



COOPERATIVE AGREEMENT  
BETWEEN  
THE STATE OF MINNESOTA AND THE CITY OF ST. PAUL  
GATEWAY STATE TRAIL / WHEELOCK BRIDGE ART INSTALLATION  
ALONG THE GRAND ROUND REGIONAL TRAIL

This Agreement, between the State of Minnesota, acting by and through the Commissioner of the Department of Natural Resources, hereinafter referred to as the "State" and the City of St. Paul hereinafter referred to as the "City".

**WITNESSETH:**

WHEREAS, the Commissioner of Natural Resources has the authority, duty, and responsibility under Minnesota Statutes Section 86A.015 to provide state trails and associated facilities; and subdivision 14b, establish, develop, maintain, and operate the Gateway State Trail; and

WHEREAS, the State and the City are authorized under Minnesota Statutes Section 471.59 to enter into agreements to jointly or cooperatively exercise common powers; and

WHEREAS, the State owns and/or administers the former railroad bridge that carries the Gateway State Trail over East Wheelock Parkway located in **Sec. 20, T29N, R22W**, Ramsey County as shown on the attached and incorporated into this Agreement as **Exhibit A** and hereinafter referred to as the "State Trail Bridge"; and

WHEREAS, the City owns and/or administers the Grand Round Regional Trail, located along and adjacent to Wheelock Parkway, that traverses that Gateway State Trail Corridor under the State Trail Bridge as shown on the map attached and incorporated into this Agreement as **Exhibit B** and hereinafter referred to as the "Grand Round"; and

WHEREAS, the City is committed to the establishment of public art to enhance and promote Saint Paul's identity as a livable and creative city and a desirable place to live, work, and visit; and

WHEREAS, the City wishes to enter into an agreement with the State to commission, on the Grand Round facing portion of the State Trail Bridge along Wheelock Avenue, a painted art installation and hereinafter referred to as "the Art"; and

WHEREAS, the State will be solely responsible for the administration, operations, and maintenance of the State Trail Bridge and the Gateway State Trail; and

WHEREAS, a resolution or copy of the City Council meeting minutes authorizing the City to enter into this agreement is attached and incorporated into this Agreement as **Exhibit C**; and

NOW, THEREFORE, in consideration of the mutual benefits to be derived by the public bodies hereto and for the benefit of the general public, the parties agree as follows:

I. STATE’S DUTIES AND RESPONSIBILITIES

- a. The State shall continue to manage, administer, operate, and maintain the Gateway State Trail and the State Trail Bridge as established and consistent with all state, and federal laws and rules that may apply to the management, operation, and maintenance of the Trail.
- b. The State may be required to repair or replace the existing State Trail Bridge during the term of this agreement in which case it will give City 60 days’ notice pursuant to I.(f) if it will affect the Art.
- c. The State shall review and approve the Art proposed by the City prior to installation.
- d. The State shall permit the City to install and maintain the Art on the State Trail Bridge piers, abutments, and wing walls as identified in **Exhibit D**.
- e. The State shall be permitted to review and approve any alterations or improvements to the Art as proposed by the City during the term of this Agreement. State approval and comment will be provided by the State’s designated Contact.
- f. The State shall give the City 60 days’ notice of proposed maintenance, repair or replacement of the State Trail bridge that could affect the Art. If any maintenance, repair, or replacement will affect the Art, following completion, the City shall have authority to manage the repair or restoration of the Art upon review and approval of the State.
- g. The State reserves the right to inspect the State Trail Bridge at any time to assure that the City is in compliance with the Agreement.

II. CITY’S DUTIES AND RESPONSIBILITIES

- a. The City shall be permitted to install and maintain the Art, including restoration from graffiti or damage to the Art, on the State Trail Bridge piers, abutments and wing walls as identified in **Exhibit D**.
- b. The City shall perform all necessary community engagement, bid advertisement, contract administration, record keeping, and shall administer the artist selection and contract required to complete the installation of the Art.
- c. The City shall permit the State to review and approve the Art as proposed by the City prior to installation.
- d. The City shall be responsible for maintenance of the Art during the term of this Agreement.
- e. The City, during the installation of Art, will notify the State of any expected impacts to the trail with at least 14-days’ notice.
- f. The City shall apply the guidelines of the States requirement to prevent or limit the introduction, establishment and spread of invasive species when working within the State Trail Corridor. The States

specific guidance regarding Invasive Species Prevention and Site Planning and Management can be found at [http://files.dnr.state.mn.us/assistance/grants/habitat/heritage/oporder\\_113.pdf](http://files.dnr.state.mn.us/assistance/grants/habitat/heritage/oporder_113.pdf)

g. Upon termination of the Agreement, the City shall return the painted surfaces of the State Trail Bridge to a condition as approved by the State.

### III FUNDING

The State shall provide funding for its responsibilities under Article I (a)(b)(c)(d)(e)(f)(g) above through the standard internal purchasing process including, but not limited to, a separate requisition in which funds will be encumbered. The total obligation of the State is limited to the amount of funds legislatively appropriated and administratively allocated to this project. No additional funding will be provided, unless agreed upon by all parties and an amendment to this Agreement is completed and executed.

