

EXHIBIT A

MnDOT Contract No.: 1033803

**STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION
And
ST. LOUIS COUNTY
And
CITY OF DULUTH
And
CITY OF HERMANTOWN
COOPERATIVE CONSTRUCTION
AGREEMENT**

State Project Number (S.P.):	<u>8821-320</u>	Estimated Amount Payable
Trunk Highway Number (T.H.):	<u>VARIOUS</u>	<u>\$23,165.10</u>
State Aid Project Number (S.P.):	<u>069-070-047</u>	
St. Louis County Project Number:	<u>0000-390020</u>	
Duluth Project Number:	<u>1732</u>	
Hermantown Project Number:	<u>202-103-010</u>	
Federal Project Number:	<u>HSIP 8819(222)</u>	
Signal System ID:	<u>VARIOUS</u>	

This Agreement is between the State of Minnesota, acting through its Commissioner of Transportation ("State"), and St. Louis County acting through its Board of Commissioners ("County"), and the City of Duluth acting through its City Council ("Duluth"), and the City of Hermantown acting through its City Council ("Hermantown").

Recitals

1. The County will perform signal system revision construction and other associated construction upon, along, and adjacent to various local roadway and Trunk Highway intersections within the corporate limits of the Cities of Duluth, Hermantown, and Proctor according to State-prepared plans, specifications, and special provisions designated by Duluth as Duluth Project Number 1732, by the State and Hermantown as S.P. 202-103-010, by the State and the County as S.P. 069-070-047 and by the State as State Project No. 8821-320 ("Project"); and
2. The County requests the State participate in the costs of the signal system revision construction and the State is willing to participate in the costs of said construction and associated construction engineering; and
3. Federal Department of Public Safety Section 164 (DPS SEC 164) funds are available for the State's and the County's share of the construction; and
4. The State will pay its proportionate construction engineering cost share; and
5. This Agreement will supplement the existing maintenance and operation terms of the Traffic Signal Agreements between the State and respective parties for the Signal Systems covered under this Agreement; and
6. 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; Plans; Incorporation of Exhibits

- 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: 2.4. State Ownership of Improvements; 10. Liability; Worker Compensation Claims; Insurance; 12. State Audits; 13. Government Data Practices; 14. Governing Law; Jurisdiction; Venue; and 16. Force Majeure. The terms and conditions set forth in Article 5. Signal Systems and EVP Systems Operation and Maintenance will survive the expiration of this Agreement, but may be terminated by another Agreement between the parties.
- 1.4. **Plans, Specifications, and Special Provisions.** State-aid approved State-prepared plans, specifications, and special provisions designated by the State and County as S.P. 069-070-047 and by the State as State Project No. 8821-320 are on file in the office of the County's Engineer and incorporated into this Agreement by reference ("Project Plans").
- 1.5. **Exhibits.** Preliminary Schedule "I" is attached and incorporated into this Agreement.

2. Right-of-Way Use

- 2.1. **Limited Right to Occupy.** The State grants to the County (and its contractors and consultants) the right to occupy Trunk Highway Right-of-Way as necessary to perform the work described in the Project Plans. This right is limited to the purpose of constructing the project, and administering such construction, and may be revoked by the State at any time, with or without cause. Cause for revoking this right of occupancy includes, but is not limited to, breaching the terms of this or any other agreement (relevant to this project) with the State, failing to provide adequate traffic control or other safety measures, failing to perform the construction properly and in a timely manner, and failing to observe applicable environmental laws or terms of applicable permits. The State will have no liability to the County (or its contractors or consultants) for revoking this right of occupancy.
- 2.2. **State Access; Suspension of Work; Remedial Measures.** The State's District Engineer or assigned representative retains the right to enter and inspect the Trunk Highway Right-of-Way (including the construction being performed on such right-of-way) at any time and without notice to the City, County or its contractor. If the State determines (in its sole discretion) that the construction is not being performed in a proper or timely manner, or that environmental laws (or the terms of permits) are not being complied with, or that traffic control or other necessary safety measures are not being properly implemented, then the State may direct the County (and its contractor) to take such remedial measures as the State deems necessary. The State may require the County (and its contractors and consultants) to suspend their operations until suitable remedial action plans are approved and implemented. The State will have no liability to the County (or its contractors or consultants), Duluth, or Hermantown for exercising its rights under this provision.
- 2.3. **Traffic Control; Worker Safety.** While the County (and its contractors and consultants), Duluth, or Hermantown are occupying the State's Right-of-Way, they must comply with the approved traffic control plan, and with applicable provisions of the Work Zone Field Handbook (<http://www.dot.state.mn.us/trafficeng/workzone/index.html>). All Duluth, Hermantown, County,

