

Aitkin County Board of Commissioners
Request for County Board Action/Agenda Item Cover Sheet



To: Chairperson, Aitkin County Board of Commissioners Date: February 4, 2013

Via: Patrick Wussow, County Administrator

From: Terry Neff, Environmental Services Director

Title of Item:

Household Hazardous Waste Agreement

Requested Meeting Date: February 12, 2013 Estimated Presentation Time: N/A

Presenter: N/A

Type of Action Requested (check all that apply)

- For info only, no action requested
- Approve under Consent Agenda
- For discussion only with possible future action
- Adopt Ordinance Revision
- Let/Award Bid or Quote (attach copy of basic bid/quote specs or summary of complex specs, each bid/quote received & bid/quote comparison)
- Approve/adopt proposal by motion
- Approve/adopt proposal by resolution (attach draft resolution)
- Authorize filling vacant staff position
- Request to schedule public hearing or sale
- Other (please list) _____
- Request by member of the public to be heard
- Item should be addressed in closed session under MN Statute _____

Fiscal Impact (check all that apply)

- Is this item in the current approved budget? Yes No _____ (attach explanation)
- What type of expenditure is this? Operating Capital Other (attach explanation)
- Revenue line account # that funds this item is: 391-5545, 391-5001
- Expenditure line account # for this item is: 391-6231

Staffing Impact (Any yes answer requires a review by Human Resources Manager before going to the board)

- Duties of a department employee(s) may be materially affected. Yes No
- Applicable job description(s) may require revision. Yes No
- Item may impact a bargaining unit agreement or county work policy. Yes No
- Item may change the department's authorized staffing level. Yes No



Supporting Attachment(s)


- Memorandum Summary of Item
- Copy of applicable county policy and/or ordinance (excerpts acceptable)
- Copy of applicable state/federal statute/regulation (excerpts acceptable)
- Copy of applicable contract and/or agreement
- Original bid spec or quote request (excluding complex construction projects)
- Bids/quotes received (excluding complex construction projects, provide comparison worksheet)
- Bid/quote comparison worksheet
- Draft County Board resolution
- Plat approval check-list and supporting documents
- Copy of previous minutes related to this issue
- Other supporting document(s) (please list) e-mail correspondence

Provide (1) copy of supporting documentation NO LATER THAN Wednesday at Noon to make the Board's agenda for the following Tuesday. (If your packet contains colored copies, please provide (4) paper copies of supporting documentation as we do not have a color printer or copier.) Items WILL NOT be placed on the Board agenda unless complete documentation is provided for the Board packets.

-Aitkin County Environmental Services Planning and Zoning
209 Second Street NW
Room 100
Aitkin, MN 56431
Phone: 218-927-7342
Fax: 218-927-4372



MEMORANDUM

DATE: February 4, 2013
TO: Aitkin County Board of Commissioners
FROM: Terry Neff, Environmental Services Director 
RE: Renew Household Hazardous Waste (HHW) Agreement with the Western Lake Superior Sanitary District (WLSSD)

Enclosed is an Agreement with the WLSSD for providing HHW services to Aitkin County. This is a renewal of the existing Agreement which expired on December 31, 2012. County Attorney, Jim Ratz has reviewed and approved of the Agreement (see attached e-mail). The funding, fee's and duties for Aitkin County remain unchanged from the existing Agreement.

I recommend the Aitkin County Board of Commissioners approve of continuing the Agreement with the WLSSD and authorize the County Board Chair and Auditor to sign the Agreement.

If you have any questions, please feel free to contact me at 218-927-7342 or by e-mail at tneff@co.aitkin.mn.us.

enclosures

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Terry Neff

Subject: FW: Aitkin-WLSSD Joint Powers Agreement 1-22-12

From: Jim Ratz [<mailto:jratz@co.aitkin.mn.us>]
Sent: Thursday, January 31, 2013 4:44 PM
To: 'Terry Neff'
Subject: RE: Aitkin-WLSSD Joint Powers Agreement 1-22-12

Terry,

I have reviewed the above-referenced agreement, and find it to be proper as to form. I would note one extremely minor edit: In section 14, first paragraph, "/her" should be deleted.

Thanks,
Jim

Terry Neff

From: Heidi Ringhofer [Heidi.Ringhofer@wlssd.com]
Sent: Monday, February 04, 2013 6:39 AM
To: Terry Neff
Subject: RE: Emailing: Lake-WLSSD Joint Powers Agreement 1-22-12

Hi Terry

This should remain in the agreement in case you leave, a she replaces you and then maybe she would be replaced with a he. The agreement goes for 5 years.

