

**JOINT POWERS AND CONSTRUCTION COOPERATION AGREEMENT FOR
CONSTRUCTION OF GOLD LINE BRT PROJECT AND
CONCURRENT NON-PROJECT ACTIVITIES
REQUESTED BY CITY OF SAINT. PAUL**

THIS AGREEMENT is made and entered into by and between the Metropolitan Council, a public corporation and political subdivision of the State of Minnesota (“Council”), and the City of Saint Paul, a body politic and corporate under the laws of the State of Minnesota (“City”).

BACKGROUND RECITALS

1. The Council plans to construct the METRO Gold Line Bus Rapid Transit Project, which will directly serve five cities: Saint Paul, Maplewood, Landfall, Oakdale, and Woodbury, all within Ramsey and Washington Counties (“the Council Project”).

2. The City desires to construct a sewer separation project adjacent to Conway Street, additional pedestrian-scale lighting, twin sanitary sewer replacement, signal conduit, and private sewer services adjacent to roadway reconstruction, to be funded by the City and delivered by the Council (“the City Project”).

3. Both Council and City desire that the City Project be constructed in conjunction with the Council Project to minimize cost to both projects, minimize community impacts and disruption, and delivery a high-quality project.

4. Therefore, the City desires to have the Council construct the City Project contemporaneously with the Council Project (“the Combined Project”).

5. Pursuant to Minn. Stat. § 471.59, the City and the Council agree to exercise certain powers on behalf of the other as more fully set forth herein, with the Council conducting activities relating to acquisition of the necessary property interests for the Combined Project through direct negotiation and condemnation, if necessary.

6. Pursuant to Minn. Stat. § 117.016, Subd. 1, the Council and the City may enter into an agreement for the joint acquisition of land by eminent domain proceedings.

7. In carrying out this Agreement, the Council will use the statutory powers in Minn. Stat. § 471.59 and Minn. Stat. § 117.016 singly or in combination as appropriate to the acquisitions provided for herein.

8. Pursuant to Minn. Stat. § 117.016, Subd. 2, the purpose of the land acquisitions for the City Project and the Council Project are stated in this Agreement.

9. Pursuant to Minnesota statutory law and administrative rule, including Minn. Stat. § 237.163 and Minn. R. 7819.0050, et seq., the City has rights-of-way management authority and has adopted a right-of-way management ordinance, City of Saint Paul Code of Ordinances, Title

XII: Streets, Sidewalks, Bridges, Other Public Ways, Chapter 116: Right-of-Way Administration.

10. In furtherance of the Combined Project, the City will exercise its rights-of-way management powers and permit authority.

11. The City and Council are currently negotiating and intend to enter into a Subordinate Funding Agreement for funding of the City Project.

NOW, THEREFORE, for mutual consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties agree as follows:

AGREEMENT

I.

Purpose of Agreement

1. This Agreement describes the responsibilities of each of the parties for design and construction of the Combined Project, as generally described in the Recitals.

2. The City appoints the Council as its agent to obtain bids, enter into a contract for the construction of the work, and supervise the work performed on the City Project for compliance with the City Project construction documents and this Agreement.

3. The scope of the City Project is:

- Sewer separation project adjacent to Conway Street
- Additional pedestrian-scale lighting adjacent to roadway reconstruction
- Twin sanitary sewer replacement along Hudson Road
- Signal conduit along TH 61/Etna Street
- Private sewer services adjacent to roadway reconstruction

4. The locations of the Council Project and City Project are shown on Exhibit A to this Agreement.

5. A list of parcels subject to this Agreement is included in Exhibit B to this Agreement. Minor revisions to this list may be required upon completion of the design process. After design is completed, the Council will prepare a revised Exhibit B including a final list of necessary parcels and provide it to the City. The parties will substitute the revised Exhibit B, as agreed by the Council and the City, for the Exhibit B attached to this Agreement without any amendment to this Agreement.

6. The Recitals, and any referenced exhibits or attachments, are incorporated into this Agreement.

II.
Construction Documents

1. The Council or its agents will have a Registered Professional Engineer licensed in the State of Minnesota prepare and certify the necessary detailed construction documents for the Council and the City Projects (“Combined Project Construction Documents”). The approved Combined Project Construction Documents will be incorporated into the bidding documents for the Council and City Project. The Combined Project Construction Documents will contain plans and specifications and a schedule for construction of the City Project suitable for use by proposed contractors in the preparation of their bids. The Combined Project Construction Documents will use the most current industry standards and practices and be in compliance with all laws governing both the City Project and Council Project.

2. The Council retains ownership of all original Project Construction Documents and will provide an electronic copy to the City at no cost.

III.
Easements, Permits, and Rights-of-Way

1. The City gives the Council, at no cost to the Council, the right to enter onto any City easements or rights-of-way, for construction of the Combined Project and for the purpose of the Council fulfilling this Agreement. The City and Council will enter separate agreements for the temporary easements on City Property which shall govern the rights and obligations of the parties with respect to City Property.

2. Subject to the provisions of this Section, the Council will acquire (i) all property interests it needs for the construction of the Council Project (“Council Project Acquisitions”), except those property interests identified in Section III, Paragraph 1 above; (ii) all property interests needed for the City Project (“City Project Acquisitions”); and (iii) all property interests where one or more parcels include overlapping City and Council acquisitions (“Combined Parcels Acquisitions”). All City Project Acquisitions and the City part of any Combined Parcels Acquisitions shall be made in the name of the City or transferred to the City by appropriate conveyance.

In the event the City Project Acquisitions or the City part of any Combined Parcels Acquisitions requires the use of condemnation, the City agrees to and authorizes the Council to include such acquisitions in a condemnation petition.

All Council Project Acquisitions shall comply with all applicable federal law and procedures, including 42 U.S.C. Chapter 61, the Uniform Relocation Act, and the Federal Transit Administration (FTA) Award Management Requirements Circular (FTA Circular 5010).

The City Project Acquisitions, Council Project Acquisitions and Combined Parcels Acquisitions are set forth on Exhibit B.

Except as otherwise stated in this Agreement, the Council will be responsible for performance of all administrative and legal tasks and costs associated with the City Project Acquisitions and the Combined Parcels Acquisitions whether through direct purchase or condemnation, necessary for the construction and completion of the Combined Project.

3. The Council or its contractor will apply for and obtain all permits required by the Council for construction of the Combined Project.

4. The Council is responsible for getting all other permits associated with construction of the Combined Project.

5. The City will exercise its permit authority over any City permits as necessary for the construction of the Combined Project.

6. The City will exercise its right-of-way management authority over all City rights-of-way as necessary for the construction of the Combined Project, including but not limited to those powers pertaining to the relocation of utilities within the City rights-of-way.

IV. Procedure for Acceptance of Bids

1. **Bidding Procedure.** The Council will advertise for bids for the work and construction of the Combined Project, receive and open bids and may enter into one or more construction contract(s) with the successful bidder(s) in accordance with applicable law. The bidding documents shall be in a format acceptable to the City and shall clearly define the City's participating share of construction costs. After opening the bids, the Council will give the City a written tabulation of the bids with the Council's recommendation for selection of the lowest responsible bidder. In the event that the Council does not award the Combined Project due to higher than expected bids, the Council will consult with the City on the possibility of rebidding the Combined Project. The City and Council are currently negotiating and intend to enter into a Subordinate Funding Agreement in which the City and Council shall further define the bidding procedure and costs for the City Project and the Combined Project.

2. **Council decision not to award Combined Project.** If the Council decides not to award the Combined Project, this contract terminates without further liability between the parties.

V. Construction and Contract Administration

1. The Council will require that the contractor to construct the City Project according to the Combined Project Construction Documents. At least 14 days before the contractor begins

work on the Combined Project, the Council will give written notice to the City that the contractor will begin construction by sending notice to:

City of Saint Paul Contact

Reuben Collins, PE
25 West 4th Street
1500 City Hall Annex
Saint Paul, MN 55102
651-266-6059
reuben.collins@ci.stpaul.mn.us

2. The Council or its agents will perform and direct all construction supervision, contract administration, and inspections required to complete the Combined Project.

3. The City's authorized representative, or their designee identified to the Council in writing, may observe the work during the construction of the City Project, but the City's authorized representative is not responsible for supervising the City Project. When observing the work, the City's authorized representative will cooperate with the Council's Engineer or designated representative. The City's authorized representative will be available to the Council at all times during construction of the City Project. The City will designate an authorized representative with the authority and experience to make decisions concerning the construction of the City Project so as not to delay construction of the Council Project or the Combined Project.

4. If after installation, the City determines that any portion of the City Project was not constructed substantially in accordance with the City Project Construction Documents, the City's authorized representative will inform the Council of the deficiency within 7 days. The City's notice to the Council will also explain why the portion of the City Project does not conform to the City Project Construction Documents and the actions the City believes the contractor must take to correct the deficiency. The Council will require the contractor to make the corrections to meet the requirements of the City Project Construction Documents.

5. The City's authorized representative will participate in the inspection of the City Project for substantial completion. Within 7 days of any substantial completion inspection, the City will provide the Council the punch list items that need to be addressed before final completion of the City Project. If the City does not provide punch list items within 7 days, the contractor's work will be deemed accepted.

6. The Council will inform the City in writing of final completion of construction (including the punch list items) of the City Project. Within 7 days of receiving the Council's written notice, the City will inform the Council in writing whether the City Project conforms to the City Project Construction Documents. The City makes the final decision on whether the contractor's City Project work conforms to the City Construction Documents. In order to accept the work on the City Project, the City must provide the Council a letter from the **City Engineer**. Notwithstanding the foregoing, if the City does not respond to the Council's written notice within

7 days, the City Project construction is deemed to have conformed to the City Project Construction Documents.

7. The City will participate in the claims process on the Combined Project for the following types of contractor claims:

- (a) Project delays relating in any way to site conditions;
- (b) City requests for changes or modifications to any construction documents (City Project, Council Project, or Combined Project); and
- (c) Project delays caused by untimely response to the inspection requirements in Section V.

The City will pay the portion of any claim that relates to the acts of the City.

VI. Modifications to Construction Documents

1. The Council may make minor changes in the City Project Construction Documents and the Combined Project Construction Documents if the changes are necessary to complete construction. The Council may also enter into any change orders or supplemental agreements with the contractor on the Combined Project to incorporate these changes in the City Project or Combined Project Construction documents. These changes may result in a change to the City's cost participation described in Section VII.

2. The Council will give the City's authorized representative all proposed amendments and material changes to the City Project Construction Documents. The City will review the documents and communicate in writing its acceptance or rejection to the Council within 7 days. The Council will not amend or change the City Project Construction Documents until it receives the City's written acceptance.

3. The City may make changes to the City Project if all of the following occur:
- (a) The City gives the Council 7 days written notice;
 - (b) The City bears its proportionate share of the costs; and
 - (c) The change does not increase the cost or delay completion of the Council Project, as defined by Council's authorized representative.

VII.
Warranties/Maintenance

1. The City Project bonds and warranties will be issued in the name of the Council and the City. Once construction of the City Project is complete the Council and the City will jointly have the control of all bonds, warranties, and guarantees provided by sureties, construction contractors, and subcontractors.

2. The Council is not responsible for operation or maintenance of the City Project once constructed; the City is responsible for ownership, operation and maintenance. The Council is responsible for operation and maintenance and capital upgrades, repairs and replacement of the improvements constructed by the Council Project. The City, Council, and other Project partners intend to enter into further agreements regarding the details of ownership and maintenance responsibilities related to the Combined Project.

VIII.
Liability

1. To the extent authorized by law each party is responsible only for its own acts and the results of its acts. The City's and Council's liability is governed by the provisions of Minnesota Statutes, Chapter 466. For purposes of determining total liability of damages, the parties will be considered a single governmental unit pursuant to Minn. Stat., § 471.59, subd. 1a(b) and the total liability of the parties shall not exceed the limits on governmental liability for a single governmental unit as specified in Minn. Stat. section 466.04.

2. The City and Council each warrant that they have an insurance or self-insurance program with minimum coverage consistent with the liability limits in Minnesota Statutes, Chapter 466. Nothing in this Agreement is a waiver or limitation of any immunity or limitation of liability by the City or Council.

3. The Council will ensure that the Combined Project construction contract includes the insurance requirements specified in the attached Exhibit C .

IX.
General Provisions

1. All records kept by the City and Council with respect to the Combined Project are subject to examination by representatives of each party. All data collected, created, received, maintained, or disseminated for any purpose by the City and Council under this Agreement are governed by the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13 ("Act"), and the Minnesota Rules implementing the Act.

2. The City agrees to comply with all laws applicable to the City relating to nondiscrimination, affirmative action, public purchases, contracting, employment, workers' compensation, and surety deposits required for construction contracts. Minnesota Statutes, Section

181.59 and any applicable local ordinance relating to civil rights and discrimination and the Employment Guidelines, Policies, and General Information of the City is considered a part of this Agreement.

3. The employees of the parties, and all other persons engaged by each party, will not be considered employees of the other party. Each party is solely responsible for all claims arising from its employees including claims under the Worker's Compensation Act, the Minnesota Economic Security Law, and all third-party claims resulting from an act or omission of an employee.

4. If hazardous wastes, pollutants, or contaminants as those terms are defined in law exist on the City Project site, the City is responsible for any response or remedial action, monitoring or reporting under the law. Nothing in this paragraph requires that the City accept responsibility for any environmental conditions that are not the City's legal responsibility. This paragraph survives the termination of this Agreement.

5. The City's authorized representative will manage this Agreement for the City and act as a liaison between the City and Council.

6. The Council's Gold Line Project Manager will manage this Agreement for the Council and act as a liaison between the Council and the City.

7. This Agreement is the entire agreement between the parties and supersedes all oral agreements and negotiations between the parties relating to this Agreement. All exhibits and attachments to this Agreement are incorporated into the Agreement. If there is a conflict between the terms of this Agreement and any of the exhibits the Agreement governs.

8. The provisions of this Agreement are severable. If a court finds any part of this Agreement void, invalid, or unenforceable, it will not affect the validity and enforceability of the remainder of this Agreement. A waiver by a party of any part of this Agreement is not a waiver of any other part of the Agreement or of a future breach of the Agreement.

9. Any modifications to this Agreement will be in writing as a formal amendment unless specifically noted above.

10. This Agreement is binding upon and for the benefit of the parties and their successors and assigns. This Agreement is not intended to benefit any third-party.

11. Except as otherwise provided for in this Agreement, the Agreement may be terminated by the mutual agreement of the parties.

12. If a force majeure event occurs, neither party is responsible for a failure to perform or a delay in performance due to the force majeure event. A force majeure event is an event beyond a party's reasonable control, such as unusually severe weather, fire, floods, other acts of God, labor disputes, acts of war or terrorism, or public health emergencies.

13. Under Minnesota Statutes, Section 16C.05, subdivision 5, the parties agree that the books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by either party and the state auditor or legislative auditor, as appropriate, for at least six years from the end of this Agreement.

14. A party will send all notices or demands under this Agreement either by:

- (a) certified mail;
- (b) e-mail, as long as the recipient acknowledges receipt by e-mail or otherwise in writing; or
- (c) delivered in person to the other party addressed to the following authorized representatives:

Christine Beckwith, P.E., MBA (or successor)
 Gold Line Project Director
 121 7th Pl. E, Suite 102
 St. Paul, MN 55101
 (651) 602-1994

Paul Kurtz
 City Engineer
 25 West 4th Street
 1500 City Hall Annex
 Saint Paul, MN 55102
 651-266-6100
paul.kurtz@ci.stpaul.mn.us

15. The parties will use a dispute resolution process for any unresolved dispute between the parties before exercising any legal remedies. The dispute resolution process is a three level dispute resolution ladder that escalates a dispute from the project management level through the executive management level. At each level of the dispute resolution process, the parties' representatives will meet and explore resolution until either party determines that effective resolution is not possible at the current level, and notifies the other party that the process is elevated to the next level. The parties designate the following dispute resolution representatives:

	City Representative	Council Representative
Level 1	Construction Coordinator	Christine Beckwith Assistant Director, BRT Projects
Level 2	Project Manager	Charles Carlson Director, BRT Projects
Level 3	Paul Kurtz City Engineer	Nick Thompson, Deputy General Manager - Capital Programs

The parties will complete the dispute resolution process in good faith before resorting to any other legal process or remedy.

16. This Agreement may be executed in multiple counterparts, all of which when taken together shall comprise one agreement. Delivery of an executed counterpart of a signature page of this Agreement by facsimile transmission or electronic transmission (e.g., ‘pdf’ or ‘tif’) shall be effective as delivery of a manually executed counterpart of this Agreement.

17. Exhibit D – Supplemental Conditions for FTA Funded Projects is incorporated into this Agreement.

18. This Agreement will be effective when all parties have signed it. The date of this Agreement will be the date this Agreement is signed by the last party to sign it (as indicated by the date associated with that party’s signature). Each party is signing this Agreement on the date stated below that party’s signature.