contractor, and consultant personnel occupying the State's Right-of-Way must be provided with required reflective clothing and hats.

- 2.4. State Ownership of Improvements.** The State will retain ownership of its Trunk Highway Right-of-Way, including any improvements made to such right-of-way under this Agreement, unless otherwise noted. The warranties and guarantees made by the County's contractor with respect to such improvements (if any) will flow to the State. The County will assist the State, as necessary, to enforce such warranties and guarantees, and to obtain recovery from the County's consultants, and contractor (including its sureties) for non-performance of contract work, for design errors and omissions, and for defects in materials and workmanship. Upon request of the State, the County will undertake such actions as are reasonably necessary to transfer or assign contract rights to the State and to permit subrogation by the State with respect to claims against the County's consultants and contractors.

3. Contract Award and Construction

- 3.1. Bids and Award.** The County will receive bids and award a construction contract to the lowest responsible bidder (or best value proposer), subject to concurrence by the State in that award, according to the Project Plans. The contract construction will be performed according to the Project Plans.
- 3.2. Bid Documents Furnished by the County.** The County will, within 7 days of opening bids for the construction contract, submit to the State's District Engineer a copy of the low bid and an abstract of all bids together with the County's request for concurrence by the State in the award of the construction contract. The County will not award the construction contract until the State advises the County in writing of its concurrence.
- 3.3. Rejection of Bids.** The County may reject and the State may require the County to reject any or all bids for the construction contract. The party rejecting or requiring the rejection of bids must provide the other party written notice of that rejection or requirement for rejection no later than 30 days after opening bids. Upon the rejection of all bids, a party may request, in writing, that the bidding process be repeated. Upon the other party's written approval of such request, the County will repeat the bidding process in a reasonable period of time, without cost or expense to the State.
- 3.4. Direction, Supervision, and Inspection of Construction.**
- A.** The contract construction will be under the direction of the County and under the supervision of a registered professional engineer; however, the State participation construction covered under this Agreement will be open to inspection by the State District Engineer's authorized representatives. The County will give the District Engineer at Duluth five days notice of its intention to start the contract construction.
 - B.** Responsibility for the control of materials for the contract construction will be on the County and its contractor and will be carried out according to Specifications No. 1601 through and including No. 1609 in the State's current "Standard Specifications for Construction".
- 3.5. Completion of Construction.** The County will cause the contract construction to be started and completed according to the time schedule in the construction contract special provisions. The completion date for the contract construction may be extended, by an exchange of letters between the appropriate County official and the State District Engineer's authorized representative, for unavoidable delays encountered in the performance of the contract construction.
- 3.6. Plan Changes.** The State will not participate in the cost of any contract construction that is in addition to the State participation construction covered under this Agreement unless the following conditions have been met:

- A. The necessary State funds have been encumbered.
- B. All changes in the Project Plans and all addenda, change orders, supplemental agreements, and work orders entered into by the County and its contractor for State participation construction are approved in writing by the State District Engineer's authorized representative.

