as needed.
13. Compile results for assessments, annually.
14. Inform the Parties on Plan progress.
15. Any additional roles and functions deemed appropriate by a majority of the Parties' governing bodies.

c. **The Advisory Committee.** The Advisory Committee may consist of the Steering Team, stakeholders, the state's main water agencies, and/or plan review agencies. 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 meet as needed.

7. **Fiscal Agent.** The Policy Committee shall appoint one (1) Fiscal Agent. The appointed party may accept or reject the appointment. If the Policy Committee is not satisfied with the current Fiscal Agent, it may remove that Fiscal Agent and appoint a different Fiscal Agent.

The Fiscal Agent will provide direct time tracking and expenses for grant reimbursement. Local grant administration, management, and reporting that is directly related to and necessary for implementation are considered grant eligible activities. The Fiscal Agent agrees to:

- a. Accept fiscal responsibilities associated with grant agreements and execute the grant agreement in conjunction with the respective party receiving grant funds.
- b. Execute subcontracts with grant recipients describing how funds will be disbursed for the respective projects.
- c. Perform financial transactions as part of Plan implementation, including reporting requirements.
- d. Pursuant to Minn. Stat. § 471.59, subd. 3, be strictly accountable for all funds and regularly report all receipts and disbursements and annually provide interim/final reports and a full and complete audit report to the Policy Committee and the Parties' respective governing bodies.
- e. Provide the Policy Committee with such records as are necessary to describe the financial condition of the various grant agreements.
- f. Be responsible for fiscal records retention consistent with the Fiscal Agent's records retention schedule.
- g. Meet website grant reporting requirements.

8. **Plan Administrator.** The Policy Committee shall appoint one (1) Plan Administrator. Local grant administration, management, and reporting that is directly related to and necessary for implementation

are considered grant eligible activities. The Plan Administrator will provide direct time tracking for grant reimbursement to the Fiscal Agent. These duties may also be appointed to the Steering Committee. The Plan Administrator agrees to provide the following services under this Agreement:

- a. Handle administrative responsibilities associated with the implementation of the Plan and any subsequent grant(s), if any, the Parties apply for and receive.
- b. Be the main contact for the Plan and grant agreements, if any, the Parties apply for and receive.
- c. Be responsible for BWSR and other grant reporting requirements.
- d. Provide for proper public notice of all meetings.
- e. Ensure the minutes of Policy Committee meetings are recorded and made available in a timely manner to the Policy Committee and maintain a file of all approved minutes including corrections and changes.
- f. Assist the Policy Committee and the Steering Committee with the administrative details to oversee implementation of the Plan.
- g. Perform other duties to keep the Policy Committee and the Steering Committee informed regarding the implementation of the Plan.

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

Lac qui Parle County

Chessa Frahm or successor
County Water Planner
122 8th Ave South, Suite 1
Madison, MN 56256
Telephone: (320) 598-7321

Lac qui Parle SWCD

Chessa Frahm or successor
District Manager
122 8th Ave South, Suite 1
Madison, MN 56256
Telephone: (320) 598-7321

Lincoln County

Dale Sterzinger or successor
County Water Planner
200 S. Co Hwy 5, Suite 2
Ivanhoe, MN 56142
Telephone: (507)694-1630

Lincoln SWCD

Dale Sterzinger or successor
District Manager
200 S. Co Hwy 5, Suite 2
Ivanhoe, MN 56142
Telephone: (507)694-1630

Yellow Medicine County

Jolene Johnson or successor
County Water Planner
1000 10th Ave, Suite 2
Clarkfield, MN 56223
Telephone: (320) 669-7524

Yellow Medicine SWCD

Tyler Knutson or successor
District Director
1000 10th Ave, Suite 3
Clarkfield, MN 56223
Telephone: (320) 669-4442

Lac qui Parle-Yellow Bank WD

Trudy Hastad or successor
600 6th Street, Suite 7
Madison, MN 56256
Telephone: (320)598-3117

Area II Minnesota River Basin Projects

Kerry Netzke or successor
1424 E. College Drive, Suite 300
Marshall, MN 56258
Telephone: (507)537-6369

