



Joint and Cooperative Agreement for the Mississippi Watershed Management Organization

City of Minneapolis



City of St. Paul



City of St. Anthony



City of Lauderdale



Minneapolis Park and Recreation Board

January 2002

Table of Contents

	Page
Membership	1
Article I Legal Purpose	2
Article II Definitions	3
Article III Board of Commissioners	5
Article IV Powers and Duties of the Board of Commissioners	7
Article V Operating Budget	10
Article VI Capital Budget	12
Article VII Duration	15
Article VIII Dissolution	16
Article IX Amendments	17
Article X Effective Date	18
Member Authorization	19
Legal Description	Appendix A
Watershed Boundaries	Appendix B

Membership

This Agreement entered into as of the date of execution by and among the following:

Cities of

Lauderdale
Minneapolis
St. Anthony
Saint Paul

and the Minneapolis Park and Recreation Board for the establishment of a Watershed Management Organization. The aforementioned cities and the Minneapolis Park and Recreation Board shall hereinafter be referred to as Members.

WHEREAS, the Members have authority pursuant to Minnesota Statutes, Section 471.59 to jointly and cooperatively by agreement exercise powers common to the contracting bodies pursuant to Minnesota Statutes, Section 103B.201 to 103B.251 and

WHEREAS, the Members desire to plan a comprehensive water management program in accordance with Minnesota Statutes, Sections 103B.201 to 103B.251;

NOW THEREFORE, the parties to this Agreement do mutually agree as follows:

Article I

Legal Purpose

The purpose of this Joint and Cooperative Agreement for the Mississippi Watershed Management Organization is to replace the Joint Powers Agreement for the Middle Mississippi River Watershed Management Organization executed in 1985 and the Joint and Cooperative Agreement for the Middle Mississippi River Watershed Management Organization of January 1997.

The purpose of the Mississippi Watershed Management Organization, as provided for in this Agreement, is to provide for the wise, long-term management of water and associated land resources within the watershed through implementation measures that realize multiple objectives, respect ecosystem principles, and cultural and historical community values. The Mississippi Watershed Management Organization seeks to: (a) protect, enhance, and restore the quality and quantity of surface and ground water resources within the Mississippi Watershed Management Organization jurisdiction; (b) protect, preserve, and use natural surface and ground water storage and retention systems; (c) efficiently utilize public capital expenditures needed to correct and control flooding and water quality problems; (d) identify and plan for means to use protect and improve surface and ground water quality; (e) establish more uniform local policies and official controls for surface and ground water management; (f) promote ground water recharge; (g) protect and enhance fish and wildlife habitat and water recreation facilities; (h) secure the other benefits associated with the proper management of surface and ground water; and (i) promote and encourage cooperation among Members and among other organizations in coordinating local comprehensive water management programs.

A legal description and map of the boundaries of the Mississippi Watershed Management Organization are included pursuant to Minnesota Rules 84010.0030, Subpart 1.B in Appendix A and B respectively of this Agreement.

Article II

Definitions

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

Subdivision 1: "Organization" is the Mississippi Watershed Management Organization.

Subdivision 2: "Commission" shall mean the governing body of the Organization and shall consist of a Commissioner or Alternate from each of its Members.

Subdivision 3: "Commissioner" shall mean any person appointed to the Commission by each Members governing body, or in the Commissioner's absence, the Alternate.

Subdivision 4: "Alternate" shall mean any person appointed to the Commission by each Member's governing body to represent the Member in the absence of the Commissioner.

Subdivision 5: "Council" shall mean the governing body of a Member. In the case of municipalities, this shall be the elected officials responsible for governing the city and for Minneapolis Park & Recreation Board, its Board of Commissioners.

Subdivision 6: "Member" or 'Member Community' shall mean any city, county, or special purpose government entity within the watershed that enters into this Agreement.

Subdivision 7: "Agreement" shall mean the "Joint and Cooperative Agreement adopted by the member councils creating and the establishing the Mississippi Watershed Management Organization.

Subdivision 8: "Plan" shall mean the Watershed Management Plan adopted by the Mississippi Watershed Management Organization.

Subdivision 9: "Watershed" means the area contained within a line drawn around the extremities of all terrain whose surface drainage is tributary to the Mississippi River and within the mapped areas reasonably demonstrated on the map identified as Appendix B, as defined within the legal description identified in Appendix A.

Subdivision 10: "Act" is defined as the Metropolitan Surface Water Management Act as found in Minnesota Statutes, Sections 103B.201 to 103B.251.

