



## STAFF REPORT

DATE: 5/18/2021

### **CONSENT**

**TO:** City Council

**FROM:** Marty Powers, Public Works Director

**AGENDA ITEM:** Public Works Joint Powers Mutual Aid Agreement

**REVIEWED BY:** Kristina Handt, City Administrator

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### **BACKGROUND:**

The general purpose of this Public Works Joint Powers Mutual Aid Agreement is to provide a process for units of government to share public works personnel and equipment with other agencies within the State of Minnesota.

### **ISSUE BEFORE COUNCIL:**

Should council approve an agreement for Public Works Mutual Aid?

**PROPOSAL DETAILS/ANALYSIS:** Entering into the proposed Public Works Mutual Aid Agreement creates opportunities for sharing staff and equipment for day to day and catastrophic situations. The agreement provides the flexibility for all units of government to use the resources located among all participating parties in the State of Minnesota. Lake Elmo Public Works can use their discretion whether to provide personnel or equipment and can recall such assistance at any time.

### **FISCAL IMPACT:**

There is no cost or membership fees. The Requesting Party will reimburse the Sending Party providing the Public Works Assistance for that amount or other such amount as mutually negotiated.

**OPTIONS:** Approve the Public Works Joint Powers Mutual Aid Agreement

Deny the Public Works Joint Powers Mutual Aid Agreement

Table the Public Works Joint Powers Mutual Aid Agreement

### **RECOMMENDATION:**

**“Motion to adopt Resolution 2021-061 approving the Public Works Joint Powers Mutual Aid Agreement.”**

### **ATTACHMENTS:**

- **Mutual Aid Agreement Resolution**
- **Minnesota Public Works Joint Powers Mutual Aid Agreement**
- **Statewide Public Works Equipment Sharing Agreement**
- **Mutual Aid Joint Powers Agreement Slide**

**CITY OF LAKE ELMO  
WASHINGTON COUNTY  
STATE OF MINNESOTA**

**RESOLUTION NO. 2021-061**

**A RESOLUTION APPROVING A PUBLIC WORKS JOINT POWERS MUTUAL AID  
AGREEMENT AND EQUIPMENT LOAN AGREEMENT**

**WHEREAS**, it has been proposed that the City of Lake Elmo (the “City”) enter into a public works joint powers mutual aid agreement and a related equipment loan agreement for the statewide collaboration and sharing of public works equipment resources; and

**WHEREAS**, these agreements provide a framework establishing liabilities and responsibilities while providing or requesting aid under the authority of Minnesota Statutes, Sections 12.331 and 471.59; and

**WHEREAS**, the City Council of the City of Lake Elmo agrees that said agreements would be of benefit to the City; and

**NOW, THEREFORE, BE IT RESOLVED,**

1. That the City Council hereby approves the Public Works Joint Powers Mutual Aid Agreement and the related Equipment Loan Agreement, subject to modifications that do not alter the substance of the agreements and that are approved by the Mayor and City Clerk, provided that execution of the Public Works Joint Powers Mutual Aid Agreement and the Equipment Loan Agreement by those officials shall be conclusive evidence of their approval; and
2. That City officials, staff, and consultants are authorized to take all actions necessary to perform the City’s obligations under the Public Works Joint Powers Mutual Aid Agreement and the Equipment Loan Agreement; and
3. That the Public Works Director is designated as both the Requesting Official and Sending Official for both agreements.

**ADOPTED BY THE LAKE ELMO CITY COUNCIL ON THE 18<sup>TH</sup> DAY OF MAY, 2021.**

**CITY OF LAKE ELMO**

By: \_\_\_\_\_  
Charles Cadenhead  
Mayor

(Seal)  
ATTEST:

\_\_\_\_\_  
Julie Johnson  
City Clerk

## **EQUIPMENT LOAN AGREEMENT**

This Equipment Loan Agreement ("Agreement") is made and entered into as of the \_\_\_ day of \_\_\_\_\_, 20\_\_\_ by and among the governmental units that have executed this document as evidenced by the signature pages attached hereto.

