

**JOINT POWERS AGREEMENT  
BETWEEN THE COUNTY OF DAKOTA AND  
THE CITY OF WEST ST. PAUL  
FOR 2019 WASTE ABATEMENT COMMUNITY FUNDING**

This Agreement is between Dakota County (County) and the City of West St. Paul (Municipality).

**WHEREAS**, Minn. Stat. § 471.59 authorizes local governmental units to jointly or cooperatively exercise any power common to the contracting parties; and

**WHEREAS**, the County and the Municipality are governmental units as that term is defined in Minn. Stat. § 471.59; and

**WHEREAS**, Metropolitan counties are responsible for waste management policy and programs (Minn. Stat. §115A.551); and

**WHEREAS**, counties may require local cities and townships to develop and implement programs, practices, or methods designed to meet waste abatement goals (Minn. Stat. §115A.551); and

**WHEREAS**, Dakota County Solid Waste Ordinance 110 requires each municipality in the County to have a solid waste abatement program (Program) that is consistent with the Dakota County Solid Waste Master Plan (Master Plan); and

**WHEREAS**; the Master Plan governs all solid waste management in the County (Minn. Stat. § 115A.46); and

**WHEREAS**, municipalities may not develop or implement a solid waste management activity that is inconsistent with the Master Plan (Minn. Stat. § 115A.46); and

**WHEREAS**, the Master Plan includes multiple strategies to enhance and leverage resources to help the County meet waste management objectives; and

**WHEREAS**, the Master Plan supports performance-based funding for municipalities to develop and implement waste abatement programs, education, and outreach; and

**WHEREAS**, community funding and waste tire activity amounts are established by the County Board each year as part of the Environmental Resources Department (Department) budget; and

**WHEREAS**, by Board Resolution #18-322, the County Board approved 2019 community funding allocations as presented to the Physical Development Committee of the Whole on June 19, 2018, contingent upon the availability of funds and subject to funding levels approved by the County Board as part of the 2019 Department budget; and

**WHEREAS**, the Program responsibilities for the Municipality/Rural Solid Waste Commission (RSWC) include ensuring recycling best practices are followed at public facilities; increasing residential waste, reuse and recycling through materials collection; implementing recycling at large events; providing education and outreach to residents; increasing organics recycling; and supporting County-led efforts for Master Plan implementation; and

**WHEREAS**, the RSWC has an additional responsibility for waste tire activities for residents in rural Dakota County; and

**WHEREAS**, County responsibilities include providing technical assistance, container labels, and waste educational messages and images; maintaining waste management information on the County website; hosting Master Recycler/Composter classes; and providing best practices strategies and resources for waste abatement projects; and

**WHEREAS**, separate Joint Powers Agreements with municipalities, or entities acting on their behalf, identify municipality and County responsibilities and fund allocations.

**NOW, THEREFORE**, in consideration of the mutual promises and benefits that the County and Municipality shall derive from this Agreement, the County and Municipality hereby enter into this Agreement for the purposes stated herein.

## **SECTION 1 PURPOSE**

The purpose of this Agreement is to provide for cooperation and funding between the County and the Municipality for the implementation and operation of a local comprehensive landfill abatement program by the Municipality in accordance with this Joint Powers Agreement and the 2019 Dakota County Community Funding Application Packet (attached and incorporated herein as Exhibit 1) that is submitted by the Municipality.

## **SECTION 2 PARTIES**

The parties to this Agreement are the County and the Municipality.

## **SECTION 3 TERM**

Notwithstanding the dates of the signatures of the parties, this Agreement shall be in effect January 1, 2019, and shall continue in effect until December 31, 2019, or until termination in accordance with the provisions herein. This Agreement may be amended in accordance with Section 12.

## **SECTION 4 COOPERATION**

The County and the Municipality agree to cooperate and use their reasonable efforts to ensure prompt implementation of the various provisions of this Agreement and to, in good faith, undertake resolution of any dispute in an equitable and timely manner.

## **SECTION 5 PROGRAM**

**5.1 PROGRAM PURPOSE.** The Master Plan identifies performance-based funding for municipalities to develop and implement waste abatement programs, education, and outreach. The Community Funding Program purpose includes: ensure that residents, businesses and public entities have the opportunity to recycle; and to develop, implement, and maintain projects, programs, practices, and methods to meet waste abatement objectives. The Community Funding Program supports the County's efforts for broad-based education and implementation of local programs and projects for waste reduction, reuse, recycling, household hazardous waste management, and organics diversion.

