

JOINT POWERS AGREEMENT FOR
MILLING, BITUMINOUS OVERLAY, AND CITY UTILITY REPAIRS

BETWEEN

THE COUNTY OF DAKOTA

AND

THE CITY OF WEST ST. PAUL

COUNTY PROJECT 63-28

CITY PROJECT 19-2

SYNOPSIS: Dakota County Transportation Department and the City of West St. Paul agree to include the necessary sanitary sewer structure replacements in the resurfacing of County State Aid Highway 63 (Delaware Avenue) from Marie Avenue to Trunk Highway 149, County Project 63-28, in West St. Paul and Mendota Heights, Dakota County.

THIS AGREEMENT, made and entered into by and between the County of Dakota, referred to in this Agreement as "the County"; and the City of West St. Paul, referred to in this Agreement as "the City".

WHEREAS, under Minnesota Statutes Section 162.17, subdivision 1 and 471.59, subdivision 1, two governmental units may enter into an Agreement to cooperatively exercise any power common to the contracting parties, and one of the participating governmental units may exercise one of its powers on behalf of the other governmental units; and

WHEREAS, the County desires to resurface County State Aid Highway (CSAH) 63 (Delaware Avenue) from Marie Avenue to Trunk Highway 149 in West St. Paul and Mendota Heights, County Project 63-28 (the "Project"); and

WHEREAS, the City desires to replace sanitary sewer structures along this section of CSAH 63; and

WHEREAS, it is considered mutually desirable to include the necessary City sanitary sewer structure replacements along CSAH 63 in County Project 63-28; and

WHEREAS, the County and the City have included this Project in their Capital Improvement Programs and will jointly participate in the costs of said highway resurfacing and sanitary sewer structure replacements.

NOW, THEREFORE, it is agreed that the County and the City will share responsibilities and costs associated with County highway resurfacing, sanitary sewer structure replacements, and related activities as described in the following sections:

1. County highway resurfacing. The County shall be solely responsible for the costs of the milling and bituminous overlay resurfacing of CSAH 63 from Marie Avenue to Trunk Highway 149.
2. Sanitary Sewer – City Utility Replacements. The City shall be responsible for all costs associated with the utility replacements to sanitary sewer systems in the Project. The City shall be responsible for inspecting and approving the utility work. Further, the City shall be responsible for the maintenance of all such facilities after the completion of the Project.

3. Plans, Specifications, and Award of Contract. The County shall prepare the complete milling and paving plans and specifications and contract documents for County Project 63-28 consistent with State Aid design standards and the Dakota County Transportation Plan. The City shall be responsible for inventorying and identifying necessary sanitary sewer system replacements and preparing plans and technical specifications to be incorporated into the County's plans and specifications. The replacement plans shall be in accordance with City standards unless the City and County mutually agree on the alternative specifications. The County Board will award the contract for construction to the lowest responsible bidder in accordance with state law.
4. Payment. The County will administer the contract and act as the paying agent for all payments to the Contractor. Payments to the Contractor will be made as the project work progresses and when certified by the County Engineer. The County will bill the City for the City share of project costs. Upon presentation of an itemized claim by one agency to the other, the receiving agency shall reimburse the invoicing agency 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 agency, the remainder of the claim shall be promptly paid, and accompanied by a written explanation of the amounts in question. Payment of any amounts in dispute will be made following good faith negotiation and documentation of actual costs incurred in carrying out the work. By submitting a written request from the Authorized Representative, the City agrees to pay their share of project costs in accordance with this Agreement.
5. Amendments. Any amendments to this Agreement will be effective only after approval by both governing bodies and execution of a written amendment document by duly authorized officials of each body.
6. Effective Dates. This Agreement will be effective upon execution by 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. In no event will this Agreement continue in effect after December 31, 2020, unless the parties mutually agree to an extension of the project term.
7. Change Orders and Supplemental Agreements. Any change orders or supplemental agreements that affect the Project cost participation must be approved by the Authorized Representatives of each Party prior to execution of work. Both Parties shall endeavor to provide

timely approval of change orders and supplemental agreements so as not to delay construction operations.

8. Final completion. Final completion of a construction project must be approved by both the County and the City.

9. Pavement Maintenance. Upon acceptance of a project by the County and City, the County shall be responsible for all pavement maintenance within County right of way unless necessitated by a failure of a City utility system or installation of new facilities.

10. Subsequent Excavation. After completion of a project, and after expiration of the warranty period regarding repair, if excavation within the highway right of way is necessary to repair or install water, sewer, or other city utilities, the City shall apply for a permit from the County and shall be responsible to restore the excavated area and road surface to its original condition at the time of disturbance. If the City fails to have the highway properly restored, the County Engineer may have the work done and the City shall pay for the work within 30 days following receipt of a written claim by the County.

11. Rules and Regulations. The County and the City shall abide by Minnesota Department of Transportation standard specifications, rules and contract administration procedures, and State statutes as applicable to carrying out the work contemplated in this Agreement unless amended by the contract specifications.

12. Indemnification. The County agrees to defend, indemnify, and hold harmless the City against any and all claims, liability, loss, damage, or expense arising under the provisions of this Agreement and caused by or resulting from negligent acts or omissions of the County and/or those of County employees or agents. The City agrees to defend, indemnify, and hold harmless the County against any and all claims, liability, loss, damage, or expense arising under the provisions of this Agreement for which the City is responsible, including future operation and maintenance of facilities owned by the City and caused by or resulting from negligent acts or omissions of the City and/or those of City employees or agents. 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 party, nothing in this Agreement shall be construed to allow a claimant to obtain

separate judgments or separate liability caps from the individual parties. The County shall include the City as additional insured in the contract documents.

13. Employees of Parties. Any and all persons engaged in the work to be performed by the County shall not be considered employees of the City, 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 the County's employees while so engaged on any of the work contemplated herein shall not be the obligation or responsibility of the City. Any and all persons engaged in the work to be performed by the City shall not be considered employees of the County 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 employee while so engaged. Any and all claims made by any third party as a consequence of any act or omissions of the part of the City's employees while so engaged on any of the work contemplated herein shall not be the obligation or responsibility of the County.

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

15. 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 City and the County regarding the Project; whether written or oral. All agreements for future maintenance or cost responsibilities shall survive and continue in full force and effect in accordance with the Dakota County Transportation Plan after completion of the construction provided for in this Agreement.

16. Authorized Representatives. The authorized representatives for the purpose of the administration of this Agreement are:

Mark Krebsbach (or successor)
Dakota County Engineer
14955 Galaxie Avenue
Apple Valley, MN. 55124
(952) 891-7100
mark.krebsbach@co.dakota.mn.us

Ross Beckwith (or successor)
City of West St. Paul Public Works Director
1616 Humboldt Avenue
West St. Paul, MN. 55118
(651-552-4130
rbeckwith@wspmn.gov

All notices or communications required or permitted by this Agreement shall be either hand delivered or mailed by certified mail, return receipt requested, to the above addresses. Either party may change its address by written notice to the other party. Mailed notice shall be deemed complete two business days after the date of mailing.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS THEREOF, the parties have caused this Agreement to be executed by their duly authorized representative.

CITY OF WEST ST. PAUL

RECOMMENDED FOR APPROVAL:

Public Works Director

By _____
Mayor

(SEAL)

By _____
City Manager

Date _____

COUNTY OF DAKOTA

RECOMMENDED FOR APPROVAL:

County Engineer

By: _____
Physical Development Director

Date: _____

APPROVED AS TO FORM:

COUNTY BOARD RESOLUTION

Assistant County Attorney Date
KS _____

No. 19-_____ Date: February 5, 2019