

**NOTES FROM A FINANCE COMMITTEE MEETING HELD WEDNESDAY,
SEPTEMBER 15, 2010 – 5:45 P.M. – ROCKVILLE CITY HALL**

The meeting was called to order by Chair Sue Palmer. Roll Call was called to order and the following members were found to be present: Chair Palmer, Mayor Hagen &, Randy Volkmuth. Absent: John Koerber

Staff members present: Administrator/Clerk: Rena Weber, Councilors Jerry Schmitt, and Bill Becker

APPROVE RECONCILIATION – Chair Palmer presented the August 2010 check reconciliation report for approval.

Motion by Member Volkmuth, second by Chair Palmer, to recommend approval of the financial report for August 2010 as presented. (See attached report)

AYES: Hagen, Palmer & Volkmuth

Motion passed on a 4 to 0 vote.

INVESTMENTS – Rena Weber presented the investment report for approval.

Motion by Member Volkmuth, second by Chair Palmer, to recommend approval of the Investments for July 2010 as presented. (See attached report)

AYES: Hagen, Palmer & Volkmuth

Motion passed on a 4 to 0 vote.

ADJOURNMENT – ***Motion by Member Volkmuth, second by Mayor Hagen, to adjourn the meeting at 5:48 p.m. Motion carried unanimously.***

Submitted by Rena Weber
Administrator/Clerk

ROCORI TRAIL PHASE 1 PROJECT AGREEMENT

THIS AGREEMENT between the **County of Stearns** ("County"), the **ROCORI Trail Construction Board**, a joint powers board pursuant to Minnesota Statute §471.59 ("RTCB"), and the RTCB's member Cities of **Rockville, Cold Spring, and Richmond** (collectively the "Cities").

WHEREAS: The County has been awarded a grant of \$526,000 administered by the State of Minnesota for engineering, and construction of trail connections on the ROCORI Trail ("Trail") pursuant to the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for User (SAFETEA-LU), State Transportation Improvement Program (STIP) for State Fiscal Year 2011 ("Federal Grant"); and

WHEREAS: In 2008, upon an application by the Cities, the County, prior to the establishment of the RTCB, was awarded a grant of \$372,000 from the State of Minnesota for engineering, and construction of the ROCORI Trail under the Minnesota Department of Natural Resources Local Grant Program ("2008 State Grant"); and

WHEREAS: The RTCB in 2010 was awarded a grant of \$800,000 from the State of Minnesota for acquisition, design, engineering, and construction of the ROCORI Trail under the Minnesota Department of Natural Resources Local Grant Program ("2010 State Grant"); and

WHEREAS: The portion of the Trail that is the subject of this Agreement and of the above referenced federal and state grants (hereinafter "the grants") is known as Phase 1 of the Trail, which is more fully described in the ROCORI Trail Application for SAFETEA-LU Funding as that portion of the trail from 178th Avenue east of Richmond to the eastern city limits of Cold Spring ("the Project"); and

WHEREAS: The Trail is an undertaking of the RTCB; and

WHEREAS: The RTCB was organized for the purpose of acquiring, designing, constructing, and funding the Trail, a regional trail connecting the terminus of the anticipated Glacial Lakes Trail outside of Richmond, through Cold Spring, to the northern boundary of Rockville; and

WHEREAS: The Cities applied for the SAFETEA-LU Grant and the 2008 State Grant, and it has now been clarified by the State of Minnesota that the County must execute the Construction Grant Application and contracts with the State of Minnesota for the SAFETEA-LU Grant and the 2008 State Grant, and the County must serve as fiscal agent for the RTCB for the 2010 State Grant; and

WHEREAS: The County agrees to assist in the implementation of Phase 1 of the Trail (hereinafter "Project") for which the above identified grant has been appropriated; and

WHEREAS: The County will serve as the fiscal agent for the Project pursuant to an escrow and indemnification agreement ("Escrow Agreement") between the County, RTCB, and Cities (Attached and incorporated herein as Exhibit A).

