REPORT / RECOMMENDATION

To: **MAYOR & COUNCIL**

Agenda Item #: IV.H.

From: Sherry Engelman, R.S.
Community Health Administrator

Date: November 20, 2013

Action ☒
Discussion ☐
Information ☐

Subject: Renew Twin Cities Public Health & Environmental Health Entities In Minnesota Mutual Aid Agreement

Action Requested:
Renew the Twin Cities Public Health and Environmental Health Entities in Minnesota Mutual Aid Agreement for January 1, 2013 through December 31, 2017.

Information / Background:
In 2006, Edina entered into a "Public Health Mutual Aid Agreement" developed by Community Health Boards in the Twin Cities metropolitan area, specifically the cities of Bloomington, Edina, Richfield and Minneapolis, and Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington counties. Considering their close proximity, these agencies recognized that it was in their best interest to assist one another in the event of an emergency. The purpose of the agreement is to strengthen the preparedness of the Minnesota's public health system by making personnel, equipment and other resources available to a political subdivision in the event of an emergency, training, drill or exercise.

In 2007, the Agreement was renamed "Public Health and Environmental Health Mutual Aid Agreement" and the cities of Brooklyn Park, Crystal, Maplewood, Minnetonka, St. Louis Park, St. Paul and Wayzata joined.

The current agreement expires December 31, 2012. The renewed agreement incorporates language updates and extends the expiration date to December 31, 2017.

The City Attorney has reviewed and approved the Agreement.

Attachments (pdf):

Twin Cities Public Health and Environmental Health Entities in Minnesota Mutual Aid Agreement

MUTUAL AID AGREEMENT
Twin Cities Public Health and Environmental Health Entities in Minnesota

THIS Twin Cities Public Health and Environmental Health Entities In Minnesota Mutual Aid Agreement ("Agreement") is among the County of Anoka, County of Carver, County of Dakota, County of Hennepin, County of Ramsey, County of Scott, County of Washington, City of Bloomington, City of Brooklyn Park, City of Edina, City of Maplewood, City of Minneapolis, City of Minnetonka, City of St. Paul, City of Richfield, City of Wayzata, and the University of Minnesota (the "Party" or "Parties" depending on context).

WHEREAS, pursuant to Minnesota Statutes Section 471.59, governmental units of the State of Minnesota may jointly and cooperatively exercise powers common to each of the contracting parties; and

WHEREAS, the purpose of this Agreement is to strengthen the preparedness of the public health and environmental health system in Minnesota; and

WHEREAS, emergencies may occur in the future which will require local public health and/or environmental health entities to come to the aid and assistance of other local public health or environmental health entities; and

WHEREAS, the Parties participating in this Agreement have determined that it is in their best interests to assist one another in the event of an emergency, training, drill or exercise; and

WHEREAS, the intent of this Agreement is to make personnel, equipment, and other resources available to governmental units in the event of an emergency, training, drill or exercise.

NOW, THEREFORE, in consideration of the foregoing, the Parties agree as follows:

I. PURPOSE

In certain situations, including but not limited to, natural disasters, public health emergencies, technological hazards, man-made disasters, civil emergencies, community disorders, insurgency or enemy attack, disease outbreaks, or special events, or trainings, drills or exercises in preparation for any of these eventualities, the cooperative use of the personnel, equipment, supplies and/or services of local governmental units is desirable and necessary to preserve and protect the health, safety and welfare of the citizens of the State of Minnesota.

This Agreement only addresses assistance provided by a Participating party in response to a request made by a Requesting party and does not affect the applicability of Minn. Stat. § 12.331, Minn. Stat. § 12.33, or other pertinent laws to other activities that may be undertaken by a political subdivision.

The Parties to this Agreement intend that the Agreement serve as a valid written agreement for mutual aid as required by FEMA in requesting reimbursement for those reasonable eligible costs incurred as a result of a qualifying emergency.

II. DEFINITIONS

For the purposes of this Agreement, the following terms shall be defined as follows:

A. "Party" or "Parties" means one or more governmental unit(s) that is a signatory to this Agreement.

B. "Employee" means those personnel currently working for a Party including, elected and appointed officials, officers and volunteers who are registered with and under the direction and control of that Party as required by Minn. Stat. §12.22, subd. 2a (a).

C. "Participating party" means the local public health, environmental health, or human services authority of a governmental unit that is a Party to this Agreement.

D. "Requesting Official" means the person designated by a Participating party who is responsible for requesting Assistance from the other Participating parties.

