

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. City currently owns and operates three (3) existing traffic signals at the Vierling Drive/Tasha Boulevard, Vierling Drive/Heather Street, and Southbridge Parkway/Old Carriage Court intersections (hereinafter referred to as the "Signals").
- B. County currently assists City in providing routine maintenance of the Signals.
- C. County and City currently have a cooperative maintenance agreement that addresses County management of signal operations at the Southbridge Parkway/Old Carriage Court intersection.
- D. County and City agree it is in the best interest of the traveling public that routine maintenance of the Signals is provided by the County.

NOW, THEREFORE, IT IS HEREBY AGREED:

- 1. The recitals above are hereby restated and incorporated herein.
- 2. This agreement shall apply to routine signal maintenance only. It does not apply to the integral street lights/luminaires at the Signals. City shall maintain the integral streetlights including the luminaire and all its components at the sole cost and expense of the City.
- 3. County shall perform routine maintenance of the Signals subject to City oversight. County routine maintenance shall include performing an annual preventative maintenance review of the Signals, modifying existing signal phase timing to address observed intersection operational issues, updating signal component firmware, replacing failed pedestrian and vehicle signal indications, repairing and/or replacing Emergency Vehicle Preemption (EVP) devices, repairing and/or replacing signal or electrical components determined to be causing operational issues, and other routine maintenance required to provide satisfactory operation of the Signals. County shall obtain written City approval prior to performing routine maintenance work anticipated to cost five thousand dollars (\$5,000) or more.
- 4. City shall perform major maintenance of the Signals including development of signal timing plans, painting of poles and mast arms, planned signal cabinet, pole and mast arm replacement, signal cabinet, pole and/or

mast arm repairs due to wind, vehicle or other source induced damage, maintenance or replacement of loop detection devices and other maintenance the County determines is not routine maintenance.

5. City shall be responsible for providing initial response when any of the Signals default into a failure mode of operation. City shall be responsible for responding to signal repairs outside of normal working hours. Normal working hours shall be defined to be from 7:00 a.m. to 4:30 p.m. Monday through Friday. County holidays that occur on Monday through Friday shall not be considered normal working hours.
6. If routine maintenance is performed and costs are incurred, City shall reimburse County quarterly. City payment to County shall be made within thirty (30) days of receipt of a proper invoice from County.
7. This agreement does not include maintenance of any other Signal system hardware, which shall remain a City responsibility.
8. The City shall provide the electrical energy for the operation of the traffic control signal system and integral street lights, all at the sole cost and expense of the City.
9. City shall be responsible for all striping and markings at the Signalized intersections.
10. Either party may terminate this agreement upon sixty (60) days written notice to the other party.
11. 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.
12. 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.
13. 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.

14. 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.
15. 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.
16. 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.
17. 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.

18. 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.
19. 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.
20. 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.
21. The City's Authorized Agent for the purpose of the administration of this Agreement is Alex Jordan, 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.

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 _____
Ma _____
Date _____

Do Not Sign – will be sent via Adobe Sign to collect electronic signatures.

And _____
Wil _____
Date _____

Do Not Sign – will be sent via Adobe Sign to collect electronic signatures.

COUNTY OF SCOTT

By _____
Lez _____
Date _____

Do Not Sign – will be sent via Adobe Sign to collect electronic signatures.

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

RECOMMEND FOR APPROVAL:

By _____
Jean _____
Date _____

Do Not Sign – will be sent via Adobe Sign to collect electronic signatures.

By _____
Antho _____
Date _____

Do Not Sign – will be sent via Adobe Sign to collect electronic signatures.