

## Nicollet County Board of Commissioners Meeting



**November 23, 2021**

Nicollet County Government Center 501 South Minnesota Avenue, St. Peter, MN 56082

Commissioners – Terry Morrow, Chair; Jack Kolars; John Luepke; Marie Dranttel

**9:00 a.m.** Call Board of Commissioners Meeting to Order: Chair Morrow

1. Flag Pledge
2. Silence Your Cell Phones
3. Approval of Agenda

### Consent Agenda

1. [Approval of November 9, 2021 Board Minutes](#)
2. [Contract to Provide Services to Brown County](#)
3. [Legal Services Contract for CHIPS Cases](#)
4. End of Probations
5. Approval of Bills

Public Appearances

**9:05 a.m.** Finance

1. [Motion for December 2021 and January 2022 bill approval](#)
2. [Transfer of Missing Heir Assets held under Minn. Stat. § 524.3-914 to the General Fund](#)
3. [Nicollet County Trails Association Agreements, Contracts, and Resolution](#)

**9:20 a.m.** Public Works

1. [Consider MnDOT Cooperative Construction Agreement No. 1047570](#)
2. [Consider Professional Service Agreement for CSAH 23 Ravine Stabilization Project](#)

**9:35 a.m.** Health and Human Services

1. [Family First Prevention Services Act: Assessment Contracts](#)
2. [COVID-19 Response Update](#)

**9:45 a.m.** Administration

1. [American Rescue Plan Act Funds Resolution](#)
2. [Consideration of the Amendment of AIA Document C132-2009 with Contegity Group, Inc.](#)
3. [Consideration of a Purchase Agreement for Real Property](#)

### Vision Statement

*Setting the standard for providing superior and efficient county government services through leadership, accountability and innovation to a growing and diverse society.*

**Leadership. Efficiency. Accountability.  
Innovation. Integrity.**

### Mission Statement

*Providing efficient services with innovation and accountability*

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County Attorney Update

Chair's Report

Commissioner Committee Reports

Commissioners Meetings & Conferences

Approve Per Diems and Expenses

Adjourn Board of Commissioners Meeting

**10:10 a.m.** Call Drainage Authority Meeting to Order:

### Drainage Authority Agenda Items

#### 1. Consent Agenda

a. Approval of November 9, 2021 Drainage Authority Minutes

Adjourn Drainage Authority Meeting

### Notice of Scheduled Meetings

The following is a notice of scheduled meetings. Pursuant to Minnesota Statute 13D.04, this notice of meetings also serves as notice of regular and special meetings of the Nicollet County Board of Commissioners. Meetings with a quorum of Nicollet County Board of Commissioners expected to attend is noted with an asterisk (\*).

**Questions or comments regarding any Nicollet County meeting and requests to participate in any meeting can be directed to Mandy Landkamer, Nicollet County Administrator, at 507-934-7074 or [mandy.landkamer@co.nicollet.mn.us](mailto:mandy.landkamer@co.nicollet.mn.us).**

November 15 – Minnesota Valley Action Council

November 15 – Board of Adjustment and Appeals/Planning & Zoning Advisory Commission Meeting, 7 p.m., Nicollet County Board Room, St. Peter\*

November 16 – Individual Department Head Meeting with Administrator, 8:15 a.m., Nicollet Room, St. Peter\*

November 16 – County Board Workshop, 9:30 a.m., Nicollet County Board Room, St. Peter \*

November 18 – BNCH Executive Committee Meeting

November 23 – County Board of Commissioners Meeting, 9 a.m., Nicollet County Board Room, St. Peter \*

November 23 – County Drainage Authority Meeting, 9 a.m., Nicollet County Board Room, St. Peter \*

November 24-25 – Holiday; Nicollet County Offices Closed

December 1 – Southern MN HRA Meeting, 5:45 p.m., 422 Belgrade Ave, #102, North Mankato, MN

December 2 – Budget and Tax Levy Meeting, 6:30 p.m., Nicollet County Board Room, St. Peter \*

December 6-8 – AMC Annual Conference; Doubletree Hotel, Bloomington, MN

December 14 – County Board of Commissioners Meeting, 9 a.m., Nicollet County Board Room, St. Peter \*

December 14 – County Drainage Authority Meeting, 9 a.m., Nicollet County Board Room, St. Peter \*

December 17 – Full Board meeting BNECH

December 20 – Board of Adjustment and Appeals/Planning & Zoning Advisory Commission Meeting, 7 p.m., Nicollet County Board Room, St. Peter\*

December 24 – Holiday; Nicollet County Offices Closed

December 31 – Holiday; Nicollet County Offices Closed

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Commissioners – Terry Morrow, Chair; Jack Kolars; John Luepke; Marie Dranttel

- January 4 – County Board of Commissioners Meeting, 9 a.m., Nicollet County Board Room, St. Peter \*
- January 4 – County Drainage Authority Meeting, 9 a.m., Nicollet County Board Room, St. Peter \*
- January 18 – County Board Workshop, 9:30 a.m., Nicollet County Board Room, St. Peter \*
- January 18 – Facilities and Maintenance Individual Department Head meeting, 8:15 a.m.
- January 24 – Board of Adjustment and Appeals/Planning & Zoning Advisory Commission Meeting, 7 p.m., Nicollet County Board Room, St. Peter\*
- January 25 – County Board of Commissioners Meeting, 9 a.m., Nicollet County Board Room, St. Peter \*
- January 25 – County Drainage Authority Meeting, 9 a.m., Nicollet County Board Room, St. Peter \*

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OFFICIAL PROCEEDINGS OF THE  
BOARD OF COUNTY COMMISSIONERS FOR  
NICOLLET COUNTY, MINNESOTA  
NOVEMBER 9, 2021

The Nicollet County Board of Commissioners met in regular session on Tuesday, November 9, 2021, at 9:00 a.m. Commissioners Terry Morrow, Marie Dranttel, Jack Kolars, and John Luepke were present. Also present were County Administrator Mandy Landkamer, County Attorney Michelle Zehnder Fischer and Recording Secretary Sarah Frahm.

**Approval of Agenda**

Motion by Commissioner Luepke and seconded by Commissioner Dranttel to approve the agenda. Motion carried with all voting in favor.

**Consent Agenda**

Motion by Commissioner Kolars and seconded by Commissioner Luepke to approve the consent agenda items as follows:

- October 26, 2021 Board Meeting Minutes;
- Delegated County Feedlot Grant Agreement;
- FY 2022 and FY 2023 Natural Resources Block Grant Agreement;
- MPCA County Feedlot Program Delegation Agreement Work Plan;
- End of Probations for:
  - Isaac Ubben, GIS Technician, effective November 9, 2021;
  - Joel Hawbaker, Assistant Public Works Director/County Engineer, effective November 9, 2021;
  - Erin Berkenpas, Eligibility Worker, effective November 16, 2021;
  - Kellie Dirksen, Collections Officer, effective November 12, 2021;

Approval of the Commissioner Warrants as presented for the following amounts: General Revenue Fund - \$42,591.22, Road & Bridge Fund - \$167,862.57, Human Services Fund - \$149,144.94, and acknowledge review of the Auditor's Warrants. Motion carried with all voting in favor on a roll call vote.

**Public Appearances**

Brad Wilking addressed the board regarding a culvert issue located in Nicollet and Granby Townships. Tim Waibel also approached the Board regarding ditch cleaning work that had been done on his property.

**Finance**

**Public Hearing Notice – Capital Improvement Plan 2022-2026**

Motion by Commissioner Kolars and seconded by Commissioner Dranttel to authorize Director McCormick to set a Public Hearing for the adoption of the 2022-2026 Capital Improvement Plan on Tuesday, December 14, 2021 at 10:00 a.m. Motion carried with all voting in favor.

### **Quarter Three 2021 Donations**

Finance Director McCormick appeared before the Board to request approval of the following Quarter Three 2021 donations:

#### **Donations received by Nicollet County July 1 through September 30, 2021:**

<b>FROM WHOM</b>	<b>AMOUNT</b>	<b>PURPOSE</b>
Various Donations	\$ 800.00	Van Services
Auto Restorer's Club	\$1,000.00	Sheriff Posse & Sheriff K-9
Various Donations	\$ 360.00	Loan Closet
Total:	\$2,160.00	

Motion by Commissioner Luepke and seconded by Commissioner Dranttel to approve the Resolution for the Acceptance of Donations as presented. Motion carried with all voting in favor on a roll call vote.

### **Human Resources**

#### **National Insurance Services Consulting Agreement**

Motion by Commissioner Kolars and seconded by Commissioner Luepke to approve the consulting agreement with National Insurance Services (NIS) for 2022. Motion carried with all voting in favor.

### **Public Works**

#### **Consider Resolution Transferring Excess Municipal Construction Funds to Regular Construction**

Motion by Commissioner Luepke and seconded by Commissioner Kolars to approve a resolution transferring excess municipal funds to the County regular construction account to avoid losing any funds. Motion carried with all voting in favor on a roll call vote.

#### **Consider Final Payment for 2021 Highway Striping Project**

Motion by Commissioner Luepke and seconded by Commissioner Dranttel to approve the 2021 Highway Striping Project contract. Motion carried with all voting in favor.

#### **Consider Final Payment for SAP 052-621-027**

Motion by Commissioner Luepke and seconded by Commissioner Morrow to approve the final contract acceptance and payment to Prahm Construction, Inc. for SAP 052-621-027. Motion carried with all voting in favor.

### **Administration**

#### **Set Public Hearing Date for Fee Schedule Amendment**

Motion by Commissioner Kolars and seconded by Commissioner Dranttel to authorize Administrator Landkamer to set a Public Hearing date for December 14, 2021

at 10:15 am concerning the amendment of the County Fee Schedule. Motion carried with all voting in favor.

**Consideration of the AIA Document B132-2019 with Vetter Johnson Architects, Inc.**

Motion by Commissioner Dranttel and seconded by Commissioner Kolars to approve the agreement between Nicollet County and Vetter Johnson Architects, Inc. for services related to the interior remodel of the Nicollet County North Mankato Health & Human Services building. Motion carried with all voting in favor.

**Closed Meeting**

At this time, the meeting moved to a closed session for attorney-client privilege, pursuant to MN Statutes Chapter 13D.05, subd. 3 (c)(3) to discuss real property at 1301 Marshall St. in St. Peter, MN. In attendance were Commissioners Terry Morrow, Marie Dranttel, John Luepke, and Jack Kolars, County Administrator Mandy Landkamer, County Attorney Michelle Zehnder Fischer, County Assessor Lorna Sandvik, Health and Human Services Director Cassie Sassenberg, and Technologies Director Dayle Moore. The meeting was reopened at 10:40 a.m.

Once the meeting was reopened, Chair Morrow stated Administrator Landkamer was authorized to negotiate on the real property described above.

**County Attorney Update**

County Attorney Zehnder Fischer shared updates regarding warrant clearance/resolution day. This day provides an opportunity for people with outstanding warrants to have them cleared.

**Commissioner Committee Reports**

The Commissioners reported on various meetings and activities, including:

**Chair's Report**

**Commissioner Marie Dranttel**

- BNEH
- Union negotiations
- Extension

**Commissioner Jack Kolars**

- AMC Regional Meeting
- MN Transportation Alliance Meeting
- MAPO
- Union negotiations
- Hwy 14 Grand Opening

**Commissioner John Luepke**

- North Mankato Benefits Meeting
- Regional AMC Meeting
- Extension

- Soil and Water
- Lafayette City Council
- Ditch 77 - Landowner Concerns

### **Approve Per Diems and Expenses**

Motion by Commissioner Luepke and seconded by Commissioner Morrow to approve the expenses and per diems for the meetings noted above during the Commissioner Reports and/or as submitted on approved expense reports, and authorize payment of those expenses and per diems by the Finance Office. Motion carried with all voting in favor.

### **Adjourn**

Motion by Commission Luepke and seconded by Commissioner Kolars to adjourn the meeting. Motion carried with all voting in favor. The meeting adjourned at 10:46 a.m.

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TERRY MORROW, CHAIR  
BOARD OF COMMISSIONERS

ATTEST:

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MANDY LANDKAMER  
CLERK TO THE BOARD

Nicollet County Board of Commissioners  
Board Meeting Agenda Item



<b>Agenda Item:</b>		
Contract to Provide Services to Brown County		
Primary Originating Division/Dept.: Property Services	Meeting Date: 11/23/2021	
Contact: Pete Otterness Title: Assistant Director	Item Type: Consent Agenda (Select One)	
Amount of Time Requested minutes		
Presenter: Title:	Attachments: <input checked="" type="radio"/> Yes <input type="radio"/> No	
County Strategy: Collaborative Workplace - sustain the core values of our culture (Select One)		
<b>BACKGROUND/JUSTIFICATION:</b> <p>Brown County has inquired about assistance in preparation for an installation of a type IV septic system for the Sleepy Eye Golf Club. This type of installation needs review and inspection by a higher level certification than the staff of Brown County currently hold. Pete Otterness, Nicollet County, has the level of certification to do this type of work and is willing to assist in this project for our neighboring county. A proposed agreement for services contract has been drafted, reviewed by both Counties Attorneys, and mirrors the previous contract between Nicollet County and Redwood County from 2015. Both County Boards will be adopting the same contract for services for this project.</p>		
Supporting Documents: <input checked="" type="radio"/> Attached <input type="radio"/> In Signature Folder <input type="radio"/> None		
Prior Board Action Taken on this Agenda Item: <input checked="" type="radio"/> Yes <input type="radio"/> No		
If "yes", when? (provide year; mm/dd/yy if known)		
Approved by County Attorney's Office: <input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A		
<b>ACTION REQUESTED:</b>		
Approval of Brown Contract for Service		
<b>FISCAL IMPACT:</b> Other (Select One) If "Other", specify	<b>FUNDING</b> County Dollars = Grant (Select One)	
<b>FTE IMPACT:</b> No FTE change (Select One) If "Increase or "Decrease" specify: Related Financial/FTE Comments:	<b>Total</b>	

September 13, 2021

**Request for services to aid Brown County.**

A conversation has been had with Robert Santaella of Brown County in preparation for an installation of a type IV septic system for the Sleepy Eye Golf Club. This type of installation needs review and inspection by a higher level certification than the staff of Brown County currently hold. I have the level of certification to do this type of work and am willing to assist in this project for our neighboring county. A proposed agreement for services contract has been drafted and mirrors the previous contract between Nicollet County and Redwood County from 2015.

**Background**

The use of advanced treatment systems is less common in rural southern Minnesota as the majority of the businesses that have the potential to have high strength waste are located within municipalities with centralized wastewater treatment plants. When a business that generate high strength are located in an unsewered area, the treatment of the wastewater becomes more complex. There are State registered products to address these situations and allow septic designers to address the non-residential wastestrength septic systems. The higher the complexity or the addition of treatment products requires a higher level of certification to review the design and inspect.

As this type of system is not in high demand, many counties have not invested in the training to have that level of staff. I obtained the training at the first opportunity prior to employment in Nicollet County to have options to serve the residents and businesses in the county I serve. The other counties surrounding Brown County do not have advanced septic certified staff so sharing or contracting is supported by the MPCA to provide the services needed when there will be a limited number of systems requiring advanced oversight.

**Project**

The Sleepy Eye Golf Club is in need of a septic system with an aerobic treatment component due to the strength of the waste leaving the facility. Once this is added the system becomes a type IV system and must be reviewed and inspected by an advanced inspector. This project is not foreseen to be difficult as there is only one wastestream to deal with and the facility is not overly large.

I anticipate there being one trip to review and verify the soils if necessary, part of a day to review the design and give written approval, and one day for the installation inspection if everything goes as planned. I estimate 15 hours and 200 miles to accomplish this request if the soils are required. If soils are not required to be reviewed, as Brown County could do that portion, I would estimate 9-10 hours and 100 miles to accomplish the review and inspection. I would add one additional trip into a budget as a contingency in case things don't go as planned. That would be estimated as 6 hours and 100 miles. For a total estimate not to exceed of 21 hours and 300 miles. Only actual time and miles would be billed. These will be documented in a spreadsheet for the project.

Brown County will have to issue the permit for the system and issue the operating permit based on the requirements of the design. Brown County will be responsible to oversee the requirements in the operating permit for the life of the system.

If there are questions about this project or additions/comments/alterations to the contract, please let me know.

Pete

**Agreement between Brown County and Nicollet County for the Design Review and Inspection  
of the Type IV and V Subsurface Sewage Treatment Systems**

THIS AGREEMENT is made and entered into this \_\_\_\_ of \_\_\_\_\_, 2021 by and between Brown County, a body corporate and politic existing under the laws of the State of Minnesota, and Nicollet County, a body corporate and politic existing under the laws of the State of Minnesota.

WHEREAS, Brown County is in need of an Advanced Inspector for the design review and inspection of a Type IV Subsurface Sewage Treatment Systems (SSTS).

WHEREAS, Nicollet County has a certified Advanced Inspector who is qualified to provide the design review and inspection services to Brown County and Nicollet County desires to enter into an agreement with Brown County to provide services identified herein;

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein, the parties agree as follows:

1. Scope of Services. The certified advanced inspector will provide the following services, if applicable:
  - Review and verify the soils for the design of the Sleepy Eye Golf Club SSTS system
  - Review and approve the design for the Sleepy Eye Golf Club SSTS system
  - Review and approve the installation of the Sleepy Eye Golf Club SSTS system
  - Review and approve the Operating Permit and Management Plan for the Sleepy Eye Golf Club SSTS system.
2. Fees for Services. Brown County agrees to pay Nicollet County consulting fees for the services identified in the Scope of Services at the rate of \$56.16 per hour. Brown County further agrees to pay all costs associated with the completion of the services defined in the Scope of Services. These costs include, but are not limited to application fees, blueprint fees, examination fees, mileage, and meals. Nicollet County will submit invoices itemized by date and activity and will include both on-site and off-site time and activity. Brown County agrees to pay the invoices within 45 days of receipt. The total consulting fees and expenses payable pursuant to this Agreement will not exceed \$1,500.00.
3. Expense Reimbursement. Mileage will be reimbursed at the current IRS rate per mile. Meals will be reimbursed to the certified Advanced Inspector in accordance with IRS/State Auditor regulations. Reimbursement for expenses will be made within 45 days of receiving the invoice by Brown County.
4. Professional Services. Nicollet County agrees that the services provided to Brown County will be delivered by a certified Advanced Inspector. Nicollet County further agrees that the services will not be provided by a substituted professional without Brown County's express written consent.

5. Contract Term. The term of this Agreement shall commence November 1, 2021 and continue in full force and effect until the scope of services has been completed, or December 31, 2022 or the contract is terminated as provided herein, whichever occurs first.
6. Termination of Contract. The parties agree that this contract will not be terminated until the services are provided herein, unless there is a complete failure to perform the duties herein. Brown County will notify Nicollet County if it is unsatisfied with the services being performed and allow for correction. If Brown County is still dissatisfied with the services after giving notice and time to correct performance, it may terminate the contract with 30 days notice in writing to Nicollet County. Brown County will pay Nicollet County for all hours expended and expenses incurred until the date of the written notification of termination. Nicollet County may terminate the contract if Brown County fails to make payment as agreed herein. Nicollet County must give 30 days notice in writing to Brown County prior to terminating herein.  
Provided, however, Nicollet County shall be entitled to immediately terminate this agreement in the event it no longer has a certified Advanced Inspector on its staff. Nicollet County shall endeavor to give Brown County as much notice as feasible about the possibility that Nicollet County may no longer employ a certified Advanced Inspector.
7. Nicollet County Certified Advance Inspector Not Considered Employee of Brown County. The Nicollet County certified Advanced Inspector is a Nicollet County Employee and shall at all times herein be considered a Nicollet County Employee. The Nicollet County certified Advanced Inspector will not be considered a Brown County employee. The Nicollet County certified Advanced Inspector shall be subject to the personnel and other policies of Nicollet County.
8. Agreement Indemnification by Brown County. Brown County agrees that it shall indemnify, hold harmless, defend, and pay the costs of defense of Nicollet County, its elected officials, officers, agents, and against all liabilities, claims, actions, expenses (including attorney's fees and costs reacting to the investigation of any such claims, actions, or proceedings), obligations, losses, fines, penalties and assessments any and all which such parties or individuals may hereafter sustain, incur, or be required to pay resulting from or arising out of the negligent performance of Nicollet County or Brown County's obligations under this Agreement.
9. Insurance. In order to ensure that Brown County will be able to provide indemnification as required by the above provision, it will maintain general liability and automobile liability with coverage limits not less than those prescribed under Minn. Stat. §466.04; and Workers' Compensation insurance coverage or self-insurance in accordance with the Minnesota statutory requirements. Said policies shall be kept in effect during the entire term of this Agreement.

10. Assignment. Neither Brown County nor Nicollet County may assign, delegate otherwise transfer this Agreement or any of its rights or obligations hereunder without the prior written consent of the other, which consent shall not be unreasonably withheld.
11. Non-Waiver and Cumulation of Remedies. The failure by either party at any time to enforce any of the provisions of this Agreement or any right or remedy available hereunder or at law or in equity, or to exercise an option herein provided, shall not constitute a waiver of such provision, right, remedy or option or in any way affect the validity of this Agreement. The waiver of any default by either party shall not be deemed a continuing waiver, but shall apply solely to the instances to which such waiver is directed. The remedies provided under this Agreement shall be cumulative and not alternative, and the election of any one remedy for breach shall not preclude the pursuit of other remedies.
12. Data Privacy. Nicollet County agrees to abide by the applicable provisions of the Minnesota Data Practices Act, Minnesota Statutes, Chapter 13, HIPAA requirements and all other applicable state or federal rules, regulations or orders pertaining to privacy or confidentiality.
13. Records Retention and Availability/Audit. Brown County and Nicollet County shall keep pertinent business records pursuant to this Agreement. Such records shall be maintained for at least 6 years from the date services or payment were last provided or made or longer if any audit in progress requires a longer retention period. All accounting records shall be kept in accordance with generally accepted accounting practices. Both parties shall have the right to audit and review all such documents and records at any time during regular business hours or upon reasonable notice. These records are subject to examination, duplication, transcription and audit by either County, the Legislative or State Auditor of the State of Minnesota pursuant to Minnesota Statute §16C.05, subd. 5. The records may also be subject to review by the Comptroller General of the United States, or a duly authorized representative, if federal funds are used for any work under this Contract.
14. Entire Agreement. This Agreement embraces the entire agreement between the parties. No oral agreement or representation concerning this Agreement shall be binding.
15. Severability. Every provision of this Agreement shall be construed, to the extent possible, so as to be valid and enforceable. If any provision of this Agreement so constructed is held by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, such provision shall be deemed severed from this Agreement, and all other provisions shall remain in full force and effect.
16. Amendments. This Agreement may be altered, extended, changed or amended in writing by mutual agreement of the parties when dated and attached hereto without altering the other terms of this Agreement.

17. Notice. Notice shall be given to the other party in writing and may be effectuated by delivery by U.S. Mail as the following addresses: Notice shall be made to Brown County by mailing it to Brown County Planning and Zoning Office, 14 S State Street, New Ulm, MN 56073. Notice shall be made to Nicollet County by mailing it to Nicollet County Property Services, 501 S Minnesota Avenue, St. Peter, MN 56082.

**IN WITNESS WHEREOF,** Brown County and Nicollet County have caused this Agreement to be executed by the person authorized to act in their respective names on the date shown below.

**Approved at the Brown County Board  
Meeting this \_\_\_\_\_ day of \_\_\_\_\_.**

By: \_\_\_\_\_  
\_\_\_\_\_, Chair  
Board of County Commissioners

**Approved at the Nicollet County Board  
Meeting this \_\_\_\_\_ day of \_\_\_\_\_.**

By: \_\_\_\_\_  
Terry Morrow, Chair  
Board of County Commissioners

Attest:

By: \_\_\_\_\_  
Sam Hansen, County Administrator

Attest:

By: \_\_\_\_\_  
Mandy Landkamer, County Administrator

Approved as to form and execution:

By: \_\_\_\_\_  
Charles Hanson, County Attorney

Approved as to form and execution:

By: \_\_\_\_\_  
Michelle Zehnder Fischer, County Attorney

## Pete Otterness

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**From:** Michelle Zehnder Fischer  
**Sent:** Friday, November 12, 2021 8:43 AM  
**To:** Pete Otterness  
**Cc:** Mandy Landkamer  
**Subject:** Contract with Brown County

Hello

The SSTS contract is acceptable and I don't have any concerns. It should be ready to go on the consent agenda for the next Board meeting.

Thank you



Michelle M. Zehnder Fischer  
Nicollet County Attorney  
501 S. Minnesota Ave.  
St. Peter, MN 56082  
Phone: 507-934-7890

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Nicollet County Board of Commissioners  
Board Meeting Agenda Item



<b>Agenda Item:</b>		
Legal Services Contract for CHIPS Cases		
Primary Originating Division/Dept.: Administration	Meeting Date: 11/23/2021	
Contact: Mandy Landkamer      Title: County Administrator	Item Type: Consent Agenda (Select One)	
Amount of Time Requested      minutes		
Presenter:      Title:	Attachments: <input checked="" type="radio"/> Yes <input type="radio"/> No	
County Strategy: Collaborative Workplace - sustain the core values of our culture (Select One)		
<b>BACKGROUND/JUSTIFICATION:</b> <p>Nicollet County is required to provide legal services for the parents of children in need of protective services (CHIPS).</p> <p>The action requested is to approve contracts with Attorneys Lisa Chesley and Elizabeth Weinandt. These attorneys provided service for the County in 2021. Ms. Chesley and Ms. Weinandt would be compensated \$2,500 a month.</p>		
Supporting Documents: <input checked="" type="radio"/> Attached <input type="radio"/> In Signature Folder <input type="radio"/> None		
Prior Board Action Taken on this Agenda Item: <input type="radio"/> Yes <input checked="" type="radio"/> No		
If "yes", when? (provide year; mm/dd/yy if known)		
Approved by County Attorney's Office: <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A		
<b>ACTION REQUESTED:</b> <p>Approve the legal services contract for CHIPS cases with Lisa Chesley and Elizabeth Weinandt as presented.</p>		
<b>FISCAL IMPACT:</b> Included in current budget (Select One)  If "Other", specify	<b>FUNDING</b> County Dollars = \$60,000  Grant (Select One)	
<b>FTE IMPACT:</b> No FTE change (Select One) If "Increase or "Decrease" specify:  Related Financial/FTE Comments:	<b>Total</b>	\$60,000

NICOLLET COUNTY  
LEGAL SERVICES CONTRACT

This agreement made and entered into the 1<sup>st</sup> day of January, 2022, by and between the County of Nicollet, a Minnesota Municipal Subdivision, hereinafter referred to as the "County," and Elizabeth Weinandt ("Independent Contractor," an attorney licensed to practice in the State of Minnesota) hereinafter referred to as "Attorney."

Pursuant to various decisions of the Supreme Court of the United States and the Supreme Court of the State of Minnesota, the Court is obligated to provide counsel to persons/parents whose children are petitioned into court as children in need of protection or services and for persons/parents against whom a permanency action has been filed (hereinafter collectively "CHIPS"), when such persons are found by the courts to be without funds to retain private counsel. To provide an orderly and efficient method of delivery of legal services to those qualified, the County engages the Attorney upon the terms and conditions set forth herein.

The Attorney hired by the County shall be paid on a monthly basis in the amount of \$2,500.00 per month.

During the periods covered herein, the Attorney shall be obligated to furnish to persons found eligible for their services by the Courts of Nicollet County all legal services incident to the matter giving rise to the appointment of Attorney counsel. The Attorney acknowledges that he currently meets and shall continue to meet during the duration of this contract the requirements of Minn. Stat. § 260C.163, Subd. 3(i).

The Attorney acknowledges that non-emergent CHIPS cases are heard on Tuesday afternoons and agrees to be available to handle these cases on Tuesday afternoon (or such other day if this regularly scheduled day is changed by the Court) and to cooperate in the scheduling of matters on other such days as necessary. The Court Administrator shall be responsible for the general administration of Attorneys and other administrative matters.

The contract can be terminated by either party upon sixty (60) days written notice to the other party with or without cause. Provided, the contract can be terminated immediately in the event the State resumes funding for the appointment of counsel for parents in CHIPS cases.

The County sets no specific time, place, or manner for the fulfillment of duties performed herein, that being in the sole discretion of the Attorney as an independent contractor.

This Agreement does not make the Attorney the employee, agent, partner, joint venture or legal representative of the County for any purpose whatsoever. The Attorney is not granted any right or authority to assume or create any obligation, responsibility, express or implied, on behalf of or in the name of the County.

The Attorney and the County agree that the County shall not be liable for any other term insurance, PERA, unemployment insurance, worker's compensation, or any other benefits which are afforded to employees of Nicollet County.

Attorney agrees to defend and indemnify and hold the County, its officers, commissioners, directors, agents and employees harmless from any and all liability (statutory or otherwise), claims, suits, damages, judgments, costs or expenses, including reasonable attorney's fees, witness fees and disbursements incurred in the defense thereof, in connection with injury to, damage to, or death of any person arising out of the performance of this agreement, to the extent such liability, claims, suits, damages, judgments, costs or expenses result directly or indirectly from or are caused by any negligent, willful, unlawful or wrongful act and/or omission of the Attorney in the performance of this Agreement. This section is not as to third parties, a waiver of any defense or immunity otherwise available to the County and Attorney in defending any action on behalf of the County, and the County shall be entitled to assert in any action every defense or immunity that the County should assert on its own behalf. Attorney further agrees to maintain Legal Malpractice Insurance in place for the duration of this Agreement.

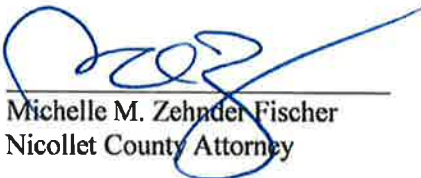
Unless otherwise terminated in writing as provided for herein, this contract will terminate on December 31, 2022.

IN WITNESS WHEREOF, the parties have executed this agreement this 15 day of November, 2021.

INDEPENDENT CONTRACTOR

BY: Elizabeth L. Weinandt  
Attorney at Law

Approved as to Form:

  
Michelle M. Zehnder Fischer  
Nicollet County Attorney

COUNTY OF NICOLLET

Nicollet County Board of Commissioners

ATTEST:

Mandy Landkamer  
Nicollet County Administrator

NICOLLET COUNTY  
LEGAL SERVICES CONTRACT

This agreement made and entered into the 1<sup>st</sup> day of January, 2022, by and between the County of Nicollet, a Minnesota Municipal Subdivision, hereinafter referred to as the "County," and Lisa Chesley ("Independent Contractor," an attorney licensed to practice in the State of Minnesota) hereinafter referred to as "Attorney."

Pursuant to various decisions of the Supreme Court of the United States and the Supreme Court of the State of Minnesota, the Court is obligated to provide counsel to persons/parents whose children are petitioned into court as children in need of protection or services and for persons/parents against whom a permanency action has been filed (hereinafter collectively "CHIPS"), when such persons are found by the courts to be without funds to retain private counsel. To provide an orderly and efficient method of delivery of legal services to those qualified, the County engages the Attorney upon the terms and conditions set forth herein.

The Attorney hired by the County shall be paid on a monthly basis in the amount of \$2,500.00 per month.

During the periods covered herein, the Attorney shall be obligated to furnish to persons found eligible for their services by the Courts of Nicollet County all legal services incident to the matter giving rise to the appointment of Attorney counsel. The Attorney acknowledges that he currently meets and shall continue to meet during the duration of this contract the requirements of Minn. Stat. § 260C.163, Subd. 3(i).

The Attorney acknowledges that non-emergent CHIPS cases are heard on Tuesday afternoons and agrees to be available to handle these cases on Tuesday afternoon (or such other day if this regularly scheduled day is changed by the Court) and to cooperate in the scheduling of matters on other such days as necessary. The Court Administrator shall be responsible for the general administration of Attorneys and other administrative matters.

The contract can be terminated by either party upon sixty (60) days written notice to the other party with or without cause. Provided, the contract can be terminated immediately in the event the State resumes funding for the appointment of counsel for parents in CHIPS cases.

The County sets no specific time, place, or manner for the fulfillment of duties performed herein, that being in the sole discretion of the Attorney as an independent contractor.

This Agreement does not make the Attorney the employee, agent, partner, joint venture or legal representative of the County for any purpose whatsoever. The Attorney is not granted any right or authority to assume or create any obligation, responsibility, express or implied, on behalf of or in the name of the County.

