

**STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION
And
CITY OF ST. PAUL
FLASHING BEACON SYSTEM
MAINTENANCE AGREEMENT**

Control Section (C.S.): 6215
Trunk Highway Numbers (T.H.): 51 = 125
Signal System ID 39879

This Agreement is between the State of Minnesota, acting through its Commissioner of Transportation ("State") and City of St. Paul acting through its City Council ("City").

Recitals

1. The City and the State wish to define their respective power, operation, and maintenance responsibilities for the new Rectangular Rapid Flashing Beacon System on Trunk Highway No. 51 at Lincoln Avenue in the City of St. Paul, Ramsey County, Minnesota; and
2. The City will participate in the power, operation, and maintenance of the new Rectangular Rapid Flashing Beacon System.
3. Minnesota Statutes § 161.20, subdivision 2 authorizes the Commissioner of Transportation to make arrangements with and cooperate with any governmental authority for the purposes of constructing, maintaining and improving the trunk highway system.

Agreement

1. Term of Agreement; Survival of Terms;

- 1.1. *Effective date.* This Agreement will be effective on the date the State obtains all signatures required by Minnesota Statutes § 16C.05, subdivision 2.
- 1.2. *Expiration date.* This Agreement will expire when all obligations have been satisfactorily fulfilled.
- 1.3. *Survival of terms.* All clauses which impose obligations continuing in their nature and which must survive in order to give effect to their meaning will survive the expiration or termination of this Agreement, including, without limitation, the following clauses: 5. Liability; Worker Compensation Claims; Insurance; 7. State Audits; 8. Government Data Practices; 9. Governing Law; Jurisdiction; Venue; and 11. Force Majeure. The terms and conditions set forth in Article 2. Rectangular Rapid Flashing Beacon System Power, Operation, and Maintenance may be terminated by another Agreement between the parties.

2. Rectangular Rapid Flashing Beacon System Operation and Maintenance

Power, operation, and maintenance responsibilities will be as follows for the New Rectangular Rapid Flashing Beacon on Trunk Highway No. 51 at Lincoln Avenue.

2.1. City Responsibilities

- A. *Power.* The City will be responsible for the hook-up cost and application to secure an adequate power supply to the service pad or pole and will pay all monthly electrical service expenses necessary to operate the new Rectangular Rapid Flashing Beacon.

- B. Operation and Maintenance.** Upon completion of this project, the City will own the Rectangular Flashing Beacon System and will operate, maintain, and keep in repair the Rectangular Flashing Beacon System, perform all Gopher State One Call locating, and be responsible for future system replacement, all at the City's expense. Maintenance includes, but is not limited to, snow, ice and debris removal of the pedestrian landings, associated signing, pavement markings, and lighting without cost to the State. The City shall perform all system maintenance in a timely manner. The City will also be responsible for system replacement or upgrades necessary to meet compliance of current or future ADA requirements without cost to the State. A no-charge permit shall be required by the State for future work by the City on State right of way.
- C.** If the City fails to comply with the maintenance terms or ADA requirements, or if a safety issue develops, the State may require the City to remove the Flashing Beacon System or the State may remove it.

2.2. Right of Way Access. Each party authorizes the other party to enter upon their respective public right of way to perform the maintenance activities described in this Agreement.

3. Authorized Representatives

Each party's Authorized Representative is responsible for administering this Agreement and is authorized to give and receive any notice or demand required or permitted by this Agreement.

3.1. The State's Authorized Representative will be:

Name/Title: Allan Espinoza, MnDOT Signal and Lighting Design (or successor)
 Address: 1500 County Road B2 West, Roseville, MN 55113
 Telephone: (651) 234-7812
 E-Mail: allan.espinoza@state.mn.us

3.2. The City's Authorized Representative will be:

Name/Title: Paul St. Martin, St. Paul Assistant City Engineer (or successor)
 Address: 800 City Hall Annex, 25 West 4th Street, St. Paul, MN 55102
 Telephone: (651) 266-6118
 Fax: (651) 298-4559
 E-Mail: paul.st.martin@ci.stpaul.mn.us

4. Assignment; Amendments; Waiver; Contract Complete

- 4.1. Assignment.** Neither party may assign or transfer any rights or obligations under this Agreement without the prior consent of the other party and a written assignment agreement, executed and approved by the same parties who executed and approved this Agreement, or their successors in office.
- 4.2. Amendments.** Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original Agreement, or their successors in office.
- 4.3. Waiver.** If a party fails to enforce any provision of this Agreement, that failure does not waive the provision or the party's right to subsequently enforce it.
- 4.4. Contract Complete.** This Agreement contains all prior negotiations and agreements between the State and the City. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

5. Liability; Worker Compensation Claims; Insurance

5.1. Each party is responsible for its own acts, omissions and the results thereof to the extent authorized by law and will not be responsible for the acts and omissions of others and the results thereof. Minnesota Statutes § 3.736 and other applicable law govern liability of the State. Minnesota Statutes Chapter 466 and other applicable law govern liability of the City.

5.2. Each party is responsible for its own employees for any claims arising under the Workers Compensation Act.

6. Nondiscrimination

Provisions of Minnesota Statutes § 181.59 and of any applicable law relating to civil rights and discrimination are considered part of this Agreement.

7. State Audits

Under Minnesota Statutes § 16C.05, subdivision 5, the City's books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by the State and the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this Agreement.

8. Government Data Practices

The City and State must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 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 Minnesota Statutes §13.08 apply to the release of the data referred to in this clause by either the City or the State.

9. Governing Law; Jurisdiction; Venue

Minnesota law governs the validity, interpretation and enforcement of this Agreement. Venue for all legal proceedings arising out of this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

10. Termination by Mutual Agreement

This Agreement may be terminated by mutual agreement of the parties.

11. Force Majeure

Neither party will be responsible to the other for a failure to perform under this Agreement (or a delay in performance), if such failure or delay is due to a force majeure event. A force majeure event is an event beyond a party's reasonable control, including but not limited to, unusually severe weather, fire, floods, other acts of God, labor disputes, acts of war or terrorism, or public health emergencies.

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CITY OF ST. PAUL

The undersigned certify that they have lawfully executed this contract on behalf of the Governmental Unit as required by applicable charter provisions, resolutions or ordinances.

Recommended for Approval:

By: _____
(Director of Public Works)

Approved as to form and execution:

By: _____
(Assistant City Attorney)

By: _____
(Mayor)

Date: _____

By: _____
(Director of Finance & Management Services)

Date: _____

DEPARTMENT OF TRANSPORTATION

Recommended for Approval:

By: _____
(District Engineer)

Date: _____

Approved:

By: _____
(State Design Engineer)

Date: _____

COMMISSIONER OF ADMINISTRATION

By: _____
(With delegated authority)

Date: _____