

CFMS No. _____

AMENDMENT NO. 1

TO Mn/DOT CONTRACT NO. 84594

Contract Start Date: July 1, 2003

Total Contract Amount: \$1,575,616.40
(new amount)

Original Contract Expiration Date: June 30, 2005

Original Contract: \$851,505.60
Previous Amendment(s) Total: N/A
Current Amendment: \$ 724,110.80

Project Identification:

Routine Maintenance Agreement #84594 between Mn/DOT and the City of Minneapolis

State Project (SP):N/A

Trunk Highway: various

This amendment is by and between the State of Minnesota, through its Commissioner of Transportation ("State") and the City of Minneapolis ("City").

Recitals

1. The State has a contract with the Contractor identified as Mn/DOT Contract Number 84594 ("Original Contract") to provide routine maintenance of certain portions of trunk highways and bridges within and adjoining the corporate limits of the City of Minneapolis upon the terms set forth in the Agreement.
2. The State and the City have not been able to agree on the terms of a new routine maintenance agreement but have agreed to extend the current agreement until a new agreement can be negotiated.
3. Exhibits A and B are attached and incorporated into this Contract.
4. The State and the Contractor are willing to amend the Original Contract as stated below.

Contract Amendment

In this Amendment deleted contract terms will be ~~struck out~~ and the added contract terms will be highlighted.

Except as amended herein, the terms and conditions of the Original Contract and all previous amendments remain in full force and effect.

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PREPARED BY
METRO DISTRICT
MAINTENANCE

STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION
ROUTINE MAINTENANCE AGREEMENT

Mn/DOT
AGREEMENT NO.
84594

AGREEMENT BETWEEN

THE STATE OF MINNESOTA, DEPARTMENT OF TRANSPORTATION

AND

THE CITY OF MINNEAPOLIS

FOR

Routine maintenance of certain portions of trunk highways and bridges within and adjoining the corporate limits of the City of Minneapolis upon the terms and conditions set forth in this Agreement.

TOTAL AGREEMENT AMOUNT

\$724,110.80 ~~851,505.60~~

AMOUNT TO BE ENCUMBERED

(Fiscal Year 2004 2006)

\$362,055.40 ~~425,752.80~~

AMOUNT TO BE ENCUMBERED

(Fiscal Year 2005 2007)

\$362,055.40 ~~425,752.80~~

AMOUNT RECEIVABLE

(None)

THIS AGREEMENT, is by and between the State of Minnesota through its Commissioner of Transportation, hereinafter referred to as "State", and the City of Minneapolis, acting through its City Council, hereinafter referred to as "City". WHEREAS, State and City are empowered to enter into agreements pursuant to Minnesota Statutes Section 471.59; and

WHEREAS, pursuant to Minnesota Statutes Section 161.38, the parties desire to enter into an agreement relating to the maintenance of trunk highway roadways, bridges, and the Hiawatha Tunnel within and adjoining the corporate limits of City upon the terms and conditions set forth in this Agreement; and

WHEREAS, it is in the interest of both parties to work cooperatively in delivering these services.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

I. DUTIES OF THE CITY

A. City will provide routine maintenance as defined in Section I, Paragraph B, on those portions of the trunk highway (T.H.) roadways, bridges, and the Hiawatha Tunnel within and adjoining the corporate limits of City as indicated on the map titled Exhibit A, and Category A and B Bridge Maintenance as shown in Exhibit B which is attached and incorporated into this Agreement, and particularly described as follows:

T.H. 35W: The following 0.52 miles of trunk highway consisting of 2.08 Equivalent Lane Miles and designated in Minnesota Department of Transportation (Mn/DOT) records as Control Section No. 2783; beginning at the intersection of Trunk Highway 35W and Eighth Street Southeast; thence northerly on the east and west frontage roads along Trunk Highway 35W to their point of consolidation near Winter Street. This description has a total of 2.08 Equivalent Lane Miles.

T.H. 47: The following 3.50 miles of trunk highway consisting of 13.39 Equivalent Lane Miles and designated in Mn/DOT records as Control Section No. 2726; beginning at the intersection of Central Avenue Northeast (T.H. 65) and University Avenue Northeast; thence northerly on University Avenue Northeast to the north City limits. This description has a total of 13.39 Equivalent Lane Miles.

