

JOINT POWERS AGREEMENT FOR  
THE RECONSTRUCTION OF FLOWERFIELD ROAD  
FROM LAKE DRIVE TO LEXINGTON AVENUE  
IN THE CITIES OF BLAINE AND LEXINGTON

This Agreement made and entered into this 1 day of May, 2014, by and between the City of Blaine, 10801 Town Square Drive NE, Blaine, MN 55449, hereinafter referred to as "Blaine", and the City of Lexington, 9180 Lexington Avenue, Lexington, MN 55014, hereinafter referred to as "Lexington".

WITNESSETH

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

WHEREAS, the parties agree that the Cities of Blaine and Lexington shall jointly participate in a project for reconstruction of said Street from the intersection at Lake Drive to the intersection at Lexington Avenue in the Cities of Blaine and Lexington, herein after 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 costs of design and construction of said Project; and

WHEREAS, the Street is located within the corporate boundaries of both Blaine and Lexington; 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 Blaine and Lexington will share project responsibilities and costs associated with the design, construction and related activities of the Project as described in the following sections:

I. COSTS

The contract costs of the construction work, design, administration and all related engineering costs required to complete the Project, 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 Lexington based on each City's percentage of front footage (including both property and right of way) along the Project, except curb and gutter costs, which will be apportioned based on the actual costs of curb and gutter installed in each City respectively.

II. SURVEY WORK

Lexington 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 part of the design and administration costs.

III. DESIGN SERVICES AND PROJECT ADMINISTRATION

Lexington 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. Lexington 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. Lexington shall do the calling for bids and the acceptance of all bid proposals in accordance with Minnesota Law. Lexington shall perform construction administration on this project. Construction inspection shall be a

joint effort between the parties, led by Lexington. Each city shall perform 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 and project administration done by both parties will be a part of the design and administration costs.

#### IV. CITY UTILITIES

All costs for new storm sewer, storm water ponding and other drainage facilities will be apportioned as identified in project Construction Cost. 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.

#### VI. FINAL COMPLETION

Final Completion of the Project must be approved by both parties.

#### VII. PAYMENT

Lexington will administer the contract 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 Lexington City Engineer. Lexington 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 Lexington 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 Lexington 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 attorney's 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 attorney's 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.

#### X. TERMINATION

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

XI. NOTICE

For purposes of delivery of any notices hereunder, the notice shall be effective if delivered to the City Manager of Blaine, 10801 Town Square Drive NE, Blaine, MN 55449, and the City Administrator of Lexington, 9180 Lexington Avenue, Lexington, MN 55014.

XII. 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 of this Agreement have hereunto set their hands on the dates written below.

CITY OF BLAINE

CITY OF LEXINGTON

By: \_\_\_\_\_  
Tom Ryan  
Mayor

By: \_\_\_\_\_  
Michael Pitchford  
Mayor

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

ATTEST:

ATTEST:

By: \_\_\_\_\_  
Clark Arneson  
City Manager

By: \_\_\_\_\_  
Bill Petracek  
City Administrator

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

APPROVED AS TO FORM AND EXECUTION:

By: \_\_\_\_\_  
City Attorney

Dated \_\_\_\_\_