

**STATE OF MINNESOTA
JOINT POWERS AGREEMENT**

Agency: T-79	Fiscal Year: 2002	Total Encumbered Amount: \$1,800,000
MAPS Contract Number:	MAPS Order Number: 32656076 (FY1) 32846004 (FY2)	

Sue Migella 5/30/02
 MAPS Entry -- Sign and Date
 (Individual signing certifies that funds have been
 encumbered as required by Minn. Stat. § 16A.15.)

Mn/DOT Budget Office:

Jn Keller 5.30.2002
 (Authorized Signature)

THIS AGREEMENT, which will be interpreted pursuant to the laws of the state of Minnesota, is by and between the State of Minnesota through its Commissioner of Transportation (hereinafter "STATE") and the City of St. Paul (hereinafter "CITY").

BACKGROUND

WHEREAS, STATE and the CITY are empowered to enter into joint powers agreements pursuant to Minnesota Statute Section 471.59, subd. 10; and

WHEREAS, STATE, pursuant to Minnesota Statute Section 161.20, has determined that it is necessary to construct highway improvements on Interstate 35E as shown in the attached Exhibit "A" which is incorporated herein;

WHEREAS, STATE has determined that portions of property are needed by the State for the 35E expansion and by the CITY for the Phalen Corridor/Trout Brook Corridor Project and for redevelopment purposes; and

WHEREAS, STATE, in conjunction with the CITY, has determined that it is in the best interest of STATE and the CITY to acquire the property at this time for their joint purposes; and

WHEREAS, STATE, in conjunction with the CITY, has further determined that the CITY will acquire private property needed for the above described projects.

NOW, THEREFORE, in consideration of the mutual benefits and obligations set forth herein, the parties agree as follows:

I. DUTIES OF CITY

- A. CITY shall initiate and carry to completion the acquisition through direct purchase of private property as shown in Exhibit "A". The City shall perform all real estate work tasks necessary to acquire the needed property, including, but not limited to, title work, appraisal, appraisal review, surveying and legal description. All property must be acquired in compliance with all state and federal regulations.
- B. CITY shall reasonably attempt to acquire the private property by direct purchase. The title for all property shall be acquired in fee simple absolute, and shall be acquired in the name of the CITY.
- C. CITY shall convey fee title by Quitclaim Deed to STATE for the highway 35E improvement project, those lands as colored green and blue on Exhibit "A" upon receipt of payment. If necessary, the CITY shall convey fee title by Quitclaim Deed to STATE those lands colored as purple on Exhibit "A" at a later date upon completion of a land description survey for no additional consideration, conveyance to occur to the STATE by the CITY no later than the date of the 35E expansion.
- D. CITY shall grant STATE a right of entry, for zero (\$0) dollars, to occupy the area colored as green, blue, and purple on Exhibit "A" during the relocation of the Sims/Agate Stormwater pond.

II. DUTIES OF STATE

- A. STATE will compensate CITY in accordance with article III, for acquisition of those lands needed for the T.H. 35E improvement project as shown colored green, blue, and purple on Exhibit "A".
- B. STATE agrees to provide any permits or other transfers of title necessary for the CITY's Trout Brook Greenway Corridor Project and consistent with the purposes and intent of the Trout Brook Greenway Corridor Project as set forth in the October 24, 2001 Trout Brook Greenway Plan.
- C. STATE agrees that this Agreement does not address the STATE's responsibility for construction costs and expenses for the relocation of the City's Sims/Agate Stormwater ponding area, that the STATE will be responsible for such costs due to the 35E expansion to the same extent as if it had condemned the City's property, and that the City is not waiving its rights pertaining to the relocation of the CITY's Sims/Agate Stormwater ponding area due to the 35E Expansion. STATE shall meet with the CITY to negotiate a separate agreement concerning the relocation of the CITY's Sims/Agate Stormwater ponding area if required, to the existing capacity limits of the pond. The STATE intends to construct its own stormwater pond to handle any increased water runoff or ponding needs arising from the 35E expansion project.
- D. The STATE permits the CITY to use and maintain the currently located Sims/Agate Stormwater pond to the limits referenced above and with the City fully indemnifying the STATE for any and all liability arising out of the City's use and maintenance of the Sims/Agate Stormwater pond.

III. CONSIDERATION

Consideration to be made by STATE to the CITY for all property and all services provided pursuant to this Agreement shall not exceed \$1,800,000.

IV. TERMS OF PAYMENT

A. Payment

STATE shall make one lump sum payment of \$1,800,000 in satisfaction of its obligations under Section II(A) of this Joint Powers Agreement. STATE will make payment to CITY in exchange of all deeds, easements and permits required by the Joint Powers Agreement.

- B. Reimbursement Requirements and Limitations. Any of CITY's relocation work, goods, materials, and services, must meet federal standards under Titles 23 and 49 of the Code of Federal Regulations. These codes recite standards STATE must meet for federal participation and reimbursement in highway projects and will serve as the standards for STATE compensation to the CITY.