E. "Requesting party" means a Participating party that requests assistance from one or more other Participating parties.

F. "Assisting Official" means the person designated by a Participating party who is responsible to determine whether and to what extent that Participating party should provide assistance to a Requesting party.

G. "Assisting party" means a Participating party that provides Assistance to a Requesting party under this Agreement.

H. "Assistance" means Public Health, Environmental Health, Behavioral Health, or Human Services resources, such as personnel, services, equipment, supplies, and facilities.

I. "Incident" means an occurrence, natural or manmade, that requires a response to protect life or property. Incidents can, for example, include major disasters, emergencies, terrorist attacks, terrorist threats, civil unrest, wild land and urban fires, floods, hazardous materials spills, nuclear accidents, aircraft accidents, earthquakes, tornadoes, war-related disasters, public health and medical emergencies, and other occurrences requiring an emergency response, or special events, or trainings, drills or exercises in preparation for any of these eventualities.

III. PROVISION OF MUTUAL AID

A. Request for Assistance. Whenever, in the opinion of a Requesting Official, there is a need for Assistance from other Participating parties relating to an Incident, the Requesting Official may, orally or in writing, call upon the Assisting Official of any other Participating party to furnish assistance. The Requesting party, within a reasonable period of time, shall provide each Assisting party with a written confirmation of the need for assistance including details regarding requested resources, timelines/schedules and location(s) for Assistance.

B. Response to Request. Upon the oral or written request for Assistance from a Requesting party, the Assisting Official may authorize and direct the Participating party's personnel to provide assistance to the Requesting party. This decision will be made after considering the needs of the Assisting party and the availability of resources. Once Assistance has been authorized, the Assisting party, within a reasonable period of time, shall provide the Requesting party with a written confirmation of assistance including details regarding the personnel and resources to be provided and when they will be available.

C. Recall and Release of Assistance. The Assisting Official may at any time recall such Assistance when in his or her sole discretion or by an order from the governing body of the Assisting party or its designee, it is considered to be in the best interest of the Assisting party to do so. The Requesting party may at any time release an Assisting party or an individual from providing any further Assistance.

D. State Declared Emergency. If the State of Minnesota or an authorized state agency declares an emergency, the statutes and administrative rules pertaining to state declared emergencies shall prevail where they conflict with the provisions of this Agreement.

E. Command and Control. The Requesting party shall be responsible for command of the Incident for which Assistance is requested. Resources deployed by the Assisting party(s) shall be under the direction and control of the Requesting party until the Assisting Official(s) withdraw assistance; or the Requesting party delegates direction and control of the Incident to the Assisting party(s). If direction and control is delegated, the Requesting party shall transfer command in writing. At a minimum, the writing transferring command shall identify the Assisting party's scope of authority and Incident objectives. As necessary, it shall also identify pertinent legal and policy restraints, cost considerations, and other pertinent information.

This Agreement does not prevent Participating parties from managing an Incident under a unified incident command structure, as that term, or a similar term, is used and commonly accepted in the industry.

IV. LIABILITY

The liability of the Parties shall be governed by the provisions herein and by Minnesota Statute Section 471.59.

A. For purposes of determining total liability for damages, the Parties are considered a single governmental unit and the total liability for all Parties shall not exceed the limits on governmental liability for a single governmental unit, subject to the limits of liability under Minnesota Statutes Chapter 466 and other applicable laws, rules, and regulations, including common law. Under no circumstances shall a Party be required to pay on behalf of itself and other Parties, any amounts in excess of the limits on liability established in Minnesota Statutes Chapter 466 applicable to any one Party. The statutory limits of liability for some or all of the Parties may not be added together or stacked to increase the maximum amount of liability for any Party.

B. Each Party requesting Assistance shall defend, indemnify and hold harmless each Party providing Assistance, its Employees, officers and elected and appointed officials against any and all claims brought or actions filed against the Party providing Assistance and its Employees for injury to, death of, or damage to the property of any third person or persons, for claims arising from performance hereunder and/or the provision of Assistance in responding to a request for Assistance pursuant to this Agreement.

C. For purposes of Minnesota Statutes Chapter 466, the Employees of the Party providing Assistance are deemed to be employees (as defined in Minn. Stat. § 466.01, subdivision 6) of the Party requesting Assistance, but only for purposes of addressing liability under this Agreement. The Employees of the Party providing Assistance shall not be considered employees of the Party requesting Assistance for any other purpose.

D. Each Participating party agrees to promptly notify the other Participating parties if it knows or becomes aware of any facts or allegations reasonably giving rise to actual or potential liability, claims, causes of action, judgments, damages, losses, costs or expenses, including attorney's fees, involving or reasonably likely to involve the other Parties, and arising out of acts or omissions related to this Agreement.

