

JOINT POWERS AGREEMENT ROCORI Trail Construction Board

The parties to this Agreement are governmental units of the State of Minnesota. This Agreement is made pursuant to the authority conferred upon the parties by Minnesota Statute §471.59.

1. PURPOSE

The Cities of Rockville, Cold Spring and Richmond (collectively, “Cities” and individually, by their common names) have been working together to design, construct and fund a regional trail connecting the terminus of the anticipated Glacial Lakes Trail outside of Richmond, through Cold Spring, to the northern boundary of Rockville (“Project” or “ROCORI Trail”). Operating independently, the Cities have obtained grants and other funds for the funding of the design and Project. Stearns County (“County”) has agreed to serve as a fiscal agent for the Project, but requires the designation of a single entity to be responsible for the Project and serve as the representative in communicating with the County. The Cities seek to establish a joint powers board for the limited purpose of designing the ROCORI Trail, soliciting funding, and providing for the construction thereof. The joint powers board shall terminate upon completion of the Project, or the termination of this Agreement, and is not intended to continue for any other purpose, including the maintenance and operation of the ROCORI Trail.

2. TERM OF AGREEMENT

- A. **EFFECTIVE DATE.** Upon the latest date all three Cities execute the agreement.
- B. **TERMINATION DATE.** Upon the completion of the construction of the ROCORI Trail, or as provided in Section 5I.

3. BOARD

- A. **ROCORI TRAIL CONSTRUCTION BOARD.** There is hereby created a body to be known as the ROCORI Trail Construction Board (“Board”).
- B. **MEMBERSHIP.** The Board shall consist of two representatives of each of the member Cities. There shall be no alternate member, but the member City may recall any representative, or replace a representative, if provided by their own procedures. Each representative shall have a single vote. The representatives shall serve without compensation, except as provided by their respective city. The Administrators of the member Cities shall serve as non-voting representatives.
- C. **QUORUM.** Quorum shall consist of one-half of all voting representatives.
- D. **CHAIR.** The Chair of each meeting of the Board shall rotate among the Administrator of each member City in alphabetical order (Cold Spring, Richmond, Rockville). An interim Chair may be appointed by the representatives in the event the designated Administrator is not present.
- E. **MEETINGS.** The meetings shall be subject to Open Meeting laws, and shall be held at a place convenient to all representatives.

4. STAFF

Administrative functions of the Board shall be performed by the Administrators of the member Cities, and by any consultant or staff retained by the Board.

5. POWERS AND DUTIES OF BOARD

The Board shall have the following powers:

- A. Retain and contract for legal counsel, engineering services, grant-writing services and government relations services, and encumber the Board with the same;
- B. Negotiate and enter into agreements with Stearns County to serve as a fiscal agent for the Board and the Project;
- C. Transfer property interest in the Project to an appropriate entity for the continuance as a regional trail and for the continued maintenance and operation of the Project as a regional trail;
- D. Solicit and accept donations, grants, loans and other funding for the purpose of designing and constructing the Project, or for ancillary costs, such as legal and administrative fees;
- E. Negotiate purchase agreements for easements, right-of-way and fee interest in real property for the purpose of constructing the Project. Any purchase agreement must provide for ratification by the member Cities prior to the agreement being enforceable;
- F. Designate a member representative to serve as spokesperson for the Board, to negotiate with other entities on behalf of the Board and to execute contracts and other documents on behalf of the Board;
- G. Negotiate and enter into Memorandums of Understanding (“MOU”) with appropriate entities for the purpose of furthering the design and construction of the Project. Any MOU must provide for ratification by the member Cities prior to the document being finalized;
- H. Accept contributions and loans from member Cities and enter into agreements to repay funds with other revenue of the Board;
- I. Negotiate and enter into Joint Powers Agreements with other governmental entities and non-profit organizations to facilitate the purposes of the Board,
- J. Must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, and
- K. Terminate this Agreement.

6. ENCUMBRANCE OF COSTS

The Board may enter into contracts, as follows:

- A. The Board shall not have any independent taxation authority.
- B. The Board may not enter into any contract, unless:
 - 1. It is for ongoing professional services,
 - 2. The contract has a quantified maximum amount and the Board has identified the source of funds to pay the entire maximum amount, or
 - 3. It is for a term of less than one (1) year, and the Board has identified the

source of funding.

7. **MEMBER SHARE OF COSTS**

The costs of the Board shall be the ultimate responsibility of the member Cities. These costs shall be born equally by each City, and each City agrees to take whatever means necessary to reimburse the Board for costs in excess of the Board's funds, including levying any ad valorem tax necessary.

8. **FINANCING**

While the Board will own, maintain and operate the Project, and may contract as provide above, the Board will not have any power to bond, assess, charge or incur any obligation or indebtedness to finance the construction of the Project. Accordingly, each member City will have to separately bond, assess, charge or otherwise finance its share of all construction costs and expenses related to Project.

9. **RECEIVED GRANTS, LOANS AND DONATIONS**

The Cities recognize, at the Effective Date, the following grants have been received for the design and construction of the Project:

- A. \$526,000 was granted to Stearns County on behalf of the member Cities and the ROCORI Trail Project from the SAFETEA-LU federal grant program.
- B. \$372,000 was granted to City of Rockville on behalf of the member Cities and the ROCORI Trail Project from the Department of Natural Resources trail grant program (appropriated from the State of Minnesota 2008 Capital Bonding Bill.
- C. \$13,000 from Cold Spring, Rockville and the Cold Spring Jaycees.

