

Regional Hauler Licensing Joint Powers Agreement

January 1, 2018

THIS AGREEMENT ("Agreement") is made and entered into effective _____ by and between interested metropolitan counties (the "Counties") pursuant to Minn. Stat. §§471.59 and 473.811 subd. 7.

WHEREAS, metropolitan counties have waste management authority and responsibilities under Minn. Stat. Chapters §115A.473 and related waste management and public health statutes; and

WHEREAS, the Counties seek to coordinate the licensing of haulers collecting solid waste to increase licensing efficiencies for haulers and to avoid duplication; and

WHEREAS, the Counties have determined that the most appropriate mechanism for addressing a regional hauler license is through the creation of a joint powers agreement that establishes a regional hauler licensing program and a board to set license fees.

NOW THEREFORE BE IS RESOLVED that in consideration of the mutual promises and benefits that each party shall derive therefrom, and other good and valuable consideration, receipt of which is hereby acknowledged, and the authority provided by Minn. Stat. § 471.59, the Counties agree as follows:

ARTICLE I Definitions

Section 1: Statutory Definitions. The definitions of terms contained in Minn. Stat. Chapters §115A, 116 and §473 shall apply in this Agreement where those terms are used.

Section 2: Additional Definitions. In the interpretation of this Agreement, the following additional definitions shall have the meanings given to them.

- A. "Base County" means the county in which a Hauler's office, records and vehicles are primarily located. If differing parts of the Hauler's business are located in more than one County, the Base County shall be the county in which the majority of vehicles are kept as agreed upon by the Departments. The Base County for Haulers not based in a county participating in this regional licensing program shall be the closest adjacent county as agreed upon by Departments.
- B. "Base Hauler License Fee" means the fee set for the Base License.
- C. "Base License" means the license obtained by the Hauler from the Base County.
- D. "Board" or "Regional Hauler Licensing Board" means the joint powers board created by this Agreement
- E. "Commissioner" means a duly elected, qualified and acting county commissioner of a County that is a party to the Agreement.
- F. "County" or "Counties" means one or more counties that are parties to this Agreement.
- G. "Department" means the County department responsible for management of solid waste that assigns a staff representative to administer the County's Hauler licensing ordinance.
- H. "Hauler" means any person, firm, corporation, association, partnership, or other entity, other than an individual resident hauling his or her household waste, who collects or transports mixed municipal solid waste that is generated within the Counties.
- I. "Licensing Region" means the geographic area encompassed by the participating Counties.
- J. "Operating County" means a County in which the Hauler collects mixed municipal solid waste

- K. "Operating License" means the license obtained by the Hauler from each County in which the Hauler collects waste in order to operate within such County and which may contain specific conditions imposed by that County.
- L. "Regional Hauler Licensing Program" is the licensing program established pursuant to this Agreement.

ARTICLE II
Purposes

This Agreement has been executed by the Counties to provide for a Regional Hauler Licensing Program and Board .The Board shall hold an initial public hearing no later than April 1, 2018, and set a Base Hauler License Fee at that public hearing. The Board shall hold a public hearing each time Base Hauler License Fee changes are considered, but in no event shall Base Hauler License Fee changes be implemented more frequently than biannually.

ARTICLE III
Term

The term of this Agreement shall commence on January 1, 2018 or at such time four counties have approved this Agreement, and shall continue in full force and effect until terminated by the parties pursuant to Article VIII of the Agreement. The first Base Licenses to issue pursuant to this Agreement shall occur on or before July 1, 2018. Licenses shall issue biannually thereafter.

ARTICLE IV
Regional Hauler Licensing Board

Section 1: Creation and Composition. The Board is established for the purposes contained herein with the powers and duties set forth in this Agreement. The Board shall consist of one county commissioner from each of the Counties. The Board of Commissioners of each County shall appoint its representative and one or more alternates. In the event the County representative is not available for a meeting, the County shall send the alternate. The Counties shall make such appointments at their annual organizational meetings conducted pursuant to Minn. Stat. 375.07.

