

**AMENDED JOINT POWERS AGREEMENT
TO PROVIDE RECYCLING COORDINATOR SERVICES**

THIS AMENDED JOINT POWERS AGREEMENT TO PROVIDE RECYCLING COORDINATOR SERVICES (Agreement) is made and executed this ____ day of _____, 2017, by and among the City of West St. Paul (“West St. Paul”), the City of South St. Paul (“South St. Paul”), the City of Mendota Heights (“Mendota Heights”) and the City of Sunfish Lake (“Sunfish Lake”) (hereinafter individually referred to as a “City” and collectively referred to as the “Cities”).

RECITALS

WHEREAS, on October 10, 2016, West St. Paul and South St. Paul entered into a joint powers agreement entitled “Agreement to Provide Recycling Coordinator Services,” which was amended on February 27, 2017 to add Mendota Heights; and

WHEREAS, Sunfish Lake has expressed interest in joining with South St. Paul, West St. Paul and Mendota Heights in sharing the services of a Recycling Coordinator to assist with performance of basic recycling program related services within Sunfish Lake; and

WHEREAS, West St. Paul, South St. Paul, and Mendota Heights have agreed to enter into this Agreement with Sunfish Lake, which shall replace the February 27, 2017 Agreement; and

WHEREAS, each City receives Dakota County Community Funding grants to assist in performing basic recycling services.

NOW THEREFORE, in consideration of the mutual consideration contained herein, it is hereby agreed as follows:

AGREEMENT

1. **AUTHORITY.** This Agreement is entered into pursuant to Minnesota Statutes §471.59.
2. **PURPOSE.** The purpose of this Agreement is to provide recycling coordinator services for the Cities.
3. **RECYCLING COORDINATOR SERVICES.** A Recycling Coordinator will be hired as an employee of West St. Paul, and shall perform the basic services of the recycling program (the “Program”) for the Cities.
 - A. *Hours.* The Recycling Coordinator shall work approximately thirty-two (32) hours per week, allocated for each City as follows:

<u>City</u>	<u>Allocation of Time</u>
West St. Paul	Thirty-two percent (32%)
South St. Paul	Thirty-two percent (32%)
Mendota Heights	Thirty-two percent (33%)
Sunfish Lake	Three percent (3%)

- B. *Program Services.* The basic Program Services include Dakota County Community Funding work plan requirements as outlined in the annual Community Funding Joint Powers Agreement, which may change from year to year.
- C. If any of the Cities desire additional services outside of the scope of the basic Program Services, then such City may enter into a separate agreement concerning those services, or may enter into a written amendment of this Agreement to incorporate the additional services.

4. FINANCE.

- A. South St. Paul, Mendota Heights and Sunfish Lake shall use their respective Dakota County Community Funding grant monies to reimburse West St. Paul for the costs of wages, benefits and other costs necessary to employ the Recycling Coordinator and operate the Program, the costs of which are identified on Exhibit A. By June of each year, the Cities shall meet to review the Program and establish a budget for the following year. Subject to any reductions in Section 4C, West St. Paul shall invoice the remaining Cities pursuant to the percentage allocations identified in Section 3A and each City shall pay the invoice within thirty (30) days. West St. Paul is authorized to pay claims submitted by the Recycling Coordinator.
- B. West St. Paul shall act as fiscal agent and shall maintain a separate fund for the purpose of operating the Program.
- C. Any grants received (other than the Dakota County Community Funding) will be apportioned among the Cities in accordance with the percentage each City pays for the total cost of the Program, and shall reduce each City's contribution to the costs of the Program proportionately.

5. CONTRIBUTIONS OF FACILITIES BY CITIES.

- A. Each City shall determine which of its assets will be available to the Program, but at a minimum each City will provide a workspace with appropriate office supplies and equipment to allow the Recycling Coordinator to fulfill the requirements of the Program. It is expected that the Recycling Coordinator will spend at least one day a week officing in each City, with the final schedule to be determined at a later date.

- B. Each City shall maintain public liability insurance coverage on the assets made available for the Program.
 - C. Assets made available to the Program will be promptly returned to the City that provided them upon that City's withdrawal from the Agreement.
 - D. The Recycling Coordinator will be supervised by the designated contact in West St. Paul, in coordination with the primary contact in the remaining Cities. Required safety, legal and related reporting shall be through the designated contact in West St. Paul. Each City shall, annually and upon any changes, identify the supervisor and primary contacts in their City.
6. PERSONNEL. West St. Paul shall establish standards and qualifications for its personnel. The Recycling Coordinator shall be deemed an employee of West St. Paul and shall be subject to the personnel and other policies of West St. Paul.
7. INSURANCE AND INDEMNIFICATION.