V. TERM OF AGREEMENT

This Agreement will be effective **upon such date as it is approved and executed by authorized CITY and STATE officials**, and will remain in effect for a period of five (5) years from and after the date of such approval, or until all obligations under this agreement have been fulfilled, whichever occurs first.

VI. CANCELLATION

This Agreement may be terminated by the State, or its Commissioner of Administration, at any time, with or without cause. Upon such termination the City will be entitled to payment, on a pro-rata basis, for services satisfactorily performed.

VII. NON-APPROPRIATION

The State may immediately terminate this agreement if it does not receive necessary funds from the Minnesota Legislature or other funding source, or if the funding available is not sufficient to carry out the purposes of this agreement. Upon such termination the State will pay a pro-rata share for work actually completed, to the extent funds are available to do so. The State will provide the City with notice of such lack of funding as soon as reasonably possible.

VIII. AUTHORIZED REPRESENTATIVE

STATE's Authorized Representative for the purposes of administration of this Agreement is **Keith O. Slater, Manager, Mn/DOT Metro Division Right of Way Office, Waters Edge Building, 1500 West County Road B2, Roseville, MN 55113**. CITY Authorized Representative for the purposes of administration of this Agreement is **Peter White, Division Manager, Real Estate Division, 140 City Hall, 15 W.Kellogg Blvd., Saint Paul, Minnesota 55102**. STATE's Authorized Representative will have final authority for acceptance by STATE of CITY services.

IX. ASSIGNMENT

Neither STATE nor CITY will assign or transfer its rights or obligations under this Agreement without the prior written approval of the other.

X. LIABILITY

STATE's liability will be governed by Minnesota Statutes Section 3.736, and other applicable law. The CITY's liability will be governed by Minnesota Statutes Chapter 466 and other applicable law.

XI. AMENDMENTS

Any amendments to this Agreement will be in writing, and will be executed by the same parties who executed the original Agreement, or their successors in office.

XII. DATA PRACTICES AND OWNERSHIP OF MATERIALS AND INTELLECTUAL PROPERTY

- A. CITY and STATE will comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by CITY or STATE in accordance with this Agreement and as it applies to all data created, gathered, generated, or acquired in accordance with this Agreement.
- B. Upon payment in full for the applicable materials, STATE will own all rights, including all intellectual property rights, in all original materials, including any inventions, reports, studies, designs, drawings, specifications, notes, documents, software and documentation, computer based training modules, electronically or magnetically recorded material, and other work in whatever form developed or created by CITY, and its employees individually or jointly with others, or any subcontractor in the performance of its obligations under this Agreement, EXCEPT that if any of the above are created by CITY either solely for the use by, or with or for the benefit of, CITY and any person or entity other than STATE, they shall remain the property of CITY and any such other person or entity other than STATE.

XIII. STATE AUDITS

Pursuant to Minnesota Statutes Section 16C.05, subdivision 5, the books, records, documents, and accounting procedures and practices of CITY relevant to this Agreement will be subject to examination by the Minnesota Department of Transportation Auditor, the State Auditor, or the Legislative Auditor, as appropriate, for a minimum of six years.

XIV. WORKERS COMPENSATION

In accordance with Minnesota Statutes Section 176.182, CITY will provide acceptable evidence of compliance with the workers' compensation insurance coverage requirement of Minnesota Statutes Section 176.181, subdivision 2, prior to commencement of any duties to be performed under this Agreement.

XV. PUBLICITY

Any publicity given to the program, publications, or services provided resulting from this Agreement, including, but not limited to, notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for CITY or its employees individually or jointly with others, or any subcontractors will identify STATE as the sponsoring agency and will not be released, unless such release is a specific part of an approved work plan included in this Agreement prior to its approval by the Commissioner of Transportation.

[The balance of this page has been intentionally left blank.]

IN WITNESS WHEREOF, the parties have caused this Contract to be duly executed intending to be bound thereby.

CITY OF ST. PAUL

DEPARTMENT OF TRANSPORTATION

By: [Signature]
City Attorney

Recommended By:
By: [Signature]
Metropolitan Division Engineer

Date: 5/8/02

Date: 5/2/02

By: [Signature]
Mayor Randy Kelly

DEPARTMENT OF ADMINISTRATION

By: [Signature]

Date: 5/8/02

Date: 31 MAY 02

By: [Signature]
Office of City Clerk

DEPARTMENT OF FINANCE

By: [Signature]
Date: [Signature]

Date: 05-10-02

By: [Signature]
Office of Financial Services

Date: 5/9/02

Approved as to form and execution:
ORIGINAL SIGNED BY:
By: [Signature]
DONALD J. MLETING
Att. Saint Paul Attorney General
06/06/02

Date: _____

CITY MUST:

- Attach a certified copy of the governing body's resolution authorizing the CITY to enter into this agreement and designate who is authorized to sign this agreement.
- Use CITY's seal over signatures OR complete signature acknowledgment below.