### **RECITALS**

- A. Each Party has certain public works Equipment that can be utilized by other Parties for use in carrying out their respective duties to keep public infrastructure properly maintained and to protect the public health, safety, and welfare in a cost-effective manner.
- B. It is the best interests of the Parties and their respective taxpayers to enter into an agreement to set out a process by which a Party may request the use of certain equipment of another Party and to set out the terms under which such equipment will be made available.
- C. This Agreement is an extension of the joint powers agreement titled the Public Works Joint Powers Mutual Aid Agreement the parties have adopted and which is a prerequisite to entering into this Agreement.
- D. In order to reduce the financial risks associated with loaning Equipment, this Agreement is limited to only loaning Equipment that has a replacement value of no greater than \$500,000 as determined by the Party who owns the equipment.
- E. Hennepin County Emergency Management has agreed to receive and maintain the contact information for the Parties that have entered into this Agreement in order to facilitate requests to borrow equipment.
- F. This Agreement is made pursuant to Minnesota Statutes, section 471.59, which authorizes the joint and cooperative exercise of powers common to the parties. Each of the Parties to this Agreement is authorized to own and operate Equipment and so may enter into a joint powers agreement to share such Equipment.

### **AGREEMENT**

The Parties to this Agreement hereby agree as follows:

- 1. **Definition of Terms.** For the purposes of this Agreement, the following terms shall have the meaning given them in this section.
  - (a) **Agreement.** "Agreement" means this Equipment Loan Agreement.
  - (b) **Eligible Party.** "Eligible Party" means a "governmental unit" as defined by Minnesota Statutes, section 471.59, subdivision 1 that has entered into the joint powers agreement titled the Public Works Joint Powers Mutual Aid Agreement.

- (c) Equipment. "Equipment" means any equipment, vehicles, or other property owned by a Party that has a replacement value of under \$500,000 as determined by the Party who owns the equipment.
  - (d) HCEM. "HCEM" means Hennepin County Emergency Management or its designee.
  - (e) Party and Parties. "Party" means an Eligible Party that elects to participate in this Agreement by the authorization of its governing body. "Parties" means more than one Party to this Agreement.
  - (f) Requesting Official. "Requesting Official" means a person who is designated by the Requesting Party to request the loan of one or more pieces of Equipment from another Party.
  - (g) Requesting Party. "Requesting Party" means a Party that requests to loan one or more pieces of Equipment from a Sending Party.
  - (h) Sending Official. "Sending Official" means a person who is designated by a Party to determine whether and to what extent that Party should loan one or more pieces of its Equipment to a Requesting Party.
  - (i) Sending Party. "Sending Party" means a Party that loans one or more pieces of Equipment to a Requesting Party.
2. **Designate Officials**. The governing body of each Party shall designate one or more employees or elected officials to serve as a Requesting Official that is authorized to request Equipment from another Party. The governing body of each Party shall also designate one or more employees or elected officials to serve as a Sending Official that is authorized to loan Equipment to another Party. Each Party shall provide the names and contact information regarding its designated Requesting Official and Sending Official to HCEM.
  3. **Requesting Equipment**. Whenever, in the opinion of a Requesting Official of a Party, there is a need for Equipment from another Party, such Requesting Official may, at his or her discretion, call upon the Sending Official of any other Party to furnish the requested Equipment. The Parties understand that this Agreement is limited to Equipment that has a replacement value of under \$500,000 as determined by the Party that owns the Equipment. Any piece of Equipment that has a replacement value of \$500,000 or greater may not be loaned or borrowed pursuant to this Agreement. The Sending Party has the sole discretion of determining whether to loan the requested Equipment to the Requesting Party and shall in no way be held liable for denying a request.
  4. **Fees**. The Requesting Official and the Sending Official shall mutually agree on whether a fee shall be charged for use of the Equipment. The Requesting Official and the Sending Official may determine that no fee will be charged. If a fee is to be charged, the amount of the fee must be documented in writing and mutually agreed upon before any Equipment is loaned. Such writing may be by email or any other written form. If a fee is

charged, the Sending Party shall submit an invoice to the Receiving Party within 30 days after the Equipment is returned to the Sending Party. The Receiving Party shall pay the invoice within 30 days after receipt of the invoice.

