

Prepared by the  
Utility Agreements and Permits Unit  
(Receivable)  
(\$0.00)

S.P. 6282-231 (T.H. 94)  
Location: MN 280 to 0.1 mile west of Western  
Avenue in the City of Saint Paul  
Utility Owner: Board of Water Commissioners  
of the City of Saint Paul  
MnDOT Agreement Number 1044671

## **AGENCY ADJUSTMENT AGREEMENT**

This Agreement Number 1044671 (Agreement) is between the State of Minnesota (State), acting through its Commissioner of Transportation and Board of Water Commissioners of the City of Saint Paul, including its agents, contractors, and subcontractors (Utility Owner). This Agreement outlines the separate responsibilities of the State and the Utility Owner as part of a construction project.

### **RECITALS**

The State plans to let a contract to construct State Project Number 6282-231 (Project) on Trunk Highway Number 94. The Project is located on I-94 from MN 280 to 0.1 mile west of Western Avenue in the City of Saint Paul.

The Utility Owner owns and operates watermains, their fixtures, and related equipment (Facilities) that are located on property where the State will construct the Project.

The Project will require the adjustment of the Utility Owner's Facilities. The parties agree that, if the Utility Owner adjusted the Facilities or let a separate contract to adjust them that work would interfere with the Project. The Utility Owner has requested that the State perform the adjustment work as part of the Project, rather than being reimbursed for the work. Including the Utility Owner's adjustment work in the State's Construction contract may eliminate duplication of services, facilitate activity coordination, simplify supervision, and expedite Project construction, and the State agrees to do so.

Pursuant to Minnesota Statutes, section 161.46, subdivision 5, the Utility Owner appoints the State as its agent to design and construct the adjustment work as part of the Project, and the State may adjust the Facilities as part of the Project on the trunk highway system.

State law requires a written agreement between the State and the Utility Owner that describes their separate responsibilities.

## AGREEMENT

### **I. Term/Termination**

- A. *Effective Date:* This Agreement is effective on the date the State obtains all signatures required by Minnesota Statutes, section 16C.05, subdivision 2.
- B. *Commencement of Work:* Upon notice of Agreement approval, the Utility Owner must promptly provide the State (and the State's Contractor (Contractor)) with any information necessary for the State to commence and successfully prosecute the adjustment work according to the terms of the Notice and Order and provide a work schedule the State's Project Engineer (Project Engineer) approves.
- C. *Expiration Date:* This Agreement will expire on the date that all obligations, excluding the Utility Owner's ongoing maintenance obligations, have been satisfactorily fulfilled.
- D. *Termination by the State:* The State may terminate this Agreement at any time, with or without cause, on 30 calendar days' written notice to the Utility Owner.
- E. *Survival of Terms:* The following articles survive this Agreement's expiration or termination: (III) Utility Owner's Ongoing Maintenance Requirements; (IV) Liability; and (V) Governing Terms.

### **II. Description of Work Procedures**

- A. *Plans:* The plans, which are attached to this Agreement as Exhibit A, indicate the present and proposed locations of the Facilities.
  - 1. If any changes to the plans or character of the work become necessary, the State and the Utility Owner must agree to the changes before the State makes (or directs the Contractor to make) them. If these changes require an amendment or supplement to this Agreement, the parties will negotiate such amendment or supplement in good faith, and the State is not obligated to commence such changes until such amendment or supplement is fully executed. The State will enter into such supplemental agreements with its Contractor as the State deems necessary to implement such changes.
  - 2. The Utility Owner authorizes the Project Engineer to make any minor field changes and adjustments to the plans, specifications, and special provisions as the State deems necessary for efficient Project construction. The Utility Owner authorizes the State, on its behalf, to enter into supplemental agreements with the Contractor as necessary to implement these changes.

B. *State's Responsibilities*

1. The State will:
  - a. Advertise the Project for bids; and
  - b. Award a construction contract for the Project. This Project will include the adjustment work.
2. The Project Engineer will supervise and direct the Project, including the adjustment work, but the Utility Owner may inspect the work periodically. If the Utility Owner finds that any completed adjustment work is defective, it must inform the Project Engineer of these defects in writing; however, any recommendations the Utility Owner makes are not binding on the State. The State has the exclusive right to determine whether the Contractor has performed the work according to the plans, specifications, and special provisions.
3. The Project Engineer and the Utility Owner will perform a final inspection of the work. Once the State has accepted the adjustment work, the Project Engineer will inform the Utility Owner in writing, and the Utility Owner will assume ownership of the Facilities.

