

2017-2019 PROFESSIONAL SERVICES AGREEMENT

DULUTH JOINT POWERS ENTERPRISE TRUST

and

CITY OF DULUTH

THIS AGREEMENT is deemed effective January 1, 2017 by and between the DULUTH JOINT POWERS ENTERPRISE TRUST, a joint powers enterprise established pursuant to Minn. Stat. §471.59 consisting of the City of Duluth, the Duluth Airport Authority, the Duluth Entertainment and Convention Center, and the Duluth Housing and Redevelopment Authority, hereinafter collectively referred to as “JOINT POWERS ENTERPRISE”, and the City of Duluth, a Minnesota municipal corporation, hereinafter referred to as “CITY”.

WHEREAS, the Minnesota Department of Commerce has determined that the JOINT POWERS ENTERPRISE operates a joint enterprise including a joint self-insurance pool subject to Minn. Stat. §471.59;

WHEREAS, it is the intent of the JOINT POWERS ENTERPRISE to comply with all applicable legal requirements pertaining to joint self-insurance pools, joint powers arrangements, and with all other applicable state and federal laws;

WHEREAS, the JOINT POWERS ENTERPRISE desires to utilize the professional services of CITY to comply with applicable law, including federal and state statutory and regulatory requirements;

WHEREAS, the JOINT POWERS ENTERPRISE desires to utilize the professional services of CITY to further develop and coordinate health promotion and wellness programs for JOINT POWERS ENTERPRISE medical, drug, and dental plan participants.

WHEREAS, the JOINT POWERS ENTERPRISE desires to utilize the professional services of CITY for administration of the joint-insurance pool;

WHEREAS, the CITY has represented that it is qualified and willing to perform said services as set forth in this proposal;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the JOINT POWERS ENTERPRISE and CITY agree as follows:

I. Scope of Professional Services

CITY and its designees shall provide professional services to the JOINT POWERS ENTERPRISE and its designees as further-described in the Professional Services Summary attached hereto as Exhibit A, and may provide other professional services as the JOINT POWERS ENTERPRISE may request.

II. Professional Fees and Payment

JOINT POWERS ENTERPRISE shall pay CITY \$350,000 in 2017, \$360,500 in 2018 (3% increase), and \$371,315 in 2019 (3% increase) pursuant to this Agreement. Fees will be billed quarterly and are due and payable to the CITY Fund No. 110-125-1214-4315-12 (General Fund, Finance Department, Auditor, Cost Allocation Charges Group Health) within thirty (30) days of request by CITY.

III. Assignability

CITY may assign or transfer any of its rights or interests under this Agreement, subject to approval of JOINT POWERS ENTERPRISE.

IV. Term

This Agreement shall be deemed effective January 1, 2017, and shall remain in effect for a period of three (3) years, unless terminated earlier as provided for herein.

V. Termination of Services

JOINT POWERS ENTERPRISE or CITY may, by giving at least thirty (30) days written notice, terminate this Agreement with or without cause.

VI. Conflict of Interest and Disclosure

- A. The parties acknowledge that the City Attorney's Office is a subdivision and employee of the City of Duluth, a Minnesota municipal corporation, and that the City of Duluth is only one of the members of the JOINT POWERS ENTERPRISE. Although the interests of the City of Duluth and JOINT POWERS ENTERPRISE are generally consistent, it is recognized and understood by the parties that differences may exist or become evident during the course of the professional representation as between the City of Duluth and JOINT POWERS ENTERPRISE. CITY may have different interests in the JOINT POWERS ENTERPRISE than other members – the Duluth Airport Authority, the Duluth Entertainment and Convention Center, and the Duluth Housing and Redevelopment Authority
- B. The parties acknowledge that Section 26 of the Duluth City Charter provides that the City Attorney "shall be the legal advisor of the council and of the officers of the City and shall, under the direction of the council, prosecute all suits for, and defend all suits brought against, the City, and shall prosecute all persons accused of any violation of city ordinance." Therefore, the parties acknowledge that the City Attorney's Office is legally required to and will prosecute all suits for the City of Duluth against JOINT POWERS ENTERPRISE and will defend all suits against the City of Duluth by JOINT POWERS ENTERPRISE if a conflict arises.