The Attorney and the County agree that the County shall not be liable for any other term insurance, PERA, unemployment insurance, worker's compensation, or any other benefits which are afforded to employees of Nicollet County.

Attorney agrees to defend and indemnify and hold the County, its officers, commissioners, directors, agents and employees harmless from any and all liability (statutory or otherwise), claims, suits, damages, judgments, costs or expenses, including reasonable attorney's fees, witness fees and disbursements incurred in the defense thereof, in connection with injury to, damage to, or death of any person arising out of the performance of this agreement, to the extent such liability, claims, suits, damages, judgments, costs or expenses result directly or indirectly from or are caused by any negligent, willful, unlawful or wrongful act and/or omission of the Attorney in the performance of this Agreement. This section is not as to third parties, a waiver of any defense or immunity otherwise available to the County and Attorney in defending any action on behalf of the County, and the County shall be entitled to assert in any action every defense or immunity that the County should assert on its own behalf. Attorney further agrees to maintain Legal Malpractice Insurance in place for the duration of this Agreement.

Unless otherwise terminated in writing as provided for herein, this contract will terminate on December 31, 2022.

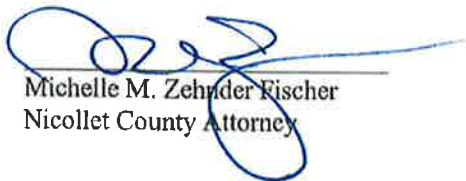
IN WITNESS WHEREOF, the parties have executed this agreement this 12<sup>th</sup> day of November, 2021.

INDEPENDENT CONTRACTOR

BY:

Attorney at Law

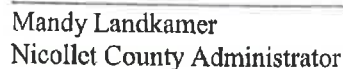
Approved as to Form:

  
Michelle M. Zehnder Fischer  
Nicollet County Attorney

COUNTY OF NICOLLET

Nicollet County Board of Commissioners

ATTEST:

  
Mandy Landkamer  
Nicollet County Administrator

Nicollet County Board of Commissioners  
Board Meeting Agenda Item



<b>Agenda Item:</b>									
Motion for December 2021 and January 2022 bill approval									
Primary Originating Division/Dept.:  Contact: Heather McCormick      Title: Finance Director  Amount of Time Requested 5      minutes  Presenter: Heather McCormick      Title: Finance Director	Meeting Date: 11/23/21  Item Type: Regular Agenda <small>(Select One)</small>  Attachments: <input type="radio"/> Yes <input checked="" type="radio"/> No								
County Strategy: Financial Security - prudent use of taxpayer resources <small>(Select One)</small>									
<b>BACKGROUND/JUSTIFICATION:</b>  Regular scheduled board meetings occur on the second and fourth Tuesday of every month, except in the month of December and sometimes January. In order to maintain efficient accounting procedures and to provide timely payment to vendors, employees, and providers, warrant distribution needs to occur on a regular schedule. The Finance Department is requesting authorization to issue the following Commissioner Warrants with Board approval at the Board scheduled meetings in December 2021 and January 2022 dates noted below.  <table style="width: 100%; border: none;"> <thead> <tr> <th style="text-align: left;">Payment Date</th> <th style="text-align: left;">Board Approval Date</th> </tr> </thead> <tbody> <tr> <td>12/28/21</td> <td>01/04/22</td> </tr> <tr> <td>12/30/21</td> <td>01/04/22</td> </tr> <tr> <td>01/11/22</td> <td>01/25/22</td> </tr> </tbody> </table>		Payment Date	Board Approval Date	12/28/21	01/04/22	12/30/21	01/04/22	01/11/22	01/25/22
Payment Date	Board Approval Date								
12/28/21	01/04/22								
12/30/21	01/04/22								
01/11/22	01/25/22								
Supporting Documents: <input type="radio"/> Attached <input type="radio"/> In Signature Folder <input checked="" type="radio"/> None									
Prior Board Action Taken on this Agenda Item: <input type="radio"/> Yes <input checked="" type="radio"/> No  If "yes", when? (provide year; mm/dd/yy if known)									
Approved by County Attorney's Office: <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A									
<b>ACTION REQUESTED:</b>									
<b>FISCAL IMPACT:</b> Other <small>(Select One)</small>  If "Other", specify	<b>FUNDING</b> County Dollars =  Other <small>(Select One)</small>								
<b>FTE IMPACT:</b> No FTE change <small>(Select One)</small> If "Increase or "Decrease" specify:  Related Financial/FTE Comments:	<b>Total</b>								

Nicollet County Board of Commissioners  
Board Meeting Agenda Item



<b>Agenda Item:</b>	
Transfer of Missing Heir Assets held under Minn. Stat. § 524.3-914 to the General Fund	
Primary Originating Division/Dept.: Finance  Contact: Heather McCormick      Title: Finance Director  Amount of Time Requested 5      minutes  Presenter: Heather <span style="border: 1px solid black; padding: 0 2px;">+</span> Title: Finance Director	Meeting Date: Nov. 23, 2021  Item Type: Regular Agenda <small>(Select One)</small>  Attachments: <input checked="" type="radio"/> Yes <input type="radio"/> No
County Strategy: Financial Security - prudent use of taxpayer resources <small>(Select One)</small>	
<b>BACKGROUND/JUSTIFICATION:</b>  Under Minn. Stat. § 524.3-914, the Court may direct the personal representative in an estate proceeding to deposit with the county treasurer any asset that is not distributed as part of estate proceedings, either due to the heir not being found or the heir refusing to accept the distribution. The treasurer holds the funds as a restricted fund for a period of 21 years, during which time the person entitled the funds can apply to the district court for an order to distribute the funds. Per Minnesota Attorney General Opinion 349-D (1978 WL 34107), any unclaimed funds that remain after 21 years belong to the County.  Board action is required to transfer \$9,466.19 from the missing heirs restricted fund to the general fund. A detail of the funds to be transferred is attached as Exhibit 1.	
Supporting Documents: <input checked="" type="radio"/> Attached <input type="radio"/> In Signature Folder <input type="radio"/> None	
Prior Board Action Taken on this Agenda Item: <input type="radio"/> Yes <input checked="" type="radio"/> No  If "yes", when? (provide year; mm/dd/yy if known)	
Approved by County Attorney's Office: <input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A	
<b>ACTION REQUESTED:</b> Motion to transfer funds from the restricted fund to the general fund.	
<b>FISCAL IMPACT:</b> Other <small>(Select One)</small>  If "Other", specify	<b>FUNDING</b> County Dollars =  Grant <small>(Select One)</small>
<b>FTE IMPACT:</b> No FTE change <small>(Select One)</small> If "Increase or "Decrease" specify:  Related Financial/FTE Comments:	<b>Total</b>
The restricted fund balance will decrease with a corresponding increase to the general fund.	

**Exhibit 1**  
**Missing Heir Restricted Fund**

<b>Date of Order/ Receipt</b>	<b>21 Year Expiration</b>	<b>Court File #</b>	<b>Estate Name</b>	<b>Identified Heir</b>	<b>Amount</b>
8/14/1964	8/14/1985		Stella Griffith		\$45.68
10/14/1965	10/14/1986		Edward Krisatis Estate		\$121.37
6/2/1967	6/2/1988		Theodore Martin Estate		\$1,953.60
8/25/1967	8/25/1988		William R. Johnson Estate		\$1,490.52
12/20/1967	12/20/1988		Joe Slycind		\$321.31
3/19/1971	3/19/1992		Leo Mewier		\$238.76
5/11/1983	5/11/2004		Carl Knutson		\$149.44
10/27/1983	10/27/2004		Norman Scholl Estate		\$4,427.72
5/3/1995	5/3/2016	52-P2-94-121	Henry S. Vanderwert Estate	Teresa Skinner	\$617.79
1995	7/8/2016	52-P9-95-76	Estate of Helen Schubbe		\$100.00
				<b>Funds to transfer</b>	<b>\$9,466.19</b>

Nicollet County Board of Commissioners  
Board Meeting Agenda Item



<b>Agenda Item:</b>										
Nicollet County Trails Association Agreements, Contracts, and Resolution										
Primary Originating Division/Dept.:  Contact: Heather McCormick      Title: Finance Director  Amount of Time Requested 5      minutes  Presenter:      Title:	Meeting Date: 11/23/21  Item Type: Regular Agenda (Select One)									
		Attachments: <input checked="" type="radio"/> Yes <input type="radio"/> No								
County Strategy: Programs and Services - deliver value-added quality services (Select One)										
<b>BACKGROUND/JUSTIFICATION:</b> Nicollet County is the fiscal agent for the MN River Valley Trail agreement with the State of Minnesota.  Annually, Nicollet County approves the State of Minnesota Grant Contract Agreement for Snowmobile Grant-in-Aid Program - Maintenance & Grooming Grant. The amount of this Grant is \$39,966.03. Included is the agreement between Nicollet County and Nicollet County Trails Association, and the contract between Nicollet County and the State of Minnesota. Upon recommendation by the MN DNR, the County desires to enter into a contract with the snowmobile club to define roles and responsibilities of each party.  The State of Minnesota also awarded an additional Grant-in-Aid Program - Trail Improvement Grant. The amount of this Grant is \$43,990.01. Included is the agreement between Nicollet County and Nicollet County Trails Association, and the contract between Nicollet County and the State of Minnesota. Upon recommendation by the MN DNR, the County desires to enter into a contract with the snowmobile club to define roles and responsibilities of each party.  Also included is the Resolution for both items above.										
Supporting Documents: <input checked="" type="radio"/> Attached <input type="radio"/> In Signature Folder <input type="radio"/> None										
Prior Board Action Taken on this Agenda Item: <input checked="" type="radio"/> Yes <input type="radio"/> No										
If "yes", when? (provide year; mm/dd/yy if known)    11/24/20										
Approved by County Attorney's Office: <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A										
<b>ACTION REQUESTED:</b> Approval of grant and signature on agreement.										
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <b>FISCAL IMPACT:</b> No fiscal impact                      (Select One)                       If "Other", specify                 </td> <td style="width: 50%; vertical-align: top;"> <b>FUNDING</b>                      County Dollars =   <table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">State</td> <td style="width: 50%; text-align: right;">83,956.04</td> </tr> <tr> <td style="text-align: center;">(Select One)</td> <td></td> </tr> </table> </td> </tr> <tr> <td colspan="2"> <b>FTE IMPACT:</b> No FTE change                      (Select One)                      If "Increase or "Decrease" specify:                       Related Financial/FTE Comments:                 </td> </tr> </table>			<b>FISCAL IMPACT:</b> No fiscal impact (Select One)  If "Other", specify	<b>FUNDING</b> County Dollars =  <table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">State</td> <td style="width: 50%; text-align: right;">83,956.04</td> </tr> <tr> <td style="text-align: center;">(Select One)</td> <td></td> </tr> </table>	State	83,956.04	(Select One)		<b>FTE IMPACT:</b> No FTE change (Select One) If "Increase or "Decrease" specify:  Related Financial/FTE Comments:	
<b>FISCAL IMPACT:</b> No fiscal impact (Select One)  If "Other", specify	<b>FUNDING</b> County Dollars =  <table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">State</td> <td style="width: 50%; text-align: right;">83,956.04</td> </tr> <tr> <td style="text-align: center;">(Select One)</td> <td></td> </tr> </table>	State	83,956.04	(Select One)						
State	83,956.04									
(Select One)										
<b>FTE IMPACT:</b> No FTE change (Select One) If "Increase or "Decrease" specify:  Related Financial/FTE Comments:										

**NICOLLET COUNTY and  
NICOLLET COUNTY TRAILS ASSOCIATION, INC.  
TRAIL AGREEMENT**

**This Agreement** is made on the 23<sup>rd</sup> date of November, 2021, between County of Nicollet, hereafter referred to as "County," and Nicollet County Trails Association, Inc., hereafter referred to as "Club."

**WHEREAS**, the County desires to establish and maintain public trails in furtherance of its public recreation program; and

**WHEREAS**, the Club agrees to contract with the County to acquire, construct, and maintain those trails; and

**WHEREAS**, the Club agrees that it is a nonprofit corporation authorized to receive grant-in-aid funds; and

**WHEREAS**, the State of Minnesota offers financial and technical assistance to the County for the construction and maintenance of approved trails; and

**WHEREAS**, the State of Minnesota offers occasional additional financial funding opportunities for trail improvements, and the County desires to avail itself of the assistance;

**NOW, THEREFORE, IT IS AGREED** between the parties hereto that:

1. The trails that are the subject of this Agreement shall be located in portions of Nicollet County.
2. The County Finance Department shall serve as the fiscal agent on behalf of the County.
3. The County shall apply to the State of Minnesota, Department of Natural Resources, for financial and technical assistance with the laws, rules, and regulations governing such assistance.
4. The Club shall enter into necessary agreements for the acquisition of the necessary interests in land and the subsequent construction and maintenance of the trails. The Club shall provide the County with proof of the acquisition of the necessary interests in lands on the trails. The Club shall acquire land in fee, easement, lease, permit, or other authorization for said trail. The term of said interest shall be no less than four (4) months between November 15 of any year and April 1 of the succeeding year. For each parcel of land crossed by the trail, the Club shall obtain from the owner of said parcel, a permit, lease, easement, deed, or other authorization for said crossing in accordance with Minnesota Statutes Chapter 604A.
5. The Club shall construct the trails, provide adequate maintenance, keep the trail reasonably safe for public use and provide such other maintenance or modifications as may be required by the State of Minnesota. The Club agrees to be solely responsible for the aforementioned obligations, and the parties agree that the County shall have no responsibility, duty, or liability for those obligations. Any work in connection with the trail shall be in accordance with the terms and conditions of the Agreement between the State and the County, and such terms and

conditions shall be incorporated by reference into this Agreement and any subsequent contracts between the County and the Club, or between the parties hereto and others.

6. Any and all claims that arise or may arise against the Club, its agents, servants, volunteers, or employees as a consequence of any act or omission on the part of the Club or its agents, servants, volunteers, or employees while engaged in the performance of the Contract shall in no way be the obligation or responsibility of the County. Contractor shall indemnify, hold harmless and defend the County, its commissioners, elected officials, officers, and employees against any and all liability, loss, costs, damages, expenses, claims or actions, including attorney's fees which the County, its officers or employees may hereafter sustain, incur or be required to pay, arising out of or by reason of any act or omission of the Club, its agents, servants, volunteers, or employees, in the execution, performance, or failure to adequately perform the Club's obligations pursuant to this Contract.
7. The Club does further agree that in order to protect itself as well as the County under the indemnity agreement provision hereinabove set forth, it will at all times during the term of the Agreement have and keep in force liability insurance amounts at least equal to the maximum liability limits set forth in Minn. Stat. 466.04, Subd.1 :
  - a. A single limit or combined limit or excess umbrella general liability insurance policy of an amount of not less than \$500,000.00 for property damage arising from one occurrence, \$1,500,000.00 for total bodily or personal injuries or death and/or damages arising from one occurrence. The County shall be named as an additional insured on such policy.
  - b. A single limit or combined limit or excess umbrella automobile liability insurance policy, if applicable, covering agency-owned, non-owned, and hired vehicles used regularly in the provision of services under this Agreement, in an amount of not less than \$500,000.00 per accident for property damage, \$500,000.00 for bodily injuries and/or damages to any one person, and \$1,500,000.00 for total bodily injuries and/or damages arising from any one accident. The County shall be named as an additional insured on such policy.
  - c. Workers' Compensation – It is hereby understood and agreed that any and all employees or volunteers of the Club shall not be considered employees of the County, and that any and all claims that may or may not arise under the Workers' Compensation Act of the State of Minnesota on behalf of said employees or volunteers while so engaged, and any and all claims made by any third parties as the consequences of any act or omission on the part of said employees while so engaged on any of the work or services to be rendered within the terms of this Agreement, shall in no way be the obligation or responsibility of the County.
  - d. The County may withhold payment for failure of the Club to furnish certificates of insurance as required above.
  - e. In the event that claims or lawsuits shall arise jointly against the Club and the County, and the County elects to present its own defense, using its own counsel, in addition to or as opposed to legal representation available by the insurance carriers providing the coverage as stated above, then such legal expense shall be borne by the County.

- f. Any policy obtained and maintained under this clause shall provide that it shall not be cancelled, materially changed, or not renewed without thirty (30) days' prior notice by the insured to the County.
8. The County expects to receive financial assistance from the State of Minnesota in an amount not to exceed \$39,966.03. This amount will not exceed the actual amount of the Snowmobile FY2022 Maintenance and Grooming Grant Agreement, which may include supplemental funding. The County expects to receive said funds upon the Club's satisfactory completion of the four benchmarks specified by the Minnesota Snowmobile Trails Assistance Program, Maintenance and Grooming Manual, the standards of which are incorporated herein by reference and as set forth in the County's Minnesota Snowmobile Trails Assistance Program, Snowmobile FY 2022, Maintenance and Grooming Grant Agreement. The County hereby agrees to reimburse the Club any monies received from the State of Minnesota based upon the Club completing the necessary benchmarks, with the Club absorbing or otherwise satisfying the remainder of the cost. In the event that the financial assistance from the State of Minnesota changes in amount or percentage, the obligation of the County to reimburse the Club will change accordingly. Due to variability in revenues to the snowmobile account, in FY2022, the State/DNR may reduce or not disburse funds for the third and/or fourth benchmarks.
9. The County may receive additional funding if the Club qualifies for additional financial funding approved by the State of Minnesota. The County hereby agrees to reimburse the Club any monies received from the State of Minnesota.
10. At least annually, the Club will submit to the County records and documents adequately showing the actual, total cost incurred for any work on the trail.
11. The County shall not be liable for such costs as are incurred by the Club because state funds are depleted or reduced or in any way modified.
12. The Club will operate as an independent contractor. The County and the State of Minnesota shall not have any responsibility or liability for workers' compensation, other employee benefits or claims of negligence, or other wrongdoing on the part of the Club brought by third parties.
13. The Club shall maintain books, records, documents, and other evidence relevant to this Agreement and in such detail that will accurately reflect the benchmarks that have been reached in this program and that have received payment. The Club shall use generally accepted accounting principles and these records shall be retained for six (6) years after this Agreement terminates. The County, State, its representative or the legislative auditor shall have the right to examine this evidence, and the Club shall make them available at the office at all reasonable times during the record retention period. Records shall be sufficient, as defined in the Minnesota Snowmobile Trails Assistance Program, to reflect significant costs incurred and volunteer donation of time, equipment, and/or materials in performance of this Contract.
14. This Agreement may be terminated by the County in the event of a default by the Club; the legislature appropriates insufficient monies for the program; or the abandonment of the trail. Further, this Agreement may be terminated, with or without cause, upon thirty (30) days' written notice by either of the parties hereto.

15. Assignment or Modification – The Club may not assign any of its rights or obligations under this Agreement without the prior written consent of the County. No change or modification of the terms or provisions of this Agreement shall be binding unless such change or modification is in writing and signed by both parties to this Agreement.

16. Invasive Species Prevention

16.1 Prevent or limit the introduction, establishment or spread of terrestrial invasive species during work.

The State requires active steps to prevent or limit the introduction, establishment, and spread of invasive species during contracted work. The Sponsor shall prevent invasive species from entering into or spreading within the Trail(s) by ensuring the cleaning of equipment prior to arriving at the Trail(s) site. Where there are multiple sites and at least one contains invasive species, the intent is to start work at the site with the fewest number of invasive plants, leaving the most heavily infested sites to last. The Sponsor's contractors shall make every effort to schedule operations and site visits to avoid the spread of weed seed. This applies to all activities performed on all lands under this grant agreement and is not limited to lands under State control.

Grantees and subcontractors must follow Minnesota DNR's Operational Order 113, which requires preventing or limiting the introduction, establishment and spread of invasive species during activities on public waters and DNR-administered lands. This applies to all activities performed on all lands under this grant agreement and is not limited to lands under DNR control or public waters. Duties are listed under Sections II and III (p. 5-8) of Operational Order 113 which may be found at

[http://files.dnr.state.mn.us/assistance/grants/habitat/heritage/oporder\\_113.pdf](http://files.dnr.state.mn.us/assistance/grants/habitat/heritage/oporder_113.pdf).

TERRESTRIAL WORK SITES include:

The grantee shall prevent invasive species from entering into or spreading within a project site by cleaning equipment and clothing prior to arriving at the project site.

If the equipment or clothing arrives at the project site with soil, aggregate material, mulch, vegetation (including seeds) or animals, it shall be cleaned by grantee furnished tool or equipment (brush/broom, compressed air or pressure washer) at the staging area. The grantee or subcontractor shall dispose of material cleaned from equipment and clothing at a location determined by the DNR Grant Administrator or their representative. If the material cannot be disposed of onsite, secure material prior to transport (sealed container, covered truck, or wrap with tarp) and legally dispose of offsite.

AQUATIC WORK SITES include:

The grantee shall prevent invasive species from entering into or spreading within a project site by cleaning equipment and clothing prior to arriving at the project site.

If the project site includes a water body, the grantee shall clean equipment and clothing as noted above, prior to entering and leaving the water body. Prior to leaving the water body, drain water from all equipment, tanks or water retaining components of boats (motors, live well and bilge). Immediately after leaving the water body, drain water from transom wells onto dry land.

16.2 Cleaning and disposal of material cleaned.

If the equipment, vehicles, gear, or clothing arrives at the Trail with soil, aggregate material, mulch, vegetation (including seeds) or animals, it shall be cleaned by the Sponsor's contractor

furnished tool or equipment (brush/broom, compressed air or pressure washer) at the staging area. The contractor shall dispose of material cleaned from equipment and clothing at a location determined by the State's Authorized Representative. If the material cannot be disposed of onsite, secure material prior to transport (sealed container, covered truck, or wrap with tarp) and legally dispose of offsite

17. Data Disclosure – Under Minn. Stat. § 270C.65, Subd. 3, and other applicable law, the Club consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the County, to federal and state tax agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state tax laws which could result in action requiring the Club to file state tax returns and pay delinquent state tax liabilities, if any.

18. Governing Law, Jurisdiction, and Venue – Minnesota law, without regard to its choice-of-law provisions, governs this grant contract. Venue for all legal proceedings out of this grant contract, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Nicollet County, Minnesota.

19. Authorized Representative – The County's Authorized Representative is Nicollet County Finance Department, or his/her successor, and has the responsibility to monitor the Club's performance and the authority to accept the services provided under this grant contract. If the services are satisfactory, the County's Authorized Representative will certify acceptance on each invoice submitted for payment. A list of the Trail Area Supervisors can be found on the program webpage:

[https://files.dnr.state.mn.us/assistance/grants/recreation/ohv/trails\\_assistance\\_program\\_grants\\_contacts.pdf](https://files.dnr.state.mn.us/assistance/grants/recreation/ohv/trails_assistance_program_grants_contacts.pdf).

20. The Agreement shall be effective from November 23, 2021 and shall expire on June 30, 2022 or until all obligations have been satisfactorily fulfilled, whichever is sooner.

NICOLLET COUNTY

NICOLLET COUNTY TRAILS ASSOCIATION, INC.

By: \_\_\_\_\_  
Chairperson, Nicollet County

By: \_\_\_\_\_  
Trail Administrator

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

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

ATTEST:

By: \_\_\_\_\_  
County Administrator

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

**STATE OF MINNESOTA  
GRANT CONTRACT AGREEMENT**

**SNOWMOBILE GRANT-IN-AID PROGRAM  
FY 2022 MAINTENANCE AND GROOMING GRANTS**

Contract #/PO:	203698	3-200371
Local Unit of Government Sponsor:	Nicollet County	
Trail/Club Name:	MN River Valley Trails/Nicollet County Trails Association, Inc.	
Grant Amount:	\$39,966.03	

This grant contract is between the State of Minnesota, acting through its Commissioner of Natural Resources ("STATE") and **Nicollet County, 501 S Minnesota Ave, PO Box 89, St Peter, MN 56082** ("GRANTEE").

**Recitals**

1. The Snowmobile Grant-in-Aid Program is established in [Minn. Stat. 84.83](#) to provide grants to local units of government for the maintenance of snowmobile trails and the State is empowered to enter into this grant.
2. The Snowmobile Grant-in-Aid Program manual ("Minnesota Snowmobile Trails Assistance Program Maintenance and Grooming Manual", hereafter "manual") identifies the duties of the state and grantee, and any non-profit trail organizations the grantee may choose to sponsor for trail grooming and maintenance activities. In this contract and the manual, the terms "Grantee" and "Sponsor" are interchangeable. The manual is available at [https://mndnr.gov/grants/recreation/gia\\_snowmobile.html](https://mndnr.gov/grants/recreation/gia_snowmobile.html), and is incorporated into this grant contract agreement by reference.
3. The State is in need of the services of the Sponsor to provide the maintenance and grooming of the following trail(s) specified in this grant contract agreement: **MN River Valley Trails**
4. The Sponsor has applied to the State for a grant for the above identified trails and has submitted the Snowmobile Grant-in-Aid Program Maintenance and Grooming application form, required attachments, and resolution or official minutes of the Sponsor authorizing the proposed maintenance and grooming. The submitted application form and required attachments are hereinafter referred to as the "Plan."
5. Attachment. The Sponsor's resolution or official minutes are attached and incorporated into this grant contract agreement.
6. The Sponsor represents that it is duly qualified and agrees to perform all services described in this grant contract to the satisfaction of the State. Pursuant to [Minn.Stat. §16B.98](#), Subd.1, the Sponsor agrees to minimize administrative costs as a condition of this grant and to follow the code of ethics pursuant to [Minn.Stat. §43A.38](#) in administration of this grant.

**Grant Contract**

**1 Term of Grant Contract**

**1.1 Effective date:**

July 1, 2021 or the date the State accounting system shows sufficient allotment or encumbrance balance in the fund, allotment, or appropriation to meet this grant contract agreement and per [Minn. Stat. §16B.98](#) Subd. 5 and Subd. 7. Per Minn.Stat. §16B.98 Subd. 7, no payments will be made to the Sponsor until this grant contract is fully executed.

**1.2 Expiration date:**

June 30, 2022, or until all obligations have been satisfactorily fulfilled, whichever occurs first.

**1.3 Survival of Terms.**

The following clauses survive the expiration or cancellation of this grant contract: 8. Liability; 9. State Audits; 10. Government Data Practices and Intellectual Property Rights; 12. Publicity and Endorsement;

13. Governing Law, Jurisdiction, and Venue; and 15. Data Disclosure.

#### **1.4 Incur Expenses.**

Notwithstanding Minnesota Statutes, section 16A.41, expenditures made on or after July 1, 2021 are eligible for reimbursement. Expenses incurred by the grantee or its subcontractors prior to contract execution (as permitted by Minnesota Statutes, section 84.026, Subd. 4(1)) require written pre-approval by the state's authorized representative prior to expenditure.

## **2 Sponsor's Duties**

The Sponsor, who is not a state employee, will:

- (a) Comply with required grants management policies and procedures set forth through [Minn.Stat. §16B.97](#), Subd. 4 (a) (1).
- (b) Maintain the proposed trails in accordance with the guidelines contained within the current Minnesota Snowmobile Trails Assistance Program Maintenance and Grooming Manual, hereinafter referred to as the "Manual" as accepted or amended by the State and available on the Snowmobile GIA Program webpage at [http://www.dnr.state.mn.us/grants/recreation/gia\\_snowmobile.html](http://www.dnr.state.mn.us/grants/recreation/gia_snowmobile.html). All work will be the responsibility of the Sponsor, its employees, or the sponsor's agent provided the agent is registered as a nonprofit corporation with the State of Minnesota.
- (c) Proceed to acquire necessary interests in lands on the Trail. The Sponsor must acquire land in fee, easement, lease, permit, or other authorization for said Trail. The term of said interest shall be no less than four (4) months between November 15 of any year and April 1 of the succeeding year. For each parcel of land crossed by the Trail, the Sponsor shall obtain from the owner of said parcel a permit, lease, easement, deed, or other authorization for said crossing in accordance with Minnesota Statutes Chapter 604A. The Sponsor shall certify that the necessary interests in the land have been obtained and are on file with the Sponsor or the sponsor's agent.
- (d) Provide adequate maintenance and grooming on the Trail, which shall include keeping it reasonably safe for public use; provide sanitation and sanitary facilities when needed; and provide other maintenance and grooming as may be required and in accordance with the trail grooming guidelines established in the manual. The Sponsor and not the State is responsible for maintaining signs and maintenance and grooming of the Trail.

## **3 Time**

The Sponsor must comply with all the time requirements described in this grant contract. In the performance of this grant contract, time is of the essence.

## **4 Consideration and Payment**

### **4.1 Consideration.**

The State agrees to disburse funds to the Sponsor pursuant to this Agreement based upon the satisfactory completion of significant performance benchmarks as identified below. This grant shall not exceed the Grant Amount as specified below. Funds not earned and paid out will be canceled annually at the end of the State's fiscal year (June 30).

### **4.2 Total Obligation.**

The total obligation of the State for all compensation and reimbursements to the Sponsor under this grant contract will not exceed **\$39,966.03**

#### **Payment**

### **1. Trail Completion Benchmark, 45% of Total Grant Amount**

Disbursement of these funds is contingent on the sponsor providing a high quality map that shows the final alignment of the trail and a Trail Completion Certification Form that the trail is open and

available for use. The certification must be received by December 15<sup>th</sup> of that year. This includes having the trail brushed, bridges in repair, signs installed, gates were capable of being open (snow permitting), and any other additional work needed. Also the Sponsor ensures that interest in lands to operate a snowmobile trail have been acquired through fee, easement, lease, permit, or other authorizations of interest throughout the entire Trail.

**2. Grooming Certification Benchmark, Opening – January 15, 25% of Total Grant Amount**

A portion of the grooming monies will be disbursed to the Sponsor by the DNR based upon the Certification of Satisfactory Grooming Form received from the Sponsor that the trails have been properly groomed from opening day through January 15<sup>th</sup>. The certification must be received by February 15<sup>th</sup> of that year. The Sponsor in coordination with the Club must maintain sufficient records to document the activity.

**3. Grooming Certification Benchmark, January 16 – Closing, 25% of Total Grant Amount**

The second disbursement of the grooming monies will be made to the Sponsor by the DNR based upon the Certification of Satisfactory Grooming Form received from the Sponsor and verification that the trails were groomed to the satisfaction of the Sponsor from January 16<sup>th</sup> through the end of the season. The certification must be received by April 15<sup>th</sup> of that year. The Sponsor in coordination with the Club must maintain sufficient records to document the activity.

**4. Trail Closure/Application Submission Benchmark, 5% of Total Grant Amount**

The final payment will be based upon the Trail Closure/Application Submission Certification form received from the Sponsor. The certification must be received by May 15<sup>th</sup>. A completed application for the next year must accompany the certification. Must provide evidence that Sponsor and Club attended spring training session conducted by DNR. A map indicating the “anticipated” alignment of the trail must also be submitted. A back-up grooming plan must also be provided.

**4.3 Contracting and Bidding Requirements**

Per [Minn. Stat. §471.345](#), grantees that are municipalities as defined in Subd. 1 must do the following if contracting funds from this grant contract agreement for any supplies, materials, equipment or the rental thereof, or the construction, alteration, repair or maintenance of real or personal property

- (a) If the amount of the contract is estimated to exceed \$175,000, a formal notice and bidding process must be conducted in which sealed bids shall be solicited by public notice. Municipalities may, as a best value alternative, award a contract for construction, alteration, repair, or maintenance work to the vendor or contractor offering the best value under a request for proposals as described in [Minn. Stat. §16C.28](#), Subd. 1, paragraph (a), clause (2)
- (b) If the amount of the contract is estimated to exceed \$25,000 but not \$175,000, the contract may be made either upon sealed bids or by direct negotiation, by obtaining two or more quotations for the purchase or sale when possible, and without advertising for bids or otherwise complying with the requirements of competitive bidding. All quotations obtained shall be kept on file for a period of at least one year after receipt thereof. Municipalities may, as a best value alternative, award a contract for construction, alteration, repair, or maintenance work to the vendor or contractor offering the best value under a request for proposals as described in [Minn. Stat. §16C.28](#), Subd. 1, paragraph (a), clause (2) and paragraph (c).
- (c) If the amount of the contract is estimated to be \$25,000 or less, the contract may be made either upon quotation or in the open market, in the discretion of the governing body. If the contract is made upon quotation it shall be based, so far as practicable, on at least two quotations which shall be kept on file for a period of at least one year after their receipt. Alternatively, municipalities may award a contract for construction, alteration, repair, or maintenance work to the vendor or contractor offering

the best value under a request for proposals as described in [Minn. Stat. §16C.28](#), Subd. 1, paragraph (a), clause (2)

- (d) Support documentation of the bidding process utilized to contract services must be included in the grantee's financial records, including support documentation justifying a single/sole source bid, if applicable.
- (e) For projects that include construction work of \$25,000 or more, prevailing wage rules apply per; [Minn. Stat. §§177.41](#) through [177.44](#) consequently, the bid request must state the project is subject to *prevailing wage*. These rules require that the wages of laborers and workers should be comparable to wages paid for similar work in the community as a whole. A prevailing wage form should accompany these bid submittals.