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CITY OF SAINT PAUL

METROPOLITAN COUNCIL,
A public corporation and political subdivision
of the State of Minnesota

By: _____
Mayor

By: _____
Mary Bogie, Regional Administrator

Date: _____

Date: _____

By: _____
Director of Public Works/City
Engineer

Date: _____

By: _____
City Attorney's Office

Date: _____

LIST OF EXHIBITS

- Exhibit A - Council Project and City Project Locations

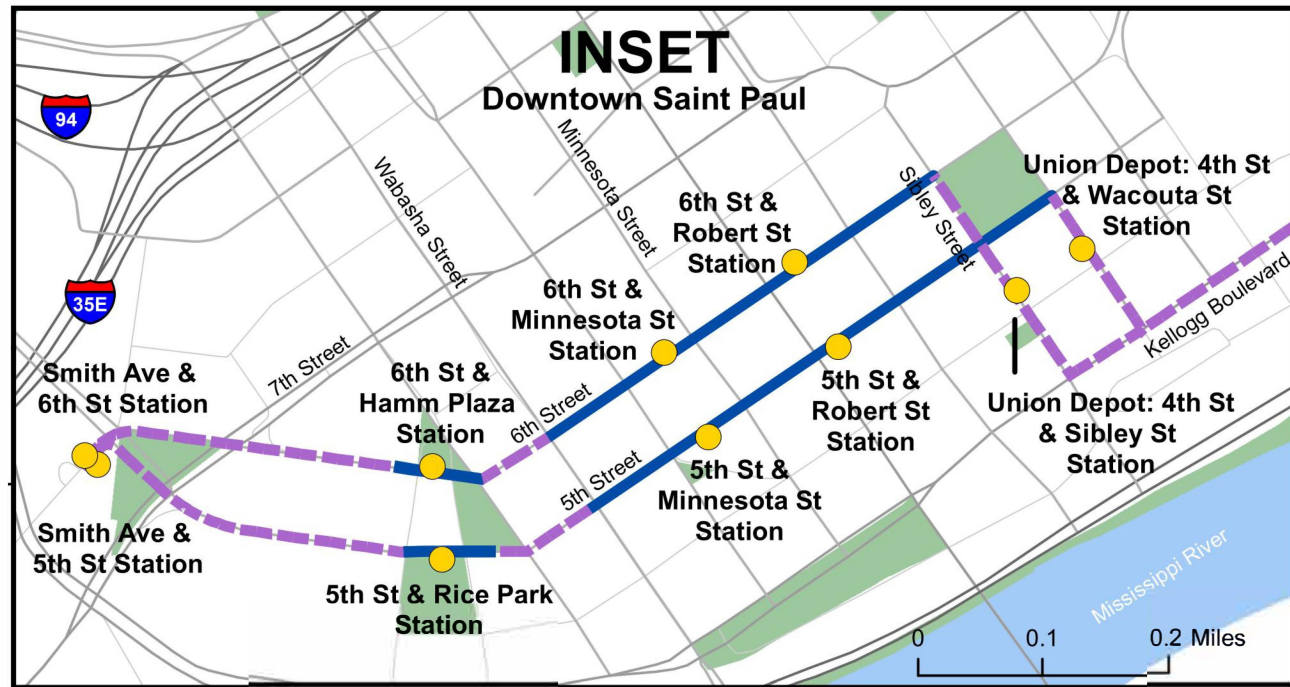
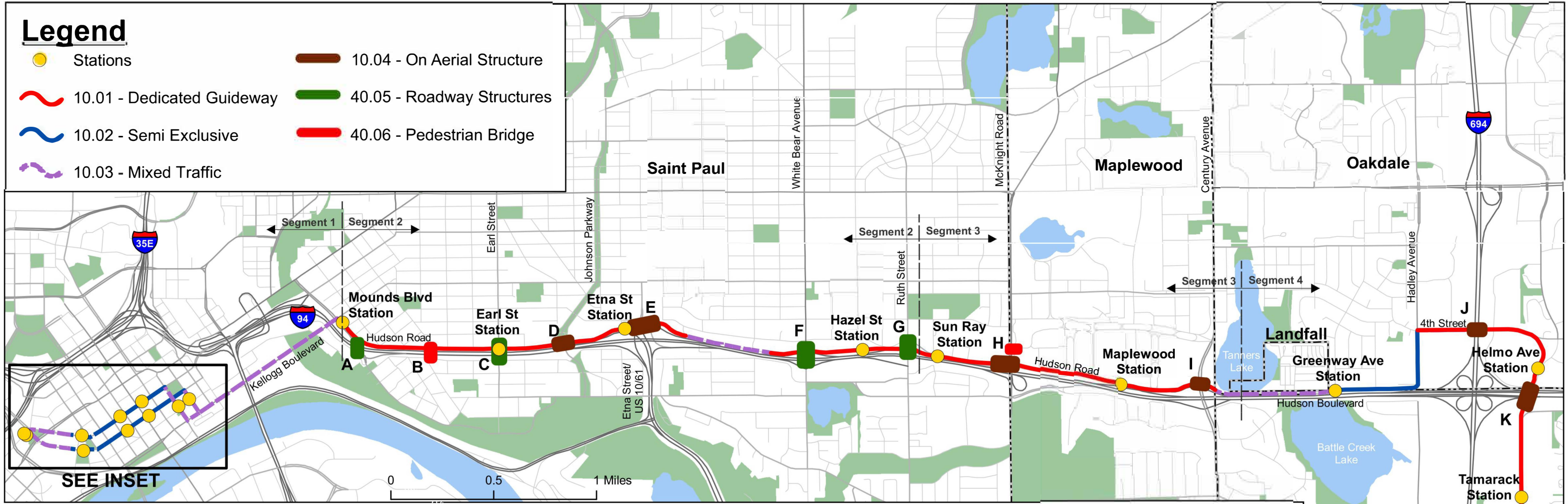
- Exhibit B - Acquisitions for City Project and Council Project

- Exhibit C - Insurance Requirements

- Exhibit D - Supplemental Conditions for FTA Funded Projects

Exhibit A
City Project and Council Project Locations

Council Project Location



Bridges

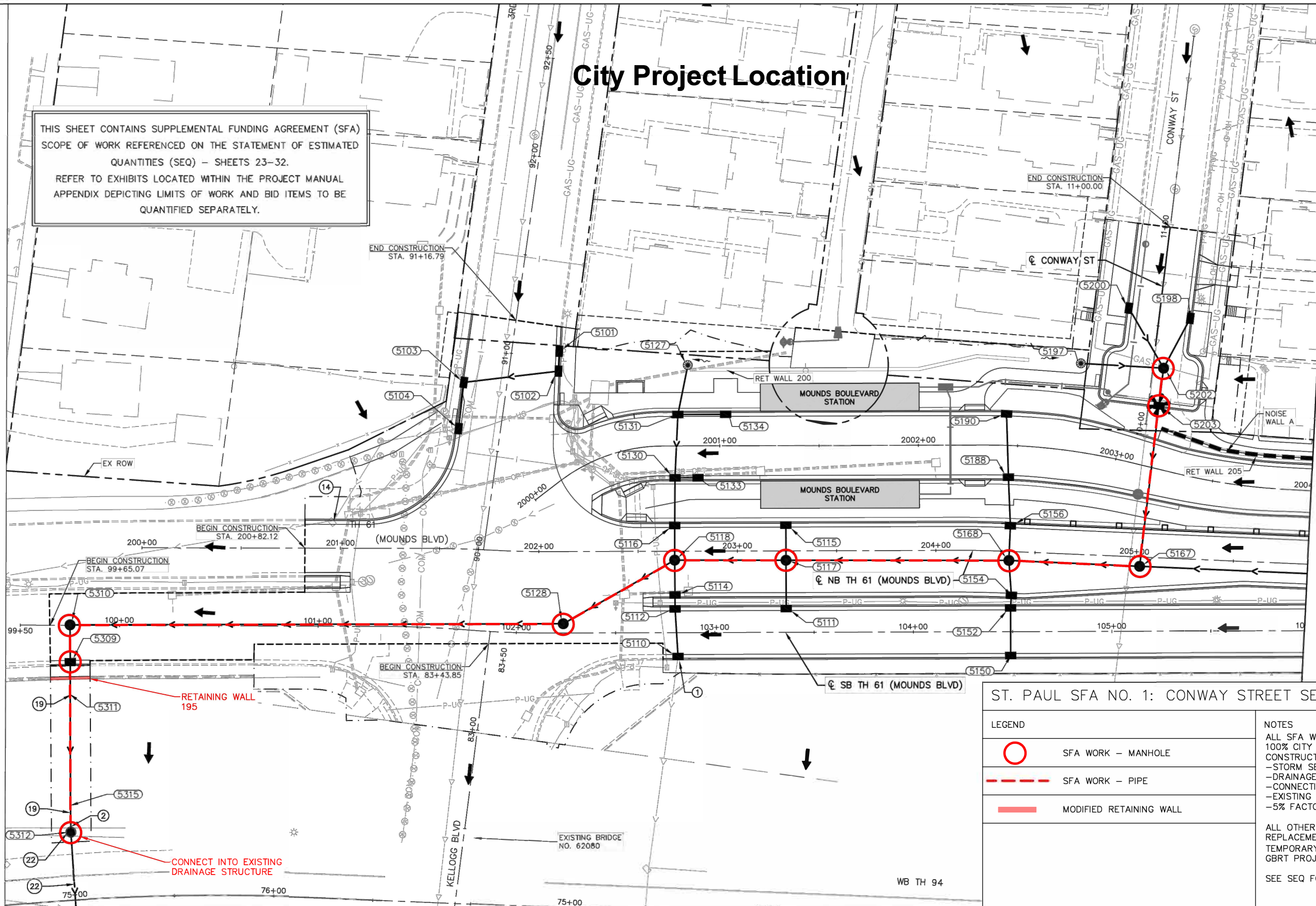
A - Mounds Blvd. - No. 62706	G - Ruth Street - No. 62662
B - Maple Pedestrian - No. 62946	H - McKnight Road - No. 62663 McKnight Pedestrian - No. R0854
C - Earl Street - No. 62861	I - Century Avenue - No. 62101
D - Johnson Parkway - No. 62660	J - 4th Street - No. 82876
E - Etna Street - No. 62100	K - Bielenberg Dr. - No. 82875
F - White Bear Avenue - No. 62661	

Date Created: 05/15/2021

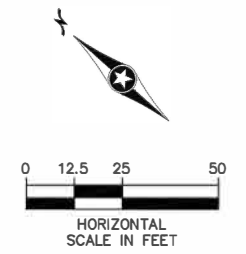


City Project Location

THIS SHEET CONTAINS SUPPLEMENTAL FUNDING AGREEMENT (SFA) SCOPE OF WORK REFERENCED ON THE STATEMENT OF ESTIMATED QUANTITIES (SEQ) - SHEETS 23-32. REFER TO EXHIBITS LOCATED WITHIN THE PROJECT MANUAL APPENDIX DEPICTING LIMITS OF WORK AND BID ITEMS TO BE QUANTIFIED SEPARATELY.



SEE SHEET 1301



ST. PAUL SFA NO. 1: CONWAY STREET SEWER SEPARATION (1 OF 1)

LEGEND

	SFA WORK - MANHOLE
	SFA WORK - PIPE
	MODIFIED RETAINING WALL

NOTES

ALL SFA WORK (SHOWN IN RED) IS ASSUMED TO BE 100% CITY OF ST. PAUL AND INCLUDED IN THE SFA CONSTRUCTION COST INCLUDING:

- STORM SEWER
- DRAINAGE STRUCTURES
- CONNECTIONS INTO DOWNSTREAM STORM SEWER
- EXISTING RETAINING WALL MODIFICATION
- 5% FACTOR TO COVER MOBILIZATION

ALL OTHER WORK NOT SHOWN IN RED (PAVEMENT REPLACEMENT, TRAFFIC CONTROL, AND OTHER TEMPORARY MEASURES) ARE ASSUMED TO BE 100% GBRT PROJECT COSTS.

SEE SEQ FOR SEPERATE COST ESTIMATES

Jul, 27 2021 01:43 pm C:\caddlib\pw\jgc3d\0228424\SEG2-STM-PLN.dwg By: dolson

NO.	REVISIONS	BY	APP	DATE

DRAWN: DWO
DESIGNED: DSP
CHECKED: DWF

Kimley»Horn **METRO Gold Line**
SRF **METROPOLITAN COUNCIL**

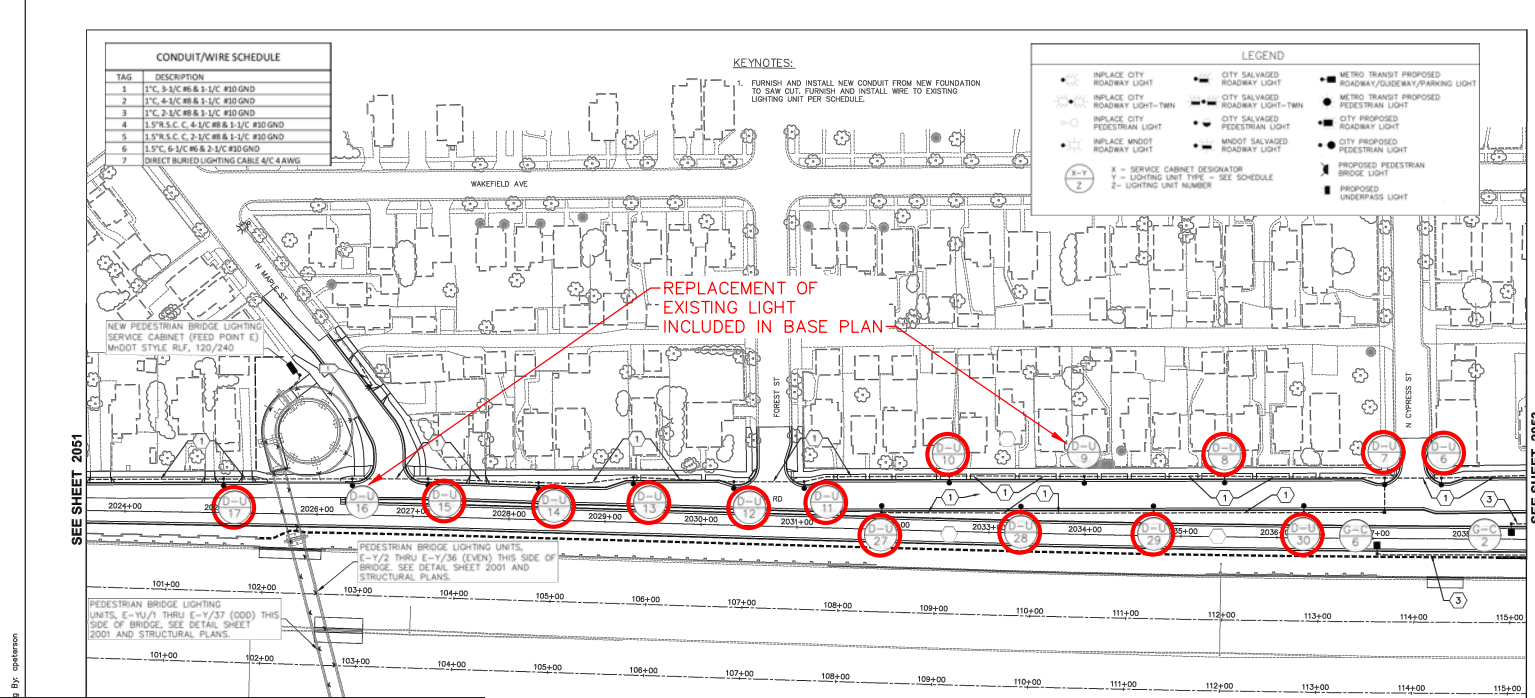
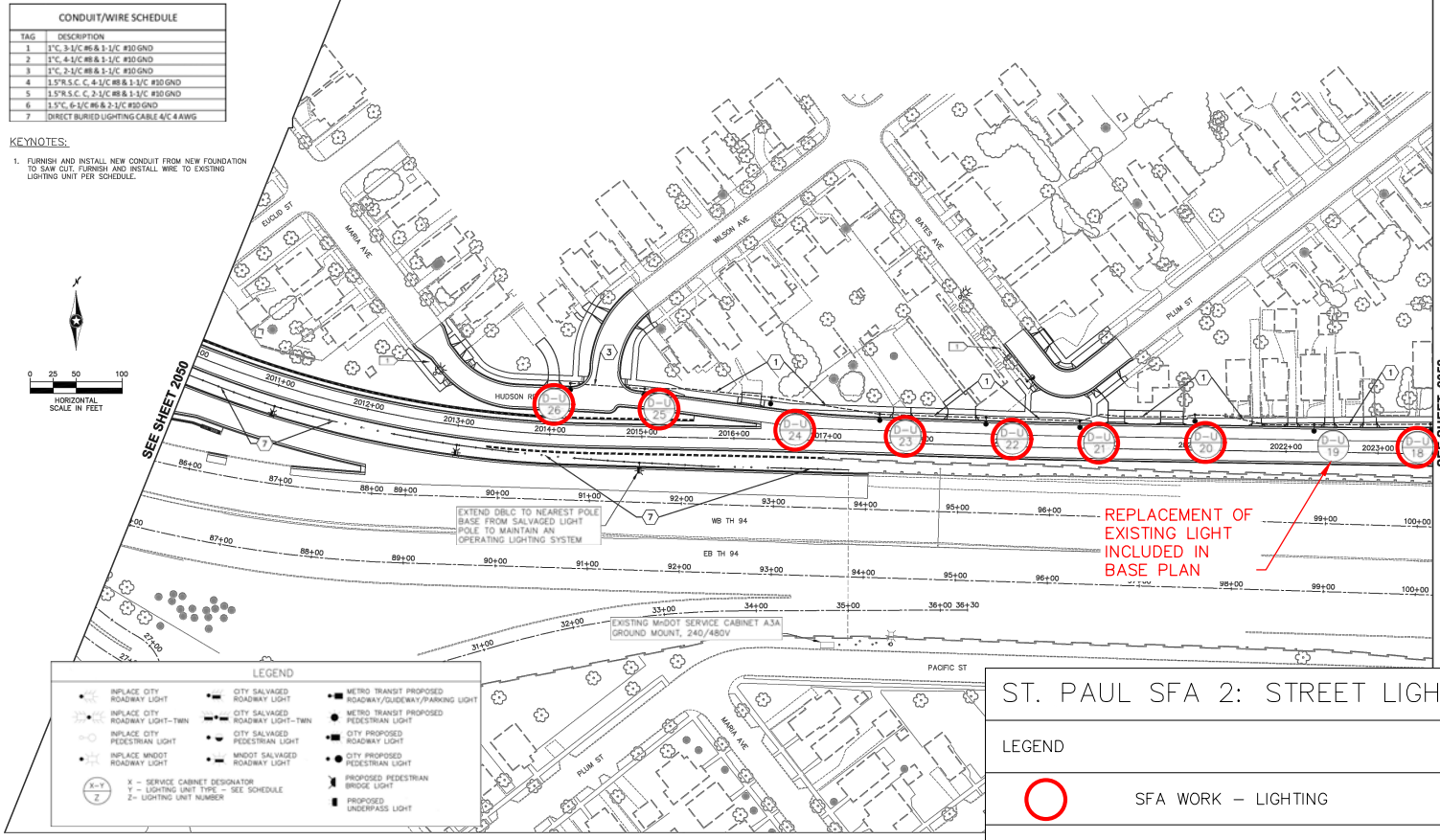
I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

CERTIFIED BY DAVID FILIPIAK
LIC. NO. 19596 DATE 09/24/2021

DRAINAGE PLANS

STATE PROJ. NO. 6217-45 (TH 3), 6221-110 (TH 61), 6283-254 (TH 94), 6220-87 (TH 61), 8282-139 (TH 94), 8286-93 (TH 694)

1300 OF 2649



ST. PAUL SFA 2: STREET LIGHTING UPDATES (1 OF 3)

LEGEND

○ SFA WORK - LIGHTING

NOTES

ALL SFA WORK (SHOWN IN RED) IS ASSUMED TO BE 100% CITY OF ST. PAUL AND INCLUDED IN THE SFA CONSTRUCTION COST INCLUDING:
 - STREET LIGHTING
 - 5% FACTOR TO COVER MOBILIZATION COSTS

ALL OTHER WORK NOT SHOWN IN RED (PAVEMENT REPLACEMENT, TRAFFIC CONTROL, AND OTHER TEMPORARY MEASURES) ARE ASSUMED TO BE 100% GBRT PROJECT COSTS.

