

CONSTRUCTION COOPERATIVE AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 2023 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 and the City seek to improve County Highway (CH) 16 at Fuller Street by installing a traffic signal system with flashing yellow arrow (FYA) signalization, Emergency Vehicle Preemption (EVP), blue enforcement lighting, and ADA compliant Accessible Pedestrian Signal (APS) push button stations and creating fiber optic interconnectivity to the County Traffic fiber backbone, (hereinafter referred to as the "Project").
- B. The above described Project lies within the corporate limits of the City.
- C. The County Engineer has prepared an estimate of the cost of quantities and unit prices of material and labor for the above described Project and an estimate of the total cost for contract work in the sum of six hundred fifty five thousand two hundred ninety nine dollars and no cents (\$655,299.00). A copy of said estimate (marked **Exhibit "A"**) is attached hereto.
- D. The project will be constructed in 2023 in accordance with the 2023 County Project ("CP") 16-54 listed in the 2023-2032 Transportation Improvement Program.
- E. It is contemplated that said improvement work shall be carried out by the parties under the provisions of Minn. Stat. Sec. 162.17, subd. 1.

NOW, THEREFORE, IT IS HEREBY AGREED:

- 1. The recitals above are hereby restated and incorporated herein.
- 2. The County shall advertise for bids for the work and construction of the Project as County Project No. CP 16-54, State Aid Project No.070-616-037 and Municipal State Aid Project No. 166-117-004, receive and open bids pursuant to said advertisement and enter into a contract ("Contract") with the successful bidder at the unit prices specified in the bid of such bidder, according to law in such case provided for counties. The Contract will include the plans and specifications for the Project work prepared by the County or its agents, which plans and specifications are by this reference made a part hereof.

3. County shall have overall authority to administer the Contract and inspect the construction of the Contract work for the Project. County shall have ultimate authority in initiating and determining change orders, supplemental agreements and final quantities. County will provide primary inspection for all Contract work. The City Engineer shall cooperate with the County Engineer and his staff at their request to administer the contract.
4. City shall reimburse the County for its share of the construction cost of the Contract work for said Project and the total final contract construction cost shall be apportioned as set forth in the Division of Cost Summary in Exhibit "A". It is further specifically agreed that the estimate referred to in this agreement is only a preliminary estimate of the construction cost for the contract work on the project and that the unit prices set forth in the Contract and the final quantities as measured by the County Engineer shall govern in computing the total final construction cost for apportioning the cost of the Project according to the provisions of this paragraph.
5. In addition to payment of the City's share of the contract construction cost, the County and the City further agree to apportion costs designated as Design Engineering, which includes all actual costs of planning, design and preparation of plans and specifications. The County and City shall share in design engineering costs for the traffic signal and ADA improvements on a 50%/50% basis.
6. The City shall, based on the Contract price, deposit with the Scott County Treasurer one hundred percent (100%) of the estimated City's share of the Project as partial payment within thirty (30) days after award of Contract or execution of this Agreement, whichever is later. The final amount of the City's share of costs of the Project shall be determined upon completion of the Project and any amount remaining due to the County shall be reflected in the County's final, itemized, statement of the Project costs submitted to the City. In the event the initial payment exceeds the City's share of these final costs, such overpayment shall be returned to the City by the County.
7. The County Engineer shall prepare monthly progress reports as provided in the specifications. A copy of these reports shall be furnished to the City upon request.
8. In the event that a dispute arises, the County and the City agree that all disputes between them arising out of or relating to this agreement may be submitted, upon agreement of both parties, to mediation, with the cost being shared equally.
9. Since each party is a political subdivision of the State of Minnesota, each party shall maintain 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.

