

**AMENDMENT TO JOINT POWERS AGREEMENT  
TO PROTECT AND MANAGE THE VADNAIS LAKE  
AREA WATERSHED**

THIS AMENDMENT is made and entered into as of the last date of execution by and between the participating units of local government of the cities of Gem Lake, Lino Lakes, North Oaks, Vadnais Heights and White Bear Lake and the Township of White Bear (hereinafter collectively referred to as “Members”); and

**WHEREAS**, the parties have agreed that it is reasonable, appropriate and in the best interests of the public to amend the Agreement as hereinafter set forth.

**NOW, THEREFORE**, said Agreement is amended, as follows:

1. Section VI is amended by adding new Subdivision 24 as follows:

**Subdivision 24. Storm Sewer Utility.**

- 1) The Board may establish, operate and fund a storm sewer utility in accordance with Minnesota Statutes, Section 444.075 and subject only to the limitations thereof and of this Agreement. The utility may include all storm sewer systems and facilities including ditch systems transferred to the Commission pursuant to Minnesota Statutes, Section 103B.211, Subd.1(a)(4), drainage systems conveying surface water between Member jurisdictional boundaries and any other activities and facilities authorized by Minnesota Statutes, Section 444.075.
- 2) The Board may enter into such contracts with Members, other units of government or other parties as the Board deems reasonable and necessary for the operation of the storm sewer utility, including but not limited to, contracts for construction, operation, repair and maintenance of facilities, and for collection of storm sewer charges.
- 3) The Board may not establish rates at an amount that will result in annual charges of more than the Total Maximum Utility Charges without the consent of a majority of the Members by resolution by their governing bodies. The Total Maximum Utility Charges for 2008 are \$400,000; for 2009 is \$425,000; for 2010 is \$450,000 and, for 2011 is \$475,000.
- 4) The Board may set and collect fees and charges for expenses of the utility in accordance with Minnesota Statutes, Section 444.075.
- 5) The Board may adopt and enforce rules and regulations for the operation of the storm sewer utility.

- 6) Any Member may create, operate and maintain its own storm sewer utility and collect fees and charges for its own storm sewer facilities. Such utility may be operated independently by the Member or cooperatively by agreement between the Commission and the Member.
  - 7) The Board is not authorized to issue and sell obligations to finance its utility.
2. Section VI is amended by adding new Subdivision 25 as follows:

**Subdivision 25. County Tax Levy.** The Board shall have the authority to certify for payment by the counties all or any part of the cost of a capital project contained in the capital improvement program of the Watershed Management Plan, in accordance with Minnesota Statutes, Section 103B.251.

3. Section VI is amended by adding new Subdivision 26 as follows:

**Subdivision 26. Funding of Capital Projects.** Capital projects may be funded by Member contributions in accordance with Subdivision 6 of this Section, Storm Sewer Utility Charges in accordance with Subdivision 24 of this Section, a County Tax Levy in accordance with Subdivision 25 of this Section, by separate agreement between the Commission and all Members contributing to the cost of a project, or any combination of such means of funding.

4. Section VIII is amended in its entirety to read, as follows:

## **VIII FINANCING VLAWMO**

**Subdivision 1. Annual Operating Budget.** On or before July 1<sup>st</sup> of each year, the Board shall prepare a proposed annual operating budget for the following calendar year. The budget shall provide funds to operate VLAWMO for the next calendar year.

The annual operating budget may be funded by one or more of the following:

- 1) A special tax levy authorized by the State of Minnesota;
- 2) VLAWMO operated Storm Water Utility authorized by the State of Minnesota;
- 3) Annual payment from each governmental unit party to this agreement and other entities based on an annual assessment as determined in Subdivision 2 in this Section; and
- 4) Service fees, grants, interest or other funding sources as available.

Each Member shall pay its annual assessment in the following manner:

- 1) The entire amount shall be due by January 31; or
- 2) One-half (1/2) of each Member's entire amount shall be due by January 31 and the second one-half (1/2) of the entire amount shall be due by August 31.

Failure to pay the required amounts by the due dates will cause a one (1) percent per month service fee to be added to the unpaid amount due.

**Subdivision 2. Budget Meeting and Approval.** The proposed annual Operating and Capital Improvement budgets for the next calendar year shall be prepared by July 1 of each calendar year. Each Member shall review the proposed operating budget and may make comments to the Board regarding the operating budget on or before October 15<sup>th</sup> of each year. After submission of comments by Members, the Board shall consider said comments and shall adopt a final operating budget on or before October 15 of each year. The Secretary shall certify and prepare a statement showing the approved operating budget and the assessed amount to be paid by each Member on or before October 31 each year.