SEE SEQ FOR SEPERATE COST ESTIMATES

Kimley-Horn & Associates, Inc. METRO Gold Line 100% SUBMITTAL

DESIGNED: LSRF METROPOLITAN

CHECKED: LSRF METROPOLITAN

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

CERTIFIED BY: STEVE MCHENRY DATE: 09/24/2021 LIC. NO. 46710 STATE PROJ. NO. 6217-45 (TH 3), 6221-110 (TH 61), 6283-254 (TH 94), 8220-87 (TH 61), 8282-139 (TH 94), 8286-93 (TH 694) 2052 OF 2649

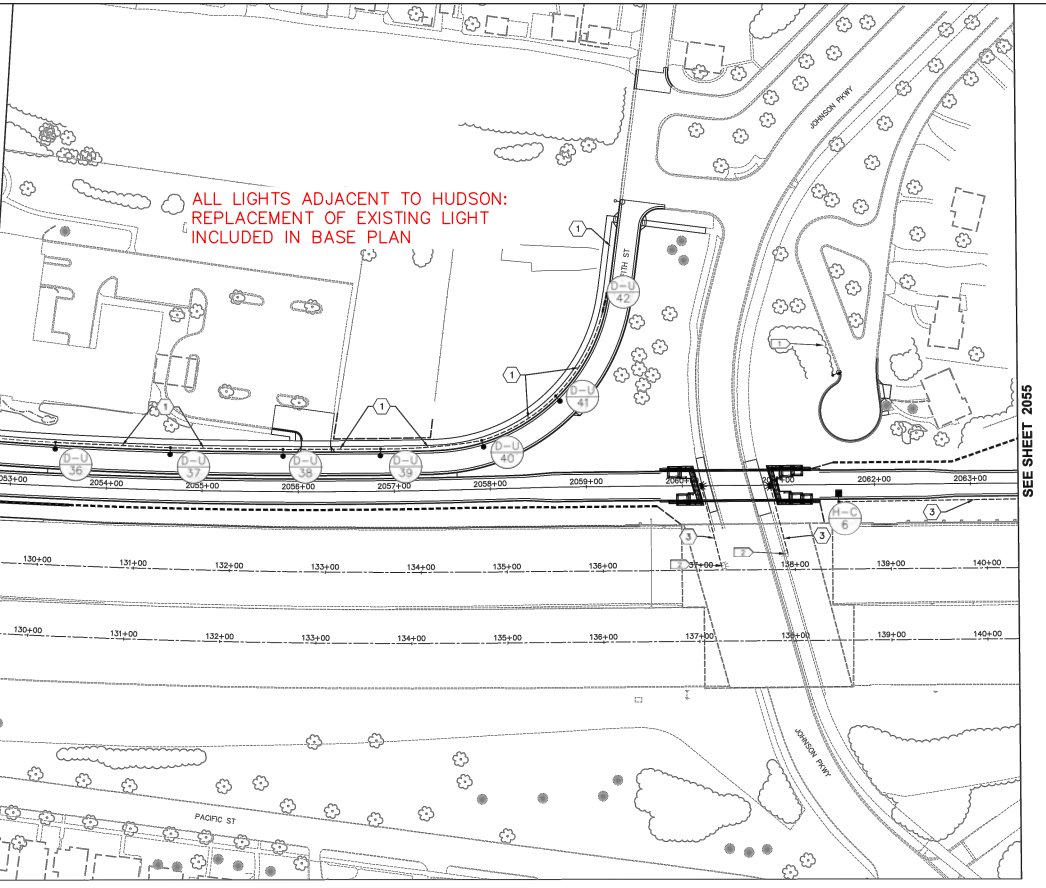
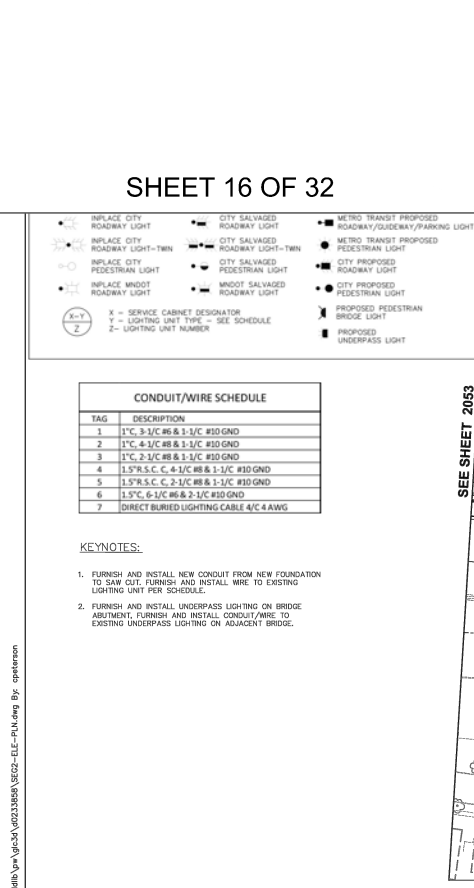
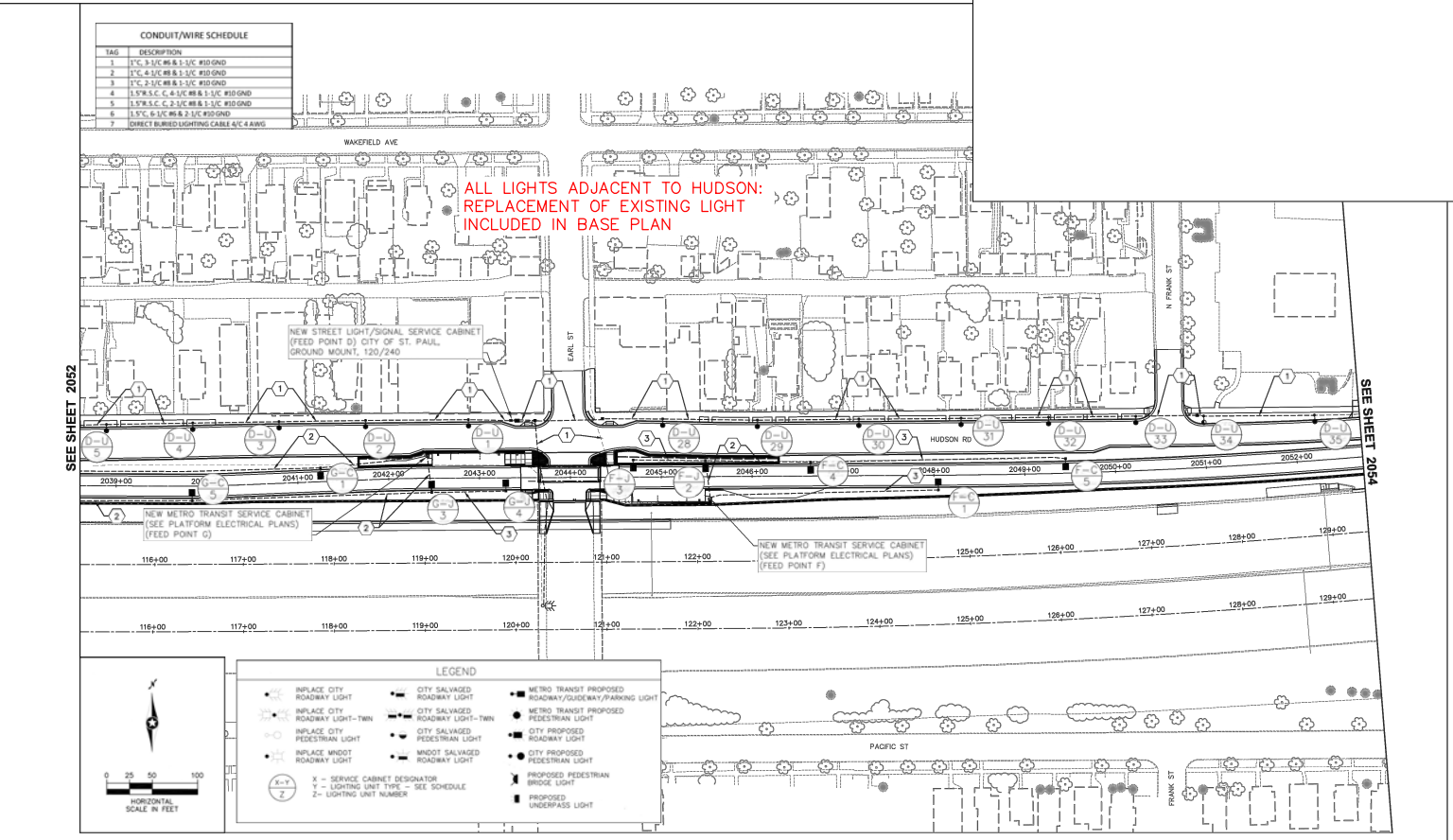
METRO Gold Line 100% SUBMITTAL

DESIGNED: LSRF METROPOLITAN

CHECKED: LSRF METROPOLITAN

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

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Kimley-Horn & Associates, Inc. METRO Gold Line 100% SUBMITTAL

DESIGNED: LSRF METROPOLITAN

CHECKED: LSRF METROPOLITAN

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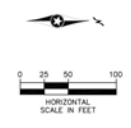
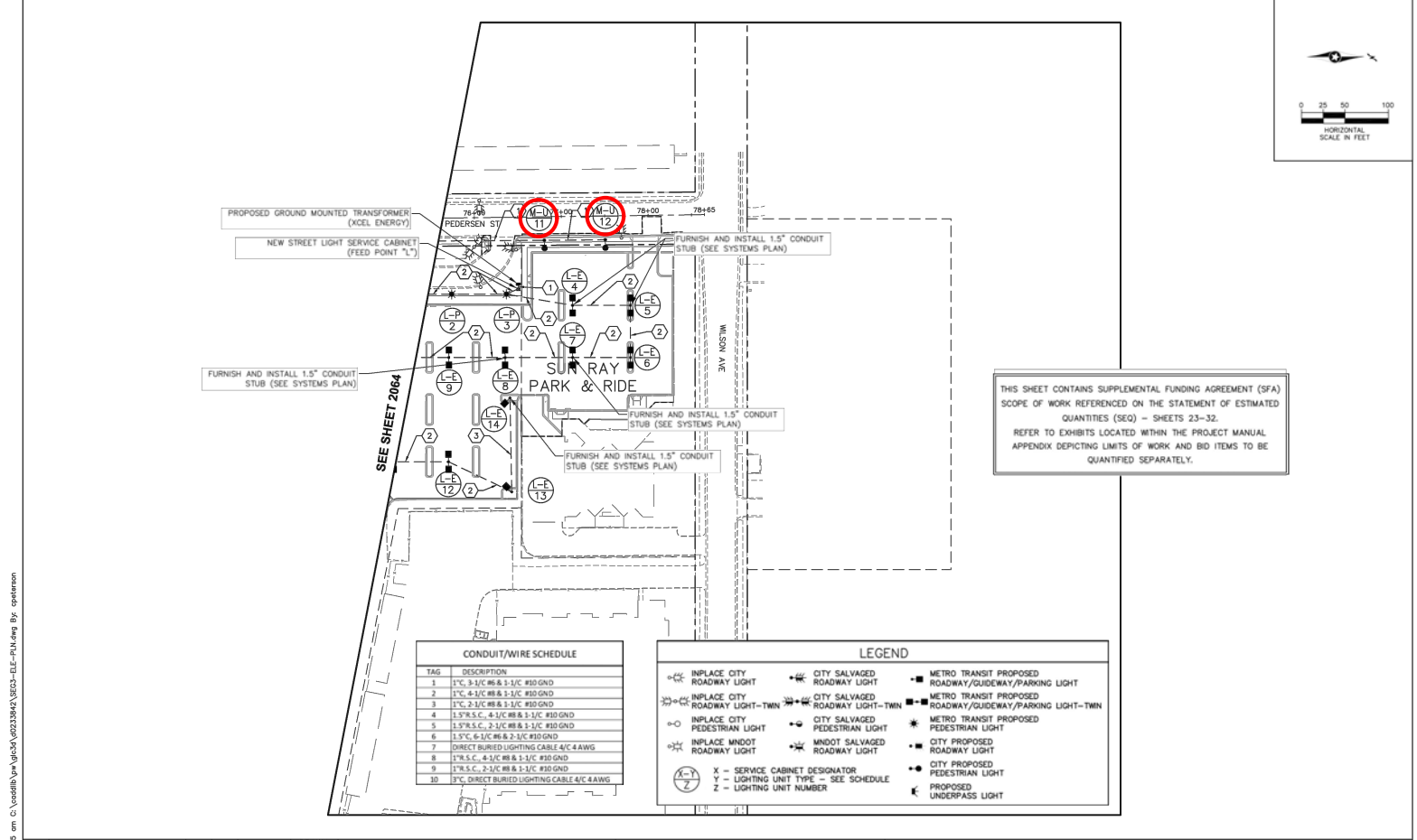
METRO Gold Line 100% SUBMITTAL

DESIGNED: LSRF METROPOLITAN

CHECKED: LSRF METROPOLITAN

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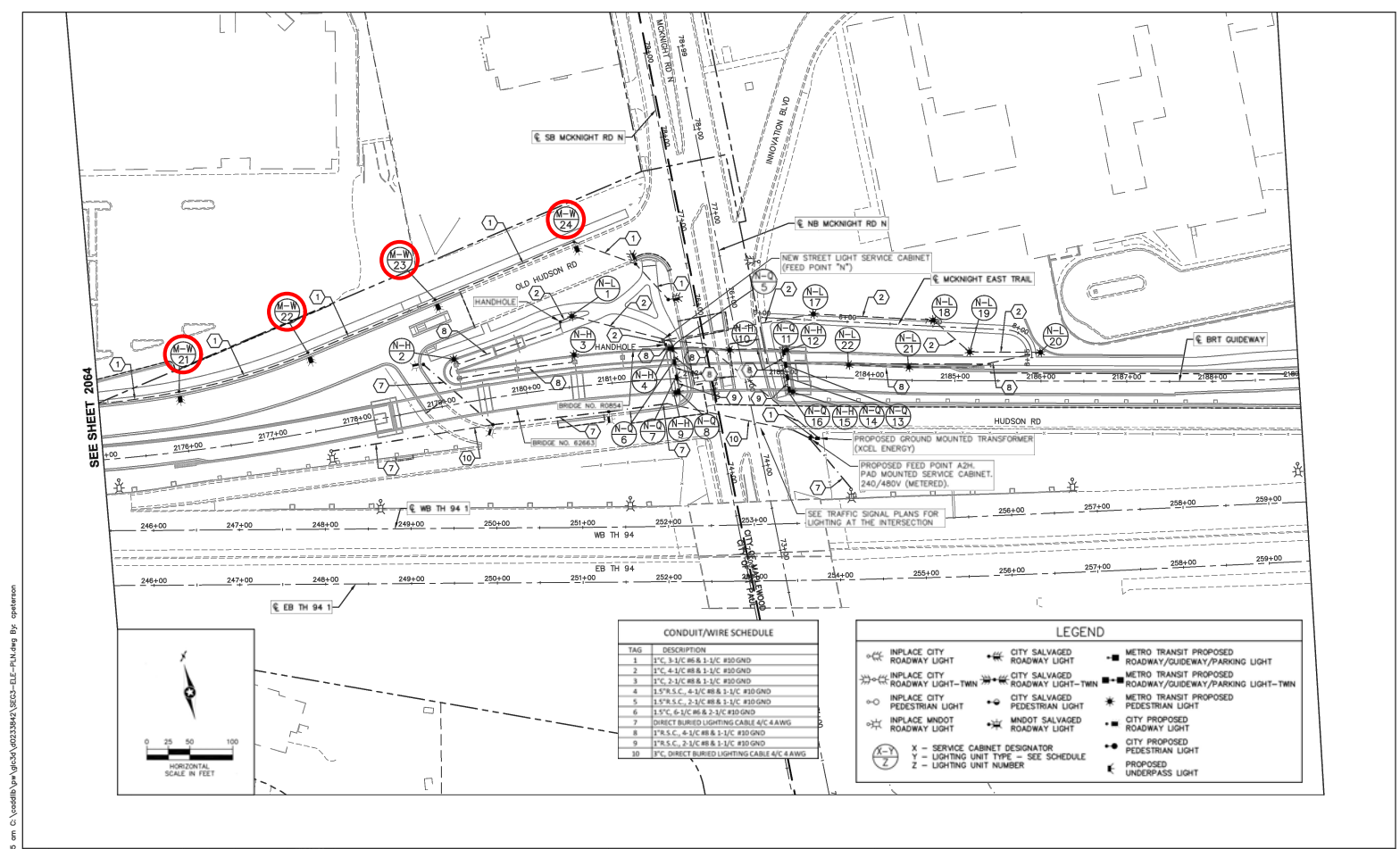


TAG	DESCRIPTION
1	1\"/>

LEGEND	
	INPLACE CITY ROADWAY LIGHT
	CITY SALVAGED ROADWAY LIGHT
	METRO TRANSIT PROPOSED ROADWAY/GUIDEWAY/PARKING LIGHT
	INPLACE CITY ROADWAY LIGHT-TWIN
	CITY SALVAGED ROADWAY LIGHT-TWIN
	METRO TRANSIT PROPOSED ROADWAY/GUIDEWAY/PARKING LIGHT-TWIN
	INPLACE CITY PEDESTRIAN LIGHT
	CITY SALVAGED PEDESTRIAN LIGHT
	METRO TRANSIT PROPOSED PEDESTRIAN LIGHT
	INPLACE MNDOT ROADWAY LIGHT
	CITY SALVAGED MNDOT ROADWAY LIGHT
	CITY PROPOSED ROADWAY LIGHT
	CITY PROPOSED PEDESTRIAN LIGHT
	PROPOSED UNDERPASS LIGHT
	X - SERVICE CABINET DESIGNATOR
	Y - LIGHTING UNIT TYPE - SEE SCHEDULE
	Z - LIGHTING UNIT NUMBER

THIS SHEET CONTAINS SUPPLEMENTAL FUNDING AGREEMENT (SFA) SCOPE OF WORK REFERENCED ON THE STATEMENT OF ESTIMATED QUANTITIES (SEQ) - SHEETS 23-32. REFER TO EXHIBITS LOCATED WITHIN THE PROJECT MANUAL APPENDIX DEPICTING LIMITS OF WORK AND BID ITEMS TO BE QUANTIFIED SEPARATELY.