Subdivision 11: "Operating Budget" refers to the administrative expenses incurred by the Organization.

Subdivision 12: "Capital Improvement Project" shall mean a physical improvement project other than routine maintenance within the Watershed Management Organization boundaries.

Subdivision 13: "Majority" shall be defined as greater than half of the quorum.

Subdivision 14: "Subwatershed" a smaller geographic section of a larger watershed unit with a drainage area whose boundaries include all the land area draining to a point.

Subdivision 15: "Year" shall mean from January 1 to December 31.

Subdivision 16: "Quorum" shall mean the number of Commissioners or Alternates required to be present for business to be legally transacted. This number shall be any number which is greater than half of the Members. Any number less than a quorum may adjourn a scheduled meeting.

Article III

Board of Commissioners

Subdivision 1: The governing body of the Organization shall be its Commission which shall consist of five (5) voting Commissioners. Each Commissioner shall have one vote. All appointments to the Commission shall be in accordance with Minnesota Statutes 103B.227. The Board of Water and Soil Resources shall be notified of all appointments and vacancies of the Commission within 30 days. All vacancies shall be filled within ninety (90) days after they occur. Notices of all vacancies and appointments shall be published in a legal publication of the Members community appointing the Commissioner at least fifteen (15) days prior to the appointment. Vacancies shall be filled for the remainder of the term by the Council who appointed or had the right to appoint the Commissioner. The Council of each Member shall appoint one (1) Commissioner to represent the Member to the Commission. Each Commissioner shall serve until his or her successor is appointed.

Subdivision 2: A Commissioner may not be removed from the Commission except for just cause by the Council that made the appointment.

Subdivision 3: Member Councils may select and appoint alternates to the Commission in the same manner as Commissioners. In the absence of a Member's Commissioner, the designated Alternate may vote and act in the Commissioner's place. The Alternate shall serve a term concurrent with the Member's Commissioner.

Subdivision 4: Each Member's Council shall, within thirty (30) days of appointment, file with the Secretary of the Commission a record of the appointment of its Commissioner and Alternate. The Commission shall notify the Board of Water and Soil Resources of Member appointments and vacancies within thirty (30) days after receiving notice from the Member.

Subdivision 5: The Council of each Member shall determine the eligibility and qualifications of its Commissioner and Alternate. However, the terms of each Commissioner shall be as established by this Agreement.

Subdivision 6: Regular meetings shall be held by the Commission periodically at the time and place determined by the Commission pursuant to open meeting law, Minnesota State Statutes 471.705.

Subdivision 7: At the first meeting of the Commission each year and each calendar year thereafter, staff will confer with Commissioners and recommend officers for the various positions on the Commission. At the first meeting of the Commission and each calendar year thereafter, the Commission shall elect from its Members a chairperson, a vice chairperson, a treasurer, a secretary, and such other officers as it deems necessary to conduct its meetings and affairs.

Subdivision 8: The Commission shall adopt those bylaws and procedures necessary for the conduct of its meetings. Such rules may be amended at either a regular or special meeting of the Commission provided that a ten (10) day prior notice of the proposed amendment has been furnished to each Commissioner and Alternate to whom notice of meetings is required to be sent.

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Subdivision 9: The Commission may create such committees, task forces or working groups as needed to accomplish its mission.

Subdivision 10: Commissioners shall serve without compensation from the Organization, but this shall not prevent a Member's Council from providing compensation for its Commissioner for serving on the Commission, if such compensation is authorized by such governmental unit and by law.

Article IV

Powers and Duties of the Board of Commissioners

Subdivision 1: The Commission shall employ such persons, as it deems necessary to accomplish its duties and powers. The Commission may hire staff on a full time, part time or consulting basis. The Commission may also incur expenses and expenditures necessary and incidental to the effectuation and/or implementation of its purposes and powers.

Subdivision 2: In order for the Commission to conduct business, a quorum must be present. Decisions by the Commission require a majority vote of the quorum present.

Subdivision 3: The Commission shall have an established Citizen Advisory Committee and Technical Advisory Committee to provide input and to serve in an advisory role.

Subdivision 4: The Commission shall review and approve a Local Water Management Plan for each of its Member Communities as established under Minnesota Statutes, Chapter 103B. Approval of the plan shall require no more than a majority vote.

Subdivision 5: The Commission may acquire, operate, construct, and maintain capital improvement projects delineated in the Watershed Management Organization Watershed Management Plan for the protection, enhancement, and improvement of the watershed.