## 5 Conditions of Payment

All services provided by the Sponsor under this grant contract must be performed to the State's satisfaction, as determined at the sole discretion of the State's Authorized Representative and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. The Sponsor will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal, state, or local law.

### 5.1 Penalties

In addition to the penalties identified below, if its determined performance was not met the State reserves the right to reduce payment in the following year's agreement or to exclude the Sponsor from participation in the Snowmobile Grant-in-Aid Program.

1. If it is determined that the **Trail Completion Certification benchmark** in this Plan has not been satisfactorily completed but was certified as having been completed by the Sponsor, the Sponsor may be assessed a penalty of up to 45% of the Total Annual Grant Amount.
2. If it is determined that the **Grooming Certification benchmark for the period of opening day through January 15** in this Plan has not been satisfactorily completed but was certified as having been completed by the Sponsor, the Sponsor may be assessed a penalty of up to 25% of the Total Annual Grant Amount.
3. If it is determined that the **Grooming Certification benchmark for the period of January 16 through the end of the season** in this Plan has not been satisfactorily completed but was certified as having been completed by the Sponsor, the Sponsor may be assessed a penalty of up to 25% of the Total Annual Grant Amount.
4. If it is determined that the **Trail Closure/Application Submission Certification benchmark** in this Plan has not been satisfactorily completed but was certified as having been completed by the Sponsor, the Sponsor may be assessed a penalty of up to 5% of the total annual Grant Amount.

## 6 Authorized Representative

The State's Authorized Representative is **Craig Beckman, Area Supervisor, 54497 Gadwall Road Mankato, MN 56001, 507-386-3913, [craig.beckman@state.mn.us](mailto:craig.beckman@state.mn.us)** or his/her successor, and has the responsibility to monitor the Sponsor's performance and the authority to accept the services provided under this grant contract. If the services are satisfactory, the State's Authorized Representative will certify acceptance on each invoice submitted for payment.

The Sponsor's Authorized Representative is **Heather McCormick, Finance Director, 501 S Minnesota Ave, PO Box 89, St Peter, MN 56082, 507-934-7817, [heather.mccormick@co.nicollet.mn.us](mailto:heather.mccormick@co.nicollet.mn.us)** If the

Sponsor's Authorized Representative changes at any time during this grant contract, the Sponsor must immediately notify the State.

## **7 Assignment Amendments, Waiver, and Grant Contract Complete**

### **7.1 Assignment**

The Sponsor shall neither assign nor transfer any rights or obligations under this grant contract without the prior written consent of the State, approved by the same parties who executed and approved this grant contract, or their successors in office.

### **7.2 Amendments**

Any amendments to this grant contract 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 grant contract, or their successors in office.

### **7.3 Waiver**

If the State fails to enforce any provision of this grant contract, that failure does not waive the provision or the State's right to enforce it.

### **7.4 Grant Contract Complete**

This grant contract contains all negotiations and agreements between the State and the Sponsor. No other understanding regarding this grant contract, whether written or oral, may be used to bind either party.

## **8 Liability**

The Sponsor must indemnify, save, and hold the State, its agents, and employees harmless from any claims or causes of action, including attorney's fees incurred by the State, arising from the performance of this grant contract by the Sponsor or the Sponsor's agents or employees. This clause will not be construed to bar any legal remedies the Sponsor may have for the State's failure to fulfill its obligations under this grant contract.

## **9 State Audits**

Under Minn. Stat. § 16B.98, Subd.8, the Sponsor's or the sponsor's agent's books, records, documents, and accounting procedures and practices of the Sponsor, the sponsor's agent, or other party relevant to this grant agreement or transaction are subject to examination by the State and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this grant agreement, receipt and approval of all final reports, or the required period of time to satisfy all state and program retention requirements, whichever is later.

## **10 Government Data Practices and Intellectual Property Rights**

### **10.1 Government Data Practices**

The Sponsor and State must comply with the Minnesota Government Data Practices Act, [Minn. Stat. Ch. 13](#), as it applies to all data provided by the State under this grant contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Sponsor under this grant contract. The civil remedies of [Minn. Stat. §13.08](#) apply to the release of the data referred to in this clause by either the Sponsor or the State. If the Sponsor receives a request to release the data referred to in this Clause, the Sponsor must immediately notify the State. The State will give the Sponsor instructions concerning the release of the data to the requesting party before the data is released. The Sponsor's response to the request shall comply with applicable law

### **10.2 Intellectual Property Rights**

(a) Intellectual Property Rights. The State owns all rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in the Works and Documents created and paid for under this contract.

(b) Obligations.

1. Notification. Whenever any invention, improvement or discovery (whether or not patentable) is made

or conceived for the first time or actually or constructively reduced to practice by the Sponsor, including its employees and subcontractors, in the performance of this contract, the Sponsor will immediately give the State's Authorized Representative written notice thereof, and must promptly furnish the Authorized Representative with complete information and/or disclosure thereon.

2. Representation. The Sponsor must perform all acts, and take all steps necessary to ensure that all intellectual property rights in the Works and Documents are the sole property of the State, and that neither Sponsor nor its employees, agents, or subcontractors retain any interest in and to the Works and Documents. The Sponsor represents and warrants that the Works and Documents do not will not infringe upon any intellectual property rights of other persons or entities. The sponsor will indemnify, defend, to the extent permitted by the Attorney General and hold harmless the State, at the Sponsor's expense, from any action or claim brought against the State to the extent that it is based on a claim that all or parts of the Works and Documents infringe upon the intellectual property rights of others. The Sponsor will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages, including but not limited to, attorney fees. If such a claim or action arises, or in the Sponsor's or the State's opinion is likely to arise, the Sponsor must, at the State's discretion, either procure for the State the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing Works or Documents as necessary and appropriate to obviate the infringement claim. This remedy of the State will be in addition to and not exclusive of other remedies provided by law.

## **11 Workers Compensation**

The Sponsor certifies that it is in compliance with [Minn. Stat. §176.181](#), Subd. 2, pertaining to workers' compensation insurance coverage. The Sponsor's employees and agents will not be considered State employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees and any claims made by any third party as a consequence of any act or omission on the part of these employees are in no way the State's obligation or responsibility.

## **12 Publicity and Endorsement**

### **12.1 Publicity**

Any publicity regarding the subject matter of this grant contract must identify the State as the sponsoring agency and must not be released without prior written approval from the State's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Sponsor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this grant contract. All projects primarily funded by state grant appropriation must publicly credit the State of Minnesota, including on the Sponsor's website when practicable.

### **12.2 Endorsement**

The Sponsor must not claim that the State endorses its products or services.

## **13 Governing Law, Jurisdiction, and Venue**

Minnesota law, without regard to its choice-of-law provisions, governs this grant contract. Venue for all legal proceedings out of this grant contract, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

## **14 Termination and Funding**

### **14.1 Termination by the State**

The State may immediately terminate this grant contract with or without cause, upon 30 days' written notice to the Sponsor. Upon termination, the Sponsor will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

### **14.2 Termination for Cause**

The State may immediately terminate this grant contract if the State finds that there has been a failure to

comply with the provisions of this grant contract, that reasonable progress has not been made or that the purposes for which the funds were granted have not been or will not be fulfilled. The State may take action to protect the interests of the State of Minnesota, including the refusal to disburse additional funds and requiring the return of all or part of the funds already disbursed.

#### **14.3 *Termination or Reduction for Insufficient Funding***

The state can reduce or terminate this grant contract if:

- (a)** It does not obtain funding from the Minnesota Legislature.
- (b)** 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 Sponsor. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Sponsor 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 the contract is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The State must provide the Sponsor notice of the lack of funding within a reasonable time of the State's receiving that notice.

#### **14.4 *Termination by Contract***

This grant contract may also be terminated upon mutual agreement by the State and the Sponsor.

#### **14.5 *Funding***

The State's sole responsibility under this Agreement is to provide funds to the Sponsor. In the event that state funds become unavailable because of legislative or executive action or restraints, including but not limited to the Minnesota Legislature not appropriating sufficient funding for the program or there not being enough funding in the snowmobile account, the grant amount may be reduced or this contract may be terminated by the State. Due to variability in revenues to the snowmobile account, the State/DNR may reduce or not disburse funds for the third and/or fourth benchmarks.

### **15 Data Disclosure**

Under [Minn. Stat. § 270C.65](#), Subd. 3, and other applicable law, the Sponsor consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and state tax agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state tax laws which could result in action requiring the Sponsor to file state tax returns and pay delinquent state tax liabilities, if any.

### **16 Invasive Species Prevention**

#### ***16.1 Prevent or limit the introduction, establishment or spread of terrestrial invasive species during work.***

The State requires active steps to prevent or limit the introduction, establishment, and spread of invasive species during contracted work. The Sponsor shall prevent invasive species from entering into or spreading within the Trail(s) by ensuring the cleaning of equipment prior to arriving at the Trail(s) site. Where there are multiple sites and at least one contains invasive species, the intent is to start work at the site with the fewest number of invasive plants, leaving the most heavily infested sites to last. The Sponsor's contractors shall make every effort to schedule operations and site visits to avoid the spread of weed seed. This applies to all activities performed on all lands under this grant agreement and is not limited to lands under State control.

Grantees and subcontractors must follow Minnesota DNR's Operational Order 113, which requires preventing or limiting the introduction, establishment and spread of invasive species during activities on public waters and DNR-administered lands. This applies to all activities performed on all lands under this grant agreement and is not limited to lands under DNR control or public waters. Duties are listed under Sections II and III (p. 5-8) of Operational Order 113 which may be found at [http://files.dnr.state.mn.us/assistance/grants/habitat/heritage/oporder\\_113.pdf](http://files.dnr.state.mn.us/assistance/grants/habitat/heritage/oporder_113.pdf).

#### TERRESTRIAL WORK SITES include:

The grantee shall prevent invasive species from entering into or spreading within a project site by cleaning equipment and clothing prior to arriving at the project site.

If the equipment or clothing arrives at the project site with soil, aggregate material, mulch, vegetation (including seeds) or animals, it shall be cleaned by grantee furnished tool or equipment (brush/broom, compressed air or pressure washer) at the staging area. The grantee or subcontractor shall dispose of material cleaned from equipment and clothing at a location determined by the DNR Grant Administrator or their representative. If the material cannot be disposed of onsite, secure material prior to transport (sealed container, covered truck, or wrap with tarp) and legally dispose of offsite.

#### AQUATIC WORK SITES include:

The grantee shall prevent invasive species from entering into or spreading within a project site by cleaning equipment and clothing prior to arriving at the project site.

If the project site includes a water body, the grantee shall clean equipment and clothing as noted above, prior to entering and leaving the water body. Prior to leaving the water body, drain water from all equipment, tanks or water retaining components of boats (motors, live well and bilge). Immediately after leaving the water body, drain water from transom wells onto dry land.

#### ***16.2 Cleaning and disposal of material cleaned.***

If the equipment, vehicles, gear, or clothing arrives at the Trail with soil, aggregate material, mulch, vegetation (including seeds) or animals, it shall be cleaned by the Sponsor's contractor furnished tool or equipment (brush/broom, compressed air or pressure washer) at the staging area. The contractor shall dispose of material cleaned from equipment and clothing at a location determined by the State's Authorized Representative. If the material cannot be disposed of onsite, secure material prior to transport (sealed container, covered truck, or wrap with tarp) and legally dispose of offsite.

### **17 Pollinator Best Management Practices**

Habitat restorations and enhancements conducted on DNR lands and prairie restorations on state lands or on any lands using state funds are subject to pollinator best management practices and habitat restoration guidelines pursuant to Minnesota Statutes, section 84.973. Practices and guidelines ensure an appropriate diversity of native species to provide habitat for pollinators through the growing season. Current specific practices and guidelines to be followed for contract and grant work can be found here:

[https://mndnr.gov/pollinator\\_resources/index.html](https://mndnr.gov/pollinator_resources/index.html), ***DNR Pollinator Best Management Practices and Habitat Restoration Guidelines.***

### **18 Accessibility**

Structural and nonstructural facilities and programs must meet all state and federal accessibility laws, regulations, and guidelines. Copies of accessibility guidelines can be downloaded off the Americans with Disabilities Act Accessibility Guidelines website at <http://www.access-board.gov>.

### **19 Technical Assistance**

Upon the request of the Sponsor to the extent possible, the State will provide technical assistance with major problems encountered in the maintenance and grooming of the Trail.

### **20 Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions**

20.1 The prospective lower tier participant certifies, by submission of this contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

20.2 Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this contract.

## **21 Whistleblower Protection Rights**

Recipient Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights.

(a) This award and employees working on this financial assistance contract will be subject to the whistleblower rights and remedies in the pilot program on Award Recipient employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub.L. 112-239)

(b) The Award Recipient shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712.

(c) The Award Recipient shall insert the substance of this clause, including this paragraph (c), in all sub awards or subcontracts over the simplified threshold. 42 CFR & 52.203-17 (as referenced in 42 CFR & 3.908-9)

## **22 Conflict of Interest**

It is the policy of the State of Minnesota to work to deliberately avoid actual and potential conflicts of interest related to grant making at both the individual and organizational levels.

A conflict of interest (actual or potential) occurs when a person has actual or apparent duty or loyalty to more than one organization and the competing duties or loyalties may result in actions which are adverse to one or both parties. A conflict of interest exists even if no unethical, improper, or illegal act results from it.

The Grantee, by signing this contract with the State, certifies it has read and understands the Office of Grants Management Conflict of Interest Policy 08-01, will maintain an adequate Conflict of Interest Policy and, throughout the term of the contract, monitor and report any actual or potential conflicts of interest to the State's Authorized Representative.

## **23 COVID-19**

All work completed for this contract must adhere to the following conditions until all State executive orders related to COVID 19 are rescinded or expire.

(a) Allowed activities and work performed should, to the maximum extent possible, be conducted in a manner that adheres to Minnesota Occupational Safety and Health Standards and the Minnesota Department of Health and CDC Guidelines related to COVID-19, including social distancing and hygiene.

(b) The current list of exemptions and guidelines is maintained on the Department of Health's Stay Safe MN website <https://staysafe.mn.gov/>.

## **24 Force majeure**

Neither party shall be responsible to the other or considered in default of its obligations within this Contract to the extent that performance of any such obligation is prevented or delayed by acts of God, war, riot, disruption of government, or other catastrophes beyond the reasonable control of the party unless the act or occurrence could have been reasonably foreseen and reasonable action could have been taken to prevent the delay or failure to perform. A party relying on this provision to excuse performance must provide the other party prompt written notice of the inability to perform and take all necessary steps to bring about performance as soon as practicable.

**1. STATE ENCUMBRANCE VERIFICATION**

*Individual certifies that funds have been encumbered as required by Minn. Stat. " 16A.15*

Signed: **Marisa** Digitally signed by Marisa  
**Silbernagel** Silbernagel  
Date: 2021.11.09 10:02:18  
-06'00'

SWIFT Contract/PO No(s) 203698 / 3-200371

**2. SPONSOR (Nicollet County)**

The Sponsor certifies that the appropriate person(s) have executed the grant contract on behalf of the Sponsor as required by applicable articles, bylaws, resolutions, or ordinances.

By: \_\_\_\_\_

Title: \_\_\_\_\_

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

By: \_\_\_\_\_

Title: \_\_\_\_\_

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

**3. STATE AGENCY**

By: \_\_\_\_\_  
(with delegated authority)

Title: Parks and Trails Division Director or Deputy Director

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

**Distribution:**

Agency

Sponsor

State's Authorized Representative



**RESOLUTION APPROVING NICOLLET COUNTY  
AS THE SPONSOR OF THE MAINTENANCE AND GROOMING  
GRANT AGREEMENT, RELATED DUTIES FOR THE  
MINNESOTA SNOWMOBILE TRAILS ASSISTANCE PROGRAM,  
AND GENERAL APPLICATIONS FOR FUNDING**



**WHEREAS**, the GRANT AGREEMENT is made between the State of Minnesota, acting by and through the Commissioner of Natural Resources, and Nicollet County referred to as the "Sponsor" relating to the maintenance and grooming of the trails specific in said GRANT AGREEMENT; and

**WHEREAS**, the MN River Valley Trail/Nicollet County Trails Association, Inc. will be the Sponsor's Agent responsible for the maintenance and grooming services; and

**WHEREAS**, the Sponsor desires to maintain the trails for the enjoyment of the public; and

**WHEREAS**, the Minnesota Snowmobile Trails Assistance Program provides grants to local units of government for the maintenance of recreational trails pursuant to Minnesota Statutes Chapter 84.83; and

**WHEREAS**, it is the State's sole responsibility under the GRANT AGREEMENT to provide funds to the Sponsor as approved and available by the State Legislature; and

**WHEREAS**, the Sponsor has applied to the State for grant for said trails.

**NOW, THEREFORE, BE IT RESOLVED** by the County Board of Nicollet County, Minnesota as follows:

1. That Nicollet County will serve as the Local Unit of Government acting as the Sponsor of the Minnesota Snowmobile Trails Assistance Program, Maintenance and Grooming Grant Agreement, and general applications for funding.

Passed and Adopted by the Board on this 23<sup>rd</sup> day of June, 2020.

COUNTY OF NICOLLET

  
John Luepke, Chair  
Nicollet County Board of Commissioners

ATTEST:

  
Ryan Krogh  
County Administrator/Clerk to the Board

**NICOLLET COUNTY and  
NICOLLET COUNTY TRAILS ASSOCIATION, INC.  
TRAIL AGREEMENT REGARDING GRANT CONTRACT AGREEMENT 194790/3000189407**

**This Agreement** is made on the 23<sup>rd</sup> date of November, 2021, between County of Nicollet, hereafter referred to as "County," and Nicollet County Trails Association, Inc., hereafter referred to as "Club."

**WHEREAS**, the County desires to establish and maintain public trails in furtherance of its public recreation program; and

**WHEREAS**, the Club agrees to contract with the County to acquire, construct, and maintain those trails; and

**WHEREAS**, the Club agrees that it is a nonprofit corporation authorized to receive grant-in-aid funds; and

**WHEREAS**, the State of Minnesota offers financial and technical assistance to the County for the construction and maintenance of approved trails; and

**WHEREAS**, the State of Minnesota offers occasional additional financial funding opportunities for trail improvements, and the County desires to avail itself of the assistance;

**WHEREAS**, the Club desires to improve a specific trail and has applied to the State of Minnesota for a Trail Improvement Grant found in Contract No. 194790/3000189407;

**NOW, THEREFORE, IT IS AGREED** between the parties hereto that:

1. The trails that are the subject of this Agreement shall be located in portions of Nicollet County.
2. The County Finance Department shall serve as the fiscal agent on behalf of the County.
3. The County shall apply to the State of Minnesota, Department of Natural Resources, for financial and technical assistance with the laws, rules, and regulations governing such assistance.
4. The Club shall enter into necessary agreements for the acquisition of the necessary interests in land and the subsequent construction and maintenance of the trails. The Club shall provide the County with proof of the acquisition of the necessary interests in lands on the trails. The Club shall acquire land in fee, easement, lease, permit, or other authorization for said trail. The term of said interest shall be no less than four (4) months between November 15 of any year and April 1 of the succeeding year. For each parcel of land crossed by the trail, the Club shall obtain from the owner of said parcel, a permit, lease, easement, deed, or other authorization for said crossing in accordance with Minnesota Statutes Chapter 604A.
5. The Club shall construct the trails, provide adequate maintenance, keep the trail reasonably safe for public use and provide such other maintenance or modifications as may be required by the State of Minnesota. The Club agrees to be solely responsible for the aforementioned obligations, and the parties agree that the County shall have no responsibility, duty, or liability

for those obligations. Any work in connection with the trail shall be in accordance with the terms and conditions of the Agreement between the State and the County, and such terms and conditions shall be incorporated by reference into this Agreement and any subsequent contracts between the County and the Club, or between the parties hereto and others.

6. Any and all claims that arise or may arise against the Club, its agents, servants, volunteers, or employees as a consequence of any act or omission on the part of the Club or its agents, servants, volunteers, or employees while engaged in the performance of the Contract shall in no way be the obligation or responsibility of the County. Contractor shall indemnify, hold harmless and defend the County, its commissioners, elected officials, officers, and employees against any and all liability, loss, costs, damages, expenses, claims or actions, including attorney's fees which the County, its officers or employees may hereafter sustain, incur or be required to pay, arising out of or by reason of any act or omission of the Club, its agents, servants, volunteers, or employees, in the execution, performance, or failure to adequately perform the Club's obligations pursuant to this Contract.
7. The Club does further agree that in order to protect itself as well as the County under the indemnity agreement provision hereinabove set forth, it will at all times during the term of the Agreement have and keep in force liability insurance amounts at least equal to the maximum liability limits set forth in Minn. Stat. 466.04, Subd.1:
  - a. A single limit or combined limit or excess umbrella general liability insurance policy of an amount of not less than \$500,000.00 for property damage arising from one occurrence, \$1,500,000.00 for total bodily or personal injuries or death and/or damages arising from one occurrence. The County shall be named as an additional insured on such policy.
  - b. A single limit or combined limit or excess umbrella automobile liability insurance policy, if applicable, covering agency-owned, non-owned, and hired vehicles used regularly in the provision of services under this Agreement, in an amount of not less than \$500,000.00 per accident for property damage, \$500,000.00 for bodily injuries and/or damages to any one person, and \$1,500,000.00 for total bodily injuries and/or damages arising from any one accident. The County shall be named as an additional insured on such policy.
  - c. Workers' Compensation – It is hereby understood and agreed that any and all employees or volunteers of the Club shall not be considered employees of the County, and that any and all claims that may or may not arise under the Workers' Compensation Act of the State of Minnesota on behalf of said employees or volunteers while so engaged, and any and all claims made by any third parties as the consequences of any act or omission on the part of said employees while so engaged on any of the work or services to be rendered within the terms of this Agreement, shall in no way be the obligation or responsibility of the County.
  - d. The County may withhold payment for failure of the Club to furnish certificates of insurance as required above.
  - e. In the event that claims or lawsuits shall arise jointly against the Club and the County, and the County elects to present its own defense, using its own counsel, in addition to or as

opposed to legal representation available by the insurance carriers providing the coverage as stated above, then such legal expense shall be borne by the County.

- f. Any policy obtained and maintained under this clause shall provide that it shall not be cancelled, materially changed, or not renewed without thirty (30) days' prior notice by the insured to the County.
8. The County expects to receive a grant from the State of Minnesota in the amount of \$43,990.01. The total cost of the improvement project is \$58,653.34 and the Club affirms it has sufficient funds to cover the entire cost of the improvement should the State of Minnesota not distribute the approved funds. The Association acknowledges its obligation to provide matching funds of \$14,663.33. The County hereby agrees to reimburse the Club any monies received from the State of Minnesota based upon the Club completing the necessary obligations under the Grant Contract Agreement, with the Club absorbing or otherwise satisfying any construction, administrative, and all out of pocket costs associated with the improvement project. In the event that the financial assistance from the State of Minnesota changes in amount, the obligation of the County to reimburse the Club shall be limited only to those funds actually received from the State of Minnesota under the Grant Contract Agreement. The Club shall be solely responsible for all costs associated with the improvement project and shall indemnify the County for any additional costs.
9. The Club acknowledges that it has thoroughly reviewed the State of Minnesota Grant Contract Agreement-Snowmobile Grant-In-Aid Program for Contract#/PO of 194790/3000189407. The Club affirms and attests that it is aware of all Grant Agreement obligations regarding reporting, compliance, and performance. The Club agrees to promptly perform all obligations under the Grant Agreement.
10. The County shall not be liable for such costs as are incurred by the Club because state funds are depleted or reduced or in any way modified.
11. The Club will operate as an independent contractor. The County and the State of Minnesota shall not have any responsibility or liability for workers' compensation, other employee benefits or claims of negligence, or other wrongdoing on the part of the Club brought by third parties.
12. The Club shall maintain books, records, documents, and other evidence relevant to this Agreement and in such detail that will accurately reflect the benchmarks that have been reached in this program and that have received payment. The Club shall use generally accepted accounting principles and these records shall be retained for six (6) years after this Agreement terminates. The County, State, its representative or the legislative auditor shall have the right to examine this evidence, and the Club shall make them available at the office at all reasonable times during the record retention period. Records shall be sufficient, as defined in the Minnesota Snowmobile Trails Assistance Program, to reflect significant costs incurred and volunteer donation of time, equipment, and/or materials in performance of this Contract.
13. This Agreement may be terminated by the County in the event of a default by the Club; the legislature appropriates insufficient monies for the program; or the abandonment of the trail.

Further, this Agreement may be terminated, with or without cause, upon thirty (30) days' written notice by either of the parties hereto.

14. Assignment or Modification – The Club may not assign any of its rights or obligations under this Agreement without the prior written consent of the County. No change or modification of the terms or provisions of this Agreement shall be binding unless such change or modification is in writing and signed by both parties to this Agreement.

15. Invasive Species Prevention

15.1 Prevent or limit the introduction, establishment or spread of terrestrial invasive species during work.

The State requires active steps to prevent or limit the introduction, establishment, and spread of invasive species during contracted work. The Sponsor shall prevent invasive species from entering into or spreading within the Trail(s) by ensuring the cleaning of equipment prior to arriving at the Trail(s) site. Where there are multiple sites and at least one contains invasive species, the intent is to start work at the site with the fewest number of invasive plants, leaving the most heavily infested sites to last. The Sponsor's contractors shall make every effort to schedule operations and site visits to avoid the spread of weed seed. This applies to all activities performed on all lands under this grant agreement and is not limited to lands under State control.

Grantees and subcontractors must follow Minnesota DNR's Operational Order 113, which requires preventing or limiting the introduction, establishment and spread of invasive species during activities on public waters and DNR-administered lands. This applies to all activities performed on all lands under this grant agreement and is not limited to lands under DNR control or public waters. Duties are listed under Sections II and III (p. 5-8) of Operational Order 113 which may be found at

[http://files.dnr.state.mn.us/assistance/grants/habitat/heritage/oporder\\_113.pdf](http://files.dnr.state.mn.us/assistance/grants/habitat/heritage/oporder_113.pdf).

TERRESTRIAL WORK SITES include:

The grantee shall prevent invasive species from entering into or spreading within a project site by cleaning equipment and clothing prior to arriving at the project site.

If the equipment or clothing arrives at the project site with soil, aggregate material, mulch, vegetation (including seeds) or animals, it shall be cleaned by grantee furnished tool or equipment (brush/broom, compressed air or pressure washer) at the staging area. The grantee or subcontractor shall dispose of material cleaned from equipment and clothing at a location determined by the DNR Grant Administrator or their representative. If the material cannot be disposed of onsite, secure material prior to transport (sealed container, covered truck, or wrap with tarp) and legally dispose of offsite.

AQUATIC WORK SITES include:

The grantee shall prevent invasive species from entering into or spreading within a project site by cleaning equipment and clothing prior to arriving at the project site.

If the project site includes a water body, the grantee shall clean equipment and clothing as noted above, prior to entering and leaving the water body. Prior to leaving the water body, drain water from all equipment, tanks or water retaining components of boats (motors, live well and bilge). Immediately after leaving the water body, drain water from transom wells onto dry land.

15.2 Cleaning and disposal of material cleaned.

If the equipment, vehicles, gear, or clothing arrives at the Trail with soil, aggregate material, mulch, vegetation (including seeds) or animals, it shall be cleaned by the Sponsor's contractor furnished tool or equipment (brush/broom, compressed air or pressure washer) at the staging area. The contractor shall dispose of material cleaned from equipment and clothing at a location determined by the State's Authorized Representative. If the material cannot be disposed of onsite, secure material prior to transport (sealed container, covered truck, or wrap with tarp) and legally dispose of offsite

16. Data Disclosure – Under Minn. Stat. § 270C.65, Subd. 3, and other applicable law, the Club consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the County, to federal and state tax agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state tax laws which could result in action requiring the Club to file state tax returns and pay delinquent state tax liabilities, if any.
17. Governing Law, Jurisdiction, and Venue – Minnesota law, without regard to its choice-of-law provisions, governs this grant contract. Venue for all legal proceedings out of this grant contract, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Nicollet County, Minnesota.
18. Authorized Representative – The County's Authorized Representative is Nicollet County Finance Department, or his/her successor, and has the responsibility to monitor the Club's performance and the authority to accept the services provided under this grant contract. If the services are satisfactory, the County's Authorized Representative will certify acceptance on each invoice submitted for payment. A list of the Trail Area Supervisors can be found on the program webpage:  
([https://files.dnr.state.mn.us/assistance/grants/recreation/ohv/trails\\_assistance\\_program\\_grants\\_contacts.pdf](https://files.dnr.state.mn.us/assistance/grants/recreation/ohv/trails_assistance_program_grants_contacts.pdf)).
19. The Agreement shall be effective from November 23, 2021 and shall expire on June 30, 2022 or until all obligations have been satisfactorily fulfilled, whichever is sooner.

NICOLLET COUNTY

NICOLLET COUNTY TRAILS ASSOCIATION, INC.

By: \_\_\_\_\_  
Chairperson, Nicollet County

By: \_\_\_\_\_  
Trail Administrator

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

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

ATTEST:

By: \_\_\_\_\_  
County Administrator

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

**STATE OF MINNESOTA  
GRANT CONTRACT AGREEMENT**

**SNOWMOBILE GRANT-IN-AID PROGRAM  
FY 2021 TRAIL IMPROVEMENT GRANTS**

Contract #/PO:	194790	3000189407
Local Unit of Government Sponsor:	<b>Nicollet County</b>	
Trail/Club Name:	<b>Minnesota River Valley Trail</b>	
Grant Amount:	<b>\$ 43990.01</b>	

This grant contract is between the State of Minnesota, acting through its Commissioner of Natural Resources ("STATE") and Nicollet County, 501 South Minnesota Avenue, St. Peter, MN 56082 ("SPONSOR").

**Recitals**

1. The Snowmobile Grant-in-Aid Program is established in [Minn. Stat. §84.83](#) to provide grants to local units of government for the improvement of snowmobile trails and the State is empowered to enter into this grant.
2. The State is in need of the services of the Sponsor to provide the trail improvements of the following trail(s) specified in this grant contract agreement: Minnesota River Valley Trail, Nicollet County Trails Association.
3. The Sponsor has applied to the State for a grant for the above identified trails and has submitted the Snowmobile Grant-in-Aid Program Trail Improvement application form, required attachments, and resolution or official minutes of the Sponsor authorizing the proposed trail improvements unless an annual resolution from maintenance and grooming grants has already been submitted for the fiscal year. The submitted application form and required attachments are hereinafter referred to as the "Plan."
4. Attachment. The Sponsor's resolution or official minutes are attached and incorporated into this grant contract agreement, unless an annual resolution from maintenance and grooming grants has already been submitted for the fiscal year.
5. The Sponsor represents that it is duly qualified and agrees to perform all services described in this grant contract to the satisfaction of the State. Pursuant to [Minn. Stat. §16B.98](#), Subd.1, the Sponsor agrees to minimize administrative costs as a condition of this grant and to follow the code of ethics pursuant to [Minn. Stat. §43A.38](#) in administration of this grant.
6. Attachment. The Sponsor's resolution is attached and incorporated into this grant contract agreement.

**Grant Contract**

**1 Term of Grant Contract**

**1.1 Effective date:**

July 1, 2020 or the date the State accounting system shows sufficient allotment or encumbrance balance in the fund, allotment, or appropriation to meet this grant contract agreement and per [Minn. Stat. §16B.98](#) Subd. 5 and Subd. 7. Per Minn.Stat. §16B.98 Subd. 7, no payments will be made to the Sponsor until this grant contract is fully executed.

