

**JOINT POWERS AGREEMENT BETWEEN THE METROPOLITAN SOIL AND WATER
CONSERVATION DISTRICTS TECHNICAL SERVICE AREA JOINT POWERS BOARD AND
DAKOTA COUNTY SOIL AND WATER CONSERVATION DISTRICT FOR ENGINEERING AND
TECHNICAL ASSISTANCE SPECIAL PROGRAM SERVICES**

January 1, 2020 through December 31, 2022

THIS AGREEMENT (Agreement) is made by and between the Metropolitan Soil and Water Conservation Districts Technical Service Area Joint Powers Board, also referred to as Metro Conservation Districts (MCD) and the Dakota Soil and Water Conservation District (Host District).

WHEREAS, MCD is a joint powers board created to assist with special programs for the mutual benefit of its members; and

WHEREAS, the members of MCD are located in the State of Minnesota Board of Water and Soil Resources (BWSR) Technical Service Area 4 which serves the eleven county metropolitan area; and

WHEREAS, the MCD Board reviewed and submitted, or will review and submit, a Non Point Engineering Assistance Program (NPEAP) Base Grant request and an Enhanced Shared Technical Services Grant request to BWSR, hereafter referred to as Engineering and Technical Assistance (ETA), for providing assistance to landowners in the metropolitan area for non point engineering projects and operating expenses; and

WHEREAS, ETA is a special program of the MCD and is included in the MCD 2020-2022 Plan of Work and Budget and amendments thereto, incorporated herein by reference and kept at the office of the MCD Administrative Services Provider; and

WHEREAS, the Districts through approval of the MCD 2020-2022 Plan of Work and Budget agree MCD may enter into this agreement with a District to provide Host services to the MCD for the ETA Program in accordance with the aforementioned work plan and grant agreements; and

WHEREAS, Minnesota Statutes, Section 471.59, Subd. 10 provides that two or more governmental units may by Agreement jointly exercise any power common to the contracting Parties and as such the Host District may enter into this Agreement with MCD to perform on behalf of MCD any service or function that the Host District is authorized to provide for itself.

NOW THEREFORE, in consideration of the mutual agreements set forth herein the parties agree as follows:

1. **Term.** Notwithstanding the date of the signatures of the parties, the term of this Agreement is January 1, 2020 through December 31, 2022 or until terminated by law or in accordance with the terms of this Agreement.
2. **Purpose.** The purpose of this Agreement is to codify the obligations of the MCD, ETA Participants, and the ETA Host District as defined in the MCD 2020-2022 Plan of Work and Budget
3. **Services.** The MCD requests and the Host District agrees to provide ETA Host services as defined in the MCD 2020-2022 Plan of Work and Budget.
4. **Payment.** The MCD will pay the ETA Host District for services in the amount of \$38,000 as provided in the MCD 2020-2022 Plan of Work and Budget, as amended. The Host District will submit an invoice to MCD for payment under this Agreement based on actual hours worked, at the most current BWSR billable rate.

5. **Independent Contractor.** The Host District is an independent contractor and nothing in this Agreement shall be construed to create the relationship of employer and employee between the MCD and the Host District.
6. **Indemnification.** The Host District agrees to indemnify and save and hold the MCD, its officers, employees and agents harmless from any and all claims or causes of action arising from the performance of this Agreement by the Host District or its officers, employees and agents. This paragraph does not bar any legal remedies the Host District may have against MCD for its failure to fulfill its obligations under this Agreement. The Host District will reimburse the MCD for reasonable attorneys' fees if MCD is the prevailing party in litigation to enforce any of the terms of this Agreement.

To the full extent permitted by law, actions by the Parties pursuant to this Agreement are intended to be and shall be construed as a "cooperative activity" and 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 Minnesota Statutes, Section 471.59, subd. 1a(a); provided further that for purposes of that statute, each Party to this Agreement expressly declines responsibility for the acts or omissions of the other Party. This Agreement to indemnify and hold harmless does not constitute a waiver by any participant of limitations on liability provided under Minnesota States Statutes, Section 466.04.


7. **Insurance.** The Host District will procure insurance necessary to cover the errors and omissions of the Host District's employees performing services under the terms of this Agreement.
8. **Compliance with Laws.** The parties shall abide by all Federal, State or local laws; statutes, ordinances, rules and regulations pertaining to this Agreement and this Agreement shall be construed in accordance with the substantive and procedural laws of the State of Minnesota. All proceedings related to this Agreement shall be venued in the County of the Host District.
9. **Ownership.** All work product, data compilations, and materials of any kind prepared pursuant to this Agreement, regardless of the format in which they exist will become the sole and exclusive property of the MCD upon the completion of this Agreement. However, any of MCD's member Districts may use portions or excerpts from the materials prepared pursuant to this Agreement. It is further agreed that the MCD and its member Districts have unlimited rights to use, duplicate and make derivative works of the same, with no obligation for an accounting to the Host District.
10. **Records/Audits.** The Host District's bonds, records, documents, papers, accounting procedures and practices, and other evidences relevant to this Agreement are subject to the examination, duplication, transcription and audit by the MCD and either the Legislative or State Auditor, pursuant to Minn. Stat. § 16C.05, subd. 5. Such evidences are also subject to review by the Comptroller General of the United States, or a duly authorized representative, if federal funds are used for any work under this Agreement. The Host District agrees to maintain such evidences for a period of six (6) years from the date services or payment were last provided or made or longer if any audit in progress requires a longer retention period.
11. **Data Privacy.** For purposes of this Agreement all data on individuals collected, created, received, maintained or disseminated shall be administered consistent with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, and the Minnesota Rules implementing the Act now in force or hereafter adopted as well as Federal laws on data privacy.
12. **Non-Discrimination.** The Host District agrees that, in coordinating the hiring of all labor for the performance of any work under this Agreement, it will not, by reason of race, creed, color, sex, national origin, disability, sexual orientation, age, marital status or public assistance status, discriminate against any person who is a citizen of the United States and who qualifies and is available to perform the work to which such employment relates. The Host District agrees to comply with all Federal, State, and local non-discrimination laws and ordinances, in particular the

applicable provisions of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972. When required by law or requested by the MCD, the Host District shall furnish a written affirmative action plan.

- 13. **Termination.** This Agreement terminates on December 31, 2022 or, if earlier when BWSR grant funding is no longer available. Either party may terminate this Agreement with or without cause with 90 days prior written notice to the other party.
- 14. **Amendments.** Any amendment to this Agreement shall be in writing and signed by the same parties who signed the original Agreement or their successors in office. An Amendment must be requested in writing before the end of this Agreement.
- 15. **Entire Agreement.** This Agreement contains the entire agreement of the parties and supersedes all oral and written agreements and negotiations by the parties relating to the subject matter of this Agreement.


IN WITNESS WHEREOF, the parties to this Agreement have hereunto set their hands on the dates written below:

**METROPOLITAN SOIL AND WATER CONSERVATION DISTRICTS TECHNICAL SERVICE AREA
JOINT POWERS BOARD**

BY:  12/5/19
Chair, MCD Board Date

Pursuant to action taken by the MCD Board on on 11/20/19.

DAKOTA SOIL AND WATER CONSERVATION DISTRICT

BY:  12/5/19
Chair, Board of Supervisors Date

Pursuant to action taken by the District's Board of Supervisors on 12/5/19.