**5.2 ELIGIBILITY.** Eligible municipalities include all cities in Dakota County and the Rural Solid Waste Commission (RSWC) representing the 13 townships and six small cities in rural Dakota County.

**5.3 ANNUAL APPLICATION, WORK PLAN AND BUDGET.** Annually, Municipality shall submit an Application Packet that includes the annual Work Plan and budget breakdown for each funding activity to the County by the due date specified in writing on forms provided by County staff.

**5.4 IMPLEMENTATION.** The Municipality shall develop, implement, and operate a local comprehensive landfill abatement program that complies with the Master Plan, Dakota County Solid Waste Ordinance 110, this Agreement, and Exhibit 1.

**[For RSWC only 5.41 COMPLIANCE WITH LAWS/STANDARDS.** If a waste tire collection event is conducted, the RSWC shall abide by all federal, state, or local laws, statutes, ordinances, rules and regulations, including management of the waste tires collected.]

**5.5 RECYCLING.** Municipality must ensure the opportunity to recycle exists for all municipal employees, residents and businesses, including at Municipality-controlled public areas such as parks, community centers, and city-sponsored events/festivals; must develop and implement programs to increase residential recycling and organics diversion; and must continue planning to implement community-wide organics diversion.

**5.6 PRIORITY ISSUE.** County staff, with input from all eligible municipalities, will develop a Priority Issue strategy to accomplish during the multi-year Master Plan reporting cycle. The 2017-2020 Priority Issue is organics diversion. The 2019 Priority Issue focus is on residential food waste prevention education, implementing organics diversion within municipally-owned/operated buildings, and continued progression for organics best practices and diversion at public facilities and events. The Priority Issue is subject to change pending legislation or County strategic planning.

**5.7 PERFORMANCE.** Municipality shall report its performance on a quarterly basis pursuant to responsibilities set forth in this Agreement and Exhibit 1, using reporting tools provided by County staff and including documentation such as vendor invoices or receipts, expense reports produced using municipal accounting software, or itemized financial statements for the dedicated bank account for all Work Plan expenses covered by Program funding. County staff will notify the Municipality in writing if a Recycling Improvement Plan is needed. Within 30 days of notification, the Municipality shall submit a Recycling Improvement Plan signed by the Municipality's authorized representative. The Recycling Improvement Plan must be negotiated with County staff and specify Municipality activities and a timeframe to achieve compliance.

**5.8 ANNUAL REPORT.** By January 31, 2019, Municipality shall submit its Annual Report for the year 2018, on the form prescribed by County staff. The Annual Report must be signed by the authorized representative for this JPA. **[For RSWC only:** The Annual Report shall include the waste tire management activities and metrics. If a waste tire collection event is conducted, the Annual Report shall identify the location, hauling and disposal costs, and number of tires collected.]

**5.9 AUDIT.** County staff may audit one or more buildings operated by the Municipality through a waste sort or other means of waste assessment. This data will be used by the Municipality and County to determine the success of the waste management program, which will influence the Work Plan.

## **SECTION 6 FUNDING**

**6.1 FUNDING AMOUNT.** Municipalities receive performance-based funding in part from a pass-through grant from the State. Municipal funding amounts are contingent upon available State and County funds, and reflect the funding levels presented to the County Board as part of the annual budget. The 2019 allocated funding for the Municipality, or entity acting on its behalf, shall be in the total amount not to exceed \$30,263.00, as set forth in Exhibit 1.

**[For RSWC only: 6.12 WASTE TIRE MANAGEMENT FUNDING.** County shall pay the RSWC an amount not to exceed \$11,745 for waste tire management in 2019 for rural Dakota County residents.]

**6.2 FUNDING PAYMENT.** Contingent upon approval by County staff of the Municipality's Annual Report for the funding year 2018, the County will pay the Municipality the funding amount set forth in paragraph 6.1 above for 2019. Payment will be made in one installment within 30 days of approval of the Annual Report. Municipalities with a complete Application Packet and an approved Annual Report receive 100% payment of allocated funds for eligible expenses.