E. No Party to this Agreement or any Employee, of any Party shall be liable to any other Party or to any other person for failure of any Party to furnish Assistance to any other Party, or for recalling or releasing Assistance as described in this Agreement.

F. If a Party utilizes contractors or agents to provide services or Assistance under this Agreement, the Party shall execute a contract with any such contractor(s) and agent(s) including, to the extent practicable, the following language:

"CONTRACTOR shall defend, indemnify, and hold harmless (insert name of Party/jurisdiction), its 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 the CONTRACTOR, a subcontractor, anyone directly or indirectly employed by them, and/or anyone for whose acts and omissions they may be liable in the performance of the services required by this Contract, and against all loss by reason of the failure of the CONTRACTOR to perform fully, in any respect, all obligations under this contract.

In order to protect the CONTRACTOR and those listed above under the indemnification provision, the CONTRACTOR agrees at all times during the term of this Contract, and beyond such term when so required, to have and keep in force the following insurance coverages, in amounts equal at least to the municipal tort liability limits of Minnesota Statutes Chapter 466 or other applicable law as currently in effect or as may be amended from time to time, unless specific dollar limits are otherwise provided herein:

(1) Commercial General Liability on an occurrence basis with contractual liability coverage:

General Aggregate
Products—Completed Operations Aggregate
Personal and Advertising Injury
Each Occurrence—Combined Bodily Injury and Property Damage

(2) Workers' Compensation and Employer's Liability:

Workers' Compensation
As required by Minnesota law.

Employer's Liability. Bodily injury by:
Accident—Each Accident
Disease—Policy Limit
Disease—Each Employee

(3) Professional Liability—Per Claim and Aggregate

The professional liability insurance must be maintained continuously for a period of two years after the termination of this Agreement.

An umbrella or excess policy over primary liability insurance coverages is an acceptable method to provide the required insurance limits.

The above establishes minimum insurance requirements. It is the sole responsibility of the CONTRACTOR to determine the need for and to procure additional insurance which may be needed in connection with this contract. Copies of insurance policies shall be promptly submitted to (insert name of Party/jurisdiction) upon written request.

The CONTRACTOR shall not commence work until it has obtained required insurance. The certificate(s) shall name (insert name of Party/jurisdiction) as the certificate holder and as an additional insured for the liability coverage(s) with respect to operations covered under the Contract.

The CONTRACTOR shall furnish to (insert name of Party/jurisdiction) updated certificates during the term of this Contract as insurance policies expire. If the CONTRACTOR fails to furnish proof of insurance coverages, (insert name of Party/jurisdiction) may withhold payments and/or pursue any other right or remedy allowed under the contract, law, equity, and/or statute. (Insert name of Party/jurisdiction) does not waive any rights or assume any obligations by not strictly enforcing the requirements set forth in this section.

Duty to Notify. The CONTRACTOR shall promptly notify (insert name of Party/jurisdiction) of any claim, action, cause of action or litigation brought against CONTRACTOR, its employees, officers, agents or subcontractors, which arises out of the services contained in this Contract. The CONTRACTOR shall also notify (insert name of Party/jurisdiction) whenever CONTRACTOR has a reasonable basis for believing that CONTRACTOR and/or its employees, officers, agents or subcontractors, and/or (insert name of Party/jurisdiction) might become the subject of a claim, action, cause of action, criminal arrest, criminal charge or litigation arising out of and/or related to the services contained in this Contract. Failure to provide the notices required by this section is a material violation of the terms and conditions of this Contract."

V. WORKER'S COMPENSATION

Each Party shall be responsible for injuries or death of its own Employees "to the extent required by law". Each Party will maintain worker's compensation insurance or self-insurance coverage, covering its own Employees while they are providing assistance pursuant to this Agreement. Each Party waives the right to sue any other Party for any worker's compensation benefits paid to its own Employee or their dependents, even if the injuries were caused wholly or partially be the negligence of any other Party or employees.

VI. DAMAGE TO EQUIPMENT, SUPPLIES, FACILITIES

Each Party, to the extent a Party is at fault, shall be responsible for damages to or loss of its equipment, supplies and facilities while acting within the scope of this Agreement.

