Example Memorandum of Agreement (MOA)

The following example MOA is provided as a starting point for meeting the *One Watershed, One Plan* requirement to have a clearly outlined decision-making process incorporated into the formal agreement and/or bylaws between participating local units of government. Please note:

- This is just one example of an MOA; many other formats exist and may be used as long as the MOA and associated bylaws clearly outline the decision-making process to be used by the representatives of authorized local units of government for plan development and submittal.
- Where possible, a line is provided to indicate where information should be considered and entered, and italics are used for comments further describing purpose or options.
- Assistance from the legal counsel of the participating organization is recommended in the development of agreements and bylaws.
- Item 5b. (*Submittal of the Plan*) outlines two possible methods for an integrated review process intended to: meet statutory requirements for the plans being replaced; streamline the formal review process through joint submittal to the Board of Water and Soil Resources (BWSR); and ensure local adoption and implementation of the final watershed-based plan. Other methods may be proposed to BWSR as long as these factors are addressed.
- In a cover letter and/or presentation to the boards of the respective parties, consider providing context and expectations for Policy Committee membership. An example is provided below:

  **Policy Committee Membership Expectations**

  1. Actively attend and participate in all scheduled meetings* of the Policy Committee.
  2. Actively engage in the decision-making process for watershed-based planning with the understanding that goals, objectives, and action items of the water plan must be prioritized, targeted, and measurable.
  3. Initiate and/or assist with providing opportunities for constituents to be apprised of updated progress of the watershed-based planning process.
  4. Regularly update their respective Boards on the progress of the watershed planning process.
  5. Utilize the technical resources of their respective entities to assist and inform their decisions in the water planning process.

  *Consider also including an anticipated meeting schedule and frequency, for example “first meeting of the Policy Committee will be in.... The committee will meet approximately monthly through....” Also consider including a generalized outline of anticipated topics throughout the schedule to build interest and provide an anticipated pace of progress.

***DELETE THIS PAGE PRIOR TO USING THIS TEMPLATE***
MEMORANDUM OF AGREEMENT

This agreement (Agreement) is made and entered into by and between:

The Counties of __________, __________, and __________ by and through their respective County Board of Commissioners, and

The __________, __________, and __________ Soil and Water Conservation Districts, by and through their respective Soil and Water Conservation District Board of Supervisors, and

The __________, __________, and __________ Watershed Districts, by and through their respective Board of Managers,

(add more parties as necessary);

Collectively referred to as the “Parties.”

WHEREAS, the Counties of this Agreement are political subdivisions of the State of Minnesota, with authority to carry out environmental programs and land use controls, pursuant to Minnesota Statutes Chapter 375 and as otherwise provided by law; and

WHEREAS, the Soil and Water Conservation Districts (SWCDs) of this Agreement are political subdivisions of the State of Minnesota, with statutory authority to carry out erosion control and other soil and water conservation programs, pursuant to Minnesota Statutes Chapter 103C and as otherwise provided by law; and

WHEREAS, the Watershed Districts of this Agreement are political subdivisions of the State of Minnesota, with statutory authority to carry out conservation of the natural resources of the state by land use controls, flood control, and other conservation projects for the protection of the public health and welfare and the provident use of the natural resources, pursuant to Minnesota Statutes Chapters 103B, 103D and as otherwise provided by law; and

WHEREAS, the parties to this Agreement have a common interest and statutory authority to prepare, adopt, and assure implementation of a comprehensive watershed management plan in ________________________ Watershed to conserve soil and water resources through the implementation of practices, programs, and regulatory controls that effectively control or prevent erosion, sedimentation, siltation and related pollution in order to preserve natural resources, ensure continued soil productivity, protect water quality, reduce damages caused by floods, preserve wildlife, protect the tax base, and protect public lands and waters; and

WHEREAS, with matters that relate to coordination of water management authorities pursuant to Minnesota Statutes Chapters 103B, 103C, and 103D with public drainage systems pursuant to Minnesota Statutes Chapter 103E, this Agreement does not change the rights or obligations of the public drainage system authorities.

WHEREAS, the Parties have formed this Agreement for the specific goal of developing a plan pursuant to Minnesota Statutes § 103B.101, subd. 14, also known as One Watershed, One Plan.

WHEREAS, (consider additional clauses as necessary)
NOW, THEREFORE, the Parties hereto agree as follows:

1. **Purpose:** The Parties to this Agreement recognize the importance of partnerships to plan and implement protection and restoration efforts for the ____________________________
   (insert name of planning area and/or include an Attachment A with a map of the planning area). The purpose of this Agreement is to collectively develop and adopt, as local government units, a coordinated watershed management plan for implementation per the provisions of the Plan. Parties signing this agreement will be collectively referred to as ____________________________
   (insert a name the Parties can be collectively referred to as, if applicable).