**1.2 Expiration date:**

June 30, 2022, or until all obligations have been satisfactorily fulfilled, whichever occurs first pursuant to [Minn. Stat. §16A.28](#) Subd. 5 regarding permanent improvements of a capital nature. This expiration date includes the certification period as authorized in Minn. Stat. Ch. 16A.2, Subd. 6.

### **1.3 *Survival of Terms.***

The following clauses survive the expiration or cancellation of this grant contract: 8. Liability; 9. State Audits; 10. Government Data Practices and Intellectual Property Rights; 12. Publicity and Endorsement; 13. Governing Law, Jurisdiction, and Venue; and 15. Data Disclosure.

### **1.4 *Incur Expenses.***

Notwithstanding Minnesota Statutes, section 16A.41, expenditures made on or after July 1, 2020 are eligible for reimbursement. Expenses incurred by the grantee or its subcontractors prior to contract execution (as permitted by Minnesota Statutes, section 84.026, Subd. 4(1)) require written pre-approval by the state's authorized representative prior to expenditure.

## **2 *Sponsor's Duties***

The Sponsor agrees to construct, operate, and maintain the proposed trails in accordance with the guidelines contained within the current Minnesota Snowmobile Trails Assistance Program Trail Improvement Manual, hereinafter referred to as the "Manual" as accepted or amended by the State and available on the Snowmobile GIA Program webpage at [http://www.dnr.state.mn.us/grants/recreation/gia\\_snowmobile.html](http://www.dnr.state.mn.us/grants/recreation/gia_snowmobile.html). All work will be the responsibility of the Sponsor, its employees, or the sponsor's agent provided the agent is registered as a nonprofit corporation with the State of Minnesota. The Sponsor, who is not a state employee, will:

**2.1.** Comply with required grants management policies and procedures set forth through [Minn. Stat. §16B.97](#), Subd. 4 (a) (1).

**2.2.** Proceed to acquire necessary interests in lands on the Trail. The Sponsor must acquire land in fee, easement, lease, permit, or other authorization for said Trail. The term of said interest shall be no less than four (4) months between November 15 of any year and April 1 of the succeeding year. For each parcel of land crossed by the Trail, the Sponsor shall obtain from the owner of said parcel a permit, lease, easement, deed, or other authorization for said crossing in accordance with Minnesota Statutes Chapter 604A. The Sponsor shall certify that the necessary interests in the land have been obtained and are on file with the Sponsor or the sponsor's agent.

**2.3.** Complete activities in this Grant Contract Agreement for the trails approved by the State listed above according to the guidelines of the Manual as stated in the application, including cost worksheet(s) and map(s) as accepted or amended by the State that is the approved work plan and budget on file with the State's Authorized Representative.

**2.4.** Perform services to provide the trail(s) for public use in accordance with the guidelines in the Manual, which shall include but are not limited to:

- (a) The Sponsor will provide adequate maintenance and grooming on the Trail, which shall include keeping it reasonably safe for public use;
- (b) provide sanitation and sanitary facilities when needed;
- (c) provide other maintenance and grooming as may be required and in accordance with the trail grooming guidelines established in the manual.

The Sponsor and not the State is responsible for maintaining signs and the maintenance and grooming of the Trail.

**2.5.** Expedite establishment and construction of the trail(s). If the Sponsor fails to expedite establishment and construction of trails or fails to provide for adequate maintenance, the State may withhold payments to the Sponsor and/or terminate this Contract.

### **3 Time**

The Sponsor must comply with all the time requirements described in this grant contract. In the performance of this grant contract, time is of the essence.

### **4 Consideration and Payment**

#### **4.1 Consideration.**

The State agrees to disburse funds to the Sponsor pursuant to this Agreement based upon the satisfactory completion receipt of the request for reimbursement as identified below. This grant shall not exceed the Grant Amount as specified on page one of this agreement or as amended. Funds not earned and paid out will be canceled annually at the end of the State's fiscal year (June 30).

#### **4.2 Compensation.**

Compensation in an amount not to exceed \$43,990.01, according to the breakdown of costs contained in Attachment A. Project Scope and Budget, which is incorporated and made part of this contract.

#### **4.3 Matching Requirements.**

Grantee certifies that the following matching requirement for the grant will be met by Nicollet County. The total project cost is \$58,653.34. Grantee agrees to match at least \$14,663.33 of this project cost.

***The State shall disburse funds to the Grantee pursuant to this contract on a reimbursement basis not to exceed seventy-five (75) percent of its eligible costs, as described in Section 25.***

#### **4.4 Total Obligation.**

The total obligation of the State for all compensation and reimbursements to the Sponsor under this grant contract will not exceed \$43,990.01.

#### **4.5 Payment.**

The local unit of government must submit a request for reimbursement and attach worksheets furnished by the State for all costs incurred in acquiring, and developing the trail, all in accordance with the Manual. Additionally, the local unit of government must submit original receipts of actual purchases exceeding \$100.00. Further, the first request for reimbursement for costs incurred by grooming must be made by January 31, and the last day of every month thereafter while costs are incurred during the grooming season.

1. First Payment: Upon receipt of the request for reimbursement evidencing acceptable trail costs of \$500.00 or more for acquisition or development the State agrees to reimburse the local unit of government for approved costs in accordance with the Manual. The State shall not be required to pay for any services provided by the local unit of government, which the State determines to be unsatisfactory as determined by the State's authorized representative.
2. Subsequent Payments: Each thirty (30) successive days after the first payment, the local unit of government may submit invoices evidencing trail costs. Payments shall be made to the extent of authorized reimbursement, or until this agreement is terminated.

#### **4.6 Contracting and Bidding Requirements.**

Per [Minn. Stat. §471.345](#), grantees that are municipalities as defined in Subd. 1 must do the following if contracting funds from this grant contract agreement for any supplies, materials, equipment or the rental thereof, or the construction, alteration, repair or maintenance of real or personal property

**(a)** If the amount of the contract is estimated to exceed \$100,000, a formal notice and bidding process

must be conducted in which sealed bids shall be solicited by public notice. Municipalities may, as a best value alternative, award a contract for construction, alteration, repair, or maintenance work to the vendor or contractor offering the best value under a request for proposals as described in [Minn. Stat. §16C.28](#), Subd. 1, paragraph (a), clause (2)

- (b) If the amount of the contract is estimated to exceed \$25,000 but not \$100,000, the contract may be made either upon sealed bids or by direct negotiation, by obtaining two or more quotations for the purchase or sale when possible, and without advertising for bids or otherwise complying with the requirements of competitive bidding. All quotations obtained shall be kept on file for a period of at least one year after receipt thereof. Municipalities may, as a best value alternative, award a contract for construction, alteration, repair, or maintenance work to the vendor or contractor offering the best value under a request for proposals as described in [Minn. Stat. §16C.28](#), Subd. 1, paragraph (a), clause (2) and paragraph (c).
- (c) If the amount of the contract is estimated to be \$25,000 or less, the contract may be made either upon quotation or in the open market, in the discretion of the governing body. If the contract is made upon quotation it shall be based, so far as practicable, on at least two quotations which shall be kept on file for a period of at least one year after their receipt. Alternatively, municipalities may award a contract for construction, alteration, repair, or maintenance work to the vendor or contractor offering the best value under a request for proposals as described in [Minn. Stat. §16C.28](#), Subd. 1, paragraph (a), clause (2)
- (d) Support documentation of the bidding process utilized to contract services must be included in the grantee's financial records, including support documentation justifying a single/sole source bid, if applicable.
- (e) For projects that include construction work of \$25,000 or more, prevailing wage rules apply per; [Minn. Stat. §177.41](#) through [177.44](#) consequently, the bid request must state the project is subject to *prevailing wage*. These rules require that the wages of laborers and workers should be comparable to wages paid for similar work in the community as a whole. A prevailing wage form should accompany these bid submittals.

## **5 Conditions of Payment**

All services provided by the Sponsor under this grant contract must be performed to the State's satisfaction, as determined at the sole discretion of the State's Authorized Representative and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. The Sponsor will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal, state, or local law.

### **5.1 Penalties**

If its determined performance was not met, the State reserves the right to reduce payment in the following year's agreement or to exclude the Sponsor from participation in the Snowmobile Grant-in-Aid Program.

## **6 Authorized Representative**

The State's Authorized Representative is Craig Beckman, DNR Parks and Trails Area 4C Supervisor, Minneopa State Park, 54497 Gadwall Road, Mankato, MN 56001, 507-386-3913, [craig.beckman@state.mn.us](mailto:craig.beckman@state.mn.us), or his/her successor, and has the responsibility to monitor the Sponsor's performance and the authority to accept the services provided under this grant contract. If the services are satisfactory, the State's Authorized Representative will certify acceptance on each invoice submitted for payment.

The Sponsor's Authorized Representative is Heather McCormick, Nicollet County Finance Director, 501 South Minnesota Avenue, St. Peter, MN 56082, 507-934-7813, [Heather.McCormick@co.nicollet.mn.us](mailto:Heather.McCormick@co.nicollet.mn.us). If the Sponsor's Authorized Representative changes at any time during this grant contract, the Sponsor must immediately notify the State.

## **7 Assignment Amendments, Waiver, and Grant Contract Complete**

### **7.1 Assignment**

The Sponsor shall neither assign nor transfer any rights or obligations under this grant contract without the prior written consent of the State, approved by the same parties who executed and approved this grant contract, or their successors in office.

### **7.2 Amendments**

Any amendments to this grant contract 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 grant contract, or their successors in office.

### **7.3 Waiver**

If the State fails to enforce any provision of this grant contract, that failure does not waive the provision or the State's right to enforce it.

### **7.4 Grant Contract Complete**

This grant contract contains all negotiations and agreements between the State and the Sponsor. No other understanding regarding this grant contract, whether written or oral, may be used to bind either party.

## **8 Liability**

The Sponsor must indemnify, save, and hold the State, its agents, and employees harmless from any claims or causes of action, including attorney's fees incurred by the State, arising from the performance of this grant contract by the Sponsor or the Sponsor's agents or employees. This clause will not be construed to bar any legal remedies the Sponsor may have for the State's failure to fulfill its obligations under this grant contract.

## **9 State Audits**

Under Minn. Stat. §16B.98, Subd.8, the Sponsor's or the sponsor's agent's books, records, documents, and accounting procedures and practices of the Sponsor, the sponsor's agent, or other party relevant to this grant agreement or transaction are subject to examination by the State and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this grant agreement, receipt and approval of all final reports, or the required period of time to satisfy all state and program retention requirements, whichever is later.

## **10 Government Data Practices and Intellectual Property Rights**

### **10.1 Government Data Practices**

The Sponsor and State must comply with the Minnesota Government Data Practices Act, [Minn. Stat. Ch. 13](#), as it applies to all data provided by the State under this grant contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Sponsor under this grant contract. The civil remedies of [Minn. Stat. §13.08](#) apply to the release of the data referred to in this clause by either the Sponsor or the State. If the Sponsor receives a request to release the data referred to in this Clause, the Sponsor must immediately notify the State. The State will give the Sponsor instructions concerning the release of the data to the requesting party before the data is released. The Sponsor's response to the request shall comply with applicable law.

## **10.2 Intellectual Property Rights**

(a) Intellectual Property Rights. The State owns all rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in the Works and Documents created and paid for under this contract.

(b) Obligations.

1. Notification. Whenever any invention, improvement or discovery (whether or not patentable) is made or conceived for the first time or actually or constructively reduced to practice by the Sponsor, including its employees and subcontractors, in the performance of this contract, the Sponsor will immediately give the State's Authorized Representative written notice thereof, and must promptly furnish the Authorized Representative with complete information and/or disclosure thereon.

2. Representation. The Sponsor must perform all acts, and take all steps necessary to ensure that all intellectual property rights in the Works and Documents are the sole property of the State, and that neither Sponsor nor its employees, agents, or subcontractors retain any interest in and to the Works and Documents. The Sponsor represents and warrants that the Works and Documents do not will not infringe upon any intellectual property rights of other persons or entities. The sponsor will indemnify, defend, to the extent permitted by the Attorney General and hold harmless the State, at the Sponsor's expense, from any action or claim brought against the State to the extent that it is based on a claim that all or parts of the Works and Documents infringe upon the intellectual property rights of others. The Sponsor will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages, including but not limited to, attorney fees. If such a claim or action arises, or in the Sponsor's or the State's opinion is likely to arise, the Sponsor must, at the State's discretion, either procure for the State the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing Works or Documents as necessary and appropriate to obviate the infringement claim. This remedy of the State will be in addition to and not exclusive of other remedies provided by law.

## **11 Workers Compensation**

The Sponsor certifies that it is in compliance with [Minn. Stat. §176.181](#), Subd. 2, pertaining to workers' compensation insurance coverage. The Sponsor's employees and agents will not be considered State employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees and any claims made by any third party as a consequence of any act or omission on the part of these employees are in no way the State's obligation or responsibility.

## **12 Publicity and Endorsement**

### **12.1 Publicity**

Any publicity regarding the subject matter of this grant contract must identify the State as the sponsoring agency and must not be released without prior written approval from the State's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Sponsor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this grant contract. All projects primarily funded by state grant appropriation must publicly credit the State of Minnesota, including on the Sponsor's website when practicable.

### **12.2 Endorsement**

The Sponsor must not claim that the State endorses its products or services.

## **13 Governing Law, Jurisdiction, and Venue**

Minnesota law, without regard to its choice-of-law provisions, governs this grant contract. Venue for all legal proceedings out of this grant contract, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

## **14 Termination and Funding**

### **14.1 *Termination by the State***

The State may immediately terminate this grant contract with or without cause, upon 30 days' written notice to the Sponsor. Upon termination, the Sponsor will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

### **14.2 *Termination for Cause***

The State may immediately terminate this grant contract if the State finds that there has been a failure to comply with the provisions of this grant contract, that reasonable progress has not been made or that the purposes for which the funds were granted have not been or will not be fulfilled. The State may take action to protect the interests of the State of Minnesota, including the refusal to disburse additional funds and requiring the return of all or part of the funds already disbursed.

### **14.3 *Termination or Reduction for Insufficient Funding***

The state can reduce or terminate this grant contract if:

- (a) It does not obtain funding from the Minnesota Legislature.
- (b) 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 Sponsor. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Sponsor 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 the contract is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The State must provide the Sponsor notice of the lack of funding within a reasonable time of the State's receiving that notice.

### **14.4 *Termination by Contract***

This grant contract may also be terminated upon mutual agreement by the State and the Sponsor.

### **14.5 *Funding***

The State's sole responsibility under this Agreement is to provide funds to the Sponsor. In the event that state funds become unavailable because of legislative or executive action or restraints, including but not limited to the Minnesota Legislature not appropriating sufficient funding for the program or there not being enough funding in the snowmobile account, the grant amount may be reduced or this contract may be terminated by the State. Due to variability in revenues to the snowmobile account, the State/DNR may reduce or not disburse funds for the third and/or fourth benchmarks.

## **15 Data Disclosure**

Under [Minn. Stat. §270C.65](#), Subd. 3, and other applicable law, the Sponsor consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and state tax agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state tax laws, which could result in action requiring the Sponsor to file state tax returns and pay delinquent state tax liabilities, if any.

## **16 Reporting Requirements**

The Grantee shall submit a progress report, in the form prescribed by the State by May 1 of each year during the term of this grant contract. Upon completion of the Project, the Grantee shall certify to the State that the Project, as conducted, conforms to the approved Application. Said certification must be filed with the State prior to final reimbursement for the Project by the State. Forms will be provided by the State.

The Grantee is bound to financial and performance reporting requirements as noted in the approved Project Scope and Budget that is attached hereto as Attachment "A".

## 17 Monitoring

The State shall be allowed at any time to conduct periodic site visits and inspections to ensure work progress in accordance with this grant contract, including a final inspection upon program completion. At least one monitoring visit per grant period on all state grants of over \$50,000 will be conducted and at least annual monitoring visits on grants of over \$250,000.

Following closure of the program, the State's authorized representatives shall be allowed to conduct post-completion inspections of the site to ensure that the site is being properly operated and maintained and that no conversion of use has occurred.

## 18 Invasive Species Prevention

**18.1 Prevent or limit the introduction, establishment or spread of terrestrial invasive species during work.** The State requires active steps to prevent or limit the introduction, establishment, and spread of invasive species during contracted work. The Sponsor shall prevent invasive species from entering into or spreading within the Trail(s) by ensuring the cleaning of equipment prior to arriving at the Trail(s) site. Where there are multiple sites and at least one contains invasive species, the intent is to start work at the site with the fewest number of invasive plants, leaving the most heavily infested sites to last. The Sponsor's contractors shall make every effort to schedule operations and site visits to avoid the spread of weed seed. This applies to all activities performed on all lands under this grant agreement and is not limited to lands under State control.

Grantees and subcontractors must follow Minnesota DNR's Operational Order 113, which requires preventing or limiting the introduction, establishment and spread of invasive species during activities on public waters and DNR-administered lands. This applies to all activities performed on all lands under this grant agreement and is not limited to lands under DNR control or public waters. Duties are listed under Sections II and III (p. 5-8) of Operational Order 113 which may be found at [http://files.dnr.state.mn.us/assistance/grants/habitat/heritage/oporder\\_113.pdf](http://files.dnr.state.mn.us/assistance/grants/habitat/heritage/oporder_113.pdf).

TERRESTRIAL WORK SITES include:

The grantee shall prevent invasive species from entering into or spreading within a project site by cleaning equipment and clothing prior to arriving at the project site.

If the equipment or clothing arrives at the project site with soil, aggregate material, mulch, vegetation (including seeds) or animals, it shall be cleaned by grantee furnished tool or equipment (brush/broom, compressed air or pressure washer) at the staging area. The grantee or subcontractor shall dispose of material cleaned from equipment and clothing at a location determined by the DNR Grant Administrator or their representative. If the material cannot be disposed of onsite, secure material prior to transport (sealed container, covered truck, or wrap with tarp) and legally dispose of offsite.

AQUATIC WORK SITES include:

The grantee shall prevent invasive species from entering into or spreading within a project site by cleaning equipment and clothing prior to arriving at the project site.

If the project site includes a water body, the grantee shall clean equipment and clothing as noted above, prior to entering and leaving the water body. Prior to leaving the water body, drain water from all equipment, tanks or water retaining components of boats (motors, live well and bilge). Immediately after leaving the water body, drain water from transom wells onto dry land.

**18.2 Cleaning and disposal of material cleaned.** If the equipment, vehicles, gear, or clothing arrives at the Trail with soil, aggregate material, mulch, vegetation (including seeds) or animals, it shall be cleaned by the Sponsor's contractor furnished tool or equipment (brush/broom, compressed air or pressure washer) at the staging area. The contractor shall dispose of material cleaned from equipment and clothing at a location determined by the State's Authorized Representative. If the material cannot be disposed of onsite, secure material prior to transport (sealed container, covered truck, or wrap with tarp) and legally dispose of offsite.

## **19 Pollinator Best Management Practices**

19.1 Habitat restorations and enhancements conducted on DNR lands and prairie restorations on state lands or on any lands using state funds are subject to pollinator best management practices and habitat restoration guidelines pursuant to **Minnesota Statutes, section 84.973**. Practices and guidelines ensure an appropriate diversity of native species to provide habitat for pollinators through the growing season. Current specific practices and guidelines to be followed for contract and grant work can be found here: [https://www.dnr.state.mn.us/pollinator\\_resources/index.html](https://www.dnr.state.mn.us/pollinator_resources/index.html), **DNR Pollinator Best Management Practices and Habitat Restoration Guidelines**.

## **20 Accessibility**

Structural and nonstructural facilities and programs must meet all state and federal accessibility laws, regulations, and guidelines. Copies of accessibility guidelines can be downloaded off the Americans with Disabilities Act Accessibility Guidelines website at <http://www.access-board.gov>.

## **21 Technical Assistance**

Upon the request of the Sponsor to the extent possible, the State will provide technical assistance with major problems encountered in the maintenance and grooming of the Trail.

## **22 Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions**

- 22.1 The prospective lower tier participant certifies, by submission of this contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- 22.2 Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this contract.

## **23 Whistleblower Protection Rights**

Recipient Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights.

- (a) This award and employees working on this financial assistance contract will be subject to the whistleblower rights and remedies in the pilot program on Award Recipient employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub.L. 112-239)
- (b) The Award Recipient shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712.
- (c) The Award Recipient shall insert the substance of this clause, including this paragraph (c), in all sub awards or subcontracts over the simplified threshold. 42 CFR & 52.203-17 (as referenced in 42 CFR & 3.908-9)

## **24 Conflict of Interest**

It is the policy of the State of Minnesota to work to deliberately avoid actual and potential conflicts of interest related to grant making at both the individual and organizational levels.

A conflict of interest (actual or potential) occurs when a person has actual or apparent duty or loyalty to more than one organization and the competing duties or loyalties may result in actions which are adverse to one or both parties. A conflict of interest exists even if no unethical, improper, or illegal act results from it.

The Grantee, by signing this contract with the State, certifies it has read and understands the Office of Grants Management Conflict of Interest Policy 08-01, will maintain an adequate Conflict of Interest Policy and, throughout the term of the contract, monitor and report any actual or potential conflicts of interest to the State's Authorized Representative.

## **25 Additional Program Requirements (from program manual)**

The grantee must comply with program requirements, state and federal law, requirements of the award as well as the terms and conditions for closeout of the sub-award. All program requirements can be found in the award letter and most up to date program manual.

### **25.1 Reimbursable Costs.**

All the charges requested for reimbursement and match must be directly related to the acquisition, rehabilitation, and development of the GIA trail system outlined in the application. No other charges will be accepted without prior approval from your Area Parks and Trails Supervisor. Eligible costs shall be based upon the approved Application and can include the types of costs identified in the Manual provided they are solely related to and necessary for the completion of the Project.

### **25.2 Non-reimbursable Costs.**

Non-eligible costs for reimbursement means all costs not defined as eligible costs, including but not limited to those identified in the Manual that applies to sub-grantee and their associated trail club/organization or project partner.

## **26 COVID-19**

All work completed for this contract must adhere to the following conditions until all State executive orders related to COVID 19 are rescinded or expire.

*(a)* Allowed activities and work performed should, to the maximum extent possible, be conducted in a manner that adheres to Minnesota Occupational Safety and Health Standards and the Minnesota Department of Health and CDC Guidelines related to COVID-19, including social distancing and hygiene.

*(b)* The current list of Critical Sector Exemptions is maintained on the Department of Employment and Economic Development (DEED) website <https://mn.gov/deed/>

## **27 Force majeure**

Neither party shall be responsible to the other or considered in default of its obligations within this Contract to the extent that performance of any such obligation is prevented or delayed by acts of God, war, riot, disruption of government, or other catastrophes beyond the reasonable control of the party unless the act or occurrence could have been reasonably foreseen and reasonable action could have been taken to prevent the delay or failure to perform. A party relying on this provision to excuse performance must provide the other party prompt written notice of the inability to perform and take all necessary steps to bring about performance as soon as practicable.

**1. STATE ENCUMBRANCE VERIFICATION**

*Individual certifies that funds have been encumbered as required by Minn. Stat. §16A.15*

Signed: \_\_\_\_\_

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

SWIFT Contract/PO No(s). 194790 3-189407

**2. SPONSOR**

The Sponsor certifies that the appropriate person(s) have executed the grant contract on behalf of the Sponsor as required by applicable articles, bylaws, resolutions, or ordinances.

By: \_\_\_\_\_

Title: \_\_\_\_\_

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

By: \_\_\_\_\_

Title: \_\_\_\_\_

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

**3. STATE AGENCY**

By: \_\_\_\_\_

(with delegated authority)

Title: Parks and Trails Division Director or Deputy Director

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

**Distribution:**

Agency

Sponsor

State's Authorized Representative

Attachment A

PROJECT SCOPE and BUDGET

Recipient: Nicollet County

Grant/Project #: Traverse Des Sioux Corridor 16 Rehab

Grant Amount: \$43,990.01

Match: \$14,663.33

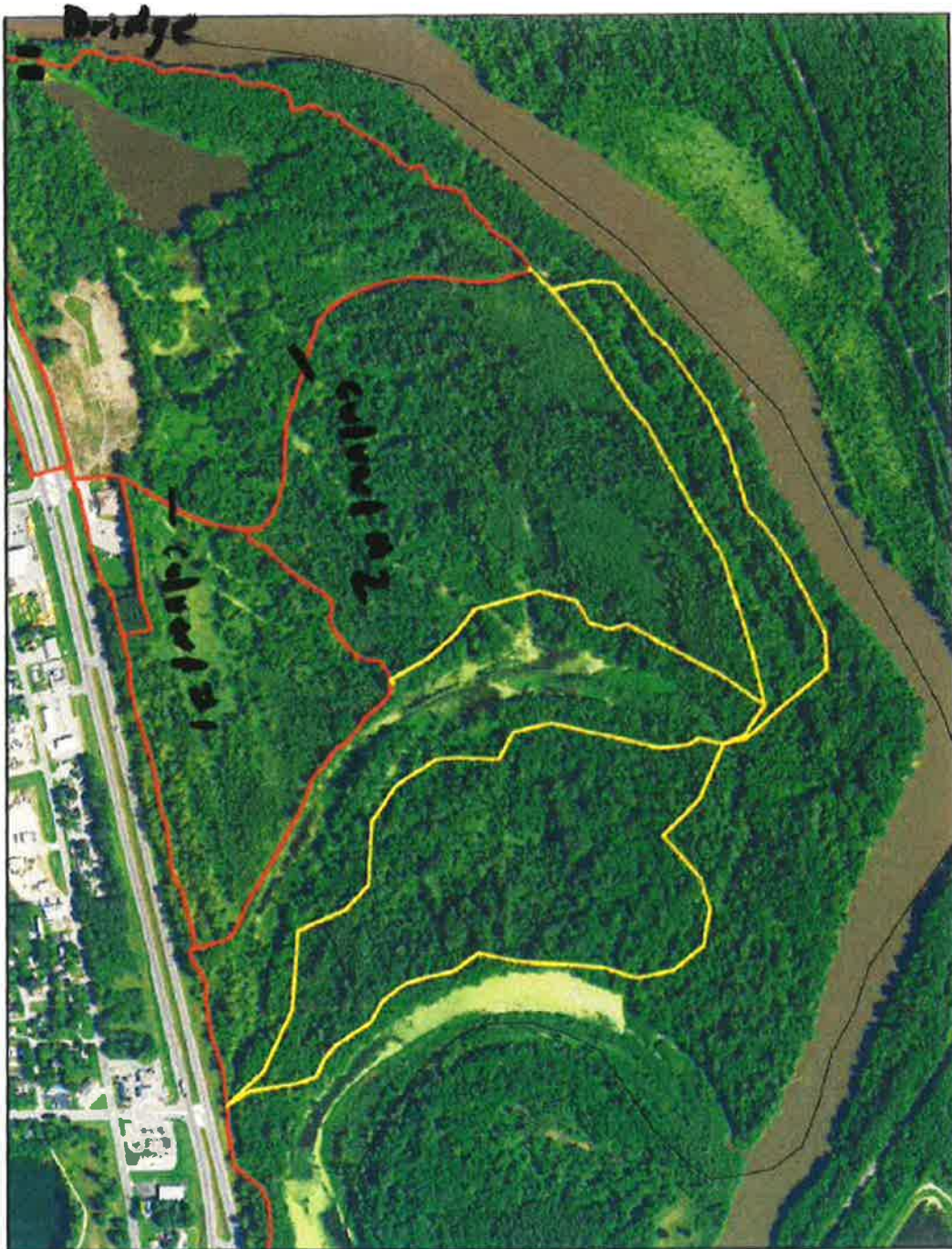
Total Project Cost: \$58,653.34

Project Scope:

16. Project Description (Provide a detailed description of the project sufficient enough to understand the project. Also, briefly explain why it is important for this project to be funded. Attach additional pages as needed.): Use Excavators and Skidloaders, and ASV DX 4530 with Dump trailer to transport through sandy areas not passable with wheeled Vehicles, Remove 2 existing plugged/Damaged Culverts and 1 Damaged Bridge, Place Erosion Control and Dam or Divert water from work site. Place and Compact class 5 gravel for 2 culvert bases Set 1-36" culvert and 1-48" culvert in existing culvert locations, Cover Culverts with 40 cy class 5 gravel compact for trail surface and to control Erosion, Place Erosion fabric and 50 cy Rip Rap on both ends of culverts reshape trail surface and sides hydro seed with native vegetation. Haul All Materials, and Tools to bridge site with ASV DX 4530 and Trailers Install 16-2'x10' Sheet Piling on both banks of water spillway to control future Erosion and Support New Bridge Place 2 6"x14"x30' I Beams for bridge assembly Bridge with bridge Assembly Kit, weld I Beams to Piling, Install Bridge planks, and hand Railing Kit with PVC Powder coated 4x4 Railings place and Compact class 5 gravel and 6-5"x12"x6' Concrete planks for bridge approach place Permanent Reflective signage for bridge safety, Reseed disturbed trail Areas with Native vegetation. Remove all old and excess materials from All work Areas and dispose of properly.

Notes: The Financial Management Manual, payment request form and cost summary data sheet are available on our website at <http://www.dnr.state.mn.us/grants/recreation/index.html>. Click on the trail program in which you are participating and look under the "For the Grantee" in the far left column for Project Administration. Click on Project Administration and go to Grant Expenditures and Requests for Reimbursement for the manual and forms.

# Nicollet County Club Trail\_City of St. Peter



## Nicollet County Snowmobile Trails\_City of St. Peter

— Nicollet County Club Trail\_St.Peter 3.2 miles

— Minnesota Snowmobile Trails



Attachment B

SEP 04 2003

RESOLUTION NUMBER: 280 - 2003

Passed by the

NICOLLET COUNTY BOARD OF COMMISSIONERS

Date August 28, 2003

Book 8

Page

Subject: Approval of application for funding for the Minnesota Trails Maintenance Program

RESOLUTION

County Auditor Robert Bruns appeared before the Board to request approval of an application for funding for the Minnesota Trails Maintenance Program. He requested that the Board approve the submittal of this application. Upon a motion by Commissioner Stenson and seconded by Dehen, it was moved to accept the recommendation of the County Auditor and authorize him to submit the application for funding for the Minnesota Trails Maintenance Program on an annual basis. On a roll call vote, all Commissioners voted yes and the motion carried unanimously.

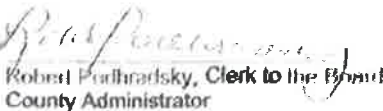
STATE OF MINNESOTA

ss

COUNTY OF NICOLLET

I, Robert Podhradsky Clerk to the Board of said County of Nicollet do hereby certify, that I have compared the foregoing copy with the original resolution as adopted by the County Board of said county at their meeting held on the 28<sup>th</sup> of August, 2003, and recorded in Commissioner Record 8 on page now remaining on file and on record in the Office of County Auditor and that the same is a correct transcript therefrom, and of the whole of such original.

Witness my hand and official seal this 28<sup>th</sup> day of August, 2003.

  
Robert Podhradsky, Clerk to the Board  
County Administrator

*Resolution for Performance Based Trail program.  
and copy of the Grant Application are to be sent*



**RESOLUTION APPROVING NICOLLET COUNTY AS THE  
SPONSOR OF THE SNOWMOBILE GRANT-IN-AID PROGRAM  
TRAIL IMPROVEMENT GRANT AGREEMENT 194790/3000189407,  
FOR MINNESOTA RIVER VALLEY TRAIL CLUB IMPROVEMENT  
PROJECT TRAVERSE DES SIOUX CORRIDOR 16 REHAB AND AS THE SPONSOR  
OF THE MAINTENANCE AND GROOMING GRANT AGREEMENT**

WHEREAS, the GRANT AGREEMENT is made between the State of Minnesota, acting by and through the Commissioner of Natural Resources, and Nicollet County referred to as the "Sponsor" relating to the maintenance and grooming of the trails specified in said GRANT AGREEMENT; and

WHEREAS, the GRANT AGREEMENT is made between the State of Minnesota, acting by and through the Commissioner of Natural Resources, and Nicollet County referred to as the "Sponsor" relating to the Snowmobile Grant-in-Aid Program Trail Improvement specified in said GRANT AGREEMENT; and

WHEREAS, the MN River Valley Trail/Nicollet County Trails Association, Inc. will be the Sponsor's Agent responsible for the maintenance and grooming of trails as well as the trail improvement project; and

WHEREAS, the Sponsor desires to improve and maintain the trails for the enjoyment of the public; and

WHEREAS, the Minnesota Snowmobile Trails Assistance Program provides grants to local units of government for the improvement and maintenance of recreational trails pursuant to Minnesota Statutes Chapter 84.83; and

WHEREAS, it is the State's responsibility under the GRANT AGREEMENT to provide funds to the Sponsor as approved and available by the State Legislature; and

WHEREAS, the Sponsor has applied to the State for grants for said trails.

