

Prepared by the
Utility Agreements and Permits Unit
(Receivable)
(\$183,538.67)

S.P. 6244-30 (T.H. 52)
Location: On Trunk Highway 52 from south of
Plato Boulevard to Trunk Highway 5
MnDOT Agreement Number 97778R
Supplemental Agreement Number 2

SUPPLEMENTAL AGREEMENT NUMBER 2
TO
AGREEMENT NUMBER 97778R

This Supplemental Agreement Number 2 to Agreement Number 97778R (Supplemental Agreement 2) is between the State of Minnesota (State), acting through its Commissioner of Transportation, and Board of Water Commissioners of the City of St Paul, including its agents, contractors, and subcontractors (Utility Owner).

RECITALS

The State has let a contract to construct State Project Number 6244-30 (Project) on Trunk Highway Number 52. The Project is located on Trunk Highway 52 from south of Plato Boulevard to Trunk Highway 5.

The State and the Utility Owner entered into Agreement Number 97778R (Original Agreement). Under the Original Agreement, the Utility Owner agreed to allow the State to include the relocation of its water mains, their fixtures, and related equipment (Facilities) in its construction contract according to Exhibit A of the Original Agreement. The Utility Owner will perform its own inspection of the Facilities. The Utility Owner agreed to reimburse the State for this relocation less the cost of its inspection. The State's Contractor (Contractor) is relocating the Facilities according to the original Agreement.

The estimated relocation cost of the Original Agreement is \$27,013.57. Upon receiving the bid prices from the Contractor, the State determined that the cost to relocate the Utility Owner's Facilities is \$54,018.78. The State and the Utility Owner entered into Amendment 1, which is considered Supplemental Agreement 1 (Supplemental Agreement 1), to replace the estimated cost in the Original Agreement with the bid cost of \$54,018.78.

Before the relocation could occur, new laws came into effect for the handling and disposing of any material containing more than 50 ppm polychlorinated biphenyl (PCB). The Contractor re-inspected the Facilities and discovered that those on Bridge 9800 contained more than 50 ppm PCB. Removing and disposing of this material under the new law will increase the cost of relocating the

Facilities above the original amount. This Supplemental Agreement 2 adds the handling and disposing of PCB material and its costs to the amount in Supplemental Agreement 1.

The parties are willing to amend the Original Agreement as stated below.

AGREEMENT

Revision 1. Article IV. is deleted in its entirety and replaced by the following:

IV. Payment for Work

A) *Utility Relocation and Inspection*

- 1) The State has let a contract for the Project that includes the Utility Owner's relocation work. The Utility Owner authorizes the State to pay the Contractor directly for the relocation work. Upon awarding the contract to the Contractor, the State determined the bid cost of the relocation work on a contract-unit-price basis. As Exhibit B1 shows, the Contractor's bid costs for the relocation work at Location 4 is \$54,018.78.
- 2) The State is responsible for the actual cost the Utility Owner incurs for inspection work at Locations 1, 2, and 3. Exhibit C1 shows the final actual cost of the Utility Owner's inspection work as \$8,996.49.
- 3) The Utility owner agrees to pay the State the total cost it incurs to relocate the Facilities at Location 4 less the cost of the Utility Owner's inspection work at Locations 1, 2, and 3. The total cost to relocate the Facilities at Location 4 will include:
 - a. The construction cost, which consists of the Contractor's bid item costs to satisfactorily relocate the Facilities according to plans, specifications, and special provisions;
 - b. The construction engineering cost, which is equal to 8 percent of the construction cost; and
 - c. The design engineering cost, which is equal to 6.5 percent of the construction cost.
- 4) The estimated amount the Utility Owner will pay the State for the cost of the relocation work less the inspection work is \$45,022.29. Exhibit D shows this amount. On April 5, 2011, the Utility Owner paid the State \$42,329.06 toward this amount.

- 5) The total amount by which the State is required to reduce the amount the Utility Owner owes is limited to the amount in Article IV.A.2.

B) *PCB Material Removal and Disposal*

- 1) The State will determine the cost of removing and disposing of the PCB material related to the relocation work. The Utility Owner authorizes the State to pay the Contractor directly for this work. As Exhibit E shows, the estimated cost of this work is \$183,538.67.
- 2) The Utility Owner agrees to pay the State the total cost it incurs removing and disposing of the PCB material related to the Utility Owner's Facilities. The total cost includes:
 - a. The construction cost, which consists of the Contractor's estimate to satisfactorily remove and dispose of the PCB material according to current law; and
 - b. The construction engineering cost, which is equal to 8 percent of the construction cost.
- 3) Upon execution of this Supplemental Agreement 2, the State will issue the Utility Owner an invoice for the amount specified in Exhibit E. The Utility Owner will promptly reimburse the State for the total estimated cost of removing and disposing of the PCB material.