NOW THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

1. **County Execution of Contracts**. The County agrees to execute the applications, contracts, and documents with the State of Minnesota so that the Cities and RTCB may obtain funds from the 2008 State Grant and the SAFETEA-LU Grant for the Project. The County also agrees to act as and enter into an agreement to be the fiscal agent for the Cities and the RTCB on the Project. All duties, obligations, and liabilities incurred by the County pursuant to said applications, contracts, and documents with the State of Minnesota, MNDOT, and the Federal Government are accepted by and assumed by the Cities and the RTCB jointly and individually as their sole responsibility and the Cities and RTCB agree to indemnify and hold the County of Stearns harmless of same.
2. **County Financial Support**. The County agrees to provide financial support toward the Trail in the amount of \$92,000.
3. **Local Financial Support**. The Cities and RTCB shall provide all additional financial support toward the Trail, including but not limited to the matching funds in the amount of \$180,000, and shall ensure that the Trail will be acquired, designed, constructed and maintained as required by the State of Minnesota, MNDOT, and the Federal Government and further agrees that any costs over and above the grant amount, and the County specified financial support, shall be borne solely by the Cities and the RTCB. The Cities and the RTCB agree that any costs over and above the grant amount shall be borne solely by the Cities and the RTCB.
4. **Responsibilities of Cities and RTCB**. The Cities and the RTCB have the following responsibilities under this Agreement:
 - a. *Programmatic Responsibility*. The Cities and the RTCB shall be wholly responsible for "programmatic responsibilities" including, but not limited to: procurement of right of way; planning; designing; engineering; construction; preparation of additional applications and grants; contracting; maintenance; liability; and all provisions and requirements of the grant applications and agreements, including, but not limited to ensuring that the Trail will be maintained as required by the State of Minnesota and the Federal Government.
 - b. *Comply with State and Federal Directives*. The Cities and the RTCB shall follow all directives of the State of Minnesota and the Federal Government relative to the Project.
 - c. *Financial Management*. The Cities and the RTCB shall assume the responsibility of complying with the general obligations of the grants and the State's Financial Management Manual for the Project. The Cities and the RTCB shall provide the

County with certified construction inspection, materials testing, and quantity documentation as required by the grants; shall obtain required permits for the project in their name; and shall maintain all financial records relating to the Project according to generally accepted accounting principles, retain records as long as required by law, and make records available for audit as required by law and as required by the County.

The County through the Stearns County Highway Department shall provide general oversight for the construction paperwork and reporting process, oversight of the bidding process and payment of bills; and will have the right to veto proposals of the Cities and RTCB which do not meet Mn/DOT and FHWA rules.

- d. *Communication.* The Cities and the RTCB shall keep the County informed of the progress of the Project and any changes from the grant shall be brought to the immediate attention of the County. The Cities and the RTCB shall submit the complete grant and final report to the County and to the State of Minnesota.
 - e. The State of Minnesota shall determine if railroad right-of-way is excess (“Excess Right-of-Way”) under the requirements of the grants. The Cities and the RTCB acknowledge and agree that Excess Right-of-Way, is not eligible for reimbursement under either Federal Grant or State Grant money, and the matching funds contained in the Escrow Account shall not be utilized for the purchase of Excess Right-of-Way.
5. The Cities and the RTCB shall not write any contracts nor accept any other contributions for local match funds from anyone or any group for the Project without receiving prior written approval from the State of Minnesota. This provision in no way restricts the Cities and the RTCB from accepting contributions to pay for costs that are not eligible for reimbursement under the 2008 State Grant, 2010 State Grant, or Federal Grant.
6. **Payments.** Payments made by the State of Minnesota shall be made to the County upon proper documentation as required under the grant program and this Agreement.
7. **Agents of the Parties.** Rockville Administrator/Clerk, Verena M. Weber at City of Rockville , 229 Broadway St. E., PO Box 93, Rockville, MN 56369, or her successor, shall serve as the authorized agent of the Cities and the RTCB with regard to this Agreement (including Exhibit A Escrow Agreement) as well as with regard to the Project, and shall have authority to sign disbursement requests for the Project. The Stearns County Auditor, Randy Schreifels, or his successor, shall serve as the authorized agent of the County with regard to this Agreement and the Project, and shall serve as the fiscal agent and escrow agent for the Project.
8. **Use of Funds.** The Cities and the RTCB shall not directly or indirectly use any funding provided for the Project for any purpose other than as provided by the grants. The Cities and the RTCB shall comply with any and all requirements imposed by the

State for the Project and shall not use the Project funding to carry on any activity that will in any way jeopardize the County's tax-exempt status.

