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City of Greenfield
Regular City Council Meeting
Request for Council Action
September 15, 2020

TO: **Honorable Mayor and Council Members**

FROM: **Margaret Webb, City Administrator-Clerk**

SUBJECT: **Recycling Grant Contract Amendment for 2021**

INTRODUCTION

Hennepin County receives annual funding from the state's Select Committee on Recycling and the Environment (SCORE) fund and distributes 100% of this money to cities in accordance with the county's funding policy. Grants are awarded based on the number of households with curbside recycling service and the number of households signed up for and receiving curbside organics recycling. The cities' recycling programs must meet several basic requirements to receive funding, including standard materials accepted, partnership on education and outreach, reporting, and program performance.

The county's current residential recycling grant agreement expires at the end of this year. The attached amendment extends the contract for one year, through the end of 2021, with the allocation of funds in 2021 using the same formula as 2020.

Attached to this email you will find:

- The contract amendment for 2021 — Page 34
- The new, revised funding policy – "Attachment A" — Page 35-43
- The original 2017-2020 contact — Page 44-55

DISCUSSION

BUDGET IMPACT
None

ACTION REQUESTED
Approve Resolution No. 20-33 approving the revised funding policy and contract amendment for 2021.

AMENDMENT NO. 1 TO AGREEMENT A176948

This Agreement is between the COUNTY OF HENNEPIN, STATE OF MINNESOTA, A-2300 Government Center, Minneapolis, Minnesota 55487 ("COUNTY"), on behalf of the Hennepin County Environment and Energy Department, 701 Fourth Avenue South, Minneapolis, Minnesota 55415-1600 ("DEPARTMENT") and the CITY OF GREENFIELD, 7738 Commerce Circle, Greenfield, Minnesota 55373 ("CITY").

WHEREAS, the COUNTY and the CITY entered into a four-year Residential Recycling Grant Agreement, Contract No. A176948 ("Agreement"), for a residential recycling grant commencing on January 1, 2017; and

WHEREAS, the County Board, by Resolution No. 20-0197 adopted on June 2, 2020, amended the Hennepin County Residential Recycling Funding Policy to extend the contract period to December 31, 2021, allocate 2021 funds using the same methodology as 2020, allow organics recycling funds to be used for organics drop-off sites, and authorized grant funding for municipal recycling programs consistent with said policy; and

WHEREAS, the parties desire to amend the Agreement to extend the term and incorporate other changes;

NOW, THEREFORE, the parties agree that Agreement A176948 is amended as follows:

1. Section 1, TERM AND COST OF THE AGREEMENT, shall be amended to read as follows:

   > This Agreement shall commence upon execution and terminate on December 31, 2021, unless cancelled or terminated earlier in accordance with the provisions herein.

2. Section 2, SERVICES TO BE PROVIDED, shall be amended to read as follows:

   The CITY shall operate its recycling program in accordance with the requirements described in the County's amended Residential Recycling Funding Policy ("Policy"), attached as Attachment A and incorporated by this reference, and fulfill the responsibilities of the Policy.

3. Section 3, ALLOCATION OF FUNDS, shall be amended to read as follows:

   > The COUNTY will distribute SCORE funds as described in the Policy. The CITY shall follow the requirements for use of funds described in the Policy.

Except as amended, the terms, conditions and provisions of this Agreement shall remain in full force and effect.

Hennepin County Residential Recycling Funding Policy

January 1, 2017 – December 31, 2021

Board Adopted: June 2, 2020

Hennepin

Public Works
Environment and Energy Department

I. Policy Description

A. Background

The Hennepin County Board of Commissioners has determined that curbside collection of recyclables and organics from Hennepin County residents is an effective strategy to reduce reliance on landfills, prevent pollution, conserve natural resources and energy, improve public health, support the economy, and reduce greenhouse gases. Therefore, the county adopted the goals established in State Statute and by the Minnesota Pollution Control Agency (MPCA) in its Metropolitan Solid Waste Management Policy Plan and developed a Residential Recycling Funding Policy to help reach a 75% recycling rate by 2030.

The county will distribute all Select Committee on Recycling and the Environment (SCORE) funds received from the state to cities for curbside collection of residential recyclables and organics. If cities form a joint powers organization responsible for managing a comprehensive recycling and waste education system for the residents of those cities, the county will distribute recycling and organics grants to that organization. Cities are expected to fulfill the conditions of the policy.

B. Term of the Policy

Hennepin County is committed to implement this policy and continue distributing all SCORE funds received from the state for the purpose of funding curbside residential recycling and organics programs from January 1, 2017 through December 31, 2020. The county may revise this policy if it determines changes are needed to assure compliance with state law and MPCA goals established for metropolitan counties. In the event that SCORE funds are eliminated from the state budget or significantly reduced, the county will consult with municipalities at that time and develop a subsequent recommendation to the board on continuation of this policy and future funding of curbside recycling and organics programs.

