

**COST SHARING AGREEMENT BETWEEN THE CITY OF NAPERVILLE AND
JEFFERSON & MAIN LLC
FOR THE R. R. BREITWIESER CORNER SUBDIVISION**

This Cost Sharing Agreement (also referenced herein as “**AGREEMENT**”) is entered into by and between the City of Naperville, an Illinois municipal corporation and home rule unit of local government under the statutes and Constitution of the State of Illinois, with offices at 400 South Eagle Street, Naperville, Illinois 60540, (hereinafter referred to as the “**CITY**”), and Jefferson & Main, LLC with an address of 510 White Oak Drive, Naperville, Illinois. The CITY and the OWNER AND DEVELOPER, as defined herein, are together hereinafter referred to as the "parties" and sometimes individually as “party”.

WHEREAS, Jefferson & Main LLC (herein referred to as the “**OWNER AND DEVELOPER**”) is the owner and developer of the property located at 41 W. Jefferson Avenue, commonly known as the R. R. Breitwieser Corner Subdivision (hereinafter referred to as the “**SUBJECT PROPERTY**”).

WHEREAS, the OWNER and DEVELOPER proposes to develop the SUBJECT PROPERTY with a multi-tenant commercial building.

WHEREAS, in addition to streetscape improvements required to be performed in conjunction with the redevelopment of the SUBJECT PROPERTY pursuant to the provisions of the Naperville Municipal Code, including but not limited to the Naperville Downtown 2030 Plan, the OWNER AND DEVELOPER has agreed, at the CITY’S request, to install and construct certain other improvements adjacent to the SUBJECT PROPERTY subject to reimbursement therefor by the CITY as provided herein.

NOW THEREFORE, this Cost Sharing Agreement is entered into by and between the CITY and the OWNER AND DEVELOPER as follows:

1. RECITALS INCORPORATED. The above-stated recitals are a material part of this AGREEMENT and are hereby incorporated in this paragraph 1 by reference.
2. STREET IMPROVEMENTS. Subject to the reimbursement provisions for certain improvements as provided herein, it shall be the OWNER AND DEVELOPER’S sole responsibility to design and improve areas of Main Street and Jefferson Avenue adjacent to the Subject Property in accordance with the approved Final Engineering Plans for R. R. Breitwieser Corner Subdivision, prepared by Roake and Associates, Inc., dated January 15, 2018, last revised August 21, 2018 (“**Street Improvements**”), as those plans may be modified with the written consent of the City Engineer. Said Street Improvements shall be completed by the OWNER AND DEVELOPER and approved by the City Engineer prior to issuance of any temporary or final occupancy permit for the SUBJECT PROPERTY. However, a stocking and training permit may be granted by the City Engineer before the Street Improvements are completed.

3. CITY SHARE OF STREET IMPROVEMENTS.

- 3.1 Subject to the provisions set forth herein, the City shall reimburse the OWNER AND DEVELOPER for the actual costs of construction of the following components of the Street Improvements as depicted on Attachment #1:
- i. Improvements on Jefferson Avenue and Main Street up to the back of the curb, excluding the on-street parking areas on Main Street;
 - ii. Sidewalk and streetscape improvements on Main Street north of the northern boundary line of the SUBJECT PROPERTY; and
 - iii. Improvements related to the relocation of a streetlight control cabinet and removal and construction of storm sewer inlets as depicted on Sheet 3 of Attachment #1.
- 3.2 The Estimated Cost Sharing Exhibit prepared by Roake and Associates, Inc, dated June 19, 2018, attached hereto as Attachment #2, reflects the estimated cost to be paid by the CITY and the OWNER AND DEVELOPER on a shared cost basis by line item.
- 3.3 Upon completed construction of the Street Improvements, and approval thereof by the City Engineer, the OWNER AND DEVELOPER shall submit one or more invoices to the City Engineer, along with documentation to the satisfaction of the City Engineer, reflecting the actual costs for construction and installation of the Street Improvements in conformance with the Final Engineering Plans or any subsequent field changes approved by the City Engineer. The OWNER AND DEVELOPER shall also provide an affidavit, sworn statements and lien waivers from all contractors and material suppliers in a form acceptable to the City Engineer.
- 3.4 Within sixty (60) days of receipt of the documentation described in Section 3.3. above, the City shall reimburse the OWNER AND DEVELOPER for the CITY's share of the actual as-built costs of the Street Improvements up to a total of one hundred and forty one thousand nine hundred and twenty five dollars, and seventy two cents (\$141,925.72) (estimated costs plus 10% contingency) unless an additional amount is approved in writing by the City Engineer (hereinafter "CITY SHARE"). The OWNER AND DEVELOPER shall be responsible for all other costs associated with the Street Improvements other than said CITY SHARE.
4. WARRANTY. The OWNER AND DEVELOPER agrees to correct any defect in material and/or workmanship with respect to the Street Improvements for a period of one (1) year from the date said Street Improvements are approved by the City Engineer.
5. DEFENSE, INDEMNIFICATION, AND HOLD HARMLESS. OWNER AND DEVELOPER shall defend (with legal counsel approved by the CITY, which approval

