

JOINT POWERS AGREEMENT FOR
THE RECONSTRUCTION OF:
SANBURNOL DRIVE
FROM ELM DRIVE NE TO UNIVERSITY AVENUE SERVICE DRIVE
IN THE CITIES OF BLAINE AND SPRING LAKE PARK

This Joint Powers Agreement herein referred to as this "Agreement" is made and entered into this ___ day of _____, 2023, by and between the City of Spring Lake Park, a Minnesota municipal corporation located at 1301 81st Avenue NE, Spring Lake Park, MN 55432, hereinafter referred to as "Spring Lake Park", and the City of Blaine, a Minnesota municipal corporation located at 10801 Town Square Drive NE, Blaine, MN 55449, hereinafter referred to as "Blaine". Spring Lake Park and Blaine are sometimes referred to herein as the "parties" or each a "party".

WITNESSETH

WHEREAS, the parties to this Agreement consider it mutually desirable to reconstruct the existing street on Sanburnol Drive NE, hereinafter referred to as the "Street" for the benefit of the traveling public; and

WHEREAS, the parties agree that the Cities of Spring Lake Park and Blaine shall jointly participate in a project for reconstruction of said Street from the intersection at Elm Drive NE to the intersection at University Avenue Service Drive in the Cities of Spring Lake Park and Blaine, hereinafter referred to as "Project"; and

WHEREAS, the parties agree that it is in their best interest that the cost of said Project be shared by jointly participating in the cost of construction of said Project; and

WHEREAS, the Street is located within the corporate boundaries of both Spring Lake Park and Blaine; and

WHEREAS, Minnesota Statutes Section 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 that Spring Lake Park and Blaine will share Project responsibilities and costs associated with the construction and related activities of the Project as described in the following sections:

I. CONSTRUCTION COSTS

The contract costs of the construction work shall constitute the actual "Construction Costs" and shall be so referred to herein. The Construction Costs for the Project shall be split between Blaine and Spring Lake Park based on each City's percentage of front footage (including both property and right of way) along the Project, except driveway, sidewalk, and curb and gutter costs, which will be apportioned based on the actual costs of driveway, sidewalk and curb and gutter installed in each City respectively.

II. SURVEY WORK

Spring Lake Park shall provide all necessary surveying services, including a topographic survey of the Project corridor and all construction staking associated with the Project. Costs for said survey work will be split based on each City's percentage of front footage (including both property and right of way) along the Project by Blaine and Spring Lake Park. Spring Lake Park shall pay the costs of all survey work and then invoice Blaine for reimbursement of Blaine's share of the same. Blaine shall pay such invoice within 30 days of receipt.

III. DESIGN SERVICES AND PROJECT ADMINISTRATION

Spring Lake Park shall provide all engineering design services, including design of plans and specifications, and shall cause the construction of the Project in conformance with said plans and specifications. Spring Lake Park shall include representatives of Blaine in determining the general scope and design parameters of the Project. Both parties shall approve the final design prior to bidding the Project.

Spring Lake Park shall do the calling for bids and the acceptance of all bid proposals in accordance with Minnesota Law. Spring Lake Park shall perform construction administration on this Project and shall have oversight and final approval on administration of the contract documents for the Project and shall use its best efforts to ensure that the Project is completed reasonably within the timeframes and deadlines within such documents. Notwithstanding the foregoing, Spring Lake Park shall not be responsible or liable for any delays in construction, Project failure, or failure of the Project to meet design or contract standards.

Construction inspection shall be a joint effort between the parties, led by Spring Lake Park. Each city shall perform and fund the costs of all resident coordination with their residents regarding construction issues which directly affect the abutting residents such as driveways, landscaping and yards. Costs for said design services, construction inspection, materials testing, and Project administration will be split based on each City's percentage of front footage (including both property and right of way) along the Project by Blaine and Spring Lake Park.

IV. CITY UTILITIES

All costs for new storm sewer, stormwater ponding and other drainage facilities (collectively "Stormwater Costs") will be apportioned as follows:

Stormwater Costs associated with improvements which are located on and serve exclusively one party hereto, shall be an exclusive cost of the benefitted City. Stormwater Costs for improvements which provide benefit to properties in both cities shall be allocated among the parties based on drainage area, such drainage area to be determined by the design engineer. The parties agree to collaborate on a separate agreement to address the maintenance of any jointly utilized stormwater facilities.

All costs associated with any removal, replacement or construction of new sanitary sewer or water main utilities shall be apportioned to the City which owns the utilities.

V. CHANGE ORDERS AND SUPPLEMENTAL AGREEMENTS

Any change orders or supplemental agreements that affect the Construction Costs must be approved by both parties prior to execution of work, except that minor quantity adjustments or change orders which do not increase the Construction Costs by more than ten thousand dollars (\$10,000.00) may be approved by Spring Lake Park as Project owner, without approval from Blaine.