C. Grant Agreements

Each municipality seeking funding under the terms of the Residential Recycling Funding Policy must enter into a recycling grant agreement with the county for a term concurrent with the expiration of this policy, December 31, 2020. The grant agreement must be accompanied by a resolution authorizing the city to enter into such an agreement.

D. Fund Distribution

The county will distribute to Hennepin County municipalities 100% of SCORE funds that the county receives from the state. SCORE funds will be dedicated to two different purposes: 1)

curbside recycling and 2) curbside organics recycling. SCORE funds are based on revenue received by the State of Minnesota from the solid waste management (SWM) tax on garbage services. SCORE funds are subject to change based on the SWM tax revenue received by the state and funds allocated by the legislature. Funds distributed to municipalities for the current calendar year will be based on SCORE funds received by the county in the state's corresponding fiscal year.

II. Recycling

A. Allocation of Funds

The following formula will be utilized to determine a city's recycling SCORE grant each year.

Percent of SCORE funds allocated to curbside recycling:

2017	80%
2018	70%
2019	60%
2020	50%
2021	50%

City recycling grant calculation:

$$\frac{\text{Number of households with curbside recycling in city}}{\text{Total number of households with curbside recycling in county}} \times \text{Total SCORE Funds available for recycling} = \text{Recycling grant amount available to the city}$$

Eligible residential households are defined as single family through eight-plex residential buildings or other residential buildings where each housing unit sets out its own recycling container for curbside collection. The number of eligible households will be determined by counting the number of eligible households on January 1 of each funding year. The city will report the number in its application for funding.

B. Application for Funding

Each municipality must complete an annual grant application by February 15 to receive funding for that year. The application consists of a web-based report and a planning document provided

by the county. The web-based report asks for contract, program, tonnage, and financial information. The participation rate for the curbside recycling program must also be included in the web-based report. The municipality must calculate its participation rate during the month of October. The methodology for measuring participation must be provided to the county upon request. The planning document asks for a description of activities the city will implement to increase recycling and make progress toward county objectives.

C. Use of Funds

The following requirements apply to the use of recycling funds:

1. All grant funds accepted from the county must be used for waste reduction and recycling capital and operating expenses in the year granted. The county will not reimburse any funds in excess of actual expenses.

2. A municipality or joint powers organization may not charge its residents through property tax, utility fees, or any other method for the portion of its recycling program costs that are funded by county grant funds.

3. Municipalities must establish a separate accounting mechanism, such as a project number, activity number, or fund that will separate recycling revenues and expenditures from other municipal activities, including solid waste and yard waste activities.

4. Recycling and waste reduction activities, revenues, and expenditures are subject to audit.

5. Municipalities that do not contract for curbside recycling services will receive grant funds provided that at least 90% of the grant funds are credited back to residents and the city meets all minimum program requirements. The additional 10% may be used for waste reduction and recycling expenses. The county may waive this requirement if the city negotiates a recycling improvement plan with the county.

D. City Requirements

1. Materials Accepted

At a minimum, the following materials must be collected curbside:

- Metal food and beverage cans;
- Glass food and beverage containers;
- Cardboard boxes;
- Newspaper and inserts;

- Mail, office and school papers;
- Cereal, cracker, pasta, cake mix, shoe, gift, and electronics boxes;
- Boxes from toothpaste, medications and other toiletries;
- Magazines and catalogs;
- Aseptic and gable-topped containers; and
- Plastic bottles and containers, #1 – Polyethylene Terephthalate (PET, PETE), #2 High Density Polyethylene (HDPE), #4 – Low Density Polyethylene (LDPE) and #5 – Polypropylene (PP) plastic bottles, except those that previously contained hazardous materials or motor oil.

The county may add materials to this list and require municipalities to begin collection within one year of receiving notification from the county. Municipalities will notify the county if materials not found on this list will be collected.

2. Education and Outreach

The partnership between the county and municipalities has been highly effective in educating residents and motivating behavior change. In order to continue this partnership and increase these efforts, program activities of municipalities must be coordinated with county and regional efforts. Municipalities must adhere to the following requirements:

a. Use county terminology when describing recycling guidelines, including the description of materials accepted and not accepted, preparation guidelines, and promotional materials;

b. Use images provided by the county or the Solid Waste Management Coordinating Board (SWMCB) if using images of recyclables;

c. Provide recycling information on the city's website, including materials accepted and not accepted, a recycling calendar, and links to county resources;

d. Mail a recycling guide to residents each year using a template developed jointly with the county. The county will design and print the guide. If a municipality does not use the template produced by the county, the municipality may develop its own guide at the municipality's expense, but it must be approved by the county. If the municipality relies on the hauler to provide the recycling guide, this guide requires approval by the county.

e. Complete two educational activities from a menu of options developed by the county.