5. **Loan Period.** Prior to sending the Equipment, the Requesting Official and the Sending Official shall agree on the length of the period during which the Requesting Party may use the Equipment. The Requesting Official and the Sending Official may agree to modify the loan period.
6. **Recalling Equipment.** Whenever a Sending Party has provided one or more pieces of Equipment to a Requesting Party, the Sending Official may at any time, regardless of the agreed upon loan period, recall any of the Equipment it loaned if the Sending Official determines, in his or her best judgment, such recall is necessary to provide for the best interests of the Sending Party's community. Such action shall not result in liability to any Party and each Party hereby waives all claims against another Party for recalling any Equipment.
7. **Requesting Party's Responsibilities.** A Requesting Party that receives one or more pieces of Equipment from a Sending Party shall, during the entire period in which the Requesting Party has possession of the Equipment, be responsible for each of the following:
  - (a) **Transporting.** Transporting the Equipment to and from the Sending Party's location;
  - (b) **Examining the Equipment.** Examining the Equipment upon receipt to determine its suitability for the Requesting Party's intended use;
  - (c) **Trained Operators.** Ensuring that only properly trained and licensed personnel are allowed to operate the Equipment;
  - (d) **Routine Maintenance.** Conducting any routine maintenance required to operate the Equipment. Routine maintenance includes, but is not limited to, supplying fuel, lubricants, fluids, repairing flat tires, and other items that are typically incidental to the use of the Equipment;
  - (e) **Liability and Equipment Insurance.** Maintaining liability, property, automobile, and such other insurance coverages as may be needed to cover its operation of the Equipment. The Requesting Party's coverage shall be primary and non-contributory to any other coverage available to the Sending Party. The Requesting Party shall also be entitled to maintain a program of self-insurance. The Sending Party may require proof of insurance coverage from the Requesting Party before agreeing to loan its Equipment;
  - (f) **Workers' Compensation.** Injuries to or death of its own personnel while using the Equipment. The Requesting Party shall maintain workers' compensation insurance or self-insurance covering its own personnel while they are using the Equipment. The Requesting Party waives the right to sue the Sending Party for any workers' compensation benefits paid to its own personnel or their

dependents, even if the injuries were caused wholly or partially by the negligence of the Sending Party or its officers, employees, volunteers, or agents;

