

PRE-LETTING  
SERVICES  
SECTION

STATE OF MINNESOTA  
DEPARTMENT OF TRANSPORTATION  
COOPERATIVE CONSTRUCTION  
AGREEMENT

Mn/DOT  
AGREEMENT NO.  
97441-R

S.P. 6244-30 (T.H. 52=112)  
Fed. Proj. NH-BRNH-BHNH 0052(324)

Lighting Feed Pt. - City Source

The State of Minnesota  
Department of Transportation, and  
The City of St. Paul

AMOUNT ENCUMBERED

(None)

Re: City bid-based lump sum payment  
for bike path, ornamental  
railing, lighting, and signal  
construction by the State on  
T.H. 52

ESTIMATED  
AMOUNT RECEIVABLE

\$297,970.17

\_\_\_\_\_  
\_\_\_\_\_

THIS AGREEMENT is made and entered into by and between the State of Minnesota, Department of Transportation, hereinafter referred to as the "State" and the City of St. Paul, Minnesota, acting by and through its City Council, hereinafter referred to as the "City".

WHEREAS, the State is about to perform grading, bituminous and concrete surfacing, drainage, retaining wall, signal, TMS, signing, lighting, anti-icing system, and bridge construction and other associated construction upon, along and adjacent to Trunk Highway No. 52 from 210 feet south of Plato Boulevard to Trunk Highway No. 5 within the corporate City limits in accordance with State plans, specifications and special provisions designated as State Project No. 6244-30 (T.H. 52=112) and in the records of the Federal Highway Administration as Minnesota Project NH-BRNH-BHNNH 0052(234); and

WHEREAS, City cost participation is required on State Project No. 6244-30 (T.H. 52=112) for bike path, ornamental railing, lighting, and signal construction and other associated construction to be performed upon, along and adjacent to Trunk Highway No. 5 from Trunk Highway No. 52 to Kittson Street and upon the Lafayette Bridge within the corporate City limits under State Project No. 6244-30 (T.H. 52=112); and

WHEREAS, the City has expressed its willingness to participate in the costs of the bike path, ornamental railing, lighting, and signal construction and associated construction engineering in a lump sum amount as hereinafter set forth; and

WHEREAS, the City and the State have agreed an amount of \$600,000.00 as the State's payment in full to mitigate the placement of an additional bridge pier on St. Paul park land located north of the Mississippi River. The City will receive a \$600,000.00 credit towards the City responsible cost participation; and

WHEREAS, the maintenance for the traffic control signal systems to be constructed along Trunk Highway No. 5 at Trunk Highway No. 52 and at Kittson Street under State Project No. 6244-30 (T.H. 52=112) will be

covered under Agreement No. 97356M between the State and the City of St. Paul; and

WHEREAS, in connection with the State contract, the asbestos abatement on the Lafayette Bridge to be performed under State Project No. 6244-30 (T.H. 52=112) will be covered under Agreement No. 97442R between the State and the St. Paul Regional Water Services; and

WHEREAS, Minnesota Statutes Section 161.20, subdivision 2 authorizes the Commissioner of Transportation to make arrangements with and cooperate with any governmental authority for the purpose of constructing, maintaining and improving the trunk highway system.

IT IS, THEREFORE, MUTUALLY AGREED AS FOLLOWS:

#### ARTICLE I - CONSTRUCTION BY THE STATE

##### Section A. Contract Award

The State shall advertise for bids and award a construction contract to the lowest responsible bidder for State Project No. 6244-30 (T.H. 52=112) in accordance with State plans, specifications and special provisions which are on file in the office of the Commissioner of Transportation at St. Paul, Minnesota, and are incorporated into this Agreement by reference.

##### Section B. Direction and Supervision of Construction

The State shall direct and supervise all construction activities performed under the construction contract, and perform all construction engineering and inspection functions in connection with the contract construction. All contract construction shall be performed in compliance with the approved plans, specifications and special provisions.



Section C. Plan Changes, Additional Construction, Etc.

The State shall make changes in the plans and contract construction, which may include the City cost participation construction covered under this Agreement, and shall enter into any necessary addenda, change orders and supplemental agreements with the State's contractor that are necessary to cause the contract construction to be performed and completed in a satisfactory manner. The State District Engineer's authorized representative will inform the appropriate City official of any proposed addenda, change orders and supplemental agreements to the construction contract that will affect the City cost participation construction covered under this Agreement.