Any print material that communicates residential recycling guidelines that were not provided by the county template will require county approval. This does not apply to waste reduction and reuse, articles on recycling that do not include guidelines, or social media posts. The county will respond within five business days to any communication piece submitted.

3. Recycling Performance

On an annual basis, municipal recycling programs must demonstrate that a reasonable effort has been made to maintain and increase the pounds of recyclables per household collected from their residential recycling programs.

If a municipality does not demonstrate measurable progress, a recycling improvement plan must be submitted by the municipality within 90 days of being notified by the county. The recycling improvement plan must be negotiated with the county and specify the efforts that will be undertaken by the municipality to improve its recycling program to yield the results necessary to achieve county objectives.

In cooperation with the county, the municipality may be required to participate in waste and recycling sorts to identify recovery levels of various recyclables in its community. Based on the results of the study, the county and municipality will collaborate to increase the recovery of select recyclable materials being discarded in significant quantities.

E. Grant Payments

The county will make two equal payments to the municipality. One payment will be made after the county receives the application, which consists of the web-based report and the planning document. A second payment will be made after basic program requirements, education and outreach requirements, and recycling performance have been confirmed and approved. If the municipality meets the county requirements, both payments will be made during the same calendar year. Funding will be withheld until the municipality meets the requirements of this policy.

III. Organics Recycling

A. Allocation of Funds

The following formula will be utilized to determine a city's organics recycling SCORE grant each year:

Percent of SCORE funds allocated to curbside organics recycling:

2017	20%
2018	30%
2019	40%
2020	50%
2021	50%

City organics recycling grant calculation:

$$\frac{\text{Number of households with curbside organics in city}}{\text{Total number of households with curbside organics in county}} \times \text{Total SCORE funds available for organics} = \text{Organics grant amount available to the city}$$

If the formula above results in cities receiving grants where the dollar amount per participating household is greater than $25 per year, then a cap will apply. The funding cap per participating household is $25 per year. The most the county will grant a city is $25 per participating household per year. If funds are left over because of the cap, those funds will carry over into the following year's SCORE funds.

Eligible residential households are defined as single family through eight-plex residential buildings or other residential buildings where the household is signed up for organics service and the household sets out its own container with organics for curbside collection. The number of eligible households will be determined by counting the number of eligible households on September 1 of each funding year. The city will report the number in the application for funding.

B. Application for Funds

Each municipality must complete an annual application provided by the county by September 1 to receive funding. As a part of the application, a city must submit the number of households signed up for and receiving curbside organics service.

C. Use of Funds

The grant funds may be used for program expenses, including the following:

- Discount to new customers
- Discount to existing customers

- Referral incentives
- City contract costs
- Education and outreach
- Compostable bags
- Kitchen containers
- Carts
- Organics drop-off sites

Program administration is not an eligible expense. Yard waste expenses are not eligible. If organics are co-collected with other waste, the organics expenses must be tracked separately. If a city passes funds through to a hauler, 100% of those funds must be credited to residents' bills.

In addition, the following requirements apply:

- All grant funds must be used during the term of the agreement. Funds not spent must be returned to the county.
- Funds must be expended on eligible activities per Minnesota State Statute 115A.557.
- A municipality or joint powers organization may not charge its residents through property tax, utility fees, or any other method for the portion of its organics program costs that are funded by county grant funds.
- Municipalities must account for organics expenditures separately upon request by the county. Expenditures are subject to audit.

D. Education and Outreach Requirements

The partnership between the county and municipalities has been highly effective in educating residents and motivating behavior change. In order to continue this partnership and increase these efforts, program activities of municipalities must be coordinated with county and regional efforts. The following requirements apply:

1. Use county terminology when describing organics recycling guidelines, including the description of materials accepted and not accepted, preparation guidelines, and promotional materials;

2. Use images provided by the county or the SWMCB if using images of organic materials;

3. Provide organics recycling information on the city's website, including material accepted and not accepted, service options, and links to county resources;

4. Work with the county to develop promotional resources to increase participation.

E. Reporting

A report on the city's organics program must be submitted electronically to the county by February 15 following each year. The report must include, but is not limited to, the following:

Basic Program Information

- Hauler(s)
- Collection method
- Where organics were delivered to and processed
- Is service opt-in or opt-out
- Cost of service to residents; contract cost for city
- How the service was billed
- Items included in service, such as curbside collection, cart, compostable bags, etc.

Results

- Tons
- Number of households signed up
- Average pounds per household per year
- Participation (set-out rate on pickup day)
- Program costs
- How funds were used

F. Grant Payment

The county will make one organics grant payment to a municipality each year. The payment will be made after the county receives the application and confirms that the municipality meets the requirements of this policy.