NOW, THEREFORE, BE IT RESOLVED by the County Board of Nicollet County, Minnesota as follows:

1. That Nicollet County will serve as the Local Unit of Government acting as the Sponsor of the Minnesota Snowmobile Grant-in-Aid Program trail improvement Grant Contract Agreement 194790/3000189407 Traverse Des Sioux Corridor 16 Rehab improvement project.
2. That Nicollet County will serve as the Local Unit of Government acting as the Sponsor of the Minnesota Snowmobile Trails Assistance Program, Maintenance and Grooming Grant Agreement.

Passed and Adopted by the Board on this 23<sup>rd</sup> day of November, 2021.

COUNTY OF NICOLLET

\_\_\_\_\_  
Terry Morrow, Chair  
Nicollet County Board of Commissioners

ATTEST:

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Mandy Landkamer  
County Administrator/Clerk to the Board

Nicollet County Board of Commissioners  
Board Meeting Agenda Item



<b>Agenda Item:</b>		
Consider MnDOT Cooperative Construction Agreement No. 1047570		
Primary Originating Division/Dept.: Public Works-Highway	Meeting Date: 11/23/2021	
Contact: Seth Greenwood, P.E. Title: PWD/Co. Eng.	Item Type: Regular Agenda (Select One)	
Amount of Time Requested 10 minutes		
Presenter: Seth Greenwood, P.E. Title: PWD/Co. Eng.	Attachments: <input checked="" type="radio"/> Yes <input type="radio"/> No	
County Strategy: Facilities and Space - preserve, maintain and build our assets (Select One)		
<b>BACKGROUND/JUSTIFICATION:</b> <p>As part of the TH 14 4-lane expansion project from near TH 15 to the City of Nicollet, interchanges with CSAH 37 and CSAH 12/24 will be constructed. MnDOT requires Nicollet County to cost participate in these interchanges and to provide future maintenance for certain aspects of the project. Included in the packet is a MnDOT cooperative construction agreement that specifies the roles and responsibilities (including financial) for both MnDOT and Nicollet County for the TH 14 4-Lane expansion project.</p> <p>Nicollet County's cost share for the interchanges is \$3,500,000. Nicollet County was successful in receiving a Transportation Economic Development (TED) Program grant of \$405,950 to put towards the County's cost share of \$3,500,000. Upon full execution of Agreement No. 1047570 Nicollet County will be required to pay to MnDOT the net amount of \$3,094,500. This payment will be made utilizing our State Aid Regular construction funds.</p>		
Supporting Documents: <input checked="" type="radio"/> Attached <input type="radio"/> In Signature Folder <input type="radio"/> None		
Prior Board Action Taken on this Agenda Item: <input checked="" type="radio"/> Yes <input type="radio"/> No		
If "yes", when? (provide year; mm/dd/yy if known)		
Approved by County Attorney's Office: <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A		
<b>ACTION REQUESTED:</b>		
Approve MnDOT Cooperative Construction Agreement No. 1047570 and resolution.		
<b>FISCAL IMPACT:</b> Included in current budget (Select One) If "Other", specify	<b>FUNDING</b> County Dollars = State \$3,094,050.00 (Select One) <b>Total</b> \$3,094,050.00	
<b>FTE IMPACT:</b> No FTE change (Select One) If "Increase or "Decrease" specify: Related Financial/FTE Comments: Payment will be made using State Aid Construction Funds		

**STATE OF MINNESOTA  
DEPARTMENT OF TRANSPORTATION  
And  
NICOLLET COUNTY  
COOPERATIVE CONSTRUCTION  
AGREEMENT**

<b>State Project Number (S.P.):</b>	<u>5202-58</u>	<b>Estimated Amount Receivable</b>
<b>Trunk Highway Number (T.H.):</b>	<u>14=007</u>	<b><u>\$3,094,050.00</u></b>
<b>Federal Project Number:</b>	<u>NHPP-BLD 0014(344)</u>	
<b>Lighting System "B" Feed Point:</b>	<u>"A"</u>	
<b>Lighting System "G" Feed Point:</b>	<u>"C" "County"</u>	

This Agreement is between the State of Minnesota, acting through its Commissioner of Transportation ("State") and Nicollet County acting through its Board of Commissioners ("County").

**Recitals**

1. The State will perform grading, concrete and bituminous surfacing, lighting, ADA, roundabouts, traffic management system, and Bridge No. 52019, No. 52021, No. 52022, No. 52X10, No. 52X11, and No. 52X12 construction and other associated construction upon, along, and adjacent to Trunk Highway No. 14 from 6,562 feet northwest of County State Aid Highway (C.S.A.H.) No. 37 to 2,728 feet east of 481<sup>st</sup> Avenue according to State-prepared plans, specifications, and special provisions designated by the State as State Project No. 5202-58 (T.H. 14=007) ("Project"); and
2. The State requests the County participate in the costs of the Trunk Highway No. 14 construction and the County is willing to participate in the costs of said construction; and
3. The County has applied for funding through Minnesota Statutes §174.12 Transportation Economic Development ("TED") Program allowing State Trunk Highway funds to be used based on MnDOT's Cost Participation Policy. Additional State Road Construction ("SRC") funds have been awarded to this project to pay for eligible Trunk Highway construction and construction engineering costs.; and
4. Separate agreements between the State and the County and between the State and Blue Earth County will address trunk highway detours; and
5. Agreement 1047571 between the State and the City of Courtland will address the City's Project cost share and maintenance responsibilities; and
6. A separate agreement between the State and County will address the turnback of Old Trunk Highway No. 14; and
7. 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: 3. Maintenance by the County; 8. Liability; Worker Compensation Claims; 10. State Audits; 11. Government Data Practices; 13. Governing Law; Jurisdiction; Venue; and 15. Force Majeure.
- 1.4. *Plans, Specifications, and Special Provisions.*** Plans, specifications, and special provisions designated by the State as State Project No. 5202-58 (T.H. 14=007) are on file in the office of the Commissioner of Transportation at St. Paul, Minnesota, and incorporated into this Agreement by reference ("Project Plans").
- 1.5. *Exhibits.*** Lighting Exhibit, Highway 14/C.S.A.H. 12 & 24/446<sup>th</sup> Maintenance Exhibit, and Highway 14/C.S.A.H. 37/448<sup>th</sup> Maintenance Exhibit are attached and incorporated into this Agreement.

**2. Construction by the State**

- 2.1. *Contract Award.*** The State will advertise for bids and award a construction contract to the lowest responsible bidder according to the Project Plans.
- 2.2. *Direction, Supervision, and Inspection of Construction.***
  - A. *Supervision and Inspection by the State.*** The State will direct and supervise all construction activities performed under the construction contract, and perform all construction engineering and inspection functions in connection with the contract construction. All contract construction will be performed according to the Project Plans.
  - B. *Inspection by the County.*** The County participation construction covered under this Agreement will be open to inspection by the County. If the County believes the County participation construction covered under this Agreement has not been properly performed or that the construction is defective, the County will inform the State District Engineer's authorized representative in writing of those defects. Any recommendations made by the County are not binding on the State. The State will have the exclusive right to determine whether the State's contractor has satisfactorily performed the County participation construction covered under this Agreement.
- 2.3. *Plan Changes, Additional Construction, Etc.***
  - A.** The State will make changes in the Project Plans and contract construction, which may include the County participation construction covered under this Agreement, and will enter into any necessary addenda and change orders with the State's contractor that are necessary to cause the contract construction to be performed and completed in a satisfactory manner.
  - B.** The County may request additional work or changes to the work in the plans as part of the construction contract. Such request will be made by an exchange of letter(s) with the State. If the State determines that the requested additional work or plan changes are necessary or desirable and can be accommodated without undue disruption to the project, the State will cause the additional work or plan changes to be made.

- C. The State reserves the right to invoice the County for the cost of any additional County requested work and plan changes, including associated construction engineering, before the completion of the contract construction.

**2.4. Satisfactory Completion of Contract.** The State will perform all other acts and functions necessary to cause the construction contract to be completed in a satisfactory manner. Acceptance by the State of the completed contract construction will be final, binding and conclusive upon the County as to the satisfactory completion of the contract construction.

**2.5. Permits**

- A. The County will submit to the State's Utility Engineer an original permit application for all utilities owned by the County to be constructed hereunder that are upon and within the Trunk Highway Right-of-Way. Applications for permits will be made on State form "Application For Utility Permit On Trunk Highway Right-of-Way" (Form 2525).

**3. Maintenance by the County**

Upon completion of the project, the County will provide the following without cost or expense to the State:

**3.1. Roundabouts on T.H. 14.**

- A. **Roundabout Approaches.** Maintenance of C.S.A.H. 37 north and south roundabout's approaches up to the curb line of the outer circle of the T.H. 14 roundabouts except the north approach to the north C.S.A.H. 37 at T.H. 14 roundabout as shown in the Highway 14/C.S.A.H. 37/448th Maintenance Exhibit and maintenance of C.S.A.H. 24 north and south roundabout's approaches up to the curb line of the outer circle of the T.H. 14 roundabouts as shown in the Highway 14/C.S.A.H. 12 & 24/446th Maintenance Exhibit. Maintenance includes, but is not limited to, snow, ice, and debris removal, resurfacing, seal coating, and any other maintenance activities according to accepted County maintenance practices.
- B. **Roundabout Circles.** Maintenance of the roundabout circle on the north and south T.H. 14 at C.S.A.H. 37 roundabouts as shown in the Highway 14/C.S.A.H. 37/448th Maintenance Exhibit and the north and south T.H. 14 at C.S.A.H. 24 roundabouts as shown in the Highway 14/C.S.A.H. 12 & 24/446th Maintenance Exhibit. The State and County will provide for snow, ice, and debris removal of the roadway portion of the roundabout circle in conjunction with ongoing maintenance activities of their respective roadway approaches to the roundabout circle. The State will provide for resurfacing, seal coating, and any other maintenance activities necessary to perpetuate the roadway portion of the roundabout circle in a safe and usable condition.
- C. **Roundabout Landscaping.** Maintenance of any landscaping in the north and south T.H. 14 at C.S.A.H. 37 roundabouts as shown in the Highway 14/C.S.A.H. 37/448th Maintenance Exhibit. Maintenance includes but is not limited to, vegetation control, litter and debris removal, removal and replacement of all dead or diseased plantings, and any other maintenance activities necessary to perpetuate the landscaping in a safe, usable, and aesthetically acceptable condition.

**3.2. Bridge No. 52019 (C.S.A.H. 37 over T.H. 14).** The County will be responsible for maintenance as provided below, except those items identified as the State's responsibility.

- A. **County Responsibilities.** The County will be responsible for minor maintenance, which includes non-structural maintenance activities on the bridge, including but not limited to, keeping the roadway, bridge deck, shoulders, medians, and gutters clear of ice, snow, litter, and debris without pushing onto

the roadway below and appropriate disposal of such material, guardrail, and non-structurally supported signing.

If in the future, either party needs to modify the bridge for trunk highway purpose, the State and the County will enter into a new maintenance agreement prior to any modifications being made. Costs associated with any modifications to the bridge for the Trunk Highway use will be the responsibility of the State.

The State retains its authority to administer, issue, and regulate access permits, sign advertising permits, drainage permits and permits to install utilities on Trunk Highway Right-Of-Way.

- B. State Responsibilities.** The State will be listed as the owner in the NBIS (National Bridge Inspection Standards) database. The State will perform or contract structural inspections and major maintenance of the bridge. Major maintenance includes all structural related maintenance, including expansion joint flushing, deck crack sealing, painting, overlays, re-decking and rehabilitation of the bridge, concrete bridge approach panels, and structurally-supported signing on the bridge.

The State is responsible for maintenance of all guardrails on T.H. 14 below the Bridge, maintenance of any roadway signing that is attached to the bridge, for the purpose of the roadway traffic on T.H. 14, maintenance of all non-ornamental fencing on the Trunk Highway Right-Of-Way, maintenance of pavement markings on the bridge, and maintenance of graffiti removal within the control of access below the Bridge. The State will determine the safe load rating for the bridge. The State will provide emergency response for traffic hits and restitution from insurance companies or private parties who have damaged the bridge.

The State retains its authority to administer, issue, and regulate access permits, sign advertising permits, drainage permits, flag installation, and permits to install utilities on Trunk Highway Right-Of-Way.

- 3.3. Lighting System "B".** Maintenance of any lighting facilities construction on Feed Point "A" adjacent to T.H. 14 at C.S.A.H. 37 north and south roundabouts. Maintenance of electrical lighting systems includes everything within the system, from the point of attachment to the power source or utility, to the last light on the feed point, including but not limited to re-lamping of lighting units or replacing of LED luminaires, repair or replacement of all damaged luminaire glassware, loose connections, luminaires when damaged or when ballasts fail, photoelectric control on luminaires, defective starter boards or drivers, damaged fuse holders, blown fuses, knocked down poles including wiring within the poles, damaged poles, Gopher State One Call (GSOC) locates, and painting of poles and other equipment. The County will be responsible for paying all monthly electrical service expenses necessary to operate the lighting facility.
- 3.4. Lighting System "G".** Maintenance and ownership of any lighting facilities construction on Feed Point "C" along T.H. 14 at C.S.A.H. 21. Maintenance of electrical lighting systems includes everything within the system, from the point of attachment to the power source or utility, to the last light on the feed point, including but not limited to re-lamping of lighting units or replacing of LED luminaires, repair or replacement of all damaged luminaire glassware, loose connections, luminaires when damaged or when ballasts fail, photoelectric control on luminaires, defective starter boards or drivers, damaged fuse holders, blown fuses, knocked down poles including wiring within the poles, damaged poles, pullboxes, underground wire, damaged foundations, equipment pad, installation of approved splices or replacement of wires, repair or extending of conduit, lighting cabinet maintenance including photoelectric cell, electrical distribution system, Gopher State One Call (GSOC) locates, and painting of poles and other equipment. The County will be responsible for paying all monthly electrical service expenses necessary to operate the lighting facility.

- 3.5. **Additional Drainage.** No party to this Agreement will drain any additional drainage volume into the storm sewer facilities constructed under the construction contract that was not included in the drainage for which the storm sewer facilities were designed, without first obtaining written permission to do so from the other party.

**4. County Cost and Payment by the County**

- 4.1. **County Cost.** \$3,094,050.00 is the County's full and complete lump sum cost for Trunk Highway No. 14 Project construction.
- 4.2. **Conditions of Payment.** The County will pay the State the full and complete lump sum amount after the following conditions have been met:
- A. Execution of this Agreement and transmittal to the County.
  - B. The County's receipt of a written request from the State for the advancement of funds.
- 4.3. **Additional County Requested Work.** Upon completion of all contract construction and upon computation of the final amount due the State's contractor and only if additional work has been requested under Article 2.3.B of this Agreement, the State will prepare an invoice and submit a copy to the County. The invoice will be based on final quantities of any additional County requested participation construction items and the construction engineering cost share due to additional requested work. The computation by the State of the amount due from the County will be final, binding and conclusive.
- 4.4. **Reporting of Economic Benefits.** The County will provide an annual report on the economic benefits that have materialized, including the increase in jobs, in tax base and property development. This report must be provided annually on January 1<sup>st</sup> of each year for a period of 5 years after the completion of construction. This report will be provided to the Transportation Economic Development Coordinator at MnDOT.

**5. 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.

- 5.1. 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

- 5.2. The County's Authorized Representative will be:

Name, Title: Seth Greenwood P.E., Public Works Director (or successor)  
Address: 1700 Sunrise Drive, St. Peter, MN 56082  
Telephone: (507) 934-7723  
E-Mail: seth.greenwood@co.nicollet.mn.us

**6. Assignment; Amendments; Waiver; Contract Complete**

- 6.1. **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.

- 6.2. 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.
- 6.3. 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.
- 6.4. Contract Complete.** This Agreement contains all prior negotiations and agreements between the State and the County. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

**7. Liability; Worker Compensation Claims**

- 7.1.** 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.
- 7.2.** Each party is responsible for its own employees for any claims arising under the Workers Compensation Act.

**8. Nondiscrimination**

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

**9. Title VI/Non-discrimination Assurances**

The County agrees to comply with all applicable US DOT Standard Title VI/Non-Discrimination Assurances contained in DOT Order No. 1050.2A, and in particular Appendices A and E, which can be found at: [https://edocs-public.dot.state.mn.us/edocs\\_public/DMResultSet/download?docId=11149035](https://edocs-public.dot.state.mn.us/edocs_public/DMResultSet/download?docId=11149035). The County will ensure the appendices and solicitation language within the assurances are inserted into contracts as required. The State may conduct a review of the County's compliance with this provision. The County must cooperate with the State throughout the review process by supplying all requested information and documentation to the State, making County staff and officials available for meetings as requested, and correcting any areas of non-compliance as determined by the State.

**10. State Audits**

Under Minnesota Statutes § 16C.05, subdivision 5, the County's books, records, documents, 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.

**11. Government Data Practices**

The County 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 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 or the State.

**12. Telecommunications Certification.**

By signing this agreement, the County certifies that, consistent with Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232 (Aug. 13, 2018), and 2 CFR 200.216, the County

will not use funding covered by this agreement to procure or obtain, or to extend, renew, or enter into any contract to procure or obtain, any equipment, system, or service that uses "covered telecommunications equipment or services" (as that term is defined in Section 889 of the Act) as a substantial or essential component of any system or as critical technology as part of any system. The County will include this certification as a flow down clause in any contract related to this agreement.

**13. 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.

**14. Termination; Suspension**

**14.1. *By Mutual Agreement.*** This Agreement may be terminated by mutual agreement of the parties.

**14.2. *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 performance of contract construction under the Project. Termination must be by written or fax notice to the County.

**14.3. *Suspension.*** In the event of a total or partial government shutdown, the State may suspend this Agreement and all work, activities and performance of work authorized through this Agreement.

**15. 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.

[The remainder of this page has been intentionally left blank]

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

Title: County Administrator

Date: 11-23-2021

By: \_\_\_\_\_

Title: County Board Chair

Date: 11-23-2021

**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 RESOLUTION APPROVING THE AGREEMENT AND AUTHORIZING ITS EXECUTION.**

## NICOLLET COUNTY

### RESOLUTION

IT IS RESOLVED that Nicollet County enter into MnDOT Agreement No. 1047570 with the State of Minnesota, Department of Transportation for the following purposes:

To provide for payment by the County to the State of the County's share of the costs of the Trunk Highway No. 14 construction and other associated construction to be performed upon, along, and adjacent to Trunk Highway No. 14 from 6,562 feet northwest of County State Aid Highway No. 37 to 2,728 feet east of 481<sup>st</sup> Avenue within the corporate under State Project No. 5202-58.

IT IS FURTHER RESOLVED that the County Administrator and the County Board Chair 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 Nicollet County at an authorized meeting held on the 23<sup>rd</sup> day of November, 2021, as shown by the minutes of the meeting in my possession.

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, 2021

Notary Public \_\_\_\_\_

My Commission Expires \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
**Mandy Landkamer**

(Type or Print Name)

\_\_\_\_\_  
**County Administrator**

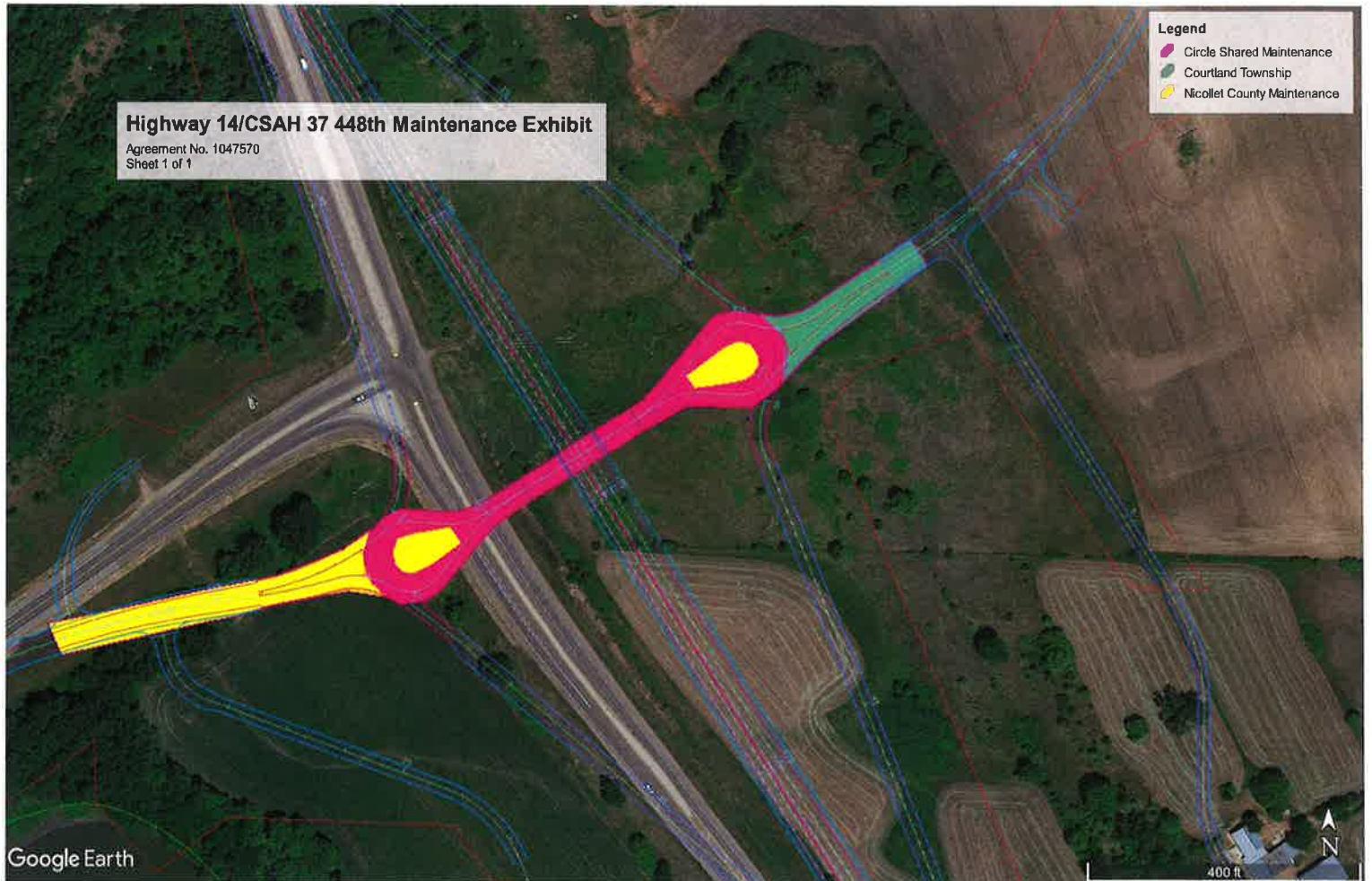
(Title)

# Highway 14/CSAH 37 448th Maintenance Exhibit

Agreement No. 1047570  
Sheet 1 of 1

## Legend

- Circle Shared Maintenance
- Courtland Township
- Nicollet County Maintenance

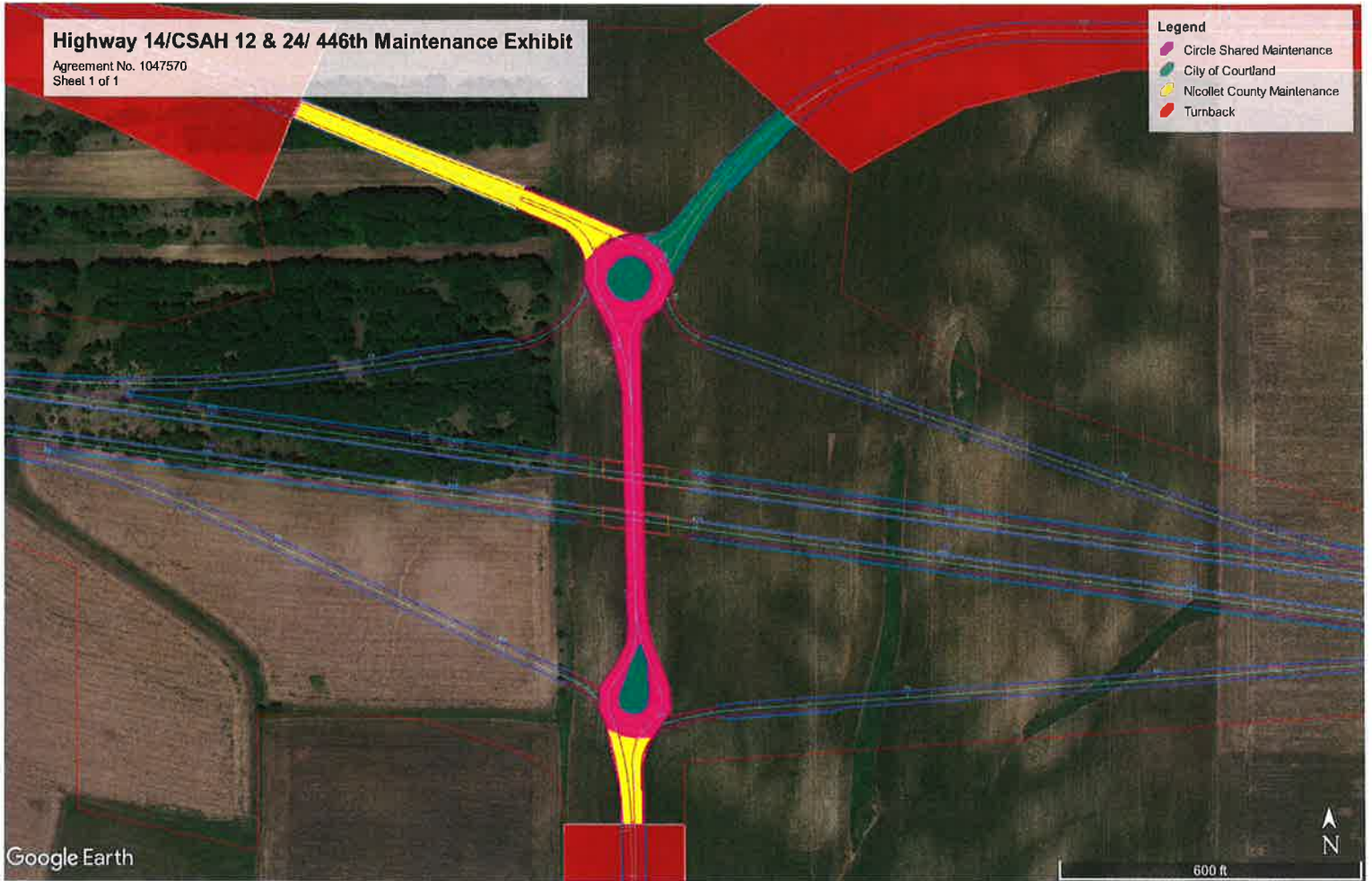


# Highway 14/CSAH 12 & 24/ 446th Maintenance Exhibit

Agreement No. 1047570  
Sheet 1 of 1

## Legend

- Circle Shared Maintenance
- City of Courtland
- Nicollet County Maintenance
- Turnback



Google Earth

600 ft



# LEGEND

- LIGHTING SERVICE CABINET
- LED LIGHTING UNIT
- 3" NON-METALLIC CONDUIT
- DIRECT BURIED CABLE # CONDUCTOR NO. 4
- PERMANENT GROUND ROD
- LIGHTING UNIT ID

FEEDPOINT C LIGHTING STANDARDS AND FOUNDATIONS					
NO.	STATION	L.T.	BT.	LOCATION	TYPE LUMINAIRE
1	551+74	-	-	T.H. 14 E.B.	9-40 40 FOOT
2	550+80	-	-	T.H. 14 W.B.	9-40 40 FOOT



B AND R DENOTE CURRENT CARRYING CONDUCTORS  
# DENOTES NEUTRAL CONDUCTOR



**Lighting Maintenance Exhibit**  
Agreement 1047570  
Sheet 2 of 2

COUNTY FD. PT. C  
SERVICE CABINET SECONDARY TYPE L1  
120V/240V (METERED)  
DESIGN P STEEL SCREW IN FOUNDATION  
2" R.S.C. & 3-1/2" TO INPLACE XCEL PAD  
MOUNTED TRANSFORMER

€ C.S.A.H. 21

€ T.H. 14 W.B.

€ T.H. 14 E.B.

€ C.S.A.H. 21

LIGHTING SYSTEM "G"

METER ADDRESS:



I HEREBY CERTIFY THAT THIS SHEET WAS PREPARED  
BY ME OR UNDER MY DIRECT SUPERVISION AND THAT  
I AM A DULY LICENSED PROFESSIONAL ENGINEER  
UNDER THE LAWS OF THE STATE OF MINNESOTA.

PRINT NAME: [Signature]  
SIGNATURE: [Signature]  
DATE: [Date]

DRAFT COPY

LIGHTING PLANS  
PROPOSED FD. PT. C LAYOUT

S.P. 5202-58 (T.H. 14)

SHEET NO. L9 OF L9 SHEETS

Nicollet County Board of Commissioners  
Board Meeting Agenda Item



**Agenda Item:**

Consider Professional Service Agreement for CSAH 23 Ravine Stabilization Project

Primary Originating Division/Dept.: Public Works-Highway

Meeting Date: 11/23/2021

Contact: Seth Greenwood, P.E. Title: PWD/Co. Eng.

Item Type: Regular Agenda  
(Select One)

Amount of Time Requested 5 minutes

Presenter: Seth Greenwood, P.E. Title: PWD/Co. Eng.

Attachments: ☒ Yes ☐ No

County Strategy: Facilities and Space - preserve, maintain and build our assets  
(Select One)

**BACKGROUND/JUSTIFICATION:**

Recently Gale-Tec Engineering and SRF Consulting Group, Inc. completed a geotechnical engineering report for ravine and roadway embankment stabilization along CSAH 23. In this report various options for repair were developed with a preferred repair recommendation. The next step to move this project forward is to develop final plans, specifications and bidding documents. Attached is a Professional Services Agreement from SRF Consulting Group, Inc. to develop the final plans, specifications, and bidding documents.

Supporting Documents: ☒ Attached ☐ In Signature Folder ☐ None

Prior Board Action Taken on this Agenda Item: ☒ Yes ☐ No

If "yes", when? (provide year; mm/dd/yy if known)

Approved by County Attorney's Office: ☐ Yes ☐ No ☒ N/A

**ACTION REQUESTED:**

Approve professional services agreement and authorize the Public Works Director to sign the agreement. +

**FISCAL IMPACT:** Other  
(Select One)

**FUNDING**  
County Dollars = \$126,445.65

If "Other", specify

Grant  
(Select One)

**FTE IMPACT:** No FTE change  
(Select One)

**Total** \$126,445.65

If "Increase or "Decrease" specify:

Related Financial/FTE Comments:



## PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (the "Agreement") is entered into by and between Nicollet County whose address is 1700 Sunrise Drive, St. Peter, MN 56082 and SRF Consulting Group, Inc. whose address is 3701 Wayzata Blvd., Suite 100, Minneapolis, MN 55406; who are the parties.