Section 2: Terms. Each County representative and alternate shall be appointed for a two year term.

Section 3: Chair. Board meetings, as needed, shall be hosted and chaired by participating Counties each for a two year term in alphabetical order commencing with Anoka County.

Section 4: Meetings. At the call of the chair, no less than biannually, the Board shall meet for a public hearing to set the Base Hauler License Fee. The meeting shall occur no later than April 1 of that year. Special meetings may be held on reasonable notice of any two County representatives upon terms and conditions as the Board may determine.

Section 5: Voting. A majority of Counties present shall constitute a quorum. Each County shall be entitled to one vote. In the absence of a County representative, the alternate may cast the vote for its County. Unless otherwise specified herein, Board actions shall require a majority vote of Counties' present.

Section 6: Liability. Each party to this Agreement shall be responsible for its own acts or omissions and expressly declines to be liable for the acts or omissions of the other parties to this Agreement. In accordance therewith, the liability of the parties to this Agreement shall be governed by Minnesota Statutes §471.59 subdivision 1a., and, the acts or omissions of the parties to this Agreement are intended to be construed as a cooperative activity, and it is the intent of the parties that they shall be deemed a single governmental unit for purposes of liability as set forth in Minnesota Statutes §471.59 subdivision 1b.

Section 7: Data Practices. All data collected, created, received, maintained or disseminated for any purpose in connection with this Agreement is subject to the provisions of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, any other applicable state statutes, any state rules adopted to implement the Act and statutes, as well as federal statutes and regulations on data privacy. The Board will designate a Responsible Authority, pursuant to the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as the individual responsible for the collection, maintenance, use, and dissemination of any set of data on individuals, government data, or summary data pursuant to this Agreement.

ARTICLE V
Powers of the Board

Section 1: General Powers and Exercise of Powers. The Board is hereby authorized to exercise such authority as is necessary and proper to fulfill its purpose and perform its duties. Such authority shall include, but not be limited to, those specific powers enumerated in Section 2 of this Article. The Board may refer decisions for approval by the Boards of Commissioners of the Counties. All powers granted herein shall be exercised by the Board in a fiscally responsible manner and in accordance with the requirements of law.

Section 2: Specific Powers.

- A. The Board shall hold a public hearing prior to April 1, 2018 to take testimony on a two year Base Hauler License Fee.
- B. Following the public hearing, the Board shall set a Base Hauler License Fee effective for a two year license. This fee shall remain in effect for subsequent two year terms until such time as the Board notices another public hearing and approves a different Base Hauler License Fee.
- C. The Board shall be responsible for any amendments, if needed, to the Regional Hauler Licensing Program as defined herein.

ARTICLE VI
Reservation of Authority

All responsibilities not specifically designated by this Agreement to be jointly exercised by the Board are hereby reserved to the individual Counties. It is the intent of the parties that the delegation of authorities and responsibilities hereunder shall in no way diminish the authority of a County to issue, impose conditions on, and take enforcement actions with respect to an Operating license.

ARTICLE VII
Regional Hauler Licensing Program

Section 1. Delegation of Powers.

- A. Base County. The Counties have authority to issue Base Licenses and vehicle decals to Haulers collecting or transporting mixed municipal solid waste within the Licensing Region, to collect license fees established by the Regional Hauler Licensing Board, to administer necessary application procedures and data collection pertaining to the Hauler's request for a Base License and all Operating Licenses within the Licensing Region and to take enforcement actions regarding the Base License and any County's Operating License.

- B. Base Hauler License Fee. The Counties further delegate to the Board the authority to establish a uniform Base Hauler License Fee. The Counties agree to collect no license fees relating to the issuance of a Base License or an Operating License except as determined by the Board.

Section 2. License Application Form and Decalcomania.