shall not be unreasonably withheld), indemnify, and hold harmless the City of Naperville, and its officers, agents, employees, and representatives from and against any cost, liability, judgment, expenses, attorneys' fees, claims, actions or damages of any kind, including but not limited to personal injury, death, property damage, and any mechanics or other lien or encumbrance of any kind, arising out of any act or omission of OWNER AND DEVELOPER and OWNER AND DEVELOPER'S contractor(s) and subcontractor(s) related to OWNER AND DEVELOPER'S responsibilities under this AGREEMENT. Nothing contained herein shall be construed as a limitation or waiver of defenses available to the CITY or its officers, agents, and employees, including, but not limited to the Illinois Local Government and Local Governmental Employees Tort Immunity Act.

6. GENERAL PROVISIONS:

- 6.1 Binding Effect. This AGREEMENT shall be binding upon the parties hereto, and their successors, assigns, and transferees.
- 6.2 Ambiguities. If any term of this AGREEMENT is ambiguous, it shall not be construed for or against either party hereto on the basis that the party did or did not write it.
- 6.3 Choice of Law/Venue. This AGREEMENT shall in all respects be subject to and construed in accordance with and governed by the laws of the State of Illinois. Venue for any action arising out of the terms or conditions of this AGREEMENT shall be proper only in the Circuit Court for the Eighteenth Judicial Circuit, DuPage County, Illinois.
- 6.4 Complete Agreement. This AGREEMENT sets forth all the covenants, conditions and promises between the parties with regard to the subject matter set forth herein. There are no covenants, promises, agreements, conditions or understandings between the parties, either oral or written, other than those contained in this AGREEMENT.
- 6.5 Authority. The officer or representative of the OWNER AND DEVELOPER who has executed this AGREEMENT warrant that he/she has been lawfully authorized to execute this AGREEMENT on its behalf. The City Manager and City Clerk hereby warrant that they have been lawfully authorized by the City Council to execute this AGREEMENT.
- 6.6 Effective Date. This AGREEMENT shall be effective upon the date last signed by either party hereto.

/SIGNATURES ON FOLLOWING PAGES/

OWNER AND DEVELOPER:

Jefferson & Main, LLC
510 White Oak Drive, Naperville, IL 60540

C L S y s t o
Signature

Constance L. Systo
Printed Name

Managing Member
Title

The foregoing instrument was acknowledged before me by CONSTANCE L SYSTO this

11th day of DECEMBER, 2018.

CARRIE A FERGUSON
12/6/21

Notary Public
My Commission Expires:

Carrie A Ferguson
Notary Public

(SEAL)



CITY OF NAPERVILLE

By: _____
Steve Chirico
Mayor

Attest:

