

**JOINT POWERS AGREEMENT  
BETWEEN CITY OF WEST ST. PAUL AND CITY OF ST. PAUL  
FOR ANNAPOLIS STREET RECONSTRUCTION**

THIS AGREEMENT (“Agreement”) is made and entered into by and between the City of West St. Paul (“West St. Paul”), 1616 Humboldt Avenue, West St. Paul, MN 55118, and the City of St. Paul (“St. Paul”), 15 Kellogg Boulevard West, St. Paul, MN 55102, with the parties hereinafter collectively referred to as the “Cities”.

WHEREAS, pursuant to Minnesota Statutes Section 471.59, subdivision 1, two or more governmental units may enter into an Agreement to cooperatively exercise any power common to the contracting parties or any similar powers, and one of the participating governmental units may exercise one of its powers on behalf of the other governmental units; and

WHEREAS, the Cities are engaging in street reconstruction of Annapolis Street including improvements to the subgrade, curb, asphalt and watermain and upgrading the storm sewer, sanitary sewer, sidewalk and landscaping, as necessary, hereinafter referred to as the “Project”; and

WHEREAS, the Cities wish to enter into this Agreement for the purpose of specifying their respective obligations and responsibilities in the design and construction of the Project; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein, it is agreed that the Cities will share project responsibilities and jointly participate in the Project as follows:

1. Purpose. The purpose of this Agreement is to specify the respective duties and responsibilities of the Cities regarding the design, construction, and cost sharing for the Project.
2. Description of Project. The Project will consist of rehabilitating the pavement and curb section and utility improvements on Annapolis Street from Smith Avenue to Kansas Avenue. The Project will also include repair and/or upgrade of the storm sewer, sanitary sewer, sidewalk, and landscaping, as necessary.
3. Term. This Agreement will be effective upon execution by both duly authorized officials of each governing body and shall continue in effect until all work to be carried out in accordance with this Agreement has been completed. Absent an amendment, however, in no event will this Agreement continue in effect after December 31, 2025.
4. Construction Administration. West St. Paul shall be responsible for and oversee the construction administration and inspection of the Project, administer any changes to the construction contract in accordance with Paragraph 10, and process payments to the contractor in accordance with the applicable provisions of this Agreement. Subject to the requirements in this Agreement, the Cities shall each retain final decision-making authority within their respective jurisdictions. The cost of West St. Paul staff time for the purpose of

construction administration, oversight, and inspection of the Project shall be a shared cost with each city responsible for paying 50% of the total cost. St. Paul shall reimburse West St. Paul within 35 days of billing for the costs under this Paragraph.

5. Design Plans and Specifications. West St. Paul shall be responsible for the design of the Project. West St. Paul shall hire a professional design consultant and prepare the plans and technical specifications for the Project, which shall be approved by St. Paul prior to the advertisement of bids. Design costs, including public involvement, agency involvement, environmental review and necessary documentation, preliminary layouts, plans, specifications and proposal, surveying, mapping, shall be shared based on the terms of this Agreement. Professional design consultant fees and the cost of West St. Paul staff time for the purpose of design of the Project shall be a shared cost with each city responsible for paying 50% of the total cost, except for the portion of the Project between Charlton Street and Bidwell Street in West St. Paul, for which West St. Paul shall be responsible for 100% of these costs. St. Paul shall reimburse West St. Paul within 35 days of billing for the costs under this Paragraph.
6. Construction Cost Share. All Project construction costs shall be split based on St. Paul and West St. Paul's share of the final construction costs in their city, except that West St. Paul shall be responsible for 100% of these costs for the portion of the Project between Charlton Street and Bidwell Street in West St. Paul. The costs associated with construction administration, oversight, inspection, design and design consultant fees, shall be shared according to the provision in Paragraphs 4 and 5. Both St. Paul and West St. Paul will share equally the responsibility for the full costs of any reasonable modifications by the Cities to the Project that exceeds the work contemplated herein.

