

Prepared by the  
Utility Agreements and Permits Unit  
(Payable)  
(\$11,207.97)  
(Actual Cost)

S.P. 6282-231 (T.H. 94)  
Location: from MN 280 to 0.1 mile west of  
Western Avenue in the City of St. Paul  
Utility Owner: Board of Water Commissioners  
of the City of Saint Paul  
MnDOT Agreement Number 1044672

## **UTILITY RELOCATION AGREEMENT**

This Agreement Number 1044672 (Agreement) is between the State of Minnesota (State), acting through its Commissioner of Transportation, and Board of Water Commissioners of the City of Saint Paul, including its agents, contractors, and subcontractors (Utility Owner). This Agreement describes how the parties will mitigate the effects of a State construction project on the Utility Owner.

### **RECITALS**

The State plans to let a contract to construct State Project Number 6282-231 (Project) on Federal Aid Interstate Highway Number 94, which is part of the National System of Interstate Highways. The Project is located on I-94 from MN 280 to 0.1 mile west of Western Avenue in the City of St. Paul.

The Utility Owner owns and operates watermain, its fixtures, and related equipment (Facilities). The Facilities are within the limits of the Project.

The Utility Owner must relocate the Facilities that are within the Project limits. The Utility Owner has requested reimbursement for the cost of this relocation from the State.

Under Minnesota Statutes, section 161.46, the State may reimburse the Utility Owner for the cost of relocating its Facilities.

Code of Federal Regulations, title 23, part 645, subpart A, and as amended requires a written agreement that specifies the work the Utility Owner will perform for reimbursement. This Agreement is subject to all State, federal, and other applicable laws and regulations.

## **AGREEMENT**

### **I. Term/Termination**

- A. *Effective Date:* This Agreement is effective on the date the State obtains all signatures required by Minnesota Statutes, section 16C.05, subdivision 2.
- B. *Commencement of Work:* Upon notice of Agreement approval, the Utility Owner must commence work according to the terms of the Notice and Order and prosecute the work according to a schedule the State's Project Engineer (Project Engineer) approves.
- C. *Expiration Date:* This Agreement will expire on the date that all obligations, excluding the Utility Owner's ongoing maintenance obligation, have been satisfactorily fulfilled.
- D. *Termination by the State:* The State may terminate this Agreement at any time, with or without cause, on 30 calendar days' written notice to the Utility Owner. Upon termination, the Utility Owner will be entitled to payment, on a pro rata basis, for satisfactorily performed services. The termination of this Agreement does not relieve the Utility Owner of its obligations under the Notice and Order.
- E. *Survival of Terms:* The following articles survive the Agreement's expiration or termination: (III) Utility Owner's Ongoing Maintenance Requirements; (V) Audits; (VI) Indemnification/Insurance; and (IX) Governing Terms.

### **II. Utility Owner's Duties**

- A. *Relocation:* The Utility Owner must:
  - 1. Relocate its Facilities according to:
    - a. The terms of the Notice and Order;
    - b. All applicable codes;
    - c. The directions of the Project Engineer and the State's Utilities Engineer (Utilities Engineer);
    - d. The plans for the utility work, which are attached to this Agreement as Exhibit A. If any changes must be made to the plans, the Utilities Engineer must approve these changes in writing before the Utility Owner performs the work to qualify for reimbursement; and
    - e. MnDOT's standard construction specifications.

2. Submit one copy of the State's Application for Utility Accommodation on Trunk Highway Right of Way, Form 2525 (Permit), including two copies of "proposed" sketches, for all Facilities within the trunk highway right of way to the Utilities Engineer before beginning relocation work.
3. Coordinate its operations with the State's contractor's (Contractor) operations and notify the Project Engineer at least two days before beginning and after completing each operational phase.
4. Stake the location and elevation of the proposed Facilities within the trunk highway right of way. The Utility Owner must not begin construction until the Project Engineer approves the location and elevation.
5. Complete all underground installations within the proposed roadways before the Contractor begins its base work operations. If the Utility Owner must perform its work concurrently with that of the Contractor, it must coordinate with the Contractor to ensure that all work is completed to the State's satisfaction without delays. The Utility Owner must not substitute backfilling material unless specifically authorized by the Project Engineer. The Utility Owner must dispose of all rejected soil material within the highway right of way as directed by the Project Engineer. The Utility Owner must mechanically compact all material replaced in the excavation. The Utility Owner must restore all drainage and slopes to the Project Engineer's satisfaction.
6. Accomplish the relocation work with its own equipment. If the Utility Owner must rent any equipment at a later date, it must first obtain:
  - a. The Utilities Engineer's written approval of the equipment rental and rental rates; and
  - b. The Project Engineer's approval of the equipment's proposed use.