The City may request additional work or changes to the work in the plans as part of the construction contract. Such request shall be made by an exchange of letter(s) with the State. If the State determines that the requested additional work or plan changes are necessary or desirable and can be accommodated without undue disruption to the project, the State will cause the additional work or plan changes to be made.

Section D. Satisfactory Completion of Contract

The State shall perform all other acts and functions necessary to cause the construction contract to be completed in a satisfactory manner. Acceptance by the State of the completed contract construction shall be final, binding and conclusive upon the City as to the satisfactory completion of the contract construction.

ARTICLE II - INSPECTION BY THE CITY

The City cost participation construction covered under this Agreement shall be open to inspection by the City. If the City believes the City cost participation construction covered under this Agreement has not been properly performed or that the construction is defective, the City shall inform the State District Engineer's authorized representative in writing of those defects. Any recommendations made

by the City are not binding on the State. The State shall have the exclusive right to determine whether the State's contractor has satisfactorily performed the City cost participation construction covered under this Agreement.

### ARTICLE III - BASIS OF PAYMENT BY THE CITY

#### Section A. SCHEDULE "I" and EXHIBIT "Cost Participation"

A Preliminary SCHEDULE "I" is attached and incorporated into this Agreement. The Preliminary SCHEDULE "I" includes all anticipated City cost participation construction items and the construction engineering cost share covered under this Agreement, and is based on engineer's estimated unit prices.

#### Section B. City Cost Participation Construction

The City shall, at the 100 percentage rate participate in the construction work items for the bike path, ornamental railing, lighting, and signal as shown on sheet 2 of the attached Preliminary SCHEDULE "I" to be performed upon, along and adjacent to Trunk Highway No. 5 from Trunk Highway No. 52 to Kittson Street and upon the Lafayette Bridge within the corporate City limits under State Project No. 6244-30 (T.H. 52=112). The construction includes the City's proportionate share of item costs for mobilization, field office, field laboratory and traffic control.

#### Section C. Construction Engineering Costs

The City shall pay a construction engineering charge in an amount equal to 8 percent of the total cost of the City participation construction covered under this Agreement.

#### Section D. Plan Changes, Additional Construction, Etc.

The City shall share in the costs of construction contract addenda and City requested change orders and supplemental agreements that are necessary to complete the City cost participation construction



covered under this Agreement, including any City requested additional work and plan changes.

The State reserves the right to invoice the City for the cost of any additional City requested work and plan changes, construction contract addenda, change orders and supplemental agreements, and associated construction engineering prior to the completion of the contract construction.

#### ARTICLE IV - PAYMENT BY THE CITY

##### Section A. Estimate and Advancement of the City's Cost Share

It is estimated that the City's share of the costs of the contract construction plus the 8 percent construction engineering cost share minus the \$600,000.00 credit for State mitigation for second set of piers on the north side of the Mississippi River and a \$21,650.00 credit for City Furnished Materials is the sum of \$297,970.17 as shown in the attached Preliminary SCHEDULE "I". Upon award of the construction contract the State shall prepare a Revised SCHEDULE "I" based on construction contract unit prices.

After the following conditions have been met, the City shall advance to the Commissioner of Transportation the City's full and complete lump sum cost share as shown in the Revised SCHEDULE "I":

1. Execution and approval of this Agreement and the State's transmittal of it to the City along with a copy of the Revised SCHEDULE "I".
2. Receipt by the City of a written request from the State for the advancement of funds.

##### Section B. Final Payment - Additional City Requested Work

Upon completion and acceptance of the contract construction, and only if additional work has been requested by the City in accordance with

Article I, Section C. of this Agreement, the State shall prepare a Final SCHEDULE "I" and submit a copy to the City. The Final SCHEDULE "I" shall be based on final quantities of any additional City requested cost participation construction items and the construction engineering cost share due to additional requested work. The computation by the State of the amount due from the City shall be final, binding and conclusive.

#### ARTICLE V - GENERAL PROVISIONS

##### Section A. Maintenance by the City

Upon completion of the storm sewer facilities construction, the City shall provide for the proper routine maintenance of those facilities located on Loop 7 (north exit from Trunk Highway No. 52 to East 7<sup>th</sup> Street) starting at East 7<sup>th</sup> Street to Drainage Control Structure No. 5322 located on the south side of Bridge No. 62876, without cost or expense to the State. Routine maintenance includes, but is not limited to, removal of sediment, debris, vegetation and ice from structures, grates and pipes, repair of minor erosion problems, and minor structure and pipe repair, and any other maintenance activities necessary to preserve the facilities and to prevent conditions such as flooding, erosion, sedimentation or accelerated deterioration of the facilities.