### IV. LIABILITY

Each party agrees that it will be responsible for its own acts and the results thereof to the extent authorized by the law and shall not be responsible for the acts of the other party and the results thereof. The State's liability shall be governed by the provisions of the Minnesota Tort Claims Act, Minnesota Statutes Section 3.736, and other applicable law. The City's liability shall be governed by Minnesota Statutes Sections 466.01-466.15, and other applicable law.

### V. TERM

- a. *Effective Date:* **December 15, 2022**, or the date the State obtains all required signatures under Minnesota Statutes Section 16C.05, Subdivision 2, whichever is later. The City shall not begin work under this Agreement until it is fully executed and the City has been notified by the State's authorized representative to begin the work.
- b. *Expiration Date:* **December 15, 2037**, for a period of fifteen (15) years except as otherwise provided herein or agreed to in writing by both parties. This agreement shall renew at the end of the term for an additional five (5) year period unless a party gives three (3) months written notice to the other party to terminate the agreement. This agreement shall continue to automatically renew as the end of each five (5) year period unless the required given notice is given.

### VI. AUDIT

Under Minnesota Statutes Section 16C.05, sub. 5, the books, records, documents and accounting procedures and practices of the City relevant to the agreement shall be subject to examination by the Commissioner of Natural Resources, the Legislative Auditor and the State Auditor for a minimum of six years from the end of this agreement.

### VII. ANTITRUST

The City hereby assigns to the State any and all claims for overcharges as to goods and/or services provided in connection with this Agreement resulting from antitrust violations that arose under the antitrust laws of the United States and the antitrust laws of the State of Minnesota.

### VIII. FORCE MAJEURE

Neither party shall be responsible to the other or considered in default of its obligations within this Agreement to the extent that performance of any such obligations is prevented or delayed by acts of God, war, riot, disruption of government, or other catastrophes beyond the reasonable control of the

party unless the act or occurrence could have been reasonably foreseen and reasonable action could have been taken to prevent the delay or failure to perform. A party relying on this provision to excuse performance must provide the other party prompt written notice of inability to perform and take all necessary steps to bring about performance as soon as practicable.

IX. CANCELLATION

This Agreement may be cancelled by the State at any time with cause or as necessary as provided in Article III, upon thirty (30) days written notice to the City. This agreement may be cancelled by the City at any time with or without cause with thirty (30) days written notice to the State. This Agreement may also be cancelled by the State if it does not obtain funding from the Minnesota Legislature, or other funding sources, or if funding cannot be continued at a level sufficient to allow for the payment of services covered under this Agreement. The State will notify the City by written or fax notice. The State will not be obligated to pay for services provided after the notice is given and the effective date of cancellation. However, the City shall be entitled to payment, determined on a pro-rated basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the Agreement is cancelled because of a decision of the Minnesota Legislature, or other funding source, not to appropriate the necessary funds. The State shall provide the City notice of lack of funding within a reasonable time of the State's receiving that notice.

X. GOVERNMENT DATA PRACTICES

The City and the State must comply with the Minnesota Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data provided by the State under this agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the City under this agreement. The civil remedies of Minn. Stat. 13.08 apply to the release of the data referred to in this clause by either the City or the State.

XI. PUBLICITY AND ENDORSEMENT

Any publicity regarding the subject matter of this agreement must identify the State as the sponsoring agency and must not be released without prior written approval from the State's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the City individually or jointly with others, or any subcontractors, with respect to the program and services provided from this agreement. All publicity shall be provided in an accessible format per Minnesota Statute 16E.03, sub. 9. State of Minnesota guidelines for creating accessible electronic documents can be found at the following URL: <https://mn.gov/mnit/programs/accessibility/>.

XII. COMPLETE AGREEMENT

This Agreement, and amendments, constitutes the entire agreement between the parties.

XIII. AUTHORIZED REPRESENTATIVES

Any notice, demand or communication under this Agreement by either party to the other shall be deemed to be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid or email to:

The State's Authorized Representative is Rachel Henzen, Parks and Trails Division Area (3B) Supervisor, Minnesota Department of Natural Resources, 1200 Warner Road, St. Paul, MN 55106, (651) 259-5875, [rachel.henzen@state.mn.us](mailto:rachel.henzen@state.mn.us) or his/her successor.

The City's Authorized Representative is Sean Kershaw, Director Public Works, City of St. Paul, 25 West 4<sup>th</sup> Street, 1500 City Hall Annex, St. Paul, MN 55102, 651-266-6099, [sean.keshaw@ci.stpaul.mn.us](mailto:sean.keshaw@ci.stpaul.mn.us) or his/her successor.

BALANCE OF THIS PAGE LEFT INTENTIONALLY BLANK

IN WITNESS WHEREOF, the parties have caused the Agreement to be duly executed intending to be bound thereby.

DEPARTMENT OF NATURAL RESOURCES

CITY ST. PAUL

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

DEPARTMENT OF ADMINISTRATION  
Delegated to Materials Management Division

CITY OF ST. PAUL

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

CITY OF ST. PAUL

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

Title: \_\_\_\_\_

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

CITY OF ST. PAUL

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

Title: \_\_\_\_\_

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

STATE ENCUMBERANCE VERIFICATION

Individual certifies that funds have been encumbered as req. by Minn. Stat. 16A.15 and 16C.05.

Signed: \_\_\_\_\_

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

Contract: 221565/No SWIFT PO