- A. License Application Form. The Counties hereby agree to use a common regional license application form. This license application form shall not be changed unless unanimously agreed to by the Departments. If this license application form is modified by unanimous agreement of the Departments, such action will be communicated to the Board.
- B. Decalcomania. The Counties hereby agree to use uniform decals for each Hauler vehicle licensed by the Base County as part of a Base License. The decal shall be:
 - a. Permanent and self-adhesive;
 - b. At least 3" high and 5" wide;
 - c. Formula Vinyl with Tech Mark Ink;
 - d. Color coded for the year of expiration (1-orange; 2-blue; 3-yellow; 4-pink; 5-green; 6-orange; 7-white; 8-yellow; 9-pink; 0-green;
 - e. State the County of issue in black letters at least 5/8" high; and
 - f. State "Expires" and the date of expiration (month, day, and year) in characters at least 5/16" high.

Section 3. Responsibilities of the Base County. Each of the Counties agrees that if it is a Base County to a Hauler, it shall fulfill the following responsibilities:

- A. Perform all necessary administrative duties to license all vehicles used by the Hauler within the metropolitan area.
- B. Receive and review the license application from the Hauler in accordance with procedures agreed upon by all Departments.
- C. Forward copies of each Hauler's completed license application to each Operating County by no later than May 20 of each year.
- D. Address comments from the Operating Counties.
- E. Collect the license fees for Haulers based within the Base County.
- F. Issue the Base License and all decals to Haulers by June 17 of each year.
- G. Enforce violations of the uniform licensing standards for a Base License and the Base License conditions.
- H. Issue and enforce Operating Licenses for Haulers collecting or transporting waste within the Base County.
- I. Promptly notify all Operating Counties upon initiating an enforcement action (civil, criminal, suspension or revocation) relating to a Hauler's Base License. Such notice shall include an initial notice, monthly status report, and completion notice.

Section 4. Responsibilities of the Operating Counties. Each of the Counties agrees that if it is identified as an Operating County in a Hauler's license application, it shall fulfill the following responsibilities:

- A. Review license applications which have been forwarded by the Base County and provide comments to the Base County by no later than May 31 of each year.
- B. Issue or deny an Operating License and establish conditions of licensure, if any.
- C. Enforce the Operating License.
- D. Promptly notify the Base County and all Operating Counties upon initiating an enforcement action (civil, criminal, suspension or revocation) against a licensed Hauler. Such notice shall include an initial notice, monthly status report, and completion notice.

- E. In alphabetical order by County, collaborate with all other Operating Counties to compile, update, and distribute biannually, commencing in July 2018, a spreadsheet listing all Licensed Haulers in the Licensing Region. The spreadsheet shall be distributed to all Counties by July 31 of each biannual Base License period. Counties agree to update and redistribute its spreadsheet within ten days of any changes that occur during the term of each biannual Base License.

Section 5. Hauler Licensing Ordinances. Each of the Counties shall adopt or amend Hauler licensing ordinances as necessary to accomplish the purpose of establishing a regional licensing program and that incorporates the following program elements:

- A. Require that each Hauler collecting mixed municipal solid waste within its borders obtain and maintain a Base License from the Base County as a precondition to obtaining an Operating License;
- B. Establish uniform standards for a Base License to include the standards provided for in Article VII Section 6.
- C. Require that each Hauler make application for an Operating License to the Base County and pay all license fees to the Base County: and
- D. Require that each Hauler obtain an Operating License from each County in which the Hauler collects, and if applicable transports, mixed municipal solid waste.
- E. Provide for automatic suspension of the Hauler's Operating License upon revocation or suspension of a Hauler's Base License.

