

**JOINT POWERS AGREEMENT BETWEEN
THE COUNTY OF DAKOTA AND THE COUNTY OF SCOTT
FOR RECYCLE ZONE PLUS OPERATIONS**

This Joint Powers Agreement (“Agreement”) is between the County of Dakota and the County of Scott, through their respective Boards of Commissioners. Dakota and Scott Counties are referred to herein as the Parties.

WHEREAS, Dakota and Scott Counties are governmental units as that term is defined in Minn. Stat. § 471.59.

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

WHEREAS, Dakota and Scott Counties each provide a household hazardous waste management program for their residents.

WHEREAS, Dakota and Scott Counties, along with other metropolitan area counties, are each parties to the Household Hazardous Waste Metropolitan Inter-County Reciprocal Use Agreement with an effective date of January 1, 2025 (the “Reciprocal Use Agreement”), under which agreement residents of metropolitan area counties may utilize a household hazardous waste facility located in any of the participating counties in return for payment from the resident’s home county.

WHEREAS, the Parties have cooperated and intend to continue to cooperate in the construction of a new regional household hazardous waste collection and recycling facility located in the City of Lakeville, known as Recycle Zone Plus (“RZP”).

WHEREAS, the Parties have also entered into a separate Joint Powers Agreement relating to construction, ongoing capital replacement and maintenance costs at RPZ (the “Construction and Maintenance Agreement”) ~~(the Maintenance Agreement)~~, under which Dakota County will be responsible for maintenance, repairs and improvements at the RZP facility, and Scott County will provide annual funding for a share of those costs.

WHEREAS, the RZP facility will be available for use by residents of the metropolitan counties participating in the Reciprocal Use Agreement.

WHEREAS, the Parties intend that use of the RZP facility by Scott County residents will be governed by this Agreement and not by the Reciprocal Use Agreement.

WHEREAS, the Parties therefore desire to enter into this Agreement for the purpose of identifying the responsibilities of the Parties for operating the RZP facility and sharing in those operating costs, and for the purpose of specifying that the operating cost share provided for under this Agreement for RZP will replace the reciprocal use payment.

NOW, THEREFORE, the Parties agree as follows:

**ARTICLE 1
PURPOSE**

The purpose of this Agreement is to set out the respective duties and responsibilities of Dakota and Scott Counties for the operational costs of the Recycle Zone Plus facility, as more fully described herein.

ARTICLE 2 **TERM**

This Agreement shall be effective as of the date of the signatures of the Parties (the “Effective Date”) and shall remain in effect until terminated as provided herein, or until termination is required by operation of law or by decision of a court of competent jurisdiction.

ARTICLE 3 **RZP OPERATIONS AND OPERATING COST SHARE**

4.1 Dakota County Obligations.

4.1.1 RZP Operations. Dakota County shall be responsible for operating the RZP facility and shall pay all associated operating costs, including but not limited to personnel and any operating contractor costs, transportation and disposal costs for waste collected at the facility, and all costs relating to utilities, supplies and insurance.

4.1.2 Records Relating to Expenses and Revenue. Dakota County shall maintain its standard business records relating to both the annual costs and expenses of operating the RZP facility and the annual revenue received from RZP operations. Annual operating costs shall include, but are not limited to the following (the “Annual Operating Costs”):

- The costs of all on-site labor, including Dakota County employees and any contractors employed for RZP operations;
- Disposal costs relating to household hazardous waste items received at RZP;
- Disposal costs relating to any solid waste and recyclable items received at RZP;
- Transportation costs relating to disposal;
- Supplies;
- Utilities; and
- Insurance

For the avoidance of doubt, the Annual Operating Costs shall not include any item for which Scott County is required to make payment to Dakota County under the Parties’ Construction and Maintenance Agreement.