10. All records kept by the City and the County with respect to the Project 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.
11. City agrees to provide any and all permanent or temporary right-of-way on property owned by the City and needed by County for the completion of the Project at no cost.
12. The City shall provide the electrical energy for the operation of the traffic control signal system and integral street lights installed under the Project, all at the sole cost and expense of the City.
13. Upon completion of the work, the County shall maintain and repair the traffic control signal systems at the sole cost and expense of the County except that the cost of maintenance and repairs to the EVP system shall be at the sole cost and expense of the City. The County will invoice the City for any expense associated with County work performed on the EVP system.
14. All timing of said EVP systems shall be determined by the County. The City shall not revise by addition or deletion, nor alter or adjust any component, part, sequence, or timing of the traffic control signal system or EVP system; however, nothing herein shall be construed as restraint of prompt, prudent action by properly constituted authorities in situations where a part of such traffic control signal system may be directly involved in an emergency.
15. The EVP systems provided for in this Agreement shall be installed, operated, maintained or removed in accordance with the following conditions and requirements:
 - a. Emitter units may be installed and used only on vehicles responding to an emergency as defined in Minn. Stat. Secs. 169.01, subd. 5 and 169.03. The City will provide the County Engineer or his duly appointed representative a list of all such vehicles with emitter units upon request.
 - b. Malfunctions of the EVP systems shall be reported to the County immediately.
 - c. In the event said EVP systems or components are, in the opinion of the County, being misused or the conditions set forth herein are violated, and such misuse or violation continues after receipt by the City of written notice thereof from the County, the County shall remove the EVP systems. Upon removal of the EVP systems pursuant to this paragraph, the field wiring, cabinet wiring, detector

receivers, infrared detector heads and indicator lamps and all other components shall become the property of the County.

16. The City shall maintain the integral streetlights including the luminaire and all its components at the sole cost and expense of the City, except for the County maintaining electrical energy to the luminaire head at the sole cost and expense of the County.
17. Initial pavement striping and markings will be included as part of the Project. The County shall be responsible for all subsequent pavement striping and markings on its county roads as required after the initial work and shall be responsible for one hundred percent (100%) of the subsequent related costs. The City shall be responsible for all subsequent striping and markings on its city roads, including pedestrian markings across its City roadway intersection legs, as required after the initial work and shall be responsible for one hundred percent (100%) of the subsequent related costs.
18. A future County Global Maintenance Agreement, upon execution, may supersede maintenance responsibilities stated in this Agreement.
19. 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.
20. 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.

21. 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.
22. 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.
23. 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.
24. 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.
25. 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.

26. The County's Authorized Agent for the purpose of the administration of this Agreement is Jonathan Rudolph, Professional Engineer, or his successor. His current address and phone number are Scott County, 200 Fourth Avenue West, Shakopee, MN 55379, and (952) 496-8004.
27. The City's Authorized Agent for the purpose of the administration of this Agreement is Micah Heckman, Assistant City Engineer, or his successor. His current address and phone number are Shakopee City Hall, 485 Gorman Street, Shakopee, MN 55379, and (952) 233-9363. Any change in name, address, or telephone shall be noticed to the other party.

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

By _____
Matt Lehman, Mayor

And _____
William H. Reynolds, City Administrator

Date _____

Date _____

COUNTY OF SCOTT

By _____
Lezlie 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: Division of Cost Summary – 50/50 Cost Share

Estimated Costs and Quantities

CSAH 16 at Fuller Street Signal System

Scott County (City of Shakopee)