Contract No: A176948

RESIDENTIAL RECYCLING GRANT AGREEMENT

This Agreement is between the COUNTY OF HENNEPIN, STATE OF MINNESOTA, A-2300 Government Center, Minneapolis, Minnesota 55487 ("COUNTY"), on behalf of the Hennepin County Environment and Energy Department, 701 Fourth Avenue South, Minneapolis, Minnesota 55415-1600 ("DEPARTMENT") and the CITY OF GREENFIELD, 7738 Commerce Circle, Greenfield, Minnesota 55373 ("CITY").

The parties agree as follows:

1. TERM AND COST OF THE AGREEMENT

This Agreement shall commence upon execution and expire on December 31, 2020, unless cancelled or terminated earlier in accordance with the provisions herein.

Annual grant payments shall be calculated as set forth in Section 3.

2. SERVICES TO BE PROVIDED

The CITY shall apply for annual grant funds and operate its Recycling Program as more fully described in Attachment A, the Residential Recycling Funding Policy.

3. ALLOCATION OF FUNDS

The COUNTY will distribute to Hennepin County municipalities 100% of SCORE funds that the COUNTY receives from the state. SCORE funds will be dedicated to two different purposes: 1) curbside recycling and 2) curbside organics recycling. SCORE funds are based on revenue received by the State of Minnesota from the solid waste management (SWM) tax on garbage services. SCORE funds are subject to change based on the SWM tax revenue received by the state and funds allocated by the legislature. Funds distributed to municipalities for the current calendar year will be based on SCORE funds received by the COUNTY in the state's corresponding fiscal year.

Recycling

The following formula will be utilized to determine a CITY'S recycling SCORE grant each year.

Percent of SCORE funds allocated to curbside recycling:

2017	80%
2018	70%
2019	60%
2020	50%

CITY recycling grant calculation:

Number of households with curbside recycling in city / Total number of households with curbside recycling in county	x	Total SCORE funds available for recycling	=	Recycling grant amount available to the city

Eligible residential households are defined as single family through eight-plex residential buildings or other residential buildings where each housing unit sets out its own recycling container for curbside collection. The number of eligible households will be determined by counting the number of eligible households on January 1 of each funding year. The CITY will report the number in its application for funding.

The COUNTY will make two equal payments to the CITY. One payment will be made after the COUNTY receives the application, which consists of the web-based report and the planning document. A second payment will be made after basic program requirements, education and outreach requirements, and recycling performance have been confirmed and approved. If the CITY meets the COUNTY requirements, both payments will be made during the same calendar year. Funding will be withheld until the CITY meets the requirements of the Residential Recycling Funding Policy.

Organics

The following formula will be utilized to determine a CITY'S organics recycling SCORE grant each year.

Percent of SCORE funds allocated to curbside organics recycling:

2017	20%
2018	30%
2019	40%
2020	50%

CITY organics recycling grant calculation:

Number of households with curbside organics in city / Total number of households with curbside organics in county	x	Total SCORE funds available for organics	=	Organics grant amount available to the city

If the formula above results in the CITY receiving a grant where the dollar amount per participating household is greater than $25 per year, then a cap will apply. The funding cap per participating household is $25 per year. The most the COUNTY will grant a CITY is $25 per participating household per year. If funds are left over because of the cap, those funds will carry over into the following year's SCORE funds.

Eligible residential households are defined as single family through eight-plex residential buildings or other residential buildings where the household is signed up for organics service and the household sets out its own container with organics for curbside collection. The number of eligible households will be determined by counting the number of eligible households on September 1 of each funding year. The CITY will report the number in the application for funding.

The COUNTY will make one organics grant payment to the CITY each year. The payment will be made after the COUNTY receives the application and confirms that the CITY meets the requirements of the Residential Recycling Funding Policy.

4. PROFESSIONAL CREDENTIALS

INTENTIONALLY OMITTED

5. INDEPENDENT CITY

CITY shall select the means, method, and manner of performing the services. Nothing is intended nor should be construed as creating or establishing the relationship of a partnership or a joint venture between the parties or as constituting CITY as the agent, representative, or employee of COUNTY for any purpose. CITY is and shall remain an independent contractor for all services performed under this Agreement. CITY shall secure at its own expense all personnel required in performing services under this Agreement. CITY's personnel and/or subcontractors engaged to perform any work or services required by this Agreement will have no contractual relationship with COUNTY and will not be considered employees of COUNTY. COUNTY shall not be responsible for any claims that arise out of employment or alleged employment under the Minnesota Unemployment Insurance Law or Minnesota Statutes, chapter 176 (which may be referred to as the "Workers' Compensation Act"), on behalf of any personnel, including, without limitation, claims of discrimination against CITY, its officers, agents, contractors, or employees. Such personnel or other persons shall neither accrue nor be entitled to any compensation, rights, or benefits of any kind from COUNTY, including, without limitation, tenure rights, medical and hospital care, sick and vacation leave, workers' compensation, unemployment compensation, disability, severance pay, and retirement benefits.