**6.3 ELIGIBLE EXPENSES.** Municipality may use allocated funds only on eligible items as identified in Exhibit 1 and includes:

**6.3.1 Administration**

- a) Salary and benefits of personnel, full-time and temporary, and consultant services while working directly on the planning, implementing, promoting, and reporting of eligible activities described in the Work Plan.
- b) Attending Local Solid Waste Staff meetings [**for RSWC only:** and attending Rural Solid Waste Commission meetings].
- c) Memberships and training necessary for eligible activities, not including out-of-state travel or lodging.

**6.3.2 Municipal Facility Recycling**

- a) Containers necessary to implement best practices at Municipality-controlled administrative buildings and public areas, including parks and community centers.
- b) Waste abatement education materials for municipal employees and visitors, such as signs, trainings and mass communication.

**6.3.3 Waste Abatement Activities [**for RSWC only:** and Waste Tire Management]**

- a) Advertising to promote city-sponsored activities to accept recyclable or reusable materials from residents.
- b) Collection and management of paper from residents to be shredded and recycled.
- c) Collection and management of mattresses, bicycles, and carpet from residents for reuse or recycling.
- d) Collection, containers, equipment, and hauling services necessary to implement traditional recycling at community events/festivals that the Municipality sponsors or helps to coordinate, or that are held on city property.
- e) Stipend for an organization or group to provide event recycling assistance.
- f) Design and implementation of projects and programs to enhance residential, park and public area recycling, including recycling bags for city-supported pickup events and activities.
- g) [**For RSWC only:** Hauling and disposal of waste tires collected at a waste tire collection event for rural Dakota County residents.]

**6.3.4 Residential Outreach and Education**

- a) Production and dissemination of County-approved education information to increase awareness and participation in waste abatement programs, including postage for stand-alone mailings when content cannot be included in mailed communications that are already being sent to residents by the Municipality [**for RSWC only:** including for waste tire management].
- b) Professional educators who assist in the production and dissemination of information described in 6.3.4.(a).
- c) County-approved landfill abatement promotional items up to \$500. Items must create minimal waste and contribute to waste diversion education.

**6.3.5 Priority Issue: Organics Diversion**

- a) Production and dissemination of County-developed and approved education information to increase awareness and participation in residential organics programs, including postage for stand-alone mailings.
- b) Collection, containers, equipment, hauling services, and compostable bags and products necessary to implement organics diversion at community events/festivals that the Municipality sponsors or helps to coordinate, or that are held on Municipality property.
- c) Containers and start-up supply of compostable bags necessary to implement organics diversion at Municipality facilities.

### **6.3.6 Solid Waste Master Plan**

- a) Supporting County-led efforts to implement the Master Plan.
- b) Implementing one or more city priority projects to support Master Plan priorities as identified in the Work Plan.

### **6.3.7 Non-eligible expenses include:**

- a) Expenses related to non-waste abatement waste issues (e.g., energy, water).
- b) Except for 6.3.3d and 6.3.5b, waste collection, transportation or management (i.e., reuse, recycle, resource recovery, land disposal) of waste under the Municipality's control.
- c) Food or refreshments, unless approved by County staff as compliant with Dakota County Policy 2740.
- d) Payment for collection and management of items that are banned from the landfill (e.g. appliances, hazardous waste, electronics). **[For RSWC only:** Except for 6.3.3g, payment for collection and management of items that are banned from the landfill (e.g. appliances, hazardous waste, electronics, yard waste).]

### **6.3.8 Other Expenses**

- a) Other waste abatement expenses may be eligible with prior written approval from the County Liaison.

**6.4 FUNDING PAYMENT AND WORK PLAN ADJUSTMENTS.** The Dakota County Environmental Resources Director (Director) shall have the authority to approve modifications to the Funding Amount as requested by the Municipality in the Application Packet, as long as the amount payable under this Agreement does not exceed the amount approved by the Dakota County Board of Commissioners and so long as the proposed modifications are consistent with the Agreement and Exhibit 1. The Municipality must expend the community fund by the end of the calendar year, unless prior written approval is received from the Director. Municipality must return unspent funds (the difference between the amount of funds provided and the amount Municipality reports as expended), must return funds if expenditures or activities are determined by County staff as not consistent with this Agreement and Exhibit 1, and must return funds if County staff determines performance has not been remedied as identified in the Recycling Improvement Plan pursuant to Section 5.7. If the Municipality fails to fulfill its responsibilities, the County may choose to implement activities in the Municipality and may recover costs in accordance with Dakota County Solid Waste Ordinance 110.

