

Agreement # 15–PW–T1353
City of Saint Paul
And
Group Health Plan, Inc. (DBA HealthPartners)
8170 – 33rd Avenue South
Bloomington, Minnesota, 55425

Cooperative construction and cost share agreement (“Agreement”), made and entered into, by and between the City of Saint Paul, Minnesota, a municipal corporation under the laws of the State of Minnesota, hereinafter referred to as “City” and Group Health Plan, Inc. DBA HealthPartners, hereinafter referred to as “HealthPartners”.

The City and HealthPartners, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth agree as follows:

SUMMARY OF COOPERATIVE AGREEMENT TO CONSTRUCT TWO TRAFFIC SIGNALS

1. As part of HealthPartners decision to locate their Neuroscience facility on Phalen Boulevard, the City and/or its contractors will perform all necessary construction activities to complete construction of interconnected traffic signals at Olive Street and Phalen Boulevard by the end of 2016 and a traffic Signal at Mississippi Street and Phalen Boulevard by the end of 2017. The existing temporary traffic signal at the Olive Street and Phalen Boulevard intersection will remain in operation until the permanent signal is constructed.
2. Cost participation is required by both the City and HealthPartners for the design and construction of the two traffic signals and traffic signal interconnect system. The cost of the shared improvements for each of the two signals are as follows:
 - City will be responsible for the initial \$125,000 per traffic signal and interconnection costs.
 - HealthPartners will then be responsible for up to 175,000 in additional cost per traffic signal and interconnection costs.
 - City will be responsible for costs exceeding \$300,000 in cost per traffic signal and interconnection costs.
 - Cost participation is further addressed in Section 4, below.
3. In addition, HealthPartners agrees to pay 20 years of the operations and maintenance cost of the traffic signal as a one-time, up front, lump sum payment. The present value of this cost is determined using an annual maintenance cost of \$2,800 per traffic signal and a present value percentage of 3.65% (the cost of capital for HealthPartners as determined by Piper Jaffray). The City will be responsible for performing all future ongoing operations and maintenance cost of the traffic signal system, and shall pay all costs after 20 years.

4. Any design and/or construction work needing to be performed on, or within, any of the individual properties is the responsibility of HealthPartners, including construction of driveway accesses to roadway. All work performed on private property or work within the public right of way as per approved Site Plan will be paid for with 100% property owner funds.
5. Upon the City giving at least seven business days notice, HealthPartners, will allow the City and/or its contractor access to work within the driveway section of their property, at no cost to the City or contractor, in order to install loop detection or other equipment necessary to efficiently construct and operate the proposed traffic signal system installation. During such time, the City must allow the property owner's patients and staff access across the driveway into and out of the parking area.
6. In addition, following completion of the work, upon at least three business days notice by the City, HealthPartners will allow the City, or its contractor, routine access to the driveway section in order to perform any and all maintenance work necessary to keep the traffic signal operating safely and efficiently. During such time, the City must allow the property owner's patients and staff access across the driveway into and out of the parking area.
7. The City will administer all construction activities and perform engineering and construction inspection activities associated with the project within the public right-of-way. Any work performed on private property will be the responsibility of the property owner where the work is being performed, with the exception of the traffic signal work needing to be done within the HealthPartners Driveway.
8. The Port Authority of the City of Saint Paul has expressed support for the project and has indicated, in correspondence to HealthPartners dated February 15, 2015, a copy of which is attached hereto as Exhibit A, its intent to contribute a payment of \$25,000.00 per signal, provided certain conditions are met. HealthPartners agrees and acknowledges that this expressed intent does not in any way affect its obligations to the City set forth in this Agreement, and that the City accepts no responsibility whatsoever with regard to the Port Authority's actions or inactions.

1. Term of Agreement

1.1 Effective Date. This Agreement will be effective on the date the City obtains all signatures required on the signature page of this agreement.

1.2 Expiration Date. This Agreement will expire when all obligations from all parties have been satisfactorily fulfilled.

1.3 Survival of Terms. All clauses which impose obligations continuing in their nature and which must survive in order to give effect to their meaning will survive the expiration or termination of this Agreement, including, without limitation the following: 3. Maintenance by the City; 7. Liability; Workers Compensation Claims; 9. Governing Law; Jurisdiction, Venue; and 11. Force Majeure.

2. Construction by the City

2.1 Construction. The City will, by its own forces or through a contractor, construct the traffic signals and interconnect systems described above.

2.2 Construction Inspection. The City will perform all construction inspection activities on the project in order to ensure all requirements and details of the plans and specifications are being satisfied.

2.3 Satisfactory Completion of Contract. The City will perform all other acts and functions necessary to cause the contract construction to be completed in a satisfactory manner. Acceptance by the City of the completed construction will be final, binding and conclusive upon HealthPartners as to the satisfactory completion of the contract construction.

3. Maintenance by the City

Upon completion of the project, the City, at its cost and without payment by any HealthPartners in addition to the one-time lump sum payment for maintenance described in preliminary section 3 above, will be responsible to perform any and all maintenance activities including the repair of any damages incurred on the newly constructed traffic signal equipment at Phalen Boulevard and Mississippi Street and Phalen Boulevard and Olive Street in Saint Paul. HealthPartners will continue to be responsible for any ongoing or upcoming assessment or system charges against their properties as determined by law and by the City Council of Saint Paul.