Prepared by JMG (SEH) on March 23, 2023

Item No.	Item	Unit	Estimated Quantity	Estimated Unit Cost	Estimated Total Cost	SAP 070-616-037 Quantity	SAP 070-616-037 Estimated Cost	SAP 166-117-004 Quantity	SAP 166-117-004 Estimated Cost	County Local Funds Quantity	County Local Funds Estimated Cost
2011.601	As Built	Lump Sum	1	\$3,000.00	\$3,000.00	0.5	\$1,500.00	0.5	\$1,500.00		
2011.601	Construction Surveying	Lump Sum	1	\$10,000.00	\$10,000.00	0.5	\$5,000.00	0.5	\$5,000.00		
2021.501	Mobilization	Lump Sum	1	\$45,000.00	\$45,000.00	0.5	\$22,500.00	0.5	\$22,500.00		
2102.518	Pavement Marking Removal	Sq. Ft.	112	\$10.00	\$1,120.00	56	\$560.00	56	\$560.00		
2104.502	Salvage Sign	Each	10	\$50.00	\$500.00	1	\$50.00	1	\$50.00	8	\$400.00
2104.503	Remove Curb & Gutter	Lin. Ft.	138	\$10.00	\$1,380.00	69	\$690.00	69	\$690.00		
2104.503	Sawing Bit Pavement (Full Depth)	Lin. Ft.	158	\$5.00	\$790.00	79	\$395.00	79	\$395.00		
2104.504	Remove Concrete Driveway Pavement	Sq. Yd.	14	\$100.00	\$1,400.00	7	\$700.00	7	\$700.00		
2104.518	Remove Concrete Walk	Sq. Ft.	1594	\$3.00	\$4,782.00	797	\$2,391.00	797	\$2,391.00		
2104.518	Remove Bituminous Walk	Sq. Ft.	513	\$2.00	\$1,026.00	256.5	\$513.00	256.5	\$513.00		
2104.618	Remove and Replace Bituminous Pavement	Sq. Ft.	272	\$100.00	\$27,200.00	136	\$13,600.00	136	\$13,600.00		
2106.507	Excavation-Common	Cu. Yd.	88	\$70.00	\$6,160.00	44	\$3,080.00	44	\$3,080.00		
2211.507	Aggregate Base (CV) Class 5	Cu. Yd.	88	\$100.00	\$8,800.00	44	\$4,400.00	44	\$4,400.00		
2360.509	Type SP 9.5 Wearing Course Mix (2,C)	Ton	10	\$200.00	\$2,000.00	5	\$1,000.00	5	\$1,000.00		
2504.602	Adjust Valve Box-Water	Each	1	\$1,000.00	\$1,000.00	0.5	\$500.00	0.5	\$500.00		
2521.518	4" Concrete Walk	Sq. Ft.	1350	\$15.00	\$20,250.00	675	\$10,125.00	675	\$10,125.00		
2521.518	6" Concrete Walk	Sq. Ft.	617	\$20.00	\$12,340.00	308.5	\$6,170.00	308.5	\$6,170.00		
2531.504	8" Concrete Driveway Pavement	Sq. Yd.	15	\$100.00	\$1,500.00	7.5	\$750.00	7.5	\$750.00		
2531.603	Concrete Curb and Gutter	Lin. Ft.	170	\$40.00	\$6,800.00	85	\$3,400.00	85	\$3,400.00		
2531.618	Truncated Domes	Sq. Ft.	153	\$60.00	\$9,180.00	76.5	\$4,590.00	76.5	\$4,590.00		
2545.502	Underground Cable Splice	Each	2	\$500.00	\$1,000.00	1	\$500.00	1	\$500.00		
2545.502	Handhole	Each	1	\$2,000.00	\$2,000.00	0.5	\$1,000.00	0.5	\$1,000.00		
2545.502	Adjust Handhole	Each	1	\$500.00	\$500.00	0.5	\$250.00	0.5	\$250.00		
2563.601	Traffic Control	Lump Sum	1	\$10,000.00	\$10,000.00	0.5	\$5,000.00	0.5	\$5,000.00		
2563.602	Portable Changeable Message Sign	Each	4	\$2,000.00	\$8,000.00	2	\$4,000.00	2	\$4,000.00		
2564.502	Install Sign Panel	Each	2	\$100.00	\$200.00	1	\$100.00	1	\$100.00		
2564.518	Sign Panels Type C	Sq. Ft.	86	\$60.00	\$5,160.00	43	\$2,580.00	43	\$2,580.00		
2564.518	Sign Panels Type D	Sq. Ft.	74	\$60.00	\$4,440.00	37	\$2,220.00	37	\$2,220.00		
2565.501	Emergency Vehicle Preemption System	Lump Sum	1	\$7,400.00	\$7,400.00	0.5	\$3,700.00	0.5	\$3,700.00		
2565.501	Traffic Control Interconnect	Lump Sum	1	\$17,000.00	\$17,000.00	0.5	\$8,500.00	0.5	\$8,500.00		
2565.516	Traffic Control Signal System	System	1	\$242,000.00	\$242,000.00	0.5	\$121,000.00	0.5	\$121,000.00		
2573.502	Storm Drain Inlet Protection	Each	9	\$200.00	\$1,800.00	4.5	\$900.00	4.5	\$900.00		
2573.503	Sediment Control Log Type Compost	Lin. Ft.	617	\$3.00	\$1,851.00	308.5	\$925.50	308.5	\$925.50		
2575.602	Site Restoration	Each	4	\$5,000.00	\$20,000.00	2	\$10,000.00	2	\$10,000.00		
2582.518	Crosswalk Multi Comp Gr In (WR)	Sq. Ft.	972	\$10.00	\$9,720.00	486	\$4,860.00	486	\$4,860.00		
Total Estimated Construction Costs					\$495,299.00		\$247,449.50		\$247,449.50		\$400.00

County Materials Costs \$160,000.00

\$80,000.00

\$80,000.00

Total Estimated Project Construction Costs \$655,299.00

\$327,449.50

\$327,449.50

\$450.00