2. **Term:** This Agreement is effective upon signature of all Parties in consideration of the Board of Water and Soil Resources (BWSR) Operating Procedures for One Watershed, One Plan; and will remain in effect until canceled according to the provisions of this Agreement, unless earlier terminated by law.

3. **Adding Additional Parties:** A qualifying party desiring to become a member of this Agreement shall indicate its intent by adoption of a board resolution prior to (insert date). The party agrees to abide by the terms and conditions of the Agreement; including but not limited to the bylaws, policies and procedures adopted by the Policy Committee.

4. **Removal of Parties:** A party desiring to leave the membership of this Agreement shall indicate its intent in writing to the Policy Committee in the form of an official board resolution. Notice must be made at least 30 days in advance of leaving the Agreement.

5. **General Provisions:**

   a. **Compliance with Laws/Standards:** The Parties agree to abide by all Federal, State, and local laws; statutes, ordinances, rules and regulations now in effect or hereafter adopted pertaining to this Agreement or to the facilities, programs, and staff for which the Agreement is responsible.

   b. **Indemnification:** Each party to this Agreement shall be liable for the acts of its officers, employees or agents and the results thereof to the extent authorized or limited by law and shall not be responsible for the acts of any other party, its officers, employees or agents. The provisions of the Municipal Tort Claims Act, Minnesota Statute Chapter 466 and other applicable laws govern liability of the Parties. To the full extent permitted by law, actions by the Parties, their respective officers, employees, and agents pursuant to this Agreement are intended to be and shall be construed as a “cooperative activity.” 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 § 471.59, subd. 1a(a). For purposes of Minnesota Statutes § 471.59, subd. 1a(a) it is the intent of each party that this Agreement does not create any liability or exposure of one party for the acts or omissions of any other party.

   c. **Records Retention and Data Practices:** The Parties agree that records created pursuant to the terms of this Agreement will be retained in a manner that meets their respective entity’s records
retention schedules that have been reviewed and approved by the State in accordance with Minnesota Statutes § 138.17. The Parties further agree that records prepared or maintained in furtherance of the agreement shall be subject to the Minnesota Government Data Practices Act. At the time this agreement expires, all records will be turned over to the ________________ for continued retention.

d. **Timeliness:** The Parties agree to perform obligations under this Agreement in a timely manner and keep each other informed about any delays that may occur.

e. **Termination:** The Parties anticipate that this Agreement will remain in full force and effect through the term of the grant agreement with BWSR and until canceled by all Parties (may want a specific end date. The end date must at a minimum encompass the end date of the grant agreement with BWSR for plan development.), unless otherwise terminated in accordance with law or other provisions of this Agreement.

f. **Extension:** The Parties may extend the termination date of this Agreement upon agreement by all Parties.

g. *(Consider including additional general provisions as necessary, e.g. amendments, full agreement, appeal process etc.)*

6. **Administration:**

a. **Establishment of Committees for Development of the Plan.** The Parties agree to designate one representative, who must be an elected or appointed member of the governing board, to a Policy Committee for development of the watershed-based plan *(consider including “and appointment of one or more technical representatives to an Advisory Committee for development of the watershed-based plan.” However, this addition can cause delays in process).*

   i. The Policy Committee will meet monthly or as needed to decide on the content of the plan, serve as a liaison to their respective boards, and act on behalf of their Board. Each representative shall have one vote.

   ii. The governing boards may choose alternates from their boards to serve on the Policy Committee as needed.

   iii. The Policy Committee will establish bylaws by ________________ *(enter date or state within X days of execution of this document).*

   iv. The Advisory Committee will meet monthly or as needed to assist and provide technical support and make recommendations to the Policy Committee on the development and content of the plan. Members of the Advisory Committee may not be a board member of any of the Parties.
b. **Submittal of the Plan.** The Policy Committee will recommend the plan to the Parties of this agreement. The Policy Committee will be responsible for initiating a formal review process for the watershed-based plan conforming to Minnesota Statutes Chapters 103B and 103D, including public hearings. *(May also consider: Each party will be responsible for initiating a local review and comment process that conforms to Minnesota Statutes Chapters 103B and 103D, including required public hearings.)* Upon completion of local review and comment, and approval of the plan for submittal by each party, the Policy Committee will submit the watershed-based plan jointly to BWSR for review and approval.

c. **Adoption of the Plan.** The Parties agree to adopt and begin implementation of the plan within 120 days of receiving notice of state approval, and provide notice of plan adoption pursuant to Minnesota Statutes Chapters 103B and 103D.

7. **Fiscal Agent:** ___________________________ will act as the fiscal agent for the purposes of this Agreement and agrees to:

   a. Accept all responsibilities associated with the implementation of the BWSR grant agreement for developing a watershed-based plan.

   b. Perform financial transactions as part of grant agreement and contract implementation.

   c. Annually provide a full and complete audit report.

   d. Provide the Policy Committee with the records necessary to describe the financial condition of the BWSR grant agreement.

   e. Retain fiscal records consistent with the agent’s records retention schedule until termination of the agreement (at that time, records will be turned over to ___________________________).