Sound okay?
Heidi

-----Original Message-----

From: Terry Neff [<mailto:tneff@co.aitkin.mn.us>]
Sent: Friday, February 01, 2013 7:43 AM
To: Heidi Ringhofer
Subject: RE: Emailing: Lake-WLSSD Joint Powers Agreement 1-22-12

Heidi,

In the agreement our County Attorney found one very minor edit change to make, in Section 14 first paragraph /her should be eliminated. Can you make the change and send me another copy. I will have the Board Chair sign the document and send you the copies.

Thanks!

Terry Neff
Environmental Services Director
209 2nd St NW Rm 100
Aitkin, MN 56431
218.927.7342

**WESTERN LAKE SUPERIOR SANITARY DISTRICT
JOINT POWERS AGREEMENT
FOR THE OPERATION OF A HOUSEHOLD HAZARDOUS WASTE PROGRAM**

This Joint Powers Agreement (the "Agreement") is between **Western Lake Superior Sanitary District** ("WLSSD"), which has offices at 2626 Courtland Street, Duluth, MN 55806 (hereinafter the "District"), and Aitkin County, which has offices at 209 Second Street NW Room 118, Aitkin, MN 56431 (hereinafter the "County/CO").

Recitals

WHEREAS, This Agreement is made under the District's and County's authority in Minn. Stat. § 471.59 and Minn. Stat. Ch. 400 and 458D.

WHEREAS, The Minnesota Pollution Control Agency ("MPCA") is required by Minn. Stat. § 115A.96 to establish a statewide program to manage household hazardous wastes ("HHW"). Minn. Stat. § 115A.96, Subd. 3, provides that the statewide HHW program may be provided directly by the State or by contract with public or private entities.

WHEREAS, The District has partnered with the MPCA to provide a HHW program that furthers the goals of protecting the environment and the public health as articulated in the Waste Management Act and the State's, District's and County's Solid Waste Plans pursuant to a Joint Powers Agreement effective January 3, 2013 (the "State Agreement"). County is a Co-Sponsoring County within its jurisdiction. The District and County will comply with the terms of this Agreement and all applicable Federal, State and local rules, regulations, ordinances and permit conditions and provide environmentally sound and safe management options for Program Wastes and encourage, to the extent feasible, reduction, reuse, recycling and safe storage and management of Program Wastes.

WHEREAS, the parties wish to allocate the risks and responsibilities resulting from operation of the HHW program, and to incorporate the provisions of Minn. Stat. § 115A.96, Subd. 7, into this Agreement.

NOW, THEREFORE, The parties, for valuable consideration received, make the following Agreement:

1 Definitions

Terms as used in this Agreement shall have the following meanings:

- 1.1 Authorized Facility or Authorized Facilities.** A facility or facilities authorized by the State to store, blend, treat, reclaim, recycle, incinerate or dispose of Program Waste in accordance with State Contracts.
- 1.2 Base Funding.** Annual funding provided to the HHW programs by the State.
- 1.3 Co-Sponsoring /County (CO).** A county or other governmental unit located partially or completely within the Service Area or Regional Program that has signed an agreement for participation in the Program.

- 1.4 **Electronic Waste.** Devices containing complex circuitry, circuit boards and/or signal processing capabilities for processing and/or displaying information. Electronic waste may include, but is not limited to, computers and computer peripherals and laboratory, communications, audio, video and office equipment.
- 1.5 **Event Collection.** An Event Collection is a collection site temporarily designed and set up to safely and efficiently collect and package Program Wastes for reuse or for transportation to a permanent Management Facility or a permitted waste management facility.
- 1.6 **Hazardous Waste.** Waste as defined in Minn. Stat. § 116.06, Subd. 11.
- 1.7 **Household.** Household as defined in Minn. Stat. § 115A.96, Subd. 1 (a).
- 1.8 **Household Hazardous Waste (HHW).** Waste as defined in Minn. Stat. § 115A.96, Subd. 1(b).
- 1.9 **ID Number.** The site-specific identification number that the State obtains for the Program.
- 1.10 **Management Facility.** One or more permanent, temporary, mobile, satellite, or event collection sites located in the Service Area that accept Program Wastes for proper collection, management and storage. A Management Facility may be publicly or privately owned and/or operated.
- 1.11 **Optional Program Wastes.** Wastes listed in Clause 6.3 of this Agreement.
- 1.12 **Product Stewardship.** A product-centered approach to environmental protection that calls on those in the product life cycle - manufacturers, retailers, users, and disposers - to share responsibility for reducing the environmental impacts of products.
- 1.13 **Program.** The Program operated by the District and the County to implement Minn. Stat. § 115A.96, pursuant to this Agreement, which shall include the following major elements: (1) a HHW education and waste reduction program; and (2) a Management Facility or Facilities.
- 1.14 **Program Wastes.** HHW and Optional Program Wastes listed in Clause 6.3 of this Agreement.
- 1.15 **Reciprocal Use Agreements.** Agreements entered into by the Program allowing use of a Management Facility for Program Waste generated outside the Service Area.
- 1.16 **Regional Program.** The Program operated by the District.

