

**RESOLUTION
CITY OF SAINT PAUL, MINNESOTA**

Presented by _____

- 1 WHEREAS, the City of Saint Paul, Police Department wishes to enter into a Joint Powers Agreement
2 with the State of Minnesota, acting through its Commissioner of Public Safety, Division of Homeland
3 Security and Emergency Management division which includes an indemnification clause; and
4
5 WHEREAS, this agreement will allow for the reimbursement of expenses incurred by the department's
6 bomb disposal unit for assistance provided as requested by the State as specified; and
7
8 WHEREAS, the term of the agreement is from July 1, 2015 through June 30, 2016 and total amount not
9 to exceed \$27,000; and
10
11 THEREFORE BE IT RESOLVED, that the council approves entering into and authorizes Chief Thomas
12 Smith to implement the attached Joint Powers Agreement, which includes an indemnification clause.

Requested by Department of: **POLICE**

By:  _____
Thomas E. Smith, Chief of Police

Joint Powers Agreement

State of Minnesota

SWIFT Contract Number: **100348**

SWIFT Purchase Order Number: **3000036401**

This Agreement is between the State of Minnesota, acting through its Commissioner of the Department of Public Safety, acting on behalf of the Homeland Security and Emergency Management division [HSEM] ("State") and the City of Saint Paul, acting on behalf of the Saint Paul Police Department [SPPD] ("Governmental Unit").

Recitals

Under Minnesota Statutes § 471.59, subdivision 10, and Minnesota Statutes § 299C.063, subdivisions 2 and 3, the State is empowered to procure services of bomb disposal units throughout the State. The State is in need of such services and is entering this Agreement with the Governmental Unit.

Agreement

1 Term of Agreement

- 1.1 **Effective Date.** **July 1, 2015**, or the date the State obtains all required signatures under Minnesota Statutes § 16C.05, subdivision 2, whichever is later.
- 1.2 **Expiration Date.** **June 30, 2016**, or until all obligations have been satisfactorily fulfilled, whichever occurs first.

2 Agreement between the Parties

- 2.1 Definitions. The terms used in this Agreement have the following meanings given them in Minnesota Statutes § 299C.063, subdivision 1.
 - a) **Bomb Disposal Unit** has the meaning given it in Minnesota Statutes § 299C.063, subdivision 1(a).
 - b) **Commissioner** has the meaning given it in Minnesota Statutes § 299C.063, subdivision 1(b).
 - c) **Municipality** has the meaning given it in Minnesota Statutes § 466.01.
 - d) **Hazardous Explosives** has the meaning given in it Minnesota Statutes § 299F.72, subdivision 2, explosive devices and incendiary devices as defined in Minnesota Statutes 609.668, subdivision 1, and all materials subject to regulation under United States Code, Title 18, Chapter 40.
 - e) **Geographic Jurisdiction** means the corporate limits of the Governmental Unit.
- 2.2 Governmental Unit, which has a commissioner-approved bomb disposal unit (a/k/a bomb squad), will:
 - a) Provide bomb squad services outside its geographic jurisdiction for another municipality or otherwise outside the jurisdiction of the employer-municipality but within the State of Minnesota.
 - b) Invoice the State for expenses incurred while providing bomb disposal unit services outside its geographic jurisdiction for another municipality or otherwise outside the jurisdiction of the employer-municipality but within the State of Minnesota. Expenses incurred and invoiced to the State are set at a flat rate of One Hundred Seventy Five and 00/100 Dollars (\$175.00) per hour inclusive of all services and reimbursable expenses. Should the Governmental Unit have a contract or other legally-binding agreement with another entity in addition to the State for these or similar services, the Governmental Unit shall not invoice the State for services covered by that contract or other legally-binding agreement.
 - c) Provide reports to the State's Authorized Representative once per quarter calendar year using a reporting format approved by the State. Reports shall include a brief outline of services provided and costs incurred. The reports shall be submitted directly to the State's Authorized Representative identified in clause 4 below.

3 Payment

- 3.1 The State shall reimburse the Governmental Unit up to but not exceeding Twenty Seven Thousand and 00/100 Dollars (\$27,000.00) for Governmental Unit's bomb disposal unit responding to calls

specified in Clause 2.2 of this Agreement and in accordance with the following:

- a) Reimbursement is based on a flat fee of One Hundred Seventy Five and 00/100 Dollars (\$175.00) per hour inclusive of all services and reimbursable expenses.
- b) Funds not reimbursed by the State to the Governmental Unit for services rendered during this Agreement will be cancelled.

3.2 **Total Obligation.** The total reimbursable obligation of the State to the Governmental Unit for all services under this Agreement shall not exceed Twenty Seven Thousand and 00/100 Dollars (\$27,000.00).