West St. Paul will provide updated costs estimates to St. Paul showing each city's share of Project costs annually at the following times:

- At 50% design plans.
- Prior to approval of the appraised values for any necessary right of way acquisitions,
- Prior to advertising a construction contract.
- After bid opening and prior to contract award.

Project cost estimate updates include actual and estimated costs for the engineering and construction costs. The Cities acknowledge that Project cost estimates are subject to numerous variables causing the estimates to be subject to change and the updates are provided for information purposes in good faith. The Cities are responsible for informing their respective city council or board regarding Project cost estimates.

7. Award of Contract. West St. Paul will prepare the final design plans consistent with St. Paul and West St. Paul design standards, State-Aid design standards and MnDOT standards and specifications. St. Paul's written concurrence with the plans and specifications is required prior to advertising for bids. West St. Paul will advertise for bids for the construction of the Project in accordance with applicable state laws. West St. Paul shall, within seven (7) days of opening bids for the construction contract, submit to St. Paul a

copy of the low bid and an abstract of all bids prior to the award of the construction contract to the lowest responsible bidder. The West St. Paul City Council may award the contract for construction to the lowest responsible bidder in accordance with state law. If a bid is not awarded, this Agreement shall terminate, and all costs incurred as of the date of termination shall be appointed in accordance with the terms of this Agreement. The construction contract shall be performed in accordance with final approved plans, specifications and special provisions which will be on file in the office of the West St. Paul City Engineer and are made a part hereof by reference with the same force and effect as though fully set forth herein.

8. Payment. West St. Paul will act as the paying agent for all payments to the consultants and contractor. Payments to the contractor will be made as the Project work progresses and when certified by the West St. Paul City Engineer. Upon presentation of an itemized claim by one city to the other, the receiving city shall reimburse the invoicing city for its share of the costs incurred under this Agreement within 35 days from the presentation of the claim. If any portion of an itemized claim is questioned by the receiving city, the remainder of the claim shall be promptly paid and accompanied by a written explanation of the amounts in question. Payment of any outstanding amount will be made following good faith negotiation and documentation of actual costs incurred in carrying out the work.
9. Right of Way. West St. Paul will prepare right of way maps to show existing right of way and as determined by the preliminary design show the required permanent and temporary easements for the Project. West St. Paul will undertake all actions necessary to acquire all permanent and temporary easements and will acquire all right of way for sidewalk and trail construction for the Project. Any right of way acquisition costs for the Project shall be paid by the city responsible for the easements in its jurisdiction. St. Paul shall convey to West St. Paul, at no cost, before construction of the Project begins, all necessary permanent and temporary easements on all adjacent St. Paul controlled real property for Project purposes. West St. Paul jurisdiction over St. Paul controlled easements and real property will be restored to St. Paul upon final completion of the Project and upon final acceptance of the Project.
10. Change Orders and Supplemental Agreements. Any change orders or supplemental agreements that affect the Project's costs must be approved by St. Paul and West St. Paul prior to execution of the work. Both Cities shall endeavor to provide timely approval of change orders and supplemental agreements so as not to delay construction operations.
11. Amendments. Any amendments to this Agreement will be effective only after approval by each governing body and execution of a written amendment document by duly authorized officials of each body.
12. Rules and Regulations. The Cities shall abide by Minnesota Department of Transportation standard specifications, rules and contract administration procedures.
13. Indemnification. Each City will be responsible for its own acts and omissions and the results thereof; and, shall not be responsible for the acts and omissions of the other City

and the results thereof. All Parties to this Agreement recognize that liability for any claims arising under this Agreement are subject to the provisions of the Minnesota Municipal Tort Claims Law; Minnesota Statutes, Chapter 466. In the event of any claims or actions filed against either City, nothing in this Agreement shall be construed to allow a claimant to obtain separate judgements or separate liability caps from the individual Cities. Each City shall include the other City as an additional insured in the contract documents.