3.7. Compliance with Laws, Ordinances, and Regulations. The County will comply and cause its contractor to comply with all Federal, State, and Local laws, and all applicable ordinances and regulations. With respect only to that portion of work performed on the State's Trunk Highway Right-of-Way, the County will not require the contractor to follow local ordinances or to obtain local permits.

4. Right-of-Way; Easements; Permits

- 4.1.** The County will obtain all rights-of-way, easements, construction permits, and any other permits and sanctions that may be required in connection with the local and trunk highway portions of the contract construction. Before payment by the State, the County will furnish the State with certified copies of the documents for rights-of-way and easements, construction permits, and other permits and sanctions required for State participation construction covered under this Agreement.
- 4.2.** The County will convey to the State by quit claim deed, all newly acquired rights needed for the continuing operation and maintenance of the Trunk Highway, if any, upon completion of the Project, at no cost or expense to the State.
- 4.3.** The County will comply with Minnesota Statutes § 216D.04, subdivision 1(a), for identification, notification, design meetings, and depiction of utilities affected by the contract construction.

5. Signal Systems and EVP Systems Operation and Maintenance

All operation and maintenance terms, including timing and power provisions, in each respective Traffic Control Signal Agreement will remain in full force and effect for the existing traffic control signals at the following locations:

County and State

Signal System A at T.H. 2 and C.S.A.H. 14 (Boundary Avenue)
 Signal System B at T.H. 2 and C.S.A.H. 13 (Midway Road)
 Signal System C at T.H. 53/T.H. 194 and C.S.A.H. 48 (Lavaque Road)
 Signal System E at T.H. 53/T.H. 194 and C.S.A.H. 17 (Stebner Road)
 Signal System F at T.H. 53/T.H. 194 and C.S.A.H. 32 (Arrowhead Road)
 Signal System I at T.H. 53/T.H. 194 and C.S.A.H. 6 (Maple Grove Road)
 Signal System O at T.H. 53 (Trinity Road) and C.S.A.H. 90 (Arlington Avenue)
 Signal System P at T.H. 53 (Trinity Road) and C.S.A.H. 54 (Piedmont Avenue)
 Signal System T at T.H. 194 (West Central Entrance) and C.S.A.H. 90 (Arlington Avenue)

Duluth and State

Signal System H at T.H. 53/T.H. 194 and Maple Grove Road/Burning Tree Road
 Signal System J at T.H. 53/T.H. 194 and North Mall Entrance
 Signal System K at T.H. 53 and Cottonwood Avenue
 Signal System L at T.H. 194 (West Central Entrance)/T.H. 53 (Trinity Road) and Joshua Street
 Signal System M at T.H. 53 (Trinity Road) and Mall Drive
 Signal System N at T.H. 53 (Trinity Road) and Anderson Road
 Signal System Q at T.H. 194 (West Central Entrance) and Mall Drive
 Signal System R at T.H. 194 (West Central Entrance) and Anderson Road/Myrtle Street
 Signal System S at T.H. 194 (West Central Entrance) and Basswood Avenue

Signal System U at T.H. 194 (West Central Entrance) and Pecan Avenue
 Signal System BF at T.H. 35 and North 5th Avenue West
 Signal System BG at T.H. 61/London Road and T.H. 35/North 26th Avenue East

Hermantown and State

Signal System D at T.H. 53/T.H. 194 and Cirrus Drive/Sugar Maple Drive
 Signal System G at T.H. 53/T.H. 194 and Loberg Avenue

5.1. *EVP Responsibilities.*

A. *EVP Systems Operation.* The EVP Systems will be installed at the locations listed above, operated, maintained, and removed according to the following conditions and requirements:

- i. All maintenance of the EVP Systems on the Duluth and State Signal Systems will be performed by Duluth. All maintenance of the EVP systems on the County and State Signal Systems and the Hermantown and State Signal Systems will be performed by State forces.
- ii. Emitter units may be installed only on authorized emergency vehicles, as defined in Minnesota Statutes § 169.011, Subdivision 3. Authorized emergency vehicles may use emitter units only when responding to an emergency. The County, Duluth, and Hermantown will provide the State's District Engineer or their designated representative a list of all vehicles with emitter units, if requested by the State.
- iii. Malfunction of the EVP Systems must be reported to the State immediately.
- iv. In the event the EVP Systems or its components are, in the opinion of the State, being misused or the conditions set forth in Paragraph ii. above are violated, and such misuse or violation continues after the County, Duluth, and Hermantown receives written notice from the State, the State may remove the EVP Systems. Upon removal of the EVP Systems pursuant to this Paragraph, all of its parts and components become the property of the State.
- v. All timing of the EVP Systems on the State and Duluth Signal Systems will be initially determined by Duluth and verified by the State. All timing of the County and State Signal Systems and the Hermantown and State Signal Systems will be determined by the State.

5.2. *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.

6. Basis of State Cost

6.1. *Schedule "I".* The Preliminary Schedule "I" includes all anticipated State participation construction items and the construction engineering cost share covered under this Agreement.

6.2. *State Participation Construction.* The State will participate based on the following at the percentages indicated after the DPS SEC 164 funds have been applied. The construction includes the State's proportionate share of item costs for mobilization, and traffic control.

- A. *DPS SEC 164 Funds.*** The County has been awarded \$600,000.00 of DPS SEC 164. These funds will be applied to the total Project construction cost. The State will participate in trunk highway eligible costs that exceed the DPS SEC 164 funds based on the State's cost share at each signal system as shown below and on the Schedule "I", and according to the terms in Article 3.6 and the terms of Article 7.
- B.** 33 Percent will be the State's rate of cost participation in all of the following construction and is itemized on Sheet No. 2 of the Preliminary Schedule "I".

- i. Revise Signal System BF.
- C. 50 Percent will be the State's rate of cost participation in all of the following construction and is itemized on Sheet No. 2 of the Preliminary Schedule "I".
 - i. Revise Signal System A, B, C, D, E, F, H, K, M, N, O, Q, R, S, T, U, and BG.
- D. 67 Percent will be the State's rate of cost participation in all of the following construction and is itemized on Sheet No. 2 of the Preliminary Schedule "I".
 - i. Revise Signal System G, I, J, and P.
- E. 75 Percent will be the State's rate of cost participation in all of the following construction and is itemized on Sheet No. 2 of the Preliminary Schedule "I".
 - i. Revised Signal System L.
- F. **Construction Engineering Costs.** The State will pay a construction engineering charge equal to 8 percent of the total State participation construction covered under this Agreement. DPS SEC 164 funds will not be applied to the State's construction engineering cost share.

6.3. Addenda, Change Orders, Supplemental Agreements, and Work Orders. The State will share in the costs of construction contract addenda, change orders, supplemental agreements, and work orders that are necessary to complete the State participation construction covered under this Agreement and are approved in writing by the State District Engineer's authorized representative, at the same rate of the State's participation in the effected signal system.

6.4. Liquidated Damages. All liquidated damages assessed the County's contractor in connection with the construction contract will result in a credit shared by each party in the same proportion as their total construction cost share covered under this Agreement is to the total contract construction cost before any deduction for liquidated damages.

7. State Cost and Payment by the State

7.1. State Cost. \$23,165.10 is the State's estimated share of the costs of the contract construction which includes the 8 percent construction engineering cost share as shown in the Preliminary Schedule "I". The Preliminary Schedule "I" was prepared using estimated quantities and unit prices, and may include any credits or lump sum costs. Upon review of the construction contract bid documents described in Article 3.2, the State will decide whether to concur in the County's award of the construction contract and, if so, prepare a Revised Schedule "I" based on construction contract unit prices, which will replace and supersede the Preliminary Schedule "I" as part of this Agreement.