10. **TERMINATION**

Upon termination of this Agreement, all property purchased or owned pursuant to this Agreement together with monies on hand, shall be distributed to the member Cities. Such distribution of monetary and personal property assets shall be made equally to all members, except that any amount that was loaned to the Board with a written agreement to repay funds from other revenue will be repaid first. Any real property interest shall be conveyed to the City with jurisdiction or, if not within a jurisdiction, to Stearns County or the township with jurisdiction. Nothing herein is intended to remove the ability of the Board to transfer property in a different manner prior to termination. The Board shall continue to exist after dissolution for such period, no longer than six (6) months, as is necessary to wind up its affairs, but for no other purpose.

11. **WITHDRAWAL**

A City may withdraw from this Agreement upon satisfying all of the following conditions:

- A. Providing six (6) months written notice to the Board;
- B. Payment of all amounts in arrears and all contributions to the Board, including without limitation all amounts for which the Board was encumbered, or was

- reasonably expecting to be encumbered, at the time the notice was received.
- C. Cooperating with the transfer of any deeds or other transfer documentation to convey real property or other property interests, and all grants, donations or other funds, to the Board that were held by the City for the Project.
 - D. Reaching mutual agreement with the remaining Cities regarding liability and other issues on any existing contracts.
 - E. Upon withdrawal, no distribution of assets or property will be made to any withdrawing City, if the Board continues with at least two Cities. If less than two Cities continue, this Agreement shall terminate, and assets will be distributed as if the Agreement was terminated.
 - F. The withdrawing Municipality must agree to indemnify and hold harmless the remaining Cities and the Board against any claims, suits, liabilities or contracts that may arise from the withdrawal, and the withdrawing member will pay any attorneys fees and costs associated with any litigation arising as a result of its withdrawal.

12. INDEMNIFICATION

- A. Each member City shall be liable for its own acts to the extent provided by law and hereby agrees to indemnify, hold harmless and defend the other, its officers and employees against any and all liability, loss, costs, damages, expenses, claims or actions, including attorney's fees which the other, its officers and employees may hereafter sustain, incur or be required to pay, arising out of or by reason of any act or omission of the City, its agents, servants or employees, in the execution, performance, or failure to adequately perform its obligations pursuant to this Agreement.
- B. It is understood and agreed that nothing in this Agreement shall affect or otherwise constitute a waiver of the limits on the liability of any City provided by Minnesota Statutes Chapter 466 (Tort Liability, Political Subdivisions) or other applicable law.

13. RECOGNITION OF AUTHORITY

Each member City recognizes the authority of the Board formed by this Agreement and agrees to be bound by this Agreement and the Board's decisions, to contribute its pro-rata share of financing and costs pursuant to this Agreement, to pay all charges, fees and costs to the Board in a timely manner and to otherwise abide by this Agreement's terms and the Board's decisions.

14. AUTHORIZING RESOLUTIONS

Before executing this Agreement, each member City will deliver to the other member Cities a certified copy of a resolution authorizing and directing this Agreement's execution.

15. SEVERABILITY

If any portion of this Agreement is found to be void, unenforceable or unconstitutional, or any combination of these, by a court of competent jurisdiction, the remaining portion of this Agreement shall remain in effect.

16. DISPUTE RESOLUTION

If a dispute arises between any of the Cities, or between the Board and any member City or Cities, regarding this Agreement, the Board will promptly meet and attempt in good faith to negotiate a resolution to the dispute. If the parties have not negotiated a resolution of the dispute within 30 days after the Board's meeting, the parties will submit the dispute to binding arbitration before a panel of three arbitrators in accordance with the commercial arbitration rules of the American Arbitration Association, except that any disputes less than \$25,000 will be submitted to a single arbitrator. The disputing parties will equally share the arbitration costs, excluding each party's cost to prepare its own case. In addition to the dispute resolution mechanism in this Section, any party may seek specific performance of another party's obligations under this Agreement.

17. ENTIRE AGREEMENT

This Agreement is the parties' entire agreement regarding its subject matter and supercedes all prior agreements and negotiations regarding its subject matter. The parties may amend this Agreement only in a writing signed by all of the parties.

18. RATIFICATION OF PAST CONTRACTS

The Cities ratify the agreement with Rinke Noonan Law Firm originally made with the ad hoc committee, and assumes the responsibility thereto, as previously agreed.

19. COUNTERPARTS

For the convenience of the Cities, this Agreement has been executed in counterpart copies, which are in all respects similar and each of which shall be deemed to be complete in itself so that any one may be introduced in evidence or used for any other purpose without the production of the other counterparts.

(Signature pages to follow)

IN WITNESS WHEREOF, the undersigned governmental unit, by action of their governing bodies, have caused this Agreement to be executed in accordance with the authority of Minnesota Statute §471.59.

CITY OF COLD SPRING

DATED: _____

Doug Schmitz, Mayor

Larry Lahr, Administrator

IN WITNESS WHEREOF, the undersigned governmental unit, by action of their governing bodies, have caused this Agreement to be executed in accordance with the authority of Minnesota Statute §471.59.

CITY OF RICHMOND

DATED: _____

Jim Hemmesch, Mayor

Dan Coughlin, Administrator/Clerk

IN WITNESS WHEREOF, the undersigned governmental unit, by action of their governing bodies, have caused this Agreement to be executed in accordance with the authority of Minnesota Statute §471.59.

CITY OF ROCKVILLE

DATED: _____

Jeff Hagen, Mayor

Rena Weber, Administrator/Clerk