14. Employees. Any and all persons engaged in the work to be performed by St. Paul shall not be considered employees of West St. Paul, for any purpose, including Worker's Compensation, and any and all claims that may or might arise out of said employment context on behalf of said employees while so engaged. Any and all claims made by any third party as a consequence of any act or omission on the part of said employees while so engaged on any of the work contemplated herein shall be the obligation or responsibility of West St. Paul.

Any and all persons engaged in the work to be performed by West St. Paul shall not be considered employees of St. Paul, for any purpose, including Worker's Compensation, and any and all claims that may or might arise out of said employment context on behalf of said employees while so engaged. Any and all claims made by any third party as a consequence of any act or omission on the part of said employees while so engaged on any of the work contemplated herein shall be the obligation or responsibility of St. Paul.

15. Audits. Pursuant to Minnesota Statutes § 16C.05, subdivision 5, any books, records, documents, and accounting procedures and practices of St. Paul and West St. Paul relevant to this Agreement are subject to examination by St. Paul, West St. Paul, and either the Legislative Auditor or the State Auditor, as appropriate. The Cities agree to maintain these records for a period of six years from the date of performance of all services covered under this Agreement.

16. Integration and Continuing Effect. The entire and integrated agreement of the Parties contained in this Agreement shall supersede all prior negotiations, representations or agreements between the Cities regarding this Project; whether written or oral. All agreements for future maintenance or cost responsibilities shall survive and continue in full force and effect after completion of the improvements provided for in this Agreement.

17. Authorized Representatives. The named persons, in the positions stated below, or their successors in title, are designated the Authorized Representatives of the Parties for purposes of this Agreement:

**City of St. Paul**

Don Pflaum (or successor)  
15 Kellogg Boulevard West  
St. Paul, MN 55102

**City of West St. Paul**

Ross Beckwith (or successor)  
Public Works Director

1616 Humboldt Avenue  
West St. Paul, MN 55118

The Authorized Representative shall obtain authorization to implement or administer any provisions of this Agreement from his or her respective governing body as required by the governing body's policies and procedures. The Cities shall promptly provide notice to each other when an Authorized Representative's successor is appointed. The Authorized Representative's successor shall thereafter be the Authorized Representative for purposes of this Agreement.

Notification required to be provided pursuant to this Agreement shall be provided to the above-listed named person and address, unless otherwise stated in this Agreement or in a modification to this Agreement.

18. Governing Law. This Agreement shall be interpreted and construed according to the laws of the State of Minnesota.
19. Data Practices Compliance. All data created, collected, received, stored, used, maintained, or disseminated for any purpose in connection with this Agreement is governed by the Minnesota Data Practices Act, Minnesota Statutes, Chapter 13.
20. Nondiscrimination. During the performance of this Agreement, Cities shall not discriminate against any employee, applicant for employment or individual necessary to perform the services under this Agreement because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation or age.
21. Counterparts. The parties may sign this Agreement in counterparts, each of which constitutes an original, but all of which together constitute one instrument.
22. Electronic Signatures: The parties agree that the electronic signature of a party to this Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Agreement. The parties further agree that any document (including this Agreement and any attachments or exhibits to this Agreement) containing, or to which there is affixed, an electronic signature shall be deemed (i) to be "written" or "in writing," (ii) to have been signed and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. For purposes hereof, "electronic signature" also means a manually signed original signature that is then transmitted by any electronic means, including without limitation a faxed version of an original signature or an electronically scanned and transmitted version (e.g., via PDF) of an original signature. Any party's failure to produce the original signature of any electronically transmitted signature shall not affect the enforceability of this Agreement.

**SIGNATURE PAGE TO FOLLOW**

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed by their duly authorized officials.

**CITY OF ST. PAUL**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

Date: \_\_\_\_\_

**CITY OF WEST ST. PAUL**

By: \_\_\_\_\_  
Mayor David J. Napier

\_\_\_\_\_  
City Manager Nathan Burkett

Date: \_\_\_\_\_