Subdivision 6: The Commission shall make a reasonable attempt to assess the compatibility of proposed capital improvement projects with other existing policies, programs, and projects within the MWMO and across its boundaries. In particular, compatibility with neighborhood association and community council plans in the project area should be considered. An informal review should occur at least two months before the capital improvement project proposal is approved in the MWMO budget.

Subdivision 7: The Commission shall develop a comprehensive Watershed Management Organization Watershed Management Plan to meet the requirements of Minnesota Statutes, Chapter 103B. The plan shall establish comprehensive goals and policies for the protection, enhancement, and improvement of the watershed, and shall establish specific implementation strategies to realize these goals and policies.

Subdivision 8: The Commission shall have the power to contract with any governmental unit, private or nonprofit association to accomplish the purposes for which it is organized.

Subdivision 9: The Commission has the authority to apply for, accept, and use grants, loans, money or other property from the United States, the State of Minnesota, a unit of government or any person or entity for the Organization. The Organization may use and dispose of such money or property for any expenses/fees, policies, goals, capital improvement projects, or any use the Organization deems necessary to pursue its goals and policies.

Subdivision 10: The Commission may establish and maintain devices for acquiring and recording hydrologic and water quality data within the watershed.

Subdivision 11: The Commission may contract for, or purchase such insurance, as they deem necessary for the protection of the Commission.

Subdivision 12: The Commission shall have the authority to invite governmental entities within the area of the watershed to join the Organization. Furthermore, any governmental entities within the area of the watershed may petition for membership in the Organization. The addition of new Members shall require a majority vote of the Commission and appropriate resolution by current Member Councils. The effective date shall be the date of filing by the last Council resolution approving the addition. As Members are added to the Organization, there shall be created one voting Commissioner. Furthermore, as each new Member is added, the cost shares of the operating budget (Article V, Subdivision 3) will be reassessed.

Subdivision 13: The Commission has the authority to contract for the space, equipment, and supplies to carry on its activities either with an individual Member or elsewhere.

Subdivision 14: The Commission may investigate on its own initiative or upon petition of any Member, complaints relating to the pollution of surface or ground water in the watershed. Upon a finding that the watershed is being polluted, the Commission may take appropriate action to alleviate the pollution including recommending enforcement and other regulatory actions to the appropriate jurisdiction.

Subdivision 15: Commissioners and staff may enter upon lands within or without the watershed to make surveys and investigations to accomplish the purposes, goals and policies of the Organization. Such entrance shall occur after obtaining a duly executed search warrant, with permission of the property owner, or when a search warrant for access to the property is not required. The Commission shall be liable for actual damages resulting therefrom, subject to the limitations of Minnesota Statutes Section 466.01, et. seq. Every person who claims damages shall serve the Chair or Secretary of the Commission with a notice of claim as required by Minnesota Statutes, Chapter 466.05.

Subdivision 16: The Commission may vote to provide legal and technical assistance in connection with litigation or other proceedings between one or more of its Members and any other political subdivision, commission, board or agency relating to the planning or construction of capital improvement projects approved by the Organization.

Subdivision 17: The Commission shall at least every 2 years solicit interest proposals for professional or technical consultant services before retaining the services of a consultant or extending annual service agreements.

Subdivision 18: The Commission may designate one or more national or state bank or trust companies authorized by Chapters 118 or 427 of Minnesota Statutes to receive deposits of public moneys to act as depositories for the Organization's funds. No funds may be disbursed without the signature of the Chair and the Treasurer. The Treasurer shall be required to file with the Secretary of the Commission a bond in the sum of at least \$10,000 or such higher amount as shall be determined by the Commission. The Commission shall pay the premium on said bond.

Subdivision 19: The Commission may exercise all other powers necessary and incidental to the implementation of the purposes and powers set forth herein.

Article V

Operating Budget

Subdivision 1: The Commission shall adopt an operating budget for the ensuing year on or before September 1 of each year. The budget shall then be certified by the Secretary of the Commission on or before October 1 to the clerk of each Members Council together with a statement of the proportion of the budget to be provided by each Member. The Council of each Member agrees to review the budget. The Commission shall upon notice from any Member received prior to November 1, hear objections to the budget. Such notice shall be written to the Commission's Secretary and delivered by certified mail to their principal business address. The Commission, upon notice delivered by US Mail to all Members and after a hearing, may modify or amend the budget. If no objections are submitted to the Commission, each Member agrees to provide the funds required by the budget on or before February 1. Modifications or amendments to the original budget require a majority vote. The operating budget shall not exceed \$20,000 annually.

