

**JOINT POWERS AGREEMENT BY AND BETWEEN
THE CITY OF MENDOTA HEIGHTS AND THE CITY OF WEST ST. PAUL RELATING
TO ISD 197 AQUATIC CENTER SANITARY SEWER BILLING**

This Agreement (the "Agreement") made and entered into this ____ day of _____, 2022, (the "Effective Date") by and between the City of Mendota Heights, a Minnesota municipal corporation, and the City of West St. Paul, a Minnesota municipal corporation.

NOW THEREFORE, the parties do hereby agree as follows:

ARTICLE 1
RECITALS

- 1.1 **Status of Parties.** MH and WSP are municipal corporations under the laws of the State of Minnesota. The cities adjoin each other at Delaware Avenue.
- 1.2 **Statutory Authority.** This Agreement is entered into pursuant to Minnesota Statutes Section 471.59 authorizing the joint exercise of powers to provide utility services to their property owners.
- 1.3 **Sanitary Sewer.** MH and WSP have determined that a property in MH, defined in Article 2 as "Subject Property," is connected to a WSP sanitary sewer in Delaware Avenue at a location identified on Exhibit B.
- 1.4 **Subject Property Connection.** The Subject Property, owned by Independent School District 197, contains an aquatic center, and is already connected to the Shared Sewer Line, defined in Article 2.
- 1.5 **Purpose of Agreement.** The purpose of this Agreement is to determine the cost that MH will pay WSP for the use of the WSP Shared Sewer Line which serves the Subject Property.

ARTICLE 2
DEFINITIONS

The following terms, unless elsewhere defined specifically in this Agreement, shall have the meanings as set forth below.

- 2.1 **MH.** MH means the City of Mendota Heights, a Minnesota municipal corporation.
- 2.2 **WSP.** WSP means the City of West St. Paul, a Minnesota municipal corporation.
- 2.3 **ISD 197.** ISD means the Independent School District 197.
- 2.4 **Subject Property.** Subject Property means the parcel located on Parcel Identification Number 27-02500-03-010, legally described on Exhibit A.

- 2.5 **Shared Sewer Line.** Shared Sewer Line means the Delaware Avenue sanitary sewer line that is owned by WSP with a MH property connection to serve the Subject Property.

ARTICLE 3 **USE OF SHARED SEWER LINE**

- 3.1 **Use Permitted.** WSP agrees to allow the property identified on Exhibit A to connect to and discharge to the West St. Paul sanitary sewer system. WSP grants MH the right of entry and authority to interconnect its sanitary sewer lines into the West St. Paul sanitary sewer systems through the West St. Paul connection point identified on Exhibit B.
- 3.2 **Ownership.** ISD 197 will own, operate, repair, maintain and replace all sanitary sewer lines, at its own expense beginning from the origination point identified on Exhibit B, which is in the City of Mendota Heights, and then crosses into the City of West St. Paul and connects at the connection point and must keep the same in good working order. WSP will own, operate, repair, maintain and replace all sanitary sewer lines beginning at the connection point identified on Exhibit B, and throughout the City of West St. Paul's municipal borders and must keep the same in good working order.
- 3.3 **Payment for Use.** MH shall directly bill the Subject Property for municipal sanitary sewer services and collect any and all fees, user rates, late fees or service charges consistent with those paid by all property owners of MH. For use of the Shared Sewer Line, MH shall pay West St. Paul by Feb. 15th of each year in an amount equal to the Subject Property's actual customer usage for the previous year multiplied by West St. Paul's then current municipal sanitary sewer rates. Such payment shall include a copy of an invoice showing the customer usage as determined by St. Paul Regional Water multiplied by West St. Paul's current rates.

ARTICLE 4 **INDEMNIFICATION**

- 4.1 **Indemnification.** Each party to this agreement shall be liable for its own acts and its officers, employees, or agents and the results thereof to the extent authorized by law and shall not be responsible for the acts of any other party, its officers, employees or agents. Each party hereby agrees to indemnify, defend and hold harmless any other party, its officers and employees against any and all liability, loss, costs, damages, expenses, claims, or actions, including attorney's fees that any other party, its officers and employees may hereafter sustain, incur or be required to pay, arising out of or by reason of any act or omission of the party, its agents, servants or employees, in the execution, performance, or failure to adequately perform its obligations pursuant to this agreement.

Under no circumstances, however, 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. The limits of liability for both parties may not be added together to determine the maximum amount of liability for either party. The intent of this paragraph is to impose on each party a limited duty to defend and

indemnify each other 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 both parties from a single occurrence to be defended by a single attorney.