The Utility Owner must obtain the approvals listed above before renting and using equipment to perform any other work.
7. According to the project schedule the Utility Owner will perform its work concurrently with that of the Contractor and coordinate with the Contractor performing excavation and backfill to ensure that all work is completed to the State's satisfaction without delays.

8. Maintain accurate and up-to-date relocation cost records throughout the course of the Project.
9. Leave materials in place at the Project Engineer's discretion. Any materials left within the right of way after the Utility Owner completes its work will become the property of the Contractor.

**B. *Compliance with Safety Regulations***

1. The Utility Owner must comply with the safety regulations contained in Minnesota Rules, part 8810.3400, subpart 5, during all construction and maintenance operations. The Utility Owner will furnish and require each flagger to carry a copy of the current edition of the State's *Field Manual*, which is Part IV of the *Minnesota Manual of Uniform Traffic Control Devices*. The Utility Owner must furnish each flagger with the required vest, hat, hand sign, flags, and any other necessary safety equipment.
2. The provisions of this Agreement do not relieve the Utility Owner of any legal responsibility or liability associated with the construction, operations, or maintenance of its Facilities.

**C. *Compliance with Pollution Control Requirements***

1. The Contractor installs pollution control measures according to the National Pollution Discharge Elimination System permit (NPDES Permit). Pollution control measures include silt fences, slope stabilization measures such as seed and mulch, and any other measures the State deems necessary to comply with the NPDES Permit. If the Utility Owner's work affects such pollution control measures, the Utility Owner must restore them to their original condition and to the Project Engineer's satisfaction. If the Utility Owner is relocating Facilities before the Contractor begins construction, the Utility Owner must work with the Project Engineer to determine if pollution control measures are necessary and how to implement them if they are.

**III. *Utility Owner's Ongoing Maintenance Requirements***

- A. Once construction is complete, the Utility Owner must maintain the Facilities at its own expense. The Utility Owner must follow the terms of the Permit when it performs any maintenance work.

- B. The Utility Owner may open and disturb the trunk highway right of way without a permit in the case of an emergency that is dangerous to the public and requires immediate attention. Upon learning of an emergency, the Utility Owner must immediately notify the State Patrol. The Utility Owner must take all necessary and reasonable safety measures to protect the public and must cooperate fully with the State Patrol. In this event, the Utility Owner must request a permit from the proper authority no later than the working date after it begins working in the right of way.

#### **IV. Payment**

A. *Payment*

1. Exhibit B, which is attached to this Agreement, is a detailed, itemized estimate of the cost of the Utility Owner's relocation work. Actual cost includes all expenses attributable to design engineering and construction relocation work. Reimbursement will be based on the actual costs for work that conforms to Exhibit A. Betterment, increase in value, and salvage value derived from the relocated Facilities will not be included in this reimbursement.
2. The State will pay the Utility Owner for the actual cost the Utility Owner incurs performing its obligations pursuant to this Agreement, in an amount not to exceed \$11,207.97, upon receiving:
  - a. Proof that the Facilities have been relocated to the Project Engineer's and Utilities Engineer's satisfaction; and
  - b. One original, signed invoice that is supported by an itemized statement of costs. An authorized representative of the Utility Owner must sign the invoice and submit the final bill to the Utilities Engineer no later than 90 days after completing the work.
3. The State's payment constitutes payment in full for all work the Utility Owner performs and for any and all damages, claims, or causes of action of any kind accruing to the Utility Owner because of the State's order to relocate the Facilities.. Notwithstanding anything in this Agreement to the contrary, the Utility Owner reserves the right to pursue any lawful remedy it may have for tortious acts that may arise out of the relocation of the Facilities.

