

JOINT POWERS AGREEMENT

The parties to this Agreement are all governmental units existing pursuant to the laws of the State of Minnesota. This Agreement is made and entered into pursuant to Minnesota Statutes, Section 471.59.

WITNESSETH:

WHEREAS, pursuant to Minnesota Statutes, Section 471.59 (Joint Exercise of Powers), governmental units may enter into an agreement through the action of their respective governing bodies to 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; and

WHEREAS, the operation of publicly owned treatment works and associated water quality standards present significant environmental and economic issues for governmental units; and

WHEREAS, governmental units have a responsibility to their citizenry to monitor and study the science associated with operating publicly owned treatment works and associated environmental standards to ensure that appropriate standards are being applied which protect the public health and are based on sound scientific and economic analysis.

NOW, THEREFORE BE IT RESOLVED, that in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. Purpose. The purpose of this Agreement is to establish a board that will review and analyze the scientific and economic foundations of state and federal environmental standards, develop methods and programs to improve environmental protection, and communicate information and findings to governmental bodies and agencies, the public, and other interested parties. The initial focus of the board established by this agreement will be the review and evaluation of water quality standards and their applications.
2. Minnesota Environmental Science and Economic Review Board. The parties hereto agree to identify this Agreement and the resulting governing joint powers board, as established in paragraph 3 of this Agreement, as the Minnesota Environmental Science and Economic Review Board (MESERB).

3. Joint Powers Board.

- a. **Establishment; Representation.** The development, management, and control of the Minnesota Environmental Science and Economic Review Board shall be vested in a joint powers board. The joint powers board shall be composed of representatives appointed by each of the member governmental units. Each member governmental unit shall designate one (1) director representative to serve on the joint powers board. Each member governmental unit shall also designate one (1) alternate representative who shall be entitled to attend meetings of the joint powers board and who may vote in the absence of the member's director representative.
- b. **Term.** Each designated director representative and alternate representative of a member governmental unit on the joint powers board shall serve a term of one (1) year or until successors are duly appointed by the governing body of the member governmental unit.
- c. **Vacancy.** A vacancy on the joint powers board shall be filled by appointment by the respective governing body of the member governmental unit left unrepresented by the vacancy.
- d. **Voting; Quorum.** Except as otherwise provided, the transaction of business by the joint powers board shall be by majority vote of those board members present at a meeting at which a quorum is present. At all meetings of the joint powers board, one-half (½) of the board members currently serving on the board shall constitute a quorum for the transaction of business.
- e. **Meetings.** Regular meetings of the joint powers board shall be held at least one (1) time per fiscal year, as called by the president. Except as otherwise provided by law, a meeting of the joint powers board may be conducted either in person, or if authorized by law or by action of the Board of Government Innovation and Cooperation, in writing without a meeting or by telephone conference call or other interactive telecommunication. For action taken in writing without a meeting, concurrence of all director representatives serving on the joint powers board on the date of the written action shall be required.
- f. **Executive Committee.** The joint powers board may establish an executive committee to conduct business on behalf of the joint powers board as delegated to the executive committee by the joint powers board.
- g. **Advisory Committee.** The joint powers board may establish an advisory committee made up of city officials and others interested in environmental issues to study, review and make recommendations to the joint powers board.

not limited to, the making of contracts or the initiation or participation in any proceedings at law in which the organization may have an interest, to make effective the general purposes, powers and duties established in this Agreement.

5. Election of Officers. The following persons are hereby designated as the first officers of the Minnesota Environmental Science and Economic Review Board to serve in the capacities set opposite their names until July 1, 1999 or until their successors are duly elected and qualified as provided for in this paragraph:

President	Mr. George Rosati, Public Works Director, City of Mankato
Vice President	Mr. Lyle Zimmerman, Wastewater Plant Manager, City of Rochester
Treasurer	Mr. Eric Sorensen, City Manager, City of Winona
Secretary	Mr. Eric Sorensen, City Manager, City of Winona

The joint powers board shall hold an annual meeting prior to July 1 of each year to elect a president, vice-president, secretary, and treasurer. Any officer serving at the time of an election may be re-elected for an additional term(s). The president and vice-president shall be elected by the joint powers board from those representative directors serving on the joint powers board. The president and vice-president shall not be the same person, and shall not be the secretary or treasurer. The secretary and treasurer may be the same person but need not be a representative of a member governmental unit serving on the joint powers board.

6. Membership. Any governmental unit located within the state of Minnesota that operates a publicly owned wastewater treatment facility within its jurisdiction or is part of a multi-jurisdictional treatment system may become a member of the Minnesota Environmental Science and Economic Review Board. The initial members of the Minnesota Environmental Science and Economic Review Board shall be those governmental units who have executed a copy of this Agreement on or before December 31, 1997 and submitted the same along with payment of its assessment, as provided in paragraph 8 of this Agreement, to the treasurer of the organization as provided in paragraph 5 of this Agreement. Governmental units seeking to join the Minnesota Environmental Science and Economic Review Board after December 31, 1997, shall be admitted only upon executing and submitting an identical copy of this Agreement to the treasurer of the Minnesota Environmental Science and Economic Review Board and upon approval of membership by the joint powers board.

7. Associate Members. The joint powers board may establish a non-voting associate membership category along with corresponding application procedures and charges for

governmental entities, businesses, and others interested in participating in the organization's programs.