Section 6. Uniform Standards for a Base License. Each of the Counties shall impose uniform standards and license conditions for a Base License required for Haulers to operate in the Licensing Region, which shall consist of the following requirements:

- A. License Application. The Hauler shall submit a completed license application to the Base County.
- B. Insurance. All Haulers shall provide at a minimum:
 - i. Commercial General Liability/Professional Liability with contractual liability coverage in the amount of the Counties' tort liability limits set forth in Minnesota Statute 466.04 and as amended from time to time. The County, its agents, officers, and employees shall be listed as an additional insured as it relates to these liabilities.
 - ii. Automobile coverage in the amount of the Counties' tort liability limits set forth in Minnesota Statute 466.04 and as amended from time to time.
 - iii. Workers' Compensation in statutory amount (if applicable)
 - iv. Any additional coverage required by the issuing Base County.
- C. License Term and Year. The Base License shall be issued every two years for the period of July 1 of the issuing year through June 30 of the second year.
- D. Decalomania. Each vehicle licensed by the Base County shall be identified by a license decal issued by the Department of the Base County for said vehicle for the current license period. The Base County shall require the Hauler to affix the decal in a conspicuous place on the left side of the cab of the licensed vehicle or conveyance and maintain said decal in good condition. Any vehicle not bearing the required decal shall be considered unlicensed in the Licensing Region.
- E. Fees. The Hauler shall pay the Base County License Fee according to the uniform fee schedule approved from time to time by the Board. Regardless of when a Base License is issued, Base County License Fees shall not be prorated. Each Base County shall collect and retain its Base Hauler License Fees. These Fees shall not relieve Haulers of any other financial obligations to any County not otherwise addressed in this Agreement.

ARTICLE VIII
TERMINATION

Section 1: Withdrawal of a County. A County may withdraw from the Board at any time by providing written notice to the Board. Upon the date of termination, all duties and authorities delegated hereunder shall revert to the County withdrawing. A Base Hauler License issued under the Regional Hauler Licensing Program prior to withdrawal shall continue in full force and effect for the term of the current license unless earlier revoked or suspended.

Section 2: Termination. This Agreement shall continue until such time as three or fewer Counties are parties to this Agreement. The board and this Agreement shall terminate once written notice is provided to the Counties. No separate termination action is required of the Board. Upon termination, any property acquired as a result of the Regional Hauler Licensing program shall be distributed equally to the final parties of the Agreement immediately preceding termination.

Section 3: Dissolution. The Regional Hauler Licensing Board may be dissolved upon Termination as provided in Section 2 above or by mutual agreement of the Counties party to this Agreement. In order to dissolve by mutual agreement, a Resolution setting forth the conditions of dissolution must be approved by the Regional Hauler Licensing Board at a bi-annual or special meeting, and then ratified by resolution by each of the County Boards of Commissioners of the Counties within 90 days. Upon Dissolution of the Regional Hauler Licensing Board under this provision, any property acquired as a result of this joint exercise of powers shall be disposed in such manner as the Board provides in the dissolving Resolution, and the proceeds of the property disposition and any surplus moneys remaining in the care and custody of the Board shall be returned to the Counties in proportion to their contributions. Also upon Dissolution, all duties and authorities delegated hereunder shall revert to the Counties. A Base Hauler License under the Regional Hauler licensing Program prior to Dissolution shall continue in full force and effect for the term of the current license unless earlier revoked or suspended.

ARTICLE IX
MISCELLANEOUS

Section 1: Amendments. This Agreement may be amended only in writing and upon the consent of each of the Boards of the Commissioners of the Counties.

Section 2: Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

Section 3: Severability. The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held to be contrary to law, or contrary to any rule or regulation having the force and effect of law, such decision shall not affect the remaining portions of this Agreement.

Section 4: Entire Agreement. This Agreement contains the entire agreement of the Counties and shall supersede all oral and written agreements and negotiations by the Counties related to the subject matter of this Agreement.

Section 5: New Members. The Board may elect to set a special meeting to add new members or take such action at its biannual meeting. A county may join with unanimous approval of the Board.

IN WITNESS WHEREOF, the parties to this Agreement have hereunto set their hands on the date written below:

WASHINGTON COUNTY

By Lisa Weik
Chair, Washington County
Board of Commissioners

Date of Signature 12-19-17

By Molly O'Rourke
Molly O'Rourke
County Administrator

Date of Signature 12-19-17

Approved as to form:
[Signature]