C) *Final Costs for Utility Relocation, Inspection, and PCB Material Removal and Disposal*

- 1) Exhibit F shows a summary of the total estimated costs the Utility Owner must pay the State. The total amount the Utility Owner must pay the State is \$228,560.96 less the \$42,329.06 paid on April 5, 2011 for a remaining balance of \$186,231.90, as shown in Exhibit F.
- 2) After the Contractor has completed the work required under its contract and the State and the Utility Owner have accepted that work, the State will prepare a final computation of the amount due from the Utility Owner.
 - a. The Utility Owner has submitted an invoice for the inspection work it performed to the State.
 - b. If the final total amount of the utility relocation work and PCB material removal and disposal less the amount of the inspection work is greater than the amount the State has already received from the Utility Owner,

- the Utility Owner must promptly pay the difference, without interest, to the State.
- c. If the final total amount of the utility relocation work and PCB material removal and disposal less the amount of the inspection work is less than the amount the State has already received from the Utility Owner, the State must pay the difference, without interest, to the Utility Owner.
 - d. The final total cost constitutes payment in full for all relocation work according to this Supplemental Agreement. This amount also constitutes payment in full for any and all damages, claims, or causes of action of any kind or nature that the Utility Owner may have relating to the relocation of the Facilities.

Revision 2. Article VII.F. is deleted in its entirety and replaced by the following:

- F. *Incorporation of Exhibits:* Exhibits A, B1, C1, D, E, and F are incorporated into the Original Agreement.

RELATION TO THE ORIGINAL AGREEMENT

Except as amended by this Supplemental Agreement 2, the terms and conditions of the Original Agreement and Supplemental Agreement 1 remain in full force and effect.

The remainder of this page was left blank intentionally.

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

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

Approved:

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

Date: _____

Approved as to form:

By: _____
Assistant City Attorney

Date: _____

By: _____
Matt Anfang
President

Date: _____

By: _____
Mollie Gagnelius
Secretary

Date: _____

By: _____
Todd Hurley
Director
Office of Financial Services

Date: _____

**STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION**

Department of Transportation

Recommended for Approval:

Approved:

By: _____
Metro Utility Coordinator

By: _____
Director, Office of Land Management

Date: _____

Date: _____

Office of Contract Management

Approved as to Form and Execution:

By: _____

Date: _____

Department of Administration

By: _____

Date: _____

**S.P. 6244-30 (T.H. 52)
Agreement #97778R with the Board of Water
Commissioners of the City of Saint Paul**

Located on Trunk Highway 52 between Fillmore Avenue
and Alabama Street

Exhibit B1: Location 4 Facilities Relocation Cost Estimate

Estimated Contract Cost for Utility Work	\$47,177.97
6.5% Design Engineering Cost	\$3,066.57
8% Construction Engineering Cost	\$3,774.24

TOTAL RELOCATION BID COST	\$54,018.78
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Locations on Trunk Highway 52:

1. Grove Street Right of Way west of 7th Street
2. 4th Street Right of way east of John Street
3. 4th Street Right of Way between John Street and Commercial Street

Exhibit C1: Locations 1, 2, and 3 Facilities Relocation Inspection Cost Estimate

Labor Cost	\$7,220.20
Labor Additive	\$0.00
Equipment Cost	\$1,776.29
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TOTAL INSPECTION COST	\$8,996.49

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Agreement #97778R with the Board of Water
Commissioners of the City of Saint Paul**

Located on Trunk Highway 52 from South of
Plato Boulevard to Trunk Highway 5

Exhibit D: Relocation and Inspection Cost

Total Relocation Bid Cost	\$54,018.78
Total Final Inspection Cost	- \$8,996.49
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UTILITY OWNER'S ESTIMATED COST =	\$45,022.29

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Exhibit E: Cost Estimate for PCB Material Removal and Disposal

Bid Cost of Removal & Disposal:

Item	Unit	Unit Price	Qty	Amount
Subcontractor's Removal of PCBs	LS	\$114,389.28	1	\$114,389.28
Prime Contractor Markup 10% on \$50,000	LS	\$5,000.00	1	\$5,000.00
Prime Contractor Markup 2% over \$50,000	LS	\$1,287.79	1	\$1,287.79
Prime Contractor's Removal of Watermain Pipe	LS	\$57,515.81	1	\$57,515.81
Removal & Disposal Bid Cost				\$178,192.88

Total Removal & Disposal Bid Cost:

Estimated Removal Cost =	\$178,192.88
Construction Engineering Cost (3%) =	\$5,345.79
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Total Removal & Disposal Bid Cost =	\$183,538.67

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Exhibit F: Cost Estimate for All Utility Work

Total Estimated Cost =	Total Relocation Bid Cost
	- Total Inspection Cost
	+ Total Removal Cost
Total Estimated Cost =	\$54,018.78
	- \$8,996.49
	+ \$183,538.67
<hr/> Total Estimated Cost =	<hr/> \$228,560.96

Total Amount Utility Owner Owes to State =	\$228,560.92
Amount Utility Owner Paid to State =	\$42,329.06
<hr/> Remaining Amount Utility Owner Must Pay =	<hr/> \$186,231.90

**Remaining Amount
Utility Owner Must Pay
to the State =** **\$186,231.90**