

COOPERATIVE AGREEMENT
(Northwood Lake Improvement Project)

This Agreement is made as of this 20th day of August, 2015, by and between the Bassett Creek Watershed Management Commission, a joint powers watershed management organization (hereinafter the “Commission”), and the City of New Hope, a Minnesota municipal corporation (hereinafter the “City”).

WITNESSETH:

WHEREAS, the Commission adopted the Bassett Creek Watershed Management Commission Watershed Management Plan on September 16, 2004 (the “Plan”), a watershed management plan within the meaning of Minn. Stat. § 103B.231; and

WHEREAS, the Plan, as amended, includes a capital improvement program (“CIP”) that lists a number of water quality project capital improvements; and

WHEREAS, one of the water quality projects identified in the CIP is a water quality improvement project described as the Northwood Lake Improvement Project (NL-1) in the City of New Hope (the “Project”), as more fully described in the feasibility report for the Project prepared by the City of New Hope’s Engineer, Stantec, entitled Feasibility Study for Northwood Lake Storm Water Improvements dated November 2014, which is attached and made a part hereof (the “Feasibility Report”) and in accordance with the Clean Water Partnership Project Work Plan, as it may be amended, which is incorporated by reference and made part hereof; and

WHEREAS, the total cost estimate for the Project, including design, construction, feasibility study costs, and Commission costs, is \$1,422,140; and

WHEREAS, the Commission has received a Clean Water Partnership Project Grant from the Minnesota Pollution Control Agency for \$300,000 that will be used to offset the Project costs; and

WHEREAS, the City has agreed to contribute \$300,000 to cover some Project costs; and

WHEREAS, the Plan specifies that the Project will be funded in part by a County tax levy under Minn. Stat. § 103B.251; and

WHEREAS, on August 20, 2015, the Commission adopted a resolution ordering the Project and directing that it be constructed by the City; and

WHEREAS, half of the Project costs were certified to Hennepin County, which will levy taxes throughout the watershed for the Project costs in 2015 for collection and settlement in 2016; and

WHEREAS, the other half of Project costs will be certified to Hennepin County to levy taxes throughout the watershed costs in 2016 for collection and settlement in 2017; and

WHEREAS, the City is willing to construct the Project on the terms and conditions hereinafter set forth.

NOW, THEREFORE, ON THE BASIS OF THE PREMISES AND MUTUAL COVENANTS HEREINAFTER SET FORTH, THE PARTIES AGREE AS FOLLOWS:

1. Project. The Project will consist of the implementation of Concepts A (a storm water reuse system and raingardens in Northwood Park) and C (a wet ponding basin at the west end of Northwood Lake), as described in the Feasibility Report for the Project.
2. Design and Plans. The City will design the Project and prepare plans and specifications for construction of the Project. The 50% and 90% plans and specifications, and any changes to such plans and specifications, shall be submitted to the Commission for approval. Minor change orders that do not materially change either the effectiveness of the Project to meet its intended purposes or the environmental impacts of the Project may be approved by the City without requiring approvals by the Commission.
3. Contract Administration. The City will advertise for bids and award contracts in accordance with the requirements of law. The City will award the contract and supervise and administer the construction of the Project to ensure that it is completed in accordance with the approved plans and specifications. The contract may only be let to a responsible contract in accordance with Minn. Stat. § 16C.285 and the City will require the contractor to provide all payment and performance bonds required by law. The City will require the Contractor to name the Commission as additional insured on all liability policies required by the City of the contractor and the Commission shall be given the same notification of cancellation or non-renewal as is given to the City. The City will require the contractor to defend, indemnify, protect and hold harmless the Commission and the City, their agents, officers, and employees, from all claims or actions arising from negligent acts, errors or omissions of the contractor. The City will supervise the work of the contractor. However, the Commission may observe and review the work of the Project until it is completed. The City will display a sign at the construction site stating “Paid for by the Taxpayers of the Bassett Creek Watershed”.
4. Contract Payments. The City will pay the contractor and all other expenses related to the construction of the Project and keep and maintain complete records of such costs incurred.
5. Commission Reimbursement. The Commission will pay grant funds received from a Minnesota Pollution Control Agency Clean Water Partnership Grant in the amount

of Three Hundred Thousand Dollars (\$300,000). The Commission will use its best efforts to secure payment from the County in accordance with Minn. Stat. § 103B.251 in the amount of Four Hundred Eleven Thousand and Seventy Dollars (\$411,070) by tax levy in 2015 for collection in 2016, and Four Hundred Eleven Thousand and Seventy Dollars (\$411,070) by tax levy in 2016 for collection in 2017. The total reimbursement paid by the Commission will not exceed One Million One Hundred Twenty-two Thousand One Hundred and Forty Dollars (\$1,122,140), less Commission expenses.

Out-of-pocket costs related to the Project, incurred and paid by the Commission including, but not limited to, feasibility studies, publication of notices, securing County tax levy, preparation of contracts, review of proposed contract documents, administration of this Agreement and up to a 2.5% administrative charge shall be repaid from the reimbursement amounts specified above. All such funds in excess of such expenses are available for reimbursement to the City for costs incurred by the City in the design and construction of the Project. Reimbursement to the City will be made as soon as funds are available, provided a request for payment has been received from the City that contains such detailed information as may be requested by the Commission to substantiate costs and expenses.

6. Limits on Reimbursement. Reimbursement to the City will not exceed the amount specified above from the amounts received from the County and the Minnesota Pollution Control Agency for the Project, less any amounts retained by the Commission for Commission expenses. If additional grants are received for the Project, grant funds will be used to offset the stated City contribution of \$300,000 and Commission costs, on a pro-rated basis. Reimbursement will not exceed the costs and expenses incurred by the City for the Project, less any amounts the City receives for the Project as grants from other sources. All costs of the Project incurred by the City in excess of such reimbursement, which are currently estimated to be Three Hundred Thousand Dollars (\$300,000) shall be borne by the City or secured by the City from other sources.
7. Audit. All City books, records, documents, and accounting procedures related to the Project are subject to examination by the Commission.
8. Environmental Review. The City will perform all necessary investigations of site contamination and secure all necessary local, state, or federal permits required for the construction of the Project and will not proceed with the Project until any required environmental review and remediation of site contamination is completed or a plan for remediation is approved by appropriate regulatory agencies.
9. Project Maintenance. Upon completion of the Project, the City will assume responsibility for its ongoing maintenance.

10. Data Practices. The City shall retain and make available data related to the letting of contracts and construction of the Project in accordance with the Minnesota Government Data Practices Act.
11. Term. This Agreement shall be in effect as of the date first written above and shall terminate once the project is completed and the Commission has completed its reimbursement payments to the City as provided herein.
12. Sub-Grant Agreement. The City is required to enter into a Subgrant Agreement with the Commission related to the Clean Water Partnership Project Grant received for the Project and to comply with the terms of the Subgrant Agreement, which is incorporated into this Agreement by reference and made a part hereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers on behalf of the parties as of the day and date first above written.

BASSETT CREEK WATERSHED
MANAGEMENT COMMISSION

By: _____
Its Chair

And by: _____
Its Secretary

Date: _____

CITY OF NEW HOPE

By: _____
Its Mayor

And by: _____
Its Manager

Date: _____