

**SOLID WASTE AGREEMENT BETWEEN  
CITY OF MINNEAPOLIS  
AND  
HENNEPIN COUNTY**

THIS AGREEMENT, is made between the COUNTY OF HENNEPIN, State of Minnesota, hereinafter referred to as the "County", and the CITY OF MINNEAPOLIS, hereinafter referred to as the "City".

NOW, THEREFORE, IT IS HEREBY AGREED:

**SECTION I**

**Scope of Services of the City**

The City will deliver, and direct contracted collector to deliver, all acceptable solid wastes collected by the City through its comprehensive collection program to the Hennepin Energy Resource Company (HERC) waste-to-energy facility at 505 6th Avenue North in downtown Minneapolis.

**SECTION II**

**Scope of Services of the County**

The County will properly, legally and appropriately process and/or dispose of the mixed municipal solid wastes delivered by the City to HERC or will provide for the proper, legal, and appropriate processing and/or disposal of the mixed municipal solid wastes so delivered.

**SECTION III**

**Compensation**

1. The City shall pay the County a tip fee of \$38.00 per ton for all waste delivered to HERC.
2. The tip fee may be subject to increase of up to \$2.00 per ton on April 1, 2009, to reflect county solid waste system cost increases and changing market conditions, but in no case shall the annual increase exceed the consumer Price Index For All Urban Consumers (CPI-U) for the previous twelve months as published by the United States Bureau of Labor Statistics.
3. In no case will the City pay more per ton than any other entity for disposing of its mixed municipal solid waste in the County Waste Management System.
4. The County will continue to distribute SCORE revenues it receives from the State of Minnesota or an agency thereof to the City for the duration of this agreement. The allocation of SCORE funds will be based on the number of households served by curbside collection in the County.
5. The City will bring all of its mixed municipal solid waste to the HERC facility during operating hours of, at least, 5 A.M. to 8:30 P.M., Monday through Saturday. The HERC facility shall always be available for Minneapolis to deliver mixed municipal solid waste except for shutdowns due to acts of God or acts imposed by the City of Minneapolis. The City shall be reimbursed for additional cost incurred by the City if the HERC gate-to-gate time of 35 minutes is exceeded.
6. The driver lavatory at HERC will be maintained and adequately supplied to ensure a satisfactory level of cleanliness at all times and will be cleaned at least once per day.
7. The operational policies and practices at HERC with respect to City deliveries of mixed municipal solid waste will support the City's solid waste and recycling programs.
8. The County will support the City's consumer electronics collection program by accepting, at the City's processing facility, the consumer electronics collected separately by the City for processing, recycling, and/or disposal. The County will arrange and pay for any and all transportation and fumigation costs as required by the County and/or its processor, and shall have full ownership and responsibility for proper

processing and disposal of the materials once they have been placed in the transportation container. The County and City will cooperate to define the consumer electronics to be collected by the City and accepted by the county and that definition will be attached later as an Appendix to this contract after signature by the contact persons identified in Section XIII.

## **SECTION IV**

### **Effective Date/Termination Date**

This agreement shall be in full force and effect from April 1, 2008, through March 31, 2010.

## **SECTION V**

### **Indemnification and Defense of Environmental Claims**

The County will indemnify and hold harmless the City of Minneapolis against liability for removal, remedial, response, and natural resources damage actions, and any attorneys fees awarded in an action under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or also known as Superfund) and the Minnesota Environmental Response and Liability Act (MERLA) as they now exist or may be subsequently amended or under any successor statute replacing CERCLA or MERLA, for a release or threatened release of hazardous waste from acceptable Waste delivered and consumer electronics delivered by the City during the term of this Agreement. The obligation of the County under this section shall apply to any acceptable waste delivered to the County during the term of this Agreement without regard to the time after delivery when any liability may occur, a claim is made, or a claim becomes known. The County's obligation under this section "runs with the waste." This section does not create any liability, but only defines the obligation of the County with respect to environmental liability which may exist.

The City shall, in a timely manner, tender to the County defense of any action for which the City seeks indemnity under this section and shall cooperate fully in the defense. The County shall assume the defense of any action covered in whole or in part by this indemnity. In the event the County accepts a tendered defense but reserves the right to claim that some or all of City's liability results from non-indemnified claims, the County shall provide the City with separate counsel of the County's choosing.

The County's duty to indemnify the City shall be null and void if:

1. The City, without the express written consent of the county, assumes any obligation, makes any payment, incurs any expense, or compromises in any way a claim covered by this indemnification;
2. The City fails to give timely notice of claim or fails to cooperate fully in the defense;
3. The City knowingly delivers Unacceptable Waste to the County.

The City agrees to assign the County all claims the City may have that arise in connection with the environmental claims indemnified by the County.

## **SECTION VI**

### **Hold Harmless for Acts in Performing This Agreement**

The City and the County will take all precautions necessary to protect the public against injury from acts taken in performance of this agreement. The County will defend, indemnify, and hold the City its officers, its employees, and its guests harmless from any and all damages and claims of damages that may arise by reason of any negligence, malfeasance, misfeasance, or nonfeasance on the part of the County, its contractors, officers, employees, subcontractors, or agents any anyone directly or indirectly employed by the County for acts or omissions relating to the delivery, weighing, handling, or unloading of mixed municipal solid waste at the HERC facility or other facility designated by the County. This section shall apply to any liability for clean-up, investigations, or remediation of pollution or other

environmental liability. The respective rights of the parties, if any, on these issues are covered by the previous section.