7.2. Conditions of Payment. The State will pay the County the State's total estimated construction cost share, which does not include the 8 percent construction engineering cost share, as shown in the Revised Schedule "I", after the following conditions have been met:

- A. Encumbrance by the State of the State's total estimated construction cost share, the 8 percent construction engineering cost share, as shown in the Revised Schedule "I".
- B. Execution of this Agreement and transmittal to the County, including a letter advising of the State's concurrence in the award of the construction contract.
- C. The State's receipt of a written request from the County for the advancement of funds. The request will include certification by the County that all necessary parties have executed the construction contract.

7.3. Limitations of State Payment; No State Payment to Contractor. The State's participation in the contract construction is limited to the State participation construction shown in Article 7.1, and the State's participation will not change except by a mutually agreed written amendment to this Agreement. The State's payment obligation extends only to the County. The County's contractor is not intended to be and will not be deemed to be a third party beneficiary of this Agreement. The County's contractor will have no right to receive payment from the State. The State will have no responsibility for claims asserted against the County by the County's contractor.

7.4. Construction Costs Exceeding Encumbered Amount. Whenever it appears the cost of the State participation construction covered under this Agreement is about to exceed the current amount of encumbered State funds, the County will notify the State District Engineer's authorized representative in writing prior to performance of the additional State participation construction. Notification will include an estimate in the amount of additional funds necessary to complete the State participation construction including construction engineering costs and the reason(s) why the current amount encumbered will be exceeded. The State will, upon its approval of the additional State participation construction, encumber the necessary additional funds. That action will have the effect of amending this Agreement so as to include the State's share of the costs of the additional construction.

Should the County cause the performance of additional contract construction which would otherwise qualify for State participation construction covered under this Agreement, but for which the State has not previously encumbered funds, that additional contract construction is done at the County's own risk. The County will notify the State District Engineer's authorized representative in writing of the additional State participation construction. Notification will include an estimate in the amount of additional funds necessary to cover the additional State participation construction including construction engineering costs and the reason(s) why the current amount encumbered was exceeded. If the State District Engineer's authorized representative approves the additional State participation construction, the County's claim for compensation along with a request for encumbrance of the necessary additional funds will be submitted to the State's Budget Section for review of compliance with Minnesota Statutes § 16A.15, subdivision 3, but no guarantee is made that the claim will be approved by the State's Budget Section. If the claim for compensation and the request for encumbrance of the necessary additional funds are approved by the State's Budget Section, that action will have the effect of amending this Agreement so as to include the State's share of the costs of the additional construction.

7.5. Records Keeping and Invoicing by the County. The State will provide the County with a Payment Processing Package containing a Modified Schedule "I" form, instructions, and samples of documents for processing final payment of the State participation construction covered under this Agreement.

The County will keep records and accounts that enable it to provide the State with the following prior to final payment:

- A.** A copy of the Modified Schedule "I" which includes final quantities of State participation construction.
- B.** Copies of the County contractor's invoice(s) covering all contract construction.
- C.** Copies of the endorsed and canceled County warrant(s) or check(s) paying for final contract construction, or computer documentation of the warrant(s) issued, certified by an appropriate County official that final construction contract payment has been made.
- D.** Copies of all construction contract change orders, supplemental agreements, and work orders.

- E. A certification form, attached to a copy of the Final Schedule "I", both provided by the State. The certification form will be signed by the County's Engineer in charge of the contract construction attesting to the following:
 - i. Satisfactory performance and completion of all contract construction according to the Project Plans.
 - ii. Acceptance and approval of all materials furnished for the contract construction relative to compliance of those materials to the State's current "Standard Specifications for Construction".
 - iii. Full payment by the County to its contractor for all contract construction.
- F. When requested, copies certified by the County's Engineer, of material sampling reports and material testing results for the materials furnished for the contract construction.
- G. A copy of the "as built" plan sent to the District Engineer.
- H. A formal invoice (original and signed) in the amount due the County as shown in the Final Schedule "I".