C. *Deletion of Work:* If the Utility Owner decides to delete the adjustment work from the Project, the Utility Owner will:

1. Be subject to the Notice and Order and remove and/or adjust the Facilities; and
2. Defend (at its own expense and to the extent Minnesota's Attorney General permits) indemnify, save, and hold the State and all of its agents and employees harmless of and from all claims, demands, actions, or causes of action that deleting the relocation work causes. This obligation to indemnify extends to any attorney's fees.

D. *Risk:* Risk of loss of partial or complete adjustment work will be on the Contractor as the current *Standard Specifications for Construction* set forth.

**III. Utility Owner's Ongoing Maintenance Requirements**

- A. Once construction is complete, the Utility Owner will continue to maintain the Facilities at its own expense.

- B. The Utility Owner may open and disturb the trunk highway right of way without a permit in the case of an emergency that is dangerous to the public and requires immediate attention. Upon learning of the emergency, the Utility Owner must immediately notify the State Patrol. The Utility Owner must take all necessary and reasonable safety measures to protect the public and must cooperate fully with the State Patrol. In this event, the Utility Owner must request a permit from the proper authority no later than the working day after it begins working in the right of way.

#### **IV. Liability**

- A. 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 Utility Owner. This clause will not be construed to bar any legal remedies a party may have to fulfill its obligations under this contract.

#### **V. Governing Terms**

- A. *Data Practices:* All parties must comply with the Minnesota Government Data Practices Act (Minnesota Statutes, chapter 13) as it applies to any data that a party to this Agreement receives, collects, stores, or disseminates under it. The Act provides civil liability for failure to comply with its requirements.
- B. *Applicable Law:* 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 Ramsey County, Minnesota.
- C. *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 the provision or any subsequent breach of that provision.
- D. *Merger:* This Agreement contains all negotiations and agreements between the State and the Utility Owner with respect to the subject matter it contains. No prior understanding regarding this Agreement, whether written or oral, may be used to bind either party.
- E. *Assignment:* The Utility Owner may neither assign nor transfer any rights or obligations under this Agreement without the State's consent and a fully executed assignment agreement. To be valid, the assignment agreement must be signed and

approved by the same parties who signed and approved this Agreement, or their successors in office.

- F. *Amendments:* Any amendment to this Agreement must be in writing. An amendment will not be effective until the same parties who signed and approved this Agreement, or their successors in office, sign and approve the amendment.
- G. *Incorporation of Exhibits:* All exhibits attached to this Agreement are incorporated into this Agreement.

**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: \_\_\_\_\_

By: \_\_\_\_\_  
Mara Humphrey  
President

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

Approved as to form:

By: \_\_\_\_\_  
Assistant City Attorney

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

By: \_\_\_\_\_  
Mollie Gagnelius  
Secretary

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

By: \_\_\_\_\_  
John McCarthy  
Director  
Office of Financial Services

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

County: Ramsey  
Utility Owner: Board of Water Commissioners of the City of Saint Paul

**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: \_\_\_\_\_

**GENERAL UTILITY NOTES:**

- THE SUBSURFACE UTILITY INFORMATION IN THIS PLAN IS UTILITY QUALITY LEVEL D. THIS UTILITY QUALITY LEVEL WAS DETERMINED ACCORDING TO THE GUIDELINES OF CI / ASCE 38-02, ENTITLED "STANDARD GUIDELINES FOR THE COLLECTION AND DEPICTION OF EXISTING SUBSURFACE UTILITY DATA".
- ALL POWER IS DISTRIBUTION UNLESS NOTED OTHERWISE.
- ONLY ADJUSTED OR RELOCATED UTILITIES WERE TABULATED ON THIS PLAN SET. IF A UTILITY IS SHOWN IN THE UTILITY PLAN BUT NOT TABULATED THEN IT IS PROPOSED TO BE LEFT IN PLACE.
- ALL RELOCATES AND ADJUSTMENTS TO BE MADE DONE BY OTHERS UNLESS NOTED.