- C. CITY and JOINT POWERS ENTERPRISE acknowledge that the Duluth City Attorney's Office has communicated adequate information and explanation of the material risks of its representation and reasonably available alternatives, including but not limited to, hiring other legal counsel.
- D. CITY and JOINT POWERS ENTERPRISE agree to representation of JOINT POWERS ENTERPRISE by the Duluth City Attorney's Office regarding applicable legal requirements pertaining to joint self-insurance pools, joint powers arrangements, and with all other applicable state and federal laws, and other related professional services as the JOINT POWERS ENTERPRISE may request.
- E. CITY and JOINT POWERS ENTERPRISE hereby waive the conflict of interest and agree to the professional representation of JOINT POWERS ENTERPRISE by the Duluth City Attorney's Office.

VII. Notices

Notice to JOINT POWERS ENTERPRISE provided for herein shall be sufficient if sent by the regular United States mail, postage prepaid, addressed to the parties at the addresses hereinafter set forth or to such other respective persons or addresses as the parties may designate to each other in writing from time to time.

JOINT POWERS ENTERPRISE:

David Montgomery
Chairman of the Board of Trustees for the
Joint Powers Enterprise
Room 402 City Hall
411 West First Street
Duluth, MN 55802

CITY:

City Attorney
City Attorney's Office
Room 410 City Hall
411 West First Street
Duluth, MN 55802

VIII. Workers' Compensation

CITY shall comply with all Minnesota Workers' Compensation laws in the utilization of all employees employed by CITY to provide Professional Services to JOINT POWERS ENTERPRISE.

IX. Taxes

CITY hereby agrees to pay all licenses, fees, taxes, and assessments of any kind whatsoever that arise because of, out of, or in the course of CITY's Professional Services for JOINT POWERS ENTERPRISE, including any real property and sales taxes if applicable to CITY's Professional Services. It is further agreed that JOINT POWERS ENTERPRISE may pay the same on behalf of CITY and immediately collect the same from CITY, or offset against any amount owed to CITY by JOINT POWERS ENTERPRISE under this Agreement. CITY shall further be obligated to collect and/or pay any sales and use taxes imposed by any governmental entity entitled to impose such taxes on or before the date they are due and to file all required reports and forms in proper form related thereto on or before their due date.

X. Government Data Practices

All data collected, created, received, maintained or disseminated for any purpose by the parties because of this contract is governed by the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13. CITY shall comply with the Minnesota Government Data Practices Act. CITY agrees to hold JOINT POWERS ENTERPRISE, its officers, and employees harmless from any claims resulting from City's failure to comply with this law.

XI. Waiver

Any waiver by either party of any provision of this Agreement shall not imply a subsequent waiver of that or any other provision.

XII. Applicable Law

This Agreement, together with all of its paragraphs, terms, and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

XIII. Severability

In the event any provision herein shall be deemed invalid or unenforceable, the remaining provisions shall continue in full force and effect and shall be binding upon the parties to this Agreement.

XIV. Amendments

Any amendment or modification to this Agreement shall be in writing and shall be executed by the same parties who executed the original agreement or their successors in office.

XV. Complete Agreement

This Agreement, including exhibits, constitutes the entire agreement between the parties and supersedes all prior written and oral agreements and negotiations between the parties relating to the subject matter hereof. This Agreement supersedes and replaces the 2016-2018 Professional Services Agreement between the City of Duluth and Duluth Joint Enterprises Trust for Wellness Coordinator Services.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed intending to be bound thereby.

CITY OF DULUTH, a Minnesota municipal corporation

**DULUTH JOINT POWERS
ENTERPRISE TRUST**

By _____
Its: Mayor
Dated _____

By _____
David Montgomery
Chairman of the Board of Trustees
Dated _____

By _____
Its: Chief Administrative Officer

Dated_____

ATTEST:

City Clerk

Date: _____

Countersigned:

City Auditor
Dated_____

Approved as to form:

City Attorney
Dated_____

EXHIBIT A

Duluth JPE Trust City of Duluth 2017 Professional Services Summary

Department	Annual Hours	Market Rate	Total Cost
• Administration	96 hours	\$75/hr	\$ 7,200
• Finance	652 hours	\$75/hr	\$ 48,900
• Human Resources	3650 hours	\$75/hr	\$273,750
• Legal	156 hours	\$150/hr	\$ 23,400
	Total - 4,050 Hours		Total - \$353,250

ADMINISTRATION

Description of Services	Annual Hours	Responsibility
<ul style="list-style-type: none"> Developing agendas and board meeting schedules Taking board meeting minutes and updating web site information Communications with board members and interested parties Researching agenda topics and coordinating information presented to the board 	96 hrs annually (8 hrs/month)	Position Responsibility: Executive Assistant
Total Administrative Department Services	96 hours annually	

FINANCE

Description of Services	Annual Hours	Responsibility
<ul style="list-style-type: none"> Process 121 Benefit collections 	12 hrs annually (1 hr/month)	Position Responsibility: Chief Financial Officer (31%) City Auditor (13%)

