

CITY OF SUNFISH LAKE

Item 8.a.

DATE: September 25, 2019

TO: Mayor & Council

FROM: Cathy Iago, City Clerk

RE: Amended Joint Powers Agreement (JPA) for Recycling
Coordinator Services

Attached for your review is a copy of the Amended Joint Powers Agreement for Recycling Coordinator Services.

Recycling Coordinator Cassandra Schueller currently works for the cities of West St. Paul, Mendota Heights, South St. Paul and Sunfish Lake. The City of Lilydale has now requested that Cassandra be hired to provide recycling services as part of this group. All the representatives from the current cities met and determined that it would be feasible to include Lilydale in the Joint Powers Agreement with only minor changes. It was also determined that by including Lilydale as part of the group it should not negatively impact the funding for any of the cities.

Each of the cities must request approval of the amended JPA from their respective City Councils to order to include Lilydale as part of the group. The amended and current JPA documents were sent to our City Attorney for his review.

There was some delay in receiving the final document and sending it to the City Attorney, therefore, Attorney Kuntz will discuss any concerns he may have at the meeting.

ACTION REQUESTED: Pending any comments from the City Attorney, staff recommends that Council approve the Amended Joint Powers Agreement for Recycling Coordinator Services to as presented.

**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 _____, 2019, 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”), the City of Sunfish Lake (“Sunfish Lake”), and the City of Lilydale (“Lilydale”) (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 amended on November 21, 2017, to add Sunfish Lake; and

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

WHEREAS, each City is eligible for Dakota County Community Waste Abatement 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 complete the work allocated for each City as identified in the Dakota County Community Waste Abatement Grant Applications.
 - B. *Program Services*. The basic Program Services include Dakota County Community Waste Abatement Grant requirements as outlined in the Grant Application, Grant Guidelines, and Grant Agreement, which may change from year to year.

4. FINANCE.

- A. South St. Paul, Mendota Heights, Sunfish Lake, and Lilydale shall use their respective Dakota County Community Waste Abatement 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 in each city's respective Community Waste Abatement Grant Application. West St. Paul shall invoice the remaining Cities for the costs of wages, benefits, and other costs necessary to employ the Recycling Coordinator and operate the Program, and each City shall pay the invoice within thirty (30) days. Such costs shall be limited to the amounts in each City's Community Waste Abatement Grant Application.
- B. West St. Paul shall act as fiscal agent and shall maintain a separate fund for the purpose of operating the Program. West St. Paul is authorized to pay claims submitted by the Recycling Coordinator.
- C. For each calendar year of the program, the Cities shall meet to review the Program and establish a budget for the following year. The Recycling Coordinator shall prepare and submit the Grant Applications on behalf of each of the Cities.
- D. Each city shall submit a reimbursement request to the County that complies with the Dakota County Community Waste Abatement Grant Program Guidelines and the respective City's Grant Application by the deadline established in the Grant Guidelines.
- E. 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 additional services, to be funded with source(s) other than Dakota County Community Waste Abatement Grant funds.

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.
- 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 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, any property obtained shall be distributed to the Cities in proportion to the percentage allocated to each City of the total Dakota County Community Waste Abatement Grant funds received by the Cities.
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, and the _____ (current/most recent agreement).
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: _____
David J. Napier
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: _____

Dan O'Leary

Its: Mayor

By: _____

Catherine Iago

Its: City Clerk

Dated: _____

CITY OF LILYDALE

By: _____

Warren Peterson

Its: Mayor

By: _____

Mary Schultz

Its: City Clerk