T.H. 55: ~~The following 1.84 miles of trunk highway consisting of 15.44 Equivalent Lane Miles and designated in Mn/DOT records as Control Section Nos. 2751 and 2724; beginning at Olson Memorial Highway and Thomas Avenue North; thence easterly on Olson Memorial Highway to Seventh Street North; thence southeasterly on Seventh Street North to Third Avenue North; and the following 1.44 miles of trunk highway consisting of 11.67 equivalent Lane Miles and designated in Mn/DOT records as Control Section No. 2724; eastbound Trunk Highway 55 begins at Third Avenue North and Tenth Street North; thence southeasterly on Tenth Street to Fifth Avenue South (T.H. 65); beginning again at Fifth Avenue South (T.H. 65) and Eighth Street South; thence southeasterly on Eighth Street South to Thirteenth Avenue South; westbound Trunk Highway 55 begins at Thirteenth Avenue South and Seventh Street South; thence northwesterly on Seventh Street to Third Avenue North; and t~~ The following 5.07 miles of trunk highway consisting of 21.00 Equivalent Lane Miles and designated in Mn/DOT records as Control Section No. 2724; beginning at Trunk Highway 94 and Thirteenth Avenue South; thence southeasterly on Trunk Highway 55 to the south City limits (at East Fifty-Fourth Street) including the Hiawatha Tunnel; and the following 0.61 miles of Minnehaha Avenue consisting of 1.41 Equivalent Lane Miles beginning at East Fifty-Second Street, thence southeasterly to East Fifty-Fourth Street and continuing southeasterly from East Fifty-Fourth Street to the old U.S. Bureau of Mines entrance. This description has a total of 49.52 Equivalent Lane Miles.

T.H. 65: ~~The following 0.77 miles of trunk highway consisting of 7.68 Equivalent Lane Miles and designated in Mn/DOT records as Control Section No. 2710; northbound Trunk Highway 65 begins at Fifth Avenue South and Tenth Street South (T.H. 55); thence northeasterly on Fifth Avenue South to Washington Avenue South; thence northwesterly on Washington Avenue South to Third Avenue South (T.H. 952A); southbound Trunk Highway 65 begins at Washington Avenue South and Third Avenue South; thence southeasterly on Washington Avenue South to Fourth Avenue South; thence southwesterly on Fourth Avenue South to Tenth Street South (T.H. 55); and t~~ The following 4.15 miles of trunk highway consisting of 20.52 Equivalent Lane Miles and designated in Mn/DOT records as Control Section No. 2710;

beginning at Washington Avenue South and Third Avenue South (T.H. 952A); thence northerly on Third Avenue South and Central Avenue to the north City limits. This description has a total of 28.20 Equivalent Lane Miles.

T.H. 94: The following 0.56 miles of trunk highway consisting of 1.10 Equivalent Lane Miles and designated in Mn/DOT records as Control Section No. 2781; beginning at the intersection of the east frontage road of Trunk Highway 94 with Oak Grove Street; thence northerly along the east frontage road of Trunk Highway 94 to its intersection with Linden Street; and the following 0.28 miles of trunk highway consisting of 0.74 Equivalent Lane Miles and designated in Mn/DOT records as Control Section No. 2781; beginning at the intersection of the west frontage road of Trunk Highway 94 with Linden Avenue; thence southerly along the west frontage road to Dunwoody Boulevard; and the following 0.60 miles of trunk highway consisting of 2.30 Equivalent Lane Miles and designated in Mn/DOT records as Control Section No. 2781; beginning at the intersection of the west frontage road of Trunk Highway 94 with Seventh Street North; thence southerly along the west frontage road to Third Avenue North (including the portion of Seventh Street North between the west frontage road and Eleventh Avenue North); and the following 0.43 miles of trunk highway consisting of 2.10 Equivalent Lane Miles and designated in Mn/DOT records as Control Section No. 2781; beginning at the intersection of the east frontage road of Trunk Highway 94 with Trunk Highway 55; thence northerly along the east frontage road to Eleventh Avenue North (including the portion of Seventh Street North between Eighth Avenue North and the east frontage road). This description has a total of 6.24 Equivalent Lane Miles.