4. If acceptable to the Utilities Engineer, the State may process periodic progress billings of incurred cost without prior audit.
5. The Utility Owner will record its actual and indirect costs according to the Utility Owner's established accounting procedures that have been approved by the State and the FHWA's Division Engineer.

**B. *Limitation on Payment***

1. The total amount the State is required to pay the Utility Owner is limited to the amount shown in Article IV.A.2.
2. If the Utility Owner deems it necessary to perform additional work not covered by this Agreement, or anticipates costs exceeding the amount in Article IV.A.2., then the Utility Owner must promptly notify the Utilities Engineer, in writing, of the nature and cause of the additional work or costs prior to performing or incurring them. Notification must include the amount of additional State funds requested and reason(s) supporting the request. The Utilities Engineer may approve the request subject to the availability and encumbrance of funds. If the Utility Owner performs additional work for which the State has not previously encumbered funds, the State is not obligated to pay for that additional work.
3. If the amount the Utility Owner requests under Article IV.B.2. does not exceed 10 percent of the amount in Article IV.A.2., the State may authorize payment of that pre-approved additional amount without amending this Agreement. The Utility Owner must receive notification from the State that the State has approved the additional work and encumbered the additional funds before beginning the additional work, or that work will be ineligible for reimbursement.
4. If the amount the Utility Owner requests exceeds 10 percent of the amount shown in Article IV.A.2., this Agreement must be amended to reflect the new cost before the State will be responsible for paying that additional cost.

**V. Audits**

- A. The Utility Owner's costs to relocate its Facilities according to this Agreement and the costs for any additions or alterations to these Facilities are subject to the State and federal government's examination and audit. Pursuant to Minnesota Statutes, section 16C.05, subdivision 5, the Utility Owner's accounting books,

records, documents, procedures, and practices that are relevant to this Agreement are subject to Legislative or State Audit for six years after this Agreement expires.

- B. The Utility Owner must respond to requests for audit information to support claimed costs no later than 60 days after receiving the request or the State will cite all costs in question. If the Utility Owner does not respond during this 60-day period, the State will consider the audit citations accepted and will make payment accordingly.

## **VI. Indemnification/Insurance**

- A. Each party is responsible for its own acts, omissions and the results thereof to the extent authorized by law and will not be responsible for the acts and omissions of others and the results thereof. Minnesota Statutes § 3.736 and other applicable law govern liability of the State. Minnesota Statutes Chapter 466 and other applicable law govern liability of the Utility Owner. This clause will not be construed to bar any legal remedies a party may have to fulfill its obligations under this contract.
- B. The Utility Owner certifies that its workers' compensation insurance coverage complies with Minnesota Statutes, section 176.181, subdivision 2. The Utility Owner's employees and agents are not considered State employees. The State is not responsible for any claims asserted by the Utility Owner's employees, agents, subcontractors, or any third parties under the Minnesota Workers' Compensation Act.

## **VII. Nondiscrimination**

- A. The Utility Owner will comply with the United States Department of Transportation's nondiscrimination regulations. These regulations are in the current version of the Code of Federal Regulations, title 49, part 21. The Utility Owner must incorporate these regulations by reference in all contracts.
- B. Minnesota Statutes, section 181.59 and any applicable local ordinances pertaining to civil rights and nondiscrimination are considered part of this Agreement.

## VIII. Buy America Requirements

- A. All utility work must comply with the “Buy America” provisions in 23 U.S.C. 313 and 23 CFR 635.410. If the Utility Owner uses steel or iron as part of its work, and the cost of that steel or iron is more than 0.1 percent of the total relocation cost or \$2500 (whichever is greater), it must use steel or iron melted or manufactured in the United States. Materials that have been removed from the United States for any process (e.g., change of chemical content, shape, size, or finish) are not considered domestic materials.
- B. If the Utility Owner wishes to use foreign steel or iron, and the cost of that steel or iron exceeds the limits above, it must submit the “Stipulation for Use of Foreign Steel” to the Utilities Engineer and receive approval.
- C. Upon completing its work, the Utility Owner must sign and submit the State’s Certificate of Compliance, which states that all iron and steel items are domestic. If any of the iron or steel items are foreign, the certification must include the waiver it received. The State will not process any invoices that do not include the signed Certificate of Compliance.