VII. CHARGES TO THE REQUESTING PARTY

A. No charges will be levied by a Assisting party to this Agreement for Assistance rendered to a Requesting party under the terms of this Agreement unless that Assistance continues for a period of more than eight (8) hours, as measured from the time Assisting party begins to provide Assistance after being specifically directed by the Requesting party to perform a task or tasks, unless the Requesting party is eligible to obtain reimbursement for expenses it incurred during this period from the United States, the State of Minnesota, or any other source. In that event the Requesting party shall take all steps necessary to seek reimbursement to the Assisting party for the actual cost of any Assistance provided during this initial eight (8) hour period including salaries, overtime, materials and supplies, and other necessary expenses.

B. If Assistance provided under this Agreement continues for more than eight (8) hours, the Assisting party shall submit to the Requesting party an itemized bill for the actual cost of any Assistance provided after the initial eight (8) hour period, including salaries, overtime, materials and supplies and other necessary expenses; and the Requesting party shall reimburse the Party providing the Assistance for that amount. Any such reimbursement request must be submitted in writing to the Requesting party no later than ninety (90) days after the last day that the Assisting party provides the assistance.

C. The ability to levy such charges is not contingent upon the availability of federal or state government funds to reimburse the charges.

VIII. DURATION

This Agreement will become effective as to each Party on the later of the date that the Party executes this Agreement or January 1, 2013, and shall terminate December 31, 2017, unless terminated sooner pursuant to section XI herein. Copies of the executed Agreement shall be provided to:

Hennepin County Human Services Public Health Department

Attention: Emergency Preparedness Unit Supervisor

1011 First Street South, Suite 215

Hopkins, MN 55343

(612) 543-5220

IX. MERGER AND MODIFICATION

A. The entire Agreement between the Parties is contained herein and this Agreement supersedes all oral agreements and negotiations between the Parties relating to the subject matter hereof. The matters set forth in the "WHEREAS" clauses at the beginning of this Agreement are by this reference incorporated into and made a part of this Agreement.

B. Any alterations, variations, modifications, or waivers of 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 hereto.

X. WITHDRAWAL

A. Any Party may withdraw from this Agreement with or without cause by providing thirty (30) days' prior written notice to the other Parties herein, consistent with XVI herein. Withdrawal shall not discharge any liability incurred by any Party prior to withdrawal. Such liability shall continue until discharged by law or agreement.

C. The terms of Sections II, III, IV, V, VI, XI, and XII shall survive the expiration, termination or withdrawal from this Agreement.

XI. RECORDS – AVAILABILITY/ACCESS

To the extent required by Minnesota Statutes Section 16C.05, Subd. 5 (as may be amended), the Parties agree that the any Party, the State Auditor, the Legislative Auditor or any of their duly authorized representatives, or ultimate funding sources, 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 the other Parties and involve transactions relating to this Agreement. Such materials shall be maintained and such access and rights shall be in force and effect during the period of the Agreement and for six (6) years after its termination or cancellation.

XII. DATA PRIVACY

Each Party, its Employees and subcontractors agree to abide by the provisions of the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13, the Health Insurance Portability and Accountability Act and implementing regulations, if applicable, and all other applicable state and federal laws, rules, regulations and orders relating to data privacy or confidentiality, and as any of the same may be amended.

XIII. COMPLIANCE

Parties shall comply with all applicable federal, state and local statutes, regulations, rules and ordinances in force or hereafter enacted.

XIV. EXECUTION

Each Party hereto has read, agreed to and executed this Mutual Aid Agreement on the date indicated. This Agreement may be executed in any number of counterparts, each counterpart for all purposes being deemed an original and all such counterparts shall together constitute one and the same agreement.

XV. ADDITIONAL PARTIES AND COUNTERPARTS

A local government unit may become a participant in this Agreement upon execution by its governing body and the consent of all of the Parties as evidenced by formal action of their governing bodies. Each Party, at its sole discretion, may designate and authorize an agent to act on behalf of the Party with respect to granting or withholding approval of the addition of a new Party under this section.

XVI. CONTRACT ADMINISTRATION

In order to coordinate the services so as to accomplish the purposes of this Agreement, each Party shall designate a contact person, and provide written notice to all other Parties of the name and pertinent contact information for that Party's contact person. Parties shall update this information in writing as needed to maintain current contact information.

XVII. DISTRIBUTION OF PROPERTY

Any property belonging to or acquired by any Party shall remain the property of that Party, until and unless ownership of the property is transferred by sale, donation, or other means memorialized in writing.

A SIGNATURE PAGE FOR EACH PARTY SHALL BE ATTACHED

CITY OF EDINA

By: _____
Mayor

Date: _____

By: _____
City Manager

Date: _____

Reviewed and approved by City Attorney

By: _____
City Attorney

Date: _____