

COOPERATIVE MAINTENANCE AGREEMENT

THIS AGREEMENT, is entered by and between the County of Scott, a body politic and corporate under the laws of the State of Minnesota, hereinafter referred to as the "County" and the City of Shakopee, a body politic and corporate under the laws of the State of Minnesota, hereinafter referred to as the "City".

RECITALS:

- A. County is implementing an Advanced Traffic Management System (ATMS) to actively manage numerous traffic signals on the County road system.
- B. City owns and operates an existing traffic signal at the Southbridge Parkway/Old Carriage Court intersection (hereinafter referred to as the "Signal") located at the entrance to a large commercial area that generates significant traffic. This Signal is located in close proximity to a County traffic signal at the County Highway (CH) 18/CH 21/Southbridge Parkway intersection.
- C. County and City agree it is in the best interest of the traveling public that management of the Signal be provided by the County's ATMS due to its proximity and needed coordination with the county's adjacent traffic signal.
- D. County and City agree that connecting the Signal to the County ATMS system will provide the infrastructure needed for County to manage the Signal.
- E. It is contemplated that said work shall be carried out by the parties under the provisions of Minn. Stat. Sec. 471.59.

NOW, THEREFORE, IT IS HEREBY AGREED:

- 1. The recitals above are incorporated and made a part of this agreement as if they had been fully restated.
- 2. County shall execute a change order under its construction contract for CP 99-23 to add the Signal work for the fiber connect installation and the equipment necessary to incorporate the Signal into the County ATMS.
- 3. The County received a cost estimate for the Signal work to the ATMS system which is estimated at seven thousand four hundred seventy-four dollars and ten cents (\$7,474.10), attached and incorporated hereto as Exhibit A. When the Signal work is complete, County will submit an invoice to City for the payment due using actual quantities based on Exhibit A unit

prices and a one-time license fee of nine hundred seventy nine dollars and no cents (\$979.00). City shall pay all amounts due within thirty (30) days.

4. County shall manage the Signal operations subject to City oversight. County shall provide Signal phase timing and coordination with other area signals, Signal component firmware updates and maintenance of ATMS communications devices installed in the Signal control cabinet. City shall maintain rights to direct changes to County signal management decisions for the Signal upon written communication to the County.
5. City shall reimburse County two hundred fifty dollars and no cents (\$250.00) for ATMS cloud hosting and managed services fees in 2023. Starting in 2024, City shall reimburse County four hundred thirty dollars and no cents (\$430.00) annually for ATMS cloud hosting, managed services, software maintenance and support fees. County may adjust these fees based on renewal or change in costs with the current ATMS software provider upon written approval from the City. City payment to the County shall be made within thirty (30) days of receipt of a proper invoice from the County.
6. In addition, City agrees to reimburse the County on an actual cost basis for Signal management including County labor, equipment and materials used to program, time and optimize the Signal. County shall invoice the City annually by February 1st for the cost of Signal management for the previous year. City payment to the County shall be made within thirty (30) days of receipt of a proper invoice from the County.
7. City shall be responsible for placing the fiber into the Gopher State One Call utility locating service and for locating the buried fiber optic line when underground work/excavation notifications are received. City shall be responsible for any repairs to the buried fiber optic utility.
8. Either party may terminate this agreement upon sixty (60) days written notice to the other party.
9. A future County Global Maintenance Agreement, upon execution, may supersede maintenance responsibilities stated in this Agreement.
10. Since each party is a political subdivision of the State of Minnesota, each party shall maintain a program of self-insurance or insurance general liability and automobile liability coverage protecting itself, its officers, agents, employees and duly authorized volunteers against any usual and customary public liability claims to the limits prescribed under Minn. Stat. Sec. 466.04 and Workers' Compensation in accordance with the Minnesota statutory requirements. Said policies shall be kept in effect during the entire term of this Agreement.

