

**JOINT POWERS AGREEMENT
FOR THE RECONSTRUCTION OF COUNTY STATE AID HIGHWAY 116
(BUNKER LAKE BOULEVARD) BETWEEN CSAH 7 (SEVENTH AVE) AND 38TH AVENUE NW
IN THE CITIES OF ANOKA, MN AND ANDOVER, MN
(SP 02-716-12)**

THIS AGREEMENT is made and entered into this _____ day of _____, 2011 by and between the County of Anoka, a political subdivision of the State of Minnesota, 2100 Third Avenue, Anoka, Minnesota 55303, hereinafter referred to as "County", and the City of Andover, 1685 Crosstown Boulevard, Andover, MN 55304, hereinafter referred to as "City".

WITNESSETH

WHEREAS, the parties to this agreement agree it is in the best interest of the traveling public to reconstruct County State Aid Highway 116 (Bunker Lake Boulevard) from CSAH 7 (Seventh Ave) to 38th Avenue NW and,

WHEREAS, said parties mutually agree that County State Aid Highway 116 between CSAH 7 and 38th Avenue NW is in need of reconstruction; and,

WHEREAS, the County has prepared preliminary design plans for the reconstruction of County State Aid Highway 116 between CSAH 7 and 38th Avenue NW in accordance with Anoka County and the Minnesota Department of Transportation standards to a staff approved layout condition; and,

WHEREAS, Anoka County has jurisdiction over County State Aid Highway 116 between CSAH 7 and 38th Avenue NW and,

WHEREAS, the parties agree that it is in their best interest that the cost of said project be shared; and,

WHEREAS, Minn. Stat. § 471.59 authorizes political subdivisions of the state to enter into joint powers agreements for the joint exercise of powers common to each.

NOW, THEREFORE, IT IS MUTUALLY STIPULATED AND AGREED:

I. PURPOSE AND UNDERSTANDING

The parties have joined together for the purpose of reconstructing the roadway, drainage, trail, and traffic control systems on a portion of CSAH 116 (Bunker Lake Boulevard) between CSAH 7 and 38th Avenue NW, and the extension of the trail construction to CSAH 9 (Round Lake Boulevard); as described in the plans and specifications numbered Anoka County Project S.P. 02-716-12 (hereinafter referred to as "Project") on file in the office of the Anoka County Highway Department. As part of the approval of the Project, the City and County have reached an agreement with regards to other matters which are described below:

The parties to this Joint Powers Agreement (JPA) agree in principle that construction of County State Aid Project No. 02-716-12 between CSAH 7 and 38th Avenue NW is in the best interest of the traveling public and that the Preliminary Layout as shown in Exhibit "A" defines the preliminary design of the Project.

RCG

It is agreed that the Exhibit "A" Layout dated September 27, 2011 has been reviewed and accepted by the parties and is suitable for preparation of final construction documents. Any significant changes made hereafter to the design as presented in the Exhibit "A" Layout will require approval by the parties as an amendment to this JPA. These same changes will require a change in the cost share to include any additional design engineering costs that may occur.

IMPROVEMENTS:

It is agreed by the parties that in 2012, CSAH 116 will be reconstructed to a four-lane section with concrete median to the extent shown in "Exhibit A". Improvements include, but are not limited to: traffic signal reconstruction at CSAH 7, new traffic signal at 38th Avenue NW, right- and left-turn lanes, through lanes, shoulders, concrete curb and gutter, storm sewer with associated ponding, bituminous trail and noise walls based upon the findings of the noise study.

INTERSECTIONS:

As agreed by the parties, improvements to the following intersections have been incorporated in the Exhibit "A" Layout design:

CSAH 116 / CSAH 7: Full Access Intersection with Traffic Signal

CSAH 116 / Blackfoot St NW: Full Access

CSAH 116 / 140th Ave NW: Right In / Right Out

CSAH 116 / 38th Ave NW: Full Access Intersection with Traffic Signal

CSAH 7 / Future city street connection north of CSAH 116:

[The City has requested a full access intersection at this future city street connection. This location is outside the limits of the center concrete median for this project, and not impacted by this project. Per County access spacing guidelines, there are three full accesses allowed between CSAH 116 and CSAH 20. Three full access locations along CSAH 7 between CSAH 116 and CSAH 20 will be allowed, with the first full access location to be located in the vicinity of the driveway for the CenterPoint Energy/Northern Natural Gas Co. site. The remaining two full access locations will be determined at a later date and are subject to agreement in a future JPA.