VI. FINAL COMPLETION

Final Completion of the Project must be approved by both parties, however, neither party shall unreasonably withhold such approval.

VII. PAYMENT

Spring Lake Park will administer the contract as Project owner and act as the paying agent for the Construction Costs. Payments to the Contractor will be made as the Project work progresses and when certified by the Spring Lake Park City Engineer. Spring Lake Park will, in turn, bill Blaine for Blaine's share of the Construction Costs upon Substantial Completion of the Project. Upon presentation of an itemized claim, Blaine shall reimburse

Spring Lake Park for its share of costs incurred under this Agreement within 30 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 amount in dispute will be made following good faith negotiation and documentation of actual costs incurred in carrying out the work.

VIII. INDEMNIFICATION

Blaine and Spring Lake Park each agree to defend, indemnify, and hold harmless the other party, its officers, employees and agents, successors and assigns, from all damages, costs, and expenses and liabilities, including reasonable attorneys' fees and disbursements, sustained in any action commenced by any third party in connection with the indemnifying party's performance of its duties and obligations under this Agreement, except those damages, costs, and expenses and liabilities, including reasonable attorneys' fees and disbursements, arising from the negligence or willful misconduct of the other party.

IX. STRICT ACCOUNTABILITY

A strict accounting shall be made of all funds expended and report of all receipts and disbursements shall be made upon request by either party. Each party shall be solely responsible for its share of the costs of the Project, as set forth herein.

X. INSURANCE/LIABILITY

Each party shall maintain its own insurance covering its minimum tort levels in amounts provided for in Minn. Stat. Chapter 466, as amended. Pursuant to Minn. Stat. § 471.59, subd. 1a(a), as amended, this Agreement is intended to be and shall be construed as a "cooperative activity" and it is the intent of the parties that they shall be deemed a "single governmental unit" for the purposes of liability; provided, however, that each party expressly declines responsibility for the acts or omissions of the other. Nothing in this Agreement shall be construed to waive or limit any immunity from, or limitation on, the liability of either party as provided by law. Under no circumstances shall a party be required to pay on behalf of itself and other parties, any amounts in excess of the limits on liability established in Minnesota Statutes Chapter 466 applicable to any one party. The statutory limits of liability for the two parties may not be added together or stacked to increase the maximum amount of liability for any party.

XI. INCORPORATION OF RECITALS

All recitals set forth above are incorporated into this Agreement as if fully set forth herein.

XII. TERMINATION

This Agreement may be terminated at any time, with or without cause, if both parties agree, in writing. 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.

This Agreement shall terminate automatically upon the completion of the Project and satisfaction of all financial obligations contained herein.

XIII. NOTICE

For purposes of delivery of any notices hereunder, the notice shall be effective if personally served or delivered by First Class U.S. Mail to:

If to Spring Lake Park:
Administrator, Clerk/Treasurer of Spring Lake Park
1301 81st Avenue NE
Spring Lake Park, MN 55432

If to Blaine:
City Manager of Blaine
10801 Town Square Drive NE
Blaine, MN 55449

XIV. 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. Neither party may assign its interest in this Agreement without the prior written consent of the other party.

XV. COUNTERPARTS

This Agreement may be exercised in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

XVI. MINNESOTA LAW CONTROLS

All terms of this Agreement shall be construed in accordance with Minnesota law. Any action to enforce the rights or obligations contained herein shall be brought in a court of competent jurisdiction in Anoka County, Minnesota.

XVII. SAVING CLAUSE

If any term or provisions of this Agreement is determined to be invalid or unenforceable by any court of competent jurisdiction, the remainder of the Agreement shall be valid and enforceable, to the extent permitted by law.

XVIII. MINNESOTA GOVERNMENT DATA PRACTICES ACT

The parties acknowledge and agree that each is a government entity bound by Minn. Stat. Chapter 13, the Minnesota Government Data Practices Act (the "MGDPA"). Correspondingly, the parties agree to cooperate with one another in good faith to ensure

that both parties comply with their respective obligations under the MGDPA with respect to to this Agreement and the Project.

XIX. NO WAIVER

Failure by either party to insist, in any one or more instances, upon strict performance of any term, covenant or condition of this Agreement or to exercise any right or option contained in this Agreement shall not be construed as a waiver of such term, covenant, condition or right or option, but the same shall remain in full force and effect. The parties shall not be deemed to have waived any term of this Agreement until expressed in a signed writing.

[SIGNATURES ON THE FOLLOWING PAGE]

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

CITY OF SPRING LAKE PARK

CITY OF BLAINE

By: _____
Robert Nelson
Mayor

By: _____
Tim Sanders
Mayor

Dated: _____

Dated: _____

ATTEST:

ATTEST:

By: _____
Daniel R. Buchholtz
Administrator, Clerk/Treasurer

By: _____
Michelle A. Wolfe
City Manager

Dated: _____

Dated: _____