3.3 **Invoices.** The State will promptly reimburse the Governmental Unit after the Governmental Unit presents an itemized invoice for services actually performed and the State's Authorized Representative accepts the invoices services. Invoices shall be submitted by the Governmental Unit according to the following schedule:

- No later than October 15, 2015 for services rendered during July 1, 2015 through September 30, 2015
- No later than January 15, 2016 for services rendered during October 1, 2015 through December 31, 2015
- No later than April 15, 2016 for services rendered during January 1, 2016 through March 31, 2016
- No later than July 15, 2016 for services rendered during April 1, 2016 through June 30, 2016

4 Authorized Representatives

The State's Authorized Representative is the individual below or his/her successor:

Name: Rick Luth, State Emergency Response Teams Coordinator
Address: Department of Public Safety
Homeland Security and Emergency Management
445 Minnesota Street, Suite 223
Saint Paul, MN 55101
Telephone Number: 651.201.7425
Email Address: rick.luth@state.mn.us

The Governmental Unit's Authorized Representative is the individual below or his/her successor:

Name: John Adamek, Bomb Squad Commander
Address: City of Saint Paul Police Department
367 Grove Street
Saint Paul, MN 55101
Telephone Number: 651.266.5768
Email Address: john.adamek@ci.stpaul.mn.us

5 Assignment, Amendments, Waiver, and Agreement Complete

- 5.1 **Assignment.** The Governmental Unit may neither assign nor transfer any rights or obligations under this Agreement without the prior consent of the State and a fully executed Assignment Agreement, executed and approved by the same parties who executed and approved this Agreement, or their successors in office.
- 5.2 **Amendments.** Any amendment to this Agreement shall be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original Agreement, or their successors in office.
- 5.3 **Waiver.** If the State fails to enforce any provision of this Agreement, that failure does not waive the provision or its right to enforce it.
- 5.4 **Agreement Complete.** This Agreement contains all negotiations and agreements between the State and the Governmental Unit. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

6 Indemnification

In the performance of this Agreement by the Governmental Unit, or Governmental Unit's agents or employees, the Governmental Unit must indemnify, save, and hold harmless the State, its agents, and

employees, from any claims or causes of action, including attorney's fees incurred by the state, to the extent caused by Governmental Unit's:

- 1) Intentional, willful, or negligent acts or omissions; or
- 2) Actions that give rise to strict liability; or
- 3) Breach of agreement/contract or warranty.

The indemnification obligations of this section do not apply in the event the claim or cause of action is the result of the State's sole negligence. This clause will not be construed to bar any legal remedies the Governmental Unit may have for the State's failure to fulfill its obligation under this Agreement.

7 State Audits

Under Minnesota Statutes § 16C.05, subdivision 5, the Governmental Unit's books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by the State and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six (6) years from the end of this Agreement.

8 Government Data Practices

The Governmental Unit and State must comply with the Minnesota Government Data Practices Act, Minnesota Statute Chapter 13 as it applies to all data provided by the State under this Agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Governmental Unit under this Agreement. The civil remedies of Minnesota Statutes § 13.08 apply to the release of the data referred to in this clause by either the Governmental Unit or the State.

If the Governmental Unit receives a request to release the data referred to in this clause, the Governmental Unit must immediately notify the State. The State will give the Governmental Unit instructions concerning the release of the data to the requesting party before the data is released.

9 Venue

Venue for all legal proceedings out of this agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

10 Workers Compensation Insurance

Under Minnesota Statutes § 176.192, a member of the Governmental Unit's bomb disposal unit is considered an employee of the State when disposing of or neutralizing bombs or other similar hazardous explosives under this Agreement.

11 Termination

11.1 Termination. The State or the Governmental Unit may terminate this Agreement at any time, with or without cause, upon thirty (30) days written notice to the other party.

11.2 Termination for Insufficient Funding. The State may immediately terminate this Agreement if it does not obtain funding from the Minnesota Legislature or other funding source, or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or email notice to the Governmental Unit. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Governmental Unit will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the Agreement is terminated because of the decision of the Minnesota Legislature or other funding source not to appropriate funds. The State must provide the Governmental Unit notice of the lack of funding within a reasonable time of the State receiving that notice.

12 E-Verify Certification (In accordance with Minnesota Statutes § 16C.075)

For services valued in excess of Fifty Thousand and 00/100 Dollars (\$50,000.00), Governmental Unit certifies that as of the date of services performed on behalf of the State, Governmental Unit and all its subcontractors will have implemented or be in the process of implementing the federal E-Verify program for all newly hired employees in the United States who will perform work on behalf of the State. Governmental Unit shall be responsible for collecting all subcontractor certifications and may do so utilizing the E-Verify

Subcontractor Certification Form available at

<http://www.mmd.admin.state.mn.us/doc/VerifySubCertForm.doc>. All subcontractor certifications must be kept on file with Governmental Unit and made available to the State upon request.

1 STATE ENCUMBRANCE VERIFICATION

Individual certifies that funds have been encumbered as required by Minnesota Statutes §§ 16A.15 and 16C.05.

Signed: _____

Date: _____

SWIFT PO Number: 3000036401

3 DEPARTMENT OF PUBLIC SAFETY; HSEM
(with delegated authority)

By: _____

Title: _____

Date: _____

4 COMMISSIONER OF ADMINISTRATION

As delegated to Materials Management Division

By: _____

Date: _____

2 CITY OF SAINT PAUL, Police Department

By: _____

Title: Chief of Police

Date: _____

By: _____

Title: City Attorney

Date: _____

By: _____

Title: Mayor

Date: _____

By: _____

Title: Director of the Office of Financial Services

Date: _____