- (g) **Damages.** Damages to or loss of the Equipment. At a minimum, the Requesting Party shall be obligated to either repair the Equipment or pay the mutually agreed upon actual cash value of the Equipment. The Sending Party shall be entitled to receive any insurance or coverage proceeds received by the Requesting Party that are in excess of the Equipment's actual cash value;
  - (h) **Storing.** Storing the Equipment in a safe and secure place; and
  - (i) **Returning.** Returning the Equipment to the Sending Party at the end of the agreed upon loan period or earlier if recalled by the Sending Party. The Equipment shall be returned in at least the same condition it was in when received, except normal wear and tear. Any Equipment using fuel or other fluids must be returned with at least the same level of fuel and fluids that the Equipment had when received by the Requesting Party.
8. **Indemnification.** To the fullest extent permitted by law, the Requesting Party agrees to defend, indemnify, and hold the Sending Party harmless against any claims brought or actions filed against the Sending Party or any officer, employee or agent of the Sending Party for injury to, death of, or damage to the property of any third person or persons, arising from the Requesting Party's use of the Equipment or the Requesting Party's failure to perform its obligations under this Agreement. The Requesting Party is not required to indemnify the Sending Party for claims arising from the Sending Party's own negligence or misconduct. Under no circumstances shall a Party be required to pay on behalf of itself and the other Party any amounts in excess of the limits on liability established in Minnesota Statutes, Chapter 466 applicable to any one Party.
9. **Liability.** To the fullest extent permitted by law, action by the Parties to this Agreement are intended to be and shall be construed as a "cooperative activity" and it is the intent of the Parties that they shall be deemed a "single governmental unit" for the purposes of liability, as set forth in Minnesota Statutes, section 471.59, subd. 1a(a), provide further that for purposes of that statute, each Party to this Agreement expressly declines responsibility for the acts or omissions of another Party, except to the extent necessary to give effect to the indemnification provision in this Agreement.
10. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Minnesota.
11. **Waiver.** The waiver by either the Requesting Party or the Sending Party of any breach or failure to comply with any provision of this Agreement by the other party shall not be construed as, or constitute a continuing waiver of such provision or a waiver of any other breach of or failure to comply with any other provision of this Agreement.
12. **Entire Agreement.** This document, including the recitals and the documents expressly incorporated herein by reference, constitutes the entire agreement between the Parties regarding the lending and borrowing of Equipment. This Agreement is an extension of the Public Works Joint Powers Mutual Aid Agreement, which is incorporated herein. To

the extent there are any inconsistencies between the documents, the provisions of this Agreement shall be controlling with respect the lending and borrowing of Equipment by the Parties.

13. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
14. **Savings Clause.** If any court of competent jurisdiction finds any portion of this Agreement to be contrary to law or invalid, the remainder of the Agreement will remain in full force and effect.
15. **Withdrawal.** Any Party may withdraw from this Agreement by action of its governing body. The withdrawing Party shall send written notification of its withdrawal to HCEM. Any Party who withdraws from the Public Works Joint Powers Mutual Aid Agreement shall, as of the effective date of such withdrawal, be deemed to have also withdrawn from this Agreement.
16. **Effective Date and Termination.** This Agreement is effective on the date at least two Parties sign this Agreement. This Agreement will become effective as to additional Parties on the date executed by each such additional Party. This Agreement shall continue until terminated. This Agreement shall be deemed terminated if the Public Works Joint Powers Mutual Aid Agreement is terminated according to its terms, or if the number of Parties to this Agreement falls below 11. HCEM will notify the remaining Parties if this Agreement is terminated.
17. **No Third Party Rights.** This Agreement is solely for the benefit of the Parties. This Agreement shall not create or establish any rights in or for the benefit of any third party.

IN WITNESS WHEREOF, the Parties, by action of their respective governing bodies, caused this Agreement to be approved on the date below.

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**GOVERNMENTAL UNIT**

Dated: \_\_\_\_\_

BY: \_\_\_\_\_

Its \_\_\_\_\_

AND: \_\_\_\_\_

Its \_\_\_\_\_

**STATE OF MINNESOTA  
PUBLIC WORKS  
MUTUAL AID PACT**

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# **PUBLIC WORKS JOINT POWERS MUTUAL AID AGREEMENT**

## **FOREWORD**

The general purpose of this Public Works Joint Powers Mutual Aid Agreement ("Agreement") is to provide a process for units of government to share public works personnel and equipment with other agencies within the State of Minnesota. This Agreement specifically allows a requesting party to select the resources that best meets the needs of a given situation. A requesting party may call upon any other participating party for mutual aid. There is no requirement to make requests through a particular party. In addition, this Agreement should not be interpreted as being limited to providing resources to deal with only major catastrophic situations. Participating parties can utilize the resources for many reasons including routine circumstances such as training efforts, maintenance operations, joint-projects, and back-up support service. This Agreement provides the flexibility for all units of government to use the resources located among all participating parties in the State of Minnesota.