## IX. Governing Terms

- A. *Data Practices:* All parties must comply with the Minnesota Government Data Practices Act (Minnesota Statutes, chapter 13) as it applies to any data that a party to this Agreement receives, collects, stores, or disseminates under it. The Act provides civil liability for failure to comply with its requirements.
- B. *Applicable Law:* Minnesota law governs the validity, interpretation, and enforcement of this Agreement. Venue for all legal proceedings arising out of this Agreement, or its breach, must be in Ramsey County, Minnesota.
- C. *Waiver:* If the State fails to enforce any provision of this Agreement, that failure does not waive the provision or the State’s right to subsequently enforce it.
- D. *Merger:* This Agreement contains all negotiations and agreements between the State and the Utility Owner. No prior understanding regarding this Agreement, whether written or oral, may be used to bind either party.
- E. *Assignment:* The Utility Owner may neither assign nor transfer any rights or obligations under this Agreement without the State’s consent and a fully executed assignment agreement. To be valid, the assignment agreement must



be signed and approved by the same parties who signed and approved this Agreement, or their successors in office.

- F. *Amendments:* Any amendment to this Agreement must be in writing. An amendment will not be effective until the same parties who signed and approved this Agreement, or their successors in office, sign and approve the amendment.
- G. *Incorporation of Exhibits:* All exhibits attached to this Agreement are incorporated into this Agreement.

**The remainder of this page was left blank intentionally.**

IN TESTIMONY WHEREOF, the parties have duly executed this Agreement by their duly authorized officers and caused their respective seals to be hereunto affixed.

**BOARD OF WATER COMMISSIONERS  
OF THE CITY OF SAINT PAUL**

Approved:

By: \_\_\_\_\_  
Stephen P. Schneider  
General Manager  
Saint Paul Regional Water Services

By: \_\_\_\_\_  
Mara Humphrey  
President

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to form:

By: \_\_\_\_\_  
Mollie Gagnelius  
Secretary

By: \_\_\_\_\_  
Assistant City Attorney

Date: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
John McCarthy  
Director  
Office of Financial Services

Date: \_\_\_\_\_

**STATE OF MINNESOTA  
DEPARTMENT OF TRANSPORTATION**

**State Encumbrance Verification**

*Individual certifies that funds have been encumbered as required by Minnesota Statutes §§ 16A.15 and 16C.05.*

By: \_\_\_\_\_

Date: \_\_\_\_\_

Contract Number: \_\_\_\_\_

Order Number: \_\_\_\_\_

**Department of Transportation**

Recommended for Approval:

Approved:

By: \_\_\_\_\_  
Metro Utility Coordinator

By: \_\_\_\_\_  
Director, Office of Land Management

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Office of Contract Management**

Approved as to Form and Execution:

