APPENDIX A
Water Resource Related Agreements

JOINT POWERS AGREEMENT
BETWEEN DAKOTA COUNTY AND SCOTT COUNTY
FOR VERMILLION RIVER WATERSHED

WHEREAS, Minnesota Statutes § 471.59 authorizes local governmental units to jointly or cooperatively exercise any power common to the contracting parties; and

WHEREAS, pursuant to Minn. Stat. § 103B.231 a watershed management plan is required for watersheds comprising all minor watershed units wholly or partly within the metropolitan area, in accordance with the requirements of § 103B.205 to § 103B.255; and

WHEREAS, the Vermillion River Watershed is a watershed comprising minor watershed units wholly within the metropolitan area, specifically, within Dakota County and Scott County; and

WHEREAS, pursuant to Minn. Stat. § 103B.231 if a watershed management organization within the metropolitan area is terminated, the counties containing the watershed unit shall prepare, adopt, and implement the watershed plan and shall have the planning, review, permitting, and financing authority of a watershed management organization specified in Minn. Stat. §§ 103B.211 to 103B.255; and

WHEREAS, the Vermillion River Watershed Management Organization, consisting of 21 cities and towns located within the Vermillion River Watershed ceased to exist as of August 1, 2000; and

WHEREAS, Dakota County and Scott County desire to cooperatively carry out their responsibilities and duties pursuant to Minn. Stat. §§ 103B. 211 to 103B.255; and

WHEREAS, Dakota County and Scott County desire to do so pursuant to the authority granted to them pursuant to Minn. Stat. § 471.59.

NOW, THEREFORE, in consideration of the mutual promises and benefits that Dakota County and Scott County shall derive herefrom, Dakota County and Scott County hereby enter into this joint powers agreement for the purposes herein.

I. Purposes.

This Agreement has been executed by Dakota and Scott Counties for the purposes set forth at Minn. Stat. § 103B.201 within the political boundary of the Vermillion River watershed located in Dakota County and Scott County, as shown on the attached Map A, hereby incorporated by reference. Specifically, the purpose of this Agreement is to establish a joint powers board that will (1) exercise leadership in the development of policies, programs and projects that will promote the accomplishment of the purposes found at Minn. Stat. § 103B.201, including the preparation, adoption and implementation of the plan required by Minn. Stat. § 103B.211 for the Vermillion

River watershed and (2) guide and assist Dakota County and Scott County in acting jointly and individually to take actions that will promote the goals listed in Minn. Stat. § 103B.201 and fulfill their responsibilities under Chapter 103B.

II. Joint Powers Board.

A. Creation and Composition of Joint Powers Board.

A joint powers board, known as the Vermillion River Watershed Joint Powers Board (VRWJPB), is established for the purposes contained herein with the powers and duties set forth in this Agreement. The VRWJPB shall consist of one county commissioner from Scott County and two county commissioners from Dakota County. The board of commissioners of each county shall appoint, by resolution, its representative(s) to the VRWJPB, together with one alternate commissioner. Resolutions appointing representatives of each county shall be filed with the clerk to the board of commissioners of Dakota County.

B. Terms.

Each county representative and alternate shall be appointed for a two-year term, except that the terms of the initial members shall extend from the date of their appointment through December 31, 2004. In the event that any county representative or alternate shall not have been appointed by the board of commissioners prior to expiration of the representative's term, the incumbent representative shall serve until a successor has been appointed.

C. Vacancies.

If the appointment of any representative commissioner or alternate is vacated before the end of the term, the vacancy shall be filled by appointment by the appropriate county board of commissioners. A vacancy shall be deemed to have occurred when any of the conditions specified in Minn. Stat. § 351.02 exist or if a representative fails to qualify or act as a commissioner.

D. Chair and Vice-chair.

The VRWJPB shall elect a chair and a vice-chair from its membership for one-year terms. The chair shall preside at all meetings of the VRWJPB and shall perform other duties and functions as may be determined by the VRWJPB. The vice-chair shall preside over and act for the VRWJPB during the absence of the chair.

E. Secretary/Treasurer.

The VRWJPB shall elect a secretary/treasurer from its membership for a one-year term. The secretary/treasurer shall submit all minutes of VRWJPB

meetings for approval by the VRWJPB and shall assist the chair in overseeing the VRWJPB's budget and finances.

F. Meetings.

The VRWJPB shall have regular meetings at least annually and at such times and places as the VRWJPB shall determine. Special meetings may be held on reasonable notice by the chair or by a majority of the VRWJPB upon terms and conditions as the VRWJPB may determine. The presence of a majority of the VRWJPB at a meeting shall constitute a quorum. The VRWJPB shall be subject to the requirements of the Open Meeting Law, Minn. Stat. Ch. 13D.

G. Voting.

Each county representative shall be entitled to one vote. If a county representative is absent that county's alternate is entitled to one vote. If more than one Dakota County representative is absent, Dakota County's alternate shall be entitled to only one vote. The VRWJPB shall function by a majority vote of the county representatives present.