The decision as to when to invoke mutual aid and whether to respond is left to the discretion of the requesting or sending party. Each unit of government should acquaint supervisory personnel with any internal procedures used for mutual aid. While the Joint Powers Agreement does not require particular words or actions to initiate mutual aid, agencies should be clear about whether mutual aid is being requested and what type of assistance is requested. The responding agency should also be clear about what, if any, assistance they will provide in response to the request. Parties should not self-deploy.

Furthermore, each staff member within a department should have a basic familiarity with mutual aid, the responsibilities when reporting to another unit of government and the protections afforded under the unit of government's workers' compensation.

For liability reasons, management of a mutual aid situation is under the control of the requesting party. However, the sending party has discretion whether to provide personnel or equipment and can recall such assistance at any time.

While there is no hard and fast time limit related to requests for mutual aid, the commitment of resources can be taxing on agencies. In addition, in some situations an advantage can be gained by ending a mutual aid request and entering into a different form of contractual assistance.

In order to keep this mutual aid agreement closer to local level of government, Hennepin County Emergency Management ("HCEM") has volunteered to serve as the administrative coordinator for the units of government entering into this Agreement. When a community adopts this Agreement a fully executed copy of the Agreement needs to be forwarded to HCEM.

Each unit of government is responsible for entering and updating available unit of government resources. Resources will now be listed online in a mutually agreed upon resource management database. The parties to this Agreement are solely responsible for updating their available resources in the agreed upon database.

The effective date for this Agreement is October 1, 2018. This date was established to allow enough time for agencies to receive the appropriate authority. Participation can be started upon execution of the Agreement and is effective for a unit of government upon its submission of the signed Agreement to HCEM. Agencies that elect not to participate in the Agreement may be bound by other existing mutual aid agreement or state statutes.

## **PUBLIC WORKS JOINT POWERS MUTUAL AID AGREEMENT**

This Public Works Joint Powers Mutual Aid Agreement ("Agreement") is formed and entered into effective as of the 1<sup>st</sup> day of October, 2018 by and among the governmental units that have executed this document as evidenced by the signature pages attached hereto (individually, a "Party" and collectively, the "Parties").

### **I. GENERAL PURPOSE**

The general purpose of this Agreement is to provide a means by which a Party may request and obtain public works assistance from one or more other Parties when the Party determines such public works assistance is necessary. This Agreement is made pursuant to Minnesota Statutes, section 471.59, which authorizes the joint or cooperative exercise of powers common to the Parties.

### **II. DEFINITION OF TERMS**

For the purposes of this Agreement, the terms defined in this section shall have the following meanings:

Subd. 1. **Eligible Party**. "Eligible Party" means a "governmental unit" as defined by Minnesota Statutes, section 471.59, subdivision 1.

Subd. 2. **Public Works Assistance**. "Public Works Assistance" means equipment and personnel including, but not limited to, licensed staff, professional engineers, and non-licensed personnel that are used for activities related to streets, water, stormwater, wastewater, sewers, parks, transit, buildings/facilities, airports, and all other public works programs.

Subd. 3. **Party and Parties**. "Party" means an Eligible Party that elects to participate in this Agreement by the authorization of its governing body. "Parties" means more than one Party to this Agreement.

Subd. 4. **Requesting Official**. "Requesting Official" means a person who is designated by the Requesting Party to request Public Works Assistance from another Party.

Subd. 5. **Requesting Party**. "Requesting Party" means a Party that requests Public Works Assistance from another Party.

Subd. 6. **Sending Official**. "Sending Official" means a person who is designated by a Party to determine whether and to what extent that Party should provide Public Works Assistance to a Requesting Party.

Subd. 7. **Sending Party**. "Sending Party" means a Party that provides Public Works Assistance to a Requesting Party.

Subd. 8. **HCEM**. "HCEM" means the Hennepin County Emergency Management or designee.