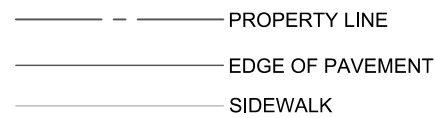
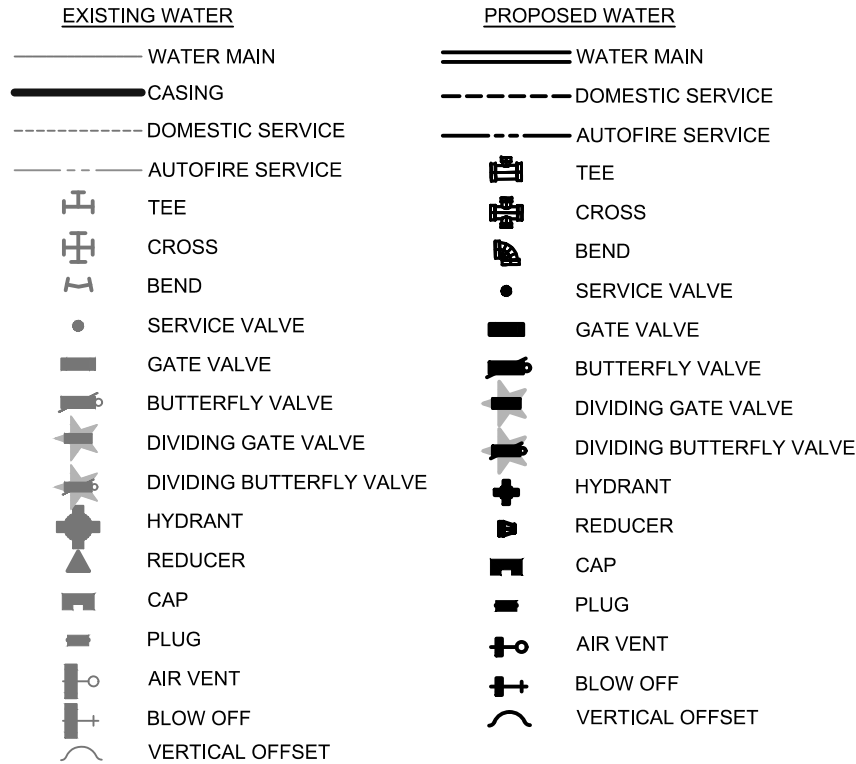
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Date: \_\_\_\_\_

**Department of Administration**

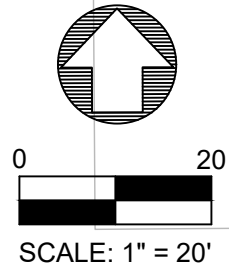
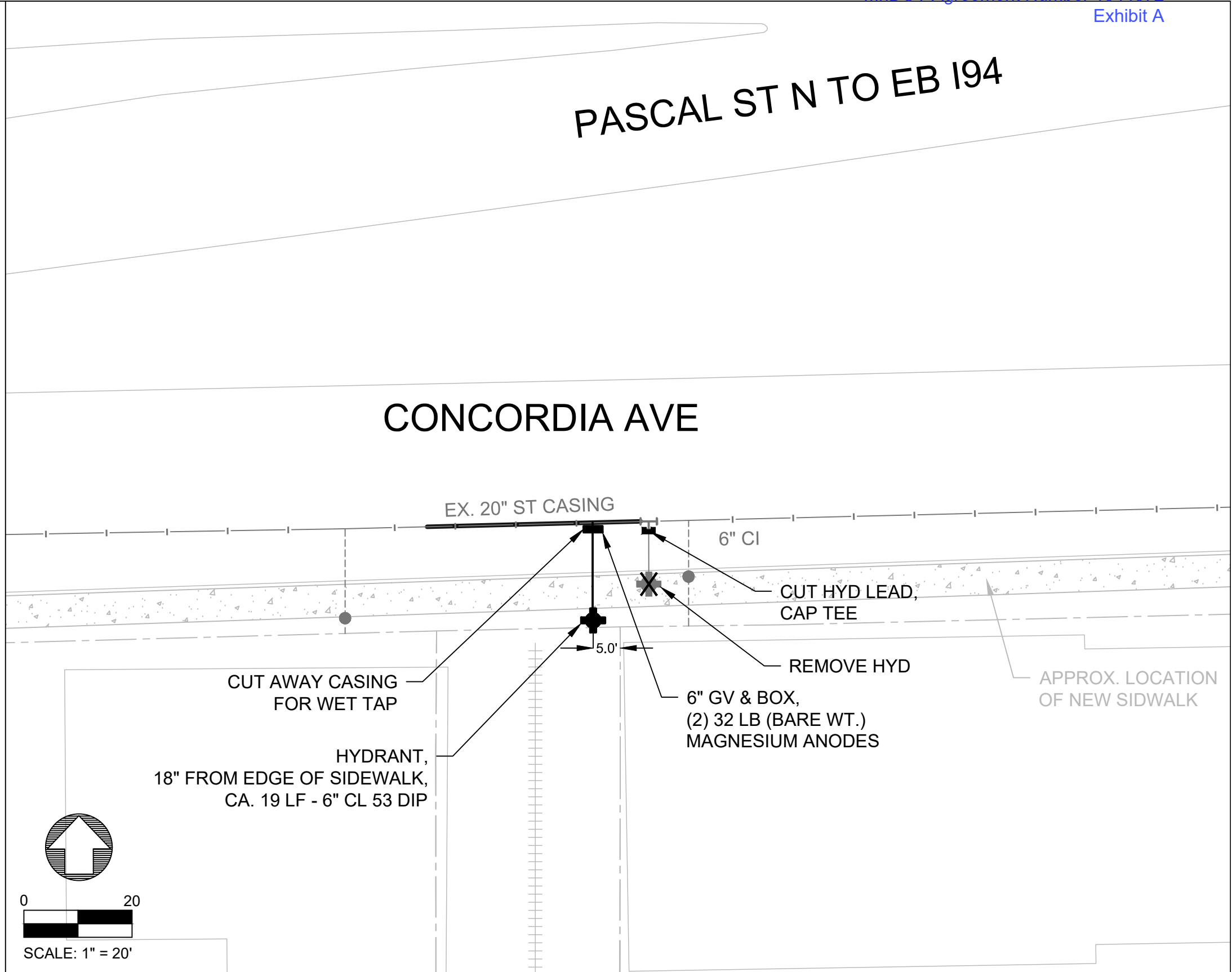
By: \_\_\_\_\_