This was approved at the January 25, 2011 City Council Workshop.]

CSAH 116/CSAH 7 (northeast quadrant) future street connection: Right In / Right Out and Left-In from eastbound CSAH 116.

CSAH 116/CSAH 7 (southeast quadrant) future street connection: Right In / Right Out and Left-In from westbound CSAH 116.

The City is currently working with City of Anoka staff on a traffic study for this area to determine what future local roadway network and intersection control will be necessary to facilitate development and accommodate existing and future traffic in the area. If this study determines that an alternative design provides benefit to the County roadway system, these changes may be incorporated into the design, pending County approval of the study.

RIGHT OF WAY:

The parties agree that the County will acquire all necessary right-of-way and easements for the Project. Acquisition of any additional right-of-way and/or easements needed for improvements to the City street intersections beyond what is defined in the Exhibit "A" Layout will be the responsibility of the City. It is agreed by the parties that all necessary right of way and easements will be in legal possession of the County prior to acceptance of bids for the project. Any City owned property or easements required for the construction will be conveyed to the County at no cost.

TRAFFIC SIGNALS:

CSAH 116 and CSAH 7 Intersection:

The parties agree that the existing traffic control signal system at the CSAH 116 and CSAH 7 intersection will be reconstructed with this project pending state and federal approval. The parties agree that the cost of the reconstruction of this signal pending the availability of Federal funding shall be standard County cost share; with 100% of the EVP reconstruction costs (50% City of Andover, 50% City of Anoka); and 25% of the traffic signal cost to the City of Andover, 25% of the traffic signal cost to the City of Anoka, and 50% of the traffic signal cost to the County.

CSAH 116 and 38th Ave NW Intersection:

The traffic analysis has determined that a traffic signal is warranted at the CSAH 116 and 38th Avenue NW intersection. The parties agree that a traffic control signal system will be constructed at this intersection with this project pending state and federal approval. The parties agree that the cost of this new traffic signal pending the availability of Federal funding shall be standard County cost share, with 100% of the EVP reconstruction costs (50% City of Andover, 50% City of Anoka); and 33.3% of the traffic signal cost to the City of Andover, 33.3% of the traffic signal cost to the City of Anoka, and 33.3% of the traffic signal cost to the County.

DRAINAGE:

The City shall pay for a percentage of the cost of the storm sewer system, including the detention basins and their outlet structures. The City portion of the cost is based on contributing flow through the storm sewer system to the detention basin determined by the product of contributing area and runoff coefficient.

ENVIRONMENTAL ISSUES:

A noise analysis has been performed as part of the Environmental Assessment process. It was concluded that noise walls would be feasible at one location in the City of Andover. The County has met individually with these property owners and the homeowners have approved the noise wall on their property.

The parties agree that the costs of these improvements, pending the availability of Federal funding, shall be standard county cost share. The county pays 100% of the local share for the noise walls. The attached Exhibit C Cost Sharing Agreement is currently being modified to reflect this recent change in noise wall cost responsibility. The city pays for any costs above the base cost of the noise wall.

BITUMINOUS TRAIL:

CSAH 116 (Bunker Lake Boulevard) Trail:

The parties agree that the construction of the bituminous trail along the north side of CSAH 116 is eligible for Federal funds and that the City will contribute all matching funds [except for the replacement of the existing trail west of CSAH 7, which is paid for by the County]. This trail location has been agreed to by the City. If this location changes in the future, the additional costs associated with this change will be the responsibility of the City. This trail is part of the County Regional Trail System and is eligible for potential funding through the Metropolitan Council's Regional Parks Capital Improvement Program after the project has been constructed and a request has been received from the City. If the Anoka County Parks and Recreation Department receives a letter of request from the City, the Anoka County Parks and Recreation Department will seek reimbursement for one-half of the City's share for trail construction along CSAH 116. If funds are secured, the Anoka County Parks and Recreation Department will reimburse the City with the additional funds received.

The parties understand that the cost for the trail includes: bituminous surfacing, aggregate base, excavation (including muck excavation), borrow material (granular and topsoil), and turf establishment. The parties agree that the County will pay for the design of the trail, wetland mitigation required by impacts caused by the trail, the additional right of way and easements required to construct the trail at the proper location, and any removal items, with the exception of soils, required to construct the trail.