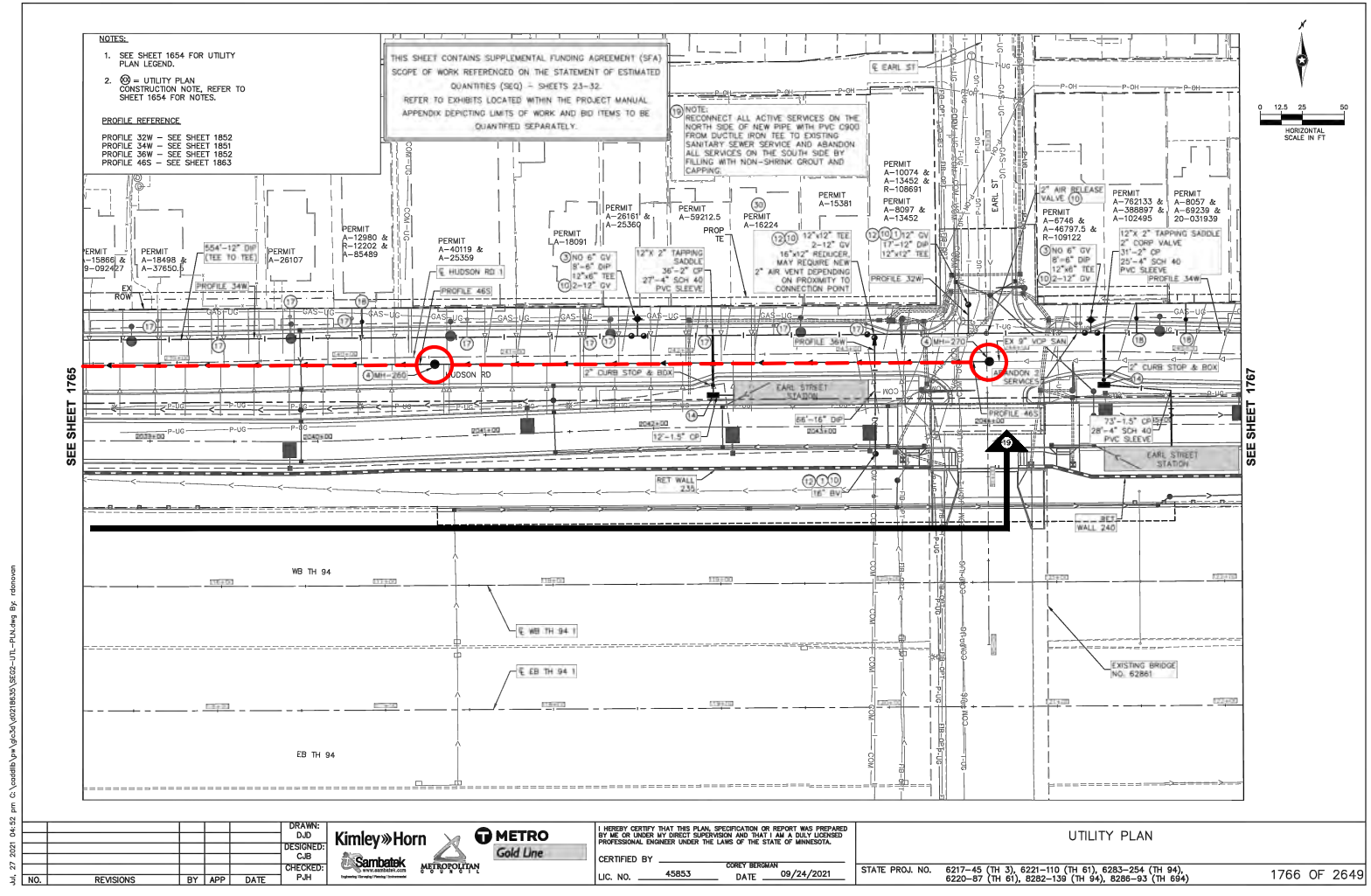
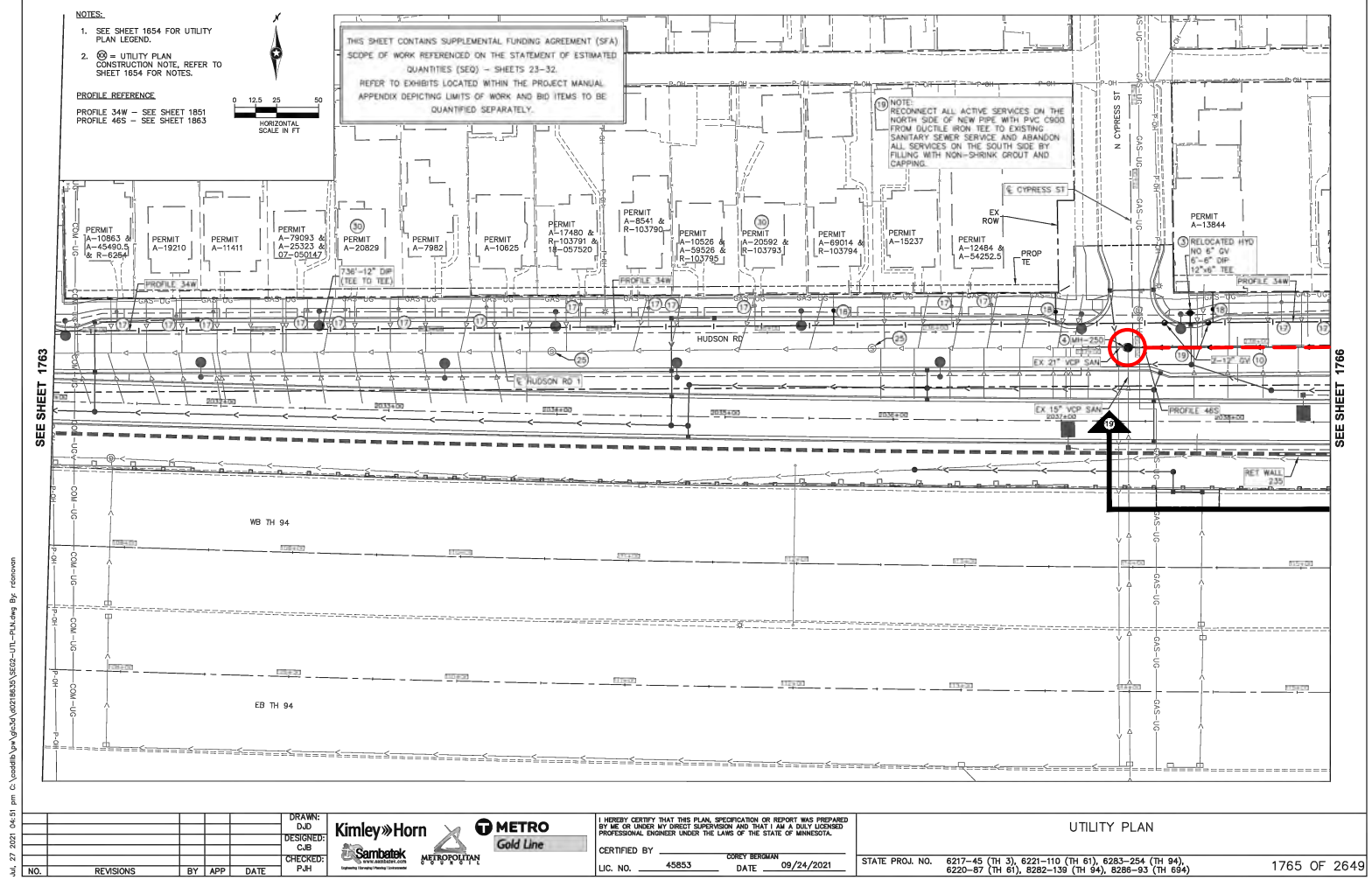
DRAWN: BMW			I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.	LIGHTING PLAN	
DESIGNED: BKV				PROPOSED LIGHTING SYSTEMS M/L	
CHECKED: BKV		CERTIFIED BY: BRIAN K'VILLA DATE: 09/24/2021		STATE PROJ. NO. 6217-45 (TH 3), 6221-110 (TH 61), 6283-254 (TH 94), 6220-87 (TH 61), 6282-139 (TH 94), 8286-93 (TH 694)	
NO. REVISIONS BY APP DATE				2065 OF 2649	



ST. PAUL SFA 2: STREET LIGHTING UPDATES (3 OF 3)

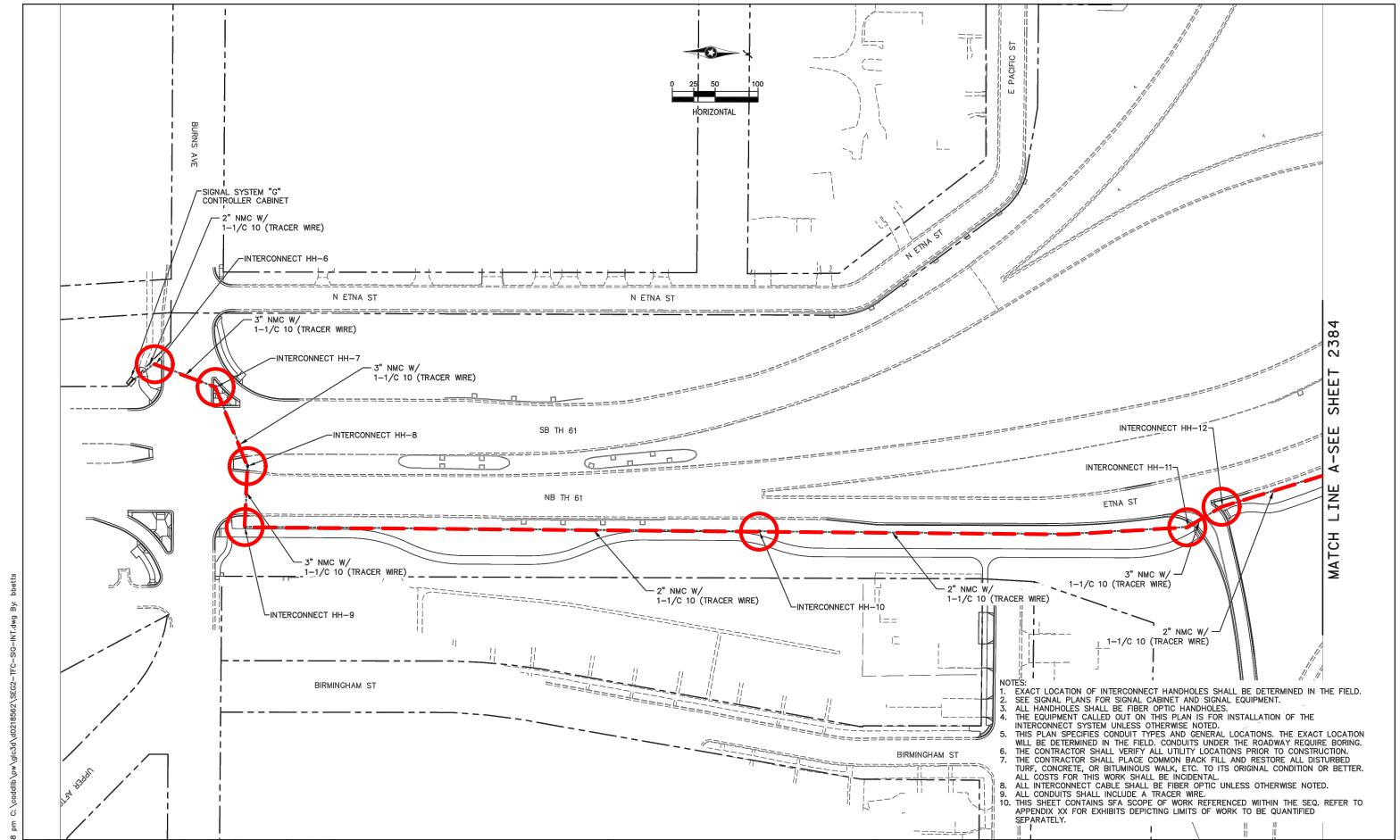
LEGEND	NOTES
SFA WORK - LIGHTING	ALL SFA WORK (SHOWN IN RED) IS ASSUMED TO BE 100% CITY OF ST. PAUL AND INCLUDED IN THE SFA CONSTRUCTION COST INCLUDING: -STREET LIGHTING -5% FACTOR TO COVER MOBILIZATION COSTS ALL OTHER WORK NOT SHOWN IN RED (PAVEMENT REPLACEMENT, TRAFFIC CONTROL, AND OTHER TEMPORARY MEASURES) ARE ASSUMED TO BE 100% GBRT PROJECT COSTS. SEE SEQ FOR SEPERATE COST ESTIMATES

DRAWN: BMW			I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.	LIGHTING PLAN	
DESIGNED: BKV				PROPOSED LIGHTING SYSTEMS M/L	
CHECKED: BKV		CERTIFIED BY: BRIAN K'VILLA DATE: 09/24/2021		STATE PROJ. NO. 6217-45 (TH 3), 6221-110 (TH 61), 6283-254 (TH 94), 6220-87 (TH 61), 6282-139 (TH 94), 8286-93 (TH 694)	
NO. REVISIONS BY APP DATE				2066 OF 2649	



ST. PAUL SFA 3: TWIN SANITARY SEWER REPLACEMENT (1 OF 1)

LEGEND		NOTES
	SFA WORK - MANHOLE	ALL SFA WORK (SHOWN IN RED) IS ASSUMED TO BE 100% CITY OF ST. PAUL AND INCLUDED IN THE SFA CONSTRUCTION COST INCLUDING: -OLD SANITARY SEWER PIPE REMOVALS -NEW SANITARY SEWER PIPE -MANHOLES -SEWER SERVICE CONNECTIONS TO BUILDINGS -5% FACTOR TO COVER MOBILIZATION COSTS
	SFA WORK - PIPE	
	EXTENTS OF SFA SANITARY SEWER REPLACEMENT	ALL OTHER WORK NOT SHOWN IN RED (PAVEMENT REPLACEMENT, TRAFFIC CONTROL, AND OTHER TEMPORARY MEASURES) ARE ASSUMED TO BE 100% GBRT PROJECT COSTS.
		SEE SEQ FOR SEPERATE COST ESTIMATES