- 1.17 Regional/ Sponsor Organization (SO).** The District which has a contract with the State to operate a Program.
- 1.18 Service Area.** The area included within the boundaries of the Regional Program.
- 1.19 State.** The State of Minnesota acting through the Minnesota Pollution Control Agency.
- 1.20 State Contracts.** Contracts entered into by the State and that are made available for the management of Program Wastes. These include: H-69(5) Hazardous Waste Management; H-79(5) Fluorescent Lamp, Lamp Ballast and Mercury Containing Materials and Residuals Transportation and Management; H-90(5) Used Electronic and Electronic Component Recycling and Management; and H-94(5) Used Oil, Filter, Absorbent and Antifreeze Management.
- 1.21 State Contractor Services.** Waste management services performed for Program activities and made available by the State through its contracts with waste management firms. Waste management services include supplying materials, receiving and sorting Program Wastes, packaging, repackaging, consulting, training, sampling, analysis, treatment, transportation, storage, recycling, processing and disposal.
- 1.22 State Hazardous Waste Rules.** The Minnesota Pollution Control Agency Rules, Chapters 7045 and 7001.
- 1.23 State's Authorized Transporter.** A transporter authorized to provide transportation or waste management services pursuant to a State Contract for transportation or management of Program Wastes as referred to in Minn. Stat. § 115A.96, Subd. 7.
- 1.24 Supplemental Funding.** Funding from the State in addition to the Base Funding.
- 1.25 Universal Waste.** Universal Waste has the meaning given at Code of Federal Regulations, title 40, section 273.9. Minnesota adopted the Federal Universal Waste Regulations in accordance with MN Rules, Chapter 7045.1400.
- 1.26 VSQG or Very Small Quantity Generator.** A Hazardous Waste generator which is classified as a VSQG in accordance with Minn. Rules pt. 7045.0206, and which has not lost VSQG status due to quantity of generation or over-accumulation.
- 1.27 VSQG Wastes.** Hazardous Wastes generated by a VSQG.

2 Term of Agreement

- 2.1 Effective date: As of January 3, 2013.**
- 2.2 Expiration date: December 31, 2017,** unless earlier terminated by law or in accordance with Clause 22 or 23 of this Agreement. It is the intent of the parties that termination or expiration of this Agreement shall not relieve the parties of the obligations assumed

under this Agreement that occur after termination or expiration, including without limitation, the obligations to properly close the Management Facility or Facilities, to pay costs incurred during the term of this Agreement and to defend, indemnify and hold harmless pursuant to Clause 19 of this Agreement.

3 Payment, Reporting and Funding

3.1 Annual Reporting. The State will provide electronic copies of the Participation, Program Cost and Waste Management Report forms (Report) to the District. The District will forward the Report to the County and instruct it on how to complete the Report. The District will collect Reports from the County and verify that the Reports are complete and that the participation totals are accurate.

Participation will be determined by the District and will be based on the Form and Reports submitted in accordance with Clause 3.1 of this Agreement. Qualified Participating Households are as follows:

- Only participants delivering residential Household Hazardous Waste generated within Minnesota to a Regional Program or County will be counted as households.
- One participant will be credited for the waste from one household. If more than one household is included in a delivery to a facility or collection, the actual number of households may be counted, provided proper documentation is kept.
- Each of the multiple deliveries from the same participant within a calendar year may be counted.
- Participants that deliver only one or more of the following wastes will not be counted: batteries, elemental mercury containing devices, antifreeze, circuit boards, PCB ballasts, CRTs and other electronic devices, fluorescent lamps, used motor oil and filters, mercury thermometers from dedicated thermometer exchange events, compressed gas cylinders, pharmaceuticals, sharps, ammunition and/or fireworks.
- Participants that only come to remove items from product exchange shelves will not be counted.
- Waste that is abandoned at a facility or collection may be counted as one participant if properly documented. No more than 5% of total participation may be accounted for in this manner.
- Participants from HHW collection efforts related to natural disasters will be evaluated by the State for qualification on a case-by-case basis.
- Business Waste will not be counted.