Date: \_\_\_\_\_



**ABBREVIATIONS LEGEND:**

CI, CIP	CAST IRON PIPE
DI, DIP	DUCTILE IRON PIPE
ST	STEEL
GV	GATE VALVE
BFV	BUTTERFLY VALVE
RPL	REPLACEMENT
HYD	HYDRANT



I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

SIGNATURE: *Rich Hibbard*  
 PRINTED NAME: Rich Hibbard  
 DATE: 08/21/2020 REG. NO.: 49169



ENGINEERING DIVISION  
 1900 RICE STREET NORTH  
 SAINT PAUL, MN 55113

REVISIONS: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

PROJ. NO. \_\_\_\_\_  
 DATE: 08/21/2020  
 DESIGNED: AMB  
 REVIEWED: RWH

**SPRWS HYDRANT ADJUSTMENT**  
 CONCORDIA AVE BETWEEN PASCAL & HAMLIN  
 MNDOT MILL & OVERLAY TH 94, CRETIN TO GRIGGS

SHEET:

**1**

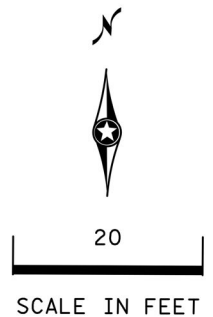
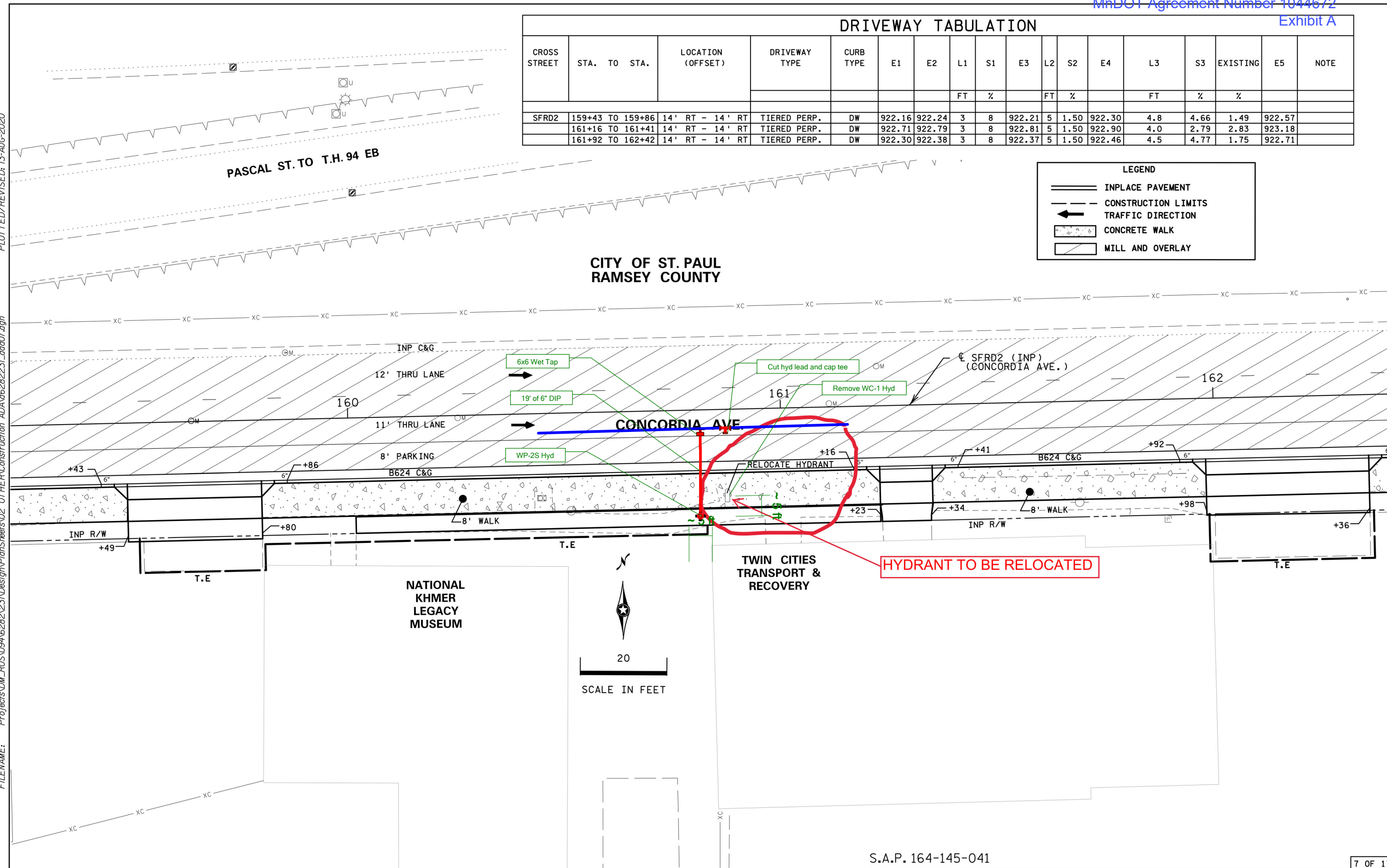
OF 1

DRIVEWAY TABULATION																		