- A. General Liability Insurance. Each City agrees to maintain in force comprehensive general liability insurance equal to or greater than the maximum liability for tort claims under Minn. Stat. §466.04, as amended
- B. Workers' Compensation Insurance. Each City shall be responsible for injuries to or death of its own employees. Each City shall maintain workers' compensation coverage or self-insurance coverage, covering its own employees while they are providing services pursuant to this Agreement. Each City waives the right to sue the other Cities for any workers' compensation benefits paid to its own employee or their dependents, even if the injuries were caused wholly or partially by the negligence of the other City or its officers, employees or agents.
- C. Indemnification. Each City shall be liable for its own acts to the extent provided by law. The Cities agree to indemnify and hold harmless each other and each other's respective employees, trustees, directors, officers, subcontractors, agents or other members of its workforce, each of the foregoing referred to as "indemnified party," against all actual and direct losses suffered by the indemnified party and all liability to third parties arising from or in connection with any breach of this Agreement or from any negligence or wrongful acts or omissions by the indemnifying party or its employees, trustees, directors, officers, subcontractors, agents or other members of its workforce in connection with the indemnifying party's performance under this Agreement.

Accordingly, on demand, the indemnifying party agrees to reimburse the indemnified parties for any and all actual and direct losses, liabilities, lost profits, fines, penalties, costs or expenses (including reasonable attorneys' fees) which may for any reason be imposed upon any indemnified party by reason of any

suit, claim, action, proceeding or demand by any third party that results from the indemnifying party's breach of any provision of this Agreement or from any negligence or wrongful acts or omissions by the indemnifying party or its employees, trustees, directors, officers, subcontractors, agents or other members of its workforce in connection with the indemnifying party's performance under this Agreement.

Under no circumstances, however, shall a City be required to pay on behalf of itself and other parties to this Agreement any amounts in excess of the limits of liability established in Minn. Stat. § 466.04. The limits of liability for some or all of the Cities shall not be added together to determine the maximum amount of liability for any one City.

8. DURATION. Any City may withdraw from this Agreement as of December 31 of any year. Written notice of termination must be given to the other Cities at least ninety (90) days prior thereto.
9. TERMINATION OF AGREEMENT. In the event of termination, all surplus funds shall be distributed to the Cities in proportion to the amount contributed over the lifetime of the Agreement, in relation to the contributions made by the Cities. Property obtained under this Agreement shall be distributed to the Cities in the same manner.
10. PRIOR AGREEMENTS SUPERSEDED. This Agreement supersedes and repeals all prior agreements among the Cities related to the Recycling Coordinator, including the October 10, 2016 and the February 27, 2017 Agreements.
11. NO PRESUMPTION AGAINST DRAFTING CITY. The Cities acknowledge that: (a) this Agreement and its reduction to final written form are the result of extensive good-faith negotiations among the Cities through themselves and/or their respective legal counsel; (b) said Cities and/or their legal counsel have carefully reviewed and examined this Agreement prior to execution; and (c) any statute, common law, or rule of construction which provides that ambiguities are to be resolved against the drafting City(ies) shall not be employed in the interpretation of this Agreement.
12. GOVERNING LAW AND VENUE. This Agreement shall be governed and construed in accordance with the laws of the State of Minnesota without regard to its conflict of laws provision. The Cities agree that any action arising out of this Agreement or with respect to the enforcement of this Agreement shall be venued in the Dakota County District Court, State of Minnesota.
13. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and the counterparts shall together constitute one and the same agreement.
14. EXECUTION OF ADDITIONAL DOCUMENTS. The Cities are to execute and deliver to the other party, as requested, any additional documents and/or instruments

that may reasonably be determined as necessary to consummate this transaction.

[remainder of page intentionally blank]

Dated: _____

CITY OF WEST ST. PAUL

By: _____
Jenny Halverson
Its: Mayor

By: _____
Ryan Schroeder
Its: City Manager

Dated: _____

CITY OF SOUTH ST. PAUL

By: _____
James P. Francis
Its: Mayor

By: _____
Christy Wilcox
Its: City Clerk

Dated: _____

CITY OF MENDOTA HEIGHTS

By: _____
Neil Garlock
Its: Mayor

By: _____
Lorri Smith
Its: City Clerk

Dated: _____

CITY OF SUNFISH LAKE

By: _____

Richard Williams

Its: Mayor

By: _____

Catherine Iago

Its: City Clerk

EXHIBIT A
JOINT FEES/ANNUAL EXPENSES
2018

A.	Salary	\$
B.	Benefits (PERA/FICA)	\$
C.	Membership – Recycling Association of MN	\$
D.	Printing/Promotions – generic materials	\$
E.	Mileage Reimbursement	\$
F.	Phone Monthly Fee Reimbursement \$50/mo.	\$
G.	Misc.	\$
	TOTAL PROJECTED EXPENSES	\$

Fees to be divided pursuant to the percentage allocations identified in Section 3A of the Agreement.