The Form and Reports submitted as of March 1 will be considered final. If the County does not submit Reports to the District on or before March 1, the County will not be eligible for the Stipend Amounts for that fiscal year. The District will review and confirm the participation numbers received from each County and pay the Stipend Amount to the County as made available by the State.

The District shall compile and prepare reports including the information received from the County which will be available to the public in accordance with Clause 15 of this Agreement. The District shall provide the County with a copy of any reports it prepares for the legislature or other entities that includes data submitted by the County. The District shall compile and prepare reports summarizing information received on the Regional Program, subject to the limitations of the District's database, available staff time and the quality of report data received from Co-Sponsoring Counties.

- 3.2 Fees Paid By County.** The County will pay to the District an Annual Fee for Household Hazardous Waste Management assistance received from the District. The Annual Fee is calculated as follows:

$$\text{Annual fee} = \text{annual WLSSD administrative cost per household} \times \text{County annual participation in Local Program.}$$

For purposes of this Agreement, the annual WLSSD administrative cost per household is calculated by dividing the total cost of the WLSSD HHW Program, excluding disposal costs, by the total number of households participating in the HHW Program within the region. In exchange for the Annual Fee, the County will receive the services set forth in the District-County Contract as follows.

- a. VSQG (Clean Shop) Collection Events. The County may request VSQG mobile collection event(s) each year to be operated and scheduled in accordance with the District-County Contract under the fees paid by the County as listed in Attachment A. Fee will be refunded within 30 days with a 14 day cancellation notice before the scheduled date of the event.
- b. HHW Collection Events. The County may request HHW Mobile Collection Events each year by February 15 annually in accordance with the District-County Contract. Fees for these collections will be billed on a per household basis after the scheduled collection count as listed in Attachment A as listed in the attached agreement. The County must provide a 14 day cancellation notice before the scheduled date of the event.
- c. Staffing. The County may request staffing services on an hourly rate as listed in Attachment A.
- d. The current rate of Internal Revenue Service (IRS) will be charged for all mileage for mobile collections or special services.
- e. Disposal Costs. The District will bill the County for the County's pro-rata share of the costs of disposal of all Program Waste disposed of at the Regional Facility that is billed to the District by the Contractor.

f. Unspecified Expenses. All expenses incurred by the County in operating the CO Program as required under this contract, excluding those for which the District will provide payment pursuant hereto, shall be paid by the County.

Residents from within the Co-sponsoring Service Area may deliver Household Hazardous Waste to the District HHW Facility, and such waste will be accepted by WLSSD as an additional service covered by the Annual Fee. This delivery of waste will be counted as a participant in the program of the District, and will not be included for purposes of calculating the County annual participation.

3.3 Assumption. For purposes of this Agreement, calculations in this Agreement will be based on County participation numbers and WLSSD administrative costs for the previous year.

3.4 Payment of Base and Supplemental Stipends. Under the District funding agreement with the State, the District may receive base funding and supplemental funding stipends from the State. In order to receive a portion of the base and supplemental stipends, the County must operate its programs in accordance with the terms of the District-County Contract.

a. **Available Funding.** Program funding from the District is contingent upon available State funding for Local Program activities, and the District shall have no obligation to provide funds to the County unless it has received such funds from the State. No minimum payment is guaranteed by the District.

b. **Payment of Stipends.** The District shall distribute stipends to the County in accordance with this Agreement within 45 days after the District has received funds from the State.

c. **Stipend Distribution.**

i. **Base Stipend.** The first portion of the base stipend will be distributed with each County and the District receiving an equal share of up to \$1000 ("Equal Stipend"). Any remaining Base Stipend will be disbursed based on the following formula:

Annual stipend = (State Base Stipend - Total Equal Stipend to all COs and District) ÷ [households in region] x [households in CO Service Area].

ii. **Co-sponsoring Program Operation and Waste Management Stipend and Supplemental Stipends.** received from the State by the District for program operation and waste management ("O&M Stipend") will be distributed based on the following formula:

Annual stipend = (State Participation Stipend ÷ total regional participation) x annual HHW participants in CO Service Area.