T.H. 394: The following 0.39 miles of trunk highway consisting of 1.03 Equivalent Lane Miles and designated in Mn/DOT records as Control Section No. 2789; beginning on the north frontage road of Trunk Highway 394 at Theodore Wirth Parkway; thence easterly on the north frontage road to South Cedar Lake Road; and the following 0.14 miles of trunk highway consisting of 0.30 Equivalent Lane Miles and designated in Mn/DOT records as Control Section No. 2789; beginning on the north frontage road of Trunk Highway 394 at Penn Avenue South; thence easterly on the north frontage road to Oliver Avenue North; and the following 1.01 miles of trunk highway consisting of 3.15 Equivalent Lane Miles and designated in Mn/DOT records as Control Section No. 2789; beginning on the south frontage road of Trunk Highway 394 at France Avenue; thence easterly on the south frontage road to Penn Avenue North. This description has a total of 4.48 Equivalent Lane Miles.

T.H. 952A: The following 0.64 miles of trunk highway consisting of 4.81 Equivalent Lane Miles and designated in Mn/DOT records as Control Section No. 2726; westbound Trunk Highway 952A begins at Fourth Street Southeast and Trunk Highway 35W; thence northwesterly on Fourth Street Southeast to Central Avenue Northeast (T.H. 65); eastbound Trunk Highway 952A begins at Central Avenue Northeast (T.H. 65) and University Avenue Southeast; thence southeasterly on University Avenue Southeast to Trunk Highway 35W. This description has a total of 4.81 Equivalent Lane Miles.

The above roadway descriptions have a total of 78.83 ~~108.72~~ Equivalent Lane Miles.

All pedestrian and city roadway bridges over all Mn/DOT freeways, expressways, and aforementioned highways comprise an additional 19.77 ~~40.04~~ Equivalent Lane Miles.

This Agreement covers a grand total of 98.60 ~~148.76~~ Equivalent Lane Miles.

Equivalent Lane Miles are equal to the roadway width between the curbs, measured in feet, multiplied by the length of the roadway, measured in miles, divided by a standard lane width of twelve (12) feet.

B. City will provide routine maintenance on the above described roadways in accordance with the standards and guidelines City uses to routinely maintain its highway system, and will include, but not be limited to the

following:

1. Maintain the roadways, bridges, and Hiawatha Tunnel so as to keep the same in good repair and free from obstructions and impediments that may interfere with the passage of vehicle, bicycle, and pedestrian traffic. Maintenance will include all necessary routine maintenance to preserve the roadways, bridges, Hiawatha Tunnel, drainage structures, ditches, sidewalks, and right-of-way in their present condition, including, but not limited to, patching of the road surface with material approved by the Mn/DOT Metro Maintenance Office, joint and crack sealing of the surface, gravel shoulder repair and grading, minor slope repair, drainage structure cleaning and repair, noise wall and retaining wall repair (including graffiti removal on walls), fence repair, ditch cleaning, sweeping, and debris clearance. These routine maintenance activities will cover the entire right of way; and
2. Perform routine maintenance (further defined as category "A" and category "B") to preserve the bridges in their present existing condition, including, but not limited to:
 - a. **Category A Maintenance:** the proper and timely cleaning and flushing of bridge deck drains and other substructure areas that do not require lane closures on the roadway below the bridge, necessary deck spall patching with material approved by the Mn/DOT Metro Bridge Maintenance Office, minor bridge railing repair, proper and timely sealing of cracks in the bridge wearing surface (does not include hairline crack sealing or seal coating the entire bridge deck), removal of graffiti and aesthetic painting repairs, proper and timely repair of expansion joint glands (does not include gland replacement), replacement of light bulbs, lamps, and electrical connections at fixtures, minor slope paving maintenance, and proper and timely sweeping of the bridge surface and sidewalks; and
 - b. **Category B Maintenance:** all routine maintenance underneath the bridge (below the Mn/DOT highway elevation) including, but not limited to, removal of graffiti (including the backside of the bridge rail), aesthetic painting repairs, replacement of light bulbs, lamps, and electrical connections at fixtures; minor slope paving maintenance; minor repair and maintenance of drainage structures; snow and ice removal and minor repair of sidewalks, stairs and roadway below the MN/DOT highway elevation and within Mn/DOT right-of-way; flushing of the bearing assemblies; transient removal; debris removal; landscaping maintenance; and
3. Keep the roadways, bridges, Hiawatha Tunnel, and pedestrian walkways reasonably free and clear from ice and snow and undertake proper and timely cleaning and ice and snow control measures when necessary. Bridge ice and snow removal will cover the entire bridge width without pushing ice or snow onto any roadway, railroad, trail, path, or walkway located below the bridge; and
4. Maintain the highway signing, traffic control devices, and safety devices, such as guardrail, attenuators, signals, and lighting systems, pay all associated utility bills, and provide such roadway markings and lane striping as may be necessary on the trunk highways, except that State will furnish for City installation suitable route markers for the guidance of traffic on such trunk highways and attenuator parts or replacement attenuators for City maintenance and installation as needed. City will not be responsible for lighting maintenance on Trunk Highway 55 from Twenty-Sixth Street East to Trunk Highway 94; and
5. Perform all routine maintenance of vegetation and landscaping, including necessary and regular mowing, tree trimming, litter or debris collection and disposal, and noxious weed control within the highway right-of-way; and
6. Administer, issue, regulate, and inspect transportation permits, and permits to maintain existing utilities on the trunk highways described in Section I, Paragraph A; and
7. City will respond to and perform all Gopher State One Call locates on all State electrical systems, except fiber optics not owned by City for the trunk highways described in Section I, Paragraph A. This will not apply to Trunk Highway 55 from Twenty-Sixth Street East to Trunk Highway 94.

- C. City will operate and provide routine maintenance for the Hiawatha Tunnel located between Forty-Sixth Street and Fiftieth Street on the Trunk Highway 55 corridor, in accordance with the following:
1. All responsibilities of Section I, Paragraph B of this agreement will apply to the Hiawatha Tunnel; and
 2. Operate and maintain all Hiawatha Tunnel systems in accordance with the Operation and Maintenance Manuals provided to City by State and in accordance with all manufacturers' recommendations; and
 3. Maintenance will include payment of all utility bills and all necessary routine maintenance to preserve in good working condition: the lighting, alarms, HVAC, equipment room, roadbed, walls, ceilings, drainage structures, water service, fire protection systems, electronic control equipment, and all other entities, appurtenances, and systems associated with the Hiawatha Tunnel, except those excluded in Section II, Paragraph B and Paragraph C; and
 4. It is hereby agreed that this agreement covers the two easterly barrels of the Hiawatha Tunnel associated with Trunk Highway 55 vehicular traffic. The third barrel is for Light Rail Transit and is not covered by this agreement.
- D. City will provide routine maintenance on the Third Avenue Bridge over Trunk Highway 94 and the Third Avenue approaches to this bridge, all in accordance with Section I, Paragraph B of this agreement and when needed the City will order, purchase, store, furnish and install all special aesthetic facade panels, decorative light fixtures, poles and lamps, ornamental railing, and other architectural appurtenances that may require replacement on the bridge.
- E. City will provide necessary and regular mowing and debris collection and disposal service for three areas of additional T.H. 55 right-of-way as shown on Exhibit A and particularly described as follows:
1. Vacant lot in the southeast quadrant of the T.H. 55 and Lake Street interchange that is bordered on the west by T.H. 55, on the north by Lake Street, on the east by railroad tracks, and on the south by the ACME commercial building; and
 2. Landscaped area in the northwest quadrant of the T.H. 55 and Fifty-fourth Street intersection and bordered by the T.H. 55 noise wall and Riverview Road; and
 3. Vacant lots in the northwest quadrant of the T.H. 55 and Fifty-fourth Street intersection that are within an area bordered by Hiawatha Lane, Riverview Road, and Fifty-fourth Street.
- F. City will furnish all labor, equipment, materials, supplies, tools, and other items necessary for the performance of the services to be provided for by City under this Agreement.
- G. All materials used by City in the performance of the work under this Agreement must conform to the requirements of the current edition of the Minnesota Department of Transportation Standard Specifications for Construction and to any subsequent amendments thereto.
- H. If there is a change in the routing of a trunk highway, a substitution of a new route for a trunk highway, or a variation from the present trunk highway location by State, City will maintain the new trunk highway in accordance with this Agreement during such period of substitution and will be paid the amount to which it is entitled under this Agreement. If State relocates any portion of the above described trunk highways and the present roadway, bridges, or Hiawatha Tunnel revert to City, the City will maintain the reverted portion at its sole cost and expense.