11. All records kept by the City and the County with respect to this Agreement shall be subject to examination by the representatives of each party. All data collected, created, received, maintained or disseminated for any purpose by the activities of the County or City pursuant to this Agreement shall be governed by Minnesota Statutes Chapter 13, as amended, and the Minnesota Rules implementing such Act now in force or hereafter adopted.
12. Neither party, its officers, agents or employees, either in their individual or official capacity, shall be responsible or liable in any manner to the other party for any claim, demand, action or cause of action of any kind or character arising out of, allegedly arising out of or by reason of the performance, negligent performance or nonperformance of the described maintenance, restoration, repair or replacement work by the other party, or arising out of the negligence of any contractor under any contract let by the other party for the performance of said work; and each party agrees to defend, save, keep and hold harmless the other, its officers, agents and employees harmless from all claims, demands, actions or causes of action arising out of negligent performance by its officers, agents or employees.
13. It is further agreed that neither party to this Agreement shall be responsible or liable to the other or to any other person or entity for any claims, damages, actions, or causes of actions of any kind or character arising out of, allegedly arising out of or by reason of the performance, negligent performance or nonperformance of any work or part hereof by the other as provided herein; and each party further agrees to defend at its sole cost and expense and indemnify the other party for any action or proceeding commenced for the purpose of asserting any claim of whatsoever character arising in connection with or by virtue of performance of its own work as provided herein. Each party's obligation to indemnify the other under this clause shall be limited in accordance with the statutory tort liability limitation as set forth in Minnesota Statutes Chapter 466.04 to limit each party's total liability for all claims arising from a single occurrence, include the other party's claim for indemnification, to the limits prescribed under 466.04. It is further understood and agreed that the Parties' total liability shall be limited by Minnesota Statute Section 471.59, Subdivision 1(a) as a single governmental unit.
14. It is further agreed that any and all employees of each party and all other persons engaged by a party in the performance of any work or services required or provided herein to be performed by the party shall not be considered employees, agents or independent contractors of the other party, and that any and all claims that may or might arise under the Worker's Compensation Act or the Unemployment Compensation Act of the State of Minnesota on behalf of said employees while so engaged and any and all claims made by any third parties as a

consequence of any act or omission on the part of said employees while so engaged shall be the sole responsibility of the employing party and shall not be the obligation or responsibility of the other party.

15. The provisions of Minn. Stat. Sec. 181.59 and of any applicable local ordinance relating to Civil Rights and discrimination and the affirmative action policy statement of Scott County shall be considered a part of this Agreement as though fully set forth herein.
16. Pursuant to Minn. Stat. Sec. 16C.05, subd. 5, the books, records, documents, and accounting procedures and practices of the County and City pursuant to this Agreement shall be subject to examination by the County, City and the State Auditor. Complete and accurate records of the work performed pursuant to this Agreement shall be kept by the County and City for a minimum of six (6) years following termination of this Agreement for such auditing purposes. The retention period shall be automatically extended during the course of any administrative or judicial action involving the County or the City regarding matters to which the records are relevant. The retention period shall be automatically extended until the administrative or judicial action is finally completed or until the authorized agent of the County or City notifies each party in writing that the records no longer need to be kept.
17. The laws of the State of Minnesota shall govern all questions and interpretations concerning the validity and construction of this Agreement and the legal relations between the parties and performance under it. The appropriate venue and jurisdiction for any litigation hereunder shall be those courts located with the County of Scott, State of Minnesota. Litigation, however, in the federal courts involving the parties shall be in the appropriate federal court within the State of Minnesota.
18. In the event any provision of this Agreement shall be held invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties unless such invalidity or non-enforceability would cause the Agreement to fail its purpose. One or more waivers by either party of any provision, term, condition or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.
19. The County's Authorized Agent for the purpose of the administration of this Agreement is Mark Callahan, Traffic Engineer, or his successor. His current address and phone number are Scott County Government Center, 200 Fourth Avenue West, Shakopee, MN 55379, (952) 496-8367.

The City's Authorized Agent for the purpose of the administration of this Agreement is Steve Lillehaug, Public Works Director/City Engineer or his successor. His current address and

phone number are 485 Gorman Street, Shakopee, MN 55379, (952) 233-9361. Any change in name, address, or telephone shall be noticed to the other party.

DRAFT

IN TESTIMONY WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized officers as of the day and year first above written.

CITY OF SHAKOPEE

(SEAL)

By _____
William Mars, Mayor

And _____
William H. Reynolds, City Administrator

Date _____

Date _____

COUNTY OF SCOTT

By _____
Lezlie A. Vermillion, County Administrator

Date _____

Upon proper execution, this agreement will be legally valid and binding.

RECOMMEND FOR APPROVAL:

By _____
Jeanne Andersen, Assistant County Attorney

By _____
Anthony J. Winiecki, County Engineer

Date _____

Date _____

Exhibit A

Estimated Cost to Connect Southbridge Parkway/Old Carriage Court Traffic Signal to Scott County Trunk Fiber Network:

Item Description		Number of Units	Unit Description	Unit Cost	Total Cost
1.5" NMC		25	Ft	\$4.92	\$123.00
CAT 6		12	Ft	\$3.30	\$39.60
FO Cable (36SM)		835	Ft	\$1.50	\$1,252.50
Fiber Optic Patch Panel		1	Each	\$652.00	\$652.00
Fiber Optic Pigtail Termination		1	Each	\$1,007.00	\$1,007.00
Pull Vault –		1	Each	\$1,800.00	\$1,800.00
1.5" NMC Bored		100	Ft	\$14.00	\$1,400.00
Fiber splicing		1	Each	\$1,200.00	\$1,200.00
	Total				\$7,474.10