CROSS STREET	STA. TO STA.	LOCATION (OFFSET)	DRIVEWAY TYPE	CURB TYPE	E1	E2	L1	S1	E3	L2	S2	E4	L3	S3	EXISTING	E5	NOTE	
							FT	%		FT	%		FT	%	%			
SFRD2	159+43 TO 159+86	14' RT - 14' RT	TIERED PERP.	DW	922.16	922.24	3	8	922.21	5	1.50	922.30	4.8	4.66	1.49	922.57		
	161+16 TO 161+41	14' RT - 14' RT	TIERED PERP.	DW	922.71	922.79	3	8	922.81	5	1.50	922.90	4.0	2.79	2.83	923.18		
	161+92 TO 162+42	14' RT - 14' RT	TIERED PERP.	DW	922.30	922.38	3	8	922.37	5	1.50	922.46	4.5	4.77	1.75	922.71		

**LEGEND**

- INPLACE PAVEMENT
- CONSTRUCTION LIMITS
- TRAFFIC DIRECTION
- CONCRETE WALK
- MILL AND OVERLAY

CITY OF ST. PAUL  
RAMSEY COUNTY



DISTRICT #: Metro  
 I/PLOT NAME: d6282231\_adc07  
 FILENAME: Proj\ects\DM\_ROS\094\6282\23\Design\Plan\Sheets\02\_OTHER\Construction ADA\6282231\_adc07.dgn  
 PLOTTED/REVISED: 13-AUG-2020