II. DUTIES OF STATE

- A. State is responsible for any extraordinary maintenance, betterments, construction, or reconstruction on the trunk highways, bridges and Hiawatha Tunnel described in Section I, Paragraph A. If State desires City to perform any such work, the parties must enter into a separate agreement therefore. Extraordinary maintenance, betterments, construction, or reconstruction includes, but is not limited to, overlay of the roadway surface, milling and overlay of the roadway surface, replacement of drainage structures and culverts, and major washout repairs.
- B. State will be responsible for washing the walls of the Trunk Highway 55 Hiawatha Tunnel and the associated traffic control. Washing will take place on an as-needed basis as determined by State.
- C. State will maintain and monitor the carbon monoxide detection system in the Hiawatha Tunnel until such time as State determines further monitoring is not warranted, but not less than a period of 2 years from September 1, 2001. If City desires to continue such monitoring after the State determines monitoring is not warranted, all costs to monitor and maintain this system will be the sole responsibility of City
- D. State has administered contracts S.P. 2724-112 and S.P. 2724-113. These are landscaping contracts on Trunk Highway 55 from Forty-Sixth Street to Fifty-Fourth Street. These contracts have a plant maintenance warranty period of two years, which will terminate in June 2005 2007. The plantings installed under that contract will not require maintenance by City during the warranty period. Should action by City void the warranty contract, City will assume maintenance responsibilities for that landscaping at no cost to State.
- E. State will retain its authority to administer, issue, and regulate access permits, sign advertising permits, drainage permits, and permits to install new utilities on the trunk highways described in Section I, Paragraph A.

III. ANNUAL INSPECTION

Authorized Representative of State and City will individually inspect the roadways, bridges, and Hiawatha Tunnel included in this Agreement and meet on at least an annual basis to review the adequacy of the maintenance work being performed, and to determine if any extraordinary maintenance, betterments, construction, or reconstruction are required.

IV. LANE CLOSURES AND TRAFFIC CONTROL

- A. The City may partially block the trunk highways and bridges for a period of time necessary for the performance of the services covered under this Agreement. In cases of emergency, such trunk highways and bridges may be wholly blocked and the passage of traffic thereon prevented by the City. At no time, however, will the City continue to obstruct the free passage of traffic on the trunk highways or bridges for a longer period of time than is reasonably required for performing the necessary work thereon. In the event of the total blocking or closing of any such trunk highway or bridge, City must provide a suitable detour during such time, with the assistance of State, as needed.
- B. City may close to travel the trunk highways and bridges at such time as it is necessary for the emergency repair of water or gas mains, electric or telephone cables, or sewers. However, City will not cause any portions of said trunk highways and bridges to be closed to traffic for any reasons other than those above set forth, and in no event for a time longer than reasonably necessary to complete authorized work.
- C. All partial and total closures of the trunk highways and bridges covered under this Agreement must be in conformance with the current Minnesota Manual on Uniform Traffic Control Devices, and City must provide at least a 24 hour notice of these closures to the Mn/DOT Dispatch Center at 651-582-1550.

V. CONSIDERATION AND TERMS OF PAYMENT

A. State will pay to City the sum of Three Thousand, Four Hundred Seven and 61/100 Dollars (\$3,407.61) per Equivalent Lane Mile, during the first year of this Agreement and the sum of Three Thousand, Four Hundred Seven and 61/100 Dollars (\$3407.61) per Equivalent Lane Mile, during the second year of this Agreement for the performance of the work and the furnishing of labor, equipment, and materials as set forth in Section I, Paragraphs A, B, F, and G, of this Agreement. This payment will be considered full and complete compensation for all work to be performed by City under Section I, Paragraphs A, B, F, and G of this Agreement.