**LEGEND**

UTILITY ABBREVIATIONS	
ANC	= POLE ANCHOR
CB	= CATCH BASIN
CHH	= COMMUNICATIONS HANDHOLE
CMP	= CORRUGATED METAL PIPE
CVLT	= COMMUNICATIONS VAULT
ECC	= ELECTRIC CABLE IN CONDUIT
E-HH	= ELECTRICAL HANDHOLE
F/O-BUR	= FIBER OPTIC BURIED
FOCD	= FIBER OPTIC IN CONDUIT
GAS	= GAS LINE
HYD	= HYDRANT
L POLE	= LIGHT POLE
P-POLE	= POWER POLE
R METER	= RAMP METER LIGHT
RCP	= REINFORCED CONCRETE PIPE
SAN LIN	= SANITARY SEWER LINE
SAN MH	= SANITARY MANHOLE
SIG-BUR	= SIGNAL BURIED
T-BUR	= TELEPHONE LINE BURIED
USL	= UNDERGROUND STREET LIGHT LINE
VALVE	= WATER VALVE
WLIN	= WATER LINE
GAS	= GAS LINE
OH POWE	= OVERHEAD POWER LINE
P-BUR	= BURIED POWER
P-PED	= POWER PEDESTAL
SIG-INT	= UNDERGROUND SIGNAL INTERCONNECT
SIG WIR	= SIGNAL WIRE
TEL HH	= TELEPHONE HAND HOLE
TV CABL	= BURIED TELEVISION CABLE
TV TOWE	= TELEVISION TOWER
TEL HH	= TELEPHONE HANDHOLE
TEL PED	= TELEPHONE PEDESTAL
U ST LIG	= TRAFFIC SIGNAL LIGHT
VAULT	= VAULT
WMH	= WATER MANHOLE

INPLACE UTILITIES - SANITARY SEWER							
STATION TO STATION	OFFSET (FT)	INPLACE ITEM	OWNER	REMARKS			REMARKS
				LEAVE AS IS	ADJUST	RELOCATE	
LVC (INP) CRETIN AVE							
5+14 - 5+50	98' RT	LINE	SAINT PAUL	X			
5+50	16' RT	MH	SAINT PAUL		X		
5+50 - 6+56	262' LT	LINE	SAINT PAUL	X			
6+40 - 7+36	266' LT	LINE	SAINT PAUL	X			
6+40	266' LT	MH	SAINT PAUL	X			
				X			

INPLACE UTILITIES - POWER							
STATION TO STATION	OFFSET (FT)	INPLACE ITEM	OWNER	REMARKS			REMARKS
				LEAVE AS IS	ADJUST	RELOCATE	
LCV (INP) CRETIN AVE							
5+27	80' RT	HH	SAINT PAUL		X		
5+48	30' LT	HH	SAINT PAUL		X		
5+48	5' RT	HH	SAINT PAUL		X		
5+45	58' RT	HH	SAINT PAUL		X		
6+20	62' RT	HH	SAINT PAUL		X		
10+42	60' RT	HH	SAINT PAUL		X		
11+02	65' RT	HH	SAINT PAUL		X		
30+00	90' RT	HH	SAINT PAUL		X		

OWNERSHIP	
THE FOLLOWING IS A LIST OF UTILITY COMPANIES USED IN THIS PROJECT:	
CENTERPOINT	= CENTERPOINT ENERGY
COMCAST	= COMCAST CABLE COMMUNICATIONS, INC.
MNDOT	= MINNESOTA DEPARTMENT OF TRANSPORTATION
ST. PAUL	= CITY OF ST. PAUL
SPRWS	= ST. PAUL REGIONAL WATER SERVICE
XCEL	= XCEL ENERGY
MCES	= METROPOLITAN COUNCIL ENVIRONMENTAL SERVICES
MNOET	= MINNESOTA OFFICE OF ENTERPRISE TECHNOLOGY
WILTEL	= LEVEL 3 COMMUNICATIONS, LLC
CENTURYLINK	= CENTURYLINK INTERNET

INPLACE UTILITIES - COMMUNICATIONS							
STATION TO STATION	OFFSET (FT)	INPLACE	OWNER	REMARKS			REMARKS
				LEAVE	ADJUST	RELOCATE	
NCLFRTRD (INP) ST. ANTHONY AVE							
155+06	26' LT	VAULT	CENTURYLINK		X		
168+05	33' RT	HH	ZAYO		X		
167+30	22' RT	HH	ZAYO		X		
167+25	25' LT	HH	ZAYO		X		
168+00	25' RT	HH	ZAYO		X		
168+15	18' LT	VAULT	ZAYO		X		
SFRD2 (INP) CONCORDIA AVE							
160+35	20' RT	HH	ZAYO		X		