S.A.P. 164-145-041

7 OF 17

# WORK DESIGN ESTIMATE REPORT

**Exhibit B**

Report Select Criteria: WORK\_DESIGN\_NO = 2000078 PLANT = 01

Report Ordered By: PLANT

**Project/Subproject:** 20-77-045 / 3

**Work Design No:** 2000078

ST ANTHONY BET. HAMLIN & PASCAL N SIDE - RELOCATE HYDRANT - EXC. & PIPEWORK - 8 HOURS

DESIGN ESTIMATE SUMMARY	AMOUNT
Material	3,703.20
Labor	2,345.64
Equipment	975.40
Other Costs	4,183.73
Discount	0.00
Standard Price Adjustment	0.00
<b>Subtotal</b>	<b>11,207.97</b>
Contractor Amount	0.00
<b>Subtotal with Contractor</b>	<b>11,207.97</b>
State	0.00
Federal	0.00
Local	0.00
<b>Estimated Total</b>	<b>11,207.97</b>

DETAILS	Amount
ENGINEERING ADDITIVE	448.34
FRINGES - REGULAR TIME	996.90
MATERIAL ADDITIVES - BILLABLE	1,420.41
OVERHEAD ADDITIVE	518.08
SCHEDULE CHARGES	800.00
<b>Other Costs Total</b>	<b>4,183.73</b>

Str.	Stock Type / Code	Item Description	Qty.	UOM	Unit Price	Total
WWH	I000440	GATE VALVE-MJRS-6	1.00	EA	626.26	626.26
WWH	I000519	DI PIPE-SJ-6	1.00	EA	476.60	476.60
WWH	I000582	PACER 100 FIRE HYDRANT SS	1.00	EA	2,030.46	2,030.46
WWH	I000642	MEGA LUG-6	3.00	EA	22.57	67.70
WWH	I000870	GATE BOX POT-6	1.00	EA	35.16	35.16
WWH	I001014	GATE BOX-SM-TOP SECT-26	1.00	EA	33.44	33.44
WWH	I001019	GATE BOX-SM BOTTOM EXT #59-24	1.00	EA	28.43	28.43
WWH	I001020	GATE BOX-SM BOTTOM EXT- 36	1.00	EA	34.72	34.72
WWH	I001061	GATE BOX-SM COVER	1.00	EA	11.15	11.15
WWH	I001904	Magnesium Anodes	2.00	EA	139.30	278.61
WWH	I002216	VALVE BOX ADAPTERS WATR - 6"	1.00	EA	80.67	80.67
					<b>Subtotal</b>	<b>3,703.20</b>
					Adjustment	0.00
					<b>Material Total</b>	<b>3,703.20</b>

## WORK DESIGN ESTIMATE REPORT

MnDOT Agreement Number 1044672

21/AUG/2020

08:23 AM

Exhibit B

Craft	Description	# of People	Hours	Rate	Total	
141A	H HEAVY EQUIP OPR-WATER	1	8	31.05	248.40	
277-	H WATER UTILITY WORKER I	2	12	36.60	878.40	
331A	H WATER SYSTEM WORKER II	2	8	28.38	454.08	
391B	B WATER DISTRIBUTION SUPV I	1	12	37.04	444.48	
414A	H *DRIVER OPERATOR-WATER	1	12	26.69	320.28	
				Subtotal	2,345.64	
				Travel	0.00	
				Subtotal with Travel	2,345.64	
				Adjustment	0.00	
				Labor Total	2,345.64	
Equipment	Description	Qty.	Duration	UOM	Rate	Total
W_E574-02	Water - 2002 Freightliner Crew Van #574	1.00	12	HOUR	17.20	206.40
W_E592-11	Water - 2011 PICKUP FORD F-250 #592	1.00	8	HOUR	11.00	88.00
W_E607-15	Water - 2015 FORD F350 PICKUP #607	1.00	12	HOUR	11.00	132.00
W_E645-13	Water - 2013 International tandem dump truck #645	1.00	12	HOUR	24.25	291.00
W_E788-12	Water - 2012 Case tractor/backhoe #T88	1.00	12	HOUR	21.50	258.00
				Subtotal	975.40	
				Adjustment	0.00	
				Equipment Total	975.40	