

JOINT POWERS AGREEMENT CHECKLIST

- 1. Are the parties to the agreement and its purpose clearly stated?
- 2. Is the purpose of the agreement one which state law authorizes to be carried out through a joint powers agreement?
- 3. Does one of the parties to the agreement possess the power or function to be jointly or cooperatively exercised?
- 4. Does each state agency or official have the authority to enter into the agreement?
- 5. Does each state agency have an appropriation for the subject matter of the contract?
- 6. Is the contract in writing with all pages numbered?
 - Does the contract contain any exhibits or attachments?
 - Are all the documents appropriately numbered or labeled and attached?
- 7. Are all payment amounts and dates correct?
- 8. Are there any handwritten changes or other alterations to the contract?
 - If so, have all the changes or alterations been initialed by all signers?
- 9. Are the parties properly identified in the introductory paragraph or first clause?
- 10. Has the agreement been checked for the following ambiguities and inconsistencies:
 - If recitals are used, are they unambiguous and consistent with the terms of the contract?
 - Are all references to parties, exhibits and other things internally consistent?
 - Are all references to other clauses, attachments or other applicable documents correct?
- 11. Are all terms unambiguous or clearly defined?
 - Is the contract written in plain English using the present tense and the active voice?
 - Are the terms "shall," "may," and "must" used properly to describe what a party is required to do [shall], is authorized to do [may], or has to do [must] before something else happens?
 - Is the connective "and" used properly in the conjunctive?
 - Is "or" used properly in the disjunctive?
 - Is it clear to what any modifier or dependent clause refers?
 - Where particulars are listed, is it clear whether the list is exhaustive?
- 12. Are signatures dated and written in ink, or do they comply with the electronic signature statute?
- 13. Is the name and title or position of each person signing the document listed below the signature line?

- 14. Does the agreement specify both the date on which it begins and the date on which it ends?
- 15. Regardless of the specified term of the agreement, does the agreement include an acceptable termination clause permitting either party to terminate at an earlier date without incurring additional liability if adequate funds are not appropriated or available?
- 16. Is there an acceptable indemnification and hold harmless provision indicating how risks arising out of the agreement are assigned among the parties?
- 17. Is approval needed from the Attorney General?
- 18. Is there an acceptable insurance provision or other source of funds to satisfy any obligation imposed under an indemnification or hold harmless clause?
 - Has sufficient proof of any required insurance coverage, including endorsements, been provided to the agency?
- 19. Are all applicable provisions of N.D.C.C. § 54-40.3-01(1)(a-i) addressed?