H. Staff.

Dakota County and Scott County shall provide staff support to the VRWJPB. Dakota County and Scott County shall provide legal services as needed, and in accordance with law.

I. Duties of the VRWJPB.

The VRWJPB shall have the responsibility to prepare, adopt and implement a plan for the Vermillion River watershed that meets the requirements of Minn. Stat. § 103B.231; the responsibility to review and approve local water management plans as provided in Minn. Stat. § 103B.235; the responsibility to regulate the use and development of land in the Vermillion River watershed if the conditions found at Minn. Stat. §. 103B.211, subd. 1(3)(i)(ii)(iii) are present.

III. Powers of the VRWJPB.

A. General Powers.

The VRWJPB is hereby authorized to exercise such authority as is necessary and proper to fulfill its purposes and perform the duties identified in paragraph II(I) above. Such authority shall include, but not be limited to, those specific powers enumerated in paragraph III (Sections B through I) herein. The VRWJPB may refer decisions for approval by the boards of commissioners of

Dakota County and Scott County. The VRWJPB shall not have the authority described at Minn. Stat. § 103B.211, subd. 1(a)(6).

B. Contracts.

The VRWJPB may enter into any contract necessary or proper for the exercise of its powers or the fulfillment of its duties and enforce such contracts to the extent available in equity or at law, including contracts with Dakota County and/or Scott County. Additionally, the VRWJPB may enter into agreements pursuant to Minn. Stat. § 471.59. The VRWJPB may approve any contract up to the amount included in the approved annual budget and may authorize its chair to execute these contracts. No payment on any invoice for services performed by a consultant or any other person or organization providing services in connection with this Agreement shall be authorized unless approved by the chair and vice-chair or by the chair and secretary/treasurer. The chair shall report to the VRWJPB and the VRWJPB shall ratify any such payments authorized under this provision at its next regular meeting.

C. Funds.

The VRWJPB may disburse funds in a manner which is consistent with the Agreement and with the method provided by law for the disbursement of funds by the parties to this Agreement.

D. Bylaws.

The VRWJPB shall have the power to adopt and amend such bylaws that it may deem necessary or desirable for the conduct of its business. Such bylaws shall be consistent with this Agreement and any applicable laws or regulations.

E. Grants and Loans.

The VRWJPB may apply for and accept gifts, grants or loans of money, other property or assistance from the United States government, the State of Minnesota, or any person, association or agency for any of its purposes; enter into any agreement in connection therewith; and hold, use and dispose of such money, other property and assistance in accordance with the terms of the gift, grant or loan relating thereto.

F. Property.

The VRWJPB may hold such property as may be required to accomplish the purposes of this Agreement and upon termination of this Agreement make distribution of such property as is provided for in this Agreement.

G. Insurance.

The VRWJPB may obtain any liability insurance or other insurance it deems necessary to insure itself and Dakota County and Scott County for action arising out of this Agreement.

H. Exercise of Powers.

All powers granted herein shall be exercised by the VRWJPB in a fiscally responsible manner and in accordance with the requirements of law. The purchasing and contracting requirements of the county which is the lead for the project shall apply to the VRWJPB.

I. Public Participation.

The VRWJPB shall provide for such public participation in the conduct of its activities as will promote understanding of its activities among the public and local governmental units affected by the activities and the informal resolution of disputes or complaints.

IV. Reservation of Authority.

All responsibilities not specifically set out to be jointly exercised by the VRWJPB under this Agreement are hereby reserved to the Counties.

V. Budgeting and Funding.

A. Budget.

By September 1 of each year, the VRWJPB shall adopt a budget for the following calendar year. Any proposed contribution from Dakota County or Scott County which the VRWJPB deems appropriate to be satisfied from the annual property tax levy must be recommended to Dakota County and Scott County prior to the date by which the counties shall establish their maximum levy pursuant to Minn. Stat. § 275.065, subd. 1. Other proposed contributions or assessments from Dakota County or Scott County may be made at any time.

B. County Funding.

If there is proposed funding from Dakota County or Scott County which is to be satisfied from the annual property tax levy, such proposed funding shall not become the obligation of either county unless and until the respective county has agreed to the funding as part of the county's annual budget and levy process pursuant to Minn. Stat. § 275.065. If there is proposed funding from Dakota County or Scott County which is not to be satisfied from the annual

property tax levy, such funding shall not become the obligation of either county until the respective county has agreed by resolution to the funding.

Any proposed funding from Dakota County or Scott County which has been included within the county's levy or which has been approved by resolution of the Dakota County or Scott County board of commissioners shall constitute an assessment against the county and shall be paid over to the VRWJPB pursuant to its terms, this Agreement, and as required by law.

C. Expenditure Policy.

Dakota County and Scott County agree that the budget for each year shall include expenditures which will benefit the portion of the Vermillion River Watershed located in Scott County.