B. State will pay to City the sum of (\$5,000.00), during the first and second year of this Agreement for the performance of the work and furnishing of labor, equipment, and materials as set forth in Section I, Paragraph B, Subparagraph 2, Subparagraph b) (Category B Maintenance) of this Agreement. This payment will be considered full and complete compensation for all work to be performed by City under Section I, Paragraph B, Subparagraph 2, Subparagraph b), of this Agreement.

C. State will pay to City the sum of (\$19,065.00), during the first and second year of this Agreement for the performance of the work and furnishing of labor, equipment, and materials as set forth in Section I, Paragraph C, of this Agreement. This payment will be considered full and complete compensation for all work to be performed by City under Section I, Paragraph C, of this Agreement.

D. No payment will be made to City to order, purchase, store, furnish and install all special aesthetic facade panels, decorative light fixtures, poles and lamps, ornamental railing, and other architectural appurtenances that may require replacement on the 3rd Avenue bridge over Trunk Highway 94 as set forth in Section I, Paragraph D, of this Agreement.

E. State will pay to City the sum of (\$2,000.00), during the first and second year of this Agreement for the performance of the work and furnishing of labor, equipment, and materials as set forth in Section I, Paragraph E, of this Agreement. This payment will be considered full and complete compensation for all work to be performed by City under Section I, Paragraph E, of this Agreement.

F. In the event there is a change as described in Section I, Paragraph G, in the roadways, bridges, or Hiawatha Tunnel to be maintained by City, or this Agreement is cancelled prior to June 30, 2005 2007, the payment due to City will be prorated for the full months and fractional months if any, that the terms of this Agreement are in affect.

G. During the term of this Agreement, quarterly payments will be made to City in the amounts listed below.

<u>Fiscal Year 2004 2006</u>		<u>Fiscal Year 2005 2007</u>	
October 1, 2003 2005	\$90,513.85 -406,438.20	October 1, 2004 2006	\$90,513.85 -406,438.20
January 1, 2003 2005	\$90,513.85 -406,438.20	January 1, 2004 2006	\$90,513.85 -406,438.20
April 1, 2004 2006	\$90,513.85 -406,438.20	April 1, 2005 2007	\$90,513.85 -406,438.20
June 30, 2004 2006	\$90,513.85 -406,438.20	June 30, 2005 2007	\$90,513.85 -406,438.20

State's maximum obligation during the first year of this Agreement is \$362,055.40 -425,752.80 and its maximum obligation during the second year of this Agreement is \$362,055.40 -425,752.80. State's total obligation under this Agreement is \$724,110.80 -851,505.60.

VI. CONDITIONS OF PAYMENT

- A. Payment will be made by State under this Agreement on a quarterly basis, as soon as possible after the respective dates of October 1, January 1, April 1, and June 30 of each fiscal year, upon the submission by City to State of a cost analysis listing all labor, materials, and equipment used by City during the quarter, and an invoice for the services performed, and a certificate certifying that all work done during the period for which City seeks payment has been performed in full conformity with this Agreement.
- B. All services provided by City pursuant to this Agreement must be performed to the satisfaction of State, as determined at the sole discretion of its Authorized Representative pursuant to Section IX, Paragraph C, and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations.
- C. If City fails to perform any of the work according to the terms of this Agreement, State may perform such work and may offset any payment due to the City under this agreement by the amount of the labor, overhead, and material costs incurred by the State in performing such work. Performance of such work by the State will not be construed as a waiver of the City's obligation to subsequently perform such work, and the City will be entitled to compensation, pursuant to this agreement, for subsequent work, which is satisfactorily performed by the City. This paragraph will not be construed to relinquish any rights of action, which may accrue on behalf of State as against City for any breach of contract.

VII. TERM OF AGREEMENT

This Agreement will be in effect from July 1, 2005~~3~~ through June 30, 2007~~5~~.