SIGNATURE ACKNOWLEDGMENT

STATE OF MINNESOTA
COUNTY OF RAMSEY

This instrument was acknowledged before me this ____ day of _____, 2002,

by _____ the _____, and
(Name) (Title)

_____ the _____
(Name) (Title)







of CITY, and executed this instrument of their/his/her own free will intending to be bound thereby.
(Name of Governmental Unit)

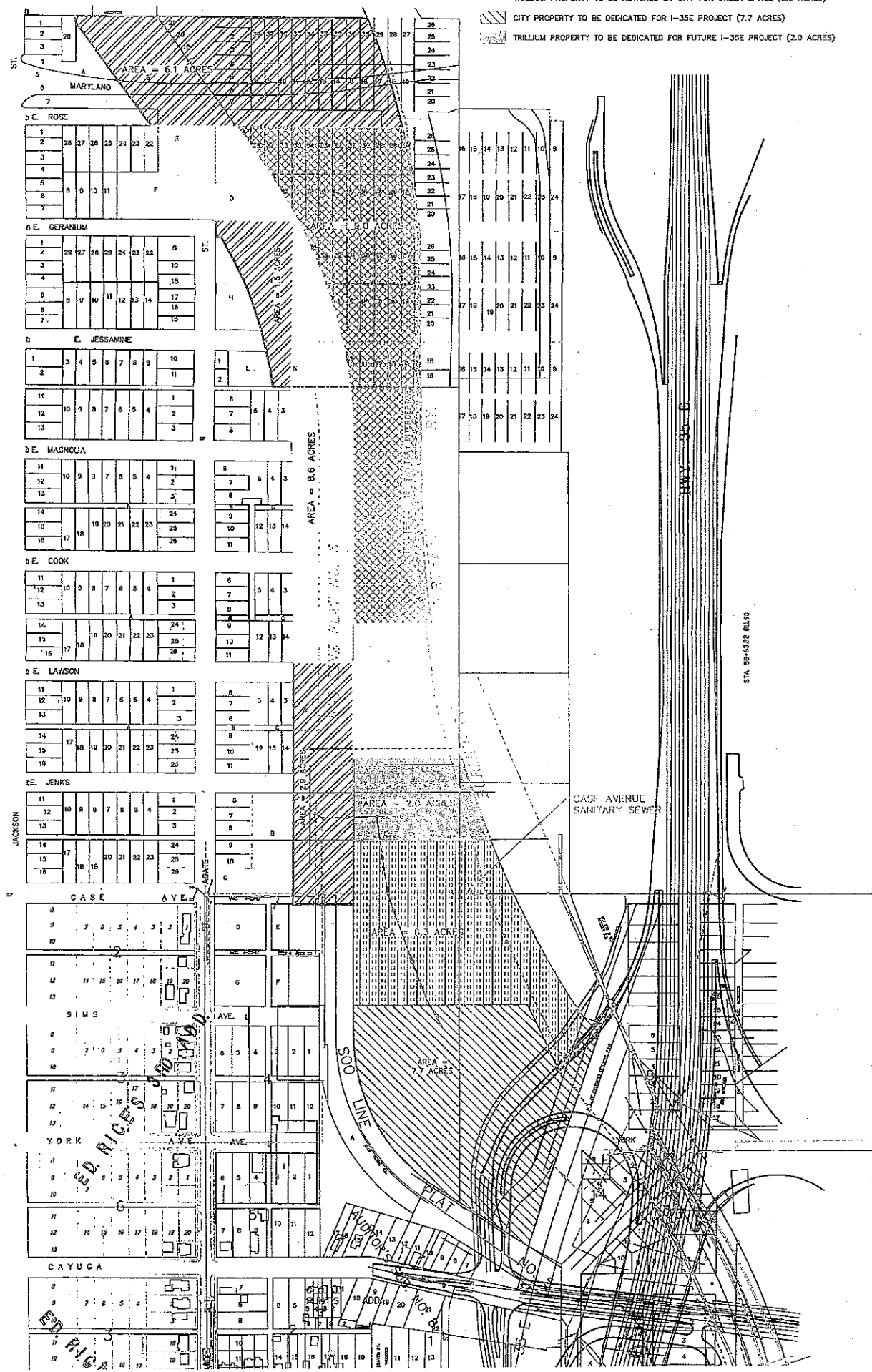
NOTARY PUBLIC

My Commission Expires: _____

EXHIBIT A TRILLIUM SITE SCHEMATIC

NOTE: AREAS ARE APPROXIMATE
3/19/02

-  TRILLIUM PROPERTY UNDER DNR CONSERVATION EASEMENT (9.0 ACRES)
-  TRILLIUM PROPERTY TO BE DEDICATED FOR I-35E PROJECT (6.3 ACRES)
-  TRILLIUM PROPERTY WHICH MAY BE DEVELOPED (10.5 ACRES)
-  TRILLIUM PROPERTY TO BE RETAINED BY CITY FOR GREEN SPACE (8.6 ACRES)
-  CITY PROPERTY TO BE DEDICATED FOR I-35E PROJECT (7.7 ACRES)
-  TRILLIUM PROPERTY TO BE DEDICATED FOR FUTURE I-35E PROJECT (2.0 ACRES)



STA. 88+4322 6139