INPLACE UTILITIES - WATER							
STATION TO STATION	OFFSET (FT)	INPLACE ITEM	OWNER	REMARKS			REMARKS
				LEAVE AS IS	ADJUST	RELOCATE	
SFRD2 CONCORDIA							
153+00 - 169+00	3.19' RT	WLINE	SAINT PAUL REGIONAL WATER SERVICE	X			
160+88	20.28' RT	WHYD	SAINT PAUL REGIONAL WATER SERVICE			X	
154	10' RT	WATER VALVE	SAINT PAUL REGIONAL WATER SERVICE		X		
NFRD2 ST. ANTHONY							
154+ 34	12' LT	WATER VALVE	SAINT PAUL REGIONAL WATER SERVICE		X		
163+63	12' LT	WATER VALVE	SAINT PAUL REGIONAL WATER SERVICE		X		
165+22	14' LT	WATER VALVE	SAINT PAUL REGIONAL WATER SERVICE		X		
167+30 3'		WATER VALVE	SAINT PAUL REGIONAL WATER SERVICE		X		

S.A.P. 164-145-041

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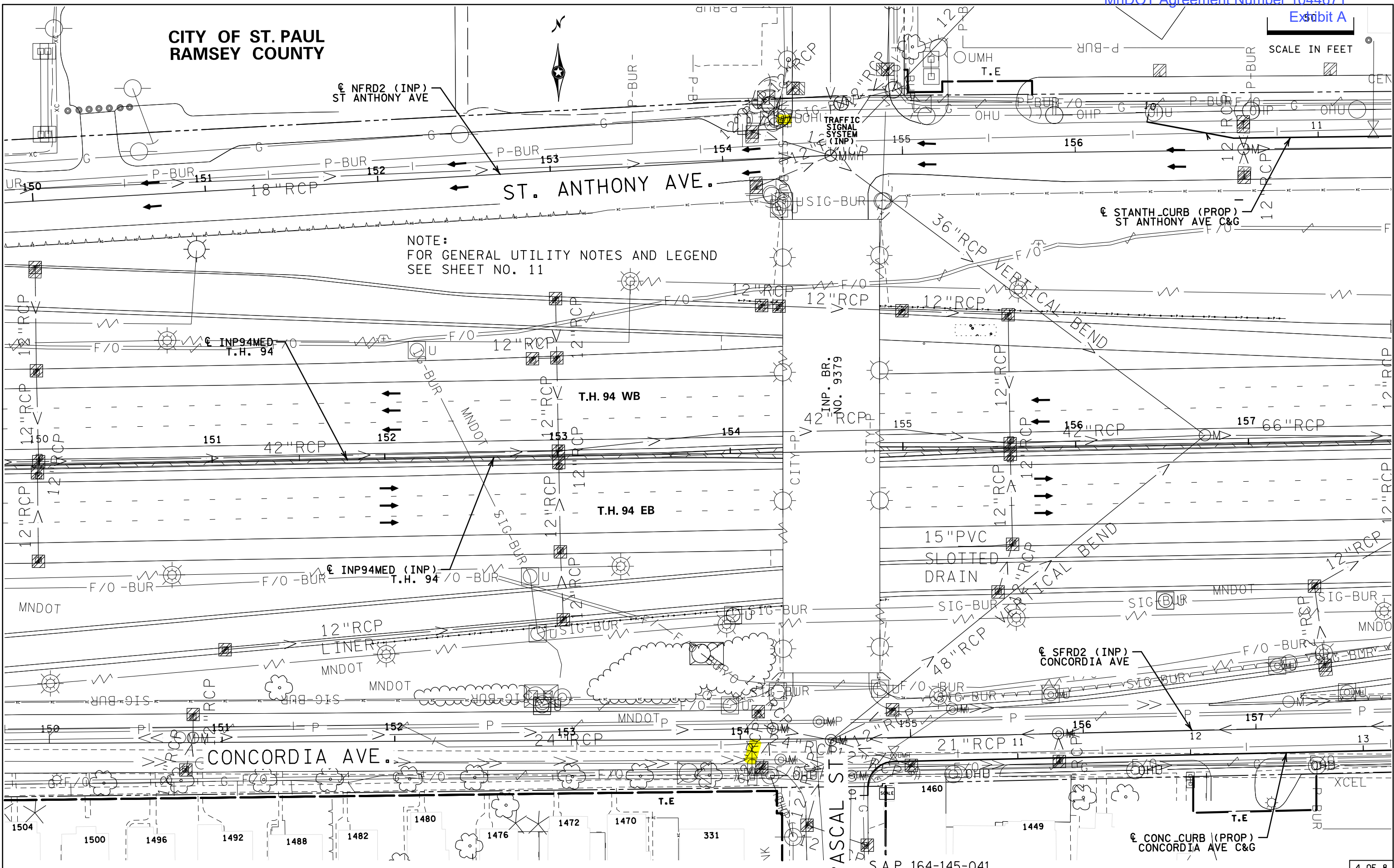