8. Assessments. Funding for the Minnesota Environmental Science and Economic Review Board shall be provided by assessments paid by participating member governmental units. The assessment for the first year of existence of the Minnesota Environmental Science and Economic Review Board is \$.50 per water billing account existing in the most recently completed fiscal year up to a maximum of 15,000 accounts, the sum of which must be remitted to the joint powers board within sixty (60) days of joining the Minnesota Environmental Science and Economic Review Board. After the initial year of existence ending December 31, 1997, the joint powers board shall establish at its annual meeting as provided in paragraph 5 of this Agreement, an assessment for member governmental units. The treasurer shall notify each governmental unit of its assessment by August 1 of each fiscal year and each member shall remit payment of its respective assessment within sixty (60) days of receipt of notification from the treasurer.
9. Termination. This Agreement shall remain in effect until terminated by action of the joint powers board of the Minnesota Environmental Science and Economic Review Board at a duly qualified meeting. If the joint powers board is terminated, all assets acquired as a result of the joint exercise of powers pursuant to this Agreement remaining after the date of termination and after payment of any outstanding debts or expenses, shall be returned to those member governmental units in good standing on the date of termination in proportion to the respective contributions made by the member governmental unit.

Any individual governmental unit participating in this Agreement may elect to withdraw from participation in the Minnesota Environmental Science and Economic Review Board at any time upon adoption of a resolution of its governing body to that effect submitted to the joint powers board of the Minnesota Environmental Science and Economic Review Board. A withdrawing individual governmental unit shall not be entitled to the return of any assessments previously paid.
10. Governing Law. This Agreement is made pursuant to and shall be construed in accordance with the laws of the state of Minnesota.
11. Severability. In the event that any provision of this Agreement is determined to be invalid, illegal, or unenforceable by any court of competent jurisdiction, or by reason of any existing or subsequently enacted legislation, the other provisions of this Agreement shall remain in full force and effect, and the parties hereto shall negotiate in good faith and agree to such amendments or modifications of or to this Agreement or other appropriate actions as shall, to the maximum extent practicable, in light of such determination, implement and give effect to the intentions of the parties hereto.
12. Amendment. This Agreement may be amended only according to the following

procedure:

- a. Proposed amendments must be submitted to the joint powers board of the Minnesota Environmental Science and Economic Review Board for review and approval. Proposed amendments must receive a majority vote of those board members present at a duly qualified meeting at which the vote is taken to be deemed approved. Prior to a meeting of the joint powers board at which amendment of this Agreement is proposed, each member governmental unit shall be given ten (10) days prior written notice of the meeting and the proposed amendment.
 - b. Should an amendment receive the requisite approval from the joint powers board as provided in paragraph 12 (a), the amendment shall be submitted to each member governmental unit represented on the joint powers board. The amendment shall not be enacted unless adopted by resolution of the governing body of each member governmental unit represented on the joint powers board. For purposes of adopting an amendment, member governmental units are those governmental units represented on joint powers board on the date a proposed amendment was approved by the joint powers board.
13. Accounting. The treasurer's city, as designated in this Agreement or another city as designated by the joint powers board, shall be responsible for the accounting for the joint powers board, except that any audit, if deemed necessary by action of the joint powers board, shall be performed by an independent consultant as selected by the joint powers board. The treasurer shall report to the joint powers board regarding the organization's finances, including revenues and expenditures for the fiscal year, at the organization's annual meeting.
14. Mutual Indemnification. Each member governmental unit of MESERB shall be liable for its own acts or omissions to the extent provided by law and hereby agrees to indemnify, save, defend, and hold harmless the other constituent member governmental units, their officers and employees against any and all liability, loss, costs, damages, expenses, claims or actions, including attorney's fees which member governmental units, their officers and employees may hereafter sustain, incur or be required to pay, arising out of or by reason of any act or omission of member governmental units, their agents or employees in connection with membership in MESERB or in the execution, performance or failure to adequately perform its obligations pursuant to this Agreement.
15. Statutory Liability Limits. Unless otherwise provided by law, joining MESERB shall not constitute a waiver of a member governmental unit's statutory liability limits or result in the stacking of such limits.
16. Employees of Member Governmental Units and Consultants. Employees or officials of a member governmental unit or consultant performing a function, task or any other activity

on behalf of MESERB shall not be considered employees of MESERB for any purpose and shall at all times remain employees of the member governmental unit or consultant. MESERB or its member governmental units shall not be responsible or liable for the payment of wages or any other remuneration to another member governmental unit's employee(s) notwithstanding the fact that such employee(s) may from time to time provide services which benefit MESERB.

17. Insurance Coverage Required. The joint powers board shall obtain and maintain liability coverage from a qualified insurance carrier. In the event that procured liability coverage does not cover a particular act or omission, each individual member governmental unit shall not be individually liable unless required by law, in which case any such liability shall be apportioned equally amongst the member governmental units.
18. Non-discrimination. The joint powers board shall not discriminate because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, or age.
19. Data Practices. Unless otherwise provided by law, MESERB shall be subject to the Minnesota Data Practices Act.
20. Captions and Headings. Captions and headings in this Agreement are for ease of reference only and are not intended to alter the terms of this Agreement.

IN WITNESS WHEREOF, the undersigned governmental unit, pursuant to an authorizing resolution of its respective governing body, has caused this Agreement to be signed and delivered on its behalf this ____ day of _____, 2009.

(Name of Governmental Unit)

BY _____

Its _____

BY _____

Its _____