Upon completion of the City-owned utilities construction, the City shall provide for the proper maintenance of those utilities, without cost or expense to the State.

Upon completion of the walkways construction, the City shall provide for the proper maintenance of the walkways, without cost or expense to the State. Maintenance includes, but is not limited to, snow, ice and debris removal, patching, crack repair, panel replacement, and any other maintenance activities necessary to perpetuate the walkways in a safe and usable condition.



Upon completion of the bikeways and multi-use trails construction both on and off of the Lafayette Bridge, the City shall provide for the proper maintenance of the bikeways and multi-use trails, without cost or expense to the State. Maintenance includes, but is not limited to, snow, ice and debris removal, patching, crack repair, mowing, trimming, signing, pavement marking, and any other maintenance activities necessary to perpetuate the bikeways and multi-use trails in a safe and usable condition.

Upon completion of the aesthetic metal railings construction located on and off of the Lafayette Bridge, the City shall provide for the proper maintenance (including painting and replacement) of the aesthetic metal railings without cost or expense to the State.

Upon completion of the lighting facilities construction located from just past the anti-icing building along loop 7 to the connection at 7<sup>th</sup> Street as well as the accent lighting on the bridge, the City will provide for the proper maintenance of those facilities. Maintenance includes but is not limited to; replacing faulty luminaires and knocked down or otherwise damaged poles; repairing or replacing underground facilities and wiring; repairing service cabinets, photocells, and all other miscellaneous hardware to keep the lighting facilities in working order; cleaning and relamping the luminaires; and painting the lighting facilities. The City will pay all monthly electrical service expenses necessary to operate the lighting facility.

#### Section B. Additional Drainage

Neither party to this Agreement shall drain any additional drainage into the storm sewer facilities to be constructed under the construction contract that was not included in the drainage for which the storm sewer facilities were designed, without first obtaining



written permission to do so from the other party. The drainage areas served by the storm sewer facilities constructed under the construction contract are shown in a drainage area map, EXHIBIT "Drainage Area", which is on file in the office of the State's District Hydraulics Engineer at Roseville and is incorporated into this Agreement by reference.

Section C. Examination of Books, Records, Etc.

As provided by Minnesota Statutes Section 16C.05, subdivision 5, the books, records, documents, and accounting procedures and practices of each party relevant to this Agreement are subject to examination by each party, and either the legislative auditor or the state auditor as appropriate, for a minimum of six years from final payment.

Section D. Claims

Each party is responsible for its own employees for any claims arising under the Workers Compensation Act. 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 Section 3.736 and other applicable law govern liability of the State. Minnesota Statutes Chapter 466 and other applicable law govern liability of the City.

Section E. Agreement Approval

Before this Agreement becomes binding and effective, it shall be approved by a City Council resolution and executed by such State and City officers as the law may provide in addition to the Commissioner of Transportation or their authorized representative.

ARTICLE VI - AUTHORIZED AGENTS

The State's Authorized Agent for the purpose of the administration of this Agreement is Maryanne Kelly-Sonnek, Municipal Agreements Engineer, or her successor. Her current address and phone number are 395 John Ireland Boulevard, Mailstop 682, St. Paul, MN 55155, (651) 366-4634.

The City's Authorized Agent for the purpose of the administration of this Agreement is John Maczko, City Engineer, or his successor. His current address and phone number are 25 West 4<sup>th</sup> Street, 1500 City Hall Annex, St. Paul, MN 55102, (651) 266-6137.

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IN TESTIMONY WHEREOF the parties have executed this Agreement by their authorized officers.

CITY OF ST. PAUL

By \_\_\_\_\_  
Mayor

Date \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

DEPARTMENT OF TRANSPORTATION

Recommended for approval:

By \_\_\_\_\_  
District Engineer

Approved:

By \_\_\_\_\_  
State Design Engineer

Date \_\_\_\_\_

Approved as to form and execution:

By \_\_\_\_\_  
Contract Management

Date \_\_\_\_\_

COMMISSIONER OF ADMINISTRATION

As delegated to Materials Management Division

By \_\_\_\_\_

Date \_\_\_\_\_

*MKS*