### III. **PARTIES**

The Parties to this Agreement shall consist of as many Eligible Parties that have approved this Agreement by October 1, 2018. Additional Eligible Parties shall become a Party on the date this Agreement is approved and executed by the Party's governing body.

Upon approval by a Party, the executed signature page of this Agreement shall be sent to the HCEM along with a resolution approving this Agreement.

### IV. **PROCEDURE**

Subd. 1. **Designate Officials**. Each Party shall designate, and keep on file with the HCEM, the name of the person(s) of that Party who shall be its Requesting Official and Sending Official. A Party may designate the same person as both the Requesting Official and the Sending Official. Also, a Party may designate one or more persons to serve as an alternate in the absence of a designated official.

Subd. 2. **Request for Assistance**. Whenever, in the opinion of a Requesting Official of a Party, there is a need for Public Works Assistance from another Party, such Requesting Official may, at his or her discretion, call upon the Sending Official of any other Party to furnish Public Works Assistance.

Subd. 3. **Response**. Upon the receipt of a request for Public Works Assistance from a Party, the Sending Official may authorize and direct personnel and equipment of the Sending Party be sent to the Requesting Party. Whether the Sending Party provides such Public Works Assistance to the Requesting Party and, if so, to what extent such Public Works Assistance is provided shall be determined solely by the Sending Official (subject to such supervision and direction as may be applicable within the governmental structure of the Party by which they are employed). Failure to provide Public Works Assistance will not result in liability to a Party and each Party hereby waives all claims against another Party for failure to provide Public Works Assistance.

Subd. 4. **Back-Up Assistance**. When a Sending Party provides Public Works Assistance under the terms of this Agreement, it may in turn request Public Works Assistance from other Parties as "back-up" during the period it is outside of its jurisdiction providing Public Works Assistance to the original Requesting Party.

Subd. 5. **Recalling Assistance**. Whenever a Sending Party has provided Public Works Assistance to a Requesting Party, the Sending Official may at any time recall its personnel and equipment, or any part thereof, if the Sending Official in his or her best judgment deems such recall is necessary to provide for the best interests of the Sending Party's community. Such action will not result in liability to any Party and each Party hereby waives all claims against another Party for recalling Public Works Assistance.

Subd. 6. **Command of Scene**. The Requesting Party shall be in command of all situations where Public Works Assistance is provided. The personnel and equipment of the Sending Party shall be under the direction and control of the Requesting Party until the Sending Party withdraws Public Works Assistance or the Public Works Assistance is no longer needed.

Subd. 7. **Charges**. Charges may be levied by a Sending Party for Public Works Assistance rendered to a Requesting Party under the terms of this Agreement. The Sending Party may submit to the Requesting Party an itemized bill for the actual cost of any Public Works Assistance provided, including salaries, overtime, materials, and supplies, equipment operation, and other necessary expenses. The Requesting Party will reimburse the Sending Party providing the Public Works Assistance for that amount or other such amount as mutually negotiated. Such charges are not contingent upon the availability of federal or state government funds. A Party may request a list of rates from another Party prior to requesting assistance. No charges shall apply to joint training events unless the Parties participating in the particular event agree to a charge in writing prior to the event.

## **V. RESPONSIBILITY AND LIABILITY**

Subd. 1. **Personnel**. Each Party shall be responsible for its own personnel and equipment, and for injuries or death to any such personnel or damage to any such equipment. Responding personnel shall be deemed to be performing their regular duties for each respective Sending Party for purposes of workers' compensation.

Subd. 2. **Worker's Compensation**. Each Party will maintain workers' compensation insurance or self-insurance coverage, covering its own personnel while they are providing Public Works Assistance pursuant to this Agreement. Each Party, and where applicable its insurer or coverage provider, waives the right to sue any other Party for any worker's compensation benefits paid to its own employee or volunteer or their dependents, even if the injuries or death were caused wholly or partially by the negligence of any other Party or its officers, employees, or volunteers.