The Director shall have the authority to approve modifications to the Work Plan as requested by the Municipality, as long as the Work Plan modifications do not cause the amount payable under this Agreement to exceed the amount approved by the Dakota County Board of Commissioners and are consistent with this Agreement and Exhibit 1. Only Work Plan modifications approved by the Director are an eligible expense.

**6.5 FUNDING PAYMENT DEDICATED ACCOUNT.** Municipality must deposit and manage funds in a dedicated bank account. Program funds are prohibited from being commingled with any other funds or used for non-approved activities.

## **SECTION 7 RESPONSIBILITIES OF THE PARTIES**

**7.1 THE MUNICIPALITY.** The Municipality shall:

- a. Fulfill responsibilities under this Agreement and as described in Exhibit 1.
- b. Designate a Municipality Liaison responsible for Program planning, implementation, measurement, and reporting.
- c. Ensure Liaison attends at least four out of the six Liaison/County staff meetings each year.
- d. Ensure newly-assigned Liaisons attend the Dakota County Master Recycler/Composter class. If not feasible, coordinate with the County to substitute reading materials and tours in place of the class.
- e. Develop and submit an Annual Application Packet, Quarterly Reports, and Annual Report on forms created by County staff.

- f. Use County-developed resources for required residential waste abatement education; submit waste abatement outreach materials to County staff at least three business days before publication for review; and provide funding source credit on all print materials: "Partially funded by the Minnesota Pollution Control Agency and Dakota County."

**7.2 THE COUNTY.** The County, through its Environmental Resources Department, shall:

- a. Fulfill the following responsibilities under this Agreement:
- b. Administration:
  - i. Manage allocation and recovery of allocated funds.
  - ii. Develop and provide annual templates for the Application Packet and Quarterly/Annual Report for the Municipality.
  - iii. Host six Liaison/County staff meetings each year.
  - iv. Provide technical assistance for the Municipality to apply, plan for, measure, and report on work efforts.
  - v. Monitor and manage performance and compliance with this Agreement and Exhibit 1.
- c. Education and Outreach
  - i. Provide County staff-developed resources, including articles, images, social media posts, and education kits for solid waste and household hazardous waste management.
  - ii. Provide color-coded trash, recycling, and organics labels.
  - iii. Review and approve Municipality waste abatement outreach materials.
  - iv. Develop and maintain solid and household hazardous waste information on the County website.
  - v. Offer at least one Master Recycling Composter session each year.
- d. Projects and Programs
  - i. Develop and provide best practices for solid waste management.
  - ii. Provide effective strategies, resources, and support for Municipality to implement waste abatement programs.
  - iii. As determined by County staff, provide a reasonable supply of reusable and portable receptacles for Municipality to store and use for waste collection at events.
  - iv. Provide low- and no-waste guides and best practices tools for event/festival organizers and vendors.

## **SECTION 8 PROPERTY**

Upon termination of this Agreement, any containers, labels and/or necessary infrastructure purchased by the County and provided to the Municipality shall be the sole property of the Municipality.

## **SECTION 9 INDEMNIFICATION**

**9.1 IN GENERAL.** 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 by law and shall not be responsible for the acts of the other party, its officers, employees or agents.

**9.2 LIMITATIONS.** The provisions of Minn. Stat. § 471.59, the Municipal Tort Claims Act, Minn. Stat. Ch. 466 and other applicable laws govern liability of the County and the Municipality.

**9.3 SURVIVORSHIP.** The provisions of this Section shall survive the expiration or termination of this Agreement.

**SECTION 10  
AUTHORIZED REPRESENTATIVES AND LIAISONS**

**10.1 AUTHORIZED REPRESENTATIVES:** The following named persons are designated the Authorized Representatives of the parties for purposes of this Agreement. These persons have authority to bind the party they represent and to consent to modifications, except that the authorized representative shall have only the authority specifically or generally granted by their respective governing boards. Notice required to be provided pursuant to this Agreement shall be provided to the following named persons and addresses unless otherwise stated in this Agreement, or in a modification of this Agreement.