CSAH 116 (Bunker Lake Boulevard) Trail from 38th Ave NW to CSAH 9 (Round Lake Blvd):

The City has requested a trail connection between the east end of the project and 300 ft east of Underclift Street be included in the project. It has been agreed that the County will include the environmental analysis required for this trail connection in the Environmental Assessment document for the roadway project, with the City reimbursing the County for this work. The County will prepare preliminary and final construction plans for this trail connection, with the City reimbursing the County for this work. The County will purchase the required right of way, with the City reimbursing the County for this work. The City shall be responsible for all construction costs for this trail connection. The City shall also be responsible for all floodplain mitigation, wetland mitigation, and all other associated costs related to the construction of this trail. This trail is part of the County Regional Trail System and shall follow the same process for reimbursement as discussed above.

Anoka County Parks has applied for Transportation Enhancement funding through the Metropolitan Council in the amount of \$273,400 that would fund 80% of the trail (only the trail cost and not the shoulder, curb and gutter, storm sewer and ponding costs). If funding is awarded the City will pay the upfront cost to construct the trail and be reimbursed when the funds are available in 2015/2016. If funds are not awarded the City will determine at that time if the trail project moves forward.

CSAH 7 (Seventh Avenue) Trail:

The parties agree that the construction of the bituminous trail along the east side of CSAH 7 is eligible for federal funds and that the City will contribute all matching funds [except for the replacement of the

existing trail south of CSAH 7, which is paid for by the County]. This trail location has been agreed to by the City. If this location changes in the future, the additional costs associated with this change will be the responsibility of the City. The trail segment north of CSAH 116 is part of the County Regional Trail System and shall follow the same process for reimbursement as discussed above.

TRAFFIC CONTROL:

The parties understand and agree that CSAH 116 will be closed to thru traffic during construction, but access for local traffic will be maintained during construction. The parties agree and understand the cost share for traffic control for the city shall be a prorated share based on the city project cost divided by the total project cost.

DRIVEWAYS:

The parties agree that all driveways affected (excluding those identified for removal) by the Project will be reconstructed in kind with the cost of any upgrades requested by the City, including concrete aprons, to be the sole responsibility of the City.

LANDSCAPING/STREETSCAPING:

The parties agree that if the City wishes to include landscaping or streetscape features in the project, they shall be designed in accordance with Anoka County Highway Department Landscape/Streetscape Guidelines. The City shall supply the signed plan sheets and specifications for the proposed landscape/streetscape. The total cost of the design as well as the construction cost above standard median cost will be at the expense of the requesting City or split between the requesting Cities. All construction documents must be submitted to the County by December 15, 2011. Future maintenance of any landscaping/streetscaping will be the sole responsibility of the city.

UTILITIES:

The parties agree that the Exhibit "A" Layout does not include specific proposed utility locations, as those will be determined during later stages of the design process. The City will be responsible for the design of any sanitary sewer and water main improvements and/or relocations due to road reconstruction, which will be incorporated into the project bid documents. The cost of the design of these features shall be the responsibility of the City. The cost of construction of these features, other than those relocations solely due to roadway reconstruction, shall be the responsibility of the City. The cost of construction of these features solely due to road reconstruction shall be the responsibility of the County.

The City's design of the sanitary sewer and water main utilities are to include signed plans, specifications, and estimated quantities and cost. All construction documents must be submitted to the County by December 15, 2011.

The City shall provide all City utility easement documents to the County upon signature of this agreement.

PERMITS:

The parties agree that the County will secure all necessary permits for this Project. The City agrees to coordinate with the County in securing the permits required by the Lower Rum River WMO, city permits, as well as any other permits that may be required. The County also requests that the City inform the County of any ordinances or city regulations that affect construction at the time of the signing of this JPA. (e.g. setbacks, tree clearing ordinances, or any other city ordinances.)

II. METHOD

The County shall cause the construction of Anoka County Project SP 02-716-12, in conformance with proposed engineering plans and specifications.

III. COSTS

The contract costs of the work, or if the work is not contracted, the cost of all labor, materials, normal engineering costs and equipment rental required to complete the work, shall constitute the "actual construction costs" and shall be so referred to herein. "Estimated construction costs" are good faith projections of the costs, which will be incurred for this project. Actual costs will vary and those will be the costs for which the relevant parties will be responsible.

