

**AGREEMENT FOR COST PARTICIPATION FOR MINNEAPOLIS TEN-YEAR
TRANSPORTATION ACTION PLAN**

THIS AGREEMENT, made and entered into this _____ day of _____, 2002, by and among the County of Hennepin, a body politic and corporate under the laws of the State of Minnesota, hereinafter referred to as the "County", and the City of Minneapolis, a body politic and corporate under the laws of the State of Minnesota, hereinafter referred to as the "City".

WINESSETH:

WHEREAS, the County and the City share a common goal of improving transportation facilities and services within and to/from the City and,

WHEREAS, the City is undertaking a comprehensive study of transportation and transit issues within the City and preparing a ten-year transportation action plan and,

WHEREAS, the County has jurisdiction over certain transportation corridors within the city and,

WHEREAS, the City will take the lead in project management for the Ten-Year Transportation Plan but may not possess the expertise to complete all aspects of the Project and therefore will enter into agreements with consultants to perform the necessary work within the desired timeframe; and

WHEREAS, the County is agreeable to providing financial assistance for the study, provided that certain transportation issues are addressed in the study,

NOW THEREFORE, IT IS HEREBY, AGREED AS FOLLOWS:

1

The City of Minneapolis will execute agreements with the consulting firm(s) for transportation planning and engineering services and project management related to the Project, said entities hereinafter referred to collectively as consultants.

By executing this Agreement, the City and County will hereby concur in the selection of the consultants and will also concur in the means by which the consultants will accomplish the work.

2

The County shall provide the City's consultants with existing data and documents as may be necessary for the completion of the Project and other public information that will assist the consultants with project management/public involvement as they relate to the preparation of the ten-year transportation action plan. It is understood that while the County agrees to furnish data and information to the City's consultants, the County shall have no responsibility for the supervision of the consultants' work. Supervision of the consultants shall be the responsibility of the City.

3

The Project total revenues and costs are expected to be Six Hundred Thousand Dollars (\$600,000.00). The sharing of these estimated costs is defined below.

The County, by executing this Agreement, hereby agrees to fund a share of the Project costs in the amount of One Hundred Twenty Thousand and 00/100 Dollars (\$120,000.00).

The City, by executing this Agreement, hereby agrees to fund all costs of the Project beyond that provided by the County and other funding partners of this study. The Metropolitan Council/Metro Transit is expected to contribute One Hundred Twenty Thousand and 00/100 Dollars (\$120,000.00) as its share of the Project Costs. The City will also seek other funding sources for the Project.

All parties understand and agree that during the duration of the Project there may be reason for any party to request amendment to aforesaid agreements that may result in additional costs in excess of the maximum amounts set forth above. All parties further understand that such needs may subsequently result in an amendment to this Agreement for additional funding for the Project. All parties agree that, should it be necessary to reduce the scope of the study due to budget or time constraints, the priorities for completion of the study will be determined cooperatively by the funding partners.

4

It is understood by the parties that the City will accept the lead role for the Project. All correspondence between any of the parties related to this Project shall be carbon copied to all the parties.

It is understood by the parties hereto that the County has budgeted for the year 2005, One Hundred Twenty Thousand and 00/100 Dollars (\$120,000.00) for its share of the costs to be incurred by the Project under the above-cited agreements. It is further understood and agreed by the parties hereto that the City will invoice the County during the 2005 calendar year with supporting documentation of such expenses. Invoices shall be approved by the County's project manager and then sent to Hennepin County _____ for payment.

The City will invoice the County no more often than once a month for reimbursement. The invoices will include copies of invoices the City has received from its consultants.

The County shall remit payment of the full amount due to the City Finance Department within forty-five (45) days of submittal of said invoices.

All payments to the City shall be postmarked by the date due or a late penalty of one (1) percent per month, or fraction thereof, on the unpaid amount due as stated on the invoice, notwithstanding any dispute of such amount. Should a disputed amount be resolved in favor of the County, the City shall reimburse the disputed amount plus daily interest thereon calculated from the date such disputed amount was received by the City. Daily interest shall be at the rate of one (1) percent per month on the disputed amount.

5

It is understood by the parties hereto that the City has budgeted for the years 2005 and 2006, _____ for its share of the costs to be incurred by the Project under the above-cited agreements.

The remaining funds designated by the City and committed to the Project will be paid by the City as the work is completed in the subsequent years of the contract. Similar documentation as provided for year 2005 shall be provided to the City for subsequent years as described above.

6

It is anticipated that all work and services required under the terms of the above-cited agreements with consultants and/or contractors will be completed by December 31, 2006.

Unless terminated pursuant to the immediately following paragraph, this Agreement shall be in full force and effect from the date of execution to December 31, 2006 or until the services provided pursuant to this Agreement have been completed, whichever occurs earlier.