Dakota County shall also calculate the total revenue received each calendar year from its operation of the RZP facility from the following sources (the “Annual Revenue”):

- Fees charged directly to RZP facility users for delivery of electronics, tires and other items for which a fee is imposed at the facility;
- Reimbursements paid to Dakota County for recoverable items received at the facility from programs such as those provided through Paintcare, Xcel, and Dakota Electric;

- Payments received from Very Small Quantity Generators utilizing the RZP facility;
- Revenue from disposal of scrap metal, used oil and other recyclable materials received at the facility;
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- Payments received from metropolitan area counties other than Scott County for their residents' use of the RZP facility under the Reciprocal Use Agreement.

In addition to calculating Annual Operating Costs and Annual Revenue at RZP, Dakota County will record the County of residence for each vehicle or person (as applicable) utilizing the RZP facility for purposes of calculating the operating cost reimbursement obligation under section 4.2.

4.2 Scott County Obligations.

4.2.1 Reimbursement for Share of Annual Net Operating Costs. Scott County shall reimburse Dakota County for its share of the RZP net operating costs relating to use of the facility by Scott County residents based on the average net cost per vehicle delivering waste to the facility in the preceding year. The average net cost per vehicle shall be calculated by subtracting the Annual Revenue from the Annual Operating Costs and dividing that amount by the total number of all vehicles utilizing the RZP facility during the year, as depicted below:

$$\frac{\text{(Annual Operating Costs – Annual Revenue)}}{\text{total number of vehicles}} = \text{Average Net Cost Per Vehicle}$$

Scott County's proportionate share of the RZP annual net operating costs shall be calculated by multiplying the total number of Scott County residents' vehicles utilizing the RZP facility during the year by the Annual Net Cost Per Vehicle calculated above, and as depicted below:

$$\begin{array}{r} \text{Total number of Scott County vehicles} \\ \times \text{Average Net Cost Per Vehicle} \\ = \text{Scott County Annual Reimbursement Share} \end{array}$$

4.2.2 Billing and Payment. Dakota County will calculate the Scott County Annual Reimbursement Share and provide an invoice to Scott County during the first quarter of each year. Scott County will pay the invoice within 35 days of receipt. Scott County may request information relating to the annual invoice and the Parties will confer in good faith to resolve any questions about the Annual Reimbursement Share calculations. The Parties' Authorized Representatives will be responsible for resolving issues and conflicts.

4.2.3 No Payments for RZP Under Reciprocal Use Agreement. Scott County's obligations for its proportionate share of the RPZ Annual Operating Costs shall be payable only through this Agreement. Scott County shall not be required to make payments to Dakota County for its residents' use of RZP under the Reciprocal Use Agreement, so long as this Agreement remains in effect.

ARTICLE 5
ANNUAL REVIEW

The Parties shall confer annually to review the Parties' respective obligations and to discuss any issues the Parties may have relating to this Agreement. The annual meeting shall occur on or before June 1 of each year, unless a later date is agreeable to both Parties for their convenience.

ARTICLE 6
AMENDMENTS

No amendments or variations of the terms and conditions of this Agreement shall be valid unless in writing and signed by the Parties' Authorized Representatives.

ARTICLE 7
TERMINATION

7.1 With or Without Cause. This Agreement may be terminated with or without cause, by either Party upon sixty (60) calendar days' written notice of intent to terminate.

7.2 Non-Appropriation of Funds. Notwithstanding any provision of this Agreement to the contrary, either Party may terminate this Agreement immediately in the event the Party determines that sufficient funds from City, County, State, or Federal sources are not appropriated at a level sufficient to allow for the performance of this Agreement.

7.3 Effect of Termination or Expiration. Following any termination or expiration of this Agreement, Scott County shall thereafter reimburse Dakota County for its residents' use of RZP as required by the Reciprocal Use Agreement.