3.5 County Payment. The County shall remit payment to the District within thirty (30) days after receiving any bill from the District. The County shall send payment to District's billing address as follows:

Western Lake Superior Sanitary District
2626 Courtland Street
Duluth, MN 55806-1894

3.6 Contractor Services Payment. Contractor Services are waste management services which are performed for the County by a contractor made available by the State through its contracts with waste management firms. The County may receive Contractor Services directly through the state contract without using the District. The County shall promptly pay the Contractor for authorized services that are directly billed by the Contractor to the County.

3.7 Billing By District. By April 1 of each year, the District will bill the County for the Annual Service Fee and any scheduled Clean Shop Events. All other mobile events and services will be billed to the County after the services have been rendered.

4 Education and Waste Reduction Program

The County shall operate an education and waste reduction program in coordination with the State and in accordance with Minn. Stat. § 115A.96, Subd. 6 (a). The purpose of the program is to assist and inform the public concerning the proper management, identification and reduction of Program Wastes. The District shall make education and waste reduction materials available to the County.

5 Program Operations and Training

5.1 Training. The State and the District have jointly developed a training program that may be accessed by the District and the County.

5.2 Standard Operating Procedures. The State has worked with the District to develop and make available generic standard operating procedures. The District has developed Program specific standard operating procedures based on the generic standards available on the MPCA's website. The Program specific standards are not less restrictive than the generic standards.

6 Waste Acceptance and Management

6.1 The County shall provide for the operation of Management Facilities in accordance with this Agreement and all applicable rules, regulations, standards, and permit requirements. If a Management Facility is privately owned or operated, the County shall require the private owner or operator to meet the conditions and requirements set forth in this Agreement.

- 6.2 The County shall collect, store or otherwise manage HHW and may collect, store or otherwise manage Optional Program Wastes listed in Clause 6.3 below upon obtaining all applicable governmental approvals. The County may manage any waste listed below and commingle said wastes with HHW and manage said wastes under the ID Number acquired by the State. The State shall complete the “Notification of Regulated Waste Activity” form and acquire the ID Number solely in the name of the State for each Management Facility that requires an ID Number. The ID Number shall be used for transportation and disposal of all Program Wastes collected at a Management Facility. The County may also choose to obtain or retain its own ID Numbers for its Management Facilities if the wastes are managed in accordance with this Agreement and all applicable rules, regulations, permits and policies.
- 6.3 Program Wastes which may be accepted and commingled with HHW and which may be shipped under the State’s ID Number include:
- (a) HHW generated outside the service area and which is accepted in accordance with Minn. Rules pt. 7045.0310, subp 6;
 - (b) Hazardous wastes generated by a VSQG;
 - (c) Abandoned wastes that the District agrees to manage;
 - (d) Federal Universal Waste, defined in the Code of Federal Regulations, title 40, section 273.9, and in MN Rules 7045.1400 including: fluorescent or high-intensity discharge lamps, mercury-containing devices, pesticides, and batteries, and any additional waste streams added to the Federal Universal Waste list that are adopted by the State during the term of this Agreement;
 - (e) Electronic Waste; and
 - (f) Latex wastes, used oil and used oil filters, antifreeze and any other wastes managed under the State Contracts listed in 1.20.
- 6.4 At the expiration of this Agreement, or at the time of cancelation of this Agreement by either party, the County and its contractor shall cease to use the ID Number acquired by the State. If Hazardous Waste will no longer be manifested from the Management Facility, the State will cancel the ID Number. If the County plans to continue to manifest Hazardous Waste from a Management Facility, the County shall, within 7 days of cancellation or non-renewal, submit a “Subsequent Notification” form to the entity authorized to assign ID Numbers. The County shall provide, to the District’s Authorized Representative, documentation confirming that the number has been reassigned within 30 days of expiration or cancellation of this Agreement.
- 6.5 Nothing in this Agreement is intended to preclude the collection, management or storage of waste which is not Program Wastes at the Management Facility, provided that the County neither commingles the waste with Program Wastes nor uses the State’s ID Number when shipping said waste.
- 6.6 Specific allocation of duties can be found in Attachment B.

7 Manifesting

In the event that the County has direct pick up of waste, the County shall provide written documentation to the State demonstrating that its staff and its contractor's staff have been certified by their employer to sign manifests in accordance with DOT regulations 49 CFR 172.704. The County shall also provide documentation to the State demonstrating that its staff and its contractor's staff have been trained and certified to sign manifests in accordance with applicable Hazardous Waste regulations. Documentation shall be in the form of a letter from the employer to the State's Authorized Representative that confirms that staff are certified and trained and shall be signed by the County's Authorized Representative. Documentation shall be maintained in accordance with Clause 20 of this Agreement. County and contractor staff shall not sign manifests prior to submitting documentation to the MPCA. Waste shipped on a manifest signed by County or contractor staff for which documentation has not been submitted prior to signature shall not be covered by the indemnification provided in Clause 19.2 of this Agreement.