All parties may terminate this Agreement with or without cause upon sixty (60) days written notice to the other parties that said Agreement shall cease and terminate at the end of said sixty-day period. Expenses incurred up to the date of termination shall be shared in the same proportions and be subject to the same conditions as those expenses prior to termination.

The County's failure to insist upon strict performance of any provision or to exercise any right under this Agreement shall not be deemed a relinquishment or waive of the same, unless consented to in writing. Such consent shall not constitute a general waiver or relinquishment throughout the entire term of the Agreement.

The City's failure to insist upon strict performance of any provision or to exercise any right under this Agreement shall not be deemed a relinquishment or waive of the same, unless consented to in writing. Such consent shall not constitute a general waiver or relinquishment throughout the entire term of the Agreement.

7

The County and the City shall comply with all applicable federal, state and local statutes, regulations, rules and ordinances in force or hereafter enacted in the completion of the work and services herein agreed to.

8

The City and County agree that the City, the County, the State Auditor, or any of their duly authorized representatives at any time during normal business hours, and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., which are pertinent to the accounting practices and procedures of the City and the County and involve transactions relating to this Agreement.

9

Each party agrees that it will be responsible for its own acts and the results thereof, to the extent authorized by the law, and shall not be responsible for the acts of the other party and results thereof. The County's and the City's liability is governed by the provisions of Minnesota Statutes, Chapter 466.

The County and the City each warrant that they are able to comply with the foregoing liability requirements through an insurance or self-insurance program.

10

It is further agreed that any and all employees of the City and all other persons engaged by the City in the performance of any work or services required or provided for herein to be performed by the City shall not be considered employees of the County, and that any and all claims that may or might arise under the Workers' Compensation Act or the Unemployment Compensation Act of the State of Minnesota on behalf of said employees while so engaged and any and all claims made by any third parties as a consequence of any act or omission on the part of said employees while so engaged in any of the work or services to be rendered herein shall in no way be the obligation or responsibility of the County.

Also, any and all employees of the County and all other persons engaged by the County in the performance of any work or services required or provided for herein to be performed by the County shall not be considered employees of the City, and that any and all claims that may or might arise under the Workers' Compensation Act or the Unemployment Compensation Act of the State of Minnesota on behalf of said employees while so engaged and any and all claims made by any third parties as a consequence of any act or omission on the part of said employees while so engaged in any of the work or services to be rendered herein shall in no way be the obligation or responsibility of the City.

11

In order to coordinate the services of the County with the activities of the City so as to accomplish the purposes of this Agreement, the Hennepin County Engineer or their designated representative shall manage this Agreement on behalf of the County and serve as liaison to the State and the City.

In order to coordinate the services of the City with the activities of the County so as to accomplish the purposes of this Agreement, the City Director of Public Works or their designated representative shall manage this Agreement on behalf of the City and serve as liaison to the State and the County.

12

It is understood and agreed that the entire Agreement between the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter thereof. All items referred to in this Agreement are incorporated or attached and are deemed to be part of this Agreement.

Any alterations, variations, modifications, or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing as an amendment to this Agreement signed by the parties hereto.

13

The provisions of Minnesota Statutes 181.59 and of any applicable local ordinance relating to civil rights and discrimination and the Affirmative Action Policy statement of Hennepin County shall be considered a part of this Agreement as though fully set forth herein.

14

The Laws of the State of Minnesota shall govern all questions and interpretations concerning the validity and construction of this contract and the legal relations between the herein parties and performance under it. The appropriate venue and jurisdiction for any litigation hereunder will be those courts located within the County of Hennepin, State of Minnesota. Litigation, however, in the federal courts involving the herein parties will be in the appropriate federal court within the State of Minnesota. If any provision of this contract is held invalid, illegal or unenforceable, the remaining provisions will not be affected.

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IN TESTIMONY WHEREOF, The parties hereto have caused this Agreement to be executed by their respective duly authorized officers as if the day and year first above written.

CITY OF MINNEAPOLIS

COUNTERSIGNED:

By: _____
City Finance Officer

By: _____
Mayor

Date: _____

Date: _____

APPROVED AS TO FORM:

RECOMMENDED FOR APPROVAL

By: _____
City Attorney

By: _____
City Engineer

Date: _____

Date: _____

COUNTY OF HENNEPIN

ATTEST:

By: _____
Deputy/Clerk of the County Board

By: _____
Chair of its County Board

Date: _____

Date: _____

APPROVED AS TO FORM:

And: _____
Assistant/Deputy/County Administrator

By: _____
Assistant County Attorney

Date: _____

Date: _____

And: _____
Assistant County Administrator,
Public Works and County Engineer

Date: _____

APPROVED AS TO EXECUTION:

RECOMMENDED FOR APPROVAL

By: _____
Assistant County Attorney

By: _____
Director – Housing, Community
Works and Transit

Date: _____

Date: _____