### Recitals

1. Nicollet County seeks to enter into an agreement for the purposes of providing professional services for the **CSAH 23 Ravine Stabilization Final Design** (the "Project"), subject to the terms and conditions of this Agreement.
2. SRF Consulting Group, Inc. represents it is qualified to furnish the services according to the provisions of this Agreement and SRF's Proposal (collectively referred to as the "Services") dated November 16, 2021. For purposes of this Agreement, Nicollet County is defined as the "Client" and SRF Consulting Group, Inc. is defined as "SRF."
3. Therefore, it is agreed:

### Agreement

#### **Article 1: Services to be Performed by SRF.**

- (a) SRF's Services consist of those described in **Attachment A**, which is attached and incorporated into this Agreement. Except as already noted in **Attachment A**, SRF shall not subcontract any portion of the work to be performed under this Agreement without the prior written approval of the Client's authorized representative.
- (b) SRF assumes no responsibility to perform any services not specifically listed in **Attachment A**. No terms and conditions or other documents shall be binding on SRF unless a copy of any such terms and conditions or documents has been made part of this Agreement.
- (c) SRF will perform all professional Services in a manner consistent with the care and skill ordinarily used by members of SRF's profession practicing under similar conditions at the same time and general location (the "Standard of Care"). SRF makes no warranties, expressed or implied, under this Agreement or otherwise, in connection with SRF's Services. SRF shall correct or revise any errors, omissions, or other deficiencies in any plans, drawings, specifications, reports and other products of professional services not meeting SRF's professional Standard of Care, unless such corrective action is directly attributable to deficiencies in Client's furnished information.
- (d) Any changes in Services to be performed by SRF requires an amendment ("Amendment") to this Agreement and will not be effective until it has been executed and approved by the Parties. A memo to either Party indicating changes is not legally binding and is not sufficient to make the changes.
- (e) SRF will comply with all applicable federal, state, and local laws, rules and regulations which are applicable to the Services to be performed hereunder.

#### **Article 2: Contract Requirements.**

- (a) **Government Data Practices and Intellectual Property Rights.** SRF shall comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to: (1) all data provided by the Client pursuant to this Agreement; and (2) all data, created, collected, received, stored, used, maintained, or disseminated by SRF pursuant to this Agreement. SRF is subject to all the provisions of the Minnesota



Government Data Practices Act, including but not limited to the civil remedies of Minnesota Statutes Section 13.08, as if it were a government entity. In the event SRF receives a request to release data, SRF will immediately notify the Client. The Client will give SRF instructions concerning the release of the data to the requesting party before the data is released.

- (b) **Data Disclosure.** Under [Minn. Stat. § 270C.65](#), Subd. 3, and other applicable law, SRF consents to disclosure of its federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and state tax agencies and state personnel involved in the payment of state obligations.
- (c) **Workers Compensation.** SRF certifies that it is in compliance with [Minn. Stat. § 176.181](#), Subd. 2, pertaining to workers' compensation insurance coverage. SRF's employees and agents will not be considered the Client employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees and any claims made by any third party as a consequence of any act or omission on the part of these employees are in no way the Client's obligation or responsibility.
- (d) **Records – Availability and Retention.** SRF's shall comply with [Minn. Stat. § 16C.05](#), Subd. 5 as it applies to audits, availability, and record retention associated with this Agreement for at least 6 years after the end of the Agreement:
  - (1) Books,
  - (2) Records,
  - (3) Documents,
  - (4) Accounting procedures, and
  - (5) Accounting practices of SRF, its subcontractors, or suppliers
- (e) **Regulatory Changes.** SRF shall be compensated for changes in the Services necessitated by the enactment or revisions of codes, laws or regulations that are made applicable to the Project subsequent to execution of this Agreement, and its time for performance shall be extended if the changes(s) result in delay to the Project Schedule. Such changes shall be made by an Amendment pursuant to this Article.
- (f) **Affirmative Action.** SRF agrees not to discriminate against any employee or applicant for employment because of race, color, creed, religion, national origin, sex, marital status, status in regard to public assistance, membership or activity in a local commission, disability, sexual orientation, or age in regard to any position for which the employee or applicant for employment is qualified. [Minn. Stat. § 363A.02](#). SRF agrees to take affirmative steps to employ, advance in employment, upgrade, train, and recruit minority persons, women, and persons with disabilities.
- (g) SRF shall not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. SRF agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Minnesota Rules, part [5000.3500](#).

### **Article 3: Client Obligations.**

In addition to other responsibilities of the Client as set forth in this Agreement, the Client shall: (1) provide full information as to the requirements for the Services; (2) assist SRF by placing at SRF's disposal, information in possession of the Client which it believes is pertinent to the Services, and SRF may rely on the accuracy and completeness of this information; (3) give prompt written or verbal notice to SRF whenever the Client observes or otherwise becomes aware of any development that affects the scope or timing of SRF's Services, observes or



otherwise becomes aware of the presence at the Project site of any constituent of concern, or of any defect or nonconformance in SRF's Services, the work, or in the performance of any contractor; and (4) provide SRF in writing any and all policies and procedures of the Client applicable to SRF's performance of Services under this Agreement. SRF will comply with such policies and procedures pursuant to the Standard of Care set forth in Article 1(c) and to the extent compliance is not inconsistent with professional practice requirements (the "Client's Duties").

**Article 4: Term of Agreement; Performance Schedule.**

- (a) This Agreement shall be in effect from the latter of the two signature dates set forth below (the "Effective Date") and will expire on the date all services are completed and final payment has been issued, unless terminated pursuant to Article 8. The obligation to perform the Services per the Standard of Care 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.
- (b) SRF shall comply with all time requirements and deadline dates described in **Attachment A**. Notwithstanding the foregoing, this is not a warranty or guarantee and in no event will SRF be responsible for damages due to delays beyond SRF's reasonable control.

**Article 5: Key Personnel.**

With respect to this Agreement, SRF and the Client shall designate specific individuals to act as SRF's and the Client's representatives with respect to the Services to be performed or furnished by SRF and responsibilities of the Client under this Agreement. Such an individual shall have authority to transmit instructions, receive information, and render decisions related to the Project on behalf of the respective Party whom the individual represents.

SRF:

Eric Roerish, P.E.  
Principal  
3701 Wayzata Blvd, Suite 100  
Minneapolis, MN 55416  
763.249.6724  
[eroerish@srfconsulting.com](mailto:eroerish@srfconsulting.com)

Client:

Seth Greenwood, P.E.  
Public Works Director/County Engineer  
1700 Sunrise Drive  
St. Peter, MN 56082  
507.934.7723  
[Seth.Greenwood@co.nicollet.mn.us](mailto:Seth.Greenwood@co.nicollet.mn.us)

**Article 6: Consideration and Payment.**

- (a) SRF will be paid according to the breakdown of costs contained in **Attachment A**. The total obligation of the Client for all compensation and reimbursements to SRF shall not exceed **\$126,445.65** (the "Contract Maximum").
- (b) For reimbursable expenses, the compensation shall be the actual expense incurred by SRF and SRF's subcontractor(s), without mark-up. Requests for reimbursements shall be accompanied by supporting documentation, as well as any documentation of actual costs incurred and paid by SRF in performing the Services hereunder, and such other documentation as the Client may reasonably request.



#### **Article 7: Invoicing and Reports.**

- (a) SRF shall provide an itemized statement detailing the number of hours spent by any employee as well as the hourly rate charged by the individual providing the Services. SRF will bill the Client monthly.
- (b) The Client will make undisputed payments no later than thirty-five (35) days' after receiving SRF's invoices for Services performed. If the Client objects to any portion of an invoice, the Client shall notify SRF within five (5) business days of invoice date. In the event of a disputed billing, only the disputed portion will be withheld from payment, and the Client shall pay the undisputed portion.

#### **Article 8: Termination and Suspension.**

- (a) Client may terminate this Agreement at any time, with or without cause. Upon termination, SRF will be entitled to payment, determined on a pro rata basis, for Services satisfactorily performed.
- (b) If the Client fails to make payments to SRF in accordance with this Agreement, and said payments are not otherwise disputed by the Client, then SRF may suspend its Services under this Agreement. If SRF elects to suspend services, it shall give ten (10) days' written notice to the Client before doing so. SRF shall have no liability to the Client for delay or damage caused by such suspension of Services. Before resuming Services, SRF shall be paid all undisputed sums due prior to suspension and any undisputed expenses incurred in the interruption and resumption of the SRF's Services.

#### **Article 9: Ownership and Use of Documents.**

- (a) Upon completion of the Project, and provided that SRF has been paid in full, all documents ("Instruments of Services"), except working notes and internal documents, created by SRF (and SRF's subcontractor(s)) in the course of implementing this Agreement shall become the property of the Client. The Instruments of Services prepared and furnished by SRF are intended only to be applicable to this Project and the Client's use of these documents in other projects shall be at the Client's sole risk and expense. SRF is entitled to retain copies of all such documents.
- (b) To the extent that the Instruments of Service include design elements, data, notes, terms, plans, specifications, or details from SRF, or its subcontractor(s), own practice detail library, which collectively may form portions of the design for the Project (collectively, "Design Details"), then SRF, or its subcontractor(s), shall retain all rights, title, and interest of all intellectual property related to such Design Details (including copyright and right of reuse), whether or not the Project is completed. Upon execution of this Agreement, SRF grants the Client a limited license to use the Design Details on the Project, extensions of the Project, and for related uses of the Client, subject to receipt by SRF of full payment for all Services relating to preparation of the Design Details and subject to the following limitations: (1) Client acknowledges that such Design Details are not intended or represented to be suitable for use on Project unless completed by SRF, or its subcontractor(s), or for use or reuse by the Client or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by SRF, or its subcontractor(s); (2) and such use or reuse, or any modification of Design Details, without written verification, completion, or adaptation by SRF, or its subcontractor(s), as appropriate for the specific purpose intended, will be at the Client's sole risk and without liability or legal expose to SRF, or its subcontractor(s); (3) Client shall indemnify and hold harmless SRF, and its subcontractor(s) from all claims, damages, losses and expenses, including attorney's fees, arising out of or resulting from any use, reuse, or modifications of the Design Details without written verification, completion, or adaptation by SRF, or its subcontractor(s); and (4) such limited license to Client shall not create any rights in third parties.

#### **Article 10: Notices.**

Any notice required under this Agreement shall be in writing and addressed to the primary point of contact ("POC") as designated by both Parties at the address provided by both primary POC's. All notices shall be delivered via certified mail and effective upon the certified mail return date of receipt.



**Article 11: Legal Relations.**

- (a) The laws of the state of Minnesota govern this Agreement. Venue for all legal proceedings arising out of this Agreement, or breach of this Agreement, is in state or federal court with competent jurisdiction in the county where the Project is located.
- (b) The Parties may exercise legal remedies as may be available to them in connection with any unresolved issue, dispute, or controversy arising out of this Agreement which cannot be settled by the Parties.

**Article 12: Liability and Indemnification.**

- (a) To the fullest extent permitted by law, SRF hereby agrees to indemnify and hold harmless the Client from and against any and all liability for claims, losses, damages, and expenses (including reasonable attorneys' fees) to the extent the same is proximately caused by the negligent or wrongful acts, errors, or omissions of SRF or of anyone acting under its control in its provision of Services under this Agreement.
- (b) Nothing in this Agreement shall constitute a waiver or limitation of any immunity or limitation on liability to which the Client is otherwise entitled by state statute to which statutory tort limits apply.
- (c) SRF and Client waive all consequential or special damages, including, but not limited to, loss of use, profits, revenue, business opportunity, or production, for claims, disputes, or other matters arising out of or relating to the Agreement or the Services provided by SRF, regardless of whether such claim or dispute is based upon breach of contract, willful misconduct or negligent act or omission of either of them or their employees, agents, subconsultants, or other legal theory, even if the affected party has knowledge of the possibility of such damages. This mutual waiver shall survive termination or completion of this Agreement.
- (d) Neither party shall be held liable or responsible to the other party nor be deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any obligation under this Agreement when such failure or delay is caused by or results from causes beyond the reasonable control of the affected Party, including but not limited to fire, floods, natural disasters or other adverse weather conditions not reasonable foreseeable, riots, acts of war or terrorism, acts of God, or acts, omissions or delays in acting by any governmental authority, delays in transportation, unavoidable casualties, diseases, pandemics/epidemics, outbreaks of infectious disease or any other public health crisis, including quarantine or other employee restrictions, strikes, or other labor disturbances or any other cause, whether similar or dissimilar to any of the foregoing, which could not have been prevented by such Party with reasonable care (each, a "Force Majeure Event"). Either Party shall provide the other Party with prompt written notice of any delay or failure to perform that occurs by reason of force majeure. The time for performance required of the affected Party shall be extended by the period of such delay provided the Party is exercising diligent efforts to overcome the cause of such delay.
- (e) The duties and obligations imposed by this Agreement and the rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

**ARTICLE 13: Contractual Relationship.**

No contractual relationship will be recognized under the Agreement other than the contractual relationship between SRF and Client.

**Article 14: Representations.**

- (a) SRF has not directly or indirectly offered or given any gratuities (in the form of entertainment, gifts, or otherwise) to any representative of the Client with a view toward securing favorable treatment with respect to any determinations concerning the performance of this Agreement.



- (b) SRF will not contract with subcontractors, vendors or supplier who are currently suspended or debarred or have a suspension or debarment end date within the past three years by the federal government, the state of Minnesota, or any of its departments, commissions, agencies, or political subdivisions. SRF represents and warrants that it is not presently suspended or debarred or proposed for suspension or debarment by any government agency.

**Article 15: Insurance.**

- (a) SRF shall procure and maintain with a company or companies lawfully authorized to do business in the jurisdiction in which the project is located, the types of insurance and policy limits as follows:

Worker's Compensation:	Statutory
Employer's Liability:	\$1,000,000 Each Accident \$1,000,000 Disease (Policy Limit) \$1,000,000 Disease (EA Employee)
Commercial General Liability:	\$1,000,000 Each Occurrence \$2,000,000 Annual Aggregate Including Premises and Operations Bodily Injury and Property Damage, Independent Contractors, Products and Completed Operations Liability, Personal and Advertising Injury.
Business Automobile Liability:	\$2,000,000 Combined single limit each occurrence coverage or the equivalent covering owned, non-owned and hired automobiles.
Professional Liability:	Professional Liability Insurance providing coverage for all claims SRF may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to SRF's professional services performed under this Agreement. Minimum limits of liability shall be: \$2,000,000 Each Claim \$2,000,000 Annual Aggregate
Umbrella/Excess Liability	An Umbrella or Excess Liability insurance policy may be used to supplement SRF's policy limits to satisfy the full policy limits required under this Agreement.

- (b) Policies shall name the Client as an Additional Insured limited to General Liability and Automobile Liability.
- (c) SRF shall require all subcontractors, and any other subcontractors to which the Parties agree in writing are subcontractors of SRF, to carry and maintain insurance against the risks set forth above, in the amounts and under terms as determined to be appropriate by SRF to fulfill its obligations of this Agreement. SRF shall not allow its subcontractors to commence work until the insurance required has been obtained and the corresponding certificate(s) of insurance have been approved by SRF with copies of each corresponding certificate provided to the Client upon request.

**Article 16: Prohibition against Assignment.**

This is a bilateral Professional Services Agreement. Neither Party shall have the power to or will assign any of the duties or rights or any claim arising out of or related to this Agreement, whether arising in tort, contract, or



otherwise, without the written consent of the other Party. Any unauthorized assignment is void and unenforceable.

**Article 17: Other.**

- (a) The headings contained in this Agreement have been inserted for convenience of reference only and shall in no way define, limit, or affect the scope and intent of this Agreement.
- (b) This Agreement, including any Attachments or Exhibits hereto, constitutes the entire and exclusive agreement of the Parties and supersedes any prior agreements whether oral or written, concerning the subject matter hereof.
- (c) The invalidity or partial invalidity of any portion of this Agreement shall not invalidate the remainder thereof, and the remainder shall be construed as if the invalidated portion shall have never been part of this Agreement.
- (d) Nothing in this Agreement confers or purports to confer on any third party any benefits or any right to enforce any terms of this Agreement.
- (e) Either individual signing this Agreement represents and warrants that each has the power and authority to enter into this Agreement and bind the Party for whom each signs. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute a single Agreement.

**Article 18: Services and Contract Documents.**

- (a) This Agreement includes the following documents which are incorporated and attached to this Agreement:

Attachment A: SRF Proposal, dated, November 16, 2021

- (b) SRF shall insert all or some part of a term and condition that is required or necessary to be so included in all lower-tier subcontracts and shall require all lower-tier subcontractors to comply with such provisions for the duration of their respective subcontracts.

**Article 19: Signatures.**

Either individual signing this Agreement represents and warrants that each has the power and authority to enter into this Agreement and bind the Party for whom each signs. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute a single Agreement.

**Article 21: Electronic Signatures.**

Each Party agrees that the electronic signatures of the Parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as wet ink signatures.

**In Witness Hereof**, the Parties hereto have caused this Agreement to be executed in their behalf.

**SRF CONSULTING GROUP, INC.**

**NICOLLET COUNTY**

Signed:

Signed:

Title:

Title: Public Works Director/County Engineer

Date:

Date: 11-23-2021

## ATTACHMENT A

SRF No. 15052.PP

November 16, 2021

Seth Greenwood, P.E  
Director of Public Works  
Nicollet County  
1700 Sunrise Drive  
St. Peter, MN, 56802

Subject: Proposal for Professional Services for CSAH 23 Ravine Stabilization Final Design  
Nicollet County, Minnesota

Dear Seth Greenwood:

Based on your request, SRF Consulting Group, Inc. (SRF) is pleased to submit this proposal to provide professional services for preparing construction plans and specifications for work needed to provide permanent slope stabilization and infrastructure improvements with support from Gale-Tec Engineering, Inc.

### **Scope of Services**

We propose to carry out the work ("Scope of Services"), set forth in Attachment B, attached hereto and incorporated into this Agreement.

### **Assumptions**

Assumptions and client deliverables are listed in Attachment B.

### **Schedule**

We will complete this work within a mutually agreed-upon time schedule.

### **Basis of Payment/Budget**

We propose to be reimbursed for our services on an hourly basis for the actual time expended. Other direct project expenses such as printing, supplies, reproduction, etc., will be billed at cost and mileage will be billed at the current allowable IRS rate for business miles. Invoices are submitted on a monthly basis for work performed during the previous month. Payment is due within 35 days.

Based on our understanding of the project and our scope of services, we estimate the cost of our services to be \$126,445.65, which includes both time and expenses.

### **Changes in Scope of Services**

It is understood that if the scope or extent of work changes, the cost will be adjusted accordingly. Before any out-of-scope work is initiated, however, we will submit a budget request for the new work and will not begin work until we receive authorization from you.

## SRF Consulting Group, Inc.

Client: Nicollet County

Project: Nicollet County CSAH 23 Ravine Stabilization Final Design

Subconsultants: Gale Tec Engineering

## Work Tasks and Person-Hour Estimates



15062 PP

<u>TASK NO.</u>	<u>SUMMARY OF TASKS</u>
1.0	Project Management
2.0	60% Design
3.0	Final Design
4.0	Right-of-Way Coordination
5.0	Bidding
6.0	Wetland Review and Permitting
7.0	Construction Support

Project Overview:

A centerline culvert crossing CSAH 23 in Nicollet County (south of Nicollet, MN and approximately one mile north of the Minnesota River) has incurred severe outlet erosion from the 60" CMP pipe. The channel downstream has eroded to a depth of approximately 35 feet below its original elevation. This phase of the project is to perform final design as recommended in the alternatives analysis.

The project involves preparing signed construction plans and specifications for work needed to provide permanent slope stabilization and infrastructure improvements with support from Gale-Tec Engineering, Inc. Deliverables for the project will include project management, signed construction plans, special provisions (Division S), and a cost estimate. Construction administration is not included.

## SRF Consulting Group, Inc.

## Work Tasks and Person-Hour Estimates

Client: Nicollet County  
 Project: Nicollet County CSAH 23 Ravine Stabilization Final Design



Subconsultants: Gale Teo Engineering

15052 PP

TASK NO.	TASK DESCRIPTION	PRINCIPAL	SR ASSOC.	ASSOCIATE	SR_PROF.	PROF.	TECHNICAL	CLERICAL	TOTALS	EST_FEE
1.0	<b>Project Management</b> <b>Assumptions:</b> - Design schedule will be from November 2021 through February 2022 (4 months)  - Up to three (3) project meetings. One (1) project kick off meeting, one (1) 60% design review meeting, and one (1) final design review meeting. All project meetings will be held remotely via Zoom  <b>Client Deliverables:</b>									
1.1	General day-to-day project management, administration and work planning, scheduling and coordination of tasks	12	*	8	*	*	*	*	20	\$3,342.49
1.2	Prepare for and attend project kickoff meeting	2	*	2	*	2	*	*	6	\$847.65
1.3	Prepare for and attend 60% design review meeting	2	*	2	*	2	*	*	6	\$847.65
1.4	Prepare for and attend final design review meeting	2	*	2	*	2	*	*	6	\$847.65
	<b>SRF Deliverables:</b> - Monthly Invoices - Coordination Meeting Setup and Attendance - Coordination Meeting Minutes									
	<b>SUBTOTAL - TASK 1</b>	<b>18</b>	<b>0</b>	<b>14</b>	<b>0</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>38</b>	<b>\$5,885.43</b>
2.0	<b>60% Design</b> <b>Assumptions:</b> - Project includes preparing construction plans, special provisions (Division S) and a construction cost estimate - Survey data will be provided by Nicollet County - Project will require MnDOT State-Aid review and coordination  <b>Client Deliverables:</b> - Survey data, including additional survey necessary to capture utilities marked by Gopher State One Call - 60% submittal review and comment									
2.1	Gopher State One Call request and existing utility coordination	*	*	2	*	4	*	*	6	\$667.30
2.2	Stable channel design	*	*	4	*	8	*	*	12	\$1,334.59
2.3	Riprap stilling basin design	2	*	4	*	8	*	*	14	\$1,719.34
2.4	Storm sewer and drop structure design	2	*	4	*	8	*	*	14	\$1,719.34

## SRF Consulting Group, Inc.

Client: Nicollet County

Project: Nicollet County CSAH 23 Ravine Stabilization Final Design

## Work Tasks and Person-Hour Estimates



Subconsultants: Gale Tec Engineering

15052 PP

TASK NO.	TASK DESCRIPTION	PRINCIPAL	SR. ASSOC.	ASSOCIATE	SR. PROF.	PROF.	TECHNICAL	CLERICAL	TOTALS	EST. FEE
2.5	Culvert lining design and draft specifications	2		8		2			12	\$1,623.15
2.6	Prepare 60% construction plans to include the following sheets:	4		30		90			124	\$13,844.89
2.6.1	Title Sheet									
2.6.2	Standard Plates									
2.6.3	Statement of Estimated Quantities									
2.6.4	Earthwork Tabulation and Summary									
2.6.5	Soils and Construction Notes									
2.6.6	Typical Sections									
2.6.7	Detail Sheets									
2.6.8	Standard Plan Sheets									
2.6.9	Removal Plans									
2.6.10	Drainage Plan and Profiles									
2.6.11	Erosion Control and Turf Establishment Plan									
2.6.12	SWPPP Sheets									
2.6.13	Traffic Control Plan									
2.7	Constructability Review by CA staff	4		6					10	\$1,545.00
2.8	Prepare draft special provisions	4		12		8			24	\$3,138.09
2.9	Prepare preliminary cost estimate	1		2		12			15	\$1,677.26
2.10	MnDOT State Aid Coordination	2		8					10	\$1,418.76
2.11	QA/QC Reviews	8		12					20	\$3,090.00
	<u>SRF Deliverables:</u>									
	60% plans, draft special provisions and preliminary cost estimate									
	<b>SUBTOTAL - TASK 2</b>	<b>29</b>	<b>0</b>	<b>92</b>	<b>0</b>	<b>140</b>	<b>0</b>	<b>0</b>	<b>261</b>	<b>\$31,777.72</b>
<b>3.0</b>	<b>Final Design</b>									
	<u>Assumptions:</u>									
	NPDES Permit will be required because of the project size, but permanent water quality and volume control will not be required.									
	Project includes preparing construction plans, special provisions (Division S) and a construction cost estimate.									
	Survey data will be provided by Nicollet County									
	<u>Client Deliverables:</u>									
3.1	Incorporate 60% review comments	2		4		8			14	\$1,719.34
3.2	Prepare final construction plans to include the following sheets:			50		100			150	\$16,682.40
3.2.1	Title Sheet									
3.2.2	Standard Plates									
3.2.3	Statement of Estimated Quantities									

## SRF Consulting Group, Inc.

Client: Nicollet County

Project: Nicollet County CSAH 23 Ravine Stabilization Final Design

## Work Tasks and Person-Hour Estimates



Subconsultant: Gale Tec Engineering

15052 PP

TASK NO.	TASK DESCRIPTION	PRINCIPAL	SR. ASSOC.	ASSOCIATE	SR. PROF.	PROF.	TECHNICAL	CLERICAL	TOTALS	EST. FEE
3 2 4	Earthwork Tabulation and Summary									
3 2 5	Soils and Construction Notes									
3 2 6	Typical Sections									
3 2 7	Detail Sheets									
3 2 8	Standard Plan Sheets									
3 2 9	Removal Plans									
3 2 10	Drainage Plan and Profiles									
3 2 11	Erosion Control and Turf Establishment Plan									
3 2 12	SWPPP Sheets									
3 2 13	Traffic Control Plan									
3 3	Prepare special provisions	4		10		8			22	\$2,879.59
3 4	Prepare cost estimate	1		4		12			17	\$1,935.76
3 5	Drainage Report	1		8		8			17	\$2,043.97
3 6	MnDOT State Aid Submittal	1		8					9	\$1,226.38
3 7	QA/QC reviews	6		8					14	\$2,188.25
3 8	Final Design and State Aid Comment Updates	1		4		8			13	\$1,526.97
<u>SRF Deliverables:</u>										
Final plans, special provisions (Division 5) and Cost Estimate										
SUBTOTAL - TASK 3		16	0	96	0	144	0	0	256	\$30,202.66
4.0	<u>Right-of-Way Coordination</u>									
	<u>Assumptions:</u>									
	County Surveyor will prepare official legal descriptions and right-of-way plats for the project									
	Only right-of-way graphics and linework will be provided by SRF									
	Existing right-of-way will be provided by the County									
	<u>Client Deliverables:</u>									
	Existing right-of-way basemap									
4.1	Prepare and review right-of-way graphics	2		4		8			14	\$1,719.34
4.2	Coordination with County Surveyor	2		4		8			14	\$1,719.34
	<u>SRF Deliverables:</u>									
	Right-of-way graphics and CAD linework									
	Coordination with County Surveyor									
SUBTOTAL - TASK 4		4	0	8	0	16	0	0	28	\$3,438.68
5.0	<u>Bidding</u>									

## SRF Consulting Group, Inc.

Client: Nicollet County  
 Project: Nicollet County CSAH 23 Ravine Stabilization Final Design

## Work Tasks and Person-Hour Estimates



Subconsultants: Gale Tec Engineering

15052.PP

TASK NO.	TASK DESCRIPTION	PRINCIPAL	SR. ASSOC.	ASSOCIATE	SR. PROF.	PROF.	TECHNICAL	CLERICAL	TOTALS	EST. FEE
	<u>Assumptions:</u>									
	• No construction administration									
	<u>Client Deliverables:</u>									
	• Bid proposal review									
5.1	Bid proposal assembly	2		16					18	\$2,452.76
5.2	Bid support	2		10					12	\$1,677.26
5.3	Bidding questions and support	4		12					16	\$2,320.51
	<u>SRF Deliverables:</u>									
	• Bid proposal package									
	<b>SUBTOTAL - TASK 5</b>	<b>8</b>	<b>0</b>	<b>38</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>46</b>	<b>\$8,450.53</b>
<b>6.0</b>	<b>Wetland Review and Permitting</b>									
	<u>Assumptions:</u>									
	• Level 1 (office) wetland delineation extension to be completed during winter 2021/2022									
	• It is assumed Level 2 (field) delineation will not be required									
	• Nicollet County is the Minnesota Wetland Conservation Act (WCA) Local									
6.1	Level 1 (office) wetland delineation and documentation		2	10					12	\$1,599.11
	<u>SRF Deliverables:</u>									
	• Documentation (figures and brief memo) for project file									
	<b>SUBTOTAL - TASK 6</b>	<b>0</b>	<b>2</b>	<b>10</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>12</b>	<b>\$1,599.11</b>
<b>7.0</b>	<b>Construction Support</b>									
	<u>Assumptions:</u>									
	<u>Client Deliverables:</u>									
7.1	In-construction support: Questions during construction	10		16		24			50	\$6,444.52
7.2	Up to two field visits	8		16					24	\$3,607.01

### Work Tasks and Person-Hour Estimates



15062:PP

TOTAL ESTIMATED FEE (SRF and Subconsultants combined)	\$126,445.65
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MILEAGE:	Personal Vehicles	800	Miles @	\$0 560	\$448 00
MEALS:		0	Meals @	\$11 00	\$0 00
LODGING:	Hotel	0	Nights @	\$100 00	\$0 00
REPRODUCTION:	Copy Duplication	60	Copies @	\$0 10	\$6 00
	Color Copies	0	Copies @	\$0 35	\$0 00
	Bond Prints	0	Prints @	\$6 00	\$0 00
	Mylar Prints	0	Prints @	\$12 00	\$0 00
COURTHOUSE COPIES:		0	Copies @	\$1 00	\$0 00
PRINTING:					\$0 00
SUPPLIES:					\$0 00
COMMUNICATIONS:	Mail, Express, Etc				\$0 00
	Cell Phone Charges	0	Minutes @	\$0 30	\$0 00

## SRF Consulting Group, Inc.

Client: Nicollet County

Project: Nicollet County CSAH 23 Ravine Stabilization Final Design

## Work Tasks and Person-Hour Estimates



Subconsultants: Gale Tec Engineering

15052 PP

TASK NO.	TASK DESCRIPTION	PRINCIPAL	SR. ASSOC.	ASSOCIATE	SR. PROF.	PROF.	TECHNICAL	CLERICAL	TOTALS	EST. FEE
										SRF EXPENSES: \$454.00
SUBCONSULTANTS:										
Gale-Tec Engineering, Inc										\$36,586.00
										SUBCONSULTANTS: \$36,586.00

## SUMMARY OF COSTS:

	PRINCIPAL	SR. ASSOC.	ASSOCIATE	SR. PROF.	PROF.	TECHNICAL	CLERICAL	TOTALS
1 Project Management	\$ 3,462.73	\$ -	\$ 1,809.51	\$ -	\$ 613.19	\$ -	\$ -	\$5,885.43
2 60% Design	\$ 5,578.84	\$ -	\$ 11,891.10	\$ -	\$ 14,307.79	\$ -	\$ -	\$31,777.72
3 Final Design	\$ 3,077.98	\$ -	\$ 12,408.10	\$ -	\$ 14,716.58	\$ -	\$ -	\$30,202.66
4 Right-of-Way Coordination	\$ 769.49	\$ -	\$ 1,034.01	\$ -	\$ 1,635.18	\$ -	\$ -	\$3,438.68
5 Bidding	\$ 1,538.99	\$ -	\$ 4,911.54	\$ -	\$ -	\$ -	\$ -	\$6,450.53
6 Wetland Review and Permitting	\$ -	\$ 306.60	\$ 1,292.51	\$ -	\$ -	\$ -	\$ -	\$1,599.11
7 Construction Support	\$ 3,462.73	\$ -	\$ 4,136.03	\$ -	\$ 2,452.76	\$ -	\$ -	\$10,051.52
<b>TOTALS</b>	<b>\$17,890.75</b>	<b>\$306.60</b>	<b>\$37,482.80</b>	<b>\$0.00</b>	<b>\$33,725.50</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$89,405.65</b>
	12096	2100	55626	0	55341	0	0	125163

## SUMMARY OF HOURS:

	PRINCIPAL	SR. ASSOC.	ASSOCIATE	SR. PROF.	PROF.	TECHNICAL	CLERICAL	TOTALS
1 Project Management	18	-	14	-	6	-	-	38
2 60% Design	29	-	92	-	140	-	-	261
3 Final Design	16	-	96	-	144	-	-	256
4 Right-of-Way Coordination	4	-	8	-	16	-	-	28
5 Bidding	8	-	38	-	-	-	-	46
6 Wetland Review and Permitting	-	2	10	-	-	-	-	12
7 Construction Support	18	-	32	-	24	-	-	74
<b>TOTALS</b>	<b>93</b>	<b>2</b>	<b>290</b>	<b>0</b>	<b>330</b>	<b>0</b>	<b>0</b>	<b>715</b>

# GALE-TEC ENGINEERING, INC.

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801 TWELVE OAKS CENTER DRIVE, SUITE 832  
WAYZATA, MN 55391  
TELEPHONE (952) 473-7193 FAX (952) 473-1492  
www.gale-tec.com

October 14, 2021

Mr. Eric Roerish, P.E./Mr. Andrew Toay, P.E.  
SRF Consulting Group, Inc.  
Via email

Re: Proposal for Geotechnical Engineering Services for Nicollet County CSAH 23 Ravine Stabilization –Final Design and Bid Document Preparation in Combination with SRF Consulting Group, Inc.