The estimated construction cost of the total project is \$7,014,655.52. Federal funds available for the Project are capped at \$4,708,480. The federal funds shall be split based on the ratio of eligible cost incurred by each party to the total eligible project cost. Eligible costs are the costs of items that can participate in federal funding as shown on Exhibit B.

The total estimated construction cost to the City is \$603,628.59 (prior to application of federal funds available). After federal funding percentage is applied, the cost to the City for their share of the construction items of the Project is \$327,782.66 (\$603,628.59 minus \$275,845.93, the federal funds available to the City).

The City participation in construction engineering will be at a rate of eight percent (8%) of their designated construction share of \$603,628.59. The estimated cost to the City for construction engineering is \$48,290.29. In summary, the total City share of this project is \$651,918.88 (includes construction and construction engineering costs). The total cost to the city after federal funds have been applied including construction engineering is * \$376,072.95 (see summary below).

*(\$603,628.59 – \$275,845.93 + \$48,290.29 = \$376,072.95, note: construction engineering costs are not federally eligible)

Upon award of the contract, the City shall pay to the County, upon written demand by the County, ninety five percent (95%) of its portion of the cost of the project estimated at \$357,269.30. Prior to billing, this estimate will be updated by the County to reflect the actual bid prices as awarded. An updated cost estimate shall be provided to the City at the time of billing. The City's share of the cost of the project shall include only construction and construction engineering expense and does not include engineering design and administrative expenses incurred by the County.

Upon final completion of the project, the City's share of the construction cost will be based upon actual construction costs. If necessary, adjustments to the initial ninety five percent (95%) charged will be made in the form of credit or additional charges to the City's share. Also, the remaining five percent (5%) of the City's portion of the construction costs shall be paid.

IV. TERM

This Agreement shall continue until terminated as provided hereinafter.

V. DISBURSEMENT OF FUNDS

All funds disbursed by the County or City pursuant to this Agreement shall be disbursed by each entity pursuant to the method provided by law.

VI. CONTRACTS AND PURCHASES

All contracts let and purchases made pursuant to this Agreement shall be made by the County in conformance to the State laws.

VII. STRICT ACCOUNTABILITY

A strict accounting shall be made of all funds and report of all receipts and shall be made upon request by either party. Prior to city payment to the County, Anoka County shall provide the City a copy of all cost participation documents submitted to MnDOT State Aid to assist the city in their application for MSA funding.

VIII. TERMINATION

This Agreement may be terminated by either party at any time, with or without cause, upon not less than thirty (30) days written notice delivered by mail or in person to the other party. If notice is delivered by mail, it shall be deemed to be received two days after mailing. Such termination shall not be effective with respect to any solicitation of bids or any purchases of services or goods which occurred prior to such notice of termination. The City shall pay its pro rata share of costs which the County incurred prior to such notice of termination.

IX. SIGNALIZATION POWER

The City shall at their sole expense, install and cause the installation of an adequate electrical power source to the service cabinet for the CSAH 116/CSAH 7 traffic control signal system and the CSAH 116/38th Avenue NW traffic control signal system including any necessary extension of power lines. The City shall be the lead agency in this matter. Upon completion of said traffic control signal installation, the ongoing cost of the electrical power to the signal shall be the sole cost and expense of the City. The City shall enter into a separate agreement with the City of Anoka regarding cost sharing of the ongoing electrical power costs for the completed traffic control signals as applicable.

X. MAINTENANCE

- A. Maintenance of the completed watermain, sanitary sewer, storm sewer (except catch basins and

catch basin leads), detention basins (including ponds and their outlet structures and chambers/collectors) shall be the sole obligation of the City.