10. **Plan Implementation.** The Parties agree to begin implementation of the Plan within one hundred twenty (120) days of state approval and to provide notice of Plan adoption pursuant to the respective governing bodies' resolution adopting the Plan.
11. **Additional Documents.** The Policy Committee will create and implement operating guidelines, subcontracts, and cost share agreements. The operating guidelines describe the functions and operations of the committees. Subcontracts will be entered into between the Fiscal Agent and the respective party acting as project operator describing how funds will be disbursed for the project. Cost share agreements will be entered into between project operators and landowners describing how the project operator will disburse funds to participating landowners.
12. **Compliance with Laws.** The Parties agree to abide by all federal, state, and local laws, statutes, ordinances, rules, and regulations now in effect, or hereafter adopted, pertaining to this Agreement or to the Plan.
13. **Indemnification.** Each party to this Agreement shall be liable for the acts of its officers, employees, contractors, subcontractors, or agents and the results thereof to the extent authorized or limited by law and shall not be responsible for the acts of any other party, its officers, employees, contractors, subcontractors, or agents. The provisions of the Municipal Tort Claims Act found under Minn. Stat. Ch. 466, and other applicable laws, govern liability of the Parties. To the fullest extent permitted by law, actions by the Parties, and their respective officers, employees, contractors, subcontractors, and agents pursuant to this Agreement, are intended to be and shall be construed as a "cooperative activity." It is the intent of the Parties that they shall be deemed a "single governmental unit" for the purpose of liability, as set forth in Minn. Stat. § 471.59, subd. 1a(a) and does not create any liability or exposure of one party for the acts or omissions of any other party.
14. **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.
15. **Records Retention and Data Practices.** The Parties agree that each respective party will be responsible for any records prepared or maintained by that party, and all parties shall be subject to the Minnesota Government Data Practices Act. Record retention will follow the Fiscal Agent's retention schedule in accordance with Minn. Stat. § 138.17. If this Agreement is terminated, all records will be turned over to the Fiscal Agent for continued retention.
16. **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.
17. **Termination.** This Agreement may be terminated at any time before expiration upon written consent of a majority of the Parties hereto. The parties acknowledge their respective and applicable obligations, if any, under Minn. Stat. § 471.59, subd. 5 after the purpose of this Agreement has been terminated.
18. **Amendment.** Any amendment, addition, alteration, or deletion of any part of this Agreement can be introduced by the Policy Committee at any meeting. Upon thirty (30) days' advance written notice of the proposed amendment given to each party to this Agreement, the Policy Committee may enact the amendment, addition, alteration, or deletion of this Agreement upon ratification by each party to this Agreement.
19. **Severability.** In the event that any term, part, or provision of this Agreement is held to be invalid or unenforceable, all other terms, parts, and provisions will nevertheless continue to be valid and enforceable with the invalid or unenforceable term, part, or provision severed from the remainder of this Agreement.

20. **Entire Agreement.** This Agreement, the Plan, the operating guidelines, and any exhibits and amendments thereto, contains the entire and exclusive understanding of the Parties with respect to implementation of the Plan and supersedes all prior agreements, understandings, statements, representations, and negotiations, in each case oral or written, between the Parties with respect to their subject matter, except as otherwise provided herein.
21. **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Minnesota.
22. **Assignment.** The terms of this Agreement are hereby made binding upon the Parties hereto, their successors and assigns, and no party under this Agreement may assign their interest in this Agreement to any other person or entity without the written consent of the other Parties.
23. **Rules of Construction.** The Parties acknowledge that they have had the opportunity to review this Agreement, and that they have an equal bargaining position in this transaction. No rule of construction that would cause any ambiguity in any provision to be construed against the drafter of this document will be operative against any party to this Agreement.
24. **Representation.** The Parties, having been represented by counsel or having waived the right to counsel, have carefully read and understand the contents of this Agreement, and agree they have not been influenced by any representations or statements made by any other Parties.
25. **Counterparts.** This Agreement may be executed in counterparts, meaning that the Agreement is valid if signed by each party even if the signatures of the Parties appear on separate copies of the same Agreement rather than on a single document.
26. **Effective Date.** The Effective Date of this Agreement is the date of the last signature appearing below.

IN TESTIMONY WHEREOF, the Parties have executed this Agreement on the dates written below.

[Signatures appear on the following pages.]

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

PARTNER: LAC QUI PARLE COUNTY

APPROVED:

BY: _____
Board Chair Date

ATTEST: _____
(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: LAC QUI PARLE SOIL AND WATER CONSERVATION DISTRICT

APPROVED:

BY: _____
Board Chair Date

ATTEST: _____
(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: **LINCON COUNTY**

APPROVED:

BY: _____
Board Chair Date

ATTEST: _____
(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: _____
Board Chair Date

ATTEST: _____
(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: YELLOW MEDICINE COUNTY

APPROVED:

BY: _____
Board Chair Date

ATTEST: _____
(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: YELLOW MEDICINE SOIL AND WATER CONSERVATION DISTRICT

APPROVED:

BY: _____
Board Chair Date

ATTEST: _____
(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: LAC QUI PARLE-YELLOW BANK WATERSHED DISTRICT

APPROVED:

BY: _____
Board Chair Date

ATTEST: _____
(Name) (Title) Date

APPROVED AS TO FORM *(use if necessary)*

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

ATTEST: _____
(Name) (Title) Date

APPROVED AS TO FORM *(use if necessary)*

BY: _____
Attorney Date