

**INTERGOVERNMENTAL COOPERATIVE AGREEMENT BETWEEN
THE CITY OF SHAKOPEE AND THE SHAKOPEE
MDEWAKANTON SIOUX COMMUNITY FOR THE MAINTENANCE AND
OPERATION OF MCKENNA ROAD SOUTH OF CSAH 16 IN SHAKOPEE,
MINNESOTA**

THIS INTERGOVERNMENTAL COOPERATIVE AGREEMENT (“Agreement”) is made and entered into this _____ day of _____, 2023, by and between the **CITY OF SHAKOPEE**, a Minnesota municipal corporation (“City”) and the **SHAKOPEE MDEWAKANTON SIOUX COMMUNITY**, a federally recognized Indian Tribe (“SMSC”).

RECITALS

- A.** McKenna Road (“Roadway”) in Shakopee (Exhibit A) south of County State Aid Highway (CSAH) 16 is a public roadway under the jurisdiction of the City.
- B.** The SMSC currently maintains the Roadway.
- C.** The parties desire to enter into this Agreement to establish their respective duties and obligations for the ongoing maintenance, repair, and reconstruction of the Roadway.
- D.** The City is authorized to enter into this Agreement pursuant to Minnesota Statutes § 471.59.

NOW, THEREFORE, in consideration of their mutual covenants the parties agree as follows:

- 1. EFFECTIVE DATE.** This Agreement shall become effective on the date set forth above.
- 2. MAINTENANCE OBLIGATIONS.** The SMSC shall be responsible for ongoing regular maintenance, including mowing, snow removal, snow and ice control and sweeping.
- 3. ROADWAY OBLIGATIONS.** The SMSC, at its sole expense, shall be responsible for all extraordinary maintenance including crack sealing, chip sealing, striping, overlays, lane widening, trails and sidewalks, license plate readers, rapid flash beacons, street lights, or installation of new signs where none currently exist, construction or reconstruction except in cases where such work is solely for the benefit and at the request of the City. During any such work the SMSC shall make provisions to allow traffic to pass. If it is necessary to block traffic to complete the work the SMSC shall provide the City ten (10) days notice and the SMSC and the City shall develop a detour plan. The SMSC shall also be responsible for Right-of-Way management consistent with the City’s code 90.30-90.58.
- 4. SMSC UTILITY OBLIGATION.** The SMSC, at its sole expense, shall be responsible for all repair and maintenance required for the SMSC Utilities. During any such work the SMSC shall make provisions to allow traffic to pass. If it is necessary to block traffic to complete the work the SMSC shall provide the City ten (10) days notice and the SMSC and the City will develop a detour plan. If the repair is an emergency repair the SMSC may begin the repair immediately after providing notice to the City regardless of any lane closures. If any SMSC Utilities work impacts City Utilities the City Utility impacts will be restored to an “as was or better” condition

subject to inspection and acceptance by the City and said restoration shall be at the sole expense of the SMSC. If repair work requires removing or cutting paving or any curb the curbing shall be replaced and the paving lane shall be saw cut and patched from curb to curb including repair or replacement of any subgrade.

5. ACTS AND OMISSIONS. Each party shall be responsible for its own acts and omissions and the results thereof to the extent authorized by law. Nothing in this Agreement constitutes a waiver by the City or the SMSC of any statutory or common law, defenses, immunities, or limits on liability. In no event shall the obligations of the City for a tort claim exceed the amount that the City would be obligated to pay under the provisions and limitations of Minn. Stat. Chap 466. In no event shall the obligations of the SMSC for a tort claim exceed the amount the SMSC would be obligated to pay under the provision and limitations of the SMSC Tort Claims Ordinance. SMSC shall defend, indemnify, and hold the City and its officers and employees harmless from any claims asserted against the City arising out of SMSC's performance of its duties and obligations under this Agreement.

6. DATA PRACTICES. All data created, collected, received, maintained or disseminated by the City for any purpose in the course of this Agreement is governed by the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, any other applicable state statute, or any state rules adopted to implement the act, as well as federal regulations on data privacy. The SMSC asserts that it is not subject to the Minnesota Government Data Practices Act.

7. LIMITATION OF REMEDIES. In the event of a breach of the Agreement, neither party shall be entitled to recover punitive, special, or consequential damages or damages for loss of business.

8. ASSIGNMENT. Neither party shall assign this Agreement, nor any interest arising herein, without the prior written consent of the other party.

9. SEVERABILITY. The provisions of this Agreement are severable. If any portion hereof is, for any reason, held by a court of competent jurisdiction to be contrary to law, such decision shall not affect the remaining provisions of this Agreement.

10. WAIVER. No action nor failure to act by the City or the SMSC shall constitute a waiver of any right or duty afforded any of them under the Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

11. DISPUTE RESOLUTION. The parties may meet if agreed to by both to attempt to negotiate an amicable resolution of any dispute arising from this Agreement.

12. NON-WAIVER OF IMMUNITY. Nothing in this agreement shall constitute a waiver of the SMSC's sovereign immunity to suit.

13. NOTICES. Notices to be given under this Agreement shall be given by enclosing the same in a sealed envelope, postage prepaid and deposited in same in the U.S. Postal Service, addressed to the parties as listed below:

City of Shakopee
Attn: Public Works Director
485 Gorman St.
Shakopee, MN 55379

Shakopee Mdewakanton Sioux Community
Attn: Tribal Administrator
2330 Sioux Trail NW
Prior Lake, MN 55372

14. SIGNING OF AGREEMENT. This Agreement may be signed in counterparts and on different dates by each party without affecting the validity thereof.

15. INTEGRATION. The entire and integrated agreement of the parties contained in this Agreement shall supersede all prior negotiations, representations, or agreements between the parties regarding the subject matter hereof, whether written or oral.

16. ENFORCEMENT OF TRAFFIC REGULATIONS. Nothing in this Agreement is intended to cover issues relating to the City's responsibility to enforce traffic regulations on the Roadway.

IN WITNESS WHEREOF, this Agreement has been executed as of the day and year first above written.

[Remainder of Page Intentionally Left Blank. Signature Pages Follow.]

CITY OF SHAKOPEE

BY: _____
Matt Lehman, Mayor

BY: _____
William Reynolds, City Administrator

STATE OF MINNESOTA)
) ss.
COUNTY OF SCOTT)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023, by Matt Lehman and William Reynolds, the Mayor and City Administrator, respectively, of the City of Shakopee, a Minnesota municipal corporation, on behalf of the corporation and pursuant to the authority granted by its City Council.

Notary Public

SHAKOPEE MDEWAKANTON SIOUX COMMUNITY



By: Keith B. Anderson
Its: Chairman

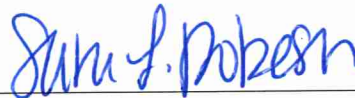


By: William J. Hardacker
Its: General Legal Counsel

STATE OF MINNESOTA)
) ss.
COUNTY OF SCOTT)

The foregoing instrument was acknowledged before me this 26th day of July, 2023, by Keith B. Anderson and William J. Hardacker, the Chairman and General Legal Counsel, respectively, of the Shakopee Mdewakanton Sioux Community, a federally recognized Indian Tribe, on behalf of the tribe and pursuant to the authority granted by its General Council.





Notary Public