6. INDEMNIFICATION

CITY shall defend, indemnify, and hold harmless COUNTY, its present and former officials, officers, agents, volunteers and employees from any liability, claims, causes of action, judgments, damages, losses, costs, or expenses, including reasonable attorney's fees, resulting directly or indirectly from any act or omission of CITY, a subcontractor, anyone directly or indirectly employed by them, and/or anyone for whose acts and/or omissions they may be liable in the performance of the services required by this Agreement, and against all loss by reason of the failure of CITY to perform any obligation under this Agreement. For clarification and not limitation, this obligation to defend, indemnify and hold harmless includes but is not limited to any liability, claims or actions resulting directly or indirectly from alleged infringement of any copyright or any property right of another, the employment or alleged employment of CITY personnel, the unlawful disclosure and/or use of protected data, or other noncompliance with the requirements of the provisions set forth herein.

7. INSURANCE

A. With respect to the services provided pursuant to this Agreement, CITY shall at all times during the term of this Agreement and beyond such term when so required have and keep in force the following minimum insurance coverages or CITY's actual insurance limits for primary coverage and excess liability or umbrella policy limits, whichever is greater:

	Limits
1. Commercial General Liability on an occurrence basis with contractual liability coverage:	
General Aggregate	$2,000,000
Products—Completed Operations Aggregate	2,000,000
Personal and Advertising Injury	1,500,000
Each Occurrence—Combined Bodily Injury and Property Damage	1,500,000
2. Workers' Compensation and Employer's Liability:	
Workers' Compensation	Statutory
Employer's Liability. Bodily injury by:	
Accident—Each Accident	500,000
Disease—Policy Limit	500,000
Disease—Each Employee	500,000

3. Professional Liability—Per Claim 1,500,000
Aggregate 2,000,000
The professional liability insurance must be maintained continuously for a period of two years after the expiration, cancellation or termination of this Agreement.

B. An umbrella or excess policy is an acceptable method to provide the required commercial general insurance coverage.

The above establishes minimum insurance requirements. It is the sole responsibility of CITY to determine the need for and to procure additional insurance which may be needed in connection with this Agreement. Upon written request, CITY shall promptly submit copies of insurance policies to COUNTY.

CITY shall not commence work until it has obtained required insurance and filed with COUNTY a properly executed Certificate of Insurance establishing compliance. The certificate(s) must name Hennepin County as the certificate holder, and as an additional insured for the commercial general liability coverage required herein. A self-insured retention (SIR) applicable to the commercial liability coverage is not acceptable, unless expressly agreed to in writing by COUNTY. If the certificate form contains a certificate holder notification provision, the certificate shall state that the insurer will endeavor to mail to COUNTY thirty (30) day prior written notice in the event of cancellation/termination of any described policies. If CITY receives notice of cancellation/termination from an insurer, CITY shall fax or email a copy of the notice to COUNTY within two business days.

CITY shall furnish to COUNTY updated certificates during the term of this Agreement as insurance policies expire. If CITY fails to furnish proof of insurance coverages, COUNTY may withhold payments and/or pursue any other right or remedy allowed under contract, law, equity, and/or statute.

CITY waives all rights against COUNTY, its officials, officers, agents, volunteers, and employees for recovery of damages to the extent that damages are covered by insurance of CITY.

8. DUTY TO NOTIFY

CITY shall promptly notify COUNTY of any claim, action, cause of action or litigation brought against CITY, its employees, officers, agents or subcontractors, which arises out of the services described in this Agreement. CITY shall also notify COUNTY whenever CITY has a reasonable basis for believing that CITY and/or its employees, officers, agents or subcontractors, and/or COUNTY, might become the subject of a claim, action, cause of action, administrative action,

criminal arrest, criminal charge or litigation arising out of and/or related to the services described in this Agreement.

9. DATA

CITY, its officers, agents, owners, partners, employees, volunteers and subCITYs shall, to the extent applicable, abide by the provisions of the Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13 (MGDPA) and all other applicable state and federal laws, rules, regulations and orders relating to data privacy or confidentiality, which may include the Health Insurance Portability and Accountability Act of 1996 (HIPAA). For clarification and not limitation, COUNTY hereby notifies CITY that the requirements of Minnesota Statutes section 13.05, subd. 11, apply to this Agreement. CITY shall promptly notify COUNTY if CITY becomes aware of any potential claims, or facts giving rise to such claims, under the MGDPA or other data or privacy laws.

Classification of data as trade secret data will be determined pursuant to applicable law and, accordingly, merely labeling data as "trade secret" does not necessarily make the data protected as such under any applicable law.