By: _____
Pam Gallahue, Ph.D.
City Clerk

Date: _____

Engineer's Estimate of Probable Cost

Street Improvement Budget - Plans Revised 06/12/2018										Street Improvements (Costs bore by City)			R. R. Breitwieser Corner (Costs bore by Jefferson & Main, LLC)			Total		
No.	Item	Unit	Unit Price	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount			
1.	Tree Removal	EA	\$ 1,000.00	-	\$ -	-	\$ -	4	\$ 4,000.00	4	\$ 4,000.00	4	\$ 4,000.00	4	\$ 4,000.00			
2.	Tree Grate Removal and Replacement (Complete)	EA	\$ 2,000.00	-	\$ -	-	\$ -	1	\$ 2,000.00	1	\$ 2,000.00	1	\$ 2,000.00	1	\$ 2,000.00			
3.	Tree Frame and Grate Removal	EA	\$ 500.00	-	\$ -	-	\$ -	5	\$ 2,500.00	5	\$ 2,500.00	5	\$ 2,500.00	5	\$ 2,500.00			
4.	Special Excavation	CY	\$ 50.00	105	\$ 5,250.00	-	\$ -	-	\$ -	-	\$ -	105	\$ 5,250.00	105	\$ 5,250.00			
5.	Unsuitable Earth Excavation	CY	\$ 60.00	100	\$ 6,000.00	-	\$ -	-	\$ -	-	\$ -	100	\$ 6,000.00	100	\$ 6,000.00			
6.	Concrete Washout	EA	\$ 2,000.00	-	\$ -	-	\$ -	1	\$ 2,000.00	1	\$ 2,000.00	1	\$ 2,000.00	1	\$ 2,000.00			
7.	Inlet Filter Basket	EA	\$ 185.00	4	\$ 740.00	-	\$ -	-	\$ -	-	\$ -	4	\$ 740.00	4	\$ 740.00			
8.	Cap Existing Sanitary Service Line	EA	\$ 4,758.60	-	\$ -	-	\$ -	1	\$ 4,758.60	1	\$ 4,758.60	1	\$ 4,758.60	1	\$ 4,758.60			
9.	Cap Existing Water Service Line at Main	EA	\$ 2,762.25	-	\$ -	-	\$ -	1	\$ 2,762.25	1	\$ 2,762.25	1	\$ 2,762.25	1	\$ 2,762.25			
10.	6" PVC Sanitary Sewer - SDR 26	LF	\$ 352.98	-	\$ -	-	\$ -	42	\$ 14,825.16	42	\$ 14,825.16	42	\$ 14,825.16	42	\$ 14,825.16			
11.	Drop Manhole, Type A - 4' Diameter w/ Neenah R-1772 Frame & Lid	EA	\$ 6,778.20	-	\$ -	-	\$ -	1	\$ 6,778.20	1	\$ 6,778.20	1	\$ 6,778.20	1	\$ 6,778.20			
12.	Trench Backfill (Sanitary)	CY	\$ 41.15	-	\$ -	-	\$ -	47	\$ 1,934.05	47	\$ 1,934.05	47	\$ 1,934.05	47	\$ 1,934.05			
13.	Remove Existing 10" Storm Sewer	LF	\$ 65.84	47	\$ 3,094.48	-	\$ -	-	\$ -	-	\$ -	47	\$ 3,094.48	47	\$ 3,094.48			
14.	Remove Existing Storm Sewer Inlet	EA	\$ 624.91	2	\$ 1,249.82	-	\$ -	-	\$ -	-	\$ -	2	\$ 1,249.82	2	\$ 1,249.82			
15.	Remove Existing Storm Manhole	EA	\$ 624.91	1	\$ 624.91	-	\$ -	-	\$ -	-	\$ -	1	\$ 624.91	1	\$ 624.91			
16.	Plug Existing Openings - Storm Sewer	EA	\$ 203.40	4	\$ 813.60	-	\$ -	-	\$ -	-	\$ -	4	\$ 813.60	4	\$ 813.60			
17.	8" DIP Storm Sewer	LF	\$ 186.76	-	\$ -	-	\$ -	20	\$ 3,735.20	20	\$ 3,735.20	20	\$ 3,735.20	20	\$ 3,735.20			
18.	10" DIP Storm Sewer	LF	\$ 456.55	3	\$ 1,369.65	-	\$ -	-	\$ -	-	\$ -	3	\$ 1,369.65	3	\$ 1,369.65			
19.	Adjust Rim	EA	\$ 435.00	1	\$ 435.00	-	\$ -	-	\$ -	-	\$ -	1	\$ 435.00	1	\$ 435.00			
20.	Inlet, Type "A" - 3' Diameter with Frame R-3525-L (Over Existing Storm)	EA	\$ 4,274.91	2	\$ 8,549.82	-	\$ -	-	\$ -	-	\$ -	2	\$ 8,549.82	2	\$ 8,549.82			