Subd. 3. **Damage to Equipment**. Each Party shall be responsible for damages to or loss of its own equipment. Each Party, and where applicable its insurer or coverage provider, waives the right to sue any other Party for any damages to or loss of its equipment, even if the damages or losses were caused wholly or partially by the negligence of any other Party or its officers, employees or volunteers.

Subd. 4. **Liability**. For the purposes of the Minnesota Municipal Tort Liability Act (Minnesota Statutes, Chapter 466), the employees and officers of the Sending Party are deemed to be employees (as defined in Minnesota Statutes, section 466.01, subdivision 6) of the Requesting Party.

The Requesting Party agrees to defend and indemnify the Sending Party against any claims brought or actions filed against a Sending Party or any officers, employees, or volunteers of a Sending Party for injury or death to any third person or persons or damage to the property of third persons arising out of the performance and provision of Public Works Assistance pursuant to the Agreement. Under no

circumstances, however, shall a Party be required to pay, on behalf of itself and other Parties, any amount in excess of the limits of liability established in Minnesota Statutes, chapter 466, applicable to any one Party. The limits of liability for some or all of the Parties may not, as provided in Minnesota Statutes, section 471.59, subdivision 1a, be added together to determine the maximum amount of liability for any Party.

The intent of this subdivision is to impose on each Requesting Party a limited duty to defend and indemnify a Sending Party for claims arising within the Requesting Party's jurisdiction subject to the limits of liability under Minnesota Statutes, chapter 466. The purpose of creating this duty to defend and indemnify is to simplify the defense of claims by eliminating conflicts among the Parties and to permit liability claims against the Parties from a single occurrence to be defended by a single attorney. However, the Sending Party, at its option and its own expense, shall have the right to select its own attorney or approve a joint attorney as appropriate, considering potential conflicts of interest. Nothing in this Agreement is intended to constitute a waiver of any immunities and privileges from liability available under federal law or the laws of Minnesota. If a court determines that the liability of a Party or Parties is not subject to the tort caps and liability exceeds the tort cap maximum, a Party shall be subject to liability only for the acts of its officers, employees and volunteers.

No Party to this Agreement nor any official, employee or volunteer of any Party shall be liable to any other Party or to any other person for failure of any Party to furnish Public Works Assistance or for recalling Public Works Assistance.

## **VI. EFFECTIVE DATE AND MODIFICATIONS**

This Agreement shall become effective and operative beginning at 12:01 A.M., local time on October 1, 2018. The HCEM shall maintain a current list of the Parties to this Agreement and, whenever there is a change, shall notify the designated Sending Officials. Notice may be sent to the Sending Officials via email or through the United States Postal Service. No modification of this Agreement shall be effective unless it is reduced to writing and is approved by action of the governing body of each of the then current Parties.

## **VII. WITHDRAWAL AND TERMINATION**

A Party may withdraw from this Agreement by its governing body adopting a resolution to withdraw. Withdrawal is effective after 30 days' written notice is provided to the HCEM. HCEM shall thereupon give notice of such withdrawal, and the effective date thereof, to all other Parties. Parties that have withdrawn may rejoin by following the procedure set forth in this Agreement. This Agreement will terminate with respect to all Parties if the total number of Parties to the Agreement falls below 11. HCEM shall notify the remaining Parties that the Agreement has terminated.

IN WITNESS WHEREOF, the Parties, by action of their respective governing bodies, caused this Agreement to be approved on the dates below.

(Each Party must attach a dated and signed signature page consistent with that Party's method of executing contracts.)