TO THE COUNTY

Matt Smith, or successor, County Manager  
County of Dakota  
1590 Highway 55  
Hastings, MN 55033

TO THE MUNICIPALITY

Jenny Halverson, Mayor (or successor)  
1616 Humboldt Avenue  
West St. Paul, MN 55118

In addition, notification to the County regarding termination under Section 11 of this Agreement by the other party shall be provided to the Office of the Dakota County Attorney, Civil Division, 1560 Highway 55, Hastings, MN 55033.

**10.2 LIAISONS.** To assist the parties in the day-to-day performance of this Agreement, to ensure compliance, and provide ongoing consultation, a liaison shall be designated by the County and the Municipality. The County and the Municipality shall keep each other continually informed, in writing, of any change in the designated liaison. At the time of execution of this Agreement, the following persons are the designated liaisons:

County Liaison:

Gena Gerard  
Telephone: (952) 891-7021  
Email: gena.gerard@co.dakota.mn.us

Municipality Liaison:

Name: Shirley Buecksler  
Telephone: (651) 552-4102  
Email: sbuecksler@wspmn.gov

**SECTION 11  
TERMINATION**

**11.1 IN GENERAL.** Either party may terminate this Agreement for cause by giving seven days' written notice or without cause by giving thirty (30) days' written notice, of its intent to terminate, to the other party. Such notice to terminate for cause shall specify the circumstances warranting termination of this Agreement. Cause shall mean a material breach of this Agreement and any supplemental agreements or amendments thereto. Notice of Termination shall be made by certified mail or personal delivery to the authorized representative of the other party. Termination of this Agreement shall not discharge any liability, responsibility or right of any party, which arises from the performance of or failure to adequately perform the terms of this Agreement prior to the effective date of termination.

**11.2 TERMINATION BY COUNTY FOR LACK OF FUNDING.** Notwithstanding any provision of this Agreement to the contrary, the County may immediately terminate this Agreement if it does not obtain funding from the Minnesota Legislature, Minnesota Agencies, or other funding source, or if its funding cannot be continued at a level sufficient to allow payment of the amounts due under this Agreement. Written notice of termination sent by the County to the Municipality by email or facsimile is sufficient notice under this section. The County is not obligated to pay for any services that are provided after written notice of termination for lack of funding. The County will not be assessed any penalty or damages if the Agreement is terminated due to lack of funding.

## **SECTION 12 MODIFICATIONS**

Any alterations, variations, modifications, or waivers of the provisions of this Agreement shall only be valid when they have been reduced to writing, approved by the parties' respective Boards, and signed by the Authorized Representatives of the County and the Municipality.

## **SECTION 13 MINNESOTA LAW TO GOVERN**

This Agreement shall be governed by and construed in accordance with the substantive and procedural laws of the State of Minnesota, without giving effect to the principles of conflict of laws. All proceedings related to this Agreement shall be venued in the County of Dakota, State of Minnesota.

## **SECTION 14 MERGER**

This Agreement is the final expression of the Agreement of the parties and the complete and exclusive statement of the terms agreed upon and shall supersede all prior negotiations, understandings, or agreements.

## **SECTION 15 SEVERABILITY**

The provisions of this Agreement shall be deemed severable. If any part of this Agreement is rendered void, invalid, or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement unless the part or parts that are void, invalid or otherwise unenforceable shall substantially impair the value of the entire Agreement with respect to either party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) indicated below.

**COUNTY OF DAKOTA COUNTY**

\_\_\_\_\_  
Matt Smith, County Manager  
Date of Signature: \_\_\_\_\_

**CITY OF WEST ST. PAUL**

\_\_\_\_\_  
Jenny Halverson, Mayor  
Date of Signature: \_\_\_\_\_

APPROVED AS TO FORM:  
/s/Margaret M. Horsch 10/26/18  
Assistant County Attorney/Date  
KS-18-243-008

Attest \_\_\_\_\_  
\_\_\_\_\_  
Date of Signature: \_\_\_\_\_ (title)

County Board Res. No. 18-322