

**JOINT POWERS AGREEMENT  
BETWEEN SHERBURNE COUNTY AND CLEAR LAKE TOWNSHIP  
FOR ROAD IMPROVEMENTS TO SHERWOOD SHORES**

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2021, (the "Effective Date") by and between the County of Sherburne, a political subdivision of the State of Minnesota, 13880 Business Center Drive NW, Elk River, Minnesota 55330, (the "County"), and the Township of Clear Lake, 7938 116<sup>th</sup> Street SE, P.O. Box 305, Clear Lake MN 55319, (the "Township").

**WHEREAS**, the County intends to perform surface improvements on the following County State Aid Highways (CSAH) County Roads (CR)  
CSAH 7 from Hwy 10 to the 1900' east of 40<sup>th</sup> Avenue.  
CR 43 from the Elk River Bridge to CSAH 15  
CR 55 from Hwy 10 to CSAH 6

**WHEREAS**, the Township desires to perform surface improvements to various Township roads within Sherwood Shores; and

**WHEREAS**, the Township has requested that the Township Improvements be constructed as part of a single project along with the County Project; and

**WHEREAS**, both the County and the Township recognize that it will be cost effective and more efficient for the Township Improvements to be constructed at the same time as the County Project; and

**WHEREAS**, the County has secured the necessary funding for the intended improvements to their respective roads; and

**WHEREAS**, the Township shall secure the necessary funding for the intended improvements to their respective roads following the acceptance of the construction bids; and

**WHEREAS**, Minn. Stat. § 471.59 authorizes the County and the Township to enter into an agreement for the joint exercise of powers and the sharing of resources; and

**WHEREAS**, the County and the Township agree that cooperating in the construction of the County Project and the Township Improvements as part of a single construction project is in the best interest of the public, and therefore enter into this Agreement to identify the responsibilities and obligations of each of the parties in this cooperative effort.

**NOW, THEREFORE**, in consideration of the premises and covenants contained herein and subject to the provisions of Minn. Stat. § 471.59, the parties agree as follows:

1. Purpose. The parties enter into this Agreement for the purpose of jointly constructing the County Project and the Township Improvements as a single project, in the manner provided for herein.
2. Term. Notwithstanding the date of the signatures of the parties, the term of this Agreement shall commence on the Effective Date and, unless earlier terminated pursuant to this Agreement, shall terminate on the date that the County Project and the Township Improvements have been completed, as determined by the County.
3. Duties of the Township.
  - 3.1. Plans and Specifications. The Township shall prepare all plans, specifications, material quantities and all other documents necessary for the construction of the Township Improvements. The Township shall provide the documents to the County in a suitable format and within a specified time, each as requested by the County so that the County may include the documents in the bidding and construction documents.
  - 3.2. Right-of-Way, Permits and Other Approvals. The Township shall be responsible for acquiring and paying for all right-of-way and other land use rights necessary for the Township Improvements and shall be responsible for obtaining all necessary permits and other approvals necessary for the construction of or otherwise associated with the Township Improvements, including but not limited to all environmental permits such as the SWPPP, TEP approval(s) and NPDES permit.
  - 3.3. Construction Oversight – Township Improvements. During the project, the Township shall provide all necessary construction engineering, construction surveying, and construction inspection for the Township Improvements. The Township shall prepare and approve all work orders, change orders, and supplemental agreements relating to the Township Improvements, and then forward the document(s) to the County for the County's approval, to the extent necessary pursuant to the construction contract. All costs of contract administration and construction oversight relating to the Township Improvements, including but not limited to engineering and inspection costs (including the cost of MNDOT inspections) shall be the sole responsibility of the Township.
  - 3.4. Payment to Contractor – Township Improvements.
    - 3.4.1 Progress Payments. Monthly, or as otherwise necessary pursuant to the project contract, the County shall provide all requests for payment relating to the Township Improvements to the Township. The Township shall promptly process such requests for payment and shall approve or deny the requests as appropriate, pursuant to the terms of the contract. The County will promptly make payment to the Contractor for all requests approved by the Township. In the event the Township denies a request for payment in whole or in part, the Township will be

responsible for resolving all disputes with the contractor(s) pursuant to the terms of the contract. All administrative, legal or other costs associated with any dispute with the contractor(s) relating to the Township Improvements shall be the sole responsibility of the Township.

3.4.2 Final Payment. Upon final completion of the Township Improvements and project close-out relating to the project as a whole, the Township shall, upon written demand by the County, submit to the County an amount equal to one hundred percent (100%) of the remaining unpaid amounts due and owing to the contractor. The County will promptly make final payment to the contractor in the amounts provided by the Township.

3.5 Payments to the County – Township Improvements. The Township shall be responsible for all costs associated with the Township Improvements. For purposes of paying the contractor during the Project for costs associated with the Township Improvements, the County shall make payments to the Contractor in accordance to 3.4.1. Following payment to the Contractor, the County shall submit an invoice to the Township for the payments made to the contractor associated with the Township Improvements. The Township shall make reimbursement payment to the County within 30 days of receipt of invoice.

3.6 Ownership and Maintenance – Township Improvements. The Township shall own the Township Improvements and shall be solely responsible for the ongoing maintenance of the Township Improvements.