7.6. Final Payment by the State. Upon completion of all contract construction, the State will prepare a Final Schedule "I" according to the procedures detailed in the Payment Processing Package and submit a copy to the County. The Final Schedule "I" will be based on final quantities, and include all State participation construction items and the construction engineering cost share covered under this Agreement. If the final cost of the State participation construction exceeds the amount of funds advanced by the State, the State will pay the difference to the County without interest. If the final cost of the State participation construction is less than the amount of funds advanced by the State, the County will refund the difference to the State without interest.

The State and the County waive claims for any payments or refunds less than \$5.00 according to Minnesota Statutes § 15.415.

8. 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.

8.1. The State's Authorized Representative will be:

Name, Title: Malaki Ruranika, Cooperative Agreements Engineer (or successor)
 Address: 395 John Ireland Boulevard, Mailstop 682, St. Paul, MN 55155
 Telephone: (651) 366-4634
 E-Mail: malaki.ruranika@state.mn.us

8.2. The County's Authorized Representative will be:

Name, Title: Victor Lund, County Traffic Engineer (or successor)
 Address: 4787 Midway Road, Pike Lake, MN 55811
 Telephone: (218) 625-3873
 E-Mail: lundv@stlouiscountymn.gov

8.3. The Duluth's Authorized Representative will be:

Name, Title: Cari Pedersen, Duluth Project Engineer (or successor)
 Address: 411 West 1st Street, Duluth, MN 55802
 Telephone: (218) 730-5091
 E-Mail: cpedersen@duluthmn.gov

8.4. The Hermantown's Authorized Representative will be:

Name, Title: David Bolf, Hermantown City Engineer (or successor)
 Address: 102 South 21st Avenue West, Suite 1, Duluth, MN 55806
 Telephone: (218) 727-5995
 E-Mail: david@nce-duluth.com

9. Assignment; Amendments; Waiver; Contract Complete

- 9.1. Assignment.** No 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.
- 9.2. 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.
- 9.3. 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.
- 9.4. Contract Complete.** This Agreement contains all prior negotiations and agreements between the State, County, Duluth, and Hermantown. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

10. Liability; Worker Compensation Claims; Insurance

- 10.1.** 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 County, Duluth, and Hermantown. Notwithstanding the foregoing, the County, Duluth, and Hermantown will indemnify, hold harmless, and defend (to the extent permitted by the Minnesota Attorney General) the State against any claims, causes of actions, damages, costs (including reasonable attorneys fees), and expenses arising in connection with the project covered by this Agreement, regardless of whether such claims are asserted by the County's, Duluth's, or Hermantown's contractor(s) or consultant(s) or by a third party because of an act or omission by the County, Duluth, Hermantown, or the contractor(s) or consultant(s).
- 10.2.** Each party is responsible for its own employees for any claims arising under the Workers Compensation Act.
- 10.3.** The County may require its contractor to carry insurance to cover claims for damages asserted against the County's contractor.

11. Nondiscrimination

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

12. State Audits

Under Minnesota Statutes § 16C.05, subdivision 5, the County's, Duluth's, and Hermantown'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.

13. Government Data Practices

The County, Duluth, Hermantown, and State must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided under this Agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the County, Duluth, or Hermantown 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 County, Duluth, Hermantown, or the State.

14. 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.

15. Termination; Suspension

15.1. *By Mutual Agreement.* This Agreement may be terminated by mutual agreement of the parties or by the State for insufficient funding as described below.

15.2. *Termination for Insufficient Funding.* The State may immediately terminate this Agreement 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 County. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the County will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if this Agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds.

15.3. *Suspension.* In the event of a total or partial government shutdown, the State may suspend this Agreement and all work, activities, performance and payments authorized through this Agreement. Any work performed during a period of suspension will be considered unauthorized work and will be undertaken at the risk of non-payment.