21.	Inlet, Type "A" - 3' Diameter with Existing Frame (Over Existing Storm)	EA	\$ 4,394.91	1	\$ 4,394.91	-	\$ -	-	\$ -	-	\$ -	1	\$ 4,394.91	1	\$ 4,394.91			
22.	Inlet, Type "A" - 2' Diameter with Frame R-3525-L	EA	\$ 4,084.91	1	\$ 4,084.91	-	\$ -	-	\$ -	-	\$ -	1	\$ 4,084.91	1	\$ 4,084.91			
23.	Core Existing Storm w/ Inserta Tee, 8"	EA	\$ 1,710.00	-	\$ -	-	\$ -	1	\$ 1,710.00	1	\$ 1,710.00	1	\$ 1,710.00	1	\$ 1,710.00			
24.	Cleanout, 8" with Frame and Lid EJIW 1566	EA	\$ 2,170.00	-	\$ -	-	\$ -	1	\$ 2,170.00	1	\$ 2,170.00	1	\$ 2,170.00	1	\$ 2,170.00			
25.	Trench Backfill (Storm)	CY	\$ 15.62	10	\$ 156.20	-	\$ -	16	\$ 249.92	16	\$ 249.92	26	\$ 406.12	26	\$ 406.12			
26.	Watermain, 6" DIP CL 52 Polywrapped	LF	\$ 273.75	-	\$ -	-	\$ -	16	\$ 4,380.00	16	\$ 4,380.00	16	\$ 4,380.00	16	\$ 4,380.00			
27.	Watermain, 8" DIP CL 52 Polywrapped	LF	\$ 89.68	-	\$ -	-	\$ -	171	\$ 15,335.28	171	\$ 15,335.28	171	\$ 15,335.28	171	\$ 15,335.28			
28.	Fire Hydrant w/ Auxiliary Valve	EA	\$ 5,190.00	-	\$ -	-	\$ -	1	\$ 5,190.00	1	\$ 5,190.00	1	\$ 5,190.00	1	\$ 5,190.00			
29.	8" Valve in 5' Dia. Vault with R-1772 Frame & Lid (Pressure Connection)	EA	\$ 8,280.75	-	\$ -	-	\$ -	1	\$ 8,280.75	1	\$ 8,280.75	1	\$ 8,280.75	1	\$ 8,280.75			
30.	Pavement Patch - Full Depth	SY	\$ 102.67	15	\$ 1,540.05	-	\$ -	-	\$ -	-	\$ -	15	\$ 1,540.05	15	\$ 1,540.05			
31.	Trench Backfill (Watermain)	CY	\$ 32.68	-	\$ -	-	\$ -	138	\$ 4,509.84	138	\$ 4,509.84	138	\$ 4,509.84	138	\$ 4,509.84			
32.	Traffic Control and Protection	LS	\$ 12,435.00	1	\$ 12,435.00	-	\$ -	1	\$ 6,217.50	1	\$ 6,217.50	1	\$ 12,435.00	1	\$ 12,435.00			
33.	Remove Existing Concrete Curb and Gutter	LF	\$ 10.00	288	\$ 2,880.00	-	\$ -	-	\$ -	-	\$ -	288	\$ 2,880.00	288	\$ 2,880.00			
34.	Remove Existing Concrete Sidewalk	SF	\$ 3.00	304	\$ 912.00	-	\$ -	1,514	\$ 4,542.00	1,514	\$ 4,542.00	1,818	\$ 5,454.00	1,818	\$ 5,454.00			
35.	Remove Existing Brick Paver Sidewalk	SF	\$ 2.00	-	\$ -	-	\$ -	756	\$ 1,512.00	756	\$ 1,512.00	756	\$ 1,512.00	756	\$ 1,512.00			
36.	Pavement Milling, Varies 1" - 8" (Alternate 1)	SY	\$ 37.00	310	\$ 11,470.00	-	\$ -	-	\$ -	-	\$ -	310	\$ 11,470.00	310	\$ 11,470.00			
37.	Aggregate Base Course, Type "B", CA-6, 8"	SY	\$ 30.19	-	\$ -	-	\$ -	64	\$ 1,932.16	64	\$ 1,932.16	64	\$ 1,932.16	64	\$ 1,932.16			
38.	Bituminous Materials (Prime Coat)	GAL	\$ 6.15	47	\$ 289.05	-	\$ -	36	\$ 221.40	36	\$ 221.40	83	\$ 510.45	83	\$ 510.45			
39.	Aggregate (Prime Coat)	TON	\$ 40.00	1	\$ 40.00	-	\$ -	-	\$ -	-	\$ -	1	\$ 40.00	1	\$ 40.00			
40.	Concrete Curb and Gutter - Type B6.12 w/ Aggregate Base	LF	\$ 22.25	325	\$ 7,231.25	-	\$ -	125	\$ 2,781.25	125	\$ 2,781.25	450	\$ 10,012.50	450	\$ 10,012.50			
40A	Concrete Curb - Type B6 w/ Aggregate Base	LF	\$ 20.00	5	\$ 100.00	-	\$ -	5	\$ 100.00	5	\$ 100.00	5	\$ 100.00	5	\$ 100.00			