4. Duties of the County.

4.1 Solicitation and Award of Contract. The County will solicit bids for the construction of the County Project and the Township Improvements based on the plans and specifications for each. The County will include language within the solicitation that allows to Township to reject the bids for the Township Project. The contract will be awarded to the lowest responsible bidder, as determined by the County, in accordance with Minnesota law. The County will notify the Township of the date that the County has scheduled the bid opening and the date by which the Township must notify the County, following the bid opening, as to whether or not the Township will accept the bid of the lowest responsible bidder as it relates to the Township Improvements. If the Township does not notify the County in writing by the specified date that the Township intends to reject the bid of the lowest responsible bidder, the County may accept the bid as it relates to the Township Improvements and the Township shall be bound by the terms of the contract documents and this Agreement as they relate to the Township Improvements.

4.2 Right-of-Way, Permits and Other Approvals. The County shall be responsible for acquiring and paying for all right-of-way and other land use rights necessary for the County Project and shall be responsible for obtaining all necessary permits and other approvals necessary for the construction of or otherwise associated with the County

Project, including but not limited to all environmental permits such as the SWPPP, TEP approval(s) and NPDES permit.

4.3 Contract Administration. The County will be responsible for administering the contract for the project as a whole, including the County Project and the Township Improvements. Contract administrative services shall include but are not limited to the advertising and acceptance of bids, generating partial and final payments and project close-out.

4.4. Construction Oversight – County Project. During the project, the County shall provide all necessary construction engineering, construction surveying, and construction inspection for the County Project and will prepare and sign all work orders, change orders, and supplemental agreements relating to the County Project. All costs of contract administration and construction oversight relating to the County Project, including but not limited to engineering and inspection costs (including the cost of MNDOT inspections) shall be the sole responsibility of the County.

4.5 Payment to Contractor – County Project. The County shall be responsible for all costs associated with the County Project. Upon final completion of the County Project and project close-out relating to the project as a whole, the County shall make final payment to the contractor for the work approved and accepted by the County and the Township pursuant to the terms of the contract.

4.6 Ownership and Maintenance – County Project. The County shall own the improvements relating to the County Project and shall be solely responsible for the ongoing maintenance of the County Project.

5. General Provisions.

5.1 Entire Agreement; Amendments. This Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, documents and proposals, oral or written, between the parties with respect thereto. Any amendment or modification to this Agreement shall not be valid unless such amendment or modification (i) is in writing and signed by authorized representatives of both parties and (ii) references this Agreement.

5.2 Cooperation. The parties agree to cooperate in the use of resources, including available right-of-way to complete the project as a whole, to the extent feasible and to the extent permitted by law. The parties further agree to cooperate in the administration of the contract and completion of the project, including cooperating in resolving any disputes the parties may have with the contractor(s) both during the project and following completion of the project.

5.3 Termination. This Agreement may be terminated by either party at any time, with or without cause, upon not less than thirty (30) days written notice delivered by mail or in person to the other party. If notice is delivered by mail, it shall be deemed to be received

two days after mailing. Such termination shall not be effective with respect to any solicitation of bids or any purchases of services or goods, which occurred prior to such notice of termination. The Township shall pay its pro rata share of costs which the County incurred prior to such notice of termination.

5.4 Notices. Any notices required or permitted to be given under this Agreement shall be delivered personally or sent by certified mail to the other party as follows:

To the County: Andrew Witter  
Sherburne County Engineer  
Sherburne County Government Center  
13880 Business Center Drive  
Elk River, MN 55330

To the Township: Peggy Berger  
Town Clerk, Clear Lake Township  
PO Box 305  
Clear Lake, MN 55319

5.5 Governing Law. This Agreement shall be governed by the laws of the State of Minnesota. For the purpose of resolving conflicts related to or arising out of this Agreement, the parties expressly agree that venue shall be exclusively in the State of Minnesota, County of Sherburne.

5.6 Disbursement of Funds. All funds disbursed by the County or Township pursuant to this Agreement shall be disbursed by each entity pursuant to the method provided by law.

5.7 Audit. The parties shall maintain complete and accurate records with respect to costs incurred and services performed under this Agreement for a period of at least six (6) years after the termination of this Agreement. Pursuant to Minn. Stat. § 16C.05, Subd. 5, each party shall allow the other party, the State Auditor, or their authorized representatives access to the books, records, documents, and accounting procedures and practices relevant to the subject matter of the Agreement, for purposes of audit.

5.8 Data Practices. All data created, collected, received, stored, used, maintained, or disseminated for any purpose in connection with this Agreement is governed by the Minnesota Data Practices Act, as well as other State and Federal rules and regulations relating to data privacy.

5.9 Assignment and Delegation. Neither party shall assign its rights or delegate its duties under this Agreement without receiving the prior written consent of the other party.

5.10 Liability. Each party will be solely responsible for its own acts and omissions and the results thereof, to the extent authorized by law. The parties mutually agree to indemnify

and hold harmless each other from any claims, losses, costs, expenses or damages resulting from the acts or omissions of the respective officers, agents, or employees relating to activities conducted by either party under this Agreement. Minnesota Statutes Chapter 466 and other applicable laws govern the parties' liability.

- 5.11 Severability. In the event that any portion of this Agreement shall be held to be invalid, such invalidity shall not affect the validity of the remainder of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement to be effective as of the Effective Date set forth above.

**SHERBURNE COUNTY**

**CLEAR LAKE TOWNSHIP**

By: \_\_\_\_\_  
Raeanne Danielowski  
County Board Chair

By: \_\_\_\_\_  
Gary Gray  
Town Board Chair

Attest: \_\_\_\_\_  
Bruce Messelt  
County Administrator

Attest: \_\_\_\_\_  
Peggy Berger  
Town Clerk