16. Force Majeure

No 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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STATE ENCUMBRANCE VERIFICATION

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

Signed: _____

Date: _____

SWIFT Purchase Order: _____

CITY OF HERMANTOWN

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.

By: _____

Title: _____

Date: _____

By: _____

Title: _____

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: _____

INCLUDE COPY OF RESOLUTIONS APPROVING THE AGREEMENT AND AUTHORIZING ITS EXECUTION.

CITY OF DULUTH

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.

By: _____
(Mayor)

Date: _____

Attested: _____
(City Clerk)

Date: _____

Approved as to form:

By: _____
(City Attorney)

Date: _____

Countersigned: _____
(City Auditor)

Date: _____

ST. LOUIS COUNTY

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.

By: _____
Date

Title: _____

By: _____
Date

Title: _____

By: _____
Date

Title: _____

By: _____
Date

Title: _____

PRELIMINARY SCHEDULE "I"

Agreement No. 1033083

St. Louis County

S.P. 8821-320

Preliminary: April 30, 2019

S.P. 069-070-047

Fed. Proj. HSIP 8819(222)

Signal system revision construction performed under

County contract with _____

located on various local roadway and Trunk Highway intersections within St. Louis County, Duluth, Hermantown, and Procter

STATE COST PARTICIPATION	
From Sheet No. 2	136,368.45
Construction Engineering (8%)	10,909.48
Subtotal	\$147,277.93
(1) DPS SEC 164 FUNDS	(124,112.83)
(2) Total State Cost	\$23,165.10
Encumbered Amount	\$23,165.10

(1) Funding described in Article 6.2.A of the Agreement

(2) Amount of advance payment as described in Article 7 of the Agreement (estimated amount)

ITEM NUMBER	S.P. 8821-320 WORK ITEM	UNIT	QUANTITY	UNIT PRICE	COST
2021.501	MOBILIZATION	LUMP SUM	0.20	60,000.00	\$12,000.00
2563.601	TRAFFIC CONTROL	LUMP SUM	0.20	75,000.00	\$15,000.00
2565.616	REVISE SIGNAL SYSTEM A	SYSTEM	0.50	10,820.00	5,410.00
2565.616	REVISE SIGNAL SYSTEM B	SYSTEM	0.50	8,480.00	4,240.00
2565.616	REVISE SIGNAL SYSTEM C	SYSTEM	0.50	6,100.00	3,050.00
2565.616	REVISE SIGNAL SYSTEM D	SYSTEM	0.50	6,600.00	3,300.00
2565.616	REVISE SIGNAL SYSTEM E	SYSTEM	0.50	6,600.00	3,300.00
2565.616	REVISE SIGNAL SYSTEM F	SYSTEM	0.50	6,600.00	3,300.00
2565.616	REVISE SIGNAL SYSTEM G	SYSTEM	0.67	7,310.00	4,897.70
2565.616	REVISE SIGNAL SYSTEM H	SYSTEM	0.50	6,466.00	3,233.00
2565.616	REVISE SIGNAL SYSTEM I	SYSTEM	0.67	6,610.00	4,428.70
2565.616	REVISE SIGNAL SYSTEM J	SYSTEM	0.67	6,530.00	4,375.10
2565.616	REVISE SIGNAL SYSTEM K	SYSTEM	0.50	7,530.00	3,765.00
2565.616	REVISE SIGNAL SYSTEM L	SYSTEM	0.75	8,066.00	6,049.50
2565.616	REVISE SIGNAL SYSTEM M	SYSTEM	0.50	7,794.00	3,897.00
2565.616	REVISE SIGNAL SYSTEM N	SYSTEM	0.50	8,003.00	4,001.50
2565.616	REVISE SIGNAL SYSTEM O	SYSTEM	0.50	8,660.00	4,330.00
2565.616	REVISE SIGNAL SYSTEM P	SYSTEM	0.67	13,995.00	9,376.65
2565.616	REVISE SIGNAL SYSTEM Q	SYSTEM	0.50	7,530.00	3,765.00
2565.616	REVISE SIGNAL SYSTEM R	SYSTEM	0.50	9,776.00	4,888.00
2565.616	REVISE SIGNAL SYSTEM S	SYSTEM	0.50	11,816.00	5,908.00
2565.616	REVISE SIGNAL SYSTEM T	SYSTEM	0.50	7,558.00	3,779.00
2565.616	REVISE SIGNAL SYSTEM U	SYSTEM	0.50	12,864.00	6,432.00
2565.616	REVISE SIGNAL SYSTEM BF	SYSTEM	0.33	13,110.00	4,326.30
2565.616	REVISE SIGNAL SYSTEM BG	SYSTEM	0.50	18,632.00	9,316.00
				TOTAL	\$136,368.45