10. RECORDS – AVAILABILITY/ACCESS

Subject to the requirements of Minnesota Statutes section 16C.05, subd. 5, COUNTY, the State Auditor, or any of their authorized representatives, at any time during normal business hours, and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., which are pertinent to the accounting practices and procedures of CITY and involve transactions relating to this Agreement. CITY shall maintain these materials and allow access during the period of this Agreement and for six (6) years after its expiration, cancellation or termination.

11. SUCCESSORS, SUBCONTRACTING AND ASSIGNMENTS

A. CITY binds itself, its partners, successors, assigns and legal representatives to COUNTY for all covenants, agreements and obligations herein.

B. CITY shall not assign, transfer or pledge this Agreement and/or the services to be performed, whether in whole or in part, nor assign any monies due or to become due to it without the prior written consent of COUNTY. A consent to assign shall be subject to such conditions and provisions as COUNTY may deem necessary, accomplished by execution of a form prepared by COUNTY and signed by CITY, the assignee and COUNTY. Permission to assign, however, shall under no circumstances relieve CITY of its liabilities and obligations under the Agreement.

C. CITY shall not subcontract this Agreement and/or the services to be performed, whether in whole or in part, without the prior written consent of COUNTY. Permission to subcontract, however, shall under no circumstances relieve CITY of

its liabilities and obligations under the Agreement. Further, CITY shall be fully responsible for the acts, omissions, and failure of its subcontractors in the performance of the specified contractual services, and of person(s) directly or indirectly employed by subcontractors. Contracts between CITY and each subcontractor shall require that the subcontractor's services be performed in accordance with this Agreement. CITY shall make contracts between CITY and subcontractors available upon request. For clarification and not limitation of Section 15E, none of the following constitutes assent by COUNTY to a contract between CITY and a subcontractor, or a waiver or release by COUNTY of CITY's full compliance with the requirements of this Section: (1) COUNTY's request or lack of request for contracts between CITY and subcontractors; (2) COUNTY's review, extent of review or lack of review of any such contracts; or (3) COUNTY's statements or actions or omissions regarding such contracts.

D. As required by Minnesota Statutes section 471.425, subd. 4a, CONTRACTOR shall pay any subcontractor within ten (10) days of CONTRACTOR's receipt of payment from COUNTY for undisputed services provided by the subcontractor, and CONTRACTOR shall comply with all other provisions of that statute.

12. MERGER, MODIFICATION AND SEVERABILITY

A. The entire Agreement between the parties is contained herein and supersedes all oral agreements and negotiations between the parties relating to the subject matter. All items that are referenced or that are attached are incorporated and made a part of this Agreement. If there is any conflict between the terms of this Agreement and referenced or attached items, the terms of this Agreement shall prevail.

B. Any alterations, variations or modifications of the provisions of this Agreement shall only be valid when they have been reduced to writing as an amendment to this Agreement signed by the parties. Except as expressly provided, the substantive legal terms contained in this Agreement including but not limited to Indemnification, Insurance, Merger, Modification and Severability, Default and Cancellation/Termination or Minnesota Law Governs may not be altered, varied, modified or waived by any change order, implementation plan, scope of work, development specification or other development process or document.

C. If any provision of this Agreement is held invalid, illegal or unenforceable, the remaining provisions will not be affected.

13. DEFAULT AND CANCELLATION/TERMINATION

A. If CITY fails to perform any of the provisions of this Agreement, fails to administer the work so as to endanger the performance of the Agreement or otherwise breaches or fails to comply with any of the terms of this Agreement, it

shall be in default. Unless CITY's default is excused in writing by COUNTY, COUNTY may upon written notice immediately cancel or terminate this Agreement in its entirety. Additionally, failure to comply with the terms of this Agreement shall be just cause for COUNTY to delay payment until CITY's compliance. In the event of a decision to withhold payment, COUNTY shall furnish prior written notice to CITY.

B. For purposes of this subsection, "Data" means any data or information, and any copies thereof, created by CITY or acquired by CONTACTOR from or through COUNTY pursuant to this Agreement, including but not limited to handwriting, typewriting, printing, photocopying, photographing, facsimile transmitting, and every other means of recording any form of communication or representation, including electronic media, email, letters, works, pictures, drawings, sounds, videos, or symbols, or combinations thereof.

Upon expiration, cancellation or termination of this Agreement:

1. At the discretion of COUNTY and as specified in writing by the Contract Administrator, CITY shall deliver to the Contract Administrator all Data so specified by COUNTY.

2. COUNTY shall have full ownership and control of all such Data. If COUNTY permits CITY to retain copies of the Data, CITY shall not, without the prior written consent of COUNTY or unless required by law, use any of the Data for any purpose or in any manner whatsoever; shall not assign, license, loan, sell, copyright, patent and/or transfer any or all of such Data; and shall not do anything which in the opinion of COUNTY would affect COUNTY's ownership and/or control of such Data.