CITY OF ST. PAUL  
RAMSEY COUNTY

SCALE IN FEET

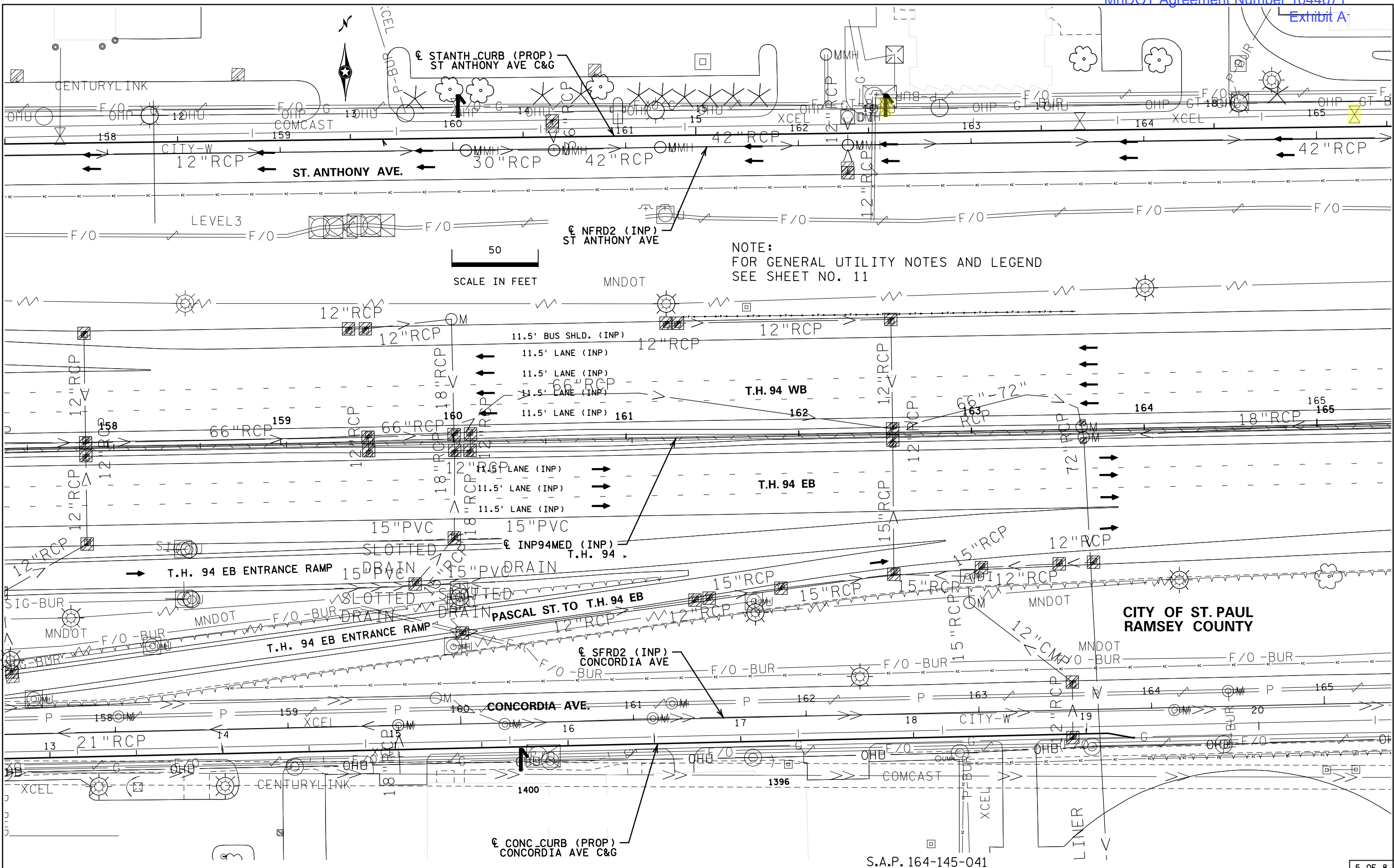
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NOTE:  
FOR GENERAL UTILITY NOTES AND LEGEND  
SEE SHEET NO. 11

SCALE IN FEET  
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CITY OF ST. PAUL  
RAMSEY COUNTY

S.A.P. 164-145-041

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NOTE:  
FOR GENERAL UTILITY NOTES AND LEGEND  
SEE SHEET NO. 11

PLOTTED/REVISED: 13-AUG-2020

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