ARTICLE 5
GENERAL PROVISIONS

- 5.1 **Governing Law.** This Agreement shall be construed and interpreted according to the laws of the State of Minnesota, and the exclusive venue shall be Dakota County District Court.
- 5.2 **Entire Agreement and Amendment.** This Agreement represents the entire agreement of the parties and is a final, complete and all-inclusive statement of the terms thereof, and supersedes and terminates any prior agreement(s), understandings or written or verbal representations made between the parties with respect thereto. This Agreement may be amended by the parties upon mutual written agreement.
- 5.3 **Notices.** All notices or communications required or permitted pursuant to this Agreement shall be addressed as follows:
- WSP: Ross Beckwith, P.E.
 Public Works & Parks Director/City Engineer
 City of West St. Paul
 1616 Humboldt Avenue
 West St. Paul, Minnesota 55118
- MH: Ryan Ruzek, P.E.
 Public Works Director
 City Hall
 1101 Victoria Curve
 Mendota Heights, MN 55118
- 5.4 **Counterparts.** This Agreement may be executed more than one counterpart, each of which shall be deemed to be an original but all of which taken together shall be deemed a single instrument.
- 5.5 **Survival of Representations and Warranties.** The representations, warranties, covenants and agreements of the parties under this Agreement, and the remedies of either party for the breach of such representations, warranties, covenants and agreements by the other party shall survive the execution and termination of this Agreement.
- 5.6 **Non-Assignability.** Neither WSP nor MH shall assign any interest in this Agreement nor shall transfer any interest in the same, whether by subcontract, assignment or novation, without the prior written consent of the other party. Such consent shall not be unreasonably withheld.

EXHIBIT A
LEGAL DESCRIPTION

The Southeast Quarter (SE ¼) of the Northeast Quarter (NE ¼) of Section Twenty-five (25), Township Twenty-eight (28), Range Twenty-three (23), according to the United States Government Survey thereof and situate in Dakota County, Minnesota,

EXCEPT:

That part of Tract A described below:

Tract A. The Southeast Quarter of the Northeast Quarter of Section 25, Township 28 North, Range 23 West, Dakota County, Minnesota;

which lies southerly of a line run parallel with and distant 112.5 feet northerly of Line 1 described below and northerly of Line 2 described below:

Line 1. Beginning at a point on the east line of said Section 25, distant 2590.22 feet north of the southeast corner thereof; thence westerly at an angle of 90 degrees 08 minutes from said east section line (measured from south to west) for 5 feet; thence deflect to the left at an angle of 00 degrees 19 minutes for 1400 feet and there terminating;

Line 2. Commencing at the west quarter corner of said Section 25; thence easterly on an azimuth of 89 degrees 47 minutes 26 seconds along the east and west quarter line thereof for 405.12 feet; thence on an azimuth of 30 degrees 33 minutes 33 seconds for 398.27 feet; thence on an azimuth of 120 degrees 33 minutes 33 seconds for 33.00 feet; thence on an azimuth of 150 degrees 14 minutes 26 seconds for 148.55 feet to the point of beginning of Line 2 to be described; thence on an azimuth of 89 degrees 55 minutes 19 seconds for 505.06 feet; thence deflect to the right on a tangential curve, having a radius of 5884.80 feet and a delta angle of 04 degrees 52 minutes 43 seconds, for 501.07 feet; thence on an azimuth of 94 degrees 48 minutes 02 seconds for 337.05 feet; thence on an azimuth of 107 degrees 57 minutes 09 seconds for 121.32 feet; thence on an azimuth of 101 degrees 49 minutes 15 seconds for 183.24 feet; thence on an azimuth of 94 degrees 48 minutes 02 seconds for 128.80 feet; thence deflect to the left on a tangential curve, having a radius of 5687.27 feet and a delta angle of 04 degrees 58 minutes 05 seconds, for 493.15 feet; thence on an azimuth of 89 degrees 49 minutes 56 seconds for 1638.46 feet; thence on an azimuth of 77 degrees 59 minutes 25 seconds for 158.37 feet, more or less, to an intersection with said 112.5 foot parallel line and there terminating;

together with a strip of land 12.5 feet in width adjoining and northerly of the above described strip: Beginning 1154.2 feet west of the east line of said Section 25 (measured along Line 1 described above) and extending westerly to the west line of Tract A hereinbefore described.

Subject to Parcel 1 of County Right-Of-Way Map 352 and Parcel 1 of County Right-Of-Way Map 390.

EXHIBIT B
DEPICTION OF SANITARY SEWER CONNECTION