Entity: \_\_\_\_\_

Mailing Address:

\_\_\_\_\_

\_\_\_\_\_

Adopted on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

By: \_\_\_\_\_

Its: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Attest:

By: \_\_\_\_\_

Its: \_\_\_\_\_



# Mutual Aid Joint Powers Agreements

February 16, 2020



# Mutual Aid Agreements

- Intergovernmental cooperation
- A voluntary reciprocal exchange of resources and services for mutual benefit
  - Personnel
  - Equipment
- Usually between neighboring jurisdictions
- State Statute allows for mutual aid, generally for emergencies, but does not include terms and conditions

# Mutual Aid Agreements

- Joint Powers Statute: Minnesota Statutes, Section 471.59
  - “Two or more governmental units, by agreement entered into through action of their governing bodies, may jointly or cooperatively exercise any power common to the contracting parties.”
- A mutual aid agreement is a type of joint powers agreement
- Anything a County is authorized to do, it can do jointly with another governmental unit
- Governmental units include cities, counties, school districts, watershed districts, etc.

# Public Works Joint Powers Mutual Aid Agreement



- Supports cooperation during emergencies
- Provides framework to cooperate during non-emergency
- Can share resources with each other (equipment, people, etc.)
- Decision to respond is optional
  - We retain all decision making related to response, resources and funding

# Public Works Joint Powers Mutual Aid Agreement



- No cost or ongoing membership fees
- Can charge for response
  - Important during FEMA events
- Designates officials in the organization that have decision making authority
  - Public Works Director
  - County Engineer
  - Emergency Services Manager

# Public Works Joint Powers Mutual Aid Agreement



- County Board must designate a Requesting Official and Sending Official (may be same)
  - May designate alternate in absence of designated official
- Recommend designating Public Works Director, County Engineer, and Emergency Services Manager for both positions
- Sending Party may recall assistance at any time

# Public Works Joint Powers Mutual Aid Agreement



- Liability is limited pursuant to Minnesota Statute, Section 471.59, subd. 1(a)(b):

“For purposes of determining total liability for damages, the participating governmental units and the joint board, if one is established, are considered a single governmental unit and the total liability for the participating governmental units and the joint board, if established, shall not exceed the limits on governmental liability for a single governmental unit as specified in section 3.736 or 466.04, subd. 1.”
- Requesting party will defend and indemnify the sending party against any claims or actions filed against a sending party or its employees

# Public Works Joint Powers Mutual Aid Agreement



- Workers' Compensation and Property Damage liability
  - Each party is responsible for injuries to its own employees regardless of fault
  - Each party will provide workers' compensation insurance for its own personnel
  - Each party is responsible for damage or loss of its own equipment
  - Claims are waived against the other parties



# Public Works Joint Powers Mutual Aid Agreement



- Currently Members

- 22 Current Members including:
- Ramsey County
- Blaine
- Eden Prairie
- Hopkins
- Plymouth
- Shoreview
- White Bear Township

- Recently Joined

- Chisago County

# Public Works Joint Powers Mutual Aid Agreement



- Hennepin County Emergency Management is administrative coordinator of the Agreement
- Signature on agreement and Board Resolution approving Agreement
- May withdraw with 30 days written notice

# Equipment Loan Agreement

- Extension of Public Works Joint Powers Mutual Aid Agreement
- Separate agreement that allows members of the Mutual Aid Agreement to share equipment
- Agreement is limited to equipment that has a replacement value of no greater than \$500,000
- Similar terms as Mutual Aid Agreement:
  - Can be used for non-emergency work
  - Sending and Receiving parties use their discretion to request or provide equipment
  - Sending party may recall equipment at any time

# Equipment Loan Agreement

- Sending and Receiving parties must mutually determine:
  - What equipment is being loaned?
  - How long it is being loaned?
  - Will there be charges for use?
- Receiving party responsible for transportation, operation, maintenance, insurance, repairs
- May allow for strategic purchasing with other members of the Agreement

# Mutual Aid Summary

- Governmental units elect to participate in Agreements
- No cost to participate
- Allows collaboration between agencies in both emergency and non-emergency situations
- Agreements provide framework to share resources while maintaining flexibility for all parties
- If adopted, approach other governmental units to increase participation in Washington County and the East Metro

# Questions?