Dear Mr. Roerish/Mr. Toay:

We are pleased to provide you with this scope of work and fee estimate for geotechnical engineering services to assist you in the above referenced project.

SRF Consulting Group, Inc., with assistance from Gale-Tec Engineering, Inc., (GTE) proposes to prepare bid documents for Nicollet County for eroded ravine stabilization along CSAH 23 as it descends into the Minnesota River valley south of Nicollet, MN. Ravine stabilization will consist of: stabilization of three eroded channels and adjacent hillside slopes and installation of drop structures to tie the existing culvert to the new channel elevation. One eroded channel will be infilled with an access road constructed along its existing alignment. Storm sewers and catch basins will be installed along the access road alignment.

Geotechnical Engineering associated with the proposed project will include hillside slope stabilization design with shallow anchor reinforcement, geosynthetic reinforcement of imported granular fill and plan/special provision preparation associated with the geotechnical aspects of the hillside slope stabilization. GTE work tasks shall include:

- Task 1 – Project Management
- Task 2 – Final Design – Hillside Slope Stabilization Measures
  - Perform Final Percussion Driven Anchor Design
  - Perform Final Geosynthetic Reinforcement (RSS) design of 2H:1V slopes
- Task 3 – Bid Document Preparation – Hillside Slope Stabilization Measures
  - Prepare Soil Anchor reinforcement and RSS fill slope drawings for insertion into SRF 60% Bid Document Submittal
  - Revise Plan Sheets after Review
  - Assist in Cost Estimate Development and Revise Bid Documents for 100% Plans Submittal
  - Task 4 - Develop Relevant Special Provisions for 90% Bid Document Submittal

See the attached GTE spreadsheet for hour/scope details.

GTE Fee Estimate for the Proposed Work: **\$36,586.00**

SRF Consulting Group, Inc.  
Nicollet County CSAH 21 Landslide Remediation

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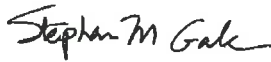
If the fee estimate is acceptable, please submit a subconsultant agreement to us for signature.

Respectfully,

GALE-TEC ENGINEERING, INC.



Nathan M. Lichty, P.E.  
Project Engineer



Stephan M. Gale, P.E.  
Principal Engineer

Enclosures: Estimated Fee Spreadsheet

NML/SMG/pjk

PROPOSAL/SRF Consulting Group Inc., Nicollet County CSAH 23, Final Design and Bid Documents, Nicollet, MN

Nicollet County CSAH 23 Culvert/Ravine Instability - Nicollet, MN  
Final Design

**Labor**

A. Evaluation/Design	Project Engineer - Nate Lichty, P.E.	Principal Engineer - Steve Gale, P.E.	Clerical - Paula Kelly	Total	Task Total
Task 1 - Project Management	10	20	4	34	\$ 5,366.00
Task 2 - Task 2 - Final Design of Hillside Slope Stabilization Measures (PDA/RSS)	30	10			\$ 6,200.00
Task 3 - Bid Document Preparation - Hillside Slope Reinforcement/Stabilization					
Task 3.1 - Prepare Soil Anchor Reinforcement and RSS Fill Slope Drawings for 60% Plans	40	10	2	52	\$ 7,758.00
Task 3.2 - Revise Plan Sheets after Review	12	6		18	\$ 2,850.00
Task 3.3 - Develop Relevant Special Provisions for 90% Bid Document Submittal	20	20	6		\$ 6,924.00
Task 3.4 - Assist in Cost Estimate Development and Revise Bid Documents for 100% Plans Submittal	10	6	2	18	\$ 2,668.00
Task 3.5 - Provide Additional Geotechnical Recommendations as Requested	20	8	4	32	\$ 4,596.00
Total Hours	142	60	18	240	
Hourly Rate*	\$ 145.00	\$ 185.00	\$ 54.00		
Subtotal Labor	\$ 20,590.00	\$ 14,800.00	\$ 972.00	\$ 36,362.00	

**Expenses - Gale-Tec Engineering Inc**

Task	Total
1. Mileage - Site Visits and Meetings (400 miles @ \$0.56/mile)	\$ 224.00
Subtotal Expenses	\$ 224.00

<b>TOTAL FEE &amp; EXPENSES - GEOTECHNICAL</b>	<b>\$ 38,586.00</b>
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**Notes**

Nicollet County Board of Commissioners  
Board Meeting Agenda Item



<b>Agenda Item:</b>		
Family First Prevention Services Act: Assessment Contracts		
Primary Originating Division/Dept.: Health and Human Services	Meeting Date: 11/23/2021	
Contact: Cassandra Sassenberg Title: HHS Director	Item Type: Regular Agenda (Select One)	
Amount of Time Requested 5 minutes		
Presenter: C. Sassenberg Title: HHS Director	Attachments: <input type="radio"/> Yes <input checked="" type="radio"/> No	
County Strategy: Programs and Services - deliver value-added quality services (Select One)		
<b>BACKGROUND/JUSTIFICATION:</b> <p>Effective October 1, 2021, the Family First Prevention Services Act (FFPSA) began limiting Title IV-E foster care payments for placements that are not foster family homes, emphasizing that home-like settings continue to be the preference for child welfare services. The FFPSA created a new designation for children's residential treatment programs called qualified residential treatment program (QRTF). The purpose of QRTF placement is to provide high quality, trauma-informed treatment services for youth. Additionally, Minnesota Statutes section 260.007, subd. 21a. and Laws of Minnesota 2021, Regular Session, chapter 30, art. 10, sec. 26, the FFPSA established a court review and approval process for QRTF placements that requires the responsible social service agency to provide the court with an assessment completed by a qualified individual. This is a mandated service and per the FFPSA, no employee with direct involvement with child welfare, foster care, or the placement of children can provide the service. We will have the need to contract for this service with either an individual or agency. The contracted rate for service will be between \$30-35 dollars per hour for 12-18 hours per assessment. Based on the number of children entering QRTF settings in 2021 (8), the estimated budget range \$2,880-\$5,040, though this will fluctuate based on the number of children placed in QRTF settings.</p> <p>Because the development of these contracts will be timely and based on need, I am requesting the Board delegate to me, in collaboration with the County attorney, the authority to execute contracts for the purchase of assessments completed by qualified individuals prior to QRTF entry.</p>		
Supporting Documents: <input type="radio"/> Attached <input checked="" type="radio"/> In Signature Folder <input type="radio"/> None		
Prior Board Action Taken on this Agenda Item: <input type="radio"/> Yes <input checked="" type="radio"/> No		
If "yes", when? (provide year; mm/dd/yy if known)		
Approved by County Attorney's Office: <input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A		
<b>ACTION REQUESTED:</b>		
Delegation of authority to execute QI/FFPSA contracts		
<b>FISCAL IMPACT:</b> NOT in current budget (Select One)	<b>FUNDING</b>	\$2,880-\$5,040
If "Other", specify	County Dollars =	
	Other	
	(Select One)	
<b>FTE IMPACT:</b> No FTE change (Select One)	<b>Total</b>	
If "Increase or "Decrease" specify:		
Related Financial/FTE Comments:		

Nicollet County Board of Commissioners  
Board Meeting Agenda Item



<b>Agenda Item:</b> COVID-19 Response Update	
Primary Originating Division/Dept.: Health and Human Services  Contact: Cassandra Sassenberg    Title: HHS Director  Amount of Time Requested   5            minutes  Presenter: C. Sassenberg                      Title: HHS Director	Meeting Date: 11/23/21  Item Type: Regular Agenda <small>(Select One)</small>
Attachments: <input type="radio"/> Yes <input checked="" type="radio"/> No	
County Strategy: <small>(Select One)</small> Programs and Services - deliver value-added quality services	
<b>BACKGROUND/JUSTIFICATION:</b> HHS Director will provide an update on the response of Health and Human Services to the COVID-19 pandemic.	
Supporting Documents: <input type="radio"/> Attached <input type="radio"/> In Signature Folder <input checked="" type="radio"/> None	
Prior Board Action Taken on this Agenda Item: <input type="radio"/> Yes <input checked="" type="radio"/> No  If "yes", when? (provide year; mm/dd/yy if known)	
Approved by County Attorney's Office: <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A	
<b>ACTION REQUESTED:</b>	
<b>FISCAL IMPACT:</b> No fiscal impact <small>(Select One)</small> If "Other", specify	<b>FUNDING</b> County Dollars =  Other <small>(Select One)</small>
<b>FTE IMPACT:</b> No FTE change <small>(Select One)</small> If "Increase or "Decrease" specify:  Related Financial/FTE Comments:	<b>Total</b>

Nicollet County Board of Commissioners  
Board Meeting Agenda Item



<b>Agenda Item:</b>		
American Rescue Plan Act Funds Resolution		
Primary Originating Division/Dept.: Administration	Meeting Date: 11/23/2021	
Contact: Mandy Landkamer      Title: County Administrator	Item Type: Regular Agenda (Select One)	
Amount of Time Requested 5      minutes		
Presenter: Mandy Landkamer      Title: County Administrator	Attachments: <input checked="" type="radio"/> Yes <input type="radio"/> No	
County Strategy: Financial Security - prudent use of taxpayer resources (Select One)		
<b>BACKGROUND/JUSTIFICATION:</b> Consideration of the attached resolution accepting American Rescue Plan Act funds (ARPA funds) from the Federal Government through the United States Treasury. The ARPA funds are available for governmental entities as a resource to assist with pandemic response and recovery efforts.		
Supporting Documents: <input checked="" type="radio"/> Attached <input type="radio"/> In Signature Folder <input type="radio"/> None		
Prior Board Action Taken on this Agenda Item: <input type="radio"/> Yes <input checked="" type="radio"/> No		
If "yes", when? (provide year; mm/dd/yy if known)		
Approved by County Attorney's Office: <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A		
<b>ACTION REQUESTED:</b> Approval of the Resolution accepting ARPA funds.		
<b>FISCAL IMPACT:</b> Other (Select One)	<b>FUNDING</b> County Dollars =	0
If "Other", specify ARPA Funds	Federal (Select One)	6,657,323.00
<b>FTE IMPACT:</b> No FTE change (Select One)	<b>Total</b>	6,657,323.00
If "Increase or "Decrease" specify:		
Related Financial/FTE Comments:		
1st tranche received - \$3,328,661.50		

**RESOLUTION ACCEPTING AMERICAN RESCUE PLAN ACT FUNDS  
(KNOWN AS ARPA FUNDS) FROM THE FEDERAL GOVERNMENT THROUGH THE  
UNITED STATES DEPARTMENT OF THE TREASURY AND CERTIFYING THAT  
NICOLLET COUNTY WILL ADHERE TO THE GUIDELINES AS ESTABLISHED BY  
THE UNITED STATES DEPARTMENT OF THE TREASURY.**

WHEREAS, on March 11, 2021 the President of the United States signed into law the American Rescue Plan Act (ARPA) to provide continued relief from the impact of the COVID-19 pandemic; and

WHEREAS, approximately \$350 billion of the ARPA funding was allotted to assist state, local, tribal, and territory governments in responding to the COVID-19 pandemic; and

WHEREAS, Sections 602(b) and 603(b) of the Social Security Act as added by section 9901 of the American Rescue Plan Act authorized the United States Department of the Treasury to make payments to certain recipients from the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund; and

WHEREAS, funds received are required to be used in accordance to the Coronavirus Local Fiscal Recovery Fund (CLFRF) requirements as provided within the guidance issued by the United States Department of the Treasury:

- To respond to the public health emergency or its negative economic impacts.
- To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers.
- For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to the revenues collected in the most recent full fiscal year prior to the emergency.
- To make necessary investments in water, sewer, or broadband infrastructure; and

WHEREAS, Nicollet County is expected to receive \$6,657,323 in funding, which will be received in two tranches, approximately one half within 60 days of the plan passage, and the remaining funds approximately 12 months later; and

WHEREAS, Nicollet County received an initial funding in the amount of \$3,328,661.50 identified as the funding allocation for the First Tranche.

NOW, THEREFORE, BE IT RESOLVED that the Nicollet County Board of Commissioners accepts the funding distribution of \$6,657,323 from the Federal Government through the United States Department of the Treasury related to the American Rescue Plan Act.

BE IT FURTHER RESOLVED that the Nicollet County Board certifies that it will adhere to the existing, additional, and amended guidelines as set forth by the United States Department of the Treasury related to the allocation, distribution, and reporting of the use of the American Rescue Plan Act funds.

BE IT FURTHER RESOLVED that the Nicollet County Board Authorizes the Nicollet County Administrator to develop a process for honoring the commitments to the Federal Government and United States Department of the Treasury by establishing by separate Resolution an American Rescue

Plan Act Budget that is to be allocated into the following broad categories; Public Health, Negative Economic Impacts, Services to Disproportionately Impacted Communities, Premium Pay, Infrastructure, Revenue Replacement, Grant Administration, and Unallocated.

---

Terry Morrow, Board Chair  
Nicollet County Board of Commissioners

ATTEST:

---

Mandy Landkamer,  
Clerk to the Board

Nicollet County Board of Commissioners  
Board Meeting Agenda Item



<b>Agenda Item:</b>	
Consideration of the Amendment of AIA Document C132-2009 with Contegrity Group, Inc.	
Primary Originating Division/Dept.: Administration	Meeting Date: 11/23/2021
Contact: Mandy Landkamer      Title: County Administrator	Item Type: Regular Agenda (Select One)
Amount of Time Requested 10      minutes	
Presenter: Mandy Landkamer      Title: County Administrator	Attachments: <input checked="" type="radio"/> Yes <input type="radio"/> No
County Strategy: Financial Security - prudent use of taxpayer resources (Select One)	
<b>BACKGROUND/JUSTIFICATION:</b> <p>Consideration of the amended attached agreement between Nicollet County and Contegrity Group, Inc. for services related to the interior remodel of the Nicollet County Health and Human Services Building located at 2070 Howard Drive West, North Mankato, MN 56003. In addition, Contegrity Group, Inc has been involved with Vetter Johnson, Inc. in the preparation of the preliminary work related to the schematic drawings approved in July of this year. This agreement was most recently amended in 2020 to include the exterior remodel of this building.</p>	
Supporting Documents: <input checked="" type="radio"/> Attached <input type="radio"/> In Signature Folder <input type="radio"/> None	
Prior Board Action Taken on this Agenda Item: <input type="radio"/> Yes <input checked="" type="radio"/> No	
If "yes", when? (provide year; mm/dd/yy if known)      July 27, 2021	
Approved by County Attorney's Office: <input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A	
<b>ACTION REQUESTED:</b>	
Approval of the Amended AIA Document C132-2009 between Nicollet County and Contegrity Group, Inc. <span style="float: right;">+</span>	
<b>FISCAL IMPACT:</b> Included in current budget (Select One) If "Other", specify	<b>FUNDING</b> County Dollars =  Other (Select One)
<b>FTE IMPACT:</b> No FTE change (Select One) If "Increase or "Decrease" specify:  Related Financial/FTE Comments:	<b>Total</b>



**contegritygroup**  
Construction Management

***Amendment to the Standard Form of Agreement Between Owner (Nicollet County), and Construction Manager (Contegrity Group, Inc.), dated September 26, 2017, AIA Contract Document C132-2009***

This AMENDMENT dated: November 9, 2021

Changes/Additions as follows;

**Add to Project Description:**

*Nicollet County Services Building Interior Remodel, North Mankato. Scope of work as designed and specified in project documents dated XXXX, 2021 by VJA Architects – Project No. 8901.16*

**The Architect;**

*Vetter Johnson Architects, Inc.  
4245 Cottonwood Ln N  
Minneapolis, MN 55441*

**1.1.2 The Projects physical characteristics;**

*As identified in Project Documents and as identified in project description above.*

**1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1**

*Project Budget – See attached SD Estimate Update 10-15-21.*

**4.3.3 Duration**

*Scope of services to be extended by this agreement through year end 2022.*

**ARTICLE 11 COMPENSATION**

**11.1.1 for Preconstruction Phase Services in Section 3.2 along with 11.1.2 for Construction Phase Services in 3.3**

*See attached Nicollet County – North Mankato Service Building Interior Remodel - Fee Proposal Dated 11-9-2021.*

This Agreement entered as of the day and year first written above.

**OWNER**

\_\_\_\_\_  
(Signature)

Mandy Landkamer, County Administrator  
Nicollet County  
\_\_\_\_\_  
(Printed name and title)

**CONSTRUCTION MANAGER**

\_\_\_\_\_  
(Signature)

Lawrence Filippi, Vice President  
Contegrity Group, Inc.  
\_\_\_\_\_  
(Printed name and title)

# AIA Document C132™ – 2009

## Standard Form of Agreement Between Owner and Construction Manager as Adviser

AGREEMENT made as of the Twenty-sixth day of September in the year Two Thousand Seventeen.

*(In words, indicate day, month and year.)*

BETWEEN the Owner:

*(Name, legal status, address and other information)*

Nicollet County  
501 South Minnesota Ave  
St. Peter, MN 56082

and the Construction Manager:

*(Name, legal status, address and other information)*

Contegrity Group, Inc.  
101 First Street SE  
Little Falls, MN 56345

for the following Project:

*(Name, location and detailed description)*

Nicollet County Sheriff Office Remodel  
St. Peter, MN

The Architect:

*(Name, legal status, address and other information)*

I&S Group, Inc.  
1415 Town Square Lane  
Faribault, MN 55021

The Owner and Construction Manager agree as follows.

### ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Documents A132™–2009, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; A232™–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; and B132™–2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition. AIA Document A232™–2009 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

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User Notes:

(942631747)

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5	OWNER'S RESPONSIBILITIES
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13	SCOPE OF THE AGREEMENT

### ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

*(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable," "unknown at time of execution" or "to be determined later by mutual agreement.")*

§ 1.1.1 The Owner's program for the Project:

*(Identify documentation or state the manner in which the program will be developed.)*

The space program was commenced on January 24, 2017 and was completed March 24, 2017.

§ 1.1.2 The Project's physical characteristics:

*(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)*

Sheriff Department area of renovation: 9,455 s.f.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

*(Provide total and, if known, a line item breakdown.)*

Total project cost estimate \$1,794,861.00

§ 1.1.4 The Owner's anticipated design and construction schedule:

.1 Design phase milestone dates, if any:

TBD

.2 Commencement of construction:

Init.

TBD

.3 Substantial Completion date or milestone dates:

TBD

.4 Other:

NA

§ 1.1.5 The Owner intends the following procurement method for the Project:  
(Identify method such as competitive bid, negotiated Contract or multiple Prime Contracts.)

Competitively Bid / Multiple Prime Contracts

§ 1.1.6 The Owner's requirements for accelerated or fast-track scheduling, multiple bid packages, or phased construction are set forth below:  
(List number and type of bid/procurement packages.)

TBD

§ 1.1.7 Other Project information:  
(Identify special characteristics or needs of the Project not provided elsewhere, such as environmentally responsible design or historic preservation requirements.)

NA

§ 1.1.8 The Owner identifies the following representative in accordance with Section 5.5:  
(List name, address and other information.)

Ryan Krosch  
501 South Minnesota Avenue  
St. Peter, MN 56082

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:  
(List name, address and other information.)

TBD

§ 1.1.10 Unless provided by the Construction Manager, the Owner will retain the following consultants and contractors:  
(List name, legal status, address and other information.)

.1 Land Surveyor:

I&S Group, Inc.  
1415 Town Square Lane  
Faribault MN 55021

.2 Geotechnical Engineer:

If Required TBD

.3 Civil Engineer:

I&S Group, Inc.  
1415 Town Square Lane

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User Notes:

(942631747)

Faribault MN 55021

- 4 Other:  
(List any other consultants retained by the Owner, such as a Project or Program Manager, or construction contractor.)

§ 1.1.11 The Construction Manager identifies the following representative in accordance with Section 2.4:  
(List name, address and other information.)

Travis Fuechtnann  
Contegrity Group, Inc.  
101 First Street SE  
Little Falls, MN 56345

§ 1.1.12 The Construction Manager's staffing plan as required under Section 3.3.2 shall include:  
(List any specific requirements and personnel to be included in the staffing plan, if known.)

TBD

§ 1.1.13 The Construction Manager's consultants retained under Basic Services, if any:

- 1 Cost Estimator:  
(List name, legal status, address and other information.)

NA

- 2 Other consultants:

§ 1.1.14 The Construction Manager's consultants retained under Additional Services:

NA

§ 1.1.15 Other Initial Information on which the Agreement is based:

Probable Project Cost Summary from I&S Group, dated July 24, 2017

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the schedules, the Construction Manager's services and the Construction Manager's compensation.

## ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES

§ 2.1 The Construction Manager shall provide the services as set forth in this Agreement.

§ 2.2 The Construction Manager shall perform its services consistent with the skill and care ordinarily provided by construction managers practicing in the same or similar locality under the same or similar circumstances. The Construction Manager shall perform its services as expeditiously as is consistent with such skill and care and the orderly progress of the Project.

§ 2.3 The Construction Manager shall provide its services in conjunction with the services of an Architect as described in AIA Document B132™-2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition. The Construction Manager shall not be responsible for actions taken by the Architect.

Int.

§ 2.4 The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 2.5 Except with the Owner's knowledge and consent, the Construction Manager shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Construction Manager's judgment with respect to this Project.

§ 2.6 The Construction Manager shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.

§ 2.6.1 Comprehensive General Liability with policy limits of not less than (See Attached) for each occurrence and in the aggregate for bodily injury and property damage.

§ 2.6.2 Automobile Liability covering owned and rented vehicles operated by the Construction Manager with policy limits of not less than (See Attached) combined single limit and aggregate for bodily injury and property damage.

§ 2.6.3 The Construction Manager may use umbrella or excess liability insurance to achieve the required coverage for Comprehensive General Liability and Automobile Liability, provided that such umbrella or excess insurance results in the same type of coverage as required for the individual policies.

§ 2.6.4 Workers' Compensation at statutory limits and Employers Liability with a policy limit of not less than (See Attached).

§ 2.6.5 Professional Liability covering the Construction Manager's negligent acts, errors and omissions in its performance of services with policy limits of not less than (See Attached) per claim and in the aggregate.

§ 2.6.6 The Construction Manager shall provide to the Owner certificates of insurance evidencing compliance with the requirements in this Section 2.6. The certificates will show Nicollet County as an additional insured on the Comprehensive General Liability, Automobile Liability, umbrella or excess policies.

### ARTICLE 3 SCOPE OF CONSTRUCTION MANAGER'S BASIC SERVICES

#### § 3.1 Definition

The Construction Manager's Basic Services consist of those described in Sections 3.2 and 3.3 and include usual and customary construction coordination and scheduling, constructability review, cost estimating, and allocation of construction activities among the Multiple Prime Contractors.

#### § 3.2 Preconstruction Phase

§ 3.2.1 The Construction Manager shall review the program furnished by the Owner and any evaluation of the Owner's program provided by the Architect, to ascertain the requirements of the Project and shall arrive at a mutual understanding of such requirements with the Owner and Architect.

§ 3.2.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 3.2.3 The Construction Manager shall prepare, and deliver to the Owner, a written Construction Management Plan that includes, at a minimum, the following: (1) preliminary evaluations required in Section 3.2.2, (2) a Project schedule, (3) cost estimates, (4) recommendations for Project delivery method, and (5) Contractors' scopes of Work, if multiple Contractors or fast-track construction will be used. The Construction Manager shall periodically update the Construction Management Plan over the course of the Project.

§ 3.2.4 Based on preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume or similar conceptual estimating techniques for the Architect's review and Owner's approval. If the Architect suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems and may also provide its own suggestions.

Int.

§ 3.2.5 The Construction Manager shall expeditiously review design documents during their development and advise the Owner and Architect on proposed site use and improvements, selection of materials, and building systems and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect on constructability, availability of materials and labor, sequencing for phased construction, time requirements for procurement, installation and construction, and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 3.2.6 The Construction Manager shall prepare and periodically update the Project schedule included in the Construction Management Plan for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities and highlight items that could affect the Project's timely completion.

§ 3.2.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, estimates of the Cost of the Work of increasing detail and refinement. The Construction Manager shall include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in the estimates of the Cost of the Work. Such estimates shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall advise the Owner and Architect if it appears that the Cost of the Work may exceed the Owner's budget and make recommendations for corrective action.

§ 3.2.8 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations whenever the Construction Manager determines that design details adversely affect constructability, cost or schedules.

§ 3.2.9 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding the assignment of responsibilities for temporary Project facilities and equipment, materials and services for common use of the Contractors. The Construction Manager shall verify that such requirements and assignment of responsibilities are included in the proposed Contract Documents.

§ 3.2.10 The Construction Manager shall provide recommendations and information to the Owner regarding the allocation of responsibilities for safety programs among the Contractors.

§ 3.2.11 The Construction Manager shall provide recommendations to the Owner on the division of the Project into individual Contracts for the construction of various categories of Work, including the method to be used for selecting Contractors and awarding Contracts. If multiple Contracts are to be awarded, the Construction Manager shall review the Drawings and Specifications and make recommendations as required to provide that (1) the Work of the Contractors is coordinated, (2) all requirements for the Project are assigned to the appropriate Contract, (3) the likelihood of jurisdictional disputes is minimized, and (4) proper coordination is provided for phased construction.

§ 3.2.12 The Construction Manager shall update the Project schedule to include the components of the Work, including phasing of construction, times of commencement and completion required of each Contractor, ordering and delivery of products, including those that must be ordered well in advance of construction, and the occupancy requirements of the Owner.

§ 3.2.13 The Construction Manager shall expedite and coordinate the ordering and delivery of materials, including those that must be ordered well in advance of construction.

§ 3.2.14 The Construction Manager shall assist the Owner in selecting, retaining and coordinating the professional services of surveyors, special consultants and testing laboratories required for the Project.

§ 3.2.15 The Construction Manager shall provide an analysis of the types and quantities of labor required for the Project and review the availability of appropriate categories of labor required for critical phases. The Construction Manager shall make recommendations for actions designed to minimize adverse effects of labor shortages.

§ 3.2.16 The Construction Manager shall assist the Owner in obtaining information regarding applicable requirements for equal employment opportunity programs, and other programs as may be required by governmental and for quasi governmental authorities for inclusion in the Contract Documents.

§ 3.2.17 Following the Owner's approval of the Drawings and Specifications, the Construction Manager shall update and submit the latest estimate of the Cost of the Work and the Project schedule for the Architect's review and the Owner's approval.

§ 3.2.18 The Construction Manager shall submit the list of prospective bidders for the Architect's review and the Owner's approval.

§ 3.2.19 The Construction Manager shall develop bidders' interest in the Project and establish bidding schedules. The Construction Manager, with the assistance of the Architect, shall issue bidding documents to bidders and conduct pre-bid conferences with prospective bidders. The Construction Manager shall issue the current Project schedule with each set of bidding documents. The Construction Manager shall assist the Architect with regard to questions from bidders and with the issuance of addenda.

§ 3.2.20 The Construction Manager shall receive bids, prepare bid analyses and make recommendations to the Owner for the Owner's award of Contracts or rejection of bids.

§ 3.2.21 The Construction Manager shall assist the Owner in preparing Construction Contracts and advise the Owner on the acceptability of Subcontractors and material suppliers proposed by Multiple Prime Contractors.

§ 3.2.22 The Construction Manager shall assist the Owner in obtaining building permits and special permits for permanent improvements, except for permits required to be obtained directly by the various Multiple Prime Contractors. The Construction Manager shall verify that the Owner has paid applicable fees and assessments. The Construction Manager shall assist the Owner and Architect in connection with the Owner's responsibility for filing documents required for the approvals of governmental authorities having jurisdiction over the Project.

### § 3.3 Construction Phase Administration of the Construction Contract

§ 3.3.1 Subject to Section 4.3, the Construction Manager's responsibility to provide Construction Phase Services commences with the award of the initial Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.3.2 The Construction Manager shall provide a staffing plan to include one or more representatives who shall be in attendance at the Project site whenever the Work is being performed.

§ 3.3.3 The Construction Manager shall provide on-site administration of the Contracts for Construction in cooperation with the Architect as set forth below and in AIA Document A232™-2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition. If the Owner and Contractor modify AIA Document A232-2009, those modifications shall not affect the Construction Manager's services under this Agreement unless the Owner and the Construction Manager amend this Agreement.

§ 3.3.4 The Construction Manager shall provide administrative, management and related services to coordinate scheduled activities and responsibilities of the Multiple Prime Contractors with each other and with those of the Construction Manager, the Owner and the Architect. The Construction Manager shall coordinate the activities of the Multiple Prime Contractors in accordance with the latest approved Project schedule and the Contract Documents.

§ 3.3.5 Utilizing the construction schedules provided by the Multiple Prime Contractors, the Construction Manager shall update the Project schedule, incorporating the activities of the Owner, Architect, and Multiple Prime Contractors on the Project, including activity sequences and durations, allocation of labor and materials, processing of Shop Drawings, Product Data and Samples, and delivery and procurement of products, including those that must be ordered well in advance of construction. The Project schedule shall include the Owner's occupancy requirements

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showing portions of the Project having occupancy priority. The Construction Manager shall update and reissue the Project schedule as required to show current conditions. If an update indicates that the previously approved Project schedule may not be met, the Construction Manager shall recommend corrective action, if any, to the Owner and Architect.

§ 3.3.6 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, and scheduling of the Work. The Construction Manager shall prepare and promptly distribute minutes to the Owner, Architect and Multiple Prime Contractors.

§ 3.3.7 Utilizing information from the Multiple Prime Contractors, the Construction Manager shall schedule and coordinate the sequence of construction and assignment of space in areas where the Multiple Prime Contractors are performing Work, in accordance with the Contract Documents and the latest approved Project schedule.

§ 3.3.8 The Construction Manager shall schedule all tests and inspections required by the Contract Documents or governmental authorities, and arrange for the delivery of test and inspection reports to the Owner and Architect.

§ 3.3.9 The Construction Manager shall endeavor to obtain satisfactory performance from each of the Multiple Prime Contractors. The Construction Manager shall recommend courses of action to the Owner when requirements of a Contract are not being fulfilled.

§ 3.3.10 The Construction Manager shall monitor and evaluate actual costs for activities in progress and estimates for uncompleted tasks and advise the Owner and Architect as to variances between actual and budgeted or estimated costs. If the Contractor is required to submit a Control Estimate, the Construction Manager shall meet with the Owner and Contractor to review the Control Estimate. The Construction Manager shall promptly notify the Contractor if there are any inconsistencies or inaccuracies in the information presented. The Construction Manager shall also report the Contractor's cost control information to the Owner.

§ 3.3.11 The Construction Manager shall develop cash flow reports and forecasts for the Project.

§ 3.3.12 The Construction Manager shall maintain accounting records on authorized Work performed under unit costs, additional Work performed on the basis of actual costs of labor and materials, and other Work requiring accounting records.

§ 3.3.12.1 The Construction Manager shall develop and implement procedures for the review and processing of Applications for Payment by Multiple Prime Contractors for progress and final payments.

§ 3.3.12.2 Not more frequently than monthly, the Construction Manager shall review and certify the amounts due the respective Contractors as follows:

- .1 Where there is only one Contractor responsible for performing the Work, the Construction Manager shall, within seven days after the Construction Manager receives the Contractor's Application for Payment, review the Application, certify the amount the Construction Manager determines is due the Contractor, and forward the Contractor's Application and Certificate for Payment to the Architect.
- .2 Where there are Multiple Prime Contractors responsible for performing different portions of the Project, the Construction Manager shall, within seven days after the Construction Manager receives each Contractor's Application for Payment: (1) review the Applications and certify the amount the Construction Manager determines is due each Contractor, (2) prepare a Summary of Contractors' Applications for Payment by summarizing information from each Contractor's Application for Payment, (3) prepare a Project Application and Certificate for Payment, (4) certify the total amount the Construction Manager determines is due all Multiple Prime Contractors collectively, and (5) forward the Summary of Contractors' Applications for Payment and Project Application and Certificate for Payment to the Architect.

§ 3.3.12.3 The Construction Manager's certification for payment shall constitute a representation to the Owner, based on the Construction Manager's evaluations of the Work and on the data comprising the Contractors' Applications for Payment, that, to the best of the Construction Manager's knowledge, information and belief, the Work has progressed to the point indicated and the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents

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upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Construction Manager. The issuance of a Certificate for Payment shall further constitute a recommendation to the Architect and Owner that the Contractor be paid the amount certified.