ST. LOUIS COUNTY

RESOLUTION

IT IS RESOLVED that St. Louis County enter into MnDOT Agreement No. 1033803 with the State of Minnesota, Department of Transportation for the following purposes:

To provide for payment by the State to the County of the State's share of the costs of the signal system revision construction and other associated construction to be performed upon, along, and adjacent to various local roadway and Trunk Highway intersections within the corporate limits of the Cities of Duluth, Hermantown, and Proctor under State Project No. 8821-320.

IT IS FURTHER RESOLVED that the _____
(Title)
and the _____
(Title)
are authorized to execute the Agreement and any amendments to the Agreement.

CERTIFICATION

I certify that the above Resolution is an accurate copy of the Resolution adopted by the Board of Commissioners of St. Louis County at an authorized meeting held on the _____ day of _____, 2019, as shown by the minutes of the meeting in my possession.

Subscribed and sworn to me this _____ day of _____, 2019

Notary Public _____

My Commission Expires _____

(Signature)

(Type or Print Name)

(Title)

CITY OF DULUTH

RESOLUTION

IT IS RESOLVED that the City of Duluth enter into MnDOT Agreement No. 1033803 with the State of Minnesota, Department of Transportation for the following purposes:

To provide for maintenance by the City of the signal system revision and EVP construction and other associated construction to be performed upon, along, and adjacent to various local roadway and Trunk Highway intersections within the corporate limits of the Cities of Duluth, Hermantown, and Proctor under State Project No. 8821-320.

IT IS FURTHER RESOLVED that the Mayor and the _____
(Title)
are authorized to execute the Agreement and any amendments to the Agreement.

CERTIFICATION

I certify that the above Resolution is an accurate copy of the Resolution adopted by the Council of the City of Duluth at an authorized meeting held on the _____ day of _____, 2019, as shown by the minutes of the meeting in my possession.

Subscribed and sworn to me this
_____ day of _____, 2019

Notary Public _____

My Commission Expires _____

(Signature)

(Type or Print Name)

(Title)

CITY OF HERMANTOWN

RESOLUTION

IT IS RESOLVED that the City of Hermantown enter into MnDOT Agreement No. 1033803 with the State of Minnesota, Department of Transportation for the following purposes:

To provide for maintenance by the City of the signal system revision and EVP construction and other associated construction to be performed upon, along, and adjacent to various local roadway and Trunk Highway intersections within the corporate limits of the Cities of Duluth, Hermantown, and Proctor under State Project No. 8821-320.

IT IS FURTHER RESOLVED that the Mayor and the _____
(Title)
are authorized to execute the Agreement and any amendments to the Agreement.

CERTIFICATION

I certify that the above Resolution is an accurate copy of the Resolution adopted by the Council of the City of Hermantown at an authorized meeting held on the _____ day of _____, 2019, as shown by the minutes of the meeting in my possession.

Subscribed and sworn to me this
_____ day of _____, 2019

Notary Public _____

My Commission Expires _____

(Signature)

(Type or Print Name)

(Title)