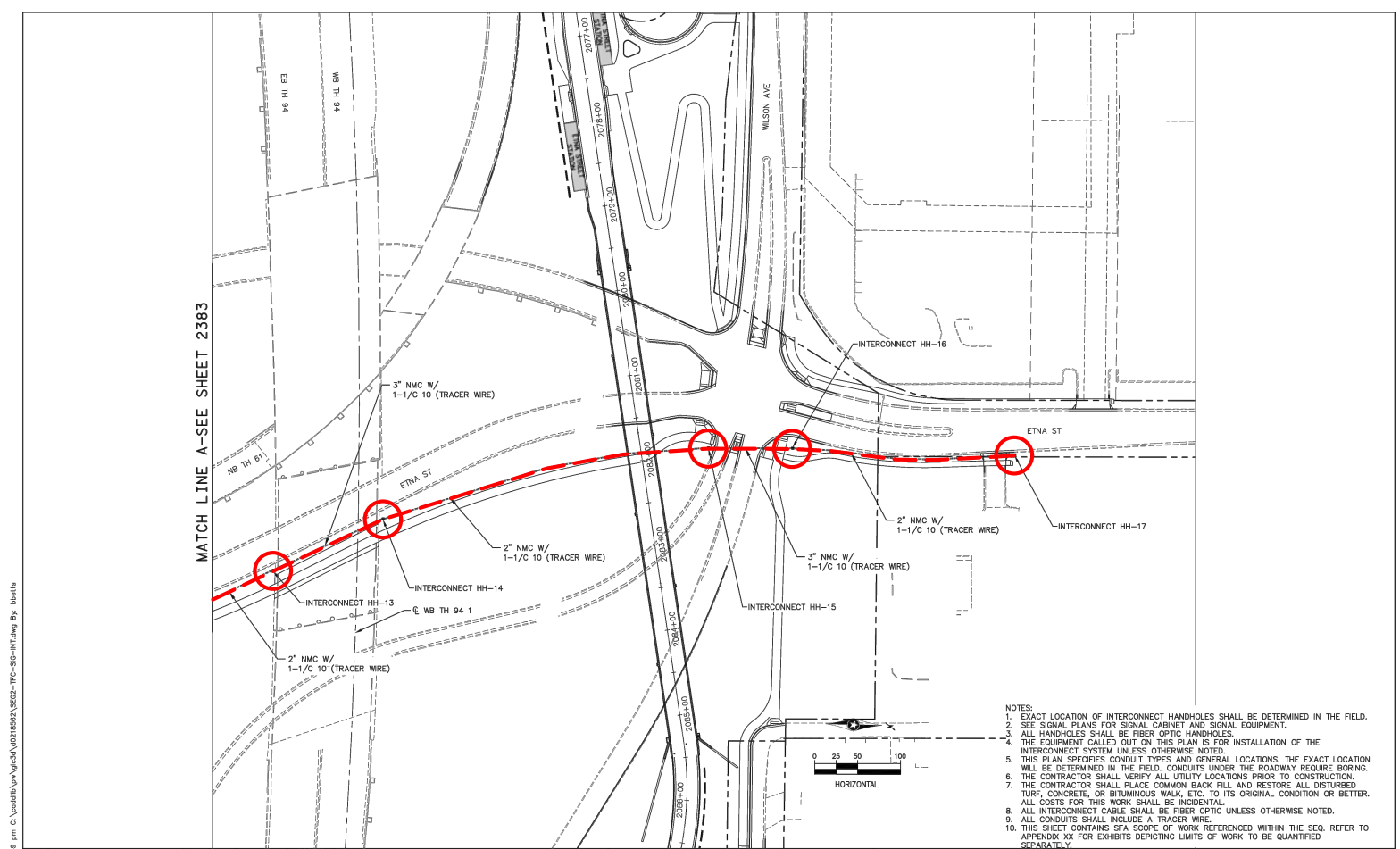


DRAWN: BMSB
 DESIGNED: NAP
 CHECKED: ASP
Kimley-Horn
SRF
METRO Gold Line
METROPOLITAN

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.
 CERTIFIED BY: JORDAN S. POTTER
 LIC. NO.: 42785 DATE: 09/24/2021

STATE PROJ. NO. 6283-254 (TH 94), 8282-139 (TH 94), 6221-110 (TH 61), 6217-45 (TH 3), 8286-93 (TH 694)

TRAFFIC SIGNAL INTERCONNECT PLAN
 INTERCONNECT SYSTEM C
 2383 OF 2649



DRAWN: BMSB
 DESIGNED: NAP
 CHECKED: ASP
Kimley-Horn
SRF
METRO Gold Line
METROPOLITAN

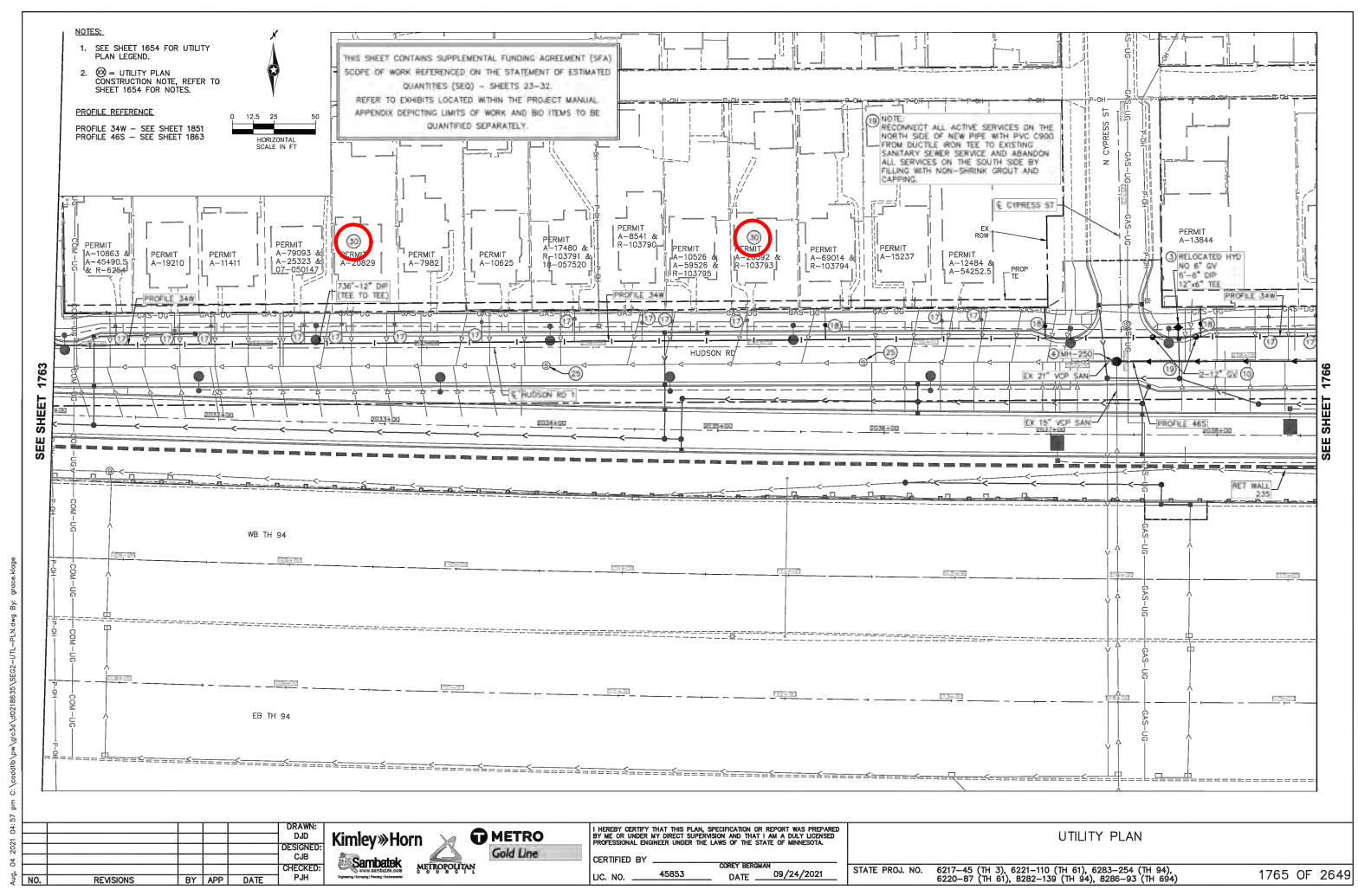
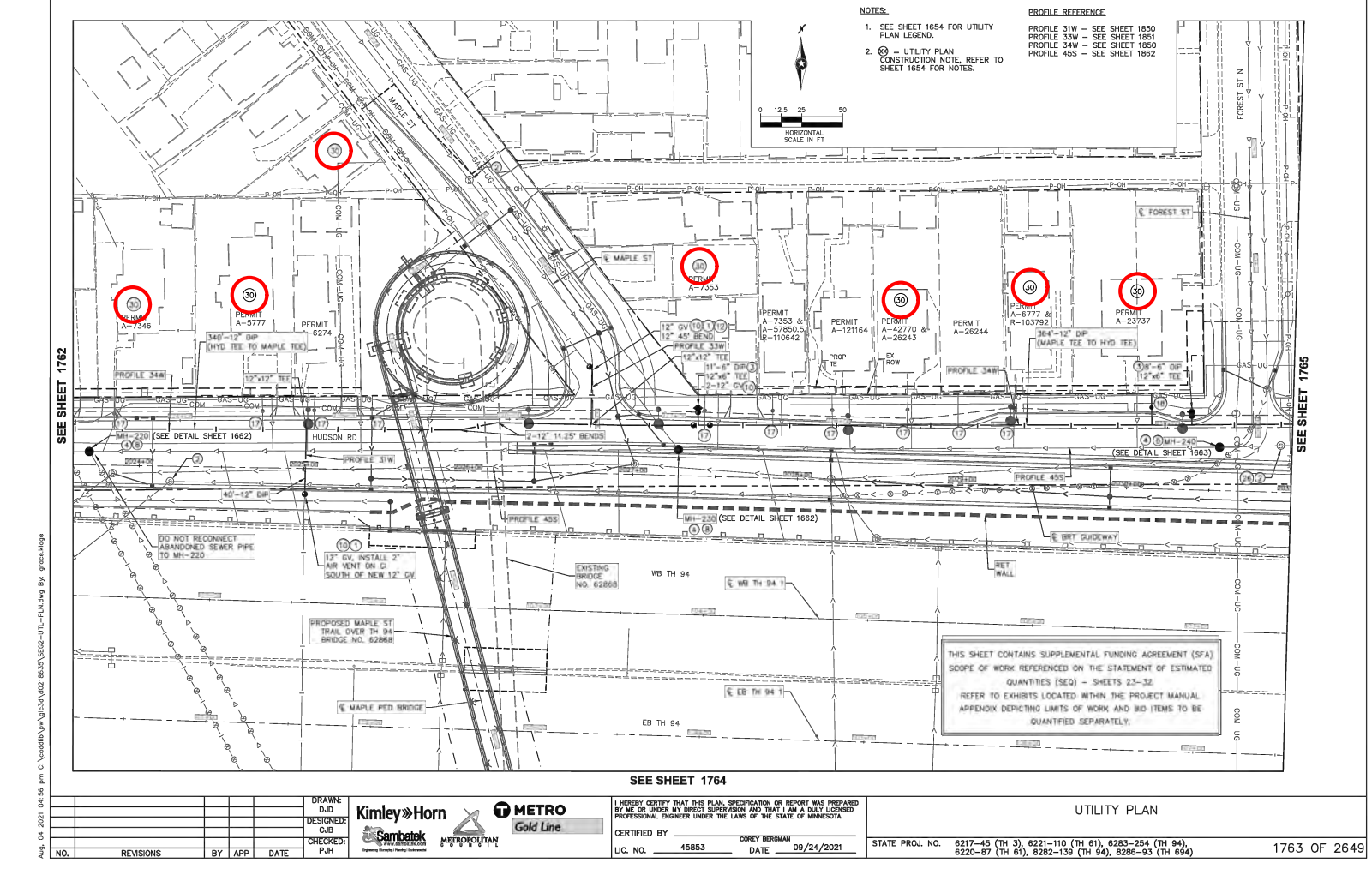
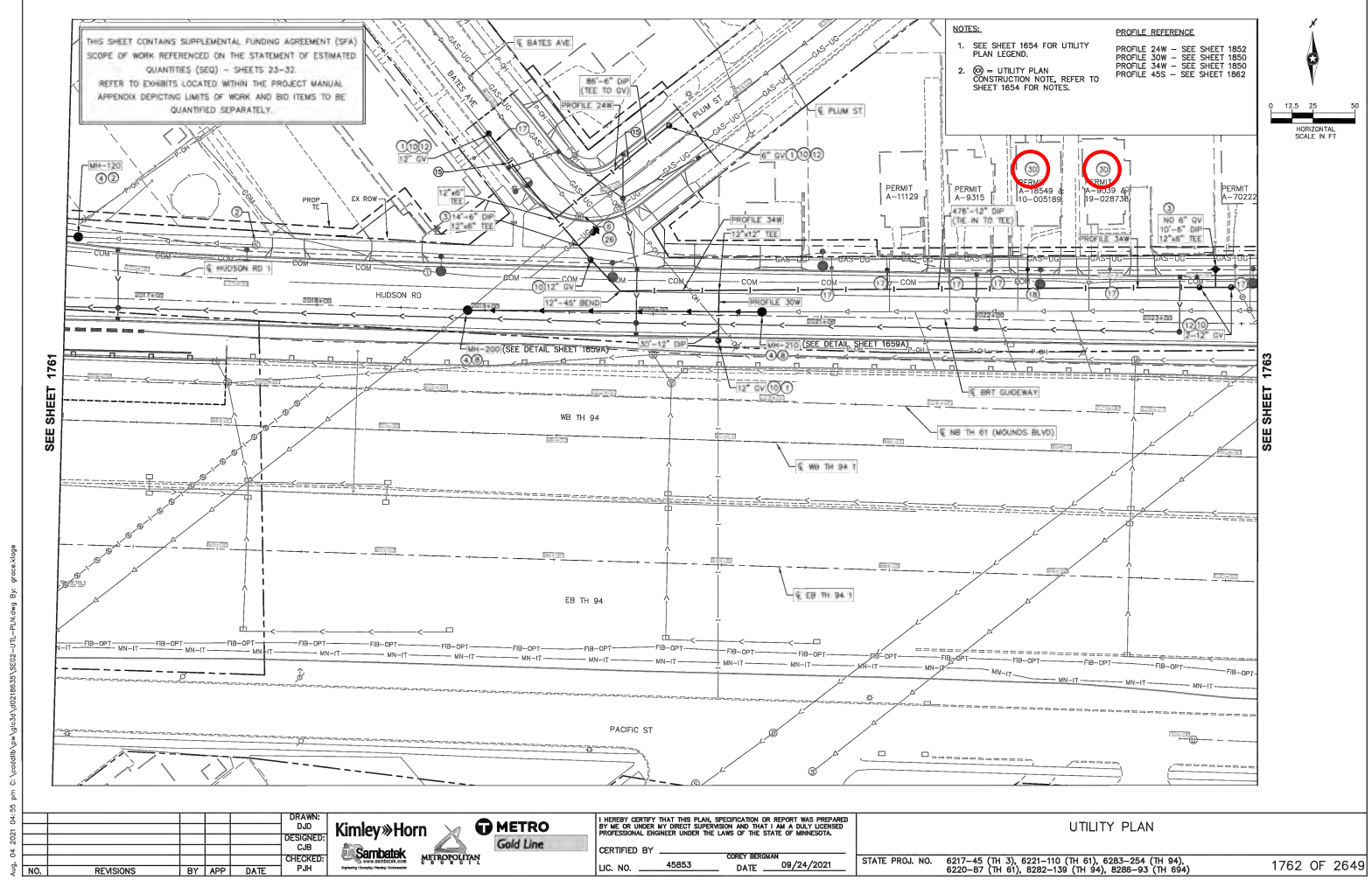
I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.
 CERTIFIED BY: JORDAN S. POTTER
 LIC. NO.: 42785 DATE: 09/24/2021

STATE PROJ. NO. 6283-254 (TH 94), 8282-139 (TH 94), 6221-110 (TH 61), 6217-45 (TH 3), 8286-93 (TH 694)

TRAFFIC SIGNAL INTERCONNECT PLAN
 INTERCONNECT SYSTEM C
 2384 OF 2649

ST. PAUL SFA 4: TH 61/ETNA/BURNS INTERCONNECT CONDUIT (1 OF 1)

LEGEND		NOTES
	SFA WORK - INTERCONNECT CONDUIT	
	SFA WORK - HANDHOLE	ALL SFA WORK (SHOWN IN RED) IS ASSUMED TO BE 100% CITY OF ST. PAUL AND INCLUDED IN THE SFA CONSTRUCTION COST INCLUDING: -INTERCONNECT CONDUIT -PROPOSED INTERCONNECT HANDHOLE -5% FACTOR TO COVER MOBILIZATION COSTS ALL OTHER WORK NOT SHOWN IN RED (PAVEMENT REPLACEMENT, TRAFFIC CONTROL, AND OTHER TEMPORARY MEASURES) ARE ASSUMED TO BE 100% GBRT PROJECT COSTS.



ST. PAUL SFA 5: SANITARY SEWER SERVICE REPLACEMENT & CLEANING / TELEVISIONING OF SANITARY SEWER (1 OF 2)

LEGEND

- (S) SFA WORK - FULL SEWER REPLACEMENT
- (30) REPLACE SANITARY SEWER SERVICE PER SFA 5, AS SHOWN IN TABLE ON SHEET 1664.

NOTES

ALL SFA WORK (SHOWN IN RED) IS ASSUMED TO BE 100% CITY OF ST. PAUL AND INCLUDED IN THE SFA CONSTRUCTION COST INCLUDING:
 -SANITARY SEWER REPLACEMENTS
 -SANITARY SEWER CONNECTIONS
 -CLEANING AND TELEVISIONING OF ALL SANITARY SEWER (SEE APPENDIX)
 -5% FACTOR TO COVER MOBILIZATION COSTS

ALL OTHER WORK NOT SHOWN IN RED (PAVEMENT REPLACEMENT, TRAFFIC CONTROL, AND OTHER TEMPORARY MEASURES) ARE ASSUMED TO BE 100% GBRT PROJECT COSTS.