§ 3.3.12.4 The certification of an Application for Payment or a Project Application for Payment by the Construction Manager shall not be a representation that the Construction Manager has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences for the Contractor's own Work, or procedures; (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.3.13 The Construction Manager shall review the safety programs developed by each of the Multiple Prime Contractors solely and exclusively for purposes of coordinating the safety programs with those of the other Contractors and for making recommendations to the Owner for any safety programs not included in the Work of the Multiple Prime Contractors. The Construction Manager's responsibilities for coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractor, Multiple Prime Contractors, Subcontractors, agents or employees of the Contractors or Multiple Prime Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 3.3.14 The Construction Manager shall determine in general that the Work of each Contractor is being performed in accordance with the requirements of the Contract Documents and notify the Owner, Contractor and Architect of defects and deficiencies in the Work. The Construction Manager shall have the authority to reject Work that does not conform to the Contract Documents and shall notify the Architect about the rejection. The failure of the Construction Manager to reject Work shall not constitute the acceptance of the Work. The Construction Manager shall record any rejection of Work in its daily log and include information regarding the rejected Work in its progress reports to the Architect and Owner pursuant to Section 3.3.20.1. Upon written authorization from the Owner, the Construction Manager may require and make arrangements for additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed, and the Construction Manager shall give timely notice to the Architect of when and where the tests and inspections are to be made so that the Architect may be present for such procedures.

§ 3.3.15 The Construction Manager shall advise and consult with the Owner and Architect during the performance of its Construction Phase Services. The Construction Manager shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Construction Manager shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work of each of the Contractors, since these are solely the Contractor's rights and responsibilities under the Contract Documents. The Construction Manager shall not be responsible for a Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall be responsible for the Construction Manager's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or Multiple Prime Contractors, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 3.3.16 The Construction Manager shall transmit to the Architect requests for interpretations and requests for information of the meaning and intent of the Drawings and Specifications with its written recommendation, and assist in the resolution of questions that may arise.

§ 3.3.17 The Construction Manager shall review requests for changes, assist in negotiating Contractors' proposals, submit recommendations to the Architect and Owner, and, if they are accepted, prepare Change Orders and Construction Change Directives that incorporate the Architect's modifications to the Contract Documents.

§ 3.3.18 The Construction Manager shall assist the Initial Decision Maker in the review, evaluation and documentation of Claims, subject to Section 4.3.1.7.

§ 3.3.19 Utilizing the submittal schedules provided by each Contractor, the Construction Manager shall prepare, and revise as necessary, a Project submittal schedule incorporating information from the Owner, Owner's consultants, Owner's separate contractors and vendors, governmental agencies, and all other participants in the Project under the management of the Construction Manager. The Project submittal schedule and any revisions shall be submitted to the Architect for approval. The Construction Manager shall promptly review all Shop Drawings, Product Data, Samples and other submittals from the Multiple Prime Contractors for compliance with the submittal requirements of the Contract, coordinate submittals with information contained in related documents, and transmit to the Architect those that the Construction Manager recommends for approval. The Construction Manager's actions shall be taken in accordance with the Project submittal schedule approved by the Architect, or in the absence of an approved Project submittal schedule, with such reasonable promptness as to cause no delay in the Work or in the activities of the Contractor, other Multiple Prime Contractors, the Owner, or the Architect.

§ 3.3.20 The Construction Manager shall keep a daily log containing a record of weather, each Contractor's Work on the site, number of workers, identification of equipment, Work accomplished, problems encountered, and other similar relevant data as the Owner may require.

§ 3.3.20.1 The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information identified below:

- .1 Work completed for the period;
- .2 Project schedule status;
- .3 Submittal schedule and status report, including a summary of remaining and outstanding submittals;
- .4 Request for information, Change Order, and Construction Change Directive status reports;
- .5 Tests and inspection reports;
- .6 Status report of nonconforming and rejected Work;
- .7 Daily logs;
- .8 Summary of all Multiple Prime Contractors' Applications for Payment;
- .9 Cumulative total of the Cost of the Work to date including the Construction Manager's compensation and reimbursable expenses at the job site, if any;
- .10 Cash-flow and forecast reports; and
- .11 Any other items the Owner may require;

§ 3.3.20.2 In addition, for Projects constructed on the basis of the Cost of the Work, the Construction Manager shall include the following additional information in its progress reports:

- .1 Contractor's work force report;
- .2 Equipment utilization report;
- .3 Cost summary, comparing actual costs to updated cost estimates; and
- .4 Any other items as the Owner may require;

§ 3.3.21 Utilizing the documents provided by the Contractor, the Construction Manager shall maintain at the site one copy of all Contracts, Drawings, Specifications, addenda, Change Orders and other Modifications, in good order and marked currently to record all changes and selections made during construction, and in addition, approved Shop Drawings, Product Data, Samples and similar required submittals. The Construction Manager shall maintain records, in duplicate, of principal building layout lines, elevations of the bottom of footings, floor levels and key site elevations certified by a qualified surveyor or professional engineer. The Construction Manager shall make all such records available to the Architect and the Contractor, and upon completion of the Project, shall deliver them to the Owner.

§ 3.3.22 The Construction Manager shall arrange for the delivery, storage, protection and security of Owner-purchased materials, systems and equipment that are a part of the Project until such items are incorporated into the Work.

§ 3.3.23 With the Architect and the Owner's maintenance personnel, the Construction Manager shall observe the Contractor's or Multiple Prime Contractors' final testing and start-up of utilities, operational systems and equipment and observe any commissioning as the Contract Documents may require.

§ 3.3.24 When the Construction Manager considers each Contractor's Work or a designated portion thereof is substantially complete, the Construction Manager shall, jointly with the Contractor, prepare for the Architect a list of incomplete or unsatisfactory items and a schedule for their completion. The Construction Manager shall assist the Architect in conducting inspections to determine whether the Work or designated portion thereof is substantially complete.

§ 3.3.25 When the Work or designated portion thereof is substantially complete, the Construction Manager shall prepare, and the Construction Manager and Architect shall execute, a Certificate of Substantial Completion. The Construction Manager shall submit the executed Certificate to the Owner and Contractor. The Construction Manager shall coordinate the correction and completion of the Work. Following issuance of a Certificate of Substantial Completion of the Work or a designated portion thereof, the Construction Manager shall evaluate the completion of the Work of the Contractor or Multiple Prime Contractors and make recommendations to the Architect when Work is ready for final inspection. The Construction Manager shall assist the Architect in conducting final inspections.

§ 3.3.26 The Construction Manager shall forward to the Owner, with a copy to the Architect, the following information received from the Contractor or Multiple Prime Contractors: (1) certificates of insurance received from the Contractor or Multiple Prime Contractors; (2) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (3) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (4) any other documentation required of the Contractor under the Contract Documents, including warranties and similar submittals.

§ 3.3.27 The Construction Manager shall deliver all keys, manuals, record drawings and maintenance stocks to the Owner. The Construction Manager shall forward to the Architect a final Project Application for Payment and Project Certificate for Payment or final Application for Payment and final Certificate for Payment upon the Contractor's compliance with the requirements of the Contract Documents.

§ 3.3.28 Duties, responsibilities and limitations of authority of the Construction Manager as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner, Construction Manager, Architect, Contractor and Multiple Prime Contractors. Consent shall not be unreasonably withheld.

§ 3.3.29 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Construction Manager shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

#### ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Construction Manager shall provide the listed Additional Services only if specifically designated in the table below as the Construction Manager's responsibility, and the Owner shall compensate the Construction Manager as provided in Section 11.2.

*(Designate the Additional Services the Construction Manager shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)*

Services	Responsibility (Construction Manager, Owner or Not Provided)	Location of Service Description (Section 4.2 below or in an exhibit attached to this document and identified below)
§ 4.1.1 Measured drawings	Owner	TBD
§ 4.1.2 Architectural interior design (B252 <sup>TM</sup> -2007)	Owner	TBD
§ 4.1.3 Tenant-related services	Owner	TBD
§ 4.1.4 Commissioning (B211 <sup>TM</sup> -2007)	Owner	TBD
§ 4.1.5 LEED® certification (B214 <sup>TM</sup> -2012)	Not Provided	

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§ 4.1.6 Furniture, furnishings, and equipment design (B253™-2007)	Owner	TBD
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§ 4.2 Insert a description of each Additional Service designated in Section 4.1, if not further described in an exhibit attached to this document.

NA

§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating this Agreement. Except for services required due to the fault of the Construction Manager, any Additional Services provided in accordance with this Section 4.3 shall entitle the Construction Manager to compensation pursuant to Section 11.3.

§ 4.3.1 Upon recognizing the need to perform the following Additional Services, the Construction Manager shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Construction Manager shall not proceed to provide the following services until the Construction Manager receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method, or bid packages in addition to those listed in Section 1.1.6;
- .2 Services necessitated by the enactment or revision of codes, laws or regulations or official interpretations after the date of this Agreement;
- .3 Preparation of documentation for alternate bid or proposal requests proposed by the Owner;
- .4 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .5 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Construction Manager is party thereto;
- .6 Providing consultation concerning replacement of Work resulting from fire or other cause during construction and furnishing services required in connection with the replacement of such Work;
- .7 Assistance to the Initial Decision Maker, if other than the Architect; or
- .8 Service as the Initial Decision Maker.

§ 4.3.2 To avoid delay in the Construction Phase, the Construction Manager shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Construction Manager, and the Owner shall have no further obligation to compensate the Construction Manager for those services:

- .1 Services in evaluating an extensive number of Claims submitted by a Contractor or others in connection with the Work when the Architect is serving as the Initial Decision Maker.
- .2 To the extent the Construction Manager's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion, identified in Initial Information, whichever is earlier.
- .3 Services required in an emergency to coordinate the activities of a Contractor or Multiple Prime Contractors in the event of risk of personal injury or serious property damage, consistent with Section 3.3.13.

§ 4.3.3 If the services covered by this Agreement have not been completed within twelve (12) months of the date of this Agreement, through no fault of the Construction Manager, extension of the Construction Manager's services beyond that time shall be compensated as Additional Services.

## ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including the Owner's program, other objectives, schedule, constraints and criteria, special equipment, systems, and site requirements. Within 15 days after receipt of a written request from the Construction Manager, the Owner shall furnish the requested information as necessary and relevant for the Construction Manager to evaluate, give notice of, or enforce any lien rights, if any.

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§ 5.2 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the budget for the Cost of the Work or in the Project's scope and quality.

§ 5.3 The Owner acknowledges that accelerated, phased or fast-track scheduling provides a benefit, but also carries with it the risk of additional costs. If the Owner selects accelerated, phased or fast-track scheduling, the Owner agrees to include in the budget for the Project sufficient contingencies to cover such costs.

§ 5.4 The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B132-2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition. The Owner shall provide the Construction Manager a copy of the executed agreement between the Owner and Architect, and any further modifications to the agreement.

§ 5.5 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions pertaining to documents the Construction Manager submits in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Construction Manager's services.

§ 5.6 Unless provided by the Construction Manager, the Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.7 Unless provided by the Construction Manager, the Owner shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Construction Manager. Upon the Construction Manager's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Construction Manager to furnish them as an Additional Service, when the Construction Manager requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance and other liability insurance as appropriate to the services provided.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 The Owner shall provide prompt written notice to the Construction Manager and Architect if the Owner becomes aware of any fault or defect in Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service or any fault or defect in the Construction Manager's services.

§ 5.12 The Owner reserves the right to perform construction and operations related to the Project with the Owner's own forces, and to award contracts in connection with the Project which are not part of the Construction Manager's responsibilities under this Agreement. The Construction Manager shall notify the Owner if any such independent action will interfere with the Construction Manager's ability to perform the Construction Manager's responsibilities

under this Agreement. When performing construction or operations related to the Project, the Owner agrees to be subject to the same obligations and to have the same rights as the Contractors.

§ 5.13 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Construction Manager of any direct communications that may affect the Construction Manager's services.

§ 5.14 Before executing the Contract for Construction, the Owner shall coordinate the Construction Manager's duties and responsibilities set forth in the Contract for Construction with the Construction Manager's services set forth in this Agreement. The Owner shall provide the Construction Manager a copy of the executed agreements between the Owner and Contractors, including the General Conditions of the Contracts for Construction.

§ 5.15 The Owner shall provide the Construction Manager access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Construction Manager access to the Work wherever it is in preparation or progress.

#### ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include the contractors' general conditions costs, overhead and profit. The Cost of the Work includes the compensation of the Construction Manager and Construction Manager's Consultants during the Construction Phase only, including compensation for reimbursable expenses at the job site, if any. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.2 and 6.4. Evaluations of the Owner's budget, preliminary estimates for the Cost of the Work and detailed estimates of the Cost of the Work prepared by the Construction Manager represent the Construction Manager's judgment as a person or entity familiar with the construction industry. It is recognized, however, that neither the Construction Manager nor the Owner has control over the cost of labor, materials or equipment, over Contractors' methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Construction Manager cannot and does not warrant or represent that bids or negotiated prices will not vary from the budget proposed, established or approved by the Owner, or from any cost estimate or evaluation prepared by the Construction Manager.

§ 6.3 If the Architect is providing detailed cost estimating services as an Additional Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Architect and the Construction Manager shall work cooperatively to conform the cost estimates to one another.

§ 6.4 If, prior to the conclusion of the Design Development Phase, the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Construction Manager, in consultation with the Architect, shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget, and the Owner shall cooperate with the Construction Manager and Architect in making such adjustments.

§ 6.5 If the estimate of the Cost of the Work at the conclusion of the Design Development Phase exceeds the Owner's budget for the Cost of the Work, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 in consultation with the Construction Manager and Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .3 implement any other mutually acceptable alternative.

#### ARTICLE 7 COPYRIGHTS AND LICENSES

The Construction Manager and the Construction Manager's consultants, if any, shall not own or claim a copyright in the Instruments of Service. The Construction Manager, the Construction Manager's consultants, if any, and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the

copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Construction Manager intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

## ARTICLE 8 CLAIMS AND DISPUTES

### § 8.1 General

§ 8.1.1 The Owner and Construction Manager shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Construction Manager waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Construction Manager waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A232-2009, General Conditions of the Contract for Construction. The Owner or the Construction Manager, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Construction Manager shall indemnify and hold the Owner and the Owner's officers and employees harmless from and against damages, losses and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Construction Manager, its employees and its consultants in the performance of professional services under this Agreement. The Construction Manager's duty to indemnify the Owner under this provision shall be limited to the available proceeds of insurance coverage.

§ 8.1.4 The Construction Manager and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

### § 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Construction Manager's services, the Construction Manager may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Construction Manager shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

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*(Check the appropriate box. If the Owner and Construction Manager do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)*

☐ Arbitration pursuant to Section 8.3 of this Agreement

☒ Litigation in a court of competent jurisdiction

☐ Other; *(Specify)*

### § 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.2 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

### § 8.3.4 Consolidation or Joinder

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Construction Manager grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Construction Manager under this Agreement.

## ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Construction Manager in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Construction Manager's option, cause for suspension of performance of services under this Agreement. If the Construction Manager elects to suspend services, the Construction Manager shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Construction Manager shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the

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Construction Manager shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Construction Manager's services. The Construction Manager's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Construction Manager shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Construction Manager shall be compensated for expenses incurred in the interruption and resumption of the Construction Manager's services. The Construction Manager's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Construction Manager, the Construction Manager may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause.

§ 9.6 In the event of termination not the fault of the Construction Manager, the Construction Manager shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7.

§ 9.7 Termination Expenses are in addition to compensation for the Construction Manager's services and include expenses directly attributable to termination for which the Construction Manager is not otherwise compensated, plus an amount for the Construction Manager's anticipated profit on the value of the services not performed by the Construction Manager, as set forth below.

§ 9.7.1 In the event of termination for the Owner's convenience prior to commencement of construction, the Construction Manager shall be entitled to receive payment for services performed, costs incurred by reason of such termination and reasonable overhead and profit on Preconstruction services not completed during the Preconstruction Phase.

§ 9.7.2 In the event of termination for the Owner's convenience after commencement of construction, the Construction Manager shall be entitled to receive payment for services performed and costs incurred by reason of such termination, along with reasonable overhead and profit on services not completed during the Construction Phase.

#### ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A232-2009, General Conditions of the Contract for Construction, except for purposes of this Agreement, the term "Work" shall include the work of all Contractors under the administration of the Construction Manager.

§ 10.3 The Owner and Construction Manager, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Construction Manager shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

§ 10.4 If the Owner requests the Construction Manager to execute certificates, the proposed language of such certificates shall be submitted to the Construction Manager for review at least 14 days prior to the requested dates of execution. If the Owner requests the Construction Manager to execute consents reasonably required to facilitate

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assignment to a lender, the Construction Manager shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Construction Manager for review at least 14 days prior to execution. The Construction Manager shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Construction Manager.

§ 10.6 Unless otherwise required in this Agreement, the Construction Manager shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Construction Manager shall have the right to include photographic or artistic representations of the design of the Project among the Construction Manager's promotional and professional materials. The Construction Manager shall be given reasonable access to the completed Project to make such representations. However, the Construction Manager's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Construction Manager in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Construction Manager in the Owner's promotional materials for the Project.

§ 10.8 If the Construction Manager or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

#### ARTICLE 11 COMPENSATION

§ 11.1 For the Construction Manager's Basic Services described under Article 3, the Owner shall compensate the Construction Manager as follows:

§ 11.1.1 For Preconstruction Phase Services in Section 3.2:

*(Insert amount of, or basis for, compensation, including stipulated sums, multiples or percentages.)*

See attached Construction Management Fee Proposal Dated September 8, 2017.

§ 11.1.2 For Construction Phase Services in Section 3.3:

*(Insert amount of, or basis for, compensation, including stipulated sums, multiples or percentages.)*

See attached Construction Management Fee Proposal Dated September 8, 2017.

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Construction Manager as follows:

*(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)*

Per rates as listed in Article 11.5 and 11.6

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Construction Manager as follows:

*(Insert amount of, or basis for, compensation.)*

Per rates as listed in Article 11.5 and 11.6

§ 11.4 Compensation for Additional Services of the Construction Manager's consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Construction Manager plus percent ( %), or as otherwise stated below:

NA

§ 11.5 The hourly billing rates for services of the Construction Manager and the Construction Manager's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Construction Manager's and Construction Manager's consultants' normal review practices.

*(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

Project Manager \$95.00/hr  
Project Coordinator \$85.00/hr  
Office Manager \$65.00/hr  
Contract Manager \$55.00/hr

Employee or Category

Rate (\$0.00)

§ 11.6 Compensation for Reimbursable Expenses

§ 11.6.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Construction Manager and the Construction Manager's consultants directly related to the project and in accordance with Construction Management Fee Proposal dated September 8, 2017 attached to this contract.

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Professional photography, and presentation materials requested by the Owner;
- .8 Construction Manager's consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Construction Manager's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses; and
- .11 Other similar Project-related expenditures.

§ 11.6.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Construction Manager and the Construction Manager's consultants plus zero percent (0%) of the expenses incurred.

§ 11.7 Payments to the Construction Manager

§ 11.7.1 An initial payment of zero (\$0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.7.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid sixty (60) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.  
*(Insert rate of monthly or annual interest agreed upon.)*

12 % Annually

§ 11.7.3 The Owner shall not withhold amounts from the Construction Manager's compensation to impose a penalty or liquidated damages on the Construction Manager, or to offset sums requested by or paid to Contractors for the cost of changes in the Work unless the Construction Manager agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.7.4 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

Init.

## ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

## ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 13.2 This Agreement is comprised of the following documents listed below:

- .1 AIA Document C132™-2009, Standard Form Agreement Between Owner and Construction Manager as Adviser
- .2 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:  
NA
- .3 AIA Document E202™-2008, Building Information Modeling Protocol Exhibit, if completed, or the following:  
NA
- .4 Other documents:  
(List other documents, if any, including additional scopes of service forming part of the Agreement.)
  - A. Construction Management Fee Proposal dated September 8, 2017.
  - B. Certificate of Insurance Professional Liability.
  - C. Certificate of Insurance General/Auto Liability.

This Agreement is entered into as of the day and year first written above.

  
OWNER (Signature)

  
CONSTRUCTION MANAGER (Signature)

Ryan Krosch, County Administrator  
(Printed name and title)

Lawrence Filippi, Vice President  
(Printed name and title)

init.

**Nicollet County**  
**HHS Interior Renovation**  
**SD Estimate**  
**10/15/21**



DIVISIONS OF WORK	12-12-19: SD TOTALS	7-14-21: SD TOTALS	10-15-21: SD TOTALS	Cost / SF (9,895)
CATEGORY 01 - GENERAL CONSTRUCTION	199,189.10	237,326.05	250,781.25	25.34
CATEGORY 02 - GLAZING & ALUMINUM OFFICE FRONTS	24,278.50	38,673.50	25,830.00	2.61
CATEGORY 03 - ACOUSTICAL CEILING	28,944.50	28,944.50	40,446.25	4.09
CATEGORY 04 - TILE/FLOORING/WINDOW TREATMENTS	110,895.50	119,813.50	120,404.00	12.17
CATEGORY 05 - PAINTING	32,158.75	32,158.75	53,302.75	5.39
CATEGORY 06 - FIRE SUPPRESSION	27,211.25	27,211.25	29,685.00	3.00
CATEGORY 07 - PLUMBING/HVAC/TEST & BALANCING/CONTROLS	239,330.00	239,330.00	276,436.25	27.94
CATEGORY 08 - ELECTRICAL/COMMUNICATION/ELECTRONIC SAFETY & SECURITY	300,565.75	299,865.75	431,134.00	43.57
<b>Sub Total Construction</b>	<b>962,573.35</b>	<b>1,023,323.30</b>	<b>1,228,019.50</b>	<b>124.11</b>
** General Requirements	115,508.80	122,798.80	147,362.34	
Building Permitting / Plan Review	9,000.00	10,000.00	12,000.00	
Contingency Allowance - Design / Bid / Build 10%	107,808.22	114,612.21	137,538.18	
<b>Sub Total</b>	<b>1,194,890.37</b>	<b>1,270,734.31</b>	<b>1,524,920.02</b>	
2019 Estimated Construction Management Fee	41,000.00			
2019 Estimated Architect / Engineering Fee	111,509.69			
Professional Fees (Architect / Engineers / CM - Allowance of 15% Carried)		190,610.15	228,738.00	
<b>Owner Items</b>				
FF& E Allowance (VJA Prelim, Estimate)	194,000.00	194,000.00	194,000.00	
<b>PROJECT TOTAL*</b>	<b>1,541,400.06</b>	<b>1,655,344.45</b>	<b>1,947,658.03</b>	

**Notes**

\* ESTIMATE IS BASED ON AN OPEN COMPETITIVE BID MARKET.

\* ESTIMATE IS BASED ON HISTORICAL VALUES AND IS AN APPROXIMATION OF CONSTRUCTION COSTS FOR 2022

\* BASE PROJECT TOTAL DOES NOT INCLUDE COSTS FOR INCIDENTALS TO ONGOING COUNTY OPERATIONS THAT NEED TO BE ACCOUNTED FOR DURING PHASING AND DISRUPTION OF PROJECT IF NECESSARY.

\* ESTIMATE DOES NOT INCLUDE ANY HAZARDOUS MATERIAL / ASBESTOS REMOVAL.

\*\* GENERAL REQUIREMENTS (Owner Budget) are for items such as; Surveying, Soil Borings, Site Fencing, Portable Toilets, Dumpsters, Office Trailer, Plan Reproduction, Mailing Fees, Temp Signage, Temp Power, Temp Heat/Cool, Special Inspections/Testing, Builders Risk Insurance, Temp Enclosures, Safety Barricades, Fire Protection, Moving Expense, Final Cleaning, Temp Storage, On Site Supervision, This Budget will be refined and established in conjunction with the owner and the architect based on the anticipated needs of the project.

Nicollet County Board of Commissioners  
Board Meeting Agenda Item



<b>Agenda Item:</b>						
Consideration of a Purchase Agreement for Real Property						
Primary Originating Division/Dept.: Administration	Meeting Date: 11/23/2021					
Contact: Mandy Landkamer      Title: County Administrator	Item Type: Regular Agenda (Select One)					
Amount of Time Requested 10 minutes						
Presenter: Mandy Landkamer      Title: County Administrator	Attachments: <input type="radio"/> Yes <input checked="" type="radio"/> No					
County Strategy: Programs and Services - deliver value-added quality services (Select One)						
<b>BACKGROUND/JUSTIFICATION:</b> <p>Consideration of the purchase agreement to acquire property located at 1301 Marshall Street, St. Peter, MN 56082. In addition, I am also requesting approval of payment in the amount of \$5,000 for earnest money and authorization for the Board Chair to sign the purchase agreement and associated closing documents. The date of closing will occur prior to December 31, 2021.</p>						
Supporting Documents: <input checked="" type="radio"/> Attached <input type="radio"/> In Signature Folder <input type="radio"/> None						
Prior Board Action Taken on this Agenda Item: <input type="radio"/> Yes <input checked="" type="radio"/> No						
If "yes", when? (provide year; mm/dd/yy if known)						
Approved by County Attorney's Office: <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A						
<b>ACTION REQUESTED:</b> <p>Approval of the purchase agreement, earnest money payment, and authorization for the Board Chair to sign purchase agreement and associated closing documents. <span style="float: right;">+</span></p>						
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <b>FISCAL IMPACT:</b> NOT in current budget (Select One)             If "Other", specify         </td> <td style="width: 50%; vertical-align: top;"> <b>FUNDING</b>            County Dollars =             Other            (Select One)         </td> </tr> <tr> <td colspan="2"> <b>FTE IMPACT:</b> No FTE change (Select One)            If "Increase or "Decrease" specify:             Related Financial/FTE Comments:         </td> </tr> </table>			<b>FISCAL IMPACT:</b> NOT in current budget (Select One)  If "Other", specify	<b>FUNDING</b> County Dollars =  Other (Select One)	<b>FTE IMPACT:</b> No FTE change (Select One) If "Increase or "Decrease" specify:  Related Financial/FTE Comments:	
<b>FISCAL IMPACT:</b> NOT in current budget (Select One)  If "Other", specify	<b>FUNDING</b> County Dollars =  Other (Select One)					
<b>FTE IMPACT:</b> No FTE change (Select One) If "Increase or "Decrease" specify:  Related Financial/FTE Comments:						

OFFICIAL PROCEEDINGS OF THE NICOLLET  
COUNTY DRAINAGE AUTHORITY  
NOVEMBER 9, 2021

The Nicollet County Drainage Authority met in regular session on Tuesday, November 9, 2021 at 10:40 am with Chair Morrow presiding. Commissioners Marie Dranttel, John Luepke and Jack Kolars were also present. Also present were County Administrator Mandy Landkamer, Property & Public Services Director Jaci Kopet, and Recording Secretary Sarah Frahm.

**Agenda**

Motion by Commissioner Kolars and seconded by Commissioner Dranttel to approve the agenda. Motion carried with all voting in favor.

**Consent Agenda**

Motion by Commissioner Kolars and seconded by Commissioner Dranttel to approve the consent agenda items as follows: approval of the October 26, 2021 Drainage Authority minutes. Motion carried with all voting in favor.

**2021 Annual Maintenance Levies**

Property & Public Services Manager, Jaci Kopet, appeared before the Board and gave an overview of the ditch fund balances.

Motion by Commissioner Dranttel and seconded by Commissioner Kolars to approve the annual assessment of maintenance levies as stated in the Findings of Fact and Order. Commissioner Luepke recused himself from the vote as he is a property owner of a ditch listed within the Findings. On a roll call vote, Commissioners Morrow, Dranttel, and Kolars voted yes and Commissioner Luepke abstained. Motion carried 4-0-1.

**BEFORE THE NICOLLET COUNTY DRAINAGE AUTHORITY  
FOR ASSESSING ANNUAL MAINTENANCE LEVIES**

Findings and Order of the Board  
Regarding Drainage System  
Assessments, Installment Schedules  
Interest Rates and Maintenance Funds

The Drainage Authority, having completed its deliberations, its examination of all files and records herein, and its consideration of all reports, makes the following:

**FINDINGS OF FACT**

1. Minn. Stat. § 103E.725 provides all fees and costs incurred relating to a drainage system, including repairs, inspections, engineering, viewing, and publications, are costs of the drainage system and must be assessed against the property and entities benefited.
2. Some drainage system accounts for systems administered by the Nicollet County Board of Commissioners, the Board, carry negative balances and others will benefit from establishment of a maintenance fund. The negative-balance system accounts have benefited from inter-fund loans from the general fund of the county. If the Board transfers money from another account or fund to a drainage system account, the money, plus interest, must be reimbursed from the proceeds of the drainage system that received the transfer.
3. If there is not enough money in the drainage system account to pay drainage system costs, the Board must assess the costs on all property and entities that have been assessed benefits for the drainage system.
4. If assessments are to be paid in installments, the Board may set an interest rate not to exceed the rate determined by the state court administrator for judgments under section 549.09.
5. Minn. Stat. § 103E.735 allows the creation of a repair fund for each drainage system. The repair fund is intended to create a positive balance in a drainage system account to pay routine costs of inspection and minor maintenance and to eliminate the need for inter-fund loans to drainage system accounts.
6. To create a repair fund, the drainage authority may apportion and assess an amount against all property and entities assessed for benefits. The fund may not exceed 20 percent of the assessed benefits of the drainage system or \$100,000, whichever is greater.

7. The drainage authority's staff has investigated the current drainage system funds and made a recommendation for assessments, installment schedules, interest rates, and maintenance funds.

#### ORDER

Based on the foregoing Findings and the entire record of proceedings before the Nicollet County Board of Commissioners, the Board, acting as the drainage authority for all Nicollet County drainage systems, hereby adopts the following drainage system assessments, installment schedules, interest rates, and maintenance funds and direct certification thereof to the County Public Services office for collection:

Ditch	Amount to Levy	Ditch	Amount to Levy
CD 4A	\$134,541.95	CD 59A	\$22,340.68
CD 9A	\$22,392.48	CD 76A	\$62,297.23
CD 13A	\$443,204.82	CD 77	\$66,719.71
CD 23	\$17,828.30	CD 80	\$16,643.00
CD 27	\$27,198.07	CD 82	\$47,445.00
CD 30A	\$55,638.02	CD 83	\$16,890.10
CD 32A	\$66,012.70	CD 84	\$14,244.30
CD 33A	\$111,052.51	CD 85	\$45,579.30
CD 38A	\$59,948.12	CD 87	\$8,716.10
CD 40A	\$26,009.55	CD 88	\$9,306.15
CD 48A	\$105,903.04	CD 92	\$12,502.50
CD 51A	\$13,084.14	<b>TOTAL</b>	<b>\$1,405,497.77</b>

All assessments not paid by December 31, 2021 will be charged 4% interest and the following installment schedule will apply to your property tax bill starting in 2022:

\$500 & under 1 year assessment  
\$501 - \$1,000 2 year assessment  
\$1,001 & over 3 year assessment

#### CD86A Proposed Change Order Request

At the October 12, 2021 Drainage Authority meeting, ISG presented a change order requested by the contractor, Lametti & Sons, Inc. This change order was identified as Serial Letter No. 3. The information below lists the remaining improvement benefits:

07/10/2018	Remaining improvement benefits approved at the FER hearing	\$291,699.21
11/13/2018	Pump Change Design Public Hearing - Approved	-\$251,313.00
05/11/2021	Change order for adding head wall to isolation gate: \$25,190 (Approved); all separable maintenance costs per ISG	
<b>Remaining Improvement Benefits:</b>		<b>\$40,386.21</b>

There was discussion regarding the history of the pump selection. Lametti and Sons approached the Board and reiterated their position that they were unaware the KSB pump would create issues.

There was no motion to approve the CD86A Proposed Change Order Request. The motion failed.

#### Adjourn

Motion by Commissioner Luepke and seconded by Commissioner Dranttel to adjourn the Drainage Authority Meeting. Motion carried with all voting in favor.

Chair Morrow adjourned the meeting at 11:20 a.m.

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TERRY MORROW, CHAIR  
BOARD OF COMMISSIONERS

ATTEST:

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MANDY LANDKAMER  
CLERK TO THE BOARD

DRAFT