VIII. CANCELLATION

- A. This Agreement may be canceled by either party with sixty (60) days prior written notice to the other party. In the event of such a cancellation, City will be entitled to a prorated payment for the months and fractional months, if any, that this Agreement was in affect.
- B. The State may immediately terminate this contract if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to the City. The State is not obligated to pay for any services that are provided after notice and effective date of termination, however, the City will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State must provide the City notice of the lack of funding within a reasonable time of the State's receiving that notice.

IX. AUTHORIZED REPRESENTATIVE

- A. State's Authorized Representative for the purposes of the administration of this Agreement is Susan Mulvihill, Assistant District Engineer - Maintenance, Minnesota Department of Transportation, Metro Division, 1500 West County Road B2, Roseville, Minnesota 55113, (651) 582-1463, or her designee or successor.
- B. City's Authorized Representative for the purposes of the administration of this Agreement is Michael D. Kennedy, Director, Field Services Division, City of Minneapolis, 203 City Hall, Minneapolis, Minnesota 55415-1390, (612) 673-3759, or his designee or successor.
- C. State's Authorized Representative will have final authority for acceptance of City's services. If such services are accepted as satisfactory, State's Authorized Representative will so certify on each invoice submitted pursuant to Section VI, Paragraph A, and will authorize payment.

X. ASSIGNMENT

- A. Neither party will assign or transfer any rights or obligations under this Agreement, in whole or in part, without prior written consent of the other.
- B. All contracts and agreements made by either party with third parties for the performance of any work to be done under this Agreement must be made in accordance with the terms of this Agreement and State of Minnesota law.
- C. This Agreement will not be construed as a relinquishment by State of any powers or control it may have over the trunk highways and bridges covered under this Agreement.

XI. MERGER/AMENDMENTS

This Agreement contains all negotiations and agreements between the State and City. No other understanding regarding this agreement, whether written or oral, may be used to bind either party. Any amendments to this Agreement must be in writing, and must be executed by the same parties who executed the original Agreement, or their successors in office.

XII. LIABILITY

- A. The employees and agents of the City will not be deemed to be employees of the State for any reason.
- B. Each party will be solely responsible for its own acts and omissions, the acts and omissions of its employees, and results thereof to the extent authorized by law. The parties will not be responsible for the acts of any others and the results thereof. Liability of State will be governed by the provisions of the Minnesota Tort Claims Act, Minnesota Statutes Section 3.736, and the liability of City will be governed by Minnesota Statutes Chapter 466. This clause will not be construed to bar any legal remedies each party may have for the other party's failure to fulfill its obligations pursuant to this Agreement.
- C. Each party to this Agreement will defend at its sole cost and expense any action or proceeding commenced for the purpose of asserting any claim of whatsoever character arising in connection with or by virtue of performance of its own work as provided herein.

XIII. WORKERS' COMPENSATION

Each party will be solely responsible for its own employees for any workers compensation claims.

XIV. CIVIL RIGHTS

The City must comply with the provisions of Minnesota Statutes Section 181.59, and any applicable local ordinance relating to civil rights and discrimination.

XV. STATE AUDITS

The books, records, documents, and accounting procedures and practices of City, relevant to this Agreement, may be subject to examination by the Mn/DOT auditor, and the Legislative Auditor, or the State Auditor, as appropriate, for no less than six years following the expiration of this Agreement.

XVI. DATA PRACTICES

The State and the City must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to any information provided to or by a party to this agreement.

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STATE ENCUMBRANCE VERIFICATION

Individual certifies that funds have been encumbered as required by Minnesota Statutes 16A.15 and 16C.05.

By _____

Date _____

MAPS Encumbrance No. _____

CITY OF MINNEAPOLIS

By _____
Mayor

Date _____

By _____

Title _____

Date _____

Approved as to form and execution:

By _____
Assistant City Attorney

Date _____

DEPARTMENT OF TRANSPORTATION

Recommended for approval:

By Beverly Ann Savok
Metro District
Assistant District Engineer – Maintenance

Approved:

By Patrick C. Hughes
Metro District Engineer

Date 12/16/05

Approved as to form and execution:

By _____
Contract Management

Date _____

COMMISSIONER OF ADMINISTRATION

As delegated to Materials Management Division

By _____

Date _____