

COOPERATIVE MAINTENANCE AGREEMENT

THIS AGREEMENT, is entered by and between the County of Scott, Minnesota 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. The County plans to improve County Highway (CH) 69 and CH 78 intersection by constructing a roundabout to address safety and operational deficiencies. The Project includes grading, paving, curb and gutter, storm sewer, trails, and other related improvements (hereinafter referred to as the "Project").
- B. The above-described Project lies partially within the corporate limits of the City.
- C. City supports the planned Project and is willing to cooperate with County to complete the Project and share costs related to the Project, consistent with the County's City Local Cost Participation Policy.
- D. The County will be responsible for one hundred percent (100%) of the costs of building the Project.
- E. After completion of the Project, the County and City will have shared maintenance responsibilities for the improvements.
- F. The project will be constructed in 2024 in accordance with the 2024 County Project ("CP") 69-08 listed in the 2024-2033 Transportation Improvement Program.
- G. It is contemplated that the Project work shall be carried out by the parties under the provisions of and Minn. Stat. Sec. 162.17, subd. 1 and Minn. Stat. Sec. 471.59.

NOW, THEREFORE, IT IS HEREBY AGREED:

- 1. The recitals above are hereby incorporated and made a part of this agreement as if they had been fully restated.
- 2. The County shall advertise for bids for the work and construction of the Project, 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 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. The City Engineer shall cooperate with the County Engineer and his staff at their request to the extent necessary, but shall have no other responsibility for the supervision of the work.
4. 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.
5. County reserves the right not to issue any permits for a period of five (5) years after completion of the Project for any service cuts in the roadway surfacing of the County Highway included in the Project for any installation of underground utilities which would be considered as new work; service cuts shall be allowed for the maintenance and repair of any existing underground utilities.
6. Upon completion of the Project, the County shall maintain all stormwater quality, rate control, and volume control features such as ponds, infiltration basins and all aesthetic landscaping elements. All future maintenance of the stormwater features shall be the responsibility of the County. The City shall reimburse the County annually for its share of the costs for maintenance of the stormwater features based on its percentage of contributing flow, determined as the area of drainage that flows to the basin outside of County Road right of way. The City may in the future alter the stormwater quality, rate control, and volume control features to accommodate future development as long as County drainage is maintained at which time the City's percentage of contributing flow will be recalculated.
7. Upon completion of the Project, the City, at its expense and discretion, shall perform snow, ice, and debris removal on all trails, slip ramps, and sidewalks for portions within City limits constructed with the Project.
8. Upon completion of the Project, the preventative maintenance on trails constructed with this project, including sealcoating and crack-sealing, will be a shared cost of fifty percent (50%) County and fifty percent (50%) City for portions within City limits. Scott County will

administer the process unless the City requests to do so, and is approved by the County Engineer.

9. As part of the Project, sixteen (16) integral streetlights will be installed. The ownership and maintenance expenses shall be as follows:
 - a. Electrical energy shall be split between the County (seventy five percent (75%)) and the City (twenty five percent (25%)).
 - b. County shall be the owner of the integral streetlights and shall perform all major maintenance, including, but not limited to Gopher State One Call (GSOC) locates, knocked down poles including wiring within the poles, damaged poles, pull boxes, underground wire, loose connections, damaged foundations, defective starter boards or drivers, damaged fuse holders, and blown fuses for the entire system, at the sole cost of the County.
 - c. City shall be responsible for minor maintenance of the four (4) integral streetlights located in the northeast quadrant, including, but not limited to re-lamping or LED luminaire replacement, repair or replacement of all damaged luminaire glassware, luminaires when damaged or when ballasts fail, and photoelectric control on luminaires at the sole cost of the City.
 - d. Any future annexation by the City will require an update to the lighting maintenance responsibilities stated in this Agreement.
10. A future County Global Maintenance Agreement, upon execution, may supersede maintenance responsibilities stated in this Agreement.
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 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.

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.
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 nonenforceability 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 Nate Thomas, Hwy Division Program Manager, or his successor. His current address and

phone number are Scott County Transportation Services Division, 200 Fourth Avenue West, Shakopee, MN 55379, (952) 496-8479.

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 Shakopee City Hall, 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 _____
Matt Lehman, Mayor

And _____
William H. Reynolds, City Administrator

Date _____

Date _____

COUNTY OF SCOTT

By _____
Lezlie A. Vermillion, County Administrator

Date _____

Approved as to form:

RECOMMEND FOR APPROVAL

By _____
Jeanne Andersen, Assistant County Attorney

By _____
Anthony J. Winiecki, County Engineer

Date _____

Date _____