3. Except to the extent required by law or as agreed to by COUNTY, CITY shall not retain any Data that are confidential, protected, privileged, not public, nonpublic, or private, as those classifications are determined pursuant to applicable law.

C. Notwithstanding any provision of this Agreement to the contrary, CITY shall remain liable to COUNTY for damages sustained by COUNTY by virtue of any breach of this Agreement by CITY. Upon notice to CITY of the claimed breach and the amount of the claimed damage, COUNTY may withhold any payments to CITY for the purpose of set-off until such time as the exact amount of damages due COUNTY from CITY is determined. Following notice from COUNTY of the claimed breach and damage, CITY and COUNTY shall attempt to resolve the dispute in good faith.

D. The above remedies shall be in addition to any other right or remedy available to COUNTY under this Agreement, law, statute, rule, and/or equity.

E. COUNTY's failure to insist upon strict performance of any provision or to exercise any right under this Agreement shall not be deemed a relinquishment or waiver of the same, unless consented to in writing. Such consent shall not constitute a general waiver or relinquishment throughout the entire term of the Agreement.

F. This Agreement may be canceled/terminated with or without cause by either party upon thirty (30) day written notice.

G. If this Agreement expires or is cancelled or terminated, with or without cause, by either party, at any time, CITY shall not be entitled to any payment, fees or other monies except for payments duly invoiced for then-delivered and accepted deliverables/milestones pursuant to this Agreement. In the event CITY has performed work toward a deliverable that COUNTY has not accepted at the time of expiration, cancellation or termination, CITY shall not be entitled to any payment for said work including but not limited to incurred costs of performance, termination expenses, profit on the work performed, other costs founded on termination for convenience theories or any other payments, fees, costs or expenses not expressly set forth in this Agreement.

H. Upon written notice, COUNTY may immediately suspend or cancel/terminate this Agreement in the event any of the following occur: (i) COUNTY does not obtain anticipated funding from an outside source for this project; (ii) funding for this project from an outside source is withdrawn, frozen, shut down, is otherwise made unavailable or COUNTY loses the outside funding for any other reason; or (iii) COUNTY determines, in its sole discretion, that funding is, or has become, insufficient. COUNTY is not obligated to pay for any services that are provided or costs or expenses or obligations incurred or encumbered after the notice and effective date of the suspension or cancellation/termination. In the event COUNTY suspends, cancels or terminates this Agreement pursuant to this paragraph, COUNTY shall pay any amount due and payable prior to the notice of suspension or cancellation/termination except that COUNTY shall not be obligated to pay any amount as or for penalties, early termination fees, charges, time and materials for services not then performed, costs, expenses or profits on work done.

I. CITY has an affirmative obligation, upon written notice by COUNTY that this Agreement may be suspended or cancelled/terminated, to follow reasonable directions by COUNTY, or absent directions by COUNTY, to exercise a fiduciary obligation to COUNTY, before incurring or making further costs, expenses, obligations or encumbrances arising out of or related to this Agreement.

14. <u>SURVIVAL OF PROVISIONS</u>

Provisions that by their nature are intended to survive the term, cancellation or termination of this Agreement do survive such term, cancellation or termination. Such

provisions include but are not limited to: SERVICES TO BE PROVIDED (as to ownership of property); INDEPENDENT CITY; INDEMNIFICATION; INSURANCE; DUTY TO NOTIFY; DATA; RECORDS-AVAILABILITY/ACCESS; DEFAULT AND CANCELLATION/TERMINATION; MEDIA OUTREACH; and MINNESOTA LAW GOVERNS.

15. CONTRACT ADMINISTRATION

In order to coordinate the services of CITY with the activities of the Environment and Energy Department so as to accomplish the purposes of this Agreement, Ben Knudson, Waste Reduction and Recycling Specialist, or his successor, shall manage this Agreement on behalf of COUNTY and serve as liaison between COUNTY and CITY.

16. COMPLIANCE AND NON-DEBARMENT CERTIFICATION

A. CITY shall comply with all applicable federal, state and local statutes, regulations, rules and ordinances currently in force or later enacted.

B. CITY shall comply with all applicable conditions of the COUNTY grant.

17. PAPER RECYCLING

COUNTY encourages CITY to develop and implement an office paper and newsprint recycling program.

18. NOTICES

Unless the parties otherwise agree in writing, any notice or demand which must be given or made by a party under this Agreement or any statute or ordinance shall be in writing, and shall be sent registered or certified mail. Notices to COUNTY shall be sent to the County Administrator with a copy to the originating COUNTY department at the address given in the opening paragraph of this Agreement. Notice to CITY shall be sent to the address stated in the opening paragraph of this Agreement or to the address stated in CITY's Form W-9 provided to COUNTY.