ARTICLE 8
AUTHORIZED REPRESENTATIVES AND LIAISONS

8.1 Authorized Representatives. The following named persons are designated the Authorized Representatives of the Parties for purposes of this Agreement. The Authorized Representative, or their successor, has authority to bind the Party they represent to the extent such authority has been granted by the Party's governing body. The Parties shall promptly provide Notice to each other when an Authorized Representative's successor is appointed. All notice shall be provided to the following named persons and addresses unless otherwise stated in this Agreement:

To Scott County:

To Dakota County:

Georg T. Fischer
Physical Development Division Director
14955 Galaxie Avenue
Apple Valley, MN 55124

8.2 Liaisons. To assist the Parties in the day-to-day performance of this Agreement and to ensure compliance and provide ongoing consultation, a liaison shall be designated by each County. The Parties shall promptly provide Notice to each other when a Liaison's successor is

appointed. At the time of execution of this Agreement, the following persons are the designated liaisons:

Scott County Liaison

Dakota County Liaison

Kristi Otterson
HHW Program Manager

**ARTICLE 9
LIABILITY**

Each Party to this Agreement shall be liable for the acts of their own officers, agents, volunteers, or employees and results thereof to the extent authorized by law and shall not be responsible for the acts of the other Party, its officers, agents, volunteers, or employees. The Parties mutually agree to indemnify and hold harmless each other from any claims, losses, costs, expenses, or damages resulting from the acts or omissions of the respective offices, agents, or employees related to activities conducted by either Party under this Agreement. It is understood and agreed that the provisions of the Minn. Stat. § 471.59, the Municipal Tort Claims Act, Minn. Stat. Ch. 466 and other applicable laws govern liability arising from the Parties' acts or omissions. Each Party warrants that they are able to comply with this section through an insurance or self-insurance program and that each has minimum coverage consistent with the liability limits contained in Minn. Stat. Ch. 466. Nothing in this Agreement shall be construed to allow a claimant to obtain separate judgments or separate liability caps from the individual Parties. The provisions of this Article 10 shall survive the expiration or termination of this Agreement.

**ARTICLE 10
GENERAL PROVISIONS**

10.1 No Joint Venture. It is agreed that nothing in this Agreement is intended or should be construed as creating the relationship of agents, partners, joint ventures, or associates between the Parties or as constituting either County as the employee of the other entity for any purpose or in any manner whatsoever.

10.2 Data Practices. The Parties agree that any information and data received from the other Party during the term of this Agreement shall be treated and maintained in accordance with all applicable federal, state, and local laws, rules and regulations governing same, including but not limited to the provisions of the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13.

10.3 Notices. Any notices required or permitted to be given under this Agreement shall be delivered personally or sent by U.S. mail to the other Party's Authorized Representative. Mailed notice shall be deemed complete two business days after the date of mailing.

10.4 Audit. To the extent applicable as to any disbursement of public funds between the Parties for services provided under this Agreement, the Parties shall maintain complete and accurate records with respect to costs incurred and services performed under this Agreement for a period of at least six (6) years after the termination of this Agreement. Pursuant to Minn. Stat. § 16C.05, Subd. 5, each Party shall allow the other Party, the State Auditor, or their

authorized representatives access to the books, records, documents, and accounting procedures and practices relevant to the subject matter of the Agreement, for purposes of audit.

10.5 Minnesota Law Governs. The laws of Minnesota govern all matters related to this Agreement, without giving effect to the principles of conflict of law. Venue and jurisdiction for any litigation related to this Agreement must be in those courts located within the State of Minnesota or U.S. District Court, District of Minnesota.

10.6 Survival. The provisions of this Agreement which, by their terms, impose obligations that are continuing in nature and which must survive in order to give effect to their meaning will survive the expiration or termination of this Agreement.

10.7 Authority. The person or persons executing this Joint Powers Agreement on behalf of each County represent that they are duly authorized to execute this Joint Powers Agreement on behalf of the respective Parties and represent and warrant that this Joint Powers Agreement is a legal, valid and binding obligation and is enforceable in accordance with its terms.

10.8 Severability. In the event that any portion of this Agreement shall be held to be invalid, such invalidity shall not affect the validity of the remainder of this Agreement.

10.9 Electronic Signatures. Each Party agrees the electronic signatures of the Parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as wet ink signatures.

IN WITNESS THEREOF, the Parties have caused this agreement to be executed by their duly authorized officials.

DAKOTA COUNTY

SCOTT COUNTY

By: _____
Georg T. Fischer, Director
Physical Development Division

By: _____

Date of signature: _____

Date of signature: _____

County Board Res. No.