4. Project Cost and Payment to the City

4.1 HealthPartners Cost. The estimated maximum project cost for the HealthPartners, is \$428,500. This includes up to \$175,000 per traffic signal system installation including interconnect cable, Engineering and Inspection of the project, and a one time, advanced payment \$78,500 for the operation and maintenance costs of the traffic signal systems. Should any Party refuse to pay pursuant to the terms of this Agreement, the identified property of such Party will be assessed via certification to property taxes. Any excess of the HealthPartners payments over the actual project cost shall be returned to HealthPartners.

4.2 Final Cost Calculation. Final Cost will be determined by totaling all costs for engineering design and inspection and actual construction costs for traffic signal and interconnect construction. \$125,000 per intersection will be subtracted as City responsibility and the remainder shall be HealthPartners cost up to \$175,000 per intersection. If engineering, inspection and construction cost exceeds \$300,000 per traffic signal, the City will be responsible for overruns.

4.3 Conditions of Payment. Upon receipt of a written request from the City to make an initial payment, HealthPartners will pay the City \$175,000 towards the capital cost of construction and the one time advance payment of \$78,500 for operation and maintenance of the traffic signals. Said payment will be due within 30 days of the request of the City. Thereafter (upon completion of the second signal), a final bill will be sent to HealthPartners, upon completion and acceptance of the project by the City. Terms and conditions of payment, which include the terms set forth in Section 4.1 herein, will be stipulated on the written billing statement from the City.

5. Authorized Representatives.

Each party's Authorized Representative is responsible for administering this Agreement and is authorized to give and receive any notice or demand required or permitted by this Agreement.

5.1 The City's Authorized Representative will be:

Name/Title: Paul St Martin – Assistant City Engineer (or successor)
Address: 25 W. 4th Street – City Hall Annex
City/State/Zip: Saint Paul, MN 55102
Telephone: (651) 266-6203
E-Mail: paul.st.martin@ci.stpaul.mn.us

5.2 The HealthPartners, Inc. Representatives will be:

Representing: HealthPartners, Inc.
Name/Title: Frank McQuillan, Vice President Treasury and Real Estate (or successor)

For notice purposes use the following:

Name: HealthPartners, Inc.
Address: Attn: Real Estate, MS 21106C, 8170 33rd Avenue So.
City/State/Zip: Minneapolis, MN 55440-1309
Telephone: (952) 883-6514
Email: frank.p.mcquillan@HealthPartners.com

HealthPartners, Representative hereby warrants that s/he is fully authorized to enter into and execute this Agreement on behalf of the owners of the properties, and to agree that the owners shall be fully bound to all terms and conditions of this Agreement without protest, and that this Agreement shall be binding upon all and all successors, representatives and assigns of each property owner.

6. Assignment; Amendment; Waiver; Contract Complete

6.1 Assignment. None of the parties may assign or transfer any rights or obligations under this Agreement without the prior consent of the other parties and a written assignment agreement,

executed and approved by the same parties who executed and approved this Agreement, or their successors in office. Notwithstanding the foregoing, HealthPartners may assign its rights and obligations under this Agreement to an affiliate without the consent of any other party, but shall provide a written assignment agreement upon completion thereof.

6.2. Amendments. Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original Agreement, or their successors in office.

6.3. Waiver. If a party fails to enforce any provision of this Agreement, that failure does not waive the provision or the party's right to subsequently enforce it.

6.4 Contract Complete. This Agreement contains all prior negotiations and agreements between the City and HealthPartners. No other understanding regarding this Agreement, whether written or oral, may be used to bind any of the parties.

7. Liability; Worker Compensation Claims

7.1 Each party is responsible for its own acts, omissions and the results thereof to the extent authorized by law and will not be responsible for the acts and omissions of others and the results thereof.

7.2 Each party is responsible for its own employees for any claims arising under the Workers Compensation Act.

8. Nondiscrimination

Provisions of Minnesota Statutes 181.59 and any applicable law including but not limited to City ordinances relating to civil rights and discrimination are considered part of this Agreement.

9. Governing Law; Jurisdiction; Venue

Minnesota law governs the validity, interpretation and enforcement of this Agreement. Venue for all legal proceedings arising of this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

10. Termination; Suspension

10.1 By Mutual Agreement. This Agreement may be terminated by mutual agreement of the parties.

10.2 Termination for Insufficient Funding. The City may immediately terminate this Agreement if it does not obtain the local funding necessary to construct the project. Termination must be written or by fax notice to the HealthPartners, Inc.

10.3 Suspension. In the event of a total or partial government shutdown, the City may suspend this Agreement and all work, activities and performance of work authorized through this agreement.

11. Force Majeure

No party will be responsible to the others for a failure to perform under this agreement (or a delay in performance), if such failure or delay is due to a force majeure event. A force majeure event is an event beyond a party's reasonable control, including but not limited to, unusually severe weather, fire, floods and other acts of God, labor disputes, acts of war or terrorism, or public health emergencies.

CITY OF ST. PAUL

The undersigned certify that they have lawfully executed this contract on behalf of the Governmental unit as required by applicable charter provisions, resolutions or ordinances.

Recommended for Approval:

By: _____
(Director of Public Works)

Approved as to form and execution:

By: _____
(Assistant City Attorney)

By: _____
(Mayor)

Date: _____

By: _____
(Director of Financial Services)

Date: _____

HEALTHPARTNERS, INC.

Recommended for Approval



By: UP Treasury ; Real Estate
Group Health Plan, Inc.
DBA HealthPartners
8170 33rd Ave South
Bloomington, MN 55425

Date: July 27, 2015

INCLUDE COPY OF THE CITY COUNCIL RESOLUTION APPROVING THE AGREEMENT AND AUTHORIZING ITS EXECUTION.