The County shall submit signed manifest copies to regulatory agencies in accordance with applicable manifesting regulations and shall retain copies of manifests as specified in Clause 20 of this Agreement. The County shall notify the District's Authorized Representative if manifest copies are not received from the transporter or receiving facility in accordance with Minn. Rules Parts 7045.0351 through 7045.0397. If a Management Facility is privately operated, the County shall include a provision in its contract with the private operator that requires the operator to notify the State's Authorized Representative if manifest copies are not received from the transporter or receiving facility in accordance with Minn. Rules, Parts 7045.0351 through 7045.0397.

8 Approval to Store Waste More than 90 Days or Receive Waste from another Management Facility

In accordance with Minn. Rules, pt. 7045.0310, subp. 6, the County may request, in writing, approval to store Program Wastes for more than 90 days or to accept Program Wastes from other Management Facilities. The County shall not store Program Wastes for more than 90 days and/or accept Program Wastes from other Management Facilities until written approval has been received.

9 Alternative Management of Program Wastes

In accordance with Minn. Rules, pt. 7045.0310, subp. 7, the County may request, in writing, State approval to treat Program Wastes on-site or manage Program Wastes at a facility not regulated pursuant to Minn. Rules pts. 7045.0208, subp. 1, or 7045.0310 (alternative management facility). The County shall not treat Program Wastes on-site or deliver Program Wastes to an alternative management facility until written approval is received from the State.

Treatment and alternative facility management methods which do not require approval of the State are: reuse, bulking of paints (including paint in aerosol containers), solvents, fuels, adhesives, used or waste oil and antifreeze; management of any waste that does not exhibit the characteristics of or is not listed as a hazardous waste under rules; and any specific management method previously approved in writing by the State for the Program.

10 State Contractor Services

- 10.1 The State, through its State Contracts, shall provide for the management, transportation and disposal of Program Wastes from the time that the Program Wastes come into the possession of a State's Authorized Transporter. The State shall manage all risks associated with the management, transportation and disposal of Program Wastes, from the time that Program Wastes come into possession of the State's Authorized Transporter, and any time thereafter, to avoid liability to the District and County. Said management, transportation and disposal shall be in accordance with all applicable rules, regulations, standards, permit requirements, and this Agreement.
- 10.2 The State shall make available to the District and County, State Contractor Services and shall require the State's Authorized Transporter to meet the conditions and requirements set forth in the State of Minnesota Contracts and this Agreement. Except as may be provided in other agreements between the parties, the County shall pay for the cost of State Contractor Services in accordance with the terms of the Contracts with the State's Authorized Transporter. The State shall consult with the counties in the procurement of State Contractor Services and in the development of the terms and conditions of the State Contracts.
- 10.3 The State has agreed to include a clause in any waste management contract developed for use by the Program indemnifying and holding the State and District harmless from all liability, obligations, claims, loss and expense, including reasonable attorneys and other professional fees, resulting from the acts of the contractor, its agents, employees or sub-contractors or obligations assumed by the contractor in said contract.
- 10.4 The State shall investigate and resolve matters related to the failure of the State's Authorized Transporters to perform services in accordance with the terms of the State Contracts listed in 1.20. The District shall notify the County when it receives notice of a release to the environment by a State's Authorized Transporter.
- 10.5 The provisions of Clause 19.2 of this Agreement shall apply to Program Wastes collected pursuant to this Agreement that are transported by the State's Authorized Transporter. Use of the State's Authorized Transporter shall constitute use of the Agency's Authorized Transporter within the meaning of Minn. Stat. § 115A.96, Subd. 7. Additionally, the County shall be deemed to be using the State's Authorized Transporter if the County contracts directly with the State's Authorized Transporter and wholly incorporates the terms of a State Contract for State Contractor Services.
- 10.6 The County is encouraged, but not required, to use State Contractor Services for the operation of a Management Facility. If the County chooses to use a transporter other than the State's Authorized Transporter for the management of Program Wastes, the provisions of Clause 19.2 of this Agreement shall not apply to such Program Wastes.