Engineer's Estimate of Probable Cost

Street Improvement Budget - Plans Revised 06/12/2018									
No.	Item	Unit	Unit Price	Street Improvements (Costs bore by City)		R. R. Breitwieser Corner (Costs bore by Jefferson & Main, LLC)		Total	
				Quantity	Amount	Quantity	Amount	Quantity	Amount
41.	Hot Mix Asphalt Binder Course, IL-19, N50	TON	\$ 203.10	-	\$ -	9	\$ 1,827.90	9	\$ 1,827.90
42.	Hot Mix Asphalt Surface Course, IL - 9.5, N50 (Alternate 1)	TON	\$ 206.10	27	\$ 5,564.70	-	\$ -	27	\$ 5,564.70
43.	Hot Mix Asphalt Surface Course, IL - 9.5, N50	TON	\$ 206.10	-	\$ -	6	\$ 1,236.60	6	\$ 1,236.60
44.	Asphalt Surface Coloring & Pattern Stamping (Stamped Asphalt Crosswalk)	LS	\$ 8,085.00	1	\$ 8,085.00	-	\$ -	1	\$ 8,085.00
45.	Asphalt Walk / Drive Transition	SY	\$ 71.12	-	\$ -	34	\$ 2,418.08	34	\$ 2,418.08
46.	PCC Pavement, 8" with 4" Aggregate Base	SY	\$ 62.10	98	\$ 6,085.80	52	\$ 3,229.20	150	\$ 9,315.00
47.	PCC Sidewalk, 5" with 4" Aggregate Base	SF	\$ 5.20	155	\$ 806.00	1,695	\$ 8,814.00	1,850	\$ 9,620.00
48.	Detectable Warning Tile	SF	\$ 22.85	15	\$ 342.75	75	\$ 1,713.75	90	\$ 2,056.50
49.	Brick Pavers	SF	\$ 17.50	-	\$ -	1,190	\$ 20,825.00	1,190	\$ 20,825.00
50.	Relay Existing Brick Paver Sidewalk	SF	\$ 6.50	-	\$ -	15	\$ 97.50	15	\$ 97.50
51.	Raised Parkway Planter, Complete	LF	\$ 50.00	-	\$ -	186	\$ 9,300.00	186	\$ 9,300.00
52.	Seat Wall	LF	\$ 200.00	-	\$ -	13.5	\$ 2,700.00	13.5	\$ 2,700.00
53.	Pedestrian Light, New Foundation (Main St.)	EA	\$ 6,500.00	-	\$ -	1	\$ 6,500.00	1	\$ 6,500.00
54.	Remove & Relocate Existing Pedestrian Light, New Foundation (Main St.)	EA	\$ 2,298.00	-	\$ -	4	\$ 9,192.00	4	\$ 9,192.00
55.	Remove & Reinstall Existing Pedestrian Light, Same Foundation (Jefferson Ave.)	EA	\$ 640.00	-	\$ -	1	\$ 640.00	1	\$ 640.00
56.	Remove & Relocate Existing Roadway Light, New Foundation (Main St.)	EA	\$ 2,500.00	1	\$ 2,500.00	-	\$ -	1	\$ 2,500.00
56A	Add Roadway Light, New Foundation (Main and Jefferson Corner) (Fixture not inclu	EA	\$ 6,441.00	-	\$ -	1	\$ 6,441.00	1	\$ 6,441.00
57.	Remove & Reinstall Street Light Controller, New Foundation, Complete	EA	\$ 5,000.00	1	\$ 5,000.00	-	\$ -	1	\$ 5,000.00
58.	Unit Duct, 2"	LF	\$ 17.40	65	\$ 1,131.00	135	\$ 2,349.00	200	\$ 3,480.00
59.	Heavy Duty Galvanized Steel Conduit, 2"	LF	\$ 30.00	40	\$ 1,200.00	-	\$ -	40	\$ 1,200.00
60.	Pavement Markings & Traffic Signs	LS	\$ 850.00	1	\$ 850.00	-	\$ -	1	\$ 850.00
61.	Landscape Materials (Landscape and Decorative Fence)	LS	\$31,500.00	-	\$ -	1	\$ 31,500.00	1	\$ 31,500.00
61A	Irrigation	LS	\$20,000.00	-	\$ -	1	\$ 20,000.00	1	\$ 20,000.00
62.	Construction Layout, Staking & Record Drawings	LS	\$20,000.00	30%	\$ 6,000.00	70%	\$ 14,000.00	100%	\$ 20,000.00
Total Improvement Cost					\$ 105,008.40		\$ 247,109.59		\$ 352,117.99
GC Overhead, Profit and Insurance					\$ 7,875.63		\$ 18,533.22		\$ 26,408.85
Subtotal					\$ 112,884.03		\$ 265,642.81		\$ 378,526.84
Total Improvement Cost + 10%					\$ 124,172.43		\$ 292,207.09		\$ 416,379.52