SEE SEQ FOR SEPERATE COST ESTIMATES

NO. REVISIONS BY APP DATE

DRAWN: DUD
 DESIGNED: CJB
 CHECKED: PAM

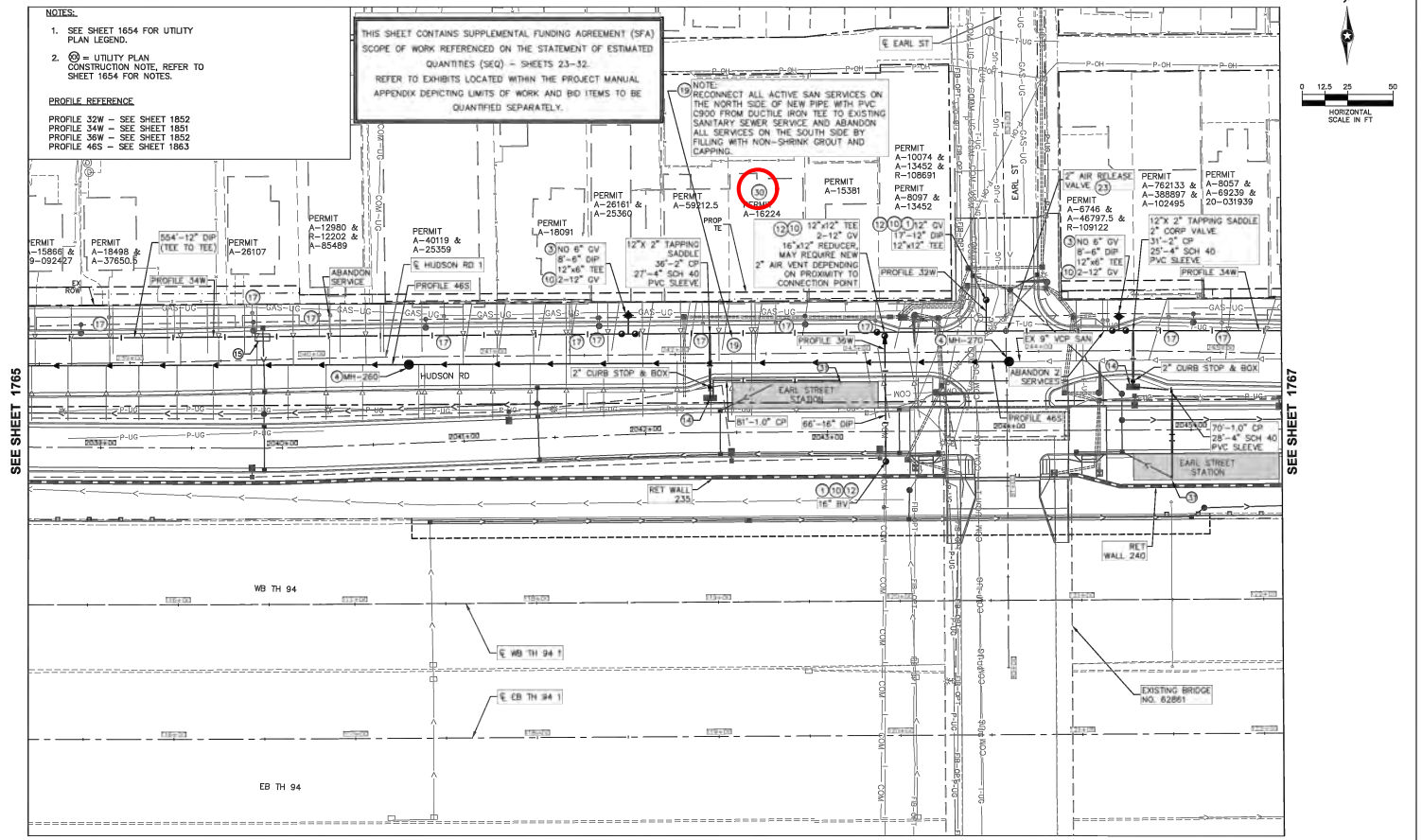
KimleyHorn **METRO**
Sambatak **Gold Line**
METROPOLITAN

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

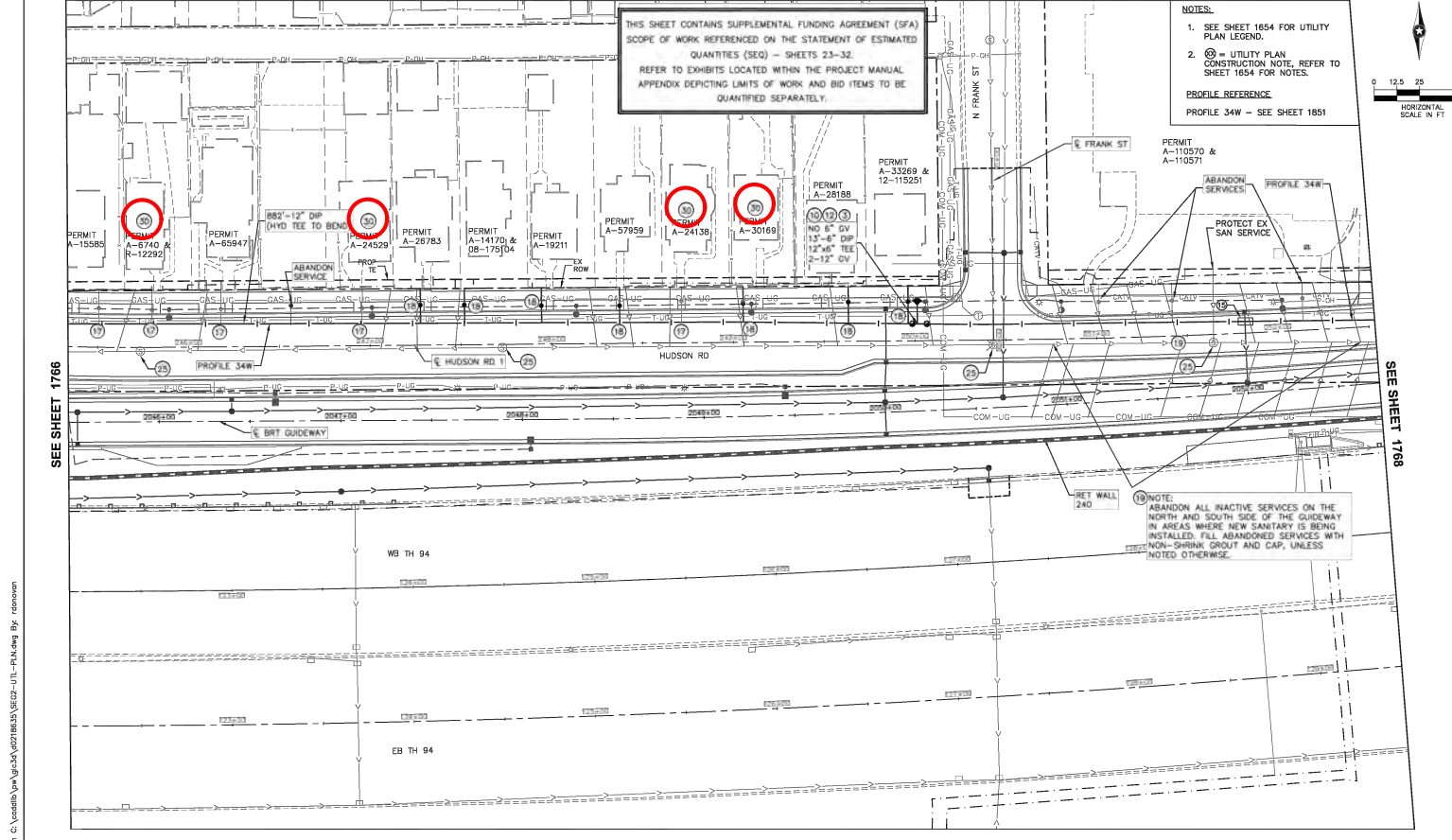
CERTIFIED BY: OSREY BERGMAN DATE: 09/24/2021 LIC. NO.: 45853

STATE PROJ. NO. 6217-45 (TH 3), 6221-110 (TH 61), 6283-254 (TH 94), 6220-87 (TH 61), 6282-139 (TH 94), 6286-93 (TH 694)

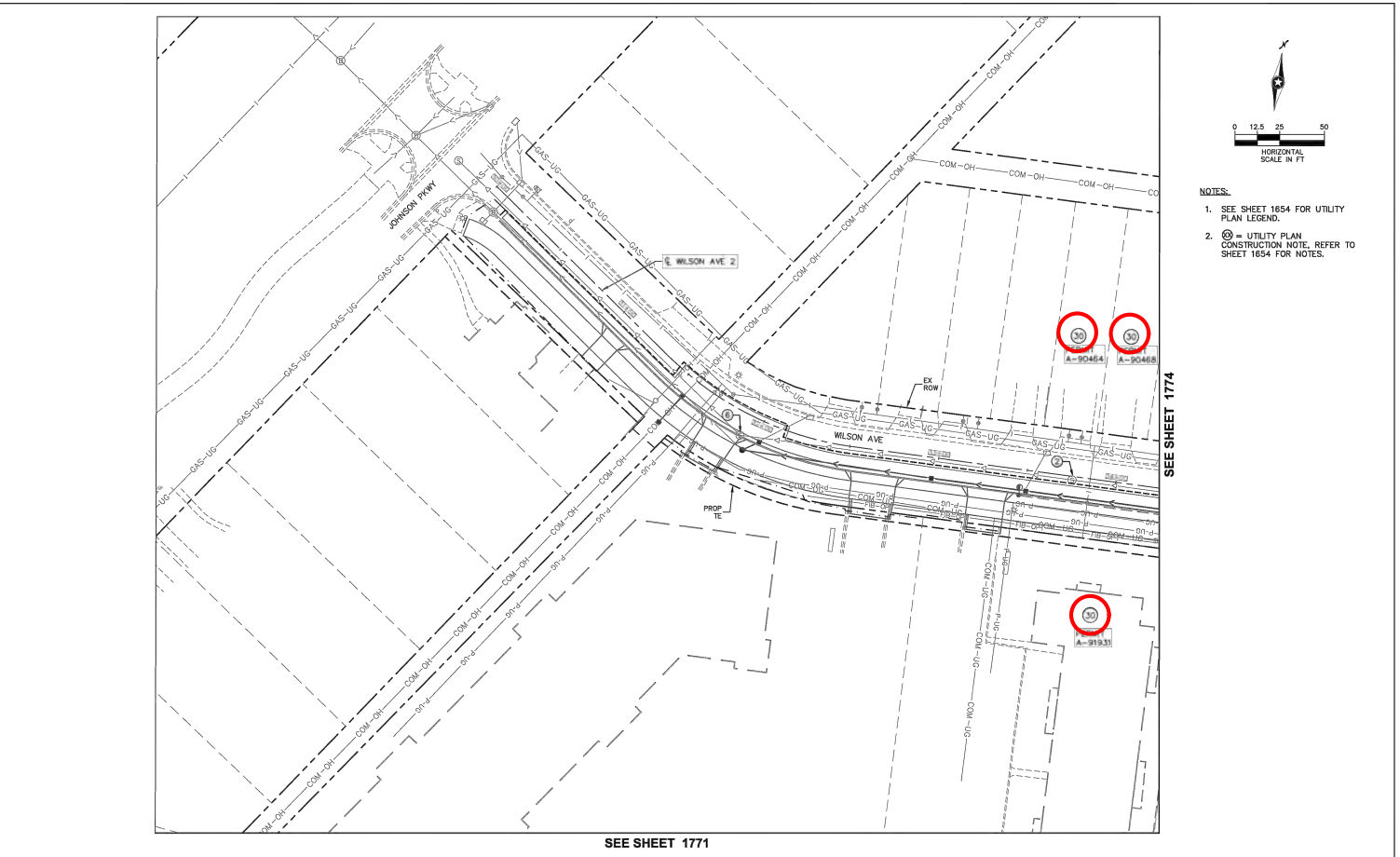
1765 OF 2649



DRAWN: D.D.				I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.			UTILITY PLAN			
DESIGNED: C.B.					CERTIFIED BY: <i>Corey Bergman</i>			STATE PROJ. NO. 6217-45 (TH 3), 6221-110 (TH 61), 6283-254 (TH 94), 6220-87 (TH 61), 6282-139 (TH 94), 6286-93 (TH 694)		
CHECKED: P.M.					LIC. NO. 45853 DATE 09/24/2021			1766 OF 2649		
NO.	REVISIONS	BY	APP	DATE						



DRAWN: D.D.				I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.			UTILITY PLAN			
DESIGNED: C.B.					CERTIFIED BY: <i>Corey Bergman</i>			STATE PROJ. NO. 6217-45 (TH 3), 6221-110 (TH 61), 6283-254 (TH 94), 6220-87 (TH 61), 6282-139 (TH 94), 6286-93 (TH 694)		
CHECKED: P.M.					LIC. NO. 45853 DATE 09/24/2021			1767 OF 2649		
NO.	REVISIONS	BY	APP	DATE						



DRAWN: D.D.				I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.			UTILITY PLAN			
DESIGNED: C.B.					CERTIFIED BY: <i>Corey Bergman</i>			STATE PROJ. NO. 6217-45 (TH 3), 6221-110 (TH 61), 6283-254 (TH 94), 6220-87 (TH 61), 6282-139 (TH 94), 6286-93 (TH 694)		
CHECKED: P.M.					LIC. NO. 45853 DATE 09/24/2021			1772 OF 2649		
NO.	REVISIONS	BY	APP	DATE						

ST. PAUL SFA 5: SANITARY SEWER SERVICE REPLACEMENT & CLEANING / TELEVISIONING OF SANITARY SEWER (2 OF 2)

LEGEND		NOTES
	SFA WORK - FULL SEWER REPLACEMENT	
	REPLACE SANITARY SEWER SERVICE PER SFA 5, AS SHOWN IN TABLE ON SHEET 1664.	<p>ALL SFA WORK (SHOWN IN RED) IS ASSUMED TO BE 100% CITY OF ST. PAUL AND INCLUDED IN THE SFA CONSTRUCTION COST INCLUDING:</p> <ul style="list-style-type: none"> -SANITARY SEWER REPLACEMENTS -SANITARY SEWER CONNECTIONS -CLEANING AND TELEVISIONING OF ALL SANITARY SEWER (SEE APPENDIX) -5% FACTOR TO COVER MOBILIZATION COSTS <p>ALL OTHER WORK NOT SHOWN IN RED (PAVEMENT REPLACEMENT, TRAFFIC CONTROL, AND OTHER TEMPORARY MEASURES) ARE ASSUMED TO BE 100% GBRT PROJECT COSTS.</p> <p>SEE SEQ FOR SEPERATE COST ESTIMATES</p>

Exhibit B
Acquisitions for City Project and Council Project

Par # Order	Owner	Parcel #	PID #(s)	Address or Location(s)	City	Parcel Types	Taking	Disposition	Type of PE	Comments
1	City of Saint Paul - Rice Park	1102	06-28-22-24-0001	109 4th Street West	Saint Paul	Public	Partial		TE	
2	City of Saint Paul - Hamm Plaza	1103	06-28-22-21-0042	390 Washington Street	Saint Paul	Public	Partial		TE	
3	Emily Falenczykowski-Scott	114D	32-29-22-41-0181	231 Maria Avenue	Saint Paul	Residential	Partial	MnDOT	Wall, Footing & Drainage	Wall Maint Easement needed
4	Stephen J Wiplinger	115	32-29-22-41-0127	685 Wilson Avenue	Saint Paul	Residential	Partial	St. Paul	Transportation	PE for sidewalk
5	Patrick Nseumen	116	32-29-22-41-0147	805 Hudson Road	Saint Paul	Commercial	Total	St. Paul	Fee	PE for sidewalk & roadway
6	Leo Ng	126	33-29-22-42-0165	1061 Hudson Road	Saint Paul	Commercial	Partial	St. Paul	Access Control	Access control only
7	Bridgecreek Senior Place c/o Alliance Tax Advisors	128	33-29-22-42-0182	1143 Hudson Road	Saint Paul	Residential	Partial	St. Paul	Transportation	PE for sidewalk
8	City of Saint Paul	1130	33-29-22-42-0183	0 Frank Street	Saint Paul	Public	Partial		TE	Ponding needs
9	City of Saint Paul	1130A	33-29-22-42-0183	0 Frank Street	Saint Paul	Public	Partial		TE	Roadway improvements within Johnson parkway
10	Timothy W Olsen	132	33-29-22-41-0037	366 Johnson Parkway	Saint Paul	Residential	Partial	MnDOT	Transportation	PE for noisewall
11	WRA 1276 LLC c/o The Wall Companies	136	33-29-22-41-0089	1276 Wilson Avenue	Saint Paul	Residential	Partial	MnDOT	Transportation	PE for noisewall
12	Metro 94 Business Center LLC c/o Klodt Inc	139	34-29-22-32-0002 34-29-22-32-0049	425 Etna Street 475 Etna Street	Saint Paul	Industrial	Partial	St. Paul	Transportation	PE for sidewalk
13	Carriage Crossing Condo Assoc	139C	34-29-22-32-0024, et.al.	452 Etna Street	Saint Paul	Residential	Partial	St. Paul	Transportation	PE for sidewalk
14	Louis F Continenza Esther E Continenza	142	34-29-22-31-0097	1478 Hudson Road	Saint Paul	Residential	Partial	MnDOT	Wall maint	PE for noisewall
15	Raymond M Beane Mable J Beane	144	34-29-22-31-0100	1472 Old Hudson Road	Saint Paul	Residential	Partial	MnDOT	Wall maint	PE for noisewall
16	Grace Lutheran Church	162	34-29-22-44-0050	1730 Hudson Road	Saint Paul	Commercial	Partial	Met Council / St. Paul	Drainage/Ponding/Wall/Transportation	Transportation to St. Paul ; Drainage to St Paul ; Transit & Wall Maint to Met Council
17	Dojo Holdings LLC c/o Douglas Swalboski	178	35-29-22-43-0001	2065 Old Hudson Road	Saint Paul	Commercial	Partial	St. Paul	Transportation	PE for sidewalk
18	Bre Retail Residual Owners 6 LLC	180	35-29-22-44-0054	2197 Old Hudson Road	Saint Paul	Commercial	Partial	St. Paul/Met Council	Transit/Transportation	PE for sidewalk & roadway, Park n Ride to Met Council

Exhibit C
Insurance Requirements

Exhibit C
Insurance Requirements

I. INDEMNIFICATION

1.01 Indemnification. To the fullest extent allowed by law, the Contractor agrees that it will save and protect, hold harmless, indemnify, and defend the Council and their members, agents, and employees against any and all claims, expenses (including, but not limited to, legal expense paid or incurred to enforce the provisions of this Section), losses, damages, or lawsuits for damage or injury to extent arising out of, resulting from, or attributable to, whether in whole or in part, the Contractor's negligent Work, including negligent acts or omissions of its employees, subcontractors, representatives, or agents, or anyone else for whom Contractor may be liable.