The City will defend, indemnify, and hold the County, its officers, its employees, and its agents harmless from any and all damages and claims of damages that may arise by reason of any negligence, malfeasance, misfeasance, or nonfeasance on the part of the City, its contractors, officers, employees, subcontractors, agents, and anyone directly or indirectly employed by the City for acts or omissions relating to the delivery, weighing, or handling or unloading of mixed municipal solid waste at the HERC facility or other facility designated by the County. This section shall not apply to any liability for clean-up, investigation, or remediation of pollution or other environmental liability. The respective rights of the parties, if any, on these issues are covered by the previous section.

## **SECTION VII**

### **Immunities and Limitations on Liability**

Nothing in this agreement shall constitute a waiver, explicit, implied, or otherwise, of any immunities or statutory limitations on liability.

## **SECTION VIII**

### **Affirmative Action Policy**

The City and the County will comply with all applicable equal opportunity and affirmative action laws, directives, and regulations of the federal, state, and local governing bodies or agencies.

## **SECTION IX**

### **Inspection of Books and Records**

The City and County agree that the other party of this Agreement, the State Auditor, or any other duly-authorized representatives shall at any time during normal business hours and as often as they may reasonably deem necessary, have access to and the right to examine, audit, excerpt and transcribe any book, documents, papers, records, etc., which are pertinent to the accounting practices and procedure of the City and/or the County and involve transactions relating to this agreement. Such access shall survive termination of this agreement for a period of six years or such other period as consistent with Minnesota Statute 16C.05, Subdivision 5, or its successors.

## **SECTION X**

### **Minnesota Laws Govern**

The laws of the State of Minnesota shall govern all questions arising out of or relating to this Agreement. If any provision of this agreement is held invalid, illegal or unenforceable, the remaining provisions will not be affected.

## **SECTION XI**

### **Independent Services**

It is agreed that nothing herein contained is intended or should be construed in any manner as creating or establishing the relationship of co-partners between the parties hereto or as constituting the City as the agent, representative, or employee of the County for any purpose or in any manner whatsoever. The parties are to be and shall remain independent with respect to all services performed

under this Agreement. The City represents that it has, or will secure, at its own expense, all personnel required in performing services under this Agreement.

Any and all personnel of the City or County or of their respective contractors or subcontractors, while engaged in the performance of any work or services required by the City or the County under this Agreement, shall have no contractual relations with the County or the City, respectively, and shall not be considered employees of the County or City, respectively; and any and all claims that may or might arise under the Workers' Compensation Act of the State of Minnesota on behalf of the said personnel or other persons while so engaged; and any and all claims whatsoever on behalf of any such person or personnel arising out of employment or alleged employment including, without limitation, claims of discrimination against the City or County, their respective officers, agents, contractors, and employees shall in no way be the responsibility of the County or the City; and each party to the Agreement shall defend, indemnify, and hold the other party to the Agreement, its officers, agents, and employees harmless from any and all such claims. Such personnel or other persons shall not require nor be entitled to any compensation, rights, or benefits of any kind whatsoever from the County or the City, respectively, including, without limitation, tenure rights, medical and hospital care, sick and vacation leave, Workers' Compensation, Unemployment Compensation, disability, severance pay, and PERA.

## **SECTION XII**

### **Cancellation**

This Agreement may be terminated by the City or the County for substantial noncompliance upon sixty (60) days written notice by the other party. Such termination shall not affect any rights of the City or the County against the County or the City for any breach of the Agreement.

## **SECTION XIII**

### **Notices**

Any notice or demand, which may or must be given or made by a party hereto, under the terms of this Agreement or any statute or ordinance, shall be in writing and shall be sent registered or certified mail to the other party addressed as follows:

To City: Mr. Steven Kotke  
City Engineer/Director of Public Works  
Room 203 City Hall  
350 South Fifth Street  
Minneapolis, MN 55415

To County: Mr. Carl Michaud  
Director of Environmental Services  
417 North Fifth Street  
Minneapolis, MN 55401

## **SECTION XIV**

### **Compliance with Law**

The City and County shall each comply with all applicable federal, state, and local laws, together with all ordinances and regulations.

**SECTION XV**

**Entire Agreement**

This Agreement represents the entire and integrated Agreement between the City and the County, and supersedes all prior negotiations, representations, or agreements, whether written or oral. This Agreement may be amended only by a written instrument signed by both the City and the County. Upon proper execution, this contract will be legally valid and binding.

Approved as to form and execution:

\_\_\_\_\_  
Assistant County Attorney

Date: \_\_\_\_\_

\_\_\_\_\_  
Director, Dept. of Environmental Services

Date: \_\_\_\_\_

COUNTY OF HENNEPIN  
STATE OF MINNESOTA

By: \_\_\_\_\_  
Chair of Its County Board

And: \_\_\_\_\_  
Assistant / Deputy / County Administrator

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Deputy / Clerk of County Board

Date: \_\_\_\_\_

CITY OF MINNEAPOLIS

By: \_\_\_\_\_  
Its Mayor

ATTEST: \_\_\_\_\_  
Assistant City Clerk

Countersigned: \_\_\_\_\_  
Finance Officer

Approved as to Form:

By: \_\_\_\_\_  
Assistant City Attorney

By: \_\_\_\_\_  
Susan A. Young, Director  
Division of Solid Waste and Recycling