19. CONFLICT OF INTEREST

CITY affirms that to the best of CITY's knowledge, CITY's involvement in this Agreement does not result in a conflict of interest with any party or entity which may be affected by the terms of this Agreement. Should any conflict or potential conflict of interest become known to CITY, CITY shall immediately notify COUNTY of the conflict or potential conflict, specifying the part of this Agreement giving rise to the conflict or potential conflict, and advise COUNTY whether CITY will or will not resign from the other engagement or representation. Unless waived by COUNTY, a conflict or potential conflict may, in COUNTY's discretion, be cause for cancellation or termination of this Agreement.

20. MEDIA OUTREACH

CITY shall notify COUNTY, prior to publication, release or occurrence of any Outreach (as defined below). The parties shall coordinate to produce collaborative and mutually acceptable Outreach. For clarification and not limitation, all Outreach shall be approved by COUNTY, by and through the Public Relations Officer or his/her designee(s), prior to publication or release. As used herein, the term "Outreach" shall mean all media, social media, news releases, external facing communications, advertising, marketing, promotions, client lists, civic/community events or opportunities and/or other forms of outreach created by, or on behalf of, CITY (i) that reference or otherwise use the term "Hennepin County," or any derivative thereof; or (ii) that directly or indirectly relate to, reference or concern the County of Hennepin, this Agreement, the services performed hereunder or COUNTY personnel, including but not limited to COUNTY employees and elected officials.

21. MINNESOTA LAWS GOVERN

The laws of the state of Minnesota shall govern all questions and interpretations concerning the validity and construction of this Agreement and the legal relations between the parties and their performance. The appropriate venue and jurisdiction for any litigation will be those courts located within the County of Hennepin, state of Minnesota. Litigation, however, in the federal courts involving the parties will be in the appropriate federal court within the state of Minnesota.

22. COOPERATIVE PURCHASING

At the time of this Agreement: (1) Hennepin County is a signature party to the Joint Powers Purchasing Agreement (Agreement No. A131396) (the "JPA"); (2) the Minnesota Counties of Anoka, Carver, Dakota, Olmsted, Ramsey, Scott and Washington are signatories to the JPA ("Cooperative Members"); (3) if agreed upon pursuant to a separate agreement between CITY and any Cooperative Member, the JPA allows a Cooperative Member, subject to the terms of the JPA, to purchase the same or substantially similar services based upon terms that are the same or substantially similar to those set forth in this Agreement including but not limited to price/cost; and (4) COUNTY shall have no obligation, liability or responsibility for any order or purchase made under the contract between a Cooperative Member and CITY.

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COUNTY BOARD AUTHORIZATION

Reviewed by the County Attorney's Office

Assistant County Attorney

Date: 2/2/17

COUNTY OF HENNEPIN
STATE OF MINNESOTA

By: Jan A. Callison
Chair of Its County Board

ATTEST: M. Rose
Deputy/Clerk of County Board

Date: 3.6.17

By:
County Administrator

Date:

Recommended for Approval

By:
~~Acting~~ Director,
Environment and Energy Department

Date: 1/27/2017

By:
Assistant County Administrator
- Public Works

Date: 2/23/17

MUNICIPALITY
CITY warrants that the person who executed this Agreement is authorized to do so on behalf of CITY as required by applicable articles, bylaws, resolutions or ordinances.*

Printed Name: Brad Johnson

Signed:

Title: Mayor

Date: 1-17-17

*CITY shall submit applicable documentation (articles, bylaws, resolutions or ordinances) that confirms the signatory's delegation of authority. This documentation shall be submitted at the time CITY returns the Agreement to the COUNTY. Documentation is not required for a sole proprietorship.

CITY OF GREENFIELD
RESOLUTION NO. 20-33

RESOLUTION APPROVING HENNEPIN COUNTY RESIDENTIAL RECYCLING FUNDING POLICY REVISION AND CONTRACT AMENDMENT

WHEREAS, the City of Greenfield has a Residential Recycling Grant Agreement with Hennepin County, which expires December 31, 2020; and

WHEREAS, the City is being asked to enter into Residential Recycling Funding Policy Revision and Contract Amendment to Agreement A176948 between Hennepin County for a period commencing January 1, 2021 through December 31, 2021; and

WHEREAS, the City shall apply for annual grant funds and operate its Recycling Program as more fully described in Attachment A, the Residential Recycling Funding Policy,

NOW, THEREFORE BE IT RESOLVED by the City Council of Greenfield, Minnesota to approve entering into the Residential Recycling Funding Policy Revision and Contract Amendment to Agreement A176948 with Hennepin County, for a period commencing January 1, 2021 through December 31, 2021,

BE IT FURTHER RESOLVED that Brad Johnson, the Mayor for the City of Greenfield, is authorized to sign the Residential Recycling Funding Policy Revision and Contract Amendment on behalf of the City.

Adopted by the Council on this 15th day of September, 2020.

_____
Mayor Brad Johnson

_____
Margaret Webb, City Administrator-Clerk