II. INSURANCE AND BOND REQUIREMENTS

1.01 Insurance Requirements. Contractor shall purchase and maintain during the Work, or longer if required elsewhere in this contract, from a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, insurance set forth below providing protection from claims which may in any way be related to Contractor's Work under the Contract and for which Contractor may be legally liable, whether such operations are by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

General Liability and Umbrella Insurance

- 1.1. Contractor shall maintain commercial general liability (CGL) on an occurrence form and, if necessary, commercial umbrella insurance with a limit of not less than \$2,000,000 each occurrence and a general aggregate limit of not less than \$4,000,000. The general aggregate limit shall apply separately to this project.
 - 1.1.1. CGL insurance shall be written on ISO occurrence form CG 00 01 04 13(or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury, advertising injury, contractual liability, including the contractual liability assumed in Article I, Section 1.01. Policy must be endorsed with ISO CG 24 17, or its equivalent
 - 1.1.2. The Council, its Architect/Engineer, City and their respective officers, agents and employees shall be included as an additional insured under the CGL utilizing ISO CG 20 26 04 13 and ISO CG 20 37 04 13, or their equivalent. Such coverage shall be maintained in effect for the benefit of the City, the Council, their Architect/Engineer, officers, agents and employees, for a minimum period of three years following Final Acceptance by Council (or City) of the work related to this contract. This insurance shall be primary and non-contributory with respect to any other insurance or self-insurance programs afforded to Council and City. There shall be no endorsement or modification of the CGL to make it excess over other available insurance.

Exhibit C
Insurance Requirements

2. Automobile and Umbrella Liability Insurance
 - 2.1. Contractor shall maintain Business automobile coverage, ISO CA 00 01, 1997 or later edition, and if necessary an Umbrella Liability policy on a following-form basis, for liability arising out of the operation, maintenance or use of any automobile, whether owned, non-owned, rented or leased, with a limit of not less than \$1,000,000 each accident.
 - 2.1.1. Pollution liability coverage equivalent to that provided under the ISO pollution liability-broadened coverage for covered autos endorsement (CA 99 48) shall be provided, and the Motor Carrier Act endorsement (MCS 90) shall be attached.
 - 2.1.2. The City, Council, and their respective officers, agents and employees shall be included as an additional insured by endorsement, ISO Form CA 20 48 02 99 or equivalent
3. Workers' Compensation and Employers Liability
 - 3.1. Workers' Compensation pursuant to Statute
 - 3.2. Employers Liability with limits not less than \$500,000 each accident for bodily injury by accident, \$1,000,000 each employee for bodily injury by disease, \$500,000 policy limit for bodily injury by disease.
4. Builder's Risk
 - 4.1. The Council shall be responsible for purchasing and maintaining "All Risk" or equivalent Builder's Risk policy insuring the interest of the Council, Contractor, any tier of Subcontractor Vendors and Suppliers. Coverage on an "All Risk" or equivalent basis shall include sub-limited coverage for the perils of flood, earthquake, and pollution cleanup expense (arising from an otherwise covered loss).
 - 4.1.1. The Builder's Risk policy will cover all project works, materials, supplies (including false work and consumables), and equipment that are intended for construction and specific installation in the Project while such materials, supplies, and equipment are located at the Project site, in transit, and while temporarily located away from the Project Site for the purpose of repair, adjustment, or storage at the risk of one of the insured parties.
 - 4.1.2. Any property not covered by the Builder's Risk policy, such as the Contractor's or any tier Subcontractor's, suppliers or vendors licensed motor vehicles or personal property, including job trailers, machinery, tools, equipment, and property of a similar nature not destined to become a part of the Project, shall be the responsibility of the Contractor or Subcontractor at any tier, and such person or organization may self insure or provide other insurance at its option for the same.
 - 4.1.3. Waiver of Liability: Council will not be responsible for loss or damage, including consequential loss or damage, to property of any kind owned,

Exhibit C
Insurance Requirements

borrowed, rented, or leased by the Contractor, Subcontractors of all tiers, and/or the Contractor's/Subcontractors' employees, servants or agents.

- 4.1.4. Waivers of Subrogation: The Council and Contractor waive all rights against each other and any of their Subcontractors, sub-subcontractors, for damages caused by fire or other causes of loss to the extent covered by Builders Risk insurance obtained pursuant to the provisions of Section 5.4 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Council as fiduciary. The Council or Contractor, as appropriate, shall require of the Architect, and the Architect's subcontractors of all tiers, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.
- 4.1.5. All losses and claims shall be immediately reported by the Contractor to the Council and applicable insurance carrier, under loss notice procedures, as directed by the Council. Contractor(s) shall fully cooperate with the Council and the insurance carrier(s) in the adjustment of the loss to include providing necessary documentation and support in proving the loss and submission of a Sworn Proof of Loss (if required).
- 4.1.6. Any loss insured under Section 5.4 is to be adjusted with the Council and made payable to the Council as trustee for all insured parties, as their interests may appear. The Council shall pay the Contractor a just share of any insurance moneys received by the Council, and by appropriate agreement, written where legally required for validity, shall require the Contractor to make payments to the Subcontractors and lower tiered sub-subcontractors in similar manner.
- 4.1.7. The Contractor shall be responsible for payment of the first \$25,000 of such deductible on each and every loss occurrence. The Contractor may self insure or obtain insurance to cover its responsibility, at its option. The Council will be responsible for the amount of any loss occurrence in excess of the deductible amount, up to the Builder's Risk policy limit as it may be applied to any loss under the Contract.
- 4.1.8. Partial occupancy or use shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise.
- 4.1.9. Boiler and Machinery Insurance. The Council shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Council; this insurance shall include interests of the Council, Contractor, Subcontractors, and sub-subcontractors in the Work, and the Council and Contractor shall be named insureds.

Exhibit C
Insurance Requirements

- 4.1.10. Loss of Use Insurance: The Council, at the Council's option, may purchase and maintain such insurance as will insure the Council against loss of use of the Council's property due to fire or other hazards, however caused. Any insurance proceeds shall be for the sole account of the Council.
- 4.2.
5. Contractor Pollution Liability(CPL)
- 5.1. Contractor shall maintain this coverage with limits not less than \$1,000,000 each claim and \$2,000,000 annual aggregate. Coverage shall include bodily injury, property damage, including loss of use of property, clean-up costs, defense (including costs and expenses incurred in the investigation, defense, or settlement of claims), products and/or completed operations, and contractual liability. Coverage shall also be provided for transport of waste and non-owned disposal sites, if contractor is disposing of waste.
- 5.2. The Council and City shall also be listed as an insured on such policy.
- 5.3. If CPL policy is written on a claims-made basis, then retroactive date must precede the earlier of either i.) the effective date of this contract, or ii.) the date work begins and shall provide an extended reporting period.

1.02 Other Insurance Provisions. The insurance policies shall contain the following provisions:

- 1.1. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed, except after thirty days' prior written notice (ten day notice for cancellation due to non-payment of premium), has been given to the Council and City at the following addresses:

**Metropolitan Council
Attn: Risk Management
390 N. Robert St.
Saint Paul, MN 55101**

**City of Saint Paul
25 West 4th Street
1500 City Hall Annex
Saint Paul, MN 55102
Attn: Reuben Collins**

- 1.2. In addition to notifying its insurer(s) in accordance with the policy, Contractor shall provide prompt written notice (to the address above) as soon as reasonably possible of any accident or loss relating to work performed on behalf of the Council and City.
- 1.3. Each policy shall be endorsed to state that the insurer agrees to waive all rights of subrogation against the City, the Council, and their respective members, agents and employees, for losses arising out of the performance of this contract.

Exhibit C
Insurance Requirements

- 1.4. Insurance is to be placed with insurers with Best's rating of no less than A:VII.
- 1.5. The Contractor shall furnish the Council and City with certificates of insurance and with copies of endorsements evidencing coverage required by this article. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received by the Council before work commences. The Council and City are not obligated to review certificates or other evidence of insurance, or to advise the Contractor of any deficiencies in such documents, and receipt thereof will not relieve the Contractor from, nor be deemed a waiver of the Council's and City's right to enforce, the terms of the Contractor's obligations hereunder. The Council and City will have the right to examine any policy required by this Contract.

1.03 Contractor's Responsibility for Insurance. The Council and City do not represent in any way that the insurance specified in this contract, whether in scope of coverage or limits, is adequate or sufficient to protect the Contractor's business or interests. It is the sole responsibility of the Contractor to determine the need for and to procure additional coverage that may be needed in connection with this contract. Furthermore, the procuring of such required policy or policies of insurance shall not be construed to limit the Contractor's liability under this contract nor to fulfill the indemnification provisions and requirements of this contract.

1.04 Non-Waiver of Municipal Immunity and Limits. Nothing in this contract shall be construed to waive the municipal immunities or liability limits provided in the Minnesota Municipal Tort Claims Act or other applicable state or federal law.

Exhibit D
Supplemental Conditions for FTA Funded Projects

00710 Supplemental Conditions for FTA-Funded Projects

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ARTICLE FTA-1. DEFINITIONS

This Document 00710 Supplemental Conditions For FTA-Funded Projects supplements Document 00700 General Conditions. Wherever the requirements of this Document 00710 Supplemental Conditions For FTA-Funded Projects is in conflict with Document 00700 General Conditions, that requirement which is most restrictive shall apply.

- 1.1 C.F.R. : The acronym referring to the United States Code of Federal Regulations, which contains regulations applicable to FTA grant recipients and their contractors and subcontractors.
- 1.2 DOT : The acronym referring to the United States Department of Transportation. Also represented as USDOT.
- 1.3 EPA : The acronym referring to the United States Environmental Protection Agency. Also represented as USEPA.
- 1.4 FTA : The acronym referring to the Federal Transit Administration, a public transit regulatory unit of the USDOT, formerly known as the Urban Mass Transit Administration.
- 1.5 U.S.C. : The acronym referring to the United States Code.

ARTICLE FTA-2. ACCESS TO RECORDS, ACCESS TO CONSTRUCTION SITE, AND MAINTENANCE OF RECORDS

- 2.1 *Access to Records.* The CONTRACTOR agrees to provide sufficient access to FTA and its contractors to examine, inspect, and audit records and information related to performance of this Contract as reasonably may be required

In accordance with 49 U.S.C. section 5325(g), CONTRACTOR agrees to provide the Council, the Secretary of Transportation, the FTA Administrator, the Comptroller General of the United States, and any of their authorized representatives access to any books, documents, papers, and records of CONTRACTOR which are directly pertinent to this Contract for the purposes of making audits, examinations, inspections, excerpts, and transcriptions

CONTRACTOR also agrees, pursuant to 49 C.F.R. section 633.15, to provide the FTA Administrator or the Administrator's authorized representatives, including any project management oversight ("PMO") CONTRACTOR, access to CONTRACTOR's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. section 5302(a)(1), which is receiving federal financial assistance through the programs described at 49 U.S.C. sections 5307, 5309, or 5311

- 2.2 *Access to the Sites of Performance.* CONTRACTOR agrees to permit FTA and its CONTRACTOR'S access to the sites of performance under this Contract as reasonably may be required
- 2.3 *Reproduction of Documents.* The CONTRACTOR will retain and will require its subcontractors at all tiers to retain, complete and readily accessible records related in whole or in part to this Contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third-party agreements of any type, and supporting materials related to those records.
- 2.4 *Retention Period.* The CONTRACTOR agrees to comply with the record retention requirements in accordance with 2 C.F.R section 200.333. CONTRACTOR shall maintain all books, records,

accounts, and reports required under this Contract for a period of not less than 3 years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims, or exceptions related thereto

The expiration or termination of this Contract does not alter the record retention or access requirements of this Section

ARTICLE FTA-3. BUY AMERICA

The provision of this article apply if the value of this Contract (including the value of any amendments) exceeds \$150,000.

- 3.1 *Buy America Provision.* The CONTRACTOR agrees to comply with 49 U.S.C section 5323(j) and 49 C.F.R. part 661, which provide that Federal funds may not be obligated unless iron, steel, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. §section 661.7.

ARTICLE FTA-4. CARGO PREFERENCE

- 4.1 Cargo Preference—Use of United States-Flag Vessels. The CONTRACTOR agrees:

4.1.1 To use privately owned United States-Flag commercial vessels to ship at least 50 % of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;

4.1.2 To furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in Section 4.1.1 above to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the COUNCIL; (through the CONTRACTOR in the case of a lower-tier participating subcontractor's bill of lading); and

4.1.3 To include these requirements in all subcontracts issued pursuant to this Contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

- 4.2 *Fly America Requirements.* The CONTRACTOR agrees to comply with 49 U.S.C. 40118 (the "Fly America Act") in accordance with the General Services Administration's regulations at 41 C.F.R part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag Air Carriers for U.S. Government-finance international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The CONTRACTOR shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. Flag Air Carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The CONTRACTOR agrees to include the requirements of this section FTA-4.2 in all subcontracts that may involve international air transportation.

ARTICLE FTA-5. EMPLOYEE PROTECTIONS

Certain employee protections apply to all FTA-funded contracts with particular emphasis on construction related projects. The CONTRACTOR will comply with all federal laws, regulations, and requirements, including:

- 5.1 Prevailing Wage Requirements.
 - 5.1.1 Federal transit laws, specifically 49 U.S.C. section 5333(a), (“FTA’s Davis-Bacon Related Act”);
 - 5.1.2 The Davis-Bacon Act, 40 U.S.C. sections 31441-3144, 3146, and 3147; and
 - 5.1.3 U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non- construction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 C.F.R. part 5
- 5.2 Anti-Kickback Prohibitions
 - 5.2.1 Section 1 of the Copeland “Anti-Kickback” Act, as amended, 18 U.S.C. section 874;
 - 5.2.2 Section 2 of the Copeland “Anti-Kickback” Act, as amended, 40 U.S.C. section 3145; and
 - 5.2.3 U.S. DOL regulations, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States,” 29 C.F.R. part 3.
- 5.3 Contract Work Hours and Safety Standards
 - 5.3.1 Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. §§ 3701-3708; and supplemented by Department of Labor (DOL) regulations, 29 C.F.R. part 5; and U.S. DOL regulations, “Safety and Health Regulations for Construction,” 29 C.F.R. part 1926.
- 5.4 *Flow Down.* These requirements extend to all third-party contractors and their contracts at every tier. The Davis-Bacon Act and the Copeland “Anti-Kickback” Act apply to all prime construction, alteration or repair contracts in excess of \$2,000. The Contract Work Hours and Safety Standards Act apply to all FTA funded contracts in excess of \$100,000 that involve the employment of mechanics or laborers
- 5.5 *Model Clause/Language.* The CONTRACTOR must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. In addition, recipients can draw on the following language for inclusion in their federally funded procurements.
- 5.6 *Prevailing Wage and Anti-Kickback* For all prime construction, alteration or repair contracts in excess of \$2,000 awarded by FTA, the Contractor shall comply with the Davis-Bacon Act and the Copeland “Anti- Kickback” Act. Under 49 U.S.C. section 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. The Contractor will comply with the Davis-Bacon Act, 40 U.S.C. sections 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 C.F.R. part 5, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction.” In accordance with the statute, the Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, the Contractor agrees to pay wages not less than once a week. The Contractor

shall also comply with the Copeland "Anti-Kickback" Act (40 U.S.C. section 3145), as supplemented by DOL regulations at 29 C.F.R. part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States." The Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled

- 5.7 *Contract Work Hours and Safety Standards* For all contracts in excess of \$100,000 that involve the employment of mechanics or laborers, the CONTRACTOR shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701- 3708), as supplemented by the DOL regulations at 29 C.F.R. part 5. Under 40 U.S.C. § 3702 of the Act, the CONTRACTOR shall compute the wages of every mechanic and laborer, including watchmen and guards, on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or to contracts for transportation or transmission of intelligence.

In the event of any violation of the clause set forth herein, the CONTRACTOR and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, the CONTRACTOR and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of this clause in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by this clause.

The CONTRACTOR or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The CONTRACTOR shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this Contract.

ARTICLE FTA-6. DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION

- 6.1 The Consultant agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200 during the term of this Contract. By signing this Contract, the Consultant certifies that neither it nor its principals, affiliates, or subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible, voluntarily excluded, or disqualified from participation in this Contract by any Federal department or agency. This certification is a material representation of fact upon which the Council relies in entering this Contract. If it is later determined that the Consultant knowingly rendered an erroneous certification, in addition to other remedies available to the Council, the Federal Government may pursue available remedies, including suspension or debarment or both. The Consultant shall provide to the Council immediate written notice if at any time the Consultant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. The Consultant will include a provision requiring such compliance in its lower tier covered transactions.

ARTICLE FTA-7. ENVIRONMENTAL STANDARDS AND PRACTICES

- 7.1 *Clean Water Act.* For any project of \$150,000 or more, the CONTRACTOR agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. sections 1251-1387. The CONTRACTOR agrees to report each violation to the COUNCIL and understands and agrees that the COUNCIL will, in turn, report each violation as required to assure notification to FTA and the appropriate Environmental Protection Agency (“EPA”) Regional Office. The CONTRACTOR also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.
- 7.2 *Clean Air Act Compliance.* For any project of \$150,000 or more, the CONTRACTOR agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. sections 7401-7671q. The CONTRACTOR agrees to report each violation to COUNCIL and understands and agrees that COUNCIL will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The CONTRACTOR also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.
- 7.3 *Energy Conservation.* CONTRACTOR agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the federal Energy Policy and Conservation Act
- 7.4 *Recovered Materials.* CONTRACTOR agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (“RCRA”) as amended (42 U.S.C. section 6962) and U.S. Environmental Protection Agency, “Comprehensive Procurement Guideline for Products Containing Recovered Materials,” 40 C.F.R. part 247.

ARTICLE FTA-8. LOBBYING RESTRICTIONS

For any project of \$100,000 or more, the CONTRACTOR is required to make the following certifications. The CONTRACTOR must also require its contractors or subcontractors to make the following certification in any contracts or subcontracts valued at or above \$100,000.