- B. Maintenance of the bituminous trails shall be the responsibility of the City and Anoka County Parks and Recreation Department. The City shall be responsible for general routine maintenance such as, sweeping, clearing, plowing, trash removal and other incidental items. The County Parks and Recreation Department shall be responsible for long-term maintenance, such as bituminous overlays, crack sealing and replacement. Trail signage will be provided by and maintained by the County Parks and Recreation Department.
- C. Maintenance of crosswalk pavement markings shall be the responsibility of the City and the County. The County will be responsible for the maintenance of the crosswalk pavement marking for the crossings at the signalized intersections. The City will be responsible for all crosswalk pavement markings for any trail/sidewalk crossings at all city streets.
- D. Maintenance of streetlights and cost of electrical power to the streetlights shall be the sole obligation of the City.
- E. Maintenance of the completed traffic control signal and signal equipment at the CSAH 116/CSAH 7 intersection and the CSAH 116/38th Avenue NW intersection shall be the sole obligation of the County.
- F. The County shall maintain the said traffic signal controllers, traffic signal and pedestrian indications, loop detectors and associated wiring of the said traffic control signals at the sole obligation of the County.
- G. Painting of the traffic signal shall be the sole obligation of the County. Any variation of painting color standards will be billed to the City.
- H. Timing of the completed traffic control signal shall be determined by the County.
- I. Only the County shall have access to the controller cabinets.
- J. The traffic control signals shall be the property of the County.
- K. The City shall be responsible for maintenance of the luminaries, luminaire relamping, and luminaire painting.
- L. All maintenance of the EVP Systems at the CSAH 116/CSAH 7 intersection and the CSAH 116/38th Ave NW intersection shall be completed by the County. The City shall be billed by the County on a quarterly basis for all incurred costs. The City shall enter into a separate agreement with the City of Anoka regarding cost sharing of the ongoing EVP maintenance costs for the completed traffic control signal as applicable.
- M. EVP Emitter Units may be installed on and used only by Emergency Vehicles responding to an emergency as defined in Minnesota Statutes §169.01, Subdivision 5, and §169.03. The City shall provide a list to the County Engineer, or the County's duly appointed representative, of all such vehicles with emitter units on an annual basis.

- N. Malfunctions of the EVP Systems shall be immediately reported to the County.
- O. All timing of said EVP Systems shall be determined by the County.
- P. In the event said EVP Systems or components are, in the opinion of the County, being misused, or the conditions set forth are violated, and such misuse or violation continues after receipt by the City, written notice thereof from the County, the County shall remove the EVP Systems. Upon removal of the EVP Systems pursuant to this paragraph, the field wiring, cabinet wiring, detector receiver, infrared detector heads and indicator lamps and all other components shall become the property of the County.
- Q. Anoka County shall be responsible for all maintenance of County installed noise walls.

XI. NOTICE

For purposes of delivery of any notices herein, the notice shall be effective if delivered to the County Administrator of Anoka County, 2100 Third Avenue, Anoka, Minnesota 55303, on behalf of the County, and to the City Administrator of Andover, 1685 Crosstown Boulevard, Andover, MN 55304, on behalf of the City.

XII. INDEMNIFICATION

The City and County mutually agree to indemnify and hold harmless each other from any claims, losses, costs, expenses or damages resulting from the acts or omissions of the respective officers, agents, or employees relating to activities conducted by either party under this Agreement.

XIII. ENTIRE AGREEMENT REQUIREMENT OF A WRITING

It is understood and agreed that the entire agreement of the parties is contained herein and that this Agreement supersedes all oral agreements and all negotiations between the parties relating to the subject matter thereof, as well as any previous agreement presently in effect between the parties to the subject matter thereof. Any alterations, variations, or modifications of the provisions of this Agreement shall be valid only when they have been reduced to writing and duly signed by the parties.

IN WITNESS WHEREOF, the parties to this Agreement have hereunto set their hands on the dates written below.

COUNTY OF ANOKA

By: Rhonda Sivarajah
Rhonda Sivarajah, Chair
Board of Commissioners

Dated: 11-15-11

ATTEST

By: Jerry Soma
Jerry Soma
County Administrator

Dated: 11-15-11

RECOMMENDED FOR APPROVAL

By: Douglas W. Fischer
Douglas W. Fischer, P.E.
County Engineer

Dated: 11/9/11

APPROVED AS TO FORM

By: Dan Klint
Dan Klint
Assistant County Attorney

Dated: 11-17-11

CITY OF ANDOVER

By: Mike Gamache
Mike Gamache
Mayor

Dated: 10/18/11

By: Jim Dickinson
Jim Dickinson
City Administrator

Dated: 10/18/11

By: David D. Berkowitz
David D. Berkowitz, P.E.
Director of Public Works/City Engineer

Dated: 10/18/11

By: Scott Baumgartner
Scott Baumgartner
City Attorney

Dated: 10/18/11