Alternate 2 - Full Depth Roadway Pavement Removal and Replacement									
No.	Item	Unit	Unit Price	Street Improvements (Costs bore by City)		R. R. Breitwieser Corner (Costs bore by Jefferson & Main, LLC)		Total	
				Quantity	Amount	Quantity	Amount	Quantity	Amount
63.	Special Excavation	CY	\$ 50.00	167	\$ 8,350.00	-	\$ -	167	\$ 8,350.00
64.	Aggregate Sub-Base Course, Type "B", CA-6, 2"	SY	\$ 7.55	311	\$ 2,348.05	-	\$ -	311	\$ 2,348.05
65.	Aggregate Sub-Base Course, CA-1, 6"	SY	\$ 10.00	311	\$ 3,110.00	-	\$ -	311	\$ 3,110.00
66.	Hot Mix Asphalt Base Course, N50	TON	\$ 120.00	72	\$ 8,640.00	-	\$ -	72	\$ 8,640.00
67.	Hot Mix Asphalt Binder Course, IL-19, N50	TON	\$ 120.00	41	\$ 4,920.00	-	\$ -	41	\$ 4,920.00
68.	Hot Mix Asphalt Surface Course, IL - 9.5, N50	TON	\$ 130.00	36	\$ 4,680.00	-	\$ -	36	\$ 4,680.00

Engineer's Estimate of Probable Cost

Street Improvement Budget - Plans Revised 06/12/2018				Street Improvements (Costs bore by City)		R. R. Breitwieser Corner (Costs bore by Jefferson & Main, LLC)		Total	
No.	Item	Unit	Unit Price	Quantity	Amount	Quantity	Amount	Quantity	Amount
	Total Full Depth Pavement Improvement Cost		\$32,207.38		\$ 32,048.05		\$ -		\$ 32,048.05
	Additional Cost of Full Depth Pavement (Alternate 2 minus Alternate 1)		\$14,872.63		\$ 15,013.35		\$ -		\$ 15,013.35
	GC Overhead, Profit and Insurance				\$ 1,126.00		\$ -		\$ 1,126.00
	Subtotal				\$ 16,139.35		\$ -		\$ 16,139.35
	Total Alternate 2 Cost + 10%				\$ 17,753.29		\$ -		\$ 17,753.29
	Grand Total with Alternate #2				\$ 141,925.72				

added line item
quantity discrepancy.