- 8.1 *Certification of Restrictions on Lobbying; Disclosure.* The CONTRACTOR certifies, to the best of its knowledge and belief, that no Federal appropriated funds have been paid or will be paid by or on behalf of the CONTRACTOR for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with a Federal contract, grant, loan, or cooperative agreement, the CONTRACTOR shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

The CONTRACTOR shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under

grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which COUNCIL has relied to enter this Contract. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. section 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

By its signature on this Contract, the CONTRACTOR certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, CONTRACTOR understands and agrees that the provisions of 31 U.S.C. Section 3801, *et seq.*, apply to this certification and disclosure, if any

ARTICLE FTA-9. SEISMIC SAFETY

- 9.1 *Seismic Safety.* The CONTRACTOR agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations, 49 C.F.R. Part 41, and will certify to compliance to the extent required by the Regulation. The CONTRACTOR also agrees to ensure that all work performed under this contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

ARTICLE FTA-10. NATIONAL INTELLIGENT TRANSPORTATION SYSTEMS ARCHITECTURE AND STANDARDS

- 10.1 *National Intelligent Transportation Systems Architecture and Standards.* To the extent applicable, the CONTRACTOR agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by section 5206(e) of TEA-21, 23 U.S.C. §section 502 note, and to comply with FTA Notice, "FTA National ITS Architecture Policy on Transit Projects" 66 Fed. Reg. 1455 *et seq.*, January 8, 2001, and other Federal requirements that may be issued.

ARTICLE FTA-11. PROGRAM FRAUD AND FALSE OR STATEMENTS OR RELATED ACTS

- 11.1 *Program Fraud and False or Fraudulent Statements or Related Acts.* The CONTRACTOR acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. section 3801 *et seq.*, and USDOT regulations, "*Program Fraud Civil Remedies*," 49 C.F.R. part 31, apply to its actions pertaining to this Contract. Upon execution of this Contract, the CONTRACTOR certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to this Contract or the FTA-assisted project for which this work is being performed. In addition to other penalties that may be applicable, the CONTRACTOR further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the CONTRACTOR to the extent the Federal Government deems appropriate

The CONTRACTOR also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Federal Government

reserves the right to impose the penalties of 18 U.S.C. section 1001 and 49 U.S.C. section 5323(l) on the CONTRACTOR, to the extent the Federal Government deems appropriate.

The CONTRACTOR agrees to include the above language in each subcontract under this contract, modified only to identify the subcontractor that will be subject to the provisions.

ARTICLE FTA-12. CIVIL RIGHTS

Under this Contract, the CONTRACTOR shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part hereof.

12.1 *Nondiscrimination.*

12.1.1 *Nondiscrimination in Employment.* In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and federal transit law at 49 U.S.C. § 5332, the CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex (including gender identity), age, or disability. In addition, the CONTRACTOR agrees to comply with applicable federal implementing regulations and other implementing requirements FTA may issue.

12.1.2 *Nondiscrimination in Contracting.* The CONTRACTOR agrees and assures that it will abide by the following conditions, and that it will include the following assurance in every subagreement and third-party contract it signs: (1) The CONTRACTOR must not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted subagreement, third party contract, or third party subcontract, as applicable, and the administration of its DBE program or the requirements of 49 C.F.R. part 26; and (2) the CONTRACTOR must take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted subagreements, third party contracts, and third party subcontracts, as applicable.

12.2 *Equal Employment Opportunity.* The following equal employment opportunity requirements apply to this Contract:

12.2.1 ***Race, Color, Religion, National Origin, Sex.*** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. section 2000e *et seq.*, and federal transit laws at 49 U.S.C. § 5332, the CONTRACTOR agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. section 2000e note, as further amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. section 2000e note. The CONTRACTOR agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.

12.2.2 ***Age.*** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. sections 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age

Discrimination in Employment Act,” 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. section 6101 *et seq.*, U.S. Health and Human Services regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance,” 45 C.F.R. part 90 and Federal transit law at 49 U.S.C. section 5332, the CONTRACTOR agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.

12.2.3 *Disabilities.* In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. section 794, the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101 *et seq.*, the Architectural Barriers Act of 1968, as amended, 42 U.S.C. section 4151 *et seq.*, and Federal transit law at 49 U.S.C. section 5332, the CONTRACTOR agrees that it will not discriminate against individuals on the basis of disability. In addition, the CONTRACTOR agrees to comply with the requirements of U.S. Equal Employment Opportunity commission, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. part 1630, and any implementing requirements FTA may issue. The Contractor will also ensure that accessible facilities (including vehicles and buildings) and services are made available to individuals with disabilities in accordance with the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. section 12101 *et seq.*, the Architectural Barriers Act of 1968, as amended, 42 U.S.C. section 4151 *et seq.*, and any applicable implementing regulations

12.3 *Inclusion in Subcontracts.* The CONTRACTOR agrees to include the requirements of this article FTA-12 in each subcontract under this contract, modified only to identify the subcontractor that will be subject to the provisions.

ARTICLE FTA-13. GENERAL PROVISIONS

13.1 *Federal Changes.* The CONTRACTOR shall comply with the required FTA clauses set forth in this contract and with all applicable FTA regulations, policies, procedures and directives including, without limitation, those listed directly or by reference in the agreement between the COUNCIL and FTA. The CONTRACTOR's failure to comply with applicable FTA regulations, policies, procedures, and directives, as they may be amended or promulgated from time to time during the term of this contract, shall constitute a material breach of this contract.

13.2 *No Obligation by the Federal Government.* The COUNCIL and CONTRACTOR acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of this Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the COUNCIL, CONTRACTOR, or any other party (whether or not a party to the Contract) pertaining to any matter resulting from this Contract.

The CONTRACTOR agrees to include the preceding clause in each subcontract under this Contract, modified only to identify the subcontractor that will be subject to the provisions.

13.3 *Incorporation of FTA Terms.* Specific provisions in this Contract include, in part, certain Standard Terms and Conditions required by USDOT, whether or not expressly set forth in the contract provisions. All contractual provisions required by USDOT, as set forth in the most recent addition and any revisions of FTA Circular 4220.1 “Third Party Contracting Guidance,” to the extent consistent with applicable federal laws, and in Appendix II of 2 C.F.R. part 200 are hereby incorporated by reference. Notwithstanding anything to the contrary in this contract, all FTA

mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this contract. The CONTRACTOR shall not perform any act, fail to perform any act, or refuse to comply with any COUNCIL requests which would cause the COUNCIL to be in violation of the FTA terms and conditions.

ARTICLE FTA-14. DISADVANTAGED BUSINESS ENTERPRISE (DBE) – NO GOAL

- 14.1 *Nondiscrimination.* Pursuant to 49 CFR part 26, the CONTRACTOR, sub-recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The CONTRACTOR shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the CONTRACTOR to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the COUNCIL deems appropriate. The CONTRACTOR shall include this requirement in all subcontracts pursuant to this contract.
- 14.2 *Prompt Payment.*
- 14.2.1 Reserved.
- 14.2.2 The CONTRACTOR agrees to pay subcontractors within ten (10) calendar days of the CONTRACTOR's receipt of payment from the COUNCIL for undisputed services provided by the subcontractor. The CONTRACTOR agrees to pay subcontractors all undisputed retainage payments within ten (10) calendar days of completion of the work regardless of whether CONTRACTOR has received any retainage payment from the COUNCIL. The CONTRACTOR shall not postpone or delay any undisputed payments owed subcontractors without good cause and without prior written consent of the COUNCIL.
- 14.2.3 The CONTRACTOR shall not, by reason of said payments, be relieved from responsibility for Work done by the subcontractor and shall be responsible for the entire Work under this contract until the same is finally accepted by the COUNCIL.
- 14.2.4 The CONTRACTOR shall pay interest at the rate of 1-1/2 percent per month or part thereof to a subcontractor on any undisputed amount not paid in accordance with the preceding paragraph. The minimum monthly interest payment for an unpaid balance of \$100 or more is \$10. For an unpaid balance of less than \$100, the Contractor shall pay the actual interest due to the subcontractor.
- 14.2.5 The CONTRACTOR agrees to include in all subcontracts a provision requiring the use of appropriate alternative dispute resolution mechanisms to resolve payment disputes.
- 14.2.6 The CONTRACTOR will not be reimbursed for work performed by subcontractors unless and until the CONTRACTOR ensures that subcontractors are promptly paid for work they have performed. Failure to comply with the provisions of this section FTA-14.2 may result in the COUNCIL finding the CONTRACTOR in noncompliance with the DBE provisions of this Contract.
- 14.3 *DBE Good Faith Efforts.* During the term of this contract, the CONTRACTOR will continue to make good faith efforts to ensure that DBEs have maximum opportunity to successfully perform under the contract, and that the CONTRACTOR meets its DBE commitment as set forth in its bid. These efforts shall include, without limitation, the following:

- 14.3.1 If the CONTRACTOR requests substitution of a DBE subcontractor or supplier listed in its Document 00485 Disadvantaged Business Enterprise Information and Certifications form, the CONTRACTOR shall exert good faith efforts to replace the DBE firm with another DBE firm subject to approval of the COUNCIL.
- 14.3.2 The CONTRACTOR shall not terminate for convenience any DBE subcontractor or supplier listed in its Document 00485 Disadvantaged Business Enterprise Information and Certifications form (or an approved substitute DBE firm) and then perform the work itself or with its affiliates without prior written consent of the COUNCIL.
- 14.3.3 If a DBE subcontractor or supplier is terminated or fails to complete its work on the contract for any reason, CONTRACTOR shall make good faith efforts to find another DBE firm to substitute for the original DBE firm.
- 14.3.4 The dollar amount of amendments or any other contract modifications will be entered into the DBE Contract Monitoring System (CMS)..
- 14.3.5 The CONTRACTOR will identify a "DBE and Workforce Liaison" who will serve as a single point of contact for all CONTRACTOR DBE and Workforce issues.
- 14.3.6 Failure to comply with the provisions of this section FTA-14.3 may result in the COUNCIL finding the CONTRACTOR in noncompliance with the DBE provisions of this Contract and the imposition of Administrative Sanctions described in section FTA-14.6.

14.4 *Reporting.*

- 14.4.1 The CONTRACTOR will submit monthly progress reports to the Council reflecting its DBE participation through the CMS.
- 14.4.2 Upon award of a contract a representative from the Council will assign the DBE and Workforce Liaison a CMS user account and provide a CMS User Manual detailing the following guidelines.
- 14.4.3 All committed DBE subcontractors to be used on the contract must be entered into the CMS system.
- 14.4.4 All DBE billing, submitted during the reporting period, must be finalized and entered into CMS prior to submission of the CONTRACTOR'S payment application.
- 14.4.5 Any changes to the DBE subcontractor list or their amounts must be entered into CMS. Changes include; DBE firms removed, DBE firms added, changes to subcontract amounts, and DBE credit adjustments.
- 14.4.6 All payments made to DBE firms must be finalized and entered into CMS within 10 days of receipt of payment from the Council.
- 14.4.7 Failure to submit this report in a timely manner will result in a penalty of \$10 per late day per report and may also result in the imposition of Administrative Sanctions under section FTA-14.6, pursuant to the Council's DBE policy and USDOT regulations. For the purposes of this section FTA-14.4, timely submittal means receipt in the contract compliance function of the Council's Office of Diversity and Equal Opportunity by the close of business on the fifteenth (15th) of the following month.

14.5 *Review of Good Faith Efforts.*

- 14.5.1 The COUNCIL's Office of Equal Opportunity will review the CONTRACTOR's DBE progress reports to monitor and determine whether the utilization of DBE firms is consistent with the commitment of the CONTRACTOR as stated in its bid.
- 14.5.2 If it is determined that the CONTRACTOR's DBE utilization under the contract is not consistent with its commitment, the CONTRACTOR will be requested, in writing, to submit evidence of its good faith efforts to meet the commitment. The CONTRACTOR shall be given ten (10) working days to submit this documentation. Failure to respond shall place the CONTRACTOR in non-compliance and subject to imposition of Administrative Sanctions as described in section FTA- 14.6.
- 14.5.3 The CONTRACTOR's good faith efforts documentation will then be reviewed for accuracy, sufficiency and internal consistency. COUNCIL staff shall make a determination as to the adequacy of the CONTRACTOR's good faith efforts documentation and so inform the CONTRACTOR. If it is determined that the CONTRACTOR's good faith efforts documentation is acceptable, the CONTRACTOR will be deemed to be in compliance with the DBE program.
- 14.5.4 If it is determined that the CONTRACTOR's good faith efforts documentation is not acceptable, the CONTRACTOR will be notified and be deemed to be in non-compliance with the DBE program.
- 14.5.5 Non-compliance by the CONTRACTOR with the requirements of federal DBE regulations (49 CFR part 26) constitutes a breach of contract and may result in imposition of Administrative Sanctions as described in section FTA-14.6.

14.6 *Administrative Sanctions.*

- 14.6.1 If the COUNCIL deems the CONTRACTOR to be in non-compliance with the DBE requirements of this contract, the COUNCIL will inform the CONTRACTOR in writing, by certified mail, that sanctions shall be imposed for failure to meet DBE utilization goals and/or failure to submit documentation of good faith efforts. The notice will state the specific sanction to be imposed.
- 14.6.2 The CONTRACTOR has five (5) working days from the date of the notice to file a written appeal to the COUNCIL's Regional Administrator. Failure to respond within the five (5) day period shall constitute a waiver of appeal. The Regional Administrator or designee, at his or her sole discretion, may schedule a hearing to gather additional facts and evidence and shall issue a final determination on the matter within five (5) working days of receipt of the written appeal. There shall be no right of appeal to the COUNCIL's governing board.
- 16.6.3 Sanctions may include, without limitation: suspension of any payment or part due to the CONTRACTOR for work that was identified to be performed by a DBE at the time of contract award, or of any monies held by the COUNCIL as retained on the contract; denial to the CONTRACTOR (including its principal and key personnel) of the right to participate in future contracts of the COUNCIL for a period of up to three years; and/or termination of the contract for cause.

ARTICLE FTA-15. 15 VETERANS PREFERENCE

The Contractor will give a hiring preference, to the extent practicable, to veterans (as defined in 5 U.S.C Section 2108) who have the requisite skills and abilities to perform the construction work required under this contract. This provision shall not be understood, construed, or enforced in any manner that would require an employer to give preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with disability, or former employee.

ARTICLE FTA-16. 16 EXECUTIVE ORDER – SPECIAL DEPARTMENT OF LABOR EQUAL EMPLOYMENT OPPORTUNITY FOR CONSTRUCTION PROJECTS

The following provisions of this Section FTA-16 apply if the value of a subsequent construction contract exceeds \$10,000.

- 16.1 The CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The CONTRACTOR shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, promotion, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Council setting forth the provisions of this nondiscrimination clause.
- 16.2 The CONTRACTOR shall, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, sex, or national origin.
- 16.3 The CONTRACTOR shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the COUNCIL, advising the labor union or workers' representative of the CONTRACTOR's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 16.4 The CONTRACTOR shall comply with all provisions of Executive Order No. 11246 of September 24, 1965, and all of the rules, regulations, and relevant orders of the Secretary of Labor.
- 16.5 The CONTRACTOR shall furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and shall permit access to its books, records, and accounts by the COUNCIL and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 16.6 In the event of the CONTRACTOR's noncompliance with the nondiscrimination clauses of this Contract or with any such rules, regulations, or orders, this Contract may be cancelled, terminated, or suspended in whole or in part and the CONTRACTOR may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- 16.7 The CONTRACTOR shall include the provisions of this Section 16 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions shall be binding upon each subcontractor or vendor. The CONTRACTOR shall take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance. If the CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

ARTICLE FTA-17. RESERVED

ARTICLE FTA-18. SAFE OPERATION OF MOTOR VEHICLES

- 18.1 *Seat Belt Use.* The CONTRACTOR agrees to implement Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U.S.C. § 402 note, (62 Fed. Reg. 19217), by:
- (1) Adopting and promoting on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles; and
 - (2) Including a "Seat Belt Use" provision in each third party agreement related to this Contract.
- 18.2 *Distracted Driving, Including Text Messaging While Driving.* The CONTRACTOR agrees to implement Executive Order No. 13513, "Federal Leadership on Reducing Text Messaging While Driving," October 1, 2009, 23 U.S.C. § 402 note, (74 Fed. Reg. 51225); U.S. DOT Order 3902.10, "Text Messaging While Driving," December 30, 2009; and U.S. DOT Special Provision pertaining to Distracted Driving by:
- (1) The CONTRACTOR agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle CONTRACTOR owns, leases, or rents, or a privately-owned vehicle when on official business in connection with this Contract or when performing any work for or on behalf of this Contract.
 - (2) The CONTRACTOR agrees to conduct workplace safety initiatives in a manner commensurate with its size, such as establishing new rules and programs to prohibit text messaging while driving, re-evaluating the existing programs to prohibit text messaging while driving, and providing education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
 - (3) The CONTRACTOR agrees to include the preceding "Distracted Driving, Including Text Messaging While Driving" provisions in each third party agreement related to this Contract.

ARTICLE FTA-19. TELECOMMUNICATIONS CERTIFICATION

CONTRACTOR certifies through the signing of this contract that, consistent with Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232 (Aug. 13, 2018), the CONTRACTOR does not and will not use any equipment, system, or service that uses “covered telecommunications equipment or services” (as that term is defined in Section 889 of the Act) as a substantial or essential component of any system or as critical technology as part of any system. The CONTRACTOR will include this certification as a flow down clause in any contract related to this Contract.

ARTICLE FTA-20. RESOLUTION OF DISPUTES, BREACHES, OR OTHER LITIGATION

When applicable contracts in excess of \$175,000, and all non-procurement transaction, as defined in 2 C.F.R. §§ 180.220 and 1200.220, in excess of \$25,000 will contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. This may include provisions for bonding, penalties for late or inadequate performance, retained earnings, liquidated damages or other appropriate measures. Specific language for dispute resolution will be provided in any resultant contract of the successful proposer.

END OF DOCUMENT