8. **Grant Administration:** ___________________________ will act as the grant administrator for the purposes of this Agreement and agrees to provide the following services:

   a. Accept all day-to-day responsibilities associated with the implementation of the BWSR grant agreement for developing a watershed-based plan, including being the primary BWSR contact for the One Watershed, One Plan Grant Agreement and being responsible for BWSR reporting requirements associated with the grant agreement.

   b. Provide the Policy Committee with the records necessary to describe the planning condition of the BWSR grant agreement.

9. The ___________________________ (enter local government name) agrees to provide the following services to the partnership (or enter name of the partnership if identified in the purpose above).

   *(Enter any additional services that will be provided by an individual local government unit to the partnership within this item, if applicable and necessary. Specifically, may want to consider services of the*
secretary outlined in the bylaws template. Repeat for each local government providing a specific service. Alternately, services can be outlined in an attachment referenced here, e.g. “The __________’s Scope of Services: The services set forth in Attachment B are a general scope of services provided by the __________ to the partnership.”

10. **Authorized Representatives:** The following persons will be the primary contacts for all matters concerning this Agreement:

<table>
<thead>
<tr>
<th>County Administrator</th>
<th>District Administrator</th>
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<tbody>
<tr>
<td>(enter name)</td>
<td>(enter name)</td>
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<tr>
<td>(enter address)</td>
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<tr>
<td>Telephone: _________</td>
<td>Telephone: __________</td>
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<th>Watershed District</th>
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<tr>
<td>(enter name)</td>
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<td>(enter address)</td>
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<td>Telephone: _________</td>
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IN TESTIMONY WHEREOF the Parties have duly executed this agreement by their duly authorized officers. 
(Repeat this page for each participant)

PARTNER: ________________________________

APPROVED:

BY: __________________________________________
    Board Chair                              Date

BY: __________________________________________
    District Manager/Administrator            Date

APPROVED AS TO FORM (use if necessary)

BY: __________________________________________
    County Attorney                          Date
Attachment A

(insert map of planning area)
Attachment B

Scope of Services Provided by the

____________________________________

The ___________________________ will have the following duties (*the following are examples and should be modified to meet local need, including additional attachments if services are split between multiple parties*):

EXAMPLE 1:

1. Identifying potential contracted service providers for process facilitation, plan writing, GIS, mapping, data analysis, monitoring activities, or any other technical services needed throughout the process.

2. Ensure that goals, objectives, and action items of the plan produced are prioritized, targeted, and measurable.

3. Assist with data compilation, meeting facilitation, and plan writing.

4. Upon review and approval by the Policy Committee, establishing and managing contracted services for above mentioned activities.

5. Coordination of Policy Committee meetings, including establishing date, location, time, and any necessary accommodations such as refreshments.

6. Coordination and facilitation of Advisory Committee meetings including establishing date, location, time, space, technology needs, and any necessary accommodations such as refreshments.

7. Coordination of public meetings as required by *Minnesota Statutes Chapter 103B and 103D as part of the formal review process for the watershed-based plan*, including establishing date, location, time, technology needs, presenters, and any necessary accommodations such as refreshments.

8. Administration of the grant with BWSR for the purposes of developing a watershed-based plan, including reporting, process oversight, consistent planning and update meetings with BWSR staff, and overall coordination of the process.
EXAMPLE 2:

1. Coordination of Policy Committee meetings, including:
   a. Provide advance notice of meetings;
   b. Prepare and distribute the Agenda and related materials;
   c. Prepare and distribute Policy Committee Minutes;
   d. Maintain all records and documentation of the Policy Committee;
   e. Provide public notices to the counties and watershed district for publication; and
   f. Gather public comments from public hearing and prepare for submittal.

2. Coordination of Advisory Committee meetings, including the technical and citizen subcommittees, including:
   a. Provide advance notice of meetings;
   b. Prepare and Distribute the Agenda and related materials;
   c. Prepare and Distribute Minutes; and
   d. Maintain all records and documentation of the committees.

3. Administration of the grant with BWSR for the purposes of developing a watershed-based plan, including:
   a. Submit this Agreement, work plan, and other documents as required;
   b. Execute the grant agreement;
   c. Account for grant funds and prompt payment of bills incurred;
   d. Complete annual eLINK reporting;
   e. Present an annual audit of grant funds and their usage; and
   f. Maintain all financial records and accounting.

4. Contracting for Services with the chosen consultant for plan preparation and writing of the watershed-based plan, including:
   a. Execute the Contract for Services agreement;
   b. Oversee expenditures incurred by the consultant;
   c. Provide prompt payment for services rendered; and
   d. Serve as primary contact person with the consultant.