<ul style="list-style-type: none"> • Process ACH transactions between the City and JPE Trust and record in Accounting System • Record weekly draw requests for Health Partners claims • Record monthly draw requests for Delta Dental claims • Reconcile and account for plan participants • Prepare, analyze and distribute monthly financial reports • Prepare Ad Hoc reports and financial analysis on a request basis • Prepare annual premium rate calculations and analysis • Coordinate annual audit process including work paper preparation • Provide miscellaneous analysis and review • Reconcile accounting records to North Shore Bank trust records • File IRS Form 720 and file Transitional Reinsurance Payment 	<p>24 hrs annually (2 hrs/month)</p> <p>60 hrs annually (5 hrs/month)</p> <p>12 hrs annually (1 hr/month)</p> <p>48 hrs annually (4 hrs/month)</p> <p>120 hrs annually (10 hrs/month)</p> <p>24 hrs annually (2 hrs/month)</p> <p>80 hrs annually</p> <p>120 hrs annually</p> <p>96 hrs annually (8 hrs/month)</p> <p>48 hrs annually (4 hrs/month)</p> <p>8 hrs annually</p>	<p>Financial Analyst (45%) Finance Specialist (11%)</p>
Total Finance Department Services	652 hours annually	

HUMAN RESOURCES

Description of Services	Annual Hours	Responsibility
HealthPartners /Delta Dental Enrollment and Changes <ul style="list-style-type: none"> Manual data entry with TPAs (HealthPartners and Delta Dental) for each subscriber Coordination of site codes with TPA, in NW Processing of new hire paperwork, QLE changes, status changes, terminations, separations and retirements 	1040 hrs / year (52 weeks x 20 hrs/ week)	Employee Benefits Admin. (10%) Employee Benefits Rep (80%) HR Analyst (10%)
COBRA/Retiree Billing <ul style="list-style-type: none"> COBRA/Retiree billing set-up, renewal intake forms QB (employees and/or dependents, depending on situation) & SPM data entry with 121 Benefits TPA changes, database changes Appeals Ongoing administration (contracts, Plan Document) 	780 hrs / year (52 weeks x 15 hrs/ week)	Employee Benefits Admin. (20%) Employee Benefits Rep (60%) HR Analyst (10%) HR Manager (10%)
Open Enrollment <ul style="list-style-type: none"> Prepare OE material – letters, forms, guides, announcements, etc. Update website, provide links to carriers & forms, online submission Manual updates with TPAs, New World (track subscribers and dependents, site numbers, maintain demographic information, plan elections/changes, benefit coordination, various payment set-up, etc.) 	400 hrs / year (20 weeks x 20 hrs/week)	Employee Benefits Admin. (55%) Employee Benefits Rep (15%) HR Analyst (20%) HR Assistant (10%)
Administration <ul style="list-style-type: none"> Benefits compliance (including health care reform, COBRA, MN Continuation, etc.) Risk analysis Summary Plan Descriptions, Plan Amendments Program maintenance and implementation (e.g., step therapy, MTM, Omada, etc.) 	1,430 hrs / year (52 weeks x 27.5 hrs/week)	Employee Benefits Admin. (50%) Employee Benefits Rep (20%) HR Manager (10%) HR Assistant (10%)

Description of Services	Annual Hours	Responsibility
<ul style="list-style-type: none"> • Troubleshooting/resolve contract issues • Health/Rx/Dental Appeals • Ongoing TPA administration • Benchmarking/Surveys • Coordinate work with CBIZ (RFPs, claims analysis, rate setting, renewals, etc.) • Preparation for JPE Board & LMC subcommittee meetings & attendance, follow up work (e.g., minutes, coordinating meetings, agenda preparation, etc.) 		
Total Human Resource Department Services	3650 hours annually	

ATTORNEY'S OFFICE

Description of Services	Annual Hours	Responsibility
Legal <ul style="list-style-type: none"> • Affordable Care Act compliance • Determine benefits compliance • Resolve Prescription Drug Insurance Copay Issues with HealthPartners • Contract drafting and review • Plan document drafting and review • Civil litigation • Determine and coordinate claims subrogation • Defend against all legal claims • Risk analysis • Open enrollment guidance • Advise JPE Trust Board of Trustees • Attendance and presentations at JPE Board of Trustees Meetings • Prepare JPE Trust resolutions • Other legal services as requested 	156 hrs / year (3.0 hrs/ week)	Attorney (100%)
Total City Attorney's Office Services	156 hours annually	