10.7 The District's Authorized Representative shall provide information to the County regarding the location of the State Contracts so that the County can readily access State Contracts for transportation and disposal.

11 Required Equipment and Inspections

The County shall arrange for the provision, inspection, maintenance and record keeping for all the safety equipment, personal protective equipment and other equipment necessary for Program operations.

12 Closure

The County is responsible for proper closure of a Management Facility in accordance with all applicable rules and regulations and Clause 6.4 of this Agreement. If approval to accept and store waste has been received pursuant to Clause 8 of this Agreement, the County shall arrange for the proper closure of the Management Facility in accordance with the terms of said approval.

13 Product Stewardship

The District shall inform the County of projects and opportunities related to product stewardship. The District will support County participation by reviewing initiatives and assisting in the resolution of issues that arise with implementation of product stewardship initiatives. The District may, at its sole discretion, provide supplies and public information materials to assist with implementation of product stewardship based efforts.

14 Authorized Representatives

The County's Authorized Representative is **Terry Neff**, Aitkin County Courthouse 209 Second Street NW Room 118, Aitkin, MN 56431, or his/her successor.

The District's Authorized Representative is **Heidi Ringhofer**, Solid Waste Services Director, 2626 Courtland Street, Duluth, MN 55806; 218-722-3336; Heidi.ringhofer@wlssd.com, or her successor.

15 Government Data Practices

The District and County must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data provided by the County or District under this Joint Powers Agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the County under the Agreement. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data referred to in this clause by either the District or the County. If the County receives a request to release the data referred to in this clause, the County must immediately notify the District.

16 Compliance with Laws

All acts performed by the parties under this Agreement shall be performed in accordance with all applicable federal, state and local laws.

17 Dispute Resolution

In the event of a dispute between the parties arising out of this Agreement, either due to alleged non-compliance with the terms, or a disagreement regarding the terms, the parties agree to engage in good faith negotiation to resolve the dispute before resorting to legal process. Negotiation may include mediation or arbitration through third parties if both parties agree. Nothing communicated during the course of negotiation, mediation or arbitration may be used against either party in legal process if the dispute is not resolved.

18 Assignment, Amendments, Waiver, and Contract Complete

- 18.1 Assignment.** The County may neither assign nor transfer any rights or obligations under this Agreement without the prior consent of the District and a fully executed Assignment Agreement, executed and approved by the same parties who executed and approved this Agreement, or their successors in office.
- 18.2 Amendments.** Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original Agreement, or their successors in office.
- 18.3 Waiver.** If either party fails to enforce any provision of this Agreement, that failure does not waive the provision or the party's right to enforce it.
- 18.4 No Waiver.** Nothing in this Agreement is intended to waive or limit the provisions of the Tort Claims Acts, Minn. Stat. § 3.736, or Minn. Stat. Ch. 466, or any other law, legislative or judicial, which limits governmental liability.
- 18.5 Contract Complete.** This Agreement contains all negotiations and agreements between the County and the District. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

19 Liability and Indemnification

It is the intent of the parties that any liability which may arise as a result of activities contemplated by this Agreement be governed according to the following provisions:

- 19.1 Liability to third persons.** The parties intend that any claims or causes of action by third persons are subject to the limitations upon liability provided by law. Further, nothing in this Agreement is intended to create a cause of action with respect to any third person.
- 19.2 State Indemnification.** The District and the County acknowledge and agree that the District and any County are indemnified by the State as provided for in Minn. Stat. § 115A.96, Subd. 7. In the event that Minn. Stat. § 115A.96, Subd. 7, is inapplicable to a specific situation, then the County and the District agree to be responsible for their own acts and omissions subject to the provisions, limitations, and exclusions of the Tort Claims Acts - Minn. Stat. Ch. 466.

20 State Audits

Under Minn. Stat. § 16C.05, Subd. 5, the District and County shall have available for inspection for a minimum of six years following the expiration or cancellation of this Agreement, complete and accurate records of the work funded by state funds disbursed under this Agreement, including, but not limited to: collection participant surveys, operational logs showing each qualifying delivery of waste, check-off sheets or electronically scanned participant data; personnel time sheets; paid invoices for public education services, paid invoices for waste management services; training costs; and data and quality control information. Upon receipt of a request from the District's authorized representative, the County shall, in addition, retain the records for such longer period as requested during the time of any administrative, judicial or other proceeding for which the records may be needed. The retention period shall continue until the administrative, judicial, or other proceeding for which the records may be needed is finally completed or until the District's authorized representative notifies the County in writing that the records need no longer be kept.