Subdivision 2: The Commission has the duty to make a full and complete financial accounting report to each Member at least once annually. A certified public accountant shall perform the audit of the Organization. The report shall include the approved budget; a reporting of revenues; a reporting of expenditures; 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 the status of all Commission projects and work within the watershed; copies of said report shall be transmitted to the clerk, or appropriate staff member of each Member's Council.

Subdivision 3: Member contributions to the operating budget will be determined on a percentage basis of the geographic area of each Member's properties and jurisdictional boundaries within the watershed, excluding properties owned by the Minneapolis Park and Recreation Board. The Minneapolis Park and Recreation Board share shall be determined by that portion of property owned by them. This assessment shall be allocated as follows:

<u>Member</u>	<u>Share</u>
Minneapolis	94.3%
St. Anthony	3.3%
Saint Paul	1.4%
Minneapolis Park and Recreation Board	0.6%
Lauderdale	0.4%

Subdivision 4: Projects or other necessary expenditures which cannot be accomplished through the capital budget and would exceed the cost of the operating budget of Article V, Subdivision 1, shall be addressed by mutual agreement of the affected Members outside of this Agreement.

Article VI

Capital Budget

Subdivision 1: The Members recognize that on-going capital expenditures will be required to solve some of the water resource problems within the watershed. For the purposes of this Agreement, capital improvement projects are those determined necessary to implement the Organization's Capital Improvement Program.

Subdivision 2: Capital Projects will be financed over the entire watershed.

Subdivision 3: In order to finance an approved capital improvement project, the Commission may levy an ad valorem tax against the entire watershed.

Subdivision 4: Approval of capital improvement projects shall require a majority vote of the quorum present and other such bodies as required by law. Capital improvement projects shall be financed in accordance with Minnesota Statutes, 103B and 103D.

Subdivision 5: The Commission shall have the authority to prepare and adopt a Capital Improvement Program as defined in Minnesota Statutes 103B.205 Subdivision 3 as part of the Watershed Management Plan. The Capital Improvement Program shall set forth the schedule of capital projects identified in the Watershed Management Plan as well as designating Members for participation in each project and estimating the total costs for such projects. Projects not identified in the Watershed Management Organization Watershed Management Plan shall not be included in the Capital Improvement Program until and unless the Watershed Management Organization Watershed Management Plan is amended to include such projects. Implementation of the Capital Improvement Program will begin upon adoption of the Watershed Management Organization Watershed Management Plan subject to the availability of funding.

Subdivision 6: All capital improvement projects need to be listed in the Watershed Management Plan.

Subdivision 7: All capital improvement project proposals for the following year must be submitted to staff before May 1 so that the proposed capital budget can be submitted to the Commissioners during the May

Commission meeting. All WMO capital improvement project proposals for subsequent fiscal year(s) must be submitted to WMO staff before May 1st of the extant budget year. By the August Commission meeting within this extant budget year, presentation of this proposed capital budget will be submitted to the Commissioners.

Subdivision 8: Funding for any and all capital improvement projects may only occur if the project(s) is in the approved capital budget.

Subdivision 9: Beginning with the year the Watershed Management Plan is adopted, the Commission shall submit, by June 1, a draft capital budget to the clerk of Member's Council for their review. The Council of each Member may review and comment on the budget. The Commission shall upon notice from any Member received prior to August 1, hear objections to the budget. Such notice shall be written to the Commission's Secretary and delivered by certified mail to their principal business address. The Commission, upon notice delivered by US Mail to all Members and after a hearing, may modify or amend the budget. The MMRWMO Commission shall hold a public hearing in accordance with Minnesota Statutes 103B and 103D on the proposed capital budget. On or before September 15 of each year, the Commissioners shall adopt a capital budget for the next year and decide on the total amount to be raised from ad valorem tax levies. By the September 15 of each year the budget shall be certified by the Secretary of the Commission to the County, Counties or the clerk or appropriate staff member of each Member's Council together with a statement of the proportion of the budget to be provided.

Subdivision 10: If the Organization is responsible for the planning, design, acquisition, relocation, or construction of an approved capital project on behalf of a Member, each Member having a financial obligation therefore, shall also provide to the Organization the funds required by the budget from that member on or before February 1.

If the Member is responsible for the completion of the capital project, the Organization's approved share of the project cost coming from its tax levy will be reimbursed to the member from actual tax revenues received in a manner agreed to. The Member being reimbursed for project costs by the Organization shall agree to be responsible for providing any requested documentation of costs requested by the Organization or its auditors.