9. **Unused Funds**. The Cities and the RTCB are responsible for, and agree that, any unused funds related to the grants for the Project shall be disbursed in accordance with all grant requirements.

10. **Matching Funds in Escrow**. The Cities and the RTCB agree that the matching funds required for grants and any other required matching funds shall be placed in an escrow account with the County pursuant to a separate escrow agreement (incorporated herein as Exhibit A)

11. **County Administrative Fee**. The Cities and the RTCB shall pay the County for services rendered an administrative fee equal to 15% of 1% (.15) of the total grant awards for the Project (approximately \$3,000). The County Administrative Fee will be payable to Stearns County 30 days prior to completion of the Project. Should the Cities and the RTCB fail to pay the County Administrative Fee; the Cities agree that the County may withhold the necessary funds equally from the Cities future tax settlements.

12. **Indemnification** and Reimbursement The Cities and the RTCB agree that any and all claims that arise or may arise against them, their agents, servants or employees as a consequence of any act or omission on their part, or on the part of their agents, servants, or employees while engaged in fulfilling the obligations of the grants and/or the performance of the Project shall in no way be the obligation or responsibility of the County. The Cities and the RTCB shall indemnify, hold harmless, and defend the County, its officers, employees, and agents against any and all liability, loss, costs, damages, expenses, claims or actions, including attorney's fees which the county, its officers or employees may hereafter sustain, incur or be required to pay that is in any way associated with the Project or the grants described herein.

If the Cities and the RTCB fail to fulfill any of the obligations and timelines required for the State and Federal grants, the Cities and the RTCB agree to reimburse the County for all funds expended toward this project within six months of receiving notice of the failure and demand for reimbursement by the County. If the Cities and the RTCB fail to reimburse the County, the County may withhold the necessary funds equally from the three Cities future tax settlements.

13. **Termination of Agreement**. This Agreement shall terminate if any of the following events occur:

- a. *Jeopardize Tax Exempt Status*. The County requests any one or all of the other parties to this Agreement to cease activities that it deems might jeopardize its tax exempt status and one or all of the other parties fail to cease such activities upon written demand within a period of ten (10) days of mailing, by certified mail, said demand to the authorized agent; or

- b. *Default.* The Cities, the RTCB, or the County fail to perform or observe any other covenant of this Agreement, and this failure remains un-remedied fifteen (15) days after notice in writing is sent by certified mail to the authorized agent(s); or
- d. *Nonappropriation.* Notwithstanding any provision of this Agreement to the contrary, this Agreement may be terminated by any party in the event sufficient funds from State, Federal, or other sources are not appropriated, obtained and continued at least at the level relied on for the performance of this Agreement and/or the Project; and the nonappropriation of funds did not result from any act of bad faith on the part of any of the parties. This includes the nonappropriation of funds, or appropriation of funds in an amount insufficient to acquire right-of-way, in the 2010 Minnesota state bonding bill.

14. **Notice of Termination.** In the event this Agreement is terminated, the Cities and the RTCB, and the County agree to immediately notify the State and other funding sources, and comply with any termination conditions and obligations imposed by the funding organization.

15. **Effective Date.** This Agreement shall become effective on the date that all parties have executed this document.

County of Stearns:

 Mark Sakry, Chair
 Stearns County Board of Commissioners

 Date

 Randy Schreifels
 Stearns County Auditor/Treasurer
 Clerk
 Stearns County Board of Commissioners

 Date