D. Fiscal Agent.

Dakota County agrees to serve as the fiscal agent for the VRWJPB. Dakota County agrees to provide any and all budgeting and accounting services necessary or convenient for the VRWJPB. Such services include, but are not limited to, management of all funds, including county contributions and grant monies; payment for contracted services; relevant record keeping and bookkeeping. The treasurer/auditor of Dakota County shall act as controller for the VRWJPB and shall draw warrants to pay demands against the VRWJPB when the demands have been approved by the VRWJPB. Scott County retains the authority to request reports pertaining to any and all budgeting and accounting services. All interest earned from VRWJPB funds shall be credited back to that fund.

E. Accountability.

All funds shall be accounted for according to generally accepted accounting principles.

VI. Watershed Planning Commission.

As soon as practicable after appointment of the VRWJPB, the VRWJPB by resolution shall establish and make appointments to the Watershed Planning Commission (WPC). The VRWJPB shall utilize an open appointments process for making these appointments.

A. Responsibilities of WPC.

The WPC shall have the responsibility to advise the VRWJPB with respect to implementation of the VRWJPB's duties pursuant to this Agreement, including the responsibility to review, comment and recommend upon the proposed

watershed management plan; review, comment and recommend upon the proposed annual work plan and budget; and recommend action regarding disputes pursuant to section IX hereof.

B. Membership.

The WPC shall consist of nine members who are residents of the Vermillion River Watershed. One shall be from Scott County and eight shall be from Dakota County. WPC members shall be appointed to three-year staggered terms. WPC members must be and remain residents of the watershed and the County from which they were appointed. WPC members are limited to serving two consecutive terms.

C. Conflict of Interest.

If any WPC member has a financial interest or personal interest with respect to the parties involved, or stands to realize a financial or personal gain or loss with respect to an action on any matter coming before the WPC, that member shall disclose this fact and be disqualified from taking part in any discussion or action on the matter as a member of the WPC. The chair of the WPC shall make rulings on such disqualifications. Any WPC member who believes that the WPC chair should be disqualified from any matter hereunder may refer the matter to the vice-chair who shall make a ruling on such disqualification.

D. Compensation.

Members of the WPC shall be eligible to receive a per diem payment of $35 per meeting in lieu of expenses.

E. Officers.

The WPC shall elect a chair and vice-chair from among its members. The chair and vice-chair shall serve for one-year terms.

F. Meetings.

The WPC shall meet regularly pursuant to a schedule established by the WPC. Special meetings may be called by the chair. The WPC shall be subject to the Open Meeting Law, Minn. Stat. Ch. 13D.

G. Bylaws.

The WPC shall adopt bylaws governing its activities. Such bylaws shall be subject to approval by the VRWJPB and shall be consistent with law and terms of this Agreement.

H. Staff Support.

Dakota County and Scott County shall provide staff support to the WPC. The cost of such support will be funded through the budget of the VRWJPB. The VRWJPB also may make technical support available to the WPC.

VII. Indemnification.

If the VRWJPB incurs any expenses as a result of a claim for damages, the expenses and any damages paid shall be assessed against the counties in proportionate shares. Proportionality will be measured with reference to fault, percentage of county financial contribution, location of the project or other similar factors giving rise to the damages or expenses. Dakota County and Scott County hereby agree to indemnify, save, hold harmless and defend the VRWJPB, its officers, employees, and agents for negligent or intentional acts or omissions of itself, its officers, employees, and agents that result in expenses or damages assessed against the VRWJPB.

VIII. Records, Accounts, and Reports.

The books and records of the VRWJPB shall be subject to the provisions of Minn. Stat. Ch. 13. The VRWJPB annually shall give a complete written report of all financial activities for the previous fiscal year to the counties.

IX. Dispute Resolution.

Disputes between Dakota County and Scott County may be addressed by any means agreed upon by them, and may include the procedures set forth at Minn. Stat. § 103B.345.

X. Termination.

This Agreement shall terminate upon the withdrawal of either member county. Either county may withdraw upon one year's written notice to the other county. Withdrawal shall not act to discharge any liability incurred or chargeable to the withdrawing county before the effective date of the withdrawal. Such liability shall continue until discharged by law or agreement.

XI. Distribution of Surplus Funds and Property.

Upon termination of this Agreement, funds and property held by the VRWJPB shall then be distributed to Dakota County and Scott County in proportion to their contributions.

XII. Amendments.

This Agreement may be amended only in writing and upon consent of each of the county boards of commissioners of Dakota County and Scott County.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below.

Approved as to form:

_____
Assistant Dakota County Attorney/Date

COUNTY OF DAKOTA

By_____

Title Chair_____
Date of Signature_____

ATTEST:

_____
Title Clerk to the Board_____

Approved as to form:

_____
Assistant Scott County Attorney/Date

COUNTY OF SCOTT

By_____

Title Chair_____
Date of Signature_____

ATTEST:

_____
Title _____

K/K02-181 Vermillion River Watershed Board JPA