21 Governing Law and Venue

21.1 This Agreement and all statutes and rules cited herein shall be interpreted pursuant to the laws of the State of Minnesota.

21.2 Venue for all legal proceedings out of this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in St. Louis County, Minnesota.

22 Termination

The District may cancel this Agreement at any time, with or without cause, upon 180 days written notice to the County. The County may cancel this Agreement, with or without cause, by providing written notification to the District's Authorized Representative at least 180 days prior to the date of cancellation.

23 Termination for Insufficient Funding

The District may immediately terminate this Agreement if it does not obtain funding from the State of Minnesota, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered herein. Termination must be by written or fax notice to the County. The District is not obligated to pay for any services that are provided after notice and effective date of termination. However, the County will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The District will not be assessed any penalty if the Agreement is terminated because of the decision of the State of Minnesota, or other funding source, not to appropriate funds. The District must provide the County notice of the lack of funding within a reasonable time of the District's receipt of that notice.

24 E-Verify Certification (In accordance with Minn. Stat. §16C.075)

For services valued in excess of \$50,000, the County certifies that as of the date of services performed on behalf of the District, the County and all its subcontractors will have implemented or be in the process of implementing the federal E-Verify program for all newly hired employees in

the United States who will perform work on behalf of the District. The County is responsible for collecting all subcontractor certifications and may do so utilizing the E-Verify Subcontractor Certification Form available at <http://www.mmd.admin.state.mn.us/doc/EVerifySubCertForm.doc>. All subcontractor certifications must be kept on file with the County and made available to the District upon request.

25 Survival of Terms

The following Clauses survive the expiration or cancellation of this Agreement: 6.4 ID Numbers; 15 Government Data Practices; 16 Compliance with Laws; 19 Liability and Indemnification; 20 State Audits and 21 Governing Law and Venue.

1. Western Lake Superior Sanitary District 2.

The District certifies that the appropriate person(s) have executed the Agreement on behalf of the District as required by applicable articles, bylaws, resolutions, or ordinances.

_____ County

Print name: _____
Signature: _____
Title: _____ Date: _____

Print name: _____
Signature: _____
Title: _____ Date: _____

Print name: _____
Signature: _____
Title: _____ Date: _____

Print name: _____
Signature: _____
Title: _____ Date: _____

Attachment A

Households for use in this Agreement are based on the 2010 Census

Aitkin	16,029
Carlton	15,656
Cook	5,839
Itasca	27,065
Koochiching	7,900
Lake	7,681
St. Louis	44,936
Wlssd	58,122

Fees

Clean Shop Fees per Event= \$1000

Mobile Event Fees per household=\$20

Hourly Staffing Rates=\$50

Attachment B

Allocation of Specific Duties

SO Duties:

- The SO shall serve as liaison between the CO and the State for purposes of this contract.
- The SO shall send summary annual reports to the State from the region.

CO Duties:

- Procure all necessary safety equipment, personal protective equipment and other equipment for CO Management Facility operations, as required by regulation.
- Designate staff for Local Management Facility activities.
- Provide necessary training for workers who will staff facilities.
- Ensure that all staff performing duties related to Local Management Facility activities are properly qualified and trained.

Mobile Collection Event

SO Duties:

- Shall approve of proposed collection sites that meet State criteria prior to notifying State of intended Mobile Event Collection sites and dates;
- Shall compile collection summaries for CO and annual state reports;

CO Duties:

- Arrange for the use of collection sites;
- CO shall provide necessary training for workers who will staff collections;
- Conduct all Public Relations Coordination tasks
- Conduct Site Coordination tasks as listed as instructed by the SO;
- Provide the number of staff and/or volunteer workers as requested by the SO;
- Provide a forklift or a front-end loader, and operator for such equipment, if requested by the SO;
- Publicize and conduct product exchanges in conjunction with Mobile Event Collection
- Provide safety and emergency equipment, if requested by the SO.

Very Small Quantity Generator (VSQG) Mobile Event Collect

SO Duties:

- Provide the CO with applications and support;
- Serve as the contact for the VSQG Participant, process all applications, handle transactions, advise Participant on proper handling methods and on other matters;
- Process and handle all waste according to state, federal and local regulations and appropriate sections of this Contract and the contract between the SO and the State; and
- Notify the State of planned Event Collection dates at least 30 days prior to the proposed date.

CO Duties:

- Promote the VSQG Collection a minimum of 45 days prior to the collection;
- Arrange for the use of collection sites.

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