Subdivision 11: Projects will be funded in the watershed on the basis of potential merit to all the Members and according to the criteria established in the MWMO Watershed Management Plan. Annually a review

shall take place showing how much each Member has contributed to the watershed levy and how much each Member has benefited from projects undertaken in their jurisdiction. Funds generated through the annual levy in the cities of St. Anthony, St. Paul, and Lauderdale, will be made available to that member community if capital improvement projects have been designated in the MWMO Watershed Management Plan and approved in the MWMO capital budget.

Subdivision 12: If a member has a capital improvement project designated for a future year, all generated funds collected as part of an approved capital budget for said project may be held in an account and designated for the project per MN Statute 103B.241 Subd. 1.

Subdivision 13: If a member has no designated capital improvement projects, all generated funds will be placed in a general account for use by those members with designated capital improvement projects.

Article VII

Duration

Each Member agrees to be bound by the terms of this Agreement until January 1, 2010, and it may be continued thereafter upon the agreement of all Members.

Article VIII

Dissolution

Any Member may petition the Commission to dissolve the Organization. Upon thirty days advance written notice to each Member, the Commission shall hold a hearing to consider dissolution of the Organization. If a majority of the Commission votes in favor of dissolution, the Commission shall submit a resolution for dissolution of the Organization for consideration by each Member's Council, the board of each affected County and the Minnesota Board of Water and Soil Resources. Each governmental unit shall have 90 days in which to consider dissolution of the Organization. If, within 90 days of the date the notice was given, a majority of Members' Councils has ratified said resolution; then the Organization shall be dissolved and this Agreement shall be terminated.

Upon dissolution, the Organization shall complete all work in progress and dispose of all personal property. All property of the Organization shall be sold and the proceeds thereof, together with moneys on hand, shall be distributed to the eligible Members of the Commission as follows: assets derived from contributions to the operating budget shall be apportioned and distributed to each Member in the percentage by which the Member contributed to the Organization under the last annual budget; assets derived from the Capital Improvement Budget shall be apportioned and distributed on an asset by asset basis to each Member in the percentage by which the Member contributed to the specific asset.

Article IX

Amendments

Any Member may recommend to the Commission amendments to this Agreement. Upon a majority vote, amendments to this Agreement shall be forwarded by the Commission to its Members' Councils. No amendment shall be effective until the amendment has been ratified by the Council of each Member. The effective date of any amendment shall be the date on which the last Member's Council ratifies the amendment and is filed with the Secretary of the Commission.

Article X

Effective Date

This Agreement shall be adopted upon ratification by the Council of each Member and the execution of the Agreement by each Member. Upon voting to ratify the Agreement, the clerk of the Council of the ratifying Member shall file a certified copy of the resolution of the ratification with the Clerk of the City of Minneapolis. The effective date of the Agreement shall be the later of January 1, 1997; or the date on which the last Member to ratify files its resolution of ratification. Upon adoption of this Agreement, the Minneapolis City Clerk shall supply to each Member and the Board of Water and Soil Resources a copy of the Members' ratification resolutions and a copy of the signed Agreement.

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

City of Lauderdale

By: _____ Dated: _____, 20____

Jeffrey Dains, Mayor

Attest: _____ Dated: _____, 20____

Rick Getschow, City Administrator

City of Minneapolis

By: _____ Dated: _____, 20_____
R.T. Rybak, Mayor

Attest: _____ Dated: _____, 20_____
City Clerk

Countersigned: _____ Dated: _____, 20_____
Finance Officer

Approved as to Form

By: _____ Dated: _____, 20_____
Assistant City Attorney

City of St. Anthony

By: _____ Dated: _____, 20____

Randy Hodson, Mayor

Attest: _____ Dated: _____, 20____

Michael Mornson, City Manager

City of Saint Paul

By: _____ Dated: _____, 20_____
Randy Kelly, Mayor

Attest: _____ Dated: _____, 20_____
Director of Finance and Management Service

Approved as to Form

By: _____ Dated: _____, 20_____
Assistant City Attorney

Minneapolis Park and Recreation Board

By: _____ Dated: _____, 20 _____

Bob Fine, President MPRB

Attest: _____ Dated: _____, 20 _____

Norman Merrifield, Assistant Superintendent for Administration

Approved as to Form, Legality, and Execution

By: _____ Dated: _____, 20 _____

MPRB Attorney

Appendix A: Legal Description

Appendix B: Mississippi Watershed Management Organization Map