**Subdivision 3. Annual Assessment for Services.**

The annual contribution of each Member or other entity shall be calculated upon the following formula:

- 1) Forty percent (40%) based upon the assessed valuation of all real property of each governmental unit within the Area;
- 2) Forty percent (40%) based upon the total area of the property within each governmental unit within the Area; and
- 3) Twenty percent (20%) based upon the population of each governmental unit within the Area.

**Subdivision 4. Capital Improvement Projects Program and Funding.** On or before July 1 of each year the Board shall prepare a proposed capital improvements program and budget for projects to be started or completed in the following year as described in the Water Plan and shall submit the same for review and comment by the Members. Each proposed project shall be described and its estimated cost and time for completion shall be provided. Only projects described in the Watershed Management Plan or its amendments may be included in the capital improvement budget. Funding in the capital improvement budget shall be calculated as follows:

- 1) If money raised by the Special tax levy or by the Storm Water Utility is to be used for Capital Projects, the Members shall be provided the opportunity to review and comment on the amount of the tax levy that will be used for Capital Projects within sixty (60) days of receipt of the Board's Capital Improvement Budget;
- 2) If a capital project is to be funded wholly or in part by one or more governmental unit(s), they will be provided the opportunity to review and comment on the capital improvement budget within sixty (60) days of receipt of the Board's Capital Improvement Budget; and
- 3) If service fees, grants, interest or other funding sources are available the source and amounts of such funds shall be shown.

If comments regarding the capital improvement program and budget are received, such comments will be considered by the Board when it approves the Capital Improvement Program and Budget. Each governmental unit shall contribute its budgeted share of the cost of constructing said capital improvement projects.

**Subdivision 5. Appeals.** In the event a member objects to the allocation of the Members' share of the Operating and/or the Capital Improvement Budgets for the next calendar year, it may appeal the determination of the VLAWMO Board to final and binding arbitration by filing a written appeal with an officer of the Board, within thirty (30) days of receipt of the Board's determination of the allocation. The arbitration procedure set forth in Section VII, subdivision 8., shall be followed.

**Subdivision 6. Governmental Unit Financing.** Members may establish a watershed management tax district in the Area for the purpose of paying costs of the engineering and planning required to develop a watershed management plan for the Area. After the plan is adopted and approved, a tax district may be established for the purpose of paying capital costs of projects described in the plan (including normal and routine maintenance of projects). If required, the tax district shall be established by ordinance adopted after a hearing by a local government unit, following provisions of Minn. Stat. Chapter 103B.

**Subdivision 7. Reserve Funds.** The Board may accumulate reserve funds for the purposes herein mentioned and may invest funds of the Board not currently needed for its operations in the manner and subject of the laws of Minnesota applicable to statutory cities. Any and all reserve funds must be clearly indicated on the annual financial audit provided to the Members.

**Subdivision 8. Gifts; Grants; Loans.** VLAWMO may, within the scope of this Agreement, accept gifts, apply for and use grants or loans of money or other property from the United States, the State of Minnesota, a unit of government or other governmental unit or organization or any person or entity for the purposes described herein; may enter into any reasonable agreement

required in connection therewith, shall comply with any laws or regulations applicable thereto, and may hold, use and dispose of such money or property in accordance with the terms of the gift, grant, loan or agreement related thereto.

This Amendment may be executed in several counterparts and all counterparts so executed shall constitute one agreement that is binding on all of the Members notwithstanding that all of the Members are not signatory to the original of the same counterpart.

**IN WITNESS WHEREOF**, the following parties have executed this Amendment on the day of last execution hereof by all parties:

**CITY OF GEM LAKE** By: \_\_\_\_\_  
Mayor

Dated: \_\_\_\_/\_\_\_\_/\_\_\_\_ Attest: \_\_\_\_\_  
City Clerk

**CITY OF LINO LAKES** By: \_\_\_\_\_  
Mayor

Dated: \_\_\_\_/\_\_\_\_/\_\_\_\_ Attest: \_\_\_\_\_  
City Clerk

**CITY OF NORTH OAKS** By: \_\_\_\_\_  
Mayor

Dated: \_\_\_\_/\_\_\_\_/\_\_\_\_ Attest: \_\_\_\_\_  
City Clerk

**CITY OF VADNAIS HEIGHTS** By: \_\_\_\_\_  
Mayor

Dated: \_\_\_\_/\_\_\_\_/\_\_\_\_ Attest: \_\_\_\_\_  
City Clerk

**CITY OF WHITE BEAR LAKE** By: \_\_\_\_\_  
Mayor

Dated: \_\_\_\_/\_\_\_\_/\_\_\_\_ Attest: \_\_\_\_\_  
City Clerk

**WHITE BEAR TOWNSHIP** By: \_\_\_\_\_  
Chair

Dated: \_\_\_\_/\_\_\_\_/\_\_\_\_ Attest: \_\_\_\_\_